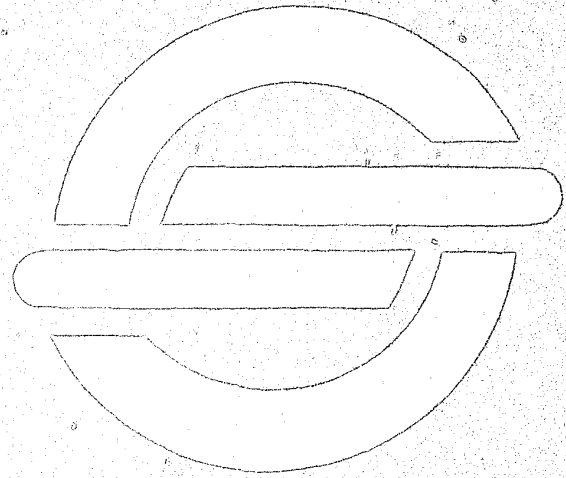




THE PRISON JOURNAL



Volume LXXX

Number 1

128204-
128216

“Long-Term Incarceration and
Long-Term Inmates.”

Spring-Summer
1990

THE PENNSYLVANIA PRISON SOCIETY

128204-
128216

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The Management of Life Sentence Prisoners in England and Wales

Barry Mitchell*

Introduction

At present there are about 2500 convicted offenders serving indefinite terms of imprisonment (Windlesham, 1989)¹ i.e. they were sentenced to life imprisonment,² or ordered to be detained "during Her Majesty's pleasure",³ or sentenced to "custody for life"⁴. The population of lifers is steadily increasing; in 1968 there were about 500, in 1975 about 1200, and in 1985 just over 2000. Moreover, the average length of time served in custody by lifers has also been increasing. In the early 1970s it was in the region of eight to nine years, whereas a decade later the figure was roughly ten and a half years. In response to this trend, the Prison Department has developed a management policy for life sentence prisoners founded on the "Revised Strategy," the modern version of which dates from about 1980. In recent years adjustments have been made to this, and the current arrangements and procedures are set out in Home Office Circular Instruction 2/1989.

The Study: Theory and Practice

As part of a larger project,⁵ I sought to examine the extent to which the Prison Department's management policy for lifers is put into practice. The data were collected from three sources. First, I interviewed⁶ a random sample of 82 convicted murderers⁷ who had all received a provisional release date.⁸ The principal objective was to talk about what had happened to the prisoner since the date of sentence: how many prisons the lifer had served in, the jobs he had done, how he had spent his recreation time, his relationships with other prisoners and with staff, how he had coped with the prospect of an indefinite sentence, and how he was preparing for release on license. Second, I was able to look at the prison file for each lifer, to examine staff reports on the prisoner's "progress". Third, I talked to a variety of staff —governor grades, uniform officers, psychologists and probation officers—who had dealt with lifers at different stages in the sentence. The idea here was simply to invite each person to describe his/her own experience and to express personal opinions about potential improvements to the system.

On the assumption that they were all released on the day provisionally given, the lifers in the sample would have served 11.35 years (11 years 4 months) on average since the date of sentence. The shortest period of detention was 6 years 6 months, and the longest was 24 years 10 months. It is worth bearing in mind that the Prison Department takes the view that it is undesirable to keep prisoners in the same establishment for too long. This is in order to prevent them from becoming so accustomed to the routine that they have no need to make decisions for themselves and thus give no indication about how they would behave if given their freedom. Obviously, those serving longer sentences are likely to be detained in a larger number of establishments. 65 of the 82 (just under 80%) were kept in no more than seven prisons, and a further nine served time in eight institutions before being released on license.⁹

Although the Department's policy is that prisoners should be detained in gradually less secure conditions, provided it is safe to do so, 37 lifers in the sample (45.1%), were transferred at some stage to a prison of equivalent security categorization. More

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importantly, eight lifers has at some stage been moved back to conditions of higher security. One lifer was thought to have been transferred to a more liberal environment to quickly and was said to be unable to cope with the sudden increase in personal freedom and responsibility. Others were moved back because they were regarded as having taken unfair advantage of the more relaxed regime and had broken prison regulations.

Management Policy

Home office policy identifies seven principles which underpin the Department's management policy, the second of which states that a lifers' first allocation should be to a main center.¹⁰ There the vital process of reviewing each prisoner begins — staff can draft reports and lifers' career plan¹¹ may then be prepared. In my study the average time waiting for this first allocation was 4.2 months—the shortest period was three days, and the longest was twelve months. Career plans are particularly important because, as the policy circular acknowledges, they "should try to reflect the kind of progression" indicated in the previous paragraph, to conditions of lower security. According to current practice, they are drafted by civil servants in the Prison Department in the light of the reports made in the main centers. Some prison staff felt that more use should be made of their opinions on the ground that they are much closer to and have more contact with lifers, and are thus in a better position to assess their needs. It is understood that the Department intends that whilst civil servants should continue to draft the plans, greater efforts should be made to take account of staff comments.

The Home Secretary is ultimately responsible for determining if and when a life-sentenced prisoner is to be released on license,¹² and release can only be permitted if this is recommended to the Home Secretary by the Parole Board. The first formal consideration of release is when the Local Review Committee (LRC) meets to make its recommendations to the Parole Board. In 1983 the then Home Secretary, Leon Brittan, announced a new procedure for setting this LRC date.¹³ It is to be fixed by the Home Secretary after consultation with the Lord Chief Justice and, if possible, the trial judge. The judiciary are asked for their views on the tariff period, (i.e. the length of time that has to be served to meet the requirements of retribution and deterrence), and the first LRC date is set three years before the tariff date. Some lifers will serve very long periods in custody, of 20 years or more.¹⁴ The Home Secretary announced in 1985 that no life sentence prisoner would be detained for longer than seventeen years without his case being reviewed by the Parole Board machinery. Thus, where the tariff is 20 years or more, the first LRC date will be set at the seventeenth year stage.

Features of Career Plans

Career plans can only be confidently prepared after the tariff date has been determined. Those concerned with plotting a lifer's progression through the sentence need to have some idea of the length of detention. There are three principal features of these plans. First, they contain a projected path, suggesting the prisons in which the lifer should be accommodated. In the "classic" case, the prisoner will move from a main center to a Category B establishment, then to a semi-open, and again to an open prison, and finally to a hostel on the Pre-Release Employment Scheme (PRES),¹⁵ from where he will be released on license. Secondly, the plans identify the perceived "areas of concern"—whether the lifer has a drink or drugs problem, whether he is unable to cope with pressure or stress, whether he has difficulties in relating to particular groups of people etc. Third, they set out what are thought to be the lifer's individual training and

treatment needs —he may require some sort of medical or psychiatric help, or educational/vocational training, or assistance with basic social skills.

Until quite recently, the Department sought to make career plans available by the time prisoners had served about three years since the date of sentence. One of the main criticisms which staff constantly voiced was that in practice four or even five years elapsed before the plans materialized. In other words, lifers were well into or occasionally more than half way through their detention before vital information became known to those who were most closely monitoring their progress and writing reports on them. In 1987 the Divisional Court was heavily critical of such delays,¹⁶ as a result of which the present Home Secretary announced various adjustments, with effect from 1st October of that year, in an attempt to provide the relevant details more readily. As for those sentenced before October 1, 1987, the Prison Department has undertaken a "catching-up" exercise and in most cases the judiciary's thoughts on tariff have been obtained and first LRC dates have been set.

The case of each lifer should be reviewed regularly and at various points staff are asked to submit F75 reports to the Department, the first set of which precede the drafting of career plans. These plans were only introduced in 1980 so that for some lifers no plan will have been prepared. It is envisaged by the Department that after a copy has been forwarded to the prison a member of staff should convey the essential features of the career plan to the lifer concerned. Some uniform staff expressed confusion about the confidentiality of the plans, although the accompanying guidelines indicate the need for communication and explanation. Prison staff universally accepted that career plans are useful management aids, but they stressed the need for them to be regularly revised and updated in the light of developments that might only become apparent at a relatively late stage in the sentence.

Transfer Policy and Risk Assessment

It is the policy of P2 Division, the Life Sentence Section which is responsible for most lifers, that prisoners should be transferred to a semi-open establishment¹⁹ as soon as it is practicable and safe to do so. Whilst the tariff is determined by the requirements of retribution and deterrence, prison staff and the Department concentrate on the other major factor in considering whether and when to release a lifer, namely the risk that is posed to the public. This is not something that can be assessed in a wholly scientific or foolproof way. Moreover, assessment is virtually impossible while the lifer is detained in closed conditions where he is given only a very limited opportunity to make decisions for himself. Testing suitability for release can best be carried out in semi-open or open conditions where the regime is more informal and relaxed, and prisoners are more able to be responsible for their own conduct.

The present survey, only 48 of the 82 lifers (58.5%) spent time in both Category C and D prisons, 2 were never transferred to an open establishment, 28 (34.1%) went directly from a Category B to a Category D prison, and 4 served no time in either type of institution.²⁰ It is worth noting that those who were never moved to semi-open conditions tended to have been sentenced more recently, i.e. from 1977 onwards. Furthermore, the average aggregate time spent in Category C and D prisons was barely more than 3 years 1 month —the longest period was 6 years 10 months, and the shortest was 4 months. During my discussions with staff, particularly those in Category C and D prisons the opinion was frequently expressed that lifers should spend longer periods in these conditions so that the assessment of risk might be improved. However, it is only right to acknowledge that the Department claims that the situation has since changed. About

1000 lifers are currently held in semi-open conditions, and more establishment — especially Category C prisons — now accommodate life-sentence prisoners.

Transfer to a semi-open prison may be seen as a “step in the right direction,” but it also signals a diminution in what are generally known as “perks and privileges.” The lifers I spoke to on this issue unanimously denounced it as an example of sheer bloody-mindedness. Why should they suddenly have to give up wearing their own shoes, or having their own bedspread, or keeping a budgerigar in their room? Staff generally agreed, although one governor in a semi-open prison argued that perks were necessary in the early and middle stages of the sentence to appease prisoners and keep them happy, but this no longer applied by the time they reached Category C environments. It is understood that the Department is aware of the disquiet amongst the lifer population and is considering whether to reduce the level of perks and privileges in closed establishments.

One of the principal objectives of the Department's policy is to encourage lifers to take a constructive approach to the time they spend in detention. Given that the vast majority of them will not remain in custody for the rest of their natural lives, the desire is to maximize the chances of successful re-establishment in the community. The Department seeks to use the period of imprisonment to identify and remedy any problems or deficiencies which might prejudice this. Understandably, however, anyone facing an indeterminate sentence may find it difficult to contemplate a future outside prison. Common sense suggests that this will be most acute in the early and middle stages, when the lifer either has not been told how long he is likely to serve in prison or his earliest possible release date is still some way off.²¹ Of the 82 lifers interviewed, 20 (24.4%) said they could begin to look ahead to release whilst in a main center, and 17 (20.7%) were in a Category B prison. For 10 (12.2%) it was only when transferred to a Category C establishment that they were able to do so. A further 5 (6.1%) could only think about release when moved to open conditions. But for 29 (35.4%), thoughts of the future were precipitated when they received their provisional date. The other lifer said he made no plans at all until he was at a prison hostel on the PRES.

Each of the 29 who made up the largest single group felt that regardless of what had been indicated to them by staff and/or other prisoners, and of the implications of being transferred to lower security-establishments, their situation had always been so uncertain that they could not or dare not think about release. Many had learned from bitter personal experience that they could not rely on encouraging remarks or statements about their projected progress. Many had been shocked and dismayed at what happened to other lifers who were ultimately detained for longer than expected.

It was extremely difficult to identify any characteristics of lifers which would indicate whether they are like to be able to consider release at a particular stage in their sentence.²² The one possible exception was previous experience of custody. It is dangerous to attach any real weight to the figures because some of them are very small, but it is worth noting that 50% of those who could think about life outside prison in the first three years of their sentence had previously served a custodial sentence. (In other cases, the proportion with such a background was usually much lower.)

As well as the indeterminacy of their sentence, lifers are subjected to regular review of their progress. Without exception, those in the sample were always aware of the fact that they were constantly being watched and their behavior analyzed. Of course, they knew it was being done with the ultimate aim of assessing their potential safety to the public, but it also added to the list of stresses they had to endure and further distinguished them from fixed-term prisoners.

Training and Education Programs

One of the obvious ways in which lifers can make use of their imprisonment is by undertaking educational and/or vocational training courses. Some require assistance at a very basic level, either in reading and writing etc., or in social skills. Others need something more advanced. All but 14 of the lifers in the study pursued courses of some sort; 43 (52.4% of the total sample), did them in an effort to enhance their prospects of obtaining employment when released; whilst 25(30.5%) simply wanted to help pass the time. However, a number of reservations were expressed about the provision of courses, especially by lifers, but also some staff. First, many prisons offered only a limited variety so that there was nothing of interest to the lifer. Second, transfers or impending moves to other prisons could also be very unhelpful. A lifer who is in the middle of a course may be transferred to another establishment where his course is unavailable. Alternatively, a lifer may wish to embark on a particular course but will be dissuaded from doing so because he expects to be moved in the near future and is not sure he will be able to complete it. Staff accepted these criticisms, and added the point that more care needs to be taken with the timing of these courses. All too often, a lifer has undertaken a course to improve his employment prospects some years before he is released, so that by the time he is actually doing the job he has probably lost some of the benefit of the course. In such instances, some sort of refresher course seems to be the obvious answer.

Prisoner Perceptions

The likelihood of a prisoner adopting a constructive approach towards his detention raises a number of issues, including his feeling about the justification of his conviction²³ and sentence. A sense of injustice is clearly likely to have an unsettling effect and produce a negative attitude to the system. Seven lifers denied any responsibility for the victim's death, though 4 of these accepted they were peripherally involved in the incident. Another 52 (63.4%) admitted responsibility for killing, either alone or with others, but maintained they ought to have been convicted of manslaughter rather than murder. (35 denied acting with malice aforethought, whilst the remainder claimed they had been provoked to kill). Only 22 (26.8%) agreed with the conviction for murder.

Prisoners' thoughts about the justification of the sentence ought not to be dismissed simply because of their subjectivity. There is an obvious danger that the lifer may reach the point where he feels he has been imprisoned for too long so that he becomes unsettled and loses motivation. Taking into account their view of the heinousness of the crime and the progress they felt they had made, nearly two-thirds of the lifers in the sample —perhaps not surprisingly — felt they had been detained more than necessary, usually by a matter of two to four years. In some cases their comments were supported by those of prison staff. Naturally, all of them prefaced their remarks by acknowledging the difficulty of measuring the loss of liberty against the loss of life, but only nine were unable to offer any answer. Eighteen thought they had been punished correctly, and one man felt he ought to have served a longer sentence.

In their written reports some staff expressed concern that lifers were in danger of being detained in custody for too long. The writers clearly felt that there is an optimum time at which a prisoner should be released so as to maximize his chances of successful re-establishment in the community. These views confirmed in talks with staff, especially those who work in open prisons, and it was stressed that not only might the prospects for successful release be threatened but also the task of staff in those prisons in motivating and encouraging lifers becomes distinctly more difficult.

Release Planning

The current policy is to release lifers through the Pre-Release Employment Scheme, which means that they will spend the final months, usually the last six or nine, at a prison hostel. This is the period which most closely approximates to life outside, for the lifer has to obtain a job in the community, although he will have his morning and evening meals and he will sleep in the hostel. The idea is that he can get back into the routine of an ordinary working lifestyle, hopefully resume some sort of social life outside the prison environment, and perhaps save a little money. When the lifers in the sample were interviewed only 22 (26.8%) had had any direct personal experience of PRES, although they all understood its rationale and how it worked, 46 (56.1%) felt it would serve a useful purpose to them personally for the reasons given above. But 32 (39.0%) thought that whilst they would not personally derive any benefit from it, the Scheme might help those who had no support from family or friends and who were thus approaching release largely by themselves. Four felt that PRES could be of no value to anyone. For them, life in any form of penal institution, regardless of the nature of the regime, is unreal and cannot hope to offer any lessons for what will happen they are released. It is understood that the Department will soon be reviewing the PRES, and envisages that more routes out of the system will become available.

Prison Conduct

As a general rule, the tariff date represents the earliest point at which a lifer may be released on license. Yet it is, at least theoretically, possible for the release date to be brought forward where the Home Secretary is satisfied that exceptional progress has been made during imprisonment. The provision for such exceptions is important. Some of the wider implications of the apparent dominance of the tariff have already been identified by Maguire, et al. (1984).²⁴ It was therefore interesting to note that more than three-quarters (63 out of 82) of the lifers interviewed always felt that good conduct and a positive attitude to the sentence could never hasten the timing of their release. Bad behavior could, on the other hand, delay it! A further twelve said that conduct in prison was simply irrelevant: shortly after conviction a period of imprisonment is determined and that can never be altered unless something quite extraordinary occurs. For them the single relevant factor is the gravity of the offense as perceived by the Prison Department and the Home Secretary. Only seven lifers showed any optimism about the matter, and they tended to express their feelings as hopes rather than expectations. No one felt confident that good conduct would be of any benefit.

There comments about the insignificance of good behavior in prison was typical of a gener distrust which lifers had in the penal system, and in some respects the staff sympathized with the prisoners. Expectations generated by encouraging comments from staff proved to be unfounded, there was an apparent inconsistency in the way in which lifers were treated, and (predictably) the system was inefficient—the classic example of which was the delay in getting the results of parole applications. Very few of the lifers interviewed expressed any confidence in what they had been told by staff. Most said that a few staff seemed to mislead them quite deliberately (regarding this as part of their just deserts), whilst many were simply out of touch with the views of the Department and the Home Secretary.

Since one of the basic objectives of the Department's policy is to remedy prisoners' training or treatment needs, I felt it would be interesting to elicit the lifers' own views on the impact of their incarceration. Criminologists have been and still are very concerned about the possibly damaging effects of long-term imprisonment,²⁵ and the comments of both lifers and staff showed a keen awareness of this. Many prisoners stressed that

measures they had taken to maintain a strong sense of what was happening in the outside world. When transferred to more liberal institutions, they almost invariably denied experiencing any problems of adjustment. In contrast, staff felt that many lifers did show signs of having difficulty in coping with more freedom and being left to make decisions for themselves. Over three-quarters of the lifers said that their sentence had had no apparent effect on them. Quite a few felt they had "mellowed" as the years passed, but attributed this simply to the natural process of aging; eighteen suggested that imprisonment had helped them to mature. They had met people who had had to overcome greater problems than their own. They had learned to be more tolerant, and how to deal with difficult or stressful situations. One young man though, could not say whether, on balance, he had benefited from his imprisonment. He had matured and learned to understand and control his emotions, but he had also become rather devious through having to find ways of dealing with what he saw as the pettiness of prison regulations.²⁶

Concentration or Dispersal?

At a more general level, there is the important question of whether lifers should be detained separately from other prisoners, or whether the Department's current policy of integration should be continued. The Revised Strategy accepts that lifers have "special needs, because of the indeterminate sentence and the psychological and practical problems created by that", (Circular 2/1989, para. 9(i)), but does not generally accommodate them in separate prisons. In practice there seems to be some variation in that sometimes all lifers are accommodated on one wing (often with other long-term prisoners), whereas in other prisoners they are spread throughout the institution. On the whole, staff regard lifers as a settled group and thus find it very tempting to disperse them throughout the prison so that they might have a stabilizing influence on other prisoners. Kingston Prison is perhaps an exception insofar as its inmate population are all serving indefinite (or in one or two instances lengthy determinate) sentences. Some staff complain that the more professional offenders sometimes had adverse, "contaminating" effect on the other, less sophisticated ("domestic") lifers. The governor, however, indicated that as soon as such dangers appeared the offending professional criminal transferred to another establishment.

Since indeterminacy is a characteristic of their sentence which distinguishes them from fixed-term prisoners, it may be thought that lifers tend to associate only with those in the same predicament as themselves. It was found that 27 (nearly a third of the sample), mixed only with other lifers, one mixed only with short-term prisoners, and 47 (57.3%) associated with all sorts of inmates regardless of the length of sentence. Two main reasons were given for keeping out of the way of short-term prisoners in particular. Many of the latter were "high-spirited" young men who quite frequently broke prison regulations, and so any apparent involvement with them could be extremely damaging to lifers. Being associated with the antics of such "young tearaways" could delay a lifer's release by a matter of years. Second, it was said that short-term prisoners were in the habit of talking constantly about their impending release and their personal problems, which some lifers, especially those for whom there seemed to be no sign of release found very stressful. Conversely, comments were also made that mixing short-term prisoners was beneficial because by talking about what was happening in the world outside they helped lifers to retain a sense of reality — of what life was like beyond the prison walls and of the sort of problems lifers would have to face when finally released. This was one way that some lifers thought they might stave off institutionalization.

Implications For The Future

The growing numbers of life-sentence prisoners and the apparent increase in the

time spent in custody may indicate that more accommodation must be found for them within the penal system. Paragraph 9(iii) of Circular 2/1989 states that "A wider variety of prisons should accommodate lifers", and adds that "further locations will be added as overall numbers increase". Thus, over the last 12 to 18 months provision has been made for lifers at 11 more prisons, (mainly Category C establishments).

It is clear that some lifers do not follow a simple path leading to a gradual diminution of personal restrictions. Whether as the result of being transferred too quickly to liberal conditions, or on the manifestation of a previously latent area of concern, a few prisoners will at some stage be moved to a more closed environment. This obviously reinforces the need for flexibility and for the constant reviewing and updating of career plans.

Early Career Planning

If career plans are to be an effective managerial tool in establishing a sense of purpose and direction, they should be available at a relatively early stage in the sentence. In addition, the success of career plans in generating a constructive attitude towards detention appears to be seriously undermined in the light of lifers' views about their ability to quicken their release. If the tariff assumes unqualified dominance, then in the early and middle stages in particular, lifers will be disinclined to use their imprisonment positively and correspondingly staff will find it very difficult to motivate prisoners and are likely to regard their reports as of only limited value. In addition, there is the danger that lifers who are detained beyond the optimum release time will incur greater problems adjusting to life in the community. Thus, the extent to which the Home Secretary exercises his power to bring forward the tariff date is crucial. There is a very efficient grapevine within the prison population and the way in which the Home Secretary uses his prerogative in this respect will be very closely monitored by lifers.

Role of Staff

The Department's stated intention to make greater use of the time spent with lifers by prison staff is naturally to be welcomed. However, one of the most striking features of many of the reports on lifers, especially those written by uniformed officers, is that they were both extremely brief (sometimes no more than four or five lines), and of a purely descriptive nature. It will therefore be necessary, as those interviewed universally recognized, for staff to be properly trained in appropriate aspects of human behavior and psychology and in report-writing. Those who have regular contact with lifers must have the necessary skills to analyze and assess prisoners' progress, and to communicate this to their colleagues and to the Department.

Both in absolute terms and as a proportion of the overall period of detention, lifers spend relatively little time in the more liberal conditions which prevail in semi-open and open prisons. The task of prison staff in assessing the question of risk to the public is extremely difficult and requires adequate time if it is to be attempted with any real degree of seriousness and confidence. There is evidence that the staff themselves have genuine doubts about the current situation, and it is to be hoped that the Department's stated intention of transferring lifers to Category C establishments as soon as it is safe to do so will be carried out. Certainly, the results of this study suggest that the process should be hastened so that lifers are given more opportunity to show how they behave when given greater personal responsibility.

Some trepidation must be felt at the Department's proposal to reduce the perks and privileges permitted in closed prisons so as to bring them into line with those in semi-open and open institutions. It surely represents a recipe for unsettlement in closed establishments. Notwithstanding the view of one governor who works in a Category C prison that there is no need for the same level of perks and privileges as there is at earlier stages of the sentence, lifers themselves clearly resent the current policy. More significantly, many of them complained that the benefits to be derived from what is essentially a step nearer to release are effectively nullified by what is seen as an example of the pettiness and bloody-mindedness of the Department. The obvious solution is to bring the perks and privileges in semi-open and open prisons into line with those in closed institutions. This ought not to be seen as a major concession to prisoners, but merely as a matter of managerial common sense.

One of the unsurprising implications of this study is that there is a very real need for more resources in the lifer system, especially those of a financial nature. Reference has already been made to the requirement of a thorough program of staff training. A likely cause of further expenditure is the expansion and improved organization of the provision of educational and vocational training courses for lifers. The additional drain this would be on the Treasury's resources may not be as great as might initially be imagined, for the difficulties highlighted in the study may be at least partially remedied by better planning of prisoners' future needs. Moreover, the point made by one prison officer that lifers should, just before they are released, receive training that is relevant to their subsequent employment, is obviously sound.

Although the Department's stated policy is to integrate lifers with other prisoners, there seems to be some evidence of de facto separation. The claim made by the governor at Kingston Prison that professional criminals are quickly transferred if they are thought to have a contaminating effect on their less sophisticated counterparts is a clear illustration. To a lesser degree, separation is achieved in those establishments where lifers (and other long-term prisoners) are accommodated in different wings from those serving shorter sentences.

From a management perspective, there are two distinct potential advantages of integration. First, lifers can be used as a stabilizing influence on other prisoners. The vast majority of lifers want to get through their sentence quietly and as quickly as possible, and thus have a vested interest in avoiding any disruption. Second, staff appreciate that integration with short-term prisoners is a common cause of stress and they use this as an aid in their assessment of risk to the public which lifers would pose if released. Coping with pressure and dealing with difficult situations are regarded as important indicators of a lifer's progress.

On the other hand, many lifers argued that whilst they fully accepted the need for them to be tested, the problems caused by integration were unrealistic and thus a false means of determining their suitability for release. For them, the simplest and usually most effective way of avoiding trouble is to walk away from it, yet integration largely denies them the opportunity to do so. This is particularly true when they are accommodated in dormitories where prisoners are serving a variety of sentences. Even where lifers are assigned to single rooms, they will not be able to avoid short-term prisoners entirely, during recreation or whilst at work or at meal times.

It may be argued that separation is undesirable because it is likely to encourage lifers to think they are unique, and that integration is necessary both to dispel this belief and to demonstrate their ability to deal with difficult situations. But as the Revised Strategy acknowledges, lifers do have special needs by virtue of the indeterminacy of their sentence, and this study has provided evidence that many of them regard integration as another example of blood-mindedness on the part of the Home Office.

Rather than working with the prison system in an attempt to resolve their personal problems and inadequacies, lifers often feel they are simply being made "to jump through hoops." In other words, insistence on a policy of integration appears to undermine the achievement of the Department's major objective of maximizing the chances of successful reestablishment in the community.

Footnotes

¹An interesting account of the current state of the indeterminacy of such sentences was recently published in Lord Windlesham, "Life Sentences: The Paradox of Indeterminacy" (1989) *Criminal Law Review* 244-56.

²Such a sentence is mandatory where an offender is convicted of murder and who was aged at least 21 years at the time of the offense - see section 1(1) Murder (Abolition of Death Penalty) Act 1965 - although the sentencing judge may recommend to the Home Secretary that a minimum period of imprisonment should be served before release on life license. Life imprisonment is also the maximum sentence for other serious crimes such as manslaughter, robbery, rape, aggravated burglary and arson.

³By virtue of section 53(1) Children and Young Persons Act 1933, a person convicted of murder and who was under 18 years of age at the time of the offense, will be sentenced to be detained "during Her Majesty's pleasure." This is very similar to life imprisonment, though the offender is detained "in such a place and under such circumstances as the Secretary of State may direct". Under section 53(2), those aged under 17 years when they commit offenses other than murder for which a life sentence may be imposed on an adult may be ordered to be detained for life. This is effectively the same as detention during Her Majesty's pleasure.

⁴A person who commits murder when under the age of 21 years should, according to section 8(1) Criminal Justice Act 1982, be sentenced to "custody for life", unless he is liable to be detained during Her Majesty's pleasure. If the court thinks it is appropriate to do so, it may impose a similar sentence on a person aged at least 17 but under 21 years who commits any other offense for which a life sentence may be passed on an adult, (see section 8(2)). "Custody for life" is similar to life imprisonment, except that "the Secretary of State may from time to time direct that an offender....who is female, or who is male and under 22 years of age, is to be detained in a youth custody center (now known as a young offender institution in the light of the Criminal Justice Act 1988) instead of a prison", (see section 12(7)).

⁵The Home Office provided a grant to fund a two-part project. The first part examined the nature of 250 cases of people convicted of murder between 1978 and 1982 inclusively. A fuller account of the whole study is due to be published in *Murder and Penal Policy*, by The MacMillan Press Ltd..

⁶In every case the interview took place in a room where there was just the lifer and myself. With one real exception, the lifers were detained at the time in an open prison or in a prison hostel. One young man, however, was in a non-dispersal Category B prison, (and was soon to be transferred to a hostel). He was an epileptic and it was felt inappropriate for him to serve time in a Category C or D establishment because of the possible physical danger to himself. (Another younger man was being detained at a youth custody center, but in conditions very similar to those which are operated in a hostel).

⁷Convicted murders constitute about 75% of the total population of life-sentence prisoners. (A further 10% have been convicted of manslaughter).

⁸There were two reasons for this qualification. The interviews sought to elicit information about what had happened during imprisonment. I was also keen to assure potential interviewees that their participation in the project would have no bearing on the timing of their release.

⁹These figures do not include instances where only a very short time was spent in a prison, e.g. whilst en route from one establishment to another, or whilst having accumulated visits. But they do include time spent in hostels.

¹⁰There are three main center prisons — Wakefield, Wormwood Scrubs, and Gartree. For females, Durham (H wing) fulfills this function. Young male lifers are usually initially allocated to Aylesbury, Castington, or Swinfen Hall. Juveniles are normally sent to local authority community homes or youth treatment centers.

¹¹Career plans are not prepared in respect of Category A prisoners.

¹²See section 61 Criminal Justice Act 1967.

¹³Previously, a Joint Committee, originally set up in 1973 and consisting of the Chairman and Vice-Chairman of the Parole Board, a psychiatrist from the Board, and two senior officials from the Life-sentence Section of the Prison Department, recommended to the Home Secretary when the first parole review by the LRC should be held. This consultation between the Joint Committee and the Home Secretary usually occurred when the lifer had served about three years. The new procedure was first announced in a speech at the Conservative Party Conference at Blackpool on October 11th, and was then amplified in a statement to the House of Commons - see House of Commons Debates, vol. 49, Written Answers to Questions, 30th November 1983, col. 514.

¹⁴The then Home Secretary, in 1983, identified four broad categories of cases where such a term could normally be expected, *vis a vis* murders of police or prison officers, terrorist murders, sexual or sadistic murders of children, and murders by firearm in the course of robbery. He added that other types of cases might also attract similar or even longer periods of detention.

¹⁵This is discussed more fully below.

¹⁶See *R-v-Secretary of State for the Home Department, ex parte Handscomb and others* (1988) 86 Cr. App. R. 59-84.

¹⁷House of Commons Debates, vol. 120, Written Answers to Questions, 23rd July 1987, cols. 346-348.

¹⁸According to the Home Secretary's announcement, the tariff period should be "related to the determinate sentence that would have been passed but for the element of mental instability and/or public risk which led the judge to pass a life sentence and will also take account of the notional period of the sentence which a prisoner might expect to have been remitted for good behavior had a determinate sentence been passed". In murder cases the question of a national equivalent determinate sentence does not arise, and the Home Secretary said that he would take account of other factors, apart from the views of the judiciary, such as the need to maintain public confidence in the system of justice.

¹⁹There are no semi-open prisons as such which accommodate female prisoners. P4 Division, which is responsible for female lifers, argues that it is the nature of the regime within the institution rather than the physical manifestations of security which are

important, so that female lifers who would otherwise be transferred to a semi-open prison are accommodated in closed prisons and then moved to an open establishment.

²⁰One was a young man suffering from epilepsy, mentioned in footnote 6. Another, also referred to in footnote 6, was aged only 14 at the time of the offense. He had made substantial progress, and there was no suitable semi-open or open prison available for him. It was possible to simulate hostel conditions at the youth custody center where he had been detained, and the Department felt able to adopt a rather experimental approach in his case. The third lifer had been detained for a considerable time in closed conditions and was in danger of becoming so institutionalized that his re-establishment in the community would be markedly prejudiced. He was well supported by his family, and spent the last nine months of his detention in a hostel. Finally, a lifer had been recalled to prison on four occasions after his first release on license in 1977. There was never any doubt about his ability to look after himself, so that semi-open and open conditions were regarded as unnecessary.

²¹Interviews showed that right from the start some lifers had an idea of what a life sentence might mean—they knew what the average length of detention was. But many had little or no idea of the implications of being a lifer, and most expressed no confidence in the intimations they received from lawyers, prison staff, or fellow prisoners.

²²A feature of the study was that it was very difficult to identify any general trends or patterns. Neither the personal details of the lifers, nor the nature of their offenses, tended to indicate their likely attitude towards the sentence.

²³Although staff stress the need for prisoners to accept responsibility for their offenses and come to terms with what they did, it is only right to acknowledge that there is no absolute insistence that each and every lifer must satisfy staff that he genuinely admits liability for the crime of which he was convicted. In a few instances, staff may accept or sympathize with the lifer's account of what happened even though that differs from the view adopted by the court.

²⁴See Mike Maguire, Francis Pinter and Catherine Collis, "Dangerousness and the the Tariff" (1984) *British Journal of Criminology* 24:250-268. The authors point out, for example, that the judiciary are given a central role in determining the minimum lengths of detention by making confidential recommendations to the Home Secretary, whereas the sentencing function ought to be carried out in open court. Furthermore, the Home Secretary's policy of categories that attract minimum periods of 20 years detention effectively enables him to usurp the role of the judiciary (especially the Lord Chief Justice) in assessing the penalty that is necessary in the interests of justice.

²⁵See, for example, Stan Cohen and Laurie Taylor (1981), *Psychological Survival: The Experience of Long-Term Imprisonment*. Harmondsworth Penguin; and J.B. Coker and J.P. Martin. *Licensed to Live* (1985) Oxford: Basil Blackwell.

²⁶One of his hobbies was long-distance running which effectively meant that he needed more food than was normally permitted. His official request for extra food was rejected, so that he had to obtain it "unofficially", a practice of which staff were fully aware!

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