



Freedom Delayed, Justice Denied: Increasing Racial Disparities in New York State's Parole Release Decisions

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**THE CENTER ON
RACE
INEQUALITY
& THE LAW**
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EXECUTIVE SUMMARY

This report is based on data on release rates by New York State’s Parole Board, which was obtained by the Vera Institute of Justice. In short, the report finds that the vast racial disparities in parole release rates have only worsened in recent years. **The last three years of data, 2022 through June 2024, show the widest gap in release rate racial disparities since this data began to be collected in 2016. Not coincidentally, this three year period coincides with Governor Hochul’s time in office.** From 2022 to 2024, the Parole Board was 32.28% less likely to release a person of color than a white person. This level of racial disparity in the last three years is 71.65% *worse* than the already existing racial disparities of the previous six years. If people of color had been released at the same rates as white people, just since 2022 there would have been over 1,300 more grants of parole release for people of color than the actual number of releases of people of color. Each person of color denied release because of these racial disparities is a person who remained incarcerated in a New York prison rather than being at home with their family and community. This report recommends amending the statute governing parole determinations (Executive Law 259-i), as well as the statute governing the powers of the Parole Board (Executive Law 259-c), to help ensure all people in prison receive meaningful opportunities to demonstrate their rehabilitation and be fairly considered for release.

ABOUT US

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 inequity.

INTRODUCTION

The primary mechanism for release from prison in New York State is through the parole review process. People serving indeterminate sentences (e.g. 5 to 10 years, 7 to 12 years, or 20 to life) appear before the Parole Board once they have served their minimum sentence. The job of the Parole Board is to evaluate them for release to parole supervision.

Several factors influence a parole applicant’s fate. But too often, the determinative factor is the nature of their conviction, despite the fact that the applicant will never be able to change that reality. Historically, the purpose of parole release reviews was to determine whether people were ready to return to the community — an idea rooted in the common understanding that people who have been convicted of a crime or crimes at one point in

their lives often mature and transform themselves over time. However, the ingrained culture of retribution that currently permeates the Parole Board—a remnant of the “war on crime” era that hurdled this country into a mass incarceration crisis—coupled with the vague language in the statute governing parole determinations, has undermined the parole release process in New York. Parole commissioners regularly deny applications for parole based on the Board’s conclusion that the crime of conviction was too serious to justify release. Of course, in each of these instances, a court has already sentenced the parole applicant to a minimum term of incarceration, in accordance with current sentencing laws, that it has deemed sufficient in light of the crime, leaving the individual eligible for release upon completion of that minimum sentence. It is not the Board’s job—nor does the Board have the authority—to re-litigate the crime of conviction and further punish the applicant for the original crime. Rather, the Board should consider all that the applicant has accomplished in the years, even decades, since their conviction. Yet, people are routinely denied release despite having demonstrated their readiness for release because the Board has decided that the court’s original sentence was insufficient.

Sadly, the data also suggests that the parole applicant’s race plays an outsized role in determining whether they will be released. Separate investigations by The New York Times¹ and the Albany Times Union² found that, even after controlling for variables such as prior offenses and seriousness of the underlying crime of conviction, Black and Latino/a/e New Yorkers were far less likely to be released by the Parole Board compared to their similarly situated white counterparts. This translates into decades of freedom denied to New Yorkers of color, along with the harm that their prolonged absences cause to their families and communities.

In 2021, the Center, along with the Parole Preparation Project, issued a comprehensive report entitled, *The Problem With Parole: New York State’s Failing System of Release*,³ documenting the ongoing vast racial disparities in parole release decisions. The report was followed by an addendum in 2023, with updated data documenting the continued and even worsening racial disparities in parole release decisions.⁴

¹ 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>.

² 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 Aug. 1, 2023).

³ 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>.

⁴ Ctr. On Race, Ineq., & The L. & The Parole Preparation Project, *The Problem With Parole: New York State’s Failing System Of Release: 2023 Addendum* (Jun. 2023), https://www.law.nyu.edu/sites/default/files/Parole%20Board%20Decisions%20Report_508.pdf.

Unfortunately, the vast racial disparities continued to widen in 2023 and 2024. The last three years of data, 2022 through June 2024, show the worst three years of racial disparities since this data was initially collected in 2016. Specifically, from 2022 to 2024, the Parole Board was 32.28% less likely to release a person of color than a white person. This level of racial disparity in the last three years is 71.65% worse than the already existing racial disparities of the previous six years.

This period overlaps with the Governorship of Kathy Hochul, who has appointed four Commissioners to the Parole Board during her tenure and allowed many others, whose terms have expired, to remain on the Board without Senate re-confirmation.

This latest report evaluates new data in the context of an ongoing legislative debate in New York regarding reforms to the parole system, and provides concrete recommendations to address these disturbing and longstanding patterns.

METHODOLOGY

This report analyzes data on Parole Board release rates in New York State.⁵ The report looks at monthly data on parole releases, parole hearings, and release rates for people of color and white people, and aggregates that data into annual totals from 2016 to 2024, in order to have a year-by-year comparison of release rates. For each year, the report then calculates a percentage difference between the release rates for people of color and release rates for white people by subtracting the release rates in a given year of people of color and white people and dividing by the average of the release rates of people of color and white people.⁶ The report also calculates the number of additional grants of release for people of color each year if people of color had been released at the same rates as white people. The report then separates out these same calculations for a combination of specific years, namely 2022 through June 2024 (the years Governor Hochul has been Governor) and the previous six years of available data, 2016 through 2021, as well as for the entire period of available data of 2016 through June 2024. Further, the report calculates the percentage change in the percentage difference in release rates between the 2016-2021 years and the 2022-2024 years by subtracting the two percentage difference in release rates for those two sets of years and dividing by the percentage difference in release rates for the earlier set of years.

⁵ 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 August 10, 2024).

⁶ We assessed differences in release rates over time through multiple additional measurements, including assessing a percentage point difference between release rates of people of color and white people and a ratio of release rates for people of color compared to white people. Every method of measurement showed the same increase of racial disparities in 2022 through June 2024 when compared to 2016 through 2021.

1. Findings

Newly released data shows ongoing and worsening racial disparities in Parole Board release rates in New York State.

CHART 1: Racial Disparities in Parole Board Releases by Year 2016-2024

Year	Releases for People of Color	Total Hearings for People of Color	Release Rate for People of Color	Releases for White People	Total Hearings for White People	Release Rate for White People	% Difference Release Rate by Race
2024	851	2446	34.79%	602	1236	48.71%	33.33%
2023	1468	4353	33.72%	1059	2221	47.68%	34.29%
2022	1139	3826	29.77%	804	2012	39.96%	29.23%
2021	1499	4296	34.89%	781	1993	39.19%	11.59%
2020	1721	4597	37.44%	1041	2192	47.49%	23.68%
2019	2377	6363	37.36%	1421	3230	43.99%	16.32%
2018	2613	6571	39.77%	1571	3313	47.42%	17.56%
2017	2066	7500	27.55%	1262	3642	34.65%	22.85%
2016	958	4258	22.50%	581	2111	27.52%	20.09%
2022-2024	3458	10625	32.55%	2465	5469	45.07%	32.28%
2016-2021	11234	33585	33.45%	6657	16481	40.39%	18.80%
2016-2024	14692	44210	33.23%	9122	21950	41.56%	22.26%

As seen in Chart 1, the last three calendar years – 2022, 2023, and 2024 through June – show the worst three years of racial disparities since this data was reported. From January through June 2024, New York’s Parole Board released 34.79% of people of color appearing before the Board, while releasing 48.71% of white people appearing before the Board. In other words, the Board was 33.33% less likely to release a person of color than a white person. Similarly in 2023, the Board released 33.72% of people of color appearing before it, while

releasing 47.68% of white people, again indicating that the Board was 34.29% less likely to release a person of color than a white person. In 2022, the Board released 29.77% of the people of color appearing before it, while releasing 39.96% of white people appearing before it, indicating the Board was 29.23% less likely to release a person of color than a white person.

Notably, this period coincides with Governor Kathy Hochul taking office. While the Governor does not have direct power over release decisions, s/he appoints Parole Board Commissioners, including the Chair of the Board. Since assuming office in August 2021, Governor Hochul has appointed four new Commissioners and permitted many other Commissioners with expired terms to remain on the Board.

CHART 2: Worsening Racial Disparities in Parole Board Releases 2022-2024

Year	Release Rate for People of Color	Release Rate for White People	% Difference Release Rate by Race
2022-2024	32.55%	45.07%	32.28%
2016-2021	33.45%	40.39%	18.80%
Release Rate Difference by Race Over Time			71.65%

Taken together, as seen in Chart 2, the racial disparities have worsened by 71.65% when comparing the last three years with the previous six. From 2022 through 2024, the overall percentage difference in the release rate for people of color and white people was 32.28%, while from 2016 to 2021 the overall percentage difference was 18.80%, an increase in the disparity of 71.65%.

CHART 3: Racial Disparities in Parole Board Releases 2016-2024

Release Rate for People of Color	33.23%
Release Rate for White People	41.56%
% Difference in Release Rate	22.26%

While the last three years have seen a widening of the racial disparities gap, such disparities in parole releases are a longstanding problem. Taking all of the data together, from June 2016 through June 2024, the Parole Board released 33.23% of all people of color appearing before the Board, while releasing 41.56% of white people. In other words, for the last nine years of available data, the Parole Board was 22.26% less likely to release a person of color than a white person. This systemic failure remains persistent and is only getting worse.

CHART 4: Grants of Release for People of Color if Released at the Same Rates as White People

Year	Total Hearings for People of Color	Release Rate for White People	Total Grants of Release for People of Color if Released at Rates for White People	Actual Grants of Release for People of Color	Additional Grants of Release for People of Color if Released at Rates for White People
2024	2446	48.71%	1191	851	340
2023	4353	47.68%	2076	1468	608
2022	3826	39.96%	1529	1139	390
2021	4296	39.19%	1683	1499	184
2020	4597	47.49%	2183	1721	462
2019	6363	43.99%	2799	2377	422
2018	6571	47.42%	3116	2613	503
2017	7500	34.65%	2599	2066	533
2016	4258	27.52%	1172	958	214

These disparities in release rates have impacted the freedom of thousands of people of color. If release rates for people of color were the same as release rates for white people, as seen in Chart 4 there would have been hundreds of more grants of release for people of color each year, and as seen in Chart 5 there would have been over 3,650 more grants of release for people of color over the last nine years of available data. Just from 2022 through June 2024, if people of color were released at the same rates as white people, there would have been over 1,300 more grants of release for people of color. Each person of color denied release because of these racial disparities is a person who remained incarcerated in a New York prison rather than being at home with their family and community.

CHART 5: Grants of Release for People of Color if Released at the Same Rates as White People 2022-2024 & 2016-2024

2022-2024	1338 more grants of release for people of color
2016-2024	3656 more grants of release for people of color

2. Recommendations

The documented racial disparities in Parole Board releases are just one component of the systemic racism that is endemic to every aspect of New York’s criminal legal system, from racially-biased policing⁷ and prosecution⁸, to the racially-disproportionate imposition of long prison sentences,⁹ including sentences of life without parole and “virtual” life without parole.¹⁰ New York’s lawmakers have an obligation to address these racial disparities at every stage of the system. Indeed, in light of widespread support across the political spectrum, including from prosecutors, defense organizations, crime survivor advocates, and civil rights leaders¹¹, the Legislature has a unique opportunity in this moment to begin to address the racial disparities in Parole Board release rates. Consistent with the Center’s 2021 and 2023 recommendations, we propose the following:

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

⁷ 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>.

⁸ 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=White%20in%20Brooklyn%2C%20the%20largest,and%20convicted%20of%20offenses%20at>.

⁹ 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).

¹⁰ 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.

¹¹ <https://www.parolejusticenyc.com/campaign-partners>

The New York State legislature and Governor should amend Executive Law 259-i by removing language which prohibits release where it will so “deprecate the seriousness of [the] crime as to undermine respect for the law.”¹² The current framing should be replaced with language that requires the Parole Board to focus its attention on a person’s current readiness for release from prison, consistent with the original purpose of parole. 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 record of accomplishments in prison, their personal transformation, and who they are today.

B. Expand Release Mechanisms for People Serving Long and “Death by Incarceration” Sentences

The legislature and Governor should enact a provision that grants all people aged 55 or older, who have served 15 years or more in prison, parole consideration. Each person should receive individualized consideration, as opposed to being denied this opportunity based on their original convictions from years or decades prior. Hundreds of people in New York 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 demonstrate their rehabilitation and, if granted parole, to return home and reunite with their families and communities. Expanding access to parole must include a focus on the growing proportion of New York’s prison population that is over or nearing the age of 55, and those who are otherwise seriously ill or infirm, whatever their age. 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. Further, this change will incentivize good behavior by people who would have new hope of possible parole release.

¹² N.Y. Exec. Law § 259-i(2)(c)(A).