



**TESTIMONY OF:**  
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*Release Aging People in Prison/RAPP Campaign*

**2018 Public Protections Budget Hearing: January 30<sup>th</sup>, 2018**  
**Executive Summary**

**Older People in Prison & Lack of Parole Release:**

- **There are 10,337 older people in New York State prisons, making up roughly 21% of the total prison population.** In the last 25 years, the number of older people in New York Prisons increased four-fold—from 2,461 people to 10,337 people—and since the year 2000, the number of older people in prison has more than doubled even as the total prison population has decreased by roughly 30%.
- Despite the fact that older people, especially those convicted of the most serious crimes, pose minimal risk to public safety, they are denied parole at nearly the same and often higher rates than their younger colleagues. While **the overall recidivism rate in NYS is 43 percent, with a new commitment rate of 15 percent, people aged 50-64 have a new commitment rate of just six percent, a percentage that falls to a mere one percent for those aged 65 or older.**
- A rise in older people has been coupled with an inevitable increase in serious medical concerns for incarcerated older people and DOCCS as a whole. DOCCS' five Regional Medical Units (RMUs), which provide services to the sickest imprisoned New Yorkers who require complex care, continue to be mostly occupied by older patients. As of January 2016, **64 percent (183 people) of the total RMU population was aged 50 or older and 47 percent (135 people) was aged 65 or older.**
- Despite an unprecedented number of incarcerated older people who pose minimal risk to public safety, many of whom have serious health difficulties, older people are denied parole at dismally low rates and have little if any access to medical parole. **Only 13 total people were released on Medical Parole in 2016, a number that falls to just 8 people in 2017.**

**“Geriatric Parole”:**

- The Governor’s “geriatric parole” proposal is a step in the right direction. While we define older people in prison as those aged 50 and older, **we appreciate that the qualifying age for the proposal—55 years old—is rooted in evidence associated with older people in prison and the degree to which aging accelerates with incarceration.**
- We also agree with the proposal’s provision to mandate the Parole Board consider three additional factors for “geriatric parole” applicants and that it defines a broader medical standard based on an individual’s ability to provide self-care.

## Recommendations:

- **Remove “geriatric parole” and medical parole restrictions based on crime of conviction.** If our state truly values compassion, mercy, and rehabilitation, then this new policy will be inclusive of all people regardless of their crime. By excluding certain people based on crime of conviction, New York guarantees that some older people will die in prison, effectively reinstating the death penalty in New York.
- **Remove the following proposed language from “geriatric parole” and all other statutes in the Executive Law, “release is not incompatible with the welfare of society and *will not so deprecate the seriousness of the crime as to undermine respect for the law*” (emphasis added).** This punitive language is used in boilerplate fashion in the standard parole denials of tens of thousands of currently and formerly incarcerated New Yorkers. It allows the Parole Board to deny someone based solely on the nature of their crime.
- **Create rules that require facility medical providers to do initial “geriatric parole” screenings for people aged 55 and older with serious chronic illnesses to see if such incarcerated people might be eligible for medical parole. This process requirement could begin in the RMUs and DOCCS’ hospice units.**
- **Create more transparency and accountability.** Annual reports on medical parole should include detailed summaries of the number of applicants who reached each phase in the application processing, as well as HIPPA-compliant information on their conditions.

## Beyond Medical Parole: “If the Risk is Low, Let Them Go”

Other budgetary and legislative priorities:

1. **Presumptive Release:** Parole Board decisions should be rooted in a holistic and lawful evaluation of the factors outlined in the Executive Law and not based solely on the one unchangeable factor: the nature of a person’s crime. The Governor and legislature should take the appropriate steps to require the Parole Board to release individuals unless there is a clear and current public safety reason to keep them in prison. Assembly Member Weprin’s proposed bill—A.7546—creates a presumption of release for parole-eligible incarcerated people, unless the Board determines there is an unreasonable, current public safety risk.
2. **“A Second Look”:** People 50 years of age and older who are not parole-eligible, serving life without parole or “virtual life” sentences should be given a “second look,” and appear for parole consideration after serving 15 consecutive years. Overwhelming evidence indicates that incarcerated people undergo meaningful and transformative change within 10-15 years of their incarceration. Furthermore, older people pose little to no risk to public safety and should be considered for parole release despite the serious harm they may have caused.