

Analysis of Colorado State Board of Parole Decisions: FY 2014 Report

Pursuant to § 17-22.5-404(6)

April 2015

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

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April, 2015
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Executive Summary

BACKGROUND

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

Mandates. Pursuant to §17-22.5-404(6)(a), C.R.S., the Board is mandated to work with the Division of Criminal Justice (DCJ) in the Colorado Department of Public Safety (CDPS) and the Colorado Department of Corrections (DOC) “to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the Board’s parole decisions.” Additionally, pursuant to §17-22.5-107(1), C.R.S., in consultation with the Board, DCJ is mandated to develop an administrative release guideline instrument for use by the Board in evaluating applications for parole. Finally, pursuant to §17-22.5-404(6)(e)(I), C.R.S., the Board and DCJ are mandated to issue a report to the General Assembly regarding the outcomes of decisions by the Board. This report covers findings related to these statutory mandates during the period from July 1, 2013 through June 30, 2014.

Parole Board Hearing Application Portal. During FY 2012, the DOC’s Office of Information Technology (OIT), in collaboration with the Board, various representatives of DOC including the Time and Release Operations Office, and DCJ, implemented the Parole Board Hearing Application Portal. This user interface gathers information from diverse DOC sources, displays it, and records Board member decisions. Without this automation of parole hearings the development and integration of the Parole Board Release Guideline Instrument (PBRGI) 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 release decision factors and, based on a structured decision matrix, to offer an advisory release decision recommendation for parole applicants. The PBRGI was derived from a paper-and-pencil draft administrative release guideline instrument created by the Colorado Commission on Criminal and Juvenile Justice (colorado.gov/ccjj). Validity and reliability testing concluded in August of 2012 and the system was implemented on September 4, 2012. Since that date, the automated PBRGI system has been available for use within the Parole Board Application Hearing Portal by Board members when conducting parole release application hearings. System refinements and improvements will continue to be made to meet the needs of the Board and to reflect evidenced-based correctional practices.

¹ The Board typically hires no more than 1 to 3 of either type of contract hearing officer. A list of Board members and hearing officers for FY 2014 may be found in Appendix A.

The PBRGI is a set of thirteen items that combine to create a matrix with two dimensions (the instrument is fully described in Appendix B). The first dimension is *risk of recidivism* and the second dimension is *readiness for parole*. Data elements in the Colorado Actuarial Risk Assessment Scale (CARAS) and the Level of Supervision Inventory-Revised (LSI-R) are among the factors that serve as the basis for the risk and readiness information used in the matrix. Drawing on the decision factors in the guidelines that correspond to the statutory parole considerations (§17-22.5-404(4), C.R.S.), DCJ staff constructed algorithms that yield two scores, one for recidivism risk and one for parole readiness.

The combination of these two scores places an offender in a five-level risk by three-level readiness matrix where each matrix position is associated with an advisory release or defer recommendation (§17-22.5-107(1)(b), C.R.S.). (Note that “defer” simply means the offender must continue to serve his or her sentence and the decision to parole is “deferred” to the next possible parole consideration date, as determined by statute.) This advisory recommendation is displayed to Board members through the Parole Board Hearing Application Portal. Members may also view an offender’s specific placement in the decision matrix and the data used to derive the risk and readiness scores. After considering the advisory recommendation and any other information connected to the release application hearing, Board members may choose to concur 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. Studies to demonstrate the validity and reliability of the PBRGI may be found in the FY 2012 and FY 2013 Parole Board Decisions reports.²

Parole Board Revocation Projects. Pursuant to §17-22.5-404(6), C.R.S., DCJ is required to report Board decisions regarding parole revocation, the reasons for these decisions, and departures from the administrative revocation guidelines (§17-22.5-107(2), C.R.S.). There were two projects related to the ability to accomplish this mandate: the Parole Board Revocation Automation Project and the Parole Board Revocation Guidelines Project.

Following the automation of the release hearing process, the Board initiated a Parole Board Revocation Automation Project with OIT at DOC to automate revocation hearings and to collect hearing data similar to the automated system for release application hearings. System development and programming continues with further testing and development as this report goes to press.

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

² Prior year reports are available on the ORS/DCJ website, colorado.gov/dcj-ors/ors-reports

FINDINGS

Decision Analyses. The FY 2014 sample included 7,715 release application hearings conducted for non-sex offenders and finalized between July 1, 2013 and June 30, 2014.³ Hearings were excluded from the sample if the decision was moot, for example, if a deferral was due to the offender's absence or if decisions were not completely at the discretion of the Board such as when there is a court order for release. The following is a summary of the FY 2014 findings:

- For this FY 2014 sample, the Board designated 1,930 (25.0%) offenders for release and 5,785 (75.0%) offenders for deferral. The PBRGI recommended 3,797 (49.2%) offenders for release and 3,918 (50.8%) for deferral.
- Compared to the FY 2013 report sample, during FY 2014 the PBRGI recommended 14.4% fewer offenders for release (57.5% in FY13 versus 49.2% in FY14) and the Board designated 29.4% fewer offenders for discretionary release (35.4% in FY13 versus 25.0% in FY14).
- From FY 2013 to FY 2014, the PBRGI assigned 16.1% more offenders into the “high” and “very high” risk categories and assigned 16.9% more offenders into the “medium” and “low” readiness categories. Combining these categories, there was a 28.1% increase in the number of offenders the PBRGI identified as the most appropriate for deferral, in other words, those offenders “high” or “very high” in risk who were also “medium” or “low” in readiness.
- Collapsing across the decisions to release and defer, 68.0% of all Board member decisions agreed with the PBRGI advisory recommendation and 32.0% of all decisions departed from the PBRGI advisory recommendation. Although it is unknown whether this represents a trend or natural decision variation, compared to the initial FY 2013 report sample, there was an increase from 64.1% to 68.0% in Board member agreement with the PBRGI recommendations and a concomitant decrease of 35.9% to 32.0% departure from the PBRGI recommendations.
- The combined agreement percentage (68.0%) conceals that the degree of deferral agreement (92.3%) is more than twice as high as the degree of release agreement (42.9%). The departure percentage (32.0%) reveals the converse: the degree of release departures (57.1%) is more than seven times higher than the degree of deferral departure (7.7%).
- Of the 57.1% of decisions to depart within the total recommendation to release (and, instead, to defer the offender), 83.0% of these offenders were categorized as “low” or “very low” risk, 62.3% were categorized as “medium” or “high” readiness, and 45.2% (or 980 of 2,167) were categorized in *both* these lower risk and higher readiness categories (also referenced later in the report as the offenders “most appropriate for release”). The most common of the release departures was found for offenders who, although “very low” in risk, were categorized as “low” in readiness for release. Reflecting this finding, the departure reasons entered by the Board for these decisions to defer indicated that aspects of the crime of conviction or other risk considerations, the need for additional time to stabilize in community corrections placements, a lack of accountability for one's actions and/or the need for additional program or treatment interventions outweighed the PBRGI advisory recommendation to release.
- Of the 7.7% of decisions that depart within the total recommendations to defer (and, instead, to release the offender), 89.0% of these offenders were categorized as “high” or “very high” risk, 54.3% were categorized as “low” or “medium” readiness and 43.3% were categorized in *both*

³ The explanation for the exclusion of sex offenders may be found on page 8.

these higher risk and lower readiness categories (also referenced later in the report as the offenders “most appropriate for deferral”). The most common of the deferral departures was found for offenders who, although “very high” in risk, were categorized as “high” in readiness for release. Reflecting this finding, the departure reasons entered by the Board for these release decisions indicated that these offenders had demonstrated growth; had mitigated their higher risk in one or more ways; had presented a comprehensive parole plan; had successfully completed programs and/or treatment; and/or had been successful in community placements which had compensated for the negative characteristics reflected in the PBRGI advisory recommendation to defer.

- A separate analysis of the 1,359 full Board review decisions found:
 - Relative to individual Board member decisions, the full Board review designated a larger percentage of offenders for release - 737 (54.2%) offenders were designated for release and, combining the two types of deferral, 622 (45.8%) offenders were deferred. [As indicated above, individual Board member decisions designated 1,930 (25.0%) offenders for release and 5,785 (75.0%) offenders for deferral.]
 - Of these offenders, the PBRGI recommended 1,154 (84.9%) offenders for release and 205 (15.1%) for deferral. The PBRGI categorized 65.8% of these offenders as “very low” or “low” risk, hence the large percentage of release recommendations.
 - Collapsing the two sources of agreement (between PBRGI recommendations and Board decisions to release and to deferral), 61.8% of full Board review decisions agreed with the PBRGI recommendations.
 - Compared to individual board member decisions, the tendency of full Board reviews to agree with PBRGI recommendations to defer was lower (92.3% vs 75.1%), but the tendency to agree with PBRGI recommendations to release was higher (42.9% vs 59.4%).

Section One: Introduction

The Colorado State Board of Parole (“the Board”) is described in statute in §17-2-201, C.R.S. The Board, appointed by the Governor and confirmed by the Colorado State Senate, includes seven members who serve three-year terms. The Board may hire additional individuals on contract to serve as release hearing officers and revocation hearing officers.⁴

In recent years, the Board has conducted between 25,000 and 30,000 hearings and reviews of various types per year, including parole application hearings, parole application file reviews, full board parole application reviews, special needs release reviews, release rescission hearings (a release reversal), probable cause hearings (to issue warrants related to parole violations), early parole discharge reviews, parole revocation hearings, and sexually violent predator designation hearings. Among the duties of the Board chair described in §17-2-201(1)(f), C.R.S., is “to ensure that parole board members, release hearing officers, and administrative hearing officers under contract with the board are accurately collecting data and information on his or her decision-making as required by section §17-22.5-404 (6).”

Pursuant to §17-22.5-404(6)(a), C.R.S., the Board is mandated to work with the Division of Criminal Justice (DCJ) in the Colorado Department of Public Safety (CDPS) and the Colorado Department of Corrections (DOC) “to develop and implement a process to collect and analyze data related to the basis for and the outcomes of the Board’s parole decisions.”⁵ Additionally, pursuant to §17-22.5-107, C.R.S., in consultation with the Board, DCJ is mandated to develop an administrative release guideline instrument for use by the Board in evaluating applications for parole and DOC is mandated to develop administrative revocation guidelines for use by the Board in evaluating complaints filed for parole revocation.⁶ 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.⁷

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

This report covers the period from July 1, 2013 to June 30, 2014, and is organized as follows:

- Section Two provides a summary of and update on the parole board decision support system, and
- Section Three describes the summary of statistics and findings regarding parole release application hearing decisions.

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

⁴ The Board typically hires no more than 1 to 3 of either type of contract hearing officer. A list of Board members and hearing officers for FY 2014 may be found in Appendix A.

⁵ See Senate Bill 2009-135.

⁶ See House Bill 2010-1374.

⁷ See Senate Bill 2011-241.

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Section Two: Parole Board Decision Support System

There are several elements in the Colorado State Board of Parole (“Board”) decision support system:

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

FY 2014 is the first full year following the implementation of the Parole Board Release Guideline Instrument (PBRGI) during FY 2013. Progress was made on programming the Parole Board Revocation Hearing system within which will be contained the Administrative Revocation Guidelines (PBRVG). This section provides a summary of these elements and describes developments occurring since the FY 2013 report.⁸

Parole Board Hearing Application Portal. In October 2011, the Governor’s Office of Information Technology (OIT) at DOC, in collaboration with the Board, implemented a paperless hearing system, labeled the Parole Board Hearing Application Portal (“Portal”).⁹ The goal of the Portal creation was to automate parole application (“release”) hearings by providing an interface to display offender case file information and other hearing-related data and documents. The Portal also records hearing decisions on electronic forms and, in the case of a release to parole, records the conditions under which an offender must abide while on parole.

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

Parole Board Release Guideline Instrument. The PBRGI adheres to 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 consistent framework for the Board to evaluate and weigh the statutory, release-decision factors¹⁰ and, based on a structured decision matrix, to offer an advisory release decision recommendation for parole applicants who are not identified as sex offenders.¹¹ The

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

⁸ The previous annual reports provide a summary and update on the original six projects derived from the legislative mandates in §17-22.5-107 and §17-22.5-404(6), C.R.S., and are available at dcj.state.co.us/ors/research_documents/.

⁹ For a more lengthy description of the “Portal,” see http://www.dcj.state.co.us/ors/pdf/docs/SB09-135/SB11-241_Report_11-01-11.pdf.

¹⁰ See the statutory consideration for release to parole in §17.22.5-404(4), C.R.S.

¹¹ The exclusion of sex offenders is described on page 8.

“Portal” described above afforded the opportunity to automate the decision framework and advisory recommendation processes for ultimate consistency. The PBRGI is based on a draft administrative release guideline instrument designed by the Colorado Commission on Criminal and Juvenile Justice.¹²

For sex offenders, pursuant to §17-22.5-404 (4)(c)(II), C.R.S., parole release decisions are guided by criteria created by the Sex Offender Management Board (SOMB).¹³ Upon entry into DOC, each offender’s history is reviewed for sexually abusive behavior, and offenders are assigned to one of five categories on Sexual Violence Needs with classification updates occurring as warranted. Offenders in the lower two classification levels (no sexual violence treatment needs or a due process hearing determination that there has been no sexually abusive behavior) are not subject to SOMB criteria and, therefore, are assigned a PBRGI recommendation.

The intent of the PBRGI is to provide guidance to the Board as it makes decisions about discretionary parole release. The instrument provides an advisory decision, and Board members must provide a reason, if they depart from the advisory decision. The evidence-based guideline instrument offers the significant advantage of uniformity in the application of decision criteria, but the guideline cannot adapt to the unique and emergent characteristics of each offender discovered during the parole application hearing. In fact, there is no objective standard by which Board member decisions may be measured. This point is acknowledged in the legislative declaration of H.B. 10-1374, “...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.”

During FY 2013, final testing and validation of the PBRGI was completed in August of 2012 and it was implemented on September 4, 2012. Ongoing monitoring and modifications of the system continued through the end of November 2012. The final steps in the development, validation, testing, and modifications to the PBRGI are described in the previous fiscal year report, *Analysis of Colorado State Board of Parole Decisions: FY 2013 Report*.¹⁴

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

The PBRGI is a set of thirteen items that combine to create a decision matrix with two dimensions: the first dimension is *risk of recidivism* and the second is *readiness for parole*. The thirteen items of the two dimensions of the PBRGI and the advisory decision matrix are described in Appendix B. Drawing on the decision factors in the guidelines draft, which correspond to the statutory parole considerations,¹⁵ DCJ staff constructed algorithms that yield two scores, one for risk and one for readiness. The combination of these two scores places

¹² The Post Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice (CCJJ) developed a draft administrative release guideline instrument as part of a recommendation that, via House Bill 2010-1374, introduced changes to the parole guidelines statute, (§17.22.5-404 and §17-22.5-107(1), C.R.S.

¹³ These criteria may be found at the SOMB website (dcj.state.co.us/odvsom/sex_offender/adults.html#standards), in the document entitled *Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders*, in Appendix J: Parole Guidelines for the Discretionary Release on Determinate-Sentenced Sex Offenders (determinate criteria) and in Lifetime Supervision Criteria: Section LS 4.200 - Criteria for Successful Progress in Treatment in Prison: Sex Offender Treatment and Management Program (indeterminate criteria).

¹⁴ See Footnote 2.

¹⁵ See the statutory consideration for release to parole in §17.22.5-404(4), C.R.S. (available in Appendix H).

an offender in a five-level risk by three-level readiness decision matrix where each matrix position is associated with an advisory recommendation to release or defer (§17-22.5-107(1)(b), C.R.S.).¹⁶ This recommendation is displayed through the Parole Board Hearing Application Portal to Board members at the conclusion of a release application hearing. Additionally, members may also view an offender's specific placement in the decision matrix and the rating on each of the eight items that derive the risk score and the five items that derive the readiness score. After considering the advisory recommendation and any other information connected to the release application hearing, Board members may choose to agree with or depart from the recommendation. Pursuant to §17-22.5-404(6)(b), C.R.S., a decision that departs from the recommendation requires that the Board member provide the reason(s) for departure.

The risk and readiness algorithms and the decision matrix of the PBRGI system will continue to be monitored in the context of recidivism outcomes and the system will be updated as warranted by data analyses, any changes to the statutory parole considerations, and evidence from the field of criminal justice on parole decision making.¹⁷

Parole Board Revocation Projects. Pursuant to §17-22.5-404(6), C.R.S., DCJ is required to report Board decisions regarding parole revocation, the reasons for these decisions, and departures from the administrative revocation guidelines (§17-22.5-107(2), C.R.S.). There are two ongoing projects to accomplish this mandate: the Parole Board Revocation Automation Project and the Parole Board Administrative Revocation Guidelines Project. Because the automation of revocation hearings and the administrative revocation guidelines are in development, a system to collect revocation decision data, the reasons for revocation decisions, and the reasons for departures from the revocation guidelines is not yet available, and these data cannot be fully captured at the present time.

Following the implementation of the PBRGI, the Board initiated a project with OIT at DOC to automate revocation hearings similar to the automated system for release application hearings and enlisted individuals with expertise to develop the administrative revocation guidelines. Based on continued feedback from the Board, the DOC Division of Adult Parole, the DOC Time & Release Operations office and DCJ, programmers have continued to refine and improve the system. The development and integration of additional revocation-related procedures and corresponding data collection processes has postponed implementation into FY 2015.

Development of the automated Parole Board Revocation Hearing and data collection system continues, with an anticipated implementation in FY 2015.

In March 2013, the Board seated a Parole Revocation Working Group to develop the Parole Board Administrative Revocation Guidelines (PBRVG). The Board contracted with the Center for Effective Public Policy (“Center”; cepp.com) to provide technical assistance and guidance on the project. Pursuant to §17-22.5-107(2), C.R.S, the PBRVG will employ the statutory revocation factors (§17-22.5-404.5(a), C.R.S.) and include a matrix of advisory decision recommendations for different offender risk levels. Additionally, the Board is required to provide decision reasons when the Board departs from advisory revocation recommendation (§17-22.5-404(6)(b), C.R.S.).

¹⁶ The decision to “defer” simply means the offender must continue to serve his or her sentence and the decision to parole is “deferred” to the next possible parole consideration date, as determined by statute.

¹⁷ Additional background information on the PBRGI development may be found in previous reports at dcj.state.co.us/ors/research_documents/.

Following a series of meetings through June 2013, the Center provided the Proposed Parole Board Administrative Revocation Guidelines to the Board. Following approval by the Board, the guidelines were forwarded to OIT at DOC for further specification of elements for integration into the automated Parole Board Revocation hearing system that is under construction (described above.) The Board, OIT at DOC and DCJ will continue to collaborate on the conceptualization, programming and testing of the revocation guidelines with the goal of full implementation during FY 2015.

Section Three: Parole Board Decision Findings - FY 2014

Pursuant to §17-22.5-404(6)(c), C.R.S., the State Board of Parole (“the Board”) is to provide hearing data to the Division of Criminal Justice (DCJ) for analysis of Board decisions. On behalf of the Board, data were provided by DOC’s Office of Planning and Analysis for analysis by DCJ. In FY 2013, hearing data related to the Parole Board Release Guideline Instrument (PBRGI) was only available between the September 2012 implementation and the fiscal year end in July 2013. The FY 2014 report is the first to comprise an entire fiscal year of PBRGI hearing data.

FY 2014 Sample. The sample of FY 2014 hearings included 7,715 non-sex offenders¹⁸ whose release application hearing was finalized between July 1, 2013 and June 30, 2014 and did not involve a subsequent review and decision by the full board.¹⁹ These analyses focus on the hearing decisions labeled, “discretionary.” In other words, hearings where inmates had met the parole eligibility date, but whose release was prior to the mandatory release date that indicated that the prison sentence was complete. In addition to the removal of mandatory releases from the sample, there were several other reasons that a hearing record was excluded from these analyses:

The FY 2014 sample included 7,715 non-sex offenders whose release hearing occurred between July 2013 and June 2014.

- Hearings held during FY 2014, but where the decision was still pending when the fiscal year ended;
- Hearings where the inmate was automatically deferred due to a non-appearance because the inmate waived the hearing or did not or could not appear; and
- Hearings where the inmate was automatically released due to such circumstances as a court order or a mandatory re-parole following a technical violation.

Because the “automatic” circumstances do not allow the possibility of an unconstrained decision, these perfunctory deferral and release decisions were not appropriate for inclusion in the analyses of the Board decisions, the analyses of adherence or departure from the PBRGI advisory recommendation, or the analyses of departure reasons.

The PBRGI findings reported below from the FY 2014 hearing data include the:

- Number of offenders assigned to the risk and readiness categories in the PBRGI decision matrix;
- Number of release and number of deferral decisions by the Board (release rates within matrix levels) and PBRGI advisory recommendations;
- Number of agreements and departures between Board decisions and PBRGI recommendations overall and by month;
- Number of agreements and departures within decision matrix categories;

¹⁸ The explanation for the exclusion of sex offenders may be found on page 8.

¹⁹ Cases may be referred to Full Board Review for any reason by an individual Board member following the initial hearing or in cases involving violence (See, 8 C.C.R. 1511-1, Rule 8.00).

- Categories and counts of the reasons for departure from release and from deferral recommendations;
- Summary of reasons for departure by specific decision matrix categories; and
- A brief summary of the outcomes of hearings subject to full board review.

Decision Matrix Assignment. Table 1 below provides the numbers and proportions of offenders from the FY 2014 sample assigned to each of the 15 risk/readiness positions in the PBRGI decision matrix. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer. The number of offenders placed in either the “very low” (32.4%) or “very high” (30.4%) risk categories was roughly two to three times the number assigned to each of the three remaining risk categories. There were 45.1% of offenders in the sample categorized as “very low” or “low” risk. There were 75.0% of offenders placed in the extremes (“low” or “high”) of the readiness dimension. The two highest percentages of offenders in any of the 15 risk/readiness combinations were the 17.9% in “very high” risk/“low” readiness and the 13.3% in “very low” risk/“low” readiness. Only 10.8% of the sample was placed in the “boundary region” of the decision matrix representing the more complex decision circumstances for Board members (namely, offenders placed in the high/high, medium/medium, or low/low risk/readiness categories). The boundary region concept and its effect on Board member decision making are described in Appendix B.

Decision Types. The total numbers and percentages of defer and release decisions by the Board and the recommendations by the PBRGI may be found in Table 2 (specifically, see the “Total” row and column). Although the vernacular of the Board is to “release to MRD” (Mandatory Release Date),

The PBRGI recommended 49.2% of parole candidates for release and 50.8% for defer relative to the Board’s decision to release 25.0% and defer 75.0%.

this decision is the conceptual equivalent of the decision to *defer*. This action, to defer offenders to their impending MRD, is thus labeled in Table 2 the more conceptually accurate, “Defer to Mandatory Release Date.”

Of the 7,715 sample of applicants for parole, the PBRGI recommended 3,797 (49.2%) offenders for release and 3,918 (50.8%) for deferral. Given that 45.1% of offenders were categorized as “very low” or “low” risk (see Table 1), it is not unexpected that a similar percentage of offenders would be assigned an advisory recommendation for release. Board members designated 1,930 (25.0%) offenders for release and, combining the two types of deferral, 5,785 (75.0%) offenders for deferral.

Compared to the FY 2013 report sample, the PBRGI recommended 14.4% fewer offenders for release (FY13: 57.5% versus FY14: 49.2%) and the Board designated 29.4% fewer offenders for discretionary release (FY13: 35.4% versus FY14: 25.0%). This reduction in recommended and actual releases may be traced to the increase of offenders categorized by the PBRGI into higher risk and lower readiness categories. From FY 2013 to FY 2014, the PBRGI assigned 16.1% more offenders into the high and very high risk categories and assigned 16.9% more offenders into the medium and low readiness categories. Combining these categories, there was a 28.1% increase in the number of offenders the PBRGI identified as the most appropriate for deferral, in other words, those offenders “high” or “very high” in risk who were also “medium” or “low” in readiness.

Table 1. FY 2014 PBRGI sample: Counts and percentages of offenders assigned to each PBRGI risk/readiness matrix combination.

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	817	658	1028	2,503
	% within Very Low Risk	32.6%	26.3%	41.1%	100.0%
	% within Readiness Category	40.6%	34.1%	27.2%	32.4%
	% of Total	10.6%	8.5%	13.3%	32.4%
2 Low	Count	320	246	414	980
	% within Low Risk	32.7%	25.1%	42.2%	100.0%
	% within Readiness Category	15.9%	12.7%	11.0%	12.7%
	% of Total	4.1%	3.2%	5.4%	12.7%
3 Medium	Count	308	256	502	1,066
	% within Medium Risk	28.9%	24.0%	47.1%	100.0%
	% within Readiness Category	15.3%	13.3%	13.3%	13.8%
	% of Total	4.0%	3.3%	6.5%	13.8%
4 High	Count	164	212	445	821
	% within High Risk	20.0%	25.8%	54.2%	100.0%
	% within Readiness Category	8.2%	11.0%	11.8%	10.6%
	% of Total	2.1%	2.7%	5.8%	10.6%
5 Very High	Count	403	558	1,384	2,345
	% within Very High Risk	17.2%	23.8%	59.0%	100.0%
	% within Readiness Category	20.0%	28.9%	36.7%	30.4%
	% of Total	5.2%	7.2%	17.9%	30.4%
Total in Readiness Category	Count	2,012	1,930	3,773	7,715
	% within Risk Category	26.1%	25.0%	48.9%	100.0%
	% within Readiness Category	100.0%	100.0%	100.0%	100.0%
	% of Total	26.1%	25.0%	48.9%	100.0%

Decision Concurrence. In addition to the overall comparisons of release and defer rates, the pattern of concurrence within the decision matrix is also of interest. To reiterate a point made earlier, 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.

Table 2 provides the percentages of agreement and departure between the Board decisions and the PBRGI advisory recommendations. The overall degree of agreement is derived from two sources: agreements with recommendations to release and agreements with recommendations to

Collapsing across all decisions, 68.0% of Board decisions agreed with the PBRGI advisory recommendations.

defer (blue/lighter areas of Table 2). Collapsing these two sources of agreement, 68.0% of all Board member decisions agreed with the PBRGI recommendations. The combined agreement percentage (68.0%) conceals that the degree of deferral agreement (92.3% or 3,618 agreements within the 3,918 defer recommendations) is more than twice as high as the degree of release agreement (42.9% or 1,630 agreements within the 3,797 release recommendations). Alternatively, when the

PBRGI recommendation was to defer, the overall percentage of agreement was twelve times larger than the overall percentage of departure, 46.9% vs. 3.9%, respectively.

Table 2. FY 2014 PBRGI sample: Overall counts and percentages of Parole Board hearing decisions by PBRGI advisory recommendations.*

Parole Board Hearing Decision		PBRGI Advisory Recommendation		Total of PB Decisions
		Defer	Release	
Defer	Count	2,361	1,120	3,481
	Percent	30.6%	14.5%	41.8%
Defer to Mandatory Release Date	Count	1,257	1,047	2,304
	Percent	16.3%	13.6%	22.9%
		<i>Total Defer = 3,618</i>	<i>Total Defer = 2,167</i>	<i>Total Defer = 5,785</i>
		46.9%	28.1%	75.0%
Release Discretionary	Count	300	1,630	1,930
	Percent	3.9%	21.1%	25.0%
Total of PBRGI Recommendations	Count	3,918	3,797	7,715
	Percent	50.8%	49.2%	100.0%

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

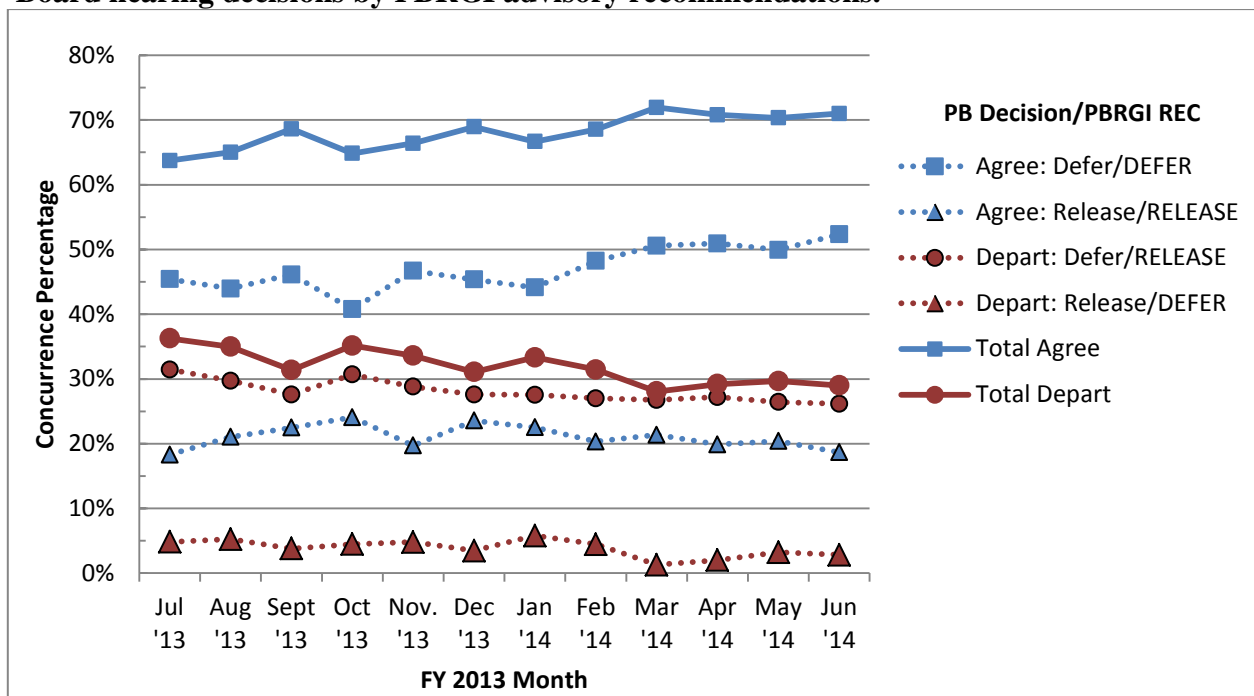
The overall degree of departure is derived from two sources: departures from recommendations to release and departures from recommendations to defer (red/darker areas in Table 2). Collapsing across these decision types, 32.0% of all Board decisions departed from the PBRGI recommendations. The combined departure percentage (32.0%) reveals the converse of the previous finding: the degree of release departure (57.1% or 2,167 departures within the 3,797 release recommendations) was more than 7 times higher than the degree of deferral departure (7.7% or 300 departures within the 3,918 defer recommendations). Alternatively, when the PBRGI recommendation was to release, the overall percentage of departure was 33.2% higher than the overall percentage of agreement, 28.1% vs. 21.1%, respectively.

Compared to the FY 2013 report sample, there was an increase from 64.1% to 68.0% Board member agreement with the PBRGI recommendations and a concomitant decrease of 35.9% to 32.0% departure from the PBRGI recommendations. Given this is only the second year of PBRGI data, it is unknown whether this represents a trend or natural variation in the tendency to agree with the PBRGI release recommendations.

Figure 1 displays the concurrence percentages by month for hearing decisions during FY 2014. The solid blue line displays the total agreement percentages and the solid red (circles) line displays the total departure percentages month to month between the Board decisions and the advisory recommendations. The dotted lines represent each of the two subtypes of agreements or of departures. The average fluctuation in total agreements or departures from month to month was only about 2 percentage points.

In the next section, an analysis of the pattern of decision concurrence is reported within each combination of the PBRGI risk/readiness decision matrix.

Figure 1. FY2014 PBRGI sample: Overall concurrence percentages by month of Parole Board hearing decisions by PBRGI advisory recommendations.



Decision Concurrence by Matrix Assignment. Relating to Table 1, Table 3 displays the number of offenders assigned to each of the 15 risk/readiness combinations of the PBRGI decision matrix and the percentage of agreement or departure in that specific combination. The blue/lighter area in the upper left are the combinations where the PBRGI recommends release and the red/darker area in the bottom right are the combinations where the PBRGI recommends defer. When scanning Table 3, one can readily see that the agreement percentages in the “release area” of the decision matrix

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

(ranging from 20.4% to 65.6%; blue/lighter area) are lower than the agreement percentages in the “defer area” of the decision matrix (ranging from 66.0% to 98.0%; red/darker area).

When collapsing across levels of readiness, there was a larger degree of Board/PBRGI agreement as level of risk increased, from 38.7% to 90.0%. When collapsing levels of risk, the highest degree of agreement was found in the “low” readiness category at 76.4% followed by the “high” (63.3%) and “medium” readiness (56.6%) categories. Given the Board’s propensity to defer versus release (overall, 75.0% versus 25.0%, respectively), it is clear from both Tables 2 and 3 that there would be a higher degree of agreement between Board decisions and PBRGI recommendations when the offender was recommended for deferral than when recommended for release (as mentioned above, 92.3% versus 42.9%, respectively).

Of the offenders identified as the better candidates for release (blue/heavy outline at upper left of Table 3), the degree of decision agreement was 52.0% (1,061/2,041; numbers are drawn from, but not displayed in, Table 3). Specifically, this would include offenders categorized in either of the two highest levels of readiness (“high” and “medium”) and either of the two lowest levels of risk (“very low” and “low”). Offenders categorized across the entire “very low” risk category were designated as appropriate for release, regardless of level of readiness.²⁰ The release recommendations for offenders located near the “middle decision boundary” were subject to a lower degree of agreement, 41.9% (combining the agreements in the “medium”/“medium” and “high”/“high” risk/readiness boundary combinations). Additional support for the difficulty of decisions regarding offenders falling in this middle area also may be seen comparing the degree of agreement in the “medium” level of readiness (56.6%) relative to the “high” and “low” levels of readiness (63.3% and 76.4%, respectively).

The pattern of percentages in Table 3 demonstrates how the degree of agreement reflects the changing “decision environment” as offender readiness drops and the Board appears less willing to release. This pattern of falling degree of agreement with the recommendation to release can be seen at each level of risk. Even among the “very low” risk offenders, there is a precipitous drop in agreement from “high” (64.1%) to “low” (20.4%) readiness. The most frequently offered departure reasons (for the decision to defer rather than release) by the Board for the lower risk/higher readiness offenders mentioned one or more of the following about the offenders:

- Had engaged in behaviors that could indicate a continued risk to the community;
- Needed more time or placement in transition beds in community corrections; or
- Would soon be released at the MRD anyway.

Further analysis of the departure reasons may be found below.

²⁰ See Appendix B for a description of the designation of release or defer in the PBRGI decision matrix.

Table 3. FY2014 PBRGI sample: Counts of offenders assigned to each PBRGI risk/readiness matrix combination and the associated percentage of agreement and departure between the Board decision and the PBRGI recommendation.*

<u>RISK CATEGORY</u>		<u>READINESS CATEGORY</u>			Total in Risk Category
		3 High	2 Medium	1 Low	
1 Very Low	Count	817	658	1,028	2,503
	% Agreement	64.1%	35.6%	20.4%	38.7%
	% Departure	35.9%	64.4%	79.6%	61.3%
2 Low	Count	320	246	414	980
	% Agreement	65.6%	37.8%	95.7%	71.3%
	% Departure	34.4%	62.2%	4.3%	28.7%
3 Medium	Count	308	256	502	1,066
	% Agreement	59.4%	33.6%	97.0%	70.9%
	% Departure	40.6%	66.4%	3.0%	29.1%
4 High	Count	164	212	445	821
	% Agreement	54.9%	89.6%	97.5%	87.0%
	% Departure	45.1%	10.4%	2.5%	13.0%
5 Very High	Count	403	558	1,384	2,345
	% Agreement	66.0%	87.6%	98.0%	90.0%
	% Departure	34.0%	12.4%	2.0%	10.0%
Total in Readiness Category	Count	2,012	1,930	3,773	7,715
	% Agreement	63.3%	56.6%	76.4%	68.0%
	% Departure	36.7%	43.4%	23.6%	32.0%

* The number of decisions that agreed or departed is calculated by multiplying the cell count by the agreement or the departure percentage in the same cell. For example, 524 decisions were in agreement in the “very low” risk by “high” readiness matrix combination (817 x 64.1%).

Of the offenders identified as the better candidates for deferral (red/heavy outline at lower right of Table 3), the degree of agreement was 95.0% (2,469/2,599). Specifically, this would include offenders categorized in either of the two highest levels of risk (“high” and “very high”) and either of the two lowest levels of readiness (“low” and “medium”). Given the Board’s more conservative

The degree of decision agreement was 52.0% for the offenders identified as the better candidates for release, but 95.0% for those identified as the better candidates for deferral.

approach to release, this higher level of agreement on deferrals is true for decisions in one of the difficult “middle boundary” combinations separating the release and defer regions of the recommendation matrix, specifically the 97.0% agreement in the “low” risk/“low” readiness combination.

The “decision environment” specific to the deferral side of the matrix can be seen in the drop in deferral agreement from “low” to “high” readiness. Offenders categorized across the entire “very high” risk category were designated in the decision matrix for deferral, regardless of level of readiness.²¹ At these levels of relatively high agreement (compared to release agreement), there is still a slight willingness to consider release on this “deferral side” of the matrix with increasing offender readiness. This drop in deferral agreement from “low” to “high” readiness was most apparent in the “very high” risk category (specifically, 98.0% to 87.6% to 66.0%).

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

- Demonstrated personal growth and accountability for criminal behavior;
- Presented particularly good parole plans; and
- Demonstrated behaviors that represented significant risk mitigation.

Further analysis of the departure reasons may be found below.

Decision Concurrence by Decision Type. The following analysis, which relates to Table 2, explores Board decisions from a different perspective by identifying the risk and readiness characteristics of the offenders in the instances where the Board agrees or departs from the PBRGI advisory recommendation. Because statute requires the Board to provide a reason when departing from the advisory recommendation,²² the instances of departure will be explored more extensively.

Summary of Agreements: Board Releases and Deferrals. There were 1,630 total decisions where Board members *agreed with the PBRGI advisory recommendation to release*. This represents 21.1% of all hearing decisions and 42.9% of the decisions where the PBRGI recommended release. Of these 1,630 decisions, 1,271 (78.0%) offenders were categorized as “very low” or “low” risk, 1,420 (87.1%) were categorized with “high” or “medium” readiness and 1,061 (65.1%) were in both these lower risk and higher readiness categories. There were 3,618 total decisions where Board members *agreed with the PBRGI advisory recommendation to defer*. This represents 46.9% of all hearing decisions and 92.3% of the decisions where the PBRGI recommended deferral. Of

²¹ See Appendix B for a description of the designation of release or defer in the PBRGI decision matrix.

²² See §17-22.5-404(6)(b), C.R.S.

these 3,618 decisions, 2,735 (75.6%) offenders were categorized as “high” or “very high” risk, 3,352 (92.6%) were categorized with “medium” or “low” readiness, and 2,469 (68.2%) were in both these higher risk and lower readiness categories. These instances of agreement show a correspondence in the offender characteristics (based on the matrix placement in “low”/“high” risk/readiness) and the Board’s decision to release or defer. On the other hand, the following analysis of departures indicates greater discrepancies between the offenders’ matrix placement and the decisions by the Board.

Summary of Departures: Board Decides to Release. This paragraph describes the instances where Board members *departed from the PBRGI advisory recommendation to defer* and decided to release the offender to parole. Although Board members demonstrated a high degree of agreement overall with defer recommendations (92.3% or 3,618/3,918 from Table 2), there were 300 (3.9% overall) instances of deferral departure where the Board instead chose to release. This represents 7.7% (300/3,918 from Table 2) of the total advisory recommendations to defer. Of these 300 instances, 267 (89.0%) offenders were categorized by the PBRGI as “high” or “very high” risk and 163 (54.3%) fell in the “low” or “medium” readiness categories. Combining the two dimensions of risk and readiness, the Board chose to release 130 offenders (43.3% of the 300 decisions, but only 1.7% of all decisions) who were categorized by the PBRGI as the better candidates for deferral (those placed in “very high” or “high” risk *and* in “medium” or “low” readiness). Although the largest percentage of these departures from the PBRGI deferral recommendation may be found in the “very high” risk category (45.7%), these offenders also were categorized at the highest level of readiness for release (See Table 4).

It should be noted that there are several options available to the Board that are labeled a “release,” but that delay the actual release until after the offender has completed additional pre-release

Table 4. FY2014 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 300 decisions by the Parole Board to release rather than to adhere to the PBRGI recommendation to defer.

<u>Of the 7.7% (n=300) of Deferral Departures</u> Count (of 300) Percentage (of 300)		READINESS		
		High	Medium	Low
RISK	Very Low	-	-	-
	Low	-	-	18 6.0%
	Medium	-	-	15 5.0%
	High	-	22 7.3%	11 3.7%
	Very High	137 45.7%	69 23.0%	28 9.3%

preparation. For example, offenders may be placed on the Community Corrections Track Presumptive Parole requiring successful completion of a period of transition in community corrections programming.²³ Additionally, the Board may simply set the actual release date for an offender at a point 3-6 months in the future to allow a period of community corrections transition or

The Board decision to depart from a PBRGI recommendation to release was seven times more common than the decision to depart from a PBRGI recommendation to defer.

may table a release until the offender fulfills a treatment, program, or parole plan requirement. If an offender does not perform successfully in any of these delayed-release options, the Board may rescind the release decision, requiring the offender to serve additional time in prison or community corrections. The summary of the Board’s reasons for these departures is provided in the “Departure Reasons” section below.

Summary of Departures: Board Decides to Defer. This paragraph describes instances where Board members *departed from the PBRGI advisory recommendation to release* and decided to defer the offender for a continuing period of confinement. As was reported earlier in Table 2, this circumstance occurred at a higher rate with 2,167 (57.1%) departures from the total 3,797 offenders who were assigned an advisory recommendation to release. These 2,167 offenders can be divided into the 1,120 who were deferred and the 1,047 who were deferred to their MRD. An argument can be made that, for some proportion of the “defer-to-MRD” offenders, an imminent MRD release date would differ little from a discretionary release date. However, the decision still represents a period, however potentially short, that the offender is held rather than released.

Of these 2,167 instances, 1,798 (83.0%) were categorized by the PBRGI as “low” or “very low” risk and 1,349 (62.3%) fell in the “medium” or “high” readiness categories. Combining the two dimensions of risk and readiness, the Board chose to defer 980 offenders (45.2% of the 2,167 decisions and 12.7% of all decisions) who were categorized by the PBRGI as the better candidates for release (placed in “low” or “very low” risk *and* “medium” or “high” readiness). Whereas, the Board decision to release an offender recommended for deferral was rare (3.9% of all decisions from Table 2), the decision to defer an offender recommended for release (28.1% of all decisions) was seven times more common. Although the largest percentage of these departures from the PBRGI release recommendation may be found in the “very low” risk category (37.7%), these offenders also were categorized at the lowest level of readiness for release (See Table 5 on the following page). The summary of the Board’s reasons for these departures is provided in the next section.

Departure Reasons. As mentioned previously, statute requires that Board members provide a departure reason, if the release application hearing decision departs from the advisory recommendation.²⁴ This section summarizes these reasons entered by Board members for departing

²³ Community Corrections Track Presumptive Parole (CCTPP) provides an opportunity for certain qualified offenders entering into community corrections to have a certainty of transition from inmate status to parole, contingent on ongoing program compliance and consistent pro-social behavior. Offenders are eligible for CCTPP if they have at least 16 months remaining until their MRD; they are not already in community corrections, Intensive Supervision Parole - Inmate (ISP-I), or parole; they are not subject to a full Board review; and they previously have not been returned to prison for a prior failure while in a community corrections placement. For additional information, see the CDOC Administrative Regulation 250-74.

²⁴ See §17-22.5-404(6)(b), C.R.S.

Table 5. FY2014 PBRGI sample: Counts and percentages within PBRGI risk/readiness matrix combinations of the 2,167 decisions by the Parole Board to defer rather than to adhere to the PBRGI recommendation to release.

Of the 57.5% (n=2,167) of Release Departures Count (of 2,167) Percentage (of 2,167)		READINESS		
		High	Medium	Low
RISK	Very Low	293 13.5%	424 19.6%	818 37.7%
	Low	110 5.1%	153 7.1%	-
	Medium	125 5.8%	170 7.8%	-
	High	74 3.4%	-	-
	Very High	-	-	-

} **83.0%**

} **62.3%**

45.2%

from the advisory recommendation. Of the 32.0% (2,467/7,715) of decisions representing a departure from the PBRGI recommendation, there were two decision circumstances that required the Board member to provide reasons for departure: choosing to defer when the advisory recommendation was to release and choosing to release when the advisory recommendation was to defer. Specifically, this meant a departure reason was required for the 2,167 decisions to defer or defer to MRD when release was recommended, representing 28.1% of all decisions, and for the 300 decisions to release when defer was recommended, representing 3.9% of all decisions (see Table 2).

Summary of Departure Reasons: Board Decides to Release. *When the PBRGI advisory recommendation was to defer, there were 300 decisions (3.9% of all decisions) where Board members chose to depart from the recommendation and release the offender. As mentioned above, the Board can delay the actual release date for an offender in this category via the Community Corrections Track Presumptive Parole or at a point 3-6 months in the future to allow a period of transition in community corrections. It is also possible that some such “releases” were actually tabled actions that required the offender to complete a program or treatment goal or to secure an aspect of the parole plan (for example, housing or employment). In cases where the requirement is not met, it is possible to rescind an offender’s release and to defer the parole applicant to a subsequent application hearing date.*

An initial review was undertaken to identify and categorize the primary types of departure reasons across these decisions. Given that Board members could offer more than one reason for a departure, there were 699 total reasons provided for these 300 decisions. The departure reasons can be grouped into the following general categories:

- Demonstrated growth/positive attitude;

- Parole plan quality;
- Mitigated or lesser risk;
- Performance in the community;
- Program participation considerations;
- Treatment participation considerations; and
- Time served or imminent MRD/SDD.²⁵

Observing evidence of psychological growth was apparent in reasons mentioning positive offender attitude, taking responsibility for actions, positive behavioral adjustment, readiness for parole, and the ability to present a positive plan for the future. Reasons addressing the quality of the parole plan typically indicated that the offender would have a good support system, housing, employment, educational options or the offender would move to a different state or country. Reasons falling in the risk-related category included comments about low risk scores, non-violent offenses, short criminal histories, and committing no or minor violations of the DOC Code of Penal Discipline. Reasons regarding community performance indicated that an offender had been accepted into a community corrections program in advance of an impending mandatory release date to parole, that the offender would transition to intensive parole supervision (ISP), or that a transition to community corrections had been successful and often that the offender had secured stable employment. Reasons related to program participation typically referred to gains made in programs, the successful completion of programs, or a readiness for programs in the community. The mentions of treatment referenced that the offender had completed or would soon complete treatment and was ready to move to community-based treatment. A final category of reasons reflected that the offender had served sufficient time, that the offender would soon be released on their mandatory release date (MRD) anyway, or that a period of transition on parole would be preferable to a release with no parole supervision.

Of the 300 departure decisions, Board members mentioned one of the above seven reason categories in 699 unique instances. Board members mentioned a single departure reason category in 109 cases, two categories in 125 cases, and more than two categories in 66 cases. In some instances, Board members mentioned multiple reasons of the same type, but these were counted as a single reference to the particular category of departure reasons. The percentage of the 300 cases where a departure *category* was mentioned was as follows:²⁶

- Demonstrated growth/positive attitude, 48.0% (144/300 cases where this category was mentioned)
- Parole plan quality, 41.7% (125 cases)
- Mitigated or lesser risk, 38.0% (114 cases)
- Performance in the community, 22.7% (68 cases)
- Program participation considerations, 19.7% (59 cases)
- Treatment participation considerations, 14.3% (43 cases)
- Time served or imminent MRD/SDD,²⁷ 6.3% (19 cases)

²⁵ The statutory discharge date (SDD) refers to the date when both the sentence to DOC and all possible time on parole has been completed.

²⁶ Percentages total more than 100% because more than one category was mentioned in 191 of the 300 cases.

²⁷ See Footnote 25.

Of these 300 offenders, 130 were the higher risk/lower readiness offenders identified above as the better candidates for deferral, but who were released by the Board (red outline at bottom right of Table 3). For this group, there were 252 total departure reasons offered in similar percentages found in the categories above. The three most frequent reason categories mentioned for this subset of offenders reflected comments indicating one or more of the following:

- demonstrated growth/positive attitude;
- presented a comprehensive parole plan; and
- represented a mitigated or lesser risk to the community.

Summary of Departure Reasons: Board Decides to Defer. *When the PBRGI advisory recommendation was to release*, there were 2,167 decisions (28.1% of all decisions) where Board members chose to depart from the recommendation and defer the offender or defer the offender to the MRD. An initial review was undertaken to identify and categorize the primary types of departure reasons across these decisions. Given that Board members could offer more than one departure reason in a particular case, there were 3,845 specific departure reasons provided. These reasons can be categorized into the following areas of concern:

- Risk concerns;
- Time served or imminent MRD/SDD;²⁸
- Need to stabilize or adjust in the community;
- Attitude or presentation concerns;
- Program participation or need considerations;
- Treatment participation or need considerations; and
- Parole plan quality.

Reasons given regarding risk concerns included mentions of high risk scores, the crime of conviction or charges for a new crime, poor performance in the institution, and/or general issues of public safety. Time-related comments indicated that a release on the MRD or the SDD was so impending that a discretionary release was perceived as moot. Offenders who recently had been placed in community corrections as transition inmates were deferred to allow the offender more time to establish themselves and stabilize in the transition placement. A weak presentation by offenders was apparent in reasons that mentioned that offenders failed to take responsibility for their actions, minimized the consequences of their crime, and/or were not truthful about confirmable information available in the offenders' criminal record or case file. The mentions of treatment or program concerns revolved around the need for the offender to complete an ongoing course of treatment or a program or to receive additional treatment or programming. In a few instances, Board members reported that the offender requested a deferral to finish a nearly-completed program or course of treatment. A poor parole plan was indicated in comments about inadequate preparation for housing, social supports, employment, education and other such re-entry considerations.

Of the 2,167 departure decisions, a reason was missing in only 3 instances. In these cases, a clerical note was provided indicating a deferral, but no reason for the decision was entered for the departure. Of the remaining 2,164 decisions where reasons were provided, Board members mentioned one of the above seven reason categories in 1,746 unique instances. Board members

²⁸ See Footnote 25.

mentioned a single category of concern in 622 cases, two categories in 786 cases, and more than two categories 338 cases. In some instances, Board members mentioned more than one reason in the same category of concern. Mentions of multiple concerns in the same category were counted as a single reference to the category of concern. Of the 2,164 cases where at least one relevant departure reason was provided, the percentage of cases where a departure category was mentioned was as follows:²⁹

- Risk concerns, 52.0% (1,125/2,164 cases where the category was mentioned);
- Time served or imminent MRD/SDD, 27.9% (604 cases);
- Need to transition to or stabilize in a community corrections placement, 21.9% (474 cases);
- Attitude or presentation concerns, 16.7% (361 cases);
- Program participation or need considerations, 11.6% (252 cases);
- Treatment participation or need considerations, 10.2% (221 cases); and
- Parole plan quality, 8.0% (173).

Of the 2,164 offenders where departure reasons were provided, 980 were the lower risk/higher readiness offenders identified above as the better candidates for release, but who were deferred by the Board (blue outline at upper left of Table 3). For this group, there were 1,715 total departure reasons offered in similar percentages to those above. The three most frequent reason categories mentioned for this subset of offenders reflected comments indicating one or more of the following:

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

Findings: Full Board Reviews

Sample. The FY 2014 data included 1,359 full board reviews that occurred subsequent to an initial hearing conducted by a Board member. A full board review is conducted for any offender who, for any reason at the discretion of the originally-assigned Board member, is referred to the full board or whose crime involved violence.³⁰

Decision Types. Of the 1,359 offenders, the PBRGI recommended 1,154 (84.9%) offenders for release and 205 (15.1%) for deferral. Given that the PBRGI includes compensatory factors that can ameliorate risk, 65.8% of these offenders were categorized as “very low” or “low” risk leading to the large percentage assigned an advisory recommendation for release. Board members designated 737 (54.2%) offenders for release and, combining the two types of deferral, 622 (45.8%) offenders for deferral.

Decision Concurrence. Collapsing the two sources of agreement (between PBRGI recommendations and Board decisions to release and to deferral), *61.8% of full Board review decisions agreed with the PBRGI recommendations.* The combined agreement percentage (61.8%)

²⁹ Percentages total more than 100% because more than one category was mentioned in 429 of the 1,336 cases.

³⁰ Cases may be referred to Full Board Review for any reason by an individual Board member following the initial hearing or in cases involving violence (See, 8 C.C.R. 1511-1, Rule 8.00).

conceals that the degree of deferral agreement (75.1%) is 26.4% higher than the degree of release agreement (59.4%). Alternatively, *when the PBRGI recommendation was to defer*, the overall percentage of agreement was 197.4% higher than the overall percentage of departure, 11.3% vs. 3.8%, respectively.

Collapsing across the two sources of departure (between PBRGI recommendations and Board decisions to release and to defer), *38.2% of full Board review decisions departed from the PBRGI recommendations*. The combined departure percentage (38.2%) reveals the converse of the previous finding: the degree of release departure (40.6%) was 63.1% higher than the degree of deferral departure (24.9%). Alternatively, *when the PBRGI recommendation was to release*, the overall percentage of departure was 31.9% lower than the overall percentage of agreement, 34.4% vs. 50.5%, respectively. This last finding reverses the pattern found earlier for individual decisions by Board members. Collectively, the Board demonstrates a greater likelihood to agree with the recommendation to release than when making decisions alone, a 21.1% vs. 50.5% release agreement rate, respectively.

Summary: FY 2014 Findings

These FY 2014 analyses represent the first full year of Board hearings following the FY 2013 partial (implementation) year, yielding the following overall findings:

- The PBRGI sample of FY 2014 hearings included 7,715 non-sex offenders³¹ whose release application hearing was finalized between July 1, 2013 and June 30, 2014.
- For this FY 2014 sample, the Board designated 1,930 (25.0%) offenders for release and 5,785 (75.0%) offenders for deferral. The PBRGI recommended 3,797 (49.2%) offenders for release and 3,918 (50.8%) for deferral.
- Compared to the FY 2013 report sample, the PBRGI recommended 14.4% fewer offenders for release (57.5% in FY13 versus 49.2% in FY14) and the Board designated 29.4% fewer offenders for discretionary release (35.4% in FY13 versus 25.0% in FY14).
- The PBRGI categorized 45.1% of the offenders in the FY 2014 sample as “low” or “very low” risk, 51.1% as “high” or “medium” readiness, and 26.5% in both these lower risk *and* higher readiness categories. Conversely, the PBRGI categorized 41.0% of the offenders as “high” or “very high” risk, 73.9% as “medium” or “low” readiness, and 33.7% in both these higher risk *and* lower readiness categories.
- Collapsing across the decisions to release and defer, 68.0% of all Board member decisions agreed with the PBRGI advisory recommendation and 32.0% of all decisions departed from the PBRGI advisory recommendation. Although it is unknown whether this represents a trend or natural decision variation, compared to the initial FY 2013 report sample, there was an increase from 64.1% to 68.0% in Board member agreement with the PBRGI recommendations and a concomitant decrease of 35.9% to 32.0% departure from the PBRGI recommendations.
- Of the PBRGI advisory recommendations to release, the Board decision agreed in 42.9% of cases. Of the remaining 57.1% cases where the Board’s decision (to defer) departed from the

³¹ The explanation for the exclusion of sex offenders may be found on page 8.

release recommendation, 83.0% of the offenders were categorized as “low” or “very low” risk, 62.3% were categorized as “medium” or “high” readiness, and 45.2% were categorized in *both* these lower risk and higher readiness categories. Overall, this departure circumstance represented 28.1% of the 7,715 PBRGI-involved decisions made by the Board.

- Of the PBRGI advisory recommendations to defer, the Board decision agreed in 92.3% of cases. Of the remaining 7.7% of cases where the Board’s decision (to release) departed from the defer recommendation, 89.0% of the offenders were categorized as “high” or “very high” risk, 54.3% were categorized as “low” or “medium” readiness, and 43.3% were categorized in *both* these higher risk and lower readiness categories. Overall, this departure circumstance represented 3.9% of the 7,715 PBRGI-involved decisions made by the Board.
- The departure reasons offered most frequently by the Board for the decisions to release (rather than adhere to the PBRGI recommendation to defer) were that these offenders had demonstrated growth, had mitigated their higher risk, had presented a comprehensive parole plan, had successfully completed programs and/or treatment, and/or had been successful in community placements which had compensated for the negative characteristics reflected in the PBRGI advisory recommendation to defer.
- The departure reasons offered most frequently by the Board for the decisions to defer (rather than adhere to the PBRGI recommendation to release) were that aspects of the crime of conviction or other risk considerations, the need for additional time to stabilize in community corrections placements, a lack of accountability for one’s actions and/or the need for additional program or treatment interventions outweighed the PBRGI recommendation to release.
- A separate analysis of the 1,359 full Board review decisions found:
 - Relative to individual decisions, the full Board review designated a larger percentage of offenders for release - 737 (54.2%) offenders were designated for release and, combining the two types of deferral, 622 (45.8%) offenders were deferred.
 - Of these offenders, the PBRGI recommended 1,154 (84.9%) offenders for release and 205 (15.1%) for deferral. The PBRGI categorized 65.8% of these offenders as “very low” or “low” risk, hence the large percentage of release recommendations.
 - Collapsing the two sources of agreement (between PBRGI recommendations and Board decisions to release and to deferral), 61.8% of full Board review decisions agreed with the PBRGI recommendations.
 - Compared to individual board member decisions, the tendency of full Board reviews to agree with PBRGI recommendations to defer was lower (92.3% vs 75.1%), but the tendency to agree with PBRGI recommendations to release was higher (42.9% vs 59.4%).

Appendices

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APPENDIX A

**COLORADO STATE BOARD OF PAROLE
FY 2013**

BOARD MEMBERS (Term)*

Brandon Shaffer, Chair	(2016)
Rebecca Oakes, Vice-Chair	(2017)
Denise K. Balazic	(2017)
Marjorie Lewis	(2017)
Joe Morales	(2016)
John M. O'Dell	(2015)
Alfredo Pena	(2017)

FORMER

BOARD MEMBER

Anthony P. Young, Psy.D., Former Chair

**CURRENT
RELEASE HEARING
OFFICER**

Patricia Waak, Former Vice Chair

**CURRENT and FORMER
ADMINISTRATIVE HEARING
OFFICERS**

Daniel Casias
Jim Peters
Tom Waters

*The above list includes the names of current and former members and hearing officers whose decisions are included in this FY 2014 report. Members' terms expire on July 1 of the year in parentheses.

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APPENDIX B

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

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Parole Board Release Guideline Instrument: Item and Matrix Descriptions

Introduction

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

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

PBRGI Risk Items and Readiness Items

The original draft of the parole release guideline was developed by the Post Incarceration Supervision Task Force of the Colorado Commission on Criminal and Juvenile Justice (CCJJ). This document, approved by the full Commission, served as the source for the recidivism risk and parole readiness items. These items reflect the parole release considerations written into statute, §17-22.5-404(4), C.R.S. DCJ staff, in consultation with staff of the DOC's Office of Planning and Analysis (OPA) and of the Office of Information Technology at DOC and Board members, selected reliable variables to represent each of the elements included in the draft administrative release guideline. Eight variables comprise the risk items and five variables comprise the readiness items of the PBRGI (see Figure B1). Each of the PBRGI items is described below along with a note indicating whether the category assignment is reduced or augmented by the item score.

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 (Version 5) is an actuarial risk assessment instrument which, pursuant to §17-22.5-404(2), C.R.S., is developed by DCJ for use by the Parole Board when making release decisions. The CARAS is a 9-item risk scale that predicts three-year recidivism rates defined as a new court filing or return to prison within three years following release.³² The CARAS score is based on static (unchangeable) offender risk factors, for example, current age, number of current conviction charges and number of previous incarcerations. Offenders are assigned to one of five risk categories that range from “very low” to “very high” risk. The assigned CARAS risk category serves as the baseline risk assignment in the risk algorithm.

³² The CARAS recidivism (three-year, new court filing or prison return) rates by risk category are: Very Low, 17.8%; Low, 23.9%, Medium, 32.9%, High, 45.3%, and Very High, 76.6%. For additional information on the CARAS see, colorado.gov/dcj-ors/ors-riskscales.

Item #2: Code of Penal Discipline / Victim Threat. Any offender with a conviction of a Class II: 25c offense, Harassment of Victim, is assigned to the highest level of risk.³³ The baseline risk assignment is not altered for offenders without such a conviction.

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

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

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

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

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

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

Readiness Items

Item #9: Level of Service Inventory-Revised.³⁴ The LSI-R total score serves as a modified baseline in the readiness algorithm. The 54-item LSI-R is a measure of offenders’ criminogenic

³³ See the DOC Administrative Regulation 150-01, Class II: 25(c) at www.doc.state.co.us/administrative-regulations

³⁴ The LSI is a programming 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. After each item is scored, the points are totaled to obtain a composite risk score. Higher scores are indicative of greater service needs.

needs and, based on the total score, offenders are assigned to one of four actuarially-determined readiness categories. The LSI-R is a modified baseline because this item, together with the LSI Rater Box item,³⁵ is weighed equally with the remaining items in the readiness algorithm.

Item #10: Level of Service Inventory-Rater Box Average. The average of the 13 Rater Box items on the LSI-R contributes points to the overall readiness total. The LSI-R Rater Box items score offenders on positive adjustment characteristics. The LSI Rater Box average, in combination with the LSI-R total score category, is weighed equally with the remaining items in the readiness algorithm.

Item #11: Program Participation / Progress. *This variable is derived from a rating by the Board member conducting the parole application hearing.* The Board member provides a rating of the offender's enrollment, participation, and progress in DOC programs. The assignment of points does not penalize offenders who are wait-listed for programs or, for whatever reason as determined by the Board member, offenders for whom current program participation is considered not applicable. Points assigned to the ratings are added to the overall readiness total.

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

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

PBRGI Algorithms and Decision Matrix

The first item (Item #1: CARAS) in the risk dimension and the first item (Item #9: LSI) in the Readiness dimension determine a baseline level for each offender on risk and on readiness. The remaining items in the risk or readiness dimension determine whether the offender is shifted up or down the levels of the dimension. The risk algorithm is calculated by the simple addition of points received for each of the eight risk items and the total number of points is associated with a particular risk level. The readiness algorithm is based on the calculated average of the points received for each of the five readiness items and the average is associated with a particular readiness level (See Figure B1.).

³⁵ 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 B2. Advisory release decision recommendation matrix with risk and readiness categories and associated recommendations.

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

Placement in the Matrix. As detailed in Figure B1, computations of the risk algorithm *total score* and the readiness algorithm *average score* result in the assignment of each offender to a risk and a readiness level:

Risk Levels

- Very Low (best candidates for release)
- Low
- Medium
- High
- Very High (best candidates for defer)

Readiness Levels

- High (best candidates for release)
- Medium
- Low (best candidates for defer)

The combination of the risk and readiness levels places an offender into one of the 15 categories in the PBRGI decision matrix. The risk by readiness decision matrix comprising the five risk and three readiness levels may be found in Figure B2. Each decision matrix risk/readiness combination is associated with an advisory release decision recommendation either to “RELEASE” the offender to parole or to “DEFER” the offender to a subsequent parole consideration hearing, continuing the

period of incarceration. Note that all parole release candidates falling in the “very low risk” category are recommended for release; whereas, all those falling in the “very high risk” category are recommended for deferral.³⁶ Offenders assigned to the lower risk/higher readiness combinations (the upper left area of the matrix) would be considered the better candidates for release and those assigned to the higher risk/lower readiness combinations (the lower right area of the matrix) would be considered the better candidates for deferral.

Matrix Decision “Environments.” The relative “decision environment” for the Board members is quite different, depending on an offender’s PBRGI risk/readiness assignment under consideration. It is expected that the “release area” of the decision matrix and the “defer area” of the decision matrix will each have its own characteristic decision “environments.” There are several overlapping

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

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

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

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

³⁶ The advisory recommendation to release or defer for each level of risk and readiness was assigned by the original draft administrative guideline instrument.

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