

December 30, 2021

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 2021 (July 1, 2020-June 30, 2021). 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:

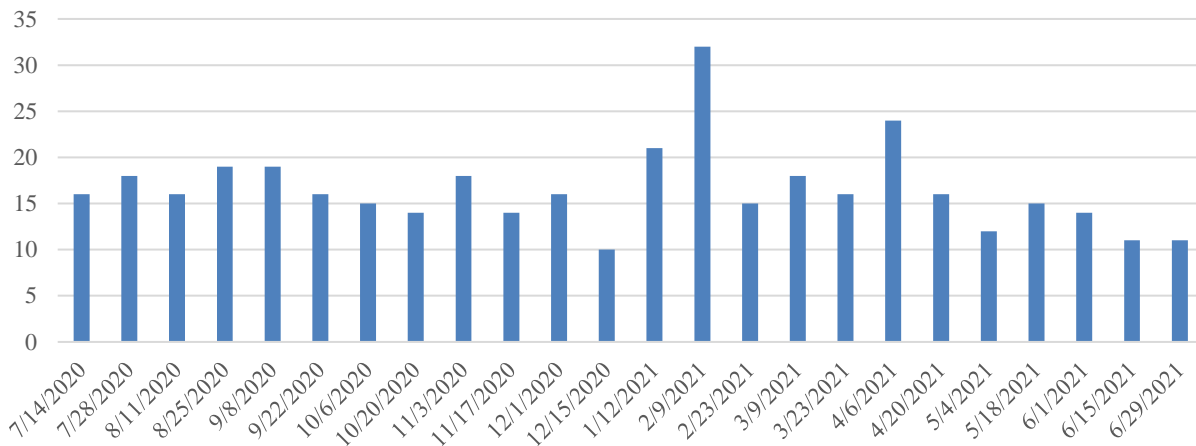
- In FY 2021, a total of 2,101 Nebraska clients<sup>i</sup> were under community supervision with DPS. Of those individuals, 19 percent had a review of parole hearing during FY 2021.
- The Board scheduled 481 review of parole hearings in FY 2021 for 399 unique parole clients. A total of 85 hearings were continued to a later date, often due to the need to observe quarantine procedures for the Covid-19 pandemic. A total of 396 hearings were completed and parole was revoked in 99.5 percent (394) of those completed cases affecting 386 unique parole clients (18.4 percent of the FY 2021 Nebraska client population). Of those revoked, 77 individuals were returned to custody until the end date for their current sentence. FY 2021 saw an 11.5 percent increase in the total number of completed review of parole hearings from 355 in FY 2020 to 396.
- Two parole clients were continued on their current parole term in two total hearings. Both saw the Board for a subsequent review of parole hearing in FY 2021, at which time both clients were revoked.
- Approximately 56.6 percent (224) of the completed review of parole hearings involved at least one law violation. Of the remaining 172 completed hearings, 51 included a violation for absconding parole and 121 included only non-abscond technical violations.
- The most prevalent violations resulting in review of parole hearings were law violations and violations of special conditions of supervision. Total violation counts for all 396 hearings increased 13.8 percent from 1,034 in FY 2020 to 1,177 in FY 2021.
- The total number of completed review of parole hearings increased from FY 2020 (355) but remains significantly below the first year of independent agency operations in FY 2017 (497). The net decrease between FY 2017 and FY 2021 is 20.3 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

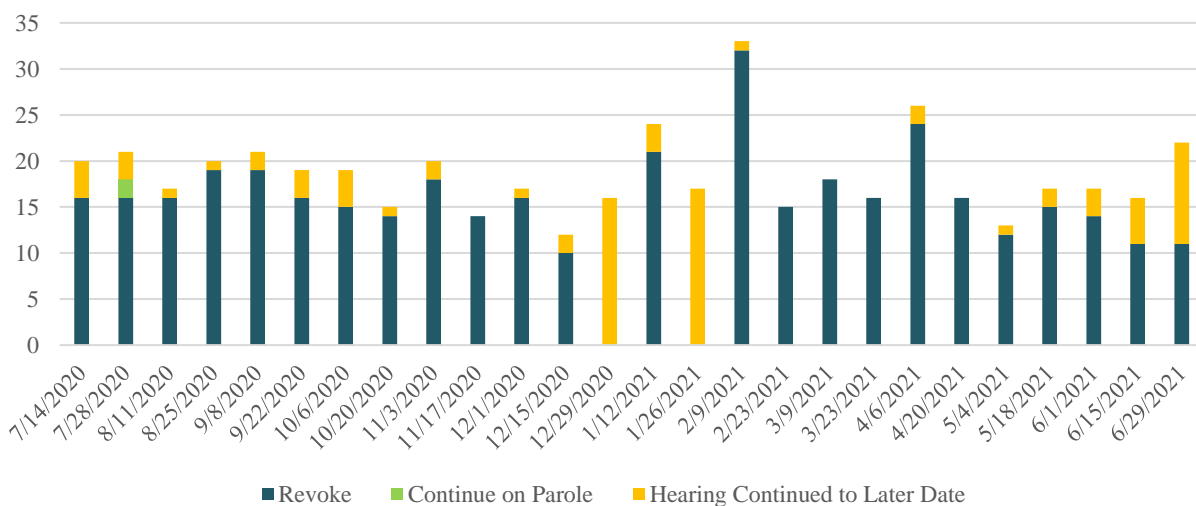
From July 1, 2020 through June 30, 2021, the Board scheduled a total of 481 review of parole hearings to consider the status of individuals who were determined to have significantly violated the terms of their parole. A total of 396 hearings were completed with 85 hearings continued to a later date (resumed on average 2-3 weeks later). On average, the Board saw 17 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 2021 Review of Parole Hearing Count by Date (Completed Hearings Only)**



Of the completed review of parole hearings held in FY 2021, 394 hearings (99.5% of the 396 completed) resulted in a motion to revoke parole. Motions to continue and allow the client to remain on parole were made in two hearings (0.5%). Both clients who were allowed to continue parole at an earlier hearing during FY 2021 had their parole revoked at a subsequent hearing later in the same fiscal year. Eleven clients had hearings continued from FY 2021 (hearing date of 6/29/2021) to July of FY 2022. The distribution of these decisions is displayed in Figure 2.<sup>ii</sup>

**Figure 2: FY 2021 Review of Parole Hearing Outcomes by Date (All Hearings)**



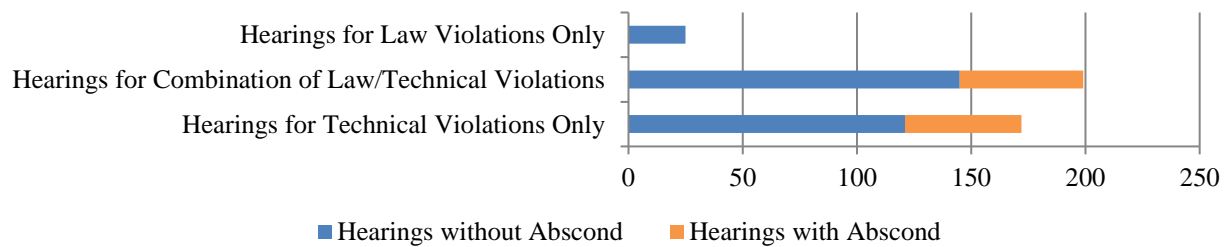
With respect to the decision to revoke a client’s parole, the Board maintains the authority to defer that individual to their mandatory discharge date (end date of their sentence). If the Board defers an individual to their mandatory discharge date, the inmate may not see the Board again before their sentence is completed and will have no further opportunities for community supervision. In FY 2021, the Board deferred 77 individuals to their mandatory discharge date; this group constituted 19.9% of all unique individuals who had their parole revoked.<sup>iii</sup>

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 77 hearings were waived by parole clients during FY 2021 (51 were waived in FY 2020). The outcome of 71 waived hearings was revocation of parole for that respective client; for the remaining six the hearings were continued at a later date.

**II. PAROLE VIOLATIONS LEADING TO REVOCATIONS**

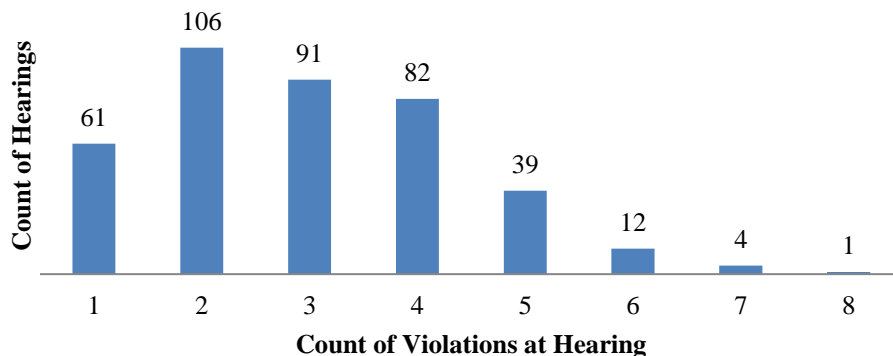
Review of parole hearings are held for individuals who have committed significant parole violations. Violations can be either laws violations (which includes the commission of new infractions, misdemeanors, and/or felonies) or technical violations (which includes any violation of the conditions of parole that is not a new criminal act).<sup>iv</sup> One particular technical violation, abscond, constitutes both a legal and technical violation of the standard conditions of parole. Of the 396 completed hearings, a total of 224 (56.6%) had at least one law violation. In 54 of those law violation hearings, an absconding violation was included with the technical violations of parole. For the remaining 172 hearings (43.4%), a total of 121 hearings had technical violations not including an absconding violation while 51 hearings included an absconding violation. This data indicates that only 30.5% of the completed review of parole hearings were based on non-absconding technical violations. In comparison to FY 2020, there were 20 additional hearings held for laws violations and 21 additional hearings held for technical violations only.<sup>v</sup> A breakdown of the general violation categories for all completed FY 2020 review of parole hearings appears below in Figure 3.

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



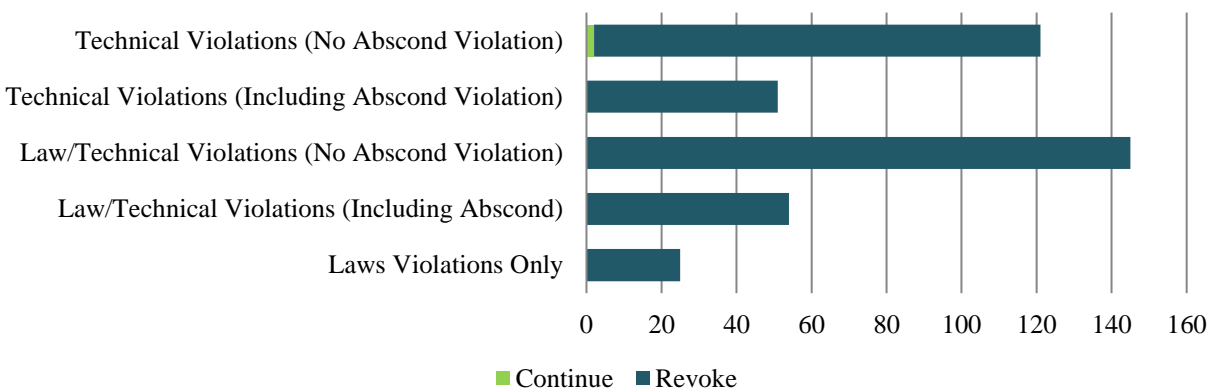
A total of 1,177 violations of parole conditions were identified in the 396 review of parole hearings completed in FY 2021.<sup>vi</sup> This constitutes a 13.8% increase in the overall number of violations from review of parole hearings in FY 2020 (1,034). In FY 2021, the average count of violations per hearing was 3; the total count of violations ranged from 1-8 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 2021 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 2021 Hearing Outcomes by Violation Categories/Combinations**



For clients who were revoked for technical violations only that did not include an absconding violation, 93 of the 118 unique clients (78.8%) were issued at least one sanction prior to being brought before the Board for a review of parole hearing. Of those 118 individuals, 53 (44.9%) had served a previous prison sentence. Twenty-nine (24.6%) of the 118 clients revoked for technical violations had been re-paroled following earlier violations of a previous parole term either prior to or during FY 2021 on their current sentence.

**III. REVOCATION DEMOGRAPHICS/CLIENT-BASED DATA**

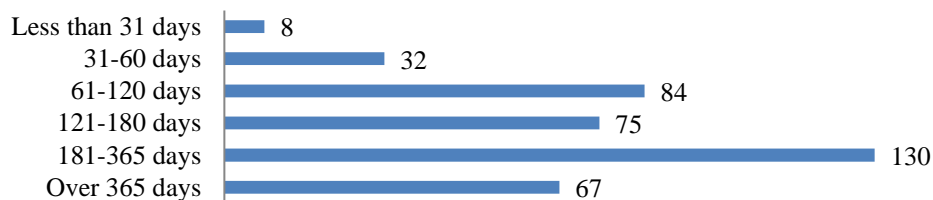
During FY 2021, the Board was scheduled to see 399 unique parole clients at a total of 481 hearings.<sup>vii</sup> The demographic characteristics of these clients are summarized in Table 1 (below). Column 2 includes all completed hearings and provides summary data while Columns 3-5 provide the demographic 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 between the ages of 26 and 35. The length of time each client was on parole prior to their review of parole hearing is captured in Figure 6 (below).<sup>viii</sup>

**Table 1: FY 2021 Demographics of Parole Clients (All Review of Parole Hearings)**

| Demographic Attributes                              | All NE Parole Clients (2,101) |       | All Hearing Clients (399) |       | Continued on Parole (2) |      | Parole Revoked (386) |       |
|---|-------------------------------|-------|---------------------------|-------|-------------------------|------|----------------------|-------|
| <b>SEX</b>  |                               |       |                           |       |                         |      |                      |       |
| Female  | 238                           | 11.3% | 34                        | 8.5%  | 0                       | -    | 32                   | 8.3%  |
| Male  | 1863                          | 88.7% | 365                       | 91.5% | 2                       | 100% | 354                  | 91.7% |
| <b>RACIAL IDENTIFICATION</b>                        |                               |       |                           |       |                         |      |                      |       |
| African-American/Black                              | 515                           | 24.5% | 112                       | 28.1% | 1                       | 50%  | 109                  | 28.2% |
| Asian/Pacific Islander                              | 21                            | 1.0%  | 3                         | 0.8%  | 0                       | -    | 3                    | 0.8%  |
| Caucasian/White                                     | 1,193                         | 56.8% | 215                       | 53.9% | 0                       | -    | 208                  | 53.9% |
| Hispanic  | 278                           | 13.2% | 46                        | 11.5% | 1                       | 50%  | 45                   | 11.7% |
| Native American                                     | 82                            | 3.9%  | 22                        | 5.5%  | 0                       | -    | 20                   | 5.2%  |
| Other/Unknown                                       | 12                            | 0.6%  | 1                         | 0.3%  | 0                       | -    | 1                    | 0.3%  |
| <b>AGE (FY 2021 YEAR END OR AT TIME OF HEARING)</b> |                               |       |                           |       |                         |      |                      |       |
| 16-20   | 13                            | 0.6%  | 5                         | 1.3%  | 0                       | -    | 5                    | 1.3%  |
| 21-25   | 228                           | 10.9% | 58                        | 14.5% | 0                       | -    | 53                   | 13.7% |
| 26-30   | 349                           | 16.6% | 86                        | 21.6% | 0                       | -    | 84                   | 21.8% |
| 31-35   | 352                           | 16.8% | 75                        | 18.8% | 0                       | -    | 73                   | 18.9% |
| 36-40   | 328                           | 15.6% | 67                        | 16.8% | 0                       | -    | 65                   | 16.8% |
| 41-50   | 454                           | 21.6% | 74                        | 18.5% | 1                       | 50%  | 73                   | 18.9% |
| 51 or older   | 377                           | 17.9% | 34                        | 8.5%  | 1                       | 50%  | 33                   | 8.5%  |

**Figure 6: FY 2021 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 396 completed hearings held in FY 2021, at 106 hearings (26.8%) 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 290 hearings (73.2%) were for clients with no previous revocations on their current sentence at the time of their hearing in FY 2021.<sup>ix</sup>

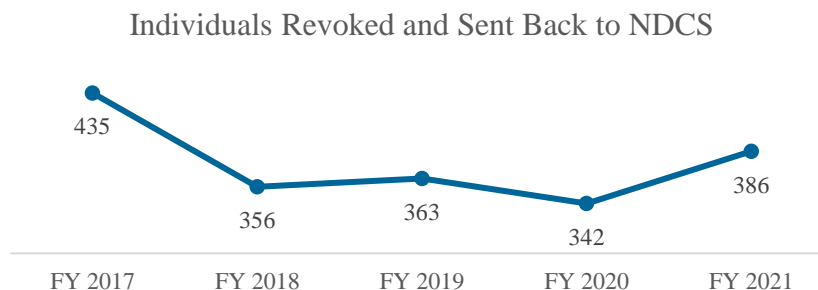
**IV. CONCLUSION**

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 396 in FY 2021. In addition, the number of hearings held solely for technical violations of parole has dropped from 234 in FY 2017 to 172 in FY 2020, a decrease of 26.5%. These indicators, along with data on client recidivism for new laws violations and a successful completion rate of approximately 65% 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 2021, 2,101 Nebraska parole clients were on community supervision under the Board. Of that number, 645 (30.7%) had a review of parole hearing at some time during their parole tenure and 625 (29.7%) actually had their parole revoked.<sup>x</sup> 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 graduate sanctions have resulted in a significant reduction of those being physically returned to prison, from 435 in FY 2017 to 386 in FY 2021 which is a decrease of 21% overall.



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 2022 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.

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<sup>i</sup> 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.

<sup>ii</sup> Review of parole hearings scheduled for December 9, 2020 and January 26, 2021 were cancelled for all due to inclement weather that prevented travel.

<sup>iii</sup> A total of 386 unique individuals were revoked; of that number 77 unique individuals were revoked and deferred to their mandatory discharge date.

<sup>iv</sup> 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).

<sup>v</sup> The breakdown of laws and technical violations for the FY 2020 Annual Report did not include data points regarding absconding violations so no comparison is provided for that measure in this report.

<sup>vi</sup> To ensure no duplicate counting of violations, all violations listed for hearings that were continued are excluded. Total count is therefore only for those 396 hearings that were completed.

<sup>vii</sup> Eleven clients had hearings that were continued into FY 2022 (the original date for their review of parole hearing was 6/29/2021); ten of those clients did not have any other review of parole hearings scheduled in FY 2021. Ten individuals had multiple (two) review of parole hearings over this time period; two were previously continued on parole but revoked at their second review of parole hearing. Eight clients had their parole revoked twice in FY 2021.

<sup>viii</sup> 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: 396).

<sup>ix</sup> Some individuals were placed on their first parole term and then re-paroled during FY 2021, which means that an individual could fall into both categories of on first parole term and re-parole status during this time period.

<sup>x</sup> Parole tenure means at some point in time during their current or prior parole terms; this data therefore covers more than just the FY 2021 year.