

Second Look Legislation Policy Briefing

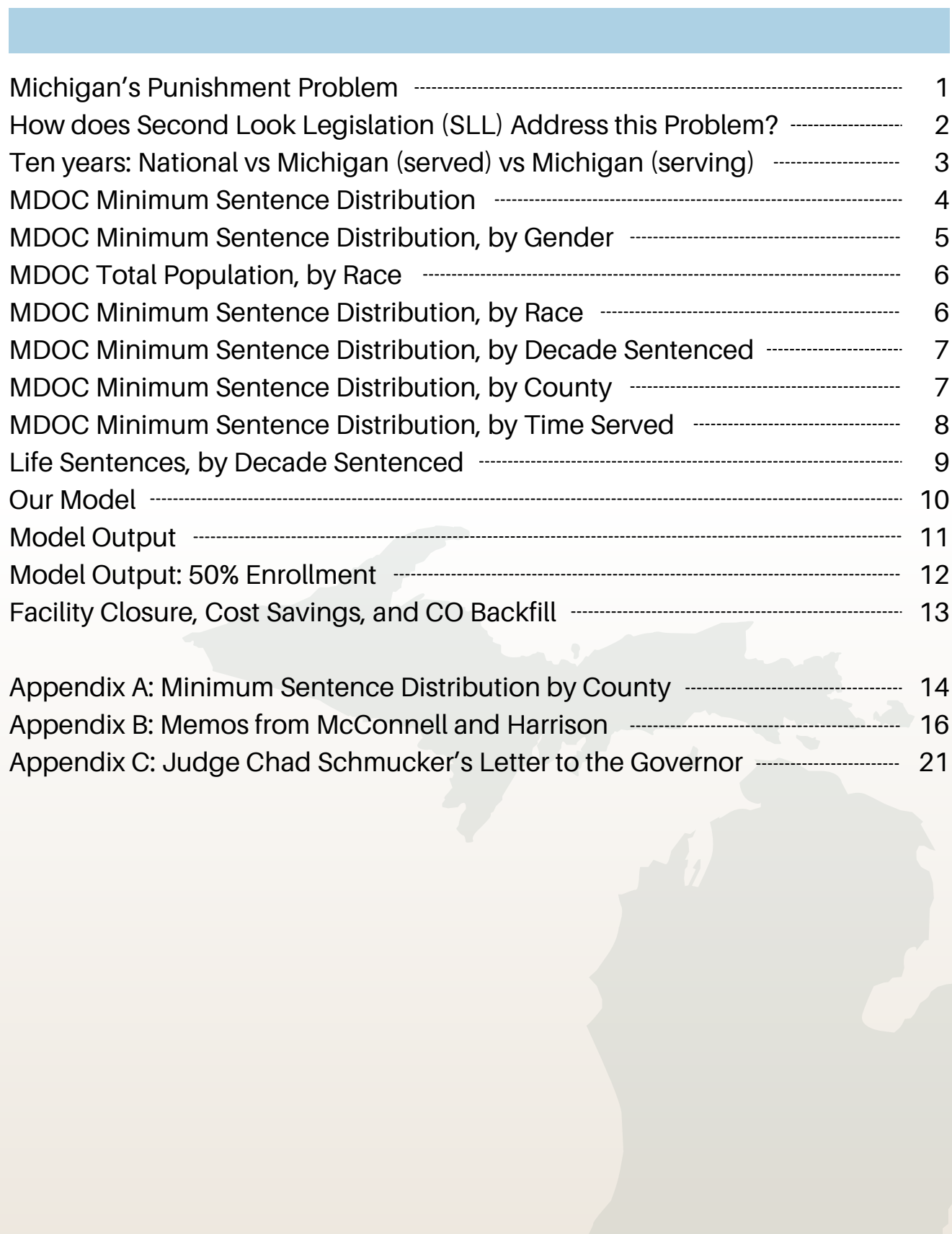
*Modeling Cost Savings Under Second
Look*

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Michigan's Punishment Problem

When it comes to extremely long prison sentences and actual time served in prison, Michigan leads the way. Nationally, 17% of individuals serving prison sentences have served 10 years or more. In Michigan, one-third (32%) of the prison population has served 10 years or more. Further, 41% of the Michigan prison population will have to serve at least 10 years before becoming eligible for parole. Most of those individuals will have to serve much more than ten years before becoming eligible for parole. Finally, nearly 4,500 people (approximately 14% of the full Michigan prison population) will spend the rest of their lives in prison, however many years that may be for each of them.

This punishment trend that has dominated our policy decisions over the past five decades has left us with a large proportion of people serving draconian sentences in the Michigan Department of Corrections (MDOC). At the same time, the MDOC is facing increasingly difficult staffing shortages that could be ameliorated through the successful implementation of Second Look.

In Michigan's one prison that houses women (Womens' Huron Valley, or "WHV"), there have been more than 50 full-time vacancies in healthcare for more than two years. WHV staffing requirements call for 344.5 corrections officers, but there are currently only 247 people working in those positions. Despite recruiting efforts spanning years, corrections officer vacancies across the state have not improved and staff are now regularly "mandated," where they finish a regular 8-hour shift and are then forced to stay on for an additional 8-hour shift.

In the most recent staffing report to the legislature, the MDOC has 1,031.9 vacant corrections officer positions statewide. These shortages have a cascading effect, making educational programs, rehabilitative programs, recreation, and nearly every aspect of being in prison (whether incarcerated there or working there) much more difficult.

A growing portion of the prison population is made up of people serving very long sentences and the MDOC has no way to release these people regardless of whether they pose any degree of risk to society. Truth in Sentencing (or “TIS”) requires that people serve 100% of their minimum sentence before the Parole Board can evaluate them for release on parole. The minimum sentences at issue in the current “Second Look” discussions range from 10 years up to 200 years and also include people serving parolable life and life without the possibility of parole (“LWOP”) sentences. There are more than 17,000 people serving such sentences in Michigan (the total prison population at the time of data collection was just under 33,000).

How does Second Look Legislation (SLL) Address this Problem?

Second Look Legislation offers a release valve for this problem. Except for those who are/were convicted of a mass shooting (as defined in the Second Look Legislation), people who are serving these long sentences would be allowed to petition their sentencing court to request a sentence reduction once they have served ten years. This legislation would empower circuit court judges to review the facts of the case and combine that information with everything the person has done since the crime to determine whether the sentence can be reduced. If the judge decides to reduce the person’s minimum sentence by any number of years, the Parole Board can then decide whether the person can be safely released on parole according to the new minimum sentence imposed by the judge. If the judge denies the request, the person can submit a new request in 2-5 years (the judge can set the waiting period at 2 years, 5 years, or anything in between).

Judges are also given discretion to simply screen cases out and deny petitions summarily without a hearing for people convicted of criminal sexual conduct (where the victim was under 13 years of age), child pornography, domestic violence, and human trafficking.

What judges decide to do with this expanded sentencing power will drive the overall effects of a Second Look law in Michigan. This joint project between the American Friends Service Committee and the Ford School of Public Policy covers two broad aspects of this work: First, we present descriptive data regarding the sentences people are currently serving in Michigan. Second, we have used a model to demonstrate the benefits we may achieve upon Second Look becoming law in Michigan.

Figure 1

**Ten years: National vs Michigan (served)
vs Michigan (serving)**

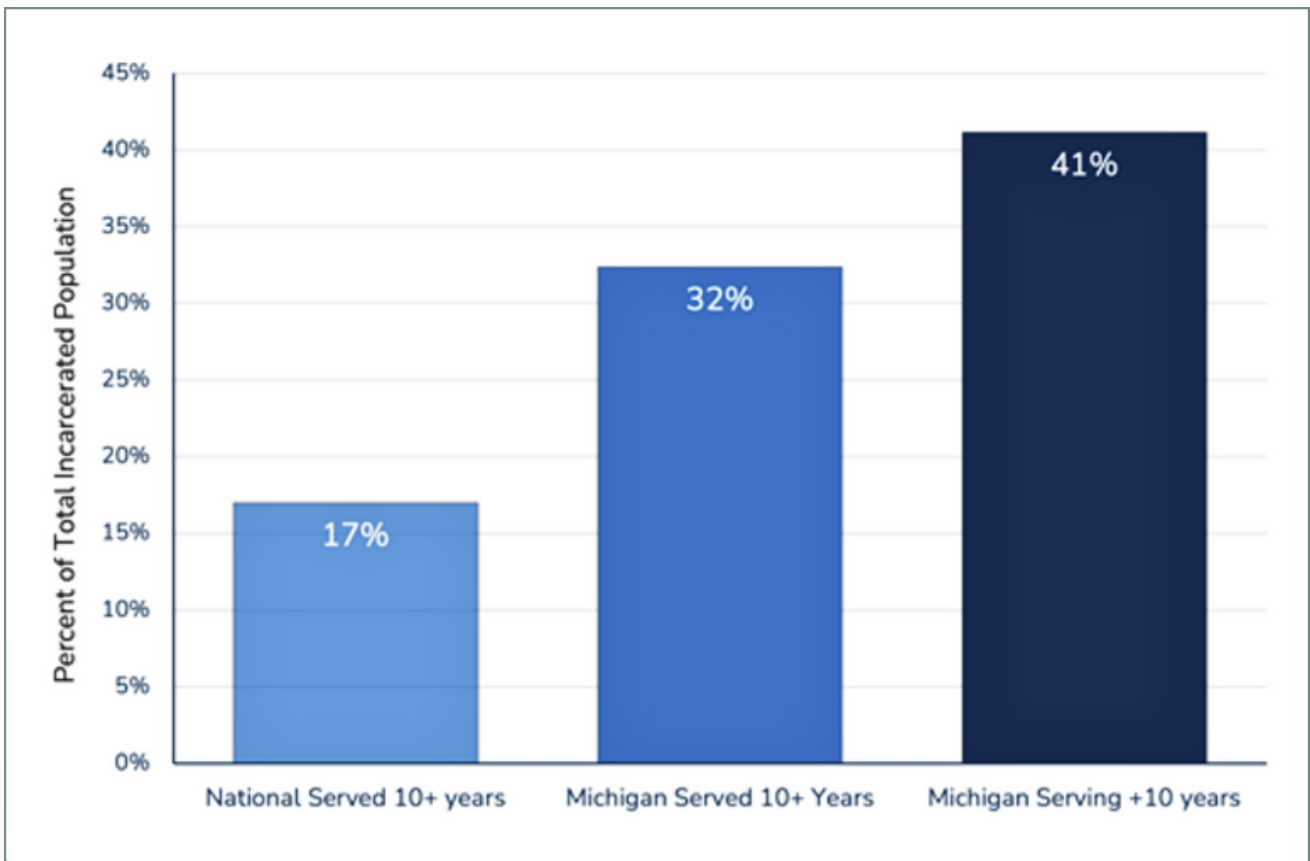
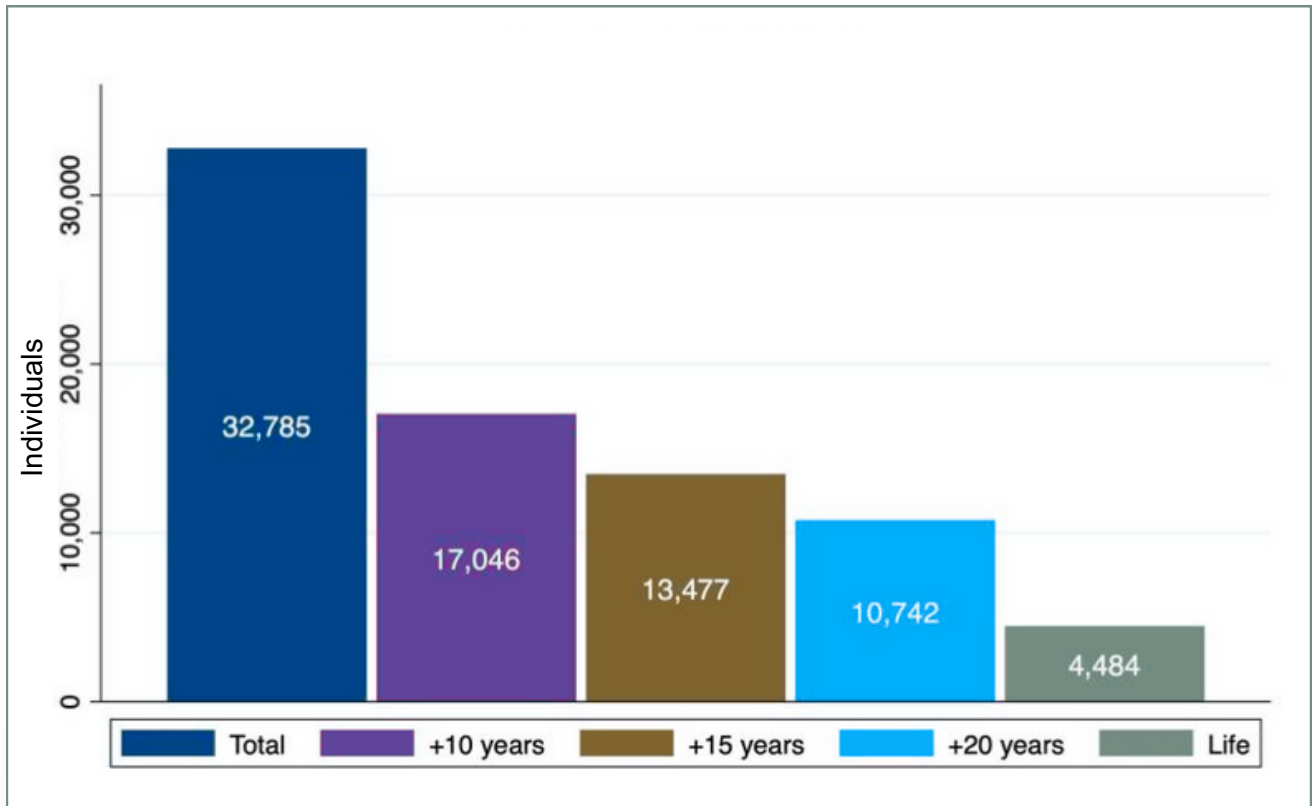


Figure 1 compares Michigan sentencing practices to national figures, focusing on the minimum sentences (where people first become eligible for parole consideration). The first two columns show time served nationally and time served in Michigan; the third column shows the total percentage of the MDOC population that must serve sentences of at least ten years before they become eligible for parole consideration.

Figure 2

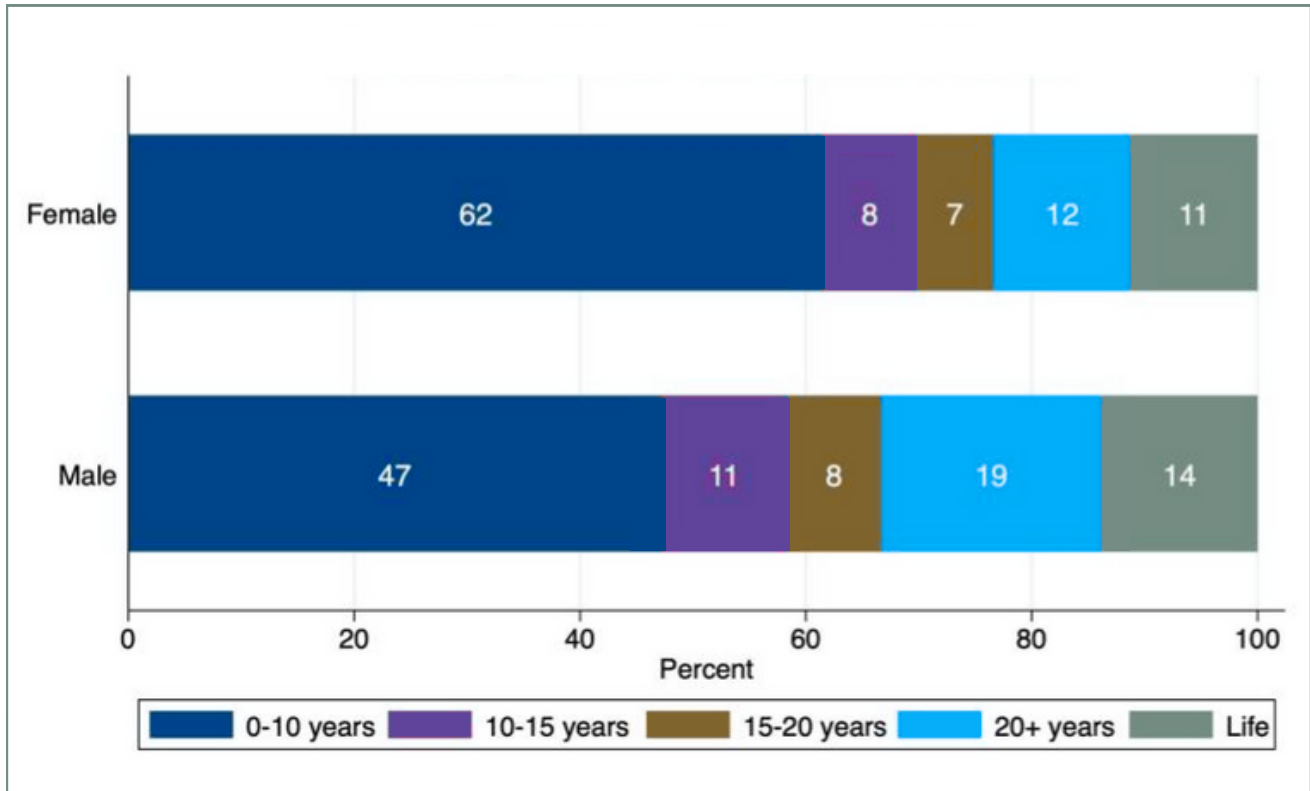
MDOC Minimum Sentence Distribution



As of September 2023, there were nearly 33,000 people serving prison sentences in Michigan. Of those, this chart shows how many people have minimum sentences of at least 10 years, 15 years, and 20 years. Each of those columns include the 4,484 people serving life sentences.

Figure 3

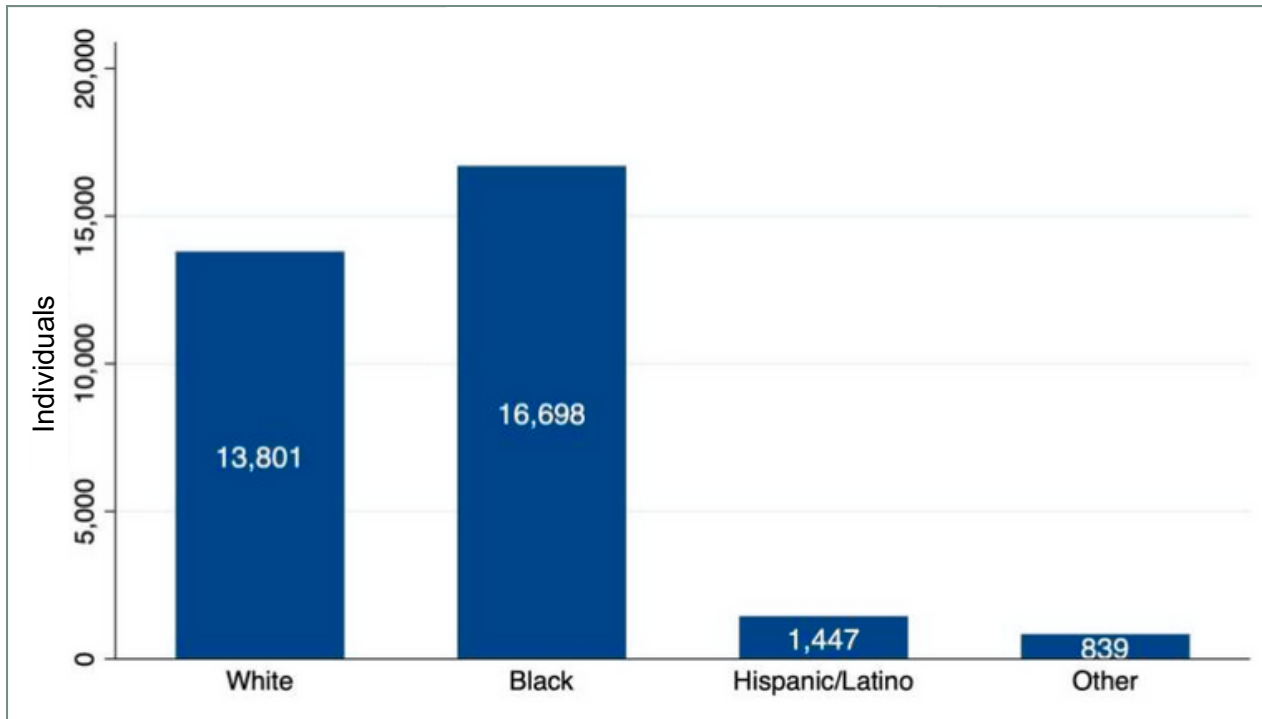
MDOC Minimum Sentence Distribution, by Gender



Women make up approximately 5% of people serving prison sentences in Michigan. The current MDOC population shows a larger proportion of men serving minimum sentences greater than 10 years compared to the sentences women are serving, but both tables show a greater proportion of these sentences than we've ever seen in Michigan. (For context, in 1990—the apex of “tough-on-crime” policies—only 20% of the entire MDOC population were serving sentences longer than 15 years. Currently, 38% of women and 52% of men are serving such sentences. We use 1990 as a reference point because the MDOC population at that time was just over 33,000, providing a good baseline for comparison.)

Figure 4

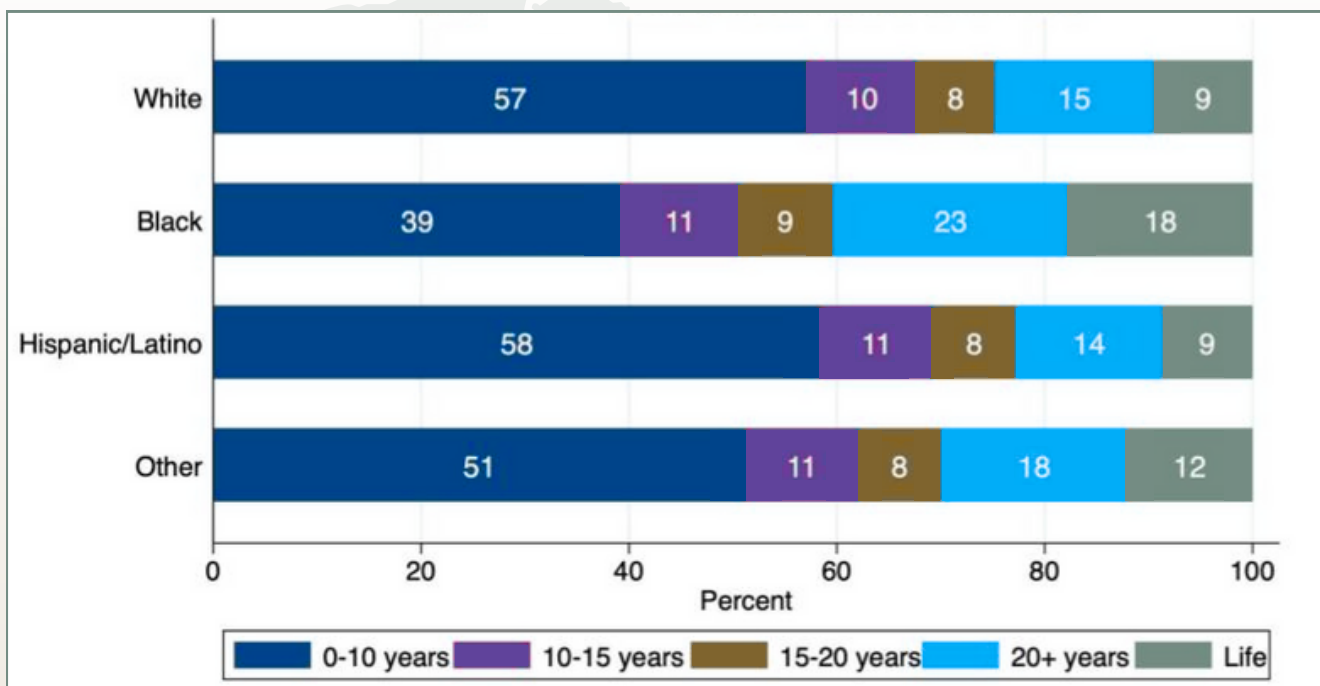
MDOC Total Population, by Race



The most recent census reports Michigan's race demography as almost 80% white and 14% Black. Figure 4 demonstrates how overly-represented Black people are in Michigan's prisons.

Figure 5

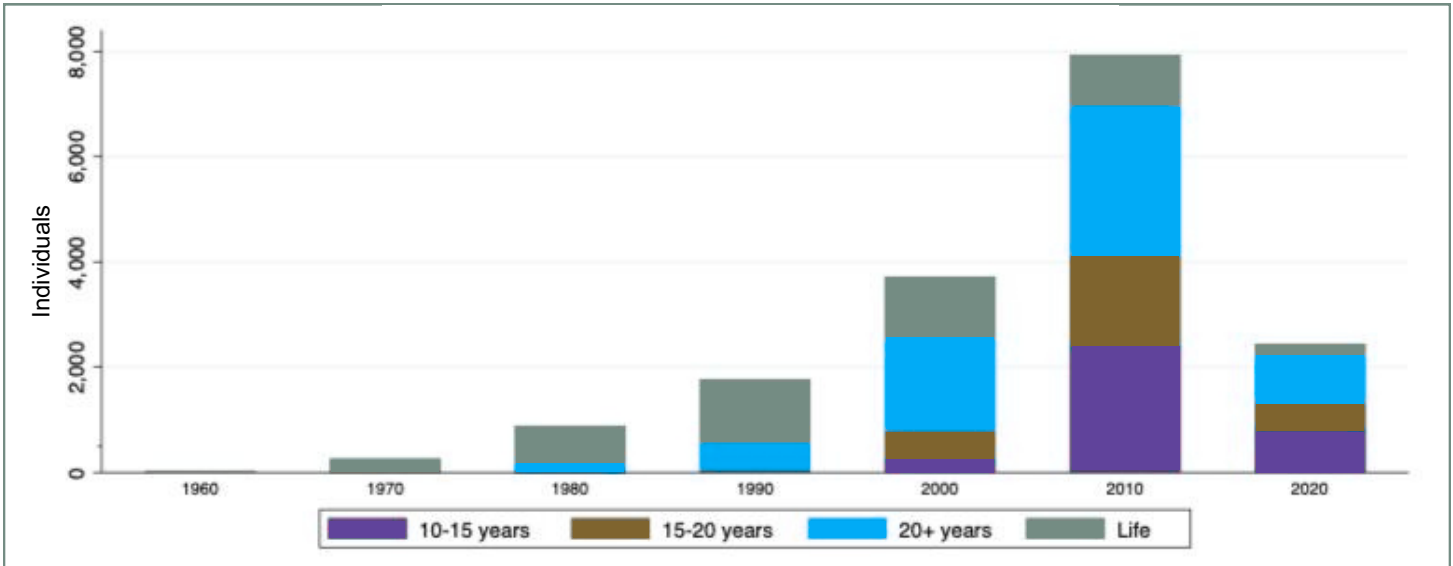
MDOC Minimum Sentence Distribution, by Race



Current sentences divided by minimum sentence distribution, broken down further by race (as tracked by the MDOC).

Figure 6

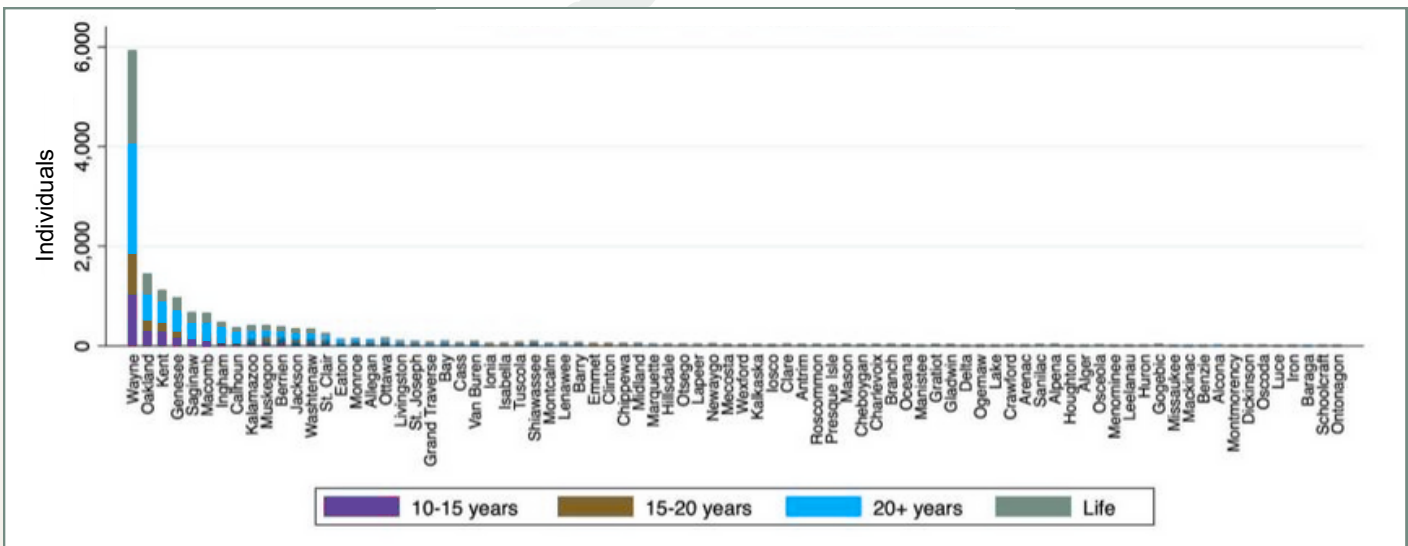
MDOC Minimum Sentence Distribution, by Decade Sentenced



Many of the sentences included in our analysis are very old. This figure shows that sentences that would be reconsidered under Second Look go all the way back to the 1960s.

Figure 7

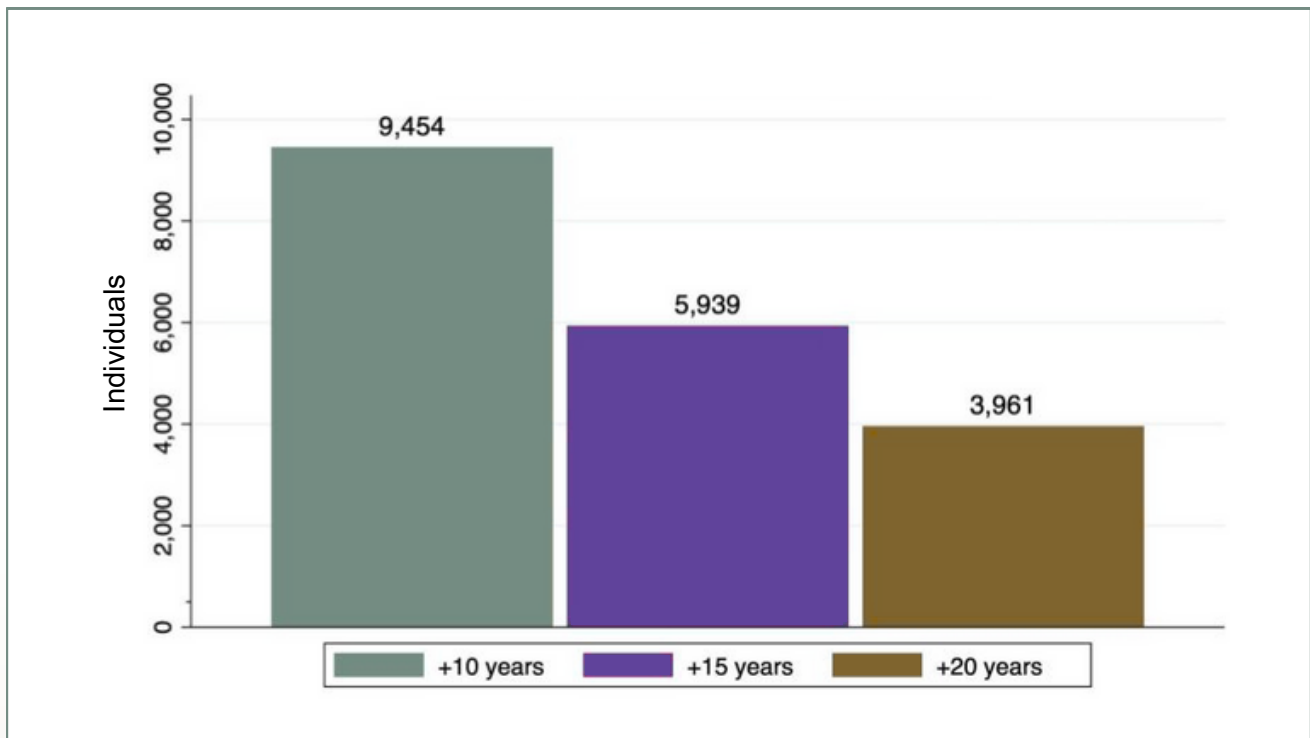
MDOC Minimum Sentence Distribution, by County



More than a third of all life and very long sentences currently being served in Michigan were handed out by judges in Wayne County. Because Wayne County towers above every other county in Michigan for such sentences (by such a large margin) it is difficult to see how the sentences break down elsewhere. We have included a full list of these sentences by county in Appendix A.

Figure 8

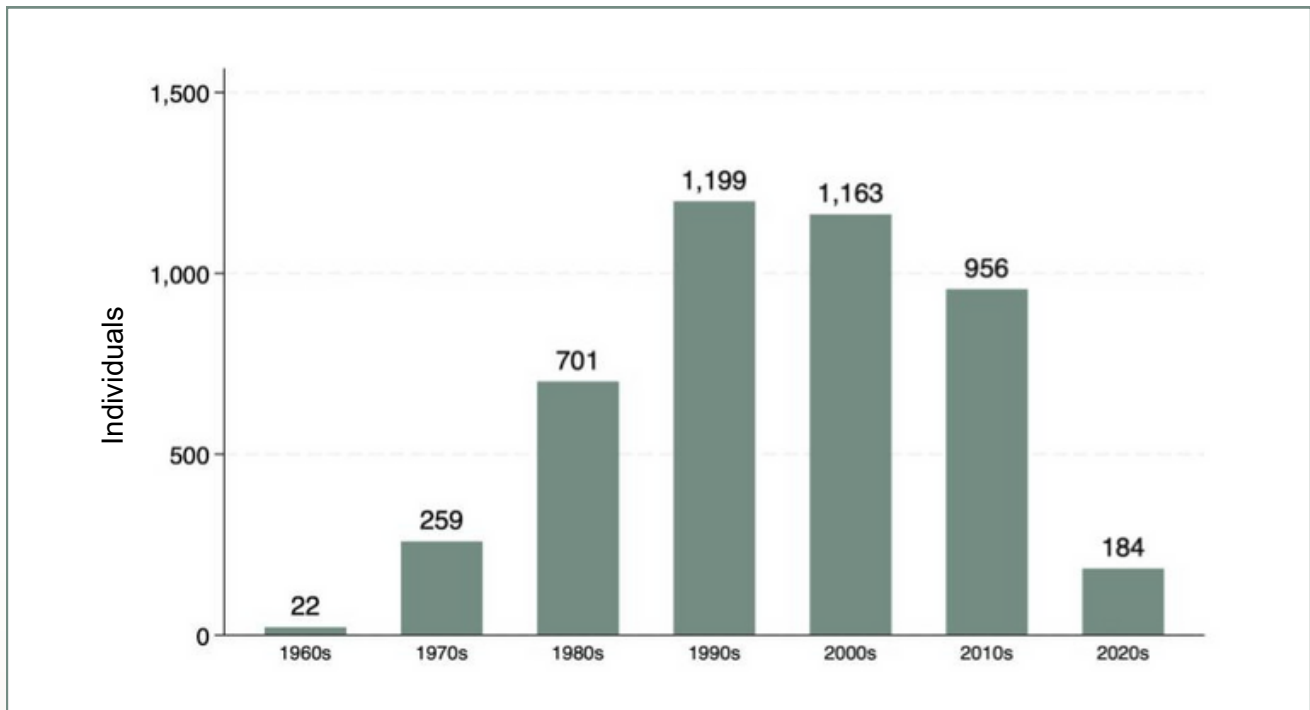
MDOC Minimum Sentence Distribution, by Time Served



Of those individuals serving minimum sentences of at least ten years, this figure shows how many people have served at least ten years, at least fifteen years, and at least twenty years. This figure does not include people who have served that much time with minimum sentences of less than ten years (for instance, someone serving an 8-20 year sentence who has 12 years served due to being denied parole for four years is not included in this figure).

Figure 9

Life Sentences, by Decade Sentenced



There are currently 22 people in the MDOC who are serving life sentences they received in the 1960s. This figure gives a glimpse of how long some people have served on these life sentences and also shows a downward trend in life sentences being used since the 1990s (the bar for the 2020s, of course, is incomplete, yet we still see numbers decreasing in the 2000s and 2010s).

Figure 10

Our (Completely Arbitrary) Model

| Current Minimum Sentence | Second Look Sentence |
|---------------------------------|-----------------------------|
| 15-20 years | 10 years |
| 20-30 years | 15 years |
| 40-60 years | 20 years |
| 60+ or Life | 25 years |

We developed this model based on historical norms in Michigan. Up until the 1960s, people who were serving LWOP sentences for first-degree murder served longer than anyone else and those sentences were commuted as a general practice once the person served 25 years (see Appendix B: Parole Board Chair Memo to MDOC Director Gus Harrison and Director Harrison Memo to Governor Romney). As such, our model output shows the reduction in MDOC population we should expect if judges reduced sentences on the following schedule: Minimum sentences of 15-20 years are reduced to 10 years; minimum sentences of 20-30 years are reduced to 15 years; minimum sentences of 40-60 years are reduced to 20 years; and minimum sentences greater than 60 years or life sentences are reduced to 25 years. This is not a guideline for how Second Look should be implemented; it is just a model we created to demonstrate one potential outcome. Undoubtedly, there will be variance in how different judges use Second Look in different cases. Some people will continue to serve LWOP sentences until they eventually die in prison. But some people currently serving LWOP sentences will see their sentences reduced drastically (see Appendix C: Judge Schmucker Letter to Governor in Support of LaChante' Mobley's Commutation Application).

Figure 11

**Individuals Who Currently Fit Model
Criteria for Second Look by Gender**

| | Men | Women | Total |
|--------------|--------|-------|--------|
| Not Eligible | 25,828 | 1,557 | 27,385 |
| Eligible | 5,249 | 151 | 5,400 |

If sentences were reduced according to our model, Figure 10 shows how many people would qualify for Second Look consideration AND have served the required amount of time under TIS to be released on parole with their new sentence. For instance, a person originally sentenced to life in 1980 would receive a new minimum sentence of 25 years. Since that person has already served that sentence, they fulfill our model criteria to assume release on parole. Likewise, someone who was sentenced to serve 15-60 years in 2014 would receive a new sentence of 10-60 years—they would then become eligible for parole in 2024 instead of 2029. This person would also fulfill our model criteria to assume release on parole.

It is important to note here that our model is not only looking at everyone who would become eligible for Second Look because they have served ten years. Our model also requires that people have served enough time to assume release on parole when they have served their Second Look sentence (whether that is 10, 15, 20, or 25 years). Figure 9 shows that 5400 people would meet our model’s criteria and we will assume release on parole in order to see how Second Look sentencing could help address a number of problems.

Figure 12

**Individuals Who Currently Fit Model Criteria for
Second Look by Gender (50% enrollment)**

| | Men | Women | Total |
|--------------|--------|-------|--------|
| Not Eligible | 28,452 | 1,633 | 30,085 |
| Eligible | 2,624 | 75 | 2,700 |

Text: Figure 11 uses the same model, but only assumes 50% of those eligible for Second Look receive sentence reductions according to our model (and the other 50% receive no sentence reduction at all). At 50% enrollment, we still see a reduction in the MDOC population of 2,700 people.

Figure 13

Facility Closure, Cost Savings, and Corrections Officer (CO) Backfill

| Facility | Capacity | Annual Budget | CO Vacancies |
|------------|----------|---------------|--------------|
| Alger | 808 | \$31.8m | 61.3/166.3 |
| Baraga | 868 | \$37.8m | 60.5/184.5 |
| Cotton | 1,692 | \$47.7m | 83.2/256.2 |
| Marquette | 649 | \$40.0m | 57.5/187.5 |
| Cooper St. | 1,282 | \$31.0m | 52/164 |
| Total | 5,299 | \$188.3m | 314.5 |

A reduction in the MDOC population by 5,400 represents a little more than the capacities available at Alger Correctional Facility, Baraga Correctional Facility, Cotton Correctional Facility, Marquette Branch Prison, and Cooper Street Correctional Facility (these five prisons have a combined capacity of 5,299). The combined annual budget for these five facilities (as of 2022) was \$188.3 million. That is a cost savings realized anew every year.

Additionally, those five facilities reported a collective corrections officer shortage of 314.5 in the most recent report to the legislature. The statewide shortage of corrections officers is 1031.9, so nearly a third of those shortages come from these five facilities. By closing those facilities down, we eliminate the collective shortage of 314.5 corrections officer positions at those facilities, bringing the statewide vacancy total down to 717.4. But the 644 corrections officers who are currently being overworked at those facilities can transfer and backfill vacancies elsewhere. The overall statewide vacancies for corrections officers would drop from 1031.9 to just 73.4, providing much-needed relief for the staffing shortages that have been challenging the MDOC for so long.

Appendix A

Minimum Sentence Distribution by County

| County | 10+ Min | 15+ Min | 20+ Min | Life | Served 10+ | Served 15+ | Served 20+ | Meet Model Criteria |
|----------------|---------|---------|---------|------|------------|------------|------------|---------------------|
| Alcona | 17 | 7 | 4 | 0 | 3 | 1 | 1 | 2 |
| Alger | 13 | 10 | 9 | 3 | 10 | 5 | 2 | 3 |
| Allegan | 139 | 109 | 73 | 19 | 78 | 47 | 23 | 43 |
| Alpena | 38 | 24 | 14 | 7 | 22 | 6 | 1 | 5 |
| Antrim | 28 | 20 | 15 | 2 | 17 | 8 | 6 | 8 |
| Arenac | 17 | 14 | 9 | 1 | 5 | 4 | 2 | 3 |
| Baraga | 4 | 2 | 2 | 0 | 1 | 0 | 0 | 0 |
| Barry | 74 | 48 | 31 | 9 | 22 | 11 | 9 | 12 |
| Bay | 116 | 92 | 69 | 29 | 87 | 53 | 31 | 54 |
| Benzie | 14 | 12 | 12 | 8 | 8 | 6 | 3 | 3 |
| Berrien | 397 | 298 | 234 | 94 | 224 | 137 | 92 | 108 |
| Branch | 39 | 30 | 20 | 10 | 23 | 18 | 13 | 16 |
| Calhoun | 378 | 332 | 266 | 88 | 261 | 165 | 96 | 143 |
| Cass | 78 | 61 | 48 | 14 | 39 | 19 | 11 | 16 |
| Charlevoix | 30 | 15 | 13 | 3 | 12 | 7 | 4 | 7 |
| Cheboygan | 28 | 19 | 14 | 4 | 10 | 6 | 4 | 7 |
| Chippewa | 60 | 42 | 31 | 12 | 31 | 17 | 13 | 13 |
| Clare | 39 | 26 | 17 | 4 | 14 | 4 | 3 | 5 |
| Clinton | 57 | 35 | 26 | 7 | 16 | 12 | 9 | 6 |
| Crawford | 20 | 12 | 11 | 3 | 15 | 4 | 3 | 5 |
| Delta | 16 | 13 | 13 | 4 | 9 | 4 | 3 | 3 |
| Dickinson | 13 | 8 | 5 | 2 | 6 | 6 | 2 | 3 |
| Eaton | 151 | 116 | 98 | 30 | 77 | 51 | 38 | 44 |
| Emmet | 52 | 32 | 23 | 3 | 19 | 11 | 5 | 9 |
| Genesee | 984 | 794 | 658 | 276 | 629 | 416 | 290 | 341 |
| Gladwin | 29 | 23 | 13 | 4 | 15 | 5 | 5 | 6 |
| Gogebic | 30 | 11 | 8 | 3 | 8 | 6 | 3 | 2 |
| Grand Traverse | 83 | 59 | 48 | 8 | 36 | 16 | 9 | 12 |
| Gratiot | 30 | 21 | 13 | 4 | 19 | 7 | 2 | 8 |
| Hillsdale | 41 | 29 | 25 | 8 | 27 | 16 | 11 | 14 |
| Houghton | 10 | 9 | 8 | 2 | 7 | 5 | 4 | 5 |
| Huron | 14 | 8 | 6 | 1 | 9 | 3 | 1 | 4 |
| Ingham | 486 | 388 | 302 | 103 | 277 | 165 | 105 | 145 |
| Ionia | 64 | 48 | 42 | 12 | 33 | 19 | 14 | 19 |
| Iosco | 23 | 18 | 14 | 1 | 9 | 7 | 5 | 6 |
| Iron | 9 | 7 | 6 | 4 | 3 | 2 | 0 | 0 |
| Isabella | 64 | 48 | 34 | 5 | 37 | 17 | 8 | 15 |
| Jackson | 352 | 283 | 217 | 86 | 209 | 132 | 86 | 110 |
| Kalamazoo | 419 | 340 | 279 | 115 | 262 | 158 | 92 | 120 |
| Kalkaska | 34 | 26 | 21 | 8 | 18 | 11 | 5 | 11 |
| Kent | 1,132 | 851 | 664 | 259 | 642 | 349 | 207 | 280 |

Appendix A

Minimum Sentence Distribution by County

| County | 10+ Min | 15+ Min | 20+ Min | Life | Served 10+ | Served 15+ | Served 20+ | Meet Model Criteria |
|--------------|---------|---------|---------|-------|------------|------------|------------|---------------------|
| Lake | 17 | 12 | 11 | 3 | 14 | 9 | 9 | 8 |
| Lapeer | 52 | 40 | 34 | 18 | 30 | 23 | 17 | 16 |
| Leelanau | 13 | 9 | 7 | 2 | 5 | 3 | 2 | 2 |
| Lenawee | 88 | 71 | 56 | 34 | 65 | 32 | 19 | 22 |
| Livingston | 118 | 90 | 64 | 16 | 64 | 37 | 23 | 34 |
| Luce | 3 | 3 | 3 | 1 | 3 | 3 | 1 | 1 |
| Mackinac | 6 | 5 | 4 | 0 | 1 | 0 | 0 | 1 |
| Macomb | 671 | 516 | 419 | 179 | 337 | 197 | 115 | 175 |
| Manistee | 20 | 16 | 15 | 6 | 8 | 5 | 4 | 5 |
| Marquette | 50 | 37 | 32 | 15 | 28 | 19 | 16 | 12 |
| Mason | 31 | 18 | 12 | 2 | 15 | 7 | 2 | 3 |
| Mecosta | 39 | 32 | 28 | 13 | 29 | 20 | 11 | 14 |
| Menominee | 13 | 9 | 9 | 4 | 8 | 4 | 4 | 4 |
| Midland | 65 | 43 | 32 | 14 | 31 | 19 | 13 | 12 |
| Missaukee | 7 | 5 | 5 | 1 | 3 | 2 | 2 | 2 |
| Monroe | 164 | 105 | 81 | 27 | 96 | 61 | 39 | 47 |
| Montcalm | 63 | 50 | 39 | 13 | 39 | 29 | 14 | 20 |
| Montmorency | 12 | 12 | 10 | 7 | 9 | 7 | 5 | 6 |
| Muskegon | 421 | 342 | 241 | 90 | 285 | 161 | 100 | 161 |
| Newaygo | 50 | 35 | 23 | 8 | 14 | 6 | 3 | 5 |
| Oakland | 1,454 | 1,157 | 923 | 375 | 994 | 587 | 356 | 494 |
| Oceana | 24 | 19 | 11 | 2 | 13 | 6 | 5 | 8 |
| Ogemaw | 18 | 17 | 10 | 2 | 10 | 7 | 5 | 6 |
| Ontonagon | 5 | 3 | 2 | 2 | 2 | 2 | 2 | 2 |
| Osceola | 20 | 10 | 7 | 2 | 5 | 2 | 0 | 0 |
| Oscoda | 15 | 8 | 8 | 6 | 6 | 5 | 4 | 2 |
| Otsego | 37 | 27 | 18 | 2 | 17 | 12 | 8 | 12 |
| Ottawa | 177 | 130 | 85 | 37 | 65 | 34 | 21 | 27 |
| Presque Isle | 23 | 17 | 14 | 3 | 12 | 3 | 2 | 5 |
| Roscommon | 29 | 17 | 13 | 1 | 12 | 6 | 6 | 5 |
| Saginaw | 683 | 574 | 473 | 222 | 472 | 265 | 180 | 233 |
| Sanilac | 27 | 17 | 11 | 4 | 9 | 3 | 2 | 1 |
| Schoolcraft | 8 | 5 | 3 | 2 | 5 | 2 | 2 | 1 |
| Shiawassee | 110 | 71 | 47 | 20 | 45 | 22 | 16 | 28 |
| St. Clair | 269 | 202 | 143 | 51 | 144 | 78 | 38 | 74 |
| St. Joseph | 108 | 82 | 61 | 21 | 66 | 44 | 26 | 35 |
| Tuscola | 84 | 60 | 36 | 8 | 38 | 17 | 10 | 20 |
| Van Buren | 112 | 82 | 60 | 27 | 58 | 26 | 18 | 24 |
| Washtenaw | 350 | 269 | 211 | 95 | 245 | 156 | 85 | 107 |
| Wayne | 5,941 | 4,898 | 4,049 | 1,890 | 4,018 | 2,652 | 1,826 | 2,136 |
| Wexford | 27 | 22 | 17 | 4 | 22 | 16 | 7 | 14 |

October 1, 1964

MEMORANDUM

To: Director Gus Harrison
From: Leonard R. McConnell
Subject: Pertinent facts about the Murder First Degree Program, with particular reference to the current administration
Purpose: This is prepared at Director Harrison's request to serve as a basis for writing a letter to the Governor explaining our Murder First Degree Program.

I - Procedure

The Michigan Parole Board employs a very careful screening procedure as applied to murder first degree cases. We have an annual review procedure whereby all five Board members sit down once a year and devote about two weeks exclusively to the review of murder first degree cases. We do not consider for processing such cases until after their 15th year. However, under our current program we do interview them in their 10th year and receive annual reports every year thereafter. This means then that generally we have reviewed many times on an annual basis all cases before they are set up for the public hearing and recommendation to the Governor. As a rule we require unanimous Board approval for favorable action. There are currently 244 cases under our annual review program (31 of these are at Ionia State Hospital).

II - Success of the Program

Our murder first degree program is most successful. We have a far greater rate of success than is true of any other category of offenders. Since 1938 we have had six violators (mostly technical) out of about 286 paroles. Our experience and the high rate of success in Michigan is not unique, since other jurisdictions report similar success. In brief, this means that all murder first degree cases paroled represent excellent risks.

III - Time Served

The average period of time served by our murder first degree cases is about 25 years. More recently the Board has

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released somewhat sooner. Our feeling has been that men should be released while they are still productive and that it is more humane to do so. However, it is still our feeling that we should not consider murder first degree cases prior to the service of 15 years, and generally we require something beyond that.

IV - Executive Response to Parole Board Recommendations

Over the past 15 years the Executive Office has generally accepted our recommendations and acted favorably. There were two denials during the Williams' administration and two during Governor Swainson's administration. Governor Romney has denied the following:

1963

John Lewis, A-46140-J
John Abbatoy, A-57205-J
Gordon N. Rolland, A-44428-M

1964

Sanford Callier, A-75022-J
Isaiah Perry, A-67015-J
Al. J. Meyers, A-64503-J
Wallace A. Wilson, A-64796-J
Richard H. Gorman, 67278-C
LeRoy Reynolds, B-43137-J

V - Number of Commutations

During the early years of the Board's participation in the commutation program a very conservative number were processed. However, since 1959 about 25 cases have been commuted annually. In 1963 Governor Romney commuted 24 - thus far this year there have been 10 commuted. There are 11 cases pending in the Governor's office and four being typed up to send over.

VI - Significance of the Commutation Program to the Total Corrections Program

Since murderers serve long periods of time in prison, they become quite well-known by all of the personnel and the inmates. Also they generally compile very good records. Because this is true, they wield tremendous influence on other inmates and on Corrections generally. Therefore, any action taken regarding their commutation has considerable impact on the rest of the inmate body. A denial generally has a very negative effect on inmate morale and the image of Corrections. Also, frequent denials make it rather difficult for the Parole Board to proceed in an orderly fashion. In the past, a public hearing and recommendation from the Board has generally meant favorable action. Further, a reasonably quick response to a Parole Board's recommendation is helpful, since a long delay creates much anxiety on the part of the offender involved and all other interested parties.

-3-

SUMMARY: The Board employs a very conservative and careful screening policy regarding murder first degree cases and our success rate, we feel, justifies and supports our decisions. The trend in dealing with offenders is more humanitarian; accordingly, we feel our handling of murder first degree cases is consistent with the public interest. If more guidance from the Governor's Office is possible, the Parole Board would welcome it, since more danger results from denials than if such cases were not even submitted. Since the Board views its function in Executive Clemency as largely advisory, we are eager for a closer liaison in such matters. Anything we can do to work toward this is desirable.

hold

October 5, 1964

Personal

Honorable George Romney
Governor of Michigan
Executive Office
Lansing, Michigan

Dear Governor Romney:

Recently I discussed the murder first degree program with Walt DeVries. I expressed some concern about its present state. Walt thought I should forward my comments to you; so at his suggestion, I make certain observations about this program.

As you know, the Parole Board carefully screens murder first degree cases. All cases are reviewed annually, and the Board will devote almost two weeks to the thorough review of these. Every murder first degree case is interviewed after service of ten calendar years, but cases are not considered for processing until fifteen calendar years has been served. Presently, there are 244 cases given this annual review.

The program has been extremely successful. Lifers not only make the best inmates, but also the best prospects for rehabilitation and successful adjustment in the community. Since 1938 we have had only six parole violators out of 286 paroles. Michigan's high rate of success is not unique, but comparable to the experience of other jurisdictions.

The Parole Board has expressed to me its concern over the reaction to their recommendations. This does not mean that the Board feels that the Executive Office must always agree, but prior to 1963 only four cases were denied by the Governor, but during the past 20 months nine have been turned down. Further, there is a considerable backlog of these cases in the Executive Office. I share the concern since the commutation process has considerable impact on the inmate body. Denial has a negative effect on inmate morale and also on the employees from the custodial officer up through the Parole Board - all responsible for a favorable recommendation for commutation to you. A long delay in processing commutation cases

Page 2
Honorable George Romney

October 5, 1964

creates much anxiety on the part of the offender and his family. Quite often, community programs which have been tentatively arranged disappear if too much time elapses during the processing of the case.

The Board feels that it is quite conservative and careful in screening cases. Of course, they point to their success rate to justify their decisions. The Board has discussed with me the possibility of further guidance from the Executive Office. The Board's function is, of course, advisory to you, but it would rather not submit cases which have no chance of going. Is it possible to work out more specific guidelines for the Board so that there would be a closer agreement on what type of case would receive favorable action?

I respectfully submit this matter for your consideration.

Respectfully yours,

DEPARTMENT OF CORRECTIONS

Gus Harrison, Director

GH:jm

cc: Mr. Walter DeVries

Chad Schmucker

Attorney at Law, P27883

December 20th, 2023

Re: LaChante Mobley Commutation Request

I am writing again to support LaChante Mobley's request for a commutation. I was the trial judge for both defendants.

The basic facts are not in dispute. LaChante Mobley's son died as a result of child abuse by her boyfriend, Anwar Benin. LaChante Mobley was present during the incident. The prosecutor requested a separate trial for each defendant for evidentiary reasons.

Her case was tried first. The jury found she allowed or encouraged the excessive discipline, so she was found guilty of first-degree child abuse and felony murder. I sentenced her to the mandatory sentence of life without the possibility of parole.

Anwar Benin's different jury found him not guilty of murder and he then pled guilty to child abuse in the 2nd degree and received the maximum sentence under the guidelines of 24-48 months.

Both defendants were represented by competent counsel. Neither counsel engaged in a high-risk trial strategy. The same prosecutor tried the cases and the same witnesses testified. But there were different jurors, and they viewed the evidence differently. The investigating officers, prosecutor and court staff were dumbfounded when Benin's jury found him not guilty of the serious offenses.

LaChante Mobley was tried and sentenced before Benin's trial. The law did not allow me to reopen LaChante Mobley's case or re-sentence her because Benin's jury found him not guilty. Her sentence is not legally wrong, but I am deeply troubled by the injustice, and I hope you agree.

I have spoken with both the assistant prosecutor and the detectives involved and I do not believe they are opposed to a commutation.

I have been told that LaChante has had a discipline-free record at MDOC, but I would be supporting this request even if she did not.

This is the only request for commutation or pardon I have requested. I served on the circuit bench in Jackson for almost twenty years and handled hundreds of serious cases. After leaving the bench I served as Michigan's State Court Administrator for three years and then as the President of the National Judicial College for four years.

Judges are often required to impose a mandatory sentence even if it seems unjust; we are a rule of law country. This sentence does not meet most people's standard for justice, and I urge you to commute the remainder of her sentence.

I would be glad to answer any questions you have about this case.

Judge Chad Schmucker (retired)

