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0439 Staff Study on the State Parole System



Legislative Council

Staff Study on the

State Parole System

Report to the
COLORADO
GENERAL ASSEMBLY

Colorado Legislative Council
Research Publication No. 439
September 1998

RECOMMENDATIONS FOR 1998

**LEGISLATIVE COUNCIL STAFF STUDY ON THE
STATE PAROLE SYSTEM**

**Report to the
Colorado General Assembly**

**Research Publication No. 439
August 1998**

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September 10, 1998

To Members of the Sixty-First Colorado General Assembly:

Submitted herewith is the report of the study of the Colorado parole system required by section 17-2-201.5, C.R.S., enacted by House Bill 97-1046. Legislative Council staff was directed to study and make recommendations regarding: the projected growth in the Parole Board workload and measures to limit the growth; alternative methods for conducting parole hearings to save future manpower and operating expenses; and the future of mandatory parole. This report presents the analyses and recommendations required of Legislative Council staff by House Bill 97-1046.

Respectfully submitted,

Charles S. Brown
Director

CB/AZ/mm

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LEGISLATIVE COUNCIL STAFF STUDY ON THE STATE PAROLE SYSTEM

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EXECUTIVE SUMMARY

House Bill 97-1046 directed the Legislative Council Staff to conduct a study of the parole system of the State of Colorado. The staff was asked to examine the Parole Board's structure and composition as well as the board's operations and hearing procedures. HB 97-1046 also directed staff to study the interrelationship of the Parole Board and the Division of Adult Parole Supervision, and determine how the division's revocation policy impacts the board's workload. Based on its findings, staff was asked to recommend ways of limiting the Parole Board's projected growth, and of conducting parole hearings more efficiently.

Legislative Council Staff also was directed to make recommendations regarding the future of mandatory parole, and to suggest improvements in mandatory parole that could save manpower and operating expenses while increasing public safety.

Study Approach

Legislative Council Staff convened an advisory committee comprised of parole system executives, departmental specialists, and inmate and victim advocates to assist with the study. The advisory committee met monthly from July 1997 to July 1998. During the first meetings, Legislative Council Staff and representatives from the Department of Corrections (DOC), the Judicial Department, and the Division of Criminal Justice shared data kept by their respective agencies. Among other things, the advisory committee studied historical data charting the steady increase in Colorado's parole population. The committee analyzed the Parole Board's projected workload and the potential need to increase the board's size to keep pace with the growing parole population. Advisory committee members reviewed materials describing other states' parole board operations and their use of technology as the advisory committee began developing recommendations about hearing procedures, release and revocation guidelines, and a supervision classification system, among other things.

As the advisory committee's focus shifted away from research and study and toward the formulation of specific recommendations for change, Legislative Council Staff sought technical assistance from the National Institute of Corrections (NIC). The NIC retained a technical consultant, Ronald Jackson, whose services were provided to the State of Colorado at no cost. Mr. Jackson, who currently is Director of Strategic Planning in the Georgia Governor's Office of Planning and Budget, has worked in corrections and parole for more than two decades; he has been both a parole board member and a director of parole supervision.

Mr. Jackson made a site visit to Colorado in December 1997. He met with individual advisory committee members and parole system personnel, and also with the advisory committee as a whole. Mr. Jackson outlined his findings in a report which became a road map for the committee's work. He returned to Colorado in May 1998 to review the committee's draft recommendations and discuss additional options for increasing efficiency in the parole system. His second and final consultant's report assesses the advisory committee's suggestions.

The advisory committee on the state parole system study concluded its work in July 1998. Recommendations in this report reflect the advisory committee's suggestions for improving the state parole system.

Findings

Parole Board Growth and Efficiency

Colorado's parole population is expected to increase 121 percent over the next six years: from 3,218 parolees on July 1, 1998 to 7,104 parolees on July 1, 2004. To match this growth, the Parole Board will have to increase in size, or alter its operations to increase efficiency and maximize Parole Board members' time.

Board members currently conduct all parole release hearings. They must travel four days a week, driving from facility to facility to hold hearings. In FY 1997-98, board members averaged 8.5 travel hours per week, or 21 percent of their work hours. Travel time could be reduced if the Parole Board delegated to hearing officers the authority to conduct certain release hearings. This is done in other states, where hearing officers are located regionally and make release recommendations that are reviewed by parole board members.

Technology exists which can streamline the hearing process and increase the Parole Board's efficiency. Options range from the use of laptop computers by Parole Board members in the field, to video conferencing that allows board members to conduct hearings from a central location. The Colorado Parole Board has yet to capitalize on available technology but is anxious to automate the hearing process in a manner compatible with the DOC's technology.

Release and Revocation Hearings

There is a need for guidelines governing the release of inmates to parole. Guidelines promote consistency in decision-making, while retaining in the board an element of discretion. It is especially important to capture board policy, in the form of guidelines, when both hearing officers and parole board members are conducting release hearings.

There is inherent tension between the Parole Board and the Division of Adult Parole Supervision over when parole should be revoked. Parole officers feel their authority is undermined when the board does not follow their recommendations for revocation. This tension could be alleviated if there were revocation guidelines for use by parole officers and parole board members. Guidelines would articulate the board's philosophy regarding revocation. As a result, the board's decisions would be consistent and parole officers would know which cases to present for revocation.

Mandatory Parole and Data Collection

Mandatory parole impacts the workload of the Division of Adult Parole Supervision and the Parole Board. However, because mandatory parole has been in effect only since July 1, 1993, there are not yet adequate data to assess the law's long-term effects.

Data collection is limited in all phases of the state parole system. The advisory committee identified a number of areas where there was not adequate information to analyze trends or predict future outcomes. The lack of data can be attributed in part to the limited availability of resources for equipment and manpower dedicated to research and statistical analysis.

Recommendations

In response to the directive of House Bill 97-1046, the advisory committee formulated recommendations in the areas of release and revocation hearings, technology and data collection, and mandatory parole.

Release Hearings

The advisory committee recommends that there be two release hearing procedures, depending on the offender's felony class. Hearing officers would conduct release hearings on all class 5 and class 6 felony offenders, and on nonviolent class 4 felonies. The hearing officers would have release authority in these cases; however, a Parole Board member would do a paper review of, and sign off on, each decision. Class 1, 2, and 3 felonies, and violent class 4 felonies, would be heard by a three-member panel of Parole Board members. A panel of three also would hear the cases of all violent offenders. A three-member panel would constitute a full-board hearing; any appeal would be to the Parole Board chair.

The advisory committee recommends that release guidelines be developed in order to maintain consistency in release decision-making. This would be especially important when hearing officers begin conducting certain release hearings. Release guidelines should be drafted to reflect and execute board policy. The advisory committee recommends that a task force of affected parties be enlisted to write release guidelines.

It is the advisory committee's opinion that a release guidelines task force should consider several matters related to release procedures. These include use of a risk assessment instrument, the transitional placement of offenders not accepted for a community placement, and the handling of inmates transitioned through community corrections who are later denied parole. The risk assessment instrument is an important, objective measure of the risk to reoffend, and is an integral part of the release decision-making process. The advisory committee endorses ongoing efforts to validate the risk assessment instrument, and recommends that the instrument be adapted and validated for women inmates and sex offenders. If this is not feasible, the advisory committee urges development of a separate risk assessment instrument for each of these growing inmate populations.

In a related matter, the release guidelines task force should explore the possibility of developing a state-operated facility to transition inmates who are not accepted for a community corrections placement. The facility would serve as a fall-back for the significant population of inmates not accepted into a halfway house or other community-based transitional program. The advisory committee also suggests that the release guidelines task force address the handling of inmates placed in community corrections for treatment and transition services, who subsequently are denied parole. If an inmate in community corrections is denied parole, and community corrections cannot continue the placement until the inmate's next parole hearing, the inmate must be returned to a more expensive bed in a DOC facility. The advisory committee suggests that there may be a more cost effective way of dealing with these inmates.

Revocation Hearings

The advisory committee recommends that Parole Board members conduct all revocation hearings. Currently, an Administrative Law Judge (ALJ) conducts well over 80 percent of all revocation hearings. One board member would conduct the revocation hearing and decide whether to revoke parole. Two board members would hear appeals. The committee further recommends that the current ALJ position be converted to an eighth position on the Parole Board.

Guidelines are needed to assist the Division of Adult Parole Supervision and the Parole Board in making consistent revocation decisions. The committee recommends the formation of a revocation guidelines task force composed of representatives from all facets of the parole system. This group would be charged with drafting revocation guidelines that embody the philosophies of both the Parole Board and the Division of Adult Parole Supervision. The committee further recommends engaging an outside facilitator to help the task force accomplish its mission.

Any discussion of revocation guidelines should include a review of intermediate sanctions, or those sanctions short of revocation. The advisory committee specifically recommends creation of a state-operated return-to-custody facility to accommodate parole failures and community regressions. The return-to-custody facility would be designed to deal with relapse issues. Release from the return-to-custody facility would be contingent on successful performance in prescribed programs.

Technology and Data Collection

The advisory committee has conducted a preliminary study of how technology can be used to increase parole board efficiency. The advisory committee recommends that a group of knowledgeable persons be assembled to assess the current technological capabilities of the DOC and determine how to automate the parole hearing process in a manner compatible with the DOC system. This group is urged to consider, at a minimum, the purchase of laptop computers for Parole Board members and hearing officers so that they may access DOC case files and Colorado Integrated Criminal Justice Information System data. Laptop computers also would allow board members and hearing officers to transmit release and revocation decisions to one another and to the Parole Board's central office in Pueblo.

Along with improving technology for the Parole Board's use, the advisory committee recommends that agencies involved in compiling data on the criminal justice system generally, and on the parole system in particular, meet to prepare a plan for improving the current method for collecting and sharing data. The parties should identify what data currently are being collected and then focus on areas of omission and duplication.

Mandatory Parole

The advisory committee recommends continuation of mandatory parole based on its belief that mandatory parole enhances public safety by insuring inmates receive a supervised transition to community life. Offenders also benefit from the availability of treatment resources and other assistance when leaving prison.

The advisory committee further recommends that data analysis systems be put in place to track the impact of mandatory parole, both to monitor the response of offenders on mandatory parole, and to observe mandatory parole's impact on workloads in the system. This data will provide the basis for a comprehensive evaluation of mandatory parole's effectiveness. The committee recommends that this evaluation occur no earlier than the year 2000, when mandatory parole has been in effect for seven years and adequate data exists to support a viable assessment.

CHAPTER I: PAROLE SYSTEM BACKGROUND

The advisory committee convened by Legislative Council Staff focused its attention on three state agencies involved in Colorado's parole system: the Parole Board, the Division of Adult Parole Services, and the Division of Community Corrections. All three agencies are housed in the Department of Corrections though the Parole board functions autonomously.

This chapter provides some background on each agency's duties, responsibilities, and operations in order to put the following two chapters (Release Hearing Procedures and Recommendations) into perspective.

Parole Board

Size and Composition of Parole Board

The Colorado State Board of Parole consists of seven members who are appointed by the Governor and confirmed by the Senate. Parole Board members perform their duties full-time.

The seven-member board is composed of *two* representatives from law enforcement, *one* former parole or probation officer, and *four* citizen representatives. The statutes require that Parole Board members have knowledge of parole, rehabilitation, correctional administration, the functioning of the criminal justice system, and the issues associated with victims of crime. The statutes further require the three designated Parole Board members (law enforcement and probation representatives) each have at least five years education or experience, or a combination thereof, in their respective fields.

The current formation of the Parole Board has been in place since 1990. Prior to that time, the size, composition, and duties of the board changed somewhat frequently. It is important to note that the Division of Adult Services was not created until 1977. Before that, supervision of parolees was under the umbrella of the Parole Board. Appendix A is a brief history of the Parole Board in Colorado.

Duties and Powers

Hearings of the board. The Parole Board's primary responsibility is to conduct inmate release hearings. Parole Board members conduct four types of hearings:

- **release hearings** — the board, by a single member, considers an inmate's parole application, interviews the inmate, decides whether the inmate should be released on parole, and determines the conditions of parole. This personal interview may be a face-to-face interview or a live telephone or speaker phone

interview at the board's discretion. Release hearings are held at the institution or in the community where the offender is physically incarcerated. If the board member decides to release, the approval by signature is required by an additional board member;

- **full board reviews** — the board meets as a full board to consider all cases involving a violent crime, cases with a history of violence, and all other matters recommended for full board review by board members conducting the release hearing. Four board members constitute a quorum and four affirmative votes are necessary to grant parole;
- **rescission hearings** — the board, by a single member, may suspend an established parole release date upon receipt of information not previously considered by the board, or upon receipt of information reflecting improper conduct by the inmate including disciplinary violations. A rescission hearing is then held by a single board member to determine if a decision to parole should be rescinded prior to the inmate actually going out on parole; and
- **revocation hearings** — revocation hearings are held to determine whether parole should be revoked and whether the parolee should be returned to a DOC facility. A revocation hearing is conducted either by a single member of the Parole Board or by an Administrative Law Judge (ALJ). The single board member or ALJ conducting the hearing also makes the decision to revoke or not.

Statutory duties and administration. The Governor appoints the Parole Board chairperson and vice-chairperson. The statutes direct the chairperson to serve as the administrative head of the board and to assure that board policy and rules and regulations are enforced. The statutes also direct the chairperson to assure that proper calendars for hearings are compiled and that members are assigned to conduct these hearings. The vice-chairperson acts in the absence of the chair and fulfills administrative duties as delegated by the chairperson.

The chairperson also has the following statutory powers and duties:

- to promulgate rules and regulations for granting and revoking parole and for determining the term of parole and release dates;
- to promulgate rules for the conduct of Parole Board members, the procedures for board hearings, and procedures for the board to comply with state fiscal and procurement regulations; and
- to contract with licensed attorneys to serve as administrative hearing officers and to appoint an ALJ to conduct parole revocation hearings.

The Parole Board has the following statutory powers and duties:

- to meet as often as necessary to consider all applications for parole and to conduct parole revocation hearings;
- to place an offender under parole supervision immediately upon release from a correctional facility when, because of the application of time credits, the board is prevented from complying with certain administrative requirements;

- to develop and implement, along with other state criminal justice agencies, a standardized procedure for assessing controlled substance use by offenders; and
- to require, as a condition of parole, sex offender treatment for offenders who have been evaluated and identified as appropriate for treatment.

Division of Adult Parole Services

Statutory Duties and Powers

The Division of Adult Parole Services is responsible for supervising adult parolees who have been released to the community by the Parole Board. The division is organized into four state-wide regions (Denver, Northeast, Southeast, and Western) and operates 12 offices throughout the state. Sixty-five parole officers supervise approximately 3,300 parolees in Colorado. Parole officers are level Ia peace officers and therefore have arrest powers and may carry firearms.

General statutory duties. The Division of Adult Parole Services is statutorily responsible for the following:

- establishing and administering appropriate programs of education and treatment to assist in offender rehabilitation; and
- establishing and maintaining an information unit which includes an appropriate telecommunications system to provide law enforcement agencies accurate supervision information concerning any parolee under the DOC's jurisdiction.

Supervision of parolees. The statutes also outline the responsibilities of parole officers. Whenever a parole officer has reasonable grounds to believe that a parolee has violated a condition of parole, he *may* issue a summons requiring the parolee to answer the charges before the Parole Board. Because the statute gives discretion to the parole officer to decide how to proceed after a suspected parole violation, the administrative procedure after a violation is for the parole officer to meet with a supervisor to decide on a response. Administrative rules provide a range of actions which may be taken by a parole officer:

- take no action;
- verbal reprimand;
- increase the level of supervision;
- refer to community corrections;
- refer to DOC contract beds;
- refer to Intensive Supervision Program (ISP);
- issue a summons; or
- arrest the parolee.

The statutes provide that if the parole officer makes an arrest rather than issuing a summons, the parolee is to be held in a county jail. After completing an investigation, the parole officer has the following options:

- file a complaint with the Parole Board and continue to hold the parolee in the county jail;
- order the release of the parolee and request that any warrant be quashed and that any complaint be dismissed and parole restored; or
- order the release of the parolee and issue a summons requiring the parolee to appear before the Parole Board to answer the charges.

The statutes additionally spell out when a parole officer may arrest a parolee in order to begin revocation proceedings. A parole officer may make an arrest when:

- he or she has a warrant for the parolee's arrest;
- he or she has probable cause to believe that an arrest warrant has been issued for the parolee in this or another state for a crime or for violation of a condition of parole;
- the parolee has committed a crime in the presence of the parole officer;
- the parole officer has probable cause to believe that the parolee has committed a crime;
- the parole officer has probable cause to believe that the parolee has violated a condition of parole, or that the parolee is leaving or is about to leave the state, or that the parolee will fail to appear before the board to answer charges of violations of the conditions of parole; or
- the parolee has been tested for illegal controlled substances and the test was positive.

Parolees and drug testing. The General Assembly has statutorily required that all convicted felons in the criminal justice system be assessed for drug use. As a condition of parole, every parolee is required to submit to random drug and alcohol testing.

The statutes spell out specific parole officer responsibilities when a parolee tests positive for illegal controlled substances. For the *first* positive test, the parole officer may:

- make an immediate warrantless arrest;
- immediately increase the level of supervision including intensive supervision;
- begin random screenings for the detecting illegal controlled substance use, which may serve as the basis for any other community placement; or
- refer the parolee to a substance abuse treatment program.

For a *second* or subsequent positive test for illegal controlled substances, in addition to making an immediate arrest, increasing the level of supervision, or referring the parolee to a substance abuse treatment program, the parole officer may:

- seek parole revocation; or
- increase the number of drug screenings for the presence of illegal controlled substances.

Parolee supervision classification. A final responsibility of the division is to classify inmates in order to determine the level of parole supervision. The division uses a supervision classification instrument which provides parole officers with a tool to develop an appropriate supervision plan and establish and administer appropriate education and treatment programs and other productive activities to assist in offender rehabilitation. Supervision classification tools also provide parole officers with a prediction as to the risk of reoffending while on parole.

Offenders are generally assessed within the first 30 days of their release from prison and are reassessed every six months. The division classifies inmates in four levels: intensive supervision, maximum, medium, and minimum. Under the Intensive Supervision Program, parolees have one personal contact with the parole officer per week, daily phone contact, and weekly urinalysis tests. Under maximum supervision, parolees must have two personal contacts per month. Under medium supervision, parolees have one personal contact per month. Under minimum supervision, parolees have no personal contacts per month. Parole officers are required to prepare one written report per month on each parolee classified at the maximum, medium and minimum supervision levels.

Division of Community Corrections

Statutory Duties and Powers

The Division of Community Corrections in the Department of Corrections is charged with facilitating the reintegration of inmates into society. The division is responsible for the referral, movement, management, and supervision of inmates in residential community corrections programs and the non-residential Intensive Supervision Program (ISP). As part of its duties to transition inmates from the DOC to a community corrections facility, the division is responsible for identifying the appropriate community placement for the inmate. The division is also responsible for presenting cases to the Parole Board when the inmate nears his or her parole eligibility date (PED).

From the DOC to a community corrections facility. DOC case managers identify eligible inmates for referral to a community corrections program and then submit those referrals to the Division of Community Corrections. Nonviolent inmates are referred by DOC case managers to the division 19 months prior to the PED and violent offenders are referred 9 months prior to the PED. Division case managers decide to which community corrections program or board to refer the inmate. If the community board or program accepts the referral, nonviolent offenders may be placed in a community corrections facility 16 months prior to the PED and violent offenders may be placed in a community corrections facility or in an intensive supervision program 6 months prior to the PED.

If the community board or program denies the referral of either a violent or nonviolent offender, the referral is closed and the division case manager waits to submit that case to the Parole Board for parole 90 days prior to the PED. At the PED, the Parole Board either grants or defers parole. An inmate whose parole is deferred may be re-referred back to a community corrections facility.

From a community corrections facility to the Parole Board. After a nonviolent offender has been in a residential community corrections program for six months (16 months for violent offenders), the offender is then presented to the Parole Board on his or her PED. The Parole Board either grants or defers parole. If parole is deferred, the inmate appears before the Parole Board again on the deferral date.

The division is responsible for monitoring the inmate in the community and presenting the case to the Parole Board when the inmate resides in the community program or is in an intensive supervision program. In these cases, the division presents the criminal history, the risk assessment forms, DOC institutional information, victim issues, and any special information such as medical issues. The division is also responsible for presenting cases to the Parole Board when the inmate has been granted parole from a community corrections facility and the board has called for a rescission hearing because of a Code of Penal Discipline violation.

In addition, the DCC is responsible for presenting cases to community corrections boards and programs when the Parole Board revokes parole and sends the parolee to community corrections.

CHAPTER II: RELEASE HEARING PROCEDURES

The statutes identify three objectives of the Parole Board when placing an offender on parole: (1) punish a convicted offender by assuring that length of incarceration and the parole supervision are in relation to the offense committed; (2) assure fair and consistent treatment of all convicted offenders by eliminating unjustified disparity in length of incarceration, and establishing fair procedures for the imposition of a period of parole supervision; and (3) promote rehabilitation by encouraging the successful reintegration of offenders into the community while recognizing the need for public safety.

Eligibility

The Parole Board may parole any person sentenced or committed to a correctional facility when there is a strong and reasonable probability that the person will not thereafter violate the law and when the release of such person from prison is compatible with society's welfare. Colorado law provides that any person sentenced for a class 2, class 3, class 4, class 5, or class 6 felony, or any unclassified felony, is eligible for parole after serving 50 percent of the imposed sentence, less earned time. Assuming an inmate earns 100 percent of allowable earned time, the earliest possible parole date is after serving 38 percent of the sentence. (Inmates may not reduce their sentence through earned time by more than 25 percent.)

Offenders convicted of more serious violent crimes, however, are not eligible for parole after serving 50 percent of their sentence. Certain violent offenders must serve 75 percent of their sentence, less earned time; these include those convicted of:

- second degree murder;
- first degree assault;
- first degree kidnaping unless the first degree kidnaping is a class 1 felony;
- first or second degree sexual assault;
- first degree arson;
- first degree burglary;
- aggravated robbery, and
- a prior crime which is a crime of violence as defined in Section 16-11-309, C.R.S.

The following crimes are included in the list of crimes of violence:

- any crime against an at-risk adult or at-risk juvenile;
- murder;
- first or second degree assault;
- kidnaping;
- sexual assault;
- aggravated robbery;
- first degree arson;

- first degree burglary;
- escape; or
- criminal extortion.

“Crime of violence” also means any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim. It should be noted that class 1 felony offenders are not eligible for parole.

Any offender convicted and sentenced for a crime enumerated above who twice previously was convicted for a crime which would have been a crime of violence is eligible for parole after serving 75 percent of the sentence, but no earned time is granted.¹

Table 1 illustrates the earliest possible parole date, based on the sentence imposed versus the time served when parole is denied. Both the 50 percent and 75 percent thresholds are illustrated. The table assumes that offenders earn 100 percent of their earned time, which is ten days per month.

Table 1: Overview of Earliest Possible Parole Eligibility Date (PED)

Sentence / Years	Assumes Offender Eligible After Serving 50% of Sentence, Less Earned Time		Assumes Offender Eligible After Serving 75% of Sentence, Less Earned Time		Maximum Time Served — Assumes Parole Denied and 100% Earned Time	
	Total Earned Time, Years	Earliest Possible PED, Years	Total Earned Time, Years	Earliest Possible PED, Years	Total Earned Time, Years	Discharge Date, Years
1	0.12	0.38	0.19	0.56	0.25	0.75
5	0.62	1.88	0.93	2.82	1.25	3.75
10	1.24	3.76	1.86	5.64	2.50	7.50
15	1.86	5.64	2.78	8.47	3.75	11.25
20	2.47	7.53	3.71	11.29	5.00	15.00
25	3.09	9.41	4.64	14.11	6.25	18.75
30	3.71	11.29	5.57	16.93	7.50	22.50
35	4.33	13.17	6.49	19.76	8.75	26.25

¹ As of November 1, 1998, the parole of sex offenders will be governed by the “Colorado Sex Offender Lifetime Supervision Act of 1998,” codified at Section 16-13-806, C.R.S. Among other things, the legislation sets a minimum parole period of 20 years for a sex offender convicted of a class 2 or 3 felony, and a minimum of 10 years for a sex offender convicted of a class 4, 5, or 6 felony. A sex offender can be placed on parole for the remainder of his natural life if the Parole Board believes indefinite supervision is necessary to protect public safety.

Pre-Parole Procedures

All eligible inmates are scheduled to be seen by the Parole Board at least 90 days prior to their parole eligibility date. The Department of Corrections (DOC) Time Release Operations staff is responsible for advising the Parole Board of inmates eligible for Parole Board review. The Parole Board staff prepares a monthly calendar, scheduling board member visits to facilities around the state in a manner that allows all eligible inmates to receive a timely release hearing.

Before an inmate can be released from a DOC facility or community corrections program, the inmate must have a parole plan that details where he or she will live and work, and who will be responsible for the inmate upon release. DOC case managers are responsible for preparing an inmate's parole plan. The plan then is submitted to the Division of Adult Parole Supervision for investigation by parole officers. A parole officer in the appropriate regional office is assigned to verify information in the parole plan. Ideally, the parole officer visits the inmate's proposed residence, employer, family members, and all other persons identified as potential parole resources. The investigation must be completed within 15 days of the plan's receipt by the division.

The timing for presenting a parole plan to the division varies depending on whether an inmate qualifies for early parole plan investigation. When an inmate approaches his or her parole eligibility date, the inmate's DOC case manager must evaluate the inmate according to a predetermined set of criteria and decide whether or not the inmate qualifies for an early parole plan investigation. The criteria vary slightly depending upon whether the inmate is a violent or a nonviolent offender.

In order to be eligible for an early parole plan investigation, a nonviolent offender must not have been convicted of a class 1 or 2 felony; must have no weapons charge convictions; must have no Class 1 Code of Penal Discipline convictions; must be within 24 months of discharge or serving less than a 24-month sentence; and release to mandatory parole must be within six months of the parole hearing.

The criteria for a violent offender includes some additional requirements including the following: the inmate must be classified at the medium security level or lower; must be within 12 months of discharge at the time of the hearing; must have no Class 1 Code of Penal Discipline convictions in the previous six months; and must not score in the high risk range on the Risk Assessment Scale. If the inmate meets the applicable criteria, the case manager will move ahead and submit the parole plan to the division 90 days prior to the inmate's parole hearing. The Parole Board then will have a case summary and an approved parole plan to review when the inmate attends his or her release hearing.

The purpose of setting guidelines for the development of the early parole plan investigation is to eliminate pre-parole work on offenders not likely to be paroled. An inmate who does not qualify for an early parole plan investigation will appear before the Parole Board without an approved plan. The board will review the inmate's file, hear from the inmate's case manager, and make a determination of whether parole will be granted. If

the board grants parole, it will table the inmate's parole pending an investigation of the parole plan. The division again has 15 days from receipt of the plan to complete its investigation. The Parole Supervision Division reports to the Parole Board Chair whether or not it is approving the plan, and the Parole Board in turn notifies the DOC whether a release is to take place.

Parole Release Hearings and the Decision-Making Process

While the sequence of events after a parole hearing differs depending on whether an inmate receives an early parole plan investigation, the release hearing procedures are the same in either case (plan or no plan). One board member will hear the inmate's case for parole, as presented by the facility case manager who prepared the inmate's parole plan; the board member may ask questions of both the case manager and the inmate. The parole release hearing is conducted at the correctional institution or community corrections facility where the inmate is housed. The average release hearing lasts 30 minutes.

The Parole Board considers a number of variables when deciding whether to release an inmate to parole: the inmate's criminal record; the nature and circumstances of the offense for which the inmate was committed to the DOC; the inmate's behavioral history while incarcerated; participation in treatment and programs; and current psychological and medical evaluations. The Parole Board also must look at the inmate's risk assessment score (explained in the next section) and apply the current parole guidelines, as set out in statute.

Risk Assessment Scale

Both the statutory parole guidelines and the risk assessment instrument were created pursuant to House Bill 87-1311, which established the Colorado Parole Guidelines Commission (CPGC) to oversee the development and implementation of parole guidelines. The CPGC was staffed by the Division of Criminal Justice and comprised of nine members: the State Attorney General (chair); the Chair of the State Parole Board; the executive directors of the Department of Corrections and the Department of Public Safety; a citizen representative; a county sheriff; a state parole officer; the chairperson from a local Community Corrections Board; and the Director of the Division of Criminal Justice (ex officio).

The CPGC's mission was to formulate risk criteria, including needs assessment, designed to ensure consistency in inmate releases and provide the foundation for a parole process that protects the public interest. The commission carried out its charge by developing an empirically-based risk assessment tool to be used to assist the Parole Board in making informed release decisions.

The Division of Criminal Justice assisted the commission in formulating a risk assessment instrument that would express and apply board policy in a consistent, objective manner. The Division of Criminal Justice, working under a research grant from the National Institute of Justice, developed and tested the "Colorado Parole Actuarial Risk Assessment

Scale.” Actuarial risk assessment uses statistical data compiled on the general population to create consistent and accurate client risk groups. Statistical predictions of behavior sort individual offenders into subgroups that have different rates of repeat offenders, and can be used to identify offenders who fall into “high risk” subgroups. Individual behavior, or future offending, is not being predicted. Instead, the statistical risk tool predicts an individual’s membership in a subgroup that is correlated with future offending. The information obtained from the actuarial risk assessment tool is one of five factors considered by the Parole Board in the parole release decision-making process established by the CPGC. The factors are discussed in the following section.

Parole Guidelines

The CPGC was mandated to develop parole guidelines where risk was the first factor among others considered by the Parole Board.

The CPGC identified five components critical to the release process:

1. risk as determined by the actuarial scale;
2. time served on current sentence, according to the presence of aggravating or mitigating circumstances;
3. institutional behavior, defined as a recent Class 1 Code of Penal Discipline violation;
4. institutional treatment participation and corresponding needs on parole; and
5. case manager and other input.

Component 1 – risk score. As discussed in the previous section, the Division of Criminal Justice developed an empirically-based risk factor scale to be used as a decision-making tool for offender risk in the community. The designated cutoff scores and subsequent categories of risk were set by the CPGC based on empirical analysis of actual Colorado offender recidivism data.²

Component 2 – time served on sentence. Although the parole guidelines legislation explicitly identifies public safety as the primary release consideration, it also provides the policy basis for including a punishment consideration in the release decision. It does this by allowing board members to consider the presence of aggravating or mitigating circumstances associated with the current offense. Length of time left to serve in prison is then structured by the guidelines to correspond with the presence or absence of these circumstances.

² See Appendix B, “Colorado Actuarial Risk Assessment Scale”.

The parole guidelines law sets out nine mitigating factors the board may consider when deciding whether to parole an inmate:

- offender passive/minor participant in the crime;
- victim precipitated crime or somehow provoked it;
- substantial justification for offense;
- crime committed under duress or coercion;
- no past record or a long crime-free period;
- offender voluntarily acknowledges wrongdoing;
- family obligations including hardship on dependents; and
- attempted compensation to the victim.

The presence of one or more mitigating factors can result in an earlier release date provided there are no aggravating circumstances associated with the current crime.

The parole guidelines legislation lists 15 aggravating factors. The Parole Board divides the factors into two categories: first degree aggravation and second degree aggravation. First degree factors are most likely to result in a delayed release. First Degree aggravating factors include:

- serious bodily injury and high degree of cruelty;
- armed with deadly weapons;
- multiple victims;
- particularly vulnerable victims;
- victim is official authority;
- pattern of violent conduct;
- on parole or probation for another felony at commission; and
- in confinement or on escape status at commission.

Second degree factors may delay release, but for a shorter period. Second degree aggravating factors include:

- offender induced others in commission of offense;
- offender took advantage of a position of trust;
- offender paid to do the crime;
- crime was premeditated;
- crime was drug or contraband related;
- offender was on bond for previous felony during commission; and
- offender has increasingly serious convictions, juvenile or adult.

Component 3 – institutional conduct. Institutional behavior is included in the release criterion because it provides a means of recognizing behavioral problems and also provides a tool for institutional management. An inmate may meet other criteria but still have his release delayed for poor institutional behavior.

The guidelines require extending prison time for inmates who have incurred a Class 1 violation of the Code of Penal Discipline within the previous two years. Class 1 violations include the following acts, perpetrated during incarceration:

- murder;
- manslaughter;
- kidnaping;
- assault;
- escape with force;
- escape without force;
- engaging in a riot;
- inciting to riot;
- rape;
- arson;
- robbery/extortion;
- possession of dangerous contraband;
- dealing in dangerous drugs;
- possession of key or key pattern;
- possession of escape paraphernalia; and
- tampering with locks or security devices.

Specifically, the release date is extended 90 days if a conviction for a class 1 disciplinary infraction occurred within the last six months. Sixty days are added to the release date if a disciplinary code conviction occurred from six to 24 months before the release date.

Component 4 – treatment/rehabilitation needs. Treatment needs and program participation are a necessary release consideration because they pertain to risk control. Addiction to drugs or alcohol, illiteracy, proneness to violence, sexual deviancy, and related problems affect an offender's ability to function satisfactorily on parole. Both the prison system and corrections agencies in the community have limited access to programs, services, and other resources. Availability of such resources may enhance the parole process for some offenders. For other offenders, access to services may be essential for controlling recidivism.

This criterion was adopted because the Parole Board must know if offenders have attempted to address their problems during the present incarceration, if appropriate programs were available to them, and if progress was achieved. When an offender's needs suggest a parole risk, the guidelines advise that the board apply special conditions of parole which address particular needs. The guidelines suggest that release be postponed if the offender shows a critical need and had limited or no program participation.

Treatment and needs information is obtained from data systematically recorded in the prison file and also from information provided by the prison's mental health division and the inmate's case manager. Concurrently, information is provided to the Parole Board by the case manager concerning the extent of anticipated treatment needs during the offender's parole period.

Component 5 – Additional information. Input from the prison case manager, the victim, the offender, and other parties is an important source of information for the release decision. Specifically, the guidelines advise that the source of information be tied to three release considerations: aggravating/mitigating factors, prison program participation, and the parole plan. For example, a victim may request that the offender not be allowed to enter the victim's county of residence. This consideration may then become a formal component of the parole plan, as directed by the guidelines.

Options Available to the Parole Board

The Parole Board has several options available after listening to the case manager's report and reviewing all of the required materials: grant parole, defer parole, table the case, or send the case to the full Parole Board for review. The inmate also can exercise his right to waive the parole hearing.

Grant parole. The Parole Board, after reviewing an inmate's file, hearing from the case manager, and interviewing the inmate at the release hearing, may decide to grant the inmate parole. The board then sets any special conditions of parole. These include, but are not limited to, treatment programs to be completed by the inmate; limitations on travel, alcohol intake, or contact with certain parties; electronic monitoring or check-in with the day reporting center; and a prohibition on checking accounts or other credit devices.

According to statistics from the Colorado Board of Parole Annual Report for the Year 1996-97, the board conducted 13,087 application-for-release hearings in FY 1996-97. Of the total, 3,273 (25 percent) inmates were granted parole. The total number of application hearings reflects the actual number of hearings scheduled; therefore, inmates whose parole was deferred or who waived a hearing may be counted more than one time in the total figure.

Defer parole. The Parole Board also may defer an inmate's parole for a period of time; deferral periods typically range from three months to 12 months. A few inmates may be deferred up to three years.³ Three to six-month deferrals usually are given so an inmate can complete a treatment program or finish a General Educational Development program. Also, there are times when a deferral for treatment is necessary because the inmate must be moved to a different facility to complete the needed programs. According to Saul Trujillo, Chairman of the Colorado Parole Board, a deferral of six months or less generally is a deferral for treatment purposes.

³ If the inmate applying for parole was convicted of a class 1 or class 2 crime of violence, as defined in Section 16-11-309, C.R.S., any class 3 sexual offense described in part 4 of article 3 of title 18, C.R.S., a habitual criminal offense as defined in Section 16-13-101 (2), C.R.S., or of any offense subject to the requirements of Section 16-13-203, C.R.S., the board need only reconsider granting parole to such inmate once every three years, until the board grants such inmate parole or until such inmate is discharged pursuant to law.

When parole is deferred, the Parole Board is to provide an inmate a list of things the inmate must do in order to be granted parole at the next review. The inmate's future eligibility may be conditioned on completion of the enumerated items.

According to statistics from the Colorado Board of Parole Annual Report for FY 1996-97, of the 13,087 application-for-release hearings conducted, 6,021 (46 percent) inmates had their parole deferred. The Parole Board currently does not keep statistics on the reasons for deferral nor does it record the length of deferrals or the outcome of a second or subsequent parole hearing.

Tabled parole. The Parole Board may find it necessary to table a parole decision until additional information is available. Most often, a parole is tabled pending the investigation of a parole plan.

According to Parole Board Chairman Saul Trujillo, the reasons for tabling a parole include the following: the plan has not yet been sent to the Division of Adult Parole Services for investigation (approximately 10 percent of the cases); the plan is out pending investigation (approximately 40 percent of the cases); there have been multiple plans and they have been denied, so the parole officer and the case manager are working on an acceptable plan (approximately 50 percent of the cases); or the case is an interstate case and it can take six months or more to have a plan approved (the remaining few cases).

Currently, no agency tracks how many paroles are tabled or the reasons why.

Full board hearings. Full board hearings are held when:

- the inmate was convicted of a crime of violence, defined by Parole Board policy to include all Section 16-11-309, C.R.S., crimes of violence (see page 15 and 16 of report for listing of crimes of violence);
- the inmate was committed for a class 1, 2, or 3 felony, or a violent class 4 felonies;
- the inmate has a history of violence exemplified by previous violent crimes; or
- the inmate has demonstrated a propensity for violence while incarcerated (by assaulting staff, for example).

Full Board hearings are conducted by at least four members who constitute a quorum. Four affirmative votes are necessary to grant parole. Also, a board member may bring to the full board any case that he or she wishes to have reviewed and voted on by the entire board.

Full board hearings are held every Friday at the Parole Board's Pueblo headquarters and they are open to the public. According to Parole Board Chairman Saul Trujillo, an average of 28 full board hearings are held weekly; each hearing takes approximately 15 to 20 minutes to complete.

Waived hearings. A final option, which is exercised by an inmate rather than by the Parole Board, is to waive a parole hearing. The inmate must sign a release form indicating his desire to waive the hearing and remain incarcerated.

The Colorado Board of Parole Annual Report for FY 1996-97 states that of the 13,087 release hearings held, a total of 3,398 (26 percent) ended when the inmate waived his right to receive a hearing at that time. Currently, neither the DOC nor the Parole Board records the reason an inmate waives his hearing.

According to Parole Board Chairman Saul Trujillo, Parole Board members have identified the following as typical reasons inmates waive a parole hearing:

- the inmate does not want to be placed on parole and would prefer to serve the time until his discharge in a DOC facility⁴;
- the inmate has waived his parole hearing in order to go into community corrections where he can earn money and receive treatment;
- the inmate waives his hearing to get into the Intensive Supervision Program;
- the inmate waives his hearing in order to complete a treatment program; and
- the inmate has nowhere to go and no resources in the community.

The Citizens United for the Rehabilitation of Errants (CURE) representative on the Parole Study Advisory Committee disagreed with the Parole Board's explanation for waived paroles. Diane Tramutola-Lawson opined that the main reason inmates waive their right to parole hearings is because they are discouraged by the frequent setbacks issued by the Parole Board. She described inmates as declining their right to parole hearings because they anticipate receiving deferrals and having new conditions imposed on their release as a result. Additionally, she related that some inmates report that DOC case managers discourage inmates from going to their parole hearings by telling them they will be denied parole if they go, and may as well waive their right to be heard.

Suspension and Rescission of Parole Board Action

Occasionally, there is a significant change in an inmate's behavior in the period after the Parole Board has granted a release, but before the release takes place. DOC administrative regulations define a significant change as the following: a detainer⁵ has been received, or a warrant filed, since parole was granted; the inmate has been charged with or convicted of a Class 1 or II disciplinary code violation; the inmate has been convicted of an

⁴ For convictions after July 1, 1993, when mandatory parole went into effect, an inmate no longer can "burn" his sentence in a DOC facility; instead, every inmate convicted after July 1, 1993, will serve time on parole.

⁵ A detainer is an order issued by a law enforcement agency, authorizing the DOC to hold an inmate. Law enforcement agencies issue detainers so that an offender can be held to answer charges other than those for which the inmate was in prison.

additional felony rendering moot the parole eligibility on which the parole decision was based; the pre-parole plan that existed at the time of the board's decision to parole is no longer appropriate; or, the inmate is denied for a community corrections placement which was one of the parole conditions.⁶

In such a case, DOC regulations allow a facility superintendent or a community corrections officer to initiate a suspension and rescission of the inmate's release on parole by filing a "request for suspension of parole board decision" form. The Parole Board then issues a "parole suspension order," which is served on the inmate. The inmate may request a hearing on the suspension. If parole is rescinded, the board may establish a new release date at that time.

Release to Parole

When the Parole Board approves an inmate for release, DOC Release Operations is responsible for notifying the facility, the Division of Community Corrections, and the Division of Adult Parole Supervision. Release Operations also conducts a final check for outstanding warrants, since often other jurisdictions will not issue detainers or warrants until notification is received of the inmate's pending release. In the meantime, DOC facility staff begins the two-week-long process of preparing the inmate for release. Prior to his release, the inmate will be given an identification card, clothes, and \$100 for transportation and other necessities.

Types of Parole

Discretionary Parole. Any person sentenced for a felony committed prior to July 1, 1993, is eligible for discretionary parole. When such an inmate applies for parole, the Parole Board conducts a hearing to determine whether to grant parole and, if parole is granted, the board sets the length of parole for any time period up to the date of final discharge.

Mandatory Parole. Mandatory parole applies to any person sentenced for a felony committed on or after July 1, 1993. The mandatory parole sentence is based on the felony class for which the offender was convicted. Table 2 summarizes the prison sentence and mandatory parole sentence for each felony class.

⁶ Colorado Department of Corrections, Administrative Regulation Number 1250-24, Adult Parole Supervision: Pre-Parole Investigations, Effective Date: November 1, 1997.

Table 2: Prison and Mandatory Parole Sentences

Felony Class	Minimum Sentence	Maximum Sentence	Mandatory Period of Parole
1	Life	Death	None
2	Eight years imprisonment	Twenty-four years imprisonment	Five years
3	Four years imprisonment	Twelve years imprisonment	Five years
4	Two years imprisonment	Six years imprisonment	Three years
5	One year imprisonment	Three years imprisonment	Two years
6	One year imprisonment	Eighteen months imprisonment	One year

The mandatory period of parole begins immediately upon the offender's discharge from imprisonment in the custody of the DOC. An offender is deemed to have discharged his sentence when the Parole Board grants his release to parole supervision. An offender sentenced for nonviolent felony offenses may receive earned time while serving a mandatory parole period; however, earned time is not available while an offender is reincarcerated after parole revocation.

Mandatory parole may not be waived by the offender, or waived or suspended by the court, and is subject to statutory provisions which permit the Parole Board to discharge the offender at any time during the term of parole upon a determination that the offender has been sufficiently rehabilitated and reintegrated into society and can no longer benefit from parole supervision.

Revocation Hearings

Revoking an inmate's parole necessitates interaction between the Division of Adult Parole Services and the Parole Board. The Division of Adult Parole Services is responsible for monitoring the inmate while in the community on parole and for reporting that inmate to the Parole Board when the inmate violates a condition of parole. The Parole Board is responsible for providing the inmate with a hearing and deciding whether the inmate should remain on parole. However, the lack of revocation guidelines and the lack of a parolee supervision classification system that has been validated specifically for Colorado's parole population causes problems when the two entities interact.

According to a report of the State Auditor dated July 1998, the classification system used by the division, the Wisconsin System, overclassifies parolees. As a result, over 90 percent of parolees are classified as maximum risk parolees on initial risk assessments. The Wisconsin System does not appear to distinguish between parolees who need more intense monitoring and treatment and those who do not.

This overclassification has a direct effect on the relationship between the Parole Board and the division and has a direct effect on the workload of the Parole Board in the way of revocation hearings. Overclassification means a greater level of supervision which most likely results in more revocation proceedings. More importantly, the supervision classification instrument used by the division is not in line with the revocation policies of the Parole Board. This lack of coordination results in a Parole Board seeing parolees in revocation hearings it does not feel it needs to review. It also results in a division that feels the Parole Board is jeopardizing public safety by not revoking all of the parolees referred to the board.

Parole officers and the revocation process. Parole officers are generally the starting point for the revocation process. Statutes dictate that a parole officer may arrest a parolee for specific reasons (see page 10).

Pursuant to administrative regulations of the Parole Board, revocation complaints filed by parole officers are either mandatory or discretionary. When a parolee commits certain offenses, the parole officer is required to file a complaint in order to begin revocation proceedings (this does not mean the offender's parole is required to be revoked). For other offenses, the parole officer uses discretion in deciding whether to begin revocation proceedings.

Mandatory complaint offenses include the following:

- possession or use of a firearm or deadly weapon;
- an arrest and charge for any felony;
- a crime of violence as defined in 16-1-104 (8.5), C.R.S.⁷;
- a misdemeanor assault involving a deadly weapon or resulting in bodily injury to the victim;
- third degree sexual assault ;
- refusal to submit to urinalysis to determine the presence of drugs or alcohol;
- an arrest and charge or conviction for any misdemeanor offense against the person;

⁷ "Crime of violence" means a crime in which the defendant used, or possessed and threatened the use of, a deadly weapon while committing or attempting to commit a crime against an elderly person or a person with a disability. A "crime of violence" also includes a crime of murder, first or second degree assault, kidnaping, sexual assault, robbery, first degree arson, first or second degree burglary, escape, or criminal extortion or an offense in which the defendant, during the immediate flight therefrom, caused serious bodily injury or death to any person while committing or attempting to commit any such felony. "Crime of violence" also means any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim.

- an arrest and charge or conviction for any other misdemeanor offense relating to assault, robbery, alcohol, possession or use of controlled substance, or arson;
- failure to make an initial report to a parole officer upon release to parole supervision;
- absconding from parole supervision; and
- failure to make restitution payments in accordance with DOC policy governing restitution ordered by the Parole Board.

Parole officers have the discretion to file or not to file a complaint for parole violation, based on the circumstances, that do not require mandatory action. Administrative regulations provide that discretionary decisions are determined on a case-by-case basis. Such discretionary decisions are made for offenses including but not limited to the following:

- technical parole violations such as failure to file a change of address, refusing to allow a search, or refusing to comply with a special condition of supervision;
- a positive test for the presence of drugs or alcohol; and
- charges or convictions for alcohol-related offenses (except DUI, DWI, or DWAI), municipal code violations, class 1 or 2 traffic offenses, or misdemeanors which are not crimes against persons and are not otherwise subject to a mandatory arrest.

In making a discretionary decision to file or not to file a complaint for a parole violation, parole officers are required to consider several factors:

- the offender's risk assessment data;
- prior arrests or technical parole violations;
- the history of prior parole or probation failures;
- a pattern or repetitive criminal behavior;
- a history of alcohol/drug use and dependency;
- the likelihood of positive response to counseling/treatment for the observed behavior problems;
- the availability of appropriate community treatment resources;
- family needs and employment status; and
- sentencing structure and the expiration of the sentence.

When a parolee is in custody or the parolee was arrested and then released, the revocation hearing is to be held "within a reasonable time" not to exceed 30 days after the arrest. If the parolee was issued a summons, the final hearing is to be held within 30 working days from the date the summons was issued.

When a parolee has been arrested for a criminal offense and is being held in a county jail, the parole officer is to file a complaint alleging the criminal offense as a violation of parole. The parole officer then advises the board of any pending criminal proceeding and requests that a parole revocation proceeding be deferred pending a disposition of the criminal charge.

The Parole Board and revocation hearings. Statutes and administrative regulations provide that parole hearings are to be conducted by a single Parole Board member or by the ALJ. In practice, the ALJ conducts nearly all revocation hearings in the state, approximately 87 percent. The board member or the ALJ has the authority to issue subpoenas upon request of the parolee, the parole officer, or the district attorney and also has the authority to deny a request for a subpoena when the evidence would be irrelevant to any material issue involving the parole revocation or would be unduly burdensome.

During the hearing, the board member or ALJ advises the parolee of his or her statutory rights. After explaining the plea options to the parolee, the board member or ALJ requests a separate plea for each count of the complaint. If the parolee enters a plea of "not guilty," witnesses are sworn in and the burden of proof is on the DOC to prove each count of the complaint. If the parolee enters a plea of "guilty," the DOC presents aggravating or mitigating factors and the parolee presents mitigating factors. If the alleged violation is technical in nature, the burden of proof is by a preponderance of the evidence. If the alleged violation is criminal in nature, the burden of proof is beyond a reasonable doubt.

The board member or ALJ then makes a verbal or written finding of facts and may take five days to make a decision. In general, if the board member or ALJ determines that the parolee committed a condition of parole violation he or she may either revoke the parole, continue the parole in effect, or continue the parole with modified parole conditions. If parole is revoked, the board member or ALJ is required to provide the parolee with a written statement of the evidence relied on and the reasons for revoking parole. Specifically, the board member or ALJ may make a decision as follows:

- if the board member or ALJ determines that the parolee has violated parole by committing a crime, the board member or ALJ may revoke the parole and have the parolee transported to a place of confinement designated by the DOC Executive Director;
- if the board member or ALJ determines the parolee violated any condition of parole, other than a new crime, he or she may:
 - revoke parole and have the parolee confined in a place designated by the executive director; or
 - revoke parole for a period of up to 180 days and place the offender in a community corrections program, a DOC facility, or any private facility under contract to the DOC; or
 - revoke parole for up to 90 days and confine the parolee in a county jail or in a private facility under contract to the DOC; and
- when the board member or ALJ finds the parolee guilty of the mandatory complaint charge but decides not to revoke parole, the decision is reviewed by two other members of the board within 15 days of the original decision. The two other members may overturn the original decision and order the parole revoked.

Scheduling revocation hearings and travel. Because revocation hearings for summonsed or arrested parolees are to be held within 30 days after arrest or issuance of the summons, scheduling revocation hearings and the travel time to and from those hearings becomes an important issue.

Approximately 87 percent of the 3,285 revocation hearings held in FY 1996-97 were conducted by the Parole Board's ALJ. The ALJ lives in Denver and is responsible for holding revocation hearings in jurisdictions along the Front Range. Parole Board members hold revocation hearings on the Western Slope, the Eastern Plains, and in the Southern Valley of the state. Since the bulk of parolees and thus the bulk of revocation proceedings are in jurisdictions along the Front Range, revocation hearings along the Front Range are held on a monthly schedule as follows:

- Denver — every first and third Monday and every Thursday and Friday;
- Colorado Springs — every Monday;
- Pueblo — every other Tuesday;
- Fort Collins and Greeley — every other Tuesday;
- Boulder — every first and third Wednesday;
- Brighton — every second and fourth Wednesday;
- Golden — every Wednesday; and
- Englewood — every other Friday.

Revocation hearings in the remaining jurisdictions are conducted by a Parole Board member and are calendared so they can be held on the same day as already scheduled parole release hearings. These revocation hearings may not necessarily be held in the same jurisdiction as the release hearing but may be in a jurisdiction that is on the same travel route. Scheduling revocation hearings conducted by a Parole Board member is complicated by the time limits in which revocation hearings must be held. There are occasions when a revocation hearing cannot be calendared until more than 30 days after arrest or summons because of the remote location or because there is no scheduled release hearing in the same geographic area. Statute provides that the revocation hearing may be delayed for good cause and hearings are sometimes delayed for these reasons.

Workload Projections for the Parole Board Under the Current System of Operation

Parole Board members conduct release, rescission, and revocation hearings, and also consider waivers. This section of the report will address each type of hearing and the projected increase in the number of hearings.

The driving factor for the Parole Study is the increasing workload for the board and the belief the workload will continue to climb. The DOC's prison and parole population is projected to increase substantially over the next seven years, consequently the number of parole hearings conducted by the Parole Board will increase. The current staff of the Parole Board is 13.0 FTE (full-time employees) — 7.0 FTE Parole Board members, 1.0 FTE ALJ, and 5.0 FTE support staff.

Legislative Council Staff estimates that by FY 2003-04, an additional 11.5 FTE will be needed — 6.1 FTE Parole Board members, 1.6 FTE ALJ, and 3.8 FTE support staff. This is a staff increase of 88 percent. The projections assume the Parole Board does not change its current system of operation. Table 3 summarizes the projected workload increase, by fiscal year and hearing type, through FY 2003-04. (Appendix C provides additional background information regarding the projected workload, including all assumptions.

Table 3: Estimated Increase in Parole Board Workload - FY 1997-98 to FY 2003-04							
Based on Parole Board's Current System of Operation							
	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
PAROLE BOARD MEMBER WORKLOAD							
Estimated Release Hearings	10,581	11,753	13,092	14,389	15,547	16,678	17,642
Estimated Rescission Hearings	41	45	45	45	45	45	45
Estimated Revocation Hearings	449	520	624	728	822	917	997
Estimated Full Board Hearings	988	1,068	1,120	1,244	1,335	1,417	1,520
Total Number of Hearings	12,059	13,386	14,881	16,406	17,749	19,057	20,204
Total Hours Required	0	0	0	0	0	0	0
Total Board Members Required ^(a)	7.0	7.9	8.8	10.0	11.0	12.0	13.1
ADMINISTRATIVE LAW JUDGE WORKLOAD (ALJ)							
Estimated Revocation Hearings	3,008	3,482	4,178	4,869	5,503	6,138	6,674
Total Hours Required	1,504	1,741	2,089	2,435	2,751	3,069	3,337
Total ALJ's FTE Required ^(a)	1.2	1.4	1.6	1.9	2.2	2.4	2.6
SUPPORT STAFF WORKLOAD							
Projected Number of Hearings	18,588	20,659	23,223	25,684	28,007	30,139	32,001
Total Support FTE Required ^(a)	5.1	5.7	6.4	7.1	7.7	8.3	8.8

**Table 3: Estimated Increase in Parole Board Workload -- FY 1997-98 to FY 2003-04
Based on Parole Board's Current System of Operation**

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
TOTAL PROJECTED PAROLE BOARD STAFF NEED							
Total Parole Board Projected FTE	13.3	15.0	16.8	19.0	20.9	22.7	24.5
Current Parole Board FTE	13.0	13.0	13.0	13.0	13.0	13.0	13.0
ADDITIONAL STAFF REQUIRED	0.3	2.0	3.8	6.0	7.9	9.7	11.5

Assumptions:

- (1) Assumes 1,270 hours are available for hearings per board members. Assumes each board member spends 446 hours traveling annually and 104 hours annually on administrative tasks. Also assumes 0.4 FTE are required annually for Parole Board Chairman activities.
- (2) Assumes 1,268 hours are available for hearings per ALJ. Assumes each ALJ spends 446 hours traveling annually and 104 hours annually on administrative tasks.
- (3) Assumes 3,630 hearings per FTE.

Factors Impacting the Workload Increase

A number of factors impact the projected Parole Board workload increase. Primarily the number of release hearings, revocation hearings, full board hearings, requests for waivers, and rescission hearings are projected to increase. This is directly related to the increasing prison population. A discussion of each type of hearing and Legislative Council Staff's projected increase follows.

Release hearings. Table 4 provides data on historical and projected release hearings. Release hearings are conducted by one or two board members to determine if and when an offender should be granted parole. As Table 4 indicates, the actual number of release hearings increased by 126 percent (or 5,900 hearings) from FY 1990-91 to FY 1997-98. From FY 1997-98 to FY 2003-04 release hearings are expected to increase by 67 percent (or 7,061 hearings). It's interesting to note the percentage increase for latter years is smaller (67 percent compared to 126 percent), but the number of additional hearings is greater (7,061 as compared to 5,900). The percentage increase is higher in the earlier years because the increase is being applied to a smaller base. It is estimated that 4.6 FTE additional Parole Board members would be required to handle the additional 7,061 hearings.

The three primary factors influencing the increasing hearing projections include: (1) the board's policy on accelerated rehearings of deferred cases; (2) the impact of House Bill 93-1302's mandatory parole requirement for all inmates released from prison; and (3) the projected increases in Department of Corrections (DOC) inmate populations.

The board adopted a policy in FY 1995-96 to rehear deferrals on inmates convicted of nonviolent offenses within six to eight months. The previous practice, and that directed by statute, was to rehear deferrals at least annually. The average deferral time was 11 months. For FY 1995-96 through FY 1997-98, it is estimated the board policy has resulted in 4,927 additional hearings. The board policy has resulted in approximately 2,192 additional hearings for FY 1997-98. This is expected to increase to 5,000 additional hearings by FY 2002-03.

HB 93-1302 instituted mandatory parole which has had a direct impact on the parole population. Prior to the passage of HB 93-1302, approximately 55 to 65 percent of DOC inmates were released to parole; whereas now 100 percent of offenders convicted of a crime committed after July 1, 1993 are required to be released to parole. Legislative Council Staff estimates that mandatory parole will account for 5,996 additional parolees by FY 2003-04. (This number includes absconders, and parolees released to other states.) More parolees impact the board workload in two areas: (1) increased release hearings as offenders can no longer bypass the Parole Board by serving their entire sentence; and (2) increased revocation hearings.

The third area impacting workload is the DOC prison population. At the end of FY 1997-98, the prison population stood at 13,663 inmates. This number is expected to increase to 19,576 inmates by year-end 2003-04 — an increase of 5,913 inmates or 43.3 percent. Clearly, an increased DOC inmate population means the Parole Board must conduct additional release hearings.

Table 4: Historical and Projected Release Hearings

Fiscal Year	Release Hearings	Number Change	Percent Change
FY 90-91	4,681	N/A	N/A
FY 91-92	4,988	307	6.6%
FY 92-93	5,591	603	12.1%
FY 93-94	6,393	802	14.3%
FY 94-95	7,302	909	14.2%
FY 95-96	8,833	1,531	21.0%
FY 96-97	9,848	1,015	11.5%
FY 97-98 P	10,581	733	7.4%
FY 98-99 P	11,753	1,172	11.1%
FY 99-00 P	13,092	1,339	11.4%
FY 00-01 P	14,389	1,297	9.9%
FY 01-02 P	15,547	1,158	8.0%
FY 02-03 P	16,678	1,131	7.3%
FY 03-04 P	17,642	964	7.6%

Source: JBC Appropriations Reports, Department of Corrections, Parole Board, and Legislative Council Staff.

N/A: Not applicable.

Waiver hearings. Hearing waivers occur when an inmate waives his or her right to a release hearing with the Parole Board. As Table 5 indicates, waivers grew steadily from FY 1990-91 through FY 1997-98, from 493 waivers to 3,521 waivers — an increase of 614 percent. The DOC indicates the number of waivers grew for two reasons: (1) the DOC population was increasing, so naturally waivers would increase; and (2) inmates were choosing to “burn their sentence” rather than be subjected to parole supervision. When an offender burns his or her sentence, he or she serves the full term, less any earned time. The DOC is required to release the inmate and the inmate goes straight into the community. Now, however, under the provisions of HB 93-1302 anyone convicted of a crime committed after July 1, 1993 is subject to mandatory parole. Consequently, inmates can no longer burn their sentence to avoid parole supervision.

Table 5 indicates the number of waivers will level off from FY 1998-99 as the number of offenders in the DOC system convicted after July 1, 1993, and subject to mandatory parole increases. However, the number of waivers from FY 1997-98 to FY 2003-04 are projected to increase by 1,602 waivers.

Table 5: Historical and Projected Inmate Waivers

Fiscal Year	Inmate Waivers	Number Change From Previous Year	Percent Change From Previous Year
FY 90-91	493	N/A	N/A
FY 91-92	795	302	61.3%
FY 92-93	1,079	284	35.7%
FY 93-94	1,645	566	52.5%
FY 94-95	2,381	736	44.7%
FY 95-96	2,893	512	21.5%
FY 96-97	3,543	650	22.5%
FY 97-98	3,521	(22)	-0.6%
FY 98-99 P	3,791	270	7.7%
FY 99-00 P	4,164	373	9.8%
FY 00-01 P	4,409	245	5.9%
FY 01-02 P	4,755	346	7.8%
FY 02-03 P	4,944	189	4.0%
FY 03-04 P	5,123	179	3.6%

Source: Department of Corrections, Parole Board, and Legislative Council Staff.

N/A: Not applicable or not available.

Revocation hearings. Table 6 provides historical and projected revocation, full board, and rescission hearing data. Revocation hearings are conducted when a parolee is accused of committing a new crime while on parole or violating the terms of his or her parole agreement. As the table indicates, revocation hearings are projected to grow by 15.8 percent for FY 1998-99, 20.0 percent for FY 1999-2000, and 16.6 percent for FY 2000-01. These growth rates reflect the impact of increasing parole populations. Thus, as parole populations and the average length of stay on parole increase under mandatory parole, the number of parolees who are charged with new crimes or charged with technical parole violations are also projected to increase. Revocation hearings for FY 1998-99 are projected to total 4,002 and increase to 7,671 for FY 2003-04, an increase of 3,669 hearings. Based on 30 minutes per hearing, this requires 1,835 additional hours to conduct the increased revocation hearing, or approximately 2.1 FTE.

Full board hearings and rescission hearings. The Parole Board conducts full board hearings (hearing with all members in attendance) on all inmates convicted of a violent crime, inmates with a history of violence, and other cases recommended for full board review by board members. Full board hearings are subsequent to an initial hearing

conducted by one or more board members. Table 6 indicates the full board is expected to conduct 532 more hearings in FY 2003-04 than were conducted in FY 1997-98 (1,520 hearings compared to 988 hearings). Again, the main factor contributing to the increase is the increasing prison population and the projected increase of release hearings — more release hearings are assumed to result in more cases referred to the full board for review. It is estimated the additional hearings will require approximately 3.7 additional FTE.

Rescission hearings are conducted when an inmate has been granted parole and is subsequently charged with a major infraction of the DOC facility rules where the offender is housed prior to release. No significant relationship was found between historical changes in the number of rescission hearings and other Parole Board actions or policies. Therefore, the number of rescission hearings conducted by the board is projected to remain constant at 45 hearings annually through FY 2003-04.

Table 6: Historical and Projected Revocation, Full Board and Rescission Hearings

Fiscal Year	Revocation Hearings	Number Change	Percent Change	Full Board Hearings	Number Change	Percent Change	Rescission Hearings	Number Change	Percent Change
FY 90-91	839	N/A	N/A	609	N/A	N/A	N/A	N/A	N/A
FY 91-92	2,306	1,467	174.9%	801	192	31.5%	152	N/A	N/A
FY 92-93	1,950	(356)	-15.4%	829	28	3.5%	92	(60)	-39.5%
FY 93-94	2,197	247	12.7%	645	(184)	-22.2%	110	18	19.6%
FY 94-95	2,449	252	11.5%	740	95	14.7%	117	7	6.4%
FY 95-96	2,714	265	10.8%	786	46	6.2%	127	10	8.5%
FY 96-97	3,285	571	21.0%	947	161	20.5%	77	(50)	-39.4%
FY 97-98 P	3,457	172	5.2%	988	41	4.3%	41	(36)	-46.8%
FY 98-99 P	4,002	545	15.8%	1,068	80	8.1%	45	4	9.8%
FY 99-00 P	4,802	800	20.0%	1,120	52	4.9%	45	0	0.0%
FY 00-01 P	5,597	795	16.6%	1,244	124	11.1%	45	0	0.0%
FY 01-02 P	6,325	728	13.0%	1,335	91	7.3%	45	0	0.0%
FY 02-03 P	7,055	730	11.5%	1,417	82	6.1%	45	0	0.0%
FY 03-04 P	7,671	616	8.7%	1,520	103	7.3%	45	0	0.0%

Source: Department of Corrections, Parole Board, Legislative Council Staff and JBC Appropriation Reports.

N/A: Not applicable or not available.

CHAPTER III: RECOMMENDATIONS OF THE PAROLE SYSTEM STUDY ADVISORY COMMITTEE

The Parole Study Advisory Committee met monthly from July 1997 to July 1998. After initial meetings dedicated to gathering background information on parole system operations, the advisory committee began to formulate recommendations. The advisory committee reviewed materials on other states' parole board operations before developing its own recommendations about hearing procedures, release and revocation guidelines, a supervision classification system, alternative sanctions, and the use of technology.

As the advisory committee's focus shifted from research and study to the formulation of specific recommendations, staff sought technical assistance from the National Institute of Corrections (NIC) in Washington D.C. The NIC, which frequently provides expert services to states conducting research projects in the corrections field, contracted with veteran parole consultant Ronald Jackson. Mr. Jackson has been both a parole board member and a director of parole supervision in the states of Texas and Georgia, respectively. Currently he serves as Director of Strategic Planning in the Georgia Governor's Office of Planning and Budget.

Mr. Jackson made a site visit to Colorado in December 1997. He spent two days interviewing advisory committee members and parole system personnel, and then meeting with the advisory committee as a whole. Mr. Jackson outlines his initial findings in a consultant report attached as Appendix D. His recommendations for the study became a critical resource for the advisory committee and the committee addressed as many of Mr. Jackson's suggestions as time allowed.

In May 1998, Mr. Jackson returned to Colorado to meet with the advisory committee and review its draft recommendations. He also offered additional suggestions for increasing the efficiency and effectiveness of parole system operations. Mr. Jackson's second and final consultant's report is attached as Appendix E.

The advisory committee on the state parole system study concluded its work in July, 1998. The recommendations that follow reflect the advisory committee's suggestions for improving the state parole system. In some cases, the advisory committee recognized that it did not have adequate time to study a topic in the depth it merited. Therefore, in several instances, the committee suggests that a study group or task force be formed to follow through with work begun by the advisory committee.

Recommendations At-A-Glance

Recommendations regarding release hearings:

- hire hearing officers to conduct release hearings on all class 5 and 6 felony offenders and on nonviolent class 4 felons. The hearing officers would have release authority in these cases, however a Parole Board member would do a paper review of, and sign off on, each decision. Class 1, 2, and 3 felonies and

violent class 4 felonies would be heard by a three-member panel of Parole Board members. A three-member panel would also hear the cases of all violent offenders;

- develop release guidelines in order to maintain consistency in release decision-making. Release guidelines would reflect and execute board policy. The release guidelines should be drafted by a task force of parties involved in the parole system. This task force should consider several other issues including the use of a risk assessment instrument, the transitional placement of offenders not accepted for a community placement, and the handling of inmates transitioned through community corrections who are later denied parole. The current risk assessment instrument should be revalidated for Colorado's male prison inmate population and should also be validated for women inmates and sex offenders; and
- explore the possibility of a state-operated facility to transition inmates who are not accepted for a community corrections placement.

Recommendations regarding revocation hearings:

- convert the current ALJ position to an eighth Parole Board member. Parole Board members should conduct all revocation hearings;
- develop sanction guidelines to assist the Division of Adult Parole Supervision and the Parole Board in making consistent revocation decisions. A sanction guidelines task force composed of representatives from all facets of the parole system should be formed and charged with drafting sanction guidelines which embody the policies of both the Parole Board and the division; and
- create a state-operated return-to-custody facility to accommodate parole failures and community regressions. Such facility would specifically deal with relapse issues.

Recommendations regarding technology and data collection:

- convene a group of knowledgeable persons to assess current technological capabilities of the DOC and how to automate the parole hearing process in a manner compatible with the current DOC system. The group is urged, at a minimum, to consider the purchase of laptop computers for Parole Board members and hearing officers so they may access DOC case files and Colorado Integrated Criminal Justice Information System data; and
- agencies involved in compiling data on the criminal justice system in general, and the parole system in particular, should meet to prepare a plan for improving the current method for collecting and sharing data.

Recommendations regarding mandatory parole:

- continue mandatory parole; and
- implement data analysis systems to track the impact of mandatory parole, both to monitor the response of offenders on mandatory parole, and to observe the impact of mandatory parole on system workloads. This evaluation should occur no earlier than the year 2000, when mandatory parole will have been in effect for seven years and adequate data exists to evaluate the system.

Handling a Growing Workload While Controlling Parole Board Size

Release hearings conducted by hearing officers. As discussed in the previous section on release hearing procedures, all release hearings are currently conducted by Parole Board members. The seven members are located in Denver and Pueblo and travel around the state to hold hearings at Colorado's 19 correctional facilities. Release hearings are also held at community correction facilities and county jails. The advisory committee concluded that the parole hearing process would be more efficient if certain parole hearings were conducted by regional hearing officers hired by the Parole Board.

Based on the projected growth in Parole Board workload, the advisory committee determined that hearing officers should be added. Workload projections indicate that by FY 2003-04, 4.1 FTE hearing officers will be needed to handle release hearings. Hearing officers would conduct release hearings in exactly the same manner as Parole Board members. However, hearing officers would only hear release applications on class 5 and class 6 felonies, as well as nonviolent class 4 felonies. It is estimated that hearing officers would conduct 65 percent of the release hearings.

After reviewing the inmate's case file, receiving the case manager's report, and interviewing the inmate, the hearing officer would have the same options as a Parole Board member, to: grant parole; defer parole until some future date; table the case; send the case to the full board for review; or continue the inmate in DOC custody for a period set by the hearing officer.

The hearing officer's recommendation would be subject to a paper review by a Parole Board member. In a typical paper review, the board member would study the inmate's file, including case history and any notes by the hearing officer concerning the release decision. If the board member agrees with the hearing officer's recommendation, the member signs off on the recommendation and forwards the decision to the DOC for appropriate action. If a board member disagrees, the case is forwarded to a three-member Parole Board panel. An appeal by an inmate, in any case, would go to the Parole Board chairperson for review and decision.

The hearing officers would be regionally located in Trinidad, Limon, Grand Junction, and the Arkansas Valley (Pueblo and Canon City area). Locating hearing officers regionally would reduce travel time and allow more time for holding actual hearings.

Release hearings, Parole Board members. Under the advisory committee's proposal, parole release hearings on class 1, 2, and 3 felonies, and violent class 4 felonies, would be heard by a panel of three Parole Board members who would travel to facilities around the state. The major change here is that Parole Board members would no longer hear cases individually. All hearings would be conducted by a three-member panel that would also constitute a full board. Any appeals of the panel's decision would be to the Parole Board chair. Travel for board members would decrease under this plan because they would conduct fewer hearings and travel would be streamlined. It is estimated that Parole Board members would conduct 35 percent of the release hearings under this proposal.

The advisory committee recommendation regarding three-member Parole Board panels is intended to address the economic inefficiency of current practice to hold seven-member full board reviews every Friday. Structuring the Parole Board in three-member panels to conduct release hearings would save time and money, and would allow members to travel and hold hearings five days per week rather than the current four. In addition, the advisory committee believes the decisions of the Parole Board would be more consistent with three-member panels rather than the current practice of one member conducting release hearings.

Parole Board members would continue hearing cases of all violent offenders who are defined by the board as any inmate whose current conviction was for a crime of violence; who was previously committed for a crime of violence; or who has a history or propensity for violence, including violent behavior in a DOC facility. The advisory committee recommends that the Parole Board formalize its definition of violent offenders and, as much as practicable, take the lead in conforming the varying definitions used by other entities including the Division of Adult Parole Supervision, Division of Criminal Justice, and DOC agencies. A uniform violent offender definition would enhance the sharing of data and comparison of statistics through the criminal justice system network.

Risk Assessment Scale

Chapter II discussed the Parole Board's decision-making process in release hearings and outlined factors to be considered by the board when determining whether to grant parole. The actuarial risk assessment scale provides a quantitative measure of an inmate's risk to reoffend. Statutory parole guidelines set out the qualitative factors that the legislature agreed were important considerations for the board.

The advisory committee discussed at some length the valuable role of the current risk assessment instrument and recommends that the instrument be validated by the Division of Criminal Justice. The validation is needed as soon as possible to ensure its continuing viability for use by the Parole Board. The advisory committee also suggests risk assessment scales be developed for women and sex offenders, two growing inmate groups to whom the existing risk assessment scale does not apply.

The advisory committee further recommends that the Division of Criminal Justice train Parole Board members on the use and application of each risk assessment scale.

Parole Release Guidelines

The advisory committee recommends that parole release guidelines be developed. The recommendation allowing hearing officers to conduct release hearings emphasized to the advisory committee the need for such guidelines. Guidelines help inform a diverse group of hearing officers and Parole Board members and foster consistent decisions. Guidelines accomplish these goals by establishing a decision-making road map. They detail key factors and identify issues, yet also vest discretion in the person conducting the hearing.

According to NIC consultant Ron Jackson, release guidelines should be drafted to reflect and execute board policy. In his report, Mr. Jackson states, "It is clear to the consultant that Colorado has the expertise to support a thorough review and subsequent development of any guidelines instrument that would assist in clarifying release policy of the board."⁸

The advisory committee recommends that a task force of affected parties be formed to assist the Parole Board in writing release guidelines. In its discussions, the advisory committee identified some of the factors to be considered by the task force, as follows:⁹

- risk assessment score;
- programs and treatment completed;
- parole plan;
- Intensive Supervision Program eligibility and population restrictions;
- community placements availability;
- requirements set by statute;
- criminal history;
- escapes of absconding;
- circumstances of current crime;
- inmate's age and health;
- length of stay;
- case manager summary and objectives;
- Program Assessment Summary (PAS);
- inmate classification;
- family support; and
- medical and psychological evaluations.

Revocation Hearings

Currently, revocation hearings are conducted by Parole Board members or the sole ALJ employed by the Parole Board. The ALJ is responsible for the Front Range area, where a majority of the revocations take place (approximately 87 percent). As this study evolved and discussions among advisory committee members progressed, it became evident that tension existed between the Parole Board and the Division of Adult Parole Supervision over the use of an ALJ to conduct revocation hearings. The explanations offered for this tension included a perceived difference in ideology between parole officers bringing revocations and an ALJ, rather than a Parole Board member hearing the cases. This difference is manifested by the frustration of parole officers who prepare and present revocation complaints, and an ALJ who may decide to continue parole or impose some intermediate sanction short of revocation.

⁸ See Appendix D, page 5.

⁹ The guideline factors are not to be considered all-inclusive, nor are the items listed in any particular order.

The Division of Adult Parole Services has indicated the problem would be alleviated if all revocation hearings were conducted by Parole Board members. In the division's view, such a policy change would ensure consistent decision-making and make clear to parolees that the board is involved directly in a parole revocation decision.

In response to this issue, the advisory committee recommends the ALJ position be eliminated and converted to a Parole Board member position. One Parole Board member would conduct the hearing and issue the revocation decision. An appeal would be heard by two additional board members. The advisory committee believes changing this procedure would address concerns regarding inconsistent decisions when persons other than board members conduct revocation hearings.

Sanction Guidelines

The more concrete explanation for the tension between the Division of Adult Parole Services and the Parole Board is the lack of revocation guidelines. In an effort to further improve the revocation process, and particularly to identify a range of steps that could be taken to sanction a parolee prior to revoking parole, the advisory committee recommends developing sanction guidelines. While the advisory committee initially addressed this issue in terms of revocation guidelines, they later decided that sanction guidelines would encompass a range of sanctions prior to and including revocation.

Sanction guidelines would embody Parole Board policies and would ideally consider the philosophies of supervision management and staff. As explained by NIC consultant Ron Jackson, the parole supervision staff and management should be able to look at the guidelines and better predict whether the board will revoke parole or favor some intermediate sanction based on the facts of the case at hand.¹⁰

The advisory committee recommends a sanction guidelines task force be established to act in an advisory capacity to the Parole Board in drafting sanction guidelines. According to Mr. Jackson, it is a difficult and often times contentious process to formulate revocation-related guidelines acceptable to all parties, because the stakeholders have vastly different philosophies and opinions. Therefore, the advisory committee recommends the retention of an outside facilitator to help the task force with its work.

In an effort to establish some preliminary framework for sanction guidelines, the advisory committee prepared a list of policies and factors for the task force to consider, as follows:¹¹

- statutory mandates;
- executive orders;
- Parole Board policy;

¹⁰ See Appendix E, page 4.

¹¹ The sanctions guidelines list is not to be considered all inclusive, nor are the items listed in any particular order.

- public safety;
- risk assessment score;
- availability of intermediate sanctions (intensive supervision); and
- availability of remedial treatment program.

Parole Supervision Classification System

The Division of Adult Parole Supervision is responsible for evaluating parolees to determine the degree of supervision needed to transition back into community life. Every parolee is placed at the highest level of supervision for the first 30 days after release. During that time, supervision staff evaluate the parolees and set supervision requirements. Parolees are also evaluated when their circumstances or behavior change appreciably and the supervision staff determines it is appropriate to adjust the level of supervision, either up or down. Public safety is the division's priority when reclassifying a parolee. The risk assessment instrument may be reapplied at different points during the parole period to determine whether supervision is adequate.

NIC consultant Mr. Jackson emphasized in his second report¹² the need for a well-crafted classification system that is based on a risk assessment instrument, and which incorporates the supervision policy established by the division and the Parole Board. A supervision classification system enables the division to efficiently allocate parole officers and staff. It allows the division to more efficiently manage the parole population by placing inmates at the appropriate place on the supervision continuum; division resources can be saved by assuring that parolees are not placed at an unnecessarily high level of supervision that is more costly than required.

The advisory committee recommends the sanctions guidelines task force review the existing supervision classification system and make any adjustments necessary. Further, the task force should determine if the classification system is consistent with attempts to sanction a parolee prior to revoking parole.

Outcome or Results Driven Supervision

While working with Mr. Jackson, the advisory committee became interested in designing the parole program according to an outcome model, or results-driven model. Under such a model, program development begins with the pertinent parties identifying why the program is necessary and then defining what result the program must achieve to be considered successful. The entire program or system is built to reach an end goal.

¹² See Appendix E, page 4.

Mr. Jackson related the outcome-oriented model to a parole supervision classification system in this way: If the Division of Adult Parole Supervision decides it wants supervision system that will prevent offenders from reoffending, the division should develop a program with elements to achieve that result. For example, if research indicates offenders who do not use controlled substances are more successful on parole than those who do, then the supervision program is designed to reduce substance abuse by parolees. Targets are set for reducing illegal drug use by parolees and the results are tracked to measure the program's effectiveness.

The advisory committee recommends the sanction guidelines task force and the parole release guidelines task force consider utilizing a result-driven model when designing their programs.

Workload Projections Based on the Parole Board Advisory Committee Recommendations

Implementing the recommendations from the advisory committee will affect the Parole Board workload. The advisory committee is recommending a change in the release and revocation hearing procedures and the elimination of the ALJ position. The ALJ currently conducts approximately 87 percent of revocation hearings.

The advisory committee recommends that there be two release hearing procedures, depending on the offender's felony class. Hearing officers would conduct release hearings on all class 5 and class 6 felony offenders, and on nonviolent class 4 felonies. The hearing officers would have release authority in these cases; however, a Parole Board member would be required to do a paper review of, and sign off on, each decision. Class 1, 2, and 3 felonies and violent class 4 felonies would be heard by a three-member panel of Parole Board members. A panel of three also would hear the cases of all violent offenders. A three-member panel would constitute a full-board hearing; any appeal would be to the Parole Board chair. Further, Parole Board members would conduct all revocation hearings.

Legislative Council Staff estimates that under the advisory committee recommendations, an additional 9.4 FTE will be needed by FY 2003-04 — 2.2 FTE Parole Board members, 4.1 FTE hearing officers, and 3.1 FTE support staff. This is a staff increase of 72 percent. Table 7 summarizes the projected workload increase, by fiscal year and hearing type, through FY 2003-04. (Appendix F provides more detailed information regarding the projected workload, including assumptions.)

Table 7: Estimated Parole Board Workload — FY 1997-98 to FY 2003-04
Advisory Committee Recommendations
Assumes Use of Hearing Officers

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
PAROLE BOARD MEMBER WORKLOAD							
Estimated Release Hearings (Paper Review)	1,721	1,912	2,169	2,331	2,515	2,695	2,850
Estimated Release Hearings (Three-Member Panel)	3,706	4,117	4,671	5,020	5,416	5,805	6,136
Estimated Rescission Hearings	41	45	45	45	45	45	45
Estimated Revocation Hearings	3,457	3,900	4,494	5,075	5,681	6,249	6,797
Total Number of Hearings	8,925	9,974	11,379	12,471	13,657	14,794	15,828
Total Hours Required	7,590	8,474	9,645	10,486	11,414	12,311	13,111
Total Board Members Required⁽¹⁾	5.5	6.1	6.9	7.4	8.0	8.6	9.2
HEARING OFFICER WORKLOAD							
Estimated Release Hearings	6,883	7,647	8,675	9,323	10,059	10,780	11,400
Estimated Waiver Hearings	3,521	3,763	4,015	4,242	4,451	4,647	4,815
Total Number of Hearings	10,404	11,410	12,690	13,565	14,510	15,427	16,215
Total Hours Required	3,734	4,136	4,671	5,014	5,399	5,776	6,099
Total Hearing Officers Required⁽²⁾	2.5	2.8	3.1	3.3	3.6	3.9	4.1

Table 7: Estimated Parole Board Workload — FY 1997-98 to FY 2003-04
Advisory Committee Recommendations
Assumes Use of Hearing Officers

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
SUPPORT STAFF WORKLOAD							
Projected Number of Hearings	17,994	19,884	22,335	24,051	25,923	27,738	29,325
Total Support FTE Required⁽¹⁾	5.0	5.5	6.2	6.6	7.1	7.6	8.1
TOTAL PROJECTED PAROLE BOARD STAFF NEED							
Total Parole Board Projected FTE	13.0	14.4	16.2	17.3	18.7	20.1	21.4
Current Parole Board FTE	13.0	13.0	13.0	13.0	13.0	13.0	13.0
ADDITIONAL STAFF REQUIRED	0.0	1.4	3.2	4.3	5.7	7.1	8.4

- (1) Assumes 1,493 hours are available for hearings per board members. Assumes each board member spends 223 hours traveling annually and 104 hours annually on administrative tasks. Also assumes 0.4 FTE are required annually for Parole Board Chairman activities.
- (2) Assumes 1,500 hours are available for hearings per hearing officer. Assumes each hearing officer spends 112 hours traveling annually and 206 hours annually on administrative tasks.
- (3) Assumes 3,630 hearings per FTE.

Parole Board members. The advisory committee recommendations reduce the projected need for Parole Board members because 65 percent of release hearings would be the responsibility of hearing officers, rather than Parole Board members. Workload projections under the current system of operation estimate that 6.1 additional Parole Board members would be needed by FY 2003-04. The advisory committee recommendations drive the need for 2.2 additional Parole Board members. Another reason for the reduction is that the "full-board hearings" would be eliminated and replaced with three-member panels which would constitute a full board. Currently, all seven members constitute a full board and it was assumed that as the board grew, the size of the full board would increase. Three-member full board panels will allow Parole Board members to hear more cases over the same period of time. For instance, if it took the seven-member full board panel four hours to hear 8 cases; two three-member panels could hear 16 cases over the same four-hour period.

Hearing officers/administrative law judge. While the need for additional Parole Board members would be reduced, the recommendations create a need for hearing officers. Currently, the board employs 1.0 FTE ALJ to conduct revocation hearings. Under the advisory committee recommendations, this position would be eliminated and Parole Board members would conduct all revocation hearings. Hearing officers would conduct release hearings on all class 5 and class 6 felony offenders, and on nonviolent class 4 felonies. The hearing officers would have release authority in these cases; however, a Parole Board member would do a paper review of, and sign off on, each decision. Under these assumptions, hearing officers would conduct 65 percent of the release hearings. Legislative Council Staff estimates 4.1 FTE hearing officers would be needed by FY 2003-04. This is an increase of 3.1 FTE (4.1 FTE minus the current 1.0 FTE ALJ).

Support staff. The need for additional support staff is based on current caseload. The Parole Board currently employs 5.0 FTE support staff which equates to 3,630 hearings per support staff. Based on 11,175 additional hearings by FY 2003-04, it is estimated an additional 3.1 FTE support staff will be needed by FY 2003-04.

Current versus projected workload. Table 8 compares the workload projections under the current Parole Board operations to the projections using the advisory committee recommendations. As the table indicates, the advisory committee recommendations require 3.1 less FTE by FY 2003-04, than the Parole Board's workload projections under the current system of operation.

Table 8
Parole Board Projections: Current System of Operation Versus
Advisory Committee Recommendations

	FY 97-98	FY 98-99	FY 99-00	FY 00-01	FY 01-02	FY 02-03	FY 03-04
Parole Board Members - Current System	0.0	0.9	1.8	3.0	4.0	5.0	6.1
Parole Board Members - Recommendations	0.0	0.0	0.0	0.4	1.0	1.6	2.2
Difference (Recommendations)	0.0	(0.9)	(1.8)	(2.6)	(3.0)	(3.4)	(3.9)
Hearing Officers/Administrative Law Judge –	1.2	1.4	1.6	1.9	2.2	2.4	2.6
Hearing Officer/Administrative Law Judge – Recommendations	2.5	2.8	3.1	3.3	3.6	3.9	4.1
Difference (Recommendations)	1.3	1.4	1.5	1.4	1.4	1.5	1.5
Support Staff - Current System	5.1	5.7	6.4	7.1	7.7	8.3	8.8
Support Staff - Recommendations	5.0	5.5	6.2	6.6	7.1	7.6	8.1
Difference (Recommendations)	(0.1)	(0.2)	(0.2)	(0.5)	(0.6)	(0.7)	(0.7)
Current Operating System – Projected Need	6.3	8.0	9.8	12.0	13.9	15.7	17.5
Advisory Committee Recommendations –	7.5	8.3	9.3	10.3	11.7	13.1	14.4
Difference (Recommendations)	1.2	0.3	(0.5)	(1.7)	(2.2)	(2.6)	(3.1)
Parole Board – Current FTE	13.0	13.0	13.0	13.0	13.0	13.0	13.0
Parole Board – Projected FTE	13.3	15.0	16.8	19.0	20.9	22.7	24.5
Total – Projected FTE Increase	0.3	2.0	3.8	6.0	7.9	9.7	11.5
Parole Board – Current FTE	13.0	13.0	13.0	13.0	13.0	13.0	13.0
Parole Board – Projected FTE Based on Advisory Committee Recommendations	14.0	15.4	17.2	18.3	19.7	21.1	22.4
Total – Projected FTE Increase	1.0	2.4	4.2	5.3	6.7	8.1	9.4

Additional Suggestions for Improving Parole Board Efficiency

Return-to-custody facility. As part of the evolving sanctions guidelines project and the supervision classification system overview, the advisory committee recommends the creation of a state-operated return-to-custody facility to accommodate parole failures and community regressives. The return-to-custody facility would provide a sanction short of reincarceration to a DOC facility and would provide parole supervision and community corrections staff a place to send problem parolees for a predetermined period of time.

The return-to-custody facility would be designed to deal with relapse cases and would be an important part of the supervision classification system. Every offender would be reassessed upon placement in the return-to-custody facility. Treatment and rehabilitation programs would target the particular problems causing the inmate to fail on parole. Release from the facility would be contingent on successful performance in assigned programs.

Facility for inmates not accepted by community corrections — pre-parole facility. The advisory committee identified the need for a DOC-run facility designed to transition difficult placements back into the community. The DOC indicates an inmate population exists that is eligible for transition services, but that is consistently rejected for placement in a community corrections program. Predominantly, these inmates have a history of violence that interferes with DOC's ability to place them in the community, or are sex offenders who local community programs will not accept.

The advisory committee recommends a pre-parole facility be created to serve this inmate population and suggests it could adjoin an existing secure correctional facility

Use of technology. The advisory committee conducted a preliminary analysis of available technology to improve Parole Board efficiency. Information was collected from other states using technology to streamline parole system operations. Two basic types of technologies were identified: video technology and automated computer technology. The Iowa Parole Board uses a statewide communications network involving video technology. The Iowa Parole Board has been able to reduce travel time and cost by conducting hearings via a high-quality, full-motion, two-way interactive video network. The Virginia Parole Board had its computer support staff write a computer program that automates the hearing process. Regional hearing officers conduct most hearings using inmate files which have been electronically transmitted from the DOC to the officers' laptop computers. During the hearing, the hearing officer enters information into the file on the laptop computer. After the hearing, the hearing officer transmits that file electronically to the Parole Board office. The computer system automatically sends the file to the appropriate parole board members who review the files on their desktop computers. The system sends the file from one board member to the other until the required number of affirmative votes are filed and then sends the file to the institution with the appropriate release information such as conditions of parole.

After examining the information, the advisory committee agreed that, at a minimum, Parole Board members and hearing officers should use laptop computers in the field. This would allow Parole Board members to electronically transmit release or revocation decisions to the board office in Pueblo for immediate processing. A hearing officer's recommendation regarding an inmate's release could be forwarded to a board member for review and then sent electronically to the board office.

Another relatively simple way to increase efficiency involves the use of digital voice imaging technology to record parole hearings and provide a condensed record for Parole Board archives. Using a properly equipped laptop computer, a board member could make a digital record of a hearing; this recording would be stored on a zip disk and maintained at Parole Board headquarters.

Currently, the parole hearings are recorded on cassette tape. The Parole Board staff receives approximately 240 cassettes a week from board members. The process of retrieving the record of a particular hearing is very cumbersome. However, if digital voice imaging is used, approximately 65 hearings could be stored on one zip disk. A Parole Board member or citizen could access a particular hearing by date or name and have instant access to the digital recording.

The advisory committee recommends a group of knowledgeable persons be assembled to assess the current technological capabilities of the DOC, and to explore how other available technology could augment the existing system and serve parole system needs.

Mandatory Parole

The advisory committee recommends that mandatory parole be continued because it enhances public safety and gives the Division of Adult Parole Services a chance to work with an inmate when released to parole. The offender benefits by having resources for treatment and other assistance available when leaving prison.

The advisory committee further believes that mandatory parole has been in effect for such a short period of time (crimes committed after July 1, 1993) that it is not possible to accurately assess its effectiveness. Data that would help in evaluating mandatory parole are very limited. It is imperative that data analysis systems be in place to track the impact of mandatory parole, both to monitor the track record of offenders released and to observe mandatory parole's workload impact.

It is especially important to monitor the revocation rates of offenders released on mandatory parole. If possible, the revocation rates should be compared to data prior to implementation of mandatory parole. Further, data should be collected comparing inmates who are paroled prior to their discharge date against those who are paroled on their discharge date.

The advisory committee recommends a comprehensive evaluation be conducted on the effectiveness of mandatory parole, including appropriate parole sentences. Mandatory parole has resulted in an increased prison population and parole population. Consequently, its cost effectiveness should be scrutinized. In addition to its cost effectiveness, mandatory parole should also be examined for its effect on recidivism. It should be determined whether mandatory parole inmates are returned to DOC custody and, if so, whether the recommitment is for the same or a similar type of offense. Also, attention should be given to treatment efforts in community corrections to weigh which treatment efforts and programs are successful and which are not.

The advisory committee suggests the evaluation occur no earlier than the year 2000, when mandatory parole would have been in effect for seven years and adequate data will exist for a viable assessment.

APPENDIX A

1899 — The Governor had the authority to parole or release at large any convict imprisoned in the Colorado State Penitentiary. While on parole, convicts were in the legal custody and under the control of the penitentiary commissioners.

1949 — The Governor maintained the authority to issue parole or release at large; however, the office of Director of Parole was created. The Governor appointed the director who was charged with making recommendations for paroles to the Governor. The director was also charged with appointing parole officers to supervised parolees upon release from the Colorado State Penitentiary and the Colorado State Reformatories.

1951 — The State Department of Parole was created. A three-member State Board of Parole was created consisting of: 1) the Governor; 2) the Attorney General; and 3) the Lieutenant Governor. The board was charged with meeting at least once per month to consider all applications for parole from the State Penitentiary and the State Reformatory. The board was also responsible for appointing the executive and assistant directors of the Department of Parole as well as parole officers and other necessary personnel. Board members were not entitled to compensation for their duties as board members but were reimbursed for expenses relative to their duties.

1953 — The Parole Board was increased to six members consisting of: 1) the Governor; 2) the Lieutenant Governor; 3) the Attorney General; and 4) three members of known devotion to parole and rehabilitation work, with practical knowledge in criminology and kindred subjects. The Governor served as the head of the Department of Parole. The administrative and executive head of the Division of Administration served as the Executive Director of the Department of Parole. The board continued to be responsible for appointing the executive director who was, in turn, responsible for appointing assistant directors as well as parole officers and other personnel necessary to run the department.

1961 — The membership of the Parole Board was increased to seven members consisting of: 1) the Governor; 2) the Attorney General; and 3) five members, *other than law enforcement officers or officials*, of known devotion to parole and rehabilitation work with practical knowledge in criminology and kindred subjects.

1969 — The name of the Department of Parole was changed to the Division of Parole. The Division of Parole was placed in the Department of Institutions. The Executive Director of the Department of Institutions was responsible for appointing the Director of the Division of Parole who, in turn, was responsible for appointing assistant directors and parole officers.

1974 — The Parole Board was reduced to four members appointed by the Governor and who were required to devote their full time to their Parole Board duties. The members were required to have knowledge of parole, rehabilitation, correctional administration, and the functioning of the criminal justice system. Board members were also required to have at least five years' education or experience in corrections, parole, probation, law, psychology, education, or related fields.

1977 — Board membership was increased to five members. The Division of Parole was transferred to the Department of Corrections and the Division of Adult Services was created. The Director of the Division of Adult Services was responsible for appointing assistant directors and parole officers.

1987 — The five Parole Board members were specified as follows: one representative from law enforcement, one former parole or probation officer, and three citizen representatives. Board members were required to have knowledge of parole, rehabilitation, correctional administration, the functioning of the criminal justice system, and the issues associated with victims of crime. The two designated board members were required to have at least five years' education or experience, or a combination thereof, in their respective fields.

1990 — The Parole Board was increased to seven members composed of *two* representatives from law enforcement, *one* former parole or probation officer, and *four* citizen representatives. The designated board members (law enforcement, and probation representatives) were required to have at least five years education or experience, or a combination thereof, in their respective fields.

APPENDIX B

COLORADO ACTUARIAL RISK ASSESSMENT SCALE*
To Be Completed by Case Manager / Community Corrections Agent:

Inmate Name _____ DOC # _____

Case Manager _____ Form Date _____ Facility _____

For each item, enter the weight corresponding to the information in the offender's record.

* This scale does not apply to currently convicted Sex Offenders or Women.

1. Any prior adult or juvenile felony conviction for burglary, robbery, theft, or auto theft (include deferred judgments):

- 0 (No) _____
- 7 (Yes) _____
- 0 (Unknown) _____

2. Total number of original felony convictions on current prison sentence(s) (Do not count prior convictions):

- 0 (1) _____
- 3 (2-3) _____
- 5 (4+)

3. Total number of prior adult and/or juvenile sentenced incarcerations to prison, jail, or juvenile facility for felony offense: If UNKNOWN, substitute number of prior felony convictions.

- 0 (None) _____
- 3 (One) _____
- 5 (Two or more)

4. Employed 50% or more of two consecutive years prior to original arrest date:

- 0 (Yes) _____
- 5 (No) _____
- 0 (Unknown)

5. Convicted of a felony or adjudicated a delinquent before age 18:

- 0 (No) _____
- 4 (Yes) _____
- 0 (Unknown)

6. Serious offender classification: Do one or more of the following apply? (check all that apply)

- Current conviction for violent crime (use TABLE A, below);
- Current court conviction for escape (include attempts/ probation/parole);
- Prior conviction for felony against a person in the last 5 years of street time;
- Three or more prior adult or juvenile arrests for: robbery, rape, felony assault, kidnap, or aggravated burglary (weapon or injury);
- Substance abuse history includes one of the following: PCP use, ingestion of speed, cocaine, or hallucinogens (not heroin), or sniffing volatile substances (glue, paint).

- 0 (No) _____
- 4 (Yes) _____
- 0 (Unknown)

7. Ever legally married: (Do not include common law)

- 3 (No) _____
- 0 (Unknown)

8. Present incarceration includes administrative action for an escape/walkaway or parole violation in the last 5 years: (technical violation or new crime)

- 0 (No) _____
- 1 (Escape) _____
- 2 (Parole Violation) _____
- 0 (Unknown)

9. Class I or Class IIA COPD disciplinary infractions during this incarceration:

- 3 (None) _____
- 1 (Yes, but none in last 6 months) _____
- 3 (One last 6 months) _____
- 5 (2+ last 6 months)

10. Code the most serious disciplinary infraction incurred during the past 6 months:

- 0 (None) _____
- 3 (Class IIA)

11. Age at PED or next hearing for governing sentence (whichever applies):

- 0 (25-34) _____
- 3 (18-24)

VIOLENT AND GENERAL RISK SCALE	
SCORE	RISK LEVEL
34-46	HIGH RISK
28-33	HIGH MEDIUM RISK
15-27	MEDIUM RISK
-3-14	LOW RISK

TOTAL SCORE

INSTRUCTIONS FOR COMPLETING RISK SCALE FORM

THIS SCALE DOES NOT APPLY TO WOMEN OR INMATES CURRENTLY CONVICTED OF ONLY SEX OFFENSES.

For items 1-7: If offender is currently in on a TECHNICAL parole, probation, or community corrections revocation use information related to the original commitment offense.

1. File must specifically document adult conviction, juvenile adjudications, or deferred judgments/sentences for burglary, robbery, theft, or auto theft. Do not include theft by fraud and deceit; include theft by receiving and attempts/conspiracies to commit burglary, robbery, theft, or auto theft.
2. Include total number of convictions for this sentence (i.e., two counts of burglary and two counts of robbery total four convictions). Include convictions from other states if the crime would have been a felony if committed in Colorado. If the inmate is currently serving time on a technical parole, probation, or community corrections violation do not count the revocation as a conviction; rather, consider only the original conviction(s).
3. Consider only the infractions which occurred during this term of incarceration (include time served on technical violations).
4. Consider the last 24 (consecutive) months the inmate was on the street before the original date of arrest. Time spent locked-up or in school is NOT employment. For technical parole, probation, or community corrections violators the 24 month period is the time BEFORE the original prison sentence. Do not include infractions which occurred during this term of incarceration (include time served on technical violations).
5. Consider only the infractions which occurred during the past 6 months on the current sentence.
6. If the offender is presently serving time on a technical parole/probation violation, code this item as if he was serving time on the original sentence.
 - Escape: Do not include technical parole/probation.
 - Prior conviction: Look for violent felony convictions during the last 60 months the inmate was free (on the street) to commit crimes.
 - Three or more violent arrests: Unlike the other items in the Risk Scale, this requires information on arrests, not convictions.
 - Substance abuse: Note that these are substances that tend to make people behave unpredictably or violently.
7. Do not count common law relationships. Do not include technical or community corrections violations.
10. Consider only DOC infractions which occurred during the past 6 months on the current sentence.
11. Code according to the age the inmate will be at potential parole release date.

TABLE A SERIOUS OFFENDER CLASSIFICATION: CURRENT CONVICTION FOR VIOLENT CRIME

Aggravated Assault	Aggravated Assault	Aggravated Assault	Aggravated Assault	Aggravated Assault	Aggravated Assault
Aggravated Assault	Aggravated Assault	Aggravated Assault	Aggravated Assault	Aggravated Assault	Aggravated Assault
Aggravated Assault	Aggravated Assault	Aggravated Assault	Aggravated Assault	Aggravated Assault	Aggravated Assault

Conspiracy/Attempt to Commit a Violent Felony

Inmate's Name _____

DOC Number _____

PSI Available? Yes No

Detainer

SECTION E: Statutory definitions to be used by the parole board to determine sentence length.
Casemanager/Com. Cor. Agent: You may leave the left-hand section blank and go directly to the right-hand section, or you may indicate by underlining relevant case factors. Flag location in file. **Parole Board:** Check boxes that apply.

Casemanager/Com. Cor. Agent: Check box according to controlling felony class. **Parole Board:** Circle appropriate range and check box at bottom of page.
 Consecutive Sentencing

Mitigating Factors

- Passive/minor participation in crime
- Victim precipitated or provoked crime
- Substantial justification for offense
- Crime committed under duress or coercion
- No past record or long crime-free period
- Voluntarily acknowledges wrongdoing
- Family obligations
- Attempted to compensate victim

2nd Degree Aggravating Factors

- Induced others in commission of offense
- Took advantage of position of trust
- Paid to do the crime
- Premeditated
- Drug-related or contraband-related
- On bond for previous felony
- Increasingly serious convictions

1st Degree Aggravating Factors

- Serious bodily injury and/or high cruelty
- Armed with deadly weapons
- Offense involved multiple victims
- Particularly vulnerable victim
- Victim is official authority
- Pattern of violent conduct
- On parole or probation for another felony
- In confinement or escape status

Parole Guidelines	Court Sentence(months)	
	(mitigating) Normal	Agg.
Class 6 Offenses	<input type="checkbox"/> (6)/12-24	<input type="checkbox"/> 18-48
Normal	4- 18	12- 24
Mitigating	2- 15	10- 21
2nd Deg. Agg.	7- 18	14- 24
1st Deg. Agg.	8- 24	16- 48
Class 5 Offenses	<input type="checkbox"/> (6)/12-48	<input type="checkbox"/> 30-96
Normal	4- 30	20- 48
Mitigating	2- 21	14- 39
2nd Deg. Agg.	10- 30	26- 48
1st Deg. Agg.	14- 48	32- 96
Class 4 Offenses	<input type="checkbox"/> (12)/24-96	<input type="checkbox"/> 60-192
Normal	8- 60	40- 96
Mitigating	4- 39	26- 78
2nd Deg. Agg.	18- 60	52- 96
1st Deg. Agg.	28- 96	64-192
Class 3 Offenses	<input type="checkbox"/> (24)/48-192	<input type="checkbox"/> 120-384
Normal	16-120	80-192
Mitigating	8- 72	48-156
2nd Deg. Agg.	34-120	104-192
1st Deg. Agg.	56-192	129-384
Class 2 Offenses	<input type="checkbox"/> (48)/96-288	<input type="checkbox"/> 192-576
Normal	32-192	128-288
Mitigating	16-120	80-240
2nd Deg. Agg.	56-192	180-288
1st Deg. Agg.	90-288	192-576

Time served is UNDER by ____ mos. Time served is WITHIN Time served is OVER

Completed by (Casemanager/Com. Cor. Agent): _____

Date: _____

SECTION F: PAROLE BOARD WORKSHEET

Relevant Criminal History >

Institutional Adjustment >

Program Participation (Institutional) >

Other > _____

APPENDIX C

Appendix C: ESTIMATED INCREASE IN PAROLE BOARD WORKLOAD - FY 1997-98 to FY 2003-04
Based on Parole Board's Current System of Operation

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
PAROLE BOARD MEMBER WORKLOAD							
Estimated Release Hearings	10,581	11,753	13,092	14,389	15,547	16,678	17,642
Assume 30 minutes per hearing - total hours	5,291	5,877	6,546	7,195	7,774	8,339	8,821
Assume 1 member present, five minute review by second member - total hours	6,190	6,876	7,659	8,418	9,095	9,757	10,321
Estimated Recision Hearings	41	45	45	45	45	45	45
Assume 20 minutes per hearing - total hours	14	15	15	15	15	15	15
Assume 1 member present, five minute review by second member - total hours	16	30	30	30	30	30	30
Estimated Revocation Hearings	3,457	4,002	4,802	5,597	6,325	7,055	7,671
Assume 13 percent held by board member	449	520	624	728	822	917	997
Assume 30 minutes per hearing - total hours	225	260	312	364	411	459	499
Assume 1 board member/hearing	225	260	312	364	411	459	499
Estimated Waivers	3,521	3,791	4,164	4,409	4,755	4,944	5,123
Assume 5 minutes per waiver - total hours	292	315	346	366	395	410	425
TOTAL HOURS — HEARINGS / WAIVERS (not including full board hearings)	6,723	7,480	8,346	9,177	9,930	10,655	11,274
ANNUAL HOURS AVAILABLE/MEMBER							
Annual hours available per board member	2,920	2,920	2,920	2,920	2,920	2,920	2,920
Less weekends/holidays/annual/sick leave	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)
Less full board hours/per member							
Projected number of full board hearings	988	1,068	1,120	1,244	1,335	1,417	1,520
(assume 15 minutes/hearing)	(247)	(267)	(280)	(311)	(334)	(354)	(380)
Less administrative time							
(assume 2 hours per week/per member)	(104)	(104)	(104)	(104)	(104)	(104)	(104)
Less travel time							
(assume 22,383 annual miles/member at 50 miles per hour)	(446)	(446)	(446)	(446)	(446)	(446)	(446)
NET HOURS AVAILABLE PER MEMBER	1,023	1,003	990	959	936	916	890
ADDTL. BOARD MEMBER FTE REQUIRED							
FTE required	6.6	7.5	8.4	9.6	10.6	11.6	12.7
FTE for chair admin. duties (14 hours/wk)	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Total Board Member FTE Required	7.0	7.9	8.8	10.0	11.0	12.0	13.1

Appendix C: ESTIMATED INCREASE IN PAROLE BOARD WORKLOAD - FY 1997-98 to FY 2003-04
Based on Parole Board's Current System of Operation

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Current Board Member FTE	7.0	7.0	7.0	7.0	7.0	7.0	7.0
Adftl. Board Member FTE Required	0.0	0.9	1.8	3.0	4.0	5.0	6.1

Appendix C: ESTIMATED INCREASE IN PAROLE BOARD WORKLOAD - FY 1997-98 to FY 2003-04
Based on Parole Board's Current System of Operation

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
HOURS AVAILABLE PER ALJ							
Annual hours available per ALJ	2,920	2,920	2,920	2,920	2,920	2,920	2,920
Less weekends/holidays/annual/sick leave	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)
Less administrative time	(104)	(104)	(104)	(104)	(104)	(104)	(104)
(assume 2 hours per week/per ALJ)							
Less travel time							
(assume 22,363 annual miles/ALJ at 50 miles per hour)	(448)	(448)	(448)	(448)	(448)	(448)	(448)
NET HOURS AVAILABLE PER ALJ	1,268	1,268	1,268	1,268	1,268	1,268	1,268
ADDITIONAL ALJ FTE REQUIRED							
Total ALJ FTE Required	1.2	1.4	1.6	1.9	2.2	2.4	2.6
Current ALJ FTE	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Additional ALJ FTE Required	0.2	0.4	0.6	0.9	1.2	1.4	1.6

Appendix C: ESTIMATED INCREASE IN PAROLE BOARD WORKLOAD - FY 1997-98 to FY 2003-04
Based on Parole Board's Current System of Operation

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
SUPPORT STAFF WORKLOAD							
FY 1996-97 total hearings and waivers	18,150	18,150	18,150	18,150	18,150	18,150	18,150
Projected number of hearings/waivers	18,588	20,659	23,223	25,684	28,007	30,139	32,001
Increase in hearings/waivers	438	2,509	5,073	7,534	9,857	11,989	13,851
Assume 3,630 hearings per FTE	3,630	3,630	3,630	3,630	3,630	3,630	3,630
ADDITIONAL SUPPORT STAFF REQUIRED							
Total Support Staff FTE Required	6.1	6.7	6.4	7.1	7.7	8.3	8.8
Current Support Staff FTE	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Additional Support Staff FTE Required	0.1	0.7	1.4	2.1	2.7	3.3	3.8

**Appendix C: ESTIMATED INCREASE IN PAROLE BOARD WORKLOAD - FY 1997-98 to FY 2003-04
Based on Parole Board's Current System of Operation**

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
Appendix C: ESTIMATED INCREASE IN PAROLE BOARD WORKLOAD - FY 1997-98 to FY 2003-04 Based on Parole Board's Current System of Operation							
TOTAL ADDITIONAL STAFF PROJECTED							
Total Staff FTE Projected	13.3	15.0	16.8	19.0	20.9	22.7	24.5
Current Staff FTE	13.0	13.0	13.0	13.0	13.0	13.0	13.0
Additional Staff FTE Required	0.3	2.0	3.8	6.0	7.9	9.7	11.5

ASSUMPTIONS

- (1) Assumes one board member conducts release/recision hearings (five minute review by a second member) and uses the board policy release hearing projections.
- (2) Assumptions regarding number of minutes per hearing and per waiver are based on American Correctional Association standards and Parole Board estimates.
- (3) Assumptions regarding time needed for administrative duties are based on Parole Board estimates.
- (4) Percentage of revocation hearings held by board members is based on number of revocation hearings conducted by board members and ALJ in FY 1996-97.
- (5) Board member travel is based on estimated travel of 177,998 miles in FY 1996-97 divided the number of hearings/waivers times the estimated number of hearings in each fiscal year.
- (6) ALJ travel is based on estimated number of miles traveled in FY 1996-97 divided the number of hearings/waivers times the estimated number of hearings in each fiscal year.
- (7) Support staff workload based on ratio of FY 96-97 actual hearings/waivers to current 5.0 FTE support staff.

APPENDIX D



Washington, DC 20514

DISCLAIMER

RE: NIC TA No. 98C1038

This technical assistance activity was funded by the Community Corrections Division of the National Institute of Corrections. The Institute is a Federal agency established to provide assistance to strengthen state and local correctional agencies by creating more effective, humane, safe and just correctional services.

The resource person completed this technical assistance assignment through a cooperative agreement, at the request of the Colorado Legislative Council, and through the coordination of the National Institute of Corrections. This assistance and the subsequent report are intended to assist the agency in addressing issues outlined in the original request and in efforts to enhance the effectiveness of the agency.

The contents of this document reflect the views of Ron Jackson. The contents do not necessarily reflect the official views or policies of the National Institute of Corrections.

- 3.) Recommendations regarding the future of mandatory parole, and whether and how the current system can be improved to increase public safety and lower costs.

The initial review of the provided materials and the consultant site visit provided insight into the overall conditions that presently exist and the historical context for how the Board presently operates and manages its' workload. This report will examine the three areas that the committee and the legislative council staff are considering now. Based upon the consultants' review of the information provided and collected on the site visit, these observations are provided.

Structure and Composition of the Board and Projected Workload

The Colorado Board of Parole presently has seven board members that consider inmates for possible release to parole supervision through a hearing process, conduct parole revocation hearings and a smaller number of recision hearings. In the area of revocation hearings, the Board has one Administrative Law Judge that provides additional manpower for revocation hearings in a specified geographical area of the state. These three hearing procedures are similar, but have slightly different processes and requirements. The manner in which the Board manages these hearing workloads and modes of operation will be discussed in detail in the section regarding different ways of conducting the business of the Board. The following statistics are significant for the study committee to consider:

Total Prison Population Tracking

July 1, 1988 --- 5,756 DOC Inmates
July 1, 1996 --- 11,577 DOC Inmates

This represents slightly over 100% increase in prison population from 1988 to 1996.

Total Parole Board Release Hearing Tracking

Total Release Hearings FY 87-88	3,030
Total Release Hearings FY 96-97	10,352

This represents a 241.7% increase in release hearings from 1987-88 to 1996-97.

Total Parole Board Revocation Hearing Tracking

Total Revocation Hearings FY 89-90	1,774
Total Revocation Hearings FY 96-97	3,122

This represents a 76% increase in revocation hearings from 1989-90 to 1996-97.

Total Parole Board Recision Hearing Tracking

Total Recision Hearings FY 92-93	152
Total Recision Hearings FY 96-97	77

This represents an almost 50% reduction in recision hearings from 1992-93 to 1996-97.

This quick review of similar timeframes indicates that Board release hearings have grown at over twice the rate of the overall prison population. The revocation hearings have increased at a slower rate of 76%. The recision hearings have actually decreased by almost 50%. Although the time periods used for comparisons are not the same, they do accurately reflect the workload increase of the Board. It is important to note that the Board was increased from five members to seven members during the time periods being compared in each category. This significant workload factor is probably created by internal Parole policy regarding release hearings. This is a brief, synopsis of historical workload statistics. There are very detailed population and Parole Board projections already completed by the Legislative Council staff and reviewed by the Study Committee. This workload assessment will be discussed in greater detail in the section regarding Alternative Modes of Operation.

Role and Impact of Parole Supervision on Parole Board Workload

Parole supervision and revocation policy can have a significant impact on parole revocation hearing workload of the Parole Board. The more stringent supervision revocation policy is on technical violations, the more revocation hearings that will be required. This is a policy issue that can be shifted if necessary. Many states have varying supervision and revocation policies. The National Institute of Corrections (NIC) has provided funding in some jurisdictions for the development of parole supervision classification systems that impact revocation policies. In other jurisdictions, the NIC has provided funding and technical assistance in the development of "revocation guidelines" that articulate Parole Board policy regarding supervision and revocation policy.

The Colorado parole system has a bifurcated system for delivering parole supervision. The Parole Board is a separate agency from Adult Parole Services. Adult Parole Services is a division within the Department of Corrections. And the Parole Board employs an Administrative Law Judge to conduct many of the revocation hearings for them. As in all states and jurisdictions, there is a tension in parole supervision and the "revocation authority", in this case, the Colorado Parole Board. This tension has its' origin in the revocation policy that the Parole Board practices and the supervision policy that is implemented by Adult Parole Services. This policy differentiation between key system components can create workload issues for both agencies and frustration in field supervision staff and Parole Board members. The addition of an Administrative Law

Judge in this equation lends more opportunity for disparate policy implementation strategies. Whatever the case, it is apparent to the consultant that this area of revocation and supervision policy needs review and recommendations. The clarity of unified policy can often reduce workload in both agencies and clarify expectations of all concerned.

The study committee should review additional parole supervision issues as well. Alternatives to revocation back to prison can be very cost effective and reduce parole board workload. The study committee should consider the impact of an array of levels of supervision classification, based on the risk of the offender, from minimum classification to a "return to custody" facility. A return to custody facility can avoid return to prison, can be handled at a lower administrative level, thereby reducing Parole Board workload.

The consultant strongly urges the study committee and the Legislative Council staff to review the revocation and supervision policies of the Parole Board and the Adult Parole Services to ascertain the potential impact of the existing policies on Parole Board workload. Additionally, efficiencies in use of state prison capacity can be positively impacted by unified supervision and revocation policy and a full range of sanctions that can be imposed short of a revocation, "return to prison" hearing.

Operations of the Parole Board and Potential Alternative Modes of Operation

The Colorado Parole Board has, as discussed before, three primary functional responsibilities: parole release hearings, parole rescission hearings and parole revocation hearings. In the conducting of these various hearing responsibilities, the Board has significant administrative issues of scheduling of hearings, travel considerations and coordination of the various hearings with the Department of Corrections, Division of Community Corrections and Adult Parole Services. In some cases, they must interact with local jails and law enforcement. This complex process to ensure they meet their statutory requirements of hearings is directly affected by Board and Department of Corrections policies regarding release, rescission and revocation hearings. These existing policies are most likely impacting the Parole Board workload and the workloads of Department of Corrections personnel (especially DOC Case Managers) and Adult Parole Services personnel. Some of the policies that the consultant has observed most likely affect these workloads are:

Parole Release Hearings Policies:

- 1.) Release Decision Options -- Presently, the Parole Board can decide to grant parole, to defer parole, to table the case or to present it to the full Board. The three options to not grant parole create additional Board workload.
- 2.) Deferred Paroles -- There appears to be a significant growth in deferred parole decisions for a specified time of less than a 12-month period. According to Council staff data, these deferred paroles have increased from 2,828 in FY 91-92 to 7,703 deferred paroles in FY 96-97. This represents an increase in five years of 173%. The consultant observed from several sources that less than

12-month deferrals, some of 3 months or 6 months are common. A further analysis of this total that represents deferrals of less than a 12 month period will be instructive. The consultant understands that this data is generally unavailable, but even if there must be a hand count of cases to determine the number of deferred cases during a specified period, this is critical to assess this problem. It appears that some policy adjustments regarding length of deferrals will likely be appropriate and workloads would be affected in a positive manner.

- 3.) **Tabled Paroles** – This policy needs further review to determine the impact of these decisions on workload. For what period are these paroles tabled, for what reasons, is another hearing required to resolve or take the decision off the table?
- 4.) **Split Decisions** – When two Board members disagree regarding a release, a third Board member must determine the decision. There are three options that impact workloads – the third member may request a discussion with each Board member, they may request additional information, or they may request a re-interview with the offender. The study committee should review the impact of these policies to determine the workload impact on Board members.
- 5.) **Full Board Hearings** – It is required for all violent offenders to have a full board review. This full board review, by policy, has at least four board members voting. Apparently, any board member may request any case be placed before a full board review. This policy may have a negative impact on Parole Board workload. It needs further evaluation and assessment. According to Council staff, full board hearings have increased slightly from 801 in FY 91-92 to 1,054 in FY 96-97. This represents a modest 32% increase. The logistics of arranging full board reviews is administratively demanding, however.
- 6.) **Parole Risk Assessment/Parole Guidelines** – The full use of the existing risk assessment instrument and the incorporation of the instrument into a parole guidelines instrument that articulates parole release policies of the Board can be very efficient and effective in a strong parole process. It is clear to this consultant that Colorado has the expertise to support a thorough review and the development of any guidelines instrument that would assist in clarifying release policy of the Board.

Parole Revocation Policies:

- 1.) As discussed earlier, the supervision policies of the Adult Parole Services and the revocation policies of the Parole Board are critically important to managing the revocation hearing workload of the Board, its' staff and the staff of Adult Parole Services. A review of the parole supervision classification system employed by Adult Parole Services can reveal important information regarding

revocation-hearing workloads. Tough, restrictive alternatives to revocation to prison can often avoid revocation hearings in appropriate cases. More progressively stringent sanctions that can be implemented by parole services staff is both cost-effective and more efficiently manages workloads of the Board and parole services. The study committee and the Council staff need a close review of the revocation process, from the decision points in supervision when revocation is pursued, through the board revocation hearing.

Other Issues Affecting Parole Board Workload

There are other decisions, policies and procedures that the consultant has observed that need to be assessed in their impact on parole board workload and operations. These issues are:

- 1.) **Board Members --** Many states and the federal government utilize hearing examiners or hearing officers to assist the Board in conducting hearings. The U.S. Parole Commission, the states of Georgia, Texas, among others utilize these officers to reduce Board workload and to maximize more efficiencies. Hearing Officers are more cost effective, can be regionally located, can be given statutory or policy authority to conduct hearings on behalf of the Board and can significantly reduce Board hearing workloads in release, recision and revocation hearings. The committee and council should review the statutory and policy implications of utilizing hearing officers/examiners rather than additional Board members. The concept of additional Administrative Law Judges is also a possibility in this regard. It appears that the cost of this may not be any less than adding new Board members.
- 2.) **Technology --** An analysis of the potential technological solutions for reducing parole board workloads is necessary. The board could utilize teleconferencing for many hearings that would eliminate travel and increase efficiencies in some cases. The board already utilized telephonic hearings in cases where Colorado inmates are housed out of state. The study committee should analyze the impact on release decisions in these cases. The use of laptop computers is being utilized in many states by parole members. And there are automated parole file systems available that create efficiencies.
- 3.) **Alternative Supervision Sanctions --** The consultant urges the consideration of concepts of more intensive supervision interventions prior to revocation hearings, such as "return to custody" facilities. This strategy can have positive impact on reducing hearing workloads, return to prison and thus prison bedspace and staff workloads of the Parole Board and Department of Corrections staff.

- 4.) **Community Corrections Inmates and Parole Release** – A unique concept in Colorado is the parole release of inmates from community corrections placements. While it is unclear to the consultant how many cases fall into this category, it does affect Parole Board workload. When the Parole Board denies parole to a community corrections inmate in a residence (home detention) placement, it creates difficulties for Community Corrections, the Department of Corrections and the inmate and the management of the community corrections facilities. To defer or deny parole in these cases requires at least a future parole hearing, often requires returning inmates to prison from community corrections' facilities and causes significant workloads on staffs of all agencies affected. This phenomenon might bear further attention by the Parole Board, the study committee and the Legislative Council staff.

Observations on Mandatory Parole

Part of the charge from the General Assembly regarding the parole study is an assessment of mandatory parole. The consultant discussed this issue with several committee members and the Council staff. Since the legislation creating mandatory parole was enacted recently and there is very little experience regarding offenders released on mandatory parole, it may be difficult for the parole study to adequately assess the impact of this new initiative. It is imperative that data analysis systems be in place to track the impact of this law and how offenders are responding after this mandatory release and how it contributes to various workloads in the system.

One observation that needs close attention is the revocation rates of offenders released on mandatory parole. It is always a potential risk that offenders that are not selected by the parole board for release will be less successful than parolees that have been approved by the board for release. This difficulty must be monitored closely and data maintained on this specific population to determine the impact.

Initial Recommendations of the Consultant to the Study Committee and the Legislative Council

The following recommendations are provided in a concise, compiled format from the preceding text of this report:

- 1.) Review the present parole supervision classification system to determine impact on revocation hearings workloads and determine other potential efficiencies.
- 2.) Review the possibility of implementing revocation guidelines as an articulation of revocation policy of the Parole Board and the Adult Parole Services.
- 3.) Parole decision guidelines and the utilization of the existing risk assessment instrument needs further review and assessment.
- 4.) A comprehensive review of all parole supervision and revocation policy of both the Parole Board and the Department of Corrections, Adult Parole Services to determine impact of existing policy to workloads. This review should include a

- mapping of the overall revocation process, the decision points throughout the system and the implications for workload.
- 5.) Develop a dialogue regarding "alternatives to revocation" in a system of expanded supervision classification sanctions.
 - 6.) A thorough review and assessment of the impact of the following parole release hearing policies of the parole board:
 - **Deferred Paroles** – An assessment of the number of deferrals that are for less than 12 months and the impact that has on additional release hearings.
 - **Tabled Paroles** – An assessment of how often this option is utilized, for how long these cases stay tabled, the administrative handling required and the impact of board workload on these cases.
 - **Split Decisions** – An assessment of the frequency of these split decisions and the resulting workload on Board members.
 - **Full Board Hearings** – An assessment of the increase that has occurred and the administrative difficulties of implementing these hearings. Policy adjustments might be developed to redefine a Full Board panel to three, rather than four members.
 - 7.) Review the statutory and policy implications of utilizing hearing officers or hearing examiners rather than additional Board members if workload efficiencies are not identified in policy adjustments.
 - 8.) The issue of Community Corrections inmates housed in community facilities or residences being denied parole requires evaluation. When parole is denied in these cases, several negative workload outcomes occur.
 - 9.) Review the technology being utilized by the board and assess how teleconferencing and telephonic hearings could impact efficiencies.
 - 10.) Create a database to track mandatory parolee populations and the revocation rates compared to regular parole releases.

Concluding Observation and Comments

The consultant has reviewed the materials provided by the Legislative Council staff in detail. The Parole Board workload projections represent excellent work and will serve the study committee well in their deliberations. The charge to the study committee is clear. The issues in studying any parole process and the various agencies that impact workloads are always complex. Colorado will prove to be no different in this regard.

The staff support provided by the Legislative Council to the consultant in arranging the site visit was excellent. The scheduling of the various study committee members for interviews went smoothly and was remarkably helpful to understand the system in a very compact timeframe. (The schedule is attached to the report.) The opportunity to meet with the entire study committee and discuss their understanding of the task was also helpful and constructive. (The agenda is attached to the report.) The assistance of Marie Mactavish, Mactavish Consulting, has been particularly helpful.

I complement the approach that the Legislature has taken in the strategy of this study committee work. It provides an excellent forum for the participants in the parole process to come together and assess the efficiencies and effectiveness of the present system and jointly recommend solutions to common problems and heavy workloads.

This report represents initial observations, ideas and some tentative recommendations. Should the Legislative Council and the study committee need additional support, this consultant is ready to assist in whatever capacity needed.

APPENDIX E

Consultant Report

Prepared For:

Colorado Legislative Council

***Advisory Committee on the Parole System
Study***

Submitted By:

**Ronald W. Jackson
Consultant**

July 7, 1998



U.S. Department of Justice

National Institute of Corrections

Washington, DC 20534

DISCLAIMER

RE: NIC TA No. 98C1038

This technical assistance activity was funded by the Community Corrections Division of the National Institute of Corrections. The Institute is a Federal agency established to provide assistance to strengthen state and local correctional agencies by creating more effective, humane, safe and just correctional services.

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Colorado Legislative Council Advisory Committee on the State Parole System

Consultant Report

Introduction

This report is the second report provided to the Colorado Legislative Council Advisory Committee on the State Parole System by this consultant. The content, observations and recommendations in this report have been developed from all materials and information provided to this consultant by the Council staff and from the previous visit and interviews. This report and the second visit with the Advisory Committee focuses on the work of the committee since my first visit and the recommendations developed by the committee.

This report contains this consultant's final recommendations and comments of the work of the advisory committee and the recommendations being proposed by the committee at this time.

Scope of the Work

The scope of this work and report by the consultant is limited to the review of the committee work and recommendations regarding the issues regarding parole board workload, release hearing processes and procedures, the development and utilization of release and revocation guidelines. The report will also consider additional areas that the advisory committee may want to make recommendations regarding the existing supervision classification system and other correctional capacity management strategies that may affect workload.

Review and Observations Regarding the Advisory Committee Recommendations

Recommendation regarding Release Hearings:

1. Combination of hearing officers and parole members. Hearing officers will conduct release hearings on all class 5 and 6 felonies, and on non-violent class 4's. The hearing officers will have release authority in these cases, however, a parole board member must do a paper review of, and sign off on, each decision. The recommendation will be reviewed by the parole board chairman should there be an appeal.

Consultant Reaction: This is a valuable utilization of hearing officers working in concert with parole board members to maximize workload effect. The preliminary indication from DOC statisticians indicates this would require four hearing officers. It does appear to the consultant, that a review and sign off by a

parole board member on hearing officer decisions means that the hearing officer does not in fact have "release authority." Excellent proposal to positively impact parole board caseload. The consultant recommends that these hearing officers be located regionally throughout the state to maximize administrative travel time to hearings. It was indicated in the meeting on May 21 with the committee that this was the intention.

2. Three-member panels of parole board members. Class 1,2,3 felonies and violent 4's will be heard by a three-member panel of parole board members. This release hearing will constitute a full board hearing. (There is no seven-member panel reviews.) Any appeal will be to the chair.
Consultant Reaction: Excellent utilization of parole board resources and reduction in overall caseload. Provided that there is no legal hindrances to a less than full seven-member hearing in code, then this is fully supported by the consultant. This is a practice that is utilized in many states in managing parole board hearing caseloads.

Recommendations for Guidelines for Releases:

1. The advisory committee agrees that it will be necessary to develop guidelines for releases in order to maintain consistency in release decision making. This will be especially important when hearing officers are employed to conduct certain release hearings.

The release guidelines must embody board policy and should take into account the following:

- Risk assessment score
- All violence factors
- Programs and treatment completed
- Parole plan
- Intensive Supervision Program population restrictions
- Availability of placements
- Statutory requirements
- Criminal history
- Escape or absconding
- Circumstances of current crime
- Age
- Length of stay
- Case manager summary and objectives
- PAS
- Health
- Inmate classification
- Family support
- Psychological evaluations

Consultant Reaction: The consultant discussed release guidelines in the first report after the first visit with the advisory committee. The use of release

guidelines is critical in articulating parole board release policy; especially if the previous recommendation regarding utilizing hearing officers to make release decisions is implemented. Parole release guidelines do not serve as a substitute for a board release decision. Guidelines do provide hearing officers and all parole board members with the general parole board policy regarding average length of stay for certain crimes with a particular set of criminal, social and risk factors that exist in a particular case. This articulation of parole board release policy is important internally to the parole board and hearing officers, but externally to victims, inmates and other components of the criminal justice system. Parole release guidelines are also very important in the accurate projections of prison population and criminal justice system capacity.

The consultant recommendation regarding guidelines for release is that the study committee recommend the establishment of a Parole Guidelines Development Task Force. The membership of the task force should include the parties that have an impact on or are impacted by the utilization of the guidelines. Given the information provided to the consultant, the state has sufficient resources and qualified personnel and statisticians in the Department of Corrections, the Division of Criminal Justice and the Parole Board to assist in formulating these guidelines. The consultant pointed out to the advisory committee that the risk assessment portion of these guidelines are statistical calculations of the Colorado criminal profiles of those incarcerated and at some time eligible for parole. The risk of reoffending or acting out in a violent manner is predictable on the statistical evidence of previous offenders with similar characteristics. The parole board policy portion of these guidelines are the appropriate place to add or deduct average time to serve based on Colorado and parole board policy on how much time is appropriate to serve for certain offenses. The development of guidelines is an important undertaking and the National Institute of Corrections may provide technical assistance to support the parole board in developing these guidelines.

Recommendations regarding Revocation Hearings

The advisory committee will recommend that the administrative law judge (ALJ) position be converted to an eighth full-time parole board position. Board members will conduct all revocation hearings.

Consultant Reaction: *This committee recommendation is appropriate, particularly in regard to parole board caseload. This has the effect of increasing the total board hearing capacity, and does not limit a full-time position (the ALJ) to just revocation hearings in a limited geographical area. One point of concern is the total number of board members being an even number of eight. Should the board ever sit in full-board hearings or in votes to establish board policy, a potential tie vote can be troublesome. This should be given appropriate consideration by the board and be reviewed by legal counsel or the Attorney General's office.*

Recommendations regarding Guidelines for Revocations/Sanctions

The advisory committee agrees that it will be necessary to develop guidelines for revocations. The revocation guidelines must embody board policy and, among other things, should take into account the following:

- Statutory mandates
- Governor's directive
- Parole division policy
- Public safety
- Availability of intermediate sanctions, such as ISP
- Risk assessment score

Consultant's Reaction: The use of revocation guidelines is very important for the parole board. Even without an ALJ, the parole board will still be working in panels and individually regarding revocations. Perhaps the most positive impact of revocation guidelines is the information it provides to parole supervision staff and management. Parole revocation guidelines not only inform parole board members, but also indicate to supervision staff how the board will respond to certain revocation charges and recommendations. Like the release guidelines, the risk assessment score is a statistical indicator given certain factors in relationship to the offender and his behavior under supervision. The board policy portion of these guidelines are both a statistical assessment of previous board practice in revocation and the concerns and values that the parole board have regarding revoking the parole or continuing the parolee under supervision. This process will require the parole board to review its existing revocation policy and agree to the appropriate, representative policy of the existing board revocation policy and desired practice.

Other Issues for Advisory Committee to Consider Regarding Parole Board Workload and Revocations

1. Parole Supervision Classification System – This consultant still advises that supervision classification systems are an essential component of parole population management. These supervision classifications systems provide the parole field staff with a valuable way of assigning staff resources to the appropriate level of risk parolees. A well crafted classification system that is based on a risk assessment instrument and the agreed upon policy of supervision of the parole division and the parole board is critical. The development of policy consensus on which parolees receive what type and level of supervision would provide a clear understanding of expectations that the parole board has of the parole division and conversely what the parole division expects of the parole board in terms of revocation. To place low risk parolees in high levels of supervision means that

these offenders receive a level of monitoring that is greater than their risk indicates. When these low risk parolees are determined to be breaking certain parole rules or not meeting some conditions of release, then revocation proceedings are likely to be the outcome. If parole board revocation policy is not in line with the supervision practice of the parole division, then revocation workloads are negatively affected. This disconnected practice frustrates both the parole board, parole division staff and sends an uneven message to parolees. Without a classification system that has both the parole board and parole division policy concerns integrated into how supervision is carried out, there is little possibility of rationally supervising the parolee population. This also makes it very difficult to predict parolee population, prison populations, revocations, supervision and parole board workloads. Unclear policy and practice often leads to duplicate work activities, excess paper work and poor communication between parole division staff, the parole board and parolees.

A rational, well designed, agreed upon classification system that efficiently manages the parolee population and interacts with the rest of the correctional system is advisable. With a fragmented classification that does not integrate the expectations of the parole board and the parole division, misunderstanding and inefficient workloads are the outcome.

Consultant Recommendation: *The study committee should recommend an assessment of the existing classification system to determine its impact on revocation practice and policy now. This assessment should provide recommendations as a part of a final report to the Legislative Council on the status of the existing classification system.*

2. Return to Custody Facility – As part of a supervision classification system and revocation policy, more alternatives short of return to prison are important to efficiently manage both supervision caseloads and prison population numbers. When parole supervision staff has an alternative of a “return to custody” facility where problem parolees can be sent for a determined period of time the supervision staff can better manage their caseloads. And from an efficiency standpoint, when parolees can be diverted from costly prison beds and avoid the full revocation process, then the needed intervention positively impacts costs and workloads. The Director of the DOC indicated that he has under consideration the shifting of one facility’s mission to return to custody beds. Should such a facility become available for parole supervision and revocation response, it could also serve other components of the corrections system, particularly community corrections. This would be a positive development. A parole supervision classification system that defines what offenders should be placed in the return to custody facility that both the parole board and the parole supervision division agree on would help clarify the utilization of these beds. Both the parole board and the parole division have an interest in how the beds are utilized. It is important to maximize these beds for both management of parole supervision and prison capacity. And, if necessary to meet other DOC population requirements,

the "return to custody" facility could be shared with community corrections. If the facility is developed and designed to share the bed resources, a predetermined allotment of bedspace capacity for parole "return to custody" should be designated and agreed to by the parole board and the DOC (parole division and community corrections) in the planning stage.

3. Outcome or Results Driven Supervision – There is growing interest in designing supervision and all government programs in a results or outcome context. This rather new way of designing programs shifts the determining of "why" a program exists to the front of program, the planning stage. If we know why we need a program and agree to that reason by all parties, then we can design the program with the result that we want in mind. For example, if we want a supervision to prevent offenders from reoffending, then we design that program with elements that we believe or can demonstrate have that outcome/result. If information indicates that offenders that do not use illegal substances are more successful on parole than those that do, then the program is designed to reduce substance abuse by parolees. We set targets for reducing substance abuse among our parolees under supervision and develop various strategies to accomplish this desired result. We then track our progress on that substance abuse reduction. Certainly, this requires that we track not only our program for reducing substance abuse, but also other external factors that may impact substance abuse. However, we always know whether the impact of our program is having any effect. This provides an organization with valuable information regarding whether the program needs adjustments or increases in resources, etc. The parole board and parole division should consider the benefits of developing a system of results driven supervision that is reflected in a system of parole supervision classification, policy and practice.

Concluding Observations and Comments

The Advisory Committee on the State Parole System Study has been very productive and successful in designing strategies that address parole board workload and the management of policy regarding parole supervision and practice. The proposals require that the parole board, parole supervision, the department of corrections, the division of criminal justice, the community corrections division and other interested parties work closely together to accomplish the implementation of many of these strategies. Whenever there is collaboration in developing policy and programs, a state is usually the beneficiary of better practice and results.

It is recommended that the advisory committee develop recommendations and strategies that provides a supervision classification system that better manages their resources and provides a more efficient implementation of parole board and supervision policy. A classification system will add clarity to the supervision and revocation process. Also, the expansion of alternatives to revocation, such as the implementation of a "return to custody" facility will contribute to more efficient operation of the overall correctional capacity.

Likewise, it is recommended that the advisory committee consider the value of designing a "results driven" supervision and revocation policy and program. Such a system would

potentially increase efficiency and focus the parole board, parole division and others on the reasons that parole supervision is provided and what it is that is to be accomplished. Along with the development of parole release guidelines, revocation guidelines and sufficient alternatives to a return to prison, this classification system and results driven supervision, then the system is maximizing resources and outcomes.

The State of Colorado and the Legislative Council are to be commended for taking the approach of the advisory committee addressing the parole system concerns. By bringing the parties together in this advisory committee format has provided an excellent opportunity to resolve some of the issues that created serious workload issues for the parole board. Those workload issues were being impacted by operational decisions throughout the system. These advisory committees' deliberations have identified these problems and developed recommendations and strategies that will resolve the operational and policy difficulties.

Hopefully, this consultant report will assist the advisory committee in completing this important task and endeavor.

APPENDIX F

Appendix F: ESTIMATED PAROLE BOARD WORKLOAD - FY 1997-98 to FY 2003-04
ADVISORY COMMITTEE RECOMMENDATIONS
 Assumes Use of Hearing Officers

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
HEARING OFFICERS WORKLOAD							
Estimated Release Hearings	6,883	7,647	8,675	9,323	10,059	10,780	11,400
Assume 30 minutes per hearing - total hours	3,441	3,823	4,337	4,661	5,029	5,390	5,700
Assume 1 officer present - total hours	3,441	3,823	4,337	4,661	5,029	5,390	5,700
Estimated Recision Hearings	0	0	0	0	0	0	0
Assume 15 minutes per hearing - total hours	0	0	0	0	0	0	0
Assume 1 officer present - total hours	0	0	0	0	0	0	0
Estimated Revocation Hearings	0	0	0	0	0	0	0
Assume 100 percent	0	0	0	0	0	0	0
Assume 30 minutes per hearing - total hours	0	0	0	0	0	0	0
Assume 1 board officer/hearing	0	0	0	0	0	0	0
Estimated Waivers	3,521	3,763	4,015	4,242	4,451	4,647	4,815
Assume 5 minutes per waiver - total hours	292	312	333	352	369	386	400
TOTAL HOURS — HEARINGS / WAIVERS	3,734	4,136	4,671	5,014	5,399	5,776	6,099
ANNUAL HOURS AVAILABLE/OFFICER							
Annual hours available per officer	2,920	2,920	2,920	2,920	2,920	2,920	2,920
Less weekends/holidays/annual/sick leave	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)
Less administrative time (assume 4 hours per week/per officer)	(208)	(208)	(208)	(208)	(208)	(208)	(208)
Less travel time (assume 5,596 annual miles/officer at 50 miles per hour — 1/4 of current)	(112)	(112)	(112)	(112)	(112)	(112)	(112)
NET HOURS AVAILABLE PER OFFICER	1,500	1,500	1,500	1,500	1,500	1,500	1,500
Total Hearing Officer FTE Required	2.5	2.8	3.1	3.3	3.6	3.9	4.1

Appendix F: ESTIMATED PAROLE BOARD WORKLOAD - FY 1997-98 to FY 2003-04
ADVISORY COMMITTEE RECOMMENDATIONS
 Assumes Use of Hearing Officers

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
BOARD MEMBER WORKLOAD							
Estimated Release Hearings — Referred from Hearing Officer for Paper Review	1,721	1,912	2,169	2,331	2,515	2,695	2,850
Assume 5 minutes per review - total hours	143	159	181	194	210	225	237
Assume 2 members present - total hours	287	319	361	388	419	449	475
Estimated Release Hearings — 3 Member Panel	3,706	4,117	4,671	5,020	5,416	5,805	6,138
Assume 30 minutes per hearing - total hours	1,853	2,059	2,336	2,510	2,708	2,902	3,069
Assume 3 members present - total hours	5,559	6,176	7,007	7,530	8,124	8,707	9,207
Estimated Recision Hearings	41	45	45	45	45	45	45
Assume 20 minutes per hearing - total hours	14	15	15	15	15	15	15
Assume 2 members present - total hours	16	30	30	30	30	30	30
Estimated Revocation Hearings	3,457	3,900	4,494	5,075	5,681	6,249	6,797
Assume 30 minutes per hearing - total hours	1,729	1,950	2,247	2,538	2,841	3,125	3,399
Assume 1 board member/hearing	1,729	1,950	2,247	2,538	2,841	3,125	3,399
Estimated Waivers	0	0	0	0	0	0	0
Assume 5 minutes per waiver - total hours	0	0	0	0	0	0	0
TOTAL HOURS — HEARINGS / WAIVERS	7,590	8,474	9,645	10,486	11,414	12,311	13,111
ANNUAL HOURS AVAILABLE/MEMBER							
Annual hours available per board member	2,920	2,920	2,920	2,920	2,920	2,920	2,920
Less weekends/holidays/annual/sick leave	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)	(1,100)
Less full board hours/per member							
Projected number of full board hearings	0	0	0	0	0	0	0
(assume 20 minutes/hearing)	0	0	0	0	0	0	0
Less administrative time							
(assume 2 hours per week/per member)	(104)	(104)	(104)	(104)	(104)	(104)	(104)
Less travel time							
(assume 11,142 annual miles/member							
at 50 miles per hour — 50% of present)	(223)	(223)	(223)	(223)	(223)	(223)	(223)
NET HOURS AVAILABLE PER MEMBER	1,493	1,493	1,493	1,493	1,493	1,493	1,493
ADDTL. BOARD MEMBER FTE REQUIRED							

Appendix F: ESTIMATED PAROLE BOARD WORKLOAD - FY 1997-98 to FY 2003-04
ADVISORY COMMITTEE RECOMMENDATIONS
 Assumes Use of Hearing Officers

	FY 1997-98	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	FY 2002-03	FY 2003-04
FTE required	5.1	5.7	6.5	7.0	7.6	8.2	8.8
FTE for chair admin. duties (14 hours/wk)	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Total Board Member FTE Required	5.5	6.1	6.9	7.4	8.0	8.6	9.2
Current Board Member FTE	7.0	7.0	7.0	7.0	7.0	7.0	7.0
Addtl. Board Member FTE Required	(1.5)	(0.9)	(0.1)	0.4	1.0	1.6	2.2
SUPPORT STAFF WORKLOAD							
FY 1996-97 total hearings and waivers	18,150	18,150	18,150	18,150	18,150	18,150	18,150
Projected number of hearings/waivers	17,994	19,884	22,335	24,051	25,923	27,738	29,325
Increase in hearings/waivers	(156)	1,734	4,185	5,901	7,773	9,588	11,175
Assume 3,630 hearings per FTE	3,630	3,630	3,630	3,630	3,630	3,630	3,630
ADDITIONAL SUPPORT STAFF REQUIRED							
Total Support Staff FTE Required	5.0	5.5	6.2	6.6	7.1	7.6	8.1
Current Support Staff FTE	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Additional Support Staff FTE Required	0.0	0.5	1.2	1.6	2.1	2.6	3.1
TOTAL ADDITIONAL STAFF NEEDED -- ADVISORY COMMITTEE RECOMMENDATIONS							
Total Staff FTE Projected	13.0	14.4	16.2	17.3	18.7	20.1	21.4
Current Staff FTE	13.0	13.0	13.0	13.0	13.0	13.0	13.0
Additional Staff FTE Required	(0.0)	1.4	3.2	4.3	5.7	7.1	8.4

ASSUMPTIONS:

- (1) Hearing officers will hear 65 percent of all release hearings — class 5 and class 6 felonies and non-violent class 4's.
- (2) Hearing officers will hear 100 percent of all requests for waivers.
- (3) Hearing officers are centrally located to reduce travel time and costs.
- (4) Assumes 25 percent of release hearings by hearing officers are referred to Parole Board members.
- (5) Three-member Parole Board panels will hear 35 percent of all release hearings — class 1, class 2, class 3, and violent class 4's.
- (6) Parole Board (one member with review by a second) will hear all revocation hearings.