

Testimony of Tina M. Stanford

Chairwoman of the New York State Board of Parole

Before the State Senate Standing Committees on Crime Victims,

Crime and Correction & Elections

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Chairman Gallivan, Chairman Askhar, and Honorable Members of the New York State Legislature.

I am Tina Stanford, Chairwoman of the New York State Board of Parole. I have served in this capacity since July of 2013. Prior to that, I served as Director of the State Office of Victim Services (OVS) for three years, Chairwoman of the Crime Victims Board for three years before it became OVS, and as an Assistant District Attorney in Erie County for fourteen years. I am proud that my entire professional career has been dedicated to public service, particularly the protection and safety of the public.

The Board of Parole's mission is to ensure public safety by granting parole when appropriate under the governing standards, revoking community supervision when necessary, and discharging individuals from their sentence when it is in society's best interest. The Board is an independent agency currently comprised of 12 commissioners (Members), each nominated by the Governor and confirmed by the State Senate for six-year terms. Board members perform their responsibilities guided by their knowledge of the law and case information provided by the Department of Corrections and Community

Supervision. Board members are entrusted to make well-informed decisions affecting whether an individual is ready for release and which supervision conditions should apply. This independent authority means that the decisions we render are ours and ours alone. While we respect that people have a right to disagree with specific decisions, the Board has the information, training, and legal guidance to make lawful and responsible decisions, particularly release decisions following personal interviews with those incarcerated individuals who are eligible to return to society.

The past several years have brought several significant developments to the Board of Parole. First, the Board updated its policies to confirm and come into compliance with decisions from the United States Supreme Court and specifically in accordance with state law. The Board adopted regulations requiring members to consider an individual's risk to public safety and that individual's own needs when evaluating release. When members make decisions which are incongruent from the risk and needs assessment, they must detail their findings in factually individualized, non-conclusory terms. The regulations also brought the Board into compliance with United States Supreme Court precedent, ensuring that members take into account the age of an individual at the time of an offense if that person was under 18 years of age. Again, these changes were critical to the continued operation of the Board in compliance with both State and Federal law. Second, the Board gained six new members who were nominated by the Governor and confirmed by the State Senate in June of 2017. These new members were vetted, interviewed, appointed, and confirmed through the same process as each member that came before them, which

have been in place for decades. I am confident that the current Board is beyond capable and committed to the challenging work that is our solemn duty.

As I have seen firsthand, the varied professional and personal background of Board members is essential to the effective discharge of our role in the criminal justice system. The Board is evenly split between by gender and six of us represent protected classes by race. We are from different regions of New York and typically work in six different cities, one maximum security correctional facility, three medium security correctional facilities and the Central New York Psychiatric Center. As a collective, we are a diverse group of professionals who deliberate together in good faith to agree or respectfully disagree. Our professional backgrounds include attorneys, prosecutors, parole and probation officers, counselors, administrators, educators, public managers, researchers, legislative advisors, elected officials, and trained clinicians. While each of us approach cases with different perspectives, we receive the same training and apply the same statutory factors – which I will describe later on – to the cases before us. At all times, we work diligently to adhere to legal, ethical and professional standards and to the solemn oaths we have made as public servants.

To provide an overview, I will briefly summarize the interview process and the statutory law that Board members consider before reaching a release decision, each parole-eligible person must be scheduled for a parole release interview at least one month prior to the expiration of their minimum period of imprisonment or parole eligibility date as fixed by the Department of Corrections and Community Supervision, or upon such reconsideration

date as previously set by the Board of Parole. The parole release interview must be conducted by a panel of at least two members of the Board. The panel conducting the parole release interview must discuss with the subject each applicable factor set forth in statute and regulation. Confidential information is not discussed. These interviews are held forty-seven (47) weeks out of every year.

As Chairwoman of the Board, I approve the location assignments and do so without regard to particular cases scheduled as has been the practice for decades. A decade ago the assignments were entirely manually made. Since late 2008, the Board has used a Parole Board Random Assignment Scheduling System computer program. The Board's schedule is published monthly to the Commissioners. I alone am authorized to make changes in the event of emergencies. I only assign specific Commissioners to interview specific individuals when this is required by rescission policy, a court order, or administrative appeal decision. Assignments are never made to impact the likelihood of a specific decision.

In terms of our parole release decisions, the law requires that the granting of release is not be made merely as a reward for good institutional behavior but after considering if there is a reasonable likelihood that the person being interviewed will remain at liberty without violating the law, and that their 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. In making a release determination, the Board is guided by risk and needs principles, as required by state law and detailed in regulation, including the person's risk

and needs scores as generated by a validated risk assessment instrument, as prepared by the Department of Corrections and Community Supervision. If other risk and need evaluations are prepared to assist in determining the person's treatment, release plan, or risk of reoffending, and such evaluations are made available for review at the time of the interview, the Board may consider these evaluations as well. The Board's consideration of an individual's risk and needs meets the standards set under State law as interpreted by the courts.

The Board must also consider the most current case plan that may have been developed by the Department of Corrections and Community Supervision and must adhere to our recent regulations when dealing with persons serving a maximum sentence of life imprisonment for a crime committed prior to the individual attaining 18 years of age. In such cases, the Board considers the following: the diminished culpability of youth with its hallmark features including immaturity, impetuosity, a failure to appreciate risks and consequences, and susceptibility to peer and familial pressures, as well as the person's growth and maturity since the time of the commitment offense. Further, information presented that the hallmark features of youth were causative of, or contributing factors to, a person's commitment offense, should not, in itself, be construed to demonstrate lack of insight or minimization of the person's role in the commitment offense.

Lastly, the Board considers the following statutory factors in making a release determination: the institutional record, including program goals and accomplishments, academic achievements, vocational education training or work assignments, therapy and

interactions with others; performance, if any, as a participant in a temporary release program; release plans, including community resources, employment, education and training and support services available to the person; any deportation order issued by the Federal government against the person while in the custody of the Department of Corrections and Community Supervision, any statement made or submitted to the Board by the crime victim or the victim's representative, where the crime victim is deceased or is mentally or physically incapacitated; the length of the determinate sentence to which the person would be subject had they received a class A or other than class A felony drug sentence; the seriousness of the offense with due consideration to the type of sentence, length of sentence and recommendations of the sentencing court, the district attorney and the attorney who represented the person in connection with the conviction for which the person is currently incarcerated, the pre-sentence probation report, as well as consideration of any mitigating and aggravating factors, and activities following arrest prior to the person's current confinement; and prior criminal record, including the nature and pattern of the person's offenses, age at the time of commitment of any prior criminal offense, adjustment to any previous periods of probation, community supervision and institutional confinement. As you can see, there is a great deal of law that we each must consider and every case involves a unique combination of facts which require Board members to weigh the relevant standards and factors. I cannot stress enough how much a person's interview demeanor and responses matter to the panel and impact the ultimate decision.

After review of the written record, interview, contemplation and deliberation, a majority vote of two determines the parole decision in three-person panels. In two-person panels, both members must agree. If the Board grants release following this review, it must impose the initial set of conditions that will govern the person's community supervision. If parole is not granted, the person must be informed in writing, within two weeks of their interview, of the decision denying them parole and the factors and reasons for such denial. Reasons for the denial of parole release must be given in detail, and shall, in factually individualized and nonconclusory terms, address how the applicable parole decision-making principles and factors were considered in the individual's case. The Board must specify in its decision a date for reconsideration of the release decision and such date must be not more than 24 months from the interview. Without exception, this is the process we follow for each and every case that appears before the Board.

As a final note, I would be remiss not to mention the partnership that exists between the Department of Corrections and Community Supervision and the Board of Parole regarding the sharing of information necessary for our members to make well-informed decisions. In no uncertain terms, I want to assure this distinguished body and the general public that no person or entity, public or private, interferes with the independent decision-making authority of the Board. We are guided by the law and the facts related to each decision. Period. Moreover, I am satisfied that this present Board takes the time they feel that they need with each person and case to be able to render a legitimate and responsible decision.

This testimony should leave no question as to how proud I am to be Chair of this Board.

Thank you.