

**TESTIMONY BY HOWARD W. HENRY, JR.**  
**BEFORE THE NEW YORK STATE SENATE**  
**COMMITTEE ON CRIME VICTIMS, CRIME & CORRECTION HEARING ON HOW**  
**THE ELDER PAROLE AND FAIR & TIMELY PAROLE BILLS WILL IMPROVE**  
**PAROLE RELEASE LAWS AND PUBLIC SAFETY IN NEW YORK STATE**

Thank you to the New York State Senate Committee on Crime Victims, Crime, and Correction, and in particular Chair Julia Salazar, for the opportunity to present testimony today on the Elder Parole (S.15A-Hoylman) and Fair & Timely Parole (S.7514-Salazar) bills. Together, these two parole justice measures will reunite families, improve community safety, and save the state massive sums of money that could be reallocated toward urgent community needs. As a Serving Elder at University Presbyterian Church, Buffalo, New York, I submit this testimony in support of both bills and respectfully urge the Legislature to finally call a vote on them.

University Presbyterian Church. Buffalo, New York: Founded as a mission church in 1921 to serve the needs of the University of Buffalo community, the mission of the church remains: to follow the commandment of Micah 6:8 – to love Justice, to do Mercy and to humbly Walk with the Holy One in bringing about God’s beloved community.

**BACKGROUND**

As an 81 year-old male of German and Irish background, I believe that our great nation and our great state have been horribly assaulted by systemic and racially-biased decision making and governmental action that has been destructive to our entire society, but most directly and most punitively against Persons of Color.

I write to you to ask that you begin to correct our shared tragic legacy by endorsing redemption, personal transformation, healing and safety instead of harsh sentencing and a parole system that appears to see revenge and endless punishment. You can do this by passing the Elder Parole and Fair and Timely Parole bills.

As a person believing in the worth of all people, I have a moral responsibility to speak out against abuse. I believe that you, in the positions you hold, have a moral responsibility to act to change an abusive system.

As our New York State prison population declines, its population that remains incarcerated is, by percentage, increasingly older and infirm. Today, a New Yorker dies in state prison more than once every three days, a crisis that academics have called New York’s new death penalty.

At the same time, we know that countless formerly incarcerated people have returned home and made tremendous contributions to their communities as mentors, violence interrupters, entrepreneurs, policy advocates, non-profit leaders and more. They are the people leading the work to create meaningful release opportunities for their elders, who helped them transform, and for those they mentored.

***The Elder Parole and Fair & Timely Parole bills will help to improve community safety*** by (1) reorienting parole release policies to value personal transformation and safety, rather than vengeance, (2) returning mentors and violence interrupters to struggling communities, and (3) saving the state an estimated \$522 million per year that could be better spent on housing, healthcare (including drug treatment and mental healthcare), material support for crime victims and survivors, and more.

## **THE PROBLEM**

The Parole Board routinely denies release to people based on the one thing they can never change, namely the nature of the offense for which they were convicted however many years and decades ago. People in prison often completely transform themselves, accepting responsibility for their past actions, taking advantage of every opportunity for growth provided to them within the prison setting and even creating new ones. Despite this, persons in prison are still being judged by the Parole Board on the basis of their original offenses.

This is not the original purpose of the Parole Board, which is and should be to evaluate people's rehabilitation and readiness for release.

I believe this is a racial justice issue. The vast majority of people in prison are Black and Latinx persons as a result of systemic racism in our country. Furthermore, a comprehensive 2020 *Albany Times Union* investigation of parole hearing data found the Board of Parole was significantly less likely to release Black and Latinx people relative to their white counterparts.

I am not a member of the Black or Latinx community. I have never been arrested. I have never been in jail. But that does not mean that I have never committed acts which were illegal when I was a youth. I believe that because my skin color is not dark(er) I was not charged with personal behavior that could have changed my life entirely.

I am a retired social worker and addictions counselor and a graduate of a theological seminary, and an active church member and a community volunteer, and I have become this person partly because I was not condemned by youthful, illegal behavior, and partly because good mentors guided me to become an asset to the community. I do not believe that many people of dark(er) skin color had and still do not have this same opportunity.

But I am not the stupid, unthinking, immature, testosterone driven \*\*\*\* that I used to be. And neither are many of the persons currently serving time in our state correctional system. And neither are the members of the Board of Parole.

I was never a wild and crazy guy and, at 81, I am even less so. As people get older they get less rambunctious and more sedentary. And get tired out and fall asleep earlier. This needs to be taken into consideration when making decisions about a human being's parole status, a human being who has been created in the divine image of the Holy One. Even a sinful person. Even a person such as the one writing this letter, or the persons who will read it.

The Times Union's investigation found that the Board released white people eight percentage points more than Black people and seven percentage points higher than Latinx people. According to their analysis, at the time of their reporting, 675 incarcerated Black and Latinx people would be home, reunited with their families and communities, if release rates were equalized. Over time, that amounts to thousands of families separated by racially biased parole denials.

Because of unreasonable Parole denial, tens of thousands of families across our state are missing one or more loved ones: children, parents, grandparents and great-grandparents. Furthermore, New York spends an average of \$60,000 annually to incarcerate just one person, and between \$100,000 and \$240,000 annually per older adult in prison. This is money that should instead be invested in resources that deliver real community health and safety and help prevent future incarceration.

## **THE FAIR & TIMELY PAROLE ACT**

New York must reform its parole system by passing the Fair & Timely Parole Act (S.7514-Salazar/A.4231A-Weprin) to ensure that people have a meaningful opportunity to demonstrate their rehabilitation and be released. This bill would restore the Parole Board to its original purpose of evaluating people's readiness for release, changing the standard of parole release to primarily consider the person's rehabilitation while incarcerated and their current risk of violating the law. Parole commissioners would no longer be able to perpetually deny people release based solely on the one fact that they can never change.

Passage of this bill **will** be a meaningful step towards ensuring fair parole hearings, increasing New York's dismally low parole release rate, and reducing the number of New Yorkers languishing behind bars. This bill **will not** take away parole commissioners' discretion and it still requires that the Board consider the nature of someone's crime and any victim impact statements in their release decisions.

## **ELDER PAROLE**

New York must reform its parole system to provide hope for families across this state by passing Elder Parole (S.15A-Hoylman/A.8855-Davila). If enacted, this bill would allow older adults in prison who have served at least 15 consecutive years of their current sentence eligible for individualized parole consideration. It is not a “blanket release” policy, nor does it guarantee release for anyone based on their age. Rather, it would give people who have transformed themselves an opportunity to be heard by the Board of Parole and, subject to the Board’s discretion, to be released to their families and communities to live out their final years with dignity. Importantly, reincarceration rates for older adults are vanishingly small. The age of eligibility in the bill is 55 for two critical reasons: (1) That is the age at which the state’s prison agency, the Department of Correction and Community Supervision, like many other prison authors, classifies people as older adults, in line with the reality of accelerated aging behind bars. (2) The average age of death by so-called natural causes in New York State prisons is only 58. Sadly, the constant stress of the prison environment and separation from one’s family, compounded by the systemic malnourishment, unclean water, and other harms endemic to incarceration, causes, on average, what can only be called premature deaths.

## **CONCLUSION**

I support these bills because I value the worth and dignity of all people. I believe no one is disposable, nor should anyone be defined by the worst thing they have ever done. Further, no one should die in prison. I believe in redemption and transformation. I believe in families, communities, and collective care.

Please let 2023 be the year for parole justice. I respectfully ask that you pass the Elder Parole and Fair & Timely Parole bills this session.

Thank you for considering these comments.