POLICE ASSOCIATION OF NEW SOUTH WALES

PO Box A1097, Sydney South, NSW 1232
PHONE: (02) 9265 6777 FAX: (02) 9265 6789 EAGLENET 57071

NSW Law Reform Commission
GPO Box 5199
SYDNEY NSW 2000
Email: nsw_lrc@agd.nsw.gov.au

To The Law Reform Commission,

Please accept a copy of the Police Association of New South Wales submission regarding Parole: Question Papers 1-3. The Police Association of NSW thanks the Law Reform Commission for the opportunity to submit a response to its Review. The Police Association looks forward to the release of the final copy of the Report.

Sincerely,

Scott WEBER
President
Police Association Of New South Wales
1st November 2013

Police Association of NSW

Parole: Question Papers 1-3

Police Association of New South Wales Submission

October 2013

Version Control

Purpose

The purpose of this document is to provide to NSW Law Reform Commission, the Police Association of New South Wales response to its Questions 1-3 regarding Parole.

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Parole: Question Papers 1-3

The NSW Law Reform Commission has released for public comment Question Papers 1-3 regarding NSW Parole.

Question Paper 1 discusses the design and objectives of the parole system in NSW, including the distinction between automatic (court based) and discretionary parole.
Question Paper 2 looks at the membership of the State Parole Authority and the Serious Offenders Reviw Council, including the appointment and expertise of members.
Question Paper 3 examines the discretionary parole decision making of the State Parole Authority, including the role played the Serious Offenders Review Council in the case of serious offenders.

In short, parole means the conditional release of an offender who must abide by terms and conditions, during the additional term or balance of his or her sentence. The grant of parole requires a careful and thorough assessment of the risk to the community involved in the prisoner's release from goal. If granted parole he or she completes his or her sentence in the community obeying the conditions set out in a parole order at the time of release. Parole is and should be intended to help the offender move back into society, while at the same time protecting society from further crime. When the parolee completes his or her parole, the sentence is fully served.

The Police Association in its submission in August 2013 ("Scoping Paper: Parole") made mention of the $5.7 million cut from the supervision of serious sex offenders and this decision made knowingly with 69 murderers and 296 sex offenders currently on parole. The government also scrapped the elite Community Compliance and Monitoring Group within Corrective Services that conducted around-the-clock, unannounced home visits on dangerous parolees; which had all come in the light of recent cases of paroling prisoners who've gone out to reoffend in some horrendous murder cases. Again, it's been reported (in parliament) the vacancy rate for parole supervisors is at approximately 40 positions. Ninety two jobs were cut as a result of a merger between two divisions of Corrective Services, leaving 674.3 positions directly supervising parolees. With continued challenges to meet budget requirements, it begs the question, is the public put at risk by the shortfall in jobs? Strengthening the supervision of high-risk criminals is imperative when we talk about enhancing community protection and the proper supervision of offenders is more important than budget savings.

The size and complexity of the NSW Correction System means that the NSW Parole Authority has the most significant caseload in Australia. In addition to those offenders sentenced by NSW and ACT courts, it also deals with those convicted of federal offences and a significant number of inmates who have transferred to NSW after being convicted elsewhere. These challenges are augmented by the continuing and sizeable increase in the number of offenders, both in custody and being supervised in the community, and the impact of legislative change on the Authority's workload. The Parole system needs to be equipped to perform all its functions with sufficient resources. Furthermore when resources are limited (ie when resources of Government are limited), then the SPA needs to make a more careful and realistic assessment of just how much supervision a parolee will have on release and that everything possible is done to scrutinize a potential parolee's before they are granted freedom and if this scrutiny means that some offenders have to remain in prison until the authorities are satisfied that they no longer pose a threat to society, then so be it.

If parole is going to exist, then it needs to exist properly; it does have a critical role to play in the protection of the wider community and without it, community safety would be in danger. This means respecting the legislation (all cases need to address the factors which are set out in the legislation) as well as respecting the parole board's independence. In November again, it was reported that the state government will close seven of eight parole residences that house 104 people before they are released into the community. Parolees in these houses are monitored as they reintegrate into the community and get help finding jobs. As a result of this decision, will it put the community at risk from ex-prisoners who are not properly rehabilitated? Ultimately, the purpose of parole is to promote public safety by supervising and supporting the release and integration of prisoners into the community, thereby

minimising their risk of while they are on parole and after they complete their sentences. When assessing whether parole should be granted to a prisoner, community safety is the paramount consideration. The supervision system (if it is to work properly) needs to have the appropriate levels of accountability and oversight for offenders; you cannot cut corners when talking about the supervision of high-risk criminals.

Other criticism directed at parole is the perceived leniency on offenders particularly those convicted of violent crimes. Parole is a privilege not a right and is not to be taken lightly. As the Callinan Review put it, the onus should be upon a prisoner to demonstrate that he or she *deserves* parole. A prisoner should be required to demonstrate that he or she has a very genuine intention, and a real capacity to rehabilitate him or herself by complying with conditions of parole and genuinely attempting to re-join the community in a harmless way, before being granted parole. High Court judge Ian Callinan, goes further to say that he is satisfied breeches of parole are very frequent and the safety of the public has not been given the prominence it deserves;

> *I do say that, relatively early in my work, I formed an impression that the balance in relation to the grant of parole, is cancellation and the revocation of cancellations may have been tilted too far in favor of offenders, and sometimes, even very serious offenders. I also formed a clear view that the Parole Board.*

Another issue the Police Association would like to comment on regards the re-offending by persons on parole. The Association wrote to Mr Gallacher in July of this year raising its concerns in a letter to him. It is the Association's understanding that data regarding these persons is available but not currently collated by any agency. It would seem appropriate that the body responsible for reporting on criminal statistics, BOCSAR, should be analyzing this information and providing it to the public and the judiciary. This has become particularly relevant in light of the recent, very serious instances of parolees committing violent crimes. Is there any reporting of instances and rates of re-offending by persons on parole? This would be important information that would assist decision makers regarding parole and make decision makers accountable allowing the public to have confidence that their interests were being protected by the application of parole laws.

Linked to this also (in terms of the recidivism rate that is), is the need to commission internal research to establish *why* there are breaches of parole conditions? There is very little reliable research that has been done on prisoners in Australia after they are released. No system is perfect (and no such system can eliminate the risk of reoffending). But if one is trying to alter the criminal rate in the community, investment and effort is required in attacking the root causes of criminality ie poverty, child abuse, family dysfunction, domestic violence, drug and alcohol abuse all need to be looked at; what a parole system should be able to do is reduce the risk that prisoners will commit further offences when released into the community by providing a supervised transition into the community and by seeking to deal with the factors that may lead to reoffending. If an offender does potentially pose a risk, either because of the likelihood of reoffending or because of special needs, that person should be released under parole supervision, rather than be retained in prison and then at a later date released without such supervision. It is quite imperative that a prisoner is provided supervision and support particularly in the first six to 12 months after their release from prison. This has been deemed to be the critical period that can have an impact on whether a person released from prison resettles or reoffends.

> *I think releasing offenders who are still serving a term of imprisonment technically when they don't have community ties in some cases, when they don't have jobs, when they don't have means by which they can integrate, they don't have family support, they don't have community support, is actually setting them up for failure..."* Minister for Justice, 2003

One example of such research was funded by the Housing and Urban Research Institute which tracked prisoners from NSW (n=194) and Victorian (n=145) prisons between November 2001 and January 2003. The research showed that ex-prisoners with the best chance of making a new start received a lot of

support from parole officers or family. But only a small minority received any help at all. The study showed 20% of the sample had been homeless or in marginal housing before they went to prison. But nine months after release, 38% were homeless. And half those who had jobs before they went to jail were unemployed nine months after release. The study showed 15% of the sample was back in jail after three months, with all of them citing drug problems as the main factor. For women the picture was gloomier with 25% and half the Aboriginal women – reincarcerated three months after release. The short-term prisoners received little benefit from drug rehabilitation programs or other services in jail. And upon release, they received virtually no help to find housing or jobs. Those who served less than two years were generally not case-managed by parole officers. All in all the research showed that many ex-prisoners find it impossible to reintegrate into society and months, after release, are worse off than before they went to jail. These shortfalls need to be resolved if parole is going to work and keep the community safe.[1]

Another relatively more recent example of prisoner post-release research was conducted in Queensland in 2006 and demonstrates such comparable results as well. Although the study concentrated on a smaller non-random sample size (160 participants) it found that most prisoners were highly likely to reoffend once released into the community and as a consequence, have a higher rate of return to prison. Of note was that within an average of 34 days post release, 64% of males and 37% of females reported using illicit drugs. There were also significant levels of risky alcohol use and elevated levels of physical and mental distress. Within one year 19% of the group had been reincarcerated.[2] As mentioned, effective crime control strategies will ultimately fail if they do not include pre and post release intervention programs designed to reduce the likelihood of re-offending among prisoners.

> *...it is almost 40 years since I started working closely with serious criminal offenders. Some will never change, but many do find a new direction in their lives, although not without some limits being placed on their behavior, especially immediately after their release. Many are without housing, few have positive role models and they often lack motivation or direction in life, especially young offenders.* Peter Norden, Professor, RMIT University, founder the Brosnan Centre for released offenders, 2013.

Linked to the above issues is the issue that more attention needs to be directed at the ineffectiveness of the Australian prison system in bringing about change or in reducing risk during the whole period of imprisonment and not just the parole system itself. Police Association members have voiced such concerns;

> *There is obviously not enough money available in the current budget to give every prisoner released a proper chance to integrate back into the community. Unfortunately many of them would receive token assistance and have probably been set up to fail again. It is my view that at best gaol only serves to warehouse people from the community so they cannot subject it to crime.*

In relation to the issues raised in the Question Papers, we provide the following comments:

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[1] Eileen Baldry, Desmond McDonnell, Peter Maplestong, Manu Peerters, The Role of Housing in Preventing Re-Offending, AHURI Research and Policy Bulletin, Issue 36, February 2004; SMH, Adele Horin, Six Weeks, six months, six years: Inmates have little chance of making a fresh start, 30 Jan 2003.

[2] Sutart A Kinner, the Post-release experience of prisoners in Queensland, Trends & Issues, AIC, September 2006

Question Paper 1:
Design and objectives of the parole system

This question paper looks at the overall design of the parole system in NSW, including whether parole serves a useful purpose. We consider the distinction between automatic and discretionary parole and also consider the objectives of parole, as system design can only be evaluated in the context of what the system is trying to achieve.

1.1: Retention and objectives of parole

1. **Should parole be retained?**
2. **If retained, what should be the objectives of the parole system in NSW?**
3. **Should there be an explicit statement of the objectives or purposes of parole in the Crimes (Administration of Sentences) Act 1999 (NSW)?**

Yes, parole should be retained. Early or conditional release from custody prior to the completion of a prison sentence has been a common feature of criminal justice systems in all Australian jurisdictions. Parole is just one method by which this occurs.

The parole system involves releasing prisoners from gaol to serve the remainder of their sentence in the community in accordance with the terms of sentences imposed by the courts. As the NSWLRC states, the basis for parole release decisions has varied across both time and jurisdictions". Furthermore, parole is part of the continuum of punishment of the offender..."and parole "is not an act of clemency, compassion, or, necessarily, a reward for good conduct". In fact, "some offenders regard the need to comply [with parole conditions] as greater punishment and do not, in fact, seek release to parole even though they are eligible for consideration".[3]

The fundamental aim of parole is to provide the prisoner with an incentive for rehabilitation through the hope for early release. As stated in the High Court in R v Shrestha (1991)

> *[N]otwithstanding that a sentence of imprisonment is the appropriate punishment for the particular offence in all the circumstances of a case, considerations of mitigation or rehabilitation may make it unnecessary, or even undesirable, that the whole of that sentence should actually be served in custody.*[4]

As mentioned, rehabilitation can be one objective of the parole system, particularly in terms of showing a prisoner how to function in society, assisting them in areas of needs such as seeking employment and establishing residence for instance. Other objectives include, most importantly, protecting society. Protecting society from the criminal acts of repeat offenders is an important part of parole. If the parole board sees no evidence of reform within a prisoner, parole must be denied. Reformation can also be considered as an objective of parole. Prisoners need to be shown there are alternatives to criminal behavior. If a prisoner is able to show they have made substantial progress in reforming and the parole board believes they can lead crime-free lives then, parole in this instance can be used to prevent the continued incarceration of the prisoner. Resocialisation is another objective when a released prisoner needs to learn appropriate socialization skills to functions in society and basically remain crime-free.

There is not necessarily a need for an explicit statement of the objectives or purposes of parole in the Crimes (Administration of Sentences) Act 1999 (NSW). The Act already provides for a list of matters (ie

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[3] Australian Law Reform Commission, Sentencing penalties, Discussion Paper No 30, September 1987, .

[4] Rachel Simpson, Parole: an overview, Briefing Paper No 20/99, NSW Parliamentary Library Research Service, 1999.

s135 *General duty of Parole Authority*) when deciding whether or not the release of an offender is appropriate in the public interest by the Parole Authority. These matters need to be emphasized more so or rather this is essentially the aim of the Parole Authority when granting parole, that is, that these conditions need to be *satisfied.* As the Act states:

> *(1) 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) In deciding whether or not the release of an offender is appropriate in the public interest, the Parole Authority must have regard to the following matters:*
> 1. the need to protect the safety of the community,
> 2. the need to maintain public confidence in the administration of justice,
> 3. the nature and circumstances of the offence to which the offender's sentence relates,
> 4. any relevant comments made by the sentencing court,
> 5. the offender's criminal history,
> 6. the likelihood of the offender being able to adapt to normal lawful community life,
> 7. the likely effect on any victim of the offender, and on any such victim's family, of the offender being released on parole,
> 8. 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,
> 9. 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, the Commissioner or any other authority of the State,
> 1. (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,

Furthermore, the Act also provides for a list of matters (ie s135A *Preparation of reports by Probation and Parole Service*) that need to be addressed by the Probation and Parole Service via reporting on such matters as the likelihood of the offender being able to adapt to normal life and the measures taken to assist the offender. These matters as well as the above mentioned matters are quite adequate and succinct in meeting the criteria when considering parole. For instance;

> *135A Preparation of reports by Probation and Parole Service*
> *A report prepared by or on behalf of the Probation and Parole Service for the purposes of section 135 must address the following matters:*
> *(a) the likelihood of the offender being able to adapt to normal lawful community life,*
> *(b) the risk of the offender re-offending while on release on parole, and the measures to be taken to reduce that risk,*
> *(c) the measures to be taken to assist the offender while on release on parole, as set out in a post-release plan prepared by the Probation and Parole Service in relation to the offender,*
> *(d) the offender's attitude to the offence to which his or her sentence relates,*
> *(e) the offender's willingness to participate in rehabilitation programs, and the success or otherwise of his or her participation in such programs,*
> *(f) the offender's attitude to any victim of the offence to which his or her sentence relates, and to the family of any such victim,*
> *(g) any offences committed by the offender while in custody, including in particular any correctional centre offences and any offence involving an escape or attempted escape,*
> *(h) the likelihood of the offender complying with any conditions to which his or her parole may be made subject,*
> *(i) in the case of an offender in respect of whom the Drug Court has declined to make a compulsory drug treatment order on the ground referred to in section 18D (1) (b) (vi) of*

the Drug Court Act 1998, the contents of any notice under section 18D (2) (b) of that Act.

Question 1.2: Design of the parole system

1. **Should NSW have automatic parole, discretionary parole, or a mixed system?**
2. **If a mixed system, how would offenders be allocated to either automatic or discretionary parole?**
3. **Does there need to be a mechanism to ensure supervised reintegration support for offenders serving short sentences? What should such a mechanism be?**

As the SPA rightly puts 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".*

Members of the Police Association had this to say regarding automatic parole;

> *Eligible parole candidates should be required to apply for parole giving reasons prior to being granted a parole hearing. Parole should not be automatic, easing the burden on the SPA committee members and saving time in hearings for ineligible candidates.*
> *When considering parole conditions, the SPA should give consideration to their ability to enforce those conditions and specifically, the workload of case officers charged with such enforcement and oversight. If a parole condition is unenforceable or difficult to enforce (such as the recent Skaff rape case example where there were obvious accommodation issues) then that condition should not be considered due to the high risk to the community, which is the primary aim of the SPA.*

Firstly, the main principle is that protection of society is the paramount consideration and that for each decision that is made (on the question of release of an offender into society) must so be based on the least restrictive determination consistent with public safety. Currently NSW has a mixed parole system with pros and cons evident in both of the systems. On the one hand, discretionary parole should provide a gradual and supervised integration into communities; after-all research has shown it to be more effective to contributing to public safety. Discretionary parole would also seem and expect to have a positive impact on the motivation of the offender to change, unlike automatic parole which cannot provide an incentive for good behavior in custody or for the participation in programs. As mentioned by the LRC though, discretionary parole is resource intensive and therefore there must exist a guarantee that all offenders will be subject to supervision upon leaving custody. Originally NSW had a system entirely of discretionary parole. Automatic parole, on the other hand, serves other purposes mostly that it ensures that all offenders are subject to a period of supervision.

The LRC recommends allocating offenders to either automatic or discretionary parole via the use of the idea of risk, which is a system worth considering. Since parole decisions are about managing risk, it is suggested that the system could best reflect this by creating a boundary between automatic and discretionary parole based on the level and type of risk posed by an offender. The option put forward includes a risk assessment by Community Corrections as part of sentencing or the risk assessment currently conducted upon an offender's entry to custody. On the basis of this risk assessment, an offender could be channeled into a path for automatic parole (with appropriate safeguard in place) or discretionary parole. Offenders subject to automatic parole would be released to parole at the end of the non-parole period and offenders subject to discretionary parole would be considered for release by SPA at end of the non-parole period. As purported by the LRC this system would aim to ensure low risk offender are automatically released and high risk offenders are actively considered by SPA for discretionary release.

As the LRC recommends, parole should continue to be unavailable for sentences for six months or less, on the basis that the potential period for release is too short to serve any useful purpose. Given the importance of public safety in the objectives of sentencing, all sentences should aim to rehabilitate and contain offenders (for instance, community-based sentencing options may offer greater flexibility and support to address and deal with the causes of an offender's behaviour). This is also echoed in Association members views (as previously mentioned);

> *...parole should not be automatic, easing the burden on the SPA committee members and saving time in hearings for ineligible candidates.*

Question 1.3: Difficulties for accumulated and aggregate sentences

What changes should be made to legislation for aggregate and accumulated approaches to sentencing to ensure consistent outcomes for parole?

As the LRC recommends the inconsistency and difficulties with accumulated and aggregate sentences can possibly be resolved by an additional provision allowing the parole decision maker for an offender with accumulated sentences to be determined by they effective length of the offender's accumulated sentences.

Question 1.4: SPA's power to take over decision making responsibility

1. **What safeguards should there be on automatic parole?**
2. **Should there be any changes to SPA's power to take over parole decision making for offenders with court based parole orders?**

In answer to the above question, Police Association members voiced the following concerns with SPA's power to take over decision making responsibility;

> *When considering parole conditions, the SPA should give consideration to their ability to enforce those conditions and specifically, the workload of case officers charged with such enforcement and oversight. If a parole condition is unenforceable or difficult to enforce (such as the recent Skaff rape case example where there were obvious accommodation issues) then that condition should not be considered due to the high risk to the community, which is the primary aim of the SPA.*

The LRC too states that it would seem appropriate for a safeguard to be in place so that SPA takes over decision making if circumstances change, an offender has no suitable post-release plans or the offender poses a risk of reoffending; the alternative being that a legislative requirement for offenders to be released at the end of the non-parole period unless SPA orders otherwise. As the LRC states, this may overcome the perception that automatic release is the sentencing court's intention and may address some of the dissatisfaction or misunderstanding that arises from this perception. It may also overcome problems that arise at time when the court does not make a parole order.

Question 1.5: Supervision conditions on court based parole orders

Should there by any changes to the way supervision conditions are imposed on a court based order?

Supervision was identified by Community Corrections as being a key factor in reducing the risk of recidivism and so supervised offenders were considered less likely to reoffend on parole than offenders with little or no assistance from Community Corrections. In align with trying to address the problem of accommodation after release, the LRC recommends that the Corrective Services NSW assess an offender's access to accommodation and begin making plans for accommodation at an early stage of the offender's sentence. The possibility in specifically addressing this in this way is very much worth

considering. The purpose of parole is really to assist the integration to the community, allowing an offender to connect with services and to be subject to a period of supervision.

> *...the real challenge starts when the person actually gets out of prison onto parole. And particularly those offenders who have spent a long time in prison and need some very considerable reintegration support.* Spoken by Peter Severin, Commissioner, Corrective Services NSW, October 2013

Question Paper 2:

Membership of the State Parole Authority and Serious Offenders Review Council

This question paper examines the membership of the State Parole Authority (SPA) and the Serious Offenders Review Council (SORC).

Question 2.1: Membership of SPA

1. **Does the balance of members on SPA or SPA's divisions need to be changed in any way?**
2. **How can the selection and performance of SPA's community members be improved?**
3. **Should SPA's community members be representing the community at large or be representing specific areas of expertise?**

The Authority's members must be drawn from a diverse background enabling a wide breadth of experience and depth of knowledge. Police Association members have commented on the quorum for an SPA meet to be comprised of the following;

> *The quorum for an SPA meeting should be reviewed with a view to increasing it to include at least one member from each nominated group and two police members to increase the community representation and reduce the likelihood of the casting vote going to a judicial member.*

The need for a formalized process and set of selection criteria may better ensure that all community members have the interest, capacity and expertise to be parole decision makers. This may improve the quality of community members appointed as well as increase the transparency of the selection process. As the LRC recommends parole decision making may be more robust if community members represent specific areas of expertise. Perhaps there needs to be more of an effort to employ skilled clinicians and psychologists and psychiatrists and experts that are able to analyse data from the base set of information – experts that are capable at looking at reports, questioning these reports, going through them in considerable detail, and who can also challenge some of the statements that are made. There also need to be resources available to parole officers where they can call on such specialists to help guide them and share that risk and make assessments, including perhaps making the recommendations for parole and what conditions may look like as well. Relevant expertise includes an understanding of offenders and the criminal justice system. Alternatively, community members could each be required to represent specific expertise or a section of the community.

As the LRC states, police and Community Corrections members of the SPA can provide valuable expertise to inform SPA's decision making.

Question 2.2: Membership of SORC

1. **How can the selection and performance of SORC's community member be improved?**
2. **Should SORC's community members be representing the community at large or be representing specific areas of expertise?**

The representation of specific areas of expertise is by far more preferable. Unlike other states, the State Parole Authority in NSW has the luxury of having the serious offenders review council that manages the incarceration of serious offenders throughout their incarceration. They interview a prisoner every six months and the council is chaired by a retired Supreme Court judge and unless they recommend to the SPA that the inmate should be released or that they are eligible to be released. At the end of the day it's the decision of the NSW Parole Authority, whether they do or don't take on the recommendation. SPA cannot release someone to parole. So SORC does a lot of good monitoring and mentoring. SORC are the people that have to be convinced that the person that comes before them has done appropriate programs, and are not manipulating the system.

Question Paper 3:
Discretionary parole decision making

This question paper discusses the parole decision making of the NSW State Parole Authority (SPA). It looks at SPA's initial decision to grant or refuse parole for an offender, and the avenues for review, appeal or reconsideration of that initial decision.

Question 3.1: The public interest test

Should the current public interest test in s135(1) of the CAS Act be retained, or does the Queensland test, or something similar, better capture the key focus of the parole decision?

As the Association has mentioned already, ultimately, the purpose of parole is to promote public safety by supervising and supporting the release and integration of prisoners into the community, thereby minimising their risk of while they are on parole and after they complete their sentences. Therefore, if an offender does potentially pose a risk, either because of the likelihood of reoffending or because of special needs, that person should be released under parole supervision, rather than be retained in prison and then at a later date released without such supervision. It is quite imperative that a prisoner is provided supervision and support particularly in the first six to 12 months after their release from prison. This has been deemed to be the critical period that can have an impact on whether a person released from prison resettles or reoffends.

The Queensland test does a good job of capturing the key focus of the parole decision; that is, it places its highest priority as the safety of the community and in terms of the safety of the community, the decision maker must consider whether there is an unacceptable risk to the community if the offender is released, and whether the risk to the community would be greater if the offender does not spend time on parole.

> *1.2 When considering whether a prisoner should be granted a parole order, the highest priority for the Queensland Parole Board ("the Board") should always be the safety of the community.*
> *1.3 The Board should consider whether there is an unacceptable risk to the community if the prisoner is released; and whether the risk to the community would be greater if the prisoner does not spend a period of time on parole.*

The test also includes the important balancing consideration of the risk to the community if the offender is not released on parole and is instead released without supervision at the end of the head sentence. As the LRC states, the Queensland test is similar to the one LRC proposed in 1996 except that it explicitly includes the concept of 'risk'. This is quite significant and corresponds with the Association's view. The Queensland test also includes the balancing consideration of the risk to the community if the offender is not released on parole and is instead released without supervision at the end of the head sentence. This too is significant as SPA must consider not only what the risk would be if releasing the offender on parole but also will the risk be higher if releasing the offender at the end of the full sentence. Therefore SPA must determine which alternative is likely to result in the lowest risk; incapacitation in prison until the end of the head sentence; or release to at least some period of parole supervision and support. As mentioned already, if an offender does potentially pose a risk, either because of the likelihood of reoffending or because of special needs, that person should be released under parole supervision, rather than be retained in prison and then at a later date released without such supervision. For a person who is considered potentially dangerous or with special needs, that situation creates a greater degree of threat to the community than if the person was released under the supervision and control of the parole board.

Question 3.2: The matters that SPA must consider

Should any matters for consideration be added to or removed from the lists in s135(2) and s135A of the CAS Act?

As the LRC recommends, one matter which is included in most jurisdictions but not covered in NSW is the offender's behavior during any previous period on parole, period of leave or community-based sentence. This matter is broader than the offender's criminal history or behavior in custody and would specifically direct SPA's attention to previous breaches of parole conditions or the conditions of other sentences and programs. This is quite a significant consideration to be added to the list of the CAS Act (apart from this consideration, the list is quite exhaustive nevertheless). Other matters include the offender's security classification and participation while in custody in work and external leave arrangements.

135 General duty of Parole Authority

(2)In deciding whether or not the release of an offender is appropriate in the public interest, the Parole Authority must have regard to the following matters:

- *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, the Commissioner or any other authority of the State,*

  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.*

135A Preparation of reports by Probation and Parole Service

A report prepared by or on behalf of the Probation and Parole Service for the purposes of section 135 must address the following matters:

- *a) the likelihood of the offender being able to adapt to normal lawful community life,*
- *b) the risk of the offender re-offending while on release on parole, and the measures to be taken to reduce that risk,*
- *c) the measures to be taken to assist the offender while on release on parole, as set out in a post-release plan prepared by the Probation and Parole Service in relation to the offender,*
- *d) the offender's attitude to the offence to which his or her sentence relates,*
- *e) the offender's willingness to participate in rehabilitation programs, and the success or otherwise of his or her participation in such programs,*
- *f) the offender's attitude to any victim of the offence to which his or her sentence relates, and to the family of any such victim,*
- *g) any offences committed by the offender while in custody, including in particular any correctional centre offences and any offence involving an escape or attempted escape,*
- *h) the likelihood of the offender complying with any conditions to which his or her parole may be made subject,*

i) in the case of an offender in respect of whom the Drug Court has declined to make a compulsory drug treatment order on the ground referred to in section 18D (1) (b) (vi) of the Drug Court Act 1998, the contents of any notice under section 18D (2) (b) of that Act.

So, in short, when deciding whether to release an offender on parole, the Authority must consider the safety interests of the community, the rights of the victim, the intentions of the sentencing authority and the needs of the offender. The Authority must consider a broad range of material when deciding whether or not to release an inmate to parole and must have determined that it has sufficient reason to believe that the offender, if released from custody, would be able to adapt to normal lawful community life. It must take into account a broad range of material that 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
- judge's sentencing remarks
- the OIMS (a document from CSNSW that details an offender's sentence details)
- Pre-Sentence Report
- And in the case of serious offenders, a report from the Serious Offenders Review Council (SORC).

The principal purpose of granting parole must be to serve the public interest by closely supervising the offender during his or her period of reintegration into the community. In all cases, strict conditions of parole must be imposed and the Authority may also set additional conditions specifically tailored to address the underlying factors of an inmate's offending behaviour.

Members of the Police Association had the following to say on an issue of parole from interstate; highlighting the need for parole law (as a whole) needs to be clear, simple and effective enough for police to apply and be understood so as to ensure that police are able to protect the community and themselves.

> *Person Of Interest from interstate given bail from Victoria Melbourne Magistrates Court to Country NSW (Muswellbrook). Due to the charges, high intoxication, on drugs, breach AVO, then used a car/truck to slam into a small car killing driver. Anyway, Victorian Police not happy nor are we about Person Of Interest being placed with us.*
>
> *Victoria Courts had a page of bail compliance, including curfew and not attend any ports of departure. Issue is that under our law NSW Police can't enforce the bail.*
>
> *Whilst here in NSW, she breached bail, assaulted our officers (scratched female officer drawing blood), Malicious damage (Graffiti dock with her faeces) breach AVO from ex-husband, attended airport (was a flight risk), assaulted new partner, using drugs, intoxication, got thrown out of mothers home, mental health issues (Bipolar), etc. So had NSW bail then put on her for some of these charges in NSW, which we could enforce for a short time. NSW court gave Good Behavior Bond.*

Unfortunately, Victoria courts would not allow extradition until she failed to turn up to court down there. Only reason she was in NSW on bail was her mother had moved here. Victorian Police never wanted her released from goal.

So what happens when she gets parole? Can police in NSW enforce parole orders from interstate?

Have tried to raise this in other areas but getting nowhere. Everyone states they don't know what we can do to stop interstate courts? My concerns relate to putting our officers at risk, costs to NSW tax payers and lack of legislation to cover this issue.

Question 3.3: Specific issues given weight by SPA

1. **Should any changes be made to the way SPA takes completion of in-custody programs into account when making the parole decision? If so, how?**
2. **Should any changes be made to the way SPA takes security classification into account when making the parole decision? If so, how?**
3. **Should any changes be made to the way SPA takes homelessness or lack of suitable accommodation into account when making the parole decision? If so, how?**
4. **Are there any issues with the way that SPA makes decisions about risk?**

Firstly it is imperative that programs are effective and are shown to be an efficient use of resources which is why in-custody programs need to be evaluated for evidence that they are effective in reducing reoffending. Also there really is no standard set of figures to see what works and what does not work. To measure re-offending and to work out whether having a parole period or reduced parole period is quite significant to determine. Perhaps the Productivity Commission could have a role to play here to try and establish common sets of statistics across Australian jurisdictions.

An offender's security classification must depend on a mix of factors, of which should include, behavior in custody, criminal history, assessed risks and length of sentence.

In regards to post-release accommodation, Corrective Services NSW announced that more resources will be directed at ensuring non-government organisations and community groups can provide accommodation for offenders.

As the LRC states, Scotland is a leader in offender risk assessment. It has created an independent Risk Management Authority (RMA) that accredits specialised clinicians to assess the reoffending risks posed by the limited group of serious violent or sex offenders who are being considered by courts for an Order for Lifelong Restriction. The RMA mandates the structured professional judgement (SPJ) approach to risk assessment. The approach may use the results of actuarial risk assessments but also incorporates other clinical factors. The SPJ approach is carried out according to an SPJ tool that ensures that the resulting risk assessment and synthesis of risk factors into a risk rating is structured and transparent rather than instinctive. As the LRC recommends, it might be ideal for SPA to have a risk of reoffending score for every offender generated from an SPJ approach and be required to consider this score when making the parole decision. This would avoid the problems raised by detractors of the actuarial risk assessment tools but also ensure that SPA's judgments about risk are impartial, consistent and evidence-based.

Question 3.4: Deportation and SPA's parole decision making

Does there need to be any change to the way SPA takes likely deportation into account when making the parole decision?

When it comes to likely deportation when making a parole decision, SPA takes into account quite an exhaustive list already of which includes;

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, and
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

Question 3.5: SPA's caseload and resources

Do any changes need to be made to SPA's administrative practice, workload or resources?

As the LRC accurately details, the majority of SPA's caseload at both the private meetings and public review hearings comes from revocation matters, not decisions about initial grant or refusal of parole.

In terms of caseloads and resources and as a general point, and in the words of a NSW parolee supervisor; probation and parole officers do have a lot of different roles that they need to fulfill as part of the job and they are supervising people on probation as well. For instance, they are writing pre-sentence reports, they might be running groups for offenders, they are not taking on home detention clients. They have caseloads on average of 40-50 offenders and for many of those probation officers are working in areas with few resources to assist the offenders in addressing the conditions of their parole and issues around their offending behavior. There are long waiting times to see drug and alcohol workers. Mental health services are often lacking in rural and regional areas. It is very difficult to say how intensively somebody can be supervised when there is not a lot of support around doing that. Such issues need to be addressed if parole is going to work.

Question 3.6: Planning for parole and assistance with parole readiness

What changes (if any) are needed to improve parole planning and ensure that suitable offenders can demonstrate their readiness for parole?

Early parole planning (for instance, Community Corrections formally involved in early parole readiness planning process to inform offender exactly what will be expected towards the end of the sentence) could go towards streamlining the provision of in-custody programs, give more lead time to finding suitable accommodation and also allow time to plan other ways that an offender with no community support or access to external leave, can demonstrate parole readiness. Another alternative recommended by the LRC would be for SPA (with the support and advice of Community Corrections) to be involved in approving a treatment and parole readiness plan for an offender.

Question 3.7: Victim involvement and input into SPA decisions;

1. **Should victims' involvement in SPA's decisions be changed or enhanced in any way?**
2. **Does the role, purpose or recommended content of victim submissions to SPA need to be changed or clarified?**

As mentioned already, when deciding parole, consideration is generally given to factors such as the offender's risk of reoffending, the degree to which the offender's behaviour has been addressed, and the adequacy of release plans (Hood & Shute 2000). While it has been common for parole boards to give consideration to the likely effect of an offender's release on the victim, direct representations by such victims have become an increasingly common practice (Bernat, Parsonage & Helfgott 1994). Victim submissions are almost standard procedure in the United States, but very little is known about victim

involvement in Australia. As there is no consistency across Australian jurisdictions about the purpose of victim submissions, perhaps there does exist a need to clarify the purpose and recommended content of victim submissions in NSW in order to ensure they are given appropriate weight by SPA and that victims are encouraged to provide the most relevant information in accordance to SPA's decision making. It is also important that victims do need to be informed clearly as to the manner in which their submission will be used, and whether it is merely an opportunity for them to express themselves. Perhaps legislators may need to specify more clearly the way in which parole boards should use victims submissions.

In 2005 the Ombudsman found that there was adequate assistance provided to victims throughout their involvement in the parole process, however, as the LRC states, it was not clear whether victims needed more assistance in other areas like understanding the parole process or the role of the Victims Register. There is a need for a reliable indication of the extent to which victims actually become registered, or how proactively victims are informed of their rights and the registration process. This is quite significant as without advance notice of a parole hearing there can be no real opportunity to make a submission.[5]

Victim submissions have shown to have an effect upon parole decisions. Research conducted in the US (Parsonage, bernat and helfgott 1992) in summary, revealed that the presence of a victim impact statement had significant impact on the parole outcome across all types of offence, offender and victim. The mere presence of a victim's impact statement predisposed the board towards denying parole. The study found that parole was refused in 43% of the victims' impact statement cases and 7% of the non-statement cases. This contrasted with the board's own decision-making guidelines that suggested parole should have been denied to 10% of the victims impact statement cases and 7% of the non-statement cases. Given though the differences that exist between the various Australian jurisdictions, a comparison of the strengths and weaknesses of each system would be valuable.[6]

Question 3.8: Role of the Serious Offenders Review Council

1. **Should the separate parole decision making process for serious offenders be retained?**
2. **If yes, do any changes need to be made to the role played by the Serious Offenders Review Council in parole decisions for serious offenders?**

Yes, the separate parole decision making process for serious offenders should be retained. In NSW, serious offenders are effectively scrutinised more carefully through the double consideration of SPA and SORC (after-all it is these offenders who are likely to be the ones posing the highest risk to the community).

> *...higher priority cases should receive greater attention, more intensive supervision and be better assessed than they are now.* By Professor Ogloff, The Parole System in Victoria, July 2013.

As the LRC succinctly puts it, SORC's functions give it special knowledge of serious offenders by the time they reach the end of their non-parole periods. Members of SORC will have personally interviewed a serious offender several times over a period of years to inform its recommendations about security classification and placement. SORC will be familiar with the offender's case plan, criminal history, personal background and rehabilitation efforts. In effect, SORC performs a case management role for these offenders and so may be best placed to reach a considered decision about their risks and readiness for parole. The only change we would recommend is that SORC (as it had informed the LRC) be better synchronized with Community Corrections.

Police Association members have voiced the following concerns in relation of serious offenders;

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[5] Matt Black, Victim Submissions to Parole Boards: The Agenda for Research, Trends & Issues, Australian Institute of Criminology, May 2003, Canberra.

[6] Matt Black, Victim Submissions to Parole Boards: The Agenda for Research, Trends & Issues, Australian Institute of Criminology, May 2003, Canberra.

My main concern is with prisoners who are nearing release and who are still a high risk of seriously offending again, eg murderers, rapists, pedophiles, armed robbers. It is difficult to predict dangerousness, I believe that if it cannot be predicted on the balance of probabilities that the prisoner will be safe in the community that they be continued to be detained until it can be predicted that they will be safe. I believe in relation to serious offenders who are released on parole that;
the reasons of the parole board be recorded and made publicly available on the internet
the votes of the board members responsible be recorded and publicly available on the internet
there be a period of time the prisoner be required to wear a GPS tracking device
the parolee be subject to parole checks at any time by Corrective Services and or delegated Police

Question 3.9: A different test for serious offenders

Should SPA apply a different test when making the parole decision for serious offenders? If yes, what should it be?

As mentioned earlier, in the interests of society, special provision should be made in respect of parole for violent offenders and serious sexual offenders including pedophiles. These offenders need special and more careful consideration before they are released on parole than other offenders. They constitute an obvious and greater threat to society than most other offenders. This too was emphasized in the recent Callinan review of the parole system in Victoria.

The LRC makes mention of the Callinan review of the parole system in Victoria which recommended that a stricter test should be applied to parole decision making for serious offenders. In the NSW system (as mentioned already) serious offenders are effectively already scrutinised more carefully through the double consideration of SPA and SORC, unlike the Victorian system. As mentioned already, the Serious Offenders Review Council which manages the incarceration of serious offenders right throughout their incarceration; interview a prisoner every six months and that council is chaired by a retired Supreme Court judge which recommends to the State Parole Authority that the inmate should be released or that they are eligible to be released. So the serious offenders review council manages and administer a good deal of monitoring and mentoring. It is these people that have to be convinced that the person that comes before them has done appropriate programs and are not manipulating the system. It does seem quite a rigorous process for prisoners to go through before they get to the State Parole Authority. However, as the LRC recommends, it may be possible to design a different test that SPA must apply when making the parole decision for serious offenders that would give greater emphasis to community safety. Additional empirical evidence is needed to whether such tests are more viable than current ones. Also, in align with this issue, when prisoners do courses to qualify for parole, is there any way of knowing whether such courses make any difference to the behavior of a prisoner once they are released? Is there any proper and or detailed evaluation conducted on any of the courses offered in NSW jails?

Question 3.10: Security classification and leave for serious offenders

Are there any changes that can be made to improve the interaction between security classification, access to external leave and the parole decision for serious offenders?

As the LRC explains, because SPA and SORC place considerable importance on external leave and the Commissioner controls access to leave, the Commissioner is able to affect the parole decision for serious offenders. This may be desirable in some circumstances, for example if the Commissioner has access to police intelligence about the offender not available to SORC or SPA. However, the Commissioner's role may be seen as undermining the decision making responsibility of the two bodies—SORC and SPA—specially created through the CAS Act. An alternative approach (recommended by the LRC) is to restrict the Commissioner's power to disregard SORC's recommendation about the security classification of a serious offender. It was suggested that the Commissioner's discretion could be limited to cases where he or she is privy to extra information not available to SORC. This is worthy of consideration in order to

improve the interaction between security classification, access to external leave and the parole decision for serious offenders.

Question 3.11: Submissions by the Commissioner and the State
Do any changes need to be made to the powers of the Commissioner and the State to make submissions about parole?
As the LRC considers, contradictory submissions may help to safeguard transparency by ensuring that the arguments for or against parole are fully discussed and examined as the decision to make a submission is influenced by a range of matters that include, suitability of post-release plans, an offender's progression through the system of security classification, custodial behaviour, program participation and whether suitable referrals to services or programs are in place. As the LRC rightly states, the power to make submissions is a valuable tool in ensuring that tough decisions are made.

Question 3.12: Parole and the HRO Act
What changes, if any, should be made to improve the interaction between parole decision making and the provisions of the Crimes (High Risk Offenders) Act 2006 (NSW)?
In NSW (and some other states) for the very high risk sex offenders and high risk violent offenders – there is a provision if towards the end of the sentence the assessment is made that they present an unacceptable risk of re-offending then their sentence can effectively be extended either by continuing detention that is beyond the period of sentence or by extended supervision. As the LRC articulates, the interface between parole decisions and applications for continuing orders may need to be improved as this type of information like continuing orders will be relevant to SPA's assessment of risks. The LRC suggests bringing forward the date at which the State may apply for a continuing order but the Police Association disagrees with this suggestion and is of the view that it remain as is currently, six months. Alternatively, there could be a mechanism to require the State to formally indicate to SPA or SORC at an earlier stage that an application under the HRO Act will be made.

To reiterate the Association's concerns, in the interests of society, special provision should be made in respect of parole for violent offenders and serious sexual offenders including pedophiles. These offenders need special and more careful consideration before they are released on parole than other offenders. They constitute an obvious and greater threat to society than most other offenders

Question 3.13: The definition of "serious offender"
Should any change be made to the current definition of "serious offender"?
In an attempt to align the definitions of "serious offender" (sentence length based) and the term "high risk offender" (offence based) the LRC has suggested that if the true purpose of SORC is to provide an extra layer of case management and consideration for those offenders most likely to pose a high risk to community safety, it may be beneficial for the definition of "serious offender" to be amended to capture all those who are assessed as high risk under the LSI-R. This suggestion could work. Alternatively, it could be changed to include the offenders who meet the definition of "high risk offender" for the purposes of the HRO Act.

Question 3.14: Parole in exceptional circumstances
Are there any issues with SPA's power to grant parole in exceptional circumstances?
The release of an offender before the expiry of a sentence or non-parole period may be considered if the offender is dying or there are other exceptional, extenuating circumstances. As LRC points out SPA has made only limited use of the power to order parole in exceptional circumstances.

> *s160 Parole orders in exceptional circumstances*
> 1. *The Parole Authority may make an order directing the release of an offender on parole who (but for this section) is not otherwise eligible for release on parole if the offender is dying or if the Parole Authority is satisfied that it is necessary to release the offender on parole because of exceptional extenuating circumstances.*

2. *The Parole Authority is not required to consider an application for a parole order under this section, or to conduct a hearing, if it decides not to grant such an application.*
3. *Divisions 2 and 3 do not apply to a parole order under this section.*
4. *This section does not apply in respect of an offender serving a sentence for life.*

In 2012, parole was ordered in five parole cases 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.

Question 3.15: Offender involvement and input into SPA decisions

1. **Should there be more scope for offender input and submissions to SPA at the first stage of the decision making process (ie the private meeting where a decision is taken or an initial intention formed)?**
2. **Should any change be made to the availability of public review hearings after a decision is made to refuse parole?**
3. **Is there currently sufficient assistance available to help offenders make meaningful applications for and submissions to review hearings, and to help offenders understand what happens at review hearings?**
4. **Are there any problems with offenders not being provided with the material which supports SPA's decisions?**

As already mentioned the NSW parole decision making process is considered one of the most robust and transparent of processes in the Australia. As the LRC points out, few other jurisdictions make any provision for public hearings or reasons for decisions.

It's relevant to note of an important issue raised in the Callinan review of the Victorian parole system was its rejection of any need for review hearings, on the basis that they are:

- unnecessary
- expensive, and
- exercises in futility in many cases,

and that arguments for their availability:

- mischaracterise the executive function of parole decision making as a judicial function, and
- assume a "right" to parole that does not exist.

And as the LRC rightly puts it, overall, unless there are significant problems with the cost or conduct of review hearing, that SPA is well placed to determine whether a review hearing is necessary. Review hearings are also a significant mechanism for victims to contribute to parole decision making.

Question 3.16: Reasons for SPA's decisions

Should any changes be made to the manner or extent to which SPA provides reasons for its decisions?

There is no legislative requirement for SPA to notify an offender of the reasons for its decision or to make its reasons public (though in the event that a parolee commits a serious crime, SPA should be obliged to make public its reasons for recommending parole). In practice however, where SPA has decided to refuse parole, it provides the offender with a summary of its reasons. There is a suggestion though that in order to make the parole system more understandable to the general public (ie raise public confidence and transparency among the general public), that it publish reasons for a greater range of decisions online. If this can lead to greater transparency in the decision-making process and the aim being above all to ensure the decisions were in the community's best interests, then this is worthy of consideration. Members of the Police Association have voiced similar concerns in their submissions;

> *...in relation to serious offenders who are released on parole, that,*
> *The reasons of the parole board be recorded and made publicly available on the internet;*

The votes of the parole board members responsible are recorded and publicly available on the internet;

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.

Question 3.17: Appeal and judicial review of SPA's decisions

Should there be any changes to the mechanisms for appeal or judicial review of SPA's decisions, including the statutory avenue in s155-156 of the CAS Act?

As the LRC advises, back in 1996, it recommended that the limited statutory right to apply to the Supreme Court be abolished on the basis that, as it is narrowly drawn and interpreted strictly, it lacks any real utility. Furthermore, practitioners from Legal Aid NSW have also commented that the statutory right "is relatively useless as it is difficult to prove and it does not mean an inmate will be released". At the same time, Legal Aid practitioners have found the process of applying to the Supreme Court for common law judicial review "complex, expensive and difficult to win".

Question 3.18: Reconsideration after refusal of parole

1. **Should the 12 month rule (as it applies to applications for parole after parole refusal) be changed in any way? If so, how?**
2. **Are there any issues with the requirement to apply for parole reconsideration or the assistance that offenders receive to apply?**

Bearing in mind of the principle that "parole is a privilege, not a right"; (and is not to be taken lightly) the LRC suggests, as an alternative to the 12 month rule would be for SPA to specify a reconsideration date. SPA could announce a reconsideration date when it notifies an offender that parole has been refused. Leaving the reconsideration date to SPA's discretion would also allow SPA to take into account the interests of any victim.

Question 3.19: Drug Court as a parole decision maker

Are there any issues with the Drug Court's operation as a parole decision maker?

Offenders may be referred to the Drug Court of NSW after being sentenced to imprisonment in a Local or District Court. All in all it is quite a rigorous process leading up to the consideration of parole, where a multi-disciplinary team will discuss the issue with the offender. The offender may not seek parole, in which case this will be reported to the Registrar of the Drug Court and no further action will be taken. If the offender wishes to be considered for parole, a Community Corrections officer will prepare a pre-release report including a recommendation from the multi-disciplinary team. This report is provided to the Drug Court ten weeks before the end of the offender's non-parole period.