

RECIDIVISM OF SECOND DEGREE LIFERS:  
Minimal Rates of Re-Offense

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accessible at [www.realcostofprisons.org/writing](http://www.realcostofprisons.org/writing)

INTRODUCTION

Many consider recidivism the primary measure of effective rehabilitation of prisoners. By that standard, Massachusetts second degree lifers are doing very well, in recent years achieving rates of re-offense well below 10%. Recidivism is most commonly reported as the rate of re-incarceration during the three years following release. Re-incarceration typically occurs for two reasons. The first, called technical violations, are the result of violating the conditions or rules of parole. In Massachusetts, technical violations typically have represented between one-third to one-half of the causes for re-incarceration for those released on parole.<sup>1</sup> The second reason for re-incarceration is for committing a new offense or crime. However, re-incarceration may also result upon the mere report or suspi-

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MASSACHUSETTS SECOND DEGREE  
LIFERS ARE ACHIEVING RATES  
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picion of having committed an offense, which then may not be confirmed upon future investigation. Because rules of evidence are substantially abbreviated for

parolees, even when a parolee is never charged with an actual crime or is subsequently acquitted, a sometimes indefinite or lengthy re-incarceration may still result.

In Massachusetts, second degree life sentences are most

commonly imposed after conviction for homicides committed without premeditation but under conditions where the killing involved a disregard for the possibility that death or grievous bodily harm would result. A smaller number of such sentences may be imposed for select or repetitive crimes that do not involve a death. Second degree life sentences currently require the prisoner to serve a minimum of 15 to 25 years before parole eligibility.<sup>2</sup>

The Lifers Group has long informally observed that second degree lifers continue to have low rates of committing new crimes, but Massachusetts has never separately reported or even tracked recidivism rates specifically for second degree lifers after release. When the Lifers Group requested such data, the responses were that this was not available and would require prohibitively expensive customized searches. However, in 2010, the Criminal Justice Policy Coalition (CJPC) was able to acquire data from the Parole Board for the 161 second degree lifers released 2000 to 2006.<sup>3</sup> These data show that 60% were never returned to prison for any reason and an additional 12% were re-incarcerated but were re-released without parole revocation, suggesting that a total of 72% had committed neither verifiable technical violations nor crimes. 14% were re-incarcerated for a technical violation and 14% were re-incarcerated with new arrests or convictions (10% new arrest; 4% new conviction).

Following the recent revision of Massachusetts public records laws, another Lifers Group request resulted, after payment of a fee, in seven years (2006-2012) of second degree lifer three-year recidivism data.<sup>4</sup> This report summarizes these

results, contrasting them with previously published recidivism data for all prisoners released from the Department of Correction (DOC) whether on parole, probation or with sentence completion. Data more recent than 2012 were not available at the time of the request because of the delay necessary for the three year observation period to collect such recidivism data.

## RESULTS

It is apparent from the TABLE (p4) that, for second degree lifers, the overwhelming cause of re-incarceration was for technical violations, with far fewer, even zero, re-incarcerations occurring for cohorts when excluding technical violations. Also apparent is the drastic reduction in the numbers of lifers released on parole in 2011 and 2012. It is worth noting that a concomitant reduction is also found in the numbers for all prisoners released in 2011/2012. The total number of prisoners released consists of a composite of those released on parole, probation and by sentence completion. There are an average of 430 fewer prisoners released per year for 2011 and 2012 compared to 2009 and 2010, even though the total prisoner population had increased in the later years.

## DISCUSSION

The reduction in the number of prisoners and lifers released 2011 and 2012 likely was the result of substantially more restrictive Parole Board policies implemented following the wholesale firing and replacement of the entire Board in early

TABLE

## THREE-YEAR RECIDIVISM (RE-INCARCERATION)

Year	All Released Prisoners			Released Second Degree Lifers			
	#Rel'd	(+)Tech <sup>a</sup>	(-)Tech <sup>b</sup>	#Rel'd	(+)Tech <sup>a</sup>	(-)Tech <sup>b</sup>	
2006	% #	41% 2329	NA <sup>c</sup> 964	37% 38	26% 14	10% 10	
2007	% #	43% 2536	35% 1079	37% 41	10% 15	4% 4	
2008	% #	39% 2718	32% 1072	41% 37	8% 15	3% 3	
2009	% #	41% 2758	31% 1122	58% 48	4% 28	2% 2	
2010	% #	39% 2725	NA <sup>c</sup> 1076	53% 36	8% 19	3% 3	
2011	% #	35% 2276	30% 806	0% <sup>d</sup> 7	0% <sup>d</sup> 0	0% <sup>d</sup> 0	
2012	% #	32% 2346	27% 753	38% <sup>d</sup> 16	0% <sup>d</sup> 6	0% <sup>d</sup> 0	
2011+2012	% #			26% 23	0% 6	0% 0	
Total		17688	39%	31%	223	43%	10%

<sup>a</sup> Reincarcerations including technical violations.

<sup>b</sup> Reincarcerations excluding technical violations.

<sup>c</sup> NA = not available (detailed recidivism report not published).

<sup>d</sup> Calculating recidivism rates when number released is <20 has been considered unreliable (note 4). Because of the sharp drop-off in parole releases of second degree lifers during 2011 and 2012 due to the firing and subsequent replacement of the parole board, Lifers Group routinely has summed these two years to make a relevant single sample more comparable to other years.

2011. This change occurred because of the political upheaval following an unfortunate and rare killing of a policeman by a paroled lifer in December 2010. Separate analyses have concluded that, compared to 2010, 588 and 460 fewer prisoners were paroled in 2011 and 2012, respectively, because of this change in the Parole Board membership and policies.<sup>5</sup> The table shows the similar trend for lifers, with a sharp reduction in the numbers of lifers paroled 2011 and 2012. Overall, for those two years, only 18% of eligible lifers who had hearings were granted paroles as compared to an average of 32% for the years 2006-2010.<sup>6</sup>

Also apparent is that the overwhelming majority of returns to prison for second degree lifers are technical violations. Most of these are simply due to disregard of the conditions of parole. For example, for the 6 years, 2011-2016, 44% of the technical violations were for substance abuse (alcohol or drugs, mere possession being sufficient); an additional 18% were for lying to a parole officer or for associating with ex-prisoners.<sup>7</sup> It is unfortunate that Massachusetts still routinely returns such technical violators to prison rather than imposing lesser, progressively graduated sanctions that would not disrupt the parolee's painfully reestablished life. Sanctions could include requiring the offender to spend weekends or nights in a sober house or community rehabilitation facility. Such sanctions would not force the parolee to disrupt restored family relationships or to lose his hard-fought housing, job and property. Loss of these cornerstones of successful re-integration into society totally destroys any progress the parolee has made and vastly increases

the likelihood of future failure and recidivism.

While the remarkable paucity of lifers returning to prison in 2011 and 2012 might well reflect, in part, the draconian selection process by the then newly constituted Parole Board, it is apparent that overall, between 2006-2012, lifers had very low rates of re-incarceration when excluding technical violations. In fact, excluding technical violations, only 22 (10%) of 223 released lifers returned to prison, including those released in 2006 who accounted for almost half (10) of the 22 returnees. Furthermore, it is also clear that these very low rates are not the consequence of the restrictive policies implemented by the "new", post-2010, Parole Board. The rates were essentially the same for the years 2006-2010 before the shake-up: only 11% or 22 of 200 lifers released 2006-2010 were returned, excluding technical violations. Additionally, these results are entirely consistent with the data previously acquired by CJPC for the years 2000-2006. There, 161 lifers were released with only 14% returning to prison for new arrests or convictions, numbers very comparable to the 10-11% rate for 2006-2012. Additionally, CJPC data further revealed that 19 (12%) of the 161 who were re-incarcerated without technical violations were re-released without a parole revocation, suggesting that further investigation found no evidence of a new crime. These 19 comprise 30% (19 of 64) of all those returned to prison, 2000-2006, leaving only 22 or 14% of the 161 who presumptively returned for a new offense. Of these, 6 (4%) were returned with a new conviction and 16 (10%) were re-incarcerated with a new arrest.



An arrest is typically sufficient to violate an ex-prisoner's parole even in the absence of an eventual conviction, because of the substantially lower standard of proof required.<sup>8</sup> Unfortunately, the 2006-2012 data set received from the DOC does not have the same detailed breakdown of those returning that had been provided to CJPC in 2010. Nevertheless, it is very likely that, like 30% of the earlier group who were re-released without revocation, a similar fraction of the 22 returnees in 2006-2012 will not have committed new crimes, effectively lowering their true rate of re-offense below 10%.

What is clear, however, is that, for second degree lifers released on parole, the rates of new crimes committed are very--sometimes vanishingly--low. However, this has apparently not influenced the new, post-2010 Parole Board which continues to grant paroles at the same low rates seen in 2011/2012.<sup>9</sup> There is no evidence that these low paroling rates for lifers or for other parole eligible prisoners, have improved public safety.<sup>10</sup> However, this reduction in released prisoners has been very costly to the Commonwealth. As previously documented, it continues to cost the DOC approximately \$25 million per year and adds as much as \$45 million per year at the county level.<sup>11</sup> With the cost of housing prisoners increasing from \$45,000 to \$55,000 or \$60,000 per year<sup>12</sup>, this sum has likely increased to over \$30 million per year for the DOC alone. Such sums should far better be spent on improved prisoner rehabilitation and for the revitalization of urban communities devastated by poverty and over-incarceration.

I thank Gordon Haas, long-time chairman of the MCI-Norfolk Lifers Group Inc., for his careful suggestions and review of the manuscript, as well as for his many years tirelessly working to inform and assist lifers about parole policies and outcomes.

#### RECIDIVISM OF SECOND DEGREE LIFERS

#### ENDNOTES

1. Greineder D. "Parole and Recidivism: Progress or Failure of Leadership?" (Lifers Group Inc., Norfolk, MA: October 2017). Manuscript in preparation.\*
2. Massachusetts General Laws. "Crime Bill of 2012", Statutes of 2012, Chapter 192 (Boston, MA; August 2012).
3. Haas G and Fillion L. "Life Without Parole: A Reconsideration" 2nd Edition, with Updating Addendum. (Criminal Justice Policy Coalition, Boston, MA and Norfolk Lifers Group, Norfolk, MA; 2016) at 15-16.
4. Papagiorgakis G. Personal communication; August 23, 2017. (Massachusetts Department of Correction, Research & Planning Division, Concord, MA).
5. Greineder D. "Lowered Recidivism Rates Are Artifacts of a Changed Parole Policy" (Lifers Group Inc., Norfolk, MA; October 2016) at 3; Greineder D. "Parole and Recidivism".
6. Ibid.
7. Haas G. "Parole Decisions for Lifers - 2016" (Lifers Group Inc., Norfolk, MA; 2017) at 7 and Table 6.
8. Commonwealth v Holmgren, 421 Mass 224 (1995).
9. Haas, "Parole Decisions for Lifers - 2016" at 3 and Table 1; Greineder, "Parole and Recidivism".
10. Greineder D and Haas G. "Financial Costs Attributable to the "New" Parole Board" (Norfolk Lifers Group, Norfolk, MA; July 2914) at 3.
11. Id. at 3 and Table; Greineder "Lowered Recidivism Rates Are Artifacts of a Changed Parole Policy" at 3-4.
12. Forman B and Widmer M. "Getting Tough On Spending" (MassINC, Boston, MA; May 2017 at 7; Haas G and McGrath G. "DOC Expenditures and Staffing Levels for FY2016" (Lifers Group Inc., Norfolk, MA; March 2017) at 2; Greineder D. "Failure to Rehabilitate: A Systemic Problem in the Massachusetts Department of Correction" (Lifers Group Inc., Norfolk, MA; June 2017) at 10-11.

\* All Lifers Group reports are available at [www.realcostofprisons.org/writing](http://www.realcostofprisons.org/writing).