JUVENILE PAROLE IN WASHINGTON STATE: PROCESS, OUTCOMES AND RECOMMENDATIONS

KATHERINE BECKETT, UNIVERSITY OF WASHINGTON

AND

ANN FROST, UNIVERSITY OF WASHINGTON

WITH RESEARCH SUPPORT FROM

LYDIA BERHANU, GRACE CLARKE, FRANCESCA ESPEY, LILY GU, BRENDAN LEE, RIA MAHESH, COREY OLSON, CATHERINE ROWLAND, ANNA SALMON, AND ELIJAH TUNCAP

JUNE 23, 2026

ACKNOWLEDGEMENTS

Many thanks to the University of Washington Center for Human Rights for funding this project. We also appreciate the critical contributions of Seattle Clemency Project staff, including Gail Brashear, Jeff Ellis, and Jennifer Smith. Brendan Lee and Elijah Tuncap provided essential research assistance and support throughout the project. Thanks also to Lydia Berhanu, Grace Clark, Francesca Espey, Lily Gu, Ria Mahesh, Corey Olson, Catherine Rowland, and Anna Salmon for research contributions during winter and spring of 2026. Much gratitude to Jeremiah Bourgois and Atif Rafay for providing useful resources and suggestions and to Todd Campbell for his careful edits.

Executive Summary

In its 2012 ruling in *Miller v. Alabama*, the U.S. Supreme Court held that sentencing children without considering the mitigating nature of their youth is cruel and unusual. In Washington State, the *Miller* decision prompted legislative reforms that provide people serving long or life sentences for crimes they committed as children with the opportunity to be considered for release by the Indeterminate Sentencing Review Board (ISRB) Juvenile Board before serving all of their sentence. Importantly, the law requires that the Board find petitioners to be releasable unless the preponderance of evidence shows that the petitioner is likely to violate the law even if a range of conditions of supervision are imposed. This report analyzes administrative records, case and statutory law, and interviews with attorneys and petitioners to assess Juvenile Board outcomes and decision-making processes.

Key Findings: Outcomes

- The Juvenile Board found petitioners to be releasable in 63.7 percent of the 124 hearings analyzed;

- The petitioner was found releasable in 70.5 percent of the hearings involving White petitioners but 60 percent of hearings involving petitioners of color;

- Although the legislature does not ensure legal representation, attorneys from the community have provided legal representation in over half (55.6 percent) of all Juvenile Board hearings;

- The Board found petitioners releasable in 40.5 percent of the cases in which petitioners represented themselves but 70.5 percent of those in which they had legal representation;

- The Board found petitioners to be releasable in 43.3 percent of the hearings in which prosecutors opposed release but 70.2 percent of those in which they did not;

- The Board found just 23.1 percent of the petitioners who faced prosecutor opposition and who represented themselves to be releasable, and

- Just one of the 73 people who have been released by the Juvenile Board has been convicted of a new felony, in this case a Class C felony that did not involve harm to persons. *When measured by new felony convictions, this translates to a recidivism rate of 1.4 percent.*

Key Findings: Process

Although the Juvenile Board employs the Structured Decision Making Framework (SDMF) to support consistency and transparency in its decision-making process,[1] it continues to operate in a manner that is inconsistent with case and statutory law in some cases by:

- Selectively invoking de-contextualized risk assessment scores that measure childhood deprivation while discounting information about rehabilitation and protective factors;
- Using unreliable methods to assess petitioners' subjective states, including their honesty, accountability, empathy, and remorse;
- Misrepresenting and exaggerating the seriousness of infractions incurred by petitioners during their incarceration, despite being admonished by the courts for doing so; and
- Frequently citing "lack of programming" as grounds for finding petitioners not releasable when petitioners did not refuse programming – despite the fact that the Department of Corrections has a statutory obligation to assess and address those needs well in advance of their review by the Juvenile Board.

It is imperative that the Juvenile Board process is fair and compliant with the letter and spirit of statutory and case law. Toward this end, we offer the following recommendations.

Recommended Statutory Revision

- Modify RCW 9.94A.730 and RCW 9.94A.735 to ensure that people who were subjected to excessive sentences as children have access to legal counsel throughout the review process.

Recommendations for the Department of Corrections

- Develop and implement a system to consistently provide *Miller* defendants with detailed information about the Board review process beginning five years in advance of review.
- Develop and implement a system to ensure that the programming needs of *Miller* defendants are consistently assessed five years before they become eligible for review as mandated under RCW 9.94A.730 and RCW 9.94A.735.
- Develop and implement a system to ensure that *Miller* defendants are consistently prioritized for programming identified in the assessment process, consistent with RCW 9.94A.730 and RCW 9.94A.735, and

- Provide structured re-entry planning that includes procurement of housing, identification, employment, health services, financial planning, and other services at least three years in advance of review by the ISRB Juvenile Board.

Recommendations for the ISRB Juvenile Board

- Modify the Decisions and Reasons form that provides petitioners with a summary of the reasons for the Juvenile Board's decision to require that it explain how it determined that the imposition of any permissible conditions of supervision would not sufficiently mitigate risk in cases in which it finds the petitioner not releasable.

- Cease using VRAG-R, ACES, and psychopathology tests as part of the risk assessment process.

- Cease relying on Board assessments of accountability, honesty, remorse, and empathy to justify a finding of non-releasability.

- Adopt and systematically employ guidelines for how infractions will be assessed in release decisions. We recommend limiting these to infractions classified by the DOC as serious that involve violence other than self-defense or other serious violations that have occurred in the five years before review. In such cases, the context in which the alleged violation occurred should be carefully considered. Infractions that are more than five years old should not be treated as evidence of current or future risk.

- Modify the ISRB webpage entitled "Victim Statements to the Board" to explain the rationale for the *Miller* reforms, clarify the relevant legal standard in Juvenile Board determinations of releasability, and identify resources that may be useful to victims/survivors as the review process unfolds.

- Do not treat victim opposition or "community concerns" as evidence that the release of the petitioner threatens public safety unless those concerns are predicated on the recent behavior of the petitioner and speak to the legal standard under statute: whether the potential release of the petitioner poses a risk to public safety at the present time.

- Victim/survivor impact meetings with the ISRB Juvenile Board should be recorded and shared with petitioners' attorneys in advance of petitioners' hearings to ensure transparency.

- Weigh prosecutor opposition to release in ISRB Juvenile Board decision-making process only when that opposition is based on knowledge of the recent behavior of the petitioner and is relevant to the Board's determination of future public safety risk.

TABLE OF CONTENTS

INTRODUCTION

The Washington State prison population more than doubled in the 1990s and 2000s, mainly because record numbers of people – including children and young adults – received very long and life prison sentences.[2] Because Washington had largely abolished parole in 1984, most of the people serving these long and life sentences do not have an opportunity to have their maturation and rehabilitation assessed at any point before completing their prison sentence. In fact, nearly one in three Washington State prisoners continues to serve a long or life sentence without any such opportunity.[3]

As a result of reforms just over a decade ago, however, people who were children at the time of their crime and received a sentence of 20 or more years now may be considered for release by the Indeterminate Sentencing Review Board (ISRB) Juvenile Board before serving all of their original sentence.[4]

This reform was prompted by the U.S. Supreme Court's 2012 decision in *Miller v. Alabama*, in which the Court ruled that sentencing people who were under the age of eighteen at the time of their crime to mandatory life without parole (LWOP) sentences violates the Eighth Amendment's prohibition against cruel and unusual punishment.[5] This court decision reflected growing recognition that brain development is a long and gradual process that continues well past the age of eighteen. The implication of the *Miller* decision is that youthfulness should be treated as a mitigating circumstance at the time of sentencing; if it was not, steps must be taken to correct this historic injustice.

Miller v. Alabama had important implications in Washington State, where children tried and convicted of aggravated murder automatically received LWOP sentences and where many other child defendants were tried in adult courts and sentenced to decades behind bars.[6] In the wake of *Miller v. Alabama*, the Washington State legislature passed two new laws that ensured that people serving long or life sentences for crimes they committed as children (hereafter, *Miller* defendants) have the chance to be considered for release by the ISRB Juvenile Board after serving a minimum of at least twenty or twenty-five years in prison, depending on their crime of conviction.[7] Some members of this group are sent back to courts for resentencing while others are automatically eligible for ISRB Juvenile Board review after serving a minimum sentence of 20 years.[8]

The ISRB Juvenile Board reviewed its first petitioner in March 2015 and has been in operation ever since. In Part I of this report, we analyze the ISRB Juvenile Board's outcomes, including the share of petitioners the Board has found to be releasable as well as variation in this outcome. We also calculate the recidivism rate among those who have been released by the Juvenile Board. In Part II, we analyze whether the Board's decision-making process is consistent with statutory and case law and offer recommendations aimed at ensuring that this is the case.

Study Rationale and Motivation

This study was motivated by several observations.

First, the statutes that govern the early release process for people serving long and life sentences for crimes committed as juveniles – RCW 9.94A.730 and RCW 9.94A.735 – are in some ways contradictory.[9] On the one hand, the legislature adopted these reforms to right a wrong, namely, the imposition of excessively long sentences on children without consideration of the mitigating qualities of youth. Toward this end, the governing statutes specify that ISRB Juvenile Board petitioners enjoy a presumption of release.[10] These statutes also specify that the Department of Corrections should assess and make every effort to meet the programming needs of *Miller* defendants five years before they are eligible to petition the Juvenile Board for review.[11]

In addition, the statutes stipulate that Board decisions should be based on an assessment of whether the release of the petitioner poses a risk to public safety and whether this risk can be mitigated by imposing certain conditions upon release.[12] These conditions may include drug and alcohol restrictions, electronic monitoring, geographic restrictions, mental health treatment compliance, participation in drug or alcohol treatment, social restrictions, submission to polygraphs, and more. To find a petitioner not releasable under this statute, then, the Board must determine that the preponderance of evidence shows that the petitioner is more likely than not to re-offend even if these and potentially other restrictions are imposed upon release. Both the governing statutes and related case law make clear that Board decisions should be based on its analysis of public safety issues rather than on the nature and impact of the crime that occurred decades earlier.

Washington's Miller reforms thus contain certain provisions that reveal the legislature's intent to correct the excesses of the past. Yet the legislature failed to insure the most fundamental right essential to fair and reliable outcomes, the right to counsel, which means that petitioners must represent themselves, hire an attorney (which most cannot afford to do), or seek the assistance of a limited number of volunteer or pro bono attorneys. As we show, the community has made heroic efforts to fill this void, and by 2025 had provided representation for just over half (55.6 percent) of all *Miller* defendants. This legal representation has not only benefitted individual petitioners but has also helped create a body of case law that establishes several important precedents.

At the same time, nearly half (44.4 percent) of all petitioners have had to navigate the Juvenile Board review process entirely on their own, even as the statute allows victims to express their views about the potential release of petitioners and prosecutors often also express opposition to release.[13] This imbalance is especially troubling given the legislature's apparent intent to create a process that corrects an historic injustice.

The absence of a right to counsel for Miller defendant's navigating the ISRB Juvenile Review process is highly consequential. Our findings show that the Board has found petitioners to be releasable in 70.5 percent of the hearings in which the petitioner had an attorney, but just 40.5 percent of those in which they represented themselves. Moreover, not having an attorney means that petitioners – all of whom have been in prison for decades for a crime they committed as a child by the time they reach the Board – must navigate a complex legal proceeding that involves discussing some of the most painful and intimate facts of their lives with strangers who will decide their fate, and do it entirely without legal support or advice. As one woman who went through this process alone the first time and then subsequently with the guidance of an attorney explained:

> *When I attended my first hearing, I truly believed that all I needed to do was show up, be honest, answer the Board's questions truthfully, and demonstrate that I was not a risk to public safety. I also assumed that the Board was familiar with my case. After all, they had extensive files about me and I had spent years updating them about my programming, accomplishments, and release plans. I quickly learned that my assumptions were wrong. I was completely unprepared for what occurred. There was significant confusion about the basic facts of my case, including why I was incarcerated and the circumstances surrounding my charges.*
>
> *As I attempted to clarify the details and provide context, the situation became increasingly tense and uncomfortable. At one point, while I was trying to answer questions, a Board member stood up, leaned over me, and yelled that I should never be released. In that moment, it became clear to me that the outcome had likely already been decided. I left the hearing believing that my release would be denied.*
>
> *I was entirely unprepared for the adversarial nature of that first hearing and for the reality that the Board members were not actually familiar with my case. More importantly, they seemed unable to see the person I had become through years of growth, accountability, and rehabilitation. Rather than recognizing the woman standing before them, a woman who had worked tirelessly to change and who no longer posed a threat to public safety, they appeared focused on a limited understanding of my past. I left the hearing feeling that they had not seen me for who I had become or fully considered my readiness for release.*
>
> *A few years later, I had another opportunity to appear before the Board. This time, however, an attorney represented me. My attorney helped me prepare, explained what to expect, and helped me navigate difficult questions. Having someone there to advocate on my behalf gave me a sense of security and reassurance that I had not experienced during my first hearing. From the outset, the tone of the hearing was noticeably different: the presence of counsel seemed to help keep the discussion productive and professional.*

For many people appearing before the Board, discussing the details of their offense is not something they have ever done in a formal setting. Many of us accepted plea agreements and have never publicly recounted the facts of our case. There is a significant difference between knowing what happened and being able to clearly articulate those events to a panel that will ultimately decide your future. The experience is intimidating, emotional, and overwhelming. Having an attorney provided more than legal representation; it gave me someone I could trust to help me process my case, understand how to communicate my experiences, and prepare for one of the most important conversations of my life. For individuals appearing before the Board, that guidance is invaluable, particularly when they are being asked to discuss painful events and circumstances they may never have spoken about in the past.

In short, the legislature's decision not to ensure that Miller defendants have access to legal counsel before and during their hearings is a critical omission and difficult to square with its apparent intent to correct an historic injustice. Nor did the legislature mandate that the Board's compliance with the governing statute be regularly reviewed by an independent evaluator, though petitioners who believe the ISRB Juvenile Board has failed to comply with its legal obligations may file a Personal Restraint Petition (PRP) in the courts. While the PRP process has brought relief to individual petitioners, it has not ensured that unlawful decision-making practices cease. In fact, we find evidence that the Juvenile Board has denied release in several instances where their reasoning is directly contradictory to the instruction of the courts – despite the clear and binding rulings of the courts.

These contradictions raise important questions about the functioning of the ISRB Juvenile Board. The salience of these questions is underscored by the fact that Washington courts have determined on at least three separate occasions that the Board abused its discretion by disregarding the presumption of release, embellishing and misstating facts, ignoring or discounting evidence of rehabilitation, and/or failing to consider whether conditions of supervision could mitigate public safety risk. [14] Our review of recent Juvenile Board decisions suggests that similar missteps continue to occur.

This research was motivated by several other observations as well. First, studies indicate that racial disparities are the norm rather than the exception in Washington's criminal legal system[15] but researchers have not explored whether this is also true of the state's parole boards, whose decisions are highly consequential. Second, anecdotal evidence suggests that the DOC does not regularly assess and make recommended programming available to petitioners five years prior to their review, as the statute requires.[16] And finally, in each of the past few years, reform advocates have introduced legislation that would dramatically increase the number of people eligible to be reviewed by the ISRB Juvenile Board.[17] In this context, it is imperative to ensure that the ISRB Juvenile Board operates in a manner that is fair and consistent with statutory and case law.

Data and Analytic Strategy

The study was funded by the University of Washington Center for Human Rights, which was created by the Washington State legislature to, among other things, "generate research data and expert knowledge to enhance public and private policymaking." This research was led by two faculty members at the University of Washington; ten students from the Law, Societies, and Justice Department provided research assistance. The research was also conducted in partnership with the Seattle Clemency Project (SCP), the mission of which is to "to increase access to justice for reformed individuals serving sentences that no longer serve a purpose… ." SCP staff and attorneys provided logistical support, legal documents, access to legal databases, and assistance with legal interpretation.

The research team analyzed several additional data sources to conduct this analysis. First, we coded and analyzed records of all ISRB Juvenile Board release decisions memorialized in the Board's Decisions & Reasons documents. To obtain these records, we requested all Juvenile Board Decisions & Reasons documents from the inception of the Board through April 2025 through the Department of Corrections' public records request portal. We also downloaded more recent Decisions and Reasons documents that were temporarily available in the ISRB website through the summer of 2025. We then developed a coding protocol and coded these documents in REDCAP, a secure, web-based software platform and exported the data to Excel for analysis. Each document was coded by two separate coders; any discrepancies were then discussed and resolved.

Because some petitioners have been reviewed by the Board more than once, our analysis of ISRB Juvenile Board decisions treats hearings rather than individuals as the unit of analysis. The records provided to us indicate that the Board reviewed and assessed the releasability of 81 distinct individuals one or more times in 124 hearings between the inception of the ISRB Juvenile Board in 2015 and August 2025. Typically, people are reviewed multiple times because they were found not releasable by the Juvenile Board in prior hearings. In addition, seven people had second or third ISRB Juvenile Board hearings because they had been released after their first or second hearing but subsequently returned to prison for violating the conditions of their supervision.

To calculate the recidivism rate of people who have ever been released by the ISRB Juvenile Board, we requested a list of such individuals through the DOC Public Disclosure portal. The list provided by the DOC identified 66 individuals who had been released by the Juvenile Board. However, our analysis of the Decisions & Reasons documents suggested that this list was incomplete. With the assistance of SCP staff, we were able to identify eight additional individuals who had been found releasable by the ISRB Juvenile Board and were no longer in prison. We also removed one person the DOC erroneously identified as having been released who remained in prison at the time of the research and will not become eligible for review by the Juvenile Board until 2027. SCP staff then queried the Washington's Judicial Access Brower System to identify any new felony convictions among any of these 73 ever-released *Miller* defendants. We also submitted a Public Disclosure Act request to the DOC for information about all persons released by the ISRB Juvenile Board who subsequently returned to prison for violations of the conditions of their supervision (as opposed to new crimes).

In addition to the quantitative analysis of these administrative data, we conducted qualitative interviews with seven people who have gone through the ISRB Juvenile Board process and were found releasable. The people we interviewed entered prison at the ages of 14-17 and had spent between 21 and 26 years in prison. To arrange these interviews, we contacted roughly twenty individuals who had been found releasable by the ISRB Juvenile Board within the past five years. We were able to interview seven of these individuals either in person or on Zoom. These interviews lasted between 30-90 minutes and were semi-structured, meaning that we asked a regular set of questions but also asked follow-up questions as needed (see Appendix A for a list of the interview questions). The interview recordings were then transcribed and thematically coded in REDCAP.

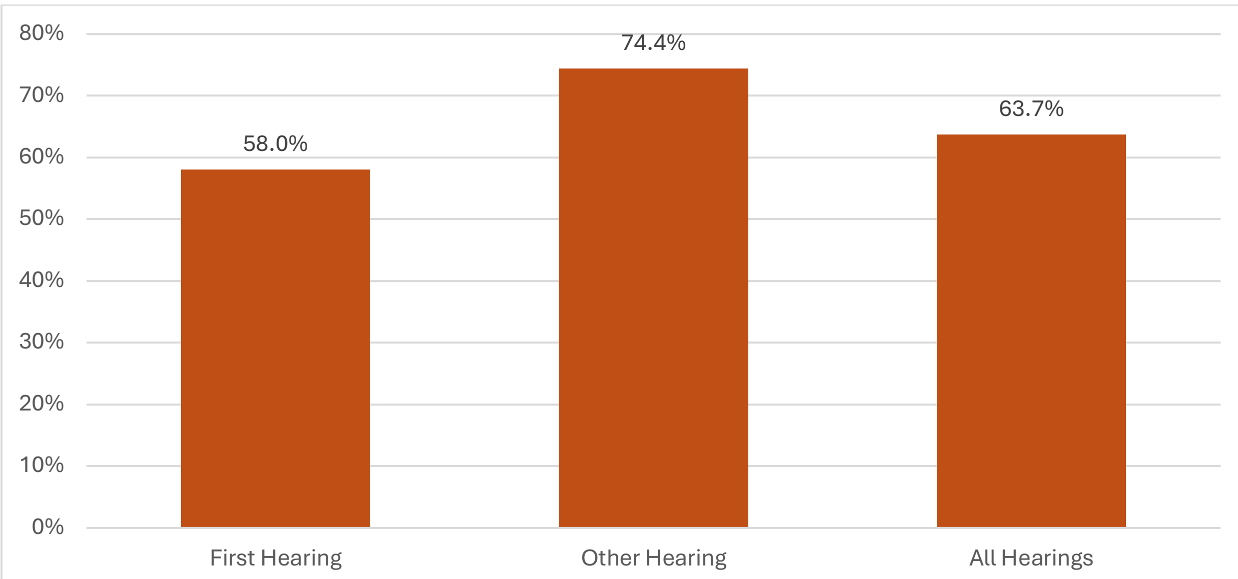
Finally, we conducted informational interviews with attorneys who have represented Juvenile Board petitioners, reviewed the research literature on the risk assessment tools and other tests utilized by the psychologists who provide reports to the ISRB Juvenile Board, and analyzed the relevant case and statutory law. Unfortunately, the Department of Corrections informed us that it would take 8 months to fulfill our request for redacted copies of letters submitted by victims and prosecutors in advance of Juvenile Board hearings, so we are not able to analyze the contents of those letters. However, the Decisions and Reasons documents do note the existence of prosecutor opposition in many cases and this information is included in our dataset. Our efforts to interview psychologists who conduct the psychological evaluations for the Board's consideration were unsuccessful. Our request to share and discuss our preliminary findings with ISRB Juvenile Board members was also declined.

PART I: ISRB JUVENILE BOARD OUTCOMES

Release Rates By Gender and Race

Overall, the Juvenile Board found the petitioner releasable in nearly two-thirds of hearings (63.7 percent). The release rate was lower in petitioners' first hearings (58 percent) than in subsequent hearings (74.4 percent) (see Figure 1).

Figure 1. Share of ISRB Juvenile Board Petitioners Found Releasable by Hearing Type



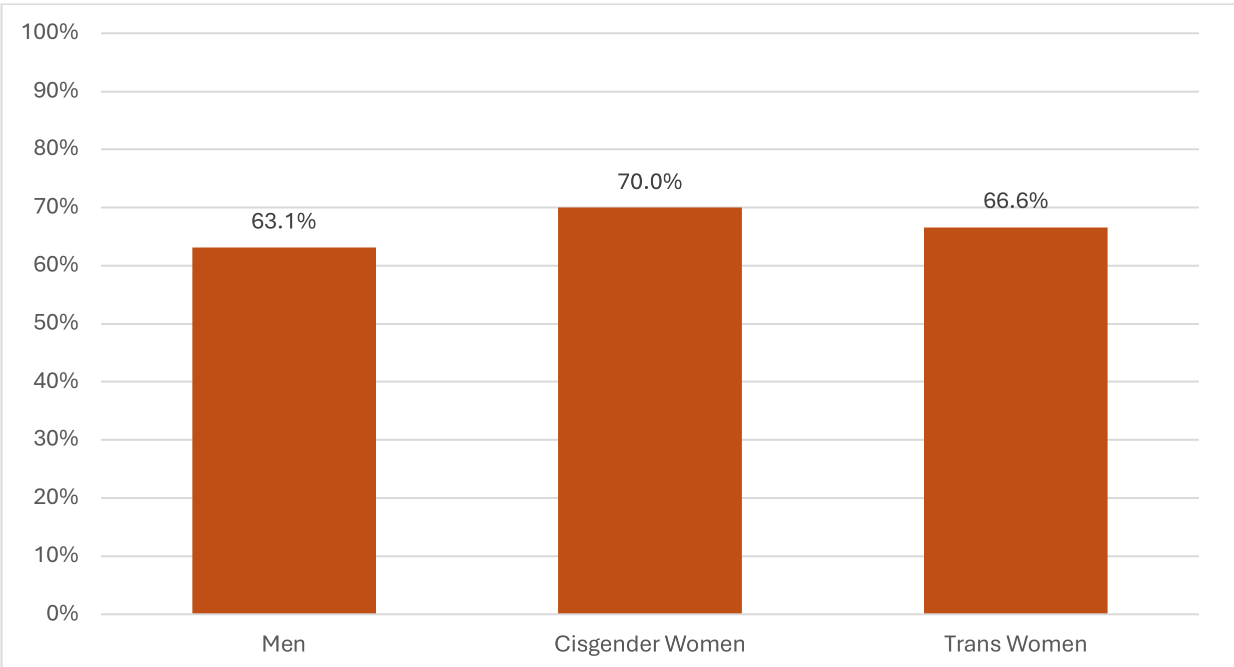
Source: Indeterminate Sentencing Review Board, Decisions and Reasons documents, January 2015- August 2025.

Surprisingly, the Juvenile Board's first hearing release rate – 58 percent – is notably *lower* than the first hearing release rate (72 percent) reported for Washington State community custody board (CCB) cases. CCB cases involve sex offenses that, since 2001, result in indeterminate sentences.[18] The fact that the Juvenile Board's release rate is lower than the release rate in community custody cases is counter-intuitive because the ISRB Juvenile Board process was created to correct a historic injustice, namely the imposition of long and life sentences on children without consideration of the mitigating qualities of youth.

In what follows, we assess whether the releasability rate varies by gender and race, beginning with gender. For context, the vast majority (89.2 percent) of the 124 hearings we analyzed involved male petitioners; 8.3 percent involved cisgender women, and 2.5 percent involved trans women. In short, nearly nine in ten of those who have been reviewed by the ISRB Juvenile Board are men.

The findings indicate that ISRB Juvenile Board outcomes vary slightly by gender. In first hearings, the Juvenile Board found 58.1 percent of male petitioners, and 50 percent of the cisgender female applicants, to be releasable. The sole trans woman was found releasable in her first hearing. If we examine all hearings, we find that the Board found the petitioner releasable in 63.1 percent of hearings involving men, 70 percent of the hearings involving cisgender women, and 66 percent of the hearings involving trans women (see Figure 2). Thus, while cisgender women are slightly less likely to be found releasable in their first hearing, they have a higher release rate than men overall.

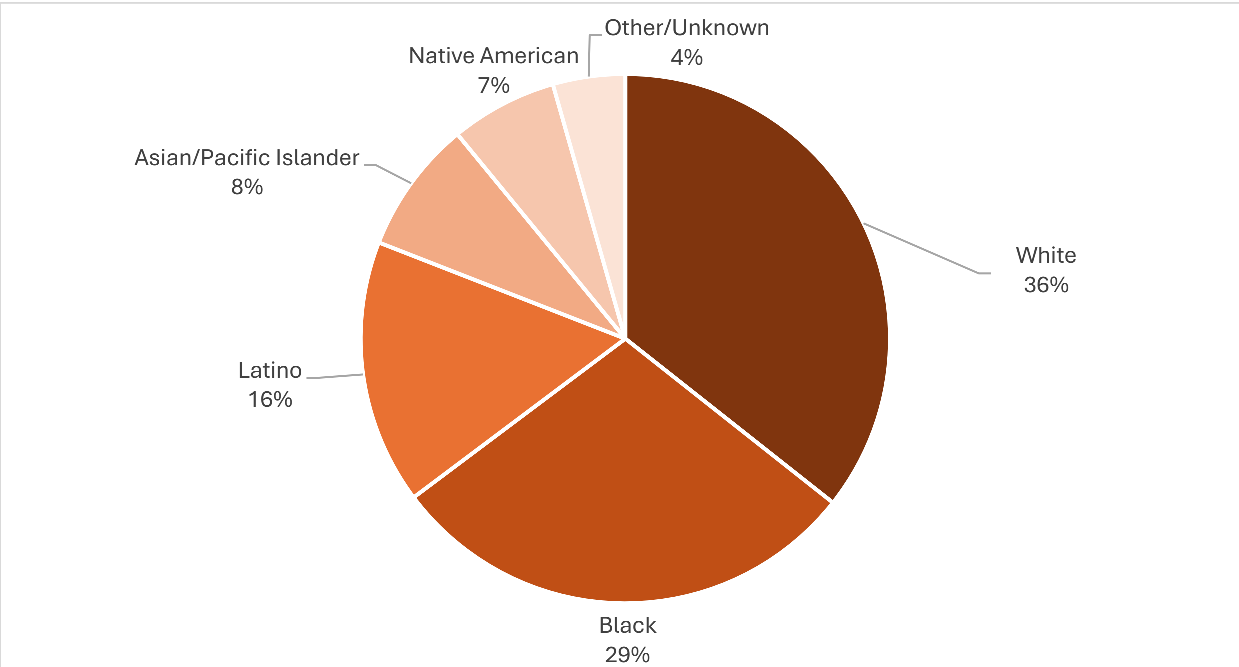
FIGURE 2. SHARE OF ISRB JUVENILE BOARD PETITIONERS FOUND RELEASABLE BY GENDER



Source: Indeterminate Sentencing Review Board, Decisions and Reasons documents, January 2015- August 2025. 74 of the 81 first hearings involved male petitioners; six involved cisgender women, and three involved transwomen.

Our findings indicate that racial and ethnic differences in the releasability rate are more pronounced. For context, the racial and ethnic composition of petitioners reviewed by the ISRB Juvenile Board in all hearings is shown in Figure 3.

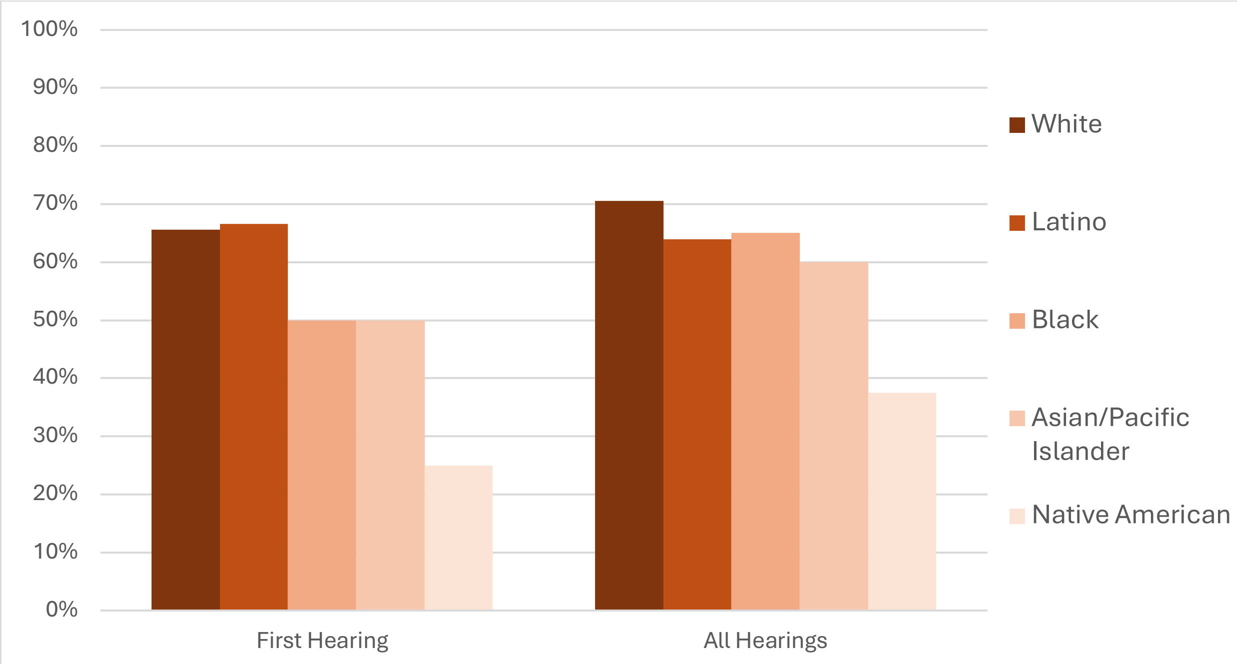
FIGURE 3. RACIAL/ETHNIC COMPOSITION OF ISRB JUVENILE BOARD PETITIONERS, JANUARY 2015-AUGUST 2025



Source: Indeterminate Sentencing Review Board, Decisions and Reasons documents, January 2015- August 2025. Notes: Some individuals have been reviewed by the Board more than once. Of the 124 hearings, 44 involved White petitioners, 36 involved Black petitioners, 20 involved Latino/a petitioners, 10 involved Asian/Pacific Islander petitioners, 8 involved Native American petitioners (classified by the Department of Corrections as Alaska Native or American Indian), and 6 involved petitioners categorized by the DOC as "other" or whose racial and ethnic identify are unknown.

Overall, the ISRB Juvenile Board found a larger share of White petitioners releasable than it did any other group. Specifically, in all hearings, the Board found 70.5 percent of White, 65 percent of Latino petitioners, 63.9 percent of Black, 60 percent of Asian/Pacific Islander, and just 37.5 percent of Native American petitioners to be releasable (see Figure 4). Some of these racial gaps were especially pronounced in first hearings.

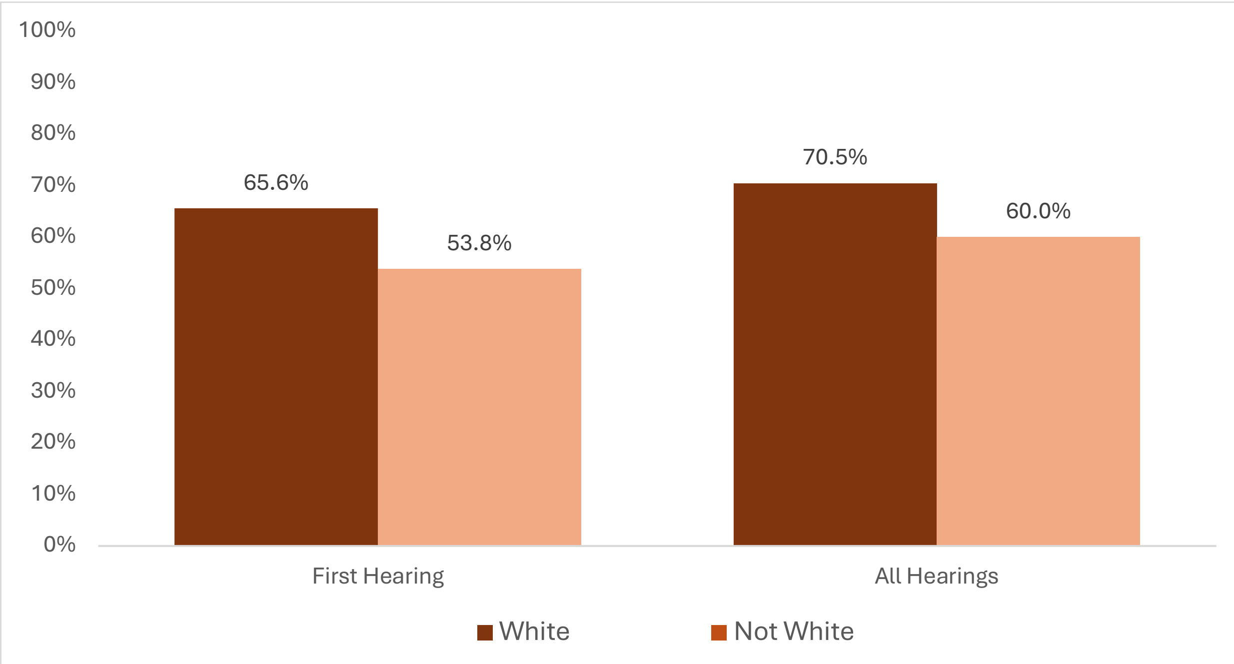
FIGURE 4. SHARE OF ISRB JUVENILE BOARD PETITIONERS FOUND RELEASABLE BY RACE/ETHNICITY



Source: Indeterminate Sentencing Review Board, Decisions and Reasons documents, January 2015-August 2025. Notes: Some individuals have been reviewed by the Board more than once. Of the 124 hearings, 44 involved White petitioners, 36 involved Black petitioners, 20 involved Latino/a petitioners, 10 involved Asian/Pacific Islander petitioners, 8 involved Native American petitioners (classified by the Department of Corrections as Alaska Native or American Indian), and 6 involved petitioners categorized by the DOC as "other" or whose racial and ethnic identify are unknown. The latter are not included in Figure 4.

The small number of hearings involving Asian/Pacific Islander and Native American petitioners makes the significance of these disparities difficult to assess. Figure 5 therefore compares the release rate for White and Non-White petitioners and shows that while 70.5 percent of White petitioners were found releasable, the Board reached this conclusion in just 60 percent of hearings involving petitioners of color.[19]

Figure 5. Share of ISRB Juvenile Board Petitioners Found Releasable, White vs. Non-White

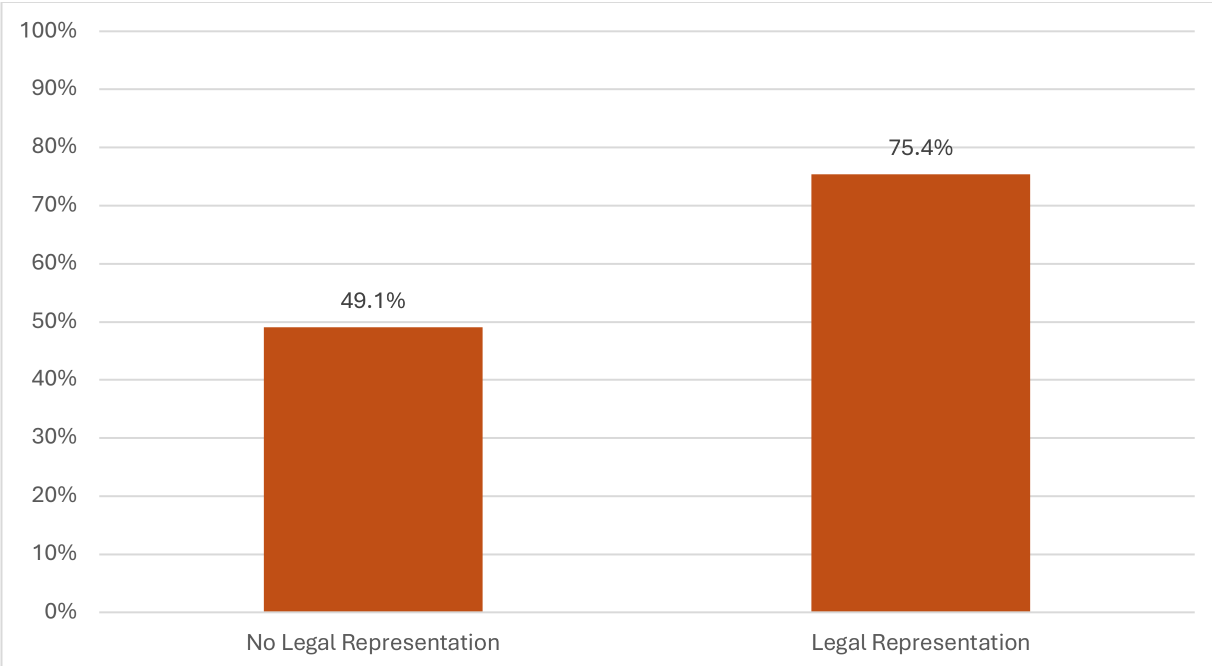


Source: Indeterminate Sentencing Review Board, Decisions and Reasons documents, January 2015- August 2025. Notes: Some individuals have been reviewed by the Board more than once. Of the 124 hearings, 44 involved White petitioners, 36 involved Black petitioners, 20 involved Latino/a petitioners, 10 involved Asian/Pacific Islander petitioners, 8 involved Native American petitioners (classified by the Department of Corrections as Alaska Native or American Indian), and 6 involved petitioners categorized by the DOC as "other" or whose racial and ethnic identify are unknown. The latter are not included in Figure 5.

Other Sources of Inequity in ISRB Juvenile Board Outcomes

While ISRB Juvenile Board outcomes did vary across racial and ethnic groups, two other forms of inequality are even more pronounced. First, a notably larger share of petitioners who had legal representation were found releasable compared to those who represented themselves. Overall, petitioners enjoyed legal representation in 55.6 percent of the 124 hearings. As Figure 6 shows, the Board was notably more likely to find petitioners releasable when this was the case. Specifically, the Board found petitioners releasable in 75.4 percent of the hearings in which the petitioner had legal representation – but just 49.1 percent of the cases in which petitioners represented themselves.

FIGURE 6. SHARE OF ISRB JUVENILE BOARD PETITIONERS FOUND RELEASABLE BY LEGAL REPRESENTATION



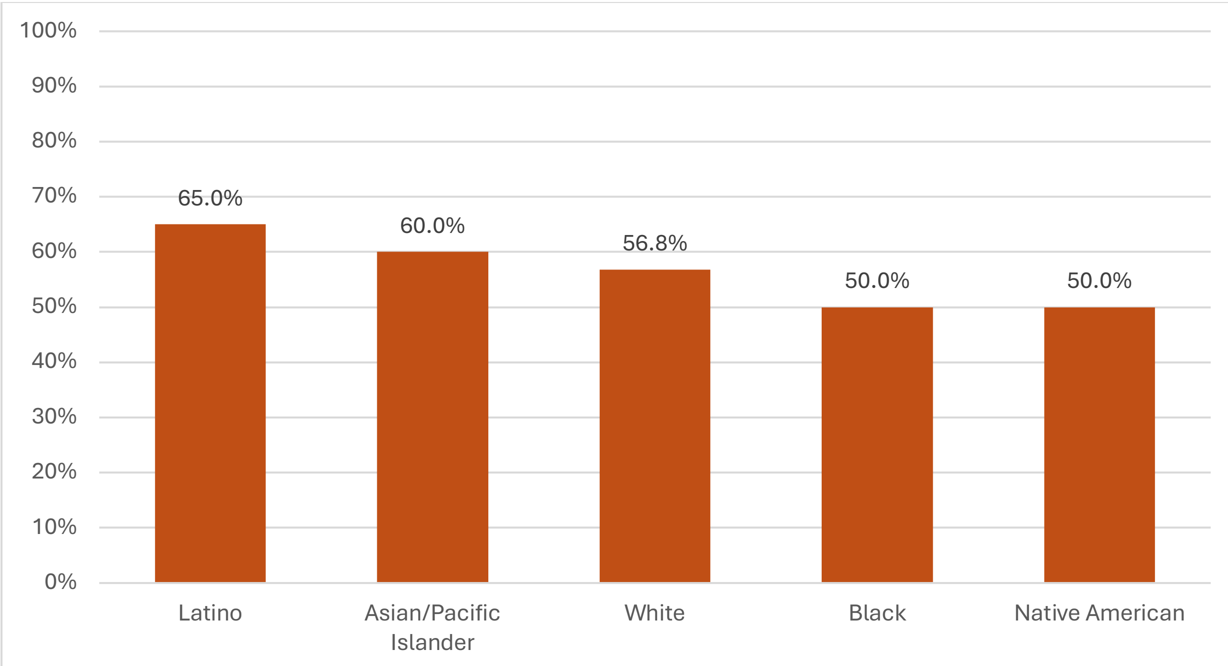
Source: Indeterminate Sentencing Review Board, Decisions and Reasons documents, January 2015-August 2025.

In short, the legislature did not ensure that Juvenile Board petitioners have access to attorneys – and this appears to have had a significant impact. Non-profit organizations (including the Seattle Clemency Project), law school clinics, and law firms that offer pro bono services have scrambled to meet this need and have partially, but not completely, filled this void. Attorneys from the community became increasingly available to *Miller* defendants after 2018, though gaps persist in recent years. The overall releasability rate increased as more *Miller* defendants secured access to legal representation, much of which was offered pro bono.

Thus, while the community has done much to ensure access to justice for *Miller* defendants, the failure of the legislature to ensure access to legal representation has nevertheless been consequential, and some *Miller* defendants continue to fall through the cracks.

In addition to being an important source of inequality in Juvenile Board outcomes, gaps in access to legal representation may also contribute to racial inequity in Board outcomes. Above, Figure 4 shows that the Board has found a comparatively small share of petitioners of color releasable. The data shown in Figure 7 below suggests that racial gaps in access to legal representation may help explain some (but not all) of these racial disparities. Specifically, the fact that comparatively few Black and Native American petitioners have enjoyed legal representation may help to explain why the Board also finds a comparatively small share of Black and Native American petitioners to be releasable.

Figure 7. Share of ISRB Juvenile Board Petitioners With Legal Representation by Race/Ethnicity



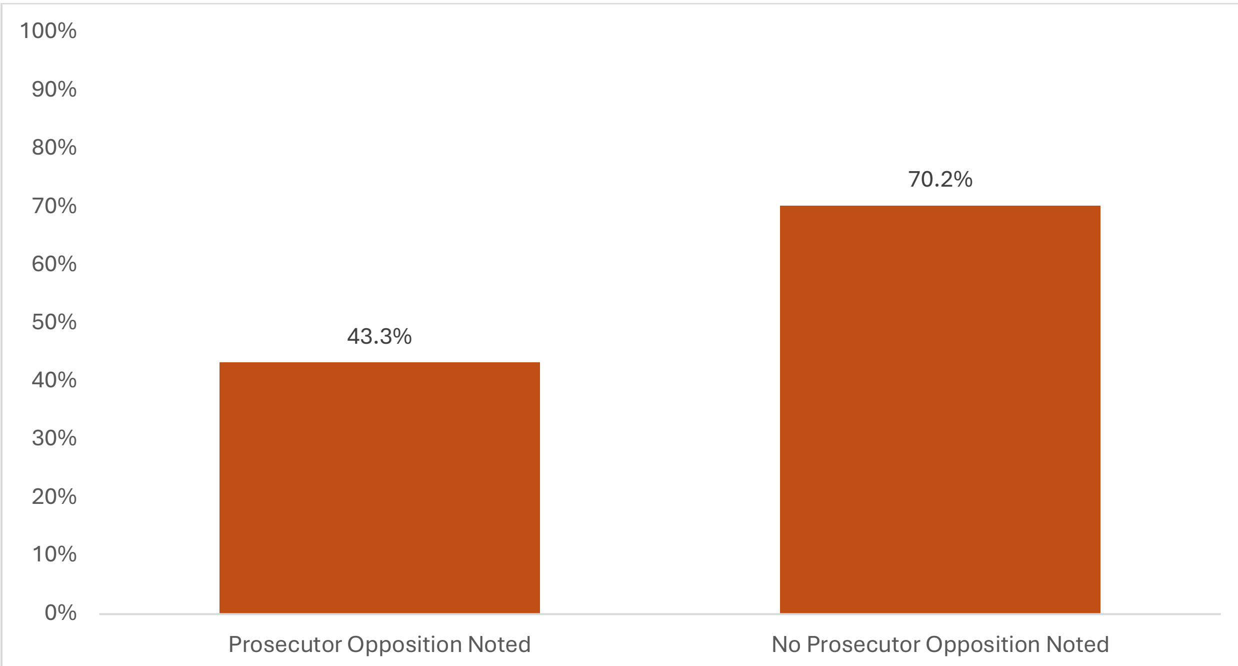
Source: Indeterminate Sentencing Review Board, Decisions and Reasons documents, January 2015 – August 2025. Notes: Some individuals have been reviewed by the Board more than once. Of the 124 hearings, 44 involved White petitioners, 36 involved Black petitioners, 20 involved Latino/a petitioners, 10 involved Asian/Pacific Islander petitioners, 8 involved Native American petitioners (classified by the Department of Corrections as Alaska Native or American Indian), and 6 involved petitioners categorized by the DOC as "other" or whose racial and ethnic identify are unknown. The latter are not included in Figure 7.

Although racial gaps in access to legal representation have diminished since 2019, when non-profits such as the Seattle Clemency Project became actively involved in the recruitment of volunteer attorneys and legal clinics mobilized to ensure access to justice, smaller disparities persist in the most recent period as well.[20]

Like access to legal representation, prosecutor opposition to release appears to affect ISRB Juvenile Board outcomes. As noted previously, the statutes that govern the ISRB Juvenile Board process require that Board's determinations of releasability be based primarily on public safety considerations. They also allow victim input on the question of release. Unfortunately, ISRB Juvenile Board members do not systematically record whether crime victims/survivors expressed opposition to release on the Decisions & Reasons documents. Nor was the DOC able to fulfill our request for this information in a timely manner.

However, prosecutor opposition to petitioners' release (which is not explicitly permitted under the relevant statutes) is often noted on this form. We recorded instances where it was noted, and our findings suggest that it is consequential (see Figure 8). Specifically, the Board found petitioners to be releasable in 43.3 percent of the hearings in which prosecutor opposition was noted, but 70.2 percent of those in which it was not.

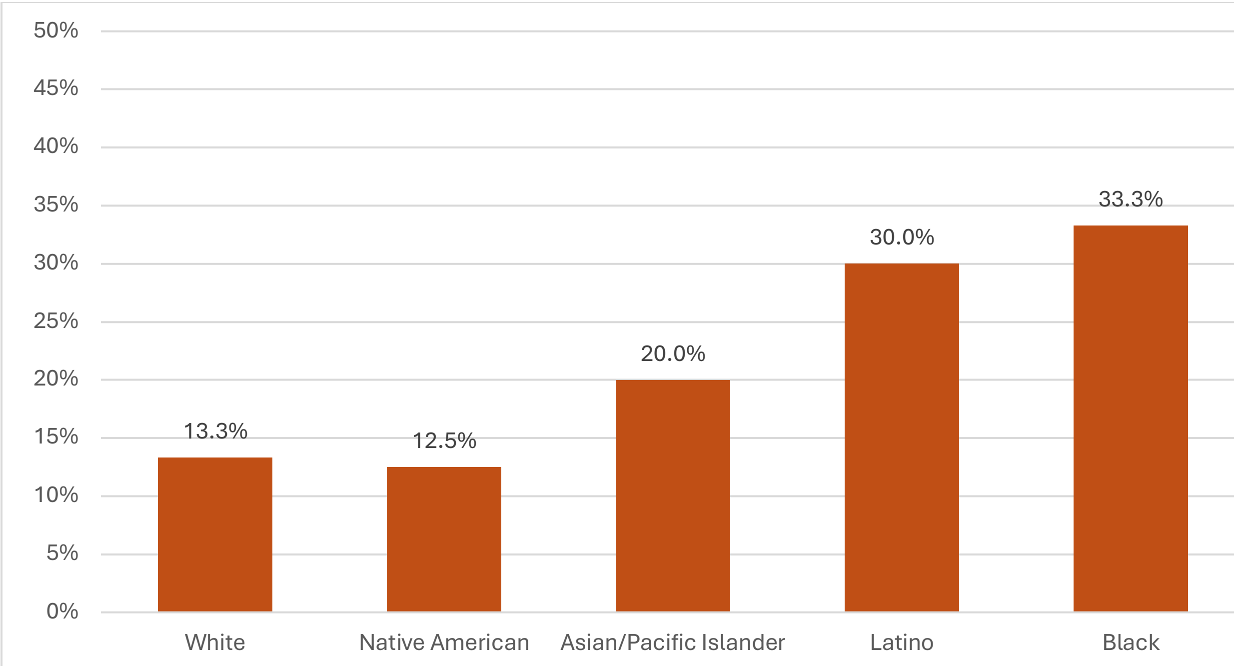
Figure 8. Share of ISRB Juvenile Board Petitioners Found Releasable by Prosecutor Opposition to Release



Source: Indeterminate Sentencing Review Board, Decisions and Reasons documents, January 2015 – August 2025.

Notably, prosecutor opposition was noted in a comparatively large share of hearings involving Black and Latino petitioners. For instance, prosecutors opposed the release of 13.3 percent of White petitioners, but 30 percent of Latino and 33.3 percent of Black petitioners (see Figure 9).

Figure 9. Share of ISRB Juvenile Board Petitioners Facing Prosecutor Opposition by Race/Ethnicity

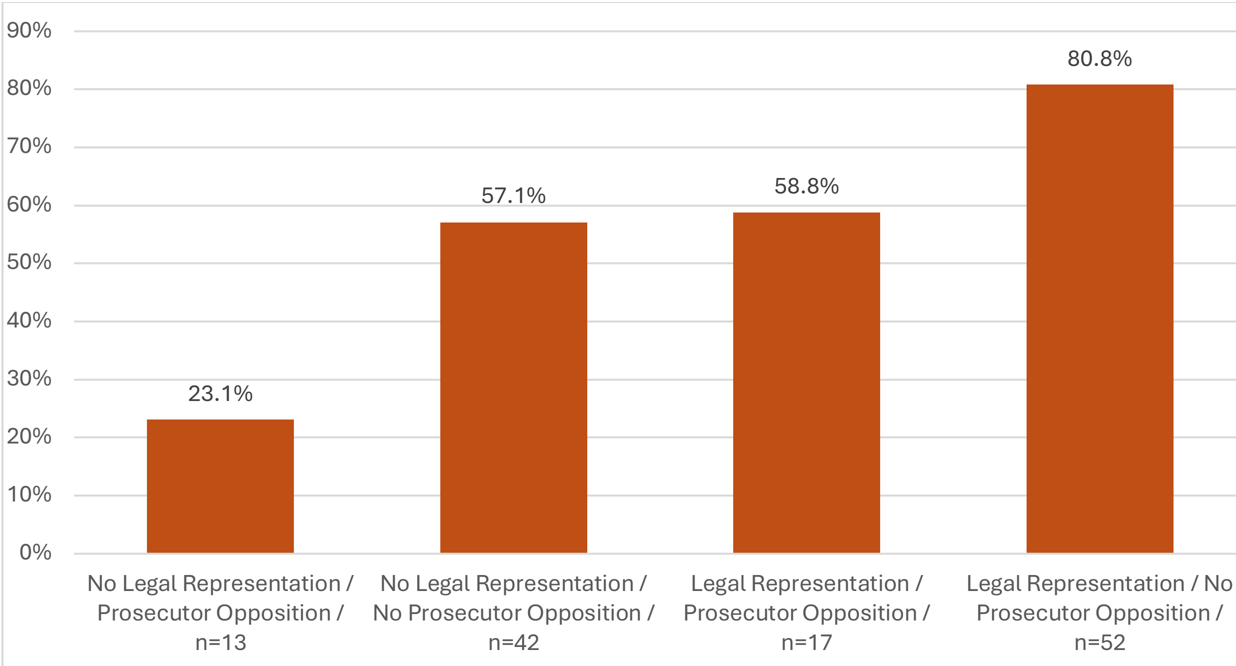


Source: Indeterminate Sentencing Review Board, Decisions and Reasons documents, January 2015-August 2025.
Notes: Some individuals have been reviewed by the Board more than once. Of the 124 hearings, 44 involved White petitioners, 36 involved Black petitioners, 20 involved Latino/a petitioners, 10 involved Asian/Pacific Islander petitioners, 8 involved Native American petitioners (classified by the Department of Corrections as Alaska Native or American Indian), and 6 involved petitioners categorized by the DOC as "other" or whose racial and ethnic identify are unknown. The latter are not included in Figure 9.

Like racial inequities in access to legal representation, then, the racially uneven distribution of prosecutor opposition may contribute to racial disparities in ISRB Juvenile Board outcomes, especially for Black petitioners. Unfortunately, the available data are not sufficient to enable multiple regression analysis, which would allow us to assess the degree to which racial differences in legal representation and prosecutor opposition explain racial differences in Juvenile Board decisions after controlling for other relevant factors.[21]

However, it is possible to examine how these outcomes vary among petitioners with and without access to legal representation and with and without prosecutor opposition. These results are shown in Figure 10 and provide strong evidence that these factors matter. In fact, the Board found just 23.1 percent of the petitioners who represented themselves and faced prosecutor opposition releasable – compared to 80.8 percent of the petitioners who had legal representation and did not face prosecutor opposition.

FIGURE 10. SHARE OF ISRB JUVENILE BOARD PETITIONERS FOUND RELEASABLE BY LEGAL REPRESENTATION AND PROSECUTOR OPPOSITION STATUS



Source: Indeterminate Sentencing Review Board, Decisions and Reasons documents, January 2015-August 2025.

In sum, ISRB Juvenile Board outcomes vary somewhat by race; access to legal counsel and prosecutor opposition appear to have even greater impacts on Juvenile Board decisions. Fewer than one in four (23.1 percent) of the petitioners who lack legal representation and face prosecutorial opposition have been found releasable by the Board. The legislature's decision to allow prosecutor input in this process but not to ensure that petitioners have legal counsel appears to be highly consequential.

RECIDIVISM AMONG *MILLER* DEFENDANTS RELEASED BY THE ISRB JUVENILE BOARD

In what follows, we calculate the recidivism rate for the 73 *Miller* defendants who were ever released by the ISRB Juvenile Board between its inception in 2015 and August of 2025. These individuals had been home for anywhere between six months to eleven years at the time of this analysis. On average, the people included in this analysis had been out of prison for 72 months (6 years).

The results show that the recidivism rate among this group is remarkably low. In fact, just one of these individuals has been convicted of a new felony offense: attempting to elude a police officer, a Class C offense that involves no harm to persons.[22] *When measured in terms of new felony convictions, this translates to a recidivism rate of 1.4 percent for Miller defendants released by the ISRB Juvenile Board between 2015 - August 2025.*

While these results may surprise some, they are consistent with the findings of similar studies. A California study of released lifers, for example, found that "… the incidence of commission of serious crimes by recently released lifers has been minuscule."[23] This is also true for people sentenced to LWOP at a young age but have returned home as a result of policy changes that created an opportunity for a "second look." For example, a recent study found a 1 percent recidivism rate among people from the Philadelphia area who had been sentenced to LWOP for an offense they committed as a juvenile.[24] Here in Washington, a previous analysis of the recidivism rate among people who were eligible for review by the ISRB Juvenile Board and who had been released from prison via either the Board or the courts found that just 2.1 percent of these individuals had committed a new felony offense after leaving prison.[25]

While recidivism is typically by new felony convictions, some researchers also consider returns to prison as a measure of reoffending. The DOC records we received indicate that seven of 73 people released by the Board from 2015-2025 have returned to prison for technical violations of the conditions of their supervision. These violations mainly include possession or use of a controlled substance (which might include normally legal substances such as marijuana or alcohol, which some people on community supervision are prohibited from consuming). None of the violations that led to reincarceration involved violence or crimes against persons.

Overall, then, the *Miller* defendants who have been found releasable by the ISRB Juvenile Board pose virtually no threat to public safety. This finding is consistent with a vast body of criminological research that shows that recidivism drops sharply as people enter their thirties and forties, including among people who experienced the disadvantage and trauma that are highly correlated with criminality when people are in their teens and early twenties.[26]

PART II: STATUTORY NONCOMPLIANCE IN THE DECISION-MAKING PROCESS

As discussed previously, the statutes that govern the Juvenile Board decision-making process includes several important protections that reflect the legislature's intent to correct an historic injustice. These protections include:

- ***ISRB Juvenile Board petitioners enjoy a presumption of release,*** meaning that the Board must find petitioners releasable unless they determine that the petitioner poses a significant risk to public safety that cannot be sufficiently mitigated by imposing conditions of supervision upon release.[27]

- ***Board decisions should be based on an assessment of whether the release of the petitioner poses a risk to public safety and whether this risk can be mitigated by imposing certain conditions of supervision upon release.***[28] In other words, the Board should focus on the petitioner's rehabilitation (or lack thereof) and whether their release necessarily undermines public safety rather than on the nature and impact of the original crime.

- ***The Department of Corrections should assess and make every effort to meet the programming needs of Miller defendants five years before they are eligible to petition the Juvenile Board for review***.[29] The legislature clearly indicated that the DOC should prioritize ensuring that future Juvenile Board petitioners have the chance to complete any recommended programming before appearing before the Juvenile Board. If this consistently occurred, petitioners would not be denied release due to lack of programming unless they had refused to participate in the programming recommended by the DOC.

Unfortunately, petitioners have filed Personal Restraint Petitions (PRPs) alleging that the ISRB Juvenile Board abused its discretion by violating one or more of these provisions in at least three instances. In each case, the highest court to consider the petition prior to publication of this report found that the Board had abused its discretion by doing one or more of the following: failing to honor the presumption of release, focusing on the nature and impact of the crime rather than the petitioner's rehabilitation and maturation, embellishing facts, relying on speculation and conjecture, and other violations.

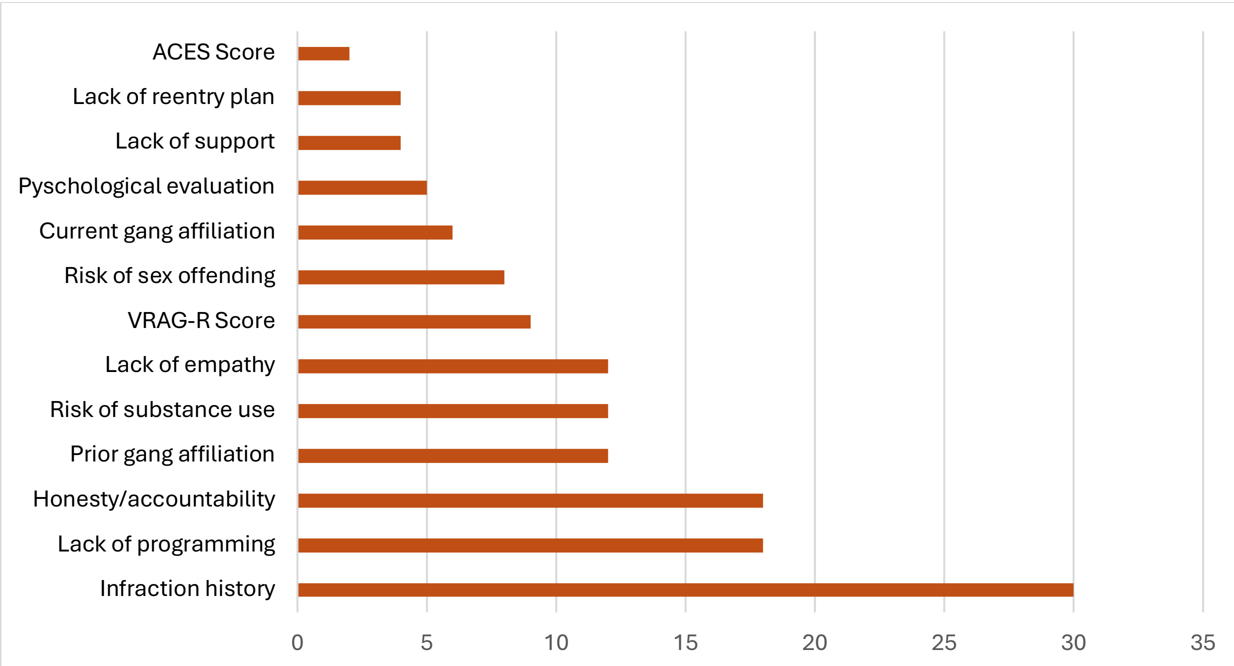
In these rulings, the courts reiterated that the ISRB Juvenile Board must focus on the petitioner's rehabilitation, not the nature or impact of the original crime: "An early release hearing looks to the future and focuses on one's likelihood of reoffending."[30] When assessing risk, the Juvenile Board may consider static risk factors – features of a petitioners' childhoods over which they have no control – but its emphasis should be on petitioners' maturation, rehabilitation, and the protective factors that mitigate risk. This means that the focus should be on the petitioner's behavior since the crime, and especially in recent years: "Our high court has directed the ISRB's inquiry to be forward looking, not backward looking, and to give dynamic factors more weight than static ones, such as crimes committed long ago."[31] As the Washington State Supreme Court ruled in 2022, "Where, as here, the decision focuses primarily on historical facts relevant to public safety yet fails to discuss any potential conditions of release or mention significant findings of rehabilitation… we cannot say that the ISRB applied the statutory presumption of release."[32] The courts have also emphasized that the Board must carefully consider whether imposing certain conditions of release could mitigate any risk to public safety.

Each of the petitioners who filed the personal restraint petitions that triggered these rulings prevailed in the courts, and the ISRB Juvenile Board subsequently found each of them releasable at a new hearing. In the process, these petitioners and their attorneys helped to construct an important body of case law. However, this legal process takes years and is especially challenging for people who lack legal representation. Moreover, while the personal restraint petition process may lead to the reversal of specific injustices and procedural errors in particular cases, it does not prevent similar kinds of errors from continuing to occur.

Below, we provide evidence that the ISRB Juvenile Board has continued to operate in a manner that is inconsistent with statutory and case law since the most recent of these court rulings in 2024. Specifically, we show that the Juvenile Board has misrepresented or exaggerated petitioner infraction histories; used flawed and potentially biased methodologies to assess petitioner accountability, honesty, empathy, and remorse; selectively invoked specific risk assessment and other test scores that focus exclusively on historic factors over which petitioners have no control and which have little predictive value for older adults while discounting evidence of rehabilitation; and cited "lack of programming" as a reason for finding a petitioner releasable even when the DOC appeared to have failed to live up to its obligation to assess and meet the programming needs of *Miller* defendants five years before they are eligible for review.

These findings are based on our close review of recent cases and the relevant statutes. Our analysis also refers to our findings regarding the reasons the Juvenile Board lists as justification for determining that petitioners are not releasable. Figure 11 shows the frequency with which these reasons appeared in the Decisions and Reasons documents in cases in which petitioners were found not releasable.

Figure 11. Reasons Cited by the ISRB Juvenile Board for Finding Petitioners Not Releasable



Source: Indeterminate Sentencing Review Board, Decisions and Reasons documents, January 2015-August 2025. Notes: The Juvenile Board cites more than one reason for finding petitioners not releasable. ACES refers to the Adverse Childhood Experiences test, a 10-question survey that provides information about people's exposure to trauma, abuse, and neglect during their childhood. VRAG-R is a risk assessment tool that focuses exclusively on 12 static risk factors that exist during childhood and adolescence and cannot be changed. We discuss these tests and other tests used by the ISRB Juvenile Board later in this report.

In what follows, we describe the evidence that shows that the ISRB Juvenile Board continues to operate in a manner that is in tension with statutory and/or case law in some cases.

Misrepresentation and Exaggeration of Infraction Histories

As Figure 11 shows, petitioners' infraction histories are the most the most frequently cited reason for the Board's determination that the petitioner was not releasable. While infraction history may seem like an incontrovertible and objective indicator of risk, it is not. To understand why, it is helpful to consider the context in which infractions occur:

> *Every prison system has a lengthy disciplinary policy laying out the rules incarcerated people must follow, as well as the procedures and punishments they'll face if they don't… These policies are supposed to ensure safety, security, and order by deterring and punishing misconduct. In practice, however, prison discipline is a system of petty tyranny with devastating, long-term consequences. Corrections*

officers enforce rules arbitrarily, often doling out punishments for mundane behaviors and survival strategies while interrupting access to programming and services that can make a meaningful difference in people's lives. Harsh sanctions are handed down following unfair and unaccountable proceedings wherein it is nearly impossible to defend oneself from the charges. The end result is a disciplinary system that plays a key role in keeping people in prison longer.[33]

In fact, the evidentiary standard for sustaining an infraction in Washington State prisons is especially low. Although some states have adopted a preponderance of evidence standard in disciplinary hearings, the Washington Department of Corrections employs an "any evidence" standard, which is often interpreted to require only the testimony of a single correctional officer to sustain an infraction.[34]

This is not to say that serious misconduct does not occur in prison – it most assuredly does. At the same time, the evidentiary standard upon which these infractions rest is quite low, and the number and specificity of the rules that must be followed is far greater in prison than outside of it. In fact, it is extremely difficult for well-behaved and well-intended people to entirely avoid infractions in prison.[35]

The DOC classification system differentiates between "general" and "serious" infractions. This classification system delineates the potential consequences of different types of infractions. Examples of general infractions that prohibit behaviors that are permissible outside prison and are unlikely to be probative of a future risk to the public, include:

- Possessing an unauthorized amount of clothing, bedding, or issued supplies;
- Giving, selling, purchasing, borrowing, lending, trading, or accepting money or anything of value, except through approved channels, the value of which is less than ten dollars;
- Roughhousing, engaging in horseplay, or any other unauthorized physical contact with another incarcerated individual(s);
- Possessing money, stamps, or other negotiable instruments without authorization, the total value of which is less than five dollars;
- Out of bounds; Being in an area where the presence of the incarcerated individual is unauthorized;
- Failing to maintain one's clothing, personal hygiene, or quarters in accordance with facility rules or policies; and
- Being absent from work or any assignment, scheduled meeting, appointment, or call out without authorization.[36]

Many (but not all) of the infractions that the DOC classifies as "serious" do involve behaviors that would also be illegal outside of prison. However, it would be a mistake for the Board not to consider the context in which these behaviors have allegedly occurred. For example, the pervasive threat of violence in prisons sometimes necessitates self-defense, especially by people who have left gangs.[37] For these and other reasons, it is crucial that the Juvenile Board consider the context in which alleged infractions took place and carefully assess the degree to which they are actually probative of a significant risk of reoffending upon release. Doing so would require carefully considering the input of the counselors and psychologists who often have a deeper understanding of the context in which the alleged violation occurred.

Furthermore, as the ISRB Juvenile Board has acknowledged,[38] many young people engage in violence and other forms of misconduct during the early years of their incarceration. This occurs for a variety of reasons: the traumatic childhood and immaturity of the newly incarcerated person; the difficulty of staying out of gangs, which offer some hope of protection, in some prisons; and the desperation and despair that is often triggered by long-term incarceration.

For these reasons, Board members have indicated that they understand the need to focus their attention on petitioners' behavior in the five to ten years preceding a release hearing.[39] And yet our review of case law and recent decisions suggest that the Board frequently lists infractions that occurred decades earlier as evidence supporting a finding of non-releasability. We also find that the Board sometimes fails to consider the context of the infraction and/or misrepresents and exaggerates their seriousness and significance.

One such case was litigated. In 2022, the Juvenile Board found petitioner Donald Lambert not releasable based partly on its rendition of Mr. Lambert's infraction history since 2007. According to the Juvenile Board, this history "involved either violence or weapons, a new felony conviction for assault on another inmate, gang related elements, [a] sex related element, a general inability to comply with the rules of the institution, or a combination of these factors."

This summary sounds quite dire. But Mr. Lambert subsequently filed a PRP contesting the legality of the Juvenile Board proceeding and prevailed in the Washington State Court of Appeals. After reviewing the case materials, the Appellate Court found that the ISRB's summary of Mr. Lambert's infraction history reflected

> *…either embellishments or misstatements of the true facts. First, only one assault involved a weapon. Second, after dropping out of the Sureño gang, Lambert committed only one violent offense, the 2010 assault; and that assault could be attributed to the prison staff's decision to house Lambert with his former gang members.*[40]

Unfortunately, the Board has continued to exaggerate and embellish petitioners' infraction histories despite having been admonished by the courts for doing just that. In a hearing that took place on August 27, 2025, the Board justified its determination that the petitioner was not releasable by claiming that he “has a history of committing violence in prison that is connected to a gang affiliation. From 2006-2019, he received multiple serious infractions that either included assaultive behavior or some use of aggression.” But the available records show that this summary of the petitioner’s infraction history is highly misleading.

It is true that prior to 2014, the petitioner received many infractions for fighting. It is also true that these violations occurred before the petitioner was 26 years old. And despite the Board’s claim to the contrary, the petitioner’s subsequent infractions did *not* involve violence or assaultive behavior. In fact, the petitioner received only received one “serious” infraction since 2014, when he was in the bathroom before that area was open to prisoners. His other “general” infractions were for having unapproved food and for work absences. His last infraction of any kind was nearly seven years ago.[41]

Here is how the petitioner’s counselor summarized the petitioner’s infraction and behavioral history:

> *[Petitioner] has not had a Serious Infraction since Sept. 2019. He hasn't had a Minor Infraction since July 2023, for missing a callout. [Petitioner] has received six BOE's [behavioral observations] since his last hearing, all of them positive. Most of them reflect his positive attitude, helpfulness in the unit, and willingness to assist with other I/I's in their classes and programming.*
>
> *Currently active in the WCC Running Group. Completed Bridges to Life on 11/20/25. Completed Substance Abuse High Intensive Out-Patient 2.5 on 5/15/25. Received his Training Certificates for Blood and Body Pathogen, and Asbestos-Class 4 training, on 7/9/25.*
>
> *Currently working as a Custodian I in Evergreen. He has also worked as a Recreation Assistant, multiple Custodian positions, a Maintenance Helper, Food Packer & Packager, Upholstery shop. Every supervisor I've been able to make contact with has had nothing but good things to say about his work ethic, focus, positive attitude, and willingness to help out.*

In short, the petitioner involved had not had a serious infraction for six years and there is significant evidence of his “work ethic, focus, positive attitude, and willingness to help out.” It is difficult to square these documented facts with the Board’s insistence that the petitioner’s on-going behavior issues, as evidenced by his infraction history, meant that his release would inevitably pose a significant risk to public safety.

Another recent example reveals a similar pattern of exaggeration and misrepresentation. In a hearing on January 20, 2026, the Board cited the following as a reason for their finding of non-releasability: "46 serious infractions since 1998, including many involving drugs/alcohol, fighting, and STG [gang] related activities. He incurred one serious infraction in both 2024 and 2025, for Theft and Destroying Property, respectively."

While this summary also sounds quite ominous, most of these infractions occurred while the petitioner was in his teens and 20s. And the two recent "serious" infractions were, upon closer inspection, far less worrisome than the Board's rendition of them suggests. According to the psychologist's report submitted in this case, the 2024 infraction occurred because the petitioner's former cellmate left property behind when vacating the cell. Because this property was not registered to the petitioner, his subsequent possession of it in his cell led to his infraction for theft.

The 2025 infraction for "property destruction" occurred when the petitioner removed a ping-pong table net and threw it in the trash. He did this after being upset by other prisoners running from behind him to retrieve the ping-pong ball, which, according to the psychologist's report, triggered PTSD symptoms in the petitioner. Initially, the petitioner asked the people chasing the ball not to approach him at a rapid clip from behind and offered to retrieve the ball for them. When they did not comply with his request, he became agitated, removed the net from the table, and placed it in the trash.

This incident prompted a great deal of reflection on the part of the petitioner, who began to contemplate how he would handle being in crowded situations in the free world and developed strategies for handling that situation. While the infraction thus triggered a useful and productive set of reflections, it is not at all clear that this incident constitutes evidence that the petitioner's release under thoughtful conditions of supervision – which could include a requirement to obtain treatment for PTSD – means that the petitioner's release necessarily poses a grave risk to public safety.

Unreliable Methods for Assessing Accountability, Honesty, Empathy, and Remorse

As shown in Figure 11 above, the Juvenile Board also frequently cites petitioners' lack of honesty, accountability, remorse, and empathy to justify its conclusion that the petitioner's release would pose an unacceptable public safety risk no matter what conditions of release were imposed. In what follows, we show that the methods used by the Board to assess these mental states are unreliable, often involve conjecture and speculation, and carry the risk of misunderstanding and even bias.

We begin with assessments of petitioners' honesty and accountability. As the examples provided below illustrate, the Board often assesses these mental states by asking the petitioner many questions about the details of the original crime during their hearing and then comparing the petitioner's account with the original case records.[42] Discrepancies between these two versions of events are then (sometimes) interpreted by the Juvenile Board as evidence of the petitioners' lack of honesty and accountability.

For instance, in a hearing held on August 27, 2025, the Board listed the fact that the petitioner's "description of the index crime differs from the facts captured in the file material" as one of its reasons for finding the petitioner not releasable.[43] Similarly, in a hearing that took place on August 21, 2025, the Juvenile Board compared the petitioner's account of the crime with the police report from August 1995 (30 years prior) and found that the petitioner's "description of the index offense differs from the facts captured in file material…. Consequently, the Board has serious concerns related to his lack of transparency and whether he is truly taking responsibility for his index crime."

Finally, in a hearing dated January 26, 2026, the Board justified its decision of non-releasability in part on its finding that the even though the petitioner "takes responsibility for causing the death of his victim and admits that he decided to bring the handgun with him on the day of the murder,"

> *… he maintains that he was never informed of any plot to rob and murder the victim. [Petitioner] stated that he pulled his gun partially as a reaction to the victim grabbing his co-defendant and then lunging at him [the petitioner]. However, when asked if he killed his victim in self-defense, [petitioner] said no. His account of the crime, even allowing for the passage of time and the facts* ***established by the prosecution****, is hard to follow and does not align with other accounts of the incident*[44] *[emphasis added].*

But it is not possible to know exactly what facts were established by the prosecution at trial beyond the elements of the offense, as Washington courts do not ask jurors to explain the basis of their verdict(s). It is not uncommon for the facts introduced at trial to vary from the facts contained in the probable cause statement, a document that is drafted by the prosecutor at the beginning of the case which is not subject to a contest by the defense. Nor does the Judgment & Sentence form completed by judges at the conclusion of trial contain this information. It therefore appears that the Board's allusion to "the facts established by the prosecution" refers to the original Affidavit of Probable Cause filed by prosecutors, which would include facts asserted prior to trial rather than facts established at trial.

In short, the Board sometimes treats divergences between the petitioner's account of the crime and the Board's reading of the original case materials as evidence that the petitioner has failed to take responsibility for the crime and therefore poses a significant risk to public safety. This is approach to assessing petitioners' accountability and honesty is deeply flawed, for several reasons.

First, this methodology assumes that the official version of events as reflected in case file materials is complete and accurate. The facts of the crime are typically captured in the police report and/or Affidavit of Probable Cause that was submitted by prosecutors when the charge(s) were originally filed – decades before the early release hearing. This affidavit is written by the prosecuting attorney shortly after the arrest and is based on information provided by the reporting officer(s) and witnesses, if any had been interviewed by that point in time. It does not usually provide information or input from the petitioner other than any potentially incriminating statements made to the police officer at the time of arrest. In fact, the Superior Court must make a determination of probable cause within 48 hours of the filing of a felony complaint, which means that the Affidavit of Probable Cause cannot capture any information that emerged more than 48 hours after the defendant was charged.

Treating these case materials as the ultimate truth is deeply problematic. Police reports – and other case materials like Affidavits of Probable Cause that rely upon them – are highly prone to error and misrepresentation.[45] This means that the "facts" of the crime as determined by the ISRB Juvenile Board are unlikely to be a complete and accurate reflection of what actually happened and may reasonably differ from the petitioner's recollection of the crime. The courts have ruled that the ISRB abuses its discretion when it acts without consideration of and in disregard of the facts.[46] This means that the ISRB must consider the accuracy of the facts before it, which requires considering the many possible sources of error in the original case materials. Our review of recent cases suggests that it does not do so.

The Board's method for assessing petitioners' honesty and accountability also ignores the fact that people's memories – and especially memories of traumatic events – are fallible. This is especially relevant in the context of people who were sentenced to decades in prison for crimes they committed as children. Imprisoned and formerly imprisoned people are far more likely than other adults to have experienced significant childhood trauma.[47] Trauma and neglect in childhood are, in turn, strongly associated with the development of Childhood Autobiographical Memory Disturbance (CAMD) in adulthood. CAMD often makes it difficult for people to remember events from childhood and adolescence, especially traumatic events.[48]

In short, treating any differences between petitioner's accounts of their crime and the official record of those events not only wrongly assumes that the case record is infallible; it also ignores the impact of trauma on memory.

Juvenile Board assessments of the degree to which petitioners feel empathy for the people they harmed are also unsound, as they involve often conjecture and speculation and are rife with the potential for bias and misunderstanding. For example, in an August 2025 decision, the Juvenile Board interpreted the petitioner's desire to return to his county of origin to live with his grandmother as evidence of his lack of empathy for the victim's family: "His expressed desire to return to the community where the murder occurred indicates a lack of understanding as to the impacts of his crime on the survivors and the community at large." This interpretation is highly speculative and ignores the validity of the petitioner's desire to live with his grandmother. In fact, the petitioner and his attorney had not even been informed that the victim's family met with the Board prior to the hearing, as required by statute, and that during that meeting expressed their preference that the petitioner not return to his county of origin. Even after acknowledging that they had failed to provide this information to the petitioner, the Board continued to ignore the fact that the petitioner readily agreed to relocate elsewhere once he was made aware of the victims' preference that he do so.[49]

More generally, the Board's focus on the extent to which the petitioner feels empathy and remorse puts significant weight on mental states that are notoriously difficult to assess, especially in a formal, quasi-judicial hearing in which someone's liberty is at stake. People express emotions in a variety of ways and some forms of expression are especially vulnerable to misinterpretation. For example, people on the autism spectrum (who are over-represented in prison) and people with developmental disabilities tend to express remorse and other emotions differently than other people – and, research shows, are often misunderstood in the parole context.[50] Moreover, some people who experience long-term incarceration have learned not to sustain eye contact with others in order to avoid conflict and violence; in a parole hearing, this lack of eye contact may then be misread as dishonesty or inauthenticity.[51]

In short, attempting to assess the emotional and mental state of a person who has served decades behind bars in the context of a high-stakes, quasi-judicial proceeding is a fraught and difficult undertaking rife with the risk of misinterpretation and misunderstanding. While accountability, honesty, empathy, and remorse are desirable, the Board's methods for assessing them are highly unreliable and rife with the potential for misinterpretation and bias.

Scientific and Ethical Issues in the Risk Assessment Process

The governing statute requires that the Juvenile Board base its decisions primarily on its assessment of the degree to which the release of petitioners potentially poses a public safety risk and whether this risk can be mitigated by imposing certain conditions upon petitioners' release. It is, therefore, understandable that the Board bases its decisions in part on psychological evaluations, which are in turn informed by a battery of risk assessment and other psychological tests.

However, it is crucial that the tests that are used in this process are reliable, appropriate to the specific population and context, and place appropriate weight on evidence of rehabilitation and protective factors. This is especially true for *Miller* defendants who, by definition, are in their mid-30s or older, because the risk of repeat offending drops markedly with age. In fact, "the association between age and crime is one of the most established facts in the field of criminology."[52] It is also critical that the Board not single out particular test scores that are unfavorable to petitioners while discounting those that are not. Unfortunately, our review of recent cases suggests that these safeguards are not consistently respected.

The ISRB Juvenile Board routinely relies on three risk assessment and three psychological tests. In some cases, the psychological evaluator administers other tests thought to be relevant given the petitioner's specific history. The psychologists who perform these evaluations then put all of the test results in conversation with each other to assess the degree to which the potential release of the petitioner poses public safety risk and to develop recommendations regarding conditions of release that would help to mitigate that risk.

Below, we describe the tests upon which ISRB Juvenile Board evaluators regularly rely and the scientific and ethical issues surrounding their use. We then show that the Board sometimes selectively invokes the results of tests that measure unchangeable childhood experiences to justify their finding that the petitioner is not releasable while ignoring or discounting information about rehabilitation and protective factors. This practice is in direct contravention of the legal requirement that the Board not rely primarily on historical facts or disregard evidence of rehabilitation.[53] We begin by providing a brief overview of the different types of risk factors and the tests regularly used by the Board.

Understanding Risk Assessment Tools: Static, Dynamic, and Protective Factors

Risk assessment tools include measures of static and/or dynamic risk factors; some also include information about protective factors.

Static risk factors are conditions of childhood and adolescence that are associated with criminal offending and do not change over time. Examples include criminal history, whether the petitioner was married at the time of the offense, or whether the petitioner lived with both biological parents until the age of 16. Because these static factors are unchangeable, people's scores on static risk assessment tests that focus on childhood experiences will be the same whether they take the test at age 18 or 30 or 70. Put differently, risk assessment tests that only include static factors do not take age, maturation, or protective factors into account. As a result, they overestimate risk, especially among people who are in their thirties, forties, and beyond.[54]

Dynamic risk factors are conditions that are believed to increase the risk of offending but can change over time.[55] Examples include substance use, gang involvement, and mental health status.[56] Identification of these dynamic risk factors – sometimes called criminogenic needs or risk management factors – is important as it enables identification of appropriate programming and services that can help prepare people for life outside of prison. Ideally, this would occur years before petitioners appear before the ISRB Juvenile Board.

Finally, *protective factors* are conditions that are thought to reduce the risk of re-offending. Like dynamic risk factors, protective factors can change over time. Examples of protective factors that are statistically associated with a reduction in criminal behavior include marriage and other supportive relationships, secure housing, changes in self-narratives, stable employment or strong employment prospects, and parenthood.[57]

Risk Assessment and Other Tests Used by the ISRB Juvenile Board

In this section, we provide a brief description of the risk assessment and psychological tests regularly used by ISRB Juvenile Board psychological evaluators. As this discussion makes clear, none of these tests are a good fit for *Miller* defendants, all of whom committed their crime as children, have spent decades behind bars, and, by the time they are eligible to be reviewed by the Board, are in their mid-thirties or older. These circumstances differentiate *Miller* defendants from the more generic forensic and correctional populations on which these tests have been validated. That is, because these instruments generally “do not take into account aging, an inmate's time away from the community, and the institutional environment of prison,”[58] they are a poor fit for *Miller* defendants who are being considered for release decades after their crime. As one expert put it, these risk assessments simply “were not created to predict future violence of people who have matured in age while serving long sentences in prison.”[59]

This mismatch reflects a broader methodological issue known as the “group-to-individual” (G2i) problem, in which population-level statistics are used to predict the behavior of specific individuals. Each of the tools described below rely on group-based probabilities that may not accurately apply to individuals whose developmental paths, life circumstances, age, or rehabilitative progress differ from study samples. Risk assessment tools that focus only on static factors and include comparatively few data points are especially vulnerable to the G2i problem, as they reduce individuals to a relatively small number of unchanging data points while ignoring a great deal of other relevant information. This is especially problematic when assessing people who are middle aged or older.

VRAG-R

The Violence and Risk Assessment Guide-Revised (VRAG-R) is an actuarial risk assessment tool that identifies 12 static risk factors to predict violent and sexual recidivism. The test does not include any information about dynamic or protective factors. As Figure 12 shows, this is the risk assessment test that is most often cited as justification for finding petitioners not releasable. The static factors included in the VRAG-R include:

- Not living with both biological parents until age 16;
- Elementary school maladjustment;
- History of alcohol or drug problems;

- Marital status at time of index offense;
- Non-violent criminal history;
- Prior failure on conditional release;
- Age at index offense;
- Violent criminal history;
- Prior admissions to correctional institutions;
- Conduct disorder prior to age 15;
- Sex offense history, and
- Antisociality.

Based on their responses to these questions, petitioners are then categorized into 9 different risk levels called “bins,” which are used to attribute a likelihood of recidivism. For example, a score that fell within Bin 8 of 9 would estimate a 58 percent likelihood of re-offense within five years.

Both the original VRAG and VRAG-R were developed using a sample of Canadian men who had been found not guilty of committing a violent or sex offense by reason of insanity. The racial composition of this forensic sample is unknown. 60 percent of the people in the original sample had committed one or more serious sex offenses. Just 11 percent of the people included in this sample (compared to 100 percent of *Miller* defendants) had committed their index offense prior to the age of 18.[60]

In short, the population upon which the VRAG-R was originally validated differed in many important ways from the people who are reviewed by the ISRB Juvenile Board. We have not been able to find any research that specifically examines the validity of the VRAG-R for racially diverse people from the United States who committed their offense as a child and have spent decades in prison. Studies that assess its validity for correctional populations more generally find “an overall modest predictive validity”[61] and poor short-term accuracy, a notable finding given that most violent reoffending occurs shortly after release.[62] Insofar as dynamic risk factors have notably greater predictive power than static factors for older adults,[63] and that the recidivism rate among released *Miller* defendants in Washington is 1.4 percent, we suspect that VRAG-R’s predictive power with *Miller* defendants who have served 20 or more years in prison is even lower than it is for correctional populations in general.

HCR-20 v3

The HCR-20 risk assessment tool was developed in Canada to predict the risk of violence in psychiatric patients and individuals involved with the criminal justice system.[64] The test measures 10 static and 10 dynamic risk factors (the latter include 5 “clinical” and 5 “risk management” factors) measured on a 3-point scale, with a higher score indicating a higher risk of recidivism. Unlike actuarial tests like VRAG-R, the most recent version of the HCR-20 v3 employs the Structured Professional Judgement model (SPJ), which means that a mental health professional assesses an individual's risk for future violence by evaluating individuals' files and conducting observations and interviews. The evaluator then interprets all the information they acquire to rate the petitioner's potential for risk upon release from low to high.

Unlike the VRAG-R, then, the HCR-20 v3 does incorporate information about dynamic risk factors. In fact, the creators of the HCR-20 v3 recommend formal reassessment of risk at least every 6 to 12 months so that dynamic (changeable) risk factors can be addressed rather than merely identified. While this is an improvement over the VRAG-R's exclusive focus on static factors, half of the factors identified by the HCR-20 v3 are static, and the test "has not been validated for individuals who had been incarcerated for more than ten years."[65] In addition there is overlap between some of the static factors included in VRAG-R and HCR-20 v3, which means that these are double-counted when both tests are used.

SAPROF

The Structured Assessment of Protective Factors (SAPROF) is a risk assessment tool that specifically evaluates the presence of protective factors that are believed to reduce the risk of criminal offending. SAPROF measures 17 protective factors split into three categories: internal factors, motivational factors, and external factors. The assessor identifies protective factors, notes any critical protective factors considered imperative to prevent future violent behavior, integrates the results of other risk-focused SPJ assessments like the HCR-20, and combines the results of the first three steps to establish a final risk judgment.

Like the VRAG-R and the HCR-20, the SAPROF was developed outside of the United States, this time at forensic facilities in the Netherlands. The initial version of the test assessed males with a history of sexual violence who suffered from mental illness and/or personality disorders. Like the HCR-20 v3, this test employs the Structured Professional Judgment model, which means that evaluators play an important role in the administration of this test and in the interpretation of the results.

ACES

ISRB Juvenile Board evaluators also routinely administer three psychological (as opposed to risk assessment) tests. The first of these is the Adverse Childhood Experiences Survey (ACES), which was developed by Kaiser Permanente and the Center for Disease Control based on a survey of the childhood experiences of 17,000 Health Maintenance Organization members from Southern California. The goal of the study was to assess whether and how childhood trauma, abuse, and neglect influenced mental and physical health outcomes later in life. The test consists of a ten-item questionnaire divided into three categories of childhood experiences: abuse, household challenges, and neglect.[66]

Although it was not designed to be used as a risk assessment tool, the ISRB Juvenile Board often uses ACES scores to predict *Miller* defendants' probability of reoffending if released. For example, in its summary of a hearing on August 27, 2025, the Board wrote that the petitioner

> *scores high on the ACE Questionnaire (8 out of 10). [Petitioners] responses resulted in a score of 8, suggesting that he experienced a seriously dysfunctional upbringing, which likely complicated his ability to develop trust, empathy/caring for other people and pro-social decision-making.*

In this and other cases, the petitioner's ACES score was listed as a reason the Board found the petitioner not releasable. This practice is not supported by research, as a recent meta-analysis found that the relationship between ACES and recidivism is statistically significant for youths – but not for adults.[67] For this reason, the use of ACES as a recidivism screening tool in adult parole settings is scientifically dubious. Its use also raises significant ethical concerns, which we discuss below.

PCL-R AND THE PAI

ISRB Juvenile Board psychological evaluators routinely administer two other personality tests – the Psychopathy Checklist Revised (PCL-R) and the Personality Assessment Inventory (PAI) – to identify personality traits thought to be associated with psychopathology. The use of these tests by the ISRB Juvenile Board is scientifically inappropriate, for several reasons.

First, neither test was developed as a risk assessment tool to be used in the parole context. The PCL-R was created to standardize the definition of psychopathy in clinical settings and was validated on 1,065 incarcerated male Canadian adults and 440 psychiatric patients. The assessment was further refined using data from 1,265 patients from 69 different mental health settings and 1,051 college students; incarcerated individuals were not included in the development and validation phase of this test.[68] Although the PAI-CS was later developed for use by correctional facilities, it was designed to predict offenders' risk of institutional misconduct and how they were likely to respond to rehabilitative efforts *within* prison.[69]

Second, the administration of both tests involves significant interpretation by evaluators and yields varied results. The PCL-R is composed of a sixty to ninety-minute semi-structured clinical interview and an extensive case history and institutional file review. Clinicians must determine whether the traits they observe are evidence of psychopathy or other personality disorders, which means that there is significant room for interpretation.[70] In fact, research has shown that when the PCL-R is used in high stakes situations, it yields wide confidence intervals and low reliability.[71]

Third, the psychiatric community no longer recognizes psychopathy as a medical diagnosis. In fact, the term "psychopathy" was replaced by antisocial personality disorder (ASPD) in the third and subsequent editions of the *Diagnostic and Statistical Manual of Mental Disorders*. ASPD focuses on the more easily measured behavioral issues such as aggression, impulsivity, and violations of others' rights, and far less on personality characteristics like callousness, remorselessness, and narcissism that cannot be observed and therefore must be inferred by evaluators. Interestingly, only about a third of those diagnosed with ASPD also meet the (older) criteria for psychopathy, which suggests that the PCL-R and PAI over-diagnose psychopathy.[72] In fact, a recent study found that 95 percent of Canadian college students have an elevated score on at least one of the PAI scales.[73]

Scientific and Ethical Concerns

The tests upon which the ISRB Juvenile Board regularly relies thus have many important limitations. Although the use of actuarial models to predict the risk to public safety posed by any individual is an inherently fraught process, many of the risk assessment tools and other tests used by the psychologists who evaluate ISRB Juvenile Board petitioners are especially inappropriate for use with *Miller* defendants decades after the crime occurred for the following reasons:

1) None of the tests used were developed to be used for this unique population and none have been validated with a population that shared the characteristics of the *Miller* defendants.

2) Tests that focus exclusively on static factors are particularly inappropriate for use in evaluation of *Miller* defendants, as dynamic factors have far more predictive power for middle aged and older adults.[74]

3) The fact that numerous studies show extremely low rates of recidivism among released lifers, especially among people who committed their crime as a child, suggests that the tests utilized by Juvenile Board evaluators significantly overestimate risk.

4) Psychopathology is no longer a medically recognized diagnosis and assessments of it via the PCL-R and the PAI are unreliable.

5) There is significant overlap between the tests that are currently used by ISRB Juvenile Board evaluators, and many static factors are "counted" in multiple tests used in the Juvenile Board review process. As a result, the static risk factors that are less relevant for this specific population are double and even triple-counted in the Juvenile Board risk assessment process (see Table 1).

TABLE 1. STATIC RISK FACTORS MEASURED IN RISK ASSESSENT AND OTHER TESTS USED BY THE ISRB JUVENILE BOARD

	VRAG-R	ACES	HCR-20 v3	PAI	PCL-R
TRAUMATIC CHILDHOOD EXPERIENCES	Yes	Yes	Yes		
JUVENILE CRIMINAL HISTORY	Yes		Yes		Yes
ANTISOCIALITY (IN THE PAST)	Yes		Yes	Yes	Yes
SUBSTANCE ABUSE (IN THE PAST)	Yes		Yes	Yes	

In short, two of the tests relied upon by the Juvenile Board (VRAG-R and ACES) only include information about static risk factors; half of the items assessed by the HCR-20 v3 are static. In addition to being scientifically invalid, reliance on tests that include only static risk factors raises significant ethical concerns, as this practice is in tension with the spirit of *Miller v. Alabama*, which recognizes youth as a mitigating circumstance and is intended to correct the cruel and unusual punishment of children. Not providing relief to people who are serving long of life sentences for crimes they committed as a child *because of the difficult or traumatic circumstances of their childhood* compounds that historic injustice.

Furthermore, many static risk factors are deeply shaped by racialized systems of social control and socioeconomic inequality; reliance upon these measures therefore overestimates risk among petitioners of color and reproduces race and class inequalities. For example, the VRAG-R assigns higher risk points for factors such as "prior non-violent offenses" and "school maladjustment." The HCR-20 v3 also evaluates many factors based on a person's past criminal and behavioral history, which for *Miller* defendants can only include childhood experiences – which are marked by profound racial disparities. In fact, studies show that Black and Latinx students are suspended or expelled from school at three times the rate of White students, and people of color are eight times more likely than White peers to be housed in juvenile detention.[75] Black youth are also much more likely to be arrested than White youth.[76]

Importantly, these disparities are not simply a reflection of behavioral differences but rather are shaped by race and class differences in the nature and extent of policing and by the disproportionate application of correctional controls to youth of color.[77] When converted into numerical predictions, reliance on these and other static risk factors reproduces and amplifies racial and socioeconomic disparities.

In addition, there is evidence that the tools used by the ISRB Juvenile Board overestimate the risk posed by the potential release of petitioners of color, for at least two reasons. First, because questions about criminal history reflect racialized police practices, their inclusion in the risk assessment process overestimates the risk posed by people of color.[78] In addition, most risk assessment instruments "reflect dominant Eurocentric values and beliefs."[79] For example, instruments like the PCL-R, HCR-20V3, and the VRAG-R assess factors such as stable intimate relationships, childhood environment, and family structure without accounting for cultural variations in kinship networks, community caregiving, or the impact of historical trauma on family structure. The use of these tools therefore "erodes objectivity, can lead to overestimates of risk, stimulates fear, and results in inappropriate testimony."[80] In fact, a meta-analysis of over 60 studies found that the VRAG-R, HCR-20, and PCL-R "produced higher rates of predictive validity for White samples" and significantly lower accuracy for minoritized groups.[81]

In theory, the use of tests that measure only static risk factors could be at least partially justified *if* those results were treated as one of many sources of information and *if* the results of tests that included information about rehabilitation and protective factors were weighed more heavily than those that include only static factors. In the recent cases we reviewed, psychologists frequently did just that. However, in several of those cases, the Board ignored or discounted the psychologist's overall assessment, which included information about rehabilitation and protective factors, while selectively focused on petitioners' VRAG-R and ACES scores.

For example, in a case heard on August 27, 2025, the evaluator wrote that "In terms of risk for future violence and/or inflicting serious physical harm, [the petitioner's] level of risk is considered low. He is considered very low risk for imminent violence." Nevertheless, the Board cited the following as reasons for finding the petitioner not releasable:

> *The March 2025 psychological evaluation indicates [petitioner] scores as follows on the Violence Risk Assessment Guide – Revised (VRAGR). [Petitioner] scored in the second highest category of 9 (7 of 9), which indicated that 45% of similar offenders are expected to meet criteria for violence recidivism with 5 years of release, and 69% within 12 years.*
>
> *He scores high on the ACE Questionnaire (8 out of 10). [Petitioners] responses resulted in a score of 8, suggesting that he experienced a seriously dysfunctional*

upbringing, which likely complicated his ability to develop trust, empathy/caring for other people and pro-social decision-making.

The Board thus singled out the petitioner's VRAG-R and ACES scores, which only reflect information about the petitioners' childhood experiences, as disqualifying while discounting the evaluator's more comprehensive assessment that also included information about dynamic and protective factors.

Unfortunately, this was not an isolated occurrence. In another case heard on September 22, 2025, the Board noted that the petitioner "scored in the moderate or low category on most assessment scores" and that the petitioner was "assessed as a reasonable candidate for release" by the evaluator. Nonetheless, the Board went on to cite the petitioner's high VRAG-R score as justification for its determination that no conditions of supervision would adequately reduce the risk his potential release from prison would pose to the public.

Similarly, in a case heard on January 20, 2026, the psychological evaluator found the petitioner to be a "reasonable candidate to be considered for early release by the ISRB whose risk of future violence and/or inflicting serious physical harm was low moderate and that the risk of imminent violence was low." The evaluator further noted that

More recently, [the petitioner] has demonstrated non-violent communication, generally prosocial problem-solving skills, and good help seeking behaviors which are considered protective factors and that he has demonstrated willingness to comply with the [prior] Board's recommendations, as he completed chemical dependency treatment with no known instances of relapse since completion, has completed other relevant programming ... and he avoided engaging in violence even during a recent incident where he was seriously assaulted.

Nevertheless, the Board cited the petitioner's VRAG-R score (as well has his score three years prior on the PCL-R) as justification for finding the petitioner not releasable in this case.[82]

The Juvenile Board's selective invocation of childhood deprivation and trauma as measured by scientifically and ethically dubious tests, and its discounting of evidence of rehabilitation and protective factors, are deeply unethical: these practices punish people for events over which they had no control, reproducing race and class inequality in the process. It is also scientifically unfounded as it fails to recognize the importance of age and maturation and the fact that dynamic and protective factors have far more predictive power than static factors for people who are in their thirties, forties, and beyond. Finally, the Board's practice of singling out tests that focus exclusively on static factors while ignoring the results of more comprehensive tests is incompatible with the legal requirement that the Juvenile Board "give dynamic factors more weight than static ones."[83]

Recommended Programming Not Consistently Provided in a Timely Manner

The governing statute requires that the DOC assess petitioners and identify programming that will help the petitioner prepare for a return to the community. To the extent possible, the DOC should also make such programming available to the petitioner.[84]

Most of the former *Miller* defendants we interviewed did recall being assessed by the Department of Corrections about five years before their hearing, as required by statute. Five of the seven people we interviewed indicated that programming was recommended to them and made available to prepare for their ISRB hearing. However, only two of those five reported that the DOC provided them with any assistance in accessing that programming. One interviewee told us that he was not assessed and that no programs were recommended to him, but that he sought out programs that were helpful. A few reported that that people eligible for an ISRB hearing should be – but were not – prioritized for programs.

In short, most but not all of those we interviewed recalled being assessed by the DOC roughly five years before becoming eligible for review, though only a few reported being prioritized for recommended programming. It is important to note, however, that the people we interviewed for this report had all been found releasable by the ISRB Juvenile Board. People who were found not releasable by the Board may have different experiences – and there is reason to believe that this is the case.

Petitioners' "lack of programming" is the second most frequently cited reason the Juvenile Board gives for finding petitioners not releasable (see Figure 11). At the same time, the Juvenile Board indicated that the petitioner had refused programming in just 6 (33 percent) of the 18 hearings in which it cited "lack of programming" as a reason for finding the petitioner not releasable. These findings suggest that in 12 hearings, the willing petitioner had not received recommended programming. This is further evidence that the DOC does not consistently identify and make recommended programming available to people who are eligible to petition the ISRB Juvenile Board for early release, as required by statute.[85]

PART III: RECOMMENDATIONS

Although pro bono attorneys, legal clinics, and non-profit organizations from across Washington have made concerted and impressive efforts to ensure that all *Miller* defendants have legal counsel while going through the ISRB Juvenile Board review process, more than four in ten (44.4 percent) of those petitioners have been compelled to navigate this complex process on their own because the legislature did not ensure that petitioners have a right to counsel. Nearly four in ten petitioners are denied release by the ISRB Juvenile Board during their first hearing, and those who do not have an attorney are notably less likely to be found releasable by the Board.

We also find that petitioners who are not White and whose release is opposed by prosecutors are less likely to be found releasable by the Board. The release rate is especially low for petitioners who represent themselves and also face prosecutorial opposition. Yet the recidivism rate among people released by Washington's ISRB Juvenile Board as measured by new felony convictions after release is a remarkably low 1.4 percent.

Finally, our findings indicate that the Board continues to operate in ways that are in tension with statutory and case law. Specifically, we found that the Board has in recent cases misrepresented or exaggerated petitioners' infraction histories; used flawed methodologies for assessing petitioners' accountability, honesty, remorse, and empathy; and selectively focused on the results of scientifically dubious risk assessment tools and psychological tests while ignoring or discounting evidence of rehabilitation and protective factors. It also sometimes cites "lack of programming" as a reason for finding petitioners not releasable when petitioners did not refuse programming – despite the fact that the Department of Corrections has a statutory obligation to assess and address those needs well in advance of their review by the Juvenile Board.

It is imperative that the Juvenile Board process is fair and compliant with statutory and case law. In light of the findings presented above, we offer the following recommendations for the Washington State Legislature, the Department of Corrections, and the ISRB Juvenile Board to ensure that this is the case.

Recommended Statutory Revisions

1. **Ensure that *Miller* defendants have access to counsel throughout the ISRB Juvenile Board review process.** We recommend that the Washington State legislature modify RCW 9.94A.730 and RCW 9.94A.735 to recognize the right to counsel for *Miller* defendants and other groups who now have a right to resentencing due to recent reforms, and to allocate funds to ensure that this right is realizable.

Ensuring access to counsel is especially important for *Miller* defendants who entered adult prison as teenagers, spent decades in an institution that provides little programming to people serving long and life sentences, had no knowledge of or assistance in preparing for the ISRB Juvenile Board review process, must take and respond to complex psychological evaluations, and often face opposition to their release from prosecutors and crime victims. While volunteer and private attorneys have worked hard to address their need for legal counsel – and have managed to represent more than half of all petitioners – it is critical that the State of Washington ensure that *all* petitioners enjoy a right to an attorney throughout the Juvenile Board review process.

Enacting this reform would bring Washington State in line with best practices across the United States. Many states now allow juveniles serving long or life sentences the chance to have their releasability considered by either courts or parole boards. Most such states provide a right to counsel in these hearings; some also ensure access to legal representation to prepare for these hearings.[86] Access to counsel before and during these hearings is necessary to ensure the fairness and integrity of the process.

Recommendations for the Department of Corrections

1. ***Develop and implement a system to ensure that Miller defendants are provided with detailed information about the ISRB Juvenile Board review process and how to prepare for it beginning five years in advance of review;***

2. ***Develop and implement a system to ensure that the programming needs of Miller defendants are consistently assessed five years before they become eligible for review;***

3. ***Develop and implement a system to ensure that Miller defendants are prioritized for recommended programming five years before they become eligible to be reviewed by the Juvenile Board, and***

4. ***Provide structured re-entry planning that includes procurement of housing, identification, employment, health services, financial literacy, and other services at least three years in advance of review by the ISRB Juvenile Board.***

Recommendations For the ISRB Juvenile Board

1. ***Modify the Decisions and Reasons form that provides petitioners with a summary of the reasons for the Board's decision to require that the Board explain how it determined that the imposition of any permissible conditions of supervision would not sufficiently mitigate risk in cases in which it finds the petitioner not releasable.*** At present, the form

lists the evidence considered in favor and against release but does not explain how the Board found that the latter outweighs the former. Modifying the form to require that the Board explain how it made this determination would help increase transparency in its decision-making process.

2. ***Cease using VRAG-R, ACES, and psychopathology tests as part of the risk assessment process.*** As noted previously, VRAG-R and the ACES test only include measures of static risk factors that occurred during childhood and are not subject to change. Static risk factors have little predictive value for people in their thirties, forties, and beyond. Moreover, half of the measures captured by the HCR-20 v3 are static risk factors; it is not necessary to double or triple count these by also administering the VRAG-R. The ACES also only includes information about childhood trauma, abuse, and neglect – and was not intended to be used to deny people their liberty. Using the fact that a petitioner experienced significant childhood trauma is not only scientifically unsupported, but also ethically dubious. And finally, psychopathology is not recognized in the DSM or by psychiatric experts as a reliable diagnosis.

   Given the Board's tendency to selectively isolate and invoke the results of these tests to justify a finding of non-releasability, the fact that static factors are already included in more comprehensive tests, and that these tests are scientifically and ethically unsound, we strongly recommend that the Board no longer use VRAG-R, ACES, or psychopathology tests in the risk assessment process.

3. ***Cease relying on Board assessments of accountability, honesty, remorse, and empathy to justify a finding of non-releasability.*** To date, the Board has not employed reliable methods for assessing these emotional and mental states; the methods that are used involve conjecture and speculation and are rife with the risk of misinterpretation and even bias. Nor is it clear that reliable methods for assessing these mental states exist. We therefore recommend that the Board cease attempting to assess these subjective states.

4. ***Adopt and systematically employ guidelines for how infractions will be assessed in release decisions.*** We recommend limiting these to infractions classified by the DOC as serious and involving violence other than self-defense, or other serious violations, that have occurred in the past five years. In such cases, the context in which the alleged violation occurred should be carefully considered. Infractions that are more than five years old should not be treated as evidence of current or future risk.

5. ***Modify the ISRB webpage entitled "Victim Statements to the Board" to explain the rationale for the Miller reforms, clarify the relevant legal standard in Juvenile Board determinations of releasability, and identify resources that may be useful to victims/survivors as the review process unfolds.*** This information should also be shared in any communication between the Board and victims/survivors. This will help crime victims and survivors understand the rationale for the Juvenile Board review process and the meaning of the relevant legal standard, namely, the presumption of release. It will also help victims and survivors understand that while statements about the nature and impact of the crime are permitted, they cannot be relied upon by the Board in its assessments of releasability per the governing statutes.

6. ***Do not treat victim opposition or "community concerns" as evidence that the release of the petitioner threatens public safety unless those concerns are predicated on the recent behavior of the petitioner and speak to the question of whether the petitioner poses a risk to public safety at the present time.*** Statements about the nature and impact of the original crime are not relevant to determinations of releasability under RCW 9.94A.730 and RCW 9.94A.735.

7. **To ensure transparency, redacted versions of letters from victims/survivors should be shared in advance of hearings with petitioners and their attorney. Victim/survivor impact meetings with the ISRB Juvenile Board should also be recorded and shared with petitioners' attorneys in advance of petitioners' hearings.** The cursory summaries of those meetings that are currently shared with attorneys are insufficient to enable attorneys to adequately prepare for hearings. The privacy of victims/survivors can be addressed by redacting letters and concealing the identity of speakers other than Board members in the recordings.

8. ***Weigh prosecutor opposition to release in ISRB Juvenile Board decision-making process only when that opposition is based on knowledge of the recent behavior of the petitioner and is relevant to the Board's determination of public safety risk.*** Statements about the nature and impact of the original crime are not relevant under RCW 9.94A.730 and RCW 9.94A.735.

APPENDIX A: INTERVIEW PROTOCOL

1. How long ago did you come home? How much time had you spent in prison?

2. How old were you when you arrived at DOC?

3. How were you doing your time early on?
    a. Were you engaged in any programming?
    b. If not early on, was there a time when you decided you wanted to?

4. How and when did you find out that you would have the chance to petition the ISRB for release?
    a. What did you learn about how that process works? From whom?
    b. Did the DOC provide you with guidance on how to prepare for your hearing?
    c. Did anyone else provide you with guidance, and if so, what was that like?

5. After learning about what you needed to do to prepare, what steps did you take to get ready to submit a petition?

6. Were any trainings or programs recommended to you, and if so, were they available to you?
    a. Were you able to enroll in them? Did you have to wait to enroll in them?
    b. Did you complete them? If not, what did you do?
    c. If you did complete them, did you find them helpful?

7. Did you have access to legal support while you prepared your petition? (When we say legal support, we mean a lawyer, a community-based organization, or someone inside who helped you)
    a. If not, how did you work on it?
    b. Did you feel you will be prepared at the time of your hearing?
    c. If not, what would you have needed to feel more prepared?

8. If there could have been any changes to the process of preparing for your hearing, what would you have wanted those changes to be?

9. Can you tell us about the psychological evaluation process – what was that like, and do you have any thoughts about how it might be improved?

10. Did you feel you had to address the results of your risk assessments during your hearing?

a. If so, how?
b. How did you feel about the accuracy of your risk assessments?

11. How many times were you reviewed by the ISRB JB?
    a. What happened the first time?
    b. What happened in your subsequent hearings?
    c. How did you work to address any concerns the Board raised previously?

12. Now that you've come home, do you think there any type of programming that would have been especially helpful to you as you made that transition?

13. Is there anything else you think is important for us to know or understand about programming issues in DOC and/or the juvenile review process?

ENDNOTES

[1] Indeterminate Sentencing Review Board, Washington State Department of Corrections, *Biennial Report: January 2024 – December 2025* (Olympia, January 2026) at 7.
[2] K. Beckett and H. Evans, *About Time: How Long and Life Sentences Fuel Mass Incarceration in Washington State* (ACLU of Washington, 2020).
[3] As of December 2025, 31.2 percent of those incarcerated in Washington were serving a sentence of ten or more years (see Department of Corrections, Expanded Agency Fact Card, December 31, 2025). Of these 4,386 individuals, fewer than 200 will have the opportunity to be reviewed by the ISRB under current policy. Another 16.2 percent of the prison population is serving Life with the Possibility of Parole sentences, so are potentially eligible for review.
[4] K. Beckett and K. Laibe, *Left Behind: Juveniles and Emerging Adults Serving Long and Life Sentences in Washington State* (Seattle Clemency Project, 2025).
[5] *Miller v. Alabama*, 567 U.S. 460 (2012).
[6] Aggravated murder is defined in RCW 10.95.020. This statute identifies fourteen circumstances that distinguish aggravated first-degree homicide from non-aggravated first-degree homicide. However, the legal distinction between aggravated and non-aggravated murder does not meaningfully differentiate the most severe offenses from those that are slightly less severe. For example, homicides in which the assailant is in a vehicle are not inherently more serious than those that take place in a house or on a sidewalk. Moreover, many murders that could be charged as aggravated murder are not. See K. Beckett and H. Evans, *About Time: How Long and Life Sentences Fuel Mass Incarceration in Washington State* (ACLU of Washington, 2020).
[7] RCW 10.95.030 was adopted in 2014 and provides that *Miller* defendants convicted of aggravated murder be re-sentenced by courts after serving 25 years. They are then potentially eligible for review by the ISRB Juvenile Board after completing their new minimum sentence. RCW 10.95.035 was enacted in 2015 and ensures that children convicted of other crimes who received a sentence of 20 or more years may petition the ISRB Juvenile Board for review after serving 20 years in prison.
[8] Unfortunately, many of those sent back to the courts for resentencing continue to serve excessively long sentences and have not had an opportunity to be considered for release by the ISRB Juvenile Board. See K. Beckett and K. Laibe, *Left Behind: Juveniles and Emerging Adults Serving Long and Life Sentences in Washington State* (Seattle Clemency Project, 2025).
[9] Per RCW 10.95.030, people who were convicted and sentenced for committing aggravated murder as a juvenile are subject to a slightly different process. The main difference is that this group must be re-sentenced by the trial court to determine when they will become become eligible for review by the ISRB Juvenile Board. Unfortunately, many of those sent back to the courts for resentencing continue to serve excessively long sentences and have not had an opportunity to be considered for release by the ISRB Juvenile Board. See K. Beckett and K. Laibe, *Left Behind: Juveniles and Emerging Adults Serving Long and Life Sentences in Washington State* (Seattle Clemency Project, 2025).
[10] RCW 9.94A.730(3) states (in part) that "the Board shall order the person released under such affirmative and other conditions as the board determines appropriate, unless the board

determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released."

[11] RCW 9.94A.730(2) states that "No later than five years prior to the date the offender will be eligible to petition for release, the department shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment."

[12] See endnote 9. In addition, RCW 9.94A.730(3) states (in part) that "the board shall give public safety assessments the highest priority when making discretionary decisions regarding the ability for release and the conditions of release."

[13] RCW 9.94A.730(4) states (in part) that "... the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence."" Provision 1 of the latter statute states that "The legislature recognizes the significant concerns that many victims, survivors of victims, and witnesses of crimes have when offenders are considered for postsentence release from confinement. Therefore, it is the intent of the legislature to ensure that victims, survivors of victims, and witnesses of crimes are afforded the opportunity to make a statement that will be considered prior to the granting of postsentence release from confinement for any offender under the jurisdiction of the indeterminate sentence review board or its successor, or by the governor regarding an application for pardon or commutation of sentence." The statute does not require that these statements focus on the statutorily relevant issue, namely, whether the release of the petitioner would imperil public safety. Nor does the statute specifically permit prosecutors to weigh in during this process, though this frequently occurs.

[14] In re Brashear, 6 Wash. App. 2d 279, 285, 430 P.3d 710 (2018); In re Dodge, 198 Wn.2d 1017, 502 P.3d 349 (2022); In re Lambert, 29 Wn. App. 2d 878 (2023).

[15] Race and the Criminal Justice System, *Task Force 2.0:, Race and Washington's Criminal Justice System: 2021 Report to the Washington Supreme Court* (Seattle University, Fred T. Korematsu Center for Law and Equality, 2021).

[16] See endnote 9.

[17] For example, HB 1317 would have expanded the ISRB's jurisdiction to include all persons who are serving 20 year or longer sentences and who committed the offense(s) under the age of 21.

[18] *Indeterminate Sentencing Review Board, Biennial Report*: *January 2024-December 2025* (Olympia, WA: 2026), Chart 11, p. 20.

[19] The Department of Corrections reports smaller or no racial disparities in Juvenile Board outcomes. See, for example, Indeterminate Sentencing Review Board, Washington State Department of Corrections, *Biennial Report: January 2024 – December 2025* (Olympia, January 2026). We suspect that this difference stems from the fact that the DOC analysis is based on a shorter time frame and smaller number of cases.

[20] In the period from 2019-2025, legal counsel was involved in 83.3 percent of the hearings involving Latino petitioners, 82.6 percent of those involving White petitioners, 75 percent of

those involving Black petitioners, 71.4 percent of those involving Asian/Pacific Islander petitioners, and 40 percent of those involving Native American petitioners. Overall, legal counsel was present in 76.2 percent of the hearings involving petitioners of color and 83.3 percent of the hearings involving White petitioners during this timeframe.

[21] Multivariate regression analysis isolates the causal impact of each variable included in the model. To obtain meaningful results, complete information about all relevant variables (such as risk assessment scores and programming histories) would need to be included. Unfortunately, the Decisions & Reasons documents do not systematically include all of this information.

[22] RCW 46.61.024. The person who was convicted of this crime was sentenced to two months and 22 days in jail for this Class C felony.

[23] Jordan D. Segall, Robert Weisberg, and Debbie A. Mukamal, *Life in Limbo: An Examination of Parole Release for Prisoners Serving Life Sentences with the Possibility of Parole in California* (Stanford, CA: Stanford Criminal Justice Center, 2011).

[24] These individuals were released via reforms stemming from *Miller v. Alabama*. See Daftary-Kapur, Tarika and Tina M. Zottoli, *Resentencing of Juvenile Lifers: The Philadelphia Experience* (Montclair State University, 2020).

[25] K. Beckett and A. Goldberg, *Sentencing Reform in Washington State: Progress and Pitfalls* (Seattle: The Seattle Clemency Project, 2024).

[26] National Research Council, *The Growth of Incarceration in the United States: Exploring Causes and Consequences*, edited by J. Travis, B. Western, and S. Redburn (Washington, D.C.: The National Academies Press, 2014).

[27] RCW 9.94A.730(3) states (in part) that "the Board shall order the person released under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released."

[28] See endnote 27 above. In addition, RCW 9.94A.730(3) states (in part) that "the board shall give public safety assessments the highest priority when making discretionary decisions regarding the ability for release and the conditions of release."

[29] RCW 9.94A.730(2) states that "No later than five years prior to the date the offender will be eligible to petition for release, the department shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment."

[30] Brooks, 197 Wash.2d 309, 320, 495 P.3d 399

[31] Matter of Lambert, 29 Wash. App. 2d 878, 888, 543 P.3d 836, 841 (2024).

[32] In re Dodge, 198 Wn.2d 1017, 502 P.3d 349 (2022)

[33] B. Nam-Sonestein and N. Haney, *Bad Behavior: How Prison Disciplinary Policies Manufacture* Misconduct (Prison Policy Initiative, 2025).

[34] Office of the Corrections Ombuds, *Prison-Initiated Discipline Process Recommendations*, October 30, 2023.

[35] K. Calavita and V. Janess, *Appealing to Justice: Prisoner Grievances, Rights, and Carceral Logic* (Berkeley: University of California Press, 2014).

[36] These examples are taken from the *WAC Handbook*, Washington State Department of Corrections, effective December 1, 2023.

[37] D.C. Pyrooz and S. Decker, "We Spoke to Hundreds of Prison Gang Members: Here is What They Said About Life Behind Bars," *The Conversation*, April 3, 2020.
[38] In a January 2019 session of the Senate Human Services Reentry & Rehabilitation, Juvenile Board members reported that violent behavior is common among people incarcerated as juveniles during the first decade of their incarceration and up to age 26. For this reason, these Board members reported focusing on the last five to ten years of incarceration. See Work Session, Experience in Implementing the Miller Fix, available at https://www.tvw.org/watch/?clientIET=93759224947&eventID=20190 l1232&autoStartStream=true.
[39] Ibid.
[40] Matter of Lambert, 29 Wash. App. 2d 878, 888, 543 P.3d 836, 841 (2024).
[41] This information is taken from the Personal Restraint Petition filed on behalf of the petitioner with the Court of Appeals for the State of Washington Division III on June 16, 2026.
[42] This conclusion is supported our interviews with petitioners, attorneys who represent them, and our review of recent Decisions & Reasons documents.
[43] In this case, the Board indicated that it reviewed the following criminal case records: the "Probably [sic] Cause Statement dated 9-09-2024, numerous documents from 2022 request for resentencing, and police reports." The Affadavit of Probable Cause is submitted at the time charges are filed; for this reason, it appears that the date entered for this document on the Decisions and Reasons form is an error. This was confirmed by the attorney representing the petitioner.
[44] In this case, the petitioner filed a PRP which provides evidence that the petitioner's account of the circumstances preceding the crime was, in fact, supported at trial. In re Munguia, filed in the Court of Appeals for the State of Washington Division III.
[45] S. Schade S and M.M. Thielgen, "Commentary: Problems with Police Reports as Data Sources: A Researchers' Perspective," *Frontiers in Psychology* 13:8732-35 (2022).
[46] In re Lambert, 29 Wn. App. 2d 878 (2023).
[47]L.J. Jaggi, B. Mezuk, D.C. Watkins, and J.S. Jackson, "The Relationship Between Trauma, Arrest, and Incarceration History Among Black Americans," *Society and Mental Health* 6, 3 (2016): 187-206; B. Western, "Lifetimes of Violence in a Sample of Released Prisoners," *The Russell Sage Foundation Journal of the Social Sciences* 1, 2 (2015): 14-30; N. Wolff et al, "Trauma Exposure and Posttraumatic Stress Disorder Among Incarcerated Men," *Journal of Urban Health: Bulletin of the New York Academy of Medicine* 91,4 (2014):707-19. L.E. Roos et al, "Linking Typologies of Childhood Adversity to Adult Incarceration: Findings from a Nationally Representative Sample," *American Journal of Orthopsychiatry*, 86(5), 584–593 (2016).
[48] D.W. Brown et al., "Adverse Childhood Experiences and Childhood Autobiographical Memory Disturbance," *Child Abuse & Neglect* 31 (2007) 961–969.
[49] This information is taken from the Personal Restraint Petition filed on behalf of the petitioner with the Court of Appeals for the State of Washington Division III on June 16, 2026.
[50] N. Hsieh, *Left Behind: Developmental Disability in the Pursuit of Parole* (Palo Alto: Stanford Intellectual and Developmental Disabilities Law and Policy Project, Stanford Law School, 2018).
[51] C. Haney, *The Psychological Impact of Incarceration: Implications for Post-Prison Adjustment* (Office of the Assistance Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, 2001).

[52] L. Kazemian, "Pathways to Desistance from Crime Among Juveniles and Adults: Applications to Criminal Justice Policy and Practice," NCJ 301503, Chapter 6 in *Desistance From Crime: Implications for Research, Policy, and Practice* (Washington, DC: U.S. Department of Justice, National Institute of Justice, 2021) at 163.
[53] "Where, as here, the decision focuses primarily on historical facts relevant to public safety yet fails to discuss any potential conditions of release or mention significant findings of rehabilitation… we cannot say that the ISRB applied the statutory presumption of release." In re Dodge, 198 Wn.2d 1017, 502 P.3d 349 (2022).
[54] A. Spruit et. al, "Age Differences in the Severity, Impact and Relative Importance of Dynamic Risk Factors for Recidivism," *Journal of Criminal Justice* 50 (2017): 69-77.
[55] R. Heffernan and T. Ward, "A Comprehensive Theory of Dynamic and Protective Factors," *Aggression and Violent Behavior* 37 (2017): 129-41.
[56] A. Spruit et. al, "Age Differences in the Severity, Impact and Relative Importance of Dynamic Risk Factors for Recidivism," *Journal of Criminal Justice* 50 (2017): 69-77.
[57] R.J. Sampson and J.H. Laub, "A Life-Course View of the Development of Crime," *The ANNALS of the American Academy of Political and Social Science*, 602(1), 12-45 (2005).
[58] Dr. Barry Krisberg, quoted in J. Isard, Jeremy, "Under the Cloak of Brain Science: Risk Assessments, Parole, and the Powerful Guise of Objectivity," *California Law Review* 105, 4 (2017): 1223-1258 at 1239.
[59] Ibid at 1238.
[60] M. Rice et al., "Validation and Revision of the VRAG and SORAG: The Violence Risk Appraisal Guide– Revised (VRAG-R)," *Psychological Assessment* 25: 951-65 (2013).
[61] A. J.J. Glover et al., "A Cross-Validation of the Violence Risk Appraisal Guide—Revised (VRAG–R) Within a Correctional Sample," *Law and Human Behavior* 41, 6 (2017): 507-518 (at 514).
[62] Ibid.
[63] A. Spruit et. al, "Age Differences in the Severity, Impact and Relative Importance of Dynamic Risk Factors for Recidivism," *Journal of Criminal Justice* 50 (2017): 69-77.
[64] K.S. Douglas et al., *HCR-20 (Version 3): Assessing Risk for Violence*. Mental Health, Law and Policy Institute, Simon Fraser University (2013).
[65] Dr. Jennifer Skeem, quoted in J. Isard, Jeremy, "Under the Cloak of Brain Science: Risk Assessments, Parole, and the Powerful Guise of Objectivity," *California Law Review* 105, 4 (2017): 1223-1258 at 1238.
[66] Centers for Disease Control and Prevention, "About the CDC-Kaiser ACE Study," *Violence Prevention*, last modified April 2, 2024, https://www.cdc.gov/violenceprevention/aces/about.html
[67] M.G. Yannon, et al., "Cumulative Adverse Childhood Experiences (ACEs) and Recidivism: A Meta-Analysis," *Criminal Justice and Behavior* 2024: 1–27.
[68] G.T Harris et al., "A Comparison of the Violence Risk Appraisal Guide, Psychopathy Checklist–Revised, and Child and Adolescent Taxon Scale: Predictive Utility and Cross-Cultural Generalizability," *Behavioral Sciences & the Law* 23, 2 (2005): 271–285.
[69] Psychological Assessment Resources, Inc. *PAI-CS: PAI interpretive report for correctional settings*.

[70] D. Boduszek and A. Debowska, “Critical Evaluation of Psychopathy Measurement (PCL-R and SRP-III/SF) and Recommendations for Future Research,” *Journal of Criminal Justice* 44 (2016): 1–12.
[71] For example, one study found that "scores on the PCL-R differed significantly between opposing forensic evaluators and that the difference was typically in a direction that benefitted their retaining party.” See D.A. Krauss and N. Scurich, “Risk Assessment in the Law: Legal Admissibility, Scientific Validity, and Some Disparities between Research and Practice: Risk Assessment in the Law,” *Behavioral Sciences & the Law* 31 (2): 215–29 at 223.
[72] T. DeAngelis, “A Broader View of Psychopathy,” *Monitor on Psychology* 53, 2: 46 (March 1, 2022).
[73] B. Uttl, K. Sikma, & M. Tat, “Personality Assessment Inventory (PAI): Obsolete Norms Identify Psychopathology in Nearly Everyone,” *PeerJ,* 13 (2025), e20340.
[74] A. Spruit et. al, “Age Differences in the Severity, Impact and Relative Importance of Dynamic Risk Factors for Recidivism,” *Journal of Criminal Justice* 50 (2017): 69-77.
[75] S. Sreenivasan et al., “Addressing Systemic Bias in Violence Risk Assessment,” *Journal of the American Academy of Psychiatry and the Law, 50*, 4: 626–635 (2022).
[76] R.D. Crutchfield et al., “Racial Disparity in Police Contacts,” Race and Justice 2 (3): 179-202 (2012).
[77] Ibid; Race and the Criminal Justice System, *Task Force 2.0:, Race and Washington's Criminal Justice System: 2021 Report to the Washington Supreme Court* (Seattle University, Fred T. Korematsu Center for Law and Equality, 2021); S. Sreenivasan et al., “Addressing Systemic Bias in Violence Risk Assessment,” *Journal of the American Academy of Psychiatry and the Law, 50*, 4: 626–635 (2022).
[78] C. Slobogin, *Primer on Risk Assessment for Legal Decision-Makers* (Vanderbilt Criminal Justice Program, 2020).
[79] S. Sreenivasan et al., “Addressing Systemic Bias in Violence Risk Assessment,” *Journal of the American Academy of Psychiatry and the Law, 50*, 4: 626–635 (2022) at 633.
[80] Ibid at 632.
[81] J. P. Singh et al., “A Comparative Study of Violence Risk Assessment Tools: A Systematic Review and Metaregression Analysis of 68 studies Involving 25,980 Participants,” *Clinical Psychology Review* 31, 3: 499-513 (2011).
[82] Robert Hare, the creator of the PCL-R, explicitly stated that this test was not designed to function as a stand-alone risk assessment. See G.T. Harris, R.E. Rice, and C.A. Quinsey, “Short- and Long-Term Recidivism Prediction of the PCL-R and the Effects of Age: A 24-Year Follow-Up,” *Law and Human Behavior* 21, 6 (1997): 683–695.
[83] Matter of Lambert, 29 Wash. App. 2d 878, 888, 543 P.3d 836, 841 (2024).
[84] RCW 9.94A.730(2) states that “No later than five years prior to the date the offender will be eligible to petition for release, the department shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.”
[85] In cases in which the petitioner did not refuse programming, either the DOC did not provide recommended programming to the petitioner or the ISRB Juvenile Board identified additional programming needs during the hearing that were not previously identified by the DOC. Either

way, it seems that the statutory goal of ensuring that the programming needs of *Miller* defendants are met prior to their review by the Juvenile Board is not consistently met.

[86] The Sentencing Project, *The Second Look Movement: An Assessment of the Nation's Sentence Review Laws* (Washington D.C., 2024, updated 2025) (see Recommendation #6).