

PAROLE DECISIONS FOR LIFERS

FOR THE YEAR 2022

Prepared For:

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By

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Parole Decisions For Lifers 2022

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PAROLE DECISIONS FOR LIFERS - 2022

TABLE OF CONTENTS

HIGHLIGHTS	Page 1
INTRODUCTION	Page 1
RESULTS	
Approval /Denial Rates	Page 3
Initial Hearings	Page 3
Review Hearings	Page 4
Approval Rates For Three Types of Hearings	Page 5
Approval Factors	Page 5
Denial Factors	Page 7
Programs Noted By The Parole Board	Page 9
Setbacks	Page 10
Approved Lifer Destinations	Page 11
Risk Assessments	Page 12
Lifers Serving Life For Non-Homicides	Page 13
Times Between Hearing Dates and Dates of Decision	Page 14
Juveniles At The Times Of Their Crimes	Page 15
Attorney Representation	Page 16
Analysis Of Parole Decisions By Race	Page 18
Female Lifers	Page 19
Gender of Victims	Page 19
RECOMMENDATIONS	Page 19
EXCERPTS FROM 2022 DENIED DECISIONS	Page 21

HIGHLIGHTS FOR PAROLES FOR LIFERS IN 2022

- 1) One hundred-seventy-one Records of Decision are analyzed in this report. Page 1
- 2) The overall Approval Rate was 49.1%. Page 3
- 3) The Approval Rate for Initial Hearings was 25.0%. Page 3
- 4) The Approval Rate for Review Hearings was 58.5%. Page 4
- 5) Active Program Participation was the most cited Approval Factor. Page 6
- 6) Unaddressed Issues was the most cited Denial Factor. Page 7
- 7) 2% of denied lifers received five-year Setbacks. Page 10
- 8) 11 approved lifers were released to home plans and 6 to Interstate Compacts. Page 11
- 9) 57% of lifers assessed as Low Risks to reoffend were paroled. Page 13
- 10) 58% of lifers assessed as Medium Risks to reoffend were paroled. Page 13
- 11) 6 of 17 lifers serving life for crimes other than murder were paroled. Page 14
- 12) 189 days was the average time from Hearing Dates and Dates of Decision. Page 15
- 13) 11 of 16 juveniles who had been serving LWOP were paroled. Page 16
- 14) 7 of 15 juveniles serving second degree life sentences were paroled. Page 16
- 15) The Approval Rate for lifers represented by counsel was 53%. Page 16
- 16) The Approval Rate for lifers not represented by counsel was 34%. Page 16
- 17) The Approval Rates for Cau. - 38%, for Afr.Amer. - 62%, for Latinos - 50% Page 18
- 18) One of six female lifers (17%) was approved for a parole. Page 19
- 19) Lifers with female victims were paroled at a rate of 33.3%; lifers with male victims were paroled at a rate of 54.8% Page 19
- 20) Recommendation #1 - re: Abbreviated Decisions Page 19
- 21) Recommendation #2 - re: Risk Assessments Page 20
- 22) Recommendation #3 - re: Legislation Page 20

Introduction

This is the sixteenth report on parole decisions for lifers published by the Lifer's Group Inc. The Records of Decision which are analyzed in this report are those for prisoners serving life sentences. The Records of Decision were provided by the Massachusetts Parole Board pursuant to public records requests after those Records of Decision had been posted online for 2022. The total number of Records of Decision in this report is 171. All calculations and tables presented in this report were calculated by the author based on the data extrapolated from the 171 Records of Decision for 2022 provided by the Parole Board, except for the percentages for the Risk Assessments and the Racial Breakdown which were calculated by the Parole Board and those calculations were adopted in this report.

Life sentences with parole reviews are predominantly for prisoners who had been convicted at trial or pled guilty to second degree murder which involved the actual taking of a life. Records of Decision are also included for juveniles who had previously been convicted of first degree murder, for which there was no parole. Their sentences, however, were overturned by the Supreme Judicial Court under the *Diatchenko* decision. Lastly, also included in this report are those serving second degree life sentences for crimes not including the taking of a life, e.g., rape, armed robbery, or as an habitual offender, who had parole hearings in 2022.

Parole hearings are either an Initial Hearing - for those who appear before the Parole Board for the first time after having served the statutorily mandated fifteen years or a Review Hearing - for those who were denied a parole at a previous Initial or Review Hearing. Review Hearings are divided into two subsets - one for those who have never been approved for a parole. The other for lifers who had been approved previously for a parole and were released but were violated for any one or more of a variety of reasons, and subsequently, returned to prison.

In 2022, of the 171 Records of Decision, 143 or 84% of those decisions were unanimous, up from 77% in 2021. The remaining 28 decisions broke down as follows: nine 4-2 decisions, seven 5-1 decisions, six 4-1 decisions, five 3-2 decisions, and one 3-1 decision.

In 2022, the Parole Board continued its practice of providing little or no specific guidance to denied lifers as to which program(s) a lifer needed to complete in order to address his/her needs before their next parole hearing. The Parole Board in 2022 also continued its policy, instituted in 2020 of providing Abbreviated Records of Decision for Approvals to reduce the time between Hearing Dates and Dates of Decision. In 2022, the Parole Board, beginning December 1st, published Abbreviated Decisions for Denials as well.

Each of these Abbreviated Records of Decision included: a Statement of the Case, Decision of the Board and any Special Conditions for those lifers who had been approved.

RESULTS

1) APPROVAL / DENIAL RATES

Of the 171 Records of Decision for 2022, 84 (49.1%) were approvals for parole; 87 (50.9%) were denials. Table 1 below presents the data for Approval / Denial Rates for 2018 through 2022.

TABLE 1

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2022	171	84	49.1	87	50.9
2021	164	92	56.1	72	43.9
2020	119	52	43.7	67	56.3
2019	113	44	38.9	69	61.1
2018	<u>127</u>	<u>37</u>	29.1	<u>90</u>	70.1
Total	694	310	44.7	384	55.3

Note that the percentage rate for approvals in 2022, while below that of 2021, the 2022 Approval Rate was the second highest from 2003, the first year the Lifer's Group Inc. published a report on parole decisions for lifers. The Approval Rates for the years 2003 through 2022, as reported by the Lifer's Group Inc. were: 2022 - 49.1%, 2021 - 56.1%, 2020 - 43.7%, 2019 - 38.9%, 2018 - 29.1%, 2017 - 24.1%, 2016 - 18.0%, 2015 - 29.1%, 2014 - 26.0%, 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%, and 2003 - 37.8%.

2) initial Hearings

In 2022, forty-eight (48) lifers appeared before the Parole Board for the first time. Twelve (25%) were approved for paroles. This Approval Rate exceeded the 20% for Initial Hearings in 2021. As with the overall Approval Rate indicated in Table 1 above, the Approval Rate for Initial Hearings in 2022 was significantly higher than the Approval Rate (14.7%) for Initial Hearings in 2018 through 2020.

From 2018 through 2021, only 14 lifers out of 107 were approved for paroles after an Initial Hearing - a combined Approval Rate of 13.0% for the four year span. The number of Approvals for Initial Hearings in 2022 equaled the total for 2020 and 2021 combined. The years 2021 and 2022 saw substantial increases in Approval Rates for Initial Hearings. That positive trend will hopefully continue in 2023. Two explanations may be the change in personnel, including the Chairperson, as well as pressure from legislators and reform advocates.

What was missing was a description of the parole hearing itself. The operative portion of the Record of Decision concerned what the Board considered in approving a lifer for parole. In each Abbreviated Decision for Approvals read precisely the same as quoted below, thereby offering little or no useful information for analysis.

In forming this opinion, the Board has taken into consideration _____'s institutional behavior, as well as his participation in available work, educational, and treatment programs during the period of incarceration. The Board has also considered a risk and needs assessment and whether risk reduction programs could effectively minimize _____'s risk of recidivism. Applying this standard to the circumstances of _____'s case, the Board is of the unanimous opinion that _____ is rehabilitated and, therefore, merits parole at this time

Massachusetts General Law, c. 127, §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 is convinced that there is a reasonable probability that if paroled the lifer would not violate the law and that the release would be compatible with the welfare of society. In addition to those standards, the Parole Board is to determine whether the four goals of sentencing have been met, namely punishment, public safety, deterrence, and rehabilitation, in that order.

All Records of Decision are signed by the Parole Board's General Counsel. The Date of Decision noted on the first page of every Record of Decision is not, as one might suppose, the date the Parole Board members rendered the actual decision to approve or to deny a parole. Rather, the Date of Decision is the date the Record of Decision was signed by the Parole Board's General Counsel, however long after the fate of the lifer had been decided by the Parole Board members.

We continue to be indebted to and thank Lois Ahrens, Founding Director of the Real Cost of Prisons Project in Northampton, for posting this report and many other Lifer's Group Inc. reports on the Real Cost of Prisons Project's website and then distributing the reports to a plethora of recipients, including legislators and other interested parties involved with criminal justice reform. All of these reports can be accessed at: www.realcostofprisons.org/writing. In addition, this report and other recent Lifer's Group Inc. reports can be accessed on Facebook @LifersGroupMCINorfolk.

TABLE 4

Year	Non-Revoked			Revoked		
	# of Hearings	Approvals #	%	# of Hearings	Approvals #	%
2022	108	64	59.3	15	8	53.3
2021	107	65	60.7	22	20	90.9
2020	68	36	52.9	17	11	64.7
2019	74	27	36.5	28	17	60.7
2018	<u>76</u>	<u>24</u>	31.6	<u>24</u>	<u>11</u>	45.8
Total	433	216	49.9	106	67	63.2

4) APPROVAL RATES FOR THE THREE TYPES OF HEARINGS

Table 5 below presents the comparative Approval Rates for each type of parole hearing from 2018 through 2022.

TABLE 5

Year	Initial	Review - No Revocation	Review After A Revocation
2022	25.0%	59.3%	53.3%
2021	20.0%	60.7%	90.9%
2020	14.7%	52.9%	64.7%
2019	0.0%	36.5%	60.7%
2018	7.4%	31.6%	45.8%

5. APPROVAL FACTORS

Five factors and the respective frequency percentage for each factor for 2022 are listed in Table 6 on page 6 as well as the data for 2018 through 2022. There are thirteen total Approval factors. No factor other than the five listed in Table 6 was cited more than twice and most of those eight not at all. That the first and second factors appear in 96.4% and 78.5% of the eighty-four Approved Decisions renders those factors relatively meaningless in determining what the Parole Board uses when approving a lifer for parole. This is particularly true for Active Program Participation. Simply stating that the lifer was an active participant in programs is unhelpful. But, see Section 7 for a listing of programs which were noted by the Parole Board in some of the Approvals and the number of Approvals in which no programs were noted. In the same vein, noting in 78.5% of Approvals that a lifer addressed his/her areas of need provides no insight without the Parole Board indicating which needs were addressed and by which programs.

Table 2 below presents the data for Initial Hearings from 2018 through 2022.

TABLE 2

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2022	48	12	25.0	36	75.0
2021	35	7	20.0	28	80.0
2020	34	5	14.7	29	85.3
2019	11	0	0.0	11	100.0
2018	<u>27</u>	<u>2</u>	7.4	<u>25</u>	92.6
Total	155	26	16.8	129	83.2

3. REVIEW HEARINGS

The Approval Rate for all Review Hearings held in 2022 was 58.5% (72 of 123), a decrease from 65.9% in 2021 and an increase from 55.3% in 2020. Of the 123 Review Hearings in 2022, 108 were for lifers who had never been previously paroled. The Approval Rate for this subset was 59.3% (64 of 108), a decrease from 60.7% in 2021 and an increase from 52.9% in 2020. The remaining fifteen had Review Hearings after having had a previous parole revoked. Of that subset, eight were approved, an Approval Rate of 53.3%, a decrease from 90.9% in 2021 and 64.7% in 2020.

Table 3 below presents the Approval and Denial Rates for all Review Hearings for 2018 through 2022. Table 4 on page 5 presents the Approval Rate data for both subsets of Review Hearings for 2018 through 2022.

TABLE 3

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2022	123	72	58.5	51	41.5
2021	129	85	65.9	44	34.1
2020	85	47	55.3	38	44.7
2019	102	44	43.1	58	56.9
2018	<u>100</u>	<u>35</u>	35.0	<u>65</u>	65.0
Total	539	283	52.5	256	47.5

6) DENIAL FACTORS

In 2022, sixteen separate factors were cited for denying paroles. Most Records of Decision in which a lifer was denied a parole cited multiple factors. As with the Approval Factors, each Denial Factor was developed by the Lifer's Group Inc. and reflects the actual language contained in individual Records of Decision. Table 7 below presents the comparative percentage data for the frequencies of the 2022 Denial Factors from 2018 through 2022. The total number of denials for each year is noted in parentheses below the year.

TABLE 7

Factor	2022 (87)	2021 (72)	2020 (67)	2019 (69)	2018 (90)
Unaddressed Issues	51.7	56.9	69.0	29.0	55.6
Serious Disc. History	35.6	31.9	28.0	14.5	13.3
Needs Longer Adj. Period	33.3	43.1	58.0	40.6	45.6
Mental Health Issues	32.2	19.4	10.0	15.9	7.8
Limited Prog. Part.	23.8	12.5	25.0	0.0	23.3
Lack of Compassion or Remorse	19.5	15.3	5.0	2.9	10.0
Lack of Insight	17.2	50.0	34.0	27.5	47.8
Diminishes Resp.	16.1	22.2	4.0	14.5	27.8
Violent Hist. in Prison	13.8	11.1	6.0	4.3	7.8
Unresolved Sex Issues	11.5	26.4	18.0	13.0	8.9
Poor Parole Performance	9.2	2.8	3.0	1.5	8.9
Address Areas of Deceit	9.2	1.4	3.0	0.0	6.6

The number in parentheses under the year is the number of approved lifers for that year. The data listed after each factor is the percentage of times the factor was noted by the Parole Board in the Approved Records of Decision.

TABLE 6

Factor	2022 (84)	2021 (92)	2020 (52)	2019 (44)	2018 (37)
Active Prog. Participation	96.4	95.7	94.0	79.5	91.9
Addressed Areas of Need	78.5	76.1	90.0	84.1	89.2
Strong Community Support	38.1	31.5	25.0	38.6	37.8
Minimal Disc. History	26.2	16.3	12.0	27.3	40.7
Steady Employment	19.0	21.7	2.0	9.1	16.2

The Parole Board continued in 2022 the trend begun in 2016 of placing strong emphasis on program participation, while often not naming any specific programs which the Parole Board members encouraged lifers to complete successfully. What is clear, however, is that the actual number of programs does not impress Parole Board members as much as whether or not a lifer had engaged in programs which, in the Parole Board members' eyes at least, were designed to address whatever his/her areas of need were.

Determining what those areas are or were appears to be up to each lifer to decide. Still, it is also clear that mere attendance in programs is considerably less important than what a lifer can communicate to Parole Board members that he/she has learned and how that knowledge would be utilized if the lifer were to be paroled. Lifers who profess to engage in personal self-improvement plans or religious conversions, no matter how sincere, generally will not be paroled. Parole Board members, while not discounting such work, do not view those as adequate substitutes for meaningful participation in programs sanctioned by the DOC, whether a lifer feels he/she needs the programs or not.

Accepting responsibility, stating remorse and compassion for victim family members, and having a solid parole plan are minimum thresholds a lifer needs to pass over for the Parole Board members to consider seriously whether or not a parole is appropriate. The absence of any of those factors, however, is enough to cause the Parole Board to deny a parole.

7) PROGRAMS NOTED BY THE PAROLE BOARD IN 2023

Table 8 below lists the number of times in numerical order that particular programs were cited by the Parole Board in 2023 for both Approvals and Denials as well as the number of Records of Decision in which no programs were noted.

TABLE 8

Program	Approvals	Denials
Restorative Justice	17	9
CRA	14	17
GED	13	6
Alternatives to Violence	9	13
AA	8	14
Criminal Thinking	7	4
Violence Reduction	5	8
NA	4	8
Jericho Circle	4	8
Boston University	4	0
Anger Management	3	2
NEADS	2	3
Companion Program	2	0
Emotional Awareness	1	3
Relapse Prevention	1	0
Cadre Program	1	0
Project Youth	1	0
Smart Recovery	1	0
SOTP	0	2
Able Minds	0	2
Family Violence	0	2
Secure Adjustment	0	1
Toastmasters	0	1
Substance Abuse	0	1
Pathway to Recovery	0	1
Victim Offender Educ. Grp.	0	1
Spectrum	0	1
None Noted	44	43

Of the 171 Records of Decision, a total of 87 had no programs noted, a percentage of 51% - 44 or 52% for Approvals and 43 or 49% for Denials. The percentages for the six most frequently noted programs for Approvals were Restorative Justice - 20%, CRA - 17%, GED - 15%, Alternatives to Violence - 11%, AA - 9%, Criminal Thinking - 8%, and Violence Reduction - 6%. For Denials, the percentages for the six most frequently cited were: CRA - 20%, AA - 16%, Alternatives to Violence - 15%, Restorative Justice - 10%, and Violence Reduction and NA both at 9%.

Given that this is the first year that the Lifer's Group Inc. has tracked program citations,

Cont. Drug Use In Prison	8.0	9.7	4.0	2.9	2.2
Lying At The Hearing	6.9	8.3	10.0	17.4	13.3
Factual Inconsis.	3.4	9.7	3.0	2.9	2.2
Lack of a Parole Plan	1.1	1.4	1.0	2.9	0.0

The Lifer's Group Inc. continues to emphasize that at parole hearings, lifers need to maintain control of their emotions, particularly when sensitive questions are raised by Parole Board members or if a Parole Board member challenges a lifer's truthfulness. Often such questions are posed precisely to gauge what, if any, negative reaction they may elicit. For instance, if a lifer states that he/she has learned various coping skills from programs such as Alternatives to Violence or Anger Management, including what his or her individual triggers are, and then reacts with hostility, the result will be a denial as the lifer has simply demonstrated that he/she has not learned the necessary skills well enough.

Lifers need also remember that questions asked by the Parole Board members are not to be taken personally. Often, such questions are designed to test whether a lifer is able to deal positively with adversity and is, therefore, ready to return to society possessing the skills to live a productive and crime-free life. It is the welfare of society which the Parole Board is more concerned about, then simply handing out second chances.

Lastly, lifers need to be honest about their program participation. Lying about programs one has allegedly completed or is participating in is a prescription for disaster. Parole Board members have a lifer's full history before them, including institutional programs, disciplinary history, whether or not a lifer has served in the armed forces, or graduated from college. Thus, claiming, for instance, to have attended faithfully programs such as 12-Steps invites the question: Which step is your favorite? Being unable to name a favorite step and why it is a lifer's favorite step only casts doubt on the lifer's truthfulness. Similarly, a lifer should never claim to be a veteran of the armed forces or having served in combat if neither assertion is true. These scenarios are not hypothetical. They have occurred and resulted in denials of parole. As stated earlier, but it bears repeating, Parole Board members judge a lifer's program participation not by the sheer volume of certificates a lifer produces, but what the lifer has learned in programs which addressed his/her needs. More important is how the lifer would use that knowledge to deal with any problems which may arise should he/she be paroled and if the lifer would be a productive citizen should the Parole Board return him/her to society.

In 2022, the Parole Board continued the trend begun in 2019 of decreasing the number of four-and five year Setbacks, while increasing the number of two and three year Setbacks. In 2022, the total number of one, two, and three year Setbacks was 75 of 87 or 86%. In 2021, the percentage was 74% (46 of 72) and 48% (32 of 67) in 2019 for the same subset.

In Table 10 below, the Setback numbers and percentages for the eighty-seven denials in 2022 are broken down by type of hearing: Initial, Review with no prior parole, and Review (*) after a revoked parole. The numbers in parentheses are the number of Records of Decision for each type of hearing.

TABLE 10

Hearing	1 Year	2 Years	3 Years	4 Years	5 Years
Initial (36)	2 6%	14 39%	16 44%	3 8%	1 3%
Review (44)	7 16%	19 43%	12 27%	5 12%	1 2%
Review* (7)	1 14%	3 43%	1 14%	2 29%	0 0%

Table 11 below gives the combined data for 2019 through 2022.

TABLE 11

Hearing	1 Year	2 Years	3 Years	4 Years	5 Years
Initial (105)	5 5%	22 21%	36 34%	27 26%	15 14%
Review (164)	7 4%	46 28%	50 30%	36 23%	25 15%
Review* (25)	1 4%	8 32%	9 36%	3 12%	4 16%

9) APPROVED LIFER DESTINATIONS

Of the eighty-four lifers approved for paroles in 2022, eleven were released to approved home plans and six to interstate transfers. Thirty-nine were approved to go to a Long Term Residential Program (LTRP), twenty-six of which were required to serve from six to eighteen months in lower security. Seven were paroled to I.C.E. Eight lifers' destinations were Residential Care Facilities and ten were paroled to Community Resources for Justice (CRJ) Transitional Housing programs.

Table 12 on page 12 presents the data for the destinations of approved lifers from 2018 through 2022. Those destination entries with Mos. indicate how many months the lifer was to spend in lower security before stepping down to a Long Term Residential Program.

the data is scant and more is needed from subsequent years in order to identify any trends. Thus, we are hesitant to make any recommendations for specific program participation. Restorative Justice (17 of 84 - 20% and the CRA (14 of 84 - 17%) are the most cited for Approvals, but those percentages are hardly overwhelming. What can be garnered from this distribution in Table 8 is that there is no one or two programs which will ensure a parole. Once again, the best path is to participate in those programs which meet a lifer's individual needs. A good practice would be to meet with one's case worker and/or institutional parole officer early in one's incarceration to devise a program plan and then follow it. If a lifer may have many years in, such a meeting can still be productive. Finally, the Lifer's Group Inc. is not suggesting that a lifer not participate in programs he/she finds interesting or enlightening, just to try to concentrate on successfully completing those programs which addresses a lifer's needs.

8) SETBACKS

In 2022, the Parole Board continued to assess Setbacks which are the number of years a denied lifer would have to serve before his/her next parole hearing. The Parole Board continued its policy of not offering any rationale for deciding the length of any Setback. In prior years, One Year Setbacks were reserved for tie votes. In 2023, however, the Parole Board assessed One Year Setbacks in ten Denials, seven of which were for tie votes. When there was a disagreement among Parole Board members in the length of the Setback to be served, a footnote cited the lack of unanimity, giving the number of Parole Board members who had voted for each length, but no reasons were included to account for the differences. The Parole Board has never explained what standards or guidelines, if any, exist for determining lengths of Setbacks or what Parole Board members may employ in making those decisions. Table 9 below presents the comparative data for the numbers and percentages of the various lengths of Setbacks given by the Parole Board from 2018 through 2022. The numbers in parentheses denote the total number of denials for each year.

TABLE 9

Year	1 Year		2 Years		3 Years		4 Years		5 Years	
2022 (87)	10	11%	36	41%	29	34%	10	12%	2	2%
2021 (72)	2	2%	22	31%	22	31%	19	26%	7	10%
2020 (67)	1	1%	11	16%	20	30%	19	29%	16	24%
2019 (69)	0	0%	8	11%	24	35%	18	26%	19	28%
2018 (90)	<u>4</u>	4%	<u>9</u>	10%	<u>24</u>	27%	<u>15</u>	17%	<u>38</u>	42%
Total (384)	17	5%	86	22%	119	31%	81	21%	82	21%

TABLE 13

Risk Level	# Approved	# Denied	Total	% Approved	% Denied
Low	17	13	30	57	43
Medium	45	33	78	58	42
High	16	35	51	31	69
No Risk Assess.	<u>1</u>	<u>3</u>	<u>4</u>	25	75
Total	79	84	163	48	52

That Low Risk lifers were denied at a higher rate than Medium Risk lifers begs an explanation from the Parole Board. It is troubling, to say the least, that four of every Low Risk lifers were denied paroles without explanations. It seems clear that the Parole Board is not utilizing the Risk Assessment results as they were intended, at least for Low Risk lifers who, based on their Low Risk to reoffend should be considered to be presumptively approved for paroles unless the Parole Board members can point to specific reasons why a parole should not be granted. While all denied lifers deserve detailed explanations why they were denied paroles, this applies especially for Low Risk lifers. Current legislation for equitable access to paroles has been filed by Representative Lindsay Sabadosa from Northampton. It includes a provision designed to correct the misuse of Low Risk Assessments. The Lifer's Group Inc. encourages all interested parties to support this legislation.

Table 14 below presents the Risk Assessment data provided by the Parole Board for 2017 through 2022. Note that Low Risk assessed lifers over the past six years were approved at a rate a mere six percentage points higher than those lifers assessed as Medium Risks.

TABLE 14

Risk Level	# Approved	# Denied	Total	% Approved
Low	55	47	102	54
Medium	202	218	420	48
High	47	149	196	24
Very High	1	17	18	6
No Risk Assess.	1	3	4	25

11) LIFERS SERVING LIFE FOR NON-HOMICIDES

Of the 171 Records of Decision for 2022, seventeen or 10% were for lifers who were serving life for crimes which did not include a loss of life, such as armed robbery, rape, or as an habitual offender. The number and number of Approvals for 2022 were the same as 2021.

TABLE 12

Destination	2022		2021		2020		2019		2018	
Home Plans	11	13%	17	18%	8	16%	8	22%	7	21%
LTRP- Direct	11	13%	10	11%	5	10%	4	11%	4	13%
LTRP - 6 Mo.	15	18%	7	8%	5	10%	3	8%	5	15%
LTRP - 9 Mo.	0	0%	4	4%	0	0%	1	3%	0	0%
LTRP - 12 Mo.	9	11%	13	15%	6	12%	5	14%	7	21%
LTRP - 18 Mo.	4	5%	1	1%	4	8%	3	8%	1	3%
LTRP - 24 Mo	0	0%	1	1%	0	0%	1	3%	0	0%
Res. Care Fac.	8	10%	15	16%	8	16%	0	0%	0	0%
CRJ	10	12%	0	0%	0	0%	0	0%	0	0%
Interstate	6	7%	9	10%	9	18%	8	22%	3	9%
I.C.E	7	8%	12	13%	3	6%	2	6%	6	18%
DMH	3	4%	0	0%	0	0%	0	0%	0	0%
Fed. Detainers	0	0%	2	2%	0	0%	0	0%	0	0%
Sober House	0	0%	1	1%	2	4%	1	3%	0	0%

10) RISK ASSESSMENTS

The Parole Board is required to administer a Risk Assessment Tool for every lifer who has a parole hearing. The use of Risk Assessment tools was intended to introduce a data based factor into the decision making process and, thus placng less reliance on unexplained discretionary factors. Unfortunately, the Records of Decision do not offer any specificity why a lifer who was rated as a Low Risk was denied a parole or what steps he or she should take in order to be considered suitable for a parole at his or her next parole hearing. The Parole Board, pursuant to a Public Records Request supplied the data for all Risk Assessments in 2022. Despite the legislative mandate, four lifers received no Risk Assessments in 2022. The Parole Board usually does not note on the Records of Decision the level of the individual lifer's Risk Assessment level, i.e., Very Low, Low, Medium, High, or Very High. A Very Low rating is extremely rare and th few have been combined with Low Risk Assessments. In 2021, there was only one lifer assessed as a Very Low Risk and none in 2022. Four Records of Decision in 2022 noted the lifer had scored as a Low Risk. All were approved for paroles.

Table 13 on page 13 contains the Risk Assessment data as reported by the Parole Board for 2022. Note that the total number of Records of Decisions for the Risk Assessment data for 2022 was 163, eight fewer than the total number of Records of Decision (171) analyzed in this report. The Lifer's Group Inc. has been unable to account for this difference.

length of time between Hearing Dates and Dates of Decision for those ninety-three Abbreviated Records of Decision was 18 calendar days, down 18 days from 2021 or a decrease of 11%.

December 1st and 5th in 2022 were very busy days for the Parole Board's General Counsel. On December 1st., the General Counsel signed eleven Records of Decision and sixteen more on December 5th. Those twenty-seven Records of Decision comprised 16% of the total of 171 for 2022.

Table 16 below presents the data for the average lengths of delay between Hearing Dates and Dates of Decision for the 171 Records of Decision as well as the data for the years 2018 through 2022.

TABLE 16

Lengths in Days	2022		2021		2020		2019		2018	
1 - 100	20	12%	10	6%	7	6%	0	0%	4	3%
101 - 200	77	45%	79	48%	39	33%	1	1%	2	2%
201 - 300	54	31%	42	26%	47	39%	73	65%	31	24%
300 +	<u>20</u>	12%	<u>33</u>	20%	<u>26</u>	22%	<u>39</u>	34%	<u>90</u>	71%
Total # of Dec.	171		164		119		113		127	
Ave. Length of Delays	189		215		225		290		310	

Since the change in Chairperson from Gloriann Moroney to Tina Hurley, the time between Hearing Dates and Dates of Decision decreased appreciably - seven less than 100 days, twenty-three from 100 - 200 days, and four from 200 to 250 days and no lengths of time over 250 days. That is good news, as is the fact that the average length of delays in calendar days between Hearing Dates and Dates of Decision continues to decrease. Still, an average of over 6 months is too long. The aforementioned legislation introduced by Representative Lindsay Sabadosa also addresses the long delays by mandating that the Parole Board take no more than 60 days from the Date of the Hearing to publish the decision.

13) JUVENILES AT THE TIME OF THE CRIME

Those under the age of 18 at the time of the commission of their crimes and were serving life-without-parole (LWOP) sentences became eligible for parole hearings after the *Diatchenko* decision by the Supreme Judicial Court (SJC) in 2014.

In 2022, sixteen juveniles formerly serving LWOP and who had completed at least fifteen

Table 15 below presents the number for each category of crime and the number approved for a parole for the years 2018 through 2022.

TABLE 15

Crime	2022		2021		2020		2019		2018	
	#	App.	#	App.	#	App.	#	App.	#	App.
Rape	12	3	10	3	8	0	9	1	5	0
Armed Rob/ Assaults	5	3	4	1	3	2	3	1	1	0
Unarm. Rob.	0	0	2	2	1	1	2	1	0	0
Burglary	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Totals	17	6	17	6	12	3	14	3	5	0
% App.	35		35		25		21		0	

12) TIME BETWEEN HEARING DATES AND DATES OF DECISION

Each Record of Decision notes both the date of the public hearing was held and a date of decision. The Date of Decision is not, however, as one might expect, the date the Parole Board members actually rendered their decision. Rather, the Date of Decision is the date the Parole Board's General Counsel signed the Record of Decision. The Parole Board's regulations require the members meet in a regularly scheduled executive session after a public hearing has been held - 120 CMR 301.06(6). The Parole Board denied a Public Records request from the Lifer's Group Inc. for a schedule of the dates when executive sessions were held.

In addition, lifers who have been denied are to be so notified "within 21 calendar days after the decision has been rendered." (120 CMR 301.08) For lifers who were denied paroles in 2022, the average length of time from the Hearing Date to the Date of Decision was 241 calendar days, 49 fewer than in 2021, or a decrease of 17%. The average number of calendar days between Hearing Dates and Dates of Decision for all Records of Decisions - Approvals and Denials - in 2022 was 189 calendar days, which was 26 fewer calendar days than the average for 2021, a decrease of 12%. In 2022, the shortest length of time between the two dates was 19 calendar days - for a lifer who had been commuted by then Governor Charlie Baker; the longest was 546 calendar days.

In 2022, Abbreviated Records of Decision were used for the first time not only for those who had been approved, but also for lifers who had been denied beginning with the Records of Decision dated December 1, 2022. The use of Abbreviated Decisions began during the COVID pandemic in order to reduce the time approved lifers had to wait to receive their Records of Decision. In 2022, there were ninety-three Abbreviated Records of Decision and the average

Attorney	# Represented	# of Approvals
John Rull	5	4
Deidre Thurber	5	1
Benjamin Brooks	5	3
Inna Landsman	4	3
Brian Kelly	4	1
Justin Breschler	3	1
Kelly Cusack	3	1
Kim Jones	3	2
Lisa Newman-Polk	3	0
Debra Beard-Bader	2	0
Michael Bourham	2	0
Elizabeth Caddick	2	2
Timothy Foley	2	2
Robert Hennessey	2	2
Adam Norris	2	1
Nicole Ouellette	2	1
Lorenzo Perez	2	0
Michael Phelan	2	1
Ryan Schiff	2	2

Table 17 below contains the data for approvals and denials for the 171 Records of Decision analyzed in this report for 2022 broken down by whether an attorney represented a lifer or no attorney was present at the hearing and the combined data for 2015 through 2022, a total of 998 Records of Decision.

TABLE 17

	# 2022 App.	# 2022 Den.	# 2015 - 2021 - App.	# 2015 - 2021 - Den.	Overall App. %
Attorney	72	64	268	336	44
No Attorney	<u>12</u>	<u>23</u>	<u>114</u>	<u>280</u>	29
Totals	84	87	382	616	38

Whether or not to engage representation at a parole hearing can be a difficult decision depending upon an individual lifer's needs. Certainly, those who are preparing for an Initial Hearing, particularly those with no one to assist them, should give careful consideration to obtaining representation. What a lifer presents in his/her parole package and how a lifer conducts him/herself at the hearing, particularly the Initial Hearing, will set a foundation for future Review Hearings, if a lifer is denied at an Initial Hearing. Note that in 2022, as in past years, student attorneys from Harvard, Northeastern, and Boston College provided excellent representation.

The number of Approvals versus Denials for any particular attorney, private or student, is not necessarily indicative of an attorney's skill in representing lifers. Each lifer's case is

years of incarceration appeared before the Parole Board. Eleven were approved for paroles - a parole rate of 68%. Since 2014, eighty-two parole hearings have been held for juveniles formerly serving LWOP sentences and for which the Lifer's Group Inc. has reviewed their respective Records of Decision. Of those eighty-two hearings, thirty-nine juveniles at the time of their crime(s) and serving LWOP were paroled, a parole rate of 48%.

In 2022, fifteen juveniles who were serving second degree life sentences, i.e., with the possibility of parole, appeared before the Parole Board after having served at least the requisite fifteen years of incarceration. Seven or 47% were approved for a parole.

In 2022, a total of thirty lifers who had committed their crimes before the age of 18 had parole hearings. Eight had Initial Hearings - three were approved, two originally having served LWOP but had their original sentences reduced in court to second degree life sentences and the other a second degree life sentence. Twenty-two had Review Hearings, fifteen or 68% were approved - nine of those eighteen juveniles had formerly been serving LWOP, but those sentences had been reduced to second degree life sentences through the courts..

14) ATTORNEY REPRESENTATION

Of the 171 Records of Decision analyzed by the Lifer's Group Inc. for 2022, it was noted that a lifer had been represented by counsel - private or student attorneys - in 136 or 80% of the Records of Decision for 2022. Individual private counsels were identified. Seventy-two lifers represented by counsel, private and student, were approved for paroles - an Approval Rate of 53%, a decrease from 62% in 2021. Of the thirty-five lifers who were not represented by counsel, twelve or 34% were approved for paroles, a decrease from 42% in 2021.

Student attorneys from Harvard (PLAP), Northeastern, and Boston College represented lifers at thirty-eight hearings in 2022 - twelve, fourteen, and twelve respectfully. Of those thirty-eight lifers represented by student attorneys in 2022, 25 or 66% were approved for paroles - 9 of 12 for Harvard, 10 of 14 for Northeastern, and 6 of 12 for Boston College. In contrast, the overall Approval Rate for lifers represented at hearings by practicing attorneys was 48%.

On two Records of Decision which resulted in Denials, the Parole Board noted that one of the lifers seemed "very overwhelmed by the parole hearing process" and the other "struggled to represent himself." In both Records of Decision, the Parole Board recommended that each lifer be represented by an advocate at their next parole hearings. Both lifers had Review Hearings. For one, it was his seventh parole hearing and for the other, his fourth parole hearing.

Fifty-nine practicing attorneys represented lifers at the parole hearings analyzed in this report. Thirty-eight represented one lifer each. The remaining twenty-one attorneys represented multiple lifers. The number each represented and the number of approvals were as follows:

16) FEMALE LIFERS

In 2022, of the 171 Records of Decision analyzed in this report, five female lifers went before the Parole Board for Initial Hearings and one was Approved. One female lifer went before the Parole Board for a Review Hearing and she was denied. The five female lifers who were denied in 2022 had a Denial Rate of 83% (5 of 6). All received two year Setbacks. The Approval Rate was a slim 17% (1 of 6). In comparison, the Approval Rate for males in 2022 was 50.3% (83 of 165).

In total for 2018 through 2022, fifteen female lifers went before the Parole Board - eight for Initial Hearings and seven for Review Hearings. Only two female lifers have been granted parole - an Approval Rate of 13%. For the thirteen female lifers who were denied, seven received two year Setbacks, two received three year Setbacks, four received four year Setbacks, and two received five year Setbacks.

Although the data remains scant, a 13% Approval Rate over five years is clearly very low, especially when compared to the overall Approval Rate of 45% for male lifers from 2018 through 2022.

17) VICTIM GENDERS

A question has been raised as to whether lifers whose victim was female were paroled at a significantly lower rate than lifers whose victims were male. In the 161 Records of Decision for 2022 where the victim's gender was identified, 104 were Records of Decision where the victim was male. The resultant parole rate was 54.8% (57 of 104). The number of Records of Decision in which the victim was female totaled fifty-seven of which nineteen were paroled for a parole rate of 33.3%

While 2022 is the first year the Lifer's Group Inc. has tracked this data set, there does seem that a substantial difference existed in 2022. We need to track this data for more years to discern whether there is a continuing trend or that 2022 was an anomaly. It will be some time before any definite conclusions can be made as to whether there is a significant difference in paroling rates when the victim is a female versus when the victim is a male. We shall endeavor to continue to track this data in the years to come.

RECOMMENDATIONS

A. ABBREVIATED DECISIONS

In 2022, the Parole Board continued the use of Abbreviated Decisions for the eighty-four Approvals. At the end of the year beginning on December 1st, the Parole Board also used

different and whether or not a lifer is approved or denied depends more on his/her program participation and what the lifer can articulate at the hearing concerning how he/she has changed and is ready to return to society than the presence of an attorney. Even the best attorney cannot overcome a lifer's poor institutional record and the absence of meaningful program participation.

15) ANALYSIS OF PAROLE DECISIONS BY RACE

As a lifer's race is not indicated on the Records of Decisions, the Lifer's Group Inc. submitted a Public Records Request for the racial breakdown for lifer decisions in 2022. The Parole Board responded with the relevant data which is presented in Table 18 below for 2022. Note that the total is 163 decisions, eight less than the number of Records of Decision analyzed in this report, i.e., 171. The Lifer's Group Inc. has been unable to reconcile the differences of five Approvals and three Denials.

TABLE 18

	Approvals	Denials	Total	% App.	% Den.
Caucasian	29	47	76	38	62
African/Amer.	33	20	53	62	38
Latino	16	16	32	50	50
Asian	1	0	1	100	0
Nat. Amer.	<u>0</u>	<u>1</u>	<u>1</u>	0	100
Totals	79	84	163	48	52

Table 19 below presents the combined data for the racial breakdowns of decisions for lifers from 2020 through 2022.

TABLE 19

	Approvals	Denials	Total	% App.	% Den.
Caucasian	81	103	184	44	56
African/Amer.	91	70	161	57	43
Latino	53	45	98	54	46
Asian	10	0	10	100	0
Nat. Amer.	<u>3</u>	<u>1</u>	<u>4</u>	75	25
Totals	238	219	457	52	48

Note that those numbers are Docket Numbers and the bills will be assigned other numbers, but the titles will remain the same. Among this bill's provisions is that Low Risk lifers should be presumed to be paroled unless the Parole Board can specify why a parole is not to be granted and that there would be a 60 day limit from the Hearing Date for lifers to receive their decisions.

Recommendation - The Lifer's Group Inc. encourages all those who are concerned with equitable access to parole, especially for lifers, to support this legislation by contacting not only Representative Sabadosa and/or Senator Miranda, but your own representative and senator with letters, phone calls, or emails expressing that you want this bill to be passed.

EXCERPTS FROM 2022 RECORDS OF DECISION

The following eight excerpts are quoted directly from 2022 Records of Decision. The names of the lifers have been deleted. The Lifer's Group Inc. has no intent to embarrass nor to ridicule any lifer, hence the deletion of names. Rather, the intent is to offer insight into the decision making parameters employed by the Parole Board members in order to assist lifers in preparing for parole hearings. All the excerpts are from Denials as the Abbreviated Decisions for Approvals did not include any dialogue between Parole Board members and a lifer during those hearings.

1) Board Members expressed concern that _____'s factual account of the murder has changed over time. Until 2017, _____ stated that he was acting in self-defense, an excuse he has now abandoned. Despite evidence that others participated in the murder by holding down the victim, _____ continued to assert that he acted alone. The Board expressed their concern that the evolution of his story was disingenuous.

This lifer was denied after a 2-2 vote at a Review Hearing and given a one year Setback

2) _____'s varying versions of the details of the murder lack candor and do not appear to be truthful to the Board. The Board does not credit the version of events he provided at the hearing. He continues to deny facts that are consistent with the evidence and his own prior testimony before the Board.

This lifer was denied at a Review Hearing and given a four year Setback.

3) The Board expressed concerns that _____ lacks empathy, citing an evaluation that deemed him 'completely devoid of conscience.' Although the Board recommended the Restorative Justice Program as a way to better understand the point of view of his victim, _____ resisted this suggestion, stating that he has been forgiven by himself and by God.

This lifer was denied at a Review Hearing and given a four year Setback.

Abbreviated Decisions for Denials as well. While this may serve to shorten the time between Hearing Dates and Dates of Decision, a substantial amount of information is no longer provided. In Abbreviated Decisions the description of the Parole Hearing is eliminated. This section was the source of much of the data used for these reports. The reasons for lifers being brought back from paroles as well as input from District Attorney's offices had already been eliminated in Abbreviated Decisions. The description of the hearing itself often proved fruitful ground for Excerpts and the ages of the lifers. If the Parole Board continues to publish only Abbreviated Decisions, the Lifer's Group Inc. will be severely limited in extracting the data for which these reports have depended.

Recommendation - If the Parole Board continues to publish Abbreviated Decisions, then the Parole Board should restore the description of the hearing and shorten the lengthy description of the crime and curtail the repetitive boilerplate language which permeates all Abbreviated Decisions.

B. RISK ASSESSMENTS

The Parole Board continues to discount Risk Assessment ratings of Low Risk. In 2022, 43% of Low Risk lifers were denied paroles, while 42% of Medium Risk lifers were denied paroles. This imbalance is counter-intuitive, assuming the Risk Assessment tool the Parole Board is using is valid, an assumption even the Parole Board seems not to endorse. The Legislature mandated that the Parole Board use a Risk Assessment for each lifer in order to introduce empirical data to offset any misuse of the discretionary powers of Parole Board members who have ignored the intent of the Legislature.

Recommendation - Those assessed as Low Risks to reoffend should be presumed to be paroled unless the Parole Board can articulate specific reasons why a parole should be denied, including specifically what the denied lifer needs to address before the next parole hearing.

C. LEGISLATION

Among the numerous criminal justice bills filed for this session, one impacts paroles directly and requires much needed improvements in the make-up of the Parole Board and how it conducts its business.. As mentioned earlier in this report, Representative Lindsay Sabadosa from Northampton has filed a bill entitled An Act To Promote Equitable Access To Parole (HD1984). Senator Liz Miranda of Boston has filed similar legislation in the Senate (SD1048).

4) Although he has engaged in programming, the Board remains concerned that he is not able to exhibit that he has benefited from the programs. He has incurred over 100 disciplinary reports throughout his incarceration and has had nine disciplinary reports since he last saw the Board in 2017. The Board has concerns about his explanations and rationale for some of the disciplinary reports he has incurred, particularly for those involving substances.

This lifer was denied at his fifth Review Hearing and given a four year Setback.

5) The parole plan _____ provided was vague and not adequate to address the challenges he will face in the community. He does not have a support system in place that will assist him in facing challenges he will encounter in society after many years of incarceration. He is encouraged to work with reentry and counsel to address all his needs and to identify an appropriate plan.

This lifer was denied at a Review Hearing and given a two year Setback

6) _____ has not engaged in any new programming efforts since 2011. _____ reaffirmed his refusal to participate in additional programming efforts, stating that he has 'done enough' and was too old to benefit from them. When questioned about his potential parole plan, _____ had very few specifics to offer to the Board. He expressed a wish to self-isolate and reported a significant lack of community support.

This lifer was denied after a Review Hearing and given a four year Setback.

7) Although _____ had overall positive conduct, in its last decision, the Board recommended that _____ participate in programming to address candor, empathy, domestic violence, and criminal thinking. However, _____ did not follow the Board's suggestion, and he continues to make disparaging remarks about the victim.

This lifer was denied at a Review Hearing and given a two year Setback.

8) He told the Board he was running a store in violation of DOC rules, which leads the Board to believe he is still engaged in criminal thinking. The Board encourages _____ to pursue vocational training, refrain from incurring additional disciplinary reports, and stop the operation of the store he runs in the institution.

This lifer was denied after a Review Hearing and given a two year Setback.

