

**Brandon Shaffer, Chairperson**

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

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**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?

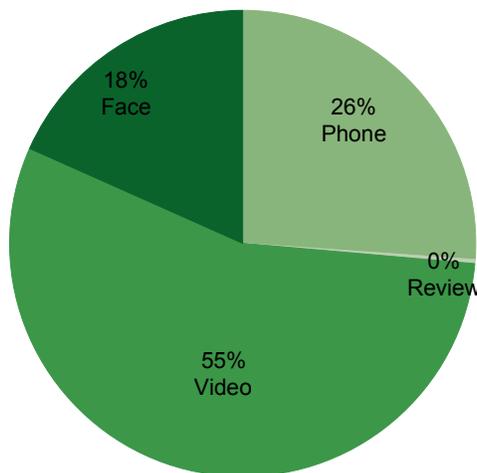
**Answer:** There are primarily three types of hearings: (1) Application interviews, (2) Rescission hearings, and (3) Revocation hearings.

**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?**

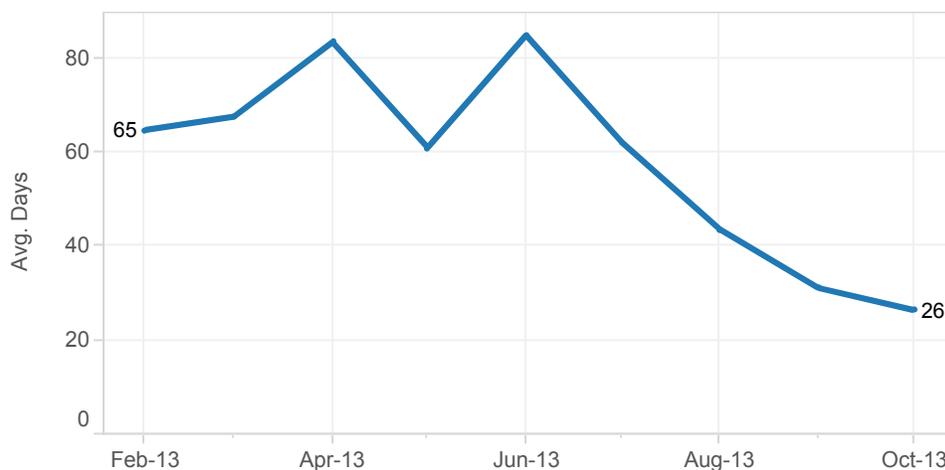
**Answer:** Yes. Individual Board members do not have the authority to parole offenders convicted of a violent crime. Instead, if a Board member believes he or she is a good candidate for parole, the member refers the offender to the entire Parole Board for consideration. The Board sits as a “Full Board” 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).**

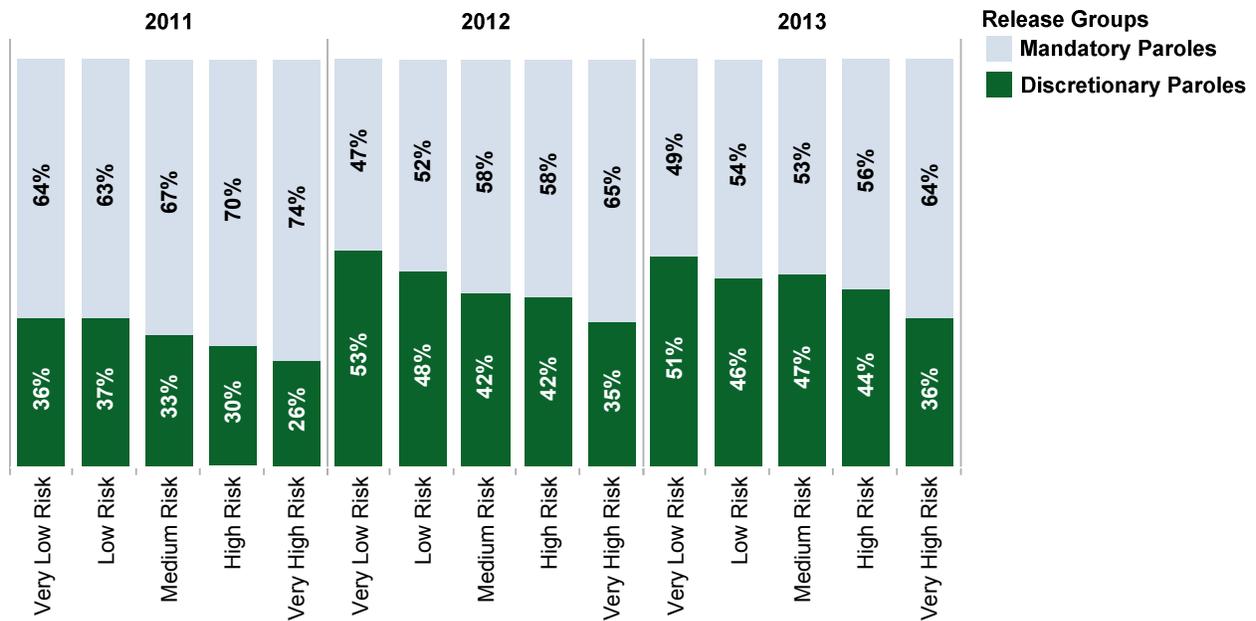
| Parole Board Decision                       |                  | PBRGI Decision Recommendation |                                | Total                        |
|---------------------------------------------|------------------|-------------------------------|--------------------------------|------------------------------|
|                                             |                  | Defer                         | Release                        |                              |
| Defer                                       |                  | Total Defer = 2,836<br>35.6%  | Total Release = 2,313<br>29.0% | Total Defer = 5,149<br>64.6% |
|                                             | Count<br>Percent | 1,941<br>24.4%                | 1,385<br>17.4%                 | 3,326<br>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.

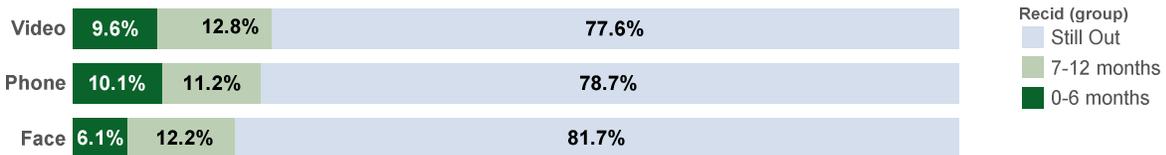
**Statistics:** From January-November, 2013, the Parole Board released 3,407 (44%) of offenders on discretionary parole and 4,421 (56%) on mandatory parole. The average risk assessment for offenders who were granted discretionary parole in 2013 was 34 (Medium Risk). The following graph breaks down mandatory/discretionary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