

To whom it may concern,

We understand the current pressure both in the media and from political parties in putting forward a “tough on crime” approach to parole particularly following the Jill Meagher case. Whilst public perspective reflects the idea that parole is a less severe punishment, we believe that this is in fact not the case and that the current parole system is stringent. Our answers to these questions do not necessarily place fault in the parole system, but rather Corrective Services and the flaws that lie in preparing offenders for release into the community.

We are open to face-to-face meetings regarding this matter should they be required, and we give full permission to publish their submission on your website.

Should you have any queries, please do not hesitate to contact us. We look forward to the release of the remaining question papers.

Regards,

The Justice Action Team

Question 1.1 – Retention and objectives of parole

(1) Should parole be retained?

Although Justice Action is of the opinion that parole should be retained, there are many factors we believe should be taken into consideration. In order for parole to be retained and effective there should be greater support services both during non-parole, and parole periods. The nature of incarceration means many offenders experience disempowerment, bitterness towards the justice system and lack of support. This is because non-parole periods are not being used to promote the education and development of those incarcerated. Without the rehabilitative services that should be provided during the non-parole period they are at a higher risk of breaching their parole conditions when released. In order for parole to be retained, Justice Action suggests implementing a support system or mentoring program for those on parole that, although it is associated with Corrective Services, has no authority to re-incarcerate or make orders regarding the parolee. This will establish a relationship of trust, (which is often absent from the relationship between parole officer and parolee) and we believe will further the parolee in their efforts to be rehabilitated.

While parole should be retained we believe the focus should be on the rehabilitative services that should be consistently provided from the beginning of an offenders apprehension. Such services that could reduce the likelihood of recidivism are; access to legal services, computers in cells to promote empowerment through access to learning materials and resources, and support services akin to a mentoring program to assist offenders in successful reintegration with the community. Without the implementation of effective, accessible, empowering, and educational rehabilitative programs in prison, parole will always be ineffective and its validity will always be questioned.

(2) If retained, what should be the objectives of the parole system in NSW?

Law Reform's primary objectives:

- a. Reducing offending:
- b. Incentive to address offending behaviour
- c. Re-integration and supervised release
- d. Risk management

We believe that the current objectives as stated by the New South Wales Law Reform Commission are in line with Justice Actions views. However, we believe that in order for parole to be retained, the current methods used to achieve these objectives should be reviewed. Currently there are flaws in the preparation of individuals for parole, thereby reducing the likelihood of these objectives to be achieved. We propose that the above-

mentioned objectives can happen prior to the parole period. Each of these concerns has a solution through adopting the following justice reform initiatives whilst an individual is incarcerated;

1. Restorative Justice; by implementing restorative justice practices a community focused response to crime can occur, which emphasizes building social cohesion and reducing re-offending by encouraging prisoners to take responsibility for the effects of their behavior. This is in line with the Law Reform commissions wish to use parole to address offending behavior by ensuring the person offender takes responsibility for their actions.
2. Cognitive Behavioural therapy; Cognitive behavioral therapy aims to change the behavior of issues causing concern. While this may currently be implemented into rehabilitation programs it should be accessible to offenders at all stages from arrest, to reintegration into society, and furthermore be facilitated in safe, private and individualized environments. This can directly contribute to not only reducing offending, but promoting risk management through reducing recidivism.
3. Remission; remission uses reduction in prison sentences as an incentive for good behavior and self-improvement. By allowing prisoners to have some control of their own future they develop a sense of responsibility and are given incentive to serve their sentence productively with the mindset of looking forward.
4. Computers in cells; Education is proven to reduce the likelihood of recidivism. Computers in cells provide prisoners with the ability to participate in training and educational programs, as opposed to the inactivity and boredom generated by access to limited technology such as television.

(3) Should there be an explicit statement of the objectives or purposes of parole in the *Crimes (Administration of Sentences) Act 1999* (NSW)?

Justice Action believes it is beneficial to state the objectives or purposes of parole. We believe that by having an explicit statement it provides clearly defined criteria of which to assess parolees, and could lessen discrimination as judicial discretion is kept to a minimum.

As well as this, we propose that each individual create a parole agreement in conjunction with their management plan or already set criteria from Corrective Services. We believe that this should be created immediately following their sentence. The purpose of a parole agreement is for each offender to create their own criteria for which the parole board assesses their release, essentially to offer a sense of empowerment to the offender in planning their sentence and ensuring they are responsible for not only their crime but their choices in their own rehabilitation and release.

While the parole system needs to be somewhat flexible as prisoners are unique individuals, having a general objective or purpose of parole allows the SPA to ensure that the fundamental aims are adhered to.

Question 1.2 - Design of the parole system

(1) Should NSW have automatic parole, discretionary parole, or a mixed system? - See p. 19

In relation to our above proposal for an individualised parole agreement, we would suggest an automatic parole subject to the offender meeting the criteria as set out not only by themselves but any criteria put forward by Corrective Services.

(2) If a mixed system, how should offenders be allocated 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?

We believe a similar approach to the Offender Rehabilitation Bill 2013 (UK) should be considered when addressing supervised reintegration into society by offenders. Currently in the UK, a mechanism aims to ensure that all offenders, even those serving short sentence are supervised for 12 months after release from custody. Under the mechanism, all offenders will be released to parole at the halfway point of their sentence; as a result offender is at lower risk of reoffending, and has a higher possibility to successfully reintegrate into the community.

Legal Aid NSW suggested that the three year cut off for court based parole orders be extended to apply to head sentences of up to five years. It is reasonable, as offender needs to be in custody for a sufficient length of time to reintegrate into the community and lower reoffending.

The involvement of the NGO in providing support is an idea that should be adopted. Australian Prison Foundation, a non-profit organization dedicated to providing assistance to those touched by prisoners in Australia by support and assist reach into Australian prison, provide information and support prisoner, prisoner families and forming partnership of support with other prison group. Australian Prison Foundation is a mechanism that links offenders to the communities.

Further, the cost of incarceration is far greater than the cost of organizing periodic meeting for a period of time. Therefore continual supervision and support in reintegration for offenders serving sentence is important.

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 outcome for parole?

Consistent outcomes for parole can be ensured by giving offenders effective sentence of the same parole condition under accumulated and aggregate sentences. Judicial inconsistency might occur among parole orders, however it can be resolved by the creation of an additional provision to ensure the parole decision maker has the knowledge of the effective length of the offender's accumulated sentence.

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

(1) What safeguards should there be on automatic parole?

In proposing an individualised parole agreement, we believe there will be less individuals who re-offend whilst on parole, as they have been empowered through the heavy involvement in planning their own sentence and working towards their release. The State Parole Authority should only have the ability to question the release of offenders who have not followed both their own parole agreement, and any further criteria as set out by Corrective Services.

There should also be safeguards by way of the privacy of the offender following automatic parole. In certain cases, parole hearings have come under intense scrutiny by the media. We believe that in situations where automatic parole is granted the offender have a right to privacy one that parallels the level of privacy that is awarded in family and youth courts. That is, that it is closed to the media and public, and that individuals do not have their names published. Breaches of privacy undermine an offender's ability to re-enter the community safely, one of the principle objectives and aims of parole.

(2) Should there be any changes to SPA's power to take over parole decision making for offenders with court based parole orders?

The SPA should not be given the power to revoke orders made by the court. Rather, they should have a role in which they are able to flag certain offenders whom they deem not suitable for parole.

Question 1.5 – Supervision on court based parole orders

Should there be any changes to the way supervision conditions are imposed on a court based parole order.

As difficult as it is to implement, there needs to be an approach that moves away from a culture of disaffection. The proposed changes removing compulsory supervision are in the vein of this culture. By not providing supervision and support there is a feeling that

former inmates are still not properly integrated into the community. Continual support is an essential part of the process ensuring the parole system is as effective as possible.

Question 2

1. Does the balance of members on SPA or SPA's division need to be changed in anyway?

Yes, we believe changes need to be made in regards to the balance of members on SPA. Most importantly, at least one individual who has been incarcerated and has personal experience with the parole system should be a member on SPA. With intimate knowledge of the parole system from the parolee's view, they would be able to share their experiences and advise other members of any issues they believe should be addressed.

In addition, a greater cross-section of the community should be represented, with a particular focus on including minority groups whose views should be considered, as they are often the ones who are over-represented in the criminal justice system, but are under-represented in the rest of society. The SPA should also include professionals such as qualified medical psychiatric practitioners as well as criminologists and sociologists who are capable of providing informed, educated perspectives on parole matters.

2. How can the selection and performance of SPA's community members be improved?

Currently all SPA community members are appointed by the Governor of NSW on the recommendation of the Attorney General. We propose that half of these members should be appointed by the Council of Social Service New South Wales (NCOSS) as the peak Non-Governmental Organisation with a focus on policy review, advocacy and consultation. Having both a governmental and a non-governmental entity equally contribute to the members on SPA would be beneficial as a regulatory measure to ensure fairness.

3. Should SPA's community members be representing the community at large or be representing specific areas?

It is our opinion that community members should represent the community at large but with a specific focus on representing certain areas, particularly those most affected by parole reforms. The purpose of the SPA is to decide when parole will be granted and though the public interest must be considered, the rights and benefits of the parolee must be given equal weight. With community members representing specific areas, a more informed decision can be made regarding parole matters.

4. How can the selection and performance of SORC's community members be improved?

The selection of SORC's community members should be in line with the selection of SPA community members. Both bodies undertake similar roles and in the interest of uniformity the selection process should be the same. Therefore, we believe that NCOSS should also contribute to half the community members who will be on SORC for the same reasons as stated above in the answer to question 2.

5. Should SORC's community members be representing the community at large or be representing specific areas of expertise?

We believe that SORC's community members should, similar to community members on SPA, represent the community at large but with a specific focus on specific areas of expertise. The reasons for this are as outlined above in the answer to question 3.