Analysis of Colorado State Board of Parole Decisions: FY 2018 Report

Pursuant to § 17-22.5-404(6)

October 2019

Colorado Division of Criminal Justice

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Executive Summary

BACKGROUND

Introduction. The Colorado State Board of Parole ("the Board") is created and described in §17-2-201, C.R.S. and it functions under a "type 1 transfer"[1] to the Colorado Department of Corrections (CDOC) pursuant to §24-1-128.5(3), C.R.S. The Board, appointed by the Governor and confirmed by the Colorado State Senate, includes seven members who serve three-year terms.[2] The Board may hire additional individuals on contract to serve as release hearing officers and revocation ("administrative") hearing officers.[3] Among the duties of the Board chair described in §17-2-201(3)(f), C.R.S., is "to ensure that parole board members, release hearing officers, and administrative hearing officers under contract with the board are accurately collecting data and information on his or her decision-making as required by section 17-22.5-404 (6)."

Mandates. Pursuant to §17-22.5-404(6)(a), C.R.S., the Board is mandated to work with the Division of Criminal Justice (DCJ) in the Colorado Department of Public Safety (CDPS) and the Colorado Department of Corrections (CDOC) "to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the Board's parole decisions." Additionally, pursuant to §17-22.5-107(1), C.R.S., in consultation with the Board, DCJ is mandated to develop an administrative release guideline instrument for use by the Board in evaluating applications for parole. Finally, pursuant to §17-22.5-404(6)(e)(I), C.R.S., the Board and DCJ are mandated to issue a report to the General Assembly regarding the outcomes of decisions by the Board.

Where data are available, this report describes findings and progress on these mandates during the period from July 1, 2017 through June 30, 2018. 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.

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[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] During the preparation of this FY 2018 report, Senate Bill 2019-165 was passed and expands the Board to nine members (see §17-2-201(1)(a), C.R.S.).

[3] The Board typically hires no more than 1 to 3 of either type of hearing officer (see §17-2-201(3)(h) & (h.1), C.R.S.). Board members and hearing officers for FY 2018 and the Board mission statement can be found in Appendix A.

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.).[4]

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 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.[5]

The PBRGI is a set of thirteen policy items that combine using two algorithms to create a matrix with two dimensions. The first dimension is *risk of recidivism* and the second dimension is *readiness for parole*. The thirteen items correspond to the release policies identified by CCJJ and the associated release considerations placed in Colorado statute.[6] DCJ staff constructed two algorithms from these thirteen statutory considerations, one for recidivism risk and one for parole readiness. The baseline for the risk

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[4] These annual reports are available under "Reference Materials" at colorado.gov/paroleboard/reference-materials-0.
[5] Prior year reports are available on the ORS/DCJ website at colorado.gov/dcj-ors/ors-reports.
[6] See the statutory considerations for release to parole in §17-22.5-404(4), C.R.S.

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.[7] 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 inmate 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.).[8] This advisory recommendation is displayed to Board members through the Parole Board Hearing Application Portal. Members may also view an individual'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; and 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. Starting in FY 2017, the Board initiated a project with DCJ to expand and revise the PBRGI policy elements to account for the numerous factors not included in the original algorithm that inform risk and readiness for release to parole. Such factors include complex clusters (three or more according to contemporary research) of criminogenic needs; patterns of success or failure under non-parole based community supervision (probation and/or community corrections); the recency, frequency and severity of institutional misconduct and several others. Although these factors are not accounted for in the current PBRGI algorithm, they are used by Board members to evaluate an individual's risk and readiness as it pertains to discretionary release to parole. The factor selection phase has been completed, but the factor revision and pilot data collection phase of the project is ongoing with completion expected in FY 2020.

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[7] 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).

[8] The decision to "defer" simply means the inmate must continue to serve his or her sentence and the decision to parole is "deferred" to the next possible parole consideration date, as determined by statute (see "Board Decision Types" in Section Three).

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 inmate 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).

PBRGI Bypass Option. In April 2017, the Board submitted a project request to CDOC's Office of Information Technology (OIT) to create a PBRGI "bypass button" and a menu of seven bypass reasons. Selection of the bypass button displays the following bypass reasons: Until Presented Actions, File Reviews, Close/Past MRD Reviews, Offender Initiated Waivers or Deferrals, Offender Refuses to Attend Hearing, Rescission Hearing, and Other. Endorsement of one or more of these bypass reasons renders the PBRGI process inactive and the Board member proceeds to an individual's case information in the hearing portal. In these instances, the inmate is not scored on the 13 items of the PBRGI, no PBRGI advisory recommendation is generated or displayed, and no PBRGI-related data is stored in the CDOC information system. Following implementation, the Board began to use the Bypass option in August 2017. The Bypass option was created and applied primarily for file reviews.[9] During the preparation of this FY 2018 report, the Board eliminated this PBRGI Bypass option. The next annual report in FY 2019 will continue to reflect its use, but the Bypass option will have minimal impact on the FY 2020 report.

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

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[9] See "Board Hearing Types" in Section Three.

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 inmate record system at the CDOC. A separate project was initiated by the CDOC Parole Division to automate revocation requests submitted by community parole officers to the Board. The scope of that project does not 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 would comprise the statutory revocation factors (§17-22.5-404.5(a), C.R.S.) and a matrix of advisory decision recommendations for different risk levels. Additionally, the guidelines require the Board to provide decision reasons when the Board departs from advisory revocation recommendation (§17-22.5-404(6)(b), C.R.S.). 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 programming elements. However, as mentioned above, the work on this project was suspended and the implementation of the mandate for the Parole Board Revocation Guidelines remains incomplete.

FINDINGS

Hearing and Decision Types. The FY 2018 hearings sample included 9,189 release application hearings and reviews conducted by members of the Parole Board between July 1, 2017 and June 30, 2018. 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." Legislative actions that revise Board-related statutory provisions regarding hearing and decision policies may affect the hearing sample or the categorization of Board decisions as discretionary or mandatory. Statutory revisions are evaluated each year to determine such impacts. The decisions summarized in this report are drawn from the following types of hearings and reviews: "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, inmates may be released, deferred, tabled, or referred to full Board review.[10] Full Board reviews conclude with the decision options to release, to defer, or to table. Some individuals are set for release, but are tabled, pending the completion of a specific requirement, such as completing a treatment program or the confirmation of parole plan details. Ultimately, if the requirement is met, the Board releases a person who is tabled or, if the requirement is not met, the Board amends the release order and the tabled person is deferred. Whether in a "regular" hearing or based on a full Board review, an inmate is granted discretionary parole when the Board determines that the person has demonstrated the potential for successful reintegration into the community. An inmate is denied parole when the Board concludes that the person has not demonstrated the potential for successful reintegration into the community or there are public safety concerns.

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

As described above, the Board began to use the PBRGI Bypass option in August 2017. Of the available seven bypass reasons, all but two already met the case exclusion criteria established for the selection of discretionary cases as described above. Of the 1,931 instances where the PBRGI Bypass option was chosen for cases during FY 2018, 1,176 were excluded from the sample because they met one or more of these previously established exclusion criteria represented by the following bypass reasons: Until Presented Actions, Close/Past MRD Reviews, Offender Initiated Waivers or Deferrals, Offender Refuses to Attend

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[10] The four decision options may be found in Rule 5.04(A) in *8 C.C.R. 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website: sos.state.co.us/CCR/Welcome.do (Browse/Search for Rule 1511-1). The Board 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*.

Hearing, and Rescission Hearing. The remaining two PBRGI bypass reasons not utilized previously for case exclusion were "File Review" and particular instances of "Other." Additional information regarding these remaining 755 bypassed cases is provided below in "Sample."

Sample. The following is a summary of the FY 2018 hearing decision sample and subsamples:

- o Of the 9,189 discretionary release application hearings, 6,973 were "regular" hearings and 2,216 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 no fewer than 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

FY 2018 Parole Board Decisions (n=9,189)

| 1,232 FR | 9,189 Total |
| Reg. - "Regular" hearings and reviews |
| FB - Full Board reviews |
| FR - File review |
| BP - Bypass PBRGI |
| Non-SO - Not a sex offender |
| SO - Sex offender |

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1,232      6,973            2,216
FR         Reg.             FB
              754            1
              BP             BP
           5,534            1,441              6,975
           Non-SO           Non-SO             Non-SO
1,044  739                  1
FR     BP                   BP
           1,439            775                2,214
           SO               SO                 SO
188    15
FR     BP
```
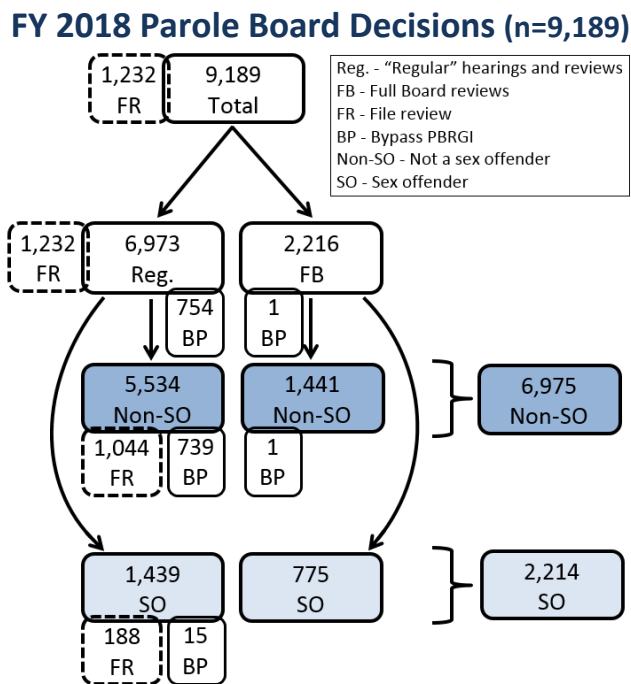
the 9,189 hearing total, 6,975 hearings were conducted for those who were not labeled a sex offender and 2,214 were conducted for those who were labeled a sex offender. Of the 9,189 cases, the Board conducted 1,232 file reviews.[11]

- o Of the 6,973 "regular" hearings, 5,534 cases involved those who were not labeled a sex offender and 1,439 cases involved those who were labeled a sex offender.[12] Of the 2,216 full Board reviews, 1,441 reviews involved those who were not labeled a sex offender and 775 reviews involved those who were labeled a sex offender. Of the 5,534 and 1,439 subgroups of "regular" hearings, the Board conducted 1,044 (non-sex offender) and 188 (sex offender) file reviews, respectively.

- o Of the 9,189 parole application hearings, the Board chose the PBRGI Bypass option in 755 instances (755 of 9,189 or 8.2%). The bypass reasons selected for these cases were "File Review" (741 cases) and "Other: 'Fast Track' File Review (House Bill 2017-1326)" (14 cases).

- o Of the 755 bypassed cases, there were 740 bypasses within the 6,975 cases where the PBRGI advisory

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[11] File reviews and full Board reviews do not involve a direct interview of the inmate (see "Board Hearing Types" in Section Three).

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

recommendation was applicable and would have previously been displayed (10.6% of non-sex offenders) and 15 bypasses of the 2,214 cases where the PBRGI advisory recommendation was not applicable and would not have been displayed (0.7% of those labeled, "sex offender").

o The findings in this report focus primarily on the hearings for those not labeled a sex offender[13] and where the Bypass option was not used. A Parole Board Release Guideline Instrument (PBRGI) advisory recommendation was generated for 4,795 "regular" hearings and 1,440 full Board reviews. The subsample of 4,795 "regular" hearings with non-sex offenders is labeled throughout the report as the "PBRGI sample." Separate analyses are provided for the subset of 1,440 full Board reviews involving non-sex offenders and for the subset of 2,214 hearings and reviews for those labeled a sex offender.

Findings. The following is a summary of the FY 2018 findings:

o <u>General Findings.</u> Collapsing across all hearing and inmate types in the FY 2018 sample of 9,189 cases, the Board decision was to designate 3,272 (35.6%) parole applicants for release and to defer 5,917 (64.1%).

o Of the 6,973 "regular" hearings in the FY 2018 sample (collapsing across inmate types), the Board decision was to designate 1,944 (27.9%) parole applicants for release and to defer 5,029 (72.1%).

o Of the 2,216 full Board reviews in the FY 2018 sample (collapsing across inmate types), the Board decision was to designate 1,328 (59.9%) parole applicants for release and to defer 888 (40.1%).

o Of the 6,975 cases involving non-sex offenders in the FY 2018 sample (collapsing across hearing types), the Board decision was to designate 2,810 (40.3%) parole applicants for release and to defer 4,165 (59.7%).

o Of the 2,214 cases involving those labeled a sex offender in the FY 2018 sample (collapsing across hearing types), the Board decision was to designate 462 (20.9%) parole applicants for release and to defer 1,752 (79.1%).

o <u>Bypass Findings</u>. Of the 755 instances where the Bypass option was chosen, the Board decision was to designate 150 (19.9%) parole applicants for release and to defer 605 (80.1%). Of the deferred applicants, 173 (28.6%) were deferred to a subsequent hearing date and 432 (71.4%) were deferred to their mandatory release date because the mandatory release would occur prior to the next scheduled hearing date (also known as, "deferred to MRD"). Of the 755 cases, 736 (97.5%) were recorded as a file review and 19 (2.5%) were recorded as a non-file review.

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[13] See Footnote 12.

TERMINOLOGY NOTE
Throughout the report, references will be made to:
- the Board decisions *to release*, *to defer* or *to defer to mandatory release date (MRD)*;
- the PBRGI advisory recommendations *to release* or *to defer*, and
- whether the Board's decision represented an *agreement* with or *departure* from the PBRGI advisory recommendation.

The figure below represents each of these decision concepts.

The decision circumstances surrounding a "*release agreement*" or "*deferral agreement*" are straightforward: the Board decision and the PBRGI advisory recommendation are both to release or are both to defer (see boxes 1 and 4 in the figure). "Departure" terms reflect concepts of defer and release in reference to the PBRGI advisory recommendation, namely:
- A *release departure* refers to a Board decision to defer when the PBRGI advisory recommendation was to release (see box 2 in the figure).
- A *deferral departure* refers to a Board decision to release when the PBRGI advisory recommendation was to defer (see box 3 in the figure).

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

o Of the 755 bypassed cases, 317 (42%) were within 3 months to MRD (of which 94.0% were deferred), an additional 268 (35.5%) were within 6 months to MRD (91.0% deferred), an additional 66 (8.7%) were within 14 months to MRD (60.6% deferred), and the remaining 104 (13.8%) were more than 14 months to MRD (22.1% deferred).

o <u>PBRGI Findings</u>. For the FY 2018 PBRGI sample of 4,795 hearings, the Board designated 1,743 (36.4%) inmates for release and 3,052 (63.6%) inmates for deferral (of which 2,119 were deferred to a subsequent hearing date and 933 were "deferred to MRD"). Recombining the PBRGI sample and 739 bypassed cases that would have been part of the PBRGI sample (combined n=5,534), the Board designated 1,892 (34.2%) for release and 3,642 (65.8%) for deferral.

- o Of the PBRGI sample of 4,795 inmates, 190 (4.0%) were within 3 months to MRD (of which, 87.4% were deferred), an additional 271 (5.7%) were within 6 months to MRD (63.8% deferred), an additional 1,134 (23.6%) were within 14 months to MRD (59.1% deferred), and 3,200 (66.7%) were more than 14 months to MRD (63.8% deferred).

- o Of the 4,795 cases in the PBRGI sample, the PBRGI recommended 2,313 (48.2%) inmates for release and 2,482 (51.8%) for deferral.

- o Collapsing across all the decisions in FY 2018, *73.0% of Board member decisions agreed with the PBRGI advisory recommendation* and 27.0% of decisions departed from the PBRGI advisory recommendation.

- o The overall agreement percentage (73.0%) combines the rate of release agreement (59.7%) and the rate of deferral agreement (85.4%).

- o The overall departure percentage (27.0%) combines the rate of release departure (40.3%) and the rate of deferral departure (14.6%).

- o Of the 19.5% (933 of 4,795) of decisions overall where the Board departed from the PBRGI recommendations to release (i.e., a Board deferral), 80.7% of these individuals were categorized by the PBRGI as "low" or "very low" risk, 68.2% were categorized as "medium" or "high" readiness, and 48.9% (456 of 933) were categorized in *both* these lower risk and higher readiness categories (also referenced later in the report as those "most appropriate for release").

- o Release departures were most frequent for persons who, although "very low" in risk, were categorized as "low" in readiness for release (31.8%; 297 of 933).

- o 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, housing issues), 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.

- o Of the 7.6% (363 of 4,795) of decisions overall where the Board departed from the PBRGI recommendations to defer (i.e., a Board release), 90.4% of these individuals were categorized by the PBRGI as "high" or "very high" risk, 67.2% were categorized as "low" or "medium" readiness and 57.6% (209 of 363) were categorized in *both* these higher risk and lower readiness categories (also

referenced later in the report as those "most appropriate for deferral").

o Deferral departures were most frequent for inmates who, although "very high" in risk, were categorized as "high" in readiness for release (32.8%; 119 of 363).

o The departure reasons entered by the Board for the decisions *to release rather than defer* included (in descending order of occurrence) that these individuals had presented a comprehensive parole plan; had successfully completed treatment to address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management); had been successful in community placements; had demonstrated growth and positive attitude; had mitigated their higher risk in one or more ways; had successfully completed programs to prepare for re-entry; and/or had served adequate time.

o Applying the current PBRGI sample selection criteria[14] to all six reporting years from FY 2013 to FY 2018, the Board designated 39.1%, 32.2%, 32.3%, 35.8%, 35.3%, and 36.4% of inmates for release, respectively, while the PBRGI recommended 53.5%, 49.8%, 51.4%, 53.7%, 48.8% and 48.2% of inmates for release, respectively.

o Applying the current PBRGI sample selection criteria[15] to all six reporting years, FY 2013 to FY 2018, the percentage of Board decision/PBRGI recommendation agreement was 69.3%, 72.6%, 72.6%, 72.3%, 73.6% and 73.0%, respectively. From FY 2013 to FY 2018, there has been a 5.3% increase in Board member agreement with the PBRGI advisory recommendation.

o File Review Findings. The FY 2018 sample of 9,189 hearings included 1,232 (13.4%) file review decisions, which do not require the presence of the inmate as defined in statute.[16] Of these 1,232 file reviews, 1,044 involved those who were not labeled a sex offender and 188 involved those labeled a sex offender. An analysis of these file reviews found:

  ▪ Since the file review eligibility definition was expanded by the Board in 2013 and additional file review criteria were codified in statute between 2015 and 2018, the use of file reviews by the Board has increased over 350% as a proportion of discretionary hearings overall from 2.9% in FY 2014 to 13.4% in FY 2018.

  ▪ Of the 1,232 file reviews, 249 inmates (20.2%) were set for release (30.5% of these were within 6

months of MRD) and 983 (79.8%) were deferred (89.8% of these were within 6 months of MRD).

▪ Of the 1,044 file reviews conducted for non-sex offenders, the Board chose to bypass the PBRGI advisory recommendation in 722 (69.2%) instances leaving 322 file reviews for which an advisory recommendation was displayed.

▪ Of the 722 bypassed cases, Board members designated 140 (19.4%) inmates for release and 582 (80.6%) for deferral (of which 169 were deferred to a subsequent hearing date and 413 were deferred to their impending mandatory release date).

▪ Of the 322 PBRGI-related file reviews, Board members designated 109 (33.9%) inmates for release and 213 (66.1%) for deferral (of which 59 were deferred to a subsequent hearing date and 154 were deferred to their impending mandatory release date). Of the same file reviews, the PBRGI recommended 185 (57.5%) for release and 137 (42.5%) for deferral.

▪ Of the 322 PBRGI-related file reviews, when collapsing release and deferral agreements overall (between corresponding Board decisions and PBRGI recommendations to defer or to release), *75.2% of file review decisions agreed with the PBRGI advisory recommendations.*

▪ The degree of release agreement was 57.8% (107 agreements within the 185 release recommendations) and the degree of deferral agreement was 98.5% (135 agreements within the 137 deferral recommendations).

▪ The 322 inmates in the PBRGI sample who were the subject of a file review were placed in these PBRGI risk/readiness matrix categories: 48.4% were in the "very low" risk category (compared to 24.4% of inmates in non-file review hearings) and 57.8% were found in the "low" readiness category (compared to 43.6% of inmates in non-file review hearings).

▪ Of the 322 inmates subject to a file review, 225 (70.0%) met the "6-months-to-MRD" criterion, an additional 87 (27.0%) met the "very low" or "low" risk criterion, and the remaining 10 (3.1%) met one or both of the ICE detainer or special needs criteria.

o Full Board Findings. There was a total of 2,216 full Board reviews in the FY 2018 sample. A separate analysis of the 1,440 full Board review decisions involving a PBRGI advisory recommendation found:

▪ Collapsing the two sources of agreement (between the PBRGI recommendations and Board decisions to release and to defer), *62.9% 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 individuals for release (918 or 63.7%) and a smaller percentage for deferral (522 or 36.3%). [As indicated above, individual Board member decisions in "regular" hearings designated 1,743 (36.4%) individuals for release and 3,052 (63.6%) for deferral.]

- Of these 1,440 full Board reviews, the PBRGI recommended 1,230 (85.4%) inmates for release and 210 (14.6%) for deferral. The PBRGI categorized 67.8% of the individuals recommended for release as "very low" or "low" risk and 81.0% as "medium" or "high" readiness, 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 (85.4% versus 47.1%, respectively) and the agreement between full Board reviews and PBRGI recommendations to release was higher (59.7% versus 65.6%, respectively).

o Findings Regarding Sex Offenders. As mentioned above, a PBRGI recommendation is not displayed for those labeled a sex offender. When considering the parole application of an individual labeled a sex offender, it is the practice of the Board to refer some of these individuals to the full Board for review. Those who are not considered appropriate for release are deferred at the time of the "regular" hearing without a referral to full Board consideration. Therefore, it is the practice and policy of the Board to release sex offenders only after a full Board review. The findings regarding parole application decisions for those labeled a sex offender are as follows:

- Of the 2,214 individuals labeled a sex offender who were seen in initial ("regular") hearings, 2.3% (52) were released,[17] 62.6% (1,387) were deferred, and 30.0% (775) were referred to the full Board for further review. Of the 775 individuals referred to full Board reviews, 52.9% (410) were set for release and 47.1% (365) were deferred.

- Combining the decision outcomes of "regular" hearings and full Board reviews, the overall decision percentage for the 2,214 individuals labeled a sex offender were: 20.9% (462) set for release and 79.1% (1,752) deferred.

- Of the 1,439 "regular" hearings involving those labeled a sex offender, there were 188 (13.1%) file reviews of which none were released.

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[17] There are no records of full Board reviews or full Board decisions for these 52 cases. These releases may be due to atypical circumstances or the full Board decision data may simply be missing from the hearing record.

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Section One: Introduction

The Colorado State Board of Parole ("the Board") is described in statute in §17-2-201, C.R.S., and it functions under a "type 1 transfer"[18] to the Colorado Department of Corrections (CDOC) pursuant to §24-1-128.5(3), C.R.S. The Board, appointed by the Governor and confirmed by the Colorado State Senate, includes seven members who serve three-year terms.[19] The Board may hire additional individuals on contract to serve as release hearing officers and revocation hearing officers.[20] The mission statement of the Board and a list of Board members and hearing officers for FY 2018 can 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(3)(f), C.R.S., is "to ensure that parole board members, release hearing officers, and administrative hearing officers under contract with the board are accurately collecting data and information on his or her decision-making as required by section 17-22.5-404 (6)."

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."[21] Additionally, pursuant to §17-22.5-107, C.R.S., in consultation with the Board, DCJ is mandated to develop an administrative release guideline instrument for use by the Board in evaluating applications for parole and

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

[19] During the preparation of this FY 2018 report, Senate Bill 2019-165 was passed and expands the Board to nine members (see §17-2-201(1)(a), C.R.S.).

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

[21] See Senate Bill 2009-135.

CDOC is mandated to develop administrative revocation guidelines for use by the Board in evaluating complaints filed for parole revocation.[22] Finally, pursuant to §17-22.5-404(6)(e)(I), C.R.S., the Board and DCJ are mandated to issue a report to the General Assembly each year regarding the outcomes of decisions by the Board.[23]

More comprehensive details of the Board's annual activities and processes may be found in reports and presentations generated by the Board pursuant to other legislative mandates. The Board provides an annual report to the Judiciary Committees of the Colorado House of Representatives and the Senate regarding the operations of the Board, as well as the information presented in this current report (see §17-2-201(3.5), C.R.S.). A separate annual presentation is offered by the Board to the Joint Budget Committee of the Colorado General Assembly (see §2-3-203(1) (b.2), C.R.S.).[24]

Organization of the Report. This report covers the hearing decisions rendered by the Board during the period from July 1, 2017 to June 30, 2018, 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 2018 report and a description of the Parole Board Release Guideline Instrument (PBRGI).

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[22] See House Bill 2010-1374.
[23] See Senate Bill 2011-241 and House Bill 2016-1153.
[24] 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 in development:

- the Parole Board Hearing Application Portal,

- the Parole Board Release Guideline Instrument, and

- the Parole Board Revocation Portal.

FY 2018 is the fifth 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 2017 report.[25]

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

Parole Board Hearing Application Portal. In October 2011, the Governor's Office of Information Technology (OIT) at CDOC, in collaboration with the Board, implemented a paperless hearing system labeled the Parole Board Hearing Application Portal ("Portal").[26] The goal of the Portal creation was to automate parole application ("release") hearings by providing an interface to display inmate case file information and other hearing-related data and documents. The Portal also records hearing decisions on electronic forms and, in the case of a release to parole, records the conditions under which an individual on parole must abide.

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, and to record rescission hearing information. It is expected that the Portal will continue to be enhanced and improved with additional data elements and processes as needs are identified by the Board and its agency partners. The Portal provides the platform within which the automated Parole Release Guideline Instrument (PBRGI) is integrated.

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

[26] 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 different risk levels." The goal of the PBRGI is to provide a

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

consistent framework for the Board to evaluate and weigh the statutory, release-decision factors[27] 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 (CCJJ).[28]

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.[29] Upon entry into CDOC, each individual's history is reviewed for sexually abusive behavior, and an assignment is made to one of the five categories of Sexual Violence Needs with classification updates occurring as warranted.[30] Inmates in the two lower classification levels (S1-no information or no sexual violence treatment needs or S2-unadjudicated sex abuse allegations) were not subject to 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

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

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

[29] These criteria may be found in the document entitled *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (2019)*, in *Appendix J: Parole Guidelines for Discretionary Release on Determinate-Sentenced Sex Offenders* ("determinate criteria") and in *Appendix S: Lifetime Supervision Criteria - Section LS 1.000-Criteria for Release from Prison to Parole* and *Section LS 4.000-Criteria for Successful Progress in Treatment in Prison: Sex Offender Treatment and Monitoring Program* ("indeterminate criteria") which is available at the SOMB website: colorado.gov/dcj/somb-standards-bulletins.

[30] 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 those 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 an S3 or S4 rating will be labeled 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 inmate discovered during the parole application hearing. In fact, there is no objective standard by which Board member decisions may be measured. This point is acknowledged in the legislative declaration of House Bill 2010-1374, "…using structured decision-making unites the parole board members with a common philosophy and a set of goals and purposes *while retaining the authority of individual parole board members to make decisions that are appropriate for particular situations*" [emphasis added] (see also, §17-22.5-404(1)(c), C.R.S.).

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

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

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[31] Prior year reports are available on the ORS/DCJ website, colorado.gov/dcj-ors/ors-reports.
[32] See the statutory considerations for release to parole in §17-22.5-404(4), C.R.S.

assessment measure that is re-validated at least every five years on the Colorado prison population.[33] The Level of Supervision Inventory-Revised (LSI-R) overall and rater box scores serve as the baseline for the assessment of criminogenic needs underlying the readiness score used in the matrix. The thirteen items of the two dimensions of the PBRGI, the scoring algorithms, and the advisory decision matrix are described in Appendix B.

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

The combination of these two scores places an inmate in a five-level risk 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.).[34] This recommendation is displayed through the Parole Board Hearing Application Portal to Board members when an electronic hearing record is initiated for a release application hearing. In addition to the advisory recommendation, Board members may also view an inmate's specific placement in the decision matrix and the rating on each of the eight items that derive the risk score and the five items that derive the readiness score. After considering the advisory recommendation and any additional information gathered during the hearing that is not included in the PBRGI algorithm (for example, current dynamic criminogenic needs; complex clusters of criminogenic needs; treatment dosage received; performance while under other forms of community supervision such as probation and community corrections), Board members may choose to agree with or depart from the recommendation. Pursuant to §17-22.5-404(6)(b), C.R.S., a decision that departs from the recommendation requires that the Board member provide the reason(s) for departure.

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

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

[34] The decision to "defer" simply means the inmate must continue to serve his or her sentence and the decision to parole is "deferred" to the next possible parole consideration date, as determined by statute (see "Board Decision Types" in Section Three).

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

(probation and/or community corrections); the recency, frequency and severity of institutional misconduct and several others. Although these policy considerations are not accounted for in the current PBRGI algorithm, they are used by Board members to evaluate an individual's risk and readiness as it pertains to 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 2019.

The PBRGI recommendation is not considered a standard by which Board decisions are to be measured but, rather, provides only an advisory recommendation. However, the subsequent presentation will refer to the agreement with or the departure from PBRGI recommendations because statute requires an additional action by Board members when departing from the advisory recommendation. Namely, members must provide a reason for departing from the PBRGI recommendation. Although this convention of expression will be employed ("agreement" versus "departure"), it does not imply a comparative evaluation of Board member decision performance.

PBRGI Bypass Option. In April 2017, the Board submitted a project request to CDOC's Office of Information Technology (OIT) to create a PBRGI "bypass button" and a menu of seven bypass reasons. Selection of the bypass button displays the following bypass reasons: Until Presented Actions, File Reviews, Close/Past MRD Reviews, Offender Initiated Waivers or Deferrals, Offender Refuses to Attend Hearing, Rescission Hearing, and Other. Endorsement of one or more of these bypass reasons renders the PBRGI process inactive and the Board member proceeds to an individual's case information in the hearing portal. In these instances, the inmate is not scored on the 13 items of the PBRGI, no PBRGI advisory recommendation is generated or displayed, and no PBRGI-related data is stored in the CDOC information system. Following implementation, the Board began to use the Bypass option in August 2017. The Bypass option was created and applied primarily for file reviews.

The Board typically chose to invoke the PBRGI Bypass option in instances where file reviews are conducted under the following circumstances:

- inmates who were within six months of their mandatory release date (MRD) (House Bill 2015-1122),
- inmates who are within 90 days of the MRD (House Bill 2018-1410), or
- inmates identified as a candidate for "fast track release" (House Bill 2017-1326).[36]

During the preparation of this FY 2018 report, the Board eliminated this PBRGI Bypass option. The next

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[36] See "Statutory Modifications" in Section Three.

annual report in FY 2019 will continue to reflect its use, but the Bypass option will have minimal impact on the FY 2020 report.

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

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

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

Board Administrative Revocation Guidelines to the Board. Following approval by the Board, the guidelines were forwarded to OIT at CDOC for further specification of the programming elements. As mentioned above, the system within which the revocation guidelines were to be integrated was suspended due to other priorities. Because the implementation of the mandate for the Parole Board Revocation Guidelines remains incomplete, the revocation hearing data, the reasons for revocation decisions, and the reasons for departures from the revocation guidelines cannot be captured or reported at the present time.

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Section Three: Hearings, Decisions and Study Sample

Pursuant to §17-22.5-404(6) (c), C.R.S., the State Board of Parole ("the Board") is to provide hearing data to the Division of Criminal Justice (DCJ) for analysis of Board decisions. The FY 2018 report is the fifth 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.[37]

- Full Board reviews - A case *may* be referred to full Board review for any reason by an individual Board member following the initial ("regular") hearing or *must* be referred to a full Board review in cases involving violence or a sex offense.[38] Full Board reviews are conducted by no fewer than four Board members and decisions require four concurring members.

- File reviews - First introduced in statute in 2011, Board members have the option to conduct a file review, rather than meeting directly with the individual when considering an application to parole.[39] 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

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[37] See Rule 5.03.E. & 503.I., in *8 C.C.R. 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website: sos.state.co.us/CCR/Welcome.do (Browse/Search for Rule 1511-1).

[38] The full Board referral circumstances may be found in Rule 8.00 in *8 C.C.R. 1511-1: Rules Governing the State Board of Parole and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website: sos.state.co.us/CCR/Welcome.do.

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

consideration,[40] the inmate release is bound by a detainer to the U.S. Immigration and Customs
Enforcement agency,[41] the inmate is within six months of mandatory release,[42] or the inmate is
assessed as "low" or "very low" in actuarial risk and meets any reentry readiness criteria set by the
Board.[43] For additional information, see "Statutory Modifications" below.

Board Decision Types. When initially considering an inmate's application for release to parole, a Board
member has four options that ultimately resolve to one of two possible discretionary decisions: to release
(grant parole) or to defer (deny parole). In a "regular" or initial hearing, inmates may be released, deferred,
tabled, or referred to full Board review.[44] Full Board reviews conclude with the decision options to release,
to defer, or to table. Some inmates are set for release, but are tabled, pending the completion of a specific
requirement, such as completing a treatment program. Ultimately, the Board releases a person who is
tabled if the requirement is met, or, if the requirement is not met, the Board amends the record and the
person is deferred.

In a "regular" hearing or review, an individual is granted discretionary parole when the Board member
determines that the potential for successful reintegration into the community has been demonstrated. An
individual is denied parole when the Board member concludes that the potential for successful
reintegration into the community has not demonstrated, and/or there are public safety concerns. In a full
Board review, the above determinations require the agreement of no fewer than four Board members.

If an inmate is deferred, a subsequent hearing date is scheduled.[45] If an inmate's MRD will occur prior to
the next scheduled parole hearing, Board members will set the conditions of parole for this forthcoming
mandatory release to parole. This decision and setting of conditions may occur up to 14 months prior to the

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[40] Introduced in Senate Bill 2011-241 (see also, §17-2-201(4)(f)(I)(A), C.R.S). A special needs offender and special needs
parole are described in §17-1-102(7.5)(a), C.R.S. and §17-22.5-403.5, C.R.S., respectively, and refer to a release
precipitated by chronic medical or mental incapacitation.
[41] Introduced in Senate Bill 2011-241 (see also, §17-2-201(4)(f)(I)(B), C.R.S.).
[42] Introduced in House Bill 2015-1122 (see also, §17-2-201(4)(f)(I)(C), C.R.S.).
[43] Introduced in House Bill 2017-1326 (see also, §17-2-201(4)(f)(I)(D), C.R.S.). The actuarial risk level is determined by
the "Colorado risk assessment scale" described in §17-22.5-404(2), specifically titled, *The Colorado Actuarial Risk
Assessment Scale*.
[44] The four decision options may be found in Rule 5.04(A) in *8 C.C.R. 1511-1: Rules Governing the State Board of Parole
and Parole Proceedings* in the Code of Colorado Regulations at the Colorado Secretary of State website:
sos.state.co.us/CCR/Welcome.do (Browse/Search for Rule 1511-1). The Board 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*.
[45] The periods prior to the next parole reconsideration are one, three, or five years pursuant to §17-22.5-403(5), C.R.S.

MRD and, in the vernacular of the Board, is often labeled a "release to MRD."[46]

Although the Board's decision to "release to MRD" references the upcoming *mandatory* release date, this decision is a *discretionary deferral* because the Board has chosen to *defer* the individual to the MRD rather than to grant a release to parole. Therefore, this *discretionary deferral* is subsequently labeled in this report, "Defer to Mandatory Release Date" or "Defer to MRD," which is both logically correct and consistent with the language of the Parole Board Code of Colorado Regulations.[47]

Statutory Modifications. Legislative actions that modify Board-related statutory provisions regarding hearing and decision policies may affect the hearing sample or the categorization of Board decisions as discretionary or mandatory. This section addresses recent statutory revisions and whether consequent accommodations were necessary to the management of hearing data and the analysis methods.

House Bill 2015-1122. The enactment of House Bill 2015-1122 affected two separate Parole Board Rules introduced in 2013.[48] One of these rules allowed a file review for inmates within six months of their mandatory release date (MRD) and the other allowed a file review for those convicted of an institutional conduct violation during the 12 months prior to a scheduled parole application hearing. In the first case ("six months to MRD"), the rule was simply codified in statute as an allowable file review condition.[49] File review decisions under this circumstance are considered discretionary and, therefore, no sample exclusions or modifications were necessary pursuant to this statutory revision.

In the second case ("conduct violation"), House Bill 2015-1122 eliminated this file review condition.[50] The bill rendered an inmate ineligible for parole, and therefore ineligible for a parole application hearing or review of any kind, if the inmate was convicted of a Class I *Code of Penal Discipline* (COPD) violation[51] at any time in the 12 months prior to a scheduled parole application hearing. Additionally, inmates who have

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[46] 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.

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

[48] See Rule 10.00 (specifically 10.02) in *8 C.C.R. 1511-1* in the 12/30/2013 version.

[49] Senate Bill 2015-100 removed the file review *rule* for inmates within six months of MRD when this file review qualification was codified by House Bill 2015-1122 (see, §17-2-201(4)(f)(I)(C), C.R.S.).

[50] Senate Bill 2015-100 removed the file review *rule* for those convicted of a COPD when these inmates became parole ineligible pursuant to House Bill 2015-1122 (see, §17-2-201(3.7)(a)(I), C.R.S.).

[51] 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 a more severe penalty than a finding of guilt for a Class II violation.

submitted a written refusal to participate in programs were likewise categorized as parole ineligible.[52] From its enactment forward, there is no hearing for individuals meeting these criteria, and, therefore, no sample exclusions or modifications were necessary pursuant to this statutory revision.

House Bill 2017-1326. Effective August 2017, an inmate who is assessed as "low" or "very low" in actuarial risk and meets reentry readiness criteria set by the Board is eligible for a file review, rather than an in-person hearing.[53] The Board refers this as a "fast track" (file) review. Statute does not dictate a specific decision outcome for the reviews under this condition, permitting the Board to exercise its discretion to release or to defer these individuals. Therefore, the decisions made pursuant to these file reviews are considered discretionary and are included in the hearing sample analyses.

House Bill 2018-1410. Effective on June 6, 2018, this statutory revision became effective only during the final month of hearings included in the FY 2018 reporting year.[54] This prison population management measure created a process by which the CDOC may request that the Board conduct a file review for specific inmates whose mandatory release date is within ninety days. The measure also required an expedited determination for any inmates whose release was tabled, but who may have satisfied the "tabling condition(s)." Statute does not dictate a specific decision outcome for the reviews under this condition, permitting the Board to exercise its discretion to release or not to release these individuals. Therefore, the decisions made pursuant to these file reviews are considered discretionary and are included in the hearing sample analyses.

FY 2018 Sample Selection. The hearings and reviews included in this report were finalized between July 1, 2017 and June 30, 2018 (As mentioned above, no revocation hearings are included in this report due to data unavailability.). These hearings and reviews were conducted to render a decision regarding applications to parole by inmates. These applications to parole involved inmates who had met their parole eligibility date (PED), but whose release was prior to their mandatory release date (MRD), which indicates that the prison sentence was complete.

Therefore, the analyses in this report focus on the hearing and review decisions labeled, "discretionary,"

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[52] Specifically, an inmate is deemed parole ineligible if, in the 12 months prior to a scheduled parole application hearing, an inmate declines in writing to participate in programs that have been recommended and made available (see §17-2-201(3.7)(a)(II)).
[53] See this file review qualification in §17-2-201(4)(f)(I)(D), C.R.S.
[54] See the related elements of this measure in §17-1-119.7(2)(a)(II) and (III), C.R.S., and §17-2-201(18), C.R.S.

rather than those labeled, "mandatory." Taking into account relevant statutory modifications (as described above), for the purposes of this report, any hearing or review decision that occurred between the PED and MRD that is not hindered or limited by factors not under the control of the Board are considered discretionary.

Just over 7,000 hearing records were excluded from the sample because the record was a duplicate or the related decisions were incomplete or occurred under constraining circumstances. Because these situations resulted in perfunctory deferral 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.

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

An inmate's release may be tabled for a period of time during which the elements of the parole plan are confirmed by a case manager or re-entry specialist or during which a particular condition must be met. For example, a release may be delayed until a training program in CDOC is completed or when the release to parole is dependent on acceptance into a community corrections program or community treatment. If the condition for which the release was tabled or delayed is not met, the release may be reversed and, if so, an inmate's incarceration continues. Additionally, if the fiscal year concluded before the release occurred, it is unknown whether such inmates were actually released or whether the release was subsequently rescinded, which may occur for any number of reasons, including the commission of an institutional conduct (COPD)

violation.[55] 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.

As described above, the Board began to use the PBRGI Bypass option in August 2017. Of the available bypass reasons, all but two were already among the criteria established for the inclusion of discretionary cases and exclusion of mandatory decision circumstances as described above. Of the 1,931 instances where the PBRGI Bypass option was chosen for cases during FY 2018, 1,176 were excluded from the sample because they met one or more of these previously established exclusion criteria represented by these bypass reasons: Until Presented Actions, Close/Past MRD Reviews, Offender Initiated Waivers or Deferrals, Offender Refuses to Attend Hearing, Rescission Hearing, and some instances of Other. The PBRGI bypass reasons not utilized previously or in the current report for case exclusion were "File Review" and particular instances of "Other." Additional information regarding these remaining 755 bypassed cases is provided in the following sections describing the FY 2018 hearing samples.

FY 2018 Parole Board Decisions (n=9,189)
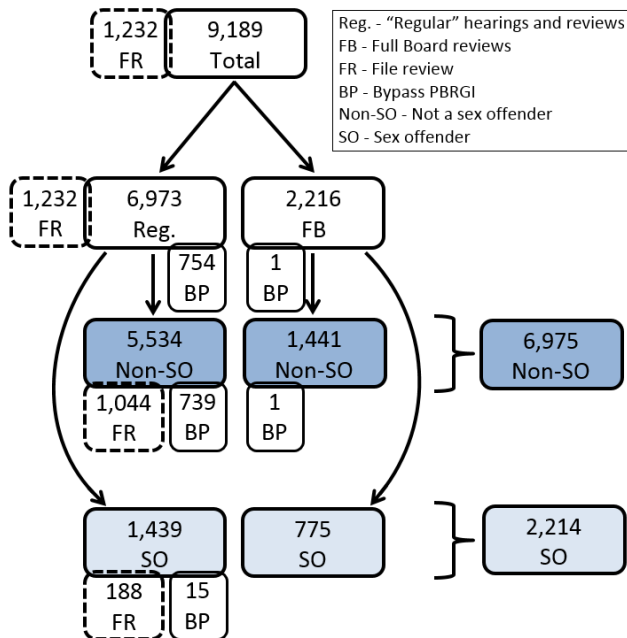
FY 2018 Overall Sample. The total sample of discretionary decisions analyzed and summarized in this report were rendered in 9,189 hearings and reviews conducted for inmates considered for parole between July 1, 2017 and June 30, 2018. The 9,189 decisions comprised 6,973 "regular" hearings and 2,216 full Board reviews. Of the 9,189 decisions and reviews, there were 6,975 for those labeled, "non-sex offender," comprising 5,534 "regular" hearings and 1,441 full Board reviews. Of the 9,189 decisions and reviews, there were 2,214 for those labeled, "sex offender," comprising 1,439 "regular" hearings and 775 full Board reviews. The hearings and reviews for those

[55] 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.

labeled, "sex offender," are excluded from the PBRGI sample and analyses.[56] Of the 9,189 total decisions, 1,232 (13.4%) were the result of file reviews, including 1,044 file reviews for those labeled, "non-sex offender," and 188 for those labeled, "sex offender."

Bypass Sample. As described above, when the Bypass option was chosen, the PBRGI advisory recommendation was not generated, displayed or stored as part of a hearing record. Of the 9,189 decision records included in this report, the Board chose the option to bypass in 755 instances (755 of 9,189 or 8.2%). Of the 755 cases, there were 740 bypasses where the PBRGI advisory recommendation would have previously been displayed (10.6% of 6,975 cases involving non-sex offenders) and there were 15 bypasses where the recommendation was not applicable and would not have been displayed (0.7% of the 2,214 cases labeled, "sex offender").

FY 2018 PBRGI Sample. The focus of this report is the subsample of 6,975 hearings and reviews that did not involve those labeled, "sex offender," and, therefore, were eligible for the display of the PBRGI advisory recommendation. However, of these 6,975, the Board chose to exercise the Bypass option in 740 (10.6%) instances, reducing the PBRGI sample to 6,235 hearings and reviews. Of these 740 bypassed cases, one case was categorized as a full Board review.

Further references in this report to the "PBRGI sample" refers to the 4,795 "regular" hearings and the 1,440 full Board reviews where the PBRGI advisory recommendation was not bypassed and, therefore, was displayed and stored as part of the hearing record. Applying the current sample selection criteria across all reporting years, a year-to-year comparison found that the combined hearings and reviews in the current PBRGI sample (n=6,235) relative to those of the last five years was smaller, but comparable: 6,438, 7,208, 6,764, 6,258, and 6,324 for reporting years FY 2013 to FY 2017, respectively.

Summaries of the findings from the analysis of the primary "PBRGI samples" and the Bypassed cases are immediately following in Section Four of the report. Findings from the analysis of file review decisions, decisions from full Board reviews, and the decisions rendered for those labeled a sex offender are presented in the later parts of Section Four.

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

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Section Four: FY 2018 Findings - Parole Board Decisions

The findings reported below from the FY 2018 hearing data include the following information:

- Number of release and deferral decisions overall by the Board for sample subgroups;

- Number of release and deferral decisions by the Board when choosing to bypass the PBRGI;

- Number of inmates assigned to the risk and readiness categories in the PBRGI decision matrix;

- Number of release and number of deferral decisions by the Board (release rates within matrix levels) and PBRGI advisory recommendations;

- Number of agreements and departures between Board decisions and PBRGI recommendations;

- Number of agreements and departures within decision matrix categories;

- Categories and counts of the reasons for departure from release and from deferral recommendations;

- Reasons for departure within specific decision matrix categories;

- Board decisions and PBRGI recommendations in file reviews;

- Board decisions and PBRGI recommendations in full Board reviews;

- Board decisions for parole applicants labeled, "sex offender"; and

- Final summary of findings.

Overall Decision Findings. Collapsing across all hearing and inmate types in the FY 2018 sample of 9,189 cases, the Board decision was to designate 3,272 (35.6%) parole applicants for release and to defer 5,917 (64.1%). Of the 5,917 who were deferred, 69.1% were categorized as "deferred" and 30.9% were categorized as "deferred to MRD." Of the 3,272 set for release, 1.5% (48) were within 3 months to MRD, an additional 4.9% (161) were within 6 months to MRD, an additional 20.3% (665) were within 14 months to MRD, and the remaining 73.3% (2,398) were more than 14 months to MRD.[57] Of the 5,917 who were deferred or "deferred to MRD," 9.8% (581) were within 3 months to MRD, an additional 9.0% (533) were within 6 months to MRD, an additional 17.1% (1,008) were within 14 months to MRD, and the remaining 64.1% (3,795) were more than 14 months to MRD. The counts and percentages of decisions to release or to

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[57] The "months-to-MRD" findings are included at the request of the Board starting from FY 2016. The specific "months-to-MRD" thresholds (3 months, 6 mos., 14 mos., etc.) are relevant to Board policy and statutory provisions (described above) regarding the options to conduct a file review and/or the decision to defer to the MRD. Individuals labeled a sex offender with an indeterminate sentence do not have a mandatory release date. Rather than exclude them from the findings, these individuals were added to the category, "More than 14 months to MRD."

defer within these "months-to-MRD" categories can be found in Table 1. Of the 9,189 decisions, 13.4% (1,232) were rendered following a file review.[58]

Of the 6,973 "regular" hearings in the FY 2018 sample (collapsing across inmate types), the Board decision was to designate 1,944 (27.9%) parole applicants for release and to defer 5,029 (72.1%). Of the 5,029 who were deferred, 66.8% were categorized as "deferred" and 33.2% were categorized as "deferred to MRD." Of the 1,944 set for release, 2.2% (43) were within 3 months to MRD, an additional 6.4% (125) were within 6 months to MRD, an additional 25.4% (494) were within 14 months to MRD, and the remaining 65.9% (1,282) were more than 14 months to MRD.[59] Of the 5,029 who were deferred or "deferred to MRD," 11.5% (576) were within 3 months to MRD, an additional 10.1% (506) were within 6 months to MRD, an additional 17.3% (872) were within 14 months to MRD, and the remaining 61.1% (3,075) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories can be found in Table 1. Of the 6,973 decisions, 17.7% (1,232) were rendered following a file review.

Of 2,216 full Board reviews in the FY 2018 sample (collapsing across inmate types), the Board decision was to designate 1,328 (59.9%) parole applicants for release and to defer 888 (40.1%). Of the 888 who were deferred, 82.7% were categorized as "deferred" and 17.3% were categorized as "deferred to MRD." Of the 1,328 set for release, 0.4% (5) were within 3 months to MRD, an additional 2.7% (36) were within 6 months to MRD, an additional 12.9% (171) were within 14 months to MRD, and the remaining 84.0% (1,116) were more than 14 months to MRD.[60] Of the 888 who were deferred or "deferred to MRD," 0.6% (5) were within 3 months to MRD, an additional 3.0% (27) were within 6 months to MRD, an additional 15.3% (136) were within 14 months to MRD, and the remaining 81.1% (720) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories can be found in Table 1.

Of 6,975 cases involving non-sex offenders in the FY 2018 sample (collapsing across hearing types), the Board decision was to designate 2,810 (40.3%) parole applicants for release and to defer 4,165 (59.7%). Of the 4,165 who were deferred, 64.8% were categorized as "deferred" and 35.2% were categorized as

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[58] See "Board Hearing Types" in Section Three. Starting in FY 2016, the file review findings are included at the request of the Board.
[59] See Footnote 57 regarding individuals labeled a sex offender with an indeterminate sentence.
[60] See Footnote 59.

Table 1. FY 2018 Samples: Counts and percentages of Parole Board decisions by months to mandatory release date

PB Decision Count [Row %] (Column %)	Months to Mandatory Release Date (MRD)				
	Up to 3 Months to MRD	4 to 6 Months to MRD	7 to 14 Months to MRD	More than 14 Months to MRD	Total
Overall Sample (n=9,189^)					
Defer	581 [9.8%] (92.4%)	533 [9.0%] (76.8%)	1,008 [17.0%] (60.3%)	3,795 [64.1%] (61.3%)	5,917 [100.0%] (64.4%)
Release	48 [1.5%] (7.6%)	161 [4.9%] (23.2%)	665 [20.3%] (39.7%)	2,398 [73.3%] (38.7%)	3,272 [100.0%] (35.6%)
Total	629 [6.8%] (100.0%)	694 [7.6%] (100.0%)	1,673 [18.2%] (100.0%)	6,193 [67.4%] (100.0%)	9,189 [100.0%] (100.0%)
"Regular" Hearing Sample (n=6,973^)					
Defer	576 [11.5%] (93.1%)	506 [10.1%] (80.2%)	872 [17.3%] (63.8%)	3,075 [61.1%] (70.6%)	5,029 [100.0%] (72.1%)
Release	43 [2.2%] (6.9%)%	125 [6.4%] (19.8%)	494 [25.4%] (36.2%)	1,282 [65.9%] (29.4%)	1,944 [100.0%] (27.9%)
Total	619 [8.9%] (100.0%)	631 [9.0%] (100.0%)	1,366 [19.6%] (100.0%)	4,357 [62.5%] (100.0%)	6,973 [100.0%] (100.0%)
Full Board Reviews (n=2,216^)					
Defer	5 [0.6%] (50.0%)	27 [3.0%] (42.9%)	136 [15.3%] (44.3%)	720 [81.1%] (39.2%)	888 [100.0%] (40.1%)
Release	5 [0.4%] (50.0%)	36 [2.7%] (57.1%)	171 [12.9%] (55.7%)	1,116 [84.0%] (60.8%)	1,328 [100.0%] (59.9%)
Total	10 [0.5%] (100.0%)	63 [2.8%] (100.0%)	307 [13.9%] (100.0%)	1,836 [82.9%] (100.0%)	2,216 [100.0%] (100.0%)
Non-Sex Offenders (n=6,975)					
Defer	462 [11.1%] (90.6%)	428 [10.3%] (73.8%)	810 [19.4%] (56.3%)	2,465 [59.2%] (55.4%)	4,165 [100.0%] (59.7%)
Release	48 [1.7%] (9.4%)	152 [5.4%] (26.2%)	629 [22.4%] (43.7%)	1,981 [70.5%] (44.6%)	2,810 [100.0%] (40.3%)
Total	510 [7.3%] (100.0%)	580 [8.3%] (100.0%)	1,439 [20.6%] (100.0%)	4,446 [63.7%] (100.0%)	6,975 [100.0%] (100.0%)
Sex Offenders (n=2,214^)					
Defer	119 [6.8%] (100.0%)	105 [6.0%] (92.1%)	198 [11.3%] (84.6%)	1,330 [75.9%] (76.1%)	1,752 [100.0%] (79.1%)
Release	0 [0.0%] (0.0%)	9 [1.9%] (7.9%)	36 [7.8%] (15.4%)	417 [90.3%] (23.9%)	462 [100.0%] (20.9%)
Total	119 [5.4%] (100.0%)	114 [5.1%] (100.0%)	234 [10.6%] (100.0%)	1,747 [78.9%] (100.0%)	2,214 [100.0%] (100.0%)

^ Individuals labeled a sex offender with an indeterminate sentence do not have a mandatory release date. Rather than exclude them from the table, these individuals were added to the category, "More than 14 months to MRD."

"deferred to MRD." Of the 2,810 set for release, 1.7% (48) were within 3 months to MRD, an additional 5.4% (152) were within 6 months to MRD, an additional 22.4% (629) were within 14 months to MRD, and the remaining 70.5% (1,981) were more than 14 months to MRD. Of the 4,165 who were deferred or "deferred to MRD," 11.1% (462) were within 3 months to MRD, an additional 10.3% (428) were within 6 months to MRD, an additional 19.4% (810) were within 14 months to MRD, and the remaining 59.2% (2,465) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories can be found in Table 1. Of the 6,975 decisions, 15.0% (1,044) were rendered following a file review.

Of 2,214 cases involving those labeled a sex offender in the FY 2018 sample (collapsing across hearing types), the Board decision was to designate 462 (20.9%) parole applicants for release and to defer 1,752 (79.1%). Some individuals labeled a sex offender receive an indeterminate sentence (and do not have a related mandatory release date) and some receive a determinate sentence (and do have a related mandatory release date). Rather than exclude those with an indeterminate sentence from the "months-to-MRD" analysis, these cases were placed in the category, "More than 14 months to MRD." Of the 462 set for release, 0.0% (0) were within 3 months to MRD, an additional 1.9% (9) were within 6 months to MRD, an additional 7.8% (36) were within 14 months to MRD, and the remaining 90.3% (417) were more than 14 months to MRD. Of the 1,752 who were deferred, 6.8% (119) were within 3 months to MRD, an additional 6.0% (105) were within 6 months to MRD, an additional 11.3% (198) were within 14 months to MRD, and the remaining 75.9% (1,330) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories can be found in Table 1.

PBRGI Bypass Findings. Because the bypassed cases cannot be integrated into the presentation of PBRGI findings to follow, the overall findings for these cases are provided here. The overall findings, include:

- Of the 9,189 total hearings and reviews in the FY 2018 sample, the Board used the PBRGI Bypass option in 755 (8.2%) cases. The bypass reasons selected for these cases were "File Review" (741 cases) and "Other: 'Fast Track' File Review (H.B.17-1326)" (14 cases).
- Of the 6,975 cases involving a non-sex offender that were applicable to the PBRGI advisory recommendation, the Board bypassed 740 (10.6%) cases.
- Of the 755 bypass cases, 736 (97.5%) were recorded as a file review and 19 (2.5%) were recorded as a non-file review (in other words, recorded as a "regular" hearing conducted by video, by phone, or in person).

Table 2. FY 2018 PBRGI Bypass sample: Counts and percentages of Parole Board decisions by months to mandatory release date (n=755)

PB Decision [Row %] (Column %)	Time to Mandatory Release Date (MRD)				
	Up to 3 months to MRD	4 to 6 months to MRD	7 to 14 months to MRD	More than 14 months to MRD	Total
Defer	298 [49.3%] (94.0%)	244 [40.3%] (91.0%)	40 [6.6%] (60.6%)	23 [3.8%] (22.1%)	605 [100.0%] (80.1%)
Release	19 [12.7%] (6.0%)	24 [16.0%] (9.0%)	26 [17.3%] (39.4%)	81 [54.0%] (77.9%)	150 [100.0%] (19.9%)
Total	317 [42.0%] (100.0%)	268 [35.5%] (100.0%)	66 [8.7%] (100.0%)	104 [13.8%] (100.0%)	755 [100.0%] (100.0%)

The following findings report the decisions rendered by the Board when the Bypass option was chosen (see Table 2). Of the 755 bypassed cases, the Board decision was to designate 150 (19.9%) parole applicants for release and to defer 605 (80.1%). Of the 150 inmates designated for release by the Board, 12.7% (19) were within 3 months to MRD, an additional 16.0% (24) were within 6 months to MRD, an additional 17.3% (26) were within 14 months to MRD, and the remaining 54.0% (81) were more than 14 months to MRD.[61] Of these 150 release decisions, 140 (93.3%) were rendered following a file review.[62]

Of the 605 (80.1% or 605/755) inmates who were deferred, 28.6% (173/605) were categorized as "deferred" and 71.4% (432/605) were categorized as "deferred to MRD."[63] Of the 605 who were deferred or "deferred to MRD," 298 (49.3%) were within 3 months to MRD, an additional 244 (40.3%) were within 6 months to MRD, an additional 40 (6.6%) were within 14 months to MRD, and the remaining 23 (3.8%) were more than 14 months to MRD. Of the 605 deferral decisions, 596 (98.5%) were rendered following a file review.

PBRGI Decision Matrix Assignment. Table 3 provides the number and percentages of the 4,795 inmates in the FY 2018 PBRGI sample of 4,795 in "regular" hearings assigned to each of the 15 risk/readiness positions in the PBRGI decision matrix. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer. The largest placements of persons on the risk dimension was in "very low" risk (26.0%)

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[61] The "months-to-MRD" findings are included at the request of the Board starting from FY 2016. The specific "months-to-MRD" thresholds (3 months, 6 mos., 14 mos., etc.) are relevant to Board policy and statutory provisions (described above) regarding the options to conduct a file review and/or the decision to defer to the MRD.

[62] See "Board Hearing Types" in Section Three. Starting in FY 2016, the file review findings are included at the request of the Board.

[63] See "Board Decision Types" in Section Three.

Table 3. FY 2018 PBRGI sample: Counts and percentages of parole applicants assigned to each PBRGI risk/readiness matrix combination (n=4,795)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	424	427	397	1,248
	% within Very Low Risk	34.0%	34.2%	31.8%	100.0%
	% within Readiness Category	35.5%	29.1%	18.6%	26.0%
	% of Total	8.8%	8.9%	8.3%	26.0%
2 Low	Count	222	273	398	893
	% within Low Risk	24.9%	30.6%	44.6%	100.0%
	% within Readiness Category	18.6%	18.6%	18.7%	18.6%
	% of Total	4.6%	5.7%	8.3%	18.6%
3 Medium	Count	182	246	427	855
	% within Medium Risk	21.3%	28.8%	49.9%	100.0%
	% within Readiness Category	15.3%	16.8%	20.0%	17.8%
	% of Total	3.8%	5.1%	8.9%	17.8%
4 High	Count	142	178	253	573
	% within High Risk	24.8%	31.1%	44.2%	100.0%
	% within Readiness Category	11.9%	12.1%	11.9%	11.9%
	% of Total	3.0%	3.7%	5.3%	11.9%
5 Very High	Count	223	344	659	1,226
	% within Very High Risk	18.2%	28.1%	53.8%	100.0%
	% within Readiness Category	18.7%	23.4%	30.9%	25.6%
	% of Total	4.7%	7.2%	13.7%	25.6%
Total in Readiness Category	Count	1,193	1,468	2,134	4,795
	% within Risk Category	24.9%	30.6%	44.5%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	24.9%	30.6%	44.5%	100.0%

and the largest placement of persons on the readiness dimension was in "low" readiness (44.5%). The highest percentage of those in the "release area" of the matrix was the 8.9% in "very low" risk/"medium" readiness. The highest percentage of those in the "defer area" of the matrix was the 13.7% in "very high" risk/"low" readiness. There was 16.4% of the sample placed in the "boundary region" of the decision matrix representing the more complex decision circumstances for Board members (namely, those placed in the high/high, medium/medium, or low/low risk/readiness categories).

The PBRGI placed 26% of parole applicants in the "very low" risk category and 44% of applicants in the "low" readiness category.

Board Decisions (PBRGI Sample). The total number and percentages of defer and release decisions by the Board within the PBRGI matrix combinations can be found in Table 4. As a reminder, the blue/lighter area in the upper left of the matrix represents the part of the risk/readiness matrix where the PBRGI advisory recommendation is always to release and the red/darker area in the bottom right of the matrix represents the part of the risk/readiness matrix where the PBRGI advisory recommendation is always to defer.

Further review of Table 4 reveals that the release percentages in the "release region" of the matrix (blue/lighter areas) ranged from 25.2% to 83.3% with higher rates of release found for those inmates in the "high" level of readiness (ranging from 75.0% to 83.3%). The deferral percentages in the "defer area" of the matrix (red/darker areas of Table 4) ranged from 46.6% to 97.0% with higher rates of deferral found in "low" readiness (95.0% to 97.0%).

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.

Table 5 provides the "months-to-MRD" counts and percentages overall and by Board decision for the PBRGI sample of "regular" hearings (n=4,795), for the PBRGI bypassed cases (n=739) where an advisory recommendation previously would have been displayed, and for the combination of these two samples (n=5,534). Of the PBRGI sample of 4,795 inmates in "regular" hearings, the Board designated 36.4% (1,743) of inmates for release and deferred 63.6% (3,052). Of the 3,052 inmates who were deferred, 2,119 (69.4%) were deferred to a subsequent hearing date and 933 (30.6%) were deferred to their MRD.[64] Of these 4,795 cases overall, 4.0% (190) were within 3 months to MRD, an additional 5.7% (271) were within 6 months to

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[64] See "Board Decision Types" in Section Three.

Table 4. FY 2018 PBRGI sample: Counts and percentages of Parole Board (PB) decisions within each PBRGI risk/readiness matrix combination (n=4,795)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	424	427	397	1,248
	PB Defer (%)	106 (25.0%)	190 (44.5%)	297 (74.8%)	593 (47.5%)
	PB Release (%)	318 (75.0%)	237 (55.5%)	100 (25.2%)	655 (52.5%)
2 Low	Count	222	273	398	893
	PB Defer (%)	37 (16.7%)	123 (45.1%)	378 (95.0%)	538 (60.2%)
	PB Release (%)	185 (83.3%)	150 (54.9%)	20 (5.0%)	355 (39.8%)
3 Medium	Count	182	246	427	855
	PB Defer (%)	36 (19.8%)	116 (47.2%)	412 (96.5%)	564 (66.0%)
	PB Release (%)	146 (80.2%)	130 (52.8%)	15 (3.5%)	291 (34.0%)
4 High	Count	142	178	253	573
	PB Defer (%)	28 (19.7%)	116 (65.2%)	242 (95.7%)	386 (67.4%)
	PB Release (%)	114 (80.3%)	62 (34.8%)	11 (4.3%)	187 (32.6%)
5 Very High	Count	223	344	659	1,226
	PB Defer (%)	104 (46.6%)	228 (66.3%)	639 (97.0%)	971 (79.2%)
	PB Release (%)	119 (53.4%)	116 (33.7%)	20 (3.0%)	255 (20.8%)
Total in Readiness Category	Count	1,193	1,468	2,134	4,795
	PB Defer (%)	311 (26.1%)	773 (52.7%)	1,968 (92.2%)	3,052 (63.6%)
	PB Release (%)	882 (73.9%)	695 (47.3%)	166 (7.8%)	1,743 (36.4%)

Table 5. FY 2018 PBRGI, Bypass, and Combined samples: Counts and percentages of Parole Board decisions by months to mandatory release date (n=4,795, n=739, & n=5,534, respectively)

PB Decision [Row %] (Column %)	Time to Mandatory Release Date (MRD)				
	Up to 3 months to MRD	4 to 6 months to MRD	7 to 14 months to MRD	More than 14 months to MRD	Total
PBRGI sample (n=4,795)					
Defer	166 [5.4%] (87.4%)	173 [5.7%] (63.8%)	670 [22.0%] (59.1%)	2,043 [66.9%] (63.8%)	3,052 [100.0%] (63.6%)
Release	24 [1.4%] (12.6%)	98 [5.6%] (36.2%)	464 [26.6%] (40.9%)	1,157 [66.4%] (36.2%)	1,743 [100.0%] (36.4%)
Total	190 [4.0%] (100.0%)	271 [5.7%] (100.0%)	1,134 [23.6%] (100.0%)	3,200 [66.7%] (100.0%)	4,795 [100.0%] (100.0%)
Bypass sample (n=739)					
Defer	293 [49.7%] (93.9%)	236 [40.0%] (90.8%)	39 [6.6%] (60.0%)	22 [3.7%] (21.6%)	590 [100.0%] (79.8%)
Release	19 [12.8%] (6.1%)	24 [16.1%] (9.2%)	26 [17.4%] (40.0%)	80 [53.7%] (78.4%)	149 [100.0%] (20.2%)
Total	312 [42.2%] (100.0%)	260 [35.2%] (100.0%)	65 [8.8%] (100.0%)	102 [13.8%] (100.0%)	739 [100.0%] (100.0%)
Combined sample (n=5,534)					
Defer	459 [12.6%] (91.4%)	409 [11.2%] (77.0%)	709 [19.5%] (59.1%)	2,065 [56.7%] (62.5%)	3,642 [100.0%] (65.8%)
Release	43 [2.3%] (8.6%)	122 [6.4%] (23.0%)	490 [25.9%] (40.9%)	1,237 [65.4%] (37.5%)	1,892 [100.0%] (34.2%)
Total	502 [9.1%] (100.0%)	531 [9.6%] (100.0%)	1,199 [21.7%] (100.0%)	3,302 [59.7%] (100.0%)	5,534 [100.0%] (100.0%)

MRD, an additional 23.6% (1,134) were within 14 months to MRD, and 66.7% (3,200) were more than 14 months to MRD.[65] The counts and percentages of Board decisions to release or to defer within these "months-to-MRD" categories can be found in Table 5. Of the 4,795 decisions, 21.8% (1,044) were rendered following a file review.[66]

Of the 739 bypassed cases that would have been included in the PBRGI-related analyses, 149 (20.2%) were set for release and 590 (79.8%) were deferred. Of these 590 inmates who were deferred, 171 (29.0%)

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[65] The "months-to-MRD" findings are included at the request of the Board starting from FY 2016. The specific "months-to-MRD" thresholds (3 months, 6 mos., 14 mos., etc.) are relevant to Board policy and statutory provisions (described above) regarding the options to conduct a file review and/or the decision to defer to the MRD.
[66] See "Board Hearing Types" in Section Three. Starting in FY 2016, the file review findings are included at the request of the Board.

were deferred to a subsequent hearing date and 419 (71.0%) were deferred to their MRD. Of these 739 cases overall, 42.2% (312) were within 3 months to MRD, an additional 35.2% (260) were within 6 months to MRD, an additional 8.8% (65) were within 14 months to MRD, and 13.8% (102) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories can be found in Table 5. Of the 739 decisions, 97.7% (722) were rendered following a file review. Table 5 also displays the counts and percentages of Board decisions when combining the PBRGI and the PBRGI Bypass samples.

Board/PBRGI Agreement. Table 6 provides the pattern of agreement between the Board decisions and the PBRGI advisory recommendations.[67] As mentioned above, Board members designated 1,743 (36.4%)

> **The Board set 36% of parole candidates for release and deferred 64%. The PBRGI recommended to release 48% and to defer 52%.**

inmates in the sample for release and, combining the two types of deferral, 3,052 (63.6%) for deferral. Of the 4,795 PBRGI sample of parole applicants, the PBRGI recommended 2,313 (48.2%) for release and 2,482 (51.8%) for deferral (see Table 6). Given that 75.4% (1,743 of 2,313) of applicants recommended for release were categorized as "very low" or "low" risk and 41.9% (970 of 2,313) were labeled "high

readiness" and (see Table 4), it is not unexpected that a relatively large percentage of individuals would be assigned an advisory recommendation for release. The counts in Table 6 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 9 for an introduction to the agreement and departure concepts.).

> **The 73% in overall PB/PBRGI decision/recommendation agreement comprises 60% in release agreement and 85% in deferral agreement.**

The overall degree of agreement is derived from two sources: agreements with recommendations to release (1,380) and agreements with recommendations to defer (2,119; see the blue/lighter areas of Table 6). Collapsing these two sources of agreement, *73.0% of all Board member decisions agreed with the PBRGI advisory recommendations.* The overall agreement percentage (73.0%) combines the rate of release agreement

(59.7% or 1,380 agreements within the 2,313 release recommendations) and the rate of deferral agreement (85.4% or 2,119 agreements within the 2,482 defer recommendations).

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[67] As mentioned in the Introduction, the PBRGI recommendation is advisory and is not a standard by which Board decisions are measured. Although this report refers to PBRGI recommendation agreement or departure, this convention of expression does not imply a comparative evaluation of Board member decision performance.

Table 6. FY 2018 PBRGI sample: Overall counts and percentages of Parole Board hearing decisions by PBRGI advisory recommendations (n=4,795) *

Parole Board Hearing Decision (Overall counts & percentages)		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	1,506 31.4%	613 12.8%	2,119 44.2%
Defer to Mandatory Release Date	Count Percent	613 12.8% *Total Defer = 2,119* 44.2%	320 6.7% *Total Defer = 933* 19.5%	933 19.5% *Total Defer = 3,052* 63.6%
Release	Count Percent	363 7.6%	1,380 28.8%	1,743 36.4%
Total of PBRGI Recommendations	Count Percent	2,482 51.8%	2,313 48.2%	4,795 100.0%

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

The overall degree of departure is derived from two sources: departures from recommendations to release (933) and departures from recommendations to defer (363; see the red/darker areas in Table 6). Collapsing across these decision types, *27.0% of all Board decisions departed from the PBRGI advisory recommendations*. The overall departure percentage (27.0%) combines the rate of release departure (40.3% or 933 departures within the 2,313 release recommendations) and the rate of deferral departure (14.6% or 363 departures within the 2,482 defer recommendations).

From a release perspective, the overall rate of release agreement was about 50% higher than the overall rate of release departure, 28.8% versus 19.5%, respectively. From a deferral perspective, the overall rate of deferral agreement was about 500% higher than the overall rate of deferral departure, 44.2% versus 7.6%, respectively. Separate summaries of the patterns of agreements and departures found in file reviews and full Board reviews are provided in sections below.

Table 7 provides a comparison of the percentages of Board decisions and PBRGI recommendations to

Table 7. PBRGI samples: Percentage of Parole 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=5,206)	**FY 2014** (n=5,921)	**FY 2015** (n=5,521)	**FY 2016** (n=4,916)	**FY 2017** (n=4,932)	**FY 2018** (n=4,795)
RELEASE	**PB Decision** *PBRGI Rec.* *(AGREEMENT)*	**39.1%** *53.5%* *(57.9%)*	**32.2%** *49.8%* *(54.8%)*	**32.3%** *51.4%* *(54.8%)*	**35.8%** *53.7%* *(57.5%)*	**35.3%** *48.8%* *(59.2%)*	**36.4%** *48.2%* *(59.7%)*
DEFER	**PB Decision** *PBRGI Rec.* *(AGREEMENT)*	**60.9%** *46.5%* *(82.5%)*	**67.8%** *50.2%* *(90.2%)*	**67.7%** *48.6%* *(91.4%)*	**64.2%** *46.3%* *(89.4%)*	**64.7%** *51.2%* *(87.4%)*	**63.6%** *51.8%* *(85.4%)*
OVERALL PB / PBRGI AGREEMENT		*69.3%*	*72.6%*	*72.6%*	*72.3%*	*73.6%*	*73.0%*

* The sample selection criteria used to identify discretionary hearings in FY 2018 were used for all reporting years for comparability of comparisons, *rather than the percentages reported in previous fiscal year reports*.

release or defer for the PBRGI samples from the current and five previous fiscal years.[68] As is evident in the table, the PBRGI has consistently recommended a higher percentage of release each year than the percentage of actual release decisions by the Board. Comparing the initial FY 2013 sample and the current FY 2018 sample, there has been a 5.3% increase from 69.3% to 73.0% in Board member agreement with the PBRGI advisory recommendation.

> **Comparing the FY 2013 and FY 2018 samples, there was a 5.3% increase from 69% to 73% in Board member agreements with the PBRGI advisory recommendations.**

The average overall agreement across the five reporting years was 72.2%, the average overall *release* agreement was 57.2%, and the average overall *deferral* agreement was 87.8%. The initial increase in overall agreement between the first and second reporting years may be attributed to the increase in deferral agreements (82.5% to 90.2%), given the drop in release agreements (57.9% to 54.8%). For the subsequent reporting years, the degree of agreement, whether focusing on the release, the deferral, or the overall percentages has remained relatively consistent. In recent years, the overall deferral agreement has decreased and the overall release agreement has increased.

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[68] The sample selection criteria are described in "FY 2018 Sample Selection" on page 28. 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 5, Table 8 displays the number of inmates assigned to each of the 15 risk/readiness combinations of the PBRGI decision matrix and the percentage of agreement or departure in that specific combination. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer. The pattern of percentages in Table 8 displays that the agreement percentages in the "release area" of the decision matrix (ranging from 25.2% to 83.3%; blue/lighter area) are generally lower than the agreement percentages in the "defer area" of the decision matrix (ranging from 46.6% to 97.0%; red/darker area).

> **The agreement percentages in the "release area" of the decision matrix were generally lower 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 52.5% to "very high" risk at 79.2%. When collapsing levels of risk, the highest degree of agreement was found in the "low" readiness category at 83.0% followed by the "high" (72.7%) and "medium" readiness (58.7%) categories.

Of the inmates identified as the better candidates for release (blue/heavy outline at upper left of Table 8), the degree of decision agreement was 66.1% (890/1,346). Specifically, this would include individuals 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"). Individuals categorized across the entire "very low" risk

> **The degree of decision agreement was 66% for those identified as the better candidates for release and 85% for those identified as the better candidates for deferral.**

category were designated as appropriate for release, regardless of level of readiness.[69] The overall degree of agreement to release these parole applicants categorized as "very low" risk was 47.5%.

The advisory release recommendations for inmates located near the "middle decision boundary" were subject to a slightly lower degree of agreement, 62.9% (244/388; combining the agreements in the "medium"/"medium" and "high"/"high" risk/readiness combinations). Additional support for the difficulty of decisions regarding those falling in this middle "decision area" also may be seen comparing the degree of

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

Table 8. FY 2018 PBRGI sample: Counts of parole applicants assigned to each PBRGI risk/readiness matrix combination and the associated percentage of agreement and departure between the Parole Board decision and the PBRGI recommendation (n=4,795)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	424	427	397	1,248
	Agreement Count (%)	318 (75.0%)	237 (55.5%)	100 (25.2%)	655 (52.5%)
	Departure Count (%)	106 (25.0%)	190 (44.5%)	297 (74.8%)	593 (47.5%)
2 Low	Count	222	273	398	893
	Agreement Count (%)	185 (83.3%)	150 (54.9%)	378 (95.0%)	713 (79.8%)
	Departure Count (%)	37 (16.7%)	123 (45.1%)	20 (5.0%)	180 (20.2%)
3 Medium	Count	182	246	427	855
	Agreement Count (%)	146 (80.2%)	130 (52.8%)	412 (96.5%)	688 (80.5%)
	Departure Count (%)	36 (19.8%)	116 (47.2%)	15 (3.5%)	167 (19.5%)
4 High	Count	142	178	253	573
	Agreement Count (%)	114 (80.3%)	116 (65.2%)	242 (95.7%)	472 (82.4%)
	Departure Count (%)	28 (19.7%)	62 (34.8%)	11 (4.3%)	101 (17.6%)
5 Very High	Count	223	344	659	1,226
	Agreement Count (%)	104 (46.6%)	228 (66.3%)	639 (97.0%)	971 (79.2%)
	Departure Count (%)	119 (53.4%)	116 (33.7%)	20 (3.0%)	255 (20.8%)
Total in Readiness Category	Count	1,193	1,468	2,134	4,795
	Agreement Count (%)	867 (72.7%)	861 (58.7%)	1,771 (83.0%)	3,499 (73.0%)
	Departure Count (%)	326 (27.3%)	607 (41.3%)	363 (17.0%)	1,296 (27.0%)

agreement in the "medium" level of readiness (58.7%) relative to the "high" and "low" levels of readiness (72.7% and 83.0%, respectively).

The pattern of release agreement percentages in Table 8 reflects the Board's emphasis on readiness and that those who demonstrate less readiness for release are more likely to be deferred. For example, among those categorized as "very low" risk, there is a precipitous drop in agreement to release from "high" readiness (75.0%) to "low" readiness (25.2%).

The most frequently offered departure reasons (for the decision to defer rather than release) by the Board for the lower risk/higher readiness parole applicants mentioned one or more of the following:

- Engaged in behaviors that could indicate a continued risk to the community, for example, recent failures in community corrections, probation, and/or parole and Class II COPD violations;
- Had not participated in sufficient hours of treatment to ameliorate criminogenic issues; and/or
- Presented poorly during the hearing by failing to take responsibility for behavior or minimizing the severity of their crime.

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

Of the inmates identified as the better candidates for deferral (red/heavy outline at lower right of Table 8), the degree of agreement was 85.4% (1,225/1,434). Specifically, this would include individuals 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"). Those who are categorized across the entire "very high" risk category were designated in the decision matrix for deferral, regardless of level of readiness.[70] The overall degree of agreement to defer those categorized as "very high" risk was 79.2% (971/1,226). 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 95.0% 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 inmate is categorized in the higher levels of readiness. This drop in

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

deferral agreement from lower to higher readiness was apparent in both the "high" risk category (95.7% to 65.2%) and the "very high" risk category (97.0% to 66.3% to 46.6%).

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

- 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 6 above, explores Board decisions from a different perspective by identifying the risk and readiness characteristics of the inmates in the instances where the Board agrees or departs from the PBRGI advisory recommendation. Because statute requires the Board to provide a reason when departing from the advisory recommendation, the instances of departure will be explored more extensively.[71]

Of the 73% of Board decisions overall that agreed with the PBRGI recommendations, 29% overall were release agreements and 44% overall were deferral agreements.

Summary of Agreements: Board Releases and Deferrals. There were 1,380 total decisions where Board members *agreed with the PBRGI advisory recommendation to release* (see Table 9). This represents 28.8% of all hearing decisions and 59.7% of the decisions where the PBRGI recommended release. Of these 1,380 decisions, 990 (71.7%) individuals were categorized as "very low" or "low" risk, 1,280 (92.8%) were categorized with "high" or "medium" readiness and 890 (64.5%) 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 66.1% (890 of the total 1,346 most appropriate for release; see also Table 8). For those inmates who were released, there is correspondence between their characteristics (based on the matrix placement in the lower risk/higher

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

Table 9. FY 2018 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 1,380 <u>Board release decisions that agree with the PBRGI recommendation to release</u>

Of the 1,380 Release Agreements Count Percentage	READINESS		
	High	**Medium**	Low
Very Low	318 23.0%	237 17.2%	100 7.2
Low	185 13.4%	150 10.9%	-
Medium	146 10.6%	130 9.4%	-
High	114 8.3%	-	-
Very High	-	-	-

RISK (vertical label)

71.7%

92.8%   64.5%

Table 10. FY 2018 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 2,119 <u>Board deferral decisions that agree with the PBRGI recommendation to defer</u>

Of the 2,119 Deferral Agreements Count Percentage	READINESS		
	High	**Medium**	**Low**
Very Low	-	-	-
Low	-	-	378 17.8%
Medium	-	-	412 19.4%
High	-	116 5.5%	242 11.4%
Very High	104 4.9%	228 10.8%	639 30.2%

RISK (vertical label)

62.7%

95.1%   57.8%

readiness categories) and the Board's decision to release.

There were 2,119 total decisions where Board members *agreed with the PBRGI advisory recommendation to defer* (see Table 10). This represents 44.2% of all hearing decisions and 85.4% of the decisions where the PBRGI recommended deferral. Of these 2,119 decisions, 1,329 (62.7%) individuals were categorized as "high" or "very high" risk, 2,015 (95.1%) were categorized with "medium" or "low" readiness, and 1,225 (57.8%) 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 85.4% (1,225 of the total 1,434 most appropriate for deferral; see also Table 8).

These instances of release and deferral agreement show a correspondence in the inmate characteristics (based on the matrix placement in the higher risk/lower readiness categories) and the Board's decision to defer. On the other hand, as described in the next sections, the analyses of Board departures from the PBRGI recommendations found greater discrepancies between the inmates' characteristics, as evidenced by their matrix placement, and the parole application decisions by the Board.

Summary of 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 applicants to parole (see Table 11). Although Board members demonstrated a high degree of agreement overall with defer recommendations (85.4% or 2,119/2,482 from Table 6), there were 363 (7.6% overall) instances of deferral departure where the Board instead chose to release. This represents 14.6% (363/2,482 from Table 6) of the total advisory recommendations to defer. Of these 363 instances, 328 (90.4%) individuals were categorized by the PBRGI as "high" or "very high" risk and 244 (67.2%) were in the "low" or "medium" readiness categories. This represents 6.8% (328/4,795) and 4.1% (244/4,795), respectively, of the hearing decisions in the total sample.

> **Of the 363 deferral departures (a Board decision to release), 70% (n=255) of parole applicants were categorized as "very high" risk, but 47% (n=119) of these "very high" risk individuals were also "high" in readiness.**

Combining the two dimensions of risk and readiness, the Board chose to release 209 applicants (57.6% of the 363 departure decisions, but only 4.4% 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

Table 11. FY 2018 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 363 <u>Board release decisions that do not agree with the PBRGI recommendation to defer</u>

Of the 363 **Deferral Departures** Count Percentage		READINESS		
		High	**Medium**	**Low**
RISK	**Very Low**	-	-	-
	Low	-	-	20 5.5%
	Medium	-	-	15 4.1%
	High	-	62 17.1%	11 3.0%
	Very High	**119** **32.8%**	116 32.0%	20 5.5%

90.4%

67.2%   **57.6%**

Table 12. FY 2018 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 933 <u>Board deferral decisions that do not agree with the PBRGI recommendation to release</u>

Of the 933 **Release Departures** Count Percentage		READINESS		
		High	**Medium**	**Low**
RISK	**Very Low**	106 11.4%	190 20.4%	**297** **31.8%**
	Low	37 4.0%	123 13.2%	-
	Medium	36 3.9%	116 12.4%	-
	High	28 3.0%	-	-
	Very High	-	-	-

80.7%

68.2%   **48.9%**

be found in the "very high" risk category (119 of 363 or 32.8%), these individuals also were categorized at the highest level of readiness for release. An additional 20 of these releases, although "low" in readiness, were found in the "low" risk category.

It should be noted that there are several options available to the Board that are labeled a "release," but that delay the actual release until after additional pre-release preparations have been completed. For example, the Board may simply set the actual release date for an individual 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 a treatment, program or parole plan requirement is fulfilled. If an individual does not perform successfully in any of these delayed release options, the Board may reverse or rescind the release decision, which results in a deferral to serve additional time in prison or in community corrections.

The summary of the Board's reasons for these departures is provided in the "Departure Reasons" section below.

Summary of Departures: Board Decides to Defer. The following describes instances where Board members *departed from the PBRGI advisory recommendation to release* and decided to defer the parole applicant for a continuing period of confinement (see Table 12). As was reported earlier in Table 6, this circumstance (release departures) occurred at a higher rate with 933 departures of the total 2,313 inmates who were assigned an advisory recommendation to release. This represents a release departure rate of 40.3%

Of the 933 release departures (a Board decision to defer), 64% (n=593) of parole applicants were categorized as "very low" risk, but 50% (n=297) of these "very low" risk individuals were also "low" in readiness for parole.

(933/2,313) of release recommendations and 19.5% (933/4,795) of all decisions. These 933 inmates can be divided into the 613 (65.7%) who were deferred to a subsequent hearing date and the 320 (34.3%) who were deferred to the MRD.

Of these 933 inmates, 753 (80.7%) were categorized by the PBRGI as "low" or "very low" risk and 636 (68.2%) were in the "medium" or "high" readiness categories.

Combining the two dimensions of risk and readiness, the Board chose to defer 456 individuals (48.9% of the 933 departure decisions and 9.5% 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 individual recommended for deferral was rare (7.6% of all decisions from Table

6), the decision to defer those recommended for release (19.5% of all decisions) was more than twice as common. Although the most common of the departures from the PBRGI release recommendations were found in the "very low" risk category (297 of 933 or 31.8%), these individuals also were categorized at the lowest level of readiness for release. An additional 28 of those deferred, although "high" in readiness, were found in the "high" risk category. The summary of the Board's reasons for these departures is provided in the next section.

Departure Reasons. As mentioned above, statute requires that Board members provide a departure reason when the release application hearing decision departs from the advisory recommendation.[72] This section summarizes the reasons entered by Board members for departing from the advisory recommendation. As mentioned above, because the Board used the PBRGI Bypass option in 739 cases, the advisory recommendation was unknown and, consequently, the agreement and departure status of these cases is unavailable for analysis. Of the 27.0% (1,296/4,795) of all decisions representing a departure from the PBRGI advisory recommendation, there were two decision circumstances that required Board members to provide reasons for departure: choosing to 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 933 decisions to defer or defer to the MRD when release was recommended, representing 19.6% of all decisions, and for the 363 decisions to release when defer was recommended, representing 7.6% of all decisions (see Table 6).

> **In FY 2018, a departure reason was required for the 933 PB decisions to defer when the PBRGI recommendation was to release and for the 363 PB decisions to release when the PBRGI recommendation was to defer.**

Summary of Departure Reasons: Board Decides to Release. *When the PBRGI advisory recommendation was to defer*, there were 363 decisions (7.6% of all decisions) where Board members chose to depart from the recommendation and release the parole applicant. As mentioned above, the Board can delay the actual release date 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 completion of a program or treatment or to secure an aspect of the parole plan (for example, housing or employment). Release dates may simply be set several months in the future to allow an individual to complete a program or course of treatment in

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

the institution prior to release. In cases where the "table" requirement is not met or a program or treatment is concluded unsuccessfully, it is possible to reverse the release 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 986 total reasons provided and two missing reasons for these 363 decisions. The departure reasons can be grouped into the following general categories: Parole plan quality; Demonstrated growth/positive attitude; Performance in the community; Mitigated or lesser risk; Treatment participation considerations; Program participation considerations; or Time served or imminent MRD/SDD.[73] Brief descriptions and/or examples of each of these categories follows.

Reasons addressing the quality of the parole plan typically indicated that the applicant would have a good support system, housing, employment, educational options and/or the individual planned to move to a different state or country. Observing evidence of psychological growth was apparent in reasons mentioning a positive attitude, taking responsibility for actions, positive behavioral adjustment, readiness for parole, and/or the ability to present a positive plan for the future. Reasons regarding community performance indicated that an inmate had been accepted into a community corrections program in advance of an impending mandatory release date to parole, that an individual would transition to intensive parole supervision (ISP), or that a transition to community corrections as an inmate had been successful and often that stable employment had been secured. Reasons in the risk-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 applicant 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 inmate had served sufficient time, that the individual would soon be released on the mandatory release date (MRD) anyway, or that a period of transition on parole would be preferable to a release with no parole supervision.

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

For these 363 *departure decisions to release*, Board members mentioned one of the above seven reason *categories* in 811 instances. Excluding the two cases with missing reasons, Board members mentioned a single departure reason category in 55 cases, two categories in 188 cases, and more than two categories in 118 cases. In some instances, Board members mentioned multiple reasons of the same type, but these were counted as a single reference to a particular category of departure reasons. The percentage of the 361 cases where a departure *category* was mentioned was as follows:[74]

- Parole plan quality, 55.1% (199/361 cases where this reason category was mentioned)

- Treatment participation considerations, 44.0% (159 cases)

- Performance in the community, 41.3% (149 cases)

- Demonstrated growth/positive attitude, 33.8% (122 cases)

- Mitigated or lesser risk, 28.5% (103 cases)

- Program participation considerations, 17.5% (63 cases)

- Adequate time served or imminent MRD/SDD,[75] 4.4% (16 cases)

Of these 363 applicants, 209 were in the higher risk/lower readiness categories identified above as comprising the better candidates for deferral, but who were released by the Board (red outline at bottom right of Table 11). For this group, there were 546 total departure reasons offered in similar percentages found in the categories above. The most frequent reason *categories* mentioned for this subset of individuals reflected comments indicating one or more of the following:

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

- Presented a comprehensive parole plan, 55.0% (115/209 cases)

- Treatment participation considerations AND community performance, both 40.2% (84 cases each)

- Demonstrated growth/positive attitude, 33.5% (70 cases)

Summary of Departure Reasons: Board Decides to Defer. *When the PBRGI advisory recommendation was to release*, there were 933 decisions (19.5% of all decisions) where Board members chose to depart from

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[74] Percentages total more than 100% because more than one category was mentioned in 306 of the 361 cases.
[75] See Footnote 73.

the advisory recommendation and defer or defer to the MRD. An initial review of these departure reasons was undertaken to identify and categorize the reasons provided by the Board when making these decisions to depart from the recommendation to release. Given that Board members could offer more than one departure reason in a particular case, there were 2,396 specific departure reasons provided. These reasons can be categorized into the following areas of concern: Risk concerns; Attitude or presentation concerns; Need to stabilize in the community; Treatment participation concerns; Parole plan quality concerns; Program participation concerns; or Time served, file review, or imminent MRD/SDD.[76] Brief descriptions and/or examples of each of these categories follows.

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 parole applicants was apparent in reasons that mentioned a failure to take responsibility for previous actions, minimizing the severity of the crime, and/or being untruthful about confirmable information available in one's criminal record or case file. Inmates who were recently placed in community corrections as transition inmates were deferred to allow more time to establish themselves or achieve stability in the community. The mentions of treatment concerns revolved around the need to complete an ongoing course of treatment or to receive additional treatment, especially by participating in a specific therapeutic community for such issues as mental health, substance abuse, anger and/or domestic violence. A poor parole plan was indicated in comments about inadequate preparation for housing, social supports, employment, education and other such re-entry considerations. The mentions of program concerns revolved around the failure to complete programs; the need to complete an ongoing program; or to receive additional programming to address life skills, cognitive skills and/or vocational and educational needs. Time-related comments indicated that a release on the MRD or the SDD was impending[77] or that the crime committed warranted additional incarceration time.

For these 933 *departure decisions to defer*, Board members mentioned one of the above seven reason categories in 1,699 instances. Board members mentioned a single category of concern in 341 cases, two categories in 435 cases, and more than two categories 157 cases. In some instances, Board members mentioned more than one reason in the same category of concern. Mentions of multiple concerns in the

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[76] See Footnote 73.
[77] Regarding release departures, the Board has indicated that parole applications that involve an imminent MRD/SDD, "…therefore, restricted the Board from releasing *prior* to their MRD or SDD" [*emphasis added*].

same category were counted as a single reference to the category of concern. Of the 933 decisions, the percentage of cases where a departure category was mentioned was as follows:[78]

- Risk concerns, 73.6% (687/933 cases where the category was mentioned)

- Treatment participation or criminogenic need concerns, 35.2% (328 cases)

- Parole plan quality concerns, 22.2% (207 cases)

- Attitude or presentation concerns, 18.0% (168 cases)

- Need to transition to or stabilize in a community corrections placement, 12.5% (117 cases)

- Time served inadequate, file review, or imminent MRD/SDD, 10.9% (102 cases)

- Program participation concerns, 9.6% (90 cases)

Of these 933 parole applicants, 456 were in the lower risk/higher readiness categories identified above as comprising the better candidates for release (blue outline at upper left of Table 12). For this group, there were 1,126 total departure reasons offered in similar percentages to those above. The three most frequent reason *categories* mentioned for this subset of applicants reflected comments indicating one or more of the following:

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

- Risk concerns, 75.7% (345/456 cases)

- Treatment participation or criminogenic need concerns, 30.3% (138 cases)

- Attitude or presentation concerns, 20.4% (93 cases)

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[78] Percentages total more than 100% because more than one reason category was mentioned in 592 of the 933 cases.

Findings: File Reviews

Sample (File Reviews). The FY 2018 sample of 9,189 hearings included 1,232 (13.4%) total file reviews.[79] The analysis of file reviews is limited because data are only available regarding three of the four statutory criteria under which a file review may be conducted: those with an ICE detainer, the time period prior to the MRD, and those who are "very low" or "low" in risk. Special needs designations (which may include medical conditions) are not available for analysis. Accounting for 95.8% of file reviews in the FY 2018 sample, the most common file review conditions were that the inmate's mandatory release date (MRD) was within six months (77.8%) or that the inmate's risk level was "low" or "very low" (17.9%). Pursuant to House Bill 2018-1410 (affecting only one month of hearings in the current FY 2018 sample), the "3 months to MRD" threshold is expected to define an increasing number of file reviews in the future.[80]

Table 13 displays the increase in use of the file review procedure since its definition was expanded by the operational rules of the Board in 2013 and after file review criteria were codified in statute in 2015, 2017, and, most recently, 2018.[81] Reflecting these rule and statutory modifications to broaden the use of file reviews by the Board, file reviews have increased over 350% from 272 file reviews (2.9% of hearings) in the FY 2014 sample to 1,232 file reviews (13.4% of hearings) in the FY 2018 sample.

> **Parole applicants who were the subject of a file review represented 13% of the FY 2018 sample and 80% of these applicants were deferred.**

Board Decisions (File Reviews). Of the 1,232 total file reviews in the FY 2018 sample, 1,044 were conducted for non-sex offenders and 188 for those labeled a "sex offender." No applicants labeled a "sex offender" were released following the 188 initial file reviews because, by Board policy, these applicants are only released following a review by the full Board. Of the 1,044 file reviews of non-sex offenders, 249 applicants (23.9%) were set for release and 795 (76.1%) were deferred. Of the 795 applicants who were deferred, 228 (28.7%) were deferred to a subsequent hearing date and 567 (71.3%) were "deferred to MRD." Of these 1,044 parole applicants, 460 (44.1%) were within 3 months to MRD, an additional 329 (31.5%) were within 6 months to MRD, an

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[79] This file reviews analysis was included at the request of the Board starting in FY 2016. The statutory file review conditions are described in "Board Hearing Types" in Section Three.

[80] See "Statutory Modifications" in Section Three. The "months-to-MRD" findings are included at the request of the Board starting from FY 2016. The specific "months-to-MRD" thresholds (3 months, 6 mos., 14 mos., etc.) are relevant to Board policy and statutory provisions (described above) regarding the options to conduct a file review and/or the decision to defer to the MRD.

[81] See "Statutory Modifications" in Section Three.

Table 13. Total file reviews by fiscal year with Parole Board decisions and common file review eligibility criteria

Parole Board Hearing Decision Count (Percent within FY)	Fiscal Year *					
	FY 2013 (n=8,309)	**FY 2014** (n=9,455)	**FY 2015** (n=9,023)	**FY 2016** (n=8,434)	**FY 2017** (n=8,397)	**FY 2018** (n=9,189)
Total File Reviews	**10 (0.1%)**	**272 (2.9%)**	**378 (4.2%)**	**610 (7.2%)**	**640 (7.6%)**	**1,232 (13.4%)**
Defer	3 (30.0%)	138 (50.7%)	170 (45.0%)	202 (33.1%)	200 (31.3%)	275 (22.3%)
Defer to MRD *[Defer Total]*	6 (60.0%) *[90.0%]*	124 (45.6%) *[96.3%]*	201 (53.2%) *[98.1%]*	388 (63.6%) *[96.7%]*	388 (60.6%) *[91.6%]*	708 (57.5%) *[79.8%]*
Release	1 (10.0%)	10 (3.7%)	7 (1.9%)	20 (3.3%)	52 (8.1%)	249 (20.2%)
File Reviews: Eligibility Criteria# Count (Percent within FY)						
Criterion 1: Within Six Months of MRD	3^ (30.0%)	140^ (51.5%)	223^ (59.0%)	593 (97.2%)	587 (91.7%)	959 (77.8%)
Criterion 2: Very Low or Low Risk (not included in #1)	Δ	Δ	Δ	Δ	Δ	221 (17.9%)

* The sample selection criteria used to identify discretionary hearings in FY 2018 were used for all reporting years for comparability of comparisons.

Special Needs reviews are unavailable for analysis and the number of ICE Detainer reviews were negligible.

^ During FY 2013 and 2014 and for part of FY 2015, the Board exercised the option to conduct file reviews for inmates with a Class I COPD. During 2015, these inmates became ineligible for a parole application hearing (see Footnote 81).

Δ This criterion was not applicable (see Footnote 81).

additional 90 (8.6%) were within 14 months to MRD, and the remaining 165 (15.8%) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories can be found in Table 14.

PBRGI Bypass (File Reviews). As mentioned above, there were 1,044 parole applicants who were the subject of a file review and who were eligible for a PBRGI advisory recommendation. However, the Board chose to use the PBRGI Bypass option in 722 (69.2%) instances, leaving 322 file reviews for which an advisory recommendation was displayed. Of the 722 file reviews that bypassed the advisory recommendation, the bypass reasons selected for these cases were: "File Review" (714 cases) and "Other: 'Fast Track' File Review (H.B.17-1326)" (8 cases). Because the bypassed cases cannot be integrated into the

Table 14. FY 2018 PBRGI, Bypass and Combined samples - File Reviews: Counts and percentages of Parole Board decisions by months to mandatory release date (n=322, n=722, & n=1,044, respectively)

PB Decision [Row %] (Column %)	Time to Mandatory Release Date (MRD)				
	Up to 3 months to MRD	4 to 6 months to MRD	7 to 14 months to MRD	More than 14 months to MRD	Total
PBRGI sample [File reviews] (n=322)					
Defer	130 [61.0%] (85.5%)	60 [28.2%] (82.2%)	9 [4.2%] (32.1%)	14 [6.6%] (20.3%)	213 [100.0%] (66.1%)
Release	22 [20.2%] (14.5%)	13 [11.9%] (17.8%)	19 [17.4%] (67.9%)	55 [50.5%] (79.7%)	109 [100.0%] (33.9%)
Total	152 [47.2%] (100.0%)	73 [22.7%] (100.0%)	28 [8.7%] (100.0%)	69 [21.4%] (100.0%)	322 [100.0%] (100.0%)
Bypass sample [File reviews] (n=722)					
Defer	289 [49.7%] (93.8%)	234 [40.2%] (91.4%)	38 [6.5%] (61.3%)	21 [3.6%] (21.9%)	582 [100.0%] (80.6%)
Release	19 [13.6%] (6.2%)	22 [15.7%] (8.6%)	24 [17.1%] (38.7%)	75 [53.6%] (78.1%)	140 [100.0%] (19.4%)
Total	308 [42.7%] (100.0%)	256 [35.5%] (100.0%)	62 [8.6%] (100.0%)	96 [13.3%] (100.0%)	722 [100.0%] (100.0%)
Combined sample [File reviews] (n=1,044)					
Defer	419 [52.7%] (91.1%)	294 [37.0%] (89.4%)	47 [5.9%] (52.2%)	35 [4.4%] (21.2%)	795 [100.0%] (76.1%)
Release	41 [16.5%] (8.9%)	35 [14.1%] (10.6%)	43 [17.3%] (47.8%)	130 [52.2%] (78.8%)	249 [100.0%] (23.9%)
Total	460 [44.1%] (100.0%)	329 [31.5%] (100.0%)	90 [8.6%] (100.0%)	165 [15.8%] (100.0%)	1,044 [100.0%] (100.0%)

presentation of PBRGI findings to follow below, the bypass findings for these file reviews are provided here.

Of these 722 bypassed cases, the Board decision was to designate 140 (19.4%) parole applicants for release and to defer 582 (80.6%) (see Table 14). Of the 582 (80.6%) bypass cases that were deferred, 29.0% (169/582) were categorized as "deferred" and 71.0% (413/582) were categorized as "deferred to MRD."[82] Of the 722 bypassed cases, 308 (42.7%) were within 3 months to MRD, an additional 256 (35.5%) were within 6 months to MRD, an additional 62 (8.6%) were within 14 months to MRD, and the remaining 96

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[82] See "Board Decision Types" in Section Three.

(13.3%) were more than 14 months to MRD.[83] The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories can be found in Table 14.

Of the 322 file review cases that were not bypassed, 225 (70.0%) met the "6-months-to-MRD" criterion, an additional 87 (27.0%) met the "very low" or "low" risk criterion, and the remaining 10 (3.1%) met one or both of the ICE detainer or special needs criteria. Of the 322, 152 (47.2%) were within 3 months to MRD, an additional 73 (22.7%) were within 6 months to MRD, an additional 28 (8.7%) were within 14 months to MRD, and the remaining 69 (21.4%) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories can be found in Table 14.

PBRGI Decision Matrix Assignment (File Reviews). As mentioned above, because the Board chose to bypass the PBRGI advisory recommendation in 722 (69.2%) instances, there are 322 file reviews remaining for analysis for which a PBRGI advisory recommendation was displayed. Table 15 provides the number and percentage of the 322 file reviews from the FY 2018 PBRGI "regular" hearing sample assigned to each of the 15 risk/readiness positions in the PBRGI decision matrix. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer.

Overall, the largest percentage of parole applicants across the five risk levels was the 48.4% (156 of 322) in the "very low" risk category (compared to 24.4% of inmates in non-file review hearings). Overall, the largest percentage of applicants across the three readiness levels was the 57.8% (186 of 322) in the "low" readiness category (compared to 43.6% of those considered in non-file review hearings). In the "release area" of the matrix, the largest percentage of applicants who were the subject of a file review were found in the "medium" readiness and "very low" risk matrix category (20.2%; 65 of 322). In the "defer area" of the matrix, the largest percentage of those who were the subject of a file review were found in the "low" readiness and "very high" risk matrix category (12.7%; 41 of 322).

Board Decisions (PBRGI File Reviews). Of the 322 file reviews where a PBRGI advisory recommendation was displayed, the Board decided to set 109 (33.9%) applicants for release and to defer 213 (66.1%). Of the 213 deferred, 27.7% (59/213) were categorized as "deferred" and 72.3% (154/213) were categorized as "deferred to MRD." By comparison, for the PBRGI-related "regular" hearings that did not involve a file

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[83] The "months-to-MRD" findings are included at the request of the Board starting from FY 2016. The specific "months-to-MRD" thresholds (3 months, 6 mos., 14 mos., etc.) are relevant to Board policy and statutory provisions (described above) regarding the options to conduct a file review and/or the decision to defer to the MRD.

Table 15. FY 2018 PBRGI sample - File Reviews: Counts and percentages of parole applicants assigned to each PBRGI risk/readiness matrix combination (n=322)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	29	65	62	156
	% within Very Low Risk	18.6%	41.7%	39.7%	100.0%
	% within Readiness Category	67.4%	69.9%	33.3%	48.4%
	% of Total	9.0%	20.2%	19.3%	48.4%
2 Low	Count	4	17	24	45
	% within Low Risk	8.9%	37.8%	53.3%	100.0%
	% within Readiness Category	9.3%	18.3%	12.9%	14.0%
	% of Total	1.2%	5.3%	7.5%	14.0%
3 Medium	Count	3	4	28	35
	% within Medium Risk	8.6%	11.4%	80.0%	100.0%
	% within Readiness Category	7.0%	4.3%	15.1%	10.9%
	% of Total	0.9%	1.2%	8.7%	10.9%
4 High	Count	1	2	31	34
	% within High Risk	2.9%	5.9%	91.2%	100.0%
	% within Readiness Category	2.3%	2.2%	16.7%	10.6%
	% of Total	0.3%	0.6%	9.6%	10.6%
5 Very High	Count	6	5	41	52
	% within Very High Risk	11.5%	9.6%	78.8%	100.0%
	% within Readiness Category	14.0%	5.4%	22.0%	16.1%
	% of Total	1.9%	1.6%	12.7%	16.1%
Total in Readiness Category	Count	43	93	186	322
	% within Risk Category	13.4%	28.9%	57.8%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	13.4%	28.9%	57.8%	100.0%

Table 16. FY 2018 PBRGI sample - File Reviews: Overall counts and percentages of Parole Board file review decisions by PBRGI advisory recommendations (n=322) *

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	44 21.3%	15 3.6%	59 24.9%
Defer to Mandatory Release Date	Count Percent	91 43.1% *Total Defer = 135 63.4%*	63 24.7% *Total Defer = 78 36.6%*	154 67.9% *Total Defer = 213 66.1%*
Release	Count Percent	2 0.5%	107 6.8%	109 33.9%
Total of PBRGI Recommendations	Count Percent	137 42.5%	185 57.5%	322 100.0%

*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.

review (n=4,473), the Board set 36.6% of parole applicants for release and deferred 63.5%. The PBRGI advisory recommendations for the 322 file reviews included 185 (57.5%) recommendations for release and 137 (42.5%) recommendations for deferral. The large percentage of recommendations to release (57.5%) for these file reviews may be attributed to the 95.7% (177 of 185) of applicants recommended for release placed in the "low" or "very low" risk categories and the 66.5% (123 of 185) placed in the "medium" or "high" readiness categories (see Table 15).

Board/PBRGI Agreement (File Reviews). Collapsing release and deferral *agreements* on file reviews (between Board decisions and PBRGI recommendations), *75.2% of file review decisions agreed with the PBRGI advisory recommendations* (see Table 16). This combined agreement percentage (75.2%) includes the degree of release agreement (57.8% or 107 agreements within the 185 release recommendations) and the degree of deferral agreement (98.5% or 135 agreements within the 137 defer recommendations). The degree of deferral agreement is approximately 1.7 times higher than the degree of release agreement.

> **Collapsing across all <u>file review</u> decisions, 75% of Board decisions agreed with the PBRGI advisory recommendations.**

Collapsing release and deferral *departures* on file reviews (between Board decisions and PBRGI recommendations), *24.8% of full Board review decisions departed from the PBRGI recommendations*. This combined departure percentage (24.8%) includes the degree of release departure (42.2% or 78 departures within the 185 release recommendations) and the degree of deferral departure (1.5% or 2 departures within the 137 defer recommendations). From a release perspective, the overall rate of release agreement for file reviews was about 1.4 times larger than the overall rate of release departure, 57.8% versus 42.2%. From a deferral perspective, the overall rate of deferral agreement was nearly the maximum possible relative to the overall rate of deferral departure, 98.5% versus 1.5%.

Departure Reasons (File Reviews). As mentioned above, statute requires that Board members provide a departure reason when the release application hearing decision departs from the advisory recommendation.[84] The departure reason analysis for the relevant 80 file reviews were included above in the complete presentation of the departure reason findings. A specific review of the reason categories mentioned for the 78 release departures (when the Board decided to defer) referred primarily to concerns regarding risk and/or the applicant's imminent mandatory release and, to a lesser extent, the applicant's inadequate parole plan or untreated criminogenic needs. A specific review of the reason categories mentioned for the two deferral departures (when the Board decided to release) referred to an imminent mandatory release or to the necessity to conduct a file review as directed by statute (House Bill 2018-1410).[85]

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[84] See §17-22.5-404(6)(b), C.R.S. for the departure reason requirement.
[85] See "Statutory Modifications" in Section Three.

Findings: Full Board Reviews

Sample (Full Board Reviews). The FY 2018 hearing sample included 2,216 total full Board reviews that occurred subsequent to an initial hearing conducted by a Board member.[86] Board members may refer a parole applicant to a full Board review for any reason at the Board member's discretion and must refer to a full Board review if the parole applicant's crime involved violence or a sex offense.[87] Full Board reviews are conducted by no fewer than four Board members and decisions require four concurring members. Of these 2,216, there were 1,441 full Board reviews for non-sex offenders and 775 full Board reviews for sex offenders. Of the 1,441 reviews eligible for the display of the PBRGI advisory recommendation, the Board's Bypass option was chosen for one case.

PBRGI Decision Matrix Assignment (Full Board Reviews). Table 17 provides the number and percentage of the 1,440 full Board reviews from the FY 2018 PBRGI sample assigned to each of the 15 risk/readiness positions in the PBRGI decision matrix. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer. The largest percentage of applicants in the "release area" of the matrix was found in the "very low" risk/"high" readiness category (29.8% or 429/1,440) and the largest percentage in the "defer area" was found in the "very high" risk/"high" readiness category (5.3% or 77/1,440).

> **Of applicants reviewed by the full Board, the PBRGI placed 69% in the "very low" or "low" risk categories and 59% in the "high" readiness category.**

Board Decisions (Full Board Reviews). Of the 1,440 full Board reviews, Board members designated 918 (63.7%) applicants for release and 522 (36.3%) for deferral (see Table 18). The one case the full Board chose to bypass was a deferral to a subsequent hearing date. Of the 522 designated for deferral, 410 (78.5%) were deferred to a subsequent hearing date and 112 (21.5%) were deferred to the MRD. The "months-to-MRD" findings for these full Board decisions can be found above in Table 1. The 63.7% rate of release in full Board reviews was a 75% increase in the rate of release from "regular" hearings (36.4% of 4,795 hearings). Of these 1,440 reviews, the PBRGI recommended 1,230 (85.4%) individuals for release and 210 (14.6%) for deferral. This higher release rate by the Board and increased frequency in related PBRGI release recommendations may be traced to the 79.4% (977/1,230) parole candidates recommended for release who can be found in the PBRGI matrix in either of the two lowest levels of risk and the 63.0% (775/1,230) in the highest level of readiness.

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[86] This analysis was included at the request of the Board starting in FY 2014.
[87] See Footnote 38.

Table 17. FY 2018 PBRGI sample - Full Board Reviews: Counts and percentages of parole applicants assigned to each PBRGI risk/readiness matrix combination (n=1,440)

RISK CATEGORY		READINESS CATEGORY			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	429	193	64	686
	% within Very Low Risk	62.5%	28.1%	9.3%	100.0%
	% within Readiness Category	50.4%	39.2%	66.7%	47.6%
	% of Total	29.8%	13.4%	4.4%	47.6%
2 Low	Count	175	116	10	301
	% within Low Risk	58.1%	38.5%	3.3%	100.0%
	% within Readiness Category	20.5%	23.6%	10.4%	20.9%
	% of Total	12.2%	8.1%	0.7%	20.9%
3 Medium	Count	93	82	11	186
	% within Medium Risk	50.0%	44.1%	5.9%	100.0%
	% within Readiness Category	10.9%	16.7%	11.5%	12.9%
	% of Total	6.5%	5.7%	0.8%	12.9%
4 High	Count	78	33	6	117
	% within High Risk	66.7%	28.2%	5.1%	100.0%
	% within Readiness Category	9.2%	6.7%	6.3%	8.1%
	% of Total	5.4%	2.3%	0.4%	8.1%
5 Very High	Count	77	68	5	150
	% within Very High Risk	51.3%	45.3%	3.3%	100.0%
	% within Readiness Category	9.0%	13.8%	5.2%	10.4%
	% of Total	5.3%	4.7%	0.3%	10.4%
Total in Readiness Category	Count	852	492	96	1,440
	% within Risk Category	59.2%	34.2%	6.7%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	59.2%	34.2%	6.7%	100.0%

Table 18. FY 2018 PBRGI sample - Full Board Reviews: Overall counts and percentages of full Board review decisions by PBRGI advisory recommendations (n=1,440) *

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count Percent	87 6.0%	323 22.4%	410 28.5%
Defer to Mandatory Release Date	Count Percent	12 0.8% *Total Defer = 99* *6.9%*	100 6.9% *Total Defer = 423* *29.4%*	112 7.8% *Total Defer = 522* *36.3%*
Release	Count Percent	111 7.7%	807 56.0%	918 63.7%
Total of PBRGI Recommendations	Count Percent	210 14.6%	1,230 85.4%	1,440 100.0%

*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), *62.9% of full Board review decisions agreed with the PBRGI recommendations* (see Table 18). The combined agreement percentage (62.9%) includes the degree of release agreement (65.6%; 807 of 1,230) and the degree of deferral agreement (47.1%; 99 of 210). The degree of release agreement was 1.4 times larger than the degree of deferral agreement. When making full Board review decisions on these particular parole candidates, there was a greater likelihood to agree with the PBRGI advisory recommendation to release than when Board members made decisions alone: 56.0% versus 28.8%[88] overall release agreement rates, respectively.

> **Collapsing across all <u>full Board</u> decisions, 63% of Board decisions agreed with the PBRGI advisory recommendations.**

Collapsing across the two sources of *departure* (between PBRGI recommendations and Board decisions to release and to defer), *37.1% of full Board review decisions departed from the PBRGI recommendations*. The combined departure percentage (37.1%) includes the degree of release departure (34.4%; 423 of 1,230) and the degree of deferral departure (52.9%; 111 of 210).

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[88] See Table 6.

From a release perspective, the overall rate of release agreement for full Board reviews was 90% higher than the overall rate of release departure, 56.0% versus 29.4%. From a deferral perspective, the overall rate of deferral agreement for full Board reviews was about 10% lower than the overall rate of deferral departure, 6.9% versus 7.7%.

Departure Reasons (Full Board Reviews). As mentioned above, statute requires that Board members provide a departure reason when the release application hearing decision departs from the advisory recommendation.[89] 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, members present. 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 37.1% (534 of 1,440) of full Board decisions representing a departure from the PBRGI advisory recommendation, there were two decision circumstances that required the Board member to provide reasons for departure: choosing to defer when the recommendation was to release and choosing to release when the recommendation was to defer. Specifically, this meant a departure reason was required for the 111 decisions to release when defer was recommended, representing 7.7% of all full Board decisions and for the 423 decisions to defer or defer to the MRD when release was recommended, representing 29.4% of all full Board decisions (see Table 18).

Summary of Departure Reasons: Full Board Decides to Release. For the 111 *deferral* departures, Board members provided 256 unique departure reasons for these decisions to defer. The Board entered "full Board decision" as the departure reason in 46 instances. Of these 46 instances, "full Board decision" was noted as the sole reason for 19 cases and "full Board decision" was combined with at least one additional reason for the remaining 27 cases. For the remaining 65 of 111 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,

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

Board members mentioned one of eight reason categories in 227 instances. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. The percentage of the 111 cases where a departure *category* was mentioned was as follows:[90]

- Treatment participation considerations, 43.2% (48/111 cases where this category was mentioned)
- Performance in the community, 42.3% (47 cases)
- Full Board decision, 41.4% (46/111 cases)
- Parole plan quality, 33.3% (37 cases)
- Demonstrated growth/positive attitude, 19.8% (22 cases)
- Mitigated or lesser risk, 11.7% (13 cases)
- Program participation considerations, 9.9% (11 cases)
- Adequate time served, 2.7% (3 cases)

Summary of Departure Reasons: Full Board Decides to Defer. For the 423 *release departures*, Board members provided 734 unique departure reasons for these decisions to defer. The Board entered "full Board decision" as the departure reason in 330 instances. Of these 330 instances, "full Board decision" was noted as the sole reason in 221 cases and "full Board decision" was combined with at least one additional reason for the remaining 109 cases. For the remaining 93 of 423 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 423 cases where a departure *category* was mentioned was as follows:[91]

- Full Board decision, 78.0% (330/423 cases where this category was mentioned)
- Risk concerns, 37.8% (160 cases)
- Treatment participation or criminogenic need concerns, 9.9% (42 cases)
- Parole plan quality concerns, 9.9% (42 cases)
- Attitude or presentation concerns, 3.8% (16 cases)
- Need to transition to or stabilize in a community corrections placement, 2.1% (9 cases)
- Program participation concerns, 1.9% (8 cases)
- Time served is inadequate or imminent MRD/SDD, 1.2% (5 cases)

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[90] Percentages total more than 100% because more than one reason category was mentioned in 76 of the 111 cases.
[91] Percentages total more than 100% because more than one reason category was mentioned in 151 of the 423 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. Therefore, the decision by the Board to choose the Bypass option for those labeled, "sex offender" in 15 instances has no impact on the analyses for these hearing records. The statute however indicates that summary information should be provided for all decisions (§17-22.5-404(6)(a), C.R.S.). As mentioned above, those labeled, "sex offender" (and the related sex-offense specific treatment allocation for those labeled, "sex offender") was redefined by CDOC Administrative Regulation 700-19 to include those with a "needs level" of S5 (judicial determination of sex offense). For individuals classified in CDOC as sex offenders, pursuant to §17-22.5-404(4)(c)(II), C.R.S., parole release decisions are guided by criteria created by the Sex Offender Management Board (SOMB).[92] Based on information from the CDOC Sex Offender Treatment and Monitoring Program that inmates assessed at S3 (institutional behavior) or S4 (prior sex offense) will likely receive treatment referrals, the Board decided to continue to evaluate these inmates as sex offenders.

Of the total FY 2018 sample of 9,189 hearings and reviews, 2,214 were conducted for individuals labeled a "sex offender." Of the 2,214, 91.6% were *classified by CDOC* as a sex offender (as mentioned above, an "S5") and the remainder were categorized *by the Board* as a sex offender (an "S3" or an "S4"). A parole decision was rendered in 1,439 instances in the initial ("regular") hearing and 775 cases were referred to the full Board for review.

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

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[92] These criteria may be found in the document entitled *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders (2019)*, in *Appendix J: Parole Guidelines for Discretionary Release on Determinate-Sentenced Sex Offenders* ("determinate criteria") and in *Appendix S: Lifetime Supervision Criteria - Section LS 1.000-Criteria for Release from Prison to Parole* and *Section LS 4.000-Criteria for Successful Progress in Treatment in Prison: Sex Offender Treatment and Monitoring Program* ("indeterminate criteria") which is available at the SOMB website: colorado.gov/dcj/somb-standards-bulletins.

The percentages of the initial ("regular") hearing decisions in the 2,214 cases were: 52 (2.3%) were set for release,[93] 1,387 (62.6%) were deferred, and, as described above, 775 (35.0%) were referred to a full Board hearing for further review. Of the 775 individuals referred to full Board review, 410 (52.9%) were set for release and 365 (47.1%) were deferred. Combining the decision outcomes of "regular" hearings and full Board reviews, the overall decision percentages for the 2,214 individuals labeled a sex offender were: 20.9% (462) set for release and 79.1% (1,752) deferred. Of the 1,439 "regular" hearings involving those labeled a sex offender, 188 (13.1%) were conducted as file review, following which none were set for release.

As reported above in "General Findings," some individuals labeled a sex offender receive an indeterminate sentence (and do not have a related mandatory release date) and some receive a determinate sentence (and do have a related mandatory release date). Rather than exclude those with an indeterminate sentence from the "months-to-MRD" analysis, these cases were placed in the category, "More than 14 months to MRD." Of the 462 set for release, 0.0% (0) were within 3 months to MRD, an additional 1.9% (9) were within 6 months to MRD, an additional 7.8% (36) were within 14 months to MRD, and the remaining 90.3% (417) were more than 14 months to MRD. Of the 1,752 who were deferred, 6.8% (119) were within 3 months to MRD, an additional 6.0% (105) were within 6 months to MRD, an additional 11.3% (198) were within 14 months to MRD, and the remaining 75.9% (1,330) were more than 14 months to MRD. The counts and percentages of decisions to release or to defer within these "months-to-MRD" categories can be found above in Table 1.

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[93] There are no records of full Board reviews or full Board decisions for these 52 cases. These releases may be due to atypical circumstances or the full Board decision data may simply be missing from the hearing record.

Summary: FY 2018 Findings

These FY 2018 analyses represent the fifth *full* year of Board hearings following the FY 2013 implementation. The FY 2018 discretionary hearings sample included 9,189 release application hearings conducted by members of the Parole Board and finalized between July 1, 2017 and June 30, 2018.

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 inmate's absence, when a release was based on a court order or when there was a mandatory re-parole following a parole revocation.

At the request of the Board, starting in FY 2017, pending releases that are unresolved at the end of the fiscal (reporting) year, are retained in the sample, rather than being excluded as cases with pending decisions. Release decisions may be reversed at any time by the Board prior to the inmate's release date, primarily due to the behavior of the inmate (for example, a violation of the institutional behavior code). These potential reversals do not reflect the original intent of the Board to grant an inmate's release. Therefore, these records with pending outcomes were retained, thereby reflecting the Board's intent to release.

Sample. The following is a summary of the FY 2018 hearing decision sample and subsamples:

o Of the 9,189 parole application hearings, 6,973 were "regular" hearings and 2,216 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, 6,975 hearings were conducted for those who were not labeled a sex offender and 2,214 were conducted for those who were labeled a sex offender. Of the 9,189 cases, the Board conducted 1,232 file reviews.[94]

o Of the 6,973 "regular" hearings, 5,534 cases involved those who were not labeled a sex offender and 1,439 cases involved those who were labeled a sex offender.[95] Of the 2,216 full Board reviews, 1,441 reviews involved those who were not labeled a sex offender and 775 reviews involved those who were labeled a sex offender. Of the 5,534 and 1,439 subgroups of "regular" hearings, the Board conducted 1,044 (non-sex-offender) and 188 (sex offender) file reviews, respectively.

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

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

- o Of the 9,189 parole applications, the Board chose the option to bypass the PBRGI advisory recommendation in 755 instances (755 of 9,189 or 8.2%). There were 740 bypasses of the 6,975 cases where the PBRGI advisory recommendation was applicable and would have previously been displayed (10.6% of non-sex offenders) and 15 bypasses of the 2,214 cases where it was not applicable and would not have been displayed (0.7% of those labeled, "sex offender").

FY 2018 Parole Board Decisions (n=9,189)

1,232 FR	9,189 Total

Reg. - "Regular" hearings and reviews
FB - Full Board reviews
FR - File review
BP - Bypass PBRGI
Non-SO - Not a sex offender
SO - Sex offender

1,232 FR	6,973 Reg.	2,216 FB

754 BP   1 BP

5,534 Non-SO	1,441 Non-SO	6,975 Non-SO

1,044 FR   739 BP   1 BP

1,439 SO	775 SO	2,214 SO

188 FR   15 BP

- o The PBRGI sample of hearings included the 4,795 "regular" hearings and 1,440 full Board reviews of non-sex offenders.
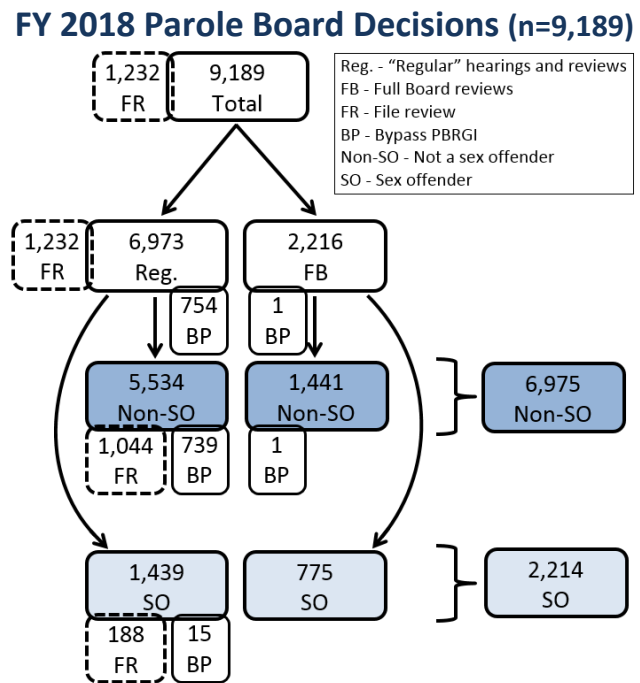
Findings. The following is a summary of the FY 2018 findings.

- o General Findings. Collapsing across all hearing and offender types in the FY 2018 sample of 9,189 cases, the Board decision was to designate 3,272 (35.6%) parole applicants for release and to defer 5,917 (64.1%).

- o Of the 6,973 "regular" hearings in the FY 2018 sample (collapsing across offender types), the Board decision was to designate 1,944 (27.9%) parole applicants for release and to defer 5,029 (72.1%).

- o Of the 2,216 full Board reviews in the FY 2018 sample (collapsing across offender types), the Board decision was to designate 1,328 (59.9%) parole applicants for release and to defer 888 (40.1%).

- o Of the 6,975 cases involving non-sex offenders in the FY 2018 sample (collapsing across hearing types), the Board decision was to designate 2,810 (40.3%) parole applicants for release and to defer 4,165 (59.7%).

- o Of the 2,214 cases involving those labeled a sex offender in the FY 2018 sample (collapsing across hearing types), the Board decision was to designate 462 (20.9%) parole applicants for release and to defer 1,752 (79.1%).

- o Bypass Findings. Of the 755 instances where the Bypass option was chosen, the Board decision was to designate 150 (19.9%) parole applicants for release and to defer 605 (80.1%). Of the deferred

applicants, 173 (28.6%) were deferred to a subsequent hearing date and 432 (71.4%) were "deferred to MRD." Of the 755 cases, 736 (97.5%) were recorded as a file review and 19 (2.5%) were recorded as a non-file review.

o Of the 755 bypassed cases, 317 (42%) were within 3 months to MRD (of which 94.0% were deferred), an additional 268 (35.5%) were within 6 months to MRD (91.0% deferred), an additional 66 (8.7%) were within 14 months to MRD (60.6% deferred), and the remaining 104 (13.8%) were more than 14 months to MRD (22.1% deferred).

o PBRGI Findings. For this FY 2018 PBRGI sample of 4,795 hearings, the Board designated 1,743 (36.4%) parole applicants for release and 3,052 (63.6%) for deferral (of which 2,119 were deferred to a subsequent hearing date and 933 were deferred to their mandatory release date because the mandatory release would occur prior to the next scheduled hearing date). Of this same 4,795, the PBRGI recommended 2,313 (48.2%) applicants for release and 2,482 (51.8%) for deferral.

o Recombining the PBRGI sample and 739 bypassed cases that would have been part of the PBRGI sample (combined n=5,534), the Board designated 1,892 (34.2%) for release and 3,642 (65.8%) for deferral.

o Collapsing across all the decisions in FY 2018, *73.0% of Board member decisions agreed with the PBRGI advisory recommendation* and *27.0% of decisions departed from the PBRGI advisory recommendation*. The overall agreement percentage (73.0%) combines the rate of release agreement (59.7%) and the rate of deferral agreement (85.4%). The overall departure percentage (27.0%) combines the rate of release departure (40.3%) and the rate of deferral departure (14.6%).

o Overall, the PBRGI categorized 44.7% of the inmates in the FY 2018 sample as "low" or "very low" risk, 55.5% as "high" or "medium" readiness, and 28.1% in both these lower risk *and* higher readiness categories. Alternatively, the PBRGI categorized 37.5% as "high" or "very high" risk, 75.1% as "medium" or "low" readiness, and 29.9% in both these higher risk *and* lower readiness categories.

o Of the PBRGI sample of 4,795 parole applicants, 190 (4.0%) were within 3 months to MRD (of which, 87.4% were deferred), an additional 271 (5.7%) were within 6 months to MRD (of which, 63.8% were deferred), an additional 1,134 (23.6%) were within 14 months to MRD (of which, 59.1% were deferred), and 3,200 (66.7%) were more than 14 months to MRD (of which, 63.8% were deferred).

o Applying the current PBRGI sample selection criteria[96] to all five reporting years from FY 2013 to FY

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[96] The sample selection criteria are described in "FY 2018 Sample Selection" on page 28. These criteria were applied to the previous fiscal year hearing decision samples for comparability of comparisons.

2018, the Board designated 39.1%, 32.2%, 32.3%, 35.8%, 35.3%, and 36.4% of inmates for release, respectively, while the PBRGI recommended 53.5%, 49.8%, 51.4%, 53.7%, 48.8% and 48.2% of inmates for release, respectively.

o Applying the current PBRGI sample selection criteria[97] to all six reporting years, FY 2013 to FY 2018, the percentage of Board decision/PBRGI recommendation agreement was 69.3%, 72.6%, 72.6%, 72.3%, 73.6% and 73.0%, respectively. From FY 2013 to FY 2018, there has been a 5.3% increase in Board member agreement with the PBRGI advisory recommendation.

o *Of the PBRGI advisory recommendations to release*, the Board decision *agreed* in 59.7% (1,380) of cases. Of these 1,380 decisions, 990 (71.7%) parole applicants were categorized as "very low" or "low" risk, 1,280 (92.8%) were categorized with "high" or "medium" readiness and 890 (64.5%) occupied both these lower risk and higher readiness categories. The most frequent matrix position within the 1,380 release agreements was found for those who were "very low" in risk and "high" in readiness (23.0%; 318 of 1,380).

o *Of the PBRGI advisory recommendations to defer*, the Board decision *agreed* in 85.4% (2,119) of cases. Of these 2,119 decisions, 1,329 (62.7%) parole applicants were categorized as "high" or "very high" risk, 2,015 (95.1%) were categorized with "medium" or "low" readiness, and 1,225 (57.8%) occupied both these higher risk and lower readiness categories. The most common of the 2,119 deferral agreements was found for those who were "very high" in risk and "low" in readiness (30.2%; 639 of 2,119).

o *Of the PBRGI advisory recommendations to release*, the Board decision *departed* in 40.3% (933) of cases. Of these 933 instances, 753 (80.7%) parole applicants were categorized by the PBRGI as "low" or "very low" risk, 636 (68.2%) were in the "medium" or "high" readiness categories, and 456 (48.9%) were in both these higher risk and lower readiness categories. The most frequent matrix position within the 933 release departures was found for those who were "very low" in risk and "low" in readiness (31.8%; 297 of 933).

o *Of the PBRGI advisory recommendations to defer*, the Board decision *departed* in 7.6% (363) cases. Of these 363 instances, 328 (90.4%) parole applicants were categorized by the PBRGI in "high" or "very high" risk, 244 (67.2%) in "low" or "medium" readiness, and 209 (57.6%) in both these higher risk and lower readiness categories. The most common of the 363 deferral departures was found for those who, although "very high" in risk, were "high" in readiness (32.8%; 119 of 363).

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[97] See Footnote 96.

o The departure reasons entered by the Board for the *decisions to release rather than defer* indicated (in descending order of occurrence) that these individuals had presented a comprehensive parole plan; had successfully completed treatment to address criminogenic needs (for example, substance abuse treatment, mental health interventions, cognitive treatment, and/or anger management); had been successful in community placements; had demonstrated growth and positive attitude; had mitigated their higher risk in one or more ways; had successfully completed programs to prepare for re-entry; and/or had served adequate time.

o 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.

o <u>File Review Findings</u>. The FY 2018 sample of 9,189 hearings included 1,232 (13.4%) file review decisions, which do not require the presence of the inmate as defined in statute.[98] Of these 1,232 file reviews, 1,044 involved those who were not labeled a sex offender and 188 involved those labeled a sex offender. Since file review eligibility was introduced into Board policy in 2013 and expanded by House Bill 2017-1326 ("low and "very low" risk eligibility), House Bill 2018-1410 (vacancy rate-precipitated reviews), the use of file reviews by the Board has increased over 350% overall (from 2.9% of hearings in FY 2014 to 13.4% of hearings in FY 2018). An analysis of these file reviews found:

▪ Of the 1,232 total file reviews, 249 parole applicants (20.2%) were set for release and 983 (79.8%) were deferred.

▪ Of the 249 applicants set for release, 41 (16.5%) were within 3 months to MRD, an additional 35 (14.1%) were within 6 months to MRD, an additional 43 (17.3%) were within 14 months to MRD, and the remaining 130 (52.2%) were more than 14 months to MRD.

▪ Of the 983 (79.8%) who were deferred following a file review, 275 (28.0%) were deferred to a subsequent hearing date and 708 (72.0%) were "deferred to MRD." Of these 983 applicants who were deferred, 524 (53.3%) were within 3 months to MRD, an additional 359 (36.5%) were within

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[98] The statutory conditions under which the Board may choose to conduct a file review are found in "Board Hearing Types" in Section Three.

6 months to MRD, an additional 61 (6.2%) were within 14 months to MRD, and the remaining 39 (4.0%) were more than 14 months to MRD.

▪ Of the 1,044 file reviews for the PBRGI-eligible parole applicants, 249 (23.9%) were set for release and 795 (76.1%) were deferred. Of the 1,044 file reviews conducted for non-sex offenders, the Board chose to bypass the PBRGI advisory recommendation in 722 (69.2%) instances leaving 322 file reviews for which an advisory recommendation was displayed.

▪ Of the 722 bypassed cases, Board members designated 140 (19.4%) individuals for release and 582 (80.6%) for deferral (of which 169 were deferred to a subsequent hearing date and 413 were deferred to their impending mandatory release date).

▪ Of the 322 PBRGI-related file reviews, Board members designated 109 (33.9%) applicants for release and 213 (66.1%) for deferral (of which 59 were deferred to a subsequent hearing date and 154 were deferred to their impending mandatory release date). Of the same file reviews, the PBRGI recommended 185 (57.5%) applicants for release and 137 (42.5%) for deferral.

▪ Of the 322 inmates subject to a file review, 225 (70.0%) met the "6-months-to-MRD" criterion, an additional 87 (27.0%) met the "very low" or "low" risk criterion, and the remaining 10 (3.1%) met one or both of the ICE detainer or special needs criteria.

▪ Collapsing release and deferral agreements overall (between corresponding Board decisions and PBRGI recommendations to defer or to release), *75.2% of file review decisions agreed with the PBRGI recommendations.*

▪ This combined agreement percentage (75.2%) includes the degree of release agreement (57.8% or 107 agreements within the 185 release recommendations) and the degree of deferral agreement (98.5% or 135 agreements within the 137 defer recommendations).

▪ The 322 inmates in the PBRGI sample who were the subject of a file review were placed in these PBRGI risk/readiness matrix categories: 48.4% were in the "very low" risk category (compared to 24.4% of inmates in non-file review hearings) and 57.8% were found in the "low" readiness category (compared to 43.6% of inmates in non-file review hearings).

o Full Board Findings. There was a total of 2,216 full Board reviews in the FY 2018 sample. A separate analysis of the 1,440 full Board review decisions involving a PBRGI advisory recommendation found:

▪ Collapsing the two sources of agreement (between the PBRGI recommendations and Board decisions to release and to defer), *62.9% 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 parole applicants for release (918 or 63.7%) and a smaller percentage for deferral (522 or 36.3%). [As indicated above, individual Board member decisions in "regular" hearings designated 1,743 (36.4%) applicants for release and 3,052 (63.6%) for deferral.]

- Of these 1,440 full Board reviews, the PBRGI recommended 1,230 (85.4%) parole applicants for release and 210 (14.6%) for deferral. The PBRGI categorized 67.8% of these individuals recommended for release as "very low" or "low" risk and 81.0% as "medium" or "high" readiness, 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 (85.4% versus 47.1%, respectively) and the agreement between full Board reviews and PBRGI recommendations to release was higher (59.7% versus 65.6%, respectively).

o Findings Regarding Sex Offenders. As mentioned above, a PBRGI recommendation is not displayed for those labeled a sex offender. When considering the parole application of an individual labeled a sex offender, it is the practice of the Board to refer some of these individuals to the full Board for review. Those who are not considered appropriate for release are deferred at the time of the "regular" hearing without a referral to full Board consideration. Therefore, it is the practice and policy of the Board to release sex offenders only after a full Board review. The findings regarding parole application decisions for those labeled a sex offender are as follows:

- Of the 2,214 individuals labeled a sex offender who were seen in initial ("regular") hearings, 52 (2.3%) were set for release,[99] 1,387 (62.6%) were deferred, and, as described above, 775 (35.0%) were referred to the full Board for further review. Of the 775 individuals referred to full Board review, 410 (52.9%) were set for release and 365 (47.1%) were deferred.

- Combining the decision outcomes of "regular" hearings and full Board reviews, the overall decision percentage for the 2,214 individuals labeled a sex offender were: 20.9% (462) set for release and 79.1% (1,752) deferred.

- Of the 1,439 "regular" hearings involving those labeled a sex offender, 188 (13.1%) were conducted as file review of which none were released.

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[99] There are no records of full Board reviews or full Board decisions for these 52 cases. These releases may be due to atypical circumstances or the full Board decision data may simply be missing from the hearing record.

Appendices

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APPENDIX A

COLORADO STATE BOARD OF PAROLE

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

CURRENT BOARD MEMBERS (Term)

Kristen Hilkey, Chair	(2021)
Chad Dilworth, Vice Chair	(2022)
Darlene Alcala	(2022)
Denise K. Balazic*	(2020)
Michelle Geng	(2022)
Jason Guidry	(2022)
Brandon W. Mathews*	(2020)
Joe Morales*	(2022)
Alfredo Pena*	(2020)
Rebecca Oakes, Former Member*	-
John M. O'Dell, Former Member*	-
Alexandra Walker, Former Member*	-

ADMINISTRATIVE HEARING OFFICERS
Dan Casias
Tom Waters

The list includes the names and positions of *current and former* Board members. An asterisk (*) identifies the members who conducted release application hearings that are reflected in this FY 2018 report. Members' terms expire on July 1 of the year in parentheses.

Additional information on the Colorado State Board of Parole is available at, *colorado.gov/paroleboard*

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APPENDIX B

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

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Parole Board Release Guideline Instrument: Item and Matrix Descriptions

Introduction

Pursuant to §17-22.5-107(1), C.R.S., the DCJ, in consultation with the State Board of Parole, developed the Parole Board Release Guideline Instrument (PBRGI). The following elements comprise the PBRGI:

- The PBRGI risk items, which combined, assign inmates to a risk level,
- The PBRGI readiness items, which combined, assign inmates to a readiness level,
- The PBRGI decision matrix with five levels of risk and three levels of readiness, and
- The PBRGI advisory decision to release or defer, based on the decision matrix assignment.

PBRGI Risk Items and Readiness Items

The original draft of the parole release guideline was developed by the Post Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice. This document, approved by the full Commission, served as the source for the recidivism risk and parole readiness items.

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

Eight variables comprise the risk items and five variables comprise the readiness items of the PBRGI (see Figure A1). Each of the PBRGI items is described below along with a note indicating whether the category assignment is reduced or augmented by the item score.

> **The original draft of the parole release guideline was developed by the Post Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice.**

Risk Items

Item #1: The Colorado Actuarial Risk Assessment Scale. The CARAS is an actuarial risk assessment instrument which, pursuant to §17-22.5-404(2), C.R.S., is developed by DCJ for use by the Parole Board when making release decisions. The CARAS is a risk scale that predicts recidivism following a release from prison.[100] The CARAS score is based on static (unchangeable) risk factors, for

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[100] The current CARAS V6 recidivism rates by risk category are: Very Low, 14.7%; Low, 28.1%, Medium, 42.5%, High, 63.2%, and Very High, 77.8%. Recidivism is defined as at least one technical violation, arrest, or felony filing at any time during a 5-year period following release. For additional information on the CARAS V6, see colorado.gov/dcj-ors/ors-riskscales.

example, current age, number of current conviction charges and number of previous incarcerations. Inmates are assigned to one of five risk categories that range from "very low" to "very high" risk. The assigned CARAS risk category serves as the baseline risk assignment in the risk algorithm.[101]

Item #2: *Code of Penal Discipline* / Victim Threat. Any inmate with a conviction of a Class II: 25c offense, Harassment of Victim, is assigned to the highest level of risk.[102] The baseline risk assignment is not altered for inmates without such a conviction.

Item #3: *Code of Penal Discipline* / Class I Offense. Any inmate with a conviction for a Class I offense during the previous 12 months is re-assigned to the highest level of risk. Inmates with no Class I offense in the last 12 months receive a fractional point reduction in risk (in other words, a partial category reduction).

Item #4: *Code of Penal Discipline* / Class II Offense. Any inmate with a conviction for a Class II offense, other than Harassment of Victim, during the previous three months is re-assigned two levels higher than the baseline category of risk. For example, an inmate whose baseline risk assignment was "very low" would be shifted to "medium" risk. Inmates with no Class II offense in the last three months receive a fractional category reduction in risk.

Item #5: Escape/Abscond or Attempt. The existence of one or more escapes/absconds or attempts results in the inmate being advanced two categories of risk. The baseline risk assignment is not altered for inmates with no escape/abscond or attempts.

Item #6: 60 Years of Age or Older (Risk moderator). The baseline risk assignment is reduced by two categories for inmates who are 60 years of age or older. The baseline risk assignment is not altered for inmates who have not reached the age of 60.

Item #7: Medical Condition Reduces Risk of Re-Offense (Risk moderator). The baseline risk assignment is reduced by two categories for inmates whose record indicates a debilitating medical condition that reduces the risk of re-offense. The baseline risk assignment is not altered for inmates who do not have such medical conditions.

Item #8: Manageable in the Community (Risk moderator). *This variable is derived from a rating by the Board member conducting the parole application hearing.* Based on the review of an inmate's record and information gathered during the interview conducted during parole application hearing, Board members rate whether or not they expect a greater likelihood of success for the individual if transitioned to the community. The baseline risk assignment is reduced by one category for individuals who are expected by the member to be successful if placed under community supervision. The baseline risk assignment is not altered for individuals who are not assessed by the member to be successful under community supervision.

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[101] Developed and validated pursuant to §17-22.5-404(2)(a), C.R.S., CARAS, Version 6 (2015) has an AUC=.75.
[102] 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. The LSI-R total score serves as a modified baseline in the readiness algorithm. [103] The 54-item LSI-R is a measure of inmates' criminogenic needs and, based on the total score, inmates are assigned to one of four actuarially-determined readiness categories. The LSI-R is a modified baseline because this item, together with the LSI Rater Box item,[104] is weighed equally with the remaining items in the readiness algorithm.

Item #10: Level of Service Inventory-Rater Box Average. The average of the 13 Rater Box items on the LSI-R contributes points to the overall readiness total. The LSI-R Rater Box items score inmates on 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 inmate's enrollment, participation, and progress in CDOC programs. The assignment of points does not penalize inmates who are wait-listed for programs or, for whatever reason as determined by the Board member, inmates for whom current program participation is considered not applicable. Points assigned to the ratings are added to the overall readiness total.

Item #12: Treatment Participation / Progress. *This variable is derived from a rating by the Board member conducting the parole application hearing.* The Board member provides a rating of the inmate's participation and progress in CDOC treatment. The assignment of points does not penalize inmates who are wait-listed for treatment or, for whatever reason as determined by the Board member, inmates for whom current treatment is considered not applicable. Points assigned to the ratings are added to the overall readiness total.

Item #13: Parole Plan. *This variable is derived from a rating by the Board member conducting the parole application hearing.* The Board member provides a rating of the quality and thoroughness of the inmate's parole plan. Considerations of the parole plan may include the provision for housing, parole location, work, education, treatment, parole sponsor, social support, vocational/leisure activities and other transition factors. Points assigned to the ratings are added to the overall readiness total.

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[103] 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.

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

Figure A1. PBRGI risk and readiness variables and algorithm calculations and categories

DECISION ALGORITHM VARIABLES

RISK VARIABLES (- reduces, + augments, x no affect)	READINESS VARIABLES (- reduces, + augments)

#1 Colorado Actuarial Risk Assessment Scale
(Risk baseline)
    (1) Very Low (1 - 23)
    (2) Low (24 - 31)
    (3) Medium (32 - 36)
    (4) High (37 - 43)
    (5) Very High (44 - 79)
	#9 Level of Service Inventory: Total Score
	(Readiness baseline)
	    (0) Low (39 - 54)
	    (1) Medium (30 - 38)
	    (2) High (21 - 29)
	    (3) Very High (0 - 20)

#2 Code of Penal Discipline: Victim Threat
  (During period of incarceration)
  (x) None
  (+) Yes
	#10 Level of Service Inventory: Rater Boxes
	  (+) Yes (Avg. 2.50 - 3.00)
	  (+) Yes (Avg. 2.00 - 2.49)
	  (-) No (Avg. 0.50 - 1.99)
	  (-) No (Avg. 0.00 - 0.49)

#3 Code of Penal Discipline: Class I Offense
  (-) None in past 12 months
  (+) At least 1 in past 12 months
	#11 Program Participation/Progress*
	  (+) Good outcome/ intent -or- NA /Wait listed
	  (+) Acceptable outcome/intent
	  (-) Weak/unclear outcome/intent
	  (-) Poor outcome/intent

#4 Code of Penal Discipline: Class II Offense
  (Other than Victim Threat)
  (-) None in past 3 months
  (+) At least 1 in past 3 months
	#12 Treatment Participation/Progress*
	  (+) Good outcome/ intent -or- NA /Wait listed
	  (+) Acceptable outcome/intent
	  (-) Weak/unclear outcome/intent
	  (-) Poor outcome/intent

#5 Escape/Abscond or Attempt
  (x) None
  (+) Yes, Escape/Abscond or Attempt
	#13 Parole Plan*
	  (+) Good
	  (+) Acceptable
	  (-) Weak
	  (-) Poor

Risk moderators **#6** (-) Yes, 60 yrs. or older **#7** (-) Yes, med. condition reduces reoffense risk **#8** (-) Yes, manageable in community*	
*(*PB Input)*	*(*PB Input)*

DECISION ALGORITHM COMPUTATIONS AND CATEGORIES

Risk Calculation:
CARAS + COPD: Victim + COPD: Class I + COPD: Class II + Esc/Abs + Risk moderators = Risk Point Total

Risk Categories:
1) Very Low = 1.99 or less risk points
2) Low = 2.00 - 2.99
3) Medium = 3.00 - 3.99
4) High = 4.00 - 4.99
5) Very High = 5.00 or above

Readiness Calculation:
(LSI: Total Score + LSI: RB + Program + Treatment + Plan) / 5 = Readiness Point Average

Readiness Categories:
1) Low = 0.00 - 1.99
2) Medium = 2.00 - 2.99
3) High = 3.00 or above

PBRGI Algorithms and Decision Matrix

The first item in the risk dimension (Item #1: CARAS) and the first item in the Readiness dimension (Item #9: LSI) determine a baseline level for each inmate on risk and on readiness. The remaining items in the risk or readiness dimension determine whether the inmate is shifted up or down the levels of the dimension. The risk algorithm is calculated by the simple addition of points received for each of the eight risk items and the total number of points is associated with a particular risk level. The readiness algorithm is based on the calculated average of the points received for each of the five readiness items and the average is associated with a particular readiness level (see Figure A1.).

Placement in the Matrix. As detailed in Figure A1, computations of the risk algorithm *total score* and the readiness algorithm *average score* result in the assignment of each inmate to a risk and a readiness level:

Risk Levels
Very Low (best candidates for release)
Low
Medium
High
Very High (best candidates for defer)

Readiness Levels
High (best candidates for release)
Medium
Low (best candidates for defer)

The combination of the risk and readiness levels places an inmate into one of the 15 categories in the PBRGI decision matrix. The risk by readiness decision matrix comprising the five risk and three readiness levels can be found in Figure A2. Each decision matrix risk/readiness combination is associated with an advisory release decision recommendation either to "RELEASE" the inmate to parole or to "DEFER" the inmate to a subsequent parole consideration hearing, continuing the period of incarceration.

Note that all parole release candidates falling in the "very low risk" category are recommended for release; whereas, all those falling in the "very high risk" category are recommended for deferral.[105] Note also that the recommendation related to the middle of the matrix is dependent on the combination of the two dimensions. For example, the recommendation for an inmate at "medium" readiness differs depending on the risk placement.

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

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

Figure A2. Advisory release decision recommendation matrix with risk and readiness categories and associated recommendations

ADVISORY RELEASE DECISION RECOMMENDATION MATRIX			
RISK CATEGORY	**READINESS CATEGORY**		
	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)