

INDEFINITE TERM PRISONERS — STATISTICS

1257. Hon Giz Watson to the Parliamentary Secretary representing the Attorney General

I refer to prisoners serving an indefinite term pursuant to the provisions of the former section 662(a) of the *Criminal Code* or section 98 of the *Sentencing Act 1995* which replaced that former provision, and also to the answers given to my question on notice No. 343 of Tuesday, 7 April 2009, and ask —

- (1) How many indefinite term prisoners have been released from prison since 1 January 1995?
- (2) How many indefinite term prisoners have had their sentence reviewed by a court since 1 January 1995?
- (3) Since 1 January 1995, how many indefinite term prisoners have had a decision of the Parole Board or Prisoners Review Board amended, cancelled or substituted via the internal review process?
- (4) Since 1 January 1995, has the Attorney General declined to follow any recommendation of the Parole Board or the Prisoners Review Board regarding an indefinite term prisoner?
- (5) If yes to (4), on how many occasions?
- (6) Regarding each occasion —
 - (a) what was the recommendation; and
 - (b) why did the Attorney General decline to follow the recommendation?
- (7) How many indefinite term prisoners currently held in Western Australia are Aboriginal or Torres Strait Islander?
- (8) Regarding each prisoner referred to at (6), -
 - (a) how long has he or she served;
 - (b) what is the original offence or offences for which he or she was sentenced;
 - (c) what was the original fixed or nominal sentence (to which the indefinite term has been added); and
 - (d) has the prisoner been offered a resocialisation program?
- (9) If yes to (7d), was the nature of the program and the manner in which the program was discussed with the prisoner consistent with, -
 - (a) P. Dudgeon, H. Pickett, & D. Garvey (Eds.). (2000). *Working with Indigenous Australians: A Handbook for Psychologists*. Perth: Gunada Press; and
 - (b) Australian Psychological Society's Guidelines for the provision of psychological services for, and the conduct of psychological research with, Aboriginal and Torres Strait Islander People of Australia?
- (10) If yes to (9) (a) and (b), will the Minister please describe in what ways it was consistent?
- (11) If no to (9) (a) and (b), why not?
- (12) Did the Parole Board or the Prisoners Review Board ever recommend to the Attorney General, a resocialisation program for the prisoner?
- (13) If yes to (12), was it approved or declined by the Attorney General?
- (14) Did the prisoner decline to enter an offered program?
- (15) If yes to (14), what reasons did he or she give for refusing?
- (16) Regarding the deceased Aboriginal indefinite term prisoner Alan Egan, -
 - (a) did the State Solicitor's Office ever advise that the sentencing process in Mr Egan's case was inconsistent with the High Court's judgments in *Chester v The Queen* (1988) 165 CLR 611 and subsequent appeals from Western Australia; and
 - (b) has the management of Mr Egan's case been reviewed?
- (17) If yes to (16) (b), -
 - (a) who conducted the review;
 - (b) what was the outcome of the review; and

- (c) will the Minister please table the review?
- (18) If no to (16) (b), why not?
- (19) Have there been any changes since Mr Egan's death to the way indefinite term prisoners are managed?
- (20) If yes to (19), will the Minister please describe the nature of the changes?
- (21) Regarding each indefinite term prisoner currently held in Western Australia who was sentenced before 1 January 1995 —
- (a) at the time of sentencing, was there a recommendation from the prosecution that an indefinite term be imposed;
- (b) at the time of sentencing, did the court make a finding that the prisoner was, 'a constant danger', pursuant to the High Court judgment in *Chester v The Queen* (1988) 165 CLR 611; and
- (c) if the answers to (21) (a) or (b) is not known, in light of the contents of the petition and court transcript relating to Mr Egan's case that were provided to the Attorney General in 2007, will the Minister ascertain and provide the answers?
- (22) If no to (21) (a) or (b) will the Minister, -
- (a) direct the case be referred to the Court of Criminal Appeal for consideration of the legality of the sentence;
- (b) advise the Governor in Executive Council to grant a pardon;
- (c) advise the Governor in Executive Council to release the prisoner; and
- (d) take any other action?
- (23) If yes to (22) (d), what action will the Minister take?
- (24) Regarding each of the seven longest serving indefinite term prisoners as at 28 February 2009, has he or she now served a term of imprisonment exceeding the maximum statutory term of imprisonment applicable to his or her offence?
- (25) If yes to (24), will the Minister, -
- (a) advise the Governor in Executive Council to grant a pardon;
- (b) advise the Governor in Executive Council to release the prisoner; and
- (c) take any other action?
- (26) If yes to (25) (c), what action will the Minister take?

Hon MICHAEL MISCHIN replied:

The Attorney General advises as follows:

- (1)-(26) Many of the questions relate to historical information concerning indefinite term prisoners. Other questions concern Prisoner Re-socialisation Programs in both general and in specific cases.

There are questions concerning the deceased Aboriginal indefinite term prisoner Mr Alan Egan, including items that would appear to be subject to legal professional privilege.

There are also questions asked regarding specifics of each indefinite term prisoner currently held in WA who was sentenced before 1 January 1995.

Consequently, it is respectfully requested that the honourable member rephrase her questions in a more concise and targeted manner.