

LIFERS INCORPORATED
and the
PENNSYLVANIA PRISON SOCIETY

in conjunction with
**THE PENN LAW PROGRAM ON
DOCUMENTARIES AND THE LAW**

offers for your review this

**PAROLE ELIGIBILITY
EDUCATION INITIATIVE**



Funding for this initiative has been provided by:

BREAD AND ROSES COMMUNITY FUND – PHOEBUS CRIMINAL JUSTICE INITIATIVE

❧ INTRODUCTION ❧

Lifers Incorporated at SCI-Graterford (Lifers Inc.) is an inmate organization comprised of life-sentenced inmates (lifers). The primary mission of the organization is to secure legislative action to retroactively offer parole review to any inmate sentenced to a term of life imprisonment in a Pennsylvania Department of Corrections (PDOC) facility. Since 1787 the Pennsylvania Prison Society (Prison Society) has worked to ensure humane prison and jail conditions, and advocates for sensible criminal justice policies. The cornerstone of the Society's work is a network of volunteers, known as Official Visitors, who visit prisoners throughout Pennsylvania. In this age of high incarceration rates its mission is more relevant than ever.

The intended purpose of this Parole Eligibility Education Initiative is not to put the state criminal justice system on trial. Similarly, this educational campaign does not seek to challenge the need for, or the propriety of, a life sentence without the opportunity for parole. We recognize that in a civil society public safety is imperative and a life-time term of incarceration for some convicted felons serves a legitimate purpose.

Lifers Incorporated and the Prison Society, in conjunction with The Penn Law Program On Documentaries and the Law, seek to educate the taxpayers of the Commonwealth of Pennsylvania about the enormous economic and social costs associated with indefinitely confining what is referred to as the *stock population* of lifers in PDOC facilities.

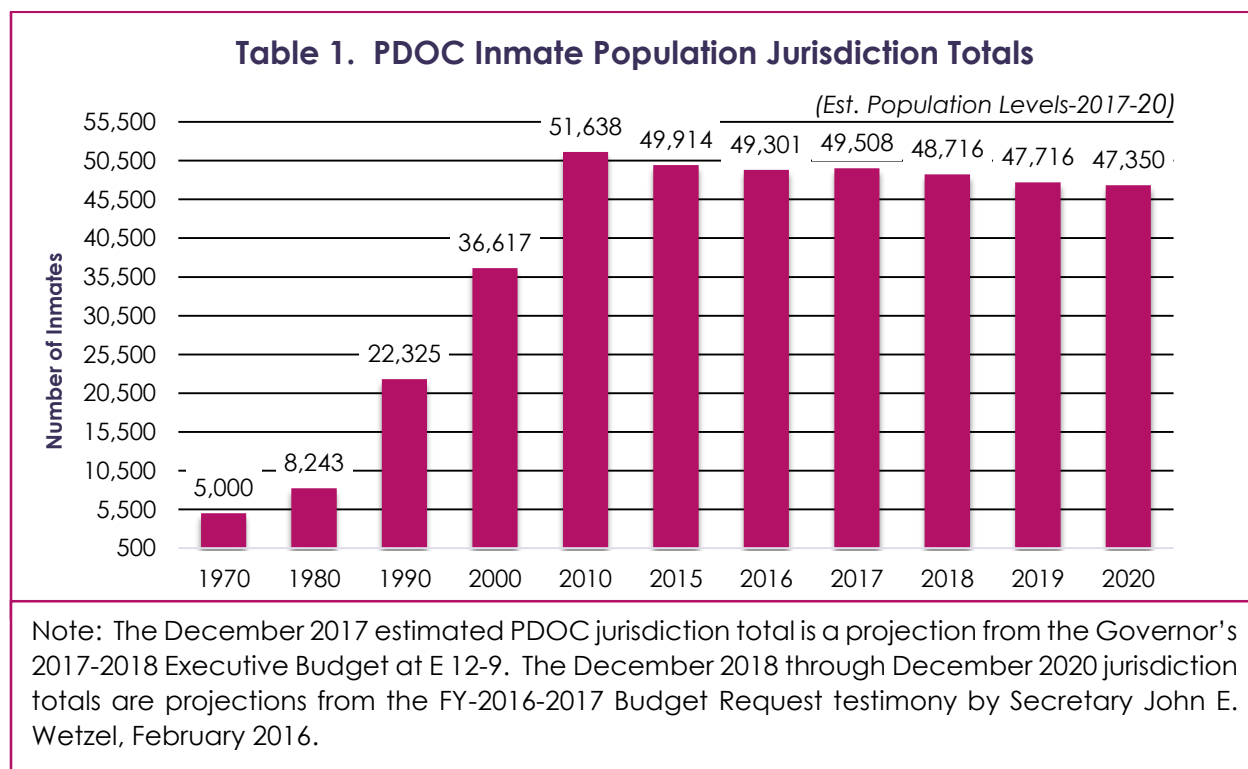
This collaborative effort offers two independent but interrelated solutions to solve the problem of an ever increasing lifer population in Pennsylvania: either the expanded use of the existing state *commutation system* to release lifers on life-time parole, or the *legislative enactment* of a bill that would provide for a parole review for lifers.

A LIFE SENTENCE WITHOUT PAROLE

There are 36 states where a life sentence with the possibility of parole and/or a life sentence without the possibility of parole is an option if a criminal defendant is convicted of murder. There are a total of six states that provide only a life sentence without the opportunity for parole if a criminal defendant is convicted of murder. The only sentencing option available in the Commonwealth of Pennsylvania is a term of life imprisonment without parole. When a criminal defendant is convicted of first degree murder in Pennsylvania he/she may be sentenced to *death or life-time imprisonment*.¹ If a criminal defendant is convicted of second degree murder in Pennsylvania he/she *automatically* receives a sentence of life-time imprisonment.² Under the law in Pennsylvania the imposition of a term of life imprisonment constitutes a term of life-time imprisonment without the possibility of parole.³

PDOC INMATE POPULATION INCREASES

In the 1980's the get tough on crime, lock them up and throw away the key mentality gained traction. The seeds of mass incarceration were planted years earlier, but the movement took off in the 1980's and over the course of the decade the PDOC's jurisdiction totals increased from 8,243 to 22,325.⁴ The decade of the 1990's experienced a similar growth pattern, on December 31, 1999 the PDOC jurisdiction total rose to 36,617. During the decade from 2000 to 2009 the PDOC jurisdiction totals continued to increase at historic rates and on December 31, 2009 the PDOC jurisdiction total reached an all-time high of 51,638.



Under Secretary of Corrections John E. Wetzel, the PDOC has implemented new policies to reduce the number of inmates under its jurisdiction. These efforts have realized modest success. However, there has been one segment of the PDOC inmate population that continues to grow without seeing any reduction, the *stock population* of lifers.⁵

STOCK POPULATION OF LIFERS

The build-up of the inventory of lifers in the PDOC took place concurrently with the historic rise in the overall PDOC inmate population. In 1980 the PDOC lifer population totaled 800 men and women, or approximately 10% of the PDOC jurisdiction total. A decade later in 1990 there were 2,200 lifers, and in 2000 the population of lifers confined in PDOC facilities rose to 3,600 individuals. By the end of 2010 there were 4,824 men and women serving a term of life imprisonment without parole in the PDOC.

On January 1, 2016 the total lifer population in the PDOC had grown to 5,491 which was 11% of the total PDOC inmate population. According to the PDOC press secretary, 1,610 lifers were 50 years or older and had served 25 or more years. If the stock population of PDOC lifers continues to rise at the same rate as it did over the three decades from 1980 to 2010, at a rate of 1,400 lifers per decade, the projected lifer population in the PDOC in 2020 will total 6,200 men and women. In a state that is facing yearly budgetary shortfalls, increasing unfunded public employee pension liabilities, poorly funded schools, and crumbling roads and bridges, the cost to indefinitely confine the PDOC stock population of lifers is no longer a fiscally responsible public policy.

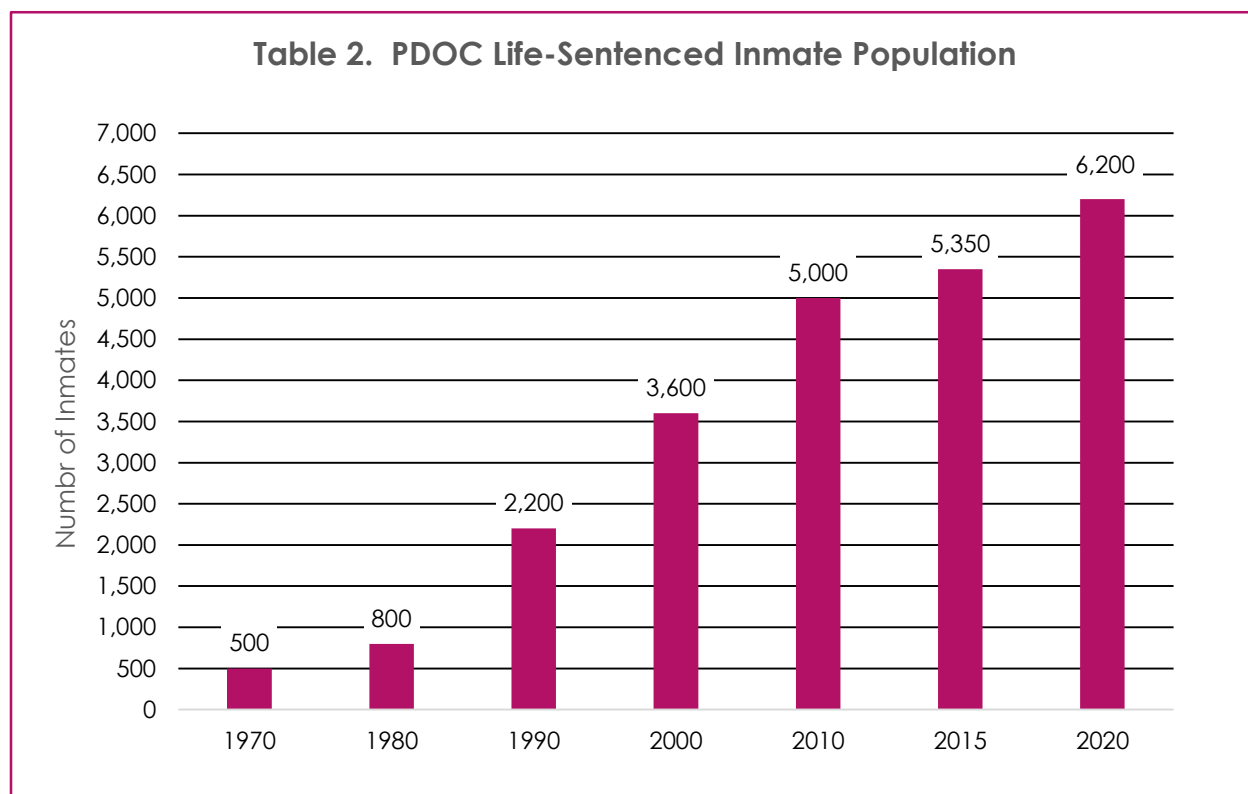


Table 3. Profile of PA Department of Corrections Lifers Received from 2003 - 2013											
Committing County	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Philadelphia	46	58	58	72	42	55	52	62	61	73	68
Allegheny	14	17	19	20	7	24	21	16	22	14	9
Others	61	57	57	54	75	50	53	52	65	62	65
Total	121	132	134	146	124	129	126	130	148	149	142
Age	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Under 20	15	7	13	21	12	17	22	7	10	4	1
20 to 24	39	47	41	39	37	29	31	46	49	56	50
25 to 29	23	32	24	32	28	26	29	28	30	26	41
30 to 34	12	14	23	22	14	19	18	21	20	15	15
35 to 39	15	11	11	12	7	10	8	10	12	13	12
40 to 44	6	9	6	7	9	14	8	7	10	12	6
45 & Over	11	12	16	13	17	14	10	11	17	23	17
Race	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
White	29	37	26	30	43	34	29	19	30	42	23
Non-White	92	95	108	116	81	95	97	111	118	107	119
Gender	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Male	116	127	127	140	115	120	122	124	145	142	132
Female	5	5	7	6	9	9	4	6	3	7	10
A Total of 1,481 lifers were received in this 10-year period.											

STATE GENERAL FUND EXPENDITURES TO OPERATE THE PDOC

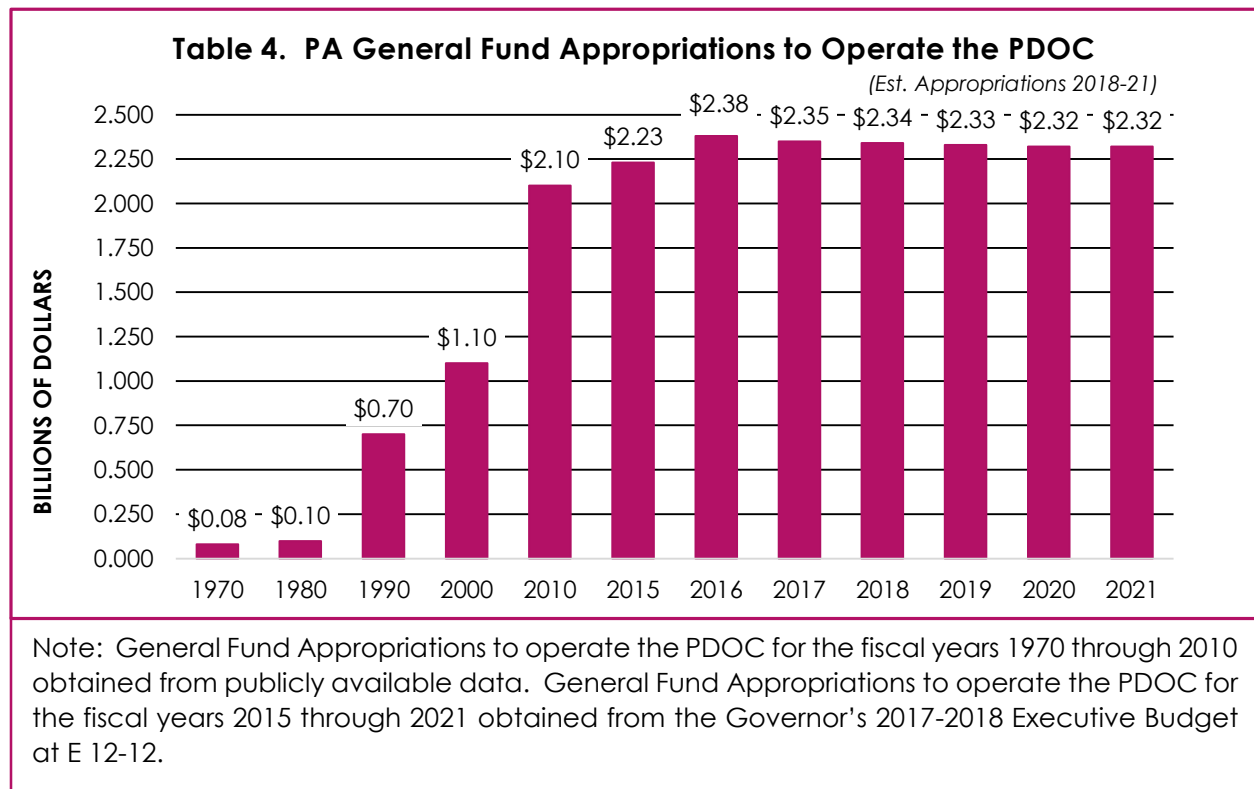
In January of 2012 the Vera Institute of Justice published a report entitled, *The Price of Prisons: What Incarceration Costs Taxpayers*, by Christian Henderson and Ruth Delang.⁶ The Vera Institute conducted a nationwide survey of state correctional departments and other government agencies that provide support to state prison systems to obtain data on state prison expenditures for FY-2010. The Vera Study found that in FY-2010 the PDOC prison budget was \$1.6 billion, however, total state expenditures for prisons was actually \$2.1 billion, with 22.6% of total prison costs incurred outside of the corrections budget.

The Vera Study published the following data regarding prison-related costs outside of the PDOC's budget in FY-2010: (1) Pennsylvania only contributed 31.4% of the annual cost to fully fund corrections employees' pension benefits. The state owes \$120.1 million, plus interest, to satisfy its FY-2010 corrections employees' pension obligations; (2) Pennsylvania only contributed 60.7% of the annual cost to fully fund retiree health care benefits. The state owes \$35.4 million, plus interest, to satisfy its FY-2010 corrections employees' retiree health care benefit obligations under current law; (3) Pennsylvania spent \$231.7 million for inmate health care costs which are funded outside the corrections budget; (4) Pennsylvania spent \$41.3 million for inmate education and training programs which are funded outside the corrections budget.

The findings of the Vera Report are instructive on how the state appropriates money from the General Fund to pay the costs to operate the PDOC. Below are the additional costs outside of the PDOC General Fund Appropriation:

- In FY-2006 the PDOC employee pension obligation was \$22 million. By FY-2011 the yearly pension obligation had risen to \$87 million and by FY-2016 the PDOC yearly pension obligation was \$277 million. By not fully funding public employee pension obligations the state is now holding \$62 billion in unfunded pension debt.⁷
- The cost to taxpayers for medical care for inmates confined in the PDOC has increased dramatically as the age of the inmates in the PDOC rises. In FY-2010 inmate healthcare costs were \$231.7 million. Five years later, in FY-2015 the cost for inmate healthcare increased to \$245 million. In FY-2016 medical care costs increased by \$12 million to \$257 million and the PDOC estimates that from FY-2018 through FY-2021 medical care costs will rise to \$266 million per year.⁸
- An examination of the Governor's FY-2017-2018 Executive Budget provided one glaring line-item. The Inmate Education and Training budget in FY-2016 was \$44.8 million. In the Governor's FY-2017-2018 Executive Budget inmate education funding was reduced by \$5 million to \$39.7 million and the same level of funding will continue through FY-2021.⁹

Numbers do not lie! According to PDOC budget projections the taxpayers of Pennsylvania are facing a bill of at least \$2.3 billion per year through FY-2021 to fund the PDOC. The state has a \$62 billion unfunded pension debt, crumbling infrastructure, underfunded schools and a dwindling revenue base. Therefore, the question for the taxpayers of Pennsylvania is do you want to continue to spend \$2.3 billion annually to fund the PDOC when the states limited financial resources are needed elsewhere?



THE PRICE OF LIFE SENTENCES IN PENNSYLVANIA

Trying to place an exact dollar figure on the cost to Pennsylvania taxpayers for a term of *life imprisonment* is an arduous task. There have been no definitive studies published on the subject. Using General Fund Appropriation figures from the *Institutionalization of Offenders* program in the Governor's 2017-2018 Executive Budget we have calculated the total yearly cost to house a general population inmate during this fiscal year in the PDOC:

<i>FY-2017 PDOC General Fund Appropriation</i>	\$2.004 billion ¹⁰
<i>Estimated PDOC Jurisdiction Total, December 2017</i>	49,508 inmates ¹¹
<i>PDOC Cost to house a General Population Inmate</i>	\$40,480

Using the Vera Study methodology we calculated the total cost to Pennsylvania taxpayers to house a PDOC general population inmate during FY-2017:

<i>FY-2017 Institutionalization of Offenders General Fund Total</i>	\$2.356 billion ¹²
<i>Estimated PDOC Jurisdiction Total, December 2017</i>	49,508 inmates
<i>Total General Fund Cost to house a General Population Inmate</i>	\$47,599 ¹³

When analyzing the cost of a life sentence age is a major contributing factor to the total cost. Twenty-five percent of the PDOC inmate population is 50 years of age or older, but 50% of the lifer population is 50 years of age and older. Based on national healthcare standards, inmates who are age 50 or over are considered to be in the *senior age group* because inmates age at a rate of five to ten years faster than their chronological age. As an example, in FY-2016 the total medication costs for the senior age group was almost \$2.1 million. This cost figure is the same amount spent on the entire under age 50 inmate population.¹⁴

Table 5. Profile of PDOC Stock Population of lifers by age group as of: April 30, 2015		
	Female	Male
18 and Under	0	1
19 to 25	7	228
26 to 35	25	934
36 to 45	40	1,368
46 to 55	62	1,254
56 to 65	47	961
71 to 75	5	144
76 to 80	3	40
81 to 90	5	23
Number of lifers 50 and older	103	2,139
Percent of lifers 50 and older	53%	43%
TOTAL LIFER POPULATION	194	4,953
Note: On April 30, 2015 there were 162 lifers age 70 years or older, and 25 lifers who were 80 years of age or older.		

Using our previous calculation of \$47,599 as the FY-2017 yearly cost to house a PDOC general population inmate, and factoring in the increased costs for medical care and medication for the senior age group, which doubles or triples the total cost, a conservative cost estimate of the total cost to the taxpayers of Pennsylvania to house a senior lifer during FY-2017 would amount to \$95,198. Taking this analysis a step farther we will now consider what a life sentence in Pennsylvania costs taxpayers based upon a thought provoking presentation by M. Kay Harris, Associate Professor Emerita, Department of Criminal Justice, Temple University. Professor Harris delivered a speech entitled *Some Thoughts on the Economics of Life Sentences in PA* at a Lifers Inc. Retreat held at SCI-Graterford on October 1, 2016.

Professor Harris relied upon the findings of the Vera Institute Study in 2010 to establish the cost to house a general population inmate in FY-2009 at \$32,986 or \$33,000. Since 22.6% of PDOC expenses were outside of the PDOC budget, when those costs are factored into the equation the per year cost to taxpayers rose to \$42,339. In order to convert the per year cost from FY-2009 to FY-2016 dollars Professor Harris added 2% per year for inflation and found that in FY-2016 the total taxpayer cost to house a general population inmate in the PDOC was \$47,680, not including capital improvement costs.

Professor Harris used the following data from a University of Washington (UW) Study entitled *Life Without Parole Sentences in Washington State*. First, nationally the average life without parole sentence leads to a 39 year term of imprisonment. Second, the 39 year term was based upon the inmate entering prison at the age of 25 and passing away at 64 years of age. Third, the average cost to incarcerate a lifer doubles or triples as they age due to increased healthcare and medication costs. (The UW study considered 55 years of age and over as a senior age group.)

Using the UW findings as a model, Professor Harris multiplied the FY-2009 cost figure of \$47,680 by 39 years and determined that the total cost to Pennsylvania taxpayers to house a lifer for 39 years is \$3,602,743. Bear in mind that the \$3.6 million cost does not include the cost of debt service for PDOC capital improvement projects which factor into overall costs. Going one step farther, Professor Harris reasoned that on December 31, 2015 there were 5,491 men and women serving life sentences in the PDOC with a total cost of \$3.6 million per person for their term of confinement. Projecting 30 years out into the future, and given the extremely low release rate of persons serving a life sentence, the professor calculated that the long term financial liability to the taxpayers of the state for the 5,491 lifers confined in the PDOC amounted to: **19 billion, 767 million, and 600 thousand dollars.**

Professor Harris is in no way advocating that the state release everyone serving a term of life imprisonment. But factoring in age (50 years of age), post-sentencing rehabilitation, educational accomplishments, etc., would permit corrections professionals to make an informed and valid judgment on the suitability for release, and if only half of the senior age group lifers were released it could save \$4.6 billion. Remember, 50% of the PDOC lifers population is 50 years of age or older.

The final consideration of Professor Harris' theory includes "Opportunity Costs". Consider these facts: (1) The average price for a student living on campus at a Pennsylvania state-supported university or college is \$20,757 per year including tuition,

fees, and room and board, or 43.5% of the \$47,680 cost to house a PDOC general population inmate; (2) Seven in ten seniors (69%) who graduated from public, private, or nonprofit colleges in the U.S. in 2014 had student loan debt on average of \$28,950. Students graduating from public and private non-profit four year colleges in Pennsylvania had the third highest level of debt in the nation, on average, \$33,264.¹⁵ The savings from releasing just some of the meritorious lifers over the age of 50 could wipe out the debt of the state's college graduates; or (3) The Philadelphia school district is \$118 million in debt – the state legislature could pay off the school district's debt just by releasing some of the meritorious lifers over 50 years of age.

There are many other opportunity costs that could be applied to this analysis of the *Price of a Life Sentence in Pennsylvania*. The goal of this education initiative is to raise the issue of the \$3.6 million per lifer cost (over their term of incarceration) to the taxpayers of Pennsylvania. So the question for the taxpayers of Pennsylvania is simple – do you want to continue to spend \$2.3 billion annually to fund the PDOC when the states limited financial resources are needed elsewhere?

RECIDIVISM RATES AND PUBLIC SAFETY FACTS

When considering the release of any person serving a prison sentence the primary consideration for state government officials must be public safety. During the review process, post-sentencing rehabilitation, and prison adjustment patterns are leading indicators. Educational and training achievements are also important factors.

On February 8, 2013 the PDOC released a comprehensive study on recidivism rates in Pennsylvania.¹⁶ The PDOC found: (1) Younger released inmates are more likely to recidivate than older inmates; (2) A released inmate under the age of 21 is twice as likely to recidivate within three years than a released inmate who is 50 years of age or older; (3) 17% of all rearrests are for violent crimes; (4) 1.3% of all rearrests are for murder; (5) Age has a strong negative correlation with recidivism. In other words, the older an inmate is at the time of his/her release, the less likely he/she is to recidivate.¹⁷

In the Recidivism Report Secretary Wetzel posits that the “Citizens of the Commonwealth should have every expectation of a corrections system that actually helps people correct themselves.” If this is true, then *senior age group lifers* are leading candidates for a successful reintegration into society because by any measuring standard they have corrected themselves. State government officials have also acknowledged that age has a strong negative correlation with recidivism in its report by the *Advisory Committee on Geriatric and Seriously Ill Inmates*.

The report on Geriatric and Seriously Ill Inmates found that from 1933 to 2005, ninety-nine PDOC life-sentenced inmates who were 50 years of age or older received a commutation of their life sentence. Only one was returned to prison for a new crime. This represents an aggregated criminal conviction recidivism rate of 1.01%.¹⁸ There was also a study conducted by the Stanford Criminal Justice Center which reported similar findings. Between 1995 and 2011, a total of 860 lifers confined in California state prisons were granted parole, and less than 1% had their parole revoked due to a new felony conviction.¹⁹

This Parole Eligibility Education Initiative is presenting the facts about the suitability for some senior age group lifers to be released based upon the unsustainable financial implications of housing them through the end of their lives. \$3.6 million dollars to house a single lifer during their prison term is no longer a reasonable public policy decision if you factor in the public safety data, *supra*. Again, the question for the taxpayers of Pennsylvania is simple - do you want to continue to spend \$2.3 billion annually to fund the PDOC when the limited financial resources of the state are needed elsewhere?

THE COMMUTATION PROCESS IN PENNSYLVANIA: SECOND LOOKS – SECOND CHANCES

Clemency is defined as forbearance, leniency, or mercy as toward an offender. Commutation is defined as a change of a sentence or punishment to one that is less severe. Executive Clemency in the Commonwealth of Pennsylvania is a government action that is vested in the Governor and it is a discretionary function that cannot be appealed.

History

In Pennsylvania, the power to commute a prison sentence was granted by King Charles II when he granted the Charter of Pennsylvania in 1681. In the first state Constitution (1776) this power was passed to the Governor with some limitations. The state Constitutions of 1790 and 1838 gave this power exclusively to the Governor. Governor Findley's (1817-1820) abuse of this power resulted in the Act of 1829 (changes in the Penal Code) that led to fewer pardons, but criticism for real or imagined abuses continued. Change came again in the state Constitutional Convention on 1872. In 1874 the Board of Pardons (the board) was created and constituted, and mainly board-centered administrative changes took place until 1997. On November 4, 1997 a Constitutional Amendment regarding the commutation of a life sentence was approved by the citizens of the Commonwealth of Pennsylvania. The amendment changed the voting standard for the recommendation of an application for commutation of a life sentence from a majority vote to a unanimous vote of the members of the board.

Commutation Process

If an inmate confined in a PDOC facility wishes to have their life sentence commuted they are required to file an application with the Board of Pardons. The board is made up of the Lieutenant Governor, the Attorney General, a clinical psychologist, a correctional expert, and a victim's advocate. After the application is filed, the board requests a report from the PDOC concerning the applicant's prison record, and a recommendation on the applicant's request. The board then reviews the application and makes a determination to grant or deny a public hearing on the matter. If a public hearing is granted any citizen can make a statement and/or offer their opinion in favor or opposition. If the Board of Pardons votes to recommend the applicant's request to the governor, the application for commutation is forwarded to the Office of the Governor for final review and a decision to grant or deny the application is rendered by the governor.

Recent History of Commutation of Life Sentences

From 1971 through 1994 the Board of Pardons granted 1,357 public hearings to review an applicant's request for a commutation of his/her life sentence. The board recommended 460 applications for commutation to the sitting governors, and they granted 285 clemency applications; 276 males and 9 females.

Former Lieutenant Governor Mark Singel, who served during the Casey administration (1987-1995), and by statute was the Chairman of the Board of Pardons, has aptly described the function of the board in this way, "In Pennsylvania, the Board of Pardons ... provides a 'safety valve' for the criminal justice system for those instances in which the judge and jury simply get it wrong ... It is not the role of the board to retry each case but simply to determine if a prisoner or applicant is entitled to a second chance."²⁰

After the amendment to the constitution in 1997 the commutation process has assumed a new posture. Between 1997 and 2011 the Board of Pardons granted 23 public hearings for an application to commute a life sentence. The board recommended ten of those applications to the Office of the Governor, and Governors' Schweiker and Rendell granted six applications (six males and zero females).

During Governor Corbett's term in office (2011-2015) the board recommended zero applications to commute a life sentence which enabled Governor Corbett to carry out his campaign promise of not commuting any life sentences. Governor Wolf is now in the third year of his term and during these three years the board has recommended four applications to commute a life sentence and Governor Wolf has granted two.²¹

Table 6. Commutations Granted by the Governor Source: Pennsylvania Board of Pardons, July 2017		
GOVERNOR	Terms Jan – Jan Unless Specified	Commutations Granted
Raymond Shafer	1967-1971	95
Milton Shapp	1971-1979	251
Dick Thornburgh	1979-1987	7
Robert Casey	1987-1995	27
Tom Ridge	1995 - Oct 2001	0
Mark Schweiker	Oct 2001 - 2002	1
Ed Rendell	2003-2011	5
Tom Corbett	2011-2015	0
Tom Wolf	2015-Present	2

As a part of this educational initiative, Regina Austin, Director of The Penn Law Program on Documentaries and the Law, and Adam Brody of Penn Law, produced a documentary entitled Second Looks, Second Chances which advocates for the expanded use of the state commutation system. The documentary contains interviews with men who have had their life sentences commuted by the Governor to a term of life-time parole,²² as well as a former Superintendent who worked in the PDOC, and a political science professor from the University of Pennsylvania.

The film also examines the flaws in the state commutation system. The men who were interviewed were previously lifers confined in the PDOC. When the governor commuted their sentences, all of the men were in the *senior age group* of lifers. Second Looks, Second Chances further demonstrates that life-sentenced inmates who are 50 years of age and older have exceedingly low recidivism rates after being released from prison.

Unfortunately these success stories are few and far between because the state commutation system operates primarily on political considerations. Instead of relying upon corrections professionals to render evidence based decisions predicated upon documented post-sentencing rehabilitation, the governor and his appointees render decisions on applications to commute a life sentence with the next election cycle in mind. From the time that a lifer files his/her commutation application with the Board of Pardons it takes approximately three years to be reviewed. If the application is denied the lifer may not submit a new application for one year; two years for subsequent applications. This means that the taxpayers are paying \$95,198 per year to house that senior age group lifer while they try to navigate a broken commutation system.

So once again the question for the taxpayers of Pennsylvania arises – do you want to spend \$2.3 billion annually to fund the PDOC when the limited financial resources of the state are needed elsewhere?

PAROLE ELIGIBILITY FOR LIFERS IN PENNSYLVANIA

This Parole Eligibility Educational Initiative has focused almost exclusively on the long-term financial implications to the taxpayer for a life sentence without the possibility of parole (LWOP). Because there is no meaningful release mechanism for a meritorious lifer, (who will spend on average 39 years confined in the PDOC) the yearly cost of incarceration doubles or triples as they age due to increased healthcare and medication costs. A conservative estimate of the cost to house a lifer in the PDOC over the course of his/her term of imprisonment is \$3.6 million.

State criminal codes, sentencing statutes and parole laws are enacted by the state legislature. State legislative bodies are tasked with enacting or repealing statutes based on public safety and social and economic justice issues that are unique to the jurisdiction. Pennsylvania is currently facing revenue shortfalls in the FY-2017-18 General Appropriations Budget. The FY-2017-18 budget was passed by the House on a 173-27 vote, and by the Senate on a 43-7 vote. However, the House and Senate could not agree on a spending plan so on July 11, 2017 at 12:01 AM, the budget lapsed into law without Governor Wolf's signature, and it had a structural deficit of \$2.1 billion to begin the year.²³

On April 7, 2017 State Representative Jason Dawkins introduced House Bill No. 135 which “would abolish life without parole in Pennsylvania and extend parole eligibility to those sentenced to life imprisonment.”²⁴ The House Bill seeks to amend 61 Pa. C.S. § 6137 to eliminate the prohibition against parole review for “an inmate...serving life imprisonment.” House Bill No. 135 would further prescribe, “The power to parole...may not be exercised in the Board’s discretion at any time before, but only after fifteen years in the case of an inmate sentenced to life imprisonment.”

Between 2003 and 2015 violent crime in Pennsylvania declined by 20.9%, yet during the same time period, life without parole sentences increased by 39.7%.²⁵ Throughout this analysis of the price of life sentences in Pennsylvania we have presented evidence that as people age they are less of a threat to public safety. State government officials have produced studies which are cited herein that support this fact.

The state commutation system in Pennsylvania is seriously flawed. There is no meaningful review process or release mechanism for a lifer age 50 years of age or older. In today’s politically charged environment a clemency applicant cannot get a fair and transparent review of his/her post-sentencing rehabilitation. House Bill No. 135 of the Regular Session of 2017-18 “*creates no rights to parole.*”²⁶ Instead the Parole Board would review a lifer’s application for parole, and just like any other parole application, if the evidence of post-sentencing rehabilitation does not support a decision to release the inmate the board would reject the request.²⁷

In 2016 there were 53,290 men and women serving LWOP sentences nationwide.²⁸ On January 1, 2016 Pennsylvania had 5,491 lifers confined in PDOC facilities, or 10.3% of the national LWOP population. The FY-2017-18 General Appropriations Budget does not have an adequate revenue stream to pay for government services for the citizens of Pennsylvania without taking a fresh approach to solving the annual structural deficit issues that exist in the state.

During testimony in February 2016 before the Senate Appropriations Committee on the PDOC FY-2016-17 budget request, Secretary Wetzel testified, “The cost to incarcerate an offender for one year in state prison is \$41,000 compared to \$3,500 – the cost to supervise an offender on parole.”²⁹ As illustrated supra, the total cost to house a general population inmate in the PDOC during FY-2017 has risen to \$47,599, and a conservative estimate for the cost to house a senior age group lifer in the PDOC during FY-2017 is \$95,198.

The question that has been asked throughout this initiative is whether the taxpayers want to continue to spend \$2.3 billion annually to fund the PDOC, which is 7% of the FY-2017-18 General Appropriations Budget, when the states limited financial resources are needed elsewhere? A subsidiary question for the taxpayers that must also be asked is – with a \$2.1 billion dollar deficit to begin FY-2017, can the state afford to indefinitely house the stock population of lifers without offering a meaningful release mechanism to meritorious senior age group lifers who will cost at least \$95,198 each per year to house?

CONCLUSION

This Parole Eligibility Education Initiative raises a simple, yet important, public policy question. At what point does the allocation of the Commonwealth's limited financial resources, much of which is used for the lifetime confinement of senior age group lifers, override the need for the state government to enact balanced budgets, to improve its bond rating by reducing the state's unfunded public employee pension obligations, or other societal needs? Pope Francis has stated that a prison sentence of "...*life without the opportunity for parole is a hidden death penalty.*" If the state government is not providing a meaningful commutation process for meritorious life-sentenced inmates, ages 50 years and older, who have served at least 15 years in prison, are the interests of society being served? If it is not politically salable to grant commutation to meritorious lifers who are 50 years of age and older, then parole eligibility for life-sentenced inmates who have served at least 15 years of his/her sentence is a fiscally responsible and safe governmental action for all of the citizens of the Commonwealth of Pennsylvania.

ENDNOTES

- ¹ 18 Pa. C.S. § 1102 Sentence for Murder.
(a) Murder of the first degree – A person who has been convicted of murder of the first degree shall be sentenced to death or to a term of life imprisonment.
- ² 18 Pa. C.S. § 1102 Sentence for Murder.
(b) Murder of the second degree – A Person who has been convicted of murder of the second degree shall be sentenced to a term of life imprisonment.
- ³ 61 Pa. C.S. § 6137(a) General Criteria for Parole.
(1) The board may parole subject to consideration of guidelines established under 42 Pa. C.S. § 2154.5, and may release on parole any inmate to whom the power to parole is granted to the board by this chapter, except an inmate...serving life imprisonment...
- ⁴ The PDOC Bureau of Planning, Research and Statistics is the department that issues "Population Reports." The method utilized to count the inmate population includes the following: (a) Inmates confined in state prisons (SCI-Custody Total); (b) The total inmates held in Community Centers, Contract Facilities, Federal Prisons, County Jails, and the Waymart Forensic Treatment Center; (c) The combined totals are tabulated and are known as the PDOC Jurisdiction Total.
- ⁵ The United States Supreme Court issued two decisions, *Miller v. Alabama* and *Montgomery v. Louisiana*, wherein, the Court held that it was unconstitutional to sentence a juvenile to a term of life imprisonment without parole due to a lack of brain development, and the Court's holding was to be applied retroactively. Pennsylvania has the largest juvenile lifer population in the nation and some juvenile lifers have been re-sentenced to a minimum sentence of 35 years with a maximum term of life-time parole. Accordingly, the stock population of lifers will see a modest reduction; however, not every juvenile lifer will be released.
- ⁶ The Price of Prisons: What Incarceration Costs Taxpayers, [www.vera.org/priceofprisons].
- ⁷ "GUV getting a bill to ease pensions," Philadelphia Daily News, June 9, 2017.
- ⁸ Governor's 2017-2018 Executive Budget at E12-12.
- ⁹ *Id.*, Note 9, *supra*.
- ¹⁰ *Id.*, Note 9, *supra* at E12-9.

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- ¹¹ Id., Note 9, *supra*. This total includes line item appropriations for Inmate Medical Care, Inmate Education and Training, State Correctional Institutions, General Government Operations, and the Justice Reinvestment Fund (EA).
- ¹² Id., Note 9, *supra*.
- ¹³ This cost figure does not include the total Corrections Employee Pension obligation contribution, the total Retiree Healthcare Benefit obligation contribution, or debt service for PDOC Capital Improvement projects. Therefore, the total yearly cost to house a PDOC general population inmate would be higher if the aforementioned financial obligations are factored into the General Fund total appropriation.
- ¹⁴ FY-2016-2017 Budget Request testimony before the PA Senate Appropriations Committee by Secretary John E. Wetzell, February 2016 at pp. 8.
- ¹⁵ The Institute for College Access and Success.
- ¹⁶ Pennsylvania Department of Corrections Recidivism Report 2013, [www.cor.state.pa.us].
- ¹⁷ Id., Note 17, *supra* at pp. 18.
- ¹⁸ Report of the Advisory Committee on Geriatric and Seriously Ill Inmates, Joint State Government Commission, June 2005.
- ¹⁹ Life in Limbo: An examination of parole release for prisoners serving life sentences with the possibility of parole in California, pp. 17, Stanford Criminal Justice Center, [<http://law.stanford.edu>].
- ²⁰ Mark Singel, I pardoned a convict who killed again. Here's why I still believe in mercy. [www.americamagazine.org/pardon].
- ²¹ Applications for Commutation of Life Sentences, information generated by the PA Board of Pardons, as of 9/16/16, [www.pa.bop.gov/Board-Information].
- ²² 61 Pa. C.S. § 6137(4).
- ²³ 6ABC News, Philadelphia, June 11, 2017.
- ²⁴ House C-Sponsorship Memoranda, Representative Jason Dawkins, reintroducing former House Bill 2135 of the 2015-2016 Legislative Session, posted December 15, 2016.
- ²⁵ Ashley Nellis, Ph.D., Still Life, America's Increasing Use of Life and Long-term Sentences, pp. 21, The Sentencing Project, 2017, [sentencingproject.org].
- ²⁶ Id., Note 24, *supra*.
- ²⁷ Id., Note 24, *supra*.
- ²⁸ Id., Note 24, *supra* at pp. 10.
- ²⁹ Id., Note 15, *supra* at pp. 4.