

Ms. Julia Salazar - Chairwomen  
New York State Senate  
Committee on Crime Victims, Crime and Correction

Hearing on how the Elder Parole and Fair and Timely Parole Bills  
will improve Parole Release Laws and Public Safety in New York

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### Aging in Prison

"You actually create victims by not letting elderly prisoners go and using your resources on rehabilitation for the ones that are going to get out...when I came here and saw the elderly population, I said, God. Well, why are they here? Our name is Corrections, to correct deviant behavior but there's nothing to correct in these guys; they're harmless." Burt Cain, Warden of Louisiana State Penitentiary at Angola.

The United States keeps elderly men and women locked up despite an abundance of evidence demonstrating that recidivism drops dramatically with age. For example, in New York, only 7% of incarcerated individuals released from prison at ages 50-64 returned to prison for new convictions within three years. That number drops to 4% for individuals age 65 and older. In contrast, the number is 16% for people released at age 49 and younger.

In June, the American Civil Liberty Union, released a report "At America's Expense: The Mass Incarceration of the Elderly." This report detailed the extraordinary growth and cost of incarcerating the elderly.

The report accounts for the growth to the "tough on crime" policies and "war on drugs" of the past 30 years with longer sentences and fewer releases, leading to the ever expanding number of the elderly. It has occurred even though the great majority of those elderly pose no threat to the public.

The elderly prison population is increasingly comprised of individuals sentenced to prison for long periods of time (20 years or more) and increasingly remain in prison into old age. Many individuals who would have been sentenced to shorter periods of incarceration for repeat offenders before 1979, are now caught in the net of later-enacted habitual offender laws (Three Strikes You're Out in Callifornia and Persistent Felony Offender, in New York) and given punishments of 20 years or more. Also, life without Parole.

An independent report released in October 2021 by Columbia University's Center for Justice, has renewed a discussion for the urgent need for parole reform. Its key findings were:

\* **New Death Penalty.** Approx. 1,399 people died in state prisons in the last 10 years. Comparatively, 1,130 people were executed in the state between 1608 and 1971. A person in state prison dies every three days, on average. In 1976, the rate was one every 12 days.

\* **Race.** In 2018, Black people accounted for 45% of deaths in the custody of DOCCS while Black people make up around 14% of state residents.

\* **Age.** In the last 10 years, incarcerated people 55 and older made up 40% of all deaths behind bars. Around 25% of the incarceration population is 50 or older.

\* **Long-term Incarceration.** People who have been incarcerated for 15 years account for nine times more of the total deaths behind bars, compared with the 1980s. In the last decade, roughly one in three people who died behind bars served at least 15 years. The figure was one in 29 in the 1980s.

According to Ms. Meliss Tania, co-author of the report, the research reveals the 1984 ruling abolishing New York's death penalty did not effectively slow death behind bars. Instead, she contended, capital punishment was repurposed into "death by incarceration" sentences, particularly for older populations.

Several states have abolished the death penalty in recent years - seven (7) in the past decade - Connecticut, Illinois, Maryland, Nebraska, New Jersey, New Mexico, and New York.

But in practice this shift has also expanded the pool of defendants pulled into such sentences, which in effect are "death in prison" sentences.

The recent and drastic increase in deaths of older people and those serving long sentences tells us that it hasn't always been this way (and) it does not have to continue to be this way.

#### Conditional Release for The Elderly

My belief is, there's a solution! As I wrote in my paper in 2015, The Elderly in State Prison. New York state should create a Geriatric Conditional Release Program. This program would grant conditional release for aging individuals who pose little safety risk. Conditional release programs grant individuals 55 years and older the right to request a hearing before a Parole Board.

My name is Robert Lind, I'm currently incarcerated at Sullivan Correctional Facility, in Fallsburg, N.Y. I'm 76 years old. I was 35 when I was arrested in 1982. I was convicted of Attempt Murder. And sentence to 25 years to life, for the charge. And 25 to life, for being a persistence felony offender, to run consecutively. Therefore, my sentence is 50 to life. The 16th., of December, I will be incarcerated for 40 years. I work as Peer Counselor in the Transitional Services Center, here at Sullivan. I'm certified by the Department of Labor, as a Counselor's Aide (1986). Have a Bachelor's degree (Mercy College - Sing-Sing Correctional Facility - 1989) major in Psychology. I'm married to a wonderful woman, her name is Michelle, we have three beautiful daughters, and five grandkids.

Since I've been incarcerated, both of my parents have died, may God bless them. I know how it feels to loose someone you love, the pain. I'm happy, that I didn't cause this pain to any family.

At some point, respect for human dignity means a chance to reintegrate with society, a chance to make amends, and a chance to have the criminal justice system acknowledge personal changes, whether those changes were due simply to growing up and aging, or to more intentional efforts at personal development.

Life experience does not prepare anyone when confronted with the "Welcome to Hell," entering prison. These words strike at our divine essence, our ever-present inner spark we call hope. A person consumed in hopelessness will succumb and embrace sadness and harsh realities: despaair, anguish, loneliness, bewilderment, anger. Slowly. the effects of such a sad and harsh embrace begin to erode a person's mind, body and spirit. Too often, I have seen men with such erosion, with only a part of them still here. They hang on to life with vacant stares and glassy eyes. And their appearance can be described as men living in shells - devoid of life.

As a constant witness to this erosion, I, too have felt their pain, so I include them in my prayers. By tapping into my devine essence, my ever-present inner spark, I'm receptive to God, for hope is one God's many voices.

I believe that when a person embraces prayer, God is embraced, and when God is embraced, we can transcend, and hope will illuminate our lives and paths. And most of all is reliance in that one element that unites us to God, and to each other, our divine essence, our ever-present inner-spark, that we call hope. Yes, I have the audacity to hope, that one day my wife and I, will take our grandchildren to the lake, so I may be able to watch them feed the ducks.

Respectfully,

*Robert Lind*