

PAROLE BOARD
FY 2018-19 JOINT BUDGET COMMITTEE HEARING AGENDA

Monday, January 8, 2018
1:30 pm – 2:00pm

1:30-1:40 INTRODUCTIONS AND OPENING COMMENTS

Presenters:

- Rebecca Oakes, Vice Chair
- Alexandra Walker, Board Member

1:40-1:50 PAROLE BOARD CHALLENGES

Presenters:

- Rebecca Oakes, Vice Chair
- Alexandra Walker, Board Member

1. 1. What is the opinion of the Parole Board about the status, and proposed changes, to the parole system?

There have been many proposed changes to the parole system over the last few years, several of which have a direct and significant impact on the work being done by the Parole Board. Following are some of the primary pieces of legislation that impact the Parole Board currently or in the future:

Recent Legislation:

1. HB16-1215 - This bill redefined the purpose of parole to focus on successful reintegration
 - a. The Parole Board believes that this legislation was an important step toward supporting successful reintegration of individuals into the community. This bill specifically states that parole officers should be focused on addressing individual risk and needs and to assist in the successful completion of parole. The Board strongly supports any initiative that is focused on the strategic and focused reduction of risk and need through treatment, programming, and intervention.
2. HB17-1308 – This bill eliminated certain mandatory conditions of parole while preserving the discretion of the Parole Board and parole officers to impose such conditions.
 - a. Some examples of the mandatory conditions that were removed include the Parole Board setting restitution payment, mandatory drug testing for all offenders, and association between felons on parole.

- b. The Parole Board supports this legislation. Despite the administrative challenges experienced with the implementation of this bill, the Board believes it is another step toward individualized conditions that address specific risks and needs.
- 3. HB17-1326 – this bill was enacted in August 2017 and has impacted the system significantly. Following are a few examples of how it has impacted the Parole Board:
 - a. First, it eliminated the Community Return to Custody Facility (CRCF) option for parole violators and used the cost savings to enhance community programming. While the CRCF program had many flaws, it was designed as a structured alternative to jail or prison for parole violators. Individuals would be placed in these facilities for a specific amount of time and were able to engage in treatment, get a job, and get stabilized before going back out to parole. The time constraints imposed by CRCF made it difficult to hold individuals accountable because when their time in the program was completed, regardless of their progress. . This was a significant flaw in the design of the system however the removal of CRCF left the Parole Board with fewer options at time of revocation. Because of this change, the Board is now able to do one of three things at revocation: continue an individual on parole, continue an individual on parole with additional conditions, or revoke an individual’s parole and send them back to prison.
 - b. This legislation also changed the amount of time that an individual could be revoked to prison to 30 days for individuals serving a sentence for a nonviolent F4, 5 or 6. While the Parole Board supports revoking people for the least amount of time necessary to ensure public safety and support successful reentry, especially on technical violations, setting criteria based on conviction type may not. An individual’s original conviction should be one of many factors considered when determining parole, but cannot be the only factor.. Revocation options used to be related to risk and need, using the Level of Supervision Inventory (LSI) as part of the decision. While that also had its flaws, the way the system is set up now limits the Board’s ability to hold certain individuals accountable and makes the revocation process more of an administrative function.
 - c. As a part of this legislation, the Parole Board was given the ability to identify low risk/high ready individuals for a ‘fast track to parole’ review. The Board is currently working with DOC’s IT staff to identify these individuals and create a process to streamline review. This process allows the Parole Board to release someone to parole without having to have a hearing if they meet specific criteria. The Board looks forward to implementing this new option.

- d. This bill also requires that the Division of Adult Parole investigate an individual's parole plan prior to their Parole Board hearing so that the Board knows whether it is viable. The Division has had to make considerable changes to their policy and practice to make this happen and the Board appreciates their efforts. While there are still implementation challenges to be worked out, the investigation of parole plans prior to Parole Board hearings will lessen the number of people who end up paroling homeless and/or without support and transition services.

The Parole Board is working with the Governor's Office, through both the Office of Policy and Research and Office of Legal Counsel, to evaluate potential suggestions for policy changes. If such changes are determined, they will be presented to the proper committees of reference and Joint Budget Committee.

2. Please discuss the biggest challenge the Parole Board faces in the upcoming fiscal year.

- The Parole Board plays an integral role in the successful reentry of individuals into the community. In FY 2017, the seven members, along with two contract employees, conducted:
 - More than 16,000 application hearings;
 - 7,000 revocation hearings; and
 - Made more than 30,000 decisions.
- The Board's focus is on ensuring that each individual receives a fair and consistent hearing and that the decisions the Board makes are judicious and impartial. The Board's decisions impact individual lives, communities, and the system, and therefore the Board's focus is on making the best decisions possible based on the information available. The Board has been challenged for many years to meet the needs of the growing hearing load.
- Although the Board places hundreds of people on parole every year, it would be more impactful if the Board was able to collaborate with partner agencies to ensure the best community reentry practice and policies are in place. There are a number of stakeholders that are critical to this process, including DOC, Division of Adult Parole, Community Corrections, Advocacy groups.

- Under the current structure, the data that is provided by DOC and used by the Parole Board to inform parole decisions leaves room for questions which are not always answered during the hearing. Referring people to appropriate programs is difficult due to inadequate, incomplete or missing risk assessments, an overall lack of knowledge about available programs, and administrative challenges.

3. Please discuss possible solutions to the concerns about reentry that have been raised by the Parole Board.

The Board believes that proper reentry begins inside prison. It starts with the proper assessment of individual criminogenic risk and needs which can then be used to guide the placement of individuals in treatment and intervention strategies. The assessment process in this scenario is critical to guiding the process for treatment and programming dosage received by offenders. The DOC offers programs for risk areas such as drug/alcohol, mental health, cognitive distortions and offense specific treatment such as sex offender treatment. DOC also offers a wide array of vocational training to address education and employment challenges. Individuals who participate in treatment and/or programming are viewed more favorably by the Parole Board and are strongly considered for parole.

The State of Colorado offers offenders the opportunity to transition through community corrections prior to their parole eligibility date, which can be an important step, especially for individuals who have been in DOC for an extended period of time. For those individuals who cannot or choose not to transition through community corrections, engagement with the community prior to release to ensure a structured and positive parole plan is critical. The Board is committed to understanding the extent of pro-social support that will be available upon release to the individual. When individuals are paroling back to a sponsor where they have had prior unsuccessful attempts on supervision, it is important to understand what interventions have occurred since the prior unsuccessful attempts and in what ways things may have changed positively. Individuals with homeless parole plans are more likely to fail while on parole. The Board's goal is to ensure that all possible avenues have been explored before sending someone out without intervention or to a homeless parole plan. By working alongside the case manager, facility parole officer, and community reentry specialist, the Parole Board can effectively release and set conditions for individuals to facilitate their success.

There are a number of reasons that people are leaving prison and reentering the community on parole without receiving treatment and programming to address criminogenic needs and risks. These reasons include, but are not limited to:

- types of treatment may not be offered within DOC;
- some facilities do not offer any or the specific treatment and programming needed by that individual, or specific treatment or programming is not offered in the offender's language;
- an individual's specific codes may not allow for referral to needed programs;
- global referral lists often don't allow offenders to enter treatment prior to their Parole Eligibility Dates and/or Mandatory Release Dates;
- offenders are allowed to attend only a certain number of classes and/or programs at one time; and
- offenders can refuse to attend classes and/or programs.

The role of the Parole Board is to ensure adherence to proper treatment, programming, and intervention as prescribed by clinicians at DOC, along with the development and adherence of a comprehensive reentry plan for parole in collaboration with the Division of Adult Parole, prior to release. Because the Board does not have any direct authority to get people into treatment or to engage with them about their parole plan, the Board relies heavily on the DOC, community corrections staff, and parole staff for information and support.

4. What, if any, issues with reentry services provided by the department has the Parole Board observed?

Reentry should be a set of structured activities that occur within certain time frames. This should include:

- Prioritizing individuals with upcoming release dates who have yet to receive treatment, programming and/or interventions.
- The continuity of care to address criminogenic needs, when transitioning someone from DOC institutions to the Division of Parole, could be enhanced further. The same issues with missing, incomplete, or incorrect information regarding an individual's behavioral and treatment history exists.
- Identifying and planning for high risk individuals who are reaching their mandatory parole release date is a critical missing link in the criminal justice system. The Parole Board is taking strides to improve notifications to the Division when the Board sets conditions for these individuals who will need significant assistance and supervision.

- HB 17-1326 was enacted in August 2017, which took great steps toward reducing the number of people sent to prison for technical violations. Unfortunately, this bill continues to restrict sanction options used by the Parole Board based on an individual's governing crime, or their conviction type. Research has clearly shown that conviction type is not a significant predictor of risk to recidivate and can result in people with serious circumstances (such as a severe addiction, persistent homelessness, or escalating concerns) from accepting help or intermediate options because the threat of revocation is often not meaningful. Based on the new revocation rules enacted by HB17-1326, if the Division of Adult Parole decides to file a complaint for a revocation hearing with the Board for someone whose addiction is escalating, has been recently kicked out of their housing situation, and is at serious risk, the maximum amount of time an offender can be revoked is likely only 30 days. Because the treatment options the Board would offer in lieu of revocation 1) take longer to get into than 30 days, and/or 2) the program itself is longer than 30 days, there is little incentive for the individual to accept treatment or assistance.
- Successful reentry must involve addressing the underlying criminogenic needs that are driving an individual's risk. Whether in DOC or in community corrections, access to treatment and intervention prior to release must increase.
- Under the current structure, the data that is provided by DOC and used by the Parole Board to inform parole decisions leaves room for questions which are not always answered during the hearing. Referring people to appropriate programs is difficult due to inadequate, incomplete or missing risk assessments, an overall lack of knowledge about available programs, and administrative challenges.
- Individuals need to be assigned to facilities based upon their criminogenic needs, intervention requirements and the treatment and programs that are offered at each facility. This is in order to maximize the resources that currently exist. However, currently they are placed based on custody level. It is the Board's understanding that moving offenders to different facilities when needs are identified by the Parole Board is not typically an option.
- Programs to address offense specific needs, such as domestic violence (DV) and driving under the influence (DUI), while in prison would be one option within the current structure in order to address offender's needs in this area. This could start with utilizing offense specific instruments to assess for such specific risks.

5. Please discuss possible solutions to the concerns raised about the quality of data provided to the Parole Board and used in parole decisions. As part of the discussion please include:
 - a. What specific data is needed from the Department of Corrections in order to make parole decisions;
 - b. What data the Parole Board is receiving; and
 - c. What data the Parole Board is not receiving.

Two areas that the Board believes are important to consider when thinking about the needs of the Parole Board are: 1.) information in order to make a decision about parole, and 2.) data to inform the work of the Board and outcomes.

The Board members utilize multiple information sources provided by DOC to make decisions. The information most important for decision making include dynamic and static risk information, the offender's criminogenic risk and needs, information regarding programs and/or treatment to address criminogenic risk and needs, criminal history, the circumstances of the present offense(s), and victim input. The most up to date and accurate information is critical as the Board often hears multiple versions of all facets of an individual's case from the perspective of the offender, victims, family members and practitioners. The Parole Board has been actively working with a group of stakeholders, to include community corrections board and programs, DOC, and the Division of Adult Parole, to improve upon the quality and accuracy of information that is available. The Parole Board is optimistic that this information will be improved upon at this workgroup level.

The following are some examples of information that the Parole Board requires in order to conduct a hearing:

- a. Assessments.
 - i. An updated Level of Supervision Inventory (LSI) Assessment which determines overall level of risk, breaks out criminogenic needs, and how individuals are responding to treatment/interventions
 - ii. CTAP assessments – currently being used in the institution, it is a modified version of the LSI
 - iii. Offense specific assessment issues include:
 1. Static 99 – a static risk assessment for sex offenders
 2. SOTIPS – dynamic risk assessment for sex offenders who are in treatment
 - iv. Examples of assessments that are not currently conducted or available that would be helpful include:

1. Dynamic risk assessments for sex offenders who are not in treatment
 2. Mental health assessments
 3. Domestic violence assessments
- b. Explanations how offenders have changed over time, especially if they haven't been able to engage in any treatment/programming.
 - c. Information on how fundamental criminogenic needs are presenting in the offenders in interactions with staff and/or other offenders and how their risk areas are being addressed.
 - d. Dosage of treatment programs and classes, such as how often and when does the treatment occur and what is the program designed to address. This is very helpful information by facility.
 - e. Thorough information regarding the parole plan, to include any information about the sponsor(s) and previous history regarding community supervision.
 - f. Information regarding community correction referrals to include referrals, if they were accepted or denied, and if they weren't referred, the reason why.
 - g. Information regarding any recent Code of Penal Discipline (COPDs) violation(s) to include a description of what transpired.
 - h. Presentence Investigation Reports (PSIR's) on all applicable offenders at the time of the hearing.
 - i. Information regarding prior failures or successes on community supervision (probation, community corrections, and/or parole) to include details about what transpired.
 - j. Information on an offender's status on referral(s) for treatment lists (global referral lists/waiting lists).

Currently the Parole Board's statistical analyst has access to monthly downloads of aggregate data from the DOC's Office of Planning and Analysis, however does not have read only login access to Offender Management Systems to manage day-to-day information needs. Some examples of day-to-day information needs include:

- Tracking sex offenders with upcoming hearings and alerting appropriate staff with assessments are missing or unclear
- Tracking offenders with ICE detainers in order to determine their likelihood of being deported
- Assisting with tracking of individuals who are on tabled status
- Providing Assessment completion dates
- Reports about Code of Penal Discipline (COPD) violations or other incidents
- Referrals to community corrections and where individuals may be placed on waitlists
- Tracking data to include release trends and revocations
- Providing individual and aggregate hearing feedback to include the agreement with the Parole Board Release Guideline Instrument (PBRGI)

The Parole Board is working with the Governor's Office to develop an Memorandum of Understanding for such access to be granted by DOC.

1:50-2:00 GENERAL PAROLE BOARD QUESTIONS

Presenters:

- Rebecca Oakes, Vice Chair
- Alexandra Walker, Chair

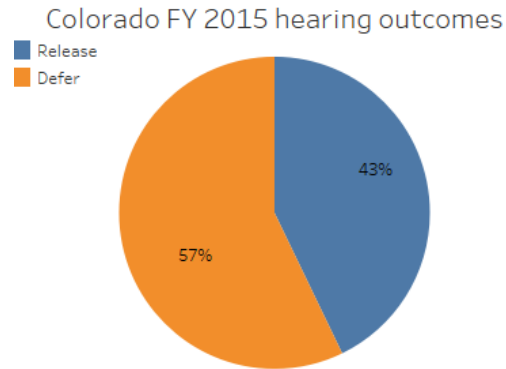
6. Please discuss whether the location of the Parole Board within the Department of Corrections' budget is appropriate. Please include a discussion of any changes to the current budget structure that the Parole Board would see as beneficial and why.

This would require a statutory change to separate the Parole Board's budget from within the DOC's. We still are discussing options with the Governor's Office and whether such a transfer is necessary or the best use of taxpayer dollars.

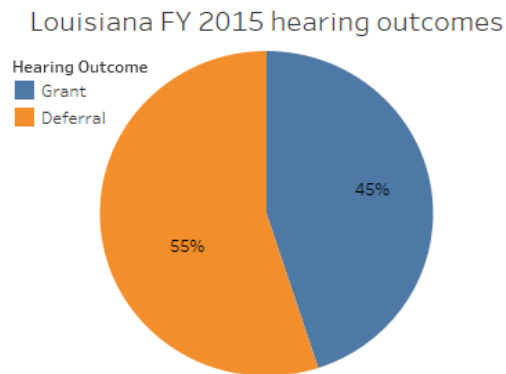
7. Please discuss the pros and cons of establishing a release target for discretionary parole. Do other states have a parole target? If so, how many have a target, and how does this impact the parole budget?

- a. Setting a release target or quota for the number of releases presents many challenges and problems in the criminal justice system. Research shows us that those offenders who have received the proper level of treatment and programming based on their assessed risk and needs are the most successful when they re-enter into the community. If offenders were to be released based on a quota and without utilizing the proper assessment of risk and needs, there is a greater risk of individuals reoffending once they reenter the community.
- b. The Parole Board has been actively working with the Division of Criminal Justice on a new version of the decision making tool, the Parole Board Release Guideline Instrument (PBRGI), to include additional evidence informed and statutorily required criteria. Some examples of new criteria include clusters of criminogenic needs, treatment dosage, more expansive community support and parole plan items, patterns of failures on community supervision, recent community failures, victim input and the severity of offense. This new tool will allow the Board to set release targets for individuals of a certain static risk score (CARAS) at a specific point level (based on the other criteria, examples listed above). This is a new concept and idea for the Parole Board, but by setting benchmarks, the Board will be able to better understand how decisions are matching the Board's mission and strategic goals to support the successful release of lower risk, higher ready individuals back to the community.
- c. Comparisons with Other States: Evaluating parallels or correlations with other jurisdictions can be difficult given that every state operates with different release and parole practices. For example, Utah utilizes indeterminate sentencing and the state's Board of Pardons and Parole is tasked with sentencing, i.e. with determining how long an offender is incarcerated and on probation or parole.

Despite the complexities of comparing release rates of Parole Boards by state, during FY 2015, 57% of the hearings conducted by the Colorado Board of Parole resulted in a deferral and 43% were released (20% discretionary, 23% on their mandatory release date or mandatory re-parole date) to parole.



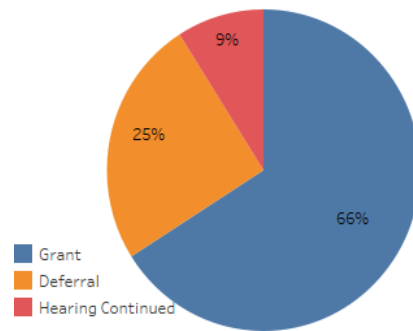
Louisiana is also comparable to Colorado in the practice of discretionary releases for the majority of offenses; however, the prison and parole population is higher in Louisiana than both Colorado and the National average. In 2015, the majority (55%) of the hearings that Louisiana’s Board of Pardons and Parole conducted resulted in a denial of parole, while 45% resulted in a grant of parole.



Source: Louisiana Board of Pardons and Parole, CY 2015 Annual Report, [http://www.doc.la.gov/media/1/PardonParole%20Policies /2015. annual. report_.pdf](http://www.doc.la.gov/media/1/PardonParole%20Policies/2015_annual_report_.pdf)

Alaska also practices discretionary release for the majority of offenders, similar to Colorado, but has a much higher rate of incarceration and a higher percentage of parole returns than both Colorado and the National total for the U.S. For hearings conducted during 2015, Alaska’s Parole Board granted release to 66% of offenders, while 25% were denied parole and 9% of the hearings were continued.

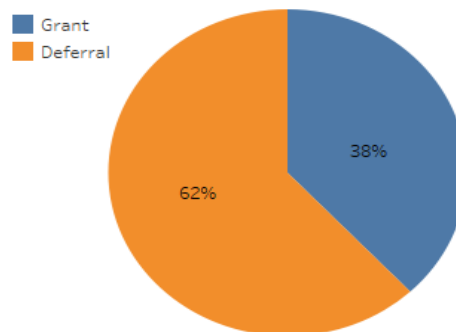
Alaska CY 2015 hearing outcomes



Source: Alaska Parole Board, 2015 Discretionary Decision Report, <http://www.correct.state.ak.us/Parole/documents/discretionary-decisions-2015.pdf>

Alabama is another state that practices discretionary release for the majority of offenders, although it still holds vast differences to the Colorado practices and population. In FY 2015, the majority (62%) of hearings the Alabama Board of Pardons and Parole conducted resulted in a denial of parole, while 38% resulted in a decision to grant release to the offender on parole.

Alabama FY 2015 hearing outcomes



Source: State of Alabama Board of Pardons and Parole, FY 2015 Annual Report, http://www.pardons.state.al.us/Annual_Reports/2014-2015_Annual_Report.pdf

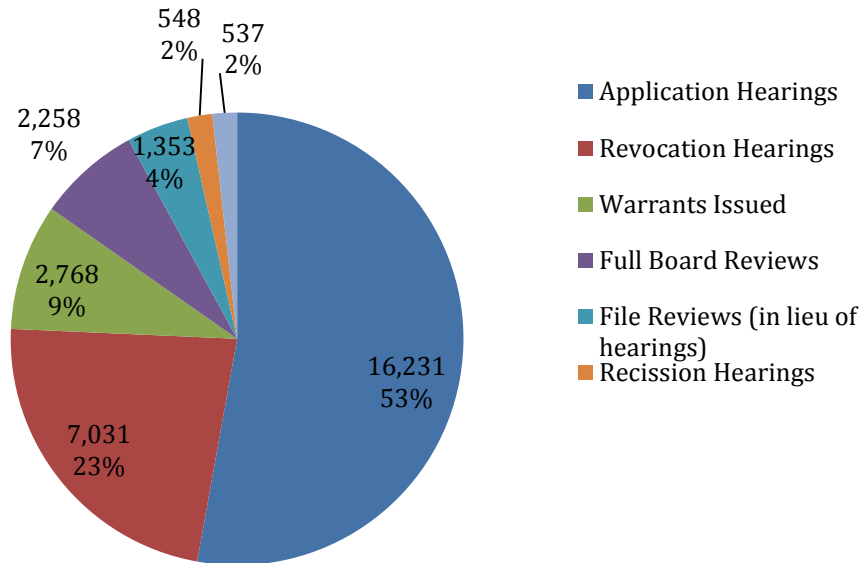
As demonstrated by the states compared above, each releasing authority utilizes different policies and processes to determine a release decision. Because of this, release rates are variable depending on release and parole processes, prison and parole populations, and the discretion mandated to each releasing authority. Each release hearing should be viewed as an individual event, by which the releasing authority uses evidence-informed decision

making to determine the most appropriate method of release to maximize the successful re-entry for each offender.

Colorado's Parole Board, similar to most other states, has a unique process for reviewing and releasing offenders. The statutory authority of releasing authorities differs greatly in each state or jurisdiction. There is no current evidence-based standard by which release rates can, or should, be measured. Each release hearing should be viewed as an individual event for each individual offender, by which the releasing authority uses evidence-informed decision making to determine the most appropriate method of release to maximize the successful re-entry for each offender. Therefore, any standard by which the Colorado's Board of Parole release decisions are held should be embedded in evidence-informed, up to date, and validated information. This ensures the maximum opportunity for an offender's success, while maintaining the Board's commitment to rendering decisions which are "compatible with the welfare of society." (C.R.S. 17-2-201)

8. Does the current size of the Parole Board impact the Parole Board's ability to conduct hearings? Please discuss what options exist to increase the number of parole hearings.
 - a. In 1990, when the Parole Board was expanded from five to seven Board members, the average daily population of offenders and parolees of the DOC was 9,543. By FY 2016, that population grew to 30,604, representing roughly a 221% increase in the number of offenders and parolees for whom the Parole Board conducts hearings. In FY 2017, the Parole Board made over 30,000 decisions, which equates to approximately 577 decisions made each week per Board member. The graph below depicts the number and types of decisions made by the Parole Board during FY 2017.

FY 2017 Parole Board Decisions



- b. The research on successful reentry changes often, and it is critical that the Parole Board be steeped in the ‘what works’ literature. This requires considerable amount of training, collaboration, and participation in policy and practice discussions. This can be challenging with the Board’s current staffing as all members are needed for hearings every day.
- c. The Board has made many efforts to focus its attention on the individuals who need additional consideration. By continuing down this path, to give the Board’s full attention and focus efforts on medium and high risk offenders, the Board can move towards efforts to reduce recidivism.

9. Please discuss how the Parole Board uses the “circumstances of the case” criteria to make parole decisions and how this affects offenders.

Judges impose sentences, in part, based upon the circumstances of the offense. With each discretionary release decision that is made, the Parole Board is permanently ending an individual’s prison sentence imposed by the court and allowing the individual to begin their parole sentence. In many cases, a discretionary release can eliminate many years, to include a life sentence, from a sentence originally given by the court. Since 1993, Colorado has been a leader in Victim Rights. When the circumstances of the offense are not considered within the context of the totality of the circumstances it drives the victim out of the process and discounts the impact that many will live with forever.

For these reasons discussed above, Colorado Revised Statute 17-22.5-404(4) (a) requires the Parole Board to consider the totality of the circumstances when determining the suitability of offenders for discretionary release to parole. This includes, but is not limited to, the following:

- (I) The testimony or written statement from the victim of the crime, or a relative of the victim, or a designee, pursuant to section 17-2-214;
- (II) The actuarial risk of re-offense;
- (III) The offender's assessed criminogenic need level;
- (IV) The offender's program or treatment participation and progress;
- (V) The offender's institutional conduct;
- (VI) The adequacy of the offender's parole plan;
- (VII) Whether the offender while under sentence has threatened or harassed the victim or the victim's family or has caused the victim or the victim's family to be threatened or harassed, either verbally or in writing;
- (VIII) Aggravating or mitigating factors from the criminal case;
- (IX) The testimony or written statement from a prospective parole sponsor, employer, or other person who would be available to assist the offender if released on parole;
- (X) Whether the offender had previously absconded or escaped or attempted to abscond or escape while on community supervision; and
- (XI) Whether the offender successfully completed or worked toward completing a high school diploma, a high school equivalency examination, as defined in section 22-33-102 (8.5), C.R.S., or a college degree during his or her period of incarceration.

10. What information is provided to offenders about why they were denied parole? How is an offender advised of what changes to programs, therapies, or their parole plan would improve their future chances at parole?

Parole Board members can, and often do, provide information directly to the offender at the time of their hearing. Board members always discuss with the case manager regarding what the offender can focus on prior to their next parole hearing if the decision in the current case was a deferral. Parole Board members also fill out a form at the conclusion of the hearing where additional feedback is given. A copy of this form is provided to the offender by the case manager. The Parole Board does not have any direct authority or influence on getting offenders into the programs that are recommended or appropriate to address their criminogenic needs.