Parole Board Decisions
FY 2017 Release Guidelines Report
- An FY 2010 Commission Initiative -

Kevin Ford, Division of Criminal Justice
Department of Public Safety

Presentation to the Colorado Commission on Criminal and Juvenile Justice
May 11, 2018
CCJJ Recommendation
FY10-PIS03. Introduce a structured decision-making guide.

• Creation of the Colorado Parole Board Release Guidelines Instrument;
• Include in the legislative declaration (C.R.S. 17-22.5-404) that the guidelines reflect evidence-based practices by prioritizing public safety and actuarially-determined risk, criminogenic needs, and offender readiness for parole;
• Organize and streamline existing information;
• Promote consistency in parole decision making; and
• Allow for systematically collecting data on parole decision making.

• **Guidelines development** - In consultation with the Board, DCJ mandated to develop administrative release guideline (§17-22.5-107(1)), and DOC mandated to develop administrative revocation guideline (§17-22.5-107(2))
  - **Release/revocation factors** - release considerations to include thirteen non-exclusive decision factors (§17-22.5-404(4)), and revocation considerations to include nine non-exclusive decision factors (§17-22.5-404(5)).

• **Annual report** - Board and DCJ are mandated to issue an annual report to the General Assembly regarding the outcomes of decisions by the Board (§17-22.5-404(6)(e)(I), C.R.S.).
GUIDELINES DEVELOPMENT (§17-22.5-107(1))

Statute specifically states that the guidelines must...

Provide a consistent framework to evaluate and weigh:

- specific statutory release decision factors,
- based on a structured decision matrix, and
- offer an advisory release decision recommendation.
Statutory: RELEASE DECISION FACTORS (§17-22.5-404(1))

1. victim statement;
2. actuarial risk of reoffense;
3. criminogenic need level;
4. program or treatment participation and progress;
5. institutional conduct;
6. adequate parole plan;
7. threat/harass victim or victim's family (direct or indirect);
8. aggravating or mitigating factors from the criminal case;
9. statement from parole sponsor, employer, or other support person;
10. previous abscond/escape or attempt while on community supervision;
11. effort to obtain or the completion of GED or equivalent or college degree during incarceration;
12. PB use the CARAS (Colorado Actuarial Risk Assessment Scale); and
13. PB use the administrative release guideline instrument (PBRGI).
Guidelines: RELEASE DECISION FACTORS - RISK
Item #1: The Colorado Actuarial Risk Assessment Scale
Item #2: Code of Penal Discipline / Victim Threat
Item #3: Code of Penal Discipline/ Class I Offense
Item #4: Code of Penal Discipline/ Class II Offense
Item #5: Escape/Abscond or Attempt
Item #6: 60 Years of Age or Older *
Item #7: Medical Condition Reduces Risk of Re-Offense *
Item #8: Manageable in the Community * [Rating by Board member]

* Risk moderator
Guidelines: RELEASE DECISION FACTORS - READINESS

Item #9: Level of Service Inventory-Revised

Item #10: Level of Service Inventory-Rater Box Average*

Item #11: Program Participation / Progress [Rating by Board member]

Item #12: Treatment Participation / Progress [Rating by Board member]

Item #13: Parole Plan [Rating by Board member]

(* Rating of positive adjustment)
Guidelines: RELEASE DECISION FACTORS

Under study: PBRGI Version 2

- PB would like the PBRGI advisory recommendation to reflect more of the factors they use in decision-making.
- PB and DCJ working collaboratively since Fall 2017.
- Include additional factors considered by the Board, and include more specific information on existing factors.
PBRGI Version 2: **New** and **revised** factors under study:

- Misdemeanor history
- Victim impact/input
- Severity/Type of offense
- Criminogenic needs
  - (In addition to LSI, use the CTAP-ORAS needs assessments: PIT, RT, SRT)
- Community supervision failures *(recency and pattern)*
  - (Community Corrections, Probation, and Parole)
- Vocational/Education program participation *(evaluate “dose” received)*
- Institutional misconduct (COPDs) *(recency and pattern)*
- Treatment received while in DOC *(evaluate “dose” received)*
- Parole plan accommodations *(rate all plan elements separately)*
  - Employment plan/opportunities, Housing, Community support, etc.)
GUIDELINES DEVELOPMENT (§17-22.5-107(1))
Statute specifically states that the guidelines must...

Provide a consistent framework to evaluate and weigh:

• specific statutory release decision factors,
• based on a STRUCTURED DECISION MATRIX, and
• offer an advisory release decision recommendation.
# DECISION MATRIX

<table>
<thead>
<tr>
<th>RISK CATEGORY</th>
<th>READINESS CATEGORY</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>3-High</td>
<td>2-Medium</td>
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<tr>
<td>1-Very Low</td>
<td></td>
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<tr>
<td>2-Low</td>
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<tr>
<td>3-Medium</td>
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<tr>
<td>4-High</td>
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<tr>
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</tr>
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<td>RELEASE</td>
</tr>
<tr>
<td>2-Low</td>
<td>RELEASE</td>
</tr>
<tr>
<td>3-Medium</td>
<td>RELEASE</td>
</tr>
<tr>
<td>4-High</td>
<td>RELEASE</td>
</tr>
<tr>
<td>5-Very High</td>
<td>DEFER</td>
</tr>
</tbody>
</table>
Parole Board Release Guidelines Instrument (PBRGI)

• During FY 2011 and 2012, DCJ worked with CCJJ working group members, the Parole Board, and OIT @ CDOC to design an automated system to score inmates on the guidelines factors and provide an advisory recommendation.

• FY 2011 and FY 2012 – status reports issued on system development.

• During FY 2013, the PBRGI was implemented (September 2012).

• FY 2013 to present – annual decision reports submitted to the GA.

- **Guidelines development** - In consultation with the Board, DCJ mandated to develop administrative release guideline (§17-22.5-107(1)), and DOC mandated to develop administrative revocation guideline (§17-22.5-107(2))
  - **Release/revocation factors** - *release considerations* to include thirteen non-exclusive decision factors (§17-22.5-404(4)), and *revocation considerations* to include nine non-exclusive decision factors (§17-22.5-404(5)).

- **Annual report** - Board and DCJ are mandated to issue an annual report to the General Assembly regarding the outcomes of decisions by the Board (§17-22.5-404(6)(e)(I), C.R.S.).
FY 2017 Annual Report

Report Sample

• Decisions made regarding hearings and reviews finalized between 7/1/2016 and 6/30/2017

• Parole candidates between parole eligibility date (PED) and mandatory release date (MRD)

• Discretionary decisions only

  Excludes circumstances not within the Board’s control (e.g., Court orders, “statutory releases”, inmate unavailability)
BOARD HEARING TYPES

1. “Regular” hearing - Single member of the Board conducts and renders a decision. Two members decide, if the inmate is serving a life sentence and is parole eligible.

2. Full Board review - A case may be referred to full Board review for any reason following the initial (“regular”) hearing or shall be referred to a full Board review for release* in cases involving violence or a sex offense. Conducted and decided by at least four of seven Board members. If necessary, remaining members are polled until a majority threshold is met.

(* Deferral does not require full Board review in these cases.)
BOARD HEARING TYPES (continued)

3. File review - an option allowing a review rather than a meeting with the offender when victim notification is not required AND one or more specific statutory conditions is met:
- a special needs release,
- detainer to the U.S. Immigration and Customs Enforcement agency,
- inmate within six months of the mandatory release date (MRD), or
- inmate assessed “low” or “very low” in actuarial risk and meets Board’s re-entry readiness criteria (August 2017).
Total Hearings and Reviews
8,735

“Regular” Hearings
6,816

- 5,350 Non-SO
- 647 FR

Full Board Reviews
1,919

- 1,291 Non-SO
- 628 SO

FR - File Reviews

FY 2017 Sample

6,641 Non-Sex Offender
PBRGI Adv. Rec!

2,094 Sex Offender
No PBRGI Adv. Rec!
DISCRETIONARY DECISION OPTIONS

• Refer to full Board review
• Release
• Table ("Conditional Discretionary Release Pending")
• Defer

Table
- Set parole conditions, but release is pending specific requirement(s).
- Requirement(s) met...offender Released
- Requirement(s) not met...decision amended and offender Deferred
DISCRETIONARY DECISION OPTIONS (continued)

Defer

Defer (to a subsequent hearing date)

One, three or five years or a “custom” period

Defer to MRD

- Offender will not be seen again prior to MRD
- Parole conditions are set
- *Can* occur up to 14 months prior to MRD
- *Typically* occurs up to 6 months prior to MRD
### FY 2017 Findings

**Overall agreement: 73%**

**Rate of deferral agreement: 90%**

\[
\text{Rate of deferral agreement} = \frac{2,592}{2,879} = 90\%
\]

**Rate of Release agreement: 53%**

\[
\text{Rate of Release agreement} = \frac{1,318}{2,471} = 53\%
\]

<table>
<thead>
<tr>
<th>Parole Board Hearing Decisions Count (Percent)</th>
<th>PBRGI Advisory Recommendations</th>
<th>Total PB Decisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defer</td>
<td>Defer</td>
<td>1,744 (33%)</td>
</tr>
<tr>
<td></td>
<td>Release</td>
<td>737 (14%)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2,481 (46%)</td>
</tr>
<tr>
<td>Defer to MRD</td>
<td>848 (16%)</td>
<td>[All Defer=2,592 (48%)]</td>
</tr>
<tr>
<td></td>
<td>416 (8%)</td>
<td>[All Defer=1,153 (22%)]</td>
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<tr>
<td></td>
<td></td>
<td>1,264 (24%)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>[All Defer=3,745 (70%)]</td>
</tr>
<tr>
<td>Release</td>
<td>287 (5%)</td>
<td>1,318 (25%)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,605 (30%)</td>
</tr>
<tr>
<td>Total PBRGI Recs</td>
<td>2,879 (54%)</td>
<td>2,471 (46%)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5,350 (100%)</td>
</tr>
</tbody>
</table>
## PB DECISIONS & PBRGI RECOMMENDATIONS

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>2013* (n=5,263)</th>
<th>2014 (n=5,980)</th>
<th>2015 (n=5,572)</th>
<th>2016 (n=4,950)</th>
<th>2017 (n=5,350)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PB / PBRGI AGREEMENT (72%)</strong></td>
<td>69%</td>
<td>73%</td>
<td>72%</td>
<td>72%</td>
<td>73%</td>
</tr>
<tr>
<td><strong>PB Decision (34%)</strong></td>
<td>39%</td>
<td>32%</td>
<td>32%</td>
<td>36%</td>
<td>30%</td>
</tr>
<tr>
<td><strong>RELEASE</strong></td>
<td>54%</td>
<td>50%</td>
<td>52%</td>
<td>54%</td>
<td>46%</td>
</tr>
<tr>
<td><strong>PBRGI Rec. (51%)</strong></td>
<td>(58%)</td>
<td>(55%)</td>
<td>(55%)</td>
<td>(57%)</td>
<td>(53%)</td>
</tr>
<tr>
<td><strong>DEFER</strong></td>
<td>61%</td>
<td>68%</td>
<td>68%</td>
<td>64%</td>
<td>70%</td>
</tr>
<tr>
<td><strong>PB Decision (66%)</strong></td>
<td>46%</td>
<td>50%</td>
<td>48%</td>
<td>46%</td>
<td>54%</td>
</tr>
<tr>
<td><strong>PBRGI Rec. (49%)</strong></td>
<td>(82%)</td>
<td>(90%)</td>
<td>(91%)</td>
<td>(89%)</td>
<td>(90%)</td>
</tr>
</tbody>
</table>

* Partial year - 10 months, following the September 2012 implementation.
## PBRGI: ADVISORY RELEASE DECISION RECOMMENDATION MATRIX

<table>
<thead>
<tr>
<th>Risk</th>
<th>Readiness</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>High</td>
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<td>High</td>
<td>Release</td>
</tr>
<tr>
<td>Very High</td>
<td>Defer</td>
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What is the degree of PB/PBRGI agreement within the guidelines matrix?

24CCJJ, 5/11/2018
## FY 2017: Agreement within Guidelines Matrix

<table>
<thead>
<tr>
<th>Risk</th>
<th>Readiness</th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td>High</td>
<td>Medium</td>
<td>Low</td>
</tr>
<tr>
<td>Very Low</td>
<td>75%</td>
<td>46%</td>
<td>22%</td>
</tr>
<tr>
<td>Low</td>
<td>83%</td>
<td>44%</td>
<td>95%</td>
</tr>
<tr>
<td>Medium</td>
<td>80%</td>
<td>42%</td>
<td>97%</td>
</tr>
<tr>
<td>High</td>
<td>82%</td>
<td>77%</td>
<td>95%</td>
</tr>
<tr>
<td>Very High</td>
<td>55%</td>
<td>79%</td>
<td>97%</td>
</tr>
</tbody>
</table>

**Blue – Agree to Release**

**Red – Agree to Defer**

FY 2017 Decisions Report

Colorado Commission on Criminal & Juvenile Justice
File Reviews by Fiscal Year

There has been a 50-fold increase in the use of file reviews over the last five years...primarily due to a single file-review criterion.

**REMINDER:** BOARD HEARING TYPES

3. File review - an option allowing a review rather than a meeting with the offender when a decision does not require victim notification and meets one or more specific statutory conditions:
   - a special needs release,
   - detainer to the U.S. Immigration and Customs Enforcement agency,

Of note in the following table...

- inmate within six months of the mandatory release date (MRD), or
- inmate assessed “low” or “very low” in actuarial risk and meets Board’s re-entry readiness criteria (August 2017).
- Class 1 COPD in the last 12 months [PB Rules] (repealed in 2015)
## File Reviews by Fiscal Year

<table>
<thead>
<tr>
<th>Count (Percent within FY)</th>
<th>Fiscal Year</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2013 (n=8,403)</td>
<td>2014 (n=9,550)</td>
<td>2015 (n=9,093)</td>
<td>2016 (n=8,480)</td>
<td>2017 (n=8,735)</td>
</tr>
<tr>
<td><strong>Total File Reviews</strong></td>
<td>16 (&gt;1%)</td>
<td>282 (3%)</td>
<td>381 (4%)</td>
<td>614 (7%)</td>
<td>808 (9%)</td>
</tr>
<tr>
<td><strong>Within Six Months of MRD</strong></td>
<td>7^ (44%)</td>
<td>149^ (53%)</td>
<td>222^ (58%)</td>
<td>592 (96%)</td>
<td>752 (93%)</td>
</tr>
<tr>
<td><strong>PB DECISION</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Defer</strong></td>
<td>4 (25%)</td>
<td>136 (48%)</td>
<td>170 (45%)</td>
<td>200 (33%)</td>
<td>200 (25%)</td>
</tr>
<tr>
<td><strong>Defer to MRD</strong></td>
<td>6 (37.5%)</td>
<td>135 (48%)</td>
<td>203 (53%)</td>
<td>392 (64%)</td>
<td>561 (69%)</td>
</tr>
<tr>
<td><strong>[Defer Total]</strong></td>
<td>[62.5%]</td>
<td>[96%]</td>
<td>[98%]</td>
<td>[96%]</td>
<td>[94%]</td>
</tr>
<tr>
<td><strong>Release</strong></td>
<td>6 (37.5%)</td>
<td>11 (4%)</td>
<td>8 (2%)</td>
<td>22 (4%)</td>
<td>47 (6%)</td>
</tr>
</tbody>
</table>

^ In FY 2013, 2014 and part 2015, the Board had the option to use file reviews for inmates with a Class I COPD. In 2015, these offenders became ineligible for parole application hearings.
FILE REVIEWS (n=647)
71% - Overall Agreement
  19% Release agreement (n=44 of 227 Release recommendations)
  99% Defer agreement (n=417 of 420 Defer recommendations)

FULL BOARDS (n=1,291)
64% - Overall agreement
  64% Release agreement (725 of 1,131 Release recommendations)
  99% Defer agreement (96 of 160 Defer recommendations)

INMATES labeled SEX OFFENDER (n=2,094)
  18% (372) Release
  82% (1,722) Total Defer
    66% (1,387) Defer (to a subsequent hearing date)
    16% (335) Defer to MRD

FY 2017 PB Decision and PBRGI Advisory Recommendation
Analysis of Colorado State Board of Parole Decisions: FY 2017 Report

Report available at, colorado.gov/ccjj/ccjj-reports

Kevin Ford, DCJ
Presentation to the Colorado Commission on Criminal and Juvenile Justice, May 11, 2018