

# **Analysis of Colorado State Board of Parole Decisions: FY 2016 Report**

**Pursuant to § 17-22.5-404(6)**

**June 2017**

**Colorado Division of Criminal Justice**



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**June 2017**

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## Executive Summary

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

Following this Executive Summary, 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 created and described in §17-2-201, C.R.S. and it functions under a “type 1 transfer”<sup>1</sup> to the Colorado Department of Corrections (CDOC) pursuant to §24-1-128.5(3), C.R.S. The Board, appointed by the Governor and confirmed by the Colorado State Senate, includes 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>2</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 (CDOC) “to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the Board’s parole decisions.” Additionally, pursuant to §17-22.5-107(1), C.R.S., in consultation with the Board, DCJ is mandated to develop an administrative release guideline instrument for use by the Board in evaluating applications for parole. Finally, pursuant to §17-22.5-404(6)(e)(I), C.R.S., the Board and DCJ are mandated to issue a report to the General Assembly regarding the outcomes of decisions by the Board.

Where data are available, this report describes findings and progress on these mandates during the period from July 1, 2015 through June 30, 2016. This report presents findings on all hearing decisions involving a

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

<sup>2</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 2016 and the Board mission statement may be found in Appendix A.

discretionary release or deferral and, where applicable, on the Board's agreement with or acknowledgement of the PBRGI recommendation for these hearings. The report also addresses progress on all statutory mandates related to the Board's decision systems.

More comprehensive details of the Board's annual activities and processes may be found in reports and presentations generated by the Board pursuant to other legislative mandates. The Board provides an annual report to the Judiciary Committees of the Colorado House of Representatives and the Senate regarding the operations of the Board, 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>3</sup>

**Parole Board Hearing Application Portal.** During FY 2012, the CDOC's Office of Information Technology (OIT), in collaboration with the Board, various representatives of CDOC including the Time and Release Operations Office, and DCJ, implemented the Parole Board Hearing Application Portal. This user interface gathers information from diverse CDOC sources, displays it, and records Board member decisions. Without this automation of parole hearings the development and integration of the 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 statutory release decision factors and, based on a structured decision matrix, to offer an advisory release decision recommendation for parole applicants. The PBRGI was derived from a paper-and-pencil draft administrative release guideline instrument of parole release policies created by the Colorado Commission on Criminal and Juvenile Justice (CCJJ; [colorado.gov/ccjj](http://colorado.gov/ccjj)). Initial 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. Technical reports regarding the initial testing of the PBRGI may be found in the FY 2012 and FY 2013 Parole Board Decisions reports.<sup>4</sup>

The PBRGI is a set of thirteen policy items that combine using two algorithms to create a matrix with two dimensions. The first dimension is *risk of recidivism* and the second dimension is *readiness for parole*. The

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<sup>3</sup> These annual reports are available under "Reference Materials" at [colorado.gov/paroleboard/reference-materials-0](http://colorado.gov/paroleboard/reference-materials-0).

<sup>4</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).

thirteen items correspond to the parole release policies identified by CCJJ and the associated parole considerations placed in Colorado statute.<sup>5</sup> DCJ staff constructed two algorithms from these thirteen 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>6</sup> The Level of Supervision Inventory-Revised (LSI-R) overall and rater box scores serve as the baseline for the assessment of criminogenic needs underlying the readiness score used in the matrix. The PBRGI items, the scoring algorithms and the advisory decision matrix are described in Appendix B.

The combination of the risk and readiness scores places an 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>7</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 additional information gathered during the hearing that is not included in the PBRGI algorithm (for example, current dynamic criminogenic needs; complex clusters of criminogenic needs; treatment dosage received; performance while under other forms of community supervision such as probation and community corrections), Board members may choose to agree with or depart from the recommendation. Pursuant to §17-22.5 404(6)(b), C.R.S., a decision that departs from the recommendation requires that the Board member provide the reason(s) for departure.

The PBGRI design was based on policy choices generated by the Colorado Commission on Criminal and Juvenile Justice and was not derived via empirical testing. The Board has proposed a project during FY 2017 to expand and revise the PBRGI policy elements to account for the numerous factors not included in the original algorithm that inform risk and readiness for release to parole. Such factors include complex clusters (three or more according to contemporary research) of criminogenic needs; patterns of success or failure under non-parole based community supervision (probation and/or community corrections); the recency, frequency and severity of institutional misconduct and several others. Although these factors are not accounted for in the current PBRGI algorithm, they are used by Board members to evaluate an offender's

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<sup>5</sup> See the statutory considerations for release to parole in §17.22.5-404(4), C.R.S.

<sup>6</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)).

<sup>7</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.

risk and readiness as it pertains to discretionary release to parole.

The PBRGI aims to develop uniformity in the application of decision criteria, but the guideline cannot adapt to the unique and emergent characteristics of each 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.). Since the statute was amended in 2010, there have been two projects initiated to respond to the related mandates: the Parole Board Revocation Automation Project and the Parole Board Revocation Guidelines Project. Although some intermediate goals have been accomplished through these projects, the requirements in statute have not been fully met.

Following the automation of the release hearing process and the implementation of the PBRGI, the Board initiated a Parole Board Revocation Automation Project with OIT at CDOC to automate revocation hearings and to collect hearing data similar to the automated system for release application hearings. System development and programming of the Revocation Automation Project by OIT at CDOC was suspended in FY 2016 due to intensive demands related to the development and implementation of a complete overhaul of the offender record system at the CDOC. A separate project that is still ongoing was initiated by the CDOC Parole Division to automate revocation requests submitted by community parole officers to the Board. The scope of this project does not appear to include all the functions previously proposed in the Parole Board Revocation Automation Project.

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 CDOC for further specification of the elements for integration into the automated Parole Board Revocation hearing system. However, development of that system, as mentioned above, is currently suspended.

## FINDINGS

**Hearing and Decision Types.** The FY 2016 hearings sample included 7,329 release application hearings and reviews conducted by members of the Parole Board and finalized between July 1, 2015 and June 30, 2016. 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 leading to parole release that are 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, a Board member has four options that ultimately resolve to one of two possible discretionary decisions: to release (grant parole) or to defer (deny parole). Offenders may be released, deferred, tabled, or referred to full Board review.<sup>8</sup> Some offenders are set for release, but are tabled, pending the completion of a specific requirement, such as completing a treatment program. Ultimately, the Board releases a “tabled” offender, if the requirement is met, or the Board rescinds the release and the offender is deferred, if the requirement is not met. Whether in a “regular” hearing or based on a full Board review, an offender is granted discretionary parole when the Board determines that the offender has demonstrated the potential for successful reintegration into the community. An offender is denied parole when the Board concludes that the offender has not demonstrated the potential for successful reintegration into the community or there are public safety concerns.

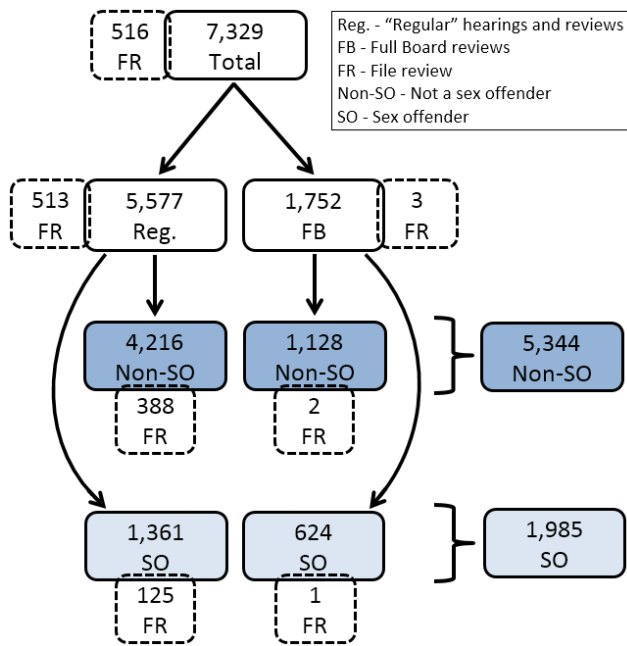
Over 8,000 hearing records were excluded from the sample because the related decision was not discretionary or the decision was pending or moot. For example, hearings were excluded when a deferral

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<sup>8</sup> See 8 C.C.R., 1511-1, Rule 5.04 (A) in *Rule 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website: [sos.state.co.us/CCR/](http://sos.state.co.us/CCR/) (Browse or search for Rule 1511-1).

was due to an offender’s absence, when a release was based on a court order or when there was a mandatory re-parole following a parole revocation. Also, relative to previous fiscal years, there were fewer discretionary hearing records included in the sample because: a) a statutory change §17-2-201(3.7), C.R.S. eliminated the parole hearing eligibility for those with a recent institutional behavior violation or a program refusal and b) a methodological change was implemented to remove records where, although there was a decision to release, the release was still pending when the fiscal year ended.

**FY 2016 Parole Board Decisions (n=7,329)**



**Sample.** The following is a summary of the FY 2016 hearing decision sample and subsamples:

- Of the 7,329 release application hearings, 5,577 were “regular” hearings and 1,752 were full Board reviews. A “regular” hearing is conducted by one member (or two Board members when the inmate is serving a life sentence with the possibility of parole). 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, 5,344 hearings were conducted for those who were not labeled a sex offender and 1,985 were conducted for those who were labeled a sex offender. Of the 7,329 cases, the Board conducted 516 file reviews.<sup>9</sup>

- Of the 5,577 “regular” hearings, 4,216 cases involved those who were not labeled a sex offender and 1,361 cases involved those who were labeled a sex offender.<sup>10</sup> Of the 1,752 full Board reviews, 1,128 reviews involved those who were not labeled a sex offender and 624 reviews involved those who were labeled a sex offender. Of the 4,216 and 1,361 subgroups of “regular” hearings, the Board conducted 388 (non-sex-offender) and 125 (sex offender) file reviews, respectively.
- The findings in this report focus primarily on the 5,344 hearings for those not labeled a sex offender

<sup>9</sup> File reviews and full Board reviews do not involve a direct interview of the inmate. Board reviews and hearings are described in Section Three of the report.

<sup>10</sup> The explanation for separating the sex offender and the non-sex-offender samples may be found on page 18.

where a Parole Board Release Guideline Instrument (PBRGI) recommendation was generated.<sup>11</sup> The subsample of 4,216 “regular” hearings with non-sex offenders is labeled throughout the report as the “PBRGI sample.” Separate analyses are provided for the subset of 1,128 full Board hearings involving non-sex offenders.

**Findings.** The following is a summary of the FY 2016 findings:

- For this FY 2016 PBRGI sample of 4,216 hearings, the Board designated 1,346 (31.9%) offenders for release and 2,870 (68.1%) offenders for deferral (of which 2,507 were deferred to a subsequent hearing date and 363 were deferred to their mandatory release date because the mandatory release would occur prior to the next scheduled hearing date). Of this same 4,216, the PBRGI recommended 2,179 (51.7%) offenders for release and 2,037 (48.3%) for deferral.
- Collapsing across all the decisions to release or to defer in FY 2016, 71.4% of Board member decisions agreed with the PBRGI advisory recommendation and 28.6% of decisions departed from the PBRGI advisory recommendation.
- The overall agreement percentage (71.4%) combines the rate of release agreement (53.2%) and the rate of deferral agreement (90.9%).
- The overall departure percentage (28.6%) combines the rate of release departure (46.8%) and the rate of deferral departure (9.1%).
- Of the 46.8% (or 1,019) of decisions where the Board departed from the PBRGI recommendations to release (a Board deferral), 81.7% of these offenders were categorized as “low” or “very low” risk, 65.5% were categorized as “medium” or “high” readiness, and 47.3% (or 482 of 1,019) 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 (34.4%; 351 of 1,019).
- The departure reasons entered by the Board for the decisions to defer rather than release included concerns related to the seriousness of the crime of conviction or other risk considerations, untreated criminogenic needs (for example, impulse control deficits, antisocial attitudes/values, substance abuse, and anger issues), a lack of accountability for one’s actions, the need for additional time to

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<sup>11</sup> The explanation for the exclusion of sex offenders from the PBRGI analyses may be found on page 18.

**TERMINOLOGY NOTE**

Throughout the report, references will be made to:

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

The figure below represents each of these decision concepts.

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

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

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

stabilize in community corrections placements, the inadequate quality of the parole plan (for example, homeless parole plans), the need for additional program or treatment interventions, and/or inadequate time served relative to the sentence.

- Of the 4.4% (or 186) of decisions where the Board departed from the PBRGI recommendations to defer (a Board release), 90.3% of these offenders were categorized as “high” or “very high” risk, 47.3% were categorized as “low” or “medium” readiness and 37.6% (or 70 of 186) 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 (52.7%; 98 of 186).

- 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 to address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management).
- Applying the updated PBRGI sample selection criteria<sup>12</sup> to all four reporting years, FY 2013, FY 2014, FY 2015 and FY 2016, the Board designated 38.8%, 31.9%, 32.0% and 31.9% of inmates for release, respectively, while the PBRGI recommended 53.5%, 49.5%, 51.5% and 51.7% of inmates for release, respectively.
- Applying the updated PBRGI sample selection criteria<sup>13</sup> to all four reporting years, FY 2013, FY 2014, FY 2015 and FY 2016, the percentage of agreement was 69.0%, 72.4%, 72.4% and 71.4%, respectively.
- Across the entire PBRGI sample of 4,216 offenders, 1,112 or 26.4% were within 14 months of their MRD (and 63.2% of these were deferred or deferred to MRD) and 575 or 13.6% were within six months of their MRD (and 82.6% of these were deferred or deferred to MRD).
- The FY 2016 sample of 7,329 hearings included 516 (7.0%) file review decisions, which do not require the presence of the inmate as defined in statute.<sup>14</sup> Of these, 513 were “regular” file review decisions and three file reviews were subsequently referred to the full Board for review. Of these 513 “regular” file reviews, 388 involved those who were not labeled a sex offender and 125 involved those labeled a sex offender. An analysis of these reviews found:
  - Of the 388 PBRGI-related file reviews, Board members designated 19 offenders (or 4.9%) for release and 369 offenders (or 95.1%) for deferral (of which 133 were deferred to a subsequent hearing date and 138 were deferred to their impending mandatory release date). The PBRGI recommended 117 (30.2%) for release and 217 (69.8%) for deferral.
  - Of the 388 PBRGI-related file reviews, when collapsing deferral and release agreements (between corresponding PBRGI recommendations and Board decisions to defer or to release), *74.7% of file*

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<sup>12</sup> The FY2016 COPD exclusions and pending release exclusions are described in “Hearing and Decision Types” on page 6. These exclusions were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

<sup>13</sup> See Footnote 11.

<sup>14</sup> The statutory conditions under which the Board may choose to conduct a file review are found in Section Three: Board Hearing Types.

*review decisions agreed with the PBRGI recommendations.* The degree of release agreement was 16.2% (or 19 agreements within the 117 release recommendations) and the degree of deferral agreement was 100.0% (or 271 agreements within the 271 defer recommendations).

- Of the 369 PBRGI-related file reviews resulting in a deferral, 363 offenders (or 98.4%) were within six or less months of their MRD and 6 offenders (1.6%) were more than 6 months from 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: 46.9% were in the “high” or “very high” risk categories (compared to 37.9% of inmates in non-file review hearings) and 76.0% were found in the “low” readiness category (compared to 42.0% of inmates in non-file review hearings).
- The analyses of the 1,128 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), 58.8% 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 (599 or 53.1%) and a smaller percentage for deferral (529 or 46.9%). [As indicated above, individual Board member decisions in “regular” hearings designated 1,346 (31.9%) offenders for release and 2,870 (68.1%) offenders for deferral.]
  - Of these 1,128 full Board reviews, the PBRGI recommended 1,028 (91.1%) offenders for release and 100 (8.9%) for deferral. The PBRGI categorized 73.6% of these offenders as “very low” or “low” risk, hence the large percentage of release recommendations.
  - Compared to individual board member decisions, the agreement between full Board reviews and PBRGI recommendations to defer was lower (90.9% versus 82.0%, respectively) and the agreement between full Board reviews and PBRGI recommendations to release was higher (53.2% versus 56.6%, respectively).
- As mentioned previously, a PBRGI recommendation is not displayed for those labeled a sex offender. The findings regarding parole application decisions for those labeled a sex offender are as follows:
  - When considering the release of an individual labeled a sex offender to parole, it is the practice of the Board to refer nearly all of these individuals to the full Board for review, but only if they have met a significant number of treatment benchmarks and fulfilled the other standard release considerations. Those who are not considered appropriate for release are typically deferred at the

time of the “regular” hearing without a referral to full Board consideration. Therefore, it is the practice of the Board to release offenders only after a full Board review and only rarely following a “regular” hearing.

- Of the 1,985 individuals labeled a sex offender who were seen in initial (“regular”) hearings, 1.1% (or 22) were released, 67.5% (or 1,339) were deferred, and 31.4% (624) were referred to a full Board hearing for further review. Of the 624 individuals referred to full Board reviews, 46.0% (287) were released and 54.0% (337) were deferred. The difference in the release rate between “regular” hearings and full Board reviews (1.1% vs. 46.0%) is evidence of the Board’s practice to release sex offenders following a full Board review, as mentioned above.
- Combining the decision outcomes of “regular” and full Board hearings, the overall percentages of decisions for the 1,985 individuals labeled a sex offender were 15.6% (309) release and 84.4% (1,676) defer.
- Of the 1,361 “regular” hearings involving those labeled a sex offender, there were 125 (or 34.6%) file reviews following which one offender was released and the remaining were deferred. Of the 624 full Board reviews for those labeled a sex offender, one had been referred following a file review and this offender was released.

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

*The mission of the Parole Board is to increase public safety by critical evaluation and utilization of evidence-based practices of inmate potential for successful reintegration to society. The release of an offender on parole at the discretion of the Parole Board 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. No validated structured decision-making tool (SDM) currently exists for such decisions. Ultimately, no such instrument can exist that would be universally applicable, as each jurisdiction across the United States (and globally) has their own specific statutory requirements regarding what criteria must be considered during the release decision-making process. Additionally, there is no universally accepted number regarding how many individuals should or should not be paroled or pertaining to what percentage of agreement Paroling Authorities should have with SDM tool recommendations. Thus, the Colorado Board of Parole sought out partnership from the Division of Criminal Justice to reevaluate the PBRGI. As a result, the Board has been working with DCJ to create an innovative and cutting edge SDM tool that incorporates the contemporary literature regarding risk and protective factors, as well as statutory requirements set forth by the Colorado legislature.<sup>15</sup>*

*For the FY 2016 hearings included in this sample, the Board designated 31.9% of offenders for release and 68.1% 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 2016 sample included, 71.4% of all Board member decisions agreed with the PBRGI advisory recommendation and 28.6% of all decisions departed from the PBRGI advisory recommendation. The Board is working to make future changes to the tool, to include additional information included in the PBRGI's recommendation, such as treatment dosage, levels of community support, misdemeanor convictions, and recent failures on community supervision. 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.<sup>16</sup> 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 4 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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<sup>15</sup> The actions described here occurred during FY 2017 and not during the current FY 2016 reporting year.

<sup>16</sup> See Footnote 15.

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## Section One: Introduction

The Colorado State Board of Parole (“the Board”) is described in statute in §17-2-201, C.R.S., and it functions under a “type 1 transfer”<sup>17</sup> to the Colorado Department of Corrections (CDOC) pursuant to §24-1-128.5(3), C.R.S. The Board, appointed by the Governor and confirmed by the Colorado State Senate, includes 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>18</sup> The mission statement of the Board and a list of Board members and hearing officers for FY 2016 may be found in Appendix A.

In recent years, the Board has conducted between 25,000 and 30,000 hearings and reviews of various types per year, including parole application hearings, parole application file reviews, full board parole application reviews, special needs release reviews, release rescission hearings (a release reversal), probable cause hearings (to issue warrants related to parole violations), early parole discharge reviews, parole revocation hearings, and sexually violent predator designation hearings. Among the duties of the Board chair described in §17-2-201(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).”

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

**Mandates.** Pursuant to §17-22.5-404(6)(a), C.R.S., the Board is mandated to work with the Division of Criminal Justice (DCJ) in the Colorado Department of Public Safety (CDPS) and the Colorado Department of Corrections (CDOC) “to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the Board’s parole decisions.”<sup>19</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 CDOC is mandated to develop administrative revocation guidelines for use by the Board in evaluating complaints filed for parole revocation.<sup>20</sup> Finally, pursuant to

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<sup>17</sup> A “type 1 transfer” defines a form of organizational structure that separates the administration from the function of government entities (Administrative Organization Act of 1968; §24-1-105(1), C.R.S.). The Board is administered by the Colorado Department of Corrections (CDOC), but it carries out its statutory powers, duties, and functions independently of the CDOC.

<sup>18</sup> The Board typically hires no more than 1 to 3 of either type of contract hearing officer.

<sup>19</sup> See Senate Bill 2009-135.

<sup>20</sup> See House Bill 2010-1374.

§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>21</sup>

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>22</sup>

**Organization of the Report.** This report covers the hearing decisions rendered by the Board during the period from July 1, 2015 to June 30, 2016, 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 2016 report and a description of the Parole Board Release Guideline Instrument (PBRGI).

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<sup>21</sup> See Senate Bill 2011-241 and House Bill 2016-1153.

<sup>22</sup> These annual Board reports are available under "Reference Materials" at [colorado.gov/paroleboard/reference-materials-0](http://colorado.gov/paroleboard/reference-materials-0).



## Section Two: Parole Board Automated Decision Support System

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

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

FY 2016 is the third 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 2015 report.<sup>23</sup>

**Parole Board Hearing Application Portal.** In October 2011, the Governor’s Office of Information Technology (OIT) at CDOC, in collaboration with the Board, implemented a paperless hearing system labeled the Parole Board Hearing Application Portal (“Portal”).<sup>24</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 CDOC including the Time and Release Operations Office and the Division of Parole, and DCJ, make specific improvements to the functions of the Portal. For example, since the initial implementation, the Portal has been expanded to schedule hearings, to track the status of hearings and to provide a document repository for letters and statements regarding hearings. It is expected that the Portal will continue to be enhanced and improved with additional data elements and processes as needs are identified by the Board and its agency partners. The Portal provides the platform within which the automated Parole Release Guideline Instrument (PBRGI) is integrated.

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<sup>23</sup> The previous annual reports provide a summary of the six decision system projects derived from the legislative mandates in §17-22.5-107 and §17-22.5-404(6), C.R.S. (See [colorado.gov/dcj-ors/ors-reports](http://colorado.gov/dcj-ors/ors-reports))

<sup>24</sup> For a more lengthy description of the “Portal,” see the 2009 Status Report at [colorado.gov/pacific/dcj-ors/ors-reports#2009](http://colorado.gov/pacific/dcj-ors/ors-reports#2009).

**Parole Board Release Guideline Instrument (PBRGI).** The PBRGI is the product of the mandate in §17-22.5-107(1), C.R.S. to “develop an administrative release guideline instrument for use by the Board in evaluating applications for parole” and to include “a matrix of advisory-release-decision recommendations for the

**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>25</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 paper-and-pencil draft administrative release guideline instrument of parole release policies designed by the Colorado Commission on Criminal and Juvenile Justice.<sup>26</sup>

For individuals classified as sex offenders, pursuant to §17-22.5-404 (4)(c)(II), C.R.S., parole release decisions are guided by criteria created by the Sex Offender Management Board (SOMB), with the central release criterion being sex-offense specific treatment.<sup>27</sup> Upon entry into CDOC, 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.<sup>28</sup> From July 1, 2015 to June 14, 2016 inmates in the two lower classification levels (S1-no information or no sexual violence treatment needs or S2-unadjudicated sex abuse allegations) were not subject to SOMB criteria and, therefore, were assigned a PBRGI advisory recommendation.

As of June 15, 2016 the classification of those labeled “sex offender” was redefined in the CDOC Administrative Regulation 700-19 to only include those in the highest classification level (S5 - any judicial

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<sup>25</sup> See the statutory considerations for release to parole in §17.22.5-404(4), C.R.S.

<sup>26</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>27</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: [colorado.gov/dcj/somb-standards-bulletins](http://colorado.gov/dcj/somb-standards-bulletins).

<sup>28</sup> See Colorado Department of Corrections Administrative Regulation 700-19 at: [colorado.gov/cdoc/policies-1](http://colorado.gov/cdoc/policies-1).

determination of sex offense, to include court finding of sexual factual basis.). Consequently, inmates in the lower four categories of Sexual Violence Needs (S1, S2, S3, or S4) were not subject to SOMB release criteria, including sex-offense specific treatment, and, therefore according to statute, should be assigned a PBRGI advisory recommendation. However, during the ten days from June 20, 2016 (when the redefinition was implemented) to June 30, 2016 when the fiscal year concluded, no inmates impacted by the classification redefinition (specifically, those at needs levels S3 and S4<sup>29</sup>) were found in the FY 2016 hearings decision database.

The intent of the PBRGI is to provide guidance via an advisory recommendation to the Board as it makes decisions about discretionary parole release. The guideline instrument aims to develop uniformity in the application of decision criteria, but the guideline cannot adapt to the unique and emergent characteristics of each 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 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, testing, and modifications to the PBRGI are described in a previous annual report, *Analysis of Colorado State Board of Parole Decisions: FY 2013 Report*.<sup>30</sup>

The PBRGI is a set of thirteen policy items that combine to create a decision matrix with two dimensions: the first dimension is *risk of recidivism* and the second is *readiness for parole*. The thirteen items correspond to the parole release policies identified by CCJJ and the associated parole considerations placed in Colorado statute.<sup>31</sup> DCJ staff constructed two algorithms from these thirteen statutory considerations,

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<sup>29</sup> The definitions of the S3 and S4 Sexual Violence Needs Classifications are: S3 - any institutional determination of sex offense behavior to include facility disciplinary convictions, and S4 - any administrative determination of sex offense to include prior sexual violence needs classification review. The “sex offender” definition and classification definitions may be found in CDOC Administrative Regulation 700-19 at: [colorado.gov/cdoc/policies-1](http://colorado.gov/cdoc/policies-1).

<sup>30</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>31</sup> See the statutory considerations for release to parole in §17-22.5-404(4), C.R.S.

one for risk and one for readiness. The baseline for the risk dimension is the risk level from the Colorado Actuarial Risk Assessment Scale (CARAS), which is a statutorily-mandated actuarial risk assessment measure that is re-validated at least every five years on the Colorado prison population.<sup>32</sup> The Level of Supervision Inventory-Revised (LSI-R) overall and rater box scores serve as the baseline for the assessment of

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

criminogenic needs underlying the readiness score used in the matrix. The thirteen items of the two dimensions of the PBRGI, the scoring algorithms, and the advisory decision matrix are described in Appendix B.

The 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>33</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 additional information gathered during the hearing that is not included in the PBRGI algorithm (for example, current dynamic criminogenic needs; complex clusters of criminogenic needs; treatment dosage received; performance while under other forms of community supervision such as probation and community corrections), Board members may choose to agree with or depart from the recommendation. Pursuant to §17-22.5-404(6)(b), C.R.S., a decision that departs from the recommendation requires that the Board member provide the reason(s) for departure.

The PBGRI design was based on policy choices generated by the Colorado Commission on Criminal and Juvenile Justice and was not derived via empirical testing.<sup>34</sup> The Board has proposed a project during FY 2017 to expand and revise the PBRGI policy elements to account for the numerous factors not included in the original algorithm that inform risk and readiness for release to parole. Such factors include complex

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<sup>32</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).

<sup>33</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>34</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).

clusters (three or more according to contemporary research) of criminogenic needs; patterns of success or failure under non-parole based community supervision (probation and/or community corrections); the recency, frequency and severity of institutional misconduct and several others. Although these factors are not accounted for in the current PBRGI algorithm, they are used by Board members to evaluate an offender's risk and readiness as it pertains to discretionary release to parole.

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.

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

Following the automation of the release hearing process and the implementation of the PBRGI, the Board initiated a project with OIT at CDOC to automate revocation hearings to create a Revocation Portal similar to the portal for parole application hearings. A preliminary version of the "revocation portal" was evaluated by Parole Board members and staff during FY 2014 and FY 2015. Based on continued feedback from the Board, the CDOC Division of Adult Parole, the CDOC Time & Release Operations office and DCJ, programmers continued to refine and improve the system. System development and programming of the Revocation Automation Project was suspended in FY 2016 due to intensive demands related to the development and implementation of a complete overhaul of the offender record system at the CDOC. A separate project that is still ongoing was initiated by the CDOC Parole Division to automate revocation requests submitted by community parole officers to the Board. The scope of this project does not appear to include all the functions previously proposed in the Parole Board Revocation Automation Project.

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 CDOC for further specification of the elements for integration into the automated Parole Board Revocation hearing system. Because the automation of revocation hearings was suspended, 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.

## Section Three: Hearings, Decisions and Study Sample

Pursuant to §17-22.5-404(6) (c), C.R.S., the State Board of Parole (“the Board”) is to provide hearing data to the Division of Criminal Justice (DCJ) for analysis of Board decisions. On behalf of the Board, data were provided by CDOC’s Office of Planning and Analysis for analysis by DCJ. The FY 2016 report is the third to comprise an entire fiscal year of PBRGI hearing data. This section describes the general types of hearings and reviews conducted by the Board, the types of Board decisions, and the sample and subsamples upon which analyses were conducted.

**Board Hearing Types.** The hearings and reviews included in this report were to render a decision regarding applications to parole by inmates that were finalized between July 1, 2015 and June 30, 2016. (As mentioned previously no revocation hearings are included in this report due to data unavailability.). The applications to parole involved inmates who had met their parole eligibility date (PED), but whose release was prior to their mandatory release date (MRD), which indicates that the prison sentence was complete. Therefore, the analyses in this report focus on the hearing and review decisions labeled, “discretionary,” rather than those labeled, “mandatory.” 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.

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

- “Regular” Board hearings - 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.<sup>35</sup>
- 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

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<sup>35</sup> See 8 C.C.R., 1511-1, Rule 5.03, E. & I. in *Rule 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website: [sos.state.co.us/CCR/](http://sos.state.co.us/CCR/) (Browse or search for Rule 1511-1).

involving violence or a sex offense.<sup>36</sup> 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.<sup>37</sup> 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. According to statute, file reviews are 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>38</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.

Over 8,000 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 2016, but the parole decision had not been rendered when the fiscal year ended.

Also, relative to previous fiscal years, hearing records included in this report were fewer. There were two reasons for this reduction not previously impacting the sample size in previous reports:

- a) A statutory change eliminated the eligibility for a parole application hearing for inmates with a recent institutional behavior violation, and
- b) A methodological change was implemented to remove records where, although there was a decision to release, the release was still pending when the fiscal year ended.

The implementation of House Bill 2015-1122 (see, §17-2-201(3.7), C.R.S.) renders an inmate ineligible for

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<sup>36</sup> See 8 C.C.R., 1511-1, Rule 8.00 in *Rule 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website: [sos.state.co.us/CCR/](http://sos.state.co.us/CCR/).

<sup>37</sup> The statutory conditions for a file review are described in §17-2-201(4)(f)(I), C.R.S.

<sup>38</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.



parole, and therefore ineligible for a parole application hearing, for no less than 12 months under the following circumstances: if the inmate has committed a Class I violation of the Code of Penal Discipline (COPD) or if an inmate had submitted a written refusal to participate in programs.<sup>39</sup> This change in statute had negligible impact on the findings of Board decision agreement with the PBRGI recommendations because: a) the common Board decision in these cases previously was to defer when there was a recent COPD conviction or when the inmate was under investigation for a COPD violation, and b) the PBRGI was designed to recommend deferral for individuals with a Class I COPD in the previous 12 months.<sup>40</sup>

A sample selection decision was made to remove cases scheduled for release, but where the release was unresolved. Unresolved release outcomes occurred most frequently under two circumstances: a “tabled” release was still pending when the fiscal year ended, or the release date was set to occur after the end of the fiscal year. 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 release is delayed until a training program in CDOC is completed or the parole release is dependent on the confirmation that inmate has been accepted by a community program or community treatment). If the condition for which the release was tabled or delayed is not met, the release may be rescinded and, if so, the offender’s incarceration continues. Additionally, if the fiscal year concluded before the release occurred, it is unknown whether such inmates were actually released or whether the release was subsequently rescinded, which may occur for any number of reasons, including the commission of a COPD violation.

**Board Decision Types.** When considering an inmate’s application for release to parole, a Board member has four options that ultimately resolve to one of two possible discretionary decisions: to release (grant parole) or to defer (deny parole). Offenders may be released, deferred, tabled, or referred to full Board review.<sup>41</sup> Some offenders are set for release, but are tabled, pending the completion of a specific requirement, such as completing a treatment program. Ultimately, the Board releases a “tabled” offender, if the requirement is met, or the Board rescinds the release and the offender is deferred, if the requirement is not met. Some offenders are referred to full Board review from the initial hearing and are subsequently released or deferred based on a full Board determination.

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<sup>39</sup> The Class I and Class II violations of the CDOC Code of Penal Discipline (COPD) are defined in CDOC Administrative Regulation 150-01 ([colorado.gov/cdoc/policies-1](http://colorado.gov/cdoc/policies-1)). Class I violations are those for which a guilty finding generally results in more severe penalties than a finding of guilt for a Class II violation.

<sup>40</sup> Information about the PBRGI items, decision matrix, and advisory recommendations may be found in Appendix B.

<sup>41</sup> These four options are described in Colorado Code of Regulations, 8 C.C.R. 1511-1, Rule 5.04 (A).

In a “regular” hearing or review, 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 is denied parole when the Board member concludes that an offender has not demonstrated the potential for successful reintegration into the community, and/or the offender’s release raises public safety concerns. In a full Board review, the above determinations require the agreement of four Board members. If the minimum four-member, full Board review does not reach consensus, the remaining three members are subsequently polled until the four-member decision threshold is met.

If the offender is deferred, a subsequent hearing date is scheduled.<sup>42</sup> 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>43</sup>

Although the Board’s decision to “release to MRD” references the upcoming *mandatory* release date, this decision is a *discretionary deferral* because the Board has chosen to *defer* the 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>44</sup>

**FY 2016 Overall Sample.** The total sample of discretionary decisions analyzed and summarized in this report were rendered in 7,329 hearings and reviews conducted for inmates considered for parole between July 1, 2015 and June 30, 2016. The 7,329 decisions comprised 5,577 “regular” hearings and 1,752 full Board reviews. Of the 7,329 decisions and reviews, there were 5,344 in which a PBRGI recommendation was generated (i.e., for those labeled, “non-sex offenders”) and 1,985 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 1,361 “regular” decisions and 624 full Board decisions.<sup>45</sup>

Of the 7,329 total decisions, 516 (5.3%) were the result of file reviews, including 513 “regular” reviews and

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<sup>42</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.

<sup>43</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>44</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].

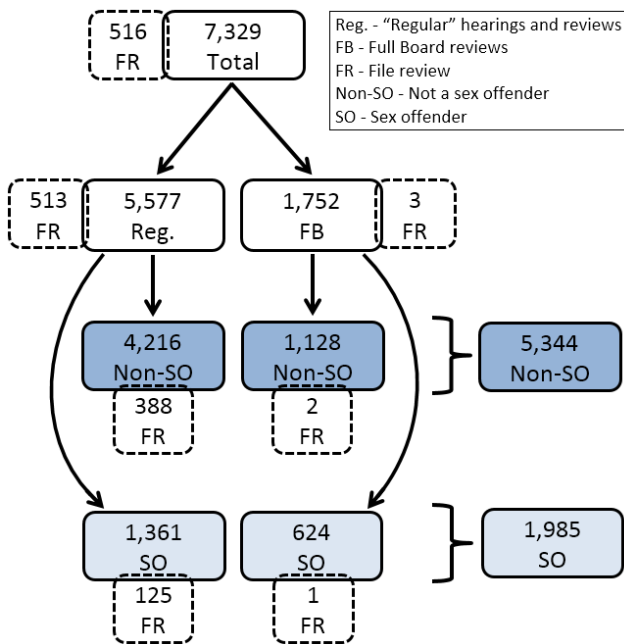
<sup>45</sup> The explanation for the exclusion of sex offenders from the PBRGI analyses may be found on page 18.

3 reviews that were subsequently referred to a full Board review for consideration. Of these 513 “regular” file reviews, 388 were completed for those labeled “non-sex offender” and 125 for those labeled a “sex offender.”

**FY 2016 PBRGI Sample.** The focus of this report is the subsample of 5,344 hearings and reviews where a PBRGI advisory recommendation was displayed to the Board member(s).

As described in “Board Hearing Types” above, there were fewer hearings for analysis than in the previous fiscal year reports due to statutory and methodological changes. The sample totals comparable to the 5,344 hearings included in the FY 2016 sample were 7,966, 7,715, and 7,510 in the reports for FY 2013, FY 2014 and FY 2015, respectively.

**FY 2016 Parole Board Decisions (n=7,329)**



The primary sample for analysis, referenced in the report as the “PBRGI sample,” included the 4,216 “regular” hearing decisions. This analysis combines the decisions from 3,828 hearings (where the offender was present) and from 388 file reviews (where the inmate’s presence was not statutorily required). The PBRGI advisory recommendation was also displayed during 1,128 full Board reviews (two of which were 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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## Section Four: FY 2016 Findings - Parole Board Decisions

The PBRGI findings reported below from the FY 2016 hearing data include the following information:

- 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 number and percentages of offenders from the FY 2016 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 placement of offenders on the risk dimension was in “very low” risk (30.6%). The largest placement of offenders on the readiness dimension was in “low” readiness (42.0%). The highest percentage of offenders in the “release area” of the matrix was the 13.0% in “very low” risk/”high” readiness. The highest percentage of offenders in the “defer area” of the matrix was the 11.9% in “very high” risk/”low” readiness. There was 14.1% of the sample 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 PBRGI placed 30.6% of offenders in the “very low” risk category and 42.0% of offenders in the “low” readiness category.**

**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

**Table 1. FY 2016 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	546	313	429	1,288
	% within Very Low Risk	42.4%	24.3%	33.3%	100.0%
	% within Readiness Category	40.1%	28.9%	24.2%	30.6%
	% of Total	13.0%	7.4%	10.2%	30.6%
<b>2 Low</b>	Count	235	190	293	718
	% within Low Risk	32.7%	26.5%	40.8%	100.0%
	% within Readiness Category	17.3%	17.5%	16.5%	17.0%
	% of Total	5.6%	4.5%	6.9%	17.0%
<b>3 Medium</b>	Count	163	148	301	612
	% within Medium Risk	26.6%	24.2%	49.2%	100.0%
	% within Readiness Category	12.0%	13.7%	17.0%	14.5%
	% of Total	3.9%	3.5%	7.1%	14.5%
<b>4 High</b>	Count	155	181	248	584
	% within High Risk	26.5%	31.0%	42.5%	100.0%
	% within Readiness Category	11.4%	16.7%	14.0%	13.9%
	% of Total	3.7%	4.3%	5.9%	13.9%
<b>5 Very High</b>	Count	261	252	501	1,014
	% within Very High Risk	25.7%	24.9%	49.4%	100.0%
	% within Readiness Category	19.2%	23.2%	28.3%	24.1%
	% of Total	6.2%	6.0%	11.9%	24.1%
<b>Total in Readiness Category</b>	Count	1,360	1,084	1,772	4,216
	% within Risk Category	32.3%	25.7%	42.0%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	32.3%	25.7%	42.0%	100.0%

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 31.9% of offenders for release and 68.1% of offenders for deferral (comprising 59.5% who were deferred and 8.6% who were deferred to MRD).<sup>46</sup> Of the 68.1% (2,870) of offenders who were deferred, 87.4% (2,507) were categorized as “deferred” and 12.6% (363) were categorized as “deferred to MRD.” Of these 363 offenders who were “deferred to MRD,” 355 or 97.8% (or 8.4% of 4,216) were within 14 months of their MRD and 291 or 80.2% (or 6.9% of 4,216) were within 6 months of their MRD. These 6-month- and 14-month-to-MRD thresholds are relevant to Board policy (described previously) regarding the decision to conduct a file review and the decision to “defer to MRD,” respectively. For comparison, across the entire PBRGI sample of 4,216 offenders, 1,112 or 26.4% were within 14 months of their MRD (and 63.2% of the 1,112 were deferred or deferred to MRD) and 575 or 13.6% were within six months of their MRD (and 82.6% of the 575 were deferred or deferred to MRD).

Of the 1,346 offenders who were released, there were 19 file reviews.<sup>47</sup> Of all 2,870 offenders who were deferred, the Board conducted a file review for 369 offenders (12.9% of those deferred; or 8.8% of the 4,216 PBRGI sample). These 2,870 offenders include the 2,507 who were “deferred” and the 363 who were “deferred to MRD.” Of the 2,507 inmates who were deferred, 160 (6.4% of 2,507; or 3.8% of the entire PBRGI sample) were the subject of a file review. Of the 363 inmates who were “deferred to MRD,” 209 (57.6% of 363; or 5.0% of the entire PBRGI sample) were the subject of a file review. Alternatively, when categorizing the 388 file reviews in the PBRGI sample by decision type, 41.2% (160 offenders) were “deferred,” 53.9% (209 offenders) were “deferred to MRD,” and 4.9% (19 offenders) were released. Further analyses of the file review decisions may be found later in this Section Four in “Findings: File Reviews.”

**Of the inmates suggested for release, higher rates of actual release (roughly 72 to 77% across risk levels) were found for those inmates in the “high” level of readiness.**

Further review of Table 2 reveals that the release percentages in the “release region” of the matrix (blue/lighter areas) ranged from 18.2% to 76.8% with higher rates of release found for those inmates in the

<sup>46</sup> The Board decision types are described in Section Three: Board Decision Types.

<sup>47</sup> File reviews are described in Section Three: Board Hearing Types.

**Table 2. FY 2016 PBRGI sample: Counts and percentages of Parole Board decisions within each PBRGI risk/readiness matrix combination**

<b><u>RISK CATEGORY</u></b>		<b><u>READINESS CATEGORY</u></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	546	313	429	1,288
	% PB Defer	25.3%	55.3%	81.8%	51.4%
	% PB Release	74.7%	44.7%	18.2%	48.6%
<b>2 Low</b>	Count	235	190	293	718
	% PB Defer	24.7%	59.5%	96.6%	63.2%
	% PB Release	75.3%	40.5%	3.4%	36.8%
<b>3 Medium</b>	Count	163	148	301	612
	% PB Defer	27.6%	70.9%	97.3%	72.4%
	% PB Release	72.4%	29.1%	2.7%	27.6%
<b>4 High</b>	Count	155	181	248	584
	% PB Defer	23.2%	85.6%	96.4%	73.6%
	% PB Release	76.8%	14.4%	3.6%	26.4%
<b>5 Very High</b>	Count	261	252	501	1,014
	% PB Defer	62.5%	90.5%	97.8%	86.9%
	% PB Release	37.5%	9.5%	2.2%	13.1%
<b>Total in Readiness Category</b>	Count	1,360	1,084	1,772	4216
	% PB Defer	32.4%	71.4%	93.5%	68.1%
	% PB Release	67.6%	28.6%	6.5%	31.9%



**Table 3. FY 2016 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	1,623	884	2,507
	Percent	38.5%	21.0%	59.5%
Defer to Mandatory Release Date	Count	228	135	363
	Percent	5.4%	3.2%	8.6%
		<i>Total Defer = 1,851</i>	<i>Total Defer = 1,019</i>	<i>Total Defer = 2,870</i>
		43.9%	24.2%	68.1%
Release	Count	186	1,160	1,346
	Percent	4.4%	27.5%	31.9%
<b>Total of PBRGI Recommendations</b>		Count 2,037	2,179	4,216
		Percent 48.3%	51.7%	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.

“high” level of readiness (ranging from 72.4% to 76.8%). The deferral percentages in the “defer area” of the matrix (red/darker areas of Table 2) ranged from 62.5% to 97.8% with higher rates of deferral found for those the in “low” level of readiness (96.4% to 97.8%).

**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>48</sup> As mentioned

previously, Board members designated 1,346 (31.9%)

offenders in the sample for release and, combining the two types of deferral, 2,870 (68.1%) offenders for deferral. Of the 4,216 PBRGI sample of parole applicants, the PBRGI recommended 2,179 (51.7%) offenders for release and 2,037 (48.3%) for deferral (see Table 3). Given that 47.6% (2,006) of offenders

**The Board released 31.9% and deferred 68.1% of candidates for parole. The PBRGI advisory recommendations were to release 51.7% and to defer 48.3%.**

<sup>48</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.

were categorized as “very low” or “low” risk and nearly 38.9% (781) of these were labeled “high readiness,” (see Table 1), it is not unexpected that a similar percentage of offenders would be assigned an advisory recommendation for release.

Table 3 provides the percentages of agreement and departure between the Board decisions and the PBRGI advisory recommendations (See the “Terminology Note” on page 7 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 (blue/lighter areas of Table 3). Collapsing these two sources of agreement, *71.4% of all Board member decisions agreed with the PBRGI*

**Collapsing across all decisions, 71.4% of Board decisions agreed with the PBRGI advisory recommendations.**

*recommendations.* The overall agreement percentage (71.4%) combines the rate of release agreement (53.2% or 1,160 agreements within the 2,179 release recommendations) and the rate of deferral agreement (90.9% or 1,851 agreements within the 2,037 defer recommendations).

*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, *28.6% of all Board decisions departed from the PBRGI recommendations.* The overall departure percentage (28.6%) combines the rate of release departure (46.8% or 1,019 departures within the 2,179 release recommendations) and the rate of deferral departure (9.1% or 186 departures within the 2,037 defer recommendations).

From a release perspective, the overall rate of release agreement was a few percentage points higher than the overall rate of release departure, 27.5% vs. 24.2%, respectively. From a deferral perspective, the overall rate of deferral agreement was approximately nine times higher than the overall rate of deferral departure, 43.9% vs. 4.4%, respectively. Separate summaries of the patterns of agreements and departures found in file reviews and full Board reviews is provided in sections below.

Table 4 provides a comparison of the percentages of Board decisions and PBRGI recommendations to release or defer for the PBRGI samples from the current and three previous fiscal years.<sup>49</sup> As is evident in

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<sup>49</sup> The FY2016 COPD exclusions and pending release exclusions are described in Section Three: Board Hearing Types on pages 24-25. These exclusions were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

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

DECISION TYPE	Parole Board Decision % PBRGI Recommendation % (PB/PBRGI AGREEMENT %)	Fiscal Year *			
		FY 2013 (n=5,203)	FY 2014 (n=5,916)	FY 2015 (n=5,475)	FY 2016 (n=4,216)
RELEASE	PB Decision PBRGI Rec.	38.8% 53.5%	31.9% 49.5%	32.0% 51.5%	31.9% 51.7%
	(AGREEMENT)	(57.3%)	(54.5%)	(54.2%)	(53.2%)
DEFER	PB Decision PBRGI Rec.	61.2% 46.5%	68.1% 50.5%	68.0% 48.5%	68.1% 48.3%
	(AGREEMENT)	(82.5%)	(90.2%)	(91.6%)	(90.9%)
(OVERALL PB / PBRGI AGREEMENT)		(69.0%)	(72.4%)	(72.4%)	(71.4%)

\* The sample selection criteria used to identify discretionary hearings in FY 2016 were used for all reporting years for comparability of comparisons, rather than the percentages reported in previous fiscal year reports.

the table, the PBRGI has consistently recommended a higher percentage of release each year (53.5%, 49.5%, and 51.5%, and 51.7%) than the percentage of actual release decisions by the Board (38.8%, 31.9%, 32.0%, and 31.9%). Comparing the initial FY 2013 sample and the current FY 2016 sample, there has been a 3.5% increase from 69.0% to 71.4% 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 (82.5% to 90.2%), given the drop in release agreements (57.3% to 54.5%). The degree of agreement, whether focusing on the release, the deferral, or the overall percentages has remained relatively unchanged from FY 2014 to FY 2016.

**Comparing the FY 2013 and FY 2016 samples, there was a 3.5% increase from 69.0% to 71.4% in Board member agreements with the PBRGI advisory recommendations.**

**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. The pattern of percentages in Table 5 shows that the agreement percentages in the “release area” of the decision matrix (ranging from 18.2% to 76.8%; blue/lighter area) are generally lower than the agreement percentages in the “defer area” of the decision matrix (ranging from 62.5% to 97.8%; red/darker area).

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

When collapsing across levels of readiness, the degree of Board/PBRGI agreement was larger as level of risk increased, from 48.6% to 86.9%. When collapsing levels of risk, the highest degree of agreement was found in the “low” readiness category at 78.0% followed by the “high” (72.4%) and “medium” readiness (59.3%) categories.

*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 62.5% (802/1,284; 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>50</sup> The release recommendations for offenders located near the “middle decision boundary” were subject to a lower degree of agreement, 53.5% (162/303; combining the 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 (59.3%) relative to the “high” and “low” levels of readiness (72.4% and 78.0%, 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. For example, among the “very low” risk offenders, there is a precipitous drop in agreement to release from “high” (74.7%) to “low” (18.2%) readiness.

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<sup>50</sup> See Appendix B for a description of the designations for release or defer in the PBRGI decision matrix.

**Table 5. FY2016 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 \***

<b><u>RISK CATEGORY</u></b>		<b><u>READINESS CATEGORY</u></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	546	313	429	1,288
	% Agreement	74.7%	44.7%	18.2%	48.6%
	% Departure	25.3%	55.3%	81.8%	51.4%
<b>2 Low</b>	Count	235	190	293	718
	% Agreement	75.3%	40.5%	96.6%	74.8%
	% Departure	24.7%	59.5%	3.4%	25.2%
<b>3 Medium</b>	Count	163	148	301	612
	% Agreement	72.4%	29.1%	97.3%	74.2%
	% Departure	27.6%	70.9%	2.7%	25.8%
<b>4 High</b>	Count	155	181	248	584
	% Agreement	76.8%	85.6%	96.4%	87.8%
	% Departure	23.2%	14.4%	3.6%	12.2%
<b>5 Very High</b>	Count	261	252	501	1,014
	% Agreement	62.5%	90.5%	97.8%	86.9%
	% Departure	37.5%	9.5%	2.2%	13.1%
<b>Total in Readiness Category</b>	Count	1,360	1,084	1,772	4,216
	% Agreement	72.4%	59.3%	78.0%	71.4%
	% Departure	27.6%	40.7%	22.0%	28.6%

\* 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, 408 decisions were in agreement in the "very low" risk by "high" readiness matrix combination (546 x 74.7%).

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 and Class II COPD violations;
- Failed to take responsibility for past behavior and/or minimized criminal acts; and/or
- Needed more time or placement in transition beds in community corrections.

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 94.1% (1,112/1,182). 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”). This higher level of agreement on deferrals is true for decisions in one of*

**The degree of decision agreement was 62.5% for the offenders identified as the better candidates for release and 94.1% for those identified as the better candidates for deferral.**

the difficult “middle boundary” combinations separating the release and defer regions of the recommendation matrix, specifically the 96.6% 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>51</sup> At these levels of relatively high agreement (compared to release agreement), the agreement pattern demonstrates that the Board sometimes decides to depart from the recommendation to defer when the offender is categorized in the higher levels of readiness. This drop in deferral agreement from “low” to “high” readiness was apparent in both the “high” risk category (96.4% to 85.6%) and the “very high” risk category (97.8% to 90.5% to 62.5%).

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

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<sup>51</sup> See Appendix B for a description of the designations for release or defer in the PBRGI decision matrix.

more of the following about the offenders:

- Presented particularly good parole plans;
- Demonstrated personal growth and accountability for criminal behavior; and/or
- Demonstrated successful performance in community transition placements.

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>52</sup> the instances of departure will be explored more extensively.

**The Board agreed with 53.2% of PBRGI recommendations to release and 90.9% of PBRGI recommendations to defer.**

Summary of Agreements: Board Releases and Deferrals.

There were 1,160 total decisions where Board members *agreed with the PBRGI advisory recommendation to release*

(see Table 6). This represents 27.5% of all hearing decisions and 53.2% of the decisions where the PBRGI recommended release. Of these 1,160 decisions, 880 (75.9%) offenders were categorized as “very low” or “low” risk, 1,082 (93.3%) were categorized with “high” or “medium” readiness and 802 (69.1%) 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 1,851 total decisions where Board members *agreed with the PBRGI advisory recommendation to defer* (see Table 7). This represents 43.9% of all hearing decisions and 90.9% of the decisions where the PBRGI recommended deferral. Of these 1,851 decisions, 1,275 (68.9%) offenders were categorized as “high” or “very high” risk, 1,688 (91.2%) were categorized with “medium” or “low” readiness, and 1,112 (60.1%) occupied both these higher risk and lower readiness categories.

These instances of release and 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

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<sup>52</sup> See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.

**Table 6. FY2016 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,160 Board release decisions that agree with the PBRGI recommendation to release**

Of the 1,160 Release Agreements Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	408 35.2%	140 12.1%	78 6.7%
	Low	177 15.3%	77 6.6%	-
	Medium	118 10.2%	43 3.7%	-
	High	119 10.3%	-	-
	Very High	-	-	-

75.9% (sum of Very Low and Low readiness for Very Low risk)

93.3% (sum of High and Medium readiness for Very Low risk)

69.1% (sum of High, Medium, and Low readiness for Very Low risk)

**Table 7. FY2016 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,851 Board deferral decisions that agree with the PBRGI recommendation to defer**

Of the 1,851 Deferral Agreements Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	-	-	-
	Low	-	-	283 15.3%
	Medium	-	-	293 15.8%
	High	-	155 8.4%	239 12.9%
	Very High	163 8.8%	228 12.3%	490 26.5%

68.9% (sum of High and Medium readiness for High risk)

91.2% (sum of High, Medium, and Low readiness for Very High risk)

60.1% (sum of High, Medium, and Low readiness for Very High risk)



defer. On the other hand, as described in the next sections, the analyses of Board departures from the PBRGI recommendations found greater discrepancies between the 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 8). Although Board members demonstrated a high degree of agreement overall with defer recommendations (90.9% or 1,851/2,037 from Table 3), there were 186 (4.4% overall) instances of deferral departure where the Board instead chose to release. This represents 9.1% (186/2,037 from Table 3) of the total advisory recommendations to defer.

Of these 186 instances, 168 (90.3%) offenders were categorized by the PBRGI as "high" or "very high" risk and 88 (47.3%) were in the "low" or "medium" readiness categories. This represents 4.0% (168/4,216) and 2.1% (88/4,216), respectively, of all the hearing decisions in the total sample.

**Of the 186 deferral departures (when the Board decides to release), 71.5% (133) of the offenders were categorized as "very high" risk, but 73.7% (98 of 133) of these individuals were also "high" in readiness.**

Combining the two dimensions of risk and readiness, the Board chose to release 70 offenders (37.6% of the 186 departure decisions, but only 1.7% 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 most common of the departures from the PBRGI deferral recommendations may be found in the "very high" risk category (98 of 186 or 52.7%), these offenders also were categorized at the highest level of readiness for release. An additional 10 of these releases, although "low" in readiness, were found in the "low" risk category.

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 preparations. For example, the Board may simply set the actual release date for an offender at a point three to six months in the future to allow a period of community corrections transition, or the Board 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

**Table 8. FY2016 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 186 Board release decisions that do not agree with the PBRGI recommendation to defer**

Of the 186 Deferral Departures Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	-	-	-
	Low	-	-	10 5.4%
	Medium	-	-	8 4.3%
	High	-	26 14.0%	9 4.8%
	Very High	98 52.7%	24 12.9%	11 5.9%

**Table 9. FY2016 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,019 Board deferral decisions that do not agree with the PBRGI recommendation to release**

Of the 1,019 Release Departures Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	138 13.5%	173 17.0%	351 34.4%
	Low	58 5.7%	113 11.1%	-
	Medium	45 4.4%	105 10.3%	-
	High	36 3.5%	-	-
	Very High	-	-	-

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 9). As was reported earlier in Table 3, this circumstance occurred at a higher rate with 1,019 (46.8%) departures of the total 2,179 offenders (51.7% of 4,216) who were assigned an advisory recommendation to release. These 1,019 offenders can be divided into the 884 who were deferred and the 135 who were deferred to their MRD.

Of these 1,019 instances, 833 (81.7%) were categorized by the PBRGI as “low” or “very low” risk and 668 (65.6%) were in the “medium” or “high” readiness categories.

**Of the 1,019 release departures (when the Board decides to defer), 65.0% (662) of the offenders were categorized as “very low” risk, but 53.0% (351 of 662) of these individuals were also “low” in readiness.**

Combining the two dimensions of risk and readiness, the Board chose to defer 482 offenders (47.3% of the 1,019 departure decisions and 11.4% 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 (4.4% of all decisions from Table 3), the decision to defer an offender recommended for release (24.2% of all decisions) was more than five times more common. Although the most common of the departures from the PBRGI release recommendations may be found in the “very low” risk category (351 of 1019 or 34.4%), these offenders also were categorized at the lowest level of readiness for release. An additional 36 of these deferrals, although “high” in readiness, were found in the “high” risk category. The summary of the Board’s reasons for these departures is provided in the next section.

**Departure Reasons.** As mentioned previously, statute requires that Board members provide a departure reason when the release application hearing decision departs from the advisory recommendation.<sup>53</sup> This section summarizes the reasons entered by Board members for departing from the advisory recommendation. Of the 28.6% (1,205/4,216) of all 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

<sup>53</sup> See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.

was required for the 1,019 decisions to defer or defer to MRD when release was recommended, representing 24.2% of all decisions, and for the 186 decisions to release when defer was recommended, representing 4.4% of all decisions (see Table 3).

Summary of Departure Reasons: Board Decides to Release. *When the PBRGI advisory recommendation was to defer*, there were 186 decisions (4.4% 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 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). Release dates may simply be set several months in the future to allow an offender to complete a program or course of treatment in the institution prior to release. In cases where the table requirement is not met or a program or treatment is concluded unsuccessfully, it is possible to rescind an offender’s release and to defer the parole applicant to a subsequent application hearing date.

An initial review of the departure reasons was undertaken to identify and categorize the reasons provided by the Board when making these departure decisions: decisions to release when the advisory recommendation was to defer. Given that Board members could offer more than one reason for a departure, there were 548 total reasons provided for these 186 decisions. The departure reasons can be grouped into the following general categories:

- Parole plan quality;
- Demonstrated growth/positive attitude;
- Performance in the community;
- Mitigated or lesser risk;
- Treatment participation considerations;
- Program participation considerations; and
- Time served or imminent MRD/SDD.<sup>54</sup>

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

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<sup>54</sup> The statutory discharge date (SDD) refers to the date when both the sentence to CDOC and all possible time on parole have been completed.

state or country. 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 regarding community performance 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 as an inmate had been successful and often that the offender had secured stable employment. Reasons in the risk-mitigated category included comments about low risk scores, non-violent offenses, short criminal histories, and committing no or minor violations of the CDOC Code of Penal Discipline. The mentions of treatment referenced that the offender had completed or would soon complete treatment and was ready to move to community-based treatment. 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. A final category of 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.

**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.**

For these 186 *departure decisions to release*, Board members mentioned one of the above seven reason *categories* in 415 instances. Board members mentioned a single departure reason category in 42 cases, two categories in 81 cases, and more than two categories in 63 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 186 cases where a departure *category* was mentioned was as follows:<sup>55</sup>

- Parole plan quality, 68.9% (130/186 cases where this category was mentioned)
- Demonstrated growth/positive attitude, 56.5% (105 cases)
- Performance in the community, 32.3% (60 cases)
- Mitigated or lesser risk, 26.3% (49 cases)
- Treatment participation considerations, 18.8% (35 cases)

<sup>55</sup> Percentages total more than 100% because more than one category was mentioned in 144 of the 186 cases.

- Program participation considerations, 17.2% (32 cases)
- Time served or imminent MRD/SDD,<sup>56</sup> 2.3% (4 cases)

Of these 186 offenders, 70 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 8). For this group, there were 196 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:

- Presented a comprehensive parole plan;
- Demonstrated growth/positive attitude; and
- 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 1,019 decisions (24.2% of all decisions) where Board members chose to depart from the recommendation and defer the offender or defer the offender to the MRD. An initial review of these departure reasons was undertaken to identify and categorize the reasons provided by the Board when making these decisions to depart from the advisory recommendation to release. Given that Board members could offer more than one departure reason in a particular case, there were 2,295 specific departure reasons provided. These reasons can be categorized into the following areas of concern:*

- Risk concerns;
- Attitude or presentation concerns;
- Need to stabilize in the community;
- Treatment participation concerns;
- Parole plan quality;
- Time served, file review, or imminent MRD/SDD;<sup>57</sup> and
- Program participation concerns.

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 during a previous stint on parole, poor performance in the institution, and/or general issues of public safety, especially related to risky

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<sup>56</sup> See Footnote 54.

<sup>57</sup> See Footnote 54.

behaviors surrounding substance use. A weak presentation by offenders was apparent in reasons that mentioned that offenders failed to take responsibility for their actions, minimized the seriousness of their crime, and/or were not truthful about confirmable information available in the offenders' criminal record or case file. 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. The mentions of treatment concerns revolved around the need for the offender to complete an ongoing course of treatment or to receive additional treatment, especially by participating in a specific therapeutic community for such issues as mental health, substance abuse, anger or domestic violence. A poor parole plan was indicated in comments about inadequate preparation for housing, social supports, employment, education and other such re-entry considerations. Time-related comments indicated that a release on the MRD or the SDD was impending and that a discretionary release was moot or that the offender's crime warranted additional incarceration time. The mentions of program concerns revolved around the failure of an offender to complete programs; the need for the offender to complete an ongoing program; or for the offender to receive additional programming to address life skills, cognitive skills and/or vocational and educational needs.

**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.**

For these 1,019 *departure decisions to defer*, Board members mentioned one of the above seven reason categories in 1,679 instances. Board members mentioned a single category of concern in 516 cases, two categories in 382 cases, and more than two categories 121 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 1,019 decisions, the percentage of cases where a departure category was mentioned was as follows:<sup>58</sup>

- Risk concerns, 74.4% (758/1,019 cases where the category was mentioned)
- Attitude or presentation concerns, 23.4% (238 cases)
- Need to transition to or stabilize in a community corrections placement, 17.7% (180 cases)
- Treatment participation or need considerations, 13.7% (140 cases)
- Parole plan quality, 13.4% (137)

<sup>58</sup> Percentages total more than 100% because more than one category was mentioned in 503 of the 1,019 cases.

- Time served, file review, or imminent MRD/SDD, 11.6% (118 cases)
- Program participation or need considerations, 10.6% (108 cases)

Of these 1,019 offenders, 482 were the lower risk/higher readiness offenders identified above as the better candidates for release (blue outline at upper left of Table 9). For this group, there were 1,084 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;
- Attitude or presentation concerns; and
- Need to transition to or stabilize in a community corrections placement.



## Findings: File Reviews

**Sample (File Reviews).** The FY 2016 sample of 7,329 hearings included 516 total file reviews of which 513 were conducted as “regular” hearings and 3 were subsequently referred for full Board review.<sup>59</sup> Of the 513 file reviews, 388 were for release applicants who were not labeled sex offenders and 125 were reviews for applicants who were labeled sex offenders. Of the three file reviews referred to full Board, two were for release applicants who were not labeled sex offenders and one was for an applicant labeled a sex offender. File review outcomes specific to full Board reviews and to inmates labeled a sex offender may be found in subsequent sections below specific to these offenders.

Of the 516 total file reviews, 199 offenders (38.6%) were deferred (and 96.0% of these were within 6 months of MRD), 295 offenders (57.2%) were “deferred to MRD” (and 99.0% of these were within 6 months of MRD), and 22 offenders (4.3%) were released (and 77.3% of these were within 6 months of MRD).

As mentioned previously, a PBRGI recommendation is generated only when the inmate is not labeled a sex offender.<sup>60</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 the time period prior to the MRD. Special needs designations (which are related to medical conditions) are not available for analysis.

**Offenders who were the subject of a file review represented 12.2% of the PBRGI sample and, because they were higher in risk and lower in readiness, were deferred 95.7% of the time.**

**PBRGI Decision Matrix Assignment (File Reviews).** Table 10 provides the number and percentage of the 388 file reviews from the FY 2016 PBRGI “regular” hearing sample assigned to each of the 15 risk/readiness positions in the PBRGI decision matrix. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer. Overall, the largest percentages of offenders across the five risk levels and across the three readiness levels were the 30.9% (120 of 388) in the “very high” risk category and the 76.0% (295 of 388) in the “low” readiness category, respectively. In the “release area” of the matrix, the largest

<sup>59</sup> The statutory conditions under which the Board may choose to conduct a file review are provided in Section Three: Board Decision Types.

<sup>60</sup> The explanation for the exclusion of sex offenders from the PBRGI analyses may be found on page 18.

**Table 10. FY 2016 PBRGI sample - File Reviews: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination (n=388)**

<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	16	53	78
	% within Very Low Risk	11.5%	20.5%	67.9%	100.0%
	% within Readiness Category	31.0%	25.0%	18.0%	20.1%
	% of Total	2.3%	4.1%	13.7%	20.1%
<b>2 Low</b>	Count	8	10	37	55
	% within Low Risk	14.5%	18.2%	67.3%	100.0%
	% within Readiness Category	27.6%	15.6%	12.5%	14.2%
	% of Total	2.1%	2.6%	9.5%	14.2%
<b>3 Medium</b>	Count	3	14	56	73
	% within Medium Risk	4.1%	19.2%	76.7%	100.0%
	% within Readiness Category	10.3%	21.9%	19.0%	18.8%
	% of Total	0.8%	3.6%	14.4%	18.8%
<b>4 High</b>	Count	4	11	47	62
	% within High Risk	6.5%	17.7%	75.8%	100.0%
	% within Readiness Category	13.8%	17.2%	15.9%	16.0%
	% of Total	1.0%	2.8%	12.1%	16.0%
<b>5 Very High</b>	Count	5	13	102	120
	% within Very High Risk	4.2%	10.8%	85.0%	100.0%
	% within Readiness Category	17.2%	20.3%	34.6%	30.9%
	% of Total	1.3%	3.4%	26.3%	30.9%
<b>Total in Readiness Category</b>	Count	29	64	295	388
	% within Risk Category	7.5%	16.5%	76.0%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	7.5%	16.5%	76.0%	100.0%

percentage of offenders who were the subject of a file review were found in the “low” readiness and “very low” risk matrix category (13.7%; 53 of 388). In the “defer area” of the matrix, the largest percentage of offenders who were the subject of a file review were found in the “low” readiness and “very high” risk matrix category (26.3%; 102 of 388).

**Parole Board Decision (File Reviews).** Of the 388 PBRGI-related file reviews, Board members designated 19 (4.9%) offenders for release and 369 (95.1%) offenders for deferral (of which 160 were deferred to a subsequent hearing date and 209 were deferred to their MRD) (see Table 11). This 95.1% rate of deferral decisions by Board members for file reviews was nearly 40% higher than the rate of deferral for “regular” hearings (68.1% of 4,216 hearings). The recommendations generated by the PBRGI for the 388 file reviews included 117 (30.2%) recommendations for release and 271 (69.8%) recommendations for deferral. Comparable to the increased rate of deferral by Board members for file reviews, the percentage of PBRGI recommendations for deferral was nearly 45% higher for file reviews (69.8%) than for “regular” hearings (48.3% of 4,216 hearings).

This higher deferral rate by the Board and the corresponding higher percentage of PBRGI advisory recommendations for deferrals 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 46.9% were in the “high” or “very high” risk categories (compared to 37.9% of inmates in “regular” hearings). Relatedly, 76.0% of the inmates who were the subject of file reviews had a “low” readiness rating (compared to 42.0% of inmates in “regular” hearings).

Of the 388 inmates subject to a file review, 378 (97.4%) met one or both of the two file review conditions for which data were available: 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 377 were within six months of the MRD. There were five offenders (1.3%) who were between seven and 14 months of their MRD and five offenders (1.3%) who were more than 14 months from their MRD when their file reviews were conducted.

**Board/PBRGI Agreement (File Reviews).** Collapsing release and deferral *agreements* on file reviews (between Board decisions and PBRGI recommendations), *74.7% of file review decisions agreed with the PBRGI advisory recommendations* (see Table 11). This combined agreement percentage (74.7%) includes

**Table 11. FY 2016 PBRGI sample - File Reviews: Overall counts and percentages of Board file review decisions by PBRGI advisory recommendations (n=388) \***

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count	133	27	160
	Percent	34.3%	7.0%	41.2%
Defer to Mandatory Release Date	Count	138	71	209
	Percent	35.6%	18.3%	53.9%
		<i>Total Defer = 271</i>	<i>Total Defer = 98</i>	<i>Total Defer = 369</i>
		69.8%	25.3%	95.1%
Release	Count	0	19	19
	Percent	0.0%	4.9%	4.9%
<b>Total of PBRGI Recommendations</b>		271	117	388
		69.8%	30.2%	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.

the degree of release agreement (16.2% or 19 agreements within the 117 release recommendations) and the degree of deferral agreement (100.0% or 271 agreements within the 271 defer recommendations). The degree of deferral agreement is approximately five times higher than the degree of release agreement.

**Collapsing across all file review decisions, 74.7% of Board decisions agreed with the PBRGI advisory recommendations.**

Collapsing release and deferral *departures* on file reviews (between Board decisions and PBRGI recommendations), 25.3% of full Board review decisions departed from the PBRGI recommendations. This combined departure percentage (25.3%) includes the degree of release departure (83.8% or 98 departures within the 117 release recommendations) and the degree of deferral departure (0.0% or 0 departures

within the 271 defer recommendations). From a release perspective, the overall rate of release agreement for file reviews was four times smaller than the overall rate of release departure, 16.2% vs. 83.8%. From a deferral perspective, the overall rate of deferral agreement for file reviews was a maximum 100% because there were no deferral departures.

## Findings: Full Board Reviews

**Sample (Full Board Reviews).** The FY 2016 hearing sample included 1,128 full Board reviews for non-sex offenders that occurred subsequent to an initial hearing conducted by a Board member. This Board member may refer a parole applicant to a full Board review for any reason at the Board member's discretion or if the parole applicant's crime involved violence.<sup>61</sup> Of the three file reviews referred to full Board, two were for release applicants who were not labeled sex offenders and one was for an applicant labeled a sex offender.

**PBRGI Decision Matrix Assignment (Full Board Reviews).** Table 12 provides the number and percentage of full Board reviews from the FY 2016 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. Overall, the largest percentage of offenders among the five risk levels and the largest among the three readiness levels were the 52.5% (592/1,128) in the "very low" risk category and the 74.0% (835/1,128) in the "high" readiness category, respectively. The largest percentage of offenders in the "release area" of the matrix was found in the "high" readiness/"very low" risk category (40.0% or 451 of 1,128). The largest percentage of offenders in the "defer area" of the matrix was found in the "high" readiness/"very high" risk category (3.7% or 42 of 1,128).

**Of full Board reviews, the largest percentage of offenders in the PBRGI matrix (40.0%) were "very low" in risk and "high" in readiness.**

**Parole Board Decisions (Full Board Reviews).** Of the 1,128 full Board reviews, Board members designated 599 (53.1%) offenders for release and 529 (46.9%) offenders for deferral (see Table 13). Of the 529 designated for deferral, 515 were deferred to a subsequent hearing date and 14 were deferred to their MRD. This 53.1% rate of release in full Board reviews was approximately 40% higher than the rate of release for "regular" hearings (31.9% of 4,216 hearings). Of the 1,128 offenders, the PBRGI recommended 1,028 (91.1%) offenders for release and 100 (8.9%) for deferral. Of the two non-sex offenders whose file review was subsequently referred to the full Board, one was released and one was deferred.

<sup>61</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 in *Rule 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* at: [sos.state.co.us/CCR/](http://sos.state.co.us/CCR/) (Browse or search for Rule 1511-1).

**Table 12. FY 2016 PBRGI sample - Full Board Reviews: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination (n=1,128)**

<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	451	100	41	592
	% within Very Low Risk	76.2%	16.9%	6.9%	100.0%
	% within Readiness Category	54.0%	43.1%	67.2%	52.5%
	% of Total	40.0%	8.9%	3.6%	52.5%
<b>2 Low</b>	Count	168	61	9	238
	% within Low Risk	70.6%	25.6%	3.8%	100.0%
	% within Readiness Category	20.1%	26.3%	14.8%	21.1%
	% of Total	14.9%	5.4%	0.8%	21.1%
<b>3 Medium</b>	Count	105	33	3	141
	% within Medium Risk	74.5%	23.4%	2.1%	100.0%
	% within Readiness Category	12.6%	14.2%	4.9%	12.5%
	% of Total	9.3%	2.9%	0.3%	12.5%
<b>4 High</b>	Count	69	20	4	93
	% within High Risk	74.2%	21.5%	4.3%	100.0%
	% within Readiness Category	8.3%	8.6%	6.6%	8.2%
	% of Total	6.1%	1.8%	0.4%	8.2%
<b>5 Very High</b>	Count	42	18	4	64
	% within Very High Risk	65.6%	28.1%	6.3%	100.0%
	% within Readiness Category	5.0%	7.8%	6.6%	5.7%
	% of Total	3.7%	1.6%	0.4%	5.7%
<b>Total in Readiness Category</b>	Count	835	232	61	1,128
	% within Risk Category	74.0%	20.6%	5.4%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	74.0%	20.6%	5.4%	100.0%

**Table 13. FY 2016 PBRGI sample - Full Board Reviews: Overall counts and percentages of full Board review decisions by PBRGI advisory recommendations (n=1,128) \***

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count	80	435	515
	Percent	7.1%	38.6%	45.7%
Defer to Mandatory Release Date	Count	2	12	14
	Percent	0.2%	1.1%	1.2%
		<i>Total Defer = 82</i>	<i>Total Defer = 447</i>	<i>Total Defer = 529</i>
		7.3%	39.6%	46.9%
Release	Count	18	581	599
	Percent	1.6%	51.5%	53.1%
Total of PBRGI Recommendations		Count	100	1,028
		Percent	8.9%	91.1%
				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 release rate by the Board and the higher rate of PBRGI release recommendations for the offenders referred to full Board review may be traced those who were categorized by the PBRGI in the two lowest levels of risk (73.6%; 830 of 1,128) and/or in the two highest levels of readiness (94.6%; 1,067 of 1,128)

**Board/PBRGI Agreement (Full Board Reviews).** Collapsing the two sources of *agreement* (between corresponding PBRGI recommendations and Board decisions to release and to defer), *58.8% of full Board review decisions agreed with the PBRGI recommendations* (see Table 13). The combined agreement percentage (58.8%) includes the degree release agreement (56.5%; 581 of 1,028) and the degree of deferral agreement (82.0%; 82 of 100). The degree of deferral agreement was 45.1% higher than the degree of release agreement. When making full Board review decisions, the Board demonstrated a greater likelihood to agree with the PBRGI recommendation to release than when making decisions alone: 51.5% vs. 27.5% release agreement rates, respectively.

**Collapsing across all full Board decisions, 58.8% of Board decisions agreed with the PBRGI advisory recommendations.**

Collapsing across the two sources of *departure* (between PBRGI recommendations and Board decisions to

release and to defer), 41.2% of full Board review decisions departed from the PBRGI recommendations. The combined departure percentage (41.2%) includes the degree release departure (43.5%; 447 of 1,028) and the degree of deferral departure (18.0%; 18 of 100).

From a release perspective, the overall rate of release agreement for full Board reviews was 30% higher than the overall rate of release departure, 51.5% vs. 39.6%. From a deferral perspective, the overall rate of deferral agreement for full Board reviews was 356% higher than the overall rate of deferral departure, 7.3% vs. 1.6%.

**Departure Reasons (Full Board Reviews).** As mentioned previously, statute requires that Board members provide a departure reason when the release application hearing decision departs from the advisory recommendation.<sup>62</sup> This section summarizes these reasons entered by Board members when departing from the advisory recommendation following a full Board review. The process of full Board decision-making does not easily lend itself to the recording of departure reasons. The full Board deliberation and discussion is conducted with no fewer than four, but often with all seven, of the Parole Board members. Each member may offer a unique perspective on the same decision to release or the same decision to defer. Most often, “full Board decision” was entered as the departure reason, rather than attempting to reflect diverse, but concurring, views expressed during the full Board review or to reflect differing views on a release or defer decision. Nonetheless, a summary of the departure reasons is provided here.

Of the 41.2% (465 of 1,128) of full Board 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 447 decisions to defer or defer to MRD when release was recommended, representing 39.6% of all full Board decisions, and for the 18 decisions to release when defer was recommended, representing 1.6% of all full Board decisions (see Table 13).

For the 447 *release departures*, Board members provided 717 unique departure reasons for these decisions to defer. The Board entered “full Board decision” as the departure reason in 361 instances. Of these 361 instances, “full Board decision” was noted as the sole reason in 259 cases and “full Board decision” was combined with at least one additional reason for the remaining 102 cases. For 86 of 447 cases, at least one

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<sup>62</sup> See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.



reason other than “full Board decision” was offered.

Using the seven departure reason categories described above along with the “full Board decision” reason, Board members mentioned one of the eight reason categories in 608 instances. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. The percentage of the 447 cases where a departure *category* was mentioned was as follows:<sup>63</sup>

- Full Board decision, 80.8% (361/447 cases where this category was mentioned)
- Risk concerns, 39.4% (176 cases)
- Attitude or presentation concerns, 7.6% (34 cases)
- Parole plan quality, 2.5% (11 cases)
- Need to transition to or stabilize in a community corrections placement, 2.0% (9 cases)
- Program participation or need considerations, 1.3% (6 cases)
- Time served is inadequate or imminent MRD/SDD, 1.3% (6 cases)
- Treatment participation or need considerations, 1.1% (5 cases)

For the 18 *deferral* departures, Board members provided 42 unique departure reasons for these decisions to defer. The Board entered “full Board decision” as the departure reason in 11 instances. Of these 11 instances, “full Board decision” was noted as the sole reason for five cases and “full Board decision” was combined with at least one additional reason for the remaining six cases. For seven of 18 cases, at least one reason other than “full Board decision” was offered.

Using the seven departure reason categories described above along with the “full Board decision” reason, Board members mentioned one of six reason categories in 33 instances. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. The percentage of the 18 cases where a departure *category* was mentioned was as follows:<sup>64</sup>

- Full Board decision, 61.1% (11/18 cases where this category was mentioned)
- Parole plan quality, 44.4% (8 cases)
- Demonstrated growth/positive attitude, 44.4% (8 cases)
- Performance in the community, 16.7% (3 cases)

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<sup>63</sup> Percentages total more than 100% because more than one category was mentioned in 128 of the 447 cases.

<sup>64</sup> Percentages total more than 100% because more than one category was mentioned in 7 of the 18 cases.

- Program participation considerations, 11.1% (2 cases)
- Treatment participation considerations, 5.6% (1 case)

## 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. For individuals classified as sex offenders, pursuant to §17-22.5-404 (4)(c)(II), C.R.S., parole release decisions are guided by criteria created by the Sex Offender Management Board (SOMB).<sup>65</sup> The statute however indicates that summary information should be provided for all decisions (§17-22.5-404 (6)(a), C.R.S.).

When considering the release of an individual labeled a sex offender to parole, it is the practice of the Board to refer nearly all of these individuals to the full Board for review, but only if they have met a significant number of treatment benchmarks and fulfilled the other standard release considerations. Those who are not considered appropriate for release are typically deferred at the time of the “regular” hearing without a referral to full Board consideration. Therefore, it is the practice of the Board to release offenders only after a full Board review and only rarely following a “regular” hearing.

Of the 1,985 individuals labeled a sex offender who were seen in initial (“regular”) hearings, 1.1% (or 22) were released, 67.5% (1,339) were deferred, and 31.4% (624) were referred to a full Board hearing for further review. Of the 624 individuals referred to full Board reviews, 46.0% (287) were released and 54.0% (337) were deferred. The difference in the release rate between “regular” hearings and full Board reviews (1.1% vs. 46.0%) is evidence of the Board’s practice to release sex offenders following a full Board review, as mentioned above. Combining the decision outcomes of “regular” and full Board hearings, the overall percentages of decisions for the 1,985 individuals labeled a sex offender were: 15.6% (309) release and 84.4% (1,676) defer.

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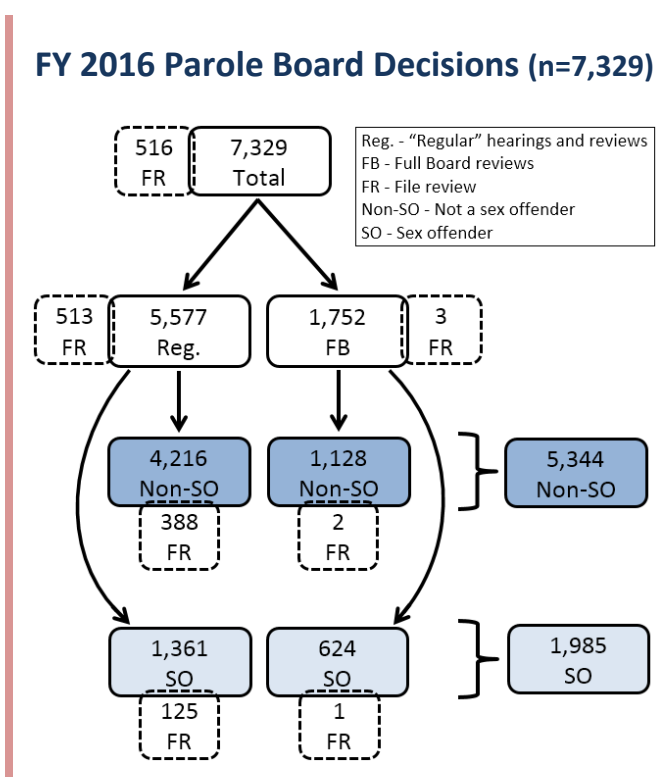
<sup>65</sup> These criteria may be found in the document entitled *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (2011)*, in Appendix J: Parole Guidelines for the Discretionary Release on Determinate-Sentenced Sex Offenders (determinate 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: [colorado.gov/dcj/somb-standards-bulletins](http://colorado.gov/dcj/somb-standards-bulletins).

Of the 1,361 “regular” hearings involving those labeled a sex offender, there were 125 (or 34.6%) file reviews following which one offender was released and the remaining were deferred. Of the 624 full Board reviews for those labeled a sex offender, one had been referred following a file review and this offender was released.

### Summary: FY 2016 Findings

These FY 2016 analyses represent the third full year of Board hearings following the FY 2013 implementation. The FY 2016 hearings sample included 7,329 release application hearings conducted by members of the Parole Board and finalized between July 1, 2015 and June 30, 2016.

Just over 8,000 application hearings were excluded from the sample because the related decisions were 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 the release was a required re-parole following a parole revocation. Also, relative to previous fiscal years, there were fewer discretionary hearing records included in the sample because: a) a statutory change eliminated the parole hearing eligibility for those with a recent institutional behavior violation or a program refusal and b) a methodological change was implemented to remove records where, although there was a decision to release, the release was still pending when the fiscal year ended.<sup>66</sup>



**Sample.** The following is a summary of the FY 2016 hearing decision sample and subsamples:

- Of the 7,329 release application hearings, 5,577 were “regular” hearings and 1,752 were full Board reviews. Of the 7,329 cases, the Board conducted 516 file reviews.<sup>67</sup> Of this same overall hearing total,

<sup>66</sup> See pages 24-25 for an explanation of these changes to the FY 2016 sample.

<sup>67</sup> The statutory conditions under which the Board may choose to conduct a file review are found in Section Three: Board Hearing Types.

5,344 hearings were conducted for those who were not labeled a sex offender and 1,985 were conducted for those who were labeled a sex offender.

- Of the 5,577 “regular” hearings, 4,216 cases involved those who were not labeled a sex offender and 1,361 cases involved those who were labeled a sex offender. Of the 1,752 full Board reviews, 1,128 reviews involved those who were not labeled a sex offender and 624 reviews involved those who were labeled a sex offender.<sup>68</sup> Of the 4,216 and 1,361 subgroups of “regular” hearings, the Board conducted 388 and 125 file reviews, respectively.
- The PBRGI sample of hearings included the 4,216 “regular” hearings and 1,128 full Board reviews of non-sex offenders.

**Findings.** The following is a summary of the FY 2016 findings.

- For this FY 2016 PBRGI sample of 4,216, the Board designated 1,346 (31.9%) offenders for release and 2,870 (68.1%) offenders for deferral (of which 2,507 were deferred to a subsequent hearing date and 363 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 2,179 (51.7%) offenders for release and 2,037 (48.3%) for deferral.
- Collapsing across the decisions to release or to defer, 71.4% of all Board member decisions agreed with the PBRGI advisory recommendation. The overall agreement percentage (71.4%) combines the rate of release agreement (53.2% or 1,160 agreements within the 2,179 release recommendations) and the rate of deferral agreement (90.9% or 1,851 agreements within the 2,037 defer recommendations).
- Collapsing across the decisions to release or to defer, 28.6% of all decisions departed from the PBRGI advisory recommendation. The overall departure percentage (28.6%) combines the rate of release departure (46.8% or 1,019 departures within the 2,179 release recommendations) and the rate of deferral departure (9.1% or 186 departures within the 2,037 defer recommendations).
- The PBRGI categorized 47.6% of the offenders in the FY 2016 sample as “low” or “very low” risk, 58.0% as “high” or “medium” readiness, and 30.5% in both these lower risk *and* higher readiness categories. Conversely, the PBRGI categorized 37.9% of the offenders as “high” or “very high” risk, 67.7% as “medium” or “low” readiness, and 28.0% in both these higher risk *and* lower readiness categories.

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<sup>68</sup> The explanation for the exclusion of sex offenders from the PBRGI analyses may be found on page 18.

- Of the 4,216 PBRGI sample of offenders, 1,112 or 26.4% were within 14 months of their MRD (and 63.2% of these were deferred or deferred to MRD) and 575 or 13.6% were within six months of their MRD (and 82.6% of these were deferred or deferred to MRD).
- Of the 363 offenders who were “deferred to MRD,” 291 (80.2%) were to discharge their sentence in six or less months, 64 (11.9%) were to discharge their sentence between seven and 14 months, and 8 (0.2%) were to discharge their sentence in more than 14 months.
- Applying the current PBRGI sample selection criteria<sup>69</sup> to all four reporting years, FY 2013, FY 2014, FY 2015 and FY 2016, the Board designated 38.8%, 31.9%, 32.0% and 31.9% of inmates for release, respectively, while the PBRGI recommended 53.5%, 49.5%, 51.5% and 51.7% of inmates for release, respectively.
- Applying the current PBRGI sample selection criteria<sup>70</sup> to all four reporting years, FY 2013, FY 2014, FY 2015 and FY 2016, the overall percentage of agreement was 69.0%, 72.4%, 72.4% and 71.4%, respectively.
- *Of the PBRGI advisory recommendations to release*, the Board decision *agreed* in 53.2% (1,160) of cases. Of these 1,160 decisions, 880 (75.9%) offenders were categorized as “very low” or “low” risk, 1,082 (93.3%) were categorized with “high” or “medium” readiness and 802 (69.1%) occupied both these lower risk and higher readiness categories. The most frequent matrix position within the 1,160 release agreements was found for offenders who were “very low” in risk and “high” in readiness (35.2%; 408 of 1,160).
- *Of the PBRGI advisory recommendations to defer*, the Board decision *agreed* in 90.9% (1,851) of cases. Of these 1,851 decisions, 1,275 (68.9%) offenders were categorized as “high” or “very high” risk, 1,688 (91.2%) were categorized with “medium” or “low” readiness, and 1,112 (60.1%) occupied both these higher risk and lower readiness categories. The most common of the 1,851 deferral agreements was found for offenders who were “very high” in risk and “low” in readiness (26.5%; 490 of 1,851).
- *Of the PBRGI advisory recommendations to release*, the Board decision *departed* in 46.8% (1,019) of cases. Of these 1,019 instances, 833 (81.7%) were categorized by the PBRGI as “low” or “very low” risk, 668 (65.6%) were in the “medium” or “high” readiness categories, and 482 (47.3%) occupied both these lower risk and higher readiness categories. The most frequent matrix position within the 1,019 release departures was found for offenders who were “very low” in risk and “low” in readiness (34.4%; 351 of 1,019).

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<sup>69</sup> See pages 24-25 for an explanation of these changes to the FY 2016 sample.

<sup>70</sup> See Footnote 69.

- *Of the PBRGI advisory recommendations to defer*, the Board decision *departed* in 9.1% (186) cases. Of these 186 instances, 168 (90.3%) offenders were categorized by the PBRGI as “high” or “very high” risk, 88 (47.3%) were in the “low” or “medium” readiness categories, and 70 (37.6%) occupied both these higher risk and lower readiness categories. The most common of the 186 deferral departures was found for offenders who were “very high” in risk and “high” in readiness (52.7%; 98 of 186).
- 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 to address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management).
- The departure reasons entered by the Board *for the decisions to defer rather than release* included concerns related to the seriousness of the crime of conviction or other risk considerations, untreated criminogenic needs (for example, impulse control deficits, antisocial attitudes/values, substance abuse, and anger issues), a lack of accountability for one’s actions, the need for additional time to stabilize in community corrections placements, the inadequate quality of the parole plan (for example, homeless parole plans), the need for additional program or treatment interventions, and/or inadequate time served relative to the sentence.
- The FY 2016 sample of 7,329 included 516 file review decisions, which do not require the presence of the inmate as defined in statute.<sup>71</sup> Of these 516 cases, 388 involved those who were not labeled a sex offender and 125 involved those labeled a sex offender. An analysis of these reviews found:
  - Of the 388 PBRGI-related file reviews, Board members designated 19 (4.9%) offenders for release and 369 (95.1%) offenders for deferral (of which 160 were deferred to a subsequent hearing date and 209 were deferred to their MRD). Of the 388 file reviews, the PBRGI recommended 117 (30.2%) recommendations for release and 271 (69.8%) recommendations for deferral.
  - Of these 388 inmates, one had an active U.S. Immigration and Customs Enforcement detainer, 377 were within six months of their MRD, five were between seven and 14 months of their MRD and five were more than 14 months from their MRD when their file reviews were conducted.
  - Collapsing release and deferral agreements overall (between corresponding Board decisions and

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<sup>71</sup> The statutory conditions under which the Board may choose to conduct a file review are found in Section Three: Board Hearing Types.

PBRGI recommendations to defer or to release), *74.7% of file review decisions agreed with the PBRGI recommendations.*

- This combined agreement percentage (74.7%) includes the degree of release agreement (16.2% or 19 agreements within the 117 release recommendations) and the degree of deferral agreement (100.0% or 271 agreements within the 271 defer recommendations).
- The 388 inmates who were the subject of a file reviews were placed in the PBRGI risk/readiness matrix at the following percentages: 46.9% were in the “high” or “very high” risk categories (compared to 37.9% of inmates in non-file review hearings) and 76.0% were found in the “low” readiness category (compared to 42.0% of inmates in non-file review hearings).
- A separate analysis of the 1,128 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), 58.8% 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 (588 or 53.1%) and, combining the two types of deferral, a smaller percentage for deferral (529 or 46.9%). [As indicated above, individual Board member decisions in “regular” hearings designated 1,346 offenders (or 31.9%) for release and 2,807 offenders (or 68.1%) for deferral.]
  - Of these 1,128 full Board reviews, the PBRGI recommended 1,028 (91.1%) offenders for release and 100 (8.9%) for deferral. The PBRGI categorized 73.6% of these offenders as “very low” or “low” risk, hence the large percentage of release recommendations.
  - Compared to individual board member decisions, the agreement between full Board reviews and PBRGI recommendations to defer was lower (90.9% versus 82.0%, respectively), but the agreement between full Board reviews and PBRGI recommendations to release was higher (53.2% versus 56.6%, respectively).
- As mentioned previously, a PBRGI recommendation is not displayed for those labeled a sex offender. The findings regarding parole application decisions for those labeled a sex offender are as follows:
  - When considering the release of an individual labeled a sex offender to parole, it is the practice of the Board to refer nearly all of these individuals to the full Board for review, but only if they have met a significant number of treatment benchmarks and fulfilled the other standard release considerations. Those who are not considered appropriate for release are typically deferred at the

time of the “regular” hearing without a referral to full Board consideration. Therefore, it is the practice of the Board to release offenders only after a full Board review and only rarely following a “regular” hearing.

- Of the 1,985 individuals labeled a sex offender who were seen in initial (“regular”) hearings, 1.1% (or 22) were released, 67.5% (or 1,339) were deferred, and 31.4% (624) were referred to a full Board hearing for further review. Of the 624 individuals referred to full Board reviews, 46.0% (287) were released and 54.0% (337) were deferred. The difference in the release rate between “regular” hearings and full Board reviews (1.1% vs. 46.0%) is evidence of the Board’s practice to release sex offenders following a full Board review, as mentioned above.
- Combining the decision outcomes of “regular” and full Board hearings, the overall percentages of decisions for the 1,985 individuals labeled a sex offender were 15.6% (309) release and 84.4% (1,676) defer.
- Of the 1,361 “regular” hearings involving those labeled a sex offender, there were 125 (or 34.6%) file reviews following which one offender was released and the remaining were deferred. Of the 624 full Board reviews for those labeled a sex offender, one had been referred following a file review and this offender was released.



## 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*	(2020)
Rebecca Oakes, Vice-Chair*	(2020)
Denise K. Balazic*	(2017)
Brandon W. Mathews	(2017)
John M. O'Dell*	(2018)
Alfredo Pena*	(2017)
Alexandra Walker*	(2020)
Brandon Shaffer, Former Chair*	-
Barbara Kelley, Former Member*	-
Marjorie Lewis, Former Member*	-

#### 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 2016 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 PBRGI 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.

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

**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.**

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 recidivism following a release from prison.<sup>72</sup> The CARAS score is based on static (unchangeable)

<sup>72</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).

offender risk factors, for 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>73</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>74</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 community supervision. The baseline risk assignment is not altered for offenders who are not assessed by the member to be successful under community supervision.

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<sup>73</sup>Developed and validated pursuant to §17-22.5-404(2)(a), C.R.S., CARAS, Version 6 (2015) has an AUC=.75.

<sup>74</sup> See the CDOC Administrative Regulation 150-01, Class II: 25(c) at: [colorado.gov/cdoc/policies-1](http://colorado.gov/cdoc/policies-1)



## Readiness Items

**Item #9: Level of Service Inventory-Revised.**<sup>75</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>76</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 CDOC 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 CDOC 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>75</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>76</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**

DECISION ALGORITHM VARIABLES	
RISK VARIABLES (- reduces, + augments, x no affect)	READINESS VARIABLES (- reduces, + augments)
<p><b>#1 Colorado Actuarial Risk Assessment Scale (Risk baseline)</b>                      (1) Very Low (1 - 23)                      (2) Low (24 - 31)                      (3) Medium (32 - 36)                      (4) High (37 - 43)                      (5) Very High (44 - 79)</p> <p><b>#2 Code of Penal Discipline: Victim Threat</b>                      (During period of incarceration)                      ( x ) None                      ( + ) Yes</p> <p><b>#3 Code of Penal Discipline: Class I Offense</b>                      ( - ) None in past 12 months                      ( + ) At least 1 in past 12 months</p> <p><b>#4 Code of Penal Discipline: Class II Offense</b>                      (Other than Victim Threat)                      ( - ) None in past 3 months                      ( + ) At least 1 in past 3 months</p> <p><b>#5 Escape/Abscond or Attempt</b>                      ( x ) None                      ( + ) Yes, Escape/Abscond or Attempt</p> <p><b>Risk moderators</b></p> <p><b>#6</b> ( - ) Yes, 60 yrs. or older  <b>#7</b> ( - ) Yes, med. condition reduces reoffense risk  <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 (Readiness baseline)</b>                      (0) Low (39 - 54)                      (1) Medium (30 - 38)                      (2) High (21 - 29)                      (3) Very High (0 - 20)</p> <p><b>#10 Level of Service Inventory: Rater Boxes</b>                      ( + ) Yes (Avg. 2.50-3.00)                      ( + ) Yes (Avg. 2.00-2.49)                      ( - ) No (Avg. .50 - 1.99)                      ( - ) No (Avg. 0-.49)</p> <p><b>#11 Program Participation/Progress*</b>                      ( + ) Good outcome/ intent -or- NA /Wait listed                      ( + ) Acceptable outcome/intent                      ( - ) Weak/unclear outcome/intent                      ( - ) Poor outcome/intent</p> <p><b>#12 Treatment Participation/Progress*</b>                      ( + ) Good outcome/ intent -or- NA /Wait listed                      ( + ) Acceptable outcome/intent                      ( - ) Weak/unclear outcome/intent                      ( - ) Poor outcome/intent</p> <p><b>#13 Parole Plan*</b>                      ( + ) Good                      ( + ) Acceptable                      ( - ) Weak                      ( - ) Poor</p> <p style="text-align: right;"><i>(*PB Input)</i></p>
DECISION ALGORITHM COMPUTATIONS AND CATEGORIES	
<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                      2) Low = 2.00 - 2.99      5) Very High = 5 or above                      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                      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>77</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.

<sup>77</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>



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