



WESTERN AUSTRALIA

PAROLE BOARD

ANNUAL REPORT

for the year ended 30 June 2004

Sentence Administration Act 2003

SENTENCE ADMINISTRATION ACT 2003

TO: The Attorney General
FROM: The Parole Board of Western Australia

REPORT PURSUANT TO SECTION 112

“Before 1 October in each year, the Board is to give a written report to the Minister on-

- (a) the performance of the Board’s function during the previous financial year;*
- (b) the number of prisoners released on parole during the previous financial year; and*
- (c) the operation of this Act and the relevant parts of the Sentencing Act 1995 so far as they relate to parole orders (other than CEO parole orders), to Re-entry Release Orders and to the activities of the Community Corrections Officers in relation to those orders during the previous financial year.”*

The report covers the period 1 July 2003 to 30 June 2004.

PAROLE BOARD MEMBERSHIP

The following persons constituted the Parole Board of Western Australia as at 30 June 2004.

Chairman: H A Wallwork QC

Members: Ms C Chamarette (Community member)
Dr N Morgan (Community member)
Inspector W Mitchell - Police Department (Commissioner nominee)
Mr A Piper - Director General, Department of Justice (Ex officio)
Mr Z Trajkovski -Community Justice Services, Department of Justice (Ex officio)
Dr M Winch (Community member)

Deputy members: Sergeant B Bale (Deputy for Inspector W Mitchell)
Ms A Rabbitt (Deputy for Director General, Department of Justice)
The Reverend D A Robinson (Deputy for Ms C Chamarette)
Ms S Senior (Deputy for Mr Z Trajkovski)
Mr C Somerville (Deputy for Dr M Winch)
Mrs J Thompson (Deputy for Dr N Morgan)

During part of the year, the Honourable T A Walsh QC and His Honour G T Sadleir performed duties as Chairman of the Parole Board. Mr Wallwork was appointed as Chairman of the Board on 1 April 2004.

The following persons also performed duties as members during part of the year in their capacity as Officers within the Department of Justice or Police Department:-

Mr D Bandy, Mr R Fong, Mr T Fraser, Ms M Hayes, Mr A Howson, Mr R Lane, Mr R Nowicki, Mr W Reid, Mr I Turner, Ms W Vernon, and Ms A Walsh.

PREAMBLE

1. The Sentencing Legislation (Amendment and Repeal) Act 2003 and the Sentence Administration Act 2003

The above legislation came into effect on 1 September 2003 and has impacted on the work of the Board in a number of ways:-

- (a) There are clearer guidelines for parole decision-making.
- (b) A new scheme of “CEO Parole” has been introduced for offenders serving sentences of less than 12 months. This scheme is administered by the Department of Justice. However, provision has been made for offenders to appeal to the Board against decisions of the CEO with respect to the grant, suspension or cancellation of parole.
- (c) Work Release Orders have been abolished and replaced by the “Re-Entry Release Order”. Re-Entry Release Orders operate in a similar fashion to Work Release Orders in that prisoners must still have served at least 12 months in prison and be within 6 months of release. However, the Re-Entry Release Order applies to offenders who are “low” risk rather than a “minimum” risk to public safety and can involve a wider focus on re-entry activities than the Work Release Order.

2. Victim issues

When deciding on a prisoner’s release on parole, the Board is required to consider a number of factors set out in section 16 of the *Sentence Administration Act 2003*. These include matters such as:-

- ◆ the circumstances and seriousness of the offence;
- ◆ the behaviour of the prisoner when in custody;
- ◆ whether the prisoner has participated in programs;
- ◆ the likelihood of the prisoner offending when he or she is on parole; 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; and
- ◆ any other consideration that is or may be relevant to whether the prisoner should be released on parole.

The Board considers victim issues in detail under the latter two factors. It has been the Board’s practice to give consideration to the likely effect of an offender’s release on a victim as well as any potential victims. There are several factors which influence the rate of victim participation in parole processes:-

- ◆ In the Board’s experience, victims of serious or violent offences may be more inclined to make submissions than victims of property offences. Other types of offences may have no specific victim (such as certain drug crimes) or have corporate victims (such as fraud). It is also possible that some victims who have made a statement to the sentencing court have no desire to make further statements.
- ◆ However, the Board has observed that written submissions from victims have increased noticeably over the past year. It appears that increased public awareness and new processes for victim participation resulting from the implementation of the Department of Justice’s “*Policy for Victims of Crime*” in early 2003 have contributed to the increase. The policy ensures that victims are heard and their needs are taken into account in all their dealing with the justice system, including the Parole Board. Victim involvement has also increased due to the Victim Support Services, Victim Notification Register and Victim-offender Mediation Unit performing their roles in a proactive manner.

The Board understands that an amendment to section 16 of the *Sentence Administration Act 2003* is proposed. The proposed amendment will formally require the Board to take into consideration victim submissions when considering a prisoner’s suitability for parole. It is

anticipated that the amendment and the “*Policy for Victims of Crime*” will have an impact on the Board’s processes and workload with increased victim involvement in at least three areas:-

- (a) the right to be informed of an upcoming parole review;
- (b) the right to make a written submission for consideration at the review; and
- (c) the right to have those submissions considered in parole decisions.

Generally, it would be wrong to refuse parole to a prisoner solely because of the objection of a victim. However, the Board does consider victim submissions as important to the types of conditions which would be imposed in a parole order or other orders. For example, the Board commonly imposes restrictions to ensure that the offender does not make direct or indirect contact with the victim.

There is a need for empirical research into victim involvement in the parole process regarding:-

- (a) the impact of victim submissions on release decisions;
- (b) victim satisfaction with the process; and
- (c) the actual content of victim submission.

Given the differences that exist between the various Australian jurisdictions, research into the comparative strengths and weaknesses of each system would also be valuable.

3. The Community Re-Entry Program

The *Community Re-Entry Program* was developed by the Department of Justice to introduce a range of initiatives to divert minor offenders from prison, improve the management of prisoners within the system, and improve the rehabilitation of offenders. From the prisoners’ perspective, the program aims to reduce the recidivism rate of offenders; improve the provision of support during the reintegration process in the community (including family and community support, and housing); improve skills for use in the workplace on release; improve literacy and life skills; and reduce the incidence of drug and alcohol misuse. The Department of Justice states that strategic partnerships have been established between Government, non-government and community organisations to help released prisoners to avoid the cycle of crime.

The Board welcomes these initiatives as a reduction in repeat offending will have a positive impact in terms of protecting the safety and security of the community. However, the Board also has serious concerns (see below) about the burgeoning Aboriginal prisoner population.

4. Early identification of prisoners with mental illness and diversionary program for those with intellectual disabilities

At all its meetings, the Board considers a considerable number of prisoners with a mental illness and/or intellectual disability – and the numbers are clearly increasing. The Department of Justice has established a Mental Health Taskforce under the *Community Re-Entry Program*, to liaise with the Health Department with the aim of developing treatment and rehabilitation options for prisoners with a mental illness, and to assist them to re-establish themselves in the community, when released. The Board welcomes this new partnership which also aims to divert people with a mental illness from prison and into the health system.

People with an intellectual disability or brain damage pose particular difficulties on release (including appropriate supports and accommodation – see below). The Board therefore welcomes a joint effort between the Department of Justice and the Disability Services Commission towards diverting people with an intellectual disability away from the criminal justice system. We have been informed that the diversionary program is underway in the Central

Law Courts and the Board hopes that it will ultimately result in a decrease in the number of people with an intellectual disability who are imprisoned.

5. Availability of programs

The Department of Justice offers a number of treatment programs designed to target particular groups of prisoners. These programs are run at selected prisons, mostly in and around the Perth metropolitan area. Over the year, the Board has observed that the issue of programs revolve around three basic questions – *what* programs will run; *where* will they run; and *when* will they run.

The Board repeats its concerns (made in earlier annual reports) about all three of these questions and, in particular, about the lack of availability of programs in several prisons:-

- (a) Prisoners in regional prisons can often only access programs if they are transferred to other locations.
- (b) The transfer of prisoners to another prison often means that they are displaced from their families and Aboriginal Communities.
- (c) Prisoners in protection units and those serving short sentences are particularly disadvantaged by the lack of available programs.
- (d) In its Annual Report of 2003, the Board stressed the urgent need for the development and delivery of culturally appropriate programs for Aboriginal prisoners particularly as the Board considered 1,118 Aboriginal prisoners for parole releases in 2002/2003. The Board reiterates its concern that this problem has not been sufficiently addressed over the past year. Thus, there are currently not enough programs in regional areas which are Aboriginal “specific”. It has been suggested that Aboriginal persons from the relevant areas could be trained and qualified to deliver certain programs.
- (e) In regional prisons, there is a significant lack of officers who can make assessments regarding a prisoner’s suitability for inclusion in a program.
- (f) Women prisoners at Bandyup Prison and regional prisons also appear significantly disadvantaged in terms of program access.

The Board also emphasises that prisoners should be allowed to participate in a relevant program in a timely manner so that programs are completed prior to their eligibility date for release. Too often, this is not happening at the present time.

In terms of community programs, the Board welcomes the fact that over the past 18 months, the Programs Branch of the Department of Justice has expanded by recruiting programs staff and offering new offender rehabilitation programs in the community around the metropolitan areas. The expansion of community based programs followed from the *Community Re-Entry Program*. It is an initiative that the Board welcomes.

6. Evaluation of programs

The Board remains concerned that many of the prison-based treatment programs have not been subject to systematic evaluation in terms of their impact on recidivism or other measures of effectiveness. In early July 2004, the Department of Justice announced that a project is being conducted to independently evaluate programs and risk assessment tools and to bring new transparency to its rehabilitative efforts. The project includes an extensive database on offenders identified to be suitable for participation in either a violent, sexual, substance, relationship or cognitive skills intervention program. The aim of the project is to monitor recidivism, to evaluate the programs, to provide valuable information on offender treatment needs and risk assessment, and to produce a profile of Western Australia’s violent and sexual offenders.

The Board welcomes the Department of Justice commitment to evaluating programs and risk assessment. The Board looks forward to being informed of the project's progress and outcomes, particularly as the risk of re-offending is an important factor for the Board to take into account when considering the release of a prisoner.

7. Indigenous imprisonment rates

Aboriginal people constitute a growing proportion of a growing prison population and Western Australia has a very high Aboriginal imprisonment rate. The latest figures on the Department of Justice website show that Aboriginal people now account for over 38% of Western Australia's prison population, and the trend is increasing rapidly.

The Board is very concerned that Western Australia's prison population has increased very rapidly over the past two years despite the implementation of initiatives by the Department of Justice that were aimed at reducing the use of imprisonment. Of more concern is that 80% to 90% of that increase constitutes Indigenous prisoners. It is clear that measures aimed at reducing the use of imprisonment have not reduced the Indigenous imprisonment rate.

8. Lack of a secure facility with supervision in the community

When considering a prisoner's suitability for release into the community, the Board is required to take into consideration matters such as the degree of risk that the release of the prisoner would appear to present to the personal safety of people or any individual in the community; the likelihood of the prisoner offending whilst in the community; and the likelihood of the prisoner complying with the conditions in any release order.

The cases which pose problems for the Board include those prisoners whose cases involved a combination of some or all of the following factors:-

- (a) Have been convicted of serious offences (violent and/or sexual).
- (b) Have a serious criminal record.
- (c) Have some form of mental disorder, intellectual disability and/or brain damage.
- (d) Are in danger of being institutionalised if there is no progress towards release. Some are serving indeterminate imprisonment sentences and have been in prison for long periods.
- (e) Have very limited or no family and community support if released.
- (f) Have an IQ level which falls outside the criteria to qualify for Disability Services Commission's involvement.
- (g) Are not welcomed back to their own Aboriginal Community.

In some of these cases, it is necessary to have a structured release plan with strong supports and supervision in the community in order to protect the public. It is inappropriate to place the persons concerned in unsupported accommodation in the community and there can often be difficulties finding appropriate accommodation options.

In the Board's view, consideration should be given to the establishment of designated places which are not prisons but which offer appropriate security and supervision. Currently, no such placement exists. The Board is concerned that some of these prisoners may have to spend the rest of their lives in prison because there is no alternative place for them to live.

9. Prison visit by Board members

In November 2003, Board members visited Bandyup Prison for women and were informed that:-

- ❖ 80% of the prisoners are considered to have a Personality Disorder, of whom 65% have a mental health problem.
- ❖ Many prisoners require assistance to arrange for the care of their children.
- ❖ The major sources of support for the prisoners in the community are Outcare, mentors and the Mental Health Services.
- ❖ The prisoners advised that some programs were not available to them and were concerned that this might affect their chances of parole.
- ❖ In respect of usefulness, the prisoners found the Cognitive Skills Program the most useful in terms of problem solving and its applicability to everyday life.
- ❖ A major factor in parole failure is the lack of social support and breakdown in family relationships.

It is hoped that the Department of Justice's *Re-entry into the Community Program* and the establishment of the Boronia Pre-release Centre (which promotes an alternative approach to women's imprisonment for selected offenders) will alleviate some of these problems.

Overall, the visit to Bandyup Women's Prison had a positive impact. It enhanced the Board's profile, explained the Board's composition and functions, and helped prisoners to understand the processes regarding work release, parole and breach of the conditions of their early release orders.

10. Establishment of a Joint Parole Board, Health and Justice Release Planning Committee

In June 2004, the above Joint Committee was established to advise the Board on the proposed transition process of indeterminate sentenced prisoners with a mental disorder, from prison to the community through the treatment and rehabilitation programs offered by the State Forensic Mental Health Service. The objectives are:-

- (a) To balance the individual treatment and rehabilitation needs of indeterminate sentenced prisoners against the requirements of community safety.
- (b) To facilitate the transition process by involving relevant persons and agencies.
- (c) To effectively manage scarce resources of secure inpatient mental health treatment beds and placement.
- (d) To provide the Board with an effective, efficient and individualised management plan and process.
- (e) To formulate proposed management plans that are acceptable and viable to the relevant authorities.

The members of the Joint Committee are the Manager of Parole Release (Chair); Director State Forensic Mental Health Service; treating psychiatrist; allied health representative; Legal Research Officer of the Board; Parole Board community member; Parole Board member representing the Supervising Community Corrections Officer; and the Principal Clinical Consultant. The process raises some complex legal and policy issues which remain under review.

11. Update on Review of the Board

In November 2002, the Board wrote to the Attorney General regarding its acceptance of the recommendations in the "*Review of the Parole Board, Mentally Impaired Defendants Review Board and the Supervised Release Review Board (August 2002)*" which was conducted by Mr Peter Frizzell, Director Strategic Review, Department of Premier and Cabinet in 2002. Some ten months later, in June of 2003, a committee was established by the Director General of the Department of Justice to implement the recommendations Mr Frizzell raised regarding issues of staffing, funding and lines of accountability. Unfortunately, progress has not been swift in the interim and the committee is still considering the recommendations put forward by Mr Frizzell.

However, the Board hopes that the stage has now been reached where many of them will be implemented.

12. Secretariat staff

The evident increase in the Board's workload over the past four years means that there must be a corresponding level of support provided by the Secretariat to the Board. In its *Annual Report of 2002/2003*, the Board stressed the need to increase the staff number of the Secretariat with the appropriate funding as recommended by the Frizzell Report. This has remained a matter of concern over the past year and is still under consideration by the Department of Justice. The Board hopes that it will be resolved as a matter of priority.

A. VISITS TO THE BOARD

The Board continues to encourage visitors to the Board and during the period of this report there were 85 visitors to the Board, the majority being Community Corrections Officers.

B. PAROLE BOARD'S CONSIDERATIONS

PAROLE BOARD CONSIDERATIONS 2003/2004		
Total Considerations	3105	100%
Outcome	Number of Orders	% of Total
Release on Parole	894	28.79%
Defer Release on Parole *	1070	34.46%
Parole Denied	37	1.19%
Parole Granted Upon Appeal	2	0.06%
Appeal Deferred	20	0.64%
Previous Decision to Stand	94	2.88%
Suspend Parole	136	4.12%
Cancel Parole	270	8.70%
Cancel Suspension	114	3.67%
No Action on Breach	51	1.64%
Defer Action of Breach	100	3.23%
Work Release Order	82	2.64%
Defer Work Release Order	5	0.16%
Deny Work Release Order	81	2.61%
Suspend Work Release Order	1	0.03%
Cancel Work Release Order	6	0.19%
Re-entry Release Order	50	1.61%
Defer Re-entry Release Order	41	1.32%
Deny Re-entry Release Order	5	0.16%
Board Reports	46	1.48%
Pre Release Program	57	1.84%
Defer Pre Release Program	53	1.71%
Cancel Pre Release Program	1	0.03%
Variations	46	1.48%
Defer Variations	2	0.06%
Permission to Leave State	35	1.13%
Deny Permission to Leave State	2	0.06%

* All outcomes of suspension to remain were counted as "Defer Release on Parole".

There were 80 scheduled meetings and an average of 41.3 persons considered per meeting. In addition, there were unscheduled meetings held to consider unexpected events.

CEO Parole

The total number of appeals considered by the Board during this period was 7. Of these 7 cases, 4 appealed the decision from the Chief Executive Officer's decisions which were deferring or denying their CEO Parole, 2 appealed their CEO parole suspension, and 1 appealed a CEO parole cancellation.

None of these decisions were overturned by the Board.

CONCLUSION AND ACKNOWLEDGEMENT

The Board once again wishes to acknowledge the ongoing assistance and the cooperation provided throughout the year by the many government departments, agencies and voluntary groups which are involved with the supervision and treatment of work releasees and parolees, and their preparation for release.

The Board also takes this opportunity to acknowledge and thank the Secretariat of the Board for their valuable contribution, support and hard work.

As Chairman, I would like to extend my personal thanks to all Board members and deputies for their work and contribution during the year. I also wish to thank the services provided by the Department of Justice, the various agencies and voluntary organisations involved in the rehabilitation and supervision of work releasees and parolees into the community.

As Chairman, I also wish to thank the Secretariat staff for their support and hard work in what can often be a challenging and complex task.