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Rebecca Oakes, Vice-Chairperson  
 Denise Balazic  
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**Colorado Board of Parole**

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**MEMORANDUM**

Date: December 11, 2013  
 To: Members of the Joint Judiciary Committee  
 From: Brandon Shaffer, Colorado Board of Parole, Chairperson  
 Subj.: Colorado Board of Parole Annual Report to the Joint Judiciary Committee, 2013

**Statutory directives:**

**Section 17-2-201 (3.5), C.R.S. (2013):** The chairperson [of the parole board] shall annually make a presentation to the judiciary committees of the house of representatives and the senate, or any successor committees, regarding the operations of the board and the information required by section 17-22.5-404.5 (4).

**Section 17-22.4-404.5 (4), C.R.S. (2013):** The chairperson of the parole board shall provide a report to the judiciary committees of the house of representatives and the senate, or any successor committees, by January 30, 2012, and by each January 30 thereafter regarding the impact of this section [i.e., presumptive parole for certain drug offenders] on the department of corrections' population and public safety.

**I. Introduction:**

This report is presented to the Joint Judiciary Committee of the Colorado General Assembly in order to comply with the above statutory directives. The report is divided into three parts: (1) operations, (2) projects/activities, and (3) performance measures. Additionally, appended to this report as **Exhibit A** is a separate analysis of presumptive parole.

**II. Operations:**

**Parole Board.** The Colorado Board of Parole ("Parole Board" or "Board") consists of seven members who are appointed by the Governor and confirmed by the Senate. Board members serve three-year terms at the will of the Governor. Board members may be re-appointed for more than one term.

**Chairperson/Vice-Chairperson.** The Chairperson is the administrative head of the Parole Board. It is his or her responsibility to enforce the rules and regulations of the Board, and to assure that parole hearings are scheduled and conducted properly. The Vice-Chairperson assumes these responsibilities in the absence of the Chairperson. Brandon Shaffer

was designated Chairperson on July 15, 2013. Rebecca Oakes was designated Vice-Chairperson on the same day.

**Mission.** The mission of the Parole Board is to increase public safety by critical evaluation, through the utilization of evidence-based practices, of inmate potential for successful reintegration to society. The Board determines parole suitability through the process of setting conditions of parole and assists the parolee by helping to create an atmosphere for a successful reintegration and return to the community. (Colorado Board of Parole Strategic Plan, 2013-2015; created in accordance with the SMART Government Act, section 2-7-201, C.R.S. (2013))

**Office.** The Parole Board office is located at 1600 W. 24<sup>th</sup> Street, Building 54, Pueblo, Colorado. Remote offices are also provided for Board members at the Division of Adult Parole located at 940 Broadway Street, Denver, Colorado.

**Staffing.** The Parole Board is supported by seven full-time FTE. The Board support staff is structured as follows:

- Office Manager, Pueblo (1 FTE)
- Scheduler/Admin, Pueblo (1 FTE)
- Revocation Unit, Pueblo (3 FTE)
- Application Unit, Pueblo (2 FTE)

During 2013, the Board also utilized several contract employees, including: (a) three Administrative Hearing Officers to conduct revocation hearings pursuant to 17-2-202.5, C.R.S. (2013); (b) a defense attorney to represent parolees who are not competent to represent themselves during revocation hearings; (c) a Release Hearing Officer to conduct application interviews pursuant to section 17-2-202.5, C.R.S. (2013); (d) a contract attorney in Denver to help prepare the Board’s revised Rules and Regulations; and (e) two temp-workers in Pueblo to help scan files for the Board’s automation project.

**Budget.** For FY 2013-2014, the following amounts were appropriated to support Parole Board operations.

Personal Services (7 Board members; 7 support staff)	\$1,197,526
Operating Expenses	\$104,890
Contract Services	\$272,437
<b>Total:</b>	<b>\$1,574,853</b>

### III. Projects/Activities:

The Parole Board has several projects and activities that are currently ongoing. The following is a list of activities commenced or completed in 2013.

**Training.** Pursuant to section 17-2-201 (1) (e), C.R.S. (2013), each member of the Parole Board is required to undergo at least 20 hours of professional development training each year. This is an obligation the Board takes very seriously and the Board has logged well over the statutorily required limit in the past year. Training activities and topics have included:

- Balancing the Rights of Victims and Offenders;
- Ethical Challenges in Parole, High Stakes Dilemmas and Sensible Responses;
- Imposing Conditions Driven by Evidence-Based Practices;
- International Perspectives on Parole from Prosecutor to Judge to Parole Board Chairman;
- Technologies for Parole;
- The Challenges of Establishing or Reforming a Parole System;
- Victim Sensitivity Training;
- Site visits of Mountain and Forest Programs for Parolees;
- Community Corrections-Track Presumptive Parole;
- Application Interview Training;
- Domestic Violence Treatment Training;
- Anger Management Treatment Training;
- Risk/Readiness Matrix Training;
- Veteran's Services Training;
- CWISE Training/New Electronic Warrant Procedure Training;
- DOC Behavioral Health Services and Approved Treatment Providers; and
- Data Analysis of Parole Board Decisions.

Additionally, the Parole Board attended the annual Association of Paroling Authorities International (APAI) conference in May of 2013. Colorado has been selected as the host-state for the international conference in 2014.

**Data.** Consistent with data collection requirements of section 17-2-201 (1) (f), C.R.S. (2013), the Board placed considerable emphasis on efforts to increase its access to and use of data regarding parole decisions. The Board worked closely with the Department of Corrections Office of Planning and Analysis ("OPA") to identify data that would inform and enhance the Board's decision-making. The Board collaborated on such topics as the relationship between decisions and recidivism types (discretionary vs. mandatory release and the rates of return due to a new crime conviction or parole violations) and the effect of fatigue on decisions (based on patterns of decisions made over the course of the workday). The Board is also working with

OPA to increase the frequency of data reports on various decision processes and exploring real-time tracking and reporting of such data.

**Rules and Regulations.** In keeping with Governor Hickenlooper's Executive Orders D 2011-005 and D 2012-002, the State Board of Parole commenced a revision of its existing rules, 8 CCR 1503-1, which date from 2002. Unlike the Department of Corrections ("DOC"), the Parole Board is specifically required to comply with the State Administrative Procedure Act ("APA") in promulgating rules. The rule-making requirements of the APA ensure that the process is open and transparent to the public, and that interested parties are involved from the drafting phase to completion.

The Parole Board's rules concern Board procedures for hearings and meetings. The goal in revising the rules was to provide guidance on the Parole Board's procedures to the wide range of end-users, including victims, victim's families, offenders and their families, and law enforcement. Given the complexity of the statutory framework, the Parole Board sought to keep the rules as concise as possible, but provide the essential procedural framework to help clarify the Board's processes.

The Parole Board commenced the review process in April and opened the rules in September. The Board involved a representative group of individuals who provided comments on the draft rules. The representative group was selected to represent a wide range of interests and perspectives in the parole process. The Parole Board held a public hearing in November to consider public testimony, both written and oral. The Board adopted the new rules in November, which will make the rules effective January, 2014.

**Revocation Hearing Guidelines and Automation.** The Parole Board continues its push to automate its hearings. The Board has seen increases in efficiency and cost savings due to its automation of parole application interviews. It is undergoing the same overhaul of parole revocation hearings. To this end, the Board contracted with the National Institute of Corrections for help in developing evidence-based revocation guidelines. That project stretched from April – September 2013 and resulted in a comprehensive set of rules, consistent with all statutory requirements and best practices, to help guide Board members in making decisions about revoking parole. Additionally, the Board has continued scanning historical records and files to enable it to completely automate hearings. By the middle of October, Parole Board support staff had scanned over 12,000 paper files, and the scanning project continues daily. The Board is currently on track to shift from paper files to fully electronic revocation hearings by the end of May, 2014.

**Presumptive Parole Track.** In November, 2013, the Parole Board, Department of Corrections, and Community Corrections implemented recommendations from the Colorado Commission on Criminal and Juvenile Justice regarding presumptive parole. These agencies created a presumptive parole track for non-violent, non-sex offenders. This program offers

qualifying offenders a specific parole date 12 months in advance of paroling, then it transitions the offender from prison, to community corrections, to parole. This provides an effective, uninterrupted step-down process intended to contribute to success in transition from incarceration to reintegration to society. The ultimate goals of the presumptive parole track are to reduce recidivism and protect public safety.

#### IV. Performance Measures

##### 1. What types of hearings are conducted by the Parole Board?

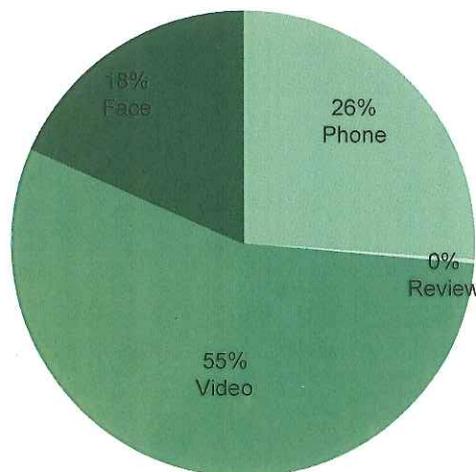
**Answer:** There are primarily three types of hearings: (1) Application interviews, (2) Rescission hearings, and (3) Revocation hearings.

**Statistics:** From January – November, 2013, the Parole Board conducted 18,067 Application interviews, 473 Rescission hearings, and 8,352 Revocation hearings.

##### 2. How are hearings conducted?

**Answer:** The Board conducts the majority of its hearings by video conferencing. It also conducts hearings by telephone and face-to-face. Most of the video conferencing occurs with the larger correctional institutions (i.e., Colorado State Penitentiary, Sterling Correctional Facility, Limon Correctional Facility, etc.). Telephone hearings are generally used to reach smaller facilities in rural parts of the state. Face-to-face hearings generally occur in and around the metro area at parole offices and local jails.

**Statistics:** Percentage of hearings conducted by hearing method from January – November, 2013: video 55%, phone 26%, face 18%.



**3. Is there a different procedure for violent offenders versus non-violent offenders?**

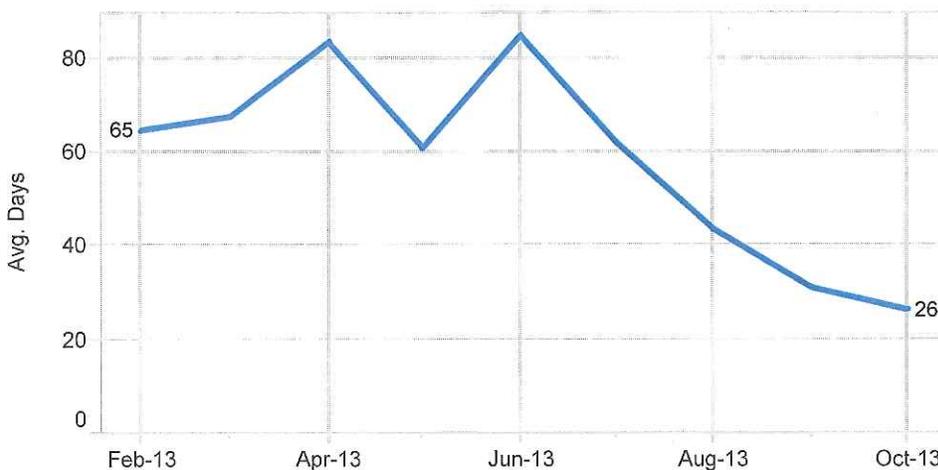
**Answer:** Yes. Individual Board members do not have the authority to parole offenders convicted of a violent crime. Instead, if a Board member believes he or she is a good candidate for parole, the member refers the offender to the entire Parole Board for consideration. The Board sits as a “Full Board” at least once a week and votes on parole applications for violent offenders. An offender needs at least 4 affirmative votes to be released on discretionary parole. In contrast, individual members retain the authority to make final discretionary release decisions for non-violent offenders.

**Statistics:** During 2013, 1,995 offenders were considered by the Full Board. Fifty-five percent (55%) of those seen were released, and forty-five percent (45%) were deferred. The recidivism rate after the first year on parole for offenders considered and released by the Full Board is just over fourteen percent (14.2%).

**4. How long does it take for the Full Board to consider offenders?**

**Answer:** The Board has made a concerted effort to shorten the time from the initial application interview to the final Full Board review. Increased response times from the Board add certainty and predictability to the process. Currently, the response window is approximately 4 weeks from the time an offender receives an application interview to the time he/she receives a response from the Full Board.

**Statistics:** The following graph shows the average amount of time from initial application interview to Full Board review during 2013.



**5. What is the Parole Board Release Guideline Instrument (“PBRGI”)?**

**Answer:** As per 17-22.5-404(6)(a) and 17-22.5-107(1) C.R.S., the PBRGI was developed by the Division of Criminal Justice and the Board of Parole and offers an advisory release decision recommendation for parole applicants who are not sex offenders. “The goal of the parole release guideline 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 who are not identified as sex offenders.” (Overview: Colorado State Board of Parole Administrative Release Guideline Instrument, published by DCJ, November 1, 2013.) The Board considers all the factors specified in section 17-22.5-404, C.R.S. (2013) in making parole decisions; however, it pays particular attention to the PBRGI, which incorporates the Colorado Actuarial Risk Assessment Scale.

**Statistics:** The Parole Board followed the PBRGI recommendation 64% of the time. When the PBRGI recommended RELEASE, the Board agreed 50% of the time; when the PBRGI recommended DEFER, the Board agreed 84% of the time.

**Overall counts and percentages of Parole Board release and defer decisions by PBRGI release and defer recommendations (FY 2013 sample).**

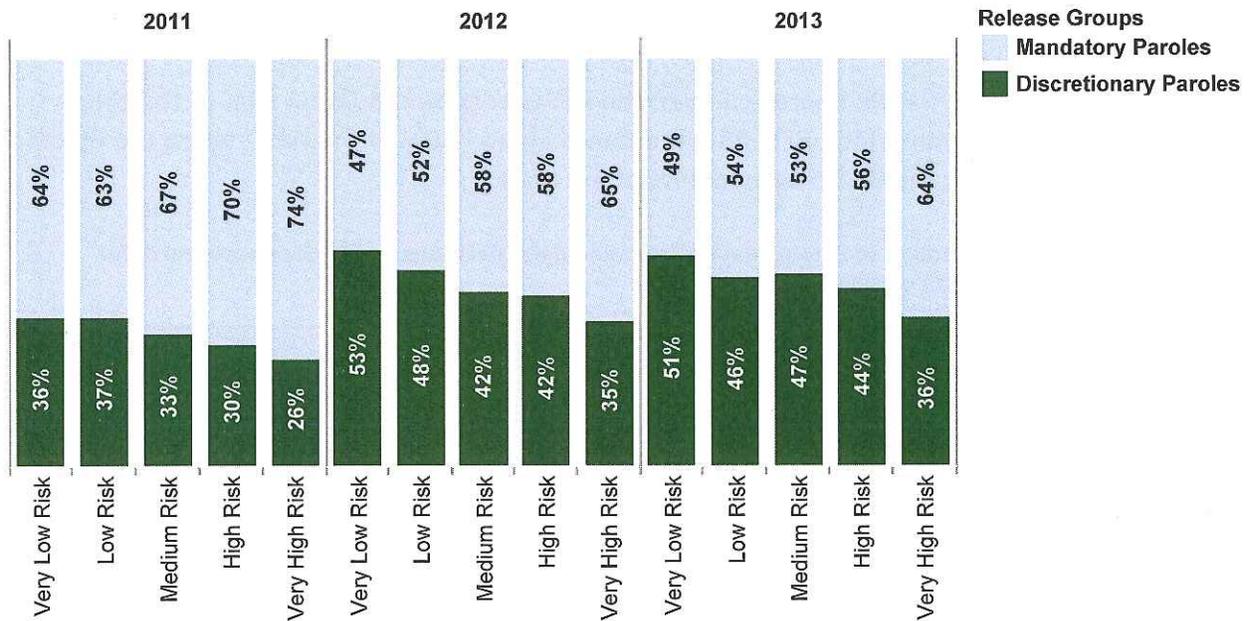
Parole Board Decision		PBRGI Decision Recommendation		Total
		Defer	Release	
Defer		Total Defer = 2,836 35.6%	Total Defer = 2,313 29.0%	Total Defer = 5,149 64.6%
	Count Percent	1,941 24.4%	1,385 17.4%	3,326 41.8%
Defer (“Release”) to Mandatory Release Date	Count	895	928	1,823
	Percent	11.2%	11.6%	22.9%
Release Discretionary	Count	546	2,271	2,817
	Percent	6.9%	28.5%	35.4%
Total	Count	3,382	4,584	7,966
	Percent	42.5%	57.5%	100.0%

\* FY 2013 sample (Sept. '12 to June '13) of hearings with non-sex-offenders whose hearing was finalized. Deferrals due to non-appearance/absence and MRPs are excluded.

**6. What is the difference in release-rates between discretionary and mandatory paroles?**

**Answer:** The Parole Board releases significantly fewer offenders on discretionary parole than on mandatory parole.

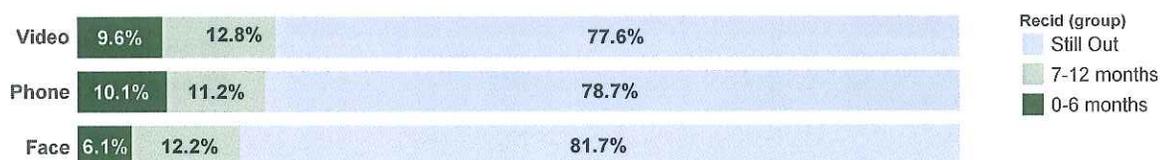
**Statistics:** From January-November, 2013, the Parole Board released 3,407 (44%) of offenders on discretionary parole and 4,421 (56%) on mandatory parole. The average risk assessment for offenders who were granted discretionary parole in 2013 was 34 (Medium Risk). The following graph breaks down mandatory/discretionary release percentages by risk assessment scores.



**7. Is there a difference in outcomes based on the method employed to conduct the hearing (i.e., video vs. phone vs. face-to-face)?**

**Answer:** There is no statistically significant difference in outcomes of hearings based on hearing method.

**Statistics:** Recidivism rates by hearing method after 6 months: video 9.6%, phone 10.1%, face 6.1%; after 12 months: video 22.4%, phone 21.3%, face 18.3%.



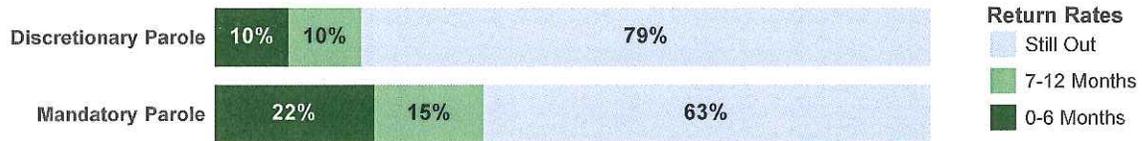
**8. How often do you revoke an offender’s parole?**

**Answer:** The Parole Revocation process is governed by section 17-2-103, C.R.S. (2013). Each hearing is an independent event. The Parole Board member conducting the hearing is an objective hearing officer and accepts testimony and evidence from the Parole Officer and Offender. After the reviewing all pertinent information, the Board member determines if parole should be revoked. For “new law violations,” the Board member has the discretion to revoke an offender back to DOC for the remainder of his or her sentence. For most “technical violations,” the Board member has the discretion to continue an individual on parole with prescribed treatment, or revoke back to DOC or a Community Return to Custody Facility (CRCF) for up to 180 days.

**Statistics:** From January – November, 2013, the total number of revocation hearings continued on parole were 629 (15%), and the total number revoked back to a DOC facility was 3,521 (85%). During the same period of time, the total number of returns with a new felony conviction was 780 (18%), and the total number of returns with a technical violation was 3,465 (82%).

**9. What are the 6-month and 12-month recidivism rates for the Parole Board?**

**Answer:** The 6-month recidivism rate for all offenders released on parole, both mandatory and discretionary, is 15%; the 12-month recidivism rate is 28%. The 6-month average recidivism rate for discretionary releases is approximately 10%; the average recidivism rate after 12 months is approximately 20%. Comparatively, the 6-month revocation rate of mandatory releases is approximately 22% and the 12-month rate is approximately 37%.



**EXHIBIT A**

**(Presumptive Parole Report)**





**COLORADO**

State Board of Parole

Brandon Shaffer  
Parole Board Chair

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## **Presumptive Parole: FY 2013 Report**

**A REPORT SUBMITTED TO THE HOUSE AND SENATE JUDICIARY COMMITTEES  
DUE JANUARY 30, 2014, PURSUANT TO C.R.S. 17-22.5-404.5(4)(a)**

### **Prepared by**

Maureen O'Keefe, Office of Planning and Analysis  
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*Department of Corrections*

December 2013

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# Background

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The Colorado Board of Parole consists of seven members appointed by the Governor and confirmed by the Senate. Pursuant to Section 17-2-201, C.R.S. (2013), the Board of Parole has the authority to parole any person who is sentenced or committed to a correctional facility when such person has served his or her minimum sentence and there is a strong and reasonable probability the person will not commit another crime. Various statutes create a "presumption of parole" in certain situations, as described in more detail in this report. Below, we analyze statistics during FY2013 of presumptive parole offenders who were "deferred" (not granted parole), "granted" (released on discretionary parole), "ordered" (released on mandatory parole), and/or "rescinded" (had their grant of parole suspended by the Board).

Subject to the final discretion of the Parole Board, there is a statutory presumption in favor of granting parole to particular offenders, including certain drug offenders, Immigration and Customs Enforcement (ICE) detainees, and offenders eligible for special needs parole. The Parole Board still must ensure that all appropriate guidelines for granting parole are followed as required by Colorado Revised Statute (C.R.S.) 17-22.5-404.

This report is required pursuant C.R.S. 17-22.5-404.5 (4) (a):

THE CHAIRPERSON OF THE PAROLE BOARD SHALL PROVIDE A REPORT TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE, OR ANY SUCCESSOR COMMITTEES, BY JANUARY 30, 2012, AND BY EACH JANUARY 30 THEREAFTER REGARDING THE IMPACT OF THIS SECTION ON THE DEPARTMENT OF CORRECTIONS' POPULATION AND PUBLIC SAFETY.

This publication will also report on presumptive parole for ICE detainees and special needs parolees, although not required by statute.

# Drug Offenders

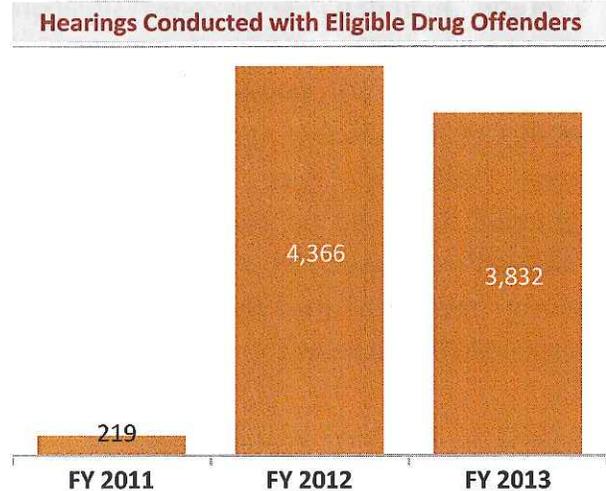
House Bill 10-1352 lowered penalties for unlawful possession and use of controlled substances, making it very unlikely those offenders would serve a prison term for unlawful use or low-quantity possession. However, it was soon realized that offenders with the same crimes, already incarcerated at the time that the law changed, would likely serve longer sentences than those sentenced after them. House Bill 11-1064 created a presumption of parole for those offenders incarcerated for unlawful use or possession offenses committed prior to when HB 10-1352 was enacted on August 11, 2010. To be eligible for presumption, offenders must not have incurred a class I Code of Penal Discipline (COPD) violation within the last 12 months or a class II COPD within the last 3 months, must be program compliant, and must not have an active felony or immigration detainer.

## Data Source

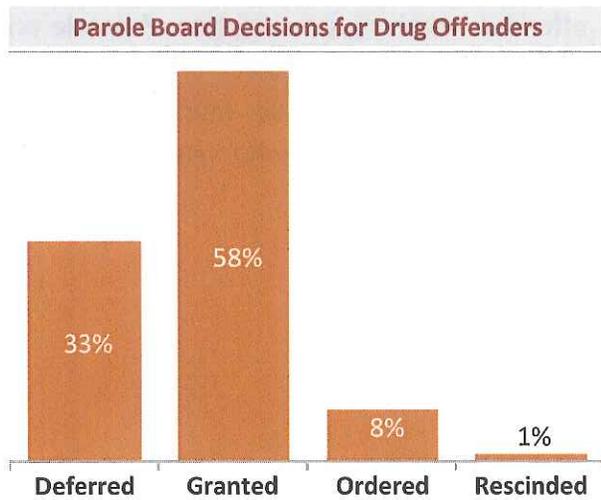
A computerized report generates a list of inmates who were eligible for parole at the time of their release hearing, and then the Office of Planning and Analysis augments the list with Parole Board hearing and release data also captured in Department of Corrections' Information System. HB 11-1064 was effective beginning on May 27, 2011.

## Parole Hearings and Releases

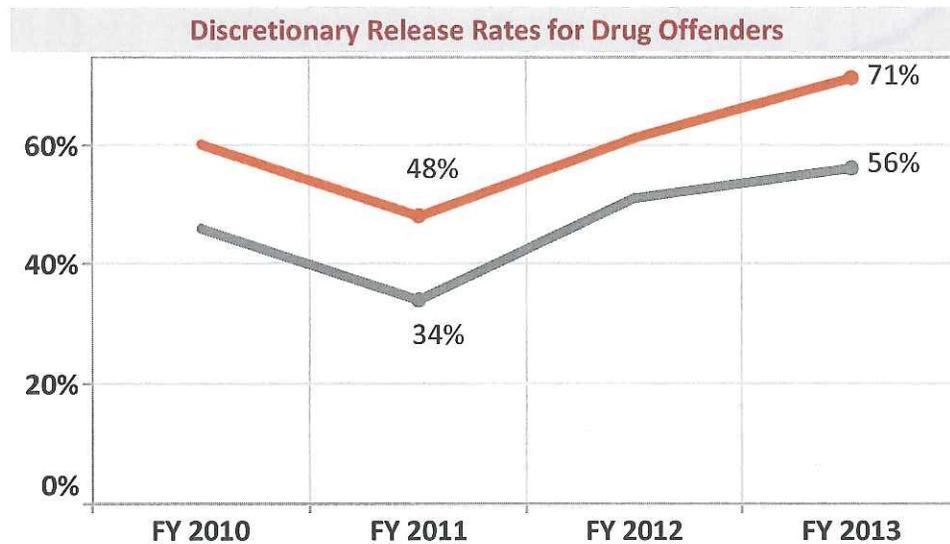
Since the time that this Bill was enacted through the end of fiscal year (FY) 2013, over 8,400 application reviews have been conducted by the Parole Board with eligible drug offenders. Offenders can have multiple hearings within a span of weeks or months; the following data shows all unique hearings (not releases or offenders).



The following graph shows the grant rate at 58% for eligible drug offenders, based on Parole Board decisions. By comparison, 29% of all release hearings conducted by the Board from January 2012 through June 2013 resulted in a parole grant. The hearings data clearly shows that the Parole Board is giving presumptive favor to eligible drug offenders.



Examination of actual releases to parole provides further evidence that the Parole Board is favoring eligible offenders for release. Although related, release data differs from Board decisions because an offender might receive multiple hearings prior to a single release. The bottom graph shows the percent of parole releases that were discretionary. Across time, both before and after the law was passed, drug offenders with unlawful use or possession were more likely to be granted parole. Because the overall rate of discretionary releases increased 65% from FY 2011 to FY 2013, it is not possible to attribute the increase to the passage of HB 11-1064.

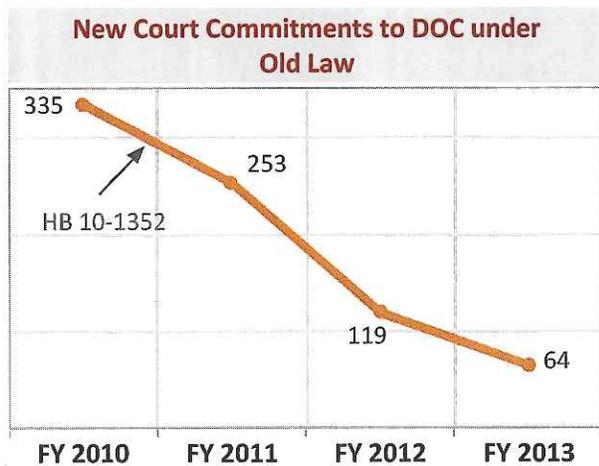


■ Drug Offenders  
■ All Offenders

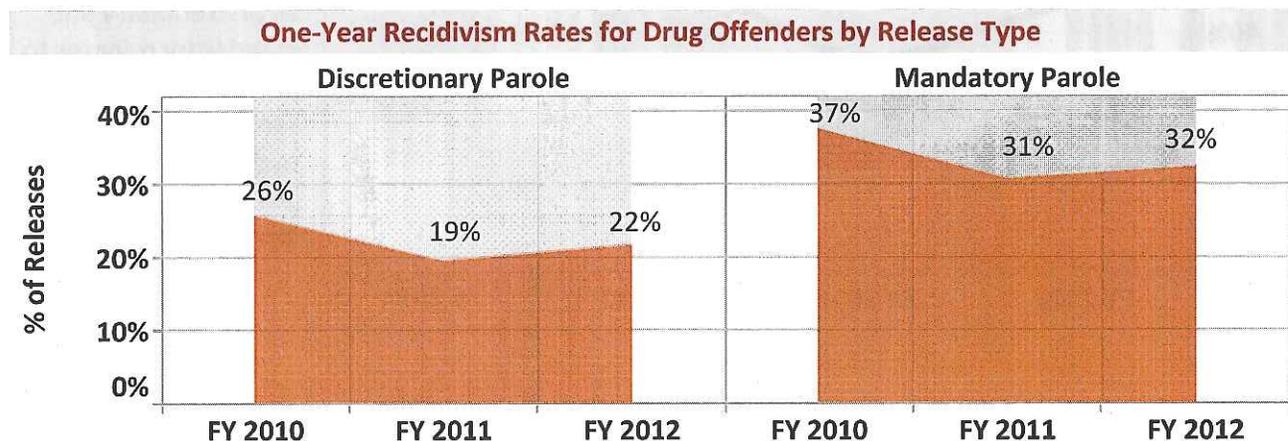
Figure note. Discretionary rate is calculated as percent of all discretionary and mandatory releases to parole. Reparoles and sentence discharges are excluded because governed by other laws.

## Impact on Prison Population and Public Safety

Since HB 11-1064 was enacted, the population of eligible drug offenders declined from 1,051 (4.6% of adult inmate population) on June 30, 2011, to 409 (2.0% of adult inmate population) on June 30, 2013. Of the 409 remaining in the inmate population, 54% have released to parole and been revoked due to either a technical violation or a new crime. This is in part due to the granting of discretionary parole, but also due to the diminishing number of offenders sentenced under statutes in effect prior to HB 10-1352. The following graph displays new court admissions to the Department of Corrections (DOC) for unlawful use or possession under the old law.



Recidivism rates were explored for eligible drug offenders for one year following their release to parole. The graph below shows releases both before and after HB 11-1064 went into effect by type of parole release. In general, releases in FYs 2010 and 2011 were prior to the Bill's effective date (a small number in 2011 were after). The results indicate that there was not a meaningful increase in recidivism rates for offenders receiving presumption of parole and that the recidivism rates of discretionary releases continue to be much lower than similar drug offenders who released on their mandatory parole date.



# ICE Detainees

Presumption of parole for a nonviolent inmate with an ICE detainer is based upon an inmate having reached his/her parole eligibility date and having received a score of medium or below for risk to re-offend per the Colorado Actuarial Risk Assessment Scale. Senate Bill 11-241 added a new section, C.R.S. 17-22.5-404.7, creating this presumption of parole release.

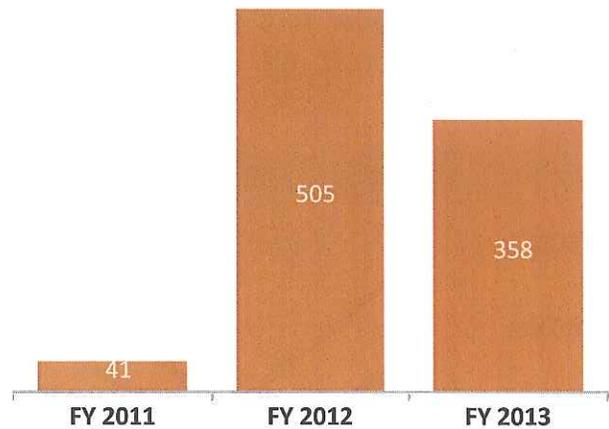
## Data Source

A computerized report generates a list of inmates who were eligible for ICE detainee presumption of parole at the time of their Parole Board hearing, and then the Office of Planning and Analysis augments the list with Parole Board hearings data also captured in Department of Corrections' Information System. SB 11-241 was effective beginning on May 23, 2011.

## Parole Hearings and Releases

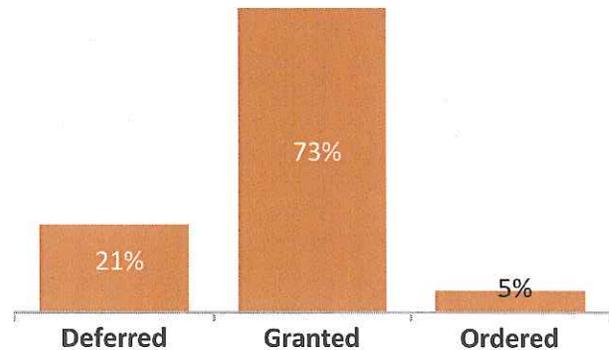
During FYs 2011 through 2013, a total of 904 hearings were held with ICE detainees who met the eligibility requirements of this statute. These figures represent the number of hearings held, not the number of offenders or releases, as an offender may have multiple hearings across or within years. However, it should be noted that ICE detainees were much less likely to have multiple hearings than the drug offenders.

Hearings Conducted with Eligible ICE Detainees



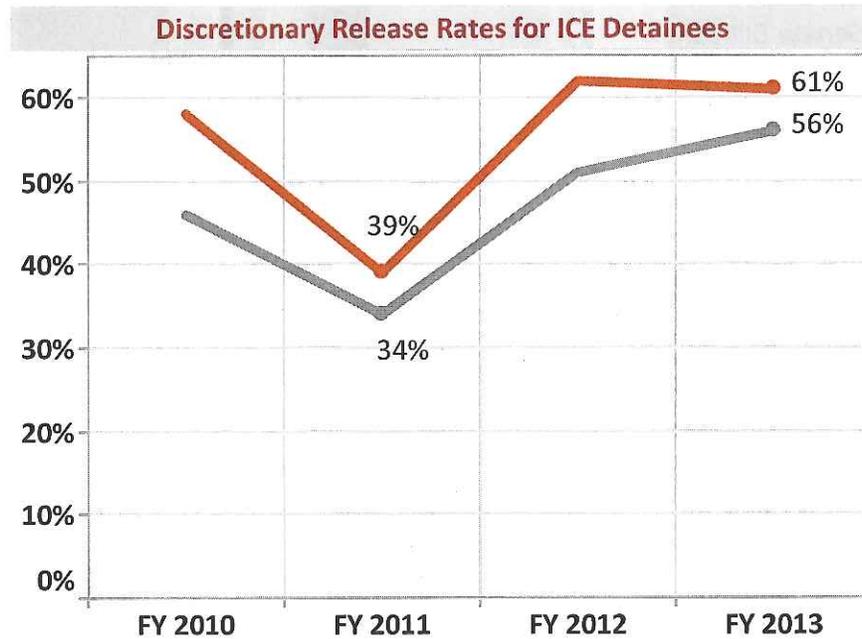
The following graph shows the grant rates by the Parole Board. Across years, parole was granted for 73% of hearings, which is again compared to the typical grant rate of approximately 29%.

Parole Board Decisions for ICE Detainees



The graph below examines actual parole releases of ICE detainees in comparison to all inmate releases to parole. Again, actual releases differ from Parole Board hearing decisions because offenders can have one or more hearings prior to a single release. The data indicates that ICE detainees release

through discretionary parole at a greater frequency than most offenders, both before and after SB 11-241 took effect. Because the overall rate of discretionary parole releases also increased after FY 2011, it is not possible to attribute the increased release of ICE detainees to the passage of SB 11-241.



■ ICE Detainees  
■ All Offenders

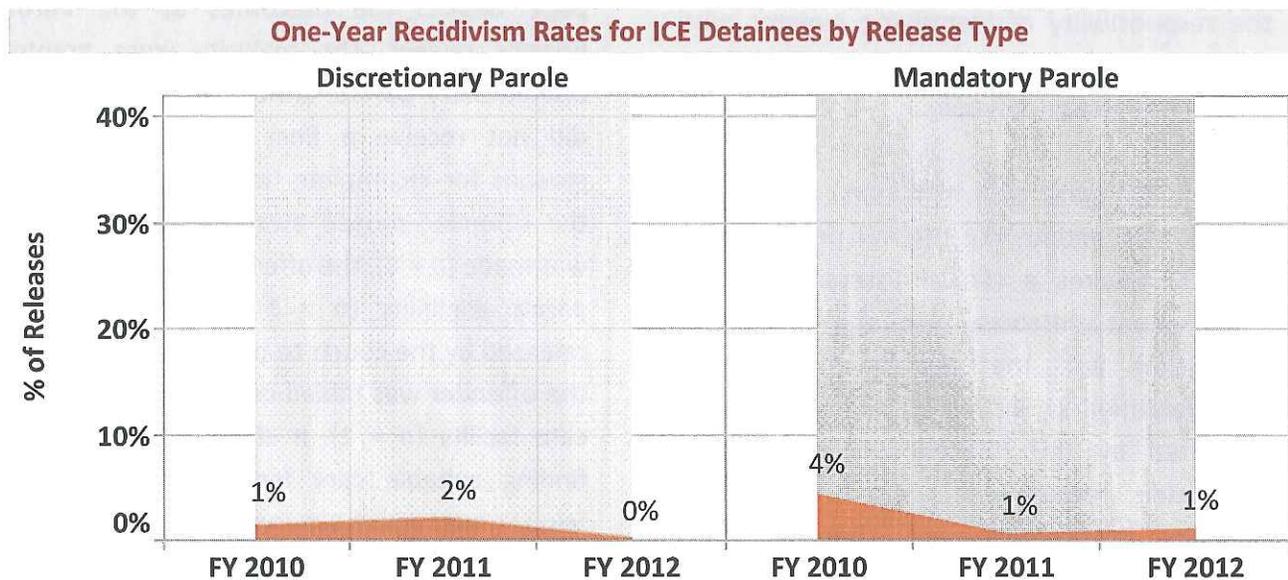
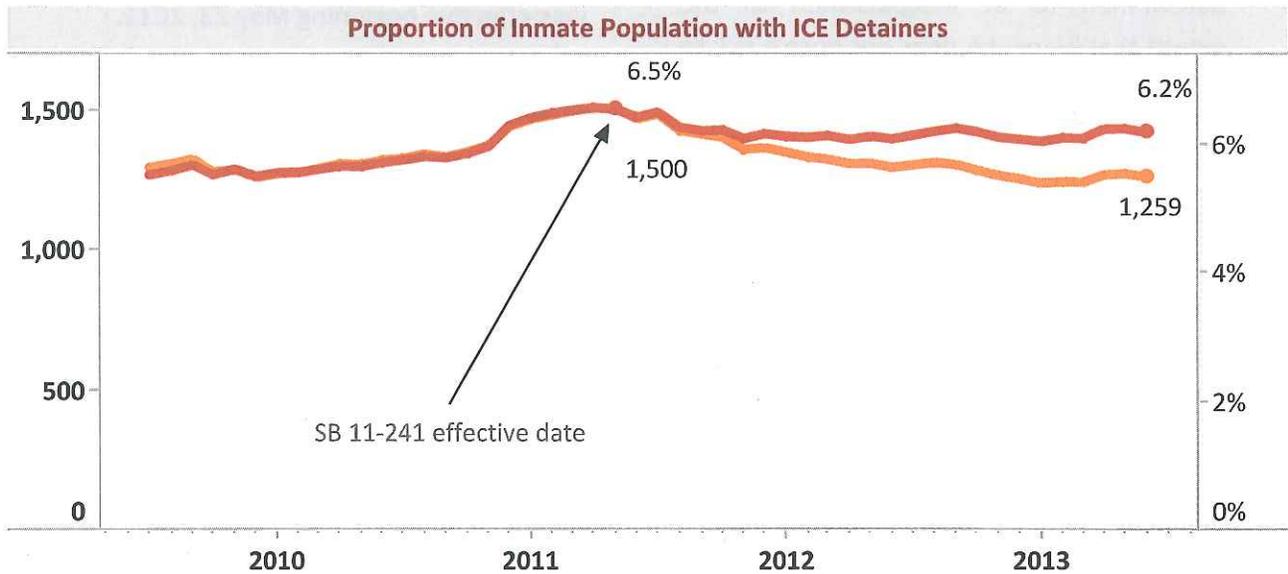
Figure note. Discretionary rate is calculated as percent of all discretionary and mandatory releases to parole. Reparoles and sentence discharges are excluded because governed by other laws. Release data is shown for all ICE detainees, whether or not eligible for parole presumption, in order to show pre- and post- effects of SB 241 (specific eligibility data not available prior to May 23, 2011).

## Impact on Prison Population and Public Safety

There was an increase in the number of ICE detainees among the inmate population leading up to this legislation. Since SB 11-241 was enacted, the ICE population has decreased nearly 250 inmates. However, because the overall inmate population has also decreased,

the decline is only slightly greater than for all of the inmate population.

Recidivism rates, as shown in the bottom graph are near zero for all ICE detainees, regardless of whether they received parole presumption or whether they were released under discretionary or mandatory parole.



# Special Needs Parole

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Special needs parole refers to the release of a special needs inmate from prison to parole. A special needs offender means an inmate who:

- is at least 60 years old; is diagnosed to have a chronic infirmity, illness, condition, disease or mental illness; AND is determined to be incapacitated to the extent that he or she does not pose a risk to public safety,  
OR
- suffers from a chronic, permanent, terminal, or irreversible physical or mental illness, condition, disease or mental illness that requires costly care or treatment AND who is determined to be incapacitated to the extent that he or she does not pose a risk to public safety.

Releases are based on a special needs inmate's conditions and medical evaluations. Senate Bill 11-241 modified C.R.S. 17-22.5-403.5 to expand the eligibility requirements and assign the DOC the responsibility of identifying inmates who meet the eligibility criteria and referring them to the State Board of Parole.

DOC clinical staff, case managers, and/or the inmate may initiate the referral process. This process requires a clinical assessment, case management prerelease plan, and notification to victims and the district attorney. All documentation is forwarded to a committee delegated by the Director of Prisons. The committee determines who meets the eligibility requirements and then makes a referral to the Parole Board.

## Data Source

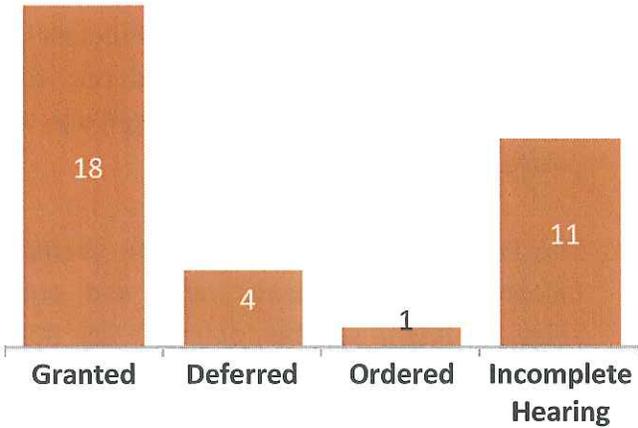
DOC's Prison Operations records dates and decision results, which are then combined by the Office of Planning and Analysis with data in DCIS regarding Parole Board release decisions and subsequent releases to parole. SB 11-241 was effective beginning May 23, 2011.

## Release Hearings

From the time that SB 11-241 went into effect through the end of FY 2013, 34 inmates were determined by DOC to meet special needs offender criteria and were referred to the Parole Board (some who were in process prior to the Bill's effective date but had not yet received a release decision are included in this count). The number of referrals by year was: 7 in FY 2011, 14 in FY 2012, and 13 in FY 2013.

The Parole Board then determined the inmate's risk to public safety. The graph on the following page depicts the outcomes of the Parole Board's review. The majority were granted discretionary parole, although a large number did not receive a final determination. The reasons for incomplete hearings included that the offender passed away before a decision was made ( $n = 8$ ), the offender had not reached parole eligibility ( $n = 1$ ), the offender was released by the courts to probation ( $n = 1$ ), and the offender was tabled due to lack of suitable care facility ( $n = 1$ ). It should be noted that finding suitable care facilities for convicted felons under active supervision is quite difficult, and likely the reason for the high mortality rate prior to a decision being reached.

**Parole Board Decisions for Special Needs Offenders**



### **Impact on Prison Population and Public Safety**

Of the 18 offenders who were granted parole, 17 actually released to parole and 1 died prior to release. Due to the small number of offenders released and short time period at risk post-release, it is difficult to quantify the effect on public safety or the prison population. However, only two of the 17 offenders who released had their parole revoked for violations of the conditions of their parole, and both were subsequently reparaoled approximately four months later. None were returned to prison for new crimes. The majority of special needs offenders are still under parole supervision ( $n = 11$ ), but three died while on parole and three successfully completed their parole sentence.

# Conclusions

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Two legislative bills, HB 11-1064 and SB 11-241, were passed during the 2011 legislative session to mandate that the Parole Board show presumptive favor in granting parole to particular offenders, including certain drug offenders, nonviolent Immigration and Customs Enforcement (ICE) detainees, and special needs inmates. Although the bills added or changed offender eligibility criteria, no changes were made with regards to the release criteria. Therefore, the same release guidelines applied to these offenders as were used by the Board of Parole in granting parole to any offender.

The data indicate the Parole Board is strongly granting presumptive favor to both drug offenders and ICE detainees. However, because the legislation targets offenders who are lower risk, these offenders were already favored for early release (i.e., discretionary parole) before the legislation was created. The conclusions to be drawn are that the Parole Board is complying with the spirit and the intent of the legislation, but there is no compelling evidence that these specific legislative mandates were the cause of a change in practices.

The central purpose of HB 11-1064 was to provide advantages to offenders convicted of unlawful use or possession who were sentenced to longer prison terms under the old law than those sentenced pursuant to HB 10-1352. The data presented herein show that the number of offenders admitted under the old law is declining and they are receiving presumptive favor of parole. As of June 30, 2013, the population of targeted drug inmates ( $n = 409$ ) was 39% of its size on June 30, 2011.

Additionally, 221 of the 409 drug offenders had already paroled at some point during their incarceration and were reincarcerated due to a parole revocation.

The Parole Board must achieve an adequate balance between release rates and public safety. That is to say that, optimally, the Board would release the maximum number of offenders without increasing the public safety risk. The recidivism data shows that drug offenders released onto discretionary parole were likely to fail at approximately the same rate before and after parole presumption was in effect, which was at a substantially lower rate than similar offenders who released on their mandatory parole date. For ICE detainees, recidivism rates approach zero, which is very minimal public safety risk at most. Thus, it can be concluded that the increased rate of releases has not so far shown an increased threat to public safety.

Special needs parole is harder to assess because of the smaller number of offenders and lack of cost data. Reliable data regarding special needs offenders does not exist prior to the effective date of SB 11-241, so it is difficult to gauge whether the statute changes increased the number of special needs parolees. As well, it is difficult to know the extent to which special needs parole may be needed but impractical due to the challenges of finding appropriate end-of-life care for felons. The small number who have released makes it difficult to adequately quantify recidivism rates, but none released have been convicted of new crimes thus far.