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October 25, 2016

Kathleen M. Kiley, Counsel to the Board of Parole
Department of Corrections and Community Supervision
1220 Washington Avenue, Building 2
Albany, New York 12226

Dear Ms. Kiley, as well as Chairwoman Stanford and members of the Board of Parole:

I am submitting this public comment pursuant to the State Administrative Procedure Act, in response to the Notice of Propose Rule Making as published in the New York State Register on September 28, 2016 (I.D. No. CCS-39-16-00004-P).

The Parole Board has historically denied release to far too many people in an arbitrary and inconsistent manner. I visit a number of New York State inmates who are lifelong friends. The Board has consistently based its decisions primarily on their crimes of conviction and past criminal history, factors that can never change. After decades of imprisonment and their accomplishments in prison, they pose no risk to public safety.

In 2011, the Legislature attempted to remedy this situation by amending the Executive Law to direct the Board to focus on risk and needs principles and to measure rehabilitation and likelihood of success upon release. Despite these amendments, the Board has largely continued to ignore objective and evidence-based factors and denies the parole based on their convictions.

Unfortunately, the Board's second round of proposed regulations that incorporate the intent of the 2011 amendments falls short as well.

It is clear that there are a number of Board Commissioners still sitting who will resist any attempts to move them into a more forward-looking and evidence-based process. There is strong evidence that the actions of some of the more intransigent Parole Commissioners such as Walter William Smith, Lisa Beth Elovich, Kevin Ludlow, and James B. Ferguson, are motivated by subjectivity rather than recognizing the accomplishments of these prisoners. The histories of these Commissioners prove that they are incapable of affording fair parole hearings, and therefore they should not be serving in that capacity.

The regulations as they are being proposed lack enforceable language which would compel these Parole Commissioners to shift how they make release decisions.

Parole regulations should include express language forbidding Commissioners sitting on panels from citing the "nature of the offense" to cover their personal inclinations to perpetuate a paradigm of punishment.

Until we see regulations being proposed which address this issue or we witness the appointment to the Board of Parole Commissioners people who follow the intent of the law, the New York State Parole, Clemency, and Compassionate Release systems will remain severely broken.

Thank you for your attention to this matter.

