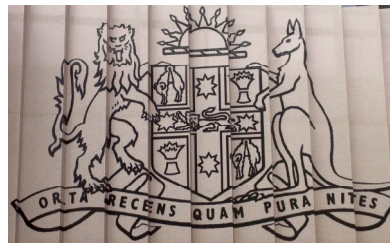


# NSW STATE PAROLE AUTHORITY



## ANNUAL REPORT



# NSW STATE PAROLE AUTHORITY

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## Letter to the Minister

*The Hon. Greg Smith SC MP  
Attorney General  
Minister for Justice  
Governor Macquarie Tower  
Level 31, 1 Farrer Place  
SYDNEY NSW 2000*

*Dear Minister*

In accordance with Section 192 of the *Crimes (Administration of Sentences) Act 1999*, I have pleasure in submitting to you, for the information of Parliament, the report of the NSW State Parole Authority of for the period 1 January 2012 to 31 December 2012.

*Yours faithfully*

**I H PIKE AM**  
Chairperson  
30 June 2013

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- ‘ *In contrasting the different processes within the various States and Territories and overseas countries of parole itself, and dealing with parole grants and breach actions, we can appreciate the transparency of our own system.* ,

**In recent years members of the State Parole Authority (SPA) have had the opportunity to visit other Parole Boards within Australia and New Zealand, and in turn we have received visits from members of those Boards.**

The exchange of information arising from these visits has been invaluable. As an example, it was through our regular contacts with the New Zealand Parole Board that we started our journey towards computerisation of the reading material for all members. We started by using USB sticks (as New Zealand used) and from there developed the present system of downloading the material using wireless technology.

However, it is in contrasting the different processes within the various States and Territories and overseas countries of parole itself, and dealing with parole grants and breach actions, that we can appreciate the transparency of our own system.

When an inmate applies for parole the SPA makes an initial determination based on the information then in its possession. This includes as a minimum the judge's sentencing remarks, the OIMS (a document from CSNSW that details an offender's sentence details), the Pre-Sentence Report utilised at the time of sentencing, a detailed Pre-Release Report prepared by the Probation and Parole Service and in the case of serious offenders, a report from the Serious Offenders Review Council (SORC). If that information indicates that it is appropriate in the public interest for the inmate to be released to parole, then an order is made.

However, if it is not appropriate in the public interest to grant parole, and an order is made for parole refusal, then the SPA will either grant a review of that determination at the time of parole refusal or will consider granting a review if persuaded by the inmate that such a review might have merit.

Such a review is held in a public court (except for a limited number of closed court matters) and the inmate appears before the Authority by video link from the gaol and is represented either by the Prisoners Legal Service, the Aboriginal Legal Service or by a private lawyer. As a result of the review, the SPA will either grant parole or refuse parole and will publicly announce the reasons for its determination.

When the Authority receives a report for a breach of parole from a Probation and Parole Officer, the SPA will make a determination at a private meeting either to revoke the parole order, or to issue a warning for the breach. When the SPA revokes the order a warrant is issued. Within four weeks of coming back into custody, the parolee is granted a review hearing and is entitled to legal representation. The parolee may then attempt to persuade the SPA that the breach was not committed or, if it was committed, it did not justify revocation.

The transparency of the review system is not replicated elsewhere in Australia or New Zealand.



During 2012, after a challenge in the Supreme Court, the Authority reviewed the process of giving reasons when an application for parole is refused. As a result of the review, details are now given in writing in much greater detail than previously. A positive result of this review has been a substantial reduction in the number of inmates seeking review of their unsuccessful application for parole and an even greater reduction in the number of appeals to the Supreme Court.

Moving from the workings of the Authority in 2012, it is noted that the composition of the Authority also underwent some changes. During the year a number of members completed their term or resigned. They were:

Mr Noel Beddoe  
Ms Maritsa Eftimou  
Professor Ross Fitzgerald  
Mr Robert Inkster OAM APM  
Mr Barry Kilby JP QS  
Dr Donald Saville  
Ms Gowan Vyse

A number of new appointments were also made. They were:

Ms Susan Carter  
Mr Barrie East  
Mr Douglas Eaton  
Ms Katie Fullilove  
Mr Yair Miller  
Mr Allan Moore  
Mr Ron Woodham

In June 2012, one of our most experienced members, Brenda Smith passed away shortly after the onset of a serious illness. Brenda made an extraordinary contribution to the Authority. At her funeral service, amongst a number of tributes, I said on behalf of the Authority:

*“(Brenda) brought to the Parole Authority a lifetime of knowledge gained in her former role as a Probation and Parole officer where on a daily basis she was confronted with people whose anti-social behaviour had damaged both society and themselves. She had worked assiduously to protect both the public from further harm and to attempt to re-direct offenders’ behaviour into more socially acceptable directions.*

*Work as a community member of the Parole Authority is not easy. It involves a detailed knowledge of the*

*workings of the legislation governing the administration of sentences and in particular the grant and revocation of parole. It involves reading and understanding all the detail of an offender’s crime, what led to the commission of the crime and what the offender has done while in custody to address his or her offending behaviour. It involves analysing and assessing all that information to determine whether or not a person is ready for parole and, if so, on what conditions. It also involves determining whether, once released on parole, an offender’s behaviour is such as to warrant revocation and return to prison.*

*To all those duties, Brenda brought her great skills. Though not a trained lawyer, she had a profound knowledge of the law. She constantly searched for the truth. When others disagreed with her, she argued with logic and courage. But to my mind her greatest talent was her knowledge of human nature. She understood that very few people were beyond redemption. She understood that society would be a much better place if offenders could be rehabilitated and diverted into a more pro-social mode of life”.*

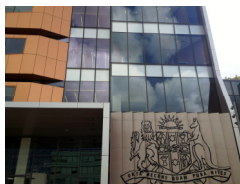
At the end of October Lloyd Walker, Amy Manuell, Tina Anderson and I attended the Australasian Paroling Authorities Conference in Melbourne. It was a fine conference and enabled us to meet members from across Australia and New Zealand and to exchange useful information.

I extend my appreciation to my judicial colleagues, Judge Terence Christie QC, Judge Paul Cloran and Mr Allan Moore for their hard work and conscientious attention to their duties. I also thank the official and community members for their contribution.

During the year under review, the Secretariat, under the inspired leadership of Robert Cosman and Amy Manuell, again provided that excellent service for which it has become renowned.

**Mr Ian Pike AM**  
Chairperson





## What is the Purpose of Parole?

Parole is the release of an offender from custody to serve the balance of their sentence in the community.

The purpose of parole is to supervise and support the reintegration of offenders before the end of their total sentence while providing a continuing measure of protection to the community.

Parole does not mean that offenders are free without supervision. Whilst on parole, the offender is still considered to be under sentence. It is not leniency or a reward for good behaviour, but an extension of the sentence that provides the opportunity to assist and monitor adaptation to a normal, lawful community life.

As a bridge between custody and liberty, parole is a form of conditional release that involves a thorough review of information and assessment of risk. Parolees must abide by the conditions of their release. If the conditions of parole are not met, parole may be revoked and the offender returned to custody.

Parole serves the public interest by ensuring offenders are supervised and supported during reintegration, and reducing the likelihood of recidivism. It provides a more effective way of protecting the public than would a more sudden release of offenders, at sentence expiry, without assistance and supervision.

### State Parole Authority vs Court Based Parole Orders

A non-parole period is a minimum term of imprisonment during which an offender is not eligible to be released from prison to parole.

The NSW State Parole Authority (SPA) considers the release to parole of all offenders who have total sentences of more than three years with a non-parole period specified by the Court.

The *Crimes (Sentencing Procedures) Act 1999* permits a court which sentences an offender to a term of imprisonment of three years or less to also set a non-parole period that entitles the offender to be 'automatically' released from custody (dependent on appropriate post release plans and arrangements being made by the Probation and Parole Service).

### Key to Common Acronyms

CSNSW	–	Corrective Services NSW
SPA	–	NSW State Parole Authority
SORC	–	Serious Offenders Review Council
P&P	–	Probation and Parole Service
CCMG	–	Community Compliance and Monitoring Group
ICO	–	Intensive Correction Order
VCSS	–	Video Conferencing Scheduling System
OIMS	–	Offender Integrated Management System





### Victims' Interests

The NSW Government enacted legislation now contained in the *Crimes (Administration of Sentences) Act 1999* to establish the Victims Register which requires that victim submissions be taken into consideration when considering the release of an offender.

A registered victim of a serious offender also has an opportunity to make verbal submissions to the SPA about the offender before it is decided if the offender should be released on parole.

A victim may also register when the offender is serving a sentence by way of an Intensive Correction Order (ICO) or Home Detention.

### Manifest Injustice

Early consideration of a case may occur in circumstances prescribed by clause 233 of the *Crimes (Administration of Sentences) Regulation 2008* as constituting manifest injustice. These include a decision to refuse parole being based on incorrect or incomplete information, or requirements being met that were previously beyond the offender's control such as the availability of relevant programs, external leave, suitable accommodation, health services or the withdrawing of further charges.

### Serious Offenders

If an offender is managed by the Serious Offenders Review Council (SORC), a representative of the State of New South Wales and any Registered Victims of crime are also able to make submissions to the SPA before it makes its final decision. According to S135 of the Act, except in exceptional circumstances, the SPA must not make a parole order for a serious offender unless SORC advises that it is appropriate.

### Suspension of Parole Orders

If there is insufficient time to call a meeting of the SPA, the Commissioner of Corrective Services may apply to a judicial member to suspend an offender's parole order and issue a warrant for arrest. Such circumstances would occur when an offender has breached their parole and there is a serious and immediate risk that the offender will abscond, harm another person or commit an indictable offence.

A suspension order remains in force for up to 28 days after the offender is returned to custody to allow time for an inquiry to be conducted into allegations.

### Abolition of Periodic Detention

From 1 October 2010, Periodic Detention ceased to be a sentencing option in NSW and a new community sentencing option called an Intensive Correction Order (ICO) became available. An ICO is a court sentence of two years or less which is served by way of intensive correction in the community under the strict supervision of Corrective Services NSW (CSNSW) rather than in full-time custody in a correctional centre.

An offender, who was sentenced to a Periodic Detention Order prior to 1 October 2010, continues to serve this order until it is completed.







## Who We Are

The NSW State Parole Authority (SPA) is an independent statutory authority governed primarily by the *Crimes (Administration of Sentences) Act 1999*. The SPA considers the release to parole of offenders who have total sentences of more than three years with a non-parole period.

## What We Do

The SPA's role is the protection of the community through risk assessing offenders to decide whether they can be safely released into the community.

We make independent and appropriate decisions in relation to:

- the supervised, conditional release of offenders from custody
- the conditions of release
- the revoking of parole orders for non-compliance and return to custody
- the revoking, substituting or reinstating of home detention, periodic detention or intensive correction orders

## How We Do It

Release to parole is not an automatic right at the end of the non-parole period. Section 135(1) of the *Crimes (Administration of Sentences) Act 1999* states that "the Parole Authority must not make a parole order for an offender unless it is satisfied, on the balance of probabilities, that the release of the offender is appropriate in the public interest".

The SPA considers at a private meeting whether or not an offender should be released on parole based on the written material provided by the relevant authorities.

If parole is granted, a parole order is issued and the offender is released on the due date. In the case of serious offenders, the matter is adjourned to a public hearing to provide the opportunity for registered victims and the State to make submissions before a final decision is made.

If parole is refused, the offender is able to apply for a public hearing to review the decision where they can appear personally by audio/video link and be legally represented. If the offender declines a hearing, or does not convince the SPA that a hearing is warranted, the decision to refuse parole is confirmed.

When specifying reasons for intending to refuse parole, great care is taken to include all the issues and concerns at the time of consideration so that the offender or their representative can fully address those issues at a public hearing. Should additional issues of concern be identified during a public hearing, parole refusal will be confirmed until the new issues are also resolved.

The next time the offender is eligible for parole is the anniversary date of the earliest release date. If there is less than 12 months remaining on the offender's sentence, they will be released on the date the sentence expires.

The release of an offender before the expiry of a sentence or non-parole period may also be considered if the offender is dying or there are other exceptional, extenuating circumstances.





## What We Consider

In reaching its decisions, the SPA considers the safety of the community, matters that affect the victims of the crime committed, factors that affect the offender and the intentions of the sentencing court.

It takes into account a broad range of material to determine if the offender is able to adapt to normal lawful community life. This includes:

- Nature of the offence
- Sentencing authority comments
- Offender's criminal/supervision history
- Potential risk to the community and the offender
- Post-release plans
- Reports and recommendations from medical practitioners, psychiatrists and psychologists
- Reports and recommendations from probation & parole officers
- Representations made by the victim or by persons related to the victim
- Submissions by the offender's family, friends and potential employers or any other relevant individuals
- Representations made by the offender or others with an interest in the case

In all cases, strict conditions are imposed on the offender and additional conditions may be specifically tailored to address the underlying factors causing their offending behaviour. These may include;

- Assessment and treatment for alcohol or drug addiction
- Assessment and treatment for medical, psychiatric or psychological issues
- Abstinence from alcohol
- Random substance testing
- Satisfaction of criteria for a place of residence
- Restricted contact with certain individuals
- Restrictions on places the parolee is able to visit
- Attendance at personal development programs

## How Parole is Revoked

The SPA considers the revocation of parole orders, including those issued by courts, if parolees fail to comply with conditions of their order.

It may consider the revocation of a court-based parole order before release if the offender applies to have the order revoked, shows an inability to adapt to normal lawful community life or does not have suitable post release accommodation. It is also responsible for revocation of home detention orders upon breaches of conditions and revocation of periodic detention orders upon unauthorised absences or evidence of unsuitability.

If an order is revoked, a public hearing is held to review the decision. When the revocation of a parole order is confirmed, the offender is not eligible for re-release for 12 months, or at the end of the sentence if the balance of parole remaining is less than 12 months.

When the revocation of a home detention, periodic detention or intensive correction order is confirmed, the detainee remains in fulltime custody but can be reinstated, subject to a suitable assessment, after serving at least three months in the case of periodic detention and home detention orders and one month for intensive correction orders. Alternatively, the balance of periodic detention or intensive correction orders may be served, if approved, by way of home detention.





## NSW State Parole Authority Determination Case Study

### Chiew Seng Liew

**On 22 December 1992, in the Supreme Court of NSW, Chiew Seng Liew was sentenced to a term of 26 years, with a non-parole period of 20 years expiring on 12 July 2011, for the murder of Dr Victor Chang.**

**The murder committed by the offender and his co-offender was one of the most notorious in this State's history due to the callous nature of its execution and the high profile of the victim as a world famous heart surgeon.**

After initially being refused parole, the offender was again considered on 17 May 2012. At this time, the SPA reviewed the following documents from:

- sentencing remarks
- criminal antecedents
- P&P pre-release reports
- SORC reports
- Human Rights Commission of Malaysia

After considering the above information, the SPA formed an intention to grant parole with certain conditions, and adjourned the matter for possible submissions with a date set for review.

At the hearing on 19 September 2012, attended by the Crown Solicitor's Office, the Prisoners' Legal Service, the Probation and Parole Service, a Cantonese interpreter and, by audio visual link, the offender, the SPA gave careful consideration to all the material in its possession including:

- sentencing remarks
- criminal antecedents
- P&P pre-release reports
- SORC reports
- Justice Health reports,
- medical specialist reports
- written submissions on behalf of the State and the offender
- a comprehensive victim submission.

While acknowledging that the offender was elderly, suffering from a serious terminal illness and becoming increasingly frail, the matter was not determined under s 160 where an offender is dying or because of exceptional extenuating circumstances, but under s 135 of the *Crimes (Administration of Sentences) Act 1999*. In particular, the SPA noted that his custodial conduct would be supportive of a grant of parole and that his increasing frailty would greatly reduce his risk of reoffending.

**Having regard to the principle that the public's interest is of primary importance, the SPA decided that the release of the offender was appropriate. In making this decision, the SPA had regard to the need to protect the safety of the community and the public's confidence in the administration of justice.**





- the Probation & Parole Service, which recommended release, noting in part;
  - the cessation of the offender's criminal detention bridging visa upon release resulting in immediate deportation
  - the ongoing support of his wife and family in Malaysia
  - the offender's statement in regard to the offence where he acknowledged his actions were wrong and apologised to the victim's family, his family and the Australian government
  - his satisfactory prison conduct during 21 years in a correctional environment and low security classification
  - the recent decline in the offender's management due to his deteriorating mental and physical health.
- the Serious Offenders Review Council, which recommended release, noting in part;
  - the overall fragility of his condition due to progressive Parkinson's' Disease
  - the fact he was not sentenced to die in a NSW correctional centre.
- Justice Health, which recommended release, noting in part;
  - the offender was currently a high fall risk due to his mobility impairment and could be affected cognitively as his terminal illness progressed
  - his future high care needs and the potential problems of funding these as a non-resident of Australia
  - his present medical fitness for travel which could not be ensured in the future.
- the Human Rights Commission of Malaysia which supported release noting in part;
  - the offender was no longer a threat to society.

- the Crown Solicitor filed a submission on behalf of the State, opposing the release of the offender to parole, noting in part;
  - it was not in the public interest
  - the offender has only served one year of his six year parole
  - the seriousness of his crime and the ramifications to the family and society
  - the offender had not undertaken any therapeutic courses in custody to address his offending behaviour
  - his immediate deportation upon release resulting in the remainder of his sentence being expunged
  - lack of evidence that the offender's medical condition had reached the state that would not improve with more medication
- the Prisoners' Legal Service filed a submission on behalf of the offender, supporting his release to parole, noting in part;
  - his diagnosis of Parkinson's disease, hypotension, cardiovascular disease and gallstones along with early symptoms of a dementing process with memory loss and confusion
  - his ineligibility to participate in relevant therapeutic rehabilitation programs due to his low risk of recidivism, language skills and medical condition
  - the likelihood that he would adapt to a normal lawful community life as evidenced by his behaviour during 21 years of incarceration
  - the likelihood of the further decline of his mental and physical health and this being an impediment to his eventual return to Malaysia
  - the need for his return to Malaysia within a reasonable timeframe to assist his family in managing a challenging reintegration process
  - the potential problems and taxpayer resentment associated with funding his long-term care in Australia
  - parity with his co-offender released to parole shortly after the expiry of his earliest release date.





*The year 2012 was again a busy period for the Authority. The sentencing option, Intensive Corrections Orders, started to increase in the community and therefore the Authority work has increased accordingly with revocations, reinstatements etc.*

## I am pleased to present the Secretary's Report for 2012.

### Acknowledgements . . .

It provides the opportunity to publically acknowledge the efforts of the hardworking staff of the Secretariat of the State Parole Authority. I thank my deputy, Ms Amy Manuell, for her support and valuable contribution during 2012.

The Authority is fortunate to have the expertise of two liaison officers who act as conduits between the Authority and CSNSW. These liaison officers provide support, guidance and advice to the Authority members and Secretariat, along with feedback, training, assistance and advice to Correctional Centres and Community Offender Services. During 2012, the staff and I have been fortunate to have the assistance of Deputy Superintendent Nigel Lloyd as the liaison for custodial matters, and Luke Easterbrook as the Community Offender Services liaison officer. Their contributions go above and beyond the expectations of their positions.

I have also been greatly assisted in administration by the Senior Administration Officer, Ms Krista Jimenez, whose technical prowess and project management abilities have been much appreciated. Ms Jimenez also efficiently and patiently assisted members of the Parole Authority, particularly in the area of computers and electronic management of files.

This report also provides the opportunity to acknowledge and thank the members of the Parole Authority, in particular the Chairperson, Mr Ian Pike AM. I respect and admire the hard work and diligence of members in going about their important responsibilities.

### Advances in Technology . . .

This year has seen continued progress in providing members access to their files via laptop computer.

We have progressed from using USB drives to providing access in court, board room and members' homes by internet and intranet. By logging in to a designated site, members can securely download their files during the week preceding their rostered meetings. The system allows members to obtain updated, extra, or urgent material up to, and on, the meeting day.

In addition, members have access to announcements, rosters, pieces of legislation and other important documents they may require in their duties.

We will continue to improve this innovative project in 2013 including the replacement of members' laptops. Projects in 2013 include the production of a new web site and continuation of the efficiencies within the Secretariat to improve functions and deliver further financial savings.



### *Tribute . . .*

I take this opportunity to pay tribute to the late Brenda Smith who passed away on 7 June 2012. Brenda was an outstanding and highly experienced Community Member with the Authority since 1 October 2002. Before her appointment to the Authority, Brenda was an Assistant Commissioner with the Office of Commissioner, Strategic Development and the Probation and Parole Service. Brenda was a friend and colleague since 1995 and I will sincerely miss her, as will all members and staff.

### *Personnel Changes . . .*

During 2012, there were significant changes to the membership of the Authority. Mr Allan Moore was appointed as a Judicial Member from 14 March 2012. Before retirement, Mr Moore was a Magistrate, principally at the busy Central Local Court, so he brings with him a wealth of experience in working with offenders in a high volume environment. I welcome him and wish him well in this important role.

There were also comings and goings in the ranks of the Community Members. Mr Bob Inkster, a highly experienced and respected member, resigned to take up a senior position with the NSW Crimes Commission. Mr Noel Beddoe resigned for family reasons and to concentrate on a writing career. I record my appreciation of the contribution of both Mr Inkster and Mr Beddoe and wish them well in their new endeavours.

There were also Community Members who were not re-appointed at the expiry of their respective terms, including Mr Barry Kilby, Ms Gowan Vyse, Professor Ross Fitzgerald, Dr Don Saville and Ms Maritsa Eftimiou. Their commitment, contribution and experience will be missed and I thank them for ably fulfilling their responsibilities.

There were several new appointments to the ranks of community members. Councillor Doug Eaton and Mr Barrie East joined the Authority in May 2012, Mr Yair Miller in July 2012 and Ms Susan Carter and Ms Katie Fullilove were appointed in October 2012.

Also joining the Authority as a community member was the former Commissioner of Corrective Services NSW, Mr Ron Woodham, who was appointed in July 2012.

This brings me to the appointment of Mr Peter Severin as Commissioner of Corrective Services NSW. I extend a welcome to Mr Severin and congratulate him on his appointment.

I record my thanks and best wishes to Mr Paul Byrnes, the Executive Director of State-wide Administration of Sentences and Orders.

The Secretariat of the Parole Authority is part of the responsibilities of this position. Paul Byrnes retired in December 2012 after a long career with Corrective Services. He was a former Director and Secretary of the Parole Authority and was highly respected by all members, colleagues and staff.

### *Workload . . .*

The year 2012 was again a busy period for the Authority. The sentencing option, Intensive Corrections Orders, started to increase in the community and therefore the Authority work has increased accordingly with revocations, reinstatements etc.

Most other categories of the Authority work remained essentially the same as the recent previous years.

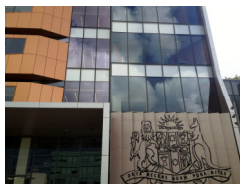
### *Appeals . . .*

There were only two appeal matters to the Supreme Court by an offender against a Parole Authority decision in 2012 and three carried over from the previous year. Three were withdrawn, one dismissed in the Supreme Court and one dismissed in the High Court.

As reported last year, one of the country's most infamous inmates, Kevin Crump, appealed to the High Court of Australia. The offender challenged sentencing laws that prevented him being considered for parole. The High Court rejected his appeal on 4 May 2012.







### *Training and Development . . .*

Two training/policy meetings were held for members of the Authority during 2012. The first, in March 2012, provided the opportunity for the Attorney-General, Mr Greg Smith SC MP, to meet with members. The meeting received presentations from Mr Tom Simpson and Mr Anthony Sobb about gambling issues; and from Major Andrew Schofield and Simon Mannion from the Lake Macquarie Recovery Centre.

We were also fortunate to have at the meeting Ms Anina Johnson, Solicitor Advocate from the Crown Solicitors Office.

Ms Johnson presented training about structured decision making. This session provided the basis for the introduction of a successful policy in 2012 where templates were designed to assist in structured decision making and the provision of meaningful reasons when refusing parole. It is no coincidence that the introduction of this process was accompanied by a significant reduction in the number of appeals against SPA decisions to the Supreme Court.

The second meeting was held during November 2012. Mr Jayson Ware and Ms Danielle Matsuo from Corrective Services NSW Sex & Violent Offenders programs provided update information about relevant programs. SPA was also fortunate to have an interesting and very well received presentation from Ms Melinda Witt about the Miramar program.

Congratulations to the Victorian Adult Parole Board for providing a successful conference in 2012. Each of the four State Parole Authority members who attended the Australasian Parole Authorities Conference in Victoria from 31 October 2012 to 2 November 2012 reported back to the second policy meeting about the highlights of the conference. The aim of the conference was to look at best practice and innovative ways to address emerging common issues. The theme was '*Parole into the Future*'. From the feedback, the conference was worthwhile and informative.

I was privileged to attend the Annual Training Conference of The Association of Paroling Authorities International (APAI). The conference was held in Orlando, Florida during May 2012.

The Parole Authority is a member of APAI which is the only international organisation which brings together parole/releasing decision makers from various countries. The conference was attended by delegates from 18 countries and 38 states of the USA. At the conference, I presented to the attendees an outline of our innovative project in replacing members' paper files with on-line digital access.

### *International Colleagues and Visitors . . .*

In reporting about international matters, the Parole Authority in 2012 continued to have a close working relationship with the New Zealand Parole Board. A good friend to the NSW State Parole Authority, Judge Sir David Carruthers, past Chairperson of the New Zealand Parole Board, received an award at the APAI conference honouring his international work in promoting parole. The Deputy Chairperson of the NZ Parole Board, Justice Marion Frater, presented an excellent paper at the conference.

I wish Sir David well in his new position, Chair of the NZ Independent Police Conduct Authority, and thank him for his valuable assistance and advice. I also welcome the new Chairperson of the NZ Parole Board, Justice JW (Warwick) Gendall, and wish him well in his new position.

The Secretary of the NZ Parole Board, Mr Alistair Spierling, visited us in July 2012 to inspect the initiatives we have introduced, in particular, the paperless files project. Alistair has always been helpful and supportive and we continue to enjoy a strong affiliation.

Before closing, I acknowledge and thank the contribution and assistance of various stake-holders including the Attorney-General and Minister of Justice and the staff of his Office; the Commissioner and staff of Corrective Services and in particular the Probation and Parole Officers and Community Compliance and Monitoring Officers; the Director-General and staff of the Attorney-General's Department; the Crown Solicitor's Office; Prisoners' Legal Service; and the Aboriginal Legal Service.

**Robert Cosman**  
Secretary







# 2012 Snapshot

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Items	2010	2011	2012	%
Matters Considered	11,657	11,093	11,422	3.0
SPA Meeting Days	291	284	270	- 4.9
- Private	98	97	99	2.1
- Public	193	187	171	- 8.5
- Policy	4	2	2	0
- Secretary Sitings	51	50	50	0
Total Parole Releases	5,687	5,447	5,470	0.4
- SPA	951	1,036	1,051	1.4
- Court-based Orders	4,736	4,411	4,419	0.9
Total Parole Orders Refused	290	254	265	4.3
Total Parole Orders Revoked	2,246	2,059	2,261	9.8
- SPA	444	493	479	- 2.8
- Court-based Orders	1,802	1,566	1,782	13.8
Total Revocations Rescinded	446	336	361	7.4
Variations to Parole Orders	264	255	269	5.5
SPA Formal Warnings	1,277	1,829	2,118	15.8
State Submissions	13	8	12	50
Overseas Travel	42	43	35	-18.6
Victim Submissions	32	64	58	-9.4
Interstate Transfers (to NSW)	56	22	30	36.4
Matters heard via Video Conference	2,809	2,905	2,381	-18.0
Appeals	5	10	5	-50.0
Meetings of ICO/PD/HD Division	48	47	27	-42.5
ICO - Revoked	n/a	67	114	70.1
ICO - Reinstatement Ordered	n/a	8	10	25
ICO - Reinstatement Declined	n/a	10	16	60
ICO - Overseas Travel	n/a	n/a	9	n/a
PD - Revoked	388	50	11	- 78.0
PD - Reinstatement Ordered	105	43	9	- 79.1
PD - Reinstatement Declined	57	8	1	- 87.5
HD - Revoked	37	20	20	0
HD - Reinstatement Ordered	6	2	4	50.0
HD - Reinstatement Declined	5	1	2	50.0





## Innovative Approach to Technology Delivers Significant Benefits

The award-winning technological advances made by the Authority in recent years continued in 2012 with the successful implementation of the final phase of the electronic management of members' papers and offender files.

Early in the year, the Authority replaced the use of USB memory sticks with wireless internet to enable members to download all required material via digital access. This represents the culmination of years of innovation and effort to create a paperless system, that has increased efficiency, assisted access, enhanced records management, delivered financial savings, lessened environmental impact and improved security.

There was continued interest in the Authority's latest technological achievement with visits from representatives of both the Northern Territory Parole Board and New Zealand Parole Board, and a presentation regarding the history of the project delivered at the Association of Paroling Authorities International (APAI) *Practicing Smart Justice: Innovative Practices in Parole* conference held in Florida during the year.

### Project Background

There are approximately 10,000 inmates in NSW with around 6,000 offenders supervised through parole, home detention or intensive correction orders. In considering thousands of matters each year, the SPA studies a substantial range of reports and submissions for each including reports from the Probation and Parole Service, psychological reports, pre-sentence reports, judge's remarks on sentence, criminal history, an OIMS database summary and, for serious offenders, a report from SORC.

In the past, this led to the use of over 150 reams of paper and a massive amount of photocopying and labour per week to provide hard copies of the required information to members. The SPA first set out to address this problem by setting the foundations for an e-office solution through the;

- *Introduction of an Electronic Documentation Management System* whereby all stored offender files were scanned and filed electronically in the Total Records Management System (TRIM).
- *Electronic access to the Offender Integrated Management System (OIMS)* to raise relevant reports from the database of Corrective Services NSW.
- *Use of Fax Over Internet Protocol* to enable all incoming faxes to be electronically stored as PDFs on the SPA server.

### Project Development

With access to the relevant information in OIMS and TRIM, the task was then to electronically deliver the right information at the right time to members. Initially, members were issued with laptops and a weekly, password-protected USB stick containing relevant files.

Following the receipt of funding from Microsoft's Innovation Fund, the SPA was able to develop further advancements that could be used in other areas of the Public Service involving;

- *The linking of information from OIMS and TRIM* via a customised product called *Sharepoint* which synchronises and collects relevant information, and organises it for different public and private meeting schedules. This is the central point for rostering members and ensures they receive information relevant for their meeting only.
- *Efficiently delivering the information to Members' laptops* via *Colligo* which is a specialised software program to communicate with *Sharepoint*. Members connect to the Department's network and 'synchronise' the transfer of relevant information. Each time a member synchronises, all updated information becomes available and obsolete information is automatically deleted.
- *Ensuring secure remote access to the Department's network* by rural members via *Citrix* software which uses a Remote Access Security Code and a wireless 3G modem. Once logged on to *Citrix*, members can download their meeting files, updates or urgent matters from home.

### Future Project

The realisation of the e-office and its many benefits is the result of an on-going commitment to technological innovation. The SPA is presently exploring the possibility of automatically generating documents such as warrants, parole orders and memorandums, following the recording of a decision, which will, once again, improve accuracy, productivity and efficiency.



## Cases Considered

The SPA meets weekly to deal with its significant workload. Each week there are two private meetings (principally for consideration of release to parole and revocation of parole), three public review hearings (to review decisions) and two extra public review hearings per month to specifically deal with ICO matters.

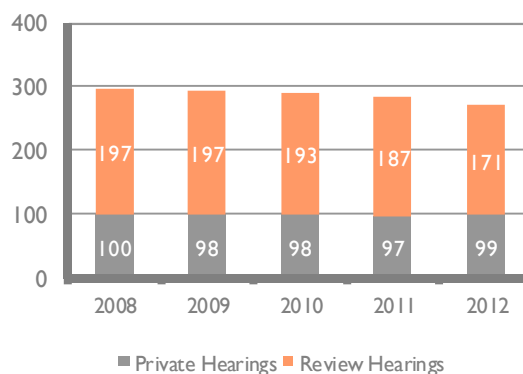
In the case of private meetings and review hearings, the matters are distributed to the members one week prior to the meeting for reading and consideration.

A single matter is often considered on more than one occasion. This is particularly the case with public review hearings for the refusal or revocation of parole, and also where a matter is held over for the receipt of additional reports or to await the finalisation of ongoing court matters.

There were also 50 secretary sittings to make various administrative decisions for cases under consideration. Examples of these include the registration of interstate parole orders and standing a case over to a future date to allow for a report submission or the finalisation of court results.

Therefore, 320 meetings considered 11,422 cases.

SPA Meetings 2008 - 2012



SPA Volume 2008 - 2012

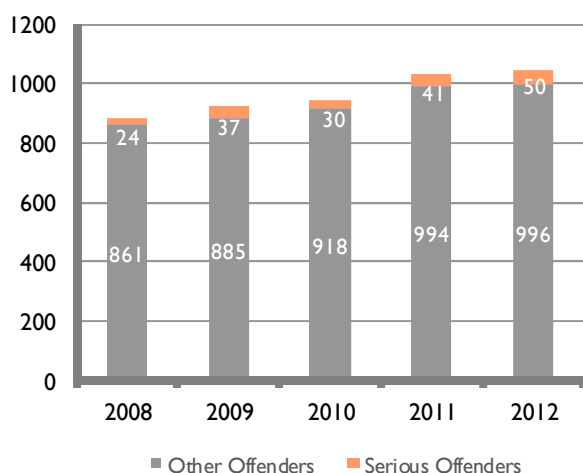
	2008	2009	2010	2011	2012
Cases Considered	11,622	11,703	11,657	11,093	11,422
Meeting Days	299	295	291	284	270

## Parole Ordered

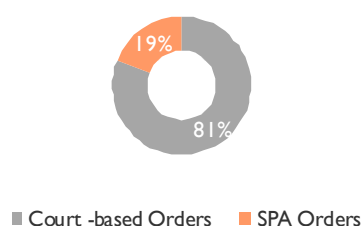
Parole was ordered in 1,051 cases in 2012. Of these, 50 related to serious offenders and five were pursuant to S160 of the *Crimes (Administration of Sentences) Act 2000* which permits parole to be ordered before the expiry of the non-parole period if the offender is dying or there are other exceptional extenuating circumstances.

Offenders granted parole by the SPA represent 19.2% of the 5,470 releases to parole in the 2012 calendar year. The balance of 4,419 releases was subject to automatic court-based orders.

SPA Parole Ordered 2008 - 2012



SPA vs. Court Orders 2012



## Parole Revoked

The SPA revoked a total of 2,261 parole orders in 2012 of which approximately 79% were court-based orders.

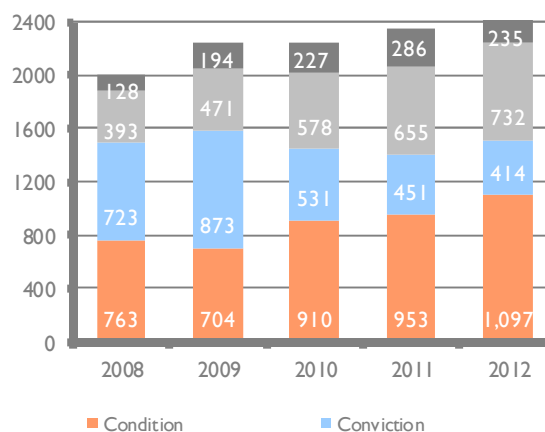
Of these, 1,097 were the result of a breach of conditions other than the commission of another crime of which 13 related to serious offenders. Breaches included the failure to maintain contact with the supervising Probation and Parole Officer, changing address without permission, leaving the state without permission, failure to attend a drug and alcohol rehabilitation centre and failure to abstain from drug and alcohol use.

414 revocations, of which one was a serious offender, were the result of outstanding charges or further conviction.

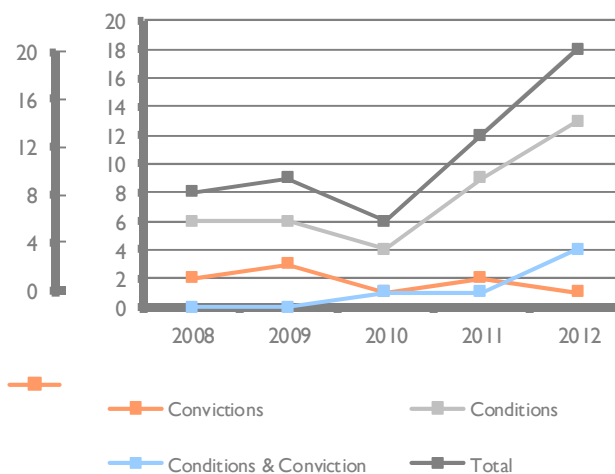
732 revocations were for both a breach of conditions and further conviction/s of which four related to serious offenders. None of the above five revocations for serious offenders involved a serious or indictable offence.

The SPA also revoked 235 orders prior to release. Revocation of court-based orders represented 95.3% of these revocation decisions.

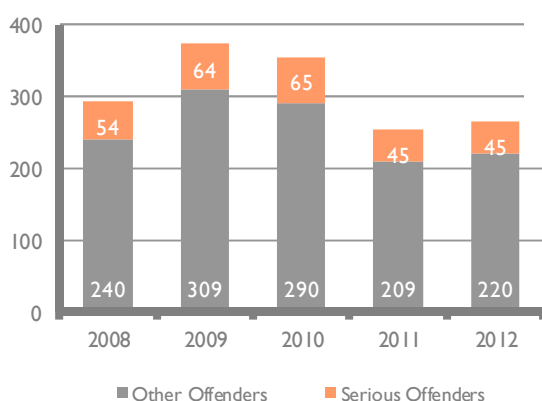
Parole Revoked 2008 - 2012



Parole Revoked Serious Offenders 2008 - 2012



Parole Refused 2008 - 2012



Parole Refused Total 2008 - 2012

2008	2009	2010	2011	2012
294	309	290	254	265

## Parole Refused

Parole was refused in 265 cases in 2012 of which 45 cases related to serious offenders.

The SPA does not automatically release offenders to parole at the end of the non-parole period for sentences in excess of three years. Section 135(1) of the *Crimes (Administration of Sentences) Act 1999* states that "the Parole Authority must not make a parole order for an offender unless it is satisfied, on the balance of probabilities, that the release of the offender is appropriate in the public interest".



## Parole - Other Matters

### Revocation Rescinded

If the SPA revokes an offender's parole, the offender has a right of review of that decision once they are returned to custody. This provides the opportunity to determine whether incorrect information was relied upon in the initial consideration of the case or whether extenuating circumstances exist that warrant rescission. A decision to rescind the revocation order may be made to avoid the possibility of an injustice occurring.

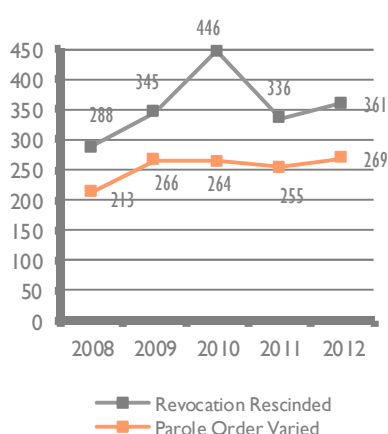
In 2012, 361 matters were rescinded of which one related to a serious offender.

### Vary Parole Orders

In some instances, it is necessary to vary the conditions of a parole order to ensure the conditions are relevant and appropriate to the offender, or to assist with the supervision of a parolee. In most cases, the Probation and Parole Service request that the conditions of a court-based parole order be varied in relation to attendance at relevant development programs. Orders can also be varied to restrict contact between offenders and victims to ensure compliance with the Child Protection Register.

269 variations to parole orders were made in 2012 of which five related to serious offenders. Approximately 60% of parole order variations related to court-based parole orders.

Amendments 2008 - 2012



### Serious Offenders

According to S135 of the Act, except in exceptional circumstances, the SPA must not make a parole order for a serious offender unless SORC advises that it is appropriate. 4.8% of all offenders granted parole were serious offenders. In comparison, 17% of offenders who were refused parole were serious offenders. Of the 2,261 parole revocations after release for breaches of conditions and/or further convictions, 18 related to serious offenders.

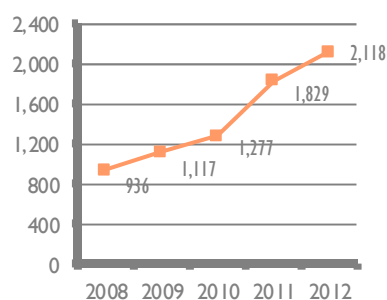
### Warnings

Formal warnings are issued to parolees who are at risk of having their parole orders revoked for breaching their conditions.

Parolees are advised in writing by the SPA that their continued failure to comply with the conditions of parole may result in revocation of their parole order.

2,118 SPA warnings were delivered in 2012 with eight of these being given to serious offenders.

SPA Warnings 2008 - 2012



### Video Conferencing

The SPA is a participant in the Cross Justice Video Conferencing system. The system is a joint initiative between CSNSW, the NSW Attorney General's Department, NSW Police Force and the Department of Juvenile Justice and was introduced to avoid transport and escort costs and reduce the risk of escapes during external movements. 27 video conferencing studios are available in 22 correctional centres across the State. The SPA has enthusiastically embraced the use of this technology and was the first court in Australia to undertake 100% of its hearing agenda via a video conferencing link.

In 2012, there were a total of 36,076 CSNSW matters dealt with via the video conferencing network. There were 2,381 matters dealt with by the SPA which represents 6.6% of overall system usage.





### Victim & State Submissions

The *Crimes (Administration of Sentences) Act 1999* gives victims of a crime the right to make submissions to the SPA when it is considering a decision about an offender that could result in release on parole. Written notice is given to any victims registered on the Victims' Register prior to the preliminary consideration of an offender's release.

58 submissions were received from registered victims in 2012. Eight were from victims of serious offenders.

The Act also enables the State to make submissions to the SPA at any time concerning the release on parole of a serious offender. Twelve such submissions were made in 2012.

### Commissioner's Submissions

In Section 160 AA of the *Crimes (Administration of Sentences) Act 1999* provides the opportunity for the Commissioner of CSNSW to make a submission concerning the release on parole of any offender where there is other information that could assist the SPA in its deliberations. There were no such submissions made in 2012.

### Victims' Document Access

Section 193(A)(2) of the *Crimes (Administration of Sentences) Act 1999* allows the victim of a serious offender to access certain documents held by the SPA concerning the measures the offender has undertaken to address their offending behaviour.

During the year, the SPA provided 12 victims with access to such documentation.

Submissions 2008 - 2012



### Overseas Travel

Parolees must seek approval from the SPA prior to travelling overseas providing evidence for the reason. Applications for travel should also be supported by a report from the Probation & Parole Service indicating the parolee's compliance with parole conditions and stable accommodation and/or employment. It is unlikely that such stability could be demonstrated in less than six months from the date of release to parole.

In general, excessive travel for recreational purposes is not approved.

There were 43 applications for travel overseas received in 2012. Of these, 35 were approved to travel and of the eight declined, one was a serious offender. No serious offenders were granted approval to travel.

All parolees who travelled overseas returned and reported as directed.

### Interstate Transfers

Complementary state and territory legislation and protocols provide for the transfer of state and territory parole orders for reasons such as family responsibilities or to pursue work or study opportunities. Under the complementary scheme, the parole order, once registered, ceases to have effect in the original state or territory as does the related sentence of imprisonment. The laws of the receiving state or territory then apply as if the sentence of imprisonment had been imposed and served, and the parole order made, in that jurisdiction. Where the state or territory offender breaches the conditions of parole, the order can be legally enforced in the receiving jurisdiction.

There were 30 registrations of interstate parole orders in NSW in 2012.

Movement 2008 - 2012





### Parole - Other Matters 2008 - 2012

Year	Revocation Rescinded	Parole Order Varied	Authority Warning	Overseas Travel	Interstate Parole Orders	State Submissions	Commissioner's Submissions	Victim Submissions
2008	288	213	936	28	64	7	10	62
2009	345	266	1,117	38	49	18	7	43
2010	446	264	1,277	42	56	13	5	32
2011	336	255	1,829	43	22	9	1	64
2012	361	269	2,118	35	30	8	0	58

## Appeals

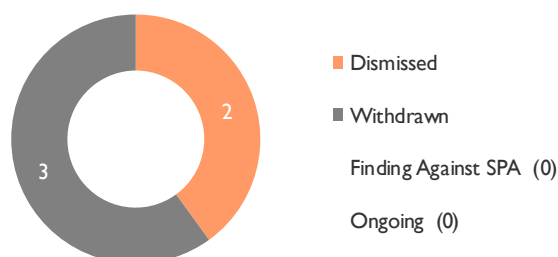
The legislation permits an offender to appeal a decision of the SPA. Prior to the legislative amendments that came into effect on 10th October 2005, all appeals were made to the Court of Criminal Appeal.

However, as a consequence of an amendment to S155 of Part 6 of the *Crimes (Administration of Sentences) Act 1999*, appeals are now made to a single judge sitting in the Administrative Division of the NSW Supreme Court. In such appeals, the offender usually alleges that the decision has been made on the basis of false, misleading or irrelevant information.

There were three appeals carried over from the previous year, and two appeals to the Supreme Court of NSW resulting in a total of five appeals in 2012. S156 provides for applications by the State to the Supreme Court in respect of decisions regarding serious offenders.

There were no such appeals in 2012.

### Appeals 2012



### Appeals 2008 - 2012

Year	Number of Appeals	Abated	Dismissed	Withdrawn	Referred Back to SPA	Finding Against SPA	Ongoing
2008	14	0	3	7	0	0	4
2009	13	0	4	3	4	0	2
2010	5	2	1	1	0	0	1
2011	10	1	0	0	6	0	3
2012	5	0	2	3	0	0	0





## Intensive Correction, Home Detention and Periodic Detention

A separate division of SPA deals specifically with cases arising from intensive correction and home detention orders. This division also deals with the remaining periodic detention orders still in force since its abolition as a sentencing option in October 2010.

In 2012, 27 meetings were held to consider over 500 matters related to intensive correction, home detention and periodic detention orders.

### Intensive Correction

An ICO is a court sentence of two years or less which is served by way of intensive correction in the community under the strict supervision of CSNSW rather than in full-time custody in a correctional centre. An ICO is for a fixed period and does not have a non-parole period. The Court can sentence an offender to an ICO once an assessment for suitability has been undertaken.

ICOs consist of a supervision/case management component and a compulsory community work component. The offender has to report to Community Offender Services, perform 32 hours of community service a month, attend rehabilitative programs where required and are also subject to drug and alcohol testing. There is also provision for the offender to be electronically monitored.

1,038 offenders commenced an ICO in 2012.

The Community Compliance and Monitoring Group are responsible for the administration of these orders. If an offender does not comply with their order, a report is prepared and considered by the ICO Management Committee who can either take action on the non-compliance or refer matters to the SPA.

The ICO Management Committee consists of five officers of CSNSW appointed by the Commissioner. Their function is to ensure consistency and fairness in the application of the orders, provide warnings to offenders and impose more stringent application of conditions, as well as providing advice and recommendations to the SPA.

Once an offender's non-compliance is referred, the SPA may issue a letter of warning to the offender, impose sanctions on the order including seven days home detention or revoke the ICO.

In 2012, the ICO Management Committee referred 131 matters to the SPA for consideration including applications to travel overseas.

13 applications to travel overseas were considered by the SPA in 2012. Of these, nine were approved. All offenders returned and reported as directed.

If an offender's ICO is revoked, the offender can apply for reinstatement of their ICO upon serving a month in custody. They must satisfy the SPA that they can successfully complete the remaining period on their ICO and their reinstatement assessment report must deem them suitable. Alternatively, an offender could seek conversion of the remaining ICO order to home detention. In 2012, four home detention orders were given in lieu of an intensive correction order.

In 2012, 114 ICO orders were revoked.

ICO 2012	
Ordered by Courts	630
Revoked	114
Revocation Rescinded	8
Reinstatement Ordered	10
Reinstatement Declined	16
Overseas Travel	9
Conversion to Home Detention	4



## Home Detention

Home detention is a rigorously monitored, community supervision program aimed at the diversion of offenders from incarceration in prison. The decision to allow an offender on the home detention program is based on the nature and circumstances of the offence, the degree of risk an offender poses to the community and the suitability of the residence where the home detention will be served.

A home detention order is still a prison sentence and strict guidelines apply. Offenders are required to remain within their residences unless undertaking approved activities and may be required to perform community service, enter treatment programs, submit to urinalysis and breath analysis and seek and maintain employment. Community Compliance Group Officers monitor offenders' compliance with conditions on a 24 hour-a-day basis utilising electronic means.

Breaches of conditions, further offences or unauthorised absences may result in revocation of the home detention order and imprisonment in a correctional centre. If a detainee fails to comply with the order, the supervising Community Compliance Group Officer prepares a breach report for the SPA's consideration. The SPA has the capacity to respond to a breach at any time and can arrange the execution of a warrant on a 24 hour basis.

In 2012, 20 detainees had their home detention order revoked.

## Periodic Detention

Prior to 1 October 2010, where an offender was sentenced to a term of imprisonment which exceeded three months but was less than three years, the sentence could be served by way of periodic detention which generally required the offender to remain in custody for two consecutive days of each week for the duration of the sentence. This allowed offenders to maintain their ties to the community by remaining in employment and living with their families while also contributing through community work.

In order to assess suitability, the Probation and Parole Service was required to prepare a report to consider any factors which may affect an offender's ability to attend regularly, including ability to travel, transport costs, medical conditions and employment.

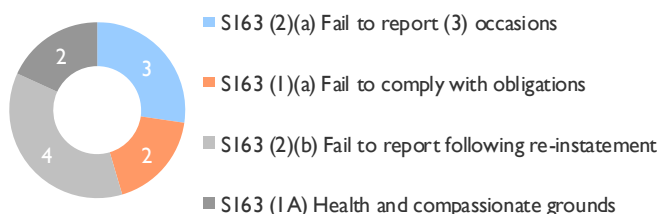
Periodic detention ceased to be a sentencing option from 1 October 2010.

The SPA may revoke an order for periodic detention in a number of circumstances, including where an offender has not attended or failed to report for three detention periods without a reasonable excuse.

If the order is revoked, a warrant may be issued for the apprehension of the offender to serve the remainder of the sentence in full time custody or another action may be determined such as having the offender assessed for suitability for a home detention order.

In 2012, 11 periodic detention orders were revoked.

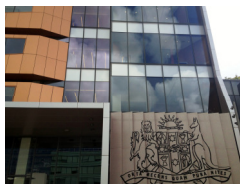
Periodic Detention - Reasons for Revocation 2012



Home Detention Revoked 2008 - 2012

2008	2009	2010	2011	2012
41	58	37	20	20





## Membership

The SPA is constituted under the provisions of S183 of the *Crimes (Administration of Sentences) Act 1999*. At least four of the appointed members are judicial members; acting or retired magistrates or judges of a New South Wales or Federal Court. At least ten community members are appointed to reflect the community at large although only two may sit at any meeting.

The other three members do not require appointment by the Governor. They are a member of the New South Wales Police Force nominated by the Commissioner for Police, an officer of the Probation and Parole Service nominated by the Commissioner of CSNSW and the Secretary of the SPA appointed by the Chairperson to dispose of routine business.

As of 31 December 2012, there were four judicial members, eleven community members and four official members serving on the SPA.

### Judicial Members



**Mr Ian Pike AM** served as Acting Deputy Chairperson from 2 September 2002, until being appointed as Chairperson on 1 January 2003 and was reappointed on 1 January 2006, 12 December 2008, 12 December 2009, 12 December 2010, 12 December 2011 and 12 December 2012 for a 12 month period. Mr Pike was appointed as a Magistrate in 1970 and retired as Chief Magistrate of NSW in 1997. Since his retirement he has acted as a consultant with the Judicial Commission of NSW. He has also acted as a consultant for AusAID carrying out judicial training and education in Sri Lanka and Papua New Guinea.



**Judge Terence Christie QC** was appointed to the position of Deputy Chairperson on 15 December 2003 and was reappointed on 15 December 2006, 15 December 2009, 15 December 2010 and 15 December 2012. Judge Christie was appointed as a Judge of the District Court of NSW in 1993. On 11 October 2006, Judge Christie was appointed to the Mental Health Review Tribunal as a part-time Deputy President and part-time member.



**Mr Paul Cloran** was appointed to the position of Deputy Chairperson on 15 July 2010. Judge Cloran was appointed a Magistrate in 1987 before retiring as Deputy Chief Magistrate of NSW in July 2010. Judge Cloran was also appointed an Acting Judge of the District Court and Judge of the Drug Court in July 2010. He presides at the Hunter Drug Court at Toronto. In September 2011, he was appointed a member of the Sentencing Council of NSW.



**Mr Allan Moore** was appointed to the position of Deputy Chairperson on 14 March 2012. Mr Moore was appointed a Magistrate in 1989 and maintained that appointment before retiring in December 2010. Mr Moore presided at Central Local Court during this time as Magistrate for a period of 11 years dealing primarily with the most serious of offences committed in the state of NSW. In February 2011, he was appointed as a Tribunal Member with the Victims Compensation Tribunal and was also appointed as an Acting Magistrate of NSW.





## Community Members

**Mr Peter Walsh APM** was formerly the Senior Assistant Commissioner of the NSW Police Force after 38 years within the Force. Awarded both the Centenary Medal in 2000 for Service to the Community and the Australian Police Medal in 1996 for distinguished police service, he completed the majority of his service throughout country NSW. Mr Walsh was appointed on 17 January 2005 and was reappointed on 17 January 2008 and 17 January 2011.

**Mr Lloyd Walker** was Acting Coordinator for the Aboriginal Corporation for Homeless and Rehabilitation Community Services and has been an Official Visitor for Lithgow Correctional Centre. He is a former Australian Wallaby player. Mr Walker was appointed on 1 July 2000 and was reappointed on 1 July 2003, 1 July 2006, 1 July 2009 and 1 July 2012.

**Mr Ron Woodham PSM** began his career in Corrective Services NSW (CSNSW) in 1966 as a Correctional Officer. In 2002, he was appointed as Commissioner of CSNSW and maintained that appointment for 10 years. Mr Woodham retired as the Commissioner in August 2012. He is also a member of the Sydney Olympic Park Authority and NSW TAFE Commission Board. Mr Woodham was appointed on 1 July 2012.

**Mrs Katie Fullilove** is the Fertility Care Practitioner and Natural Fertility Educator for the Catholic Diocese of Broken Bay. She has a history of working with both youth and aged care disability in the field of Occupational Therapy. Mrs Fullilove was appointed as a community member on 21 October 2012.

**Mr Douglas Eaton** is the Mayor of Wyong Council. He is the longest serving councillor having been first elected in 1991. Mr Eaton is also a member of the Hunter / Central Coast Joint Regional Planning Board, Member of the Home Building Advisory Board, Board Member of the Wyong Chamber of Commerce and Board Advisor of the Central Coast Chinese Association. Mr Eaton is also a practising solicitor and holds degrees in Commerce and Law. He was also a past Chair and Board Member of the Central Coast Group Training Ltd. Mr Eaton was appointed on 23 May 2012.

**Mr Rod Harvey APM** retired from the NSW Police in August 2001 at the rank of Detective Chief Superintendent after 35 years' service, the majority of which was devoted to the investigation of major crime and the management of major investigations. In recognition of his service to policing he received the Australian Police Medal, the NSW Police Medal, and the National Medal, along with several commendations. Since retiring as a police officer he has undertaken a range of consultancies including engagements with Corrective Services NSW. Mr Harvey was appointed on 28 November 2012.

**Mr Barrie East** has always lived and worked in Sydney, with the exception of two years working in Melbourne. Mr East is a professional manager for over 40 years, in various roles including; CEO, GM, National Manager and State Regional Manager, across several businesses, commercial and not-for-profit sectors. He has always gained much personal gratitude and satisfaction from helping and mentoring others in need of support and direction. Mr East was appointed on 23 May 2012.

**Mr Yair Miller** specialises in Disaster and Emergency Management. Mr Miller is President of the NSW Jewish Board of Deputies and a Member of the Ministerial Consultative Committee for the Jewish Community. Mr Miller is very active in Inter-Faith and Inter-Ethnic activities and sits on numerous Community Boards. Mr Miller was appointed on 11 July 2012.

**Ms Martha Jabour** is Executive Director, Homicide Victims Support Group (Aust.) Inc., a position she has held since 1993. She represents the Homicide Victims Support Group and the community on the Victims Advisory Board, the Sentencing Council of NSW and the Domestic Violence Death Review Team. Her interests are to further promote victims' rights and needs, with a special focus on crime prevention, particularly in the areas of domestic violence, mental health and juvenile justice. Ms Jabour was appointed on 4 October 2006 and was reappointed on 21 October 2009 and 21 October 2012.







**Mr Ken Moroney AO APM** retired as the Commissioner, NSW Police Force, on 31 August 2007 after completing 42 years' service as a police officer. He is a recipient of both the National Medal with First and Second Class Clasps and the Australian Police Medal for Distinguished Service. He was made an Officer of the Order of Australia in 2007 for his services to law enforcement and national security. He was highly commended on several occasions for his service to the people of NSW. His other appointments include membership of a number of Boards including St Johns Ambulance (NSW), NSW Police Legacy and the Kid's Cancer Project (Oncology Children's Foundation). He is also a member of the World Bank/UN Project of Global Road Safety. Mr Moroney is Chairperson of the NSW Police Credit Union and representative of the Conduct Division of the Judicial Commission of NSW. Mr Moroney was appointed on 19 September 2007 and was reappointed on 19 September 2010.

**Mrs Susan Carter** is an experienced commercial solicitor having worked in a major commercial practice, as in-house counsel for a media company as well as being seconded for a period of government service. She is currently involved in legal education, lecturing at undergraduate and postgraduate levels at both Sydney and Macquarie Universities. Susan has used her legal expertise both in practical commercial applications and wider policy issues, especially those relating to strengthening families and building stronger communities. She served as the NSW Secretary and a National Executive member of the Australian Family Association for over ten years; was a board member of the Australian Institute of Family Studies and as a member of the Family Law Council of Australia. She currently serves as a member of the Examinations Committee of the Legal Profession Admission Board. Mrs Carter was appointed on 21 October 2012.

## Resigned and/or Expired Appointments

**Mr Robert Inkster OAM APM** retired from the NSW Police in October 2004 at the rank of Detective Chief Superintendent having served 38 years. 34 of these years were served in criminal investigation. Mr Inkster was appointed on 17 January 2005 and was reappointed on 17 January 2008 and 17 January 2011. Mr Inkster was appointed as Assistant Commissioner of the NSW Crime Commission in October 2012. Due to this appointment, Mr Inkster resigned as a Community Member for the NSW State Parole Authority in November 2012.

**Mr Barry John Kilby JP QS** is a Board Member of the victims' support group VOCAL and the Community Aid Panel (CAP) at Newcastle and has also been a Supervisor for Community Service through the Newcastle Police (CAP) for the past three years. He has held the position of a Scout/Venturer Leader at the Teralba Sea Scouts for the past fifteen years. He has been appointed the Regional Leader for Venturer Scouts in both the Lake Macquarie and Newcastle Zones and assists in the running of Scout training courses. Mr Kilby was appointed on 11 October 2006 and was reappointed on 21 October 2009. Mr Kilby's appointment as a Community Member expired on 20 October 2012.

**Ms Maritsa Eftimiou** has a legal career that spans 25 years in which she has represented clients in criminal, civil and administrative legal matters. Ms Eftimiou has extensive legal experience working with culturally and linguistically diverse communities and particularly refugees both as a private practitioner and as a Tribunal member on the Refugee Review Tribunal and the Migration Review Tribunal. She is a former member of the Refugee Resettlement Council of Australia and is currently a member of the Consumer Trader and Tenancy Tribunal. Ms Eftimiou was appointed on 1 September 2003 and was reappointed on 1 September 2006 and 21 October 2009. Ms Eftimiou's appointment as a Community Member expired on 12 May 2012.

**Ms Gowan Vyse** has a long history working in the human services field and with people with disabilities. She currently holds the position of Regional Manager, Public Guardian, Department of Justice and Attorney Generals. Ms Vyse was appointed as Community Member (victim's interests) on 3 April 2006 and was reappointed on 13 May 2009. Ms Vyse's appointment as a Community Member expired on 12 May 2012.





**Professor Ross Fitzgerald** is Emeritus Professor in History and Politics at Griffith University; a member of the Administrative Decisions Tribunal and the NSW Government Expert Advisory Group on Alcohol and Other Drugs. Professor Fitzgerald serves as an academic, writer and broadcaster. He was a member of the Queensland Community Corrections Board. Professor Fitzgerald was appointed on 16 December 2002 and was reappointed on 16 December 2005 and again on 17 December 2008 and 17 December 2009. Mr Fitzgerald's appointment as a Community Member expired on 16 December 2012.

**Dr Donald Saville** has a long career within NSW Agriculture including Chief, Division of Animal Industries, General Manager (Policy and Planning) and Director, Sustainable Agriculture and Fisheries. He has undertaken a wide range of community service including the establishment of the first Community College in NSW. Dr Saville was appointed on 25 September 2002 and was reappointed on 25 September 2005 and 13 May 2009. Mr Saville's appointment as a Community Member expired on 12 May 2012.

**Mr Noel Beddoe** was principal in high schools in New South Wales for twenty years. Between 1995 and 2007 he visited towns in rural and isolated communities to provide advice concerning the development of structures for the education of Aboriginal students and to assist principals resolve conflicts which had arisen between schools and their Aboriginal communities. He was awarded life membership of the NSW Secondary Principals Council in 1999. Mr Beddoe was appointed on 1 July 2009. Mr Beddoe resigned on 14 December 2012.

## Official Members

### Probation and Parole Representative

Ms Christie Lanza was appointed as a Probation and Parole Representative on 7 November 2011. Ms Nicole Cleary was appointed as a Probation and Parole Representative on 12 April 2010. Ms Cleary ceased her duties as a Probation and Parole Representative on 23 March 2012 having accepted a secondment to Indonesia. Mr Dan Mulvany was appointed as a deputy on 2 April 2012 and has replaced Ms Cleary in her absence. Mr Luke Easterbrook, Ms Nicole Cleary, Ms Sarah Gilmour, Ms Jo-anne Stapleton, Ms Jillian Hume and Ms Brooke Carter act as deputies during leave by official appointees.

### Police Representative

Senior Sergeant Pettina Anderson was appointed as the Police Representative on 2 June 2009 and Chief Inspector Hamed Baqaie was appointed as the second Police Representative on 11 December 2009. Inspector Helen Halcro, Senior Constable Greg Coulter, Senior Sergeant Catherine Urquhart and Sergeant Jason Wills act as deputies during leave by official appointees.

### Secretary

Mr Robert Cosman, Director and Secretary  
Ms Amy Manuell, Deputy Director and Assistant Secretary



## VALE - Brenda Smith 1942 – 2012

**In memory of Brenda Smith, the former Assistant Commissioner with the Office of the Commissioner, Strategic Development and the Probation and Parole Service within the Department of Corrective Services. Ms Smith was appointed as a Community Member of the NSW State Parole Authority on 1 October 2002 and was reappointed on 1 October 2005 and 13 May 2009. After a short battle with illness, Ms Smith died on 7 June 2012.**

Colleagues in NSW Corrections, friends and family have mourned the passing of Brenda Jean Smith.



Ms Smith had a long career with the department of Corrective Services and the State Parole Authority. She was responsible for many innovations and was highly respected as a straight talker and mentor.

Her humble origins contributed to the development of a determined character which helped her overcome numerous obstacles in her career. A person of unquestionably high ethical standards and moral strength, steadfastly loyal to her family and friends and her principles, she was a force to be reckoned with.

In 1976, Brenda applied for a training program for probation and parole officers whereby she was offered a temporary clerical position. Soon after, she was appointed as a Probation and Parole Officer. Within years, she would head the service.

In 1985, she was appointed as the Deputy Director of the Probation and Parole Service prior to rising to Executive Director in 1989, a position she held under various titles for more than ten years. This was followed by her appointment as the Assistant Commissioner, Strategic Development in 2000, and Assistant Commissioner, Office of the Commissioner in 2002, which she held until her retirement from full-time work.

During her time in Corrective Services, Brenda personally developed many new programs and policies including the Drug and Alcohol Court Assessment Program, the department's role and policies in relation to the newly established Drug Court, the Fine Default Program, the Home Detention Program and the Community Service Order program. She also developed an Aboriginal Offender Management Program and a program to increase recruitment of Aboriginal probation and parole officers.

In addition to evaluating and redesigning the pre-sentence advice service to judges, Brenda developed specifications for the Offender Record System (ORS) and the Probation and Parole Information Management Systems (PIMS) and successfully lobbied for the introduction of the Throughcare approach to offender management.

In one of her final tasks for the department, she developed strategies to achieve productivity savings of 6%.

In recognition of her exceptional qualities and contributions, Brenda was awarded the department's highest administrative award, the Exemplary Conduct Cross for outstanding leadership of the Probation and Parole Service.

On her retirement in 2002 at the age of 60, she was appointed to the State Parole Authority where she sat until May 2012. She took an active part in policy development for the Authority and trained new members. Though not a trained lawyer, she had a comprehensive understanding of the relevant legislation and procedures, and used that understanding to work towards the goal of offender redemption through altering anti-social behaviour.

Brenda will be remembered as a smart, competent, tenacious and courageous individual who was both a strategic thinker and an innovator. She leaves an invaluable legacy through her achievements as a truly genuine and committed people manager and mentor.



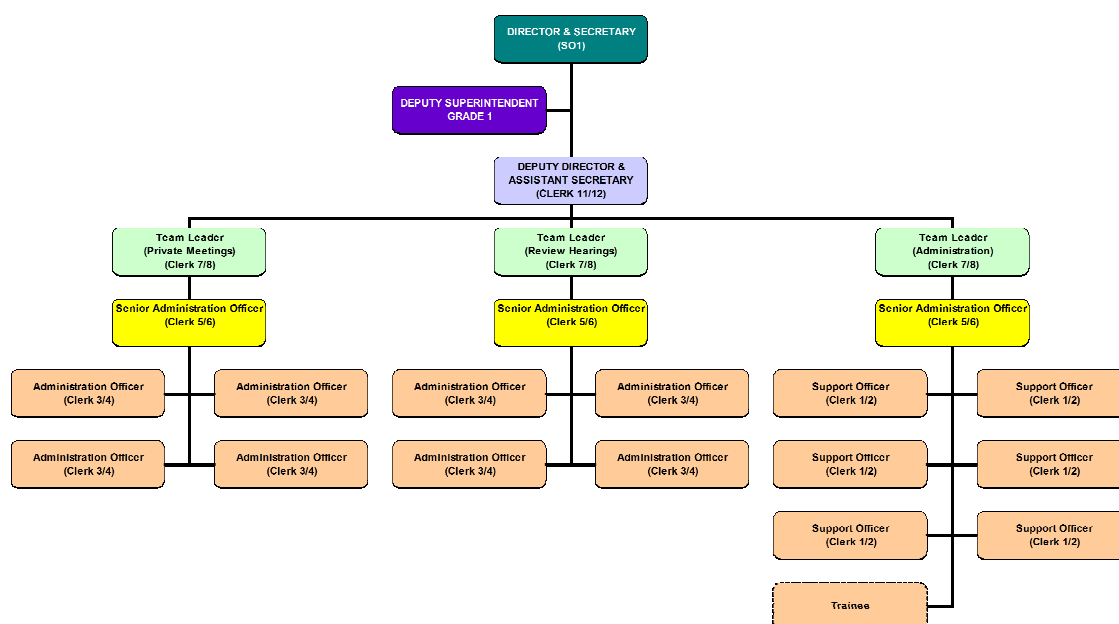
## Staff

**The SPA would not function without the hard work of the Secretariat. Staffed by officers from CSNSW, the Secretariat is made up of three interdependent teams; the Submissions, Reviews and Support Teams.**

**The Submissions Team** consists of four Submissions Officers and a Senior Administration Officer led by the Submissions Officer Team Leader. Together, they are responsible for the preparation and collation of all matters that go before the private meetings. This preparation includes a wide range of tasks from requesting criminal histories, police facts and judge's sentencing remarks to coordinating the submission of reports from P&P Officers or CCMG Officers. Upon receipt of all necessary documents for an offender's case, they are filed on the electronic records management system, TRIM, ready for distribution to the members. Submissions Officers are also responsible for the preparation of warrants, orders, memorandums and correspondence.

**The Reviews Team** consists of four Reviews Officers and a Senior Administration Officer led by a Reviews Officer Team Leader. The Reviews Team is responsible for the preparation and collation of all matters that go before the public review hearings at court. Each Review Officer is responsible for a particular day of the week. Preparation includes coordinating submission of updated reports, filing reports on TRIM, ensuring appropriate people are available to give evidence on the day (offenders, legal representatives or P&P/CCMG Officers) and the smooth running of the court hearing. Review Officers are also responsible for the preparation of warrants, orders, memorandums and correspondence.

**The Support Team** consists of six officers, a trainee and a Senior Administration Officer that provide administrative support to the Secretariat, led by the Team Leader for Administration. This team is responsible for duties such as data entry into OIMS, preparation of memory sticks for SPA members, coordination of the VCCS, preparing requests for psychological and psychiatric reports and the preparation of documents to be forwarded to offenders and their legal representatives.





## Corporate Governance

Performance against corporate governance, service delivery and performance objectives;

### Meet all statutory obligations ensuring all decisions are appropriate and in the public interest:

- . Considered 11,422 cases.
- . Conducted 99 private meetings and 171 public hearings.
- . Conducted 50 Secretary Sitings.
- . Therefore 11,422 cases in 320 meetings.
- . Issued 1,051 parole orders.
- . Revoked 2,261 Parole Orders, 114 Intensive Correction Orders, 20 Home Detention Orders and 11 Periodic Detention Orders.

### Manage the existing corporate governance framework and maintain a program of continuous review and improvements:

- . Tabled 2011 Annual Report in Parliament.
- . Achieved significant efficiencies and cost savings by facilitating 'paperless meetings'.
- . Conducted monthly operational/planning meetings and regularly issued policy/procedure directives to staff.
- . Met all *Public Finance and Audit Act, 1983* directives regarding the annual stocktake, budget cycle and financial management requirements.

### Develop strategic partnerships with stakeholders and improve public knowledge and awareness of the SPA:

- . Conducted meetings with victims and provided access to modified documents.
- . Continued to meet statutory obligations to victims and victim support groups by facilitating oral and written submissions at private meetings and public hearings.
- . Facilitated training for the Probation and Parole Service and Community Compliance and Monitoring Group.
- . Undertook redevelopment of the SPA website.
- . Facilitated an active 'observers program' for staff of the Corrective Services NSW.
- . Visited Probation & Parole District Offices and delivered presentations on work of SPA.
- . Contributed to training courses for Probation & Parole and custodial officers at the Corrective Services Academy.
- . Established communication protocols with the Mental Health Review Tribunal.
- . Maintained communication protocols with the Police Force on provision of information relevant to SPA determinations.

### Develop a membership that embraces diversity and is reflective of the community:

- Total members: 28
- . 26% are female (8 members)
  - . 7% are indigenous (2 members)
  - . 14% have a NESB/cultural background (4 members)
  - . 21% live in country locations (6 members)



## Operating Guidelines

These guidelines were developed to assist members in making their determinations. They are not intended to outweigh the objective evidence placed before the SPA or to inhibit members in exercising their discretion.

### 1. Public Interest

- 1.1 When considering whether a prisoner should be released from custody on parole, the highest priority for the Parole Authority should be the safety of the community and the need to maintain public confidence in the administration of justice.
- 1.2 Release to parole is not an automatic right at the end of the non-parole period and when granted is required to be in the interests of the community. This principle is supported by Section 135(1) of the *Crimes (Administration of Sentences) Act 1999* which states that "the Parole Authority must not make a parole order for an offender unless it is satisfied, on the balance of probabilities, that the release of the offender is appropriate in the public interest".

### 2. Parole Consideration

- 2.1 Section 135(2) of the Act covers the matters that the Authority must have regard to in considering the grant of parole:
  - a) The need to protect the safety of the community,
  - b) The need to maintain public confidence in the administration of justice,
  - c) The nature and circumstances of the offence to which the offender's sentence relates,
  - d) Any relevant comments made by the sentencing court,
  - e) The offender's criminal history,
  - f) The likelihood of the offender being able to adapt to normal lawful community life,
  - g) The likely effect on any victim of the offender, and on any such victim's family, of the offender being released on parole,
  - h) Any report in relation to the granting of parole to the offender that has been prepared by or on behalf of the Probation and Parole Service as referred to in section 135A.
  - i) Any other report in relation to the granting of parole to the offender that has been prepared by or on behalf of the Review Council,
  - ia) If the Drug Court has notified the Parole Authority that it has declined to make a compulsory drug treatment order in relation to an offender's sentence on the ground referred to in section 18D (1) (b) (vi) of the *Drug Court Act 1998*, the circumstances of that decision to decline to make the order,
  - j) Such guidelines as are in force under section 185A,
  - k) Such other matters, as the Parole Authority considers relevant.
- 2.2 The documents that will always be provided to the Authority to assist in the decision making process include the Judges sentencing remarks, criminal history and pre release report from the Probation and Parole Service. Other documents that may be provided include victim submissions and letters from the offender or their family members.
- 2.3 While there will be exceptions, in principle an inmate should achieve the following before being granted parole:
  - (a) a recommendation for release by the Probation and Parole Service,
  - (b) a low level of prison classification indicating acceptable behaviour and progress in custody and a satisfactory record of conduct in custody, particularly with regard to violence and substance abuse. (Appendix 1 outlines the various prison classifications and definitions);
  - (c) satisfactory completion of programs and courses aimed at reducing their offending behaviour;
  - (d) suitable post release plans which relate to their assessed requirements on parole, including family or other support, employment, suitable accommodation and access to necessary programs in the community;
  - (e) a willingness and demonstrated ability and/or a realistic prospect of compliance with the conditions of parole;
  - (f) be assessed as a low risk of committing serious offences on parole, particularly sexual or violent offences, and have good prospects of successfully completing the parole supervision period;
  - (g) in the case of Serious Offenders and other long term inmates, participation in external leave programs and a recommendation for release by the Review Council

In accordance with the provisions of section 193C of the Act the Parole Authority must record its reason for granting parole. Where the Authority decides not to accept the recommendations of the Probation and Parole Service the Authority should clearly indicate its reasons for doing so.







NB. Except in exceptional circumstances, the Parole Authority must not make a parole order for a serious offender unless the Review Council advises that it is appropriate for the offender to be considered for release on parole.

## 2.4 Compulsory Drug Treatment Correctional Centre:

- 2.4.1 When an offender is sentenced, they may have the opportunity to enter the Compulsory Drug Treatment Correctional Centre (CDTCC) at Parklea CC. To allow this to occur, the order from the sentencing court is revoked and the Drug Court issue a Compulsory Drug Treatment Order (CDTO) to hold them in this specialised centre.
- 2.4.2 If an offender successfully completes the CDTCC program, the Drug Court considers the question of parole and issue a parole order.
- 2.4.3 In circumstances where the offender fails to complete the CDTCC program, the CDTO is revoked by the Drug Court and a new warrant of commitment is issued. This returns the offender to a mainstream gaol. The sentence may be altered at this point depending on how long the offender has served in the CDTCC. (See section 106Q of the *Crimes (Administration of Sentences) Act 1999*)
- 2.4.5 Given the original order from the sentencing court was revoked to allow the offender to enter the CDTCC and the CDTO has been revoked by the Drug Court to return them to a mainstream gaol, no parole order exists for these offenders (regardless of sentence length). Furthermore the Drug Court cannot consider the offender for release to parole given they no longer have jurisdiction.
- 2.4.6 Regardless of sentence length, any offender who has a CDTO revoked will need to be considered for release by the Authority. These matters will be listed like any other case under parole consideration, even when the sentence is less than three years.

In considering release for these offenders, weight must be given to the offender's removal from the CDTCC program and whether it is appropriate that their removal from the program should result in their release at the earliest possible opportunity. That is, why should an offender who has completed the program successfully be released at the same time as a person that has been revoked from the program?

## 2.5 Serious offenders:

- 2.5.1 Serious offenders are defined in Section 3 of the *Crimes (Administration of Sentences) Act 1999*. A serious offender is an offender who meets one or more of the following criteria:
  - Is serving a sentence of for life
  - Is serving a former life sentence which has been re-determined
  - Is serving a minimum term of 12 years or more (through either one sentence or a series of sentences)
  - Has been determined by the sentencing court, Parole Authority or Commissioner of Corrective Services to be managed as a Serious offender
  - Has been convicted of murder and is subject to a sentence in respect of that conviction
  - Is one of a class of offenders prescribed by regulations as serious offenders
- 2.5.2 The Serious Offenders Review Council (SORC) is an independent statutory body responsible for the management of serious offenders in custody.  
The Council does this by making recommendations to the Commissioner of Corrective Services on the prisoner's progress in custody and at the time of parole consideration makes recommendations to the Parole Authority as to whether or not, in its opinion, the inmate should be considered for release to parole.
- 2.5.3 Except in exceptional circumstances, the Parole Authority must not make a parole order in respect of a serious offender unless the Review Council advises that it is appropriate for the offender to be considered for release on parole.
- 2.5.4 If the Parole Authority seeks re-consideration of the Review Council's advice concerning the release on parole of a serious offender, the Authority must state its reasons in writing. Some of those reasons might include:
  - Offender's post release plan compensates for any inadequacy in addressing offending behaviour
  - The desirability of the offender completing day or weekend leave can be compensated by the strength of the community and/or family support available to the offender in assisting with integration into the community
  - A strong employment program would be more beneficial to the offender and in the community's interest than further time spent in custody.





The Authority must also have regard to the provisions of section 198 (2A) of the Crimes (Administration of Sentences) Act 1999 when formulating its reasons. The matters to be considered are as follows:

- a) The public interest
  - b) The offender's classification history
  - c) The offender's conduct while in custody, both in relation to sentences currently being served and in relation to earlier sentences
  - d) The offender's willingness to participate in rehabilitation programs, and the success or otherwise of his or her participation in such programs
  - e) Any relevant reports (including any medical, psychiatric or psychological reports) that are available to the Authority in relation to the offender
  - f) Any other matter that the Authority considers to be relevant
- 2.5.5 If the Parole Authority forms an intention to grant parole it is required to give notice of its intention to registered victims of the offender. The names of registered victims are recorded in the Victims Register maintained by Corrective Services NSW.
- 2.5.6 Intentions to grant parole where victims are involved and intentions to refuse parole are listed at a review hearing at which the offender, the victim and the State may make submissions.
- 2.5.7 At review hearings victims are invited to make a submission either orally or in writing. This submission is generally made immediately prior to the final submission on behalf of the inmate. The victim's submission is taken into account in deliberations by the Authority as to whether or not a parole order should be made and what conditions are considered appropriate if release is to occur.
- 2.5.8 The State or the Commissioner for Corrective Services may at any time make submissions to the Parole Authority concerning the release of a serious offender. The Parole Authority is not to make a final decision concerning the release of the offender until it has taken such submissions into account. Such State submissions should be dealt with at a public hearing of the Parole Authority.

If the State or the Commissioner of Corrective Services makes a submission after the Authority has made a final decision for release to parole, the Authority must consider whether or not it should exercise its power to revoke prior to release [see section 130 of the *Crimes (Administration of Sentences) Act 1999*].

## 2.6 Inability of inmates to access programs in custody:

An inmate's inability to access programs because of prison location, protection status, gaps in service provision or any other reason may not solely be used to justify release to parole. In such situations, parole should only be granted where relevant factors in 2.3 are met and the Authority is of the view that having regard to Section 135 of the *Crimes (Administration of Sentences) Act 1999* it is appropriate to make a parole order:

## 2.7 Inmates nearing completion of full time sentence:

In cases where an inmate has been consistently refused parole for poor performance and/or refusal to address offending behaviour etc. and is nearing completion of the sentence, the interests of the community can sometimes be served by releasing the inmate on parole for the balance of the sentence to monitor the offender's behaviour and provide assistance with reintegration into the community.

Factors for consideration before proceeding to grant parole include:

- a) The likelihood of the inmate accepting and complying with parole supervision requirements;
- b) The risk of re-offending during the supervision period;
- c) The benefits to the community, if any, of granting parole for a short period.

Where an inmate is considered a high risk of re-offending, is a high impact offender (particularly sex offenders and violent offenders) and is unlikely to accept assistance and comply with supervision requirements, the interests of the community are unlikely to be served by release on parole, even for a short period of time. Release to parole in these circumstances could render the Authority liable to justified community concern

## 2.8 Deportation:

The Parole Authority will consider each case on its merits.

Factors to consider before granting parole:

- a) whether a definite decision has been made by the Department of Immigration;



- b) whether the offender has adequately addressed the offending behaviour;
- c) whether the offender would otherwise be released to parole in Australia if not subject to deportation;
- d) the seriousness of the offence;
- e) the risk to the community in the country of deportation;
- f) the post release plans in the country to which the offender is to be deported;
- g) the duration of the period to be served on parole;
- h) the fact that supervision of the parole order is highly unlikely to occur;
- i) whether or not the offender entered the country specifically to commit the crime for which he/she has been sentenced.
- j) whether or not the court knew at the time of sentencing the offender would be deported and took this into account at the time of sentencing

### 3. Parole Refusal

- 3.1 In stating reasons for refusing parole the Authority should bear in mind the principle of 'public interest' contained in section 135 of the *Crimes (Administration of Sentences) Act 1999* and referred to in 1.1 above.
- 3.2 In specifying reasons, care should be taken that the reasons stated for refusal include all the issues and concerns of the Authority at the time of consideration so that the inmate or their representative can fully address those issues at the review hearing.
- 3.3 Section 137C provides *inter alia* that for the purpose of its consideration of an offender's case, the Parole Authority may (but need not) examine the offender. As such, when refusing an offender parole, consideration must also be given as to whether it is appropriate for a review hearing to occur.

### 4. Review Hearings

#### 4.1 Decision to hold a review hearing:

Section 139 of the *Crimes (Administration of Sentences) Act 1999* provides that the Authority shall determine:

- (i) if there will be a hearing whether or not the offender requests a hearing, or
- (ii) that there will be a hearing only if the offender requests a hearing and the Authority is satisfied that a hearing is warranted.

#### 4.2 The review hearing:

While the entire division of the Parole Authority presides at a review hearing, the judicial member controls the proceedings. It should always be remembered that a review hearing is not adversarial in nature and courtesy should be extended to all witnesses (including the inmate) and legal representatives at all times. In particular:

- Questions should not be asked aggressively and should be relevant to the issues and phrased in the simplest of terms
- Witnesses should be allowed sufficient time to answer a question before the next one is asked
- No community or official member should ever rebuke a witness or legal representative
- The legal representative should generally not be interrupted during his/her examination of witnesses or in the making of submissions
- No Authority member should foreshadow what the Authority's intention might be
- Authority members should not use the review as a platform to express personal opinions or political views.
- Witnesses (including Probation and Parole/Community Compliance and Monitoring Group Officers) should not be asked to comment on matters not within their area of expertise.
- Members should not ask a question similar to one already asked by another member or ask a question that indicates an opinion at variance with a question already asked. Such different views should be discussed privately.
- All protocol guidelines (as set out in the Parole Authority Code of Conduct and Operating Guidelines) should be observed.

#### 4.3 Review of decision to refuse parole:

- 4.3.1 All the reasons specified at the time the Authority indicated an intention to refuse parole should be reviewed at the hearing,
- 4.3.2 Parole should only be granted if the Authority is satisfied that all the reasons stated against parole being granted are no longer valid or can be managed. All the reasons specified for parole being granted need to be specified and may include that there is no longer substantial risk to the community and the Authority is satisfied that the requirements of section 135 have been complied with.



- 4.3.3 Additional issues of concern may emerge during the review hearing. Should an inmate otherwise address the original parole refusal grounds but new issues are identified, the Authority should confirm parole refusal until the new issues are resolved. Release to parole not being in the public interest is reason enough to confirm refusal of parole.
- 4.3.4 Where concerns regarding prison behaviour have been given as a reason for parole refusal, improved performance over sustained period of time should be achieved by the inmate before parole is granted. Recent improvement in behaviour (following a decision to refuse parole) is generally an insufficient response to justify granting parole.
- 4.3.5 If it is proposed to grant parole to an address not previously assessed by the Probation and Parole Service, adequate time should be allowed for this to be done. A standover period of at least three weeks should be allowed. A lesser standover period should only be permitted with the agreement of the Probation & Parole Authority member.

#### **4.4 Review of Revocation of Parole:**

- 4.4.1 At review hearings, the Authority sometimes becomes aware that a revoked parolee has been convicted of another offence, which was not evident at the time the parole order was revoked. In such cases, it is important to note the date the offence was committed, rather than the date the offender was charged.
- 4.4.2 In such cases, if the offence was committed before the date that the order was revoked (not the date from which the order was revoked), the offender's record can be adjusted to include the new conviction as an additional reason for revocation.
- 4.4.3 If the new offence was committed after the date that the order was revoked it cannot constitute a breach of the parole order as the order no longer exists once it has been revoked. In such cases the records can be noted that a new offence has been committed but it cannot be used as an additional reason for revocation.
- 4.4.4 There is value in recording this information for use in future parole decisions.

#### **4.5 Setting dates for re-parole consideration**

- 4.5.1 Section 137A of the *Act* provides that an offender may apply to be released on parole within 90 days before the offender's eligibility date and upon receipt of such application the Parole Authority must consider whether or not the offender should be released on parole. However in any case the Parole Authority may decline to consider an offender's case for up to 3 years at a time after it last considered the grant of parole to the offender.
- 4.5.2 Section 137B provides that the Parole Authority may consider an offender's case at any time after the offender's parole eligibility date, and without the need for an application, in such circumstances as may be prescribed by the regulations (see Regulation 233 for details). This is known as manifest injustice.

### **5. Inmate Management**

The Parole Authority may at any time make recommendations to the Commissioner for Corrective Services concerning the preparation of offenders for release on parole, either generally or in relation to any particular offender or class of offenders. The Commissioner must have regard to, but is not bound by, any such recommendation.

### **6. Revoking Parole**

The Authority acknowledges that parolees are on conditional liberty. When substantive doubt arises concerning their compliance with conditions of parole and in particular whether or not they are leading a law-abiding life, e.g. being charged with further offences, then revocation should be considered.

- 6.1 Parole may be revoked for breaches against any of the conditions of the parole order.
- 6.2 Where a parolee has been charged with a further offence punishable by a term of imprisonment but has not yet been convicted, the Authority should exercise discretion for or against revocation on the individual merits of each case.
- 6.3 Factors relevant to the exercise of discretion whether or not to revoke may include:
- The public interest and perceived risk to the community.
  - The seriousness and circumstances surrounding the commission of the alleged offence.
  - The similarity of the alleged offence to the parolee's past offending behaviour.
  - The strength or otherwise of the evidence against the parolee contained in the police facts covering the alleged offence.
  - The parolee's response to supervision to date.
  - The parolee's stability in the community.
  - Recommendation from Probation & Parole/Community Compliance Group regarding revocation.



- 6.4 Bail refusal or grant of bail should not be an overriding factor. Such status is liable to change at every court attendance. It should be noted that the Parole Authority generally has more information available to it as to the current status and conduct of the offender than does the court.
- 6.5 Where a parolee has been convicted of a new offence and sentenced to a term of imprisonment revocation is usually straightforward and will take effect from the date the new offence was committed.
- 6.6 The question of revocation where there has been a new conviction resulting in a community based order, Intensive Correction Order or Home Detention Order, rather than a term of imprisonment, is based on the considerations referred to in 6.3.
- 6.7 Failure to comply with conditions involving participation in programs or entry into a rehabilitation centre where such participation has been a significant factor in determining release to parole should be viewed seriously.
- 6.8 Consistent failure to keep appointments with the Probation & Parole/Community Compliance Group should be viewed seriously given that effective supervision cannot occur without regular contact.
- 6.9 While substance abuse and charges should be considered seriously, reports from Probation & Parole/Community Compliance Group of dirty urines may not necessarily result in revocation. Discretion may be applied, particularly if the offender is being open with the Probation and Parole Officer and is genuinely endeavouring to address his/her substance abuse.
- 6.10 Failure to provide the Probation and Parole Service with an address, which results in the Service being unaware of the parolee's whereabouts, must result in revocation. The parolee has effectively removed himself/herself from supervision.
- 6.11 Where a parolee commits an offence and is admitted to the Drug Court Program or the MERIT program, agreed protocols should be followed.

## 6.12 Revocation of Home Detention:

Section 167 of the *Crimes (Administration of Sentences) Act 1999* provides the Parole Authority with the power to revoke a home detention order under various circumstances.

A person serving home detention is considered to be in custody (albeit in their own home). Consequently, the effective revocation date of a home detention order is taken to be the date that the revocation order was made.

The exception to this is where a home detainee has effectively removed himself/herself from the program by removing the electronic surveillance equipment and/or absconding. In such circumstances the revocation date should operate from the date that effective removal from the program occurred.

## 6.13 Revocation of Intensive Correction Orders

Section 162 of the *Crimes (Administration of Sentences) Act 1999* provides the Parole Authority with the power to revoke intensive correction orders.

In most cases, prior to matters reaching the Authority, the Intensive Correction Order (ICO) Management Committee considers an offender's non-compliance and either takes action on the non-compliance or refers the matter to the Authority.

Upon the ICO Management Committee referring an offender's non-compliance to the Parole Authority, the Parole Authority can take the following action:

- Issue a letter of warning to the offender
- Impose sanctions on the order including 7 days home detention
- Revoke the ICO (the effective date is usually taken to be the date of the decision to revoke).

If an offender's ICO is revoked, the offender is entitled to a review hearing once returned to custody. Upon appearing at the review hearing, legislation allows for an offender to be reconsidered for reinstatement of their ICO. An offender can apply for reinstatement of their ICO upon serving a month in custody, satisfying the Parole Authority that they can successfully complete the remaining period on their ICO and the reinstatement assessment report considering the offender suitable. Alternatively, an offender could seek conversion of the remaining ICO order to home

## 6.14 Revocation of parole prior to release.

The following matters, subject to Regulation 232(1), are to be taken into account before revocation action is taken:

- Offender does not seek parole;
- The offender is unable to adapt to a normal lawful community life;
- The offender does not have satisfactory accommodation or post-release plans;



### 6.15 Revoke No Warrant

The Authority will sometimes revoke an order without issue of a warrant where the order has expired and the parolee has been otherwise in custody during the order. Where the Authority receives a report of a breach of condition of parole and such a breach would normally result in revocation, the Authority in its discretion might revoke but not issue a warrant if the parole order has expired. Under no circumstances will the Authority revoke and not issue a warrant prior to the expiry of the parole period.

## 7. Security of Certain Information

Section 194 of the *Crimes (Administration of Sentences) Act 1999* provides that certain information given to the Authority should be endorsed under that section if in the opinion of the judicial member it would disclose the contents of any offender's medical, psychiatric or psychological report or would adversely affect the supervision of any offender, the security, discipline or good order of a Correctional Centre, or endangers any person, or jeopardises the conduct of a lawful investigation, or prejudices the public interest. Information prejudicial to the public interest includes issues relating to privacy and third-party references and material. Such information may not be provided to the offender or his/her lawyer, nor may it be referred to in the course of a review hearing. However, it must be taken into account when the Authority makes its determination.

Procedural fairness and natural justice need to be considered in all matters before the Authority, as such, a meaningful summary must be provided to an offender's legal representative if and when requested. In providing such summaries, it is imperative that public interest does not outweigh procedural fairness.

## 8. Authority Warnings

While there is no statutory or regulatory provision for Authority warnings, many Probation and Parole/Community Compliance and Monitoring Officers recommend the issue of a warning rather than immediate revocation. Warnings are usually issued in relation to compliance, drug use, alcohol use and non-custodial convictions.

In such circumstances the warning is regarded as strengthening the officer's supervisory role as well as placing the parolee firmly on notice that continued failure to comply will result in revocation.

## 9. Overseas Travel

- 9.1 In principle, approval should not be given until confidence can be held that the parolee is stable and has adapted to lawful community living as demonstrated by regular contact with the Probation & Parole/Community Compliance Group, compliance with the conditions of the parole order and stable accommodation and/or employment.
- 9.2 It is unlikely that such stability could be satisfactorily demonstrated in less than six months from the date of release.
- 9.3 Unless exceptional circumstances are proved to exist, approvals for overseas travel within the six-month period should be refused.
- 9.4 Applications for travel from parolees who qualify for consideration should be supported by the Probation & Parole Service and evidence provided of the need to travel overseas. In general, travel for recreational purposes alone should not be approved. Periods of travel should not be excessive, e.g. more than four weeks.
- 9.5 Parolees who are approved to travel overseas must provide the Probation and Parole Service /Community Compliance and Monitoring Group with details of their itinerary including departure and return dates.
- 9.6 In certain cases, particularly if there has been a history of drug importation, and for compelling reasons approval for travel is given, the Authority may consider it appropriate to notify customs authorities of the parolee's travel dates.
- 9.7 Generally, unless exceptional circumstances exist, offenders on parole for drug importation offences would be refused permission to travel overseas.







## Terms and Conditions

The standard terms and conditions of parole are: -

1. The offender must, while on release on parole, be of good behaviour.
2. The offender must not, while on release on parole, commit any offence.
3. The offender must, while on release on parole, adapt to normal lawful community life.
- 4.\* The offender must, until the order ceases to have effect or for a period of 3 years from the date of release (whichever is the lesser), submit to the supervision and guidance of the Probation and Parole Officer and/or Compliance and Monitoring Officer (hereafter referred to as "the Officer") assigned to the supervision of the offender for the time being and obey all reasonable directions of that Officer.
5. The offender is to report to the Officer or to another person nominated by that Officer at such times and places as that Officer or nominee may from time to time direct.
6. The offender is to be available for interview at such times and places as the Officer (or the Officer's nominee) may from time to time direct.
- 7a. The offender is to reside at an address approved by the Officer.
- 7b. The offender is to permit the Officer to visit the offender at the offender's residential address at any time and, for that purpose, to enter the premises at that address.
8. The offender is not to leave New South Wales without the permission of the Officer's Manager.
9. The offender is not to leave Australia without the permission of the Parole Authority.
10. The offender, if unemployed, is to enter employment arranged or agreed on by the Officer or make himself or herself available for employment, training or participation in a personal development program as instructed by the Officer.
11. The offender is to notify the Officer of any intention to change his or her employment if practicable before the change occurs or otherwise, at his or her next interview with the Officer.
12. The offender is not to associate with any person or persons specified by the Officer.
13. The offender is not to frequent or visit any place or district designated by the Officer.
14. The offender is not to use prohibited drugs, obtain drugs unlawfully or abuse drugs lawfully obtained.
- \* An offender's supervising Officer may, with the concurrence of that Officer's Manager, direct that the conditions of the offender's parole order in relation to supervision are suspended. Such a direction takes effect when notice of the direction is given to the offender. This condition does not apply to an offender to whom section 128B of the Act applies.
15. The offender must submit to electronic monitoring of his or her compliance with the parole order.
16. The offender must comply with all instructions given by the Officer in relation to the operation of monitoring systems.
17. The offender must totally abstain from alcohol.
18. The offender must, if so directed by the Officer, seek assistance in controlling his or her abuse of drugs and/or alcohol and must authorise in writing that his or her medical and other professional and/or technical advisers or consultants make available to the Officer a report on his or her medical, and/or other conditions at all reasonable times.
19. The offender must undertake and maintain a program directed towards controlling his or her abuse of drugs and/or alcohol arranged by the Officer.
20. The offender must not use, or be in possession of, a prohibited drug or substance.
21. The offender must undertake testing for drug and/or alcohol use, where facilities are available, at the direction of the Officer.



22. The offender must refrain entirely from gambling.
23. The offender must, if so directed by the Officer, seek assistance in controlling his or her gambling.
24. The offender must, if so directed by the Officer, enter a residential rehabilitation centre and must not discharge himself or herself without the approval of that Officer.
25. The offender must enter the [name of centre] Residential Rehabilitation Centre, must satisfactorily complete the program offered at that centre, and must not discharge himself or herself without the approval of the Officer.
26. The offender must, if so directed by the Officer, undergo psychological assessment and counselling at a place or places determined by that Officer and must authorise in writing that his or her medical and other professional and/or technical advisers or consultants make available to the Officer a report on such assessment and counselling at all reasonable times.
27. The offender must, if so directed by the Officer, undergo psychiatric assessment, psychiatric counselling, other medical assessment or other medical treatment at a place or places determined by the officer and must authorise in writing that his or her medical and other professional and/or technical advisers or consultants make available to the Officer a report on such assessment, counselling or treatment at all reasonable times.
28. The offender must submit to the supervision of the NSW Probation and Parole Service pending registration of the parole order in [name of relevant State or Territory jurisdiction].
29. The offender must reside in [name of relevant State or Territory jurisdiction] after formal arrangements are made to transfer the offender's parole order to that jurisdiction in accordance with the provisions of the Parole Orders (Transfer) Act 1983.
30. The offender must not contact, communicate with, watch, stalk, harass or intimidate [specified person].
31. The offender must not contact or communicate with [specified person] without the express prior approval of the Officer.
32. The offender must submit to supervision by the New South Wales Probation and Parole Service until such time as the offender has been deported. If the offender returns to Australia before the expiry of his or her parole order, the offender must report to the New South Wales Probation and Parole Service within 7 days of his or her return to New South Wales.
33. The offender must not be in the company of any person under the age of 16 years unless accompanied by a responsible adult, as determined by the Officer.
34. The offender must not engage in any activity, paid or unpaid, involving the control of money or assets of other people or organisations.
35. The offender must comply with all directions of the mental health team, including treatment and medication.
36. The offender must comply with all conditions of a Drug Court order.
37. The offender must not associate with [specified person] without the express prior approval of the Officer.
38. The offender must not frequent or visit [specified place or district] or environs.
39. The offender must comply with all conditions and requirements of the Child Protection Register.
40. The offender must not possess or use any firearm.
41. The offender must comply with all conditions of a Community Treatment Order.
42. The offender must not communicate with any person under the age of 16, other than those approved by the officer, by any means including SMS text messaging, the internet and written communication.

**\*Note.** The period of supervision specified in paragraph 4 must not be longer than the duration of the order or 3 years, whichever is the lesser. However, the period of supervision of a serious offender may be extended by an order of the State Parole Authority in accordance with the *Crimes (Administration of Sentences) Act 1999*.



