



**THE
SENTENCING
PROJECT**

RESEARCH AND ADVOCACY FOR REFORM

**Testimony of Nicole D. Porter
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**In support of Pennsylvania Sunset
Parole Reform**

Before the Senate Democratic Policy
Committee

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Established in 1986, The Sentencing Project works for a fair and effective U.S. criminal justice system by promoting reforms in sentencing policy and addressing unjust racial disparities and practices. We are grateful for this opportunity to submit testimony endorsing Sunset Parole legislation.

I am Nicole D. Porter, Senior Director of Advocacy for The Sentencing Project. I have had an extensive engagement in public policy research on criminal justice issues for many years, with a particular focus on sentencing, collateral consequences of incarceration, and racial disparity. I have also authored numerous journal articles, reports, and public commentary on sentencing reform including prison admission and release trends.

I appreciate an opportunity to submit testimony to the Senate Democratic Policy Committee and offer my comments on the need to sunset parole supervision given lifetime or indefinite parole supervision in Pennsylvania.

OVERVIEW

The Sentencing Project has explored the growing number of residents subjected to life imprisonment since 2003. We have documented the number of people serving life sentences in U.S. prisons is at an all-time high. As of 2020, 203,865 people are serving a life sentence – one of every seven people in prison. Among persons sentenced to life imprisonment including 44,311 individuals serving “virtual life” sentences of 50 years or more. Incorporating this category of a life sentence, the total population serving a life or virtual life sentence reached over 203,000 in 2020. This represents 13.9 percent of the prison population or one of every seven people behind bars.¹

In addition to having the second-highest percentage of people under community supervision (both probation and parole), Pennsylvania stands out when looking at parole alone. Pennsylvania has both the highest number of people on parole and the highest rate of parole supervision in the United States. Pennsylvania had over 105,000 people on parole in 2019; by comparison, Illinois, a state similar in size and geographic density, had just over 26,000 people on parole.² Pennsylvania’s rate of parole is nearly 135% higher than other states.³

Criminal conduct occurs in predictable ways over the life course. Research demonstrates that criminal behavior drops precipitously among at-risk individuals once they pass their mid-20s. Even among a small population of so-called “chronic offenders,” the vast majority stop committing a crime by their 40s, and their later offenses are typically low-level “nuisance crimes.”

PUBLIC SAFETY AND LONG-TERM SENTENCE SERVERS

Extreme prison sentences are rooted in the common misconception that if individuals convicted of violent crime are released from prison, they are likely to commit more violent crimes. These erroneous beliefs about violent offenses and underlying causes of violent crime fuel extreme prison sentences that contribute to high incarceration rates. This includes indefinite parole sentences as well.

- Researchers tracked arrests of 404,648 people exiting prison in 2005 across 30 states. The overwhelming majority of persons released whose crime of conviction was homicide did not go to commit another violent offense: among those convicted of homicide 2% committed a subsequent

¹ Nellis, A. (2021) *No End in Sight: America’s Enduring Reliance on Life Imprisonment*. The Sentencing Project.

² Oudekerk, B. et. al (2021) *Probation and Parole in the United States, 2019*, Bureau of Justice Statistics.

³ Ibid

homicide while twenty percent of all individuals released were arrested for a new violent offense within their first three years of release.⁴

- Researchers found persons leaving prison for a homicide conviction demonstrated low public safety risks in a 2002 Bureau of Justice study of 272,111 persons exiting prison across 15 states. For persons sentenced to murder: 1% were arrested for another murder while 17% were arrested for other violent offenses. While, one percent of people released from prison following a violent crime conviction went on to be arrested for a murder and 28% were arrested for another violent offense. These rates fall far below new arrests among those convicted of other crime types. Persons released after a homicide conviction were rearrested at a considerably lower rate (41%) than released prisoners generally (68%).⁵

JUVENILE LIFERS

Pennsylvania has the largest number of individuals who were sentenced as juveniles at the time they committed their crimes and later sentenced to life-without-parole, otherwise known as “juvenile lifers”. Over 500 people in Pennsylvania were given this sentence, and as of September 2021, 266 have been released with a parole rate of 69%.⁶

In 2018 Montclair University in New Jersey did a study on released juvenile lifers. At the time of their analyses, 269 lifers had been re-sentenced in Philadelphia and 174 had been released. Six had been re-arrested. Charges were dropped in four of the cases and two resulted in new convictions (one for Contempt and the other for Robbery in the Third Degree). Recidivism rates for people convicted of violent offenses after serving decades in prison are oftentimes in the single digits.

Persons subjected to life without parole rarely have access to release remedies given the extreme sentence. Life without parole sentences. However, for those that were resentenced and released, parole is granted, under the stipulation, in Pennsylvania, that the person is subject to lifetime parole. This type of parole supervision expands extreme sentences for people who have been released because of the factors that could be involved in their reincarceration.

LIFETIME SUPERVISION: GROWING CHALLENGE OF PAROLE VIOLATIONS

According to The Robina Institute, nearly half of Pennsylvania’s prison admissions were due to parole violations in 2014 while at the end of 2019, 15.7% of persons in state prisons were incarcerated due to technical violations.⁶

There are dozens of reasons why a person could be deemed a technical violator such as missing a phone call from a parole officer or unknowingly crossing county lines. Regardless of the magnitude of the offense, being sent back to a state facility is an option. Prosecutors do not have the same burden of proof at parole hearings, so it is much more difficult for people to defend against allegations of technical parole violations.

Supervision in Pennsylvania is particularly challenging given the current policy of lifetime supervision. Persons sentenced to prison for indeterminate ranges in Pennsylvania are required to be supervised on

⁴ Durose, M., R., Cooper, A. D., & Snyder, H. N. (2014). [Recidivism of prisoners released in 30 states in 2005: Patterns from 2005 to 2010](#). Bureau of Justice Statistics.

⁵ Langan, P.A., & Levin, D.J. (1994). [Recidivism of prisoners released in 1994](#). Bureau of Justice Statistics.

⁶ Pennsylvania Department of Corrections. (accessed November 1, 2021). [Juvenile Lifers Information](#).

parole for the duration of the remainder of their maximum sentence which is sometimes quite long. So, if someone receives a 10 to a 20-year prison sentence in Pennsylvania, and they are released at a minimum of 10 years, they are supervised on parole for an additional 10 years. And if a resident is sentenced to 35 years to life, and released in year 35, they are subject to parole supervision for the rest of their life, under the policy of “indefinite parole”.

RECOMMENDATIONS

In recent years, states like Connecticut, Michigan, Mississippi, Missouri and New York adopted policies reducing parole terms and limiting reincarceration for technical violations. To address indefinite parole and key driver of imprisonment in Pennsylvania, state lawmakers must:

- **End Indefinite Parole:** Efforts to challenge life imprisonment animate a need to extend policy consideration to parole supervision. Lawmakers should end indefinite parole for formerly life sentenced individuals to address key drivers of incarceration. Indefinite parole terms stretch resources and increase the likelihood of technical violations.

“Supervision periods should have a relatively short maximum term limit — generally not exceeding two years — but should be able to terminate short of that cap when people under supervision have achieved the specific goals mapped out in their individualized case plans, a milestone often marked by a special ceremony to highlight the significance of the event”

Limiting indefinite parole terms would allow Pennsylvania’s supervising agencies to focus on individuals for the period of time they are at the greatest risk of returning to prison, rather than exposing them to technical violations long after release.

- **Expand Earned Time Policy to Parole Supervision:** Colorado and New York allow residents on parole to shorten their supervision periods by up to 30 days for 30 days of compliance. This year, New York lawmakers approved legislation under the “Less is More Act” to extend merit time to persons through the state’s earned time credits framework. Residents under community supervision now have a 30-day earned time credit reduction applied to their community supervision period for each 30-day period they receive no technical violations. Persons on parole received up to 2 years retroactive earned time credit when the bill was enacted in September 2021. Missouri policy makers authorized 30 days of earned compliance credit for every 30 days of compliance while under supervision for certain people on parole.
- **Limit Incarceration for Technical Violations:** A key reason for Pennsylvania’s incarceration rate is the number of people jailed and imprisoned for technical violations. Not only should indefinite parole end, but incarceration for technical violations should be restricted. Lengthy incarceration terms for technical violations, years after the crime of conviction, reinforce overly punitive practices that contribute to mass incarceration. Connecticut is among states that have reduced it’s prison population by over 39% since it peaked in the mid-2000s. One reason: limited technical violator prison admissions. Michigan and Mississippi enacted similar policies.

I am grateful for this opportunity to submit testimony in support of establishing a Sunset Parole policy to address Pennsylvania’s indefinite parole practices. The recommendations highlighted would go far in recalibrating Pennsylvania’s parole practices with penalties with criminological evidence to advance fair correctional policy and public safety.