



**TESTIMONY BY JOSE SALDANA
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BEFORE THE NEW YORK STATE SENATE
COMMITTEE ON CRIME VICTIMS, CRIME & CORRECTION
HEARING ON HOW THE ELDER PAROLE AND FAIR & TIMELY
PAROLE BILLS WILL IMPROVE PAROLE RELEASE LAWS AND
PUBLIC SAFETY IN NEW YORK STATE**

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Madam Chairperson, and New York State Senators, thank you for the opportunity to testify today. My name is Jose Saldana. I was released from a New York State prison in 2018, after nearly four decades of incarceration. During my incarceration, I earned a college degree. More importantly, in my humble opinion, I helped develop one of the most effective therapeutic programs to address criminal thinking, behavior, and attitudes in New York State, “A Challenge to Change (C2C): A Comprehensive Approach to Addressing Criminal Thinking, Behavior, and Attitudes,” and co-authored the “A Challenge to Change Handbook” and “A Challenge to Change Training Manual.” When I was released, “A Challenge to Change” was being facilitated in five maximum security prisons. I also organized and facilitated numerous self-empowerment workshops, including Victim Awareness workshops, Anti-Violence Workshops, Restorative Justice Workshops, and helped develop “Community Restorative Project: An Alternative to Incarceration.” Yet, when I appeared before four parole panels for release consideration, all my rehabilitative endeavors were effectively ignored, and I was denied parole release. I was determined to be a threat to public safety based solely on the crime I committed in 1979. Since my release, I have become the director of Release Aging People in Prison/RAPP, a grassroots community organizing and advocacy campaign that seeks to end mass incarceration through the release of aging people in prison and those serving long prison sentences. I am also a member of the Correction Advisory Committee for Assemblymember Chris Burdick and a board member of Children’s Haven, which is sponsored by the Bronx Mott Haven Reformed Church to address the special needs of children with incarcerated parents. I am also a former council member of NYS Senator Jamaal Bailey’s Criminal Justice Council, and a former member of the NYC Mayor’s Older Reentry Task Force.

Every parole commissioner who determined that I was a threat to public safety was wrong. The other two co-founders of “A Challenge to Change,” Ronald Robertson and Sekou Shakur, were also repeatedly denied parole; Shakur was denied seven times. Ronald Robertson is now the Executive Director of the NYC Crisis Management System at Brownsville Think Tank Matters, Inc, and Sekou Shakur is now a senior case manager with Fedcap, which provides reentry services to formerly incarcerated people. We have not been a threat to the public for a single day since being released from prison. There are many more, like Shu’aib Raheem, denied parole ten

times; he is a Trauma Support Manager with Common Justice. Samuel Hamilton, who was also denied parole ten times, is now a Consultant and former Re-Entry Specialist with Brooklyn Defender Services. The evidence before the parole commissioners was abundantly clear at each hearing for each of these individuals, yet they ignored it. But they can't ignore the evidence that proves, beyond all doubt, that they were wrong. When presented with living proof, the examples of those in our communities, doing what they have done for decades in prison, saving lives, some commissioners admit having made the wrong decision. Yet, they continue to use the parole release process to routinely punish those appearing before them for release consideration, instead of fairly and holistically evaluating their readiness to return to their community.

BACKGROUND

Under current law, the New York State Board of Parole routinely denies release to people based on the one thing they can never change, namely the nature of the offense for which they were convicted, however many years or decades ago. People in prison often completely transform their thinking, behavior, and attitudes with the help of therapeutic programs designed to address criminal thinking that has been developed by incarcerated people over years or decades. Such programs address fundamental issues, like how does a person take full responsibility for causing harm? What does accountability really mean? These are programs that also help to develop insight into the nature and extent of the harm caused, such as the impact of this harm on entire families, communities, and society at large. Men and women and people beyond the binary participate in, and eventually facilitate, such evidenced-based intensive therapeutic programs for years to decades, as well as take advantage of every secondary educational opportunity available before appearing before the Parole Board. Nonetheless, the parole commissioners will make the decision to deny release based exclusively on the crime of conviction. In effect, the Board is acting outside its original purpose of evaluating people's rehabilitation and readiness for release, ignoring people's minimum sentences and re-sentencing them two years at a time with each denial.

This injustice does not impact all New Yorkers equally. The vast majority of people in prison are Black and Latinx people as a result of systemic racism in our State and across the country. Furthermore, a comprehensive 2020 *Albany Times Union* investigation of parole hearing data found the Board of Parole was significantly less likely to release Black and Latinx people relative to their white counterparts. This is one part of a long line of racial disparate treatment in the criminal legal system, from school discipline and policing to parole supervision, yet it is an important one. The Times Union's investigation found that the Board released white people eight percentage points more than Black people and seven percentage points higher than Latinx people. According to their analysis, 675 currently incarcerated Black and Latinx people would be home, reunited with their families and communities, if release rates were equalized.

New York State is experiencing a moral and financial crisis as a result of decades of incredibly harsh sentencing and a racially biased parole release system that prioritizes revenge and endless punishment over redemption, personal transformation, healing, and safety. Even as the state's

overall prison population has declined, the percentage of incarcerated people who are older adults has dramatically increased. One-in-four are 50 or older. More people have died in New York State prisons in the last decade than the total number of New Yorkers executed under the state's 364-year capital punishment regime, leading Columbia University academics to call New York's system of extreme sentences and routine parole denials "New York's new death penalty".

The grave injustice of New York's mass incarceration extends beyond the harm inflicted on individual people in prison. Tens of thousands of families across our state are missing one or more family members: children, parents, grandparents, and great-grandparents. The terrible pain of losing a loved one in isolation amid COVID-19 without being able to say goodbye is sadly nearly always the case for incarcerated people and their families. Furthermore, New York spends an average of \$60,000 annually to incarcerate just one person, and between \$100,000 and \$240,000 annually per older adult in prison. This is money that should instead be invested in resources that deliver real community health and safety.

Parole Board Commissioners have acknowledged to my face that people they had previously denied parole release to, when finally released, have lived exemplary lives. These commissioners cannot be expected to cure their own institution's decades-old addiction to punishment. They need you, as lawmakers, to step in.

The Fair & Timely Parole Act

New York must reform its parole system by passing the Fair & Timely Parole Act (S.7514-Salazar/A.4231A-Weprin) as the prescription to heal the Parole Board's addiction to punishment, and to ensure that people have a fair and meaningful opportunity to demonstrate their rehabilitation and, subject to the Board's discretion, be released. This bill would provide more meaningful parole reviews for incarcerated people who are already parole eligible by changing the standard of parole to center release determinations not on the original crime but on the person's rehabilitation while incarcerated and their current risk of violating the law. In other words, parole commissioners would no longer be able to perpetually deny people release based solely on the one fact that they can never change.

Passage of this bill will be a meaningful step towards ensuring fair parole hearings, increasing New York's dimly low parole release rate, and reducing the number of New Yorkers languishing behind bars. This bill will not take away parole commissioners' discretion and still requires that the Board consider the nature of someone's crime and victim impact statements in their release decisions. It will merely bring the statute in line with the original purpose of parole, which is to identify a person's readiness for release.

Elder Parole

New York must reform its parole system to provide hope for families across this state by passing Elder Parole (S.15A-Hoylman/A.8855-Davila). If passed, this bill would make people in prison aged 55 or older who have served at least 15 years eligible for individualized parole consideration. It is not a "blanket release" policy. Rather, it would give people who have transformed themselves an opportunity to demonstrate their moral character before the Board of

Parole and, subject to the Board's discretion, be released to their families and communities to live out their final years with dignity. Importantly, reincarceration rates for older adults are vanishingly small. The age of eligibility in the bill is 55 for two critical reasons: (1) That is the age at which the state's prison agency, the Department of Correction and Community Supervision, like many other prison authorities, classifies people as older adults, in line with the reality of accelerated aging behind bars. (2) The average age of death by so-called natural causes in New York State prisons is only 58. Sadly, prison sentences that deprive a person of hope, repeated denials of parole, permanent or long-term separation from one's family, compounded by the systemic neglect of adequate health care, and other harms endemic to incarceration, result in 'death by incarceration,' the new death penalty in New York State.

Finally, we at RAPP support and organize to pass these bills because we respect the dignity and worth of every person, especially the elderly, who have helped a whole generation of younger people change their lives and become better people. No one should be seen as disposable, and no one should be forever defined by their worst act. Furthermore, no one should die in prison. We believe in redemption and transformation. We believe in families, communities, and collective care. We also recognize that prison sentences that don't allow for meaningful opportunities for release don't keep us safe.