

The Sentencing Project

Criminal Justice Issues and Prisoners' Rights

<https://www.sentencingproject.org/publications/delaying-second-chance-declining-prospects-parole-life-sentences/>

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Most people serving life sentences were convicted of serious crimes.¹⁾Nellis, A. 2013. *Life goes on: The historic rise in life sentences in America*. Retrieved from The Sentencing Project. Their incarceration was intended to protect society and to provide appropriate punishment. But many were sentenced at a time when life with the possibility of parole meant a significantly shorter sentence than it has become today. Many remain incarcerated even though they no longer pose a public safety risk.

Researchers have shown that continuing to incarcerate those who have aged out of their crime-prone years is ineffective in promoting public safety.²⁾Piquero, A., Hawkins, J., & Kazemian, L. (2012). Criminal career patterns. In R. Loeber & D. P. Farrington (Eds.), *From Juvenile Delinquency to Adult Crime: Criminal Careers, Justice Policy, and Prevention* (pp. 1446). New York, NY: Oxford University Press. Long sentences are also limited in deterring future crimes given that most people do not expect to be apprehended for a crime, are not familiar with relevant legal penalties, or criminally offend with their judgment compromised by substance abuse or mental health problems.³⁾See Ghandnoosh, N. (in press). Minimizing the maximum: The case for shortening all prison sentences. In C. Pettus-Davis & M. Epperson (Eds.), *Smart decarceration: Achieving criminal justice transformation in the 21st century*. New York: Oxford University Press. Unnecessarily long prison terms are also costly and impede public investments in effective crime prevention, drug treatment, and other rehabilitative programs that produce healthier and safer communities.⁴⁾Ghandnoosh, in press.

Despite this body of criminological evidence, the number of people serving life sentences has more than quadrupled since 1984a faster rate of growth than the overall prison population.⁵⁾Mauer, M., King, R., & Young, M. (2004). *The meaning of life: Long prison sentences in context*. Retrieved from The Sentencing Project website.; Nellis, 2013. Even between 2008 and 2012, as crime rates fell to historic lows and the total prison population contracted, the number of people serving life sentences grew by 12%. By 2012, one in nine people in U.S. state and federal prisonsnearly 160,000 peoplewere there under life sentences. Two factors have driven this growth: the increased imposition of life sentences, particularly those that are parole-ineligible,⁶⁾The federal system, Washington, D.C., and the following seven states have entirely eliminated the possibility of parole as part of a life sentence for crimes committed by adults: Florida, Illinois, Iowa, Louisiana, Maine, Pennsylvania, and South Dakota. See Nellis, 2013 and the profiles on Florida and the federal system in this report. On the limitations of parole-eligible life sentences in Indiana, North Carolina, and Virginia, see Alper, M. E. (2016). *By the numbers: Parole release and revocation across 50 states*. Retrieved from the Robina Institute of Criminal Law and Criminal Justice website. and an increased reluctance to grant parole to the 110,000 lifers who are eligible.

This report documents the growing wait for parole among eligible lifers and identifies four factors producing longer prison terms for this population. The findings draw on a national survey in response to which 31 states and the federal government provided data for available years since 1980.⁷⁾The 32 jurisdictions that provided sufficient data to be included in this report are: Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Jersey, New York, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, Texas, Utah, Washington, West Virginia, Wisconsin, Wyoming, and the federal system. The analyses reveal that a variety of policy choices and practices at the state and federal levels have caused recently paroled lifers to serve longer prison sentences than their counterparts in the past. Specifically, and as elaborated in 32 in-depth jurisdiction profiles:

Our examination of the 32 jurisdictions for which we were able to obtain data identifies four key drivers of the growth in prison terms for parole-eligible lifers:

Lifer parole procedures have broad implications. According to the American Law Institute, the most severe penalties serve as an anchor point, or a benchmark of severity, on which penalties are established for less serious crimes.¹⁰⁾American Law Institute (2011). *Model penal code: Sentencing, tentative draft no. 2.*, Retrieved from The American Law Institute website, p. 11. By placing upward pressure on

prison sentences for people with less serious convictions, excessive prison terms for lifers have contributed to a major cause of mass incarceration.

To reduce excessive prison terms, The Sentencing Project has previously recommended that states and the federal government abolish sentences of life without the possibility of parole and limit most prison sentences to a maximum of 20 years.¹¹ Nellis, A. & King, R. (2008). [No exit: The expanding use of life sentences in America](#). Washington, D.C.: The Sentencing Project. Retrieved from The Sentencing Project website; Mauer, M. 2015, March 11. Testimony to Charles Colson Task Force on Federal Corrections: [A proposal to reduce time served in federal prison](#). Based on the findings of this report, we make four additional proposals. To reduce excessive sentences for parole-eligible lifers and to give rehabilitated individuals a meaningful opportunity for release from prison as the Supreme Court now requires for those convicted as juveniles¹² *Graham v. Florida*, 560 U.S. 48 (2010); *Miller v. Alabama*, 132 S. Ct. (2012). Mehta, S. (2016). [False Hope: How Parole Systems Fail Youth Serving Extreme Sentences](#). Retrieved from The American Civil Liberties Union website; Rovner, J. (2016). [Juvenile life without parole: An overview](#). Retrieved from The Sentencing Project website. we recommend that policymakers and parole practitioners:

This report is organized as follows: Section I presents key findings on lifer parole policies, practices, and outcomes across the country based on data provided by state and federal agencies and other organizations. Section II provides an in-depth look at a sample of four states: California, Georgia, Missouri, and New York. These states were chosen based on the size of their lifer populations, the representativeness of their lifer parole procedures and outcomes, geographic distribution, and availability of data. Sections III and IV summarize past research on people serving life sentences and on parole boards, respectively. Section V concludes by recommending reforms to depoliticize the parole process and reverse the excessive growth in prison terms for lifers. The Appendices present details on our methods of data collection and analysis. A [supplemental document contains the profiles of all 32 jurisdictions](#) for which we obtained data.

When former California Superior Court Judge Robert W. Armstrong sentenced Flozelle Woodmore to prison for 15 years to life in 1986 for killing her abusive boyfriend, he had expected that she would serve much less than 15 years, as was customary for second-degree murders in that era.¹³ San Francisco Chronicle. (2007, April 8). [A prisoner of politics](#). Editorial. Yet Woodmore, now deceased, was not released until having served 21 years, after five gubernatorial overrides of the parole board's decision to grant parole including after her victims' relatives asked for her release.¹⁴ Karmali, A. (2007, September). [Flozelle Woodmore finally freed](#). National Lawyers Guild San Francisco News. San Francisco, CA.

Also in California, when 16-year old Frederick Summervilles accepted a 15-years-to-life sentence after pleading guilty to second-degree murder in 1982, he expected to serve 7 to 15 years. It would be [for] bad behavior.¹⁵ Correspondence with Frederick Summervilles. But it took 33 years, and 13 parole hearings, for him to be granted parole. The decision came after a new law required the board to give greater weight to the youth of those convicted as juveniles and to their subsequent maturity.

In a 2002 State Bar survey in Michigan, the majority of judges stated that the possibility of parole was a factor in their sentencing decisions and that they had assumed that parolable lifers would serve no more than 20 years.¹⁶ Mauer, M., King, R., and Young, M. (2004). [The meaning of life: Long prison sentences in context](#). Washington, D.C.: The Sentencing Project. But in the past decade, Michigan lifers with non-drug convictions have on average served over 30 years before being paroled.¹⁷ See profile on Michigan and Levine, B. R. (2014, February). [Parolable lifers in Michigan: Paying the price of unchecked discretion](#). Retrieved from Citizens Alliance on Prisons and Public Spending website.

These accounts reflect the dramatically altered landscape of parole-eligible life sentences in recent decades, which now affect over 110,000 individuals nationwide.¹⁸ Nellis, A. (2013). [Life goes on: The historic rise in life sentences in America](#). Washington, DC: The Sentencing Project. Many of these people were sentenced at a time when life with the possibility of parole meant a significantly shorter sentence than it has become. Over the years many legislators, governors, and parole boards have toughened lifer parole policies and practices, effectively increasing prison terms for these individuals. Drawing on a national survey in response to which 31 states and the federal government provided data for available years since 1980, this report documents the growing wait for parole among eligible lifers and identifies the factors producing longer prison terms for this population.

Many jurisdictions have enacted a variety of policies and practices that have made parole more elusive for lifers. This study identifies four key mechanisms that have increased sentences for those seeking parole:

1. Legislatures in several states have delayed when lifers can first appear before parole boards and increased the wait times for subsequent hearings.

For example:

Georgia has enacted statutory changes since 1995 that delay parole eligibility for lifers convicted of serious violent felonies, known as the seven deadly sins. Individuals whose crimes predate 1995 became parole-eligible after serving seven years while those convicted of the same crimes after 2006 only become parole-eligible after serving 30 years.

Missouri overhauled its sentencing laws in 1994 to require lifers convicted of a dangerous felony to wait 23 years for their first parole hearing 10 years longer than under the previous law.

Michigan lawmakers increased the waiting period for subsequent parole hearings from two to five years since 1993.

2. Governors in some states have overhauled the composition of parole boards to reduce parole grants. In a few states, gubernatorial approval is necessary before parole boards can even review cases or for their recommendations to become final.

For example:

Massachusetts recent Gov. Deval Patrick revamped the states parole board and its procedures, thereby significantly reducing parole grants following a high-profile killing of a police officer in December 2010 and a Boston Globe analysis of parolee recidivism rates.¹⁹⁾Trounstein, J. (2013, July). Why Massachusetts parole system requires reform. *Boston Magazine*; Trounstein, J. (2011, August). *Patricks folly*. Boston Magazine; Gottschalk, M. (2016). Caught: The prison state and the lockdown of American politics. Princeton University Press.

New Yorks former parole board chairman and commissioner, Robert Dennison, described the political pressure faced by parole board members: If you let someone out and its going to draw media attention, youre not going to be re-appointed.²⁰⁾Hughes, B. (2014, September 17). [Even model NYS inmates face step barriers to parole](#) [Newsgroup post].

Marylands former Gov. Parris Glendening initiated a policy of uniformly denying all lifer parole grants from the states parole board following a high-profile murder in 1993. The three governors in office between 1996 and 2014 Glendening, Robert Ehrlich, and Martin OMalley rejected all of the Parole Commissions parole recommendations and commuted only a handful of recommended cases. Glendening has since publicly expressed regret about his approach.²¹⁾Rodricks, D. (2011, February 20). Glendening: [Life means life absolutism was wrong](#). Baltimore Sun.

California governors reversed or modified over 75% of the parole boards grant decisions between 1999 and 2011. Current Gov. Jerry Brown has changed course and altered 19% of the boards decisions by 2013.

Arkansas and Wyoming governors must first commute parole-eligible life sentences before parole boards can evaluate parole eligibility.

3. Parole boards now are evaluating lifers who have served longer sentences than their counterparts in the past. Yet despite a general understanding that older parole applicants pose a reduced risk of recidivism, parole boards have not increased, and sometimes have even reduced, their grant rates.

For example:

Missouris parole board granted parole in 18% of lifer parole hearings between 1991 and 1994. This rate dropped to 7% between 1995 and 2004 and returned to 16% between 2005 and 2013. Indeed, lifers convicted of a dangerous felony after the passage of the states truth-in-sentencing law in 1994 have been excluded from these parole considerations because their time-served requirements have not been met.

Minnesotas parole board has granted parole in 11% of lifer parole hearings between 1990 and 2013, even though legislative changes have excluded some lifers with more serious convictions from these hearings.

4. Most states afford only limited rights to incarcerated individuals during parole hearings and some have recently further narrowed these rights.

For example, while nearly all parole boards offer victims the opportunity to provide input through in-person interviews, few guarantee this opportunity to parole candidates.²²⁾Ruhland, E. L., Rhine, E. E., Robey, J. P., & Mitchell, K. L. (2016). [The continuing leverage of releasing authorities: Findings from a national survey](#). Retrieved from Robina Institute website. More specifically:

Wyoming, South Carolina, and Minnesota only allow lifers to participate in their hearings via tele-conference or video.

Floridas life-sentenced individuals may not be present at their parole hearings but their legal representative and family or friends may attend.

Kentucky and New Mexico prohibit parole applicants from being represented by legal counsel at parole hearings. States that allow it for those who can afford attorneys often impose restrictions such as limiting input to written statements in lieu of personal appearances.²³⁾Rhine, E. E., Petersilia, J., & Reitz, R. (2015). Improving parole release in America. Federal Sentencing Reporter, 28(2), 96-104; Russell, 2014.

In some states, parole applicants are not permitted to review the files that boards use to arrive at their decisions and parole boards are not required to provide a written reason for parole denial even to the applicant.²⁴⁾Ruhland, Rhine, Robey, & Mitchell, 2016; Schwartzapfel, B. (2015, July 11). [How parole boards keep prisoners in the dark and behind bars](#). The Washington Post.

Changes in parole policies and practices have transformed the meaning of a parole-eligible life sentence. Across jurisdictions reporting historical data, recently paroled lifers have served longer prison terms than their counterparts in the past. For example, as illustrated in the charts on the previous page:

These trends are also evident across multiple jurisdictions for lifers with similar conviction offenses, as illustrated in the following chart.

Among eight jurisdictions for which data are available since the 1980s, average time served by lifers with murder convictions gradually increased from 11.6 years for those paroled in the 1980s to 23.2 years for those paroled between 2000 and 2013 nearly doubling across these periods.²⁵⁾The jurisdiction-specific increases in time served for lifers with murder convictions between 1980-1989 and 2000-2013 were: Arkansas (59%), California (80%), Montana (67%), Nebraska (8%), South Carolina (88%), Washington State (215%), Wisconsin (66%), and the federal system (188%). Not all jurisdictions provided data for all years in the 1980s. Note that there is significant variation in the number of paroled individuals across these jurisdictions and time periods.

These estimates exclude individuals who remained incarcerated and those who died awaiting parole. In California, death before parole is not an uncommon outcome for lifers. A press spokesman for the corrections department has stated that most lifers will die in prison before they get out on parole, and state records reveal that more lifers with murder convictions died in prison than were paroled between

2000 and 2011.²⁶⁾Mullane, N. (2012). *Life after murder: Five men in search of redemption*. New York, NY: Public Affairs, p. 147.

Two factors have caused the historic rise in life sentences in recent years: the increased imposition of life sentences, particularly those that are parole-ineligible, and an increased reluctance to grant parole to the 110,000 lifers who are eligible.²⁷⁾Nellis, 2013; The federal system, Washington, D.C., and the following seven states have eliminated the possibility of parole as part of a life sentence for crimes committed by adults: Florida, Illinois, Iowa, Louisiana, Maine, Pennsylvania, and South Dakota. On the limitations of parole-eligible life sentences in Indiana, North Carolina, and Virginia, see Alper, M. E. (2016). [By the numbers: Parole release and revocation across 50 states](#). Retrieved from Robina Institute of Criminal Law and Criminal Justice website. See Nellis, 2013 and the profiles on Florida and the federal system in this report. In 1984, 34,000 individuals were serving life sentences with and without the possibility of parole.²⁸⁾Mauer, King, & Young, 2004. This figure doubled by 1992, during a period in which the rate of violent crime rose by 40%.²⁹⁾Mauer, King, & Young, 2004. But between 1992 and 2012, the lifer population more than doubled again, reaching nearly 160,000 people, despite violent crime rates falling by 49%.³⁰⁾Mauer, King, & Young, 2004; Nellis, 2013; Federal Bureau of Investigation (FBI). (2016). [Uniform crime reports as prepared by the National Archive of Criminal Justice Data](#).

Prolonged punishment for parole-eligible lifers is not only ineffective; it is counterproductive for promoting public safety. Most people serving life sentences were convicted of serious violent crimes: 64% have homicide convictions and 14% were convicted of aggravated assault, robbery, or kidnapping.³¹⁾Nationwide, over 10,000 people are serving life sentences (with and without the possibility of parole) for nonviolent offenses. Nellis, 2013. Their incarceration was intended to protect society and to provide appropriate punishment for serious crimes. But continuing to incarcerate those who have aged out of their crime-prone years produces little public safety benefit. As Alex Piquero and colleagues write, existing studies show that criminal careers are of a short duration (typically under 10 years), which calls into question many of the long-term sentences that have characterized American penal policy.³²⁾Piquero, A., Hawkins, J., & Kazemian, L. (2012). Criminal career patterns. In R. Loeber & D. P. Farrington (Eds.), *From Juvenile Delinquency to Adult Crime: Criminal Careers, Justice Policy, and Prevention* (pp. 1446). New York, NY: Oxford University Press, p. 40. Researchers have also shown that long sentences are limited in deterring future crimes given that most people do not expect to be apprehended for a crime, are not familiar with relevant legal penalties, or criminally offend with their judgment compromised by substance abuse or mental health problems.³³⁾See Ghandnoosh, in press). Minimizing the maximum: The case for shortening all prison sentences. In C. Pettus-Davis & M. Epperson (Eds.), *Smart decarceration: Achieving criminal justice transformation in the 21st century*. New York: Oxford University Press. As Steven Durlauf and Daniel Nagin explain, for the general incarceration of aged criminals to be socially efficient, it must have a deterrent effect on younger criminals Simply no reliable evidence is available that such an effect is sufficiently large to justify the costs of long prison sentences.³⁴⁾Durlauf, S., & Nagin, D. (2011). Imprisonment and crime: Can both be reduced? *Criminology and Public Policy*, 10(1), 1354, p. 38. Unnecessarily long prison terms are also costly and impede public investments in effective crime prevention, drug treatment, and other rehabilitative programs that produce healthier and safer communities.³⁵⁾See Ghandnoosh, in press.

Curbing excessive imprisonment for parole-eligible lifers is a crucial step toward ending mass incarceration. In 2010, the total prison population began its modest decline, after 37 consecutive years of growth.³⁶⁾Mauer, M., & Ghandnoosh, N. (2013, December 20). Can we wait 88 years to end mass incarceration? *The Huffington Post*. But contrary to this trend, the tough-on-crime ethos still dominates sentencing for serious and violent offenses, as demonstrated by the continued growth in the lifer population.³⁷⁾Two notable exceptions are limitations on the death penalty and on life-without-parole sentences for people under the age of 18. Beckett, K., Knappus, E., & Reosti, A. (2015, May). *The End of mass incarceration? The contradictions of criminal justice policy and practice*. Presented at Law and Society Association Annual Meeting, Seattle, WA.; Seeds, C. (2016). [Bifurcation nation: American penal policy in late mass incarceration](#). *Punishment & Society*. As experts recognize, the United States cannot end mass incarceration as long as an exclusively punitive approach dominates for individuals convicted of serious and violent offenses.³⁸⁾Mauer, M., & Cole, D. (2015, May 23). How to lock up fewer people. *The New York Times*; Pfaff, J. (2015, July 26). For true penal reform, focus on the violent offenders. *The Washington Post*; *The Economist*. (2015, July 20). [The moral failures of Americas prison-industrial complex](#).

Ending excessively long sentences for parole-eligible lifers would not only reduce their numbers, it would also help to reduce sentence lengths for other incarcerated individuals. According to the American Law Institute, the most severe penalty serves as an anchor point, or a benchmark of severity, on which penalties are established for less serious crimes.³⁹⁾American Law Institute (2011). [Model penal code: Sentencing, tentative draft no. 2.](#), Retrieved from The American Law Institute website, p. 11. In addition to abolishing the death penalty and life-without-parole sentences, recalibrating lifer parole is the next step in putting downward pressure on other sentences, thereby helping to undo a major cause of mass incarceration and preserving the human dignity of people being punished.⁴⁰⁾See Simon, J. (2014). *Mass Incarceration on Trial: A Remarkable Court Decision and the Future of Prisons in America*. New York: The New Press.

Some policymakers and criminal justice practitioners have already begun implementing modest reforms to reverse the excessive growth of prison terms for parole-eligible lifers. For example:

To effectively curb the excessive growth of time served for parole-eligible lifers, policymakers and criminal justice practitioners will need to accelerate and expand on these efforts. This report concludes by making four recommendations. These proposed reforms would reinvigorate and reaffirm the work of corrections departments, recognize the rehabilitation and dignity of incarcerated individuals, and enable more effective public safety investments.

The following section provides an in-depth look at lifer parole policies, practices, and outcomes in four illustrative jurisdictions: California, Georgia, Missouri, and New York. Chosen based on the size of their lifer populations, geographic variation, and availability of data, these profiles demonstrate several of the key findings of this report. A supplemental document contains the profiles of all 32 jurisdictions for which we obtained data.

One in nine people in U.S. prisons face life imprisonment, two-thirds of whom over 110,000 individuals are eligible for parole.⁴¹⁾Nellis, A. (2013). [Life goes on: The historic rise in life sentences in America](#). Washington, DC: The Sentencing Project. The lifer population has more than quadrupled in size since 1984.⁴²⁾Mauer, M., King, R., and Young, M. (2004). [The Meaning of Life: Long Prison Sentences in](#)

Context. Washington, D.C.: The Sentencing Project. This section begins by describing lifers when possible, focusing on just those who are parole-eligible. It is followed by an overview of the key characteristics of the parole boards that decide when, if ever, these individuals and others with indeterminate sentences will be released from prison.

Most people serving life sentences (with and without the possibility of parole) were convicted of serious violent crimes. Nationwide, 64% of lifers were convicted of homicide and another 28% had other violent convictions including rape and robbery.⁴³ Nellis, 2013. In 2012, over 10,000 people were serving life sentences for nonviolent offenses, with great variation in the representation of such lifers at the state level.⁴⁴ Nellis, 2013. See also: ACLU Foundation. (2013, November). [A living death: Life without parole for nonviolent offenses](#).

Data from 2012 show that most of the population serving parole-eligible life sentences are people of color: 43% are African American, 34% are white, 17% are Hispanic, and 7% are identified as other.⁴⁵ Nellis, 2013. Men account for 97% of the parole-eligible lifer population. Among both men and women serving parole-eligible life sentences, 7% were under the age of 18 at the time of their crime.

Researchers have shown that many of these individuals experienced extreme hardship before their incarceration. A survey of incarcerated people sentenced to life without parole for crimes committed as juveniles revealed high rates of socioeconomic disadvantage, high levels of exposure to violence in their homes and communities, and high rates of physical and sexual abuse.⁴⁶ Nellis, A. (2012, March). [The lives of juvenile lifers: Findings from a national survey](#). Among women serving life sentences for crimes in their youth, over four-fifths report having been sexually or physically abused.⁴⁷ Leigey, M. E. & Reed, J. K. L. (2010). A woman's life before serving life: Examining the negative pre-incarceration life events of female life-sentenced inmates. *Women and Criminal Justice*, 20, 302-322.

In 2012, the federal government and all states except Alaska and South Dakota held people serving parole-eligible life sentences in their prisons.⁴⁸ Alaska is also unique in not having anyone serving a parole-ineligible life sentence, although 8.9% of its prison population was sentenced to fifty years or longer in 2012. See: Nellis, 2013. Individuals serving this sentence made up 0.004% of Pennsylvania's prison population on the low end of the state where parole-ineligible lifers comprised 10% of the prison population. At the high end, parole-eligible lifers accounted for 28% of Utah's prison population due to the state's heavy reliance on indeterminate sentencing for people with sex offense convictions. Nationwide, seven percent of people in prison were serving parole-eligible life sentences in 2012.

Paroled lifers have very low recidivism rates, like other older people released from prison after serving long sentences even for serious or violent offenses.⁴⁹ See: Ghandnoosh, N. (in press). Minimizing the maximum: The case for shortening all prison sentences. In C. Pettus-Davis, & M. Epperson (Eds.), *Smart decarceration: Achieving criminal justice transformation in the 21st century*. New York: Oxford University Press. For example, former California lifers with murder convictions have a minuscule recidivism rate for new crimes: among a group of 860 individuals convicted of murder who were paroled between 1995 and 2011, less than 1% were sentenced to jail or prison for new felonies, and none recidivated for life-term crimes.⁵⁰ Weisberg, R., Mukamal, D. A., & Segall, J. D. (2011, September). [Life in limbo: An examination of parole release for prisoners serving life sentences with the possibility of parole in California](#). Retrieved from Stanford Criminal Justice Center website, p. 17. This compares to the approximately one-in-three rate of re-incarceration for new crimes within three years of release for all formerly imprisoned individuals in California.⁵¹ Fischer, R. (2005). Are California's recidivism rates really the highest in the nation? It depends on what measure of recidivism you use. Irvine, CA: UC Irvine Center for Evidence-Based Corrections.

During the era of mass incarceration, parole boards have been making parole release decisions for a growing number of individuals, even though this group represents a declining proportion of the expanded prison population.⁵² The size of the population on parole supervision and the number of parole revocations have also increased dramatically. See: Travis, J. and Lawrence, S. (2002). *Beyond the Prison Gates: The State of Parole in America*. This is because while the prison population has grown across all sentence types, the increase in the number of people with indeterminate sentences (whose release requires a discretionary parole decision) has been outpaced by the growth in the number of people with fixed-term sentences (those who have mandatory release dates). This section describes the composition and procedures of parole boards, as well as determinants of hearing outcomes for all parole candidates, of which lifers are one group.

Parole boards are typically composed of five or six full-time members and three part-time members.⁵³ Kinnevy, S. C. & Caplan, J. M. (2008). Findings from the APAI International Survey of Releasing Authorities. Pennsylvania: Center for Research on Youth and Social Policy. Larger states have more parole board members; in California, for example, there are twelve members called commissioners who sit on the board, and parole hearings also include deputy commissioners who are civil servants. In smaller states, parole boards are more likely to be entirely part-time entities; this is the case in Idaho, Montana, New Hampshire, New Mexico, North Dakota, Oklahoma, South Dakota, Vermont, and Wyoming.⁵⁴ Weiss, R. (2013). [Parole board structures and policies in other states](#). Billings, Law and Justice Interim Committee. Parole board membership is typically a function of the state's political process. A 2007 survey conducted by the Association of Paroling Authorities International (APAI) found that governors appoint members of most parole boards (85%), and membership on most boards (72%) also requires legislative confirmation.⁵⁵ Kinnevy & Caplan, 2008. A 2015 survey conducted by the Robina Institute, endorsed by the APAI, found similar results. Parole board members typically serve an average term of four to six years.⁵⁶ Ruhland, E. L., Rhine, E. E., Robey, J. P., & Mitchell, K. L. (2016). [The Continuing Leverage of Releasing Authorities: Findings from a National Survey](#). Robina Institute. Virtually all can be reappointed and most do not face term limits.

The educational and professional background requirements of parole board members vary considerably from state to state. Board members do not necessarily need to have expertise in corrections, or even related fields like criminal justice or social science. In Montana, for instance, the only professional requirement is that one member be a mental health professional. In Wyoming and Idaho, the only statutory requirement for board membership is a limit on the number of members who can be from the same political party.⁵⁷ Weiss, 2013.

Parole boards meet regularly throughout the year to conduct hearings and consider who is eligible for release. Parole hearings usually include, or incorporate the results from, a brief interview with the parole candidate that is conducted either in person or via telephone or

videoconference:⁵⁸⁾Russell, S. (2014). Review for release: Juvenile offenders, state parole practices, and the eighth amendment. *Indiana Law Journal*, 89(1), 373-440. See also: Ruhland, Rhine, Robey, & Mitchell, 2016; Kinnevy & Caplan, 2008.

Although limited by data constraints, research in this area suggests that parole is granted more frequently to individuals who receive in-person hearings as opposed to hearings via videoconference or telephone.⁵⁹⁾Tewksbury, R. & Connor, D.R. (2012). Predicting the outcome of parole hearings. *Corrections Today*. June 2012, 55-56. This may be because in-person hearings foster more intimate interactions and improve exchanges of information.

All parole boards around the country give victims opportunities to contribute to hearings, and a smaller number provide this access to other stakeholders such as the district attorney and the parole applicants family or legal counsel:

In most states, parole boards weigh this gathered evidence without a formal burden of proof requirement, given that their proceedings are administrative hearings.⁶³⁾Ruhland, Rhine, Robey, & Mitchell, 2016; Rhine, Petersilia, & Reitz, 2015. Several studies have found that victim opposition to parole, in particular, has a strong influence on parole board decision-making, especially when victims appear in person before the parole board.⁶⁴⁾Proctor, J.L. (1999). The new parole: An analysis of parole board decision making as a function of eligibility. *Journal of Crime & Justice*, 22(2), 193-217; Smith, B. L. (1997). The effect of victim participation on parole decisions: Results from a southeastern state. *Criminal Justice Policy Review*, 8(1), p. 65; Morgan, K., & Smith, B.L. (2005). Victims, punishment, and parole: The effect of victim participation on parole hearings. *Criminology and Public Policy*, 4(2), p. 355. This is despite the fact that victims are unlikely to have had enough contact with the parole applicant to help boards assess risk of future violence, especially in cases resulting in long sentences.⁶⁵⁾Rhine, Petersilia, & Reitz, 2015, p. 100.

In the APAI survey, over 90% of parole boards reported voting within a panel structure requiring an average of three members to vote on release decisionsfour for violent and sex crimes in particular.⁶⁶⁾Kinnevy & Caplan, 2008; see also: Ruhland, Rhine, Robey, & Mitchell, 2016. The Robina Institutes survey found that in eight states, parole releases can be based on the decision of just one board member.⁶⁷⁾Ruhland, Rhine, Robey, & Mitchell, 2016; Caplan, J. M. (2007). What factors affect parole: A review of empirical research. *Federal Probation* (71)1: 16-19.

Once their determination has been made, just over half (59%) of parole boards make their reasons for denying parole available to the public.⁶⁸⁾Ruhland, Rhine, Robey, & Mitchell, 2016. See also: Schwartzapfel, B. (2015, July 11). [How parole boards keep prisoners in the dark and behind bars](#). The Washington Post. In at least seven states there is no rule or policy requiring the provision of a written reason for parole denial even to the parole applicant. In eleven states parole applicants are not entitled to appeal the parole boards decision.

In states with presumptive parole policies, incarcerated individuals who have completed their minimum sentences and met specified criteria are required to be released unless the parole board has cause to prolong their incarceration. When parole is not presumptive, the individual remains incarcerated until the parole board decides to grant them parole. With about half of the countrys parole boards reporting having a presumption of parole for some incarcerated individualsmost often those convicted for property, drug, and public order crimes⁶⁹⁾Ruhland, Rhine, Robey, & Mitchell, 2016; Kinnevy & Caplan, 2008. In 2007, the vast majority of boards (90%) reported using decision-making instruments or parole guidelines and by 2015, the same high percentage used risk-assessment instruments.⁷⁰⁾Ruhland, Rhine, Robey, & Mitchell, 2016. But as Sarah French Russell observes, many parole boards follow unwritten and unpublished rules on significant matters.⁷¹⁾Russell, 2014, p. 376.

In particular, Edward Rhine and colleagues note that although boards should recognize that the retributive component of a sentence has already been met by the minimum term, In most states today, parole boards have authority to reevaluate any and all aspects of the judges original sentence, including how much time a prisoner deserves to spend in prison for his or her offense and his or her criminal record.⁷²⁾Rhine, Petersilia, & Reitz, 2015, p. 98. As described next, research on parole boards self-reported behavior and on hearing outcomes demonstrates that boards place more emphasis on the static, or immutable, characteristics of parole applicants rather than on dynamic factors that reflect how individuals have transformed during their incarceration.

When asked to rank the significance of 17 factors for parole decisions in 2015, parole board chairs ranked three static factors as the most significant: nature and severity of the offense and prior criminal record. Two dynamic factorsdisciplinary record during incarceration and prison program completiontrailed closely behind, as did the empirically based risk assessment to reoffend.

Several studies have confirmed the significance of crime severity⁷³⁾Turpin-Petrinoso, C. (1999). Are limiting enactments effective? An experimental test of decision making in a presumptive parole state. *Journal of Criminal Justice*, 27(4), 328-329; Tewksbury, R. & Connor, D.R. (2012). Predicting the outcome of parole hearings. *Corrections Today*. June 2012, 55-56; Huebner, B. & Bynum T. (2008). The role of race and ethnicity in parole decisions. *Criminology*, 46(4): 907-938. See also: Morgan & Smith, 2005. and criminal history⁷⁴⁾Parsonage, et al. (1992). Victim impact testimony and Pennsylvanias parole decision making process: A pilot study. *Criminal Justice Policy Review*, 6(3), 195; Proctor, 1999. Evaluation and prediction in expert parole decisions. *Criminal Justice and Behavior*, 17, p. 329. on parole hearing outcomes in specific jurisdictions. An experimental study conducted in 1999 found that the original conviction offense was the most influential factor in simulated parole decisions in New Jersey, even though the New Jersey Parole Act of 1979 listed this as a factor that is not supposed to influence parole decisions given that it was already incorporated into the minimum sentence.⁷⁵⁾Turpin-Petrinoso, C. (1999). Are limiting enactments effective? An experimental test of decision making in a presumptive parole state. *Journal of Criminal Justice*, 27(4), 328-329, p. 323.

Studies on the impact of dynamic factors on parole outcomes have produced mixed results. Disciplinary infractions seem to reduce the likelihood of parole.⁷⁶⁾Tewksbury & Connor, 2012; Huebner & Bynum, 2008. See also: Morgan & Smith, 2005; Feder, L. (1994). Psychiatric hospitalization history and parole decision. *Law and Human Behavior*, 18, p. 404. But while some studies suggest that positive behavior in prison (including the number of completed programs and the quality of a reentry plan) improves parole outcomes, others suggest that the relationship is inconclusive.⁷⁷⁾Tewksbury & Connor, 2012; Morgan & Smith, 2005.

Incarcerated people in many states also have difficulty meeting rehabilitative expectations of parole boards due to shortages in prison programming. Of the 47 parole boards that responded to the APAI survey questions on in-prison program completion, 44 required program completion as a condition of release, however only two reported having enough programs.⁷⁸⁾Kinnevy & Caplan, 2008.

According to the responding boards, delays in program completion was the most common factor in delaying parole release.⁷⁹⁾Kinnevy & Caplan, 2008. Lack of access to prison programs is especially problematic for individuals sentenced to life without parole as juveniles who later gain parole eligibility. Exclusion from programming has been a common experience for these individuals,⁸⁰⁾Nellis, A. (2012). *The Lives of Juvenile Lifers*. Washington, DC: The Sentencing Project. and yet their lack of program completion may later impede their parole prospects.

Finally, it is important to consider the relevance of race and ethnicity, as well as innocence, on parole hearings. Research on the role of a parole applicants race on parole board decision-making has yielded mixed results but suggests that race and ethnicity may play a role in parole board decision-making.⁸¹⁾Huebner & Bynum, 2008; Proctor, 1999. See: Morgan & Smith, 2005. Claiming innocence diminishes ones chance of parole, even though as Daniel Medwed notes, there is no clear evidence that remorse is related to future risk of offending.⁸²⁾Medwed, D. (2008). *The innocent prisoners dilemma: Consequences of failing to admit guilt at parole hearings*. Iowa Law Review, 93, 491-557.

During a historic address to Congress in September 2015, Pope Francis reiterated his call for the global abolition of the death penalty. Francis condemns capital punishment because it violates the sanctity of life and the dignity of convicted individuals, and because it fosters a sense of vengeance, rather than justice, among victims.⁸³⁾San Martin, I. (2016, June 21). [Pope Francis calls for world free of the death penalty](#) [Newsgroup post]. He is similarly opposed to life-without-parole sentences, calling them a hidden death penalty.⁸⁴⁾Rocca, F. X. (2014, October 23). [Pope Francis calls for abolishing death penalty and life imprisonment](#). National Catholic Reporter. Speaking to Congress, Francis noted: A just and necessary punishment must never exclude the dimension of hope and the goal of rehabilitation.⁸⁵⁾Francis. (2016, September 24). Congressional address. [Address presented at Joint Session of U.S. Congress, Washington, DC](#). Retrieved from United States Conference of Catholic Bishops website. This principle can also be extended to the excessive sentences examined here: Life sentences that unnecessarily delay parole foreclose hope and make rehabilitation irrelevant.

Reducing prison terms for lifers is both possible and necessary. It is possible because despite the severity of their crimes, many lifers have aged out of their crime-prone years, making their continued incapacitation ineffective in promoting public safety.⁸⁶⁾Piquero, A., Hawkins, J., & Kazemian, L. (2012). Criminal career patterns. In R. Loeber & D. P. Farrington (Eds.), *From Juvenile Delinquency to Adult Crime: Criminal Careers, Justice Policy, and Prevention* (pp. 1446). New York, NY: Oxford University Press. Researchers have also shown that long sentences are limited in deterring others from committing crime.⁸⁷⁾See Ghandnoosh, N. (in press). *Minimizing the maximum: The case for shortening all prison sentences*. In C. Pettus-Davis & M. Epperson (Eds.), *Smart decarceration: Achieving criminal justice transformation in the 21st century*. New York: Oxford University Press.

It is necessary to reduce lifers excessive prison terms because doing so would contribute to the goal of ending mass incarceration and would enable more effective investments to promote public safety. As the American Law Institute has explained, the most severe penalty serves as an anchor point, or a benchmark of severity, on which sentence lengths for less serious crimes are based.⁸⁸⁾American Law Institute (2011). [Model penal code: Sentencing, tentative draft no. 2.](#), Retrieved from The American Law Institute website, p. 11. See also Mauer, M. 2015, March 11. Testimony to Charles Colson Task Force on Federal Corrections: [A proposal to reduce time served in federal prison](#). Recalibrating prison terms for lifers would therefore put downward pressure on other sentences, helping to undo a major cause of mass incarceration. The resulting savings could then be invested in effective crime prevention, drug treatment, and other rehabilitative programs that promote healthier and safer communities.⁸⁹⁾See Ghandnoosh, in press.

To reduce excessive prison terms, The Sentencing Project has previously recommended that states and the federal government abolish sentences of life without the possibility of parole.⁹⁰⁾Nellis, A. & King, R. (2008). [No exit: The expanding use of life sentences in America](#). Washington, D.C.: The Sentencing Project. Retrieved from The Sentencing Project website; Mauer, M. 2015, March 11. Testimony to Charles Colson Task Force on Federal Corrections: [A proposal to reduce time served in federal prison](#). Life-without-parole sentences are costly and inhumane, ignoring the possibility of transformative growth. States and the federal government should therefore amend their statutes to make all life sentences parole-eligible.⁹¹⁾Nellis, A. 2013. [Life goes on: The historic rise in life sentences in America](#). Retrieved from The Sentencing Project website; Nellis & King, 2008.

Based on the findings of this report, we recommend four reforms to address the excessive sentences served by parole-eligible lifers. These proposals draw heavily on a 10-point plan to revitalize discretionary parole release systems by three national experts: Edward Rhine, Joan Petersilia, and Kevin Reitz. Many of these recommendations can be applied to all parole hearings. But they are especially critical for those serving life sentences, given the scale of punishment in these cases. We recommend that states and the federal government:

Expedite parole eligibility: Reduce the minimum number of years that lifers must serve before their first parole hearing and shorten wait times for subsequent hearings.

To empower paroling authorities to release individuals when they no longer pose an unreasonable risk to public safety, state legislatures should allow parole hearings to happen earlier and more often. This requires reducing the statutorily-required waits until initial hearings, which several states have increased since the 1990s. Joining the new Model Penal Code, Rhine, Petersilia, and Reitz propose: For extremely long sentences, release eligibility should occur no later than 15 years.⁹²⁾Note that in concluding that parole boards are failed institutions, the American Law Institute calls for a full shift to a determinate sentencing system in which sentencing discretion is reallocated to sentencing courts. See American Law Institute, 2011 p. 9; Rhine, E. E., Petersilia, J., & Reitz, R. (2015). *Improving parole release in America*. Federal Sentencing Reporter 28(2): 96-104, p. 97; Rhine, E. E., Petersilia, J., & Reitz, R. (2016). *The future of parole release*. Crime and Justice.

Legislatures should also reduce wait times between hearings, which several states have increased in recent decades. As Rhine,

Petersilia, and Reitz recommend, subsequent reviews should occur annually, and can be extended to intervals of two years in exceptional circumstances.⁹³)Rhine, Petersilia, & Reitz, 2016.

These reforms would move states and the federal government closer to a goal recommended by The Sentencing Project: establish an upper sentencing limit of 20 years. This maximum should be used sparingly and could be extended in exceptional circumstances for individuals who pose a persistent risk to public safety.⁹⁴)Mauer, 2015.

Depoliticize and professionalize parole boards: Distance governors from paroling authorities to enable parole decisions to be based on meaningful assessments of public safety risk.

The only ground for denial of release should be the boards finding, based on credible evidence, that the prisoner presents an unacceptable risk of reoffending if released, write Rhine, Petersilia, and Reitz, noting that the retributive component of a prison sentence has already been met by the minimum sentence.⁹⁵)Rhine, Petersilia, & Reitz, 2015, p. 97. To re-orient parole decision-making toward meaningful assessments of rehabilitation based on credible evidence that an individual poses an unreasonable risk to public safety, parole boards should be independent and buffered from public and political pressure.

Members of paroling authorities should be civil servants, rather than governor appointees, with relevant experience and professional training to enable them to fairly and effectively evaluate parole applicants. The few states that allow governors to reverse the parole boards' recommendations or require them to commute sentences before the parole board can review cases should repeal this authority.

Establish a presumption of release: Parole boards should assume that parole candidates are potentially suited for release at the initial, and especially subsequent, parole hearings unless an individual is deemed to pose an unreasonable public safety risk.

Parole boards should develop guidelines to inform the decision-making of their members. In particular, to re-orient parole boards towards the goal of assessing rehabilitation, rather than exacting retribution in response to public and political pressure based on the crime of conviction, parole boards should establish a meaningful presumption of parole at the initial hearing. Presumptive parole dates would determine when incarcerated individuals who have completed their minimum sentences and met specified criteria would be required to be released unless the parole board has cause to prolong their incarceration. Parole boards should also heighten the presumption of parole at subsequent parole hearings, and develop processes to monitor compliance and enforce or revise guidelines based on hearing outcomes.⁹⁶)See also Rhine, Petersilia, & Reitz, 2016.

The Colorado legislature has established a presumption in favor of granting parole to certain individuals and Citizens Alliance on Prisons and Public Spending has been advocating for this reform in Michigan. In New York, advocates and litigators have led the courts, lawmakers, and the governor to require the parole board to prioritize assessments of rehabilitation, as New Jersey law has required of its parole board since 1979. Finally, the California legislature's creation of Youth Offender Parole Hearings for individuals convicted up to the age of 23 comparable to West Virginia's reform emphasizes the potential for change among those convicted at a young age.

Improve the integrity of parole hearings: Expand the procedural rights of parole applicants, enable parole applicants to review the evidence used to evaluate their eligibility for parole, and allow the public to review decision-making criteria and outcomes.

The integrity of parole hearings would be improved by modeling procedural rights on original sentencing hearings, as recommended by Rhine, Petersilia, and Reitz.⁹⁷)Rhine, Petersilia, & Reitz, 2015. At a minimum, parole applicants should be able to participate in their hearings in person. They should also have effective legal counsel. As Rhine and colleagues suggest:⁹⁸)Rhine, Petersilia, & Reitz, 2016.

On principle, all prisoners eligible for release should have the right to effective representation by a lawyer just as they do at a judicial sentencing hearing. Short of that, however, appointed counsel should be provided at least for all subsequent hearings after an initial denial of release.

Parole boards should also limit victim input to the question of future risk and establish and elevate their burden of proof requirements.

Finally, parole boards should increase the transparency of their decision-making process, giving parole applicants and their counsel access to the contents of parole files so that they can challenge the evidence used to prolong their confinement. Parole boards should also increase the transparency of data on their outcomes, allowing the public to assess the extent to which their decisions are in line with the boards' goals and guidelines, as well as broader principles of justice.

Such an evidence-based approach would mitigate the counterproductive effects of excessive prison terms, support investments in more effective crime prevention and drug treatment policies, and bring American prison sentencing more in line with other industrialized nations.

To understand whether and how parole policies and practices have increased prison terms for parole-eligible lifers in the United States, we conducted a survey of lifer parole outcomes across the country and investigated relevant policy developments.

Survey: Lifer Parole Hearing Outcomes and Time Served

We contacted the relevant agencies in 50 states and the federal government in 2014 for information about two aspects of lifer parole outcomes. Using the survey letter in Appendix B, we requested annual data from 1980 to 2013 on: 1) The number of lifer parole hearings that resulted in a parole grant or denial, and 2) Lengths of prison terms served by paroled lifers with first- and second-degree murder convictions.⁹⁹)In subsequent correspondence we requested the number of lifers paroled each year with these convictions. The time-

served data were requested for these particular convictions disaggregated when possible so as to account for the potentially changing composition of the paroled lifer population. For ease of data collection and for comparability, we only requested time-served data on those who were paroled and released.¹⁰⁰ When possible, the jurisdiction profiles note when individuals were paroled to begin a separate sentence. This analysis therefore does not capture time served by lifers who either remained incarcerated or who died while awaiting parole, except for a few jurisdictions that chose to provide this supplemental information and those about which this information was readily available.

The survey letter was first submitted by e-mail in July 2014 to departments of corrections, parole boards, or other relevant agencies. Data collection ended in April 2016 and often involved several follow-up e-mails and phone calls to ensure receipt of data and to ask clarifying questions.

In sum, 31 states and the federal government are included in the analysis. Most of these jurisdictions provided data in response to our survey; the jurisdiction profiles note when data were collected from other sources such as public records or advocacy organizations. Few jurisdictions could provide data as far back as 1980 and some could only do so for the most recent year. While most jurisdictions generated figures that responded to our questions, approximately one-third provided individual-level data that we analyzed. Fiscal years were treated as calendar years in this analysis. Two states that did not respond to clarifying questions about their data were excluded from this analysis. We have no reason to believe that the 19 omitted states differed significantly from those that were included in the analysis.

Analysis of Survey Results

For the time-served analysis, we received or calculated the average time served among paroled lifers each year, disaggregated by conviction offense where possible. This information is reported with the corresponding number of paroled lifers in the jurisdiction profiles. Given our interest in prison terms associated with the original conviction offense, this analysis excludes any prison stays after parole revocations.

Section I of this report presents a historical analysis of time served among paroled lifers with murder convictions. This analysis is limited to jurisdictions reporting some data since the 1980s. The jurisdiction profiles specify whether these are first-, second-degree murder convictions, both, or a non-disaggregated murder category as determined by sentencing laws and data availability.

The jurisdiction profiles also present an analysis of lifer parole hearing outcomes. This includes the number of all lifer parole hearings conducted each year regardless of conviction offense and the proportion that resulted in a parole grant. Given our interest in the outcome of hearings that could have resulted in a parole grant, scheduled hearings that were not conducted were excluded from this analysis. When possible, their prevalence was noted. Given the difference between first-release hearings and those following revocations, the analysis includes only the former. Initial parole grants that were later reversed by the parole board or by the governor were treated as denials, as specified in the jurisdiction profiles.

Examination of Policy Landscape

The jurisdiction profiles also include descriptions of the changing landscape of lifer parole policies and practices. Although not exhaustive accounts, these sections highlight key elements such as the convictions that qualify for parole-eligible life sentences, laws determining wait times for the initial and subsequent lifer parole hearings, parole board characteristics and policies, and the scope of gubernatorial authority. Also noted are recent reforms that have expanded parole-eligibility or required alternative review processes for lifers convicted as juveniles.

Information for these profiles was found by examining the websites of parole boards or other government agencies, consulting relevant statutes and state session laws, and reviewing media coverage as well as reports from advocacy organizations and scholars, as noted.

Dear _____,

There has never been a national overview of parole rates for inmates sentenced to life with the possibility of parole. The Sentencing Project a national non-profit organization that has been engaged in research on criminal justice issues for over 25 years intends to address this research gap. We are developing an informational report documenting parole rates for life-sentenced inmates across the 50 states. This request will serve as the main foundation for that report. Your assistance is greatly appreciated.

Following is a brief set of questions about [states] current and historical parole practices. I have limited my request to help expedite your response. Please contact me to clarify any of these items.

For each year starting in 1980 and through the end of 2013 (or the most recent year for which you have records), please provide the following information:

1. For life-sentenced inmates eligible for a parole review or hearing in a given year, please provide an annual count for each of the following parole review outcomes:

- a. parole was granted;
- b. parole was denied;
- c. parole was granted but reversed through later review, such as by the Governor;
- d. the inmate declined to be considered for review in that year; or
- e. the inmate did not qualify for a hearing based on a preliminary screening process.

2. Only among life-sentenced inmates granted parole with first- and second-degree murder convictions, what were the mean and median lengths of time served for inmates released in each year?

Alternatively, if aggregate data is too difficult to provide, I would welcome individual-level data (with individual identifiers removed) for the above questions instead.

Your assistance is greatly appreciated. I can be contacted by phone at _____, fax at _____, or by email at _____.

Sincerely,

Click [here](#) for supplemental document highlighting lifer parole policies in 31 states and the federal government.

Footnotes[+]

Black men born in 2001 can expect to go to prison in their lifetime

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