

**Kathleen M. Kiley**

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Dear Counsel Kathleen Kiley,

The Center on Race, Inequality, and the Law at New York University School of Law<sup>1</sup> supports the proposed amendments (I.D. No. CCS-32-25-00001-P) to the draft regulations governing parole release consideration for people serving prison sentences for offenses committed at an early age. Under the proposed rule, Title 9 N.Y.C.R.R. will include an amended standard of review for parole determinations regarding individuals serving a maximum sentence of life for a crime committed as a minor. Under this standard, the parole board shall place “great weight” on characteristics of youth when making parole release decisions. We welcome this proposed rule and also strongly urge the Department of Corrections and Community Supervision to further implement the [enclosed changes](#) in order to ensure the amendments are more fair and effective.

The Center on Race, Inequality, and the Law (“Center”) at New York University School of Law was created to confront the laws, policies, and practices that fuel racial injustice. The Center focuses, in part, on the intersection of race, bias, and the criminal legal system, including the exercise of discretion within that system such as within the parole process. As part of our work, the Center actively represents individuals currently incarcerated within the New York State prison system throughout their parole process. The Center has also authored numerous reports about the racial disparities that plague parole release rates within the State, including our 2021 joint report [The Problem with Parole: New York State’s Failing System of Release](#) and our 2024 report [Freedom Delayed, Justice Denied: Increasing Racial Disparities in New York State’s Parole Release Decisions](#) and its recent addenda.

We view the parole system, in New York State and nationwide, as a site where the opportunity for relief from the violence of the criminal legal system has been undermined by inequities borne disproportionately by people of color and our aging loved ones, amongst other

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<sup>1</sup> This comment has been prepared by the Center on Race, Inequality, and the Law at NYU School of Law, but does not purport to present the school’s institutional views, if any.

marginalized groups. Through appropriate measures, however, parole carries with it the potential to dramatically reduce the number of people in prison and return those people to their loved ones and communities, to the benefit of us all.

Parole was originally intended as a mechanism of release to community supervision or, more specifically, a system to evaluate a person’s readiness for such release. However, since the “War on Crime” era,<sup>2</sup> it has become a mechanism to add layers of punishment, operating as a de facto resentencing body.<sup>3</sup> People who have categorically transformed their thinking and behavior while completing their minimum sentences imposed by a judge, and even years or decades more, are often denied release solely or primarily based on the one thing they can never change—their crime of conviction.<sup>4</sup> When we prioritize retribution rather than justice and safety, we harm *all* New Yorkers, particularly our Black and brown community members.

The rate at which the New York State Parole Board grants release differs significantly depending on the race of the parole applicant. Our *Freedom Delayed, Justice Denied* report found that, since this data became available in 2016, white parole applicants were given grants of release at a rate of 42.11%, a 23.14% disparity difference than the release rate for people of color during the last nine years, which sits at 33.38%. Within these last three years, from 2022 to 2025, those disparities have particularly worsened. “[T]he Parole Board was 32.38% less likely to release a person of color than a white person” during these years. “This level of racial disparity in the last three years is 72.21% worse than the already existing racial disparities of the previous six years.” As we noted plainly, “if people of color had been released at the same rates as white people, there would have been over 4,150 more grants of parole release for people of color since 2016; and just since 2022, there would have been over 1,800 more grants of parole release for people of color.” These denials represent members of marginalized communities that could otherwise be home with their loved ones, however instead, remain incarcerated under these racially disparate parole decisions.

These parole release disparities serve to amplify the impact of the targeted criminalization of young people of color. Ample research has also shown that young Black and brown people are treated more harshly in the criminal legal system, erasing the leniency that youth are often offered for mistakes by their white counterparts.<sup>5</sup> For example, Black young people in regions across New

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<sup>2</sup> See Peggy McGarry, *Probation and Parole as Punishment*, BRENNAN CENTER (Jun. 28, 2021), <https://www.brennancenter.org/our-work/analysis-opinion/probation-and-parole-punishment> (last visited October 6, 2025).

<sup>3</sup> See Rodney Holcombe, *New York Has A Parole Problem and It's Past Time We Fixed It*, FWD.US (Feb. 19, 2021), <https://www.fwd.us/news/new-york-has-a-parole-problem-and-its-past-time-we-fixed-it/> (last visited October 6, 2025).

<sup>4</sup> See Sabrina Pearce, *Justice Delayed: The Growing Wait for Parole After a Life Sentence*, SENTENCING PROJECT (May 6, 2025), <https://www.sentencingproject.org/reports/justice-delayed-the-growing-wait-for-parole-after-a-life-sentence/> (last visited October 6, 2025).

<sup>5</sup> See Meg Anderson, *Racial disparities in youth incarceration are the widest they've been in decades*, NPR (Apr 24, 2025), <https://www.npr.org/2025/04/24/nx-s1-5359110/racial-disparities-in-youth-incarceration-are-the-widest-theyve-been-in-decades> (last visited October 6, 2025).

York State are far less likely to be considered for the option of diversionary programs than white youths.<sup>6</sup> Further, Black and brown children often live in more heavily policed neighborhoods and schools while also navigating through the difficulties of poverty;<sup>7</sup> however, these realities are hardly taken into account. Instead, Black youth, for instance, are disproportionately incarcerated, often through the reliance on racist myths like the ‘super-predatory’ violence of Black youths,<sup>8</sup> ‘incorrigible’ behavior,<sup>9</sup> and the adultification of children of color, particularly Black girls.<sup>10</sup> The Proposed Regulations, if adopted with the suggested changes, may address the cascading effects of this disparate criminalization because those parole applicants of color who were incarcerated at a minor age will have a fairer evaluation before the parole board; i.e. the board will need to apply a more deliberate consideration to the characteristics and circumstances of youth on an individualized basis.

Ultimately, people should be evaluated for who they are today and released unless they pose a serious *current* risk of violating the law and such risk cannot be mitigated by parole supervision.<sup>11</sup> Unfortunately, current law and regulations are deeply unjust, marked by vague language that works against the release of deserving people. The benchmark by which thousands of people’s freedom is being determined is through the incredibly arbitrary and vague standard of whether the incarcerated individual’s release is compatible with “the welfare of society” such that it will not “deprecate the seriousness of [the] crime.”<sup>12</sup> Moreover, when the parole board violates its current obligations, courts lack the power to provide a meaningful solution, and instead may only give the board another chance to get it right, and perhaps another one after that.

In light of the flaws of existing laws and regulations, the new regulations should bring New York into line with the Eighth Amendment protections for people convicted as youths are given a meaningful opportunity for release after the expiration of their minimum term. As the U.S. Supreme Court recognized in *Miller v. Alabama*, modern science on brain development establishes that the “distinctive attributes of youth diminish” the justification for “imposing the harshest

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<sup>6</sup> See Steven Yoder, *New York Tackles Racial Disproportionality in Juvenile Justice Decisions*, IMPRINT NEWS (Nov. 14, 2024), <https://imprintnews.org/top-stories/new-york-tackles-racial-disproportionality-in-juvenile-justice-decisions/256005> (last visited October 6, 2025).

<sup>7</sup> See Rafael Outland, *Why Black and Brown Youth Fear and Distrust Police: An Exploration of Youth Killed by Police in the US (2016/2017), Implications for Counselors and Service Providers*, OPEN JOURNAL OF SOCIAL SCIENCES, 222-240 (2021) <https://doi.org/10.4236/jss.2021.94017>.

<sup>8</sup> See Carroll Bogert and Lynnell Hancock, *The Media Myth That Demonized a Generation of Black Youth*, MARSHALL PROJECT (Nov 2020), <https://www.themarshallproject.org/2020/11/20/superpredator-the-media-myth-that-demonized-a-generation-of-black-youth> (last visited October 6, 2025).

<sup>9</sup> See Michael Fitzgerald, *New York Moves To Eliminate Language in State Law Labeling Youth ‘Incorrigible,’* THE IMPRINT (Jul. 23, 2020), <https://imprintnews.org/child-welfare-2/new-york-state-law-labeling-youth-incorrigible-fitzgerald/45525> (last visited October 6, 2025).

<sup>10</sup> Rebecca Epstein, Jamilia J. Blake, Thalia González, *Girlhood Interrupted: The Erasure of Black Girls’ Childhood*, GEORGETOWN LAW CENTER ON POVERTY AND INEQUALITY (Jun. 2020), <https://genderjusticeandopportunity.georgetown.edu/wp-content/uploads/2020/06/girlhood-interrupted.pdf>.

<sup>11</sup> There are two legislative proposals that are currently being considered in the New York State legislature - Fair & Timely Parole (S159/A127) and Elder Parole (S454/A514) - which would ensure that this promise becomes practice during the parole process.

<sup>12</sup> N.Y. Exec. Law § 259(i)(2)(c)(A) (2025).

sentences” on children.<sup>13</sup> International standards for the sentencing of children<sup>14</sup> and early release opportunities codified in dozens of other states also reflect this science.<sup>15</sup>

We therefore strongly support the Proposed Regulation’s requirement that the Board place “great weight” on the characteristics of youth in considering parole for people convicted for offenses committed as children. And to be clear, our support for this requirement is based on our view and expectation that youth is understood as a mitigating factor for the Board’s consideration in support of parole release. This change would signal a major step forward to prevent New York’s imposition of death-by-incarceration sentences on children. In order to achieve its intended effect, however, current language in the Proposed Regulation must be improved. Specifically, we urge the following changes to the regulations:

### **1. The Final Regulation Should Not Impose A Heightened Burden on the Covered Population**

The Proposed Regulation moves New York closer into compliance with the Eighth Amendment’s requirement that children sentenced to indeterminate life terms are given a meaningful opportunity for release. To ensure that the Regulation is applied consistent with that purpose, the Board should clarify that the requirement that the Board meaningfully consider and give great weight to the “minor offender characteristics” articulated in (c)(1), (2), and (3) does not place a burden on “minor offenders” to establish those characteristics. The Supreme Court has made clear that, as a matter of brain science, the characteristics of youth apply to—and mitigate—every offense committed as a child. The Regulation therefore directs the commissioners to independently weigh the “minor offender characteristics” in each case “in favor of release.” In addition, the covered population should not be saddled with the burden of making any greater showing of rehabilitation, achievement, reentry planning, or any other factor, than that which the Board requires from any other parole applicant. The Regulation should not be construed to defeat its purpose by creating greater procedural hurdles for “minor offenders.” We therefore urge the Board to incorporate the following clarifying language to subsection (a):

***“These regulations must not be construed to impose any burden on a person appearing before the Board to satisfy the considerations articulated in (c)(1), (2), and (3), below.”***

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<sup>13</sup> *Miller v. Alabama*, 567 U.S. 460, 472 (2012); see also *Roper v. Simmons*, 543 U.S. 551 (2005); see also *Graham v. Florida*, 560 U.S. 48 (2010); see also *J. D. B. v. North Carolina*, 564 U.S. 261 (2011); see also *Montgomery v. Louisiana*, 577 U.S. 190 (2016).

<sup>14</sup> See ARTICLE 37, CONVENTION ON THE RIGHTS OF THE CHILD, UNITED NATIONS: HUMAN RIGHTS OFFICE OF THE HIGH COMMISSIONER (1989), <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> (last visited October 9, 2025).

<sup>15</sup> See SPECIALIZED PAROLE AND RESENTENCING LAWS FOCUSED ON EMERGING ADULTS: NEW AND PROPOSED REFORMS IN CA, IL, CO, D.C., AND FL, EMERGING ADULT JUSTICE PROJECT (September 2020), [https://justicelab.columbia.edu/sites/justicelab.columbia.edu/files/content/EAJP\\_Specialized%20Parole%20and%20Resentencing%20Laws%20Focused%20on%20EAs.pdf](https://justicelab.columbia.edu/sites/justicelab.columbia.edu/files/content/EAJP_Specialized%20Parole%20and%20Resentencing%20Laws%20Focused%20on%20EAs.pdf) (last visited October 6, 2025).

For the same reasons, the Board should clarify that subsection (c)(3) provides illustrative examples of growth and maturity—not a “checklist” for release. We therefore suggest the following change to (c)(3), with new text in bold:

*“Subsequent Growth and Increased Maturity of the Individual While Incarcerated. **Evidence of the subsequent growth and increased maturity of the individual may be shown by, but is not limited to:**”*

## **2. Ensure the Final Regulation is not Construed to Weigh Against People Who Appear Before the Parole Board at a Young Age**

The Board must also ensure that the Regulation is not construed to weigh against the release of people who appear before the Board at a young age, and by reason of their age alone, have not reached developmental maturity. For example, a young person sentenced to nine years to life could see the Parole Board at age 26 or younger. A parole release decision that *penalizes* this person because of their age would be flatly inconsistent with the Regulation and the Eighth Amendment’s requirements. We therefore urge the Board to incorporate the following language in subsection (a):

*“Nor may these regulations be construed to weigh against the release of a person who, by reason of their age, has not attained complete developmental maturity at the time of parole consideration.”*

## **3. Ensure the Final Regulation Comports with the Executive Law**

The Board’s implementation of the Regulation should satisfy the Executive Law. We therefore urge the Board to omit from subsection (c)(3): (i) considered reflection, remorse, and insight into criminal conduct, (ii) maturity of judgment including, but not limited to, improved impulse control, the development of pro-social relationships, or independence from negative influences, (iii) self-recognition of human-worth and potential, and (iv) service to and contributions to the welfare of other persons.

These considerations far exceed the scope of those the Board is statutorily permitted to consider under the Executive Law. When the Legislature amended the Executive Law in 2011 to require the Board to consider risks-and-needs principles, it attempted to rationalize the parole process by introducing objective indicia of rehabilitation. By contrast, these concepts are amorphous, imprecise, and lack legal consensus on definition. Because the Board cannot evaluate these terms objectively, they must be excluded from the regulation.

## **4. The Final Regulation Should Consider Obstacles Limiting an Individual’s Access to Rehabilitation**

There are many potential obstacles to an individual’s access to programming, work, education, mental health services and other rehabilitation opportunities including limited

availability, illness or disability and poverty, to name just a few. Therefore, the Regulation should include:

***When considering evidence of rehabilitation, the Board must consider any factors that may have limited the individual’s access to rehabilitation opportunities and should not penalize the individual for these limitations.***

## **5. Follow the Science**

There is a broad consensus among neuroscientists and psychologists that adolescent brains develop and mature at least through age 25. As one expert put it, “executive functions such as reason, long-range planning and impulse control aren’t fully operational during adolescence,” which we understand to be the premise of these proposed amendments.<sup>16</sup> That should be reflected in these regulations by increasing the eligibility to include those convicted of crimes committed under age 26. This would align New York State’s practices with those of other jurisdictions.

## **6. Remove Outdated Dehumanizing Language**

Use the term “youth at offense”. The phrase “*minor offender*” should be avoided because it collapses two powerful stigmas into one: age and crime. First, the term “*minor*” designates developmental immaturity and falsely suggests that a young person’s identity is static, forever fixed in time. Second, “*offender*” anchors an individual to an offense, personifying them as their past behavior. Corrections cannot claim to promote “rehabilitation” while branding people as beyond repair. Fixed criminality and genuine growth cannot coexist. “Failing to use people-first language perpetuates false and dangerous stereotypes, artificially inflates support for mass incarceration, and dampens the impact of important critiques of the criminal justice system.”<sup>17</sup> The law should focus on acts, not erase personhood.

This dual stigmatization also undermines both science and justice. Developmental research shows that young people are still forming judgment, impulse control, and identity. The United States Supreme Court has repeatedly recognized this (*Roper v. Simmons*, 543 U.S. 551, (2005), *Graham v. Florida*, 560 U.S. 48 (2010), and *Miller v. Alabama*, 567 U.S. 460, (2012)). Using the label “minor offender” disregards these findings at the very moment when growth and change are most possible.

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<sup>16</sup> See Ellen Barlow, *Under the Hood of the Adolescent Brain*, HARVARD MEDICAL SCHOOL (Oct. 17, 2014), <https://hms.harvard.edu/news/under-hood-adolescent-brain> (last visited October 9, 2025).

<sup>17</sup> See PEOPLE FIRST LANGUAGE GUIDE, FWD.US, 2 (Sept. 2024) <https://www.fwd.us/wp-content/uploads/2024/09/People-First-Language-Guide.pdf>.

Stigmatizing terms work like wet cement. Labeling theory shows official labels can harden into identity, limit opportunity, and increase later system contact, countering the mission of correction.<sup>18</sup> This is not semantics. It is prevention.

Finally, New York policy already moved toward people-first language. State law replaced “inmate” with “incarcerated individual.” The legislative intent was clear: leaders explicitly recognized that terms like “offender” dehumanize and stigmatize.<sup>19</sup> Then-Assemblymember Jeffrion L. Aubry said, “Penological terms such as felon, inmate, prisoner, offender, and convict dehumanize, degrade, and stigmatize people.”<sup>20</sup> This regulation should be consistent with this direction.

## **7. Do Not Introduce Any New Forms or Special Procedures Without Collecting Feedback**

The proposed regulations mention a pre-board appearance interview form and structured decision making form. If the Board intends to use these forms in its determinations or create any special procedures for young people, the Board should provide drafts and an opportunity for comment.

## **8. If the Parole Board denies release to a person covered by these regulations, ensure the Board explains in detail why the factors did not result in release.**

We urge the Board to incorporate the following language in section 8002.2:

**“If parole is denied, the panel shall in the statement of reasons required by Executive Law section 259-i (2)(i) additionally provide a detailed explanation of why the factors applicable to applicants who were a youth at offense did not result in the grant of parole release.”**

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<sup>18</sup> See Jön Gunnar Bernburg, Marvin D. Krohn, Labeling, *Life Chances, And Adult Crime: The Direct And Indirect Effects Of Official Intervention In Adolescence On Crime In Early Adulthood\**, 41 CRIMINOLOGY 1287 (Mar. 2006), <https://doi.org/10.1111/j.1745-9125.2003.tb01020.x>; see also Jón Gunnar Bernburg, Marvin D. Krohn, and Craig J. Rivera, *Official Labeling, Criminal Embeddedness, and Subsequent Delinquency: A Longitudinal Test of Labeling Theory*, 43 Journal of Research in Crime and Delinquency, (2006) <https://doi.org/10.1177/0022427805280068>.

<sup>19</sup> SENATE BILL S8216, THE NEW YORK STATE SENATE, <https://www.nysenate.gov/legislation/bills/2021/S8216> (last visited October 9, 2025) (The Justification for the enacted bill reads, in part, “[p]enological terms such as felon, inmate, prisoner, offender, and convict have long been noted by many impacted by the criminal legal system as dehumanizing, degrading, and has perpetuated the idea that incarcerated people should be permanently demonized and stigmatized.”)

<sup>20</sup> *Governor Hochul Signs Legislative Package to Promote Greater Fairness and Restore Dignity for Justice-Involved Individuals*, GOVERNOR’S PRESS OFFICE (August 8, 2022), <https://www.governor.ny.gov/news/governor-hochul-signs-legislative-package-promote-greater-fairness-and-restore-dignity-justice> (last visited October 9, 2025).

Ultimately, the proposed regulations, with the aforementioned changes, would mark a critically important first step toward correcting the injustices of our parole system for the subject population and – we hope – the injustices suffered by all who appear before the parole board.

Sincerely,



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[**Enclosures:** Proposed Rule on Parole Regulations I.D. No. CCS-32-25-00001-P: Suggested Changes; November 2024 report *Freedom Delayed, Justice Denied: Increasing Racial Disparities in New York State's Parole Release Decisions* + 2025 addenda].

Proposed Rule on Parole Regulations  
I.D. No. CCS-32-25-00001-P:  
Suggested Changes

Department of Corrections and Community Supervision

PROPOSED RULE MAKING  
NO HEARING(S) SCHEDULED

Parole Board Decision Making for **Youth at Offense** [Minor Offenders] I.D. No. CCS-32-25-00001-P PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule: Proposed Action: Repeal of section 8002.2(c); addition of new sections 8002.2(c) and 8002.8 to Title 9 NYCRR. Statutory authority: Executive Law, sections 259-c(4), (11) and 259-i Subject: Parole Board decision making for minor offenders.

Purpose: To clarify what the Board must consider when conducting an interview and rendering a decision.

Text of proposed rule: Subdivision (c) of section 8002.2 of Title 9 N.Y.C.R.R is repealed and a new subdivision (c) is added to read as follows:

(c) **Youth at Offense** [Minor Offenders]. When making parole release determinations pursuant to section 259-i(2)(c)(A) of the Executive Law for any individual who is a **youth at offense** [minor offender] as defined in section 8002.8(a)(1) of this Part, the board shall also apply the consideration and special procedure described in section 8002.8 of this Part.

A new section 8002.8 of Title 9 N.Y.C.R.R is added to read as follows: Section 8002.8 **Youth at Offense** [Minor Offenders].

(a) **Youth at Offense** [Minor Offender] Principles.

(1) For the purposes of this Part, the term “**youth at offense** [minor offender]” means an individual serving a maximum sentence of life for a crime committed prior to attaining **26** [18] years of age.

(2) In recognition of the distinctive attributes of childhood and heightened capacity for change, the board shall place great weight on the **youth at offense** [minor offender] characteristics when making parole release decisions pursuant to the applicable statute.

(3) Giving great weight to the “**youth at offense** [minor offender] characteristics” means to meaningfully consider the **youth at offense** [minor offender] characteristics in evaluating each applicable factor in the parole decision, including how an individual’s youth impacted the commitment offense, prior conflicts with the law, and institutional behavior, along with subsequent rehabilitation, and meaningfully weigh applicable **youth at offense** [minor offender] characteristics in favor of release when determining whether the standard for release is satisfied.

(4) Nothing in this Part, including the phrase “shall place great weight on **youth at offense**

[minor offender] characteristics,” shall be construed to create a presumption that the parole candidate is entitled to release simply because they were young [a minor] at the time of the incident offense or to preclude the board from concluding that, after balancing the factors, as properly evaluated with due consideration of the youth at offense [minor offender] characteristics, the youth at offense [minor offender] does not satisfy the release standard.

(5) These regulations must not be construed to impose any burden on a person appearing before the board to satisfy the considerations articulated in (c)(1), (2), and (3), below.

(6) Nor may these regulations be construed to weigh against the release of a person who, by reason of their age, has not attained complete developmental maturity at the time of parole consideration.

(b) Youth at Offense [Minor Offender] Consideration. The Board of Parole has the discretion to determine whether a parole applicant meets the applicable statutory standard for release after giving great weight to the youth at offense [minor offender] characteristics.

(1) The “youth at offense [minor offender] characteristics” are:

- (i) the diminished culpability of youths as compared to adults;
- (ii) the hallmark features of youth; and
- (iii) any subsequent growth and increased maturity of the individual.

(2) Information presented that the hallmark features of youth were causative of, or contributing factors to, behavior generally should be considered to demonstrate diminished culpability and should not, in and of itself, be construed to demonstrate lack of insight or minimization of the youth at offense [minor offender]’s role.

(3) Information presented regarding unstable relationships as a juvenile that are attributable to transient immaturity does not tend to show unsuitability for release where subsequent growth and maturity has addressed the behavioral issues.

(c) Youth at Offense [Minor Offender] Characteristics.

(1) Diminished Culpability of Youths as Compared to Adults. The board’s consideration of the diminished culpability of youths as compared to adults includes, but is not limited to, the following where appropriate: (i) the ongoing development in a youth’s psychology and brain function; NYS Register/August 13, 2025 Rule Making Activities 3 (ii) the impact of a youth’s negative, abusive, or neglectful environment or circumstances; (iii) a youth’s limited control over their own environment; (iv) the limited capacity of youths to extricate themselves from dysfunctional or crime-producing environments; and (v) a youth’s diminished susceptibility to deterrence.

(2) Hallmark Features of Youth. The Board’s consideration of the hallmark features of youth includes, but is not limited to, the following where appropriate: (i) immaturity; (ii) an

underdeveloped sense of responsibility; (iii) impulsivity or impetuosity; (iv) difficulty changing course or considering alternative courses of action; (v) difficulty with future planning; (vi) increased vulnerability or susceptibility to negative influences and outside pressures, particularly from family members or peers; (vii) recklessness or heedless risk-taking; (viii) limited ability to assess or appreciate the risks and consequences of behavior; and (ix) transient characteristics and heightened capacity for change.

(3) Subsequent Growth and Increased Maturity of the Individual While Incarcerated. **Evidence of the subsequent growth and increased maturity of the individual may be shown by, The board's consideration of the subsequent growth and increased maturity of the individual while incarcerated includes,** but is not limited to, the following where appropriate: ~~(i) considered reflection, remorse, and insight into criminal conduct;~~ (ii) maturity of judgment including, but not limited to, improved impulse control, the development of pro-social relationships, or independence from negative influences; ~~(iii) self-recognition of human worth and potential;~~ (iv) service to and contributions to the welfare of other persons; (v) participation and accomplishments in rehabilitation services in the correctional system, including, but not limited to, mental health services, counseling, educational programs, and vocational training; (vi) positive institutional conduct; and (vii) other evidence of rehabilitation. **When considering evidence of rehabilitation, the Board must consider any factors that may have limited the individual's access to rehabilitation opportunities and should not penalize the individual for these limitations.**

(d) Special **Youth At Offense** [Minor Offender] Procedure.

Pre-Interview. Prior to the conduct of any interview of a minor offender provided for in section 8002.1 of this Part, the board shall review the **Youth at Offense** [Minor Offender] Pre-Board Appearance Interview Form, when that form becomes available, as well as any personal statement, letters of support and commendable behavior reports submitted by the **youth at offense** [minor offender]. The board shall also complete the structured decision making form, when such form is available, prior to writing a parole decision for all **Youth at Offense** [Minor Offender] interviews.

Text of proposed rule and any required statements and analyses may be obtained from: Kathleen M. Kiley, Counsel to the Board of Parole, Department of Corrections and Community Supervision, 1220 Washington Avenue, Building 4, Albany, New York 12226, (518) 473-5671, email: Rules@Doccs.ny.gov Data, views or arguments may be submitted to: Same as above. Public comment will be received until: 60 days after publication of this notice. Regulatory Impact Statement 1. Statutory Authority: The authority for the proposed revision to Part 8002 of Title 9 of the New York Codes, Rules and Regulations (NYCRR), is derived from Section 259-c(11) of the New York State Executive Law, which states the State Board of Parole (the Board) shall: "make rules for the conduct of its work, a copy of such rules and of any amendments thereto to be filed by the chairman with the secretary of state." In addition, Section 259-c(4) directs the Board to establish written procedures for use in parole release decisions as required by law and Section 259-i establishes the criteria for parole release. 2. Legislative Objectives: To establish a

process for the parole release of eligible incarcerated individuals in which members of the board of parole determine whether release would be consistent with criteria enumerated in the statute.

3. Needs and Benefits: Effective September 27, 2017, the Board amended these regulations to further define the Board's role in conducting interviews and their decision-making process, including for incarcerated individuals serving a maximum sentence of life imprisonment for a crime committed prior to the individual attaining 18 years of age (minor offenders). The Board's consideration of minor offenders has been the subject of litigation, including a purported class action that is currently pending. The Board considers its current practices to be lawful, but has agreed in discussions with plaintiffs that further amendments to the regulation pertaining to minor offenders as sought by litigants in order to clarify the decision-making process, delineate typical minor offender characteristics to be taken into account and incorporate certain procedural requirements are within the scope of its rulemaking authority. The anticipated benefit of this amendment will be that the decision-making framework for minor offenders will be clearer and more transparent.

4. Costs: The proposed rulemaking will not impose any additional costs.

5. Local Government Mandates: The proposed amendment does not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other district.

6. Paperwork: This regulatory change does not impose any new or additional paperwork requirements on regulated parties.

7. Duplication: There are no relevant State regulations which duplicate, overlap or conflict with the proposed amendment since the regulations are governed by Article 12-B of the New York State Executive Law.

8. Alternatives: Because the regulations govern the parole release decision-making process, implementing these procedural components can only be accomplished through a rulemaking which amends the governing regulations.

9. Federal Standards: There are no Federal standards governing the subject matter of the proposed rulemaking.

10. Compliance Schedule: The proposed rulemaking shall be effective upon publication of the Notice of Adoption in the State Register.

### **Regulatory Flexibility Analysis**

A Regulatory Flexibility Analysis for Small Business and Local Government is not being submitted with this notice, for the proposed rule change will have no adverse impact upon small businesses and local governments, nor does the rule change impose any reporting, recordkeeping or other compliance requirements upon small businesses and local governments. The proposed rule only affects the practices of the Board of Parole and its officers and employees in administering the parole release decision making process for incarcerated individuals confined in State correctional facilities.

### **Rural Area Flexibility Analysis**

A Rural Area Flexibility Analysis is not being submitted with this notice, for the proposed rule will have no adverse impact upon rural areas, nor does the proposed rule impose any reporting, recordkeeping or other compliance requirements upon rural areas. The proposed rule will only affect the practices of the Board of Parole and its officers and employees in administering the parole release decision making process for incarcerated individuals confined in State correctional facilities.

**Job Impact Statement**

A Job Impact Statement is not being submitted with this notice, for the proposed rule will have no adverse impact upon jobs or employment opportunities, nor does the proposed rule impose any reporting, recordkeeping or other compliance requirements upon employers. The proposed rule only affects the practices of the Board of Parole and its officers and employees in administering the parole release decision making process for incarcerated individuals confined in State correctional facilities.

November 2024 Freedom Delayed,  
Justice Denied: Increasing Racial  
Disparities in New York State's  
Parole Release Decisions  
+ 2025 Addenda



# Freedom Delayed, Justice Denied: Increasing Racial Disparities in New York State's Parole Release Decisions

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*November 2024*

**THE CENTER ON  
RACE  
INEQUALITY  
& THE LAW**  
NYU SCHOOL OF LAW

## EXECUTIVE SUMMARY

This report is based on data on release rates by New York State’s Parole Board, which was obtained by the Vera Institute of Justice. In short, the report finds that the vast racial disparities in parole release rates have only worsened in recent years. **The last three years of data, 2022 through June 2024, show the widest gap in release rate racial disparities since this data began to be collected in 2016. Not coincidentally, this three year period coincides with Governor Hochul’s time in office.** From 2022 to 2024, the Parole Board was 32.28% less likely to release a person of color than a white person. This level of racial disparity in the last three years is 71.65% *worse* than the already existing racial disparities of the previous six years. If people of color had been released at the same rates as white people, just since 2022 there would have been over 1,300 more grants of parole release for people of color than the actual number of releases of people of color. Each person of color denied release because of these racial disparities is a person who remained incarcerated in a New York prison rather than being at home with their family and community. This report recommends amending the statute governing parole determinations (Executive Law 259-i), as well as the statute governing the powers of the Parole Board (Executive Law 259-c), to help ensure all people in prison receive meaningful opportunities to demonstrate their rehabilitation and be fairly considered for release.

## ABOUT US

The Center on Race, Inequality, and the Law (“Center”) at New York University School of Law was created to confront the laws, policies, and practices that lead to the oppression and marginalization of people of color. We believe that the racism that permeates our present-day legal system has deep roots. Accordingly, the Center uses public education, research, advocacy, and litigation to highlight and dismantle structures and institutions that have been infected by racial bias and inequity.

## INTRODUCTION

The primary mechanism for release from prison in New York State is through the parole review process. People serving indeterminate sentences (e.g. 5 to 10 years, 7 to 12 years, or 20 to life) appear before the Parole Board once they have served their minimum sentence. The job of the Parole Board is to evaluate them for release to parole supervision.

Several factors influence a parole applicant’s fate. But too often, the determinative factor is the nature of their conviction, despite the fact that the applicant will never be able to change that reality. Historically, the purpose of parole release reviews was to determine whether people were ready to return to the community — an idea rooted in the common understanding that people who have been convicted of a crime or crimes at one point in

their lives often mature and transform themselves over time. However, the ingrained culture of retribution that currently permeates the Parole Board—a remnant of the “war on crime” era that hurdled this country into a mass incarceration crisis—coupled with the vague language in the statute governing parole determinations, has undermined the parole release process in New York. Parole commissioners regularly deny applications for parole based on the Board’s conclusion that the crime of conviction was too serious to justify release. Of course, in each of these instances, a court has already sentenced the parole applicant to a minimum term of incarceration, in accordance with current sentencing laws, that it has deemed sufficient in light of the crime, leaving the individual eligible for release upon completion of that minimum sentence. It is not the Board’s job—nor does the Board have the authority—to re-litigate the crime of conviction and further punish the applicant for the original crime. Rather, the Board should consider all that the applicant has accomplished in the years, even decades, since their conviction. Yet, people are routinely denied release despite having demonstrated their readiness for release because the Board has decided that the court’s original sentence was insufficient.

Sadly, the data also suggests that the parole applicant’s race plays an outsized role in determining whether they will be released. Separate investigations by The New York Times<sup>1</sup> and the Albany Times Union<sup>2</sup> found that, even after controlling for variables such as prior offenses and seriousness of the underlying crime of conviction, Black and Latino/a/e New Yorkers were far less likely to be released by the Parole Board compared to their similarly situated white counterparts. This translates into decades of freedom denied to New Yorkers of color, along with the harm that their prolonged absences cause to their families and communities.

In 2021, the Center, along with the Parole Preparation Project, issued a comprehensive report entitled, *The Problem With Parole: New York State’s Failing System of Release*,<sup>3</sup> documenting the ongoing vast racial disparities in parole release decisions. The report was followed by an addendum in 2023, with updated data documenting the continued and even worsening racial disparities in parole release decisions.<sup>4</sup>

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<sup>1</sup> Michael Winerip et al., *For Blacks Facing Parole in New York State, Signs of a Broken System*, N.Y. TIMES (Dec. 4, 2016), <https://www.nytimes.com/2016/12/04/nyregion/new-york-prisons-inmates-parole-race.html>.

<sup>2</sup> The Vera Institute of Justice retrieves, analyzes, and posts monthly data from the New York State Department of Corrections and Community Supervision on Parole Board releases, release rates, and release rates for people of color and white people. The data throughout this report is derived from aggregating and analyzing this data from Vera. Vera Institute of Justice release of data from New York State Department of Corrections and Community Supervision, <http://54.198.145.13/NY-Parole/> (last accessed on Aug. 1, 2023).

<sup>3</sup> Ctr. On Race, Ineq., & The L. & The Parole Preparation Project, *The Problem With Parole: New York State’s Failing System Of Release* (Jun. 2021), <https://drive.google.com/file/d/1BstQpE8BufZ2HiqqJ2fNL1E2ieaJ7Nfr/view>.

<sup>4</sup> Ctr. On Race, Ineq., & The L. & The Parole Preparation Project, *The Problem With Parole: New York State’s Failing System Of Release: 2023 Addendum* (Jun. 2023), [https://www.law.nyu.edu/sites/default/files/Parole%20Board%20Decisions%20Report\\_508.pdf](https://www.law.nyu.edu/sites/default/files/Parole%20Board%20Decisions%20Report_508.pdf).

Unfortunately, the vast racial disparities continued to widen in 2023 and 2024. The last three years of data, 2022 through June 2024, show the worst three years of racial disparities since this data was initially collected in 2016. Specifically, from 2022 to 2024, the Parole Board was 32.28% less likely to release a person of color than a white person. This level of racial disparity in the last three years is 71.65% worse than the already existing racial disparities of the previous six years.

This period overlaps with the Governorship of Kathy Hochul, who has appointed four Commissioners to the Parole Board during her tenure and allowed many others, whose terms have expired, to remain on the Board without Senate re-confirmation.

This latest report evaluates new data in the context of an ongoing legislative debate in New York regarding reforms to the parole system, and provides concrete recommendations to address these disturbing and longstanding patterns.

## METHODOLOGY

This report analyzes data on Parole Board release rates in New York State.<sup>5</sup> The report looks at monthly data on parole releases, parole hearings, and release rates for people of color and white people, and aggregates that data into annual totals from 2016 to 2024, in order to have a year-by-year comparison of release rates. For each year, the report then calculates a percentage difference between the release rates for people of color and release rates for white people by subtracting the release rates in a given year of people of color and white people and dividing by the average of the release rates of people of color and white people.<sup>6</sup> The report also calculates the number of additional grants of release for people of color each year if people of color had been released at the same rates as white people. The report then separates out these same calculations for a combination of specific years, namely 2022 through June 2024 (the years Governor Hochul has been Governor) and the previous six years of available data, 2016 through 2021, as well as for the entire period of available data of 2016 through June 2024. Further, the report calculates the percentage change in the percentage difference in release rates between the 2016-2021 years and the 2022-2024 years by subtracting the two percentage difference in release rates for those two sets of years and dividing by the percentage difference in release rates for the earlier set of years.

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<sup>5</sup> The Vera Institute of Justice retrieves, analyzes, and posts monthly data from the New York State Department of Corrections and Community Supervision on Parole Board releases, release rates, and release rates for people of color and white people. The data throughout this report is derived from aggregating and analyzing this data from Vera. Vera Institute of Justice release of data from New York State Department of Corrections and Community Supervision, <http://54.198.145.13/NY-Parole/> (last accessed on August 10, 2024).

<sup>6</sup> We assessed differences in release rates over time through multiple additional measurements, including assessing a percentage point difference between release rates of people of color and white people and a ratio of release rates for people of color compared to white people. Every method of measurement showed the same increase of racial disparities in 2022 through June 2024 when compared to 2016 through 2021.

## 1. Findings

Newly released data shows ongoing and worsening racial disparities in Parole Board release rates in New York State.

**CHART 1: Racial Disparities in Parole Board Releases by Year 2016-2024**

Year	Releases for People of Color	Total Hearings for People of Color	Release Rate for People of Color	Releases for White People	Total Hearings for White People	Release Rate for White People	% Difference Release Rate by Race
2024	851	2446	34.79%	602	1236	48.71%	33.33%
2023	1468	4353	33.72%	1059	2221	47.68%	34.29%
2022	1139	3826	29.77%	804	2012	39.96%	29.23%
2021	1499	4296	34.89%	781	1993	39.19%	11.59%
2020	1721	4597	37.44%	1041	2192	47.49%	23.68%
2019	2377	6363	37.36%	1421	3230	43.99%	16.32%
2018	2613	6571	39.77%	1571	3313	47.42%	17.56%
2017	2066	7500	27.55%	1262	3642	34.65%	22.85%
2016	958	4258	22.50%	581	2111	27.52%	20.09%
2022-2024	3458	10625	32.55%	2465	5469	45.07%	32.28%
2016-2021	11234	33585	33.45%	6657	16481	40.39%	18.80%
2016-2024	14692	44210	33.23%	9122	21950	41.56%	22.26%

As seen in Chart 1, the last three calendar years – 2022, 2023, and 2024 through June – show the worst three years of racial disparities since this data was reported. From January through June 2024, New York’s Parole Board released 34.79% of people of color appearing before the Board, while releasing 48.71% of white people appearing before the Board. In other words, the Board was 33.33% less likely to release a person of color than a white person. Similarly in 2023, the Board released 33.72% of people of color appearing before it, while

releasing 47.68% of white people, again indicating that the Board was 34.29% less likely to release a person of color than a white person. In 2022, the Board released 29.77% of the people of color appearing before it, while releasing 39.96% of white people appearing before it, indicating the Board was 29.23% less likely to release a person of color than a white person.

Notably, this period coincides with Governor Kathy Hochul taking office. While the Governor does not have direct power over release decisions, s/he appoints Parole Board Commissioners, including the Chair of the Board. Since assuming office in August 2021, Governor Hochul has appointed four new Commissioners and permitted many other Commissioners with expired terms to remain on the Board.

### **CHART 2: Worsening Racial Disparities in Parole Board Releases 2022-2024**

<b>Year</b>	<b>Release Rate for People of Color</b>	<b>Release Rate for White People</b>	<b>% Difference Release Rate by Race</b>
<b>2022-2024</b>	32.55%	45.07%	32.28%
<b>2016-2021</b>	33.45%	40.39%	18.80%
<b>Release Rate Difference by Race Over Time</b>			71.65%

Taken together, as seen in Chart 2, the racial disparities have worsened by 71.65% when comparing the last three years with the previous six. From 2022 through 2024, the overall percentage difference in the release rate for people of color and white people was 32.28%, while from 2016 to 2021 the overall percentage difference was 18.80%, an increase in the disparity of 71.65%.

### **CHART 3: Racial Disparities in Parole Board Releases 2016-2024**

<b>Release Rate for People of Color</b>	33.23%
<b>Release Rate for White People</b>	41.56%
<b>% Difference in Release Rate</b>	22.26%

While the last three years have seen a widening of the racial disparities gap, such disparities in parole releases are a longstanding problem. Taking all of the data together, from June 2016 through June 2024, the Parole Board released 33.23% of all people of color appearing before the Board, while releasing 41.56% of white people. In other words, for the last nine years of available data, the Parole Board was 22.26% less likely to release a person of color than a white person. This systemic failure remains persistent and is only getting worse.

**CHART 4: Grants of Release for People of Color if Released at the Same Rates as White People**

Year	Total Hearings for People of Color	Release Rate for White People	Total Grants of Release for People of Color if Released at Rates for White People	Actual Grants of Release for People of Color	Additional Grants of Release for People of Color if Released at Rates for White People
2024	2446	48.71%	1191	851	340
2023	4353	47.68%	2076	1468	608
2022	3826	39.96%	1529	1139	390
2021	4296	39.19%	1683	1499	184
2020	4597	47.49%	2183	1721	462
2019	6363	43.99%	2799	2377	422
2018	6571	47.42%	3116	2613	503
2017	7500	34.65%	2599	2066	533
2016	4258	27.52%	1172	958	214

These disparities in release rates have impacted the freedom of thousands of people of color. If release rates for people of color were the same as release rates for white people, as seen in Chart 4 there would have been hundreds of more grants of release for people of color each year, and as seen in Chart 5 there would have been over 3,650 more grants of release for people of color over the last nine years of available data. Just from 2022 through June 2024, if people of color were released at the same rates as white people, there would have been over 1,300 more grants of release for people of color. Each person of color denied release because of these racial disparities is a person who remained incarcerated in a New York prison rather than being at home with their family and community.

## CHART 5: Grants of Release for People of Color if Released at the Same Rates as White People 2022-2024 & 2016-2024

2022-2024	1338 more grants of release for people of color
2016-2024	3656 more grants of release for people of color

### 2. Recommendations

The documented racial disparities in Parole Board releases are just one component of the systemic racism that is endemic to every aspect of New York’s criminal legal system, from racially-biased policing<sup>7</sup> and prosecution<sup>8</sup>, to the racially-disproportionate imposition of long prison sentences,<sup>9</sup> including sentences of life without parole and “virtual” life without parole.<sup>10</sup> New York’s lawmakers have an obligation to address these racial disparities at every stage of the system. Indeed, in light of widespread support across the political spectrum, including from prosecutors, defense organizations, crime survivor advocates, and civil rights leaders<sup>11</sup>, the Legislature has a unique opportunity in this moment to begin to address the racial disparities in Parole Board release rates. Consistent with the Center’s 2021 and 2023 recommendations, we propose the following:

#### A. Remove Vague Statutory Language from the Executive Law and Focus the Release Decision Inquiry on a Person’s Transformation, Rehabilitation, and Readiness for Release

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<sup>7</sup> See e.g. *Floyd v. City of N.Y.*, 959 F. Supp. 2d 540 (S.D.N.Y. 2013), which held that the NYPD’s practices of stop-and-frisk were unconstitutional due to its reliance on racial profiling. Under the stop-and-frisk regime, “approximately 85 percent of those stopped are Black and Latin[e], even though these two groups make up only 52 percent of the city’s population.” See *Floyd, et al. v. City of New York, et al.*, CENTER FOR CONSTITUTIONAL RIGHTS, <https://ccrjustice.org/home/what-we-do/our-cases/floyd-et-al-v-city-new-york-et-a>.

<sup>8</sup> For example, in Manhattan alone, “Black people are convicted 21.3 times more than white people.” See Jesse Barber and Simon McCormack, *A Racial Disparity Across New York That Is Truly Jarring*, NYCLU (Dec. 16, 2022),

<https://www.nyclu.org/en/news/racial-disparity-across-new-york-truly-jarring#:~:text=White%20in%20Brooklyn%2C%20the%20largest,and%20convicted%20of%20offenses%20at>.

<sup>9</sup> See generally Edwin Rios, *Racial inequality over long US prison sentences growing, report finds*, THE GUARDIAN (Jul. 21, 2022) <https://www.theguardian.com/us-news/2022/jul/21/prisons-us-racial-equality-black-white-americans> (which notes that people of color receive longer sentences for the same crime).

<sup>10</sup> A “virtual” life without parole sentence is a sentence where a person has an indeterminate sentence that could theoretically make them eligible for parole but the minimum term of the sentence is so long that the person will never in fact become eligible for parole and is thus sentenced to death by incarceration.

<sup>11</sup> <https://www.parolejusticenyc.com/campaign-partners>

The New York State legislature and Governor should amend Executive Law 259-i by removing language which prohibits release where it will so “deprecate the seriousness of [the] crime as to undermine respect for the law.”<sup>12</sup> The current framing should be replaced with language that requires the Parole Board to focus its attention on a person’s current readiness for release from prison, consistent with the original purpose of parole. Under this new standard, the Board may deny release only when commissioners can show that a person presents an unreasonable risk of violating the law and such risk cannot be mitigated by parole supervision. The statutes and standards that govern parole review should be based on a person’s record of accomplishments in prison, their personal transformation, and who they are today.

### **B. Expand Release Mechanisms for People Serving Long and “Death by Incarceration” Sentences**

The legislature and Governor should enact a provision that grants all people aged 55 or older, who have served 15 years or more in prison, parole consideration. Each person should receive individualized consideration, as opposed to being denied this opportunity based on their original convictions from years or decades prior. Hundreds of people in New York are serving life without the possibility of parole or virtual life sentences. Without intervention, they are guaranteed to die in prison. Aging people who are not yet eligible for parole, or people who will never be eligible in their natural life but have served decades in prison, should have an opportunity to demonstrate their rehabilitation and, if granted parole, to return home and reunite with their families and communities. Expanding access to parole must include a focus on the growing proportion of New York’s prison population that is over or nearing the age of 55, and those who are otherwise seriously ill or infirm, whatever their age. Requiring parole interviews of all incarcerated people aged 55 and older where they have served at least 15 years is consistent with the very low recidivism risks posed by this demographic and presents a more fiscally responsible use of tax-payer dollars than the ongoing incarceration of the elderly. Further, this change will incentivize good behavior by people who would have new hope of possible parole release.

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<sup>12</sup> N.Y. Exec. Law § 259-i(2)(c)(A).

# Freedom Delayed, Justice Denied: Racial Disparities in New York State's Parole Release Decisions



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*Update January 2025*

In November 2024, the Center on Race, Inequality, and the Law at New York University's School of Law released a [new report](#) on worsening racial disparities in parole releases in New York State. That report, entitled *Freedom Delayed, Justice Denied: Increasing Racial Disparities in New York State's Parole Release Decisions*, found such racial disparities during the most recent three years were the worst since the state began tracking this data in 2016, which were already egregious. Our report garnered significant media attention, including in a [feature by The City](#). The November 2024 report was based on the New York State's Parole Board's own data on release rates through June 2024, which was obtained by the Vera Institute of Justice.

This present update **includes newly released data for a subsequent period ending in September 2024. In short, including data for the first nine months of 2024, this latest update finds that the vast racial disparities in parole release rates have only worsened in recent years.** The last three years of data, from January 2022 through September 2024, show the widest gap in release rate racial disparities since this data began to be collected in 2016. Not coincidentally, this three-year period coincides with Governor Hochul's time in office.

**Specifically, from January 2022 through September 2024, the Parole Board was 32.19% less likely to release a person of color than a white person. This level of racial disparity in the last three years is 71.16% worse than the already existing racial disparities of the previous six years.** If people of color had been released at the same rates as white people, **there would have been nearly 3,800 more grants of parole release for people of color since 2016; and just since 2022, there would have been nearly 1,500 more grants of parole release for people of color.** To be clear, these denials are not just numbers—they represent real people who remained incarcerated in a New York prison rather than being at home with their families and communities.

With this update, the Center renews its recommendation to amend the statute governing parole determinations (Executive Law 259-i) to require the Parole Board to focus its attention on a person's current readiness for release from prison, rather than solely their crime of conviction, and to amend the statute governing the powers of the Parole Board (Executive Law 259-c) to allow all people aged 55 or older, who have served 15 years or more in prison, to be considered for parole.

**CHART 1: Racial Disparities in Parole Board Releases by Year  
2016-2024**

Year	Releases for People of Color	Total Hearings for People of Color	Release Rate for People of Color	Releases for White People	Total Hearings for White People	Release Rate for White People	% Difference Release Rate by Race
2024	1202	3491	34.43%	842	1758	47.90%	32.71%
2023	1467	4352	33.71%	1059	2221	47.68%	34.33%
2022	1139	3826	29.77%	804	2012	39.96%	29.23%
2021	1499	4296	34.89%	781	1993	39.19%	11.59%
2020	1721	4597	37.44%	1041	2192	47.49%	23.68%
2019	2377	6363	37.36%	1421	3230	43.99%	16.32%
2018	2613	6571	39.77%	1571	3313	47.42%	17.56%
2017	2066	7500	27.55%	1262	3642	34.65%	22.85%
2016	958	4258	22.50%	581	2111	27.52%	20.09%
2022-2024	3808	11669	32.63%	2705	5991	45.15%	32.19%
2016-2021	11234	33585	33.45%	6657	16481	40.39%	18.80%
2016-2024	15042	45254	33.24%	9362	22472	41.66%	22.49%

**CHART 2: Worsening Racial Disparities in Parole Board Releases  
2022-2024**

Year	Release Rate for People of Color	Release Rate for White People	% Difference Release Rate by Race
2022-2024	32.63%	45.15%	32.19%
2016-2021	33.45%	40.39%	18.80%
Release Rate Difference by Race Over Time			71.16%

**CHART 3: Racial Disparities in Parole Board Releases 2016-2024**

Release Rate for People of Color	33.24%
Release Rate for White People	41.66%
% Difference in Release Rate	22.49%

**CHART 4: Grants of Release for People of Color if Released at the Same Rates as White People**

Year	Total Hearings for People of Color	Release Rate for White People	Total Grants of Release for People of Color if Released at Rates for White People	Actual Grants of Release for People of Color	Additional Grants of Release for People of Color if Released at Rates for White People
2024	3491	47.90%	1672	1202	470
2023	4352	47.68%	2075	1467	608
2022	3826	39.96%	1529	1139	390
2021	4296	39.19%	1683	1499	184
2020	4597	47.49%	2183	1721	462
2019	6363	43.99%	2799	2377	422
2018	6571	47.42%	3116	2613	503
2017	7500	34.65%	2599	2066	533
2016	4258	27.52%	1172	958	214

**CHART 5: Grants of Release for People of Color if Released at the Same Rates as White People 2022-2024 & 2016-2024**

2022-2024	1468 more grants of release for people of color
2016-2024	3787 more grants of release for people of color

# Freedom Delayed, Justice Denied: Racial Disparities in New York State's Parole Release Decision



*Update May 2025*

In November 2024, the Center on Race, Inequality, and the Law at New York University School of Law released a [new report](#) on worsening racial disparities in parole releases in New York State. That report, entitled *Freedom Delayed, Justice Denied: Increasing Racial Disparities in New York State's Parole Release Decisions*, as well as an [update to the report in January 2025](#), found such racial disparities during the most recent three years were the worst since the state began tracking this data in 2016, which were already egregious. Our report garnered significant media attention, including in features by [The City](#) and [Spectrum News](#). The November 2024 report and the January 2025 update were based on the New York State's Parole Board's own data on release rates through September 2024, which was obtained by the Vera Institute of Justice.

This present update **includes newly released data for a subsequent six month period ending in March 2025. In short, including data for all of 2024 and the first three months of 2025, this latest update finds that the vast racial disparities in parole release rates have only worsened in recent years.** The last three years of data, from January 2022 through March 2025, show the widest gap in release rate racial disparities since this data began to be collected in 2016. Not coincidentally, this three and a quarter year period coincides with Governor Hochul's time in office.

**Specifically, from January 2022 through March 2025, the Parole Board was 32.38% less likely to release a person of color than a white person. This level of racial disparity in the last three years is 72.21% worse than the already existing racial disparities of the previous six years.** If people of color had been released at the same rates as white people, **there would have been over 4,150 more grants of parole release for people of color since 2016; and just since 2022, there would have been over 1,800 more grants of parole release for people of color.** To be clear, these denials are not just numbers—they represent real people who remained incarcerated in a New York prison rather than being at home with their families and communities. **Moreover, despite all of the increased scrutiny of these racial disparities in parole release decisions, the last six months show that these egregious racial disparities have remained, and even slightly worsened.**

With this update, the Center renews its recommendation to amend the statute governing parole determinations (Executive Law 259-i) to require the Parole Board to focus its attention on a person's current readiness for release from prison, rather than solely their crime of conviction. In doing so, the Board should be required to use more objective criteria rather than subjective and racially-biased assessments. We also recommend amending the statute governing the

powers of the Parole Board (Executive Law 259-c) to allow all people aged 55 or older, who have served 15 years or more in prison, to be considered for parole.

**CHART 1: Racial Disparities in Parole Board Releases by Year 2016-2025**

Year	Releases for People of Color	Total Hearings for People of Color	Release Rate for People of Color	Releases for White People	Total Hearings for White People	Release Rate for White People	% Difference Release Rate by Race
2025	438	1288	34.01%	319	670	47.61%	33.34%
2024	1667	4723	35.30%	1140	2314	49.27%	33.04%
2023	1467	4352	33.71%	1059	2221	47.68%	34.33%
2022	1139	3826	29.77%	804	2012	39.96%	29.23%
2021	1499	4296	34.89%	781	1993	39.19%	11.59%
2020	1721	4597	37.44%	1041	2192	47.49%	23.68%
2019	2377	6363	37.36%	1421	3230	43.99%	16.32%
2018	2613	6571	39.77%	1571	3313	47.42%	17.56%
2017	2066	7500	27.55%	1262	3642	34.65%	22.85%
2016	958	4258	22.50%	581	2111	27.52%	20.09%
2022-2025	4711	14189	33.20%	3322	7217	46.03%	32.38%
2016-2021	11234	33585	33.45%	6657	16481	40.39%	18.80%
2016-2025	15945	47774	33.38%	9979	23698	42.11%	23.14%

**CHART 2: Worsening Racial Disparities in Parole Board Releases 2022-2025**

Year	Release Rate for People of Color	Release Rate for White People	% Difference Release Rate by Race
2022-2025	33.20%	46.03%	32.38%
2016-2021	33.45%	40.39%	18.80%
Release Rate Difference by Race Over Time			72.21%

**CHART 3: Racial Disparities in Parole Board Releases 2016-March 2025**

Release Rate for People of Color	33.38%
Release Rate for White People	42.11%
% Difference in Release Rate	23.14%

**CHART 4: Grants of Release for People of Color if Released at the Same Rates as White People**

Year	Total Hearings for People of Color	Release Rate for White People	Total Grants of Release for People of Color if Released at Rates for White People	Actual Grants of Release for People of Color	Additional Grants of Release for People of Color if Released at Rates for White People
2025	438	47.61%	613	438	175
2024	1667	49.27%	2327	1667	660
2023	1467	47.68%	2075	1467	608
2022	1139	39.96%	1529	1139	390
2021	1499	39.19%	1683	1499	184
2020	1721	47.49%	2183	1721	462
2019	2377	43.99%	2799	2377	422
2018	2613	47.42%	3116	2613	503
2017	2066	34.65%	2599	2066	533
2016	958	27.52%	1172	958	214

**CHART 5: Grants of Release for People of Color if Released at the Same Rates as White People 2016-2025 & 2022-2025**

2016-2025	4,152 more grants of release for people of color
2022-2025	1,833 more grants of release for people of color