

Justice Committee

Proposals to end the automatic early release of certain categories of prisoner

Written submission from Dr Monica Barry and Dr Beth Weaver, University of Strathclyde

The proposal to end automatic early release at the two-thirds point of a prison sentence for high risk offenders ('serious' sexual and violent offenders) is, in our view, undermining rather than strengthening the role of both deterrence and reintegration in promoting public protection.

If the Parole Board decides to keep someone in prison for the full term, the assessed 'high risk' individual will be released into the community without any statutory monitoring or support. There is an assumption in the proposals that, and we quote: '*As at present*, the Parole Board, SPS and community justice services will ensure effective pre-release planning for those long term prisoners either being released early or *reaching the end of their sentence*' (emphases added). If a high risk offender (HRO) is *not* subject to post-release licence conditions, how can criminal justice social workers (CJSWs) have a role in reintegration, other than to offer support in a voluntary capacity (which offenders are unlikely to take up)? Even 'at present', despite licence conditions being in place and despite CJSWs being statutorily authorised and paid to support prisoners on release for a stipulated period, there are still problems for the reintegration (accommodation, employment, education, benefits, mental health services, pro-social networks, etc) of prisoners on release. Without that statutory involvement, the situation for these ex-prisoners will be aggravated, thus undermining any rehabilitative work undertaken in prison to encourage desistance on release. Indeed, the challenges for desistance start *at the point of release*, not whilst in prison. Such a proposal therefore fails to recognise the reality that risk can increase at the point of release. Just because an HRO has served the full term of imprisonment does *not* mean that they cease to be a potential risk on release; thus the logic of abolishing automatic early release *so as to protect the public*, is necessarily flawed. The only way one can determine the extent of risk of an HRO is actually *in* the community, not in prison.

Having a different approach for sex offenders is not justified, not least because it *further* excludes them from their local communities and of all offender groups, sex offenders probably have the greatest need for support towards reintegration.

How will the Government define 'serious offenders' in the new proposals? Serious offences often do not equate with *current or future* level of risk (not least after a lengthy prison sentence with in-house programme work to change attitudes and behaviour and of course maturation and altered social circumstances). Offences such as murder, for example, are associated with a low recidivism rate; while they may pose a potentially high risk of harm *at the time of the offence*, the likelihood of their re-offending is often very low. Conversely, if one consults published statistics (i.e. MAPPA annual reports), many serious further offences are perpetrated by those deemed to be low or medium risk.

Recall to custody is a strong deterrent for many offenders, but especially sex offenders, who are regarded by community-based practitioners as the most compliant offender group *because* they fear recall to custody. The threat of recall following a lengthy sentence is particularly pertinent as the likelihood of a lengthy term of re-imprisonment is considered a very real possibility. Automatic early release is an incentive to desist and to keep out of trouble, since the threat of recall is very prominent in the minds of sex offenders and violent offenders (Barry and Weaver, 2013).

The proposal mentions that there will be 'savings for community justice services in having to manage fewer high risk individuals in the community'; but these savings will be made at the expense of increased socio-economic costs of inadequate supports towards reintegration and desistance, supports which are crucial to offenders in the transition from long-term prison sentences to community resettlement. Moreover, the costs of keeping a person in prison far outweigh the costs of managing offenders in the community. Releasing high risk offenders without any statutory monitoring or support might arguably *increase* human costs should they re-offend.

A couple of additional questions:

Has the Scottish Government got the assurance of sheriffs/judges that they will lower their prison terms accordingly to 'compensate' for the lack of automatic early release at the two-thirds point of a sentence, should this flawed change in legislation go ahead?

Does the Scottish Government know what the recidivism rate is for high risk offenders, both those on post-release licence conditions and those on community-based disposals? Is there a difference? Maybe the Government could/should do some research on this before deciding on the proposed legislative changes.

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Reference:

Barry, M. and Weaver, B (2013) *Control or Change: An exploration of the management of high risk offenders under MAPPA in London*, London: London Probation Trust/MAPPA Executive Office.