

IS ANYBODY LISTENING?

By Ed Poindexter

"All we ask is that you be true to what you said you'd do on paper."

- Dr. Martin Luther King Jr. -

Mondowelanga and I were framed for the murder of an Omaha, Nebraska policeman by the local police and the FBI's COINTELPRO upon the expressed orders of Director J. Edgar Hoover. And on April 17, 1971, we were convicted and sentenced to serve "during life" at the Nebraska State Prison. See T75. While always maintaining our innocence, we continue leading productive lives in spite of the circumstances.

However, this is a plea for help due to some little-known case facts that have escaped the public's eyes and ears. To wit: aside from our "actual innocence" claims, Mondo and I have been forced to serve an illegal, unconstitutional sentence of life without possibility of parole, when no such sentence existed at the time of our sentencing on April 17, 1971. Our "during life" sentences should have expired around April 17, 1989, after having served 18-20 years, just as all of those "similarly situated" lifers of our generation did.

Since 1981 we've been told that we're not eligible for parole until we've had our sentences first commuted by the pardon board. Yet, Ex. 139 states that there are no written guidelines for eligibility. Therefore, if there are no written guidelines for eligibility, then it cannot be truthfully said we're required to have a commutation. And, according to T104, line 11, we were eligible for parole in March of 1972.

Exhibits 8, 11, 12 and 13 are the only Nebraska parole statutes that apply to Mondo and myself, because they were in effect when we were convicted and sentenced on April 17, 1971. Compare Exhibit 11 to T164 "(e)", and you'll see why the parole board is so insistent on applying the ex post statute to us, because it greatly disadvantages us.

Exhibit 2(b) is our most recent rejection slip from the parole board, that gave us another 10 year deferrment after we've already served over 43 years in prison. It's vigilanteism to make up one's own laws to keep someone in prison just because you don't like them.

For years lawyers and lawyer-types have been telling me to pursue the parole board claim is to concede guilt. But they have it backwards, as to apply for a commutation one must concede guilt and remorse as part of the criteria. To apply for parole is to simply acknowledge that the time is up.

Is anybody listening? Please help.

Edward Poindexter

#27767

P.O. Box 2500

Lincoln, NE

68542-2500

§ 28-401

CRIMES AND PUNISHMENTS

- 28-4,102. Depressant and stimulant drugs; shipment; records; inspection.
 28-4,103. Depressant and stimulant drugs; licensed practitioner; inventory; records; not required to keep.
 28-4,104. Depressant and stimulant drugs; prescription; filling; limitation.
 28-4,105. Depressant and stimulant drugs; exempt under federal act; exempt from this act.
 28-4,106. Depressant and stimulant drugs; Nebraska State Patrol; Division of Drug Control; created; personnel; duties; powers.
 28-4,107. Depressant and stimulant drugs; Department of Health; Division of Drug Control; cooperate.
 28-4,108. Depressant and stimulant drugs; superintendent; rules and regulations; adopt.

(s) INHALANTS

- 28-4,109. Inhaling or drinking certain compounds; unlawful.
 28-4,110. Selling and offering for sale certain compounds; use; knowledge of seller; unlawful.
 28-4,111. Act, exceptions.
 28-4,112. Selling or offering for sale certain compounds; register; maintain for one year.
 28-4,113. Act; inducing or enticing violations; unlawful.
 28-4,114. Violations; penalty.

(a) HOMICIDE

28-401. Murder in the first degree, defined; penalty; by whom determined. Whoever shall purposely and of deliberate and premeditated malice or in the perpetration of or attempt to perpetrate any rape, arson, robbery or burglary, or by administering poison, or causing the same to be done, kill another; or, whoever by willful and corrupt perjury or subornation of the same, shall purposely procure the conviction and execution of any innocent person, every person so offending shall be deemed guilty of murder in the first degree, and upon conviction thereof shall suffer death or shall be imprisoned in the Nebraska Penal and Correctional Complex during life. If the accused is found guilty by a jury, they shall fix the punishment by their verdict; upon a plea of guilty, or after a finding of guilt by the court sitting without a jury, and after the defendant has been fully informed of his constitutional rights, the punishment shall be fixed by the court.

Source: G.S. p. 720; Laws 1893, c. 44, § 1, p. 385; R.S.1913, § 8581; C.S.1922, § 9544; C.S.1929, § 28-401; R.S.1943, § 28-401; Laws 1963, c. 147, § 1, p. 529; Laws 1969, c. 213, § 1.
 Effective date March 19, 1969.

Proof of premeditation and deliberation or a purpose to kill not required in prosecution under this section. *State v. Kauffman*, 183 Neb. 817, 164 N.W.2d 469.

Trial court properly examined report and exhibits before pronouncing sentence. *State v. Alvarez*, 182 Neb. 358, 154 N.W.2d 746.

28-402. Murder in the second degree, defined; penalty.

No abuse of discretion shown in imposition of maximum sentence. *State v. Hake*, 184 Neb. 381, 168 N.W.2d 270.

Malice and a purpose to kill are essential elements of murder in the second degree.

State v. Walle, 182 Neb. 642, 156 N.W.2d 810.
 Purpose and intent to kill are essential elements of murder in the second degree. *State v. Hizel*, 179 Neb. 661, 139 N.W.2d 832.

28-403. Manslaughter, defined; penalty.

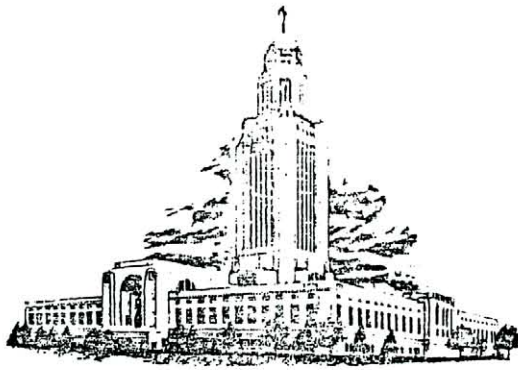
Sentence imposed within limits of statute will not be disturbed on appeal unless

there appears to have been an abuse of discretion. *State v. Stock*, 184 Neb. 29, 165

CHARLES THONE
GOVERNOR

CHARLES L. BENSON
DIRECTOR

GARY E. GRAMMER
SUPERINTENDENT



STATE OF NEBRASKA

DEPARTMENT OF CORRECTIONAL SERVICES

DIAGNOSTIC AND EVALUATION CENTER P. O. BOX 2800 LINCOLN, NEBRASKA 68502
[402] 471-3330

May 19, 1982

Re: POINDEXTER, Edward NSP #27767

In response to your letter of inquiry concerning the above named legal offender (May 17, 1982), we did contact the Nebraska Board of Parole. The response we received concerning eligibility for a commutation of a life sentence is that there are no written guidelines for eligibility. According to the Board of Parole, the average length of time served on a life sentence prior to the Parole Board recommending a commutation to the Nebraska Pardon Board is eighteen (18) years. They also advised that the offender, himself, can apply directly to the Pardon Board for commutation. The Pardon Board must consult the Parole Board upon receiving an application for commutation (Nebraska Revised Statute 83-1127 (4)). So, Mr. Poindexter may apply to the Pardon Board anytime, but they will consult with the Parole Board. If you have further questions in this area, you may wish to contact the Board of Parole at 471-2156.

Hopefully, this has answered your question about Mr. Poindexter's situation. Feel free to contact our office if you have additional questions and if we are unable to assist you, perhaps we can direct you to the appropriate individual.

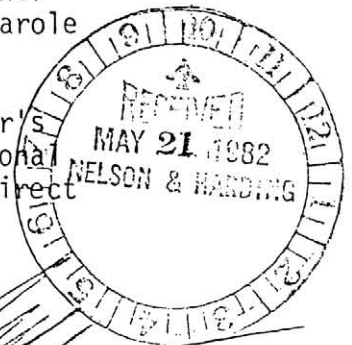
Respectfully,

Pamela S. Hile

Pamela S. Hile, Administrative Assistant
Assigned to Interstate Corrections Compact

Approved By:

Gary E. Grammer
Gary E. Grammer, Superintendent
Diagnostic and Evaluation Center



psh
xc: interstate file

00139

CLASSIFICATION STUDY

Nebraska Penal and Correctional Complex
Lincoln, Nebraska

Committed Name	POINDEXTER, EDWARD	Offense	1st Degree Murder
Institutional Number	#27767	Sentence	LIFE
True Name	Edward Alan Poindexter	Committing Judge	Donald J. Hamilton
Aliases	None claimed	County Attorney	Donald Knowles
		County	Douglas
Sentenced	April 17, 1971	Plea	Guilty by jury
Sentence Begins	April 17, 1971	FBI Number	504 112 H
Date Committed	April 17, 1971	Soc. Sec. No.	
Statutory Release	LIFE	Age	Twenty-six
Full Time Release	LIFE	Birth Date	November 1, 1944
Parole Eligibility	March - 1972	Birth Place	Omaha, Nebraska
Detainers	None	Race	Negro

MILITARY SERVICE:

Branch	Serial Number	Entered	Discharged	Type Discharge
U.S. Army	RA 17 64 2859	10-18-1962	12-10-1968	Honorable

POLICE & INSTITUTIONAL RECORD:Prior Arrest Record.

According to the F. B. I. Report and the Pre-Sentence Investigation Poindexter has been arrested for No Driver's License, Disorderly Conduct, Abusing an Officer, Failure to Appear, and Disorderly Conduct.

OFFENSE - OFFICIAL VERSION:

Poindexter was sentenced April 17, 1971, by Judge Donald J. Hamilton of Douglas County, Omaha, to be committed to the Nebraska Penal & Correctional Complex for a period of LIFE for 1st Degree Murder.

OFFENSE - INMATE'S VERSION:

Poindexter did not go into any sort of detail concerning his offense. He stated he was merely sentenced because of his political beliefs.

CO-DEFENDANTS & DISPOSITION:

Dave Rice - NP&CC., #27768 - serving a LIFE sentence for 1st degree murder.

RELATIVES & INTERESTED PERSONS:

Name	Relation	Age	Marital	Address
Gloria Poindexter	Wife	Age 30	Married	1432 - 23rd St., Omaha
Virginia Rivers	Mother	Age 46	Married	3916 No. 27th, Omaha
Robert Rivers	S/Father	Age unk.	Married	With wife
David Poindexter	Brother	Age 24	Unknown	Omaha
Renee Payne	Sister	Age 19	Single	Omaha
Louise Thomas	S/Sister	Age 33	Married	Omaha

RESIDENCES:

Date	Address (City & State)
1944 - 1962	Omaha
1962 - 1968	U.S. Army
1968 - 1969	Atlanta, Georgia
1969 - 1971	Omaha

SOCIAL HISTORY:Personal History.

Poindexter is a twenty-six year old Negro born November 1, 1944 in Omaha. He is one of three children born to the union of Edward and Virginia Poindexter.

Family History.

The subject's father Edward Poindexter is deceased. The mother, Virginia (Hill) Poindexter - Rivers is presently forty-six years of age. She is a member of the Protestant faith and she attends church on a regular basis. She is presently working for the Omaha School Board. She does not imbibe alcoholic beverages and she does not have a police record. The stepfather, Robert Rivers, works for the Army Corps of Engineers. He does not have a police record and he drinks socially.

RECEIVED

MAY 24 1979

DEPT. OF CORRECTIONS
OFFICE OF COMMISSIONER

(4) If the offender is arrested on one charge and prosecuted on another charge growing out of conduct which occurred prior to his arrest, credit against the maximum term and any minimum term of any sentence resulting from such prosecution may be given for all time spent in custody under the former charge which has not been credited against another sentence.

Source: Laws 1969, c. 817, § 37, p. 3091.

This section is not retrospective. N.W.2d 493.
Housand v. Sigler, 186 Neb. 414, 183

83-1.107. Chief executive officer; reduction of sentence; provisions.

(1) The chief executive officer of a facility shall reduce for good behavior and faithful performance of duties while confined in a facility the term of a committed offender sentenced as follows: Two months on the first year, two months on the second year, three months on the third year, four months for each succeeding year of his term and pro rata for any part thereof which is less than a year. In addition, for especially meritorious behavior or exceptional performance of his duties, an offender may receive a further reduction, not to exceed five days, for any month of imprisonment. The total of all such reductions shall be deducted:

(a) From his minimum term, to determine the date of his eligibility for release on parole; and

(b) From his maximum term, to determine the date when his release under supervision becomes mandatory under the provisions of section 83-1.111.

(2) Reductions of such terms may be forfeited, withheld and restored by the chief executive officer of the facility after the offender has been consulted regarding the charges of misconduct. No reduction of an offender's term shall be forfeited or withheld after an offender is released on parole.

Source: Laws 1969, c. 817, § 38, p. 3092.

The good time reductions provided in this section are used to determine eligibility for release on parole or supervision and are subject to forfeiture. Brown v. Sigler, 186 Neb. 800, 186 N.W. 2d 735.

This section governs eligibility for parole or release under supervision rather than for absolute discharge as under previous statutes. Von Bokelman v. Sigler, 186 Neb. 378, 183 N.W.2d 267.

The reduction of sentence for good behavior and faithful performance of duties is a statutory right and cannot be eliminated or withheld for failure to perform work which a prisoner is unable to do because of physical infirmity not caused by his misconduct, nor as punishment except for flagrant or serious misconduct. Sawyer v. Sigler, 320 F.Supp. 690.

83-1.108. Board of Parole; reduction of sentence; provisions. (1) The Board of Parole shall reduce for good conduct in conformity with the conditions of his parole, a parolee's parole term by six days for

each month of such term. The total of such reductions shall be deducted from his parole term to determine the date when his discharge from parole becomes mandatory.

(2) Reductions of the parole term for good behavior may be forfeited, withheld and restored by the Board of Parole. The forfeiture and withholding of such reductions shall be made only if the board finds a violation of parole conditions and consults the parolee regarding the charges of violation.

Source: Laws 1969, c. 817, § 39, p. 3092.

83-1.109. Chief executive officer; reduction of sentence; report; Director of Corrections; duties. The chief executive officer of a facility shall regularly report all reductions of prison terms for good behavior and faithful performance of duties and for especially meritorious behavior or exceptional performance of duties, and all forfeitures and restorations of such reductions to the Director of Corrections. On the basis of such report, the director shall inform the Board of Parole and the Parole Administrator of all committed offenders who are expected to become eligible for release on parole or whose release on parole will become mandatory within the next three months.

Source: Laws 1969, c. 817, § 40, p. 3093.

83-1.110. Committed offender; eligible for release on parole; when. (1) Every committed offender shall be eligible for release on parole upon completion of his minimum term less reductions granted in accordance with this act, or, if there is no minimum, at any time.

A committed offender shall be eligible for parole prior to the expiration of the minimum term whenever the minimum sentence provided by law, less such reductions, has been served and the sentencing judge or his successor in office shall give his approval for the parole of such offender.

(2) Every committed offender sentenced to consecutive terms, whether received at the same time or at any time during the original sentence, shall be eligible for release on parole when he shall have served the total of the minimum terms, less reductions granted in accordance with the provisions of this act. The maximum terms shall be added to compute the new maximum term, which, less reductions granted in accordance with the provisions of this act, shall determine the date when his release on parole becomes mandatory.

Source: Laws 1969, c. 817, § 41, p. 3093.

Note: "This act" includes sections 29-2224, 29-2401, 29-2402, 29-2516, 60-419, 83-124, 83-125, 83-151, 83-152, 83-170 to 83-1,135, 83-305.03, 83-415, 83-417, 83-420, 83-465, 83-472, 83-473, 83-482, 83-487, and 83-490.

83-1,110(1)
189N115
201NW204

EXHIBIT

8

tive officer or employee of any political party, organization, association, or committee. Each member of the board shall receive an annual salary to be fixed by the Governor.

(2) Notwithstanding any other provision of law to the contrary, part-time members of the Board of Parole shall be eligible to be employed by any state agency or department, other than the Division of Corrections.

Source: Laws 1969, c. 817, § 22, p. 3085.

83-192. Board of Parole; powers; duties. The Board of Parole shall:

(1) Determine the time of release on parole of committed offenders eligible for such release;

(2) Fix the conditions of parole, revoke parole, issue or authorize the issuance of warrants for the arrest of parole violators, and impose other sanctions short of revocation for violation of conditions of parole;

(3) Determine the time of discharge from parole;

(4) Visit and inspect any facility, state or local, for the detention of persons charged with or convicted of an offense, and for the safekeeping of such other persons as may be remanded thereto in accordance with law;

(5) Serve in an advisory capacity to the Director of Corrections in administering parole services within any facility and in the community;

(6) Interpret the parole program to the public with a view toward developing a broad base of public support;

(7) Conduct research for the purpose of evaluating and improving the effectiveness of the parole system;

(8) Recommend parole legislation to the Governor;

(9) Review the record of every committed offender, whether or not eligible for parole, not less than once each year. Such review shall include the circumstances of the offender's offense, the presentence investigation report, his previous social history and criminal record, his conduct, employment, and attitude during commitment, and the reports of such physical and mental examinations as have been made. The board shall meet with such offender and counsel him concerning his progress and his prospects for future parole;

(10) Make rules and regulations for its own administration and operation;

(11) Appoint and remove all employees of the board and delegate appropriate powers and duties to them;

(12) Transmit annually to the Governor a report of its work for

the preceding calendar year, which report shall be transmitted by the Governor to the Legislature; and

(13) Exercise all powers and perform all duties necessary and proper in carrying out its responsibilities under the provisions of this act.

Source: Laws 1969, c. 817, § 23, p. 3085.

Note: "This act" includes sections 29-2224, 29-2401, 29-2402, 29-2516, 60-419, 83-124, 83-125, 83-151, 83-152, 83-170 to 83-1,135, 83-305.03, 83-415, 83-417, 83-420, 83-465, 83-472, 83-473, 83-482, 83-487, and 83-490.

83-193. Board of Parole; no jurisdiction over neglected, dependent, delinquent or in need of special supervision. The Board of Parole shall not have jurisdiction over persons who are committed to the Division of Corrections after being found neglected, dependent, delinquent or in need of special supervision in accordance with the provisions of Chapter 43, article 2.

Source: Laws 1969, c. 817, § 24, p. 3086.

83-194. Board of Parole advise Board of Pardons upon request. The Board of Parole shall, when requested by the Board of Pardons, advise it concerning applications requesting the exercise of pardon authority and shall make such investigation and collect such records as may bear on such applications.

Source: Laws 1969, c. 817, § 25, p. 3086.

83-195. Board of Parole; issue process; service; compel attendance of witnesses. In the performance of its duties, the Board of Parole, or any member thereof, shall have the power to issue subpoenas, compel the attendance of witnesses, and the production of books, papers and other documents pertinent to the subject of an inquiry, and to administer oaths and to take the testimony of persons under oath. Subpoenas so issued may be served by any sheriff, constable, police officer, parole officer, or peace officer, in the same manner as similar process in the district court. Any person who knowingly testifies falsely, submits any false affidavit or deposition, fails to appear when subpoenaed, or fails or refuses to produce such material pursuant to the subpoena, shall be subject to the same orders and penalties to which a person before the district court is subject. Any district court of this state, upon application by the board, may compel the attendance of such witnesses, the production of such material, and the giving of testimony before the board, by an attachment for contempt or otherwise in the same manner as production of evidence may be compelled before such court. Every person shall attend as a witness when subpoenaed anywhere within the state, and shall be entitled to

EXHIBIT

//

either at the time of his release on parole or at any time while he remains under parole supervision, to reside in a community guidance center, boarding facility, halfway house, hospital, or other special residence facility, for such period and under such supervision or treatment as the board may deem appropriate.

Source: Laws 1969, c. 817, § 48, p. 3098.

83-1.118. Board of Parole; parolee; duties; certificate of discharge; effect. (1) If, in the opinion of the Board of Parole, a parolee does not require guidance or supervision, the board may dispense with and terminate such supervision.

(2) The Board of Parole may discharge a parolee from parole at any time if such discharge is compatible with the protection of the public and is in the best interest of the parolee.

(3) The Board of Parole shall discharge a parolee from parole when the time served in the custody of the Division of Corrections and the time spent on parole equals the maximum term reduced by his parole good time reductions but not reduced by his institutional good time reductions.

(4) Whenever any committed offender or parolee shall have completed the lawful requirements of his sentence or parole, the Board of Parole shall issue a certificate of discharge to such offender or parolee, and such certificate shall restore the civil rights of such committed offender or parolee as though a pardon had been issued.

Source: Laws 1969, c. 817, § 49, p. 3098.

83-1.119. Parole officer; parolee; report to Board of Parole; action of board. (1) Whenever a parole officer has reasonable cause to believe that a parolee has violated or is about to violate a condition of his parole but that he will not attempt to leave the jurisdiction and will not place lives or property in danger, the parole officer shall submit a written report to the Board of Parole which may, on the basis of such report and such further investigation as it may deem appropriate:

- (a) Dismiss the charge of violation;
- (b) Determine whether the parolee violated the conditions of his parole;
- (c) Revoke his parole in accordance with the provisions of this act; or
- (d) Issue a warrant for the arrest of the parolee.

(2) Whenever a parole officer has reasonable cause to believe that a parolee has violated or is about to violate a condition of his parole

EXHIBIT

12

and that he will attempt to leave the jurisdiction or will place lives or property in danger, the parole officer shall arrest the parolee without a warrant and call on any peace officer to assist him in doing so.

(3) Whenever a parolee is arrested with or without a warrant, he shall be detained in a local jail or other detention facility. Immediately after such arrest and detention, the parole officer shall notify the Board of Parole and submit a written report of the reason for such arrest. After prompt consideration of such written report, the board shall order the parolee's release from detention or his continued confinement to await a final decision on the revocation of his parole.

Source: Laws 1969, c. 817, § 50, p. 3099.

Note: "This act" includes sections 29-2224, 29-2401, 29-2402, 29-2516, 60-419, 83-124, 83-125, 83-151, 83-152, 83-170 to 83-1.135, 83-305.03, 83-415, 83-417, 83-420, 83-465, 83-472, 83-473, 83-482, 83-487, and 83-490.

83-1.120. Parolee; violation of parole; hearing. Whenever a parolee is charged with a violation of his parole, he shall be entitled to a prompt consideration of such charge by the Board of Parole, which in no event shall occur more than thirty days after his arrest.

Source: Laws 1969, c. 817, § 51, p. 3099.

83-1.121. Parolee; legal custody of Board of Parole; action of board. A committed offender while on parole shall remain in the legal custody and control of the Board of Parole. The board may at any time revoke the parole of an offender or recommit him to the custody of the Division of Corrections, with or without cause.

Source: Laws 1969, c. 817, § 52, p. 3100.

Constitutional due process does not require the Board of Parole to conduct an adversary hearing to revoke parole nor does it require appointment of counsel for indigent parolees nor compulsory process. *Brown v. Sigler*, 186 Neb. 800, 186 N.W.2d 735.

83-1.122. Parolee; violation of parole; action of Board of Parole. If the Board of Parole finds that the parolee did violate a condition of his parole but is of the opinion that revocation of parole is not appropriate, the board may order that:

- (1) The parolee receive a reprimand and warning;
- (2) Parole supervision and reporting be intensified;
- (3) Reductions for good behavior while on parole be forfeited or withheld; or
- (4) The parolee be required to conform to one or more additional conditions of parole which may be imposed in accordance with the provisions of this act.

Source: Laws 1969, c. 817, § 53, p. 3100.

A committed offender is eligible for release on parole upon completion of his minimum term less reductions or upon completion of a minimum sentence provided by law less reductions if approved by the sentencing judge or his successor. *State v. McMillian*, 186 Neb. 784, 186 N.W.2d 481.

83-1,111. Committed offender; hearing before Board of Parole; when. (1) Every committed offender shall have a hearing before the Board of Parole or a member or members designated by the board within sixty days before the expiration of his minimum term less any reductions or, if there is no minimum, within ninety days of his commitment. The hearing shall be conducted in an informal manner, but a complete record of the proceedings shall be made and preserved.

(2) The board shall render its decision regarding the committed offender's release on parole within a reasonable time after the hearing. The decision shall be by majority vote of the board. The decision shall be based on the entire record before the board, which shall include the opinion of the member who presided at the hearing.

(3) If the board fixes the release date, such date shall be not more than six months from the date of the committed offender's parole hearing, or from the date of last reconsideration of his case, unless there are special reasons for fixing a later release date.

(4) If the board defers the case for later reconsideration, the committed offender shall be afforded a parole hearing at least once a year until a release date is fixed. The board may order a reconsideration or a rehearing of the case at any time.

(5) If the board fixes no earlier release date, a committed offender's release under supervision shall become mandatory at the expiration of his maximum term of imprisonment, less good time reductions allowed in accordance with the provisions of this act, or three months prior to discharge, whichever is earlier. Nothing herein shall require the mandatory release under supervision of an offender who has violated his parole within three months of the date when his release would otherwise be mandatory.

(6) The release of a committed offender on parole shall not be upon the application of the offender, but by the initiative of the Board of Parole. No application for release on parole made by a committed offender or on his behalf shall be entertained by the board. Nothing herein shall prohibit the Director of Corrections from recommending to the board that it consider an individual offender for release on parole.

Source: Laws 1969, c. 817, § 42, p. 3093.

Note: "This act" includes sections 29-2224, 29-2401, 29-2402, 29-2516, 60-419, 83-124, 83-125, 83-151, 83-152, 83-170 to 83-1,135, 83-305.03, 83-415, 83-417, 83-420, 83-465, 83-472, 83-473, 83-482, 83-487, and 83-490.

One who violates parole within three months of date his release would be mandatory hereunder permits exclusion of such offender from the benefits of subparagraph (5) of this section. *Von Bokelman v. Sigler*, 186 Neb. 378, 183 N.W.2d 267.

83-1,112. Committed offender; eligible for parole; parole plan of offender. (1) Each committed offender eligible for parole shall, in advance of his parole hearing, have a parole plan in accordance with the rules of the Board of Parole. Whenever the board determines that it will facilitate the parole hearing, it may furnish the offender with any information and records to be considered by it at the hearing.

(2) An offender shall be permitted to advise with any person whose assistance he desires, including his own legal counsel, in preparing for a hearing before the Board of Parole.

Source: Laws 1969, c. 817, § 43, p. 3095.

83-1,113. Board of Parole; employees; access to offender; reports on conduct and character. The Board of Parole, and its employees, shall have access at all reasonable times to any offender over whom the board may have jurisdiction, and shall have means provided them for communication with and observing the offender. The board shall be furnished such reports as it may require concerning the conduct and character of any offender committed to the Division of Corrections and any other information deemed pertinent by the board in determining whether an offender should be paroled.

Source: Laws 1969, c. 817, § 44, p. 3095.

83-1,114. Board of Parole; deferment of parole; grounds. (1) Whenever the Board of Parole considers the release of a committed offender who is eligible for release on parole, it shall order his release unless it is of the opinion that his release should be deferred because:

(a) There is a substantial risk that he will not conform to the conditions of parole;

(b) His release would depreciate the seriousness of his crime or promote disrespect for law;

(c) His release would have a substantially adverse effect on institutional discipline; or

(d) His continued correctional treatment, medical care, or vocational or other training in the facility will substantially enhance his capacity to lead a law-abiding life when released at a later date.

(2) In making its determination regarding a committed offender's release on parole, the Board of Parole shall take into account each of the following factors:

EXHIBIT

13

*this change became effective after Bindener's
March '86 Parole Bd Review. "C"*

83-192

Board of Parole; powers; duties. The Board of Parole shall:

- (1) Determine the time of release on parole of committed offenders eligible for such release;
- (2) Fix the conditions of parole, revoke parole, issue or authorize the issuance of warrants for the arrest of parole violators, and impose other sanctions short of revocation for violation of conditions of parole;
- (3) Determine the time of discharge from parole;
- (4) Visit and inspect any facility, state or local, for the detention of persons charged with or convicted of an offense, and for the safekeeping of such other persons as may be remanded thereto in accordance with law;
- (5) Serve in an advisory capacity to the Director of Correctional Services in administering parole services within any facility and in the community;
- (6) Interpret the parole program to the public with a view toward developing a broad base of public support;
- (7) Conduct research for the purpose of evaluating and improving the effectiveness of the parole system;
- (8) Recommend parole legislation to the Governor;

(9) Review the record of every committed offender as follows:

- (a) If a committed offender has a parole eligibility date within five years of his or her date of incarceration, such offender's record shall be reviewed annually;
- (b) If a committed offender has a parole eligibility date which is more than five but not more than ten years from his or her date of incarceration, such offender's record shall be reviewed during the first year of incarceration, and when he or she is within three years of his or her earliest parole eligibility date, such offender's record shall be reviewed annually;
- (c) If a committed offender has a parole eligibility date which is more than ten but not more than thirty years from his or her date of incarceration, such offender's record shall be reviewed during the first year of incarceration, every five years thereafter until he or she is within five years of his or her earliest parole eligibility date, and annually thereafter;
- (d) If a committed offender has a parole eligibility date which is more than thirty years from his or her date of incarceration, such offender's record shall be reviewed during his or her first, tenth, and twentieth year of incarceration, and when he or she is within five years of his or her earliest parole eligibility date, such offender's record shall be reviewed annually; and
- (e) If a committed offender is serving a minimum life sentence, such offender's record shall be reviewed during the first year of incarceration and every ten years thereafter until such time as the sentence is commuted. If such sentence is commuted, the committed offender's record shall be reviewed annually when he or she is within five years of his or her earliest parole eligibility date.

Such review shall include the circumstances of the offender's offense, the presentence investigation report, his or her previous social history and criminal record, his or her conduct, employment, and attitude during commitment, and the reports of such physical and mental examinations as have been made. The board shall meet with such offender and counsel him or her concerning his or her progress and his or her prospects for future parole.

The review schedule shall be based on court-imposed sentences or statutory minimum sentences, whichever is greater. Nothing in such schedule shall prohibit the Board of Parole from reviewing a committed offender's case at any time;

- (10) Make rules and regulations for its own administration and operation;
- (11) Appoint and remove all employees of the board and delegate appropriate powers and duties to them; and
- (12) Exercise all powers and perform all duties necessary and proper in

carrying out its responsibilities under this act.

The provisions of this section shall not prohibit an offender from requesting that the Board of Parole review his or her record, except that the board shall not be required to review an offender's record more than once a year.

Source: Laws 1969, c. 817, 23, p. 3085; Laws 1979, LB 322, 65; Laws 1981, LB 545, 43; Laws 1986, LB 1241, 1
Effective date July 17, 1986.

NOTE: "This act" includes sections 29-2401, 29-2402, 60-419, 83-124, 83-151, 83-152, 83-170 to 83-1,135, 83-305.03, 83-415, 83-417, 83-420, 83-465, 83-472, 83-473, 83-482, 83-487, and 83-490

164

**STATE OF NEBRASKA
BOARD OF PAROLE**

P.O. Box 94754 • Lincoln, NE 68509 • (402) 471-2156



OFFENDER BOARD REVIEW NOTICE

Date: Jan-09-2014

Name: POINDEXTER, EDWARD

ID #: 27767

Location: NSP

Parole Eligibility Date:

In compliance with Neb. Rev. Stat. 83-1, 111, 83-192 and 83-1,114, the Nebraska Board of Parole reviewed your case in Executive Session on Jan-08-2014 in your absence. As a result of this review, the Board of Parole has deferred your case to a(n) January 2024 Board Review for the following reason(s):

- Not eligible for parole.

Recommendations:

- Follow staff recommendations.
- Incur no misconduct reports.
- Participate in appropriate mental health programming.

NEBRASKA BOARD OF PAROLE

xc: Records Office

Ex. 2(b)