



Colorado State Board of Parole: Clarification of information provided in Community Law Enforcement Action Reporting (C.L.E.A.R.) Act Report CY 2015, published December 2016 by the Colorado Division of Criminal Justice

Senate Bill 15-185 enacted the Community Law Enforcement Action Reporting (C.L.E.A.R.) Act, which mandated the Division of Criminal Justice to report data related to Parole Board release information to the House and Senate Judiciary committees by March 31 of each year. C.R.S 24-33.5-517(1)(c)(I-III) requires the following reported to DCJ for each calendar year by January 31 of the following year: (I) The number of parole hearings held and the race, ethnicity, and gender of the inmates who received parole hearings; (II) The number of inmates granted parole and the race, ethnicity, and gender of the inmates; and (III) The number of inmates denied parole and the race, ethnicity, and gender of the inmates.

After review of the C.L.E.A.R. report, it became apparent that a number of inaccurate statements related to the Parole Board were included. The Parole Board performed a systematic review of the data presented in the C.L.E.A.R. report, and an independent analysis is presented in this document. Specific to the Parole Board data included in the publication, there are implications that a meaningful difference exists between certain race/ethnicity groups and gender categories in the practice of granting parole in Colorado. Data analysis requires the completion of significance testing when reporting differences in data.¹ Typically, differences from a statistical perspective are demonstrated through the use of statistical testing; the report, however, shows no indication that significance testing was performed. Without such testing, basic frequency differences can be misconstrued as meaningful variations in the data. The C.L.E.A.R. report includes assumptions that draw conclusions that are contradictory to the analysis that was performed by the Parole Board. Observations presented in the report related to the Parole Board present an unfavorable view that does not appear to be supported by the presence of significance testing.

¹American Statistical Association Committee on Professional Ethics. [accessed 1 January 2016]; Ethical Guidelines for Statistical Practice. 2016 Available at <http://www.amstat.org/asa/files/pdfs/EthicalGuidelines.pdf>

Parole Board Analysis:

PB Table A. Comparisons of Race/Ethnicity within each type of PB Hearing.

	<u>Discretionary Release</u>		<u>Mandatory Parole</u>		<u>Mandatory Re-parole</u>		<u>Parole was Denied</u>		<u>Total All Hearing Types</u>	
	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
White	1,599	23.1%	1,541	22.3%	100	1.4%	3,675	53.2%	6,915	100.0%
Black	434	18.3%	537	22.7%	33	1.4%	1,363	57.6%	2,367	100.0%
Hispanic	821	18.3%	1,087	24.2%	61	1.4%	2,523	56.1%	4,492	100.0%
Asian	30	26.5%	20	17.7%	0	0.0%	63	55.8%	113	100.0%
Native American	67	15.3%	115	26.2%	5	1.1%	252	57.4%	439	100.0%
Total within each type of hearing	2,951	20.6%	3,300	23.0%	199	1.4%	7,876	55.0%	14,326	100.0%

The procedure utilized by the Parole Board for comparing the percentages of Parole Board hearings by race/ethnicity is shown above in PB Table A. The descriptive statistics shown above show the comparison within each type of hearing by race/ethnicity. A chi-square test of independence was performed to examine the relationship between the type of parole board hearing and race/ethnicity and was found to be significant ($X^2(12)=65.554$, $p < 0.01$). Crosstabulations were explored to identify where the differences exist; the only significant difference found was Asians have a significantly higher rate of discretionary releases compared to the other race/ethnicity groups and a lower rate of mandatory re-parole (although there were NO Asians released on mandatory re-parole included in the sample). Significant differences are highlighted in PB Table A.

PB Table B. Comparisons of Gender within each type of PB hearing.

	<u>Discretionary Release</u>		<u>Mandatory Parole</u>		<u>Mandatory Re-parole</u>		<u>Parole was Denied</u>		<u>Total All Hearing Types</u>	
	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%	<i>N</i>	%
Male	2,492	19.7%	2,886	22.8%	175	1.4%	7,107	56.1%	12,660	100.0%
Female	459	27.6%	414	24.8%	24	1.4%	769	46.2%	1,666	100.0%
Total within each type of hearing	2,951	20.6%	3,300	23.0%	199	1.4%	7,876	55.0%	14,326	100.0%

The procedure utilized by the Parole Board for comparing the percentages of Parole Board hearings by gender is shown above in PB Table B. A chi-square test of independence was performed to examine the relationship between the type of parole board hearing and gender and was found to be significant ($X^2(3)=73.633$, $p < 0.01$). Crosstabulations were explored to identify where the differences exist; the only significant differences found were for mandatory re-parole release type, regardless of gender. In other words, both Males and Females have a lower rate of mandatory re-parole when compared to other release types. Significant differences are highlighted in PB Table B.

Below are the tables and text that are presented in the December 2016 C.L.E.A.R. report (italicized), followed by clarifications and a separate analysis by the Parole Board (in blue):

The following tables were provided by the Colorado Department of Corrections' Office of Planning and Analysis. The data include race/ethnicity and gender information for 14,326 final decisions made by the Parole Board in calendar year 2015. As shown in Table 4.1, nearly half (48.3%) of decisions involved Whites, 16.5% involved Blacks, 31.4% involved Hispanics, less than 1% involved Asians, and 3.1% involved Native Americans. Table 4.2 shows that women were involved in 11.6% of decisions.

Table 4.1: Parole Board hearings by race/ethnicity, CY 2015

	N	%
White	6,915	48.3
Black	2,367	16.5
Hispanic	4,492	31.4
Asian	113	0.8
Native American	439	3.1
Total	14,326	100.0

PB Table 1: PB Hearings by race/ethnicity, CY15

	N	%
White	6,915	48.3
Black	2,367	16.5
Hispanic	4,492	31.4
Asian	113	0.8
Native American	439	3.1
Total	14,326	100.0

Table 4.2: Parole Board hearings by gender, CY2015

	N	%
Male	12,660	88.4
Female	1,666	11.6
Total	14,326	100.0

PB Table 2: PB Hearings by gender, CY15

	N	%
Male	12,660	88.4
Female	1,666	11.6
Total	14,326	100.0

Table 4.3 reflects the race/ethnicity distribution for those who were granted discretionary parole. This group was released on parole prior to reaching their mandatory release date. This is a relatively small group, comprising 20.6% (2,952/14,326) of release decisions. Whites were more likely to be granted discretionary parole release (54.7% compared to 48.3% of overall hearings) along with Asians (1.0% compared to 0.8%), while Blacks, Hispanics and Native Americans were less likely to be granted discretionary parole. In terms of gender (Table 4.4), women were more likely to receive discretionary parole (15.6% versus 11.6% of total hearings) compared to men.

Table 4.3: Discretionary parole by race/ethnicity, CY2015

	N	%
White	1,599	54.7
Black	434	14.7
Hispanic	821	27.8
Asian	30	1.0
Native American	67	2.3
Total	2,951	100.0

Table 4.4: Discretionary parole by gender, CY2015

	N	%
Male	2,492	84.4
Female	459	15.6
Total	2,951	100.0

PB Table 3: Discretionary parole by race/ethnicity, CY15

	N	%
White	1,599	23.1%
Black	434	18.3%
Hispanic	821	18.3%
Asian	30	26.5%
Native American	67	15.3%
Total within Hearing Type	2,951	20.6%

PB Table 4: Discretionary parole by gender, CY15

	N	%
Male	2,492	19.7%
Female	459	27.6%
Total within Hearing Type	2,951	20.6%

Parole Board Practice RE: Table 4.3 and Table 4.4

The procedure utilized by the Parole Board for comparing the percentages of race/ethnicity and gender groups by Parole Board release type is shown in PB Table 3 and PB Table 4 above (see page 2 for the complete tables). The process involves comparing the total among race/ethnicity categories for each release type. The C.L.E.A.R. report suggests the use of significance testing. However, no evidence that significance testing was performed is provided in the report. Parole Board analysis did include significance testing and found that, among race/ethnicity groups, Asians were more likely to have a higher rate of discretionary releases, compared to other race/ethnicity groups (highlighted above) (see pg. 2 for more detail). The analysis performed by the Parole Board, suggests that racial/ethnic and gender discrepancies do not exist as reported.

Individuals who reach their mandatory release date have served their prison sentence in its entirety and are automatically released to parole. These are individuals who have been denied discretionary parole by the Parole Board. That is, the “decision” made by the Parole Board regarding mandatory release is in the fact that parole was denied until the mandatory release date. Tables 4.5 and 4.6 show little difference in the race/ethnicity and gender distributions when compared to decisions overall (Tables 4.1 and 4.2).

Table 4.5: Mandatory parole by race/ethnicity, CY2015

	N	%
White	1,541	46.7
Black	537	16.3
Hispanic	1,087	32.9
Asian	20	0.6
Native American	115	3.5
Total	3,300	100.0

PB Table 5: Mandatory parole by race/ethnicity, CY15

	N	%
White	1,541	22.3%
Black	537	22.7%
Hispanic	1,087	24.2%
Asian	20	17.7%
Native American	115	26.2%
Total within Hearing Types	3,300	23.0%

Table 4.6: Mandatory parole by gender, CY2015

	N	%
Male	2,886	87.5
Female	414	12.5
Total	3,300	100.0

PB Table 6: Mandatory parole by gender, CY15

	N	%
Male	2,886	22.8%
Female	414	24.8%
Total within Hearing Types	3,300	23.0%

Parole Board Practice RE: to Table 4.5 and Table 4.6

The procedure utilized by the Parole Board for comparing the percentages of race/ethnicity and gender groups by Parole Board release type is shown in PB Table 5 and PB Table 6 above (see page 2 for the complete tables). The process involves comparing the total among race/ethnicity categories for each release type. The C.L.E.A.R. report suggests the use of significance testing. However, no evidence that significance testing was performed is provided in the report. Parole Board analysis did include significance testing and found that no significant differences exist among race/ethnicity or gender groups for mandatory release rates (see pg. 2 for more detail).

Offenders released on mandatory parole are not automatically released to parole, nor have all offenders who release on their Mandatory Release Date (MRD) been previously denied discretionary parole by the Parole Board. The Parole Board releases offenders on their MRD and sets conditions at the time of that hearing. There are many instances in which offenders can reach their MRD without having seen the Parole Board prior to that date. Examples include: offenders who have been credited for pre-sentence confinement time and get to DOC within a very short amount of time to, or even past, his/her MRD; offenders who receive a Class I COPD or declined in writing to participate in recommended programming and/or treatment, and are within a year of his/her MRD, are not statutorily eligible for a parole release prior to his/her MRD (C.R.S. 17-2-201(2016)); and offenders who are given a short DOC sentence.

Individuals who are revoked from parole are required by statute to serve 90 or 180 days (revocation cases that involve use of a weapon can be revoked for up to one year) of incarceration before they are automatically paroled again if they have not met their statutory discharge date. These are referred to as mandatory re-paroles and these occur automatically and do not involve a decision by the Parole Board. Tables 4.7 and 4.8, when compared with the information in Tables 4.1 and 4.2, show very little variation across race/ethnicity groups and gender.

Table 4.7: Mandatory re-parole by race/ethnicity, CY2015

	N	%
White	100	50.3
Black	33	16.6
Hispanic	61	30.7
Asian	0	0.0
Native American	5	2.5
Total	199	100.0

Table 4.8: Mandatory re-parole by gender, CY2015

	N	%
Male	175	87.9
Female	24	12.1
Total	199	100.0

PB Table 7: Mandatory re-parole by race/ethnicity, CY15

	N	%
White	100	1.4%
Black	33	1.4%
Hispanic	61	1.4%
Asian	0	0.0%
Native American	5	1.1%
Total within Hearing Types	199	1.4%

PB Table 8: Mandatory re-parole by gender, CY15

	N	%
Male	175	1.4%
Female	24	1.4%
Total within Hearing Types	199	1.4%

Parole Board Practice RE: Table 4.7 and Table 4.8:

The procedure utilized by the Parole Board for comparing the percentages of race/ethnicity and gender groups by Parole Board release type is shown in PB Table 7 and PB Table 8 above (see page 2 for the complete tables). The process involves comparing the total among race/ethnicity categories for each release type. The C.L.E.A.R. report suggests the use of significance testing. However, no evidence that significance testing was performed is provided in the report. Parole Board analysis did include significance testing and found that Asians were less likely to receive mandatory re-parole (no Asians were released on mandatory re-parole in the sample) and both Males and Females were less likely to receive mandatory re-parole than other release types (highlighted above) (see pg. 2 for more detail).

Mandatory re-parole releases ONLY occur after an offender’s parole was revoked for either committing a new crime, misdemeanor or felony offense, or violating condition(s) of his/her parole agreement. Therefore, any analysis that is done within mandatory re-parole release type should be viewed with several caveats, based on this information.

Offenders who are revoked from parole are not always required by statute to serve 90 or 180 days, nor are those offenders who are revoked automatically paroled again. There are many instances in which an offender is not required to be revoked, or may be continued on parole, with or without additional parole conditions. That discretion remains with the Parole Board member or hearing officer, in response to the Division of Adult Parole’s complaint against each individual offender. The statutory requirements that govern the revocation proceedings by the Parole Board can be found in C.R.S. 17-2-103 (2016).

Tables 4.9 reflects decisions in which parole was denied by the Parole Board, by race/ethnicity. There is very little difference in the race/ethnicity distribution compared to the overall distribution presented in Table 4.1. However, as shown in Table 4.10, women were slightly less likely and men were slightly more likely to be denied parole when compared with the overall distribution in Table 4.2.

Table 4.9: Parole denied by race/ethnicity, CY2015

	<i>N</i>	<i>%</i>
<i>White</i>	<i>3,675</i>	<i>46.7</i>
<i>Black</i>	<i>1,363</i>	<i>17.3</i>
<i>Hispanic</i>	<i>2,523</i>	<i>32.0</i>
<i>Asian</i>	<i>63</i>	<i>0.8</i>
<i>Native American</i>	<i>252</i>	<i>3.2</i>
<i>Total</i>	<i>7,876</i>	<i>100.0</i>

Table 4.10: Parole denied by gender, CY2015

	<i>N</i>	<i>%</i>
<i>Male</i>	<i>7,107</i>	<i>90.2</i>
<i>Female</i>	<i>769</i>	<i>9.8</i>
<i>Total</i>	<i>7,876</i>	<i>100.0</i>

PB Table 9: Parole denied by race/ethnicity, CY15

	<i>N</i>	<i>%</i>
White	3,675	53.2%
Black	1,363	57.6%
Hispanic	2,523	56.1%
Asian	63	55.8%
Native American	252	57.4%
Total within Hearing Types	7,876	55.0%

PB Table 10: Parole denied by gender, CY15

	<i>N</i>	<i>%</i>
Male	7,107	56.1%
Female	769	46.2%
Total within Hearing Types	7,876	55.0%

Parole Board Practice RE: Table 4.9 and Table 4.10:

The procedure utilized by the Parole Board for comparing the percentages of race/ethnicity and gender groups by Parole Board release type is shown in PB Table 9 and PB Table 10 above (see page 2 for the complete tables). The process involves comparing the total among race/ethnicity categories for each release type. The C.L.E.A.R. report suggests the use of significance testing. However, no evidence that significance testing was performed is provided in the report. Parole Board analysis did include significance testing (see pg. 2 for more detail) and found that no significant differences exist among race/ethnicity or gender groups for deferral rates. The analysis performed by the Parole Board suggests that gender discrepancies do not exist as reported.

Summary. Some of the tables above do not reflect Parole Board decisions since mandatory releases are required by statute. Of greatest interest is the discretionary release decision along with those denied parole. Whites were more likely to be granted discretionary parole release (54.2% compared to 48.3% of overall hearings) along with Asians (1.0% compared to 0.8%), while Blacks, Hispanics and Native Americans were less likely to be granted discretionary parole. In terms of gender (Table 4.4), women were more likely to receive discretionary parole (15.6% versus 11.6% of total hearings) compared to men. There is very little difference in the race/ethnicity distribution for those denied parole when compared to the overall distribution presented in Table 4.1. In terms of gender, women were slightly less likely and men were slightly more likely to be denied parole when compared with the overall distribution shown in Table 4.2.

Parole Board Practice RE: Summary

The C.L.E.A.R. report suggests the use of significance testing. However, no evidence that significance testing was performed is provided in the report. Parole Board analysis did include significance testing and found that Asians were more likely to receive discretionary parole and less likely to received mandatory re-parole than other race/ethnicity groups and that mandatory re-parole release types were less likely to occur, regardless of gender (male or female) (Parole Board analysis is presented on pg. 2).

Offenders released on mandatory parole are not automatically released to parole, nor have all offenders who release on their Mandatory Release Date (MRD) been previously denied discretionary parole by the Parole Board. The Parole Board releases offenders on their MRD and sets conditions at the time of that hearing.

The analysis performed by the Parole Board suggests that the racial/ethnic and gender discrepancies do not exist as reported.