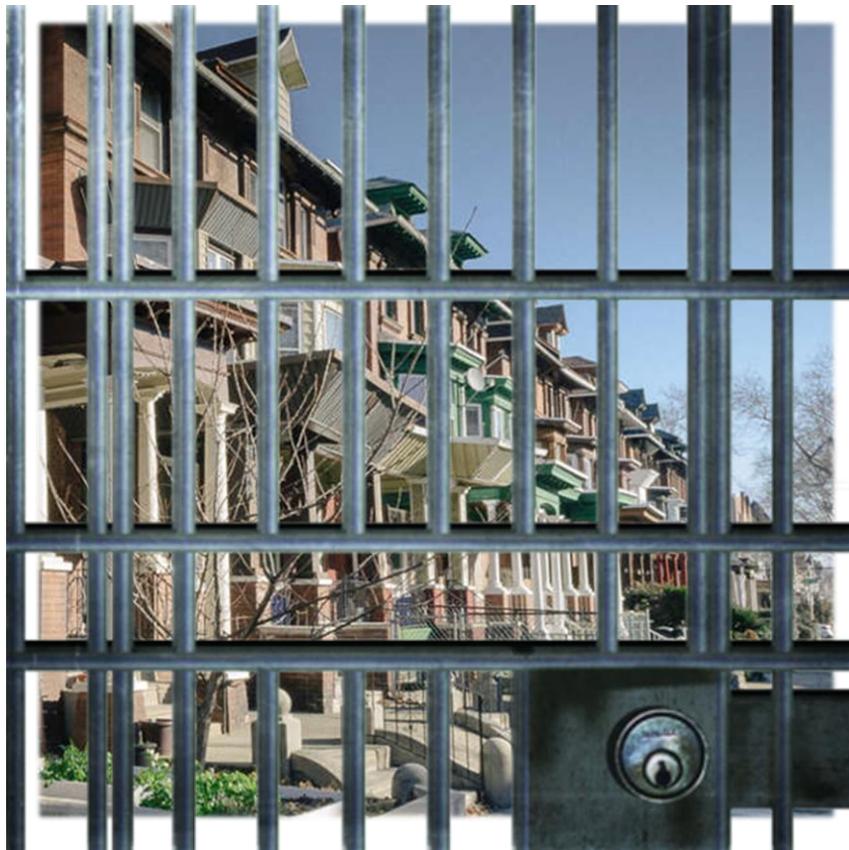


# **“Juvenile Lifers”: From Re-sentencing to Reentry**



The information contained in this guide was a collaborative effort from the Office of Victim Advocate, Department of Corrections and the Board of Probation and Parole.

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## What do the laws mean?

In June 2012, the United States Supreme Court ruled 5-4 in *Miller v. Alabama* that it is unconstitutional to sentence a juvenile ~ someone who was under the age of 18 at the time the crime was committed ~ to a mandatory life without parole sentence. The *Miller* court decision did not determine if the decision should be applied retroactively and left that question to the states to answer. In 2013, the Pennsylvania Supreme Court decided in *Commonwealth v. Cunningham* that *Miller* was not retroactive.

In January 2016, the United States Supreme Court disagreed. The court ruled in *Montgomery v. Louisiana* that *Miller* should be applied retroactively and should apply to cases decided prior to the 2012 court ruling. The *Montgomery* court ruling means that juvenile offenders previously sentenced to mandatory life without parole **can seek to be resentenced** by the trial court.

The Pennsylvania Supreme Court has issued a ruling on the “juvenile lifer” issue which gives a bit of clarity on the procedural path these types of cases will take. In non-legal language it says:

With the *Montgomery* ruling, every “juvenile lifer” in PA now has the right to file a PCRA (Post Conviction Relief Act) petition. Their case will be heard by the county court that has jurisdiction over their sentence. The ruling did not provide any clarity on a sentence structure for this process so that determination is up to the discretion of each state or county to determine.

In a June 2017, the PA Supreme Court of the Middle District issued its decision in *Commonwealth v. Batts* case. Qu’eed Batts was convicted of first-degree murder he committed when he was 14. The issue for the PA Supreme Court’s review was whether the sentencing court imposed an illegal sentence when it resentenced him to life in prison without the possibility of parole. The Court concluded, based on the findings made by the sentencing court and the evidence upon which it relied, the sentence was illegal in light of *Miller v. Alabama* and *Montgomery v. Louisiana*. Pursuant to its grant of allowance of appeal, the Court further concluded that to effectuate the orders of *Miller* and *Montgomery*, procedural safeguards were required to ensure that life without parole sentences were meted out only to “the rarest of juvenile offenders” whose crimes reflected “permanent incorrigibility,” “irreparable corruption” and “irretrievable depravity,” as required by *Miller* and *Montgomery*. The Pennsylvania Court recognized a presumption against the imposition of a sentence of life without parole for a juvenile offender. To rebut the presumption, the Commonwealth bears the burden of proving, beyond a reasonable doubt, that the juvenile offender is incapable of rehabilitation.

## What is Pennsylvania’s status?

When the juvenile lifer resentencing process began, Pennsylvania had the largest number of individuals who were juveniles at the time they committed their crimes and were later sentenced to life without parole. In Pennsylvania, a life sentence excludes the possibility of parole. However, if a person’s sentence is modified, they may be considered for parole as is required by state law. It must be noted the term “juvenile lifer” is often misunderstood or misused. This phrase applies only to the age of the person at the time of the crime. It does NOT apply to the inmate’s current age, nor the inmate’s age at the time of arrest, conviction or sentencing.

In response to the issues surrounding “juvenile lifers”, the Pennsylvania General Assembly enacted legislation for convictions **AFTER** June 24, 2012. The law now states:

For a 1 <sup>st</sup> degree murder conviction		For a 2 <sup>nd</sup> degree murder conviction	
Age 15 to 17	Minimum of 35 years to life	Age 15 to 17	Minimum of 30 years to life
Age 15 or younger	Minimum of 25 years to life	Age 15 or younger	Minimum of 20 years to life

**Life without parole remains a discretionary option for both charges of murder.**

The identifiable group of 521 inmates whose juvenile lifer sentences were established prior to the June 24, 2012 law, are a unique class of inmates, since the 2012 law is not mandatorily applicable to them, and across the state there have been significant variations in the minimum sentence set as a result of re-sentencing. Also, although the re-sentencing maximum has been life in most cases, there are a few where the re-sentencing maximum has been a set number of years, less than life.”

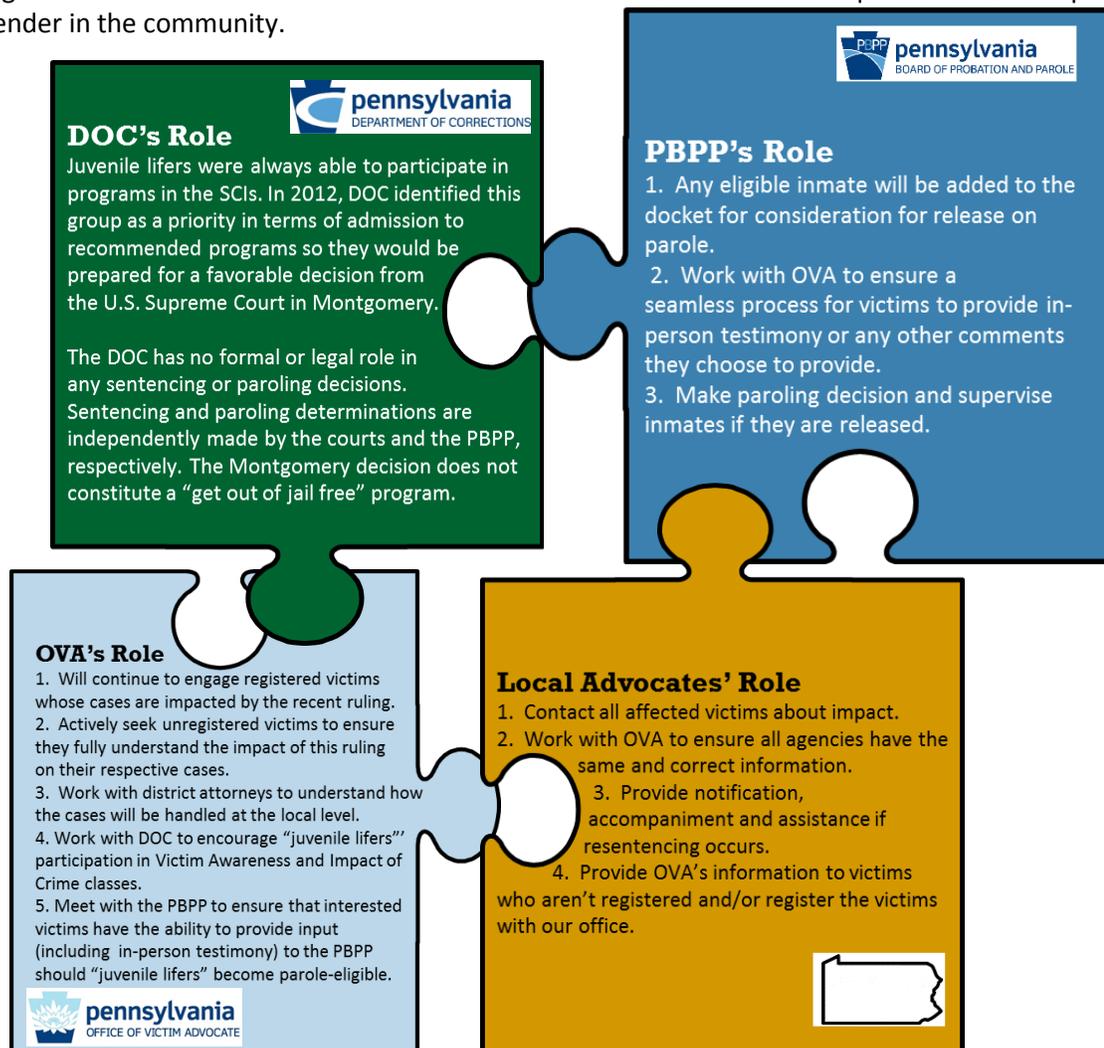
## How does the process begin?

“Juvenile lifers” must apply for a PCRA in their committing county. If the PCRA is granted, the inmate will have a resentencing hearing. Victims are granted the opportunity to provide a victim impact statement. If the “juvenile lifer” is re-sentenced, they may become eligible for a parole interview. The parole eligibility date is determined by the new dates given in the re-sentence.

If inmates are resentedenced:

- The Department of Corrections (DOC) ensures the inmate is prioritized for admission to recommended programming.
- The Pennsylvania Board of Probation and Parole (PBPP) will interview the inmate for parole consideration consistent with the re-sentence minimum date.
- The Office of Victim Advocate (OVA) will reach out to registered victims to review their legal rights to address the decision makers regarding their thoughts on parole.
- The PBPP would render a decision, and the OVA would inform registered victims of that decision immediately.

Additionally, a judge could order a new sentence for the offender of “time served” and require an extended probation period for the offender in the community.



## **VICTIM REGISTRATION** (Registrations are voluntary and confidential)

### **Who is eligible?**

- Adult victims (18 years of age or older)
- Parents/legal guardians of minor victims (until the minor reaches 18 years of age)
- Parents/legal guardians with power of attorney for incapacitated adult victims
- Family members of homicide victims

### **How can victims register?**

- Call 1.800.563.6399 during regular business hours: Monday-Friday, 8 am-5 pm
- Register thru the online form on OVA's website at [www.ova.pa.gov](http://www.ova.pa.gov) and mail in the form or email to [ra-ovainfo@pa.gov](mailto:ra-ovainfo@pa.gov)

## **Understanding parole basics**

Parole is the release of an inmate from prison prior to his or her sentence's maximum date, but after the minimum sentence date, to continue serving the balance of the sentence under supervision in the community. Parole is a conditional release that requires parolees to abide by rules that do not apply to other members of society. In Pennsylvania, parole is a privilege, not a right; it is not automatic or guaranteed.

Inmates who have served their minimum sentence are eligible for parole consideration. As a discretionary parole state, individuals are given a minimum and maximum sentence date by the judge. State sentenced inmates must serve the minimum amount of time in prison before they can be considered for parole and - if granted parole - will remain on parole supervision until their maximum sentence date.

## **If a "juvenile lifer" is re-sentenced, how does the parole process work?**

After an offender is re-sentenced, the DOC will receive the court paperwork and a new sentence status summary will be created and sent to PBPP. PBPP staff will place the offender on the appropriate interview schedule. If the time has been served by the inmate, it will be the next available docket. PBPP will request an official version of the offense, as required by law, if one is not available. PBPP staff prepares the offender for their parole interview.

On average, it takes the board and the Department of Corrections seven weeks to put together the materials needed for an interview:

**Two weeks** are needed to produce the forms necessary and to calculate the minimum date.

**Five weeks** are needed to assemble the file and add the inmate to the docket. The board works to fit the juvenile lifers into the parole interview docket schedule, which is usually set three-four months ahead of time. Currently, staff is adding an average of seven interviews to the docket each month.

### **The Parole Interview**

An interview with a juvenile lifer is unique from other inmates because it requires two board members during the interview. At least one board member is in person; the other may participate via video conference. Non juvenile lifer interviews require only one board member and one hearing examiner. Five votes from among the nine-member board are needed to grant parole.

For the parole interview:

1. A pre-parole interview will be conducted by staff with the offender to help prepare the offender for the parole interview.
2. Victims are given the opportunity to provide in-person testimony prior to the parole interview.
3. The inmate is interviewed by the board. The board will consider the same factors required by law for all adult inmates.
4. All inmates are strongly encouraged to develop an approved home plan ~ or the place where the inmate plans to live in the community. If a home plan hasn't been approved, the inmate may be placed in a community corrections center and then transitioned to an approved home plan. This process could take up to one year.

## Reentry to Society

Three weeks is the average amount of time between when a positive decision to parole happens until the actual release from prison takes place. Most of this time is spent finding a viable home plan for the individual. If no home plan is available, they are sent to a community corrections center in the region of the state, closest to home where there are dedicated resources for juvenile lifers and the focus is placed on them reintegrating back into society.

### Reentry Parole Agents and ASCRAs (Assessment, Sanctioning, Community Resource Agent)

“Living under Supervision” is a workshop offered by reentry parole agents assigned to transitional housing units and ASCRAs who are assigned SCIs for the juvenile lifer population. This workshop instructs inmates about what to expect when they are released under parole supervision. Topics include: understanding parole, conditions governing parole, home plans, understanding the board decision, violations of parole, preparing for their return to the community and what families and friends need to know about the parole process. These workshops are designed to inform inmates about the realities of returning home after a period of incarceration and to address unrealistic expectations maintained by many inmates.

ASCRA agents are also participating with the Department of Corrections' Bureau of Community Corrections in several “in reach” activities for the juvenile lifer population. This “in reach” is conducted through personal visits to institutions for question and answer periods, as well as participation in Friend and Family days at the individual SCIs. This “in reach” provides an opportunity for the juvenile lifer population to become familiar with ASCRAs who will be present at the Community Correction Centers (CCCs) if a juvenile lifer receives a paroling action and transitions through a CCC.

### Institutional Parole Agents

Institutional parole agents conduct parole education classes for all inmates, including the juvenile lifer population. Topics covered include: parole planning, home plans, the parole interview, and parole release. The purpose of this class is to educate inmates about the parole process from start to finish so inmates are informed about their status throughout the process.

### Supervising Parole Agents

Juvenile lifers returning to the community either with a home plan or into a CCC will be supervised by parole agents who have been trained and have demonstrated a proficiency utilizing the EPICS model of supervision. This model is designed to reduce risk and enhance a parolee's motivation to succeed by providing a structured interview format designed to address the specific criminogenic needs of the individual. Relying on individually tailored supervision plans, parole agents may engage in one of several interventions (cost benefit analysis, behavior chains or cognitive restructuring) aimed at addressing parolee antisocial behaviors and thoughts.

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# Paroled juvenile lifers' thoughts...

## ...about parole preparation and experiences after parole

"I prepared if the opportunity came for me to be released that I would be ready, and be ready to contribute." ~ John

"The best part is having good support from family and the church community. The hardest part is getting your ID." ~ Perry

"Being a part of society, obtaining employment and learning how to take care of myself has been the best. The hardest has been trying to catch up with technology." ~ David

"The best has been learning to use SEPTA. The hardest has been learning to use SEPTA (public transportation)." ~ Joseph

"Having a good parole agent is the best and keeping up with the responsibilities of paying bills has been the hardest." ~ Brian

"Having the support of siblings and family is the best part. Waiting on a medical procedure is hard." ~ Jeffery

"The best thing is having good communication with center staff and my parole officer. The hardest part has been understanding and using the cell phone." ~ Louis

"What helped me was preparation. You have control over the work you put in... You are institutionalized to a certain way of seeing things and doing things. Now, you have to de-program yourself, navigate in a new system and find your place. Anyone who comes out with the assumption that things are just gonna happen, things will be just wonderful are wrong... You have to put in the effort and the planning and preparation and accept that there are going to be challenges and everything isn't going to be perfect, it might not be easy, but those challenges can be overcome because they outweigh what we have already overcome by getting out of prison and having a second chance." ~ John

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**pa board of probation and parole**

[www.pbpp.pa.gov](http://www.pbpp.pa.gov)

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