

## Michigan

In Michigan, the parole board consists of 10 members, and members are appointed by the director of the Michigan Department of Corrections (a position that reports directly to the governor). The governor has full power to appoint a particular member through directing the director. Up until 1992, Michigan had a Civil Servant Parole Board. The Civil Servant Board was disbanded after a heinous crime was committed by a parolee. During Governor Granholm's term, she was interested in using her commutation powers for particular categories of imprisoned people, so she wrote an executive order establishing an Executive Clemency Advisory Council to help the Parole Board process more commutations.

This was established in 2007. It was disbanded by Governor Snyder in 2011. Snyder also abolished the Parole and Commutation Board and renamed it the Parole Board. Granholm granted 161 commutations during her tenure; in contrast, Snyder granted 26 commutations in his last year, and before that, he granted only seven commutations over the previous seven years of his term.

Regular Parole cases: As an individual reaches their parole eligibility date, the Department of Corrections prepares a Parole Eligibility Report, which becomes part of the parole hearing. In general, the parole board hears most cases in panels of two. It is the responsibility of one board member to conduct a video interview with the person being considered for parole, reviews the file, and takes notes on the hearing. At the hearing, an individual may be asked about their record, substance abuse, conduct in prison, participation in programming, and prior parole experiences. After the hearing, the second board member reviews the notes and the case. If there is a disagreement between the two on whether to parole or to continue, then the Chair of the Board serves as the tiebreaker. This is for regular term-of-year cases. The process will change once the board is seeing objectively paroled sentenced people. Other factors receiving consideration are "the prisoner's 'mental and social attitude'" and "letters of support from the prisoner's friends and relatives, as well as information provided to them by victims" (Riley).

In Michigan, if a person is serving a parolable life sentence or a natural life sentence, the parole process is different than for other incarcerated individuals. Individuals serving life sentences are not provided a parole eligibility report, although this is statutorily required for all other regularly sentenced individuals, and the board can pass over the person without an interview by only conducting a file review. Natural lifers can get an interview every 5 years. Interviews for natural life folks are often cancelled, unless a governor is interested in moving on commutations. If the board is interested in the case of a parolable lifer, one member will conduct an interview. They will take notes and are supposed to review the file of the person. All ten members of the board then meet in executive session and discuss the case. They will choose to move forward to public hearing or not. If they move forward to public hearing, they will order mental health and medical reviews of the person. The notice for hearing will be sent out to the judge and prosecutor and be published publicly (a successor judge no longer has veto power to stop the public hearing, but the sitting judge in the case can veto the public hearing. The prosecutor cannot veto the hearing. The prosecutor can testify at the hearing—and in high profile cases will

mobilize the survivors and/or survivor's loved ones to testify). The public hearing is held. Parole board member/s and assistant attorney general are at the hearing. Parole board technically has authority over the hearing, but the AAG has typically taken the power at the hearings for the last twenty years. The person is questioned as though they are on trial. The public can speak at the end in support of release and in opposition to release. After the hearing, the transcripts are distributed to all ten board members. They meet in executive session again. And, if a majority votes for release, the person is given a parole. In the case of commutation, the board must also agree in majority to recommend to the governor that the person has merit for commutation (or no merit). In commutation cases the governor then must say yes or no.

The governor may use their executive clemency powers to reduce a criminal sentence through a commutation. Applications must be obtained by contacting the Michigan Department of Corrections Office of the Parole Board. Applications ask for name, prisoner number, date of birth, type of crime, date of offense, the name of the court in which the case was tried, name of the judge that heard the case, sentence conferred, explanation of the circumstances of the crime, reason for seeking a commutation, and other information that the individual might consider relevant. The parole board is required to review the application within 60 days of receipt. If the parole board determines the application has "no merit," then the application is sent to the governor immediately for a decision. If the board determines that the application has merit, then the application is sent to the judge and the prosecutor in the sentencing county. At this point, the application must receive no objections from the judge and the prosecutor in order to be granted a public hearing. At the public hearing, the applicant is permitted counsel, in addition to being allowed to testify and to provide witnesses and oral evidence. The Attorney General will provide a representative to represent the public and the victim will be given a chance to testify, in person or in writing. After the hearing, the parole board submits a transcript of the hearing and its final determination of merit to the governor's office for a decision. It is up to the governor's office to notify applicants as to the ultimate decision made on their application. If an individual's commutation application is denied, then they must wait two years before reapplying.

Numbers: Michigan had the second highest number of juveniles serving life without the possibility of parole. The Legislature adopted a 25 to 60 year resentencing law as a response to Miller. Nearly 60% of prosecutors in Michigan went for life without the possibility of parole. This is, of course, not the "rarest" of cases but it was the majority.

### **Sources**

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