

2024 Mandatory Discharge Report

February 1, 2024

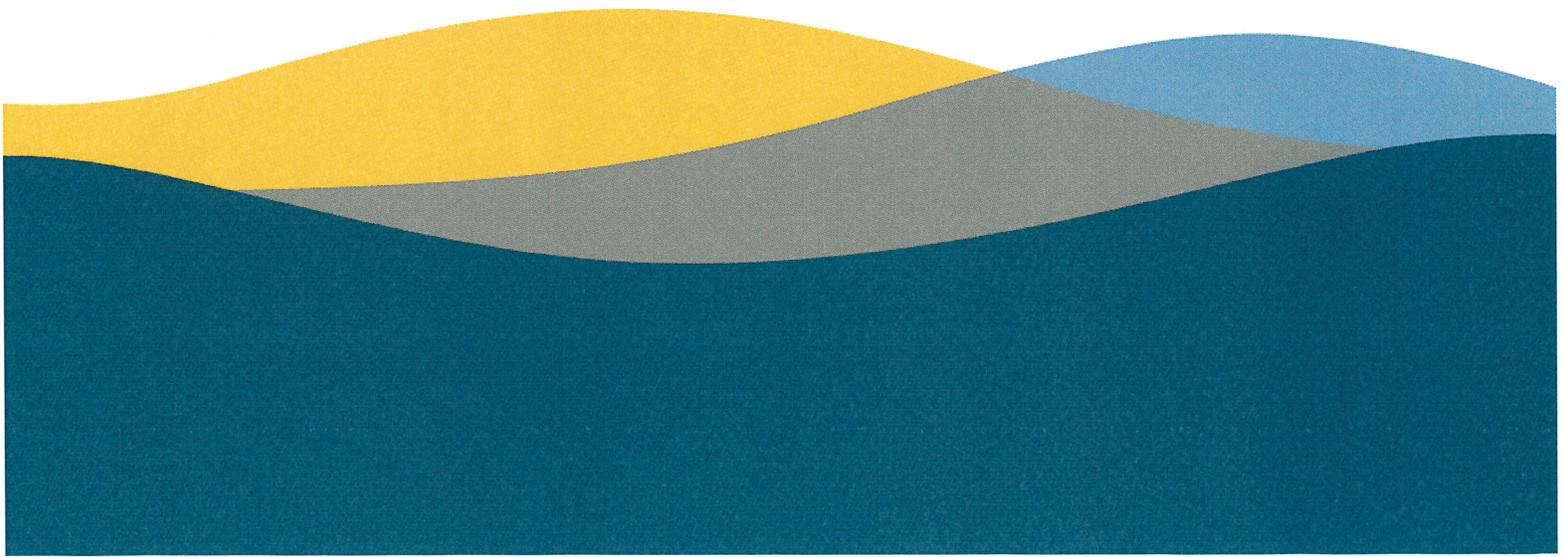
Submitted by:



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Rosalyn Cotton February 1, 2024

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SCOPE AND INTRODUCTION

In accordance with N.R.S. §83-1,100.03, this joint report by the Board of Parole (Board) and the Nebraska Department of Correctional Services (NDCS) describes the percentage of individuals sentenced to NDCS custody who complete their entire sentence and are released with no supervision following that release. This report also documents the characteristics of these individuals, including their highest felony class of conviction, offense type of conviction, most recent risk assessment, status of the individualized release or reentry plan, and the reasons why parole was denied or deferred at their most recent Board appearance. Finally, this report provides recommendations from both the Board and NDCS with regard to policy and practice changes that will meet the goal of reducing the number of individuals under the custody of NDCS who serve their entire sentence in a correctional facility and mandatorily discharge.

The Board and NDCS have collaborated on this annual discharge report, which provides information about discharges during Calendar Year (CY) 2023. We are committed to working together to continue to reduce the number of discharges without community supervision.

NUMBER OF INDIVIDUALS DISCHARGED DIRECTLY FROM NDCS

Between January 1, 2023, and December 31, 2023, 369 individuals eligible for community supervision were discharged directly from an NDCS facility (or contracted county jail).¹ This group represents 16.8% of all NDCS discharges during CY2023. Table 1 provides a comparison of discharges from CY2019 through CY2023. There were 14 fewer mandatory discharges in CY2023 than in CY2019. The number of individuals who discharged with community supervision decreased by 34.3% during the same timeframe, which translates to 528 fewer people. Compared to CY2022, individuals releasing with community supervision has decreased by 7.3%, with 79 fewer people. Of the 369 people who discharged directly from NDCS, 165 had a prior history of parole, which indicates they were provided an opportunity to transition to the community during their sentence but did not successfully complete the requirements of parole. Similarly, 62 people discharged from a community corrections center. Although these individuals did not discharge from a period of full community supervision on parole or post-release supervision, they were actively transitioning back into society on either work detail or work release. There were 76 individuals who had 30 days or fewer between either their parole eligibility (PED) and tentative release date (TRD) or their most recent Board appearance and TRD. The Board would not have considered these individuals for release, given their short potential parole term, in accordance with N.R.S. §83-1,111(1).

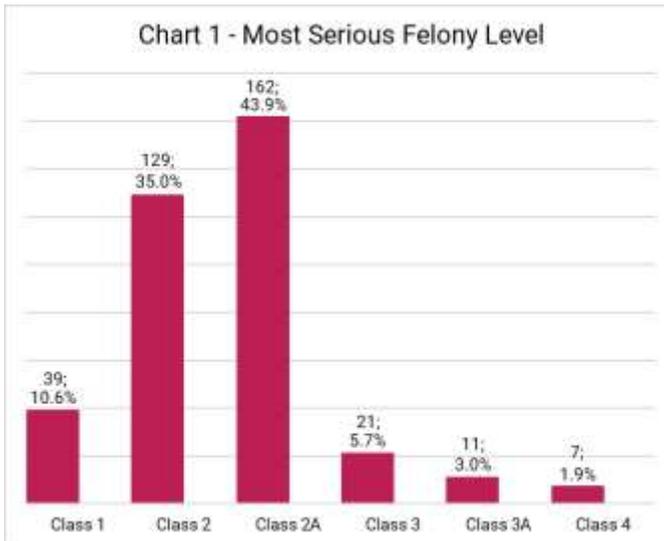
¹ Persons were excluded from this report if: they discharged from NDCS custody to serve terms of post-release supervision (PRS) under the jurisdiction of the Administrative Office of the Courts and Probation (AOC; n=491), their sentence structure did not allow for the possibility of parole supervision (n=487), they were released to another jurisdiction (n=8), or if they discharged their sentence while on parole (n=519). Individuals who died in custody (n=27) were also excluded.

Release Type	2018	2019	2020	2021	2022	2023	2018-2023 Percentage Change
Mandatory Discharge	383	387	317	307	362	369	-3.7%
<i>Mandatory Discharge - No history of parole</i>	221	240	196	191	202	204	-7.7%
<i>Mandatory Discharge - Prior parole</i>	162	147	121	116	160	165	1.9%
Discharge with Community Supervision (Parole or PRS)	1538	1592	1399	1214	1089	1010	-34.3%

CHARACTERISTICS OF INDIVIDUALS DISCHARGED DIRECTLY FROM NDCS

Most Serious Felony Class and Offense

This section provides details about the offenses committed by the 369 individuals discharged directly from NDCS during CY2023. Specifically, Table 2² illustrates the highest felony levels for these individuals, while Table 3 details the most serious offense categories.



Felony Class	Number	Percent
Class 1	39	10.6%
Class 2	129	35.0%
Class 2A	162	43.9%
Class 3	21	5.7%
Class 3A	11	3.0%
Class 4	7	1.9%
Total	369	100.0%

As shown in Table 2, 10.6% of the individuals discharged directly from NDCS were convicted of Class 3, 3A, or 4 felonies. This is a significant decline from the 51.2% who discharged in CY2018. This decline is likely related to the higher proportion of individuals discharging who were sentenced under LB605 (2015), which provides for mandatory terms of post-release supervision for individuals sentenced to lower classes of felonies. The majority (89.4%) of the prison’s mandatory discharge population were convicted of Class 1, 2, and 2A offenses. These felony classes carry longer potential sentence ranges, including some with mandatory minimums, creating a lower churn rate within this group.

² “Class 1” encompasses Class 1A, 1B, 1C, and 1D level felonies. During CY2023, no individuals mandatorily discharged with a Class 1A felony as their most serious conviction. 3 individuals had a Class 1B felony as their most serious conviction. One of these was released to detainer and the others attempted parole three times each before mandatorily discharging. Two individuals had a Class 1C felony and 34 individuals had a Class 1D felony.

Table 3 shows the distribution of mandatorily discharged individuals by their most serious offense type. Of the 369 individuals mandatorily discharged from an NDCS facility, 39.8% had a most serious conviction in a non-violent offense category (i.e., most serious offense category of drugs, theft, burglary, fraud, arson, or other). Although the other offense categories include violent crimes, not all convictions are exclusively violent. For example, most convictions for a “Weapons” offense (71 of 79) were the result of possession of a stolen firearm or possession of a firearm/deadly weapon by a felon. Only eight convictions were for the actual use of a firearm/deadly weapon to commit a felony or the unlawful discharge of a firearm. Sex-related offenses also include both violent crimes, such as first-degree sexual assault and sexual assault of a child, as well as crimes without a direct interpersonal component, such as failure to register as a sex offender and enticement by an electronic device. Note that an individual may have multiple convictions within their most serious offense category, therefore, totals of offense convictions exceed the 1:1 totals of their most serious offense category.

Felony Class	Number	Percent
Arson	5	1.4%
Assault	50	13.6%
Burglary	31	8.4%
Drugs	73	19.8%
Fraud	6	1.6%
Homicide	3	0.8%
Morals	0	0.0%
Motor Vehicle	13	3.5%
Restraint	3	0.8%
Robbery	24	6.5%
Sex Offenses	49	13.3%
Theft	28	7.6%
Weapons	80	21.7%
Other	4	1.1%
Total	369	100.0%

Total percentage may vary due to rounding.

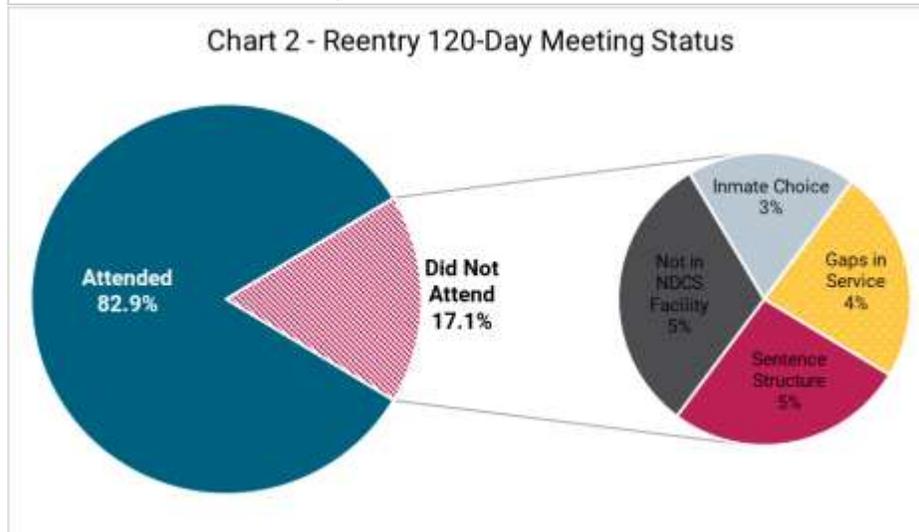
Status of the Individualized Release or Reentry Plan

Reentry planning for inmates begins at the time of arrival and continues until a person discharges. During CY2023, members of the Reentry team held orientation sessions for newly admitted inmates at the three NDCS intake facilities (Reception and Treatment Center for adult males, Nebraska Correctional Center for Women for females, and Nebraska Correctional Youth Facility for males under the age of 18) to introduce them to the concept of reentry and get them thinking about their futures. Reentry specialists continue meeting with individuals at set points throughout their sentences, including 180 days prior to release, 120 days prior to release, and 30 days prior to release. Reentry also meets with individuals on an as-needed basis to assist in

developing plans for a successful transition to the community. Table 4 shows the reentry 120-day prior to discharge meeting status for people who discharged directly from NDCS.

Table 4 - Reentry 120-Day Meeting Status		
Meeting Status	Number	Percent
Attended	306	82.9%
Did Not Attend	63	17.1%
<u>Sentence Structure</u>	<u>17</u>	
<i>Admitted and Discharged on Same Day</i>	13	
<i>Discharged within Two Weeks of Admission</i>	4	
<u>Not in NDCS Facility</u>	<u>20</u>	
<i>Out to Court</i>	19	
<i>County Jail</i>	1	
<u>Inmate Choice</u>	<u>12</u>	
<i>Inmate Refused Services</i>	10	
<i>Inmate Did not Attend</i>	2	
<u>Gaps in Service</u>	<u>15</u>	
<i>Reentry Meetings Occurred Outside of 120-Day Window</i>	5	
<i>Inmate's Meeting Status is "Unseen"</i>	1	
<i>No Meeting Records Exist</i>	9	
Total	369	100.0%

One individual is counted twice - this individual was both discharged from a county jail and discharged within two weeks of admission.



Of the 369 people who mandatorily discharged during Calendar Year 2023, 306 (82.9%) met with a reentry specialist within 120 days prior to release to develop and finalize their reentry plans. Among the 63 people (17.1%) who did not have meetings in this timeframe, 27.0% (n=17) were admitted and discharged on the same day or discharged within two weeks of admission. Another 19 people were not in an NDCS facility in the

months prior to discharge because they were in the custody of a county court. In 10 cases, inmates refused reentry services, and 2 individuals did not attend their scheduled meeting. Of the remaining 15 individuals, reentry specialists met with 5 of them, but outside of the 120-day window. 9 of the remaining 10 individuals had prior contact with reentry specialists. The one individual that did not have reentry specialist contact spent more than half of their sentence in the custody of a county court before being released to a detainer.

Most Recent Risk Assessment

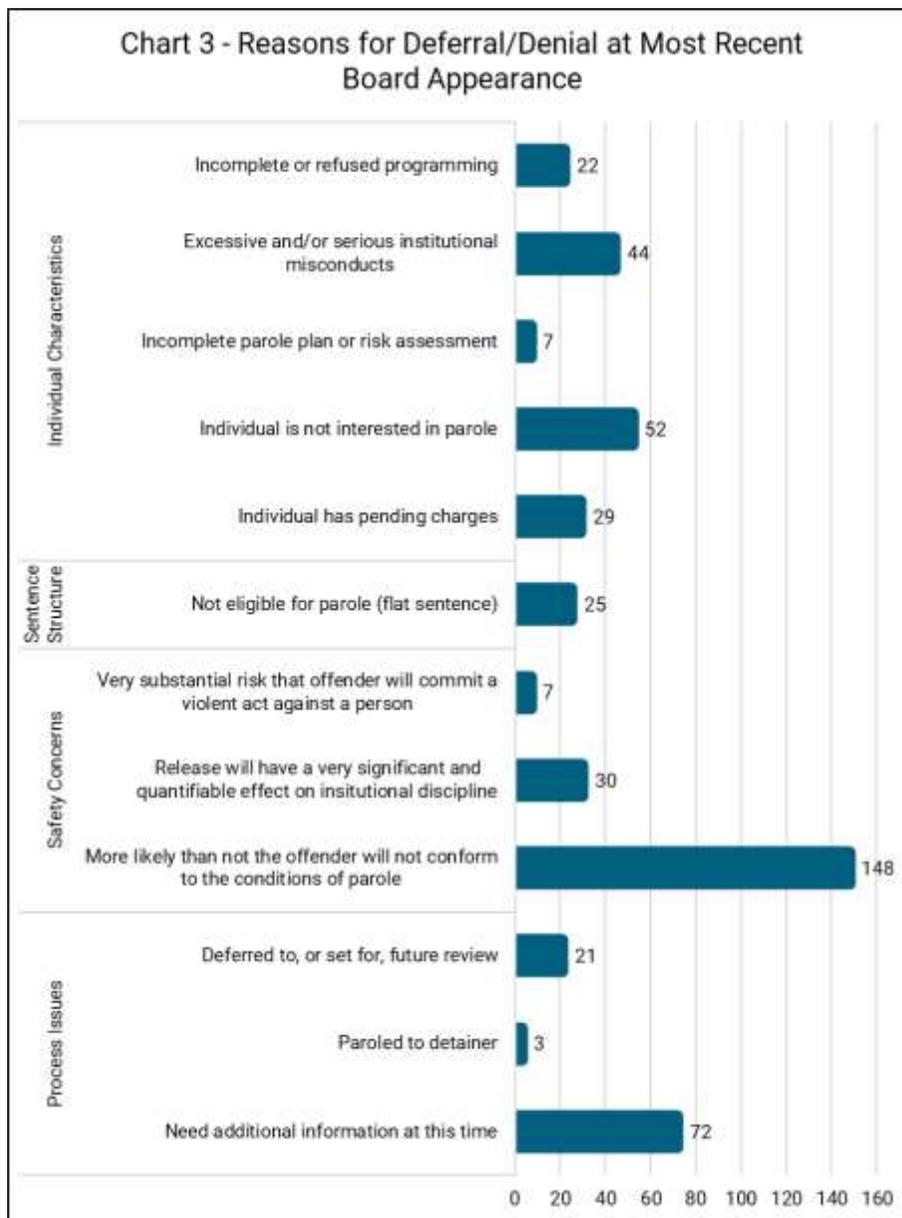
NDCS uses the Static Risk and Offender Needs Guide – Revised (STRONG-R) as its risk, needs, and responsivity assessment instrument. The STRONG-R not only assesses a person’s risk to reoffend, but also identifies the criminogenic needs driving those risks. This aids NDCS staff in helping to ensure a person’s needs are met through a variety of appropriate treatment and programming options designed to reduce risk and prepare them to be good candidates for parole and their eventual release into the community. Table 5 provides information about the risk levels of the 369 individuals who mandatorily discharged during CY2023.

Table 5 - Risk Assessment Information		
STRONG-R Status at Discharge	Number	Percent of Total
Completed Assessment	318	86.2%
<i>High Risk - Violence, Property, Drugs</i>	98	26.6%
<i>High Risk - Violence</i>	134	36.3%
<i>High Risk - Property</i>	10	2.7%
<i>High Risk - Drugs</i>	19	5.1%
<i>Moderate Risk</i>	41	11.1%
<i>Low Risk</i>	16	4.3%
Refused Assessment	0	0.0%
<i>Subject Refused to Answer</i>	0	0.0%
<i>Offender Qualified for an Exemption</i>	0	0.0%
<i>Subject was Unavailable for Interview</i>	0	0.0%
<i>Available Information is Incomplete or Inadequate</i>	0	0.0%
No Assessment Recorded	51	13.8%
<i>Length of Stay Between 0 and 7 Days</i>	18	4.9%
<i>Length of Stay Between 8 and 45 Days</i>	9	2.4%
<i>Length of Stay 46 Days or More</i>	24	6.5%
Total Discharges	369	100.0%

Of inmates who discharged from an NDCS facility 86.2% (n=318) had a STRONG-R completed. Over half (62.9%) were assessed to be criminally diverse (i.e., have a high risk for committing violent, property, and drug offenses in the community) or had a high risk of violent crime. An additional 7.9% had a high risk of committing property or drug offenses. In total, over two-thirds of the mandatory discharge inmates (70.8%) were at

a high risk of further criminal behavior when released from NDCS custody. These individuals would have been more challenging candidates to release onto parole supervision, given the high level of potential threat they posed to the community. Only 11.1% of mandatory discharges were assessed to have a moderate risk of committing a felony after release, while only 4.3% of those released scored out to be low risk.

Among those not assessed prior to release, Table 5 shows that no individuals refused to participate in their STRONG-R interview. About 13.8% (n=51) of individuals do not have a completed assessment. Twenty-seven people (52.9% of those without an assessment) were in NDCS custody for 45 days or less, which does not allow NDCS staff enough time to gather the necessary documentation and conduct a thorough



assessment in accordance with best practices and departmental policy. The remaining 24 were incarcerated for 46 days or more but were not assessed for a variety of individual circumstances.

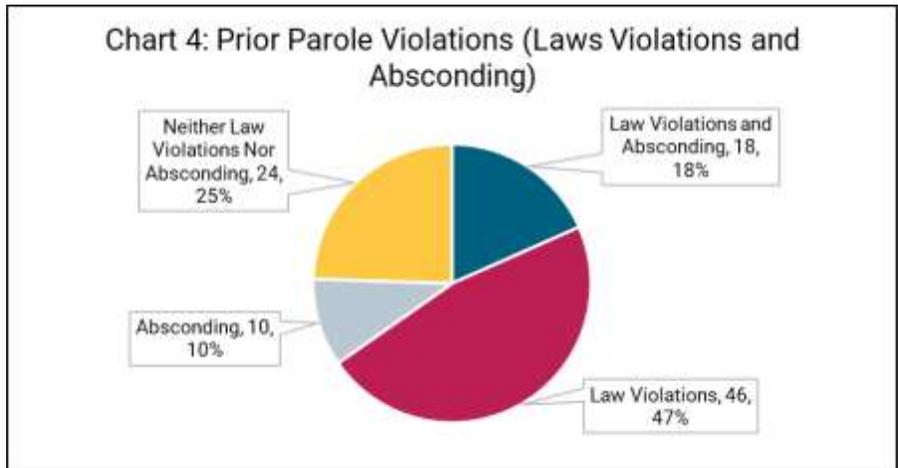
REASONS FOR DISCHARGE FROM AN NDCS FACILITY

Of the 369 people who discharged during CY2023, 215 most recently appeared in front of the Board at an offender review, 55 appeared at an initial parole hearing (including one rescission), and 99 appeared at a review of parole hearing, all of which resulted in revocation. 69 individuals had no record of any parole review. These were likely those with a sentence structure that did not allow for a period of parole supervision, had a length of stay at NDCS of 90 days or less, transferred out of state or to another jurisdiction, or were otherwise unavailable for review. Chart 6 provides a distribution of the reasons given by the Board at those appearances for why individuals may have been released without parole.³

Of the 300 individuals who received a parole denial or deferral, the Parole Board listed 460 reasons in the above general categories. There are four general categories for why people may have had their parole deferred or denied: process issues, safety concerns, sentence structure, and individual inmate characteristics. Process issues account for approximately 20.9% of total reasons why individuals were not paroled (n=96). Process-related reasons for a person not paroling prior to discharge include cases where a person was deferred until a later date until they are available in the institution (e.g., someone who was out to court on the date of their scheduled hearing/review).

Safety concerns accounted for 40.2% of the reasons people did not parole. Such concerns encompass both institutional safety and public safety. For example, the board cited pending charges incurred while on parole in 27 reviews that ended in deferral. Of the 99 individuals whose most recent Parole Board appearance was at a review hearing, the Parole Board cited 46 individuals with laws violations on prior parole, 10 individuals who had absconded, and 18 individuals who had both law violations and had also absconded under previous supervision.

³ The Board of Parole may have reported multiple reasons for why they deferred or denied a person's parole at their review or hearing. Because of this, the number of reasons will exceed the number of appearances.



Sentence structure was a reason listed by the Board for 5.4% of the mandatory discharge decisions issued. 25 people were unable to parole due to the structure of their sentence.

Deferrals or denials due to inmate characteristics are related to individual factors that prevent them from being suitable parole candidates. In 33.5% (n=154) of all deferrals or denials the Board listed one or several individual characteristics. The largest reason within this group (n=52) was that the individual was not interested in parole.

RECOMMENDATIONS TO REDUCE NUMBER OF INDIVIDUALS DISCHARGED DIRECTLY FROM NDCS

NDCS and the Board of Parole are committed to working together to minimize the number of people who discharge directly from an NDCS facility. The strategies and recommendations outlined below illustrate the efforts these agencies will continue to implement, as well as strides to be taken forward in CY2024. These strategies and recommendations address the general categories for parole deferrals and denials described in the previous section, to illustrate how these efforts meet existing needs.

Process Issues

As described in the last section, people who did not parole due to process issues included things such as inmate availability, deferrals to later dates, and people who were paroled but unable to have an appropriate residence verified or be placed in a community treatment bed prior to their release. In order to minimize these issues, NDCS and the Board of Parole will continue to collaborate in the sharing of information, scheduling parole hearings earlier in a person's sentence, and targeting key reviews.

Interagency Collaboration and Information Sharing

NDCS and the Board meet on a monthly basis to keep clear lines of communication and collaboration open between the agencies, and to keep the leadership of both agencies informed about efforts that may affect the other. Such efforts may include the adoption of new initiatives or changes in supervision strategies or programming prioritization. They also work together to review specific problems and develop solutions to overcome issues. NDCS and the Board also meet to review individuals whose parole was denied or deferred. By being aware of these issues, the NDCS reentry, treatment, and case management staff can better understand the factors that may make individuals less likely to parole so they can be addressed prior to discharge. As a result of the continued communication, each agency has developed better strategies and information-sharing capabilities in order to ease offenders' transitions into the community and increase their chances for success.

Earlier and More Frequent Board of Parole Appearances

In January 2018, the Board of Parole began setting parole hearings for inmates up to two years prior to their parole eligibility date (PED). In addition, the Board has continued to use additional reviews approximately one year prior to each inmate's PED to ensure the inmate is making sufficient progress on obtaining the necessary programming to reduce his/her risk. These strategies have allowed for more effective prioritization of inmates who are nearing their parole eligibility date as far as programming access and placement on programming priority lists. They also aid NDCS staff in long-range planning for all inmates to ensure parole readiness at the earliest point possible. During CY2020 and the Covid-19 pandemic, the Board worked with NDCS and the Division of Parole Supervision to ensure that scheduled Board appearances at both reviews and hearings were maintained to the greatest extent possible while also ensuring the safety of inmates and staff.

Parole Guidelines

The Board of Parole continues to utilize the parole guidelines developed in 2016 for all inmates who have a key review (any review occurring at or after two years prior to the inmate's parole eligibility date) or a parole hearing appearance before the Board. The parole guidelines are being used to identify inmates who are parole-ready and take into consideration programming that is needed prior to release into the community. Critical clinical treatment that must be obtained prior to release includes anger management for high-risk inmates, residential substance use treatment, sex offender programming, and violence reduction programming.

Safety Concerns

Some individuals were not granted parole due to the safety risks they posed to themselves, other inmates, or the community. Although such risks can never be fully eliminated nor prevented, NDCS and the Board of Parole are working to ensure these risks are mitigated to the fullest extent possible, through effective evidence-based practices, and prioritizing access to clinical treatment.

Continue Evidence-Based Practices

Both the Board and NDCS use risk assessment instruments to identify the risk and needs levels of this population, and use those results as the foundation for making supervision and clinical treatment recommendations. The Board and NDCS will continue their existing evidence-based supervision strategies and cognitive interventions with the goal of increasing the number of people released on parole prior to discharge and reducing the number of parole revocations. In addition, both agencies will explore new advancements in programming and supervision and adopt evidence-based practices that are suited to their organization, when appropriate.

Prioritize Access to Clinical Treatment

It remains the goal of NDCS to get all parole-eligible individuals into treatment in advance of their PEDs. To aid in reaching this outcome, NDCS will continue to prioritize the placement of individuals into clinical programs according to PED. The most common program recommendation encountered by the Board of Parole is for residential substance use treatment. In an effort to make it possible to release more inmates as close to their PEDs as possible, the Board of Parole and Division of Parole Supervision have partnered with Valley Hope residential treatment center of O'Neill. This community-based treatment option increases the ability of the Board to release inmates who have completed everything but their substance use treatment by the time of their release. Release to Valley Hope includes a structured release plan with 30 days at the residential treatment center coupled with intensive parole supervision. NDCS also began offering the Violence Reduction Program (VRP) to individuals in restrictive housing during CY2019. This has increased capacity into the program, as well as ensured those who are unable to be safely managed in general population are able to take this clinical program to reduce their risk.

Inmate Characteristics

41.73% of the 369 people who mandatorily discharged in CY2023 did so because of their individual circumstances. In some of these cases (n=22), the Board noted that they would benefit from continued treatment, medical care or training. NDCS is working to ensure people have the treatment they need prior to their parole eligibility dates and implementing other strategies to help engage inmates and decrease the number of people who simply refuse the opportunity for supervised release. *Provide Required Programming by Parole Eligibility Date*

NDCS has made a number of changes to ensure inmates have the opportunity to complete required treatment prior to their parole eligibility date so they may parole at their earliest opportunity. Examples of this include completing education assessments for all individuals at intake. This assessment identifies the educational needs of the individual and indicates whether or not any school courses should be required prior to participation in cognitive-behavioral or clinical programs. NDCS has also increased the number and frequency of clinical programs offered throughout its facilities and has added programming opportunities for incarcerated individuals in protective management and restrictive housing. These programs provide individuals with the skills they need to be successful both inside and outside of prison. As mentioned in previous sections, individuals are prioritized for placement in these programs according to their parole eligibility date or, for those past PED, their next parole hearing or tentative release date.

Reduce the Number of People Declining or Waiving Parole Hearings

Oftentimes, people decline the opportunity for parole because they do not want to be monitored after release and/or complete certain obligations (such as treatment or fees) that necessarily come with parole supervision. In addition, some individuals choose to discharge from community corrections centers because they want the additional time to save their money and delay rent payments as long as possible. A long-term strategy to address this issue is currently utilized by the NDCS Reentry Division, which begins working with inmates at intake to develop concrete reentry plans and provide people with information about resources available to them in the community. This process of readying inmates for their return to the outside world can reduce the number of people who decline parole. They will have the skills they need to be successful upon their release and will be less fearful of the unknown. As an immediate strategy, the Board is continuing to schedule individuals for hearings, even if the individual waives. This creates an opportunity for the inmate and Board to have a dialogue about what parole entails and what attitudes or fears the person may have about his or her release. This may help clarify the expectations that each party has of the other and allow the Board and the individual to make the most appropriate decision, given the entire set of circumstances.

Case Management Academy

Since CY2018, NDCS has provided a Case Management Academy. The 40-hour academy is designed to provide case management staff with the knowledge, tools, and

strategies needed to assist their clients throughout their prison sentence. From a practical standpoint, staff learn what evidence-based practices are and how to refer people to programs, given their individualized needs. To aid in the application of this work, staff also gain the ability to engage and motivate individuals to work toward their specific goals. The development of an individualized plan provides staff and inmates with a shared set of expectations, and staff can hold inmates accountable for their progress in a professional way. Staff members can have a more positive influence on their clients by developing a professional rapport with them and helping them see the value in participating in their recommended programs.

RECOMMENDATIONS TO MITIGATE RISK OF INDIVIDUALS DISCHARGED DIRECTLY FROM NDCS

Recall from earlier that 25 of the 369 mandatory discharges in CY2023 were not paroled due to issues regarding their sentence structure. NDCS works to mitigate the risk these individuals may pose to the community after their release. This includes focused reentry planning, providing access to clinical treatment, and making the appropriate referrals when someone may pose a threat to public safety.

Focused Reentry Planning Throughout One's Entire Sentence

Since 2018, NDCS has provided all incarcerated individuals with a Reentry Planner.⁴ The interactive Reentry Planner is designed to foster engagement, self-motivation, and personalized reentry planning. The 138-page planner includes resources related to: reentry services, identification, addiction recovery, self-care, family and community support, financial obligations, education, Vocational & Life Skills, employment, transportation, housing, and community supervision. Each section includes reentry resources and writing prompts intended to encourage introspection and goal achievement. The Reentry Team also assists individuals with signing up for Medicaid, applying for SNAP benefits, and obtaining critical documents. They provide information to incarcerated individuals regarding the Affordable Care Act and connect individuals with community providers who specialize in transitional housing and vocational and life skills programs. NDCS reentry specialists meet with individuals as they enter the NDCS intake centers and meet with them again 120 days from release and 30 days prior to release to help them prepare to return to the community. By engaging incarcerated individuals early and continuing to reinforce the concept of reentry throughout their incarceration, reentry specialists help them develop concrete plans to meet their goals for returning to the community. Even if they are not released to parole supervision, they are able to leave NDCS with a variety of resources at their disposal and the first steps toward reintegrating into society.

Provide Recommended Clinical Treatment

NDCS strives to provide clinical treatment to all individuals in advance of their PED. Individuals with flat sentences present unique challenges however, because they have no opportunity to obtain this treatment in the community while under parole supervision.

⁴ https://corrections.nebraska.gov/sites/default/files/file_attach/reentry_planner_new_comp.pdf

Therefore, it is important to prioritize these individuals, along with those that are parole-eligible, for placement into treatment programs prior to their tentative release date. This helps ensure that people have the opportunity to participate in evidence-based sex offender treatment, substance use treatment, and violence reduction programming, to mitigate their chances of reoffending after release.

Discharge Review Team (DRT)

The NDCS Discharge Review Team (DRT) is a multidisciplinary team consisting of behavioral health, social work, and security and case management staff. This team is charged with reviewing individuals with behavioral health issues who may potentially release into the community directly from an NDCS facility. The DRT also provides notice to local law enforcement for individuals with sex offenses who will be discharging, and makes referrals to county attorneys for inmates who may require civil commitment following their incarceration. By closely reviewing high-risk inmates and working with the appropriate community agencies, NDCS works to keep all people safe.

CONCLUSION

While the ratio of individuals that mandatorily discharged compared to those that discharged from community supervision has stayed relatively stable over the past few years, the actual number of individuals completing their sentence while on community supervision has steadily decreased since 2019. With the passage of LB50 (2023), a higher proportion of individuals should become parole eligible in future years and the bill has the potential to impact individuals who otherwise might be mandatorily discharged.

Of the 369 people whose sentences allowed for the possibility of parole that discharged from an NDCS facility in CY2022, 165 (44.7%) had a prior history of parole supervision and 62 discharged from a community corrections center. This is indicative of the commitment shared by NDCS and the Board to offer opportunities to incarcerated individuals to succeed in their communities. The Board and NDCS will continue this commitment to the incarcerated population and work together to identify new strategies to ensure that the maximum number of people leaving NDCS are doing so under community supervision.