

# **MANDATORY DISCHARGE REPORT**

**February 2017**

**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 (NDCS) 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 of Parole and NDCS on how to reduce the number of individuals released without supervision. The Board of Parole and NDCS have collaborated on this Mandatory Discharge Report. LB 605 went into effect on August 30, 2015. This report provides information about discharges between January 1, 2016 through December 31, 2016, the first full calendar year since LB 605 became effective. The Board of Parole and NDCS 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**

Between January 1, 2016 and December 31, 2016, a total of 617 individuals who could have been paroled discharged directly from an NDCS facility (or contracted county jail) without community supervision. This group represents 29.7 percent of all NDCS discharges during calendar year 2016.

Persons were excluded from consideration in this report if: they were discharged from NDCS custody to serve terms of post-release supervision under the jurisdiction of the Administrative Office of Probation (n=119), their sentence structures did not allow for the possibility of parole supervision (n=248), they were released to another jurisdiction (n=22), or if they discharged their sentence while on parole (n=1062). Individuals who were released due to death (n=9) were also excluded.

Of the 617 people who finished their sentence while incarcerated, 211 (34.2%) had a prior history of parole and 80 (13.0%) discharged from a community corrections center.

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

This section details characteristics about the 617 individuals discharged during calendar year 2016. Specifically, the tables below provide distributions of the highest felony class and type of conviction for those discharged and why people may have been released without supervision.

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

<b>Class of Conviction</b>	<b># of Individuals</b>	<b>% of Individuals</b>
IA Felony	0	0.0%
IB Felony	3	0.5%
IC Felony	0	0.0%
ID Felony	5	0.8%
II Felony	89	14.4%
IIA Felony	2	0.3%
III Felony	192	31.1%
IIIA Felony	92	14.9%
IV Felony	212	34.4%
Felony	4	0.6%
I Misdemeanor	18	2.9%
<b>TOTAL</b>	<b>617</b>	<b>100.0%</b>

**Table 2: Highest Felony Conviction Type<sup>1</sup>**

<b>Class of Conviction</b>	<b># of Individuals</b>	<b>% of Individuals</b>
Assault	119	19.3%
Drugs	101	16.4%
Theft	78	12.6%
Sex Offenses	76	12.3%
Motor Vehicle	54	8.8%
Burglary	53	8.6%
Weapons	45	7.3%
Robbery	39	6.3%
Fraud	21	3.4%
Other	19	3.1%
Homicide	4	0.6%
Restraint	3	0.5%
Morals	3	0.5%
Arson	2	0.3%
<b>TOTAL</b>	<b>617</b>	<b>100.0%</b>

<sup>1</sup>See Appendix for counts of specific offenses within each category.

### **Most Recent Risk Assessment**

NDCS and APA implemented the STRONG-R (Static Risk and Offender Needs Guide – Revised) risk, needs, and responsivity assessment instrument on July 5, 2016. The implementation of a risk assessment instrument was required by LB 605, and the STRONG-R is used to assess risk to reoffend as well as identify criminogenic needs; the STRONG-R case plan will be used to recommend treatment and programs available within NDCS, as well as in the community, that may address specific needs domains and reduce the likelihood of future criminal activity.

The STRONG-R implementation plan prioritized assessments for newly admitted individuals going through the NDCS intake process, those who had parole hearings scheduled, and those who had a parole review scheduled and were within one year of their parole eligibility date (PED). Because of this prioritization, few individuals discharged during calendar year 2016 were assessed with the STRONG-R. As more staff are trained, NDCS will work to ensure that a STRONG-R assessment is completed for all incarcerated individuals by June 30, 2017.

### **Status of the Individualized Release or Reentry Plan**

Reentry plans are currently not integrated as electronic documents into the inmate and parolee case management systems of NDCS and APA. As a result, NDCS and the Board of Parole are unable to provide aggregate information about the status of individual reentry plans. However, of the 617 people who mandatorily discharged during calendar year 2016, 77.6% (479) met with a reentry specialist during the year prior to release to develop and finalize their reentry plans.

### **Reasons for Release without Supervision**

Table 3, below, provides a distribution of reasons that individuals who mandatorily discharged were not paroled. This does not include individuals who never appeared in front of the Board of Parole for a review or a hearing (n=24) or individuals who most recently appeared in front of the Board of Parole for a revocation (n=134) or rescission hearing (n=9). The total number of reasons for denial exceeds the number of people who discharged directly from a facility because individuals may have been denied parole for multiple reasons. The range of reasons was between one and eight with an average of 2.8. The reasons listed in Table 3 reflect verbiage used during the parole hearing or review.

Although individuals may have been denied parole for multiple reasons, the Board of Parole began to track the primary reason they deferred releasing someone to their mandatory discharge date during calendar year 2016. Of the 617 people discharged, 238 had parole reviews or hearings during 2016 that resulted in a deferral to mandatory discharge. The primary reasons these people were deferred are shown below in Table 4.

**Table 3: Reasons for Release without Supervision<sup>1</sup>**

Offense	# of Individuals	% of Individuals
Because of your past violations of parole and/or probation, there is substantial risk that you will not conform to the conditions of parole.	23	3.4%
The nature/circumstances of your offense(s) indicate that an early release would depreciate from the seriousness of your crime and promote disrespect for the law.	44	6.5%
Due to your prior criminal record.	11	1.6%
Because of your negative attitude and actions toward rules, regulations, and authority, your early release would have a substantially adverse effect on institution discipline.	8	1.2%
Your continued treatment, medical care, vocational training, or other training in the facility will substantially increase your capacity to lead a law-abiding life when released at a later date.	123	18.2%
Not eligible for parole.	20	3.0%
Initial board review and Tentative Release Date do not allow adequate time for parole.	37	5.5%
Waiver/Inmate not available.	166	24.6%
At subject's request.	22	3.3%
Recent misconduct reports.	38	5.6%
Lack of institutional support.	44	6.5%
No recommendation submitted by institution.	1	0.1%
Refuses programming.	57	8.4%
Drug or intoxicant misconduct reports.	10	1.5%
Other.	25	3.7%
Opposition.	4	0.6%
Loss of Good Time.	4	0.6%
Excessive/serious MRs.	17	4.7%
Lack of Board Support	2	0.6%
Failed to Complete SAU/RTC	20	5.0%
<b>TOTAL</b>	<b>676</b>	<b>100.0%</b>

<sup>1</sup>The waived appearance/inmate not available category represents individuals who waived their appearance or did not attend their scheduled hearing or review. 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.

**Table 4: Reasons for Deferral to Mandatory Discharge**

Offense	Parole Review		Parole Hearing		Total	
	#	%	#	%	#	%
Because of your past violations of parole and/or probation, there is substantial risk that you will not conform to the conditions of parole.	3	1.8%	15	20.0%	18	7.6%
<i>Refused to see board.</i>	0	0.0%	1	1.3%	1	0.4%
<i>No Parole Plan</i>	0	0.0%	2	2.7%	2	0.8%
The nature/circumstances of your offense(s) indicate that an early release would depreciate from the seriousness of your crime and promote disrespect for the law.	2	1.2%	6	8.0%	8	3.4%
Because of your negative attitude and actions toward rules, regulations, and authority, your early release would have a substantially adverse effect on institution discipline.	5	3.1%	9	12.0%	14	5.9%
Your continued treatment, medical care, vocational training, or other training in the facility will substantially increase your capacity to lead a law-abiding life when released at a later date.	73	44.8%	44	58.7%	117	49.2%
<i>Refused programming.</i>	29	17.8%	14	18.7%	43	18.1%
<i>Waived hearing.</i>	17	10.4%	24	32.0%	41	17.2%
<i>No time to finish programming.</i>	26	16.0%	0	0.0%	26	10.9%
Not Eligible for Parole.	7	4.3%	1	1.3%	8	3.4%
Uninterested in Parole	70	42.9%	0	0.0%	70	29.4%
Not Available at Time of Hearing/Inadequate Time for Parole	3	1.8%	0	0.0%	3	1.3%
<b>TOTAL</b>	<b>163</b>	<b>68.5%</b>	<b>75</b>	<b>31.5%</b>	<b>238</b>	<b>100.0%</b>

## **EFFORTS UNDERWAY 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 12-13 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 parole eligibility date (PED).

### **Parole Guidelines**

In the spring and summer of 2016, the Board of Parole developed and finalized formal parole board guidelines to assist in decision-making with respect to key reviews and parole hearings. The objective of the 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. Guidelines were implemented at three pilot NDCS facilities from October 2016 through January 2017. Initial data analysis from that pilot project indicates that the Board is increasing the parole rate as well as the number of key reviews in which an offender is set for a parole hearing, which should reduce the number of individuals who reach their mandatory discharge date without supervision. Parole board guidelines will be required for all inmates who have a key review or parole hearing at all NDCS institutions beginning April 1, 2017. Additional data gathered during the pilot includes an assessment of the reasons why individuals are not ready for parole at the time of their hearing, including completion of core risk-reducing programming and institutional misconduct. This data will be used to identify and target additional methods for reducing the number of individuals who are discharged without a period of community supervision.

### **Justice Program Assessment**

A third effort that produced 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, identified recommendations to help individuals parole at the earliest opportunity. JPA focused on program fidelity to evidence-based practices. The JPA was completed in June and included recommendations on how to improve the fidelity of existing programming as well as where gaps may exist. In response to the recommendations of the JPA, the following improvements have been made:

#### *Assessments at Intake*

NDCS is implementing the recommendation to conduct assessments earlier in the process and has a goal complete the STRONG-R risk needs assessment within 30 days of intake and initial

clinical assessments within 90 days. This process was initiated in July 2016 with the rollout of the STRONG-R and NDCS is on track meet the 30 and 90 day assessment goals for all new intakes by the target date of August 2017.

### *Clinical Treatment Services*

Since August, numerous steps have been taken to improve capacity in servicing the highest risk and highest need individuals within clinical programs at NDCS. Mental health staff is working to streamline paperwork and contract psychologists at TSCI are taking on the restrictive housing clinical requirements which allow NDCS clinical staff to focus on programming needs.

### Violence Programming:

- Violence Reduction Programming has been expanded at NDCS with a train-the-trainer program to be held in the future to ensure sustainability.
- The Violence Reduction Program (VRP) will triple its capacity beginning in January of 2017. This tripling of capacity is the result of additional clinical staff having recently been trained in VRP curriculum, reducing clinical anger management programming, and planning for the eventual elimination of domestic violence programming.
- Clinicians will continue to facilitate anger management for the high risk, high need individuals as well as those with co-occurring disorders. The existing clinical anger management curriculum was strengthened by ensuring skills practice is a required component. Clinicians have transitioned the facilitation of anger management for low and moderate-risk offenders to paraprofessionals. In January 2017, clinical staff will begin anger management classes on the MHU and SMHU units.
- Domestic Violence (DV) programming within NDCS is being phased out since it does not meet the community standard for DV treatment. In January of 2017, clinical staff will transition all facilitation to paraprofessionals, with current groups continuing until completion (expected in summer 2017).
- A priority has been placed on determining how the STRONG-R will drive additional clinical assessments and programming, developing a system to notify clinical staff when a clinical assessment needs to be completed based on the STRONG-R results, training clinical staff on the STRONG-R and providing login access to clinical staff to view the assessment and results.

### Sex Offender Programming:

- Prioritization of screening and treatment has been modified to reduce “jam outs” for sex offenders who typically do not have the ability to complete treatment. As capacity is built the screening and treatment prioritization will be transitioned to PED.
- iHeLP: Skill building and motivational enhancements were made to the program with the aim of reducing overall time spent completing iHeLP.
- oHeLP: Program capacity has increased by 16 males and is now offered at two male facilities. Additionally, a female oHeLP has begun at NCCW to meet the needs of the female population.
- bHeLP: Expanded capacity to treat individuals in protective management prior to PED.
- Increase coordination between NDCS and other criminal justice entities with the ultimate goal of ensuring community providers utilize best practice standards while providing a continuum of care for sex offenders.

### Substance abuse programming:

- Residential substance abuse programming has remained stable and as a result has not implemented any significant changes.
- Non-residential substance abuse programming is being assessed for expansion

### *Case Manager Training Academy*

Since October, ongoing communication has occurred with Christina Carter and Mike Rothwell to discuss a 40-hour case management academy. Progress includes:

- Identified September 1, 2017 as target date to hold an initial case management training academy.
- CSG shared resources on Kansas DOC's case management academy and initial and ongoing training process.
- CSG recommended content and sequencing of a 40-hour case management academy.
- The Crime & Justice Institute (CJI) has completed a proposal for a 40-hour case manager academy which includes a train-the-trainer component for sustainability.
- Funding has been identified for the CJI proposal.

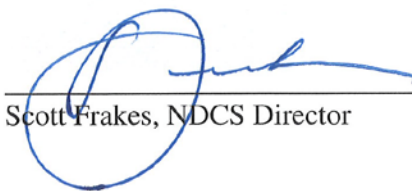
### **Quality Assurance System:**

Since July numerous meetings have been held to discuss a quality assurance (QA) and continuous quality improvement (CQI) system. Progress includes:

- CSG shared example documents for conducting observations of risk/need assessment interviews and programming.
- CSG also shared example QA/CQI policies and procedures from other states.
- Established a deadline of December 31st, 2016 for completing drafts of a STRONG-R QA/CQI process and forms.
- Identified February 1st, 2017 as a deadline for completing drafts of a QA/CQI process and forms for program delivery.
- Modifications have been made to NICaMS to ensure necessary and timely data entry and reporting for programming. Items of note include additional screens in NICaMS for collecting programming data and dashboards for facilitators to ensure timely and complete data entry.
- NDCS finalized a short-term plan to provide quality assurance measures to the STRONG-R's criminal conviction record to ensure accuracy of risk levels for validation of the tool on Nebraska's population.
- Observations of STRONG-R interviews and group observations will be phased in after review of criminal conviction records.
- Clinical group observation forms are being drafted and CSG will provide feedback if requested. Group observations will begin by the end of the fiscal year and will be used to help staff develop their skill sets as well as gain familiarity with the quality assurance process. Initial group observations will focus on staff development and will not be used as part of official performance reviews. Once the process has been well-established, staff performance reviews may include feedback from group observations.



Rosalyn Cotton, Parole Board Chair



Scott Frakes, NDCS Director



**Appendix: Specific Felony Convictions by Type\***

*\*Note: The combined total of all tables exceeds the number of people discharged during calendar year 2016 because individuals may have had multiple convictions for offenses in the same category (e.g., Assault 2<sup>nd</sup> Degree and Stalking).*

**Table A1: Arson**

Offense	# of Individuals	% of Individuals
Arson 1st Degree	1	50.0%
Arson 2nd Degree	1	50.0%
<b>TOTAL</b>	<b>2</b>	<b>100.0%</b>

**Table A2: Assault**

Offense	# of Individuals	% of Individuals
Assault Peace Officer/ NDCS Employee 2nd Degree	1	0.7%
Assault Peace Officer/ NDCS Employee 3rd Degree	15	10.5%
Assault 1st Degree	11	7.7%
Assault 2nd Degree	19	13.3%
Assault by a Confined Person	8	5.6%
Child Abuse	13	9.1%
Domestic Assault	27	18.9%
Stalking	2	1.4%
Strangulation	13	9.1%
Terroristic Threats	34	23.8%
<b>TOTAL</b>	<b>143</b>	<b>100.0%</b>

**Table A3: Burglary**

Offense	# of Individuals	% of Individuals
Burglary	50	94.3%
Possession of Burglary Tools	3	5.7%
<b>TOTAL</b>	<b>53</b>	<b>100.0%</b>

**Table A4: Drugs**

Offense	# of Individuals	% of Individuals
Dealing Narcotic/ Controlled Substance	1	0.9%
Manufacture, Distribute, Deliver, Dispense, or Possess with Intent	41	37.6%
Possession of a Controlled Substance except Marijuana	63	57.8%
Possession of over 1 lb. of Marijuana	4	3.7%
<b>TOTAL</b>	<b>109</b>	<b>100.0%</b>

**Table A5: Fraud**

Offense	# of Individuals	% of Individuals
Criminal Impersonation	2	8.3%
Forgery 1st Degree	5	20.8%
Forgery 2nd Degree	11	45.8%
No Account Check/ Bad Check less than \$75	1	4.2%
Possession of Forgery Device	1	4.2%
Violation of Financial Transaction Device	4	16.7%
<b>TOTAL</b>	<b>24</b>	<b>100.0%</b>

**Table A6: Homicide**

Offense	# of Individuals	% of Individuals
Manslaughter	1	25.0%
Murder 1st Degree	2	50.0%
Murder 2nd Degree	1	25.0%
<b>TOTAL</b>	<b>4</b>	<b>100.0%</b>

**Table A7: Morals**

Offense	# of Individuals	% of Individuals
Incest	3	100.0%
<b>TOTAL</b>	<b>3</b>	<b>100.0%</b>

**Table A8: Motor Vehicle**

Offense	# of Individuals	% of Individuals
Driving under the Influence, Injury Accident	7	9.5%
Driving under Revoked License	12	16.2%
Driving While Intoxicated	35	47.3%
Leaving Scene of Injury Accident	4	5.4%
Motor Vehicle Homicide	3	4.1%
Operating a Motor Vehicle to Avoid Arrest	13	17.6%
<b>TOTAL</b>	<b>74</b>	<b>100.0%</b>

**Table A9: Other**

Offense	# of Individuals	% of Individuals
Accessory to a Felony	2	8.0%
Aiding Consummation of Felony	2	8.0%
Class I Misdemeanor	1	4.0%
Conspiracy	1	4.0%
Criminal Mischief	3	12.0%
Cruelty to Animals	1	4.0%
Disturbing the Peace	1	4.0%
Escape	5	20.0%
False Reporting	1	4.0%
Resisting Arrest	3	12.0%
Tampering	2	8.0%
Violation of Protection Order	3	12.0%
<b>TOTAL</b>	<b>25</b>	<b>100.0%</b>

**Table A10: Restraint**

Offense	# of Individuals	% of Individuals
False Imprisonment 1st Degree	2	66.7%
Kidnapping	1	33.3%
<b>TOTAL</b>	<b>3</b>	<b>100.0%</b>

**Table A11: Robbery**

Offense	# of Individuals	% of Individuals
Robbery	39	100.0%
<b>TOTAL</b>	<b>39</b>	<b>100.0%</b>

**Table A12: Sex Offenses**

Offense	# of Individuals	% of Individuals
Enticement by Electronic Communication Device	4	3.6%
Possession of Child Pornography	1	0.9%
Sex Offender Registration Act Violation	12	10.7%
Sex Assault 1st Degree	23	20.5%
Sex Assault 2nd Degree	4	3.6%
Sex Assault on a Child	4	3.6%
Sexual Assault of a Child 1st Degree	15	13.4%
Sexual Assault of a Child 3rd Degree	2	1.8%
Visual Depictions of Sexually Explicit Acts	13	11.6%
Visual Depictions of Sexually Explicit Conduct	34	30.4%
<b>TOTAL</b>	<b>112</b>	<b>100.0%</b>

**Table A13: Theft**

Offense	# of Individuals	% of Individuals
Theft by Deception	9	11.0%
Theft by Receiving Stolen Property	27	32.9%
Theft by Shoplifting	21	25.6%
Theft by Unlawful Taking or Disposition	25	30.5%
<b>TOTAL</b>	<b>82</b>	<b>100.0%</b>

**Table A14: Weapons**

<b>Offense</b>	<b># of Individuals</b>	<b>% of Individuals</b>
Carry/ Possess a Concealed Weapon	2	4.2%
Defacing a Firearm	1	2.1%
Possession of a Firearm by Fugitive/ Felon	7	14.6%
Possession of a Deadly Weapon by a Fugitive/ Felon	23	47.9%
Possess/ Receive a Stolen Firearm	6	12.5%
Possession of Defaced Firearm	1	2.1%
Transport/ Possess Machine/ Short Gun	1	2.1%
Use of Deadly Weapon to Commit a Felony	6	12.5%
Use of Firearm to Commit a Felony	1	2.1%
<b>TOTAL</b>	<b>48</b>	<b>100.0%</b>