



PRISONERS REVIEW BOARD

Annual Report

For the year ended 30 June 2011



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 2011.

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

Justice Narelle Johnson
Chairman
Prisoners Review Board
23 September 2011

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

The Prisoners Review Board (The Board)

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



The Prisoners Review Board comprises the Chairperson, four Deputy Chairpersons and seven sessional Community Members. The Board meets at least six times a week and every meeting will consider about nine applications for parole and two or three reports of breaches of parole. Each meeting is chaired by either the Chairperson or a Deputy Chairperson and includes two Community Members, a Department of Corrective Services representative and a representative from the WA Police.

To achieve continuous improvement of the functions of the Board each member is required to participate in the professional development programme. This is designed to ensure a thorough understanding of the Sentence Administration Act 2003 and the latest national and international research about community and prison services that minimise the risk of a prisoner re offending and enhance the safety of the community.

The combination of careful recruitment to embrace the benefits of a skilled and diverse workforce coupled with the objective of making informed, well reasoned decisions about release on parole means the Board is delivering a high standard service focussed on; *"The degree of risk that the release of the prisoner would appear to present to the personal safety of people in the community or of any individual in the community"*. **S5A Sentence Administration Act 2003**



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MESSAGE FROM THE CHAIRPERSON

In the previous Annual Report I emphasised the lack of knowledge in the community of the basic principles of parole and the legislative framework which applies.

For this report I propose to focus on the developments which have taken place in relation to the Board itself. As Chairperson I have always emphasised the importance of attracting members and deputies of the highest calibre and of ensuring that the administrative support provided to the Board is of the highest standard. Together with appropriate training, this combination of factors increases the standard of the decisions made and results in greater consistency.

Deputy Chairperson, Christine Kannis, has now been joined by three more Deputy Chairpersons, Catherine Harvey, Stephanie Brakespeare and Barbara Hostalek. Together with the Registrar and the Executive Manager, they form the Board Executive which assists in the determination of procedure and policy and, most importantly, with future planning. The Board is committed to a process of continuous improvement and the Executive is constantly scrutinising the work of the Board and identifying areas in which gains can be made.

There have also been significant changes to the community membership of the Board since the beginning of this calendar year. The emphasis on professional development resulted in a decision to require all new members, including the new Deputy Chairpersons, to undergo a week long training programme before taking up their positions. The representatives from the Department of Corrective Services and the Police Service, who have commenced at different times, were all required to undergo training sessions before being permitted to make parole decisions. This has ensured that every member has the capacity to make a strong contribution to the decision making of the Board from the outset.

Professional development sessions are compulsory for all members. They are held more regularly than in the past and the focus has been on information directly related to the work of the Board. Lectures on treatment programmes, on urinalysis and on psychological issues relating to sex offenders are just some of the topics that have increased the knowledge base of the members. A library of relevant psychological and other expert based literature and texts is gradually being developed and can be accessed by all members and deputies. Together with conference or seminar attendance, it is by these means that the Board can be assured that it is abreast of current national and international research and other information relating to parole.



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Another aspect of the work done by the Board as part of the professional development programme is the research that has been done into the adequacy of treatment programmes for prisoners. In most cases treatment programmes are the sole or the primary form of rehabilitation available to prisoners. The Board's research has clearly identified the requirements for an effective treatment programme. Unfortunately, the Board has not been as successful in obtaining information about whether the treatment programmes provided by the Department of Corrective Services meet these requirements. Officers of the Department of Corrective Services are soon to give a seminar to Board members on the Department's treatment programmes. Hopefully there will be an exchange of information which will better allow the Board to determine whether the programmes provided, or some of them, meet the guidelines in the literature for a quality programme.

The Board Executive has also been involved in a review of the website, something which has not previously been a particular focus. Essentially, the website has been used to publish summaries of Board decisions to keep the community informed of the way in which the Board carries out its statutory responsibilities. A policy manual is also currently being developed. Another initiative is an information sheet for prisoners, to be sent with the Notice of the outcome of the parole application, which will identify the right to a review and direct the prisoners to the correct agencies to address the more usual requests for information which the Board receives. Inter-agency cooperation is also an area which the Executive intends to further develop. The exchange of relevant information, rather than wasting resources by independently obtaining the same information, is a far more sensible and cost effective approach and, to date, requests from the Board for better inter-agency cooperation have been well received.

In the past year, a number of decisions of the Court of Appeal have impacted on the operation of the Board. In one decision, the Court of Appeal noted something which had eluded the Department of Corrective Services and at least three Chairpersons for many years: certain prisoners were being incorrectly managed under the *Sentence Administration Act 2003* rather than the *Offenders Community Corrections Act 1963*. One consequence of this error was that the Board was required to re-write the statutory reports to the Attorney General for these prisoners, taking into account the differences in legislation. Despite additional resources being provided, the requirements to re-write a significant number of statutory reports placed considerable pressure on the Board and had a consequential impact on the preparation of other reports. Further, the statutory reports which the Board now produces are far more detailed and better researched than anything previously provided. There is also a high level of analysis included in the reports rather than a mere reproduction of extracts from other documents. Considerable effort goes into the preparation of the statutory reports and additional resources will be required if the quality of these reports is to be maintained.



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Another consequence of the legal actions brought against the Board has been the requirement to comply with the Court of Appeal's ruling on the amount of detail to be provided in giving reasons for the Board's decisions. At the time of my appointment as Chairperson, it was the practice of the Board to provide the briefest reasons for decision. For example, "Viable parole plan" was considered to be an adequate explanation of the decision to release. Since that time the Board has consistently improved the quality of the reasons provided and continues to do so.

The legal actions brought against the Board, although relatively few in number, are increasing and have caused a significant resourcing issue for the Board. Providing instructions and documents to the State Solicitors Office, as well as swearing affidavits, was not in contemplation during any of the more recent restructures of the Board. Neither was the constant request for statistical information from the media. The Board considers that the public interest would most definitely be better served if relevant statistics were readily available, either on request or by publications on the website. However, the Board does not keep and never has kept other than the most basic of statistics. Complying with most requests for statistics involves manually retrieving the information; something which cannot be done without taking someone away from their existing duties. Consequently, I have requested that the Board be properly staffed so as to enable it to meet its obligations to the Court in the context of litigation and to the public by the provisions of statistics.

Another initiative mentioned in the previous Annual Report was 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 the conditions of his parole order or re-offending by the parolee. This initiative is working particularly well and the Board is very quickly provided with accurate information about any conduct about a parolee which creates a risk to the safety of the community. Discussions which took place with the Community Youth Justice Division (CYJ) of the Department of Corrective Services, soon after my appointment resulted in a change to CYJ policy whereby the Board is advised of all breaching conduct, including the fact that the parolee had been charged with an offence.

Recently in Victoria a number of parolees were charged with offences of murder which were committed whilst they were on parole. In these cases the parolee had earlier been charged, whilst on parole, with offences of violence. However, the Victorian Parole Board was not advised of the earlier charges and the parolees went on to commit the murders. Although there is always the chance of human error, the procedures which are now in place in Western Australia are such that either the Police, the CYJ officer, or both, will advise the Prisoners Review Board when a parolee is charged with offences of violence and action will be taken to suspend or cancel the parole orders. This is just one of the ways in which cooperation between the agencies operates to protect the safety of the community.



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I have highlighted only some of the initiatives which the Board has commenced or further developed over the last year. Because of the diligence and commitment of the Executive, of the members and of the administrative support staff, the Board has managed to meet the challenges it has faced this year and I have no doubt it will continue to do so.

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

The Hon Justice Narelle Johnson
Chairperson
Prisoners Review Board

23 September 2011



PRISONERS REVIEW BOARD

The Function of the Board

*“The Board or any other person performing functions under this Act must regard the safety of the community as the paramount consideration”. **S5B Sentence Administration Act 2003***

The Prisoners Review Board Western Australia is the independent body which considers release on parole for prisoners who are eligible to serve the balance of their sentence in the community. The Act stipulates the primary focus of parole is to minimise the risk to the safety of the community. Every application for parole is assessed according to the “Release considerations” as set out in the Act.

The release considerations require the Board to assess the degree of risk the prisoner poses to the safety of any individual or the wider community. This assessment is made by considering;

- the seriousness of the original offence,
- any remarks made by the Court which originally sentenced the prisoner
- any concerns for the victims of the original offence including any matters raised by the victim in their submission
- the behaviour of the prisoner when in prison
- whether the prisoner has participated in any programmes in prison to address the triggers for their offending
- the prisoner’s performance when participating in any of these programmes as judged by the professionals who run the programmes
- the behaviour of the prisoner when they were released to the community on any previous order
- the likelihood of the prisoner to committing another offence
- the likelihood of the prisoner to comply with any conditions that are put on them for any early release period
- any other consideration which may be relevant to the individual prisoner.



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CASE STUDY – Release to Parole Agreed

Prisoner A was first convicted at 18 years of age for aggravated burglary, assault and possession and supply of an illicit drug and was incarcerated with a lengthy prison sentence.

In custody, Prisoner A was assessed as needing intensive treatment programmes for violence and substance abuse. The prisoner completed both programmes and the completion reports provided details of the gains made to address anger management, substance abuse and impulsivity. Additionally the prisoner had attended voluntary programmes and counselling services in prison to address substance abuse. The results of frequent and random urinalysis testing provided evidence the prisoner had not used drugs whilst in prison.

Prisoner A's parole plan provided accommodation with their parents which was assessed as suitable and remote from where the victim lived, so a chance meeting was unlikely. The prisoner's parents were aware of the offences committed and stated they would report to the Police if they thought the prisoner had started to use drugs again. The prisoner had confirmed full time employment and agreed to attend substance abuse counselling in the community.

Parole was agreed with the conditions of not to drink alcohol, not to enter licensed premises, frequent and random urinalysis testing for all illicit drugs and alcohol, to attend counselling, to immediately engage in and remain in full time employment and not to move house without the prior permission of the Board.

CASE STUDY – Parole Denied

Prisoner B was first convicted at 20 years of age for traffic offences, assaulting a Police Officer and possession of an illicit drug and was incarcerated with a two year prison sentence. In custody Prisoner B was assessed as needing intensive treatment programmes for alcohol and substance abuse.

The prisoner completed the programme but the Completion report described poor attendance, bad tempered and disruptive behaviour during the course, only very limited gains in anger management and although the prisoner repeatedly said they wanted to be drug free, the prison urinalysis test results were twice positive to cannabis. The Prison report also noted they were disruptive and regularly had to be reprimanded for breaking prison rules.

The parole plan provided accommodation with their brother who was known to the Department of Corrective Services as someone who had previously been charged with possession of illicit substances. The prisoner claimed they had full time employment but when this was checked the prospective employer said the work offer was part time and would start 'sometime' in the future.

Parole was denied because of the high risk to the community that the prisoner would continue to use drugs and then was likely to re offend.



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CASE STUDY – Indeterminate Sentenced Prisoner – Denied release on Parole

A prisoner convicted of numerous charges of indecent dealings with a child, indecent assault, and gross indecency on both male and female children was on parole for other sexual offences against children at the time of their offending. They were sentenced to 16 years of imprisonment with eligibility for parole after 14 years. As required by statute the prisoner was reviewed by the Life and Indeterminate Sentence Board two years prior to their earliest date for release on parole. The Board's recommendation is provided to the Attorney General in a Statutory Report.

The Board's risk assessment of the safety of the community of granting parole included examining; the sentencing Judge's remarks, submissions from victims and their families, previous convictions, results of previous community based supervision, prison behaviour, programs in custody, psychological assessments completed prior to sentencing and those undertaken during custody and the prisoner's current parole plan. The opinions of community correction officers' opinions about the prisoner's likely adherence to the requirements of parole, monitoring, and continued rehabilitation in the community are also considered.

Based on the evidence presented the Board concluded the prisoner posed a high risk to children if released on parole and the risk of reoffending was also unacceptably high. It would not be in the best interest of the community for the prisoner to be released on parole. The Board recommended to the Attorney General to deny release on parole.

The Attorney General is responsible for determining the release of a life or indeterminate sentenced prisoner and bases their decision on the evidence contained in the Statutory Report.



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Statistical Requirements

S112 the Sentence Administration Act 2003

The performance of the Board's functions during the previous financial year

Table 1
The number of prisoners who became eligible to be released under a Parole Order during the previous financial year;

	2010/11
Number	2582
% of Prison Population as at 30/6/11	55% *

Source: TOMS; sheet (b) 21 July 2011 & * DCS weekly Offender Statistic Report 30/6/11 for prison population.

A prisoner's eligibility for parole is determined by the Court as part of their sentence.

Table 2
The number of prisoners who applied to be released under a Re-entry Release Order during the previous financial year;

	2010/11
Number	14

Source: TOMS; sheet (a) July 2011

Prior to 2007, prisoners eligible for parole could also apply for early release under a Re entry Release Order. Those sentenced after 2007 are only eligible for release on parole. So the number eligible to apply for a Re entry Release Order will decline.



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Table 3

The number of prisoners who were refused an early release order by the Board or the Governor during the previous financial year;

Early Release Order	2010/11	
	No.	% of all those eligible to apply for a parole order
Parole	1391	53.8
Re-Entry Release Order	14	0.54
Short-Term Parole supervised	326	12.6
Total	1731	66.9

Source: TOMS; sheet (d) & (a) July 2011. Population based on table 1 figures.

The Board is required to assess risk to the safety of the community to determine release on parole. Short Term Parole applicants are routinely not assessed by the prisons for treatment programs. So it is less likely this cohort will meet the Board's criteria for release on parole.

Table 4

The number of prisoners released under an early release order by the Board or the Governor during the previous financial year;

Early Release Order	2010/11	
	No.	% of those eligible to be released under a parole order
Parole	441	17
Short term parole (supervised)	292	11.3
Short term parole (unsupervised)	21	0.8
Re entry Release Order	0	0
Total	754	29.2

Source: TOMS; Sheet (a) 21 July 2011. Population based on table 1 figures.



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Table 5

The number of prisoners who completed an early release order during the previous financial year;

	2010/11	
	No.	% of those released on parole in each separate category
Parole	130	29.4
Short term Parole (supervised)	194	66.4
Short term Parole (unsupervised)	15	71.4
Total	339	-

Source: TOMS; Sheet (f) 21 July 2011

“Completed” means the prisoner neither breached the conditions of parole nor was convicted of another offence for the duration of the parole period. Short Term parole (unsupervised) generally occurs where the prisoner is serving a term of less than 12 months and their only requirement is not to commit an offence. For this cohort “completed” means they were not convicted of another offence for the parole period.

The likely explanation for the disparity of completing Short Term Parole to Parole is the duration. To “complete” a Short Term Parole requires compliance for a maximum of 6 months. Parole can be for a period up to 2 years.

Table 6

The number of early release orders suspended or cancelled during the previous financial year and the reasons for suspension or cancellation;

	2010/11	
	No.	% of those released on parole
Parole Orders cancelled	261	34.6
Parole Orders suspended	27	3.6
Total	288	38.2

Source: TOMS; sheet (g) 21 July 2011

Parole is either cancelled or suspended for a fixed term if the prisoner either re-offends or breaches the conditions of their Parole Order or behaves in any way that poses an additional risk to the safety of the community.



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Table 7

The number of prisoners for whom participation in a re-socialisation programme was approved by the Board or the Governor during the previous financial year;

	2010/11
	No.
Approved for participation in Re-socialisation programme	1

Table 8

The number of prisoners who completed re-socialisation programmes during the previous financial year;

	2010/11
	No.
Number who completed a re-socialisation programme	4