

February 1, 2023

To: Governor Jim Pillen
Clerk of the Legislature Brandon Metzler

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 2022 (July 1, 2021-June 30, 2022). This report was assembled by Alexandra Adams, Data Analyst for the Board of Parole. Any questions regarding specifics of this data can be directed to either myself or Alexandra Adams.

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:

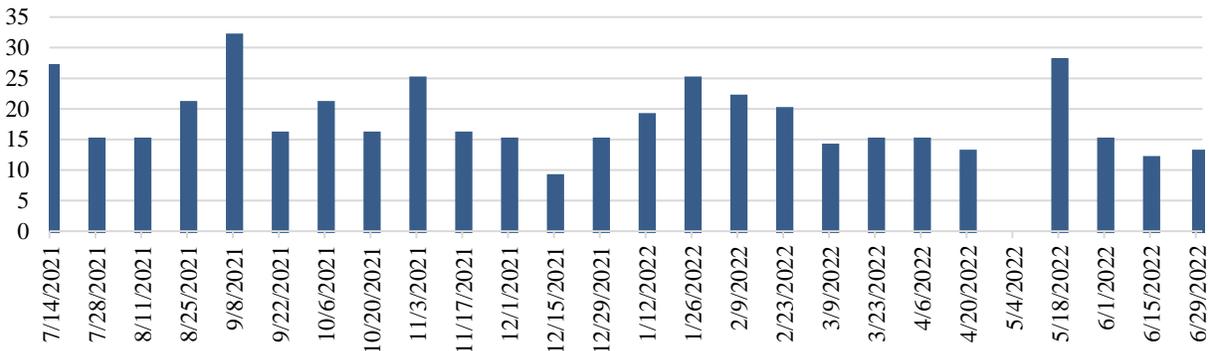
- In FY 2022, a total of 2,170 Nebraska clients¹ were under community supervision with DPS. Of those individuals, 16 percent had a review of parole hearing during FY 2022.
- The Board scheduled 417 review of parole hearings in FY 2022 for 365 unique parole clients. A total of 52 hearings were continued to a later date. A total of 365 hearings were completed and parole was revoked in 99.7 percent (364) of those completed cases affecting 364 unique parole clients (16.77 percent of the FY 2022 Nebraska client population). Of those revoked, 9 individuals were returned to custody until the end date for their current sentence. FY 2022 saw an .08 percent decrease in the total number of completed review of parole hearings from 396 in FY 2021 to 364.
- Approximately 45 percent (188) of the completed review of parole hearings involved at least one law violation. Of the remaining 229 completed hearings, 61 included a violation for absconding parole and 165 included only non-abscond technical violations.
- The most prevalent violations resulting in review of parole hearings were financial obligations, law violations, and violations of special conditions of supervision. Total violation counts for all 417 hearings decreased 17.4 percent from 1,177 in FY 2021 to 972 in FY 2022.
- The total number of completed review of parole hearings decreased from FY 2021 (429) but remains significantly below the first year of independent agency operations in FY 2017 (497). The net decrease between FY 2017 and FY 2022 is 16.1 percent.
- The efforts of the Board and DPS have resulted in returning fewer individuals to prison in all years since FY 2017. Importantly, current trends indicate that individuals who are revoked require additional evidence-based programming while inside NDCS facilities.

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 and our efforts to preserve and protect 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

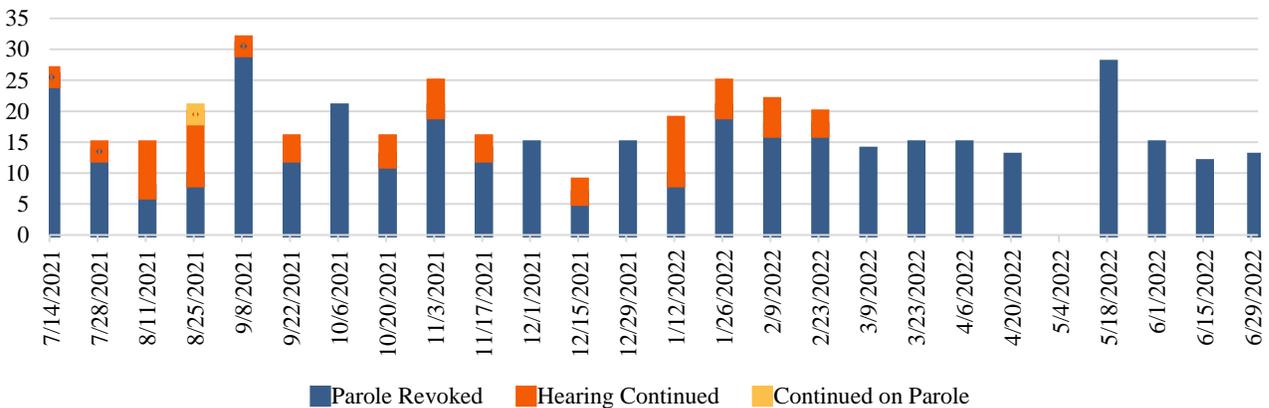
From July 1, 2021 through June 30, 2022, the Board scheduled a total of 417 review of parole hearings to consider the status of individuals who were determined to have significantly violated the terms of their parole. A total of 364 hearings were completed with 52 hearings continued to a later date (resumed on average 2-3 weeks later). On average, the Board saw 16 individuals each time parole review hearings were held. The distribution and count of these hearings by date is displayed in Figure 1 below.

Figure 1: FY 2022 Review of Parole Hearing Count by Date (Completed Hearings Only)



Of the completed review of parole hearings held in FY 2022, 370 hearings (99.73% of the 371 completed) resulted in a motion to revoke parole. Motions to continue and allow the client to remain on parole was made in one hearing (0.003%). The one client who was allowed to continue on parole supervision had their hearing in August 2021 and successfully discharged in May 2022.

Figure 2: FY 2022 Review of Parole Hearing Outcomes by Date (All Hearings)



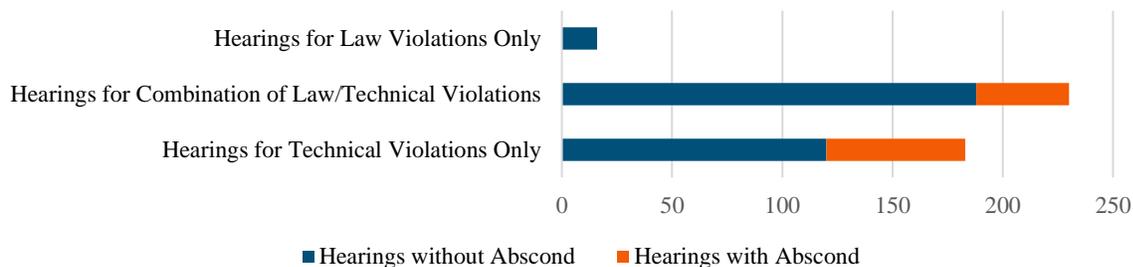
With respect to the decision to revoke a client’s parole, the Board maintains the authority to defer that individual to their mandatory discharge date (end date of their sentence). If the Board defers an individual to their mandatory discharge date, the inmate may not see the Board again before their sentence is completed and will have no further opportunities for community supervision. In FY 2022, the Board deferred nine individuals to their mandatory discharge date; this group constituted 2.15% of all unique individuals who had their parole revoked.ⁱⁱ

For the vast majority of the review of parole hearings, parole clients are in attendance; however, clients on parole are given the option of waiving their hearing. A total of 61 hearings were waived by parole clients during FY 2022 (77 were waived in FY 2021). The outcome of the 61 waived hearings was revocation of parole for that respective client.

II. PAROLE VIOLATIONS LEADING TO REVOCATIONS

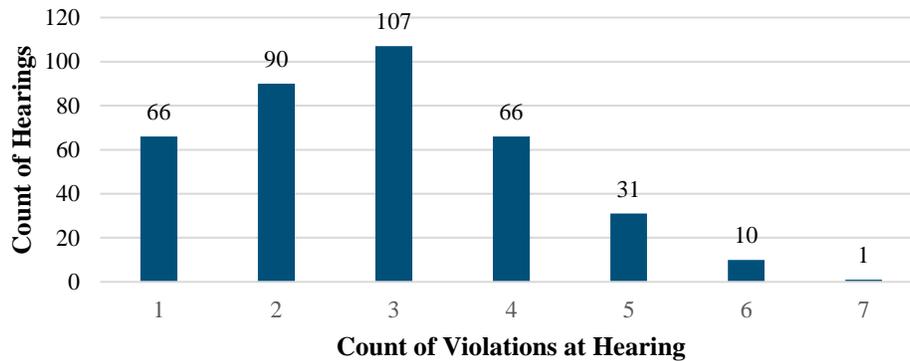
Review of parole hearings are held for individuals who have committed significant parole violations. Violations can be either laws violations (which includes the commission of new infractions, misdemeanors, and/or felonies) or technical violations (which includes any violation of the conditions of parole that is not a new criminal act).ⁱⁱⁱ One particular technical violation, abscond, constitutes both a legal and technical violation of the standard conditions of parole. Of the 371 completed hearings, a total of 188 (50.7%) had at least one law violation. In 42 of those law violation hearings, an absconding violation was included with the technical violations of parole. For the remaining 183 hearings (49.3%), a total of 120 hearings had technical violations not including an absconding violation while 63 hearings included an absconding violation. This data indicates that only 32.34% of the completed review of parole hearings were based on non-absconding technical violations. A breakdown of the general violation categories for all completed FY 2022 review of parole hearings appears below in Figure 3.

Figure 3: FY 2021 Violation Breakdown for Completed Review of Parole Hearings



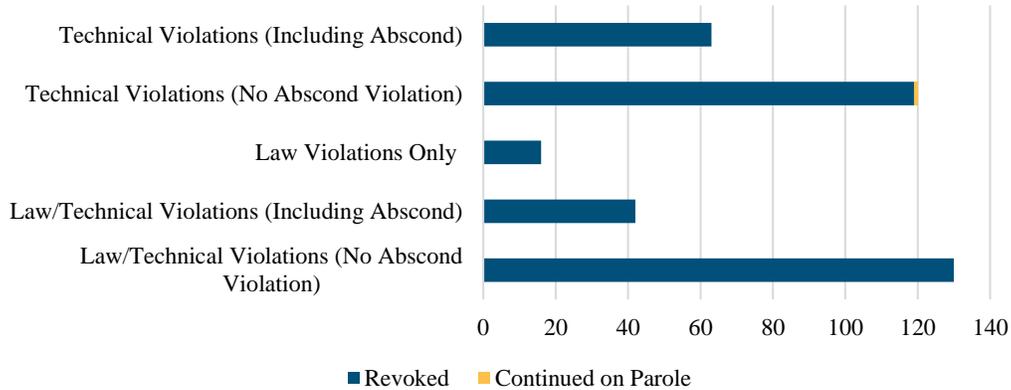
A total of 1,053 violations of parole conditions were identified in the 371 review of parole hearings completed in FY 2022.^{iv} This constitutes a 10.5% decrease in the overall number of violations from review of parole hearings in FY 2021 (1,177). In FY 2022, the average count of violations per hearing was three; 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 2022 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 (including technical violations) and technical violations. An absconding violation, as noted earlier in this report, constitutes both a laws and technical violation and as such is separated out as a particular type of serious technical violation. Figure 5 presents the total counts of hearings with specific types of violations as well as color coding to indicate the number of continue and revoke decisions for all hearings with the corresponding types of violations.

Figure 5: FY 2022 Hearing Outcomes by Violation Categories/Combinations



For clients who were revoked for technical violations only that did not include an absconding violation, 87 of the 120 unique clients (72.5%) were issued at least one sanction prior to being brought before the Board for a review of parole hearing. Of those 120 individuals, 45 (37.5%) had served a previous prison sentence. Forty (33.3%) of the 120 clients revoked for technical violations had been re-paroled following earlier violations of a previous parole term either prior to or during FY 2022 on their current sentence.

III. REVOCATION DEMOGRAPHICS/CLIENT-BASED DATA

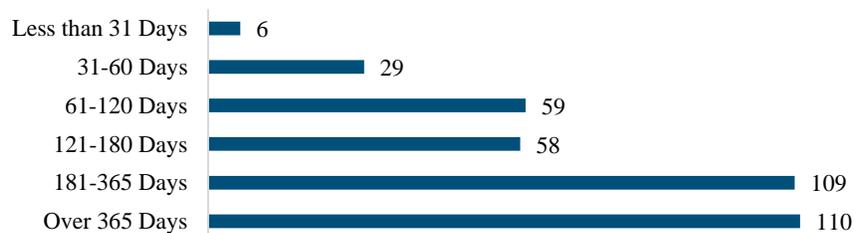
During FY 2022, the Board was scheduled to see 365 unique parole clients at a total of 429 hearings. The demographic characteristics of these clients are summarized in Table 1 (below). Column 2 includes all completed hearings and provides summary data while Columns 3-5

provide the demographic breakdown based on the outcomes of review of parole hearings. With respect to these demographics, clients scheduled for review of parole hearings were predominantly male, white, and over the age of 41. The length of time each client was on parole prior to their review of parole hearing is captured in Figure 6 (below).^v

Table 1: FY 2022 Demographics of Parole Clients (All Review of Parole Hearings)

Demographic Attributes	All NE Parole Clients (2,101)		All Hearing Clients (365)		Continued on Parole (1)		Parole Revoked (364)	
SEX								
Female	239	11.01%	34	9.3%	0	-	34	9.32%
Male	1,931	88.99%	331	90.68%	1	100%	330	90.65%
RACIAL IDENTIFICATION								
African-American/Black	524	24.1%	99	27.1%	0	-	99	27.2%
Asian/Pacific Islander	25	1.1%	3	0.8%	0	-	3	0.8%
Caucasian/White	1,259	58.0%	195	53.4%	1	100%	194	53.6%
Hispanic	242	11.1%	35	9.6%	0	-	35	9.6%
Native American	101	4.7%	28	7.7%	0	-	28	7.7%
Other/Unknown	19	0.8%	4	1.1%	0	-	4	1.1%
AGE (FY 2022 YEAR END OR AT TIME OF HEARING)								
18-20	15	0.7%	4	1.1%	0	-	4	1.1%
21-25	202	9.3%	44	12.1%	0	-	44	12.1%
26-30	308	14.1%	71	19.5%	0	-	71	19.5%
31-35	338	15.6%	69	18.9%	0	-	69	19%
36-40	361	16.6%	54	14.8%	0	-	54	14.8%
41 +	946	43.6%	123	33.7%	1	100%	122	33.8%

Figure 6: FY 2022 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 371 completed hearings held in FY 2022, at 102 hearings (27.5%) the clients seen 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 269 hearings (72.5%) were for clients with no previous revocations on their current sentence at the time of their hearing in FY 2022.^{vi}

IV. CONCLUSION

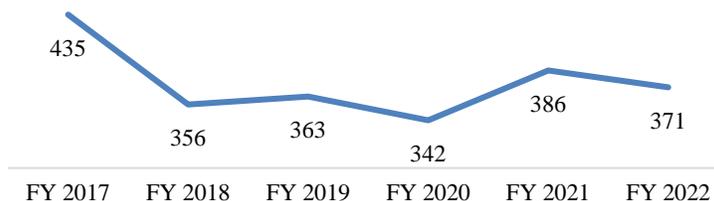
This report has focused solely upon the practices surrounding the Board’s response to violations of parole and the use of review of parole hearings to determine whether parole clients should remain on community supervision. The Board and DPS have continuously moved toward finding ways to keep clients 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 likely to succeed in the community with additional supports. DPS implemented its incentives and sanctions matrix after FY 2017 and it has continued to show significant effects as demonstrated by a decrease in the completed number of review of parole hearings from 497 in FY 2017 to 371 in FY 2022. In addition, the number of hearings held solely for technical violations of parole has dropped from 234 in FY 2017 to 120 in FY 2022, a decrease of 48.7%. These indicators, along with data on client recidivism for new laws violations and a successful completion rate of approximately 60.8% for all parole clients (including interstate clients), point to the effectiveness of the incentives and sanctions matrix used here in Nebraska.

It is critical to clarify that review of parole hearings are an important tool for the Board and DPS; however, these hearings are not used with the majority of parole clients. In FY 2022, 2,170 Nebraska parole clients were on community supervision under the Board. Of that number, 658 (30.3%) had a review of parole hearing at some time during their parole tenure and 609 (28.1%) actually had their parole revoked.^{vii} Sanctions, review of parole hearings, and revocations therefore constitute a 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.

Addressing the Issue of Overcrowding in Nebraska

The declaration of the prison overcrowding emergency in July 2020 has produced an increased focus upon the practices and policies of the Board and DPS, particularly with respect to the decision to revoke parole. The Board and DPS use options such as custodial and intermediate sanctions to ensure that those who are returned to prison are those most in need of further correctional programming or those who represent such a significant threat to public safety that continued time in the community is highly likely to result in serious criminal charges and convictions. These graduated sanctions have resulted in a significant reduction of those being physically returned to prison, from 435 in FY 2017 to 386 in FY 2022, which is a decrease of 14.71% overall.

Individuals Revoked and Sent Back to NDCS



Our Agency is committed to effective supervision and serving the larger mission of assisting parole clients to obtain successful reentry while limiting returns to prison—but always with the larger goal of ensuring community safety. To this end, our Agency has collaborated and worked with a range of national entities like the Council of State Governments and the Bureau of Justice Assistance to obtain grant funding for creating innovative programs and finding the most effective ways to build upon our existing evidence-based practices. Our ongoing work and engagement with research entities including the Nebraska Center for Justice Research and community corrections consultants such as William Burrell have continued our conversations around the best methods to further improve our work. The future initiatives we are seeking in 2023 are centered around programming which is a critical component needed for those who face revocation. Clinical programming, in particular, is a significant need for the vast majority of parole clients. It is paramount that these individuals receive evidence-based programming starting during their period of incarceration and throughout their term of parole supervision. Providing evidence-based programming is the ‘gold standard’ in addressing criminogenic needs and ultimately sets the foundation for successful client reentry. Offering that high quality programming with fidelity both within facilities and the community is essential in further cutting returns to prison and continues to be a priority goal for our agency. We will continue to seek out the methods by which we can obtain these end goals and look forward to working with our partners within Nebraska to attain this objective.

ⁱ The Division of Parole Supervision provides supervision to clients serving sentences for offenses committed in Nebraska and for clients serving sentences for other states who have transferred supervision under the Interstate Compact. Interstate clients ultimately fall under the authority of the paroling or release authority in the state where the offense was committed and, as such, cannot have their parole revoked by the Nebraska Board of Parole. For the purposes of this report, only clients under the paroling authority of the Nebraska Board of Parole, are included.

ⁱⁱ A total of 371 unique individuals were revoked; of that number 93 unique individuals were revoked and deferred to their mandatory discharge date.

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 371 hearings that were completed.

^v 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: 371).

^{vi} Some individuals were placed on their first parole term and then re-paroled during FY 2022, which means that an individual could fall into both categories of on first parole term and re-parole status during this time period.

^{vii} Parole tenure means at some point in time during their current or prior parole terms; this data therefore covers more than just the FY 2022 year.