

Analysis of Colorado State Board of Parole Decisions: FY 2021 Report

Pursuant to § 17-22.5-404(6)

October 2023

Colorado Division of Criminal Justice

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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

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 2021 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.

policy items that form a matrix with two dimensions: *risk of recidivism* and *readiness for parole*.⁶ The combination of risk and readiness scores places an inmate in a five-level risk (very low, low, medium, high, or very high) by three-level readiness (low, medium, or high) matrix where each matrix position is associated with an advisory release or defer recommendation (pursuant to §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 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 2021 report spanning July 1, 2020 to June 30, 2021 continues to reflect its use.

Where data are available, this report describes findings and progress on these mandates during the period from July 1, 2020 through June 30, 2021. 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 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.) and the annual presentation to the Joint Budget Committee of the Colorado General Assembly (see §2-3-203(1)(b.2), C.R.S.).⁹

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 2021 hearings sample included 6,088 release application hearings and reviews conducted by members of the Parole Board between July 1, 2020 and June 30, 2021. 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.

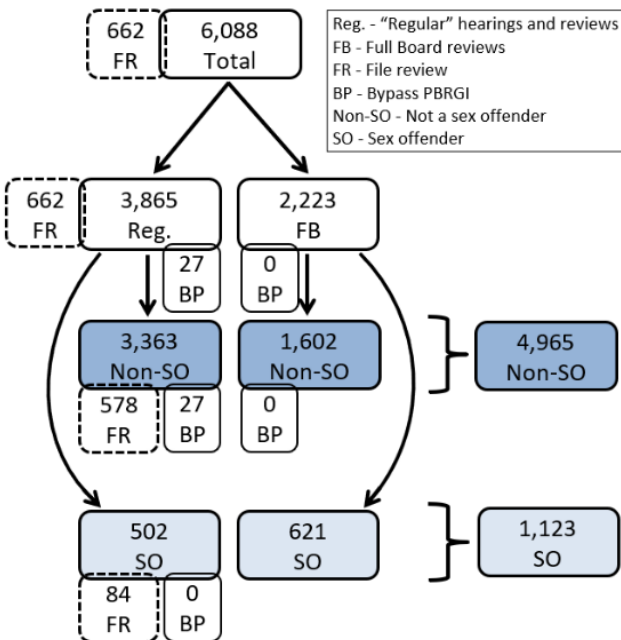
Roughly 9,000 hearing records were excluded from the sample because the record was a duplicate, the related decision was not discretionary or the decision was considered moot. For example, hearings were excluded when a deferral was due to an inmate’s absence; when the hearing was scheduled, but the

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 752 instances where the PBRGI Bypass option was chosen for cases during FY 2021, 725 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

Figure 1. FY 2021 Parole Board Decisions (n=6,088)



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 27 bypassed cases is provided below in "Sample."

Sample. The following is a summary of the FY 2021 hearing decision sample and subsamples:

- Of the 6,088 discretionary release application hearings, 3,865 were regular hearings and 2,223 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 6,088 total hearings, 4,965 were conducted for those who were not labeled a sex offender and 1,123 were conducted for those who were labeled a sex offender. Of the 6,088 cases, the Board conducted 662 file reviews.¹¹
- Of the 3,865 regular hearings, 3,363 cases involved those who were not labeled a sex offender and 502 cases involved those who were labeled a sex offender.¹² Of the 2,223 full Board reviews, 1,602 reviews involved those who were not labeled a sex offender and 621 reviews involved those who were labeled a sex offender. Of the 3,363 and 502 subgroups of regular hearings, the Board conducted file reviews for 578 (non-sex offenders) and 84 (sex offenders), respectively.
- During FY 2021, the Board chose the Bypass option in 752 instances of which 725 would have been excluded from the FY 2021 sample anyway. In the 6,088 sample of parole application hearings, there remained only 27 instances where the bypass option was selected. The bypass reason selected for these 27 cases was “Other” (for “other” reasons that do not meet sample exclusion criteria).
- There were 27 bypasses within the 4,965 PBRGI-applicable cases where the PBRGI advisory recommendation would have previously been displayed: 27 among the 3,363 regular hearings and none within the 1,602 full Board hearings.
- Of the 6,088 parole application hearings, the Board released 3,392 individuals across all hearing types. Of these 3,392 releases, the Board specifically noted that 91 (2.7%) 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 COVID-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 offender¹³ and where the Bypass option was not used. Accordingly, a Parole Board Release Guideline Instrument (PBRGI) advisory recommendation was generated for 3,336 regular hearings and 1,602 full Board reviews. The subsamples of 3,336 regular hearings and 1,602 full Board reviews

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 16.

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).

<u>Parole Board</u> Decision	<u>PBRGI</u> 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 1,602 total full Board reviews involving non-sex offenders and for the 621 hearings and reviews for those labeled a sex offender.

Findings. The following is a summary of the FY 2021 findings:

- General Findings. Collapsing across all hearing and inmate types in the FY 2021 sample of 6,088 cases, the Board decision was to designate 3,392 (55.7%) parole candidates for release and to defer 2,696 (44.3%).
 - Of the 3,865 regular hearings in the FY 2021 sample (collapsing across inmate types), the Board decision was to designate 1,751 (45.3%) parole candidates for release and to defer 2,114 (54.7%).

- Of the 2,223 full Board reviews in the FY 2021 sample (collapsing across inmate types), the Board decision was to designate 1,641 (73.8%) parole candidates for release and to defer 582 (26.2%).
- Of the 4,965 cases involving non-sex offenders in the FY 2021 sample (collapsing across hearing types), the Board decision was to designate 2,912 (58.7%) parole candidates for release and to defer 2,053 (41.3%).
- Of the 1,123 cases involving those labeled a sex offender in the FY 2021 sample (collapsing across hearing types), the Board decision was to designate 480 (42.7%) parole candidates for release and to defer 643 (57.3%).
- Bypass Findings. Of the 27 total instances where the Bypass option was chosen in the FY 2021 hearing sample, the Board decision was to designate 2 (7.4%) parole candidates for release and to defer 25 (92.6%). Of the 25 deferred candidates, 6 (24.0%) were deferred to a subsequent hearing date and 19 (76.0%) 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 27 cases, 21 (77.8%) were conducted as a file review and 6 (22.2%) were not a file review (conducted by phone or video).
 - Of the 27 bypassed cases, 23 (85.2%) were within 3 months to MRD (of which 95.7% were deferred), 1 (3.7%) was within 4 to 6 months to MRD (100.0% deferred), 2 (7.4%) were within 7 to 14 months to MRD (50.0% deferred), and the remaining 1 (3.7%) was more than 14 months to MRD (100.0% deferred).
- PBRGI Findings. Of the FY 2021 *PBRGI sample* of 3,336 regular hearings, the Board designated 1,713 (51.3%) inmates for release and 1,623 (48.7%) inmates for deferral (of which 1,182 were deferred to a subsequent hearing date and 441 were “deferred to MRD”). Recombining the PBRGI regular hearing sample and 27 bypassed cases that would have been part of the PBRGI sample (combined n=3,363), the Board designated 1,715 (51.0%) for release and 1,648 (49.0%) for deferral.
 - Of the PBRGI sample of 3,336 inmates, 232 (7.0%) were within 3 months to MRD (of which, 72.4% were deferred), 282 (8.5%) were within 4 to 6 months to MRD (56.7% deferred), 637 (19.1% were within 7 to 14 months to MRD (49.5% deferred), and 2,185 (65.5%) were more than 14 months to MRD (44.9% deferred).
 - Of the 3,336 cases in the PBRGI sample, the PBRGI recommended 1,841 (55.2%) parole candidates for release and 1,495 (44.8%) for deferral.
 - Collapsing across the PBRGI sample decisions in FY 2021, *69.9% of Board member decisions agreed*

with the PBRGI advisory recommendation and 30.1% of decisions departed from the PBRGI advisory recommendation.

- The overall agreement percentage (69.9%) combines the rate of release agreement (69.3%) and the rate of deferral agreement (70.7%).
- The overall departure percentage (30.1%) combines the rate of release departure (30.7%) and the rate of deferral departure (29.3%).
- Of the 17.0% (566 of 3,336) of decisions overall where the Board departed from the PBRGI recommendations to release (i.e., a Board deferral), 75.1% of these individuals were categorized by the PBRGI as low or very low risk, 76.5% were categorized as medium or high readiness, and 51.6% (262 of 566) 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 (23.5%; 133 of 566).
- The departure reasons entered by the Board for the *decisions to defer rather than release* included (in descending order of occurrence) concerns related to the severity of the crime of conviction or behaviors that represent risks to the public (for example, institutional violations and violence); untreated criminogenic needs (for example, impulse control deficits, antisocial attitudes/values, substance abuse, and anger issues); a lack of accountability for one’s actions or minimizing the impact of their crime; the inadequate quality of the parole plan (for example, housing issues); 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 13.1% (438 of 3,336) of decisions overall where the Board departed from the PBRGI recommendations to defer (i.e., a Board release), 86.8% of these individuals were categorized by the PBRGI as high or very high risk, 74.4% were categorized as low or medium readiness and 61.2% (268 of 438) 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 (25.6%; 112 of 438) or medium (38.1%; 167 of 438) 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 successfully completed treatment to

address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management); had been successful in community placements; had demonstrated growth and positive attitude; had successfully completed programs to prepare for re-entry; and/or had served adequate time.

- Applying the current PBRGI sample selection criteria¹⁴ to all nine reporting years from FY 2013 to FY 2021, the Board designated 39.2%, 32.3%, 32.5%, 35.8%, 35.4%, 41.2%, 49.4%, 56.4% and 51.3% of inmates for release, respectively, while the PBRGI recommended 53.6%, 49.8%, 51.5%, 53.7%, 48.8%, 50.4%, 52.2%, 52.9%, and 55.2% of inmates for release, respectively.
- Applying the current PBRGI sample selection criteria¹⁵ to all nine reporting years, FY 2013 to FY 2021, the percentage of Board decision/PBRGI recommendation agreement was 69.3%, 72.6%, 72.6%, 72.2%, 73.6%, 73.0%, 73.2%, 73.6%, and 69.9% respectively. The agreement percentage from FY 2013 to FY 2021 has varied only a few percentage points around the nine-year average of 72.3%.
- File Review Findings. The FY 2021 sample of 6,088 hearings included 662 (10.9%) file review decisions, which do not require the presence of the inmate as defined in statute.¹⁶ Of these 662 file reviews, 578 involved those who were not labeled a sex offender and 84 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 about 510% from 2.8% of all regular hearings in the FY 2014 sample to 17.1% in the FY 2021 sample.
 - Of the 662 total file reviews, 312 parole candidates (47.1%) were set for release (of which 17.3% were within 3 months and 40.4% were within 6 months of MRD) and 350 (52.9%) were deferred (of which 46.3% were within 3 months and 78.6% were within 6 months of MRD).
 - Of the 578 file reviews conducted for non-sex offenders, the Board chose to bypass the PBRGI advisory recommendation in 21 (2.4%) instances leaving 557 file reviews for which an advisory PBRGI recommendation was displayed.

¹⁴ The sample selection criteria are briefly described in “Hearing and Decision Types” on page 3 and in more detail in “FY 2021 Sample Selection” on page 29. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

¹⁵ See Footnote 14.

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

- Of the 21 bypassed file review cases, Board members designated 2 (9.5%) inmates for release and 19 (90.5%) for deferral (of which 3 were deferred to a subsequent hearing date and 16 were deferred to their impending mandatory release date).
 - Of the 557 file review cases that were not bypassed, 398 (71.5%) met a statutory risk criterion (specifically, 103 were medium, 128 were low, and 167 were very low in risk); an additional 120 (21.5%) met the “6-months-to-MRD” criterion (of which 55 were within 3 months to MRD), and the remaining 39 (7.0%) met one or more of the remaining criteria allowing a file review.
 - Of the 557 PBRGI-related file reviews, Board members designated 305 (54.8%) inmates for release and 252 (45.2%) for deferral (of which 114 were deferred to a subsequent hearing date and 138 were deferred to their impending mandatory release date). Of the same 557 file reviews, the PBRGI recommended 368 (66.1%) for release and 189 (33.9%) for deferral.
 - The 557 inmates in the PBRGI sample who were the subject of a file review largely were placed in these PBRGI risk/readiness matrix categories: 54.0% were in the very low risk category (compared to 24.4% of inmates in non-file review hearings) and 43.3% were found in the low readiness category (compared to 28.3% of inmates in non-file review hearings).
 - Of the 557 PBRGI-related file reviews, when collapsing release and deferral agreements overall (between corresponding Board decisions and PBRGI recommendations to defer or to release), *78.3% of file review decisions agreed with the PBRGI advisory recommendations.*
 - The degree of release agreement was 75.0% (276 agreements within the 368 release recommendations) and the degree of deferral agreement was 84.7% (160 agreements within the 189 deferral recommendations).
- Full Board Findings. There was a total of 2,223 full Board reviews in the FY 2021 sample and, as mentioned above, 1,641 individuals were designated for release and 582 were deferred. Of the 1,602 full Board review decisions involving a PBRGI advisory recommendation, analyses found:
- Full Board reviews designated 1,197 (74.7%) for release and 405 (25.3%) were deferred. The PBRGI recommended 1,223 (76.3%) for release and 379 (23.7%) for defer. The PBRGI categorized 78.3% of the 1,223 individuals recommended for release as very low or low risk and 96.3% 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), *70.0% 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 (51.3% versus 74.7%, respectively) and a smaller percentage for deferral (48.7% versus 25.3%, respectively).
- Compared to individual board member decisions, the agreement between full Board reviews and PBRGI recommendations to defer was lower (70.7% versus 40.1%, respectively) and the agreement between full Board reviews and PBRGI recommendations to release was higher (69.3% versus 79.3%, respectively).
- 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 1,123 individuals labeled a sex offender who were seen in initial (regular) hearings, 3.2% (36) were set for release,¹⁷ 41.5% (466) were deferred, and 55.3% (621) were referred to the full Board for further review. Of the 621 individuals referred to full Board review, 71.5% (444) were set for release and 28.5% (177) were deferred.
 - Combining the decision outcomes of regular hearings and full Board reviews, the overall decision percentages for the 1,123 individuals labeled a sex offender were: 42.7% (480) set for release and 57.3% (643) deferred.
 - Of the 502 regular hearings involving those labeled a sex offender, there were 84 (16.7%) file reviews of which 5 individuals (6.0%) were released and 79 (94.0%) were deferred.

¹⁷ There is no record of a full Board review or decision for these 36 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 2021 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).”

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

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

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.

CDOC is mandated to develop administrative revocation guidelines for use by the Board in evaluating 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, 2020 to June 30, 2021 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 2021 report and a description of the Parole Board Release Guideline Instrument (PBRGI).

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 2021 is the eighth 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 2020 report.²⁵

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

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.

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 factors²⁷ and, based on a structured decision matrix, to offer an advisory release decision recommendation

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.

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

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 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

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 (2023)*, specifically in *Appendix Q: Parole Guidelines for Discretionary Release on Determinate-Sentenced Sex Offenders* and *Appendix W: Lifetime Supervision Criteria* [see dpsdocs.state.co.us/dcj/DCJ%20External%20Website/SOMB/Standards/Branded%20Adult%20Standards.pdf]; *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/departments-policies].

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

treatment referrals, the Board decided to continue to evaluate these inmates as sex offenders and not to employ the PBRGI advisory recommendation in these cases. Therefore, those with an S3 or S4 rating will be labeled a “sex offender” for the purposes of this report.

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

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

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

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.

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.

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 (very low, low, medium, high, or very high) by three-level readiness (low, medium or high) decision matrix where each matrix position is associated with an advisory recommendation to release or to defer (pursuant to §17-22.5-107(1)(b), C.R.S.).³⁴ This recommendation is displayed

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

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

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.

discretionary release to parole. Due to other priorities, the project to revise the policy elements of the PBRGI still was suspended in May 2021.

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 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. The hearing data in this FY 2021 report spanning July 1, 2020 to June 30, 2021 continues to reflect infrequent use for some cases.

³⁶ See “Statutory Modifications” in Section Three.

Parole Board Revocation Projects

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

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

The Board enlisted individuals with expertise to develop the administrative revocation guidelines mandated by statute. In March 2013, the Board seated a Parole Revocation Working Group to develop the Parole Board Administrative Revocation Guidelines (PBRVG) for integration into the automated revocation system. The Board contracted with the Center for Effective Public Policy (“Center;” cepp.com) to provide technical assistance and guidance on the project. Pursuant to §17-22.5-107(2), C.R.S., the PBRVG would comprise the statutory revocation factors (§17-22.5-404.5(a), C.R.S.) and include a matrix of advisory decision recommendations for different risk levels. Additionally, the guidelines require the Board to provide decision reasons when the Board departs from advisory revocation recommendation (§17-22.5-404(6)(b), C.R.S.). Following a series of meetings through June 2013, the Center/Working Group provided the Proposed Parole Board Administrative Revocation Guidelines to the Board. Following approval by the Board, the guidelines were forwarded to OIT at CDOC for further specification of the programming elements. As mentioned

above, the system within which the revocation guidelines were to be integrated was suspended due to other priorities. Because the implementation of the mandate for the Parole Board Revocation Guidelines remains incomplete, the revocation hearing data, the reasons for revocation decisions, and the reasons for departures from the revocation guidelines cannot be captured or reported.

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Section Three: Hearings, Decisions and Study Sample

Pursuant to §17-22.5-404(6) (c), C.R.S., the State Board of Parole (“the Board”) is to provide hearing data to the Division of Criminal Justice (DCJ) for analysis of Board decisions. The FY 2021 report is the eighth 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.

³⁷ See Rules 5.03 E, G, & 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.

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

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.

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

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.

did not require victim notification and when either a special needs release is requested for consideration⁵¹ 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) violation⁵⁶ 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

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

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

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, IV. Procedures* (see, cdoc.colorado.gov/about/departments-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)).

and meets reentry readiness criteria set by the Board is eligible for a file review, rather than an in-person hearing.⁵⁸ The Board referenced this as a “fast track” (file) review. Statute does not dictate a specific decision outcome for the reviews under this condition, permitting the Board to exercise its discretion to release or to defer these individuals. Therefore, the decisions made pursuant to these file reviews were considered discretionary and no sample exclusions or analysis modifications were necessary.

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

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

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.

very low risk and for whom the PBRGI advisory recommendation was to release. In the second set of revisions (regarding prison population management provisions), when a vacancy rate threshold is met, file reviews are required for individuals who meet the following criteria: are within ninety days of their mandatory release date, have a favorable parole plan, have been assessed at medium or lower risk and have met specific crime of conviction and behavior criteria. These revisions also require a majority vote of the full Board in order to defer individuals who meet the criteria.

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

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

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).

FY 2021 Sample Selection

The hearings and reviews included in this report were finalized between July 1, 2020 and June 30, 2021. (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,” 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 752 instances where the PBRGI Bypass option was chosen for cases during FY 2021, 725 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 27 bypassed cases is provided in the following sections describing the FY 2021 hearing samples.

FY 2021 Overall Sample

The total sample of discretionary decisions analyzed and summarized in this report were rendered in 6,088 hearings and reviews conducted for inmates considered for parole between July 1, 2020 and June 30, 2021. The 6,088 decisions comprised 3,865 regular hearings and 2,223 full Board reviews. Of the 6,088 decisions and reviews, there were 4,965 for those labeled, “non-sex offender,” comprising 3,363 regular hearings and 1,602 full Board reviews. Of the 6,088 decisions and reviews, there were 1,123 for those labeled, “sex offender,” comprising 502 regular hearings and 621 full Board reviews. The hearings and reviews for those labeled, “sex offender,” are excluded from the PBRGI sample and analyses.⁶⁵ Of the 6,088 total decisions,

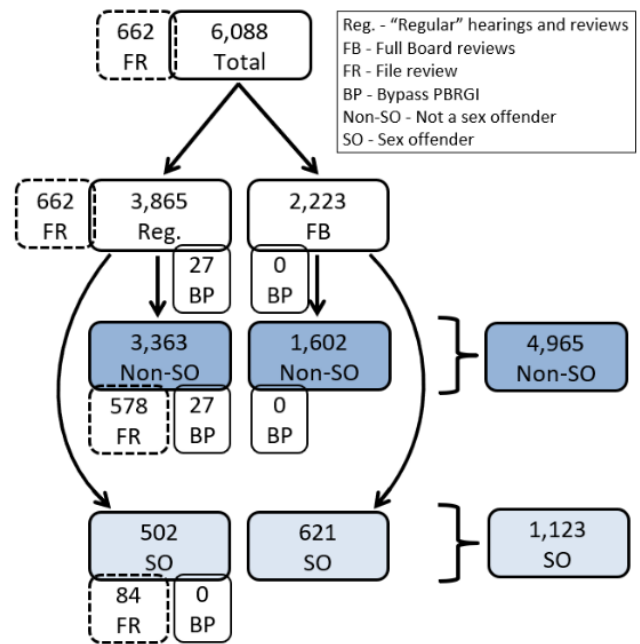
⁶⁴ The Class I and Class II violations of the CDOC *Code of Penal Discipline* (COPD) are defined in *CDOC Administrative Regulation 150-01, IV. Procedures* (see, cdoc.colorado.gov/about/departments-policies). Class I violations are those for which a guilty finding generally results in more severe penalties than a finding of guilt for a Class II violation.

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 16.

662 (10.9%) were the result of file reviews, including 578 file reviews for those labeled, “non-sex offender,” and 84 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 2021, the Board chose the Bypass option in 752 instances of which only 27 (0.5%) occurred among the 4,965 cases where the PBRGI recommendation was applicable and would have been displayed. Of these, the bypass option was used in 27 regular hearings and in no full Board reviews.

Figure 2. FY 2021 Parole Board Decisions (n=6,088)



Of these 27 cases, 21 (77.8%) were conducted as a file review and 6 (22.2%) were not a file review (conducted by phone or video). The bypass reason selected for these cases was “File Review” or “Other” (none of which meet the sample exclusion criteria). Of the 27 cases, all were bypasses where the PBRGI advisory recommendation would have previously been displayed.

FY 2021 PBRGI Sample

The focus of this report is the subsample of 3,363 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 3,363, the Board chose to exercise the Bypass option in 27 (0.8%) instances, reducing the PBRGI sample to 3,336 hearings and reviews. Further references in this report to the “PBRGI sample” refers to the 3,363 regular hearings or the 1,602 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 2021 PBRGI sample (n=4,938) was smaller than previous PBRGI samples, which averaged 6,508 for reporting years FY 2013 to FY 2020. This smaller FY 2021 sample size may be attributed to the reduction in inmates and related reviews following the increase associated with the FY 2020 COVID-19

releases. The year-end FY 2021 prison population (13,730) was 21.9% lower than the average year-end population from FY 2013 to FY 2020 (17,577).⁶⁶

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.

⁶⁶ Year-end prison populations are available in the CO Department of Corrections *Monthly Population and Capacity Report* (see the *Monthly Population and Capacity Reports* at cdoc.colorado.gov/about/data-and-reports/statistics).

Section Four: FY 2021 Findings - Parole Board Decisions

The findings reported below from the FY 2021 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 2021 sample of 6,088 cases, the Board decision was to designate 3,392 (55.7%) parole candidates for release and to defer 2,696 (44.3%). Of the 2,696 who were deferred, 73.5% were categorized as “deferred” and 26.5% were categorized as “deferred to MRD.” Of the 6,088 decisions, 10.9% (662) were rendered following a file review.⁶⁷ The counts and percentages of decisions to release or to defer within the “months-to-MRD” categories are in Table 1.⁶⁸ Of the 3,392 set for release, 2.8% (96) were within 3 months to MRD, 5.7% (192) were within 4 to 6 months to MRD, 15.8% (537) were within 7 to 14 months to MRD, and the remaining 75.7% (2,567) were more than 14 months to MRD. Of the 2,696 who were deferred or “deferred to MRD,” 9.5% (257) were within 3 months to MRD,

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 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.”

8.5% (229) were within 4 to 6 months to MRD, 17.5% (472) were within 7 to 14 months to MRD, and the remaining 64.5% (1,738) were more than 14 months to MRD.

Of the 3,865 regular hearings in the FY 2021 sample (collapsing across inmate types), the Board decision was to designate 1,751 (45.3%) parole candidates for release and to defer 2,114 (54.7%). Of the 2,114 who were deferred, 71.7% were categorized as “deferred” and 28.3% were categorized as “deferred to MRD.” Of the 3,865 decisions, 17.1% (662) were rendered following a file review. The counts and percentages of decisions to release or to defer within the “months-to-MRD” categories are in Table 1. Of the 1,751 set for release, 3.7% (65) were within 3 months to MRD, 7.2% (126) were within 4 to 6 months to MRD, 18.6% (325) were within 7 to 14 months to MRD, and the remaining 70.5% (1,235) were more than 14 months to MRD.⁶⁹ Of the 2,114 who were deferred or “deferred to MRD,” 11.5% (244) were within 3 months to MRD, 9.7% (205) were within 4 to 6 months to MRD, 18.0% (380) were within 7 to 14 months to MRD, and the remaining 60.8% (1,285) were more than 14 months to MRD.

Of 2,223 full Board reviews in the FY 2021 sample (collapsing across inmate types), the Board decision was to designate 1,641 (73.8%) parole candidates for release and to defer 582 (26.2%). Of the 582 who were deferred, 80.1% were categorized as “deferred” and 19.9% were categorized as “deferred to MRD.” The counts and percentages of decisions to release or to defer within the “months-to-MRD” categories are in Table 1. Of the 1,641 set for release, 1.9% (31) were within 3 months to MRD, 4.0% (66) were within 4 to 6 months to MRD, 12.9% (212) were within 7 to 14 months to MRD, and the remaining 81.2% (1,332) were more than 14 months to MRD.⁷⁰ Of the 582 who were deferred or “deferred to MRD,” 2.2% (13) were within 3 months to MRD, 4.1% (24) were within 4 to 6 months to MRD, 15.8% (92) were within 7 to 14 months to MRD, and the remaining 77.8% (453) were more than 14 months to MRD.

Of 4,965 cases involving non-sex offenders in the FY 2021 sample (collapsing across hearing types), the Board decision was to designate 2,912 (58.7%) parole candidates for release and to defer 2,053 (41.3%). Of the 2,053 who were deferred, 73.5% were categorized as “deferred” and 26.5% were categorized as “deferred to MRD.” Of the 4,965 decisions, 12.0% (598) were rendered following a file review. The counts and percentages of decisions to release or to defer within the “months-to-MRD” categories are in Table 2. Of the 2,912 set for release, 3.1% (89) were within 3 months to MRD, 6.0% (176) were within 4 to 6 months to MRD, 16.8% (488) were within 7 to 14 months to MRD, and the remaining 74.1% (2,159) were more than

⁶⁹ See Footnote 68 regarding individuals labeled a sex offender with an indeterminate sentence.

⁷⁰ See Footnote 68 regarding “months to MRD” analyses.

Table 1. FY 2021 Overall and Hearing Type Samples: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=6,088, n=3,865, and n=2,223, respectively)^

PB Decision	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=6,088*)					
Defer					
Count Row%	257 [9.5%]	229 [8.5%]	472 [17.5%]	1,738 [64.5%]	2,696 [100.0%]
Column%	(72.8%)	(54.4%)	(46.8%)	(40.4%)	(44.3%)
Release					
Count Row%	96 [2.8%]	192 [5.7%]	537 [15.8%]	2,567 [75.7%]	3,392 [100.0%]
Column%	(27.2%)	(45.6%)	(53.2%)	(59.6%)	(55.7%)
Total					
Count Row%	353 [5.8%]	421 [6.9%]	1,009 [16.6%]	4,305 [70.7%]	6,088 [100.0%]
Column%	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Regular Hearings (n=3,865*)					
Defer					
Count Row%	244 [11.5%]	205 [9.7%]	380 [18.0%]	1,285 [60.8%]	2,114 [100.0%]
Column%	(79.0%)	(61.9%)	(53.9%)	(51.0%)	(54.7%)
Release					
Count Row%	65 [3.7%]	126 [7.2%]	325 [18.6%]	1,235 [70.5%]	1,751 [100.0%]
Column%	(21.0%)	(38.1%)	(46.1%)	(49.0%)	(45.3%)
Total					
Count Row%	309 [8.0%]	331 [8.6%]	705 [18.2%]	2,520 [65.2%]	3,865 [100.0%]
Column%	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Full Board Reviews (n=2,223*)					
Defer					
Count Row%	13 [2.2%]	24 [4.1%]	92 [15.8%]	453 [77.8%]	582 [100.0%]
Column%	(29.5%)	(26.7%)	(30.3%)	(25.4%)	(26.2%)
Release					
Count Row%	31 [1.9%]	66 [4.0%]	212 [12.9%]	1,332 [81.2%]	1,641 [100.0%]
Column%	(70.5%)	(73.3%)	(69.7%)	(74.6%)	(73.8%)
Total					
Count Row%	44 [2.0%]	90 [4.0%]	304 [13.7%]	1,785 [80.3%]	2,223 [100.0%]
Column%	(100.0%)	(100.0%)	(100.0%)	(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."

^ Visual representations of Table 1 available in Appendix C: Figures C1, C2, and C3.

Table 2. FY 2021 Offender Type Samples: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=4,965 and n=1,123, respectively)^

PB Decision	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
Non-Sex Offenders (n=4,965)					
Defer					
Count Row%	200 [9.7%]	177 [8.6%]	383 [18.7%]	1,293 [63.0%]	2,053 [100.0%]
Column%	(69.2%)	(50.1%)	(44.0%)	(37.5%)	(41.3%)
Release					
Count Row%	89 [3.1%]	176 [6.0%]	488 [16.8%]	2,159 [74.1%]	2,912 [100.0%]
Column%	(30.8%)	(49.9%)	(56.0%)	(62.5%)	(58.7%)
Total					
Count Row%	289 [5.8%]	353 [7.1%]	871 [17.5%]	3,452 [69.5%]	4,965 [100.0%]
Column%	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Sex Offenders (n=1,123*)					
Defer					
Count Row%	57 [8.9%]	52 [8.1%]	89 [13.8%]	445 [69.2%]	643 [100.0%]
Column%	(89.1%)	(76.5%)	(64.5%)	(52.2%)	(57.3%)
Release					
Count Row%	7 [1.5%]	16 [3.3%]	49 [10.2%]	408 [85.0%]	480 [100.0%]
Column%	(10.9%)	(23.5%)	(35.5%)	(47.8%)	(42.7%)
Total					
Count Row%	64 [5.7%]	68 [6.1%]	138 [12.3%]	853 [76.0%]	1,123 [100.0%]
Column%	(100.0%)	(100.0%)	(100.0%)	(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."

^ Visual representations of Table 2 available in Appendix C: Figures C4 and C5.

14 months to MRD. Of the 2,053 who were deferred or "deferred to MRD," 9.7% (200) were within 3 months to MRD, 8.6% (177) were within 4 to 6 months to MRD, 18.7% (383) were within 7 to 14 months to MRD, and the remaining 63.0% (1,293) were more than 14 months to MRD.

Of 1,123 cases involving those labeled a sex offender in the FY 2021 sample (collapsing across hearing types), the Board decision was to designate 480 (42.7%) parole candidates for release and to defer 643 (57.3%), of which 73.4% were categorized as "deferred" and 26.6% as "deferred to MRD." Of the 1,123 decisions, 7.5% (84) involved a file review. The counts and percentages of decisions to release or defer within the "months-to-MRD" categories are in Table 2. Some individuals labeled a sex offender receive an

Table 3. FY 2021 PBRGI Bypass sample: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=27)^

PB Decision	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
Defer Count Row% Column%	22 [88.0%] (95.7%)	1 [4.0%] (100.0%)	1 [4.0%] (50.0%)	1 [4.0%] (100.0%)	25 [100.0%] (92.6%)
Release Count Row% Column%	1 [50.0%] (4.3%)	0 [0.0%] (0.0%)	1 [50.0%] (50.0%)	0 [0.0%] (0.0%)	2 [100.0%] (7.4%)
Total Count Row% Column%	23 [85.2%] (100.0%)	1 [3.7%] (100.0%)	2 [7.4%] (100.0%)	1 [3.7%] (0.0%)	27 [100.0%] (100.0%)

^ Visual representations of Table 3 available in Appendix C: Figure C6.

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 480 set for release, 1.5% (7) were within 3 months to MRD, 3.3% (16) were within 4 to 6 months to MRD, 10.2% (49) were within 7 to 14 months to MRD, and the remaining 85.0% (408) were more than 14 months to MRD. Of the 643 who were deferred, 8.9% (57) were within 3 months to MRD, 8.1% (52) were within 4 to 6 months to MRD, 13.8% (89) were within 7 to 14 months to MRD, and the remaining 69.2% (445) were more than 14 months to MRD.

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 3).

- Of the 6,088 total hearings and reviews in the FY 2021 sample, the Board used the PBRGI Bypass option in 27 (0.4%) cases.
- Of the 4,965 total cases involving a non-sex offender that were applicable for a PBRGI advisory recommendation, the Board bypassed 27 (0.5%) cases.
- Of the 27 total bypassed cases, the Board decision was to designate 2 (7.4%) parole candidates for release and to defer 25 (92.6%). Of the 25 deferred candidates, 6 (24.0%) were deferred to a

subsequent hearing date and 19 (76.0%) were deferred to their mandatory release date.

- For comparison, of the PBRGI-related regular and full Board review cases where the PBRGI recommendation was not bypassed (n=4,938), the Board designated 2,910 (58.9%) for release and 2,028 (41.1%) for deferral.

Of the 2 inmates designated for release by the Board whose PBRGI recommendation was bypassed, 50.0% (1) was within 3 months to MRD and 50.0% (1) was within 7 to 14 months to MRD.⁷¹ These two release decisions were rendered following a file review. Of the 25 who were deferred or “deferred to MRD” and whose PBRGI recommendation was bypassed, 22 (88.0%) were within 3 months to MRD, 1 (4.0%) was within 4 to 6 months to MRD, 1 (4.0%) was within 7 to 14 months to MRD, and 1 (4.0%) was more than 14 months to MRD. Of these 25 deferral decisions, 19 (76.0%) were rendered following a file review.⁷²

⁷¹ 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.

⁷² 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 4 provides the number and percentages of the 3,336 inmates in the FY 2021 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 (29.4%) and the largest placement of persons on the readiness dimension was in medium readiness (41.8%). The highest percentage of those in the “release area” of the matrix was the 11.8% in very low risk/medium readiness. The highest percentage of those in the “defer area” of the matrix was the 11.4% in very high risk/medium readiness. There was 15.5% 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).

The PBRGI placed 29% of parole candidates in the very low risk category and 42% of candidates in the medium readiness category.

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 5. 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

Of the inmates suggested for release, higher rates of actual release (roughly 81% to 88% across risk levels) were found for those inmates in the high level of readiness.

recommendation is always to release and the red/darker area in the bottom right of the matrix represents the part of the risk/readiness matrix where the PBRGI advisory recommendation is always to defer.

Further review of Table 5 reveals that the release percentages in the “release region” of the matrix (blue/lighter areas) ranged from 43.9% to 88.4% with higher rates of release found for those inmates in the high level of readiness (ranging from 80.8% to 88.4%). The deferral percentages in the “defer area” of the matrix (red/darker areas of Table 5) ranged from 32.1% to 93.7% with higher rates of deferral found in low readiness (81.8% to 93.7%).

Table 4. FY 2021 PBRGI sample: Counts and percentages of parole candidates in regular hearings assigned to each PBRGI risk/readiness matrix combination (n=3,336)

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count Percent of Total	351 10.5%	392 11.8%	237 7.1%	980 29.4%
2 Low	Count Percent of Total	181 5.4%	219 6.6%	181 5.4%	581 17.4%
3 Medium	Count Percent of Total	125 3.7%	243 7.3%	193 5.8%	561 16.8%
4 High	Count Percent of Total	93 2.8%	159 4.8%	100 3.0%	352 10.6%
5 Very High	Count Percent of Total	165 4.9%	380 11.4%	317 9.5%	862 25.8%
Total in Readiness Category	Count Percent of Total	9152 7.4%	1,393 41.8%	1,028 30.8%	3,336 100.0%

Table 6 provides the months-to-MRD counts and percentages overall and by Board decision for the PBRGI sample of regular hearings (n=3,336), for the PBRGI bypassed cases (n=27) where an advisory recommendation previously would have been displayed, and for the combination of these two samples (n=3,363). Of the PBRGI sample of 3,336 inmates in regular hearings, the Board designated 51.3% (1,713) of inmates for release and deferred 48.7% (1,623). Of the 1,623 inmates who were deferred, 1,182 (72.8%) were deferred to a subsequent hearing date and 441 (27.2%) were deferred to their MRD.⁷³ Of the 3,336 decisions, 16.7% (557) were rendered following a file review.⁷⁴ The counts and percentages of decisions to release or to defer within the “months-to-MRD” categories are in Table 6. Of these 3,336 PBRGI cases overall, 7.0% (232) were within 3 months to MRD, 8.5% (282) were within 4 to 6 months to MRD, 19.1% (637) were within 7 to 14 months to MRD, and 65.5% (2,185) were more than 14 months to MRD.⁷⁵

⁷³ See “Board Decision Types” in Section Three.

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 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 5. FY 2021 PBRGI sample: Counts and percentages of Parole Board (PB) regular hearings decisions within each PBRGI risk/readiness matrix combination (n=3,336)

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	351	392	237	980
	PB Defer (%)	53 (15.1%)	142 (36.2%)	133 (56.1%)	328 (33.5%)
	PB Release (%)	298 (84.9%)	250 (63.8%)	104 (43.9%)	652 (66.5%)
2 Low	Count	181	219	181	581
	PB Defer (%)	21 (11.6%)	76 (34.7%)	148 (81.8%)	245 (42.2%)
	PB Release (%)	160 (88.4%)	143 (65.3%)	33 (18.2%)	336 (57.8%)
3 Medium	Count	125	243	193	561
	PB Defer (%)	24 (19.2%)	103 (42.4%)	168 (87.0%)	295 (52.6%)
	PB Release (%)	101 (80.8%)	140 (57.6%)	25 (13.0%)	266 (47.4%)
4 High	Count	93	159	100	352
	PB Defer (%)	14 (15.1%)	93 (58.5%)	85 (85.0%)	192 (54.5%)
	PB Release (%)	79 (84.9%)	66 (41.5%)	15 (15.0%)	160 (45.5%)
5 Very High	Count	165	380	317	862
	PB Defer (%)	53 (32.1%)	213 (56.1%)	297 (93.7%)	563 (65.3%)
	PB Release (%)	112 (67.9%)	167 (43.9%)	20 (6.3%)	299 (34.7%)
Total in Readiness Category	Count	915	1,393	1,028	3,336
	PB Defer (%)	165 (18.0%)	627 (45.0%)	831 (80.8%)	1,623 (48.7%)
	PB Release (%)	750 (82.0%)	766 (55.0%)	197 (19.2%)	1,713 (51.3%)

Table 6. FY 2021 PBRGI, Bypass, and Combined samples: Counts and percentages of Parole Board regular hearing decisions by months to mandatory release date (MRD) (n=3,336, n=27, & n=3,363, respectively)^

PB Decision	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
PBRGI sample (n=3,336)					
Defer					
Count Row%	168 [10.4%]	160 [9.9%]	315 [19.4%]	980 [60.4%]	1,623 [100.0%]
Column%	(72.4%)	(56.7%)	(49.5%)	(44.9%)	(48.7%)
Release					
Count Row%	64 [3.7%]	122 [7.1%]	322 [18.8%]	1,205 [70.3%]	1,713 [100.0%]
Column%	(27.6%)	(43.3%)	(50.5%)	(55.1%)	(51.3%)
Total					
Count Row%	232 [7.0%]	282 [8.5%]	637 [19.1%]	2,185 [65.5%]	3,336 [100.0%]
Column%	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Bypass sample (n=27)					
Defer					
Count Row%	22 [88.0%]	1 [4.0%]	1 [4.0%]	1 [4.0%]	25 [100.0%]
Column%	(95.7%)	(100.0%)	(50.0%)	(100.0%)	(92.6%)
Release					
Count Row%	1 [50.0%]	0 [0.0%]	1 [50.0%]	0 [0.0%]	2 [100.0%]
Column%	(4.3%)	(0.0%)	(50.0%)	(0.0%)	(7.4%)
Total					
Count Row%	23 [85.2%]	1 [3.7%]	2 [7.4%]	1 [3.7%]	27 [100.0%]
Column%	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Combined sample (n=3,363)					
Defer					
Count Row%	190 [11.5%]	161 [9.8%]	316 [19.2%]	981 [59.5%]	1,648 [100.0%]
Column%	(74.5%)	(56.9%)	(49.5%)	(44.9%)	(49.0%)
Release					
Count Row%	65 [3.8%]	122 [7.1%]	323 [18.8%]	1,205 [70.3%]	1,715 [100.0%]
Column%	(25.5%)	(43.1%)	(50.5%)	(55.1%)	(51.0%)
Total					
Count Row%	255 [7.6%]	283 [8.4%]	639 [19.0%]	2,186 [65.0%]	3,363 [100.0%]
Column%	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)

^ Visual representations of Table 6 available in Appendix C: Figures C6, C7, and C8.

Of the 27 bypassed cases that would have been included in the PBRGI-related analyses, 2 (7.4%) were set for release and 25 (92.6%) were deferred. Of these 25 inmates who were deferred, 6 (22.2%) were deferred to a subsequent hearing date and 19 (70.4%) were deferred to their MRD. Of the 27 decisions, 77.8% (21) were rendered following a file review. The counts and percentages of decisions to release or to defer within the “months-to-MRD” categories are in Table 6. Of these 27 cases overall, 85.2% (23) were within 3 months to MRD, 3.7% (1) were within 4 to 6 months to MRD, 7.4% (2) were within 7 to 14 months to MRD, and 3.7% (1) were more than 14 months to MRD. Table 6 also displays the counts and percentages of Board decisions when combining the PBRGI and the PBRGI Bypass samples.

The Board set 51% of parole candidates for release and deferred 49%. The PBRGI recommended to release 55% and to defer 45%.

Board/PBRGI Agreement

Table 7 provides the pattern of agreement between the Board decisions and the PBRGI advisory recommendations.⁷⁶ In the PBRGI regular hearing sample of 3,336 parole candidates, Board members designated 1,713 (51.3%) inmates for release and, combining the two types of deferral, 1,623 (48.7%) for deferral. Of the 3,336 PBRGI cases, the PBRGI recommended 1,841 (55.2%) for release and 1,495 (44.8%) for deferral (see Table 7). In this same sample, on the risk dimension, 46.8% (1,561 of 3,336) were categorized as very low or low risk. On the readiness dimension, 69.2% (2,308 of 3,336) were labeled medium or high readiness (see Table 4). Combining these two dimensions, therefore, it is not unexpected that 55.2% of individuals would be assigned an advisory recommendation to release.

The 70% in overall PB/PBRGI decision/recommendation agreement comprises 69% in release agreement and 71% in deferral agreement.

The counts in Table 7 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.).

⁷⁶ 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 7. FY 2021 PBRGI sample: Overall counts and percentages of Parole Board regular hearing decisions by PBRGI advisory recommendations (n=3,336) *

Parole Board Hearing Decision (Overall counts & percentages)		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	795 23.8%	387 11.6%	1,182 35.4%
Defer to Mandatory Release Date	Count Percent	262 7.9%	179 5.4%	441 13.2%
Release	Count Percent	438 13.1%	1,275 38.2%	1,713 51.3%
Total of PBRGI Recommendations	Count Percent	1,495 44.8%	1,841 55.2%	3,336 100.0%

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

The overall degree of agreement is derived from two sources: agreements with recommendations to release (1,275) and agreements with recommendations to defer (1,057; see the blue/lighter areas of Table 7). Collapsing these two sources of agreement, *69.9% of all Board member decisions agreed with the PBRGI advisory recommendations*. The overall agreement percentage (69.9%) combines the rate of release agreement (69.3% or 1,275 agreements within the 1,841 release recommendations) and the rate of deferral agreement (70.7% or 1,057 agreements within the 1,495 defer recommendations).

From FY 2013 to FY 2021, the overall agreement between PB decisions and PBRGI advisory recommendations averaged 72%, ranging from 69% to 74%.

The overall degree of departure is derived from two sources: departures from recommendations to release (566) and departures from recommendations to defer (438; see the red/darker areas in Table 7). Collapsing across these decision types, *30.1% of all Board decisions departed from the PBRGI advisory recommendations*. The overall departure percentage (30.1%) combines the rate of release departure (30.7% or 566

departures within the 1,841 release recommendations) and the rate of deferral departure (29.3% or 438 departures within the 1,495 defer recommendations).

Table 8. PBRGI samples: Percentage of Parole Board regular hearing decisions, PBRGI advisory recommendations, and decision agreement by fiscal year

Fiscal Year *	DECISION TYPE						Overall PB / PBRGI Agree %
	DEFER			RELEASE			
	PB Decision	PBRGI Rec.	Agree	PB Decision	PBRG Rec.	Agree	
FY 2013 (n=5,196)	60.8%	46.4%	82.4%	39.2%	53.6%	57.9%	69.3%
FY 2014 (n=5,920)	67.7%	50.2%	90.1%	32.3%	49.8%	54.9%	72.6%
FY 2015 (n=5,525)	67.5%	48.5%	91.3%	32.5%	51.5%	54.9%	72.6%
FY 2016 (n=4,913)	64.2%	46.3%	89.3%	35.8%	53.7%	57.5%	72.2%
FY 2017 (n=4,907)	64.6%	51.2%	87.3%	35.4%	48.8%	59.2%	73.6%
FY 2018 (n=4,463)	58.8%	49.6%	82.0%	41.2%	50.4%	64.0%	73.0%
FY 2019 (n=4,307)	50.6%	47.8%	74.9%	49.4%	52.2%	71.6%	73.2%
FY 2020 (n=5,007)	43.6%	47.1%	68.3%	56.4%	52.9%	78.3%	73.6%
FY 2021 (n=3,336)	48.7%	44.8%	70.7%	51.3%	55.2%	69.3%	69.9%

* The sample selection criteria used to identify discretionary hearings in FY 2021 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 2021, the overall release agreement was more than two times higher than the overall release departure, 38.2% versus 17.0%, respectively. From a deferral perspective, the overall deferral agreement was more than two times higher than the overall deferral departure, 31.7% versus 13.1%, respectively. Separate summaries of the patterns of agreements and departures found in file reviews and full Board reviews are provided in sections below.

Table 8 provides a comparison of the percentages of Board decisions and PBRGI recommendations to release or defer for the PBRGI samples from the current and eight previous fiscal years.⁷⁷ The average overall agreement across the nine reporting years was 72.3%, the average overall *release* agreement was 62.4%, and the average overall *deferral* agreement was 82.6%. The agreement percentage from FY 2013 to FY 2021 has varied only a few percentage points around the nine-year average of 72.3%. The initial increase

⁷⁷ The sample selection criteria are described in “FY 2021 Sample Selection” on page 29. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

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 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.⁷⁸ These underlying trends in Board releases and deferrals continued even as the effect of COVID-19 release policies subsided.

Decision Agreement by Matrix Assignment

Offering an alternative perspective to Table 5, Table 9 displays the number of inmates assigned to each of the 15 risk/readiness combinations of the PBRGI decision matrix and the percentage of agreement or departure in that specific combination. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where

The average agreement percentage across the “release area” and across the “defer area” of the decision matrix was similar.

the PBRGI recommends defer. The pattern of percentages in Table 9 displays that the average agreement percentage of 69.3% in the “release area” of the decision matrix (ranging from 43.9% to 88.4%; blue/lighter area) was similar to the average agreement percentage of 70.7% in the “defer area” of the decision matrix (ranging from 32.1% to 93.7%; red/darker area).

When collapsing levels of readiness, the degree of Board/PBRGI agreement was slightly higher at the two lower levels of risk than the two higher levels of risk. When collapsing levels of risk, the highest degree of agreement was found in the low readiness category (78.0%) followed by the high (75.5%) and medium (60.2%) readiness categories.

Of the inmates identified as the better candidates for release (blue/heavy outline at upper left of Table 9), the degree of decision agreement was 74.5% (851/1,143). Specifically, this would include individuals

⁷⁸ See “Statutory Modifications” in Section Three.

Table 9. FY 2021 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=3,336)

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	351	392	237	980
	Agreement Count (%)	298 (84.9%)	250 (63.8%)	104 (43.9%)	652 (66.5%)
	Departure Count (%)	53 (15.1%)	142 (36.2%)	133 (56.1%)	328 (33.5%)
2 Low	Count	181	219	181	581
	Agreement Count (%)	160 (88.4%)	143 (65.3%)	148 (81.8%)	451 (77.6%)
	Departure Count (%)	21 (11.6%)	76 (34.7%)	33 (18.2%)	130 (22.4%)
3 Medium	Count	125	243	193	561
	Agreement Count (%)	101 (80.8%)	140 (57.6%)	168 (87.0%)	409 (72.9%)
	Departure Count (%)	24 (19.2%)	103 (42.4%)	25 (13.0%)	152 (27.1%)
4 High	Count	93	159	100	352
	Agreement Count (%)	79 (84.9%)	93 (58.5%)	85 (85.0%)	257 (73.0%)
	Departure Count (%)	14 (15.1%)	66 (41.5%)	15 (15.0%)	95 (27.0%)
5 Very High	Count	165	380	317	862
	Agreement Count (%)	53 (32.1%)	213 (56.1%)	297 (93.7%)	563 (65.3%)
	Departure Count (%)	112 (67.9%)	167 (43.9%)	20 (6.3%)	299 (34.7%)
Total in Readiness Category	Count	915	1,393	1,082	3,336
	Agreement Count (%)	691 (75.5%)	839 (60.2%)	802 (78.0%)	2,332 (69.9%)
	Departure Count (%)	224 (24.5%)	554 (39.8%)	226 (22.0%)	1,004 (30.1%)

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.⁷⁹ The overall degree of agreement to release these parole candidates categorized as very low risk was 66.5% (652/980).

The average agreement with advisory *release* recommendations for inmates located in the “middle decision boundary” was 65.2% (219/336; combining the agreements in the medium/medium and high/high risk/readiness combinations). The degree of agreement overall in the medium level of readiness was 60.2% relative to the high and low levels of readiness (75.5% and 78.0%, respectively).

The degree of decision agreement was 75% for those identified as the better candidates for release and 72% for those identified as the better candidates for deferral.

The pattern of release agreement percentages in Table 9 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 decrease in agreement to release from high readiness (84.9%) to low readiness (43.9%).

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
- Demonstrated a lack of accountability for one’s actions or minimized the impact of their crime.

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

Of the inmates identified as the better candidates for deferral (red/heavy outline at lower right of Table 9), the degree of agreement was 72.0% (688/956). 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.⁸⁰ The overall degree of agreement to defer those categorized as very high risk was 65.3% (563/862). This percentage represents the lowest degree of

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

⁸⁰ See Appendix B for a description of the designations for release or defer in the PBRGI decision matrix.

agreement across all risk levels (from 77.6% to 65.3%). 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 (32.1%; 53 of 165), indicating the Board's willingness to release very high risk individuals if they demonstrated high readiness for release (67.9%; 112 of 165).

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 (15.0% low to 41.5% medium readiness departures) and the very high risk category (6.3% low to 43.9% medium to 67.9% 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 7 and 9 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 10 and 11 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 12 and 13 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.⁸¹

Summary of Agreements: Board Releases and Deferrals. Of the 3,336 total decisions, 69.9% (2,332) decisions agreed with the PBRGI advisory recommendation. There were 1,275 decisions where Board members *agreed with the PBRGI advisory recommendation to release* (see Table 10). This represents 38.2% of all hearing decisions and 69.3% of the decisions where the PBRGI recommended release. Of these 1,275 with medium or high readiness and 851 (66.7%) 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 74.5% (851 of the total 1,143 most appropriate for release; see Table 9). For those inmates who were released, there is correspondence between their characteristics (based on the

Of the 70% of Board decisions overall that agreed with the PBRGI recommendations, 55% were release agreements and 45% were deferral agreements.

matrix placement in the lower risk/higher readiness categories) and the Board's decision to release.

There were 1,057 total decisions where Board members *agreed with the PBRGI advisory recommendation to defer* (see Table 11). This represents 31.7% of all hearing decisions and 70.7% of the decisions where the PBRGI recommended deferral. Of these 1,057 decisions, 741 (70.1%) individuals

were categorized as high or very high risk, 1,004 (95.0%) were categorized with medium or low readiness, and 688 (65.1%) 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 72.0% (688 of the total 956 most appropriate for deferral; see Table 9).

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

Table 10. FY 2021 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,275 Board release decisions in regular hearings that agreed with the PBRGI advisory recommendation to release

Of the 1,275 Release Agreements Count Percentage		READINESS			
		High	Medium	Low	
RISK	Very Low	298 23.4%	250 19.6%	104 8.2%	74.9%
	Low	160 12.5%	143 11.2%	-	
	Medium	101 7.9%	140 11.0%	-	66.7%
	High	79 6.2%	-	-	
	Very High	-	-	-	
		91.8%			

Table 11. FY 2021 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,057 Board deferral decisions in regular hearings that agreed with the PBRGI advisory recommendation to defer

Of the 1,057 Deferral Agreements Count Percentage		READINESS			
		High	Medium	Low	
RISK	Very Low	-	-	-	70.1%
	Low	-	-	148 14.0%	
	Medium	-	-	168 15.9%	
	High	-	93 8.8%	85 8.0%	
	Very High	53 5.0%	213 20.2%	279 28.1%	
		95.0%			65.1%

decisions, 955 (74.9%) individuals were categorized as low or very low risk, 1,171 (91.8%) were categorized as low or very low risk. 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 12). Although Board members demonstrated a high degree of agreement overall with defer recommendations (70.7% or 1,057/1,495 from Table 7), there were 438 (13.1% overall) instances of deferral departure where the Board instead chose to release. This represents 29.3% (438/1,495) of the total advisory recommendations to defer (see Table 7). Of these 438 instances, 380 (86.8%) individuals were categorized by the PBRGI as high or very high risk. Of these 438 instances, 326

Of the 438 deferral departures (a Board decision to release), 68% of parole candidates were categorized as very high risk, but 37% of these very high risk individuals were also high in readiness for parole.

(74.4%) were in the low or medium readiness categories, overall representing 2.8% (93/3,336) and 7.0% (233/3,336), respectively, of the decisions in the PBRGI regular hearing sample.

Combining the two dimensions of risk and readiness, the Board chose to release 268 candidates (61.2% of the 438 departure decisions) who were categorized by the PBRGI as the better candidates for deferral (those placed in high or very high risk *and* in medium or low readiness). This represents 8.0% of the 3,336 regular hearing decisions. Although 112 (25.6%) of the 438 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 33 (7.5%) of these releases, although low in readiness, were found in the low risk category.

It should be noted that some of these departures may represent several options available to the Board that are labeled a "release," but that delay the actual release until after additional pre-release preparations have been completed. For example, the Board may simply set the actual release date for an individual at a point several months in the future to allow an additional period of community corrections transition, or the Board may table a release until a program, treatment or parole plan requirement is fulfilled. If a release

Table 12. FY 2021 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 438 Board release decisions in regular hearings that did not agree with the PBRGI advisory recommendation to defer

Of the 438 Deferral Departures Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	-	-	-
	Low	-	-	33 7.5%
	Medium	-	-	25 5.7%
	High	-	66 15.1%	15 3.4%
	Very High	112 25.6%	167 38.1%	20 4.6%

86.8%

74.4%

61.2%

Table 13. FY 2021 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 566 Board deferral decisions in regular hearings that did not agree with the PBRGI advisory recommendation to release

Of the 566 Release Departures Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	53 9.4%	142 25.1%	133 23.5%
	Low	21 3.7%	76 13.4%	-
	Medium	24 4.2%	103 18.2%	-
	High	14 2.5%	-	-
	Very High	-	-	-

75.1%

76.5%

51.6%

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.

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 13 above). Although Board members demonstrated a high degree of agreement overall with release recommendations (69.3% or 1,275/1,841 from Table 7), there were 566 (17.0% overall) instances of release departure where the Board chose to defer. This represents a release departure rate of 30.7% (566/1,841) of release recommendations. These 566 cases can be divided into the 387 (68.4%) who were deferred to a subsequent hearing date and the 179 (31.6%) who were deferred to the MRD.

Of these 566 individuals, 425 (75.1%) were categorized by the PBRGI as low or very low risk and 433 (76.5%) were in the medium or high readiness categories. Combining the two dimensions of risk and readiness, the

**Of the 566 release departures
(a Board decision to defer),
58% of parole candidates were
categorized as very low risk, but
41% of these very low risk
individuals were also low in
readiness for parole.**

Board chose to defer 292 (51.6% of the 566 departure decisions and 8.8% 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 (13.1%) was lower than the percentage of decisions to defer individuals recommended for release (17.0%) (see Table 7). Although the most common of the departures from the PBRGI

release recommendations was found in the very low risk category (328 of 566 or 58.0%), 83.8% (275 of 328) were categorized at either the medium or low levels of readiness for release. An additional 14 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.⁸² 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 27 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 30.1% (1,004 of 3,336) 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 release when the advisory recommendation was to defer and choosing to defer when the advisory recommendation was to release. Specifically, this meant a departure reason was required for the 438 decisions to release when defer was recommended, representing 13.1% of all decisions, and for the 566 decisions to defer or defer to the MRD when release was recommended, representing 17.0% of all decisions (see Table 7). There were 3,135 total departure reasons provided across the 1,004 decisions that departed from the PBRGI advisory recommendation, comprising: 1,426 reasons across the deferral departures (for the 438 PB decisions to release) and 1,709 reasons across the release departures (for the 566 PB decisions to defer).

Summary of Deferral Departure Reasons: Board Decides to Release. *When the PBRGI advisory recommendation was to defer*, there were 438 decisions (13.1% 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 into the future to allow a period of transition in community corrections. It is also likely that some 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.

In FY 2021, a departure reason was required for the 438 PB decisions to release when the PBRGI recommendation was to defer and for the 566 PB decisions to defer when the PBRGI recommendation was to release.

⁸² See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.

An initial review of the departure reasons was undertaken to identify and categorize the reasons provided by the Board when making these departure decisions: decisions to release when the advisory recommendation was to defer. Given that Board members could offer more than one reason for a departure, there were 1,426 total reasons provided for these 438 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.⁸³ Additionally, while COVID-19 considerations were noted in 65 (1.9%) releases of the 3,336 PBRGI-related regular hearings and in 27 (6.2%) of the 438 deferral departure decisions, this notation was entered specifically as a *departure reason* in 15 (3.4%) of the 438 cases.

Brief descriptions and/or examples of the non-COVID-related departure reason categories are as follows:

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

⁸³ The statutory discharge date (SDD) refers to the date when both the sentence to CDOC and all possible time on parole have been completed.

- 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 438 *departure decisions to release*, Board members mentioned one of the above seven reason *categories* in 1,152 instances. Board members mentioned a single departure reason category in 65 cases, two categories in 278 cases, or more than two categories in 809 cases. In some instances, Board members mentioned multiple reasons of the same type, but these were counted as a single reference to a particular category of

departure reasons. The percentage of the 438 cases where a departure *category* was mentioned was as follows:⁸⁴

- Mitigated or reduced risk, 66.2% (290/438 cases where the reason category was mentioned)
- Parole plan quality, 65.3% (286 cases)
- Treatment participation considerations, 41.3% (183 cases)
- Performance in the community, 37.7% (165 cases)
- Demonstrated growth/positive attitude, 27.2% (119 cases)
- Program participation considerations, 17.1% (75 cases)
- Adequate time served or imminent MRD/SDD,⁸⁵ 7.8% (34 cases)

Of these 438 candidates, 268 (61.2%) 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 12). For this group, there were 837 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, 91.8% (246/268 cases where the category was mentioned)
- Presented a comprehensive parole plan, 86.2% (231 cases)

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

⁸⁴ Percentages total more than 100% because more than one category was mentioned in 373 of the 438 cases.

⁸⁵ See Footnote 83.

- Treatment participation considerations, 44.4% (119 cases)

Summary of Release Departure Reasons: Board Decides to Defer. *When the PBRGI advisory recommendation was to release*, there were 566 decisions (17.0% of all decisions) where Board members chose to depart from the advisory recommendation and defer or defer to the MRD. An initial review of these departure reasons was undertaken to identify and categorize the reasons provided by the Board when making these decisions to depart from the recommendation to release. Given that Board members could offer more than one departure reason in a particular case, there were 1,709 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.⁸⁶

Brief descriptions and/or examples of each of these categories is as 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 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.

⁸⁶ See Footnote 83.

- *Time-related comments* indicated that a release on the MRD or the SDD was impending⁸⁷ or that the crime committed warranted additional incarceration time.

For these 566 *departure decisions to defer*, Board members mentioned one of the above seven reason categories in 1,248 instances. Board members mentioned a single category of concern in 110 cases, two categories in 265 cases, or more than two categories 191 cases. In some instances, Board members mentioned more than one reason in the same category of concern. Mentions of

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.

multiple concerns in the same category were counted as a single reference to the category of concern. Of the 566 decisions, the percentage of cases where a departure category was mentioned was as follows:⁸⁸

- Risk concerns, 78.3% (443/566 cases where the reason category was mentioned)
- Treatment participation or criminogenic need concerns, 41.3% (234 cases)
- Attitude or presentation concerns, 35.9% (203 cases)
- Parole plan quality concerns, 26.5% (150 cases)
- Time served inadequate, file review, or imminent MRD/SDD, 19.3% (109 cases)
- Need to transition to or stabilize in a community corrections placement, 12.9% (73 cases)
- Program participation concerns, 6.4% (36 cases)

Of these 566 parole candidates, 292 (51.6%) 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 13). For this group, there were 854 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, 85.6% (250/292 cases where the reason category was mentioned)
- Treatment participation or criminogenic need concerns, 40.1% (117 cases)
- Attitude or presentation concerns, 35.6% (104 cases)

⁸⁷ 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*].

⁸⁸ Percentages total more than 100% because more than one reason category was mentioned in 456 of the 566 cases.

Findings: File Reviews

Sample (File Reviews). The FY 2021 sample of 6,088 hearings included 662 total file reviews.⁸⁹ 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

Parole candidates who were the subject of a file review represented 11% of the FY 2021 sample and 53% of these candidates were deferred.

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 met⁹⁰). Because these “multi-criteria” circumstances cannot be identified, the criteria mentioned previously in Section Three (“Statutory Modifications”) were evaluated individually and are presented in order of frequency. The 662 cases appeared to meet the following file review criteria:

- 460 cases (69.5% of 662) were categorized at “medium or lower” risk
- 369 cases (65.8% of 662) had a PBRGI advisory recommendation to release
- 402 cases (60.7% of 662) were within six months to MRD
- 330 cases (49.8% of 662) were categorized at low or very low risk
- 216 cases (32.6% of 662) were within three months of MRD
- 43 cases (6.5% of 662) involved an Immigration and Customs Enforcement detainer.

Table 14 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 389% as a proportion of all hearings from 2.8% (n=269) of all hearings in the FY 2014 sample to 10.9% (n=662) in the FY 2021 sample.

Of the 662 total file reviews, 312 parole candidates (47.1%) were set for release and 350 (52.9%) were deferred (of which 132 or 37.7% were deferred to a subsequent hearing date and 218 or 62.3% were

⁸⁹ 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.

⁹⁰ See the summary of Senate Bill 2019-143 in “Statutory Modifications” in Section Three.

Table 14. File reviews by fiscal year and Parole Board decisions

Fiscal Year*	PAROLE BOARD HEARING DECISION						Total File Reviews	
	Defer		Defer to MRD		Release			
	Count	Percent	Count	Percent	Count	Percent	Count	Percent
FY 2013 (n=8,300)	3	30.0%	6	60.0%	1	10.0%	10	0.1%
FY 2014 (n=9,455)	135	50.2%	124	46.1%	10	3.7%	269	2.8%
FY 2015 (n=9,025)	169	44.9%	200	53.2%	7	1.9%	376	4.2%
FY 2016 (n=8,429)	200	32.9%	388	63.8%	20	3.3%	608	7.2%
FY 2017 (n=8,369)	200	31.2%	389	60.7%	52	8.1%	641	7.7%
FY 2018 (n=8,507)	271	29.3%	384	41.6%	269	29.1%	924	10.9%
FY 2019 (n=8,569)	364	28.5%	314	24.6%	599	46.9%	1,277	14.9%
FY 2020 (n=8,677)	400	30.6%	254	19.4%	654	50.0%	1,308	15.1%
FY 2021 (n=6,088)	132	19.9%	218	32.9%	312	47.1%	662	10.9%

* The sample selection criteria used to identify discretionary hearings in FY 2021 were used for all reporting years for comparability of comparisons, rather than the criteria and related percentages reported in previous fiscal year reports.

“deferred to MRD”). Of the 312 candidates set for release, 54 (17.3%) were within 3 months to MRD, 73 (23.4%) were within 4 to 6 months to MRD, 44 (14.1%) were within 7 to 14 months to MRD, and the remaining 141 (45.2%) were more than 14 months to MRD. Of the 350 candidates who were deferred, 162 (46.3%) were within 3 months to MRD, 113 (32.3%) were within 4 to 6 months to MRD, 49 (14.0%) were within 7 to 14 months to MRD, and the remaining 26 (7.4%) were more than 14 months to MRD.

Board Decisions (File Reviews). Of the 662 total file reviews in the FY 2021 sample, 578 were conducted for non-sex offenders and 84 for those labeled a “sex offender.” Of the 84 candidates labeled a “sex offender,” 5 (6.0%) were designated for release following the file review. Of the 578 file reviews of non-sex offenders, 307 candidates (53.1%) were set for release and 271 (46.9%) were deferred. Of the 271 candidates who were deferred, 117 (43.2%) were deferred to a subsequent hearing date and 154 (56.8%) were “deferred to MRD.” The counts and percentages of decisions to release or to defer within the “months-to-MRD” categories are in Table 15. Of these 578 parole candidates, 174 (30.1%) were within 3

Table 15. FY 2021 PBRGI, Bypass and Combined samples - File Reviews: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=557, n=21, & n=578, respectively)^

PB Decision	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
PBRGI sample [File reviews] (n=557)					
Defer					
Count Row%	103 [40.9%]	91 [36.1%]	36 [14.3%]	22 [8.7%]	252 [100.0%]
Column%	(66.0%)	(56.2%)	(45.6%)	(13.8%)	(45.2%)
Release					
Count Row%	53 [17.4%]	71 [23.3%]	43 [14.1%]	138 [45.2%]	305 [100.0%]
Column%	(34.0%)	(43.8%)	(54.4%)	(86.3%)	(54.8%)
Total					
Count Row%	156 [28.0%]	162 [29.1%]	79 [14.2%]	160 [28.7%]	557 [100.0%]
Column%	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)
Bypass sample [File reviews] (n=21)					
Defer					
Count Row%	17 [89.5%]	1 [5.3%]	1 [5.3%]	0 [0.0%]	19 [100.0%]
Column%	(94.4%)	(100.0%)	(50.0%)	(0.0%)	(90.5%)
Release					
Count Row%	1 [50.0%]	0 [0.0%]	1 [50.0%]	0 [0.0%]	2 [100.0%]
Column%	(5.6%)	(0.0%)	(50.0%)	(0.0%)	(9.5%)
Total					
Count Row%	18 [85.7%]	1 [4.8%]	2 [9.5%]	0 [0.0%]	21 [100.0%]
Column%	(100.0%)	(100.0%)	(100.0%)	(0.0%)	(100.0%)
Combined sample [File reviews] (n=578)					
Defer					
Count Row%	120 [44.3%]	92 [33.9%]	37 [13.7%]	22 [8.1%]	271 [100.0%]
Column%	(69.0%)	(56.4%)	(45.7%)	(13.8%)	(46.9%)
Release					
Count Row%	54 [17.6%]	71 [23.1%]	44 [14.3%]	138 [45.0%]	307 [100.0%]
Column%	(31.0%)	(43.6%)	(54.3%)	(86.3%)	(53.1%)
Total					
Count Row%	174 [30.1%]	163 [28.2%]	81 [14.0%]	160 [27.7%]	578 [100.0%]
Column%	(100.0%)	(100.0%)	(100.0%)	(100.0%)	(100.0%)

^ Visual representations of Table 15 available in Appendix C: Figures C9, C10, and C11.

months to MRD, 163 (28.2%) were within 4 to 6 months to MRD, 81 (14.0%) were within 7 to 14 months to MRD, and the remaining 160 (27.7%) were more than 14 months to MRD.⁹¹

PBRGI Bypass (File Reviews). As mentioned above, there were 578 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 21 (3.6%) instances, leaving 557 file reviews for which an advisory recommendation was displayed. Of the 21 file reviews that bypassed the advisory recommendation, the bypass reason selected for these cases was: “File Review” (1 case) or “Other” (20 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 21 bypassed cases, the Board decision was to designate 2 (9.5%) parole candidates for release and to defer 19 (90.5%) (see Table 15). Of the 19 (90.5%) bypass cases that were deferred, 14.3% (3/19) were categorized as “deferred” and 76.2% (16/19) were categorized as “deferred to MRD.”⁹² The counts and percentages of decisions to release or to defer within the “months-to-MRD” categories are in Table 15. Of the 21 bypassed cases, 18 (85.7%) were within 3 months to MRD, 1 (4.8%) were within 4 to 6 months to MRD, 2 (9.5%) were within 7 to 14 months to MRD, and none were more than 14 months to MRD.⁹³

Of the 557 file review cases that were not bypassed, 398 (71.5%) met the medium (103), low (128), or very low (167) risk criterion; an additional 120 (21.5%) met the “6-months-to-MRD” criterion, and the remaining 39 (7.0%) met one or more of the remaining criteria allowing a file review. The counts and percentages of decisions to release or to defer within the “months-to-MRD” categories are in Table 15. Of the 557 cases, 156 (28.0%) were within 3 months to MRD, 162 (29.1%) were within 4 to 6 months to MRD, 79 (14.2%) were within 7 to 14 months to MRD, and the remaining 160 (28.7%) were more than 14 months to MRD.

PBRGI Decision Matrix Assignment (File Reviews). As mentioned above, because the Board chose to bypass the PBRGI advisory recommendation in 21 (3.6% of 578) instances, there are 557 file reviews remaining for analysis for which a PBRGI advisory recommendation was displayed. Table 16 provides the

⁹¹ 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.

⁹² See “Board Decision Types” in Section Three.

⁹³ 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 16. FY 2021 PBRGI sample - File Reviews: Counts and percentages of parole candidates assigned to each PBRGI risk/readiness matrix combination (n=557)

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count Percent of Total	83 14.9%	119 21.4%	99 17.8%	301 54.0%
2 Low	Count Percent of Total	12 2.2%	25 4.5%	32 5.7%	69 12.4%
3 Medium	Count Percent of Total	10 1.8%	14 2.5%	29 5.2%	53 9.5%
4 High	Count Percent of Total	6 1.1%	12 2.2%	22 3.9%	40 7.2%
5 Very High	Count Percent of Total	12 2.2%	23 4.1%	59 10.6%	94 16.9%
Total in Readiness Category	Count Percent of Total	123 22.1%	193 34.6%	241 43.3%	557 100.0%

number and percentage of the 557 file reviews from the FY 2021 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 these parole candidates across the five risk levels was the 54.0% (301 of 557) in the very low risk category (compared to 24.4% of 2,779 inmates in non-file review hearings).

Overall, the largest percentage of candidates across the three readiness levels was the 43.3% (241 of 557) in the low readiness category (compared to 28.3% in low readiness of the 2,779 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 (21.4%; 119 of 557). In the “defer area,” the largest percentage of file reviews was found in the very high risk and low readiness matrix category (10.6%; 59 of 557).

Table 17. FY 2021 PBRGI sample - File Reviews: Overall counts and percentages of Parole Board file review decisions by PBRGI advisory recommendations (n=557) *

Parole Board Hearing Decision (Overall counts & percentages)		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	86 15.4%	28 5.0%	114 20.5%
Defer to Mandatory Release Date	Count Percent	74 13.3%	64 11.5%	138 24.8%
Release	Count Percent	29 5.2%	276 49.6%	305 54.8%
Total of PBRGI Recommendations	Count Percent	189 33.9%	368 66.1%	557 100.0%

*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 557 file reviews where a PBRGI advisory recommendation was displayed, the Board decided to set 305 (54.8%) candidates for release and to defer 252 (45.2%). Of the 252 deferred, 45.2% (114/252) were categorized as “deferred” and 54.8% (138/252) were categorized as “deferred to MRD.” By comparison, for the PBRGI-related regular hearings that did not involve a file review (n=2,779), the Board set 50.7% of parole candidates for release and deferred 49.3%. The PBRGI advisory recommendations for the 557 file reviews included 368 (66.1%) recommendations for release and 189 (33.9%) recommendations for deferral.

Board/PBRGI Agreement (File Reviews). Collapsing release and deferral *agreements* on file reviews (between Board decisions and PBRGI recommendations), *78.3% of file review decisions agreed with the PBRGI advisory recommendations* (see Table 17). This combined agreement percentage (78.3%)

includes the degree of release agreement (75.0% or 276 agreements within the 368 release recommendations) and the degree of deferral agreement (84.7% or 160 agreements within the 189 defer recommendations). The rate of defer agreement is 12.9% higher than that of release agreement.

Collapsing across PBRGI-related file review decisions, 78% of Board decisions agreed with the advisory recommendation.

Collapsing release and deferral *departures* on file reviews (between Board decisions and PBRGI

recommendations), 21.7% of full Board review decisions departed from the PBRGI recommendations. This combined departure percentage (21.7%) includes the degree of release departure (25.0% or 92 departures within the 368 release recommendations) and the degree of deferral departure (15.3% or 29 departures within the 189 defer recommendations). From a release perspective, the overall release agreement for file reviews was three times larger than the overall release departure, 49.6% versus 16.5%. From a deferral perspective, the overall deferral agreement was more than five times larger than the overall deferral departure, 28.7% versus 5.2%.

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.⁹⁴ The departure reason analysis for the relevant 121 file reviews were included above in the complete presentation of the departure reason findings. A specific review of the 262 reasons (195 unique mentions of reason categories) for the 121 release departures (when the Board decided to defer) referred primarily to concerns regarding risk to the community, the applicant's inadequate parole plan, the applicant's imminent mandatory release and/or untreated criminogenic needs. A specific review of the 88 reasons (69 unique mentions of reason categories) for the 29 deferral departures (when the Board decided to release) referred to mitigated or reduced risk, treatment participation considerations, and/or the existence of a satisfactory parole plan. Additionally, COVID-19 considerations were indicated in the database in 18 (5.8%) of 312 total file review releases, in 17 (5.6%) of the 305 PBRGI-related file review releases, and in 2 (6.9%) of the 29 deferral departures. However, COVID-19 was not entered specifically as a *departure reason* for any cases.

⁹⁴ 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 2021 hearing sample included 2,223 total full Board reviews that occurred subsequent to an initial hearing conducted by a Board member.⁹⁵ 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.⁹⁶ 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 the 2,223 full Board reviews in the FY 2021 sample (collapsing across inmate types), the Board decision was to designate 1,641 (73.8%) parole candidates for release and to defer 582 (26.2%). Of these 2,223 full board decisions, there were 1,602 full Board reviews for non-sex offenders and 621 full Board reviews for sex offenders. Of the 1,602 reviews eligible for the display of the PBRGI advisory recommendation, the Board's Bypass option was not chosen for any cases.

PBRGI Decision Matrix Assignment (Full Board Reviews). Table 18 provides the number and percentage of the 1,602 full Board reviews from the FY 2021 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

Of parole candidates reviewed by the full Board, 75% were set for release by the Board and 76% were recommended for release by the PBRGI.

found in the very low risk/high readiness category (24.2% or 387/1,602) and the largest percentage in the "defer area" was found in the very high risk/medium readiness category (8.3% or 133/1,602).

Board Decisions (Full Board Reviews). Of the 1,602 full Board reviews, Board members designated 1,197 (74.7%) candidates for release and 405 (25.3%) for deferral (see Table 19). Of the 405 designated for deferral, 321(79.3%) were deferred to a subsequent hearing date and 84 (20.7%) were deferred to the MRD. The "months-to-MRD" findings for these 1,602 full Board decisions are similar in proportion to the overall full Board findings

⁹⁵ This analysis was included at the request of the Board starting in FY 2014.

⁹⁶ 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 18. FY 2021 PBRGI sample - Full Board Reviews: Counts and percentages of parole candidates assigned to each PBRGI risk/readiness matrix combination (n=1,602)

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count Percent of Total	387 24.2%	248 15.5%	45 2.8%	680 42.4%
2 Low	Count Percent of Total	146 9.1%	131 8.2%	26 1.6%	303 18.9%
3 Medium	Count Percent of Total	84 5.2%	118 7.4%	37 2.3%	239 14.9%
4 High	Count Percent of Total	64 4.0%	58 3.6%	13 0.8%	135 8.4%
5 Very High	Count Percent of Total	75 4.7%	133 8.3%	37 2.3%	245 15.3%
Total in Readiness Category	Count Percent of Total	756 47.2%	688 42.9%	158 9.9%	1,602 100.0%

displayed above in Table 1. The 74.7% rate of release for these full Board reviews was 1.5 times higher than the rate of release for the comparable regular hearings (51.3% of 3,336 hearings). Of these 1,602 reviews, the PBRGI recommended 1,223 (76.3%) individuals for release and 379 (23.7%) 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 78.3% (957/1,223) of parole candidates in the two lowest levels of risk and the 96.3% (1,178/1,223) 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), *70.0% of full Board review decisions agreed with the PBRGI recommendations* (see Table 19). The combined agreement percentage (70.0%) includes the degree of release agreement (79.3%; 970 of 1,223) and the degree of deferral agreement (40.1%; 152 of 379). The degree of release agreement was two times larger than the degree of deferral agreement. From a release perspective, the overall release agreement for full Board reviews was 3.8 times larger than overall release departure, 60.5% versus 15.8%, respectively.

Table 19. FY 2021 PBRGI sample - Full Board Reviews: Overall counts and percentages of full Board review decisions by PBRGI advisory recommendations (n=1,602) *

Parole Board Hearing Decision (Overall counts & percentages)		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	126 7.9%	195 12.2%	321 20.0%
Defer to Mandatory Release Date	Count Percent	26 1.6%	58 3.6%	84 5.2%
Release	Count Percent	227 14.2%	970 60.5%	1,197 74.7%
Total of PBRGI Recommendations	Count Percent	379 23.7%	1,223 76.3%	1,602 100.0%

*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.

Collapsing across the two sources of *departure* (between PBRGI recommendations and Board decisions to release and to defer), *30.0% of full Board review decisions departed from the PBRGI recommendations*. The combined departure percentage (30.0%) includes the degree of release departure (20.7%; 253 of 1,223) and the degree of deferral departure (59.9%; 227 of 379). The degree of deferral departure was 2.9 times

Collapsing across all full Board decisions, 70% of Board decisions agreed with the PBRGI advisory recommendations.

larger than the degree of release departure. From a deferral perspective, the overall deferral agreement for full Board reviews was about 1.5 times smaller than the overall deferral departure, 9.5% versus 14.2%, respectively.

When making full Board review decisions for these parole candidates, the likelihood to agree with the PBRGI advisory recommendation to release was higher than when Board members made decisions alone: 79.3% versus 69.3%⁹⁷ 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: 40.1% versus 70.7%⁹⁸ defer agreements within defer recommendations, respectively.

⁹⁷ See Table 7.

⁹⁸ See Table 7.

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.⁹⁹ 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 30.0% (480 of 1,602) 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 227 decisions to release when defer was recommended, representing 14.2% of all full Board decisions and for the 253 decisions to defer or “defer to MRD” when release was recommended, representing 15.8% of all full Board decisions (see Table 19).

Summary of Deferral Departure Reasons: Full Board Decides to Release. For the 227 *deferral* departures, Board members provided 671 total departure reasons and, of these, there were 574 unique mentions of reason *categories* for these decisions to release (see Table 19). The Board entered “full Board decision” as the departure reason in 75 instances. Of these 75 instances, “full Board decision” was noted as the sole reason for 22 cases and “full Board decision” was combined with at least one additional reason for 53 cases. For the remaining 152 of 227 cases, at least one reason *other than* “full Board decision” was offered. Overall, Board members mentioned a single category of concern in 43 cases, two categories in 80 cases, and more than two categories 104 cases. Additionally, while COVID-19 considerations were indicated in the database in 24 (1.5%) of the total 1,641 full Board releases, in 20 (1.7%) of the 1,197 PBRGI-related full Board releases and 5 (2.2%) of 227 full Board defer departures, this notation was entered as a *departure reason* in only 3 (1.3%) of the 227 cases. Brief descriptions and/or examples of the non-COVID-related categories follow.

⁹⁹ See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.

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 574 instances. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. The percentage of the 227 cases where a departure *category* was mentioned was as follows:¹⁰⁰

- Parole plan quality, 63.0% (143/227 cases where this category was mentioned)
- Demonstrated growth/positive attitude, 40.5% (92 cases)
- Full Board decision, 33.0% (75 cases)
- Performance in the community, 33.0% (75 cases)
- Treatment participation considerations, 30.0% (70 cases)
- Mitigated or lesser risk, 22.5% (51 cases)
- Program participation considerations, 21.1% (48 cases)
- Adequate time served, 8.8% (20 cases)

Summary of Release Departure Reasons: Full Board Decides to Defer. For the 253 *release departures*, Board members provided 725 total departure reasons for these decisions to defer. The Board entered “full Board decision” as the departure reason in 59 instances. Of these 59 instances, “full Board decision” was noted as the sole reason in 19 cases and “full Board decision” was combined with at least one additional reason for 40 cases. For the remaining 194 of 253 cases, at least one reason *other than* “full Board decision” was offered. Overall, Board members mentioned a single category of concern in 71 cases, two categories in 99 cases, and more than two categories 83 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 546 instances. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. The percentage of the 253 cases where a departure *category* was mentioned was as follows:¹⁰¹

- Risk concerns, 73.5% (186/253 cases where this category was mentioned)
- Treatment participation or criminogenic need concerns, 36.8% (93 cases)
- Attitude or presentation concerns, 29.6% (75 cases)
- Parole plan quality concerns, 25.7% (65 cases)
- Full Board decision, 23.3% (59 cases)
- Need to transition to or stabilize in a community corrections placement, 10.3% (26 cases)
- Program participation concerns, 9.5% (24 cases)
- Time served is inadequate or imminent MRD/SDD, 7.1% (18 cases)

¹⁰⁰ Percentages total more than 100% because more than one reason category was mentioned in 184 of the 227 cases.

¹⁰¹ Percentages total more than 100% because more than one reason category was mentioned in 182 of the 253 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. 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 a sex offender (and the related sex-offense specific treatment allocation for those labeled a sex offender) was redefined by *CDOC Administrative Regulation 700-19* to include those with a CDOC 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.¹⁰² 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.

Of the total FY 2021 sample of 6,088 hearings and reviews, 1,123 were conducted for individuals labeled a

¹⁰² 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 (2023)*, specifically in *Appendix Q: Parole Guidelines for Discretionary Release on Determinate-Sentenced Sex Offenders* and *Appendix W: Lifetime Supervision Criteria* [see dpsdocs.state.co.us/dcj/DCJ%20External%20Website/SOMB/Standards/Branded%20Adult%20Standards.pdf]; *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/departments-policies].

sex offender. Of the 1,123, 90.9% (1,021) 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 6.6% or 74 an S3 and 2.5% or 28 an S4. Of the total 1,123 individuals categorized as a sex offender, 502 decisions were rendered in initial (in other words, a regular) hearings and 621 decisions were rendered following a full Board review.

The 502 regular hearing decisions included 36 (7.2%) individuals set for release and 466 (92.8%) who were deferred. Of the 36 regular hearing releases that were seemingly at odds with Board policy to only release following a full Board review, 21 (58.3%) were labeled an S3, 3 (8.3%) were labeled an S4, and 12 (33.3%) were labeled an S5.¹⁰³ As described above, 621 individuals were referred to the full Board for further review and, of these, the full Board set 444 (71.5%) for release and 177 (28.5%) were deferred.

Combining the decision outcomes of regular hearings and full Board reviews, the overall decision percentages for the 1,123 individuals labeled a sex offender were: 42.7% (480) set for release and 57.3% (643) deferred. Of the 502 regular hearings involving those labeled a sex offender, 84 (16.7%) were conducted as a file review, following which 5 individuals 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.” The counts and percentages of decisions to release or to defer within the “months-to-MRD” categories can be found above in Table 2. Of the 480 individuals set for release across hearing types, 1.5% (7) were within 3 months to MRD, 3.3% (16) were within 4 to 6 months to MRD, 10.2% (49) were within 7 to 14 months to MRD, and the remaining 80.0% (408) were more than 14 months to MRD. Of the 643 who were deferred, 8.9% (57) were within 3 months to MRD, 8.1% (52) were within 4 to 6 months to MRD, 13.8% (89) were within 7 to 14 months to MRD, and the remaining 69.2% (445) were more than 14 months to MRD. The large percentages in the “14 months to MRD” category, whether for those set for release (85.0%) or deferred (69.2%), simply reflects the number of individuals placed in this category with no MRD due to their indeterminate sentence.

¹⁰³ There is no record of a full Board review or decision for these 36 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 2021 Findings

These FY 2021 analyses represent the eighth *full* year of Board hearings following the FY 2013 implementation. The FY 2021 discretionary hearings sample included 6,088 release application hearings conducted by members of the Parole Board and finalized between July 1, 2020 and June 30, 2021.

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 2021 hearing decision sample and subsamples:

- Of the 6,088 parole application hearings, 3,865 were initial (or "regular") hearings and 2,223 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, 4,965 hearings were conducted for those who were not labeled a sex offender and 1,123 were conducted for those who were labeled a sex offender. Of the 6,088 cases, the Board conducted 662 file reviews.¹⁰⁴
- Of the 3,865 regular hearings, 3,363 cases involved those who were not labeled a sex offender and 502 cases involved those who were labeled a sex offender.¹⁰⁵ Of the 2,223 full Board reviews, 1,602 reviews involved those who were not labeled a sex offender and 621 reviews involved those who were labeled a sex offender. Of the 3,363 and 502 subgroups of regular hearings, the Board conducted file

¹⁰⁴ File reviews and full Board reviews do not involve a direct interview of the inmate. See "Board Hearing Types" in Section Three.

¹⁰⁵ 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 16.

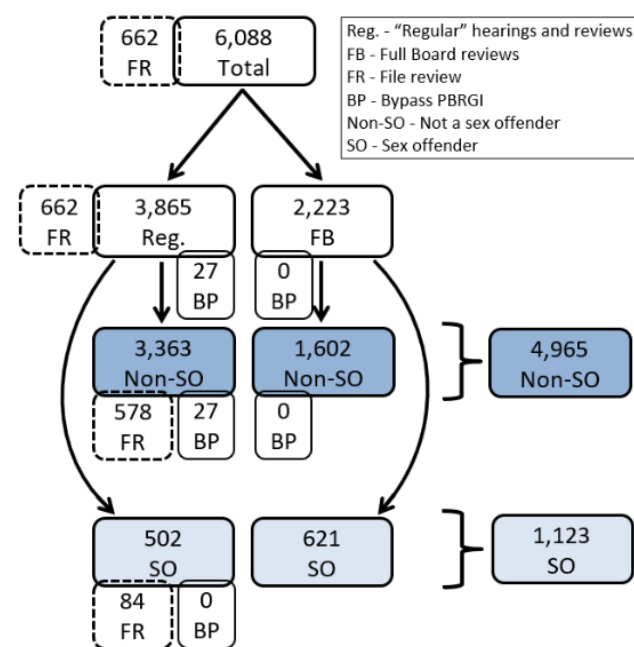
During FY 2021, the Board chose the bypass option in 752 instances of which only 297 bypasses prevented the display of an applicable PBRGI advisory recommendation.

- Among the 4,965 PBRGI-applicable cases, all 27 (0.5%) affected regular hearing decisions for non-sex offenders with none affecting a non-sex offender decision in a full Board hearing.
- Of the 6,088 parole application hearings, the Board set for release 3,392 individuals across all hearing types, noting for 91 (2.7%) that COVID-19 considerations played a role in the decision.
- The PBRGI sample of hearings comprised 3,336 regular hearings and 1,602 full Board reviews of non-sex offenders where the advisory recommendation was not bypassed.

Findings. The following is a summary of the FY 2021 findings.

- General Findings. Collapsing across all hearing and inmate types in the FY 2021 sample of 6,088 cases, the Board decision was to designate 3,392 (55.7%) parole candidates for release and to defer 2,696 (44.3%).
 - Of the 3,865 regular hearings in the FY 2021 sample (collapsing across inmate types), the Board decision was to designate 1,751 (45.3%) parole candidates for release and to defer 2,114 (54.7%).
 - Of the 2,223 full Board reviews in the FY 2021 sample (collapsing across inmate types), the Board decision was to designate 1,641 (73.8%) parole candidates for release and to defer 582 (26.2%).
 - Of the 4,965 cases involving non-sex offenders in the FY 2021 sample (collapsing across hearing types), the Board decision was to designate 2,912 (58.7%) parole candidates for release and to defer 2,053 (41.3%).
 - Of the 1,123 cases involving those labeled a sex offender in the FY 2021 sample (collapsing across hearing types), the Board decision was to designate 480 (42.7%) parole candidates for release and

Figure 3. FY 2021 Parole Board Decisions (n=6,088)



to defer 643 (57.3%).

- Bypass Findings. Of the 27 total instances where the Bypass option was chosen in the FY 2021 hearing sample, the Board decision was to designate 2 (7.4%) parole candidates for release and to defer 25 (92.6%). Of the 25 deferred candidates, 6 (24.0%) were deferred to a subsequent hearing date and 19 (76.0%) 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 27 cases, 21 (77.8%) were conducted as a file review and 6 (22.2%) were not a file review (conducted by phone or video).
 - Of the 27 bypassed cases, 23 (85.2%) were within 3 months to MRD (of which 95.7% were deferred), 1 (3.7%) was within 4 to 6 months to MRD (100.0% deferred), 2 (7.4%) were within 7 to 14 months to MRD (50.0% deferred), and the remaining 1 (3.7%) was more than 14 months to MRD (100.0% deferred).
- PBRGI Findings. Of the FY 2021 *PBRGI sample* of 3,336 regular hearings, the Board designated 1,713 (51.3%) inmates for release and 1,623 (48.7%) inmates for deferral (of which 1,182 were deferred to a subsequent hearing date and 441 were “deferred to MRD”). Recombining the PBRGI regular hearing sample and 27 bypassed cases that would have been part of the PBRGI sample (combined n=3,363), the Board designated 1,715 (51.0%) for release and 1,648 (49.0%) for deferral.
 - Of the PBRGI sample of 3,336 inmates, 232 (7.0%) were within 3 months to MRD (of which, 72.4% were deferred), 282 (8.5%) were within 4 to 6 months to MRD (56.7% deferred), 637 (19.1% were within 7 to 14 months to MRD (49.5% deferred), and 2,185 (65.5%) were more than 14 months to MRD (44.9% deferred).
 - Of the 3,336 cases in the PBRGI sample, the PBRGI recommended 1,841 (55.2%) parole candidates for release and 1,495 (44.8%) for deferral.
 - Collapsing across the PBRGI sample decisions in FY 2021, *69.9% of Board member decisions agreed with the PBRGI advisory recommendation* and 30.1% of decisions departed from the PBRGI advisory recommendation.
 - The overall agreement percentage (69.9%) combines the rate of release agreement (69.3%) and the rate of deferral agreement (70.7%).
 - The overall departure percentage (30.1%) combines the rate of release departure (30.7%) and the rate of deferral departure (29.3%).

- Of the 17.0% (566 of 3,336) of decisions overall where the Board departed from the PBRGI recommendations to release (i.e., a Board deferral), 75.1% of these individuals were categorized by the PBRGI as low or very low risk, 76.5% were categorized as medium or high readiness, and 51.6% (262 of 566) 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 (23.5%; 133 of 566).
- The departure reasons entered by the Board for the *decisions to defer rather than release* included (in descending order of occurrence) concerns related to the severity of the crime of conviction or behaviors that represent risks to the public (for example, institutional violations and violence); untreated criminogenic needs (for example, impulse control deficits, antisocial attitudes/values, substance abuse, and anger issues); a lack of accountability for one’s actions or minimizing the impact of their crime; the inadequate quality of the parole plan (for example, housing issues); 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 13.1% (438 of 3,336) of decisions overall where the Board departed from the PBRGI recommendations to defer (i.e., a Board release), 86.8% of these individuals were categorized by the PBRGI as high or very high risk, 74.4% were categorized as low or medium readiness and 61.2% (268 of 438) 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 (25.6%; 112 of 438) or medium (38.1%; 167 of 438) 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 successfully completed treatment to address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management); had been successful in community placements; had demonstrated growth and positive attitude; had successfully completed programs to prepare for re-entry; and/or had served adequate time.

- Applying the current PBRGI sample selection criteria¹⁰⁶ to all nine reporting years from FY 2013 to FY 2021, the Board designated 39.2%, 32.3%, 32.5%, 35.8%, 35.4%, 41.2%, 49.4%, 56.4% and 51.3% of inmates for release, respectively, while the PBRGI recommended 53.6%, 49.8%, 51.5%, 53.7%, 48.8%, 50.4%, 52.2%, 52.9%, and 55.2% of inmates for release, respectively.
- Applying the current PBRGI sample selection criteria¹⁰⁷ to all nine reporting years, FY 2013 to FY 2021, the percentage of Board decision/PBRGI recommendation agreement was 69.3%, 72.6%, 72.6%, 72.2%, 73.6%, 73.0%, 73.2%, 73.6%, and 69.9% respectively. The agreement percentage from FY 2013 to FY 2021 has varied only a few percentage points around the nine-year average of 72.3%.
- File Review Findings. The FY 2021 sample of 6,088 hearings included 662 (10.9%) file review decisions, which do not require the presence of the inmate as defined in statute.¹⁰⁸ Of these 662 file reviews, 578 involved those who were not labeled a sex offender and 84 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 about 510% from 2.8% of all regular hearings in the FY 2014 sample to 17.1% in the FY 2021 sample.
 - Of the 662 total file reviews, 312 parole candidates (47.1%) were set for release (of which 17.3% were within 3 months and 40.4% were within 6 months of MRD) and 350 (52.9%) were deferred (of which 46.3% were within 3 months and 78.6% were within 6 months of MRD).
 - Of the 578 file reviews conducted for non-sex offenders, the Board chose to bypass the PBRGI advisory recommendation in 21 (2.4%) instances leaving 557 file reviews for which an advisory PBRGI recommendation was displayed.
 - Of the 21 bypassed file review cases, Board members designated 2 (9.5%) inmates for release and 19 (90.5%) for deferral (of which 3 were deferred to a subsequent hearing date and 16 were deferred to their impending mandatory release date).
 - Of the 557 file review cases that were not bypassed, 398 (71.5%) met a statutory risk criterion

¹⁰⁶ The sample selection criteria are briefly described in “Hearing and Decision Types” on page 3 and in more detail in “FY 2021 Sample Selection” on page 29. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

¹⁰⁷ See Footnote 106.

¹⁰⁸ The statutory conditions under which the Board may choose to conduct a file review are described in “Board Hearing Types” in Section Three.

(specifically, 103 were medium, 128 were low, and 167 were very low in risk); an additional 120 (21.5%) met the “6-months-to-MRD” criterion (of which 55 were within 3 months to MRD), and the remaining 39 (7.0%) met one or more of the remaining criteria allowing a file review.

- Of the 557 PBRGI-related file reviews, Board members designated 305 (54.8%) inmates for release and 252 (45.2%) for deferral (of which 114 were deferred to a subsequent hearing date and 138 were deferred to their impending mandatory release date). Of the same 557 file reviews, the PBRGI recommended 368 (66.1%) for release and 189 (33.9%) for deferral.
- The 557 inmates in the PBRGI sample who were the subject of a file review largely were placed in these PBRGI risk/readiness matrix categories: 54.0% were in the very low risk category (compared to 24.4% of inmates in non-file review hearings) and 43.3% were found in the low readiness category (compared to 28.3% of inmates in non-file review hearings).
- Of the 557 PBRGI-related file reviews, when collapsing release and deferral agreements overall (between corresponding Board decisions and PBRGI recommendations to defer or to release), *78.3% of file review decisions agreed with the PBRGI advisory recommendations.*
- The degree of release agreement was 75.0% (276 agreements within the 368 release recommendations) and the degree of deferral agreement was 84.7% (160 agreements within the 189 deferral recommendations).
- Full Board Findings. There was a total of 2,223 full Board reviews in the FY 2021 sample and, as mentioned above, 1,641 individuals were designated for release and 582 were deferred. Of the 1,602 full Board review decisions involving a PBRGI advisory recommendation, analyses found:
 - Full Board reviews designated 1,197 (74.7%) for release and 405 (25.3%) were deferred. The PBRGI recommended 1,223 (76.3%) for release and 379 (23.7%) for defer. The PBRGI categorized 78.3% of the 1,223 individuals recommended for release as very low or low risk and 96.3% 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), *70.0% 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 (51.3% versus 74.7%, respectively) and a smaller percentage for deferral (48.7% versus 25.3%, respectively).
 - Compared to individual board member decisions, the agreement between full Board reviews and

PBRGI recommendations to defer was lower (70.7% versus 40.1%, respectively) and the agreement between full Board reviews and PBRGI recommendations to release was higher (69.3% versus 79.3%, respectively).

- 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 1,123 individuals labeled a sex offender who were seen in initial (regular) hearings, 3.2% (36) were set for release,¹⁰⁹ 41.5% (466) were deferred, and 55.3% (621) were referred to the full Board for further review. Of the 621 individuals referred to full Board review, 71.5% (444) were set for release and 28.5% (177) were deferred.
 - Combining the decision outcomes of regular hearings and full Board reviews, the overall decision percentages for the 1,123 individuals labeled a sex offender were: 42.7% (480) set for release and 57.3% (643) deferred.
 - Of the 502 regular hearings involving those labeled a sex offender, there were 84 (16.7%) file reviews of which 5 individuals (6.0%) were released and 79 (94.0%) were deferred.

¹⁰⁹ There is no record of a full Board review or decision for these 36 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

Chad Dilworth, Former Vice Chair*
Jason Guidry, Former Member*
Daric Harvey, Former Vice Chair*
Kristen Hilkey, Former Chair*
Brandon W. Mathews, 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 2021 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.¹¹⁰ The CARAS score is based on static (unchangeable) risk factors, for 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.¹¹¹

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.¹¹² 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

¹¹⁰ 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.

¹¹¹ Developed and validated pursuant to §17-22.5-404(2)(a), C.R.S., CARAS, Version 6 (2015) has an AUC=.75.

¹¹² See the *CDOC Administrative Regulation 150-01, IV. Procedures, D. Class I Offenses, #25: Harassment of Victim* at, cdoc.colorado.gov/about/departments-policies.

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.

Readiness Items

Item #9: Level of Service Inventory-Revised. The LSI-R total score serves as a modified baseline in the readiness algorithm.¹¹³ 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.¹¹⁴ 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.

¹¹³ 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.

¹¹⁴ 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.

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.¹¹⁵ 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.

¹¹⁵ 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

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

APPENDIX C

**Visual Representations of Report Tables:
Parole Board Decisions by Months
to Mandatory Release Date (MRD)**

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Figure C1. FY 2021 Overall Hearing Sample: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=6,088)

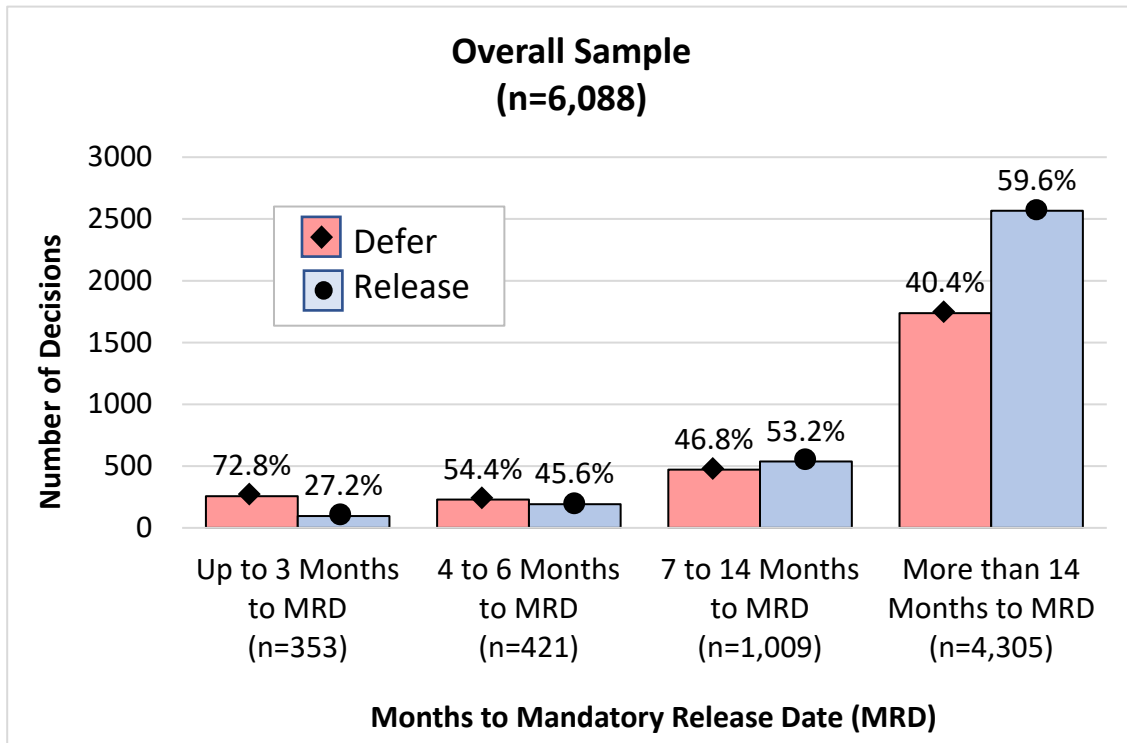


Figure C2. FY 2021 Regular Hearing Sample: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=3,865)

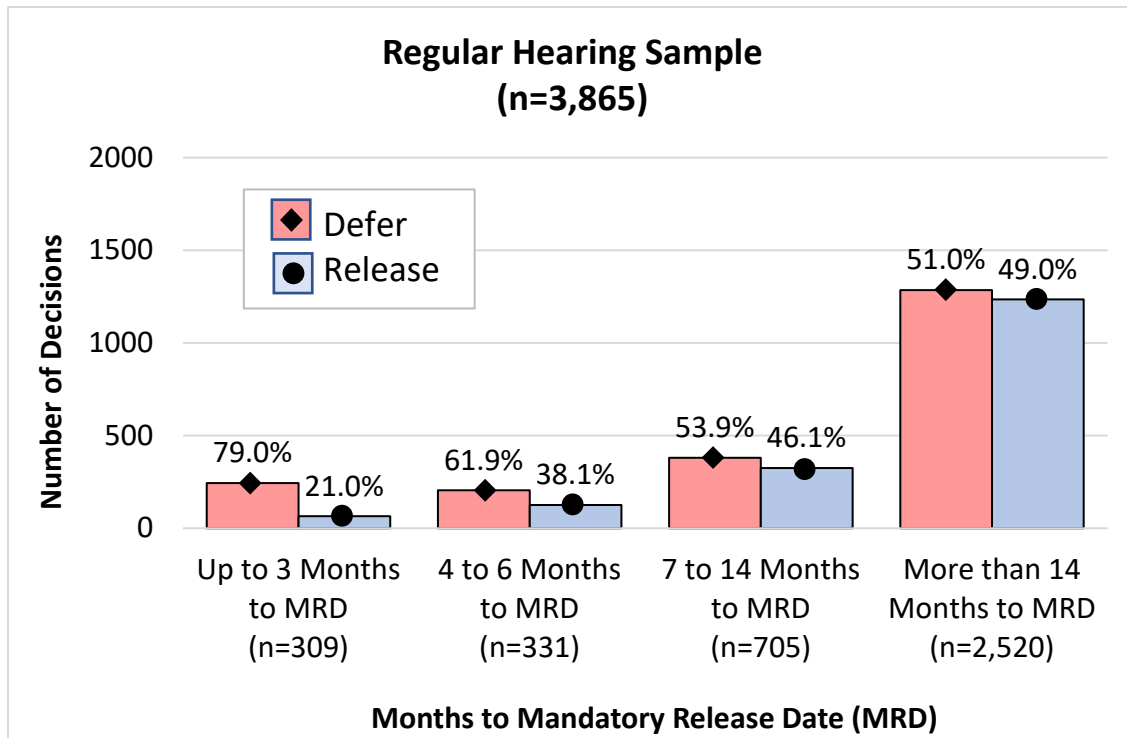


Figure C3. FY 2021 Full Board Review Sample: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=2,223)

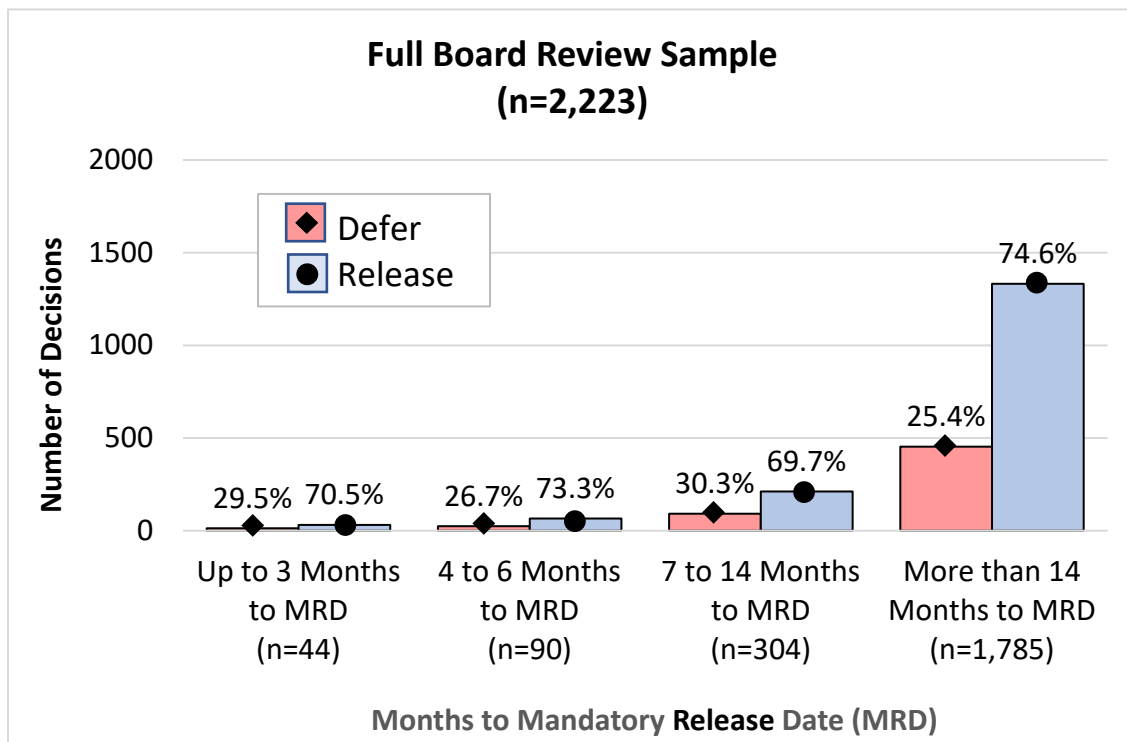


Figure C4. FY 2021 Non-Sex Offender Sample: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=4,965)

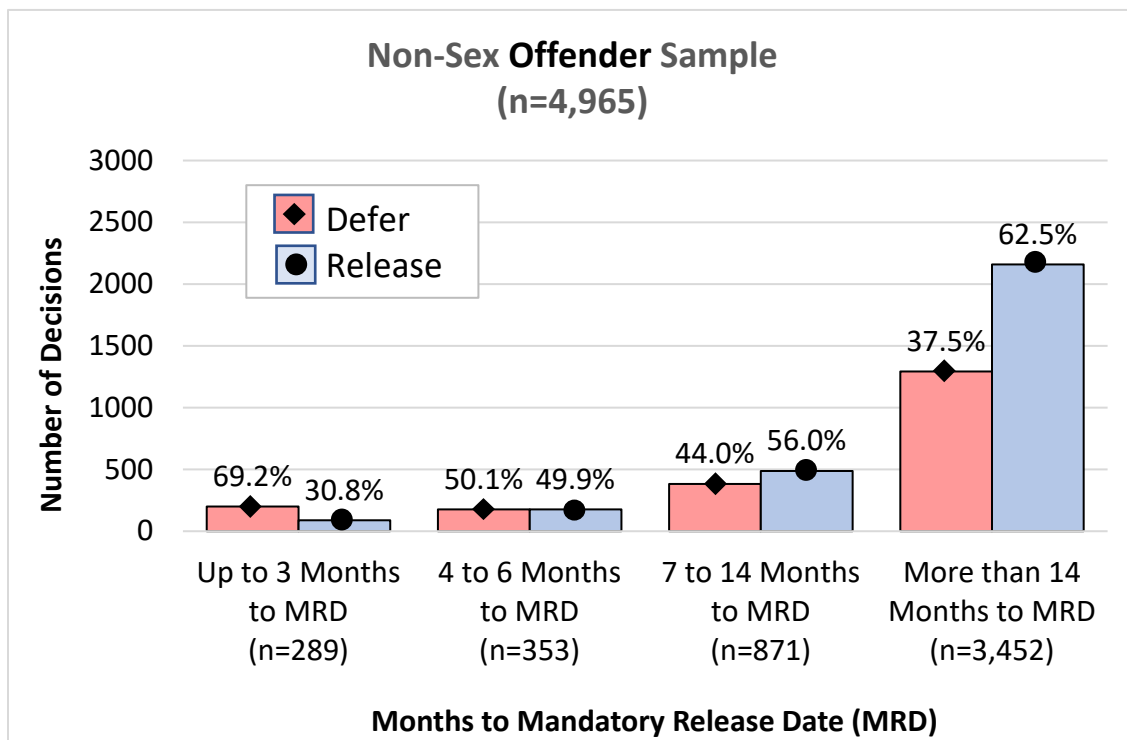


Figure C5. FY 2021 Sex Offender Sample: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=1,123)

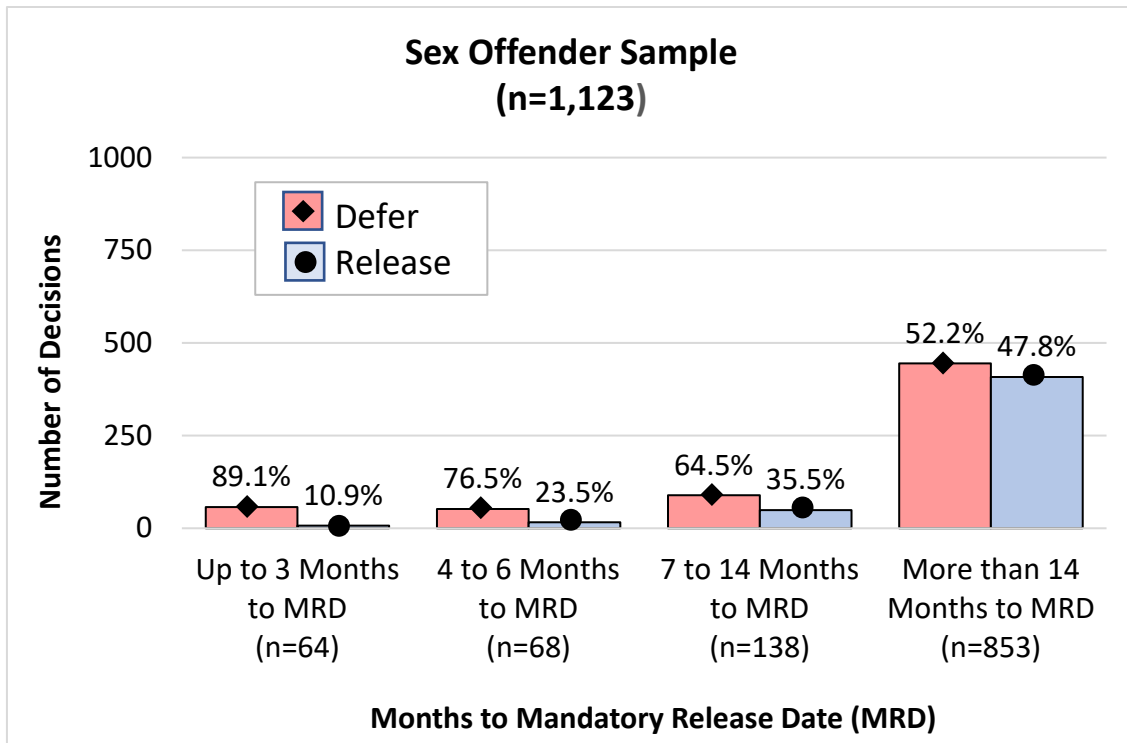


Figure C6. FY 2021 PBRGI Bypass Sample: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=27)

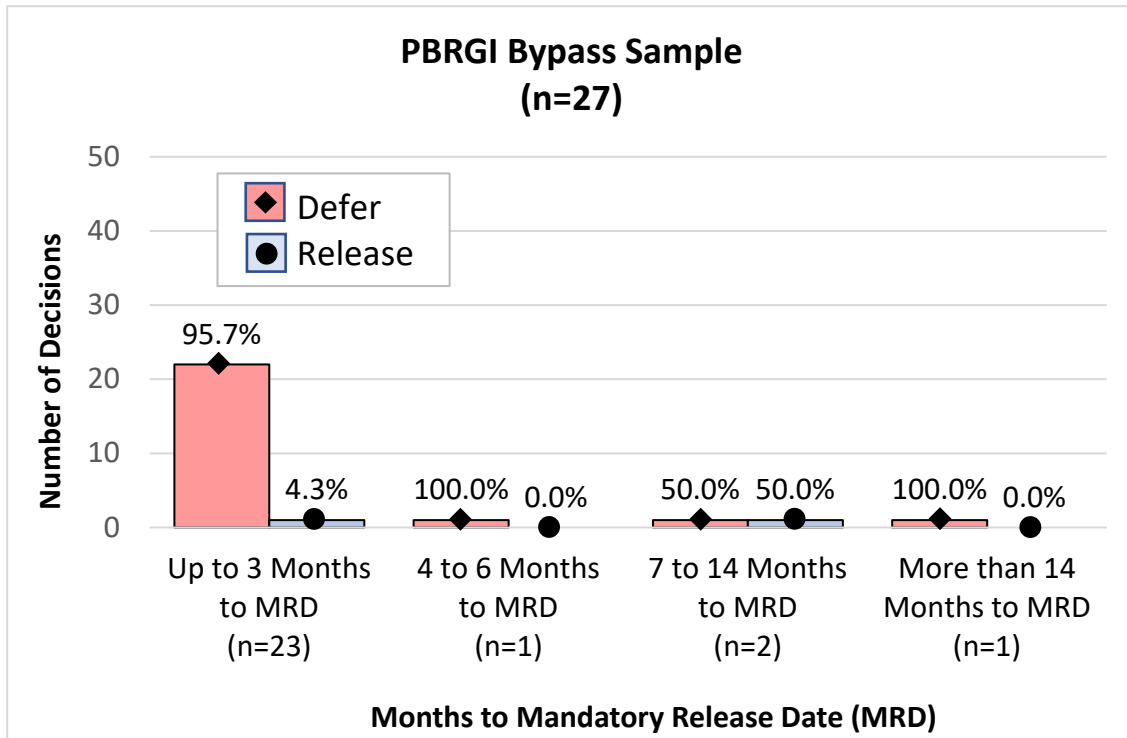


Figure C7. FY 2021 PBRGI Sample: Counts and percentages of Parole Board regular hearing decisions by months to mandatory release date (MRD) (n=3,336)

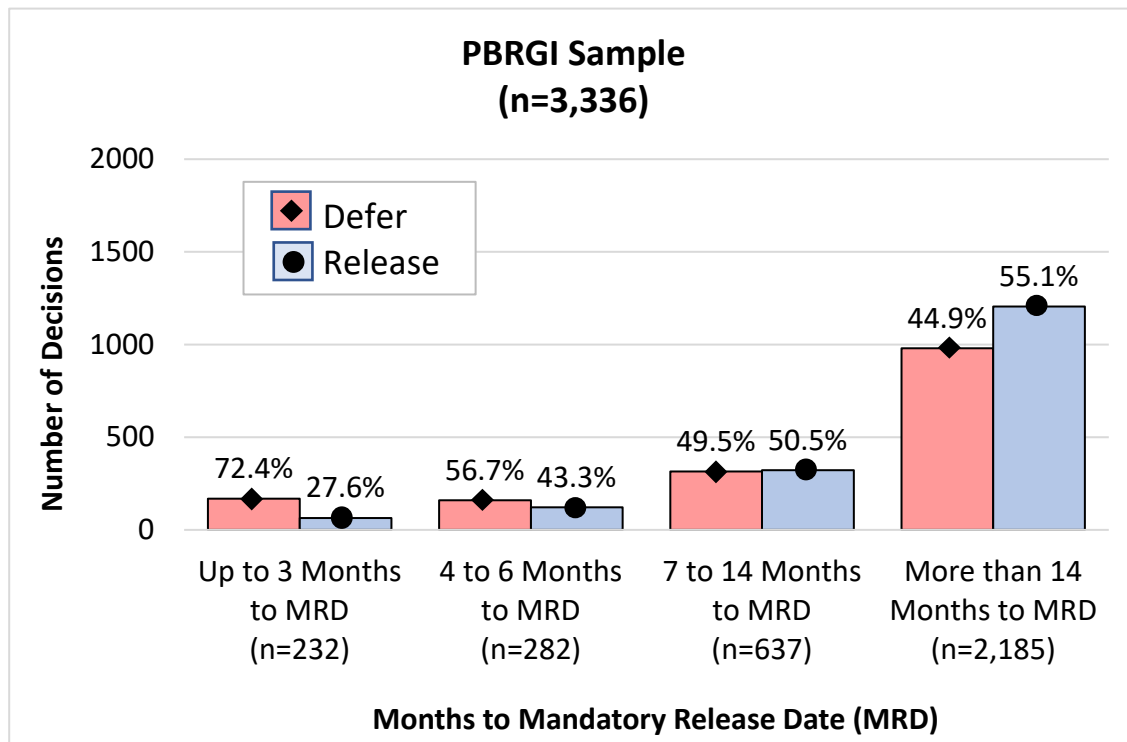


Figure C8. FY 2021 Combined PBRGI & Bypass Samples: Counts and percentages of Parole Board regular hearing decisions by months to mandatory release date (MRD) (n=3,363)

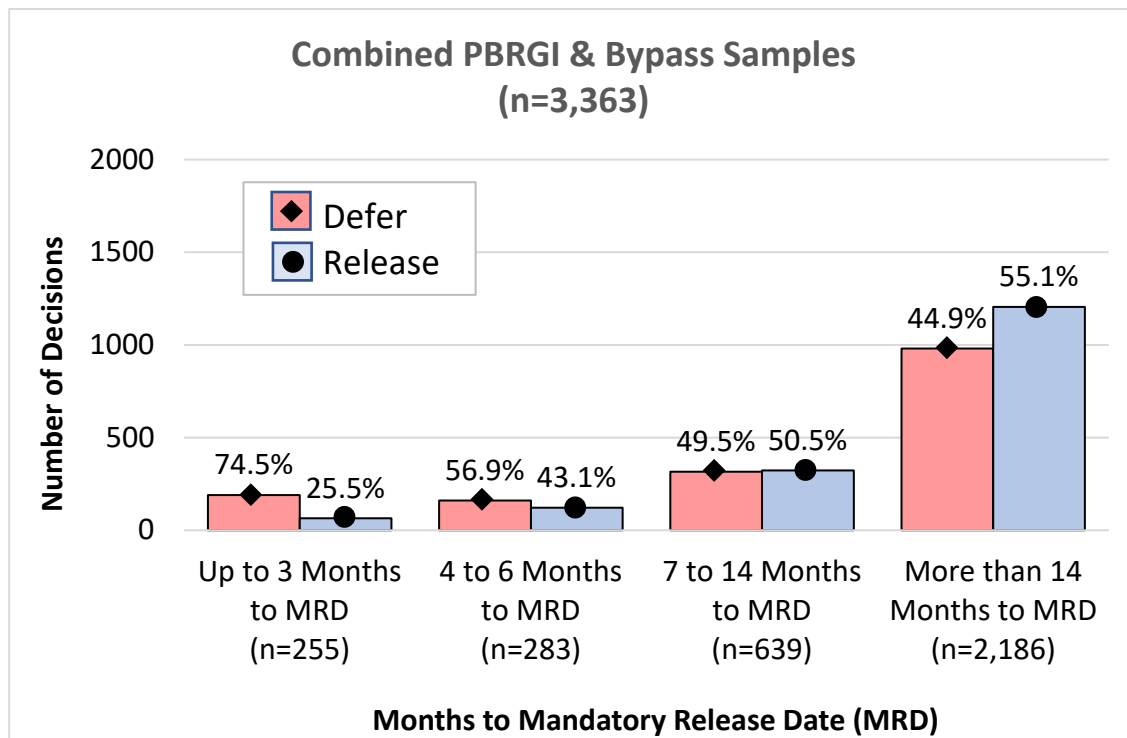


Figure C9. FY 2021 PBRGI Sample - File Review: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=557)

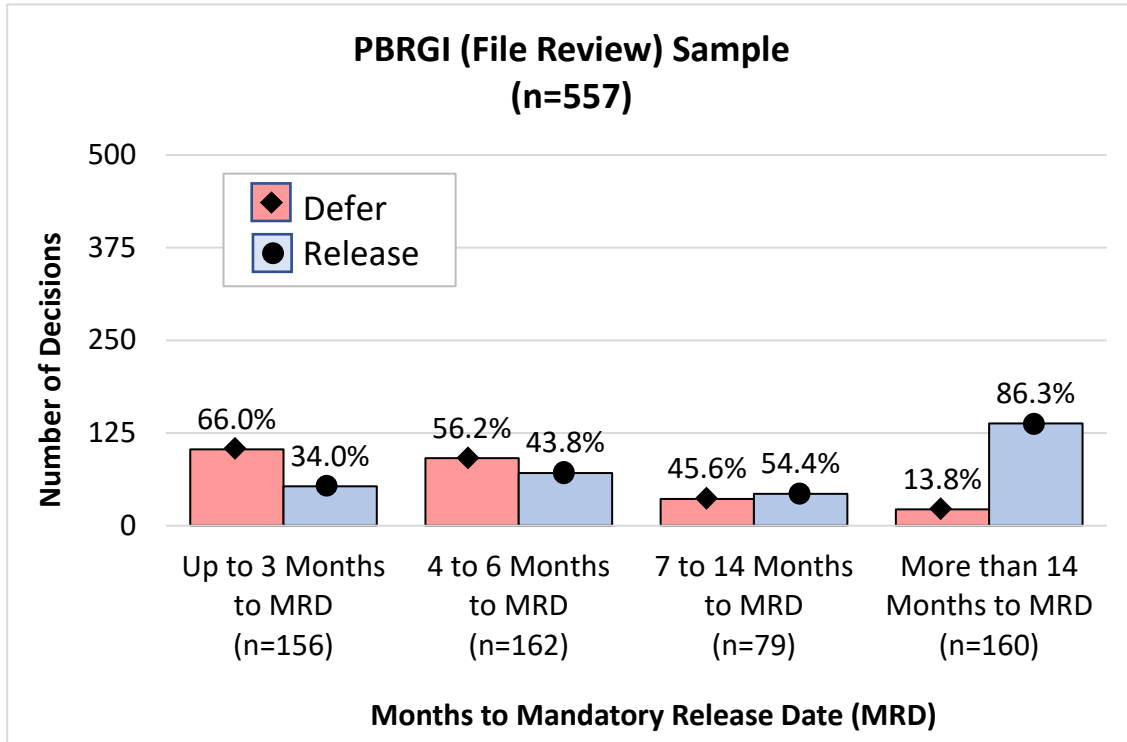


Figure C10. FY 2021 PBRGI Bypass Sample - File Review: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=21)

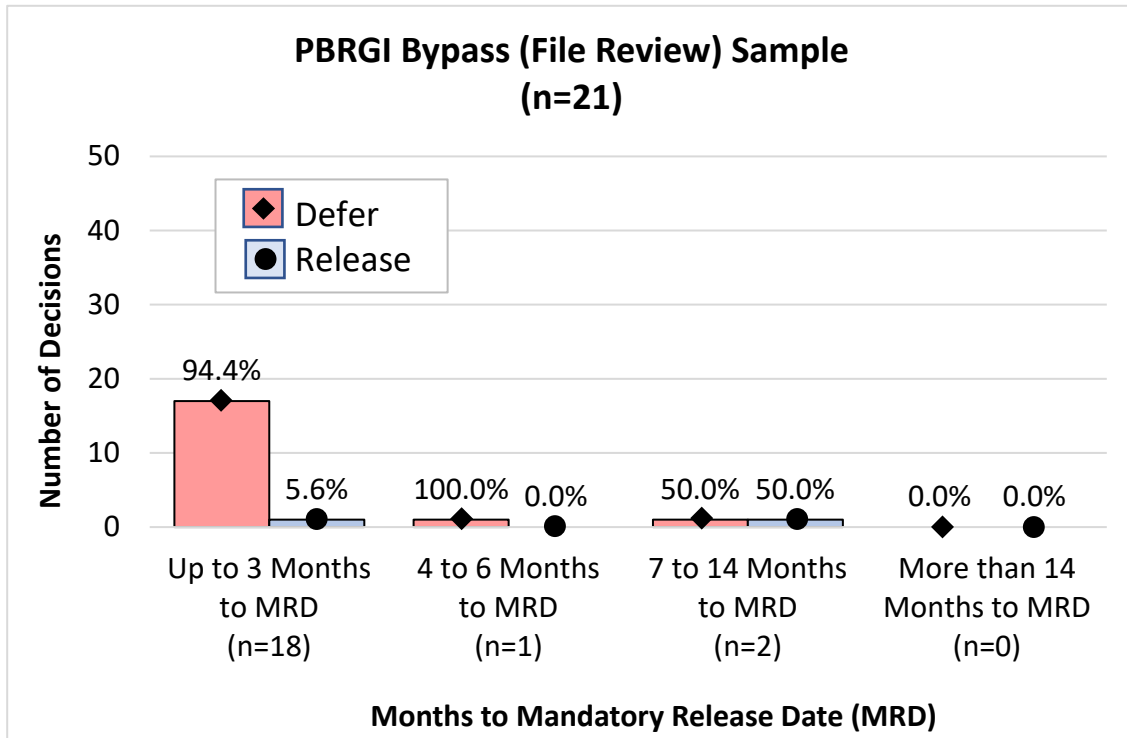
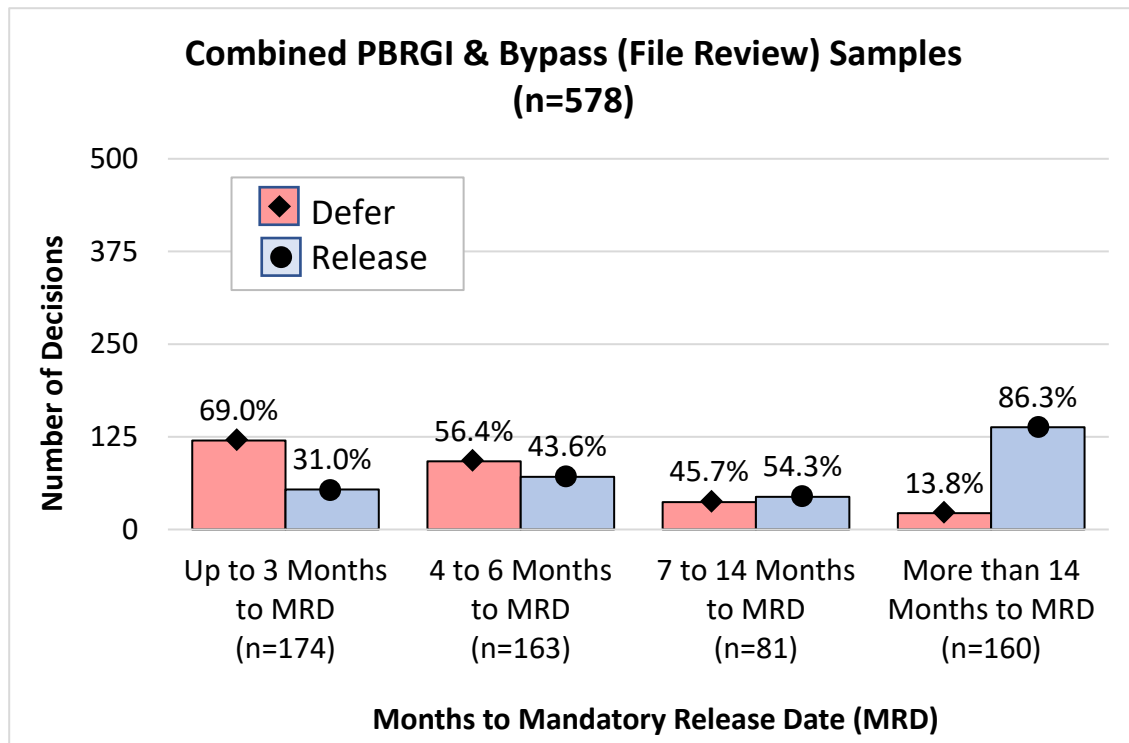


Figure C11. FY 2021 Combined PBRGI & Bypass Samples - File Review: Counts and percentages of Parole Board decisions by months to mandatory release date (MRD) (n=578)



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