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## Hope for the Hopeless: The Prison Resources Repurposing Act

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## HOPE FOR THE HOPELESS: THE PRISON RESOURCES REPURPOSING ACT

PHILLIP VANCE SMITH, II\*\* & TIMOTHY WAYNE JOHNSON\*\*\*

*The Prison Resources Repurposing Act, a legislative proposal for North Carolina, aims to instill restorative change in prisoners serving life sentences by mandating behavioral, educational, and vocational goals for completion over a twenty-year period in preparation of parole eligibility. Publicly, prison officials identify record levels of understaffing as the main cause of prison violence. As a result, state legislators have passed bills addressing symptoms of the problem, not the true cause of prison violence: the hopelessness of prisoners who have no chance for release. Without the promise of a meaningful future, prisoners serving life without parole have no incentive to live virtuous lives or pursue positive personal change. The Prison Resources Repurposing Act does not alter current sentencing laws but acts as an addendum that opens parole to people serving life without parole and repurposes existing prison programs into a tiered structure to reduce recidivism and diminish prison violence at a low cost to taxpayers.*

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GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

HOUSE BILL 697<sup>1</sup>

Short Title: **The Prison Resources Repurposing Act.**

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE MUTUAL AGREEMENT PAROLE PROGRAM TO ALLOW FOR THE PAROLE OF INMATES SENTENCED TO LIFE IMPRISONMENT WITHOUT PAROLE.

The General Assembly of North Carolina Enacts:

SECTION 1. Chapter 15A of the General Statutes is amended by adding a new Article to read:

“Article 85C

“Parole Eligibility for Defendants Sentenced to Life Imprisonment Without Parole Under the Mutual Agreement Parole Program.

“§ 15A-1380.6. Applicability.

Notwithstanding any other provision of law, inmates serving life imprisonment without parole may be eligible for release pursuant to this Article under the Department of Public Safety’s Mutual Agreement Parole Program (MAPP) after serving a minimum of 20 years’ imprisonment and complying with mandatory educational, vocational, and work requirements.

“§ 15A-1380.7. Conditions of eligibility

- (a) Assessment. — Inmates serving a sentence of life imprisonment without parole shall be assessed during the first five years of that sentence before becoming eligible for the Mutual Agreement Parole Program (MAPP). During this assessment, the Division of Adult Correction and Juvenile Justice shall evaluate the inmate’s behavioral, educational, and occupational needs.

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1. The Prison Resources Repurposing Act, or North Carolina House Bill 697, was filed on April 27, 2021. H.B. 697, 2021 Leg., Reg. Sess. (N.C. 2021).

After an inmate has completed the first five years of the inmate's sentence, the inmate may be offered a 15-year MAPP contract. The contract shall take into account the assessment performed during the first five years of the inmate's sentence.

(b) Mandatory Education. — After the completion of subsection (a) of this section, an inmate participating in MAPP shall participate in mandatory education programs. The programs shall include, at a minimum, the following:

(1) A General Education Diploma (GED) if the defendant does not already possess a GED or high school diploma.

(2) A vocational trade program offered by the Division of Adult Correction and Juvenile Justice.

The mandate to complete the education programs in subdivisions (1) and (2) of this subsection may be satisfied by the inmate's completion of an accredited associate or bachelor's degree program.

(c) Mandatory Work Requirement. — After the completion of subsections (a) and (b) of this section, an inmate participating in MAPP shall work for Correction Enterprises, the Inmate Construction Program, or any commensurate incentive wage occupation provided by the Division of Adult Correction and Juvenile Justice. An inmate shall maintain favorable employer evaluations to earn promotion, and an inmate's work assignments may be transferred to minimum custody or work release upon promotion.

**“§ 15A-1380.8. Incidents of parole.**

(a) Access to Parole. — Except as otherwise provided in this section, an inmate sentenced to life imprisonment without parole shall be subject to the conditions and procedures set forth in Article 85 of Chapter 15A of the General Statutes, including the notification requirement in G.S. 15A-1371(b)(3), after completion of subsections (a), (b), and (c) of G.S. 15A-1308.7.

(b) Term of Parole. — The term of parole for an inmate released pursuant to this Article from imprisonment from a sentence of life imprisonment without parole shall be five years and may be terminated earlier by the Post-Release Supervision and Parole Commission.

(c) Parole Violation. — An inmate sentenced to life imprisonment without parole who is paroled pursuant to this Article and who then violates a condition of parole and is returned to prison to serve the life sentence shall not be eligible for parole for five years from the date of the return to confinement.

(d) Life Imprisonment Without Parole. — Under this Article, if an inmate sentenced to life imprisonment without parole does not earn parole by

complying with subsections (a), (b), and (c) of G.S. 15A-1380.7, the inmate shall remain imprisoned for the inmate's natural life.

**“§ 15A-1380.9. Retroactive application.**

(a) Retroactive Parole Eligibility. — An inmate sentenced to life imprisonment without parole who has already served 20 or more years in prison by August 1, 2021, and who has completed some or most of subsections (a), (b), and (c) of G.S. 15A-1308.7 prior to that date shall be eligible for a modified Mutual Agreement Parole Program contract of one to three years.

(b) Post-Release Supervision. — Upon release, pursuant to this section, inmates shall serve a period of five-years of post-release supervision in compliance with 15A-1380.8.”

**SECTION 2.** This act becomes effective August 1, 2021, and applies retroactively and prospectively to those persons serving a sentence of life imprisonment without parole.

## I. THE PRISON RESOURCES REPURPOSING ACT: AN INTRODUCTION

On March 4, 2021, we presented a proposal for a bill extending parole to people serving life without parole (“LWOP”) at a virtual conference sponsored by the Alliance for Higher Education in Prison. Our bill, the Prison Resources Repurposing Act (“PRRA”), aims to accomplish two main goals: to reduce prison violence and address mass incarceration. To accomplish these goals, the bill gives hope to hopeless prisoners by securing release for exceptional lifers willing to earn it through stringent requirements. Collegiate faculty and students attending the conference hailed the PRRA as an innovative challenge to mass incarceration, but opponents of criminal justice reform for violent offenders may ask: How will releasing lifers benefit prisons or society?

The PRRA will reduce violence in North Carolina prisons by instilling hope within the system’s residents with the fewest reasons for hope—people serving life without parole. A 2021 report by the Sentencing Report found that approximately 1,600 people, about 5% of the state’s prison population, are serving LWOP in North Carolina.<sup>2</sup> A combined thirty-seven years of experience “behind the wall” taught us that this 5% of hopeless lifers, and other long termers, drives the prison culture. Often, this culture cultivates violence, because many long-term prisoners feel forced to focus on survival in a violent environment rather than working toward eventual release and a positive transition out of prison. The negative behavior of long-term prisoners influences short-term prisoners and subsequently society, because 95% of the incarcerated return to their communities. If North Carolina enacts the PRRA, lifers will refocus their priorities from wasteful living driven by hopelessness to striving to meet the stringent behavioral, educational, and vocational goals necessary to earn release. This change will diminish prison violence by reshaping the prison culture and benefit society by ensuring that significantly more prisoners demonstrate positive thinking and behavior before and after release.

Ensuring offenders learn goal-oriented methods of thinking and behavior will effect a change in prison culture and positively impact society. To foster the development of critical and consequential thinking in an environment that encourages violence, incentives must be offered that reward positive behavior, and these incentives must be substantial. One penological study credits “younger inmates” with a likeliness to be “instigated into aggression by their peers,” and afterward, they are “more often rewarded with praise and respect.”<sup>3</sup> Many prisoners originate from impoverished communities where behavior is

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2. ASHLEY NELLIS, THE SENT’G PROJECT, NO END IN SIGHT: AMERICA’S ENDURING RELIANCE ON LIFE IMPRISONMENT 10 (2021) [hereinafter NELLIS, NO END IN SIGHT], <https://www.sentencingproject.org/wp-content/uploads/2021/02/No-End-in-Sight-Americas-Enduring-Reliance-on-Life-Imprisonment.pdf> [https://perma.cc/C5DB-QWWL].

3. MARILYN D. MCSHANE, PRISONS IN AMERICA 154 (2008).

“unpredictable” and peers value violent acts “as a source of identity.”<sup>4</sup> Continuing violent behavior in prison is to be expected from people who have never been taught a peaceful way to live, especially when no incentives exist to prevent violent behavior. Without incentives substantial enough to motivate people adjusting to the incarceration environment to overcome the magnetic pull of cultural influences, individuals will succumb to the culture, then subsequently influence others. The goal of any reformatory effort should be actual reform—extensive, meaningful change—not basic confinement. A penal system cannot reform anyone without employing basic understanding of human psychology in the form of structured programming which offers meaningful incentives to reinforce positive thinking and behavior. For lifers, release can operate as the incentive, changing a long-term prisoner’s hopeless mindset, guiding them to develop positive thinking and behavior both personally and to positively influence non-lifer peers, thus releasing better citizens back into society, rather than more damaged criminals.

In the weeks following our virtual presentation, students and faculty from colleges across the country volunteered to help introduce the PRRA to legislators. On April 27, 2021, the North Carolina House of Representatives introduced the PRRA as House Bill 697 (“HB 697”). Within one week, the PRRA gained eighteen sponsors and cosponsors.

Unfortunately, lawmakers introduced the PRRA during the final lap of the 2021 session, too late for an actual chance at success. The PRRA fell victim to North Carolina’s crossover deadline, a procedure requiring a newly drafted bill to be read in the North Carolina Senate by a certain date before it can receive a vote in the House.<sup>5</sup> Because the PRRA did not cross over to the North Carolina Senate, it died for that legislative session; however, advocacy groups and activists like Emancipate NC; Kristie Puckett-Williams from the ACLU of North Carolina; Amber Douthitt, founder of Crossroads Prison Ministry and Re-Entry of North Carolina; and Heidi Coleman, a University of North Carolina at Chapel Hill PhD student, continue reaching out to legislators who promise to sponsor the PRRA again during the next legislative session, signaling a dedication to changing how North Carolina punishes violent crime.

Continued support from lawmakers and advocates indicates that the PRRA offers a formidable solution to the problems of prison violence and mass incarceration. In contrast to most mass incarceration reforms, the PRRA targets LWOP sentences as the starting point. Popular narratives about those serving LWOP are often misinformed and misrepresentative. Many North Carolinians

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4. Bruce Western, *Lifetimes of Violence in a Sample of Released Prisoners*, 1 RSF 14, 15 (2015).

5. Lynn Bonner, *Highlights and Lowlights from the General Assembly as Lawmakers Pass 2021 “Crossover Deadline,”* NC POLY WATCH (May 17, 2021), <https://ncpolicywatch.com/2021/05/17/highlights-and-lowlights-from-the-general-assembly-as-lawmakers-pass-2021-crossover-deadline/> [https://perma.cc/MMZ8-BV45].

believe the misinforming popular narrative that the crimes of lifers are more heinous than other crimes and thus think lifers deserve to die in prison. However, the primary, and often only, difference between a felon serving LWOP for first-degree murder and one serving fifteen years for second-degree murder is usually the availability of a plea bargain, rather than severity of the crime.<sup>6</sup>

Because such misunderstandings guide public opinion, efforts to diminish mass incarceration in North Carolina withhold relief from violent offenders and fail to lower the prison population, as about 70% of North Carolina's prisoners are convicted of violent crimes.<sup>7</sup> Consequently, North Carolina's recent legislation aiming to reduce the prison population by altering nonviolent criminal sentencing laws does not reach far enough, and in fact, accomplishes very little. Legislators support the smallest, least meaningful measures, because they fear the political stain of sensational headlines from crimes committed by prematurely released felons; thus, their proposals offer no plan to sustain expansions of correctional and post-release budgets.<sup>8</sup> Such difficulties force lawmakers to ignore amendments that may end mass incarceration.

Anyone desiring to combat mass incarceration must first realize that the so-called *system* cannot be eradicated with one magical legislative act. Many tumultuous elements combined over time to create an imperfect storm of injustice. As such, all proposals cannot serve the overall ends of fairness. For example, North Carolina legislators introduced another sentencing-reform bill around the same time that the PRRA was drafted, the Criminal Sentencing Reduction Reform Act ("HB 625").<sup>9</sup> If passed, HB 625 intends to reduce sentences for most convictions—excluding LWOP—through a state habeas mechanism called the Motion for Appropriate Relief ("MAR").<sup>10</sup> To obtain a sentence reduction from HB 625, a convicted felon must file an MAR and meet a list of requirements to be considered by a North Carolina Superior Court in

6. Brandon L. Garrett, Travis M. Seale-Carlisle, Karima Modjadid & Kristen M. Renberg, *Life Without Parole Sentencing in North Carolina*, 99 N.C. L. REV. 279, 315 (2021); see also JOHN F. PFAFF, LOCKED IN: THE TRUE CAUSES OF MASS INCARCERATION AND HOW TO ACHIEVE REAL REFORM 135–36 (2017) [hereinafter PFAFF, LOCKED IN]; Stephanos Bibas, *Plea Bargaining Outside the Shadow of Trial*, 117 HARV. L. REV. 2463, 2470–76 (2004).

7. Virginia Bridges, 'I Thought I Was Gonna Die in Prison.' *How COVID-19 Is Opening NC Prison Gates*, NEWS & OBSERVER, <https://www.newsobserver.com/article249725998.html> [<https://perma.cc/A4BG-BMFF> (staff-uploaded, dark archive)] (Mar. 12, 2021); see also Ashley Nellis, *Still Life: America's Increasing Use of Life and Long-Term Sentences*, SENT'G PROJECT (May 3, 2017), <https://www.sentencingproject.org/publications/still-life-americas-increasing-use-life-long-term-sentences/> [<https://perma.cc/AWD5-WMLN>] [hereinafter Nellis, *Still Life*].

8. See, e.g., North Carolina Second Chance Act, ch. 35, 2020 N.C. Sess. Laws 234 (2020) (codified in scattered sections of N.C. GEN. STAT. 15A); North Carolina First Step Act, ch. 47, 2020 N.C. Sess. Laws 266 (2020) (codified at N.C. Gen. Stat. § 90-95 (2021)); see also *NC General Assembly, Legislative Bills That Failed 2019*, 1 NC-CURE 7, 7 (2020).

9. H.B. 625, 2021 Leg., Reg. Sess. (N.C. 2021).

10. *Id.*



an evidentiary hearing, including having “served at least five years in prison . . . [and] no longer [being] a danger.”<sup>11</sup> Additional information to be weighed in deciding the MAR includes the “age of the individual at the time of offense, good behavior, completion of behavioral health treatment, recommendation or report from the prosecuting district attorney, statements by victims, family and community circumstance of the individual at the time of offense, etc.”<sup>12</sup>

Although HB 625 appears to relieve mass incarceration and offer opportunity to deserving individuals, the criteria and procedures can only benefit privileged, affluent prisoners. The terms of HB 625 force prisoners to seek relief through the courts, not from the North Carolina Post-Release Supervision and Parole Commission. To file an acceptable MAR—and to compile the requirements list, including evidence like statements from victims—a prisoner must retain a private attorney, which only the privileged can afford.<sup>13</sup> This process further burdens the already overburdened county resources by placing the demand on county courts to oversee the proceedings. The filing prisoner must appear in an evidentiary hearing for the court to examine the evidence, tying up valuable time and money that could be spent addressing other matters. Furthermore, prison policy allows victims and their families to prohibit direct contact by incarcerated individuals through a written request.<sup>14</sup> This fact makes it difficult to imagine a member of a victim’s family sending a letter of recommendation for release directly to a convicted felon with no retained attorney as liaison, but HB 625 requires such recommendations.

A system of true justice requires checks and balances, with disparate parties making decisions at separate levels. Traditionally, criminal proceedings of the judicial branch exist to first determine guilt or innocence, then to issue punishment based on severity of the crime. Contrarily, HB 625 enables prosecutors to argue for conviction at one stage, then block the same individual’s release after decades of confinement through a court-ordered process. Judges should not be empowered to determine the timetable of a prisoner’s release once that person has been convicted, aside from collateral challenges stemming from constitutional violations during trial proceedings. Inversely, the PRRA offers a better solution because it provides opportunity to all, affluent and indigent alike, lessens the burden on the courts, and empowers the one agency in the state best equipped to determine an incarcerated individual’s rehabilitation for release: the North Carolina Post-Release Supervision and Parole Commission.

With diverging legislation on the table, how can lawmakers who want to address mass incarceration pass meaningful criminal sentencing laws? In

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11. *Id.*

12. *Id.*

13. *Id.*

14. N.C. DEP’T OF PUB. SAFETY, POLICY AND PROCEDURE: VICTIM SERVICES 12 (2022), [https://files.nc.gov/ncdps/D-.0900\\_01\\_19\\_22.pdf](https://files.nc.gov/ncdps/D-.0900_01_19_22.pdf) [<https://perma.cc/3D6G-EE77>].

contrast to the common approach of only reforming laws concerning nonviolent offenders, should reform begin with allowing release of people serving LWOP? If so, how can this be done with minimal risk of recidivism and minimal expense? The PRRA answers each of these questions without requiring sweeping changes to current sentencing laws. Operationally, the PRRA repurposes existing rehabilitative practices to procure positive change by obligating the accomplishment of behavioral, educational, and vocational goals so those serving LWOP can work toward release. This Essay first examines the conditions under which North Carolina crafted its strict sentencing practices and the resulting problems now plaguing prisons. It then addresses why the PRRA advances a logical solution and how the PRRA can later apply to non-LWOP sentences to reduce mass incarceration.

## II. HOW WE GOT HERE

North Carolina legislators enacted the Fair Sentencing Act in 1981 to ensure that felons were not released unreasonably early on parole.<sup>15</sup> Because of a spike in convictions, most likely spawned by an increase in violent crimes, the state's prison system quickly overflowed.<sup>16</sup> Professor Ronald F. Wright observes that even though prisons were overcrowded, officials packed institutions far beyond capacity.<sup>17</sup> Prisoners filed lawsuits in retaliation, and the courts agreed that conditions of confinement needed to improve.

In 1985, legislators passed the Emergency Powers Act, granting the state's parole commission discretion to release prisoners six months early.<sup>18</sup> This attempt did not alleviate overcrowding. In 1987, the state passed two more relevant bills: the Population Stabilization Act, capping the prison population at 17,640, and the Emergency Prison Act, giving the parole commission authority to release as many prisoners as necessary to maintain a manageable population.<sup>19</sup> According to the North Carolina Sentencing and Policy Advisory Commission ("NCSPAC"), the population cap forced the parole commission to release thousands of offenders early—"sometimes several hundred per week"—and the average time a felon served "reached less than 20 percent."<sup>20</sup> Disgruntled judges complained that prisoners were not serving their full terms and responded by increasing the length of sentences to ensure longer stays behind bars, but their actions forced the early release of even more prisoners.<sup>21</sup>

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15. Ronald F. Wright, *Counting the Cost of Sentencing in North Carolina, 1980–2000*, 29 CRIME & JUST. 39, 41 (2002).

16. John F. Pfaff, *Escaping from the Standard Story: Why the Conventional Wisdom on Prison Growth Is Wrong, and Where We Can Go from Here*, 26 FED. SENT'G REP. 265, 265–70 (2014).

17. Wright, *supra* note 15, at 48.

18. *Id.* at 50.

19. *Id.* at 50–51.

20. *Id.* at 51.

21. *Id.*

Overcrowding and judicial oversentencing created a conflict lawmakers needed to address.

Once North Carolina settled the lawsuits against it, lawmakers began searching for a long-term solution to the state's criminal sentencing problems. The state government created the NCSPAC to survey sentencing in other states and to craft sentencing policies specific to North Carolina. Based on the NCSPAC's observations, the commission drafted a law relying on a sentencing grid that assigned a mandatory minimum and maximum sentence to every crime. When guided by an offender's criminal history, judges could only sentence an offender to one of three punishments: mitigating, presumptive, or aggravated.<sup>22</sup> The proposed grid did not allow judicial deviation and rendered the parole system obsolete. The NCSPAC named their proposal the Structured Sentencing Act.

Professor Wright reports on one salient incident guaranteeing the law's success: "In 1993, a man who was released from prison after serving two years of a six-to-ten-year prison term murdered the father of basketball star Michael Jordan in eastern North Carolina."<sup>23</sup> Public outcry bestowed lawmakers with the opportunity to enact even the most prejudicial and extreme crime bills. As Professor Wright adds, "For seven weeks in February and March 1994, legislators introduced over 400 new crime bills."<sup>24</sup> LWOP became a mandatory sentence for first-degree murder.<sup>25</sup> Lawmakers hoped the new laws provided answers they needed to fix North Carolina's criminal justice problem.

North Carolina's Structured Sentencing Act took effect in 1994, yet as far back as 1990, the NCSPAC projected rising levels in the prison population and planned a tiered construction program to accommodate growth over a twenty-year span.<sup>26</sup> Federal aid proved a godsend for North Carolina's prison boom. In 1994, President Bill Clinton signed the Violent Crime Control and Law Enforcement Act ("Crime Bill"), which "established a Violent Offender Incarceration Truth-In-Sentencing Incentive Grant Program. Under that program, any state that agreed to build new prisons or expand existing ones, and required prisoners to serve at least 85 percent of their sentences, was eligible for a portion of \$3 billion in federal funding."<sup>27</sup> As a result, "[e]very state

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22. *Id.* at 77.

23. *Id.* at 80.

24. *Id.*

25. Lyle May, *Why North Carolina Keeps Many Parole-Eligible Prisoners Behind Bars*, SCALAWAG (July 8, 2019), <https://www.scalawagmagazine.org/2019/07/nc-parole-death-row> [<https://perma.cc/23M6-D62J>].

26. Wright, *supra* note 15, at 83.

27. Mark Wilson, *Oregon Passes Historic Juvenile Justice Reform Bill but Refuses To Apply It Retroactively*, PRISON LEGAL NEWS (Jan. 8, 2020), <https://www.prisonlegalnews.org/news/2020/jan/8/oregon-passes-historic-juvenile-justice-reform-bill-refuses-apply-it-retroactively/> [<https://perma.cc/QP2E-QNMJ>].

received federal truth-in-sentencing funding between 1996 and 2001.”<sup>28</sup> The Crime Bill and its progeny more than doubled North Carolina’s prison population from 17,640 in 1987 to 36,677 in 2016.<sup>29</sup>

### III. UNPREDICTED PROBLEMS

Despite the NCSPAC’s prison growth projections, legislators could not plan for structured sentencing’s inability to deal with increased violence caused by the new law. The deaths of five correctional officers in 2017 offer a glimpse of the brutality afflicting institutions. Prison officials blamed the murders on institutional mismanagement: housing units were understaffed, officers were rookies, and one out of every four positions sat vacant.<sup>30</sup> Understaffing was cited as the primary cause of the prison violence. The North Carolina Commissioner of Prisons presented lawmakers with a detrimental staff vacancy report in 2019 citing low-scale pay (\$36,990), mandatory overtime, and a lack of well-trained supervisors as reasons for vacancies.<sup>31</sup> To address low staffing, lawmakers closed three prisons, forcing the release of 2,300 short-term prisoners.<sup>32</sup> But, contrary to the conclusions of the Commissioner’s 2019 report, record understaffing does not provoke prison violence; it is merely a symptom of a problem that legislators have not addressed.

Prison violence and understaffing share a correlational rather than a causal relationship. Prison violence and understaffing manifest as symptoms of the same malady: hopelessness. Endless long-term sentences generate hopelessness. A high concentration of incarcerated individuals encapsulated within a void of hope creates an environment of hopelessness. This environment of hopelessness propels prison violence and causes an array of other negative consequences, such as understaffing. Hopelessness, not understaffing, serves as the underlying cause for violence, a cause that lawmakers have thus far either ignored or failed to address. A study evaluating North Carolina’s structured sentencing law finds a 25% higher infraction rate among male prisoners sentenced under structured sentencing than those sentenced under the previous system of parole, and an astounding increase of 55% for females.<sup>33</sup> In the first published study examining life sentences in North Carolina, researchers note how the increase of infraction rates “may be due to

28. *Id.*

29. Wright, *supra* note 15, at 50–51; see also Nellis, *Still Life*, *supra* note 7, at 10.

30. Gavin Off & Ames Alexander, *An Inmate Set a Fire and Waited for Her. The Untold Story of a Prison Murder*, CHARLOTTE OBSERVER (Dec. 11, 2017, 10:46 AM), <https://www.charlotteobserver.com/news/local/article188513709.html> [<https://perma.cc/SV7E-6PJX> (staff-uploaded, dark archive)].

31. *NC’s Prison Crisis Needs Drastic Change*, NEWS & OBSERVER (Oct. 29, 2019), <https://www.newsobserver.com/opinion/article236582913.html> [<https://perma.cc/T3A8-F9KM> (staff-uploaded, dark archive)].

32. *Id.*

33. Garrett et al., *supra* note 6, at 294.

the lack of incentive to be compliant under determinate sentencing schemes, as there is no early release for good behavior.”<sup>34</sup> Lack of incentives negatively impacts behavior. This sobering empirical evidence proves how focusing legislation to only address understaffing will not impact prison culture; legislation must address the cause of hopelessness: interminable long-term sentences.

Without the promise of a meaningful future, prisoners serving long-term sentences have no motivation to consider or practice positive change. Low self-worth, lethargy, and rebellion are products of the hopelessness caused by long-term sentences. Professors J.L. Boothby and T.W. Durham found a high prevalence of depression among North Carolina prisoners.<sup>35</sup> A Swedish study exposed a correlation between depression among prisoners and the probability of committing violence.<sup>36</sup> Postulating from the research of numerous case studies, criminologist Marvin Wolfgang argued violent subcultures “involv[e] a process by which individuals learn to accept violence as a reasonable mode of behavior for solving problems,” and those “groups learn to accept violence as normative behavior at an early age through the constant presentation of violent stimuli.”<sup>37</sup> And these traumas can be hard to overcome. As Dr. Bessel Van Der Kolk explains in *The Body Keeps the Score*, “many traumatized people simply give up” and “stay stuck” in their horrid mental condition rather than seeking new avenues of change.<sup>38</sup> These findings suggest a potential for psychological trauma in long-term prisoners who regularly witness violence as an acceptable behavior and have no way to change their circumstances. Thus, interminable lengthy sentences create an environment of hopelessness that prisoners rarely escape. This environment of hopelessness further cultivates a cycle of violence.

Financial inequality between prisoners presents another catalyst for prison violence that remains overlooked by lawmakers. Among prison populations, as with most populations, there are the “haves” and the “have-nots.” Despite most jobs paying only forty cents a day, jobs are coveted because many prisoners lack stable support systems. Additionally, North Carolina recently expanded its range of for-profit service contracts with Global Tel Link for telephone and tablet services, JPAY for banking, and Textbehind.com for mail (after North Carolina outlawed personal U.S. Postal Service mail entering prisons in 2021).

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34. *Id.*

35. Jennifer L. Boothby & Thomas W. Durham, *Screening for Depression in Prisoners Using the Beck Depression Inventory*, 26 CRIM. JUST. & BEHAV. 107, 119–22 (1999).

36. Seena Fazel, Achim Wolf, Zheng Chang, Henrik Larson, Guy M. Goodwin & Paul Lichtenstein, *Depression and Violence: A Swedish Population Study*, 2 LANCET PSYCHIATRY 224, 224–32 (2015).

37. Robert A. Silverman, *Marvin Eugene Wolfgang, 14 November 1924 – 12 April 1998*, 148 PROC. AM. PHIL. SOC. 548, 551–52 (1998).

38. BESSEL VAN DER KOLK, *THE BODY KEEPS THE SCORE: BRAIN, MIND, AND BODY IN THE HEALING OF TRAUMA* 30 (2014).

Global Tel Link charges approximately “11 cents per minute for in-state calls” and 4 cents per minute to access free apps on a state-owned tablet, while JPAY “profits” by charging at least “\$4.95 to transfer \$20.00” to a prisoner’s commissary account.<sup>39</sup> Furthermore, “common to most of these contracts” is that the state receives a commission.<sup>40</sup> The new Textbehind.com mail program hinders families financially because this state business venture forces them to pay \$0.99 at a minimum to send letters, cards, or pictures through a private company instead of paying for a \$0.58 stamp from the U.S. Postal Service. These exorbitantly priced services, without any form of competition, place an immense financial strain on families already financially encumbered and the incarcerated individuals they wish to communicate with.

Steep processing fees deter families from keeping in contact with incarcerated loved ones and sending much needed money. Without an income to purchase hygiene products, toiletries, and other basic necessities, poor prisoners are induced to live with less than others or learn to extort vulnerable prisoners. As it stands, people serving LWOP have little—if any—extrinsic incentive to live virtuously, a fact magnified by recent prison trends and dreadful events. Without any hope for the possibility of release, a prisoner’s focus turns to surviving by whatever means available, especially when a state’s financial endeavors make it too expensive for families to help them while incarcerated. If lifers had an opportunity for release through good behavior, education, and hard work, the incentive of release would significantly outweigh the incentive of monetary stability. Prison violence would decline because most lifers would transition their focus from the presumed fight for survival to striving towards freedom, with positive development and maturation as inherent byproducts.

Systems of correction adopt the duty to reshape a prisoner, the duty to produce positive development and maturation. To combat negative aspects of prison culture, the system must seek to instill positive moral values. A correctional system’s promotion of hopelessness acts as an antithesis to positivity and diminishes true ideals of humanity, reducing a department of corrections to a department of corrosion, accelerating the decay of individuals rather than building better citizens. Because lawmakers refuse to address hopelessness, violence continues. For example, *The Wilson Times*, a North Carolina newspaper, reported two murders at Maury Correctional Institution in 2020: a twenty-three-year-old man was killed with a homemade weapon on February 21, and a seventy-five-year-old man was stabbed to death on April 2.<sup>41</sup>

39. LAUREN-BROOKE EISEN, *INSIDE PRIVATE PRISONS: AN AMERICAN DILEMMA IN THE AGE OF MASS INCARCERATION* 74 (2018).

40. *Id.* at 75.

41. Anonymous, *Inmate Dies After Prison Fight Stabbing*, WILSON TIMES, Apr. 4, 2020.

As long as prisoners are serving LWOP—without any tangible incentive to choose constructive life paths—violence in North Carolina prisons will persist.

#### IV. THE PRISON RESOURCES REPURPOSING ACT AS A SOLUTION

The proposed Prison Resources Repurposing Act requires no additional resources and minimal, if any, additional funding. The PRRA merely asks lawmakers to make the Mutual Agreement Parole Program (“MAPP”) applicable for those convicted of first-degree murder and punished by imprisonment for life without parole under the Structured Sentencing Act. MAPP contracts are agreements between potential parolees and the North Carolina Post-Release Supervision and Parole Commission that mandate work and behavioral goals for completion within one to three years to earn release. Currently, the MAPP only applies to prisoners sentenced to life prior to 1994, commonly known as “Old Law Lifers,” who are people convicted under section 15A-1380.2(h) of the General Statutes of North Carolina (the Fair Sentencing Act, which defined *most* life sentences as life with parole after 20 years and was in effect from July 1, 1981 to September 30, 1994) or under section 148-4.1 (the Emergency Powers Act parole).<sup>42</sup> It should be noted that Old Law Lifers sentenced before 1994 already have parole dates, so the MAPP applies for them without further legislation. However, the MAPP provides parole to Old Law Lifers only after the North Carolina Post-Release Supervision and Parole Commission reviews their behavioral history and offers them a contractual agreement. If the participant fails to uphold any stipulation, officials terminate the contract, and the prisoner remains behind bars for life.

Under North Carolina’s Structured Sentencing Act of 1994, the death penalty and LWOP are the only two possible sentences for first-degree murder, both of which exclude parole. An early provision, section 15A-1380.5, provided judicial review of LWOP sentences after twenty-five years of imprisonment under the Structured Sentencing Act, but lawmakers repealed section 15A-1380.5 on December 1, 1998. Anyone sentenced to LWOP after that date has no opportunity for release, regardless of positive development, maturation, or achievement.

Despite softening public opinion about LWOP sentences, some will oppose releasing any murderers at all. But opponents fail to realize that North Carolina releases murderers daily, whether reformed or not. Under North Carolina’s Structured Sentencing Act, a person serving fifteen years for second-degree murder can complete their sentence without working, without earning an education, while collecting numerous violent infractions, and they will be

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42. N.C. DEP’T OF PUB. SAFETY, POLICY AND PROCEDURE: MUTUAL AGREEMENT PAROLE PROGRAM 2 (2018), [https://files.nc.gov/ncdps/e.1700\\_02\\_02\\_18\\_.pdf](https://files.nc.gov/ncdps/e.1700_02_02_18_.pdf) [<https://perma.cc/MR9-R9FB>].

released on time. Why? Because North Carolina's structured sentencing law offers no incentive for these individuals to change. Structured sentencing offers only a mandatory minimum and maximum release date with which the state must comply. The crucible of success or failure should not rely on whether a murderer is released, but on how North Carolina prepares people for release.

The PRRA offers a commonsensical solution that ensures public safety because it does not guarantee the release of anyone serving a LWOP sentence, especially those who pose a threat to society. The PRRA grants mercy to *exceptional* lifers. For prisoners who do not exhibit *exceptional* change, life will still mean life in prison. The duration of a single LWOP sentence will only change if the North Carolina Post-Release Supervision and Parole Commission grants a MAPP contract to someone serving LWOP. If no MAPP contract is offered, because of severity of their crime or violent behavior while in prison, the life sentence stands, and the prisoner will die behind bars.

Once a MAPP contract is offered, the PRRA works similarly to the current MAPP system, except it adds more structure with more stringent requirements over a longer period of time to ensure that positive change takes root—much longer than the current MAPP duration of one to three years.

Figure 1. Current MAPP Versus MAPP Under the PRRA

CURRENT MAPP	MAPP UNDER THE PRRA
1. Total incarceration length: minimum 21 years	1. Total incarceration length: minimum 20 years
2. Total time under supervision: minimum 22 years	2. Total time under supervision: minimum 25 years
3. Incarceration before MAPP review: 20 years	3. Incarceration before review: 5 years
4. Post-Release Supervision and Parole Commission reviews prison record	4. Post-Release Supervision and Parole Commission reviews prison record
5. Enrolled in MAPP for 1–3 years	5. Enrolled in MAPP for 15 years, and
6. Released on parole for 1 year	a) Completes GED, or college degree
	b) Completes vocational training
	c) Works an incentive wage job
	6. Released on parole for 5 years

Under the PRRA, potential parolees must complete mandatory requirements to earn release through a logical stepladder formation compelling the accomplishment of one minor goal before promotion to the next, encompassing a total period of fifteen years.



### 1. Assessment Period

- i. Inmates serving a sentence of life imprisonment without parole shall be assessed during the first five years of that sentence before becoming eligible for the MAPP.
- ii. During this assessment, the Division of Adult Correction and Juvenile Justice shall evaluate the inmate's behavioral, educational, and vocational needs.
- iii. After an inmate has completed the first five years of the inmate's sentence, the inmate may be offered a fifteen-year MAPP contract. The contract shall take into account the assessment performed during the first five years of the inmate's sentence.

Note that we chose a five-year assessment period, versus the twenty required by the current MAPP, because experience has taught us that the first five years are the most crucial when determining a long-term prisoner's pattern of behavior. If prisoners are going to join a gang, use drugs, or partake in violence, those traits manifest in the first five years. The inaugural five years should positively define a prisoner's path of change by imposing the first and continued requirement: avoiding trouble.

### 2. Education Requirement

- i. After the completion of the Assessment Period, an inmate participating in MAPP shall participate in mandatory education programs. The programs shall include, at a minimum, the following:
  - a. A General Education Diploma ("GED") if the defendant does not already possess a GED or high school diploma.
  - b. A vocational trade program offered by the Division of Adult Correction and Juvenile Justice.
- ii. The mandate to complete the education programs may be satisfied by the inmate's completion of an accredited associate or bachelor's degree program.

### 3. Work Requirement

- i. After the completion of the Assessment and Education requirements, an inmate participating in MAPP shall work for Correction Enterprises, the Inmate Construction Program, or any commensurate incentive wage occupation provided by the Division of Adult Correction and Juvenile Justice.

- ii. An inmate shall maintain favorable employer evaluations to earn promotion, and an inmate's work assignments may be transferred to minimum custody or work release upon promotion.

After twenty years of incarceration, the individual may be released on post-release supervision for five years, totaling the time served under supervision at twenty-five years. Mandatory requirements ensure that the individual will exit prison and reenter society with both an education and transferrable job experience, providing a productive foundation for success.

#### V. RESOURCES TO BE REPURPOSED

Like the MAPP, other rehabilitative resources required by the PRRA already exist. Although these resources do not currently work together in a tiered advancement structure, integration can be accomplished with little difficulty. Most facilities offer GED programs, as well as some college courses, and several offer accredited college degree programs. Higher education is integral to personal change for incarcerated individuals. The Federal Bureau of Prisons finds that the recidivism rate for prisoners who achieve a high school diploma or GED is less than 54.6%; 13.7% for an associate's degree; 5.6% for a bachelor's degree; and 0% for a master's degree.<sup>43</sup> To accommodate the PRRA's vocational requirements, many facilities already offer vocational training. For example, Pender Correctional offers dog training, brick masonry, carpentry, welding, and diesel mechanics; Nash Correctional houses a Correction Enterprises' Print Plant that offers an array of apprenticeships from industrial maintenance to graphic artist illustrator. Education improves the prison system by providing uneducated people with critical thinking skills to help them make better decisions, and it significantly reduces recidivism, which could be further reduced when coupled with a vocational trade. The reinstatement of Pell Grants for prisoners in 2021 can assist North Carolina in preventing people from returning to prison through education. The PRRA relies on existing rehabilitative components that currently lie squandered like haphazard boards of lumber. These boards await assembly by legislators willing to build a ladder of objectives that instill hope, offering lifers an opportunity to climb out of the pit by ascending single goals rung by rung.

Currently, rehabilitative programs are often voluntary and deficient in purpose and structure. Long-term prisoners have very little incentive to enroll, because no earned time will be credited toward release, producing idle minds prone to violence. Idleness increases recidivism because released prisoners do

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43. Jeff Isabell-Taylor, *BEYOND BARS: Education Key To Lower Recidivism*, GUILD NOTES, <https://www.nlg.org/guild-notes/article/beyond-bars-education-key-to-lower-recidivism/> [<https://perma.cc/23LC-PT34>].

not gain the education or job skills necessary to live as law-abiding citizens. Moreover, lifers are often denied enrollment in rehabilitative programs, because administrators deem it a waste to use resources on those never getting out. If existing rehabilitative programs were structured under a progressive system such as the PRRA, lifers could earn release and progress mentally while preparing for their second chance. With education and a purposeful work ethic, the path to freedom becomes synonymous with the path to change.

Prospective systemic change may produce resistance from frugal lawmakers concerned about their burden of fiscal responsibility. Under the PRRA, their concerns prove unfounded. While the education programs require funding, nearly all of the funding is already in place from existing programs. In fact, rather than producing a financial burden, establishment of the PRRA will reduce taxpayer expenditure. Nationally, aging lifers who are fifty-five and older account for 12% of state prison populations.<sup>44</sup> It costs North Carolina approximately \$40,000 per year to house each prisoner, a figure that escalates as prisoners age, requiring corresponding medical care; by contrast, a person on parole costs only about \$2,000 per year.<sup>45</sup> With nearly 5% of all prisoners in North Carolina serving LWOP, the PRRA would produce a substantial reduction in the fiscal burden.

Additionally, an expansion of the North Carolina Post-Release Supervision and Parole Commission should not be anticipated or necessary. Extending the MAPP through the PRRA will not force open the proverbial floodgates, releasing thousands of people who committed a violent crime at one time. First, the North Carolina Post-Release Supervision and Parole Commission must offer a MAPP contract to an individual before release is possible. Second, of the approximate 1,600 people serving LWOP, all were convicted at different times, creating a staggered timetable where only a specified amount can become eligible for MAPP consideration each year. Finally, it is unreasonable to assume the North Carolina Post-Release Supervision and Parole Commission would release a mass number of MAPP recipients at one time. The exceptional few who earn release can be gradually integrated in with the existing caseloads of current Post-Release Supervision and Parole Officers already certified to monitor newly released parolees.

## VI. CLARIFYING THE VIOLENCE AND CULTURAL INFLUENCE OF LIFERS

Viewing lifers as the sole influencers in a violent culture may give the impression that every lifer behaves violently or that lifers who behave violently continue in this capacity perpetually. In truth, some lifers avoid violence and

44. NELLIS, NO END IN SIGHT, *supra* note 2, at 20.

45. *Cost of Corrections*, N.C. DEP'T PUB. SAFETY, <https://www.ncdps.gov/adult-corrections/cost-of-corrections> [<https://perma.cc/MVK3-H8TL>].

most transition out of violence as they age and mature. Many lifers become the best behaved of all incarcerated individuals, known by some prison administrators as the “easy keepers.” “Easy keeper . . . describes a prisoner, usually one sentenced to life, who practices a steady daily routine and who provides little to no disruption.”<sup>46</sup> As one prison staff member explained: “Some guys don’t break any rules. You know, they’re the easy keepers. They do their jobs, they go to school, they don’t commit any infractions, they keep their cells clean and tidy, and they follow the rules. And usually those are our LWOPs.”<sup>47</sup> The PRRA can minimize the number of lifers who participate in violence and maximize the cultural influence of well-behaved lifers.

The offer of potential release for meeting the requirements of the PRRA will significantly decrease the number of lifers who act in violent ways and accelerate the maturation process. The long-term incentive of release supplies sufficient motivation for lifers to choose alternative ways of adapting to the prison environment, such as involvement in school and rehabilitation programs and avoiding situations most likely to lead to violence. For those who choose to initiate or respond with violence, the release incentive can lessen the time spent in the phase of violent thinking and behavior, moving them away from the pitfalls of prison life and into the development of positive coping strategies.

Opening the potential for release to lifers maximizes the cultural influence of the so-called easy keepers. In a culture where violence creates an aura of respect, the lifers who commit violent acts are hailed as warrior-champions. Such status gives considerable influence to individuals who are violent, while the lifers who live with harmonious stability possess much less influence. The lesser influence of positive-living lifers stems from the fact that other inmates think them foolish for following the rules. Without any quantifiable reward, other incarcerated individuals consider the good behavior of lifers quixotic or even delusional. By using release for lifers as a specifiable incentive, observers who already have release incentives are much more likely to follow their lead. Thus, the substantial reward of release for lifers would maximize their cultural influence. By promoting change within these culture-shapers, the PRRA betters the prison environment, all who are released from prison, and society.

## VII. INVERTING THE PARADIGM

The PRRA completely counters the common approach to mass incarceration reform, specifically criminal sentencing reform. Current reform efforts focus on reducing punishments for and releasing people convicted of nonviolent crimes. This approach achieves limited results but fails to

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46. STEVE HERBERT, *TOO EASY TO KEEP: LIFE-SENTENCED PRISONERS AND THE FUTURE OF MASS INCARCERATION* 1 (2019).

47. *Id.*

accomplish any large-scale objectives. The common strategy operates from the belief that drug-related, and other nonviolent crimes, drive prison growth. This conception proves to be the opposite of the actual cause. Professor John F. Pfaff argues against the standard story of mass incarceration by explaining how “the incarceration of people for violent crimes has always been at the center of contemporary prison growth.”<sup>48</sup> As Professor Pfaff’s empirical evidence credits “violent offenders” with taking “up a majority of all prison beds,” effectual reform must focus on and begin with reducing punishments for and releasing people convicted of a violent felony.<sup>49</sup>

The PRRA not only departs from the common approach but inverts the entire paradigm. Picture the system of mass incarceration as a skyscraper. The top floors consist of lifers; the lowest floors consist of people with the shortest sentences, with others incrementally spread between the top and bottom according to sentence length. The release door is placed, of course, at the bottom. The common approach of reducing sentences for nonviolent offenders speeds up travel through the release door, but only for people on the bottom floors. The people on the middle floors are hardly affected, if at all. The top floors never move, not even a little. This approach does nothing to change either the framework or the composition of the structure, because only the smallest segment of the population is impacted. Consequently, the standard approach has produced a nationwide recidivism rate of 67.5% that shuttles more than half of released offenders back to prison within three years.<sup>50</sup> Since the people with the shortest sentences exhibit the highest recidivism rate, the common approach turns the release door into a revolving door. Eventually, those who begin on the bottom floors elevate to the top over the course of numerous minor criminal convictions because no focus is placed on real reformatory change. Efforts to reduce mass incarceration, like this common approach that centers on release for only nonviolent offenders, actually increases mass incarceration.

The PRRA inverts the paradigm by beginning at the top of the mass incarceration skyscraper: it offers lifers inhabiting the top floors a stairway to release. A reform strategy beginning with life sentences provides a top-down reference point for the entire structure and works toward reducing mass incarceration. Life sentences, and other extremely long sentences, “set a ‘reference point for crime’ that makes other extreme but less severe punishments seem appropriate.”<sup>51</sup> When prisons are flooded with lifers, a stream of people serving fifteen, twenty, or thirty years seems minor in

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48. PFAFF, LOCKED IN, *supra* note 6, at 187.

49. *Id.* at 188.

50. ANTHONY B. BRADLEY, ENDING OVERCRIMINALIZATION AND MASS INCARCERATION: HOPE FROM CIVIL SOCIETY 36 (2018).

51. MARIE GOTTSCHALK, CAUGHT: THE PRISON STATE AND THE LOCKDOWN OF AMERICAN POLITICS 171 (2015).

comparison, but those long-termers still contribute to the stagnated upper floors who cannot benefit literally or psychologically from prison reform. However, after the incarcerated inhabiting the middle floors witness the release of exceptional lifers through hard work and maturation, many non-lifers will seek the same incentive-for-change process and desire to follow the lifers' path of redemption. By starting with the top floors and inverting the paradigm of the common approach to prison reform, the PRRA operates from a strategy that can demolish the entire structure of mass incarceration.

#### VIII. THE PRRA PHASE II: EXTENDING THE PRRA TO NON-LIFERS

The PRRA makes no claim to be the one magical legislative act that can decidedly undo the combined elements that created the current state of mass incarceration. No single act can accomplish that impossible objective. The PRRA was always intended as a starting point—the best starting point, but merely a starting point. Altering LWOP before lesser sentences makes sense because LWOP provides a single sentence devoid of a fixed minimum or maximum release date that can be assigned a numerical value without changing the existing structured sentencing grid. Because only exceptional lifers can be affected, this strategy presents a viable trial to prove why and how the PRRA works. From the outset, this endeavor envisioned extending the MAPP to lifers as a commencement rather than culmination, intending the next phase to be expanding the PRRA to include non-LWOP sentences.

The highly structured framework of the PRRA facilitates its expansion from life sentences to sentences with a release date. The same stringent behavioral, educational, and vocational requirements can be applied to individuals with definite sentences by proportionally reducing the timetable for all components: time in prison before a MAPP review, completion of MAPP obligations, total time of the MAPP contract, and total time incarcerated. The timetable for non-LWOP sentences would be proportionally reduced according to sentence minimum. For people serving consecutive sentences, the total sum of minimums would function as the figure for determining the appropriate classification. For example, envision an offender serving three consecutive minimum sentences of 120 months, totaling 360 months (or 30 years). North Carolina's current sentencing laws force the offender to serve thirty years before release is possible. Under the PRRA Phase II, this offender can be grouped with lifers and offered a fifteen-year MAPP contract after serving five years, ensuring twenty years of incarceration and maturation through education and hard work before release. This framework can be modified to accommodate shorter sentences by assigning the length of the MAPP contract at 50% of an offender's minimum and capping the total time incarcerated at 65%, as illustrated in Figure 2 below.

**Figure 2. Applying the PRRA to Sentences with a Date of Release/Non-Life Sentences**

Minimum <sup>52</sup> (Months)	Length of MAPP Contract (Years)	Minimum Time Served (Years)
360+	≤ 15	20
241–359	≤ 12	16
181–240	≤ 9	12
121–180	≤ 6	8
≤ 120	50% of minimum	65% of minimum

An even simpler version could be developed using only two categories: people serving sentences with a minimum incarceration length of thirty years or more and people serving less than thirty years.

**Figure 3. Applying the PRRA to Sentences with a Date of Release/Non-Life Sentences (Alternate)**

Minimum* (Months)	Length of MAPP Contract (Years)	Minimum Time Served (Years)
360+	≤ 15	20
< 360	50% of minimum	65% of minimum

The PRRA provides a format of simple expansion for transitioning from the top to the middle to the bottom of the mass incarceration skyscraper. The top-down strategy behind the PRRA does what the common, bottom-up strategy cannot: create progress through the highest levels of the structure. By expanding the PRRA to include all long-term sentences, the plan transitions from a first-step mass incarceration reform to a multiphase response to the numerous decisions and combined elements that created the current situation of prison violence and limited success upon release.

Applying the PRRA to non-LWOP sentences during a second phase assists North Carolina in reducing mass incarceration in numerous ways. Author James Kilgore provides three key factors to measure the efficacy of mass incarceration reforms: whether the reforms (1) reduce the number of people

52. Or sum of minimums, if consecutive sentences.

incarcerated, (2) increase race and gender equity, and (3) reallocate expenditures on corrections.<sup>53</sup> The PRRA can succeed in all three factors and more. First, the PRRA reduces the number of people incarcerated and prepares those released to successfully reintegrate into society. Second, the offer of release to lifers, and earlier release to others, based on goal accomplishment maximizes race and gender equity, given national statistics finding that one in five Black men and one in fifteen women in prison are serving life while Latinx individuals comprise “16% of those serving life sentences.”<sup>54</sup> Releasing long-term prisoners through the PRRA can level the amount of nonwhite individuals serving time, not simply because they are nonwhite, but because they are willing to work toward release. Lastly, the Sentencing Project lists 2020 the total of North Carolinians serving LWOP, life with parole, and virtual life (fifty years or more) as 4,171, or 12% of the state’s prison population.<sup>55</sup> Based on the Department of Public Safety’s own totals, if North Carolina enacts the PRRA and gradually releases 2,500 of those 4,171 prisoners over time, the state will save \$100 million annually and \$1 billion over ten years.<sup>56</sup> By reducing the number of people incarcerated and reducing recidivism safely, the money saved will allow for a considerable reallocation of expenditures. The PRRA and PRRA Phase II offer an effective overall approach and a valuable first step.

#### CONCLUSION

Readers of this Essay may assume that the arguments made reflect only the current state of mass incarceration. This is a true assessment in part. The humanitarian effort we wish to initiate did not commence with our experiences in prison. Beginning in the early 1900s, North Carolina allowed a select group of prisoners from Central Prison in Raleigh to publish a newspaper, *The Prison News*. Articles ranged from the creation of Correction Enterprises to the death of a beloved prison guard. This small publication transformed the prison experience by giving voice to voiceless prisoners. In one 1930 article, “Hope and Home To Cure Prison Riots,” staff writers reprinted quotes from a *New York Times* interview with Lewis E. Lawes, then warden of Sing Sing. Lawes commented on a phenomenon of violent prison riots, one of which “killed 319 convicts and injured 250 others” in Ohio.<sup>57</sup> *The Prison News* identified “the great outstanding cause of prison disorders . . . [a]s the prisoner’s loss of hope.”<sup>58</sup> Staff

53. JAMES KILGORE, UNDERSTANDING MASS INCARCERATION: A PEOPLE’S GUIDE TO THE KEY CIVIL RIGHTS STRUGGLE OF OUR TIME 222 (2015).

54. NELLIS, NO END IN SIGHT, *supra* note 2, at 4.

55. *Id.* at 10.

56. *Cost of Corrections*, *supra* note 45 (reporting that it costs approximately \$40,000 per year to house a prisoner versus \$2,000 per year for someone to serve time on parole).

57. Staff, *Hope and Home To Cure Prison Riots*, PRISON NEWS, Sept. 1, 1930, at 4, 4.

58. *Id.*



writers quoted Lawes directly as stating, “As long as you continue to starve the spirit by withholding human hope, prisons will be caldrons where passion and emotion shrivel into bitterness and hatred.”<sup>59</sup> Lawes identified “work” as “important beyond measure” for rehabilitation and added that “the hope of earlier release would be reflected in the prisoners’ institutional conduct” if the penal system created a work-for-release type of structure.<sup>60</sup> To be clear, we fashion no new arguments in the preceding Essay. Lewis E. Lawes’ concept of *early release* as an *incentive* for work employed the same logic almost a hundred years ago that we reiterate today: incentives are essential to compel personal and real change. By removing release incentives from the structured sentencing framework in the 1990s, North Carolina eliminated reasons for lifers and other long-term prisoners to seek change. As a result, the broken system we inhabit produces the opposite of its intended purpose by cultivating violence instead of eradicating it.

In the past, reactionary public opinions about parole, judicial oversentencing, and polarizing incidents of violence—such as the senseless murder of Michael Jordan’s father—created the panicked conditions under which North Carolina crafted its current criminal sentencing laws. In 1997, the NCSPAC was given the Innovations in American Government award from the Ford Foundation for crafting the Structured Sentencing Act.<sup>61</sup> At that time, harsh criminal sentencing seemed appropriate because the long-term effects were unknown. But the season has changed. The future United States of America will look back on the age of mass incarceration and wonder how it was allowed to oppress for so long in the same way that it distastefully views the age of chattel slavery. North Carolina now has the opportunity to lead the country innovatively once again by exploring common-sense sentencing changes that will impact society for the better. Hopelessness guides negative behavior of many long-term prisoners and lifers, but not all. The PRRA offers mercy to *exceptional* lifers who live meritoriously despite the violent prison culture surrounding them. Promoting hope to the hopeless will influence prison culture positively and diminish violence by giving people serving life hope of achieving a meaningful goal: freedom. By extending the MAPP to people serving LWOP, North Carolina assists lifers in accomplishing many small goals to reach their larger objectives. Not only does the PRRA build better human beings, the PRRA can build a better state and reduce cost to taxpayers.

As lifers, we know the PRRA will affect prisons positively because we have been accomplishing the proposed requirements for a combined thirty-seven years, and we both exhibit exceptional personal change, without the promise of

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59. *Id.*

60. *Id.*

61. Wright, *supra* note 15, at 102.

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release afforded by the bill. Our mission extends far beyond a presumed fight for personal freedom as self-interested activists. We endeavor to influence the prison culture through our own positive thinking and behavior and to focus on redemption through the promotion of hope for the hopeless.

