



**Name of Policy: Impact of Long-Term Incarceration**

**Policy Adoption Date:** *SLSC Annual General Meeting, Ottawa, ON, June 6, 2020.*

**Mission and Mandate:** St. Leonard's Society of Canada is a membership-based, charitable organization dedicated to community safety. The mission of SLSC is to promote a humane and informed justice policy and responsible leadership to foster safe communities. It:

- a. Endorses evidence-based approaches to criminal and social justice;
- b. Conducts research and develops policy;
- c. Supports its member affiliates; and
- d. Advances collaborative relationships and communication among individuals and organizations dedicated to social justice.

**Purpose of SLSC Policies:** Policies of SLSC are developed in collaboration with affiliate agencies, SLSC's Board of Directors and members, and are ratified at the Annual General Meeting with the express purposes of:

- Identifying criminal justice and related issues relevant to its membership;
- Reflecting SLSC organizational values and social justice goals;
- Articulating SLSC approaches, practices and standards to achieve these goals; and
- Ensuring the good governance of SLSC on matters of legal, administrative and organizational relevance.

**Background:**

In Canada, incarceration is widely accepted as a response to criminalized activities. This practice is supported by the sentencing objectives outlined in the *Criminal Code of Canada*.<sup>1</sup> The abolishment of capital punishment in 1976 instigated a trend of increasing sentence lengths and periods of incarceration. In 2011, Canada passed consecutive life sentencing legislation. As noted by the Office of the Correctional Investigator, "[this] means that some offenders will spend the rest of their natural life behind bars. For the first time in Canada, this legislation imposes a living death sentence with no actual prospect of release. The age-related adverse consequences of these legislative provisions are significant and need to be considered."<sup>2</sup> SLSC and its members have become increasingly concerned by the establishment of consecutive periods of parole ineligibility and the increase of long-term incarceration. Based on the experiences of those working within or supported by the St. Leonard's network, for the purposes of this policy SLSC defines "long-term incarceration" as imprisonment beyond ten years, resulting from three different circumstances for those who are:

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<sup>1</sup> [Criminal Code \(R.S.C., 1985, c. C-46\)](#)

<sup>2</sup> Office of the Correctional Investigator. (2019). Aging and Dying in Prison: An Investigation into the Experiences of Older Individuals in Federal Custody. Retrieved from <https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20190228-eng.aspx>

1. sentenced to a long period of incarceration (i.e. over ten years) but will have the opportunity to apply for parole or receive statutory release (e.g. life with possibility of parole or indeterminate sentences);
2. sentenced to consecutive periods of parole ineligibility, where periods can be up to 25 years each;<sup>3</sup> and,
3. incarcerated over multiple occasions and whose cumulative time served results in long-term incarceration.

Historically, SLSC has been engaged on the negative impacts of long-term incarceration through involvement with LifeLine service delivery, research, and advocacy. This work has been informed by affiliate agencies and other stakeholders who see firsthand the impact that lengthy periods of incarceration have on the people they support. Given the growing number of people with life-sentences, combined with the increasing numbers of people who are aging inside Canada's prisons, a focused approach to this complex, carceral experience merits immediate attention.

### Issues/Scope

As of 2017-18, over 30% of the incarcerated and paroled population was serving ten or more years (6.3%), or, life/indeterminate sentences (24.2%).<sup>4</sup> The practice of long-term incarceration is a contested topic among those who argue it has benefits, and those who oppose it.

It is argued by those who support long-term incarceration, as one of the main arguments, that it satisfies the sentencing objectives of denunciation and deterrence; however, evidence to the contrary has exposed how these objectives are not effective methods of crime control.<sup>5 6</sup> Those in support of long-term incarceration also claim that it will increase public safety,<sup>7</sup> but data from the Parole Board of Canada shows that between 85% and 91% of federal paroles are completed without any re-offence, and of the re-offences that do occur most involve a violation of parole conditions, such as breaking curfew.<sup>8</sup> Further, those with life sentences demonstrate the highest rate of success on parole.<sup>9</sup> It is also argued that long-term incarceration has limited negative effects and those incarcerated have the ability to cope and adapt over time to the prison environment and conditions.<sup>10 11</sup> Arguably, this

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<sup>3</sup> Protecting Canadians by Ending Sentence Discounts for Multiple Murders Act (S.C. 2011, c. 5).

<sup>4</sup> Public Safety Canada. (2018). 2018 Corrections and Conditional Release Statistical Overview. Retrieved from <https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ccrso-2018/index-en.aspx>. (Of the 24.2% serving life/indeterminate sentences, 65.3% of people serving life/indeterminate were in custody while 34.7% were under supervision in the community).

<sup>5</sup> See Doob, A.N and Webster, C.M. (2003) Sentence Severity and Crime: Accepting the Null Hypothesis. *Crime and Justice: A Review of Research*, 30, 143-195.

<sup>6</sup> Mauer, M. (2018). Long-Term Sentences: Time to Reconsider the Scale of Punishment. *UMKC Law Review*, 87(1), 113-131.

<sup>7</sup> Mauer, M. (2018).

<sup>8</sup> The John Howard Society of Canada (2018). Canada Give Less Parole Despite Excellent Results. Retrieved from <http://johnhoward.ca/blog/less-parole-despite-excellent-results/>

<sup>9</sup> The John Howard Society of Canada (2018).

<sup>10</sup> Porporino, F. (1991). Differences in response to long-term imprisonment: Implications for the management of long-term offenders. Ottawa, ON: Communications Branch, CSC.

<sup>11</sup> Flanagan, T. (1981). Dealing with long-term confinement: Adaptive strategies and perspectives among long-term prisoners. *Criminal Justice and Behavior*, 8(2), 201-222.

adaptation is *maladaptive*, given that the adjustments made to cope with the environment they are in are not to the benefit of the incarcerated individual and do not serve well as community-based coping mechanisms.<sup>12 13</sup>

Population management for those who have experienced, or are currently experiencing long-term incarceration, impacts people working both in correctional services and the community. Community-based service providers such as those within the St. Leonard's network are tasked with supervising, supporting, and successfully integrating people who have been released following periods of long-term incarceration who are dealing with the resulting harmful impacts.

Those who oppose long-term incarceration argue that it has harmful impacts on those who experience it, including that the adaptation that occurs results in prisonization and institutionalization.<sup>14 15</sup> Adaptive behaviour occurs because the incarcerated person has no other option; however, extended periods of time within the institution increase the likelihood of experiencing some type of trauma.<sup>16</sup> The cost of incarceration including health care, is expensive, and will only increase as the population and age of those experiencing long-term incarceration grows.<sup>17 18</sup> Compounding these research findings, SLSC and its stakeholders also hear frequent concerns that people with long sentences are not prioritized for programming because their release date is not imminent, or, are left to languish because all their mandatory programs have been completed.<sup>19</sup>

Of significance is the aging population within the criminal justice context. Concerns exist related to health and health care for those who are older - senior status in the criminal justice context is established at 50 years and over which is a growing population.<sup>20</sup> These concerns include: lengthy waits for access to health care in the institution; increased likelihood of chronic diseases as well as mobility impairment and cognitive impairment (e.g. Alzheimer's/dementia); accessibility issues with infrastructure that is not conducive to their needs.<sup>21</sup>

For those who are incarcerated, the experience of constant surveillance, vigilance regarding personal security and lack of privacy impedes well-being.<sup>22</sup> They also experience social isolation and the loss of

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<sup>12</sup> Hulley, S., Crewe, B., & Wright, S. (2016). Re-examining the Problems of Long-term Imprisonment. *British Journal Of Criminology*, 56(4), 769-792.

<sup>13</sup> Munn, M. (2011). Living in the aftermath: The impact of lengthy incarceration on Post-Carceral success. *The Howard Journal of Criminal Justice*, 50(3), 233-246

<sup>14</sup> Office of the Correctional Investigator. (2019).

<sup>15</sup> Schinkel, M. (2014). *Being imprisoned*. Basingstoke: Palgrave

<sup>16</sup> Munn, M. (2011). Living in the aftermath: The impact of lengthy incarceration on Post-Carceral success. *The Howard Journal of Criminal Justice*, 50(3), 233-246.

<sup>17</sup> Office of the Correctional Investigator. (2019).

<sup>18</sup> See also: <https://www.cihi.ca/en/health-spending-in-canada-reaches-264-billion> (given the cost of providing health care to the Canadian population has been increasing, the cost to provide health care in prison considering the increasing number of aging and elderly is going to increase)

<sup>19</sup> Office of the Correctional Investigator. (2019).

<sup>20</sup> For additional details, see: St. Leonard's Society of Canada. (2018). [Aging and Elderly People in Conflict with the Law](#). Ottawa, ON: St. Leonard's Society of Canada.

<sup>21</sup> Office of the Correctional Investigator. (2019).

<sup>22</sup> Wright, S., Crewe, B., & Hulley, S. (2017). Suppression, denial, sublimation: Defending against the initial pains of very long life sentences. *Theoretical Criminology*, 21(2), 225-246.

social skills. This can result in: separation from important social supports (e.g. family, friends, and/or their community) for an extended period of time which can have negative impacts on all parties involved.<sup>23</sup> Given their increased vulnerability, the incarcerated elderly avoid intimidation/violence by staying in their cells.<sup>24</sup> Those incarcerated also experience feelings of loneliness and boredom because of lack of programs tailored to age-related needs.<sup>25 26</sup>

Long-term incarceration causes negative psychological impacts, including: contemplating the possibility of (or coming to terms with) dying within the institution; depression, distress, and suicidal thoughts or attempts;<sup>27</sup> feelings of hopelessness and despair; trauma from adverse experiences (either direct harm or as a witness to harm caused to others), as well as exhibiting symptoms of post-traumatic stress disorder which can impact their ability to integrate into the community.<sup>28</sup>

Long-term incarceration disregards a person's capacity to be habilitated and integrated into the community. This is especially true for those who are effectively being sentenced to 'death by incarceration' when their parole eligibility date exceeds their possible life span. This is of particular concern given evidence which shows that people naturally 'age out of crime'.<sup>29</sup> The growing, aging population also clearly presents unique challenges for correctional administrators and community-based service providers alike, specifically, age-related risk factors such as mobility, disability, and mental health. Aging/elderly people typically pose low levels of risk and their specific needs could be better met, in a more cost-effective manner, in the community. These factors should be considered in relation to security levels and factored into release decisions to the community, when appropriate.<sup>30</sup> If public safety is the primary driver for long-term incarceration, then Canada is already well positioned through its parole process to prevent the release of those who represent too great a risk to re-offend.

Additionally, those who are released having experienced long-term incarceration undergo prisonization and institutionalization. Some are even released at or near their warrant expiry date, and are expected to seamlessly integrate into the community. It is important to consider how the impact of institutionalization and adaptation to the prison environment impacts their ability and knowledge of how to integrate into the community. The impacts on these individuals also creates a significant challenge for community-based service providers who are expected to meet their unique needs. The justification for the practice of long-term incarceration does not outweigh the wide variety of detrimental impacts on the people who experience it. The scope of these issues collectively challenge the criminal justice sector to consider serious ethical concerns related to long-term incarceration.

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<sup>23</sup> Wright, S., Crewe, B., & Hulley, S. (2017).

<sup>24</sup> Office of the Correctional Investigator. (2019).

<sup>25</sup> Johnson, R., & McGunigall-Smith, S. (2008). Life without parole, America's other death penalty: Notes on life under sentence of death by incarceration. *The Prison Journal*, 88(2), 328-346.

<sup>26</sup> Office of the Correctional Investigator. (2019).

<sup>27</sup> Liebling, A. (1999). Prisoner Suicide and Prisoner Coping. *Crime and Justice*, 26, 283-359.

<sup>28</sup> Munn, M. (2011).

<sup>29</sup> Nellis, A. (2017). Still Life: America's Increasing Use of Life and Long-Term Sentences. The Sentencing Project: Washington, D.C.

<sup>30</sup> For additional details, see: St. Leonard's Society of Canada. (2018). [Aging and Elderly People in Conflict with the Law](#). Ottawa, ON: St. Leonard's Society of Canada.

**Resolutions:**

Whereas affiliates of St. Leonard's Society of Canada have seen an increase in people paroled in the community who have experienced the harmful effects of long-term incarceration; and, whereas prisons are an inherently non-therapeutic environment for meeting the needs of people experiencing long-term incarceration,

Be it resolved that SLSC will:

- promote humane, evidence-based correctional practices by advocating for earliest release into the community, for those experiencing long-term incarceration;
- advocate for investment by government partners to provide adequate community-based resources and supports to people who have endured periods of long-term incarceration; and
- recognize the multiple needs that develop from long-term incarceration.

**Additional Information****SLSC Reports/Publications:**

- St. Leonard's Society of Canada. (2018). [Aging and Elderly People in Conflict with the Law](#). Ottawa, ON: St. Leonard's Society of Canada.

**External Reports/Publications:**

- Office of the Correctional Investigator. (2014). A Three Year Review of Federal Inmate Suicides (2011-2014). Retrieved from: <https://www.oci-bec.gc.ca/cnt/rpt/oth-aut/oth-aut20140910-eng.aspx>