



Public Forum on New York’s Parole Hearings, Structure of Parole Board and Data Indicating Systemic Bias in the Parole Board’s Decision-Making

Testimony submitted to the New York State Senate Standing Committee on Crime Victims, Crime and Corrections and the New York State Senate Health Committee

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Senate Hearing Room
250 Broadway
New York, NY 10011

Good afternoon, Ranking Members Sepulveda and Rivera and members of the Senate’s Standing Committee on Crime Victims, Crime and Corrections and the Senate Health Committee. My name is Tyrrell Muhammad and I am here today representing the Correctional Association of New York. For nearly 175 years, the Correctional Association (CANY) has inspected conditions in New York’s prisons, gathered data to inform systemic analysis, and advocated for fair, humane and progressive reform. I am grateful for the opportunity today to share with you our recent analysis of the parole board’s decision-making.

Two years ago, in December of 2016, *The New York Times* published an in-depth investigative report on chronic staffing shortages on the state’s parole board and evidence of persistent, rampant racial bias on behalf of its Commissioners. In the year leading up to this series of articles being published, the Correctional Association worked closely with *The New York Times*, leveraging both the significant data trove we have amassed as well as our unique access to prisons and the people incarcerated in them: since 1846, two years after our founding, CANY has had a right – enshrined in state statute – to enter and inspect every prison in the state and report our findings and recommendations to the press, the public, and the legislature. *The New York Times’* reporting was a wake-up call – one that was a long-time coming – about the systemic ways in which the parole board was failing to deliver justice.

In the following weeks, Governor Cuomo pledged to take action. As we have continued to gather data and monitor the system, and as we have surveyed and interviewed hundreds of parole-eligible incarcerated people over the last two years, we have identified a few areas of progress but many areas in which the parole system continues to fall short, with devastating personal costs for individuals and families and at great expense to the state. Given our limited time today, I would like to walk through our primary areas of

concern now, after which I will make a recommendation for the kinds of meaningful oversight we would welcome your partnership on in the coming session.

- **First, the Governor pledged to nominate more minority candidates to the Parole Board, which was staffed by only 13 of the 19 available commissionerships at the end of 2016.** Today, five Commissioners notorious for their excessively punitive and biased decision-making have been replaced with six new Commissioners whose backgrounds include social work, health care and other rehabilitative focuses. Yet, only 12 of the possible 19 Commissioners are seated. These 12 Commissioners are tasked with reviewing nearly 11,000 parole cases every year; given short staffing, these interviews, in practice, are *pro forma* video conferences that last between 5 and 15 minutes.
- **Second, our partnership with *The New York Times* found that Black inmates were denied parole at higher rates than their white counterparts.** In 2016, overall 43% of white persons appearing before the Board were released at their first parole hearing, while only 34% of black and 37% of Hispanic participants were released after their first hearing. These racial disparities persist two years later. According to our recent analysis – the full results of which we plan to publish as a white paper in the next month – in 2018 Black persons are denied parole after their initial hearing at the highest rate (51.1%), Hispanic participants at the second highest rate (45.7%) and white participants at the lowest rate (39.7%).
- **Third, New York’s parole process results in the extended, extra-judicial detention of thousands of people who are eligible for release – often for arbitrary reasons not linked to immediate public safety.** According to our analysis, in 2016, New York’s rate of granting parole was ~40%. While more people are being granted parole than two years ago (57% according to our analysis of 2018 cases through October), New York remains a national outlier in some respects: 41% of all people in New York’s prisons are serving indeterminate sentences and New York has the second highest population of individuals serving parole eligible life sentences of any state. Additionally, ~20% of those in state prisons are aged 50 or over, a population that has dramatically doubled in size since 2000; older and aging prisoners have incredibly low rates of recidivism and yet, as will be discussed in greater depth in our forthcoming white paper, parole approvals rates for this population mirror those for younger age groups. Parole denials often flout the law; instead of basing decisions on individuals’ rehabilitative efforts while incarcerated, the Board routinely makes decisions solely on the nature of the original crime. The result: according to our surveys and interviews with parole-eligible individuals, a significant portion of those eligible for parole are being denied – some multiple times. Each denial can result in two additional years in prison beyond the individual’s minimum original sentence.

Our overarching concern is that there is no meaningful or consistent mechanism to hold parole board commissioners accountable for their decision-making. Without such a balance, any system would allow bias to fester unchecked. The result in New York’s parole system is that thousands of people who are eligible for release remain in prison – with devastating personal consequences and at great public expense – for arbitrary, avoidable reasons not linked to public safety or sentencing.

We welcome the opportunity to continue this conversation with you, and would like to offer an exclusive briefing on our findings before we release our white paper next month. In the meantime, we offer our support of systemic reform that would fully and fairly staff the parole board; offer a “second look” to aging and elderly incarcerated individuals who have already served significant sentences; and create a presumptive standard of release at the first hearing for anyone who meets release criteria.

Thank you for the opportunity to testify today.