

Aging Out: True Justice, Fairness and Mercy

By Tyrone A. Werts, The LIFERS Public Safety Initiative

Allow me to give you some background on the long-term cost associated with men and women serving life sentences in Pennsylvania. These costs are rising even in the face of all statistical facts suggesting it need not be this way. With prison populations bulging and cost skyrocketing, officials continue to search for new and creative ways to reduce these costs while keeping the public safe. Ideas such as drug courts, alternative sentences for first time, non-violent offenders, home monitoring and effective reentry are all the rave. On the surface these and other solutions crafted to save money and reduce prison overcrowding seem worthy, and they are. However, in reality these ideas will only make room for the next generation of offenders who will replace those who may be amenable to alternative sentencing, thereby maintaining the status quo. Instead of focusing solely on the front end of incarceration (first time offenders and short term sentences), bigger savings can be had at the back end; that is, releasing those who have served 25, 30 and even 40 years and who no longer pose a threat to public safety. The back end is where you will find thousands of men and women serving life sentences who continue to languish in Pennsylvania's prisons as a result of failed policies and political posturing. Other states recognize this fact and have laws and policies allowing lifers to become eligible for parole review after a specific number of years.

Prior to 1974 only persons convicted of 1st degree murder were sentenced to life in prison. At that time, there were only about 600 life-sentenced prisoners in the state. Now those also convicted of 2nd degree receive a mandatory sentence of life upon conviction. Why is this such a problem? Before this change, and the change in commutation policy, the lifer population was kept manageable because of executive clemency. This is no longer the case. As stated in Resolution 149, "Lifers no longer have hope of Pardon or Commutation of Sentence" regardless of rehabilitation, circumstances, or culpability. As a result, the number of lifers in the state has increased 10 fold and will continue to increase. With an average of 100 new lifers entering the

system each year, there will be well over 5,000 lifers incarcerated by the end of 2010. With no lifers being released, the cost of maintaining this population will continue to escalate unnecessarily. At 28,000 dollars per lifer, per year, the cost soars to well over \$140,000,000 dollars a year just for this population and that is without taking inflation and geriatric care into consideration. If you factor in just an approximate seventy-year (70) life span, the cost begins to boggle the mind, not to mention the pocketbook.

This heavy tax burden on Pennsylvania citizens seem unnecessary when you take into account that a very small percentage of life-term prisoners have crimes that fall into the sensational. Many lifers were first time offenders, and many were involved in situations of domestic violence whose crimes were committed in a moment of passion, and whose histories were heretofore free of criminal violence. Add to this number the many lifers who were not the actual perpetrators of the crime, but who played minor roles as knowing or unknowing accomplices, and you have a large population of life-term prisoners whose consideration for conditional release at some point in their incarceration is not only consistent with correctional standards, but also practical for the management of the prison system. Presently, with about 4,900 life-term prisoners and the additional 100 coming in every year, the Commonwealth has a de facto permanent population without hope and who will grow increasingly older as each year passes at extreme cost to taxpayers and the criminal justice system. Clearly this situation is inconsistent with the theory of corrections.

Moreover, it is not like people who were convicted of murder do not get out of prison. In fact there are many ex-offenders already on parole that have committed or participated in a crime where someone was killed. And some of these same individuals were a part the crime as someone presently serving a life sentence but who were found guilty of a lesser degree, although they may be more culpable. It begs an important question: are lifers "unsuitable" for release because of their crime or their sentence? Let me explain. Presently, lifers are labeled as dangerous, incorrigible, un-redeemable or pose a serious threat to society if released, even though all the evidence is contrary to this notion. Lifers are ineligible for DOC programming, cannot hold certain jobs within the

institution, and are denied access to the only means of release, commutation. Yet, if any lifer gets a new trial in court and then pleads guilty to a 3rd degree offense, he will instantly become a different person and becomes eligible for all institutional programming, i.e. outside clearance, pre-release, half-way house, and eventual parole.

In looking at how we can preserve public safety and respond to the enormous future cost of housing offenders sentenced to life terms, society should recognize the value of releasing those who no longer represent a risk to public safety. Consideration of release, after serving a determined number of years and reaching age 50 will allow lifers to re-enter society at a time when they are able to work and maintain themselves thereby relieving the Commonwealth of the burden of caring for this large population.

Now, of course this idea of preventive release (preventive in the sense of alleviating the huge cost of men and women growing old, seriously ill or infirmed in prison in the future) is not formulated with the intent of releasing every lifer confined in the prisons of Pennsylvania. It is designed to give long-term offenders an opportunity to seek viable release case-by-case. Approximately 600 men and women serving life have been successfully reintegrated back into society since 1941. They have gone on to lead successful lives without cost to taxpayers, and have not posed a threat to public safety.

To take the politics out of a supposedly rational decision making process, some sort of "Parole Act" will give the DOC the leverage to include life-term prisoners within the parameters of its treatment process with educational, occupational, and social rehabilitation at its center. An act of this sort should require that when a person reaches the age of 50 and after incarceration of 25+ years, the individual will become eligible for review, with his crime, personal circumstances, prison adjustment and rehabilitation assessed and a determination made as to whether or not his further incarceration serves any useful purpose.

Why 50? Well, if you look at all the data from around the country and speak with any criminologist who has studied this subject, you will see that past the age of 50

participation in crime decreases dramatically, especially for violent crime. Moreover, the lifers who have been released have the lowest recidivism rate of any other population because the concept of rehabilitation is taken very seriously and they understand the impact of their actions. It is clear these individuals have matured and internalized a different set of values and beliefs. Additionally, because of their unique histories and experiences, they have the ability to add to the safety of public. They can reach and speak to young men caught in the violence of the “street crime culture” where parents, teachers, and social workers cannot.

In suggesting this idea, we would like to make it plain that support for release of older, wiser life-term prisoners who have served a definite number of years and the need of victims are not mutually exclusive. As a matter of fact, included in any provision of release should allow families of victims to be heard so that each lifer can stand on his or her own since some families of victims are open to such possibilities. Victim families should have the option of mediation if they choose, and paroled lifers should be required to pay into the Victim Compensation Fund.

Still, we understand that crime continues to be a problem in our communities and the public has a right to demand safe streets. Support for a “Lifers Parole Act” will not mean one is soft on crime. Actually, rethinking how we punish people in the face of strained state and correctional budgets will in fact make us smart on crime. Those individuals who commit crime against society must be held accountable for their actions. However, can we continue to overburden the system, drain vital resources from the state budget when in fact many men and women can be released back into society as law-abiding, tax-paying, and productive citizens without risk to public safety?

We believe there are viable alternatives that will save taxpayer dollars, enhance public safety, and demonstrate to the rest of the world that the Commonwealth of Pennsylvania is a leader in true justice, fairness and mercy.