

WHAT MUST I DO TO BE RELEASED?

**INCARCERATED PEOPLE'S EXPERIENCES
WITH NEW YORK'S PAROLE SYSTEM**

FILED

Correctional Association of New York

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Key Dates for Paroleⁱ

- 1817:**
New York State adopts “Good Time” Law, which allows incarcerated people to be released early for good behavior.
- 1846:**
The Prison Association of New York (now the Correctional Association of New York, or CANY) publishes a report in which they noted that “even in proportion to their numbers, the whites receive executive clemency more frequently than the blacks.” As a solution to this problem, the Association recommends that once or twice a year an examiner should review trial transcriptions, relevant materials, and new evidence to recommend a pardon if warranted.
- 1870:**
New York State Legislature enact laws to create a new model prison—the State Reformatory at Elmira (eventually completed and opened in 1876).
- 1881-1882:**
Three grade parole system introduced in Elmira by Zebulon R. Brockway: all new “inmates” were placed in the middle grade and could be promoted or demoted depending on their performance in school, work, and deportment. After six months in the highest grade, they earned eligibility for parole. “Inmates” were required to secure employment and a place to live before their release on parole.
- 1893-1894:**
In 1893, a parolee of Elmira fought his parole revocation in court, testifying that he had been brutally beaten by Brockway and was afraid to return. Newspapers found other ex-inmates to corroborate the allegations, and pressured Governor Roswell Flower and the State Board of Charities to investigate.
- 1893-1894:**
New York State Board of Charities Investigation finds numerous systemic flaws in Elmira’s parole system, including arbitrary and disparate decisions on the part of the parole board, ineffective parole supervision, and trivial and frivolous reincarceration.
- 1907:**
New York becomes the first state to implement a parole system. The program included modern components of parole, such as indeterminate sentencing, supervision after release from prison, and definitive criteria for revoking parole.
- 1917:**
An evaluation of the Elmira parole system found that, despite reform efforts and the hiring of more parole officers—all of whom were white, upper class men appointed based on social and political status—there was still a large disparity between the theory and practice of parole.
- 1925:**
The Association (now CANY) and the State Crime Commission propose a set a new laws and recommendations, including the need for a full-time parole board
- 1926:**
Baumes’ Law passed in New York state, which eliminated mandated life imprisonment without the possibility of parole for “any criminal convicted of three separate felonies.”
- 1930s:**
As a result of riots at the Auburn and Clinton Correctional Facilities in 1929 over overcrowding, unsanitary conditions, and harsh sentencing, the New York state legislature established a new and independent Division of Parole.
- 1941:**
This year marked the first time that a Black person. Samuel Battle, was appointed to a parole board in New York.
- 1971:**
Attica Prison Riot, in which incarcerated people at the Attica Correctional Facility demand, among other things, the right to legal counsel during parole hearings; the replacement of the parole board that has been appointed by the governor by a parole board appointed by popular vote; and “an end to the discrimination in the judgment and quota of parole for Black and Brown people.”
- 1971:**
Chapter 319 of the New York State Corrections Law combines the Department of Corrections and the Department of Parole.
- 1973:**
Rockefeller Drug Laws mandate severe prison sentences that ranged from 15 years to life imprisonment without the possibility for parole for certain drug related crimes, which cause prison population to skyrocket.
- 1977-1978:**
Parole Reform Act of 1977 breaks apart Department of Corrections and Department of Parole and makes the Department of Parole a separate agency in the Executive branch.
- 1992:**
New York Legislature enacts a Medical Parole Law containing elements of a compassionate release proposal supported by the Association.
- 2011:**
The New York State Department of Corrections and the New York State Division of Parole merged to form a new agency, the New York State Department of Corrections and Community Supervision (DOCCS).
- 2017:**
Advocates lead a successful campaign to change Parole Board composition; Governor Cuomo appoints 6 new Parole Commissioners, some of whom more closely reflect the identities and experiences of people in prison.
- 2017:**
The Parole Board publishes the following revised guidelines: “Reasons for the denial of parole release shall be given in detail, and shall, in factually individualized and non-conclusory terms, address how the applicable parole decision-making principles and factors...were considered in the individual’s case.”
- 2021:**
Three parole reform bills -- The Fair & Timely Parole Act (S1415/A4231), Elder Parole (S15/A3475), and Less is More: Community Supervision Revocation Reform Act (S1144/A5576) -- are introduced in the New York State Legislature, signaling recognition of the need to reexamine the way parole is administered.

Introduction

The use of parole or post-release supervision was first introduced as a reform to criminal justice models in the United States during the late 19th century. Developed and piloted by a group of policymakers in New York, the purpose of parole was to reform the criminal justice system by releasing incarcerated people from prison before their original release dates.¹

This model of rehabilitation came to be known as the Elmira Model, after New York Governor John T. Hoffman endorsed these reforms and the state legislature endorsed the construction and staffing of Elmira Reformatory in 1876 (now Elmira Correctional Facility). This “reformatory prison,” in contrast to the popular Auburn model (first instituted at Auburn Correctional Facility) of congregate and silent prisons, involved a three stage parole system that looked very different from the system of parole that exists today.^{2,3} While Elmira was serving as a nationwide model for prison reform, the prison also was the subject of criticism for abuses reported at the facility, including the use of violent, corporal punishment.⁴

Today, parole’s use, much like its history, is still the subject of some controversy and criticism. In a nationwide survey in 2018, the Council for State Government (CSG) found that 45% of state prison admissions were due to violations of supervision. That trend was consistent in New York, where 41% of prison admissions were for supervision violations, and 22% of people incarcerated were there for violations.⁵ In a report released in February 2021, the Department of Correction and Community Supervision (DOCCS), which houses the NYS Board of Parole, showed that the three-year return rate (a measure of recidivism) for those released on parole in 2012, was 43.5%.⁶ These findings reveal that a significant proportion of individuals released on parole in NYS are returned back to prison.

Additionally, New York State Board of Parole has been criticized for not releasing enough incarcerated people who are up for parole. CANY’s analysis of the DOCCS Under Custody dataset in October 2020 found that 69% of incarcerated people were denied parole after their first hearing. Later in the report, we discuss respondents’ reports of reasons for denials that stand in stark contrast with the purpose of parole in the first place. In conjunction with criticism about the sparing use of parole, the elderly and aging incarcerated population—over 30% of the population of New York’s prisons—face health concerns that could be better treated outside of prison, particularly in the midst of a pandemic. The onset and sustained duration of the novel COVID-19 virus has revealed the importance of reduced populations behind bars, as jails and prisons continue to be hotspots across

1 Enoch Cobb Wines and Theodore W. Dwight, “Report on the prisons and reformatories of the United States and Canada made to the Legislature of New York, January, 1867” (Van Benthuysen & Sons, 1867).

2 Wines and Dwight, 47.

3 “Report of the Board of Managers of the New York State Reformatory at Elmira, January 10, 1877” (Jerome B. Parmenter, State Printer, 1877), 30.

4 Alexander W. Pisciotta, *Benevolent repression: Social control and the American reformatory-prison movement*. (NYU Press, 1994).

5 Council for State Governments (CSG), “Confined and Costly: How Supervision Violations Are Filling Prisons and Burdening Budgets,” Council for State Governments (CSG), February 11, 2021, <https://csgjusticecenter.org/publications/confined-costly/>.

6 Department of Corrections and Community Supervision (DOCCS), “DOCCS FACT SHEET,” Department of Corrections and Community Supervision (DOCCS), March 1, 2021, <https://doccs.ny.gov/system/files/documents/2021/03/doccs-fact-sheet-march-2021.pdf>.

the country.⁷ Furthermore, through letters and prison monitoring visits, representatives from CANY regularly encounter questions, complaints, and issues that incarcerated people are experiencing with the parole system.

In order to better understand the parole process by those most impacted by it, CANY administered a survey to incarcerated people who had previously been denied release by the parole board. This report will focus on making sense of the parole process by analyzing the responses collected from respondents to our survey about parole. This begins with respondents' pre-parole board experience, including their preparation for the day they see the parole board. Next, we examine their experiences with the parole board to further understand the interactions between incarcerated people and parole board commissioners. After discussing the parole board, the report focuses on the impact of parole board denials and how they have affected incarcerated people. Finally, this report will examine how the parole process can be changed and CANY will provide recommendations for stakeholders to consider.

Methodology

SURVEYING INCARCERATED PEOPLE WITH PRIOR PAROLE EXPERIENCES

In the Fall and Winter of 2019-2020, CANY distributed surveys about the parole process to 1,994 incarcerated people across 49 New York State prisons. All 1,994 incarcerated people who received a survey were selected for this survey because they had gone before a parole board and been denied parole at least one time previously, according to data received from DOCCS. CANY mailed incarcerated people surveys, blank answer sheets, and a post-marked return envelope to send their answer sheets back.

The survey consisted of 121 items and was divided into 12 sections: Experience with the Parole Board, Programs, Self-Improvement, COMPAS and Disciplinary Record, Community Support, Preparing for a Parole Hearing, Appeals and Article 78, Clemency and Medical Parole, Instant Offense, Impact on Loved Ones, Suggestions for Improvement, and Race and Ethnicity. Of the 121 items on the survey, 107 items were multiple choice response questions while the remaining 14 questions were open-ended response questions. Many of the items in this survey were developed using input provided by partner organizations who had their own questions about experience with the parole process.

DEMOGRAPHICS

A total of 313 individuals responded from 42 prisons across New York State. The demographic information about respondents to this survey comes from the July 2019 under custody data received from DOCCS through a Freedom of Information Law (FOIL) Request. Out of 313 respondents, 269 respondents had demographic information available from a November 2019 DOCCS under custody file. A higher proportion of white individuals responded to our survey than their share of the prison

⁷ The Marshall Project, "A State-by-State Look at Coronavirus in Prisons," The Marshall Project (The Marshall Project, March 18, 2021), <https://www.themarshallproject.org/2020/05/01/a-state-by-state-look-at-coronavirus-in-prisons>.

population as a whole. Another limitation of the findings was the gender of respondents, who were overwhelmingly located in male facilities--with only 4% of respondents identified as "female" by DOCCS (n=10). While this is not unrepresentative of DOCCS' population, which is overwhelmingly male, the experiences of incarcerated women in this study may not be adequately represented due to the small sample size.

For a breakdown on race and ethnicity of respondents, see Table 1 below.

Table 1. Race/Ethnic Breakdown of Respondents

RACE	HISPANIC	NON-HISPANIC	UNKNOWN
BLACK	2% 6	41% 111	43% 117
WHITE	5% 13	37% 99	41% 112
NATIVE AMERICAN	—	2% 5	2% 5
ASIAN	—	0.5% 1	0.5% 1
OTHER/UNKNOWN	12% 32	1% 2	13% 34
TOTAL	19% 51	81% 218	100% 269

Parole in New York State

In New York, parole is defined as follows:

“Discretionary Release or “Parole” is a type of release granted by the Board of Parole as a matter of discretion after an incarcerated individual has served the statutory minimum of their indeterminate or mixed sentence.⁸”

It is the second most used form of release in NYS, following conditional releases and preceding maximum expiration releases. The New York State Parole Board, which makes parole determinations, is made up of a body of commissioners who are appointed by the governor of New York to serve a six-year term.⁹ At the time of this report, there are presently 16 parole board

8 Department of Corrections and Community Supervision (DOCCS), “Community Supervision Handbook” Department of Corrections and Community Supervision (DOCCS), January 1, 2021, <https://doccs.ny.gov/community-supervision-handbook>.

9 Department of Corrections and Community Supervision (DOCCS), “About the Board- History of Parole,” Department of Corrections and Community Supervision (DOCCS), January 1, 2021, <https://doccs.ny.gov/about-board#history-of-parole>.

commissioners who, in panels of 2-3 commissioners, to determine the outcomes of over 12,000 parole board hearings annually.^{10,11} In recent years, the parole board has come under criticism for not adequately reflecting the racial and geographic diversity of the populations they serve as well as for being understaffed: while there are presently 16 commissioners on the parole board, the law allows for up to 19.

Pre-Parole Board Experience and Preparation

Often, the lengthiest period of the parole process for many incarcerated people is the time that elapses prior to their first parole board hearing. Spanning from an incarcerated person's initial court proceedings, to their eventual conviction, and continuing throughout their time in prison until their first parole hearing—various notes, datapoints, and information about their time in prison are being added to their record, which will eventually be used by the parole board to determine whether or not an individual is granted parole.

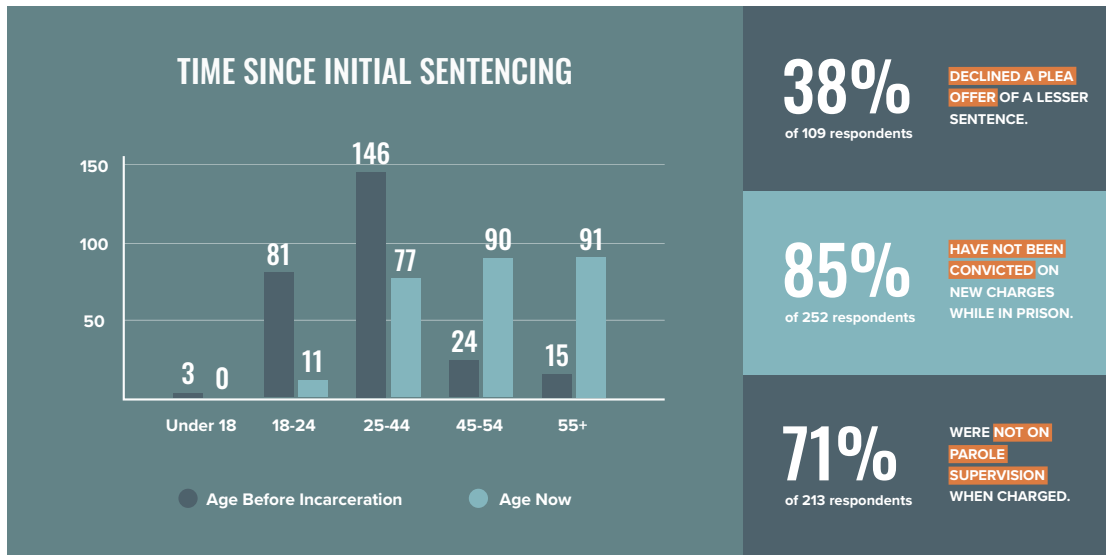
TIME TO PAROLE BOARD INTERVIEW

According to DOCCS, "Incarcerated individuals are scheduled for an initial Board interview about four months before the expiration of their court imposed minimum, also known as the parole eligibility date (PED)."¹² For those who have received both indeterminate and determinate sentences, their parole eligibility date is also the conditional release (CR) date. Throughout the survey responses, people frequently addressed the length of time one waits for their first or next parole board interview. Because many individuals who receive indeterminate sentences have been convicted of serious or violent felonies, many individuals are incarcerated for long periods of time, even decades, prior to their initial parole board interview. After this first board appearance, an individual denied parole will reappear before the board again within two years of the last denial. This process continues until the person is granted parole or until they reach the maximum length of their indeterminate sentence. An individual facing an indeterminate life sentence (e.g. a sentence of 20 years to life) must be granted parole in order to be released and will reappear in front of the parole board until parole is granted. One way to understand how much time has elapsed for our survey respondents was to measure the age they were when first incarcerated compared to their age at the time of the survey. While many respondents were between ages 25-44 when they were first incarcerated, most were older than 45 during the time of our survey. The most represented current age category was those older than 55: 91 respondents (34%) were 55 or older, indicating that many of our respondents had already spent, on average, 20 years in prison and had not yet been released on parole.

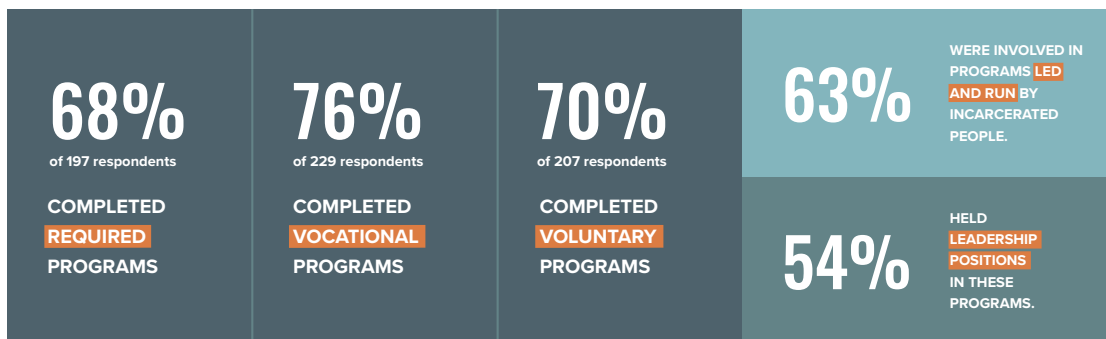
10 Department of Corrections and Community Supervision (DOCCS), "Board of Parole Legislative Report," Department of Corrections and Community Supervision (DOCCS), August 8, 2017, <https://doccs.ny.gov/system/files/documents/2020/08/2017-parole-board-leg-report.pdf>.

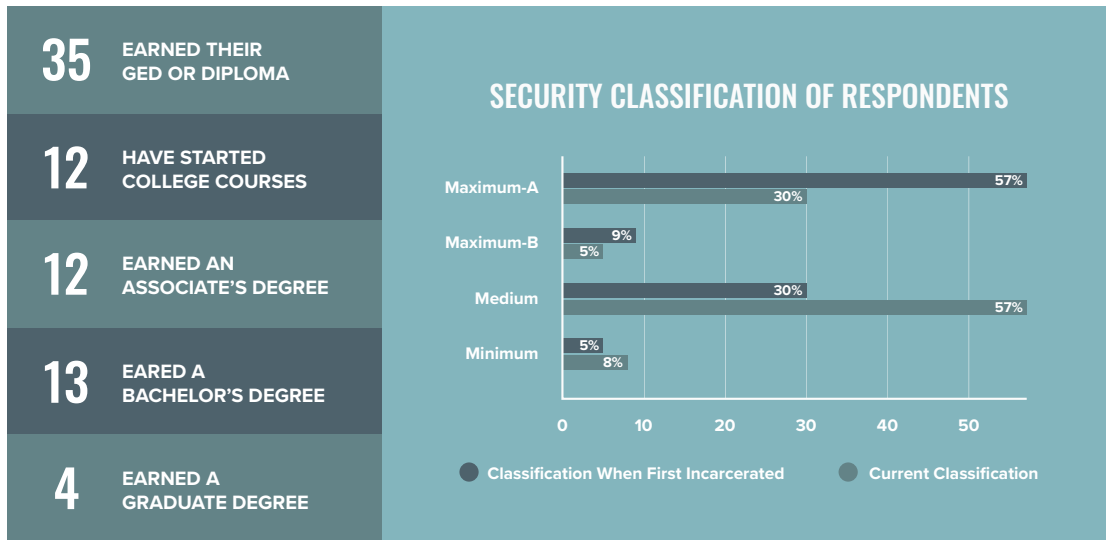
11 New York State Parole Board: Failures in Staffing and Performance, the Parole Preparation Project and The Release Aging People in Prison Campaign, (2018).

12 Department of Corrections and Community Supervision (DOCCS), "Preparing for Parole," Department of Corrections and Community Supervision (DOCCS), January 1, 2021, <https://doccs.ny.gov/preparing-parole>.



During their time behind bars, many incarcerated people engage in activities that they hope will ultimately portray their growth from the time of their conviction and provide pathways for release. Sixty-eight percent of respondents reported having completed all of their required programming in addition to elective vocational and voluntary programs (76% and 70% respectively). Additionally, many respondents reported holding leadership positions in peer-led programs. Respondents also reported their success with educational attainment, with over 60 diplomas and degrees collectively completed by respondents. While the majority of respondents were initially classified in the highest, Maximum-A security designation when they were first incarcerated, most respondents are currently classified as Medium security, a designation that, among other things, grants more freedom of movement than is afforded in maximum security prisons.





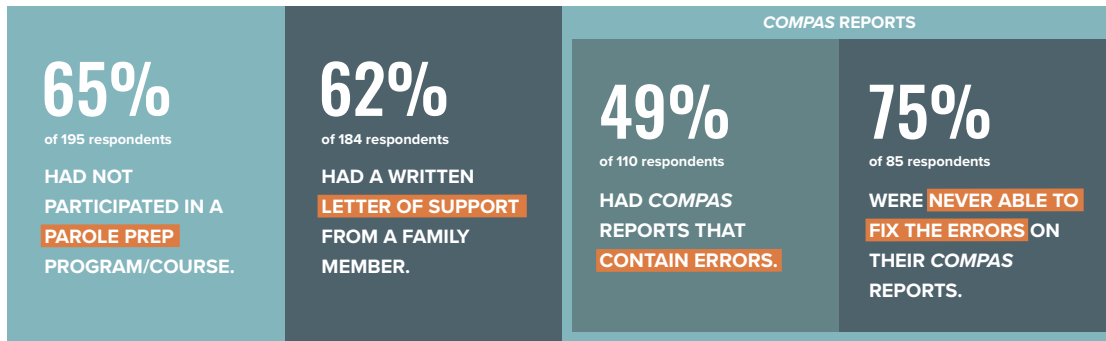
- 35** EARNED THEIR GED OR DIPLOMA
- 12** HAVE STARTED COLLEGE COURSES
- 12** EARNED AN ASSOCIATE'S DEGREE
- 13** EARNED A BACHELOR'S DEGREE
- 4** EARNED A GRADUATE DEGREE

PAROLE BOARD MATERIALS

A critical aspect of the parole board interview involves preparation and review of materials submitted by the incarcerated person. According to DOCCS, “Incarcerated individuals may seek the guidance of the Offender Rehabilitation Coordinator (ORC) and/or Supervising Offender Rehabilitation Coordinator (SORC) in preparing for their Board interview and may also seek assistance regarding the interview and release processes... Approximately four months prior to the scheduled Board interview, the ORC or Senior ORC interviews the individual to prepare the Parole Board Report that will be reviewed by the Board panel.”¹³ The Parole Board Report contains information about their criminal history, personal characteristics, statements from the incarcerated individual that refer to criminal history and current offense, institutional reports, and release plans that including plans for housing, employment, and treatment.

In spite of the stated availability of guidance and support from an ORC, 65% of respondents had never participated in a parole preparation program through DOCCS. For those respondents, deciding what to include in their Parole Board Report was informed by sourcing their incarcerated and recently successfully paroled peers, advocacy organizations like the Parole Preparation Project, voluntary services, and family members. Others relied on their own intuition. Nevertheless, respondents discussed including materials that they believed would be helpful, such as letters of support from family members, their own personal statements, resumes, apology letters, certificates of completion, published works, obituaries, and more. Overwhelmingly, respondents prepared for their parole board hearing outside of institutional pathways, underscoring one of the many barriers to successful parole release.

¹³ Department of Corrections and Community Supervision (DOCCS), “Preparing for Parole,” Department of Corrections and Community Supervision (DOCCS), January 1, 2021, <https://doccs.ny.gov/preparing-parole>.



In 2017, the Parole Board finalized new regulations which “require Parole Board commissioners to be guided by risk and needs principles in making their release decisions” and to document decisions that depart from these principles, which are informed by the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS).¹⁴ According to DOCCS, the COMPAS is “a research based clinical assessment instrument which is used to assist staff in assessing a releasee’s risk and needs in order to most effectively supervise the releasee.”¹⁵ Many survey respondents discussed significant issues with the COMPAS score, which becomes a component of the final Parole Board report. Almost half of the respondents stated there were errors in their scores, many of which were never corrected. Many of the errors reportedly surrounded their criminal history, incorrectly listing their previous offenses or their risk level; other errors misrepresented their ties to family, incorrectly listing they had low or no social ties. In some cases, the COMPAS report listed the wrong person altogether. DOCCS directives specify that the COMPAS scores are to be “...used together with professional judgement to reach supervision classification decisions and guide supervision activities,” and yet errors and inconsistencies impact the ability of commissioners to make appropriate decisions.

Overall, survey respondents illuminated the significant preparation, coordination, and assertiveness required to ensure that the necessary materials were gathered, that they contained accurate information, and ultimately, that their report presented the best possible picture.

Parole Process and Experience with the Parole Board

PRIOR PAROLE BOARD EXPERIENCES

Several survey respondents reported positive impressions of their hearing experience, such as: “I was complimented on my disciplinary record and accomplishments while in prison” and “It was rough but fair. Other than some inaccuracies...it was fair” and “They told me to keep up the good work and make I’ll make my CR date.” But the overwhelming majority of respondents talked about their experiences in negative terms, and even referred to the process as “dehumanizing.”

¹⁴ See “Release from Prison” at <https://www.governor.ny.gov/criminal-justice-reform/new-york-state-council-community-re-entry-and-reintegration#:~:text=In%20July%202014%2C%20Governor%20Andrew,entering%20society%20in%20New%20York>.

¹⁵ Department of Corrections and Community Supervision (DOCCS), “COMPAS Assessments/Case Plan- Directive,” Department of Corrections and Community Supervision (DOCCS), August 14, 2019, <https://doccs.ny.gov/system/files/documents/2020/11/8500.pdf>.

For example, some respondents provided the following impressions:

“ Just completed my 6th parole board this month and one commissioner questioned me on why should I have a life since I took a life.

Scolded @ initial hearing: “Do you think that you could commit this crime and just do 15 years and get out?” It came at a moment when my emotions of remorse were on full display. Hope for release was lost, felt defeated.

Questions were asked of my sexual preferences and the commissioner consequently asked, “Is this making you aroused?” The entire line of questioning was very uncomfortable, however, I didn't feel I could decline to answer. I believe my sexual orientation may have swayed the commissioner's decision.

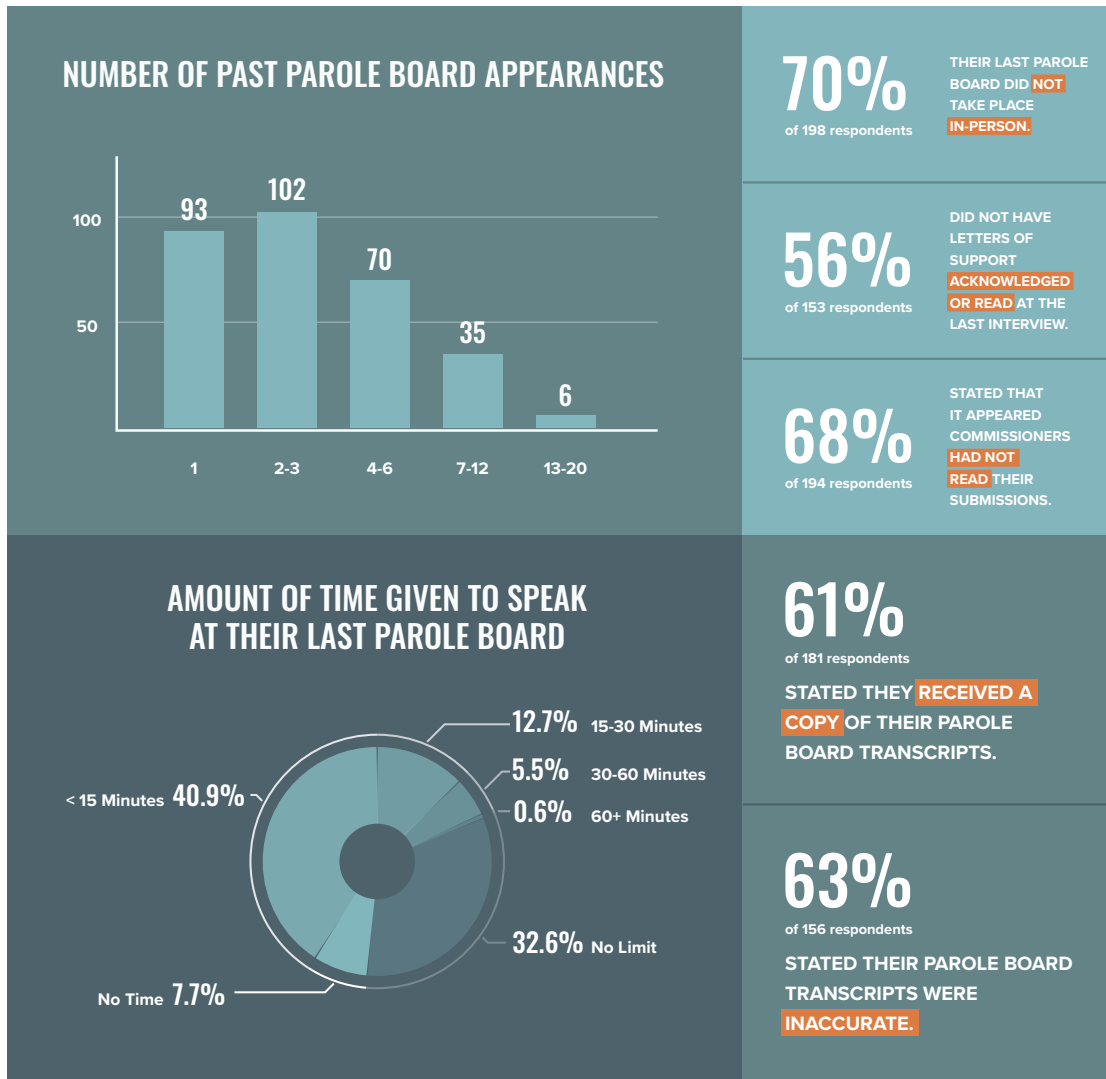
Commissioner [name omitted] said “Sorry the judge didn't give you more time.”

I was called a f--king criminal, that should rot within the prison walls. Called an animal, with no regard for human life.

Respondents described having no agency or voice in the process. Many of them reported feeling like they had to accept disparaging comments without challenging them or risk leaving the impression that they were refusing to take responsibility for their crimes. Other respondents reported feeling as though the parole board had already made up their minds before their hearing. Still, others reported that the hearing felt “cold, indifferent, just went [through] the motions, mechanics.” Respondents also discussed issues with remote parole board interviews that take place virtually, over a screen¹⁶; letters of support not acknowledged or discussed at the interview; and limited speaking time. Additionally, respondents stated it seemed as though commissioners had not read many of their submissions; upon reviewing transcripts of the hearings, some individuals reported having found consequential inaccuracies and inconsistencies.

Respondents reported that they did not believe the parole hearing process gave them a fair chance at being released. Overall, for many respondents, especially those who had experienced multiple hearings, the parole hearings focused on their past, with little consideration for what they had accomplished during their incarceration—essentially little consideration for who they had become instead of who they were at the time of their conviction. Most respondents had already spent over two decades behind bars and felt as though the time served meant little in the eyes of the parole board commissioners.

¹⁶ These data were collected in 2019, before the onset of the COVID-19 pandemic. Virtual or remote interviews via video conference were already a common practice.



EXPERIENCE WITH PAROLE BOARD COMMISSIONERS

Throughout the responses to our survey, respondents reported mixed experiences with commissioners. While many respondents reported hearing positive or encouraging comments from parole board commissioners at their interviews, many also reported hearing biased and inappropriate comments. Even further, 23% of respondents stated that they believe they experienced incidences of racially biased decision-making at their parole board while 39% of respondents believe their race or ethnicity had an impact on their parole board decision. Troublingly, 43 respondents (14%) reported hearing racially charged comments from commissioners. Some of the respondents shared these experiences of biased and inappropriate comments:

“

Prejudice; racist; just don't care about “us.”

He is anti-rehabilitation, lies, and racist

Racist and naïve about prison life and guards

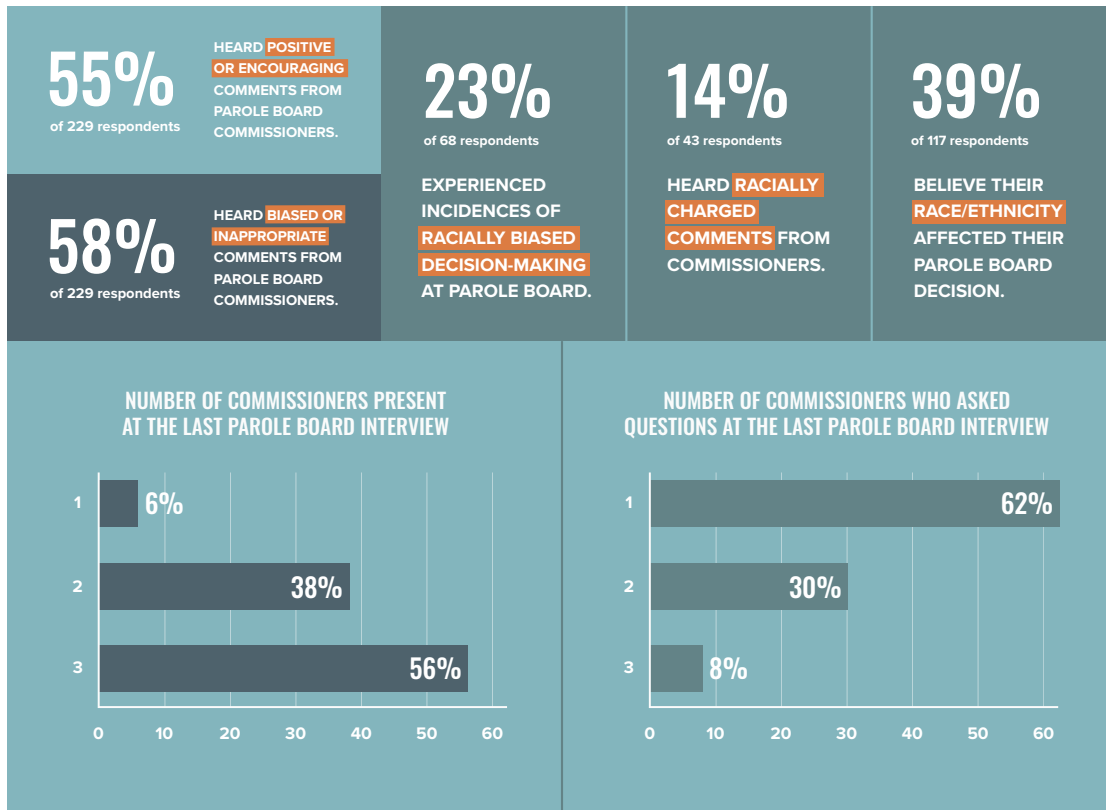
Both of these commissioners demonstrated bias, aggressive behavior, very unprofessional.

All are very biased and like to inject their own beliefs into the proceedings.

I felt like nothing I said would help me get released and I wasn't asked the questions that show that the parole board commissioners were not biased, wasn't close minded and genuinely wanted to release me...

”

While this anecdotal data on racial discrimination cannot be used to make sweeping assumptions about the system as a whole, it is still important to recognize these experiences as legitimate, harmful experiences that incarcerated people have faced by commissioners. To add to this experience, many respondents also reported that they were only asked questions by one commissioner at their parole board, and some parole board hearings reportedly only had one commissioner present at all. Based on the reports from this survey, efforts to staff the board to full capacity to ensure more parole hearings are held and to diversify the board racially and geographically in its staffing could serve to benefit incarcerated people. Having a more racially diverse staff that is less overworked at full capacity could potentially improve the parole hearings — not only in individual interactions but conceivably in rates that parole is granted if commissioners had additional time to review materials and see the strides that incarcerated people make despite being incarcerated.



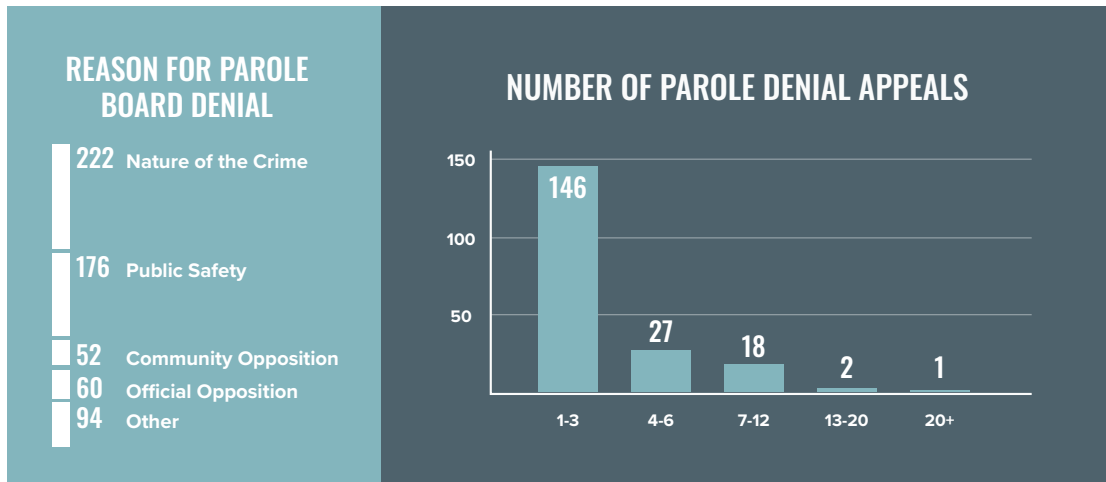
Parole Board Denial and Impact

PAROLE BOARD DENIAL

For many individuals serving long sentences in prison, parole is not a one-time event. Rather, individuals serving indeterminate sentences describe parole hearings as part of an emotionally painful process of hoping for release and being disappointed repeatedly. Responses to our survey on parole reveal that most respondents have faced the parole board multiple times. One respondent reported having seen the board over 20 times without being granted release. The significant investment of time and energy in preparing for hearings left many respondents feeling burdened, especially in the face of denials. While reasons for denial can vary, 222 of the 313 respondents cited the seriousness of the offense, colloquially called “nature of the crime,” as the reason for their parole denial. According to NYS state law governing parole, nature of the crime refers to “...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, the attorney for the inmate, the pre-sentence probation report as well as consideration of any mitigating and aggravating factors, and activities following arrest prior to confinement.”¹⁷ While the seriousness of the instant offense is often cited as the reason for their parole denial, many incarcerated people and their advocates assert that relying on static factors such as these contradict the purpose of parole. Because one’s sentence is determined after one is convicted, the nature of the crime is already taken into account during the

¹⁷ NY State Senate, “Procedures for the Conduct of the Work of the State Board of Parole,” NY State Senate, March 13, 2021, <https://www.nysenate.gov/legislation/laws/EXC/259-I>.

initial sentencing. Thus, citing “nature of the crime” as a reason for a denial can be construed as a misuse of the power of the Parole Board itself and a missed opportunity to recognize an individual’s efforts at rehabilitation.



The second most cited reason for denial was “Public Safety,” which again refers back to the crime of conviction. Though initial convictions were made under the premise of public safety, parole boards still use determinations of “risk” as an aspect in their consideration of parole. Respondents provided many examples of parole boards who argued that granting parole would “not be compatible with the welfare of the community” or they would not “be conducive to society.” Other respondents, in response to our inquiry into the reason for denial, provided these examples:

“Release @ this time would deprecate the serious nature of the crime as to undermine respect for the law.

My release would not be compatible w/ the welfare of the community. My escalating criminal behavior? I had a DWI in 1979. No other crimes (other than traffic violations) since then!

That I would not live in liberty without violating the law.

These findings are juxtaposed against the reality that the majority of respondents (85%) had not been convicted on new charges while in prison, and many of them had been reclassified to lower security classifications. Echoing earlier points in the report, most of these individuals also completed all of their programming, both required and voluntary, took up leadership roles within those programs, and characteristically, were older, having spent decades in prison. For many respondents, denials on the premise of the nature of the crime or public safety seemed not only in opposition to the purpose of parole, but the purpose of their incarceration.

IMPACT OF PAROLE BOARD DENIAL

Parole board denials often have a far-reaching impact—putting a stop to making plans for life after prison, forming key employment-related connections, and rebuilding families and communities. Parole denials can seed hopelessness in many people, especially if they are denied multiple times for reasons they find lacking merit. Sixty five per cent of respondents stated that they felt feelings of hopelessness about being released after they were denied, with reports of family perceptions of hopelessness trailing behind at 62% of respondents. Additionally, 76% of respondents reported the death a loved one in the time that had passed since their first parole denial. The inability to be present and in the company of loved ones can lead incarcerated people to feel more isolated and can make their time inside more difficult to weather. While these situations can plant seeds of doubt about the parole process, constant rejection and separation from family can also impact the mental health of incarcerated people. Respondents expressed their sentiments about denials and its impact:



All my family lost hope on the parole board system

My family is getting tired. Me as well

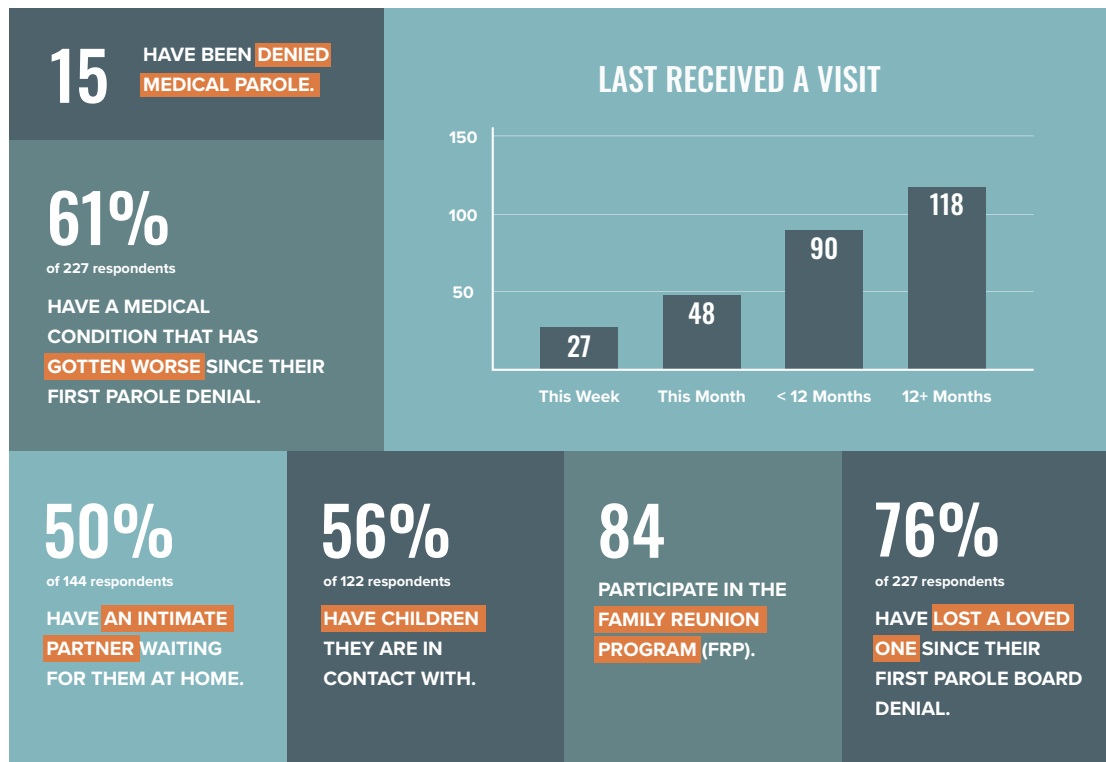
I feel more determined to be granted parole but since losing mother, father, aunt, uncle, I'm beginning to feel indifferent.

I did everything the parole board told me to do so I just want to know exactly what I must do in order for me to be released?

Just to let the board know I'm not that person they're claiming me to be.



Even through their incarceration, many respondents have continued to be a part of their community and family's life to the best of their abilities. In the responses to the parole survey, half of all respondents stated that they have an intimate partner waiting for their release; more than half stated that they have children they are in regular contact with. Many respondents have also participated in the Family Reunion Program (FRP) which allows them to spend one-on-one time with family members while incarcerated. At the same time, other respondents reported having gone over a year without receiving an in-person visit, which underscores the toll that incarceration, particularly long-term incarceration, takes on individuals and their families. Many respondents have continued or desired to be a part of their community and family's life despite the significant barriers and complications presented by incarceration and wanted these ties to have a bearing in the parole decision.



Denials also lend to serious concerns about individuals with medical conditions that they feel they are not receiving quality care for, due to their incarceration. Sixty-one per cent of respondents stated that they have a medical condition that has gotten worse since their first parole denial and 15 respondents have also been denied medical parole.¹⁸ Medical issues are consistently raised throughout CANY’s contact with incarcerated people, and have been discussed in prior reporting.¹⁹ The physical and psychological conditions of incarceration have been shown to negatively impact the health of incarcerated people²⁰, and denials of parole extend these adverse effects. While all medical issues should be treated with seriousness, issues concerning the health of those with compromised immune systems, chronic illnesses, the elderly, and other vulnerable groups should be treated with urgency. While these concerns were being raised before the onset of the COVID-19 pandemic, they are even further magnified due to contagiousness and spread of the illness, particularly in prisons.

APPEALS

Many respondents discussed filing appeals in response to their parole hearing denials. Fifty-eight per cent of respondents (N=184) reported filing an appeal. For many, this process was not successful, as only 11% (N=35) had successfully appealed and were granted a de novo interview.

¹⁸ Medical parole is a separate process with different eligibility criteria and is beyond the scope of this report.

¹⁹ Correctional Association of New York, “Connection with the outside world: Prison Monitoring Findings and Recommendations,” Correctional Association of New York, 2020 https://static1.squarespace.com/static/5b2c07e2a9e02851fb387477/t/5e65f1009369fa095333ef23/1583739189727/Connection-to-the-Outside-World_CANYReport-03092020.pdf

²⁰ Reingle Gonzalez, Jennifer M., and Nadine M. Connell. 2014. “Mental Health of Prisoners: Identifying Barriers to Mental Health Treatment and Medication Continuity.” *American Journal of Public Health* 104 (12): 2328–33. <https://doi.org/10.2105/AJPH.2014.302043>.

Many of those respondents were still waiting the decision of those appeals at the time of the interview, while some discussed winning the de novo, then losing on subsequent rearguments. Others wrote about losing the appeal altogether. The long odds presented by the appeals process further contributed to respondents' feelings of hopelessness, lack of faith in the overall parole process, and sentiments about changes needed in parole.



Potential Changes to the Parole Process

While the data presented in this report were collected in 2019, recent data shows that even the midst of the COVID-19 pandemic, New York's parole boards released fewer people in 2020 than in 2019.²¹ Additionally, even when incarcerated people are granted parole, they risk reincarceration and potentially restarting the cycle all over again. Calls for changes to the parole system are coming from all over New York, and echo calls across the United States.²²

Incarcerated people who completed our survey advanced the recommendation that commissioners focus on the strides, growth, and accomplishments of those up for parole, rather than focusing on the nature of the crime. Many also asked for improvements surrounding access and preparation—more resources to help prepare for boards, considerations for those with mental illnesses, and transparency in the decision-making process. The overwhelming majority of respondents believe that the process can be improved by allowing legal representation for parole candidates and allowing for the submission of additional materials that demonstrate personal growth, like a “personal ‘bio’ of who I am today,” published books and plays, and program certifications and certificates. Additionally, respondents suggested changes in the composition of the board to reflect the communities that individuals were coming from; one respondent offered this: “You need people whom have lived in the ghetto to be commissioners parole interviewers. The only way you can understand the madness of the ghetto reality is to be apart of it reality. Then you will understand why people from the ghetto do the things they do to survive.”

²¹ Herring, T., “Parole Boards Approved Fewer Releases in 2020 than in 2019, despite the Raging Pandemic,” Prison Policy Initiative, February 3, 2021, <https://www.prisonpolicy.org/blog/2021/02/03/parolegrants/>.

²² Nicole D. Porter, “Top Trends in State Criminal Justice Reform, 2020,” The Sentencing Project, February 22, 2021, <https://www.sentencingproject.org/publications/top-trends-in-state-criminal-justice-reform-2020/>.



Legislative calls to action for reforming parole in New York are also on the horizon. These legislative calls are in direct relation to the rigorous campaigns amplifying the unique risk of incarceration for aging populations by advocates over a number of years. One bill, Less is More: Community Supervision Revocation Reform Act (S.1343C / A.5493B) offers a number of solutions: to eliminate the use of incarceration for technical parole violations; bolster due process to replace incarceration, provide speedy hearings, and provide those on parole with additional “earned time credit” sentence reductions.²³ Another bill, the “Elder Parole Bill” (A03475) relates to parole eligibility for incarcerated people age fifty-five or older, affording those who have served 15 or more years in prison, regardless of their crime or sentence, an opportunity to go before the Parole Board.²⁴ Additionally, the “Fair and Timely Parole Bill” (S497A) advocates for the release of incarcerated persons who are eligible for release on parole unless there are extenuating risks that could not be mitigated on parole supervision.

CANY acknowledges and supports these incremental steps in opening up the pathways for release and continued reentry for incarcerated individuals under parole. At the same time, CANY acknowledges that there are additional reforms necessary to achieve a just parole system. As we urge the public to fundamentally rethink the nature and purpose of incarceration, we recognize that parole must be included in that reimagining, and adequate opportunities for release in New York state must be bolstered. Achieving the goal of decarceration means reducing barriers to releasing people on parole as one of many simultaneous strategies to shrink our criminal justice system.

²³ NY State Senate, “NY State Senate Bill S1343C,” NY State Senate, August 20, 2020, <https://www.nysenate.gov/legislation/bills/2019/s1343>.

²⁴ NY State Senate, “NY State Senate Bill S2144,” NY State Senate, May 11, 2020, <https://www.nysenate.gov/legislation/bills/2019/s2144>.

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WHAT MUST I DO TO BE RELEASED?

INCARCERATED PEOPLE'S EXPERIENCES
WITH NEW YORK'S PAROLE SYSTEM

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