

Colorado State Board of Parole Annual Report: FY 2016

A REPORT SUBMITTED TO THE MEMBERS OF THE JOINT JUDICIARY COMMITTEE
PURSUANT TO C.R.S. 17-2-201 (3.5) AND 17-22.5-404.5 (4)



December 2016

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Colorado State Board of Parole Annual Report | 2016

This report is submitted pursuant to the following statutory directives:

Section 17-2-201 (3.5), C.R.S. (2016): 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Section 17-22.4-404.5 (4), C.R.S. (2016): Repealed.

This report is intended to provide the members of the Joint Judiciary Committee of the Colorado General Assembly with information on a review of the Parole Board's Fiscal Year 2016 operations, projects/activities, and performance measures. Additionally, appended to this report as **Exhibit A** is a separate analysis of presumptive parole procedures related to C.R.S. 17-22.5-404.5 (2016).

CONTENTS

PAROLE BOARD OPERATIONS:	5
Current Parole Board Members	5
Mission	6
Staffing	6
Budget	6
Training	7
Collaborations	8
New Board Member Training	8
COLORADO PAROLE PROCESS	9
TYPES OF PAROLE BOARD HEARINGS	10
Parole Board Application Hearings	10
Full Board Reviews	12
Rescission Hearings	12
Parole Board Release Guideline Instrument	12
Early Parole Discharge Hearings	14
Parole Board Releases	15
Parole Board Revocation Hearings	17
RETURN TO PRISON	18
CONCLUSION	18
REFERENCES	19
APPENDIX A: PRESUMPTIVE PAROLE	21
Drug Offenders	21
Parole Hearings and Releases	21

Impact on Prison Population and Public Safety.....	23
ICE Detainees	24
Parole Hearings and Releases	24
Impact on Prison Population and Public Safety.....	25
Special Needs Parole	25
Release Hearings	26
Impact on Prison Population and Public Safety.....	26
Conclusions.....	26

Parole Board Operations:

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.

Current Parole Board Members

Joe Morales, Chairperson of the Board, serves as a former law enforcement officer on the Board and holds over 30 years of law enforcement service. Mr. Morales was originally appointed to the Board in 2013 to a three-year term as a Board member. In September 2015, Mr. Morales was appointed to serve as Chairperson for the Board and then reappointed for a 3-year term in July 2016. The Chairperson is the administrative head of the Parole Board. It is Mr. Morales' responsibility to enforce the rules and regulations of the Board and to assure that parole hearings are scheduled and conducted properly.

Rebecca Oakes, Vice-Chairperson of the Board, was originally appointed to the Board in 2007 as a citizen member on the Board. She was appointed Vice-chairperson of the Board in July 2013. Ms. Oakes has extensive experience working in the field of victim services. Ms. Oakes was most recently reappointed for a three-year term in July 2016. The Vice-Chairperson assumes the responsibilities of the Chairperson in his or her absence.

Denise Balazic was originally appointed in 2011 to serve as a former parole officer on the Board. Ms. Balazic has extensive experience as a Probation and Parole officer, Addiction Counselor and leadership and management trainer. Ms. Balazic was reappointed for a 3-year term July 2014.

Dr. Brandon Mathews was appointed as a citizen member of the Board in September 2016 through 2017 to replace a resignation of a previous Board member. Dr. Mathews has a decade of experience in various criminal justice roles, including institutional and community corrections, the judicial system, and correctional investigations. Most recently he held positions as the Director of a community correctional facility in Southern Colorado and the State Director of five residential community correctional facilities across the state, where he spearheaded efforts to change culture and implement innovative treatment programs and evidence-based practices.

John O'Dell was originally appointed to the Board as a former law enforcement officer in 2011. His most recent reappointment for a 3-year term was in July 2015. Mr. O'Dell retired as a command officer for the Denver Police Department after 30 years of service.

Alfredo Peña serves as a citizen member of the Board, originally appointed in 2012. Mr. Pena has extensive experience as an attorney, emphasizing civil, criminal, and administrative trial representation before Federal and State courts. He was reappointed for a 3-year term July 2014.

Alexandra Walker was appointed in 2015 as a citizen member of the Board and reappointed for a 3-year term July 2016. She has an extensive background in corrections, training/education, implementation science, and substance use and mental health treatment.

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; created in accordance with the SMART Government Act, section 2-7-201, C.R.S. (2016)).

Staffing

The Parole Board is supported by eleven (11) full-time employees (FTE). The Board support staff is structured as follows:

- Parole Board Administrator (1 FTE)
- Office Manager, Pueblo (1 FTE)
- Revocation Unit, Pueblo (4 FTE)
- Application Unit, Pueblo (2 FTE)
- Administrative Support Staff, Pueblo (1 FTE)
- Administrative Support Staff, Denver (1 FTE)
- Statistical Analyst, CO Springs (1 FTE)

During FY 2016, the Board also utilized several contract employees, including: (a) two (2) Administrative Hearing Officers to conduct revocation hearings pursuant to 17-2-202.5, C.R.S. (2016); (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. (2016); and (d) one temp-worker in Pueblo to help scan files for the Board's automation project.

Budget

For FY 2015-2016, the following amounts were appropriated to support Parole Board operations.

Personal Services (7 Board members; 11 support staff)	\$1,389,395.00
Operating Expenses	\$106,390.00
Contract Services	\$272,437.00
Total:	\$1,768,222.00

Training

Pursuant to section 17-2-201 (1)(e), C.R.S. (2016), 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.

FY 2016 training activities and topics have included:

- Victim Advocates
- CARAS
- Victim-offender Dialogue
- Time & Release Rescission Process
- Cyber Security Awareness
- Community and CRCF Placement Training
- Revocation Appeals
- C-TAP
- Re-Entry
- Active Shooter
- Victim Right's Act
- Association of Parole Authorities International Convention (Available Trainings):
 - Biological and Psychological Effects of Trauma
 - The Science of Decision Fatigue
 - Brain Development- Birth Through Adolescence: Why Does It Matter, What Can We Do About It?
 - The Effectiveness of GPS Monitoring on the Outcomes of Florida Offenders Placed on Post-Prison Conditional Release Supervision
 - Implicit Bias in Parole Decision-Making
 - Offender Re-entry: The Value of Victim Involvement
 - Understanding the Deportation Life Cycle & How ICE Can Work For You
 - Inside the Mind of a Psychopath: A Primer for Paroling Authorities
 - Paroling Authorities as We Find Them Today
 - A Proactive Response to Domestic Violence: Identification, Management, & Programming for Offenders who Use Violence in Relationships
 - Canada's New Victims' Bill of Rights
 - Security Threat Group Identification
 - Security of Decision Makers- Active Shooter Training
 - Stress in Law Enforcement & Corrections
 - International Innovative Practices
 - Enhancing Parole: The Importance of Fidelity
 - The Keys to a Fair & Legally Sound Administrative Hearing
 - Justice Reinvestment, Crime Victims and Paroling Authorities

Collaborations

In addition to the training listed above, the Parole Board made a concerted effort to improve communications between Department of Corrections (DOC) Case Managers, Community Parole Officers, and Board members and staff. It also participated in a variety of initiatives, work groups, and study committees.

The following is a list of site visits the Board made to various facilities and programs during FY 2016:

- Fremont County Parole Division
- Pueblo County Parole Division
- Camp George West
- Cheyenne Mountain Re-Entry Center
- San Carlos Correctional Facility
- Harvest Farms
- Second Chance Center Tour

In addition to site visits, the Board also participates in a number of initiatives with other stakeholders. The following is a list of initiatives and collaborations that Board members participated in during FY 2016:

- Commission on Criminal and Juvenile Justice ("CCJJ")
- CCJJ Re-Entry Task Force Subcommittee
- CCJJ Mandatory Parole Subcommittee
- CCJJ Community Corrections Task Force Subcommittee
- CCJJ Mental Health/Jails Task Force
- CCJJ Condition's Working Group
- CCJJ-Standards Subcommittee
- CCJJ-ISP-I Working Group
- Discovery Channel Documentary
- SOTMP Programming
- Robina Institute of Criminal Justice
- CDOC OIT Revocation Automation
- Restorative Justice Council

OTHER STAKE HOLDER MEETINGS DURING FY 2016:

- Voices for Victims
- Denver Community Corrections Board
- Citizen's Advocate Meeting
- Community Correction's Association Annual Meeting
- Community Corrections Advisory Board
- Advocates for Change
- Colorado Cure
- Colorado Immigration and Customs Enforcement
- Criminal Justice/Parole Board Presentation

New Board Member Training

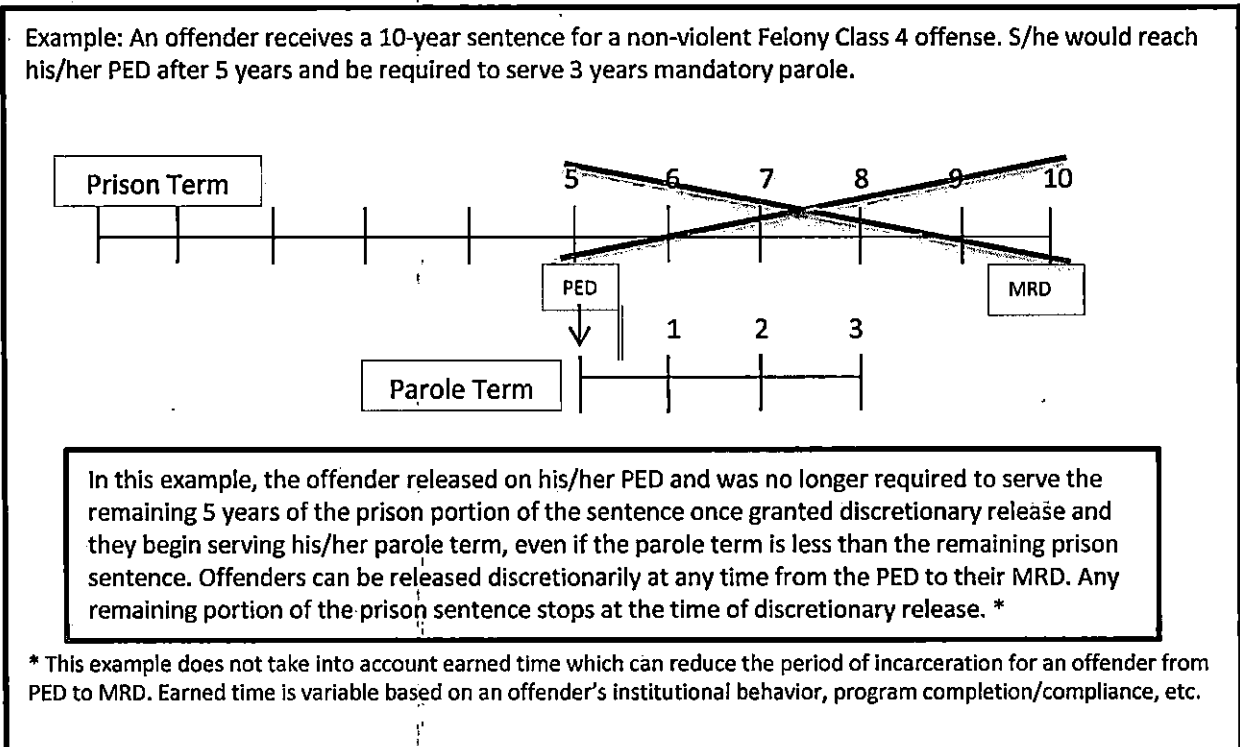
In 2014, the Board implemented an enhanced, formalized training program for new Parole Board Members and has continued to develop this structured training guide during FY 2016 with newly appointed Board members. A comprehensive training and reference manual has been created to accompany the newly developed training program. As members serve three

(3)-year terms and the terms of different members are staggered, the Board experiences a relatively high rate of turnover. Historically, training of Board members has been an "on-the-job-training" process. However, the laws, rules, and regulations governing our process are very complex. And, the magnitude of the decisions we make is very great. Therefore, by utilizing both the structured training program and the reference manual, the new Board member will be brought up to speed more quickly.

Colorado Parole Process

Colorado has primarily a determinate sentence structure, with exceptions for certain offenses, such as certain sexual offenses, that can carry indeterminate sentences. The Colorado State Board of Parole holds the statutory authority to grant a discretionary release to an offender once s/he reaches his/her Parole Eligibility Date (PED). If an offender is granted discretionary release by the Parole Board, s/he stops serving his/her prison sentence and start serving his/her parole sentence. Figure 1 below illustrates the process of discretionary parole release in Colorado. Once an offender reaches his/her Mandatory Release Date (MRD), the Department of Corrections is mandated to release that individual to serve his/her statutory period of parole.

Figure 1:



Types of Parole Board Hearings

The Parole Board conducts a wide variety of hearings and reviews: (1) parole application interviews, (2) Full Board reviews, (3) parole rescission hearings, (4) parole revocation hearings, (5) early release reviews, (6) special needs parole hearings, (7) interstate parole probable cause hearings, (8) sexually violent predator designation reviews, and (9) reduction of sex offender supervision level requests reviews.

During FY 2016, the Parole Board conducted:

- 16,188 Application Hearings
- 2,205 Full Board Reviews
- 673 Rescission Hearings
- 7,055 Revocation Hearings
- 692 Parole Early Release Reviews
- 42 Special Needs Parole Hearings
- 48 Interstate Probably Cause Hearings
- 62 Sex Offender Supervision Level Reduction Request

Total: 26,965 hearings

The Parole Board also completed the following during FY 2016:

- Issued 2,222 arrest warrants
- Granted 603 waivers
- Conducted 1,617 File Reviews in lieu of hearings

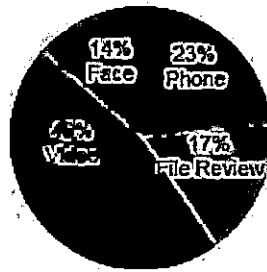
Parole Board Application Hearings

The Parole Board generally conducts initial Parole Application Hearings approximately three months prior to an offender's PED. If an offender is deferred at the time of the application hearing (i.e. not given a discretionary release), they are typically seen by the Board again one year from the time of the deferral action. There are certain crime types that can be deferred for a greater time period than one year. Also, there are certain instances in which a Board member may feel the offender needs to be seen before a year passes (i.e., the offender will have completed a program/class/treatment/etc. integral to his/her current criminogenic needs before the year time frame, and the Board member feels that his/her case should be reviewed once it's completed to determine when the offender should be released).

The application hearing can take place in person, via video conference, via phone, or by process of a file review depending on the circumstance and situation of each offender. In FY 2016, the majority (46%) of application hearings were conducted via video conference, phone conferences made up 23% of the application hearings, file reviews made up 17%, and 14% of application hearings were conducted in person or face-to-face (Figure 2).

Figure 2:

FY 2016 Hearing Method



In addition to the statutorily defined criteria the Board must consider when conducting Parole Application Hearings, information that the Parole Board receives before, and at the time of, an offender's application hearing is also utilized to determine the most evidence-informed release or deferral decision. The Colorado Department of Corrections' staff provides information in the Application Hearing portal, an electronic portal that allows for Case Managers, Facility Community Parole Officers, Treatment Providers and other applicable staff to upload information for use during the hearing. The portal also contains the offender's "Parole Plan." The parole plan typically contains a brief synopsis of the offender's criminal history, institutional conduct, program, treatment and class participation and completion information, as well as the offender's self-determined residential and employment plan should s/he be granted release. The residential and employment plan information is rarely vetted prior to the Parole Board member making a release decision. The policy of the CDOC and the Division of Adult Parole is to investigate the parole plan information after an offender is granted release, rather than prior to the application hearing. This process is in place in order to alleviate the unnecessary investigation for those offenders who aren't granted a release at the time of the application hearing. Therefore, the information provided to the Board member at the time of the application hearing could differ, and often does, from that obtained by the person investigating the parole plan. Unfortunately, this may lead to offender's paroling homeless, if their original home plan is not deemed viable and the Board is not notified of this change in circumstance in order to rescind his/her original decision for release in order to find a more suitable housing plan.

The portal and other electronic systems from the CDOC contain the offender's most recent assessment(s) that are available and pertinent, which may include the CARAS (Colorado Actuarial Risk Assessment Scale), LSI (Level of Service Instrument), the Prisoner Intake Tools (PIT), Re-entry Tool (RT), and Supplemental Re-entry Tool (SRT). If an offender is a part of a needs-specific program or treatment program within the CDOC (i.e., sexual offense specific treatment), the treatment provider is also able to provide information directly to the Board member(s) at the time of hearing.

The quality of information provided to the Board can vary, and often correlates with the accuracy and detail of the information provided by the CDOC staff and information systems. The Board relies on valid and up-to-date information in rendering a release decision that ensures both the success of the offenders and their commitment to uphold public safety.

Full Board Reviews

Any discretionary release of an inmate that has been convicted of a violent or sexual crime as described by Colorado statute or by the policy and procedures of the Colorado Board of Parole is required to be reviewed by the Full Board. An offender eligible to be seen by the Full Board requires at least 4 affirmative votes to be released discretionarily. The Board sits as a Full Board at least once a week. In FY 2016, the Board conducted 2,205 Full Board hearings. Fifty-three percent (53%) of those seen by the Full Board were granted a discretionary release, while 47% were deferred either to the next eligible parole hearing or to his/her mandatory release date (Figure 3). Based on the 2014 release cohort, the recidivism rate after the first year on parole for offenders considered and released by the Full Board is 17.7%.

Figure 3:

Full Board Release Decisions



Rescission Hearings

Rescission hearings are held to determine whether a previous decision for discretionary release should be rescinded for cause. The Board may suspend a grant of release pending a finalized rescission hearing based on receipt of information not previously considered by the Board, or upon receipt of information reflecting improper conduct by the offender including, but not limited to, acts that constitute a criminal offense or a serious CDOC disciplinary violation. During FY 2016, the Board conducted 673 rescission hearings.

Parole Board Release Guideline Instrument

As per 17-22.5-404(6)(a) and 17-22.5-107(1) C.R.S. (2016), the Parole Board Release Guideline Instrument (PBRGI) was developed by the Division of Criminal Justice 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" (*Analysis of Colorado State Board of Parole Decisions: FY 2015 Report* published by DCJ, September 2016). The Board considers all the factors specified in section 17-22.5-404, C.R.S. (2016) in making parole decisions, including the PBRGI, which incorporates the CARAS.

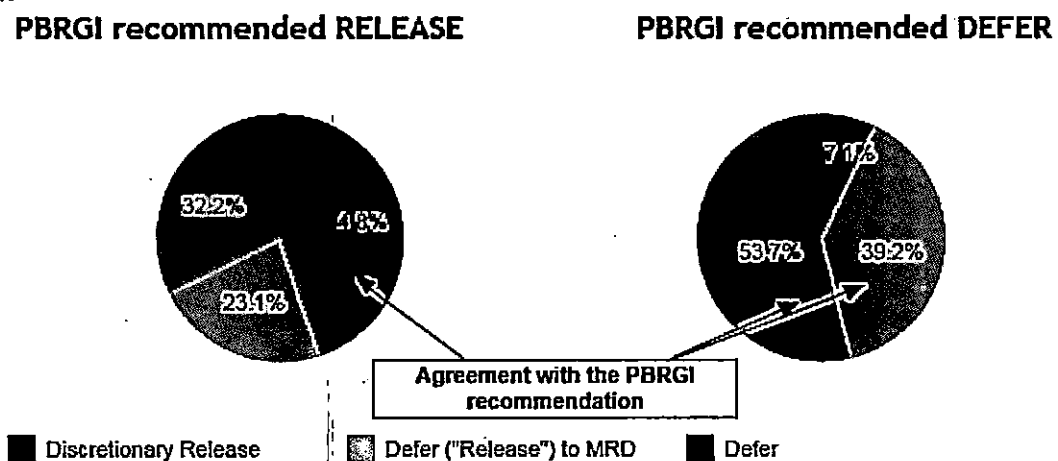
Currently, no evidence-based standard percentage exists for the number of discretionary releases that a releasing authority should provide. Experts caution that even the most reliable

risk assessment tools will result in some false positives and/or false negatives (Austin, 2004). Therefore, it is advised that properly executed professional judgment (“evidence informed discretion”) that addresses both the individual offender’s risk and needs assessments be utilized while addressing one’s risk of future criminal risk (Andrews & Bonta 2010; Austin, 2004; Bonta & Wormith, 2013; Wolff, 2008). The National Parole Resource Center (2016) advises that it’s critical to consider both the objective risk assessment information and the offender-specific information available in formulating an appropriate decision. At each hearing, the Board attempts to determine, based on both the available risk and needs assessments, what the appropriate outcome for release would be to maximize the success of each individual offender.

Currently, the Board has initiated discussions with DCJ of considerations regarding making future changes to the tool, to include additional information included in the PBRGI’s recommendation, such as misdemeanor convictions, recent failures in community corrections, and/or probation, etc. It is the intention of the Board to collaborate with DCJ on enhancing the tool and continuing to work toward a reliability agreement level that is in line with existing standards of decision making tools. Any assumption that the PBRGI is a sole predictor of parole success is distorted given that the tool is still in its infancy. Since its inception in 2012, further validation and enhancements of the tool have not yet been completed and are still necessary; however, it is the intention of the Board to study the outcomes from the last 4 years to ensure that the tool is providing the most effective and informative advisory recommendations. The Board is looking forward to future evaluation and collaboration with DCJ to further enhance the predictive capabilities of the PBRGI.

During FY16, the Board concurred with the PBRGI recommendation 66% of the time. When the PBRGI recommended release, the Board agreed 45% of the time; when the PBRGI recommended defer, the Board agreed 93% of the time. Figure 4 displays the outcomes of defer/release decisions for the defer/release recommendation provided by the PBRGI for hearings conducted during FY16 included in the sample.

Figure 4:



*Sample from FY 16 hearing data with non-sex-offenders whose hearing was finalized, and includes overall counts and percentages of Parole Board release and defer decisions by PBRGI release and defer recommendations. Deferrals due to non-appearance/absence and MRPs are excluded.

Parole Board members can defer an offender's discretionary release for a variety of reasons. Some reasons for disagreement with the PBRGI recommendation for release given during FY 2016 included the following: offender(s) continued to pose a Public Safety risk based on his/her lack of adjustment during the current or past period(s) of supervision, offender(s) lack of participation in, or successful completion of, needed treatment and/or programming to address his/her identified criminogenic needs, and offender(s) inappropriate parole plan, such as a homeless parole plan.

Early Parole Discharge Hearings

Parolees who have shown compliance over an extended period of time may be considered for by the Board for early discharge consideration from his/her parole period. The offender's Community Parole Officer (CPO) submits an early discharge recommendation to the Board, and the Board members meet as a Full Board to consider the early discharge for each individual application. To be considered eligible for submission by his/her CPO for review, the parolee shall:

- (1) have been under supervision for a period not less than six months and have completed not less than 50 percent of his/her current parole term (absconders, offenders pending a revocation hearing, and offenders in custody paroled to a detainer or to charges, are not eligible for early discharge),
- (2) be in substantial compliance with all standard and/or stipulated parole conditions to include, but not limited to, treatment requirements, ensuring restitution payments are current, and exhibit evidence of being substance abuse free, through drug testing, and
- (3) have not had a level III or higher CVDMP violation for the previous six months of parole supervision.

The overwhelming majority of early parole discharges submitted to the Board are approved by the Full Board. Figure 5 below exhibits the total number and percentage of applications that were approved for early discharged during Fiscal Years 2013-2016.

Figure 5:

		Early Parole Discharges							
		FY 2013		FY 2014		FY 2015		FY 2016	
APPROVED		87%	142	80%	156	75%	417	80%	552
DENIED		13%	21	20%	38	25%	139	20%	134

Parole Board Releases

Discretionary and Mandatory release rates have remained relatively stable over the last five fiscal years, fluctuating approximately 9%. There are many factors that can contribute to fluctuation of the discretionary release rates of offenders. Figure 6 displays the number of discretionary and mandatory parole releases from FY 2012-FY 2016. These numbers do not include those released on mandatory re-parole release types after a revocation or other release types, such as sentence discharges, etc. Parole releases from FY 2017 to date (includes July 1, 2016-October 31, 2016 release numbers) include 40% releases from a discretionary decision and 60% from a mandatory release decision.

Figure 6:

Discretionary and Mandatory Releases FY 2011- FY 2016

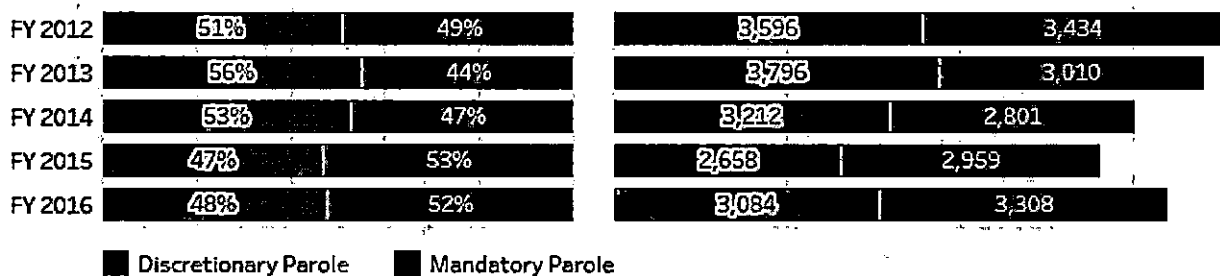
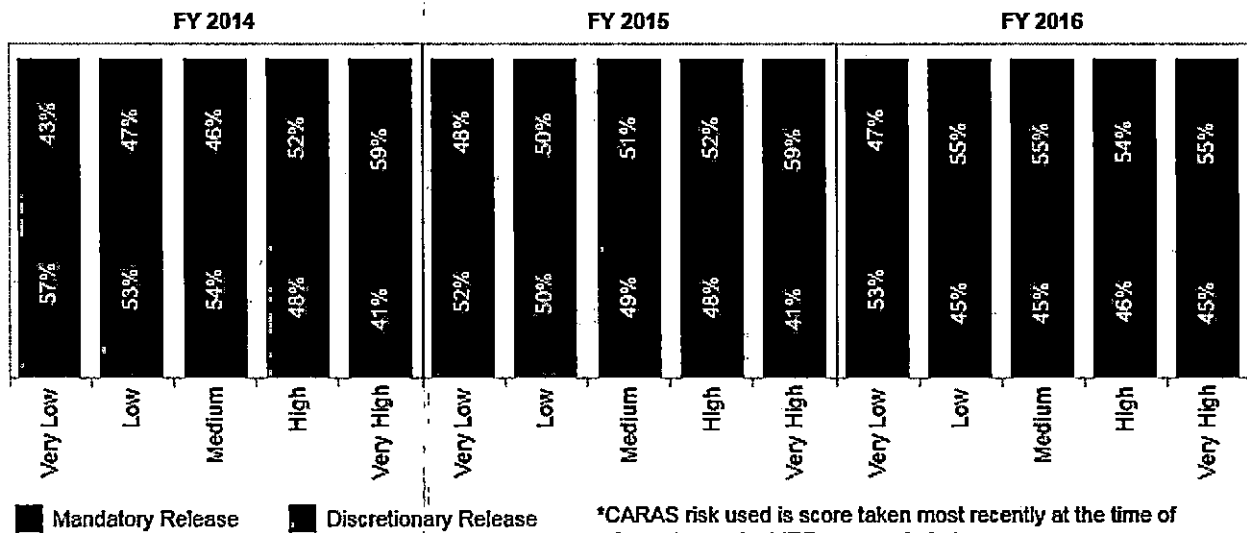


Figure 6 displays actual release totals by release type from DOC custody, not Parole Board hearing outcomes.

In FY 2016, the Board voted to release 3,084 (48%) of offenders on discretionary parole and 3,308 (52%) on mandatory parole. The average risk assessment for offenders who were granted discretionary parole in FY 2016 was 120 (Medium Risk). The following graph (Figure 7) breaks down mandatory/discretionary release percentages by risk assessment scores:

Figure 7:

Release Type by CARAS risk score



*CARAS risk used is score taken most recently at the time of release to parole. MRPs are excluded.

The releases shown in Figures 5 and 6 are the result of all types of release hearings, including File Reviews. House Bill 15-1122 was signed into law in March 2015. The bill allows the Parole Board to conduct an administrative review (i.e., "file review") in lieu of a parole application hearing for an offender who has a Mandatory Release Date (MRD) or Sentence Discharge Date (SDD) within six (6)-months of his or her next regularly scheduled parole hearing. The Parole Board retains the discretion to conduct regular parole hearings for offenders eligible for file reviews on a case-by-case basis. Since HB 15-1122 was enacted, a larger portion of hearings were conducted via file review. During FY 2016, the overwhelming majority (over 90%) of file reviews resulted in a decision to release to Mandatory parole. Figure 8 displays the decisions (i.e. Discretionary vs. Mandatory release decisions) of the Board in FY 2016 that do not include those file review hearings.

Figure 8:

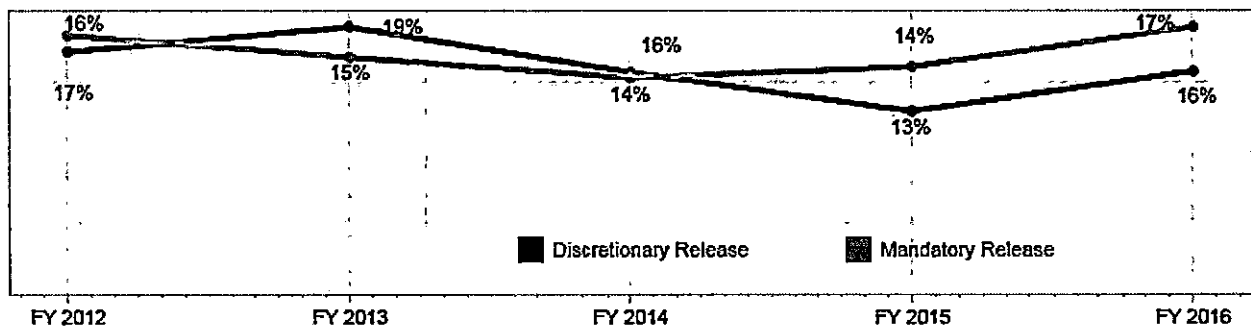
PB Hearing Decisions (NOT including File Reviews)
FY 2015-2016



The population of the Colorado Department of Corrections has fluctuated over the same time period of releases reported above. Figure 9 displays the percentage of the prison population (as of June 30 of each corresponding fiscal year) that was released on either discretionary or mandatory parole.

Figure 9:

Percentage of the CDOC prison population (as of the end of each FY) with
Discretionary and Mandatory Releases



Prison Population by Fiscal Year (population as of June 30 of each
corresponding year)

FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
21,037	20,134	20,522	20,623	19,619

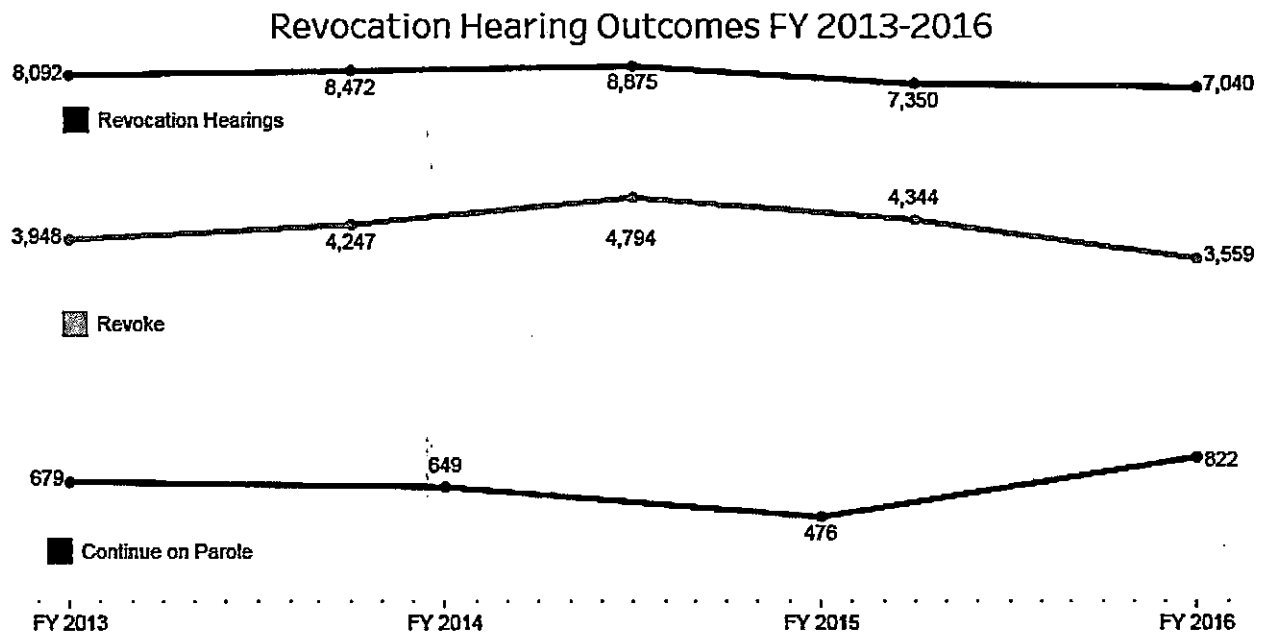
Parole Board Revocation Hearings

Once an offender has been released to parole, s/he must abide by the conditions of parole, as designated by the Parole Board. If the parolee violates his/her conditions of parole, s/he may be brought before the Parole Board by the Division of Adult Parole for possible revocation of parole.

The revocation process is governed by C.R.S. 17-2-103 (2016). 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 Division of Adult Parole and the parolee. After reviewing all pertinent information, the Board member uses statutory guidelines and the evidence presented to render a decision.

Figure 10 displays the revocation hearing totals from FY 2013-2016 and the decisions to revoke and continue parole in those cases. Offenders can have more than once revocation hearing per instance of revocation that can be continued for various reasons (i.e., pending criminal charges, appointment of attorney, etc.).

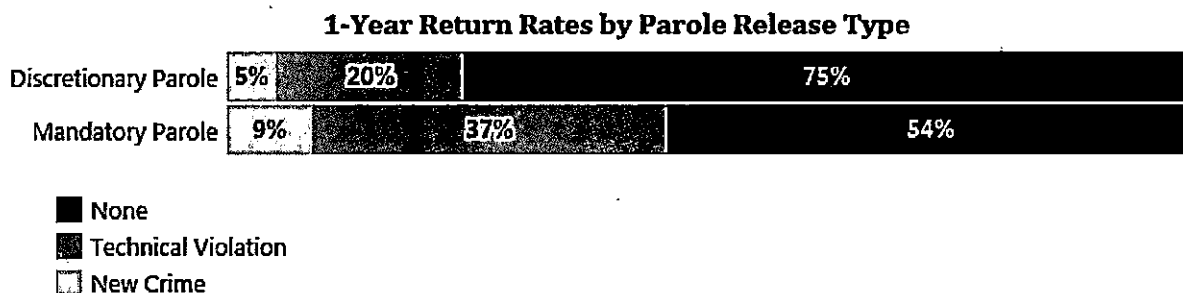
Figure 10:



Return to Prison

Return rates differ depending on an offender's type of release. Those released discretionarily historically have lower return to prison rates than those who release on mandatory parole release types. For those released in calendar year 2014, the 1-year return rate is nearly 20% lower for discretionary releases than mandatory releases (Figure 11). The 3- year return rate in 2014 for discretionary parole was 36% and 54% for mandatory parole releases.

Figure 11:



Conclusion

The Colorado Parole Board strives to increase public safety by critical evaluation and evidence-based practices to maximize the potential for each offender's successful reentry into society. Colorado's Board of Parole, similar to most other states, has a unique process for reviewing and releasing offenders. There is no current evidence-based standard by which release rates can, or should, be measured. Each release hearing should be viewed as an individual event for each individual offender, by which the releasing authority uses evidence-informed decision making to determine the most appropriate method of release to maximize the successful re-entry for each offender. Therefore, the Colorado's Board of Parole attempts to ensure that each release decision is embedded in evidence-informed, up to date, and validated information to maximum the opportunity for an offender's success, while maintaining the Board's commitment to public safety.

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Appendix A: Presumptive Parole

Although C.R.S. 17-22.4-404.5(4), that previously required the Chairperson of the Parole Board to submit an annual report regarding C.R.S 17-22.4-404.5, was repealed effective February 1, 2016, the Colorado State Board of Parole presents the impact from this statutory section to the Colorado Department of Corrections population and public safety.

Drug Offenders

House Bill 10-1352, effective beginning May 2011, 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 August 11, 2010, when HB 10-1352 was enacted. To be eligible for presumption, offenders must not have incurred a class I Code of Penal Discipline (COPD) violation within the 12 months prior to review or a class II COPD within the 3 months prior to review, must be program compliant, and must not have an active felony or immigration detainer.

Parole Hearings and Releases

Since the time that this Bill was enacted through the end of fiscal year (FY) 2016, approximately 20,000 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; Figure A shows all unique hearings (not releases of offenders).

Figure A:

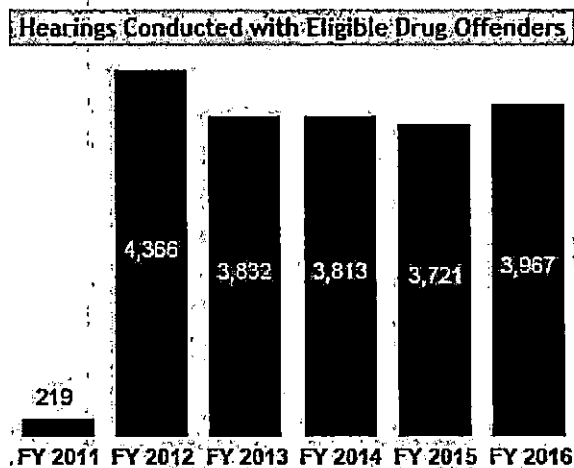
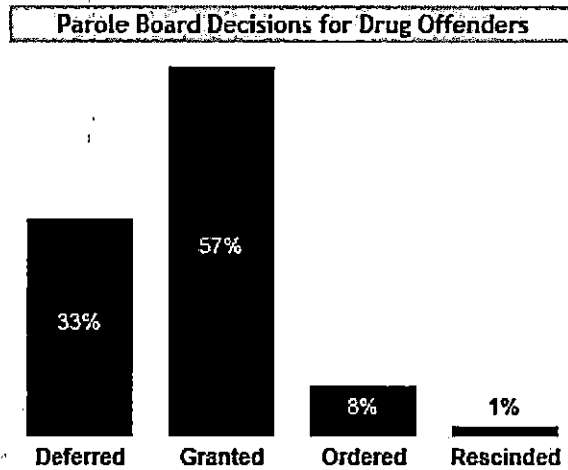


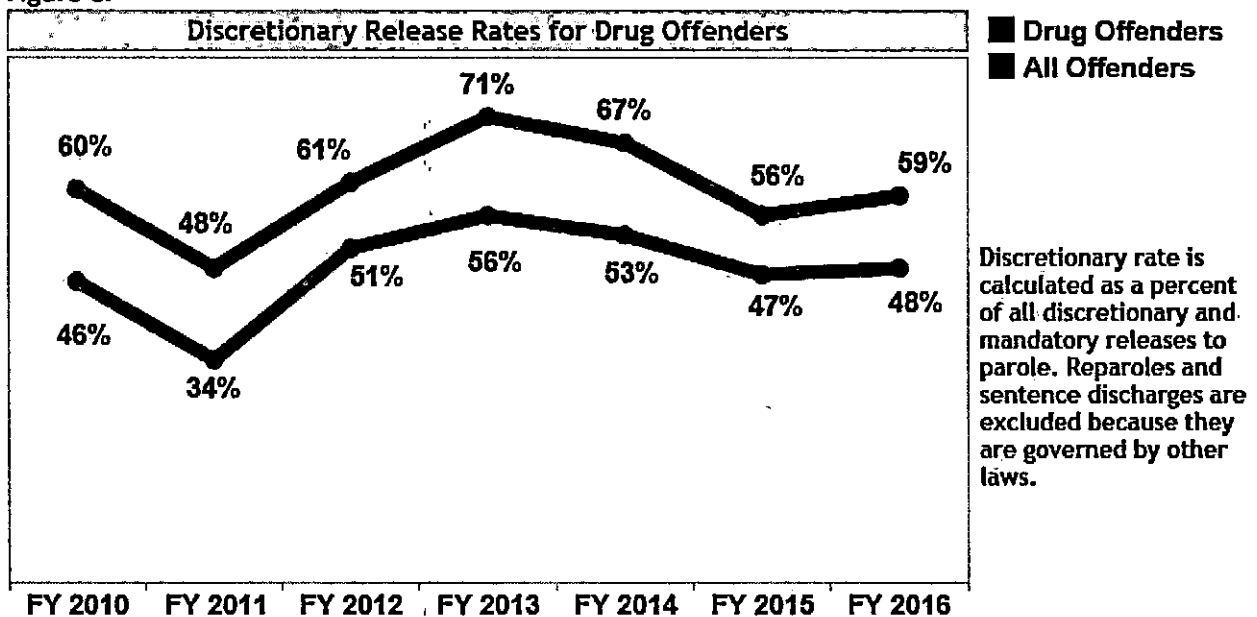
Figure B shows the grant rate at 57% for eligible drug offenders, based on Parole Board decisions for FY 2011-2016. The hearings data clearly shows that the Parole Board is giving presumptive favor to eligible drug offenders.

Figure B:



Examination of actual releases to parole provides further evidence that the Parole Board favors eligible offenders for release. Although related, release data differs from Board decisions because an offender might receive multiple hearings prior to a single release. Figure C displays 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.

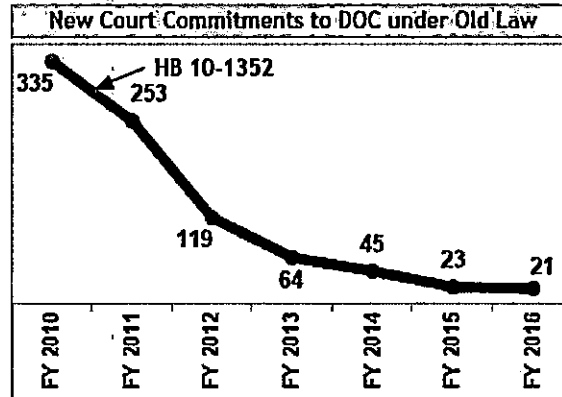
Figure C:



Impact on Prison Population and Public Safety

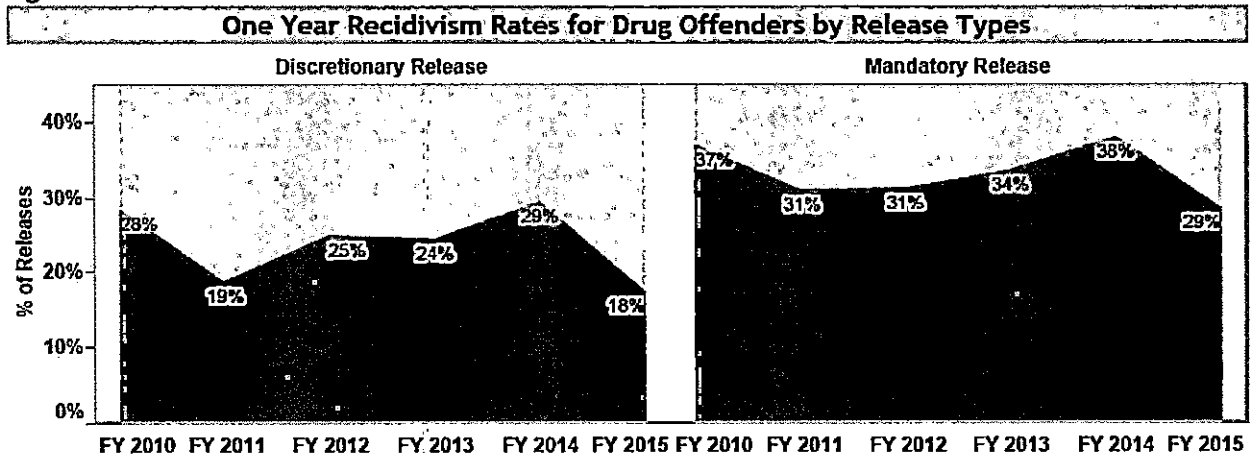
Since HB 11-1064 was enacted, the population of eligible drug offenders declined from 1,051 (4.6% of adult inmate population) on June 30, 2011, to 85 (0.4% of adult inmate population) on June 30, 2016. Of the 85 remaining in the inmate population, 58% have released to parole and been revoked due to either 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. Figure D displays new court admissions to the Department of Corrections (DOC) for unlawful use or possession under the old law.

Figure D:



Recidivism rates were explored for eligible drug offenders for one year following their release to parole. Figure E 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. Because the overall rate of discretionary parole releases also increased after FY 2011, it is not possible to attribute the increased release to the passage of HB 11-1064.

Figure E:



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 (CARAS). Senate Bill 11-241 added a new section, C.R.S. 17-22.5-404.7, creating this presumption of parole release.

Parole Hearings and Releases

During FYs 2011 through 2016, a total of 1,784 hearings were held with ICE detainees who met the eligibility requirements of this statute (Figure F). 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.

Figure F:

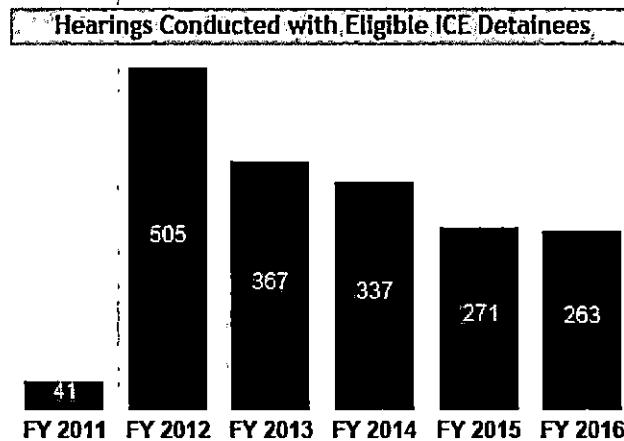


Figure G shows the grant rates by the Parole Board. From FY 2011-2016 parole was granted for 66% of hearings.

Figure G:

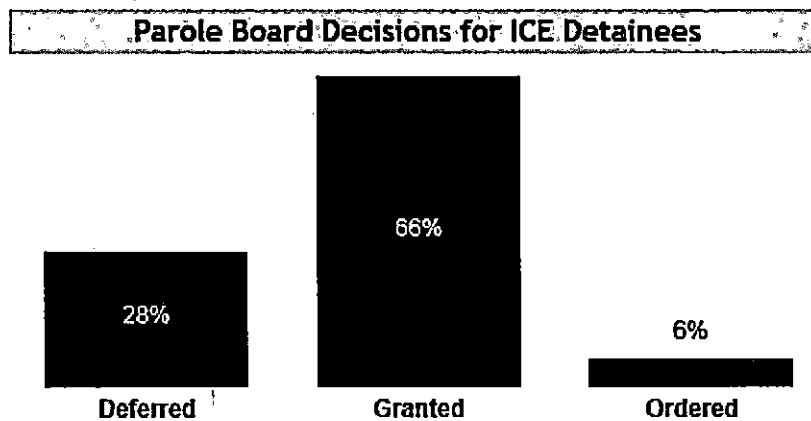
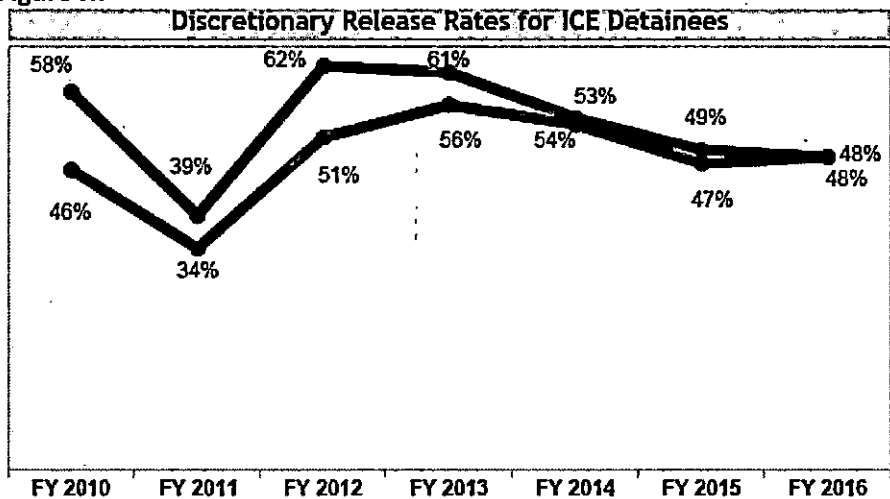


Figure H below examines actual parole releases of ICE detainees in comparison to all inmate releases to parole. Again, actual releases differ from Parole Board hearing decisions because offenders can have one or more hearings prior to a single release. The data indicates that ICE detainees release through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

Figure H:



■ 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 by 417 inmates. However, because the overall inmate population has also decreased, the decline is only slightly greater than for all of the inmate population (Figure I).

Figure I:

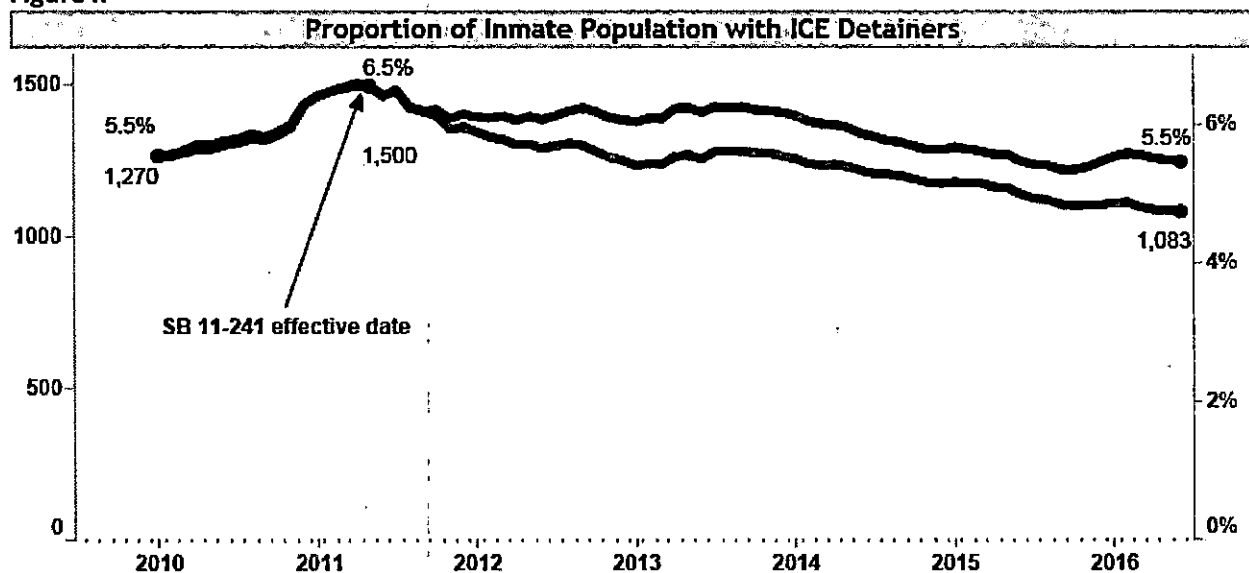
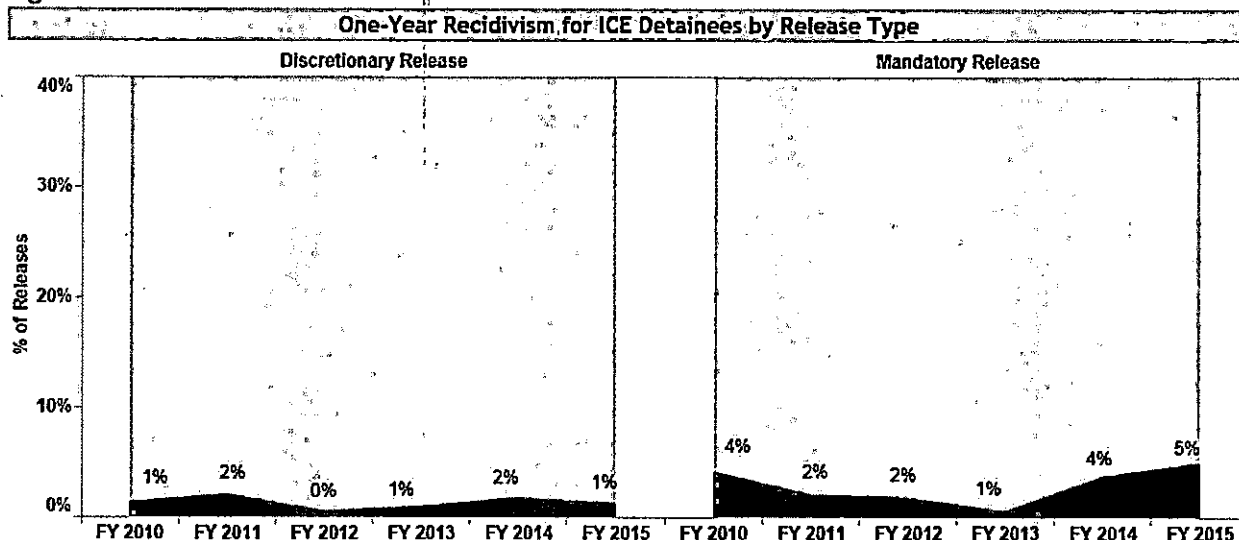


Figure J:



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

Special Needs Parole

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 60 years of age or older; is diagnosed to have a chronic infirmity, illness, condition, disease or mental illness; AND is determined by the Parole Board to be incapacitated to the extent that he or she is not likely to 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 is determined by the Parole Board to be incapacitated to the extent that he or she is not likely to pose a risk to public safety.

Releases are based on a special needs inmate's conditions and medical evaluations. Senate Bill 11-241 was effective beginning May 23, 2011 and modified C.R.S. 17-22.5-403.5 to expand the eligibility requirements and assign DOC the responsibility of identifying inmates who meet the eligibility criteria. 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 CDOC committee determines who meets the eligibility requirements and then makes a referral to the Parole Board. The Parole Board then has the task to determine, based on the special needs of the offender's condition and a medical evaluation, whether he or she constitutes a threat to public safety and is not likely to commit an offense.

Release Hearings

Since the enactment of SB 11-241 through the end of FY 2016, 169 inmates have applied for Special Needs Parole (some offenders have submitted multiple applications during this time frame). The Parole Board reviews the applicant's information, including the DOC committee's referral recommendation, as a Full Board, in order to determine the inmate's risk to public safety.

In FY 2016, 42 applications for special needs parole were received by the Board, of which only two (5%) were given a recommendation decision to the Parole Board by the DOC committee. Three applicants died before a decision could be reached. The majority of applicants were deferred to when eligible (35), 2 offenders were granted parole, and 2 offenders are tabled for acceptance into a suitable nursing/care facility. It should be noted that finding suitable care facilities for convicted felons under active supervision is quite difficult and a large contributor to the high deferral rate.

Impact on Prison Population and Public Safety

Twenty-five special needs offenders have been granted parole since the time SB 11-241 went into effect through FY 2016¹. Of those 25 offenders, 23 have actually released to parole and 2 have been tabled for acceptance into a suitable care facility. Due to the small number of offenders released and the short time period at risk post-release, it is difficult to quantify the effect on public safety or the prison population. However, only 6 of the 23 offenders who released had their parole revoked for violations of the conditions of their parole. None were returned to prison for new crimes. As of the end of FY 2016 from the offenders released on parole since the enactment of SB11-241, 10 are still under parole supervision, 2 were revoked to CDOC for technical violations, 4 died while on parole, 3 received early discharges from parole supervision, and 4 successfully completed their parole sentence.

Conclusions

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 regard 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 indicates 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.

¹ Previous reports included releases from applications received prior to the enactment of SB11-241 (prior to May 23, 2011).

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 shows the number of offenders admitted under the old law is declining, and they are receiving presumptive favor of parole. As of June 30, 2016, the population of targeted drug inmates ($n = 85$) was 8.1% of its size on June 30, 2011. Additionally, 49 of the 85 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 discretionarily 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.

The effects of Special Needs Parole are harder to assess because of the smaller number of offenders. 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 committed new crimes.



Colorado State Board of Parole Annual Report | 2016

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