



Commutation and Recall of Sentence Recommendation Assessment Process Regulations

BPH RN 25-01

1. Why is the Board of Parole Hearings creating this process?

The Legislature granted the Board of Parole Hearings (Board) independent authority to recommend individuals whom it believes should be considered for commutation or have their sentence recalled. This process will ensure its recommendations are made in a fair, transparent, and evidence-based manner, while providing victims with an opportunity to participate and be heard. Further, the regulations provide the Governor with a risk-based determination after review of all relevant and reliable evidence.

2. Isn't there already a process for getting a commutation or having a sentence recalled?

Yes, individuals may apply directly to the Governor for a commutation of sentence or ask a court to be resentenced; those processes will not change with these regulations. Existing processes allow the Secretary of the California Department of Corrections and Rehabilitation (CDCR), the sentencing court, county correctional administrators, district attorneys, or the Attorney General to refer incarcerated people for resentencing. (Pen. Code, §§ 1172.1.)

These regulations are intended to supplement the existing process to provide transparency on what information is considered, the timing of consideration, and to ensure victim and prosecutor participation is facilitated.

3. Was the public given an opportunity to comment on the proposed regulations?

Yes. The public had several opportunities to provide input on the regulations throughout the rulemaking process. In all, the Board received more than 300 written comments from individuals, and more than 70 persons attended a public hearing on the regulations and shared their thoughts.

4. Who is eligible for the C&R recommendation assessment process?

The Board will consider individuals who have served at least 25 years of continuous incarceration and who do not fall within any of the exclusionary criteria. People who meet the specified criteria will be automatically scheduled for review. The Board and Board hearing officers (commissioners and deputy commissioners) will be assigned to review cases; they have no role and no discretion in selecting or scheduling candidates for the C&R review process.



5. Can incarcerated people, their lawyers or advocates ask or petition the Board for C&R review, expedited review, or to request an update on the status or timeline of review in their case?

The Board will follow the regulations on eligibility and the timeline for C&R review. The Board will not accept petitions or requests for review or expedited review from lawyers, incarcerated people, or other advocates.

The Board will provide notice to incarcerated people explaining the process and applicable timelines if and when their case is moving forward in the C&R process. The Board is otherwise unable to provide information about the status or expected timeline in any case.

6. Do incarcerated people need to hire attorneys to assist them?

No. The Board will not accept petitions or requests for C&R review, or requests to expedite review. If and when the Board moves a case forward in the C&R process, the incarcerated person will receive notice of their rights and, if the case advances to a hearing, an attorney will be appointed at no cost to the incarcerated person.

7. Why are some incarcerated people excluded from the C&R recommendation assessment process?

The Board is focusing on people more likely to meet the standard for a C&R recommendation and more likely to be commuted or resentenced by the Governor or sentencing court following a C&R recommendation.

8. If an incarcerated person is not eligible for the C&R recommendation assessment process, can the person still seek a commutation or resentencing?

Yes. The Board's commutation and recall of sentence recommendation assessment process does not limit or replace any existing avenues for resentencing. Instead, the Board is establishing this process to carry out its own statutory authority in a manner that is fair, transparent, and evidence-based and to ensure that victims have an opportunity to participate and provide input before a recommendation is made to the sentencing court.

9. How does the process work?

The process generally begins with an informal review of an eligible candidate's record. During this review, a hearing officer meets with the incarcerated person, reviews all relevant and reliable information, and determines whether to refer the individual for a hearing.



10. What happens if the person is referred for a hearing?

A person is referred for a hearing if it is reasonably likely that the person will receive a recommendation for a commutation and resentencing. If the person is referred for a hearing, they will receive a Comprehensive Risk Assessment (CRA) by a forensic psychologist who works for the Board. If the CRA rates the person a high risk or the person is found guilty of a serious rules violation report after the referral, the hearing is cancelled and the person will receive another review three years after the date of cancellation if they still meet the eligibility criteria.

Also, if the person **is not** referred for a hearing at a review, they will receive another review three years after the date of the initial review, assuming they still meet the eligibility criteria.

11. What happens at a hearing under this process?

The hearing is similar to a parole hearing. An attorney will be assigned for the incarcerated person, most hearings will be conducted by videoconference, and victims and the prosecuting agency will be notified and have an opportunity to participate in the hearing.

At the hearing, if the panel finds the incarcerated person currently does not pose an unreasonable risk of danger to the public, the hearing panel will make a recommendation for commutation and resentencing. The Board's legal division will review the decision. If the decision is upheld after review, the Board will notify the Governor and the relevant sentencing courts of the recommendation. If the Board does not recommend commutation and resentencing, the individual will be scheduled for a review three years after the hearing date if they still meet the eligibility criteria.

Once the Governor and sentencing courts are notified, the individual will not receive additional reviews or hearings under this process.

12. Is the recommendation assessment process different from the parole suitability process?

Yes. Unlike the parole process, the Board does not have the authority to grant parole to individuals in the C&R process. Instead, the C&R process provides a structured method for the Board to determine whether to recommend that a sentencing court recall and resentence a person, or that the Governor consider a commutation of sentence. Any decision by the court or the Governor following a Board recommendation is governed by their own process and authority.



13. When will the Board start holding C&R reviews and hearings?

Currently, the Board anticipates starting to conduct C&R reviews around July 1, 2027, and starting to conduct C&R hearings around July 1, 2028. Under the regulations, the Board has until December 31, 2035, to complete initial C&R reviews for individuals who would become eligible for their first review on or before that date.

14. Can victims participate in the C&R recommendation assessment process?

Yes. Victims who are registered with CDCR's Office of Victim and Survivor Rights and Services (OVSRS) will receive notice of a hearing and will be permitted to attend and provide a statement. The Board encourages victims to register with OVSRS to ensure they receive timely notice of any upcoming hearing.

15. When will victims be notified of hearings?

At least 90 days prior to the date of an incarcerated person's hearing, the Board will notify victims, victims' next of kin, and members of a victims' family who are registered with OVSRS of the hearing.

16. How can victims register for notification of hearings?

Victims can register with OVSRS online at <https://www.cdcr.ca.gov/victim-services/application/>. OVSRS can also be reached by email victimservices@cdcr.ca.gov or by telephone at 1-877-256-6877.

17. What happens after an incarcerated person receives a C&R recommendation?

Once an incarcerated person receives a recommendation, the Board's legal division will review the decision for up to 120 days. If the recommendation is upheld following review, it becomes final, and the Board will notify the incarcerated person, the Governor, and the relevant sentencing courts. After a recommendation becomes final, the individual will not receive any further C&R reviews or hearings. Decisions about commuting a sentence or recalling a sentence will be made by the Governor or court.



18. If the Board votes to approve the regulations, what are the next steps?

If the Board's commissioners vote to approve the regulations, the Board will submit the rulemaking package to the Office of Administrative Law (OAL) for review. If OAL approves the regulations, the regulations will be filed with the Secretary of State, upon which it will take effect in accordance with Government Code section 111343.4. The Board anticipates the regulations to take effect on either October 1, 2026, or January 1, 2027.