

CURE-NY *Newsletter*

To Reduce Crime and Uplift Society

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Distortion of the Parole Board's Function *by Jim Murphy*

It is clear that under Governor Pataki there was a policy to eliminate parole for violent felons. By 2005, only 9 of the 263 A1 violent felons offenders (3%) that appeared before the Board were released. People otherwise eligible were hit time and time again with a boiler plate rejection and no consideration of factors other than the crime they committed. Decisions have had too much politics and not enough evaluation of the individual's behavior and readiness for parole.

Eleven years ago, Edward Hammock former Chair of New York's Parole Board published a commentary in ***St. John's Journal of Legal Commentary*** (Spring 1999). The article which was co-authored by James Seelandt from the Bronx Defenders was entitled: ***New York's Sentencing and Parole Law: An Unanticipated and Unacceptable Distortion of the Parole Board's Discretion.***

The commentary asserted, with supporting cites:

"While the criteria for parole eligibility have not been changed by legislative enactment, an examination of the current release practices of the Board of Parole (the Board) reveals that the current parole system has been at the forefront of an ideological revolution. Increasingly, this has meant the exclusion of otherwise eligible offenders from being granted parole release into parole supervision, in direct contravention of various provisions of the Executive Law and a long line of Appellate Division decisions."

In June of this year Robert Dennison, another former Chairman, confirmed the distortion in a NY Times article. He is quoted as saying

"It's a real hard issue: how much time should you do for taking a life? Many times, the parole commissioners feel differently than the judge and probably say to themselves or say to one another, I don't really care what the judge gave the person. I don't feel comfortable letting this person out. And I am going to hold him for two

more years"...And that can go on and on and on forever." June 6, 2010

That was followed by the reaction of Republican Senators at the release of Shu'Aib Raheem who had served 37 years on a 25 to Life sentence and their statement when John MacKenzie who has served 35 years on a 25 to life sentence was denied. After John's denial, Senator Golden's press release claimed:

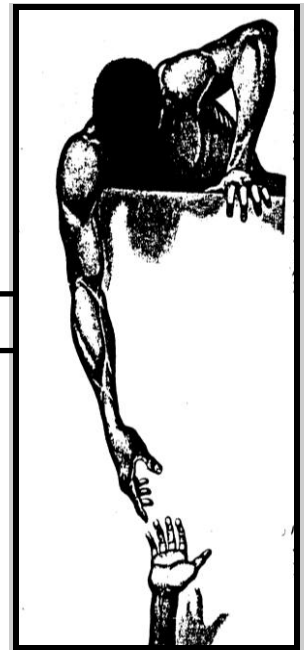
" the Parole Board's release denial last week of John MacKenzie, who shot and killed a police officer during a burglary on Long Island 35 years ago... that decision was a result of pressure from them and police organizations"

Crimes that have been committed and the tragedies caused can never be changed, but it is a distortion of the Board's function to serve as judges and to resentence A1 felons to life without parole - 2 years at a time. They did not receive that sentence. The Board is supposed to determine if parole eligible individuals can remain crime free and not be a threat to the public welfare. Denials dependant on who was killed and how much pressure can be stirred up are arbitrary decisions and violate due process.

THERE'S CHANGE ON THE HORIZON

*By Ometrius Perez, M.Min
CURE-NY member @ Sullivan*

After 19 months of weekly brainstorming sessions and the production of various white papers by the Second Look ad hoc (eight member) Committee, a Sullivan CF research and analysis group, on June 22, 2010, held a Parole Reform Conference with Ms. Andrea W. Evan, Chairwoman of the New York State



"He Ain't Heavy"
by Gilbert Young

Division of Parole and other dignitaries. The culmination of which was largely due to the lobbying efforts of Mr. Larry White, parole reform activist and former prisoner, who was instrumental in convincing Ms. Evans to meet with this group of knowledgeable men.

The Chairwoman's entourage consisted of Ms. Vanda R. Seward, Dir. Of Statewide Reentry Services; Mr. Timothy O'Brien, Statewide Dir. of Facilities and PVU; Mrs. Mary Smith, Dep. Dir. of Field Parole Officers; Mrs. Doris Cuevas, Special Assistant to the Chairwoman; and Ms. P. Johnson, Facility Parole Officer II. In attendance from Sullivan CF were members of the Executive team, Superintendent James Walsh; Dep. Supt. of administration Mr. L. Lilley; Acting Dep. Supt. of Programs Mr. C. Karson; Father Stan Ogbonna, Second Look's staff advisor; Inmate Grievance Program supervisor Ms. T. Hyatt; and members of Second Look, J. Robinson; O. Perez; P. Bellamy; R. Torres; J. Johnson; B. Bryant; W. Holmes; and L. Sieteski. Also invited and in attendance were two members of the Lifers and Long Termers Organization, S. Bellamy and W. Smith, and at the behest of Supt. Walsh, three members of the Inmate Liaison Committee (ILC).

The agenda for the conference was based on the four specific white papers that were written by the members of Second Look addressing issues related to defining "risk" to public safety; a proposal to revise the Division Guidelines Application Manual; the functions of the facility Parole Officers; and the performance of the Parole Board Commissioners. Although time constraints, due to the Chairwoman's other scheduled commitments precluded the conference from exceeding two hours, the exchange of dialog not only addressed some of the deficiencies within the Division's current modus operandi (e.g., Inmate Status Reports highlighting instant offense and criminal history, while down-playing academic/vocational achievements, etc.; the lack of responses to administrative appeals; and the fact that the Division's Guidelines Application Manual used to make release decisions hasn't been revised in twenty five years, etc.) but was rich in suggestions on possible solutions on how changes in the Division's various policies can substantially lower the risk to public safety.

One suggestion by this writer entails the adoption of a dynamic risk assessment tool that

will allow the Division to make release decisions based on actual "present" risk factors (if any), instead of the Division's current practice of assessing "perceived" risk based on two factors that cannot change- the inmate's instant offense and past criminal history. As it stands, the Guidelines Application Manual gives weight to only an inmate's instant offense and criminal history (if any) via a static point score system, while according no weight to an inmate's academic/vocational achievements etc., in contravention of the legislative intent regarding Executive Law 259-i(2)(c) (A). While acknowledging the need to amend and revise the manual, Chairwoman Evans stated "It will be at least a year before the manual would be revised." Mr. O'Brien echoed her sentiments and expressed that " Although it is important that the Division revise the manual, it is not a top priority at this point."

In regard to determining risk, Chairwoman Evans mentioned that the Division had already adopted a risk assessment tool called "COMPAS" that is currently being utilized by field Parole Officers, but made no mention of a risk assessment tool being adopted and/or employed by facility Parole Officers to determine which inmates possess the least or greater risk of reoffending. Overall, the ultimate goal and vision of Chairwoman Evans and her colleagues is to effectuate change within the Division – which includes the implementation of various policies that are designed to assist the incarcerated in making a successful transition and reintegration back into society. And despite the fact that some of her objectives are contingent upon an increase in the division's funding in the 2010-11 annual fiscal budget, the Chairwoman and her colleagues remain optimistic of the changes that are looming on the horizon.

CAMPAIGN FOR PAROLE REFORM *by Jim Murphy*

The Prison Action Network an Albany based reform organization has begun a campaign to change the State's Executive law to correct the distortion which the previous article noted. The Campaign, which is looking for support from individuals and organizations would make the following changes in Section **259-i** of the law.

Exec. law § 259-i. describes the way the State Board of Parole must operate.

Problem: the first section establishes how to set the minimum periods of imprisonment. That responsibility was taken from them and returned to the Courts in the 1980's, so it no longer applies.

Proposed solution: delete the first section entirely.

Problem: Parole applicants can be denied release solely on the basis of their criminal history or the nature of their crime, factors which can never change.

Proposed solution: release the Board of Parole from their punitive responsibilities, and provide them with guidelines for determining a person's readiness to remain at liberty without violating the law.

Problem: Parole decisions are arbitrary and provide the applicant with no conditions for release in the future.

Proposed solution: the Parole Board will state in detail the reasons for the denial, and the specific actions, programs or accomplishments needed in order to qualify for parole release at their next hearing.

Problem: Lack of transparency. Parole hearings are transcribed in writing, making them susceptible to omissions or misrepresentations. A parole applicant can be denied release based upon evidence in their files that they have not been allowed to see or know exists.

Proposed solutions: the hearing will be video and sound recorded. No documents shall be considered confidential, including mental health records (in accordance with Mental Hygiene Law § 33.16)

Problem: Hearings can be held through closed circuit TV, which eliminates the impact of personal presence on both sides.

Proposed solution: All parties must be in the same room.

The proposed revision also brings §259-I into compliance with Penal Law §1.05's new 5th goal, and 9NYCCR §8002.3(b).

To support the campaign and for more information, contact PAN Parole Campaign, PO Box 6355, Albany NY 12206
prisonactionnetwork@gmail.com

Wrongful Convictions

*From a letter by Patricia & Terry Borden,
N.Y. Directors of the National Freedom March
for the Wrongfully Convicted*

We are part of a grassroots organization bringing attention to a most serious problem and providing a voice for thousands wrongfully convicted. An Ohio State University study suggests about 10,000 people in the United States may be wrongfully convicted of serious crimes each year. Our grassroots group, the National Coalition for Criminal Justice Reform (<http://reformingjustice.com/Default.aspx>), is sponsoring our 2nd annual National Freedom March for the Wrongfully Convicted to be held in cities throughout many states on October 2, 2010. It will be held on the steps of the Poughkeepsie Court House at 11:00 AM and ending at 2:00.

According to the Innocence Project there have been 258 post-conviction DNA exonerations in the United States.

The first DNA exoneration took place in 1989. Exonerations have been won in 34 states. Since 2000, there have been 189 exonerations. 17 of the 258 people exonerated through DNA served time on death row. The average length of time served by exonerees is 13 years. The total number of years served is approximately 3,245.

The Justice Project has stated, "DNA exonerations are but a window to the larger, unseen problem. We know that the same evidence suffers the same flaws in non-DNA cases. What we do not know is how many innocent individuals have been convicted based on faulty evidence." "While DNA is an invaluable tool, it does not solve the problems of unreliable evidence that repeatedly surface when wrongful convictions are discovered. The vast majority of cases simply do not have probative evidence used in non-DNA cases reinforces the importance of implementing procedures that enhance the quality of evidence relied upon by the system."

Students, as well as the general public, need to understand wrongful convictions.

CURE-NY

The New York Chapter of National CURE
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| <input type="checkbox"/> Incarcerated person | \$ 2.00 | <input type="checkbox"/> Sustaining | \$ 50.00 |
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Education is the first step toward change. Those who go into careers in law enforcement and related careers will learn first hand the role a careless or dishonest police officer or prosecutor, who cut corners, withhold evidence, and engage in other misconduct has in wrongful convictions and the role they play in ensuring true justice. There are many career paths that overlap with wrongful convictions: from attorney's to law enforcement related fields, to social workers, psychologists, journalism, politics, as well as an informed citizen with a raised awareness about wrongful convictions.

In Poughkeepsie, Laura Porter, Director of Organizing for Equal Justice USA, will give an overview of wrongful convictions. Other speakers will include noted Criminal Justice Advocate and DNA Exoneree Jeffrey Deskovic, who served 16 years in prison after being wrongfully convicted of murder and rape, non-DNA exoneree's Dewey Bozella who was exonerated after 26 years, and Kian Khattibi who served 9 1/2 years. Together, they spent a combined 51.5 years in prison for crimes they did not commit.

Please note the new mailing address for CURE-NY : 207 Riverside Dr., Scotia, NY 12302