

TESTIMONY ON BEHALF OF THE ALLIANCE FOR RATIONAL PAROLE POLICIES  
Testimony Before  
THE NEW YORK STATE  
SENATE STANDING COMMITTEE ON CRIME VICTIMS, CRIME AND CORRECTIONS  
January 15, 2008

Submitted by:  
Center for Alternative Sentencing and Employment Services  
Center for Community Alternatives  
Coalition for Parole Restoration  
College and Community Fellowship  
The College Initiative.  
Correctional Association of New  
Exodus Transitional Community  
Family Justice  
Fortune Society  
Interfaith Coalition of Advocates for Reentry and Employment  
Legal Action Center  
The Osborne Association  
Women's Prison Association

This testimony is submitted on behalf of a group of nonprofit organizations in New York who work with individuals who are currently or formerly incarcerated. We have joined together as the Alliance for Rational Parole Policies to support policies that will permit the appropriate release for individuals sentenced to long periods of incarceration, and others convicted of violent crimes. We believe that release is appropriate for those people who have served the minimum sentence imposed by a court of law and who, after years of incarceration, have demonstrated their rehabilitation and ability to live in society without risk to public safety.

The January 15, 2008 Senate Standing Committee on Crime Victims, Crime and Correction hearing is intended “[t]o examine the increase in parole release rates for violent felons in the New York Correctional System.” The Committee has limited oral testimony to public officials responsible for oversight over New York State’s key criminal justice agencies: the Division of Criminal Justice Services, the Department of Correctional Services, and the Division of Parole. While we appreciate the importance of such testimony, the organizations comprising the Alliance for Rational Parole Policies feel it is critical that the Senate also consider the opinions of those of us who have worked with the individuals who have been convicted of violent crimes who are the subject of the hearing.

New York State Correctional Law §259 -i (2) (c) and 9 NYCRR § 8002.3 establish the factors that guide parole release decisions. These factors include: 1. the institutional record, including program goals and accomplishments, academic achievements, vocational education, training or work assignments, therapy and interpersonal relationships with staff and inmates; 2. performance in a temporary release program; 3. release plans including community resources, employment,

education and training and support services; 4. a deportation order; 5. victim statement. The assessment of all of these factors guides the Parole Board in deciding whether a person's release is compatible with public safety, the welfare of society and will not deprecate the seriousness of the offense. The Alliance for Rational Parole Policies supports a parole release decision making process that adheres to these laws and regulations, i.e., a process that is fair, equitable, transparent, and responsible. The Alliance opposes the creation of any sort of de-facto quota system that would limit the possibility of parole release for a particular segment of incarcerated people.

Data and our collective experience explain why this is sensible, responsible and humane policy.

### ***1. The Data Show that Public Safety is Not Enhanced by Decreasing Parole Rates***

The Senate Committee hearing is focused on the release of people who have been convicted of violent felonies, and particularly people released after serving sentences for murder. Yet Department of Correctional Services (DOCS) data on release and recidivism for people convicted of murder supports our contention that public safety is not jeopardized by releasing people at or close to their minimum sentences.

In FY 1993-94, at the end of the Cuomo administration, the release rate for persons convicted of A-I felonies at their initial board appearance was 28%. There was a dramatic reduction of release rates for persons convicted of these crimes at their initial board appearances during the Pataki administration. By FY 2001-02, the rate of release at first appearance for individuals convicted of A-I felonies dropped to 3%.<sup>1</sup>

Yet, the denial of parole to men and women whose prison records demonstrated rehabilitation and their continued incarceration for years beyond the judicially imposed minimum sentence does not result in gains in public safety. Reincarceration rates for people released after serving a sentence for murder are distinctively lower than reincarceration rates for groups convicted of other crimes. Between 1985 and 2002, 1,105 people were released after serving a sentence for murder. Their overall return rate was half of that of the overall return rate for all DOCS releases: 20% (222 people) of individuals convicted of murder returned to DOCS custody within three years of release compared to an overall reincarceration rate of nearly 42%. Only 3% (33 people) of people convicted of murder returned for a new commitment and 17% (189 individuals) returned for a parole violation. These statistics are in comparison to an overall return rate for a new commitment of 17%.<sup>2</sup>

More specifically, there were 38 women convicted of murder and released between 1985 and 2003. None of the 38 women returned to prison for a new commitment within a 36-month follow up period. That is a zero return rate to prison on new crimes for women released for murder in a study that included 19-years of releases from New York State prisons.<sup>3</sup>

---

<sup>1</sup> Office of Policy Analysis

<sup>2</sup> Kellam, Leslie. n.d. *2002 Releases: Three Year Post Release Follow-Up*. Albany, NY: New York State Department of Correctional Services.

<sup>3</sup> Special computer search conducted by the New York State Department of Correctional Services' Division of Program Planning, Research & Evaluation staff, January 2008.

## ***2. Parole Release Decisions Should Be Guided by the Law and the Fair Administration of Justice***

The Alliance respectfully believes that focusing on rates of release rather than individual readiness for release as set forth under Corrections Law and Parole regulations would diminish the fair administration of justice.

Each person who reaches his or her minimum sentence is entitled to be considered for release based on a broad range of considerations beyond the circumstances of the crime for which they were incarcerated.

A person's criminal behavior has already been taken into consideration by the court when the sentence was imposed. The crime is an event that can never be undone, no matter how much we all might wish it to be. Following New York State law, and Division of Parole regulations, one is eligible for consideration for parole release after serving his or her minimum sentence, at which time, one's achievements while incarcerated are important factors to consider. The key question before the Parole Board is: has the individual used his or her term of imprisonment to prepare for a law abiding and productive life upon reentry?

The decades of collective experience of the organizations that have joined this coalition shows that holding a person long beyond the time when he or she is, by law eligible for parole, and has taken significant steps at rehabilitation and responsibility is both counter-productive and unfair. Participation in rehabilitative programs, educational opportunities, and a positive record is the way that people can demonstrate readiness for release. These achievements should be the essential elements considered when an individual becomes eligible for parole. It is not for the parole board to second-guess the sentencing judge years and decades later.

Our criminal justice system recognizes the need for both punishment and for the protection of public safety. But it also recognizes the prospect of rehabilitation and transformation, and the expectation of returning to society if the goals of public safety and rehabilitation are met.

## ***3. Arbitrary Denial of Parole Carries Profound Economic and Human Costs***

The only certain result from holding people in prison longer than warranted by law is the increase in cost to taxpayers. The cost per person of parole supervision is estimated to be one tenth the cost of incarceration (\$3,000 compared to \$30,000).

Unnecessarily high rates of parole denial for people incarcerated for long terms cost the taxpayers considerable sums of money without gain in public safety. Moreover, such practices reduce resources that could otherwise be used to prevent crime and reduce recidivism. Holding people beyond their minimum solely for punitive purposes ignores the long term benefit of returning people to their communities where they can make amends, pay taxes, and contribute to their families.

It makes no sense to hold a person solely based upon the offense behavior, no matter how long in the past and no matter how much the individual has tried to change for the better. Failing to recognize personal transformation and subjecting someone to unending incarceration are

---

practices which run counter to the democratic and spiritual values on which our society is based. Strongly rooted concepts of salvation, mercy, atonement, and redemption must lead us to better ways of ameliorating the lives of all those affected by crime and violence.

In 2003, at the annual meeting of the American Bar Association, Supreme Court Justice Anthony M. Kennedy made an unusual and widely lauded speech critiquing the U.S. criminal justice system. Justice Kennedy said: *"Our resources are misspent, our punishments too severe, our sentences too long."* Justice Kennedy grounded his address in personal morality and democratic ideals. He was moved to speak out, and urged others to do so, not only by the professional concerns but also by the *"Gospel's promise of mitigation at judgment"* for those who aid people in prison. He reminded his audience that *"the prisoner is a person ...part of the family of humankind."* He pleaded for legislators to differentiate between long, unnecessarily punitive sentences and sentences that are *"wise and just."* He denounced a corrections system which degrades or demeans people in prison, as having a purpose *"not acceptable in a society founded on respect for the inalienable rights of the people."*

### ***Conclusion***

The Alliance urges New York State leaders and policymakers to consider Justice Kennedy's comments as they consider when and how parole release decisions are made. Considerable evidence exists that reducing reliance on incarceration can be accomplished without compromising public safety. New York State has in fact reduced its prison population and crime has continued to decline. The State has begun the task of creating policies and practices that improve reentry, such as the DOCS and the Division of Parole reentry initiative in operation at the Orleans Correctional Facility. Organizations that comprise the Alliance stand ready to assist with discharge/transitional planning services offered prior to an individual's release and an array of reentry support services from employment and education, to housing, health, family reunification and drug treatment that are available the moment that the person returns home.

The Alliance for Rational Parole Policies urges the New York State continue its focus on the reentry needs of people returning home, and not on reducing the release of people who have served their sentences and earned their release from incarceration.

Thank you for your consideration of our testimony.