

Parole Reform Groups Say Proposed New Rules Don't Go Far Enough

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ALBANY - Groups frustrated at the state's unyielding attitude toward releasing some inmates has urged the Board of Parole to go further with new regulations meant to produce more favorable parole determinations.

The proposed regulations would base inmate release decisions more on prospective risk to the public and less on the nature of the crime that led to incarceration (NYLJ, Oct. 20).

A 2011 state law directed parole officials to incorporate "risk and needs principles" when weighing inmates' applications for release. But critics said that 2014 regulations based on that law failed to create a markedly different system. The rules proposed in September direct that parole boards "shall" use the COMPAS assessment system as their guide. COMPAS, or Correctional Offender Management Profiling for Alternative Sanction, gauges an inmate's risk of re-offending. If parole boards deviate from the COMPAS scores, they must say why in writing, according to the proposed regulations.

Claudia Trupp, director of the client re-entry project at the Center for Appellate Litigation, said in [comments to the parole board](#) that the new rules still are not explicit enough about considering factors other than inmates' crimes.

"The proposed amendments fail to encompass the scope of the changes necessary to correct the too often unpredictable, seemingly arbitrary and backwards-focused nature of the current parole process," she said. Trupp complained that the new rules would still allow boards that don't consider inmates' efforts to improve themselves to deny parole. "The burden should be on the parole board to prove that the inmate poses a clear and present danger to society and should be incarcerated further," she wrote.

The Legal Aid Society of New York City [told the parole board](#) that improving the "broken and dysfunctional" parole decision-making process is

appropriate, and it applauded the board for its initiative.

It urged the state to explicitly say in its regulations that there is a "strong presumption" in favor of an inmate's release if he or she is deemed to be at low risk of re-offending if paroled.

The Legal Aid Society also urged the state to rewrite the regulation to clarify that the "risk and needs" assessment must guide the entire decision-making process and not be just one factor weighed against others. It said the 2011 state law meant for the assessment to be the primary factor in determining an inmate's freedom.

Jeremy Benjamin, chairman of the New York State Bar Association Committee on Civil Rights, **urged the parole board** to tighten up the language in its proposed regulations to make it clear that the risk and needs "principles" must guide board decisions, not the risk and needs assessment "scores" prepared for that prisoner.

"The distinction between 'scores' and 'principles' is an important one," said Benjamin.

Benjamin also urged the parole board to begin specifically telling inmates who have been denied release what they can do to enhance their chances of winning release in the future.

There has been little discernible difference in the bottom-line decision-making by boards between 2012 and 2015, according to data supplied by the state Department of Corrections and Community Supervision. The data show that 25 percent of those appearing before parole boards in 2012 won release, 24 percent in 2013, 24 percent in 2014 and 23 percent in 2015. Boards interviewed 13,776 inmates in 2012; 12,911 in 2013; 12,871 in 2014; and 12,190 last year, according to state statistics.

The Correctional Association said that national data by parole boards that also use the COMPAS instrument showed that annual release rates in those jurisdictions generally run between 30 percent for inmates deemed to be at higher risk of committing more crimes if released to the public and 40 percent for the lower-risk inmates eligible for parole.

"Based upon these data, it is clear that the parole board has not been complying with the legislative directive to base its decisions on 'risk and needs' assessments, but is overrelying on the static parameters of the nature of the crime and the applicant's criminal history," Jack Beck, director of the Correctional Association's prison visiting project, [told the parole board](#) on behalf of his group.

The group suggested parole officials write into the regulations that boards should consider the age of offenders when they committed their crimes, as well as the fact that older inmates are less likely to commit new offenses if freed.

The New York State Defenders Association [praised parole board officials](#) for being willing to rethink the way that the 2011 law has been applied. The group's litigation counsel, Alfred O'Connor, told the board that "transparency and accountability" could be introduced into the parole process if boards make good-faith efforts to follow the precepts behind the COMPAS system and explain precisely why prisoners eligible for release under the COMPAS criteria are denied freedom.

Brooklyn Defender Services said any regulations by the parole board should be considered a stopgap measure, and that it would continue to push legislation that sponsors have dubbed the Safe and Fair Evaluation Parole Act.

The bill ([A2930/S1728](#)), which has failed to get out of committee in either chamber since its introduction in the early 2010s, would institute wide-ranging changes in the parole hearing process—including the videotaping of all hearings—and guarantee freedom for inmates if there is "not reasonable cause" to believe that a parolee would pose a danger to the public.

A state spokesman said Tuesday that the parole board is reviewing the comments on the proposed regulations and is deciding if changes are warranted that would require another round of public comments. The 14-member state parole board must vote to adopt the new rules.

Two groups seeking parole reform, Release Aging People in Prison and Parole Justice New York, urged interested parties to offer remarks. The groups said their efforts generated more than 400 comments about the proposals.