



The Problem With Parole:

New York State's
Failing System
of Release:
2023 Addendum

JUNE 2023

EXECUTIVE SUMMARY

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 plagued by inequality.

In 2021, the Center, along with the Parole Preparation Project, issued a comprehensive report, *The Problem With Parole: New York State’s Failing System of Release*, documenting the vast racial disparities in parole release decisions.¹ The present document serves as an addendum to that report, with updated data documenting the continued and worsening racial disparities in parole release decisions.

Numerous studies and investigations have shown these racial disparities and the disproportionate harm caused to Black people, Latine people, and other people of color by New York State’s Parole Board. Even before the release of the Center’s 2021 report, a 2016 *New York Times* exposé revealed that, even after controlling for variables such as prior offenses and seriousness of the underlying crime of conviction, less than one in six Black or Latine men were released at their first parole hearings while one in four white men were released.² The *Albany Times Union* similarly documented continued and widening racial disparities in parole release decisions in 2020, noting that “if Black and [Latine] people were paroled at the same rates as whites [between October 2018 and October 2020] alone, there would be 675 fewer people behind bars.”³ Now, newly released and analyzed data from 2022 and 2023 shows that these racial disparities have not only continued but worsened.⁴ In the first quarter of 2023, while the Parole Board released 45% of all white people appearing before it, the Board released only 32.425% of all people of color appearing before it. In other words, people of color were over 32.420% less likely to be released on Parole than their white counterparts. Similarly, looking at all of 2022 and the first quarter of 2023, the Parole Board released 41% of all white people appearing before it but only 30% of all people of color appearing before it.⁵

These disparities are even worse than the already vastly disproportionate release rates in previous years. From 2016 to 2021, overall the Parole Board was 19% less likely to release people of color than white people, compared to 30% less likely in 2022 and 2023 and 32% less likely in the first quarter of 2023.⁶

As the Center’s 2021 report concluded, the Parole Board must be held to account. To begin to address these racial disparities, New York State policymakers must fundamentally overhaul the state’s Parole Board, including most urgently by: 1) removing vague statutory language from the executive law and focusing the release decision inquiry on a person’s current risk, transformation, rehabilitation, and readiness for release; and 2) ensuring people who are aging in prison have an opportunity to at least appear before the Parole Board, including by expanding access to parole to people who are 55 and older and have served at least 15 years in prison.

FINDINGS

Newly released and analyzed data shows vast racial disparities in Parole Board release rates in New York State.^{7 8}

CHART 1: RACIAL DISPARITIES IN PAROLE BOARD RELEASES

Year	Releases. People. of. Color	Total. Hearings. People. of. Color	Release. Rate. People. of. Color	Releases. White. People	Total. Hearings. White. People	Release. Rate. White. People	% Difference Release Rate by Race
2023	345	1064	32.42%	228	507	44.97%	32.42%
2022-2023	1485	4887	30.39%	1032	2521	40.94%	29.58%
2022	1140	3823	29.82%	804	2014	39.92%	28.97%
2016-2023	12720	38471	33.06%	7689	19002	40.46%	20.13%
2016-2021	11235	33584	33.45%	6657	16481	40.39%	18.79%

From 2016 to 2023 for all appearances before the Parole Board, the Board released 33.45% of all people of color appearing before it, while releasing 40.39% of all white people appearing before it. In other words, the Board was over 20% less likely to release a person of color appearing before it than a white person.

CHART 2: RACIAL DISPARITIES IN PAROLE BOARD RELEASES 2016-2023

<i>Release. Rate. People. of. Color</i>	33.45%
<i>Release. Rate. White. People</i>	40.39%
<i>% Difference. in. Release. Rate</i>	20.13%

This data also shows that the racial disparities are worsening. Looking at the full year of 2022 and the first quarter of 2023, the Parole Board released 41% of all white people appearing before it but only 30% of all people of color appearing before it. Comparing that with previous years, from 2016 to 2021, the Parole Board released 40% of all white people appearing before it but only 33.45% of all people of color appearing before it. In other words, people of color were 30% less likely to be released in 2022 and 2023 than their white counterparts, a significantly worse disparity than the already vast racial disparities from 2016 to 2021 when people of color were 19% less likely to be released on parole.

CHART 3: RACIAL DISPARITIES IN PAROLE BOARD RELEASES 2022-2023

<i>Year</i>	<i>Release.Rate. People. of.Color</i>	<i>Release.Rate. White.People</i>	<i>% Difference Release Rate by Race</i>
2022-2023	30.39%	40.94%	29.58%
2016-2021	33.45%	40.39%	18.79%

For the first quarter of 2023, the racial disparities were even worse. While the Parole Board released 45% of all white people appearing before it, the Board released only 32.425% of all people of color appearing before it. In other words, the Board was 32.420% less likely to release a person of color than their white counterparts, again even worse than the racial disparities from 2016 to 2021 when the Board was 19% less likely to release a person of color than a white person.

CHART 4: RACIAL DISPARITIES IN PAROLE BOARD RELEASES 2023

<i>Year</i>	<i>Release.Rate. People. of.Color</i>	<i>Release.Rate. White.People</i>	<i>% Difference Release Rate by Race</i>
2023	32.42%	44.97%	32.42%
2016-2021	33.45%	40.39%	18.79%

RECOMMENDATIONS

Unfortunately, racial disparities in Parole Board decisions are a feature of the criminal legal system, not a bug. They are part of the larger racist scaffolding that supports every aspect of New York’s criminal legal system, from racially-biased policing⁹ and prosecution¹⁰ to the racially disproportionate imposition of long prison sentences,¹¹ including sentences of life without parole and “virtual” life without parole.¹² And as noted above, the data makes clear that the Parole Board is marching in lockstep with this state’s ignominious tradition of criminalizing color.

In that context, New York policymakers now have an important opportunity to address the vast racial disparities by the Parole Board. Consistent with the Center’s 2021 recommendations, we propose the following:

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

The New York State legislature should amend the Executive Law by removing language which prohibits release where it will so “deprecate the seriousness of the crime as to undermine respect for the law,”¹³ and instead replacing it with language that focuses the Parole Board’s attention on a person’s current readiness for release from prison. 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 accomplishments in prison, their personal transformation, and who they are today.

2. Expand Release Mechanisms for People Serving Long and Natural Life Sentences

The legislature should pass a provision that grants all people aged 55 or older, who have served 15 years or more in prison, immediate parole consideration, regardless of crime or sentence. Roughly 1,000 people 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 return home and reunite with their families. Expanding access to parole must include a focus on the growing proportion of New York’s prison population which is over the age of 55, and those who are otherwise seriously ill or infirm. 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. And it will incentivize good behavior by people who would have new hope of possible parole release and recognize that good behavior can help make that a reality.

CONCLUSION

It is appalling that despite the repeated documentation of the vast racial disparities in decisions by New York State’s Parole Board, those disparities have continued and worsened, while New York policymakers have failed to address the issue. Particularly when the consequences of parole denials are so stark, including continued languishing behind bars, worsened health outcomes, and death; and when the benefits of parole release are so clear, including reuniting families, saving lives, saving millions of dollars, and bringing community elders and leaders back to the community, it is imperative that New York policymakers act immediately to address the racial disparities and provide greater and equal opportunities for release.

ENDNOTES

- 1 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>.
- 2 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>.
- 3 Edward McKinley and Amanda Fries, *A 'broken' parole process: Data shows widened racial bias*, Times Union (Nov. 20, 2020), <https://www.timesunion.com/news/article/A-broken-parole-process-Data-show-widening-15739596.php>.
- 4 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 Jun. 1, 2023).
- 5 Id.
- 6 Id.
- 7 Vera, *supra* note 4.
- 8 As noted above, the numbers appearing in this section are calculations derived by processing the data present within Vera's data release.
- 9 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>.
- 10 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=While%20in%20Brooklyn%2C%20the%20largest,and%20convicted%20of%20offenses%20at>.
- 11 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).
- 12 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.
- 13 N.Y. Exec. Law § 259-i(2)(c)(A).