

## **Balancing Legitimacies: Efficiency, Fairness, and the Transformation of Parole Oral Hearings**

PHILLIPS, Jake, PELOW, David <<http://orcid.org/0000-0001-6535-8095>>, OLIVER, Charlotte and PURNELL, Christopher

Available from Sheffield Hallam University Research Archive (SHURA) at:

<https://shura.shu.ac.uk/36501/>

---

This document is the Published Version [VoR]

### **Citation:**

PHILLIPS, Jake, PELOW, David, OLIVER, Charlotte and PURNELL, Christopher (2025). Balancing Legitimacies: Efficiency, Fairness, and the Transformation of Parole Oral Hearings. *British Journal of Criminology*. [Article]

---

### **Copyright and re-use policy**

See <http://shura.shu.ac.uk/information.html>

# Balancing Legitimacies: Efficiency, Fairness and the Transformation of Parole Oral Hearings

Jake Phillips<sup>\*ID</sup>, David Peplow<sup>ID</sup>, Charlotte Oliver<sup>ID</sup> and Christopher Purnell

<sup>\*</sup>J. Phillips, Institute of Criminology, University of Cambridge, Sidgwick Avenue, Cambridge CB3 9DA, United Kingdom; e-mail: jrp60@cam.ac.uk; D. Peplow, Sheffield Creative Industries Institute, Sheffield Hallam University, Sheffield, United Kingdom; C. Oliver, Institute of Law and Justice, Sheffield Hallam University, Sheffield, United Kingdom; C. Purnell, School of Law, University of Reading, Reading, United Kingdom.

This article examines the transformation of parole oral hearings in England and Wales following their shift to remote delivery. Drawing on qualitative interviews and hearing transcripts, it explores how remote hearings affect the legitimacy of parole, focusing on tensions between efficiency, fairness and participation. Using a framework of legitimacy underpinned by Suchman's concept of procedural, consequential and pragmatic legitimacy, the article analyses how institutional efforts to reduce delay can simultaneously erode the fairness-based underpinnings of oral hearings. It argues that the rapid uptake of technology in response to crisis can produce lasting institutional change, often without sustained scrutiny or re-legitimation.

**KEY WORDS:** parole, oral hearings, COVID-19 pandemic, legitimacy, procedural justice, criminal justice reform

## INTRODUCTION

The Parole Board in England and Wales has long experienced lengthy delays and backlogs in its work. This 'culture of delay' (Padfield 2018) is experienced negatively by prisoners and shapes their perception of the legitimacy of the process. Added to this are longstanding political concerns about whether the Parole Board is making correct decisions, leading to increasing levels of political meddling that fail to respect the separation of powers doctrine and undermines the principles underpinning the system. The COVID-19 pandemic provided the Parole Board with the opportunity to reduce delays and backlogs by carrying out many more remote hearings than prior to the pandemic. The current situation is that hearings are now remote 'by default' with over 95 per cent of hearings now being held remotely (The Parole Board 2023). This is despite concerns around remote court settings such as oral hearings creating barriers to participation and good decision-making (de Vocht and Jacobs 2024).

This article examines the implications of this shift for the legitimacy of the parole process, focusing specifically on how legitimacy is experienced by prisoners. Through analysis of interviews undertaken with different groups who have recent experience of remote hearings (prisoners, released prisoners, probation practitioners, Parole Board members and legal representatives) we identify a tension between a desire for efficiency on the one hand, and a need for fair (high quality, procedurally just) hearings on the other. Our analysis suggests that remote hearings achieve the former well, but pose more challenges as regards the latter. While legitimacy is often discussed in relation to public confidence or institutional performance, the focus here is with what [Bottoms and Tankebe \(2012\)](#) call the dialogic nature of legitimacy: how those subject to power—for example, prisoners—perceive and respond to the authority of the Parole Board. Drawing on [Beetham's \(1991; 2013\)](#) and [Suchman's \(1995\)](#) typologies, we understand legitimacy as multi-dimensional, encompassing pragmatic (effectiveness), moral (normative appropriateness) and cognitive (taken-for-grantedness) dimensions. However, we argue that for prisoners, legitimacy is most powerfully shaped by their experience of procedural justice: whether they feel heard, respected, treated fairly and able to trust the motives of decision-makers ([Tyler 2006](#)).

The Parole Board in England and Wales has come in for significant criticism from both the public and politicians in recent years. One significant example is the 'Worboys case' which concerned the decision by the Board to release a high profile prisoner who had been convicted of a series of rapes carried out in the course of his work as a taxi driver in London. Following a high-profile campaign by victims, the decision was eventually overturned by the High Court. The ensuing scandal led to the sacking of the Chair of the Parole Board and a series of reforms which sought to enhance the transparency of Parole Board decisions ([Annison 2020](#)).

Recent years have also seen an increasing willingness by politicians to influence Parole Boards which lack courts' 'legitimacy of history, transparency and comparative freedom from political interference' ([Fitzgerald et al. 2022](#): 1396). Some have argued that increased political interference in the field of parole is an illustration of its increased politicization in which developments in this arena are increasingly 'premised upon nostalgia, nationalism and the projection of a strong, centralised state' ([Annison 2020](#): 417; [Annison and Guiney 2022](#)). Legislation has afforded UK government ministers greater powers in relation to release decisions. Moreover, in 2022 the Conservative government sought to prevent individual probation officers—acting as representatives of HMPPS and, by extension, the Justice Secretary—from offering an opinion on whether a prisoner could safely be released. This move was part of a broader attempt to centralize control over parole decisions, although it was subsequently disappplied by the Divisional Court (*R (Bailey and Morris) v Secretary of State for Justice* [2023] EWHC 555). We have also seen the introduction of public hearings for high profile prisoners with a view to improving the transparency and openness of hearings and subsequent decisions and a greater role for victims in the oral hearings process ([Dingwall and Millar 2023](#)). Whilst these are important developments and context, this article focuses on the experiences of those who contribute to and/or are subject to parole decisions through the lens of a rapid move to remote hearings during and after the COVID-19 pandemic. We argue that the shift to remote hearings offers a case study of how institutions attempt to rebuild legitimacy through procedural reforms. While remote hearings have improved efficiency and reduced delays—enhancing the Board's pragmatic legitimacy—they risk undermining moral legitimacy by diminishing prisoners' sense of voice, respect, and participation.

## THE PAROLE BOARD AND A CULTURE OF DELAY

The Parole Board in England and Wales has suffered from a significant legitimacy deficit in recent years. Legitimacy refers to the recognition of the rightful exercise of power and can be seen as operating across three domains: those who exercise power, those subject to it and third parties

whose endorsement can sustain it (Beetham 2013). Legitimacy also relates to the willingness of those subject to that power to comply with it voluntarily (Beetham 1991; Tyler 2006). While legitimacy can be assessed from multiple vantage points—including institutional, political and public perspectives—our focus is on external legitimacy as experienced by prisoners, who are directly affected by parole decisions and whose perceptions of fairness are central to the system's moral authority. In this sense, legitimacy has been shown to foster voluntary compliance and cooperative behaviour, leading to greater order, reduced offending and institutional effectiveness (Beetham 1991; Tyler 2006). Importantly, legitimacy is not a static state; it is something negotiated via interactions in a range of settings and rests on the idea that legitimacy depends on both power-holder's use of authority and how those subject to that power respond (Bottoms and Tankebe 2012).

Legitimacy can be understood as having both external and internal dimensions. External legitimacy refers to how institutions are viewed by people who are outside of the running of the organization and do not wield power, such as the general public and—in this case—prisoners. Internal legitimacy, meanwhile, refers to the belief by people within an organization that it is doing the right thing (van der Steen *et al.* 2022). This article is primarily concerned with external legitimacy in that it focuses on how the move to remote oral hearings shapes prisoners' experiences of decision-making across different modalities of hearing: remote and in-person. For the public, concerns around legitimacy and the Parole Board have tended to coalesce around issues of transparency, public protection and controversial release decisions. Whilst there is little research on prisoners' perceptions of parole specifically, research does demonstrate that prisoners' experiences of procedural justice shape the legitimacy of the institution (Ryan and Bergin 2022). The legitimacy of parole decision-making might rest on the perception that release decisions are being conducted in a way that adheres to the principles of procedural justice, enabling prisoners to have a voice, experience the process as neutral, be treated with respect and see the Board as having trustworthy motives.

We draw on a multi-dimensional understanding of legitimacy, combining insights from Beetham (1991; 2013), Suchman (1995) and Bottoms and Tankebe (2012). Beetham's framework identifies three dimensions of legitimacy: legality (compliance with established rules), justifiability (normative alignment with shared values) and express consent (recognition by those subject to power). Suchman (1995) complements this with a typology of pragmatic (self-interest-based), moral (normative appropriateness) and cognitive (taken-for-grantedness) legitimacy. Bottoms and Tankebe (2012) further develop a dialogic model, emphasizing that legitimacy is not a static attribute but a dynamic process of claim and response between power-holders and those subject to their authority.

In the context of parole, legitimacy is not only about institutional performance or public confidence but also about how prisoners experience the process of decision-making. Here, we argue that procedural justice—the fairness of the process—is a key determinant of legitimacy in the eyes of prisoners. Drawing on Tyler's (2006) influential work, we focus on four core elements of procedural justice: voice (the opportunity to be heard), respect (being treated with dignity), neutrality (impartiality of decision-makers) and trust (belief in the motives of authorities). These elements shape whether prisoners perceive the parole process as legitimate, regardless of the outcome.

This focus on procedural justice allows us to move beyond abstract or institutional definitions of legitimacy and instead privilege the lived experiences of prisoners. It also enables a more precise analysis of the trade-offs introduced by the shift to remote hearings. While remote hearings may enhance pragmatic legitimacy by reducing delays and increasing efficiency, they may simultaneously undermine moral legitimacy by compromising prisoners' sense of voice, respect and trust in the process. Our analysis therefore explores how different modalities of parole hearings (remote vs. in-person) shape these dimensions of legitimacy and how prisoners respond to them.

The persistence of delays and backlogs in parole hearings can be understood as a challenge to the procedural nature of parole oral hearings. Prisoners experience these delays as fundamentally unjust, especially when they appear systemic or outside of one's control:

delays, disruption, and mistakes mar a system that is unable to operate as it should. Those whose liberty is at stake, as well as the public at large, pay a heavy price. (JUSTICE 2022: 9)

Delays are experienced by prisoners in exclusively negative ways because they extend incarceration and because they undermine the perceived fairness of the process. This is compounded by the responsabilizing ethos of parole, which demands that prisoners demonstrate rehabilitation and reduced risk (e.g. through courses, behavioural change and the development of 'insight'), often in the absence of the structural supports needed to do so (Dagan 2023; Silverstein 2005). In such a context, the failure of the system to meet its own procedural obligations, while continuing to impose expectations on prisoners, damages legitimacy from within. Prisoners may come to see the process as inefficient and as setting them up to fail.

The Parole Board has faced sustained pressure to reduce delays and address the long-standing backlog of oral hearings, an issue with both normative and legal implications. Delays in parole decision-making have been found to undermine the perceived fairness of the system, and in some instances, they have constituted a breach of human rights with some prisoners having successfully appealed to both the Court of Appeal and the European Court of Human Rights (e.g. *Betteridge v. UK*, App No. 1479/10, ECtHR, 2013). At a practical level, delays can extend detention beyond what is legally or ethically defensible, while also producing distress and uncertainty among prisoners. Financially, the system has also incurred costs, with the [National Audit Office \(2017\)](#) reporting £1.1 million in compensation paid out in a single year due to unlawful detention.

Efforts to reduce delays have focused on multiple fronts. Commentators have pointed to structural limitations in the Parole Board's powers such as its lack of authority to compel the timely cooperation of prisons, healthcare providers and other agencies—resulting in frequent adjournments and deferrals ([Annison and Guiney 2022](#); [Padfield 2018](#)). Other areas identified for reform include the quality and length of the parole dossier, scheduling practices, and the use of expert reports, all of which can contribute to unnecessary procedural complexity and delay ([Guiney 2023](#)). In response, the Parole Board itself has adopted several reforms, including a strategic priority to reduce waiting times and a longer-term aim to develop a more 'court-like' model, with enhanced case management capabilities ([The Parole Board 2023](#)). These initiatives reflect a growing institutional awareness that delay is not simply a logistical issue but a fundamental threat to legitimacy and justice.

## REMOTE ORAL HEARINGS: REBUILDING LEGITIMACY?

When institutions suffer from legitimacy deficits, they often engage in efforts to rebuild legitimacy by emphasizing different dimensions: pragmatic, moral and cognitive ([Robinson 2021](#); [Suchman 1995](#)). We suggest that the Parole Board has sought to restore legitimacy by institutionalizing remote oral hearings. While the move to remote hearings was initially driven by the COVID-19 pandemic, the Board's decision to retain remote delivery as the default mode of delivery following the lifting of restrictions suggests a more strategic or systemic justification. Unlike other aspects of criminal justice (e.g. prison visits or probation supervision), which largely reverted to in-person formats, over 95 per cent of oral hearings remain remote.

Oral hearings were first introduced for discretionary life sentence prisoners in the mid-1990s and were significantly reshaped by the Supreme Court's *Osborn* judgment (*Osborn and Booth v Parole Board* [2013] UKSC 61). This ruling extended the right to an oral hearing to all eligible prisoners, grounded in Article 6 of the European Convention on Human Rights. As the Court

made clear, 'the purpose of a fair hearing is not merely to improve the chances of the tribunal reaching the right decision. At least two other important values are also engaged ... the avoidance of the sense of injustice which the person who is the subject of the decision will otherwise feel'. This emphasis on participation aligns closely with the procedural justice literature, which highlights the importance of voice, respect and trust in shaping perceptions of fairness (Tyler 2006). Importantly, the Osborn judgment reframed the oral hearing as a safeguard of fairness so the Parole Board must hold an oral hearing whenever the stakes and facts of a case demand one, regardless of administrative convenience. As such, oral hearings are now a cornerstone of parole in England and Wales—sitting alongside dossiers, risk scores, victim impact statements and professional reports—as key sources of evidence and judgment.

In this context, the Board's shift to remote hearings can be understood as an effort to reinforce procedural legitimacy, which involves adhering to accepted processes and techniques to demonstrate organizational propriety (Suchman 1995). Remote hearings were initially a crisis response but quickly became a performance of rationality and responsiveness. By April 2020, the Parole Board had avoided the kind of backlog that afflicted other justice agencies (Jones 2020a), and by the end of 2020 hearing delays had reportedly fallen by 46 per cent (Prison Reform Trust 2020). In its COVID-19 recovery plan, the Board (Jones 2020b) committed to 'scaling up' remote hearings, which allowed it to publicly demonstrate efficiency, predictability and throughput. These are the hallmarks not only of procedural legitimacy but also of a broader new public management (NPM) ethos that privileges standardization and quantifiable outputs and emphasizes efficiency, performance measurement, and market-oriented reforms in public services (Hood 1991). In the context of the Parole Board, NPM is evident in the prioritization of throughput, scheduling targets and the use of quantifiable indicators such as release rates and hearing volumes (Guiney 2023).

However, this emphasis on procedure arguably sidelines moral legitimacy; the belief that organizational outputs are substantively beneficial or just. While procedural legitimacy may be achieved through greater levels of efficiency, moral legitimacy requires scrutiny of outcomes: do hearings conducted remotely allow prisoners to meaningfully participate? Do they support fair decision-making? While the Board has pointed to stable release and recall rates as evidence of consistency, there remains limited knowledge on how mode of delivery shapes the experience and perceived fairness of parole hearings.

In this light, the move to remote hearings may bolster legitimacy at the institutional level while compromising it at the experiential level. Existing literature on remote justice supports this tension. Harker and Ryan (2022) found that while professionals praised the efficiency of remote family court hearings, participants often felt disempowered and excluded. Rossner and Tait (2021) identified how virtual settings disrupt entrainment which is the synchronization of speech, movement and attention to legal rituals. Respect, turn-taking and rapport must be actively cultivated in remote hearings, yet often fall away in practice. Others have noted how remote courts risk alienating defendants, undermining fairness and transparency (Donoghue 2017; McKay 2018; Rowden 2018).

Thus, although remote hearings may support the Parole Board's pragmatic legitimacy in a managerial sense, they may simultaneously undermine procedural justice and moral legitimacy in the eyes of prisoners. The format of the hearing, we argue, is key to how decisions are made, as well as to how they are experienced and judged as fair. In this way, the rebuilding of legitimacy via remote hearings may be both effective and self-limiting.

## METHODS

This article is the culmination of two linked research studies. The first study sought to understand differences between remote and in-person oral hearings and was undertaken soon after the pandemic in mid-2021. We undertook conversation analysis of 30 oral hearing transcripts to explore



whether remote and in-person hearings differ in terms of typical interactional strategies used by participants. The remote hearings we were given access to were ‘virtual hearings’ (Rossner 2021) in the sense that all parties engaged with the hearing remotely by video or by telephone link.<sup>1</sup> To provide context for this analysis, we undertook interviews with 15 Parole Board members. These interviews focused on their experiences and perceptions towards the benefits and disbenefits of both modalities of oral hearing. Analysis of these interviews highlighted concerns about whether the drive towards a more efficient Parole Board was serving the interests of prisoners or the organization (Peplow and Phillips 2023). Meanwhile, analysis of the oral transcripts revealed the following facets of remote hearings compared with in-person hearings:

- that communication problems are more frequent in remote hearings compared to in-person hearings (Peplow and Phillips 2024);
- that prisoners face more adversarial questioning in remote hearings compared to in-person hearings (Peplow and Phillips 2025a), especially prisoners serving Indeterminate Sentences for Public Protection (IPP) sentences (Peplow and Phillips 2025b).

Whilst this first study was instructive, it did not tell us of the impact of the move to remote hearings on the wide range of participants in oral hearings, namely probation practitioners, legal representative and prisoners. We therefore undertook a follow-up study—in 2023—to capture the views of prisoners and other witnesses at oral hearings such as probation practitioners and legal representatives.

For the follow-up study, access was granted by HMPPS to interview prisoners, former prisoners and probation staff. The interviews with prisoners and former prisoners were carried out by peer researchers employed by User Voice, a charity with expertise in conducting research in prisons. The interviews with prisoners and former prisoners were overseen by Purnell. Interviews with the Parole Board members were undertaken by Phillips and Peplow, and HMPPS staff and legal representatives were interviewed by Oliver. Prisoners and former prisoners were recruited by User Voice through their user councils in prisons and probation regions and interviewed by peer researchers employed by User Voice. We aimed to recruit a group of prisoners and former prisoners that captured a range of different experiences of oral hearings: 16 had experience of only remote hearings, 2 had experience of only in-person hearings, and 12 others had experienced both modes. Nineteen of the prisoners/former prisoners had been successful in their most recent oral hearing (i.e. whereby the prisoner received their desired outcome: full release or move to open conditions), 10 had received a refusal of their application, and 1 prisoner’s recent hearing had been adjourned. HMPPS staff were recruited through emails sent on our behalf by the research lead in one probation region inviting people to participate. We also recruited probation practitioners—from that same region—via an email sent on our behalf by Napo, the probation officers’ union. Legal representatives were recruited via the Prison Lawyer’s Association who, again, sent an email on our behalf inviting people to get in touch if they were interested in participating.<sup>2</sup> In total, this article draws on data from a total of 57 interviews (see Table 1 for a breakdown of our sample). The sample size and sampling technique mean that the findings cannot be viewed as representative. However, the rich data that were generated and the consistency amongst both individual and groups of participants mean that the findings can be understood as meaningful representations of peoples’ experiences of remote hearings. Indeed, as with many qualitative studies, our findings are not intended to be statistically generalizable to all parole hearings, but

<sup>1</sup> As opposed to ‘video-enabled hearings’, in which one or more people appear by video but most parties appear in the same physical space.

<sup>2</sup> We were provided with approval to interview forensic psychologists, another important group of witnesses who attend oral hearings, but this request was declined by HMPPS due to resourcing constraints.

**Table 1.** Breakdown of participant sample

Participant group	Number of participants
HMPPS Staff	7
Current prisoners	21
Former prisoners	9
Legal representatives	5
Parole board members	15
Total	57

rather analytically generalizable to wider questions about legitimacy, communication, and procedural fairness in remote justice settings (Yin 2014). The interviews and transcripts analysed in this study were drawn from a purposive and, at times, opportunistic sample during a period of rapid institutional change. While this necessarily limits claims about representativeness, it does not diminish the value of the insights generated. Both studies were approved by Sheffield Hallam University’s ethics committee, the Parole Board’s Research Governance Group and the HMPPS National Research Committee.

We analysed the interviews using a ground-up approach to explore how remote hearings differ from in-person hearings and to identify the ways in which remote hearings both complicate and facilitate the delivery of oral hearings. This was done by deploying reflexive thematic analysis (Braun and Clarke 2006, 2021) to generate, through discussion and an iterative process of coding and theme generation, a set of themes that explain how and why oral hearings delivered via different modalities differ.

## FINDINGS

Our analysis identified three central issues related to the now widespread use of remote oral hearings. First, we consider the way remote hearings are perceived to shape procedural legitimacy and the extent to which the parole process is seen to adhere to fair, consistent and recognized rules and standards. We examine whether the remote format is understood by participants to support or undermine this form of legitimacy, particularly in terms of efficiency, consistency and transparency. Second, drawing on Rossner’s work on communication and ritual in virtual courts, we analyse the interactional consequences of remote hearings and how they affect participants’ experiences, perceptions of fairness and ability to engage. Third, we consider the impact that remote hearings have on prisoners’ access to legal representation and whether this poses risks to structural legitimacy. In this way, we seek to move beyond a binary of efficiency versus fairness, instead highlighting how modality shapes both the procedural legitimacy of the parole process and the experiences of decision-making and justice.

### Remote hearings and pragmatic legitimacy

Participants from across all four groups (prisoners, HMPPS staff, legal representatives and Parole Board members) identified that remote hearings could be held more quickly and thus could ease delays. This aligns with what Suchman (1995) terms pragmatic legitimacy; the perception that an institution is effective and responsive to stakeholder needs, particularly in terms of efficiency and throughput. Participants were therefore unified in seeing the mass roll-out of remote hearings as allowing for more efficiencies. We suggest that remote hearings allow the Parole Board to be more efficient, mitigate against the unpredictability of the oral hearing process and rely on the Board’s tendency to emphasize the calculability of the process through adhering to principles of



NPM. Lee, a Probation Officer, was clear that remote hearings save time and so 'I get it'.<sup>3</sup> Another Probation Officer, Geoff, told us that no-one is 'going to defeat the efficiency argument'. Again, these strategies bolster the Board's pragmatic legitimacy by demonstrating calculability, predictability and responsiveness to institutional pressures (Suchman 1995). Remote hearings appear to offer a powerful way for pursuing greater efficiencies, reflecting strategies associated with 'NPM'. While these efficiencies clearly enhance the Board's pragmatic legitimacy (Suchman 1995), they may also contribute to moral legitimacy in the eyes of some prisoners, particularly when reduced delays are experienced as a form of procedural fairness. For prisoners facing prolonged uncertainty or extended incarceration due to systemic backlogs, the ability to access a hearing more quickly may be seen not only as efficient but as right and just (Beetham 1991). In this way, pragmatic and moral legitimacy may converge, albeit unevenly.

Remote hearings were perceived to be beneficial for a number of reasons with greater efficiency being the overarching rationale. Whilst remote hearings can make things 'easier' for all participants, this is seen as important because of the effect it has on speeding up the process via fewer deferrals and delays:

I think it made it a bit easier for everyone involved, really, to do it video ... it also prevents things getting deferred ... for me personally I'd say virtual is definitely a lot better. (Paul, open prison, remote hearings only)

We also heard about how remote hearings allow the Parole Board to get the 'best people working on these things' (Ben, a released prisoner with experience of remote hearings) and this was regarded as a significant benefit for the Parole Board, as articulated by Beth, a panel member:

I could be sitting in two different locations in the country on a day... so I think from a schedule point of view, and particularly with the specialists like psychologists and psychiatrists they can be better used in that way. (Beth, PB<sup>4</sup>)

Remote hearings allow the Parole Board to conduct more hearings, which brings multiple benefits, as outlined to us by Charlie, a prisoner in an open prison who had experience of remote hearings 'financially, environmentally, you know, it's a win-win situation, it really is'. Relatedly, remote hearings allow prisoners to be more efficient with who they have in the room with them. For example, Charlie also told us about how the remote mode meant that he did not have so many people in the room with him and that those he did have were people he knew and trusted:

not being in a room with too many people was really, really beneficial to me and the people that were in the room, I had a close bond with, like my offender manager, psychology, I've worked with these people. (Charlie)

Other parolees similarly told us that the remote mode was 'beneficial to all parties ... and that's a massive factor' (Charlie, a prisoner with experience only of remote hearings). Whilst some of the consequences of remote hearings may lead to better outcomes (i.e. consequential legitimacy), the overriding justification seems to be efficiency, or pragmatic legitimacy. In light of longstanding concerns about a culture of delay, the efficiency argument has served a useful legitimizing function for the continued widespread use of remote hearings. The Parole Board has justified the move to

<sup>3</sup> All participant names are pseudonymized to protect individual identities.

<sup>4</sup> Use of PB in the participant code denotes that the participant was a parole board member.

remote hearings through invoking evidence that release rates have remained consistent, and that serious further offence rates have remained stable. These considerations drive the business of the Parole Board with the Board's business plan ([The Parole Board 2023](#)) focusing almost exclusively on these quantifiable measures of 'success'. Indeed, one panel member reflected positively on the sheer number of oral hearings that can be conducted remotely, as compared with the previous, mainly in-person, situation:

... we've done more oral hearings in lockdown than we've ever done ... so I think from that point of view that has got to be right, that we can get through some of the work quicker and if it's more efficient. (Susan, PB)

This quote from Susan is a neat reflection of the moral nature of the legitimacy that is being pursued here: 'that has got to be right'. Indeed, we might argue that this reflects a belief in the rightness of efficiency, but also illustrates how pragmatic legitimacy can be conflated with moral legitimacy where effectiveness is taken as a proxy for fairness ([Beetham 1991](#); [Suchman 1995](#)). Indeed, in its inquiry into parole, [JUSTICE \(2022\)](#) highlighted problems with the numbers of hearings that are adjourned or deferred. Parole Board figures show that 38.2 per cent of hearings are deferred or adjourned ([The Parole Board 2023](#)). Adjournments mean that prisoners may remain in custody when otherwise they would have been released and create significant operational costs for the Parole Board, as well as other parties such as the Public Protection Casework Section, prisons and the Probation Service. Many adjournments are avoidable with one cause for adjournments being the availability of parole members, legal representatives and witnesses and issues with prison logistics.

Remote hearings also contribute to procedural legitimacy by allowing the Board to mitigate the effects of unpredictability by being 'more nimble' (Susan, PB), a point echoed by Whitney:

Hearings can be set up much quicker... If you adjourn a hearing, you can reconvene much quicker from our availability. (Whitney, PB)

The main benefit of remote hearings appears to be the efficiencies this mode affords the Parole Board. These efficiencies serve as a key source of pragmatic legitimacy, allowing the Board to demonstrate institutional competence and responsiveness in the face of political and operational pressures ([Suchman 1995](#)). The Parole Board justifies their use through an almost exclusive reliance on quantitative measures, in further evidence of the influence of NPM on the workings of the organization ([Guiney 2023](#)). This is not to deny that remote hearings can provide opportunities for an improved system and better outcomes. Remote hearings present significant benefits in terms of efficiency, which is advantageous to both prisoners, the Parole Board and other key witnesses. Indeed, [Rossner \(2021: 342\)](#) cautions against 'fetishizing' the physical court as this can be an 'alienating and degrading experience' for participants in ways that are similar but different from remote and this needs to be factored into our understanding of the relative benefits of a remote hearing. Comparing remote with in-person hearings may represent a false dichotomy in that all hearings differ and the mode of delivery does not inherently define them, nor necessarily make them problematic; hearings can be 'as different from each other depending which prison you are as remote hearings are from in-person hearings' (Arthur, PB). At the same time, our interviewees also presented a view that remote hearings are rarely as good as in-person hearings.

### Remote hearings and procedural justice

Our analysis also builds on existing research on the material conditions of remote justice settings and entrainment ([Rossner 2021](#); [Rossner and Tait 2023](#)) and illustrates the way the remote mode

shapes the communication that occurs in oral hearings. We identify the role and impact of the mediating screen on perceived levels of formality of the hearing, how the remote mode can create an 'impersonal' space, and the ways in which remote hearings may encumber more persistent problems with effective communication when compared with in-person hearings.

The oral hearing is a 'high stakes' interactional event (Lavin-Loucks and Levan 2018) in which the organization of communication and process are tightly managed. Oral hearings are formal events that are governed by procedures set out by the Parole Board (The Parole Board 2023) and enacted through the hearing Chair. The setting of the oral hearing constrains speakers and different participants' rights to speak are asymmetrical: prisoners and witnesses not currently being questioned are not expected to interject and turn-taking rules are determined in advance and tied to participants' roles. Despite these macrolevel formal constraints, the oral hearing often involves participants engaging in microlevel interactional behaviours that are more informal and responsive to the pressures of the situation than would be permissible in a more formal setting, such as a court. Unlike a court, the oral hearing is not intended to be an 'adversarial' setting (The Parole Board 2023: 6) and panel members have told us of the importance of developing some degree of rapport with the prisoner and putting them at their ease (Peplow and Phillips 2023). These interactional dynamics are central to prisoners' perceptions of procedural justice. As Tyler (2006) argues, legitimacy is shaped by outcomes and the fairness of the process, particularly whether individuals feel they have a voice, are treated with respect, perceive neutrality, and trust the motives of decision-makers.

The question of formality came to the fore when we asked our interviewees about the differences between in-person and remote oral hearings. Remote hearings were generally identified as being more informal than in-person hearings: a finding that supports Rossner's contention that remote courts incorporate informal features due to the absence of a formal, material environment (Rossner 2021: 342–3):

when you're in the room, there's a lot of tension. You know, you might have a break, but there's a lot of tension in the break because the person might be there with his legal Rep or his family members ... So I think from professional professional perspective it's more relaxed. (Jo, Probation)

This relative informality of the remote mode was viewed as a positive for some of the interviewees, and the mediating effect of the screen was reported as a protective barrier against feelings of anxiety brought on by the high-stakes nature of the oral hearing (see also, Rossner 2021: 347). Some prisoners reflected positively on the remote mode as it engendered fewer feelings of unease and worry. Charlie told us the remote mode was 'beneficial' because he did not need to be in a room 'with too many people'. Louis's feelings of anxiety were also somewhat alleviated by the remote mode:

Because I struggle with anxiety, I'm not a social person. So, I feel that with it being through a monitor screen, I can take my time with that. I'm not dictated by anybody saying, 'Come on'. Like, badgering for an answer or trying to twist words or whatever it is to try and enforce a different reaction to what they're seeing ... that's a big fault with it being in person ... it's like they're looking at you, they've asked you a question but it's like, get that question out, we want your answer now. (Louis, Open prison, experience of both hearings)

Max (a prisoner with experience of remote and in-person hearings) also preferred having his hearing by videolink, as it did not seem 'as much pressure', whilst Brenda, a panel member, also reported that participants in remote hearings 'seem more relaxed', which helped to get 'the quality of information ... from people'. Interviewees attributed the relative informality of remote hearings

to the material conditions of the virtual mode: the relative comfort of being able to hold hearings 'at home' for panel members and professional witnesses was beneficial, while for some prisoners remote hearings were associated with less pressure because of the motif of screen-as-barrier. Later in this section we give evidence of a different reading of this motif.

While interviewees were generally unified in seeing remote hearings as less formal than in-person hearings, they identified several negative effects of this. Many felt that there was a 'sense of loss' in remote hearings, when compared to the in-person mode, because levels of formality were taken away (for a similar discussion of remote courts, see [Rowden 2018](#)):

I think sometimes the fact that it is on a television or a screen it takes that reality and the gravitas from the situation and I think that that definitely has an impact on how we relate to prisoners and how prisoners relate to us and witnesses. I think the remoteness does come across and sometimes you'll see behaviours, prisoners do things that they wouldn't do if you were sat opposite a desk with them. (Jane, PB)

Whitney, a panel member, spoke about degrees of informality 'creeping' into remote hearings, which she had to 'keep on top of' to avoid 'confidence in the process' being 'undermined' (Whitney, PB). If some of the professionals felt that the remote mode undermined the gravitas of the situation, some prisoners in turn reported that remote hearings displayed a lack of respect for the situation of the prisoner. One former prisoner argued that 'if somebody's going to dictate my life and what's going to happen ... I think they could at least be in-person' (Oscar, released prisoner with experience of in-person and remote hearings). Pete, a current prisoner in closed conditions, agreed, stating that oral hearings need to be in-person so that panel members could look the prisoner 'in the eyes' and understand that 'their decision affects someone's life' (Pete, experience only of remote hearings). Donald—a prisoner in an open prison whose application for parole had been unsuccessful and who had only experienced remote hearings—put the case most firmly arguing that remote hearings are not 'fair':

it's a barrier ... It was a bit like I was being held down on the bed and I couldn't talk. That's how it made me feel. So, that's why I probably did half rubbish and it probably put me in a mood as well a little bit. That's why I was being blunt with them. You're talking to me through a screen, it's rude. (Donald)

Donald's experience reflects a breakdown in both voice and respect, two core components of procedural justice ([Tyler 2006](#)). Rather than facilitating participation, the screen risks becoming a barrier to being heard and acknowledged as a person whose views matter.

The comparative informality was also evidenced by interviewees' observations that participants were more likely to lapse into inappropriate behaviour in remote hearings. Panel members recounted situations where prisoners in remote hearings engaged in unsuitable conduct: one complained that prisoners can 'fall into informality', with the effect that they 'don't regulate themselves ... in terms of their behaviour, their conduct' (Jane, PB). Generally, however, interviewees picked out professional witnesses as being most susceptible to inappropriately informal behaviour in remote hearings. Panel members reported that witnesses were sometimes 'more blasé' and 'less focused' (Whitney, PB), leading to a 'decline in quality' in the evidence being provided to the panel (Kyle, PB). We also heard reports of a witness giving evidence while lying on their bed in a hoodie (Whitney, PB) and a Christmas tree being decorated behind a panel member in their home (Lucy, Legal Representative). These lapses in formality and attentiveness may erode perceptions of neutrality and trust. When participants observe unprofessional behaviour or feel that hearings lack seriousness, they may question the impartiality and sincerity of the process ([Tyler 2006](#)).

Related to this, interviewees highlighted the problem of increased distractions in remote hearings, seeing these as affecting the formality and the gravitas of the event. As we have discussed before, many of the participants mentioned technological glitches that impeded the smooth running of the hearing (Peplow and Phillips 2023; 2024), but there were also reports that the material conditions of remote hearings led to other distractions, such as temptations to use mobile phones and emails during a hearing. One panel member described 'distractions' as a 'major disadvantage' of remote hearings, reflecting particularly on the way that mobile phones are locked away during in-person hearings so that 'your whole focus is on that hearing' (Ian, PB). Lucy, a legal representative, similarly described the way remote hearings mean staff must manage distractions:

I have to manage the distractions in my office much more obviously than if I'm in the prison. So the key one there being this (\*holds up phone\*). I never used to have my phone sat there next to me during a parole hearing, ... as much as I want to be professional and concentrate at all times, I am a human being. And if my mobile phone is sat here, then the temptation to read messages as they come in, stuff like that is quite overwhelming. (Lucy, Legal Representative)

Fred, a Probation Officer, said that it is 'really hard to concentrate' in remote hearings, while Darren, a prisoner, told us his experience of a remote hearing in which 'someone was walking by the door' for 'about two hours' and that this was 'quite off-putting' (Darren, open prison with experience only of remote hearings). Such distractions were also at play in the video-enabled court appearances observed by McKay (2018), suggesting a potential wider problem of remote justice.

So far, we have described reports of feelings that remote hearings are more likely to be regarded as informal events. This was associated with lots of positive effects, enabling participants to feel more relaxed and less anxious, but it also engendered negative feelings that remote hearings cannot retain the gravitas of in-person hearings and do not allow for participants to engage in the most appropriate ways. Tied up with this was a feeling that remote hearings are impersonal. Other research on remote justice settings has suggested that this context may be depersonalizing (Wallace *et al.* 2019) and for many of our interviewees the impersonal nature of the remote mode was linked to the material conditions of these hearings. Sarah, a Probation Officer, told us that the 'process' of a remote hearing can feel 'distancing', and that the lack of face-to-face interaction can feel 'very impersonal'. The remote mode, especially in video hearings, can lead to concerns about the impact of technology on prisoners' experiences:

I'd like to be in the room and see what they see and it might be that there's faces flickering around, you know how sometimes people turn their cameras off and then that suddenly means all the faces jumble around and does that put them off? People do suddenly turn their camera off and you don't quite know why they do it. You know, people lose connection and then they come back on and say, oh, I'm sorry, I've missed half an hours' worth of evidence or something. I wonder how they feel about it. (Susan, PB)

Some of the prisoners and former prisoners told us that the mediation of the screen in remote hearings made it feel like they were on TV in a way that was distancing (William; Robert; Jenny). The symbolic effects of this were that some prisoners and professionals felt that the remote hearing was not 'real' (Richard, a released prisoner who had experience of both in-person and remote hearings), that people were 'hidden' from each other (Donald), and that the whole enterprise was 'impersonal' (Robert, Prisoner; Connor, Prisoner; Kelly, Probation; Julia, PB). It was not just the case that remote hearings were deemed by many to be impersonal but also that in these hearings important, more humanizing elements were stripped away. Some professionals and panel

members felt that it is important for witnesses to physically attend prisons to conduct oral hearings to see the reality of the material conditions experienced by prisoners (Diane, PB), to 'get more of a sense of the emotion in the room' (Julia, PB), and to ensure that prisoners feel that they have been treated fairly (Lucy, Legal Representative). There is a risk, interviewees told us, that the process and associated decision-making in remote hearings becomes 'automatic' (Julia, PB) and 'just like a job' (Kelly, Probation). Several prisoners reported that in remote hearings the panel cannot 'learn' as much about others as in in-person hearings (Robert, Prisoner), the panel cannot 'see the genuine' prisoner (Jenny, Prisoner with experience of both in-person and remote hearings), the panel cannot 'see your body language' or 'reach further into your soul' (Connor, Prisoner with experience of both in-person and remote hearings), and that prisoners cannot get their 'point across' when 'talking to a screen' (Donald, Prisoner).

In the final part of this section, we consider the effects of the aforementioned factors on the ability for participants in remote hearings to communicate effectively, as seen through the lens of 'entrainment' (Rossner 2021). Building on Collins (2014), Rossner defines entrainment as the culmination of co-presence and shared attention, where people's 'bodies and voices become synchronized' (2021: 343). As we have shown, the remote mode is seen to create barriers to full participation, and that these barriers are both material (e.g. built into the remote technology) and symbolic (e.g. giving rise to feelings of distance and impersonality). Remote hearings are characterized by the lack of co-presence of participants, and this makes it harder for participants in remote hearings to interact and to know how others might be feeling due to the screen-as-barrier. Many of the prisoners reported feeling that the remote mode was an impediment to effective communication: William told us that on a video link it feels like others are 'not really there' and are 'not really listening' (William, Prisoner with experience of both in-person and remote hearings), Ben—who only had experience of remote hearings—felt that the panel were just 'making notes' and not paying attention to what was being said, and Jonny (a released prisoner who had experience of both in-person and remote hearings) reported that in his remote hearing he felt like the panel were 'chucking questions' at him without paying attention to the responses. Connor had had experiences of both modalities and stated that it was difficult to communicate 'effectively' in remote hearings, while Tyler—another prisoner with experience of both in-person and remote hearings—reported that the 'screen' impeded his ability to get his 'feelings and emotions across'. For Connor, the material conditions of the remote mode, particularly the prevalence of 'overtalk' and 'interrupting', made for a more impoverished form of communication, whereas in 'face-to-face it's more fluid'.

Parole Board panel members and probation staff similarly reported that remote hearings posed problems for effective communication. Panel members told us that 'it's very easy... to go off on your own tangent. It's quite easily done... it becomes less conversation-like' (Tracey, PB), and that it is harder to engage in skilled questioning in remote hearings (Benjamin, PB). Tom, a Probation Officer, agreed with this point, arguing that although the technology had improved, such 'overtalk' reduced 'effectiveness' and meant that remote hearings were not always getting 'the best out of people'.

Our previous and ongoing research focused on the interactional quality of remote hearings demonstrates that, compared with their in-person counterpart, the remote mode is more associated with example of miscommunication, as defined by parolees initiating 'repair' sequences (Peplow and Phillips 2024). Parolees were statistically more likely to mishear or misunderstand particular question types in the remote mode, which affects the progression of the interaction and, potentially, diminishes the parolee's sense of having a 'voice', a key aspect of procedural justice (Ryan and Bergin 2022). It was also found that panel members ask more adversarial types of question in remote hearings (Peplow and Phillips 2025a), particularly in hearings involving prisoners serving IPP sentences (Peplow and Phillips 2025b). This suggests that engaging in effective



communication and avoiding lapses into adversarial questioning in remote hearings are more difficult to achieve in remote hearings. In her work on virtual courts, [Rossner \(2021\)](#) similarly found that certain participants need to engage in extra work to accommodate to the remote setting to ensure that other participants feel able to participate: for example, judges must manage turn-taking more actively, set out the rules more explicitly at the outset. The panel members who told us that remote hearings were more intense and emotionally draining often talked about this in terms of negative experiences of chairing hearings. Successfully performing chair duties was seen as especially challenging in remote hearings because of the additional organizational and monitoring work that needed to be undertaken:

I was probably concentrating more on getting the technical stuff right and sorting everyone out than I was on managing the hearing itself and managing my co-panellists. (Tracey, PB)

I've had hearings where there's been eight or nine witnesses, that's very difficult to manage on a video link. (Julia, PB)

Effective communication and entrainment were reported by many interviewees as being more difficult to achieve in remote hearings. Combined with feelings reported by many hearing participants that remote hearings do not attain similar levels of formality and gravitas as in-person hearings and that such hearings feel more impersonal, this sense that effective communication is less attainable poses several problems for the Parole Board, which we reflect on below.

Taken together, these findings suggest that remote hearings often fall short of delivering the conditions necessary for procedural justice. While the format may satisfy institutional requirements, it can undermine prisoners' sense of being heard, respected and fairly treated, potentially weakening the moral legitimacy of the parole process ([Beetham 1991](#); [Tyler 2006](#)).

### Legal representation, voice and structural barriers to procedural justice

The third theme concerns the accessibility and effectiveness of legal representation during remote parole hearings. Unlike procedural or consequential legitimacy this theme casts light on whether the process accords with accepted norms of fairness and institutional appropriateness ([Suchman 1995](#)). In this section, we consider the extent to which prisoners are supported to exercise their right to representation in a way that is meaningful and effective. In doing so, we examine the structural dimensions of whether the format and design of remote hearings enable or constrain this right.

Across our data, both prisoners and legal professionals raised concerns about the way remote hearings weakened the practical and symbolic presence of legal advocates. These concerns speak directly to the procedural justice dimension of being able to participate meaningfully in a process that affects one's liberty ([Tyler 2006](#)). When prisoners cannot easily communicate with their legal representatives, their capacity to express themselves and influence the hearing is significantly diminished. In this section, we explore how these deficits are experienced and interpreted by those most directly affected.

The vulnerabilities discussed above were especially acute in relation to prisoners' access to legal representation. In remote hearings, legal representatives are often not physically co-located with their clients. This was seen as a serious barrier to communication, particularly in moments where non-verbal cues or side discussions would normally occur. Legal representatives told us that the remote mode means they 'can't tell if they're wanting to get my attention. They can't see me to try and help them' (Harriet, Legal Representative). This breakdown in communication risks undermining both voice and trust. Prisoners may feel unsupported, vulnerable and unsure whether their interests are being effectively represented, and this may erode their confidence in the fairness of the process ([Tyler 2006](#)).

This makes it harder for legal representatives to support their client, especially in cases where the prisoner is vulnerable:

I had a client who was mentally ill who was responding to unseen stimuli in a room by himself, and he thinks that this hearing that's happening is part of his, it's, it isn't real. That was really not ideal at all for that person. (Abby, Legal Representative)

The prisoner themselves don't get the best service possible via remote hearing and for me the biggest reason the biggest thing around that is that they haven't got their legal representative next to them. (Lee, Probation)

Parole Board members similarly identified this lack of immediate access to legal representation as a significant problem for prisoners in remote hearings (Peplow and Phillips 2023). Situating this in the context of what we know about virtual courts, Rossner and Tait (2023) found that virtual/in-person conditions make no difference to jurors' perceptions and decisions of an individual's guilt. However, jurors were more likely to find defendants guilty if they did not have their lawyer physically co-located with them. Whilst trials and parole oral hearings are clearly different contexts, and we are unable to say definitively whether the presence or lack of legal representatives in oral hearings affects decision made by panel members, the effect of the location of the legal representative in remote hearings requires further research.

These findings underscore that legitimacy is not only about whether institutions appear to follow accepted procedures or produce justifiable outcomes, but also whether they enable individuals to experience procedural justice (Tyler 2006). The diminished access to legal representatives in remote parole hearings highlights a serious challenge to moral legitimacy, particularly in its procedural and structural forms.

## DISCUSSION

In recent years, the Parole Board has faced a legitimacy deficit rooted in a 'culture of delay' (JUSTICE 2022; Padfield 2018). The Parole Board has sought to overcome this problem of legitimacy by embracing the remote mode as default for oral hearings, which speeds up the process. However, our findings show that in the process of addressing one problem the Parole Board risks creating others, with many hearing participants regarding the remote mode as second best when compared to in-person hearings. Understanding remote and in-person hearings is more than just weighing up the pros and cons of remote hearings, although that is important. Indeed, our analysis illustrates the difficulties inherent to finding such a balance: while remote hearings may enhance pragmatic legitimacy—the perception that the Board is functioning efficiently and effectively (Suchman 1995)—it simultaneously risks undermining moral legitimacy, particularly in the eyes of prisoners. There is a need for the Parole Board to reduce delays to hearings to make the process more legitimate in the eyes of prisoners, but there is equally a need to ensure that this does not dehumanize the process. By shedding light on how people benefit from and are disadvantaged by remote hearings, this article presents an opportunity for the Parole Board and other relevant stakeholders to consider how to find a balance between the need to build different forms of legitimacy in the eyes of different stakeholders.

Our findings resonate with Robinson's (2021) observation that legitimacy in criminal justice institutions is often pragmatically reconstructed in the aftermath of policy failure. Drawing on Suchman's (1995) framework, the Parole Board's recent emphasis on remote hearings can be seen as an attempt to restore pragmatic legitimacy—that is, legitimacy rooted in the perception that the institution is delivering practical, tangible benefits to its stakeholders. For the Board, this has meant demonstrating that hearings can be scheduled more quickly, adjournments can be reduced,

and key actors can be brought together more easily. However, our data also suggest that while this may address some pressures—such as political scrutiny and prisoners' concerns over delays—it risks neglecting the internal experience of fairness and participation. For prisoners and legal representatives, pragmatic legitimacy is not simply about speed or throughput, but about feeling heard, respected and supported within the process. This divergence in what counts as 'pragmatic' exposes a tension at the heart of the remote hearings model.

While efficiency is often framed as a managerial concern, it can also carry moral weight, particularly when it mitigates harms associated with delay. For some prisoners, the ability to access a hearing sooner was experienced as a form of justice. In this sense, efficiency may contribute to pragmatic legitimacy (Suchman 1995) as well as moral legitimacy (Beetham 1991) when it aligns with values such as fairness, dignity and timely access to justice. However, we would be cautious here. It is possible that when efficiency comes at the cost of voice, respect or trust, it risks undermining the very fairness it seeks to deliver.

Our analysis shows that prisoners' perceptions of legitimacy are shaped less by institutional performance metrics and more by their experience of procedural justice. Drawing on Tyler's (2006) framework, we find that remote hearings often compromise key elements of procedural justice: voice (the ability to express oneself and be heard), respect (being treated with dignity), neutrality (perceived impartiality of decision-makers), and trust (belief in the fairness and motives of the Board). While some prisoners appreciated the reduced anxiety and increased efficiency of remote hearings, many described them as impersonal, disempowering and lacking the gravitas of in-person proceedings.

One nonconvertible benefit is the relative ease with which panels can be composed of the 'best people' when delivered remotely. This raises the question of whether in-person oral hearings should not also be based on delivering this ideal. If it is the case that in-person hearings have reached a point whereby the most appropriate members are not being used, then we would argue that this constitutes less of an abstract benefit of remote-hearings and more of a making-do with the remote mode. We might also add that the primary benefit of remote hearings seems to be their potential for reducing delays and backlogs, which says more about the problems of the system than the benefits of remote hearings *per se*. If, as is likely to be the case, remote hearings are here to stay then, the Parole Board would be well-served to acknowledge that mode does make a difference to people's experience of oral hearings. Thinking practically, the Parole Board could make attempts to address the perception that remote hearings are impersonal; this could involve panel members engaging in more rapport work with participants, especially prisoners, to put people 'at ease' at the beginning of hearings. Where possible, legal representatives should be co-located with their clients. If this is not possible, then prisoners and legal representatives need to have online spaces made available to breakout and have a discussion.

Recent work by Guiney (2023) offers a valuable framework for understanding the institutional choices involved in prison release systems. He identifies different models of parole ranging from technocratic, efficiency-driven models to those grounded in deliberative, discretionary decision-making. The move toward remote hearings appears to align more closely with the former: a technocratic model that foregrounds managerial logics such as throughput, scheduling flexibility and quantifiable outcomes. This raises important questions about the normative implications of aligning parole processes more closely with principles of administrative efficiency rather than rehabilitative or relational justice. In this light, the adoption of remote hearings may reflect not just a pragmatic response to backlogs but a structural shift in the values that underpin parole itself. If the parole system in England and Wales is to maintain legitimacy in the eyes of prisoners and the wider public, it must grapple with the tensions between efficient case management and the humanizing elements that are more resistant to efficiency drives and rationalization.

Thus, our analysis raises questions about the extent to which prisoners are truly served by remote hearings or whether we can understand the remote hearing by default position as a method

by which prisoners are forced into compliance and acceptance of this status quo. Prisoners are in an invidious position: accept a remote hearing and (potentially) be released more quickly or push for in-person and risk a delayed hearing. This may also point to the low expectations that prisoners have in the system, which undermines agency (Read 2024) and fails to prioritize their interests over the interests of the system itself. Thus, an important practical implication of this research is that prisoners should be given a meaningful choice over the mode of their upcoming oral hearing. At present it appears that some prisoners are presented with a choice over mode, but only if their legal representative actively pushes for this.

The transformation of oral hearings from in-person to remote formats must also be understood in relation to the foundational purpose of oral hearings within the parole system. The Osborn judgment ([2013] UKSC 61) marked a key redefinition of oral hearings as a fundamental right for prisoners, which is grounded in fairness and participation. Oral hearings were not introduced to ensure that correct decisions are made but to ensure that the system is fair for prisoners:

the purpose of holding an oral hearing is not only to assist it in its decision-making, but also to reflect the prisoner's legitimate interest in being able to participate in a decision with important implications for him, where he has something useful to contribute. (Osborn vs the Parole Board [2013] UKSC 61)

This principle resonates strongly with the procedural justice framework, particularly Tyler's (2006) emphasis on voice, respect, neutrality and trust as the cornerstones of perceived fairness. In this sense, then, oral hearings serve not only to gather information but also to enact legitimacy through visibility and participation: they are interactional events in which legitimacy is negotiated via dialogue, questioning and being present (Bottoms and Tankebe 2012). From the standpoint of pragmatic and moral legitimacy, their value lies in the fact that they show to prisoners that the process is both accurate *and* fair.

The shift to remote hearings, though originally a response to pandemic conditions, risks recasting this right as a logistical convenience. Framed through Agamben's (2008) concept of the state of exception, we might understand this shift as one in which emergency measures—initially adopted for reasons of necessity—become normalized and depoliticized, with minimal deliberation about their impact on prisoners' rights. The result is a recalibration of legitimacy away from fairness and toward expediency. While remote hearings may appear to enhance pragmatic legitimacy in the eyes of the institution, they may simultaneously erode moral legitimacy in the eyes of prisoners, legal advocates and other professionals. This tension invites renewed scrutiny over whether the parole process remains anchored in its normative foundations or is drifting toward a model of justice in which the conditions of participation are increasingly shaped by institutional priorities rather than legal or ethical principles.

## CONCLUSION

The pandemic presented the Parole Board with a unique opportunity to reconfigure its way of working through the widespread adoption of remote oral hearings. While this shift arguably helped address aspects of the Board's long-standing legitimacy deficit—particularly those rooted in systemic delay—it introduced new challenges. Our analysis has shown that while remote hearings may enhance pragmatic legitimacy by improving efficiency and consistency, they simultaneously risk undermining moral, structural consequential legitimacy by compromising fairness, participation and the relational dimensions of justice.

This tension between efficiency and fairness is not simply a matter of institutional trade-offs. Rather, it raises deeper questions about the values that underpin parole decision-making and the

extent to which the system remains anchored in its normative foundations. Oral hearings were established as a safeguard of fairness, not an efficiency-driving mechanism. The normalization of remote hearings risks recasting this right as a matter of administrative convenience.

More broadly still, this case illustrates how the rapid uptake of technology in response to crisis can produce lasting institutional change, often without sustained scrutiny or re-legitimation. The parole system's 'new normal' raises questions about how legitimacy is defined, experienced and maintained in a post-pandemic criminal justice landscape.

## ACKNOWLEDGEMENTS

The authors would like to thank all participants who took part in this research as well as the comments of the anonymous reviewers.

## FUNDING

This was supported by Sheffield Hallam University's Research and Innovation Fund (SHRIF) and the British Academy/Leverhulme Small Research Grants Scheme.

## REFERENCES

- Agamben, G. (2008), *State of Exception* (trans. K Attell). Chicago, IL: University of Chicago Press.
- Annisson, H. (2020), 'Re-Examining Risk and Blame in Penal Controversies: Parole in England and Wales, 2013–2018', in J. Pratt and J. Anderson, eds, *Criminal Justice, Risk and the Revolt against Uncertainty*, 139–63. Cham: Springer International Publishing.
- Annisson, H. and Guiney, T. (2022), 'Populism, Conservatism and the Politics of Parole in England and Wales', *The Political Quarterly*, 93: 416–23.
- Beetham, D. (1991), *The Legitimation of Power*. 1991st edn, Basingstoke: Palgrave Macmillan.
- \_\_\_\_\_. (2013), *The Legitimation of Power*. 2nd edn, Houndmills, Basingstoke, Hampshire ; New York, NY: Red Globe Press.
- Bottoms, A. and Tankebe, J. (2012), 'Beyond Procedural Justice: A Dialogic Approach to Legitimacy in Criminal Justice', *The Journal of Criminal Law and Criminology*, 102: 119.
- Braun, V. and Clarke, V. (2006), 'Using thematic analysis in psychology', *Qualitative Research in Psychology*, 3: 77–101.
- \_\_\_\_\_. (2021), *Thematic Analysis: A Practical Guide to Understanding and Doing*, 1st edn. Thousand Oaks: SAGE.
- Collins, R. (2014), *Interaction Ritual Chains*. Princeton Studies in Cultural Sociology. Princeton: Princeton University Press.
- Dagan, N. (2023), 'Enemy Parole', *Punishment & Society*, 25: 600–20.
- Dingwall, G. and Millar, M. (2023), *Parole in England and Wales: Recent Reforms and Proposals for the Future*. London: Sentencing Academy.
- Donoghue, J. (2017), 'The Rise of Digital Justice: Courtroom Technology, Public Participation and Access to Justice', *The Modern Law Review*, 80: 995–1025.
- Fitzgerald, R., Freiberg, A., Dodd, S. and Bartels, L. (2022), 'Building Public Confidence in Parole Boards: Findings From a Four-Country Study', *The British Journal of Criminology*, 62: 1395–413.
- Guiney, T. C. (2023), 'Parole, Parole Boards and the Institutional Dilemmas of Contemporary Prison Release', *Punishment & Society*, 25: 621–40. Sage Publications.
- Harker, L. and Ryan, M. (2022), 'Remote Hearings in Family Courts in England and Wales During COVID-19: Insights and Lessons', *Family Court Review*, 60: 207–19.
- Hood, C. (1991), 'A Public Management for All Seasons?', *Public Administration*, 69: 3–19.
- Jones, M. (2020a), 'How the Parole Board Is Adapting to COVID-19', in *Russell Webster*. Available at: <https://www.russellwebster.com/coronaresponse6/> (accessed 10 June 2024).
- \_\_\_\_\_. (2020b), 'Parole Board COVID-19 Recovery Plan', in *Chief Executive's Blog*. Available at: <https://www.gov.uk/government/news/chief-executives-blog-parole-board-covid-19-recovery-plan> (accessed 10 June 2024).



- JUSTICE (2022), *A Parole System Fit for Purpose*. London: JUSTICE. Available at: <https://files.justice.org.uk/wp-content/uploads/2022/03/22164155/JUSTICE-A-Parole-System-fit-for-Purpose-20-Jan-2022.pdf> (accessed 10 June 2024).
- Lavin-Loucks, D. and Levan, K. (2018), 'Identity, Discourse, and Rehabilitation in Parole Hearings in the United States', *Journal of Prison Education and Reentry*, 5.
- McKay, C. (2018), 'The Pixelated Prisoner: Prison Video Links, Court "Appearance" and the Justice Matrix', *Routledge Frontiers Of Criminal Justice*. London, New York: Routledge, Taylor & Francis Group.
- National Audit Office. (2017), *Investigation into the Parole Board*. HC 1013. London: National Audit Office.
- Padfield, N. (2018), *Parole: Reflections and Possibilities. A Discussion Paper*. London: Howard League for Penal Reform.
- Peplow, D. and Phillips, J. (2023), 'Remote Parole Oral Hearings: More Efficient, But at What Cost?', *Criminology & Criminal Justice*, 25: 1033–52.
- \_\_\_\_\_. (2024), 'Communication Repair in Parole Oral Hearings: Comparing Remote and In-Person Settings', *Journal of Criminology*, 57: 352–71.
- \_\_\_\_\_. (2025a), 'Held to Account: Comparing Adversarial Questioning in Remote and In-Person Parole Hearings', *Language in Society*, 1–25.
- \_\_\_\_\_. (2025b), '"Why Aren't You Learning Anything?" Challenging Questions in Parole Hearings Involving Prisoners Serving IPP Sentences', in H. Ringrow and R. Piazza, eds, *The Language of Marginality and Subjectivity in a Global Context*. Bloomsbury.
- Prison Reform Trust. (2020), *CAPPTIVE2 Regimes and Progression*. London: Prison Reform Trust. Available at: [https://prisonreformtrust.org.uk/wp-content/uploads/old\\_files/Documents/CAPPTIVE2\\_regimes\\_and\\_progression\\_web\\_final.pdf](https://prisonreformtrust.org.uk/wp-content/uploads/old_files/Documents/CAPPTIVE2_regimes_and_progression_web_final.pdf) (accessed 10 June 2024).
- Read, B. (2024), 'The Parole Dossier and Its Negative Impacts on Prisoner Identity', *Criminology & Criminal Justice*.
- Robinson, G. (2021), 'Rehabilitating Probation: Strategies for Re-legitimation after Policy Failure', *The Howard Journal of Crime and Justice*, 60: 151–66.
- Rossner, M. (2021), 'Remote Rituals in Virtual Courts', *Journal of Law and Society*, 48: 334–61.
- Rossner, M. and Tait, D. (2021), 'Presence and Participation in a Virtual Court', *Criminology & Criminal Justice*, 23(1): 135–57.
- Rowden, E. (2018), 'Distributed Courts and Legitimacy: What Do We Lose When We Lose the Courthouse?', *Law, Culture and the Humanities*, 14: 263–81.
- Ryan, C. and Bergin, M. (2022), 'Procedural Justice and Legitimacy in Prisons: A Review of Extant Empirical Literature', *Criminal Justice and Behavior*, 49: 143–63. Sage Publications.
- Silverstein, M. (2005), 'What's Race Got to Do with Justice?: Responsibilization Strategies at Parole Hearings', *The British Journal of Criminology*, 45: 340–54.
- Suchman, M. C. (1995), 'Managing Legitimacy: Strategic and Institutional Approaches', *The Academy of Management Review*, 20: 571–610. Academy of Management.
- The Parole Board. (2023), *Parole Board Strategy and Business Plan 2023-2025*. London: The Parole Board. Available at: <https://www.gov.uk/government/publications/parole-board-strategy-and-business-plan-2023-2025> (accessed 10 June 2024).
- Tyler, T. R. (2006), *Why People Obey the Law*. Princeton University Press.
- van der Steen, M. P., Quinn, M. and Moreno, A. (2022), 'Discursive Strategies for Internal Legitimacy: Narrating the Alternative Organizational Form', *Long Range Planning*, 55: 102162.
- Wallace, A., Roach Anleu, S. and Mack, K. (2019), 'Judicial engagement and AV links: judicial perceptions from Australian courts', *International Journal of the Legal Profession*, 26: 51–67.
- de Vocht, D. and Jacobs, P. (2024), 'Can Remote Trials be Fair Trials? Exploring the Potential Effects of Communication Technology in the Criminal Justice Context from an Interdisciplinary Perspective', *Tilburg Law Review*, 29: 1–9.
- Yin, R. K. (2014), *Case Study Research: Design and Methods*. Los Angeles: Sage Publications.