



TESTIMONY OF:
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INTRODUCTION AND SUMMARY OF RECOMMENDATIONS

Thank you to the Chairs and committee members for the opportunity to testify today. My name is Jose Hamza Saldana and I am the Director of the Release Aging People in Prison Campaign. I am also a survivor of 38 years of incarceration in New York State prisons, a crime survivor, and an impacted family member. This testimony is informed by decades of experience with a racist and brutal system that perpetuates intergenerational poverty and trauma and fails to deliver justice.

Let me begin by encouraging all policymakers to read the recent report by Senate Crime Victim, Crime and Correction Committee Chair Julia Salazar, [Built on Brutality](#), documenting the history and present conditions in New York State prisons. The report, which follows last year's joint legislative hearing on prison staff brutality in the wake of the brutal murders of Robert Brooks and Messiah Nantwi, finds that staff violence and racism are endemic to New York's carceral system. Carrying on the legacy of slavery, prison staff have been brutalizing and even killing incarcerated Black people with no accountability since long before I was locked up in 1979. The report makes several concrete and urgent recommendations, including passage of Fair & Timely Parole and Elder Parole, sentencing reforms, and full implementation of the HALT Solitary Confinement Law. This report provides valuable context for my testimony today.

I also encourage you to read two horrifying—and damning—articles about racist brutality by guards and their supervisors in New York State prisons that were recently published in The New York Times. The first article, [Restrained, Beaten, Asphyxiated: New York Prison Guards' Brutality Grows](#), details a decades-old crisis of extreme racist brutality in New York State prisons and the increasing frequency of such state violence over the last decade. Guards and their supervisors are suffocating incarcerated people with plastic bags, waterboarding them,

pummeling their faces, stomping and permanently damaging their genitals, and ripping out their dreads, all while the incarcerated people are restrained in chains. It is common for DOCCS' attackers to use racist slurs while brutalizing their victims. Then victims are charged with false "assault on staff" infractions and locked in solitary confinement. Time after time, DOCCS's Central Office Resolution Committee (CORC) finds grievances about this violence by staff "unsubstantiated." I have personally witnessed this abuse on countless occasions, and the impunity follows, working in the Incarcerated Grievance Program (formerly known as the Inmate Grievance Program).

The second article, [Why Are Guards Using Force More Often in New York's Prisons?](#) explores the history of this increase in state violence. The article debunks various myths that prison staff may use to justify their violence and notes, for example, that DOCCS is so wantonly and illegally violating the HALT Solitary Law that this Legislature passed with supermajority support that there has actually been a net increase in people in solitary confinement. We remain grateful for your enactment of that law and urge DOCCS to finally implement it.

If the footage of guards and sergeants murdering Robert Brooks were not released to the public, DOCCS would have told the public that excessive force was justified or that Brooks died of natural causes, perhaps after attacking staff. If Robert Brooks had survived, DOCCS would have placed him in solitary confinement based on a fabricated charge of assaulting staff. This constantly happens. In fact, Commissioner Martuscello testified at [an Assembly hearing on programs in prison](#) on Dec. 13, four days after guards murdered Mr. Brooks, and said nothing about the incident. It was only when the footage was about to be released that he acknowledged the attack and expressed his horror.

Just in the last decade, guards and their supervisors beat to death Leonard Strickland, Samuel Harrell, Karl Taylor, Terry Cooper, John McMillon, Ladale Kennedy, Ameek Nixson, and Clement Lowe, in addition to Brooks and Nantwi. The brutality goes beyond physical assaults, too. For generations, rampant sexual abuse, medical neglect, solitary confinement, and the crisis of aging in prisons have wrought havoc on our families and communities. Justice demands accountability for the guards, but that alone will not end this terror. Lawmakers must expand safe pathways home for incarcerated people until we can uproot this system of oppression. Indeed, that is the only effective solution to this crisis.

As Governor Hochul and legislators consider this fiscal year's budget, I implore you to prioritize one initiative that would save, rather than cost, hundreds of millions of dollars: Allowing incarcerated people a fair pathway home. The Elder Parole and Fair & Timely Parole bills are supported by leading crime survivor advocates like the New York State Coalition Against Sexual Assault, civil rights organizations like the NAACP of New York State, former New York State Parole Commissioners, organized labor like 1199 and 32BJ, the Bronx, Brooklyn and Manhattan

District Attorneys and all public defense firms, local government leaders across the state, aging services providers like JASA, faith leaders & congregations, and a majority of state legislators in both houses. The time to act and pass these bills is now.

Fair & Timely Parole (S159-Salazar/A127-Weprin) would restore the Parole Board to its original purpose of granting or denying release based on a person's readiness to return to the community and current risk to public safety, rather than solely or primarily on the nature of their conviction from however many years and decades ago, which is the one thing they can never change. (Parole Commissioners could still consider the conviction, and in fact would be required to do so.) It would also serve to clarify the law, which as it stands is a confounding mess, often leaving judges to order new parole board interviews. Ultimately, this bill will make parole interviews more rigorous and ground them in safety, which is what New Yorkers expect from the process.

Elder Parole (S454-Hoylman /A514-Davila) would ensure that the growing elderly population in New York State prisons, specifically people designated by DOCCS as older adults who have served at least 15 years of their current sentence, have access to case-by-case Parole Board consideration for release. This bill would help to correct the racial disparities that plague the legal system, including in sentencing.

Neither bill would automatically grant anyone release. Both would offer meaningful hope where there currently is little or none. Together, these bills would reform the parole process to reunite families, bring home credible messengers, violence interrupters, and more, and enable the state to reinvest more than half a billion dollars per year in what works to end cycles of violence: housing, health care for mind and body, healing for crime survivors, and more. They would promote safety, accountability, and healing over vengeance and despair.

People in prison have created and facilitated many of the most effective anti-violence programs, victim awareness courses, peer counseling programs for HIV/AIDS and substance use issues, and more – all of which are essential to confronting our state's most urgent challenges. Those released from prison often go on to start non-profits, mentor young people, lead anti-violence programs, serve as peer recovery counselors, open small businesses and so much more to improve community safety.

Ultimately, the safest communities have the best education, jobs, housing, comprehensive health care, and more. Parole Justice is part of the solution. Endless punishment does nothing to keep our communities safe and costs a fortune. New York State spends up to \$240,000/year to lock up each older adult, money that could be spent on improving community health & safety. Parole justice will make our communities safer, reunite families, and save \$522 million dollars annually that can support people harmed by crime and mass incarceration. Together, these bills

will improve safety and fairness for all, allowing so many currently incarcerated people to be part of the solution to harm and violence in their communities.

Sadly, our campaign has seen many of our members and mentors grow old, sick, and die behind bars. Data obtained by Columbia University's Center for Justice show people die in New York State prisons every 3 days and more have died in the past decade than the total number of people executed during the 367 years in which New York administered capital punishment. These all-too-common stories of long prison sentences, frequent parole denials, and eventual in-prison deaths should be the impetus for much needed changes to the parole release process. New Yorkers cannot wait any longer. Parole justice is needed now. The Governor and legislature must take action this legislative session to overhaul the parole system.

You all have the historic opportunity of taking common-sense steps toward ending the crisis of death by incarceration created by racist policies. Pass the Fair and Timely Parole bill and the Elder Parole bill, thereby taking meaningful action to create and expand pathways to case-by-case, individualized release opportunities for older people from prison which will prevent death and illness behind bars, heal those who committed harm and particularly those who were harmed; making New York a true leader in the struggle to end mass incarceration. **Otherwise, without such fundamental changes, the crises of aging in prison will continue to be New York's new death penalty.**

In addition to passing these two bills, we urge Governor Hochul to nominate, and the Senate to confirm, a fair and fully staffed Parole Board. The Parole Board should be fully staffed with 19 Commissioners who value rehabilitation and personal transformation and follow the law, rather than effectively re-sentencing parole-eligible people by denying them release because of their conviction from however many years and decades ago – the one thing no one can change. There are currently 17 members Commissioners on the Board, leaving two vacancies, and many of the current members are in holdover status, including one who has been on the Board since 2008. Four years ago, the Governor and legislature budgeted \$8 million to fully staff the Board and committed to doing so and then failed to follow through.

STATEWIDE RACIAL DISPARITIES IN PAROLE DECISIONS

According to a recent report, [*Freedom Delayed, Justice Denied*](#), by NYU Law School's Center on Race, Inequality & the Law, racial disparities in parole release decisions under Governor Kathy Hochul are [the highest on record](#). The report finds there would have been 4,152 more grants of release to people of color if their release rates matched those of white people since 2016, including 1,338 just since Gov. Hochul took office. These disparities are inexcusable and intolerable. The state must enact the aforementioned changes to ensure parole decisions are

rooted in a person's current risk, rather than subjective, arbitrary and racially-biased feelings about the conviction for which they have already served their time.

HIGH COSTS & LOW RISK

As mentioned above, the estimated cost of incarcerating older adults is up to [\\$240,000 per year](#), a figure many times higher than the overall average cost for all incarcerated people. The Center for Justice at Columbia University has estimated that enacting both bills would save [\\$522 million annually](#). That money should be used to support healing for crime survivors, re-entry services, and more – all of which we know improves community safety.

The public is ill-served by the status quo of warehousing people in prison until they age, get sick, and die. Nationally, the [recidivism rate for people over 50 is just 2%, and it's near zero for people over 65](#) Among people released from New York State prisons in 2018, [less than 5 percent of people aged 50–64, and less than 1 percent of people aged 65 or older](#), returned to prison on new convictions. Even more compellingly, less than 1 percent of people aged 50–64, and less than 0.5 percent of people aged 65 or older, were reincarcerated on violent convictions. These numbers clearly show that the overwhelming majority of elderly incarcerated people pose no public safety risk. Moreover, these parole justice measures would not require that any such incarcerated people are released; rather, they would provide meaningful hope and a fair chance.

UNSUSTAINABLE RISE IN OLDER ADULTS BEHIND BARS

A [report by State Comptroller Tom DiNapoli](#) about the unsustainable rise in the population of older adults in prison calls for expanding pathways to release. To date, the Legislature and Governor have failed to act.

ADDITIONAL RECOMMENDATIONS

- 1. Rights Behind Bars (S.3763-Salazar/A.1261-Forrest)** - Among our other top priorities is repealing DOCCS' recent policy changes banning family care packages, blocking letters and greeting cards and instead scanning them and delivering crude print jobs, curtailing visiting, and more – on top of stopping the widespread racialized physical, sexual, and verbal abuse by staff. Together, these policies and practices only breed resentment and tension, deprive families of life-saving connections, and increase violence. If Governor Hochul is serious about improving safety behind bars, she must reverse these policies, hold staff accountable for misconduct, and respect human rights. One critical step to take is to pass the Rights Behind Bars bill sponsored by Senator Salazar and Assembly Member Forrest (S3763/A1261), which would protect many of the basic rights of incarcerated people that have recently come under attack by DOCCS.

2. **Sentencing Reform** - Enacting the **Second Look Act** (S.158-Salazar/A.1283-Walker), the **Earned Time Act** (S.342-Cooney/A.1085-Kelles), and **Marvin Mayfield Act** (S.1209-Myrie/A.1297-Meeks) would help to correct decades of unjust and excessive sentencing and prevent future miscarriages of justice.
3. **Challenging Wrongful Conviction Act (S.6319-Myrie/A.7422-Walker)** - This bill, a version of which was already passed by the Legislature but vetoed by Gov. Hochul, is a long-overdue fix for the epidemic of wrongful convictions in New York State. Because of various dynamics, including abusive policing and prosecutions and an extremely regressive discovery law that lawmakers rightly reformed in 2019, our state ranks third highest in the number of wrongful convictions in the nation. This common sense bill would ensure that innocent people who were coerced into a false plea agreement by an unfair system will have a path to clear their names and secure their freedom.
4. **Gate Money Bill (S.4078-Parker/A.193-Gibbs)** - A recent report by [FWD.us](#) found incarceration costs families in the United States \$350 billion each year, fueling intergenerational poverty. From missing work and paying the expenses of visiting faraway incarcerated loved ones; to sustaining their commissary accounts so they can eat and use hygiene items; to the simple loss of breadwinners, families suffer greatly. Meanwhile, while incarcerated, New Yorkers are forced to work for pennies per hour, staffing the call center for the DMV, running basic prison operations, and even building the furniture that fill lawmakers' offices. Such paltry wages make it impossible for incarcerated people to financially support their families or save for re-entry. The Gate Money program would help address these issues by providing people released from state correctional facilities with up to \$2,550 over six months, with the first month's stipend being due immediately upon release, to help cover fundamental needs such as food, housing costs, court-related debts, and preparation for employment. Crucially, these funds would no longer be deducted from the individual's commissary account; currently, people only get \$40, deducted from their commissary, and a bus ticket.
5. **The CARE Act** (S.4583-Salazar/A.4879-Kelles) - The purpose of this bill is to establish a comprehensive human rights-based statutory policy relating to incarcerated pregnant or postpartum individuals and their children in New York state and local correctional facilities. Under current law, DOCCS' practices endanger parents and babies alike with repressive policies and dangerous practices.
6. The **Unemployment Bridge Program** (S.173-Ramos/A.3582-Reyes) - This legislation, which builds on the successful Excluded Workers Fund included in the 2021 state budget, would fill the gap in the state's unemployment program through which the state's most

marginalized workers fall. These protections will benefit all workers, because those who cannot rely on any form of unemployment support are far less likely to raise concerns about workplace safety, wage violations, and other critical issues.

7. **Protect Immigrant New Yorkers from the Mass Deportation Regime - Passing New York for All (S.2235-Gounardes/A.3506-Reyes), Dignity Not Detention (S.316-Salazar/A.4181-Reyes), Access to Representation Act (S141/A270-Cruz), and the Clemency Justice Act (S.394-Myrie/A.403-Solages) would go a long way toward defending the basic human rights of all New Yorkers and improving safety.**

Thank you for considering my comments.