

WESTERN AUSTRALIA

SUPERVISED RELEASE REVIEW BOARD

**ANNUAL REPORT
FOR THE YEAR ENDED 30TH JUNE 2005**

YOUNG OFFENDERS ACT 1994

CHAIRMAN'S PREAMBLE

1. Under the terms of the *Young Offenders Act 1994*, the membership of the Board must include at least one person who has an Aboriginal background and is appointed from a panel of persons nominated by Aboriginal community organisations invited by the Minister to submit nominations.

The Board must also include at least one person, appointed from a panel of persons nominated by community organisations which have been invited by the Minister to submit nominations, a nominee of the Commissioner of Police and a nominee of the Chief Executive Officer of the Department of Justice.

The Chairman must be a person who is or has been a Judge of the Supreme Court or District Court or a person who is and has for at least eight years been a legal practitioner.

2. The primary task of the Board is to consider and decide upon the suitability of juvenile offenders for release from detention into the community, on what is termed a Supervised Release Order, and to determine the conditions attaching to such release.

Normally this consideration takes place just prior to the offender's "earliest release date" which, pursuant to the *Young Offenders Act 1994*, Section 121, is in the majority of cases the halfway mark of the period of detention ordered by the Court.

3. During the year in question the Board met at Banksia Hill Juvenile Detention Centre on 40 occasions (apart from 7 special meetings), generally at 8.30 a.m. on Wednesday mornings, excepting the first Wednesday of each month. At the meeting the juvenile offender's application for Supervised Release is considered in light of reports covering the offender's response to detention, the remedial and other programmes undertaken and the conditions which would be attached under a Release Order.

The members of the Board continue to spend a considerable amount of time in preparation for Board Meetings in reading the files of the particular cases assigned to them, as well as files relating to all the other cases to be presented at the Meeting. In cases where the offender is eligible to be considered for release the Board's policy is that the offender comes before the Board to be informed in person of its decision. Thus, if a Release Order is to be made, the offender is informed accordingly and also told of the conditions attaching to the Order; likewise, if consideration of a Release Order is deferred or an Order is refused the offender is told in person the reasons for the decision. The offender is normally accompanied by a Juvenile Justice Officer or Member of Staff from Banksia Hill. Where available, the offender's parent or carer or other responsible adult also attends on behalf of the offender. Where the relevant adult person is not able to attend (especially in cases where the family is from a part of the State distant from Perth) arrangements are made for a telephone linkup.

4. I should like to express my sincere appreciation for the contributions, hard work and assistance provided by the Members (and their Alternates) who have served during the six years of my Chairmanship. Their approach to what is a difficult, complex, and sometimes controversial, task, has always been professional, forthright and independent. There are many frustrations in the Board's responsibilities, which represent essential and valuable community work, although sometimes the outcomes can be rewarding.

I have found the position of Chairman always to be interesting and challenging and I have very much enjoyed the companionship of the Members and Staff of the Board. This is, however, in my view an appropriate time to hand over the task. The Board continues under the Chairmanship of His Honour L A Jackson QC and I extend to him and the continuing Members, as well as the Staff, my good wishes for their terms of office.

I also wish to extend particular thanks for the service given to the Board by those Members retiring, or about to retire, as at 30 June 2005, namely, to Mr Ross Oliver, the longest serving Member of the Board, to Inspector Bill Mitchell, and to Mr John Sawle.

The public service management of the Board falls mainly to its Assistant Secretary, Mrs Alison Smylie, whose efficiency, practical support and dedication to the job would be extremely difficult to replace.

5. **STATISTICS**

This report includes the statistics of the cases dealt with by the Board during the reporting period.

For 2004/2005 there was an increase (of 21.6% from last year) in the number of cases coming before the Board.

There was a decrease (0.1%) in "parental" attendance before the Board.

6. **QUORUM PROBLEMS**

In its report for last year the Board again pointed out the problems caused to its efficient operation by the restrictive quorum requirements of Section 157 of the *Young Offenders Act 1994*. As the result of the Board's representations to the Minister for Justice, the restrictions have now been removed by legislation.

7. **DEPORTATION/REMOVAL OF DETAINEES**

The Board has continued to be informed of progress with the *Prisoners (Release for Deportation) Bill 2003* which has yet to proceed to enactment.

8. **ADULT OFFENDERS UNDER SUPERVISED RELEASE ORDERS**

The Board understands that its initiatives for amendments to the *Young Offenders Act 1994*, arising from concern at the number of offenders who continue to be subject to juvenile release orders after they turn 18 years of age, are continuing to proceed to legislation.

9. **NEED FOR RE-ENTRY ACCOMMODATION**

In its Annual Report for last year, the Board set out (paragraph 8) the grounds and pressing need for suitable accommodation and pre-release programs for juvenile offenders who are eligible to be released to the community after detention. It was pointed out in the Report that in some cases a detainee may have earned entitlement to release, the only obstacle being the lack of suitable accommodation. This may result in repeated referrals of release until the expiration of the sentence, as in one particularly egregious case in the year under review, where the detainee concerned has remained in custody for lack of accommodation. In the result the detainee is likely to be returned to the community without conditions or supervision.

Where juveniles are placed in custody for a period of years the need for programs of rehabilitation and re-integration into the community is the more acute. Measures such as pre-release and re-entry programs and special accommodation are important requirements towards the success of juvenile parole terms.

As the Board pointed out in its last Annual Report (paragraph 8), the Board has for several years past expressed concern at the lack of accommodation or pre-release programs.

Although no steps have apparently been taken on behalf of the Department of Justice to consider the provision of accommodation, the Board is aware of the positive approach recently taken by the Minister for Justice for introduction of pre-release and day release programs.

10. **MENTAL HEALTH - DETAINEES**

The need for improved reporting to the Board on detainees who have mental health problems was referred to in the Board's Report for last year. There remains the need, in such cases, for the Board to be provided with a psychiatric history and prognosis, together with a plan, co-ordinated with the community mental health authority, for the regime of supervision and treatment should the detainee be released. At present, there continue to be deficiencies in these areas and the Board has been in correspondence with the Department of Justice to seek improvement.

11. **FRIZZELL REVIEW**

The Chairman of the Supervised Release Review Board continued as Chairman of the Implementation Committee until June 2005. One of the major initiatives of the Committee in 2004 resulted in the overhaul of the administration of the Parole Board, Supervised Release Review Board and the Mentally Impaired Accused Review Board which is proceeding through the Department of Justice.

12. **BOARD MEMBERS' VISITS TO REGIONAL CENTRES**

Mainly due to the changes in membership of the Board during the year, and difficulties with availability of members for travel, arrangements for visits to country centres were deferred to the 2005/2006 year.

VISITORS TO THE BOARD

The Board continues to encourage the practice of receiving visitors to its meetings. The Board has received visits from social work and welfare students who were on practical placements within the Department. The Board also received visits from Department of Justice Staff (including Ms Jackie Tang, Executive Director, Mr Nigel Cameron, A/Manager, Young Offender Programmes, Ms Penny Lipscombe, A/Manager, Policy and Legislation and Mr Chris Rewha to talk about amendments to the *Young Offenders Act 1994* and Juvenile Justice strategies); His Honour Judge Denis J Reynolds to meet Board Members; Staff from the Intensive Supervision Programme (including the Manager, Clinicians and Advisers); Mr Harvey Hatch, Manager, Victim Support Services and Ms Jane Sampson, Director, Juvenile Custodial Services.

The Board received visits from two Reviewers of the Australian Juvenile Justice Standards; Mr Michael Carton of Swan Works and Mr Merv Hammond, Principal, Balga Senior High School spoke to Board Members regarding the Swan Works Programme; Community Members and Commissioner of Police Nominees to the Supervised Release Review Board (including Inspector William Mitchell who retired from the Western Australian Police Service on 3.7.2005 and thus left the Supervised Release Review Board).

Every three months the Manager of Case Planning at Banksia Hill Detention Centre has provided an update to Board Members regarding any Case Planning issues and information regarding Day Release and accommodation. As well, a Member of the Board meets from time to time with Juvenile Justice Officers and staff from Banksia Hill Detention Centre to improve liaison and maintain standards so far as reports to the Board are concerned.

BOARD'S WORKLOAD

During the period 1 July 2004 to 30 June 2005, in 40 regular and 7 extraordinary meetings the Board dealt with a total of 642 cases in relation to 210 individual offenders. Of these offenders, 46 were reviewed once, 49 twice, 43 three times, 26 four times, 27 five times, 9 six times, 8 seven times and 2 ten times.

ATTENDANCE OF PARENT OR RESPONSIBLE ADULT/WARDS OF THE STATE

The Board continues actively to encourage the attendance of the offender's parents or responsible adult at its meetings. However, of the 333 applications for release who came before the Board during the 12 month period, 139(41.7%) had no parent or responsible adult present or available by telephone on their behalf. In those situations the Board invokes Section 133(1)(c) of the *Young Offenders Act 1994* to make an Order even though no such adult person is present.

In the year under review, the Board dealt, on 20 occasions, with 8 detainees who were Wards of the State in the care of the Department for Community Development. On 10 of those occasions the Ward was under consideration for a Supervised Release Order. Out of those 10 occasions, a Department for Community Development Officer was present at the Board's Meeting (or was available via telephone link up) on 6 occasions.

The Department for Community Development is effectively in loco-parentis to the Ward and has an interest to see whether its Ward is to be released and, if so, what supports including accommodation would be provided for him or her in the community upon release.

MENTORS

The appointment of mentors (now called "Youth Support Officers") to assist juveniles in complying with their Release Orders, and to provide a role model, has been a successful measure. The funding and availability of mentors is now fairly satisfactory in the Metropolitan area and in the larger regional centres, but there remain difficulties in obtaining mentors in the smaller and more remote centres.

RELEASES

There were 338 applications for release on a Supervised Release Order of which 197(58.3%) were approved by the Board (no Release Orders were referred to the Secretary for determination). Five(1.5%) Orders were subsequently rescinded by the Board.

DENIALS AND DEFERRALS

Denials

The Board denied 14(4.1%) of the applications for a Supervised Release Order. Of these 6(42.9%) were at the request of the offender and the remaining 8 applicants (57.1%) were considered unsuitable for release for various reasons, but in the main because of the offender's risk of re-offending due to failure to address offending behaviour, poor institutional conduct, poor prior performance on community orders and no viable release plan. Of the 14 applications for a Supervised Release Order which were denied, 12(85.7%) were by detainees of Aboriginal descent and 2(14.3%) were by detainees of non-Aboriginal descent.

Deferrals

The Board deferred the granting of a Supervised Release Order on 122(36.1%) occasions. The majority of the deferrals were because the Board considered that aspects of the offender's release plan were unsuitable and required modification, (for example further information was required regarding accommodation, appointment of a Youth Support Officer, information from Department for Community Development, Victim Offender Mediation Unit and Disability Services Commission), the offender was in need of further counselling and training to address aspects of offending behaviour (for example specialist advice programs to address offending behaviour and independent psychological/psychiatric assessments) or that improved conduct within the institution was required. There were also occasions when the Board deferred cases subject to outcome of court proceedings. Of the 122 occasions when the Board deferred the granting of a Supervised Release Order there were 106(86.9%) occasions (59 individuals) when the case involved a detainee of Aboriginal descent and 16(13.1%) occasions (14 offenders) when the case involved a detainee of non-Aboriginal descent.

(On 30 of the 122 occasions the Board deferred the granting of a Supervised Release Order mainly because of accommodation problems although on some of the 30 occasions there were also other issues of improvement in conduct, progress in/or completion of counselling and the provision of specialist reports).

BOARD'S POLICY ON DEFERRALS AND DENIALS

As will be seen from the statistics the Board deferred the granting of a Supervised Release Order on 122 occasions, an increase of over 5% on the preceding year. Taken as a variation from the previous year, denials of a Supervised Release Order were virtually unchanged except that the proportion of denials by the Board (8) rather than at the request of the detainee (6) increased markedly. The precise reasons why a detainee may refuse to seek a release order have not been the subject of a study but anecdotal information is that refusal may be because of an unwillingness by the detainee to be subject to the constraints of supervision and other obligations upon release into the community, the detainee does not wish to complete counselling in the detention setting, or because the detainee believes that his application will be deferred with conditions or will be denied by the Board. In these circumstances a detainee may prefer to sit out the period of the sentence in custody.

The Board's policy is to ensure, as far as possible, that when detainees are to return to the community they do so subject to a period of supervision and with obligations to report and to reside as directed and to undertake programs and obligations which may include testing for drug use, psychological and other counselling, medical or psychiatric treatment as well as to be under the guidance of a mentor. The Board defers the release of a detainee past the earliest eligibility date with conditions which may include a requirement for improved conduct in the detention centre, completion of or progress in programs (for example, for substance abuse or other counselling), psychological/psychiatric reports, or improvement in the release plan, particularly with the arrangements for accommodation. With deferrals, the effective period on parole is, of course, shortened but, as stated above, it is usually preferable for the detainee to return to the community, even for a short period, under supervision and with conditions.

On the other hand, where an offender is released at the end of the sentence, having had a release order denied, he or she is under no further obligations or conditions relating to the sentence.

VICTIMS' REPRESENTATIVE

After the Board's Annual Report for 2003/2004 had been delivered to the Minister for Justice, extensive media coverage occurred when two offenders (referred to at page 5 of that Report) breached their release orders by failing to comply with conditions including a failure to report or to reside as required under the orders.

In much of the information published or broadcast regarding these cases there was an evident lack of understanding of the prohibition, statutory and otherwise, on Board Members from public discussion of individual cases and as to the reasons (set out above) for emphasis by the Board upon deferral, rather than denial, of release orders.

One outcome of the publicity, and of representations made on behalf of the victim, was the decision of the Minister for Justice to appoint a Victims' Representative to the Board. Pending the necessary amendment to the *Young Offenders Act 1994* the new member, Ms Georgia Prideaux, was appointed to the position of Community Member as from 1 January 2005.

It is understood that the legislation to enable the appointment of an additional member to the Board, specifically in the capacity of Victims' Representative, is to be passed during the second half of 2005. The additional appointment has been welcomed by Board Members.

SUSPENSIONS AND CANCELLATIONS

Of the 192 Supervised Release Orders approved, 86(44.8%) were subsequently suspended and/or cancelled. Eighteen(21.0%) of these were due to re-offending and conviction, 58(67.4%) due to non-compliance with the conditions of the Order and 10(11.6%) were due to both re-offending and non-compliance. Of the 86 Release Orders which were subsequently suspended and/or cancelled, there were 18(20.9%) occasions (13 offenders) where the person was of non-Aboriginal descent and 68(79.1%) occasions (64 offenders) where the person was of Aboriginal descent. Of the total of 192 Release Orders for 2004/2005 there was a 2.0% increase in suspensions/cancellations on a comparison with the same category for the previous year. Of these, there was no change in suspensions/cancellations through re-offending from the previous year but non-compliance with conditions increased by 6.9%. In total there were 100 Supervised Release Orders cancelled and/or suspended of which 14 were for Orders made prior to the commencement of the 2004/2005 period.

PERMISSION TO LEAVE THE STATE

Where a releasee's family/caregiver relocates to another State, either temporarily or permanently, the Board is required to formulate a policy to deal with the supervision of the Release Order. During the 12 month period the Board had cause to deal with one detainee wishing to leave the State.

SUPERVISED RELEASE ORDER - COMPLETIONS

During the 12 month period 82 Supervised Release Orders were successfully completed. There are presently 53 releasees on a Supervised Release Order.

GENDER/ABORIGINALITY

Gender

The Board/Secretary considered the cases of 210 individual offenders of whom 18(8.6%) were female and 192(91.4%) male.

Aboriginality

Of the total number of offenders considered by the Board 163(77.6%) were of Aboriginal descent of whom 16(9.8%) were female and 147(90.2%) male.

ACKNOWLEDGMENT

The Board once again wishes to acknowledge the assistance and co-operation of all those personnel associated with the Board. In particular the officers and staff of the Department of Justice, Juvenile Justice Division generally, and the Superintendent and staff of the Banksia Hill Detention Centre for both their assistance and hospitality.

The assistance of the many government agencies, voluntary groups and individual voluntary workers involved with the preparation for release, treatment and supervision of young offenders, is acknowledged.

Chairman	His Honour G Sadleir RFD
Members	Ms G Prideaux
	Ms D Rayner
	Inspector W Mitchell
	Ms D Henry
	Ms R Pritchard
	Mr R Oliver
	Detective Inspector P Lavender
	Detective Inspector T Vidovich
	Detective Inspector B Hawker
	Ms N Bennett
Secretary	Mr J Neighbour
Assistant Secretary	Ms A Smylie

YEAR TO YEAR COMPARISON

	2002/03	2003/04	2004/05	Absolute Inc./Dec. on Prev. Year	Variation from Previous Year
Board Workload:					
Meetings	40	41	40		
Number of 'cases'	506	528	642	21.6% inc.	
Applications before the Board for release	272	287	333	16.0% inc.	
Parental non-attendance S133(1)(c) YOA invoked	93	120	139	15.8% inc.	0.1% dec.
Total Applications for Release:	274	288	338	17.4% inc.	
Total Orders Made	169	181	197		
Released by Board	165	180	192		
Released by Secretary	2	0	0		
Rescinded by Board	2	1	5		
Denial of SRO:	19	17	14	17.6% dec.	0.02% dec.
Offenders own request	17	13	6		
By the Board	2	4	8		
Deferral of SRO:	84	89	122	37.1% inc.	5.2% inc.
Suspension/Cancellation SRO:	66	77	86	11.7% inc.	2.0% inc.
By re-offending	20	17	18	5.9% inc.	0.0% inc./dec.
By non-compliance	36	42	58	38.1% inc.	6.9% inc.
By re-offending/non-compliance	8	17	10	41.2% dec.	4.2% dec.
By automatic cancellation	1	0	0	0.0% inc/dec.	0.0% inc/dec.
Removed from Australia	1	0	0	0.0% inc/dec.	0.0 % inc/dec.
Extradited from Australia	-	1	0	100.0% dec.	0.5% dec.
Individual Offenders Considered by Board and Secretary:	182	194	210	8.2% inc.	
Gender:					
Male	167	176	192		
Female	15	18	18		
Aboriginality by Gender:	128	143	163		
Male	115	126	147		
Female	13	17	16		

