

BOARD OF PAROLE HEARINGS

2018

---

REPORT OF SIGNIFICANT EVENTS



This page intentionally left blank for duplication purposes.

## Contents

Workload at a Glance.....	1
Grant, Denial, and Recidivism Rates .....	4
Policy and Procedure Developments.....	7
Legal Developments .....	10
Training and Outreach .....	12
Administration.....	19

This page intentionally left blank for duplication purposes.

# 2018

## SIGNIFICANT EVENTS

---

### WORKLOAD AT A GLANCE

---

#### Parole Suitability Hearings

- ◆ **5,226 scheduled parole suitability hearings**
  - Down 2% from 5,334 in 2017; a decrease in scheduled hearings after a 5% increase in 2017 and two years of 13% increases in 2014 and 2015
  - 218 or 4% were for female inmates
  - 5,008 or 96% were for male inmates
  - 2,104 or 40% were initial hearings, up from 31% in 2017
  - 3,122 or 60% were subsequent hearings, down from 69% in 2017
  - 3,130 or 60% were youth offender hearings, up from 48% in 2017
    - 2,537 or 81% were for indeterminately sentenced youth offenders, down from 94% in 2017
    - 593 or 19% were for determinately sentenced youth offenders, up from 6% in 2017
  - 1,002 or 19% were elderly parole hearings, down from 20% in 2017
    - 953 or 95% were indeterminately sentenced elderly parole inmates, unchanged from 95% in 2017
    - 49 or 5% were for determinately sentenced elderly parole inmates, unchanged from 5% in 2017
- ◆ **1,136 parole grants**
  - 22% of scheduled hearings, up from 17% in 2017
  - 69 or 6% were for female inmates
  - 1,067 or 94% were for male inmates
  - 285 or 25% were grants issued at an inmate's initial parole hearing
  - 698 or 61% were to youth offenders, up from 50% in 2017
  - 234 or 21% were to inmates eligible for elderly parole, up from 20% in 2017
- ◆ **1,793 parole denials**
  - 34% of scheduled hearings, down from 42% in 2017
  - 1,041 or 58% were to youth offenders, up from 47% in 2017
  - 383 or 21% were to inmates eligible for elderly parole, down from 22% in 2017
- ◆ **447 stipulations**
  - 9% of scheduled hearings, up from 8% 2017
- ◆ **401 voluntary waivers**
  - 8% of scheduled hearings, down from 9% in 2017
- ◆ **1,282 postponements**
  - 25% of scheduled hearings, up from 21% in 2017
- ◆ **167 continued or cancelled hearings**
  - 3% of scheduled hearings, unchanged from 3% in 2017
- ◆ **15 medical parole hearings scheduled**
  - Down 10 scheduled hearings from 25 in 2017

- ◆ **15 Penal Code section 1170(e) cases considered for referral to courts for recall of sentence or resentencing**
  - Up 5 cases from 10 in 2017
- ◆ **108 parole reconsideration hearings scheduled**
  - Up from 83 in 2017
  - 48 or 44% were initial parole reconsideration hearings, down from 48% in 2017
  - 60 or 56% were subsequent annual parole reconsideration hearings, up from 52% in 2017

#### **Consultations**

- ◆ 2,801 consultations conducted, down 26% from 3,798 in 2017

#### **Inmate Petitions to Advance Their Next Parole Suitability Hearing Date**

- ◆ 742 preliminary reviews of inmate petitions to advance their next parole suitability hearing date, up 15 cases or 2% from 727 in 2017
- ◆ 544 reviews on the merits of inmate petitions to advance their next parole suitability hearing date, up 21% from 451 in 2017
  - 394 or 72% of petitions were approved for an advanced hearing date, down from 74% approved in 2017
  - 150 or 28% of petitions were denied for an advanced hearing date, up from 26% denied in 2017
- ◆ 29% of parole suitability hearings scheduled as a result of inmates filing a petition to advance their next hearing date in 2018 resulted in a grant of parole, up from 28% in 2017

#### **Administrative Reviews to Consider Advancing Parole Suitability Hearing Dates**

- ◆ 1,276 cases were screened, up 15% from 1,111 in 2017
- ◆ 1,170 cases or 92% received a review on the merits, up from 90% in 2017
  - 971 or 83% of cases reviewed on the merits were approved for an advanced hearing date, up from 81% in 2017
  - 199 or 17% of cases reviewed on the merits were denied for an advanced hearing date, down from 18% in 2017
- ◆ 44% of parole suitability hearings scheduled as a result of an administrative review conducted in 2018 to advance inmates' next hearing date resulted in a grant of parole, up from 34% in 2017

#### **Comprehensive Risk Assessments**

- ◆ 3,168 comprehensive risk assessments completed, down 3% from 3,266 in 2017

#### **Determinately-Sentenced Nonviolent Offender Parole Reviews**

- ◆ 5,162 referrals to the Board for parole review
- ◆ 4,512 reviews on the merits were conducted
  - 1,028 nonviolent offenders or 23% were approved for release
  - 3,484 nonviolent offenders, or 77% were denied release
- ◆ 1,307 reviews of decisions were conducted
  - 1,084 decisions or 83% were upheld after review
  - 223 decisions or 17% were modified after review

**Correspondence**

- ◆ 37,067 pieces of correspondence were received and processed, down 6% from 39,502 in 2017
- ◆ 28,667 hearing notices were sent, up 1% from 28,296 in 2017
- ◆ 15,561 notices of nonviolent offender parole review were sent, up 53% from 2017
- ◆ 2,544 letters were sent from the Legal Division, down 32% from 3,722 in 2017

**Executive Case Summaries**

- ◆ 1,197 executive case summaries were prepared, up 22% from 982 in 2017

**Extradition Cases**

- ◆ 1,060 extradition cases were reviewed, up 3% from 1,034 in 2017

**International Prisoner Transfer Program**

- ◆ 160 cases completed, down 60 cases from 220 in 2017
- ◆ 1 inmate was transferred to another country, down from 2 in 2017

**Investigations**

- ◆ 1,154 pre-parole investigations were completed, up 39% from 833 in 2017
- ◆ 3 intimate partner battering investigations were completed, down from 4 in 2017
- ◆ 56 Board-initiated investigations were completed, down 21% from 71 in 2017
- ◆ 21 Penal Code section 1170(e) investigations were completed, up from 6 in 2017
- ◆ 337 pardon investigations were completed
- ◆ 11 expanded medical parole reviews were completed
- ◆ 470 commutation investigations were completed

**Mentally Disordered Offender (MDO) Actions**

- ◆ 633 certification hearings, up 17% from 539 in 2017
- ◆ 513 placement and annual review hearings, up 22% from 419 in 2017
- ◆ 139 holds to detain offenders for MDO screening, down 3% from 144 in 2017

**Parole Discharge Reviews**

- ◆ 16,397 parole cases reviewed for possible discharge from parole, down 3% from 16,988 in 2017

**Sexually Violent Predator Screening (SVP)**

- ◆ 3,906 SVP screenings, down 19% from 4,852 in 2017
  - 2,685, or 69% of cases were referred for clinical screening, up from 63% in 2017
  - 1,221, or 31% of cases were closed as not meeting criteria for clinical screening, down from 31% in 2017
  - 2,727 clinical screenings completed by the Forensic Assessment Division, up 207% from 1,316 clinical screenings completed in 2017
  - 590, or 22% of offenders were referred after clinical screening to the Department of State Hospitals for a full evaluation, down from 26% in 2017
  - 2,137, or 78% not referred after clinical screening to the Department of State Hospitals for a full evaluation, up from 74% in 2017

---

## GRANT, DENIAL, AND RECIDIVISM RATES

---

### Parole Hearing Grant and Denial Outcomes as a Percentage of Scheduled Hearings

The Board's official parole hearing grant and denial rates are calculated as the percentage of *scheduled* parole hearings that result in a grant or denial. Scheduled hearings can result in the following outcomes: grant, denial, stipulation, voluntary waiver, postponement, cancellation, or continuance.

In 2018 the Board scheduled 5,226 hearings resulting in the following outcomes:

2018 Scheduled Hearing Outcomes		
Outcome	Number	Percentage
Grant	1,136	22%
Denial	1,793	34%
Stipulation	447	9%
Voluntary waiver	401	8%
Postponement	1,282	25%
Cancellation	114	2%
Continuance	53	1%
<b>Total</b>	<b>5,226</b>	<b>100%</b>

### Parole Hearing Grant Outcomes as a Percentage of Scheduled Hearings

The grant rates for parole suitability hearings scheduled in 2018 are as follows:

- ◆ 22% of scheduled hearings resulted in a grant
- ◆ 22% of scheduled hearings for youth offenders resulted in a grant
  - 26% of scheduled hearings for indeterminately-sentenced youth offenders resulted in a grant
  - 7% of scheduled hearings for determinately-sentenced youth offenders resulted in a grant
- ◆ 23% of scheduled hearings for inmates eligible for elderly parole resulted in a grant
  - 24% of scheduled hearings for indeterminately-sentenced inmates eligible for elderly parole resulted in a grant
  - 2% of scheduled hearings for determinately-sentenced inmates eligible for elderly parole resulted in a grant
- ◆ 29% of parole suitability hearings scheduled as a result of inmates filing petitions to advance their next hearing date in 2018 resulted in a grant
- ◆ 44% of parole suitability hearings scheduled as a result of an administrative review conducted in 2018 resulted in a grant

### Parole Hearing Denial Outcomes as a Percentage of Scheduled Hearings

- ◆ 34% of scheduled hearings resulted in a denial
- ◆ 33% of scheduled hearings for youth offenders resulted in a denial
  - 34% of scheduled hearings for indeterminately-sentenced youth offenders resulted in a denial
  - 31% of scheduled hearings for determinately-sentenced youth offenders resulted in a denial
- ◆ 38% of scheduled hearings for inmates eligible for elderly parole resulted in a denial
  - 38% of scheduled hearings for indeterminately-sentenced inmates eligible for elderly parole resulted in a denial



- 41% of scheduled hearings for determinately-sentenced inmates eligible for elderly parole resulted in a denial
- ◆ 42% of parole suitability hearings scheduled as a result of inmates filing petitions to advance their next hearing date in 2018 resulted in a denial
- ◆ 32% of parole suitability hearings scheduled as a result of an administrative review conducted in 2018 resulted in a denial

### **Parole Hearing Grant and Denial Outcomes as a Percentage of Hearings Held**

Often the Board's parole grant and denial rates are misunderstood. For example, it is erroneously assumed that if 22% of scheduled hearings resulted in a grant in 2018, it stands to reason that the remaining 78% resulted in a denial of parole; that is not true.

Using the scheduled hearing outcomes above, 1,793 inmates were denied parole by the Board after a hearing. Another 447 inmates were denied parole without a parole hearing when they entered into a stipulation with the Board stating that they were not suitable for parole. In the remaining 1,850 scheduled hearings there was no decision rendered concerning the inmate's parole suitability because the inmate voluntarily waived his or her hearing, or the hearing was postponed, continued, or cancelled.

The following grant and denial rates represent parole grants and denials as a percentage of hearings held that resulted in a decision to either grant or deny parole.

### **Parole Grant Outcomes as a Percentage of Hearings Held**

The grant rates for parole suitability hearings held in 2018 are as follows:

- ◆ 39% of hearings held resulted in a grant
- ◆ 40% of hearings held for youth offenders resulted in a grant
  - 43% of hearings held for indeterminately-sentenced youth offenders resulted in a grant
  - 17% of hearings held for determinately-sentenced youth offenders resulted in a grant
- ◆ 38% of hearings held for inmates eligible for elderly parole resulted in a grant
  - 39% of hearings held for indeterminately-sentenced inmates eligible for elderly parole resulted in a grant
  - 5% of hearings held for determinately-sentenced inmates eligible for elderly parole resulted in a grant
- ◆ 40% of parole suitability hearings held as a result of inmates filing petitions to advance their next hearing date in 2018 resulted in a grant
- ◆ 58% of parole suitability hearings held as a result of an administrative review conducted in 2018 resulted in a grant

### **Parole Denial Outcomes as a Percentage of Hearings Held**

- ◆ 61% of hearings held resulted in a denial
- ◆ 60% of hearings held for youth offenders resulted in a denial
  - 57% of hearings held for indeterminately-sentenced youth offenders resulted in a denial
  - 83% of hearings held for determinately-sentenced youth offenders resulted in a denial
- ◆ 62% of hearings held for inmates eligible for elderly parole resulted in a denial
  - 61% of hearings held for indeterminately-sentenced inmates eligible for elderly parole resulted in a denial
  - 95% of hearings held for determinately-sentenced inmates eligible for elderly parole resulted in a denial

- ◆ 60% of parole suitability hearings held as a result of inmates filing petitions to advance their next hearing date in 2018 resulted in a denial
- ◆ 42% of parole suitability hearings held as a result of an administrative review conducted in 2018 resulted in a denial

### **Recidivism Rates after a Grant of Parole from the Board of Parole Hearings**

The 2018 CDCR Outcomes Report found that of the 510 indeterminately-sentenced offenders released in fiscal year 2013-14 as a result of a grant of parole by the Board, 16 offenders (3.1%) were convicted of a misdemeanor or felony during a three-year follow-up period. Three of whom (0.6%) were convicted of a felony crime against a person.

The 2017 CDCR Outcomes Report found that of the 478 indeterminately-sentenced offenders released in fiscal year 2012-13, 20 offenders (4.2 %) were convicted of a misdemeanor or felony during a three-year follow-up period. Two of whom (0.4%) were convicted of a felony crime against a persons.

The 2016 CDCR Outcomes Report found that of the 349 indeterminately-sentenced offenders released by the Board in fiscal year 2011-12, 11 offenders (3.2) percent were convicted of a misdemeanor or felony during a three-year follow-up period. One of whom (0.3%) was convicted of felony crime against a person.

### **Elderly Parole Hearings**

On February 10, 2014, the Three-Judge Panel in the *Plata/Coleman* class action lawsuit ordered the California Department of Corrections and Rehabilitation (CDCR) to finalize and implement a new parole process whereby “elderly” inmates are referred to the Board to determine suitability for parole. Inmates who are eligible for parole consideration under this program are age 60 or older and have served at least 25 years of continuous incarceration. Both indeterminately and determinately sentenced inmates are eligible. Inmates sentenced to life without the possibility of parole or condemned are not eligible for this program.

Inmates eligible for this program receive a comprehensive risk assessment, which specifically addresses how the inmate’s advanced age, long-term confinement, and diminished physical condition, if any, may have impacted the inmate’s potential risk for future violence. In 2018, the Board scheduled 1,002 hearings for inmates eligible for elderly parole, resulting in 234 grants, 383 denials, and 76 stipulations to unsuitability. The remaining 309 scheduled hearings were waived, postponed, continued, or cancelled.

### **Expanded Medical Parole Hearings**

In 2014, the Three-Judge Panel in the *Plata/Coleman* class action lawsuit ordered the CDCR, in consultation with the Federal Receiver’s Office, to finalize and implement an expanded parole process for medically incapacitated inmates. The new process for expanded medical parole was implemented in July 2014. In 2018, the Board scheduled 15 hearings for expanded medical parole, resulting in 12 approvals and 3 denials.

### **Additional Parole Eligible Dates Available on CDCR’s Website**

In 2018, the Board worked with CDCR to expand the information displayed on CDCR’s Inmate Locator, a web-based search engine available to the public, to include parole eligible dates for inmates who are eligible for a parole hearing under Senate Bill 394. Senate Bill 394 went into effect on January 1, 2018 and requires the Board to conduct a parole suitability hearing for inmates who were sentenced to life without the possibility of parole for crimes they committed while under the age of 18, once they have served 25 years.

### **Parole Consideration for Determinately-Sentenced Nonviolent Offenders**

In November 2016, California voters approved the Public Safety and Rehabilitation Act of 2016, also known as Proposition 57. Among other things, Proposition 57 created a parole consideration process for persons convicted of a nonviolent felony offense and sentenced to state prison. The proposition requires the Secretary of CDCR to adopt regulations in furtherance of the proposition’s provisions. In 2017, the Board worked with CDCR to promulgate emergency regulations to implement a parole consideration process for determinately-sentenced nonviolent offenders. The emergency regulations went into effect on April 14, 2017, and CDCR began referring inmates to the Board for parole consideration on July 1, 2017. In 2018, the Board and CDCR promulgated permanent regulations, which took effect on May 2, 2018. In 2018, the Board received 5,162 nonviolent offender parole referrals. The Board conducted 4,512 parole reviews and approved 1,028 nonviolent inmates for release. The Board denied release to 3,484 nonviolent inmates. The remaining referrals were pending at the end of 2018.

### **Parole Consideration for Indeterminately-Sentenced Nonviolent Offenders**

On September 7, 2018, the Second Appellate District Court of Appeal issued its decision in the case of *In re Edwards*. The court found that the state impermissibly excluded indeterminately-sentenced nonviolent offenders from parole consideration under Proposition 57. In response, CDCR and the

Board worked to promulgate emergency regulations to comply with the court's order. Emergency regulations were submitted to the Office of Administrative Law in December 2018, creating a process for screening indeterminate-sentenced nonviolent offenders for eligibility, calculating the dates upon which they are first eligible for possible referral to the Board, screening eligible inmates for referral to the Board, and scheduling them for parole consideration hearings.

### **Sexually Violent Predator Clinical Screening**

On July 1, 2017, the Board assumed responsibility for clinically screening inmates who are potential sexually violent predators as defined in Welfare and Institutions Code section 6600. In 2018, the Board's Forensic Assessment Division completed 2,727 clinical screenings. If the clinical screening reveals that the inmate potentially meets the criteria for a sexually violent predator, the inmate is referred to the Department of State Hospitals for a full evaluation and possible civil commitment as a sexually violent predator. Of the 2,727 clinical screening conducted by the Board in 2018, 590 were referred to the Department of State Hospitals for a full evaluation.

### **Youth Offender Hearings**

The Board began conducting youth offender parole suitability hearings for indeterminate-sentenced offenders in January of 2014, as required by Senate Bill 260. The Board began conducting youth offender hearings for determinately-sentenced youth offenders in January 2015. Under Senate Bill 260, youth offenders were defined as inmates who were tried as adults but who were under the age of 18 when they committed their offense. Certain exclusions apply.

In 2015, the Legislature expanded the definition of a youth offender to include inmates who committed their crimes when they were under the age of 23, pursuant to Senate Bills 261 and 519 (Chapter 471 and 472, Statutes of 2015), which took effect on January 1, 2016. Combined, these bills required the Board, by December 31, 2017, to schedule hearings for all indeterminate-sentenced youth offenders who were immediately eligible for a hearing when the bills took effect. In 2017, the Board successfully scheduled all youth offender parole hearings, as required. The bills also require the Board, by December 31, 2021, to schedule hearings for all determinately-sentenced youth offenders who were immediately eligible for a hearing when the bills took effect.

In 2017, the Legislature expanded the definition of a youth offender to include inmates who committed their crimes when they were under the age of 26, pursuant to Assembly Bill 1308 (Chapter 675, Statutes of 2017). This bill requires the Board, by January 1, 2020, to complete all youth offender hearings for indeterminate-sentenced inmates who became eligible for a youth offender hearing on January 1, 2018 (when Assembly Bill 1308 took effect). The bill further requires the Board to complete, by December 31, 2021, all youth offender parole hearings for determinately-sentenced inmates who became eligible for a youth offender hearing on January 1, 2018 (as a result of Assembly Bill 1308).

The Legislature also passed Senate Bill 394 in 2017, requiring the Board, by July 1, 2020, to provide a youth offender parole hearing to inmates sentenced to life without the possibility of parole for crimes they committed when they were under the age of 18.

For youth offender hearings, the Board is required to give "great weight" to the diminished culpability of youth as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the inmate in determining the youth offender's suitability for parole. In addition, risk assessments produced by the Board for youth offenders must take into account these same factors. The youth offender parole laws also authorized family members, friends, school personnel, faith leaders, and community-based organization representatives who have knowledge about the inmate from before the crime or his or her growth and maturity since the crime to submit statements to the Board for consideration at the inmate's parole suitability hearing.

In 2018, the Board scheduled 3,130 youth offender hearings, resulting in 698 grants and 1,041 denials, and 447 stipulations to unsuitability. The remaining 944 scheduled hearings were waived, postponed, continued, or cancelled. In 2018, 60 percent of scheduled parole hearings were youth offender parole hearings.

#### **Youth Offender Regulations**

In December 2018, the Board voted to approve proposed permanent regulations governing youth offender parole hearings. The regulations were submitted to the Office of Administrative Law.

#### **Petitions to Advance and Administrative Review Regulations**

In September 2018, the Board voted to approve proposed emergency regulations governing the process by which inmates may petition the Board to advance their next parole suitability hearing date and the Board's process for advancing parole hearing dates on its own motion. These processes are referred to as the Petition to Advance process and the Administrative Review process.

#### **New Process for Digitally Recording Parole Hearings**

In 2018, the Board deployed new technology for audio recording parole suitability hearings. The Board audio records and transcribes all parole suitability hearings. The new technology allows the Board to more efficiently upload and store audio recordings for each hearing.

### ***Armstrong* Class Action Litigation (“*Armstrong IP*”)**

The subject of the *Armstrong* litigation is the Board’s compliance with the Americans with Disabilities Act (ADA) throughout its hearing processes. In 2018, the Board’s legal staff provided mandatory ADA training for inmate counsel and the Board’s hearing officers. The Board continues to discuss with plaintiffs various aspects of the Board’s continued compliance with the *Armstrong* Remedial Plan II.

### **Johnson v. Shaffer**

At issue in the *Johnson* case was whether the Board’s process for preparing a risk assessment report on inmates who appear at parole suitability hearings adequately complies with federal due process requirements. In 2015, the Board and plaintiffs reached a settlement agreement. The Board agreed to administer comprehensive risk assessments every three years for inmates who have a scheduled parole suitability hearing and discontinue issuing subsequent risk assessments. The Board also agreed to provide additional training to commissioners on risk assessment tools and recidivism rates for long-term offenders, which occurred in 2016. Additional training on risk assessment and recidivism rates continues annually at the Board’s discretion. Finally, the Board agreed to formalize a process for inmates and their counsel to lodge timely written objections to address alleged factual errors in comprehensive risk assessments and for the Board to respond to those objections prior to a parole suitability hearing. In 2016, the settlement agreement was approved by the United States District Court for the Eastern District of California and the Board proposed regulations formalizing the process for inmates and their counsel to lodge timely written objections to address alleged factual errors in comprehensive risk assessments. In 2018, final regulations were approved by the Office of Administrative Law and the regulations went into effect on July 1, 2018.

### **In re Butler**

This case involved the Board’s term setting function. Petitioner filed a petition for writ of habeas corpus in 2012, alleging that the Board had a responsibility to avoid parole determinations that lead to grossly disproportionate prison terms. In 2013, petitioner and the Board agreed to a settlement requiring the Board to calculate the “base term” of an inmate serving an indeterminate sentence for use at the inmate’s initial parole hearing. At the time of the settlement agreement, “base terms” governed the earliest possible release date for inmates serving indeterminate sentences. Subsequent changes to California’s criminal justice system altered the relevant statutory landscape, such that “base terms” no longer governed the release date of inmates subject to indeterminate sentences. Based on the statutory changes, the Board moved to modify the settlement agreement. The Court of Appeal rejected the motion under a theory that base terms are constitutionally significant in determining whether a sentence is disproportionate and, therefore, the settlement order could remain in force despite the statutory changes. The Board sought review in the California Supreme Court. In 2018, the California Supreme Court reversed the Court of Appeal’s decision and held that the Board is no longer required to perform term calculations. The Board stopped performing term calculations in May 2018.

### **In re Palmer**

This case arose out of a 2015 decision by the Board that Palmer, who qualifies as a “youth offender” under Senate Bill 260, was not suitable for parole. The Court of Appeal held that the Board did not provide “great weight” to the youth offender factors and determined that the Board must “find a youth offender suitable for release unless there is *substantial evidence*, not merely *some evidence*, of the countervailing considerations indicating the offender is unsuitable for release. The court also interpreted SB 260 to require the Board to explain why a youth offender is not entitled to a finding

of suitability for release despite the presence of the statutory youth offender factors. In 2018, The Board sought review of the appellate court's opinion in the California Supreme Court.

### **In re Edwards**

In 2016, voters approved Proposition 57, which amended the California Constitution to allow any person convicted of a nonviolent felony offense and sentenced to state prison to be eligible for parole consideration after completing a specified term of imprisonment. At issue in *Edwards* was whether the regulations adopted to implement the constitutional provision validly excluded nonviolent Third Strike offenders. The Court of Appeal concluded that under the Proposition nonviolent Third Strike offenders were to be among the beneficiaries of the nonviolent parole process. Further, the court determined that the Proposition's express exclusion of alternative sentences in determining an offender's full term of the primary offense along with the fact that a third-strike life term is an alternative sentence, indicated the voter's intent to apply the Proposition to third-strike offenders. The court directed CDCR to treat as void and repeal that portion of section 3491, subdivision (b)(1) excluding Third Strike offenders, and to make any further conforming changes to the regulations. CDCR filed emergency regulations governing parole consideration for indeterminately sentenced nonviolent offenders with the Office of Administrative Law on December 11, 2018, to become effective on January 1, 2019.

### **Inmate Writs of Habeas Corpus**

In 2018 the state was required to file a response to 116 habeas petitions filed in state and federal court (down 28% from 160 in 2017). In 2018, the Board held 21 court-ordered parole suitability hearings as a result of inmate habeas petitions that were granted by the court (up from 10 in 2017).

---

## TRAINING AND OUTREACH

---

### **Commissioner and Deputy Commissioner Training**

Four commissioners attended a two-week judicial training course on Fair Administrative Hearings at the National Judicial College in August of 2018. By the end of 2018, 13 of the Board's 15 commissioners had completed this course and were certified as Administrative Law Judges.

In 2018, the Board completed its fourth full year of its Transcript Analysis Program, which provides commissioners with periodic legal feedback regarding their parole hearing decisions. Twenty-one consultations occurred between the Board's legal division and commissioners under the Transcript Analysis Program in 2018, which is the same number that occurred in 2017.

Commissioners, Associate Chief Deputy Commissioners, and members of the Board's executive team attended the 2018 Association of Paroling Authorities' Annual Training Conference. Presentations and workshops were provided on the following topics:

- ◆ *Parole as a Positive Result: Successful Reentry and Reducing Stigma*
- ◆ *Who Forgot the Warning Label? Navigating the Toxic Landscape of Forensic Work*
- ◆ *Best Practices in Victim Services: The New Board Member Handbook*
- ◆ *Dynamic Risk and Protective Factors: An Empirical Overview of Changes in Violence Risk Levels*
- ◆ *How can Parole Board Members be Catalysts for Positive Offender Change? An Overview of Promising Practices*
- ◆ *Staying Out of Prison: Challenges for Women on Community Supervision*
- ◆ *Parole Boards and the Media: An Exploration of Media Relations within Parole Practices*
- ◆ *Successful Youth Offender Parole Reform and the Healing Dialog Model*
- ◆ *Look into My Eyes: The Necessity of the Parole Hearing Interview Process and our Accuracy Evaluating Accountability and Remorse*
- ◆ *Understanding the Challenges of Assessing and Responding to the Risk and Needs of Justice-Involved Women*
- ◆ *Interstate Compact for the Parole Board Member*
- ◆ *Crisis, Reforms, and Transformation: The Journey of the Adult Parole Board of Victoria*
- ◆ *Assessing Individuals with Neurodevelopmental and Neurocognitive Disorders*
- ◆ *Parole Authorities, the Hearing Process, and Offenders' Perspectives*
- ◆ *Parolee, Attorney, Faculty: A Former Offender Offers Insights on Parole Supervision*
- ◆ *Domestic Violence – Safer Releases, Safer Communities*
- ◆ *Intimate Partner Violence (IPV): Long-Term Offenders and Assessments of IPV Recidivism Risk*
- ◆ *Procedural Justice: A Research-Based Approach to Enhance Parole Outcomes*
- ◆ *Why Did you Let 'Em Out? Changing "Gotcha-Based" Reactions to Sentinel Events through the Establishment of Sentinel Event Review Teams*



### **Commissioner and Deputy Commissioner Training (Continued)**

Commissioners and Deputy Commissioners receive training throughout the year during monthly Board meetings, the majority of which are open to the public. In 2018, the following training was provided:

- ◆ *Common Hearing Objections*, presented by Jennifer Neill, Chief Counsel, Board of Parole Hearings (BPH)
- ◆ *Waivers, Stipulations, Postponements, and Continuances*, presented by Mina Choi, Staff Attorney, BPH
- ◆ *Decision Review Timelines*, presented by Jennifer Neill, Chief Counsel, BPH
- ◆ *Role of Victim's or Victim Next of Kin's Representative at a Parole Hearing*, presented by Jennifer Neill, Chief Counsel, BPH
- ◆ *Forensic Assessment Division Regulations*, presented by Jennifer Neill, Chief Counsel, BPH
- ◆ *I Got This ... or Do You? Surviving Trauma*, presented by Mindi Russell, Executive Director, Senior Chaplain, Law Enforcement Chaplaincy, Sacramento
- ◆ *Overview of the Board's Correspondence Management Module (BCMM) and the Correspondence Unit*, presented by Tara Doetsch, Staff Services Manager, Correspondence Unit, BPH
- ◆ *Use of Insight In Determining Current Dangerousness Under In re Lawrence (2008) 44 Cal.4<sup>th</sup> 1181 and In re Shaputis (2011) 53 Cal.4<sup>th</sup> 192*, presented by Jennifer Neill, Chief Counsel, BPH
- ◆ *Best Practices for Assessing and Working with Transgender People in CDCR Parole Hearings*, presented by Joss Greene, Columbia University, Woods Ervin, Policy Director, Transgender, Gender- Variant, Intersex Justice Project, and Jennifer Orthwein, Medina Orthwein LLP
- ◆ *Overview of the Pre-Parole Process*, presented by Steve Hay, Parole Agent III, BPH and Ricardo Bautista, Parole Agent II, Division of Adult Parole Operations
- ◆ *Review of Parole Hearing Decisions*, presented by Jennifer Neill, Chief Counsel, BPH
- ◆ *2017 Report of Significant Events*, presented by Jennifer Shaffer, Executive Officer, BPH
- ◆ *Overview of Nonviolent Parole Process*, presented by Jennifer Shaffer, Executive Officer, BPH
- ◆ *New Audio Recording Software and Equipment*, presented by Travis Stratton, Staff Services Manager, BPH
- ◆ *Addressing Dismissed and Pending Rules Violation Reports*, presented by Jennifer Neill, Chief Counsel, BPH
- ◆ *Implementation of Senate Bill 394*, presented by Jennifer Neill, Chief Counsel, BPH
- ◆ *Consistent Application of the In re Lawrence Standard*, presented by Jennifer Neill, Chief Counsel, BPH

### Commissioner and Deputy Commissioner Training (Continued)

- ◆ *Long Term Offender Transitional Housing Program*, presented by Jessica Mazlum, Associate Director, Division of Rehabilitative Programs, CDCR
- ◆ *Life Support Alliance: Message and Methods*, presented by Vanessa Nelson-Sloane, Executive Director, Life Support Alliance
- ◆ *Use of Deputy Commissioners to Make Decisions Determining Whether to Advance a Parole Hearing Date*, presented by Jennifer Shaffer, Executive Officer, BPH
- ◆ *The Experiences of Transgender, Gender Variant, and Intersex People in California's Legal System*, presented by Jennifer Orthwein, Ph.D., Esq., Partner, Medina Orthwein LLP, Colby Lenz, Advocacy Coordinator, California Coalition for Women Prisoners, Krys Shelley, Community Education Specialist, California Coalition for Women Prisoners, Koko Reddick, Re-Entry Specialist, Transgender, GenderVariant, Intersex Justice Project
- ◆ *Petition to Advance and Administrative Review Regulations*, presented by Jennifer Shaffer, Executive Officer, BPH
- ◆ *Overview of Electronic Unit Health Records*, presented by Dr. Ben Spain, Clinical Psychologist, Forensic Assessment Division, BPH
- ◆ *Rehabilitative Programs Overview*, presented by Ryan Souza, Deputy Director, Division of Rehabilitative Programs, CDCR
- ◆ *How Cases are Referred En Banc*, presented by Jennifer Neill, Chief Counsel, BPH
- ◆ *Analysis of 2017 Comprehensive Risk Assessments and Their Relationship to Parole Decisions*, presented by Dr. Cliff Kusaj, Chief Psychologist, BPH
- ◆ *Advances in Parole Decision Making*, presented by Ralph Serin, Ph.D., C.Psych., Professor in Department of Psychology and Director of the Criminal Justice Decision Making Laboratory at Carleton University, Ottawa, Canada
- ◆ *Armstrong v. Brown (N.D. Cal., Case No. C-94-2307-CW)(pending)*, presented by Prison Law Office and Rosen, Bien, Galvan & Grunfeld
- ◆ *Update on Victims Issues*, presented by Office of Victim and Survivor Rights and Services, CDCR
- ◆ *Parole Reconsideration Hearings*, presented by Legal Division, BPH
- ◆ *Fleet Management*, presented by Training Unit, BPH
- ◆ *Update on Pending Litigation*, presented by Phillip Lindsay, Senior Assistant Attorney General, Attorney General's Office
- ◆ *The In re Lawrence Standard as Applied to Third Strike Inmates at Parole Consideration Hearings*, presented by Jennifer Shaffer, Executive Officer, and Jennifer Neill, Chief Counsel, BPH

### **Commissioner and Deputy Commissioner Training (Continued)**

- ◆ *Review and Analysis of Comprehensive Risk Assessments*, presented by Dr. Cliff Kusaj, Chief Psychologist, Jennifer Shaffer, Executive Officer, and Jennifer Neill, Chief Counsel, BPH
- ◆ *Handling Objections to Comprehensive Risk Assessments*, presented by Heather McCray, Assistant Chief Counsel, BPH
- ◆ *Youth Offender Regulations*, presented by Jennifer Neill, Chief Counsel, BPH
- ◆ *Engaging Survivors; Opportunities and Responsibilities*, presented by Javier Stauring, Executive Director of Healing Dialogue and Action, Noelle Swan Gilbert, Restorative Justice Practitioner, Joshua Gunner Jonson, Victim-Offender Dialogue Participant, and Kyla Wyatt, USC Post-Conviction Justice Project
- ◆ *Structured Decision Making*, presented by Jennifer Shaffer, Executive Officer, and Jennifer Neill, Chief Counsel, BPH
- ◆ *Workload Projections*, presented by Jennifer Shaffer, Executive Officer, and Jennifer Neill, Chief Counsel, BPH
- ◆ *Youthful Offender Regulations*, presented by Jennifer Neill, Chief Counsel, BPH
- ◆ *Intimate Partner Violence Risk Assessment and Management*, presented by Randall Kropp, Ph.D., R.Psych, Psychologist, BC Forensic Psychiatric Service Commissioner, Threat Assessment Specialist, Protect International, Inc., Adjunct Professor, Simon Fraser University
- ◆ *Mental Health Services Delivery System*, presented by Carrie Brecker, Senior Psychologist Specialist, CDCR

### **Clinical Psychologist and Senior Psychologist Training**

The Board's forensic clinical psychologists receive training during routine staff meetings throughout the year and review a variety of published research through Psych Net, a scholarly research database of the American Psychological Association, which is accessible to all members of the Forensic Assessment Division. Additional training received by the Board's forensic clinical psychologists in 2018 includes the following:

- ◆ *Overview of Security Threat Groups, CDCR's Step-Down Program, and Debriefing*, presented by Joseph Beeson, Senior Special Agent, and James Harden, Special Agent, Special Service Unit, Office of Correctional Safety, CDCR
- ◆ *Dynamic Risks and Protective Factors and Difference Across Lifers*, presented by Lisa Hazelwood, Ph.D., Forensic Psychologist, and Cliff Kusaj, Ph.D., Chief Psychologist, Forensic Assessment Division, BPH
- ◆ *Overview of Relevant Case Law Impacting Risk Assessment and Communication and Parole Decision- Making*, presented by Jennifer Neill, Chief Counsel, BPH
- ◆ *Update on the Board of Parole Hearings*, presented by Jennifer Shaffer, Executive Officer, BPH

### **Clinical Psychologist and Senior Psychologist Training (Continued)**

- ◆ *Static 99R SARATSO Annual Re-Certification*, presented by Wendy Weiss, Ph.D., Forensic Psychologist and Lisa Kalich, Ph.D., Forensic Psychologist, Forensic Assessment Division, BPH
- ◆ *HCR-20-Version 3 Item Content, Assessments of Risk Presence and Relevance, and Conceptualization*, presented by Donna Robinson, Ph.D., Forensic Psychologist, Forensic Assessment Division, BPH
- ◆ *Intimate Partner Batterers and Risk Considerations*, presented by Amy Parsons, Ph.D., Senior Forensic Psychologist, Forensic Assessment Division, BPH
- ◆ *Division of Adult Parole Operations Lifer Responsivity Update*, presented by Jon Stern, Chief Deputy Regional Administrator, Division of Adult Parole Operations, CDCR
- ◆ *Gender Responsive Risk Assessment and Input from Female Lifers on Parole*, presented by Jane Larmer, Ph.D., Forensic Psychologist, Forensic Assessment Division, BPH
- ◆ *Overview of CDCR's Long-Term Offender Program (LTOP)*, presented by Kevin Hoffman, Deputy Director, Division of Rehabilitative Programs, CDCR
- ◆ *Electronic Health Record System Navigation Overview*, by Ben Spain, Ph.D., Forensic Psychologist, Forensic Assessment Division, BPH

### **Executive Management Training**

Executive Officer Jennifer Shaffer, Chief Counsel Jennifer Neill, Chief Deputy Rhonda Skipper- Dotta, and Chief Psychologist Cliff Kusaj attended the Association of Paroling Authorities International (APAI) Annual Training Conference

### **Leadership for the Government Executive, California State University, Sacramento**

Executive Officer Jennifer Shaffer served as the Executive Sponsor for the 28<sup>th</sup> Cohort, Leadership for the Government Executive Course, California State University, Sacramento, College of Continuing Education

### **Orientation for Board-Appointed Inmate Counsel**

The Board held two Board orientations and training on the Americans with Disabilities Act for all Board-appointed inmate counsel, private attorneys, and other interested stakeholders

### **Orientation for Mentally Disordered Offender Independent Evaluators**

The Board held two all-day mandatory Board orientations throughout the state for mentally disordered offender independent evaluators

## **Outreach**

The Board provided information and conducted outreach to a variety of groups and stakeholders, including the following:

- ◆ The Board provided information concerning the Board's parole processes to prosecutors and crime victim advocates at the California District Attorneys' Association's winter training conference
- ◆ Executive Officer Jennifer Shaffer provided information concerning the Board to CDCR wardens at a statewide meeting and to newly appointed wardens
- ◆ Executive Officer Jennifer Shaffer provided information about the Board's processes to inmate family members and advocates on a statewide conference call hosted by Californians Advocating for Reform of Extreme Sentences for Youth (CARES for Youth)
- ◆ Executive Officer Jennifer Shaffer provided an overview of the nonviolent offender parole review process at the Fidler Institute for Criminal Justice Symposium
- ◆ Executive Officer Jennifer Shaffer participated in a panel discussion on generational cycles of incarceration at Project Avary's Annual Gala
- ◆ Board staff presented information concerning the parole process to inmates enrolled in the Long-Term Offender Program at California State Prison, Solano
- ◆ Executive Officer Jennifer Shaffer presented information concerning the parole suitability hearing process to a Lifer Family Seminar hosted by Life Support Alliance
- ◆ The Board hosted statewide conference calls with inmate counsel, prosecutors, advocacy groups, and interested members of the public on a variety of Board-related topics
- ◆ The Board's Offender Investigations and Screening Division met with officials from the Office of the Consulate General of the Republic of Korea to discuss California's International Prisoner Treaty Program
- ◆ The Board's executive leadership attended a ceremony promoting the rights of crime victims during National Crime Victims' Rights Week
- ◆ Executive Officer Jennifer Shaffer and Chief Psychologist Cliff Kusaj provided an overview of the Board's consideration of mental health factors in risk assessment and parole decision making at San Quentin State Prison's Mental Health Wellness Week
- ◆ Chief Psychologist Cliff Kusaj provided an overview of the Board's risk assessment methodology to Life Support Alliance
- ◆ Chief Psychologist Cliff Kusaj provided an overview of the Board's risk assessment methodology to USC Gould School of Law, Post-Conviction Justice Project
- ◆ Chief Deputy Sandra Maciel attended San Quentin's celebration of the 100<sup>th</sup> Edition of San Quentin News

### **Outreach (Continued)**

- ◆ Board forensic clinical psychologists who administer Sexually Violent Predator clinical screens and an associate chief deputy commissioner attended the Department of State Hospital's (DSH) Forensics Annual Training
- ◆ Board forensic clinical psychologists who administer Sexually Violent Predator clinical screens attended an overview of the Sexually Violent Predator evaluation process hosted by DSH
- ◆ The Board's Statewide Risk Assessment Tool for Sex Offenders (SARATSO) certified Static-99R trainers, Lisa Kalich and Wendy Weiss, participated in a two-day Static-99R interrater reliability study hosted by DSH
- ◆ Executive Officer Jennifer Shaffer, Chief Counsel Jennifer Neill, and Senior Psychologist Jasmine Tehrani conducted a site visit at the Connecticut Board of Pardons and Parole to observe the use of a structured decision-making framework in parole decisions, sponsored by a technical assistance grant from the National Institute of Corrections
- ◆ Executive Officer Jennifer Shaffer participated in an interview by the New York Magazine concerning California's parole hearing process
- ◆ The Board met throughout the year with inmate counsel, inmate advocacy groups, district attorney representatives, crime victim advocates, educators, and legislative staff to discuss a variety of topics; including youth offender hearings, elderly parole hearings, expanded medical parole hearings, nonviolent offender parole reviews, and Proposition 57
- ◆ Board staff participated in quarterly meetings with the Department of State Hospitals and CDCR to improve and streamline the state's processes for mentally disordered offenders and sexually violent predators
- ◆ The Board's associate chief deputy commissioners met with wardens throughout the year in their respective regions to discuss on-going issues affecting parole suitability hearing processes
- ◆ Executive Officer Jennifer Shaffer attended the Substance Use Disorder External Stakeholder Summit hosted by California Correctional Health Care Services and CDCR
- ◆ Executive Officer Jennifer Shaffer served as Chair of the Professional Development Committee and Secretary for the Association of Paroling Authorities International

---

## ADMINISTRATION

---

### **Commissioner Appointments**

Governor Edmund G. Brown Jr. appointed four commissioners to the Board in 2018. Commissioner David Long was appointed in January, Commissioner Troy Taira was re-appointed in June, Commissioner Schneider was appointed in July, and Commissioner Sharrieff was appointed in December.

### **2018 CDCR Distinguished Service Medal**

The Board's executive team (Deputy Chief Sandra Maciel, Chief Counsel Jennifer Neill, Chief Psychologist Cliff Kusaj, Chief Deputy Rhonda Skipper-Dotta, Chief of Investigations Brian Kelley, and Executive Officer Jennifer Shaffer) were awarded CDCR's Distinguished Service Medal for their work streamlining the Board's processes, dramatically increasing the Board's transparency and professionalism, implementing processes for youth offender hearings, elderly parole hearings, nonviolent offender parole reviews, and incentivizing offender rehabilitation through parole decisions that are fair and that protect the public.

### **Board Information and Tracking System (BITS) Improvements**

The Board made several significant modifications to its main computer system, BITS, including the following:

- ◆ Deploying several enhancements to streamline and refine the statewide electronic process for screening Mentally Disordered Offenders
- ◆ Adding several helpful links to other CDCR computer systems and databases users can access in BITS
- ◆ Implementing regulatory changes to the Nonviolent Offender Parole Review Process, including separating the Board's jurisdictional review process from its review on the merits so that victims and district attorneys are only notified of an offender's parole consideration after the Board has determined it has jurisdiction to conduct a review on the merits
- ◆ Implementing the California Supreme Court's decision in *In re Butler* by removing term calculations from the Board's electronic process for documenting parole hearing decisions in BITS
- ◆ Implementing an inmate release date screen in BITS so CDCR users statewide can see all inmates who are within 12 months of release, including inmates approved for parole by the Board

### **Document Production**

The Board produced volumes of data and reports for litigation, Public Records Act requests, CDCR's Office of Research, CDCR's Office of Legislative Affairs, the Governor's Office, the Department of Finance, and the Legislature.