

National Parole Transformation Project (NPTP): Parole Teach-in Series

NATIONAL PAROLE TRANSFORMATION PROJECT


California: Barriers and Avenues to Meaningful Parole Reform

Join the MacArthur Justice Center's National Parole Transformation Project for a virtual teach-in focused on key issues and challenges within the California parole system and how to advance parole reform in the state.

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HOLD TO REGISTER!






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CO-MODERATED BY
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PANELIST
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PANELIST
Carletha Sterling
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PANELIST
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James King
Co-Director of Programs
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CONTEXT: *The transcript below is from a recent webinar hosted by the MacArthur Justice Center's National Parole Transformation Project, a coordinated campaign of strategic impact litigation and community-based advocacy directly challenging the parole systems feeding mass incarceration. The Webinar focused on key issues and challenges within the California parole system and perspectives on how to advance parole reform in the state. Panelists included UnCommon Law's Annie Roge, Keith Wattley, Carletha Sterling, Israel Garcia and James King, from the Ella Baker Center for Human Rights.*

TIMMY CHAU

Welcome everybody to today's panel discussion which is titled *California: Barriers and Avenues to Meaningful Parole Reform*. I will be our co-moderator for today's discussion. My name is Timmy Chau. My pronouns are he, him, his, and I'm the community outreach lead of the National Parole Transformation Project, which is hosting this discussion. For those who don't know, the National Parole Transformation Project is a coordinated campaign of strategic impact litigation and community-based advocacy directly challenging parole systems feeding mass incarceration. We, like others on this webinar, believe that these systems of surveillance and control of expanded unchecked and that they're functioning to expand the prison industrial complex. As a growing network of advocates, lawyers and systems impacted individuals NPTP develops and supports local and national efforts to end the expansion systems of post-conviction supervision across the country. And that's why we're here today. Throughout the next several months, NPTP will be hosting a series of virtual teachings on parole reform efforts in various states across the country. These teachings will include insights and perspectives from legal and directly impacted advocates working to advance parole reforms in the respective states. And that is why I'm so excited to welcome our panelists today.

Today I'm honored to welcome four incredible advocates for social change: Keith Watley, founder and executive director of Uncommon Law, a nonprofit legal services organization providing support and advocacy to people sentenced to life in prison. Keith has been advocating for the rights of folks in prison and on parole for more than 20 years and has trained hundreds of lawyers, law students and others and advocating for rights of incarcerated people. He and his team have helped more than 300 people return home from life sentences and provided services to thousands of life sentence people in prisons across California.

Next I have Carletha Sterling. Carletha served multiple decades on a life sentence in California state prison. During her time in prison she designed and trained other incarcerated people to facilitate multiple self-help programs. She's the founder of Remember Me, a nonprofit organization that educates incarcerated and formerly incarcerated individuals on the impact their crime and choices have on their family, their victims, victims' families, and their community. Since her release from prison, Carletha has been publicly recognized for her transformational work. And she has served on the executive board as an executive board member for a New Way of Life, board president for Wings for Women, and has done additional work with other legal organizations and political candidates. Powerhouse!

Also with us is UnCommon Law's Supervising Parole Success Advocate, Israel Garcia. Israel was sentenced to life for a crime committed at age 15 and served 25 years in prison. During his incarceration, Israel was one of the first mentors in California's now popular youth offender program. He graduated from the offender mentor certificate program and holds a substance use disorder counselor certification. He also has an associate's degree in social and behavioral science and is pursuing a bachelor's degree in sociology. At Uncommon Law, Israel oversees the development of the organization's parole preparation curriculum and leads a team of formerly incarcerated parole success advocates who provide counseling and pro-readiness training to people sentenced to life inside California prisons.

We also have with us James King. Co-director of programs for the Ella Baker Center for Human Rights. During his time in prison, James worked to build recognition of the value of people who are being held in carceral spaces and to create opportunities for incarcerated people to engage in self-advocacy, including founding a think tank of incarcerated people that built relationships with criminal justice reform orgs and system actors in California. His current policy interests include decarceration, improving life conditions for incarcerated people in creating alternatives to incarceration by investing in under-resourced communities. He's also a writer and organizer and his ideas have been featured by TEDx, TED Talks, the Guardian, and Witness LA.

Last but not least, we have my co moderator, Annie Roge. Annie works at Uncommon Law as director of development and communications, but more importantly she's the resident storyteller. Her work includes crafting and implementing messaging campaigns, building relationships with constituents and community members, and leading the organization's strategic communications and public education work. With that. I know there's some applause going on in the audience, but you know, we're here virtually, but I'm going to go ahead and pass it over to you, Annie, to kick us off if there's anything else you'd like to say to introduce yourself.

ANNIE ROGE

Thank you so much, Timmy. And before we get started, I just want to say a huge thank you to you for all of your work coordinating these conversations. If folks here didn't get a chance to tune in to the teaching for Mississippi last month, I would really recommend it. I got a chance to listen and it was extremely educational. Really powerful, some incredible advocates there. I think it's so important for us to be putting together this picture of parole as a national issue, right, and understanding the sort of opportunities and challenges that are faced by advocates all over the country if we want to ultimately coordinate our efforts. I also just want to say what an honor it is to be sharing space with Israel and James and Collie and Keith. You're all people who have personally inspired me in my own work, so it feels amazing to be here with you all today. So let's get started. Today we are talking about parole in California and we're going to just try and kind of start at the beginning. What are we actually talking about when we talk about California's parole system? Keith, I'm going to direct our first question to you. You're someone who has worked in prisons and parole in this state for more than 20 years. Can you give us an overview of how California's discretionary parole system actually functions?

KEITH WAITLEY

Thanks, Annie. Thanks, Timmy. I'll do my best to try to give an overview. First off, we are talking about selective parole. And that really means the parole boards' commissioners are selecting the people with whom they're most familiar and with whom they're most comfortable. And awarding those people programs. California has about 35,000 people serving life sentences with the possibility of parole. 35,000. And then there are another about 10,000 or so people who are serving long enough fixed or determinate sentences so they too, will be considered by the parole board for release before completing those sentences. The whole state has roughly 95,000 people in prison. So, we're talking about roughly half the prison population in California is subject to this process we're going to discuss. Today I want to cover the basics. Once a person has served 7 or 15 or 25 years, they appear before a panel of commissioners who are appointed by the governor. And that panel of commissioners is going to decide whether the person is dangerous, [or in other words] whether they present an unreasonable risk to public safety. And our governing statute here in California dictates that parole shall normally be granted. And that's got a magical language. It's a language that very few states have in their parole statutes. And we even have Additional procedural protections. **To achieve that goal of normally granting parole we have the right to counsel, we have a right to a parole hearing. We have a right to get a transcript from the hearing. You have a right to receive all the information that the parole board is relying on.** We've recently added special considerations that are intended to make it more likely someone is granted parole that includes youth parole and elderly parole. [There's] special consideration for people who are survivors of intimate partner battering and its effects. So, there's different ways that we've tried to bring more meaning to the idea that parole should normally be granted, presumably, prior to the hearing. Each parole applicant is interviewed by a psychologist from the parole board, and they're going to write a lengthy report and then they're going to pretend to assess the person's risk of violence ranging from low to high. There are a couple other little steps along the way. And then the hearing itself generally takes between 2 and 3 hours, but I've had them go more than 8 hours before. During that time commissioners are asking the parole applicant all kinds of things about their lives before the crime: the details and circumstances of the crime for which they are sent to prison, and what they've been doing in prison to address the factors that contributed to the crime. There's also a representative from the district attorney's office present at the hearing. Oftentimes they're invited. And

then there's an opportunity for victims or their family members or representatives to speak during the hearing. If the board grants parole, the governor gets to review it and may reverse it, particularly in cases of murder. And if the board denies parole, they can order the next hearing to take place between 3 years and 15 years later. Parole applicants do have access to the courts. Through habeas corpus, if they're denied parole, they can challenge those decisions there. However, the courts apply the lowest standard of judicial review that's imaginable and they typically uphold the parole board's decisions. That's the process in a nutshell. There's a lot in there, a lot more details I could get into, but I think that's a good starting place.

TIMMY CHAU

Thank you for that, Keith. I have a follow up question. It's interesting to hear that for the parole process in California you have a right to counsel, a right to the transcript, and these special considerations. These are things that, in connecting with folks in parole systems and other states, particularly in the southern states where we've been building with folks, these are not present. There's less oversight, less metrics of considerations, or metrics of accountability that the parole board is held to. So, while we can celebrate a lot of the ways in which the California process is distinct, we also see that the system is fundamentally not living up to the promise of providing these fair pathways home for folks, right? California has more people serving life sentences than any other state but one of the lowest parole grant rates in the nation. So, can you speak a little bit to like what's going on here?

KEITH WAITLEY

Yeah, it helps to provide a historical context. It's important to say that with the kind of process I mentioned before, those are part of longstanding legislative efforts to reform. It was a process that was found to be arbitrary back in the 1970s. Prior to that time pretty much everyone who went to prison would get an indeterminate sentence. It would be up to the parole board to decide how much time they would actually do. But, because the parole board was unfairly setting very different terms for people who committed similar crimes, the court struck down that process as arbitrary. Evidence at that time showed that neither psychologists nor parole commissioners could actually predict bias risk. So, the decisions were based on gut instinct, which disproportionately impacted Black parole applicants in particular. **So, the state developed a new statutory scheme through which the courts would give a person a fixed term of confinement and only certain more serious crimes like murder or kidnapping would still be subject to the parole board's discretion. If you fast forward now more than 40 years, we have a process that sadly is just as arbitrary as it was in the 1970s. And I think the reason for that is that the rules guiding the Parole Board's decision are extremely subjective. For example, they can deny someone parole if they don't like the person's expression of remorse or if they think the person lacks sufficient insight into their crimes. These are subjective factors that really allow the parole board to discriminate against the people they don't like or those whose lives they don't understand. And, we're starting to see the numbers to prove this. We see that Black parole candidates are nearly 3 times less likely to be graded parole. People being treated for mental illness are about half as likely to be granted parole. People with cognitive impairments or memory problems or people with disabilities or people who are gender non-conforming are all less likely to be granted parole. People who cannot retain their own attorneys are about half as likely to be granted parole as those who can. See what's happening in California is telling its citizens, including its children, that people will be released from these long sentences when they've grown up, when they've changed, and when they could safely be**

released. But, in practice, these decisions are based on perceived differences, not actual dangerousness. And because of this arbitrary process, I have clients who've been in prison 30 years, since they were teenagers. They've been denied parole multiple times and they look at me and they say, "are they ever going to let me out of here?" And despite all the rules, we've just talked about that might seem like they would help, I can't tell them for sure that they'll ever be able to come home. That's the process we have.

ANNIE ROGE

Thanks so much for that, Keith. I think that's so powerfully stated just how California's sort of parole process exists, in theory, to uphold the state's values of redemption, second chances, rehabilitation, whatever words you want to use, but in practice is failing to measure up to those values by almost any standard. I'm always struck by just how much wisdom and expertise you bring to this work and to these kinds of conversations, and I'm so grateful to you for that. On the subject of expertise, Israel, our next question is for you. You're someone who navigated the parole process in California yourself as someone who was incarcerated. I'm wondering if you can just expand on what Keith has been sharing and talk a little bit about how parole commissioners expect people to show up to their hearings and what the challenges are when it comes time to do that.

ISRAEL GARCIA

Yeah. One of the things Keith, just spoke about, the question of when I'm ever going to come home, what's going to be good enough, was a question I actually asked myself. I navigated 3 separate [parole hearings], the first 2 I was denied. I was deemed suitable on my third and released about 6 months afterward. **During my second hearing the commissioner used his hands to sort of demonstrate a spectrum: on one hand he said I was here, on the other hand he told me I needed to be here, and then he moved that hand backwards to say I was somewhere in here, and didn't give me any direction of how to move forwards or where I needed to be. That gives a little bit of a preface to what commissioners seem to be expecting from folks, to be able to come into a hearing and perfectly tell their story that can describe how they got to make a decision that caused harm and what they did, and to sort of "correct" that thought process to say, "I won't ever make this decision again."** The problem with that, which reinforces the subjectivity of the process, is that, one, we are human beings. **What does perfection even look like?**

And two, I'm trying to best guess what a commissioner is going to view as perfect, what's going to be enough for me to be able to tell my story in a way that they're going to understand and say, "oh, I get where you coming from and how this decision could have been made," and to know what's on the other side of that. Like, how did you actually fix that? What are the things that you've done to become a better person? For a lot of years people were not going home in California at all. **Not only is the grant rate the lowest in the nation in California right now, but for decades prior to maybe 2,012 to 2,015 it was almost zero. People were just not going home. People gave up. I entered the prison system believing that I was essentially going to die incarcerated.** There's a lot of problems with that.

One problem specifically in relation to what we're talking about today, is that hearings were very adversarial, hearings where antagonistic commissioners would do everything that they could to be able to instigate and provoke folks to act out of character, or what they what they could interpret as being

out of character to justify or prove you haven't changed, that you were still the same person because you committed this one act of violence in the past. A commissioner is going to view every single behavior that you do through this lens and say that it's going to be potentially valid at the end of the day. So, what happened is people were coming out of hearings and trying to figure out what is the best way to increase their chances of success at going home, so one of the go-to processes was to replicate a hearing with each other. Folks were, with good intentions, re-traumatizing each other in prison trying to understand how to go in and say they were a horrible person. Not that I did this horrible thing, but that I was this horrible person and you know, air out every single thing that their family had done that contributed to their development, which for a lot of folks is incredibly challenging. It's hard for somebody to come in and talk about things that I've done that really aren't necessary to demonstrate that I'm not going to be violent anymore. But, in the board's eyes, this is critical to whatever evaluation process they use, and this speaks to the subjectivity of it. And then to be able to say that this is also my family stuff, that this is also about the people that were around me. There's a lot of people that have a hard time doing that but if they don't they're forced to, because if they don't they're going to essentially be denied, because they can't articulate well enough to commissioners that these are the things that I've done to be able to say, or these are the things that I've experienced in my life that contributed to my belief system and in my decision-making processes which led me to commit the harm that I did to become incarcerated in the first place.

There's also like no preparation for that provided by the parole system. Now the process is consultation 6 years prior to a hearing. In the past, when I first entered the system, they would tell you to go to school, do do groups, but they wouldn't specify which groups. They just say take 2 groups, do self-help, and stay out of trouble. That was what they would tell you. But when a hearing came, they would say, what have you done to adjust your substance use? What have you done to address your violent behavior? So there's this huge gap between what's being asked of people and what's actually provided. So, we have to become like our own therapist. We have to become our own counselors to be able to dive into our histories and talk about the our family backgrounds and our social backgrounds. And so we had to learn how to do that ourselves and you know there wasn't a lot of educational opportunities in the past, so people are having to do this ad hoc because, otherwise, there's no other way to support each other to be able to come home. Try to keep that spark of hope alive because a lot of folks lost it in the past.

Now, people are starting to come home a little bit by little bit in California. People are doing absolutely everything that they can to be able to start to fill that gap and create groups and spaces for individuals to work through these things in a more therapeutic way as opposed to like the what the commissioners want to be able to see. To circle back to like your original question, Annie, what's being expected? People have to go into a hearing and say that they were incredibly terrible people. And, if that isn't demonstrated well enough, with like enough anguish to the eyes of the commissioners, they're not going to believe it and they're going to think that you're manipulating them. They're going to think that this is all just the continuation of the criminal thinking that they've already accused you of holding. There's so much, so many different pieces that can be unpacked and unfolded in that, but I think for the most part, it's just an incredibly traumatic experience for folks to have to go through their entire histories, to share it in a way that is dehumanizing and derogatory, and then hope that it's going to be understood by commissioners. There's still no guarantee. It's no good, and the numbers show that.

TIMMY CHAU

Thank you for sharing that Israel, I just wanted to follow up on something you mentioned. First, thank you for sharing your experience on this and something that's sticking with me is that process you narrated, how the process puts that burden on folks already in a vulnerable position, and the idea of having to relive it and individualizing the harms and reasons for why somebody made the decisions they made throughout their life totally relieves the rest of the government, local government and state institutions of the burden and fault for the societal conditions of poverty, lack of jobs, and our hollowed out social wage, and how they are putting that blame on individuals already coming from you know, predominantly, Black and brown working class and low income neighborhoods. I'm really struck by that but back to you Annie.

ISRAEL GARCIA

Can I add something to that real quick? That's just a great point and it gets lost I think because in this process. If somebody goes into a hearing and says what you name right now, which is true, there's all these institutional factors that come into play. If that's named from somebody who's trying to go home, it's gonna be viewed as a minimization. It's going to be viewed as avoiding responsibility. But, I can blame my parents, but I can't blame the poverty that they're living in or that I was born into? It's an incredibly powerful point that I think often gets lost in the frame of this process. So I really appreciate you naming that.

ANNIE ROGE

Thanks, Israel. Thanks timmy. We talk about these sort of big systems and we talk about data and we talk about numbers but it's so important for us to not lose sight of the fact that the numbers and statistics we're talking about are individuals, thousands of individual people who are going through an incredibly painful and harmful process and are doing it over and over and over again, clinging to hope that ultimately it might provide them a pathway home. As an organization, we really believe that people who have direct experiences with these systems are the best positioned to expose problems within them. They are the best positioned to develop solutions. And I think it's really special that you [Israel] are at Uncommon Law. You're a part of that work, you're going back inside and you're giving people some of the support that you didn't have yourself. So just want to like respect you for that.

Collie, I want to pivot to you and get your perspective here as well. You're someone who is formerly incarcerated. You've spoken so powerfully in the past about how survivors of violence and particularly gender-based violence, are sort of uniquely further criminalized by the parole process. Can you expand on some of these ideas from the perspective of someone who did time and went through the parole process in a women's prison?

CARLETHA STERLING

Thank you, Annie. Again, thank you, Timmy, for having us. And I cannot move forward without thanking Uncommon law for their representation during my 3 decades in prison. They believed in me at times I did not believe in myself, because the system had truly taken away my power to believe in myself but thank goodness for Uncommon law. I will always be grateful. The board starts the hearings by saying we're not here to retry you. So I've always accepted that as "we're not here to retry you, but we are here to traumatize you." They get the T's mixed up. As Israel has spoken so well about, the system and

the traumatizing, it's really no different. I think I've seen in the chat where someone asked if it's different for women? No, it's not different. I, like I said, I spent 32 years in prison. And if it had not been for my continued preparation in trying to identify and articulate what it was the board wanted from me and Uncommon Law coming aboard and dealing with the legal process of those hearings, I don't believe I would be here today, and especially sitting here as the executive chair for Uncommon Law's Board, which is an honor. I do believe that. Once after going through 13 hearings, certainly I was traumatized. But I didn't have those self-help programs that the board recommends that you be a part of because a lot of programs were not available in the prison. So as Israel said, we found ourselves really trying to help each other without the license of counseling, trying to understand one another's issues and trauma. You spend many days, hours, if not years, trying to understand. You know all the things that they're asking, "how did you get involved," "what's your insight?" I was so young I didn't even know what insight was and they could not tell me what insight was. So, if you can't explain to me what you're looking for, it's almost like just re-traumatizing me with no genuine avenue for relief. So, once you have that board hearing and you're traumatized, you really don't have anyone to put you back together. You're almost destroyed and so you have to find a way to put yourself back together for that next hearing. And it's almost like I have to go and get traumatized again. And so that's what made me end up saying, okay, I need to do something to help myself because there's nothing else is being made available to me to help me get through this trauma. And that's when I began to develop self-help programs that I knew could help-- if it helped me, it could help others deal with the trauma of trying to understand how one got to this place and the trauma that's involved with those board hearings. I don't even have words for it. All I can say is that it's like a retrial. As a parole board member, [they're] there to retraumatize you. So, you have to relive all that. I make no excuses, never have, never minimized, but no matter what your responses are, [they will always try to suggest] you're minimizing your participation in the crime. Thank God for Uncommon Law, who helped me to really understand how I got to the place I was at. It was Uncommon Law that helped me to be able to put that into focus and be able to articulate it in a way that, whether the Board understood it or not, I felt good that I knew I was able to answer those questions.

TIMMY CHAU

Thank you so much, Carletha. I'm deeply moved by what you shared. I am so grateful, and I'm sure you're collaborators here are too, that you were able to persist through that entire traumatizing process, and I'm also thinking about just the hundreds, thousands of individuals who don't have access to amazing groups like Uncommon Law. We are fighting an uphill battle with limited resources and this points to how this system, claiming to be about rehabilitation, keeps people locked up by expecting the impossible, expectations that require abundant access to training, education and programming that isn't even being provided or is very scarce and hard to find. It reminds me of a conversation I had with another parole advocate based in Texas at the Texas Center for Justice and Equity. He told me about how there are hundreds of individuals who could be released on parole but remain in prison because they are required to complete certain classes that aren't even available to them. So folks are caught, right? And I think that kind of brings to this the next question, which is about structural reform. So James, I know you've been working on prison reform in California for years, so I want to see if you can speak to some of the biggest barriers to pushing for parole forms.

JAMES KING

Thanks. I really appreciate that question. And, also, I appreciate Israel for painting such a vivid picture of the human impact of like the policies that we're working to change and to shift. I would start by just naming that. All of this is rooted in broader narratives about public safety and shifting public, opinions about how to get to safer communities. From my vantage point the our parole board system in California, which is as Keith and Timmy noted very early on, are seen as some of the most progressive in the nation. However, at their core, they are rooted in protecting the status quo and are characterized by the subjectivity and discretion that's been described thus far. We'll never create an objective system. It will always be subjectivity. And what we see is that this subjectivity is in effect creating a release valve so that certain people are released and the vast majority of people are held in prison. I think that, from my vantage point, when I look at the people who are in prison, people that I served time with, they're survivors of the tough and crime era in California and in the broader nation. One of the challenges is that [currently incarcerated folks] are not seen as such. Instead they are seeing as individuals who, committed harm or were convicted of committing harm. Violating laws and breaking laws and the law is seen as a symbol or a form of public safety, but I'll just start by saying that's not actually the case. Laws can, in certain instances provide public safety, but they can just as easily provide harm. As an example I would lift up disenfranchised voters. Those laws which are being enforced and even being expanded in several states right now do not increase public safety, they actually actively work against notions of public safety. So I think that one of the one of the things that we're working to decouple is that law enforcement and public safety are somehow synonymous and should be viewed as linked in ways that suggest they move us towards safer communities.

Here in California, our parole board process is inherently political. Parole commissioners are appointed, publicly appointed and confirmed through the legislature. They're actually appointed by the governor who is also politically voted into office and, in effect, they are then subject to the whims and current notions of public safety. And one of the things that I think about a lot and thought about it while I was inside is: A person typically when they're eligible for parole has served decades, but while we're trying to push a narrative of making today's system accessible and equitable and fair and balanced so that people can be judged for who they are today, they inevitably are judged by what's happening in the broader media and its narratives. So, part of what that looks like is right now here in California. There are a lot of narratives about drug crises and crime in San Francisco, Oakland and the Bay Area which then impact politicians' ability or legislators' ability to vote [in favor of] parole reform because, who wants to be seen as weak on crime? Who wants to be seen as somehow adding to the problem? So the stories that they're choosing to tell put political pressure on politicians which then becomes a significant barrier to actually reforming and creating a more equitable ingest system.

I think another significant barrier is the parole hearing itself. [The Board] works very hard to project that they're objective and data driven. They use forensic psychologists to create comprehensive risk assessments. There's talk of recidivism and all of these notions that sound data driven, that sound objective, but in actuality are merely codifying and structuring the biases that previously existed. I'm reminded of a friend of mine who, as part of the parole hearing process, was interviewed by a forensic psychologist who does an analysis to determine if you remain a risk to public safety. Friend of mine went in to meet with the forensic psychologist and he asked a simple question. He said, "you know, I'm Black. I'm from this community. You've never been to this community. I don't know what your expertise is on

what I had to grow up through. So, what qualifies you to determine if I'm at risk to public safety when you haven't experienced or seen or been through what I've been through?" [My friend's] comprehensive risk assessment, it was determined, well, to I think it was Israel's point earlier, he was seen as deflecting, mitigating, and not accepting responsibility for his actions simply because he asked the question. The question he asked was meant to account for racial bias within the process. So, I think for these reasons that subjectivity and the discretion is such an issue in the California system because the subjectivity and discretion is in service of protecting the status quo. Not in service of actually creating healthier communities or rectifying the harms of the tough on crime era that that we're still living through. We like to say that the tough on crime era is over, but the truth is that as long as people are in prison still serving their sentences, then it's still existing. I'll pause there, but I think that those are the broader narratives that make reform difficult in this State.

ANNIE ROGE

Thank you. So much for that, James. Yeah, I mean, we think so much about how powerful public perception and these dominant narratives can be and it is so much of what our organization's work is about, like undoing these decades of misconceptions and sometimes just overt disinformation about violence and incarceration. Something I'm really struck by as the way you phrase it is the stories that we're sort of choosing to tell ourselves and, you know, people released from life sentences do not go back to prison, but that is not a dominant narrative. Longer sentences don't keep us safer. That's not a dominant narrative, right? The inverse is the dominant narrative. Recidivism rates are often lifted up on both sides. I've heard people say lifers in California have a recidivism rate of less than one or 2%. The proponents of the current system didn't use that to say see it's working. People on my side of the of the issue would say this is proof that we could do more and more can happen. The issue is with recidivism rates itself, to Timmy's point earlier, recidivism rates put the Honus on an individual to conform to often harmful and oppressive systems that tend to cause more criminalized behavior in certain communities or create more opportunities for harm in certain communities. **So, that's a great example that the issue itself being the way data is used and how we are framing data to put the Honus on individuals to overcome things.** I'm going to pivot the conversation a little bit. I think we could probably all talk for hours and hours and hours about how horrible this system is, because it is truly awful, but there are also a lot of opportunities and we're doing a lot of work here in California. There are some great opportunities for us to connect with other states on that. So. Keith, I'm going to kind of pivot it back to you, at Uncommon Law, one of our major priorities here in the State of California is pushing for greater data transparency when it comes to parole. Can you talk about why we're so focused on accessing data, some of the opportunities there, especially when it comes to reframing dominant narratives?

KETIH WAITLEY

Thanks, yes, I definitely want to do that. I also want to drop a quick note that I think follows up on James' point. About this like focus on the individual. But I want to talk about it in terms of just the violence of parole. I mean, consider. Consider a woman who survived years of physical and sexual violence at the hands of her partner before she finally killed him to protect herself and to protect her kids. She's in a parole hearing with a life sentence. And in that hearing room, she's surrounded by all of his family members who knew about and condoned that violence for years, but they're now painting the partner as the victim, ass a saint. And they're painting the parole candidate as a monster. Now she's got to relive the worst things that have ever happened to her and the worst thing she ever did. And she's

got to respond to all that in a way that shows her own individual accountability and responsibility, doesn't blame the system, doesn't even blame the victim for all the violence that she experienced. And she's got nowhere to go for support from that traumatizing experience. That's what we do to people in their parole hearings. And that's despite laws that have been on the books for many years that require special consideration to be given to people who are intimate partner battering survivors and who killed their batterers. So coming back to the data question. You got to remember that this is the current process we've been talking about and complaining about today was a 1970's response to perceived discrimination and arbitrary decision making. And that was with 0 data transparency. It was largely based on anecdotes and an understanding of the limitations of prediction science. And legislative changes that we've seen since then really seem to have reached a plateau -- there's no longer any political will to do more. **Around 1981 the pro grant rate was about 10% Last year, 2022 It was about 14%. And this is at a state whose law mandates that parole shall normally be granted.** The data we're finally seeing about racial and other disparities is, I think it's helping to educate the public and lawmakers about the racially discriminatory contributors to mass incarceration that hardly anybody talks about. I think data transparency compels policy makers to act. It provides some cover when they do, and I think it helps courts develop remedies that are more responsive to the problems we're seeing. The limited data that we do see in other states like New York can help build a more national narrative and conversation about how to bring about meaningful change. I think the combination of the stories of people inside prison, and their families who are trapped in this arbitrary process, coupled with the data showing the scope and scale of these problems will be critical going forward.

ANNIE ROGE

Thanks so much, Keith. I think also just to like piggyback off that a little bit. You've talked about, you know, how harmful it can be when we focus on the individual, with an over focus on individual culpability. When I think about data, it's also a way of kind of taking the focus off the individual and saying you were denied because of personal failings and reframing what denials are based on, right? And saying, we've got all this data that shows that you may have been denied for reasons that have nothing to do with who you are as a person and everything, nothing to do with your identity. And there's a lot of power in access to that information just in our ability to sort of indict the system as a whole. James I'm gonna throw it back to you, our resident legislative expert on this call. Some of the most significant legislative reforms to parole in California, especially those that sort of expanded parole rights for elderly candidates and people sentenced as children, those laws are now almost a decade old. Can you talk about, now in 2023 moving forward, how you see both the opportunities and limitations of legislation as a form of advocacy?

JAMES KING

Sure. Earlier this year, California's legislative and analyst office, the LAO, which is a nonpartisan agency funded by the state legislature, put out a report that critiqued our current parole board process. Two of the things that they noted in their report were that the system itself, the parole board hearing process, leaves too much room for subjectivity and discretion. And, secondly, there's a lack of transparency and data in how they're arriving at those decisions. As a result of that report, Senators Skinner and Packer put forth some legislation this year. One, which, what it does is it raises the standard upon judicial review. We've talked a lot about the process, but we haven't really talked about the standard. **The standard in California, as Keith mentioned earlier, is that you're presumed suitable for parole. But if**

there's quote unquote some evidence mitigating that, then the commissioners can then deny a person suitability. And "some evidence," is so overtly broad that anything that you can fathom basically can constitute some evidence. You can go 20, 30 years with good programming, with all of the rehabilitated programs, you can check every box that they put forward, and then, if in your hearing you misspeak, that's "some evidence" that you're not suitable for parole. So, what this bill attempts to do is to raise the standard in an attempt to reduce the subjectivity in the discrimination and the broad latitude the commissioners have to deny. That's a wonderful opportunity for our current legislature and the governor to start the process to get us on the road to building a more equitable system. I think that the limitations within it are really rooted in the deference that our institutions show to each other. So, the courts defer to the BPH, the BPH, defers to the governor. The legislature defers to the governor, the governor defers to the legislature, and nothing changes and nothing happens because everyone is kind of not wanting to destabilize the system or jeopardize relationships because it's not a compelling interest to them. So, I think the limitations are in the political process. I know that we have efforts in the court system and in the judicial efforts, in the judicial efforts, as well as the legislative system. And all of those actors working together, I think are ultimately what's going to be needed to get us to the outcome we're seeking.

ANNIE ROGE

Thanks, James. On the subject of diversifying our approach, our last question is for Israel and then I think we're going to open it up for Q&A from the audience. And Israel I've also seen a couple of questions about this already, but you know, we're talking about all of these different ways to change or intervene at like a structural or systemic level, but we also have to talk about better preparing people to navigate the current system if we want people to come home now. California already provides parole applicants with a right to legal counsel, but this is a system that really poses challenges and many people are not getting adequate legal support. Can you talk a little bit about the limitations of the current board appointed attorney structure as a way of supporting board candidates and opportunities that we're exploring for better preparation services?

ISRAEL GARCIA

Sure. The current legal representation for individuals who come before Commissioners for a suitability hearing is just fundamentally flawed. Attorneys are given case loads that are ridiculous for anybody to try to give adequate representation to, and, as a result, the services that are provided are minimal at best. Oftentimes they are non-existent. There are some newer regulations that came out in regards to how attorneys are appointed by the board. And so, the board of procedural hearings appoints these attorneys a number of cases and they're told they have to have, I think, two legal visits prior to a hearing and give some form of meaningful advice. Often times that even isn't happening. People might have a legal visit a week before their hearing just to meet the person. The attorney will come in and say this is like your stuff they want to really look at but individuals are not provided for, and, well, then they proceed to a hearing. Oftentimes they'll advise individuals to postpone, to wave their hearing, which is essentially that their advice to many individuals going before the parole hearing is to stay in prison longer and do whatever it is that you need to do. Again, there's no meaningful direction of having people prepared for another hearing. It's just to get through a case and to check a name off of a list that they're given. So there's a number of stories that can be shared about the board appointed attorneys and this "right" to legal services.

Fortunately, I was represented by Keith Waitley himself for my hearing. So, my interaction with the Board's attorneys was incredibly minimal. One of the learnings that Keith has had and is shared and has since transformed into a program is called *Home After Harm*, which is also named by the legislative panelist office report as a meaningful way to help bridge the gap of preparation for all hearings. Carletha shared earlier how she had gotten to a place where she didn't care whether the commissioners understood the story, and I was her. That is definitely one of the things that, with *home after harm*, I personally try to help individuals with. It doesn't have to be dehumanizing, degrading, and antagonistic process – so people can share information and give it in a way that's compassionate, therapeutic and healing and still learn. And to me, that is even a better way of learning about accountability and owning responsibility, to be able to demonstrate to commissioners how, at the end of the day, this story is their own, it's the individual's story to own. The hope is that when they articulate this in their hearings that it results in a finding of suitability in their chance to come home. To go back to the complaint, this is really the reality of the situation. There's according to the to the Board's website, there's 21 appointing commissioners, so when we talk about this subjectivity, there's 21 different types of perspectives that we're trying to prepare for in trying to anticipate how to best tell our own stories. And so that's where this comes into this space, if this is my story it's going to sound the same to whoever, so I'm going to find it and I'm going to be able to share it in a way that is truthful and honoring myself and those that were around me. If commissioners can understand that, that's awesome. That is one of the ways that's trying to be done, and there are a number of people trying to do this within the institutions. People who have sort of gotten relatively good at it, come home. And [these individuals who come home] either go back in to try to help continue to fill this gap or others try to fill it from inside. The problem is people can't always come back and people don't want to come back in. I can understand that. So, even as this curve gets straightened out a little bit, people are still being denied in the process, so it's just an incredibly sad story all the way around.

CARLETHA STERLING

When uncommon law. Excepted me as one of their clients. I saw my attorney, more than any other attorney that I had, over the 32 years I spent in prison. So it's important to note as James was speaking about, the psychological reports. Let's just say, I saw a psychologist for the first time after being incarcerated for 32 years who saw me for maybe about 30 to 40 min who then wrote a report assessing if I'm a threat to society. You don't even know me! I never had any meeting with them prior to this, but then you draw a report that's one of the documents that the board relies on? It's so unfair. You know, so I just wanted to point that out. Thank you.

TIMMY CHAU

Thank you both, Israel and Carletha for those follow up comments. I'm gonna go ahead and move us right into some some Q&A and for folks thank you so much for folks who've stayed with us this long and I've mentioned this in the chat, but this is a recorded session so there will be a recording and written transcript that we can share back out with folks. We can easily share that inside with folks that are interested in this information, as well as community members, friends, and family-members too. Here are the questions. One and I also this should be in your chat you should be able to see these as well:

1. What would you tell a first-time parole applicant who wants to show up quote-unquote authentically without a script? So as to resist preparing a "perfect" story?
2. Whether y'all on the panelists believe that the BPH decisions can be successfully challenged by the California Racial Justice Act?
3. Is there a community board overseeing the parole hearings and how the commissioners are judging what is going on?
4. Are there opportunities for social workers who want to assist parole applicants with processing their trauma, developing insight and navigating the psychosocial aspects of the system?
5. Any suggestions on how inmates can do a correspondence class on parole hearing issues?

I'll open it up to either anybody who wants to kick us off or pick questions that you feel most drawn to.

KEITH WAITLEY

I'd like to jump in and try to maybe try to do 2. Quickly, one on the question about, social workers. They are some of the most valuable members of our team. We have a team of social workers, therapists and psychologists who work with us and provide trauma-informed counseling, therapy, and guidance for folks inside. So, contact us and our director of clinical support and we will be in touch because we need you. Our folks inside need you. The other thing is really about this the first question which is about what if you have somebody who wants to just show up as their authentic self and don't want a script and they're resisting this preparing a perfect story. My take on that is that the only perfect story is the most authentic one. What typically we encounter is that the board is looking for answers to those really difficult questions about childhood factors, family factors that contributed to someone's crime and their conduct in prison. And to tell the truth about those things requires a level of vulnerability. That is hard to get to when you're in prison, when you're one of the least safe places in the world. Vulnerability is not the main thing you go to. And so, what I do find is that the people who are best able to peel off a couple of the layers of the armor of protection they've been wearing since they were kids and show who they actually are, and be willing to share that and have some confidence that just who they are at their core is enough, they're the people we have better success because they're able to then have conversations that aren't based on what they memorize or anything like that. It's an understanding of themselves that that allows them to be able to respond to any question the board asks them. The last thing I'll say about it is that we've been talking about what the experience is like going through the parole process. The revisiting of really difficult histories and articulating how you've come back, how you've transformed and grown from those experiences in a way the parole board can understand. Two things I want to say about that. One, is it's a completely unfair process. It's unfair that we are subjecting people to this. It's the violence of parole. And The other thing is that the work that we're talking about, to answer those difficult questions, to have insight into why you did what you did 30 or 40 years ago, doesn't correlate to violence risk! So the whole focus of this current process, where the board is trying to assess risk based on, how you answer questions today, whether you feel bad about it, how you understand it from so many years ago, those questions don't actually aid public safety. They don't actually tell us anything about someone's violence risk and we've known that since the 1970s. And so this is the process we have right now. I'm hoping that some of information will share today helps people navigate this process. Ultimately though, we have to replace it with something that's fair. Something that's more objective.

CARLETHA STERLING

Thank you, Keith. I'm going to add to that for question one that he's answered so well. I always believed. And it's helped my belief and if maybe it will help someone else. And I think Israel share that earlier. What is perfect? For me, it was not a perfect story. It was my story. And my story was being transparent and honest. And at some point you get to a place where I've gone through everything I needed to go through mentally, really, to understand, to accept, to be accountable. And if this is my story, I can't allow this to continue to traumatize me by coming up with all these different excuses or ways or things that the board brings up. So for me it was not a perfect story, it was my story.

JAMES KING

For question number one, I would say, it's important to prepare for your hearing. I'll use myself as an example in that. Prior to my incarceration, I drank and I used alcohol, so I knew that in my parole board hearing I would be asked about alcoholism and drinking and my tools to refrain from drinking. At the time of my parole board hearing, I hadn't drank in 17 years. I've been many years sober. But that did not then mean that I was in a place where I could communicate what I was relying upon to stay sober. And so I had to prepare to pull out what was authentically in me just in case they challenged the notion that preparation is somehow opposed to being authentic. I think that sometimes it's important to prepare in order to show up your best. Doesn't mean to be inauthentic, but to actually be prepared to communicate something that you may have internalized over a decade ago. I think that the question about the Racial Justice Act is a really interesting one. We're still in the very beginning stages of implementation and exploring everything that's possible to this landmark legislation, which says that you can challenge the the carceral system if there's racially biased sentencing and other things in effect. I don't know that it's been applied, as of yet, to the parole board decisions. Though, people can challenge their original convictions and maybe seek relief that way. Something people should factor in is that it's difficult to argue through the court system that your conviction was both racially biased and then go into a parole board hearing and also take full responsibility, to hold both of those narratives even though they can both be true. So, I would advise the person who is thinking about pursuing both of those routes to really give some deep thought into how to harmonize those and how to answer questions if it's brought up in a parole board hearing.

ISRAEL GARCIA

I think I'll try to respond to the final question that you read off. I don't know of any sort of comprehensive correspondence program that's being offered. There's a number of different correspondence classes that individuals can sign up to get. Oftentimes it's up to the individual who's doing them to find ways to take learnings and then apply them to stories of their own. Uncommon law is currently trying to develop a more comprehensive, correspondence course. So, hopefully we'll be able to offer that early next year for folks who are inside. And I'm trying to do this through correspondence so that there is a place individuals can go to prepare for board hearings.

ANNIE ROGE

I'll also, I'll also just add that we currently, as an organization, have tons of parole readiness resources available on our website. It's not codified into a correspondence course, but there are many, many resources that our legal team has put together and all of those are available online and can be printed

and mailed inside. They run the gamut, from a broad overview of the process to guides and advice on how to do book reports, how to write and letters of support, all kinds of stuff. So if folks are interested, I would definitely direct you all to our website and our resources page and just check out what we have available: uncommonlaw.org

TIMMY CHAU

Thank you, Annie, and thank you to all of our panelists. There's so much that y'all have shared throughout this 1 h and 20 min and I'm so grateful. One thing that I know that I'm walking away with is just how important it is and how many ways there are for people to take action that will impact this issue. As y'all named, this is about parole but the parole system is a symptom of a broader question around crime and so-called "public safety," and our ability to really challenge these narratives, which are then informing policy both locally and nationally, and how our work looks like a lot of different things. It looks like finding these different organizations doing critical direct support work, offering legal support, building community and sharing resources with folks inside. But, it also looks like challenging these narratives of how we define public safety and really shining the light on the fact that it's the government's responsibility to be building and providing the conditions for healthy communities, not the inverse. That is supposed to be the responsibility of our social and public institutions, right? That way, we don't have to be depend on folks that have already gone through so much and have survived so much to be having to fight for their narrative to be heard. Obviously, we're grateful for that, but we also need to be challenging putting that onus back on our social institutions and political decision-makers, that folks deserve way better a long time ago because we are still living through legacies of structural harm to this day. The work looks like allies and advocates saying those things that many folks can't say in their parole hearings, otherwise it'll be held against them. So that's one thing that's sticking with me.

Please join me in thanking our incredible panelists. This session was recorded. It'll be hosted on our, MacArthur Justice YouTube playlist as well as link to the transcript. Stay tuned for our future teach-ins and thank you so much for joining us today.

For more information and how to get connected with the National Parole Transformation Project (NPTP), reach out to Timmy Chau by email: timmy.chau@macarthurjustice.org or by mail at:

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