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CC: Robert Freeman
Committee on Open Government; Office of Special Investigation;
Daniel O'Donnell; Aileen Guenther; Committee on Corrections;
Governor Andrew Cuomo

December 24, 2014

RE: **Demographic Information regarding Parole;**
Public Officers Law 87 Requests;
Lack of Due Process in Appeals Unit;
Failure to implement evidence-based procedures;
Failure to reverse appeals when the documents prepared for review contain erroneous information;
Failure of ORC to obtain documents necessary for review;
Lack of Diversity on Parole Board;
Lack of Accountability of Parole Board; Accuracy of Transcripts;
Public Access to Appeals Unit Decisions; Time Requirement to Respond;
Term Limits of Parole Board Members

Dear Sirs,

Please be advised we are the Co-Presidents of CURE-NY. On behalf of our Board of Directors, we at CURE-NY would like to begin a conversation regarding possible solutions to the broken criminal justice system in NYS in regards to parole and corrections.

We as an organization do not think other reform efforts to this point would be something which could be implemented. Our Board represents diverse interests including members who are involved in Friends of Homicide Victims, Restorative Justice, alongside a former Parole Board Commissioner and with all whom we have discussed parole and correctional matters for several years trying to hash out a viable solution. Our organization as a whole is a state-wide chapter with national and international chapters.

We are a 501-(c)-(3) so we do not engage in lobbying but are examining the state criminal justice policies as a whole and are providing this position paper on our thoughts of how we can improve the criminal justice system, providing information to foster constructive changes working towards fairer policies for offenders while considering the safety of society working towards a positive and successful release process. We take this position because our organization as a whole is diverse and represents all sides of the criminal justice process making it very difficult to stay within our mission when working with other agencies or coalitions.

We believe at CURE-NY when working with other coalitions no element of the effort taken can be contrary to any of CURE's position as a whole or serve to promote another coalitions broader agenda as a whole. To maintain the integrity of our beliefs and mission as an organization, we must divert from other reform movements currently in place.

Often reformers focus on the wording of the statute regarding "serious nature of the crime" as many Board decisions are modeled using the language of the NYS statute. We understand this factor is something which cannot be changed due to the necessity of citing the facts of the instant offense and one's criminal history. We at CURE-NY believe a more viable solution is to examine the statute used by Corrections and Parole in comparison to other NYS criminal justice policies.

With this in mind, the analysis of the current process becomes much more troubling. If someone is released and then re-arrested, the criminal court can only review back ten years of criminal history to enhance a felon's criminal sentencing. This is also the standard used in Rockefeller Drug Resentencing. Why then would it be appropriate for a Parole Board to consider and rule someone is a risk to society based on criminal histories which are 20, 30 and 40 years old. The system is implementing an inconsistent policy establishing the rule of thumb to review whether a person was rehabilitated using a ten-year rule but then allowing a Parole Board to even rely on Youthful Offender crimes?

The current Parole Board represents a non-diverse Board with an emphasis on law enforcement. This is not allowing a fair Parole Board process. Representatives serving as defense attorneys, rehabilitated individuals who meet criteria (ex-offenders) and people who were wrongfully convicted should be added to the candidates who are considered. CURE-NY applauds Connecticut for taking such a brave stand to implement diversity on their Parole Board.

We are deeply troubled especially in light of the current events in society surrounding law enforcement and the political agenda of the PBA and other interest groups having an undue influence over Parole Board members due to the backlash of releasing certain offenders.

Representatives are often punished for doing the right thing either politically or in the press and then fear whether their job will be in jeopardy. A way to limit the political interference and bias currently surrounding the Parole Board process is to impose term limits of Commissioners. They term should be for 6 years without the ability of a Commissioner to become a career Parole Board Commissioner.

Currently, the Parole Board is taking between 10-12 months to rule on submitted parole appeals circumventing the right to challenge the actions taken and or the ability to seek court intervention due to the short statute of limitations on a parole denial being between 12 and 24 months. This is an aberration of due process. They fail to distinguish between revocation cases and or normal Board appeals. Which a person serving a violation has a heightened due process right.

Corrections Law 71-(a) and NYS Executive Law 259 (c) (4) were enacted with rehabilitative /evidence based procedures in mind. The failure of the Department of Corrections to fully implement these procedures and comply with its own rules and regulations and Directive 8500 is disturbing. The NYS Board of Parole does not currently review the COMPAS Offender Case Plan as part of the parole interview process.

Our organization is also concerned with the untimely manner the NYS Department of Corrections/NYS Board of Parole processes Freedom of Information Law requests. The Legislature enacted the Freedom of Information Laws in order to allow for open access to the government. The untimely delays, in excess of a year's time, in order to provide the public with documents regarding the operation of two administrative agencies, is completely unacceptable.

The people of the state of New York have a right to know how these agencies are functioning and to factual information regarding how the criminal justice system in New York is operating. Furthermore, when information is requested and vital to demonstrate the lack of due process being afforded incarcerated people simply points towards an agency trying to cover up their inefficiencies.

Ms. Kates tendered a FOIL request close to a year and a half ago requesting demographic information regarding the statistics of parole decisions from 2011-2013 in regards to race and gender. Additionally, she made a request for information regarding how the Appeals Unit was operating, including requests for factual information of how appeals were processed (quantity etc.). This data is readily available and accessed on a daily basis. There is no rational explanation to define why there is over a year and a half delay in processing her request.

The importance of this data is vital to share with legislative bodies and or NYS courts to fully outline the inefficiencies of these agencies and the failure to provide a vulnerable population any due process.

Sincerely,

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