

Do North Dakotans Have the State Corrections System They Deserve?

1. What is the rate of recidivism in North Dakota?

- a. 29%
- b. 36%
- c. 40%
- d. **More than 40% but DOCR does not track the actual rate of recidivism**

DOCR publishes the percentage of its inmates who return only to DOCR facilities¹ and uses the 3-year rate as their measurement of recidivism.² The most current 3-year rate using DOCR's definition of recidivism is 40%.³ But the actual rate of recidivism in North Dakota is even higher because DOCR's rate does **not** include:

- Former DOCR inmates who are sent to federal prisons;
- Former DOCR inmates who are sent to county jails;
- Former DOCR inmates who are sent to other states' correctional facilities; and
- Former DOCR inmates who are sent back to DOCR facilities after more than 3 years.⁴

2. Inmates who committed violent crimes are free to be out in our communities, unsecured, while serving their sentences, even if it has not been determined that (1) letting them free during the day is in the best interests of the public or (2) they do not pose a high risk of escape.

- a. **True**
- b. False

Regardless of the crime committed,⁵ DOCR⁶ can transfer an inmate to a halfway house (also called a transitional facility) and let that inmate come and go each day – without any security – on a release program. DOCR can do this even if they decide it is simply in the best interests of the inmate or DOCR.⁷ DOCR does not need to assess the inmate's likelihood of escaping into the community.⁸

Based on DOCR testimony, in mid-January 2025, of all the inmates on release status, at most 8 were sentenced for one of the many nonviolent crimes listed in the Attorney General's amended Senate Bill 2128.⁹

3. Transitional facilities and release programs are secure. Inmates can't just walk away and blend into the community.

- a. True
- b. False**

The director of one transitional facility under contract with DOCR testified that “normally” 5 inmates walk away from his facility per month and that “that’s an expectation.” He stated “our doors are not locked ... people are going to walk away.”¹⁰ He was unable to provide information about how many of the inmates who walk away are not recaptured and how long it takes to recapture an inmate after walking away when asked.¹¹

4. After years of investing in treatment programs, re-entry programs, the “Norway model,” and policies called “smart on crime,” are our communities safer?

- a. Yes, violent crime rates have gone down in North Dakota over the past 10 years.
- b. No, violent crime rates have gone up in North Dakota over the past 10 years.**
- c. There hasn't been a change in violent crime rates in North Dakota over the past 10 years.

Crime statistics are methodically reported by law enforcement agencies throughout North Dakota each year according to rigorous standards to ensure consistency from year to year.¹² According to these statistics, violent crime in North Dakota has risen steadily over the past 10 years. For example, the number of Crimes Against Persons¹³ committed in 2023 (12,403) was 2.9 percent higher than the number of Crimes Against Person committed in 2022 (12,060). In 2019, that number was 10,539. In 2014, that number was 8,645.

This is not due to population growth because the rate of Crimes Against Persons per 100,000 people also has grown from 1,169 in 2014, to 1,383 in 2019, to 1,582 in 2023.

5. With all the talk about the need for substance abuse treatment, rehabilitation services, and addressing the root causes of crime, inmates who are out in the community all day are physically checked on and have a rigorous check-in process at night that includes drug testing to ensure they stay compliant with their treatment programs.

- a. True
- b. False**

Drug treatment programs are important for many inmates, and there's a lot of talk about them when people say our current system is “smart on crime.” But DOCR does not conduct daily

drug tests on inmates in transitional facilities, including inmates who are in the community each day without supervision.

Based on DOCR data, a transitional facility with a maximum capacity of 140 residents (and a current head count of 123) administered only 1,201 urinalysis tests throughout all of 2024, including a drug test upon arrival for each individual.¹⁴ That equates to 3.3 drug tests per day total. Even if the facility averages only 120 residents per day, that means each resident is drug tested only about once every 10 days.

Also based on DOCR data, a transitional facility completed 3,407 physical checks on its residents who were on release programs in the community through 2024.¹⁵ Even if only 90 of its residents are on release programs, each of them is physically checked on in the community only once every 9-10 days to ensure they are where they're supposed to be.

¹ The “Methodology” for the recidivism statistics on the DOCR website states: “This data reports reincarceration recidivism rates, which is the proportion of individuals released from a ND DOCR facility that return to a ND DOCR facility at some point in the future.” The graphics indicate the rate for each year after release.

² Testimony of Colby Braun, Director, DOCR, before the Senate Judiciary Committee (Jan. 22, 2025) (also noting other states do not use the DOCR definition as a standard measurement).

³ DOCR website (<https://dashboard.docr.nd.gov/us-nd/narratives/prison/7>) showing the most recent 3-year recidivism rate using the DOCR definition is “40%” (“444 of 1102”).

⁴ Based on DOCR’s website (<https://dashboard.docr.nd.gov/us-nd/narratives/prison/7>), the rate of recidivism increases each year an inmate has been out of prison.

⁵ See N.D.C.C. 12-47-18.1. There is no limit on the crimes currently. Many of the inmates in halfway houses now did not commit any of the many nonviolent crimes listed in S.B. 2128. Testimony of Colby Braun, Director, DOCR, before the Senate Judiciary Committee (Jan. 22, 2025).

⁶ Or, in cases when the sentence is more than 10 years, the Parole Board makes this decision.

⁷ See N.D.C.C. 12-47-18.1.

⁸ See N.D.C.C. 12-47-18.1 and 12-48.1-01.

⁹ Testimony of Colby Braun, Director, DOCR, before the Senate Judiciary Committee (Jan. 22, 2025)(“Under [S.B. 2128], only 8 of the 238 inmates currently in a transitional facility would be eligible.”).

¹⁰ Testimony of Kevin Arthaud, Administrator, Bismarck Transition Center, before the Senate Judiciary Committee (Jan. 22, 2025).

¹¹ Testimony of Kevin Arthaud, Administrator, Bismarck Transition Center, before the Senate Judiciary Committee (Jan. 22, 2025).

¹² See Attorney General Crime Reports, at <https://attorneygeneral.nd.gov/public-safety/crime-data/crime-and-homicide-reports/>.

¹³ This figure does not even include data for robberies, which are classified as offenses against property despite the element of violence against a person required to meet the definition of robbery.

¹⁴ Testimony of Kevin Arthaud, Administrator, Bismarck Transition Center, before the Senate Judiciary Committee (Jan. 22, 2025).

¹⁵ Testimony of Kevin Arthaud, Administrator, Bismarck Transition Center, before the Senate Judiciary Committee (Jan. 22, 2025).