

**INQUIRY INTO SECURITY CLASSIFICATION AND
MANAGEMENT OF INMATES SENTENCED TO LIFE
IMPRISONMENT**

Organisation: Victims of Crime Assistance League (VOCAL)

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The Director
Standing Committee on Law and Justice
Parliament House
Macquarie Street
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Security classification and management of inmates sentenced to Life imprisonment

Part 3A of the Crimes (Sentencing Procedure) Act, 1999 sets out the purposes of Sentencing in subsections (a) to (g). Subsection (a) speaks to adequately punishing offenders and subsection (d) speaks of “promoting rehabilitation”.

Subsection (g) also speaks of recognising the harm done to the victims of the crime and regrettably there are those Victims who perceive that (d) is in conflict with (g)

I should further point out that in 2006 the High Risk Offenders Legislation came into force, permitting the Crown to apply to the Supreme Court seeking orders to either continually detain or supervise those serious offenders who failed to avail themselves of rehabilitation during the period of their Sentence. There are those who see this Legislation as being draconian, although as one who lobbied for such legislation, I disagree with those objectors, on the basis that the overall protection of the community must be paramount and that the rights of the many must usurp the rights of the few.

Currently in New South Wales there are 44 prisoners subject to Life meaning Life Sentences, the most recent recipient of such sentence being Malcolm Naden who was sentenced by Price J, in June of 2013, for the murder of two women in Dubbo.

It is my understanding that there are 9 prisoners still awaiting re-determination of sentences and some 35 prisoners who are the subject of sentences that place them on parole for life.

It is my view that the 44 prisoners subject to life meaning life sentences, are a unique cohort who, by their exceptional sentences, present a difficulty when trying to apply the provisions of Part 3A of the Crimes (Sentencing Procedure) Act, 1999, as in essence there is only a remote possibility of them ever being released into the community, that being when they are literally dying and being admitted to a hospital or home for the specific purposes of awaiting that death.

Corrective Services NSW has only limited resources available to provide rehabilitation programs to prisoners as they progress through the custodial system and the general policy of the department is that these programs are made available to prisoners towards the end of their sentence, so that the effect of the program is fresh in the mind of the offender on release. This does appear to be a logical approach, although recidivism rates tend to belie that argument. Nonetheless access to a large number of the programs available to offenders is dependent upon their classification and generally speaking a prisoner needs to be a C classification before gaining access to programs. Under those circumstances, Life Meaning Life prisoners should never qualify for such programs as they are unlikely to progress in classification beyond a B classification.

A more logical approach however should be that priority to access programs should be given to those prisoners who by their very sentences have a prospect of release to the community, the obverse being that a life prisoner, who has no prospect of release, should therefore not take the place of someone who has prospects of release. The limited number of placements in rehabilitation programs should by definition, ensure that a Life prisoner is not given access to rehabilitation programs.

However, if one is going to take a logical approach to the management of prisoners, one must take into account as to how Life prisoners are managed in custody.

As a community we expect that custodial officers will keep the community safe, by ensuring that prisoners do not escape and ensuring that they do not continue to engage in anti-social activities whilst in custody. I note from the last published annual report of the Department of Justice and Attorney General, that the rate of Workers Compensation for custodial officers is 11.29% which is higher than the national average for workplaces.

It is my view that we must provide management tools to custodial officers in order that they can maintain discipline and ensure not only their safety but of all persons in prison, whether inmates or visitors. That management is reasonably easy when there is some incentive to prisoners to be of good conduct, such as the denial of privileges, if not compliant. Denying access to programs, visitation rights and the like are all methods by which custodial officers can ensure the proper conduct of prisoners. However, this is

particularly problematic where a prisoner has absolutely no reason to be compliant, such as a prisoner serving life meaning life.

As unpalatable as it may be to the Victims of some of the States most heinous crimes, consideration has to be given as to how we manage such prisoners, even if the only persons who benefit appear to be the prisoners. I would argue however, that if we are serious in ensuring the protection of Custodial Officers, and I for one am such an advocate, we must provide them with such tools.

Most Victims of crime have no concept as to what is involved when a prisoner is incarcerated, the general view being that prisoners are fed three meals a day, have access to television and computers and hence the general description that prison is just like staying at a Motel. I would doubt that any prisoner would agree with such a description. Might I say however I feel that the Department has been quite remiss in not publicising what the life of a prisoner is really like and such publicity may dispel some of the myths around incarceration.

That having been said, however and according to the 2013DJAG annual report, the average time spent outside a cell for Life prisoners is 6.2 hours per day, which after deducting time spent sleeping, effectively ensures that Life Prisoners are spending some 10 hours per day in their cells. This therefore gives them far too much time to plot various methods of disrupting daily life in a prison, which cannot be healthy.

As a result, I am of the view that some consideration has to be given to providing custodial officers tools to assist them in managing this small cohort of Life prisoners. Recently this was described as providing "privileges" to the cohort which lead to the outrage vented by the Victims of these Life Serving prisoners.

My objection at the time was the manner in which Victims learned of these decisions, as I am of the view that before the granting of such "privileges" Victims should be advised of the intention to grant and the rationale behind such decisions, as opposed to be advised after the granting. I further believe that Victims should be asked to provide submissions either in writing or verbally as to why they would oppose the granting of such privileges, following receipt of all information pertaining to why the department was seeking to grant any benefit.

I do believe however that no matter what euphemism is used for the granting of such privileges, some consideration has to be given to the use of same, but limited to such benefits as the provision of a toaster, or sweeping or additional access to "buy-ups", so that if a prisoner becomes non-compliant, such benefits can be withdrawn until the prisoner does in fact comply. This then provides a level of discipline that custodial officers can use as a management tool and ensure their own safety.

I do not however believe that such benefits should be extended to participation in rehabilitation programs with the exception of literacy programs, as to do so would be to deny access to those programs to prisoners who at some point, must be released.

From my discussions with Victims affected by the most recent furore, it was obvious that their concern related more to the downgrading in Classification than the access to programs as they all felt that this was a lessening of the punishment and by ensuring that the lowest classification achievable by a life prisoner is that of a B classification, and with full and frank explanation of what is involved with such a classification, I believe we can achieve an outcome that will be acceptable to Victims but still provide Custodial officers the tools they need to adequately manage the most difficult cohort within the prison system.

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