

BOARD OF PAROLE HEARINGS

2022

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REPORT OF SIGNIFICANT EVENTS



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# 2022

## SIGNIFICANT EVENTS

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### WORKLOAD AT A GLANCE

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#### Parole Hearings

- ◆ **9,017 scheduled parole hearings**
  - Up 3% from 8,722 in 2021; 2022 was the 4th year in a row the number of scheduled parole hearings increased; since 2018, there has been a 73% increase in scheduled hearings, from 5,226 in 2018 to 9,017 in 2022;
  - 269 or 3% were for persons housed at an institution for women
  - 8,748 or 97% were for persons housed at an institution for men
  - 5,197 or 58% were initial hearings, up from 57% in 2021
  - 3,820 or 42% were subsequent hearings, down from 43% in 2021
  - 3,964 or 44% were youth offender parole hearings, down from 48% in 2021
    - 2,782 or 70% were for indeterminately-sentenced youth offenders, up from 66% in 2021
    - 1,182 or 30% were for determinately-sentenced youth offenders, down from 34% in 2021
  - 3,498 or 39% were for persons eligible for an elderly parole hearing, up from 23% in 2021
    - 3,122 or 89% were for indeterminately-sentenced persons eligible for an elderly parole hearing, down from 95% in 2021
    - 376 or 11% were for determinately-sentenced persons eligible for an elderly parole hearing, up from 5% in 2021
- ◆ **1,259 parole grants**
  - Down 12% from 1,424 in 2021
  - 28% of hearings held, down from 34% in 2021
  - 14% of scheduled parole hearings, down from 16% in 2021
  - 58 or 5% were for persons housed at an institution for women, up from 4% in 2021
  - 1,201 or 95% were for persons housed at an institution for men, down from 96% in 2021
  - 479 or 38% were grants issued at a person's initial hearing, up from 37% in 2021
  - 628 or 50% were to youth offenders, unchanged from 2021
  - 493 or 39% were to persons eligible for an elderly parole hearing, up from 25% in 2021
- ◆ **3,186 parole denials**
  - Up 15% from 2,764 in 2021
  - 72% of hearings held, up from 66% in 2021
  - 35% of scheduled hearings, up from 32% in 2021

- 81 or 3% were for persons housed at an institution for women, unchanged from 2021
- 3,105 or 97% were to persons housed at an institution for men, unchanged from 2021
- 1,230 or 39% were to youth offenders, down from 44% in 2021
- 1,405 or 44% were to persons eligible for an elderly parole hearing, up from 24% in 2021
- ◆ **674 stipulations**
  - Up 123% from 301 in 2021
  - 7% of scheduled hearings, up from 3% in 2021
  - 13 or 2% were to persons housed at an institution for women, down from 3% in 2021
  - 661 or 98% were to persons housed at an institution for men, up from 93% in 2021
  - 292 or 43% were to youth offenders, down from 47% in 2021
  - 238 or 35% were to persons eligible for an elderly parole hearing, up from 17% in 2021
- ◆ **1,967 voluntary waivers**
  - Up 12% from 1,759 in 2021
  - 22% of scheduled hearings, up from 20% in 2021
  - 47 or 2% were from persons housed at an institution for women, unchanged from 2021
  - 1,725 or 98% were from persons housed at an institution for men, unchanged from 2021
  - 898 or 46% were from youth offenders, down from 51% in 2021
  - 686 or 35% were to persons eligible for an elderly parole hearing, up from 19% in 2021
- ◆ **1,486 postponements**
  - 31% decrease from 2,146 in 2021
  - 16% of scheduled hearings, down from 25% in 2021; lowest percentage of scheduled hearings resulting in a postponement since 2011
  - 47 or 3% were to persons housed at an institution for women, up from 2% in 2021
  - 1,439 or 97% were to persons housed at an institution for men, down from 98% in 2021
  - 668 or 45% were for youth offenders, down from 47% in 2021
  - 524 or 35% were for persons eligible for an elderly parole hearing, up from 23% in 2021
- ◆ **445 continued or cancelled hearings**
  - 36% increase from 328 in 2021
  - 5% of scheduled hearings, up from 4% in 2021
  - 23 or 5% were for persons housed at an institution for women, up from 4% in 2021
  - 422 or 95% were for persons housed at an institution for men, down from 96% in 2021

- 248 or 56% were for youth offenders, down from 58% in 2021
- 152 or 34% were for persons eligible for an elderly parole hearing, up from 24% in 2021

### **Parole Reconsideration Hearings**

- ◆ **154 parole reconsideration hearings scheduled**
  - Up from 135 in 2021
  - 45 or 29% were initial parole reconsideration hearings, unchanged from 29% in 2021
  - 109 or 71% were subsequent annual parole reconsideration hearings, unchanged from 2021

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

- ◆ 1,632 cases were screened for possible review, up 24% from 1,312 in 2021
- ◆ 1,276 cases or 78% received a review on the merits, up from 77% in 2021
  - 887 or 70% of cases reviewed on the merits were approved for an advanced hearing date, up from 65% in 2021
  - 389 or 30% of cases reviewed on the merits were denied for an advanced hearing date, down from 35% in 2021
- ◆ 58% of parole hearings held as a result of an administrative review conducted in 2022 to advance a person's next hearing date resulted in a grant of parole, down from 60% in 2021
- ◆ 42% of parole hearings scheduled as a result of an administrative review conducted in 2022 to advance a person's next hearing date resulted in a grant of parole, up from 39% in 2021

### **Comprehensive Risk Assessments**

- ◆ 4,469 comprehensive risk assessments completed, up 1% from 4,428 in 2021

### **Consultations**

- ◆ 2,894 consultations conducted, up 34% from 2,158 in 2021

### **Correspondence**

- ◆ 55,787 pieces of correspondence were received and processed, up 8% from 51,440 in 2021
- ◆ 57,064 hearing notices were sent, up 3% from 55,248 in 2021
- ◆ 22,379 notices of determinately-sentenced nonviolent offender parole reviews were sent, up 27% from 17,625 in 2021
- ◆ 1,692 letters were sent from the Legal Division, down 17% from 2,034 in 2021

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

- ◆ 4,592 referrals to the Board for parole review, down 17% from 5,510 in 2021
- ◆ 4,840 reviews on the merits were conducted, down 14% from 5,486 in 2021
  - 332 nonviolent offenders or 8% were approved for release, down from 10% in 2021

- 3,490 nonviolent offenders or 92% were denied release, up from 90% in 2021
- ◆ 1,225 reviews of decisions were conducted, down 11% from 1,369 conducted in 2021
  - 1,056 decisions or 86% were upheld after review, down from 90% in 2021
  - 169 decisions or 14% were modified after review, up from 10% in 2021

### **Executive Case Summaries**

- ◆ 1,241 executive case summaries were prepared, down 14% from 1,446 in 2021

### **Extradition Cases**

- ◆ 495 extradition cases were reviewed, up from 0 in 2021

### **Petitions to Advance A Parole Hearing Date**

- ◆ 662 petitions received, down 12% from 754 in 2021
- ◆ 662 preliminary reviews of petitions completed, down 12% from 754 in 2021
- ◆ 531 reviews on the merits of petitions received, down 1% from 537 in 2021
  - 336 or 63% of petitions were approved for an advanced hearing date, up from 62% approved in 2021
  - 389 or 37% of petitions were denied for an advanced hearing date, down from 38% denied in 2021
- ◆ 46% of parole hearings held as a result of the Board approving a petition to advance a parole hearing date in 2022 resulted in a grant of parole, down from 51% in 2021
- ◆ 34% of parole hearings scheduled as a result of the Board approving a petition to advance a parole hearing date in 2022 resulted in a grant of parole, up from 32% in 2021

### **International Prisoner Transfer Program**

- ◆ 44 cases completed, down 55% from 98 in 2021
- ◆ No persons were transferred to another country, unchanged from 2021

### **Investigations**

- ◆ 1,266 pre-parole investigations were completed, down 5% from 1,332 in 2021
- ◆ Three intimate partner battering investigations were completed, up from 0 in 2021
- ◆ 323 Board-initiated investigations were completed, up 263% from 89 in 2021<sup>1</sup>
- ◆ 28 parolee out-of-state transfer request investigations
- ◆ 11 special condition of parole modification investigations
- ◆ 34 expanded medical parole reviews were completed, down 37% from 54 in 2021

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<sup>1</sup> 226 investigations conducted in 2022 concerned allegations of fraud involving payments from the California Employment Development Department.



- ◆ 1,084 pardon investigations were completed
- ◆ 33 commutation investigations were completed

### **Medical Parole Hearings**

- ◆ 14 medical parole hearings scheduled
  - Down 81% from 74 hearings scheduled in 2021

### **Offenders with Mental Health Disorders (OMHD) Actions**

- ◆ 378 certification hearings were conducted, up 14% from 330 in 2021
- ◆ 371 placement and annual review hearings were conducted, down 26% from 504 in 2021
- ◆ 629 holds to detain offenders for OMHD screening were placed, up 191% from 216 in 2021

### **Parole Discharge Reviews**

- ◆ 13,454 cases were reviewed to determine whether a parolee should be discharged from parole, down 27% from 18,531 in 2021

### **Sexually Violent Predator (SVP) Screening**

- ◆ 3,058 SVP screenings, down 4% from 3,184 in 2021
  - 2,085 or 68% of cases were referred for clinical screening, down from 74% in 2021
  - 973 or 32% of cases were closed as not meeting criteria for clinical screening, up from 26% in 2021
  - 2,003 clinical screenings completed by the Forensic Assessment Division, down 11% from 2,252 clinical screenings completed in 2021
  - 375 or 19% of persons were referred after clinical screening to the Department of State Hospitals for a full evaluation, down from 21% in 2021
  - 1,628 or 81% were not referred after clinical screening to the Department of State Hospitals for a full evaluation, up from 79% in 2021

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## GRANT, DENIAL, AND RECIDIVISM RATES

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The Board's parole hearing grant and denial rates are calculated both as a percentage of **hearings held** that result in a grant or denial and as a percentage of **hearings scheduled**. A scheduled hearing can result in one of several outcomes: grant, denial, stipulation, voluntary waiver, postponement, cancellation, or continuance. A variety of factors unrelated to a person's suitability for parole can affect the outcome of a scheduled hearing (such as the need to postpone a hearing when a person is ill). For this reason, the percentage of **hearings held** that result in a grant or denial more accurately reflects the Board's parole suitability decision-making.

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

In 2022, the Board held **4,445** hearings resulting in the following outcomes:

<b>2022 Outcomes of Hearing Held</b>		
<b>Outcome</b>	<b>Number</b>	<b>Percentage</b>
Grant	1,259	28%
Denial	3,186	72%
<b>Total</b>	<b>4,445</b>	<b>100%</b>

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

Various grant rates for parole **hearings held** in 2022 are as follows:

- ◆ 28% of all hearings held resulted in a grant, down from 34% in 2021
- ◆ 42% of hearings held for persons housed at an institution for women resulted in a grant, down from 44% in 2021
- ◆ 28% of hearings held for persons housed at an institution for men resulted in a grant, down from 34% in 2021
- ◆ 34% of hearings held for youth offenders resulted in a grant, down from 37% in 2021
  - 37% of hearings held for indeterminately-sentenced youth offenders resulted in a grant, down from 44% in 2021
  - 21% of hearings held for determinately-sentenced youth offenders resulted in a grant, up from 17% in 2021
- ◆ 26% of hearings held for persons eligible for an elderly parole hearing resulted in a grant, down from 35% in 2021
  - 37% of hearings held for indeterminately-sentenced persons eligible for an elderly parole hearing resulted in a grant, up from 36% in 2021
  - 9% of hearings held for determinately-sentenced persons eligible for an elderly parole hearing resulted in a grant, down from 17% in 2021
- ◆ 46% of hearings held as a result of a person filing a petition to advance their next hearing date in 2022 resulted in a grant, down from 51% in 2021
- ◆ 58% of hearings held as a result of an administrative review conducted in 2022 resulted in a grant, down from 60% in 2021

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

Various denial rates for parole **hearings held** in 2022 are as follows:

- ◆ 72% of hearings held resulted in a denial, up from 66% in 2021
- ◆ 58% of hearings held for persons housed at an institution for women resulted in a denial, up from 56% in 2021
- ◆ 72% of hearings held for persons housed at an institution for men resulted in a denial, up from 66% in 2021
- ◆ 66% of hearings held for youth offenders resulted in a denial, up from 63% in 2021
  - 63% of hearings held for indeterminately-sentenced youth offenders resulted in a denial, up from 56% in 2021
  - 79% of hearings held for determinately-sentenced youth offenders resulted in a denial, down from 83% in 2021
- ◆ 74% of hearings held for persons eligible for an elderly parole hearing resulted in a denial, up from 65% in 2021
  - 72% of hearings held for indeterminately-sentenced persons eligible for an elderly parole hearing resulted in a denial, up from 64% in 2021
  - 91% of hearings held for determinately-sentenced persons eligible for an elderly parole hearing resulted in a denial, up from 83% in 2021
- ◆ 54% of hearings held as a result of a person filing a petition to advance their next hearing date in 2022 resulted in a denial, up from 49% from 2021
- ◆ 42% of hearings held as a result of an administrative review conducted in 2022 resulted in a denial, up from 40% in 2021

### **Grant Rates by Race and Ethnicity**

The most recent independent study conducted on the Board's parole grant rates by race and ethnicity was a study conducted at the request of the California Committee on Revision of the Penal Code. The Board provided the committee with outcome data for the 3,400 **hearings held** in Fiscal Year 2019-20. The data included each incarcerated person's race and ethnicity as well as information concerning the person's recent disciplinary violations, if any. The study found the following:

Unlike the other parts of the criminal legal system, in the one-year sample of parole hearings discussed here . . . parole grant rates across racial groups showed little disparities: white people were granted parole at a rate of 36%, Black people at 34%, and Latinx people at 34% . . .

The differences in grant rates changed slightly when examining who was granted parole by the number of [relatively recent] disciplinary violations they had at the time of their hearing. White people with no disciplinary violations were granted parole 43% of the time, Black people 47%, and Latinx people 45%. With one recent disciplinary

violation, white people were granted parole 16% of the time, Black people 20%, and Latinx people 14%.”<sup>2</sup> [Endnotes excluded].

In 2022, the Board's Forensic Assessment Division also looked at hearing outcomes by race and ethnicity for all persons who were administered a comprehensive risk assessment in 2021 and found that Black incarcerated persons were granted at a rate higher than Native American, Latinx, or white incarcerated persons, although the overall rates varied by a total of only six percent, from highest to lowest grant rate.

<b>Hearing Outcomes by Race/Ethnicity for Comprehensive Risk Assessments Administered in 2021</b>					
	<b>Native American</b> (N=61)	<b>Black</b> (N=1,420)	<b>Latinx</b> (N=1,561)	<b>White</b> (N=971)	<b>Other</b> (N=309)
<b>Grant</b>	26%	32%	28%	28%	32%
<b>Deny</b>	65%	61%	63%	64%	62%
<b>Stipulate</b>	9%	7%	9%	8%	7%

A more extensive study concerning hearing outcomes, risk factors, and race/ethnicity will be conducted by the University of California at Berkeley in 2023.

**Parole Hearing Outcomes as a Percentage of Scheduled Hearings**

As mentioned above, a scheduled hearing can result in a grant, denial, stipulation, voluntary waiver, postponement, cancellation, or continuance. As shown below, a grant rate of 14 percent for scheduled hearings, therefore, **does not** mean the remaining 86 percent of cases resulted in a denial.

In 2022, the Board scheduled **9,017** hearings resulting in the following outcomes:

<b>2022 Scheduled Hearing Outcomes</b>		
<b>Outcome</b>	<b>Number</b>	<b>Percentage</b>
Grant	1,259	14%
Denial	3,186	35%
Stipulation	674	7.5%
Voluntary waiver	1,967	22%
Postponement	1,486	16.5%
Cancelled/Continued	445	5%
<b>Total</b>	<b>9,017</b>	<b>100%</b>

Using the **scheduled hearing** outcomes above, 1,259 people were granted parole and 3,186 people were denied parole by the Board after a hearing. Another 674 people were denied parole without a hearing when they entered into a stipulation with the Board stating that they were not suitable for parole. In the remaining 3,898

<sup>2</sup> 2021 Annual Report and Recommendations, Committee on Revision of the Penal Code, p. 61 ([http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC\\_AR2021.pdf](http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2021.pdf)).

hearings scheduled, there was no decision rendered concerning the person's suitability for parole because the person voluntarily waived their hearing or the hearing was postponed, continued, or cancelled.

### **Recidivism Rates for Persons Released After Serving a Sentence of Life with the Possibility of Parole**

A total of 4,197 people serving a term of life with the possibility of parole were released from state prison between fiscal year 2011-12 and fiscal year 2017-18 after receiving a grant of parole from the Board. Just under three percent (2.7% or 114 people) were convicted of a new misdemeanor or felony crime within three years of their release and less than one percent (0.5% or 21 people) were convicted of new felony crimes against persons during the same three-year period.

<b>Fiscal Year of Release</b>	<b>No. Released</b>	<b>No. with any new felony or misdemeanor conviction within 3 years of release</b>	<b>% with any new felony or misdemeanor conviction within 3 years of release</b>	<b>No. with new felony conviction for crime against person within 3 years of release</b>	<b>% with new felony conviction for crime against person within 3 years of release</b>
<b>FY 2017-18</b>	757	15	2.0%	1	0.1%
<b>FY 2016-17</b>	701	13	1.9%	6	0.9%
<b>FY 2015-16</b>	720	23	3.2%	5	0.7%
<b>FY 2014-15</b>	682	16	2.3%	3	0.4%
<b>FY 2013-14</b>	510	16	3.1%	3	0.6%
<b>FY 2012-13</b>	478	20	4.2%	2	0.4%
<b>FY 2011-12</b>	349	11	3.2%	1	0.3%
<b>Total</b>	<b>4,197</b>	<b>114</b>	<b>2.7%</b>	<b>21</b>	<b>0.5%</b>

### **Recidivism Reports 2016 through 2023**

The 2023 *Recidivism Report for Offenders Released from the California Department of Corrections and Rehabilitation in Fiscal Year 2017-18* found that of the 757 persons serving life with the possibility of parole who were released in fiscal year 2017-18 as a result of a grant of parole by the Board, only 15 (or 2.0%) were convicted of any new crime (misdemeanor or felony) during a three-year follow-up period. In addition, according to CDCR's Office of Research, less than one percent (0.1% or one person) was convicted of a felony crime against persons during the same three-year period.

The 2023 *Recidivism Report for Offenders Released from the California Department of Corrections and Rehabilitation in Fiscal Year 2016-17* found that of the 701 persons serving life with the possibility of parole who were released in FY 2016-17 as a result of a grant of parole by the Board, only 13 (or 1.9%) were convicted of any new crime (misdemeanor or felony) during a three-year follow-up period. In addition, according to CDCR's Office of Research, less than one percent (0.9% or

six people) were convicted of new felony crimes against persons during the same three-year period.

The *2021 Recidivism Report for Offenders Released from the California Department of Corrections and Rehabilitation in Fiscal Year 2015-16* found that of the 720 persons serving life with the possibility of parole who were released in fiscal year 2015-16 as a result of a grant of parole by the Board, only 23 (or 3.2%) were convicted of any new crime (misdemeanor or felony) during a three-year follow-up period. Less than one percent (0.7% or five people) were convicted of felony crimes against persons during the same three-year period.

The *2021 Recidivism Report for Offenders Released from the California Department of Corrections and Rehabilitation in Fiscal Year 2014-15* found that of the 682 persons serving life with the possibility of parole who were released in fiscal year 2014-15 as a result of a grant of parole by the Board, only 16 (or 2.3%) were convicted of any new crime (misdemeanor or felony) during a three-year follow-up period. Less than one percent (0.4% or three people) were convicted of felony crimes against persons during the same three-year period.

The Department's *2018 Recidivism Report* found that of the 510 persons serving life with the possibility of parole who were released in fiscal year 2013-14 as a result of a grant of parole by the Board, only 16 (or 3.1%) were convicted of any new crime (misdemeanor or felony) during a three-year follow-up period. Less than one percent (0.6% or three people) were convicted of felony crimes against persons during the same three-year period.

The Department's *2017 Outcome Evaluation Report* found that of the 478 persons serving life with the possibility of parole who were released in fiscal year 2012-13 as a result of a grant of parole by the Board, only 20 (or 4.2%) were convicted of any new crime (misdemeanor or felony) during a three-year follow-up period. Less than one percent (0.4% or two people) were convicted of felony crimes against persons during the same three-year period.

The Department's *2016 Outcome Evaluation Report* found that of the 349 persons serving life with the possibility of parole who were released in fiscal year 2011-12 as a result of a grant of parole by the Board, only 11 (or 3.2%) were convicted of any new crime (misdemeanor or felony) during a three-year follow-up period. Less than one percent (0.3% or one person) was convicted of a felony crime against persons during the same three-year period.

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## POLICY AND PROCEDURE DEVELOPMENTS

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### **Comprehensive Risk Assessments**

Each year the Board's Chief Psychologist presents to the Board an analysis of comprehensive risk assessments (CRA) administered by the Board's Forensic Assessment Division (FAD) during the preceding year. The information is presented to the Board at an executive board meeting open to the public.

A CRA is a structured professional judgment model of risk assessment that assesses a person's potential risk for future violence as low, moderate, or high. In 2021, the FAD relied on the Historical Clinical Risk Management-20 (HCR-20) Version 3, the Hare Psychopathy Checklist-Revised (PCL-R), and the STATIC-99-Revised (when applicable) for its CRAs.

Based on CRAs administered in 2021:

- 20% of examinees were rated low risk, 65% of whom were granted parole
- 53% of examinees were rated moderate risk, 22% of whom were granted parole
- 27% were rated high risk, less than 1% of whom were granted parole

### **COVID-19 Global Pandemic**

In response to the COVID-19 global pandemic, about 95 percent of the Board's employees began working from home in 2020. This continued through 2022.

On March 24, 2020, Governor Newsom signed Executive Order N-36-20, which among other things, directed the Board to develop and implement a process for conducting parole hearings by videoconference accessible to all participants. One week later, on April 1, 2020, the Board conducted its first parole hearing by videoconference via the internet. Within a few weeks, all hearings statewide were conducted by videoconference. The Executive Order also permitted people to postpone or waive their hearings at any time without the need to demonstrate good cause for requesting a postponement or waiver.

Because of the Executive Order and a variety of other reasons related to the pandemic, the percentage of scheduled hearings postponed increased significantly from 20 percent in 2019 to 34 percent in 2020.

Prior to Executive Order N-36-20, Penal Code section 3041.6 required the Board to conduct all hearings in person at the prison where the incarcerated person is housed. On July 16, 2021, Governor Newsom signed into law Assembly Bill (AB) 145 (Chapter 80, Statutes of 2021), amending Penal Code section 3041.6 and authorizing the Board to conduct hearings by videoconference indefinitely.

With the passage of AB 145, the provisions of Executive Order N-35-20 requiring the Board to conduct parole hearings by videoconference were no longer necessary. In August 2021, the Board voted to approve emergency regulations governing the

scheduling and conducting of hearings by videoconference. The regulations took effect on September 27, 2021, and on October 4, 2021, Governor Newsom issued Executive Order N-17-21, rescinding relevant provisions of Executive Order N-35-20 concerning the Board's hearing processes.

On November 7, 2022, permanent regulations governing the Board's scheduling and conducting of hearings by videoconference took effect.

As pandemic-related hearing postponements declined in 2021 and 2022, so too did the overall percentage of scheduled hearings resulting in a postponement; from 34 percent in 2020 and 25 percent in 2021 to 16 percent in 2022. The last time the Board had a postponement rate as low as 16% was in 2011.

While the majority of the Board's staff continued working remotely throughout 2022, the Board addressed an increase in workload in some areas, most notably:

- ◆ scheduling 9,017 parole hearings; the most hearings the Board has scheduled in a year since it began keeping records in 1978
- ◆ receiving, processing, and sending 136,922 pieces of correspondence, including more than 57,000 hearing notices
- ◆ a 34% increase in consultations (2,894 consultations)
- ◆ a 24% increase in administrative reviews initiated to advance an incarcerated person's next parole hearing date (1,632 reviews initiated)
- ◆ a 14% increase in certification hearings for offenders with a mental health disorder
- ◆ a 263% increase in Board-initiated investigations completed (323 investigations)

### **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" persons are referred to the Board to determine suitability for parole. Persons 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 persons are eligible. Persons sentenced to life without the possibility of parole or condemned are not eligible for this program.

Comprehensive risk assessments for a person who is eligible for an elderly parole hearing specifically address how the person's advanced age, long-term confinement, and diminished physical condition, if any, may impact their potential risk for future violence.

In 2020, AB 3234 (Chapter 334, Statutes of 2020) was signed into law, statutorily expanding elderly parole to persons who are age 50 and who have served at least 20 years of continuous incarceration. Persons sentenced to life without the possibility of parole or condemned are not eligible for this program. In addition,



persons sentenced under the Three Strikes Law and persons convicted of first-degree murder of a peace officer are also excluded from this program. The Board had until December 31, 2022, to schedule hearings for all persons immediately eligible for a hearing under AB 3234. The Board was successful in meeting its mandate and, in 2022, scheduled an unprecedented 3,498 hearings for persons eligible for an elderly parole hearing, up 76% from 1,983 elderly parole hearings scheduled in 2021.

With the passage of AB 3234, there are now two groups of persons eligible for an elderly parole hearing: (1) persons who are sentenced under the Three Strikes Law or who were convicted of first-degree murder of a peace officer are eligible for a parole hearing after reaching age 60 and after having served 25 years of continuous incarceration, and (2) persons not sentenced under the Three Strikes Law nor convicted of first-degree murder of a peace officer are eligible once they are age 50 or older and have served 20 years of continuous incarceration.

In 2022, the Board scheduled 3,498 hearings for persons eligible for elderly parole, resulting in 493 grants, 1,405 denials, and 238 stipulations to unsuitability. The remaining 1,362 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 CDCR, in consultation with the Federal Receiver's Office, to finalize and implement an expanded parole process for persons who are medically incapacitated. In response, the state implemented a program whereby CDCR medical personnel identify eligible persons and refer them to the Board for a medical parole hearing. Persons are eligible for referral to the Board under the Medical Parole Program if they (1) suffer from a significant and permanent condition, disease, or syndrome, resulting in them being physically or cognitively debilitated or incapacitated or (2) qualify for placement in a licensed health care facility, as determined by the Resource Utilization Guide IV Assessment Tool. The Board conducts a medical parole hearing to determine if the person will pose an unreasonable risk to public safety if placed in a licensed health care facility in the community. The process for expanded medical parole was implemented in July 2014.

In 2021, the United States Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) adopted a new approach to the enforcement of federal licensing requirements. The licensing enforcement prevents the Board and the Division of Adult Parole Operations (DAPO) from imposing any conditions on those placed in a skilled nursing facility that receives Medicare or Medicaid funds.

Previously, the Board placed conditions on persons housed in skilled nursing facilities under the Medical Parole Program to ensure placement of the person in a community facility would not pose a threat to public safety. CMS has taken the

position that no conditions can be placed on persons in community facilities, including the condition that the patient not leave the facility unless there is an emergency or they have permission from their parole agent. The new CMS enforcement measures prevent the Board and DAPO from imposing relevant and necessary conditions for an expanded medical parole placement. As a result, the number of persons referred to the Board for a medical parole hearing decreased in 2021 and that trend continued in 2022.

In 2022, the Board scheduled 14 hearings for expanded medical parole, resulting in 12 approvals; the remaining two hearings were cancelled.

### **Panel Attorney Program**

The Board implemented a new process for recruiting and reimbursing attorneys to represent incarcerated persons through the parole hearing process in 2019. Newly recruited attorneys were appointed to represent incarcerated persons beginning in January 2020 and the overall attorney fee schedule was increased from \$400 to \$750 per a case, with most panel attorneys being assigned up to 13 clients for one week of hearings each month. The new program also increased expectations for attorney-client interactions in preparation for a hearing. For example, it required panel attorneys to meet with their clients (by phone or videoconference) for one hour at least two times before the person's parole hearing and attend on-line training sessions.

The Budget Act of 2021 (Senate Bill (SB) 129, Chapter 69, Statutes of 2021) included funding for a one-year pilot program requiring panel attorneys to provide an additional hour of counsel to their clients before they are interviewed by one of the Board's forensic psychologists for their comprehensive risk assessment. This resulted in a temporary increase in the overall attorney fee schedule from \$750 per a case to \$900 per a case, for attorney appointments beginning July 1, 2021. In addition, the Budget Act required the Board to submit an analysis of the impact of the additional hour of counsel to the Legislature by January 10, 2023.

In 2022, the pilot program was extended through June 30, 2023, and the deadline for submitting an analysis of the impact of the additional hour of counsel to the Legislature was extended to the end of 2023.

Also in 2020, the Board partnered with a nonprofit entity, Parole Justice Works, to provide training and resources to panel attorneys and to assist the Board in monitoring the quality of attorney representation. During the first year of the partnership, Parole Justice Works provided training by videoconference for new panel attorneys, launched an attorney resource bank and Listserv, established an attorney-mentoring program, and conducted several roundtable virtual meetings for panel attorneys.

In 2021, Parole Justice Works' legal training for panel attorneys was approved by the State Bar for Minimum Continuing Legal Education Credit. In addition, Parole

Justice Works continued to develop its website content, established a system for monitoring panel attorney representation, conducted virtual training, completed primary filming of training videos for panel attorneys and educational videos for the incarcerated population, and began observing panel attorneys during parole hearings.

Parole Justice Works began collecting surveys from incarcerated persons represented by panel attorneys at parole hearings and from the Board's hearing officers in 2021. By the end of 2022, Parole Justice Works had collected and coded more than 2,000 client surveys soliciting feedback on all areas of parole representation, including the number and type of attorney communications with clients, attorney preparation of clients, attorney knowledge of the case, attorney explanation of hearing rights and processes, Americans with Disabilities Act accommodation, and hearing representation.

The results show that 63 percent of persons represented by panel attorneys reported that they were either satisfied or more than satisfied with their attorney's representation at their parole hearing and that 59 percent described the attorney's pre-hearing preparation of them as either making a big difference in the hearing, or important or helpful in the hearing.

The results also show that more than 50 percent of responding hearing officers reported significant improvement in attorney representation since the start of the program with Parole Justice Works and more than 85-93 percent of hearing officers routinely report panel attorney performance in hearings as average or above average.

### **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 2018, the Board worked with CDCR to promulgate emergency regulations to implement a parole consideration process for determinately-sentenced nonviolent offenders. Persons required to register as a sex offender under Penal Code section 290 et seq. were not eligible for the process, as specified in the ballot measure materials for Proposition 57. The emergency regulations went into effect on April 14, 2018, and CDCR began referring incarcerated persons who passed behavior-based public safety screening criteria to the Board for parole consideration on July 1, 2018.

In 2020, the First Appellate Court's decision in the case of *In re McGhee* became final. The decision invalidated CDCR's use of behavior-based public safety screening criteria to exclude people from parole consideration under Proposition 57. The Board worked with CDCR to amend its regulations and stopped applying

the behavior-based public safety screening criteria in July 2020. In addition, people who previously did not pass the behavior-based public safety screening criteria were referred to the Board for parole consideration.

In December 2020, the California Supreme Court's decision in the case of *In re Gadlin* held a person required to register as a sex offender under Penal Code section 290 et seq. based on a prior conviction cannot be categorically excluded from parole consideration under Proposition 57. The Court also held the Department's regulations cannot exclude persons based on a current sexual offense unless it is defined by the regulations as a violent felony.

In 2021, CDCR promulgated emergency regulations to implement the *Gadlin* decision by removing the exclusion of persons required to register as a sex offender under Penal Code section 290 et seq. from the nonviolent offender parole review process.

The number of persons approved for release under the nonviolent offender parole review program has steadily declined, as more persons with recent negative behavior and persons convicted of sex crimes (who were previously ineligible for parole consideration under the program) are now referred to the Board. At the same time, persons most likely to be approved for release under the program are no longer referred to the Board. This is because nonviolent offenders who participate in rehabilitative programs and who do not engage in negative behavior are now eligible for increased credit earning. As a result, many are no longer referred to the Board because they are instead released based on increased credits applied toward their sentence.

In 2022, the Board received 4,592 referrals under this program and conducted 3,812 reviews on the merits, resulting in 322 (8%) being approved for release and 3,490 (92%) denied. An additional 1,028 were reviewed and the Board determined it did not have jurisdiction to render a release decision because the person was not eligible for parole consideration.

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

On September 7, 2019, 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, and explained how to calculate the "full term for the primary offense" for this population. In response, the Board worked with CDCR to promulgate regulations to comply with the court's order and implement processes for screening indeterminately-sentenced nonviolent offenders for eligibility, calculating the dates upon which they are eligible for a hearing, referring them to the Board, and scheduling them for parole hearings. The regulations required the Board, by December 31, 2021, to schedule hearings for persons who were immediately eligible for a hearing when the regulations took

effect. In 2021, the Board successfully scheduled these persons for a hearing, as required.

As mentioned above, in December 2020, the California Supreme Court's decision in the case of *In re Gadlin* held a person required to register as a sex offender under Penal Code section 290 et seq. based on a prior conviction cannot be categorically excluded from parole consideration under Proposition 57. The Court also held the Department's regulations cannot exclude persons based on a current sex offense unless it is defined by the regulations as a violent felony. The *Gadlin* decision applies to indeterminately-sentenced nonviolent offenders who were previously excluded from parole consideration under Proposition 57 due to their registration requirement.

In 2022, the Board scheduled 1,343 parole hearings for indeterminately-sentenced nonviolent offenders, resulting in 126 grants, 482 denials, and 120 stipulations to unsuitability. The remaining 615 scheduled hearings were waived, postponed, continued, or cancelled.

### **Parole Terms and Reviews for Discharge from Parole**

On August 6, 2020, Governor Newsom signed SB 118, which shortened parole periods for most persons released from state prison on or after July 1, 2020. The bill also standardized the timing for reviewing persons for possible discharge from parole. The parole term for most determinately-sentenced persons is now two years and for indeterminately-sentenced persons, it is three years. One exception is that parole terms for persons required to register as a sexual offender under Penal Code section 290 et seq. remain unchanged. In addition, persons subject to the new parole terms must be reviewed for possible discharge from parole no later than 12 months after release from confinement, and annually thereafter. The Board is responsible for reviewing all indeterminately-sentenced persons and certain determinately-sentenced persons for discharge from parole.

In 2022, the Board conducted 13,454 parole discharge reviews.

### **Prosecutor Participation in Parole Hearings**

Of the 4,445 parole hearings held in 2022, a prosecutor attended 2,673 (or 60%). Of those 2,673 hearings, 674 (or 25%) resulted in a grant. This is lower than the overall grant rate for hearings held in 2022, which was 28 percent.

### **Research Projects**

The Board partnered with two academic institutions to launch research projects in 2022, one with the University of California at Berkeley (UC Berkeley); the other with Carleton University in Ottawa, Canada. The UC Berkeley research project will look at demographic and parole hearing data for hearings scheduled in 2021 and 2022 to identify factors that impact parole hearing decisions, with special emphasis on whether the Board's decisions are biased based on race and ethnicity. In 2022,

the Board and UC Berkeley executed a data-sharing agreement and obtained necessary approvals from applicable oversight entities.

The research project with Carleton University will involve a review of hearing transcripts from hearings conducted in 2021 for purposes of evaluating interview techniques used by the Board. The results will be used to identify ethical methods for improving the accuracy, reliability, and relevance of information obtained during parole hearings.

### **Structured Decision-Making Framework (SDMF)**

The number of parole hearings scheduled annually increased 73 percent in five years, from 5,226 hearings scheduled in 2018 to 9,017 hearings scheduled in 2022. The increase is due primarily to changes in statutes and via case law expanding parole eligibility.

In order to meet a projected increase in parole hearings, the Board was expanded from 15 to 17 commissioners in 2019 and again from 17 to 21 commissioners in 2021. In addition, the Board adopted a structured decision-making framework (SDMF) in 2019 to streamline the hearing process and make parole hearings more efficient by focusing hearing panels on evidence-based risk factors.

The SDMF is a structured professional judgment model; it is a systematic compilation of key factors reflecting best practice in risk assessment and parole release decision-making. It combines both research-supported factors and relevant legal considerations, providing a template for hearing panel members to follow that is consistent with the law governing parole decisions in California. The resulting analysis forms the basis for parole hearing decisions. The SDMF is intended to produce parole decisions that are structured, consistent, transparent, and focused on a person's current risk. As of 2022, the SDMF is used in 10 states within the U.S. and the National Parole Board of Canada, which developed the tool.

Since the Board implemented the SDMF, the average length of a parole hearing decreased by 23 percent, from more than three hours in 2018 to less than two and a half hours in 2022. During the same time period, the overall number of grants increased annually between 2018 and 2021, before decreasing in 2022. As a percentage of hearings held, grant rates remained relatively consistent, ranging from 34 to 36 percent before decreasing in 2022 to 28%. This is particularly significant, as the number of scheduled hearings that were initial hearings increased 147 percent during the same time period, from 2,104 hearings in 2018 to 5,197 hearings in 2021.

In 2021, California was selected to participate in a project sponsored by the National Institute of Corrections and the Association of Paroling Authorities International to form a "community of practice" with other parole boards that use the SDMF. The collaboration focuses on ways for parole boards to increase their capacity to sustain use of the SDMF with fidelity. In 2022, Board staff participated

in two virtual training sessions and one three-day in-person training session hosted by the National Institute of Corrections in New York City.

### **Youth Offender Parole Hearings**

The Board began conducting youth offender parole hearings in 2014, as required by SB 260 (Chapter 312, Statutes of 2013). Under SB 260, youth offenders were defined as persons who were tried as adults but who were under the age of 18 when they committed their controlling offense. Youth offenders are eligible for a parole hearing during their 15<sup>th</sup>, 20<sup>th</sup>, or 25<sup>th</sup> year of incarceration, depending on the length of the original sentence imposed by the court. Certain exclusions apply. In 2022, the Board scheduled 83 youth offender hearings for persons who were under the age of 18 when they committed their controlling offense, resulting in 8 grants (26% of hearings held), 23 denials, and 6 stipulations to unsuitability. The remaining 46 scheduled hearings were waived, postponed, continued, or cancelled.

In 2015, the Legislature expanded the definition of a youth offender to include persons who committed their controlling offense when they were under the age of 23, pursuant to SB 261 and SB 519 (Chapters 471 and 472, Statutes of 2015), which took effect on January 1, 2016, exclusions apply. Youth offenders under these bills are eligible for a parole hearing during their 15<sup>th</sup>, 20<sup>th</sup>, or 25<sup>th</sup> year of incarceration. In 2022, the Board scheduled 2,986 youth offender parole hearings for persons who were between the ages of 18 and 23 when they committed their controlling offense, resulting in 475 grants (34% of hearings held), 924 denials, and 214 stipulations to unsuitability. The remaining 1,373 scheduled hearings were waived, postponed, continued, or cancelled.

In 2017, the Legislature again expanded the definition of a youth offender to include persons who committed their controlling offense when they were under the age of 26, pursuant to AB 1308 (Chapter 675, Statutes of 2017), exclusions apply. Youth offenders under this measure are eligible for a parole hearing during their 15<sup>th</sup>, 20<sup>th</sup>, or 25<sup>th</sup> year of incarceration, depending on the sentence imposed by the court. In 2022, the Board scheduled 851 youth offender parole hearings for persons who were between the ages of 23 and 26 when they committed their controlling offense, resulting in 136 grants (34% of hearings held), 267 denials, and 70 stipulations to unsuitability. The remaining 378 scheduled hearings were waived, postponed, continued, or cancelled.

In 2017, the Legislature also passed SB 394 (Chapter 394, Statutes of 2017), requiring the Board to provide a youth offender parole hearing to persons sentenced to life without the possibility of parole for crimes they committed when they were under the age of 18, exclusions apply. In 2022, the Board scheduled 44 youth offender parole hearings for persons eligible under SB 394, resulting in 9 grants (36% of hearings held), 16 denials, and 2 stipulations to unsuitability. The remaining 17 scheduled hearings were waived, postponed, continued, or cancelled.

Overall, in 2022, the Board scheduled a total of 3,964 youth offender parole hearings; 2,782 were for indeterminately-sentenced youth offenders and 1,182 were for determinately-sentenced youth offenders. The 3,964 scheduled hearings resulted in 628 grants (34% of hearings held), 1,205 denials, and 292 stipulations to unsuitability. The remaining 1,814 scheduled hearings were waived, postponed, continued, or cancelled. In 2022, 44 percent of scheduled parole hearings were youth offender parole hearings.

### **Victim and Survivor Participation in Parole Hearings**

In 2022, 36 percent of parole hearings scheduled had at least one victim or victim's family member who requested to be notified of the hearing. A victim or victim's family member attended 17 percent of hearings held (745 of 4,455 hearings). For those 745 hearings, a total of 1,542 victims or victim's family members attended. The outcome of hearings held with a victim or victim's family member present in 2022 was consistent with the outcome of hearings held in general; 27 percent of hearings held with a victim or victim's family member present resulted in a grant of parole, whereas 28 percent of all hearings held resulted in a grant. This is consistent with the California Supreme Court's decision in *In re Vicks*, which requires the Board to ensure victims are treated with dignity; that they are acknowledged and respected. However, in so doing, the Board is not authorized "to base its decisions on victims' opinions." (*In re Vicks* (2013) 56 Cal.4th 274, 310).



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## LEGAL DEVELOPMENTS

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

The subject of the *Armstrong* litigation is the Board's compliance with the Americans with Disabilities Act (ADA) throughout its hearing processes. In 2022, the Board continued to work toward full compliance with the *Armstrong* Remedial Plan II by improving the Board's processes for self-monitoring, monitoring panel attorneys and their compliance with the Remedial Plan II, and drafting proposed regulations.

### **California Supreme Court Cases Pending**<sup>3</sup>

#### ***People v. Williams* – California Supreme Court, No. S262229**

The question presented: Does Penal Code section 3051(h), violate the Equal Protection Clause of the Fourteenth Amendment by excluding young adults convicted and sentenced for serious sex crimes under the One Strike law (Pen. Code, § 667.61) from youth offender parole consideration, while young adults convicted of first-degree murder are entitled to such consideration?

#### ***People v. Hardin* – California Supreme Court, No. S277487**

A petition for review was granted after the second district court of appeal found the Equal Protection Clause of the Fourteenth Amendment was violated by excluding people who were sentenced to life without the possibility of parole from youth offender parole consideration. The court found that the defendant who committed a special-circumstances felony murder at age 25, and was sentenced to life without the possibility of parole, was similarly situated to persons serving parole-eligible life sentences for crimes committed when they were 25 years of age or younger.

### **California Court of Appeal Case Pending**

#### ***Peterson v. Board of Parole Hearings (real party Cottle)* – Third District, No. C096833**

The trial court concluded that the legislation enacting Penal Code section 3051(b)(4), which authorizes parole consideration for juveniles sentenced to life without the possibility of parole, could not be used to conduct a parole hearing for Cottle because the legislation was broader than necessary to remedy constitutional violations in sentencing juveniles to life without the possibility of parole. The Board has appealed.

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<sup>3</sup> These cases are proceeding as a criminal appeal and the Board is not a party to the litigation.

## **United States Court of Appeals, Ninth Circuit Case Pending**

### **Gay v. Parsons – United States Court of Appeals, Ninth Circuit, No. 21-16906**

Plaintiff alleged that Forensic Assessment Division (FAD) psychologists issued a comprehensive risk assessment based on racial and religious bias. The FAD psychologists alleged that they were entitled to absolute or quasi-judicial immunity because they work closely within the Board's adjudicative function. The district court found that the FAD psychologists were not entitled to absolute immunity and they appealed.

## **Significant Cases Resolved in 2022**

### ***In re Mohammad* – (2022) 12 Cal.5th 518**

The California Supreme Court held that CDCR acted within its authority in promulgating regulations, which excluded people convicted of a violent offense from nonviolent parole consideration. Proposition 57, the Public Safety and Rehabilitation Act of 2016, provided for parole consideration for people convicted of a nonviolent felony offense once they served the full term of their primary offense. The CDCR regulations upheld by the Court exclude people from nonviolent parole consideration if they are “currently convicted of and [] sentenced to a term of incarceration for a violent felony, including a term for which a violent felony sentence was stayed . . . .” Cal. Code Regs., tit. 15, § 3490, subs. (a)(5),(c).

### ***In re Foster* – (2022) 85 Cal.App.5th 499**

The First District Court of Appeal granted an original habeas petition and ordered a new parole rescission hearing. The court opined that Foster's request to call witnesses for a rescission hearing was improperly summarily denied.

### ***People v. Board of Parole Hearings (real party Ramazzini)* – 85 Cal.App.5th 432**

The district attorney's office filed a petition for writ of mandate seeking to invalidate legislation which made those sentenced to life without the possibility of parole at age 16 or 17 eligible for parole consideration. The court of appeal held that the district attorney lacked standing to bring the petition. The case was returned to the superior court for the petition to be dismissed.

## **Writs of Habeas Corpus**

In 2022, the state was required to file a response to 102 habeas petitions filed in state and federal court (up 46% from 70 in 2021). In 2022, the Board held two court-ordered parole suitability hearings as a result of habeas petitions filed by incarcerated persons who were granted by the court, down from nine in 2021.

## **Regulations**

On February 28, 2022, regulations became effective that amended the nonviolent offender parole review process to be consistent with the California Supreme Court ruling in *In re Gadlin* (2020) 10 Cal.5th 915. Specifically, the Board's regulations were updated so people required to register as a sex offender under Penal Code section 290 et seq. are no longer excluded from parole consideration under the nonviolent offender parole review process.

In early 2022, the Board readopted emergency regulations governing the scheduling and conducting of hearings by videoconference. On November 7, 2022, permanent regulations became effective requiring the Board to conduct parole hearings by videoconference unless the Board determines an in-person hearing is necessary for the hearing panel to establish effective communication with the incarcerated person. The regulations also specify timeframes for persons to notify the Board if they plan to participate in a parole hearing, in compliance with the Penal Code.

On October 1, 2022, regulations became effective governing the elderly parole process. The regulations govern the calculation of elderly parole eligible dates as specified in Penal Code section 3055, as well as procedures for scheduling and conducting elderly parole hearings.

Regulations promulgated in December of 2021 temporarily permitted some parole hearings scheduled between April 1, 2021, and June 30, 2022, to be conducted without a comprehensive risk assessment. Specifically, the regulations stated that persons housed at a Security Level IV prison who had two or more recent serious rules violations would not receive a comprehensive risk assessment if they were scheduled for a hearing between April 1, 2021, and June 30, 2022, or if they were previously scheduled for a hearing during that time period and the hearing was postponed and rescheduled to occur at a later date. As such, these regulations continue to be applied to only a small fraction of the Board's scheduled hearings.

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## TRAINING AND OUTREACH

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

The Transcript Analysis Program provides commissioners with periodic legal feedback regarding their parole hearing decisions. Eighteen consultations occurred between the Board's legal division and commissioners under the Transcript Analysis Program in 2022, which is five less than the 23 that occurred in 2021.

Commissioners and deputy commissioners receive training during monthly executive board meetings, the majority of which are open to the public. In addition to routine training required for all CDCR employees, the following training was provided to commissioners and deputy commissioners in 2022:

- ◆ *Using Structured Decision Making Framework to Manage Your Time*, presented by Jessica Blonien, Chief Counsel, Board of Parole Hearings
- ◆ *How to Conduct a Hearing in Absentia*, presented by Jessica Blonien, Chief Counsel, Board of Parole Hearings
- ◆ *Legal Standards for Stipulations*, presented by Jessica Blonien, Chief Counsel, Board of Parole Hearings
- ◆ *Armstrong v. Brown* (N.D. Cal., Case No. C-94-3207-CW), presented by Jennifer Shaffer, Executive Officer, and Jessica Blonien, Chief Counsel, Board of Parole Hearings
- ◆ *Ex Parte Communications and Avoiding the Appearance of Bias*, presented by Jessica Blonien, Chief Counsel, Board of Parole Hearings
- ◆ *Update on Issuing a Decision and SDMF*, presented by Jennifer Shaffer, Executive Officer, and Jessica Blonien, Chief Counsel, Board of Parole Hearings
- ◆ *The Past, Present, and Future of the Board of Parole Hearings*, presented by Jennifer Shaffer, Executive Officer, Board of Parole Hearings
- ◆ *Mental Health Assessments and the Institutional Disciplinary Process*, presented by Paul Downs, PhD, Senior Psychologist Specialist, California Department of Corrections and Rehabilitation
- ◆ *Overview of the Ahimsa Collective*, presented by Sonya Shah and Richard Cruz, Executive Directors, the Ahimsa Collective
- ◆ *Update Regarding Services Available from Office of Victim & Survivor Rights & Services*, presented by Katie James, Chief, Office of Victim & Survivor Rights & Services (OVSRS), and Mike Young, Assistant Chief, OVSRS
- ◆ *Implementation Science to Optimize Structured Decision-Making Framework*, presented by Dr. Alexandra Walker, PhD, Director, Alliance for Community and Justice Innovation
- ◆ *Takeaways from the National Institute of Corrections' Structured Decision-Making Framework Community of Practice*, presented by Jennifer Shaffer, Executive Officer, Board of Parole Hearings, Jessica Blonien, Chief Counsel, Board of Parole Hearings, Rhonda Skipper-Dotta, Chief Deputy of Field

- Programs, Board of Parole Hearings, David Long, Commissioner, Board of Parole Hearings, Michele Minor, Commissioner, Board of Parole Hearings
- ◆ *Analysis of Comprehensive Risk Assessments Administered in 2021*, presented by Dr. Clifford Kusaj, Chief Psychologist, Board of Parole Hearings
  - ◆ *Update from Parole Justice Works*, presented by Anna Feingold, Executive Director, Parole Justice Works Director, and Heidi Rummel, President and Founder, Parole Justice Works
  - ◆ *Medication-Assisted Treatment*, presented by Lisa Heintz, Director, California Correctional Health Care Services, Donna Kalauokalani, MD, MPH, Deputy Medical Executive, California Correctional Health Care Services, Renee Kanan, MD, MPH, Deputy Director of Quality Management, California Correctional Health Care Services
  - ◆ *Overview of Electronic Tablets for the Incarcerated Population*, presented by Khasminder Singh, I.T. Specialist, California Department of Corrections and Rehabilitation
  - ◆ *Interviewing Foundations*, presented by Kirk Luther PhD, Assistant Professor, Carleton University Investigative Interviewing Research Laboratory
  - ◆ *Risk Assessment in Parole Decision-Making*, presented by Danielle Rieger, PhD Candidate, Carleton University Parole Decision-Making Laboratory
  - ◆ *The Nordic Model of Incarceration*, presented by Connie Gipson, Director, Division of Adult Institutions, California Department of Corrections and Rehabilitation
  - ◆ *Relevancy, Reliability, and Disciplinary Information*, presented by Jessica Blonien, Chief Counsel, Board of Parole Hearings
  - ◆ *Litigation Update*, presented by Phillip Lindsay, Senior Assistant Attorney General
  - ◆ *Hearing Preparation Practices*, presented by Jennifer Shaffer, Executive Officer, Board of Parole Hearings
  - ◆ *BITS Module Presentation*, presented by Steve Mehler, Chief of Application Development, Board of Parole Hearings
  - ◆ Six new commissioners attended an intensive eight-day training program entitled, "Administrative Law: Fair Hearing" at the National Judicial College

Commissioners and deputy commissioners also attended an annual training conference hosted by the Association of Paroling Authorities International in 2022 with the following training sessions:

- ◆ *European Criminal Punishment: Lessons for American Criminal Justice Reform*, by Joshua Kleinfeld, Northwestern University
- ◆ *Accountable, Independent, Ethical and Conflict-Free Decision-Making in Canada's Parole System*, by Sylvie Blanchet and Celine St. Onge, Parole Board of Canada
- ◆ *Guidelines for "End Stage" Decision-Making*, by Felicia Holloway, Georgia State Board of Pardons and Paroles
- ◆ *Millennial Workforce in Corrections*, by Richard Babcock and LE Townsend, Texas Department of Criminal Justice

- ◆ *What is Meaningful Review? Considering Children Sentenced to LWOP*, by Eric Alexander, Campaign for Fair Sentencing of Youth
- ◆ *The Media, Critical Incidents & Stakeholder Engagement*, by Steve Hayes, Georgia State Board of Pardons and Paroles
- ◆ *What is Discretionary Parole for Lifers? An International Comparative Analysis*, by Sylvie Blanchet, Parole Board of Canada, David Blumberg, Maryland Parole Commission, Martin Jones, Parole Board of England and Wales, Jonathan Ogletree, Kansas Prisoner Review Board, Jennifer Shaffer, California Board of Parole Hearings
- ◆ *Interstate Compact for the Parole Board Member*, by Ashley Lippert, Interstate Compact
- ◆ *Why is this Affecting Me? Fostering Resilience through Effective Self-Care Strategies*, by Audrey Cress, Kansas Prisoner Review Board
- ◆ *The Reality of Releasing 10,000 Life-Term Inmates*, by Jennifer Shaffer, California Board of Parole Hearings
- ◆ *Implementing an Effective Diversity, Equity, and Inclusion Program within a Paroling Authority*, by John Bailey and James Taylor, Oregon Board of Parole and Post-Prison Supervision
- ◆ *Prison Release Discretion and Prison Population Size*, by Julia Laskorunsky, Robina Institute
- ◆ *Prevalence of Polymorphism ("Crossover") Among Sexual Offenders / The Dark Figure of Sexual Recidivism*, by Nicholas Scurich, University of California, Irvine
- ◆ *Why Your Why is Not Enough*, by Alexandra Walker, Alliance for Community and Justice Innovation
- ◆ *Parole in Terrorism Cases*, by Martin Jones, Parole Board of England and Wales
- ◆ *Offender Risk: Necessary but Insufficient for Understanding Parole Suitability*, by Danielle Rieger, PhD Candidate, for Dr. Ralph Serin, Carleton University

### **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 2021 includes the following:

- ◆ *Violence Risk Scale – Sexual Offense Version (VRS-SO) and Related Assessment and Conceptual Considerations*, by Dr. Deirdre D'Orazio, Forensic Conditional Release Program (CONREP), Dr. Erik Fox, J.D., Forensic Services Division, and Dr. Craig Teofilo, Forensic Services Division, Department of State Hospitals (1.5 day course)

- ◆ *Diagnosing Paraphilic Disorders, Case Conceptualization, and Interview Strategies*, by Deirdre D'Orazio, Forensic Conditional Release Program (CONREP), Department of State Hospitals
- ◆ *Critical Thinking and Managing Bias*, by Dr. Terry Kukor, ABPP (Forensic), Netcare Forensic Center
- ◆ *European Criminal Punishment: Lessons for American Criminal Justice Reform*, by Joshua Kleinfeld, Northwestern University
- ◆ *What is Discretionary Parole for Lifers? An International Comparative Analysis*, by Sylvie Blanchet, Parole Board of Canada, David Blumberg, Maryland Parole Commission, Martin Jones, Parole Board of England and Wales, Jonathan Ogletree, Kansas Prisoner Review Board, Jennifer Shaffer, California Board of Parole Hearings
- ◆ *The Reality of Releasing 10,000 Life-Term Inmates*, by Jennifer Shaffer, California Board of Parole Hearings
- ◆ *Prevalence of Polymorphism ("Crossover") Among Sexual Offenders / The Dark Figure of Sexual Recidivism*, by Nicholas Scurich, University of California, Irvine
- ◆ *Offender Risk: Necessary but Insufficient for Understanding Parole Suitability*, by Danielle Rieger, PhD Candidate, for Dr. Ralph Serin, Carleton University

### **Outreach**

Board staff met throughout the year (by videoconference and in person) with counsel for incarcerated persons, advocacy groups, district attorney representatives, crime victim advocates, educators, legislative staff, and other stakeholders to discuss a variety of topics concerning the Board. For example, Board staff:

- ◆ participated in quarterly meetings with the Department of State Hospitals and CDCR to improve and streamline the state's processes for identifying persons who meet the criteria for additional treatment with the Department of State Hospitals as persons with a mental health disorder or as sexually violent predators
- ◆ discussed the Board's parole hearing process with graduate students from multiple universities in response to potential parole-related research projects
- ◆ received feedback concerning the parole hearing process via several discussions with victims and victim's family members who participated in parole hearings
- ◆ discussed the parole hearing process with numerous advocacy groups representing incarcerated persons and their families
- ◆ provided information about the Board's parole processes to a variety of Legislators, their staff, and representatives from the Legislative Analyst's Office
- ◆ participated in monthly meetings with representatives from Parole Justice Works to discuss the Board's panel attorney program

- ◆ participated in round table discussions with the Board's panel attorneys hosted by Parole Justice Works
- ◆ provided an overview of statistics and information about the parole hearing process to a seminar hosted by Life Support Alliance
- ◆ provided an overview of the parole hearing process and the state's clemency process to the California Agricultural Leadership Foundation's Criminal Justice Seminar
- ◆ provided updates concerning the parole hearing process and the Board to the California District Attorneys Association's Victims' Rights Committee
- ◆ provided information about discretionary parole to students at Berkeley High School
- ◆ provided information to incarcerated individuals as part of Mental Health Awareness Week at San Quentin State Prison
- ◆ provided information about the California parole process and the positive impact of professional collaboration and structured decision-making at the 5<sup>th</sup> World Congress on Probation and Parole in Ottawa, Canada
- ◆ hosted the Annual Training Conference for the Association of Paroling Authorities International in California for the first time in the Association's 34-year history; over 300 people attended in person, with many more participating by videoconference, representing more than 30 states and several countries
- ◆ provided information about the parole and community reentry processes to sociology students at the University of San Francisco, law students at the McGeorge School of Law, and incarcerated individuals at San Quentin State Prison
- ◆ attended a community and community reentry event in Sacramento
- ◆ provided an overview of violent risk assessment to psychologist interns at Richard J. Donovan State Prison
- ◆ provided information on risk management through self-awareness and transformation to Guiding Rage Into Power (GRIP) participants at San Quentin State Prison and to the California Defense Social Workers Post-Conviction Committee



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## ADMINISTRATION

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

Each year the Board makes several significant modifications to its main computer system, BITS, allowing the Board to implement changes in the law and further streamline its processes. Below is a summary of modifications made to BITS in 2022.

- ◆ Deployed new functionality enabling a youth offender's initial parole hearing date to be advanced if they earn Educational Milestone Credits
- ◆ Expanded electronic work queues for all Case Records staff so all workload is visible, not just the highest priority workload
- ◆ Streamlined the process for identifying and determining eligibility for determinately-sentenced nonviolent offenders who have convictions for in-prison crimes
- ◆ Streamlined and expanded the process for issuing release memoranda in BITS
- ◆ Automated production and distribution by email of several management reports
- ◆ Expanded functionality for tracking whether a parole hearing will be conducted in person or by videoconference and how each person will attend the hearing, including the incarcerated person's attorney, the hearing panel, prosecutor, victims and victim's family members, observers, etc.
- ◆ Developed and deployed a new scheduling application for parole hearings; previously, many aspects of the parole hearing scheduling process were contained in external applications, using outdated technology, or tracked manually; a new interface with significantly expanded and streamlined functionality was developed and deployed in BITS
- ◆ Expanded and streamlined the electronic process for CDCR's Secretary to review cases for possible referral to the courts for recall of sentence and resentencing
- ◆ Deployed a new module that enables users to search the current incarcerated population by a variety of factors
- ◆ Added new topics and document types to the Board's correspondence management system
- ◆ Updated functionality to reflect that attorneys may now submit certain requests on behalf of their clients
- ◆ Developed and deployed new consolidated functionality for Case Records staff; previously, workload was distributed across many screens in BITS and was in outdated technology; workload is now consolidated and built in new technology
- ◆ Created and deployed a new parole eligible date applicable for persons who receive a commutation of sentence

### **Commissioner Appointments**

Governor Gavin Newsom appointed the following four commissioners to the Board: Commissioners Kozel, Muñiz, Ndudim, and Weiss. In addition, Governor Newsom reappointed the following four commissioners to the Board in 2022: Commissioners Cassady, Nwajei, Ruff, and Thornton. Also in 2022, the State Senate confirmed the prior appointments of Commissioners Dobbs, Garcia, Garland, Long, Minor, Ndudim, O'Meara, Purcell, Sharrieff, and Taira.

### **Special Clemency Investigation**

In 2018, Governor Brown issued Executive Order B-61-1B, appointing Judge Daniel Pratt (ret.) as special master to oversee the DNA testing of evidence in conjunction with a clemency application and ordering the Board's resources to be available to Judge Pratt (ret.), as necessary. In 2019, Governor Newsom issued Executive Order Number N-07-19 ordering DNA testing of additional evidence in conjunction with the same clemency application and continued the appointment of Judge Pratt (ret.) as special master to oversee the testing. In 2021, Governor Newsom issued Executive Order N-06-21 appointing the law firm of Morrison and Foerster, LLP to serve as Special Counsel to the Board for the purposes of conducting an independent investigation in connection with the same clemency application and the applicant's claims of innocence. In 2022, the law firm completed its comprehensive investigation and provided the Board with its findings and conclusions.

### **Document Production**

The Board produced an unprecedented volume 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.