



PAROLE DECISIONS FOR LIFERS

2018

Assist | Advocate | Inform

The Lifers' Group Inc.
PO Box 43
Norfolk, MA 02056



PAROLE DECISIONS FOR LIFERS:

2018

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HIGHLIGHTS

- 1) One hundred twenty-seven records of Decision were posted online in 2018. (page 3)
- 2) The Approval Rate for 2018 was 29.1%, an increase from 24% in 2017. (page 5)
- 3) The Approval Rate for Initial Hearings increased to 7.4% from 0% in 2017. (page 6)
- 4) The Approval Rate for Review Hearings increased to 35% from 27% in 2017. (page 8)
- 5) As in past years, Substance Abuse continued to account for the highest percentage of returns from prior paroles – 50% for lifers who had Review Hearings after a prior parole had been revoked. (page 12)
- 6) As in 2016 and 2017, Active Program Participation was cited most often (91.9%) as a factor for approving paroles. (page 13)
- 7) Release Incompatible With The Welfare of Society was cited most often – 83% - more than double for that factor in 2017 for denying paroles. (page 15)
- 8) The percentage of five year Setbacks increased to 42% in 2018. (page 17)
- 9) 55% of lifers rated Low Risk were approved for paroles; 29% rated as Medium Risks were approved; 16% of lifers rated as High Risks were approved. (page 19)
- 10) The combined approval rates for 230 lifers whose data were provided by the Parole Board for 2016, 2017, and 2018 were: Low Risk – 35.5%, Medium Risk – 30.9%, and High Risk – 17.4%. (page 20)
- 11) The average time lapse between Hearing Dates and Dates of Decision increased from 182 to 310 days – an increase of 70.3%. The longest delay was 468 days and 90 of the 127 lifers waited in excess of 300 days. (page 23)
- 12) Four of seven juveniles who had been serving Life-Without-Parole sentences were approved for paroles, an increase from one in 2017. (page 25)
- 13) The approval rate for lifers who had been represented by counsel was 35%, an increase from 28% in 2017. (page 26)
- 14) From 2013 through 2018, the racial breakdown of all approvals race were: Caucasian – 38%, African-American – 33%, Latinos – 25%, and Asian – 4% (page 27)

- 15) The Approval Rate for lifers age 50 and under was 33%; the Approval rate for lifers age 51 and older was 26%. (page 29)
- 16) From 2006 through 2018, the Approval Rate for lifers age 50 and under was 32%; the Approval Rate for lifers age 51 and up was 22%. (page 30)
- 17) Recommendation #1 – As the terms of Tina Hurley, Paul Tressler, and Sheila Dupre expire, they should be replaced with members who have at least five years of experience in the fields not represented in the present Parole Board. (page 33)
- 18) Recommendation #2 – The Parole Board and the Department of Correction need to work in concert in assessing what program areas a lifer needs to address and then to develop a plan the particular lifer can be offered the required program activity. (page 33)
- 19) Recommendation #3 - Lifers who are assessed as Low Risks should be presumed to be paroled unless the Parole Board can articulate with specificity, why a Low Risk lifer is not granted a parole. (page 34)
- 20) Recommendation #4 - The Parole Board should publish the Risk Assessment result for each lifer on the Record of Decision. (page 34)
- 21) Recommendation #5 - The Parole Board needs to review the process by which parole decisions are made and then communicated to lifers and to implement the necessary changes to significantly reduce the number of days between Hearing Dates and Dates of Decision to an average of less than 90 days. (page 34)
- 22) Recommendation #6 - The Parole Board needs to establish intermediate centers where parolees can be required to go for nights and/or weekends for treatment, while under close supervision. If such centers were implemented, the drastic step of returning a paroled lifer to prison for substance abuse would be reduced dramatically. Returning a lifer to prison behind the walls should be the last option available. (page 35)
- 23) Recommendation #7 - In cases of parole denials, the Parole Board should write each Record of Decision to address specifically the lifer's individual needs, accomplishments, and programs the lifer should complete in the years of the assessed Setback. (page 36)
- 24) Recommendation #8 - The Parole Board should cease using "not compatible with the welfare of society" as the reason for a parole being denied. Whether or not a lifer's release is not compatible with the welfare of society is a condition for parole, not a reason to deny. The Parole Board needs to address exactly why a lifer's release is not compatible with the welfare of society. (page 36)

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INTRODUCTION

This is the twelfth report prepared by the Lifers' Group Inc. studying parole decisions for lifers. In 2018, the Massachusetts Parole Board published 127 Records of Decision online. After a parole hearing for a prisoner serving a life sentence, the Parole Board publishes a Record of Decision, ostensibly in order to inform the lifer that he or she was approved or denied and why.

The Records of Decision for this report were provided by the Parole Board to the Lifers' Group Inc. pursuant to public records requests. Previous reports on lifer paroles published by the Lifers' Group Inc. can be accessed at: www.realcostofprisons.org/writing. Please address any feedback about this or any of the previous reports on lifer parole decisions to: Chairman, Lifers' Group Inc., MCI-Norfolk, P.O. Box 43, Norfolk, MA 02056. All comments, questions, or suggestions for improvement are welcome. All or any portion of this report may be copied or cited as long as proper attribution is made.

Only parole decisions for prisoners serving life sentences who are eligible for parole hearings are included, whether the sentence was for second degree murder or another crime which carried a life sentence, e.g., armed robbery. Parole hearings for lifers are either an Initial Hearing – for lifers who have served the statutorily mandated fifteen years and have appeared before the Parole Board for the first time. Or, a Review Hearing for lifers who were denied a parole at a previous hearing or were returned to prison after a life parole had been revoked due to violating one or more stipulations imposed by the Parole Board as conditions to remain in society. Those violations could include convictions for a new crime, but the majority continues to be for technical violations, e.g., substance abuse, not involving the commission of a new crime.

Every lifer who is denied a parole is then given a prescribed number of years, known as a Setback, to be served until a subsequent parole hearing. Setbacks can be from one to five years. If a vote of the Parole Board is not a majority of two-thirds of the members in favor of parole, the parole application is denied. Typically, if there is a tie vote, the Setback is for one year.

Of the 127 Records of Decision for 2018, 104 were unanimous – 82%, the same percentage as in 2017. The remaining 23 votes were: seven at 4-2, six at 5-1, five at 5-2, three at 3-3, and one each at 3-2 and 6-1.¹ In cases of dissenting votes the Records of Decision noted that certain members had dissented and why, but the names of the dissenting members were not disclosed. All members who voted, however, are noted in the Record of Decision.

For lifers approved for paroles, particularly if they had not been returned after a prior life parole had been revoked, the typical destination was not directly to home. Rather, the Parole Board conditioned such releases on a prescribed period of time to be served successfully in lower security (at least six months) and then completion of a Long Term Residential Program (LTRP). The Parole Board's intent in requiring approved lifers to continue incarceration in lower security is to afford the lifer the opportunity to reenter society gradually, with time to adjust to being transferred, after many years – often decades - from higher security.

As in the Records of Decision for 2017 and previous years, specific guidance concerning the areas lifers who were denied paroles should address was conspicuously absent from the Records of Decision. In cases of denials, the Parole Board continued inserting verbatim language, save the name of the lifer, in the Decision section of each Record of Decision. Denied lifers were typically urged to maintain positive adjustments, but with precious little guidance as to what specific programs or activities the lifer needed to complete during the Setback period. The Parole Board, for whatever reason, continues to be

In cases of denials, the Parole Board continued inserting verbatim language, save the name of the lifer, in the Decision section of each Record of Decision. Denied lifers were typically urged to maintain positive adjustments, but with precious little guidance as to what specific programs or activities the lifer needed to complete during the Setback

¹ All of the computations contained in this report were calculated by the Lifers' Group Inc., based on data extrapolated from the Records of Decision for 2018.

reluctant to state unequivocally which programs need to be completed successfully or areas which need to be addressed in order that the lifer be better prepared at his or her next parole hearing.

All the Records of Decision for 2018, as in 2017, were signed by the Parole Board's General Counsel. It was noted that the person who signed each Record of Decision may not have been the person who actually wrote the Record of Decision. The signature of the General Counsel only certified that "all voting Board members have reviewed the applicant's entire criminal record" and that "this is the decision and reasons of the Massachusetts Parole Board..." What is not certified is that all voting Board members had actually reviewed the lifer's entire parole package, including institutional history, program involvement, and achievements.

Massachusetts general Law, c. 127, section 130 stipulates that no prisoner is to be paroled solely due to good conduct or program involvement while incarcerated. Rather, a parole is to be granted only when the Parole Board, by a two-thirds majority, is convinced that there is a reasonable probability that if paroled, the prisoner would not violate the law and that the release would be compatible with the welfare of society. In addition to those legislative standards, the Parole Board is to determine whether the four goals of sentencing have been met, i.e., punishment, public safety, deterrence, and rehabilitation. Given the unwillingness of the Parole Board to stipulate what specific areas a lifer needs to address to be considered a suitable candidate for parole, it is reasonable to assume that the Parole Board considers the importance of those four goals in the order listed above.

RESULTS

1) Approval / Denial Rates

Of 127 Records of Decision for 2018, 37 (29.1%) were approved for a parole, while 90 (70.9%) were denied. That 29% approval rate was 21% above the approval rate for 2017. The approval rate for 2018 equaled that of 2015, but both were significantly below the approval

rate for 2014 at 36.0%, the highest since 2009 and the fourth highest in the years 2003 through 2018.²

Table 1 below presents the data for the Approval / Denial Rates from 2014 through 2018.

TABLE 1

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2018	127	37	29.1	90	70.1
2017	87	21	24.1	66	75.9
2016	100	18	18.0	82	82.0
2015	117	34	29.1	83	70.9
2014	<u>139</u>	<u>50</u>	36.0	<u>89</u>	64.0
Totals	570	160	28.1	410	71.9
5 Yr. Ave.	114	32	28.1	82	71.9

2) Initial Hearings

In 2018, 27 lifers appeared before the Parole Board for the first time. This was an increase of 200% from 2017 when only nine lifers had an Initial Hearing. The approval rate for lifers who had Initial Hearings in 2018 was, however, slightly better than 2017 when none of the nine lifers was approved. In 2018, two lifers who had Initial Hearings were approved for a rate of 7.4%.

² The approval rates for the years 2003 through 2017, based on the reports compiled and published by the Lifers' Group Inc., were as follows: 2017 – 24.1%, 2016 – 18.0%, 2015 – 29.1%, 2014 – 36.0%, 2013 – 15.3%, 2012/2011 – 18.4%, 2010 – 34.1%, 2009 – 38.9%, 2008 – 31.3%, 2007 – 28.5%, 2006 – 29.6%, 2005 – 33.3%, 2004 – 46.6%, 2003 – 37.8%. The approval rate for 2011 was combined with 2012 because the Parole Board was restructured in 2011 and few Records of Decision were published in that year.

While the approval rate in 2018 was slightly higher than 2017, it still pales in comparison to 2016 (14.3%), 2015 (22.5%), and 2014 (40.6%) and the years before, including 2011/2012. The dramatic decrease in lifer paroles in 2011/2012 occurred after the Parole Board had been restructured due to Governor Deval Patrick's reaction to the public outrage after the killing of a police officer by a paroled lifer.³

Still, it is difficult to believe that of 36 lifers who had Initial Hearings in 2017 and 2018, only two merited a parole – a rate of 5.6%. Since 2010, with the exception of 2014 and 2015, approval rates for Initial Hearings have been below 20%, and below 10% in 2017 and 2018.

This significant decrease in the parole rates for lifers after Initial hearings begs the question: Does the Parole Board now believe that 15 years is not sufficiently long enough to have served for a lifer to have a realistic opportunity for parole? If so, then that needs to be explained by the Parole Board as to why they are seemingly disregarding the intent of the statute to allow for a meaningful chance at parole for a second degree lifer who has served 15 years.

While the approval rate in 2018 (7.4%) was slightly higher than 2017 (0.0%), it still pales in comparison to 2016 (14.3%), 2015 (22.5%), and 2014 (40.6%) and the prior years.

³ Approval rates for 2004 – 2013 for Initial Hearings were: 2004 (46.6%), 2005 (33.3%), 2006 (29.6%), 2007 (28.5%), 2008 (31.3%), 2009 (38.9%), 2010 (50.0%), 2011/2012 (15.6%), and 2013 (19.3%).

Table 2 below presents the data for approvals and denials for Initial Hearings from 2014 through 2018.

TABLE 2

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2018	27	2	7.4	25	92.6
2017	9	0	0.0	9	100.0
2016	28	4	14.3	24	85.7
2015	40	9	22.5	31	77.5
2014	<u>32</u>	<u>13</u>	40.6	<u>19</u>	59.4
Totals	136	28	20.6	108	79.4
5 Yr. Ave.	27	5	20.7	22	79.3

3) Review Hearings

Review Hearings are conducted for one of two reasons. First, a Review Hearing is held for lifers who had been denied a parole at a previous hearing, either an Initial Hearing or a prior Review Hearing. A Review Hearing is also held for any lifer who had been granted a parole, but that parole had been revoked and the lifer was returned to prison.

The approval rate for all Review Hearings held in 2018 was 35.0% (35 of 100), an increase from 26.9% in 2017 (21 of 78).

One hundred Review Hearings were held in 2018, comprising 78.7% of all parole hearings in 2018 for which Records of Decision had been published online, a decrease from 89.6% in 2017. The number of Review Hearings for 2018 (100) was 17% higher than for 2017 (78). The approval rate for all Review Hearings in 2018 was 35%, an increase from 26.9% in 2017. In 2018, 35 lifers were approved after a Review Hearing.

Of the 100 Review Hearings in 2018, 76 were for lifers who had not had a prior parole revoked; 24 lifers had Review Hearings after being returned to prison due to a parole revocation. The 76 parole hearings for lifers without having had a prior parole revoked was significantly higher than 2017 (46), 2016 (49), and 2015 (45). This could be accounted for due to the continued yearly decrease in five-year Setbacks since 2013.

Twenty-four of the 70 lifers in 2018 who had Review Hearings without having had a prior parole revoked were approved for paroles – an approval rate of 31.6% [a 93% increase from 2017 (15.2%)]. Overall, those 24 approvals accounted for 69% of all approvals for both subsets of Review Hearings. This approval rate marks a significant increase over previous years for lifers who had Review Hearings without having had a prior parole revoked. The increased approval rate for this subset of lifers is very encouraging, especially if this trend continues in 2019 and beyond.

Table 3 below presents the data for approval and denial rates for all Review Hearings for the years 2014 through 2018.

TABLE 3

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2018	100	35	35.0	65	65.0
2017	78	21	26.9	57	73.1
2016	72	14	19.4	58	80.6
2015	77	25	32.5	52	67.5
2014	<u>107</u>	<u>37</u>	34.6	<u>70</u>	65.4
Totals	434	132	30.4	302	69.6
5 Yr. Ave.	87	26	29.9	61	70.1

Of the 35 approvals for lifers who had Review Hearings without having had a prior parole revoked, three were juvenile lifers who have been serving life-without-parole sentences before the *Diatchenko* decision. Two other juvenile lifers were denied at their Review Hearings. Table 4

on page 10 presents the data for both subsets of Review Hearings for the years 2014 through 2018.

TABLE 4

Year	Non-Revoked				Revoked			
	App	%	Den	%	App	%	Den	%
2018	24	31.6	52	68.4	11	45.8	13	54.2
2017	7	15.2	39	84.8	14	43.8	18	56.2
2016	5	10.2	44	89.8	9	39.1	14	60.9
2015	12	21.8	43	78.2	13	59.1	9	40.9
2014	<u>12</u>	17.9	<u>55</u>	82.1	<u>25</u>	62.5	<u>15</u>	37.5
Totals	60	20.5	233	79.5	72	51.1	69	48.9
5 Yr. Ave.	12	20.3	47	79.7	14	50.0	14	50.0

Twenty-four of the 76 lifers in 2018 who had Review Hearings without having had a prior parole revoked were approved for paroles – an approval rate of 31.6% [a 93% increase from 2017 (15.2%)].

The approval rate for the parole revoked subset was 46% (11 of 24). This approval rate was similar to its counterpart in 2017 (44%). In each of the past five years, the approval rate for lifers who had Review Hearings after a prior parole had been revoked was significantly higher than the approval rate for lifers who had Review Hearings without a prior parole having been revoked. Overall, the eleven approvals for 2018 for Review Hearings posted online for lifers who had a prior parole revoked accounted for 30% of all approvals and 31% for both subsets of Review Hearings in 2018.

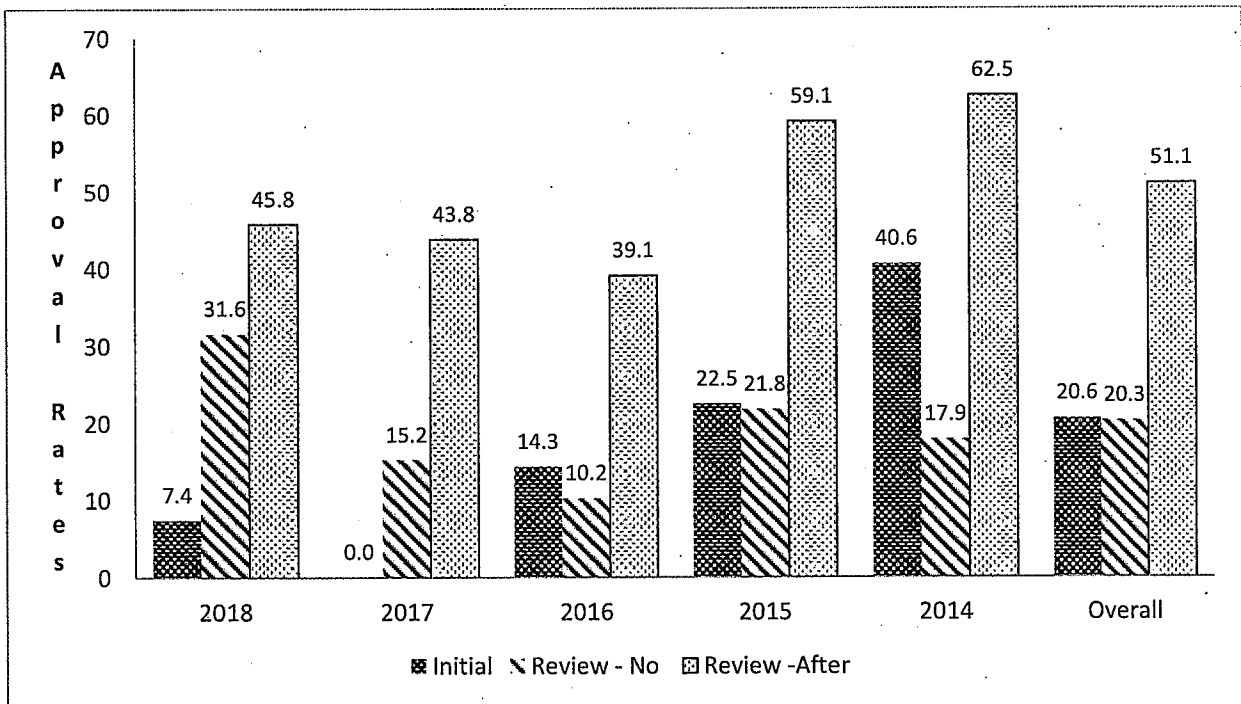
4) Comparing Approval Rates For The Three Types Of Hearings

The overall approval rate for the combined types of hearings increased 21% from 24% in 2017 to 29% in 2018. See Table 1 on page 5. Table 5 on page 11 presents the data for comparative approval rates for each type of hearing.

TABLE 5

Year	Initial	Review - No Revocation	Review- With Revocation
2018	7.4%	31.6%	45.8%
2017	0.0%	15.2%	43.8%
2016	14.3%	10.2%	39.1%
2015	22.5%	21.8%	59.1%
2014	40.6%	17.9%	62.5%
Overall	20.6%	20.5%	51.1%

Approval rates for Initial Hearings increased from 2017 to 2018 – from 0% to 7.4%. The approval rate for all Review Hearings increased from 26.9% in 2017 to 35.0% in 2018. The approval rate for Review Hearings without a prior parole hearing having been revoked increased from 15.2% in 2017 to 31.6% in 2018. The chart below shows graphically the comparison of approval rates for the three types of hearings – Initial, Review – No Revocation (Review-No), and Review After Revocation (Review-After).



5) Reasons For Returns From Prior Life Paroles

In 2018, there were 24 Review Hearings for lifers who had been returned from a prior parole, a decrease of 25% from the 32 held in 2017, but similar to the number in 2016 of 23. As in every year the Lifers' Group Inc. has reported on this subject, one reason far outpaced any other. There were twelve returns for Substance Abuse comprising 50% of all returns having had a Review Hearing in 2018. The approval rate for those returned for Substance Abuse in 2018 was 41.7%, a decrease from the 46.2% approval rate for this category of returned lifers who had Review Hearings in 2017.

The reasons for returns from paroles for those who had Review Hearings in 2018 and the number paroled for each reason as well as the percentage of approvals for the years 2014 through 2018 are listed below in Table 6.

TABLE 6

Reason	2018		2017		2016		2015		2014	
	#	App	#	App	#	App	#	App	#	App
Substance Abuse	12	6	13	6	8	1	12	9	16	13
Associations	2	1	5	2	8	2	1	1	4	3
Dom. Violence	1	0	3	1	2	1	5	2	3	1
Lying to P.O.	1	1	3	1	0	0	0	0	4	3
Larceny	0	0	2	2	0	0	0	0	4	2
Felony Arrests	1	1	2	0	2	2	1	0	2	1
Absconding	0	0	2	1	0	0	1	1	1	0
Armed Robbery	0	0	1	0	0	0	0	0	2	0
Mental Health	1	0	1	1	0	0	0	0	1	0
Assault & Battery	2	1	0	0	0	0	0	0	0	0
DUI	0	0	0	0	1	1	1	0	2	1
Failure to Comply	4	1	0	0	1	1	0	0	0	0
Stalking	0	0	0	0	1	1	0	0	1	1
Rape	0	0	0	0	0	0	1	0	0	0
Totals	24	11	32	14	23	9	22	13	40	25
% App		45.8%		43.8%		39.1%		59.1%		62.5%

Similar to past years, the percentages of those who had Review Hearings after having been returned for a felony arrest in 2018 was low – 12.2% (3 of 24). Of those three, two were paroled again after the charges had been dropped. Returns of lifers after a prior parole had been revoked continue to be heavily skewed for technical violations – 87.5% in 2018 (21 of 24), an increase from 2017 when 84.4% (27 of 32) were returned for technical violations.

6) Approval Factors

Reviewing the factors indicated by the Parole Board in the Records of Decision for approving lifers can be informative, but continually remains resistant to any conclusions being drawn as to which factors are more important than others. Considerably more time and space are devoted to reviewing the lifer's criminal record in the Records of Decision than in specifically why a parole was approved or how the lifer had been rehabilitated. It should be noted that the Approval factors listed in Table 7 on page 12 were developed by the Lifers' Group Inc. and have been consistently utilized for our studies in Parole Hearings for Lifers since 2003.

Ten separate factors were noted in the 37 Records of Decisions for approvals in 2018. All but three were cited in at least 10% of the 37 Records of Decision which had resulted in a parole for a lifer in 2018. Those seven factors in order of frequency were: Active Program Participation (92%), Addressed Areas Needed For Rehabilitation (89%), Minimal Disciplinary History (41%), Community Support (38%), Four Goals of Sentencing Were Met [i.e., punishment, public safety, deterrence, rehabilitation – in that order of importance (19%)], Steady Employment While Incarcerated (16%), and Does Not Present Current Risk For Violence (16%). Two of those seven factors listed above were cited significantly more often in 2017 than in 2018: Community Support (62% in 2017 vs 38% in 2018) and Four Goals of Sentencing Were Met (29% in 2017 vs 19% in 2018). Active Program Participation and Addressed Areas Needed For Rehabilitation continue to be the two factors cited far more than any of the others.

As in the previous three years, the Parole Board in 2018 continued to place a strong emphasis on program participation. The Parole Board did not seemingly find important if a lifer had submitted a massive number of certificates or other documents attesting to the completion

of a plethora of programs. Rather, the Parole Board members seemed more impressed with the quality, rather than the quantity of programs. A successful lifer was one who had demonstrated that he/she understood which areas needed to be addressed and then completed programs which specifically dealt with those areas of need.

In Table 7 below, the number of approved decisions is noted in parentheses below the year and the data are presented in the table as percentages of frequency.

TABLE 7

Factor	2018 (37)	2017 (21)	2016 (18)	2015 (34)	2014 (50)
Active Prog. Part.	91.9	90.5	94.4	67.6	66.0
Addressed Areas	89.2	90.5	66.7	88.2	60.0
Min. Disc. History	40.7	13.6	38.9	23.5	32.0
Community Support	37.8	61.9	33.3	52.9	52.0
Four Goals Met	18.9	28.6	5.5	8.8	22.0
Steady Employment	16.2	14.3	16.7	11.8	22.0
No Risk of Viol.	16.2	9.5	0.0	20.6	46.0
Support From Victim Family	0.0	4.8	0.0	0.0	4.0
Juv. 1st Degree	3.7	0.0	11.1	11.8	14.0
Non-Shooter in Fel. Mur.	3.7	0.0	0.0	5.9	16.0
No New Crime on Parole	3.7	0.0	0.0	0.0	8.0
Successful Parole Hist.	0.0	0.0	0.0	17.6	4.0
No Relapse on Parole	0.0	0.0	0.0	0.0	2.0

It is important to note that just completing programs was not enough. It was critical that lifers seeking paroles be able to explain how and why those programs affected them and how, if paroled, they would utilize what they had learned. It was not sufficient, for instance, only to work at a prison job, however successfully. Nor, did personal self-improvement plans or religious conversions alone, no matter how well-intentioned, impress the members of the Parole Board enough to grant a parole. It is clear that for the Parole Board, maintaining steady employment, remaining discipline free, and following a self-imposed religious faith, while certainly positive steps, are not substitutes for meaningful program participation which addresses specific need areas.

Consistent with the previous four years, the following factors were not specified in 2018 as reasons for approving a lifer for a parole: Accepts Responsibility, Expresses Remorse, Family Support, Solid Parole Plan, and Understands Causative Factors of Criminal Behavior. That, however, is not to say those factors were unimportant. Rather, the Parole Board members appear to consider that all lifers are expected to address those factors as a minimum threshold. Thus, those factors cannot be ignored for the absence of one or more would most likely spell disaster for any lifer seeking to be parole.

7) Denial Factors

As in the 2017 Records of Decision, 19 factors were cited for denying parole in 2018. As with the approval factors, these 19 denial factors were developed by the Lifers' Group Inc. over the years that paroles for lifers have been studied. As with the approval factors, most Records of Decision denying a lifer a parole cited multiple factors. The most frequently mentioned factor for denying a parole was: Release Incompatible With the Welfare of Society. That factor was cited in over 80% of the ninety Denials in 2018, an increase from 38% in 2017. The second most cited factor was that the lifer had Unaddressed Issues – 56%, an increase from 41% in 2017.

The following nine factors were cited in at least 10% of the 90 Records of Decision for denials in 2018: the aforementioned Release Incompatible With the Welfare of Society (83%) and Unaddressed Issues (56%), followed by: Lack of Insight Into Causative Factors of Criminal Behavior (48%), Needs Longer Period of Adjustment (46%), Limited Program Participation (23%), Serious Disciplinary History (13%), Lying At the Hearing (13%), and Lack of Compassion For Victims (10%).

The most frequently mentioned factor for denying a parole was: Release Incompatible With the Welfare of Society. That factor was cited in over 80% of the ninety Denials in 2018, an increase from 38% in 2017.

Table 8 below presents the comparative percentage data for the frequency of denials Factors from 2014 through 2018. The number of Denials for each year is in parentheses.

TABLE 8

Factor	2018 (90)	2017 (66)	2016 (82)	2015 (83)	2014 (89)
Release Incompatible	83.3	37.9	48.8	60.0	0.0
Unaddressed Issues	55.6	40.9	20.7	60.2	69.7
Lack of Insight Into Crim. Beh.	47.8	24.2	6.1	26.5	40.5
Needs Longer Adj. Period	45.6	66.7	61.0	33.7	2.0
Diminishes Resp.	27.8	16.7	7.4	20.5	19.1
Limited Program Participation	23.3	7.6	13.4	26.5	31.5
Lying at Hearing	13.3	27.3	4.9	15.7	20.2
Serious Discipline History	13.3	15.2	11.0	16.9	24.7
Lack of Compassion	10.0	7.6	0.0	2.4	10.1
Unresolved Sexual Issues	8.9	7.6	6.1	19.3	16.9
Prior Poor Parole Performance	8.9	18.2	3.6	3.6	13.5
Mental Health Issues	7.8	6.1	11.0	10.8	10.1
Violent History in Prison	7.8	6.1	2.4	14.5	14.6
Address Areas of Deceit	6.6	0.0	1.2	6.0	10.1
Factual Inconsistencies	3.3	12.1	0.0	4.8	5.6
Continued Drug Addiction	2.2	3.0	0.0	4.8	2.3
No Supporters Present	2.2	9.0	11.0	7.2	18.0
Lack of Solid Parole Plan	0.0	12.1	0.0	4.8	5.6

In 2018, as in past years, several lifers who had completed needed programs hurt themselves because they were unable to explain or to demonstrate what they had learned or how their attitudes, problem solving skills, and lives had been positively altered due to their program involvement. It is critically important that lifers be able to display the proper tools for dealing with stress and difficult questions, which may be very personal, from Parole Board members. It has been reported to the Lifers' Group Inc. from members who had returned from parole hearings that Parole Board members often tested lifers to see if they could maintain control when they perceived they were being treated negatively. Thus, stating that one has learned coping and interpersonal skills as well as how to handle stress on the street by completing programs such as Anger Management or Emotional Awareness and then reacting with hostility

at a question from a Parole Board member only demonstrates that the lessons were not learned well and the lifer may need further time in prison to absorb the skills adequately.

8) Setbacks

In 2018, the Parole Board continued to assess Setbacks, i.e., the length of years a lifer would have to serve before his/her next parole hearing, but failed to offer any reasons or rationale for the length determined by the members. When there was a disagreement in the length of a Setback, a footnote noted the lack of consensus, but no reasons were given. Nor has the Parole Board ever issued any information as to how lengths of Setbacks are determined or what standards Parole Board members employ in making those decisions. As has been noted in previous reports on Parole Decisions For Lifers, the Parole Board needs to publish whatever standards or guidelines are utilized in determining the length of Setbacks.

Understanding the rationale for a given Setback is particularly important for those lifers who received a Setback of, say three years, return to the Parole Board after the three years have passed, are denied again, but this time receive a longer Setback of four or five years, with no reasons given as to why the Setback had been increased.

In 2018, the percentage of five-year Setbacks increased from 33% in 2017 to 42% in 2018. This reversed a trend of decreasing percentages of five-year Setbacks which had begun in 2016. Still, the percentage of five-year Setbacks remained below 50% for the fourth year in a row.

The combined number of one, two, and three-year Setbacks increased by 23% - from 30 in 2017 to 37 in 2018. Of the 38 five-year Setbacks in 2018, 13 (34%) were after Initial Hearing denials, 23 (61%) came after denials for Review Hearings with no prior parole having been revoked, and two (5%) were after denials at Review Hearings after a prior parole had been revoked.

In total, there were 25 denials after Initial Hearings in 2018 and 13 lifers who had been denied after an Initial Hearing received five-year Setbacks - 52%, a decrease from 56% in 2017.

Of the 52 denials after Review Hearings with no prior parole revocations, 23 received five-year Setbacks - 44% - an increase from 31% in 2017. Lastly, of the 13 denials at Review Hearings after a prior parole had been revoked, two lifers received five-year Setbacks – 15%, a decrease from 19% in 2017.

Table 9 below presents the comparative data for the numbers and percentages of the various lengths of Setbacks from 2014 through 2018. The numbers in parentheses denote the total number of denials in each year.

Table 9

Year	1 Year		2 Years		3 Years		4 Years		5 Years	
2018 (90)	4	4%	9	10%	24	27%	15	17%	38	42%
2017 (66)	4	6%	10	15%	16	24%	14	21%	22	33%
2016 (82)	6	7%	14	17%	18	22%	13	16%	31	38%
2015 (83)	2	2%	16	19%	16	19%	11	13%	38	46%
2014 (89)	<u>0</u>	0	<u>4</u>	5%	<u>16</u>	18%	<u>8</u>	9%	<u>60</u>	67%
Totals (436)	16	3.9%	53	13.0%	90	22.0%	61	14.9%	189	46.2%

Lifers who had Review Hearings without a prior parole having been revoked received, as a percentage, the highest for one-year Setbacks (75% - 3 of 4), two-year setbacks (56% - 5 of 9), and three-year Setbacks (63% - 15 of 24).

9) Approved Lifers' Destinations

Of the thirty-seven lifers approved for paroles in 2018, seven (19%) were released directly to an approved home plan. Six lifers (16%) were paroled to I.C.E. Thirteen lifers (35% of those approved for a parole) were given their paroles conditioned on their serving anywhere from six to eighteen months in lower security and then to a Long Term Residential Program (LTRP). Four lifers (11%) were sent directly to a LTRP. Four other lifers (11%) were released to home after serving from six to eighteen months in lower security. Four lifers (11%) were paroled to From & After sentences. Three lifers (8%) were paroled out-of-state. All paroled lifers were required to avoid receiving disciplinary tickets, whether in minimums, pre-releases, or a LTRP as a condition

for not having their paroles rescinded. Table 10 below presents the data for the destinations of approved lifers from 2014 through 2018.

TABLE 10

Destination	2018		2017		2016		2015		2014	
	#	%	#	%	#	%	#	%	#	%
Approved Home Plan	7	19%	8	38%	3	17%	3	9%	9	18%
Lower Sec. -6 Mon.	5	14%	1	5%	2	11%	3	9%	5	10%
Lower Sec. -9 Mon.	0	0	3	0	1	6%	1	3%	3	6%
Lower Sec. -12 Mon.	7	19%	3	14%	5	28%	2	6%	17	34%
Lower Sec. -18 Mon.	1	3%	3	14%	2	11%	1	3%	0	0
Lower Sec. -24 Mon.	0	0	0	0	1	6%	0	0	0	0
Interstate Com.	3	8%	0	0	2	11%	2	6%	1	2%
I.C.E.	6	16%	1	5%	1	6%	5	15%	3	6%
To From & After	4	11%	0	0	0	0	2	6%	2	4%
LTRP	4	11%	2	10%	1	6%	15	18%	9	18%
Died Before Dec.	0	0	0	0	0	0	0	0	1	2%
Totals	37		21		18		34		50	

10) Risk Assessments

As in 2016 and 2017, a notation was included in each 2018 Record of Decision for lifers indicating that the Parole Board had employed a risk assessment tool to determine the lifer's risk to offend if paroled. The Parole Board, however, continued its practice of not noting in any of the Records of Decision an individual lifer's rating, i.e., the risk the lifer posed to public safety if paroled. Pursuant to a public records request filed by the Lifers' Group Inc., the Parole Board provided data for lifer decisions in 2018. The data were provided for 130 decisions. This number of lifers exceeded by three the number of Records of Decision received by the Lifers' Group Inc. pursuant to multiple requests for copies of Records of Decision for lifers published online in 2018. The difference may be accounted for if those three parole decisions in 2018 were published online after the final request. Table 11 on page 20 contains the risk data for 2018.

TABLE 11

Risk Level	Approvals	Denials	Total	% Approved
Low	10	8	18	55%
Medium	19	46	65	29%
High	7	37	44	16%
Very High	0	3	3	0%
Totals	36	94	130	28%

According to the 2014 Parole Board's Annual Report: "As part of the Parole Board's commitment to public safety, the agency uses a risk and needs assessment instrument in making parole release decisions. The assessment identifies an individual's risk to recidivate, as well as reveals criminogenic needs which may be incorporated into the parolee's case plan. The risk/assessment used by the Parole Board is the Level of Service Case Management Inventory (LS/CMI™). The Parole Board implemented the LS/CMI in early 2013 for use in release decisions for inmates and supervision strategies for parolees." (pg 13)

The Parole Board, however, continued its practice of not noting in any of the Records of Decision an individual lifer's rating, i.e., the risk the lifer posed to public safety if paroled.

Table 12 below presents the data for 2016 through 2018. Note: the percentages were calculated by the Lifers' Group Inc.

TABLE 12

Risk Level	Total	2018		2017		2016		Combined		% App.
		App.	Den.	App.	Den.	App.	Den.	App.	Den.	
Low ⁴	31	10	8	0	4	1	8	11	20	35.5%
Medium	123	19	46	6	15	13	24	38	85	30.9%
High	69	7	37	1	5	4	15	12	57	17.4%
Very High	<u>7</u>	<u>0</u>	<u>3</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>4</u>	<u>0</u>	<u>7</u>	0
Totals	230	36	94	7	24	18	51	61	169	

The Parole Board in 2018 reversed the trend of the previous two years' data of seemingly to ignore Low Risk ratings. As the Lifers' Group Inc. reported for 2016 and 2017, those who were considered Low Risks inexplicably were paroled at a rate less than one-third that of High Risk assessments. In 2018, however, Low Risk lifers were paroled at a rate of 55% versus 29% for Medium Risks and 16% for High Risks.

Overall, the data in the three years under study, of the total of 61 lifers who were approved for paroles, 11 (18%) were Low Risk, 38 (62%) were Medium Risk, and 12 (20%) were High Risks. Low Risk lifers, whom it would seem fair to assume were rated as low risks because they were assessed to be those least likely to reoffend, had been approved for a parole at a rate less than one-fourth that for Medium Risks and slightly below that for High Risks for 2016 and 2017. In 2018, the Parole Board closed that gap.

⁴ There is a Very Low Risk Level. No lifers in the date provided by the Parole Board for 2016 through 2018 was rated a Very Low risk to reoffend.

11) Lifers Not Convicted Of Second Degree

Of the 127 Records of Decisions for 2018, five (4%) were for lifers serving a life sentence with the possibility of a parole for crimes other than second degree murder. That percentage was below that of 2017 (6%), 2016 (9%), 2015 (13%), or 2014 (14%) for this cohort of lifers. Four of the lifers in 2018 subset were convicted of rape charges. The other had been convicted of Armed Robbery. Of the five, none was approved for a parole. From 2014 through 2018, only 16% of lifers serving life for a crime other than second degree murder were paroled (9 of 55). Table 13 below presents the data for Lifers Not Convicted of Second Degree Murder from 2014 through 2018.

TABLE 13

Crime	2018		2017		2016		2015		2014	
	#	App	#	App	#	App	#	App	#	App
Sexual Assaults	4	0	5	1	3	0	9	2	12	0
Burglary	0	0	0	0	1	1	1	0	2	1
Arm. Rob./Assaults	1	0	0	0	3	1	4	1	3	0
Unarmed Robbery	0	0	0	0	2	1	1	0	3	0
Home Invasion	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>1</u>
Totals	5	0	5	1	9	3	15	3	21	2
% App.		0%		20%		33%		20%		9.5%

12) Time Between Hearing Dates and Dates of Decisions

Each Record of Decision notes the date of the public hearing and the date of the decision. Exactly what the date of decision means is not defined. The Parole Board's regulations require that parole decisions be made at the next regularly scheduled executive session after a public hearing has been conducted [120 CMR 301.06(6)]. In addition, 120 CMR 301.08 requires that lifers who have been denied paroles are to be informed with a written summary, presumably the Record of Decision, "within 21 calendar days after the decision has been rendered."

What is not reported in any Record of Decision is when the executive session had been held for that lifer. Consequently, lifers who are denied paroles have no indication as to whether the Parole Board met the 21 day notification requirement. Thus, the only calculation which can be made from the available data in the Records of Decision is the length of time from the Hearing Date and the noted "Date of Decision."

When the executive session was actually held is problematic for lifers because the lengths of time between Hearing dates and the "Date of Decision" was on average over 300 days in 2018. It is hard to believe that the time lapse between a hearing and the date the decision was rendered in an executive session was nearly ten months. The Records of Decision in 2018 were written by the Legal Division and signed by the General Counsel. Thus, it would be reasonable to assume that the Date of Decision was actually the date the decision was signed. This, of course, would contravene the Parole Board's own regulations cited above. The Lifers' Group, Inc. has requested a clarification on what exactly the Date of Decision means, but the Parole Board has been unresponsive on this issue.

It is hard to believe that the time lapse between a hearing and the date the decision was rendered in an executive session was nearly ten months.

The Lifers' Group Inc. has been tracking the differences between Hearing Dates and noted Dates of Decisions for several years. The calculations on this topic are the work of the Lifers' Group Inc. We know of no other organization which has consistently compiled this data.

The average lengths of time between the Hearing Dates and the Dates of Decision had decreased significantly from 2014 (193 days) to 2015 (87 days). In 2016, however, the average length of time increased by 65.5% - from 87 days in 2015 to 144 days in 2016. In 2017, that average length of time increased yet again, from 144 days to 182 days – an increase of 26.4%. In 2018, the length of time rose even more significantly, nearly doubling from 182 days to 310, an increase of 70.3%.

Having to wait on average over ten months from the date of a hearing to receiving the decision impacts lifers who are approved and have to serve time in lower security. Those lifers, once they have received their decisions, then have to wait to be transferred to lower security. It should also be pointed out that if a lifer is denied and is given a one-year Setback, this allows less than two months to transpire before the next hearing. If, for instance, the Parole Board had indicated in the Record of Decision that the lifer should address certain program needs or to correct any deficiencies in his or her parole plan, there would be precious little time left before the next hearing to do so adequately.

In 2018, the longest delay between Dates of Hearings and Dates of Decisions was 468 days. In all, 14 other lifers waited over one year, including five who waited over 400 days. Ninety lifers of the 127 Records of Decision studied in 2018 waited in excess of 300 days.

Average Length of Delay in Receiving a Parole Decision.

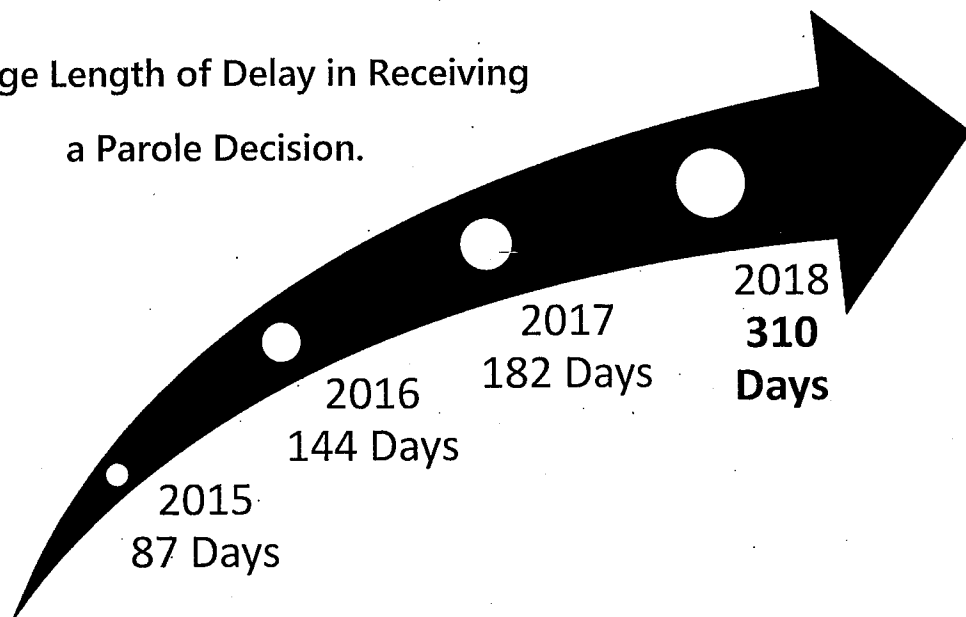


Table 14 below presents the data for the lengths of delays between Hearing Dates and Decision Dates as noted in the Records of Decision for 2014 through 2018 with frequency percentages for each subset.

TABLE 14

	2018		2017		2016		2015		2014	
Length in Days										
1-100	4	3%	2	2%	16	16%	91	78%	35	25%
101-200	2	2%	63	72%	75	75%	21	18%	43	31%
201-300	31	24%	21	24%	5	5%	5	4%	34	25%
300+	<u>90</u>	71%	<u>1</u>	1%	<u>4</u>	4%	<u>0</u>	0%	<u>27</u>	19%
Total # of Dec.	127		87		100		117		139	
Ave. Length of Delay	310		182		144		87		193	

13) Juveniles At The Time Of The Crime

Those under the age of 18 at the time of the commission of their crimes(s) and were serving Life-Without-Parole (LWOP) sentences received relief from the Massachusetts Supreme Judicial Court (SJC) in 2014. The result was that those under age 18 at the time of their crimes became eligible for parole after having served 15 years.

Seven such lifers were given parole hearings in 2018, all were Review Hearings. Four lifers were approved. Since the 2014 SJC decisions to allow juveniles serving LWOP to have parole hearings, 44 parole hearings have been noted in reports by the Lifers' Group Inc. on parole decisions for lifers. Of those 44 hearings, 17 juvenile lifers (39%) received paroles. As of the date of this report, not one of those ex-juveniles has been returned to prison for a new crime.

In addition, five lifers serving second degree life sentences for crimes committed while juveniles had parole hearings in 2018. Of those five, one (20%) was granted a parole.

Of those 44 hearings, 17 juvenile lifers (39%) received paroles. As of the date of this report, not one of those ex-juveniles has been returned to prison for a new crime.

not one

14) Attorney Representations

Of the 127 Records of Decision posted online in 2018, 60 (47%) indicated that an attorney was present at the hearings representing the lifer. Each attorney was identified by name. The percentage of attorneys representing lifers at parole hearings decreased from 61% in 2017. Twenty-one of those 60 lifers in 2018 who had been represented by an attorney were granted paroles – a parole rate of 35%, an increase from 2017 when the parole rate was 28%.

Not counting student attorneys, a total of 29 different attorneys represented lifers at parole hearings in 2018. Attorney John Rull represented eight lifers, of which four were approved for paroles. Attorneys Frank Spillane and Jason Benzaken each represented three lifers, while attorneys Richard Sobelman and Jeffrey Harris represented two lifers apiece. Twenty-four attorneys represented one lifer each in separate hearings.

Not one of the eight lifers represented by counsel at an Initial Hearing was granted a parole. Eighteen lifers of 45 who had Review Hearings without a prior parole having been revoked were

granted paroles. Three of seven lifers who had Review Hearings after a prior parole had been revoked were granted paroles.

Of the 37 lifers who were approved for paroles in 2018, 22 (57%) had been represented by counsel. Table 15 below contains the data for approvals and denials for the 127 Records of Decision posted online in 2018, as well as the combined data for 2015 through 2018 broken down by whether or not there had been an attorney present.

TABLE 15

	2018 App.	2015 - 2018 App.	2018 Den.	2015- 2018 Den.	Overall App. %
Attorney	21	59	39	167	35%
No Attorney	<u>16</u>	<u>51</u>	<u>51</u>	<u>154</u>	33%
Totals	37	110	90	321	

The total number of Records of Decision for 2018 was 127. The total number of Records of Decision for 2015 through 2018 was 431.

15) Analysis Of Parole Decisions By Race

The question of racial bias in the approval / denial rates for parole decisions for lifers has been considered by the Lifers' Group Inc. since the possibility of racial bias was raised by our membership in 2013. From 2013 through 2018, 570 Records of Decision have been reviewed. The overall approval rate for all races combined was 28%. The approval rate for Caucasians was 38%, for African-Americans – 33%, for Latinos – 25%, and for Asians – 4%.

It should be noted that the designations of race were made by members of the Lifers' Group Inc., but only with firsthand, personal knowledge of the individual lifer's racial affiliation. Neither the Department of Correction nor the Parole Board provided such information due to

CORI regulations. The Lifers' Group Inc. acknowledges that this is a less than optimum method and mistakes may have been made. The Lifers' Group Inc. believes, however, that the number of mistakes was minimal and did not insignificantly impact the results, given the total number of Records of Decision included in this study.

Table 16 below provides the data regarding the racial breakdowns of the Records of Decisions for 2018.

TABLE 16

	Caucasian		Afr./Am.		Latino		Asian	
	App.	Den.	App.	Den.	App.	Den.	App.	Den.
#	18	44	6	24	11	21	2	1
% of Total #	15%	34%	5%	19%	9%	16%	1.5%	0.5%
% Racial Category	29%	71%	20%	80%	34%	66%	67%	33%

Table 17 below presents the combined data for the 160 Approvals of paroles for lifers from 2013 through 2018 broken down by racial categories.

TABLE 17

Race	App.	Total # of Lifer Hearings	% App.	% App. For Racial Category
Caucasian	62	267	38%	23%
Afr. / Am.	52	167	33%	31%
Latino	40	119	25%	34%
Asian	<u>6</u>	<u>17</u>	<u>4%</u>	35%
Totals	160	570	28%	

16) Age At Time Of Hearing

In 2018, the approval rate for lifers age 50 and younger was 33% (18 of 54); the approval rate for lifers older than age 50 was 26% (19 of 73). The percentage difference between the two subsets reversed the trend in 2017 where the approval rate for lifers over age 50 exceeded that for lifers age 50 and younger. The year 2017 was the first in which the Lifers' Group Inc. tracked this statistical category that older lifers were paroled at a higher rate than younger lifers, i.e., 16% for lifers age 50 and younger versus 30% for lifer over age 50.⁵

The overall approval rate for lifers age 31 – 40 at the time of their hearings increased from 10% in 2017 to 32% in 2018. The approval rate for lifers age 41 to 50 at the time of their hearings increased from 19% in 2017 to 34% in 2018. The approval rate for lifers age 51 to 60 increased from 17% in 2017 to 29% in 2018. Finally, the approval rate for lifers age 61 and up at the time of their hearings decreased from 48% in 2017 to 23% in 2018. The following tables present the data, i.e., numbers and percentages, regarding the ages of lifers at the times of their hearings for 2018 (Table 18) and for the years 2006 through 2018 (Table 19).

TABLE 18

	31 - 40		41 - 50		51 - 60		61 +		Totals
	#	%	#	%	#	%	#	%	
App.	6	32%	12	34%	11	29%	8	23%	37
Den.	<u>13</u>	68%	<u>23</u>	66%	<u>27</u>	71%	<u>27</u>	77%	<u>90</u>
Totals	19		35		38		35		127

⁵ The Parole Board publishes the age of the lifer at the time of his or her hearings in the Record of Decision.

TABLE 19

	31 - 40		41 - 50		51 - 60		61 +		Totals
	#	%	#	%	#	%	#	%	
App.	91	40%	109	27%	74	21%	54	23%	328
Den.	<u>135</u>	60%	<u>292</u>	73%	<u>277</u>	79%	<u>177</u>	77%	<u>881</u>
Totals	226		401		351		231		1209

	Age 50 & Under		Age Over 50		Totals
	#	%	#	%	
App.	200	32%	128	22%	328
Den.	<u>427</u>	68%	<u>454</u>	78%	<u>881</u>
Totals	627		582		1209

The overall approval rate for lifers age 31 – 40 at the time of their hearings increased from 10% in 2017 to 32% in 2018.

DISCUSSION AND RECOMMENDATIONS

A. Approval Rates

In 2018, the Parole Board increased its overall approval rate to nearly 30%, a rate not seen since 2014. That was the good news. On the flip side, is the approval rate for Initial Hearings. While approvals for lifers having Initial Hearings did increase in 2018 over 2017, the increase was minimal – up from zero in 2017 to two in 2018. As stated in the Results section of this report, it beggars belief that of the total of 36 lifers having Initial Hearings in 2017 and 2018, only two were approved.

A disturbing question is: Do Parole Board members now deem fifteen years to be insufficient time spent incarcerated for a meaningful parole hearing to take place?

If this is a trend, then it needs to be followed carefully. Lifers who have served fifteen years have a right to a parole hearing. But, that is a worthless right if the hearings are perfunctory where the Parole Board members have little or no intention of granting a parole. A disturbing question is: Does the Parole Board members now deem fifteen years to be insufficient time spent incarcerated for a meaningful parole hearing to take place?

For the years 2015 through 2018, 104 lifers had Initial Hearings, as reported by the Lifers' Group Inc. Of those 104, 15 were approved for a parole – an approval rate of only 14.4%.

Contrast that with 2014 when the approval rate for Initial Hearings was 40.6% (13 of 33). From 2004 through 2013, there was only one year when the approval rate for Initial Hearings was below 31%. That year was 2011/2012 – 15.6%, which was the first year after the make-over of the Parole Board subsequent to the Dominic Cinelli affair.

One other piece of good news concerning approval rates was the significant increase for lifers who had Review Hearings without having had a prior parole revoked. In 2018, the

approval rate for this cohort was 31.6%, more than double that of 2017 (15.2%), three times that for 2016 (10.2%), and the highest in the past six years. Hopefully, this upward trend will be maintained in 2019, thereby affording lifers who have never been paroled a much improved possibility of being approved.

B. Make-Up of The Parole Board

Whether or not the improved trends in approval rates cited above will continue depends greatly on the make-up of the members of the Parole Board. Significant concerns remain regarding whom Governor Charlie Baker nominates and the Governor's Council approves for positions on the Parole Board. A case in point is the latest appointment – Gloriann Moroney. Her background includes 14 years as an Assistant District Attorney from Suffolk County. This is the same county from which the present chairperson, Paul Tressler, served over 20 years as an Assistant District Attorney and from which a past chairperson, now a Superior Court Judge, Josh Wall, also served for multiple years.

Of the other five members, two – Sheila Dupre and Colette Santa – have extensive experience in corrections departments; one – Tina Hurley – has been a long-time employee of the Parole Board; one – Tonomey Coleman has experience as a defense attorney; and one – Dr. Charlene Bonner is a forensic science and additive behavior specialist.

Parole Board members are required to have a four year college degree and at least five years of experience in one or more of the following fields: parole, probation, law, law enforcement, psychology, psychiatry, sociology, and social work. The first four listed above are overly represented, while the last four are absent.

Should not there be members on the Parole Board who have at least five years of experience in gang cultures, or sexual, physical, emotional abuse of children which can lead to committing crimes in later years, or in mental health?

The result is a Parole Board which is heavily skewed in favor of prosecuting cases as opposed to rehabilitation. Should not there be members on the Parole Board who have at least five years of experience in gang cultures, or sexual, physical, emotional abuse of children which can lead to committing crimes in later years, or in mental health? Presently, the only member who has experience in the field of addiction is Dr. Charlene Bonner, who also doubles as the member with experience in forensic science. Dr. Bonner's term expired in 2018 and she has yet to be reappointed. While the Lifers' Group Inc. is not impugning any individual Parole Board member's character, it is inevitable that without significant changes in the makeup of the Parole Board to balance the fields of experience, parole decisions for lifers will continue to be excessively influenced by the corrections/prosecutorial perspective.

Recommendation #1 – As the terms of members next to expire – Tina Hurley (6/1/19), Paul Tressler (9/14/20), and Sheila Dupre (7/2/21) are up, they should be replaced with members who have at least five years of experience in the fields not represented in the present Parole Board.

C. Risk/Needs Assessments

The Parole Board utilizes a particular Risk and Needs Assessment Tool – the LS/CMI. The Department of Correction, however, uses a different tool to assess needs and risk – the COMPAS. The two are mutually exclusive and often do not arrive at the same results. This can and has led to lifers being placed in untenable positions at the Parole Board when the Board has required that a lifer participate in certain programs while the Department of Correction does not. When the lifer tries to explain to the Parole Board that he or she has not completed a particular program because the Department of Correction did not find that the lifer needed that program, the Parole Board members have often reacted with incredulity.

Recommendation #2 – The Parole Board and the Department of Correction need to work in concert in assessing what program areas a lifer needs to address and then to

develop a plan whereby that particular lifer can be offered the required program activity.

While the Lifers' Group Inc. applauds the use of a Risk Assessment Tool by the Parole Board, what remains mystifying is why so many lifers assessed to be Low Risks to reoffend are not paroled – 45% in 2018 and 64.5% between 2014 and 2018.

Recommendation #3 - Lifers who are assessed as Low Risks should be presumed to be paroled unless the Parole Board can articulate with specificity, why a Low Risk lifer is not granted a parole.

Recommendation #4 - The Parole Board should publish the Risk Assessment result for each lifer on the Record of Decision.

D. Number of Days Between Hearing Dates and Dates of Decision

What was exceedingly troubling in 2018 was the staggering increase in the number of days between Hearing Dates and Dates of Decision. When Dr. Charlene Bonner chaired the Parole Board, the number of days between Hearing Dates and Dates of Decision had decreased to, on average, less than 90 days. Since her removal as chairperson, that average time difference has steadily increased – 144 days in 2016, 182 days in 2017, and to 310 days in 2018. In 2018, one lifer waited 468 days, four others over 400 days, and 90 (71% of the decisions posted online in 2018) waited in excess of 300 days. Whatever has transpired since 2015, it needs to be reversed. Having to wait on average over ten months for a decision is simply unreasonable. In addition, if the Parole Board denies a parole due to a perceived unmet area of need, the lifer has “wasted” over ten months waiting to receive his or her decision when he or she could have addressed the need prior to his or her next parole hearing.

Recommendation #5 - The Parole Board needs to review the process by which parole decisions are made and then communicated to lifers and to implement the necessary

changes to significantly reduce the number of days between Hearing Dates and Dates of Decision to an average of less than 90 days.

E. Returns From Paroles

The Parole Board continues overwhelmingly to return lifers for substance abuse issues. The Lifers' Group Inc. does not minimize the fact that substance abuse is a serious problem for parolees. But, for many years the Lifers' Group Inc. has continually urged the Parole Board to implement a procedure to address the problem short of revoking paroles and returning lifers behind the walls. Many lifers have remained there for years after a parole revocation for substance abuse and have had family and employment ties broken irretrievably.

Recommendation #6 - The Parole Board needs to establish intermediate centers where parolees can be required to go for nights and/or weekends for treatment, while under close supervision. If such centers were implemented, the drastic step of returning a paroled lifer to prison for substance abuse would be reduced dramatically. Returning a lifer to prison behind the walls should be the last option available.

F. More Specificity in Records of Decision

In 2018, Records of Decision, save for recounting the history of the crime, were often similar, if not verbatim, from one decision to another. The impression left is that some form of "cut and paste" technique is employed in writing the Records of Decision. A case in point is the following quote from the Decision section of one lifer's Record of Decision in 2018:

The Board is of the opinion that Mr. _____ has not demonstrated a level of rehabilitation progress that would make his release compatible with the welfare of society ... _____ should remain program involved and employed, and he should continue to maintain a positive adjustment. Release does not meet the legal standard.

The problem is that the name in the first blank line was not the name of the lifer who had the hearing. The name in the second blank line was the correct name, leading one to conclude

that the paragraph was lifted whole from another Record of Decision, but the incorrect name had not been cut out and the proper name pasted in the first blank line.

Records of Decision also are generally bereft of specifics as to what an individual lifer needs to accomplish in order to improve his or her possibilities to be paroled. Just telling a lifer that he or she needs to continue positive adjustment is not informative enough. That response from the Parole Board members begs the question: If the lifer has demonstrated positive adjustment, why is more time needed? If the Parole Board members feel that the lifer should address certain need areas, then the Parole Board members should be specific as to what those areas are.

Recommendation #7 - In cases of parole denials, the Parole Board should write each Record of Decision to address specifically the lifer's individual needs, accomplishments, and programs the lifer should complete in the years of the assessed Setback.

Recommendation #8 - The Parole Board should cease using "not compatible with the welfare of society" as the reason for a parole being denied. Whether or not a lifer's release is or is not compatible with the welfare of society is a condition for parole, not a reason to deny. The Parole Board needs to go beyond that generalized statement and address exactly why a lifer's release is not compatible with the welfare of society.

SELECTED EXCERPTS FROM 2018 RECORDS OF DECISION

The following ten excerpts are quoted directly from Records of Decision for 2018. The names of the lifers and victims have been deleted by the Lifers' Group Inc. The excerpts have been selected as examples of positive and negative feedback from Parole Board members to presentations by lifers at public hearings in order to offer insight into the decision making parameters employed by Parole Board members. In offering these excerpts, there is no intent to embarrass or to ridicule any lifer. Rather, the intent is to assist lifers to prepare themselves for their parole hearings and/or to gain insight into what areas they may need to address while incarcerated before their next parole hearing.

The excerpts are divided into two categories – Approvals (6) and Denials (4). Whether the hearing was an Initial Hearing or a Review Hearing and the length of the Setback in cases of Denials are included after each excerpt.

A. Excerpts From Approvals For Parole

1. *The Board noted that _____ has been an exemplary inmate. _____ indicated that he was able to stay out of trouble during his incarceration through institutional programming, "staying positive," not associating with the "wrong people," and gaining the tools and skills to deal with conflict. The Board also noted that _____ appears to have a good support network.*

This lifer had a Review Hearing after having received a two year Setback in 2015 for a lack of candor.

2. *In his opening statement at this hearing _____ spoke of his embarrassment and shame in squandering his prior parole opportunity. Board Members asked _____ about his time on parole. He stated that he did not take his freedom seriously. He now understands, however, that poor decision-making and failure to communicate with his parole officer led to his return to custody. He now understands the ramifications for his failure to abide by the conditions set forth by the Parole Board.*

This lifer had a Review Hearing after a prior parole had been revoked. He had been reincarcerated for twelve years.

3. _____ believes that the Board's decision [denying a parole] helped him understand that he lacked insight into his crime and did not take accountability for his actions. _____ stated: "It seemed like I was minimizing my role, when in all reality there is no minimizing – I'm just as guilty as every one of my co-defendants. I was there, I was part of a cowardly act, a drive by shooting, and I had no lesser role than anybody else in that crime."

This lifer had a Review Hearing.

4. _____ believes that programs have been instrumental in both helping him understand his addiction and providing him, with the necessary tools to prevent relapse. _____ also discussed how he has addressed his causative factors, including addiction, inappropriate behaviors and a propensity for violence. He has learned to be mindful in speech and action.

This lifer had a Review Hearing.

5. _____ explained that these programs [Restorative Justice, Alternatives to Violence, Emotional Awareness] helped him to develop coping skills to avoid violent conflict and to de-escalate confrontations. In addition, these programs helped him realize that his crime did not end with the shooting. Rather, the effects on the victims last for decades. He now looks for opportunities to give something back, or to help improve another person's quality of living, rather than just taking from society.

This lifer had a Review Hearing and was a juvenile LWOP lifer.

6. _____ spoke about his daily activities at the prison and stated that he attends school and volunteers his time. Additionally, he attends church and participates in Alcoholics Anonymous meetings. Since his last hearing, he completed additional programming, including the Culinary Arts Program. He described Coping Mechanisms and Criminal Thinking as programs that were most beneficial to him. _____ stated that he has support from his friends, sister and cousins.

This lifer had a Review Hearing.

B. Excerpts From Denials Of Parole

7. The Board had concerns that _____'s presentation appeared "scripted." The Board noted in the past: "his tendency to engage in positive impression management, as well as overuse of technical language." The Board noted that _____ remains manipulative and does not appear credible. _____ continues to minimize his culpability and does not show genuine remorse or empathy. Further, _____ has presented numerous versions of the governing offense.

This lifer had a Review Hearing and received a three year Setback.

8. _____ said that he has learned to recognize his "stressors." He then provided the Board with an anecdote related to getting a new pair of glasses a couple of weeks ago, as an example of how he positively resolved a conflict. After a Board Member told _____ that he had told the story almost word for word, two years prior, _____ said: "Well, I was just trying to use the story as ... what I do now." Later on the hearing _____ addressed the Board Member who raised the issue and stated, "... I misspoke earlier and I don't want you to think I was lying to you. I said two weeks ago, it was two years ... I was using that as a reference to what I had done and why I had done it."

This lifer had a Review Hearing and received a three year Setback. The Board noted a lack of candor as one reason for denying the parole.

9. When asked to describe his program participation while incarcerated, he stated that he is "program compliant" that there was nothing left for him to do at the Department of Correction. He claims he has been programmed to be a robot, rather than a person, and that programming has been pushed on him. A Board member noted that _____ was answering a question with a question, and that he was very confrontational.

This lifer had an Initial Hearing and received a five year Setback.

10. _____'s adjustment remains problematic. He needs to refrain from engaging in anti-social behavior within the facility. He should also engage in available/relevant treatment/programming.

This lifer had a Review Hearing after a prior parole had been revoked and received a three year Setback.