

Terrence X. Tracy, Counsel  
Board of Parole, Dept. of Corrections & Community Supervision;  
John Koury, Director  
NY Senate Administrative Regulations Review Committee;

Dear Mr. Tracy, Mr. Koury, and Members of the Board of Parole,

I submit this letter in response to the Notice of Public Rulemaking published in the New York State Register. The revised regulations posted by the Parole Board on December 18, 2013 do not sufficiently lay a basis for change. Instead, they allow the Board to continue to overlook an incarcerated person's level of rehabilitation, release plans, age, length of time already served, and their likelihood of recidivism **as measured by risk and needs-based assessment tools**, such as COMPAS. People are denied based on something they cannot ever hope to change: the nature of their offense. This denial of release happens far too often, in an arbitrary and inconsistent manner. It affects, in particular, the growing population of aging people in prison, who, despite their extremely low recidivism rates, are repeatedly being denied parole. While the overall prison population in New York State has decreased by 22% over the past twelve years, the population of people in prison who are over fifty has increased by 73%. **This reveals serious flaws in the parole process.**

As you well know, Executive Law 259-c(4) was amended to reflect the intended spirit of using evidence-based principles, which reduce irrational and arbitrary decisions and thus promote fairness and public safety. Unfortunately, the latest December regulations merely place risk and needs assessment and a case plan/transitional accountability plan as *one among twelve* factors that commissioners "should" consider. The language in Part 8001, 8002.1(a) and (b), 8002.2(a), and 8002.3 is imprecise and lacks authority, allowing the Board to maintain the status quo.

To more effectively deal with what Governor Cuomo has recently called "the madness of an incarceration society," regulations **should generally require** that a person with a low risk score **or** who has

substantially participated in their case plan be released. The Board should also provide guidance to people who are denied release in the form of **specific, written instructions** for steps that will allow for their freedom.

Rather than enabling fundamental changes that would move us away from wasteful spending, and toward policies that invest in the needs of New York communities, the proposed regulations extend outdated policies that commit vital resources to the harmful imprisonment of people who are aging and present minimal risk. As a member of the Release Aging People In Prison (RAPP) campaign, I urge you to consider the alternative regulations we have proposed:

(<http://www.correctionalassociation.org/news/nys-parole-regulations>).

Thank you for your consideration of these comments.

Sincerely,  
Lana Dee Povitz  
New York University

CC Mujahid Farid, Correctional Association