



Board of Parole Hearings

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# Nonviolent Offender Parole Review Process for Determinately-Sentenced Inmates

## Overview

[Fact Sheet \(7/9/2019\) – Implementation Plan for the \*McGhee\* Decision Proposition 57 Parole Consideration for Nonviolent Offenders](#)

A nonviolent offender parole review is a process in which the California Department of Corrections and Rehabilitation refers certain determinately-sentenced nonviolent offenders to the Board for review and possible release, once the inmate has served the full term of his or her primary offense. Inmates are reviewed for release based on their criminal history, a review of their institutional records, and after consideration of input received from the inmate, victims, victims' families, and the district attorney's office that prosecuted the inmate. A decision is rendered after an administrative review of relevant and reliable documents; no hearing is conducted.

The nonviolent offender parole review process for determinately-sentenced inmates was enacted by emergency regulations filed by the California Department of Corrections and Rehabilitation. Implementation of the nonviolent offender parole review process was mandated by the passage of Proposition 57, The Public Safety and Rehabilitation Act of 2016, approved by the voters in November

2016. Referrals of determinately-sentenced nonviolent offenders to the Board for parole review began on July 1, 2017.

The nonviolent offender parole review process replaced an almost identical parole review process that had been in place since January 2015 as a result of a federal court order. Specifically, the state was mandated to implement a parole review process for nonviolent, second-strike inmates pursuant to a federal court order in the Coleman/Plata class action law suit that was issued in February of 2014. As a result of that court order, the state implemented the nonviolent, second-strike parole review process. The majority of determinately-sentenced inmates eligible for the nonviolent offender parole review process under Proposition 57 are the same inmates who were eligible for parole review under the nonviolent, second-strike parole review process ordered by the court.

## Inmates Who Are Eligible for Nonviolent Offender Parole Review

Inmates sentenced to a determinate or fixed term of imprisonment are eligible for the nonviolent parole review process. The inmate must have completed the full term of his or her primary offense, which is the single crime for which a court imposed the longest term of imprisonment. Additionally, the inmate must not be serving a term of incarceration for a violent felony as defined in Penal Code section 667.5, subdivision (c). Inmates who are required to register as a sexual offender under Penal Code section 290 are also not eligible for the nonviolent offender parole review process.

Inmates convicted of nonviolent offenses will be reviewed for eligibility for the nonviolent offender parole review process by the California Department of Corrections and Rehabilitation. Once an inmate is determined to be eligible for the process, the department will determine when the inmate will have served the full term of his or her primary offense. This date is called the inmate's nonviolent parole eligible date (NPED). Inmates who are reviewed will be provided written notice from the California Department of Corrections and Rehabilitation of their eligibility and their nonviolent parole eligible date. Eligibility determinations are subject to appeal by the inmate through the department's inmate appeal process.

## When Eligible Determinately-Sentenced Nonviolent Offenders will be Referred to the Board of Parole Hearings for Review

At least 35 days before an inmate's nonviolent parole eligible date (NPED), he or she will be referred to the Board for a parole review and possible release if the inmate is more than 180 days from his or her Earliest Possible Release Date (EPRD). Inmates will be provided written notice of the outcome of the referral decision by the California Department of Corrections and Rehabilitation. Referral decisions are subject to appeal by the inmate through the department's inmate appeal process. Inmates who are referred to the Board will be provided a written explanation of the Board's nonviolent offender parole review process, including notification that they have an opportunity to submit a written statement for the Board's consideration when determining whether the inmate should be released. Written

statements should be submitted to the Board by the inmate within 30 days of the date the inmate is referred to the Board.

## What to Expect After an Inmate is Referred to the Board of Parole Hearings

If the Board determines the inmate is eligible for parole consideration, the Board will send notices within five business days to victims and their family members who are registered with the [Office of Victim & Survivor Rights & Services](#). The Board will also send a notice to the district attorney's office that prosecuted the inmate. The notices alert the victim, victim's family, and the district attorney's office that the inmate has been referred to the Board for review and possible release. The notices also explain that victims, their families, and the district attorney's office have an opportunity to submit a written statement to the Board for its consideration when determining whether the inmate should be released. Written statements should be submitted to the Board by the victim, victims' family, and the district attorney's office within 30 days from the date of the Board's notice.

Once the 30 days has passed, the Board will assign the case to a [deputy commissioner](#). The first thing the deputy commissioner will do is review the case to confirm the inmate is eligible for the nonviolent offender parole review process. This is referred to as a jurisdictional review.

If the deputy commissioner finds the inmate is not eligible, the deputy commissioner will issue a written decision with a statement of reasons explaining why the inmate will not be considered for release. The inmate will receive a copy of the decision and any victims, victims' family members, and the district attorney's office that received notice of the inmate's referral to the Board will be notified.

If the deputy commissioner confirms the inmate is eligible for parole review, he or she will review the case to determine if the inmate would pose a current, unreasonable risk of violence or a current, unreasonable risk of significant criminal activity if released. This is referred to as a review on the merits. In making this determination, the deputy commissioner will consider factors such as the circumstances surrounding the inmate's current conviction(s), the inmate's criminal history, the inmate's institutional behavior including rehabilitative programming and institutional misconduct, and any input from the inmate, victims, victims' family members, and the district attorney's office.

The deputy commissioner will issue a written decision with a statement of reasons supporting the decision. Inmates who have more than two years left to serve on their sentence at the time of the Board's review must be reviewed and approved by a supervising deputy commissioner. Inmates approved for release by the Board will be processed for release by the California Department of Corrections and Rehabilitation 60 days from the date of the Board's decision. Inmates who are denied release will be eligible for possible referral to the Board again one year later. The inmate will receive a copy of the Board's decision and victims, victims' family members, and the district attorney's office that received notice of the inmate's referral to the Board will be notified of the Board's decision.

## Review of the Board's Decision

Within 30 days of being served with the decision concerning jurisdiction or a review on the merits, the inmate may request review of the decision. A hearing officer who was not involved in the original decision shall complete review of the decision within 30 calendar days of receipt of the request and will document the decision in writing. The inmate will receive a copy of the Board's decision and victims, victims' family members, and the district attorney's office that received notice of the inmate's referral to the Board will be notified of the Board's decision.

If you need additional information about the nonviolent offender parole review process, please write or call the Board at:

Board of Parole Hearings  
Post Office Box 4036  
Sacramento, CA 95812-4036  
Phone: 916-445-4072

## Victims

Victims who would like to request notice and an opportunity to provide input concerning an inmate's parole review or release must register with CDCR's Office of Victim & Survivor Rights & Services. For further information, please visit [CDCR's Office of Victim & Survivor Rights & Services website](#) or call toll-free 1-877-256-6877.



Gavin Newsom

California Governor

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## Kathleen Allison

CDCR Secretary

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## Jennifer Shaffer

BPH Executive Officer

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