

Recommendations for Parole Reform in New York State

New York State has an opportunity to affect significant policy changes in the way the parole release and supervision system is administered in New York. Under the Pataki administration, persons who are serving sentences for violent crimes have been routinely denied parole release solely on the basis of the underlying crime, without regard to their institutional record of rehabilitation or their potential for successful reintegration into the community. For these individuals, as well as their families, the resulting uncertainty about when, and under what circumstances, release may be expected to occur has bred despair and cynicism. In addition, the policies are expensive. The per person cost of parole supervision is estimated to be one-tenth the cost of incarceration (\$3,000 v. \$30,000). The Pataki administration policies have resulted in a sharp decline in annual parole releases. Given that each person who is kept in prison, rather than being released on parole, costs the State \$27,000, the annual cost to the State of these parole policies is substantial.

Below are some recommended areas of reform:

- **Restore predictability and rationality to parole release determinations.**

To restore hope and rationality to the system, we offer the following recommendations:

- Board of Parole release guidelines should be updated and modified to require the Board to give appropriate weight to the extent of an individual's rehabilitation and the lack of risk to public safety if the individual is released. In particular, the guidelines should reflect the research showing that persons who have served sentences for many categories of violent crimes – and particularly women – have low rates of recidivism. For example, according to available data, the average return rate for individuals released for murder (21.5 percent) was drastically lower than the overall average return rate (42.2 percent) between 1985 and 2000. Moreover among the 2000 releases with murder convictions, only 3.6 percent were returned for a new commitment. Most of the returns were for technical parole violations.
 - Merit-based criteria for Board of Parole membership and a screening panel should be established. Such criteria should include a demonstrated background in criminal justice issues. In addition, Board members should be provided with access to professional development programs in which information current research, penological theory, and parole practices are presented and discussed.
- **Expand eligibility to programs that facilitate successful rehabilitation and release on parole.**

Persons convicted of violent felony offenses are barred from participating in programs that would facilitate their successful, timely reintegration into the community. To remedy this, we suggest the following:

- Persons convicted of violent felonies should be eligible to participate in work release programs. Work release can serve as an effective tool to demonstrate readiness to transition to the community. An individual who is successful on work release has established that he or she is able to be released into the community without being a threat to public safety.

- The eligibility criteria for the issuance of a certificate of earned eligibility should be expanded to include all persons, regardless of the length of their minimum sentence. The New York State Correction Law provides that individuals who are scheduled to appear for parole release consideration and who have satisfactorily completed their assigned rehabilitative programs may be granted a Certificate of Earned Eligibility (N.Y.S. CORRECT. LAW § 805). The issuance of the Certificate creates a presumption of parole release. However, eligibility for the Certificate is limited to individuals whose minimum sentence is eight years or less. This restriction excludes the majority of persons who are serving sentences for violent felonies. The law should be amended to allow all persons serving an indeterminate sentence of any length the opportunity to earn the Certificate.

- **Eliminate unnecessary parole supervision and revocation.**

Post-release resources are best used to protect the public from those individuals who pose an actual risk to the community. Under the Pataki administration, resources have instead been diverted to re-incarcerating individuals on technical violations and on precluding persons with a maximum sentence of life from ever obtaining discharge from post-release parole supervision. We recommend the following changes to address these problems:

- Guidelines for technical violations should be established. The increase in the number of individuals returning to prison over the past decade on technical parole violations, i.e. violations that do not involve any criminal conduct, has been staggering. The unchecked exercise of discretion by parole officers is a significant concern in cases where parole violations are alleged. More specific, concrete, uniform guidelines for parole revocation - particularly for technical violations - should be established to help reduce the number of people being sent back to prison for minor violations.
- The Division of Parole should have the discretion to grant any suitable person a merit termination of parole supervision. There should be no exception for persons who were sentenced to a maximum sentence of life.

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