

# **MANDATORY DISCHARGE REPORT**

## **March 2016**

**Nebraska Board of Parole**

**Nebraska Department of Correctional Services**

### **SCOPE AND INTRODUCTION**

Section 83-1,100.03, a new provision of law established by LB 605 (2015) as part of the Justice Reinvestment Initiative, provides that the Board of Parole and the Nebraska Department of Correctional Services shall submit a report annually on or before February 1 to the Legislature, Supreme Court and the Governor. The report is to describe the percentage of offenders sentenced to the custody of the Department who complete their entire sentence and are released with no supervision. The report is to include the characteristics of individuals released without supervision, including the highest felony class of conviction, offense type of conviction, most recent risk assessment, status of the individualized release or reentry plan, and reasons for release without supervision. The report shall also provide recommendations from the Board and the Department on how to reduce the number of individuals released without supervision.

The Board and Department have collaborated on this initial Mandatory Discharge Report. LB 605 became effective August 30, 2015, and implementation has been underway in a number of areas since that time. This report covers October 1, 2015 through December 31, 2015, the first full quarter since LB 605 became effective. The Board and the Department are committed to working together to reduce the number of mandatory discharges and appreciate the efforts and interest of the Legislature in addressing this issue.

### **NUMBER OF OFFENDERS DISCHARGED WITHOUT SUPERVISION**

A total of 257 individuals were discharged without supervision between October 1, 2015 and December 31, 2015. This represents 47.2 percent of all discharges during that time frame and does not include individuals who died (3) or were released to another jurisdiction (5). Of these 257 individuals, 64 (24.9%) had a prior history of parole, 74 (28.8%) had sentences that did not allow for parole (e.g., flat sentence), and 35 (13.6%) discharged from a community corrections center.

## **CHARACTERISTICS OF INDIVIDUALS DISCHARGED WITHOUT SUPERVISION**

Below you will find a breakdown of the characteristics of the individuals discharged during the second quarter of Fiscal Year 2016.

**Table 1: Highest Felony Class of Conviction**

<b>Class of Conviction</b>	<b>Number of Individuals</b>	<b>Percent of Individuals</b>
ID Felony	3	1.2%
II Felony	30	11.7%
IIA Felony	0	0%
III Felony	88	34.2%
IIIA Felony	30	11.7%
IV Felony	85	33.1%
Felony	2	0.8%
I Misdemeanor	18	7.0%
Unknown	1	0.4%
<b>TOTAL</b>	<b>257</b>	<b>100%</b>

**Table 2: Highest Felony Conviction Type of Conviction\***

<b>Most Serious Offense Category</b>	<b>Number of Individuals</b>
Drugs	53
Assault	45
Sex Offenses	36
Theft	34
Burglary	29
Motor Vehicle	21
Weapons	15
Robbery	10
Fraud	5
Other	4
Restraint	2
Morals	1
Homicide	1
Arson	1
<b>Total</b>	<b>257</b>

*\*See Appendix for the breakdown of specific offenses within each category*

## Most Recent Risk Assessment

NDCS is currently in the process of adopting and validating a new risk, needs, responsivity assessment instrument, the STRONG-R (Static Risk and Offender Need Guide – Revised). Implementing a risk assessment instrument was required by LB 605 and will be used to assess risk to reoffend as well as criminogenic needs and recommended programming to meet those needs. The STRONG-R is expected to be implemented by July 1, 2016.

## Status of the Individualized Release or Reentry Plan

Currently, reentry plans are paper documents. As a result, NDCS and the Board of Parole are unable to provide aggregate information about the status of individual reentry plans. Of the 257 discharges, 202 met with a reentry specialist 120 days before release to develop and finalize their reentry plan. NDCS is currently developing the Life Plan which will be the single source for individualized reentry plans. The Life Plan is expected to be implemented in conjunction with the STRONG-R by July 1, 2016, and data from the life plan will be included in the 2017 report.

## Reasons for Release without Supervision

The table below provides a breakdown of the reasons that individuals who mandatorily discharged were denied parole. This does not include individuals who never appeared in front of the Board of Parole for a review or a hearing due to their sentence structure (31) or individuals who most recently appeared in front of the Board of Parole for a revocation (54) or rescission hearing (6). The number of reasons exceeds the number of mandatory discharges. The range of reasons was between one and six with an average of 1.9. The reasons listed below reflect verbiage used during the parole hearing or review.

**Table 3: Reasons for Release without Supervision**

Reason for Release Without Supervision	Percent
Waived appearance/Inmate not available* (out to court, escape status, in hospital, transferred to another facility)	32.0%
Not eligible for parole	15.4%
Your continued correctional treatment, medical care, vocational training, or other training in the facility will substantially enhance your capacity to lead a law-abiding life when released at a later date.	12.1%
The nature/circumstances of your offense(s) indicates that an early release would depreciate from the seriousness of your crime and promote disrespect for the law	8.5%
Excessive/serious MRs	4.8%
Initial board review schedule and tentative release date do not allow adequate time for parole	4.8%
Refuses programming	4.0%
Other	3.7%
Due to your prior criminal record	2.9%
Lack of institutional support	2.9%

<b>Reason for Release Without Supervision</b>	<b>Percent</b>
Drug or intoxicant misconduct reports	2.2%
Recent misconduct reports	2.2%
At subject's request	1.8%
Failed to complete SAU/RTC	1.5%
Because of your negative attitude and actions toward rules, regulations, and authority, your early release would have a substantially adverse effect on institution discipline	0.4%
Because of your past violations of parole and/or probation, there is substantial risk that you will not conform to the conditions of parole	0.4%
Lack of board support	0.4%

\*The waived appearance/inmate not available category represents individuals who waived their appearance or did not attend their scheduled review or hearing. The Board does not view failure to appear as a reason for denying parole or to defer to mandatory discharge, but views it as a delay in the process until the inmate is available. The policy of the Board of Parole is to set individuals who are not available for another hearing or review at the next available opportunity.

### **RECOMMENDATIONS TO REDUCE NUMBER OF INDIVIDUALS DISCHARGED WITHOUT SUPERVISION**

Since the implementation of LB 605, the Council of State Governments (CSG) has provided technical assistance to NDCS and the Board of Parole regarding recommendations to reduce the number of individuals released from a correctional facility without supervision. This has included reviewing current Parole Board policy in setting parole hearings and establishing parole timeline targets to ensure parole release a minimum of 9 months prior to an inmate's mandatory discharge date. Included below are the recommended strategies to achieve this goal.

#### **Evaluation of Mandatory Release Dates**

NDCS and the Board of Parole are identifying individuals by month for the next 12 months who have a key review or parole hearing scheduled in order to ensure they are parole ready, minimizing mandatory discharges. Key reviews are case reviews by the Board of Parole within approximately 8-12 months prior to parole eligibility to determine whether to schedule a parole hearing. NDCS and the Board of Parole are also identifying individuals with key reviews, parole hearings and mandatory discharge dates in 2017, which allows for long range planning to address parole readiness. Identifying these individuals will allow NDCS to focus on an individual's needs and work towards addressing them prior to the parole eligibility date.

#### **Parole Guidelines**

The Board of Parole is in the process of developing parole guidelines and is tentatively scheduled to pilot these guidelines from July through September 2016. During the pilot, the parole guidelines will be used by the Board of Parole at the key reviews to determine whether or not to schedule a parole hearing and at the parole hearings to inform the parole decision.

The objective of the parole guidelines is to ensure individuals are paroled at the earliest opportunity if they are parole ready and are able to be managed under community supervision. The pilot will determine how the parole guidelines are scoring individuals; the rate at which the guidelines are recommending parole; how often the Board supports the guideline recommendations; and how often and why the Board departs from the guideline recommendations. The pilot will also assess why individuals may not be parole eligible (e.g., programming, reentry plan, or misconduct reports) in order to identify other potential options for reducing mandatory discharges.

### **Justice Program Assessment**

A third effort currently underway which will produce additional recommendations in this area is the Justice Program Assessment (JPA). NDCS requested assistance from CSG in reviewing the current program options available within the department. The JPA, a review of the rehabilitative programs offered within NDCS, will identify recommendations to help individuals parole at the earliest opportunity. JPA will focus on program fidelity to evidence-based practices. The JPA is scheduled to be completed this spring and will include recommendations on how to improve the fidelity of existing programming as well as where gaps may exist.

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Rosalyn Cotton, Parole Board Chair

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Scott Frakes, NDCS Director

**Appendix: Specific Felony Convictions by Type**

<b>Drugs</b>	<b>Number of Individuals</b>
Pos Cntrl Sub Except Marijuana	26
Manu/Dist/Del/Disp Or Poss W/l	25
Aquiring Cont Substnc By Fraud	1
Pos Of Over 1 Lb. Of Marijuana	1
<b>Total</b>	<b>53</b>

<b>Assault</b>	<b>Number of Individuals</b>
Domestic Assault	12
Terroristic Threats	9
Assault 2nd Degree	8
Assault 1st Degree	3
Assault 3rd Degree	3
Child Abuse	3
Assault By A Confined Person	2
Strangulation	2
Aslt Peac Ofcr/Dcs Emp 3rd Dgr	1
Aslt W/Body Fluid/Pub Sfty Off	1
Vulnerable Adult Abuse	1
<b>Total</b>	<b>45</b>

<b>Sex Offenses</b>	<b>Number of Individuals</b>
Sexual Assault 1st Degree	9
Sex Offender Reg Act Violation	7
Sexual Assult Of Child 3rd Deg	5
Sexual Assault 2nd Degree	3
Visl Depict Sexl Explicit Cond	3
Sexual Assault 3rd Degree	2
Sexual Assault On A Child	2
Sexual Assult Of Child 1st Deg	2
Child Enticement By Computer	1
Enticement/Electronic Comm Dev	1
Possession Child Pornography	1
<b>Total</b>	<b>36</b>

<b>Theft</b>	<b>Number of Individuals</b>
Theft By Unlawful Taking Or Disp	14
Theft By Receiving Stolen Prop	11
Theft By Deception	4
Theft By Shoplifting	3
Theft	2
<b>Total</b>	<b>34</b>

<b>Burglary</b>	<b>Number of Individuals</b>
Burglary	29
<b>Total</b>	<b>29</b>

<b>Motor Vehicle</b>	<b>Number of Individuals</b>
Driving While Intoxicated	14
Driving Under Revoked License	4
Driving Under Influence/Injury	1
Leave Scene Of Injury Accident	1
Operate Motor Veh/Avoid Arrest	1
<b>Total</b>	<b>21</b>

<b>Weapons</b>	<b>Number of Individuals</b>
Poss Deadly Weap By Felon/Fug	8
Poss Firearm By Fugitive/Felon	5
Poss/Receive Stolen Firearm	1
Use Deadly Weap To Commit Fel	1
<b>Total</b>	<b>15</b>

<b>Robbery</b>	<b>Number of Individuals</b>
Robbery	10
<b>Total</b>	<b>10</b>

<b>Fraud</b>	<b>Number of Individuals</b>
Forgery 2nd Degree	3
Bad Check More Than \$1000	1
Viol Of Financial Trans Device	1
<b>Total</b>	<b>5</b>

<b>Other</b>	<b>Number of Individuals</b>
Accessory To A Felony	2
Aiding Consummation Of Felony	1
Resisting Arrest	1
<b>Total</b>	<b>4</b>

<b>Restraint</b>	<b>Number of Individuals</b>
False Imprisonment 1st Degree	2
<b>Total</b>	<b>2</b>

<b>Morals</b>	<b>Number of Individuals</b>
Criminal Non-Support	1
<b>Total</b>	<b>1</b>

<b>Homicide</b>	<b>Number of Individuals</b>
Manslaughter	1
<b>Total</b>	<b>1</b>

<b>Arson</b>	<b>Number of Individuals</b>
Arson 2nd Degree	1
<b>Total</b>	<b>1</b>