

## Massachusetts

In Massachusetts, there is a 7-person parole board that, statutorily, may come from a variety of backgrounds but that, in practice, is appointed largely from law enforcement and prosecutorial sectors. According to the statute, parole board members must hold a degree from a four-year university and must have five years of training in one or more of the following fields: parole, probation, corrections, law, law enforcement, psychology, psychiatry, sociology, and social work. At least one individual on the board must be a professional with five years of training in adolescent development and psychology. When a list of potential appointees is collected for review by the governor, it must include one or more of the following: a police officer and a victim's rights advocates (a provision that outwardly favors these backgrounds for placement on the parole board).

The governor appoints the members of the parole board, and the appointees are then approved by the governor's council (the governor's council is an elected body of eight individuals, each representing a different district in Massachusetts, and their role is to vote on judges, parole board members, and other such nominations by the governor). A nomination to the parole board passes with a simple majority vote by the governor's council, and each member serves a five-year term. In the past, the governor's council has acted like a rubber stamp on the governor's nominations, but there is increasing activism in the state concentrated on lobbying the governor's council to more closely consider which nominations to the parole board are approved. These political appointments to the parole board are further complicated by the fact that they often serve as stepping stones for individuals seeking nominations by the governor to judgeships in the state, so parole board members are loath to rock the boat, lest they remove themselves from consideration for the position they are ultimately seeking.

Parole hearings are conducted by the full board for cases involving individuals serving second-degree life sentences and by 2-3 members for individuals sentenced to less than life imprisonment. The parole board does not make their decisions on the spot; instead, they often take 2-3 weeks to hand decisions down to non-lifers and much longer for those individuals serving life imprisonment. If a case is heard by two board members and there is a disagreement as to whether or not to grant parole, then a second hearing is granted in which three board members will hear the case. At a hearing, parole applicants are allowed to submit letters of support, certificates of programs they have completed, and have up to five witnesses (supporters) testify. In 2017, for hearings held at the Massachusetts Department of Correction, the state posted a 54% paroling rate (this data excludes hearings heard by the "Life Sentences Unit"). According to Gordon Haas, and the Norfolk Lifers' Group, the lifer parole approval rate was 29.1% in 2018, an increase from 24% in 2017. Haas also found that the factors most commonly noted in approved parole decisions for lifers were "Active Program Participation ([appearing in] 92% [of decisions]), Addressed Areas Needed For Rehabilitation (89%), Minimal Disciplinary History (41%), Community Support (38%), Four Goals of Sentencing Were Met [i.e. punishment, public safety, deterrence, rehabilitation -- in that order of importance (19)%], Steady Employment While Incarcerated (16%), and Does Not Present Current Risk For Violence (16%)." The report further concludes that "The Parole Board did not seemingly find important if a lifer had submitted a massive number of certificates or other documents attesting to the completion of a plethora of programs. Rather, the Parole Board members seemed more impressed with the quality, rather than the quantity of programs. A successful lifer was one who had demonstrated that he/she understood which areas needed to be addressed and then

completed programs which specifically dealt with those areas of need.” In contrast to what is observed in other states, the Massachusetts parole board did not cite the incarcerated individual accepting responsibility for the crime, expressing remorse, having family support, or having a solid parole plan as reasons for approved parole. Haas explains: “Parole Board members appear to consider that all lifers are expected to address those factors as a minimum threshold.”

Incarcerated individuals sentenced to life with the possibility of parole are eligible for parole after serving 15 years of their sentence, and the only parole hearings that are open to the public in Massachusetts are those for lifers. Though they are limited by this rule, activists in Massachusetts have expressed concern about the conduct of the parole board at the hearings they have been permitted to attend. Parole board members have been seen falling asleep, walking out for long periods of time, and eating during the hearings. Each of these behaviors demonstrates a lack of respect for their office, for the process, and for the individuals whose lives rest in their hands.

In terms of sentencing, first-degree homicide is the only crime that can be sentenced to life without the possibility of parole, though in this case, it is a mandatory sentence for all first-degree murder convictions (which includes felony first-degree murder). For these individuals, executive clemency would be the only possible avenue for release, but Massachusetts is one of the least likely states in the union to grant clemency: the last clemency for a life sentence was granted in the state in 1997. Scholars and activists believe that this is due to “the Willie Horton effect,” in which a criminal justice program is completely overhauled in the wake of one violent crime--in this case, the willingness of any governor to grant clemency to even a single petitioner. In order to apply for clemency, an individual must submit an application to the parole board. If approved, the application is sent up to the governor, who considers whether or not to grant clemency.

This legislative session S.826/H.3358 An Act to Reduce Mass Incarceration would abolish life without parole - the most severe sentence in the state. It would allow for parole eligibility after 25 years of incarceration.

## **Sources**

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