

A Study of Parole Board Decisions for Lifers 2008

2008

COMPREHENSIVE ANALYSIS OF PAROLE BOARD DECISIONS FOR LIFERS'
APRIL 2009

LIFERS'
GROUP INC.

A STUDY OF PAROLE BOARD DECISIONS FOR LIFERS

2008

INTRODUCTION

Pursuant to Massachusetts laws, M.G.L. c 127, §130 and §133A, the Parole Board may grant a parole to a prisoner serving a life sentence for second degree murder after the prisoner has been incarcerated for a minimum of fifteen (15) years. The decision to grant a parole cannot solely be based upon good conduct or program involvement while incarcerated. A parole is to be granted only when a majority of the Parole Board members believe that "there is a reasonable probability that if a prisoner is to be released, he or she will live and remain at liberty without violating the law and that his or her release is not incompatible with the welfare of society." (M.G.L. c.127, §130)

The decision to grant or not grant a parole is entirely at the discretion of the Parole Board. The Parole Board does not have the authority to, nor is it expected to, retry any prisoner's case. The seriousness or severity of a particular offense may be one of many factors the Parole Board considers regarding whether paroling a prisoner would be incompatible with the welfare of society.

Parole hearings for second degree lifers are open to the public and are held at 12 Mercer Road in Natick, MA. Hearing schedules are posted on the website for the Executive Office of Public Safety and Security: <http://www.mass.gov>. Or, the information can be obtained by calling 508-650-4545.

Witnesses for or against granting parole may testify at the public hearings. Written statements are also accepted in lieu of testimony. All records concerning a prisoner seeking parole, including juvenile records, are open for review by Parole Board members.

Once a decision to parole or not to parole a prisoner has been made, a Record of Decision is completed. When a parole is denied, that Record of Decision must be given to the lifer within twenty one (21) days after the decision has been reached. The Record of Decision is a public record. A copy must be provided by the Parole Board to anyone requesting one under the Massachusetts Public Records statutes, specifically M.G.L. c. 4, § 7 (26) and c. 6, § 10(c).

If a lifer is denied a parole, the Parole Board then decides how long that prisoner must wait until his or her next hearing before the Parole Board. The length of that period between hearings is termed a setback. The Parole Board can assess setbacks up to five (5) years. In cases in which Parole Board members cannot render a decision, i.e., the vote is evenly split between those for and those against granting parole, the parole is denied and the setback must be one year.

METHODOLOGY

This study of Parole Board decisions for lifers covers the decisions made in 2008. Records of Decision for all lifer hearings conducted in 2008 were requested by the Lifers' Group Inc. at Norfolk under the Public Records Law. Upon receipt of the assessed costs for locating the records and photocopying each page, the Parole Board sent the Records of Decision for 102 hearings.

As with the studies of 2003-2006 and 2007 Records of Decision, the results of each of the 102 Records of Decision were tabulated based upon the outcome, i.e. approved or denied, the reasons cited for the decisions, and in the case of denials, the length of the setbacks. In analyzing the reasons for approving or denying a parole, the specific wordings in the decisions were used, e.g., "does not take responsibility," "poor institutional behavior," "expresses remorse". As with the 2007 study, the same twenty-eight (28) factors were identified as specific reasons for denying paroles and fourteen (14) for approving paroles. The frequencies that those factors appeared in the Records of Decision were tabulated. In most cases, multiple factors were identified both for approving or denying paroles. The percentage of the frequency of each factor was computed based upon total number denied or approved, i.e., there were 70 denials and the number of times each factor was identified as contributing to a denial was divided

by 70 to calculate the percentage frequency. The same method was used for approval factors with a base of 32.

Percentages were also calculated for approval/denials using a base of 102, for initial and review hearings also with a base of 102, and percentage rates for approvals or denials of initial and review hearings, using bases of 37 and 65 respectively. Initial hearings were those for lifers who had completed fifteen (15) years of incarceration and appeared before the Parole Board for the first time in 2008. Review hearings were for lifers who had previously appeared before the Parole Board, had been denied, and had served the length of the previously assigned setback.

While no individual Parole Board member was identified in the Records of Decision, dissenting opinions were provided in a limited number of the decisions. The dissenting reasons, whether against parole being granted or denied, are not included in this study. Only the reasons cited by the majority vote have been considered. While the same breakdowns of the data contained in the 2007 study are repeated in the 2008 study, the following new analyses are also included: lifers who appeared before the Parole Board after having a previous parole revoked, specific language from cases providing further insight into the rationale of the Parole Board on significant issues, and lifers appearing before the Parole Board who had not been convicted of murder

RESULTS

Of the 102 Records of Decision included in this study for 2008, 32 paroles (31.3%) were granted, 70 (68.7%) were denied. A comparison of percentages with previous years is given below.

	Approved	Denied
2008	31.3	68.7
2007	28.5	71.5
2006	29.6	70.4
2005	33.3	66.7
2004	46.6	53.4

In 2008, 37 lifers appeared before the Parole Board for the first time. (Initial). The results were an approval rate of 35.1% (13 out of 37) and a denial rate of 64.9% (24 of 37). In contrast, 65 lifers appeared before the Parole Board for review hearings. The results were an approval rate of 29.2% (19 out of 65) and a denial rate of 70.8% (46 of 65). Comparisons of percentages with previous years are as follows:

Initial Hearings			Review Hearings		
	Approved	Denied		Approved	Denied
2008	35.1	64.9	2008	29.2	70.8
2007	31.9	68.1	2007	26.7	73.3
2006	42.9	57.1	2006	22.2	77.8
2005	30.2	69.8	2005	35.6	64.4
2004	45.4	54.6	2004	47.2	52.8

Of the possible twenty-eight (28) factors identified as reasons for denying parole, the eight (8) factors occurring most often in 2008 were: not program involved (37), lacks causative insight into criminal behavior (33), release incompatible with welfare of society (31), poor institutional behavior (30), is a danger to the community (20), serious disciplinary report history (20), does not take responsibility (19), and unresolved anger issues (17). The numbers in parentheses are the actual number of times each factor was cited in 2008 in the seventy (70) denials of parole. The following table presents a comparison of the frequency percentages for each of the twenty-eight (28) factors used to deny paroles for lifers from 2004 through 2008.

FACTOR	2008	2007	2006	2005	2004
Does not take responsibility	27.1	23.5	29.0	20.6	17.7
Is a danger to the community	28.6	49.0	17.4	29.4	45.2
Not program involved	52.9	32.6	24.6	8.8	4.8
Minimizes criminal behavior	10.0	5.1	2.9	11.8	11.3
Waived hearing	1.4	2.0	0	4.4	3.2
Refused move to lower security	0	1.0	0	1.5	0
Release incompatible with welfare of society	44.3	23.5	27.5	20.6	19.4
Lacks causative insight into criminal behavior	47.1	43.9	27.5	22.1	32.2
Poor institutional behavior	30.0	9.2	5.8	4.4	9.7
Refuses sex offender treatment program	12.9	9.2	15.9	7.3	11.3
Serious discipline report history	28.6	17.3	20.3	29.4	20.9
Crime committed while incarcerated	1.4	0	0	2.9	6.4
Mental health issues	11.4	15.3	10.1	13.2	12.9
Prior parole failures	7.1	7.1	11.6	1.5	6.4
Crime committed while on parole or escape	8.6	1.0	4.3	11.8	8.1
No family or community support	0	2.0	8.7	2.9	1.6
No home or work plan	0	2.0	2.9	2.9	0
Expresses no remorse	8.6	7.1	7.2	2.9	11.3
Substance abuse issues	17.1	17.3	20.3	8.8	8.1
Untruthful	11.4	15.3	4.3	4.4	6.4
Severity of Offense	4.3	0	10.1	4.4	4.8
Unresolved anger issues	24.3	5.1	5.8	4.4	3.2
Needs longer period of adjustment	14.3	8.2	11.6	17.6	12.9
Needs counseling	1.4	5.1	5.8	1.5	3.2
Incarcerated at highest security	4.3	5.1	4.3	7.4	3.2
Manipulative	0	3.1	1.4	2.9	0
Not ready or suitable for community supervision	12.9	27.6	0	0	0
Shows inability to abide by the rules and regulations of prison environment	8.6	5.1	0	0	0

There were fourteen (14) factors identified as reasons for granting a parole in the 2008 study. The seven most cited were: very program involved (23), strong community support (17), family support (15), able to abide by rules and regulations of prison environment (10), accepts responsibility (10), minimal discipline reports (9), and solid parole plan (7). The numbers in parentheses are the number of times each factor was cited in 2008 in the thirty-two (32) approvals of parole. A comparison of the frequency of percentages for each factor for the years from 2004 through 2008 is given below.

FACTOR	2008	2007	2006	2005	2004
Very program involved	71.9	76.9	65.5	61.8	75.9
Accepts responsibility	31.3	46.1	24.1	11.8	16.7
Expresses remorse	21.9	46.1	24.1	11.8	13.0
Amenable to treatment and supervision	15.6	48.7	10.3	35.3	40.7
Health issues	3.1	10.3	3.4	5.9	5.6
Strong community support	53.1	12.8	20.7	32.4	16.7
Family support	46.9	25.6	44.8	29.4	38.9
Understands causative factors of criminal behavior	6.2	17.9	20.7	5.9	5.6
Minimal discipline reports	28.1	25.6	6.9	2.9	7.4
Non shooter	3.1	2.6	6.9	2.9	7.4
Solid parole plan	21.9	23.1	27.6	8.8	1.8
To immigration	6.3	12.8	3.4	2.9	7.4
Juvenile at time of offense	9.4	5.2	3.4	0	5.6
Able to abide by rules and regulations of prison environment	31.3	15.4	0	0	0

As in 2007, the factors for denying and/or granting paroles were compared for Initial or Review hearings. The following table gives the frequency percentages for each of the twenty-eight (28) factors used in denying paroles for both Initial and Review hearings. The table on top of page 7 lists the frequency percentage for each factor used in granting paroles for both Initial and Review hearings in 2007 and 2008.

	Initial		Review	
	2008	2007	2008	2007
Does not take responsibility	29.2	21.9	26.1	24.2
Is a danger to the community	33.3	40.6	26.1	53.0
Not program involved	50.0	43.7	54.3	27.0
Minimizes criminal behavior	4.2	0	13.0	7.6
Waived hearing	0	3.1	2.2	1.5
Refused move to lower security	0	3.1	0	0
Release incompatible with welfare of society	54.2	25.0	39.1	22.7
Lacks causative insight into criminal behavior	45.8	40.6	47.8	45.4
Poor institutional behavior	37.5	21.9	26.1	3.0
Refuses sex offender treatment program	8.4	3.1	15.2	12.1
Serious discipline report history	37.5	21.9	23.9	15.1
Crime committed while incarcerated	4.2	0	0	0
Mental health issues	4.2	18.7	15.2	13.6
Prior parole failures	0	3.1	10.9	9.1
Crime committed while on parole or escape	4.2	0	10.9	1.5
No family or community support	0	0	0	3.0
No home or work plan	0	0	0	3.0
Expresses no remorse	8.4	3.1	13.0	9.1
Substance abuse issues	4.2	9.4	23.9	21.2
Untruthful	8.4	6.2	13.0	19.7
Severity of offense	0	0	6.5	0
Unresolved anger issues	20.8	0	26.1	7.6
Needs longer period of adjustment	20.8	15.6	10.9	4.5
Needs counseling	0	3.1	2.2	6.1
Incarcerated at highest security	8.4	6.2	2.2	4.5
Manipulative	0	0	0	4.5
Not ready for community supervision	16.7	28.1	10.9	27.3
Shows inability to abide by the rules and regulations of prison environment	8.4	3.1	8.7	6.1

The following table gives the frequency percentages for each of fourteen (14) factors used in approving paroles for both Initial and Review hearings in 2007 and 2008.

Factors Cited for Granting Paroles – 2007	Initial		Review	
	2008	2007	2008	2007
Very program involved	84.6	86.7	63.2	65.4
Accepts responsibility	30.8	40.0	31.6	50.0
Expresses remorse	30.8	46.7	15.8	45.8
Amenable to treatment and supervision	7.7	46.7	21.1	50.0
Health issues	0	6.7	5.3	12.5
Strong community support	76.9	6.7	36.8	16.7
Family support	76.9	33.3	26.3	20.8
Understands causative factors of criminal behavior	0	20.0	10.5	16.7
Minimal discipline reports	23.1	26.7	31.6	25.0
Non-shooter	0	6.7	5.3	0
Solid parole plan	15.4	26.7	26.3	20.8
To immigration	7.7	26.7	5.3	4.2
Juvenile at time of offense	23.1	0	0	8.3
Able to abide by rules and regulations of prison environment	23.1	13.3	36.8	16.7

A comparison of the number of times specific programs were cited for 2004 through 2008 in Records of Decisions for lifers granted paroles is given below.

PROGRAMS	2008	2007	2006	2005	2004
CRA	18	24	8	3	16
AA/NA	22	16	14	0	0
Alternatives to Violence	10	11	2	0	2
GED	11	10	5	2	0
Anger Management	5	5	0	0	0
Transition Planning	10	5	0	0	0
Religious programs	1	3	0	0	0
Work	2	3	0	0	0
American Veterans in Prisons	0	2	0	0	0
Emotional Awareness	3	2	1	0	0
College	2	2	3	0	0
Toastmasters	4	1	0	0	0
Neads	1	0	0	0	0
Able Minds	1	0	0	0	0
Lifers Group	1	0	0	0	0

When a parole is denied, the Parole Board determines the length of time which must elapse before the lifer is to appear again before the Parole Board. This length of time is termed a setback and may be up to five (5) years. In the 2008 study, there were seventy (70) denials. The accompanying setbacks broke down as follows:

1 Year.....4
 2 Years.....2
 3 Years.....5
 4 Years.....0
 5 Years.....59

The following table shows the comparative frequency percentages for setbacks for the years 2004 through 2008:

Setbacks in years	2008	2007	2006	2005	2004
5	84.3	67.4	76.8	75.0	69.4
4	0	6.1	4.3	4.4	3.2
3	7.1	14.3	13.0	16.8	16.1
2.5	0	0	1.4	1.5	0
2	2.9	6.1	2.9	1.5	6.5
1	5.7	6.1	1.4	5.9	4.8

Of the 102 Records of Discussion in 2008, sixteen (16), or 15.7%, were for lifers who had been granted a parole in a previous year and that parole had then been revoked. There Records of Decisions are included as Review hearings. Of the sixteen (16), eight (8) were again granted a parole and eight (8) were not. Of

those granted parole, they had served on average 13.5 months between revocation and the date of the decision granting parole. The shortest time between revocation and granting parole was 5 months, the longest was 30 months, and the most frequent length (for three of the eight) was 8 months. Of the sixteen (16) lifers whose paroles had been revoked, the reasons for the revocations were: Drug or Alcohol Use (10), Motor Vehicle Violations (2), Disruptive Behavior (1), Lying About Employment (1), Inappropriate Contact with Females (1), and Failure to Inform Parole Officer of Change in Housing (1).

Of the 102 Records of Decisions for 2008, fifteen (15), or 14.7%, were for those serving life sentences for crimes other than second degree murder, i.e., in which there had been no loss of life. While in these cases there were multiple charges, the primary offenses were as follows: Rape or Aggravated Rape (8), Habitual Offenders with Armed Robbery as underlying felony (2), Armed Burglary (2), Armed Robbery (2), and Armed Assault (1). Eight (8) of the fifteen (15) had Initial hearings and seven (7) had Review hearings. Four (4) of these lifers were granted parole – two (2) at Initial hearings and two (2) at Review hearings.

DISCUSSION

The steady decline in overall approval rates for lifers was reversed, if only slightly, in 2008. The overall approval rate of 31.1% for 2008 was below the rate of 2005 (33.3%) where one-third of lifers who had been considered for parole were approved. In 2008, the ratio for approvals was slightly over three in ten. Still, the approval rate for 2008 exceeded 2007 (28.5%) and 2006 (29.6%).

As with 2006 and 2007, lifers having Initial hearings were approved (35.1%) at a higher rate than those having Review hearings (29.2%). This differential increases when those who had been approved for paroles at Review hearings after having a previous parole revoked have been factored out. The approval rate for lifers who had review hearings and had not been paroled previously was 19.3% (11 out of 57).

The continued replacements for vacancies on the Parole Board with numbers not having backgrounds in law enforcement has not, as was also noted in the 2007 Parole Study, dramatically increased the rate of approvals. While the criteria may have changed as the bases for parole approvals, e.g., away from concentrating on the severity of offense and to meaningful program accomplishments, the end results have not. The overall chance for parole remains in and around 30%, as it has been since 2005.

In one Record of Decision for 2008, the Parole Board gave a glimpse into the rationale for its decision making: Rendering a decision on a crime of this magnitude [two counts of First Degree Juvenile Murder] requires a careful analysis of the facts and balancing of the interests at stake. Many factors are instructive when making a determination or while *rendering a Parole Board's decision, such as the offender's institutional behavior, his or her parole plans, and participation in cognitive behavioral programs to address criminal thinking. These factors, along with age, family support and education, all play a crucial role into the re-entry of an offender back to the community and the offender being a productive member of society.*

A crucial role in the Parole Board's decision making process involves a careful strategy, using a multi-layered analysis of many factors which must be considered before a candidate can be released back in the community, including whether or not he or she is a public safety risk to society and what kind of impact they will have on others in the community. The Parole Board must take all these factors and decide what is best for the greater good of our society. It is important to note, that _____ was 15 years old during the time and commission of the senseless murders. This, however, does not mitigate or excuse the atrocious behavior by _____ which caused extreme suffering, to this very day, to the _____ and _____ families. The Parole Board realizes, by his own action, _____ has left an indelible mark on the overall community that was profoundly affected by this nonsensical act. However, while we must consider other aspects when rendering a decision. The role of the Parole Board is not to establish how much retribution should be specified, but instead, it is to determine risk to re-offend and compatibility with the interests of society. Based upon those standards the majority of the Board believes that _____ should be paroled.

(Note: specific names, while included in the Records of Decision, have been intentionally eliminated in this, and all other quotations included in this study, as being irrelevant to the issues under consideration.)

In 2008, the reasons enunciated for both approving and denying paroles were more specific than in previous years. This was demonstrated most by the factor: Release Incompatible with the Welfare of Society. While the incidence of this factor for denying parole increased from 23.5% in 2007 to 44.3% in 2008, the Records of Decision which included this factor also contained other factors indicating why the Parole Board felt parole was incompatible with the welfare of society. In the thirty-one (31) denials which included this factor, on average four (4) other reasons why the Parole Board reached its decision e.g., not program involved, lacks causative insight into criminal behavior, unresolved anger issues, substance abuse issues, were included to give guidance as to what areas needed to be addressed. This is a significant improvement over past years when the simple statement in the Records of Decision was the conclusionary judgment that release was incompatible with the welfare of society with no indication as to why, or what the lifer could do to overcome that judgment.

The largest increases, from 2007, in addition to the Incompatibility factor, were Not Program Involved (52.9% from 32.6%), Poor Institutional Behavior (30.0% from 9.2%), Unresolved Anger Issues (24.3% from 5.1%). Of note are the following decreases from 2007, Danger to the Community (28.6% from 49.0%) and Not Ready or Suitable for Community Supervision (12.9% from 27.6%). These noted changes continue the movement by the Parole Board away from vague and generalized reasons for denying paroles in favor of definitive reasons which provide lifers more direct insight into why a parole was denied and presumably areas that need to be worked on before a lifer can have an increased chance for approval, of a parole.

While the percentage of Very Program Involved for approving paroles decreased slightly from 2007 (71.9% from 76.9%), this factor was overwhelmingly the most cited and, therefore, most significant in approving paroles. This emphasis on program involvement continues the trend by the Parole Board to

consider carefully what individual lifers accomplish during their years of incarceration and that parole is not a right, but must be earned. In accord were significant increases from 2007 in Strong Community Support (53.1% from 12.8%) and Family Support (46.9% from 25.6%).

While Accepts Responsibility and Expresses Remorse remain vitally important requirements for parole, the incidence of these factors in 2008 decreased significantly since 2007 (31.3% from 46.1% and 21.9% from 46.1% respectively). Concomitantly, Does Not Take Responsibility and Expresses No Remorse remained fairly constant from 2007 to 2008 (27.1% from 23.5% and 8.6% from 7.1% respectively) as factors for denying parole. Merely stating one takes responsibility for one's actions and is sorry for the consequences thereof are not sufficient to be granted a parole. While such sentiments are important and expected, a lifer must go further to demonstrate that he/she will obey the law if approved for parole and that release would not be incompatible with the welfare of society. Hence, the more than doubling in the incidence of Able to Abide by Rules and Regulations of Prison Environment in 2008 in comparison to 2007 (31.7% from 15.4%).

In 2008, the Parole Board continued its concentration on the individual lifer and his/her progress in recognizing and resolving those areas which were the sources of prior criminal behavior. Excerpts from two Records of Decision both for Review Hearings, demonstrate the emphasis on meaningful program involvement. The first was approved for parole; the second was not.

_____ has been proactive in addressing the Board's previous concerns with his poor adjustment, and has exhibited a strong motivation to achieve his rehabilitative goals and appears committed to conducting his life in a positive manner. His proactive participation aimed at reducing the risk to recidivate is viewed positively by the Board.

Before _____ can be viewed as a good candidate for parole, he needs to reenergize himself, become program involved and continue to work on his rehabilitation. In the last ten years, he has done little to prepare himself for

community supervision. To release him now would be an injustice to himself and the general public.

It is also important when a lifer enters into programming and how consistent one is in addressing the causative factors of criminal behavior. It was noted in one Record of Decision of a denial at an Initial hearing that the lifer's "first entry into rehabilitative programming commenced less than two years ago, and only after the exhaustion of his criminal appeals." And, consider the following from a Review hearing for a lifer who had a parole revoked:

The Board notes that since his return to custody, _____ has not incurred any additional disciplinary reports. However, he also has not been enrolled in any programming to address his criminological needs, in particular substance abuse and anger management. He states that he is not enrolled in AA because he does not believe he needs these services. _____'s views on his substance abuse issues apparently have changed since the time of his hearing when he admitted to parole staff that he is, and always will be, an alcoholic. He also stated at that time that he understands that he should never drink again and that it would be critically important for him to maintain his AA affiliation for the remainder of his life.

In general, the percentages for factors for denying paroles remained consistent in relation to Initial versus Review hearings. While the actual percentages may have varied, whether an individual factor was cited more often on a percentage basis for Initial or Review hearings was constant for most factors, e.g., Lacks Causative Insight into Criminal Behavior was cited in 2008 45.8% for Initial hearings and 47.8% for Review hearings as compared to 40.6% in Initial hearings and 45.4% for Review hearings in 2007. Reversals of this relationship for significant factors for denying paroles occurred with three factors. Does not Take Responsibility and Is a Danger to the Community both occurred more often on a percentage basis for Initial hearings than for Review hearings in 2008. Conversely, Not Program Involved occurred more often on a percentage basis for Review hearings in 2008 than for Initial hearings.

Regarding the relationships of the factors for approving paroles between Initial and Review hearings, Strong Community Support showed a significant reversal from 2007 to 2008. Less significant reversals occurred for Minimal

Disciplinary Reports, Solid Parole Plan, and Able to Abide by Rules and Regulations of Prison Environment.

Once again, for both Initial and Review hearings, Very Program Involved was the most frequently cited factor for granting paroles in 2008. Concomitantly, Not Program Involved was cited in more than 50% of denials of parole. In 2008 AA/NA was cited the most, a change from 2007, when the CRA was the most frequently cited program. Transition Planning was cited in 2008 ten (10) times in 2008 as compared to five (5) times in 2007. Interestingly, programs were also cited in various Records of Decision for denials of parole, e.g., CRA (8), AA/NA (13), AVP (4), Transition Planning (3), Anger Management (3). Thus, simply participating in programs is not enough to be granted a parole. What is necessary is that the Parole Board sees the program involvement as succeeding in bringing a lifer to an understanding of the causative factors underlying criminal behavior. Without such an understanding, the Parole Board appears to not be confident that a lifer will not repeat past criminal activities and, thus, a parole would not be in the best interests of the welfare of society. Consider the following quotation from the Record of Decision of a lifer who was granted a parole after several appearances before the Parole Board:

_____ appears to have taken seriously the Board's admonitions following his last hearing that he needed a long period of positive adjustment and participation in programming to address the causative factors of his criminal behavior. Overall, _____ has been proactive in addressing the board's previous concerns, and has exhibited a strong motivation to achieve his rehabilitative goals. He appears committed to conducting his life in a positive manner.

As in the past, five-year setbacks were the most frequently assessed (84.3% in 2008). This reversed 2007 when the percentage of five-year setbacks had stopped a yearly trend upward. In fact, 2008 had the highest percentage of five-year setbacks since the Lifers' Group has been analyzing Records of Decision. The previous highest percentage had been 76.8% in 2006. Not surprisingly, all other setback options decreased from 2007.

While the Parole Board has been providing more specific reasons for denying or approving paroles, the Board continues to offer no rationale for why certain setbacks lengths are assessed. Given that a certain number of lifers received setbacks of less than five years, there must be some bases for the decisions. The Parole Board continues to view the five-year setback as the standard, although the law does not state that. Rather, the language is “up to five years”, (M.G.L c. 127 §133A) which could be interpreted as being the far end of a continuum from one year to five. The Parole Board concludes that the five year setback is a “presumptive” five years unless the Parole Board decides otherwise (120 CMR 301.02 (5)). Even assuming that this interpretation comports with the intent of the legislature, the Parole Board should be compelled to state the bases for determining setbacks in the Records of Decision, particularly when a setback less than five years is assessed. As was stated in the 2007 Parole Study: “It would be of much assistance if the Parole Board, since the determination of a set back is entirely discretionary, would provide reasons and criteria, assuming some exist, for why one length of a setback is determined rather than another. Until then, little can be concluded other than the actual frequency percentages.”

SUMMARY

102 Records of Decision for parole hearings for second degree lifers conducted in 2008 were studied. The approval percentage was 31.3% (32 of 102); the denial rate was 68.7% (70 of 102). This approval percentage reversed a trend of decreasing approval parole rates each year from 2004- 2007. As in 2007, the approval rate for Initial hearings (35.1%) was moderately higher than for Review hearings (29.2%), although both approval rates exceeded those of 2007.

The four factors most cited for approving paroles were: very program involved, strong community support, family support, and able to abide by rules

and regulations of prison environment. The first was consistent with the years 2004 through 2007; the last three showed significant increases over 2007.

The four factors most cited for denying paroles were: not program involved, lacks causative insight into criminal behavior, release incompatible with welfare of society, and poor institutional behavior. The first was consistent with 2007 and 2006. The next two have been consistent leading factors for denying paroles since the parole studies commenced with the results for 2003.

As with past years, the number of five year setbacks was vastly higher than any other length- 59 to a total of 11 for 2,3, or 4 year setbacks. The percentage of five year setbacks (83.3%) was the highest for all of the years the parole results have been analyzed by the Lifers' Group Inc., i.e., 2003 through 2008.

The number of programs cited for approving paroles higher in 2008 – ninety-one (91) times in 2008 as compared to eighty-four (84) in 2007, thirty-three (33) in 2006, five (5) in 2005, and eighteen (18) in 2004. Of all the programs cited, AA/NA and the CRA were the most frequent, twenty-two (22) and eighteen (18) times respectively

This study has been compiled by the Lifers' Group Inc. and may be duplicated or photocopied in whole or in part without permission. Questions or comments regarding this study may be addressed to:

***Lifers' Group Inc.
MCI – Norfolk
P.O. Box 43
Norfolk, MA 02056***

Additional copies of this study, as well as the 2007 study are available at the address below. Please include \$6.00 postage and handling fee per copy requested and indicate which year(s) are desired:

***Phantom Prisoner, LTD.
Parole Study – Parole 2008
P.O. Box 114379
Centerdale, RI. 02911***