CAN YOU HEAR US?

Infinity Lifers Group, Collins Bay Penitentiary

The following article is a recapitulation of opening statements and a brief presented to the Standing Committee On Justice and Solicitor General (Government of Canada 1988), chaired by David Daubney, by the Infinity Lifers Group of Collins Bay Institution. Original articles were produced by Rick Alexander, Rick Sauve, John Dunbar, and Ted Bennett. This article was prepared for the *Journal of Prisoners on Prison* by Rick Alexander. All views are strictly those of the Infinity Lifers Group and may not necessarily be held by other groups throughout the system.

This brief was put forth on behalf of the Infinity Lifers Group of Collins Bay Institution. It only deals with life sentences and the release of prisoners with that sentence and not with fixed or determinate sentences. We feel a number of misconceptions regarding the life sentence exists which must be thoroughly understood before one can adequately appreciate this or any other brief on this subject. We have deliberately omitted the use of statistics because, although they can be used to support any argument, their greatest effect is to dehumanize and cloud the issue.

Perhaps the most important, yet least understood, aspect of a life sentence is that it means just what it says, a life sentence is a life sentence. It is often misunderstood that when a number is affixed to a life sentence, that number becomes the date the prisoner is released back into society. This creates confusion for the public at large,

particularly when the number becomes the reference point that is used by prisoners and officials alike. The date attached to a life sentence is only the earliest date of eligibility for parole and is not an automatic release date. Prisoners released on parole with life sentences are on parole for the rest of their lives; that is reality. Rarely is a Lifer released at her/his earliest date; that too is a reality.

We respond to nine questions that the Daubney Committee has raised as they apply to life sentences. The views expressed in this brief are put forth by a lifers group and may not be held by other groups within the system. We are not experts in the field of criminology although collectively we have hundreds of years experience in the prison system. We have insight into what works and does not work, what is realistic and what is not. We are hopeful that the reader will consider seriously our views.

1. Should there be [a twenty-five year] minimum sentences?

The twenty-five year minimum sentence is both inhumane and totally unmanageable. When the noose was abolished in 1976 in its place we were provided a mirror with which to watch ourselves fade away. We most often ask ourselves if we survive this sentence physically, can we survive it psychologically? We have watched as others with this sentence realize that they can no longer handle it and take their own lives, while others give up and go mad; and always that mirror is there. Will the face in it be the next to go?

It is extremely frustrating to be told year after year that there is nothing that can be done for those of us with twenty-five year sentences; our sentences are too long. What realistic chance does a prisoner who is faced with this sentence have to find her/his place back in society after twenty-five years. Our parents may well have passed away, our children grown, and friends long since gone. What chance do we have to find any kind of employment after being removed from the work force for so long? For that matter, how many of us will face retirement age before or near our parole date.

Since 1976 over 350 men and women have received

the twenty-five year sentence, enough to fill one of these prisons. There are more than fifty such sentences received each year. At this rate before the first prisoners have reached their parole eligibility date there will be enough twenty-five year prisoners to fill three federal penitentiaries in Canada. The twenty-five year sentence is just too unmanageable from our perspective and that of prison officials.

The minimum twenty-five year sentence should be removed. In its place a system should be implemented whereby the prisoner first appears after five years before a panel set up by the National Parole Board. After careful evaluation and examination of all files and court documents, the Board would spell out to the prisoner what is expected of her/him before s/he will be eligible for any type of release. The Board may indicate how far along through the prison system the person will have to go before s/he is eligible, what psychological assessments and treatment needs to be carried out. For example, skill training, alcohol and drug treatment would all be laid out by the parole panel for the prisoner to follow.

In some cases the prisoner may have addressed all or most of the areas already and the Parole Board may be in a position to initiate some form of gradual release, such as a limited Escorted Temporary Absence (ETA) program. The Board should make recommendations about the prisoner's program before s/he can expect any type of positive decision for release, or it should indicate why a negative decision was made. Information should be relayed to prisoners so they can have a clear understanding of what is expected of them. This will allow prisoners to effectively manage their sentences. Contrary to popular belief, this is not being done. At present, the main determining factor for movement down through the system is time. At present, it is conceivable that a prisoner can obtain release with minimal effort.

All too often prisoners serving a life sentence are left to try and develop their own programs. Prisoners may develop a successful program, but frequently they are left to stumble blindly looking for direction, or, in prison jargon

"just putting in time." We feel Corrections Canada should place the emphasis on efforts to aid the prisoner's progress down through the system and to help institute change and prepare her/him for release. The Parole Board should decide who will be released and when. In order for them to adequately and professionally make that decision, the Board should have as much contact with the prisoner as possible. Similarly the Board should have greater input by detailing programs in which prisoners should participate. This would assist the Parole Board in their decision making and benefit the prisoner by spelling out clearly what is expected of her/him.

When time is the determining factor, too much emphasis is placed on it. Programs suddenly get based on time frames. Many problems are left unchecked throughout a prisoner's incarceration; as the eligibility date closes in, there is a sudden rush to find a quick fix solution.

2. Should there be maximum sentences?

A life sentence is a maximum sentence. Some individuals probably never will be released and sadly indeed never should be released. However, the Correctional Service and Parole Service would make that determination by thoroughly and professionally examining each case on an individual basis. Increased contact with the Parole Board and a better developed system for the sharing of information should help to identify cases falling within that category.

3. Is there undue disparity in sentences imposed by the same or different judges for the same offence?

In order to address this questions it is necessary to understand that the Criminal Code of Canada has categorized murder as either first or second degree. This in theory may be appropriate, however, because human beings are not infallible, what most often determines whether a person is found guilty of first or second degree is how the case is presented and argued by both the Crown and defence. Sometimes, court decisions may be the result of plea

bargaining, which may not be an adequate reflection of what the case was all about. For example, all too often the excuse of striking a favourable deal in exchange for information to supposedly assist in police investigations distorts the judicial system, even from our point of view. Similarly, this same type of reward system plagues the penitentiary system today. We believe that people suddenly become credible and receive preferential treatment and favourable parole decisions for disclosing information to police and/or prison officials. Therefore, we propose that the distinction between first and second degree be removed, and a charge for murder become just one charge. Crown and defence counsel would argue a case on its merits and juries would reach verdicts on the same basis.[1]

Our proposal to remove this distinction along with our proposal to eliminate the minimum time attached to life sentences would help decrease the likelihood of disparity in sentences. Similarly, the system of the Parole Board laying out what will be required of prisoners before they can achieve their release will help to insure that prisoners are putting their time to good use as opposed to "just putting in time."

4. Should there be guidelines from which judges may vary a sentence in particular circumstances?

With respect to life sentences, the judge should, in our view, be in a position to dictate how a sentence should be handled and what, if any, special needs should be addressed. In most cases today, a judge may suggest to a prisoner what special needs or treatment s/he should seek out

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1. Often the distinction between first and second degree murder is not the result of the judge trying the case but of the efforts of police and Crown attorneys. All too often the main players in an offence receive preferential treatment over lesser players because of plea bargaining. One has only to examine the recent case of Yves Trudeau and the sentence he received after assisting the police. Trudeau, confessed to forty-three murders between September, 1970 and July, 1984. He was given a seven year sentence and $10,000 a year for his testimony against members of the Hells Angels who were on trial in Quebec for the slaying of several other members of the Hells Angels motor cycle club (See Lavigne 1987: 335-337).

upon entering the correctional system. However, it is often left at that.

We propose that an evaluative file be prepared by the judge which would accompany the prisoner into the prison system as a court document and be provided to all parties concerned. Often a case of murder is a situational offence and these situations are discovered and explored during the trial. These situations should be addressed, and, if possible, corrected. The file would be valuable in directing this process. It would provide information for greater insight for the Parole Board in determining what a prisoner should be doing to insure that the particular situation never arises again, and, if it does, how to deal with it. It would provide for the prisoner a clear definition of how and why her/his offence occurred and how s/he can work to correct that.

5. Should the victim['s family] be involved in the sentencing process?

It is our view that the victim's family should not be involved in the sentencing process; however, they should be consulted as to the way the sentence should be carried out. This could be done when the evaluative file, which we have proposed, is prepared by the presiding judge; however, its influence on the prisoner's program should be limited. We feel that the Citizens' Advisory Board may be able to assist in overseeing that recommendations put forth by a victim's family are being carefully considered throughout the sentence.

6. What impact does conditional release have on sentencing?

Conditional release is a process of gradual reintegration back into society. In the case of Lifers this process begins with Escorted Temporary Absences, then Unescorted Temporary Absences, followed by Temporary Absences, Day Parole and Full Parole. Conditional release may have some influence on the number attached to a life sentence. For example, a prisoner with a ten year mini-

mum life sentence in theory may be given a Day Parole after seven years. However, it is the policy of the National Parole Board not to grant a Day Parole to a halfway house until the prisoner has served at least nine years of his/her sentence. This is done regardless of any accomplishments and projected success of the prisoner. We do not feel that the conditional release should be interpreted as a blanket policy decision in this manner. It is our belief that the original intent of the conditional release was twofold. On the one hand it was to assist the prisoner in making that transition from a total institutional environment into a less restricted environment; on the other, it was to reward prisoners for successfully displaying a genuine and sincere change.

It is obvious to many prisoners that the Correctional Service interprets unfairly who should and should not appear in front of the Parole Board. At present the Service uses what it calls an Inmate Training Board to recommend who they will or will not support to the Parole Board. Often the decisions of the Inmate Training Board are contrary to the recommendations of the prisoner's Case Management Team. Prisoners are often perplexed by how the decision is reached; most often, prisoners' efforts to find out why they were rejected by the Inmate Training Board are frustrated.

It is our understanding that the role of the National Parole Board is to determine from the facts provided by those most closely associated with the prisoner (e.g. her/his Case Management Team) who should and should not be released. Similarly, it is confusing why such a shroud of secrecy surrounds the reasons for the decision, whether positive or negative. Without this feedback, the prisoner is often left with no clear understanding whether s/he is on the right track in her/his programs.

7. Should conditional release in any or all forms be retained?

Conditional release should be retained, but it should be controlled by the National Parole Board. Conditional

release for Lifers is an important factor for integration into society and should, in our view, be expanded and encouraged. It should be set up as a structure for reintroduction into society and used as a mechanism for them to establish some type of network which would enable them to be successful in remaining in mainstream society as law-abiding citizens.

Halfway houses should be set up and used for Lifers to help in easing the transition from a totally institutional environment to normal society. Lifers become isolated from society for great periods of time under a very structured and authoritative environment. It is often difficult for Lifers to establish links to mainstream society from an institution; halfway houses should be structured for that transition.

Parole Board officials feel that prisoners have difficulty staying in halfway houses for periods longer than six months. We question this. The line of reasoning has been developed from their experiences with prisoners with determinate and shorter sentences; in fact, the Parole Board has instituted a policy to deal with Lifers based on these beliefs.

We recommend that halfway houses be developed specifically for prisoners who are serving life and very long sentences. Many Lifers have developed programs for themselves which include education programs at various levels and skilled trades' training. Halfway houses should be developed with specific programming for these prisoners so they may continue with their established programs. For example, university education would be continued in an uninterrupted fashion. Halfway houses could provide an avenue for the prisoner to complete graduate and undergraduate programs.

One area that has been explored, and appears to have been successful, is the satellite apartment concept. Prison for Women under the direction of the Elizabeth Fry Society, began a pilot project where prisoners were first released to a halfway house and after a short period of time, relocated into an apartment. Perhaps this idea should be explored further. Prisoners could move through halfway

houses and into apartment complexes. Each individual would be responsible for the expenses associated with the new accommodations. Rules of conduct would be clearly laid out for them and it would be the person's responsibility to abide by the conditions. Rules could be gradually reduced as prisoners prove themselves, eventually resulting in a Full Parole at the completion of the program.

8. Who should be involved in the decision to grant conditional release?

It is our position that the responsibility for granting conditional releases should rest solely with the National Parole Board. We feel that the onus of developing a package to present to the Parole Board is on the prisoner. The role of the Correctional Service is to help the prisoner in developing and instituting that package. At present the National Parole Board is only responsible for three-quarters of the conditional release process. It is their responsibility to grant Unescorted Temporary Absences, Day Parole, and Full Parole. However, the ETA program is under the control of each institution's administration.

The ETA program was initially designed for those prisoners who required emergency passes because of a death or illness in the family. The Correctional Service needed to have the authority to grant these types of passes because of the short notice involved. Over the years an ETA program has emerged and been expanded, and it is now an integral part of any conditional release program for Lifers which must be successfully completed before the next stage of the release program begins. Nonetheless, the National Parole Board, at this time, only rubber stamps the decision of the Warden for an ETA and will not consider a program if no support is forthcoming from the respective institution.

The Inmate Training Board is the mechanism by which the Wardens make their decision about the ETA; however, there is no formal design for this board, nor any guidelines as to how the decision making is done. In some instances representatives of the prisoner's Case Manage-

ment Team are not present to discuss her/his case and at no time is a prisoner allowed to attend. Members who comprise the Board can be anyone who works for the institution, and usually one can not find out who the voting members are. In a number of cases the Case Management Team offers full support for the ETA application, only to have it rejected for reasons they themselves were unable to explain. The personal bias of staff members is sufficient grounds to refuse the ETA application. Since the ETA program is part of the conditional release process for Lifers, we feel we should be afforded the same rights we are entitled to when going before the National Parole Board. The prisoner should be allowed to attend Inmate Training Board hearings, all information on which the decision will be based should be made available to her/him, a representative of the prisoner should be permitted to attend, and most importantly, reasons for the Board's decision should be fully communicated to the prisoner and not kept secret. The decision itself should be made on the merits of the case and how productively the prisoner has spent her/his time. It is our belief that, in the case of Lifers, the Inmate Training Board should not be responsible for making the decision. When an ETA is denied, it prevents the Lifer from having her/his case fully evaluated by those with the most expertise in the area of conditional releases, the National Parole Board.

9. Is conditional release being granted to the wrong type of offender?

It is our experience that when left to the Correctional Service people have on occasion been released for the wrong reasons. Most often this seems to us to be the result of favors being granted for reasons other than appropriate behaviour. The prison system rewards prisoners who provide information about the activities of other prisoners within the prison in the form of transfers, early releases, and so forth (e.g. the rewards offered to Yves Trudeau for his testimony against the Hells Angels).

We feel that the procedures of the Parole Board

should be the releasing mechanism and that releases should be based on the merits of the individual and not as a reward for information provided to the Correctional Service. We recognize that officials may think that when a prisoner suddenly becomes co-operative by providing information to them that this indicates a positive change in the individual. In reality, prisoners who fall into that category are in fact buying their way out of jail, and those prisoners constitute a real threat to society. They have not been released because they have in any sense been rehabilitated but as a reward for providing information. We should be judged on and decisions should be based on our merits with careful examination of what we have done with our time and how we have tried to change.

Further points

Lifers are widely recognized as the best parole risks; yet, they do not, in general, receive any special consideration. Those with determinate sentences have the opportunity to earn time off for good behaviour. Lifers on the other hand do not qualify for that.

The Correctional Service has stated that Lifers are the most stable element of the prison population. We are recognized as being a distinct group within the prison population; yet, no special considerations are made for us in that respect; indeed, it appears that rules and regulations are developed and implemented with those with shorter and determinate sentences in mind. This is a constant source of frustration for Lifers, who make up a large part of the stable population. Futhermore, to be constantly reminded by prison officials that it is unfortunate that there is not much in the way of programs for us is very frustrating. On the one hand we are encouraged by officials to create our own programs, but it becomes most frustrating when we have serious problems getting them recognized by these same officials.

In the area of inmate employment we feel that because we will be out of the work force for so long, we should be allowed to engage in some form of employment that is

beneficial not only to ourselves but could be to the Correctional Service as well. Many of the building trades (e.g. plumbing) are contracted out to businesses on the street. Prisoners could work as laborers and apply the skills they develop towards earning credits for apprenticeships. Prisoners could be paid minimum wages which could be applied towards room and board or family support. Many of us still have contact with families and this type of arrangement could be most useful. A portion of the money saved by the government could effectively be used towards paying the wages.

Since Collins Bay Institution already has a new training and school complex, this Institution should be designated as the principal education and trades centre. During a discussion some time ago with Gord Pinder, Deputy Commissioner Inmate Programs, this idea was put forth. He thought it was a viable idea but Collins Bay would have to be changed to a multi-level security institution. Although we feel that in principle this would not be a problem, the experience of the Prison for Women with multi-level security has shown that the highest security needs are applied to all levels. If this problem could be resolved, the idea of the school complex would allow prisoners to establish long range uninterrupted programs.

Many Lifers have made use of education as an avenue to restructure their lives while in prison. Collins Bay receives the bulk of the education budget for this region; opportunities for post secondary education are much more available because of the proximity to schools. Prisoners engaged in these types of programs have shown that they become some of the most successful parole risks. It is our belief that prisoners should be actively encouraged to participate in these programs and, once involved, be allowed to stay and finish them, and not cascaded down through the system.

If yearly contact with the National Parole Board were implemented, the Board would have a much clearer picture of what the prisoner is all about. One of the concerns found in the Coroners Inquest into the 1987 Sweeny case,

for example, was the lack of information being exchanged between the Courts, Correctional Service and the Parole Board. This is precisely the common problem encountered by Lifers. In addition, there is a lack of information being relayed back to the prisoner. We are constantly kept in the dark as to what is expected of us and what areas to work on. We feel that if we had greater access to the Parole Board at the earliest point in our sentence, we could then have problem areas identified for us and we could work at correcting them.

Over time our group has put forth a number of proposals ranging from psychological evaluation groups to trades training. We intend to continue in this regard. We hope that these suggestions will be considered seriously, and our ideas not fall on deaf ears. We realize that we have to prove to ourselves as well as society that we should be allowed to reintegrate successfully into the community. The onus is on us; please allow us to share in that responsibility of developing successful programs to assist in the process.

References

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