Analysis of Colorado State Board of Parole Decisions: FY 2019 Report

Pursuant to § 17-22.5-404(6)

December 2020

Colorado Division of Criminal Justice

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Prepared by
Kevin L. Ford, Ph.D.
Statistical Analyst, Office of Research and Statistics
Colorado Division of Criminal Justice

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BACKGROUND

Introduction. The Colorado State Board of Parole ("the Board") is created and described in §17-2-201, C.R.S. and it functions under a "type 1 transfer"[1] to the Colorado Department of Corrections (CDOC) pursuant to §24-1-128.5(3), C.R.S. The Board, appointed by the Governor and confirmed by the Colorado State Senate, includes nine members who serve three-year terms.[2] The Board may hire additional individuals on contract to serve as release hearing officers and revocation ("administrative") hearing officers.[3] Among the duties of the Board chair described in §17-2-201(3)(f), C.R.S., is "to ensure that parole board members, release hearing officers, and administrative hearing officers under contract with the board are accurately collecting data and information on his or her decision-making as required by section 17-22.5-404 (6)."

Mandates. Pursuant to §17-22.5-404(6)(a), C.R.S., the Board is mandated to work with the Division of Criminal Justice (DCJ) in the Colorado Department of Public Safety (CDPS) and the Colorado Department of Corrections (CDOC) "to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the Board's parole decisions." Additionally, pursuant to §17-22.5-107(1), C.R.S., in consultation with the Board, DCJ is mandated to develop an administrative release guideline instrument for use by the Board in evaluating applications for parole. Finally, pursuant to §17-22.5-404(6)(e)(I), C.R.S., the Board and DCJ are mandated to issue a report to the General Assembly regarding the outcomes of decisions by the Board.

Where data are available, this report describes findings and progress on these mandates during the period from July 1, 2018 through June 30, 2019. This report presents findings on all hearing decisions involving a discretionary release or deferral and, where applicable, on the Board's agreement with or reason for departure from the PBRGI advisory recommendation for these hearings. The report also addresses progress on all statutory mandates related to the Board's decision systems.

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[1] A "type 1 transfer" defines a form of organizational structure that separates the administration from the function of government entities (Administrative Organization Act of 1968; §24-1-105(1), C.R.S.). The Board is administered by the Colorado Department of Corrections (CDOC), but it carries out its statutory powers, duties, and functions independently of the CDOC.

[2] In May 2019, Senate Bill 2019-165 expanded the Board from seven to nine members (see §17-2-201(1)(a), C.R.S.).

[3] The Board typically hires no more than 1 to 3 of either type of hearing officer (see §17-2-201(3)(h) & (h.1), C.R.S.). Board members and hearing officers for FY 2019 and the Board mission statement are displayed in Appendix A.

More comprehensive details of the Board's annual activities and processes may be found in reports and presentations generated by the Board pursuant to other legislative mandates. The Board provides an annual report to the Judiciary Committees of the Colorado House of Representatives and the Senate regarding the operations of the Board (see §17-2-201(3.5), C.R.S.). A separate annual presentation is offered by the Board to the Joint Budget Committee of the Colorado General Assembly (see §2-3-203(1)(b.2), C.R.S.).[4]

Parole Board Hearing Application Portal. During FY 2012, the CDOC's Office of Information Technology (OIT), in collaboration with the Board, various representatives of CDOC including the Time and Release Operations Office, and DCJ, implemented the Parole Board Hearing Application Portal. This user interface gathers information from diverse CDOC sources, displays it, and records Board member decisions. Without this automation of parole hearings, the development and integration of the automated Parole Board Release Guideline Instrument (PBRGI) and the analyses of decisions in this report would not be possible.

Parole Board Release Guideline Instrument (PBRGI). The goal of the PBRGI is to provide a consistent framework for the Board to evaluate and weigh specific statutory release decision factors and, based on a structured decision matrix, to offer an advisory release decision recommendation for parole applicants. The PBRGI was derived from a paper-and-pencil draft administrative release guideline instrument of parole release policies created by the Colorado Commission on Criminal and Juvenile Justice (CCJJ; ccjj.colorado.gov). Initial testing concluded in August 2012 and the system was implemented on September 4, 2012. Since that date, the automated PBRGI system has been available for use within the Parole Board Application Hearing Portal by Board members when conducting parole release application hearings. Technical reports regarding the initial testing of the PBRGI are available in the FY 2012 and FY 2013 Parole Board decisions reports.[5]

The PBRGI is a set of thirteen policy items that combine using two algorithms to create a matrix with two dimensions. The first dimension is *risk of recidivism* and the second dimension is *readiness for parole*. The thirteen items correspond to the release policies identified by CCJJ and the associated release considerations placed in Colorado statute.[6] DCJ staff constructed two algorithms from these thirteen statutory considerations, one for recidivism risk and one for parole readiness. The baseline for the risk

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[4] These annual reports are available under "Reference Materials" at, paroleboard.colorado.gov/reference-materials.
[5] Prior year reports are available on the ORS/DCJ website at, ors.colorado.gov/ors-reports.
[6] See the statutory considerations for release to parole in §17-22.5-404(4), C.R.S.

dimension is the risk level from the Colorado Actuarial Risk Assessment Scale (CARAS), which is a statutorily mandated actuarial risk assessment measure that is re-validated at least every five years on the Colorado prison population.[7] The Level of Supervision Inventory-Revised (LSI-R) overall and rater box scores serve as the baseline for the assessment of criminogenic needs underlying the readiness score used in the matrix. The PBRGI items, the scoring algorithms and the advisory decision matrix are described in Appendix B.

The combination of the risk and readiness scores places an inmate in a five-level risk by three-level readiness matrix where each matrix position is associated with an advisory release or defer recommendation (§17-22.5-107(1)(b), C.R.S.).[8] This advisory recommendation is displayed to Board members through the Parole Board Hearing Application Portal. Members may also view an individual's specific placement in the decision matrix and the data used to derive the risk and readiness scores. After considering the advisory recommendation and any additional information gathered during the hearing that is not included in the PBRGI algorithm (for example, current dynamic criminogenic needs; complex clusters of criminogenic needs; treatment dosage received; and performance while under other forms of community supervision such as probation and community corrections), Board members may choose to agree with or depart from the recommendation. Pursuant to §17-22.5-404(6)(b), C.R.S., a decision that departs from the recommendation requires that the Board member provide the reason(s) for departure.

The PBRGI design was based on policy choices generated by the Colorado Commission on Criminal and Juvenile Justice and was not derived via empirical testing. Starting in FY 2017, the Board initiated a project with DCJ to expand and revise the PBRGI policy elements to account for the numerous factors not included in the original algorithm that inform risk and readiness for release to parole. Such factors include complex clusters (three or more according to contemporary research) of criminogenic needs; patterns of success or failure under non-parole based community supervision (probation and/or community corrections); the recency, frequency and severity of institutional misconduct and several others. Although these factors are not accounted for in the current PBRGI algorithm, they are used by Board members to evaluate an individual's risk and readiness as it pertains to discretionary release to parole. The factor selection phase has been completed, but the factor revision and pilot data collection phase of the project is ongoing with completion expected in FY 2021.

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[7] Developed and validated pursuant to §17-22.5-404(2)(a), C.R.S., the CARAS, Version 6 (2015) has an AUC=.75 and predicts recidivism defined as at least one technical violation, arrest, or felony filing at any time during a 5-year period following release (Additional CARAS V.6 information is available at, ors.colorado.gov/ors-risk).

[8] The decision to "defer" simply means the inmate must continue to serve his or her sentence and the decision to parole is "deferred" to the next possible parole consideration date, as determined by statute (see "Board Decision Types" in Section Three).

The PBRGI aims to develop uniformity in the application of decision criteria, but the guideline cannot adapt to the unique and emergent characteristics of each inmate discovered during the parole application hearing. The PBRGI recommendation is not considered a standard by which Board decisions are to be measured but, rather, provides only an advisory recommendation. In fact, there is no objective standard by which Board member decisions may be measured. This point is acknowledged in the legislative declaration of House Bill 2010-1374, "…using structured decision-making unites the parole board members with a common philosophy and a set of goals and purposes while retaining the authority of individual parole board members to make decisions that are appropriate for particular situations." (§17-22.5-404(1)(c), C.R.S).

PBRGI Bypass Option. In April 2017, the Board submitted a project request to CDOC's Office of Information Technology (OIT) to create a PBRGI "bypass button" and a menu of seven bypass reasons. Selection of the bypass button displayed the following bypass reasons: Until Presented Actions, File Reviews, Close/Past MRD Reviews, Offender Initiated Waivers or Deferrals, Offender Refuses to Attend Hearing, Rescission Hearing, and Other. Endorsement of one or more of these bypass reasons rendered the PBRGI process inactive and the Board member proceeded to an individual's case information in the hearing portal. In these instances, the inmate was not scored on the 13 items of the PBRGI, no PBRGI advisory recommendation was generated or displayed, and no PBRGI-related data was stored in the CDOC information system. Following implementation, the Board began to use the Bypass option in August 2017. The Bypass option was created and applied primarily for file reviews.[9] Upon further review, the Board eliminated the PBRGI Bypass option for file reviews on August 20, 2019; however, the hearing data in this FY 2019 report spanning July 1, 2018 to June 30, 2019 continues to reflect its use.

Parole Board Revocation Projects. Pursuant to §17-22.5-404(6), C.R.S., DCJ is required to report Board decisions regarding parole revocation, the reasons for these decisions, and departures from the administrative revocation guidelines (§17-22.5-107(2), C.R.S.). Since the statute was amended in 2010, two projects were initiated to respond to the related mandates: the Parole Board Revocation Automation Project and the Parole Board Administrative Revocation Guidelines Project. Although some intermediate goals have been accomplished through these projects, the requirements in statute have not been fully met.

Following the automation of the release hearing process and the implementation of the PBRGI, the Board initiated a Parole Board Revocation Automation Project with OIT at CDOC to automate revocation hearings and to collect revocation hearing data similar to the automated system for release application hearings.

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[9] See "Board Hearing Types" in Section Three.

System development and programming of the Revocation Automation Project by OIT at CDOC was suspended in FY 2016 due to intensive demands related to the development and implementation of a complete overhaul of the inmate record system at the CDOC. A separate project was initiated by the Parole Board and the CDOC Parole Division to automate revocation requests submitted by community parole officers to the Board and to collect revocation related data with the intent to implement this project during FY 2021.The scope of that project does not include the Parole Board Revocation Guidelines described below.

In March 2013, the Board initiated the Parole Revocation Working Group to develop the Parole Board Revocation Guidelines. The Board contracted with the Center for Effective Public Policy ("Center"; cepp.com) to provide technical assistance and guidance on the project. Pursuant to §17-22.5-107(2), C.R.S, the revocation guideline would comprise the statutory revocation factors (§17-22.5-404.5(a), C.R.S.) and a matrix of advisory decision recommendations for different risk levels. Additionally, the guidelines require the Board to provide decision reasons when the Board departs from advisory revocation recommendation (§17-22.5-404(6)(b), C.R.S.). The working group completed the guidelines in June 2013 and, following approval by the Board, the proposed guidelines were forwarded to OIT at CDOC for further specification of the programming elements. However, as mentioned above, the work on this project was suspended and the implementation of the mandate for the Parole Board Revocation Guidelines remains incomplete.

FINDINGS

Hearing and Decision Types. The FY 2019 hearings sample included 8,594 release application hearings and reviews conducted by members of the Parole Board between July 1, 2018 and June 30, 2019. The hearings and reviews included in this report only involved inmates who had met their parole eligibility date (PED), but whose release was prior to their mandatory release date (MRD), which indicates that the prison sentence was complete. Therefore, the analyses in this report focus on the hearing and review decisions leading to parole release that are labeled "discretionary," rather than those labeled "mandatory." Legislative actions that revise Board-related statutory provisions regarding hearing and decision policies may affect the hearing sample or the categorization of Board decisions as discretionary or mandatory. Statutory revisions are evaluated each year to determine such impacts. The decisions summarized in this report are drawn from the following types of hearings and reviews: initial "regular" Board hearings, file reviews, and full Board reviews.

When initially considering an inmate's application for release to parole, a Board member has four options that ultimately resolve to one of two possible discretionary decisions: to release (grant parole) or to defer (deny parole). In a "regular" or initial hearing, inmates may be released, deferred, tabled, or referred to full Board review.[10] Full Board reviews conclude with the decision options to release, to defer, or to table. Some individuals are set for release, but are tabled, pending the completion of a specific requirement, such as completing a treatment program or the confirmation of parole plan details. Ultimately, if the requirement is met, the Board releases a person who is tabled or, if the requirement is not met, the Board amends the release order and the tabled person is deferred. Whether in a "regular" hearing or based on a full Board review, an inmate is granted discretionary parole when the Board determines that the person has demonstrated the potential for successful reintegration into the community. An inmate is denied parole when the Board concludes that the person has not demonstrated the potential for successful reintegration into the community or there are public safety concerns.

Roughly 8,000 hearing records were excluded from the sample because the record was a duplicate, the related decision was not discretionary or the decision was considered moot. For example, hearings were excluded when a deferral was due to an inmate's absence; when the hearing was scheduled, but the inmate was ineligible for release; when a release was based on a court order or new law; or when there was a mandatory re-parole following a parole revocation. At the request of the Board, a specific aspect of the sample selection procedure was modified starting in FY 2017. The prior procedure excluded hearings where the decision outcome for a release was still pending when the fiscal year concluded. Release decisions may be reversed at any time by the Board prior to the inmate's release date, primarily due to the behavior of the inmate (for example, a violation of the institutional behavior code). These potential reversals do not reflect the original intent of the Board to grant an inmate's release. Therefore, these records with pending outcomes were retained, thereby reflecting the Board's intent to release.

As described above, the PBRGI Bypass option affected hearings conducted during this reporting period. Of the available seven bypass reasons, all but two already met the case exclusion criteria established for the selection of discretionary cases as described above. Of the 2,496 instances where the PBRGI Bypass option was chosen for cases during FY 2019, 1,531 were excluded from the sample because they met one or more

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[10] The four decision options may be found in Rule 5.04(A) in *8 C.C.R. 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website: sos.state.co.us/CCR/Welcome.do (Browse/Search for Rule 1511-1). The Board has begun to label, "tabled," as "Conditional Discretionary Release Pending." The terms, "table" or "tabled," will be used in this report for simplicity of expression and consistency with the Board *Rules*.

of these previously established exclusion criteria represented by the following bypass reasons: Until Presented Actions, Close/Past MRD Reviews, Offender Initiated Waivers or Deferrals, Offender Refuses to Attend Hearing, and Rescission Hearing. The remaining two PBRGI bypass reasons not utilized previously for case exclusion were "File Review" and particular instances of "Other." Additional information regarding these remaining 965 bypassed cases is provided below in "Sample."

Sample. The following is a summary of the FY 2019 hearing decision sample and subsamples:

FY 2019 Parole Board Decisions (n=8,594)

o Of the 8,594 discretionary release application hearings, 6,434 were initial ("regular") hearings and 2,160 were full Board reviews. A "regular" hearing is conducted by one member (with subsequent concurrence by a second member) or by two Board members when the inmate is serving a parole-eligible life sentence. A full Board review is conducted as the initial review under certain circumstances or following a referral from an initial review. Typical full Board decisions are rendered by no fewer than four Board members whose decision must concur.
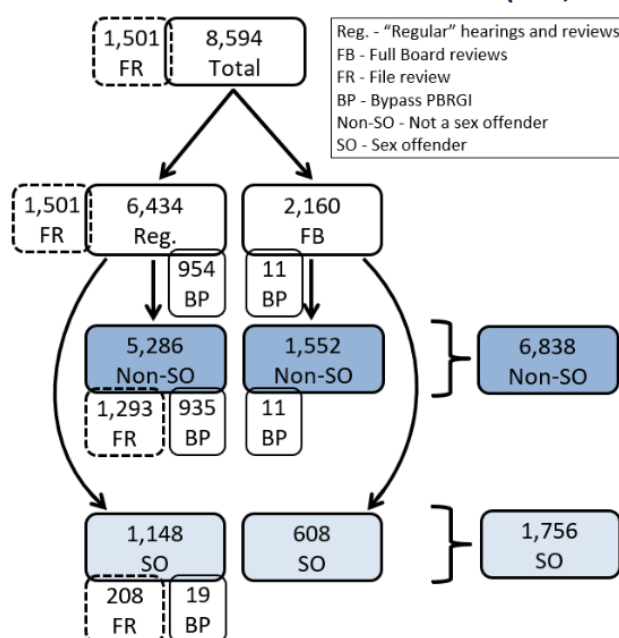
o Of the 8,594 total hearings, 6,838 were conducted for those who were not labeled a sex offender and 1,756 were conducted for those who were labeled a sex offender. Of the 8,594 cases, the Board conducted 1,501 file reviews.[11]

o Of the 6,434 "regular" hearings, 5,286 cases involved those who were not labeled a sex offender and 1,148 cases involved those who were labeled a sex offender.[12] Of the 2,160 full Board reviews, 1,552 reviews involved those who were not labeled a sex offender and 608 reviews involved those who were labeled a sex offender. Of the 5,286 and 1,148 subgroups of "regular" hearings, the Board conducted 1,293 (non-sex offender) and 208 (sex offender) file reviews, respectively.

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[11] File reviews and full Board reviews do not involve a direct interview of the inmate (see "Board Hearing Types" in Section Three).

[12] There are separate guidelines for the release of individuals labeled a sex offender. The explanation for separating the sex offender and the non-sex offender samples can be found on page 18.

o Of the 8,594 parole application hearings, the Board chose the PBRGI Bypass option in 965 instances (965 of 8,594 or 11.2%). The bypass reason selected for these cases was "File Review" (960 cases) or "Other" (5 cases for "other" reasons that do not meet sample exclusion criteria).

o Of the 965 bypassed cases, there were 946 bypasses within the 6,838 cases where the PBRGI advisory recommendation was applicable and would have previously been displayed (13.8% of non-sex offenders) and 19 bypasses of the 1,756 cases where the PBRGI advisory recommendation was not applicable and would not have been displayed (1.1% of those labeled, "sex offender").

o The findings in this report focus primarily on the hearings for those not labeled a sex offender[13] and where the Bypass option was not used. A Parole Board Release Guideline Instrument (PBRGI) advisory recommendation was generated for 4,351 "regular" hearings and 1,541 full Board reviews. The subsamples of 4,351 "regular" hearings and 1,541 full Board reviews with non-sex offenders is labeled throughout the report as the "PBRGI samples." Separate analyses are provided for the subset of 1,552 total full Board reviews involving non-sex offenders and for the 1,756 hearings and reviews for those labeled a sex offender.

Findings. The following is a summary of the FY 2019 findings:

o General Findings. Collapsing across all hearing and inmate types in the FY 2019 sample of 8,594 cases, the Board decision was to designate 3,650 (42.5%) parole applicants for release and to defer 4,944 (57.5%).

  ▪ Of the 6,434 "regular" hearings in the FY 2019 sample (collapsing across inmate types), the Board decision was to designate 2,243 (34.9%) parole applicants for release and to defer 4,191 (65.1%).

  ▪ Of the 2,160 full Board reviews in the FY 2019 sample (collapsing across inmate types), the Board decision was to designate 1,407 (65.1%) parole applicants for release and to defer 753 (34.9%).

  ▪ Of the 6,838 cases involving non-sex offenders in the FY 2019 sample (collapsing across hearing types), the Board decision was to designate 3,257 (47.6%) parole applicants for release and to defer 3,581 (52.4%).

  ▪ Of the 1,756 cases involving those labeled a sex offender in the FY 2019 sample (collapsing across hearing types), the Board decision was to designate 393 (22.4%) parole applicants for release and to defer 1,363 (77.6%).

o Bypass Findings. Of the 965 instances where the Bypass option was chosen, the Board decision was to

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[13] See Footnote 12.

TERMINOLOGY NOTE

Throughout the report, references will be made to:

- the Board decisions *to release*, *to defer* or *to defer to mandatory release date (MRD)*;
- the PBRGI advisory recommendations *to release* or *to defer*, and
- whether the Board's decision represented an *agreement* with or *departure* from the PBRGI advisory recommendation.

The figure below represents each of these decision concepts.

The decision circumstances surrounding a "*release agreement*" or "*deferral agreement*" are straightforward: the Board decision and the PBRGI advisory recommendation are both to release or are both to defer (see boxes 1 and 4 in the figure). "Departure" terms reflect concepts of defer and release in reference to the PBRGI advisory recommendation, namely:

- A *release departure* refers to a Board decision to defer when the PBRGI advisory recommendation was to release (see box 2 in the figure).
- A *deferral departure* refers to a Board decision to release when the PBRGI advisory recommendation was to defer (see box 3 in the figure).

Parole Board Decision	PBRGI Advisory Recommendation	
	DEFER	**RELEASE**
DEFER or DEFER to Mandatory Release Date	**1** Deferral AGREEMENT	**2** Release DEPARTURE
RELEASE	**3** Deferral DEPARTURE	**4** Release AGREEMENT

designate 318 (33.0%) parole applicants for release and to defer 647 (67.0%). Of the 647 deferred applicants, 267 (41.3%) were deferred to a subsequent hearing date and 380 (58.7%) were deferred to their mandatory release date because the mandatory release would occur prior to the next scheduled hearing date (also known as, "deferred to MRD").

- Of the 965 cases, 949 (98.3%) were conducted as a file review and 16 (1.7 %) were conducted as a non-file review (by phone, video or in person).

- Of the 965 bypassed cases, 308 (31.9%) were within 3 months to MRD (of which 75.6% were deferred), an additional 433 (44.9%) were within 6 months to MRD (72.5% deferred), an additional 130 (13.5%) were within 14 months to MRD (62.3% deferred), and the remaining 94 (9.7%) were

more than 14 months to MRD (20.2% deferred).

o <u>PBRGI Findings</u>. Of the FY 2019 PBRGI sample of 4,351 "regular" hearings, the Board designated 1,894 (43.5%) inmates for release and 2,457 (56.5%) inmates for deferral (of which 1,874 were deferred to a subsequent hearing date and 583 were "deferred to MRD"). Recombining the PBRGI sample and 935 bypassed cases that would have been part of the PBRGI sample (combined n=5,286), the Board designated 2,202 (41.7%) for release and 3,084 (58.3%) for deferral.

- ▪ Of the PBRGI sample of 4,351 inmates, 72 (1.7%) were within 3 months to MRD (of which, 73.6% were deferred), an additional 273 (6.3%) were within 6 months to MRD (47.3% deferred), an additional 1,171 (26.9%) were within 14 months to MRD (52.0% deferred), and 2,835 (65.2%) were more than 14 months to MRD (58.8% deferred).

- ▪ Of the 4,351 cases in the PBRGI sample, the PBRGI recommended 2,139 (49.2%) inmates for release and 2,212 (50.8%) for deferral.

- ▪ Collapsing across all the decisions in FY 2019, *73.5% of Board member decisions agreed with the PBRGI advisory recommendation* and 26.5% of decisions departed from the PBRGI advisory recommendation.

- ▪ The overall agreement percentage (73.5%) combines the rate of release agreement (67.4%) and the rate of deferral agreement (79.5%).

- ▪ The overall departure percentage (26.5%) combines the rate of release departure (32.6%) and the rate of deferral departure (20.5%).

- ▪ Of the 16.0% (698 of 4,351) of decisions overall where the Board departed from the PBRGI recommendations to release (i.e., a Board deferral), 78.1% of these individuals were categorized by the PBRGI as "low" or "very low" risk, 69.9% were categorized as "medium" or "high" readiness, and 48.0% (335 of 698) were categorized in *both* these lower risk and higher readiness categories (also referenced later in the report as those "most appropriate for release").

- ▪ Release departures were most frequent for persons who, although "very low" in risk, were categorized as "low" in readiness for release (30.1%; 210 of 698).

- ▪ The departure reasons entered by the Board for the *decisions to defer rather than release* included (in descending order of occurrence) concerns related to the severity of the crime of conviction or behaviors that represent risks to the public (for example, institutional violations and violence); untreated criminogenic needs (for example, impulse control deficits, antisocial attitudes/values, substance abuse, and anger issues); a lack of accountability for one's actions or minimizing the

impact of their crime; the inadequate quality of the parole plan (for example, housing issues); the need for additional time to stabilize in community corrections placements; inadequate time served relative to the sentence; and/or the need for additional program participation.

- Of the 10.4% (453 of 4,351) of decisions overall where the Board departed from the PBRGI recommendations to defer (i.e., a Board release), 87.9% of these individuals were categorized by the PBRGI as "high" or "very high" risk, 72.2% were categorized as "low" or "medium" readiness and 60.0% (272 of 453) were categorized in *both* these higher risk and lower readiness categories (also referenced later in the report as those "most appropriate for deferral").

- Deferral departures were most frequent for inmates who, although "very high" in risk, were categorized as "high" (27.8%; 126 of 453) or "medium" (30.7%; 139 of 453) in readiness for release.

- The departure reasons entered by the Board for the *decisions to release rather than defer* included (in descending order of occurrence) that these individuals had presented a comprehensive parole plan; had successfully completed treatment to address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management); had demonstrated growth and positive attitude; ; had mitigated their higher risk in one or more ways; had been successful in community placements; had successfully completed programs to prepare for re-entry; and/or had served adequate time.

- Applying the current PBRGI sample selection criteria[14] to all seven reporting years from FY 2013 to FY 2019, the Board designated 39.2%, 32.3%, 32.5%, 35.8%, 35.4%, 36.4% and 43.5% of inmates for release, respectively, while the PBRGI recommended 53.6%, 49.8%, 51.5%, 53.7%, 48.8%, 48.2% and 49.2% of inmates for release, respectively.

- Applying the current PBRGI sample selection criteria[15] to all seven reporting years, FY 2013 to FY 2019, the percentage of Board decision/PBRGI recommendation agreement was 69.3%, 72.6%, 72.6%, 72.2%, 73.6%, 73.0 % and 73.5%, respectively. From FY 2013 to FY 2019, there has been a 6.1% increase in Board member agreement with the PBRGI advisory recommendation.

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[14] The sample selection criteria are briefly described in "Hearing and Decision Types" on page 5 and in more detail in "FY 2019 Sample Selection" on page 29. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.
[15] See Footnote 14.

- o <u>File Review Findings</u>. The FY 2019 sample of 8,594 hearings included 1,501 (17.5%) file review decisions, which do not require the presence of the inmate as defined in statute.[16] Of these 1,501 file reviews, 1,293 involved those who were not labeled a sex offender and 208 involved those labeled a sex offender. An analysis of these file reviews found:

  - Since the file review eligibility definition was expanded by the Board in 2013 and additional file review criteria were codified in statute between 2015 and 2019, the use of file reviews by the Board has increased nearly 525% from 2.8% of all "regular" hearings in the FY 2014 sample to 17.5% in the FY 2019 sample.

  - Of the 1,501 file reviews, 562 inmates (37.4%) were set for release (41.5% of these were within 6 months of MRD) and 939 (62.6%) were deferred (81.9% of these were within 6 months of MRD).

  - Of the 1,293 file reviews conducted for non-sex offenders, the Board chose to bypass the PBRGI advisory recommendation in 919 (71.1%) instances leaving 374 file reviews for which an advisory PBRGI recommendation was displayed.

  - Of the 919 bypassed file review cases, Board members designated 298 (32.4%) inmates for release and 621 (67.6%) for deferral (of which 256 were deferred to a subsequent hearing date and 365 were deferred to their impending mandatory release date).

  - Of the 374 file review cases that were not bypassed, 333 (89.0%) met the "medium" (51), "low" (144), or "very low" (138) risk criterion; an additional 31 (8.3%) met the "6-months-to-MRD" criterion, and the remaining 10 (2.7%) met one or more of the remaining criteria allowing a file review.

  - Of the 374 PBRGI-related file reviews, Board members designated 259 (69.3%) inmates for release and 115 (30.7%) for deferral (of which 64 were deferred to a subsequent hearing date and 51 were deferred to their impending mandatory release date). Of the same file reviews, the PBRGI recommended 309 (82.6%) for release and 65 (17.4%) for deferral.

  - The 374 inmates in the PBRGI sample who were the subject of a file review were placed in these PBRGI risk/readiness matrix categories: 72.7% were in the "very low" risk category (compared to 20.2% of inmates in non-file review hearings) and 28.3% were found in the "low" readiness category (compared to 40.5% of inmates in non-file review hearings).

  - Of the 374 PBRGI-related file reviews, when collapsing release and deferral agreements overall

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[16] The statutory conditions under which the Board may choose to conduct a file review are described in "Board Hearing Types" in Section Three.

(between corresponding Board decisions and PBRGI recommendations to defer or to release), *81.8% of file review decisions agreed with the PBRGI advisory recommendations.*

- The degree of release agreement was 80.9% (250 agreements within the 309 release recommendations) and the degree of deferral agreement was 86.2% (56 agreements within the 65 deferral recommendations).

o Full Board Findings. There was a total of 2,160 full Board reviews in the FY 2019 sample and, as mentioned above, 1,407 individuals were designated for release and 753 were deferred. Of the 1,552 full Board hearings with non-sex offenders, the Board bypassed the PBRGI advisory recommendation in 11 cases. Of the 1,541 full Board review decisions involving a recommendation, analyses found:

- Full Board reviews designated 1,048 (68.0%) for release and 493 (32.0%) were deferred. The PBRGI recommended 1,257 (81.6%) for release and 284 (18.4%) for defer. The PBRGI categorized 77.6% of the 1,257 individuals recommended for release as "very low" or "low" risk and 97.2% as "medium" or "high" readiness, hence the large percentage of release recommendations.

- Collapsing the two sources of agreement (between the PBRGI recommendations and Board decisions to release and to defer), *66.2% of full Board review decisions agreed with the PBRGI recommendations.*

- Compared to individual Board member decisions, the full Board reviews designated a larger percentage of individuals for release (43.5% versus 68.0%, respectively) and a smaller percentage for deferral (56.5% versus 32.0%, respectively).

- Compared to individual board member decisions, the agreement between full Board reviews and PBRGI recommendations to defer was lower (79.5% versus 45.1%, respectively) and the agreement between full Board reviews and PBRGI recommendations to release was higher (67.4% versus 71.0%, respectively).

o Findings Regarding Sex Offenders. As mentioned above, a PBRGI recommendation is not displayed for those labeled a sex offender. When considering the parole application of an individual labeled a sex offender, it is the practice of the Board to refer some of these individuals to the full Board for review. Those who are not considered appropriate for release are deferred at the time of the "regular" hearing without a referral to full Board consideration. Therefore, it is the practice and policy of the Board to release sex offenders only after a full Board review. The findings regarding parole application decisions for those labeled a sex offender are as follows:

- Of the 1,756 individuals labeled a sex offender who were seen in initial ("regular") hearings, 2.3%

(41) were released,[17] 63.0% (1,107) were deferred, and 34.6% (608) were referred to the full Board for further review. Of the 608 individuals referred to full Board review, 57.9% (352) were set for release and 42.1% (256) were deferred.

- Combining the decision outcomes of "regular" hearings and full Board reviews, the overall decision percentages for the 1,756 individuals labeled a sex offender were: 22.4% (393) set for release and 77.6% (1,363) deferred.

- Of the 1,148 "regular" hearings involving those labeled a sex offender, there were 208 (18.1%) file reviews of which five individuals (2.4%) were released.

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[17] There are no records of full Board reviews or full Board decisions for these 41 cases. These releases may be due to atypical circumstances or the full Board decision data may simply be missing from the hearing record.

Section One: Introduction

The Colorado State Board of Parole ("the Board") is described in statute in §17-2-201, C.R.S., and it functions under a "type 1 transfer"[18] to the Colorado Department of Corrections (CDOC) pursuant to §24-1-128.5(3), C.R.S. The Board, appointed by the Governor and confirmed by the Colorado State Senate, includes nine members who serve three-year terms.[19] The Board may hire additional individuals on contract to serve as release hearing officers and revocation hearing officers.[20] The mission statement of the Board and a list of Board members and hearing officers for FY 2019 are displayed in Appendix A.

In recent years, the Board has conducted between 25,000 and 30,000 hearings and reviews of various types per year, including parole application hearings, parole application file reviews, full board parole application reviews, special needs release reviews, release rescission hearings (a release reversal), probable cause hearings (to issue warrants related to parole violations), early parole discharge reviews, parole revocation hearings, and sexually violent predator designation hearings. Among the duties of the Board chair described in §17-2-201(3)(f), C.R.S., is "to ensure that parole board members, release hearing officers, and administrative hearing officers under contract with the board are accurately collecting data and information on his or her decision-making as required by section 17-22.5-404 (6)."

> **Colorado statute mandates that a report be submitted to the General Assembly regarding decisions by the Parole Board.**

Mandates. Pursuant to §17-22.5-404(6)(a), C.R.S., the Board is mandated to work with the Division of Criminal Justice (DCJ) in the Colorado Department of Public Safety (CDPS) and the Colorado Department of Corrections (CDOC) "to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the Board's parole decisions."[21] Additionally, pursuant to §17-22.5-107, C.R.S., in consultation with the Board, DCJ is mandated to develop an administrative release guideline instrument for use by the Board in evaluating applications for parole and CDOC is mandated to develop administrative revocation guidelines for use by the Board in evaluating

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[18] A "type 1 transfer" defines a form of organizational structure that separates the administration from the function of government entities (Administrative Organization Act of 1968; §24-1-105(1), C.R.S.). The Board is administered by the Colorado Department of Corrections (CDOC), but it carries out its statutory powers, duties, and functions independently of the CDOC.

[19] In May 2019, Senate Bill 2019-165 expanded the Board from seven to nine members (see §17-2-201(1)(a), C.R.S.).

[20] The Board typically hires no more than 1 to 3 of either type of contract hearing officer.

[21] See Senate Bill 2009-135.

complaints filed for parole revocation.[22] Finally, pursuant to §17-22.5-404(6)(e)(I), C.R.S., the Board and DCJ are mandated to issue a report to the General Assembly each year regarding the outcomes of decisions by the Board.[23]

More comprehensive details of the Board's annual activities and processes may be found in reports and presentations generated by the Board pursuant to other legislative mandates. The Board provides an annual report to the Judiciary Committees of the Colorado House of Representatives and the Senate regarding the operations of the Board, as well as the information presented in this current report (see §17-2-201(3.5), C.R.S.). A separate annual presentation is offered by the Board to the Joint Budget Committee of the Colorado General Assembly (see §2-3-203(1) (b.2), C.R.S.).[24]

Organization of the Report. This report covers the hearing decisions rendered by the Board during the period from July 1, 2018 to June 30, 2019 and is organized as follows:

- Section Two provides a summary of and update on the parole board decision support system,

- Section Three describes the types of Board hearings and decisions, the sample selection parameters, and a summary of the hearings and decisions included in the report, and

- Section Four includes the findings regarding parole release application hearing decisions.

The report appendices include a list of Board members whose decisions are summarized in this FY 2019 report and a description of the Parole Board Release Guideline Instrument (PBRGI).

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[22] See House Bill 2010-1374.
[23] See Senate Bill 2011-241 and House Bill 2016-1153.
[24] These annual reports are available under "Reference Materials" at paroleboard.colorado.gov/reference-materials.

Section Two: Parole Board Automated Decision Support System

There are several elements in the Colorado State Board of Parole ("the Board") automated decision support system that are in use or in development:

- the Parole Board Hearing Application Portal,

- the Parole Board Release Guideline Instrument, and

- the Parole Board Revocation Portal.

FY 2019 is the sixth full year of use of the Parole Board Release Guideline Instrument (PBRGI) following its implementation during FY 2013. This section provides a background on these elements and describes developments occurring since the FY 2018 report.[25]

The Parole Board Hearing Application Portal displays inmate case files and provides an automated data storage interface for hearing decision data.

Parole Board Hearing Application Portal. In October 2011, the Governor's Office of Information Technology (OIT) at CDOC, in collaboration with the Board, implemented a paperless hearing system labeled the Parole Board Hearing Application Portal ("Portal").[26] The goal of the Portal creation was to automate parole application ("release") hearings by providing an interface to display inmate case file information and other hearing-related data and documents. The Portal also records hearing decisions on electronic forms and, in the case of a release to parole, records the conditions under which an individual on parole must abide.

Each year since its implementation, OIT in collaboration with the Board, various representatives of CDOC including the Time and Release Operations Office and the Division of Parole, and DCJ, make specific improvements to the functions of the Portal. For example, since the initial implementation, the Portal has been expanded to schedule hearings, to track the status of hearings and to provide a document repository for letters and statements regarding hearings, and to record rescission hearing information. It is expected that the Portal will continue to be enhanced and improved with additional data elements and processes as needs are identified by the Board and its agency partners. The Portal provides the platform within which the automated Parole Release Guideline Instrument (PBRGI) is integrated.

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[25] The previous annual reports provide a summary of the six decision system projects derived from the legislative mandates in §17-22.5-107 and §17-22.5-404(6), C.R.S. (see ors.colorado.gov/ors-reports).

[26] For a detailed description of the "Portal," see the 2009 Status Report at, ors.colorado.gov/ors-reports#2009.

Parole Board Release Guideline Instrument (PBRGI). The PBRGI is the product of the mandate in §17-22.5-107(1), C.R.S. to "develop an administrative release guideline instrument for use by the Board in evaluating applications for parole" and to include "a matrix of advisory-release-decision recommendations for the different risk levels." The goal of the PBRGI is to provide a consistent framework for the Board to evaluate and weigh the statutory, release-decision factors[27] and, based on a structured decision matrix, to offer an advisory release decision recommendation for parole applicants who are not identified as sex offenders. The "Portal" described above afforded the opportunity to automate the decision framework and advisory recommendation processes for ultimate consistency. The PBRGI is based on a paper-and-pencil draft administrative release guideline instrument of parole release policies designed by the Colorado Commission on Criminal and Juvenile Justice (CCJJ).[28]

> **The goal of the release guideline instrument is to provide a consistent framework for the Board to evaluate and weigh release decision factors.**

For individuals classified as sex offenders, pursuant to §17-22.5-404(4)(c)(II), C.R.S., parole release decisions are guided by criteria created by the Sex Offender Management Board (SOMB), with the central release criterion being sex-offense specific treatment.[29] Upon entry into CDOC, each individual's history is reviewed for sexually abusive behavior, and an assignment is made to one of the five categories of Sexual Violence Needs with classification updates occurring as warranted.[30] Inmates in the two lower classification levels (S1-no information or no sexual violence treatment needs or S2-unadjudicated sex abuse allegations) were not subject to SOMB criteria and, therefore, were assigned a PBRGI advisory recommendation.

As of June 15, 2016 the classification of those labeled "sex offender" was redefined in the CDOC Administrative Regulation 700-19 to only include those in the highest classification level (S5 - any judicial determination of sex offense, to include court finding of sexual factual basis.). Consequently, inmates in the

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[27] See the statutory considerations for release to parole in §17-22.5-404(4), C.R.S.

[28] The Post Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice developed a draft administrative release guideline instrument as part of a recommendation that, via House Bill 2010-1374, introduced changes to the parole release guidelines statute, §17-22.5-404 and §17-22.5-107(1), C.R.S.

[29] These criteria may be found in the document entitled, *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (2019)*, in *Appendix R: Parole Guidelines for Discretionary Release on Determinate-Sentenced Sex Offenders* ("determinate criteria") and in *Appendix V: Lifetime Supervision Criteria - Section LS 1.000-Criteria for Release from Prison to Parole* and *Section LS 4.000-Criteria for Successful Progress in Treatment in Prison: Sex Offender Treatment and Monitoring Program* ("indeterminate criteria") which is available at the SOMB website: dcj.colorado.gov/somb-standards-bulletins.

[30] See CO Dept. of Corrections *Administrative Regulation 700-19* at, cdoc.colorado.gov/about/department-policies.

lower four categories of Sexual Violence Needs (S1, S2, S3, or S4) were not subject to SOMB release criteria, including sex-offense specific treatment, and, therefore according to statute, should be assigned a PBRGI advisory recommendation. However, at the time of the redefinition, based on information from the CDOC Sex Offender Treatment and Monitoring program that those assessed at S3 (institutional behavior) or S4 (prior sex offense) will likely receive treatment referrals, the Board decided to continue to evaluate these inmates as sex offenders and not to employ the PBRGI advisory recommendation in these cases. Therefore, those with an S3 or S4 rating will be labeled a "sex offender" for the purposes of this report.

The intent of the PBRGI is to provide guidance via an advisory recommendation to the Board as it makes decisions about discretionary parole release. The guideline instrument aims to develop uniformity in the application of decision criteria, but the guideline cannot adapt to the unique and emergent characteristics of each inmate discovered during the parole application hearing. In fact, there is no objective standard by which Board member decisions may be measured. This point is acknowledged in the legislative declaration of House Bill 2010-1374, "…using structured decision-making unites the parole board members with a common philosophy and a set of goals and purposes *while retaining the authority of individual parole board members to make decisions that are appropriate for particular situations*" [emphasis added] (see also, §17-22.5-404(1)(c), C.R.S.).

During FY 2013, final testing of the PBRGI was completed in August 2012 and it was implemented on September 4, 2012. Ongoing monitoring and modifications of the system continued through the end of November 2012. The final steps in the initial development, testing, and modifications to the PBRGI are described in a previous annual report, *Analysis of Colorado State Board of Parole Decisions: FY 2013 Report*.[31]

The PBRGI is a set of thirteen policy items that combine to create a decision matrix with two dimensions: the first dimension is *risk of recidivism* and the second is *readiness for parole*. The thirteen items correspond to the parole release policies identified by the CCJJ and the associated parole considerations placed in Colorado statute.[32] DCJ staff constructed two algorithms from these thirteen statutory considerations, one for risk and one for readiness. The baseline for the risk dimension is the risk level from the Colorado Actuarial Risk Assessment Scale (CARAS), which is a statutorily-mandated actuarial risk

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[31] Prior year reports are available on the ORS/DCJ website, ors.colorado.gov/ors-reports.
[32] See the statutory considerations for release to parole in §17-22.5-404(4), C.R.S.

assessment measure that is re-validated at least every five years on the Colorado prison population.[33] The Level of Supervision Inventory-Revised (LSI-R) overall and rater box scores serve as the baseline for the assessment of criminogenic needs underlying the readiness score used in the matrix. The thirteen items of the two dimensions of the PBRGI, the scoring algorithms, and the advisory decision matrix are described in Appendix B.

> **The PBRGI forms a decision matrix with two dimensions: the first dimension is *risk of recidivism* and the second is *readiness for parole*.**

The combination of these two scores places an inmate in a five-level risk by three-level readiness decision matrix where each matrix position is associated with an advisory recommendation to release or to defer (§17-22.5-107(1)(b), C.R.S.).[34] This recommendation is displayed through the Parole Board Hearing Application Portal to Board members when an electronic hearing record is initiated for a release application hearing. In addition to the advisory recommendation, Board members may also view an inmate's specific placement in the decision matrix and the rating on each of the eight items that derive the risk score and the five items that derive the readiness score. After considering the advisory recommendation and any additional information gathered during the hearing that is not included in the PBRGI algorithm (for example, current dynamic criminogenic needs; complex clusters of criminogenic needs; treatment dosage received; performance while under other forms of community supervision such as probation and community corrections), Board members may choose to agree with or depart from the recommendation. Pursuant to §17-22.5-404(6)(b), C.R.S., a decision that departs from the recommendation requires that the Board member provide the reason(s) for departure.

The PBRGI design was based on policy choices generated by the Colorado Commission on Criminal and Juvenile Justice and was not derived via empirical testing.[35] The Board proposed a project to work with DCJ during FY 2017 to expand and revise the PBRGI to include additional policy elements to account for the numerous factors not included in the original algorithms that inform risk and readiness for release to parole. Such factors include complex clusters of criminogenic needs (three or more according to contemporary research); patterns of success or failure under non-parole based community supervision

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[33] Developed and validated pursuant to §17-22.5-404(2)(a), C.R.S., CARAS, Version 6 (2015) has an AUC=.75 and predicts recidivism defined as at least one technical violation, arrest, or felony filing at any time during a 5-year period following release. Additional CARAS information is available at, ors.colorado.gov/ors-risk.

[34] The decision to "defer" simply means the inmate must continue to serve his or her sentence and the decision to parole is "deferred" to the next possible parole consideration date, as determined by statute (see "Board Decision Types" in Section Three).

[35] Additional background information on the PBRGI development is provided in Appendix B and previous reports at, ors.colorado.gov/ors-reports.

(probation and/or community corrections); the recency, frequency and severity of institutional misconduct and several others. Although these policy considerations are not accounted for in the current PBRGI algorithm, they are used by Board members to evaluate an individual's risk and readiness as it pertains to discretionary release to parole. This project to revise the policy elements of the PBRGI still was ongoing at the time of the preparation of this FY 2019 report.

The PBRGI recommendation is not considered a standard by which Board decisions are to be measured but, rather, provides only an advisory recommendation. However, the subsequent presentation will refer to the agreement with or the departure from PBRGI recommendations because statute requires an additional action by Board members when departing from the advisory recommendation. Namely, members must provide a reason for departing from the PBRGI recommendation. Although this convention of expression will be employed ("agreement" versus "departure"), it does not imply a comparative evaluation of Board member decision performance.

PBRGI Bypass Option. In April 2017, the Board submitted a project request to CDOC's Office of Information Technology (OIT) to create a PBRGI "bypass button" and a menu of seven bypass reasons. Selection of the bypass button displayed the following bypass reasons: Until Presented Actions, File Reviews, Close/Past MRD Reviews, Offender Initiated Waivers or Deferrals, Offender Refuses to Attend Hearing, Rescission Hearing, and Other. Endorsement of one or more of these bypass reasons rendered the PBRGI process inactive and the Board member proceeded to an individual's case information in the hearing portal. In these instances, the inmate was not scored on the 13 items of the PBRGI, no PBRGI advisory recommendation was generated or displayed, and no PBRGI-related data was stored in the CDOC information system. Following implementation, the Board began to use the Bypass option in August 2017. The Bypass option was created and applied primarily for file reviews.

The Board typically chose to invoke the PBRGI Bypass option in instances where file reviews are conducted under the following circumstances:

- inmates who were within six months of their mandatory release date (MRD) (House Bill 2015-1122),
- inmates identified as a candidate for "fast track release" (House Bill 2017-1326)
- inmates who are within 90 days of the MRD (House Bill 2018-1410), or
- inmates meeting prison population management review provisions (Senate Bill 2019-143).[36]

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[36] See "Statutory Modifications" in Section Three.

Upon further review, the Board eliminated the PBRGI Bypass option for file reviews on August 20, 2019; however, the hearing data in this FY 2019 report spanning July 1, 2018 to June 30, 2019 continues to reflect its use.

Parole Board Revocation Projects. Pursuant to §17-22.5-404(6), C.R.S., DCJ is required to report Board decisions regarding parole revocation, the reasons for these decisions, and departures from the administrative revocation guidelines (§17-22.5-107(2), C.R.S.). Since the statute was amended in 2010, there have been two projects initiated to respond to the related mandates: the Parole Board Revocation Automation Project and the Parole Board Administrative Revocation Guidelines Project. Although some intermediate goals have been accomplished through these projects, the requirements in statute have not been fully met.

Following the automation of the release hearing process and the implementation of the PBRGI, the Board initiated a project with the Office of Information Technology (OIT) at CDOC to automate revocation hearings to create a Revocation Portal similar to the portal for parole application hearings. A preliminary version of the "revocation portal" was evaluated by Parole Board members and staff during FY 2014 and FY 2015. Based on continued feedback from the Board, the CDOC Division of Adult Parole, the CDOC Time & Release Operations office and DCJ, programmers continued to refine and improve the system. System development and programming of the Revocation Automation Project was suspended in FY 2016 due to a need to re-evaluate the project and due to intensive demands at OIT at CDOC related to the development and implementation of a complete overhaul of the inmate record system. A separate project was initiated by the Parole Board and the CDOC Parole Division to automate revocation requests submitted by community parole officers to the Board and collect revocation related data with the intent to implement this project during FY 2021. The scope of that project does not include the Parole Board Revocation Guidelines described below.

The Board enlisted individuals with expertise to develop the administrative revocation guidelines mandated by statute. In March 2013, the Board seated a Parole Revocation Working Group to develop the Parole Board Administrative Revocation Guidelines (PBRVG) for integration into the automated revocation system. The Board contracted with the Center for Effective Public Policy ("Center;" cepp.com) to provide technical assistance and guidance on the project. Pursuant to §17-22.5-107(2), C.R.S., the PBRVG would comprise the statutory revocation factors (§17-22.5-404.5(a), C.R.S.) and include a matrix of advisory decision recommendations for different risk levels. Additionally, the guidelines require the Board to provide decision

reasons when the Board departs from advisory revocation recommendation (§17-22.5-404(6)(b), C.R.S.). Following a series of meetings through June 2013, the Center/Working Group provided the Proposed Parole Board Administrative Revocation Guidelines to the Board. Following approval by the Board, the guidelines were forwarded to OIT at CDOC for further specification of the programming elements. As mentioned above, the system within which the revocation guidelines were to be integrated was suspended due to other priorities. Because the implementation of the mandate for the Parole Board Revocation Guidelines remains incomplete, the revocation hearing data, the reasons for revocation decisions, and the reasons for departures from the revocation guidelines cannot be captured or reported.

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Section Three: Hearings, Decisions and Study Sample

Pursuant to §17-22.5-404(6) (c), C.R.S., the State Board of Parole ("the Board") is to provide hearing data to the Division of Criminal Justice (DCJ) for analysis of Board decisions. The FY 2019 report is the sixth to comprise an entire fiscal year of PBRGI hearing data. This section describes the general types of hearings and reviews conducted by the Board, the types of Board decisions, and the sample and subsamples upon which analyses were conducted.

Board Hearing Types. In common usage, all the circumstances where a decision regarding an application to parole is made may be referenced as a "parole hearing." However, in this report, a distinction is made between a "hearing" and a "review." The overall sample may be divided into the decisions resulting from a "hearing," which involves meeting an inmate in person, by video, or by phone, or those decisions resulting from a "review," which does not involve the inmate directly and includes full Board reviews and file reviews. The following describes the types of hearings and reviews included in the decision analyses:

- "Regular" Board hearings - An initial or "regular" hearing is conducted by a single member of the Board. The parole application decision is made by this single member with a subsequent decision review by a second member of the Board. This "regular" hearing is conducted by two members, if an inmate is serving a life sentence and is eligible for parole. In either case, a third member is consulted, if the two members do not concur.[37]

- Full Board reviews - A case *may* be referred to full Board review for any reason by an individual Board member following the initial ("regular") hearing or *must* be referred to a full Board review in cases involving violence or a sex offense.[38] Also, for individuals who meet several criteria described in statute, the decision to defer requires a majority of the full Board (see the brief summary of Senate Bill 2019-143 below in "Statutory Modifications:").[39] Typical full Board review decisions are rendered by no fewer than four Board members who must concur and, in specific cases described in statute, by no fewer than five members.

- File reviews - First introduced in statute in 2011, Board members have the option to conduct a file

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[37] See Rule 5.03.E. & 503.I., in *8 C.C.R. 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website: sos.state.co.us/CCR/Welcome.do (Browse/Search for Rule 1511-1).

[38] The full Board referral circumstances may be found in Rule 8.00 in *8 C.C.R. 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website: sos.state.co.us/CCR/Welcome.do.

[39] The provisions regarding this decision process are in §17-2-201(4)(f)(I)(E) and §17-2-201(19), C.R.S.

review, rather than meeting directly with the individual when considering an application to parole.[40]
According to statute, a file review is allowed when a release decision does not require victim
notification and one or more of the following are true: a special needs release is requested for
consideration,[41] the inmate release is bound by a detainer to the U.S. Immigration and Customs
Enforcement agency,[42] the inmate is within six months of mandatory release,[43] the inmate is assessed
as "low" or "very low" in actuarial risk and meets any reentry readiness criteria set by the Board,[44] or
the inmate meets a set of specific criteria related to prison population management measures.[45]
Additional information on these file review criteria are in "Statutory Modifications" below.

Board Decision Types. When initially considering an inmate's application for release to parole, a Board
member has four options that ultimately resolve to one of two possible discretionary decisions: to release
(grant parole) or to defer (deny parole). In a "regular" or initial hearing, inmates may be released, deferred,
tabled, or referred to full Board review.[46] Full Board reviews conclude with the decision options to release,
to defer, or to table. Some inmates are set for release, but are tabled, pending the completion of a specific
requirement, such as completing a treatment program or the confirmation of parole plan details.
Ultimately, the Board releases a person who is tabled if the requirement is met, or, if the requirement is not
met, the Board amends the record and the person is deferred.

In a "regular" hearing or review, an individual is granted discretionary parole when the Board member
determines that the potential for successful reintegration into the community has been demonstrated. An
individual is denied parole when the Board member concludes that the potential for successful
reintegration into the community has not demonstrated, and/or there are public safety concerns. In a full

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[40] The statutory conditions allowing a file review are specifically described in §17-2-201(4)(f)(I), C.R.S.

[41] Introduced in Senate Bill 2011-241 (see also, §17-2-201(4)(f)(I)(A), C.R.S). A special needs offender and special needs
parole are described in §17-1-102(7.5)(a), C.R.S. and §17-22.5-403.5, C.R.S., respectively, and refer to a release
precipitated by chronic medical or mental incapacitation.

[42] Introduced in Senate Bill 2011-241 (see also, §17-2-201(4)(f)(I)(B), C.R.S.).

[43] Introduced in House Bill 2015-1122 (see also, §17-2-201(4)(f)(I)(C), C.R.S.).

[44] Introduced in House Bill 2017-1326 (see also, §17-2-201(4)(f)(I)(D), C.R.S.). The actuarial risk level is determined by
the "Colorado risk assessment scale" described in §17-22.5-404(2), specifically titled, *The Colorado Actuarial Risk
Assessment Scale*.

[45] Introduced in Senate Bill 2019-143 (see §17-1-119.7(2)(IV)(A) to (E), §17-2-201(4)(f)(I)(E), C.R.S., and §17-2-201(19),
C.R.S.).

[46] The four decision options may be found in Rule 5.04(A) in *8 C.C.R. 1511-1: Rules Governing the State Board of Parole
and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website:
sos.state.co.us/CCR/Welcome.do (Browse/Search for Rule 1511-1). The Board labels, "tabled," as "Conditional
Discretionary Release Pending." The terms, "table" or "tabled," will be used in this report for simplicity of
expression and consistency with the terminology in the Board *Rules*.

Board review, the above determinations require the agreement of no fewer than four Board members.

If an inmate is deferred, a subsequent hearing date is scheduled.[47] If an inmate's MRD will occur prior to the next scheduled parole hearing, Board members will set the conditions of parole for this forthcoming mandatory release to parole. This decision and setting of conditions may occur up to 14 months prior to the MRD and, in the vernacular of the Board, is often labeled a "release to MRD."[48]

Although the Board's decision to "release to MRD" references the upcoming *mandatory* release date, this decision is a *discretionary deferral* because the Board has chosen to *defer* the individual to the MRD rather than to grant a release to parole. Therefore, this *discretionary deferral* is subsequently labeled in this report, "Defer to Mandatory Release Date" or "Defer to MRD," which is both logically correct and consistent with the language of the Parole Board Code of Colorado Regulations.[49]

Statutory Modifications. Legislative actions that modify Board-related statutory provisions regarding hearing and decision policies may affect the hearing sample or the categorization of Board decisions as discretionary or mandatory. This section addresses recent statutory revisions and whether consequent accommodations were necessary in the management of hearing data and the analysis methods.

House Bill 2011-241. As mentioned above in "Board Hearing Types," this provision granted Board members the option to conduct a file review, rather than meeting directly with the individual when considering an application to parole.[50] When first introduced, the file review option was allowed when a release decision did not require victim notification and when either a special needs release is requested for consideration[51] or the inmate release is bound by a detainer to the U.S. Immigration and Customs Enforcement agency.[52] Subsequent revisions of this statute expanded the cases eligible for a file review. File review decisions regarding release under these circumstances were discretionary and, therefore, no sample exclusions or

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[47] The periods prior to the next parole reconsideration are one, three, or five years pursuant to §17-22.5-403(5), C.R.S.

[48] This 14-month threshold accommodates the accrual of earned time that reduces the time to the next parole application hearing to less than the typical 12-month deferral period.

[49] In Rule 5.04 (A) in *8 C.C.R. 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* in the Colorado Code of Regulations, one of the described decision options includes, "(2) To defer consideration of Parole as follows: (a) *Defer to MRD*, if the Inmate's MRD is within 14 months of the Application Interview;" [emphasis added].

[50] The statutory conditions allowing a file review are specifically described in §17-2-201(4)(f)(I), C.R.S.

[51] Introduced in Senate Bill 2011-241 (see also, §17-2-201(4)(f)(I)(A), C.R.S). A special needs offender and special needs parole are described in §17-1-102(7.5)(a), C.R.S. and §17-22.5-403.5, C.R.S., respectively, and refer to a release precipitated by chronic medical or mental incapacitation.

[52] Introduced in Senate Bill 2011-241 (see also, §17-2-201(4)(f)(I)(B), C.R.S.).

modifications were necessary.

House Bill 2015-1122. The enactment of House Bill 2015-1122 affected two separate Parole Board Rules introduced in 2013.[53] One of these rules allowed a file review for inmates within six months of their mandatory release date (MRD) and the other allowed a file review for those convicted of an institutional conduct violation during the 12 months prior to a scheduled parole application hearing. In the first case ("six months to MRD"), the rule was simply codified in statute as an allowable file review condition.[54] File review decisions under this circumstance were considered discretionary and, therefore, no sample exclusions or modifications were necessary.

In the second case ("conduct violation"), House Bill 2015-1122 eliminated this file review condition.[55] The bill rendered an inmate ineligible for parole, and therefore ineligible for a parole application hearing or review of any kind, if the inmate was convicted of a Class I *Code of Penal Discipline* (COPD) violation[56] at any time in the 12 months prior to a scheduled parole application hearing. Additionally, inmates who have submitted a written refusal to participate in programs were likewise categorized as parole ineligible.[57] From its enactment forward, there is no hearing for individuals meeting these criteria, and, therefore, no sample exclusions or modifications were necessary.

House Bill 2017-1326. Effective August 2017, an inmate who is assessed as "low" or "very low" in actuarial risk and meets reentry readiness criteria set by the Board is eligible for a file review, rather than an in-person hearing.[58] The Board referenced this as a "fast track" (file) review. Statute does not dictate a specific decision outcome for the reviews under this condition, permitting the Board to exercise its discretion to release or to defer these individuals. Therefore, the decisions made pursuant to these file reviews were considered discretionary and no sample exclusions or analysis modifications were necessary.

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[53] See Rule 10.00 (specifically 10.02) in *8 C.C.R. 1511-1* in the 12/30/2013 version.

[54] Senate Bill 2015-100 removed the file review *rule* for inmates within six months of MRD when this file review qualification was codified by House Bill 2015-1122 (see, §17-2-201(4)(f)(I)(C), C.R.S.).

[55] Senate Bill 2015-100 removed the file review *rule* for those convicted of a COPD when these inmates became parole ineligible pursuant to House Bill 2015-1122 (see, §17-2-201(3.7)(a)(I), C.R.S.).

[56] The Class I and Class II violations of the CDOC *Code of Penal Discipline* (COPD) are defined in *CDOC Administrative Regulation 150-01* (see, cdoc.colorado.gov/about/department-policies). Class I violations are those for which a guilty finding generally results in a more severe penalty than a finding of guilt for a Class II violation.

[57] Specifically, an inmate is deemed parole ineligible if, in the 12 months prior to a scheduled parole application hearing, an inmate declines in writing to participate in programs that have been recommended and made available (see §17-2-201(3.7)(a)(II)).

[58] See this file review qualification in §17-2-201(4)(f)(I)(D), C.R.S.

House Bill 2018-1410. Effective on June 6, 2018, this statutory revision regarding prison population management created a process by which the CDOC may request that the Board conduct a file review for inmates whose mandatory release date is within ninety days, have an approved parole plan, and do not require full Board review or victim notification.[59] The measure also required an expedited determination for any inmates whose release was tabled, but who may have satisfied the "tabling condition(s)." Statute does not dictate a specific decision outcome for the reviews under this condition, permitting the Board to exercise its discretion to release or not to release these individuals. Therefore, the decisions made pursuant to these file reviews were considered discretionary and no sample exclusions or analysis modifications were necessary.

Senate Bill 2019-143. With only one month remaining during FY 2019, this bill became effective on May 28 and modified two statutory sections related to file reviews: general file review criteria and prison population management provisions.[60] In the first set of revisions (regarding general file review eligibility criteria), a provision was added that requires a full Board majority in order to defer individuals with an approved plan who have been assessed at low or very low risk and for whom the PBRGI advisory recommendation was to release. In the second set of revisions (regarding prison population management provisions), when a vacancy rate threshold is met, file reviews are required for individuals who meet the following criteria: are within ninety days of their mandatory release date, have a favorable parole plan, have been assessed at medium or lower risk and have met specific crime of conviction and behavior criteria. These revisions also require a majority vote of the full Board in order to defer individuals who meet the criteria.

Both sets of revisions allow the discretionary decision to release an inmate in an *initial* (file) review and, following a referral to full Board review, allow the discretionary decision either to release or to defer an inmate. Although these modifications alter the decision process, no specific decision for a particular case ultimately is prescribed by statute. Though more complex, decisions made pursuant to these file reviews were considered discretionary and no sample exclusions or analysis modifications were necessary.

FY 2019 Sample Selection. The hearings and reviews included in this report were finalized between July 1, 2018 and June 30, 2019 (As mentioned above, no revocation hearings are included in this report due to

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[59] See the related elements of this measure in §17-1-119.7(2)(a)(II) and (III), C.R.S., and §17-2-201(18), C.R.S.
[60] For the general statutory conditions defining file reviews, see §17-2-201(4)(f)(I)(E) and §17-2-201(19), C.R.S., and for the prison population management provisions, see §17-1-119.7(2)(IV)(A) to (E), C.R.S.

data unavailability.). These hearings and reviews were conducted to render a decision regarding applications to parole by inmates. These applications to parole involved inmates who had met their parole eligibility date (PED), but whose release was prior to their mandatory release date (MRD), which indicates that the prison sentence was complete.

Therefore, the analyses in this report focus on the hearing and review decisions labeled, "discretionary," rather than those labeled, "mandatory." Taking into account relevant statutory modifications (as described above), for the purposes of this report, any hearing or review decision that occurred between the PED and MRD that is not hindered or limited by factors not under the control of the Board are considered discretionary.

Roughly 8,000 hearing records were excluded from the sample because the record was a duplicate or the related decisions were incomplete or occurred under constraining circumstances. Because these situations resulted in perfunctory deferral and release decisions, these were not appropriate for inclusion in the analyses of discretionary Board decisions, for example:

- The hearing record was amended causing a duplication of the record;

- The hearing resulted in an automatic deferral to a later date because the inmate waived the right to a hearing or, for a variety of reasons, could not appear; or

- The hearing resulted in an automatic release due to such circumstances as a court order or a mandatory re-parole following a technical violation.

At the request of the Board starting in FY 2017, pending releases that are unresolved at the end of the fiscal (reporting) year, are retained in the sample, rather than being excluded as cases with pending decisions. A hearing record that may have had a pending decision outcome during the course of the fiscal year that *was* resolved continues to reflect the ultimate Board decision to release or defer. Pending releases occurred most frequently under two circumstances: a tabled release was still pending when the fiscal (reporting) year ended, or the release date was set to occur after the end of the fiscal (reporting) year.

An inmate's release may be tabled for a period of time during which the elements of the parole plan are confirmed by a case manager or re-entry specialist or during which a particular condition must be met. For example, a release may be delayed until a training program in CDOC is completed or when the release to parole is dependent on acceptance into a community corrections program or community treatment. If the condition for which the release was tabled or delayed is not met, the release may be reversed and, if so, a

decision is officially amended to "defer" and an inmate's incarceration continues. Additionally, if the fiscal year concluded before the release occurred, it is unknown whether such inmates were actually released or whether the release was subsequently rescinded, which may occur for any number of reasons, including the commission of an institutional conduct (COPD) violation.[61] Because a future release reversal is most often due to circumstances beyond the control of the Board, the pending release records were retained in the sample and categorized to reflect the Board's original decision intent to release.

As described above, the Board began to use the PBRGI Bypass option in August 2017. Of the available bypass reasons, all but two were already among the criteria established for the inclusion of discretionary cases and exclusion of mandatory decision circumstances as described above. Of the 2,496 instances where the PBRGI Bypass option was chosen for cases during FY 2019, 1,531 were excluded from the sample because they met one or more of these previously established exclusion criteria represented by these bypass reasons: Until Presented Actions, Close/Past MRD Reviews, Offender Initiated Waivers or Deferrals, Offender Refuses to Attend Hearing, Rescission Hearing, and some instances of Other. The PBRGI bypass reasons not utilized previously or in the current report for case exclusion were "File Review" and particular instances of "Other." Additional information regarding these remaining 965 bypassed cases is provided in the following sections describing the FY 2019 hearing samples.

FY 2019 Overall Sample. The total sample of discretionary decisions analyzed and summarized in this report were rendered in 8,594 hearings and reviews conducted for inmates considered for parole between July 1, 2018 and June 30, 2019. The 8,594 decisions comprised 6,434 "regular" hearings and 2,160 full Board reviews. Of the 8,594 decisions and reviews, there were 6,838 for those labeled, "non-sex offender," comprising 5,286 "regular" hearings and 1,552 full Board reviews. Of the 8,594 decisions and reviews, there were 1,756 for those labeled, "sex offender," comprising 1,148 "regular" hearings and 608 full Board reviews. The hearings and reviews for those labeled, "sex offender," are excluded from the PBRGI sample and analyses.[62] Of the 8,594 total decisions, 1,501 (17.5%) were the result of file reviews, including 1,293 file reviews for those labeled, "non-sex offender," and 208 for those labeled, "sex offender."

Bypass Sample. As described above, when the Bypass option was chosen, the PBRGI advisory

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[61] The Class I and Class II violations of the CDOC *Code of Penal Discipline* (COPD) are defined in CDOC *Administrative Regulation 150-01* (see, cdoc.colorado.gov/about/department-policies). Class I violations are those for which a guilty finding generally results in more severe penalties than a finding of guilt for a Class II violation.

[62] There are separate guidelines for the release of individuals labeled a sex offender. The explanation for separating the sex offender and the non-sex offender samples can be found on page 18.

recommendation was not generated, displayed or stored as part of a hearing record. Of the 8,594 decision records included in this report, the Board chose the option to bypass in 965 instances (965 of 8,594 or 11.2%). Of these, the bypass option was used in 954 "regular" hearings and 11 full Board reviews.

Of the 965 cases, 949 (98.3%) were conducted as a file review and 16 (1.7%) were conducted as a non-file review (by phone, video or in person). The bypass reason selected for these cases was "File Review" (960 cases) or "Other" (5 cases for "other" reasons that do not meet sample exclusion criteria). Of the 965 cases, there were 946 bypasses where the PBRGI advisory recommendation would have previously been displayed (13.8% of 6,838 decisions for non-sex offenders) and there were 19 bypasses where the recommendation was not applicable and would not have been displayed (1.1% of the 1,756 decisions for those labeled, "sex offender").
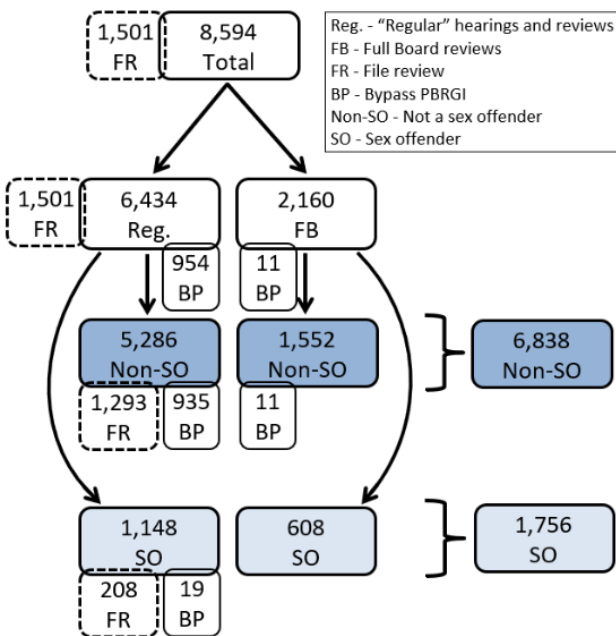
FY 2019 Parole Board Decisions (n=8,594)

| Reg. - "Regular" hearings and reviews |
| FB - Full Board reviews |
| FR - File review |
| BP - Bypass PBRGI |
| Non-SO - Not a sex offender |
| SO - Sex offender |

FY 2019 PBRGI Sample. The focus of this report is the subsample of 6,838 hearings and reviews that did not involve those labeled, "sex offender," and, therefore, were eligible for the display of the PBRGI advisory recommendation. However, of these 6,838, the Board chose to exercise the Bypass option in 946 (13.8%) instances, reducing the PBRGI sample to 5,892 hearings and reviews. Of these 946 bypassed cases, 11 cases were categorized as full Board reviews. Further references in this report to the "PBRGI sample" refers to the 4,351 "regular" hearings and the 1,541 full Board reviews where the PBRGI advisory recommendation was not bypassed and, therefore, was displayed and stored as part of the hearing record. Applying the current sample selection criteria across all reporting years, a year-to-year comparison found that the current PBRGI sample (n=5,892) was 5.5% to 18.3% smaller than previous samples (ns=6,429, 7,208, 6,768, 6,256, 6,298, and 6,235 for reporting years FY 2013 to FY 2018, respectively).

Summaries of the findings from the analysis of the primary "PBRGI samples" and the Bypassed cases are immediately following in Section Four followed by analyses of decisions from file reviews, full Board reviews, and hearings and reviews for those labeled a sex offender.

Section Four: FY 2019 Findings - Parole Board Decisions

The findings reported below from the FY 2019 hearing data include the following information:

- Number of release and deferral decisions overall by the Board for sample subgroups;

- Number of release and deferral decisions by the Board when choosing to bypass the PBRGI;

- Number of inmates assigned to the risk and readiness categories in the PBRGI decision matrix;

- Number of release and number of deferral decisions by the Board (release rates within matrix levels) and PBRGI advisory recommendations;

- Number of agreements and departures between Board decisions and PBRGI recommendations;

- Number of agreements and departures within decision matrix categories;

- Categories and counts of the reasons for departure from release and from deferral recommendations;

- Reasons for departure within specific decision matrix categories;

- Board decisions and PBRGI recommendations in file reviews;

- Board decisions and PBRGI recommendations in full Board reviews;

- Board decisions for parole applicants labeled, "sex offender"; and

- Final summary of findings.

Overall Decision Findings

Collapsing across all hearing and inmate types in the FY 2019 sample of 8,594 cases, the Board decision was to designate 3,650 (42.5%) parole applicants for release and to defer 4,944 (57.5%). Of the 4,944 who were deferred, 72.0% were categorized as "deferred" and 28.0% were categorized as "deferred to MRD." Of the 3,650 set for release, 2.8% (103) were within 3 months to MRD, an additional 8.6% (313) were within 6 months to MRD, an additional 22.1% (805) were within 14 months to MRD, and the remaining 66.5% (2,429) were more than 14 months to MRD.[63] Of the 4,944 who were deferred or "deferred to MRD," 7.7% (379) were within 3 months to MRD, an additional 11.9% (589) were within 6 months to MRD, an additional 20.3% (1,006) were within 14 months to MRD, and the remaining 60.1% (2,970) were more than 14 months

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[63] The "months-to-MRD" findings are included at the request of the Board starting from FY 2016. The specific "months-to-MRD" thresholds (3 months, 6 mos., 14 mos., etc.) are relevant to Board policy and statutory provisions (described above) regarding the options to conduct a file review and/or the decision to defer to the MRD. Individuals labeled a sex offender with an indeterminate sentence do not have a mandatory release date and, rather than being excluded from the findings, were added to the category, "More than 14 months to MRD."

to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories are in Table 1. Of the 8,594 decisions, 17.5% (1,501) were rendered following a file review.[64]

Of the 6,434 "regular" hearings in the FY 2019 sample (collapsing across inmate types), the Board decision was to designate 2,243 (34.9%) parole applicants for release and to defer 4,191 (65.1%). Of the 4,191 who were deferred, 70.6% were categorized as "deferred" and 29.4% were categorized as "deferred to MRD." Of the 2,243 set for release, 4.1% (92) were within 3 months to MRD, an additional 11.7% (262) were within 6 months to MRD, an additional 27.6% (618) were within 14 months to MRD, and the remaining 56.7% (1,271) were more than 14 months to MRD.[65] Of the 4,191 who were deferred or "deferred to MRD," 8.9% (374) were within 3 months to MRD, an additional 13.2% (554) were within 6 months to MRD, an additional 20.2% (846) were within 14 months to MRD, and the remaining 57.7% (2,417) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories are in Table 1. Of the 6,434 decisions, 23.3% (1,501) were rendered following a file review.

Of 2,160 full Board reviews in the FY 2019 sample (collapsing across inmate types), the Board decision was to designate 1,407 (65.1%) parole applicants for release and to defer 753 (34.9%). Of the 753 who were deferred, 79.9% were categorized as "deferred" and 20.1% were categorized as "deferred to MRD." Of the 1,407 set for release, 0.8% (11) were within 3 months to MRD, an additional 3.6% (51) were within 6 months to MRD, an additional 13.3% (187) were within 14 months to MRD, and the remaining 82.3% (1,158) were more than 14 months to MRD.[66] Of the 753 who were deferred or "deferred to MRD," 0.7% (5) were within 3 months to MRD, an additional 4.6% (35) were within 6 months to MRD, an additional 21.2% (160) were within 14 months to MRD, and the remaining 73.4% (553) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories are in Table 1.

Of 6,838 cases involving non-sex offenders in the FY 2019 sample (collapsing across hearing types), the Board decision was to designate 3,257 (47.6%) parole applicants for release and to defer 3,581 (52.4%). Of the 3,581 who were deferred, 70.6% were categorized as "deferred" and 29.4% were categorized as "deferred to MRD." Of the 3,257 set for release, 3.1% (101) were within 3 months to MRD, an additional

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[64] See "Board Hearing Types" in Section Three. Starting in FY 2016, the file review findings are included at the request of the Board.

[65] See Footnote 63 regarding individuals labeled a sex offender with an indeterminate sentence.

[66] See Footnote 63 regarding "months to MRD" analyses.

Table 1. FY 2019 Samples: Counts and percentages of Parole Board decisions by months to mandatory release date

PB Decision Count [Row %] (Column %)	Months to Mandatory Release Date (MRD)				
	Up to 3 Months to MRD	4 to 6 Months to MRD	7 to 14 Months to MRD	More than 14 Months to MRD	Total
Overall Sample (n=8,594^)					
Defer	379 [7.7%] (78.6%)	589 [11.9%] (65.3%)	1,006 [20.3%] (55.5%)	2,970 [60.1%] (55.0%)	4,944 [100.0%] (57.5%)
Release	103 [2.8%] (21.4%)	313 [8.6%] (34.7%)	805 [22.1%] (44.5%)	2,429 [66.5%] (45.0%)	3,650 [100.0%] (42.5%)
Total	482 [5.6%] (100.0%)	902 [10.5%] (100.0%)	1,811 [21.1%] (100.0%)	5,399 [62.8%] (100.0%)	8,594 [100.0%] (100.0%)
"Regular" Hearing Sample (n=6,434^)					
Defer	374 [8.9%] (80.3%)	554 [13.2%] (67.9%)	846 [20.2%] (57.8%)	2,417 [57.7%] (65.5%)	4,191 [100.0%] (65.1%)
Release	92 [4.1%] (19.7%)	262 [11.7%] (32.1%)	618 [27.6%] (42.2%)	1,271 [56.7%] (34.5%)	2,243 [100.0%] (34.9%)
Total	466 [7.2%] (100.0%)	816 [12.7%] (100.0%)	1,464 [22.8%] (100.0%)	3,688 [57.3%] (100.0%)	6,434 [100.0%] (100.0%)
Full Board Reviews (n=2,160^)					
Defer	5 [0.7%] (31.3%)	35 [4.6%] (40.7%)	160 [21.2%] (46.1%)	553 [73.4%] (32.3%)	753 [100.0%] (34.9%)
Release	11 [0.8%] (68.8%)	51 [3.6%] (59.3%)	187 [13.3%] (53.9%)	1,158 [82.3%] (67.7%)	1,407 [100.0%] (65.1%)
Total	16 [0.7%] (100.0%)	86 [4.0%] (100.0%)	347 [16.1%] (100.0%)	1,711 [79.2%] (100.0%)	2,160 [100.0%] (100.0%)
Non-Sex Offenders (n=6,838)					
Defer	282 [7.9%] (73.6%)	457 [12.8%] (60.3%)	805 [22.5%] (51.4%)	2,037 [56.9%] (49.3%)	3,581 [100.0%] (52.4%)
Release	101 [3.1%] (26.4%)	301 [9.2%] (39.7%)	761 [23.4%] (48.6%)	2,094 [64.3%] (50.7%)	3,257 [100.0%] (47.6%)
Total	383 [5.6%] (100.0%)	758 [11.1%] (100.0%)	1,566 [22.9%] (100.0%)	4,131 [60.4%] (100.0%)	6,838 [100.0%] (100.0%)
Sex Offenders (n=1,756^)					
Defer	97 [7.1%] (98.0%)	132 [9.7%] (91.7%)	201 [14.7%] (82.0%)	933 [68.5%] (73.6%)	1,363 [100.0%] (77.6%)
Release	2 [0.5%] (2.0%)	12 [3.1%] (8.3%)	44 [11.2%] (18.0%)	335 [85.2%] (26.4%)	393 [100.0%] (22.4%)
Total	99 [5.6%] (100.0%)	144 [8.2%] (100.0%)	245 [14.0%] (100.0%)	1,268 [72.2%] (100.0%)	1,756 [100.0%] (100.0%)

^ Individuals labeled a sex offender with an indeterminate sentence do not have a mandatory release date. Rather than exclude them from the table, these individuals were added to the category, "More than 14 months to MRD."

9.2% (301) were within 6 months to MRD, an additional 23.4% (761) were within 14 months to MRD, and the remaining 64.3% (2,094) were more than 14 months to MRD. Of the 3,581 who were deferred or "deferred to MRD," 7.9% (282) were within 3 months to MRD, an additional 12.8% (457) were within 6 months to MRD, an additional 22.5% (805) were within 14 months to MRD, and the remaining 56.9% (2,037) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories are in Table 1. Of the 6,838 decisions, 18.9% (1,293) were rendered following a file review.

Of 1,756 cases involving those labeled a sex offender in the FY 2019 sample (collapsing across hearing types), the Board decision was to designate 393 (22.4%) parole applicants for release and to defer 1,363 (77.6%), of which 75.9% were categorized as "deferred" and 24.1% as "deferred to MRD." Some individuals labeled a sex offender receive an indeterminate sentence (and do not have a related mandatory release date) and some receive a determinate sentence (and do have a related mandatory release date). Rather than exclude those with an indeterminate sentence from the "months-to-MRD" analysis, these cases were placed in the category, "More than 14 months to MRD." Of the 393 set for release, 0.5% (2) were within 3 months to MRD, an additional 3.1% (12) were within 6 months to MRD, an additional 11.2% (44) were within 14 months to MRD, and the remaining 85.2% (335) were more than 14 months to MRD. Of the 1,363 who were deferred, 7.1% (97) were within 3 months to MRD, an additional 9.7% (132) were within 6 months to MRD, an additional 14.7% (201) were within 14 months to MRD, and the remaining 68.5% (933) were more than 14 months to MRD. Of the 1,756 decisions, 11.8% (208) involved a file review. The counts and percentages of decisions to release or defer within these "months-to-MRD" categories are in Table 1.

PBRGI Bypass Findings

Because the bypassed cases cannot be integrated into the presentation of PBRGI findings to follow, the decision findings for these cases are provided here. The following findings report the decisions rendered by the Board when the Bypass option was chosen (see also Table 2).

- Of the 8,594 total hearings and reviews in the FY 2019 sample, the Board used the PBRGI Bypass option in 965 (11.2%) cases.

  Of the 6,838 total cases involving a non-sex offender that were applicable for a PBRGI advisory recommendation, the Board bypassed 946 (13.8%) cases. There were 19 bypasses where the recommendation was not applicable and would not have been displayed (1.1% of the 1,756 cases labeled, "sex offender").

Table 2. FY 2019 PBRGI Bypass sample: Counts and percentages of Parole Board decisions by months to mandatory release date (n=965)

PB Decision [Row %] *(Column %)*	Time to Mandatory Release Date (MRD)				
	Up to 3 months to MRD	4 to 6 months to MRD	7 to 14 months to MRD	More than 14 months to MRD	Total
Defer	233 [36.0%] *(75.6%)*	314 [48.5 %] *(72.5%)*	81 [12.5%] *(62.3%)*	19 [2.9%] *(20.2%)*	647 [100.0%] *(67.0%)*
Release	75 [23.6%] *(24.4%)*	119 [37.4%] *(27.5%)*	49 [15.4%] *(37.7%)*	75 [23.6%] *(79.8%)*	318 [100.0%] *(33.0%)*
Total	308 [31.9%] *(100.0%)*	433 [44.9%] *(100.0%)*	130 [13.5%] *(100.0%)*	94 [9.7%] *(100.0%)*	965 [100.0%] *(100.0%)*

- Of the 965 total bypassed cases, the Board decision was to designate 318 (33.0%) parole applicants for release and to defer 647 (67.0%). Of the 647 deferred applicants, 267 (41.3%) were deferred to a subsequent hearing date and 380 (58.7%) were deferred to their mandatory release date.

- For comparison, of the PBRGI-related "regular" and full Board review cases where the PBRGI recommendation was not bypassed (n=5,892), the Board designated 2,942 (49.9%) for release and 2,950 (50.1%) for deferral.

Of the 318 inmates designated for release by the Board whose PBRGI recommendation was bypassed, 23.6% (75) were within 3 months to MRD, an additional 37.4% (119) were within 6 months to MRD, an additional 15.4% (49) were within 14 months to MRD, and the remaining 23.6% (75) were more than 14 months to MRD.[67] Of these 318 release decisions, 308 (96.9%) were rendered following a file review. Of the 647 who were deferred or "deferred to MRD" and whose PBRGI recommendation was bypassed, 233 (36.0%) were within 3 months to MRD, an additional 314 (48.5%) were within 6 months to MRD, an additional 81 (12.5%) were within 14 months to MRD, and the remaining 19 (2.9%) were more than 14 months to MRD. Of the 647 deferral decisions, 641 (99.1%) were rendered following a file review.[68]

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[67] The "months-to-MRD" findings are included at the request of the Board starting from FY 2016. The specific "months-to-MRD" thresholds (3 months, 6 mos., 14 mos., etc.) are relevant to Board policy and statutory provisions (described above) regarding the options to conduct a file review and/or the decision to defer to the MRD.

[68] See "Board Hearing Types" in Section Three. Starting in FY 2016, the file review findings are included at the request of the Board.

PBRGI Findings

PBRGI Decision Matrix Assignment. Table 3 provides the number and percentages of the 4,351 inmates in the FY 2019 PBRGI sample of "regular" hearings assigned to each of the 15 risk/readiness positions in the PBRGI decision matrix. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer. The largest placement of persons on the risk dimension was in "very high" risk (27.3%)

> **The PBRGI placed 25% of parole applicants in the "very low" risk category and 39% of applicants in the "low" readiness category.**

and the largest placement of persons on the readiness dimension was in "low" readiness (39.5%). The highest percentage of those in the "release area" of the matrix was the 9.4% in "very low" risk/"medium" readiness. The highest percentage of those in the "defer area" of the matrix was the 14.2% in "very high" risk/"low" readiness. There was 15.3% of the sample placed in the "boundary region" of the decision

matrix representing the more complex decision circumstances for Board members (namely, those placed in the high/high, medium/medium, or low/low risk/readiness categories).

Board Decisions (PBRGI Sample). The total number and percentages of defer and release decisions by the Board within the PBRGI matrix combinations are in Table 4. As a reminder, the blue/lighter area in the upper left of the matrix represents the part of the risk/readiness matrix where the PBRGI advisory recommendation is always to release and the red/darker area in the bottom right of the matrix represents

> **Of the inmates suggested for release, higher rates of actual release (roughly 82% to 91% across risk levels) were found for those inmates in the "high" level of readiness.**

the part of the risk/readiness matrix where the PBRGI advisory recommendation is always to defer.

Further review of Table 4 reveals that the release percentages in the "release region" of the matrix (blue/lighter areas) ranged from 22.8% to 90.7% with higher rates of release found for those inmates in the "high" level of readiness (ranging from 82.3% to 90.7%). The deferral percentages in

the "defer area" of the matrix (red/darker areas of Table 4) ranged from 37.6% to 94.5% with higher rates of deferral found in "low" readiness (87.9% to 94.5%).

Table 5 provides the "months-to-MRD" counts and percentages overall and by Board decision for the PBRGI sample of "regular" hearings (n=4,351), for the PBRGI bypassed cases (n=935) where an advisory

Table 3. FY 2019 PBRGI sample: Counts and percentages of parole applicants in "regular" hearings assigned to each PBRGI risk/readiness matrix combination (n=4,351)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	396	408	272	1,076
	% within Very Low Risk	36.8%	37.9%	25.3%	100.0%
	% within Readiness Category	35.4%	26.9%	15.8%	24.7%
	% of Total	9.1%	9.4%	6.3%	24.7%
2 Low	Count	236	281	282	799
	% within Low Risk	29.5%	35.2%	35.3%	100.0%
	% within Readiness Category	21.1%	18.5%	16.4%	18.4%
	% of Total	5.4%	6.5%	6.5%	18.4%
3 Medium	Count	162	262	332	756
	% within Medium Risk	21.4%	34.7%	43.9%	100.0%
	% within Readiness Category	14.5%	17.3%	19.3%	17.4%
	% of Total	3.7%	6.0%	7.6%	17.4%
4 High	Count	122	200	211	533
	% within High Risk	22.9%	37.5%	39.6%	100.0%
	% within Readiness Category	10.9%	13.2%	12.3%	12.3%
	% of Total	2.8%	4.6%	4.8%	12.3%
5 Very High	Count	202	365	620	1,187
	% within Very High Risk	17.0%	30.7%	52.2%	100.0%
	% within Readiness Category	18.1%	24.1%	36.1%	27.3%
	% of Total	4.6%	8.4%	14.2%	27.3%
Total in Readiness Category	Count	1,118	1,516	1,717	4,351
	% within Risk Category	25.7%	34.8%	39.5%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	25.7%	34.8%	39.5%	100.0%

Table 4. FY 2019 PBRGI sample: Counts and percentages of Parole Board (PB) "regular" hearings decisions within each PBRGI risk/readiness matrix combination (n=4,351)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	396	408	272	1,076
	PB Defer (%)	70 (17.7%)	137 (33.6%)	210 (77.2%)	417 (38.8%)
	PB Release (%)	326 (82.3%)	271 (66.4%)	62 (22.8%)	659 (61.2%)
2 Low	Count	236	281	282	799
	PB Defer (%)	22 (9.3%)	106 (37.7%)	248 (87.9%)	376 (47.1%)
	PB Release (%)	214 (90.7%)	175 (62.3%)	34 (12.1%)	423 (52.9%)
3 Medium	Count	162	262	332	756
	PB Defer (%)	26 (16.0%)	108 (41.2%)	311 (93.7%)	445 (58.9%)
	PB Release (%)	136 (84.0%)	154 (58.8%)	21 (6.3%)	311 (41.1%)
4 High	Count	122	200	211	533
	PB Defer (%)	19 (15.6%)	118 (59.0%)	194 (91.9%)	331 (62.1%)
	PB Release (%)	103 (84.4%)	82 (41.0%)	17 (8.1%)	202 (37.9%)
5 Very High	Count	202	365	620	1,187
	PB Defer (%)	76 (37.6%)	226 (61.9%)	586 (94.5%)	888 (74.8%)
	PB Release (%)	126 (62.4%)	139 (38.1%)	34 (5.5%)	299 (25.2%)
Total in Readiness Category	Count	1,118	1,516	1,717	4,351
	PB Defer (%)	213 (19.1%)	695 (45.8%)	1,549 (90.2%)	2,457 (56.5%)
	PB Release (%)	905 (80.9%)	821 (54.2%)	168 (9.8%)	1,894 (43.5%)

Table 5. FY 2019 PBRGI, Bypass, and Combined samples: Counts and percentages of Parole Board "regular" hearing decisions by months to mandatory release date (n=4,351, n=935, & n=5,286, respectively)

PB Decision [Row %] (Column %)	Time to Mandatory Release Date (MRD)				
	Up to 3 months to MRD	4 to 6 months to MRD	7 to 14 months to MRD	More than 14 months to MRD	Total
PBRGI sample (n=4,351)					
Defer	53 [2.2%] (73.6%)	129 [5.3%] (47.3%)	609 [24.8%] (52.0%)	1,666 [67.8%] (58.8%)	2,457 [100.0%] (56.5%)
Release	19 [1.0%] (26.4%)	114 [7.6%] (52.7%)	562 [29.7%] (48.0%)	1,169 [61.7%] (41.2%)	1,894 [100.0%] (43.5%)
Total	72 [1.7%] (100.0%)	273 [6.3%] (100.0%)	1,171 [26.9%] (100.0%)	2,835 [65.2%] (100.0%)	4,351 [100.0%] (100.0%)
Bypass sample (n=935)					
Defer	224 [35.7%] (75.4%)	304 [48.5%] (72.7%)	80 [12.8%] (63.0%)	19 [3.0%] (20.4%)	627 [100.0%] (67.1%)
Release	73 [23.7%] (24.6%)	114 [37.0%] (27.3%)	47 [15.3%] (37.0%)	74 [24.0%] (79.6%)	308 [100.0%] (32.9%)
Total	297 [31.8%] (100.0%)	418 [44.7%] (100.0%)	127 [13.6%] (100.0%)	93 [9.9%] (100.0%)	935 [100.0%] (100.0%)
Combined sample (n=5,286)					
Defer	277 [9.0%] (75.1%)	433 [14.0%] (62.7%)	689 [22.3%] (53.1%)	1,685 [54.6%] (57.5%)	3,084 [100.0%] (58.3%)
Release	92 [4.2%] (24.9%)	258 [11.7%] (37.3%)	609 [27.7%] (46.9%)	1,243 [56.4%] (42.5%)	2,202 [100.0%] (41.7%)
Total	369 [7.0%] (100.0%)	691 [13.1%] (100.0%)	1,298 [24.6%] (100.0%)	2,928 [55.4%] (100.0%)	5,286 [100.0%] (100.0%)

recommendation previously would have been displayed, and for the combination of these two samples (n=5,286). Of the PBRGI sample of 4,351 inmates in "regular" hearings, the Board designated 43.5% (1,894) of inmates for release and deferred 56.5% (2,457). Of the 2,457 inmates who were deferred, 1,874 (76.3%) were deferred to a subsequent hearing date and 583 (23.7%) were deferred to their MRD.[69] Of these 4,351 cases overall, 1.7% (72) were within 3 months to MRD, an additional 6.3% (273) were within 6 months to MRD, an additional 26.9% (1,171) were within 14 months to MRD, and 65.2% (2,835) were more than 14 months to MRD.[70] The counts and percentages of Board decisions to release or to defer within these

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[69] See "Board Decision Types" in Section Three.

[70] The "months-to-MRD" findings are included at the request of the Board starting from FY 2016. The specific "months-to-MRD" thresholds (3 months, 6 mos., 14 mos., etc.) are relevant to Board policy and statutory provisions (described above) regarding the options to conduct a file review and/or the decision to defer to the MRD.

 "months-to-MRD" categories are in Table 5. Of the 4,351 decisions, 8.6% (374) were rendered following a file review.[71]

Of the 935 bypassed cases that would have been included in the PBRGI-related analyses, 308 (32.9%) were set for release and 627 (67.1%) were deferred. Of these 627 inmates who were deferred, 260 (41.5%) were deferred to a subsequent hearing date and 367 (58.5%) were deferred to their MRD. Of these 935 cases overall, 31.8% (297) were within 3 months to MRD, an additional 44.7% (418) were within 6 months to MRD, an additional 13.6% (127) were within 14 months to MRD, and 9.9% (93) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories are in Table 5. Of the 935 decisions, 98.3% (919) were rendered following a file review. Table 5 also displays the counts and percentages of Board decisions when combining the PBRGI and the PBRGI Bypass samples.

Board/PBRGI Agreement. Table 6 provides the pattern of agreement between the Board decisions and the PBRGI advisory recommendations.[72] As mentioned above, Board members designated 1,894 (43.5%) inmates in the sample for release and, combining the two types of deferral, 2,457 (56.5%) for deferral. Of the 4,351 PBRGI "regular" hearing sample of parole applicants, the PBRGI recommended 2,139 (49.2%) for release and 2,212 (50.8%) for deferral (see Table 6). Of the PBRGI "regular" hearing sample of 4,351 applicants, 43.1% (1,875 of 4,351) were categorized as "very low" or "low" risk and 25.7% (1,118 of 4,351) were labeled "high readiness" (see Table 3). Therefore, it is not unexpected that 49.2% of individuals would be assigned an advisory recommendation to release.

> **The Board set 44% of parole candidates for release and deferred 56%. The PBRGI recommended to release 49% and to defer 51%.**

The counts in Table 6 provide the information necessary to determine the degree of agreement and departure between the Board decisions and the PBRGI advisory recommendations (See the "Terminology Note" on page 9 for an introduction to the agreement and departure concepts.).

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[71] See "Board Hearing Types" in Section Three. Starting in FY 2016, the file review findings are included at the request of the Board.

[72] As mentioned in the Introduction, the PBRGI recommendation is advisory and is not a standard by which Board decisions are measured. Although this report refers to PBRGI recommendation agreement or departure, this convention of expression does not imply a comparative evaluation of Board member decision performance.

Table 6. FY 2019 PBRGI sample: Overall counts and percentages of Parole Board "regular" hearing decisions by PBRGI advisory recommendations (n=4,351) *

Parole Board Hearing Decision (Overall counts & percentages)		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	1,339 30.8%	535 12.3%	1,874 43.1%
Defer to Mandatory Release Date	Count Percent	420 9.7% *Total Defer = 1,759* *40.4%*	163 3.7% *Total Defer = 698* *16.0%*	583 13.4% *Total Defer = 2,457* *56.5%*
Release	Count Percent	453 10.4%	1,441 33.1%	1,894 43.5%
Total of PBRGI Recommendations	Count Percent	2,212 50.8%	2,139 49.2%	4,351 100.0%

*Blue (lighter cells) indicates agreement between the Board decision and the PBRGI recommendation and red (darker cells) indicates departure by the Board from the PBRGI recommendation.

The overall degree of agreement is derived from two sources: agreements with recommendations to release (1,441) and agreements with recommendations to defer (1,759; see the blue/lighter areas of Table 6). Collapsing these two sources of agreement, *73.5% of all Board member decisions agreed with the PBRGI advisory recommendations.* The overall agreement percentage (73.5%) combines the rate of release agreement (67.4% or 1,441 agreements within the 2,139 release recommendations) and the rate of deferral agreement (79.5% or 1,759 agreements within the 2,212 defer recommendations).

> **The 74% in overall PB/PBRGI decision/recommendation agreement comprises 67% in release agreement and 80% in deferral agreement.**

The overall degree of departure is derived from two sources: departures from recommendations to release (698) and departures from recommendations to defer (453; see the red/darker areas in Table 6). Collapsing across these decision types, *26.5% of all Board decisions departed from the PBRGI advisory recommendations*. The overall departure percentage (26.5%) combines the rate of release departure (32.6% or 698 departures within the 2,139 release recommendations) and the rate of deferral departure (20.5% or 453 departures within the 2,212 defer recommendations).

Table 7. PBRGI samples: Percentage of Parole Board "regular" hearing decisions, PBRGI advisory recommendations, and decision agreement by fiscal year

DECISION TYPE	Parole Board Decision *PBRGI Rec. (PB/PBRGI AGREEMENT)*	Fiscal Year *						
		FY 2013 (n=5,196)	**FY 2014** (n=5,920)	**FY 2015** (n=5,525)	**FY 2016** (n=4,913)	**FY 2017** (n=4,907)	**FY 2018** (n=4,795)	**FY 2019** (n=4,351)
RELEASE	**PB Decision %** *PBRGI Rec. %* *(AGREE %)*	**39.2%** *53.6%* *(57.9%)*	**32.3%** *49.8%* *(54.9%)*	**32.5%** *51.5%* *(54.9%)*	**35.8%** *53.7%* *(57.5%)*	**35.4%** *48.8%* *(59.2%)*	**36.4%** *48.2%* *(59.7%)*	**43.5%** *49.2%* *(67.4%)*
DEFER	**PB Decision** *PBRGI Rec.* *(AGREE %)*	**60.8%** *46.4%* *(82.4%)*	**67.7%** *50.2%* *(90.1%)*	**67.5%** *48.5%* *(91.3%)*	**64.2%** *46.3%* *(89.3%)*	**64.6%** *51.2%* *(87.3%)*	**63.6%** *51.8%* *(85.4%)*	**56.5%** *50.8%* *(79.5%)*
OVERALL PB / PBRGI AGREE %		*69.3%*	*72.6%*	*72.6%*	*72.2%*	*73.6%*	*73.0%*	*73.5%*

* The sample selection criteria used to identify discretionary hearings in FY 2019 were used for all reporting years for comparability of comparisons, *rather than the criteria and related percentages reported in previous fiscal year reports*.

From a release perspective, the overall release agreement was about double the overall release departure, 33.1% versus 16.0%, respectively. From a deferral perspective, the overall deferral agreement was nearly four times higher than the overall deferral departure, 40.4% versus 10.4%, respectively. Separate summaries of the patterns of agreements and departures found in file reviews and full Board reviews are provided in sections below.

> **Comparing the FY 2013 and FY 2019 samples, there was an increase from 69% to 74% in Board member agreements with the PBRGI advisory recommendations.**

Table 7 provides a comparison of the percentages of Board decisions and PBRGI recommendations to release or defer for the PBRGI samples from the current and six previous fiscal years.[73] As is evident in the table, the PBRGI has consistently recommended a higher percentage of release each year than the percentage of actual release decisions by the Board.

Comparing the initial FY 2013 sample and the current FY 2019 sample, there has been a 6.1% increase from 69.3% to 73.5% in Board member agreement with the PBRGI advisory recommendation.

The average overall agreement across the seven reporting years was 72.4%, the average overall *release*

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[73] The sample selection criteria are described in "FY 2019 Sample Selection" on page 29. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

agreement was 58.4%, and the average overall *deferral* agreement was 86.7%. The initial increase in overall agreement between the first and second reporting years may be attributed to the increase in deferral agreements (82.4% to 90.1%), given the reduction in release agreements (57.9% to 54.9%). For the subsequent reporting years, the degree of agreement, whether on release, deferral, or overall percentages has remained relatively consistent. In recent years, although the overall agreement has remained stable, the overall deferral agreement has decreased and the overall release agreement has increased.

Decision Agreement by Matrix Assignment. Offering an alternative perspective to Table 4, Table 8 displays the number of inmates assigned to each of the 15 risk/readiness combinations of the PBRGI decision matrix and the percentage of agreement or departure in that specific combination. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer. The pattern of percentages in Table 8 displays that the agreement percentages in the "release area" of the decision matrix (ranging from 22.8% to 90.7% and averaging 67.4%;

> **The agreement percentages in the "release area" of the decision matrix were generally lower than the agreement percentages in the "defer area" of the decision matrix.**

blue/lighter area) are generally lower than the agreement percentages in the "defer area" of the decision matrix (ranging from 37.6% to 94.5% and averaging 79.5%; red/darker area).

When collapsing across levels of readiness, the degree of Board/PBRGI agreement was generally larger as level of risk increased, from "very low" risk at 61.2% to "very high" risk at 74.8%. When collapsing levels of risk, the highest degree of agreement was found in the "low" readiness category at 81.6% followed by the "high" (76.5%) and "medium" readiness (62.3%) categories.

Of the inmates identified as the better candidates for release (blue/heavy outline at upper left of Table 8), the degree of decision agreement was 74.6% (986/1,321). Specifically, this would include individuals categorized in either of the two highest levels of readiness ("high" and "medium") *and* either of the two lowest levels of risk ("very low" and "low"). Individuals categorized across the entire "very low" risk category were designated as appropriate for release, regardless of level of readiness.[74] The overall degree of agreement to release these parole applicants categorized as "very low" risk was 61.2% (659/1,076).

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[74] See Appendix B for a description of the designations for release or defer in the PBRGI decision matrix.

Table 8. FY 2019 PBRGI sample: Counts of parole applicants assigned to each PBRGI risk/readiness matrix combination and the associated percentage of agreement and departure between Parole Board "regular" hearing decisions and PBRGI advisory recommendations (n=4,351)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	396	408	272	1,076
	Agreement Count (%)	326 (82.3%)	271 (66.4%)	62 (22.8%)	659 (61.2%)
	Departure Count (%)	70 (17.7%)	137 (33.6%)	210 (77.2%)	417 (38.8%)
2 Low	Count	236	281	282	799
	Agreement Count (%)	214 (90.7%)	175 (62.3%)	248 (87.9%)	637 (79.7%)
	Departure Count (%)	22 (9.3%)	106 (37.7%)	34 (12.1%)	162 (20.3%)
3 Medium	Count	162	262	332	756
	Agreement Count (%)	136 (84.0%)	154 (58.8%)	311 (93.7%)	601 (79.5%)
	Departure Count (%)	26 (16.0%)	108 (41.2%)	21 (6.3%)	155 (20.5%)
4 High	Count	122	200	211	533
	Agreement Count (%)	103 (84.4%)	118 (59.0%)	194 (91.9%)	415 (77.9%)
	Departure Count (%)	19 (15.6%)	82 (41.0%)	17 (8.1%)	118 (22.1%)
5 Very High	Count	202	365	620	1,187
	Agreement Count (%)	76 (37.6%)	226 (61.9%)	586 (94.5%)	888 (74.8%)
	Departure Count (%)	126 (62.4%)	139 (38.1%)	34 (5.5%)	299 (25.2%)
Total in Readiness Category	Count	1,118	1,516	1,717	4,351
	Agreement Count (%)	855 (76.5%)	944 (62.3%)	1,401 (81.6%)	3,200 (73.5%)
	Departure Count (%)	263 (23.5%)	572 (37.7%)	316 (18.4%)	1,151 (26.5%)

The advisory release recommendations for inmates located near the "middle decision boundary" were subject to a generally lower degree of agreement, 66.9% (257/384; combining the agreements in the "medium"/"medium" and "high"/"high" risk/readiness combinations). Additional support for the difficulty of decisions regarding those falling in this middle "decision area" also may be seen comparing the degree of agreement in the "medium" level of readiness (62.3%) relative to the "high" and "low" levels of readiness (76.5% and 81.6%, respectively).

The pattern of release agreement percentages in Table 8 reflects the Board's emphasis on readiness and that those who demonstrate less readiness for release are more likely to be deferred. For example, among those categorized as "very low" risk, there is a precipitous drop in agreement to release from "high" readiness (82.3%) to "low" readiness (22.8%).

> **The degree of decision agreement was 75% for those identified as the better candidates for release and 81% for those identified as the better candidates for deferral.**

The most frequently offered departure reasons (for the decision to defer rather than release) by the Board for the lower risk/higher readiness parole applicants mentioned one or more of the following:

- Engaged in behaviors that could indicate a continued risk to the community, for example, recent failures in community corrections, probation, and/or parole and Class II COPD violations;
- Had not participated in sufficient hours of treatment to ameliorate criminogenic issues; and/or
- Presented poorly during the hearing by failing to take responsibility for behavior or minimizing the severity of their crime.

Further analysis and details regarding release departure reasons are presented below.

Of the inmates identified as the better candidates for deferral (red/heavy outline at lower right of Table 8), the degree of agreement was 80.5% (1,124/1,396). Specifically, this would include individuals categorized in either of the two highest levels of risk ("high" and "very high") and either of the two lowest levels of readiness ("low" and "medium"). Those who are categorized across the entire "very high" risk category were designated in the decision matrix for deferral, regardless of level of readiness.[75] The overall degree of agreement to defer those categorized as "very high" risk was 74.8% (888/1,187). This higher level of agreement on deferrals is also true for decisions in one of the difficult "middle boundary" combinations separating the release and defer regions of the recommendation matrix, specifically the 87.9% agreement

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[75] See Appendix B for a description of the designations for release or defer in the PBRGI decision matrix.

in the "low" risk/"low" readiness combination.

A decision pattern specific to the deferral side of the matrix can be seen in the drop in deferral agreement from "low" to "high" readiness. At these levels of relatively high agreement (compared to release agreement), the agreement pattern demonstrates that the Board sometimes departs from the advisory recommendation to defer when the inmate is categorized in the higher levels of readiness. This increase in deferral departures from lower to higher readiness was apparent in both the "high" risk category (8.1% "low" to 41.0% "medium" readiness departures) and the "very high" risk category (5.5% "low" to 38.1% "medium" to 62.4% "high" readiness departures), representing instances where the Board decided to release rather than defer.

The Board may have decided release was appropriate for some of these higher risk parole applicants because they demonstrated characteristics that would indicate higher readiness for community re-entry. The common departure reasons offered by Board members (for the decision to release rather than defer) regarding those categorized both in the higher risk and lower readiness levels mentioned one or more of the following:

- Presented particularly good parole plan;

- Participated in sufficient hours of treatment to ameliorate criminogenic issues; and/or

- Demonstrated growth and positive behaviors and attitude.

Further analysis and details regarding the deferral departure reasons are available below.

Decision Agreement by Decision Type. The following analyses, which combine elements of Tables 6 and 8 above, explore Board decisions from a different perspective by identifying the risk and readiness characteristics of the inmates in the instances where the Board agrees or departs from the PBRGI advisory recommendation. Tables 9 and 10 provide a detailed focus on the pattern of *decisions that agree* with the advisory recommendations to release or to defer within the PBRGI risk/readiness matrix. Tables 11 and 12 focus on the pattern of *decisions that depart* from the advisory recommendations to release or to defer within the PBRGI risk/readiness matrix. Because statute requires the Board to provide a reason when departing from the advisory recommendation, the instances of departure will be explored more extensively.[76]

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[76] See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.

Summary of Agreements: Board Releases and Deferrals. There were 1,441 total decisions where Board members *agreed with the PBRGI advisory recommendation to release* (see Table 9). This represents 33.1% of all hearing decisions and 67.4% of the decisions where the PBRGI recommended release. Of these 1,441 decisions, 1,048 (72.7%) individuals were categorized as "very low" or "low" risk, 1,379 (95.7%) were categorized with "high" or "medium" readiness and 986 (68.4%) occupied both these lower risk and higher readiness categories. As mentioned above, the degree of decision agreement for those categorized as the most appropriate for release was 74.6% (986 of the total 1,321 most appropriate for release; see Table 8). For those inmates who were released, there is correspondence between their characteristics (based on the matrix placement in the lower risk/higher readiness categories) and the Board's decision to release.

Of the 74% of Board decisions overall that agreed with the PBRGI recommendations, 40% overall were release agreements and 33% overall were deferral agreements.

There were 1,759 total decisions where Board members *agreed with the PBRGI advisory recommendation to defer* (see Table 10). This represents 40.4% of all hearing decisions and 79.5% of the decisions where the PBRGI recommended deferral. Of these 1,759 decisions, 1,200 (68.2%) individuals were categorized as "high" or "very high" risk, 1,683 (95.7%) were categorized with "medium" or "low" readiness, and 1,124 (63.9%) occupied both these higher risk and lower readiness categories. As mentioned above, the degree of decision agreement for those categorized as the most appropriate for deferral was 80.5% (1,124 of the total 1,396 most appropriate for deferral; see Table 8).

These instances of release and deferral agreement show a correspondence in the inmate characteristics (based on the matrix placement in the higher risk/lower readiness categories) and the Board's decision to defer. On the other hand, as described in the next sections, the analyses of Board departures from the PBRGI recommendations found greater discrepancies between the inmates' characteristics, as evidenced by their matrix placement, and the parole application decisions by the Board.

Summary of Departures: Board Decides to Release. This section describes the instances where Board members *departed from the PBRGI advisory recommendation to defer* and decided to release the applicants to parole (see Table 11). Although Board members demonstrated a high degree of agreement overall with defer recommendations (79.5% or 1,759/2,212 from Table 6), there were 453 (10.4% overall) instances of deferral departure where the Board instead chose to release. This represents 20.5% (453/2,212) of the total

Table 9. FY 2019 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,441 <u>Board release decisions in "regular" hearings that agreed with the PBRGI advisory recommendation to release</u>

Of the 1,441 Release Agreements Count Percentage		READINESS		
		High	**Medium**	Low
RISK	**Very Low**	**326** **22.6%**	271 18.8%	62 4.3%
	Low	214 14.9%	175 12.1%	-
	Medium	136 9.4%	154 10.7%	-
	High	103 7.1%	-	-
	Very High	-	-	-

72.7%

95.7%   68.4%

Table 10. FY 2019 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,759 <u>Board deferral decisions in "regular" hearings that agreed with the PBRGI advisory recommendation to defer</u>

Of the 1,759 Deferral Agreements Count Percentage		READINESS		
		High	**Medium**	**Low**
RISK	Very Low	-	-	-
	Low	-	-	248 14.1%
	Medium	-	-	311 17.7%
	High	-	118 6.7%	194 11.0%
	Very High	76 4.3%	226 12.8%	**586** **33.3%**

68.2%

95.7%   63.9%

advisory recommendations to defer (see Table 6). Of these 453 instances, 398 (87.9%) individuals were categorized by the PBRGI as "high" or "very high" risk. Of these 453, 327 (72.2%) were in the "low" or "medium" readiness categories, overall representing 2.4% (106/4,351) and 5.1% (221/4,351), respectively, of the decisions in the PBRGI "regular" hearing sample.

Of the 453 deferral departures (a Board decision to release), 66% (n=299) of parole applicants were categorized as "very high" risk, but 42% (n=126) of these "very high" risk individuals were also "high" in readiness.

Combining the two dimensions of risk and readiness, the Board chose to release 272 applicants (60.0% of the 453 departure decisions) who were categorized by the PBRGI as the better candidates for deferral (those placed in "very high" or "high" risk *and* in "medium" or "low" readiness). However, this only represents 6.3% of the 4,351 "regular" hearing decisions. Although 126 (27.8%) of the 453 departures may be found in the "very high" risk category, these individuals also were categorized at the highest level of readiness for release. An additional 34 of these releases, although "low" in readiness, were found in the "low" risk category.

It should be noted that some of these departures may represent several options available to the Board that are labeled a "release," but that delay the actual release until after additional pre-release preparations have been completed. For example, the Board may simply set the actual release date for an individual at a point several months in the future to allow an additional period of community corrections transition, or the Board may table a release until a program, treatment or parole plan requirement is fulfilled. If a release requirement is not met or an individual does not perform successfully in any of these delayed

Of the 698 release departures (a Board decision to defer), 60% (n=417) of parole applicants were categorized as "very low" risk, but 50% (n=210) of these "very low" risk individuals were also "low" in readiness for parole.

release options, the Board may rescind (reverse) the release decision, which results in a deferral to serve additional time in prison or in community corrections. The summary of the Board's reasons for these departures is provided in the "Departure Reasons" section below.

Summary of Departures: Board Decides to Defer. The following describes instances where Board members *departed from the PBRGI advisory recommendation to release* and decided to defer the parole applicant for a continuing period of confinement (see Table 12). As was reported earlier in Table 6, release departures

Table 11. FY 2019 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 453 <u>Board release decisions in "regular" hearings that did not agree with the PBRGI advisory recommendation to defer</u>

Of the 453 <u>Deferral Departures</u> Count Percentage		READINESS		
		High	**Medium**	**Low**
RISK	Very Low	-	-	-
	Low	-	-	34 7.5%
	Medium	-	-	21 4.6%
	High	-	82 18.1%	17 3.8%
	Very High	**126** **27.8%**	139 30.7%	34 7.5%

87.9%

72.2%   **60.0%**

Table 12. FY 2019 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 698 <u>Board deferral decisions in "regular" hearings that did not agree with the PBRGI advisory recommendation to release</u>

Of the 698 <u>Release Departures</u> Count Percentage		READINESS		
		High	**Medium**	**Low**
RISK	**Very Low**	70 10.0%	137 19.6%	**210** **30.1%**
	Low	22 3.2%	106 15.2%	-
	Medium	26 3.7%	108 15.5%	-
	High	19 2.7%	-	-
	Very High	-	-	-

78.1%

69.9%   **48.0%**

occurred at a higher rate than deferral departures with 698 deferrals of the total 2,139 inmates who were assigned an advisory recommendation to release. This represents a release departure rate of 32.6% (698/2,139) of release recommendations and 16.0% (698/4,351) of all decisions. These 698 inmates can be divided into the 535 (76.6%) who were deferred to a subsequent hearing date and the 163 (23.4%) who were deferred to the MRD.

Of these 698 inmates, 545 (78.1%) were categorized by the PBRGI as "low" or "very low" risk and 488 (69.9%) were in the "medium" or "high" readiness categories. Combining the two dimensions of risk and readiness, the Board chose to defer 335 individuals (48.0% of the 698 departure decisions and 7.7% of all decisions) who were categorized by the PBRGI as the better candidates for release (placed in "low" or "very low" risk *and* "medium" or "high" readiness). Whereas, the Board decision to release an individual recommended for deferral was rare (10.4% of all decisions from Table 6), the decision to defer those recommended for release (16.0% of all decisions) was more frequent. Although the most common of the departures from the PBRGI release recommendations was found in the "very low" risk category (210 of 698 or 30.1%), these individuals also were categorized at the lowest level of readiness for release. An additional 19 of those deferred, although "high" in readiness, were found in the "high" risk category. The summary of the Board's reasons for these departures is provided in the next section.

Departure Reasons. As mentioned above, statute requires that Board members provide a departure reason when the release application hearing decision departs from the advisory recommendation.[77] This section summarizes the reasons entered by Board members for departing from the PBRGI advisory

> **In FY 2019, a departure reason was required for the 698 PB decisions to defer when the PBRGI recommendation was to release and for the 453 PB decisions to release when the PBRGI recommendation was to defer.**

recommendation. As mentioned above, because the Board used the PBRGI Bypass option in 935 "regular" hearing cases, the advisory recommendation was not displayed and, consequently, the agreement and departure status of these cases is unavailable for analysis. Of the 26.5% (1,151/4,351) of all decisions representing a departure from the PBRGI advisory recommendation, there were two decision circumstances that required Board members to provide reasons for departure: choosing to defer when the advisory recommendation was to release and choosing to release when the advisory recommendation was to defer. Specifically, this meant a departure reason was required for the 698 decisions to defer or defer to

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[77] See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.

the MRD when release was recommended, representing 16.0% of all decisions, and for the 453 decisions to release when defer was recommended, representing 10.4% of all decisions (see Table 6).

Summary of Departure Reasons: Board Decides to Release. *When the PBRGI advisory recommendation was to defer*, there were 453 decisions (10.4% of all decisions) where Board members chose to depart from the recommendation and set the parole applicant for release. As mentioned above, the Board can delay the actual release date several months in the future to allow a period of transition in community corrections. It is also likely that some such releases were tabled actions that required the completion of a program or treatment or to secure an aspect of the parole plan (for example, housing or employment). Release dates may simply be set several months in the future to allow an individual to complete a program or course of treatment in the institution prior to release. In cases where the "table" requirement is not met or a program or treatment is concluded unsuccessfully, it is possible to reverse the release and to defer the parole applicant to a subsequent application hearing date.

An initial review of the departure reasons was undertaken to identify and categorize the reasons provided by the Board when making these departure decisions: decisions to release when the advisory recommendation was to defer. Given that Board members could offer more than one reason for a departure, there were 1,352 total reasons provided for these 453 decisions. The departure reasons can be grouped into the following general categories: Parole plan quality; Demonstrated growth/positive attitude; Performance in the community; Mitigated or lesser risk; Treatment participation considerations; Program participation considerations; or Time served or imminent MRD/SDD.[78] Brief descriptions and/or examples of each of these categories follows.

Reasons addressing the quality of the parole plan typically indicated that the applicant would have a good support system, housing, employment, educational options and/or the individual planned to move to a different state or country. Observing evidence of psychological growth was apparent in reasons mentioning a positive attitude, taking responsibility for actions, positive behavioral adjustment, readiness for parole, and/or the ability to present a positive plan for the future. Reasons regarding community performance indicated that an inmate had been accepted into a community corrections program in advance of an impending mandatory release date to parole, that an individual would transition to intensive parole supervision (ISP), or that a transition to community corrections as an inmate had been successful and often

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[78] The statutory discharge date (SDD) refers to the date when both the sentence to CDOC and all possible time on parole have been completed.

that stable employment had been secured. Reasons in the risk-mitigated category included comments about low risk scores, non-violent offenses, short criminal histories, and committing no or minor violations of the CDOC *Code of Penal Discipline*. The mentions of treatment referenced that the applicant had completed or would soon complete a sufficient level of prison-based treatment and was ready to move to community-based treatment. Reasons related to program participation typically referred to gains made in self-improvement, educational, or vocational programs; the successful completion of such programs; or a readiness for programs in the community. A final category of reasons reflected that the inmate had served sufficient time, that the individual would soon be released on the mandatory release date (MRD) anyway, or that a period of transition on parole would be preferable to a release with no parole supervision.

For these 453 *departure decisions to release*, Board members mentioned one of the above seven reason *categories* in 1,048 instances. Board members mentioned a single departure reason category in 81 cases, two categories in 216 cases, or more than two categories in 156 cases. In some instances, Board members mentioned multiple reasons of the same type, but these were counted as a single reference to a particular category of departure reasons. The percentage of the 453 cases where a departure *category* was mentioned was as follows:[79]

> **The most frequent reason offered by Board members when departing from a PBRGI advisory recommendation to defer was that the parole applicant had presented a thorough and viable parole plan.**

- Parole plan quality, 60.5% (274/453 cases where the reason category was mentioned)
- Treatment participation considerations, 40.2% (182 cases)
- Demonstrated growth/positive attitude, 36.0% (163 cases)
- Mitigated or reduced risk, 32.5% (147 cases)
- Performance in the community, 30.9% (140 cases)
- Program participation considerations, 17.4% (79 cases)
- Adequate time served or imminent MRD/SDD,[80] 13.9% (63 cases)

Of these 453 applicants, 272 were in the higher risk/lower readiness categories identified above as comprising the better candidates for deferral, but who were released by the Board (red/heavy outline at bottom right of Table 11). For this group, there were 792 total departure reasons offered in similar

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[79] Percentages total more than 100% because more than one category was mentioned in 372 of the 453 cases.
[80] See Footnote 78.

percentages found in the categories above. The most frequent reason *categories* mentioned for this subset of individuals reflected comments indicating one or more of the following:

- Presented a comprehensive parole plan, 60.3% (164/272 cases where the category was mentioned)
- Treatment participation considerations, 40.1% (109 cases each)
- Mitigated or reduced risk, 35.3% (96 cases)

Summary of Departure Reasons: Board Decides to Defer. *When the PBRGI advisory recommendation was to release*, there were 698 decisions (16.0% of all decisions) where Board members chose to depart from the advisory recommendation and defer or defer to the MRD. An initial review of these departure reasons was undertaken to identify and categorize the reasons provided by the Board when making these decisions to depart from the recommendation to release. Given that Board members could offer more than one departure reason in a particular case, there were 2,110 total departure reasons provided. These reasons can be categorized into the following areas of concern: Risk concerns; Attitude or presentation concerns; Need to stabilize in the community; Treatment participation concerns; Parole plan quality concerns; Program participation concerns; or Time served, file review, or imminent MRD/SDD.[81] Brief descriptions and/or examples of each of these categories follows.

Reasons given regarding risk concerns included mentions of high risk scores, the crime of conviction, poor performance in a community placement or during a previous stint on parole, poor performance in the institution, and/or general issues of public safety, especially related to risky behaviors surrounding substance use. A weak presentation by parole applicants was apparent in reasons that mentioned a failure to take responsibility for previous actions, minimizing the severity of their crime, and/or being untruthful about confirmable information available in one's criminal record or case file. Some comments indicated that inmates were recently placed in community corrections as transition clients were deferred to allow more time to establish themselves or achieve stability in the community. The mentions of treatment concerns revolved around the need to complete an ongoing course of treatment or to receive additional treatment, especially by participating in a specific therapeutic community for such issues as mental health, substance abuse, anger and/or domestic violence. A poor parole plan was indicated in comments about inadequate preparation for housing, social supports, employment, education and other such re-entry considerations. The mentions of program concerns revolved around the failure to complete programs; the need to complete an ongoing program; or to receive additional programming to address life skills, cognitive

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[81] See Footnote 78.

skills and/or vocational and educational needs. Time-related comments indicated that a release on the MRD or the SDD was impending[82] or that the crime committed warranted additional incarceration time.

For these 698 *departure decisions to defer*, Board members mentioned one of the above seven reason categories in 1,460 instances. Board members mentioned a single category of concern in 197 cases, two categories in 290 cases, or more than two categories 211 cases. In some instances, Board members mentioned more than one reason in the same category of concern. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. Of the 698

> **The most frequent reason provided by Board members when departing from a PBRGI advisory recommendation to release was that the inmate continued to represent a risk to the community.**

decisions, the percentage of cases where a departure category was mentioned was as follows:[83]

- Risk concerns, 77.5% (541/698 cases where the reason category was mentioned)
- Treatment participation or criminogenic need concerns, 40.0% (279 cases)
- Attitude or presentation concerns, 33.0% (230 cases)
- Parole plan quality concerns, 26.9% (188 cases)
- Need to transition to or stabilize in a community corrections placement, 15.8% (110 cases)
- Time served inadequate, file review, or imminent MRD/SDD, 9.9% (69 cases)
- Program participation concerns, 6.2% (43 cases)

Of these 698 parole applicants, 335 were in the lower risk/higher readiness categories identified above as comprising the better candidates for release (blue/heavy outline at upper left of Table 12). For this group, there were 994 total departure reasons offered in similar percentages to those above. The three most frequent reason *categories* mentioned for this subset of applicants reflected comments indicating one or more of the following:

- Risk concerns, 80.0% (268/335 cases where the reason category was mentioned)
- Treatment participation or criminogenic need concerns, 36.7% (123 cases)
- Attitude or presentation concerns, 32.2% (108 cases)

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[82] Regarding release departures, the Board has described that parole applicants with an imminent MRD/SDD introduces complex release processing issues and, "…therefore, restricted the Board from releasing *prior* to their MRD or SDD" [*emphasis added*].

[83] Percentages total more than 100% because more than one reason category was mentioned in 501 of the 698 cases.

Findings: File Reviews

Sample (File Reviews). The FY 2019 sample of 8,594 hearings included 1,501 total file reviews.[84] Table 13 displays the increase in use of the file review procedure since its definition was expanded by the operational rules of the Board in 2013 and additional file review criteria were codified in statute between 2015 and 2019. Reflecting these rule and statutory modifications to expand file review options, file reviews

> **Parole applicants who were the subject of a file review represented 17% of the FY 2019 sample and 63% of these applicants were deferred.**

have increased 525% from 2.8% (269) of all hearings in the FY 2014 sample to 17.5% (1,501) in the FY 2019 sample.

Of the 1,501 total file reviews, 562 parole applicants (37.4%) were set for release and 939 (62.6%) were deferred. Of the 562 applicants set for release, 90 (16.0%) were within 3 months to MRD, an additional 143 (25.4%) were within 6 months to MRD, an additional 95 (16.9%) were within 14 months to MRD, and the remaining 234 (41.6%) were more than 14 months to MRD. Of the 939 (62.6%) who were deferred following a file review, 383 (25.5%) were deferred to a subsequent hearing date and 556 (37.0%) were "deferred to MRD." Of these 939 applicants who were deferred, 347 (37.0%) were within 3 months to MRD, an additional 422 (44.9%) were within 6 months to MRD, an additional 114 (12.1%) were within 14 months to MRD, and the remaining 56 (6.0%) were more than 14 months to MRD.

Detailed analyses to tie the complex combinations of statutory criteria to specific file review cases are precluded by the available data. Eligibility criteria not available in the data included special needs designations (which may contain restricted medical information), whether CDOC determined that the inmate had a "favorable" or "approved" parole plan, or whether a case was identified under the recently introduced population management provisions (which required that several simultaneous criteria be met[85]). Some file reviews were conducted because a single criterion was present while others occurred because a combination of statutory requirements were met. Drawing from the available data related to the criteria mentioned previously in Section Three ("Statutory Modifications") and presented in order of frequency, the 1,501 cases appeared individually to meet the following file review criteria:

- 1,002 cases (66.8% of 1,501) were within six months to MRD
- 1,035 cases (69.0% of 1,501) were categorized at "medium or lower" risk

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[84] This file review analysis was included at the request of the Board starting in FY 2016. The statutory file review criteria are described in "Board Hearing Types" in Section Three.

[85] See the summary of Senate Bill 2019-143 in "Statutory Modifications" in Section Three.

Table 13. Total file reviews by fiscal year and Parole Board decisions

Parole Board Hearing Decision Count (% within FY)	Fiscal Year *						
	FY 2013 (n=8,300)	FY 2014 (n=9,455)	FY 2015 (n=9,025)	FY 2016 (n=8,429)	FY 2017 (n=8,369)	FY 2018 (n=9,189)	FY 2019 (n=8,594)
Total File Reviews	**10 (0.1%)**	**269 (2.8%)**	**376 (4.2%)**	**608 (7.2%)**	**641 (7.7%)**	**1,232 (13.4%)**	**1,501 (17.5%)**
Defer	3 (30.0%)	135 (50.2%)	169 (44.9%)	200 (32.9%)	200 (31.2%)	275 (22.3%)	383 (25.5%)
Defer to MRD	6 (60.0%)	124 (46.1%)	200 (53.2%)	388 (63.8%)	389 (60.7%)	708 (57.5%)	556 (37.0%)
[Defer Total]	*[90.0%]*	*[96.3%]*	*[98.1%]*	*[96.7%]*	*[91.9%]*	*[79.8%]*	*[62.6%]*
Release	1 (10.0%)	10 (3.7%)	7 (1.9%)	20 (3.3%)	52 (8.1%)	249 (20.2%)	562 (37.4%)

* The sample selection criteria used to identify discretionary hearings in FY 2019 were used for all reporting years for comparability of comparisons.

- 654 cases (43.6% of 1,501) were categorized at "low" or "very low" risk

- 437 cases (29.1% of 1,501) were within three months of MRD

- 309 cases (20.6% of 1,501) had a PBRGI advisory recommendation to release

- 74 cases (4.9% of 1,501) involved an ICE detainer

Board Decisions (File Reviews). Of the 1,501 total file reviews in the FY 2019 sample, 1,293 were conducted for non-sex offenders and 208 for those labeled a "sex offender." Of the 208 applicants labeled a "sex offender," 5 (2.4%) were designated for release following the file review. Of the 1,293 file reviews of non-sex offenders, 557 applicants (43.1%) were set for release and 736 (56.9%) were deferred. Of the 736 applicants who were deferred, 320 (43.5%) were deferred to a subsequent hearing date and 416 (56.5%) were "deferred to MRD." Of these 1,293 parole applicants, 346 (26.8%) were within 3 months to MRD, an additional 472 (36.5%) were within 6 months to MRD, an additional 192 (14.8%) were within 14 months to MRD, and the remaining 283 (21.9%) were more than 14 months to MRD.[86] The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories are in Table 14.

PBRGI Bypass (File Reviews). As mentioned above, there were 1,293 parole applicants who were the subject of a file review and who were eligible for a PBRGI advisory recommendation. However, the Board

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[86] The "months-to-MRD" findings are included at the request of the Board starting from FY 2016. The specific "months-to-MRD" thresholds (3 months, 6 mos., 14 mos., etc.) are relevant to Board policy and statutory provisions (described above) regarding the options to conduct a file review and/or the decision to defer to the MRD.

Table 14. FY 2019 PBRGI, Bypass and Combined samples - File Reviews: Counts and percentages of Parole Board decisions by months to mandatory release date (n=374, n=919, & n=1,293, respectively)

PB Decision [Row %] (Column %)	Time to Mandatory Release Date (MRD)				
	Up to 3 months to MRD	4 to 6 months to MRD	7 to 14 months to MRD	More than 14 months to MRD	Total
PBRGI sample [File reviews] (n=374)					
Defer	35 [30.4%] (67.3%)	29 [25.2%] (49.2%)	17 [14.8%] (25.4%)	34 [29.6%] (17.3%)	115 [100.0%] (30.7%)
Release	17 [6.6%] (32.7%)	30 [11.6%] (50.8%)	50 [19.3%] (74.6%)	162 [62.5%] (82.7%)	259 [100.0%] (69.3%)
Total	52 [13.9%] (100.0%)	59 [15.8%] (100.0%)	67 [17.9%] (100.0%)	196 [52.4%] (100.0%)	374 [100.0%] (100.0%)
Bypass sample [File reviews] (n=919)					
Defer	221 [36.5%] (75.2%)	303 [48.8%] (73.4%)	80 [12.9%] (64.0%)	17 [2.7%] (19.5%)	621 [100.0%] (67.6%)
Release	73 [24.5%] (24.8%)	110 [36.9%] (26.6%)	45 [15.1%] (36.0%)	70 [23.5%] (80.5%)	298 [100.0%] (32.4%)
Total	294 [32.0%] (100.0%)	413 [44.9%] (100.0%)	125 [13.6%] (100.0%)	87 [9.5%] (100.0%)	919 [100.0%] (100.0%)
Combined sample [File reviews] (n=1,293)					
Defer	256 [34.8%] (74.0%)	332 [45.1%] (70.3%)	97 [13.2%] (50.5%)	51 [6.9%] (18.0%)	736 [100.0%] (56.9%)
Release	90 [16.2%] (26.0%)	140 [25.1%] (29.7%)	95 [17.1%] (49.5%)	232 [41.7%] (82.0%)	557 [100.0%] (43.1%)
Total	346 [26.8%] (100.0%)	472 [36.5%] (100.0%)	192 [14.8%] (100.0%)	283 [21.9%] (100.0%)	1,293 [100.0%] (100.0%)

chose to use the PBRGI Bypass option in 919 (71.1%) instances, leaving 374 file reviews for which an advisory recommendation was displayed. Of the 919 file reviews that bypassed the advisory recommendation, the bypass reason selected for these cases was: "File Review" (917 cases) or "Other" (2 cases for other non-excludable reasons). Because the bypassed cases cannot be integrated into the presentation of PBRGI findings to follow below, the bypass findings for these file reviews are provided here.

Of these 919 bypassed cases, the Board decision was to designate 298 (32.4%) parole applicants for release and to defer 621 (67.6%) (see Table 14). Of the 621 (67.6%) bypass cases that were deferred, 41.2% (256/621) were categorized as "deferred" and 58.8% (365/621) were categorized as "deferred to

MRD."[87]Of the 919 bypassed cases, 294 (32.0%) were within 3 months to MRD, an additional 413 (44.9%) were within 6 months to MRD, an additional 125 (13.6%) were within 14 months to MRD, and the remaining 87 (9.5%) were more than 14 months to MRD.[88] The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories are in Table 14.

Of the 374 file review cases that were not bypassed, 333 (89.0%) met the "medium" (51), "low" (144), or "very low" (138) risk criterion; an additional 31 (8.3%) met the "6-months-to-MRD" criterion, and the remaining 10 (2.7%) met one or more of the remaining criteria allowing a file review. Of the 374, 52 (13.9%) were within 3 months to MRD, an additional 59 (15.8%) were within 6 months to MRD, an additional 67 (17.9%) were within 14 months to MRD, and the remaining 196 (52.4%) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories are in Table 14.

PBRGI Decision Matrix Assignment (File Reviews). As mentioned above, because the Board chose to bypass the PBRGI advisory recommendation in 919 (71.1% of 1,293) instances, there are 374 file reviews remaining for analysis for which a PBRGI advisory recommendation was displayed. Table 15 provides the number and percentage of the 374 file reviews from the FY 2019 PBRGI "regular" hearing sample assigned to each of the 15 risk/readiness positions in the PBRGI decision matrix. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer.

Overall, the largest percentage of parole applicants across the five risk levels was the 72.7% (272 of 374) in the "very low" risk category (compared to 20.2% of 3,977 inmates in non-file review hearings). Overall, the largest percentage of applicants across the three readiness levels was the 40.1% (150 of 374) in the "medium" readiness category (compared to 40.5% of 3,977 in "low" readiness, the largest category among those in non-file review hearings). In the "release area" of the matrix, the largest percentage of applicants who were the subject of a file review was found in the "very low" risk and "medium" readiness matrix category (30.5%; 114 of 374). In the "defer area" of the matrix, the largest percentage of those who were the subject of a file review was found in the "very high" risk and "low" readiness matrix category (6.1%; 23 of 374).

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[87] See "Board Decision Types" in Section Three.
[88] The "months-to-MRD" findings are included at the request of the Board starting from FY 2016. The specific "months-to-MRD" thresholds (3 months, 6 mos., 14 mos., etc.) are relevant to Board policy and statutory provisions (described above) regarding the options to conduct a file review and/or the decision to defer to the MRD.

Table 15. FY 2019 PBRGI sample - File Reviews: Counts and percentages of parole applicants assigned to each PBRGI risk/readiness matrix combination (n=374)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	106	114	52	272
	% within Very Low Risk	39.0%	41.9%	19.1%	100.0%
	% within Readiness Category	89.8%	76.0%	49.1%	72.7%
	% of Total	28.3%	30.5%	13.9%	72.7%
2 Low	Count	5	19	15	39
	% within Low Risk	12.8%	48.7%	38.5%	100.0%
	% within Readiness Category	4.2%	12.7%	14.2%	10.4%
	% of Total	1.3%	5.1%	4.0%	10.4%
3 Medium	Count	0	10	10	20
	% within Medium Risk	0.0%	50.0%	50.0%	100.0%
	% within Readiness Category	0.0%	6.7%	9.4%	5.3%
	% of Total	0.0%	2.7%	2.7%	5.3%
4 High	Count	3	3	6	12
	% within High Risk	25.0%	25.0%	50.0%	100.0%
	% within Readiness Category	2.5%	2.0%	5.7%	3.2%
	% of Total	0.8%	0.8%	1.6%	3.2%
5 Very High	Count	4	4	23	31
	% within Very High Risk	12.9%	12.9%	74.2%	100.0%
	% within Readiness Category	3.4%	2.7%	21.7%	8.3%
	% of Total	1.1%	1.1%	6.1%	8.3%
Total in Readiness Category	Count	118	150	106	374
	% within Risk Category	31.6%	40.1%	28.3%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	31.6%	40.1%	28.3%	100.0%

Table 16. FY 2019 PBRGI sample - File Reviews: Overall counts and percentages of Parole Board file review decisions by PBRGI advisory recommendations (n=374) *

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	29 7.8%	35 9.4%	64 17.1%
Defer to Mandatory Release Date	Count Percent	27 7.2% *Total Defer = 56* *15.0%*	24 6.4% *Total Defer = 59* *15.8%*	51 13.6% *Total Defer = 115* *30.7%*
Release	Count Percent	9 2.4%	250 66.8%	259 69.3%
Total of PBRGI Recommendations	Count Percent	65 17.4%	309 82.6%	374 100.0%

*Blue (lighter cells) indicates agreement between the Board decision and the PBRGI recommendation and red (darker cells) indicates departure by the Board from the PBRGI recommendation.

Board Decisions (PBRGI File Reviews). Of these 374 file reviews where a PBRGI advisory recommendation was displayed, the Board decided to set 259 (69.3%) applicants for release and to defer 115 (30.7%). Of the 115 deferred, 55.7% (64/115) were categorized as "deferred" and 44.3% (51/115) were categorized as "deferred to MRD." By comparison, for the PBRGI-related "regular" hearings that did not involve a file review (n=3,977), the Board set 41.1% of parole applicants for release and deferred 58.9%. The PBRGI advisory recommendations for the 374 file reviews included 309 (82.6%) recommendations for release and 65 (17.4%) recommendations for deferral. The large percentage of recommendations to release (82.6%) for these file reviews may be attributed to the 83.2% (311 of 374) of applicants placed in the "low" or "very low" risk categories and the 31.6% (118 of 374) placed in the "high" readiness categories (see Table 15).

Board/PBRGI Agreement (File Reviews). Collapsing release and deferral *agreements* on file reviews (between Board decisions and PBRGI recommendations), *81.8% of file review decisions agreed with the PBRGI advisory recommendations* (see Table 16). This combined agreement percentage (81.8%) includes the degree of release agreement (80.9% or 250 agreements within the 309 release recommendations) and the degree of deferral agreement (86.2% or 56 agreements within the 65 defer recommendations). The rate of deferral agreement is 6.5% higher than that

> **Collapsing across all <u>file review</u> decisions, 82% of Board decisions agreed with the PBRGI advisory recommendations.**

of release agreement.

Collapsing release and deferral *departures* on file reviews (between Board decisions and PBRGI recommendations), *18.2% of full Board review decisions departed from the PBRGI recommendations*. This combined departure percentage (18.2%) includes the degree of release departure (19.1% or 59 departures within the 309 release recommendations) and the degree of deferral departure (13.8% or 9 departures within the 65 defer recommendations). From a release perspective, the overall release agreement for file reviews was just over four times larger than the overall release departure, 66.8% versus 15.8%. From a deferral perspective, the overall deferral agreement was just over six times larger than the overall deferral departure, 15.0% versus 2.4%.

Departure Reasons (File Reviews). As mentioned above, statute requires that Board members provide a departure reason when the release application hearing decision departs from the advisory recommendation.[89] The departure reason analysis for the relevant 68 file reviews were included above in the complete presentation of the departure reason findings. A specific review of the 187 reasons (147 unique mentions of reason categories) for the 59 release departures (when the Board decided to defer) referred primarily to concerns regarding risk and/or the applicant's imminent mandatory release and, to a lesser extent, the applicant's inadequate parole plan or untreated criminogenic needs. A specific review of the 12 reasons (10 unique mentions of reason categories) for the nine deferral departures (when the Board decided to release) referred to an imminent mandatory release or that file reviews were directed by statutory provisions (House Bill 2018-1410 or Senate Bill 2019-143).[90]

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[89] See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.
[90] See "Statutory Modifications" in Section Three.

Findings: Full Board Reviews

Sample (Full Board Reviews). The FY 2019 hearing sample included 2,160 total full Board reviews that occurred subsequent to an initial hearing conducted by a Board member.[91] Board members may refer a parole applicant to a full Board review for any reason at the Board member's discretion and must refer to a full Board review if the parole applicant's crime involved violence or a sex offense or if provisions related to Senate Bill 2019-143 are applicable.[92] Typical full Board review decisions are rendered by no fewer than four Board members who must concur and, in specific cases described in statute, by no fewer than five members. Of these 2,160, there were 1,552 full Board reviews for non-sex offenders and 608 full Board reviews for sex offenders. Of the 1,552 reviews eligible for the display of the PBRGI advisory recommendation, the Board's Bypass option was chosen for 11 cases.

PBRGI Decision Matrix Assignment (Full Board Reviews). Table 17 provides the number and percentage of the 1,541 full Board reviews from the FY 2019 PBRGI sample assigned to each of the 15 risk/readiness positions in the PBRGI decision matrix. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer. The largest percentage of applicants in the "release area" of the matrix was found in the "very low" risk/"high" readiness category (27.8% or 429/1,541) and the largest percentage in the "defer area" was found in the "very high" risk/"high" readiness category (6.4% or 99/1,541).

Board Decisions (Full Board Reviews). Of the 1,541 full Board reviews, Board members designated 1,048 (68.0%) applicants for release and 493 (32.0%) for deferral (see Table 18). Of the 11 "bypassed cases," seven were set for release and four were "deferred to MRD." Of the 493 designated for deferral, 393 (79.7%) were deferred to a subsequent hearing date and 100 (20.3%) were deferred to the MRD. The "months-to-MRD" findings for these 1,541 full Board decisions are similar in proportion to the overall full Board findings displayed above in Table 1. The 68.0% rate of release for these full Board reviews was 1.6 times higher than the rate of release for the comparable "regular" hearings (43.5% of 4,4351 hearings). Of these 1,541 reviews, the PBRGI recommended 1,257 (81.6%) individuals for release and 284 (18.4%) for deferral. This slightly higher

> **Of applicants reviewed by the full Board, the PBRGI placed 64% in the "very low" or "low" risk categories and 56% in the "high" readiness category.**

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[91] This analysis was included at the request of the Board starting in FY 2014.

[92] The full Board referral circumstances may be found in Rule 8.00 in *8 C.C.R. 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website: sos.state.co.us/CCR/Welcome.do. See also, "Statutory Modifications" in Section Three.

Table 17. FY 2019 PBRGI sample - Full Board Reviews: Counts and percentages of parole applicants assigned to each PBRGI risk/readiness matrix combination (n=1,541)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	429	213	35	677
	% within Very Low Risk	63.4%	31.5%	5.2%	100.0%
	% within Readiness Category	49.8%	35.0%	49.3%	43.9%
	% of Total	27.8%	13.8%	2.3%	43.9%
2 Low	Count	163	135	6	304
	% within Low Risk	53.6%	44.4%	2.0%	100.0%
	% within Readiness Category	18.9%	22.2%	8.5%	19.7%
	% of Total	10.6%	8.8%	0.4%	19.7%
3 Medium	Count	101	111	9	221
	% within Medium Risk	45.7%	50.2%	4.1%	100.0%
	% within Readiness Category	11.7%	18.3%	12.7%	14.3%
	% of Total	6.6%	7.2%	0.6%	14.3%
4 High	Count	70	61	7	138
	% within High Risk	50.7%	44.2%	5.1%	100.0%
	% within Readiness Category	8.1%	10.0%	9.9%	9.0%
	% of Total	4.5%	4.0%	0.5%	9.0%
5 Very High	Count	99	88	14	201
	% within Very High Risk	49.3%	43.8%	7.0%	100.0%
	% within Readiness Category	11.5%	14.5%	19.7%	13.0%
	% of Total	6.4%	5.7%	0.9%	13.0%
Total in Readiness Category	Count	862	608	71	1,541
	% within Risk Category	55.9%	39.5%	4.6%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	55.9%	39.5%	4.6%	100.0%

Table 18. FY 2019 PBRGI sample - Full Board Reviews: Overall counts and percentages of full Board review decisions by PBRGI advisory recommendations (n=1,541) *

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	**Release**	
Defer	Count	109	284	393
	Percent	7.1%	18.4%	25.5%
Defer to Mandatory Release Date	Count	19	81	100
	Percent	1.2%	5.3%	6.5%
		Total Defer = 128	*Total Defer = 365*	*Total Defer = 493*
		8.3%	*23.7%*	*32.0%*
Release	Count	156	892	1,048
	Percent	10.1%	57.9%	68.0%
Total of PBRGI Recommendations	Count	284	1,257	1,541
	Percent	18.4%	81.6%	100.0%

*Blue (lighter cells) indicates agreement between the Board decision and the PBRGI recommendation and red (darker cells) indicates departure by the Board from the PBRGI recommendation.

release rate by the Board and increased frequency in related PBRGI release recommendations may be traced to the 63.7% (981/1,541) parole candidates found in the PBRGI matrix in either of the two lowest levels of risk and the 55.9% (862/1,541) in the highest level of readiness.

Board/PBRGI Agreement (Full Board Reviews). Collapsing the two sources of *agreement* (between corresponding PBRGI recommendations and Board decisions to release and to defer), *66.2% of full Board review decisions agreed with the PBRGI recommendations* (see Table 18). The combined agreement percentage (66.2%) includes the degree of release agreement (71.0%; 892 of 1,257) and the degree of deferral agreement (45.1%; 128 of 284). The degree of release agreement was 1.6 times larger than the degree of deferral agreement. From a release perspective, overall release agreement for full Board reviews was 2.4 times larger than overall release departure, 57.9% versus 23.7%, respectively.

> **Collapsing across all _full Board_ decisions, 66% of Board decisions agreed with the PBRGI advisory recommendations.**

Collapsing across the two sources of *departure* (between PBRGI recommendations and Board decisions to release and to defer), *33.8% of full Board review decisions departed from the PBRGI recommendations*. The combined departure percentage (33.8%) includes the degree of release departure (29.0%; 365 of 1,257) and the

degree of deferral departure (54.9%; 156 of 284). The degree of deferral departure was 1.9 times larger than the degree of release departure. From a deferral perspective, the overall deferral agreement for full Board reviews was about 1.2 times lower than the overall deferral departure, 8.3% versus 10.1%.

When making full Board review decisions on these particular parole candidates, there was a greater likelihood to agree with the PBRGI advisory recommendation to release than when Board members made decisions alone: 71.0% versus 67.4%[93] release agreements within release recommendations, respectively. Alternatively, full Board decisions were less likely to agree with the PBRGI advisory recommendation to defer than when Board members made decisions alone: 45.1% versus 79.5%[94] defer agreements within defer recommendations, respectively.

Departure Reasons (Full Board Reviews). As mentioned above, statute requires that Board members provide a departure reason when the release application hearing decision departs from the advisory recommendation.[95] This section summarizes the reasons entered by Board members when departing from the advisory recommendation following a full Board review. The process of full Board decision-making does not easily lend itself to the recording of departure reasons. The full Board deliberation and discussion is conducted with no fewer than four, but often with more, members present. Each member may offer a unique perspective on the same decision to release or the same decision to defer. Most often, "full Board decision" was entered as the departure reason, rather than attempting to reflect diverse, but concurring, views expressed during the full Board review or to reflect differing views on a release or defer decision. Nonetheless, a summary of the departure reasons is provided here.

Of the 33.8% (521 of 1,541) of full Board decisions representing a departure from the PBRGI advisory recommendation, there were two decision circumstances that required the Board member to provide reasons for departure: choosing to defer when the recommendation was to release and choosing to release when the recommendation was to defer. Specifically, this meant a departure reason was required for the 156 decisions to release when defer was recommended, representing 10.1% of all full Board decisions and for the 365 decisions to defer or "defer to MRD" when release was recommended, representing 23.7% of all full Board decisions (see Table 18).

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[93] See Table 6.
[94] See Table 6.
[95] See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.

Summary of Departure Reasons: Full Board Decides to Release. For the 156 *deferral* departures, Board members provided 364 total departure reasons and, of these, there were 313 unique mentions of reason categories for these decisions. The Board entered "full Board decision" as the departure reason in 73 instances. Of these 73 instances, "full Board decision" was noted as the sole reason for 52 cases and "full Board decision" was combined with at least one additional reason for 21 cases. For the remaining 83 of 156 cases, at least one reason *other than* "full Board decision" was offered. Overall, Board members mentioned a single category of concern in 60 cases, two categories in 53 cases, and more than two categories 43 cases.

Using the seven departure reason categories described above, along with the "full Board decision" reason, Board members mentioned one of these eight reason categories in 313 instances. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. The percentage of the 156 cases where a departure *category* was mentioned was as follows:[96]

- Full Board decision, 46.8% (73/156 cases where this category was mentioned)
- Demonstrated growth/positive attitude, 39.7% (62 cases)
- Parole plan quality, 38.5% (60 cases)
- Treatment participation considerations, 30.8% (48 cases)
- Performance in the community, 22.4% (35 cases)
- Mitigated or lesser risk, 12.8% (20 cases)
- Program participation considerations, 8.3% (13 cases)
- Adequate time served, 1.3% (2 cases)

Summary of Departure Reasons: Full Board Decides to Defer. For the 365 *release departures*, Board members provided 811 total departure reasons for these decisions to defer. The Board entered "full Board decision" as the departure reason in 283 instances. Of these 283 instances, "full Board decision" was noted as the sole reason in 183 cases and "full Board decision" was combined with at least one additional reason for the remaining 100 cases. For the remaining 82 of 365 cases, at least one reason *other than* "full Board decision" was offered. Overall, Board members mentioned a single category of concern in 203 cases, two categories in 92 cases, and more than two categories 70 cases.

Using the seven departure reason categories described above along with the "full Board decision" reason, Board members mentioned one of the eight reason *categories* in 625 instances. Mentions of multiple

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[96] Percentages total more than 100% because more than one reason category was mentioned in 96 of the 156 cases.

concerns in the same category were counted as a single reference to the category of concern. The percentage of the 365 cases where a departure *category* was mentioned was as follows:[97]

- Full Board decision, 77.5% (283/365 cases where this category was mentioned)
- Risk concerns, 40.5% (148 cases)
- Treatment participation or criminogenic need concerns, 14.8% (54 cases)
- Parole plan quality concerns, 14.2% (52 cases)
- Attitude or presentation concerns, 11.8% (43 cases)
- Need to transition to or stabilize in a community corrections placement, 5.8% (21 cases)
- Time served is inadequate or imminent MRD/SDD, 4.9% (18 cases)
- Program participation concerns, 1.6% (6 cases)

Findings: Decisions Regarding Sex Offenders

In accordance with statute (§17-22.5-404(4)(c)(II), C.R.S.), the Board is not provided a PBRGI advisory recommendation for those labeled "sex offender" and does not use the PBRGI in decision making regarding these parole applicants. The decision by the Board to choose the Bypass option for those labeled "sex offender" in 19 instances was unnecessary and has no impact on the analyses for these hearing records. The statute however indicates that summary information should be provided for all decisions (§17-22.5-404(6)(a), C.R.S.).

As mentioned above, those labeled, "sex offender" (and the related sex-offense specific treatment allocation for those labeled, "sex offender") was redefined by CDOC Administrative Regulation 700-19 to include those with a "needs level" of S5 (judicial determination of sex offense). For individuals classified in CDOC as sex offenders, pursuant to §17-22.5-404(4)(c)(II), C.R.S., parole release decisions are guided by criteria created by the Sex Offender Management Board (SOMB).[98] Based on information from the CDOC Sex Offender Treatment and Monitoring Program that inmates assessed at S3 (institutional behavior) or S4 (prior sex offense) will likely receive treatment referrals, the Board decided to continue to evaluate these inmates as sex offenders. Most individuals labeled a "sex offender" receive an indeterminate sentence (and

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[97] Percentages total more than 100% because more than one reason category was mentioned in 162 of the 365 cases.

[98] These criteria may be found in the document entitled, *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (2019)*, in *Appendix R: Parole Guidelines for Discretionary Release on Determinate-Sentenced Sex Offenders* ("determinate criteria") and in *Appendix V: Lifetime Supervision Criteria - Section LS 1.000-Criteria for Release from Prison to Parole* and *Section LS 4.000-Criteria for Successful Progress in Treatment in Prison: Sex Offender Treatment and Monitoring Program* ("indeterminate criteria") which is available at the SOMB website: dcj.colorado.gov/somb-standards-bulletins.

do not have a related mandatory release date and are more likely to be categorized an "S5") and some receive a determinate sentence (and do have a related mandatory release date and more often are those found in the "S3" or "S4" categories).

When considering the parole application of an individual labeled a sex offender, it is the practice of the Board to refer some of these individuals to the full Board for review. Those who are not considered appropriate for release are deferred at the time of the "regular" hearing without a referral to full Board consideration. Therefore, it is the practice and policy of the Board to release these specific parole applicants only after a full Board review is conducted.

Of the total FY 2019 sample of 8,594 hearings and reviews, 1,756 were conducted for individuals labeled a "sex offender." Of the 1,756, 89.7% (1,576) were *classified by CDOC* as a sex offender (as mentioned above, an "S5") and the remainder were categorized *by the Board* as a sex offender, specifically 7.5% (131 an "S3") and 2.8% (49 an "S4"). Of the total 1,756 cases for individuals categorized as a "sex offender," 1,148 decisions were rendered in initial ("regular") hearings and 608 decisions were rendered following a full Board review.

 The 1,148 "regular" hearing decisions included 41 (2.3%) individuals set for release[99] and 1,107 (96.4%) who were deferred. As described above, 608 individuals were referred to the full Board for further review. Of these 608 individuals, the full Board set 352 (57.9%) for release and 256 (42.1%) were deferred. Combining the decision outcomes of "regular" hearings and full Board reviews, the overall decision percentages for the 1,756 individuals labeled a sex offender were: 22.4% (393) set for release and 77.6% (1,363) deferred. Of the 1,148 "regular" hearings involving those labeled a sex offender, 208 (18.1%) were conducted as a file review, following which five were set for release.

As mentioned above, some individuals labeled a sex offender receive an indeterminate sentence (and do not have a related mandatory release date) and some receive a determinate sentence (and do have a related mandatory release date). Rather than exclude those with an indeterminate sentence from the "months-to-MRD" analysis, these cases were placed in the category, "More than 14 months to MRD." Of

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[99] There are no records of full Board reviews or full Board decisions for these 41 cases. These releases may be due to atypical circumstances or the full Board decision data may simply be missing from the hearing record.

the 393 set for release, 0.5% (2) were within 3 months to MRD, an additional 3.1% (12) were within 6

months to MRD, an additional 11.2% (44) were within 14 months to MRD, and the remaining 85.2% (335)

were more than 14 months to MRD. Of the 1,363 who were deferred, 7.1% (97) were within 3 months to

MRD, an additional 9.7% (132) were within 6 months to MRD, an additional 14.7% (201) were within 14

months to MRD, and the remaining 68.5% (933) were more than 14 months to MRD. The large percentages

in the "14 months to MRD" category, whether for those set for release (85.2%) or deferred (68.5%), simply

reflects the individuals placed in this category with no MRD due to their indeterminate sentence. The

counts and percentages of decisions to release or to defer *within* the "months-to-MRD" categories can be

found above in Table 1.

Summary: FY 2019 Findings

These FY 2019 analyses represent the sixth *full* year of Board hearings following the FY 2013 implementation. The FY 2019 discretionary hearings sample included 8,594 release application hearings conducted by members of the Parole Board and finalized between July 1, 2018 and June 30, 2019.

Roughly 8,000 hearings records were excluded from the sample because the record was a duplicate, related decisions were not considered discretionary or the decision was considered moot. For example, hearings were excluded when a deferral was due to the inmate's absence, when a release was based on a court order or when there was a mandatory re-parole following a parole revocation.

At the request of the Board, starting in FY 2017, pending releases that are unresolved at the end of the fiscal (reporting) year, are retained in the sample, rather than being excluded as cases with pending decisions. Release decisions may be reversed at any time by the Board prior to the inmate's release date, primarily due to the behavior of the inmate (for example, a violation of the institutional behavior code). These potential reversals do not reflect the original intent of the Board to grant an inmate's release. Therefore, these records with pending outcomes were retained, thereby reflecting the Board's intent to release.

Sample. The following is a summary of the FY 2019 hearing decision sample and subsamples:

o Of the 8,594 parole application hearings, 6,464 were "regular" hearings and 2,160 were full Board reviews. A "regular" hearing is conducted by one member (or two Board members when the inmate is serving a life sentence with the possibility of parole). Of this same overall hearing total, 6,838 hearings were conducted for those who were not labeled a sex offender and 1,756 were conducted for those who were labeled a sex offender. Of the 8,594 cases, the Board conducted 1,501 file reviews.[100]

o Of the 6,434 "regular" hearings, 5,286 cases involved those who were not labeled a sex offender and 1,148 cases involved those who were labeled a sex offender.[101] Of the 2,160 full Board reviews, 1,552 reviews involved those who were not labeled a sex offender and 608 reviews involved those who were labeled a sex offender. Of the 5,286 and 1,148 subgroups of "regular" hearings, the Board conducted files reviews in 1,293 (non-sex-offender) cases and 208 (sex offender) cases, respectively.

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[100] File reviews and full Board reviews do not involve a direct interview of the inmate. See "Board Hearing Types" in Section Three.

[101] There are separate guidelines for the release of individuals labeled a sex offender. The explanation for separating the sex offender and the non-sex offender samples can be found on page 18.

FY 2019 Parole Board Decisions (n=8,594)
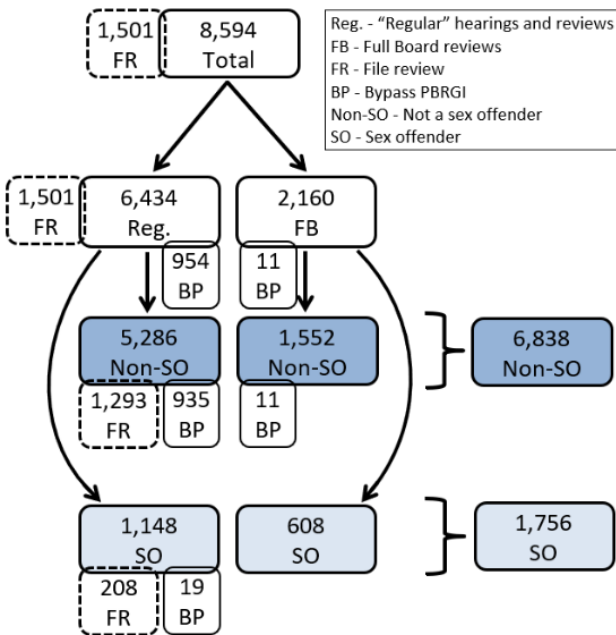
o   Of the 8,594 parole applications, the Board chose the option to bypass the PBRGI advisory recommendation in 965 instances (965 of 8,594 or 11.2%). There were 946 bypasses of the 6,838 cases where the PBRGI advisory recommendation was applicable and would have previously been displayed (13.8% of non-sex offenders) and 19 bypasses of the 1,756 cases where it was not applicable and would not have been displayed (1.1% of those labeled, "sex offender").

o   The PBRGI sample of hearings included the 4,351 "regular" hearings and 1,541 full Board reviews of non-sex offenders where the advisory recommendation was not bypassed.

Findings. The following is a summary of the FY 2019 findings.

o   <u>General Findings.</u> Collapsing across all hearing and inmate types in the FY 2019 sample of 8,594 cases, the Board decision was to designate 3,650 (42.5%) parole applicants for release and to defer 4,944 (57.5%).

  ▪ Of the 6,434 "regular" hearings in the FY 2019 sample (collapsing across inmate types), the Board decision was to designate 2,243 (34.9%) parole applicants for release and to defer 4,191 (65.1%).

  ▪ Of the 2,160 full Board reviews in the FY 2019 sample (collapsing across inmate types), the Board decision was to designate 1,407 (65.1%) parole applicants for release and to defer 753 (34.9%).

  ▪ Of the 6,838 cases involving non-sex offenders in the FY 2019 sample (collapsing across hearing types), the Board decision was to designate 3,257 (47.6%) parole applicants for release and to defer 3,581 (52.4%).

  ▪ Of the 1,756 cases involving those labeled a sex offender in the FY 2019 sample (collapsing across hearing types), the Board decision was to designate 393 (22.4%) parole applicants for release and to defer 1,363 (77.6%).

o   <u>Bypass Findings.</u> Of the 965 instances where the Bypass option was chosen, the Board decision was to designate 318 (33.0%) parole applicants for release and to defer 647 (67.0%). Of the 647 deferred

applicants, 267 (41.3%) were deferred to a subsequent hearing date and 380 (58.7%) were deferred to their mandatory release date because the mandatory release would occur prior to the next scheduled hearing date (also known as, "deferred to MRD").

- Of the 965 cases, 949 (98.3%) were conducted as a file review and 16 (1.7 %) were conducted as a non-file review (by phone, video or in person).

- Of the 965 bypassed cases, 308 (31.9%) were within 3 months to MRD (of which 75.6% were deferred), an additional 433 (44.9%) were within 6 months to MRD (72.5% deferred), an additional 130 (13.5%) were within 14 months to MRD (62.3% deferred), and the remaining 94 (9.7%) were more than 14 months to MRD (20.2% deferred).

o PBRGI Findings. For the FY 2019 PBRGI sample of 4,351 "regular" hearings, the Board designated 1,894 (43.5%) inmates for release and 2,457 (56.5%) inmates for deferral (of which 1,874 were deferred to a subsequent hearing date and 583 were "deferred to MRD"). Of the 4,351 cases in the PBRGI sample, the PBRGI recommended 2,139 (49.2%) inmates for release and 2,212 (50.8%) for deferral.

- Recombining the PBRGI sample and 935 bypassed cases that would have been part of the PBRGI sample (combined n=5,286), the Board designated 2,202 (41.7%) for release and 3,084 (58.3%) for deferral.

- Collapsing across all the decisions in FY 2019, *73.5% of Board member decisions agreed with the PBRGI advisory recommendation* and 26.5% of decisions departed from the PBRGI advisory recommendation. The overall agreement percentage (73.5%) combines the rate of release agreement (67.4%) and the rate of deferral agreement (79.5%). The overall departure percentage (26.5%) combines the rate of release departure (32.6%) and the rate of deferral departure (20.5%).

- Of the PBRGI "regular" hearing sample of 4,351, 43.1% were categorized as "low" or "very low" risk, 60.5% as "high" or "medium" readiness, and 30.4% in both these lower risk *and* higher readiness categories. Alternatively, the PBRGI categorized 39.5% as "high" or "very high" risk, 74.3% as "medium" or "low" readiness, and 32.1% in both these higher risk *and* lower readiness categories.

- Of the PBRGI "regular" hearing sample of 4,351 parole applicants, 72 (1.7%) were within 3 months to MRD (of which, 73.6% were deferred), an additional 273 (6.3%) were within 6 months to MRD (of which, 47.3% were deferred), an additional 1,171 (26.9%) were within 14 months to MRD (of

which, 52.0% were deferred), and 2,835 (65.2%) were more than 14 months to MRD (of which, 58.8% were deferred).

- Applying the current PBRGI sample selection criteria[102] to all seven reporting years from FY 2013 to FY 2019, the Board designated 39.2%, 32.3%, 32.5%, 35.8%, 35.4%, 36.4% and 43.5% of inmates for release, respectively, while the PBRGI recommended 53.6%, 49.8%, 51.5%, 53.7%, 48.8%, 48.2% and 49.2% of inmates for release, respectively.

- Applying the current PBRGI sample selection criteria[103] to all seven reporting years, FY 2013 to FY 2019, the percentage of Board decision/PBRGI recommendation agreement was 69.3%, 72.6%, 72.6%, 72.2%, 73.6%, 73.0% and 73.5%, respectively. From FY 2013 to FY 2019, there has been a 6.1% increase in Board member agreement with the PBRGI advisory recommendation.

- *Of the PBRGI advisory recommendations to release*, the Board decision *agreed* in 67.4% (1,441/2,139) of cases. Of these 1,441 decisions, 1,048 (72.7%) parole applicants were categorized as "very low" or "low" risk, 1,379 (95.7%) were categorized with "high" or "medium" readiness and 986 (68.4%) occupied both these lower risk and higher readiness categories. The most frequent matrix position within the 1,441 release agreements was found for those who were "very low" in risk and "high" in readiness (22.6%; 326 of 1,441).

- *Of the PBRGI advisory recommendations to defer*, the Board decision *agreed* in 79.5% (1,759/2,212) of cases. Of these 1,759 decisions, 1,200 (68.2%) parole applicants were categorized as "high" or "very high" risk, 1,683 (95.7%) were categorized with "medium" or "low" readiness, and 1,124 (63.9%) occupied both these higher risk and lower readiness categories. The most common of the 1,759 deferral agreements was found for those who were "very high" in risk and "low" in readiness (33.3%; 586 of 1,759).

- *Of the PBRGI advisory recommendations to release*, the Board decision *departed* in 32.6% (698/2,139) of cases. Of these 698 instances, 545 (78.1%) parole applicants were categorized by the PBRGI as "low" or "very low" risk, 488 (69.9%) were in the "medium" or "high" readiness categories, and 335 (48.0%) were in both these higher risk and lower readiness categories. The most frequent matrix position within the 698 release departures was found for those who were "very low" in risk and "low" in readiness (30.1%; 210 of 698).

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[102] The sample selection criteria are described in "FY 2019 Sample Selection" on page 29. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.
[103] See Footnote 102.

- *Of the PBRGI advisory recommendations to defer*, the Board decision *departed* in 20.5% (453/2,212) cases. Of these 453 instances, 398 (87.9%) parole applicants were categorized by the PBRGI in "high" or "very high" risk, 327 (72.2%) in "low" or "medium" readiness, and 272 (60.0%) in both these higher risk and lower readiness categories. Most of the 453 deferral departures were found for those who, although "very high" in risk, were either "high" (27.8%; 126 of 453) or "medium" (30.7%; 139 of 453) in readiness.

- The departure reasons entered by the Board for the *decisions to release rather than defer* included (in descending order of occurrence) that these individuals had presented a comprehensive parole plan; had successfully completed treatment to address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management); had demonstrated growth and positive attitude; ; had mitigated their higher risk in one or more ways; had been successful in community placements; had successfully completed programs to prepare for re-entry; and/or had served adequate time.

- The departure reasons entered by the Board for the *decisions to defer rather than release* included (in descending order of occurrence) concerns related to the severity of the crime of conviction or behaviors that represent risks to the public (for example, institutional violations and violence); untreated criminogenic needs (for example, impulse control deficits, antisocial attitudes/values, substance abuse, and anger issues); a lack of accountability for one's actions or minimizing the impact of their crime; the inadequate quality of the parole plan (for example, housing issues); the need for additional time to stabilize in community corrections placements; inadequate time served relative to the sentence; and/or the need for additional program participation.

- File Review Findings. The FY 2019 sample of 8,594 hearings included 1,501 (17.5%) file review decisions, which do not require the presence of the inmate as defined in statute.[104] Of these 1,501 file reviews, 1,293 involved those who were not labeled a sex offender and 208 involved those labeled a sex offender. Since file review eligibility was introduced into Board policy in 2013 and expanded in statute between 2015 and 2019, the use of file reviews by the Board has increased nearly 525% from 2.8% of all "regular" hearings in the FY 2014 sample to 17.5% in the FY 2019 sample. An analysis of these file reviews found:

  - Of the 1,501 total file reviews, 562 parole applicants (37.4%) were set for release and 939 (62.6%)

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[104] The statutory conditions under which the Board may choose to conduct a file review are described in "Board Hearing Types" and "Statutory Modifications" in Section Three.

were deferred. Of the 562 applicants set for release, 90 (16.0%) were within 3 months to MRD, an additional 143 (25.4%) were within 6 months to MRD, an additional 95 (16.9%) were within 14 months to MRD, and the remaining 234 (41.6%) were more than 14 months to MRD.

- Of the 939 (62.6%) who were deferred following a file review, 383 (25.5%) were deferred to a subsequent hearing date and 556 (37.0%) were "deferred to MRD." Of these 939 applicants who were deferred, 347 (37.0%) were within 3 months to MRD, an additional 422 (44.9%) were within 6 months to MRD, an additional 114 (12.1%) were within 14 months to MRD, and the remaining 56 (6.0%) were more than 14 months to MRD.

- Of the 1,293 file reviews conducted for non-sex offenders, the Board chose to bypass the PBRGI advisory recommendation in 919 (71.1%) instances leaving 374 file reviews for which an advisory PBRGI recommendation was displayed.

- Of the 1,293 file reviews for the PBRGI-eligible parole applicants, 557 (43.1%) were set for release and 736 (56.9%) were deferred. Of the 919 bypassed file review cases, Board members designated 298 (32.4%) inmates for release and 621 (67.6%) for deferral (of which 256 were deferred to a subsequent hearing date and 365 were deferred to their impending mandatory release date).

- Of the 374 inmates subject to a file review in the PBRGI sample, 282 (75.4%) met the "very low" or "low" risk criterion, an additional 72 (19.3%) met the "6-months-to-MRD" criterion (of which 36 were within 3 months to MRD), and the remaining 20 (5.3%) met one or more of the other possible file review criteria.

- Of the 374 PBRGI-related file reviews, Board members designated 259 (69.3%) inmates for release and 115 (30.7%) for deferral (of which 64 were deferred to a subsequent hearing date and 51 were deferred to their impending mandatory release date). Of the same 374 file reviews, the PBRGI recommended 309 (82.6%) for release and 65 (17.4%) for deferral.

- The 374 inmates in the PBRGI sample who were the subject of a file review were placed in these PBRGI risk/readiness matrix categories: 72.7% were in the "very low" risk category (compared to 20.2% of inmates in non-file review hearings) and 28.3% were found in the "low" readiness category (compared to 40.5% of inmates in non-file review hearings).

- Of the 374 decisions, collapsing release and deferral agreements overall (between corresponding Board decisions and PBRGI recommendations to defer or to release), *81.8% of file review decisions agreed with the PBRGI recommendations.*

- This combined agreement percentage (81.8%) includes the degree of release agreement (80.9% or 250 agreements within the 309 release recommendations) and the degree of deferral agreement (86.2% or 56 agreements within the 65 defer recommendations).

o Full Board Findings. There was a total of 2,160 full Board reviews in the FY 2019 sample with 1,552 reviews for non-sex offenders and 208 reviews for sex offenders. Overall, 1,407 individuals (65.1%) were designated for release and 753 (34.9%) were deferred. Of the 1,552 full Board hearings with non-sex offenders, the Board bypassed the PBRGI advisory recommendation in 11 cases. Of the remaining 1,541 full Board review decisions involving an advisory recommendation, analyses found:

- Full Board reviews designated 1,048 (68.0%) for release and 493 (32.0%) were deferred. The PBRGI recommended 1,257 (81.6%) for release and 284 (18.4%) for defer. The PBRGI categorized 63.3% of the 1,257 individuals recommended for release as "very low" or "low" risk and 79.3% as "medium" or "high" readiness, hence the large percentage of advisory release recommendations.

- Collapsing the two sources of agreement (between the PBRGI recommendations and Board decisions to release and to defer), *66.2% of full Board review decisions agreed with the PBRGI recommendations.*

- Compared to individual Board member decisions, the full Board reviews designated a larger percentage of individuals for release (43.5% versus 68.0%, respectively) and a smaller percentage for deferral (56.5% versus 32.0%, respectively).

- Compared to individual board member decisions, the agreement between full Board reviews and PBRGI recommendations to defer was lower (79.5% versus 45.1%, respectively) and the agreement between full Board reviews and PBRGI recommendations to release was higher (67.4% versus 71.0%, respectively).

o Findings Regarding Sex Offenders. As mentioned above, a PBRGI recommendation is not displayed for those labeled a sex offender. When considering the parole application of an individual labeled a sex offender, it is the practice of the Board to refer some of these individuals to the full Board for review. Those who are not considered appropriate for release are deferred at the time of the "regular" hearing without a referral to full Board consideration. Therefore, it is the practice and policy of the Board to release sex offenders only after a full Board review. The findings regarding parole application decisions for those labeled a sex offender are as follows:

- Of the 1,756 individuals labeled a sex offender who were seen in initial ("regular") hearings, 2.3% (41) were released,[105] 63.0% (1,107) were deferred, and 34.6% (608) were referred to the full Board for further review. Of the 608 individuals referred to full Board review, 57.9% (352) were set for release and 42.1% (256) were deferred.

- Combining the decision outcomes of "regular" hearings and full Board reviews, the overall decision percentages for the 1,756 individuals labeled a sex offender were: 22.4% (393) set for release and 77.6% (1,363) deferred.

- Of the 1,148 "regular" hearings involving those labeled a sex offender, there were 208 (18.1%) file reviews of which five individuals (2.4%) were released.

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[105] There are no records of full Board reviews or full Board decisions for these 41 cases. These releases may be due to atypical circumstances or the full Board decision data may simply be missing from the hearing record.

Appendices

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APPENDIX A

COLORADO STATE BOARD OF PAROLE

The mission of the Parole Board is to increase public safety by evaluating an individual's potential for successful reintegration to the community through the use of innovative evidence informed practices.

BOARD MEMBERS (Term)

Kristen Hilkey, Chair*	(2021)
Chad Dilworth, Vice Chair	(2022)
Darlene Alcala	(2022)
Michelle Geng	(2022)
Jason Guidry	(2022)
Daric Harvey	(2023)
Brandon W. Mathews*	(2023)
Joe Morales*	(2022)
Davis Talley	(2023)
Denise K. Balazic, Former Member*	-
Rebecca Oakes, Former Member*	-
Alfredo Pena, Former Member*	-
Alexandra Walker, Former Member*	-

ADMINISTRATIVE HEARING OFFICERS
Dan Casias
Tom Waters

The list includes the names and positions of current and former Board members. **An asterisk (*) identifies the members who conducted release application hearings that are reflected in this FY 2019 report**. Members' terms expiring on June 30 of the year in parentheses.

Additional information on the Colorado State Board of Parole is available at, *paroleboard.colorado.gov*

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Colorado State Board of Parole Decisions: FY 2019 Report

APPENDIX B

**Parole Board Release Guideline Instrument:
Item and Matrix Descriptions**

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Parole Board Release Guideline Instrument: Item and Matrix Descriptions

Introduction

Pursuant to §17-22.5-107(1), C.R.S., the DCJ, in consultation with the State Board of Parole, developed the Parole Board Release Guideline Instrument (PBRGI). The following elements comprise the PBRGI:

- The PBRGI risk items, which combined, assign inmates to a risk level,
- The PBRGI readiness items, which combined, assign inmates to a readiness level,
- The PBRGI decision matrix with five levels of risk and three levels of readiness, and
- The PBRGI advisory decision to release or defer, based on the decision matrix assignment.

PBRGI Risk Items and Readiness Items

The original draft of the parole release guideline was developed by the Post Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice. This document, approved by the full Commission, served as the source for the recidivism risk and parole readiness items.

These items reflect the parole release policy considerations in statute, §17-22.5-404(4), C.R.S. DCJ staff, in consultation with staff of the Office of Planning and Analysis (OPA) at the Colorado Department of Corrections (CDOC) and the Office of Information Technology at CDOC and Board members, selected reliable variables to represent each of the policy elements included in the draft administrative release guideline.

Eight variables comprise the risk items and five variables comprise the readiness items of the PBRGI (see Figure A1). Each of the PBRGI items is described below along with a note indicating whether the category assignment is reduced or augmented by the item score.

> **The original draft of the parole release guideline was developed by the Post Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice.**

Risk Items

Item #1: The Colorado Actuarial Risk Assessment Scale. The CARAS is an actuarial risk assessment instrument which, pursuant to §17-22.5-404(2), C.R.S., is developed by DCJ for use by the Parole Board when making release decisions. The CARAS is a risk scale that predicts recidivism following a release from prison.[106] The CARAS score is based on static (unchangeable) risk factors, for

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[106] The current CARAS V6 recidivism rates by risk category are: Very Low, 14.7%; Low, 28.1%, Medium, 42.5%, High, 63.2%, and Very High, 77.8%. Recidivism is defined as at least one technical violation, arrest, or felony filing at any time during a 5-year period following release. For additional information on the CARAS V6, see ors.colorado.gov/ors-risk.

example, current age, number of current conviction charges and number of previous incarcerations. Inmates are assigned to one of five risk categories that range from "very low" to "very high" risk. The assigned CARAS risk category serves as the baseline risk assignment in the risk algorithm.[107]

Item #2: *Code of Penal Discipline* / Victim Threat. Any inmate with a conviction of a Class II: 25c offense, Harassment of Victim, is assigned to the highest level of risk.[108] The baseline risk assignment is not altered for inmates without such a conviction.

Item #3: *Code of Penal Discipline* / Class I Offense. Any inmate with a conviction for a Class I offense during the previous 12 months is re-assigned to the highest level of risk. Inmates with no Class I offense in the last 12 months receive a fractional point reduction in risk (in other words, a partial category reduction).

Item #4: *Code of Penal Discipline* / Class II Offense. Any inmate with a conviction for a Class II offense, other than Harassment of Victim, during the previous three months is re-assigned two levels higher than the baseline category of risk. For example, an inmate whose baseline risk assignment was "very low" would be shifted to "medium" risk. Inmates with no Class II offense in the last three months receive a fractional category reduction in risk.

Item #5: Escape/Abscond or Attempt. The existence of one or more escapes/absconds or attempts results in the inmate being advanced two categories of risk. The baseline risk assignment is not altered for inmates with no escape/abscond or attempts.

Item #6: 60 Years of Age or Older (Risk moderator). The baseline risk assignment is reduced by two categories for inmates who are 60 years of age or older. The baseline risk assignment is not altered for inmates who have not reached the age of 60.

Item #7: Medical Condition Reduces Risk of Re-Offense (Risk moderator). The baseline risk assignment is reduced by two categories for inmates whose record indicates a debilitating medical condition that reduces the risk of re-offense. The baseline risk assignment is not altered for inmates who do not have such medical conditions.

Item #8: Manageable in the Community (Risk moderator). *This variable is derived from a rating by the Board member conducting the parole application hearing.* Based on the review of an inmate's record and information gathered during the interview conducted during parole application hearing, Board members rate whether or not they expect a greater likelihood of success for the individual if transitioned to the community. The baseline risk assignment is reduced by one category for individuals who are expected by the member to be successful if placed under community supervision. The baseline risk assignment is not altered for individuals who are not assessed by the member to be successful under community supervision.

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[107] Developed and validated pursuant to §17-22.5-404(2)(a), C.R.S., CARAS, Version 6 (2015) has an AUC=.75.
[108] See the CDOC *Administrative Regulation 150-01*, Class II: 25(c) at, cdoc.colorado.gov/about/department-policies.

Readiness Items

Item #9: Level of Service Inventory-Revised. The LSI-R total score serves as a modified baseline in the readiness algorithm.[109] The 54-item LSI-R is a measure of inmates' criminogenic needs and, based on the total score, inmates are assigned to one of four actuarially-determined readiness categories. The LSI-R is a modified baseline because this item, together with the LSI Rater Box item,[110] is weighed equally with the remaining items in the readiness algorithm.

Item #10: Level of Service Inventory-Rater Box Average. The average of the 13 Rater Box items on the LSI-R contributes points to the overall readiness total. The LSI-R Rater Box items score inmates on positive adjustment characteristics. The LSI Rater Box average, in combination with the LSI-R total score category, is weighed equally with the remaining items in the readiness algorithm.

Item #11: Program Participation / Progress. *This variable is derived from a rating by the Board member conducting the parole application hearing.* The Board member provides a rating of the inmate's enrollment, participation, and progress in CDOC programs. The assignment of points does not penalize inmates who are wait-listed for programs or, for whatever reason as determined by the Board member, inmates for whom current program participation is considered not applicable. Points assigned to the ratings are added to the overall readiness total.

Item #12: Treatment Participation / Progress. *This variable is derived from a rating by the Board member conducting the parole application hearing.* The Board member provides a rating of the inmate's participation and progress in CDOC treatment. The assignment of points does not penalize inmates who are wait-listed for treatment or, for whatever reason as determined by the Board member, inmates for whom current treatment is considered not applicable. Points assigned to the ratings are added to the overall readiness total.

Item #13: Parole Plan. *This variable is derived from a rating by the Board member conducting the parole application hearing.* The Board member provides a rating of the quality and thoroughness of the inmate's parole plan. Considerations of the parole plan may include the provision for housing, parole location, work, education, treatment, parole sponsor, social support, vocational/leisure activities and other transition factors. Points assigned to the ratings are added to the overall readiness total.

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[109] The LSI is an assessment tool comprised of 54 items across ten different subcomponents: criminal history, education/employment, financial, marital/family, accommodations, leisure/recreation, companions, alcohol/drug problems, emotional/personal, and attitudes/orientation. Each item is scored either 0 or 1, where a point indicates that an item is true. Points are totaled with a higher overall score indicating greater needs for service.

[110] Thirteen of the 54 items are considered dynamic factors that can change to reflect current offender experiences and characteristics. These items are rated on a scale from 0 to 3 (in addition to the item score). The 13 ratings are then totaled to obtain a rater score with higher scores indicating more pro-social influences in an offender's life.

Figure A1. PBRGI risk and readiness variables and algorithm calculations and categories

DECISION ALGORITHM VARIABLES

RISK VARIABLES (- reduces, + augments, x no affect)	READINESS VARIABLES (- reduces, + augments)

#1 Colorado Actuarial Risk Assessment Scale (Risk baseline)
    (1) Very Low (1 - 23)
    (2) Low (24 - 31)
    (3) Medium (32 - 36)
    (4) High (37 - 43)
    (5) Very High (44 - 79)
	#9 Level of Service Inventory: Total Score (Readiness baseline)
	    (0) Low (39 - 54)
	    (1) Medium (30 - 38)
	    (2) High (21 - 29)
	    (3) Very High (0 - 20)

#2 *Code of Penal Discipline*: Victim Threat
  (During period of incarceration)
  (x) None
  (+) Yes
	#10 Level of Service Inventory: Rater Boxes
	  (+) Yes (Avg. 2.50 - 3.00)
	  (+) Yes (Avg. 2.00 - 2.49)
	  (-) No (Avg. 0.50 - 1.99)
	  (-) No (Avg. 0.00 - 0.49)

#3 *Code of Penal Discipline*: Class I Offense
  (-) None in past 12 months
  (+) At least 1 in past 12 months
	#11 Program Participation/Progress*
	  (+) Good outcome/ intent -or- NA /Wait listed
	  (+) Acceptable outcome/intent
	  (-) Weak/unclear outcome/intent
	  (-) Poor outcome/intent

#4 *Code of Penal Discipline*: Class II Offense
  (Other than Victim Threat)
  (-) None in past 3 months
  (+) At least 1 in past 3 months
	#12 Treatment Participation/Progress*
	  (+) Good outcome/ intent -or- NA /Wait listed
	  (+) Acceptable outcome/intent
	  (-) Weak/unclear outcome/intent
	  (-) Poor outcome/intent

#5 Escape/Abscond or Attempt
  (x) None
  (+) Yes, Escape/Abscond or Attempt
	#13 Parole Plan*
	  (+) Good
	  (+) Acceptable
	  (-) Weak
	  (-) Poor

Risk moderators **#6** (-) Yes, 60 yrs. or older **#7** (-) Yes, med. condition reduces reoffense risk **#8** (-) Yes, manageable in community* *(*PB Input)*	*(*PB Input)*

DECISION ALGORITHM COMPUTATIONS AND CATEGORIES

Risk Calculation:
CARAS + COPD: Victim + COPD: Class I + COPD: Class II + Esc/Abs + Risk moderators = Risk Point Total

Risk Categories: 1) Very Low = 1.99 or less risk points   4) High = 4.00 - 4.99
                  2) Low = 2.00 - 2.99   5) Very High = 5.00 or above
                  3) Medium = 3.00 - 3.99

Readiness Calculation:
(LSI: Total Score + LSI: RB + Program + Treatment + Plan) / 5 = Readiness Point Average

Readiness Categories: 1) Low = 0.00 - 1.99   3) High = 3.00 or above
                          2) Medium = 2.00 - 2.99

PBRGI Algorithms and Decision Matrix

The first item in the risk dimension (Item #1: CARAS) and the first item in the Readiness dimension (Item #9: LSI) determine a baseline level for each inmate on risk and on readiness. The remaining items in the risk or readiness dimension determine whether the inmate is shifted up or down the levels of the dimension. The risk algorithm is calculated by the simple addition of points received for each of the eight risk items and the total number of points is associated with a particular risk level. The readiness algorithm is based on the calculated average of the points received for each of the five readiness items and the average is associated with a particular readiness level (see Figure A1.).

Placement in the Matrix. As detailed in Figure A1, computations of the risk algorithm *total score* and the readiness algorithm *average score* result in the assignment of each inmate to a risk and a readiness level:

Risk Levels

Very Low (best candidates for release)
Low
Medium
High
Very High (best candidates for defer)

Readiness Levels

High (best candidates for release)
Medium
Low (best candidates for defer)

The combination of the risk and readiness levels places an inmate into one of the 15 categories in the PBRGI decision matrix. The risk by readiness decision matrix comprising the five risk and three readiness levels can be found in Figure A2. Each decision matrix risk/readiness combination is associated with an advisory release decision recommendation either to "RELEASE" the inmate to parole or to "DEFER" the inmate to a subsequent parole consideration hearing, continuing the period of incarceration.

Note that all parole release candidates falling in the "very low risk" category are recommended for release; whereas, all those falling in the "very high risk" category are recommended for deferral.[111] Note also that the recommendation related to the middle of the matrix is dependent on the combination of the two dimensions. For example, the recommendation for an inmate at "medium" readiness differs depending on the risk placement.

Inmates assigned to the lower risk/higher readiness combinations (the upper left area of the matrix) would be considered the better candidates for release and those assigned to the higher risk/lower readiness combinations (the lower right area of the matrix) would be considered the better candidates for deferral.

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[111] The advisory recommendation to release or defer for each level of risk and readiness was assigned by the original draft administrative guideline instrument.

Figure A2. Advisory release decision recommendation matrix with risk and readiness categories and associated recommendations

ADVISORY RELEASE DECISION RECOMMENDATION MATRIX			
RISK CATEGORY	**READINESS CATEGORY**		
	3 High	**2** Medium	**1** Low
1 Very Low	RELEASE (Best candidates for release)	RELEASE	RELEASE
2 Low	RELEASE	RELEASE	DEFER
3 Medium	RELEASE	RELEASE	DEFER
4 High	RELEASE	DEFER	DEFER
5 Very High	DEFER	DEFER	DEFER (Best candidates for defer)