



PRISONERS REVIEW BOARD

Annual Report

For the year ended 30 June 2010



PRISONERS REVIEW BOARD

Foreword,

To Attorney General Christian Porter, MLA

In accordance with section 112 of the *Sentence Administration Act 2003*, I present to you the Annual Report of the Prisoners Review Board of Western Australia for the year ended 30 June 2010.

A handwritten signature in purple ink, appearing to be 'Narelle Johnson'.

Justice Narelle Johnson
Chairman
Prisoners Review Board

In line with State Government requirements, the Prisoners Review Board annual report is published in an electronic format with limited use of graphics and illustrations to help minimise download times.



PRISONERS REVIEW BOARD

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PRISONERS REVIEW BOARD

PROFILE

The Prisoners Review Board is the authority that grants or refuses parole to prisoners who are eligible for consideration for release from jail to serve the balance of their sentence in the community.

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

The Prisoners Review Board replaced the Parole Board in January 2007 following the passing of the Sentence Administration Act (2003) and the recommendations of the Mahoney Inquiry.

The Board also considers the matters of life sentenced prisoners and prisoners jailed indefinitely. The Board makes recommendations to the Attorney General on the management of these offenders. The Attorney General makes a decision which is endorsed by the Governor.

The Board is chaired by Supreme Court Justice Narelle Johnson, who started her three year term in March 2009. There are four Deputy Chairpersons and eleven community members. Attending each Board meeting are representatives of the Department of Corrective Services and the Western Australia Police.

A quorum consists of three members including the Chairperson or a Deputy Chairperson, one community member and one member of either the Department of Corrective Services. Meetings are generally convened each working day at the Board's premises in Wembley. All submissions to the Board are taken in writing.



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CHAIRPERSON AND BOARD MEMBERS.

Supreme Court Justice Narelle Johnson, was appointed as Chairperson by the Attorney General, Mr Christian Porter in March 2009.

"Justice Narelle Johnson is an experienced, highly capable Supreme Court Judge," Mr Porter said. "With a Bachelor of Jurisprudence Honours, a Bachelor of Law and a Master of Law, her expertise spans across criminal law, civil law, personal injury matters, coronial enquiries and appeals, all of which will be of immense value to both Boards."

Extract from Attorney General's media release
Announcing Justice Johnson's appointment.



The Board comprises the Chairperson, four Deputy Chairpersons and eleven sessional members. Three of the four Deputy Chairpersons work on a sessional basis, the fourth is appointed on a fixed part-time basis. All except two community members of the Board are sessional – the remaining two members being appointed on a fixed part-time basis. This model provides the Board with good flexibility and helps achieve a broad community representation at Board meetings.



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MESSAGE FROM THE CHAIRPERSON

In my relatively short time as Chairperson of the Prisoner's Review Board it has become apparent to me that the purpose and operation of the Prisoners Review Board is not well known or well understood. That is despite the fact that the Board plays a critical role in the criminal justice system.

The operation of this part of the system has been described in the following way:

“When a person is sentenced to imprisonment...there is only one sentence. The prisoner is serving that sentence until the last day has expired. But the sentencing judge can, and usually will, fix what is called a non-parole period. After that period has expired, a prisoner can be permitted to serve the rest of the term of imprisonment in the community subject to conditions and under supervision. The Adult Parole Board decides whether to allow a prisoner to serve part of their sentence this way; it sets the conditions, and it deals with reported non-compliance. Prisoners who comply with the law and the conditions imposed can serve the balance of their sentence outside jail. Those who do not are liable to have their parole cancelled and, if that occurs, they are returned to prison.

This system of parole helps to protect the public by enabling the re-introduction of offenders into the community under supervision and with the immediate prospect of a return to prison if circumstances warrant it. It also gives offenders an opportunity to further their own rehabilitation and to rebuild their relationships outside jail before their term of imprisonment has ended.”

(The Hon Justice Simon Whelan, Chairperson, Adult Parole Board of Victoria.)

This succinct summary of the parole process and its place in the criminal justice system is equally applicable to Western Australia, although in this State the sentencing judge, in appropriate circumstance, orders parole eligibility, which makes a prisoner eligible for consideration of release on parole at a point in the sentence which is fixed by statute. The Prisoners Review Board is the independent statutory body that makes the determination whether eligible prisoners are ready for supervised release into the community for the purpose of rehabilitation. The Board also deals with breaches of parole.

I have publicly expressed the view that the approach to non-compliance with the requirements of parole must be strict or there is no incentive for a parolee to be compliant. As a result, the rehabilitative effect of release on parole is diminished and the risk to the community is increased. The Board has three responses to non-compliance: a warning letter advising that further non-compliance will result in suspension or cancellation of the parole order, suspension for a specific or undefined period, and cancellation of the parole order. The appropriate response depends on the seriousness of the breach.



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Parole is not the only type of early release upon which the Board is required to make a determination. The *Sentencing Administration Act 2003* (the Act) allows for certain classes of prisoners, in particular those serving life terms, to undergo a Re-Socialisation Programme which involves release into the community. This programme operates prior to the date when the prisoner may be released on parole. In the past, re-socialisation programmes have been for periods of up to 2 years. The Board reviews each case on its merits, however, the general consensus is that such periods are unnecessarily long to achieve the purpose of the programme, which is re-socialisation.

The Act also provides for early release by way of a Re-Entry Release Order (RRO). Where a prisoner is not granted parole eligibility by the sentencing judge, an RRO allows for the rehabilitative benefits of parole but it is subject to an over-riding criteria that the safety of the people in the community or of any individual in the community would be better assured if the prisoner were released under an RRO instead of the time when he or she would otherwise be released. Further, the time period of the RRO is not set by statute as it is with parole. However, where a prisoner was sentenced prior to 28 January 2007, he or she can seek release on an RRO even before he or she may be released on parole. In my view, not only is it difficult for a person with parole eligibility to meet the over-riding criteria, the purpose of allowing for release at a time even earlier than the parole eligibility date is not immediately apparent.

This summary of the Board's role and its place in the criminal justice system reveals both the importance and the difficulty of the decisions it makes. In that regard, it is imperative that the Board continues to attract the highest calibre of members and Deputy Chairpersons, that the administrative support is of the highest standard and that there is adequate funding to meet the Board's needs. The new Deputy Chairperson, Christine Kannis, has proved to be an invaluable addition to the Board. The new members have also shown a willingness to rigorously apply the law and to give consideration to all the material available to the Board when making a decision, probably the two most significant requirements of decision making by a statutory Board.

A recent innovation has been to require all new members, including the representative from the Police Service and the Department of Corrective Services representatives, to undergo a training programme and to observe a number of meetings before actually sitting on a Board. I believe it is necessary for every early release determination to be made by people who have a clear understanding of the principles to be applied, the process involved and knowledge of all relevant information.

Of course, professional development training is not limited to new members. Attendance at professional development sessions is an essential requirement for all members. Over the past year those sessions have been specifically directed at issues which regularly confront Board members. One particularly useful session included a presentation from a representative of Clinipath which provides all urinalysis reports to CYJ and hence to the Board. Precise information about the meaning of the results and explanations for some of the expressions used ensure that the Board takes breach action only where the report contains clear evidence of illicit drug use. Another



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session involved being presented with information on work camps by those who actually administer the camps to identify what these camps offer in terms of rehabilitation. The Board has also heard from the representatives of non-government agencies closely involved with prisoners on parole so that the Board is aware of how they operate and the rehabilitative services provided by them.

In my previous Chairperson's Message I mentioned that there had been an ongoing attempt to improve the quality of the administrative assistance provided to the Board. Whilst a number of issues remain, some changes have occurred which have had a positive impact on the performance of the administration section.

I have mentioned that, in my view, the purpose and operation of the Board is not well known or well understood. To that end, the Registrar and I have continued with our regional visits to the Courts, prisons, the Adult Community Corrections Division of Community and Youth Justice (CYJ) Centres, and the senior police in the region. I have also accepted as many invitations as possible to speak with community groups and media representatives to explain the work of the Board. Further, the Registrar has spoken to the Community Corrections Officers at various CYJ Adult Community Corrections Centres and was invited to speak at the Adult Community Corrections Division of CYJ North and South Regional Conferences.

One significant consequence of the regional visits has been an arrangement with the Police Service whereby copies of all parole orders are immediately provided to the police so that they can assist in identifying non-compliance by a parolee with his parole order by being able to identify whether a particular person is on parole and the conditions of the parole order. A significant proportion of offending is alcohol related. Where the Board imposes a requirement of parole that the parolee not use alcohol, it is notoriously difficult for CYJ officers to identify whether there has been a breach of that requirement. Additional requirements are now added by the Board which prevent the parolee from entering licensed premises and require the parolee to undergo breath testing at the request of a police officer. The arrangement made with the police facilitates enforcement of these requirements. There was initially a trial of the arrangement in the Kimberly and Pilbara regions, which proved sufficiently effective to justify a state-wide implementation which involves faxing a copy of all parole orders to a centralised police unit for state wide distribution.

During the year, a separate Board constituted with the same members was created to consider parole applications from prisoners serving life or indefinite terms. This is referred to as the Prisoners Review Board (Life and indefinite terms) or PRB (LIT). This innovation has proved particularly successful as the reduced number of matters before the Board allows for a far greater level of debate and consideration of the relevant issues. As these prisoners have spent a lengthy period of time in custody there is a large volume of information available, requiring a significant commitment by the members of the Board in reading and digesting this information.

Shortly after my appointment it was discovered that there was a considerable backlog of statutory reports to the Attorney General on life and indefinite term prisoners. Some reports had been outstanding for two and three years. Over the last year the Board has cleared that backlog whilst also producing as many currently due reports as



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possible. This has greatly increased the workload of the PRB (LIT), which had to re-hear the matters, and also for those involved in writing the reports.

In the course of determining whether life and indefinite term prisoners are suitable for parole, the Board must consider the impact of any rehabilitation programmes in which the prisoner has participated. It has become apparent that there is a need for information which advises the Board of the quality of the rehabilitation programmes. The relevant literature on rehabilitation programmes concludes that it is necessary for each programme to be validated for the particular type of participant and a proper assessment of prisoners' criminogenic needs. Assessing program integrity, involves information as to the adequacy of the conceptualisation of the treatment, the duration and intensity of the program, the quality and quantity of personnel, and the match of treatment, treater and treated.

The failure to adhere to a *Risk-Need-Responsivity* (RNR) model often reflects a disconnect among assessment, treatment planning, and implementation. Although it is axiomatic that interventions should be based on the results of a well-conducted, empirically supported assessment of prisoners' risk/needs, it appears that interventions used with many types of criminal offenders are not following this basic principle. As such, the provided interventions are not targeting the offenders' criminogenic needs, which will likely reduce the effectiveness of the intervention in terms of achieving meaningful reductions in criminal recidivism. None of the necessary information is provided to the Board by the Department of Corrective Services and, having drawn this to the Department's attention, we are soon to have a meeting to address this issue. There will be a flow on effect of a successful resolution of this issue as rehabilitation programme reports are provided in relation to most prisoners.

In my previous Chairperson's message I indicated that one of the projects on the horizon was a push to increase the involvement of victims in the parole process. To that end, we have created a Working Party to address victim issues and are presently in discussion with various victim organisations and community groups to obtain feedback on the initiatives the Working Party has identified. Once that phase is completed the Board hopes to commence implementing these initiatives.

I would like to thank all members of the Board, the Deputy Directors, the Registrar and the administrative support staff for their work throughout this financial year. In recent months I was unfortunate enough to contract a very serious illness resulting in my absence from the Board. I would like to thank all those who have increased their contribution during that period so that the Board could continue to meet its commitments and to maintain the level of professionalism to which the prisoners, the victims and the community are entitled. In particular, I would like to thank the Registrar, Sharon-Lee Holland, for her tireless efforts in dealing with the increased demands on her as a result of my absence.



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This year has been an extremely busy year and I have no doubt that the coming year will be equally busy and involve even greater challenges.

A handwritten signature in purple ink, appearing to be 'Narelle Johnson'.

The Hon Justice Narelle Johnson
Chairperson
Prisoners Review Board

28 September 2010



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EXECUTIVE MANAGER'S REPORT

The branch of the Department of the Attorney General that supports the Prisoners Review Board comprises a team of eighteen people. The group is responsible for gathering together the information required by the Board to enable it to make informed and considered decisions and then facilitating the execution of those decisions.

The team recognises the Board's important role in the criminal justice system, including the requirement to make decisions that comply with the legislated release considerations, and strives to provide support to the Board in that spirit.

During 2009/10 the Board worked closely with the Department's Courts Technology Group to finalise the development of the Boards Assessment and Review System, a case management system that sees the Board automate some of its previously manual processes and have, for the first time since inception in 2007, a purpose built, dedicated information management system.

The introduction of the new case management system and a considerable turnover in staff has created an environment of significant change. Justice Johnson, Registrar Sharon-Lee Holland and I have worked with the team to effectively manage and cope with the change, and to create a friendly and productive work environment that is achieving positive outcomes.

I look forward to the coming year with a sense of confidence and anticipation that we can continue to maintain and improve our contribution to this vitally important service for the community of Western Australia.

A handwritten signature in black ink, appearing to read 'Michael Cardy', with a long horizontal flourish extending to the right.

Michael Cardy
Executive Manager
Prisoners Review Board

29 September 2010



PRISONERS REVIEW BOARD

KEY INDICATORS

The Year at a Glance

The Board sat 281 times considering the case of 4641 individuals. It made 5582 decisions. Sittings occur at the office of the Prisoners Review Board in Wembley and all submissions and presentations to the Board are in writing.

By virtue of their appointment to this Board, community members are also appointed as members of the Mentally Impaired Accused Review Board. That Board sits on one Friday per month with additional meetings as required, and considered 65 matters during 2009/2010.

The number of people falling within the jurisdiction of the Mentally Impaired Accused Review Board rose from 25 to 29 during 2009/10, the most significant increase for a number of years.

A Year in Statistics

	<u>2008/09</u>	<u>2009/10</u>
The number of prisoners who became eligible to be released under a parole order. <i>(This figure reflects the number of prisoners with an earliest eligible release date between 1 July 2009 and 30 June 2010)</i>	3051	3091
The number of prisoners who applied to be released under a Re-entry Release Order. <i>(Prior to 2007 prisoners eligible for parole could also apply for an earlier release under a re entry release order. Those sentenced after 2007 are now only eligible for release on parole.)</i>	68	26
The number of prisoners who were refused an early release order.	855	2112
The number of prisoners released under an early release order	1957	927
The number of prisoners who completed an early release order. <i>(This figure represents the number of prisoners who completed their parole orders without breaching the order or facing new charges)</i>	588	352



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	<u>2008/09</u>	<u>2009/10</u>
The number of early release orders suspended or cancelled.	468	711
The number of prisoners who commenced participation in a re-socialisation program.	12	8
The number of prisoners who completed a re-socialisation program.	4	3

(Please note re-socialisation programs can run beyond the financial year)

TOTAL PERFORMANCE INDICATORS PRISONER REVIEW BOARD

	2008-09	2009-10
Number of decisions made by the PRB	8505	5582
Number of individual cases before the PRB	3581	4641
Number of Decisions relating to:		
▪ Release On Parole	1458	556
▪ Release On Re-Entry Release	29	3
▪ Release On Short Term Parole – Supervised	269	312
▪ Release On Short Term Parole - Unsupervised	201	56
▪ Suspension cancelled	96	40
Number of decisions relating to:		
▪ Deny Parole	791	2093
▪ Deny Re-Entry Release Order	45	15
▪ Deny Release On Short Term Parole	19	66
▪ Defer Re-Entry Release Order	1	1
▪ Defer Release On Short Term Parole	16	11
▪ Parole Order Cancelled	474	461
▪ Parole Order Suspended	613	250
▪ Suspension To Remain	252	31
Number of decisions relating to:		
▪ Request For Review Referred To Board	172	108
▪ Request For Review Denied	391	565
▪ Request For Review Granted – Decision Amended	31	1
Number of decisions relating to:		
▪ Matter adjourned	129	73
▪ Defer Action	82	15
▪ Deferred For Further Review	817	471
▪ Information Received And Noted	736	212
▪ No Action Taken – Warning Issued	97	54
Number of decisions relating to:		
▪ Permit To Leave State Approved	42	7
▪ Permit To Leave State Not Approved	10	23



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TOTAL PERFORMANCE INDICATORS PRISONER REVIEW BOARD

Number of decisions relating to:

- Variation to order / Previous Decision Changed

2008-09

2009-10

42

51