

What follows are the original articles as written by Judy Putnam of Booth Newspapers Inc. Various versions of the pieces have appeared in the Saginaw News, the Muskegon Chronicle, the Flint Journal, the Kalamazoo Gazette and the Ann Arbor News. Pictures of prisoners, which were published with the story, have been deleted to conform with MDOC mail rules.

Rethinking life sentences

By Judy Putnam
Lansing Bureau

Booth
Newspapers Inc.

LANSING -- In 1977, a Saginaw judge sent 21-year-old Reynaldo Rodriguez to prison for life for the shooting death of a teen who had allegedly threatened to kill Rodriguez's younger brother, slapped his sister and shot bullets into his mother's house.

Despite the life sentence for second-degree murder, the judge told Rodriguez -- who was married, working and had no previous criminal record -- there was hope for freedom while he was still young.

"... I want the record to further show that if you're a model prisoner, that I would recommend your release on parole in 10 years. Do you understand?" Saginaw Circuit County Judge Gary McDonald told him.

But a good institutional record, family support and letters of commendation from prison officials -- 16 corrections officers signed a petition for his release in 1994 -- hasn't earned Rodriguez his freedom even three decades later.

Now 50, he spends his days at the Thumb Correctional Facility in Lapeer as a referee in the prison gym, writing letters to his family and researching his case.

Critics of Michigan's criminal justice system say Rodriguez's case illustrates an unjust glitch: Tougher parole policies since 1992 mean that parole for lifers, once commonly granted after a prisoner had served 10 or 20 years, is rare.

"They gave me a promise, and took it back," Rodriguez, who has had only three misconduct violations in nearly 30 years in prison, said in a phone interview last week. "You can't believe

what you're told by the court system anymore. You just have to carry on through here and show you've changed and you're rehabilitated."

A new analysis by the Lansing-based, citizens watchdog group Citizens Alliance on Prisons & Public Spending shows the likelihood of parole for lifers has dropped dramatically. The group examined records of lifers sent to prison between 1945 and 1979.

Of those eligible for parole in the 1970s, about 11.7 percent a year were paroled.

Between 1999-2005, of 433 lifers from that era, paroles were given to less than a half-percent a year.

Michigan has 1,722 prisoners serving paroleable life, according to the Michigan Department of Corrections, and about 3,000 serving life with no chance of parole, mainly for first-degree murder.

Of the paroleable lifers, Rodriguez and more than 800 others have served enough time to be considered for parole, according to a CAPPS study.

CAPPS, whose members include prisoner advocates and former corrections officials, argues that housing aged offenders whom judges didn't intend to incarcerate for life is a waste of money.

"Hundreds of middle-aged, very low-risk people who have served decades for their crimes are being left to die in prison for no good reason," said Barbara Levine, executive director of the group. Levine is an attorney married to Martin Vargas, a 51-year-old inmate from Saginaw serving life, who was 17 when he and two others were convicted of raping a teen.



Judy Putnam

In the 1970s, 74 lifers were paroled, dropping to 52 in the 1980s and 32 in the 1990s, even as the population more than doubled over the past 25 years, according to state records.

Since 2000, 50 lifers were paroled. Of those, however, 33 are drug lifers, who became eligible after a legislative change in 1998.

Defenders of the system point out that paroleable lifers - generally in for second-degree murder, armed robbery or first-degree criminal sexual conduct -- are being paroled, but judiciously.

Parole Board Chair John Rubitschun, who answered questions in writing because of a pending federal lawsuit on the issue, said while public safety has always been considered, the parole board has become more wary.

"Assaultive and sex offenders have come under closer scrutiny by the parole board in an effort to better protect the public. Non-assaultive property and drug offenders, with few exceptions, have generally been paroled at a much higher rate," wrote Rubitschun, head of the 10-member board.

But he said the parole board does make a distinction between paroleable life, allowing parole in some cases, and non-paroleable life given to first-degree murderers. Only the governor can commute the sentence or pardon an offender serving non-paroleable life.

Parole is granted to lifers "only after the parole board has the reasonable assurance" that the offender will not pose a risk.

The board's "life means life" policy has been disputed by some of the very judges who handed down those life sentences. A 2002 State Bar of Michigan survey of Michigan judges found that two-thirds of the 95 judges responding said a life sentence didn't truly mean that.

Instead, some judges saw it as a way of motivating inmates to do well in prison and rehabilitate themselves. Long prison sentences, such as 20 to 30 years or 40 to 60 years, were used as harsher punishment.

"For the majority of my time, life did not mean life," said former Muskegon County Circuit Court Judge Ron Pannucci, who served from 1978 to 1996. "If they have gotten more

conservative and they're not letting people out, that's unfair. They're taking away the sentencing prerogative of the judge."

But Saginaw County Prosecutor Mike Thomas, speaking on behalf of the Prosecuting Attorneys Association of Michigan, said the parole board is doing what it should be doing -- letting only low-risk offenders out.

"The bottom line is that's what the parole board is there for -- they're there to determine who gets to stay and who gets to go," he said.

He agrees it was "not uncommon" for a lifer to be paroled at 10 to 15 years in the 1970s.

Critics also say a 1999 change in law that dramatically altered the parole interview schedule for lifers is not working.

Under the old law, lifers got an initial interview at seven years, then every other year. Now, there's an initial interview at 10 years, with subsequent reviews every five years. Those, however, can be done by simply looking at a file.

"I believe in basic fairness," said Bob Brown, the state corrections director from 1984 to 1991, under Gov. James Blanchard. "If they were seeing the folks and talking to them, I wouldn't have any problem (with few paroles.) Right now, they're just saying: 'You've got nothing coming. No interest.'"

Former Parole Board Chairman Gary Gabry, a former prosecutor who served on the board from 1992 to 1996 under GOP Gov. John Engler, agreed.

He said parole board members need to meet with inmates to truly understand if they are a risk.

"I think there's a lot of value in that interaction," he said.

Plus, he added: "It's a lot harder to look at somebody in the eye and tell them, 'You're not going home.'"

Bills introduced last year by Sen. Michael Switalski, D-Roseville, would require the board to conduct in-person interviews again and to score lifers on parole guidelines given to other inmates.

(Continued on the next page)

Booth Newspapers examines parolable life issue

Rodriguez made it closer to parole than many lifers, actually going to a public hearing in 1994.

The old parole board, made up of civil servants, expressed interest in paroling Rodriguez in 1992. But the public hearing took place after legislative changes created a more conservative parole board in 1993.

At the hearing, the new board focused on the raw violence of Rodriguez's murder of 18-year-old Robert Cuellar, who was chased down on a bicycle and shot seven times, the last delivered point blank to his head.

Rodriguez told the parole board that he initially only meant to beat up Cuellar, who had been causing problems for his family. He feared Cuellar would kill his younger brother. Cuellar happened to ride by a park where Rodriguez was with friends. The group got in a car to chase him and during the chase Rodriguez was handed a gun.

"I was fed up. I didn't know how to handle it. I took the law into my own hands. I know better now," Rodriguez said. "I just made a wrong choice. I hurt their family as well as mine. It was something I didn't know how to handle except through violence."

Saginaw County Prosecutor Mike Thomas said Rodriguez could have been convicted of first-degree murder, given the circumstances. He said life in prison is a just sentence.

"Robert Cuellar doesn't get a second chance," Thomas said. "He doesn't get to read a book. He doesn't get to write to his family."

Rodriguez was working as a machine repairman at Pitney Bowes at the time of his arrest. In prison, he held management jobs at the state prison industries, working 18 years as a mechanic and trainer in a sewing factory.

His file is filled with praise for his work ethic and calm demeanor from prison officials. McDonald, his sentencing judge, also wrote letters expressing surprise that Rodriguez had not been released.

Perhaps the biggest irony is that Rodriguez's attorney, James Brisbois, said in an affidavit seeking resentencing

that the judge offered Rodriguez a choice of life with the possibility of parole after 10 years or a term of 15 to 30 years.

Had Rodriguez taken the 15 to 30, he would have been released from prison -- without the parole board's approval -- 14 years ago because of time off for good behavior available then. Even with the poorest of prison records, his sentence would be finished in 2007. He's next up for parole in 2008.

Rodriguez said there are many well-behaving lifers in prison who serve as a stabilizing force in the institutions. But keeping them long after they could be paroled "serves no purpose other than penalizing somebody."

Prisoners say system has unfairly changed

Sunday, May 21, 2006

By Judy Putnam

Lansing Bureau

LANSING -- Robert Weisenauer said he was sick from heavy drinking during a party at a Flint biker club in December 1977.

Although he was at the party, he maintains he was not involved in the sexual assault of a young woman, who had been accosted in her car at a traffic light and forced to drive to the biker hangout.

Nonetheless, Weisenauer was convicted along with four others of first-degree criminal sexual conduct. The victim identified them as the men who came into a room and forced her to perform oral sex.

The ringleader of the attack, however, was never caught.

At Weisenauer's sentencing in 1979, Genesee County Circuit Court Judge Earl Borradaile gave him life, but said he would be more severe in punishing the man the victim said directed the assaults, should he ever be found.

Prisoner advocates say such statements by judges are evidence that the meaning of a life sentence has changed over the years, since Michigan has no death penalty and life in prison is the harshest punishment.

Critics say that the so-called “life means life” policy by the current parole board unfairly extends sentences.

“When I came in, most the guys sentenced to what I was sentenced to were serving 10 to 17 years,” Weisenauer said in a telephone interview from the Thumb Correctional Facility in Lapeer.

Weisenauer, 53, has spent 27 years behind bars. Sex offenders are the least likely inmates to be paroled, meaning he could spend the rest of his life in prison.

State law requires first-degree murderers to serve life with no parole. But prisoners serving life terms can be considered for parole after 10 years for crimes committed prior to 1992, and after 15 years for crimes committed in 1992 or later. Armed robbery, second-degree murder and criminal sexual conduct are the most common crimes punished by paroleable life.

Weisenauer is one of seven inmates named in a class action lawsuit filed in U.S. District Court in Detroit last year on behalf of paroleable lifers by University of Michigan law professor Paul Reingold and students in a law clinic class.

The lawsuit argues that changing parole rules equate to extending sentences after the fact, which is prohibited by the U.S. Constitution. Reingold filed a similar lawsuit on behalf of Edward Hill, 53, who was convicted of taking \$644 in an armed robbery in Ann Arbor in 1976.

Hill was offered a term of 40 to 60 years or life. He chose life, because of parole eligibility at 10 years instead of 16 on the 40-60 year sentence, when time off for good behavior was factored in.

The Michigan Court of Appeals last year, however, rejected arguments that Hill’s punishment was increased retroactively, and the Michigan Supreme Court declined to take the case. The state’s highest court also ruled in 2003 that circuit court judges could not retroactively change the sentence of inmates from life to a number of years.

Some judges argue that years ago, long prison sentences defined in years were considered harsher than life sentences.

Borradaile sent a letter in 2003 to the parole board on Weisenauer’s behalf, explaining it.

“When I sentenced Mr. Weisenauer, it was my belief that review would be had in ten years and if Mr. Weisenauer showed much progress, he would likely get parole,” the retired judge wrote.

Still, the parole board turned down parole later that year. He’ll be up for review again in 2008.

Weisenauer was on track to be paroled in 1992, when the board voted to send him to a public hearing and a prison psychologist recommended it. But that same year, a paroled sex offender, Leslie Allen Williams, was convicted of murdering four young women in Michigan and new state laws revamped the parole board to a politically appointed board that granted far fewer paroles.

In 1993, the new board expressed no interest in paroling Weisenauer, and the public hearing was never held.

Weisenauer says he is a changed man from his biker days. He attended substance abuse programs for years in the prison, trained as a welder He attends church and he has volunteered in the prison, spending two years as a mentor to young offenders entering the system and working in a “scared straight” type of program to warn juvenile offenders.

In 27 years, he’s only had three violations for misconduct, the last a decade ago. He said he’s still hoping for parole, and has strong ties in Ohio, including a girlfriend he knows from childhood, three children and five, soon to be six, grandchildren.

“All I want to do is get on with my life and get to know my kids and grandkids and live out what life I have left,” he said.

-- Contact Judy Putnam at (517) 487-8888 x232 or e-mail her at putnam@boothnewspapers.com.