

**HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE LAWRENCE KLEMIN, CHAIR
MARCH 8, 2023**

**TOM ERHARDT, DIRECTOR, PAROLE AND PROBATION
PRESENTING TESTIMONY IN SUPPORT OF HOUSE CONCURRENT RESOLUTION
3026**

Chairman Klemin and members of the House Judiciary Committee, my name is Tom Erhardt, and I am the Director of Parole and Probation, a division of the North Dakota Department of Corrections and Rehabilitation (DOCR). I stand before you today to provide testimony in support of House Concurrent Resolution 3026, which would direct Legislative Management to consider studying re-entry outcomes for incarcerated adults and youth.

North Dakota has a history of engaging in re-entry efforts. In 2003, the DOCR applied to the National Institute of Corrections (NIC) for technical assistance to implement the Transition from Prison to Community Initiative (TPCI). Formal assistance from NIC ended in 2009. The initiative was based on the following assumptions: (1) Corrections, sentencing and release authorities, supervision, and human service agencies have a common interest in improving transition, and all benefit from improved transition; (2) These agencies need to collaborate to align practices and policies, strategically plan and problem solve together, improve case planning and management, and implement performance-based monitoring; and (3) practices should be based on recidivism-reduction research. The DOCR and other stakeholders involved in the TPC initiative adopted the philosophy of recidivism reduction and focused efforts on implementing research-based strategies to reduce recidivism. Recidivism was defined

as reducing the number of people released from prison who return to prison within 12, 24, and 36 months following their release.

In 2007, the DOCR invited state, local, and community based agency leaders from the Department of Human Services, Department of Health, county sheriff, district judge, legislators, Housing Finance Agency, Job Service, Department of Commerce, ND Homeless Coalition, Department of Transportation, ND Indian Affairs Commission, ND States Attorney's Association, Minot State University Rural Crime and Justice Center, Mental Health America of North Dakota, Commission on Legal Defense for Indigents, and the Office of the State Court Administrator to work on re-entry issues. These leaders studied several issues and commissioned a Steering Committee to develop strategies to address barriers to successful reentry.

The accomplishments of the initiative and ongoing efforts include the following:

- Improved sharing of the presentence investigation.
- Developed the sex offender and mental health release and integration project to provide collaborative case management and communication between prisons, parole and probation, and service providers.
- Created an arrangement with the Department of Transportation for visits to the prisons to issue state ID cards to incarcerated people being released.
- Enhanced employability by assessing and providing workforce training to incarcerated people.
- Reduced short-sentenced offenders sentenced to 6 months or less, because it does not allow time to deliver risk-reduction programming.
- Expanded local reentry teams to Grand Forks and Devils Lake
- Contracted with transitional facilities in Grand Forks, Devils Lake, Fargo, Bismarck, and Mandan to provide the ability for a more gradual transition process. Approximately half of the people being released from incarceration do so through either a transitional facility or a minimum-security placement.
- Referred incarcerated people to Free Through Recovery so they can establish a relationship with a care coordinator prior to release and receive assistance scheduling needed referrals.

North Dakota also adopted the TPC Model, in which reentry starts at sentencing.

State laws and sentences have a significant impact on re-entry. For example, N.D.C.C.

Section 12.1-32-09.1 prevents defendants who are convicted of certain violent offenses from being released from incarceration until eighty-five percent of their sentence is served. Because this is roughly the length of a sentence less good time, this often does not allow time for parole or stepped down release from prison.

On the surface, one could argue that a long sentence of traditional incarceration is fair punishment for violent crimes. But I always ask people is, “How do you want violent offenders to come back to your community?”, because they are coming back to your community. As of February 27, 2023, there are 52 individuals incarcerated in the DOCR with a life without parole sentence, and 43 with a life with the possibility of parole sentence. That is 95 people. On February 27, 2023, the DOCR population count was 1,823. This means that 1,753 people, or 96 percent of the current prison population will be released back to our communities. Because the “85 percent” law does not allow for parole supervision, and it is not guaranteed that the court will order supervised probation after the incarceration, some of these offenders end up back in the community without supervision and without an appropriate opportunity to transition. Wouldn't you rather have some assurance that these violent offenders have correctional supervision and preferably be directed to stay at an approved location away from their victims as they reenter and adjust to the community after incarceration?

The DOCR also understands that re-entry planning for those 1,753 people needs to start the day they arrive in prison. Incarcerated people go through a four-week orientation phase to assess their risk, classify them for housing, and evaluate them for treatment needs. At week four, the DOCR's case planning committee meets to review the assessments, recommend a parole review date if the individual is eligible, and plan

for recommended treatment to occur as close to release as possible. The individual is then placed in a housing unit to serve their sentence, and take advantage of other education, work, and rehabilitative opportunities.

Re-entry planning is managed by the DOCR's Transitional Planning Services division (TPS). Transitional Planning Services Director, Steve Hall, is also the clerk to the North Dakota Parole Board. Approximately 70 percent of all releases from incarceration in North Dakota are by the authority of the Parole Board.

N.D.C.C. Chapter 12-59 provides the authority for the Governor to appoint a six-member Parole Board to review applications for parole and decide on releases. The Parole Board meets once per month, three members meet on a rotating basis, and two of the three must agree for any action to take place. Each individual applying for parole must submit a parole plan that is investigated by parole and probation staff, and a report submitted to the Board.

Other transitional opportunities for incarcerated people include placement in transitional facilities throughout the state and an opportunity for job placement if housed at the minimum-security Missouri River Correctional Center for males or the Heart River Correctional Center and Dakota Women's Correctional and Rehabilitation Center for females. The DOCR has also started working with Ward County Detention Center and Southwest Multi County Correctional Center in Dickinson to transition individuals through these local correctional facilities and provide them with treatment and work release opportunities as they return to those communities.

In 2013, the DOCR focused resources on a complete overhaul of the treatment services it offers. Manualized, cognitive-behavioral, skill-based treatment was

implemented throughout the DOCR's facilities and contract transitional facilities.

Research shows that programs that teach individuals how to think differently and behave differently in risky situations result in the greatest reduction in recidivism.

The re-entry goals the DOCR has recently established in our strategic plan are:

- By 2025, reduce the percentage of incarcerated people who return to prison to under 15 percent within one year, under 28 percent within two years, and under 35 percent within three years.
- Increase the percentage of residents who release from incarceration with an ID card from 65 percent to 75 percent.
- Increase the percentage of parole releases to stable housing (instead of transitional facilities) from 55 percent to 63 percent.
- Increase the percentage of individuals discharging from prison who have applied for Medicaid from 29 percent to 33 percent.
- Establish a baseline and increase the percentage of individuals released from prison who are employed within 90 days by 15 percent.
- Establish a baseline and reduce the percentage of adults on supervision who are homeless by 15 percent.
- Increase the percentage of residents eligible for Free Through Recovery releasing from prison who apply for Free Through Recovery from 28 percent to 32 percent.
- Establish a baseline and reduce the percentage of individuals who are in Free Through Recovery who return to prison, abscond supervision, or drop out of the program without completing their goals.
- Increase the percentage of incarcerated individuals who have at least one in-person visit from 9 percent to 11 percent.
- Establish a baseline and increase the percentage of incarcerated individuals with a valid driver's license or other reliable transportation by 15 percent.

In summary, the DOCR has taken the approach that re-entry starts upon arrival, and successful re-entry for incarcerated people causes less crime, fewer victims, and less taxpayer money spent on corrections. However, the DOCR cannot achieve successful re-entry for incarcerated adults without help from a wide range of stakeholders. A study of re-entry in North Dakota should provide policy and resources for all stakeholders to support not only the goals the DOCR has established and consider new goals to enhance the public safety of our great State. Mr. Chairman and

members of the Committee, I ask you to adopt the recommendation for this study on re-entry outcomes for incarcerated adults and youth. I will stand for any questions.