

December 16, 2020

To: Governor Pete Ricketts
Clerk of the Legislature Patrick O'Donnell

From: Julie Micek, Director of Supervision and Services, Nebraska Board of Parole/Division of
Parole Supervision

RE: Annual Report on Parole Revocations

Pursuant to Nebraska statute 83-1,102, please find attached the Annual Report on Parole Revocations and Technical Violations for Fiscal Year 2020 (July 1, 2019-June 30, 2020). This report was assembled by Dr. Jennifer Miller, the Assistant Director of Supervision for Research and IT for the Board of Parole. Any questions regarding specifics of this data can be directed to either myself or Dr. Miller.

Respectfully Submitted,

Julie Micek
Director of Supervision and Services
Nebraska Board of Parole

EXECUTIVE SUMMARY

The Board of Parole (Board) and Division of Parole Supervision (DPS) are responsible for the oversight of clients who are placed on parole following an initial parole hearing and release by the Board. Oversight of these individuals includes holding clients accountable for violations of their terms of parole, including the possibility of revoking a client's parole and returning them to the custody of the Nebraska Department of Correctional Services (NDCS). This report provides summary data on review of parole hearings, the violations that prompted those hearings, and demographic data on individuals seen at these hearings. A brief summary of this data follows:

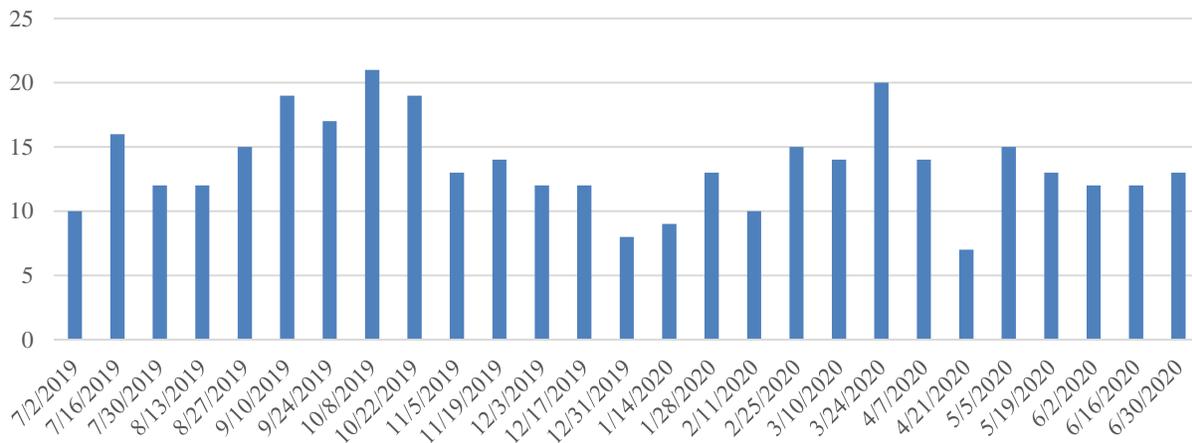
- In FY 2020, a total of 2,041 Nebraska clients were under community supervision with DPS. Of those individuals, 17.2 percent had a review of parole hearing during FY 2020.
- The Board held 367 review of parole hearings in FY 2020 for 352 unique parole clients. A total of 12 hearings of 367 were continued at a later date and were therefore incomplete. Parole was revoked in 97.7 percent of the remaining 355 completed hearings for a total of 342 unique clients revoked at 347 review of parole hearings (16.8 percent of the FY 2020 Nebraska client population). A total of 99 individuals were revoked and returned to custody until the end date for their current sentence. The Board has decreased the total number of review of parole hearings by 7.6 percent from 397 in FY 2019.
- Eight parole clients were continued on their current parole term in eight total hearings. Of that number, one client (12.5 percent) saw the Board for a subsequent review of parole hearing during the same year at which time the client was revoked.
- Approximately 57.5 percent of all review of parole hearings completed were prompted by a law violation; the remaining 42.5 percent of the hearings completed were prompted by technical violations of parole. The number of completed hearings held for laws violations decreased from 255 in FY 2019 to 204 in FY 2020; hearings for technical violations increased from 138 in FY 2019 to 151 in FY 2020.
- The most prevalent violations which directly resulted in review of parole hearings were law violations and violations of special conditions of supervision. Total violation counts for these hearings decreased 12.6 percent from 1,183 in FY 2019 to 1,034 in FY 2020.
- The total number of review of parole hearings has continued to decrease over the last three years. In FY 2017, a total of 497 review of parole hearings were held; in FY 2020, the total was 367. As of FY 2020, the net decrease in total review of parole hearings is 26.2 percent over three years.

The remainder of this report is broken down into three sections. Section I provides in-depth data regarding review of parole hearings, including the distribution of these hearings over time, outcomes of these hearings, data on deferrals, and waived hearings. Section II provides detailed descriptions of violations that prompted a review of parole hearing, including summary statistics regarding laws and technical violations as well as an assessment of the relationship between violations and hearing outcomes. Section III delves into the demographic characteristics of parole clients seen at review of parole hearings. It is our hope that this data will facilitate greater understanding of our work. We believe this information illustrates our commitment to the State's mission to 'Grow Nebraska' in a way that preserves and protects public safety while also serving our clients. We welcome any and all feedback on this report and look forward to continuing service to our clients and our communities.

I. REVIEW OF PAROLE HEARINGS

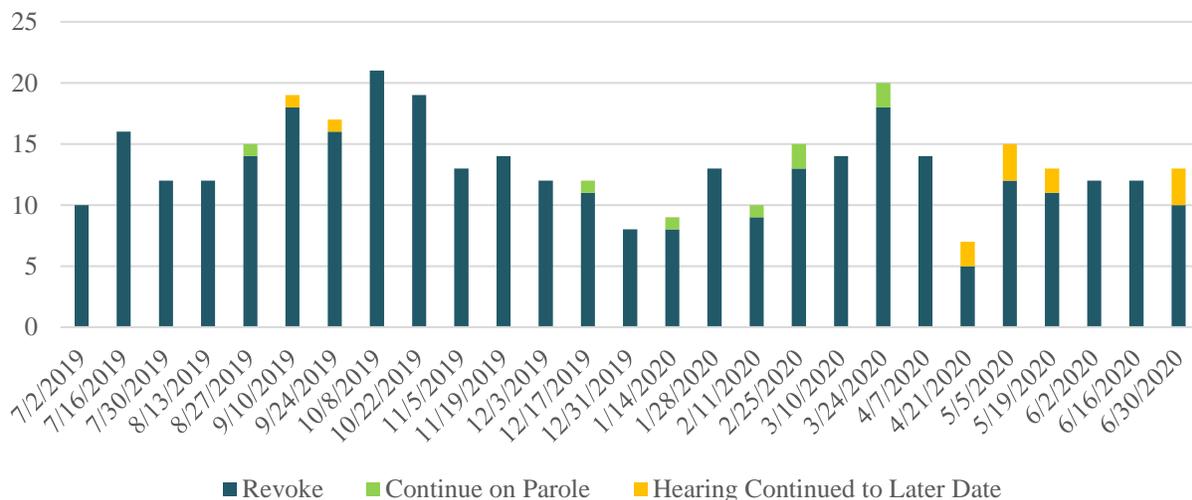
From July 1, 2019 through June 30, 2020, the Board scheduled a total of 367 review of parole hearings to consider the status of individuals who were determined to have significantly violated the terms of their parole. A total of 355 hearings were completed, while 12 hearings were continued to a later date (resumed on average 2 weeks later). On average, the Board saw 14 individuals each day of parole review hearings. The distribution and count of these hearings by date is displayed in Figure 1 below.

Figure 1: FY 2020 Review of Parole Hearing Count by Date



Of the completed review of parole hearings held in FY 2020, 347 hearings (97.7% of the 355 completed) resulted in a motion to revoke parole. Motions to continue and allow the client to remain on parole were made in eight hearings (2.3%). One client who was allowed to continue parole at an earlier hearing during FY 2020 had their parole revoked at a subsequent hearing later in the same fiscal year. Three clients had hearings continued from FY 2020 (hearing date of 6/30/2020) to July of FY 2021.ⁱ The distribution of these decisions is displayed in Figure 2.

Figure 2: FY 2020 Review of Parole Hearing Outcomes by Date



With respect to the decision to revoke a client’s parole, the Board also maintains the authority to defer that individual to their mandatory discharge date (end date of their sentence). If the Board defers an individual to their mandatory discharge date, the inmate may not see the Board again before their sentence is completed and therefore will have no further opportunities for community supervision. In FY 2020, the Board deferred 99 individuals to their mandatory discharge date; this group constituted 29.0% of all individuals who had their parole revoked.ⁱⁱ

For the vast majority of the revocation hearings, parole clients are in attendance; however, clients on parole are given the option of waiving their hearing. A total of 51 hearings were waived by parole clients during FY 2020 which is a decrease of 25.0% from FY 2019 (68 were waived in FY 2019). The outcome of all waived hearings in FY 2020 was revocation of parole for that respective client.

II. PAROLE VIOLATIONS LEADING TO REVOCATIONS

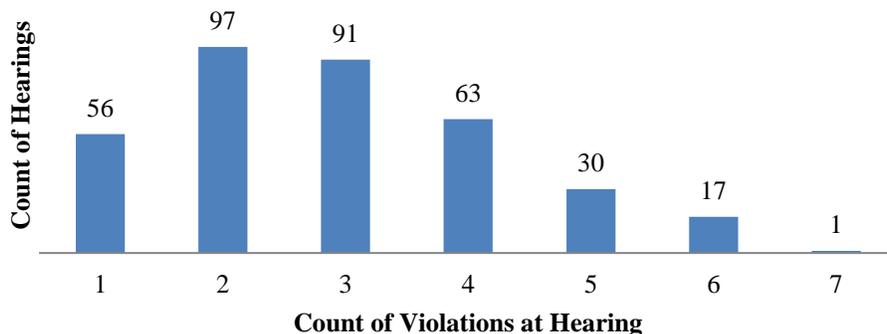
Review of parole hearings are held for individuals who have committed significant parole violations. Specific violations can be either laws violations (which includes the commission of new infractions, misdemeanors, and/or felonies) or technical violations (which includes any violation of the conditions of parole that is not a new criminal act).ⁱⁱⁱ Of the 355 completed hearings, a total of 204 (57.5%) had at least one law violation; the remaining 151 hearings were for technical violations only (42.5%). In comparison to FY 2019, there were 51 fewer hearings held for laws violations and 13 more hearings held for technical violations only in FY 2020. A breakdown of the general violation categories for all completed FY 2020 review of parole hearings appears below in Figure 3.

Figure 3: FY 2020 Violation Category Breakdown for all Review of Parole Hearings



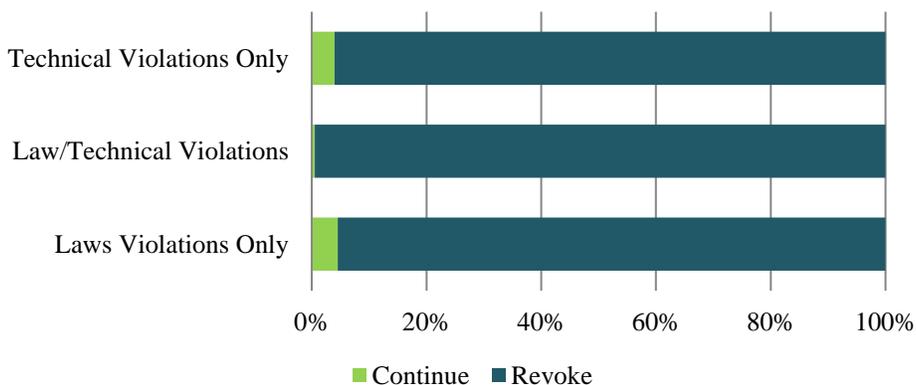
A total of 1,034 violations of parole conditions were identified in the 355 review of parole hearings completed in FY 2020.^{iv} This constitutes a 12.6% decrease in the overall number of violations from review of parole hearings in FY 2019 (1,183). In FY 2020, the average count of violations per hearing was 2.9; the total count of violations ranged from 1-7 for all review of parole hearings. The number of hearings that were held for each violation count/total (per hearing) is displayed below in Figure 4.

Figure 4: FY 2020 Count of Review of Parole Hearings by Number of Violations



To fully understand the relationship between the hearings and violations, it is necessary to separately examine the results of hearings for law violations only, technical violations only, and combined technical and law violations. Figure 5 presents the percentage of hearings with specific types of violations as well as the relative proportion of decisions to ‘continue’ a client on parole or to ‘revoke’ that client’s parole. The number of completed hearings in FY 2020 for law violations only was 22, for combined laws and technical violations was 182, and for technical violations only was 151.

Figure 5: FY 2020 Hearing Outcomes by Violation Categories/Combinations



For clients who were revoked for technical violations only, 97 of the 143 clients (67.8%) were issued at least one sanction prior to being brought before the Board for a review of parole hearing. Of those 143 individuals, 70 (49.0%) had served a previous prison sentence. Thirty-one (21.7%) of the 143 clients revoked for technical violations had been re-paroled following earlier violations of a previous parole term either prior to or during FY 2020 on their current sentence.

III. REVOCATION DEMOGRAPHICS/CLIENT-BASED DATA

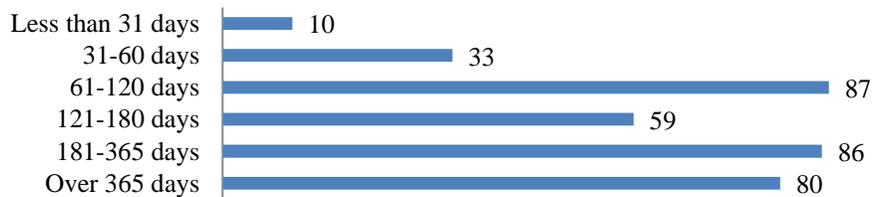
During FY 2020, the Board saw 352 unique parole clients at 367 hearings.^v The demographic characteristics of these clients are summarized in Table 1 (below). Column 2 includes all hearings and provides summary data while Columns 3-5 provide the demographic breakdown based on the outcomes of review of parole hearings. With respect to these demographics, clients

seen at review of parole hearings were predominantly male, white, and between the ages of 21 and 35. The length of time each client was on parole prior to their review of parole hearing is captured in Figure 6 (below).^{vi}

Table 1: FY 2020 Demographics of Parole Clients (All Review of Parole Hearings)

Demographic Attributes	All NE Parole Clients (2,041)		All Hearing Clients (352)		Continued on Parole (8)		Parole Revoked (342)	
SEX								
Female	245	12.0%	39	11.1%	2	25.0%	37	10.7%
Male	1796	88.0%	313	88.9%	6	75.0%	305	87.9%
RACIAL IDENTIFICATION								
African-American/Black	477	23.4%	93	26.4%	2	25.0%	90	25.9%
Asian/Pacific Islander	17	0.8%	3	0.9%	0	-	3	0.9%
Caucasian/White	1208	59.2%	200	56.8%	5	62.5%	194	55.9%
Hispanic	270	13.2%	41	11.6%	1	12.5%	40	11.5%
Native American	55	2.7%	13	3.7%	0	-	13	3.7%
Other/Unknown	14	0.7%	2	0.6%	0	-	2	0.6%
AGE (FY 2020 YEAR END OR AT TIME OF HEARING)								
16-20	24	1.2%	8	2.3%	0	-	8	2.3%
21-25	229	11.2%	67	19.0%	0	-	66	19.0%
26-30	346	17.0%	63	17.9%	2	25.0%	59	17.0%
31-35	352	17.2%	66	18.8%	2	25.0%	64	18.4%
36-40	326	16.0%	55	15.6%	2	25.0%	54	15.6%
41-50	403	19.7%	52	14.8%	0	-	52	15.0%
51 or older	361	17.7%	41	11.6%	2	25.0%	39	11.2%

Figure 6: FY 2020 Count of Clients with Completed Hearings by Time on Parole



The final data presented in this report regarding clients who were seen at review of parole hearings pertains to their type of parole—specifically whether these clients had been re-paroled prior to their review of parole hearing or if the client was on their first term of discretionary parole with no previous revocations on their current sentence. Of the 352 clients with hearings held in FY 2020, 78 clients (22.2%) were on re-parole status, meaning that they had been previously revoked on their current sentence but had been returned to community supervision following that revocation. The remaining 277 (78.7%) clients had no previous revocations on their current sentence at the time of their hearing in FY 2020.^{vii}

IV. CONCLUSION

This report has focused solely upon the practices surrounding the Board's response to violations of parole and the use of review of parole hearings to determine whether parole clients should remain on community supervision. The Board and DPS have continuously moved toward finding ways to keep clients on community supervision through the use of graduated sanctions to deter negative behavior, incentives to promote positive behavior, and by continuing individuals on parole if they are deemed as likely to succeed in the community with additional supports. DPS implemented its incentives and sanctions matrix after FY 2017 and it has already shown significant effects by FY 2020 as demonstrated by a decrease in the overall number of review of parole hearings from 497 in FY 2017 to 367 in FY 2020. In addition, the number of hearings held solely for technical violations of parole has dropped from 234 in FY 2017 to 151 in FY 2020, a decrease of 35.5%. These indicators, along with data on client recidivism for new laws violations, point to the effectiveness of the incentives and sanctions matrix used here in Nebraska.

In January 2018, custodial sanctions became available across the state as an option to parole officers. As of the end of 2020, the Division of Parole Supervision continues to work with the Nebraska Center for Justice Research (NCJR) to provide an expanded and formal evaluation of custodial sanctions used in Nebraska and whether these sanctions are proving effective in reducing parole violations. An interim report, released to DPS in August 2020, provided analysis of initial data on custodial sanctions; however, due to the limitations of the data, the report could not provide a full assessment of the effectiveness of these sanctions.^{viii} DPS continues to partner with NCJR on this analysis with additional data drawn from calendar year 2020 to expand upon the existing work. Analysis from the interim report highlighted illegal substance use as the primary technical violation addressed through sanctions. This data aligns with the FY 2019 revocations report, which noted that the most common technical violation in that year was narcotic possession, use, or refusal to submit to drug testing.

It is critical to clarify that while sanctions for parole violations and review of parole hearings are important tools for the Board and DPS, these tools are not used with the majority of parole clients. In FY 2020, 2,041 Nebraska parole clients were on community supervision under the Board.^{ix} Of that number, 686 (33.6%) had a review of parole hearing at some time during their parole tenure and 661 (32.4%) actually had their parole revoked. Sanctions, review of parole hearings, and revocations therefore constitute a significant proportion of the work done by the staff at DPS, but these tools are not needed for or used with the majority of those on community supervision. As we continue our work, we look forward to further solidifying our evidence-based practices and tools to help further reduce parole sanction and revocation numbers while serving our clients and preserving public safety.

ⁱ The three individuals with hearings continued to FY 2021 are included in the overall statistics for clients with hearings but are not included in any calculations with respect to completed hearings. The hearings rescheduled for FY 2021 will be incorporated into the FY 2021 Revocation Report to be submitted next year.

ⁱⁱ Two clients out of the 99 deferred to the end of their sentence were revoked and re-paroled earlier in FY 2020.

ⁱⁱⁱ Although the distinction between law and technical violations may seem apparent, the technical conditions of parole overlap with existing laws. For instance, individuals on parole may be charged with a laws violation for possession of a controlled substance or they may be charged with a technical violation for narcotics possession if

they are not apprehended by law enforcement for possession (parole clients often admit to possession or use of substances but do not receive new charges pertaining to those substances due to a lack of arrest).

^{iv} To ensure no duplicate counting of violations, all violations listed for hearings that were continued are excluded. Total count is therefore only for those 355 hearings that were completed.

^v Eleven clients had hearings that were continued at a later date than their originally scheduled hearing (1 individual had the hearing continued twice) and 5 individuals had multiple (two) review of parole hearings over this time period with a decision of continue or revoke. One client had two review of parole with the first hearing outcome of revocation and the later hearing being continued. Three clients were continued to hearings in FY 2021 from FY 2020 so they did not have completed hearings during FY 2020.

^{vi} Duration from date of parole to hearing date is calculated for each hearing; some clients had multiple hearings and could therefore fall into the count for multiple date ranges. Only complete hearings are included (N: 355).

^{vii} Some individuals were placed on their first parole term and then re-paroled during FY 2020, which means that an individual could fall into both categories of on first parole term and re-parole status during this time period.

^{viii} Nebraska Center for Justice Research. "Custodial Sanctions Interim Report 2020". Received August 24, 2020 from Dr. Michael Campagna.

^{ix} DPS provides supervision for three types of clients: Nebraska parole clients, interstate parole clients, and individuals sentenced to lifetime community supervision. This report utilizes only the Nebraska parole clients as a reference category as interstate clients are not subject to review of parole hearings before the Board (due to being under the jurisdiction/authority of the respective paroling agency in the state from which they were paroled). Individuals on lifetime community supervision are also not included as they are also not subject to review of parole hearings under existing statute.