





STATE OF NEW YORK - BOARD OF PAROLE

**STATEMENT OF APPEALS UNIT FINDINGS & RECOMMENDATION**

**Inmate Name:** Russell Harris                      **Facility:** Fishkill Correctional Facility  
**NYSID No.:** 6747918K                              **Appeal Control #:** 11-307-11B  
**Dept. DIN#:** 93-A-6275

Executive Law § 259-i(2)(c)(A)(vii) requires the Board of Parole to consider “the seriousness of the offense with due consideration to the... recommendations of the sentencing court, the district attorney, the attorney for the inmate...” That provision does not mandate that recommendations actually be solicited, but the agency nevertheless has a policy of requesting such recommendations and it has sought to thoroughly effectuate that policy.

The available record does not evidence compliance with that policy in appellant’s case. This conclusion should not be taken as agreement with the appeal to any extent it may contend that seeking a recommendation from the attorney who represented appellant at sentencing (here, Gary Greenwald, Esq.) would not be sufficient. Instead, there is no evidence that the policy was complied with in regards to any of appellant’s defense attorneys. The 1994 letter bears neither recipient name nor address. The 2009 letter, also bearing no addresses, would logically be read as pertaining to a limited credit time allowance appearance, occurring in “**November 2009 / ASAP**” whether or not a “response is received”, and since that letter would have been mailed out no sooner than November 19, 2009, a timely response to it for its apparent purposes seems to have been an impossibility. The appealed from decision should therefore be set aside so that a de novo release interview can be conducted where the Board of Parole can consider, among the other relevant factors, the defense attorney recommendation letter from Robert Isseks, Esq., consistent with its obligation under the Executive Law.

**Recommendation:**

For the above reasons and upon the record of this case, it is therefore recommended that the appealed from decision be set aside and a de novo parole interview be afforded to appellant.