

New York

The New York parole system allows for a committee of up to 19 commissioners appointed by the governor and confirmed by the state senate, though the board often operates with fewer than 19 commissioners. Commissioners are appointed to six-year terms. In order to be appointed to the parole board, an individual must have a four-year college degree and five years of criminal justice experience, expansively defined. Oftentimes, in practice, this has meant the board is staffed with former prosecutors or law enforcement officers that are not from the communities most harmed by incarceration, though the makeup of the board is changing to include more people of color and more individuals from urban areas. In the past, there have been “pay-to-play” appointments to the parole board: a potential parole board commissioner donates to a state senators’ campaigns and, in turn, the senator recommends them for appointment to the board. Recently, this practice has been mitigated by RAPP activists exposing the practice through the release of campaign finance documents.

Each parole-eligible individual is subject to the same parole process. In teams of 2-3, the board hears 12,000 cases per year, most often via video conferences, in order to determine applicants’ “suitability for release.” New York state statute allows the board to determine how much to weigh each of the mandatory factors that must be considered when determining eligibility for release, so long as each factor is considered to some degree. The mandatory factors are “a complete statement of the crime for which the inmate has been sentenced, the circumstances of such crime, all available presentence memoranda, the nature of the sentence, the court in which he was sentenced, the names of the judge and district attorney, and copies of such probation reports as may have been made, as well as reports as to the inmate’s social, physical, mental and psychiatric condition and history, the results of any background investigations conducted by the division, and the complete Family Court and Criminal Court record of such inmate.” In practice, this freedom to weight factors according to commissioner discretion allows parole commissioners regularly to deny applications based on the nature of the crime rather than who the applicant is today. An applicant may demonstrate that they have completed relevant rehabilitative programming, or that they scored low on a risk assessment, or that they have earned a college degree, and the board may still find that the nature of the crime deprecates the suitability for release.

Though for much of its history New York used a primarily indeterminate sentencing scheme, in the 1990s, during the “tough on crime” era, New York switched over to a primarily determinate sentencing scheme for people convicted of violent crimes. Today, New York has the second-highest number of parole-eligible lifers in the country--totaling approximately 7500 individuals. With a parole board that was fully staffed, and comprised of individuals with a mindset of presumptive release, it would be possible to use the parole system to achieve significant decarceration.

The governor has unilateral authority in granting clemency, and there is no board of clemency in New York state. There have been fewer than 20 commutations in New York since 2011, though

activists are currently lobbying the governor to employ his power of executive clemency more liberally.

RAPP Associate Director Dave George says, "Colleagues and I have organized around systemic and cultural changes to the policies, practices and personnel of the New York State Parole Board. By both changing regulations and laws, and the people who staff and make release decisions for the Parole Board, we've been able to doubling the Parole Board's release rates in New York, from 20% to 40%, including for people serving life sentences. Our systemic/cultural change strategy has allowed us to win justice and change even when our undemocratic legislative processes in New York fails us and the state. We engage lawmakers and the public with a wide range of strategies--organizing, public education, direct lobbying, public actions/protests, research, etc.--and have found that all have been necessary for the change we've won."

At present, RAPP is working on several campaigns, including parole staffing efforts and several legislative campaigns. Although the board allows for up to 19 commissioners, there are currently only 12 commissioners that each have a very high case load. This staffing problem leads to procedural issues, such as short interviews and the postponement of hearings. RAPP is pushing for a fully staffed parole board that believes in rehabilitation and transformation as opposed to commissioners from law enforcement professions. RAPP is also currently pushing for two bills: a fair and timely parole bill and a back-end sentencing reform to promote elder parole. The "Fair and Timely Parole Bill" would establish a presumption of parole for all people going in front of the board, including for all people serving life sentences. The bill would ensure that the board releases every case they see, unless the board can prove, with evidence, that an individual provides an unreasonable risk to public safety or for violating the law. This would flip the burden of proof to make it such that the parole board has to prove why it is that someone should not be released, as opposed to the incarcerated individual having to prove why they should be released. The second bill, the "Elder Parole Bill," would mandate that all incarcerated people who are at least 55-years old and had served 15-years of their sentence would be allowed to appear before the Parole Board for release consideration. The bill would apply to all individuals, regardless of their crime or sentence.

George was also generous in sharing strategies that have been effective for RAPP. In New York. In collaboration with individuals inside, and through FOIA requests, RAPP has successfully sourced hundreds of parole interview transcripts, which they sort through in order to assemble reports that expose interview conduct of parole commissioners--including inappropriate comments and punitive measures. This has allowed RAPP to show the governor's office, the legislature, and the media how parole commissioners are conducting themselves in hearings. These reports serve as evidence for why individuals should or should not be reconfirmed to the board and why legislators that consider themselves allies should not rubber stamp gubernatorial appointees to the board. RAPP has also arranged call-in campaigns to the offices of elected officials and protests at the state capitol.

RAPP was founded in 2013 by three formerly incarcerated people who collectively served almost 70 years in state and federal prisons and who all had the shared experience of watching mass incarceration grow at the same time as they found themselves growing old in prison as a result of long sentences and few, if any, meaningful opportunities for release. RAPP is one of the first groups to have a central focus on advocacy related to releasing aging people and their concrete work consists of seeking to shorten long sentences through concrete initiatives to the New York state parole board.

Sources

George, Dave. Personal Interview. 16 May 2019.

“Rules and Regulations.” *New York State Department of Corrections and Community Supervision*, 3 Dec. 2013, [doccs.ny.gov/RulesRegs/20131219_CCS-51-13-00013.html](https://www.doccs.ny.gov/RulesRegs/20131219_CCS-51-13-00013.html)