



## PRISONERS' LEGAL SERVICES OF MASSACHUSETTS

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### **Testimony of Prisoners' Legal Services in Support of H.1797, An Act to Reduce Mass Incarceration Before the Joint Committee on the Judiciary October 5, 2019**

My name is Jesse White and I am the Policy Counsel for Prisoners' Legal Services, an organization that advocates on behalf of people who are incarcerated in the Commonwealth. I also represent PLS with the Massachusetts Campaign to End Life Without Parole. Thank you for the opportunity to speak today in support of H.1797, An Act to Reduce Mass. Incarceration.

One out of every six people incarcerated in Massachusetts state prisons is sentenced to die without any hope of ever having the opportunity for parole review.<sup>1</sup> People of color are grossly overrepresented- 59% of lifers are Black, Indigenous, and people of color (BIPOC) though only 28% of the Massachusetts population are BIPOC.<sup>2</sup>

Natural life sentences were exceedingly rare before the 1970s, with "life" in prison generally meaning a term of 15 years.<sup>3</sup> Natural life sentences proliferated with the confluence of the tough on crime era and the growth of death penalty abolition, and people often justify life without parole sentencing as a moral alternative to the death penalty. However, just like capital punishment, a person sentenced to serve life without parole is confined in prison until they die, with no hope of redemption. Although life without parole is often considered a replacement for capital punishment, life without parole sentences ensnare far more people than the death penalty ever would. It is hard to imagine a prison system with one out of every six incarcerated people sitting on death row.

Over half of incarcerated lifers are over the age of 50<sup>4</sup>, although numerous studies show that people begin to age out of crime typically starting in their mid-twenties, with sharp declines in

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<sup>1</sup> [DOC Data July 2021.pdf](#)

<sup>2</sup> *Id.*

<sup>3</sup> Marie Gottschalk, No Way Out? Life Sentences and the Politics of Penal Reform, in *Life Without Parole: America's New Death Penalty?* 227, 228 (Charles Ogletree, Jr. & Austin Sarat eds., 2012).

<sup>4</sup> <http://www.realcostofprisons.org/writing/haas-criminally-sentenced-by-race-ethnicity-age.pdf>

criminal behavior in their thirties and forties.”<sup>5</sup> It is impossible, at the time of sentencing, to know how a person may change and grow over the course of their life. That is the purpose of parole boards; they are tasked with determining whether a person’s continued incarceration is necessary for public safety. Right now, we are paying, on average, over \$120,000 per year per person to incarcerate elderly men and women who could be released and contribute positively to society.

Prison is a brutal environment. People are subjected to medical and mental health neglect, traumatic experiences such as solitary confinement and excessive use of force, isolation from family and friends, and environmental toxicity. In spite of these harsh conditions, people sentenced to life transform their lives, demonstrate remorse and make amends, become mentors, engage in education, and raise their children and grandchildren. My lifer clients are some of the most generous people I have ever met.

Many people believe that we cannot end life without parole without harming victims and survivors of homicide. Please remember that survivors are not a monolith and healing takes many shapes. A friend of mine was very recently killed, and I do not want the people who killed him to be incarcerated for life.

Please also remember that the most incarcerated corridors of the commonwealth are also the most victimized and many people, especially black and brown people, have lost loved ones to both violence and prison. In making policy, the legislature cannot be blinded by extremely understandable and emotional responses to harm. The legislature must also take a step back and consider the whole picture in order to establish the kind of policies that best will serve the public interest.

Abandoning all hope for rehabilitation, ignoring evidence that people age out of crime, and consigning someone to death in prison without any opportunity for review of their sentence by a reasoned parole board, makes little sense for the public interest or public safety. Permitting parole review for all people would allow resources to be redistributed to measures that we know are effective to reduce violence in our communities, and that may prevent the next killing. It would also strengthen our collective humanity to abandon a sentence which, over 150 years ago, John Stuart Mill characterized as, “...a living tomb, there to linger out what may be a long life in the hardest and most monotonous toil, without any of its alleviation or rewards- debarred from all pleasant sights and sounds and cut off from all earthly hope.”

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<sup>5</sup> Ashley Nellis, *No End In Sight- America’s Enduring Reliance on Life Imprisonment*, Sentencing Project, Page 25 (Feb. 2021). <https://www.sentencingproject.org/wp-content/uploads/2021/02/No-End-in-Sight-Americas-Enduring-Reliance-on-Life-Imprisonment.pdf>

Ending life without parole sentencing allows us to shift away from purely punitive models of justice that do nothing to address the societal conditions that lead to violence and murder, and towards transformative and restorative models of justice proven to create greater healing and hope for us all.

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October 5, 2021