



MONTGOMERY COUNTY, MARYLAND
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

www.womensdemocraticclub.org

HB0003
Correctional Services – Parole - Life Imprisonment
Judiciary Committee – January 18, 2021
SUPPORT

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2021 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of HB3 to remove the Governor from the process of granting parole to those serving life sentences in the State. It is a matter of fair application of our parole laws and efficient use of our resources.

Since Governor Glendening uttered his infamous phrase in 1995 that “life means life,” and with those simple words converted life sentences with the possibility of parole to life without parole, precious few lifers have been paroled. Those who have been released were primarily released by Governor Larry Hogan, who did so in part due to pressure from lawsuits challenging the *de facto* life without parole sentences that child offenders were serving.¹

A little over a year ago, Governor Larry Hogan granted parole to three lifers convicted as children. It was the first time in 24 years that any child offender serving a life sentence was granted parole. This was so even though the U.S. Supreme Court held in 2012 that sentencing a minor to life without the possibility of parole was cruel and unusual punishment and therefore unconstitutional. Still, approximately 300 lifers convicted as children sit in our prisons, or about fifteen percent of the 2000 lifers in the state's prison. Most of these lifers are Black.

The Maryland Parole Commission (MPC) is the administrative agency charged with determining whether persons incarcerated and serving sentences of six months or more are suitable for release. For those serving life sentences, they do this assessment with painstaking and often confounding deliberation. Ten commissioners and related staff serve this function, with an overall budget of \$6,455,473, as reported in 2018.² Yet, when this agency has completed its lengthy series of reviews and, infrequently, determined that parole is appropriate for a lifer, the Governor's legal office steps in to conduct its own review, usually calculating that parole is not appropriate.

Knowing that the Governor is likely to deny parole recommendations inevitably has its impact on the work of the MPC. Routinely denying parole recommendations that come after such lengthy review makes the reviews even more stringent as commissioners try to gauge what might possibly satisfy the Governor.

¹ In *Carter v. State*, 461 Md. 295 (2018) the plaintiffs argued that life sentences in Maryland were de facto life without parole sentences and that this was unconstitutional as applied to juvenile lifers. The juvenile factors adopted by the Governor during the litigation helped the court to conclude that there was opportunity for parole. Still pending in US District Court is *Maryland Restorative Justice Initiative et al. v. Hogan et al.*, Civil No.: ELH-16-1021 (filed April 2016) which argues that Maryland continues to fall short of what the *Miller* line of Supreme Court cases require. See *Miller v. Alabama*, 567 U.S. 460 (2012) (finding that to be consistent with the 8th Amendment of the Constitution, a sentence of life without parole for a child offender convicted of homicide requires an individualized finding that the person is one of those rare children who are incorrigible).

² The Maryland Parole Commission Fiscal Year 2018 Annual Report,



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What does the Governor add to the parole process? The Governor has argued in the past that he takes this task seriously and carefully considers each case. He has also argued that his ability to second guess the MPC's recommendations fosters greater accountability because he is directly accountable to the voters. Thus, his input is a political calculus arguably intended to protect his image as a governor who is tough on crime. Politics have no place in an analysis that should be based on the lifer's demonstrated readiness for release. Parole evaluations belong with the agency designed and funded to do the job. It is not a laudable or efficient use of time and resources for the Governor to engage in this redundancy. It is also not laudable or efficient that incarcerated citizens remain in prison longer than they deserve. Unnecessary incarceration comes at a great personal cost to prisoners and at a great fiscal cost to Maryland's taxpayers.

At a time when this state is being asked to move past a history of racism in so many aspects of our criminal system, addressing the disturbing rate of Black incarceration is an important part of our efforts to achieve change. Maryland has the unenviable distinction of leading the nation in the incarceration of Black men.³ Part of this is attributable to lengthy sentences and grim parole possibilities. One step in the right direction is to remove the Governor from the parole process. We are one of only three states that politicizes parole in this way; none of the other forty-seven involve their governors in such decisions.

For far too long, governors in Maryland have converted life sentences to life without parole and generally distorted parole for lifers. We urge you to put the State on the right track by fixing this aspect of what has given Maryland its shameful national leadership in the unremitting incarceration of its Black citizens.

We ask for your support for HB0003 and strongly urge a favorable Committee report.

Respectfully,

Diana Conway
President

³ According to the Justice Policy Institute,

- In July 2018, more than 70% of MD's prison pop. was Black; though only 31% of the state population.
- Maryland leads the country in racial disparity among those serving long prison terms. More than 70 percent of people in Maryland prisons and nearly eight in 10 people in prison who have served 10 years or more are Black.
- Among those people serving the longest prison terms (the longest 10 percent), half had been incarcerated as emerging adults and 82 percent are Black. Of those serving 10 or more years, 41 percent are black men who were sentenced as emerging adults (18-24).
- This incarceration rate is more than double the national average of 32%
- These disparities are rooted in decades of unbalanced policies that disproportionately over-police under-resourced communities of color, and a criminal justice system focused on punitive sentencing and parole practices.