

Analysis of Colorado State Board of Parole Decisions: FY 2017 Report

Pursuant to § 17-22.5-404(6)

April 2018

Colorado Division of Criminal Justice

Analysis of Colorado State Board of Parole Decisions: FY 2017 Report

Pursuant to § 17-22.5-404 (6), C.R.S.

April 2018

Prepared by

Kevin L. Ford, Ph.D.

Statistical Analyst, Office of Research and Statistics

Colorado Division of Criminal Justice

Stan Hilkey, Executive Director
Colorado Department of Public Safety

Joe Thome, Director
Division of Criminal Justice

Kim English, Research Director
Office of Research and Statistics

700 Kipling Street, Suite 1000
Denver, Colorado 80215
<https://www.colorado.gov/dcj-ors>
Kevin.Ford@state.co.us

This page intentionally left blank

Contents

iii	Contents
iv	Tables
v	Appendices Figures
vi	Acknowledgements
01	Executive Summary
13	<i>Reflections from the Parole Board</i>
15	Section One: Introduction
17	Section Two: Parole Board Automated Decision Support System
17	Parole Board Hearing Application Portal
18	Parole Board Release Guideline Instrument (PBRGI)
21	Parole Board Revocation Projects
23	Section Three: Hearings, Decisions and Study Sample
23	Board Hearing Types
24	Board Decision Types
25	FY 2017 Sample Selection
26	FY 2017 Overall Sample
27	FY 2017 PBRGI Sample
29	Section Four: FY 2017 Findings - Parole Board Decisions
29	PBRGI Decision Matrix Assignment
29	Parole Board Decisions
33	Board/PBRGI Agreement
36	Decision Agreement by Matrix Assignment
39	Decision Agreement by Decision Type
44	Departure Reasons
49	Findings: File Reviews
54	Findings: Full Board Reviews
59	Findings: Decisions Regarding Sex Offenders
60	Summary: FY 2017 Findings
67	Appendices
69	A: Colorado State Board of Parole (FY 2017)
71	B: Parole Board Release Guideline Instrument: Item and Matrix Descriptions

Tables

30	Table 1	FY 2017 PBRGI sample: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination
32	Table 2	FY 2017 PBRGI sample: Counts and percentages of Parole Board decisions within each PBRGI risk/readiness matrix combination
33	Table 3	FY 2017 PBRGI sample: Overall counts and percentages of Parole Board hearing decisions by PBRGI advisory recommendations
35	Table 4	PBRGI samples: Percentage of Board decisions, PBRGI recommendations, and decision agreement by fiscal year
37	Table 5	FY 2017 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
40	Table 6	FY 2017 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,318 <u>Board release decisions that agree with the PBRGI recommendation to release</u>
40	Table 7	FY 2017 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 2,592 <u>Board deferral decisions that agree with the PBRGI recommendation to defer</u>
42	Table 8	FY 2017 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 287 <u>Board release decisions that do not agree with the PBRGI recommendation to defer</u>
42	Table 9	FY 2017 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,153 <u>Board deferral decisions that do not agree with the PBRGI recommendation to release</u>
49	Table 10	Total File Reviews by Fiscal Year with Parole Board decisions and the six months to MRD eligibility criterion
51	Table 11	FY 2017 PBRGI sample - File Reviews: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination (n=647)
53	Table 12	FY 2017 PBRGI sample - File Reviews: Overall counts and percentages of Board file review decisions by PBRGI advisory recommendations (n=647)
55	Table 13	FY 2017 PBRGI sample - Full Board Reviews: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination (n=1,291)
56	Table 14	FY 2017 PBRGI sample - Full Board Reviews: Overall counts and percentages of full Board review decisions by PBRGI advisory recommendations (n=1,291)

Appendices Figures

- 76** **Figure B1** PBRGI risk and readiness variables and algorithm calculations and categories
- 78** **Figure B2** Advisory release decision recommendation matrix with risk and readiness categories and associated recommendations

Acknowledgements

The preparation of this report depends on the assistance of many individuals at the Colorado State Board of Parole, especially Anne Andrews, Parole Board Analyst, who provides and offers guidance regarding Colorado Department of Corrections (CDOC) data and data tables and Parole Board Administrator Jennifer Wagoner who provided feedback and guidance throughout the year on Board policies, processes and procedures. Parole Board Chair Joe Morales, Vice Chair Rebecca Oakes, and the current and former Board members and Board staff are acknowledged for their dedication to the public safety of the citizens of Colorado.

A special thank you is extended to Beth Horton Klingensmith and Mike Goatee of the CDOC/Office of Planning and Analysis (OPA) who provide ongoing assistance with CDOC data and data systems.

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

Additionally, at the office of Time & Release Operations at the Department of Corrections, Mary Carlson, Diana Bergeman (formerly at Time & Release) and Naomi Swisher provided consultation on prison release processes and CDOC databases.

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

This report would not be possible without the contributions of these individuals at the Colorado State Board of Parole, the Colorado Department of Corrections and colleagues in the Colorado Department of Public Safety. Despite this assistance, any errors and omissions are ours alone.

Kevin L. Ford, Ph.D.
Office of Research and Statistics
Division of Criminal Justice
Colorado Department of Public Safety

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 by utilizing effective tools to select the most appropriate candidates for parole. The Board briefly summarizes the collaborative work with the Division of Criminal Justice to introduce additional factors to improve the release guidelines instrument.

BACKGROUND

Introduction. The Colorado State Board of Parole (“the Board”) is created and described in §17-2-201, C.R.S. and it functions under a “type 1 transfer”¹ to the Colorado Department of Corrections (CDOC) pursuant to §24-1-128.5(3), C.R.S. The Board, appointed by the Governor and confirmed by the Colorado State Senate, includes 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.² 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

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

² 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 2017 and the Board mission statement may be found in Appendix A.

from July 1, 2016 through June 30, 2017. This report presents findings on all hearing decisions involving a discretionary release or deferral and, where applicable, on the Board's agreement with or reason for departure from the PBRGI advisory recommendation for these hearings. The report also addresses progress on all statutory mandates related to the Board's decision systems.

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

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 automated Parole Board Release Guideline Instrument (PBRGI) and 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). 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.⁴

The PBRGI is a set of thirteen policy items that combine using two algorithms to create a matrix with two

³ These annual reports are available under "Reference Materials" at colorado.gov/paroleboard/reference-materials-0.

⁴ Prior year reports are available on the ORS/DCJ website at colorado.gov/dcj-ors/ors-reports.

dimensions. The first dimension is *risk of recidivism* and the second dimension is *readiness for parole*. The thirteen items correspond to the release policies identified by CCJJ and the associated release considerations placed in Colorado statute.⁵ 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.⁶ 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.).⁷ 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 PBRGI 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 proposed a project to work with DCJ during FY 2017 and FY 2018 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.

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

⁶ 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).

⁷ 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.

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 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 House Bill 2010-1374, "...using structured decision-making unites the parole board members with a common philosophy and a set of goals and purposes while retaining the authority of individual parole board members to make decisions that are appropriate for particular situations" (§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 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 Parole Board Revocation Automation Project with OIT at CDOC to automate revocation hearings and to collect revocation 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 ongoing project does not appear to include the Parole Board Revocation Guidelines described below.

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 and testing of that system, as mentioned above, is currently ongoing and, as yet, does not appear to include the Parole Board Revocation Guidelines.

FINDINGS

Hearing and Decision Types. The FY 2017 hearings sample included 8,735 release application hearings and reviews conducted by members of the Parole Board between July 1, 2016 and June 30, 2017. 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.

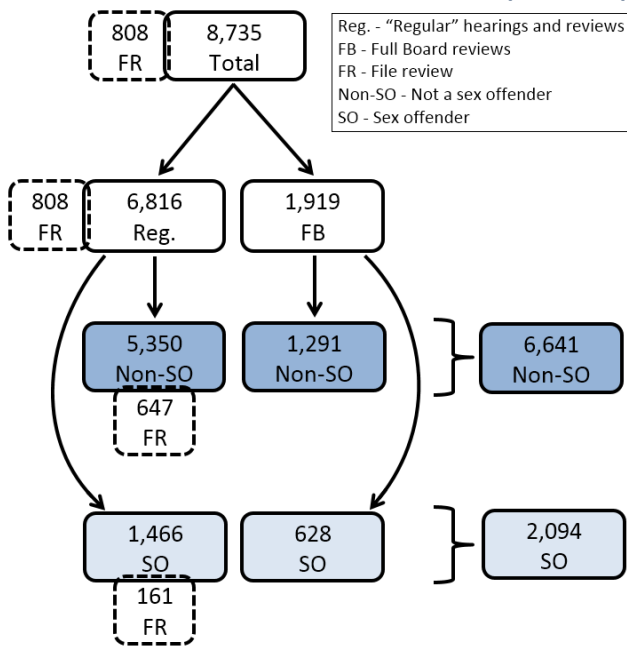
When initially considering an inmate’s application for release to parole, a Board member has four options that ultimately resolve to one of two possible discretionary decisions: to release (grant parole) or to defer (deny parole). In a “regular” or initial hearing, offenders may be released, deferred, tabled, or referred to full Board review.⁸ Full Board reviews conclude with the decision options to release, to defer, or to table. Some offenders are set for release, but are tabled, pending the completion of a specific requirement, such as completing a treatment program. Ultimately, if the requirement is met, the Board releases a tabled offender or, if the requirement is not met, the Board amends the release order and the tabled offender is deferred. 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

⁸ The four decision options may be found in 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/ (Browse or search for Rule 1511-1). The Board has begun to label, “tabled,” as “Conditional Discretionary Release Pending.” The terms, “table” or “tabled,” will be used in this report for simplicity of expression and consistency with the Board *Rules*.

the offender has not demonstrated the potential for successful reintegration into the community or there are public safety concerns.

Over 7,000 hearing records were excluded from the sample because the record was a duplicate, the related decision was not discretionary or the decision was considered moot. For example, hearings were excluded when a deferral was due to an offender’s absence, when a release was based on a court order or when there was a mandatory re-parole following a parole revocation. At the request of the Board, a specific aspect of the sample selection procedure was modified for FY 2017, relative to the FY 2016 sample. The prior procedure excluded hearings where the decision outcome for a release was still pending when the fiscal year concluded. Release decisions may be reversed at any time by the Board prior to the inmate’s release date, primarily due to the behavior of the inmate (for example, a violation of the institutional behavior code). These potential reversals do not reflect the original intent of the Board to grant an inmate’s release. Therefore, these records with pending outcomes were retained, thereby reflecting the Board’s intent to release.

FY 2017 Parole Board Decisions (n=8,735)



Sample. The following is a summary of the FY 2017 hearing decision sample and subsamples:

- Of the 8,735 release application hearings, 6,816 were “regular” hearings and 1,919 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, 6,641 hearings were

conducted for those who were not labeled a sex offender and 2,094 were conducted for those who were labeled a sex offender. Of the 8,735 cases, the Board conducted 808 file reviews.⁹

⁹ 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.

- Of the 6,816 “regular” hearings, 5,350 cases involved those who were not labeled a sex offender and 1,466 cases involved those who were labeled a sex offender.¹⁰ Of the 1,919 full Board reviews, 1,291 reviews involved those who were not labeled a sex offender and 628 reviews involved those who were labeled a sex offender. Of the 5,350 and 1,466 subgroups of “regular” hearings, the Board conducted 647 (non-sex offender) and 161 (sex offender) file reviews, respectively.
- The findings in this report focus primarily on the 6,641 hearings for those not labeled a sex offender where a Parole Board Release Guideline Instrument (PBRGI) recommendation was generated.¹¹ The subsample of 5,350 “regular” hearings with non-sex offenders is labeled throughout the report as the “PBRGI sample.” Separate analyses are provided for the subset of 1,291 full Board reviews involving non-sex offenders and for the subset of 2,094 hearings and reviews for those labeled a sex offender.

Findings. The following is a summary of the FY 2017 findings:

- PBRGI Findings. For the FY 2017 PBRGI sample of 5,350 hearings, the Board designated 1,605 (30.0%) offenders for release and 3,745 (70.0%) offenders for deferral (of which 2,481 were deferred to a subsequent hearing date and 1,264 were deferred to their mandatory release date because the mandatory release would occur prior to the next scheduled hearing date). Of this same 5,350, the PBRGI recommended 2,471 (46.2%) offenders for release and 2,879 (53.8%) for deferral.
- Collapsing across all the decisions in FY 2017, *73.1% of Board member decisions agreed with the PBRGI advisory recommendation* and 26.9% of decisions departed from the PBRGI advisory recommendation.
- The overall agreement percentage (73.1%) combines the rate of release agreement (53.3%) and the rate of deferral agreement (90.0%).
- The overall departure percentage (26.9%) combines the rate of release departure (46.7%) and the rate of deferral departure (10.0%).
- Of the 21.6% (or 1,153 of 5,350) of decisions overall where the Board departed from the PBRGI recommendations to release (i.e., a Board deferral), 84.0% of these offenders were categorized by the PBRGI as “low” or “very low” risk, 61.9% were categorized as “medium” or “high” readiness, and 45.9% (or 529 of 1,153) were categorized in *both* these lower risk and higher readiness categories (also referenced later in the report as the offenders “most appropriate for release”).

¹⁰ There are separate guidelines for the release of individuals labeled a sex offender. The explanation for separating the sex offender and the non-sex offender samples may be found on page 18.

¹¹ See Footnote 10.

TERMINOLOGY NOTE

Throughout the report, references will be made to:

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

The figure below represents each of these decision concepts.

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

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

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

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

- Release departures were most frequent for offenders who, although “very low” in risk, were categorized as “low” in readiness for release (38.1%; 439 of 1,153).
- The departure reasons entered by the Board for the decisions to defer rather than release included (in descending order of occurrence) concerns related to the severity of the crime of conviction or behaviors that represent risks to the public (for example, institutional violations and violence), untreated criminogenic needs (for example, impulse control deficits, antisocial attitudes/values, substance abuse, and anger issues), the inadequate quality of the parole plan (for example, homeless parole plans), a lack of accountability for one’s actions or minimizing the impact of their crime, the need for additional time to stabilize in community corrections placements, inadequate time served relative to the sentence and/or the need for additional program participation.

- Of the 5.4% (or 287 of 5,350) of decisions overall where the Board departed from the PBRGI recommendations to defer (i.e., a Board release), 84.3% of these offenders were categorized by the PBRGI as “high” or “very high” risk, 70.7% were categorized as “low” or “medium” readiness and 55.1% (or 158 of 287) 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 (29.3%; 84 of 287).
- The departure reasons entered by the Board for the decisions to release rather than defer included (in descending order of occurrence) that these offenders had presented a comprehensive parole plan; had successfully completed treatment to address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management); had demonstrated growth and positive attitude; had been successful in community placements; had mitigated their higher risk in one or more ways; had successfully completed programs to prepare for re-entry; and/or had served adequate time.
- Applying the current PBRGI sample selection criteria¹² to all five reporting years from FY 2013 to FY 2017, the Board designated 39.0%, 32.1%, 32.4%, 35.6% and 30.0% of inmates for release, respectively, while the PBRGI recommended 53.5%, 49.5%, 51.5%, 53.6% and 46.2% of inmates for release, respectively.
- Applying the current PBRGI sample selection criteria¹³ to all five reporting years, FY 2013 to FY 2017, the percentage of Board decision/PBRGI recommendation agreement was 69.1%, 72.6%, 72.4%, 72.1% and 73.1%, respectively. From FY 2013 to FY 2017, there has been a 5.8% increase in Board member agreement with the PBRGI advisory recommendation.
- Across the entire PBRGI sample of 5,350 offenders, 1,922 or 35.9% were within 14 months of their MRD (and 74.7% of these were deferred or deferred to MRD) and 845 or 15.8% were within six months of their MRD (and 87.2% of these were deferred or deferred to MRD).
- File Review Findings. The FY 2017 sample of 8,735 hearings included 808 (9.2%) file review decisions, which do not require the presence of the inmate as defined in statute.¹⁴ Of these 808 file reviews, 647

¹² The sample selection criteria are briefly described in “Hearing and Decision Types” on page 5 and in more detail in “FY 2017 Sample Selection” on page 25. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

¹³ See Footnote 12.

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

involved those who were not labeled a sex offender and 161 involved those labeled a sex offender. An analysis of these file reviews found:

- Since the file review eligibility definition was expanded by Board procedural rules in 2013 and revised in statute in House Bill 2015-1122, the use of file reviews by the Board has increased over 200% as a proportion of discretionary hearings overall from 2.95% in FY 2014 to 9.25% in FY 2017.
- Of the 647 PBRGI-related file reviews, Board members designated 47 offenders (or 7.3%) for release and 600 offenders (or 92.7%) for deferral (of which 161 were deferred to a subsequent hearing date and 439 were deferred to their impending mandatory release date). Of the same file reviews, the PBRGI recommended 227 (35.1%) for release and 420 (64.9%) for deferral.
- Of the 647 PBRGI-related file reviews, when collapsing deferral and release agreements (between corresponding PBRGI recommendations and Board decisions to defer or to release), *71.3% of file review decisions agreed with the PBRGI recommendations*. The degree of release agreement was 19.4% (or 44 agreements within the 227 release recommendations) and the degree of deferral agreement was 99.3% (or 417 agreements within the 420 deferral recommendations).
- The 647 inmates in the PBRGI sample who were the subject of a file review were placed in the PBRGI risk/readiness matrix at the following percentages: 38.8% were in the “high” or “very high” risk categories (compared to 37.1% of inmates in non-file review hearings) and 74.3% were found in the “low” readiness category (compared to 47.9% of inmates in non-file review hearings).
- Of the 600 PBRGI-related file reviews resulting in a deferral, 570 offenders (or 95.0%) were within six or less months of their MRD and 30 offenders (5.0%) were more than 6 months from their MRD when the file review was conducted.
- Full Board Findings. The analyses of the 1,291 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), *63.6% of full Board review decisions agreed with the PBRGI recommendations*.
 - Compared to individual Board member decisions, the full Board reviews designated a larger percentage of offenders for release (789 or 61.1%) and a smaller percentage for deferral (502 or 38.9%). [As indicated above, individual Board member decisions in “regular” hearings designated 1,605 (30.0%) offenders for release and 3,745 (70.0%) offenders for deferral.]
 - Of these 1,291 full Board reviews, the PBRGI recommended 1,131 (87.6%) offenders for release and

160 (12.4%) for deferral. The PBRGI categorized 73.7% 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 (90.0% versus 60.0%, respectively) and the agreement between full Board reviews and PBRGI recommendations *to release* was higher (53.3% versus 64.1%, respectively).
- Findings Regarding Sex Offenders. As mentioned previously, a PBRGI recommendation is not displayed for those labeled a sex offender. When considering the parole application of an individual labeled a sex offender, it is the practice of the Board to refer some of these individuals to the full Board for review. Those who are not considered appropriate for release are deferred at the time of the “regular” hearing without a referral to full Board consideration. Therefore, it is the practice and policy of the Board to release offenders only after a full Board review.

The findings regarding parole application decisions for those labeled a sex offender are as follows:

- Of the 2,094 individuals labeled a sex offender who were seen in initial (“regular”) hearings, 1.2% (or 25) were released,¹⁵ 68.8% (or 1,441) were deferred, and 30.0% (628) were referred to the full Board for further review. Of the 628 individuals referred to full Board reviews, 55.3% (347) were released and 44.7% (281) were deferred.
- Combining the decision outcomes of “regular” hearings and full Board reviews, the overall percentages of decisions for the 2,094 individuals labeled a sex offender were 17.8% (372) release, 66.2% (1,387) defer to a subsequent hearing date and 16.0% (335) defer to MRD.
- Of the 1,466 “regular” hearings involving those labeled a sex offender, there were 161 (or 11.0%) file reviews following which none were released, 39 were deferred to a subsequent hearing date and 122 were deferred to MRD.

¹⁵ There are no records of full Board reviews or full Board decisions for these 25 cases. These releases may be due to atypical circumstances or the full Board decision data may simply be missing from the hearing record.

This page intentionally left blank

Reflections from the Parole Board

The mission of the Parole Board is to increase public safety by evaluating an individual's potential for successful reintegration to the community through the use of innovative evidence informed practices. Therefore, the Board is committed to utilizing effective tools to select the most appropriate candidates for parole. The Colorado Board of Parole has sought out partnership from the Division of Criminal Justice to reevaluate the PBRGI. As a result of this partnership, 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.

For the FY 2017 hearings included in this sample, the Board designated 30% of offenders for release and 70% 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 2017 sample included, 73% of all Board member decisions agreed with the PBRGI advisory recommendation and 27% of all decisions departed from the PBRGI advisory recommendation.

The future changes that the Board is planning to implement to the tool 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. The Board has been collaborating 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. The Board is also working to reduce any individual biases in the decision making process with the use of the revised tool. 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

This page intentionally left blank

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”¹⁶ 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.¹⁷ The mission statement of the Board and a list of Board members and hearing officers for FY 2017 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 Parole Board.

Mandates. Pursuant to §17-22.5-404(6)(a), C.R.S., the Board is mandated to work with the Division of Criminal Justice (DCJ) in the Colorado Department of Public Safety (CDPS) and the Colorado Department of Corrections (CDOC) “to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the Board’s parole decisions.”¹⁸ 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.¹⁹ Finally, pursuant to

¹⁶ 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.

¹⁷ The Board typically hires no more than 1 to 3 of either type of contract hearing officer.

¹⁸ See Senate Bill 2009-135.

¹⁹ 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.²⁰

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.).²¹

Organization of the Report. This report covers the hearing decisions rendered by the Board during the period from July 1, 2016 to June 30, 2017, and is organized as follows:

- Section Two provides a summary of and update on the parole board decision support system,
- Section Three describes the types of Board hearings and decisions, the sample selection parameters, and a summary of the hearings and decisions included in the report, and
- Section Four includes the findings regarding parole release application hearing decisions.

The report appendices include a list of Board members whose decisions are summarized in this FY 2017 report and a description of the Parole Board Release Guideline Instrument (PBRGI).

²⁰ See Senate Bill 2011-241 and House Bill 2016-1153.

²¹ These annual Board reports are available under "Reference Materials" at 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 2017 is the fourth full year of use of the Parole Board Release Guideline Instrument (PBRGI) following its implementation during FY 2013. This section provides a background on these elements and describes developments occurring since the FY 2016 report.²²

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”).²³ 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.

²² 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)

²³ For a more lengthy description of the “Portal,” see the 2009 Status Report at 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 factors²⁴ 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.²⁵

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.²⁶ 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.²⁷ 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 determination of sex offense, to include court finding of sexual factual basis.). Consequently, inmates in the

²⁴ See the statutory considerations for release to parole in §17-22.5-404(4), C.R.S.

²⁵ 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 release guidelines statute, §17-22.5-404 and §17-22.5-107(1), C.R.S.

²⁶ These criteria may be found in the document entitled *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (2018)*, 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.

²⁷ See Colorado Department of Corrections Administrative Regulation 700-19 at: colorado.gov/cdoc/policies-1.

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, at the time of the redefinition, based on information from the CDOC Sex Offender Treatment and Monitoring program that offenders assessed at S3 (institutional behavior) or S4 (prior sex offense) will likely receive treatment referrals, the Board decided to continue to evaluate these inmates as sex offenders and not to employ the PBRGI advisory recommendation in these cases. Therefore, those with these ratings will be included as sex offenders for the purposes of this report.

The intent of the PBRGI is to provide guidance via an advisory recommendation to the Board as it makes decisions about discretionary parole release. The guideline instrument aims to develop uniformity in the application of decision criteria, but the guideline cannot adapt to the unique and emergent characteristics of each 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 House Bill 2010-1374 (§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*.²⁸

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.²⁹ DCJ staff constructed two algorithms from these thirteen statutory considerations, one for risk and one for readiness. The baseline for the risk dimension is the risk level from the Colorado Actuarial Risk Assessment Scale (CARAS), which is a statutorily-mandated actuarial risk assessment measure

²⁸ Prior year reports are available on the ORS/DCJ website, colorado.gov/dcj-ors/ors-reports.

²⁹ See the statutory considerations for release to parole in §17-22.5-404(4), C.R.S.

that is re-validated at least every five years on the Colorado prison population.³⁰ The Level of Supervision Inventory-Revised (LSI-R) overall and rater box scores serve as the baseline for the assessment of criminogenic needs underlying the readiness score used in the matrix. The thirteen items of the two dimensions of the PBRGI, the scoring algorithms, and the advisory decision matrix are described in

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

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.).³¹ 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 PBRGI design was based on policy choices generated by the Colorado Commission on Criminal and Juvenile Justice and was not derived via empirical testing.³² The Board proposed a project to work with DCJ 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

³⁰ 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.

³¹ 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.

³² Additional background information on the PBRGI development may be found in Appendix B and previous reports at: colorado.gov/dcj-ors/ors-reports.

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. This project to revise the policy elements of the PBRGI was continuing at the time of the preparation of this report in FY 2018.

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 the Office of Information Technology (OIT) at CDOC to automate revocation hearings to create a Revocation Portal similar to the portal for parole application hearings. A preliminary version of the "revocation portal" was evaluated by Parole Board members and staff during FY 2014 and FY 2015. Based on continued feedback from the Board, the CDOC Division of Adult Parole, the CDOC Time & Release Operations office and DCJ, programmers continued to refine and improve the system. System development and programming of the Revocation Automation Project was suspended in FY 2016 due to a need to re-evaluate the project and due to intensive demands at OIT at CDOC related to the development and implementation of a complete overhaul of the offender record system. 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. As mentioned above, the initial project to automate revocation hearings was suspended along with the included Parole Board Revocation Guidelines. As mentioned above, development and testing of the subsequent automated revocation system is currently ongoing and, as yet, does not appear to include the Revocation Guidelines. 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 2017 report is the fourth to comprise an entire fiscal year of PBRGI hearing data. This section describes the general types of hearings and reviews conducted by the Board, the types of Board decisions, and the sample and subsamples upon which analyses were conducted.

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

- “Regular” Board hearings - An initial or “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.³³
- Full Board reviews - A case *may* be referred to full Board review for any reason by an individual Board member following the initial (“regular”) hearing or *shall* be referred to a full Board Review in cases involving violence or a sex offense.³⁴ 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.³⁵ According to statute, a file review is allowed when a release decision does not require victim notification and one or more of the following are true: a special needs release is requested for consideration,³⁶ the inmate release is bound by a detainer to the U.S. Immigration and Customs Enforcement agency, the inmate is within six months of mandatory release, or the inmate is assessed

³³ See 8 C.C.R., 1511-1, Rule 5.03.E. & 503.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/ (Browse or search for Rule 1511-1).

³⁴ 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/.

³⁵ The statutory conditions for a file review are specifically described in §17-2-201(4)(f)(I), C.R.S.

³⁶ A special needs offender and special needs parole are described in §17-1-102 (7.5) (a), C.R.S. and §17-22.5-403.5, C.R.S., respectively, and refer to a release precipitated by chronic medical or mental incapacitation.

as “low” or “very low” in actuarial risk and meets any reentry readiness criteria set by the Board.³⁷

Between 2013 and 2015, the Board exercised an option to conduct file reviews for those convicted of a Class I COPD; however, such inmates are no longer eligible for release (see below).

Board Decision Types. When initially considering an inmate’s application for release to parole, a Board member has four options that ultimately resolve to one of two possible discretionary decisions: to release (grant parole) or to defer (deny parole). In a “regular” or initial hearing, offenders may be released, deferred, tabled, or referred to full Board review.³⁸ Full Board reviews conclude with the decision options to release, to defer, or to table. 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 amends the record and the offender is deferred, if the requirement is not met.

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.³⁹ 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.”⁴⁰

³⁷ This risk and readiness criterion was introduced in House Bill 2017-1326 during FY 2018 and, therefore, does not affect the hearing sample in this FY 2017 report. The risk level is determined by the risk assessment instrument described in §17-22.5-404(2).

³⁸ The four decision options may be found in 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/ (Browse or search for Rule 1511-1). The Board has begun to label, “tabled,” as “Conditional Discretionary Release Pending.” The terms, “table” or “tabled,” will be used in this report for simplicity of expression and consistency with the terminology in the Board *Rules*.

³⁹ The periods prior to the next parole reconsideration are one, three, or five years pursuant to §17-22.5-403 (5), C.R.S.

⁴⁰ 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.

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.⁴¹

FY 2017 Sample Selection. The hearings and reviews included in this report were finalized between July 1, 2016 and June 30, 2017 (As mentioned previously no revocation hearings are included in this report due to data unavailability.). These hearings and reviews were conducted to render a decision regarding applications to parole by inmates. These applications to parole involved inmates who had met their parole eligibility date (PED), but whose release was prior to their mandatory release date (MRD), which indicates that the prison sentence was complete. Therefore, the analyses in this report focus on the hearing and review decisions labeled, "discretionary," rather than those labeled, "mandatory." 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.

Over 7,000 hearings were excluded from the sample because the record was a duplicate or 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 record was amended causing a duplication of the record;
- The hearing resulted in an automatic deferral to a later date because the inmate waived the right to a hearing or, for a variety of reasons, could not appear; or
- The hearing resulted in an automatic release due to such circumstances as a court order or a mandatory re-parole following a technical violation.

Starting in FY 2016, the hearing samples for this report no longer include individuals with a recent institutional behavior violation. The implementation of House Bill 2015-1122 (see, §17-2-201(3.7), C.R.S.) renders an inmate ineligible for 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

⁴¹ 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].

Code of Penal Discipline (COPD) or if an inmate had submitted a written refusal to participate in programs.⁴² 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.⁴³

At the request of the Board, a specific aspect of the sample selection procedure was modified for FY 2017, relative to the FY 2016 sample. As of FY 2017, pending releases that are unresolved at the end of the fiscal (reporting) year, are retained in the sample, rather than being excluded as cases with pending decisions. A hearing record that may have had a pending decision outcome during the course of the fiscal year that *was* resolved continues to reflect the ultimate Board decision to release or defer. Pending releases occurred most frequently under two circumstances: a tabled release was still pending when the fiscal (reporting) year ended, or the release date was set to occur after the end of the fiscal (reporting) year.

An 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, a release may be delayed until a training program in CDOC is completed or when the release to parole is dependent on acceptance into a community corrections program or community treatment. If the condition for which the release was tabled or delayed is not met, the release may be reversed and, if so, 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. Because a future release reversal is most often due to circumstances beyond the control of the Board, the pending release records were retained and categorized to reflect the Board's original decision intent to release.

FY 2017 Overall Sample. The total sample of discretionary decisions analyzed and summarized in this report were rendered in 8,735 hearings and reviews conducted for inmates considered for parole between July 1, 2016 and June 30, 2017. The 8,735 decisions comprised 6,816 "regular" hearings and 1,919 full

⁴² 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). 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.

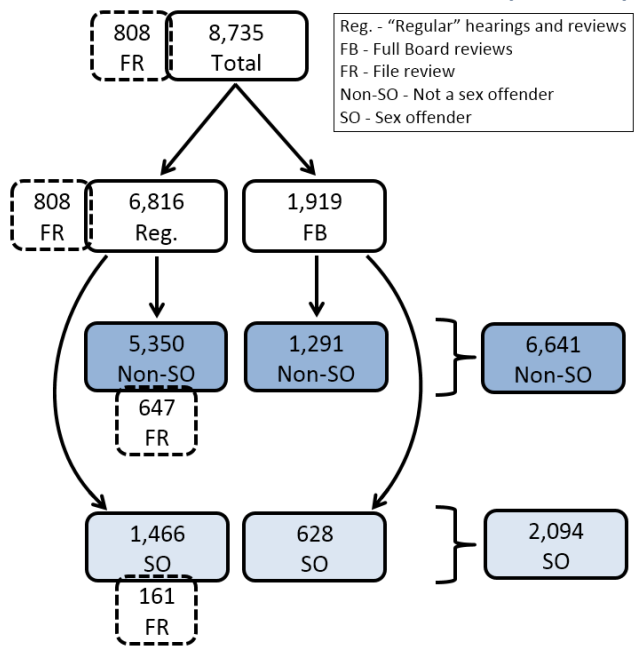
⁴³ Information about the PBRGI items, decision matrix, and advisory recommendations may be found in Appendix B.

Board reviews. Of the 8,735 decisions and reviews, there were 6,641 in which a PBRGI recommendation was generated (i.e., for those labeled, “non-sex offenders”) and 2,094 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 1,466 “regular” decisions and 628 full Board decisions.⁴⁴ Of the 8,735 total decisions, 808 (9.2%) were the result of file reviews, including 647 “regular” file reviews for those labeled “non-sex offender” and 161 for those labeled a “sex offender.”

FY 2017 PBRGI Sample. The focus of this report is the subsample of 6,641 hearings and reviews where a PBRGI advisory recommendation was displayed to the Board members. The sample totals comparable to the 6,816 “regular” hearings included in the FY 2017 sample were 6,591, 7,593, 7,181 and 6,421 in the reports for FY 2013 to FY 2016, respectively.

The primary sample for analysis, referenced in the report as the “PBRGI sample,” included the 5,350 “regular” hearing decisions for parole applicants who were not labeled a sex

FY 2017 Parole Board Decisions (n=8,735)



offender. This analysis combines the decisions from 4,703 hearings (where the offender was present) and from 647 file reviews (where the inmate’s presence was not statutorily required). The PBRGI advisory recommendation was also displayed during 1,291 full Board reviews for non-sex offenders. Summaries of the findings resulting from the file review decisions, decisions from full Board reviews, and the decisions rendered for those labeled a sex offender are presented separately.

⁴⁴ There are separate guidelines for the release of individuals labeled a sex offender. The explanation for separating the sex offender and the non-sex offender samples may be found on page 18.

This page intentionally left blank

Section Four: FY 2017 Findings - Parole Board Decisions

The PBRGI findings reported below from the FY 2017 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 within specific decision matrix categories;
- Board decisions and PBRGI recommendations in file reviews;
- Board decisions and PBRGI recommendations in full Board reviews;
- Board decisions for 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 2017 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 (27.2%). The largest placement of offenders on the readiness dimension was in “low” readiness (51.1%). The highest percentage of offenders in the “release area” of the matrix was the 10.5% in “very low” risk/“low” readiness. The highest percentage of offenders in the “defer area” of the matrix was the 14.9% in “very high” risk/“low” readiness. There was 16.3% 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 27% of offenders in the “very low” risk category and 51% 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 2017 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
		3 High	2 Medium	1 Low	
1 Very Low	Count	482	408	564	1,454
	% within Very Low Risk	33.1%	28.1%	38.8%	100.0%
	% within Readiness Category	39.8%	29.0%	20.6%	27.2%
	% of Total	9.0%	7.6%	10.5%	27.2%
2 Low	Count	231	260	511	1,002
	% within Low Risk	23.1%	25.9%	51.0%	100.0%
	% within Readiness Category	19.1%	18.5%	18.7%	18.7%
	% of Total	4.3%	4.9%	9.6%	18.7%
3 Medium	Count	164	215	518	897
	% within Medium Risk	18.3%	24.0%	57.7%	100.0%
	% within Readiness Category	13.5%	15.3%	19.0%	16.8%
	% of Total	3.1%	4.0%	9.7%	16.8%
4 High	Count	147	184	342	673
	% within High Risk	21.8%	27.3%	50.8%	100.0%
	% within Readiness Category	12.1%	13.1%	12.5%	12.6%
	% of Total	2.7%	3.4%	6.4%	12.6%
5 Very High	Count	188	338	798	1,324
	% within Very High Risk	14.2%	25.5%	60.3%	100.0%
	% within Readiness Category	15.5%	24.1%	29.2%	24.7%
	% of Total	3.5%	6.3%	14.9%	24.7%
Total in Readiness Category	Count	1,212	1,405	2,733	5,350
	% within Risk Category	22.7%	26.3%	51.1%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	22.7%	26.3%	51.1%	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.

As can be found in the bottom, right total of Table 2, overall, the Board decided that 30.0% of offenders be released and 70.0% of offenders be deferred. Further review of Table 2 reveals that the release percentages in the “release region” of the matrix (blue/lighter areas) ranged from 22.2% to 83.1% with higher rates of release found for those inmates in the “high” level of readiness (ranging from 74.7% to 83.1%).

Of the inmates suggested for release, higher rates of actual release (roughly 75% to 83% across risk levels) were found for those inmates in the “high” level of readiness.

The deferral percentages in the “defer area” of the matrix (red/darker areas of Table 2) ranged from 55.3% to 96.7% with higher rates of deferral found for those in the “low” level of readiness (94.5% to 96.7%).

Displayed in Table 3, 30.0% (or 1,605) of offenders were designated for release. Of these released offenders, 487 or 30.3% were within 14 months of their MRD and 108 or 6.7% were within 6 months of their MRD.⁴⁵ The largest proportion of released offenders (1,118 or 69.7%) were more than 14 months away from their MRD. Of the 1,605 release decisions, 47 (or 2.9%) of these decisions were rendered following a file review.⁴⁶

Also referencing Table 3, the 70.0% (3,745) of offenders overall designated for deferral comprise 46.4% of those who were deferred to a subsequent hearing date and 23.6% who were deferred to MRD.⁴⁷ Within this 70.0% (3,745) of deferred offenders, 66.2% (2,481) were categorized as “deferred” and 33.8% (1,264) were categorized as “deferred to MRD.” Of the 1,264 offenders who were deferred to MRD, 1,118 or 88.4% were within 14 months of their MRD and 573 or 45.3% were within 6 months of their MRD. These 6-month and 14-month thresholds to MRD 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 5,350 offenders, 1,922 or 35.9% were within 14 months of their MRD (and 74.7% of the 1,922 were deferred or deferred to MRD) and 845 or 15.8% were within six months of their MRD (and 87.2% of the 845 were deferred or deferred to MRD).

⁴⁵ Starting in FY 2016, the “time-to-MRD” findings were included at the request of the Board.

⁴⁶ File reviews are described in Section Three: Board Hearing Types. Starting in FY 2016, the file review findings were included at the request of the Board.

⁴⁷ The Board decision types are described in Section Three: Board Decision Types.

Table 2. FY 2017 PBRGI sample: Counts and percentages of Parole Board decisions within each PBRGI risk/readiness matrix combination

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	482	408	564	1,454
	% PB Defer	25.3%	54.4%	77.8%	53.9%
	% PB Release	74.7%	45.6%	22.2%	46.1%
2 Low	Count	231	260	511	1,002
	% PB Defer	16.9%	56.2%	94.5%	66.7%
	% PB Release	83.1%	43.8%	5.5%	33.3%
3 Medium	Count	164	215	518	897
	% PB Defer	20.1%	58.1%	96.7%	73.5%
	% PB Release	79.9%	41.9%	3.3%	26.5%
4 High	Count	147	184	342	673
	% PB Defer	18.4%	77.2%	94.7%	73.3%
	% PB Release	81.6%	22.8%	5.3%	26.7%
5 Very High	Count	188	338	798	1,324
	% PB Defer	55.3%	79.0%	96.6%	86.3%
	% PB Release	44.7%	21.0%	3.4%	13.7%
Total in Readiness Category	Count	1,212	1,405	2,733	5,350
	% PB Defer	26.8%	64.2%	92.1%	70.0%
	% PB Release	73.2%	35.8%	7.9%	30.0%

Table 3. FY 2017 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	1,744	737	2,481
	Percent	32.6%	13.8%	46.4%
Defer to Mandatory Release Date	Count	848	416	1,264
	Percent	15.9%	7.8%	23.6%
		<i>Total Defer = 2,592</i>	<i>Total Defer = 1,153</i>	<i>Total Defer = 3,745</i>
		48.4%	21.6%	70.0%
Release	Count	287	1,318	1,605
	Percent	5.4%	24.6%	30.0%
Total of PBRGI Recommendations		Count 2,879	2,471	5,350
		Percent 53.8%	46.2%	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.

Of the 3,745 offenders who were deferred, the Board conducted a file review for 600 offenders (16.0% of those deferred; or 11.2% of the 5,350 PBRGI sample). Of the 2,481 inmates who were deferred to a subsequent hearing date, 161 (6.5% of 2,481; or 3.0% of the entire PBRGI sample) were the subject of a file review. Of the 1,264 inmates who were deferred to MRD, 439 (34.7% of 1,264; or 8.2% of the entire PBRGI sample) were the subject of a file review. Alternatively, when categorizing the 647 file reviews in the PBRGI sample by decision type, 24.9% (161 offenders) were deferred, 67.9% (439 offenders) were deferred to MRD, and 7.3% (47 offenders) were released. Further analyses of the file review decisions may be found later in this Section Four in “Findings: File Reviews.”

Board/PBRGI Agreement. Table 3 provides the pattern of agreement between the Board decisions and the PBRGI advisory recommendations.⁴⁸ As mentioned previously, Board members designated 1,605 (30.0%) offenders in the sample for release and, combining the two types of deferral, 3,745 (70.0%) offenders for deferral. Of the 5,350 PBRGI sample of parole applicants, the PBRGI recommended 2,471 (46.2%) offenders

⁴⁸ 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.

The Board released 30% and deferred 70% of candidates for parole. The PBRGI advisory recommendations were to release 46% and to defer 54%.

for release and 2,879 (53.8%) for deferral (see Table 3). Given that 22.7% (1,212) of offenders were labeled “high readiness” and 42.2% (or 2,256) of offenders were categorized as “very low” or “low” risk (see Table 1), it is not unexpected that a relatively large percentage of offenders would be assigned an advisory recommendation for release. The counts in

Table 3 provide the information necessary to determine the degree of agreement and departure between the Board decisions and the PBRGI advisory recommendations (See the “Terminology Note” on page 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 (1,318) and agreements with recommendations to defer (2,592; see the blue/lighter areas of Table 3). Collapsing these two sources of agreement, *73.1% of all Board member decisions agreed with the PBRGI advisory recommendations*. The overall agreement percentage (73.1%) combines the rate of release agreement (53.3% or 1,318 agreements within the 2,471 release recommendations) and the rate of deferral agreement (90.0% or 2,592 agreements within the 2,879 defer recommendations).

The 73% in overall PB/PBRGI decision/recommendation agreement comprises 53% in release agreement and 90% in deferral agreement.

The overall degree of departure is derived from two sources: departures from recommendations to release (1,153) and departures from recommendations to defer (287; see the red/darker areas in Table 3). Collapsing across these decision types, *26.9% of all Board decisions departed from the PBRGI advisory*

recommendations. The overall departure percentage (26.9%) combines the rate of release departure (46.7% or 1,153 departures within the 2,471 release recommendations) and the rate of deferral departure (10.0% or 287 departures within the 2,879 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, 24.6% versus 21.6%, respectively. From a deferral perspective, the overall rate of deferral agreement was approximately nine times higher than the overall rate of deferral departure, 48.4% versus 5.4%, respectively. Separate summaries of the patterns of agreements and departures found in file reviews and full Board reviews are provided in sections below.

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

DECISION TYPE	Parole Board Decision % PBRGI Rec. % (PB/PBRGI AGREEMENT %)	Fiscal Year *				
		FY 2013 (n=5,263)	FY 2014 (n=5,980)	FY 2015 (n=5,572)	FY 2016 (n=4,950)	FY 2017 (n=5,350)
RELEASE	PB Decision	39.0%	32.1%	32.4%	35.6%	30.0%
	PBRGI Rec.	53.5%	49.6%	51.5%	53.6%	46.2%
	(AGREEMENT)	(57.5%)	(54.7%)	(54.7%)	(57.3%)	(53.3%)
DEFER	PB Decision	61.0%	67.9%	67.6%	64.4%	70.0%
	PBRGI Rec.	46.5%	50.4%	48.5%	46.4%	53.8%
	(AGREEMENT)	(82.4%)	(90.2%)	(91.3%)	(89.4%)	(90.0%)
OVERALL PB / PBRGI AGREEMENT		69.1%	72.6%	72.4%	72.1%	73.1%

* The sample selection criteria used to identify discretionary hearings in FY 2017 were used for all reporting years for comparability of comparisons, rather than the percentages reported in previous fiscal year reports.

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 four previous fiscal years.⁴⁹ As is evident in the table, the PBRGI has consistently recommended a higher percentage of release each year (53.5%, 49.6%, 51.5%, 53.6% and 46.2%) than the percentage of actual release decisions by the Board (39.0%, 32.1%, 32.4%, 35.6% and 30.0%). Comparing the initial FY 2013 sample and the current FY 2017 sample, there has been a 5.8% increase from 69.1% to 73.1% in Board member agreement with the PBRGI advisory recommendation.

The average overall agreement across the five reporting years was 71.9%, the average overall *release* agreement was 55.5%, and the average overall *deferral* agreement was 88.8%. The initial increase in overall agreement between the first and second reporting years may be attributed to the increase in deferral agreements (82.4% to 90.2%), given the drop in release agreements (57.5% to 54.7%). For the subsequent reporting years, the degree of agreement, whether focusing on the release, the deferral, or the overall percentages has remained relatively consistent.

Comparing the FY 2013 and FY 2017 samples, there was a 5.8% increase from 69.1% to 73.1% in Board member agreements with the PBRGI advisory recommendations.

⁴⁹ The sample selection criteria are described in “FY 2017 Sample Selection” on page 25. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

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 22.2% to 83.1%; blue/lighter area) are generally lower than the agreement percentages in the “defer area” of the decision matrix (ranging from 55.3% to 96.7%; 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 generally larger as level of risk increased, from “very low” risk at 46.1% to “very high” risk at 86.3%. When collapsing levels of risk, the highest degree of agreement was found in the “low” readiness category at 80.6% followed by the “high” (74.8%) and “medium” readiness (56.9%) 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 61.7% (852/1,381; 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.⁵⁰ The overall degree of agreement to release these offenders categorized as “very low” risk was 46.1%.

The advisory release recommendations for offenders located near the “middle decision boundary” were subject to a slightly lower degree of agreement, 58.0% (210/362; combining the agreements in the “medium”/“medium” and “high”/“high” risk/readiness 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 (56.9%) relative to the “high” and “low” levels of readiness (74.8% and 80.6%, respectively).

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

Table 5. FY 2017 PBRGI sample: Counts of offenders assigned to each PBRGI risk/readiness matrix combination and the associated percentage of agreement and departure between the Board decision and the PBRGI recommendation *

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	482	408	564	1,454
	% Agreement	74.7%	45.6%	22.2%	46.1%
	% Departure	25.3%	54.4%	77.8%	53.9%
2 Low	Count	231	260	511	1,002
	% Agreement	83.1%	43.8%	94.5%	78.7%
	% Departure	16.9%	56.2%	5.5%	21.3%
3 Medium	Count	164	215	518	897
	% Agreement	79.9%	41.9%	96.7%	80.5%
	% Departure	20.1%	58.1%	3.3%	19.5%
4 High	Count	147	184	342	673
	% Agreement	81.6%	77.2%	94.7%	87.1%
	% Departure	18.4%	22.8%	5.3%	12.9%
5 Very High	Count	188	338	798	1,324
	% Agreement	55.3%	79.0%	96.6%	86.3%
	% Departure	44.7%	21.0%	3.4%	13.7%
Total in Readiness Category	Count	1,212	1,405	2,733	5,350
	% Agreement	74.8%	56.9%	80.6%	73.1%
	% Departure	25.2%	43.1%	19.4%	26.9%

* 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, 360 of 482 decisions were in agreement in the "very low" risk by "high" readiness matrix combination (482 x 74.7%).

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” readiness (74.7%) to “low” readiness (22.2%).

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:

- Engaged in behaviors that could indicate a continued risk to the community, for example, recent failures in community corrections, probation, and/or parole and Class II COPD violations;
- Had not participated in sufficient hours of treatment to ameliorate criminogenic issues; and/or
- Did not provide an adequate parole plan.

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 90.5% (1,504/1,662). 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”). Offenders categorized across the entire “very high” risk category were designated in the decision matrix for deferral, regardless of level of readiness.⁵¹ The overall degree of

The degree of decision agreement was 62% for the offenders identified as the better candidates for release and 90% for those identified as the better candidates for deferral.

agreement to defer these offenders categorized as “very high” risk was 86.3%. This higher level of agreement on deferrals is also true for decisions in one of the difficult “middle boundary” combinations separating the release and defer regions of the recommendation matrix, specifically the 94.5% 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. 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 lower to higher readiness was apparent in

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

both the “high” risk category (94.7% to 77.2%) and the “very high” risk category (96.6% to 79.0% to 55.3%).

The Board may have decided release was appropriate for some of these higher risk offenders because they demonstrated characteristics that would indicate higher readiness for community re-entry. The common departure reasons offered by Board members (for the decision to release rather than defer) regarding the offenders categorized both in the higher risk and lower readiness levels mentioned one or more of the following about the offenders:

- Presented particularly good parole plan;
- Participated in sufficient hours of treatment to ameliorate criminogenic issues; 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, the instances of departure will be explored more extensively.⁵²

Of the 73% of Board decisions overall that agreed with the PBRGI recommendations, 25% overall were release agreements and 48% overall were deferral agreements.

Summary of Agreements: Board Releases and Deferrals.

There were 1,318 total decisions where Board members *agreed with the PBRGI advisory recommendation to release* (see Table 6). This represents 24.6% of all hearing decisions and 53.3% of the decisions where the PBRGI recommended release. Of these 1,318 decisions, 977 (74.1%) offenders were categorized as “very low” or “low” risk, 1,193 (90.5%) were categorized with “high” or “medium” readiness and 852 (64.6%) occupied both these lower risk and higher readiness categories. As mentioned above, the degree of decision agreement for those categorized as the most appropriate for release was 61.7% (852 of the total 1,381 most appropriate for release; see also Table 5). 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.

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

Table 6. FY 2017 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,318 Board release decisions that agree with the PBRGI recommendation to release

Of the 1,318 Release Agreements Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	360 27.3%	186 14.1%	125 9.5%
	Low	192 14.6%	114 8.6%	-
	Medium	131 9.9%	90 6.8%	-
	High	120 9.1%	-	-
	Very High	-	-	-

74.1% (bracketed sum of Very Low and Low rows)

90.5% (bracketed sum of High and Medium columns)

64.6% (arrow pointing to the intersection of High and Medium)

Table 7. FY 2017 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 2,592 Board deferral decisions that agree with the PBRGI recommendation to defer

Of the 2,592 Deferral Agreements Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	-	-	-
	Low	-	-	483 18.6%
	Medium	-	-	501 19.3%
	High	-	142 5.5%	324 12.5%
	Very High	104 4.0%	267 10.3%	771 29.7%

62.0% (bracketed sum of High and Medium columns)

96.0% (bracketed sum of High and Medium rows)

58.0% (arrow pointing to the intersection of High and Medium)

There were 2,592 total decisions where Board members *agreed with the PBRGI advisory recommendation to defer* (see Table 7). This represents 48.4% of all hearing decisions and 90.0% of the decisions where the PBRGI recommended deferral. Of these 2,592 decisions, 1,608 (62.0%) offenders were categorized as “high” or “very high” risk, 2,488 (96.0%) were categorized with “medium” or “low” readiness, and 1,504 (58.0%) occupied both these higher risk and lower readiness categories. As mentioned above, the degree of decision agreement for those categorized as the most appropriate for deferral was 90.5% (1,504 of the total 1,662 most appropriate for deferral; see also Table 5).

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 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 (90.0% or 2,592/2,879 from Table 3), there were 287 (5.4% overall) instances of deferral departure where the Board instead chose to release. This represents 10.0% (287/2,879 from Table 3) of the total advisory recommendations to defer.

Of these 287 instances, 242 (84.3%) offenders were categorized by the PBRGI as “high” or “very high” risk and 203 (70.7%) were in the “low” or “medium” readiness categories. This represents 4.5% (242/5,350) and 3.8% (203/5,350), respectively, of all the hearing decisions in the total sample.

Of the 287 deferral departures (a Board decision to release), 63% of the offenders were categorized as “very high” risk, but 46% of these individuals were also “high” in readiness.

Combining the two dimensions of risk and readiness, the Board chose to release 158 offenders (55.1% of the 287 departure decisions, but only 3.0% 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 (84 of 287 or 29.3%), these offenders also were categorized at the highest level of readiness for release. An additional 28 of these releases, although “low” in readiness, were

Table 8. FY 2017 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 287 Board release decisions that do not agree with the PBRGI recommendation to defer

Of the 287 Deferral Departures Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	-	-	-
	Low	-	-	28 9.8%
	Medium	-	-	17 5.9%
	High	-	42 14.6%	18 6.3%
	Very High	84 29.3%	71 24.7%	27 9.4%

84.3% (bracketed around High and Very High Medium and Low cells)

70.7% (bracketed around Very High High, Medium, and Low cells)

55.1% (arrow pointing to Very High High, Medium, and Low cells)

Table 9. FY 2017 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,153 Board deferral decisions that do not agree with the PBRGI recommendation to release

Of the 1,153 Release Departures Count Percentage		READINESS		
		High	Medium	Low
RISK	Very Low	122 10.6%	222 19.3%	439 38.1%
	Low	39 3.4%	146 12.7%	-
	Medium	33 2.9%	125 10.8%	-
	High	27 2.3%	-	-
	Very High	-	-	-

84.0% (bracketed around Very Low High, Medium, and Low cells)

61.9% (bracketed around Low High, Medium, and Very High High, Medium, and Low cells)

45.9% (arrow pointing to Very Low High, Medium, and Low cells)

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 reverse or rescind the release decision and defer the offender to serve additional time in prison or community corrections. The summary of the Board’s reasons for these departures is provided in the “Departure Reasons” section below.

Summary of Departures: Board Decides to Defer. The following describes instances where Board members departed from the PBRGI advisory recommendation to release and decided to defer the offender for a continuing period of confinement (see Table 9). As was reported earlier in Table 3, this circumstance (release departures) occurred at a higher rate with 1,153 departures of the total 2,471 offenders who were assigned an advisory recommendation to release. This represents a release departure rate of 46.7% (1,153/2,471) and 21.6% (1,153/5,350) of all decisions. These 1,153 offenders can be divided into the 737 who were deferred to a subsequent hearing date and the 416 who were deferred to MRD.

Of the 1,153 release departures (a Board decision to defer), 68% of the offenders were categorized as “very low” risk, but 56% of these individuals were also “low” in readiness for parole.

Of these 1,153 offenders, 968 (84.0%) were categorized by the PBRGI as “low” or “very low” risk and 714 (61.9%) were in the “medium” or “high” readiness categories. Combining the two dimensions of risk and readiness, the Board chose to defer 529 offenders (45.9% of the 1,153 departure decisions and 9.9% 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 (5.4% of all decisions from Table 3), the decision to defer an offender recommended for release (21.6% of all decisions) was four times more common. Although the most common of the departures from the PBRGI release recommendations may be found in the “very low” risk category (439 of 1,153 or 38.1%), these offenders also were categorized at the lowest level of readiness for release. An additional 27 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.⁵³ This section summarizes the reasons entered by Board members for departing from the advisory recommendation. Of the 26.9% (1,440/5,350) 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 was required for the 1,440 decisions to defer or defer to MRD when release was recommended, representing 21.6% of all decisions, and for the 287 decisions to release when defer was recommended, representing 5.4% of all decisions (see Table 3).

Summary of Departure Reasons: Board Decides to Release. *When the PBRGI advisory recommendation was to defer, there were 287 decisions (5.4% 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 likely that some such releases were 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 reverse 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 838 total reasons provided for these 287 decisions. The departure reasons can be grouped into the following general categories:

- Parole plan quality;
- Demonstrated growth/positive attitude;
- Performance in the community;

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

- Mitigated or lesser risk;
- Treatment participation considerations;
- Program participation considerations; or
- Time served or imminent MRD/SDD.⁵⁴

Reasons addressing the quality of the parole plan typically indicated that the offender would have a good support system, housing, employment, educational options and/or the offender would move to a different state or country. 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 a sufficient level of 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 287 *departure decisions to release*, Board members mentioned one of the above seven reason *categories* in 683 instances. Board members mentioned a single departure reason category in 44 cases, two categories in 135 cases, and more than two categories in 108 cases. In some instances, Board members

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

mentioned multiple reasons of the same type, but these were counted as a single reference to a particular category of departure reasons. The percentage of the 287 cases where a departure *category* was mentioned was as follows:⁵⁵

- Parole plan quality, 60.6% (174/287 cases where this reason category was mentioned)
- Treatment participation considerations, 42.2% (121 cases)
- Demonstrated growth/positive attitude, 39.7% (114 cases)
- Performance in the community, 35.9% (103 cases)
- Mitigated or lesser risk, 28.9% (83 cases)
- Program participation considerations, 20.9% (60 cases)
- Adequate time served or imminent MRD/SDD,⁵⁶ 9.8% (28 cases)

Of these 287 offenders, 158 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 462 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, 57.5% (91/158 cases)
- Treatment participation considerations, 50.6% (80 cases)
- Performance in the community, 41.8% (66 cases)

Summary of Departure Reasons: Board Decides to Defer. *When the PBRGI advisory recommendation was to release*, there were 1,153 decisions (21.6% of all decisions) when 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 2,726 specific departure reasons provided. These reasons can be categorized into the following areas of concern:

- Risk concerns;
- Attitude or presentation concerns;

⁵⁵ Percentages total more than 100% because more than one category was mentioned in 243 of the 287 cases.

⁵⁶ See Footnote 54.

- Need to stabilize in the community;
- Treatment participation concerns;
- Parole plan quality concerns;
- Program participation concerns; or
- Time served, file review, or imminent MRD/SDD.⁵⁷

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 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 severity 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. 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. Time-related comments indicated that a release on the MRD or the SDD was impending⁵⁸ or that the offender's crime warranted additional incarceration time.

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 1,153 *departure decisions to defer*, Board members mentioned one of the above seven reason categories in 2,021 instances. Board members mentioned a single category of concern in 497 cases, two

⁵⁷ See Footnote 54.

⁵⁸ Regarding release departures, the Board has noted that offender applications with decision circumstances that included an impending MRD/SDD, "therefore, restricted the Board from releasing prior to their MRD or SDD."

categories in 488 cases, and more than two categories 168 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 1,153 decisions, the percentage of cases where a departure category was mentioned was as follows:⁵⁹

- Risk concerns, 73.1% (843/1,153 cases where the category was mentioned)
- Treatment participation or criminogenic need concerns, 23.5% (271 cases)
- Parole plan quality concerns, 17.6% (203 cases)
- Attitude or presentation concerns, 17.6% (203 cases)
- Need to transition to or stabilize in a community corrections placement, 15.4% (178 cases)
- Time served inadequate, file review, or imminent MRD/SDD, 14.1% (163 cases)
- Program participation concerns, 12.2% (141 cases)

Of these 1,153 offenders, 529 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 1,257 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, 74.1% (392/529 cases)
- Treatment participation or criminogenic need concerns, 24.2% (128 cases)
- Attitude or presentation concerns, 18.1% (96 cases)

⁵⁹ Percentages total more than 100% because more than one category was mentioned in 656 of the 1,153 cases.

Findings: File Reviews

Sample (File Reviews). The FY 2017 sample of 8,735 hearings included 808 total file reviews.⁶⁰ The most common of the qualifiers that permits a file review is that the inmate's mandatory release date (MRD) is within six months.⁶¹ Table 10 displays the increase in use of the file review procedure since its definition was expanded by the Board in 2013 and after the procedure was revised and codified in statute in 2015.⁶² The use of file reviews by the Board has increased over 200% as a proportion of discretionary hearings overall (from 2.95% in FY 2014 to 9.25% in FY 2017).

Of the 808 file reviews, 647 were conducted for release applicants who were not labeled sex offenders and 161 were reviews for applicants who were labeled sex offenders. Of the 808 file reviews, 200 offenders (24.8%) were deferred (90.5% of these were within 6 months of MRD), 561 offenders (69.4%) were

Table 10. Total File Reviews by Fiscal Year with Parole Board decisions and the six months to MRD eligibility criterion

Parole Board Hearing Decision Count (Percent within FY)	Fiscal Year *				
	FY 2013 (n=8,403)	FY 2014 (n=9,550)	FY 2015 (n=9,093)	FY 2016 (n=8,480)	FY 2017 (n=8,735)
Total File Reviews	16 (0.19%)	282 (2.95%)	381 (4.19%)	614 (7.24%)	808 (9.25%)
Defer	4 (25.0%)	136 (48.2%)	170 (44.6%)	200 (32.6%)	200 (24.8%)
Defer to MRD	6 (37.5%)	135 (47.9%)	203 (53.3%)	392 (63.8%)	561 (69.4%)
<i>[Defer Total]</i>	<i>[62.5%]</i>	<i>[96.1%]</i>	<i>[97.9%]</i>	<i>[96.4%]</i>	<i>[94.2%]</i>
Release	6 (37.5%)	11 (3.9%)	8 (2.1%)	22 (3.6%)	47 (5.8%)
Primary Eligibility Criterion: Within Six Months of MRD	7 [^] (43.7%)	149 [^] (52.8%)	222 [^] (58.3%)	592 (96.4%)	752 (93.1%)

* The sample selection criteria used to identify discretionary hearings in FY 2017 were used for all reporting years for comparability of comparisons.

[^] During FY 2013 and 2014 and for part of FY 2015, the Board exercised the option to conduct file reviews for offenders with a Class I COPD. In 2015, these offenders became ineligible for parole application hearings (see Footnote 62).

⁶⁰ This analysis was included at the request of the Board starting in FY 2016.

⁶¹ The statutory conditions under which the Board may choose to conduct a file review are provided in Section Three: Board Hearing Types.

⁶² See 8 C.C.R. 1511-1, Rule 10.00: File Reviews, specifically, the 12/30/2013 version. In 2015, the rule allowing file reviews for COPD violators was eliminated by Senate Bill 2015-100 when these offenders became parole ineligible pursuant to House Bill 2015-1122 (see §17-2-201 (3.7)(a)(I) and §17-2-201(4)(f)(I)(C) for these revisions).

deferred to MRD (97.5% of these were within 6 months of MRD), and 47 offenders (5.8%) were released (51.1% 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.⁶³ 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. File review outcomes specific to inmates labeled a sex offender may be found in a subsequent section.

PBRGI Decision Matrix Assignment (File Reviews). Table 11 provides the number and percentage of the 647 file reviews from the FY 2017 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 were the 26.3% (170 of 647) in the “very low” risk category and the 25.7% (166 of 647) in the “very high” risk category. Overall, the largest percentage of offenders across the three readiness levels was the 74.3% (481

Parole applicants who were the subject of a file review represented 12% of the PBRGI sample and 93% of them were deferred because they were higher in risk and lower in readiness.

of 647) in the “low” readiness category. In the “release 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 low” risk matrix category (16.8%; 109 of 647). 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 (21.5%; 139 of 647).

Parole Board Decision (File Reviews). Of the 647 PBRGI-related file reviews, Board members designated 47 (7.3%) offenders for release and 600 (92.7%) offenders for deferral (of which 161 were deferred to a subsequent hearing date and 439 were deferred to MRD) (see Table 12). This 92.7% rate of deferral decisions by Board members for file reviews was nearly 40% higher than the 66.9% rate of deferral for 4,703 non-file review, “regular” hearings. The recommendations generated by the PBRGI for the 647 file

⁶³ There are separate guidelines for the release of individuals labeled a sex offender. The explanation for separating the sex offender and the non-sex offender samples may be found on page 18.

Table 11. FY 2017 PBRGI sample - File Reviews: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination (n=647)

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	14	47	109	170
	% within Very Low Risk	8.2%	27.6%	64.1%	100.0%
	% within Readiness Category	48.3%	34.3%	22.7%	26.3%
	% of Total	2.2%	7.3%	16.8%	26.3%
2 Low	Count	5	26	98	129
	% within Low Risk	3.9%	20.2%	76.0%	100.0%
	% within Readiness Category	17.2%	19.0%	20.4%	19.9%
	% of Total	0.8%	4.0%	15.1%	19.9%
3 Medium	Count	4	20	73	97
	% within Medium Risk	4.1%	20.6%	75.3%	100.0%
	% within Readiness Category	13.8%	14.6%	15.2%	15.0%
	% of Total	0.6%	3.1%	11.3%	15.0%
4 High	Count	2	21	62	85
	% within High Risk	2.4%	24.7%	72.9%	100.0%
	% within Readiness Category	6.9%	15.3%	12.9%	13.1%
	% of Total	0.3%	3.2%	9.6%	13.1%
5 Very High	Count	4	23	139	166
	% within Very High Risk	2.4%	13.9%	83.7%	100.0%
	% within Readiness Category	13.8%	16.8%	28.9%	25.7%
	% of Total	0.6%	3.6%	21.5%	25.7%
Total in Readiness Category	Count	29	137	481	647
	% within Risk Category	4.5%	21.2%	74.3%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	4.5%	21.2%	74.3%	100.0%

reviews included 227 (35.1%) recommendations for release and 420 (64.9%) recommendations for deferral. Comparable to the increased rate of deferral by Board members for file reviews, the 64.9% of PBRGI recommendations for file review deferrals was nearly 25% higher than the 52.3% rate of PBRGI recommended deferrals for non-file review, “regular” 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 38.8% were in the “high” or “very high” risk categories (compared to 26.5% of inmates in non-file review, “regular” hearings). Relatedly, 74.3% of the inmates who were the subject of file reviews had a “low” readiness rating (compared to 47.9% of inmates in non-file review, “regular” hearings).

Of the 647 inmates subject to a file review, 594 (91.8%) met one or both of the two file review conditions for which data were available: a) Four offenders had an active U.S. Immigration and Customs Enforcement detainer (all four were also within six months of MRD), and b) Excluding the four “ICE offenders,” the remaining 590 were within six months of MRD. There were 21 offenders (3.2%) who were between seven and 14 months of MRD (9 of whom were “ICE offenders”) and 32 offenders (4.9%) who were more than 14 months from MRD (12 of whom were “ICE offenders”) 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), *71.2% of file review decisions agreed with the PBRGI advisory recommendations* (see Table 12). This combined agreement percentage (71.2%) includes the degree of release agreement (19.4% or 44 agreements within the 227 release recommendations) and

Collapsing across all file review decisions, 71% of Board decisions agreed with the PBRGI advisory recommendations.

the degree of deferral agreement (99.3% or 417 agreements within the 420 defer recommendations). The degree of deferral agreement is approximately five times higher than the degree of release agreement.

Collapsing release and deferral *departures* on file reviews (between Board decisions and PBRGI recommendations), *28.7% of full Board review decisions departed from the PBRGI recommendations*. This combined departure percentage (28.7%) includes the degree of release departure (80.6% or 183 departures within the 227 release recommendations) and the degree of

Table 12. FY 2017 PBRGI sample - File Reviews: Overall counts and percentages of Board file review decisions by PBRGI advisory recommendations (n=647) *

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count	138	23	161
	Percent	21.3%	3.6%	24.9%
Defer to Mandatory Release Date	Count	279	160	439
	Percent	43.1%	24.7%	67.9%
		<i>Total Defer = 417</i>	<i>Total Defer = 183</i>	<i>Total Defer = 600</i>
		64.5%	28.3%	92.7%
Release	Count	3	44	47
	Percent	0.5%	6.8%	7.3%
Total of PBRGI Recommendations		Count	420	227
		Percent	64.9%	35.1%
				647
				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.

deferral departure (0.7% or 3 departures within the 420 defer recommendations). From a release perspective, the overall rate of release agreement for file reviews was just over four times smaller than the overall rate of release departure, 19.4% versus 80.6%. From a deferral perspective, the overall rate of deferral agreement was nearly the maximum possible relative to the overall rate of deferral departure, 99.3% versus 0.7%.

Departure Reasons (File Reviews). As mentioned previously, statute requires that Board members provide a departure reason when the release application hearing decision departs from the advisory recommendation.⁶⁴ The departure reason analysis for the relevant 186 file reviews were included above in the complete presentation of the departure reason findings. A specific review of the reason categories mentioned for the 183 release departures (when the Board decided to defer) refer primarily to the offender's imminent mandatory release and/or concerns regarding risk and, to a lesser extent, the offenders' inadequate parole plans or untreated criminogenic needs. A specific review of the reason categories mentioned for the three deferral departures (when the Board decided to release) refer primarily to the offender's imminent mandatory release and/or ameliorated risk, positive parole plans or positive growth or attitude.

⁶⁴ See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.

Findings: Full Board Reviews

Sample (Full Board Reviews). The FY 2017 hearing sample included 1,919 total full Board reviews that occurred subsequent to an initial hearing conducted by a Board member.⁶⁵ Board members 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 or a sex offense.⁶⁶ Full Board reviews are conducted and decided by no fewer than four of the seven members of the Board. Of these 1,919, there were 1,291 full Board reviews for non-sex offenders and 628 full Board reviews for sex offenders.

PBRGI Decision Matrix Assignment (Full Board Reviews). Table 13 provides the number and percentage of the 1,291 full Board reviews from the FY 2017 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, 73.7% of offenders were placed in the “very low” or “low” risk categories and 59.4% (767/1,291) were placed in the “high” readiness category. The largest percentage of offenders in the “release area” of the matrix was found in the “very low” risk/“high” readiness category

Of offenders reviewed by the full Board, the PBRGI placed 74% in the “very low” or “low” risk categories and 59% in the “high” readiness category.

(36.2% or 467 of 1,291). The largest percentage of offenders in the “defer area” of the matrix was found in the “high” readiness/“very high” risk category (4.0% or 52 of 1,291).

Parole Board Decisions (Full Board Reviews). Of the 1,291 full Board reviews, Board members designated 789 (61.1%) offenders for release and 502 (38.9%) offenders for deferral (see Table 13). Of the 502 designated for deferral, 412 were deferred to a subsequent hearing date and 90 were deferred to MRD. The 61.1% rate of release in full Board reviews was double the rate of release for “regular” hearings (30.0% of 5,350 hearings). Of the 1,291 offenders, the PBRGI recommended 1,131 (87.6%) offenders for release and 160 (12.4%) for deferral. 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 to the number of parole candidates who were categorized by the PBRGI in the two lowest levels of risk (73.7%; 951 of 1,291) and/or in the two highest levels of readiness (91.1%; 1,176 of 1,291).

⁶⁵ This analysis was included at the request of the Board starting in FY 2014.

⁶⁶ The full Board referral circumstances may be found in, 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/ (Browse or search for Rule 1511-1).

Table 13. FY 2017 PBRGI sample - Full Board Reviews: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination (n=1,291)

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	467	173	82	722
	% within Very Low Risk	64.7%	24.0%	11.4%	100.0%
	% within Readiness Category	60.9%	42.3%	71.3%	55.9%
	% of Total	36.2%	13.4%	6.4%	55.9%
2 Low	Count	132	84	13	229
	% within Low Risk	57.6%	36.7%	5.7%	100.0%
	% within Readiness Category	17.2%	20.5%	11.3%	17.7%
	% of Total	10.2%	6.5%	1.0%	17.7%
3 Medium	Count	71	76	10	157
	% within Medium Risk	45.2%	48.4%	6.4%	100.0%
	% within Readiness Category	9.3%	18.6%	8.7%	12.2%
	% of Total	5.5%	5.9%	0.8%	12.2%
4 High	Count	45	33	4	82
	% within High Risk	54.9%	40.2%	4.9%	100.0%
	% within Readiness Category	5.9%	8.1%	3.5%	6.4%
	% of Total	3.5%	2.6%	0.3%	6.4%
5 Very High	Count	52	43	6	101
	% within Very High Risk	51.5%	42.6%	5.9%	100.0%
	% within Readiness Category	6.8%	10.5%	5.2%	7.8%
	% of Total	4.0%	3.3%	0.5%	7.8%
Total in Readiness Category	Count	767	409	115	1,291
	% within Risk Category	59.4%	31.7%	8.9%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	59.4%	31.7%	8.9%	100.0%

Table 14. FY 2017 PBRGI sample - Full Board Reviews: Overall counts and percentages of full Board review decisions by PBRGI advisory recommendations (n=1,291) *

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	81 6.3%	331 25.6%	412 31.9%
Defer to Mandatory Release Date	Count Percent	15 1.2% <i>Total Defer = 96</i> 7.4%	75 5.8% <i>Total Defer = 406</i> 31.4%	90 7.0% <i>Total Defer = 502</i> 38.9%
Release	Count Percent	64 5.0%	725 56.2%	789 61.1%
Total of PBRGI Recommendations	Count Percent	160 12.4%	1,131 87.6%	1,291 100.0%

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

Board/PBRGI Agreement (Full Board Reviews). Collapsing the two sources of *agreement* (between corresponding PBRGI recommendations and Board decisions to release and to defer), *63.6% of full Board review decisions agreed with the PBRGI recommendations* (see Table 14). The combined agreement percentage (63.6%) includes the degree of release agreement (64.1%; 725 of 1,131) and the degree of deferral agreement (60.0%; 96 of 160). The degree of release agreement was 7% higher than the degree of

Collapsing across all full Board decisions, 64% of Board decisions agreed with the PBRGI advisory recommendations.

deferral agreement. When making full Board review decisions on these particular parole candidates, the Board demonstrated a greater likelihood to agree with the PBRGI advisory recommendation to release than when making decisions alone: 56.2% versus 24.6% overall release agreement rates, respectively.

Collapsing across the two sources of *departure* (between PBRGI recommendations and Board decisions to release and to defer), *36.4% of full Board review decisions departed from the PBRGI recommendations*. The combined departure percentage (36.4%) includes the degree of release departure (35.9%; 406 of 1,131) and the degree of deferral departure (40.0%; 64 of 160).

From a release perspective, the overall rate of release agreement for full Board reviews was nearly 80% higher than the overall rate of release departure, 56.2% versus 31.4%. From a deferral perspective, the overall rate of deferral agreement for full Board reviews was about 50% higher than the overall rate of deferral departure, 7.4% versus 5.0%.

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.⁶⁷ This section summarizes the reasons entered by Board members when departing from the advisory recommendation following a full Board review. The process of full Board decision-making does not easily lend itself to the recording of departure reasons. The full Board deliberation and discussion is conducted with no fewer than four, but 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 36.4% (470 of 1,291) 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 64 decisions to release when defer was recommended, representing 5.0% of all full Board decisions and for the 406 decisions to defer or defer to MRD when release was recommended, representing 31.4% of all full Board decisions (see Table 14).

Summary of Departure Reasons: Full Board Decides to Release. For the 64 *deferral* departures, Board members provided 144 unique departure reasons for these decisions to defer. The Board entered “full Board decision” as the departure reason in 28 instances. Of these 28 instances, “full Board decision” was noted as the sole reason for 15 cases and “full Board decision” was combined with at least one additional reason for the remaining 13 cases. For 36 of 64 cases, at least one reason *other than* “full Board decision” was offered.

Using the seven departure reason categories described previously in the report, along with the “full Board

⁶⁷ See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.

decision” reason, Board members mentioned one of eight reason categories in 133 instances. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. The percentage of the 64 cases where a departure *category* was mentioned was as follows:⁶⁸

- Full Board decision, 43.8% (28/64 cases where this category was mentioned)
- Treatment participation considerations, 39.1% (25 cases)
- Parole plan quality, 39.1% (25 cases)
- Mitigated or lesser risk, 26.6% (17 cases)
- Performance in the community, 25.0% (16 cases)
- Demonstrated growth/positive attitude, 21.9% (14 cases)
- Program participation considerations, 10.9% (7 cases)
- Adequate time served, 1.6% (1 case)

Summary of Departure Reasons: Full Board Decides to Defer. For the 406 *release departures*, Board members provided 728 unique departure reasons for these decisions to defer. The Board entered “full Board decision” as the departure reason in 295 instances. Of these 295 instances, “full Board decision” was noted as the sole reason in 190 cases and “full Board decision” was combined with at least one additional reason for the remaining 105 cases. For 111 of 406 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 the eight reason *categories* in 612 instances. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. The percentage of the 406 cases where a departure *category* was mentioned was as follows:⁶⁹

- Full Board decision, 72.7% (295/406 cases where this category was mentioned)
- Risk concerns, 46.1% (187 cases)
- Treatment participation or criminogenic need concerns, 11.3% (46 cases)
- Attitude or presentation concerns, 6.9% (28 cases)
- Need to transition to or stabilize in a community corrections placement, 5.4% (22 cases)
- Parole plan quality concerns, 3.2% (13 cases)
- Program participation concerns, 2.7% (11 cases)
- Time served is inadequate or imminent MRD/SDD, 2.5% (10 cases)

⁶⁸ Percentages total more than 100% because more than one category was mentioned in 45 of the 64 cases.

⁶⁹ Percentages total more than 100% because more than one category was mentioned in 165 of the 406 cases.

Findings: Decisions Regarding Sex Offenders

In accordance with statute (§17-22.5-404 (4)(c)(II), C.R.S.), the Board is not provided a PBRGI advisory recommendation and, therefore, does not use the PBRGI in decision making regarding the application for parole by sex offenders. The statute however indicates that summary information should be provided for all decisions (§17-22.5-404 (6)(a), C.R.S.). As mentioned earlier, “sex offender” (and related sex-offense specific treatment allocation for those labeled, “sex offender”) was redefined by CDOC Administrative Regulation 700-19 to include those with a “need level” of S5 (judicial determination of sex offense). For individuals classified in CDOC as sex offenders, pursuant to §17-22.5-404 (4)(c)(II), C.R.S., parole release decisions are guided by criteria created by the Sex Offender Management Board (SOMB).⁷⁰ Based on information from the CDOC Sex Offender Treatment and Monitoring Program that offenders assessed at S3 (institutional behavior) or S4 (prior sex offense) will likely receive treatment referrals, the Board decided to continue to evaluate these inmates as sex offenders.

When considering the parole application of an individual labeled a sex offender, it is the practice of the Board to refer some of these individuals to the full Board for review. Those who are not considered appropriate for release are deferred at the time of the “regular” hearing without a referral to full Board consideration. Therefore, it is the practice and policy of the Board to release offenders only after a full Board review.

Of the 2,094 individuals labeled a sex offender, a decision was rendered in 1,446 instances in the initial (“regular”) hearing and 628 cases were referred to full Board review. The distribution of these initial decisions in the 2,094 cases were: 1.2% (or 25) were released,⁷¹ 68.8% (1,441) were deferred (of which, 314 were deferred to MRD), and 30.0% (628) were referred to a full Board hearing for further review. Of the 628 individuals referred to full Board reviews, 55.3% (347) were released and 44.7% (281) were deferred (of which 21 were deferred to MRD).

⁷⁰ These criteria may be found in the document entitled *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (2018)*, 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.

⁷¹ There are no records of full Board reviews or full Board decisions for these 25 cases. These releases may be due to atypical circumstances or the full Board decision data may simply be missing from the hearing record.

Combining the decision outcomes of “regular” hearings and full Board reviews, the overall percentages of decisions for the 2,094 individuals labeled a sex offender were: 17.8% (372) release, 66.2% (1,387) defer to a subsequent hearing date and 16.0% (335) defer to MRD. Of the 1,466 “regular” hearings involving those labeled a sex offender, 161 (or 11.0%) were conducted as file reviews following which none were released, 39 were deferred to a subsequent hearing date and 122 were deferred to MRD.

Summary: FY 2017 Findings

These FY 2017 analyses represent the fourth *full* year of Board hearings following the FY 2013 implementation. The FY 2017 hearings sample included 8,735 release application hearings conducted by members of the Parole Board and finalized between July 1, 2016 and June 30, 2017.

Just over 7,000 hearings records were excluded from the sample because the record was a duplicate, related decisions were not considered discretionary or the decision was considered moot. For example, hearings were excluded when a deferral was due to the offender’s absence, when a release was based on a court order or when there was a mandatory re-parole following a parole revocation.

At the request of the Board, a specific aspect of the sample selection procedure was modified for FY 2017, relative to the FY 2016 sample. The prior procedure excluded hearings where the decision outcome for a release was still pending when the fiscal year concluded. Release decisions may be reversed at any time by the Board prior to the inmate’s release date, primarily due to the behavior of the inmate (for example, a violation of the institutional behavior code). These potential reversals do not reflect the original intent of the Board to grant an inmate’s release. Therefore, these records with pending outcomes were retained, thereby reflecting the Board’s intent to release.

Sample. The following is a summary of the FY 2017 hearing decision sample and subsamples:

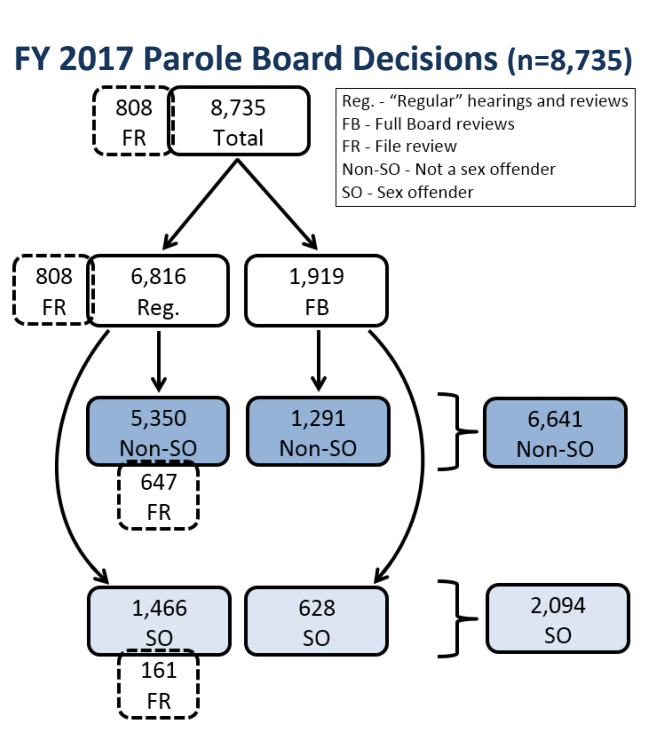
- Of the 8,735 release application hearings, 6,816 were “regular” hearings and 1,919 were full Board reviews. A “regular” hearing is conducted by one member (or two Board members when the inmate is serving a life sentence with the possibility of parole). Of this same overall hearing total, 6,641 hearings were conducted for those who were not labeled a sex offender and 2,094 were conducted for those

who were labeled a sex offender. Of the 8,735 cases, the Board conducted 808 file reviews.⁷²

- Of the 6,816 “regular” hearings, 5,350 cases involved those who were not labeled a sex offender and 1,466 cases involved those who were labeled a sex offender.⁷³ Of the 1,919 full Board reviews, 1,291 reviews involved those who were not labeled a sex offender and 628 reviews involved those who were labeled a sex offender. Of the 5,350 and 1,466 subgroups of “regular” hearings, the Board conducted 647 (non-sex-offender) and 161 (sex offender) file reviews, respectively.
- The PBRGI sample of hearings included the 5,350 “regular” hearings and 1,291 full Board reviews of non-sex offenders.

Findings. The following is a summary of the FY 2017 findings.

- **PBRGI Findings.** For this FY 2017 PBRGI sample of 5,350 hearings, the Board designated 1,605 (30.0%) offenders for release and 3,745 (70.0%) offenders for deferral (of which 2,481 were deferred to a subsequent hearing date and 1,264 were deferred to their mandatory release date because the mandatory release would occur prior to the next scheduled hearing date). Of this same



5,350, the PBRGI recommended 2,471 (46.2%) offenders for release and 2,879 (53.8%) for deferral.

- Collapsing across all the decisions in FY 2017, 73.1% of Board member decisions agreed with the PBRGI advisory recommendation and 26.9% of decisions departed from the PBRGI advisory recommendation. The overall agreement percentage (73.1%) combines the rate of release agreement (53.3%) and the rate of deferral agreement (90.0%). The overall departure percentage (26.9%) combines the rate of release departure (46.7%) and the rate of deferral departure (10.0%).
- Overall, the PBRGI categorized 45.9% of the offenders in the FY 2017 sample as “low” or “very low”

⁷² 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.

⁷³ There are separate guidelines for the release of individuals labeled a sex offender. The explanation for separating the sex offender and the non-sex offender samples may be found on page 18.

risk, 48.9% as “high” or “medium” readiness, and 25.8% in both these lower risk *and* higher readiness categories. Alternatively, the PBRGI categorized 37.3% of the offenders as “high” or “very high” risk, 77.3% as “medium” or “low” readiness, and 31.1% in both these higher risk *and* lower readiness categories.

- Across the entire PBRGI sample of 5,350 offenders, 1,922 or 35.9% were within 14 months of their MRD (and 74.7% of these were deferred or deferred to MRD) and 845 or 15.8% were within six months of their MRD (and 87.2% of these were deferred or deferred to MRD).
- Of the 1,264 offenders who were deferred to MRD, 1,118 or 88.4% were within 14 months of their MRD and 573 or 45.3% were within 6 months of their MRD.
- Applying the current PBRGI sample selection criteria⁷⁴ to all five reporting years from FY 2013 to FY 2017, the Board designated 39.0%, 32.1%, 32.4%, 35.6% and 30.0% of inmates for release, respectively, while the PBRGI recommended 53.5%, 49.5%, 51.5%, 53.6% and 46.2% of inmates for release, respectively.
- Applying the current PBRGI sample selection criteria⁷⁵ to all five reporting years, FY 2013 to FY 2017, the percentage of Board decision/PBRGI recommendation agreement was 69.1%, 72.6%, 72.4%, 72.1% and 73.1%, respectively. From FY 2013 to FY 2017, there has been a 5.8% increase in Board member agreement with the PBRGI advisory recommendation.
- *Of the PBRGI advisory recommendations to release*, the Board decision *agreed* in 53.3% (1,318) of cases. Of these 1,318 decisions, 977 (74.1%) offenders were categorized as “very low” or “low” risk, 1,193 (90.5%) were categorized with “high” or “medium” readiness and 852 (64.6%) occupied both these lower risk and higher readiness categories. The most frequent matrix position within the 1,318 release agreements was found for offenders who were “very low” in risk and “high” in readiness (27.3%; 360 of 1,318).
- *Of the PBRGI advisory recommendations to defer*, the Board decision *agreed* in 90.0% (2,592) of cases. Of these 2,592 decisions, 1,608 (62.0%) offenders were categorized as “high” or “very high” risk, 2,488 (96.0%) were categorized with “medium” or “low” readiness, and 1,504 (58.0%) occupied both these higher risk and lower readiness categories. The most common of the 2,592 deferral agreements was found for offenders who were “very high” in risk and “low” in readiness (29.7%; 771 of 2,592).

⁷⁴ The sample selection criteria are described in “FY 2017 Sample Selection” on page 25. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

⁷⁵ See Footnote 74.

- *Of the PBRGI advisory recommendations to release*, the Board decision *departed* in 46.7% (1,153) of cases. Of these 1,153 instances, 968 (84.0%) were categorized by the PBRGI as “low” or “very low” risk, 714 (61.9%) were in the “medium” or “high” readiness categories, and 529 offenders (45.9%) were in both these higher risk and lower readiness categories. The most frequent matrix position within the 1,153 release departures was found for offenders who were “very low” in risk and “low” in readiness (38.1%; 439 of 1,153).
- *Of the PBRGI advisory recommendations to defer*, the Board decision *departed* in 10.0% (287) cases. Of these 287 instances, 242 (84.3%) offenders were categorized by the PBRGI as “high” or “very high” risk, 203 (70.7%) were in the “low” or “medium” readiness categories, and 158 (55.1%) occupied both these higher risk and lower readiness categories. The most common of the 287 deferral departures was found for offenders who were “very high” in risk and “high” in readiness (29.3%; 84 of 287).
- The departure reasons entered by the Board for the *decisions to release rather than defer* indicated (in descending order of occurrence) that these offenders had presented a comprehensive parole plan; had successfully completed treatment to address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management); had demonstrated growth and positive attitude; had been successful in community placements; had mitigated their higher risk in one or more ways; had successfully completed programs to prepare for re-entry; and/or had served adequate time.
- The departure reasons entered by the Board for the *decisions to defer rather than release* included (in descending order of occurrence) concerns related to the severity of the crime of conviction or behaviors that represent risks to the public (for example, institutional violations and violence), untreated criminogenic needs (for example, impulse control deficits, antisocial attitudes/values, substance abuse, and anger issues), the inadequate quality of the parole plan (for example, homeless parole plans), a lack of accountability for one’s actions or minimizing the impact of their crime, the need for additional time to stabilize in community corrections placements, inadequate time served relative to the sentence and/or the need for additional program participation.
- File Review Findings. The FY 2017 sample of 8,735 hearings included 808 (9.2%) file review decisions, which do not require the presence of the inmate as defined in statute.⁷⁶ Of these 808 file reviews, 647 involved those who were not labeled a sex offender and 161 involved those labeled a sex offender. Since file review eligibility was introduced into Board policy in 2013 and re-defined in statute in House

⁷⁶ The statutory conditions under which the Board may choose to conduct a file review are found in Section Three: Board Hearing Types.

Bill 2015-1122, the use of file reviews by the Board has increased over 200% as a proportion of discretionary hearings overall (from 2.95% in FY 2014 to 9.25% in FY 2017). An analysis of these file reviews found:

- Of the 647 PBRGI-related file reviews, Board members designated 47 offenders (or 7.3%) for release and 600 offenders (or 92.7%) for deferral (of which 161 were deferred to a subsequent hearing date and 439 were deferred to their impending mandatory release date). Of the same file reviews, the PBRGI recommended 227 (35.1%) for release and 420 (64.9%) for deferral.
- Of the 647 inmates subject to a file review, 594 (91.8%) met one or both of the two file review conditions for which data were available: a) Four offenders had an active U.S. Immigration and Customs Enforcement detainer (all four were also within six months of MRD), and b) Excluding the four “ICE offenders,” the remaining 590 were within six months of the MRD. There were 21 offenders (3.2%) who were between seven and 14 months of MRD (9 of whom were “ICE offenders”) and 32 offenders (4.9%) who were more than 14 months from MRD (12 of whom were “ICE offenders”) when their file reviews were conducted.
- Collapsing release and deferral agreements overall (between corresponding Board decisions and PBRGI recommendations to defer or to release), *71.3% of file review decisions agreed with the PBRGI recommendations.*
- This combined agreement percentage (71.3%) includes the degree of release agreement (19.4% or 44 agreements within the 227 release recommendations) and the degree of deferral agreement (99.3% or 417 agreements within the 420 defer recommendations).
- The 647 inmates in the PBRGI sample who were the subject of a file review were placed in the PBRGI risk/readiness matrix at the following percentages: 38.8% were in the “high” or “very high” risk categories (compared to 37.1% of inmates in non-file review hearings) and 74.3% were found in the “low” readiness category (compared to 47.9% of inmates in non-file review hearings).
- Full Board Findings. A separate analysis of the 1,291 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), *63.6% of full Board review decisions agreed with the PBRGI recommendations.*
 - Compared to individual Board member decisions, the full Board reviews designated a larger percentage of offenders for release (789 or 61.1%) and a smaller percentage for deferral (502 or

38.9%). [As indicated above, individual Board member decisions in “regular” hearings designated 1,605 (30.0%) offenders for release and 3,745 (70.0%) offenders for deferral.]

- Of these 1,291 full Board reviews, the PBRGI recommended 1,131 (87.6%) offenders for release and 160 (12.4%) for deferral. The PBRGI categorized 73.7% 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 (90.0% versus 60.0%, respectively) and the agreement between full Board reviews and PBRGI recommendations to release was higher (53.3% versus 64.1%, respectively).
- Findings Regarding Sex Offenders. As mentioned previously, a PBRGI recommendation is not displayed for those labeled a sex offender. When considering the parole application of an individual labeled a sex offender, it is the practice of the Board to refer some of these individuals to the full Board for review. Those who are not considered appropriate for release are deferred at the time of the “regular” hearing without a referral to full Board consideration. Therefore, it is the practice and policy of the Board to release offenders only after a full Board review. The findings regarding parole application decisions for those labeled a sex offender are as follows:
 - Of the 2,094 individuals labeled a sex offender who were seen in initial (“regular”) hearings, 1.2% (or 25) were released,⁷⁷ 68.8% (or 1,441) were deferred, and 30.0% (628) were referred to the full Board for further review. Of the 628 individuals referred to full Board reviews, 55.3% (347) were released and 44.7% (281) were deferred.
 - Combining the decision outcomes of “regular” hearings and full Board reviews, the overall percentages of decisions for the 2,094 individuals labeled a sex offender were 17.8% (372) release, 66.2% (1,387) defer to a subsequent hearing date and 16.0% (335) defer to MRD.
 - Of the 1,466 “regular” hearings involving those labeled a sex offender, there were 161 (or 11.0%) file reviews following which none were released, 39 were deferred to a subsequent hearing date and 122 were deferred to MRD.

⁷⁷ There are no records of full Board reviews or full Board decisions for these 25 cases. These releases may be due to atypical circumstances or the full Board decision data may simply be missing from the hearing record.

This page intentionally left blank

Appendices

This page intentionally left blank

APPENDIX A

COLORADO STATE BOARD OF PAROLE

The mission of the Parole Board is to increase public safety by evaluating an individual's potential for successful reintegration to the community through the use of innovative evidence informed practices.

BOARD MEMBERS (Term)

Joe Morales, Chair*	(2020)
Rebecca Oakes, Vice-Chair*	(2020)
Denise K. Balazic*	(2020)
Brandon W. Mathews	(2020)
John M. O'Dell*	(2018)
Alfredo Pena*	(2020)
Alexandra Walker*	(2020)
Barbara Kelley, 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

*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 2017 report. Members' terms expire on July 1 of the year in parentheses.

This page intentionally left blank

APPENDIX B

**Parole Board Release Guideline Instrument:
Item and Matrix Descriptions**

This page intentionally left blank

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.⁷⁸ The CARAS score is based on static (unchangeable)

⁷⁸ 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.

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.⁷⁹

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.⁸⁰ 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.

⁷⁹ Developed and validated pursuant to §17-22.5-404(2)(a), C.R.S., CARAS, Version 6 (2015) has an AUC=.75.

⁸⁰ See the CDOC Administrative Regulation 150-01, Class II: 25(c) at: colorado.gov/cdoc/policies-1

Readiness Items

Item #9: Level of Service Inventory-Revised.⁸¹ 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,⁸² 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.

⁸¹ 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.

⁸² 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.

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.⁸³ 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.

⁸³ The advisory recommendation to release or defer for each level of risk and readiness was assigned by the original draft administrative guideline instrument.

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

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

**Office of Research and Statistics
Division of Criminal Justice
Colorado Department of Public Safety
700 Kipling Street, Suite 1000
Denver, Colorado 80215
<https://www.colorado.gov/dcj-ors>**