5 Life Imprisonment: Policy and Practice

INTRODUCTION

A sentence of life imprisonment is mandatory where an offender commits the crime of murder and at the time of doing so is aged 21 years or over.\(^1\) At the same time as imposing such a penalty the sentencing judge has a discretionary power to make a recommendation to the Home Secretary that the offender should serve a minimum period of time in custody before being released.\(^2\) Life imprisonment is also the maximum sentence which may be imposed for a number of other serious offences such as manslaughter, robbery, rape, aggravated burglary and arson.

In the case of a person who commits murder and who was under the age of 18 years at the time of the offence, the appropriate order for the sentencing judge to make is that he be ‘detained during her Majesty’s pleasure’.\(^3\) This is similar to life imprisonment, though the offender is detained ‘in such a place and under such circumstances as the Secretary of State may direct’. Likewise, those aged under 17 when they commit offences other than murder for which a life sentence may be imposed on an adult may be ordered to be detained for life.\(^4\) This type of sentence is effectively the same as detention during Her Majesty’s pleasure.

If, on the other hand, a person commits murder when he is under the age of 21, he should be sentenced to ‘custody for life’ unless he is liable to be detained during Her Majesty’s pleasure.\(^5\) If the court thinks it is appropriate to do, it may impose a similar sentence on a person aged at least 17 years but under 21 who commits any other offence for which a life sentence may be passed in respect of an adult.\(^6\) ‘Custody for life’ is similar to life imprisonment except that, ‘... the Secretary of State may from time to time direct that an offender ... who is female, or who is male and under 22 years of age, is to be detained in a youth custody centre instead of prison.’\(^7\)

Although offenders who are sentenced to life imprisonment (including those detained during Her Majesty’s pleasure or serving custody for life), represent a relatively small proportion of the total prison population, there has been a steady increase in their numbers.
in recent years. The average population of life sentence prisoners in England and Wales rose from 1123 in 1976 to 2201 in 1986.\textsuperscript{8} Those convicted of murder generally make up about 75 per cent of the lifer population, and it is clear that there has also been a correspondingly steady increase in the number of convicted murderers (from 931 in 1976, to 1706 in 1986).

About 10 per cent of lifers have committed manslaughter, and the remainder have been convicted of ‘non-homicide’ offences. There has also been an increase in the average length of time served in prison. In the early 1970s lifers were generally detained between eight and nine years, but by the mid-1980s the appropriate figure was about ten and a half years.\textsuperscript{9}

CURRENT POLICY

The ‘Revised Strategy’

As a result of the increasing size of the population of life sentence prisoners and the consequential problems of the management of them, the Prison Department formulated a new policy embodied in what was known as the ‘Revised Strategy’. The basic principles of this are now set out in Prison Department Circular 2/1989.

Prior to the introduction of this new policy, the practice had been for a lifer to be transferred from the local prison, shortly after conviction, to a training prison and he would spend the major part of the period of detention there. When it was decided to release him, the lifer would usually be moved either to an open prison or to a hostel under the Pre-Release Employment Scheme (PRES)\textsuperscript{10} from which he would be released on licence. Alternatively, he might even be released directly from the training prison after a period on an outside working party. It was thus possible that the whole of his period of detention would have been spent in just two institutions – the local prison and the training prison.

There were a limited number of prisons which accommodated life sentence prisoners – only six in the mid-1960s – and with a steadily increasing lifer population, it was evident that more prisons would have to take lifers. Moreover, it was considered undesirable that a lifer should spend such a lengthy period in one institution. The indications were that this tended to lead to the lifer becoming dependent upon the institution, and it was a poor preparation for his release.