

PAROLE DECISIONS FOR LIFERS

FOR THE YEAR 2023

Prepared For The

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Parole Decisions For Lifers - 2023

Table of Contents

Highlights	Page 1
Introduction	Page 2
Results	
Approval / Denial Rates	Page 3
Initial Hearings	Page 4
Review Hearings	Page 4
Approval Rates For Three Types of Hearings	Page 5
Approval Factors	Page 6
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 14
Times Between Hearing Dates and Dates of Decision	Page 14
Juveniles At The Time Of Their Crimes	Page 15
Attorney Representation	Page 16
Analysis Of Parole Decisions By Race	Page 19
Female Lifers	Page 20
Gender Of Victims	Page 21
Discussion	Page 21
Excerpts From 2023 Records of Decision	Page 23
End Notes	Page 25
Attribution	Page 26

Highlights For Paroles For Lifers in 2023

- 1) 138 Records of Decision are analyzed in this report. Page 2
- 2) The overall Approval Rate was 55.1% Page 3
- 3) The Approval Rate for Initial Hearings was 21.9%. Page 4
- 4) The Approval Rate for Review Hearings was 65.1%. Page 4
- 5) Addressed Areas of Need was the most cited Approval Factor. Page 6
- 6) Unaddressed Issues was the most cited Denial Factor. Page 7
- 7) Restorative Justice was the program most often cited for Approved lifers. Page 9
- 8) 8 of 62 denied lifers received four or five year Setbacks. Page 10
- 9) 65% of lifers assessed as Low Risks were paroled. Page 13
- 10) 55% of lifers assessed as Medium Risks were paroled. Page 13
- 11) 11 of 19 lifers serving life for crimes other than murder were paroled. Page 14
- 12) 86 days was the average time between Hearing Dates and Dates of Decision. Page 15
- 13) 6 of 10 juveniles who had been serving LWOP were paroled. Page 16
- 14) 5 of 9 juveniles serving second degree life sentences were paroled. Page 16
- 15) The Approval Rate for lifers represented by counsel was 59%. Page 16
- 16) The Approval Rate for Lifers not represented by counsel was 41%. Page 16
- 17) The Approval Rates for Caucasians were 52%, for African/Americans - 58%, and for Latinos - 57%. Page 19
- 18) 3 of 5 female lifers (60%) were approved for paroles. Page 20
- 19) Lifers with female victims were paroled at a rate of 43.5%; lifers with male victims were paroled at a rate of 59.8%. Page 21

INTRODUCTION

This is the seventeenth 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 2023. The total number of Records of Decision analyzed in this report is 138. All calculations and tables presented in this report were calculated by the author based on data extrapolated from the 138 Records of Decision for 2023 provided by the Parole Board, except for the percentages for the Risk Assessments and the Racial Breakdown which were provided by the Parole Board. Those calculations are 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 involving the taking of a life, e.g., rape, armed robbery or as an habitual offender.

In 2023, of the 138 Records of Decision, 116 or 84% of those decisions were unanimous, the same percentage in 2022. The remaining 22 Records of Decisions broke down as follows: eight 5-1 decisions, four 4-2 decisions, four 3-3 decisions, four 3-1 decisions, and two 2-2 decisions.

Massachusetts General Law, c. 127, sec. 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

Parole Report For Lifers - 2023 cont.

whether the four goals of sentencing have been met, namely punishment, public safety, deterrence, and rehabilitation, in that order.

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. This report and other recent Lifer's Group Inc. reports can be accessed on Facebook @LifersGroupMCINorfolk as well.

RESULTS

1) Approval / Denial Rates

Of the 138 Records of Decision for 2023, 76 (55.1%) were approvals; 62 (44.9%) were denials. Table 1 below presents the data for Approval / Denial Rates for 2019 through 2023.

Table 1

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2023	138	76	55.1	62	44.9
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	<u>113</u>	<u>44</u>	38.9	<u>69</u>	61.1
Totals	705	349	49.5	356	50.5

The Approval Rate for 2023 was the second time an Approval Rate exceeded 50% and the second highest Approval Rate reported by the Lifer's Group Inc. since 2003, the first year for which the Lifer's Group published its reports on paroles for lifers. As indicated in Table 1 above, the average Approval Rate for the past five years was slightly below 50%. This stands in stark contrast to the Approval Rate pre-2020. See End Note (1) for the Approval Rates from 2003 through 2023.

Parole Report For Lifers - 2023 cont.

2) Initial Hearings

In 2023, 32 lifers appeared before the Parole Board for the first time. Seven (21.9%) were approved for paroles. This Approval Rate was below the 25% Approval Rate in 2022, but exceeded the 20% Approval Rate for Initial Hearings in 2021. As with the overall Approval Rate in Table 1 on page 3, the Approval Rate for Initial Hearings in 2023 was significantly higher than the Approval Rate (11.1%) for Initial Hearings for 2019 and 2020 combined. Table 2 below presents the data for Initial Hearings from 2019 through 2023.

Table 2

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2023	32	7	21.9	25	78.1
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	<u>11</u>	<u>0</u>	0.0	<u>11</u>	100.0
Totals	161	31	19.2	129	80.1

3) Review Hearings

The Approval Rate for all Review Hearings held in 2023 was 65.1% (69 of 106), an increase from 58.5% in 2022. Of the 106 Review Hearings in 2023, 87 were for lifers who had never been previously paroled. The Approval Rate for this subset was 60.9% (53 of 87), a slight decrease from 59.3% in 2022. The remaining 19 had Review Hearings after having had a previous parole revoked. Of that subset, 16 were approved, an approval Rate of 84.2%, an increase from 53.3% in 2022. Table 3 below presents the Approval and Denial Rates for all Review Hearings for 2019 through 2023.

Table 3

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2023	106	69	65.1	37	34.9
2022	123	72	58.5	51	41.5

Parole Report For Lifers - 2023 cont.

Table 3 cont.

Year	# of Hearings	Approvals		Denials	
		#	%	#	%
2021	129	85	65.9	44	34.1
2020	85	47	55.3	38	44.7
2019	<u>102</u>	<u>44</u>	43.1	<u>58</u>	56.9
Totals	545	317	58.1	228	41.9

Table 4 below presents the Approval Rate data for both subsets of Review Hearings for 2019 through 2023.

Table 4

Year	# of Hearings	Non-Revoked Approvals		Revoked Approvals	
		#	%	#	%
2023	87	52	60.9	19	84.2
2022	108	64	59.3	15	53.3
2021	107	65	60.7	22	90.9
2020	68	36	52.9	17	64.7
2019	<u>74</u>	<u>27</u>	36.5	<u>28</u>	<u>60.7</u>
Totals	444	244	55.0	101	71.3

4) Approval Rates For The Three Types Of Hearings

Table 5 below presents the comparative Approval Rates for each type of parole hearing from 2019 through 2023.

Table 5

Year	Initial	Review - No Revocation	Review After A Revocation
2023	21.9%	60.9%	84.3%
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%

Parole Report For Lifers - 2023 cont.

5. Approval Factors

Four factors and the respective frequency percentages for each factor for 2023 are listed in Table 6 below as well as the data for 2019 through 2023. Overall, the Lifer's Group Inc. has reported on thirteen total Approval factors. In 2023, no other factor than those listed in Table 6 were cited more than twice and most were not listed at all.

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

Table 6

Factor	2023 (76)	2022 (84)	2021 (92)	2020 (52)	2019 (44)
Addressed Areas of Need	92	79	76	90	84
Active Program Participation	76	96	96	94	80
Strong Community Support	53	38	32	25	39
Minimal Discip. History	26	26	16	12	27

Addressing Areas of Need, especially for those who had Review Hearings, for the first time was cited more often than Active Program Participation. Yet, the two factors go hand-in-hand. What is important to the Parole Board is not the total number of programs a lifer has engaged in, but what programs and what did the lifer learn from participation in said programs ~~were designed to~~ address the areas of need of each lifer. See Section 7 for listings of programs cited by the Parole Board in 2022 and 2023.

Determining which areas that need to be addressed is primarily left up to each individual lifer, although the Parole Board has on occasion noted such areas in Records of Decision. It is clear, however that mere attendance in programs is considerably less important

Parole Report For Lifers - 2023 cont.

than what a lifer communicates to Parole Board members that he/she has learned and how that knowledge will be applied should the lifer be paroled. Some lifers profess to engage in personal self-improvement plans or religious conversions. Parole Board members, while not discounting such work, do not view those as adequate substitutes for meaningful program participation provided by the DOC, whether a lifer feels he/she needs the programs or not.

Accepting responsibility, expressing remorse and compassion for victims and their family members, and having a solid parole plan are minimum thresholds a lifer needs to pass over for the Parole Board to give serious consideration whether or not a parole is warranted. The absence of any of those factors, however, is enough to cause the Parole Board to deny a parole.

6) Denial Factors

In 2023, eighteen separate factors were cited for denying parole. Most Records of Decision in which a lifer was denied a parole cited multiple factors. As with 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 2023 Denial Factors from 2019 through 2023. The total number of denials for each year is noted in parentheses below the year. Only those nine Denial Factors which were cited in at least 15% of the 2023 Denials are included.

Table 7

Factor	2023 (62)	2022 (87)	2021 (72)	2020 (67)	2019 (69)
Unaddressed Issues	47	52	57	69	29
Needs Longer Adj. Period	39	33	43	58	41
Serious Disc. History	37	36	32	28	15
Lack of Insight	32	17	50	34	28

Parole Report For Lifers - 2023 cont.

Factor	2023 (62)	2022 (87)	2021 (72)	2020 (67)	2019 (69)
Lack of Compassion or Remorse	23	20	15	5	3
Mental Health Issues	19	32	20	10	16
Limited Prog. Partic.	19	24	13	25	0
Unresolved Sex Issues	18	11	26	18	13
Violent Hist. in Prison	15	14	11	6	4

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. Often such questions are posed precisely to gauge what, if any, negative reactions 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 triggers are, and then reacts with hostility, the lifer probably would be denied as he/she has simply demonstrated that he/she had not applied the necessary skills well enough. The Parole Board wants to know how a lifer would use the knowledge he/she had learned 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. It is the welfare of society which the Parole Board is more concerned about, rather than simply handing out second chances.

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 programming, disciplinary history, whether or not a lifer has served in the armed forces, or graduated from college. Thus, claiming to attended faithfully programs such as 12-Steps invites the question: Which step is your favorite or was most meaningful for you? Being

Parole Report For Lifers - 2023 cont.

unable to name a favorite step or the one found to be most impactful and why only casts doubt on the lifer's truthfulness. Similarly, a lifer should not claim to be a veteran of the armed forces or having served in combat if neither assertion was true. These scenarios are not hypothetical. They have occurred and resulted in denials of parole with long Setbacks.

7) Programs Noted By The Parole Board In 2023

Table 8 below lists the number of times in numerical order a particular program was cited by the Parole Board in Approvals for 2023 and 2022.

Table 8

Program	2023 Approvals	2022 Approvals
Restorative Justice	25	17
Violence Reduction	14	5
AA / NA	12	8
CRA	11	14
Jericho Circle	9	4
Emotional Awareness	9	1
Criminal Thinking	7	7
Alternatives to Viol.	6	9
Anger Management	3	3
Pathway To Recovery	3	0
GED	2	13
Toastmasters	2	0
Lifer's Group	2	0
Second Thoughts	1	0

The total number of Approvals for 2023 was 76 and 84 in 2022. What can be garnered from this distribution in Table 8 is that there is no one nor 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-

Parole Report For Lifers - 2023 cont.

tion to devise a program plan and then follow it. Even 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 address a lifer's needs.

8) Setbacks

The Parole Board assesses Setbacks from one to five years a denied lifer would have to serve before his/her next parole hearing. In 2023, the Parole Board continued its policy of not offering any rationale for deciding the particular length of a Setback. Prior to 2022, One Year Setbacks were reserved for tie votes which result in a denial. In 2023, there were nine One Year Setbacks, six of which were for tie votes. Table 9 below presents the comparative data for the various lengths of Setbacks given by the Parole Board from 2019 through 2023. The numbers in parentheses denote the total number of denials for each year.

Table 9

Length	2023 (62)	2022 (87)	2021 (72)	2020 (67)	2019 (69)
1 Year	9 15%	10 11%	2 2%	1 1%	0 0%
2 Years	26 42%	36 41%	22 31%	11 16%	8 11%
3 Years	19 31%	29 34%	22 31%	20 30%	24 35%
4 Years	4 6%	10 12%	19 20%	19 29%	18 26%
5 Years	4 6%	2 2%	7 10%	16 24%	19 28%

The total number of Denials from 2019 through 2023 was 357. Of that 357, 22 (6%) were One Year Setbacks, 103 (29%) were Two Year Setbacks, 114 (32%) were Three Year Setbacks, 70 (20%) were Four Year Setbacks, and 48 (13%) were Five Year Setbacks.

In 2023, the Parole Board continued the trend begun in 2021 of decreasing the number of four and five year Setbacks, while increasing the number of two and three year Setbacks. In 2023, the total number of one, two, and three year Setbacks was 54 of 62 (87%).

Parole Report For Lifers - 2023 cont.

In 2022, the percentage was 86% (75 of 87) and 74% (46 of 72) in 2020 for the same subset.

In Table 10 below, the Setback numbers and percentages for the sixty-two denials in 2023 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 numbers of Records of Decision for each type of hearing.

Table 10

Hearing	1 Year		2 Years		3 Years		4 Years		5 Years	
Initial (25)	3	12%	10	40%	6	24%	3	12%	3	12%
Review (34)	5	15%	15	44%	12	35%	1	3%	1	3%
Review* (3)	1	33%	1	33%	1	33%	0	0%	0	0%

Table 11 below gives the combined data for 2019 through 2023.

Table 11

Hearing	1 Year		2 Years		3 Years		4 Years		5 Years	
Initial (130)	8	6%	32	25%	42	32%	30	23%	18	14%
Review (198)	12	6%	61	32%	62	32%	37	19%	21	11%
Review* (28)	2	7%	9	32%	10	36%	3	11%	4	14%

The average length of Setbacks has decreased steadily from 2019 through 2023. Beginning at 3.69 years in 2019, to 3.56 in 2020, to 3.10 in 2021, to 2.52 in 2022, and to 2.48 in 2023. From 2019 to 2023, the average length of Setbacks decreased by over one year or 33%.

9) Approved Lifer Destinations

Of the 76 lifers approved for paroles in 2023, 9 were released to approved home plans and 7 to interstate transfers. Thirty-two were approved to go to a Long Term Residential Program (LTRP), 14

Parole Report For Lifers - 2023 cont.

of which were required to serve from 6 to 18 months in lower security. Three were paroled to I.C.E. Fifteen lifers' destinations were various Residential Care Facilities or Halfway Houses and 10 were paroled to Community Resources for Justice (CRJ) Transitional Housing programs.

Table 12 below present the data for the destinations of approved lifers from 2020 through 2023. Those destination entries with Mos. indicate how many months a lifer was to spend in lower security before entering a Long Term Residential Program. The number in parentheses after each year indicates the total number of Approvals.

Table 12

Destination	2023 (76)		2022 (84)		2021 (92)		2020 (52)		2019 (44)	
Home Plans	9	12%	11	13%	17	18%	8	16%	8	22%
LTRP - Direct	18	24%	11	13%	10	11%	5	10%	4	11%
LTRP - 6 Mo.	5	7%	15	18%	7	8%	5	10%	3	8%
LTRP - 9 Mo.	4	5%	0	0%	4	4%	0	0%	1	3%
LTRP - 12 Mo.	0	0%	9	11%	13	15%	6	12%	5	14%
LTRP - 18 Mo.	3	4%	4	5%	1	1%	0	0%	1	3%
Res. Care Fac. - Half- way Houses	15	20%	8	10%	15	16%	8	16%	0	0%
CRJ	10	13%	10	12%	0	0%	0	0%	0	0%
Interstate	7	9%	6	7%	9	10%	9	18%	8	22%
I.C.E.	3	7%	7	8%	12	13%	3	6%	2	6%
Fed. Detainers	0	0%	0	0%	2	2%	0	0%	0	0%

10) Risk Assessments

The Parole Board is required to administer a Risk Assessment Tool for every lifer who has a parole hearing. Risk Assessment tools are intended to introduce a data based factor into the decision making process and, thus, place less reliance on unexplained

Parole Report For Lifers - 2023 cont.

discretionary factors. The Parole Board, pursuant to a Public Records Request supplied the data for all Risk Assessments in 2023. (2) Risk Assessment levels are: Very Low, Low, Medium, High, or Very High. A Very Low rating is extremely rare. In 2023, no lifer was assessed as a Very Low Risk. The Parole Board usually does not note on the Records of Decision a lifer's Risk Assessment Level. Table 13 below contains the Risk assessment data as reported by the Parole Board for 2023.

Table 13

Risk Level	# App.	# Den.	Total	% App.	% Den.
Low	13	7	20	65	35
Medium	47	39	86	55	45
High	17	16	33	52	48
Very High	0	1	1	0	100
No Risk Assess.	<u>0</u>	<u>1</u>	<u>1</u>	0	100
Totals	77	64	141	55	45

Table 14 below presents the Risk Assessment data provided by the Parole Board for 2017 through 2023. Note that Low Risk lifers over the past seven years were approved at a rate only seven percentage points higher than those lifers assessed as Medium Risks. While in 2023, Low Risk lifers were paroled at a rate 10 points higher than Medium Risk lifers. Still, over one-third of Low Risk lifers being denied seems high without specific reasons cited for each of those denials. Lifers assessed as Low Risks to reoffend should be presumptively approved for paroles unless the Parole Board members can point to specific areas a lifer needs to address before his/her next parole hearing.

Table 14

Risk Level	# App.	# Den.	Total	% App.
Low	68	54	122	56
Medium	249	257	506	49
High	64	165	229	25

Parole Report For Lifers - 2023 cōnt.

Risk Assessments cont.

Risk Level	# App.	# Den.	Total	% App.
Very High	1	18	19	5
No Risk Assess.	1	4	5	20

11) Lifers Serving Life For Non-Homicides

Of the 138 Records of Decision for 2023, 19 or 4% were for lifers who were serving for crimes which did not include the loss of a life, such as armed robbery, rape, or as an habitual offender. Table 15 below presents the number for each category of crime and the number approved for a parole for the years 2019 through 2023.

Table 15

Crime	2023		2022		2021		2020		2019	
	#	App.	#	App.	#	App.	#	App.	#	App.
Rape	8	4	12	3	10	3	8	0	9	1
Armed Rob/ Assaults	5	4	5	3	4	1	3	2	3	1
Unarm, Rob.	2	1	0	0	2	2	1	1	2	1
Burglary	<u>4</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Totals	19	11	17	6	17	6	12	3	14	3
% App.	58%		35%		35%		25%		21%	

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 the date the Parole Board members actually rendered their decision. Rather, the Date of Decision is the date the Record of Decision is endorsed by either the General Counsel or the Chairperson.

Lifers who have been denied are to be so notified "within 21 calendar days after the decision has been rendered." (120 CMR 301.08) In 2023, the average number of calendar days between Hearing Dates and Dates of Decision for all Records of Decision

Parole Report For Lifers - 2023 cont.

was 86 days, which was 103 fewer than the average for 2022, a decrease of 55%. This was a significant reduction and reflects the change in chairperson from Gloriann Moroney to Tina Hurley and the emphasis Chairperson Hurley has put on producing Records of Decision in a more timely manner. Table 16 below presents the data for the average lengths of time between Hearing Dates and Dates of Decision for the 138 Records of Decision in 2023 as well as the data for the years 2019 through 2023.

Table 16

Lengths in Days	2023		2022		2021		2020		2019	
1-100	101	73%	20	12%	10	6%	7	6%	0	0%
101-200	37	27%	77	45%	79	48%	39	33%	1	1%
200-300	0	0%	54	31%	42	26%	47	39%	73	65%
301 +	<u>0</u>	0%	<u>20</u>	12%	<u>33</u>	20%	<u>26</u>	22%	<u>39</u>	34%
Total # of Decisions	138		171		164		119		113	
Ave. Delay	86		189		215		225		290	

Note that the average length of delay has decreased from 2019 to 2023 by 70% (290 to 86 or 204 days). Lifers no longer have to wait nine months or more on average. This is a major improvement and Chairperson Hurley and her staff are to be congratulated on their work. It is hard to fathom why it took Parole Board, prior to Ms. Hurley's becoming Chairperson, over nine months to do what the present Parole Board staff has accomplished in less than three.

13) Juveniles At The Times Of The Crimes

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 2023, ten juveniles formerly serving LWOP and who had completed at least fifteen years of incarceration appeared before the

Parole Report For Lifers - 2023 cont.

Parole Board. Six were approved for paroles - an Approval Rate of 60%. Since 2014, ninety-two parole hearings have been reviewed by the Lifer's Group Inc. for juveniles formerly serving LWOP sentences. Of those ninety-two hearings, forty-five juveniles at the time of their crimes and serving LWOP were paroled, an Approval Rate of 49%.

In 2023, nine juveniles who were serving second degree life sentences, appeared before the Parole Board. Five or 56% were approved for a parole.

In 2023, a total of nineteen lifers who had committed their crimes before the age of 18 had parole hearings. Six had Initial Hearings - two (33%) were approved for paroles. Thirteen had Review Hearings, nine or 69% were approved for paroles.

14) Attorney Representation

Of the 138 Records of Decision analyzed by the Lifer's Group Inc. for 2023, 111 of the lifers were represented by attorneys - 80% of the lifers. Attorney representation was either by a private attorney or by student attorneys from Northeastern, Harvard, or Boston College. Individual private attorneys were identified. Of the 111 lifers represented by counsel, 65 were approved - an Approval Rate of 59%, an increase from 53% in 2022. Of the 29 lifers who were not represented by counsel, 11 or 41% were approved for paroles, a slight decrease from 42% in 2022.

Student attorneys represented lifers at 47 hearings in 2023 - 19 from Harvard, 13 from Northeastern, and 15 from Boston College. Of those 47 lifers represented by student attorneys in 2023, 25 or 55% were approved for paroles. The Approval rate for lifers represented by private attorneys was 61% (39 of 64).

Sixty-four practicing attorneys represented lifers at the parole hearings in 2023. Of those 64, 52 represented one lifer each. The remaining 12 attorneys represented a multiple number of lifers. The number each represented and the number of approvals are listed in Table 17 on the next page.

Parole Report For Lifers - 2023 cont.

Table 17

Attorney	# Represented	# of Approvals
Deidre Turber	9	4
John Rull	8	3
Brian Kelly	5	2
Jason Benzaker	3	3
Kim Jones	3	2
Stephen Weymouth	2	2
Justin Breschler	2	0
Rosemary Scapachio	2	2
Matthew Koes	2	0
Richard Goldman	2	0
Ryan Schiff	2	0
Lisa Newman-Polk	2	0

Table 18 below contains the data for approvals and denials for the 138 Records of Decision analyzed in this report for 2023 broken down by whether an attorney represented a lifer or no attorney was present at the hearing and the combined data for 2015 through 2023, a total of 1,136 Records of Decision.

Table 18

	# 2023 App.	# 2022 Den.	# 2015 - 2023 App.	# 2015 - 2023 Den.	Overall App. %
Attorney	65	46	333	382	47
No Attorney	<u>11</u>	<u>16</u>	<u>125</u>	<u>245</u>	30
Totals	76	62	458	678	40

Whether or not to engage representation at a parole hearing can be a difficult decision depending upon an individual lifer's needs. Those who are preparing for an Initial Hearing should give careful consideration to obtaining representation if one can. Juveniles are appointed representation since the Diatchenko decision. It is important to remember that how a lifer presents him/herself at a parole hearing and the contents of a lifer's parole package, particularly at Initial Hearings, will set a foundation for future

Parole Report For Lifers - 2023 cont.

Review Hearings, if a lifer is denied at an Initial Hearing. Thus, having representation at a lifer's Initial Hearing can be most advantageous by assisting the lifer to "get off on the right foot."

The number of Approvals versus Denials for any one particular attorney, private or student, is not necessarily indicative of an attorney's skill in representing lifers. Each Lifer's case is different and whether or not a lifer is approved or denied depends far more on his/her program participation and how the lifer articulates at the hearing concerning how he/she has changed and is ready to return to society than the mere presence of an attorney. Even the best attorney cannot overcome a lifer's poor institutional record and the absence of meaningful program participation.

In addition, whether an attorney is representing a lifer at an Initial Hearing or a Review Hearing makes a substantial difference in assessing any attorney's success rate. While the Parole Board continued Approval Rates of 20% or higher, begun in 2021, for Initial Hearings, the expectation of a parole at an Initial Hearing is still on average 2 of every 10. On the other hand, the expectation for an approval after a Review Hearing is 6.5 out of every 10.

These results do not indicate whether a private attorney or a student represented the lifers at Initial Hearings. Nor, do the results indicate whether private attorneys or students are any less proficient. What the results do indicate is that the Parole Board is far more prone to approve paroles after Review Hearings than after Initial Hearings, perhaps believing that on average a lifer should serve in excess of 15 years before being paroled. These conclusions are reinforced when analyzing the results for lifers who were not represented by counsel. For that subset of lifers, of the 27 lifers, 7 had Initial Hearings and only one was approved for a parole, i.e., 1 of 7. Twenty had Review Hearings and 9 were paroled or 4.5 out of 10.

A few private attorneys represented numerous individual lifers since 2015, the first year the Lifer's Group Inc. began tracking attorney representation. Six private attorneys represented the most, i.e., ten or more lifers from 2015 through 2023. Table 19 on page 19 lists those six attorneys. One stands out above all the rest, repre-

Parole Report For Lifers - 2023 cont.

senting more than the other five combined.

Table 19

Attorney	# Represented	# App.	% App.
John Rull	74	28	38%
Jason Benzaken	21	14	67%
Lisa Newman-Polk	15	3	20%
Deidre Thurber	14	5	36%
Brian Kelly	12	4	33%
Justin Brascheler	10	3	30%

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 lifers decisions in 2023. The Parole Board responded with the relevant data which are presented in Table 20 below. Note that the total number of decisions is 141. (3)

Table 20

Race	Approvals	Denials	Total	% App.
Caucasian	32	29	61	52
African/Amer.	29	21	50	58
Latino	13	10	23	57
Asian	1	3	4	25
Nat. Amer.	<u>2</u>	<u>1</u>	<u>3</u>	67
Totals	77	64	141	55

Table 21 below presents the combined data for the racial breakdowns of decisions for lifers from 2020 through 2023.

Table 21

Race	Approvals	Denials	Total	% App.
Caucasian	113	132	245	46
African/Amer.	120	91	211	57
Latino	66	55	121	55

Parole Report For Lifers - 2023 cont.

Table 21 cont.

Race:	Approvals	Denials	Total	% App.
Asian	11	3	14	79
Nat. Amer.	<u>5</u>	<u>2</u>	<u>7</u>	72
Totals	315	283	598	53

16) Female Lifers

In 2023, of the 138 Records of Decision analyzed in this report, one female lifer went before the Parole Board for an Initial Hearing and she was denied. Four female lifers had Review Hearings in 2023. Three were approved and one was denied for an Approval Rate of 75% for Review Hearings and a 60% Approval Rate overall, a significant increase from previous years.

From 2018 through 2023, twenty female lifers went before the Parole Board - 9 for Initial Hearings and 11 for Review Hearings. Five were approved for paroles - an Approval Rate of 25%. For the 15 female lifers who were denied, one received a one year Setback, 5 received 2 year Setbacks, 2 received 3 year Setbacks, 4 received 4 year Setbacks, and 3 received 5 year Setbacks, one of which was in 2023.

The data remain scant, a 25% Approval Rate over six years is low, especially compared to the overall approval Rate of 55% (352 of 645) for male lifers from 2018 through 2023. It is encouraging, however, that in 2023, the Approval Rate for female lifers was 60%.

17) Victims' Genders

In 2022, the Lifer's Group Inc. began to analyze whether or not the gender of the victims influenced the Parole Board's decisions. In the 128 Records of Decision for 2023 where the victim's gender was identified, 82 of those Records of Decision had victims who were males. The resultant Approval Rate was 59.8% (49 of 82). The number of Records of Decision in which the victim was identified as female totaled 46, of which 20 were paroled at an Approval Rate of 43.5%. Table 22 on page 21 presents the data from both 2022 and

Parole Report For Lifers - 2023 cont.

2023 parole rates for Records of Decision where the gender of the victim(s) was identified.

Table 22

	Male Victims			Female Victims		
	App.	Den.	% App.	App.	Den.	% App.
2022	57	47	54.8	19	38	33.3
2023	<u>49</u>	<u>33</u>	<u>59.8</u>	<u>20</u>	<u>20</u>	<u>43.5</u>
<u>Total</u>	116	80	59.2	39	64	37.9

2023 is the second year the Lifer's Group Inc. has tracked this data set. There does seem that a substantial difference existed in 2023 as in 2022. But, we need to track this data for more years to determine if there is a significant difference in Approval Rates based on the genders of the victims.

Discussion

In past Lifer's Group Inc. reports on paroles for lifers, we included a series of recommendations. For 2023, however, we have not. The reason is that the Parole Board and Governor Maura Healey have addressed our recommendations. This is not to say that our recommendations were the sole factor in the dramatic changes in the past two years. Our recommendations were just one voice among many crying out for much needed changes in the Parole Board. Those voices include legislators, members of the Governor's Council, PLS attorneys and a plethora of advocates for criminal justice issues. The Lifer's Group Inc. members thank them all.

The change which has been most impactful has been in the make-up of the Parole Board, beginning with Chairperson Tina Hurley, a welcome replacement for Gloriann Moroney. Under Chairperson Hurley's leadership, the length of time before lifers have had to wait to receive their Records of Decision has decreased on average to 86 days, 55% fewer than her predecessor. In addition, the Approval Rate remains above 50% and the number of 4 and 5 year Setbacks has decreased significantly.

The members of the Parole Board have also changed dramatically.

Parole Report For Lifers - 2023 cont.

Gone are ex-prosecutors and those who worked in D.A.'s offices as well as ex-DOC personnel. Incoming have been members who are steeped in the social sciences and criminal defense law. As of the date of this report, there is still one vacancy.

The length of Records of Decision has been shortened to two pages usually. The section on the specific of the crime has been reduced appreciably - a good thing. But, so has the sections on the parole history and the hearing itself. Unfortunately, for our reports, the Records of Decision do not note reasons for lifers having been returned from parole. In addition, often who may have opposed a lifer is not specifically noted.

The description of the parole hearing itself is condensed and many of the explanations for why a parole was not granted still lacks specificity. All of these revisions limit the data to be gleaned from the Records of Decision. But, that is a small price to pay for the much improved procedures for writing and publishing the Records of Decision. Lastly, that the Chairperson is signing the Records of Decision, rather than the General Counsel, seems to indicate that less reliance is being placed on the legal staff, which is another positive.

The Parole Board does need to reassess the treatment of Low Risk lifers. As argued earlier in this report and in prior years, Low Risk lifers should be considered to be presumptively paroled unless the Parole Board can articulate specific areas of need and what the lifer needs to do to address those areas of need. The question for a Low Risk to Reoffend lifer is not should he/she be paroled, that should be a given, but why should the Low Risk lifer not be paroled and why.

The Lifer's Group Inc. would like to see the Parole Board and the DOC begin, as mandated by the legislature in 2018, to assess every lifer upon entering the system as to what his/her needs areas are and what programs he/she should complete in the years leading up to his/her Initial Hearing. Thus, the lifer would have a clear plan as to his/her areas of need and how to address those areas.

The emerging adults now eligible for paroles due to the Mattis decision face an interesting question. Should he/she, assuming he/

Parole Report For Lifers - 2023 cont.

she has served 15 years, go before the Parole Board at the first opportunity for an Initial Hearing? Or, should he/she postpone the Initial Hearing in order to complete needed programs? Given that the chances on average are 1 in 5 for an approval at an Initial Hearing, some lifers may reason that it is better to wait to complete various programs in hopes of increasing their chances.

The Lifer's Group Inc. strongly urges each lifer to consider this decision carefully. There is no question that having completed programs is important. But, even then the odds are against being granted a parole at an Initial Hearing. Consider also that the Parole Board now favors two or three year Setbacks over four or five years. Thus, one pathway to ponder is going to the Initial Hearing with the expectation of a denial with a two or three year Setback, but gaining the experience of a parole hearing and having the members articulate what areas of need should be addressed. If denied, then the lifer will learn what he/she needs to accomplish during the years of the Setback. Then, going to the Review Hearing, assuming the lifer has addressed areas of need, the chances of a parole rise to over 6 : 1.

This, of course, is not simply an exercise in mathematics or playing the odds. Rather, the question boils down to going to the Initial Hearing, get denied and serve the Setback appropriately, or delay the Initial Hearing for a year or two, then go to the Parole Board when the lifer can still expect a denial and have to serve a Setback? No one answer is right for every lifer. It is an individual decision. But, in every case, the question is one which needs careful consideration.

Excerpts From 2023 Records of Decision

The Board questions _____'s judgement because of his nearly thirty year relationship with another convicted sexual offender. The Board would encourage him to pursue programming to address healthy relationships.

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

Parole Report For Lifers - 2023 cont.

Excerpts cont.

_____ has completed alternatives to violence, violence reduction, criminal thinking and recently enrolled in restorative justice. He has been in prison fellowship for 7 months, and stated that his faith has been his primary source of rehabilitation. _____ has limited institutional work history and admits to selling food that he makes to support himself and his family. He stated he knows being a "food vendor" is a violation of institutional rules and did not appear to have intentions of stopping. _____ other wise has excellent institutional adjustment with only 3 D-Reports.

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

Although the Board notes _____ positive progress [completed CRA, RJ, Grim. Think., Viol. Reduc., GED], it remains concerned as to his forthrightness regarding the underlying crime itself. The version he provides seemingly is at odds with the official version. He does not fully appreciate how his criminal lifestyle and the allegiance he felt toward his former gang led him to needlessly take the life of a 24-year-old man.

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

The Board wants _____ to be open with groups in maintenance as to the full extent of his crime. He must work on developing skills so that he can have healthy relationships and process and understand how his own trauma history impacted his criminal behavior.

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

_____ was before the Parole Board for the second time. He accepted the Board's recommendations and advanced his commitment to his rehabilitation by completing CRA and continuing his education and vocational skills. He has maintained his sobriety throughout his incarceration. _____ also continued his work in the area of restorative justice. _____ has addressed the Board's concerns.

This lifer was approved at his Review Hearing.

Parole Report For Lifers - 2023 cont.

Excerpts cont.

Subject continues to provide multiple inconsistent versions of the underlying circumstances. In 2020, subject argues the killing was in self-defense, despite testifying in 2018, that he had lied at his trial and the 2018 version was the correct version. Subject acknowledged he had harmed the victim's family by testifying at trial that the victim was sexually assaulting him, but yet has not demonstrated empathy for the victim's family by continually presenting different versions of the murder. At this hearing, subject now opined that a fall from a seawall weeks before the murder prompted the homicidal behavior. The Board notes that credibility before the Board is an important factor in evaluating an individual's rehabilitation.

This lifer was denied at his ~~sixth~~ Review Hearing and was given a three year Setback.

The Lifer's Group Inc. would like to note that in one lifer's parole hearing, the rape victim wrote a letter stating the lifer has served his time and has had the opportunity to reflect and ponder. He deserves his freedom. The lifer was 66 years old and had served 22 years. This was the only Record of Decision in which a victim or victim's family member supported a lifer for a parole.

End Notes

1) The Approval Rates for lifers from 2003 through 2023 are listed below as reported by the Lifer's Group Inc.

2023 - 55.1%	2016 - 15.0%	2008 - 31.9%
2022 - 49.1%	2015 - 29.1%	2007 - 28.5%
2021 - 56.1%	2014 - 26.0%	2006 - 29.6%
2020 - 43.7%	2013 - 15.3%	2005 - 33.3%
2019 - 38.9%	2012/2011-18.4%	2004 - 46.6%
2018 - 29.1%	2010 - 34.1%	2003 - 37.8%
2017 - 24.1%	2009 - 38.9%	

2) The difference in the number of Risk Assessments (141) and the number of Records of Decision in this report (138) may be attributed to the Parole Board's unintentionally leaving out three Records of Decision pursuant to the Lifer's Group Inc.'s public records requests for 2023.

3) Id. for the number of lifers included in the Racial Breakdown statistics (141) reported to the Lifer's Group Inc. for 2023.

Parole Decisions For Lifers

2023

The Lifer's Group Inc. welcomes all comments, criticisms, and suggestions regarding the content of this report or any other Lifer's Group Inc. report. The Lifer's Group Inc. is responsible for the tables and analyses of the data contained in this report. All calculations, unless otherwise noted, were made by the author based on the data compiled from the 2023 Records of Decision posted online by the Parole Board and provided to the Lifer's Group Inc.

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