

HOME AFFAIRS.



PERSONAL

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SW1H 9AT

3 August 1983

8:

Dear Stephen,

We recently briefly discussed the issues of life sentences and sentences for other violent crimes. I attach the papers I mentioned. I understand that the Home Secretary's office will shortly arrange a meeting with the Prime Minister on the lines we discussed. I would be most grateful if the contents and existence of these papers (and the fact that you have seen them) were not made known - even retrospectively, when the dust has settled.

Yours,
Robin

ROBIN HARRIS

Stephen Sherbourne Esq

E.R.

Secretary of State

Mr Hurd
Mr Waddington
Lord Elton
Mr Mellor
Sir Brian Cubbon
Mr Faulkner
Mr Nursaw
Mr Train
Mr Bohan
Mr Langdon
Mr Turney
Mr Scudder
Mr Mower

Life Sentences

It is probably worth reflecting on why you have felt it right to set in hand the present review of policy and practice in life sentence cases in the wake of the capital punishment debate and controversy. For the results of the review to be acceptable (in the broadest sense) they will have to deal with the anxieties in Parliament, the Party and the country which are behind current pressure for action. There is no point in coming up with conclusions which may or may not have convenience, or even equity, to commend them if they do not 'stick'. And in order to do that they will have to command sufficiently widespread public support.

That is why it seems to me that some of the options in Sir Brian Cubbon's stimulating review of possibilities (20 July) are, at least taken on their own, effectively non-starters. The public want longer sentences for violent crimes in general and murder in particular. They profoundly distrust the wisdom of the judiciary whose values and priorities in sentencing they only partially understand and certainly do not share. Consequently options 4 and 5 would not command support. Options 6, 7 and 8 would, on their own, almost certainly result in sentences which were in the public's eyes far too short. Indeed, by drawing attention to judges' views in all cases (other than the small minority where recommendations are made at present) on the appropriate sentence of imprisonment it is easy to envisage there returning a greater disillusionment with the system than presently exists. For different reasons, as Sir Brian's note implies, option 3 does not go to the heart of the concern either.

The public would like option 2. Or at least they would like it until we landed ourselves with just those border-line and definitional problems and anomalies which resulted in the erosion of confidence in the 1957 Homicide Act. I am sure that this option, for all the well known reasons, should be excluded. Moreover, I have never been

/convinced

E.R.

convinced that this (or even its less sophisticated equivalent, 'life means life') will be too difficult to resist. It is interesting that not even Teddy Taylor and the 'Crime Concern' Committee (his letter of 23 July) go that far.

I think, therefore, that we should build on the statement you have made about the tariff for police murders and extend such tariffs to other categories where the heinousness and the potential deterrent factor (there will always be a varying balance between the two) suggest. That is Sir Brian's option 1. The objections which his list enumerates as a), b) and d) do not seem too weighty. On a), the Home Secretary would retain the power to exercise his discretion to release on licence earlier than his own self imposed tariff suggested. b) is quite simply true. But longer sentences for such categories is what the exercise is about. d) I have dealt with above.

What we might envisage is a detailed policy statement which would constitute a 'Code of Practice', not requiring legislation, which would govern the Home Secretary's power to release on licence. It should be more than a few paragraphs of generalities, but rather an analysis of the categories of murder which should be regarded as having particular tariffs of a number of years and a coherent, reasoned statement of what broad considerations will apply in deviating, where that is appropriate, from those tariffs.

Sir Brian's objection (c) to option 1 is, however, of much greater weight. We can be sure that as informed scrutiny is brought to bear on his issue the essential flimsiness of such a 'Code of practice' in releasing lifers would become apparent. For how can you bind Mr Hattersley? Of course, the moral force of such a statement would not be negligible in influencing future practice. But that is not sufficient.

At this point I do think that we need to consider legislation which option 1, of course, otherwise avoids. There seems a fairly strong argument for bringing in the judiciary as a long-stop. We could legislate to make binding on the Home Secretary a minimum term of imprisonment which the judge would have to recommend but whose length would be at the judge's own discretion. That in itself would not be a substitute for the Home Secretary's exercise of his powers along the 'tariff' route of option 1: but it would provide a minimum reassurance about the future - and, I imagine, not even the judges, whose sensitivities on these matters seem so great, would object.

These two changes in themselves would not though, I suspect, be enough. Underlying the controversy about capital punishment and the operation of life sentences is perhaps deeper and at least as long running concern about the penalties for 'other' violent crimes against the person in general and the use of firearms in particular. The acceptability of what we propose on life sentences will in large part be governed by how we tackle this problem. This should influence our handling of the 'package' we shall be presenting this autumn (see below).

As in life sentencing the aim should be to avoid being pressed down the unacceptable route of mandatory minimum sentences for (broadly) those offences (for example, armed robbery, arson, rape, kidnapping, causing an explosion) where at present a life sentence is the maximum penalty. But I have no doubt that we shall be under strong and continuing pressure to deliver something by way of stiff sentences.

Mr Faulkner will (as his outline of 22nd July promises) be providing a detailed assessment of the options. But I would like to suggest two possibilities. The first is to introduce right of appeal by the prosecution against 'inappropriately' lenient sentences. I have read through the debate on 12 May 1982 on Alan Clark's 'New Clause 8' of the Criminal Justice Bill which proposed that the Attorney General should exercise this role. Though no lawyer, I did not find the arguments against this (or by application a similar role for the prosecution) very persuasive. It would, of course, be highly controversial. But such a procedure would at least ensure it was a judge - not parliament - who decided the appropriate sentence. And it might be more acceptable when considered with our proposed independent prosecution service.

Secondly, firearms offences. There is no doubt about the strength of justified public concern about the use of firearms in the course of robbery. Teddy Taylor's paper mentions (section 3) the possibility of a fixed statutory additional term of imprisonment applying in all cases where firearms were carried. In practice, the length of sentences handed out by the courts to those committing armed robberies might not change very much. But such a proposal would provide a deterrent specifically aimed at one particularly alarming element in violent crimes.

The handling of our proposals when they emerge will be crucial. If we come up with very little except a strong statement about how you intend to exercise your powers in releasing murderers on licence that could, I suppose, be made at the Party Conference. If so, such a statement ought to be trailed a day or two before the debate, perhaps at the weekend, to defuse criticism without there being time for it to be denounced as 'inadequate'. If, on the other hand, we move along something approximating to the route I have suggested above, ie proposing clear changes of practice and promising legislation, combining moves on 'life' with moves on other sentencing, I think that we ought positively to avoid announcing decisions at the Conference. To do so could both prejudice their wider acceptance as well thought out reforms and, paradoxically, appear as a sign of weakness, an indication that fear of Conference rather than more long term analysis was behind it all. I would favour a set piece speech to a worthy (legal?) gathering with full billing beforehand long enough before Conference begins to avoid appearing too associated with Right wing pressures and threats. :

Two further points follow from that.

E.R.

First, we shall have to push ahead very quickly with the work involved. That does not seem to admit any but the barest consultation with interested parties and it will require quick clearance from colleagues who may not be as accessible in these summer months as they would otherwise be. The early agreement of the Prime Minister to the broad lines of what we propose will, however, be essential.

Secondly, if what we do does involve legislation, should we not be prepared to bring forward a fairly short Criminal Justice Bill earlier than Sir Brian Cubbon's note on the legislative programme suggests? If we do intend to do so, the other possible candidates for inclusion in that Bill, eg week-end imprisonment etc. will need to be given higher priority in our work schedule than they would otherwise be.



ROBIN HARRIS

25 July 1983

From: Sir Brian Cubbon
20 July 1983

~~Life Sentences~~ Life Sentences

Prison guard
vs Life

- cc Lord Elton
- Mr Mellor
- Mr Faulkner
- Mr Nursaw
- Mr Train
- Mr Bohan
- Mr Langdon
- Mr Turney
- Mr Scudder
- Mr Harris

Secretary of State

I promised to propose a programme of work for our internal review of the policy and practice in life sentence cases. I make the following suggestions:

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- a) In my view we need to think fundamentally about how to reflect the punitive/deterrent element in life sentences. Attached is a think-piece of my own canvassing various approaches.

I suggest that after an initial discussion this month we all take a little time to reflect on the possibilities and perhaps undertake some informal soundings and then return at the end of August to reach provisional conclusions. That will be the moment at which to consult the Lord Chief Justice and perhaps the Chairman of the Parole Board. The Lord Chancellor and the Scottish and Northern Ireland Secretaries will need to be brought in too.

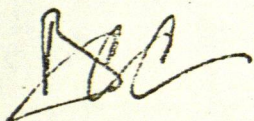
No. / This is a major area of policy, and we must be sure that we get an answer which will stick for this Parliament. In more leisurely times, it would have merited some form of open consultation before the Government took up a firm position. Could this possibility be kept open until you see what the other work proposed in this note produces by way of solid news for your autumn statement?

- b) When we resume at the end of August, Mr Turney will have prepared possible options for a further statement indicating the expected minimum period of detention for various categories of lifers (in addition to the murderers of police officers); Option 1 in the attached note.
- c) We shall need in the autumn a cogent and clear description of the existing practice on the release of life sentence prisoners, with particular

reference to the terms served, and being served, by the main categories of murderer. The statistical study for this is already in hand. Mr Turney, in consultation with the Criminal Department, will put the outcome to Ministers, with a draft of a public statement, by the beginning of September.

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- d) As to our assessment of risk, I attach the note which Mr Turney prepared for me last year and my submission to Lord Whitelaw. I suggest that Mr Mellor might now like to review these conclusions with Mr Turney and Mr Scudder and go into the individual cases as far as he thinks necessary; and also review progress on the changes in procedure we then initiated and any other changes which might be proposed, which could include a study by the Parole Board.
- e) Mr Turney will review the management in the prisons of life sentences (do we set lifers on a course too soon which predetermines their release date? etc) and the nature of the treatment they are given and put forward the results to Mr Mellor at the beginning of September. (Do we seriously want to pursue the idea of a stricter regime for some lifers?)

2. The treatment and penalties for violent criminals have some relevance to all this. I have asked Mr Faulkner to review the position. He will examine among other things the idea of mandatory minimum sentences. He will put forward very shortly an outline of his eventual paper, which will come forward in final form early in September.



20 July 1983

From: Sir Brian Cubbon
20 July 1983

LIFE SENTENCES: THE TARIFF ELEMENT

At the heart of the life sentence question is the need to take account of two distinct factors: the tariff (based on retribution, deterrence, etc.) and the risk. minimum?

2. The strength of the present arrangements is that they ensure that both factors can be given full weight and that one cannot displace the other. A fixed 'tariff' sentence would mean that a man would be discharged even if he remained a risk to the public. The present arrangements give some preeminence to the judicial view on the tariff. The judicial view is sometimes sought before the formal review begins (usually at the instance of the Joint Committee), usually before the case goes to the Parole Board and always before the case goes to Ministers. We look upon the Parole Board as primarily providing independent advice on risk, although over the years they have been increasingly concerned about the tariff - especially the judges, who have thought that it is too high!
3. The views of the judiciary are not binding but carry considerable weight. The three prisoners so far released earlier than the minimum recommended have all been released with the express assent of the judiciary.
4. A weakness of the present arrangements is that they are essentially administrative and secret, and this is linked with the ultimate control being in political, not judicial, hands. (The Parole Board is in principle an independent protection for the public, but it does not always seem like that: its *raison d'être* inevitably appears to be on the side of getting people out rather than keeping them in.)
5. For other offences the roles of the judiciary and the executive are reversed. The courts are in primary control setting a maximum period of detention within which parole and the prerogative operate.
6. The present arrangements show all the signs of uneasy compromises over the past 20 years in order to shore up these weaknesses. We have had, successively, mandatory consultation with the judges for adult murderers; a power in the courts to make minimum recommendations for adult murderers; mandatory consultation for all lifers; the absolute need for a favourable recommendation from the Parole Board before the Secretary of State can release a lifer;

the separate apparatus of the Joint Committee etc.; and now a personal assurance by the Home Secretary that the minimum recommendations in the case of murders of police officers set a general standard for such cases and that the expectation must be at least 20 years detention.

7. There was already - before the present concerns - some pressure to make still more changes in the arrangements. In a report in 1980 the Criminal Law Review Committee were almost evenly divided on whether the courts should have a discretionary power to impose a determinate sentence for murder. By a majority they recommended that a minimum recommendation should be appealable and that the judge should publicly state his reasons for making a recommendation and first invite the defence to make representations.

8. A judgement of the Court of Appeal, supplemented by a letter to judges from the Lord Chief Justice, has said that minimum recommendations should be reserved for the most serious cases and should be for at least 12 years.

9. Given the complexity of the present position and the history of change and new suggestions for change, it is not surprising that it is difficult to ensure Parliamentary and public confidence in the existing arrangements. Can we respond to the present concern by continuing to proceed by putting a patch on a patch on a patch?

10. Option 1. There are ways in which Ministers could seek to prejudge or preempt the judicial view on tariff. The 20 year minimum for the murder of police officers is a start in this direction. Mr Turney will now examine the cases and the practice to identify possible extensions of that statement. A public tariff (in this sense) for murder in the course of armed crime is one possibility. But there will be difficulties:

- Y S
limited
- a) it will be difficult to define the categories to which the "expected minimum" can apply universally - what of the 61 year old school-mistress who bought a jemmy, broke into the house of her husband's girl friend and shot her, and of whom the trial judge wrote to say that she need not be kept long in prison?;
 - Y S b) we suspect that if the "expected minimum" is to be credible publicly, it will need to be a good deal higher than the present tariff;
 - Yes. c) it would be pointed out that the Home Secretary cannot bind his successor;
 - d) we would not be touching the wish that in some cases life should mean life - indeed, none of the following options deals with this.
- but we might

11. Option 2. I hope that we can exclude at this stage the statutory equivalent of this last option: ie a statutory provision laying down mandatory minimum periods of detention for certain categories of murder. The categories would have to be reflected in the murder charge, and we should be back to all the borderline difficulties of capital and non-capital murder. There would also be a wish that the mandatory minimum provisions should oust the possible operation of the prerogative.

Yes

12. Option 3. Another line of attack, reinforcing option 1, or on its own, would be to put the Home Secretary more in the driving seat in relation to fixing the tariff. We could scrap the Joint Committee and put nothing to a Local Review Committee or the Parole Board until a Minister had decided that the time had arrived for a final assessment of risk or that he was prepared to agree to recommendations for release. But does this go to the heart of the concern? It would be objectionable to the Parole Board and the "penal reformers". There would be apprehension in the prisons where the Home Office is seen to be less fair than the independent Parole Board by prison staff and prisoners.

No
Agree

13. Option 4. If we are to concentrate on streamlining the present procedures, a preferable alternative would be to get an early tariff view from the judiciary, requiring the trial judge in every case to indicate it informally and privately to the Lord Chief Justice. This would be done before the Joint Committee considered the case and would get the formal review process started at a more viable point administratively. But again, it is questionable whether this goes to the heart of the credibility problem, and the judges might not like public attention drawn to a secret role that they had in fixing the tariff.

Yes

14. My fear is that none of this tinkering goes to the root of the problem. An alternative approach is to go back to first principles and strengthen the role of the courts rather than the role of the Home Secretary. The options which follow would all require legislation.

15. Option 5 is to implement the view of half the CLRC that a determinate sentence should be within the discretion of the courts (paragraph 7 above). This would pick up the point of principle that the tariff is for the judges and for determining in open court and should be subject to appeal. Hodgson J, the present vice-chairman of the Parole Board, is totally committed to this view, but because he wants the tariff sentences for murder to be significantly lower than those which emerge from the present arrangements.

No

16. The difficulty about this option is that it retains the present system for those cases, which would probably be the most serious and the most difficult, where the trial judge in his discretion would still apply a life sentence.

It also does not deal with the murderer who is given a fixed sentence but turns out on further study to be dangerous and a real risk to the public.

17. Is there an alternative line of approach which concentrates on giving the courts an effective stopper on premature release, while retaining the indeterminacy of the life sentence to take account of risk?

18. Option 6 would be to require (? not just permit) a court when imposing a [mandatory] life sentence to impose a concurrent sentence of imprisonment as it were. This would demonstrate the minimum period of detention in absolute terms; and there would be the lesser advantage of having a life prisoner liable to lose remission. But there would be some artificiality, in that unless the fixed sentence were not to be subject to parole, the effective minimum period of detention would be only one third of the period pronounced in court.

19. A less artificial course (Option 7) would be to require the court in all these cases to fix a minimum period of detention, which would be appealable. But I fear that the terms imposed in practice might look small by comparison with the fixed sentences (subject to parole and remission) in non-murder cases.

20. Neither Option 5 nor Option 6 nor Option 7 would deal directly with existing cases, unless some very special arrangements were made; but you could say that you would take account of the minimum periods fixed in future cases under Options 6 and 7.

21. I am indebted to Mr Turney for Option 8. This would require the court to make in every case a recommendation on the minimum period of detention. The recommendation would be appealable so that the Court of Appeal could consider the broad consistency of recommendations. Again you could say now that, over time, you would take account of these recommendations in dealing with current cases. We would then abandon the Joint Committee and fix all first formal reviews for two years before the expiry of the minimum period of detention. In rare cases we could consult the judiciary about an earlier formal review.

22. But the courts would still be making no more than a recommendation. On the Bill that would be required, there would be pressure to make the recommendation a requirement. Also, the judges might think it odd to combine the full judicial treatment (statutory provision, mandatory pronouncement and a right of appeal) with something which was just a recommendation. (These are the very reasons which have led them to restrict the use of the present power to make

a recommendation.)

23. At the beginning of the last Parliament a provision for mandatory recommendations in Scotland was included in the Criminal Justice (Scotland) Bill, following the Elmslie Report, but deleted at the Lords Report stage by 47 to 39. The debate was largely conducted in Scottish terms. The critics, which included the Scottish Law Lords, argued that recommendations for short terms of custody would be ill received by public opinion and would be compared in a misleading way with sentences imposed for manslaughter (which are subject to remission). (This is of course relevant also to Option 7.)

Some General Comments

24. I recognise that the distinction between tariff and risk is not as clear cut as I may have suggested in this note. The Home Secretary, in considering risk, asks not only what is the risk of a further offence but also how the public would react to a further offence by the particular murderer. Similarly, the Parole Board and the Home Secretary in ordinary parole cases inevitably have regard to the nature of the offence and the need to recognise its punitive element (eg in drugs cases).

25. Nevertheless, I think that it is useful at this stage to distinguish between these two elements. The current concern is largely about the punitive or tariff element.

26. This whole exercise is primarily an exercise in winning Parliamentary and public confidence for the way in which murderers are dealt with. What is needed to do this must be ultimately a matter of political judgement. But it is clear to me that whatever is the outcome of the present review must be sure to take the trick and produce an established basis for the handling of life murder cases in this Parliament. For this reason, I am inclined to consider very seriously the more fundamental options I have discussed.

27. Another reason for a fundamental approach is that, consciously or not, I believe that we have been inhibited from opening this subject up in the last 20 years for fear of stimulating a fresh debate about capital punishment, since we could be highlighting the problem of the alternative to capital punishment. The recent decisive votes give us an opportunity to go back to first principles and look at the non-capital punishment for murders afresh.



20 July 1983

LIFE SENTENCE BOARD

FAILURES BY LIFE LICENSEES

Introduction

1. I was requested by the Board at the 169th meeting on 18 March to examine cases which had resulted in serious failure and to make a provisional assessment of any lessons that could be learned from them and whether the cases suggested there were other options that could be adopted in order to reduce the risk. I will not repeat the views already put to the Board in previous similar exercises in LSB/755, /755A and /779. I think I have examined all the most serious cases of failure since 1970.

Release

2. All the cases were given very careful consideration before release was agreed and a number of them came to the Board itself. In one case (Hilton) unease was expressed about his attitude to be given a provisional release date and his attitude during PRES. In another (Evans) he misbehaved on PRES, was taken away from the hostel, but then allowed to go back on it largely, it seems, because of valiant efforts that had been and were being made on his behalf by outside agencies. If there is a lesson to be learned about release I think it is that we should be ruthless about removing provisional release dates if there is any doubt whatsoever about the man's attitude in those final months or if he misbehaves in any way on PRES. As to the latter, there is the obvious difficulty about drink. In many of the cases I have looked at alcohol has been a feature of the original offence but, because of this, should we not allow the man at least his "first drink" after enforced abstinence for many years? A more rigorous approach to monitoring the closing stages of a lifer's custodial sentence would, of course, involve consultations with the Parole Board quite apart from a Ministerial view.

Supervision

3. In a number of cases the man's behaviour under supervision appears to be immaculate. In one (Hilton) his marriage to the daughter of a Police Inspector and a decorating business appeared to be going supremely well. In another (Evans) licence conditions had been cancelled because of a totally uneventful $3\frac{1}{2}$ years of supervision when in fact during that time he had been repeatedly committing indecent assaults (one really finds it hard to believe that his wife had no idea). In others (Finney, Cooley and Robertson)

supervision had been quite uneventful and in the last case conditions had been cancelled. These cases make me wonder if we should consult the Probation and After-Care Service to seek more positive and enquiring supervision stressing that a life licensee is a quite different subject than a parolee or a person under ordinary probation. But the Evans case in particular leaves me doubtful whether there would be much to be gained.

4. In all the other cases with hindsight there were pointers. Hilton was seen to resume a relationship with a previous criminal contact. Churchman, Szabo and Hassin were all reported to be depressed. Thompson repeatedly attacked his co-habitee. Houchin committed a number of offences before his licence was revoked whilst awaiting trial for rape. Subrenski received a very strong warning letter when the Parole Board refused to revoke before ultimate revocation for abduction of young girls. Palmer was about to have a residence condition added to his licence after crises in his marriage just before he was convicted and his licence was revoked. All these cases simply imply that any sort of breach of licence conditions in the early days might lead to immediate revocation. If we were to go down this road again the Parole Board and Ministers would need to be consulted.

5. The most difficult cases are Robinson, Double and A P Wynne, all of whom were convicted within months of their release, in two cases of murder and in the third of GBH. How it is possible to identify somebody who was clearly still a danger after an immaculate performance in prison I just do not know.

6. Pointers in these cases are depression, which I have mentioned above, bizarre sexual proclivities including the stealing of ladies' underwear, and drink. From this group of serious re-offenders I think we might learn the lesson that if any of these three factors are about in a case we should be very careful indeed. But drink, of course, is also a feature in many cases where there proves to be no subsequent re-offending.

7. I had wondered if the age of first conviction was relevant as I was surprised to see that a number of re-offenders appeared to be relatively old on their first conviction, Subrenski 41, Double 54, Robertson 37 and A P Wynne 43. When I came to examine the age structure of the re-offenders as against the age structure of all life licensees this did not, however, seem to be statistically significant. I still have a feeling in my bones,

however, that we should be particularly wary of releasing a murderer or sex offender who was convicted for the first time at a relatively advanced age. This might even be relevant in superficially domestic cases. Robertson, for example, murdered his divorced wife and then murdered his new wife after release.

Conclusion

8. The Board may therefore wish to consider :-
- (a) a more rigorous approach to changing provisional release dates if there are any adverse signs in the closing stages of a lifer's period in custody;
 - (b) consultation with the Probation and After-Care Service about more rigorous supervision of lifers as opposed to their other customers and
 - (c) a more rigorous approach to the revocation of licences when there are any adverse signs in the early days of supervision.

A H Turney
9 July 1982

C5 Division.

B.F. 10/11

cc Mr Trevelyan
 Mr Faulkner
 Mr Langdon
 Miss Maurice
 Mr Turney
 Mr Mower

1. Mr Mayhew
2. Secretary of State

RECONVICTIONS AND RECALLS OF LIFE LICENSEES

I have been concerned that the Office should examine with maximum care our record in releasing life sentence prisoners, to see the volume and pattern of "failures" and to draw conclusions from them. The Life Sentence Board has commissioned studies and reviewed the results. I thought that Ministers should see the outcome.

2. Attached is a note by the Statistical Department showing the number of life sentence prisoners released during the period 1972-1980 who had subsequently been convicted of a further offence and/or had been recalled to prison.

3. The critical figures concern those released from a life sentence and reconvicted of a "grave" offence. Of the 509 persons released in the period 1972-1980, 19 had been so reconvicted by the end of 1980 and 6 given a further life sentence. In percentage terms, 2% were so reconvicted within 2 years of release and about 4% within 5 years. The corresponding reconviction rates for 'standard list offences' (ie practically all indictable offences) were five times greater.

4. The individual cases of serious failure have been studied in detail. Even with the benefit of hindsight, it has not been possible to identify any additional precautions that could have been taken at the stage of release in order to reduce the risk. The study suggested that there might be some scope for tightening up supervision both during the immediate pre-release period and after release, although - with the possible exception of one case (a former professional criminal returning to professional crime) - it is doubtful whether, even with closer supervision, the further serious failures that occurred would have been foreseen or prevented.

5. I fear that our present conclusion is that we could improve the record significantly only by keeping a very substantial number of lifers in prison for very much longer.

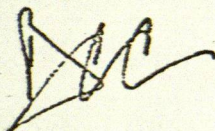
6. The Prison Department are pursuing the question of supervision in consultation with the Association of Chief Officers of Probation with a view to drawing up further guidance for the Probation Service. They also propose to amplify the guidance to the wardens of pre-release employment scheme hostels. These two moves will

emphasise the need to report at once any signs of disturbing behaviour so that immediate consideration can be given to the appropriate course of action (eg deferring or cancelling a provisional release date or referring the case to the Parole Board to consider recall).

7. Recall is an important weapon in our armoury against failure, and we rightly use it increasingly: see paragraphs 7 and 8 of the Statistical Department's note. Recall requires the confirmation of the Parole Board, who occasionally (depending upon the composition of individual panels) are inclined to take a more lenient view of cases than the Home Office. We propose to show the attached note to Lord Windlesham and discuss with him the Board's role in relation to the recall of life licensees in order to emphasise the car-riding need to protect the public in border-line cases.

8. There is an argument that publication of the attached note would be in the best traditions of openness for Government statistical studies; would reassure public opinion that the situation is being regularly monitored; and would give a fairer picture than comes from ad hoc release of selected figures, when a bad case has excited public opinion. But I feel you will take the view that publication would be exceedingly risky.

9. In any case, we shall shortly have the 1981 failures and so more up-to-date figures. We shall report on anything of significance which emerges.



3 November 1982

RECONVICTION AND RECALL OF LIFE LICENCEES

Note by Home Office Statistical Department

1. In the period 1972-80, 509 persons were released for the first time on life licence and by the end of 1980, 102 of them had been reconvicted, 19 for a 'grave' offence (see note 3) and a further 83 for a relatively less serious offence on the 'Standard List' (see note 4), 64 of the 509 had been recalled and 6 had been given a further life sentence (Table 1).

The rate of reconviction (Table 2)

2. In order to estimate the rate of reconviction, or recall, it is necessary to allow in the calculations for those released in earlier years having had a longer period in which to be reconvicted or recalled than those released in later years. The reconviction and recall rates have therefore been calculated within periods of 2 or 5 years after release (Tables 2 and 3). For those released in recent years, information for a full 2 or 5 years is not yet available but data up to 31 December 1980 has been given. The figures given for these periods/less than the full period therefore indicate minimum reconviction and recall values.

Reconviction of 'grave' offences

3. Within 2 years of release, on average 1 in 50 of those first released on life licence in the period 1972 to 1978 were convicted of a 'grave' offence. Because of the small numbers involved, fluctuations from year to year in the proportion reconvicted are to be expected and such variations were, for those released up to 1978, not statistically significant. Full information on reconviction rates within 2 years of release is not yet available for persons released in 1979. However, the information available so far indicates that for those persons released in 1979, only 2 (3 per cent) had been reconvicted of a 'grave' offence by the end of 1980 and there is no evidence that the rate for those released in 1979 will eventually be significantly higher than for previous years.

4. Within 5 years of release, on average about 1 in 25 of those first released in the period 1972 to 1975 were convicted of a 'grave' offence, and again the year-on-year differences up to 1975 were not statistically significant. The information so far available indicates that for those first released after 1975 the 5 year reconviction rates are approaching, and in some cases have exceeded, those for the period 1972-75, but because of the very small numbers involved it is difficult to say at this stage whether there will be any significant differences.

Reconviction of 'Standard List' offences

5. Within 2 years of release, on average 1 in 10 of those first released on life licence in the period 1972 to 1978 were convicted of a 'Standard List' offence. Of these offences just under 20 per cent were 'grave' offences, and the rest included theft and handling stolen goods (including shoplifting), the less serious types of violence against the person and burglary, drunken driving and some other motoring offences and criminal damage. Again, because of the small numbers involved the year-to-year variations were, for those released up to 1978, not statistically significant. Full information on reconviction rates within 2 years of release is not yet available for persons released in 1979 but the reconviction rate within one year of release (23 per cent) indicates that the rate within 2 years will clearly be significantly higher than in previous years - it is too soon yet, however, to know whether this will be a short-term variation or a longer term higher level.

6. Within 5 years of release, on average 1 in 5 of those first released on life sentence in the period 1972-75 were convicted of a 'Standard List' offence. There was little variation between 1972 and 1974 but the rate for those released in 1975 (27 per cent) was significantly higher and it appears (from the incomplete information available for later years) that a rate of broadly this magnitude is likely to apply also to those released over the period 1976-78 - this appears to follow the larger numbers being released since the mid-1970s. In addition, early indication is that the rate of reconviction for those released in 1979 is going to be higher still; but it is too soon to know if this is a significant increase or only a short-term variation.

The rate of recall (Table 3)

7. The average rate of recall (including the small proportion given a further life sentence) within 2 years of release was about 6 per cent for those first released in the period 1972 to 1978; the year-on-year differences within this period are to be expected given the small numbers involved. Full information on rate of recall within 2 years is not yet available for persons released in 1979 but the rate within one year of release (15 per cent) indicates that the rate within 2 years will clearly be significantly higher than in previous years - it is too soon yet however to know whether this is a short-term variation or a longer term higher level.

8. The average rate of recall within 5 years of release was about 12 per cent for those first released in the period 1972 to 1975; the year-on-year variations within this period are to be expected given the small numbers

involved. The data for later years are incomplete and it is uncertain as yet whether or not the equivalent rates for the period 1976-78 will be significantly higher. However, the rate for 1979 is likely to be much higher than in earlier years but it is too soon yet to know whether or not this is only a short-term variation.

NOTES

1. Although a sentence of life imprisonment is imposed only on conviction for a serious type of offence, the circumstances of the offence are not always of such gravity that it is assumed at the time of sentencing that the offender will be detained for the rest of his or her natural life. Every life sentence prisoner who is released is released on a licence which can be revoked if the offender commits another offence or for some other reason. The licensee is then immediately recalled to prison to continue to serve his life sentence.
2. The records of persons released on life licence from Prison Department establishments during the period 1972-78 were examined to ascertain the number who were reconvicted of a 'Standard List' offence or recalled to prison within 2 or 5 years of first release. The year shown is that in which the person was first released on licence - some licensees are recalled and subsequently re-released. For a few licensees this means that although 2 or 5 years may have elapsed since first release, they were not at risk of being reconvicted during the whole of this period. No adjustment has been made to take account of time spent in prison after recall and before re-release. The total numbers of persons released do not include those who died within 2 years of release without being reconvicted or recalled, nor those deported immediately on release.
3. For the purposes of this note, the term 'grave offences' covers offences of homicide, wounding with intent, causing grievous bodily harm with intent, rape, buggery, abduction, robbery, aggravated burglary and arson.
4. The 'Standard List' of offences includes all indictable offences eg wounding, theft, burglary, criminal damage, indecent assault and drug offences, including the 'grave offences' listed in note 3; it also includes some summary offences eg assault on a constable, indecent exposure, possession of offensive weapon, drugs offences and frequenting.

Table 1 Persons released on life licence and those reconvicted or recalled to prison by the end of 1980

	England and Wales									
	Number of persons									
	1972	1973	1974	1975	1976	1977	1978	1979	1980	Total
Total number of persons first released	27	35	46	41	85	70	81	75	49	589
Reconvicted by the end of 1980 (1):										
of a grave offence (2)	2	-	2	2	6	4	1	2	-	19
of a standard list offence	8	8	9	11	24	15	8	17	2	102
Recalled by the end of 1980	2	6	7	6	13	11	6	11	2	64
of which, given a further life sentence by the end of 1980 (1)	1	-	-	-	1	2	-	2	-	6

(1) Including persons convicted in 1981 of offences committed during 1980 where this information was available.

(2) Includes 'grave' offences.

Table 2 Persons released on life licence and reconvicted within 2 or 5 years of release

	England and Wales								
	Number and percentage of persons								
	1972	1973	1974	1975	1976	1977	1978	1979	
Total number of persons first released	27	35	46	41	85	70	81	75	
	Number of persons								
Reconvicted within 2 years of first release:									(2)
of a grave offence (1)	-	-	2	-	4	1	1	≥2	(2)
of a standard list offence	2	3	5	4	11	10	7	≥17	
Reconvicted within 5 years of first release:						(3)	(3)	(3)	(3)
of a grave offence (1)	2	-	2	2	≥6	≥4	≥1	≥2	
of a standard list offence	5	6	8	11	≥24	≥15	≥8	≥17	
	Percentage of total number of persons released								
Reconvicted within 2 years of first release:									(2)
of a grave offence (1)	-	-	4	-	5	1	1	≥3	(2)
of a standard list offence	7	9	11	10	13	14	9	≥23	
Reconvicted within 5 years of first release:						(3)	(3)	(3)	(3)
of a grave offence (1)	7	-	4	5	≥7	≥6	≥1	≥3	
of a standard list offence	19	17	17	27	≥28	≥21	≥10	≥23	

(1) Includes 'grave' offences.

(2) Reconviction details for the full 2 year period are not yet available; the figures given relate to the period ending 31.12.1980

(3) Reconviction details for the full 5 year period are not yet available; the figures given relate to the period ending 31.12.1980

Table 3 Persons released on life licence and recalled or given a further life sentence within 2 or 5 years of release

England and Wales

Number and percentage of persons

	1972	1973	1974	1975	1976	1977	1978	1979
Total number of persons first release :	27	35	46	41	85	70	81	75
Number of persons								
Recalled or given a further life sentence within 2 years of first release:								
recalled (1)	1	3	4	2	5	4	5	≥9 (2)
given a further life sentence	-	-	-	-	1	1	-	≥2 (2)
Recalled or given a further life sentence within 5 years of first release:								
recalled (1)	1	6	5	6	≥12 (3)	≥9 (3)	≥6 (3)	≥9 (3)
given a further life sentence	1	-	-	-	≥1 (3)	≥2 (3)	- (3)	≥2 (3)
Total	2	6	5	6	≥13 (3)	≥11 (3)	≥6 (3)	≥11 (3)
Percentage of total number of persons released								
Recalled or given a further life sentence:								
within 2 years of first release	4	9	9	5	7	7	6	≥15 (2)
within 5 years of first release	7	17	11	15	≥15 (3)	≥16 (3)	≥7 (3)	≥15 (3)

(1) Excluding those recalled and given a further life sentence.

(2) Reconviction details for the full 2 year period are not yet available; the figures given relate to the period ending 31.12.1980

(3) Reconviction details for the full 5 year period are not yet available; the figures given relate to the period ending 31.12.1980