



STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES  
80 WOLF ROAD, ALBANY, NEW YORK 12205  
TELEPHONE: (518) 485-7692  
FAX: (518) 485-5140

DAVID A. PATERSON  
Governor

ROBERT M. MACCARONE  
State Director

**TO:** All County Executives in New York State

**FROM:** Robert M. Maccarone *RMM*  
State Director of Probation and Correctional Alternatives

**DATE:** October 6, 2009

**SUBJECT:** Local Conditional Release

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On May 5, 2009, I wrote to all County Executives concerning the recently enacted legislative measure included in New York State's Budget which authorized the re-establishment of local conditional release for interested Counties and the City of New York. Specifically, Part SS of Chapter 56 of the Laws of 2009 enables participating jurisdictions to determine whether certain eligible inmates may be released prior to completing their sentences of imprisonment in local jails and be placed under the supervision of local probation departments.

The Division of Probation and Correctional Alternatives (DPCA) has new statutory oversight authority with respect to the operation of local conditional release commissions. Hence, it was requested that County Executive Offices inform DPCA whether or not their respective jurisdiction would be considering a local law in this area. If so, DPCA requested a copy of the local law along with composition of the local commission and qualifications of individual members.

DPCA has since been informed by several jurisdictions will be implementing this new law. In order to provide assistance to interested jurisdictions and promote greater compliance with salient statutory provisions, I am forwarding a revised summary highlighting major features of the new law, several newly developed model forms which incorporate key statutory language and an informational inmate brochure. Additionally, the requisite DPCA application form pursuant to Correction Law §273(1) that must be utilized is attached. I am also forwarding DPCA's conditional release rules and regulations, specifically 9 NYCRR Parts 361-364, which govern conditional release investigations, conditions of release, supervision, and violation. These regulatory rules can also be found on DPCA's website at [www.dpca.state.ny.us](http://www.dpca.state.ny.us).

With respect to conditions of conditional release, Correction Law §273(3) requires that the Conditions of Conditional Release be in accordance with DPCA rules and regulations (see Part 364). Among model forms is an Order of Conditional Release which is consistent with the aforementioned rule. You will note that there is space on the form for any other conditions reasonably related to rehabilitation or public safety. DPCA strongly recommends that local conditional release commissions carefully consider and incorporate conditions of release sought by the supervising probation department, especially with certain offender populations (i.e. sex offense, DWI, domestic violence). Specialized conditions of this nature are nationally recognized to immeasurably assist supervising agencies to better manage certain types of offenders with current or past criminal histories. Such conditions typically include other appropriate legal requirements which, in turn, safeguard the public (i.e., compliance with Sex Offender Registration Act, submission of DNA, adherence to ignition interlock restriction, obeying Orders of Protection).

With respect to supervision, the Commission's statutory minimum supervision contact requirements supersede DPCA's conditional release supervision regulatory contact requirements contained in Part 361. However, the process of risk and needs assessment is still required to inform the probation department of the proper level of supervision and develop an individual plan of supervision. Remaining DPCA regulatory requirements in the area of supervision still control and are effective, including but not limited to provisions relating to authorized search, record-keeping, and reporting requirements. Similarly, the State's Integrated-Probation Registrant System (I-PRS) is the vehicle for probation departments to report client specific conditional release information. Attached is I-PRS reporting guidelines.

DPCA also has the statutory requirement to annually report to the Speaker of the Assembly and Temporary President of the Senate concerning the operation of local conditional release commissions. Accordingly, I am forwarding two additional documents: (1) a form to be utilized by participating jurisdictions to provide DPCA the composition and membership of their commissions and to certify adherence with statutory requirements related thereto; and (2) a reporting form to be submitted on a quarterly basis to DPCA as to commission operations. Further, Correction Law §272(5) establishes that "the minutes of all commission meetings must be recorded and such records shall be retained according to the applicable standards." Accordingly, record retention and disposition of local government records must be in accordance with Article 57-A of the Arts and Cultural Affairs Law. There exists a Records Retention and Disposition *Schedule CO-2* with respect to Counties issued by the State Archives, State Education Department pursuant to Arts and Cultural Affairs Law §57.25, and 8 NYCRR Part 185. It can be accessed through the State Archives website: <http://www.archives.nysed.gov>. In New York City, retention periods are established by the New York City Department of Records and Information Services.

Lastly, if you have not yet responded as to whether or not your jurisdiction is considering a local law in this area, I respectfully request that you please advise me at my email address: [Robert.Maccarone@dPCA.state.ny.us](mailto:Robert.Maccarone@dPCA.state.ny.us).

Should you or another member of your staff have additional questions in this area, please do not hesitate to contact me at (518) 486-7692 or at my aforementioned address or DPCA Counsel Linda Valenti at (518) 485-2394 or at her email address: [Linda.Valenti@dpc.state.ny.us](mailto:Linda.Valenti@dpc.state.ny.us).

Thank you.

#### Attachments

C: Probation Directors/Commissioners  
NYS Probation Commission Members  
DPCA Staff