

Mujahid Farid
Correctional Association of New York
2090 Adam Clayton Powell Jr. Blvd., #200
New York, NY 10027

November 3, 2016

Dear Mr. Farid:

The following seeks to amend a segment of the Department of Corrections and Community Supervision (DOCCS) proposed revisions to regulations for Parole Board decision making. It is in reference to a specific clause in Section 8002.2, Part A (Risk and Needs Assessments): “*If a Board determination, denying release, departs from the COMPAS scores, an individualized reason for such departure shall be given in the decision.*”

This proposed revision stipulates that in the Board’s explanation (in departing from using the COMPAS as the basis for denial), commissioners shall give an “individualized reason” for their conclusions. The reason(s), however, should be *inherently correctible*. As such, an inmate who falls short of making the board ought to have the opportunity (during the interim period between boards) to correct or find remedy for the identified reason(s).

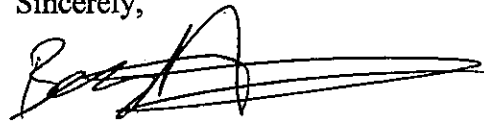
If a reason for denial is *inherently uncorrectable*—i.e., “nature of the crime” (NOC)—then it will remain static and uncorrectable at every board. The NOC, due to its static nature, is the same at any point in time. It was already under consideration at the time of sentencing: since, in an indeterminate life sentence, the “minimum term, by law and definition, is a penal sanction which is commensurate with the perceived severity of the crime” [N.Y. Penal Law, sec. 265.09(2) (McKinney 1998)]. Thus, to extend a person’s time repeatedly beyond the minimum term—based solely on the NOC—effectively amounts to multiple acts of resentencing by the Parole Board.

Moreover, it must be emphasized that in spite of the commissioners’ slated use of an “individualized reason” in their conclusions, this short phrase would not preclude an *inherently uncorrectable* reason(s) from being cited as cause for denial. Therefore, it is suggested that the clause should read: “If a Board determination, denying release, departs from the COMPAS scores, individualized inherently correctible reason(s) for such departure shall be given in the decision.”

One other concern worthy of note: an inmate's denial by the Board is often contingent upon the use of "boilerplate" language or reasoning used in justification—that an inmate's "release is...incompatible with the welfare of society and will...deprecate the seriousness of the crime as to undermine respect for the law." However, the seriousness of the crime was supposedly dealt with by the initial sentencing (see 3rd paragraph). And, a release incompatible with the welfare of society would ostensibly be flagged by COMPAS.

Having made the above arguments, I would like to acknowledge the potentially difficult task that commissioners are faced with at a parole hearing: for instance, whether or not to release someone convicted of murder. Their decisions may have consequences—hopefully good ones. The statistics bear out a positive picture—less than 1% of those paroled recidivate. I thus realize the importance of one's good discretion. But I also feel discretion should have a basis either way (whether to deny or release) and it should be tempered by both the law and reason. Thank you for reading this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Al-Dijali", with a long horizontal flourish extending to the right.

Ben Al-Dijali #03A6042