Analysis of Colorado State Board of Parole Decisions: FY 2020 Report

Pursuant to § 17-22.5-404(6)

October 2023

Colorado Division of Criminal Justice

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Acknowledgements

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Executive Summary

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.

The process implemented to collect Board decision data is the Parole Board Release Guideline Instrument (PBRGI).[4] Reflecting the release considerations placed in Colorado statute,[5] the PBRGI is a set of thirteen policy items, that combine using two algorithms to create a matrix with two dimensions: *risk of recidivism*

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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 2020 and the Board mission statement are displayed in Appendix A.

[4] Technical reports regarding the development and testing of the PBRGI are available in the FY 2012 and FY 2013 Parole Board decisions reports available on the ORS/DCJ website at, ors.colorado.gov/ors-reports.

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

and *readiness for parole*.[6] 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.).[7] 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.

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 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.[8] Upon further review, the Board eliminated the PBRGI Bypass option for file reviews on August 20, 2019; however, the hearing data in this FY 2020 report spanning July 1, 2019 to June 30, 2020 continues to reflect its use.

Where data are available, this report describes findings and progress on these mandates during the period from July 1, 2019 through June 30, 2020. 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.

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.).[9]

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[6] The PBRGI items, the scoring algorithms and the advisory decision matrix are described in Appendix B.

[7] 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).

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

[9] These annual reports are available under "Reference Materials" at, paroleboard.colorado.gov/reference-materials.

FINDINGS

Hearing and Decision Types. The FY 2020 hearings sample included 8,677 release application hearings and reviews conducted by members of the Parole Board between July 1, 2019 and June 30, 2020. 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 (referenced in this report as "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 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 9,000 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

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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 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 Board *Rules*.

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 711 instances where the PBRGI Bypass option was chosen for cases during FY 2020, 681 were excluded from the sample because they met one or more 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 for case exclusion were "File Review" and particular instances of "Other." Additional information regarding these remaining 30 bypassed cases is provided below in "Sample."

FY 2020 Parole Board Decisions (n=8,677)
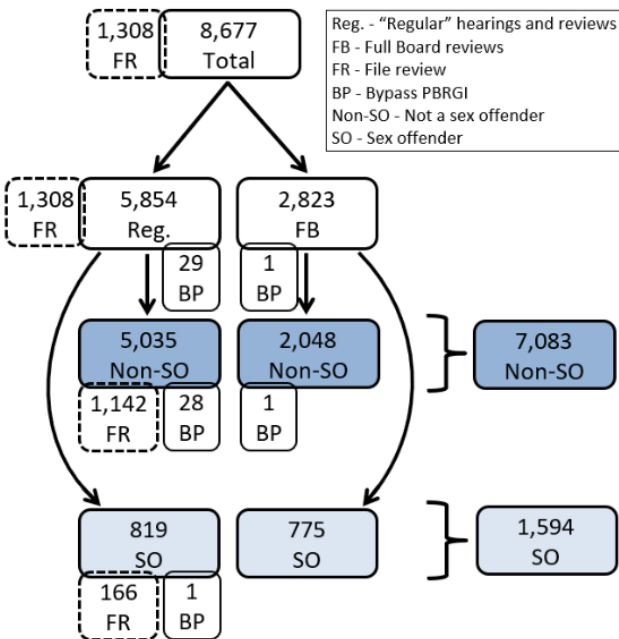
Reg. - "Regular" hearings and reviews
FB - Full Board reviews
FR - File review
BP - Bypass PBRGI
Non-SO - Not a sex offender
SO - Sex offender

Sample. The following is a summary of the FY 2020 hearing decision sample and subsamples:

o Of the 8,677 discretionary release application hearings, 5,854 were regular hearings and 2,823 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.

- Of the 8,677 total hearings, 7,083 were conducted for those who were not labeled a sex offender and 1,594 were conducted for those who were labeled a sex offender. Of the 8,677 cases, the Board conducted 1,308 file reviews.[11]

- Of the 5,854 regular hearings, 5,035 cases involved those who were not labeled a sex offender and 819 cases involved those who were labeled a sex offender.[12] Of the 2,823 full Board reviews, 2,048 reviews involved those who were not labeled a sex offender and 775 reviews involved those who were labeled a sex offender. Of the 5,035 and 819 subgroups of regular hearings, the Board conducted file reviews for 1,142 (non-sex offenders) and 166 (sex offenders), respectively.

- During FY 2020, the Board chose the Bypass option in 711 instances of which 681 would have been excluded from the FY 2020 sample anyway. In the 8,677 sample of parole application hearings, there remained only 30 instances where the bypass option was selected. The bypass reason selected for these 30 cases was "Other" (for "other" reasons that do not meet sample exclusion criteria).

- There were 29 bypasses within the 7,083 PBRGI-applicable cases where the PBRGI advisory recommendation would have previously been displayed: 28 among the 5,035 regular hearings and one within the 2,048 full Board hearings. One bypass was selected among hearings for those labeled a "sex offender" where the PBRGI advisory would not have been displayed.

- Of the 8,677 parole application hearings, the Board released 5,077 individuals across all hearing types. Of these 5,077 releases, the Board specifically noted that 508 (10.0%) were related to COVID-19 considerations derived from Executive Orders to consider or re-consider release of selected inmates to reduce the prison population to better manage the COIVD-19 related crisis. For some, a different COVID-19-related notation indicated that circumstances had resulted in the unavailability of prison programs and treatment that would be available to individuals when they were released to parole and under supervision in the community.

  - 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. Accordingly, a Parole Board Release Guideline Instrument (PBRGI) advisory recommendation was generated for 5,007 regular hearings and 2,822 full Board reviews. The subsamples of 5,007 regular hearings and 2,822 full Board reviews

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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.

[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

with non-sex offenders is labeled throughout the report as the "PBRGI samples." Separate analyses are provided for the subset of 2,048 total full Board reviews involving non-sex offenders and for the 1,594 hearings and reviews for those labeled a sex offender.

Findings. The following is a summary of the FY 2020 findings:

o General Findings. Collapsing across all hearing and inmate types in the FY 2020 sample of 8,677 cases, the Board decision was to designate 5,077 (58.5%) parole candidates for release and to defer 3,600 (41.5%).

   ▪ Of the 5,854 regular hearings in the FY 2020 sample (collapsing across inmate types), the Board decision was to designate 2,888 (49.3%) parole candidates for release and to defer 2,966 (50.7%).

Of the 2,823 full Board reviews in the FY 2020 sample (collapsing across inmate types), the Board decision was to designate 2,189 (77.5%) parole candidates for release and to defer 634 (22.5%).

- Of the 7,083 cases involving non-sex offenders in the FY 2020 sample (collapsing across hearing types), the Board decision was to designate 4,451 (62.8%) parole candidates for release and to defer 2,632 (37.2%).

- Of the 1,594 cases involving those labeled a sex offender in the FY 2020 sample (collapsing across hearing types), the Board decision was to designate 626 (39.3%) parole candidates for release and to defer 968 (60.7%).

o Bypass Findings. Of the 30 total instances where the Bypass option was chosen in the FY 2020 hearing sample, the Board decision was to designate 7 (23.3%) parole candidates for release and to defer 23 (76.7%). Of the 23 deferred candidates, 6 (26.1%) were deferred to a subsequent hearing date and 17 (73.9%) were deferred to their mandatory release date (also known as, "deferred to MRD") because the mandatory release would occur prior to the next scheduled hearing date.

- Of the 30 cases, 29 (96.7%) were conducted as a file review and 1 (3.3%) was not a file review (conducted by video).

- Of the 30 bypassed cases, 19 (63.3%) were within 3 months to MRD (of which 78.9% were deferred), 8 (26.7%) were within 4 to 6 months to MRD (75.0% deferred), and the remaining 3 (10.0%) were within 7 to 14 months to MRD (66.7% deferred).

o PBRGI Findings. Of the FY 2020 *PBRGI sample* of 5,007 regular hearings, the Board designated 2,823 (56.4%) inmates for release and 2,184 (43.6%) inmates for deferral (of which 1,774 were deferred to a subsequent hearing date and 410 were "deferred to MRD"). Recombining the PBRGI regular hearing sample and 28 bypassed cases that would have been part of the PBRGI sample (combined n=5,035), the Board designated 2,829 (56.2%) for release and 2,206 (43.8%) for deferral.

- Of the PBRGI sample of 5,007 inmates, 412 (8.2%) were within 3 months to MRD (of which, 65.5% were deferred), 507 (10.1%) were within 4 to 6 months to MRD (44.0% deferred), 1,145 (22.9% were within 7 to 14 months to MRD (33.4% deferred), and 2,943 (58.8%) were more than 14 months to MRD (44.5% deferred).

- Of the 5,007 cases in the PBRGI sample, the PBRGI recommended 2,650 (52.9%) parole candidates for release and 2,357 (47.1%) for deferral.

- Collapsing across the PBRGI sample decisions in FY 2020, *73.6% of Board member decisions agreed with the PBRGI advisory recommendation* and 26.4% of decisions departed from the PBRGI

advisory recommendation.

- The overall agreement percentage (73.6%) combines the rate of release agreement (78.3%) and the rate of deferral agreement (68.3%).

- The overall departure percentage (26.4%) combines the rate of release departure (21.7%) and the rate of deferral departure (31.7%).

- Of the 11.5% (574 of 5,007) of decisions overall where the Board departed from the PBRGI recommendations to release (i.e., a Board deferral), 79.1% of these individuals were categorized by the PBRGI as low or very low risk, 66.6% were categorized as medium or high readiness, and 45.6% (262 of 574) 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 (33.4%; 192 of 574).

- 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); the inadequate quality of the parole plan (for example, housing issues); a lack of accountability for one's actions or minimizing the impact of their crime; inadequate time served relative to the sentence; the need for additional time to stabilize in community corrections placements; and/or the need for additional program participation.

- Of the 14.9% (747 of 5,007) of decisions overall where the Board departed from the PBRGI recommendations to defer (i.e., a Board release), 82.2% of these individuals were categorized by the PBRGI as high or very high risk, 81.7% were categorized as low or medium readiness and 63.9% (477 of 747) 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 (18.3%; 137 of 747) or medium (28.4%; 212 of 747) 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 mitigated their higher risk in one or more ways; had presented a comprehensive parole plan; had demonstrated growth and positive attitude; had been successful in community placements; had successfully completed treatment to

address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management); 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 eight reporting years from FY 2013 to FY 2020, the Board designated 39.2%, 32.3%, 32.5%, 35.8%, 35.4%, 41.2%, 49.4% and 56.4% of inmates for release, respectively, while the PBRGI recommended 53.6%, 49.8%, 51.5%, 53.7%, 48.8%, 50.4%, 52.2% and 52.9% of inmates for release, respectively.

- Applying the current PBRGI sample selection criteria[15] to all eight reporting years, FY 2013 to FY 2020, the percentage of Board decision/PBRGI recommendation agreement was 69.3%, 72.6%, 72.6%, 72.2%, 73.6%, 73.0%, 73.2%, and 73.6%, respectively. From FY 2013 to FY 2020, there has been a 6.2% increase in Board member agreement with the PBRGI advisory recommendation.

o <u>File Review Findings</u>. The FY 2020 sample of 8,677 hearings included 1,308 (15.1%) file review decisions, which do not require the presence of the inmate as defined in statute.[16] Of these 1,308 file reviews, 1,142 involved those who were not labeled a sex offender and 166 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 700% from 2.8% of all regular hearings in the FY 2014 sample to 22.3% in the FY 2020 sample. The FY 2020 sample reflects a slightly larger percentage than usual of file reviews related to additional reviews conducted due to COVID-related considerations.

- Of the 1,308 total file reviews, 654 parole candidates (50.0%) were set for release (of which 22.3% were within 3 months and 46.6% were within 6 months of MRD) and 654 (50.0%) were deferred (of which 52.9% were within 3 months and 85.5% were within 6 months of MRD).

- Of the 1,142 file reviews conducted for non-sex offenders, the Board chose to bypass the PBRGI advisory recommendation in 27 (2.4%) instances leaving 1,115 file reviews for which an advisory PBRGI recommendation was displayed.

- Of the 27 bypassed file review cases, Board members designated 6 (22.2%) inmates for release

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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 2020 Sample Selection" on page 30. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

[15] See Footnote 14.

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

and 21 (77.8%) for deferral (of which 5 were deferred to a subsequent hearing date and 16 were deferred to their impending mandatory release date).

▪ Of the 1,115 file review cases that were not bypassed, 743 (66.6%) met the medium (296), low (249), or very low (198) risk criterion; an additional 294 (26.4%) met the "6-months-to-MRD" criterion (of which 172 were within 3 months to MRD), and the remaining 78 (7.0%) met one or more of the remaining criteria allowing a file review.

▪ Of the 1,115 PBRGI-related file reviews, Board members designated 632 (56.7) inmates for release and 483 (43.3%) for deferral (of which 315 were deferred to a subsequent hearing date and 168 were deferred to their impending mandatory release date). Of the same 1,115 file reviews, the PBRGI recommended 629 (56.4%) for release and 486 (43.6%) for deferral.

▪ The 1,115 inmates in the PBRGI sample who were the subject of a file review largely were placed in these PBRGI risk/readiness matrix categories: 43.5% were in the very low risk category (compared to 24.9% of inmates in non-file review hearings) and 50.4% were found in the low readiness category (compared to 34.1% of inmates in non-file review hearings).

▪ Of the 1,115 PBRGI-related file reviews, when collapsing release and deferral agreements overall (between corresponding Board decisions and PBRGI recommendations to defer or to release), *77.5% of file review decisions agreed with the PBRGI advisory recommendations.*

▪ The degree of release agreement was 80.3% (505 agreements within the 629 release recommendations) and the degree of deferral agreement was 73.9% (359 agreements within the 486 deferral recommendations).

o <u>Full Board Findings</u>. There was a total of 2,823 full Board reviews in the FY 2020 sample and, as mentioned above, 2,189 individuals were designated for release and 634 were deferred. Of the 2,048 full Board hearings with non-sex offenders, the Board bypassed the PBRGI advisory recommendation in 1 case. Of the 2,047 full Board review decisions involving a recommendation, analyses found:

▪ Full Board reviews designated 1,621 (79.2%) for release and 426 (20.8%) were deferred. The PBRGI recommended 1,656 (80.9%) for release and 391 (19.1%) for defer. The PBRGI categorized 77.1% of the 1,656 individuals recommended for release as very low or low risk and 97.5% 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), *71.6% of full Board review decisions agreed with the PBRGI recommendations.*

- Compared to PBRGI-related individual Board member decisions, the full Board reviews designated a larger percentage of individuals for release (56.4% versus 79.2%, respectively) and a smaller percentage for deferral (43.6% versus 20.8%, respectively).

- Compared to individual board member decisions, the agreement between full Board reviews and PBRGI recommendations to defer was lower (68.3% versus 30.2%, respectively) and the agreement between full Board reviews and PBRGI recommendations to release was higher (78.3% versus 81.4%, respectively).

o <u>Findings Regarding Sex Offenders</u>. 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 1,594 individuals labeled a sex offender who were seen in initial (regular) hearings, 3.7% (59) were released,[17] 47.7% (760) were deferred, and 48.6% (775) were referred to the full Board for further review. Of the 775 individuals referred to full Board review, 73.2% (567) were set for release and 26.8% (208) were deferred.

- Combining the decision outcomes of regular hearings and full Board reviews, the overall decision percentages for the 1,594 individuals labeled a sex offender were: 39.3% (626) set for release and 60.7% (968) deferred.

- Of the 819 regular hearings involving those labeled a sex offender, there were 166 (20.3%) file reviews of which 16 individuals (9.6%) were released and 150 (90.4%) were deferred.

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[17] There is no record of a full Board review or decision for these 59 cases. These releases may be connected to cases that did not involve sex-offense specific treatment, may be due to atypical or special circumstances or may be due to missing full Board decision data.

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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 2020 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, 2019 to June 30, 2020 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 2020 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 have been in development:

- the Parole Board Hearing Application Portal,

- the Parole Board Release Guideline Instrument, and

- the Parole Board Revocation Portal.

FY 2020 is the seventh 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 2019 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. 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 candidates 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) and the CDOC, 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 sex offender treatment 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*

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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] The determinate-sentence and indeterminate-sentence criteria and information regarding sex offender management may be found in the following documents: *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (2022)*, specifically in *Appendix Q: Parole Guidelines for Discretionary Release on Determinate-Sentenced Sex Offenders* and *Appendix V: Lifetime Supervision Criteria* [see dcj.colorado.gov/dcj-offices/domestic-violence-and-sex-offender-management/somb/ somb-standards-bulletins]; *CDOC Administrative Regulation 250-48: Management of Offenders with an Identified Sex Offense;* and *CDOC Administrative Regulation 700-19: Sex Offender Treatment and Monitoring Program* [see cdoc.colorado.gov/ about/department-policies].

[30] See *CO Dept. of Corrections Administrative Regulation 700-19* in Footnote 29.

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 or requirement to register as a sex offender unless labeled, "a low resource priority."). Consequently, inmates in the lower four categories of Sexual Violence Needs (S1, S2, S3, or S4) typically were not subject to 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

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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.

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 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

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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.

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 (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 2020 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]

Upon further review, the Board eliminated the PBRGI Bypass option for file reviews on August 20, 2019; however, the hearing data in this FY 2020 report spanning July 1, 2019 to June 30, 2020 continues to reflect its use in a few cases.

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

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

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 2020 report is the seventh 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 as referenced in this report), a "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 (for example, 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 (ICE) 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

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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.) with additional considerations included in Executive Orders related to COVID-19.

[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*.

reintegration into the community has not demonstrated, and/or there are public safety concerns. In a full Board review, the above determinations typically 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 and Executive Orders can modify Board hearing and decision policies that may affect the hearing sample or the categorization of Board decisions as discretionary or mandatory. This section addresses statutory revisions and orders 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]

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[47] The periods prior to the next parole reconsideration are one, three, or five years (for example, see §17-22.5-303(6), 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.

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 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

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

[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.

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.

Senate Bill 2018-1251. This bill became effective on August 8, 2018 and added a provision that requires a hearing be scheduled for individuals within 60 days of the completion of a community corrections program and requires a full Board majority in order to defer such individuals who have completed such a program.[59] This requirement allows the discretionary decision to release an individual in an *initial* review and, following a referral to full Board review, allows the discretionary decision either to release or to defer an individual. Although this modification alters the decision process, no specific decision for a particular case ultimately is prescribed by statute. Though more complex, decisions made pursuant to these cases were considered discretionary and no sample exclusions or analysis modifications were necessary.

House Bill 2018-1410. Effective on June 6, 2018, this statutory revision regarding prison population management created a process by which the Colorado Department of Corrections (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.[60] 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. This bill became effective on May 28, 2019 and modified two statutory sections related to file reviews: general file review criteria and prison population management provisions.[61] 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

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[59] See this provision in §17-2-201(17), C.R.S.
[60] 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.
[61] 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), C.R.S.

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.

COVID 19 Executive Orders. On March 11, 2020, Colorado Governor Jared Polis issued *Executive Order (E.O.) D 2020 003* declaring a disaster emergency due to Coronavirus Disease 2019 (COVID-19). Subsequent to that general order, *E.O. D 2020 016* was issued that temporarily suspended certain regulatory statutes concerning criminal justice with directives affecting the CDOC. A particular directive (II.C in *D 2020 016*) suspended the Special Needs criteria for release in statute.[62] This allowed the CDOC to identify interim release criteria for consideration by the Board. This directive (II.C) was subsequently deleted in *E.O. D 2020 078* issued on May 22, 2020. Although there was an imperative selectively to reduce the CDOC population during this period, these criteria did not require a specific decision outcome for these applicable Special Needs-related release hearings. The Board retained its discretion to release or not to release the identified individuals. Therefore, the decisions made pursuant any "COVID -19 Special Needs" criteria were considered discretionary and no sample exclusions or analysis modifications were necessary.[63]

FY 2020 Sample Selection. The hearings and reviews included in this report were finalized between July 1, 2019 and June 30, 2020. (As mentioned above, no revocation hearings are included in this report due to 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,"

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[62] See the Special Needs provisions in §17-1-102(7.5)(a) and §17-22.5-403.5 C.R.S.
[63] Similar efforts to expedite prison releases occurred across the country as documented in this Bureau of Justice Statistics Report, *Impact of COVID-19 on State and Federal Prisons, March 2020–February 2021 (bjs.ojp.gov/library/publications/impact-covid-19-state-and-federal-prisons-march-2020-february-2021).*

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 9,000 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 or 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, a new law, 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.[64] 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 711 instances where the PBRGI Bypass option was chosen for cases during FY 2020, 681 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 30 bypassed cases is provided in the following sections describing the FY 2020 hearing samples.

FY 2020 Parole Board Decisions (n=8,677)

1,308 FR	8,677 Total	Reg. - "Regular" hearings and reviews FB - Full Board reviews FR - File review BP - Bypass PBRGI Non-SO - Not a sex offender SO - Sex offender

1,308 FR	5,854 Reg.		2,823 FB
	29 BP		1 BP
	5,035 Non-SO	2,048 Non-SO	7,083 Non-SO
1,142 FR	28 BP	1 BP	
	819 SO	775 SO	1,594 SO
166 FR	1 BP		
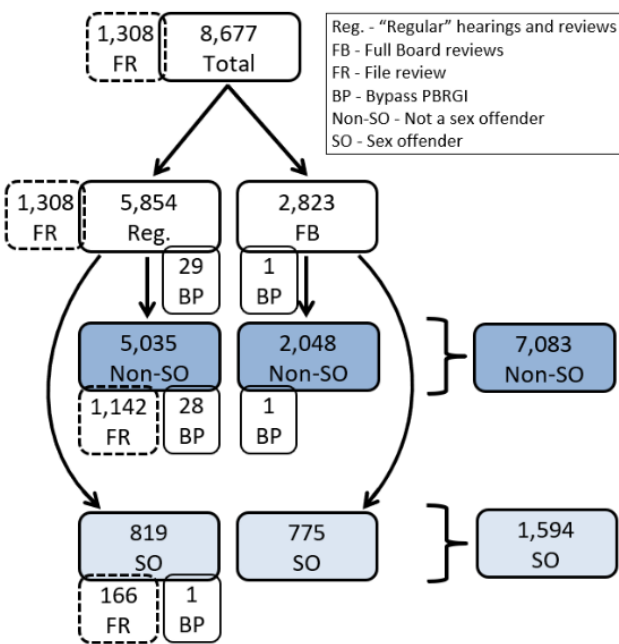
FY 2020 Overall Sample. The total sample of discretionary decisions analyzed and summarized in this report were rendered in 8,677 hearings and reviews conducted for inmates considered for parole between July 1, 2019 and June 30, 2020. The 8,677 decisions comprised 5,854 regular hearings and 2,823 full Board reviews. Of the 8,677 decisions and reviews, there were 7,083 for those labeled, "non-sex offender," comprising 5,035 regular hearings and 2,048 full Board reviews. Of the 8,677 decisions and reviews, there were 1,594 for those labeled, "sex offender," comprising 819 regular hearings and 775 full Board reviews. The hearings and reviews for those labeled, "sex offender," are excluded from the PBRGI sample

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[64] 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.

and analyses.[65] Of the 8,677 total decisions, 1,308 (15.1%) were the result of file reviews, including 1,142 file reviews for those labeled, "non-sex offender," and 166 for those labeled, "sex offender."

Bypass Sample. As described above, when the Bypass option was chosen, the PBRGI advisory recommendation was not generated, displayed or stored as part of a hearing record. In FY 2020, the Board chose the Bypass option in 711 instances of which only 30 (0.4%) occurred among the 7,083 cases where the PBRGI recommendation was applicable and would have been displayed. Of these, the bypass option was used in 29 regular hearings and 1 full Board review.

Of these 30 cases, 29 (96.7%) were conducted as a file review and 1 (3.3%) was conducted as a non-file review (by video). The bypass reason selected for these cases was "File Review" or "Other" (none of which meet the sample exclusion criteria). Of the 30 cases, there were 29 bypasses where the PBRGI advisory recommendation would have previously been displayed (0.4% of 7,083 decisions for non-sex offenders) and there was 1 bypass where the recommendation was not applicable and would not have been displayed (0.1% of the 1,594 decisions for those labeled, "sex offender").

FY 2020 PBRGI Sample. The focus of this report is the subsample of 7,083 hearings and reviews that did not involve those labeled as a sex offender, and, therefore, were eligible for the display of the PBRGI advisory recommendation. However, of these 7,083, the Board chose to exercise the Bypass option in 29 (0.4%) instances, reducing the PBRGI sample to 7,054 hearings and reviews. Of these 29 bypassed cases, 1 case was categorized as a full Board review. Further references in this report to the "PBRGI sample" refers to the 5,007 regular hearings or the 2,047 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 FY 2020 PBRGI sample (n=7,054) was generally larger than previous PBRGI samples, which averaged 6,430 for reporting years FY 2013 to FY 2019. This larger sample size may be attributed to the additional reviews driven by COVID-19 release considerations.

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

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[65] 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.

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Section Four: FY 2020 Findings - Parole Board Decisions

The findings reported below from the FY 2020 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 candidates labeled, "sex offender"; and

- Final summary of findings.

Overall Decision Findings

Collapsing across all hearing and inmate types in the FY 2020 sample of 8,677 cases, the Board decision was to designate 5,077 (58.5%) parole candidates for release and to defer 3,600 (41.5%). Of the 3,600 who were deferred, 81.6% were categorized as "deferred" and 18.4% were categorized as "deferred to MRD." Of the 5,077 set for release, 3.4% (175) were within 3 months to MRD, 7.9% (399) were within 4 to 6 months to MRD, 22.3% (1,130) were within 7 to 14 months to MRD, and the remaining 66.4% (3,373) were more than 14 months to MRD.[66] Of the 3,600 who were deferred or "deferred to MRD," 11.1% (401) were within 3 months to MRD, 9.2% (331) were within 4 to 6 months to MRD, 15.6% (560) were within 7 to 14 months to MRD, and the remaining 64.1% (2,308) were more than 14 months to MRD. The counts and percentages of

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[66] 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, 4 to 6 mos., 7 to 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."

decisions to release or to defer within these "months-to-MRD" categories are in Table 1. Of the 8,677 decisions, 15.1% (1,308) were rendered following a file review.[67]

Of the 5,854 regular hearings in the FY 2020 sample (collapsing across inmate types), the Board decision was to designate 2,888 (49.3%) parole candidates for release and to defer 2,966 (50.7%). Of the 2,966 who were deferred, 81.2% were categorized as "deferred" and 19.8% were categorized as "deferred to MRD." Of the 2,888 set for release, 5.3% (152) were within 3 months to MRD, 10.1% (292) were within 4 to 6 months to MRD, 27.1% (783) were within 7 to 14 months to MRD, and the remaining 57.5% (1,661) were more than 14 months to MRD.[68] Of the 2,966 who were deferred or "deferred to MRD," 13.1% (389) were within 3 months to MRD, 9.7% (289) were within 4 to 6 months to MRD, 15.6% (462) were within 7 to 14 months to MRD, and the remaining 61.6% (1,826) 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 5,854 decisions, 22.3% (1,308) were rendered following a file review.

Of 2,823 full Board reviews in the FY 2020 sample (collapsing across inmate types), the Board decision was to designate 2,189 (77.5%) parole candidates for release and to defer 634 (22.5%). Of the 634 who were deferred, 83.3% were categorized as "deferred" and 16.7% were categorized as "deferred to MRD." Of the 2,189 set for release, 1.1% (23) were within 3 months to MRD, 4.9% (107) were within 4 to 6 months to MRD, 15.9% (347) were within 7 to 14 months to MRD, and the remaining 78.2% (1,712) were more than 14 months to MRD.[69] Of the 634 who were deferred or "deferred to MRD," 1.9% (12) were within 3 months to MRD, 6.6% (42) were within 4 to 6 months to MRD, 15.5% (98) were within 7 to 14 months to MRD, and the remaining 76.0% (482) 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 7,083 cases involving non-sex offenders in the FY 2020 sample (collapsing across hearing types), the Board decision was to designate 4,451 (62.8%) parole candidates for release and to defer 2,632 (37.2%). Of the 2,632 who were deferred, 81.2% were categorized as "deferred" and 18.8% were categorized as "deferred to MRD." Of the 4,451 set for release, 3.6% (162) were within 3 months to MRD, 8.2% (364) were within 4 to 6 months to MRD, 23.5% (1,044) were within 7 to 14 months to MRD, and the remaining 64.7%

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

[68] See Footnote 66 regarding individuals labeled a sex offender with an indeterminate sentence.

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

Table 1. FY 2020 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=8,677*)					
Defer	401 [11.1%] *(69.6%)*	331 [9.2%] *(45.3%)*	560 [15.6%] *(33.1%)*	2,308 [64.1%] *(40.6%)*	3,600 [100.0%] *(41.5%)*
Release	175 [3.4%] *(30.4%)*	399 [7.9%] *(54.7%)*	1,130 [22.3%] *(66.9%)*	3,373 [66.4%] *(59.4%)*	5,077 [100.0%] *(58.5%)*
Total	576 [6.6%] *(100.0%)*	730 [8.4%] *(100.0%)*	1,690 [19.5%] *(100.0%)*	5,681 [65.5%] *(100.0%)*	8,677 [100.0%] *(100.0%)*
Regular Hearings (n=5,854*)					
Defer	389 [13.1%] *(71.9%)*	289 [9.7%] *(49.7%)*	462 [15.6%] *(37.1%)*	1,826 [61.6%] *(52.4%)*	2,966 [100.0%] *(50.7%)*
Release	152 [5.3%] *(28.1%)*	292 [10.1%] *(50.3%)*	783 [27.1%] *(62.9%)*	1,661 [57.5%] *(47.6%)*	2,888 [100.0%] *(49.3%)*
Total	541 [9.2%] *(100.0%)*	581 [9.9%] *(100.0%)*	1,245 [21.3%] *(100.0%)*	3,487 [59.6%] *(100.0%)*	5,854 [100.0%] *(100.0%)*
Full Board Reviews (n=2,823*)					
Defer	12 [1.9%] *(34.3%)*	42 [6.6%] *(28.2%)*	98 [15.5%] *(22.0%)*	482 [76.0%] *(22.0%)*	634 [100.0%] *(22.5%)*
Release	23 [1.1%] *(65.7%)*	107 [4.9%] *(71.8%)*	347 [15.9%] *(78.0%)*	1,712 [78.2%] *(78.0%)*	2,189 [100.0%] *(77.5%)*
Total	35 [1.2%] *(100.0%)*	149 [5.3%] *(100.0%)*	445 [15.8%] *(100.0%)*	2,194 [77.7%] *(100.0%)*	2,823 [100.0%] *(100.0%)*
Non-Sex Offenders (n=7,083)					
Defer	292 [11.1%] *(64.3%)*	259 [9.8%] *(41.6%)*	454 [17.2%] *(30.3%)*	1,627 [61.8%] *(36.1%)*	2,632 [100.0%] *(37.2%)*
Release	162 [3.6%] *(35.7%)*	364 [8.2%] *(58.4%)*	1,044 [23.5%] *(69.7%)*	2,881 [64.7%] *(63.9%)*	4,451 [100.0%] *(62.8%)*
Total	454 [6.4%] *(100.0%)*	623 [8.8%] *(100.0%)*	1,498 [21.1%] *(100.0%)*	4,508 [63.6%] *(100.0%)*	7,083 [100.0%] *(100.0%)*
Sex Offenders (n=1,594*)					
Defer	109 [11.3%] *(89.3%)*	72 [7.4%] *(67.3%)*	106 [11.0%] *(55.2%)*	681 [70.4%] *(58.1%)*	968 [100.0%] *(60.7%)*
Release	13 [2.1%] *(10.7%)*	35 [5.6%] *(32.7%)*	86 [13.7%] *(44.8%)*	492 [78.6%] *(41.9%)*	626 [100.0%] *(39.3%)*
Total	122 [7.7%] *(100.0%)*	107 [6.7%] *(100.0%)*	192 [12.0%] *(100.0%)*	1,173 [73.6%] *(100.0%)*	1,594 [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."

(2,881) were more than 14 months to MRD. Of the 2,632 who were deferred or "deferred to MRD," 11.1% (292) were within 3 months to MRD, 9.8% (259) were within 4 to 6 months to MRD, 17.2% (454) were within 7 to 14 months to MRD, and the remaining 61.8% (1,627) 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 7,083 decisions, 16.1% (1,142) were rendered following a file review.

Of 1,594 cases involving those labeled a sex offender in the FY 2020 sample (collapsing across hearing types), the Board decision was to designate 626 (39.3%) parole candidates for release and to defer 968 (60.7%), of which 82.6% were categorized as "deferred" and 17.4% 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 626 set for release, 2.1% (13) were within 3 months to MRD, 5.6% (35) were within 4 to 6 months to MRD, 13.7% (86) were within 7 to 14 months to MRD, and the remaining 78.6% (492) were more than 14 months to MRD. Of the 968 who were deferred, 11.3% (109) were within 3 months to MRD, 7.4% (72) were within 4 to 6 months to MRD, 11.0% (106) were within 7 to 14 months to MRD, and the remaining 70.4% (681) were more than 14 months to MRD. Of the 1,594 decisions, 10.4% (166) 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 8,677 total hearings and reviews in the FY 2020 sample, the Board used the PBRGI Bypass option in 30 (0.3%) cases.
- Of the 7,083 total cases involving a non-sex offender that were applicable for a PBRGI advisory recommendation, the Board bypassed 29 (0.4%) cases. There was 1 bypass within the 1,594 labeled, "sex offender" where the recommendation was not applicable and would not have been displayed.
- Of the 30 total bypassed cases, the Board decision was to designate 7 (23.3%) parole candidates for release and to defer 23 (76.7%). Of the 23 deferred candidates, 6 (26.1%) were deferred to a subsequent hearing date and 17 (73.9%) were deferred to their mandatory release date.

Table 2. FY 2020 PBRGI Bypass sample: Counts and percentages of Parole Board decisions by months to mandatory release date (n=30)

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	15 [65.2%] (78.9%)	6 [26.1%] (75.0%)	2 [8.7%] (66.7%)	0 [0.0%] (0.0%)	23 [100.0%] (76.7%)
Release	4 [57.1%] (21.1%)	2 [28.6%] (25.0%)	1 [14.3%] (33.3%)	0 [0.0%] (0.0%)	7 [100.0%] (23.3%)
Total	19 [63.3%] (100.0%)	8 [26.7%] (100.0%)	3 [10.0%] (100.0%)	0 [0.0%] (0.0%)	30 [100.0%] (100.0%)

- For comparison, of the PBRGI-related regular and full Board review cases where the PBRGI recommendation was not bypassed (n=7,054), the Board designated 4,444 (63.0%) for release and 2,610 (37.0%) for deferral.

Of the 7 inmates designated for release by the Board whose PBRGI recommendation was bypassed, 57.1% (4) were within 3 months to MRD, 28.6% (2) were within 4 to 6 months to MRD, 14.3% (1) was within 7 to 14 months to MRD, and none were more than 14 months to MRD.[70] All 7 of these release decisions were rendered following a file review. Of the 23 who were deferred or "deferred to MRD" and whose PBRGI recommendation was bypassed, 15 (65.2%) were within 3 months to MRD, 6 (26.1%) were within 4 to 6 months to MRD, 2 (8.7%) were within 7 to 14 months to MRD, and none were more than 14 months to MRD. Of the 23 deferral decisions, 22 (95.7%) were rendered following a file review.[71]

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[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, 4 to 6 mos., 7 to 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.

[71] 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 5,007 inmates in the FY 2020 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 low risk (29.0%)

> **The PBRGI placed 29% of parole candidates in the very low risk category and 38% of candidates in the low readiness category.**

and the largest placement of persons on the readiness dimension was in medium readiness (38.5%). The highest percentage of those in the "release area" of the matrix was the 11.7% in very low risk/medium readiness. The highest percentage of those in the "defer area" of the matrix was the 13.1% in very high risk/low readiness. There was 15.4% 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 91% to 94% 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 50.4% to 94.2% with higher rates of release found for those inmates in the high level of readiness (ranging from 90.7% to 94.2%). The deferral percentages in the "defer area" of the matrix (red/darker areas of Table 4) ranged from 16.5% to 88.4% with higher rates of deferral found in low readiness (77.5% to 88.4%).

Table 5 provides the months-to-MRD counts and percentages overall and by Board decision for the PBRGI sample of regular hearings (n=5,007), for the PBRGI bypassed cases (n=28) where an advisory

Table 3. FY 2020 PBRGI sample: Counts and percentages of parole candidates in regular hearings assigned to each PBRGI risk/readiness matrix combination (n=5,007)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	482	584	387	1,453
	% within Very Low Risk	33.2%	40.2%	26.6%	100.0%
	% within Readiness Category	40.5%	30.3%	20.5%	29.0%
	% of Total	9.6%	11.7%	7.7%	29.0%
2 Low	Count	223	337	306	866
	% within Low Risk	25.8%	38.9%	35.3%	100.0%
	% within Readiness Category	18.8%	17.5%	16.2%	17.3%
	% of Total	4.5%	6.7%	6.1%	17.3%
3 Medium	Count	173	317	307	797
	% within Medium Risk	21.7%	39.8%	38.5%	100.0%
	% within Readiness Category	14.6%	16.4%	16.3%	15.9%
	% of Total	3.5%	6.3%	6.1%	15.9%
4 High	Count	147	252	234	633
	% within High Risk	23.2%	39.8%	37.0%	100.0%
	% within Readiness Category	12.4%	13.1%	12.4%	12.6%
	% of Total	2.9%	5.0%	4.7%	12.6%
5 Very High	Count	164	439	655	1,258
	% within Very High Risk	13.0%	34.9%	52.1%	100.0%
	% within Readiness Category	13.8%	22.8%	34.7%	25.1%
	% of Total	3.3%	8.8%	13.1%	25.1%
Total in Readiness Category	Count	1,189	1,929	1,889	5,007
	% within Risk Category	23.7%	38.5%	37.7%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	23.7%	38.5%	37.7%	100.0%

Table 4. FY 2020 PBRGI sample: Counts and percentages of Parole Board (PB) regular hearings decisions within each PBRGI risk/readiness matrix combination (n=5,007)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	482	584	387	1,453
	PB Defer (%)	45 (9.3%)	130 (22.3%)	192 (49.6%)	367 (25.3%)
	PB Release (%)	437 (90.7%)	454 (77.7%)	195 (50.4%)	1,086 (74.7%)
2 Low	Count	223	337	306	866
	PB Defer (%)	13 (5.8%)	74 (22.0%)	237 (77.5%)	324 (37.4%)
	PB Release (%)	210 (94.2%)	263 (78.0%)	69 (22.5%)	542 (62.6%)
3 Medium	Count	173	317	307	797
	PB Defer (%)	16 (9.2%)	93 (29.3%)	243 (79.2%)	352 (44.2%)
	PB Release (%)	157 (90.8%)	224 (70.7%)	64 (20.8%)	445 (55.8%)
4 High	Count	147	252	234	633
	PB Defer (%)	11 (7.5%)	101 (40.1%)	196 (83.8%)	308 (48.7%)
	PB Release (%)	136 (92.5%)	151 (59.9%)	38 (16.2%)	325 (51.3%)
5 Very High	Count	164	439	655	1,258
	PB Defer (%)	27 (16.5%)	227 (51.7%)	579 (88.4%)	833 (66.2%)
	PB Release (%)	137 (83.5%)	212 (48.3%)	76 (11.6%)	425 (33.8%)
Total in Readiness Category	Count	1,189	1,929	1,889	5,007
	PB Defer (%)	112 (9.4%)	625 (32.4%)	1,447 (76.6%)	2,184 (43.6%)
	PB Release (%)	1,077 (90.6%)	1,304 (67.6%)	442 (23.4%)	2,823 (56.4%)

Table 5. FY 2020 PBRGI, Bypass, and Combined samples: Counts and percentages of Parole Board regular hearing decisions by months to mandatory release date (n=5,007, n=28, & n=5,035, 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=5,007)					
Defer	270 [12.4%] (65.5%)	223 [10.2%] (44.0%)	382 [17.5%] (33.4%)	1,309 [59.9%] (44.5%)	2,184 [100.0%] (43.6%)
Release	142 [5.0%] (34.5%)	284 [10.1%] (56.0%)	763 [27.0%] (66.6%)	1,643 [57.9%] (55.5%)	2,823 [100.0%] (56.4%)
Total	412 [8.2%] (100.0%)	507 [10.1%] (100.0%)	1,145 [22.9%] (100.0%)	2,943 [58.8%] (100.0%)	5,007 [100.0%] (100.0%)
Bypass sample (n=28)					
Defer	14 [63.6%] (77.8%)	6 [27.3%] (75.0%)	2 [9.1%] (100.0%)	0 [0.0%] (0.0%)	22 [100.0%] (78.6%)
Release	4 [66.7%] (22.2%)	2 [33.3%] (25.0%)	0 [0.0%] (0.0%)	0 [0.0%] (0.0%)	6 [100.0%] (21.4%)
Total	18 [64.3%] (100.0%)	8 [28.6%] (100.0%)	2 [7.1%] (100.0%)	0 [0.0%] (0.0%)	28 [100.0%] (100.0%)
Combined sample (n=5,035)					
Defer	284 [12.9%] (66.0%)	229 [10.4%] (44.5%)	384 [17.4%] (33.5%)	1,309 [59.3%] (44.5%)	2,206 [100.0%] (43.8%)
Release	146 [5.2%] (34.0%)	286 [10.1%] (55.5%)	763 [27.0%] (66.5%)	1,643 [57.8%] (55.5%)	2,829 [100.0%] (56.2%)
Total	430 [8.5%] (100.0%)	515 [10.2%] (100.0%)	1,147 [22.8%] (100.0%)	2,943 [58.5%] (100.0%)	5,035 [100.0%] (100.0%)

recommendation previously would have been displayed, and for the combination of these two samples (n=5,035). Of the PBRGI sample of 5,007 inmates in regular hearings, the Board designated 56.4% (2,823) of inmates for release and deferred 43.6% (2,184). Of the 2,184 inmates who were deferred, 1,774 (81.2%) were deferred to a subsequent hearing date and 410 (18.8%) were deferred to their MRD.[72] Of these 5,007 PBRGI cases overall, 8.2% (412) were within 3 months to MRD, 10.1% (507) were within 4 to 6 months to MRD, 22.9% (1,145) were within 7 to 14 months to MRD, and 58.8% (2,943) were more than 14 months to MRD.[73] The counts and percentages of Board decisions to release or to defer within these "months-to-

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

[73] 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.

MRD" categories are in Table 5. Of the 5,007 decisions, 22.3% (1,115) were rendered following a file review.[74]

Of the 28 bypassed cases that would have been included in the PBRGI-related analyses, 6 (21.4%) were set for release and 22 (78.6%) were deferred. Of these 22 inmates who were deferred, 6 (27.3%) were deferred to a subsequent hearing date and 16 (72.7%) were deferred to their MRD. Of these 28 cases overall, 64.3% (18) were within 3 months to MRD, 28.6% (8) were within 4 to 6 months to MRD, 7.1% (2) were within 7 to 14 months to MRD, and none 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 28 decisions, 96.4% (27) 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.[75] As mentioned above, Board members designated 2,823 (56.4%) inmates in the sample for release and, combining the two types of deferral, 2,184 (43.6%) for deferral. Of the 5,007 PBRGI regular hearing sample of parole candidates, the PBRGI recommended 2,650 (52.9%) for release and 2,357 (47.1%) for deferral (see Table 6). In this same sample, on the risk dimension, 46.3% (2,319 of 5,007) were categorized as very low or low risk. On the readiness dimension, 62.3% (3,118 of 5,007) were labeled medium or high readiness (see Table 3). Combining these two dimensions, therefore, it is not unexpected that 52.9% of individuals would be assigned an advisory recommendation to release.

> **The Board set 56% of parole candidates for release and deferred 44%. The PBRGI recommended to release 53% and to defer 47%.**

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 6 for an introduction to the agreement and departure concepts.).

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

[75] 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 2020 PBRGI sample: Overall counts and percentages of Parole Board regular hearing decisions by PBRGI advisory recommendations (n=5,007) *

Parole Board Hearing Decision (Overall counts & percentages)		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	1,344 26.8%	430 8.6%	1,774 35.4%
Defer to Mandatory Release Date	Count Percent	266 5.3% *Total Defer = 1,610* *32.2%*	144 2.9% *Total Defer = 574* *11.5%*	410 8.2% *Total Defer = 2,184* *43.6%*
Release	Count Percent	747 14.9%	2,076 41.5%	2,823 56.4%
Total of PBRGI Recommendations	Count Percent	2,357 47.1%	2,650 52.9%	5,007 100.0%

*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 (2,076) and agreements with recommendations to defer (1,610; see the blue/lighter areas of Table 6). Collapsing these two sources of agreement, *73.6% of all Board member decisions agreed with the PBRGI advisory recommendations.* The overall agreement percentage (73.6%) combines the rate of release agreement (78.3% or 2,076 agreements within the 2,650 release recommendations) and the rate of deferral agreement (68.3% or 1,610 agreements within the 2,357 defer recommendations).

> **The 74% in overall PB/PBRGI decision/recommendation agreement comprises 78% in release agreement and 68% in deferral agreement.**

The overall degree of departure is derived from two sources: departures from recommendations to release (574) and departures from recommendations to defer (747; see the red/darker areas in Table 6). Collapsing across these decision types, *26.4% of all Board decisions departed from the PBRGI advisory recommendations*. The overall departure percentage (26.4%) combines the rate of release departure (21.7% or 574 departures within the 2,650 release recommendations) and the rate of deferral departure (31.7% or 747 departures within the 2,357 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=4,463)	**FY 2019** (n=4,307)	**FY 2020** (n=5,007)
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%)	**41.2%** *50.4%* (64.0%)	**49.4%** *52.2%* (71.6%)	**56.4%** *52.9%* (78.3%)
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%)	**58.8%** *49.6%* (82.0%)	**50.6%** *47.8%* (74.9%)	**43.6%** *47.1%* (68.3%)
Overall PB / PBRGI Agree %		69.3%	72.6%	72.6%	72.2%	73.6%	73.0%	73.2%	73.6%

*The sample selection criteria used to identify discretionary hearings in FY 2020 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 in FY 2020, the overall release agreement was more than three times higher than the overall release departure, 41.5% versus 11.5%, respectively. From a deferral perspective, the overall deferral agreement was about two times higher than the overall deferral departure, 32.2% versus 14.9%, 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 2020 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 seven previous fiscal years.[76] The average overall agreement across the eight reporting years was 72.5%, the average overall *release* agreement was 61.8%, and the average overall *deferral* agreement was 83.6%. Comparing the initial FY 2013 sample and the current FY 2020 sample, there has been a 6.2% increase from 69.3% to 73.6% in overall Board member agreement with the PBRGI advisory recommendation. 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%). During subsequent reporting years, the degree of overall agreement has

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[76] The sample selection criteria are described in "FY 2020 Sample Selection" on page 30. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

remained relatively consistent. Although the overall agreement has remained stable, the overall deferral agreement has decreased and the overall release agreement has increased over time. As is evident in the table, the PBRGI has typically recommended a higher percentage of release each year than the percentage of actual release decisions by the Board. The higher actual release and release agreement percentages and the drop in actual deferral and deferral agreement percentages after FY 2017 reflects the effort by the Board to identify additional qualified candidates for release related to population management measures and, in FY 2020, to COVID-19 policies and considerations.[77]

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

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

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 50.4% to 94.2% and averaging 78.3%; blue/lighter area) are generally higher than the agreement percentages in the "defer area" of the decision matrix (ranging from 16.5% to 88.4% and averaging 68.3%; red/darker area).

When collapsing levels of readiness, the degree of Board/PBRGI agreement was generally larger at lower levels of risk than higher levels of risk, overall ranging from agreement at very low risk at 74.7% to very high risk at 66.2%. When collapsing levels of risk, the highest degree of agreement was found in the high readiness category (81.3%) followed by the low (76.8%) and medium (65.8%) readiness 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 83.9% (1,364/1,626). Specifically, this would include individuals categorized in either of the two highest levels of readiness (high or medium) *and* either of the two lowest levels of risk (very low or low). Individuals categorized across the entire very low risk category were designated as appropriate for release, regardless of level of readiness.[78] The overall degree of agreement to release these parole candidates categorized as very low risk was 74.7% (1,086/1,453).

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[77] See "Statutory Modifications" in Section Three.
[78] See Appendix B for a description of the designations for release or defer in the PBRGI decision matrix.

Table 8. FY 2020 PBRGI sample: Counts of parole candidates 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=5,007)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	482	584	387	1,453
	Agreement Count (%)	437 (90.7%)	454 (77.7%)	195 (50.4%)	1,086 (74.7%)
	Departure Count (%)	45 (9.3%)	130 (22.3%)	192 (49.6%)	367 (25.3%)
2 Low	Count	223	337	306	866
	Agreement Count (%)	210 (94.2%)	263 (78.0%)	237 (77.5%)	710 (82.0%)
	Departure Count (%)	13 (5.8%)	74 (22.0%)	69 (22.5%)	156 (18.0%)
3 Medium	Count	173	317	307	797
	Agreement Count (%)	157 (90.8%)	224 (70.7%)	243 (79.2%)	624 (78.3%)
	Departure Count (%)	16 (9.2%)	93 (29.3%)	64 (20.8%)	173 (21.7%)
4 High	Count	147	252	234	633
	Agreement Count (%)	136 (92.5%)	101 (40.1%)	196 (83.8%)	433 (68.4%)
	Departure Count (%)	11 (7.5%)	151 (59.9%)	38 (16.2%)	200 (31.6%)
5 Very High	Count	164	439	655	1,258
	Agreement Count (%)	27 (16.5%)	227 (51.7%)	579 (88.4%)	833 (66.2%)
	Departure Count (%)	137 (83.5%)	212 (48.3%)	76 (11.6%)	425 (33.8%)
Total in Readiness Category	Count	1,189	1,929	1,889	5,007
	Agreement Count (%)	967 (81.3%)	1,269 (65.8%)	1,450 (76.8%)	3,686 (73.6%)
	Departure Count (%)	222 (18.7%)	660 (34.2%)	439 (23.2%)	1,321 (26.4%)

The average agreement with advisory *release* recommendations for inmates located in the "middle decision boundary" was 77.6% (360/464; combining the agreements in the medium/medium and high/high risk/readiness combinations). The degree of agreement in the medium level of readiness was 65.8% relative to the high and low levels of readiness (81.3% and 76.8%, respectively).

The pattern of release agreement percentages in Table 8 reflects the Board's emphasis on readiness and that those who demonstrated more readiness for release were more likely to be released. For example, among those categorized as very low risk, there is a precipitous drop in agreement to release from high readiness (90.7%) to low readiness (50.4%).

The degree of decision agreement was 84% for those identified as the better candidates for release and 70% 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 candidates 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
- Offered a weak parole plan with inadequate preparation for housing, social supports, employment, and/or other such re-entry considerations.

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 69.8% (1,103/1,580). Specifically, this would include individuals categorized in either of the two highest levels of risk (high or very high) and either of the two lowest levels of readiness (low or 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.[79] The overall degree of agreement to defer those categorized as very high risk was 66.2% (833/1,258). This percentage represents the lowest degree of agreement across all risk levels (from 82.0% to 66.2%). The overall level of agreement within this very high risk level was reduced specifically by the low agreement to defer those in the high level of readiness (16.5%; 27 of 164), indicating the Board's willingness to release very high risk individuals if they demonstrated high readiness for release (83.5%; 137 of 164).

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

Relatedly, this decision pattern specific to the deferral side of the matrix can be seen in the general drop in deferral agreement from low to high readiness. 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 (16.2% low to 59.9% medium readiness departures) and the very high risk category (11.6% low to 48.3% medium to 83.5% 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 candidates 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:

- Had significantly mitigated their criminogenic risks;

- Presented a particularly good parole plan; and/or

- Participated in sufficient hours of treatment to ameliorate criminogenic issues.

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.[80]

Summary of Agreements: Board Releases and Deferrals. Of the 5,007 total decisions, 73.6% (3,686) decisions agreed with the PBRGI advisory recommendation. There were 2,076 decisions where Board members *agreed with the PBRGI advisory recommendation to release* (see Table 9). This represents 41.5%

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

of all hearing decisions and 78.3% of the decisions where the PBRGI recommended release. Of these 2,076 decisions, 1,559 (75.1%) individuals were categorized as very low or low risk, 1,881 (90.6%) were categorized with high or medium readiness and 1,364 (65.7%) 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 83.9% (1,364 of the total 1,626 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, 56% were release agreements and 44% were deferral agreements.**

There were 1,610 total decisions where Board members *agreed with the PBRGI advisory recommendation to defer* (see Table 10). This represents 32.2% of all hearing decisions and 68.3% of the decisions where the PBRGI recommended deferral. Of these 1,610 decisions, 1,130 (70.2%) individuals were categorized as high or very high risk, 1,583 (98.3%) were categorized with medium or low readiness, and 1,103 (68.5%) 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 69.8% (1,103 of the total 1,580 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 Deferral 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 candidates to parole (see Table 11). Although Board members demonstrated a high degree of agreement overall with defer recommendations (68.3% or 1,610/2,357 from Table 6), there were 747 (14.9% overall) instances of deferral departure where the Board instead chose to release. This represents 31.7% (747/2,357) of the total advisory recommendations to defer (see Table 6). Of these 747 instances, 614 (82.2%) individuals were categorized by the PBRGI as high or very high risk. Of these 747 instances, 610 (81.7%) were in the low or medium readiness categories, overall representing 4.9% (247/5,007) and

Table 9. FY 2020 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 2,076 <u>Board release decisions in regular hearings that agreed with the PBRGI advisory recommendation to release</u>

Of the 2,076 Release Agreements Count Percentage	READINESS		
	High	**Medium**	Low
RISK **Very Low**	437 21.1%	454 21.9%	195 9.4%
Low	210 10.1%	263 12.7%	-
Medium	157 7.6%	224 10.8%	-
High	136 6.6%	-	-
Very High	-	-	-

75.1%

90.6%　　　**65.7%**

Table 10. FY 2020 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,610 <u>Board deferral decisions in regular hearings that agreed with the PBRGI advisory recommendation to defer</u>

Of the 1,610 Deferral Agreements Count Percentage	READINESS		
	High	**Medium**	**Low**
RISK Very Low	-	-	-
Low	-	-	237 14.7%
Medium	-	-	243 15.1%
High	-	101 6.3%	196 12.2%
Very High	27 1.7%	227 14.1%	579 36.0%

70.2%

98.3%　　　**68.5%**

7.2% (363/5,007), respectively, of the decisions in the PBRGI regular hearing sample.

Combining the two dimensions of risk and readiness, the Board chose to release 477 candidates (63.9% of the 747 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). This represents 9.5% of the 5,007 regular hearing decisions. Although 137 (18.3%) of the 747 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 69 (9.2%) of these releases, although low in readiness, were found in the low risk category.

Of the 747 deferral departures (a Board decision to release), 57% of parole candidates were categorized as very high risk, but 32% of these very high risk individuals were also high in readiness for parole.

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 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.

Of the 574 release departures (a Board decision to defer), 64% of parole candidates were categorized as very low risk, but 52% of these very low risk individuals were also low in readiness for parole.

Summary of Release 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). Although Board members demonstrated a high degree of agreement overall with release recommendations (78.3% or 2,076/2,650 from Table 6), there were 574 (11.5% overall) instances of release departure where the Board chose to defer. This represents a release departure rate of 21.7% (574/2,650) of release recommendations. These 574 inmates

Table 11. FY 2020 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 747 <u>Board release decisions in regular hearings that did not agree with the PBRGI advisory recommendation to defer</u>

Of the 747 <u>Deferral Departures</u> Count Percentage		READINESS		
		High	**Medium**	**Low**
RISK	Very Low	-	-	-
	Low	-	-	69 9.2%
	Medium	-	-	64 8.6%
	High	-	151 20.2%	38 5.1%
	Very High	137 18.3%	212 28.4%	76 10.2%

82.2%

81.7%   **63.9%**

Table 12. FY 2020 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 574 <u>Board deferral decisions in regular hearings that did not agree with the PBRGI advisory recommendation to release</u>

Of the 574 <u>Release Departures</u> Count Percentage		READINESS		
		High	**Medium**	Low
RISK	**Very Low**	45 7.8%	130 22.6%	192 33.4%
	Low	13 2.3%	74 12.9%	-
	Medium	16 2.8%	93 16.2%	-
	High	11 1.9%	-	-
	Very High	-	-	-

79.1%

66.6%   **45.6%**

can be divided into the 430 (74.9%) who were deferred to a subsequent hearing date and the 144 (25.1%) who were deferred to the MRD.

Of these 574 inmates, 454 (79.1%) were categorized by the PBRGI as low or very low risk and 382 (66.6%) were in the medium or high readiness categories. Combining the two dimensions of risk and readiness, the Board chose to defer 262 individuals (45.6% of the 574 departure decisions and 5.2% 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). Overall, the percentage of Board decisions to release individuals recommended for deferral (14.9%) was higher than the percentage of decisions to defer individuals recommended for release (11.5%) (see Table 6). Although the most common of the departures from the PBRGI release recommendations was found in the very low risk category (192 of 574 or 33.4%), these individuals also were categorized at the lowest level of readiness for release. An additional 11 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.[81] This section summarizes the reasons entered by Board members for departing from the PBRGI advisory recommendation. As mentioned above, because the Board used the PBRGI Bypass option in 28 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 26.4% (1,321/5,007) 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 574 decisions to defer or defer to the MRD when release was recommended, representing 11.5% of all decisions, and for the 747 decisions to release when defer was recommended, representing 14.9% of all decisions (see Table 6).

> **In FY 2020, a departure reason was required for the 574 PB decisions to defer when the PBRGI recommendation was to release and for the 747 PB decisions to release when the PBRGI recommendation was to defer.**

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

Summary of Deferral Departure Reasons: Board Decides to Release. *When the PBRGI advisory recommendation was to defer*, there were 747 decisions (14.9% 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 (termed a "rescission") 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 2,222 total reasons provided for these 747 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 reduced risk; Treatment participation considerations; Program participation considerations; or Time served or imminent MRD/SDD.[82] Additionally, although COVID-19 considerations were noted in 165 (22.1%) of these 747 release decisions in the general database, this notation was entered as a departure reason in only 14 (1.9%) of the 747 cases.

Brief descriptions and/or examples of the non-COVID-related departure reason categories follow.
- 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

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

corrections as an inmate had been successful and often that stable employment had been secured.

- Reasons in the *risk-mitigation category* included comments about low risk scores, non-violent offenses, short criminal histories, and committing no or minor violations of the Colorado Department of Corrections (CDOC) *Code of Penal Discipline*.

- The mentions of *treatment participation* 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 747 *departure decisions to release*, Board members mentioned one of the above seven reason *categories* in 1,729 instances. Board members mentioned a single departure reason category in 208 cases, two categories in 262 cases, or more than two categories in 277 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

> **The most frequent reason offered by Board members when departing from a PBRGI advisory recommendation to defer was that the parole applicant had demonstrated mitigated or reduced risk.**

departure reasons. The percentage of the 747 cases where a departure *category* was mentioned was as follows:[83]

- Mitigated or reduced risk, 61.8% (462/747 cases where the reason category was mentioned)

- Parole plan quality, 55.6% (415 cases)

- Demonstrated growth/positive attitude, 33.5% (250 cases)

- Performance in the community, 29.3% (219 cases)

- Treatment participation considerations, 27.0% (202 cases)

- Program participation considerations, 12.6% (94 cases)

- Adequate time served or imminent MRD/SDD,[84] 11.6% (87 cases)

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[83] Percentages total more than 100% because more than one category was mentioned in 539 of the 747 cases.
[84] See Footnote 82.

Of these 747 candidates, 477 (63.9%) 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 1,427 total departure reasons offered in similar 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:

- Mitigated or reduced risk, 65.8% (314/477 cases where the category was mentioned)
- Presented a comprehensive parole plan, 54.7% (261 cases)
- Treatment participation, 30.6% and community performance considerations, 30.6% (146 cases each)

Summary of Release Departure Reasons: Board Decides to Defer. *When the PBRGI advisory recommendation was to release*, there were 574 decisions (11.5% 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 1,608 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.[85] 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 candidates 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 who 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

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[85] See Footnote 82.

considerations. The mentions of *program participation 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 skills and/or vocational and educational needs. *Time-related comments* indicated that a release on the MRD or the SDD was impending[86] or that the crime committed warranted additional incarceration time.

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.

For these 574 *departure decisions to defer*, Board members mentioned one of the above seven reason categories in 1,176 instances. Board members mentioned a single category of concern in 147 cases, two categories in 284 cases, or more than two categories 143 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 574 decisions, the percentage of cases where a departure category was mentioned was as follows:[87]

- Risk concerns, 79.6% (457/574 cases where the reason category was mentioned)
- Treatment participation or criminogenic need concerns, 39.7% (228 cases)
- Parole plan quality concerns, 29.6% (170 cases)
- Attitude or presentation concerns, 19.5% (112 cases)
- Time served inadequate, file review, or imminent MRD/SDD, 16.9% (97 cases)
- Need to transition to or stabilize in a community corrections placement, 13.9% (80 cases)
- Program participation concerns, 5.6% (32 cases)

Of these 574 parole candidates, 262 (45.6%) 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 698 total departure reasons offered in similar percentages to those above. The three most frequent reason *categories* mentioned for this subset of candidates reflected comments indicating one or more of the following:

- Risk concerns, 80.2% (210/262 cases where the reason category was mentioned)
- Treatment participation or criminogenic need concerns, 35.5% (93 cases)
- Parole plan quality concerns, 27.1% (71 cases)

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[86] Regarding release departures, the Board has described that parole candidates 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*].

[87] Percentages total more than 100% because more than one reason category was mentioned in 427 of the 574 cases.

Findings: File Reviews

Sample (File Reviews). The FY 2020 sample of 8,677 hearings included 1,308 total file reviews.[88] Some file reviews were conducted because a single qualifying criterion was present while others occurred because a combination of statutory requirements were met. Detailed analyses to tie the different 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 selected for review according to population management provisions (which required that several simultaneous criteria be met[89]). Because these "multi-criteria" circumstances cannot be identified, the criteria mentioned previously in Section Three ("Statutory Modifications") were evaluated individually and presented in order of frequency. The 1,308 cases appeared to meet the following file review criteria:

> **Parole candidates who were the subject of a file review represented 15% of the FY 2020 sample and 50% of these candidates were deferred.**

- 864 cases (66.1% of 1,308) were within six months to MRD
- 848 cases (64.8% of 1,308) were categorized at "medium or lower" risk
- 629 cases (48.1% of 1,308) had a PBRGI advisory recommendation to release
- 500 cases (38.2% of 1,308) were categorized at low or very low risk
- 492 cases (37.6% of 1,308) were within three months of MRD
- 60 cases (4.6% of 1,308) involved an Immigration and Customs Enforcement detainer.

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 have increased 439% as a proportion of all hearings from 2.8% (n=269) of all hearings in the FY 2014 sample to 15.1% (n=1,308) in the FY 2020 sample.

Of the 1,308 total file reviews, 654 parole candidates (50.0%) were set for release and 654 (50.0%) were deferred (of which 400 or 61.2% were deferred to a subsequent hearing date and 254 or 38.8% were "deferred to MRD"). Of the 654 candidates set for release, 146 (22.3%) were within 3 months to MRD, 159

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[88] 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.
[89] 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=8,507)	FY 2019 (n=8,569)	FY 2020 (n=8,677)
Total File Reviews	**10 (0.1%)**	**269 (2.8%)**	**376 (4.2%)**	**608 (7.2%)**	**641 (7.7%)**	**924 (10.9%)**	**1,277 (14.9%)**	**1,308 (15.1%)**
Defer	3 (30.0%)	135 (50.2%)	169 (44.9%)	200 (32.9%)	200 (31.2%)	271 (29.3%)	364 (28.5%)	400 (30.6%)
Defer to MRD	6 (60.0%)	124 (46.1%)	200 (53.2%)	388 (63.8%)	389 (60.7%)	384 (41.6%)	314 (24.6%)	254 (19.4%)
[Defer Total]	*[90.0%]*	*[96.3%]*	*[98.1%]*	*[96.7%]*	*[91.9%]*	*[70.9%]*	*[53.1%]*	*[50.0%]*
Release	1 (10.0%)	10 (3.7%)	7 (1.9%)	20 (3.3%)	52 (8.1%)	269 (29.1%)	599 (46.9%)	654 (50.0%)

*The sample selection criteria used to identify discretionary hearings in FY 2020 were used for all reporting years for comparability of comparisons.

(24.3%) were within 4 to 6 months to MRD, 133 (20.3%) were within 7 to 14 months to MRD, and the remaining 216 (33.0%) were more than 14 months to MRD. Of the 654 candidates who were deferred, 346 (52.9%) were within 3 months to MRD, 213 (32.6%) were within 4 to 6 months to MRD, 62 (9.5%) were within 7 to 14 months to MRD, and the remaining 33 (5.0%) were more than 14 months to MRD.

Board Decisions (File Reviews). Of the 1,308 total file reviews in the FY 2020 sample, 1,142 were conducted for non-sex offenders and 166 for those labeled a "sex offender." Of the 166 candidates labeled a "sex offender," 16 (9.6%) were designated for release following the file review. Of the 1,142 file reviews of non-sex offenders, 638 candidates (55.9%) were set for release and 504 (44.1%) were deferred. Of the 504 candidates who were deferred, 320 (63.5%) were deferred to a subsequent hearing date and 184 (36.5%) were "deferred to MRD." Of these 1,142 parole candidates, 399 (34.9%) were within 3 months to MRD, 320 (28.0%) were within 4 to 6 months to MRD, 184 (16.1%) were within 7 to 14 months to MRD, and the remaining 239 (20.9%) were more than 14 months to MRD.[90] The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories are in Table 14.

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[90] 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 2020 PBRGI, Bypass and Combined samples - File Reviews: Counts and percentages of Parole Board decisions by months to mandatory release date (n=1,115, n=27, & n=1,142, 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=1,115)					
Defer	244 [50.5%] (64.0%)	158 [32.7%] (50.6%)	53 [11.0%] (29.0%)	28 [5.8%] (11.7%)	483 [100.0%] (43.3%)
Release	137 [21.7%] (36.0%)	154 [24.4%] (49.4%)	130 [20.6%] (71.0%)	211 [33.4%] (88.3%)	632 [100.0%] (56.7%)
Total	381 [34.2%] (100.0%)	312 [28.0%] (100.0%)	183 [16.4%] (100.0%)	239 [21.4%] (100.0%)	1,115 [100.0%] (100.0%)
Bypass sample [File reviews] (n=27)					
Defer	14 [66.7%] (77.8%)	6 [28.6%] (75.0%)	1 [4.8%] (100.0%)	0 [0.0%] (0.0%)	21 [100.0%] (77.8%)
Release	4 [66.7%] (22.2%)	2 [33.3%] (25.0%)	0 [0.0%] (0.0%)	0 [0.0%] (0.0%)	6 [100.0%] (22.2%)
Total	18 [66.7%] (100.0%)	8 [29.6%] (100.0%)	1 [3.7%] (100.0%)	0 [0.0%] (0.0%)	27 [100.0%] (100.0%)
Combined sample [File reviews] (n=1,142)					
Defer	258 [51.2%] (64.7%)	164 [32.5%] (51.2%)	54 [10.7%] (29.3%)	28 [5.6%] (11.7%)	504 [100.0%] (44.1%)
Release	141 [22.1%] (35.3%)	156 [24.5%] (48.8%)	130 [20.4%] (70.7%)	211 [33.1%] (88.3%)	638 [100.0%] (55.9%)
Total	399 [34.9%] (100.0%)	320 [28.0%] (100.0%)	184 [16.1%] (100.0%)	239 [20.9%] (100.0%)	1,142 [100.0%] (100.0%)

PBRGI Bypass (File Reviews). As mentioned above, there were 1,142 parole candidates who were the subject of a file review and who were eligible for a PBRGI advisory recommendation. However, the Board chose to use the PBRGI Bypass option in 27 (2.4%) instances, leaving 1,115 file reviews for which an advisory recommendation was displayed. Of the 27 file reviews that bypassed the advisory recommendation, the bypass reason selected for these cases was: "File Review" (2 cases) or "Other" (25 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 27 bypassed cases, the Board decision was to designate 6 (22.2%) parole candidates for release and to defer 21 (77.8%) (see Table 14). Of the 21 (77.8%) bypass cases that were deferred, 23.8% (5/21)

were categorized as "deferred" and 76.2% (16/21) were categorized as "deferred to MRD."[91] Of the 27 bypassed cases, 18 (66.7%) were within 3 months to MRD, 8 (29.6%) were within 4 to 6 months to MRD, 1 (3.7%) was within 7 to 14 months to MRD, and none were more than 14 months to MRD.[92] The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories are in Table 14.

Of the 1,115 file review cases that were not bypassed, 743 (66.6%) met the medium (296), low (249), or very low (198) risk criterion; an additional 294 (26.4%) met the "6-months-to-MRD" criterion, and the remaining 78 (7.0%) met one or more of the remaining criteria allowing a file review. Of the 1,115 cases, 381 (34.2%) were within 3 months to MRD, 312 (28.0%) were within 4 to 6 months to MRD, 183 (16.4%) were within 7 to 14 months to MRD, and the remaining 239 (21.4%) 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 27 (2.4% of 1,142) instances, there are 1,115 file reviews remaining for analysis for which a PBRGI advisory recommendation was displayed. Table 15 provides the number and percentage of the 1,115 file reviews from the FY 2020 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 candidates across the five risk levels was the 43.5% (485 of 1,115) in the very low risk category (compared to 24.9% of 3,892 inmates in non-file review hearings). Overall, the largest percentage of candidates across the three readiness levels was the 50.4% (562 of 1,115) in the low readiness category (versus the comparable 34.1% in low readiness - relative to the highest category 39.1% in medium - among the 3,892 in non-file review hearings). In the "release area" of the matrix, the largest percentage of candidates who were the subject of a file review was found in the medium readiness category within very low risk (19.0%; 212 of 1,115). In the "defer area," the largest percentage of file reviews was found in the very high risk and low readiness matrix category (13.5%; 151 of 1,115).

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

[92] 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 2020 PBRGI sample - File Reviews: Counts and percentages of parole candidates assigned to each PBRGI risk/readiness matrix combination (n=1,115)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	106	212	167	485
	% within Very Low Risk	21.9%	43.7%	34.4%	100.0%
	% within Readiness Category	73.6%	51.8%	29.7%	43.5%
	% of Total	9.5%	19.0%	15.0%	43.5%
2 Low	Count	16	57	88	161
	% within Low Risk	9.9%	35.4%	54.7%	100.0%
	% within Readiness Category	11.1%	13.9%	15.7%	14.4%
	% of Total	1.4%	5.1%	7.9%	14.4%
3 Medium	Count	9	56	85	150
	% within Medium Risk	6.0%	37.3%	56.7%	100.0%
	% within Readiness Category	6.3%	13.7%	15.1%	13.5%
	% of Total	0.8%	5.0%	7.6%	13.5%
4 High	Count	6	34	71	111
	% within High Risk	5.4%	30.6%	64.0%	100.0%
	% within Readiness Category	4.2%	8.3%	12.6%	10.0%
	% of Total	0.5%	3.0%	6.4%	10.0%
5 Very High	Count	7	50	151	208
	% within Very High Risk	3.4%	24.0%	72.6%	100.0%
	% within Readiness Category	4.9%	12.2%	26.9%	18.7%
	% of Total	0.6%	4.5%	13.5%	18.7%
Total in Readiness Category	Count	144	409	562	1,115
	% within Risk Category	12.9%	36.7%	50.4%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	12.9%	36.7%	50.4%	100.0%

Table 16. FY 2020 PBRGI sample - File Reviews: Overall counts and percentages of Parole Board file review decisions by PBRGI advisory recommendations (n=1,115) *

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	261 23.4%	54 4.8%	315 28.3%
Defer to Mandatory Release Date	Count Percent	98 8.8% *Total Defer = 359* 32.2%	70 6.3% *Total Defer = 124* 11.1%	168 15.1% *Total Defer = 483* 43.3%
Release	Count Percent	127 11.4%	505 45.3%	632 56.7%
Total of PBRGI Recommendations	Count Percent	486 43.6%	629 56.4%	1,115 100.0%

*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 1,115 file reviews where a PBRGI advisory recommendation was displayed, the Board decided to set 632 (56.7%) candidates for release and to defer 483 (43.3%). Of the 483 deferred, 65.2% (315/483) were categorized as "deferred" and 34.8% (168/483) were categorized as "deferred to MRD." By comparison, for the PBRGI-related regular hearings that did not involve a file review (n=3,892), the Board similarly set 56.3% of parole candidates for release and deferred 43.7%. The PBRGI advisory recommendations for the 1,115 file reviews included 629 (56.4%) recommendations for release and 486 (43.6%) recommendations for deferral.

> **Collapsing across PBRGI-related <u>file review</u> decisions, 77% of Board decisions agreed with the advisory recommendation.**

Board/PBRGI Agreement (File Reviews). Collapsing release and deferral *agreements* on file reviews (between Board decisions and PBRGI recommendations), *77.5% of file review decisions agreed with the PBRGI advisory recommendations* (see Table 16). This combined agreement percentage (77.5%) includes the degree of release agreement (80.3% or 505 agreements within the 629 release recommendations) and the degree of deferral agreement (73.9% or 359 agreements within the 486 defer recommendations). The rate of release agreement is 8.7% higher than that of defer agreement.

Collapsing release and deferral *departures* on file reviews (between Board decisions and PBRGI recommendations), *22.5% of full Board review decisions departed from the PBRGI recommendations*. This combined departure percentage (22.5%) includes the degree of release departure (11.1% or 124 departures within the 629 release recommendations) and the degree of deferral departure (11.4% or 127 departures within the 486 defer recommendations). From a release perspective, the overall release agreement for file reviews was just over four times larger than the overall release departure, 45.3% versus 11.1%. From a deferral perspective, the overall deferral agreement was just under three times larger than the overall deferral departure, 32.2% versus 11.4%.

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.[93] The departure reason analysis for the relevant 251 file reviews were included above in the complete presentation of the departure reason findings. A specific review of the 339 reasons (279 unique mentions of reason categories) for the 124 release departures (when the Board decided to defer) referred primarily to concerns regarding risk to the community, the applicant's imminent mandatory release and/or, to a lesser extent, the applicant's inadequate parole plan or untreated criminogenic needs. A specific review of the 247 reasons (202 unique mentions of reason categories) for the 127 deferral departures (when the Board decided to release) referred to mitigated or reduced risk and/or the existence of a satisfactory parole plan. Additionally, while COVID-19 considerations were indicated in the database in 172 (26.3%) of the total 654 file review releases and in 70 (55.1%) of the 127 deferral departures, such considerations were entered specifically as a departure reason in only 6 (4.7%) of the 127 cases.

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

Findings: Full Board Reviews

Sample (Full Board Reviews). The FY 2020 hearing sample included 2,823 total full Board reviews that occurred subsequent to an initial hearing conducted by a Board member.[94] Board members may refer a parole candidate to a full Board review for any reason at the Board member's discretion, must refer to a full Board review if the parole applicant's crime involved violence or a sex offense and must refer to a full Board review if specific statutory provisions are applicable and defer is the preferred decision outcome.[95] 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 2,823 full board decisions, there were 1,048 full Board reviews for non-sex offenders and 775 full Board reviews for sex offenders. Of the 1,048 reviews eligible for the display of the PBRGI advisory recommendation, the Board's Bypass option was chosen for 1 case, leaving 1,047 cases for PBGRI analysis.

PBRGI Decision Matrix Assignment (Full Board Reviews). Table 17 provides the number and percentage of the 1,047 full Board reviews from the FY 2020 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 candidates in the "release area" of the matrix was found in the very low risk/high readiness category (27.1% or 554/2,047) and the largest percentage in the "defer area" was found in the very high risk/medium readiness category (7.0% or 143/2,047).

> **Of parole candidates reviewed by the full Board, 79% were set for release by the Board and 81% were recommended for release by the PBRGI.**

Board Decisions (Full Board Reviews). Of the 2,047 full Board reviews, Board members designated 1,621 (79.2%) candidates for release and 426 (20.8%) for deferral (see Table 18). The single case that "bypassed" the PBRGI recommendation was set for release. Of the 426 designated for deferral, 356 (83.6%) were deferred to a subsequent hearing date and 70 (16.4%) were deferred to the MRD. The "months-to-MRD" findings for these 2,047 full Board decisions are similar in proportion to the overall full Board findings displayed above in Table 1. The 79.2% rate of release for these full Board reviews was 1.4 times higher than the rate of release for the comparable regular hearings (56.4% of 5,007 hearings). Of these 2,047 reviews, the PBRGI recommended 1,656 (80.9%) individuals for release and 391

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

[95] 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 2020 PBRGI sample - Full Board Reviews: Counts and percentages of parole candidates assigned to each PBRGI risk/readiness matrix combination (n=2,047)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	554	300	42	896
	% within Very Low Risk	61.8%	33.5%	4.7%	100.0%
	% within Readiness Category	51.6%	34.5%	40.8%	43.8%
	% of Total	27.1%	14.7%	2.1%	43.8%
2 Low	Count	203	177	14	394
	% within Low Risk	51.5%	44.9%	3.6%	100.0%
	% within Readiness Category	18.9%	20.3%	13.6%	19.2%
	% of Total	9.9%	8.6%	0.7%	19.2%
3 Medium	Count	136	146	15	297
	% within Medium Risk	45.8%	49.2%	5.1%	100.0%
	% within Readiness Category	12.7%	16.8%	14.6%	14.5%
	% of Total	6.6%	7.1%	0.7%	14.5%
4 High	Count	98	104	8	210
	% within High Risk	46.7%	49.5%	3.8%	100.0%
	% within Readiness Category	9.1%	12.0%	7.8%	10.3%
	% of Total	4.8%	5.1%	0.4%	10.3%
5 Very High	Count	83	143	24	250
	% within Very High Risk	33.2%	57.2%	9.6%	100.0%
	% within Readiness Category	7.7%	16.4%	23.3%	12.2%
	% of Total	4.1%	7.0%	1.2%	12.2%
Total in Readiness Category	Count	1,074	870	103	2,047
	% within Risk Category	52.5%	42.5%	5.0%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	52.5%	42.5%	5.0%	100.0%

Table 18. FY 2020 PBRGI sample - Full Board Reviews: Overall counts and percentages of full Board review decisions by PBRGI advisory recommendations (n=2,047) *

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	107 5.2%	249 12.2%	356 17.4%
Defer to Mandatory Release Date	Count Percent	11 0.5% *Total Defer = 118* 5.8%	59 2.9% *Total Defer = 308* 15.0%	70 3.4% *Total Defer = 426* 20.8%
Release	Count Percent	273 13.3%	1,348 65.9%	1,621 79.2%
Total of PBRGI Recommendations	Count Percent	391 19.1%	1,656 80.9%	2,047 100.0%

*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.

(19.1%) for deferral. This higher rate of release by the Board and the increased frequency in related PBRGI recommendations for release may be traced to the 77.1% (1,276/1,656) of parole candidates in the two lowest levels of risk and the 97.5% (1,614/1,656) in the two highest levels of readiness of those recommended for release.

Board/PBRGI Agreement (Full Board Reviews). Collapsing the two sources of *agreement* (between corresponding PBRGI recommendations and Board decisions to release and to defer), *71.6% of full Board review decisions agreed with the PBRGI recommendations* (see Table 18). The combined agreement percentage (71.6%) includes the degree of release agreement (81.4%; 1,348 of 1,656) and the degree of deferral agreement (30.2%; 118 of 391). The degree of release agreement was 2.7 times larger than the degree of deferral agreement. From a release perspective, the overall release agreement for full Board reviews was 4.4 times larger than overall release departure, 81.4% versus 18.6%, respectively.

> **Collapsing across all <u>full Board</u> decisions, 72% 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), *28.4% of full Board review decisions departed from the PBRGI recommendations*. The combined departure percentage (28.4%) includes the

degree of release departure (18.6%; 308 of 1,656) and the degree of deferral departure (69.8%; 273 of 391). The degree of deferral departure was 3.8 times larger than the degree of release departure. From a deferral perspective, the overall deferral agreement for full Board reviews was about 2.3 times smaller than the overall deferral departure, 5.8% versus 13.3%.

When making full Board review decisions for these parole candidates, the likelihood to agree with the PBRGI advisory recommendation to release was slightly higher than when Board members made decisions alone: 81.4% versus 78.3%[96] 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: 30.2% versus 68.3%[97] 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.[98] 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 sometimes with more, members present. Each member may offer a unique perspective on the same decision to release or the same decision to defer. 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 28.4% (581 of 2,047) 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 273 decisions to release when defer was recommended, representing 13.3% of all full Board decisions and for the 308 decisions to defer or "defer to MRD" when release was recommended, representing 15.0% of all full Board decisions (see Table 18).

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

Summary of Deferral Departure Reasons: Full Board Decides to Release. For the 273 *deferral* departures, Board members provided 701 total departure reasons and, of these, there were 612 unique mentions of reason categories for these decisions to release. The Board entered "full Board decision" as the departure reason in 130 instances. Of these 130 instances, "full Board decision" was noted as the sole reason for 76 cases and "full Board decision" was combined with at least one additional reason for 54 cases. For the remaining 143 of 273 cases, at least one reason *other than* "full Board decision" was offered. Overall, Board members mentioned a single category of concern in 97 cases, two categories in 84 cases, and more than two categories 92 cases. Additionally, although COVID-19 considerations were noted in 24 (8.8%) of these 273 release decisions in the database, this notation was entered as a departure reason in only 4 (1.5%) of the 273 cases. Brief descriptions and/or examples of the non-COVID-related categories follow.

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 612 instances. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. The percentage of the 273 cases where a departure *category* was mentioned was as follows:[99]

- Full Board decision, 47.6% (130/273 cases where this category was mentioned)
- Parole plan quality, 39.9% (109 cases)
- Demonstrated growth/positive attitude, 35.5% (97 cases)
- Performance in the community, 28.9% (79 cases)
- Treatment participation considerations, 28.6% (78 cases)
- Mitigated or lesser risk, 21.2% (58 cases)
- Program participation considerations, 20.1% (55 cases)
- Adequate time served, 2.2% (6 cases)

Summary of Release Departure Reasons: Full Board Decides to Defer. For the 308 *release departures*, Board members provided 745 total departure reasons for these decisions to defer. The Board entered "full Board decision" as the departure reason in 171 instances. Of these 171 instances, "full Board decision" was noted as the sole reason in 87 cases and "full Board decision" was combined with at least one additional reason for 84 cases. For the remaining 137 of 308 cases, at least one reason *other than* "full Board decision" was offered. Overall, Board members mentioned a single category of concern in 128 cases, two categories in 95 cases, and more than two categories 85 cases.

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[99] Percentages total more than 100% because more than one reason category was mentioned in 176 of the 273 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 596 instances. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. The percentage of the 308 cases where a departure *category* was mentioned was as follows:[100]

- Risk concerns, 58.4% (180/308 cases where this category was mentioned)
- Full Board decision, 55.5% (171 cases)
- Treatment participation or criminogenic need concerns, 29.9% (92 cases)
- Parole plan quality concerns, 16.9% (52 cases)
- Attitude or presentation concerns, 16.2% (50 cases)
- Time served is inadequate or imminent MRD/SDD, 5.8% (18 cases)
- Program participation concerns, 5.5% (17 cases)
- Need to transition to or stabilize in a community corrections placement, 5.2% (16 cases)

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[100] Percentages total more than 100% because more than one reason category was mentioned in 180 of the 308 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 candidates. A single decision by the Board to choose the PBRGI Bypass option for a person labeled "sex offender" was unnecessary and has no impact on the analyses for these hearing records. Although there are no PBRGI data for analysis, statute 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 and managed by the Sex Offender Management Board (SOMB) and the Sex Offender Treatment and Monitoring Program at CDOC.[101] 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 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 candidates only after a full Board review is conducted.

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[101] The determinate-sentence and indeterminate-sentence criteria and information regarding sex offender management may be found in the following documents: *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (2022)*, specifically in *Appendix Q: Parole Guidelines for Discretionary Release on Determinate-Sentenced Sex Offenders* and *Appendix V: Lifetime Supervision Criteria* [see dcj.colorado.gov/dcj-offices/domestic-violence-and-sex-offender-management/somb/ somb-standards-bulletins]; *CDOC Administrative Regulation 250-48: Management of Offenders with an Identified Sex Offense;* and *CDOC Administrative Regulation 700-19: Sex Offender Treatment and Monitoring Program* [see cdoc.colorado.gov/ about/department-policies].

Of the total FY 2020 sample of 8,677 hearings and reviews, 1,594 were conducted for individuals labeled a "sex offender." Of the 1,594, 89.9% (1,433) 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 7.7% (122 an "S3") and 2.4% (39 an "S4"). Of the total 1,594 individuals categorized as a "sex offender," 819 decisions were rendered in initial ("regular") hearings and 775 decisions were rendered following a full Board review.

The 819 regular hearing decisions included 59 (7.2%) individuals set for release and 760 (92.8%) who were deferred. Of the 59 regular hearing releases that were seemingly at odds with Board policy to only release following a full Board, 40 (67.8%) were labeled an "S3," two (3.4%) were labeled an "S4," and 17 (28.8%) were labeled an "S5."[102] As described above, 775 individuals were referred to the full Board for further review and, of these, the full Board set 567 (73.2%) for release and 208 (26.8%) were deferred.

Combining the decision outcomes of regular hearings and full Board reviews, the overall decision percentages for the 1,594 individuals labeled a sex offender were: 39.3% (626) set for release and 60.7% (968) deferred. Of the 819 regular hearings involving those labeled a sex offender, 166 (20.3%) were conducted as a file review, following which 16 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 the 626 individuals set for release, 2.1% (13) were within 3 months to MRD, 5.6% (35) were within 4 to 6 months to MRD, 13.7% (86) were within 7 to 14 months to MRD, and the remaining 78.6% (492) were more than 14 months to MRD. Of the 968 who were deferred, 11.3% (109) were within 3 months to MRD, 7.4% (72) were within 4 to 6 months to MRD, 11.0% (106) were within 7 to 14 months to MRD, and the remaining 70.4% (681) were more than 14 months to MRD. The large percentages in the "14 months to MRD" category, whether for those set for release (78.6%) or deferred (70.4%), simply reflects the number of 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.

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[102] There is no record of a full Board review or decision for these 59 cases. These releases may be connected to cases that did not involve sex-offense specific treatment, may be due to atypical or special circumstances or may be due to missing full Board decision data.

Summary: FY 2020 Findings

These FY 2020 analyses represent the seventh *full* year of Board hearings following the FY 2013 implementation. The FY 2020 discretionary hearings sample included 8,677 release application hearings conducted by members of the Parole Board and finalized between July 1, 2019 and June 30, 2020.

Roughly 9,000 hearing 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 2020 hearing decision sample and subsamples:

o Of the 8,677 parole application hearings, 5,854 were regular hearings and 2,823 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, 7,083 hearings were conducted for those who were not labeled a sex offender and 1,594 were conducted for those who were labeled a sex offender. Of the 8,677 cases, the Board conducted 1,308 file reviews.[103]

o Of the 5,854 regular hearings, 5,035 cases involved those who were not labeled a sex offender and 819 cases involved those who were labeled a sex offender.[104] Of the 2,823 full Board reviews, 2,048 reviews involved those who were not labeled a sex offender and 775 reviews involved those who were labeled a sex offender. Of the 5,035 and 819 subgroups of regular hearings, the Board conducted file reviews in 1,142 (non-sex-offender) cases and 166 (sex offender) cases, respectively.

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[103] File reviews and full Board reviews do not involve a direct interview of the inmate. See "Board Hearing Types" in Section Three.
[104] 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 2020 Parole Board Decisions (n=8,677)
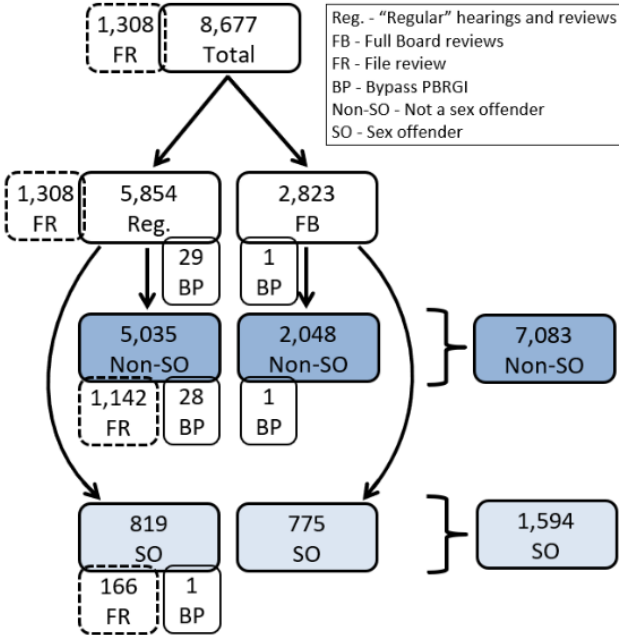
o During FY 2020, the Board chose the bypass option in 711 instances of which only 29 bypasses prevented the display of an applicable PBRGI advisory recommendation.

o Among the 7,083 PBRGI-applicable cases, 28 (0.4%) affected regular hearing decisions for non-sex offenders and one affected a non-sex offender decision in a full Board hearing.

o Of the 8,677 parole application hearings, the Board released 5,077 individuals across all hearing types, noting for 508 (10.0%) that COVID-19 considerations played a role in the decision.

o The PBRGI sample of hearings comprised 5,007 regular hearings and 2,047 full Board reviews of non-sex offenders where the advisory recommendation was not bypassed.

Findings. The following is a summary of the FY 2020 findings.

o <u>General Findings.</u> Collapsing across all hearing and inmate types in the FY 2020 sample of 8,677 cases, the Board decision was to designate 5,077 (58.5%) parole candidates for release and to defer 3,600 (41.5%).

  ▪ Of the 5,854 regular hearings in the FY 2020 sample (collapsing across inmate types), the Board decision was to designate 2,888 (49.3%) parole candidates for release and to defer 2,966 (50.7%).

  ▪ Of the 2,823 full Board reviews in the FY 2020 sample (collapsing across inmate types), the Board decision was to designate 2,189 (77.5%) parole candidates for release and to defer 634 (22.5%).

  ▪ Of the 7,083 cases involving non-sex offenders in the FY 2020 sample (collapsing across hearing types), the Board decision was to designate 4,451 (62.8%) parole candidates for release and to defer 2,632 (37.2%).

  ▪ Of the 1,594 cases involving those labeled a sex offender in the FY 2020 sample (collapsing across hearing types), the Board decision was to designate 626 (39.3%) parole candidates for release and to defer 968 (60.7%).

o Bypass Findings. Of the 30 total instances where the Bypass option was chosen in the FY 2020 hearing sample, the Board decision was to designate 7 (23.3%) parole candidates for release and to defer 23 (76.7%). Of the 23 deferred candidates, 6 (26.1%) were deferred to a subsequent hearing date and 17 (73.9%) 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 30 cases, 29 (96.7%) were conducted as a file review and 1 (3.3%) was not a file review (conducted by video).

- Of the 30 bypassed cases, 19 (63.3%) were within 3 months to MRD (of which 78.9% were deferred), 8 (26.7%) were within 4 to 6 months to MRD (75.0% deferred), and the remaining 3 (10.0%) were within 7 to 14 months to MRD (66.7% deferred).

o PBRGI Findings. For the FY 2020 PBRGI sample of 5,007 regular hearings, the Board designated 2,823 (56.4%) inmates for release and 2,184 (43.6%) inmates for deferral (of which 1,774 were deferred to a subsequent hearing date and 410 were "deferred to MRD"). Of the 5,007 cases in the PBRGI sample, the PBRGI recommended 2,650 (52.9%) inmates for release and 2,357 (47.1%) for deferral.

- Recombining the PBRGI sample and 28 bypassed cases that would have been part of this PBRGI sample (combined n=5,035), the Board designated 2,829 (56.2%) for release and 2,206 (43.8%) for deferral.

- Collapsing across all the PBRGI-related decisions in FY 2020, *73.6% of Board member decisions agreed with the PBRGI advisory recommendation* and 26.4% of decisions departed from the PBRGI advisory recommendation. The overall agreement percentage (73.6%) combines the rate of release agreement (78.3%) and the rate of deferral agreement (68.3%). The overall departure percentage (26.4%) combines the rate of release departure (21.7%) and the rate of deferral departure (31.7%).

- Of the PBRGI regular hearing sample of 5,007, 46.3% were categorized as low or very low risk, 62.3% as high or medium readiness, and 32.5% in both of these lower risk *and* higher readiness categories. Alternatively, the PBRGI categorized 37.8% as high or very high risk, 76.3% as medium or low readiness, and 31.6% in both these higher risk *and* lower readiness categories.

- Of the PBRGI sample of 5,007 inmates, 412 (8.2%) were within 3 months to MRD (of which, 65.5% were deferred), 507 (10.1%) were within 4 to 6 months to MRD (44.0% deferred), 1,145 (22.9% were within 7 to 14 months to MRD (33.4% deferred), and 2,943 (58.8%) were more than 14

months to MRD (44.5% deferred).

▪ Applying the current PBRGI sample selection criteria[105] to all eight reporting years from FY 2013 to FY 2020, the Board designated 39.2%, 32.3%, 32.5%, 35.8%, 35.4%, 41.2%, 49.4% and 56.4% of inmates for release, respectively, while the PBRGI recommended 53.6%, 49.8%, 51.5%, 53.7%, 48.8%, 50.4%, 52.2% and 52.9% of inmates for release, respectively.

▪ Applying the current PBRGI sample selection criteria[106] to all eight reporting years, FY 2013 to FY 2020 the percentage of Board decision/PBRGI recommendation agreement was 69.3%, 72.6%, 72.6%, 72.2%, 73.6%, 73.0%, 73.2%, and 73.6%, respectively. From FY 2013 to FY 2020, there has been a 6.2% increase in Board member agreement with the PBRGI advisory recommendation.

▪ *Of the PBRGI advisory recommendations to release*, the Board decision *agreed* in 78.3% (2,076/2650) of cases. Of these 2,076 decisions, 1,559 (75.1%) parole candidates were categorized as very low or low risk, 1,881 (90.6%) were categorized with high or medium readiness and 1,364 (65.7%) occupied both these lower risk and higher readiness categories. The most frequent matrix position within the 2,076 release agreements was found for those who were very low in risk and either high (21.1%; 437/2,076) or medium (21.9%; 454/2,076) in readiness.

▪ *Of the PBRGI advisory recommendations to defer*, the Board decision *agreed* in 68.3% (1,610/2,357) of cases. Of these 1,610 decisions, 1,130 (70.2%) parole candidates were categorized as high or very high risk, 1,583 (98.3%) were categorized with medium or low readiness, and 1,103 (68.5%) occupied both these higher risk and lower readiness categories. The most common of the 1,610 deferral agreements was found for those who were very high in risk and low in readiness (36.0%; 579/1,610).

▪ *Of the PBRGI advisory recommendations to release*, the Board decision *departed* in 21.7% (574/2,650) of cases. Of these 574 instances, 454 (79.1%) parole candidates were categorized by the PBRGI as low or very low risk, 382 (66.6%) were in the medium or high readiness categories, and 262 (45.6%) were in both these higher risk and lower readiness categories. The most frequent matrix position within the 574 release departures was found for those who were very low in risk and low in readiness (33.4%; 192/574).

▪ *Of the PBRGI advisory recommendations to defer*, the Board decision *departed* in 31.7% (747/2,357) cases. Of these 747 instances, 614 (82.2%) parole candidates were categorized by the

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[105] The sample selection criteria are described in "FY 2020 Sample Selection" on page 30. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.
[106] See Footnote 105.

PBRGI in high or very high risk, 610 (81.7%) in low or medium readiness, and 477 (63.9%) in both these higher risk and lower readiness categories. Most of the 747 deferral departures were found for those who, although very high in risk, were either high (18.3%; 137/747) or medium (28.4%; 212/747) 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 mitigated their higher risk in one or more ways; had presented a comprehensive parole plan; had demonstrated growth and positive attitude; had been successful in community placements; had successfully completed treatment to address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management); 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); the inadequate quality of the parole plan (for example, housing issues); a lack of accountability for one's actions or minimizing the impact of their crime; inadequate time served relative to the sentence; the need for additional time to stabilize in community corrections placements; and/or the need for additional program participation.

- File Review Findings. The FY 2020 sample of 8,677 hearings included 1,308 (15.1%) file review decisions, which do not require the presence of the inmate as defined in statute.[107] Of these 1,308 file reviews, 1,142 involved those who were not labeled a sex offender and 166 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 700% from 2.8% of all regular hearings in the FY 2014 sample to 22.3% in the FY 2020 sample. An analysis of these file reviews found:

  - Of the 1,308 total file reviews, 654 parole candidates (50.0%) were set for release and 654 (50.0%) were deferred. Of the 654 candidates set for release, 146 (22.3%) were within 3 months to MRD, 159 (24.3%) were within 4 to 6 months to MRD, 133 (20.3%) were within 7 to 14 months to MRD,

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[107] 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.

and the remaining 216 (33.3%) were more than 14 months to MRD.

▪ Of the 654 (62.6%) who were deferred following a file review, 400 (61.2%) were deferred to a subsequent hearing date and 254 (38.8%) were "deferred to MRD." Of these 654 candidates who were deferred, 346 (52.9%) were within 3 months to MRD, 213 (32.6%) were within 4 to 6 months to MRD, 62 (9.5%) were within 7 to 14 months to MRD, and the remaining 33 (5.0%) were more than 14 months to MRD.

▪ Of the 1,142 file reviews conducted for non-sex offenders, the Board chose to bypass the PBRGI advisory recommendation in 27 (2.4%) instances leaving 1,115 file reviews for which an advisory PBRGI recommendation was displayed.

▪ Of the 1,142 file reviews for the PBRGI-eligible parole candidates, 638 (55.9%) were set for release and 504 (44.1%) were deferred. Of the 27 bypassed file review cases, Board members designated six (22.2%) inmates for release and 21 (77.8%) for deferral (of which 5 were deferred to a subsequent hearing date and 16 were deferred to their impending mandatory release date).

▪ Of the 1,115 file review cases that were not bypassed, 743 (66.6%) met the medium (296), low (249), or very low (198) risk criterion; an additional 294 (26.4%) met the "6-months-to-MRD" criterion (of which 172 were within 3 months to MRD), and the remaining 78 (7.0%) met one or more of the remaining criteria allowing a file review.

▪ Of the 1,115 PBRGI-related file reviews, Board members designated 632 (56.7%) inmates for release and 483 (43.3%) for deferral (of which 315 were deferred to a subsequent hearing date and 168 were deferred to their impending mandatory release date). Of the same 1,115 file reviews, the PBRGI recommended 629 (56.4%) for release and 486 (43.6%) for deferral.

▪ The 1,115 inmates in the PBRGI sample who were the subject of a file review largely were placed in these PBRGI risk/readiness matrix categories: 43.5% were in the very low risk category (compared to 24.9% of inmates in non-file review hearings) and 50.4% were found in the low readiness category (compared to 34.1% of inmates in non-file review hearings).

▪ Of the 1,115 PBRGI-related file reviews, when collapsing release and deferral agreements overall (between corresponding Board decisions and PBRGI recommendations to defer or to release), *77.5% of file review decisions agreed with the PBRGI advisory recommendations.*

▪ This combined agreement percentage (77.5%) includes the degree of release agreement (80.3% or 505 agreements within the 629 release recommendations) and the degree of deferral agreement (73.9% or 359 agreements within the 486 defer recommendations).

o Full Board Findings. There was a total of 2,823 full Board reviews in the FY 2020 sample with 2,048 reviews for non-sex offenders and 775 reviews for sex offenders. Of 2,823, 2,189 individuals (77.5%) were designated overall for release and 634 (22.5%) were deferred. Of the 2,048 full Board hearings with non-sex offenders, the Board bypassed the PBRGI advisory recommendation in 1 case. Of the remaining 2,047 full Board review decisions involving an advisory recommendation, analyses found:

   ▪ Full Board reviews designated 1,621 (79.2%) for release and 426 (20.8%) were deferred. The PBRGI recommended 1,656 (80.9%) for release and 391 (19.1%) for defer. The PBRGI categorized 63.0% of the 2,047 individuals as very low or low risk and 93.6% 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), *71.6% of full Board review decisions agreed with the PBRGI recommendations.*

   ▪ Compared to PBRGI-related individual Board member decisions, the full Board reviews designated a larger percentage of individuals for release (56.4% versus 79.2%, respectively) and a smaller percentage for deferral (43.6% versus 20.8%, respectively).

   ▪ Compared to individual board member decisions, the agreement between full Board reviews and PBRGI recommendations to defer was lower (68.3% versus 30.2%, respectively) and the agreement between full Board reviews and PBRGI recommendations to release was higher (78.3% versus 81.4%, 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 1,594 individuals labeled a sex offender who were seen in initial (regular) hearings, 3.7%

(59) were released,[108] 47.7% (760) were deferred, and 48.6% (775) were referred to the full Board for further review. Of the 775 individuals referred to full Board review, 73.2% (567) were set for release and 26.8% (208) were deferred.

▪ Combining the decision outcomes of regular hearings and full Board reviews, the overall decision percentages for the 1,594 individuals labeled a sex offender were: 39.3% (626) set for release and 60.7% (968) deferred.

▪ Of the 819 regular hearings involving those labeled a sex offender, there were 166 (20.3%) file reviews of which 16 individuals (9.6%) were released and 150 (90.4%) were deferred.

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[108] There is no record of a full Board review or decision for these 59 cases. These releases may be connected to cases that did not involve sex-offense specific treatment, may be due to atypical or special circumstances or may be due to missing full Board decision data.

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)
Justin (JR) Hall, Chair (2025)
Darlene Alcala* (2022)
Michelle Geng* (2024)
Stephen Holmes (2025)
Rändi Moore (2025)
Joe Morales* (2022)
Greg Saiz (2025)
LaKisha Sharp (2026)
Vacancy (to be appointed)

Former Members
Denise K. Balazic, Former Member*
Chad Dilworth, Former Vice Chair*
Jason Guidry, Former Member*
Daric Harvey, Former Vice Chair*
Kristen Hilkey, Former Chair*
Brandon W. Mathews, Former Member*
Alfredo Pena, Former Member*
Davis Talley, Former Member

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 2020 report.

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

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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.[109] The CARAS score is based on static (unchangeable) risk factors, for

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[109] 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.[110]

Item #2: *Code of Penal Discipline* **/ Victim Threat.** Any inmate with a conviction of the Class I offense (#25), Harassment of Victim, is assigned to the highest level of risk.[111] 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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[110] Developed and validated pursuant to §17-22.5-404(2)(a), C.R.S., CARAS, Version 6 (2015) has an AUC=.75.

[111] See the CDOC *Administrative Regulation 150-01*, D. Class I Offenses (#25): Harassment of Victim 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.[112] 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, 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 a simple protective factor scale that indicates positive adjustment characteristics.[113] 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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[112] 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.

[113] The thirteen "rater box" items are a set of dynamic factors that form a simple protective factor scale 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 individual's life.

Figure B1. PBRGI risk and readiness variables and algorithm calculations and categories

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

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

**#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)

#2 *Code of Penal Discipline*: Victim Threat
  (During period of incarceration)
  (x) None
  (+) Yes

#3 *Code of Penal Discipline*: Class I Offense
  (-) None in past 12 months
  (+) At least 1 in past 12 months

#4 *Code of Penal Discipline*: Class II Offense
  (Other than Victim Threat)
  (-) None in past 3 months
  (+) At least 1 in past 3 months

#5 Escape/Abscond or Attempt
  (x) None
  (+) Yes, Escape/Abscond or Attempt

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

*(*PB Input)*

READINESS VARIABLES
 (- reduces, + augments)

**#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)

#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)

#11 Program Participation/Progress*
  (+) Good outcome/ intent -or- NA /Wait listed
  (+) Acceptable outcome/intent
  (-) Weak/unclear outcome/intent
  (-) Poor outcome/intent

#12 Treatment Participation/Progress*
  (+) Good outcome/ intent -or- NA /Wait listed
  (+) Acceptable outcome/intent
  (-) Weak/unclear outcome/intent
  (-) Poor outcome/intent

#13 Parole Plan*
  (+) Good
  (+) Acceptable
  (-) Weak
  (-) Poor

*(*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.[114] 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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[114] The advisory recommendation to release or defer for each level of risk and readiness was assigned by the original draft administrative guideline instrument.

Figure B2. Advisory release decision recommendation matrix with risk and readiness categories and associated recommendations

<table>
<tr>
<td colspan="4">ADVISORY RELEASE DECISION
RECOMMENDATION MATRIX</td>
</tr>
<tr>
<td rowspan="2">RISK
CATEGORY</td>
<td colspan="3"><u>READINESS CATEGORY</u></td>
</tr>
<tr>
<td>3
High</td>
<td>2
Medium</td>
<td>1
Low</td>
</tr>
<tr>
<td>1
Very
Low</td>
<td>RELEASE
(Best candidates
for release)</td>
<td>RELEASE</td>
<td>RELEASE</td>
</tr>
<tr>
<td>2
Low</td>
<td>RELEASE</td>
<td>RELEASE</td>
<td>DEFER</td>
</tr>
<tr>
<td>3
Medium</td>
<td>RELEASE</td>
<td>RELEASE</td>
<td>DEFER</td>
</tr>
<tr>
<td>4
High</td>
<td>RELEASE</td>
<td>DEFER</td>
<td>DEFER</td>
</tr>
<tr>
<td>5
Very
High</td>
<td>DEFER</td>
<td>DEFER</td>
<td>DEFER
(Best candidates
for defer)</td>
</tr>
</table>

COLORADO
Division of Criminal Justice
Department of Public Safety