Commutation and Recall of Sentence
Recommendation Assessment Process Regulations

BPH RN 25-01

UPDATE: This Fact Sheet was updated on November 5, 2026, in response to Governor Newsom's announcement he will exercise his constitutional clemency authority to change all death sentences to life without the possibility of parole. The individuals who received the commutation are **specifically excluded** from eligibility for these regulations. Please refer to number 17 below.

UPDATE: On July 9, 2026, the Office of Administrative Law approved these regulations and filed them with the Secretary of State. The regulations will go into effect on October 1, 2026, but will take time to implement. Please refer to number 12 below for an anticipated implementation timeline.

1. **Why did the Board of Parole Hearings create these regulations?**

The Legislature granted the Board of Parole Hearings (Board) independent authority to recommend incarcerated persons whom it believes should be considered for commutation or have their sentence recalled. The Board, like all agencies, needs regulations to guide and limit the way it uses its authority. These regulations will ensure the Board exercises its authority in a transparent way that prioritizes public safety, respects victims' rights, and is fair. The Office of Administrative Law reviewed the regulations and determined that they establish an efficient and effective process for exercising the Board's authority in compliance with the governing laws.

The Board does not have the authority to release people through this process. The courts and the Governor decide if someone is released from prison. These regulations change that process only by providing the courts and the Governor with an expert assessment of an incarcerated person's risk to public safety before they make any prison release decision. Data on resentencing referrals and recidivism rates is available here.

The regulations leverage the Board's existing expertise processes for assessing risk, which is rigorous and highly effective. People released after assessment by the Board do well on reentry. The recidivism rate for this population is among the lowest in the country. Fewer than 0.5% of individuals released on parole commit a felony against a person within three years.

The Board's legal authority to make referrals is based on CDCR's directive from the Legislature to foster rehabilitation and successful community reentry. Opportunities for

resentencing and commutation incentivize incarcerated people to engage in more and earlier rehabilitative programming, self-development, and good conduct. Engagement in rehabilitative programming decreases recidivism and increases the safety of people working and living in California's prisons.

To learn more about the Board of Parole Hearings, visit: Board of Parole Hearings - CDCR.

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

Yes. Under existing law, incarcerated persons may apply directly to the Governor for a commutation of sentence or ask a court to be resentenced. Existing processes also 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 do not change any of these existing processes.

These regulations create a separate process to provide the authorities responsible for making prison release decisions with expert guidance on current risk to public safety.

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

Yes. The Board followed rule-making laws and gave public notice of multiple opportunities to provide input on the regulations over the 10-month rulemaking process. In all, the Board received more than 350 written submissions from stakeholders, and more than 70 persons attended a public hearing on the regulations and shared their thoughts.

If you are interested in receiving information about future Board rulemaking packages, please email BPH.Regulations@cdcr.ca.gov.

4. **Who is eligible for the Commutation and Recall of Sentence (C&R) recommendation assessment process?**

The Board will consider incarcerated persons who have served at least 25 years of continuous incarceration and who do not fall within any of the exclusionary criteria, as described below. 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.

Incarcerated persons who have been convicted of a sexual offense that currently requires or will require registration under Penal Code section 290 are excluded from the C&R recommendation assessment process. Incarcerated persons are also excluded if they were sentenced to death, are expected to be released from incarceration within three years, are already eligible to receive parole suitability hearings or will be eligible to start receiving suitability hearings within three years, or have already received a commutation of sentence during their current term of incarceration.

5. **Do incarcerated people need to hire attorneys to assist them?**

No. The Board will follow the regulations on eligibility and the timeline for C&R review. The Board will not accept petitions or requests for a C&R review, or requests to expedite a 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.

The Board will provide notice to incarcerated persons 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. **Why are some incarcerated persons excluded from the C&R recommendation assessment process?**

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

7. **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 C&R recommendation assessment process does not limit or replace any existing avenues for commutation and 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 Governor and sentencing court.

8. **How does the process work?**

The process begins with a review of an eligible candidate's record. During this review, a hearing officer with expertise on assessing risk meets with the incarcerated person,

reviews all relevant and reliable information, and determines whether to refer the incarcerated person for a hearing.

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

The hearing officer refers an incarcerated person 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 indicates that the person poses a high risk of future violence, or the person is found guilty of a serious rules violation report after the referral, the hearing is cancelled.

People who are **not** referred for a hearing at a review, or are later removed from the process, will receive another review after three years.

10. 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 incarcerated person 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 incarcerated person will not receive additional reviews or hearings under this process.

11. 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 incarcerated persons 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.

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

The Board will need time to build out its information technology systems to incorporate the C&R recommendation assessment process. Additionally, CDCR's Case Records Services will need time to determine eligibility and calculate eligibility dates. 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 incarcerated persons who would become eligible for their first review on or before that date. The Board will schedule incarcerated persons for initial C&R reviews based on the availability of staff and resources.

13. How many incarcerated persons are expected to be eligible for the C&R recommendation assessment process?

The Board currently estimates 3,959 incarcerated persons will be eligible for an initial C&R review by December 31, 2035.

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. Information on registration is available on OVSRS's website at https://www.cdcr.ca.gov/victim-services/application/ or via email at victimservices@cdcr.ca.gov or telephone at (877) 256-6877.

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. 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 incarcerated person 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.

17. **Will people whose death sentence was commuted by the Governor be eligible for this process?**

    No. Individuals who have already received a commutation of sentence during their current term of incarceration are excluded from eligibility under these regulations.