

# **Analysis of Colorado State Board of Parole Decisions: FY 2015 Report**

**Pursuant to § 17-22.5-404(6)**

**September 2016**

**Colorado Division of Criminal Justice  
and  
Colorado State Board of Parole**



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# Analysis of Colorado State Board of Parole Decisions: FY 2015 Report

*Pursuant to § 17-22.5-404 (6), C.R.S.*

**September 2016**

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## Acknowledgements

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A team of professionals in the Office of Information Technology at DOC including Rick Vyncke, Kenneth Carr, Jason Martin and Clifton Ford continue to offer support and expertise on the complex parole hearing system in use by the Parole Board within which the Parole Board Release Guideline Instrument (PBRGI) resides.

Additionally at the office of Time & Release Operations at the Department of Corrections, Mary Carlson, Kathleen Nelson and Diana Bleiker provided consultation on parole release processes, and DOC databases. Heather Salazar and Carmen Estrada of the Office of Offender Service provided consultation on CDOC processes and procedures regarding offender case management and assessment.

Staff members Peg Flick, Linda Harrison, and Kim English in the Office of Research and Statistics at the Colorado Department of Public Safety provided invaluable consultation and analyses for this report.

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## Executive Summary

### ***REFLECTIONS FROM THE PAROLE BOARD***

The Board offers reflections on aspects of this report and on its mission to enhance public safety, its commitment to effectively employ risk assessment and evidence-based practices and to work collaboratively with the DCJ to improve the predictive capability of its risk assessments and release guidelines.

### **BACKGROUND**

**Introduction.** The Colorado State Board of Parole (“the Board”) is described in statute in §17-2-201, C.R.S. The Board, appointed by the Governor and confirmed by the Colorado State Senate, includes seven members who serve three-year terms. The Board may hire additional individuals on contract to serve as release hearing officers and revocation hearing officers.<sup>1</sup> Among the duties of the Board chair described in §17-2-201(1)(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 (DOC) “to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the Board’s parole decisions.” Additionally, pursuant to §17-22.5-107(1), C.R.S., in consultation with the Board, DCJ is mandated to develop an administrative release guideline instrument for use by the Board in evaluating applications for parole. Finally, pursuant to §17-22.5-404(6)(e)(I), C.R.S., the Board and DCJ are mandated to issue a report to the General Assembly regarding the outcomes of decisions by the Board. Where data is available, this report describes findings during the period from July 1, 2014 through June 30, 2015 and data collection processes related to these statutory mandates.

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

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<sup>1</sup> The Board typically hires no more than 1 to 3 of either type of contract hearing officer. A list of Board members and hearing officers for FY 2015 and the Board mission statement may be found in Appendix A.

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.).<sup>2</sup>

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

**Parole Board Release Guideline Instrument (PBRGI).** The goal of the PBRGI is to provide a consistent framework for the Board to evaluate and weigh specific release decision factors and, based on a structured decision matrix, to offer an advisory release decision recommendation for parole applicants. The PBRGI was derived from a paper-and-pencil draft administrative release guideline instrument created by the Colorado Commission on Criminal and Juvenile Justice ([colorado.gov/ccjj](http://colorado.gov/ccjj)). Initial validity and reliability testing concluded in August of 2012 and the system was implemented on September 4, 2012. Since that date, the automated PBRGI system has been available for use within the Parole Board Application Hearing Portal by Board members when conducting parole release application hearings. Studies to demonstrate the validity and reliability of the PBRGI may be found in the FY 2012 and FY 2013 Parole Board Decisions reports.<sup>3</sup>

The PBRGI is a set of thirteen items that combine using two algorithms to create a matrix with two dimensions. The first dimension is *risk of recidivism* and the second dimension is *readiness for parole*. The thirteen items correspond with the parole considerations outlined in Colorado statute.<sup>4</sup> DCJ staff constructed two algorithms from these 13 statutory considerations, one for recidivism risk and one for parole 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.<sup>5</sup> The Level of Supervision Inventory-

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<sup>2</sup> These annual reports are available under "Reference Materials" at [colorado.gov/paroleboard/reference-materials-0](http://colorado.gov/paroleboard/reference-materials-0).

<sup>3</sup> Prior year reports are available on the ORS/DCJ website at [colorado.gov/dcj-ors/ors-reports](http://colorado.gov/dcj-ors/ors-reports).

<sup>4</sup> See the statutory consideration for release to parole in §17.22.5-404(4), C.R.S.

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

Revised (LSI-R) overall and rater box scores serve as the baseline for the readiness score used in the matrix. The PBRGI items, the scoring algorithms and the advisory decision matrix are described in Appendix B.

The combination of the risk and readiness scores places an offender in a five-level risk by three-level readiness matrix where each matrix position is associated with an advisory release or defer recommendation (§17-22.5-107(1)(b), C.R.S.).<sup>6</sup> This advisory recommendation is displayed to Board members through the Parole Board Hearing Application Portal. Members may also view an offender's specific placement in the decision matrix and the data used to derive the risk and readiness scores. After considering the advisory recommendation and any other information connected to the release application hearing, 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 evidence-based PBRGI offers the significant advantage of uniformity in the application of decision criteria, but the guideline cannot adapt to the unique and emergent characteristics of each offender discovered during the parole application hearing. The PBRGI recommendation is not considered a standard by which Board decisions are to be measured but, rather, provides only an advisory recommendation. In fact, there is no objective standard by which Board member decisions may be measured. This point is acknowledged in the legislative declaration of H.B. 10-1374, "...using structured decision-making unites the parole board members with a common philosophy and a set of goals and purposes while retaining the authority of individual parole board members to make decisions that are appropriate for particular situations" (§17.22.5-404(1)(c), C.R.S.).

**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.). There were two projects related to the ability to accomplish this mandate: the Parole Board Revocation Automation Project and the Parole Board Revocation Guidelines Project.

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<sup>6</sup> The decision to "defer" simply means the offender 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. The Board decision types are described in Section Three: Board Decision Types.

Following the automation of the release hearing process, the Board initiated a Parole Board Revocation Automation Project with OIT at DOC to automate revocation hearings and to collect hearing data similar to the automated system for release application hearings. System development and programming was ongoing during FY 2015 and will continue beyond FY 2015.

In March 2013, the Board initiated the Parole Revocation Working Group to develop the Parole Board Revocation Guidelines. The Board contracted with the Center for Effective Public Policy (“Center”; cepp.com) to provide technical assistance and guidance on the project. Pursuant to §17-22.5-107(2), C.R.S., the revocation guideline will employ the statutory revocation factors (§17-22.5-404.5(a), C.R.S.) and include a matrix of advisory decision recommendations for different offender risk levels. Additionally, the Board is required to provide decision reasons when the Board departs from advisory revocation recommendation (§17-22.5-404(6)(b), C.R.S.). The working group completed the guidelines in June 2013 and following approval by the Board, the proposed guidelines were forwarded to OIT at DOC for further specification of elements for integration into the automated Parole Board Revocation hearing system that is under construction.

## **FINDINGS**

**Hearing and Decision Types.** The FY 2015 hearings sample included 9,916 release application hearings and reviews conducted by members of the Parole Board and finalized between July 1, 2014 and June 30, 2015. The hearings and reviews included in this report were only those involving 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.”

The decisions summarized in this report are drawn from the following types of hearings and reviews: “regular” Board hearings, file reviews, and full Board reviews. When considering an inmate’s application for release to parole, the Board renders one of two possible discretionary decisions: to release (grant parole) or to defer (deny parole). Just over 5,000 application hearings were excluded from the sample because the related decision was not considered discretionary or the decision was considered moot. For example, hearings were excluded when a deferral was due to the offender’s absence, when there was a court order for release, or when the offender was discharged because his/her sentence was completed.

**TERMINOLOGY NOTE**

Throughout the report, references will be made to:

- the Board decisions to release or to defer;
- the PBRGI advisory recommendations to release or to defer, and
- whether the Board’s decision represented an agreement 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 are more complex because they reflect two opposite concepts simultaneously while referencing the PBRGI advisory recommendation, rather than the Board decision, 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).

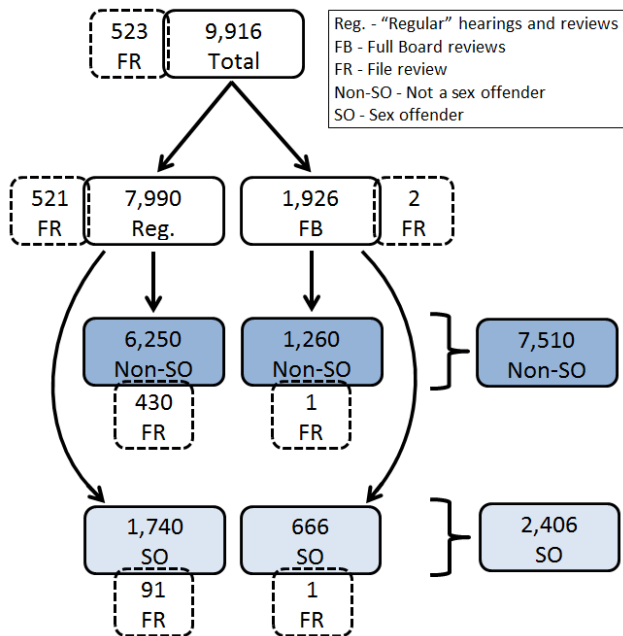
<u>Parole Board Decision</u>	<u>PBRGI Advisory Recommendation</u>	
	DEFER	RELEASE
DEFER or DEFER to Mandatory Release Date	Deferral AGREEMENT <b>1</b>	Release DEPARTURE <b>2</b>
RELEASE Discretionary	Deferral DEPARTURE <b>3</b>	Release AGREEMENT <b>4</b>

**Findings.** The following is a summary of the FY 2015 findings:

- Of the 9,916 release application hearings, 7,990 were “regular” hearings and 1,926 were full Board reviews. A “regular” hearing is conducted by one (or two Board members when the inmate is serving a life sentence with the possibility of parole). A full Board review is a subsequent review conducted by at least four Board members when a case is referred from a “regular” hearing at the Board member’s discretion or the case involves a violent crime. Of this same overall hearing total, 7,510 hearings were conducted for those who were not labeled a sex offender and 2,406 were conducted for those who

were labeled a sex offender. Of the 9,916 cases, the Board conducted 523 file reviews rather than meeting directly with the inmate.<sup>7</sup>

**FY 2015 Parole Board Decisions (n=9,916)**



- Of the 7,990 “regular” hearings, 6,250 cases involved those who were not labeled a sex offender and 1,740 cases involved those who were labeled a sex offender. Of the 1,926 full Board reviews, 1,260 reviews involved those who were not labeled a sex offender and 666 reviews involved those who were labeled a sex offender. Of the 6,250 and 1,740 subgroups of “regular” hearings, the Board conducted 430 and 91 file reviews, respectively, rather than meeting directly with the parole applicant.

- The findings in this report focus primarily on the 6,250 “regular” hearings for

those not labeled a sex offender where a Parole Board Release Guideline Instrument (PBRGI) recommendation was generated.<sup>8</sup> This hearings subsample is labeled throughout the report as the “PBRGI sample.”

- For this FY 2015 PBRGI sample of 6,250, the Board designated 1,748 (28.0%) offenders for release and 4,502 (72.0%) offenders for deferral (of which 3,189 were deferred to a subsequent hearing date and 1,313 were deferred to their mandatory release date because the mandatory release would occur prior to the next scheduled hearing date<sup>9</sup>). Of this same 6,250, the PBRGI recommended 3,039 (48.6%) offenders for release and 3,211 (51.4%) for deferral.
- Across the entire PBRGI sample of 6,250 offenders, 2,123 or 34.0% were within 14 months of their MRD (and 70.7% of these were deferred or deferred to MRD) and 955 or 15.3% were within six months of their MRD (and 80.3% of these were deferred or deferred to MRD).

<sup>7</sup> File reviews and the other hearing and review types are described in Section Three: Board Hearing Types.

<sup>8</sup> The explanation for the exclusion of sex offenders from the PBRGI analyses may be found on page 16.

<sup>9</sup> These 1,313 offenders were expected to discharge their sentence before their next scheduled hearing date would occur. Of these 1,313 offenders, 629 (47.9%) were to discharge their sentence in six or less months, 572 (43.6%) were to discharge their sentence between seven and fourteen months, and 112 (8.5%) were to discharge their sentence in more than fourteen months.

- Of all 4,502 offenders who were deferred, the Board conducted a file review for 421 offenders (9.4% of those deferred; or 6.7% of the 6,250 PBRGI sample) rather than a person-to-person hearing (Only 9 of the 421 offenders were released following a file review.).
- Comparing the findings from each of the existing reporting years, FY 2013, FY 2014 and FY 2015, the Board designated 35.4%, 25.0%, and 28.0% of inmates for release, respectively, while the PBRGI recommended 57.5%, 49.2%, and 48.6% of inmates for release, respectively.
- Collapsing across the all the decisions to release or to defer in FY 2015, 71.8% of Board member decisions agreed with the PBRGI advisory recommendation and 28.2% of decisions departed from the PBRGI advisory recommendation.
- Comparing the findings from each of the existing reporting years, FY 2013, FY 2014, and FY 2015, the percentage of agreement has increased each year at 64.1%, 68.0% and 71.8%, respectively. The increase between the first two years was due specifically to an increase in the agreement with the PBRGI deferral recommendations. The increase between the second and third years was due specifically to an increase in agreement with the PBRGI release recommendations (while maintaining a high degree of deferral agreement).
- The combined agreement percentage (71.8%) conceals that the degree of deferral agreement (92.6%) is more than 85% higher than the degree of release agreement (49.7%). The departure percentage (28.2%) reveals the converse: the degree of release departures (50.3%) is more than six times higher than the degree of deferral departure (7.4%).
- Of the 50.3% (or 1,528) of decisions where the Board departed from the PBRGI recommendations to release (a Board deferral), 83.0% of these offenders were categorized as “low” or “very low” risk, 66.6% were categorized as “medium” or “high” readiness, and 49.5% (or 757 of 1,528) were categorized in *both* these lower risk and higher readiness categories (also referenced later in the report as the offenders “most appropriate for release”).
- Release departures were most frequent for offenders who, although “very low” in risk, were categorized as “low” in readiness for release (33.4%; 511 of 1,528).
- The departure reasons entered by the Board for the decisions to defer rather than release included concerns related to aspects of the crime of conviction or other risk considerations, inadequate time served relative to the sentence, the need for additional time to stabilize in community corrections

placements, a lack of accountability for one's actions, the inadequate quality of the parole plan, and/or the need for additional program or treatment interventions.

- Of the 7.4% (or 237) of decisions where the Board departed from the PBRGI recommendations to defer (a Board release), 89.5% of these offenders were categorized as “high” or “very high” risk, 49.4% were categorized as “low” or “medium” readiness and 38.8% were categorized in *both* these higher risk and lower readiness categories (also referenced later in the report as the offenders “most appropriate for deferral”).
- Deferral departures were most frequent for offenders who, although “very high” in risk, were categorized as “high” in readiness for release (50.6%; 120 of 237).
- The departure reasons entered by the Board for the decisions to release rather than defer indicated that these offenders had presented a comprehensive parole plan; had demonstrated growth; had been successful in community placements; had mitigated their higher risk in one or more ways; and/or had successfully completed programs and/or treatment.
- The FY 2015 sample of 9,916 hearings included 523 (5.3%) file review decisions, which do not require the presence of the inmate as defined in statute.<sup>10</sup> Of these, 521 were “regular” file review decisions and 2 file reviews were subsequently referred to the full Board for review. Of these 521 “regular” file reviews, 430 involved those who were not labeled a sex offender and 91 involved those labeled a sex offender. An analysis of these reviews found:
  - Collapsing deferral and release agreements (between corresponding PBRGI recommendations and Board decisions to defer or to release), *73.7% of file review decisions agreed with the PBRGI recommendations.*
  - Of the 430 PBRGI-related file reviews, Board members designated 9 offenders (or 2.1%) for release and 421 offenders (or 97.9%) for deferral (of which 149 were deferred to a subsequent hearing date and 272 were deferred to their impending mandatory release date). The PBRGI recommended 114 (26.5%) for release and 316 (73.5%) for deferral. Of these 430 inmates, 168 (39.1%) had been convicted of a Class I violation of the CDOC Code of Penal Discipline in the previous 12 months, making them ineligible for release. The Board decision and the PBRGI advisory recommendation was to defer in each of the 168 cases.

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<sup>10</sup> The statutory conditions under which the Board may choose to conduct a file review are found in Section Three: Board Hearing Types.



- Of the 421 PBRGI-related file reviews resulting in a deferral, 278 offenders (or 66.0%) were within six or less months of their MRD and 30 offenders (7.1%) were between seven and 14 months of their MRD when the file review was conducted.
- Inmates who were the subject of a file review were placed in the PBRGI risk/readiness matrix at the following percentages: 60.0% were in the “high” or “very high” risk categories (compared to 42.2% of inmates in non-file review hearings) and 78.1% were found in the “low” readiness category (compared to 41.2% of inmates in non-file review hearings).
- The analyses of the 1,260 full Board review decisions involving a PBRGI recommendation found:
  - Collapsing the two sources of agreement (between the PBRGI recommendations and Board decisions to release and to defer), 56.7% of full Board review decisions agreed with the PBRGI recommendations.
  - Compared to individual Board member decisions, the full Board review designated a larger percentage of offenders for release (637 or 50.6%) and a smaller percentage for deferral (623 or 49.4%). [As indicated above, individual Board member decisions in “regular” hearings designated 1,748 (28.0%) offenders for release and 4,502 (72.0%) offenders for deferral.]
  - Of these full Board reviews, the PBRGI recommended 1,073 (85.2%) offenders for release and 187 (14.8%) for deferral. The PBRGI categorized 63.4% of these offenders as “very low” or “low” risk, hence the large percentage of release recommendations.
  - Compared to individual board member decisions, the tendency of full Board reviews to agree with PBRGI recommendations to defer was lower (92.6% versus 70.6%, respectively), but the tendency to agree with PBRGI recommendations to release was higher (49.7% versus 54.2%, respectively).
- There was an ongoing effort during FY 2015 by the CDOC: Sex Offender Treatment and Monitoring Program and the CDOC: Office of Information Technology to increase the electronic data available for analysis regarding decisions surrounding sex offenders. Given these data were not yet available, only the overall decision summary is reported.
  - Of the 1,740 “regular” hearings involving those labeled a sex offender, 22.1% resulted in decisions to release and 77.9% to defer and of the 666 full Board reviews, 39.5% resulted in decisions to release and 60.5% to defer.
  - Of the 91 file reviews for those labeled a sex offender, Board members designated all 91 (100.0%) offenders for deferral. As mentioned previously, the PBRGI advisory recommendation is not provided for those labeled a sex offender.

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## ***Reflections from the Parole Board***

*The mission of the Parole Board is to increase public safety by critical evaluation, through the utilization of evidence-based practices of inmate potential for successful reintegration to society. The release of an offender at the discretion of the Parole Board on parole is not a right, but a privilege, and, as such, the Board is committed to utilizing effective tools to select the most appropriate candidates for parole. Currently, no universally accepted percentage exists for the number of discretionary releases that a releasing authority should be providing. For the FY 2015 hearings included in this sample, the Board designated 28.0% of offenders for release and 72.0% of offenders for deferral, which includes those offenders who were set to release on their impending MRD regardless of time frame from the hearings to release date. In the FY 2015 sample included, 71.8% of all Board member decisions agreed with the PBRGI advisory recommendation and 28.2% of all decisions departed from the PBRGI advisory recommendation. The Board would like to work to make future changes to the tool, to include additional information included in the PBRGI's recommendation, such as misdemeanor convictions, recent failures in community corrections, and/or probation, etc. It is the intention of the Board to collaborate with DCJ on enhancing the tool and continuing to work toward a reliability agreement level that is in line with existing standards of decision making tools. Any assumption that the PBRGI is a sole predictor of parole success is distorted given that the tool is still in its infancy. Since its inception in 2012, further validation and enhancements of the tool have not yet been completed and are still necessary; however, it is the intention of the Board to study the outcomes from the last 3 years to ensure that the tool is providing the most effective and informative advisory recommendations. The Board is looking forward to future evaluation and collaboration with DCJ to further enhance the predictive capabilities of the PBRGI.*

*Joe Morales, Chair, Colorado State Board of Parole  
Rebecca Oakes, Vice Chair, Colorado State Board of Parole*

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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. The Board, appointed by the Governor and confirmed by the Colorado State Senate, includes seven members who serve three-year terms. The Board may hire additional individuals on contract to serve as release hearing officers and revocation hearing officers.<sup>11</sup> The mission statement of the Board and a list of Board members and hearing officers for FY 2015 may be found in Appendix A.

**The State Board of Parole and DCJ are mandated to issue a report to the General Assembly regarding decisions by the Board.**

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(1)(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).”

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 (DOC) “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.”<sup>12</sup> 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 DOC is mandated to develop administrative revocation guidelines for use by the Board in evaluating complaints filed for parole revocation.<sup>13</sup> 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.<sup>14</sup>

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<sup>11</sup> The Board typically hires no more than 1 to 3 of either type of contract hearing officer.

<sup>12</sup> See Senate Bill 2009-135.

<sup>13</sup> See House Bill 2010-1374.

<sup>14</sup> See Senate Bill 2011-241.

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.).<sup>15</sup>

This report covers the period from July 1, 2014 to June 30, 2015, and is organized as follows:

- Section Two provides a summary of and update on the parole board decision support system,
- Section Three describes the Board hearing and decision types and the sample of 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 2015 report and a description of the Parole Board Release Guideline Instrument (PBRGI).

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<sup>15</sup> These annual reports are available under “Reference Materials” at [colorado.gov/paroleboard/reference-materials-0](http://colorado.gov/paroleboard/reference-materials-0).

## Section Two: Parole Board Decision Support System

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

- the Parole Board Hearing Application Portal,
- the Parole Board Release Guideline Instrument, and
- the Parole Board Revocation Portal.

FY 2015 is the second full year of use of the Parole Board Release Guideline Instrument (PBRGI) following its implementation during FY 2013. This section provides a summary of these elements and describes developments occurring since the FY 2014 report.<sup>16</sup>

**Parole Board Hearing Application Portal.** In October 2011, the Governor’s Office of Information Technology (OIT) at DOC, in collaboration with the Board, implemented a paperless hearing system labeled the Parole Board Hearing Application Portal (“Portal”).<sup>17</sup> The goal of the Portal creation was to automate parole application (“release”) hearings by providing an interface to display offender 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 offender must abide while on parole.

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

Each year since its implementation, OIT in collaboration with the Board, various representatives of DOC including the Time and Release Operations Office and the Division of Parole, and DCJ, make specific improvements to the functions of the Portal. For example, since the initial implementation, the Portal has been expanded to schedule hearings, to track the status of hearings and to provide a document repository for letters and statements regarding hearings. It is expected that the Portal will continue to be enhanced and improved with additional data elements and processes as needs are identified by the Board and its agency partners.

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<sup>16</sup> The previous annual reports provide a summary and update on the original six decision system projects derived from the legislative mandates in §17-22.5-107 and §17-22.5-404(6), C.R.S., and are available at [colorado.gov/dcj-ors/ors-reports](http://colorado.gov/dcj-ors/ors-reports).

<sup>17</sup> For a more lengthy description of the “Portal,” see [cdpsdocs.state.co.us/ors/docs/reports/2009\\_SB09-135.pdf](http://cdpsdocs.state.co.us/ors/docs/reports/2009_SB09-135.pdf).

The Portal provides the platform within which the automated Parole Release Guideline Instrument (PBRGI) is integrated.

**Parole Board Release Guideline Instrument.** 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

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

different risk levels.” The goal of the PBRGI is to provide a consistent framework for the Board to evaluate and weigh the statutory, release-decision factors<sup>18</sup> and, based on a structured decision matrix, to offer an advisory release decision recommendation for parole applicants who are not identified as sex offenders. The “Portal” described above afforded the opportunity to automate the decision framework and advisory recommendation processes for

ultimate consistency. The PBRGI is based on a draft administrative release guideline instrument designed by the Colorado Commission on Criminal and Juvenile Justice.<sup>19</sup>

For 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).<sup>20</sup> Upon entry into DOC, each offender’s history is reviewed for sexually abusive behavior, and offenders are assigned to one of five categories of Sexual Violence Needs with classification updates occurring as warranted. Offenders in the lower two classification levels (no sexual violence treatment needs or a due process hearing determination that there has been no sexually abusive behavior) are not subject to SOMB criteria and, therefore, are assigned a PBRGI advisory recommendation.

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<sup>18</sup> See the statutory considerations for release to parole in §17.22.5-404(4), C.R.S.

<sup>19</sup> The Post Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice (CCJJ) developed a draft administrative release guideline instrument as part of a recommendation that, via House Bill 2010-1374, introduced changes to the parole guidelines statute, (§17.22.5-404 and §17-22.5-107(1), C.R.S.

<sup>20</sup> These criteria may be found in the document entitled *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (2011)*, in Appendix J: Parole Guidelines for the Discretionary Release on Determinate-Sentenced Sex Offenders (determinate criteria) and in Lifetime Supervision Criteria: Section LS 4.200 - Criteria for Successful Progress in Treatment in Prison: Sex Offender Treatment and Management Program (indeterminate criteria) which is available at the SOMB website: [cdpsdocs.state.co.us/somb/ADULT/FINAL\\_2012\\_Adult\\_Standards\\_120712.pdf](http://cdpsdocs.state.co.us/somb/ADULT/FINAL_2012_Adult_Standards_120712.pdf).



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 evidence-based guideline instrument offers the significant advantage of uniformity in the application of decision criteria, but the guideline cannot adapt to the unique and emergent characteristics of each offender 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 H.B. 10-1374 (§17-22.5-404(1)(c), C.R.S.), “...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].

During FY 2013, final testing and validation of the PBRGI was completed in August of 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, validation, testing, and modifications to the PBRGI are described in a previous fiscal year report, *Analysis of Colorado State Board of Parole Decisions: FY 2013 Report*.<sup>21</sup>

The PBRGI is a set of thirteen 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 with the parole considerations outlined in Colorado statute.<sup>22</sup>

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

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

years on the Colorado prison population.<sup>23</sup> The Level of Supervision Inventory-Revised (LSI-R) overall and rater box scores serve as the baseline for the readiness score used in the matrix. The thirteen items of the two dimensions of the PBRGI, the scoring algorithms, and the advisory decision matrix are described in Appendix B.

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<sup>21</sup> Prior year reports are available on the ORS/DCJ website, [colorado.gov/dcj-ors/ors-reports](http://colorado.gov/dcj-ors/ors-reports).

<sup>22</sup> See the statutory considerations for release to parole in §17-22.5-404(4), C.R.S.

<sup>23</sup> 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 may be found at, [colorado.gov/dcj-ors/ors-riskscales](http://colorado.gov/dcj-ors/ors-riskscales)).

The combination of these two scores places an offender in a five-level risk by three-level readiness decision matrix where each matrix position is associated with an advisory recommendation to release or to defer (§17-22.5-107(1)(b), C.R.S.).<sup>24</sup> 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 offender'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 other information connected to the release application hearing, 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 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.

The risk and readiness algorithms and the decision matrix of the PBRGI system will continue to be monitored in the context of recidivism outcomes and the system will be updated as warranted by data analyses, any changes to the statutory parole considerations, and evidence from the field of criminal justice on parole decision making.<sup>25</sup>

**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.). There are two ongoing projects to accomplish this mandate: the Parole Board Revocation Automation Project and the Parole Board Administrative Revocation Guidelines Project.

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<sup>24</sup> The decision to "defer" simply means the offender 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. The Board decision types are described in Section Three: Board Decision Types.

<sup>25</sup> Additional background information on the PBRGI development may be found in Appendix B and previous reports at [colorado.gov/dcj-ors/ors-reports](http://colorado.gov/dcj-ors/ors-reports)

Following the implementation of the PBRGI, the Board initiated a project with OIT at DOC to automate revocation hearings to create a Revocation Portal similar to the automated system for release 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 DOC Division of Adult Parole, the DOC Time & Release Operations office and DCJ, programmers have continued to refine and improve the system. The development and integration of additional revocation-related procedures and corresponding data collection processes has postponed implementation.

The Board also enlisted individuals with expertise to develop the administrative revocation guidelines. 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 will employ the statutory revocation factors (§17-22.5-404.5(a), C.R.S.) and include a matrix of advisory decision recommendations for different offender risk levels.

Additionally, the Board is required 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 provided the Proposed Parole Board Administrative Revocation Guidelines to the Board. Following approval by the Board, the guidelines were forwarded to OIT at DOC for further specification of elements for integration into the automated Parole Board Revocation hearing system that is under construction.

**Development continues on the automated Parole Board Revocation Hearing and data collection system and the on the integration of the Parole Board Administrative Revocation Guidelines.**

Because the automation of revocation hearings is ongoing, a system to collect revocation decision data and the platform within which to implement the administrative revocation guidelines is not yet available. Therefore, revocation hearing data, the reasons for revocation decisions, and the reasons for departures from the revocation guidelines cannot otherwise be fully captured at the present time. The Board, OIT at DOC and DCJ will continue to collaborate on the conceptualization, programming and testing of the revocation system and the integrated revocation guidelines.

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## Section Three: Decisions, Hearings 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. On behalf of the Board, data were provided by DOC’s Office of Planning and Analysis for analysis by DCJ. The FY 2015 report is the second to comprise an entire fiscal year of PBRGI hearing data. This section describes the general types of Board decisions, the types of hearings and reviews conducted by the Board, and the sample and subsamples upon which analyses were conducted.

**Board Decision Types.** The hearings and reviews included in this report were only those involving 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.” 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.

When considering an inmate’s application for release to parole, the Board renders one of two possible discretionary decisions: to release (grant parole) or to defer (deny parole). An offender is granted discretionary parole when the Board member determines that the offender has demonstrated the potential for successful reintegration into the community. An offender’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 the offender must meet a particular condition (for example, the completion of a training program...often at the request of the offender). If the condition for which the release was tabled is not met, the release may be rescinded and, if so, the offender’s incarceration continues and a subsequent hearing date is scheduled.

The opposite decision defers the offender to the next statutorily-determined parole hearing date.<sup>26</sup> An offender is denied parole when the Board member concludes that the offender has not demonstrated the potential for successful reintegration into the community or there are public safety concerns. Additionally, in the interest of public safety, a deferral will most likely occur when the Board member lacks critical information to grant parole or lacks input from the offender that would indicate the potential for successful

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<sup>26</sup> The periods prior to the next parole reconsideration are one, three, or five years pursuant to §17-22.5-403 (5), C.R.S.

community reintegration. If the offender'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."<sup>27</sup>

Although the Board's decision to "release to MRD" references the upcoming *mandatory* release date, this decision is *discretionary* in nature because the Board has chosen to *defer* the offender to the MRD rather than to release the offender 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.<sup>28</sup>

**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 resulting from a "review," which includes full Board reviews and file reviews. Neither type of "review" requires the presence of the inmate. The following describes the types of hearings and reviews included in the decision analyses:

- "regular" Board hearings - A typical or "regular" hearing is conducted by and the parole release decision is made by a single member of the Board or by two members, if an inmate is serving a life sentence and is eligible for parole (see 8 C.C.R. 1511-1, Rule 5.03, E. & I.).
- 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 *shall* be referred to a full Board Review in cases involving violence or a sex offense (see 8 C.C.R. 1511-1, Rule 8.00). Full Board reviews are conducted and decided by no fewer than four of the seven members of the Board.
- file reviews - Board members have the option to make a discretionary release decision by conducting a file review rather than meeting directly with the offender under specific statutory conditions. The circumstances under which the Board may choose to conduct a file review were more specifically defined and broadened during FY 2015 with the passage of House Bill 2015-1122. These reviews are

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<sup>27</sup> 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.

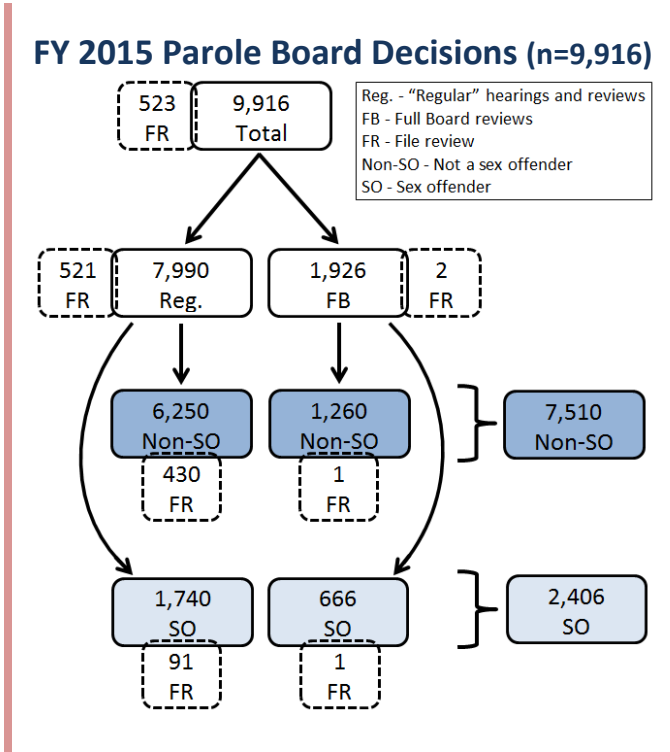
<sup>28</sup> In the Colorado Code of Regulations, 8 C.C.R. 1511-1, Rule 5.04 (A), one of the described decision options includes, "(2) To defer consideration of Parole as follows: (a) *Defer to MRD*, if the Inmate's MRD is within 14 months of the Application Interview;" [*emphasis added*].

allowed when release decisions do not require victim notification and one or more of the following are true: a special needs release is requested for consideration,<sup>29</sup> the inmate release is bound by a detainer to the U.S. Immigration and Customs Enforcement agency, or the inmate is within six months of mandatory release. Previously by policy and by statute as of March 2015, a file review may have been conducted to confirm the ineligibility of release for inmates who were convicted of a Class I violation of the CDOC Code of Penal Discipline in the previous 12 months. The statutory conditions for a file review are described in §17-2-201(4)(f)(I), C.R.S.

Just over 5,000 hearings were excluded from the sample because the related decisions were unavailable or occurred under constraining circumstances. Because these situations resulted in perfunctory deferral and release decisions, these were not appropriate for inclusion in the analyses of discretionary Board decisions, for example:

- the hearing 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;
- the hearing resulted in an automatic release due to such circumstances as a court order or a mandatory re-parole following a technical violation; or
- The hearing was held during FY 2015, but the decision was still pending when the fiscal year ended.

**FY 2015 Overall Sample.** The total sample of discretionary decisions analyzed and summarized in this report were rendered in 9,916 hearings and reviews conducted for inmates considered for parole between July 1, 2014 and June 30, 2015. The 9,916 decisions comprised 7,990 “regular” hearings and 1,926 full Board reviews. Of



<sup>29</sup> A special needs offender and 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.

the 9,916 decisions and reviews, there were 7,510 in which a PBRGI recommendation was generated (i.e., for those labeled, “non-sex offenders”) and 2,406 in which a PBRGI recommendation was not generated (i.e., for those labeled, “sex offenders”). These latter hearings, excluded from the PBRGI analyses for those labeled “sex offender,” comprised 1,740 “regular” decisions and 666 full Board decisions.<sup>30</sup>

Of the 9,916 total decisions, 523 (5.3%) were the result of file reviews, including 521 “regular” reviews and 2 reviews that were subsequently referred to a full Board review for consideration. Of these 521 “regular” file reviews, 430 were completed for those labeled “non-sex offender” and 91 for those labeled a “sex offender.”

**FY 2015 PBRGI Sample.** The focus of this report is the subsample of 7,510 hearings and reviews where a PBRGI advisory recommendation was displayed to the Board member(s). The primary sample for analysis, referenced in the report as the “PBRGI sample,” included the 6,250 “regular” hearing decisions. This analysis combines the decisions from 5,820 hearings (where the offender was present) and from 430 file reviews (where the inmate’s presence was not statutorily required). The PBRGI advisory recommendation was also displayed during 1,260 full Board reviews (one of which was conducted following a file review). Summaries of the findings resulting from file review decisions and those resulting from full Board reviews are presented separately.

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<sup>30</sup> The explanation for the exclusion of sex offenders from the PBRGI analyses may be found on page 16.



## Section Four: FY 2015 Findings - Parole Board Decisions

The PBRGI findings reported below from the FY 2015 hearing data include the:

- Number of offenders 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 by specific decision matrix categories;
- Outcomes of file reviews;
- Outcomes of full Board reviews;
- Decisions for applicants who were labeled sex offenders; and
- Final summary of findings.

**PBRGI Decision Matrix Assignment.** Table 1 provides the numbers and percentages of offenders from the FY 2015 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

number of offenders placed in either the “very low” (31.3%) or “very high” (32.7%) risk categories was roughly two to three times the number assigned to each of the three remaining risk categories. There were 43.8% of offenders in the sample categorized as “very low” or “low” risk. There were 74.1% of offenders placed in the extremes (“low” or “high”) of the readiness dimension.

The two highest percentages of offenders in any of the 15 risk/readiness combinations were the 17.6% in “very high” risk/“low” readiness and the 12.3% in “very low” risk/“high” readiness. Only 10.2% of the sample was placed in the “boundary region” of the decision matrix representing the more complex decision circumstances for Board members (namely, offenders placed in the high/high, medium/medium, or low/low risk/readiness categories). The boundary region concept and its effect on Board member decision making are described in Appendix B.

**Of the 15 possible PBRGI risk/readiness matrix combinations, scores placed nearly 20% of offenders in the “very high” risk and “low” readiness combination.**

**Table 1. FY 2015 PBRGI sample: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination.**

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		<b>3 High</b>	<b>2 Medium</b>	<b>1 Low</b>	
<b>1 Very Low</b>	Count	768	525	666	1,959
	% within Very Low Risk	39.2%	26.8%	34.0%	100.0%
	% within Readiness Category	40.5%	32.5%	24.4%	31.3%
	% of Total	12.3%	8.4%	10.7%	31.3%
<b>2 Low</b>	Count	314	176	286	776
	% within Low Risk	40.5%	22.7%	36.9%	100.0%
	% within Readiness Category	16.5%	10.9%	10.5%	12.4%
	% of Total	5.0%	2.8%	4.6%	12.4%
<b>3 Medium</b>	Count	239	204	356	799
	% within Medium Risk	29.9%	25.5%	44.6%	100.0%
	% within Readiness Category	12.6%	12.6%	13.0%	12.8%
	% of Total	3.8%	3.3%	5.7%	12.8%
<b>4 High</b>	Count	147	197	326	670
	% within High Risk	21.9%	29.4%	48.7%	100.0%
	% within Readiness Category	7.7%	12.2%	11.9%	10.7%
	% of Total	2.4%	3.2%	5.2%	10.7%
<b>5 Very High</b>	Count	430	515	1,101	2,046
	% within Very High Risk	21.0%	25.2%	53.8%	100.0%
	% within Readiness Category	22.7%	31.8%	40.3%	32.7%
	% of Total	6.9%	8.2%	17.6%	32.7%
<b>Total in Readiness Category</b>	Count	1,898	1,617	2,735	6,250
	% within Risk Category	30.4%	25.9%	43.8%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	30.4%	25.9%	43.8%	100.0%

**Parole Board Decisions.** The total number and percentages of defer and release decisions by the Board within the PBRGI matrix combinations may be found in Table 2. As a reminder, the blue/lighter area in the upper left of the matrix represents the part of the risk/readiness matrix where the PBRGI advisory recommendation is always to release and the red/darker area in the bottom right of the matrix represents the part of the risk/readiness matrix where the PBRGI advisory recommendation is always to defer.

Overall, the Board recommended 28.0% of offenders for release and 72.0% of offenders for deferral (which overall represents 51.0% who were deferred and 21.0% who were deferred to MRD).<sup>31</sup> Of the 72.0% (4,502) of offenders who were deferred, 70.8% (3,189) were categorized as “deferred” and 29.2% (1,313) were categorized as “deferred to MRD.” Of these 1,313 offenders who were deferred to MRD, 1,201 or 91.5% (or 34.0% of 6,250) were within 14 months of their MRD and 629 or 47.9% (or 10.1% of 6,250) were within 6 months of their MRD. For comparison, across the entire PBRGI sample of 6,250 offenders, 2,123 or 34.0% were within 14 months of their MRD (and 70.7% of these were deferred or deferred to MRD) and 955 or 15.3% were within six months of their MRD (and 80.3% of these were deferred or deferred to MRD).

Of all 4,502 offenders who were deferred, the Board conducted a file review for 421 offenders (9.4% of those deferred; or 6.7% of the 6,250 PBRGI sample) rather than a person-to-person hearing (Only 9 of the total 430 file reviews resulted in a release.). These 4,502 offenders may be separated into the 3,189 who were “deferred” and the 1,313 who were “deferred to MRD.” Of the 3,189 inmates who were deferred, 149 (4.7% of 3,189; or 2.4% of the entire PBRGI sample) were the subject of a file review. Of the 1,313 inmates who were “deferred to MRD,” 272 (20.7% of 1,313; or 4.4% of the entire PBRGI sample) were the subject of a file review, rather than a person-to-person hearing. Alternatively, when categorizing the 421 file reviews by deferral type, 35.4% (149 offenders or 2.4% of the PBRGI sample) were “deferred” and 64.6% (272 offenders or 4.4% of the PBRGI sample) were “deferred to MRD.” Further analyses of the file review decisions may be found later in this Section Four in “Findings: File Reviews.”

**The highest rates of release may be found for those inmates in the “high” level of readiness in both the “low” and “very low” levels of risk (approximately, 68.0%).**

Further review of Table 2 reveals that the release percentages in the “release area” of the matrix (blue/lighter areas) ranged from a 23.3% to 68.5%. The highest rates of release may be found for those

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<sup>31</sup> The Board decision types are described in Section Three: Board Decision Types.

**Table 2. FY 2015 PBRGI sample: Counts and percentages of Parole Board decisions within each PBRGI risk/readiness matrix combination.**

<b>RISK CATEGORY</b>		<b>READINESS CATEGORY</b>			<b>Total in Risk Category</b>
		<b>3 High</b>	<b>2 Medium</b>	<b>1 Low</b>	
<b>1 Very Low</b>	Count	768	525	666	1,959
	% PB Defer	31.9%	59.2%	76.7%	54.5%
	% PB Release	68.1%	40.8%	23.3%	45.5%
<b>2 Low</b>	Count	314	176	286	776
	% PB Defer	31.5%	58.0%	96.2%	61.3%
	% PB Release	68.5%	42.0%	3.8%	38.7%
<b>3 Medium</b>	Count	239	204	356	799
	% PB Defer	33.1%	56.4%	96.1%	67.1%
	% PB Release	66.9%	43.6%	3.9%	32.9%
<b>4 High</b>	Count	147	197	326	670
	% PB Defer	44.9%	85.8%	98.5%	83.0%
	% PB Release	55.1%	14.2%	1.5%	17.0%
<b>5 Very High</b>	Count	430	515	1,101	2,046
	% PB Defer	72.1%	91.8%	98.5%	91.3%
	% PB Release	27.9%	8.2%	1.5%	8.7%
<b>Total in Readiness Category</b>	Count	1,898	1,617	2,735	6,250
	% PB Defer	42.1%	72.4%	92.6%	72.0%
	% PB Release	57.9%	27.6%	7.4%	28.0%

**Table 3. FY 2015 PBRGI sample: Overall counts and percentages of Parole Board hearing decisions by PBRGI advisory recommendations.\***

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count	2,153	1,036	3,189
	Percent	34.4%	16.6%	51.0%
Defer to Mandatory Release Date	Count	821	492	1,313
	Percent	13.1%	7.9%	21.0%
		<i>Total Defer = 2,974</i>	<i>Total Defer = 1,528</i>	<i>Total Defer = 4,502</i>
		47.6%	24.4%	72.0%
Release Discretionary	Count	237	1,511	1,748
	Percent	3.8%	24.2%	28.0%
Total of PBRGI Recommendations	Count	3,211	3,039	6,250
	Percent	51.4%	48.6%	100.0%

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

inmates in the “high” level of readiness in both the “low and “very low” levels of risk (approximately 68% in each.). The deferral percentages in the “defer area” of the matrix (red/darker areas of Table 2) ranged from 72.1 to 98.5%. The highest rates of deferral may be found for those the in “low” level of readiness in the two highest levels of risk (approximately 98% in each).

**Board/PBRGI Agreement.** In addition to the overall comparisons of release and defer rates, the pattern of agreement between the Board decision and the PBRGI advisory recommendation within the decision matrix is also of interest (see Table 3).<sup>32</sup> As mentioned previously, Board members designated 1,748 (28.0%) offenders in the sample for release and, combining the two types of

**The Board decided to release 28.0% and defer 72.0% of candidates for parole, relative to the PBRGI advisory recommendations to release 48.6% and to defer 51.4%.**

<sup>32</sup> As mentioned in the Introduction, the PBRGI recommendation is considered advisory and does not represent a standard by which Board decisions are to be measured. Although this presentation refers to the agreement with or the departure from PBRGI recommendations, this convention of expression does not imply a comparative evaluation of Board member decision performance.

deferral, 4,502 (72.0%) offenders for deferral. Of the 6,250 PBRGI sample of parole applicants, the PBRGI recommended 3,039 (48.6%) offenders for release and 3,211 (51.4%) for deferral (see Table 3). Given that 43.8% of offenders were categorized as “very low” or “low” risk (see Table 1), it is not unexpected that a similar percentage of offenders would be assigned an advisory recommendation for release.

Table 3 also provides the percentages of agreement and departure between the Board decisions and the PBRGI advisory recommendations (See the “Terminology Note” on page 5 for an introduction to the agreement and departure concepts.). *The overall degree of agreement* is derived from two sources: agreements with recommendations to release and agreements with recommendations to defer

**Collapsing across all decisions, 71.8% of Board decisions agreed with the PBRGI advisory recommendations.**

(blue/lighter areas of Table 3). Collapsing these two sources of agreement, *71.8% of all Board member decisions agreed with the PBRGI recommendations*. The combined agreement percentage (71.8%) conceals that the degree of deferral agreement (92.6% or 2,974 agreements within the 3,211 defer recommendations) is more than 85% higher than the degree of release agreement (49.7% or 1,511

agreements within the 3,039 release recommendations). Alternatively, when the PBRGI recommendation was to defer, the overall percentage of agreement was more than 1100% higher than the overall percentage of departure, 47.6% vs. 3.8%, respectively. Separate summaries of the pattern of agreements found in file reviews and full Board reviews is provided in sections below.

*The overall degree of departure* is derived from two sources: departures from recommendations to release and departures from recommendations to defer (red/darker areas in Table 3). Collapsing across these decision types, *28.2% of all Board decisions departed from the PBRGI recommendations*. The combined departure percentage (28.2%) reveals the converse of the previous finding: the degree of release departure (50.3% or 1,528 departures within the 3,039 release recommendations) was more than six times higher than the degree of deferral departure (7.4% or 237 departures within the 3,211 defer recommendations). Alternatively, *when the PBRGI recommendation was to release*, the overall percentage of departure was nearly equivalent to the overall percentage of agreement, 24.4% vs. 24.2%, respectively. Separate summaries of the pattern of departures found in file reviews and full Board reviews is provided in sections below.

**Table 4. PBRGI samples: Percentage of Board decisions, PBRGI recommendations, and decision agreement by fiscal year.**

DECISION TYPE  Parole Board % <i>PBRGI Recommendation %</i>  (PB/PBRGI AGREEMENT %)	Fiscal Year		
	FY 2013 (n=7,966)	FY 2014 (n=7,715)	FY 2015 (n=6,250)
<b>RELEASE</b>  PB Decision <i>PBRGI Rec.</i>  (AGREEMENT)	<b>35.4%</b> 57.5%  (49.5%)	<b>25.0%</b> 49.2%  (42.9%)	<b>28.0%</b> 48.6%  (49.7%)
<b>DEFER</b>  PB Decision <i>PBRGI Rec.</i>  (AGREEMENT)	<b>64.6%</b> 42.5%  (83.9%)	<b>75.0%</b> 50.8%  (92.3%)	<b>72.0%</b> 51.4%  (92.6%)
(OVERALL PB / PBRGI AGREEMENT)	(64.1%)	(68.0%)	(71.8%)

Table 4 provides a comparison of the percentages of Board decisions and PBRGI recommendations to release or defer for the PBRGI samples from the three previous fiscal years. As is evident in the table, the PBRGI has consistently recommended a higher percentage of release each year (57.5%, 49.2%, and 48.6%) than the percentage of actual release decisions by the Board (35.4%, 25.0%, and 28.0%). Comparing the initial FY 2013 sample and the current FY 2015 sample, there has been a 12.0% increase from 64.1% to 71.8% in Board member agreement with the PBRGI advisory recommendation.

The initial increase in overall agreement between the first and second reporting years may be attributed to the increase in deferral agreements (83.9% to 92.3%), given the drop in release agreements (49.5% to 42.9%). The increase from the second to the third reporting years may

be attributed to the increase in release agreements (42.9% to 49.7%). Over the three short years since the implementation of the PBRGI, it appears the Board may have reached a maximum in the percentage of

**Comparing the FY 2013 and FY 2015 samples, there has been a 12.0% increase from 64.1% to 71.8% in Board member agreements with the PBRGI advisory recommendations.**

agreement with the deferral recommendations at roughly 92%. Future increases in the overall agreement percentage appear dependent on increases in the percentage of release agreement.

**Decision Agreement by Matrix Assignment.** Offering an alternative perspective to Table 2, Table 5 displays the number of offenders assigned to each of the 15 risk/readiness combinations of the PBRGI decision matrix and the percentage of agreement or departure in that specific combination. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer. When scanning Table 5, it is

**The agreement percentages in the “release area” of the decision matrix are smaller than the agreement percentages in the “defer area” of the decision matrix.**

apparent that the agreement percentages in the “release area” of the decision matrix (ranging from 23.3% to 68.5%; blue/lighter area) are lower than the agreement percentages in the “defer area” of the decision matrix (ranging from 72.1% to 98.5%; red/darker area).

When collapsing across levels of readiness, there was a larger degree of Board/PBRGI agreement as level of risk increased, from 45.5% to 91.3%. When collapsing levels of risk, the highest degree of agreement was found in the “low” readiness category at 79.6% followed by the “high” (67.9%) and “medium” readiness (63.0%) categories. Given the Board’s propensity to defer versus release (overall, 72.0% versus 28.0%, respectively), it is clear from both Tables 3 and 5 that there would be a higher degree of agreement between Board decisions and PBRGI recommendations when the offender was recommended for deferral than when recommended for release (as mentioned above, 92.6% versus 49.7%, respectively).

*Of the offenders identified as the better candidates for release (blue/heavy outline at upper left of Table 5), the degree of decision agreement was 57.5% (1,026/1,783; numbers are drawn from, but not displayed in, Table 5). Specifically, this would include offenders categorized in either of the two highest levels of readiness (“high” and “medium”) and either of the two lowest levels of risk (“very low” and “low”). Offenders categorized across the entire “very low” risk category were designated as appropriate for release, regardless of level of readiness.<sup>33</sup> The release recommendations for offenders located near the “middle decision boundary” were subject to a lower degree of agreement, 48.4% (combining the*

<sup>33</sup> See Appendix B for a description of the designations for release or defer in the PBRGI decision matrix.



**Table 5. FY2015 PBRGI sample: Counts of offenders assigned to each PBRGI risk/readiness matrix combination and the associated percentage of agreement and departure between the Board decision and the PBRGI recommendation.\***

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		<b>3 High</b>	<b>2 Medium</b>	<b>1 Low</b>	
<b>1 Very Low</b>	Count	768	525	666	1,959
	% Agreement	68.1%	40.8%	23.3%	45.5%
	% Departure	31.9%	59.2%	76.7%	54.5%
<b>2 Low</b>	Count	314	176	286	776
	% Agreement	68.5%	42.0%	96.2%	72.7%
	% Departure	31.5%	58.0%	3.8%	27.3%
<b>3 Medium</b>	Count	239	204	356	799
	% Agreement	66.9%	43.6%	96.1%	74.0%
	% Departure	33.1%	56.4%	3.9%	26.0%
<b>4 High</b>	Count	147	197	326	670
	% Agreement	55.1%	85.8%	98.5%	85.2%
	% Departure	44.9%	14.2%	1.5%	14.8%
<b>5 Very High</b>	Count	430	515	1,101	2,046
	% Agreement	72.1%	91.8%	98.5%	91.3%
	% Departure	27.9%	8.2%	1.5%	8.7%
<b>Total in Readiness Category</b>	Count	1,898	1,617	2,735	6,250
	% Agreement	67.9%	63.0%	79.6%	71.8%
	% Departure	32.1%	37.0%	20.4%	28.2%

\* The number of decisions that agreed or departed is calculated by multiplying the cell count by the agreement or the departure percentage in the same cell. For example, 523 decisions were in agreement in the “very low” risk by “high” readiness matrix combination (768 x 68.1%).

agreements in the “medium”/“medium” and “high”/“high” risk/readiness boundary combinations). Additional support for the difficulty of decisions regarding offenders falling in this middle “decision area” also may be seen comparing the degree of agreement in the “medium” level of readiness (63.0%) relative to the “high” and “low” levels of readiness (67.9% and 79.6%, respectively).

The pattern of release agreement percentages in Table 5 reflects the Board’s emphasis on readiness and that those offenders who demonstrate less readiness for release are more likely to be deferred. This pattern of decreasing degrees of agreement with the recommendation to release can be seen at each increased level of risk. Even among the “very low” risk offenders, there is a precipitous drop in agreement from “high” (68.1%) to “low” (23.3%) readiness. The most frequently offered departure reasons (for the decision to defer rather than release) by the Board for the lower risk/higher readiness offenders mentioned one or more of the following about the offenders:

- Had engaged in behaviors that could indicate a continued risk to the community, for example, recent failures in community corrections, probation, and/or parole, COPD violations, etc.;
- Needed more time or placement in transition beds in community corrections; or
- Would soon be released on the MRD.

Further analysis and details regarding release departure reasons may be found below.

*Of the offenders identified as the better candidates for deferral (red/heavy outline at lower right of Table 5), the degree of agreement was 95.7% (2,047/2,139). Specifically, this would include offenders categorized in either of the two highest levels of risk (“high” and “very high”) and either of the two lowest levels of readiness (“low” and “medium”). Given the Board’s more conservative approach to release, this higher*

**The degree of decision agreement was 57.5% for the offenders identified as the better candidates for release, but 95.7% for those identified as the better candidates for deferral.**

level of agreement on deferrals is true for decisions in one of the difficult “middle boundary” combinations separating the release and defer regions of the recommendation matrix, specifically the 96.2% agreement in the “low” risk/“low” readiness combination.

A decision pattern specific to the deferral side of the matrix can be seen in the drop in deferral agreement from “low” to “high” readiness. Offenders categorized across the entire “very high” risk category were designated in the decision matrix for deferral,

regardless of level of readiness.<sup>34</sup> At these levels of relatively high agreement (compared to release agreement), there is still a willingness to consider release on this “deferral side” of the matrix with increasing offender readiness. This drop in deferral agreement from “low” to “high” readiness was apparent in both the “high” risk category (98.5% to 85.8%) and the “very high” risk category (98.5% to 91.8% to 72.1%).

The Board may have decided release was appropriate for some of these “very high” risk offenders 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 the offenders categorized both in the higher risk and lower readiness levels mentioned one or more of the following about the offenders:

- Demonstrated personal growth and accountability for criminal behavior;
- Presented particularly good parole plans; and
- Demonstrated successful treatment or program participation.

Further analysis and details regarding the deferral departure reasons may be found below.

**Decision Agreement by Decision Type.** The following analysis, which relates to Table 3 above, explores Board decisions from a different perspective by identifying the risk and readiness characteristics of the offenders in the instances where the Board agrees or departs from the PBRGI advisory recommendation. Because statute requires the Board to provide a reason when departing from the advisory recommendation,<sup>35</sup> the instances of departure will be explored more extensively.

**The Board agreed with 49.7% of PBRGI recommendations to release and 92.6% of PBRGI recommendations to defer.**

Summary of Agreements: Board Releases and Deferrals.

There were 1,511 total decisions where Board members *agreed with the PBRGI advisory recommendation to release*. This represents 24.2% of all hearing decisions and 49.7% of the decisions where the PBRGI recommended release. Of these 1,511 decisions, 1,181 (78.2%) offenders were categorized as “very low” or “low” risk, 1,356 (89.7%) were categorized with “high” or “medium” readiness and 1,026 (67.9%)

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<sup>34</sup> See Appendix B for a description of the designations for release or defer in the PBRGI decision matrix.

<sup>35</sup> See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.

occupied both these lower risk and higher readiness categories. For those inmates who were released, there is correspondence between the offender characteristics (based on the matrix placement in the lower risk/higher readiness categories) and the Board's decision to release.

There were 2,974 total decisions where Board members *agreed with the PBRGI advisory recommendation to defer*. This represents 47.6% of all hearing decisions and 92.6% of the decisions where the PBRGI recommended deferral. Of these 2,974 decisions, 2,357 (79.3%) offenders were categorized as "high" or "very high" risk, 2,664 (89.6%) were categorized with "medium" or "low" readiness, and 2,047 (68.8%) occupied both these higher risk and lower readiness categories. These instances of deferral agreement show a correspondence in the offender characteristics (based on the matrix placement in the higher risk/lower readiness categories) and the Board's decision to defer.

On the other hand, the following analysis of Board departures from the PBRGI recommendations found greater discrepancies between the offenders' characteristics, as evidenced by their matrix placement, and the parole application decisions by the Board.

Summary of Departures: Board Decides to Release. This section describes the instances where Board members *departed from the PBRGI advisory recommendation to defer* and decided to release the offender to parole (see Table 6). Although Board members demonstrated a high degree of agreement overall with defer recommendations (92.6% or 2,974/3,211 from Table 3), there were 237 (3.8% overall) instances of deferral departure where the Board instead chose to release. This represents 7.4% (237/3,211 from Table

**Of the 237 deferral departures (when the Board decides to release), 89.5% (212) of the offenders were categorized as "high" or "very high" risk, but 56.6% (120) of these were also "high" in readiness.**

3) of the total advisory recommendations to defer.

Of these 237 instances, 212 (89.5%) offenders were categorized by the PBRGI as "high" or "very high" risk. However, this only represents 3.4% of all the hearing decisions in the total sample. Of these 237 instances, 117 (49.4%) fell in the "low" or "medium" readiness categories.

Combining the two dimensions of risk and readiness, the Board chose to release 92 offenders (38.8% of the 237 decisions, but only 1.5% of all decisions) who were categorized by the PBRGI as the better candidates for deferral (those placed in "very high" or "high" risk *and* in "medium" or "low" readiness). Although the largest percentage of these departures from the PBRGI deferral recommendation may be found in the

Table 6. FY2015 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of 237 decisions by the Board to release rather than adhere to the PBRGI recommendation to defer.

Of the 7.4% (n=237) of Deferral Departures Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	-	-	-
	Low	-	-	11 4.6%
	Medium	-	-	14 5.9%
	High	-	28 11.8%	5 2.1%
	Very High	120 50.6%	42 17.7%	17 7.2%

89.5% (bracketed around High and Very High Medium and Low cells)

49.4% (bracketed under High and Very High Medium and Low cells)

38.8% (arrow pointing to Very High Medium and Low cells)

Table 7. FY2015 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,528 decisions by the Board to defer rather than adhere to the PBRGI recommendation to release.

Of the 50.3% (n=1,528) of Release Departures Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	245 16.0%	311 20.4%	511 33.4%
	Low	99 6.5%	102 6.7%	-
	Medium	79 5.2%	115 7.5%	-
	High	66 4.3%	-	-
	Very High	-	-	-

83.0% (bracketed around Very Low, Low, and Medium High and Medium cells)

66.6% (bracketed under Very Low, Low, and Medium High and Medium cells)

49.5% (arrow pointing to Very Low, Low, and Medium High and Medium cells)

“very high” risk category (50.6% or 120), these offenders also were categorized at the highest level of readiness for release.

It should be noted that there are several options available to the Board that are labeled a “release,” but that delay the actual release until after the offender has completed additional pre-release preparation. For example, offenders may be placed on the Community Corrections Track Presumptive Parole requiring successful completion of a period of transition in community corrections programming.<sup>36</sup> Additionally, the Board may simply set the actual release date for an offender at a point 3-6 months in the future to allow a period of community corrections transition or may table a release until the offender fulfills a treatment, program or parole plan requirement. If an offender does not perform successfully in any of these delayed release options, the Board may rescind the release decision and defer the offender to serve additional time in prison or community corrections. The summary of the Board’s reasons for these departures is provided in the “Departure Reasons” section below.

Summary of Departures: Board Decides to Defer. The following describes instances where Board members departed from the PBRGI advisory recommendation to release and decided to defer the offender for a continuing period of confinement (see Table 7). As was reported earlier in Table 3, this circumstance

**Of the 1,528 release departures (when the Board decides to defer), 83.0% (1,268) of the offenders were categorized as “low” or “very low” risk, but 40.3% (511) of these were also “low” in readiness.**

occurred at a higher rate with 1,528 (50.3%) departures from the total 3,039 offenders (48.6%) who were assigned an advisory recommendation to release. These 1,528 offenders can be divided into the 1,036 who were deferred and the 492 who were deferred to their MRD.

Of these 1,528 instances, 1,268 (83.0%) were categorized by the PBRGI as “low” or “very low” risk and 1,017 (66.6%) fell in the “medium” or “high” readiness

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<sup>36</sup> Community Corrections Track Presumptive Parole (CCTPP) provides an opportunity for certain qualified offenders entering into community corrections to have a certainty of transition from inmate status to parole, contingent on ongoing program compliance and consistent pro-social behavior. Offenders are eligible for CCTPP if they have at least 16 months remaining until their MRD; they are not already in Intensive Supervision Parole -Inmate (ISP-I) in community corrections or on parole; they are not subject to a full Board review; and they previously have not been returned to prison for a prior failure while in a community corrections placement. For additional information, see the CDOC Administrative Regulation 250-74.

categories. Combining the two dimensions of risk and readiness, the Board chose to defer 757 offenders (49.5% of the 1,528 decisions and 12.1% of all decisions) who were categorized by the PBRGI as the better candidates for release (placed in “low” or “very low” risk *and* “medium” or “high” readiness). Whereas, the Board decision to release an offender recommended for deferral was rare (3.8% of all decisions from Table 3), the decision to defer an offender recommended for release (24.4% of all decisions) was more than six times more common. Although the largest percentage of these departures from the PBRGI release recommendation may be found in the “very low” risk category (33.4% or 511), these offenders also were categorized at the lowest level of readiness for release. The summary of the Board’s reasons for these departures is provided in the next section.

**Departure Reasons.** As mentioned previously, statute requires that Board members provide a departure reason when the release application hearing decision departs from the advisory recommendation.<sup>37</sup> This section summarizes these reasons entered by Board members for departing from the advisory recommendation. Of the 28.2% (1,765/6,250) of decisions representing a departure from the PBRGI recommendation, there were two decision circumstances that required the Board member to provide reasons for departure: choosing to defer when the advisory recommendation was to release and choosing to release when the advisory recommendation was to defer. Specifically, this meant a departure reason was required for the 1,528 decisions to defer or defer to MRD when release was recommended, representing 24.4% of all decisions, and for the 237 decisions to release when defer was recommended, representing 3.8% of all decisions (see Table 3).

Summary of Departure Reasons: Board Decides to Release. *When the PBRGI advisory recommendation was to defer*, there were 237 decisions (3.8% of all decisions) where Board members chose to depart from the recommendation and release the offender. As mentioned above, the Board can delay the actual release date for an offender in this category via the Community Corrections Track Presumptive Parole or at a point 3-6 months in the future to allow a period of transition in community corrections. It is also possible that some such “releases” were actually tabled actions that required the offender to complete a program or treatment goal or to secure an aspect of the parole plan (for example, housing or employment). In cases where the requirement is not met, it is possible to rescind an offender’s release and to defer the parole applicant to a subsequent application hearing date.

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<sup>37</sup> 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 decisions to depart from an advisory recommendation to defer. Given that Board members could offer more than one reason for a departure, there were 598 total reasons provided for these 237 decisions. The departure reasons can be grouped into the following general categories:

- Demonstrated growth/positive attitude;
- Parole plan quality;
- Mitigated or lesser risk;
- Performance in the community;
- Program participation considerations;
- Treatment participation considerations; and
- Time served or imminent MRD/SDD.<sup>38</sup>

Observing evidence of psychological growth was apparent in reasons mentioning positive offender attitude, taking responsibility for actions, positive behavioral adjustment, readiness for parole, and the ability to present a positive plan for the future. Reasons addressing the quality of the parole plan typically indicated that the offender would have a good support system, housing, employment, educational options and/or the offender would move to a different state or country. Reasons falling in the risk-related category included comments about low risk scores, non-violent offenses, short criminal histories, and committing no or minor violations of the DOC Code of Penal Discipline. Reasons regarding community performance

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

indicated that an offender had been accepted into a community corrections program in advance of an impending mandatory release date to parole, that the offender would transition to intensive parole supervision (ISP), or that a transition to community corrections had been successful and often that the offender had secured stable employment. Reasons related to program participation typically referred to gains made in programs, the successful completion of programs, or a readiness for

programs in the community. The mentions of treatment referenced that the offender had completed or would soon complete treatment and was ready to move to community-based treatment. A final category of

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<sup>38</sup> The statutory discharge date (SDD) refers to the date when both the sentence to DOC and all possible time on parole have been completed.



reasons reflected that the offender had served sufficient time, that the offender would soon be released on their mandatory release date (MRD) anyway, or that a period of transition on parole would be preferable to a release with no parole supervision.

Of the 237 departure decisions, Board members mentioned one of the above seven reason categories in 452 unique instances. There were two instances where a departure reason was not provided; therefore, the number of cases remaining in the following summary was 235. Board members mentioned a single departure reason category in 85 cases, two categories in 96 cases, and more than two categories in 54 cases. In some instances, Board members mentioned multiple reasons of the same type, but these were counted as a single reference to the particular category of departure reasons. The percentage of the 235 cases where a departure *category* was mentioned was as follows:<sup>39</sup>

- Parole plan quality, 54.0% (127/235 cases where this category was mentioned)
- Demonstrated growth/positive attitude, 50.6% (119 cases)
- Performance in the community, 28.9% (68 cases)
- Mitigated or lesser risk, 20.4% (48 cases)
- Program participation considerations, 17.4% (41 cases)
- Treatment participation considerations, 17.4% (41 cases)
- Time served or imminent MRD/SDD,<sup>40</sup> 3.4% (8 cases)

Of these 237 offenders, 92 were the higher risk/lower readiness offenders identified above as the better candidates for deferral, but who were released by the Board (red outline at bottom right of Table 6). For this group, there were 230 total departure reasons offered in similar percentages found in the categories above. The three most frequent reason categories mentioned for this subset of offenders reflected comments indicating one or more of the following:

- demonstrated growth/positive attitude;
- presented a comprehensive parole plan;
- performed well in a transition placement in the community.

Summary of Departure Reasons: Board Decides to Defer. *When the PBRGI advisory recommendation was to release, there were 1,528 decisions (24.4% of all decisions) where Board members chose to depart from*

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<sup>39</sup> Percentages total more than 100% because more than one category was mentioned in 150 of the 235 cases.

<sup>40</sup> See Footnote 38.

the recommendation and defer the offender or defer the offender to the MRD. An initial review was undertaken to identify and categorize the primary types of departure reasons across these decisions. Given that Board members could offer more than one departure reason in a particular case, there were 2,106 specific departure reasons provided. These reasons can be categorized into the following areas of concern:

- Risk concerns;
- Time served, file review, or imminent MRD/SDD;<sup>41</sup>
- Need to stabilize in the community;
- Attitude or presentation concerns;
- Program participation concerns;
- Treatment participation concerns; and
- Parole plan quality.

Reasons given regarding risk concerns included mentions of high risk scores, the crime of conviction or charges for a new crime, poor performance in a community placement or on a previous parole, poor performance in the institution, and/or general issues of public safety, especially related to risky behaviors surrounding substance use. Time-related comments indicated that a release on the MRD or the SDD was so

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

impending that a discretionary release was perceived as moot or that the offender's crime warranted additional incarceration time. Offenders who recently had been placed in community corrections as transition inmates were deferred to allow the offender more time to establish themselves and stabilize in the transition placement. A weak presentation by offenders was apparent in reasons that mentioned that offenders failed to take responsibility for their actions, minimized the consequences of their crime,

and/or were not truthful about confirmable information available in the offenders' criminal record or case file. The mentions of treatment or program concerns revolved around the need for the offender to complete an ongoing course of treatment or a program or to receive additional treatment or programming. A poor parole plan was indicated in comments about inadequate preparation for housing, social supports, employment, education and other such re-entry considerations.

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<sup>41</sup> See Footnote 38.

Of the 1,528 decisions, Board members mentioned one of the above seven reason categories in 2,106 unique instances. Board members mentioned a single category of concern in 1,073 cases, two categories in 348 cases, and more than two categories 107 cases. In some instances, Board members mentioned more than one reason in the same category of concern. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. Of the 1,528 decisions, the percentage of cases where a departure category was mentioned was as follows:<sup>42</sup>

- Risk concerns, 60.5% (924/1,528 cases where the category was mentioned);
- Time served, file review, or imminent MRD/SDD, 19.1% (292 cases);
- Need to transition to or stabilize in a community corrections placement, 17.6% (269 cases);
- Attitude or presentation concerns, 13.7% (210 cases);
- Program participation or need considerations, 10.1% (155 cases);
- Parole plan quality, 9.5% (145); and
- Treatment participation or need considerations, 7.3% (111 cases).

Of these 1,528 offenders, 757 were the lower risk/higher readiness offenders identified above as the better candidates for release, but who were deferred by the Board (blue outline at upper left of Table 7). For this group, there were 1,287 total departure reasons offered in similar percentages to those above. The three most frequent reason categories mentioned for this subset of offenders reflected comments indicating one or more of the following:

- risk concerns;
- the need to transition to or stabilize in a community corrections placement; and
- inadequate time served, file review or imminent MRD/SDD.

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<sup>42</sup> Percentages total more than 100% because more than one category was mentioned in 455 of the 1,528 cases.

## Findings: File Reviews

**Sample.** The FY 2015 sample of 7,990 “regular” hearings included 521 (6.5%) file reviews.<sup>43</sup> Of these file reviews, 430 were for release applicants who were not labeled sex offenders and 91 were reviews for applicants who were labeled sex offenders. As mentioned previously, a PBRGI recommendation is generated only when the inmate is not labeled a sex offender.<sup>44</sup> The analysis of file reviews is limited because data are only available regarding two of the three statutory conditions under which a file review may be conducted: those with an ICE detainer and those within six months of MRD are available for analysis, but special needs designations are not available.

**PBRGI Decision Matrix Assignment.** Table 8 provides the numbers and percentages of file reviews from the FY 2015 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 two largest percentages of offenders in the matrix were found in the “low” readiness category, in either “very high” risk (41.4%; 178 of 430) or “very low” risk (16.5%; 71 of 430). Overall, the largest percentages of

**Offenders who were the subject of a file review represented 6.9% of the PBRGI sample and, because they were higher in risk and lower in readiness, were deferred 97.9% of the time.**

offenders across the five risk levels and across the three readiness levels were the 52.3% (225 of 430) in the “very high” risk category and the 78.1% (336 of 430) in the “low” readiness category, respectively.

**Decision Types.** Of the 430 PBRGI-related file reviews, Board members designated 9 (2.1%) offenders for release and 421 (97.9%) offenders for deferral (of which 149 were deferred to a subsequent hearing date and 272 were

deferred to their MRD). This rate of deferral decisions by Board members for file reviews was nearly 40% higher than the rate of deferral for “regular” hearings (70.1% of 5,820 hearings). The recommendations generated by the PBRGI for the 430 file reviews included 114 (26.5%) recommendations for release and 316 (73.5%) recommendations for deferral. The percentage of PBRGI recommendations for release was much lower for file reviews (26.5%) than for hearings (50.3% of 5,820 hearings).

<sup>43</sup> The statutory conditions under which the Board may choose to conduct a file review are provided in Section Three: Board Decision Types.

<sup>44</sup> The explanation for the exclusion of sex offenders from the PBRGI analyses may be found on page 16.

**Table 8. FY 2015 PBRGI sample - File Reviews: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination.**

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		<b>3 High</b>	<b>2 Medium</b>	<b>1 Low</b>	
<b>1 Very Low</b>	Count	9	14	71	94
	% within Very Low Risk	9.6%	14.9%	75.5%	100.0%
	% within Readiness Category	20.5%	28.0%	21.1%	21.9%
	% of Total	2.1%	3.3%	16.5%	21.9%
<b>2 Low</b>	Count	5	4	31	40
	% within Low Risk	12.5%	10.0%	77.5%	100.0%
	% within Readiness Category	11.4%	8.0%	9.2%	9.3%
	% of Total	1.2%	0.9%	7.2%	9.3%
<b>3 Medium</b>	Count	4	5	29	38
	% within Medium Risk	10.5%	13.2%	76.3%	100.0%
	% within Readiness Category	9.1%	10.0%	8.6%	8.8%
	% of Total	0.9%	1.2%	6.7%	8.8%
<b>4 High</b>	Count	2	4	27	33
	% within High Risk	6.1%	12.1%	81.8%	100.0%
	% within Readiness Category	4.5%	8.0%	8.0%	7.7%
	% of Total	0.5%	0.9%	6.3%	7.7%
<b>5 Very High</b>	Count	24	23	178	225
	% within Very High Risk	10.7%	10.2%	79.1%	100.0%
	% within Readiness Category	54.5%	46.0%	53.0%	52.3%
	% of Total	5.6%	5.3%	41.4%	52.3%
<b>Total in Readiness Category</b>	Count	44	50	336	430
	% within Risk Category	10.2%	11.6%	78.1%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	10.2%	11.6%	78.1%	100.0%

**Table 9. FY 2015 PBRGI sample - File Reviews: Overall counts and percentages of Board file review decisions by PBRGI advisory recommendations.\***

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count	141	8	149
	Percent	32.8%	1.9%	34.7%
Defer to Mandatory Release Date	Count	171	101	272
	Percent	39.8%	23.5%	63.3%
		<i>Total Defer = 312</i>	<i>Total Defer = 109</i>	<i>Total Defer = 421</i>
		72.6%	25.3%	97.9%
Release Discretionary	Count	4	5	9
	Percent	0.9%	1.2%	2.1%
Total of PBRGI Recommendations		Count	316	430
		Percent	73.5%	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.

This higher deferral rate by the Board and the corresponding higher percentage of PBRGI advisory recommendations for deferral may be explained by the risk and/or readiness of those considered in file reviews. In fact, an analysis of the placement of these inmates in the PBRGI risk/readiness matrix found that 60.0% were in the “high” or “very high” risk categories (compared to 42.2% of inmates in hearings). Relatedly, 78.1% of the inmates who were the subject of file reviews had a “low” readiness rating (compared to 41.2% of inmates in hearings). Of the 430 inmates subject to a file review, 283 (65.8%) met one or both of the two file review conditions for which data was available (No data was available for the instances of special release consideration.): a) One offender had an active U.S. Immigration and Customs Enforcement detainer (This one offender was also within six months of MRD), and b) Excluding the one “ICE offender,” the remaining 282 were within six months of the MRD. Finally, 168 (39.1%) of the 430 inmates in file reviews had been convicted of a Class I violation of the CDOC Code of Penal Discipline in the previous 12 months making them ineligible for release<sup>45</sup> (The Board decision and the PBRGI advisory recommendation was to defer in 100.0% of these cases).

**Decision Agreement.** Collapsing deferral and release *agreements* (between Board decisions and PBRGI recommendations), 73.7% of file review decisions agreed with the PBRGI advisory recommendations (see

<sup>45</sup> See §17-2-201 (3.7) (a) (I) for the statement of ineligibility due to COPD Class I conviction.

Table 9). This combined agreement percentage (73.7%) conceals that the degree of deferral agreement (98.7%) is more than 22 times higher than the degree of release agreement (4.4%). Alternatively, *when the PBRGI recommendation was to defer*, the overall percentage of agreement was 80 times higher than the overall percentage of departure, 72.6% vs. 0.9%, respectively.

Collapsing deferral and release *departures* (between Board decisions and PBRGI recommendations), 26.3% of full Board review decisions departed from the PBRGI recommendations. This combined departure percentage (26.3%) reveals the converse of the previous finding: the degree of release departure (95.6%) was 73 times higher than the degree of deferral departure (1.3%). Alternatively, *when the PBRGI recommendation was to release*, the overall percentage of departure was more than 21 times higher than the overall percentage of agreement, 25.3% vs. 1.2%, respectively.

## Findings: Full Board Reviews

**Sample.** The FY 2015 data included 1,260 full Board reviews for non-sex offenders that occurred subsequent to an initial hearing conducted by a Board member. A full Board review is conducted for any offender who, for any reason at the discretion of the originally-assigned Board member, is referred to the full Board or whose crime involved violence.<sup>46</sup>

**PBRGI Decision Matrix Assignment.** Table 10 provides the numbers and percentages of full Board reviews from the FY 2015 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 offenders in the matrix was found in the “high” readiness/”very low” risk category (33.3% or 420 of 1,260). Overall, the largest percentages of offenders among the five risk levels and among the three readiness levels were the 48.3% (608/1,260) in the “very low” risk category and the 69.2% (872/1,260) in the “high” readiness category, respectively.

**The largest percentage of offenders in the PBRGI matrix who were referred to full Board review (33.3%) were “very low” in risk and “high” in readiness.**

<sup>46</sup> Cases may be referred to full Board review for any reason by an individual Board member following the initial hearing or in cases involving violence (See, 8 C.C.R. 1511-1, Rule 8.00).

**Table 10. FY 2015 PBRGI sample - Full Board Reviews: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination.**

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		<b>3 High</b>	<b>2 Medium</b>	<b>1 Low</b>	
<b>1 Very Low</b>	Count	420	134	54	608
	% within Very Low Risk	69.1%	22.0%	8.9%	100.0%
	% within Readiness Category	48.2%	43.8%	65.9%	48.3%
	% of Total	33.3%	10.6%	4.3%	48.3%
<b>2 Low</b>	Count	142	47	2	191
	% within Low Risk	74.3%	24.6%	1.0%	100.0%
	% within Readiness Category	16.3%	15.4%	2.4%	15.2%
	% of Total	11.3%	3.7%	0.2%	15.2%
<b>3 Medium</b>	Count	143	73	12	228
	% within Medium Risk	62.7%	32.0%	5.3%	100.0%
	% within Readiness Category	16.4%	23.9%	14.6%	18.1%
	% of Total	11.3%	5.8%	1.0%	18.1%
<b>4 High</b>	Count	60	13	4	77
	% within High Risk	77.9%	16.9%	5.2%	100.0%
	% within Readiness Category	6.9%	4.2%	4.9%	6.1%
	% of Total	4.8%	1.0%	0.3%	6.1%
<b>5 Very High</b>	Count	107	39	10	156
	% within Very High Risk	68.6%	25.0%	6.4%	100.0%
	% within Readiness Category	12.3%	12.7%	12.2%	12.4%
	% of Total	8.5%	3.1%	0.8%	12.4%
<b>Total in Readiness Category</b>	Count	872	306	82	1,260
	% within Risk Category	69.2%	24.3%	6.5%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	69.2%	24.3%	6.5%	100.0%



**Table 11. FY 2015 PBRGI sample - Full Board Reviews: Overall counts and percentages of full Board review decisions by PBRGI advisory recommendations.\***

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count	108	429	537
	Percent	8.6%	34.0%	42.6%
Defer to Mandatory Release Date	Count	24	62	86
	Percent	1.9%	4.9%	6.8%
		<i>Total Defer = 132</i>	<i>Total Defer = 491</i>	<i>Total Defer = 623</i>
		10.5%	39.0%	49.4%
Release Discretionary	Count	55	582	637
	Percent	4.4%	46.2%	50.6%
Total of PBRGI Recommendations	Count	187	1,073	1,260
	Percent	14.8%	85.2%	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.

**Decision Types.** Board members designated 623 (49.4%) offenders for release and 637 (50.6%) offenders for deferral (see Table 11). Of the 1,260 offenders, the PBRGI recommended 1,073 (85.2%) offenders for release and 187 (14.8%) for deferral. There were 743 offenders (59% of 1,260) who were categorized in the two lowest levels of risk and the two highest levels of readiness. This large percentage of PBRGI advisory recommendation to release (85.2%) corresponds with the high percentage of those the PBRGI categorized as the most appropriate for release (59.0%).

**Decision Agreement.** Collapsing the two sources of agreement (between corresponding PBRGI recommendations and Board decisions to release and to deferral), *56.7% of full Board review decisions agreed with the PBRGI recommendations* (see Table 11). The combined agreement percentage (56.7%) conceals that the degree of deferral agreement (70.6%; 132 of 187) is 30% higher than the degree of release agreement (54.2%; 582 of 1,073). Alternatively, *when the PBRGI recommendation was to defer*, the overall percentage of agreement was 139% higher than the overall percentage of departure, 10.5% vs. 4.4%, respectively.

Collapsing across the two sources of departure (between PBRGI recommendations and Board decisions to release and to defer), *43.3% of full Board review decisions departed from the PBRGI recommendations*. The

combined departure percentage (43.3%) reveals the converse of the previous finding: the degree of release departure (45.8%) was 56% higher than the degree of deferral departure (29.4%). Alternatively, *when the PBRGI recommendation was to release*, the overall percentage of departure was 18% lower than the overall percentage of agreement, 39.0% vs. 46.2%, respectively. This last finding reverses the pattern found earlier for individual decisions by Board members. Collectively, the Board demonstrated a greater likelihood to agree with the recommendation to release than when making decisions alone, a 46.2% vs. 24.2% release agreement rate, respectively.

### **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 and, therefore, does not use the PBRGI in decision making regarding the application for parole by sex offenders. The statute however indicates that summary information should be provided for all decisions (§17-22.5-404 (6)(a), C.R.S.). There was an ongoing effort during FY 2015 by the CDOC: Sex Offender Treatment and Monitoring Program and the CDOC: Office of Information Technology to increase the electronic data available for analysis regarding decisions surrounding sex offenders. Given these data were not yet available, only the overall decision summary is reported. Of the 1,740 “regular” hearings involving those labeled a sex offender, 22.1% resulted in decisions to release and 77.9% to defer and of the 666 full Board reviews, 39.5% resulted in decisions to release and 60.5% to defer.

Of the 91 file reviews for those labeled a sex offender, Board members designated all 91 (100.0%) offenders for deferral. As mentioned previously, the PBRGI advisory recommendation is not provided for those labeled a sex offender.

### **Summary: FY 2015 Findings**

These FY 2015 analyses represent the second full year of Board hearings following the FY 2013 implementation. The FY 2015 hearings sample included 9,916 release application hearings conducted by members of the Parole Board and finalized between July 1, 2014 and June 30, 2015. Just over 5,000 application hearings were excluded from the sample because the related decision was not considered discretionary or the decision was considered moot. For example, hearings were excluded when a deferral was due to the offender’s absence, when there was a court order for release, or when the offender was discharged because his/her sentence was completed. The following is a summary of the FY 2015 findings:

- Of the 9,916 release application hearings, 7,990 were “regular” hearings and 1,926 were full Board reviews. Of the 9,916 cases, the Board conducted 523 file reviews rather than meeting directly with the inmate.<sup>47</sup> Of this same overall hearing total, 7,510 hearings were conducted for those who were not labeled a sex offender and 2,406 were conducted for those who were labeled a sex offender.
- Of the 7,990 “regular” hearings, 6,250 cases involved those who were not labeled a sex offender and 1,740 cases involved those who were labeled a sex offender. Of the 1,926 full Board reviews, 1,260 reviews involved those who were not labeled a sex offender and 666 reviews involved those who were labeled a sex offender. Of the 6,250 and 1,740 subgroups of “regular” hearings, the Board conducted 430 and 91 file reviews, respectively, rather than meeting directly with the parole applicant.
- The PBRGI sample of hearings included the 6,250 “regular” hearings and 1,260 full Board reviews of non-sex offenders. The remaining portion of the sample comprised 1,740 “regular” hearings and 666 full Board reviews of those labeled sex offenders.<sup>48</sup>
- For this FY 2015 PBRGI sample of 6,250, the Board designated 1,748 (28.0%) offenders for release and 4,502 (72.0%) offenders for deferral (of which 3,189 were deferred to a subsequent hearing date and 1,313 were deferred to their mandatory release date because the mandatory release would occur prior to the next scheduled hearing date). Of this same total, the PBRGI recommended 3,039 (48.6%) offenders for release and 3,211 (51.4%) for deferral.
- Of the 6,250 PBRGI sample of offenders, 2,123 or 34.0% were within 14 months of their MRD (and 70.7% of these were deferred or deferred to MRD) and 955 or 15.3% were within six months of their MRD (and 80.3% of these were deferred or deferred to MRD).
- Of the 1,313 offenders who were “deferred to MRD,” 629 (47.9%) were to discharge their sentence in six or less months, 572 (43.6%) were to discharge their sentence between seven and fourteen months, and 112 (8.5%) were to discharge their sentence in more than fourteen months.
- Comparing the findings from each of the existing reporting years, FY 2013, FY 2014 and FY 2015, the Board designated 35.4%, 25.0%, and 28.0% of inmates for release, respectively, while the PBRGI recommended 57.5%, 49.2%, and 48.6% of inmates for release, respectively.

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<sup>47</sup> The statutory conditions under which the Board may choose to conduct a file review are found in Section Three: Board Hearing Types.

<sup>48</sup> The explanation for the exclusion of sex offenders from the PBRGI analyses may be found on page 16.

- The PBRGI categorized 43.8% of the offenders in the FY 2015 sample as “low” or “very low” risk, 56.2% as “high” or “medium” readiness, and 28.5% in both these lower risk *and* higher readiness categories. Conversely, the PBRGI categorized 43.5% of the offenders as “high” or “very high” risk, 69.6% as “medium” or “low” readiness, and 25.9% in both these higher risk *and* lower readiness categories.
- Collapsing across the decisions to release and defer, 71.8% of all Board member decisions agreed with the PBRGI advisory recommendation and 28.0% of all decisions departed from the PBRGI advisory recommendation.
- Comparing the findings from each of the existing reporting years, FY 2013, FY 2014, and FY 2015, the percentage of agreement has increased each year at 64.1%, 68.0% and 71.8%, respectively. The increase between the first two years was due specifically to an increase in the agreement with the PBRGI deferral recommendations. The increase between the second and third years was due specifically to an increase in agreement with the PBRGI release recommendations (while maintaining a high degree of deferral agreement).
- Of the PBRGI advisory recommendations to release, the Board decision agreed in 49.7% of cases. Of the remaining 50.3% cases where the Board’s decision (to defer) departed from the release recommendation, 83.0% of these offenders were categorized as “low” or “very low” risk, 66.6% were categorized as “medium” or “high” readiness, and 49.5% were categorized in *both* these lower risk and higher readiness categories. Overall, this departure circumstance represented 24.4% of the 6,250 PBRGI-involved decisions made by the Board.
- The most common of the release departures was found for offenders who, although “very low” in risk, were categorized as “low” in readiness for release (33.4%; 511 of 1,528).
- The departure reasons entered by the Board for the decisions to defer rather than release indicated that aspects of the crime of conviction or other risk considerations, inadequate time served relative to the sentence, the need for additional time to stabilize in community corrections placements, a lack of accountability for one’s actions, the inadequate quality of the parole plan, and/or the need for additional program or treatment interventions.
- Of the PBRGI advisory recommendations to defer, the Board decision agreed in 92.6% of cases. Of the remaining 7.4% of cases where the Board’s decision (to release) departed from the defer recommendation, 89.5% of the offenders were categorized as “high” or “very high” risk, 49.4% were categorized as “low” or “medium” readiness, and 38.8% were categorized in *both* these higher risk

and lower readiness categories. Overall, this departure circumstance represented 3.8% of the 6,250 PBRGI-involved decisions made by the Board.

- The most common of the deferral departures was found for offenders who, although “very high” in risk, were categorized as “high” in readiness for release (50.6%; 120 of 237).
- The departure reasons offered most frequently by the Board for the decisions to release (rather than adhere to the PBRGI recommendation to defer) were that these offenders had presented a comprehensive parole plan, had demonstrated growth, had been successful in community placements, had taken actions to mitigate or lessen their higher risk, had successfully completed programs and/or treatment, and/or had served adequate time.
- The FY 2015 sample included 521 file review decisions, which do not require the presence of the inmate as defined in statute.<sup>49</sup> Of these 521 cases, 430 involved those who were not labeled a sex offender and 91 involved those labeled a sex offender. An analysis of these reviews found:
  - Collapsing deferral and release agreements overall (between corresponding Board decisions and PBRGI recommendations to defer or to release), *73.7% of file review decisions agreed with the PBRGI recommendations.*
  - Of the 430 PBRGI-related file reviews, Board members designated 9 offenders (or 2.1%) for release and 421 offenders (or 97.9%) for deferral (of which 149 were deferred to a subsequent hearing date and 272 were deferred to their impending mandatory release date). The PBRGI recommended 114 (26.5%) for release and 316 (73.5%) for deferral. Of these 430 inmates, 168 (39.1%) had been convicted of a Class I violation of the CDOC Code of Penal Discipline in the previous 12 months, making them ineligible for release. The Board decision and the PBRGI advisory recommendation was to defer in each of the 168 cases.
  - Of the 421 file reviews resulting in a deferral, 278 offenders (or 66.0%) were within six or less months of their MRD and 30 offenders (7.1%) were between seven and 14 months of their MRD when the file review was conducted.
  - Inmates who were the subject of a file reviews were placed in the PBRGI risk/readiness matrix at the following percentages: 60.0% were in the “high” or “very high” risk categories (compared to

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<sup>49</sup> The statutory conditions under which the Board may choose to conduct a file review are found in Section Three: Board Hearing Types.

42.2% of inmates in non-file review hearings) and 78.1% were found in the “low” readiness category (compared to 41.2% of inmates in non-file review hearings).

- A separate analysis of the 1,260 full Board review decisions involving a PBRGI recommendation found:
  - Collapsing the two sources of agreement (between the PBRGI recommendations and Board decisions to release and to defer), 56.7% of full Board review decisions agreed with the PBRGI recommendations.
  - Compared to individual Board member decisions, the full Board review designated a larger percentage of offenders for release (637 or 50.6%) and, combining the two types of deferral, a smaller percentage for deferral (623 or 49.4%). [As indicated above, individual Board member decisions in “regular” hearings designated 1,748 (28.0%) offenders for release and 4,502 (72.0%) offenders for deferral.]
  - Of these full Board reviews, the PBRGI recommended 1,073 (85.2%) offenders for release and 187 (14.8%) for deferral. The PBRGI categorized 63.4% of these offenders as “very low” or “low” risk, hence the large percentage of release recommendations.
  - Compared to individual board member decisions, the tendency of full Board reviews to agree with PBRGI recommendations to defer was lower (92.6% versus 70.6%, respectively), but the tendency to agree with PBRGI recommendations to release was higher (49.7% versus 54.2%, respectively).
- There was an ongoing effort during FY 2015 by the Sex Offender Treatment and Monitoring Program and the Office of Information Technology at the CDOC to increase the electronic data available for analysis regarding decisions surrounding sex offenders. Given these data were not yet available, only the overall decision summary was reported.
  - Of the 1,740 “regular” hearings involving those labeled a sex offender, 22.1% resulted in decisions to release and 77.9% to defer and of the 666 full Board reviews, 39.5% resulted in decisions to release and 60.5% to defer.
  - Of the 91 file reviews for those labeled a sex offender, Board members designated all 91 (100.0%) offenders for deferral. As mentioned previously, the PBRGI advisory recommendation is not provided for those labeled a sex offender.

## Appendices

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## APPENDIX A

### COLORADO STATE BOARD OF PAROLE

*The mission of the Parole Board is to increase public safety by critical evaluation, through the utilization of evidence-based practices of inmate potential for successful reintegration to society. The Board determines parole suitability through the process of setting appropriate conditions of parole and assists the parolee by helping to create an atmosphere for successful reintegration and return to the community.*

#### BOARD MEMBERS (Term)

Joe Morales, Chair*	(2019)
Brandon Shaffer, Former Chair*	(n/a)
Rebecca Oakes, Vice-Chair*	(2019)
Denise K. Balazic*	(2017)
Barbara Kelley, Former Member	(n/a)
Marjorie Lewis, Former Member*	(n/a)
Brandon W. Mathews	(2017)
John M. O'Dell*	(2018)
Alfredo Pena*	(2017)
Alexandra Walker	(2019)

#### RELEASE HEARING OFFICER

Patricia Waak, Former Vice Chair\*

#### ADMINISTRATIVE HEARING OFFICERS

Daniel Casias  
Tom Waters

Additional information on the Colorado State Board of Parole may be found at the Board's website, [colorado.gov/paroleboard](http://colorado.gov/paroleboard)

\*The list includes the names and positions of current and former Board members and hearing officers. An asterisk indicates those members and hearing officers who conducted release application hearings that are reflected in this FY 2015 report. Members' terms expire on July 1 of the year in parentheses.

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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 PBGRI risk items, which combined, assign offenders to a risk level,
- The PBRGI readiness items, which combined, assign offenders 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 (CCJJ). This document, approved by the full Commission, served as the source for the recidivism risk and parole 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.**

These items reflect the parole release considerations written into statute, §17-22.5-404(4), C.R.S. DCJ staff, in consultation with staff of the DOC's Office of Planning and Analysis (OPA) and of the Office of Information Technology at DOC and Board members, selected reliable variables to represent each of the 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 B1). 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.

### Risk Items

**Item #1: The Colorado Actuarial Risk Assessment Scale.** The CARAS (Version 6) 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 9-item risk scale that predicts three-year recidivism rates defined as a new court filing or return to prison within three years following release.<sup>50</sup> The CARAS score is based on static (unchangeable) offender risk factors, for

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<sup>50</sup> The 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 [colorado.gov/dcj-ors/ors-riskscales](http://colorado.gov/dcj-ors/ors-riskscales).

example, current age, number of current conviction charges and number of previous incarcerations. Offenders 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.<sup>51</sup>

**Item #2: Code of Penal Discipline / Victim Threat.** Any offender with a conviction of a Class II: 25c offense, Harassment of Victim, is assigned to the highest level of risk.<sup>52</sup> The baseline risk assignment is not altered for offenders without such a conviction.

**Item #3: Code of Penal Discipline/ Class I Offense.** Any offender with a conviction for a Class I offense during the previous 12 months is re-assigned to the highest level of risk. Offenders 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 offender 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 offender whose baseline risk assignment was “very low” would be shifted to “medium” risk. Offenders 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 offender being advanced two categories of risk. The baseline risk assignment is not altered for offenders 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 offenders who are 60 years of age or older. The baseline risk assignment is not altered for offenders 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 offenders whose record indicates a debilitating medical condition that reduces the risk of re-offense. The baseline risk assignment is not altered for offenders 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 offender’s record and information gathered during the interview conducted during parole application hearing, Board members rate whether or not they expect a greater likelihood of success for the offender if transitioned to the community. The baseline risk assignment is reduced by one category for offenders who are expected by the member to be successful if placed under

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<sup>51</sup>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.

<sup>52</sup> See the DOC Administrative Regulation 150-01, Class II: 25(c) at [colorado.gov/cdoc/policies-1](http://colorado.gov/cdoc/policies-1)

community supervision. The baseline risk assignment is not altered for offenders who are not assessed by the member to be successful under community supervision.

### Readiness Items

**Item #9: Level of Service Inventory-Revised.**<sup>53</sup> The LSI-R total score serves as a modified baseline in the readiness algorithm. The 54-item LSI-R is a measure of offenders' criminogenic needs and, based on the total score, offenders 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,<sup>54</sup> 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 offenders on positive adjustment characteristics. The LSI Rater Box average, in combination with the LSI-R total score category, is weighed equally with the remaining items in the readiness algorithm.

**Item #11: Program Participation / Progress.** *This variable is derived from a rating by the Board member conducting the parole application hearing.* The Board member provides a rating of the offender's enrollment, participation, and progress in DOC programs. The assignment of points does not penalize offenders who are wait-listed for programs or, for whatever reason as determined by the Board member, offenders 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 offender's participation and progress in DOC treatment. The assignment of points does not penalize offenders who are wait-listed for treatment or, for whatever reason as determined by the Board member, offenders 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 offender's parole plan. Considerations of the parole plan may include the provision for housing, parole location, work, education, treatment, parole sponsor, social support, vocational/leisure activities and other transition factors. Points assigned to the ratings are added to the overall readiness total.

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<sup>53</sup> 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.

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

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

<b>DECISION ALGORITHM VARIABLES</b>	
<b>RISK VARIABLES</b> (- reduces, + augments, x no affect)	<b>READINESS VARIABLES</b> (- reduces, + augments)
<p><b>#1 Colorado Actuarial Risk Assessment Scale</b> (Risk baseline)</p> <ul style="list-style-type: none"> <li>(1) Very Low (1 - 23)</li> <li>(2) Low (24 - 31)</li> <li>(3) Medium (32 - 36)</li> <li>(4) High (37 - 43)</li> <li>(5) Very High (44 - 79)</li> </ul> <p><b>#2 Code of Penal Discipline: Victim Threat</b> (During period of incarceration)</p> <ul style="list-style-type: none"> <li>( x ) None</li> <li>( + ) Yes</li> </ul> <p><b>#3 Code of Penal Discipline: Class I Offense</b></p> <ul style="list-style-type: none"> <li>( - ) None in past 12 months</li> <li>( + ) At least 1 in past 12 months</li> </ul> <p><b>#4 Code of Penal Discipline: Class II Offense</b> (Other than Victim Threat)</p> <ul style="list-style-type: none"> <li>( - ) None in past 3 months</li> <li>( + ) At least 1 in past 3 months</li> </ul> <p><b>#5 Escape/Abscond or Attempt</b></p> <ul style="list-style-type: none"> <li>( x ) None</li> <li>( + ) Yes, Escape/Abscond or Attempt</li> </ul> <p><b>Risk moderators</b></p> <p><b>#6</b> ( - ) Yes, 60 yrs. or older</p> <p><b>#7</b> ( - ) Yes, med. condition reduces reoffense risk</p> <p><b>#8</b> ( - ) Yes, manageable in community*</p> <p style="text-align: right;"><i>(*PB Input)</i></p>	<p><b>#9 Level of Service Inventory: Total Score</b> (Readiness baseline)</p> <ul style="list-style-type: none"> <li>(0) Low (39 - 54)</li> <li>(1) Medium (30 - 38)</li> <li>(2) High (21 - 29)</li> <li>(3) Very High (0 - 20)</li> </ul> <p><b>#10 Level of Service Inventory: Rater Boxes</b></p> <ul style="list-style-type: none"> <li>( + ) Yes (Avg. 2.50-3.00)</li> <li>( + ) Yes (Avg. 2.00-2.49)</li> <li>( - ) No (Avg. .50 - 1.99)</li> <li>( - ) No (Avg. 0-.49)</li> </ul> <p><b>#11 Program Participation/Progress*</b></p> <ul style="list-style-type: none"> <li>( + ) Good outcome/ intent -or- NA /Wait listed</li> <li>( + ) Acceptable outcome/intent</li> <li>( - ) Weak/unclear outcome/intent</li> <li>( - ) Poor outcome/intent</li> </ul> <p><b>#12 Treatment Participation/Progress*</b></p> <ul style="list-style-type: none"> <li>( + ) Good outcome/ intent -or- NA /Wait listed</li> <li>( + ) Acceptable outcome/intent</li> <li>( - ) Weak/unclear outcome/intent</li> <li>( - ) Poor outcome/intent</li> </ul> <p><b>#13 Parole Plan*</b></p> <ul style="list-style-type: none"> <li>( + ) Good</li> <li>( + ) Acceptable</li> <li>( - ) Weak</li> <li>( - ) Poor</li> </ul> <p style="text-align: right;"><i>(*PB Input)</i></p>
<b>DECISION ALGORITHM COMPUTATIONS AND CATEGORIES</b>	
<p><b>Risk Calculation:</b> CARAS + COPD: Victim + COPD: Class I + COPD: Class II + Esc/Abs + Risk moderators = Risk Point Total</p> <p>Risk Categories: 1) Very Low = 1.99 or less risk points      4) High = 4.00 - 4.99</p> <p style="padding-left: 100px;">2) Low = 2.00 - 2.99      5) Very High = 5 or above</p> <p style="padding-left: 100px;">3) Medium = 3.00 - 3.99</p>	
<p><b>Readiness Calculation:</b> (LSI: Total Score + LSI: RB + Program + Treatment + Plan) / 5 = Readiness Point Average</p> <p>Readiness Categories: 1) Low = 0-1.99      3) High = 3.00 or above</p> <p style="padding-left: 100px;">2) Medium = 2.00-2.99</p>	



## PBRGI Algorithms and Decision Matrix

The first item (Item #1: CARAS) in the risk dimension and the first item (Item #9: LSI) in the Readiness dimension determine a baseline level for each offender on risk and on readiness. The remaining items in the risk or readiness dimension determine whether the offender 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 B1.).

**Placement in the Matrix.** As detailed in Figure B1, computations of the risk algorithm *total score* and the readiness algorithm *average score* result in the assignment of each offender 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 offender 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 may be found in Figure B2. Each decision matrix risk/readiness combination is associated with an advisory release decision recommendation either to “RELEASE” the offender to parole or to “DEFER” the offender 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.<sup>55</sup> 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 offender at “medium” readiness differs depending on the risk placement.

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

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<sup>55</sup> 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.**

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

**Matrix Decision “Environments.”** The relative “decision environment” for the Board members is quite different, depending on an offender’s PBRGI risk/readiness assignment under consideration. It is expected that the “release area” of the decision matrix and the “defer area” of the decision matrix will each have its own characteristic decision “environments.” There are several overlapping descriptors that could be used to describe these varying decision circumstances represented in the matrix: simple vs. complex, easy vs. difficult, and safer vs. riskier.

Each of these circumstances would be perceived in relative terms, given the stakes inherent in the decision to release an offender from prison to parole. The Board’s perception regarding these decision characteristics may correspond to the degree of agreement with or departure from the advisory recommendation. Given that the Board’s primary, statutory release consideration is risk of re-offense and, thereby, public safety, members tend to make decisions that favor the choice to defer when the decision environment is perceived as, using the descriptors mentioned, complex, difficult, or riskier. The following will describe more specific examples of the Board members’ decision environment employing these descriptors.

The impact of these decision environments is most readily apparent when considering the extreme areas of the decision matrix: an assignment to the upper left (lower risk/higher readiness) or the lower right of the matrix (higher risk/lower readiness). The decision characteristics in both these matrix areas may be perceived as relatively simpler, easier, or safer. The less risky, more ready offender would be perceived as more appropriate for release (a simple, easy, or safe decision *to release*) and the more risky, less ready offender would be perceived as more appropriate for a deferral (a simple, easy, or safe decision *to defer*). The Board member is more likely to agree with the advisory recommendation to release or to defer in these circumstances.

**The Board’s perceived “decision environment” is predictive of the choice to agree with or depart from the PBRGI recommendation.**

Compare that “decision environment” to the opposite areas of the decision matrix where Board members will be more likely to defer than release offenders. This “boundary region” of the matrix (specifically, the low/low, the medium/medium, and the high/high risk/readiness combinations) separates the release from the defer regions of the matrix. The decision to release an offender who is “very low” risk, but also “low” on readiness would be perceived as more complex, difficult or risky. Relatedly, the decision to release would be perceived as more complex, difficult, or risky regarding the offender who is “high” on readiness, but also “high” risk. Again, given the Board’s primary statutory consideration is the risk of re-offense, members are more likely to make the risk avoidant decision to defer the offenders assigned to this boundary area of the matrix, thereby departing from recommendations in the release area and agreeing with recommendations in the defer area.