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Good afternoon Senator Gallivan and Senator Akshar and members of the Elections and Crime Victims, Crime & Corrections committees. Thank you for the opportunity to testify before you today.

I, along with my colleagues from the Dutchess and Rensselaer County Boards of Elections, have been asked to discuss the issuance of Executive Order 181 and the consequences for elections in New York State.

I'd like to make two points today.

Executive Order 181 was not well thought through and that the pushback from schools has large election implications.

To begin, there were problems from the outset.

The Executive Order was issued April 18th of this year with a press release. The Governor would be issuing a mass conditional pardon of parolees which would directly impact the forthcoming June primary election, but also the fall primary and the general election.

There was no warning or consultation between the State Board of Elections and Executive Branch.

The State Board was in the middle processing Congressional petitions for the federal June primary. This was also shortly after the State Budget had been adopted in which there were two significant election measures we were involved in negotiating: additional funding for election cyber security with the creation of the Secure Election Center; and a new requirement for the identification of independent expenditure advertisements. In short, it was a very busy time focusing on elections.

Upon reading the Executive Order it was clear there were some significant holes in the process laid out. There was to be a case-by-case review of thousands of offenders and pardons issued allowing them to vote; but no review criteria were mentioned. The Order went on to say it did not affect other parole conditions or applications for Certificates of Relief and the pardons would not be a remission of guilt or forgiveness of the offense.

It did not say how the offenders, or the boards of elections would be notified of who received the pardon; would there be a list? How would county boards be able to confirm the pardon?

What happened if a parolee re-offends? There was no process in the statute or the Executive Order to cancel the registration of someone with a conditional pardon who re-offended.

It wasn't until a month later, May 17, that the State Board was invited to a call with Marta Nelson, the Governor's Executive Director for Reentry and Criminal Justice Initiatives to discuss the implementation of the Executive Order.

On that call it was announced that the Governor would release the first round of pardons imminently. Despite a request, there was no commitment for advance notice or a solid date that would have allowed the State Board to keep the county boards informed.

As it was relayed to us on the call, their plan was to post on a parolee look-up site whether the pardon was granted – either yes or no. And then have the parole officer give a hard copy of the pardon to the parolee along with a voter registration form. (A directive was then put out to the Department of Corrections and Community Supervision (DOCCS) for the parole officers to assist the parolees in registering to vote.)

Ms. Nelson declined to give us a list of the first group of parolees that received pardons (this would have helped us look them up based on where they lived that might have been helpful to the county boards) She declined to give us a list of criteria that would be used to assess whether a pardon would be given.

It was specifically asked if sex offenders, that might have a “no school” provision in their parole conditions would then be able to go vote if their polling place was at a school. She was emphatic that the pardon would NOT trump the parole conditions (but later the school grounds directive was given.)

The voting pardon would ONLY be revoked if the offender was returned to a state prison facility. DOCCS would be providing the Executive with a list of those returned to state prison and at that time they would provide the Board with a list of those revoked. Even though the offender could be rearrested for a new crime, or on a parole violation, the voting pardon would not be revoked UNLESS and UNTIL the offender was transferred to a State Facility. They indicated that there was no way to track them in county jails throughout the State. Revocations would take place at a much slower pace than the initial pardons.

As a result of this conference call, the State Board was forced to develop an ad-hoc procedure incorporating the parolee look-up for the county boards to follow in processing these new applications with no statutory or regulatory scheme to back it up. When pardoned voters apply to register to vote, if the applicant had been previously cancelled for a felony conviction, nothing is sent to the county boards to indicate the change in status. The DOCCS Inmate lookup function still shows the applicant as being on parole. The county board is forced to go to another website to confirm if the pardon has been granted or not.

We were also forced to develop an ad-hoc procedure to address revocations. We would now be cancelling voters without specific statutory authority in the Election Law. These are sent “monthly” with no information that the voter has been notified of the change, the county board must now cancel the voter, after the “re-instatement” putting the voter back onto a felony conviction, and the now the county board must notify the voter.

We did point out that the instructions on the voter registration form say you shouldn’t complete the application to register if you’re on parole. Given the way the Executive Order made use of the existing pardon option in statute and that they indicated there would be parolees who would not receive pardons, the registration qualifications were not changing so the form should not change. Because so few people receive pardons, there’s never been a mention of the pardon option on the form. But now 38,000 people were going to receive a pardon. We said that will lead to confusion. It would also be impossible to put thousands of new voter registration forms in the field in a short time nor did we have the money budgeted for it. The Governor’s office had ordered their own batch of voter registration forms only a few months earlier and their forms did not note the pardon option either.

A few days later, we received an email from Ms. Nelson that said “the first group of voting restoration pardons had been issued. We can expect individuals who have been issued pardons to start showing up at county election boards seeking to register to vote.”

Lastly, there was no plan for addressing other restrictions of Parolees

There was no communication to county boards about the process for the “permission” to allow parolees who are listed as sex offenders access to schools which are often used as poll sites. The backlash from voters do to the lack of information and a clear plan lead to many complaints to be lodged with schools and county boards.

A couple of observations:

The Executive Order stated there was to be a case-by-case review of each parolee implying that some merit-based evaluation would take place and not all parolees would be granted the pardon. Our anecdotal review suggests that is not true.

With no list of those granted the pardons forthcoming a generalized review of the system was undertaken. In no case could we find a person that had been on parole for more than a month where the voting pardon field was not populated with a “yes.” It didn’t matter what the conviction was for—sexual assaults, capital murder, armed robbery, burglary, possession of a firearm, etc. Looking at the last set of revocations—a random review continues to show offenders convicted of everything from sexual abuse, robbery, manslaughter and murder.

Since the Executive Order was issued we have received more than 500 revocations of pardons. Again, suggesting that whatever criteria are being used, if any, it’s not working.

Notable pardons.

Herman Bell—Murdered policemen in cold blood. Granted a pardon shortly after being paroled. His polling place is a school. There was a great deal of public outrage when he was paroled. Governor Cuomo indicated that the Parole Board was separate from him and he personally would not have made that decision. Yet, then in a few short weeks, he granted him a pardon to vote.

MaryBeth Tinning—when googled she is cited as a serial baby killer. She received a pardon to vote within 3 weeks of her release.

As election administrators, there is one other point that we must address as part of this hearing. One of the consequences of this Executive Order is that potentially dangerous felons, who have not completed their parole, will now be in poll sites. Parents have had a strong reaction to that. Schools are already targets and parents fears about the safety of their children in school are at an all-time high. The issue is not just sex offenders, allowing all parolees to vote necessarily draws an entire category of people to polling places who otherwise would have no business being there.

There is a growing sentiment that schools should not be poll sites. This could have far-reaching consequences for elections. If schools became unavailable as poll sites, that would be a calamity for election administrators. We've provided a chart based on our 2017 numbers.

Schools provide just under 27% of all poll sites statewide. To replace all those poll sites would be a near-impossible task. Upstate, many of the mid-size counties use schools for poll sites on an average of 15-20%; Dutchess, Onondaga, Erie, Niagara, Rockland, Schenectady.

However, in the down-state region the county boards are heavily dependent on school districts for poll sites. Suffolk County uses schools for 53% of their poll sites; Nassau 49%; Westchester 32%. In New York City the numbers are startling: Queens uses schools for 70% of their poll sites; Staten Island 69%; the Bronx 65%; Brooklyn 46 % and Manhattan 37%.

If legislation, or a parent revolt, forced us out of schools we would have to replace 1,414 poll sites statewide.

You should also be aware that this analysis doesn't account for Boys & Girls clubs, community centers, churches and synagogues, libraries and YM & YWCA's where children congregate for activities during the day and there are no parole conditions for released offenders. If those entities were not available as poll sites these numbers would become even more stark.

Thank you. Any questions?

NYS Counties	Poll Site Location (Schools)	Total Sites	Overall percentage (schools)
Albany	16	134	11.90%
Allegany	2	34	5.80%
Broome	8	114	7.00%
Cattaraugus	3	50	6.00%
Cayuga	3	31	9.60%
Chautauqua	4	51	7.80%
Chemung	4	43	9.30%
Chenango	1	22	4.50%
Clinton	1	31	3.20%
Columbia	3	32	9.30%
Cortland	0	26	0.00%
Delaware	0	26	0.00%
Dutchess	20	104	19.20%
Erie	64	333	19.20%
Essex	1	25	4.00%
Franklin	1	23	4.30%
Fulton	0	25	0.00%
Genesee	0	26	0.00%
Greene	0	25	0.00%
Hamilton	0	11	0.00%
Herkimer	1	29	3.40%
Jefferson	1	43	2.30%
Lewis	0	19	0.00%
Livingston	3	26	11.50%
Madison	0	32	0.00%
Monroe	29	320	9.00%
Montgomery	5	26	19.20%
Nassau	182	370	49.10%
Niagara	13	76	17.10%
Onieda	2	77	2.60%
Onondaga	30	179	16.70%
Ontario	1	44	2.20%
Orange	13	121	10.70%
Orleans	1	11	9.00%
Oswego	0	35	0.00%
Otsego	1	27	3.70%
Putnam	6	22	27.20%
Rensselaer	7	71	9.80%
Rockland	14	67	20.90%
Saratoga	9	104	8.60%
Schenectady	13	60	21.60%
Schoharie	0	16	0.00%
Schuyler	0	13	0.00%
Seneca	0	16	0.00%
St. Lawrence	1	51	2.00%
Steuben	2	54	3.70%
Suffolk	179	336	53.20%
Sullivan	0	35	0.00%
Tioga	2	18	11.00%
Tompkins	1	39	2.50%
Ulster	5	80	6.20%
Warren	5	21	23.80%
Washington	1	28	3.50%
Wayne	0	36	0.00%
Westchester	118	365	32.30%
Wyoming	1	17	5.90%
Yates	0	11	0.00%

Up State Totals	777	4061	8.94% Average
			19.13% Actual

NEW YORK CITY

Bronx	119	184	64.60%
Kings	181	397	46.00%
New York	101	271	37.00%
Queens	181	258	70.00%
Richmond	55	80	69.00%

NYC Totals	637	1190	57.32% Average
			53.52% Actual

Overall Totals	1414	5251	26.90% Actual
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