

18 October 2013

C63064

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Dear Mr Edgeler

Thank you for your email of 17 July 2013, in which you request information relating to sentences of Life Imprisonment. As you are aware, the Department was required to extend your request under section 15A(1)(b) of the Official Information Act 1982 (OIA).

The Department manages sentences handed down by the Courts. Therefore, the ability to decide which type of offending can result in a sentence of life imprisonment falls within the scope of the Ministry of Justice. A sentence of life imprisonment is mandatory for treason and is the usual sentence for murder. Life imprisonment may also be imposed for manslaughter and Class A drug offences.

Any prisoner serving a sentence of life imprisonment must be considered for parole by the New Zealand Parole Board (the Board) on completion of 10 years of their sentence, unless a longer minimum non-parole period has been imposed. The Board is an independent statutory body and holds responsibility for the release and recall of offenders under the Parole Act (2002).

Please note that prior to 1 July 2002, the release and recall of offenders was managed by the, now defunct, National Parole Board. Between 1 October 1985 and 1 August 1987, offenders sentenced to life imprisonment were eligible for parole on the completion of seven years of their sentence. The minimum parole eligibility period was increased to 10 years in 1987.

The paramount consideration for the Board in every case is the safety of the community. To assist the Board in making a decision about an offender's suitability for release on parole, the Department provides the Board with, among other information, a parole assessment report. This report includes steps taken by an offender to address the cause(s) of their offending, comment on an offender's behaviour in prison and a detailed release proposal.

Release on parole is a privilege and not a right. Although the Board must assess an offender's suitability for release, they are under no obligation to approve any proposal. The paramount consideration for the Board in every case is the safety of the community. No offender can be released on parole until the Board is satisfied that the offender no longer poses an undue threat to the safety of the community. Offenders that are serving an indeterminate sentence and are released on parole are required to comply with all standard and special conditions that have been imposed by the Board. The standard conditions will continue for the remainder of their life.

The role of the probation officer is to work with an offender to ensure that they comply with the conditions of their release on parole. Standard conditions include regular reporting to the probation officer, restrictions on where an offender may reside and mandatory rehabilitative treatment. Special conditions are variable and relate to specific risks presented by an offender. Probation officers take prompt and appropriate enforcement action if an offender does not meet these conditions. Such action may include laying a breach charge in court or making an application to the Board to have the offender recalled to continue serving their sentence in prison.

Your Questions:

You have made a number of requests for statistics about offenders that have been sentenced to Life Imprisonment by the Courts, and I have addressed each question below in the order they were raised.

Please note that there are a small number of offenders that have received more than one sentence of life imprisonment and, for the purposes of this analysis, I have only recorded the first sentence received by an offender.

Furthermore, the statistics below include offenders that were sentenced to life imprisonment from the introduction of the Criminal Justice Act on 1 October 1985 to 17 September 2013. As a result, these figures are unable to be reconciled against statistics released by the New Zealand Parole Board. Figures released by the New Zealand Parole Board would only reference offenders released for the first time since the introduction of the Board on 1 July 2002. Prior to 1 July 2002, offenders were released by the, now defunct, National Parole Board.

1. How many offenders have been sentenced to life imprisonment and not had that conviction or sentence overturned on appeal?

I can advise that 780 offenders have received a sentence of life imprisonment that has not been successfully appealed since the introduction of the Criminal Justice Act on 1 October 1985.

2. For offenders sentenced to Life Imprisonment and released on parole, what were the mean and median periods between the commencement of the sentence and release on parole?

I can advise that of the 780 offenders sentenced to life imprisonment, 276 have been released on parole on at least one occasion. The mean and median periods between commencement of the sentence and release on parole are 11 years 6 months and 11 years respectively. Please note that a small number of offenders would have been released on compassionate or other grounds prior to their parole eligibility and these cases will have affected the averages above.

3. For offenders sentenced to life imprisonment and released on parole, what were the mean and median periods between eligibility for parole and release on parole? Of those granted parole, how many were released within six months of becoming eligible?

I can advise that for offenders on a sentence of life imprisonment the mean and median periods between eligibility for parole and release on parole are 2 years 1 month and 1 year 8 months respectively. Of those offenders on a sentence of life imprisonment that

have been released on parole, 55 were released within six months of becoming eligible.

4. For offenders on a sentence of life imprisonment that have not been released on parole, what are the mean and median periods between eligibility for parole and the present time?

I can advise that for offenders on a sentence of life imprisonment that have not been released on parole, the mean and median periods between eligibility for parole and 17 September 2013 are 5 years 5 months and 4 years 8 months respectively.

5. Of those offenders sentenced to life imprisonment and released on parole, how many have not breached any of their parole conditions?

I can advise that of the 276 offenders sentenced to life imprisonment and released on parole, 265 have never been convicted of breaching their conditions.

Please note that there are a number of ways that these offenders can be held to account for not complying with their parole conditions, other than being formally charged in Court with breaching those conditions. For example, an offender can be recalled to prison for not complying with their conditions, but not actually be convicted of a breach.

6. Of those offenders sentenced to life imprisonment and released on parole, how many have the Department applied to have recalled for breaching their parole conditions? Of those offenders subject to a recall application, how many were found to have breached their conditions and how many were actually recalled?

I can advise that applications to recall to prison have been made for 151 offenders sentenced to Life Imprisonment and released on parole. Of those offenders, 118 were recalled to prison. The decision as to whether or not to recall an offender to prison was made by the National Parole Board until 30 June 2002 and the New Zealand Parole Board from 1 July 2002. The decision to recall an offender is not always linked to a breach of conditions. The Department can apply to have an offender recalled to prison if their level of assessed risk changes while they are in the community.

7. Of those offenders sentenced to life imprisonment and released on parole, how many have been convicted of a purely indictable offence?

I can advise that 24 offenders sentenced to life imprisonment and released on parole, have been reconvicted on a purely indictable offence. Please note that an offender on a sentence of life imprisonment that is charged with a criminal offence while on parole may be returned to custody to protect the safety of the public.

8. Of those offenders sentenced to life imprisonment, released on parole and convicted of a purely indictable offence, how many have the Department applied to be recalled to prison? How many of those applications were granted by the Parole Board?

I can advise the Department has applied to have 15 offenders on a sentence of life imprisonment recalled to prison after they were convicted of a purely indictable offence while on parole. All 15 applications were granted by the National Parole Board or the New Zealand Parole Board.

9. Of those offenders sentenced to life imprisonment and released on parole, how many have committed further serious crimes?

I can advise that 72 offenders sentenced to life imprisonment and released on parole, have been reconvicted of a serious offence while in the community.

10. Of those offenders sentenced to life imprisonment and released on parole, how many have been released and recalled more than once; broken down by the number of times released and then recalled.

Number of offenders sentenced to life imprisonment, released on parole, and then recalled and released more than once, since 1 October 1985.	Number of times released and recalled
24	2
14	3
2	4
1	5

Please note that the offender that has been recalled to prison five times was brought back on different offences in each instance. These ranged in seriousness from being charged with a criminal offence to being dishonest in his interactions with an acquaintance. As I have mentioned previously, the decision to release and recall offenders is now made by the New Zealand Parole Board and the paramount consideration is always the safety of the community.

I trust the information provided is of assistance. If you are dissatisfied with this response, you have the right to ask the Ombudsman to investigate and review my refusal to provide the information requested. Contact details are: Office of the Ombudsman, PO Box 10152, Wellington 6143.

Yours sincerely



Maria McDonald
Deputy National Commissioner
Corrections Services