

Why we Need to End Life Without Parole

My name is Shawn Fisher, and I am serving a Second Degree Life Sentence for a murder I committed in 1993 at the age of 20. Like most young men who come into the prison system "change" was not a word I used unless it had to do with a TV station. Over the years, with the loving, tireless and selfless dedication of prison ministry volunteers, as well as with the help of fellow prisoners, I have been able to work on changing myself. Thanks to them I am the man I am today.

Over the years I have actively participated in prison reform efforts. I have written several articles on mass incarceration that were published in academic journals and was honored to speak before members of the Harm Reduction Caucus on criminal justice issues. Those experiences have provided me with a unique perspective on all things related to prison life. One such thing is the legislation currently before the House and Senate.

Like most reform bills there tends to be a lot of fear, skepticism, disinformation and backlash from many who do not fully understand the essential elements of an issue. That fear overpowers, and makes well-intentioned legislation die before it ever gets off the ground. Two such bills currently being considered: S826 and H3358, both entitled "An Act To Reduce Mass Incarceration", have many of these same problems. That's why getting the facts out there are as equally as important to this legislation as its passage. Allowing people to make informed decisions will prevent many of those same mistakes from happening again.

These bills are arguably the most important pieces of prison reform legislation since the passage of chapter 777 of the acts of 1972, which statutorily entitled prisoners to rehabilitation within the Massachusetts general law framework. "The Social compact of chapter 777 of the acts of 1972, promised the liberty to experiment in the reform of criminality, in the hope of freedom from imprisonment". Much has changed in the last 47 years both culturally in our society, and politically. But inside the prison system ONE thing still remains a constant: an individual's capacity to change and hope for the future. This truth is the motivating factor behind why incarcerated men and woman seek to rehabilitate themselves. Many who are serving life without parole (LWOP) or lengthy prison sentences do so, not to impress a parole board or earn statutory good time. They do so because they want something more for themselves. They want to be better than who they were when they committed their crimes. They embody the belief that it is necessary to look at the totality of a person. No one is the worst or best thing they've ever done.

Those serving LWOP (or "lifers" as they are called) and those serving long term sentences are the lifeblood of the rehabilitation process. One would be hard pressed to find a program offered by the Department Of Corrections (DOC) in which lifers are NOT participating in or actively facilitating. In many cases, lifers are the creators of new programming and actively advocate for more rehabilitative programs. This active participation has a trickle-down- effect.

Those who are serving less time, see lifers fully involved in these programs and ask themselves, "Why would someone who has nothing to gain take part in a program?" They soon come to realize that lifers appreciate the intangible things such as changing one's self-awareness and changing one's way of life. Slowly, over time, they want the same thing. Not all "get it", but the few who do validate the work lifers put into it. That in itself is an added reward.

In some small way, lifers get to help prevent a potential recidivist and future victim of said crime. It is a palliative effect both for the community and for those who have taken from the community. And all this is done without the hope of ever being released. Imagine what could be done if those same men and woman were given just a glimmer of that hope. Hope that one day their efforts would be rewarded with a parole hearing. A parole hearing is not by any means a guarantee of being released. Rather, it's the opportunity to present to the Parole Board why they should grant them release to the community where they will be supervised and continue on lifetime parole. By no means an easy task.

Hope for those behind bars is not the only reason to pass this legislation. Other factors include a growing elderly prison population whose financial burden to the taxpayer will only increase. In 1970, the average life expectancy was 56.2 years; 46 years later, in 2016, that number has climbed to 75.8. ¹This demographic transformation has profound consequences on large swaths of American life, including the prison population and the financial burden on Massachusetts.² As of July 2018, there were 3141 lifers and long termers housed in the DOC. At an annual cost of \$71,791.86 per inmate, the associated costs to house that demographic will only increase as they begin to age beyond 50. ³As the DOC has proven, incarceration is very expensive. ⁴ With an already burgeoning budget, the DOC has cost taxpayers over \$625 million dollars for FY2018. An increase of \$55 million dollars from 2016. This, in spite of a decrease in the inmate population of over 900. Based on this trend and an aging inmate population, it's reasonable to assume this budget will continue to increase each and every year in spite of any laws passed by the legislative and executive branches. Unless, bills like S826 and H3358; "An Act To Reduce Mass Incarceration" become law.

Furthermore, empirical studies have repeatedly shown that recidivism decreases as one ages. "The Pennsylvania Board of Probation and Parole found that of the 99 commuted sentences of LWOP, only one of those released over the age of 50 returned for new crime. A recidivism rate of 1.01% percent. In New York, only 7% of ex-offenders age 50—64 return to prison for new crimes. Research has conclusively shown that by age 50 a person has significantly outlived the years in which they are most likely to commit crimes."⁵

There are many reasons for passage of this legislation. I have only scratched the surface on issues many already know. But, in a more detailed evaluation on the legitimacy of life sentences, Judith Lichtenberg, Professor of Philosophy at Georgetown University in an article entitled "Against Life Without Parole" writes, "abolish(ing) LWOP and extremely long sentences is simply that doing so will likely have good consequences... of course, in considering the benefits of LWOP, we cannot ignore the interests of victims of crime. Some victims want offenders to receive the maximum penalties possible, and may otherwise feel unhappy or

insecure. But not all victims do; some reject the idea that because one life has been lost others must be as well. There are many examples, including the families of Dylan Roof's victims."⁶

She argues that there are "many good reasons to abolish LWOP sentences, and no good reasons not to. The only rationale for punishment that can hope to justify LWOP is a retributive one." In her conclusion she writes, "abolishing LWOP sentences—and indeed all life sentences—is likely to bring many benefits, to prisoners, their loved ones, the community, and to those who decide for abolition and who carry it out. Finally, there is a certain pointlessness in continuing to punish a person who has undergone changes of character that distance him (or her) so greatly from the person who committed the crime many decades earlier."

Perhaps the greatest argument for passage of this bill is the simplest one in which she aptly states what most people behind bars would stand behind. We need "a world in which we do not give up on people who have done terrible things, and aim to facilitate their journey to a different place."

By Shawn Fisher
W58410

Chairman Lifers Group
at OCCC,
and Director of
CURE ARM, Inc.

¹ "The Greying of America," *The Week*, August 23, 2019, vol. 19, (938) www.theweek.com

² Haas, Gordon (2018), "A Report on the Massachusetts DOC Institutional Fact Cards as of July 1, 2018".
www.realcostofprisons.org/writing {updated institutional fact cards are available on line at www.ma.gov/doc}

³ Haas (2018).

⁴ Haas (2018).

⁵ Fisher, Shawn. "Mass Incarceration: The Further Compromise of Public Safety." *Journal of Prisoners on Prisons*, vol. 23 (2), 2014

⁶ JL537@georgetown.edu Georgetown University, <https://scholarship.law.georgetown.edu/facpub/2064>