



Transition from Prison to Community

SB 2107

Tom Erhardt

Director, Parole and Probation
Division



EMPOWER PEOPLE.

IMPROVE LIVES.

INSPIRE SUCCESS.

Overview

- The information included is an overview of the sentencing guidelines in North Dakota, and how the Department of Corrections and Rehabilitation facilitates those sentences under the law.
 - Sentencing information should be taken as an overview. There are several statutes that are detailed and specific that may not be included.

DOCR Prison Recidivism Rate

Year	Cohort	New Crime	Technical Only	Total
2010	920	14.2%	24.6%	38.8%
2011	904	12.4%	26.8%	39.2%
2012	951	11.3%	28.7%	39.9%
2013	1052	14.3%	25.6%	39.8%
2014	1119	17.3%	28.3%	45.7%
2015	1350	13.9%	25.6%	39.4%
2016	1473	14.7%	25.6%	40.3%
2017	1487	14.3%	26.9%	41.2%
2018	1420	15.2%	25.5%	40.7%
2019*	1279	11.4%	18.8%	30.2%
2020**	1229	4.9%	11.5%	16.4%

*Indicates recidivism rate 2 years post-release.
 ** Indicates recidivism rate 1 year post-release.

Sentencing in North Dakota - Felonies

N.D.C.C. 12.1-32 provides sentencing guidelines.

AA Felony -Max: Life without parole.

If Life with Parole, cannot be considered by Parole Board for 30 years.

A Felony -Max: 20 years, \$20K fine, or both.

B Felony -Max: 10 years, \$20K fine, or both.

C Felony -Max: 5 years, \$10K fine, or both.

*Organizational fines are higher, see NDCC 12.1-32-01.1

Sentencing in North Dakota - Misdemeanors

A Misdemeanor: Max-360 days, \$3,000 fine, or both.

B Misdemeanor: Max-30 days, \$1,500 fine, or both.

Infraction: Max- \$1,000 fine.

Sentencing of Violent Offenders

N.D.C.C. 12.1-32-09.1 (1995)

Except as provided under section 12-48.1-02 and rules adopted by the DOCR, any offender who has been convicted of a crime... or an attempt to commit the offenses, and who receives a sentence of imprisonment is not eligible for release from confinement on any basis until eighty-five percent of the sentence imposed by the court has been served, or the sentence **commuted**.

Sentencing of Violent Offenders

- Murder
- Manslaughter
- Class B Felony Aggravated Assault (Crimes committed on or after August 1, 2015)
- Kidnapping
- Gross Sexual Imposition... compels the victim to submit by force or threat of imminent death or serious bodily injury, or kidnapping to be inflicted on any human being.
- Robbery
- Burglary... inflicts or attempts to inflict bodily injury or physical restraint ... menaces... or is armed with a firearm, destructive device, or other weapon.

Sentencing of Violent Offenders

- Offenders sentenced for these crimes:
 - Attempts/accomplices are included. Conspiracy cases are not.
 - Are not eligible for parole until 85% of the sentence is served.
 - May be eligible for education/work release at a Transitional Facility the last 6 months of sentence.

Minimum Mandatory Sentencing

- Certain drug and DUI/APC sentences.
- Are eligible for parole
- Are eligible for placement in Transitional facilities.
- DUI & Drug Possession Recidivism Reduction Track (Sentence and Treatment Early Release Program)
 - NDCC requires DOCR to release individual to probation upon successful completion of treatment.

Authority: 39-08-01(5)(i), 19-03.1-23(7)(e), and 19-03.4-03(5), and Chapter 12-59 of the North Dakota Century Code.

Mandatory Prison Terms for Armed Offenders

NDCC 12.1-32-02.1 A term of imprisonment must be imposed and served without benefit of parole:

- Inflicts or attempts to inflict bodily injury,
- threatens or menaces bodily injury,
- with a firearm, dangerous weapon, or destructive device.;
- or possesses a firearm, dangerous weapon, or destructive device while committing an offense.

Mandatory Prison Terms for Armed Offenders

If the offense is a Class AA, A, or B felony:

- Minimum sentence of 4 years.

If the offense is a Class C felony:

- Minimum sentence of 2 years.
 - Not eligible for parole during the minimum sentence.
 - Are parole/transition facility eligible after the minimum sentence, if sentenced longer than the minimum. Transition eligible last 6 months of sentence per NDCC 12-48.1-02.

Performance-Based Sentence Reduction (Good Time)

ND century code 12-54.1-01

- Offenders committed to the legal and physical custody of the department of corrections and rehabilitation are eligible to earn sentence reductions based upon performance criteria established through department penitentiary rules.
- Performance criteria includes participation in court ordered and staff recommended treatment and education programs and good work performance.
- The department may credit an offender committed to the legal and physical custody of the department who is eligible for sentence reduction **five days good time per month** for each month of the sentence imposed.
- The department may not credit an offender with any sentence reduction for time spent in custody prior to sentence and commitment, for time under supervised probation, or for any sentence where the incarceration time is six months or less.

Good Time

- 60 days a year (i.e. one year sentence = 10 months).
- Good time release date (GTRD) is calculated upon arrival. This GTRD is contingent on their continued compliance with programming.
- If they become non-compliant with treatment, education, or work, they stop earning good time at that time and a new release date is calculated.
- Can lose previously earned good time through misconduct (Level 3 rule infraction, the most serious rule violations).
- Can stop earning good time due to Level 3 infraction.
- Once it is lost, it cannot be earned back.

Sentence Calculation

- Sentence length = Total Sentence – Suspended Portion – Credit for jail time served – jail good time - Maximum amount of good time available to be earned.
- Sentence date + Sentence length = Estimated Release Date.
- This calculation may change, based on consecutive sentences, additional sentences, crimes committed while in prison, and/or loss of good time.

Releases from DOCR Custody - Controlling Sentence

		Number Released			Ave Days Served - DOCR Custody	Ave % of Sentence Served - DOCR Custody	Ave % of Sentenced Served - Parole
		Exp Sent / Prob	Parole	Total			
January 1, 2022 - June 30, 2022							
	Misdemeanor A	4	5	9	151	67%	33%
	Felony C	113	253	366	317	66%	34%
	Felony B	19	91	110	437	61%	39%
	Felony A	12	35	47	1,197	70%	30%
	Felony AA	1	3	4	1,811	88%	12%
January 1, 2021 - December 31, 2021							
	Misdemeanor A	8	6	14	172	77%	23%
	Felony C	186	436	622	345	66%	34%
	Felony B	47	181	228	479	63%	37%
	Felony A	18	53	71	949	69%	31%
	Felony AA	9	16	25	2,441	88%	12%
January 1, 2020 - December 31, 2020							
	Misdemeanor A	0	14	14	129	50%	50%
	Felony C	166	554	720	328	62%	38%
	Felony B	26	190	216	474	57%	43%
	Felony A	23	80	103	1,099	63%	37%
	Felony AA	4	11	15	2,114	65%	35%
DOCR Sentence Calculation							
Sentence length = Total sentence - Suspended Portion - Credit for jail time served - Credit for jail good time - Maximum amount of good time to be earned while in DOCR custody							
Estimated Good Time Release Date = Sentence Date + Sentence Length							
NOTE: Sentence calculation is subject to change, based on consecutive sentences, additional sentences, crimes committed while in prison, and / or loss of good time							

DOCR Adult Services Prison Population Information

Prison Population on December 31, 2022 (Male and Female)

TOTAL COUNT: 1817

NDSP 776, HRCC 49, JRCC 469, MRCC 183, DWCRC 138, Non Traditional Beds 202

Non-Traditional Bed Breakdown:

Correctional Centers (Jails) 33, Interstate Compact 15, BTC 64, GFC 15, MTPFAR 32, MTPMDN 10

FTPFAR 25, FTPMDN 8

Year	2017	2018	2019	2020	2021	2022
Admissions - Calendar Year	1604	1527	1530	936	1491	1451
Releases - Calendar Year	1672	1555	1431	1329	1203	1323
Prison Count on December 31	1723	1695	1794	1401	1689	1817

Prison Count on December 31 (Crime Type)

Offense	2017	2018	2019	2020	2021	2022
Violent Offenders (Excluding Sexual)	600	589	648	588	686	743
Sex Offenders	294	301	303	293	307	330
Property and Other Public Order Offenders	330	313	345	202	312	337
Drug & Alcohol Offenders	499	492	498	318	384	407
Drug - Deliver, Manufacture or Intent	278	286	277	208	244	251
Drug - Possession Only	180	176	186	88	122	131
Alcohol - DUI, APC	41	30	35	22	18	25

Prison Count on December 31 (Minimum Mandatory)

Offense	2017	2018	2019	2020	2021	2022
Breaking/Unlawful Entry Into a Motor Vehicle	1	0	0	0	0	0
DUI/Actual Physical Control	2	0	0	0	0	0
Driving Under Suspension	0	0	0	0	0	0
Refusing to Submit to Chemical Testing	0	0	0	0	0	0
Drug Offenses (Not Alcohol)	26	15	7	6	10	14
Reckless Endangerment	4	3	6	6	8	7
Aggravated Assault	13	17	20	20	26	31
Burglary With Weapon	4	4	4	3	4	4
Felonious Restraint	1	0	1	1	0	0
Kidnapping	0	0	0	0	0	0
Sex Offense	21	17	12	15	17	16
Terrorizing	16	14	19	17	16	16
Robbery	12	16	18	17	18	17
Criminal Vehicular Injury	1	0	0	0	0	0
Negligent Homicide/Criminal Vehicular Homicide	2	3	2	2	2	2
Manslaughter	1	1	2	4	6	6
Murder/Attempted Murder*	22	25	31	29	42	47
Felon in Possession of a Firearm	0	0	0	0	0	0
Offender Registration Violation	2	0	0	0	0	0
Total	128	115	122	120	149	160

* There are 91 males and 4 females with a Life sentence (not all are minimum mandatory sentences)

8.8% of the prison population on December 31, 2022 had a minimum mandatory sentence.

Prison Count on December 31 (85% Truth-In-Sentencing)

	2017	2018	2019	2020	2021	2022
Number of Offenders Having 85% TIS	274	261	241	244	290	293
Average Sentence In Years (excludes Life)	11.88	12.90	15.85	15.95	16.18	15.69

Average Prison Population, Admissions, Releases by Fiscal Year

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Average Daily Population	1805.81	1760.97	1716.50	1698.82	1453.17	1693.76
Admissions	1600	1576	1514	1146	1336	1428
Releases	1586	1681	1444	1540	1085	1312

Number Of Fiscal Year Admissions by Crime Type

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
All Admissions	1600	1576	1514	1146	1336	1428
Violent Offenders (Non-Sexual)	364	366	358	293	413	421
Sex Offenders	98	76	89	65	85	81
Drug & Alcohol Offenders	729	712	660	483	521	530
Property and Other Public Order Offenders	409	422	407	305	317	396

Average Sentence Imposed By Court (Fiscal Year, Crime Type, In Years, Excludes Life Sentences)

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
All Admissions	2.76	2.57	2.56	2.89	2.80	2.78
Violent Offenders (Non-Sexual)	3.18	2.91	2.54	3.17	3.03	3.35
Sex Offenders	5.80	5.54	6.10	8.16	5.72	6.62
Drug & Alcohol Offenders	2.47	2.33	2.36	2.45	2.48	2.40
Property and Other Public Order Offenders	2.19	2.15	2.14	2.20	2.25	2.21

Number Of Fiscal Year Admissions By Length Of Court Imposed Sentence

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Less Than One Year	29	43	41	37	26	38
One Year to Less Than Five Years	1356	1342	1315	955	1149	1214
Five Years to Less Than Ten years	165	147	115	103	108	126
Ten Years to Less Than Twenty Years	29	25	28	31	38	24
Twenty Years or More	21	19	15	20	15	26

NOTE: The average sentence is that sentence imposed by the court. It does not take into account such things as good time, credit for time served, parole relief or any other method of shortening the sentence except Pardon Advisory Board recommendations adopted by the Governor (which can actually change the sentence). The average sentence is reported in months to two decimal points.

Data is based on the "controlling sentence" for offenders who are admitted for multiple crimes. Controlling sentence is the longest sentence ordered by the court that has not expired.

NDSP - North Dakota State Penitentiary. **JRCC** - James River Correctional Center. **MRCC** - Missouri River Correctional Center. **HRCC** - Heart River Correctional Center. **DWCRC** - Dakota Women's Correctional Rehabilitation Center (New England). **BTC** - Bismarck Transition Center. **CPP** - Community Placement Program. **MTP** - Male Transition Program (Fargo & Mandan). **FTP** - Female Transition Program (Fargo & Mandan). **GFC** - Grand Forks Centre. **LRRP** - Lake Region Re-entry Program (Devils Lake).

DOCR Adult Services Prison Population Information

Prison Population on December 31, 2022 (Female Only)

TOTAL COUNT: 233

NDSP 0, HRCC 49, JRCC 0, MRCC 0, DWCRC 138, Non Traditional Beds 46

Non-Traditional Bed Breakdown:

Correctional Centers (Jails) 7, BTC 6, FTPFAR 25, FTPMDN 8

Year	2017	2018	2019	2020	2021	2022
Admissions - Calendar Year	300	296	310	198	286	302
Releases - Calendar Year	314	299	297	245	248	269
Prison Count on December 31	199	196	209	162	200	233

Prison Count on December 31 (Crime Type)

Offense	2017	2018	2019	2020	2021	2022
Violent Offenders (Excluding Sexual)	68	59	63	57	83	90
Sex Offenders	4	5	6	7	5	4
Property and Other Public Order Offenders	35	34	43	28	47	53
Drug & Alcohol Offenders	92	98	97	70	65	86
Drug - Deliver, Manufacture or Intent	39	49	46	43	36	41
Drug - Possession Only	50	47	48	24	26	41
Alcohol - DUI, APC	3	2	3	3	3	4

Prison Count on December 31 (Minimum Mandatory)

Offense	2017	2018	2019	2020	2021	2022
Breaking/Unlawful Entry Into a Motor Vehicle	0	0	0	0	0	0
DUI/Actual Physical Control	0	0	0	0	0	0
Driving Under Suspension	0	0	0	0	0	0
Refusing to Submit to Chemical Testing	0	0	0	0	0	0
Drug Offenses (Not Alcohol)	3	1	0	0	0	1
Reckless Endangerment	0	1	1	0	1	2
Aggravated Assault	2	2	1	1	6	6
Burglary With Weapon	0	0	0	0	0	0
Felonious Restraint	0	0	0	0	0	0
Kidnapping	0	0	0	0	0	0
Sex Offense	0	0	0	0	0	0
Terrorizing	0	0	0	1	1	0
Robbery	0	0	0	0	0	1
Criminal Vehicular Injury	0	0	0	0	0	0
Negligent Homicide/Criminal Vehicular Homicide	0	0	0	0	0	0
Manslaughter	0	0	1	1	3	3
Murder/Attempted Murder*	0	0	1	1	2	2
Felon in Possession of a Firearm	0	0	0	0	0	0
Offender Registration Violation	0	0	0	0	0	0
Total	5	4	4	4	13	15

* There are 4 females with a Life sentence (not all are minimum mandatory sentences)

6.4% of the female prison population on December 31, 2022 had a minimum mandatory sentence.

Prison Count on December 31 (85% Truth-In-Sentencing)

	2017	2018	2019	2020	2021	2022
Number of Offenders Having 85% TIS	23	17	13	13	15	27
Average Sentence In Years (excludes Life)	9.85	11.75	15.46	14.35	16.77	11.31

Average Prison Population, Admissions, Releases by Fiscal Year

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Average Daily Population	224.15	205.14	207.28	196.60	160.05	199.74
Admissions	291	300	301	236	259	291
Releases	308	309	279	339	198	266

Number Of Fiscal Year Admissions by Crime Type

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
All Females	291	300	301	236	259	291
Violent Offenders (Non-Sexual)	57	65	62	54	66	89
Sex Offenders	1	1	2	0	2	0
Drug & Alcohol Offenders	177	169	173	130	136	133
Property and Other Public Order Offenders	56	65	64	52	55	69

Average Sentence Imposed By Court (Fiscal Year, Crime Type, In Years, Excludes Life Sentences)

	FY2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
All Females	2.25	2.57	2.01	2.18	2.21	2.25
Violent Offenders (Non-Sexual)	2.40	2.54	1.93	2.50	2.73	2.66
Sex Offenders	5.00	8.00	6.50	0	3.25	0
Drug & Alcohol Offenders	2.28	2.07	1.98	2.16	1.95	2.08
Property and Other Public Order Offenders	1.96	1.87	2.01	1.92	2.20	2.03

Number Of Fiscal Year Admissions By Length Of Court Imposed Sentence

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Less Than One Year	6	11	12	7	4	12
One Year to Less Than Five Years	266	271	280	214	243	260
Five Years to Less Than Ten years	16	13	6	11	8	15
Ten Years to Less Than Twenty Years	2	2	2	3	4	2
Twenty Years or More	1	3	1	1	0	2

NOTE: The average sentence is that sentence imposed by the court. It does not take into account such things as good time, credit for time served, parole relief or any other method of shortening the sentence except Pardon Advisory Board recommendations adopted by the Governor (which can actually change the sentence). The average sentence is reported in months to two decimalpoints.

Data is based on the "controlling sentence" for offenders who are admitted for multiple crimes. Controlling sentence is the longest sentence ordered by the court that has not expired.

NDSP - North Dakota State Penitentiary. **JRCC** - James River Correctional Center. **MRCC** - Missouri River Correctional Center. **HRCC** - Heart River Correctional Center. **DWCRC** - Dakota Women's Correctional Rehabilitation Center (New England). **BTC** - Bismarck Transition Center. **CPP** - Community Placement Program. **MTP** - Male Transition Program (Fargo & Mandan). **FTP** - Female Transition Program (Fargo & Mandan). **GFC** - Grand Forks Centre. **LRRP** - Lake Region Re-entry Program (Devils Lake).

DOCR Adult Services Prison Population Information**Prison Population on December 31, 2022 (Male Only)****TOTAL COUNT: 1584**

NDSP 776, JRCC 469, MRCC 183, Non Traditional Beds 156

Non-Traditional Bed Breakdown:

Correctional Centers (Jails) 26, Interstate Compact 15, BTC 58, GFC 15, MTPFAR 32, MTPMDN 10

Year	2017	2018	2019	2020	2021	2022
Admissions - Calendar Year	1304	1231	1220	738	1205	1149
Releases - Calendar Year	1358	1256	1134	1084	955	1054
Prison Count on December 31	1524	1499	1585	1239	1489	1584

Prison Count on December 31 (Crime Type)

Offense	2017	2018	2019	2020	2021	2022
Violent Offenders (Excluding Sexual)	532	530	585	531	603	653
Sex Offenders	290	296	297	286	302	326
Property and Other Public Order Offenders	295	279	302	174	265	284
Drug & Alcohol Offenders	407	394	401	248	319	321
Drug - Deliver, Manufacture or Intent	239	237	231	165	208	210
Drug - Possession Only	130	129	138	64	96	90
Alcohol - DUI, APC	38	28	32	19	15	21

Prison Count on December 31 (Minimum Mandatory)

Offense	2017	2018	2019	2020	2021	2022
Breaking/Unlawful Entry Into a Motor Vehicle	1	0	0	0	0	0
DUI/Actual Physical Control	2	0	0	0	0	0
Driving Under Suspension	0	0	0	0	0	0
Refusing to Submit to Chemical Testing	0	0	0	0	0	0
Drug Offenses (Not Alcohol)	23	14	7	6	10	13
Reckless Endangerment	4	2	5	6	7	5
Aggravated Assault	11	15	19	19	20	25
Burglary With Weapon	4	4	4	3	4	4
Felonious Restraint	1	0	1	1	0	0
Kidnapping	0	0	0	0	0	0
Sex Offense	21	17	12	15	17	16
Terrorizing	16	14	19	16	15	16
Robbery	12	16	18	17	18	16
Criminal Vehicular Injury	1	0	0	0	0	0
Negligent Homicide/Criminal Vehicular Homicide	2	3	2	2	2	2
Manslaughter	1	1	1	3	3	3
Murder/Attempted Murder*	22	25	30	28	40	45
Felon in Possession of a Firearm	0	0	0	0	0	0
Offender Registration Violation	2	0	0	0	0	0
Total	123	111	118	116	136	145

* There are 91 males with a Life sentence (not all are minimum mandatory sentences)

9.15% of the male prison population on December 31, 2022 had a minimum mandatory sentence.

Prison Count on December 31 (85% Truth-In-Sentencing)

	2017	2018	2019	2020	2021	2022
Number of Offenders Having 85% TIS	251	244	228	231	275	266
Average Sentence In Years (excludes Life)	12.09	12.98	15.87	16.05	16.14	16.20

Average Prison Population, Admissions, Releases by Fiscal Year

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Average Daily Population	1581.66	1555.83	1509.22	1502.22	1293.12	1494.02
Admissions	1309	1276	1213	910	1077	1137
Releases	1278	1372	1165	1201	887	1046

Number Of Fiscal Year Admissions by Crime Type

	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
All Males	1309	1276	1213	910	1077	1137
Violent Offenders (Non-Sexual)	307	301	296	239	347	332
Sex Offenders	97	75	87	65	83	81
Drug & Alcohol Offenders	552	543	487	353	385	397
Property and Other Public Order Offenders	353	357	343	253	262	327

Average Sentence Imposed By Court (Fiscal Year, Crime Type, In Years, Excludes Life Sentences)						
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
All Males	2.88	2.52	2.70	2.95	2.94	2.91
Violent Offenders (Non-Sexual)	3.32	2.99	2.66	3.33	3.08	3.54
Sex Offenders	5.81	5.51	6.09	8.16	5.78	6.62
Drug & Alcohol Offenders	2.53	2.41	2.50	2.54	2.67	2.51
Property and Other Public Order Offenders	2.23	2.20	2.17	2.26	2.26	2.24
Number Of Fiscal Year Admissions By Length Of Court Imposed Sentence						
	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Less Than One Year	23	32	29	30	22	26
One Year to Less Than Five Years	1090	1071	1035	741	906	954
Five Years to Less Than Ten Years	149	134	109	92	100	111
Ten Years to Less Than Twenty Years	27	23	26	28	34	22
Twenty Years or More	20	16	14	19	15	24

NOTE: The average sentence is that sentence imposed by the court. It does not take into account such things as good time, credit for time served, parole relief or any other method of shortening the sentence except Pardon Advisory Board recommendations adopted by the Governor (which can actually change the sentence). The average sentence is reported in months to two decimal points.

Data is based on the "controlling sentence" for offenders who are admitted for multiple crimes. Controlling sentence is the longest sentence ordered by the court that has not expired.

NDSP - North Dakota State Penitentiary. **JRCC** - James River Correctional Center. **MRCC** - Missouri River Correctional Center. **HRCC** - Heart River Correctional Center. **DWCRC** - Dakota Women's Correctional Rehabilitation Center (New England). **BTC** - Bismarck Transition Center. **CPP** - Community Placement Program. **MTP** - Male Transition Program (Fargo & Mandan). **FTP** - Female Transition Program (Fargo & Mandan). **GFC** - Grand Forks Centre. **LRRP** - Lake Region Re-entry Program (Devils Lake).

Questions?