

February 9, 2021

My name is Michelle García and I am Corrections Specialist at New York County Defender Services where I work directly advocating for our incarcerated clients. I am testifying regarding the pressing issue of our clients being held in custody after their conditional release or discretionary parole release dates. In the era of COVID, we should be working harder than ever to ensure that every person who is eligible for release from city custody is released. Yet, we are seeing our clients being held in past their intended release dates because DOC is not transferring clients promptly upstate.

Prior to the pandemic, a client who received a state sentence would be transferred to an upstate facility within a matter of weeks. Soon after, the client would have their sentence calculated and be given a minimum release date and a conditional release date. A clients' minimum date is when he or she is eligible for discretionary parole release.

However, from late March 2020 to around early September, there was little to no movement between city and state Department of Corrections.

When the pandemic hit, DOC explained that movement between city and state facilities would cease and that city corrections would NOT calculate state prison sentences. This led to several clients held indefinitely on Rikers Island who otherwise would have been transferred directly upstate and then released.

For the past few months, the NYCDS Corrections Specialists team has been working closely with a client on Rikers who has reached his minimum eligibility date. He is now serving additional time while waiting to either be transferred upstate or to receive consideration for parole while in DOC custody.

We are now being told that if a client is past their full state sentence or conditional release date (2/3 of the maximum), then city corrections may be able to assist. We are grateful for this new policy. However, it still does not stretch far enough as it does not account for our clients who would normally be eligible for parole and released at their minimum dates to the Department of Parole. Being held by the City Department of Correction prevents clients from exercising his/her due process rights under the NYS Criminal Procedure Law.

While we understand the Department of Parole determines who receives parole, this does not absolve DOC of the fact that our clients are being prevented from having their interviews because of DOC's refusal to move clients upstate or to present an alternative interview program.

Committing parole eligibility according to the statute is vital to ensuring that our clients are given fair and just sentences. Releasing people at their latest eligibility dates constitutes a failure to evaluate potential release earlier on in their sentence. Logistical challenges caused by the COVID-19 pandemic are not sufficient reasons to deny incarcerated people the opportunity to be considered for parole at the earliest possible date.

I urge the BOC to investigate this issue and work with DOC and the Board of Parole to ensure that New Yorkers are no longer held past their parole dates because of unnecessary and foreseeable bureaucratic roadblocks to release.