COMMENTS TO NEWLY PROPOSED PAROLE REGULATION
SUBMITTED BY WOODBOURNE LONG TERMERS ORGANIZATION

Mr. John Koury, Director
Administrative Regulations Review Commission (ARRC)
State Capitol
Albany, New York 12247

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

January 5, 2014

First and foremost, let me say, the 2011 New York State Legislature Amendment to Executive Law §259-c[4] calls for the Board of Parole to do the following, I quote:

> **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.**

Since that was the language mandated by the Law-making body of New York State (the Legislature), we must respect the wording of the law. So let's analyze step by step [in four parts] what the Legislature mandated the Parole Board to do, and what the parole board is not doing.

First, **"establish written procedures for its use in making parole release decisions."** That was not done until over two years after the law came into effect in November 2011. So how does that affect all the parole hearings that took place since the law went into effect, and up to the procedures being established currently (December 3, 2013)?

Second, **"and that such procedures incorporate 'risk and needs' principles to measure the rehabilitation of inmates."** The 'risk and needs' principles (COMPAS) was being used since mid-to-early-2012 before the written procedures was established, but totally ignored because scores of inmates had "low" results regarding risk of being re-arrested, risk of future violence, and risk of absconding. To add insult to injury, how could a fraction of the 2011 Legislative mandate be used (risk principles: COMPAS) when the "written procedures" were not yet "established," or even legally registered with the Department of State (DOS) until more than two years after the Legislative mandate went into effect? While the COMPAS was being used before being legally registered with the DOS, the TAP only recently (late 2013) started being used.

The purpose of incorporating 'risk and needs' principles was "to measure the rehabilitation of inmates." If the measurement of significant number of inmates shows significant rehabilitation scores, and these inmates (hundreds of them) are being denied release, then the parole commissioners are attempting to repeal the law and abrogating the Legislative intent of the 2011 Amendment to §259-(c)[4].

Third, **"their likelihood of success if released,"** is being ignored by the Board when the COMPAS risk assessment of those inmates who scored "low-risk" are clearly "likely" candidates for success if released. Since the essence of the 2011 Legislative Amendment was remedial in nature with the intent to "modernize" the way release decisions are made, the parole board is clearly not in agreement with the Law. The previous methodology that was being used before the 2011 Amendment are antiquated, yet, they are still being used by parole commissioners, more so than the Legislative mandate to "modernize."

Fourth, **"and assist the Board in making its release decisions."** As I analyzed the 2011 Legislative Amendment into four parts, it is apparent, from the recent "procedures" that was registered with the DOS on December 3, 2013, that the last sentence of the mandate (this fourth part) was the only adherence of the whole mandate that is being promulgated by the Board of Parole. From the statement of the current chairwoman of the Board of Parole, the 'risk and needs assessment" and "current case plan" are two factors added to the ten prior antiquated methodology, as "factors" to "be considered."

Based on growing Court rulings by Justices all over New York State, advocacy groups, legal practitioners, and even a layman of the law, it is clear that the Board of Parole is disregarding both the spirit and the intent of the 2011 Legislative Amendment to Executive Law §259-(c)[4], which directs the Board to give material weight to a parole applicants rehabilitation—and future focus.

Pursuant to the proposed change of §8002.3(c), which omits the word "personal" from the original statute pertaining to parole interviews, gives the parole board unjust authority to do whatsoever they want with respect to the interviewing process. We object to their omission of the word "personal" from the original statute, which would condone the growing practice of televised interviews. We assert that the televised interviews are inhuman, insensitive, and lacking the vital human element necessary to measure a parole applicant's rehabilitation—and the fairness of the parole process.

In effect, the long overdue procedure recently registered with the DOS is superficial, and a clear attempt to put plenary power on the parole board. With the purpose of public safety at heart—by reformed prisoners, the Board of Parole, and all family members involved—there is a clear miscarriage of justice when the law is not being adhered to by those who are charged with upholding the law.

Respectfully Submitted,
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