

A Follow-up Review of the Mississippi State Parole Board

A Report to the Mississippi Legislature
Report #688
June 13, 2023



PEER Committee

Jerry Turner, Chair
Charles Younger, Vice-Chair
Sollie Norwood, Secretary

Senators:

Kevin Blackwell
Lydia Chassaniol
Dean Kirby
Chad McMahan
John Polk

Representatives:

Richard Bennett
Cedric Burnett
Becky Currie
Carolyn Crawford
Timmy Ladner
Percy Watson

Executive Director:

James F. (Ted) Booth

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PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, the agency examined, and the general public.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.



Joint Legislative Committee on Performance Evaluation and Expenditure Review

PEER Committee

P.O. Box 1204 | Jackson, Mississippi 39215-1204

Representatives

Jerry Turner
Chair

Richard Bennett

Cedric Burnett

Carolyn Crawford

Becky Currie

Timmy Ladner

Percy Watson

June 13, 2023

Honorable Tate Reeves, Governor

Honorable Delbert Hosemann, Lieutenant Governor

Honorable Philip Gunn, Speaker of the House

Members of the Mississippi State Legislature

On June 13, 2023, the PEER Committee authorized release of the report titled
A Follow-up Review of the Mississippi State Parole Board.

Senators

Charles Younger
Vice Chair

Sollie Norwood
Secretary

Kevin Blackwell

Lydia Chassaniol

Dean Kirby

Chad McMahan

John Polk

Representative Jerry Turner, Chair

Executive Director

James F. (Ted) Booth

This report does not recommend increased funding or additional staff.

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CONCLUSION: Since PEER’s previous review of the Parole Board in 2021, the Board has improved in three areas of its operations—parole hearing timeliness, travel reimbursements, and Board members working as full-time employees. However, the Board has not made substantial improvements in two areas—use of presumptive parole and maintaining meeting minutes documenting parole decisions. Further, PEER determined that the Board has failed to update its policy and procedure manual since 2012, and the Board could improve its victim notification process.



BACKGROUND

Background

This report serves as an update on the information from PEER Report #656, *A Review of the Mississippi State Parole Board*.

MISS. CODE ANN. Section 47-7-5 (1972) creates the State Parole Board (Board), composed of five members. The Board has the exclusive authority to grant, deny, or revoke parole. The Board also has exclusive responsibility for investigating pardon cases upon the request of the Governor.

According to the Board’s appropriation bill for FY 2023, the Board is authorized to hire up to eight full-time employees. The Board filled these positions with five Board members, one executive assistant, one attorney, and one administrative support team lead. MDOC has assigned twelve employees to the Board, seven of whom are located in offices at the Mississippi State Penitentiary (i.e., Parchman).

Parole continues to be the principal means by which offenders are released from prison. In 2022, 66.6% of offenders released from prison were released on parole. From January through March 2023, the average parole grant rate by the Board was 63%.



KEY FINDINGS

- **The Board implemented changes to its hearing scheduling in September 2022, which significantly improved the timeliness of parole hearings.**
Based on findings related to untimely hearings of the previous PEER report, the Parole Board acted in August 2022 to change their hearing scheduling practices ensuring timeliness of hearings moving forward. For CY 2022, PEER determined that only 9.8% of hearings prior to the change were timely, while 70.5% of hearings were timely after the change.
- **Since PEER’s previous report, the Board has not improved its processes for presumptive parole or maintaining meeting minutes.**
The Board conducts unnecessary parole hearings for offenders who could qualify for presumptive parole as authorized by MISS. CODE ANN. Section 47-7-18 (1972). Additionally, the Parole Board has not improved in maintaining minutes documenting its parole decisions.
- **Since PEER’s previous report, the Parole Board has received travel reimbursements and per diem in accordance with state law and has improved attendance at hearings.**
In FY 2022, Board members did not receive travel reimbursements for commuting and were paid per diem in accordance with state law. Additionally, from February to April 2023, PEER staff observed current Board members in regular attendance at hearings and in compliance with leave policy when not in attendance.
- **The Parole Board has not updated its policy and procedure manual since 2012.**
The manual is not consistent with the Board’s practices in several areas (e.g., presumptive parole, various hearing procedures). However, the Board’s staff attorney has been tasked with updating the manual.
- **In a sample of 100 inmates, PEER found two instances in which an inmate with a registered victim had a parole hearing in CY 2022, but there is no record in Offendertrak (i.e., MDOC’s inmate database) of the victim receiving notification of the hearing.**
According to MISS. CODE ANN. 99-43-43 (2) (1972), a victim of a crime should be notified when the offender is being considered for parole.

Issues with Implementation of Presumptive Parole

Presumptive parole is a part of the criminal justice reforms adopted by the Legislature in H.B. 585 (2014 Regular Session) which allows offenders to be released without undergoing the formal parole process or having a formal hearing if the following requirements are met, as defined by MISS. CODE ANN. Section 47-7-18 (1972).

In PEER's previous review, PEER found that the Board was conducting unnecessary hearings for individuals who were eligible for presumptive parole without a hearing. Since then, MDOC and the Parole Board have still not established an effective presumptive parole process that complies with state law.

In April 2023, despite not receiving the necessary documents required from MDOC, the Parole Board attempted to conduct presumptive parole hearings.

The Board restructured its hearings so that it considered offenders eligible for parole on one day and offenders eligible for presumptive parole the next day. However, the Board's docket was not organized accordingly. Of the 59 offenders placed on the docket for the day devoted to offenders eligible for parole, 54 offenders were eligible for presumptive parole.

As a result of these issues, the Board conducted full parole hearings for offenders who could qualify for presumptive parole if the process was conducted effectively.

Focus on Parole Cases for Non-violent offenders

One purpose of presumptive parole is to reduce the workload of the Board pertaining to nonviolent offenders so that it can focus more of its efforts on reviewing parole cases for violent offenders. The current Board focuses much of its efforts on non-violent offenders, making the vast majority of parole decisions based on file reviews. If the Board were implementing presumptive parole effectively, the Board might be able to focus more of its efforts on parole cases involving violent offenders.

Lack of Clear Parole Conditions in Offender Case Plans

Another goal of presumptive parole is to allow for an offender to know and clearly understand what he or she must do to be paroled without a hearing. Case plans are critical to ensuring that MDOC and the Board are in agreement regarding the conditions which would result in automatic parole without a hearing, and then communicating that to the offender.

Further, hearings should only occur when offenders fail to comply with the case plan or behavioral requirements, or if the victim has requested a parole hearing. Otherwise, inmates should be paroled at their parole eligibility dates. The Board has expressed some concern regarding the types of offenders eligible for presumptive parole and plans to work with legislators to change presumptive parole eligibility. If the Board and MDOC are unclear or do not agree with presumptive parole requirements, including those regarding offender eligibility, the process will continue to be ineffective.



SUMMARY OF RECOMMENDATIONS

1. MDOC and the Parole Board should take the following actions:
 - a. Determine which of the seven support staff positions located at Parchman should be relocated to the Board office in Jackson for staff support.
 - b. Determine which funded positions at MDOC are available for reallocation to position classes responsible for creating case plans for offenders upon admission and discharge plans required for presumptive parole.
2. Once necessary staff changes have been made, MDOC should:
 - a. ensure that case plans include specific and measurable goals that are appropriate for each offender, and that they are completed by a case manager within 90 days of the offender's intake;
 - b. provide the Board with case plans for approval within 30 days of creation;
 - c. notify the Board of an offender's compliance or non-compliance with the case plan at least 30 days before the offender's parole eligibility date; and,
 - d. ensure that case plans and discharge plans are available for review and use by the Board in an accessible electronic format (e.g., Offendertrak).Further, the Board should:
 - e. approve case plans provided by MDOC in accordance with state law; and,
 - f. approve any offender in compliance with his or her case plan and who has an acceptable discharge plan.
3. The Board should complete a comprehensive review and update of its policy and procedure manual to comport with current laws and practices by November 2023.

A FOLLOW-UP REVIEW OF THE MISSISSIPPI STATE PAROLE BOARD

Introduction

Authority, Scope, and Purpose

The PEER Committee conducted this review of the operations of the Mississippi State Parole Board (Board) pursuant to the authority granted by MISS. CODE ANN. Section 5-3-51 (1972) et seq.

PEER sought to:

- describe the Board and its composition, staffing, and responsibilities;
- describe the recent impact of parole in Mississippi;
- provide updates on findings from PEER Report #656; and,
- describe other issues the Board is facing.

Method

To conduct this analysis, PEER reviewed:

- Board member travel reimbursement documents;
- parole data provided by the Mississippi Department of Corrections (MDOC);
- data from MDOC's adult offender management information system (i.e., Offendertrak);
- drafts of Board hearing minutes; and,
- Board member timecards.

PEER also interviewed:

- Board members, including the Board chairman;
- Board support staff, including MDOC employees assigned to the Board; and,
- Personnel from MDOC and the State Personnel Board.

PEER also observed Board hearings on seven days during the months of February, March, and April.

Background

A comprehensive description of Mississippi's parole process may be found in PEER Report #656 *A Review of the Mississippi State Parole Board* (July 6, 2021). This chapter serves as an update on the following information from PEER Report #656:

- Composition and duties of the Board;
- Organization and staffing; and,
- Recent impact of parole in Mississippi.

Composition and Duties of the Board

As constituted under MISS. CODE ANN. Section 47-7-5 (1972), the Parole Board is composed of five members that serve at the will and pleasure of the Governor. The Parole Board is exclusively responsible for granting and revocation of parole.

Members

MISS. CODE ANN. Section 47-7-5 (1972) creates the State Parole Board (Board), composed of five members. The Governor appoints the members with the advice and consent of the Senate. All terms are at the will and pleasure of the Governor. Any vacancy must be filled by the Governor, with the advice and consent of the Senate. The Governor appoints a chairman of the Board.

Any person who is appointed to serve on the Board must possess at least a bachelor's degree or a high school diploma and four years' work experience. Members must devote their full time to the duties of the Board and must not engage in any other business or profession or hold any other public office.

Exhibit 1 on page 3 lists Parole Board members as of April 2023.

Exhibit 1: Members of the Parole Board as of April 2023

Name	City	Date Appointed
Jeffery Belk, Chairman	Vance	1/1/2022
James R. Cooper	Brandon	7/15/2020
Julia Norman	Meridian	7/15/2022
Anthony Smith ¹	Poplarville	7/15/2020
Marlow Stewart	Terry	11/1/2021

SOURCE: PEER staff analysis of the Mississippi Legislative Bill Status System and the Parole Board's website.

Purview

The Board has the exclusive authority to grant, deny, or revoke parole. In addition, the Board has exclusive responsibility for investigating pardon cases upon the request of the Governor.

The Board has no authority or responsibility for supervision of offenders granted a release. Offender supervision is provided exclusively by MDOC's Division of Community Corrections.

Duties

The majority of Board members' time is devoted to preparing for and holding parole hearings. Preparation for hearings includes activities such as reviewing inmate case files and listening to testimony from victims of and advocates for the offender. The Board conducts three types of hearings:

- **File review hearings** (referred to as "paper cases" by the Board) – In this format, the offender is not present for the hearing, and the Board makes its determination to grant or deny parole based on a discussion of the offender's case files, which are primarily found on Offendertrak. This is the most common form of hearing conducted.
- **In-person hearings** – This hearing format involves the Board meeting with an inmate face-to-face and asking the inmate questions before deliberating whether to grant or deny parole. These hearings are conducted primarily for inmates serving life sentences, but inmates who are represented by legal counsel also have hearings in this format. Since the COVID-19 pandemic, "in-person" hearings have been conducted virtually by video teleconference.
- **Revocation hearings** – This hearing is for paroled offenders who have violated the terms of their parole, and the Board determines whether to allow the parolee to continue his or her parole, send the parolee to a technical violation center (TVC), or revoke parole. Revocation hearings must be conducted within 21 days of a parolee being detained for

¹ Anthony Smith resigned from the Parole Board on May 12, 2023.

an alleged violation and are always conducted over teleconference or video teleconference, regardless of the presence of legal counsel.

In addition to his responsibilities as a member of the Board, the Board Chairman acts as the Chief Administrative Officer of the Board and its staff. He is responsible for overseeing all day-to-day operations and administrative duties of the Board, including the approval of timecards and leave requests for Board members.

The Legislature passed H.B. 683 (2022 Regular Session), which amended MISS. CODE ANN. Section 47-7-5 (1972) to reenact the law retaining the structure and duties of the Board, and to extend the date of the repealer on the Board to July 1, 2025.

Organization and Staffing

MISS. CODE ANN. Section 47-7-5 (5) (1972) authorizes the Board to employ staff members to assist with Board activities and MDOC to assign staff members to work under the direction of the Board. As of April 1, 2023, the Board employs eight full-time employees and directs twelve full-time support staff assigned by MDOC.

MISS. CODE ANN. Section 47-7-5 (5) (1972) states that Board employees shall work under the direction of the Board. Also, any MDOC employees assigned to the Board shall work under the direction of the Board. The section further requires the Board to employ an executive secretary responsible for administration, general accounting, and record keeping. The Board's policies and procedures state that the Board Chairman acts as the Chief Administrative Officer of the Board and is ultimately responsible for overseeing the staff.

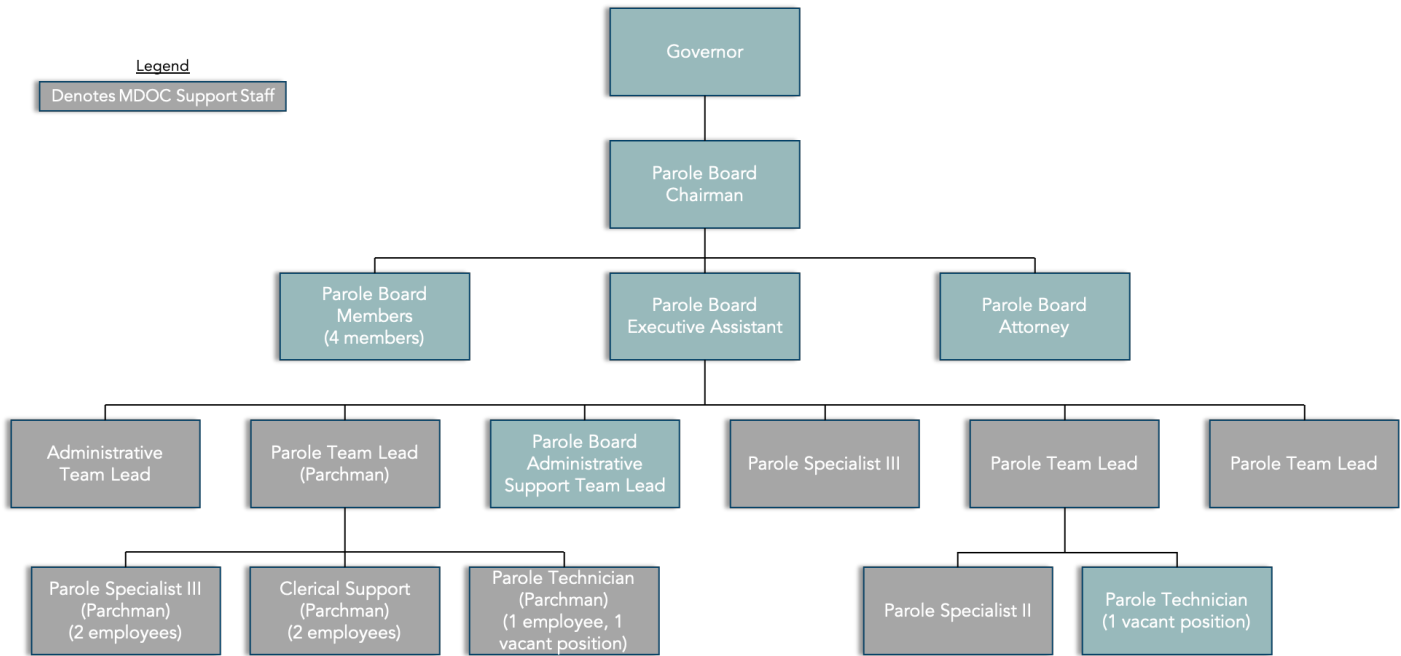
In PEER Report #656, the Legislature had authorized eight full-time positions for the Board in FY 2022, which consisted of five Board members, one executive secretary, and two administrative assistants. MDOC also assigned five staff members to work under the direction of the Board.

According to the Board's appropriation bill for FY 2023, the Board is authorized to hire up to eight full-time employees. The Board filled these positions with five Board members, one executive assistant, one attorney, and one administrative support team lead. MDOC has assigned twelve employee PINs to the Board, seven of which are located in offices at the Mississippi State Penitentiary (i.e., Parchman).²

Exhibit 2 on page 5 shows the organizational chart of the Parole Board as of April 2023.

² As of April 2023, there is one vacant employee PIN for a Parole Technician located in the office at Parchman.

Exhibit 2: Organizational Chart of the Parole Board as of April 2023³



SOURCE: Mississippi State Parole Board.

Recent Impact of Parole in Mississippi

Parole continues to be the principal means by which offenders are released from prison. In 2022, 66.6% of offenders released from prison were released on parole. From January through March 2023, the average parole grant rate by the Board was 63%.

In the 1990s, Mississippi responded to rising crime rates and federal incentives by enacting a truth-in-sentencing law.⁴ Senate Bill 2175 (1995 Regular Session) amended MISS. CODE ANN. Section 47-5-138 (1972) to require felons to serve 85% of their sentence before becoming eligible for release. As a result, Mississippi’s prison population more than doubled from 12,292 in 1995 to 31,031 in 2008.

As the years progressed, Mississippi created more opportunities for parole. Significant changes in state law occurred in 2008, 2014, and 2021. These changes likely contributed to the percentage of inmates released as a result of parole increasing from 2007 to 2022, as shown in Exhibit 3.

During its 2008 Regular Session, the Legislature enacted S.B. 2136, which amended MISS. CODE ANN. Section 47-7-3 (1972) and restore parole eligibility for nonviolent offenders and offenders convicted of drug crimes under specified amounts. Eligible offenders were required to serve either

³ Unless otherwise noted, all job titles listed are equated to one employee pin.

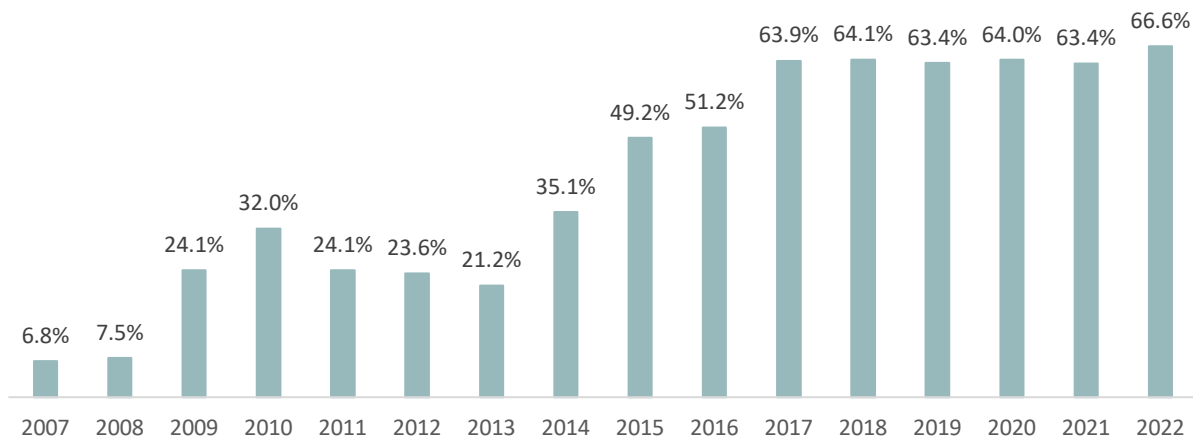
⁴ According to the Office of Justice Programs at the U.S. Department of Justice, truth-in-sentencing “refers to practices designed to reduce the apparent disparity between court-imposed sentences and the time offenders actually serve in prison.”

25% of their sentence or a statutory minimum, whichever is longer. The minimum time served is one year for a sentence less than thirty years and ten years for a sentence of thirty or more years. According to MDOC annual reports, parole releases increased from 656 in 2008 to 2,426 in 2009.

During its 2014 Regular Session, the Legislature enacted House Bill 585. The Bill amended several existing statutes to increase parole eligibility by eliminating the minimum time served requirement. Now, offenders serve 25% of their sentence. According to MDOC annual reports, parole releases increased from 2,015 in 2013 to 3,906 in 2014.

During its 2021 Regular Session, the Legislature enacted the Mississippi Earned Parole Eligibility Act. S.B. 2795 amended several existing statutes to expand parole eligibility for certain violent crimes. Approximately 6,300 offenders became parole eligible or received an earlier parole eligibility date.

Exhibit 3: Percentage of Releases Exiting on Parole



SOURCE: PEER analysis of MDOC annual reports.

While the percentage of inmates released as a result of parole has increased year to year, the actual parole rates of eligible inmates by the Board has varied. However, based on PEER analysis, parole rates have not varied to the degree reported by MDOC and other sources. For example, the 2022 report for the Correction and Criminal Oversight Task Force, using data from MDOC, stated that the Board's parole rate for CY 2022 was 37.6%, a sizeable decrease from the reported 68.9% parole rate in CY 2021. However, PEER analysis of CY 2022 parole data provided by MDOC estimates the parole rate for CY 2022 to be 42.9%. There are a number of possible factors contributing to the lower parole grant rate for CY 2022, including a change of Board leadership and membership in 2022, as well as a reduction in hearings held monthly to ensure compliance with state law on parole hearing timeliness.

According to data provided by the Board, parole rates have increased in CY 2023 with an average rate of 63%.

Exhibit 4 on page 7 shows the Board parole rates for eligible inmates in CY 2023, by month.

Exhibit 4: Board Parole Rates for Eligible Inmates in CY 2023, by Month

Month	Total Parole Hearings	Parole Rate
January 2023	507	61%
February 2023	627	64%
March 2023	584	65%
Average	573	63%

SOURCE: PEER analysis of data provided by the Mississippi State Parole Board.

Update on Findings from PEER Report #656

This chapter discusses updates on findings regarding:

- untimely parole hearings;
- ineffective use of presumptive parole;
- lack of minutes documenting parole decisions;
- unauthorized travel reimbursements; and,
- members' failure to work as full-time employees.

Update regarding Untimely Parole Hearings

The Board implemented changes to its hearing scheduling in September 2022, which significantly improved the timeliness of parole hearings. For CY 2022, PEER determined that only 9.8% of hearings prior to the change were timely, while 70.5% of hearings were timely after the change.

MISS. CODE ANN. Section 47-7-3 (2) (1972) charges the Board to ensure that an offender who is eligible for parole receives a hearing in a timely manner.

The State Parole Board shall, by rules and regulations, establish a method of determining a tentative parole hearing date for each eligible offender taken into the custody of the Department of Corrections. The tentative parole hearing date shall be determined within ninety (90) days after the department has assumed custody of the offender. Except as provided in Section 47-7-18, the parole hearing date shall occur when the offender is within thirty (30) days of the month of his parole eligibility date. Any parole eligibility date shall not be earlier than as required in this section.

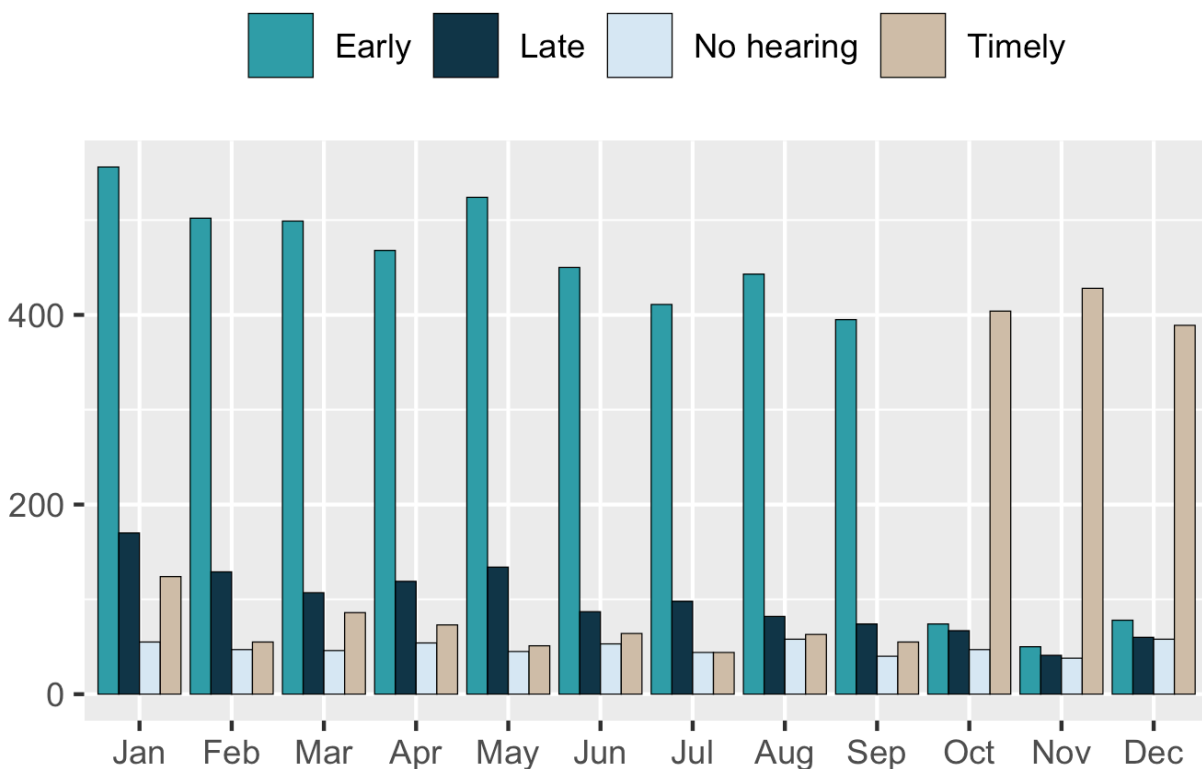
In 2021, PEER analyzed data on parole hearings provided by MDOC and found that the timeliness of Board hearings could be generally separated into two broad categories:

- Timely hearings
 - Parole hearings that were held by the Board within 30 days after an inmate's parole date, or within 30 days before the first day of the month that an inmate became eligible for parole (e.g., if an inmate's parole eligibility date is August 15, a parole hearing must be held between July 1 and September 15 to be deemed timely);
- Untimely (or indeterminate) hearings

- Early hearings – instances where a parole hearing was held by the Board earlier than 30 days before the first of the month an inmate becomes eligible for parole (e.g., a hearing held on June 30 for an inmate whose eligibility for parole on August 15);
- Late hearings – instances where a parole hearing was held by the Board later than 30 days after an inmate’s parole eligibility (e.g., a hearing held on September 16 for an inmate whose eligibility for parole on August 15); and,
- Indeterminate hearings – instances where there was no record of a parole hearing taking place, which could be due to no hearing occurring, or due to issues with data within Offendertrak.

Based on findings related to untimely hearings of the previous PEER report, the Parole Board acted in August 2022 to change their hearing scheduling practices ensuring timeliness of hearings moving forward, particularly by pausing hearings in the month of September to reduce the prevalent issue of conducting untimely early hearings.

Exhibit 5: Count of Timely and Untimely Hearings in CY 2022, by Month



SOURCE: PEER analysis of data provided by the Mississippi Department of Corrections.

PEER performed an analysis of all parole hearings conducted in CY 2022. For each month, PEER determined whether each hearing conducted by the Board was timely, early, late, or indeterminate

(see Exhibit 5 on page 9). Prior to the pause of hearings in September 2022, the Board on average conducted timely hearings only 9.8% of the time, with early hearings representing the most frequent timeliness issue at 67.4%. After the pause, the Board on average conducted 70.4% of hearings in a timely manner, significantly reducing the number of both early and late hearings. While this change represents a significant improvement in the Board's ability to conduct hearings in a timely manner, there is still room for improvement, as approximately 30% of hearings after September 2022 were still untimely.

Update regarding Ineffective Use of Presumptive Parole

Since PEER's previous report, the Board continues to conduct parole hearings for offenders who could qualify for presumptive parole as authorized by MISS. CODE ANN. Section 47-7-18 (1972).

Presumptive parole is a part of the criminal justice reforms adopted by the Legislature in H.B. 585 (2014 Regular Session) which allows offenders to be released without undergoing the formal parole process or having a formal hearing if the following requirements are met, as defined by MISS. CODE ANN. Section 47-7-18 (1972). These requirements are that:

- the offender has not been convicted of a violent crime as defined by MISS. CODE ANN. Section 97-3-2 (1972), a sex crime as defined by MISS. CODE ANN. Section 45-33-23 (h) (1972);
- the offender is not eligible for geriatric parole;
- the offender has met the requirements of their case plan;⁵
- the offender has not received a serious or major violation within the past six months;
- the offender has agreed to the conditions of supervision;
- the inmate has a discharge plan⁶ approved by the Parole Board; and,
- the victim of the offense did not request a hearing.

If any of these requirements are not satisfied, such as in cases where there is noncompliance with a case plan or in cases where there is insufficient information in records to determine compliance, then the Board must conduct a hearing for the offender. Hearings must also be conducted in cases where victims or law enforcement from the jurisdiction where the inmate is to be paroled request one. The statute further requires MDOC to notify the Parole Board of an offender's compliance or non-compliance with his/her case plan at least 30 days before the offender's parole eligibility date.

In PEER's previous review, PEER found that the Board was conducting unnecessary hearings for individuals who were eligible for presumptive parole without a hearing.

⁵ A case plan is a guide created by MDOC case managers for an inmate's rehabilitation while in the custody of the department to reduce the likelihood of recidivism after the inmate's release.

⁶ A discharge plan is a checklist created by MDOC to ensure that the inmate has access to basic needs upon release (e.g., transportation, clothing and food) The discharge plan shall include information necessary to address these needs and the steps being taken by the department to assist in this process.

Exhibit 6: Presumptive Parole Process, as Described in Law

Steps of Presumptive Parole	
Step 1.	An MDOC case manager creates an offender's case plan within 90 days of admission into MDOC custody and notifies the offender of his or her parole eligibility date.
Step 2.	The MDOC case manager discusses the case plan with the offender and provides the offender a written copy.
Step 3.	MDOC sends the case plan to the Parole Board for approval. The Board may suggest changes to the case plan that it deems necessary to ensure a successful transition upon the offender's eventual release.
Step 4.	The MDOC case manager reviews progress on the case plan at least once every eight weeks with the offender, and provides an electronic progress report to the Parole Board every four months.
Step 5.	At least 90 days prior to an offender's earliest possible release date, the offender completes a pre-release assessment, and MDOC creates a discharge plan based on the results.
Step 6.	At least 30 days prior to the offender's parole eligibility date, MDOC notifies the Parole Board as to whether the offender has completed the case plan, and provides the offender's discharge plan to the Board for approval. The Board may suggest changes to the discharge plan that it deems necessary to ensure a successful transition.
Step 7.	If the offender completes his or her case plan, has a discharge plan that is approved by the Board, and satisfies all other requirements to be eligible for presumptive parole (e.g., no serious or major violations in past six months), then the offender is released to parole on his or her parole eligibility date without a hearing.
Step 8.	If the offender does not complete his or her case plan (or its completion can't be confirmed), does not have an approved discharge plan, or otherwise fails to satisfy all other requirements, the Parole Board conducts a hearing for the offender within 30 days of the parole eligibility date. At the hearing, the Board determines if the offender has complied with the case plan or that the offender is not at fault for the incomplete case plan. If the Board determines either is true and that granting parole is not a risk to public safety, the Board may parole the inmate with appropriate conditions. If the offender's discharge plan indicates that the inmate does not have appropriate housing immediately upon release, the Board may parole the offender to a transitional reentry center for a period of no more than six months. If the board determines that the inmate has not substantively complied with the case plan it may deny parole. If the Board denies parole, the Board must identify the corrective action the offender must take to be granted parole. Any offender not released at the initial parole date must have a new parole hearing at least every year.

SOURCE: MISS. CODE ANN. Section 47-7-18 (1972), MISS. CODE ANN. Section 47-7-3.1 (1972) and MISS. CODE ANN. Section 47-7-33.1 (1972).

Issues with Implementation of Presumptive Parole

Exhibit 6 on page 11 illustrates the presumptive parole process in accordance with state law. Since PEER's previous report, MDOC and the Parole Board have still not established an effective presumptive parole process that complies with state law.

Although the Board has written draft policies for presumptive parole, neither the Board nor MDOC has adopted formal policies and procedures necessary for effective implementation. For example, MDOC is required to develop case plans for all parole-eligible inmates within 90 days of admission, which must include, but are not limited to:

- programming and treatment requirements based on a risk and a needs assessment;
- any programming or treatment included in the sentencing order; and,
- general behavior requirements in accordance with the rules and policy of MDOC.

Once the case plan has been created, MDOC must provide the case plan to the Parole Board for approval. To date, MDOC has not provided the Board with case plans for approval in the timeframe required by law. Further, MDOC has not provided discharge plans to the Board for approval, as required by state law. If the case plans and discharge plans are not approved by the Board, then offenders cannot be eligible for presumptive parole, as an approved case plan and discharge plan are conditions of eligibility. MDOC's failure to provide these documents to the Board for approval inhibits any efforts to effectively implement presumptive parole.

In April 2023, despite not receiving case plans or discharge plans for approval beforehand, the Board (with MDOC's involvement) attempted to conduct presumptive parole hearings. PEER attended these hearings and observed several additional issues preventing presumptive parole from being effectively implemented. For example, the Board requested that MDOC develop a case plan summary (i.e., a two-page document that summarizes the offender's basic information and the offender's progress on the case plan and other presumptive parole requirements). MDOC did not provide case plan summaries to the Board on the first attempted presumptive parole hearing day, which resulted in an hours-long delay. The Board ultimately conducted standard hearings for the offenders on the presumptive parole docket. On the next hearing day, MDOC provided case plan summaries for some offenders, but several summaries were missing.

Additionally, the Board restructured its hearings so that it considered offenders eligible for parole on one day and offenders eligible for presumptive parole the next day. However, the Board's docket was not organized accordingly. Of the 59 offenders from Central Mississippi Correctional Facility (CMCF) placed on the docket for the day devoted to offenders eligible for parole, 54 offenders were eligible for presumptive parole. These offenders should have been on the docket for the following day, which was reserved for offenders eligible for presumptive parole.

On the day reserved for offenders eligible for presumptive parole, the Board determined that three offenders on the docket were not eligible for presumptive parole due to the violent nature of their crimes.

As a result of these issues, the Board conducted full parole hearings for offenders who could qualify for presumptive parole if the process was conducted effectively.

Focus on Parole Cases and "Paper Cases" for Non-violent Offenders

According to a Corrections and Criminal Justice Oversight Task Force member knowledgeable of presumptive parole, one purpose of presumptive parole is to reduce the workload of the Board

pertaining to nonviolent offenders so that it can focus more of its efforts on reviewing parole cases for violent offenders. State law requires MDOC to work in consultation with the Board to approve offenders' case plans; however, state law does not indicate that the Board would be involved in making a parole decision for offenders who meet the conditions of presumptive parole. Rather, parole would be granted if the offender has completed their case plan and has an approved discharge plan, including an approved residence.

The current Board focuses much of its efforts on non-violent offenders, making the vast majority of parole decisions based on file reviews. In these cases, offenders do not appear before the Board either in-person or via teleconference. The Board makes decisions solely based on the information provided in a case summary, other information in Offendertrak, and victim statements when applicable.

According to the Board, it only conducts hearings with the offender present in the following cases:

- an inmate eligible for parole is serving a life sentence;
- an inmate requests an in-person hearing;
- a board member requests an in-person hearing for the offender; or,
- an inmate is represented by legal counsel for the parole hearing.

If the Board were implementing presumptive parole effectively, the Board might be able to focus more of its efforts on parole cases involving violent offenders. Such efforts could include conducting hearings with these offenders face-to-face or by teleconference, reviewing their case information more in-depth, or interviewing their case managers. These efforts would allow for more discussion regarding the offender's specific case, resulting in a potentially better assessment of whether the offender should be paroled.

Lack of Clear and Transparent Parole Conditions in Offender Case Plans

Another goal of presumptive parole is to allow for an offender to know and clearly understand what he or she must do to be paroled without a hearing.

Case plans are critical to ensuring that MDOC and the Board are in agreement regarding the conditions which would result in automatic parole without a hearing, and then communicating that to the offender. MDOC case managers have only recently begun drafting case plans for offenders, and these plans lack the specificity required to effectively measure an offender's compliance with the plan. For example, while case plans provide "priorities" such as earning a high school diploma, joining a class to learn a new skill, and participating in different programs, they do not specify the programs that the inmate must complete to have satisfied their case plan, or even if all listed priorities are expected to be completed for presumptive parole eligibility.

The most recent Mississippi Corrections and Criminal Justice Oversight Task Force report released in January 2023 reiterated the need to develop case plans for all parole-eligible offenders at admission and restrict parole hearings to non-compliant offenders. Report findings from the 2013 task force report are still true today: many offenders are initially denied release in order to complete treatment and programming deemed necessary for successful reentry. These offenders must then return to the Board for subsequent hearings creating inefficiencies and delays. The Task Force report recommended that case plans:

- are completed at admission;

- include programming and services identified by a validated assessment tool; and,
- must be achievable before the inmate’s parole eligibility date.

Further, hearings should only occur when offenders fail to comply with the case plan or behavioral requirements, or if the victim has requested a parole hearing. Otherwise, inmates should be paroled at their parole eligibility dates. The Board has expressed some concern regarding the types of offenders eligible for presumptive parole and plans to work with legislators to change presumptive parole eligibility. While the Board agrees that first-time nonviolent offenders should be eligible, it has concerns regarding eligible offenders with a prior criminal history and is unclear regarding its authority to address those concerns. For example, the Board is unclear as to whether it can consider previous violent criminal history of offenders when approving these offenders’ case plans, or if the Board can make programming recommendations to address such history. Additionally, the Board is uncertain as to what information it may use in hearings for offenders who fail to meet the requirements for presumptive parole (e.g., offenders who do not complete their case plans). In these instances, the Board questions whether it must rely solely on the case plan or if it could conduct a full hearing to make a parole decision. If the Board and MDOC are unclear or do not agree with presumptive parole requirements, including those regarding offender eligibility, the process will continue to be ineffective.

Update regarding Lack of Minutes Documenting Parole Decisions

Since PEER’s previous report, the Parole Board has not improved in maintaining minutes documenting its parole decisions.

MISS. CODE ANN. Section 47-7-13 (1972) requires the Board to “maintain, in minute book form, a copy of each of its official actions with the reasons therefor.”

The Open Meetings Act exempts the Parole Board from its statutory requirements. However, the Board’s policy on minutes could still reflect the standards imposed upon public bodies as a structure for their minutes. All meetings of a public body are required to keep minutes in accordance with MISS. CODE ANN. Section 25-41-11 (1972), and must reflect the following items:

- whether the body is in open or executive session;
- which members are present and absent;
- the date, time, and place of the meeting;
- a record, by individual member, of any votes taken; and,
- any other information that the public body requests be included or reflected in the minutes.

MISS. CODE ANN. Section 25-41-11 (1972) also states that minutes “shall be recorded in within a reasonable time not to exceed thirty (30) days after recess or adjournment and shall be open to public inspection during regular business hours.”

PEER Report #656 stated that the Board ceased keeping minutes in 2009. Instead of minutes, Board members completed action sheets after each hearing. Actions sheets included information on the

Board's reason for granting parole, reasons for denying parole, offender's residence plan, Board votes, special instructions to offenders, and conditions of supervision.

The Board considered their completion of action sheets to be an acceptable alternative to keeping minutes; however, action sheets contain confidential information that cannot be released to the public. Action sheets may function as records for administrative purposes, but they do not follow the statutory requirements of minutes.

After PEER Report #656, the Board implemented daily meeting agendas. The agenda does not have a record of votes taken, and Board members still complete action sheets after each hearing. The Board did attempt to hire a support staff member to maintain minutes for the Board, but ultimately terminated their employment for poor performance. The Board still does not maintain minutes documenting its decisions, which risks potential challenges concerning decisions to release offenders.

Update regarding Unauthorized Travel Reimbursements

In FY 2022, Board members did not receive travel reimbursements for commuting and were paid per diem in accordance with state law. This is an improvement from the findings of PEER's previous report, which stated that Board members received approximately \$27,000 in improper travel reimbursements for commuting in FYs 2020 and 2021.

MISS. CODE ANN. Section 47-7-5 (1972) creates the State Parole Board and requires its members to devote their full time to the duties of the office. Although members reside in different locations throughout the state, the Board maintains a central office in Jackson, Mississippi, and conducts its business from this office—i.e., the Board does not have regional or satellite offices.

Mississippi's *State Travel Policy Rules and Regulations* Policy 101-J defines a "regular place of work" as the city, town, or other location at which the state employee works or performs services on a regular basis as determined by the entity head, which for Board members is the Jackson central office. The policy further states that "mileage is not reimbursed between any regular place of work and home." Policy 109-A emphasizes that transportation expenses between an employee's official residence and regular place of work are "never reimbursable."

PEER's previous report found that during fiscal years 2020 and 2021, multiple State Parole Board members received travel reimbursements for commuting from their residences to the Board's Jackson office, with documentation clearly stating that the reimbursements were for commuting expenses, in violation of state law.

However, in the travel reimbursement documentation analyzed by PEER for FY 2022, PEER found no instances of reimbursement for commuting. The only items on the travel reimbursements for the Board members in FY 2022 were \$40 per diem payments, which the Board members are entitled to receive in addition to their salary on days in which they perform their official Board duties, as defined by MISS. CODE ANN. Section 47-7-5 (2) (1972). This change brings the Board into compliance with state law and represents an improvement in the Board's operations.

Update regarding Members' Failure to Work as Full-time Employees

PEER's 2021 report noted that Board members were often absent for parole hearings conducted during the work week, despite members' timecards denoting that they worked full-time during those weeks. From February to April 2023, PEER staff observed current Board members in regular attendance at hearings and in compliance with leave policy when not in attendance.

MISS. CODE ANN. Section 47-7-5 (2) (1972) states that "each member shall devote his full time to the duties of his office and shall not engage in any other business or profession or hold any other public office." In addition, MISS. CODE ANN. Section 25-1-98 (1972) states that "all state offices shall be open and staffed for the normal conduct of business from 8:00 a.m. until 5:00 p.m., Monday through Friday, except on legal holidays as set forth in Section 3-3-7." Mississippi State Personnel Board (MSPB) Regulation 5.1 states that "MSPB defines a normal work schedule as eight hours per day, forty hours per week, 173.929 hours per month and 2,087 hours per year."

Additionally, after the COVID-19 pandemic, the Legislature passed S.B. 2810 (2022 Regular Session), which amended MISS. CODE ANN. Section 25-1-98 (1972) to allow that "an appointing authority of any state service agency... may authorize telework for one or more of its employees in accordance with telework policy, approved by the State Personnel Board."

State Parole Board members' weekly work schedule consists of the following:

- Monday: Board members hold victim/advocate hearings for upcoming hearings, if any are scheduled to speak with the Board on the phone or in-person. If there are no victim/advocate hearings scheduled, Board members review case files to prepare for upcoming hearings, and are authorized to telework.
- Tuesday: Board members conduct parole revocation hearings on conference phone calls with parolees who have violated the terms of their parole.
- Wednesday: Board members conduct in-person hearings for parole-eligible offenders serving life sentences, as well as in-person or phone conference hearings for parole-eligible offenders who are represented by an attorney at their parole hearing. Once all in-person hearings have been completed, the Board conducts parole hearings by file review.
- Thursday: The Board conducts parole hearings by file review.
- Friday: Board members review case files to prepare for upcoming hearings and are authorized to telework. No hearings are scheduled or conducted.

From February to April 2023, PEER staff observed at least one hearing from each day of the week to assess whether Board members were present for parole hearings and whether they were adhering

a 40-hour work schedule as defined by MSPB and noted that all Board members were present for all hearings, with only two exceptions where a member was absent but had been approved to take personal leave. At times when PEER staff were in the Parole Board office and not observing a hearing, Board members were still present in the office, except on Friday, when they are approved to telework.

This is an improvement from the previous report, which noted no single observed instance in which all Board members were present for a hearing and noted several instances that the Board office being closed during normal work hours, despite the members' timecards showing they all worked a full 40-hour week. PEER notes that three of the five members currently serving on the Board were not employed by the Board at the time of PEER's previous review.

Additional Issues

This chapter discusses findings regarding:

- the Board's failure to update its policies and procedure manual; and,
- issues with the victim notification process.

Board's Failure to Update its Policy and Procedure Manual

The Parole Board's policy and procedure manual was last updated in 2012 and is not consistent with the Board's practices in several areas (e.g., presumptive parole, various hearing procedures). However, the Board's staff attorney has been tasked with updating the manual.

The Parole Board last updated its policy and procedure manual in 2012. The manual has not been updated to reflect significant changes to state law enacted in 2014 and 2021, such as presumptive parole.

As a result, the manual is not consistent with the Board's current practice. For example, Board members are directed to review the inmate's master file and parole file. Now, information is collected from MDOC's information management systems instead of paper files. The Board should amend the manual to reflect current practice.

The manual also lacks a clear definition of a hearing. Rule 2.4: Parole Hearings states:

The Board has the option to interview offenders in person and the offender has the privilege to be represented by counsel at his/her own expenses. Hearings are held at Mississippi State Penitentiary, Parchman, Mississippi, Central Mississippi Correction Facility, Rankin County and South Mississippi Correctional Institution, Green County via satellite.

The manual implies that while hearings can consist of just file reviews, they should be an exception used for inmates not incarcerated at major facilities, not the rule. The manual provides the following description:

State inmates incarcerated one of the Community Work Centers (CWC), county jails private prisons or on Intensive Supervision Program do not usually attend their parole hearings; however, the Board may request the inmate be transported to one of the major facilities and attend their hearings. Otherwise, the review is conducted by the Parole Board reviewing the offender's parole file, master file, and any other information presented to the Board. This review is conducted at the Board/s headquarters in Jackson, Mississippi.

However, the Board presently conducts all hearings in Jackson, with the majority of those hearings being file reviews where the inmate is not present. The Board only interviews offenders during

hearings when the inmate is represented by an attorney or is serving a life sentence, and these hearings are conducted by video teleconference.

Additionally, the manual's description of revocation hearings does not comport with current practice of the Board. While the manual states that an inmate must submit a written appeal to receive a revocation hearing, the Board currently holds hearings for all parolees who face revocation in the Board's Jackson office via teleconference.

Further, while the manual briefly mentions that information can be shared by victims during an appointment with a Board member, it does not describe how victim and advocate hearings should be structured.

Despite stating that updates have been in progress, and despite hiring a staff attorney to assist with updating the manual (along with providing the Board's day-to-day legal advice), the Board has not completed an update to its policy and procedure manual.

Issues with Victim Notification Processes

In a sample of 100 inmates, PEER found two instances in which an inmate with a registered victim had a parole hearing in CY 2022, but there is no record in Offendertrak of the victim receiving notification of the hearing pursuant to MISS. CODE ANN. Section 99-43-43 (2) (1972). Additionally, hearings for victims and advocates to provide testimony to the Board often occur as early as two months ahead of the parole hearing, which could affect the efficacy of their testimony when the Board makes a parole decision.

MISS. CODE ANN. Section 99-43-43 (2) (1972) states that the victim of a crime "shall have the right to be notified and allowed to submit a written or recorded statement when parole or pardon is considered." To satisfy this requirement, the Parole Board sends out a docket four months in advance for inmates eligible for a parole hearing to MDOC and all relevant court and law enforcement jurisdictions. Board staff will also note any inmates with a victim registered with MDOC to receive a victim notification and send a letter to the victim's last recorded address. When a notification letter is sent, the date it was sent is recorded in the case summary in Offendertrak created by MDOC support staff for review by the Parole Board.

To determine if victims were receiving notice of hearings according to state law, PEER staff analyzed a sample of 100 inmates who were eligible for parole hearings in CY 2022. Within that sample, 13 inmates had registered victims, and there were two instances where a parole hearing was held for an inmate, but there was no record in the case summary of a victim notification letter being sent. This could be a result of a failure to notify victims as required by law or could be a result of a failure to properly maintain records. Whatever the reason, failure to notify a victim in a timely manner could deprive that victim of their rights to oppose or advocate for the parole of the individual eligible for parole, and potentially pose a risk to their well-being if the person is released without their knowledge.

Further, hearings for victims and advocates to provide testimony to the Board regularly occur as much as two months in advance of an inmate's actual parole hearing. Board members expressed concern that even though notes are kept from the victim and advocate testimony, the large gap in

time that can occur between the two hearings could make it difficult to remember the details of the testimony, which could have an impact on their ultimate decision to parole an individual or not.

Recommendations

1. In order to effectively implement presumptive parole in accordance with MISS. CODE ANN. Section 47-7-18 (1972), MDOC and the Parole Board should take the following actions:
 - a. Determine which of the seven support staff positions located at Parchman should be relocated to the Board office in Jackson for staff support.
 - b. Determine which funded positions at MDOC are available for reallocation to position classes responsible for creating case plans for offenders upon admission and discharge plans required for presumptive parole. These staff members should have qualifications in social services and should be located at the Central Mississippi Correctional Facility. The Board should work with the State Personnel Board to reclassify available PINs.
2. Once necessary staff changes have been made, MDOC should comply with the requirements of MISS. CODE ANN. Section 47-7-18 (1972). In particular, MDOC should:
 - a. ensure that case plans include specific and measurable goals that are appropriate for each offender, and that they are completed by a case manager within 90 days of the offender's intake;
 - b. provide the Board with case plans for approval within 30 days of creation;
 - c. notify the Board of an offender's compliance or non-compliance with the case plan at least 30 days before the offender's parole eligibility date; and,
 - d. ensure that case plans and discharge plans are available for review and use by the Board in an accessible electronic format (e.g., Offendertrak).

Further, the Board should:

 - e. approve case plans provided by MDOC in accordance with state law; and,
 - f. approve any offender in compliance with his or her case plan and who has an acceptable discharge plan.
3. The Board should complete a comprehensive review and update of its policy and procedure manual to comport with current laws and practices by November 2023. Among these updates, the Board should include:
 - a. the definition of a hearing, which should include its procedures and structure. For example, hearings for offenders who are not eligible for presumptive parole could be face-to-face or via teleconference, regardless of the presence of an attorney;
 - b. standards for how to record and maintain Board minutes, which at minimum should include the date of the hearing, the actions considered and taken, and a record of the vote count on each action; and,
 - c. written standards for victim notification recordkeeping, and development of more effective scheduling for victim and advocate hearings.

Mississippi State Parole Board Response

JEFFERY B. BELK
CHAIRMAN

STEPHANIE WALTERS
EXECUTIVE SECRETARY

INDIA SPRINKLE
BOARD ATTORNEY



PAROLE BOARD
STATE OF MISSISSIPPI

TATE REEVES
GOVERNOR

JAMES R. "JIM" COOPER
BOARD MEMBER

JULIA NORMAN
BOARD MEMBER

ANTHONY SMITH
BOARD MEMBER

MARLOW STEWART
BOARD MEMBER

Joint Committee on Performance Evaluations and Expenditure Review
PEER Committee
Post Office Box 1204
Jackson, MS 39215-1204

HAND MAIL

Dear Committee:

The Mississippi State Parole Board ("Board") has made many changes to our methods of operation since January 1, 2022 and feels this PEER review to be a fair assessment of the Board's accomplishments and opportunities to make improvements.

Untimely Parole Hearings:

The Board continues to review processes and implement changes to meet its goal of conducting timely parole hearings.

Ineffective Use of Presumptive Parole:

The Board continues to work in conjunction with the Mississippi Department of Corrections to implement the necessary changes to effectively utilize presumptive parole. For lack of information entered into OffenderTrak, the Board has initiated a presumptive parole docket which is run four months in advance to identify presumptive parole eligibility and set a weekly presumptive parole eligible agenda. This docket is distributed within MDOC to show which case plans and discharge plans will be up for review by the Board. If the Board does not receive the necessary information from MDOC, the Board must conduct a hearing with the information available to make the best possible decision within presumptive parole guidelines.

Lack of Minutes Documenting Parole Decisions:

The Board has recorded and maintained a complete record of each parole decision since February 2022. However, these minutes remain in draft form due to the lack of a fulltime staff member dedicated to the task of transcribing them into the formal minutes to be maintained book form, as required. In working with the Board, MDOC has identified and approved an additional staff support position to be filled early in the fiscal year starting July 1, 2023.

Unauthorized Travel Reimbursements:

The Board does not reimburse members for mileage between their regular place of home and work, i.e., commuting. The Board has been and will continue to only process travel reimbursements for actual and necessary expenses, and per diem.

Members Failure to Work as Full-Time Employees:

All Board members and staff are required to work full-time as defined by Mississippi State Personnel Board Regulation 5.1., and utilize personal time when they are not present or approved to telework.

Failure to Update its Policies and Procedures Manual:

The draft update to the policies and procedures presented to PEER for its review has been finalized. After an independent review is complete, the updated policies and procedures will be submitted to the Mississippi Secretary of State Office by June 30, 2023.

Issues with the Victim Notification Process:

Both MDOC Victim Services and the Board send notification to registered victims ahead of an offenders hearing. Additionally, the Board support staff contacts the appropriate District Attorney's Office to identify victims of violent crimes registered with the District Attorney's Office.

The Board strives to schedule victim and advocate meetings in the month before the offender's parole hearing. The information presented to the Board is documented and, along with all other relevant information, retained and reviewed again by the Board at the hearing.

After the offender's hearing, the Board sends notification to registered victims as to the Boards decision. If parole is denied, the offender's new parole eligibility date is specified.

In conclusion, we feel the PEER review to be valuable part of our commitment to ensure the Board is running efficiently. Please feel free to contact me should any additional questions arise or if further information is needed regarding this matter.

Sincerely,



Jeffery Belk

Chairman, Mississippi State Parole Board

Mississippi Department of Corrections Response

The Mississippi Department of Corrections reviewed the report and elected not to provide a formal agency response.

James F. (Ted) Booth, Executive Director

Reapportionment

Ben Collins

Administration

Kirby Arinder

Stephanie Harris

Gale Taylor

Quality Assurance and Reporting

Tracy Bobo

Hannah Jane Costilow

Performance Evaluation

Lonnie Edgar, Deputy Director

Jennifer Sebren, Deputy Director

Drew Allen

Emily Cloys

Kim Cummins

Matthew Dry

Matthew Holmes

Drew Johnson

Billy Loper

Debra Monroe-Lax

Taylor Mullins

Meri Clare Ringer

Sarah Williamson

Julie Winkeljohn

Ray Wright