



**Preliminary Submission to the
IPS Working Group on Life-Sentenced Prisoners
Nov 2016**

Introduction

With the abolition of the death penalty, the life sentence is now the ‘ultimate retributive sentence’ (Coyle, 2009) or the ‘ultimate penalty’ (Griffin, 2015). While the abolition of the death penalty has been a major step forward in the area of human rights, it has also generated a new set of challenges regarding the management of life-sentenced prisoners.

In recent years, the Irish life sentence prison population has increased by 130 percent; life sentence prisoners now represent 7.7 percent of the prison population, compared to 4.4 percent in 2001 (Griffin 2015). The length of time served by life sentence prisoners prior to release has also increased, from 7.5 years between 1975 and 1984, to 19.5 years between 2010 and 2013.¹

In 2015, life sentenced prisoners made up 9% of the daily prison population in Ireland, or almost 11% of the numbers detained under sentence: 344 out of 3,150 prisoners detained under sentence.² Life-sentenced prisoners now make up a substantial minority within the Irish prison system.

Due to specific issues arising from the nature of their sentence, life-sentenced prisoners should be treated as a unique category of prisoner by prison authorities with specific needs. This preliminary submission provides an overview of key considerations in any strategy for management of life-sentenced prisoners.

Note:

This submission is informed by feedback received from life-sentenced prisoners at seminars held by IPRT in Midlands, Portlaoise, Mountjoy Prisons and the Training Unit over 2015 and 2016.

¹ The average time a lifer prior to release served peaked in prison in 2012 at twenty-two years (Griffin, 2015)

² Irish Prison Service (2016) *Annual Report 2015*, p. 25 (Fig. 5)

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1. General note

All IPRT policy recommendations (available online at www.iprt.ie/research-centre) apply equally to prisoners sentenced to life in prison. What follows here is a preliminary review of some discrete areas which require particular focus for life sentenced prisoners.

Due to the longevity of their sentence, life sentence prisoners are often not considered a policy priority by prison authorities.³ However: ‘keeping people in prison for years with no meaningful activity will make it harder for them to reintegrate or benefit from such programmes at a later stage of their sentence’.⁴ Given that most of those serving life sentences will be released and re-enter our communities at some point in the future, it is important they be treated as a specific group of prisoners with policies that address their particular needs towards ensuring their successful reintegration in the future.

Recommendation:

- The Irish Prison Service should develop a discrete strategy for the management of life-sentenced prisoners.

³ Prison Reform International, *Alternatives to the Death Penalty*, 2015, p. 8.

⁴ Ibid.

2. Committal

Prisoners sentenced to life in prison are particularly vulnerable on committal and therefore intensive supports, including mental health care, must be made available to support life-sentenced prisoners in the critical initial period of adjustment to the sentence.

The CPT has recommended that life-sentenced prisoners be provided with ‘individualised custody plans’ and ‘appropriate psycho-social support’⁵, in order to give sentences meaning and help prisoners come to terms with their sentences.

In Ireland, life-sentenced prisoners have reported perceptions of being “left to their own devices”, in effect dependent on other prisoners for information about the prison system and their sentence, for the first 6-7 years of a life sentence before their first Parole Board review is scheduled. While there is an important role for structured peer-support programmes in prison, these should not replace provision of information and support by the prison service.

It is important that life-sentenced prisoners are made aware at the beginning of their sentence that behaviour in prison, including the number of disciplinary reports received (P19s), will be considered by the Parole Board in decision-making for release. The relevance of including older disciplinary P19s in Irish Prison Service reports to the Parole Board should also be reviewed.

Recommendations:

- The proposed IPS strategy for the management of life-sentenced prisoners should identify the particular vulnerabilities and needs of this cohort upon prison committal. The strategy should be informed by and grounded in international best practice.
- An information booklet for life-sentenced prisoners, including details about mental and physical health care services and supports and peer programmes available, should be developed.
- Consideration should be given to a life-sentence ‘buddy’ system to support life-sentenced prisoners during the period following committal; this may be run in association with the Irish Red Cross Programme. This should not replace provision of information and support by the prison service.
- The IPS Families and Imprisonment Group should consider the particular role that Family Liaison Officers could play in supporting families during the initial period after their family member begins a life sentence.

3. The Prison Estate

The prison estate should be structured so as to facilitate clear paths of progression for life-sentenced prisoners, from closed facilities to open prison facilities, right through to step-down accommodation.

All life-sentenced prisoners should have access to single-cell accommodation. This should not be linked to incentivised regimes.

New facilities should be informed by the principle of ‘normalisation’, working towards eventual rehabilitation into the community and minimising institutionalisation. For example, by including

⁵ CPT (2001) *11th General Report on the European Committee on the Prevention of Torture’s activities*

communal dining areas, small kitchens, and roundtable family visiting facilities in any new building design.⁶

Given the particular challenges of maintaining family relationships over a long sentence, the Irish Prison Service should consider the development of facilities which support these relationships. For example, some French prisons have 'family life units': pseudo-apartments within prison compounds where prisoners spend up to 72 hours with their spouses and children. These are targeted at those serving long-sentences, and assists the maintenance of family relationships and helps prisoners readjust to spaces other than their cells. This supports the overall transition of prisoners back to a home environment upon release,⁷ and supports the family readjusting to the return home of the family member.

Recommendations:

- All efforts should be made by the Prison Service to minimise institutionalisation and facilitate normalisation.
- The long-term goal of the Irish Prison Service should be to increase its open prison capacity from under 10% to 30% within the medium-term.
- Open prison facilities for women serving longer sentences should be provided.
- Consideration should be given to the development of 'family life units' within the prison estate.
- Facilities that can accommodate the mobility and other needs of older life-sentenced prisoners and of prisoners with disabilities should be in place.

4. Sentence Management and Incentivised Regimes

Clear, progressive, structured sentence management works best for prisoners, prison staff and the general prison environment. Where a prisoner feels there is no chance of parole and no hope of progress, they are less likely to be compliant in prison.⁸

The Strategic Review Group on Penal Policy recommended that all prisoners serving sentences over 12 months have access to Integrated Sentencing Management, and that more needs to be done to provide prisoners with more agency in their sentence management. (Recommendation 19, p. 62)

Individual life sentence plans should include 'paths of progression', with clear goals and milestones, linked with incentives. These incentives must be delivered upon by the Irish Prison Service when milestones are met by the prisoner. Incentives could include transfer to lower security prison settings, periods of day/weekend release, etc.

In Norway, each prisoner has a designated 'contact officer' who monitors their progress throughout their entire sentence towards a return to the community. This was introduced to help prison officers make their role less punitive.⁹

⁶ See for example the 'Principle of normality in Norwegian corrections' included in the mission statement of the Norwegian Prison Service, available on their website here:

<http://www.kriminalomsorgen.no/index.php?cat=265199>

⁷ See Kazemian and Andersson, 2012: <https://jirec.files.wordpress.com/2014/04/rec20121.pdf>

⁸ Prison Reform International, *Alternatives to the Death Penalty*, 2015, p. 23.

⁹ The Atlantic (2013) 'Why Scandinavian Prisons Are Superior', 24 Sep 2013

There should be no maximum number of prisoners who can be on enhanced regimes at any time; all prisoners who meet the criteria should be on enhanced regimes. This is particularly important for prisoners serving long sentences.

Recommendations:

- Planning for release should begin within a few days of a prisoner's committal to prison on a life sentence by the Irish Prison Service in conjunction with the Probation Service.
- Protocols around joint sentence planning for life-sentenced prisoners should be developed between the Irish Prison Service and the Probation Service.
- Consideration should be given to a designated department within the Irish Prison Service for sentence management of life sentence prisoners.¹⁰
- Each prison should have designated ISM officer responsible for the management of life-sentenced prisoners.
- The feasibility of assigning each life-sentenced prisoner with a designated 'contact officer' who monitors their progress throughout their entire sentence should be explored.
- The personal agency of life-sentenced prisoners should be maintained by involvement in the development and planning of programmes and sentence management. Where possible, families should also be included in this process.
- There should be no maximum number of prisoners who can be on enhanced regimes at any time.

5. Education, Training and Work

The prison education system is tailored more to the needs of those serving shorter sentences, with particular emphasis on literacy and numeracy skills, along with trades towards gaining employment in the community post-release. For example, the Dóchas Centre Visiting Committee recently criticised the limited variety in classes offered to prisoners with few opportunities to progress in subjects, stating this was of immense disadvantage to long-term prisoners.¹¹ Cuts since 2011 to third-level education and non-vocational education, including Open University and NCAD, have impacted disproportionately on prisoners serving longer sentences.

The CPT has stated that life-sentenced prisoners 'should have access to a wide range of purposeful activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association). Moreover, they should be able to exercise a degree of choice over the manner in which their time is spent, thus fostering a sense of autonomy and personal responsibility.'¹²

Efforts should to be made by the Irish Prison Service to facilitate the skills and interests of prisoners. Research has found that allowing prisoners continue to practice trades and skills they had before they were incarcerated can help retain the individual's sense of identity over a long sentence.

¹⁰ Richardson, M. (2012) *Lifers: An Exploration of Coping Among Male Life Sentence Prisoners*, *Irish Probation Journal*, Vol. 9, Oct 2012, p. 144.

¹¹ Dóchas Centre Prison Visiting Committee (2016) *Annual Report 2015*

¹² 11th *General Report*, CPT/Inf (2001) paragraph 33

Recommendations:

- Cuts to education budgets for Open University provision and other advanced third-level qualifications in prison should be reversed.
- Education provision should not only be linked to employment post-release; subjects including art and philosophy have been found to be of significant personal and psychological benefit to prisoners serving long sentences, including life-sentenced prisoners.

6. Healthcare

Prisoners have diverse and complex health needs. Compared to general adult populations, prison populations have poorer physical, mental and social health and experience considerable social exclusion. The prison environment can further compound these inequalities, thus impacting the health and human rights of those incarcerated in Ireland.¹³

The reliance of life-sentenced prisoners on prison medical and dental services over a prolonged period of time places an obligation on the Irish Prison Service to ensure that the provision of health care is focused on a preventative approach and not only responsive to complaints of ill-health by prisoners.

The life sentence, as well as the experience of life imprisonment itself, can have a profoundly damaging impact on a prisoner's mental health. Research carried out in Ireland found that the lifetime prevalence of deliberate self-harm was significantly higher for life-sentenced prisoners (41.8%) compared to prisoners serving a fixed-term sentence (24.4%).¹⁴

Due to the length of time served under a life sentence, many prisoners are entering old age in prison. Life-sentenced prisoners have raised concerns directly with IPRT about how the Prison Service can meet the palliative and health care needs of older prisoners in the prison. Prisoners also reported that there is little preventative dental treatment available.

Recommendations:

- All prisoners, at a very minimum, must have access to mental and physical healthcare equivalent to that available in the community.
- Considering the health inequality that exists among marginalised and socially excluded groups, there are strong arguments that prisoners should in fact be afforded a higher standard of care than that generally available in the community.
- Prison Psychology Services should be oriented towards minimising harm and reducing any potential negative effects on the mental health of life-sentenced prisoners.
- The findings and recommendations of the IPRT report (2016) on the rights, needs and experiences of older people in prison should be considered in the proposed strategy for life-sentenced prisoners.

¹³ MacNamara, C., Varley, L. and Mannix McNamara, P. (2016) *Improving Prison Conditions by Strengthening the Monitoring of HIV, HCV, TB and Harm Reduction*, Dublin: IPRT.

¹⁴ See Kennedy et al. 'Mental Illness in Irish Prisoners': *Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners*, available at: http://www.drugsandalcohol.ie/6393/1/4338_Kennedy_Mental_illness_in_Irish_prisoners.pdf

7. Complaints

The impact of long sentences and institutionalisation on a prisoner's ability to articulate and have the confidence to make complaints should be recognised in the internal IPS complaints policy.

Furthermore, the dependence of life-sentence prisoners on good behaviour reports to support their applications for release may decrease their likelihood of making complaints even when these are well-founded.

Traits favourably received in the community, such as questioning authority and making reasonable complaints, may be perceived as less welcome within the prison environment; and may lead to a prisoner being perceived as a 'trouble-maker' or as a threat to the system. This may have a negative impact on a life-sentenced prisoner's parole prospects.

Additionally, experience over a longer period of complaints not being adequately resolved may contribute to a lack of confidence in the system. Feelings of there being little point in making complaints have been consistently reported to IPRT by prisoners, who have described the complaints system as "wear[ing] you down".

The Irish Prison Service should explore the benefits of conflict mediation and restorative justice approaches to resolving incidents between prisoners and between staff and prisoners. This is particularly important for life-sentenced prisoners, whose contact with others in the prison system extends over a prolonged period.

Recommendations:

- The operation of the Irish Prison Service complaints mechanism needs to be reviewed.
- Any review of the operation of the complaints mechanism must consider the particular vulnerabilities of life-sentenced prisoners within the system, and include measures to ensure that life-sentenced prisoners are not discouraged from making complaints through fear of adverse impact on their prospects for release.
- The Irish Prison Service should explore conflict mediation and restorative justice approaches to resolving incidents between prisoners and between staff and prisoners.
- The remit of the Ombudsman should be extended to include individual complaints from prisoners.
- All complaints made by prisoners held in isolation should be treated as Category A complaints, with independent external oversight.

8. Protection Prisoners

The negative impacts of isolation on an individual's mental health has been raised the Committee on the Prevention of Torture. The CPT has also drawn attention to how special restrictions may 'exacerbate the deleterious effects inherent in long-term imprisonment'¹⁵. Specific examples of such restrictions include 'permanent separation from the rest of the prison population, handcuffing whenever the prisoner is taken out of his cell, prohibition of communication with other prisoners,

¹⁵ *Ibid.*

and limited visit entitlements.¹⁶ The life-sentenced prisoner's status ought to be taken into account when applying such restrictions, to avoid unintended harm that may result.

In 2007, an expert symposium explicitly advised against the use of solitary confinement (defined as lock up for 22 or more hours per day) for life-sentenced prisoners 'by virtue of their sentence'.¹⁷ Solitary confinement is statutorily limited to four weeks per prisoner per year in Germany, and two weeks per prisoner per year in Holland. This means that prisoners cannot be held in isolation for long periods, which life sentence prisoners are currently vulnerable to in Ireland.

Recommendations:

- The Irish Prison Service should take all measures available to minimise the detention on 22+ lock up of life-sentenced prisoners.
- IPRT believes the practice of holding prisoners in isolation for 22 or more hours per day can and should be abolished for all prisoners.

9. Maintaining family relationships

Maintaining strong prisoner family relationships supports better reintegration on release; reduces tensions in prison; and helps minimise the negative impacts on families and children outside. The importance of family relationships is recognised by the Parole Board as a critical factor in release decision-making.

However, the challenges of maintaining contact and good relationships with families over a life sentence presents particular challenges and demands additional supports, which can be responsive to changing circumstances of families outside. One inevitable consequence of a life sentence is the ageing of families outside: children grow up into adults, parents grow elderly.

In England and Wales, the HM Inspectorates of Probation and Prisons have found that 'families could provide an extremely important point of view on a whole range of pertinent issues including those relating to the prisoner's needs, risk of harm to others and likelihood of reoffending.'¹⁸ They report that many life-sentenced prisoners find it relatively easy to drift through their sentence without having their attitudes concerning their offences addressed in a meaningful way. The Inspectorates suggest that families are 'often in a position to challenge prisoners in a more direct way compared with more reticent or diplomatic professionals.'¹⁹

The CPT also recognises that contact with family and friends can mitigate the negative effects of institutionalisation and better equip prisoners for release.²⁰ Therefore, the importance of involvement and participation of the family is critical and therefore facilitating contact is beneficial for everyone.

¹⁶ *Ibid.*

¹⁷ Istanbul Psychological Trauma Symposium (2007) *Istanbul Statement on the Use and Effects of Solitary Confinement*, 9 Dec 2007, p. 4.

¹⁸ HMI Probation and HMI Prisons (2013) *A joint inspection of Life sentence prisoners*, September 2013.

¹⁹ *Ibid*

²⁰ *11th General Report*, CPT/Inf (2001) paragraph 33

In Scotland, Extended Home Leave allows for prisoners to be released for up to 7 days a month.²¹ Extended Home Leave is used for prisoners serving longer-term sentences (4+ years). There are many positive benefits of Extended Home Leave as it lessens the stress for family members in visiting prisons as well as the financial burden in visiting prison, who play a crucial role in the reintegration of the prisoner. Extended home leave would provide structure to the prisoner and help he/she re-adjust to living in the community prior to release.

Recommendations:

- Facilitation of relationships through child-friendly visiting facilities and the ongoing involvement of the life-sentenced prisoner in the life of his/her children (provided it is in the best interests of the child) must be examined by the Irish Prison Service.
- Life-sentenced prisoners should be facilitated with longer visits, particularly for families travelling long distances.
- Normalisation of visits should be the standard, including round-table visits and sharing of food and beverages.
- Parenting from Prison courses tailored specifically to those serving life sentences should be developed.
- Consideration should be given to provision of in-cell phones for life-sentenced prisoners to maintain regular contact with their families.²²
- Innovative practice from other jurisdictions, such as home-work clubs or facilitating parent-teacher meetings in prison, should be introduced in Irish prisons.
- Video-conferencing, such as Skype, should be made available in all prisons to facilitate contact with elderly or less mobile relatives, and family living in other jurisdictions.
- The involvement and participation of families in sentence management plans and community integration plans should be facilitated where possible.

10. Foreign national prisoners

Foreign nationals serving life-sentences in prison in Ireland experience particular difficulties. Apart from suffering prolonged separation from their families, they may have no family or friends to visit them in prison in Ireland, and as a result, are less likely to be granted Temporary Release because there is no one to receive them in the community.

Recommendations:

- All prison information materials relating to life in prison should be fully accessible, including translation as required.
- English language courses should be available to foreign nationals serving long sentences.
- Proactive measures should be taken by the IPS to ensure foreign nationals serving long sentences enjoy full and equal access to education and regimes, regardless of their English language skills.

²¹ See 'Families Outside, Extended Home Leave: Information for Families', available at <http://www.familiesoutside.org.uk/content/uploads/2011/02/extended-home-leave.pdf> (accessed 02/10/12).

²² HM Inspectorate of Prisons (2016) *Life in prison: Contact with families and friends - A findings paper*, August 2016

- All foreign nationals serving life-sentences in Ireland, whose families live in other jurisdictions, should be facilitated with video-conferencing (such as Skype).
- The Irish Prison Service should proactively develop links with relevant community groups to develop a Befriending Visitors Scheme.
- The Department of Justice and Equality should accelerate efforts towards repatriation of foreign nationals serving life-sentences in prison in the first instance.

11. Legal Clinics

Recommendation:

- Regular family law clinics provided in the prison by FLAC would be of benefit, particularly for life-sentenced prisoners, in order to obtain legal advice and information.

12. Parole Board reviews

IPRT has long called for reform of prison release mechanisms, including ensuring that the parole system is fair, transparent and independent²³ and therefore welcomes the *Parole Bill 2016*, which has the purpose of placing the Parole Board on a statutory footing. A more transparent and structured system of parole for prisoners would incentivise meaningful engagement with services and regimes inside prison, and support more successful reintegration of prisoners back into the community.

The uncertainty and delay in speediness of parole reviews is an issue consistently raised with IPRT by life-sentenced prisoners. Ireland should be in compliance with Article 5(4) of the European Convention on Human Rights (ECHR) which provides that prisoners should be automatically scheduled by law for a parole review within six months of their eligibility date.²⁴ If a prisoner does not secure release at a parole review, follow-up reviews should be scheduled every two years for sentences over ten years.

In addition to necessary reforms at Parole Board level, IPRT has identified a number of issues within the prison system itself. A major concern, identified earlier in this submission, is the delay in sentence planning and services until the prisoner's first Parole Board review is scheduled. Following the review, prisoners describe delays of up to 9-12 months in receiving the Parole Board report, and express frustration at the loss of time that they could be proactively working towards release. Additionally, Parole Board recommendations are often found to be too vague.

Where the Parole Board recommends specific actions for the prisoner to take, such as engagement in treatment or education/training, the Irish Prison Service must respond by facilitating the prisoner with access to those services and treatment in timely fashion. At the same time, it is important that the Parole Board does not ground its recommendations on *what exists* within the prison system but rather *what is needed*.

²³ See: *IPRT Briefing: Parole and Temporary Release of prisoners serving long sentences* (available at: <http://www.iprt.ie/contents/2924>) and *IPRT Position Paper 9: Reform of Remission, Temporary Release and Parole* (available at: <http://www.iprt.ie/contents/2443>)

²⁴ *Ibid.* p.23

Recommendations:

- IPRT welcomes the *Parole Bill 2016* which aims to place the Parole Board on a statutory footing, removing decisions from political control.
- Notwithstanding the responsibilities that lie with the Parole Board, the Irish Prison Service should take all measures available to assist the timely scheduling of parole reviews and follow-up reviews, including the prompt preparation and production of relevant reports.
- Prisoners should be assigned an advocate to help them prepare for a parole board review. (This is separate from the provision for legal representation included in the *Parole Bill 2016*.)
- Prisoners should be offered interview skills training and personal presentation support in advance of Parole Board reviews.
- The Irish Prison Service and the Probation Service must ensure that prisoners are facilitated to take the actions recommended by the Parole Board following a review.
- The Parole Board must not base its recommendations on the availability of services, treatments and programmes available in the prison system, but rather on what the prisoner needs to improve his or her prospects for release.
- Restorative justice approaches should be explored within the context of the parole process and preparing for release.
- Internal policies which bar certain categories of prisoner from being considered for temporary release or day release programmes should be reviewed.

13. Open Prisons

One of the key stages of a life-sentenced prisoner's journey through the prison system is the move from closed to open conditions, since it is the first step towards reintegration into the wider community. Prisoners may be moved to an open facility as part of a preparation for release programme. However, following a long period in a closed institution, prisoners often struggle to adjust. Support in transitioning to open prison conditions following a long period in a closed prison is essential.

Research by the HM Inspectorates of Prisons and Probation found that when life-sentenced prisoners were moved to an open prison, they were less well-supported than other prisoners than they should have been at such a critical stage of their sentence: 'Work done earlier in the sentence was not well reinforced on arrival in open prison, which potentially allowed some of the momentum towards positive change to stall.'²⁵

Recommendations:

- Sentence management, including decision-making around the transfer of life-sentenced prisoners within the prison system, should be the responsibility of the Irish Prison Service and not the Parole Board, which should be focused on release decision-making.
- The decision to transfer a prisoner to an open prison should be based solely on risk and the prisoner's demonstrated progression over his/her sentence; provision of medical or nursing care should not be a barrier to a prisoner's transfer to an open prison.
- In advance of transfer to an open prison, the prisoner's designated 'contact officer' and/or ISM officer should put in place an individualised pre-transfer programme of preparation.

²⁵ HMI Probation and HMI Prisons *Report*, pg. 32

- Where a prisoner is identified as struggling with the adjustment to an open regime, all appropriate interventions should be explored before taking the decision to return him/her to a closed regime.
- Provision should be made following the transfer of a life-sentenced prisoner to an open centre to reinforce learning from the earlier stages of the sentence, via “appropriate constructive interventions”.²⁶

14. Normalisation and Programmes

Temporary release for education, training or work programmes towards the end of a life-sentence plays a critical role in preparing for release. The variety and availability of day/weekend release programmes should be increased. Prisoners transferred to open or semi-open facilities, who are deemed suitable for day release programmes, should not have to wait long periods to access these.

Feedback from prisoners emphasises the importance of resocialisation, including dealing with shops, transport, money, permissions and decision-making, friendships, and relationships. Supports should be made available to prisoners who have spent long periods in prison to assist with socialisation before and during release on day programmes, for example, courses in relationships and understanding social cues.

As trust is established, conditions of day/weekend release for programmes should be guided by principles of normalisation rather than risk, and should be flexible enough to facilitate gradual resocialisation, for example, going for a coffee with colleagues or classmates.

At the same time, there is a need to make sure that prisoners are not punished for struggling on temporary release. Some prisoners feel that if they admit that they are struggling, they will be placed back inside prison without a chance of TR again, rather than be given the necessary supports to complete TR successfully.

For prisons to be rehabilitative, they must be equipped to provide prisoners with the tools necessary for life on the outside. This includes information and communication technology (ICT), which has become increasingly important in virtually all areas of life.²⁷ By not helping prisoners to obtain any of the benefits or avoid the risks of these new technologies, prisons risk leaving prisoners unprepared for the world they will face on release.²⁸ The technology itself allows usage to be limited to certain pre-approved websites, with every key stroke monitored and access can be risk-assessed.²⁹

Recommendations:

- There is a need for ongoing development by the IPS in the availability and diversity of day/weekend release programmes.
- Staged release programmes should be introduced whereby prisoners access more flexible conditions as trust is established and maintained.

²⁶ Ibid, pg. 28

²⁷ Champion, N. and Edgar, K. [2013:3]. *Through the Gateway: How Computers Can Transform Rehabilitation*. Prison Reform Trust: London.

²⁸ Nick Hardwicke, (former) HM Chief Inspector of Prisons. In: Champion, N. and Edgar, K. [2013:iii]. *Through the Gateway: How Computers Can Transform Rehabilitation*. Prison Reform Trust: London.

²⁹ Ibid.

- Courses to assist in specific aspects of socialisation, such as healthy relationships and understanding social cues, should be made available to prisoners before and during release on day programmes.
- Prisoners who are struggling on temporary release
- Prisoners should be facilitated with ICT training in prison.

15. Post-Release

The CPT has highlighted the negative psychological impact long-term imprisonment may have on individuals: 'In addition to becoming institutionalised, long-term prisoners may experience a range of psychological problems (including loss of self-esteem and impairment of social skills) and have a tendency to become increasingly detached from society; to which almost all of them will eventually return.'³⁰

A lack of wraparound supports exists on the outside for prisoners being released. Prison staff have observed that some prisoners do very well inside within the prison structure, but in the absence of adequate post-release supports, the system may be "setting them up for a fail" on the outside.

Recommendations:

- In order to ensure that life-sentenced prisoners successfully reintegrate into society, a structured pre-release planning programme tailored to the specific needs of each life-sentenced prisoner is vital.
- The IPS should pro-actively involve the prisoner's family in pre-release planning, provided it is in the best interests of the family.
- Inter-agency and inter-departmental protocols and obligations should be developed to ensure the smooth transition of life-sentenced prisoners to secure accommodation and community-based services and supports on release.
- Supported step-down accommodation outside prison walls should be available to those life-sentenced prisoners who would benefit from it. Provision should be nationwide, and not concentrated in Dublin.

16. Victims Directive

IPRT broadly welcomes the implementation of the EU Victims' Rights Directive as a positive step forward for reform of Irish law.³¹ Recognising the harm caused to victims of crime is a central function of the criminal justice system. IPRT believes the transposition of the EU Victims' Rights Directive should be informed by international evidence and best practice of what works to support victims while also supporting rehabilitation and reduction in reoffending.

The Directive contains a clear obligation to put in place procedures whereby, at least in cases where there is a danger or identifiable risk to the victim, the victim is offered the opportunity to be notified, without unnecessary delay, when the offender is released or escapes from prison. Equally, there is a clear obligation to consider the rights of the offender when deciding whether to disclose

³⁰ 11th General Report, CPT/Inf (2001) paragraph 33

³¹ IPRT (2015) *IPRT Submission on Heads of Criminal Justice (Victims of Crime) Bill 2015*

this information, and, in particular, there is an obligation to not disclose information on the release or escape of an offender where such disclosure constitutes an identifiable risk to the offender.

In respect of provision of information on the issues of transfer of the prisoner to another prison and “Parole Board hearings and related decisions” IPRT queries the nature and extent of the information to be provided. Information related to Parole Board hearings and sentence progression can be extremely sensitive and may include medical, psychological and personal matters. If the disclosure were limited to the date, time and outcome of the hearing, that may be proportionate in appropriate cases.

Recommendations:

- The EU Victims’ Directive is a positive step forward for reform of Irish law. Despite IPRT’s strong endorsement of the Directive, we recommend Government take a cautious approach to any proposals to extend provisions *beyond* those laid out in the Directive.
- The disclosure of detailed information on the progress of an offender within the prison system may be disproportionate in the absence of a prisoner’s consent for such information to be disclosed, and may amount to a breach of rights to privacy.
- The Irish Prison Service should examine both the implications and the opportunities contained in the provision for restorative justice set out in the Directive.

17. Recall

The recall of life-sentenced prisoners to prison due to a failure to comply with conditions of their release should be proportionate to the level of breach, and should consider the negative impacts that even a brief return to prison will have in terms of potential loss of accommodation, employment, training, community health care, etc. as well as the repeat traumatising of their families.

The *European Rules on Community Sanctions and Measures (1992)* and *Recommendations on Conditional Release* both direct that any person whose release may be revoked should be given an opportunity to make representations to a competent body, and that all of the relevant circumstances of the violation should be taken into account including prior behaviour on licence.³²

Recommendation:

- A violation of conditions should not mean a prisoner is automatically returned to prison in the absence of a criminal offence being committed.
- An appeals mechanism should be available to a prisoner in relation to any decision made to revoke his/her conditional release.
- There should be a mechanism to ‘fast track’ case reviews of prisoners who have previously been approved for release on license; such case reviews should focus in the first instance on the period that the prisoner spent in the community following release, and should not initiate the whole parole process all over again.
- The Irish Prison Service should facilitate the prioritisation of prisoners whose licenses have been revoked before the Parole Board, including timely production of required documentation and reports.

³² See IPRT (2012) *IPRT Position Paper on Reform of Remission, Temporary Release and Parole*, available at [http://www.iprt.ie/files/IPRT Position Paper Reform of Remission TR Parole Oct 2012.pdf](http://www.iprt.ie/files/IPRT%20Position%20Paper%20Reform%20of%20Remission%20TR%20Parole%20Oct%202012.pdf)

Part II – International Human Rights Standards

- Council of Europe, 2003 Recommendation 23 of the Committee of Ministers of the Council of Europe on ‘the management by prison administrators of life sentence and other long term prisoners’ recommended that the following key principles governed sentence management: individualisation, normalisation, responsibility, security and safety, non-segregation, progression.³³

- European Court of Human Rights (all from *Factsheet: Life Imprisonment*, October 2016)
 1. *Vinter and Others v. the United Kingdom*, 9 July 2013, A review of sentence must happen ‘no later than twenty-five years after the imposition of a life sentence’ in order to comply with Article 3 of the European Convention on Human Rights – authorities must ‘consider whether any changes in the life of the prisoner are so significant, and such progress towards rehabilitation has been made in the course of the sentence, as to mean that continued detention can no longer be justified on legitimate penological grounds...Furthermore...a whole life prisoner is entitled to know, at the outset of his sentence, what he must do to be considered for release and under what conditions, including when a review of his sentence will take place or may be sought’.
 2. *Öcalan v. Turkey (no. 2)*, 8 March 2014, the possibility of release on compassionate grounds is different to the ‘prospect of release’.
 3. *László Magyar v. Hungary*, 20 May 2014, domestic law has to allow life prisoners know what they have to do to be considered for release and under what conditions.
 4. *Harachiev and Tolumov v. Bulgaria*, 8 July 2014, it is not the life sentence itself which constitutes inhumane or degrading treatment, it is the lack of any prospect of release or review of the life sentence. Prisoners must be given an opportunity to rehabilitate themselves.
 5. *Murray v. the Netherlands*, 26 April 2016, the authorities must provide the prisoner with the necessary services/treatments in order to rehabilitate themselves. The applicant in this case was never provided with psychiatric treatment, despite being assessed as requiring treatment before his sentencing, and thus was never given a chance to rehabilitate himself, i.e. was not given the opportunity to make himself suitable for release. This violated Article 3.

- International Covenant on Civil and Political Rights
 1. Article 10(1) – prisoners must be treated with ‘humanity and respect for the inherent dignity of the human person’
 2. Article 10(3) – ‘essential aim’ of the treatment of prisoners in the penal system shall be ‘their reformation and social rehabilitation’.

- UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) – revised 17 Dec 2015
 1. Rule 2.2, p. 3, ‘In order for the principle of non-discrimination to be put into practice, prison administrations **shall take account of the individual needs of prisoners**, in particular the most vulnerable categories in prison settings.’
 2. P. 4, Rule 4, purpose of prison is to prevent recidivism, which can only be achieved if the ‘period of imprisonment is used to ensure, so far as possible, the **reintegration**

³³ Prison Reform Intl, p. 54.

of such persons into society upon release so that they can lead a law-abiding and self-supportive life'. 'To this end, prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services **should be delivered in line with the individual treatment needs of prisoners**.

3. P. 4, Rule 5.1, prison regime 'should seek to **minimise any differences** between prison life and life at liberty that tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings'.
4. P. 31, Rule 88.1, 'The treatment of prisoners should emphasize not their exclusion from the community but their **continuing part in it**. Community agencies should therefore be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of the prisoners.'
5. P. 31, Rule 90, 'The duty of society does not end with the prisoner's release. There should, therefore, be governmental or private agencies capable of lending the released prisoner efficient **aftercare** directed towards the lessening of prejudice against him or her and towards his or her social rehabilitation'. (relevant to 2015 Parole Board Report)
6. P. 31, Rule 91, **purpose of imprisonment** should be to help people 'to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will **encourage their self-respect and develop their sense of responsibility**'.
7. P. 33, Rule 94, 'As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a **programme of treatment** shall be prepared for him or her in the light of the knowledge obtained about his or her individual needs, capacities and dispositions'.
8. P. 33, Rule 106, 'Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his or her family as are desirable in the best interests of both'.
9. P. 33, Rule 107, 'From the beginning of a prisoner's sentence, consideration shall be given to his or her **future after release** and he or she shall be encouraged and provided assistance to maintain or establish such relations with persons or agencies outside the prison as may promote the prisoner's rehabilitation and the best interests of his or her family'.
10. P. 37, Rule 109.1, Persons who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean an exacerbation of their condition, **shall not be detained in prisons**, and arrangements shall be made to transfer them to mental health facilities as soon as possible.
11. P. 37, Rule 110, It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary **the continuation of psychiatric treatment** after release and the provision of social-psychiatric aftercare. (both of the above relevant to 2015 Parole Board Report)

1. P. 1, Para 4, ‘...life-sentence prisoners have **specific needs** resulting from the indeterminate nature of their sentence and the diversity of the problems that are at the root of their criminal behaviour. Doubts about what is to be assessed, when assessments should take place, and who assesses life-sentence prisoners create fundamental problems not only for the prisoners but for the penal administration as well. Prisoners serving life sentences are also unique in terms of what they **represent in the criminal justice system** – persons who have been convicted of very serious offences and whose sentences are an expression of the ideas of both specific and general deterrence, as well as of retributive punishment. **They should be recognised as a distinct group of long-term prisoners and should be treated accordingly**’.
2. P. 6, Para 23, due to uncertainty of release ‘life sentence prisoners have no real perceptions of their own time-frames. **The early mobilization** of staff and prisoners requires clear and structured assessment release procedures so that such time-frames can be established’.
3. P. 7, Para 32, ‘**The longer the confinement, the greater the impact of ‘prisonization**’.’
4. P. 11, Para 47, release should be determined by ‘**independent, non-arbitrary assessment procedures**. Such procedures necessitate minimum safeguards to avoid personal or political manipulation of life-sentence prisoners’.
5. P. 11, Para 50, **early assessment ‘vital** in that it gives a structured approach to a life-sentence prisoner’s future movement through the penal system. Any assessment that begins at a later stage would likely risk neglecting the initial impact that the sentence has had on a long-term prisoner’s personal development. Ideally, assessments could therefore begin as soon as a life-sentence prisoner is committed to a penal institution, well before release can realistically be contemplated. The possibility of release may then be considered, upon the fulfilment of certain conditions framed by law, based on accurate, well-informed and regular assessment reports’.

Further Reading:

- Champion, N. and Edgar, K. (2013) *Through the Gateway: How Computers Can Transform Rehabilitation*. Prison Reform Trust: London.
- Coyle, A. (2009) *A Human Rights Approach to Prison Management: Handbook for prison staff*, 2nd ed.
- CPT (2001) *11th General Report on the European Committee on the Prevention of Torture's activities*
- Griffin, D. (2015) *The release and recall of life sentence prisoners: Policy, practice and politics*
- HMI Probation and HMI Prisons (2013) *A joint inspection of Life sentence prisoners*
- HM Inspectorate of Prisons (2016) *Life in prison: Contact with families and friends - A findings paper*, August 2016
- Irish Prison Service (2016) *Annual Report 2015*
- Istanbul Psychological Trauma Symposium (2007) *Istanbul Statement on the Use and Effects of Solitary Confinement*.
- Kazemian, L. and Andersson, c. (2012) *The French Prison System: Comparative Insights for Policy and Practice in New York and the United States*: <https://ijrec.files.wordpress.com/2014/04/rec20121.pdf>
- Kennedy et al. *Mental Illness in Irish Prisoners: Psychiatric Morbidity in Sentenced, Remanded and Newly Committed Prisoners*:
- Murdoch, J. (2006) 'The treatment of prisoners: European Standards'
- O'Malley, T. (2011) 'Sentencing: Towards a Coherent System'
- Richardson, M. (2012) *Lifers: An Exploration of Coping Among Male Life Sentence Prisoners*, *Irish Probation Journal*, Vol. 9, Oct 2012
- Rogan, M. (2014) *Prison Law*