

**PUBLIC COMMENTS TO PROPOSED PAROLE REGULATIONS
SUBMITTED BY MUJAHID FARID ON BEHALF OF THE RAPP CAMPAIGN AND THE
CORRECTIONAL ASSOCIATION OF NEW YORK**

Submitted: December 19, 2013

RE: Proposed Repeal of Part 8001	Title 9 NYCRR
Amendment of 8002.1(a) and (b)	Title 9 NYCRR
Amendment of 8002.2(a)	Title 9 NYCRR
Amendment of 8002.3	Title 9 NYCRR

These proposed regulations, supposedly introducing the concepts and practices of evidence-based decision-making by Commissioners on the Board of Parole, are lacking any compelling language to achieve this fundamental change to parole release processes.

Since 2011 when the New York State Legislature amended Executive Law Sec. 259-c (4) calling for the Parole Board to “establish written procedures for its use in making parole release decisions, and that such procedures incorporate ‘risk and needs’ principles to measure the rehabilitation of inmates, their likelihood of success if released and assist the Board in making its release decisions,” there has been much fanfare as to what degree and how these principles should be incorporated. In addition, we have witnessed significant resistance to changing past policy and practice. Clearly, the 2011 amendments have stirred-up a hornet’s nest.

The law would not have been amended to require risk and needs assessments if the legislature was not attempting to modernize parole decision-making so that a more scientific objective approach to release decisions would take place with an emphasis on public safety, and readiness to reenter society. Yet the proposed regulations simply refer to the use of risk assessments as one of 12 factors the board can consider with no indication of particular weight. The proposed regulations do not accomplish the goal of requiring the Board to demonstrate the degree to which *risk* was considered, if it was indeed considered at all, or to explain in the cases of those with low-risk assessments and denials of release the reason for such deviation. The Board’s proposed regulations do not effectively direct parole commissioners to base actual release decisions firmly on the individual applicant’s level of risk to public safety as evidenced by the COMPAS risk assessment tool. The Board’s proposed regulations do not include any mention of age and length of time incarcerated as factors particularly to be weighed in making release decisions and yet these and additional dynamic factors are predictive elements in lowering the risk of reoffending.

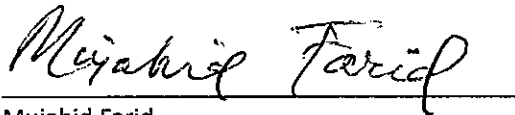
The Board’s proposed regulations fail to direct commissioners to inform an applicant, upon denial of parole, of specific steps the applicant can take to improve his or her chances of release in the future. This, in itself, is a glaring failure to comply with Sec. 259-c (4), as the proposed regulations do not address the “needs” component.

During the past 12 years the overall prison population in New York State decreased by approximately 22%--from 71,466 in 2000 to 55,436 in 2011. Yet, during this same 12-year period the population of people confined in the state system age 50 and over increased by 73%--from 5, 111 in 2000 to 8,869 in 2012. It is important to note that this astronomical growth of the elderly was not even curtailed when the Executive Law 259-c (4) was amended in 2011. It is well established that this aging population has the lowest rate of recidivism—somewhere around 3-4%. Even since 2011, despite this population having low recidivism rates, ample evidence of personal transformation and rehabilitation, low-risk assessment scores, and consideration of the cost savings that could be realized, the Board of Parole has continued to deny release to this population in a consistent and sweeping manner.

The proposed regulations, as they are currently written, do not have the force of authority to change the policy and practice which they were designed to impact upon. Without stronger and more forceful regulations, things will remain the same.

Thus **RAPP**, in collaboration with **The Correctional Association of New York**, is submitting *alternatives* to the proposed regulations (see attached). Our *alternative regulations* encompass the full intent of the 2011 legislative amendment to Executive Law 259, and these *alternative regulations* ensure that the People of State of New York will benefit fully, both economically and socially, from the 2011 amendments.

Respectfully submitted,



Mujahid Farid
2090 Adam Clayton Powell, Jr. Blvd. – Suite 200
New York, New York 10027
Phone: (212) 254-5700 Ext. 317
Fax: (212) 473-2807
Email: mfarid@correctionalassociation.org
Mobile: (646) 312-9853



RAPP

(Release Aging People in Prison)

