LIFE IMPRISONMENT

JOHN HOWARD SOCIETY OF ALBERTA
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EXECUTIVE SUMMARY

The sentence for a convicted murderer in Canada, regardless of degree, is life imprisonment. The Criminal Code of Canada states the minimum number of years, beginning at the date of arrest, that a person is required to serve in prison before being eligible for parole. However, simply having served the required number of years to reach eligibility in no way guarantees that parole will be granted and, because of the relative uncertainty in the date of parole release, a sentence of life imprisonment is said to be "indeterminate."

There are four classifications of indeterminate sentences in Canada: life imprisonment as a minimum sentence with no eligibility for parole for 25 years, life imprisonment as a minimum sentence with no eligibility for parole for 10 to 25 years, life imprisonment as a maximum sentence and indeterminate sentences imposed on Dangerous Offenders.

As of March 31, 1997, there were 632 inmates serving life sentences for first degree murder and 1477 inmates serving life for second degree murder, out of a total Canadian federal penitentiary population of 14,448. The total number of individuals serving life sentences for murder has increased dramatically over the past decade. From 1988 to 1991, the number of individuals serving life sentences for murder increased 21%, and between the years 1991 and 1997, there was a 4.4% increase (Correctional Service of Canada, 1997).

Lifers generally involve themselves in a variety of programs during their incarceration because most have a vested interest in serving their time as productively as possible. Lifers take part in sex offender counselling, OSAP (offender substance abuse program), anger management, life skills and problem solving programs. Lifers also become involved in various groups and activities such as a lifers group, chapel and relationship counselling. Some inmates are encouraged to embark on training or education geared to qualify them to perform certain functions within the institution. For example, inmates could be trained as institution hospital orderlies and inmate jobs could be developed as service aids or resource people to augment the services otherwise provided by CSC staff.

The Lifeline Project, operated by St. Leonard's House in Windsor, Ontario, represents one concrete attempt to provide an inmate management program that addresses the specific needs of both lifers on full parole and those still incarcerated. Started in 1982, the Lifeline Project is a long term initiative aimed at giving lifers new hope in the form of guidance, programs and, eventually, a halfway house designed to meet their particular needs. Phase one of the Project involves giving lifers early in their sentences advice on how to survive the prison culture, keeping inmates informed about judicial reviews, helping formulate future release plans, advising families on how to improve the offender's chances of early release, sharing program information and assisting with communication problems. Phase two of the Project was to be the establishment of a halfway house for lifers in Windsor, with phase three being an evaluation, revision and expansion of the Project to other parts of Canada. Unfortunately, taking into account zoning problems, funding and public sentiment, the halfway house has not materialized.

Much of the discussion over the past 20 years on how to resolve issues regarding the sentencing of convicted murderers has revolved around the death penalty versus long term incarceration. Although the death penalty was abolished in 1976, many would like to see the return of the death penalty for the most serious murders. Further, Canadian public opinion polls consistently reveal that the majority of the population favours reinstatement of the death penalty because perceptions of the justice system are such that the public believes there is far too much hope that psychopaths or Dangerous Offenders will receive reductions in their parole eligibility periods. Further, citizens overestimate the percentage of released offenders who recommit property or violent crimes while under community supervision. Experience has shown that the gradual release of offenders through escorted temporary absences, unescorted temporary absences and parole increases likelihood of becoming law-abiding citizens. The planned gradual release of inmates into the community, through conditional release mechanisms, is designed to ensure the protection of society and is an important and often misunderstood aspect of correctional programming.

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INTRODUCTION

In 1976, when Canada replaced the death penalty with life imprisonment for anyone convicted of murder or high treason, it did not mark the end of what had been a long and contentious issue. Neither proponents nor opponents of the death penalty have yet reached what could be called a lasting peace concerning the moral, economic and political defensibility of state sanctioned execution. Life imprisonment, and in particular the parole eligibility provisions involved, are a feature of the debate over capital punishment in Canada. Those in favour of the death penalty maintain that the benefits of executing criminals would include considerable cost savings by doing away with the need to maintain large numbers of murderers at public expense over indeterminate and often long periods of time. Opponents of the death penalty, meanwhile, argue that the death penalty does not deter crime. In fact, it is argued by some that the minimum eligibility periods for parole are the next step in a trend towards the humane treatment of criminals and a great advancement for the progress of civilization, when compared to the death penalty.

This paper deals with life imprisonment, both as a sentence and as a major factor in the capital punishment debate. It describes the history and provisions of life imprisonment sentencing and provides a statistical overview of the inmate population serving life sentences in the Canadian prison system, as well as parole issues surrounding life imprisonment and the needs and management of inmates serving life sentences.

LIFE IMPRISONMENT: WHAT IT IS AND WHAT IT IS NOT

The sentence for a convicted murderer in Canada, regardless of degree, is life imprisonment. The person is under sentence for life; a portion of this sentence is served in prison and a portion can be served in the community on parole. The Criminal Code of Canada states the minimum number of years, beginning at the date of arrest, that a person is required to serve in prison before being eligible for parole. However, simply having served the required number of years to reach eligibility in no way guarantees that parole will be granted and, because of the relative uncertainty in the date of parole release, a sentence of life imprisonment is said to be “indeterminate.”

There are four classifications of indeterminate sentences in Canada, three of which involve life imprisonment and a fourth which involves “indefinite detention,” which can be imposed upon being declared a Dangerous Offender. The four classifications are: life imprisonment as a minimum sentence with no eligibility for parole for 25 years, life imprisonment as a minimum sentence with no eligibility for parole for 10 to 25 years, life as a maximum sentence and indeterminate sentences imposed on Dangerous Offenders.

Life Imprisonment as a Minimum Sentence with No Eligibility for Parole for 25 Years

Offenders convicted of high treason or first degree murder (murders involving planning and deliberation, the murder of police officers and prison guards while on duty, or murders committed during the course of sexual assaults or kidnapping) must be sentenced to life imprisonment with no eligibility for parole for 25 years. Provision has been made for a judicial review, whereby an offender may make an application to the court to have the parole ineligibility period reduced from 25 years after the inmate has served 15 years. Offenders who have committed multiple murders are not eligible to apply (Correctional Service of Canada, 1997, p. 64).

Life Imprisonment as a Minimum Sentence with No Eligibility for Parole for 10 to 25 Years

Offenders convicted of second degree murder are those whose crime is viewed as unintentional homicide which did not involve any of the elements comprising first degree murder. They are sentenced to life imprisonment and are not eligible for parole for at least 10 years. The parole eligibility date in this case is set by the trial judge and, while the date set must be at least 10 years, it can be set as high as 25 years. Application for a judicial review is also allowed, should the parole eligibility date set by the trial judge exceed 15 years (Criminal Code of Canada, 1998, Section 745).

Life Imprisonment as a Maximum Sentence

For some offenses, life imprisonment is the maximum sentence that can be given. Examples of crimes subject to a maximum sentence of life imprisonment are robbery, aggravated sexual assault and break and enter of a dwelling house. In cases where life imprisonment is the maximum sentence that can be applied, parole eligibility is set at 7 years (Criminal Code of Canada, 1998).

Indeterminate Sentences Imposed on Dangerous Offenders

The court may impose indeterminate sentences on any individual it considers, upon conducting a special hearing after conviction, a Dangerous Offender. This provision applies to those offenders who have been convicted of serious personal injury offenses and who have backgrounds of persistent aggressive or violent behaviour. A Dangerous Offender becomes eligible for parole after 7 years and must have his or her case reviewed at that time and every 2 years thereafter.

The crime of murder is referred to as “homicide” under the law and it is defined by provisions in the Criminal Code (CC) of Canada. A person commits homicide when, directly or indirectly, by any means, he/ she causes the death of a human being (Criminal Code of Canada, 1998). The provisions for first and second degree murder are found in CC Section 231, those for manslaughter in CC Sections 234 and those for infanticide in CC Sections 233. The Code also defines the physical and mental elements required for the various homicide offenses. All the offenses share a common physical aspect: there must be a death, it must be caused by the offender’s conduct and there must be

culpability, such as an unlawful act or criminal negligence. However, homicide offenses do differ regarding the mental elements and Canadian law has continued to distinguish among crimes of homicide according to the state of mind of the offender. First and second degree murder are defined as causing death with intent or with some other specified state of mind, such as recklessness or malice. As well, it includes the murder of a police officer, prison officer, prison employee or any other person authorized to work in a prison while on duty. Manslaughter is defined as causing death in all other cases (Correctional Service of Canada, 1997).

The provisions of Bill C-84, which abolished the death penalty for murder in Canada in 1976, represented a compromise regarding parole eligibility. Some Members of Parliament (MPs), although generally in favour of abolition of the death penalty, wanted the minimum parole eligibility for first degree murder fixed at 35 years. Others wanted the trial judge to determine the eligibility date, with the minimum term set at 10 years. Many MPs were somewhat fearful of the consequences of setting a very long term of minimum incarceration. The compromise on minimum prison terms before parole eligibility came in the form of the judicial review provision, also known as "faint hope," in the Criminal Code (Section 745), which allowed people with life sentences to apply for a reduction in parole eligibility after serving 15 years of their sentence.

JUDICIAL REVIEW PROCESS

On January 9, 1997, amendments to Section 745.6 came into effect. The amendments toughened the requirements for parole eligibility reduction, ensuring that only exceptional cases benefit from a judicial review (Department of Justice Canada, 1997a). Offenders who were sentenced when the old judicial review provisions were in place are still subject to the old provisions. The offender who commits more than one murder is now automatically prohibited from applying for a judicial review to reduce his/her parole ineligibility period. Judicial review involves a considerable number of steps and conditions. If the application is filed after January 9, 1997, it must be screened by a judge, who decides whether the application has a reasonable prospect of success (Department of Justice Canada, 1997b). The offender must convince the judge that the application has a reasonable prospect of success before he or she is permitted to go before a community jury (Department of Justice Canada, 1997d). The 12 member jury hears the evidence from the applicant and from the crown, as well as considering any victim impact statements and reports concerning the applicant. All members of the jury must agree to reduce the parole ineligibility period before the reduction is granted to an applicant.

There are two possible outcomes of a judicial review hearing: either the offender is denied a reduction in the parole ineligibility period or the offender is granted a reduction. If the offender is denied a reduction, the jury must set a time in the future when the offender may make another application. The date for the next application must be at least two years after the current judicial review hearing. If the offender is granted a reduction, the offender may apply to the National Parole Board (NPB) for release on parole after the reduced number of years has expired (Department of Justice Canada, 1997c).

A favourable judicial review decision does not result in automatic release on parole. The National Parole Board conducts a risk assessment of the offender and its decision is based on the risk the offender poses to the public should he or she be released. Offenders who are paroled while serving life sentences remain on parole for life unless parole is revoked and the offender is returned to prison. The offender, in this case, returns to the prison. The Board has no role in the judicial review process. However, once eligibility is established, the law gives the Board discretion to grant or deny parole.

From the implementation of the faint hope clause until the end of July 1997, 328 inmates convicted of first and second degree murder became eligible to apply for judicial review. Out of the 328 inmates, only 82 offenders appeared before a jury. Of these, only 30% found themselves out of prison any earlier, and while 64 offenders received a reduction in parole ineligibility, only 3 (less than 10%) have encountered the law again - one for armed robbery, one for carrying a concealed weapon, and the last on a drug charge (D'Arcy, 1997). Interestingly, the number of jury reviews of life sentences under Section 745, and the applicants' success rates, vary widely from province to province as can be seen in Table 1 below.

Table 1 - OUTCOME OF JUDICIAL REVIEWS BY PROVINCE

Province of Judicial Review	Parole Eligibility Reduced by Court		Reduction Denied by Court	
	First Degree	Second Degree	First Degree	Second Degree
Newfoundland	0	0	0	0
Prince Edward Island	0	0	0	0
Nova Scotia	0	1	0	0
New Brunswick	1	0	0	0
Quebec	21	11	2	1
Ontario	12	0	6	0
Manitoba	2	2	1	0
Saskatchewan	3	0	2	0
Alberta	5	0	4	1
British Columbia	5	1	1	0
Sub-Total	**49**	**15**	**16**	**2**
TOTAL	**64**		**18**	

Note: Taken from National Parole Board, 1997, Table M-2.

Lifers do not pose a significant threat to public safety upon release; violent re-offending among this group of parolees is negligible. Less than 3% of lifers who were released on parole between 1975 and 1990 committed a subsequent offence against a person. Less than 1% of this group committed a

subsequent murder. It is estimated that by the year 2002 there will be 50 cases a year eligible for judicial review in Canada (O'Reilly-Flemming, 1992).

STATISTICAL OVERVIEW

As of March 31, 1997, there were 632 inmates serving life sentences for first degree murder and 1477 inmates serving life for second degree murder, out of a total Canadian federal penitentiary population of 14,448. Also included in the total serving life sentences for homicide (2262 out of 14,448) were the 153 convicted of capital (11) and non-capital (142) murder prior to the 1976 legislation abolishing capital punishment in Canada (Correctional Service of Canada, 1997, p. 25). There are an additional 303 people serving life sentences for crimes other than homicide (p. 24). In total, the percentage of the prison population serving life sentences is 17.8%.

From March 1991 to March 1997, the total federal penitentiary population increased from 13,819 (Correctional Service of Canada, 1991, p. 21), to 14,448 (Correctional Service of Canada, 1997, p.25), representing a 4.5% increase in six years. While the number of individuals serving life sentences for murder increased 21% from 1988 to 1991, the increase was only 4.4% (from 2163 to 2262) between the years of 1991 and 1997 (Correctional Service of Canada, 1991, p. 28; Correctional Service of Canada, 1997, p. 25). Due to the large number of inmates serving life imprisonment, there may be an increase in the pressure to take yet another look at the sentencing and parole policies for terms of life imprisonment. Such a re-examination would include addressing the issues concerning public perception and expectations regarding community safety and due punishment for murder.

Few inmates sentenced as Dangerous Offenders have been granted parole, despite the fact that the legislation now provides for parole eligibility after 7 years from the date of arrest. In 1996, out of 179 individuals labelled Dangerous Offenders, 174 were incarcerated. Only five Dangerous Offenders in Canada had been granted full or day parole.

The cost of life imprisonment is high. Maximum security beds cost taxpayers $68,156 a year per inmate (Correctional Service of Canada, 1997, p. 12). This means that it would cost over a million dollars to keep one offender incarcerated for 25 years, even before inflation. There are currently about 564 offenders serving life sentences who will not be eligible for parole for 25 years. If some of these offenders were released on parole before 25 years, a great deal of money would be saved. The average annual cost of supervising an offender on parole or statutory release is $9,145 (p. 13).

MANAGEMENT OF OFFENDERS SERVING LIFE SENTENCES

Literature suggests that long-term offenders, and in particular life sentence offenders, have been managed for the early portion of their sentence as maximum security risks. Porporino (1997) suggested that release planning for these individuals has been typically postponed and, for the most part, there has been little specialized programming. However, the case workers at various institutions across Alberta were quick to state that the long term offender's case management plan is implemented from the time of entry into the institution.

Lifers are regarded throughout the correctional system as the most cooperative of all prisoner groups. Contrary to what the public may perceive, it is not the long-termers, the lifers or the seasoned prison veterans who riot. Most, if not all, long-termers have a vested interest in maintaining the status quo: parole hearings, visits, phone calls, recreational activities, work and school (Carlson, 1997). However, O'Reilly-Flemming (1992) stated that lifers are at a severe disadvantage when appearing before parole boards since they are not allowed the opportunity to demonstrate some form of progress through the completion of programs or moving down through security levels. The offender serving the life sentence is often low priority, usually because of limited program spaces (Personal communication, St. Leonard's Society staff member, 1998). The offender who is serving a short federal sentence (i.e., 2-3 years) would be given preference. Many people believe program spaces should be allotted on the basis of sentence length, with a certain percentage of spaces designated for lifers.

Case management workers within the various institutions across Alberta generally agree that the type of program the lifer becomes involved in will depend on that inmate's needs. "Often an inmate is left alone to do his time for the first year to two years, which allows the offender to deal with or come to terms with the very meaning of a life imprisonment sentence" (Personal communication, Grande Cache Institution case management staff member, 1998). However, during this time, the inmate is encouraged to regularly see a psychologist to help with the difficulties of adjustment.

The lifers take part in diverse programming such as sex offender counselling, OSAP (Offender Substance Abuse Program), anger management, cognitive living skills and problem solving. Lifers can also become involved in various groups and activities such as a lifers group, chapel and relationship counselling. There are also various volunteer groups that frequent the institutions ranging from music groups, Alcoholics/Narcotics Anonymous, Big Brothers Association or the Samaritans of Southern Alberta (an inmate suicide prevention group that offers suicide prevention training and emotional support training to offenders so that they may help offer support to other fellow inmates).

One of the management techniques used has been termed "time framing." Inmates who demonstrate the motivation and interest are encouraged to embark on a training or education program geared to qualify them to perform a certain function within the institution. Part time study while working at a regular inmate job is another option. Inmates could also be trained as institution hospital orderlies and inmate jobs could be developed to provide service aids or resource people to augment the services

otherwise provided by CSC staff. Interviews with inmates convicted of second degree murder who are serving life sentences almost unanimously identified education as one of the most important needs of lifers. These inmates clearly indicated that learning a trade can be a way for lifers to challenge themselves, to have something to look back on with satisfaction and to get involved in something that has immediate rewards. There are major obstacles to overcome, however. Inmates must somehow be convinced to trust the system and the staff. Some politicians and groups argue that we should abolish inmate post-secondary education. However, others such as Edward Parker, an inmate of 20 years, stated that those who ultimately complete university (with a bachelors or masters degree) spend between 6 and 10 years working extremely hard to reach these academic goals. This type of commitment should illustrate the value of college programming as a rehabilitative tool (Parker, 1996).

Many inmates realize that idleness may become their worst enemy and take on a different attitude. An opportunity should exist for program enhancement whereby such roles as tutors, mentors, coaches, teacher aids or peer counsellors are a foreseeable opportunity for lifers. Lifers are known to provide a stabilising effect and they often influence other inmates in the penitentiaries. These offenders often act as the unit representative or inmate-staff liaison. They represent a stable and dependable workforce for CORCAN, which is a federal corrections initiative. CORCAN was created in 1980 to serve as the production arm of the Correctional Service of Canada (CSC). Lifers also involve themselves in public education, community awareness and community projects (Correctional Service of Canada, 1996). It has been suggested that the possibility of conditional release is the only thing that provided hope and motivation to change (D'Arcy, 1997).

The Lifeline Project, operated by St. Leonard's House in Windsor, Ontario, represents one concrete attempt to provide an inmate management program that addresses the specific needs of both lifers on full parole and those still incarcerated. Started in 1982, the Lifeline Project is a long term initiative aimed at giving lifers new hope in the form of guidance, programs and, eventually, a halfway house designed to meet their particular needs. The program has also been a response to what some of its supporters maintain is a major issue concerning management of the growing population of inmates serving life sentences who are rapidly reaching their parole eligibility dates. Lifers could represent about two in five inmates by the end of the decade. This situation presents a problem that communities are going to have to recognize soon: an increasing number of lifers are being paroled after long periods behind bars, ill-equipped to meet the challenges of living on the outside.

The Lifeline Project helps inmates early in their sentences to develop the perspective and skills needed to integrate into the community. The majority of lifers (75%) have never been in a penitentiary before (Church Council on Justice and Corrections, 1996). Inmates serving life sentences are helped with the management of their sentences, including the encouragement that they do not get "hypnotized" by the prison routine. Project "in-reach" workers, most of whom are lifers released on full parole, work closely with many of the offenders serving life sentences in Ontario federal institutions. The job of in-reach workers includes one-on-one interviews with incarcerated lifers, giving pointers to newcomers on how to survive in the prison culture, keeping inmates informed about judicial reviews, helping to formulate release plans, advising families on how to

improve the offender's chances of early release, sharing program information with classification officers and assisting with communication problems. The Project also attempts to address the issue of increasing inmate trust of the corrections system by providing the services of an in-reach worker who can act as a sounding board for offenders who don't want to talk to someone taking notes. As successful as the Lifeline Project has been, it has not gone past the first phase of its development.

Phase two of Lifeline was to be the establishment of a halfway house for lifers in Windsor, with phase three being the evaluation, revision and expansion of the Project to other parts of Canada. Unfortunately, taking into account zoning problems, funding and public sentiment, the halfway house for lifers has not materialized (Personal communication, St. Leonard's Society staff member, 1998). It is felt that it is very unlikely to ever have a house designated specifically for lifers. Presently, there are nine beds devoted to lifers at the St. Leonard's Society Correction Rehabilitational Facility in Windsor.

However, the biggest challenge facing the Project's continued development is gaining the necessary community support. It is felt that the St. Leonard Society's situation is one in which the community recognizes that the organization is a good neighbour and is committed to keeping the community up to date and protected (Personal communication, St. Leonard's Society staff member, 1998). Overcoming the community's fear of the unknown and letting the public know that while a convicted murderer has committed a very serious crime, lifers have also proven themselves to be the best parole risk types.

Much of the discussion over the past 20 years on how to resolve issues regarding the sentencing of convicted murderers has revolved around the death penalty versus long term incarceration. A percentage of Canadians oppose any opportunity for an offender to receive parole before 25 years for first degree murder and wish to see consecutive (rather than concurrent) sentencing for multiple killers (D'Arcy, 1997). In fact, many want the return of the death penalty for the most serious murders. Canadian public opinion polls have consistently revealed that the majority of the population favours reinstatement of the death penalty (Griffiths & Verdun-Jones, 1994). When contacted, a representative for the Canadian Association of Chiefs of Police stated that the Association favours restoring capital punishment for certain crimes such as "cop killings." (Personal communication, 1998).

Groups such as the Canadian Police Association have a goal to convince government members of, among other things, the need for tougher sentences, tighter parole and the repeal of Section 745. Warren Allmand, now president of the Montreal based International Centre for Human Rights and Democratic Development, was Solicitor General in 1976 when parliament adopted Section 745. In opposition to groups such as the Canadian Police Association, Allmand says he is disheartened by what he calls the prevalence of public misconceptions about the judicial review clause. He believes people's perception of the process is totally distorted. Most people think it is a relatively easy process to get out of prison, which could not be farther from the truth, according to Allmand (D'Arcy, 1997).

Roberts (as cited in Griffiths & Verdun-Jones, 1994) found that the general public has little knowledge about conditional release and often confuse the various forms of release. It is highly unlikely that psychopaths or Dangerous Offenders will receive any reduction in their parole eligibility periods. However, perceptions of the justice system are such that Canadians believe there is far too much hope for these types of offenders. Citizens often have little information about community corrections programs, a knowledge gap that affects their perceptions and concerns (Griffiths & Verdun-Jones, 1994).

Special programming and time framing techniques have proven extraordinarily expensive and cumbersome methods for managing long term offenders, particularly now that there are so many of them in the Canadian penitentiary system. Undoubtedly there will always be a distinct but statistically minor category of offenders who must remain in prison indefinitely, despite having reached their parole eligibility date. For these individuals, time framing and special programming may be appropriate. However, for the majority of offenders serving life sentences, the most economical, humane, practical and effective solution to long term incarceration is to institute programs aimed at achieving and managing their conditional release at a date earlier than 25 years. However, this option also presents a vivid example of something being "easier said than done." In spite of the difficulty in advocating such an approach, many people continue to challenge fears and perceptions by trying to educate and convince the public that lifers can be successfully and safely managed in the community with little risk.

Statistics show that in 1996-97, a total of 15,222 offenders were in the community on conditional release at some period of time. A total of 195 of these offenders, or 1.3%, were charged with major offences (Correctional Service of Canada, 1997, p. 52). Citizens overestimate the percentage of released offenders who commit property and violent crimes while under community supervision (Griffiths & Verdun-Jones, 1994). Gradually releasing offenders is essential because experience has shown most criminals are more likely to become law-abiding citizens if they participate in a program of gradual, supervised release (Correctional Service of Canada, 1997).

In November, 1992, Bill C-36, the Corrections and Conditional Release Act (CCRA), came into force, replacing the Parole Act and the Penitentiary Act. The authority for temporary absences is found in both federal and provincial correctional legislation and is exercised by correctional authorities in provincial and territorial systems. To be eligible for an unescorted temporary absence (UTA), an inmate must have served one half of the time before his or her parole eligibility date, or 6 months, whichever is longer. The two exceptions to this are offenders who have been sentenced to life imprisonment, who are eligible for a UTA only 3 years prior to their parole eligibility date, and offenders sentenced to detention for an indeterminate period of time, who must serve 3 years before being eligible. As of 1992, offenders classified as maximum security are no longer eligible for UTAs (Griffiths & Verdun-Jones, 1994). UTAs may run from 48 hours to 60 days. Prior to 1974, unescorted temporary absences (usually up to 72 hours per month), could be granted to any class of convicted murderer 3 years after entering the penitentiary.

Unescorted temporary absences by males have been consistently successful since the early 1960s; in 1997, the successful completion rate on temporary absences was 98.8%, with only 58 of a total of 4,789 absences being unsuccessful (Correctional Service of Canada, 1997, p. 47). The rehabilitative value of the program lies in its providing an opportunity for the inmate to be released for a limited duration, for medical, administrative, community service, family contact, personal development for rehabilitative purposes, or compassionate reasons, including parental responsibilities. There are some who suggest that expanding upon the successes of unescorted temporary absences would be a promising option.

Through gradual, conditional release, offenders are given an opportunity to become contributing members of society, providing they abide by the conditions of their release. The planned and gradual release of inmates into the community, through conditional release mechanisms designed to ensure the protection of society, is an important and often misunderstood aspect of correctional programming.

DISCUSSION

However responsive and successful such special programs as the Lifeline Project might be, the fact is that they are costly and will only get more so because of the growing penitentiary population of inmates serving life sentences in Canada. Furthermore, establishing what the guiding principles of sentencing are going to be, in order to ensure that a consistent, coherent and acceptably "fair" sentencing policy can be implemented, must come before discussions about how to manage inmates serving life sentences. Before deciding where to put inmates serving life sentences and for how long, some form of workable consensus must be reached among the public, legislators and administrators of social justice on what constitutes just punishment for the crime of murder. Over 90% of all inmates will return to society at some future date (Griffiths & Verdun-Jones, 1994).

While the rehabilitation model has not declined since the 1960s, it has shifted emphasis from treatment to preventive strategies, especially those of deterrence and incapacitation. The deterrence and incapacitation approach was prevalent during the 1970s and 1980s - a period which included the abolition of the death penalty in Canada and an increase in the minimum parole eligibility periods for offenders convicted of murder to what they are at present. Unfortunately, the deterrence concept did not live up to expectations. While the prison population rose sharply as mandatory minimum laws were imposed, the rates of serious crimes, including murder, did not decrease commensurately (von Hirsch, 1990, p. 403). While we have the added financial and human cost of long term incarceration, we have not witnessed the expected reduction in crime that was to be the benefit of the added cost.

Parole eligibility dates have become harsher over the years. Canadians feel that offenders should not be released "early," and thus call for a tougher punishment model. It is believed that justice is determined by how much time the offender has served. Those who are pushing for reform of the correctional system believe that we need to reduce this dependency on prisons to achieve balance

in the system. Communities need to be thinking about satisfying forms of justice that incorporate rehabilitation. In 1991, the Solicitor General of Canada stated that "public safety is an important issue to Canadians, who have sent a strong message to the government that they are concerned about how Canada's corrections system deals with certain kinds of criminals." This is evident through the fact that convicted murderers were once eligible for temporary absences after serving 3 years, but now they have to wait until 3 years before their parole eligibility.

It has become clear that preparation for release for long term inmates, such as those serving life sentences for murder, must include consideration for parole comparatively early in the sentence if reintegration preparation is to be successful. There are some who would argue that there is no practical reason why earlier parole eligibility provision could not apply today. For example, prior to 1968, the minimum eligibility period for parole for all types of life sentences, including those commuted from a death sentence, was 7 years. While 7 years may no longer be appropriate, if we choose provisions that lay somewhere in between the pre-1968 parole eligibility dates and today's eligibility time frames, we may find a suitable sentencing option that satisfies all parties involved. For instance, one could ask why it is presently necessary to keep hundreds of convicted murderers in prison for at least 10 or 25 years when in 1975 these same individuals would have qualified for full parole after only 7 years? Prior to the abolition of the death penalty, even those whose sentences had been commuted to life imprisonment were eligible for parole consideration after 7 years.

For example, even an inmate with a long sentence could, on a flexible, individualized basis, be eligible for escorted temporary absences after 1 year, unescorted temporary absences after 2 years, day parole after 5 years and full parole after 7 years. However, getting the legislative changes required to implement this would be neither quick nor easy. This is evident by the 1997 amendments to Section 745. No matter how economically tantalizing reduced minimum parole eligibility periods might be, the Canadian public and many politicians have not yet given any substantive indication that they are prepared to take what they perceive is the risk of making early release, no matter how conditional, a mainstay of sentencing policy for convicted murderers. Generally, there has been a larger media focus on "law and order" issues as both communities and legislators struggle to reconcile expectations regarding public safety and due punishment for crimes committed with the pressures of economic restraint. While many correctional observers have adopted the "nothing works" perspective, evidence suggests that some things do work.

The John Howard Society of Alberta is firmly opposed to capital punishment and does not support its reintroduction in any form whatsoever. At the same time, the Society recommends that the Criminal Code of Canada be amended and any other relevant statutes or regulations be changed to introduce sufficient flexibility into the parole system to allow the earlier parole of all inmates serving life sentences, subject to the circumstances of each individual case. The release of inmates should be an assumed part of every sentence unless there are objective criteria or finite reasons for objecting to the release. All Criminal Code and other Federal Statutes that provide for minimum penalties upon conviction should also be amended to eliminate all such mandatory minimum penalties.

The John Howard Society of Alberta believes that one of the best measures to prevent the recurrence of criminal activity is to assist offenders who are returning to the community after a period of incarceration. When we detain a person for a 25 year period, we discourage the person from making concrete, rational plans for their release. The transition from confinement to freedom can be difficult, and offenders have a better chance of success if they receive supervision, opportunities, training and support within the community to which they must readjust. Conditional release practices, such as unescorted temporary absences, should be available to all deserving long term inmates at an early stage in their sentences, in order to allow them to maintain family and community ties and thus facilitate their eventual re-entry into society.

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