

LIFERS INCORPORATED

SCI-GRATERFORD
COMMUTATION COMMITTEE ARTICLE
by, Michael "Mikal" Wilson, Chairman

Given the state of the law in this country, especially in the state of Pennsylvania, with a little over 5,300 inmates now serving a life sentence and with the increasing mushrooming number of people sentenced to life sentences, Pennsylvania prison system has now quadrupled over the years. Much of this have to do with the Pennsylvania Penal Code being changed in 1974. A person found guilty of second-degree murder was once sentenced to a term of 10 to 20 years in prison.

A life sentence in Pennsylvania means until the inmate shall die in prison or until the governor shall commute the sentence. As it stands now in Pennsylvania, the majority will die in prison. Some governors in the past understood the predicament lifers were in by finding many of them deserving of another chance at life in the larger community.

There are quite a few hundred individuals today on parole in Pennsylvania who were serving a life sentence, but were granted parole through the commutation process. These men have a remarkably low rate of recidivism. Much lower compared to other parolees. The percentage of lifers in Pennsylvania returning to prison for the same offense is less than 1.5%.

HISTORY OF GOVERNORS WHO COMMUTED LIFE SENTENCES

"The disparity in different in their use of mercy"
(Joint state Gov. Commission)

(Page #83) Governor Shaffer commuted 95 lifers between 1967-1971; Governor Shapp commuted 251, 1971-79; Governor Thornburgh commuted 7, 1979-87; Governor Casey commuted 27, 1987-95; Governor Ridge commuted zero (0), 1995-October 2001. Governor Mark Schweiker 1, 2001-02; Governor Rendell has only commuted one, so far. A total number of 382 commuted lifers.

A Point of Information: during the 12 years from January 1967 to January 1979 commutations were granted to 346 life-sentenced inmates. In the 25 1/2 years since then, a total of only 36 commutations have been granted to life sentence inmates. Thus, it is apparent that the use of this release valve for returning life-sentence individuals into society has been curtailed in recent

years. This became common because of the political whims and personal feelings of governors in recent years.

Page #83-84, Lt. Governor Mark Single has voted for Reginal McFadden's commutation and that became an issue in the last weeks of the gubernatorial campaign 1994, and he lost the election. This is often cited as the beginning of the end for the commutation of life sentences, as individuals became afraid of having their political careers end, if they recommended or approved commutation.

In addition, the General Assembly's special Session No. 1 of 1995 yielded a change to Article 4, Section 9, of the Constitution of Pennsylvania by requiring the unanimous recommendation of the members of the Board of Pardons in the case of an inmate sentenced to death or life imprisonment. This raised the threshold for commutations from the previous "requirement" that a majority of the Board members support the petition and further reduced the likelihood that a commutation would reach the Governor's desk for final approval.

The rest of your natural life behind bars have not always been true in Pennsylvania for those who don't know. Prior to the Parole Act's amendment in 1941, lifers were able to acquire parole consideration. The Pennsylvania Parole Act of 1911 established parole for lifers and its application was retroactively applied. The Act of June 19, 1911 (1911 PA Laws 812) extended parole consideration to many prisoners in state penitentiaries. Parole for these prisoners was available upon the completion of a minimum sentence established by the sentencing court. Where sentencing courts did not establish a minimum sentence, or statutes, the court was free to establish separate standards of parole for lifers. A prisoner serving a life sentence was eligible for parole in the same manner as a prisoner serving a lesser sentence.

The situation for lifers changed in 1941, an amendment created a parole board and gave the board power to parole a prisoner; this power, however, could not be exercised until the expiration of the minimum sentence imposed by the sentencing court. The minimum sentence for a life-sentenced prisoner is life.

Page #84, SOME LIFERS LENGTH OF SENTENCE IS EITHER UNJUST OR INAPPROPRIATE; MANY PEOPLE ACKNOWLEDGE AND AGREE THAT A LIFE SENTENCE FOR HABITUALLY VIOLENT AND/OR HEINOUS OFFENDERS ARE APPROPRIATE FOR PUBLIC SAFETY:

With the change of law a person sentenced to second-degree murder is

now sentenced to a life term, even though their culpability may not be the same as someone who committed a deliberate and intentional first -degree murder.

Furthermore, the recent 2005 decision in the United States Supreme Court Roper v. Simmons, found that a juvenile's culpability or blameworthiness is diminished, to a substantial degree, because of youth and immaturity. The United States Supreme Court noted that the punishment of life imprisonment without the possibility of parole is itself a severe sanction, in particular for a young person. As a result, the Court concluded that when a juvenile offender commits a heinous crime, the state can exact "forfeiture" of some of the most basic liberties, but the state cannot extinguish his life and his potential to attain a mature understanding of his own humanity, Roper v. Simmons.

Pennsylvania need a parole bill to release people who are deserving, especially life sentence prisoners, who meet a standard that demonstrate they have been rehabilitated. "THE WAR AGAINST LIFERS NEEDS TO STOP." The STATEMENT ECHOED "Never Let Them Out;" "KEEP THEM IN UNTIL THEY DIE;" AND CHANGE MORE STATUTES TO KEEP THEM IN," ARE NOT JUSTIFIED! There is a need to make changes for men and women who have changed, and are deserving of another chance.

The criminal justice system is biased. More money is spent on District Attorneys than on Public Defenders. More money is spent on getting a conviction rather than justice. 80% of those who are convicted are people of color. African-Americans, Hispanics, or poor whites are the people incarcerated. Much of it has to do with flaw police work, overzealous prosecutions, ineffective defense lawyers, rubber-stamping judges and law establishing procedures that erect huge hurdles for correcting injustices.

COMMUTATION OF SENTENCE

37 Pa. C.S. Section 81301 Recommendation.

(a) An application for pardon, or for remission of fines and forfeitures, and the granting of reprieves, or commutation of sentence, shall be approved by the Board at a public hearing by a majority vote of the members, prior to delivery of the written recommendation to the Governor for a decision. An application for a pardon or commutation of a death or life imprisonment sentence must be approved at a public hearing by a unanimous vote of the members, prior to delivery of the written recommendation to the Governor for a decision.

(b) When the applicant is serving a sentence described in Section 81.232 (relating to interview of the applicant), a recommendation and Warrant of Commutation that is presented to the Governor shall include a requirement that the applicant serve at least 1 year in a prerelease center prior to release on parole unless transfer of the applicant to a prerelease center is not appropriate due to a certified terminal illness.

(c) Recommendations made to the Governor for commutation of sentence will be conditioned in subsection (e).

(d) Recommendations for a pardon may be made conditional by a majority vote by the Board.

(e) If it is the Board's desire that the commutation or pardon be conditional, any recommended Warrant of Commutation or Charter of pardon presented to the Governor shall include the following language: . . .

Commutation of Life Sentences. . .

Because lifers are not eligible for parole in Pennsylvania, a lifer may see the possibility of release from prison only if his application for commutation of sentence is recommended by the members of the Board of Pardons and approved by the Governor.

February 8, 2007: Pennsylvania Governor Edward G. Rendell commuted the life sentence of Michael Anderson who has served 36 years on a first-degree homicide conviction. The Governor signed the clemency documents on February 8, almost four years after the Pardons Board recommended Anderson by a 4-0 vote. It was the first commutation of a life sentence since 2003 when outgoing interim Governor Mark Schweiker extended clemency to Ricki Pinkins.

The commutation process ground to a near-halt after Gov. Robert Casey commuted the sentence of Graterford lifer Reginald McFadden in March 1994; and McFadden thanked him by going on a raping and killing spree in New York that same year.

Before February 2007, only two Pennsylvania lifers had been released since: Louis Mickens-Thomas (also by Casey) in 1995 and Ricki Pinkins (by Gov. Mark Schweiker) in 2003.

See Pennsylvania Board of Probation and Parole, http://sites.state.pa.us/PA_Exec/PBPP/Handbook/Introduction.htm.