NEW SOUTH WALES
BAR ASSOCIATION

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Mr Paul McKnight
Executive Director
New South Wales Law Reform Commission
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Dear Mr McKnight,

Review of the law in relation to parole: question papers 4, 5 and 6

The New South Wales Bar Association welcomes the opportunity to make submissions on the Parole Question Papers 4, 5 and 6.

The broad position of the Association is that the system of parole is generally appropriate and working reasonably well but there are some aspects of the current system, such as the '12 month rule', which are in need of urgent reform.

The response to each of the three question papers is attached.

Question Paper 4

Question 4.1: Case management of offenders in custody

How could case management of offenders in custody be improved to ensure that any issues that may impede successful reintegration on parole are identified and addressed?

The concept of 'through care', which includes 'whole of sentence planning and integrated case management from custody to the community' ought to be fully implemented.

Additionally, consideration should be given to allowing remandees to enter case management and participate in rehabilitation programs on a voluntary basis from their entry into custody. Many, if not most, remandees are ultimately sentenced to imprisonment. Voluntary participation would not offend against the presumption of innocence.

Permitting participation by remandees would allow timely treatment and management of those who are in prison and may become an increasingly valuable strategy given the worsening delays in obtaining trial dates. It would be particularly useful for management and rehabilitation of those offenders who, by the time they are tried and sentenced, have served most of their non parole period on remand.

Further, the Association encourages the implementation of any changes to the classification system which make it simpler and easier for offenders to progress through the system.

Question 4.2: Role of the Serious Offender's Review Council

What changes, if any, should be made to the Serious Offenders Review Council's role in the custodial case management of offenders?

None, other than that SORC should have greater input into the classification of Serious Offenders.

Question 4.3: Custodial rehabilitation programs

(1) How could the process for selecting and evaluating the rehabilitation programs offered to offenders in custody be improved?

It may be appropriate for programs to be evaluated by independent external experts.

(2) How could offenders be given sufficient opportunity to participate in in-custody rehabilitation programs?

The simple answer is by improving funding and resources for such programs. The impression from members of the Association is that the supply of programs is limited and is far outweighed by demand.

Question 4.4: Access to education and work programs in custody

(1) What education and work programs would boost offenders' employability and improve their prospects of reintegration when released on parole?

Literacy and numeracy programs and programs which improve formal educational qualifications such as Year 10 and Year 12 equivalent certificates and trade qualifications would seems most likely to be effective.

(2) Are offenders given sufficient opportunities to access in-custody education and work programs in order to achieve these outcomes?

Opportunities are often limited by lack of resources and difficulties with classifications.

Question 4.5: Short sentences and limited time post-sentencing

How could in-custody case management for offenders serving shorter sentences be improved to reduce reoffending and improve their prospects for reintegration on parole?

Voluntary participation in case management and programs by remandees might provide some improvement. See 4.1 above. The focus with offenders serving short sentences ought to be on stability of housing and employment and appropriate support networks in the community rather than long-term rehabilitation programs.

Question 4.6: Pre-release leave

How could pre-release leave programs be improved to:

1) *prepare offenders sufficiently for life on parole; and*
2) *ensure offenders can access pre-release leave prior to parole?*

The main area for improvement is to the classification system to allow inmates to progress to these programs more readily.

Question 4.7: Transitional centres before release

(1) How effective are transitional centres in preparing offenders for release on parole?

The Association is not in a position to comment upon this question but suggests an independent evaluation of their effectiveness be undertaken.

(2) How could more offenders benefit from them?

By extending their availability to male offenders.

Question 4.8: Back-end home detention

Should the Corrective Services NSW proposal for a back-end home detention scheme, or a variant of it, be implemented?

No. This concept is very different from 'front-end' home detention and would overly complicate the current regime for the imposition and administration of sentences.

Question 4.9: Day parole

(1) How could a day parole scheme be of benefit in NSW?

Day parole might be useful for offenders who, but for the availability of suitable accommodation, would be paroled. They could be released to day parole pending the obtaining of suitable accommodation.

(2) If a day parole scheme were introduced, what could such a scheme look like?

Day parole might look like long day release if it were introduced for the reason described above.

Question 4.10: Re-entry courts

(1) Should re-entry courts be introduced in NSW?

No. The sentencing court and SPA, supplemented by the Drug Court, are enough. The Drug Court should be rolled out to the entire State.

(2) If re-entry courts were introduced, what form could they take and which offenders could be eligible to participate?

Not applicable.

(3) Alternatively, could the State Parole Authority take on a re-entry role?

Definitely not. The State Parole Authority, given its focus on the protection of the community and its composition, is not a suitable forum for a therapeutic model of justice.

(4) If the State Parole Authority were to take on a re-entry role, which offenders could be eligible to participate?

Not applicable.

Question 4.11: Planning and preparing for release to parole

How could release preparation be changed or supplemented to ensure that all offenders are equipped with the information and life skills necessary to be ready for release to parole?

Put simply, by increasing the quality and availability of programs and the number of welfare officers. This appears to be largely a resourcing issue.

Question 4.12: Conditions of parole

(1) How could the three standard conditions that apply to all parole orders be improved?

The three conditions overlap to a significant degree and are unhelpful. The concept of being of good behaviour is synonymous with not committing offences. Apart from the word 'normal', the concept of adapting to normal lawful community life is also very similar. Given the diversity of lifestyles in our community, including the large number of homeless people who do not commit criminal offences, it is suggested that requiring 'normality' is unfair, unnecessary and likely to be discriminatory.

It is suggested that the basic requirements be simplified to: 'not commit any offence'. This would necessitate a change to the considerations for revocation before release. The test would need to be amended to something like: 'that the offender will be unable to comply with the conditions of parole'.

Note: It is submitted that, contrary to what is suggested at 4.109 of the Question Paper, repeatedly being arrested by police and subsequently not being found guilty of any offence should not be a basis for revocation of parole. If such circumstances in fact reflected a risk of further offending, it is likely that they would involve breaches of other conditions of parole, such as abstinence from alcohol or drugs or a requirement to comply with medication for the management of a mental illness.

(2) Should the power of sentencing courts and SPA to impose additional conditions on parole orders be changed or improved?

No.

Question 4.13: Intensity of parole supervision

(1) Are there any improvements that need to be made to the intensity of parole supervision in terms of levels of monitoring and surveillance?

No.

(2) How could the intensity of parole supervision be changed to strike the right balance between:

a. *monitoring for breach; and*
b. *directing resources towards support, intervention and referrals to services and programs?*

By having sufficient resources for case officers to be able to maintain regular contact with offenders.

Question 4.14: Duration of parole supervision

Should the duration of parole supervision in NSW be extended? If so, by how much?

Yes, the 3 year limit is arbitrary. It could be removed altogether. Alternatively, there could be an automatic maximum of 3 years which could be extended by order of the sentencing judge, at sentencing, or on application to SPA before the expiration of the 3 years.

Question 4.15: Information sharing and compliance checking

(1) How sufficient are:

a. *current information sharing arrangements between Corrective Services NSW and other agencies (government and nongovernment); and*
b. *compliance checking activities undertaken by Community Corrections?*

The Association is not in a position to comment on this.

(2) What legal obstacles are blocking effective information sharing between Corrective Services and other agencies (government and non-government)?

If there are privacy considerations, it would be open to Community Corrections to request that an offender provide consent for the obtaining of relevant information from other agencies.

Question 4.16: Electronic monitoring of parolees

(1) How appropriate is the current electronic monitoring of parolees?

It is appropriate for such a facility to be available but its use ought to be reserved for cases where there is demonstrated to be high risk to the community if the offender's movements cannot be monitored. Its use should generally be limited to Serious Offenders and then only upon the recommendation of SORC.

(2) What are the arguments for or against increasing electronic monitoring of parolees?

The devices make it difficult for offenders to reintegrate into the community, due to the stigma attached to them and the practical difficulties involved. On the other hand, if it is necessary for the protection of the public that certain offenders to remain in, or away from, certain areas the use of such devices may provide a balance between the competing public interests in the protection of the community and the need to allow the offender out into the community to readjust to life outside of prison.

Question 4.17: Workload and expertise of Community Corrections officers

(1) What improvements could be made to ensure parolees are supervised effectively?

Provide more resources for community-based supervision and programs.

(2) What are the arguments for and against Community Corrections implementing specialist case managers or specialist case management teams for certain categories of offenders?

Specialists would have expertise in dealing with particular types of offenders who may have special management needs – such as sex offenders, the mentally ill and the intellectually disabled. However, it is unlikely that there will be sufficient resources to provide specialist workers in all areas (particularly rural and remote areas) at all times. It may be better to focus upon training all case officers to deal with these types of offenders.

(3) If specialist case management were to be expanded, what categories of offenders should it apply to?

The mentally ill and the intellectually disabled. Many case officers are not sufficiently trained to deal with offenders with these difficulties.

Question 4.18: Housing for parolees

What changes need to be made to ensure that all parolees have access to stable and suitable post-release accommodation, and that post-release housing support programs are effective in reducing recidivism and promoting reintegration?

Additional funding is required for NGOs to provide transitional accommodation and for parolees to have priority in obtaining public housing.

Question 4.19: Programs for parolees

(1) What level of access should parolees have to rehabilitation and other programs while on parole? Do parolees currently have that level of access?

Parolees should have a very high level of access to programs to assist them to re-integrate and rehabilitate. There is currently a limited amount of access, particularly in rural areas.

(2) Are there any problems of continuity between custodial and community based programs?

The Association is not in a position to comment on this question.

(3) Can any improvements be made to the way the programs available to parolees in the community are selected or evaluated?

Yes. If there is not already such a system, there could be a systematic evaluation of such programs, similar to the compendium of custody based programs, to which courts, SPA, the legal profession and Community Corrections could refer.

Question 4.20: Barriers to integrated case management

(1) To what extent is Community Corrections case management able to achieve a throughcare approach?

It does not appear that the admirable goal of throughcare is consistently achieved in practice. Part of the problem may be in the number of different case officers who might be involved with an offender at various correctional centres and then upon release and in the extent of communication between them. The officer who prepares the initial case plan is likely to be different from the officer who prepares the pre-release plan and from yet another who undertakes the actual supervision in the community. One idea might be to get the case officers from the likely supervising office (usually nowhere near the correctional centre from where the offender is to be released) more involved in the preparation of pre-release plans.

(2) What are the barriers to integrated case management?

Mostly the barriers appear to be a lack of resources and co-ordination between offices.

(3) What other services or supports do parolees need but are not able to access? What are the barriers to accessing these services and supports?

The main issues for parolees appear to be the obtaining of stable housing and employment. Housing is a particularly difficult issue for aging offenders, sex offenders and those who are both.

Question Paper 5

Question 5.1: Exercise of discretion in reporting breaches and SPA's lower level responses

(1) What level of discretion should Community Corrections have to manage breaches of parole (or certain types of breaches) without reporting them to SPA?

Community Corrections should have a high level of discretion for non-offending breaches where there is no indication of a high risk of reoffending.

(2) What formal framework could there be to filter breaches before they are reported to SPA?

Internal policies could be adopted and any decision to refer, or not to refer, would need to be made by the case officer with the approval of a supervisor.

(3) What lower level responses should be available to SPA? What lower level responses should be included in the CAS Act?

SPA ought to be able to give a formal warning when appropriate. A power to combine a warning with a formally ordered temporary increase in the frequency of reporting or of urinalysis may be appropriate. In some cases, a warning from SPA may carry more weight than from a case officer and spur an offender into getting back on track. There is no reason why a formal warning, including with orders for temporary tightening of reporting or monitoring conditions, cannot be included in the Act.

Question 5.2: Response to non-reoffending breaches

(1) Should there be any changes to the way SPA deals with non-reoffending breaches?

Yes. The focus should be on risk management and rehabilitation and not on punishment for failing to comply with conditions, particularly for offenders who have had little or no prior experience on parole. In many cases, it is counter-productive to the protection of the community by the long term rehabilitation of the offender to revoke parole for an offender who has:

a) returned to abstinence after a relapse into drug use;
b) recommenced regular reporting after having lost contact with his or her case officer; or
c) obtained suitable accommodation after failing to reside as directed.

(2) What intermediate sanctions short of revocation should SPA have available to respond to non-reoffending breaches?

SPA currently has the capacity to vary the conditions or impose new conditions and this is sufficient. Given that when parole is revoked an offender is returned to custody, a de facto sanction is already applied.

(3) Should SPA be able to revoke parole for short periods as a way of dealing with non-reoffending breaches?

Yes, particularly when the breach was due to a soluble problem such as a loss of suitable accommodation or a temporary loss of contact with a supervising officer.

Question 5.3: Revocation in response to reoffending

(1) What changes should be made to improve the way SPA deals with parolees' reoffending?

Given the presumption of innocence and the considerations of a court when deciding to grant or refuse bail, there ought to be a limitation on SPA revoking parole based solely upon fresh charges. Unless and until an offender has been found guilty, SPA ought not be able to revoke parole, in relation to fresh charges, except in wholly exceptional circumstances. There would appear to be no need to revoke parole for the protection of the community if bail is refused. If there is in fact a risk to the community from the offender, it is likely that the offender will have breached other parole conditions such as the use of illicit drugs.

(2) What provision, if any, should be made in the CAS Act to confine SPA's discretion not to revoke parole?

Given the wide variety of circumstances in which offences can be committed, there should be no fetter upon SPA's discretion *not* to revoke parole upon a proven breach. There is no indication that this discretion is being used inappropriately.

Question 5.4: Date of revocation and street time

(1) What further restrictions should be included in the CAS Act on selecting the revocation date?

Often offenders are allowed to continue supervision after a non-offending breach such as failing to report or a failed urinalysis. Where there is a non-offending breach, the revocation should be effective from no earlier than the report of the breach. The report is usually made within days of the breach, or the last of a series of breaches. Where supervision is satisfactory after the report of the breach, any period of satisfactory supervision should be deducted from the street time.

(2) What changes, if any, should be made to the operation of street time?

Time spent in custody interstate should not be treated as street time. Consideration should be given to allowing revocation to be considered when an offender is in prison interstate and to having review hearings by AVL from interstate.

Question 5.5: Review hearings after revocation

Should reviews of revocation decisions only be available if SPA considers that a hearing is warranted? If so, why?

No. This would be a denial of natural justice. The offender ought to be allowed to address SPA in relation to whether there was a breach and, if so, what ought to be done - including the date from which any revocation should be effective. In the NSW system, when SPA decides to revoke parole in a private meeting, a warrant is issued and and the parolee is returned to custody. The result is very much to 'visit non-compliance with serious and automatic consequences'. The availability of a safety net whereby revocation may be rescinded, or the date of revocation varied, does not undermine this in any way.

Revocation hearings also fulfil an educative role. The practical reality of a review hearing for an unsuccessful parolee is to underline the importance of strict compliance with parole conditions and to emphasise what will be expected of him or her upon any future release to parole. Since the meetings are public, there is also a broader educative function for other parolees.

Question 5.6: Rescinding revocations to allow completion of rehabilitations programs after fresh offending

What provision should be made in the CAS Act in relation to how SPA's decision making should interact with rehabilitative dispositions in response to fresh offending?

Where a sentencing court, which was aware that offences were committed in breach of parole, imposes a sentence other than full time custody which is designed to promote the parolee's rehabilitation, SPA should only be permitted to revoke parole, on the basis of the reoffending or of non-offending breaches committed at around the time of the offences, in exceptional circumstances.

Question 5.7: Appeals and judicial review of SPA's revocation decisions

Should there be any changes to the mechanisms for appeal or judicial review of SPA's revocation decisions?

Yes. The statutory avenue in the CAS Act is of little utility. There ought to be a simplified method of appeal on a question of law or, with leave, mixed fact and law and power to remit a matter for decision according to law, including by a differently constituted SPA.

Question 5.8: Reasons for SPA's decision

What changes could be made to the manner or extent to which SPA provides reasons for its decisions in revocation matters?

Yes. The reasons provided to the offender should be the same as those recorded on the file, subject to any section 194 considerations.

Question 5.9: Emergency suspensions

What improvements could be made to SPA's power to suspend parole?

There are no improvements required.

Question 5.10: SPA's power to hold an inquiry

Should SPA use s 169 inquiries more regularly? If yes, how could this be achieved?

Yes. Where there is no immediate threat to the safety of the community, SPA ought to enquire whether or not the offender admits that a breach has occurred. Where the offender disputes that any breach has occurred, SPA ought to hold an inquiry. If the offender is permitted to make submissions and give evidence at the inquiry, there would appear to be little need for a review hearing. If the offender is only permitted to make written submissions, then a review hearing should remain available.

Question 5.11: Information sharing

What changes could be made to improve the way that agencies in NSW share information about breaches of parole?

SPA has a police member and Community Corrections member so the difficulties identified in Victoria are unlikely to arise and, in practice, it does not appear that they have. Given SORC's role with Serious Offenders, it is appropriate for SORC to be provided with breach reports.

Question 5.12: Role of the Serious Offenders Review Council

What role could SORC have when SPA decides to revoke or rescind parole for serious offenders?

It would be appropriate for SORC to provide a report or make submissions to SPA when considering revocation or, at the latest, at a review hearing. To permit SORC to provide such input after a review hearing at which SPA has decided to rescind revocation would cause unnecessary delay.

Question 5.13: Making breach of parole an offence

Should breach of parole be an offence in itself? If breach of parole were to be an offence, what should the maximum penalty be?

No. This would be contrary to the whole scheme of sentencing and sentence administration in NSW and would take the focus away from the purposes of parole and onto punishment for breach of conditions. In the case of non-offending breaches, it would also generate further costly court appearances.

Question 5.14: Reconsideration after revocation of parole

How should the 12 month rule as it applies after parole revocations be changed?

The 12 month rule should be eliminated, save as the maximum time which may elapse before a further consideration of parole. SPA ought to be able to set a reconsideration date at any time before, but no later than, what is currently called the 'parole eligibility date'. An offender should, with the leave of SPA, be permitted to make a further application before the reconsideration date.

Question 5.15: Breach processes for ICOs and home detention

What changes should be made to the breach and revocation processes for ICOs and home detention?

SPA should have the discretion to call up an offender for a breach without having them returned to full time custody beforehand. This ought to be the default position, given that many offenders on an ICO or home detention will not have been to prison before. Obviously, a failure to attend SPA for the call up would result in a loss of that option.

Given that ICOs are largely targeted at offenders who need considerable assistance with rehabilitation, SPA ought to have a wide range of options for dealing with breaches. These could include: formal warnings, sanctions such as additional CSO hours, a period of home detention, a short period of full time custody. The default position should not be placement in fulltime custody, especially for a non-offending breach.

Likewise, SPA ought to have a wide range of options for dealing with a breach of home detention, such that the automatic result is not a period of full time custody. SPA ought to have the full range of options available, whether the breach is of the non-parole period or the parole period of the home detention order.

Question Paper 6

Question 6.1: Different treatment of juvenile offenders

(1) Should juvenile offenders (that is, offenders who are under 18) be treated differently from adults in relation to parole?

Yes, for the same reason that there is a specialist Children's Court and that there are special considerations in sentencing juveniles and special provisions in the CCP Act (s6), the CDC Act (s4) and the YO Act (s7). The considerations ought to apply to offenders who were juveniles at the time of the commission of the offences, although not all of the considerations will apply to offenders who are dealt with after majority.

(2) Should there be a separate juvenile parole system? If yes, why?

Yes, for the reasons set out above.

Question 6.2: Features of the juvenile parole system in NSW

If a separate juvenile parole system is retained in NSW:

(1) Who should be the decision maker in the juvenile parole system?

The Children's Court.

(2) What special principles (if any) should apply in the juvenile parole system?

Principles akin to those in the CCP Act (s6), the CDC Act (s4) and the YO Act (s7).

(3) Do the decision making criteria in s 135 need to be adapted to the juvenile parole system? If so, in what way?

Yes. It is suggested that the following criteria, adapted from each of the three Acts referred to above, ought to be added:

- the need for children who commit offences to bear responsibility for their actions but, because of their state of dependency and immaturity, their need for guidance and assistance
- the desirability of allowing the education or employment of a child to proceed without interruption,
- the desirability of allowing a child to reside in his or her own home,
- the desirability of assisting children who commit offences with their reintegration into the community so as to sustain family and community ties,
- the welfare and interests of the young person
- recognition that the punishment for an offence imposed by a court is the only punishment for that offence

(4) Should there be a separate legislative framework for the juvenile parole system?

This depends on the model adopted. The answer is yes if, at the least, all offenders who are under 18 at the time of breach or eligibility for release to parole are dealt with by the same authority. The answer is no if different authorities are dealing with juveniles. In that case, the principles should be the same.

Question 6.3: Structuring the juvenile parole system

(1) Are any of the options presented preferable to the current structure of the juvenile parole system? If yes, why?

Option 2B would provide the greatest catchment of juveniles, and those who were sentenced to juvenile detention, for the specialised Children's Court. Option 2B would include all offenders who are under 18, or who remain in juvenile detention, at the time of eligibility for parole and all offenders who are under 18 at the time of an alleged breach of parole. This would allow the Children's Court to have jurisdiction over all juveniles and those young adults who, due to some vulnerability, remain in juvenile detention.

(2) Are there any other ways of structuring the juvenile parole system that we should consider?

A modified Option 2B would in the Children's Court's jurisdiction young offenders over 18 whom the sentencing judge ordered could remain in juvenile detention beyond majority but who have been moved to a correctional facility for some reason. The sentencing judge identified such offenders as having some particular vulnerability and it may be appropriate for such offenders to remain subject the specialist Children's Court.

Question 6.4: Parole process in the juvenile parole system

(1) Should the parole decision making process in the CAS Act be adapted for use by the Children's Court? If so, how?

No. In keeping with the relative informality of the Children's Court jurisdiction, the current Children's Court procedures should remain. There is no need to complicate the procedures by adding the involvement of the Serious Young Offenders Panel.

(2) Should victims be involved in parole decision making for young offenders in the juvenile parole system through a restorative justice conferencing process?

Yes, in appropriate cases at the discretion of the Children's Court magistrate.

Question 6.5: Assistance with parole readiness

Should any improvements be made to the way young offenders in the juvenile parole system are prepared for parole?

Yes, ideally any case plan should continue regardless of any move between detention centres and correctional facilities.

Question 6.6: Reconsideration after refusal of parole

Should the 12 month rule apply to young offenders if the Children's Court refuses parole? If no, what limit or restriction should there be on future applications for parole in such cases?

No. For the reasons set out in relation to the 12 month rule for adults, the rule should be abolished other than setting the maximum period which may elapse before further consideration of parole. The Children's Court ought to be able to set a reconsideration date at any time before, but no later than, what is currently called the 'parole eligibility date'. A young offender should, with the leave of the Children's Court, be permitted to make a further application before the reconsideration date.

Question 6.7: Supervision of young offenders

(1) Are there any issues with the selection of the supervising agency for young offenders paroled through the juvenile parole system?

The Association is not in a position to comment on this, other than to note that the most appropriate supervising agency for any offender under 18 would be Juvenile Justice NSW.

(2) Is Juvenile Justice NSW able to provide sufficient support, programs and services to parolees in the juvenile parole system?

The support, programs and services provided to parolees by JJ NSW appears to be sufficient in both quality and quantity. There may be a problem with juveniles who are transferred to the less well resourced and non-specialised Community Corrections. Of particular concern is that 'difficult' offenders are being transferred to a less well resourced service when they may be the very young offenders who need intensive supervision and extensive support and rehabilitation.

Question 6.8: Breach and revocation of parole in the juvenile parole system

(1) Should the 14 day waiting period before revocation review hearings be removed for young offenders in the juvenile parole system?

Yes.

(2) Should the 12 month rule apply after parole revocation in the juvenile parole system? If no, what provision or limit, if any, should replace the 12 month rule?

No. For the reasons set out in relation to the 12 month rule for adults, the rule should be abolished other than setting the maximum period which may elapse before further consideration of parole. The Association largely agrees with the suggestion at 6.73. The Children's Court ought to be able to set a reconsideration date at any time before, but no later than, what is currently called the 'parole eligibility date'. A young offender should, with the leave of the Children's Court, be permitted to make a further application before the reconsideration date.

Question 6.9: Role of the Serious Young Offenders Review Panel

Should the functions of SYORP be expanded so that it has a role in parole decision making for serious young offenders?

No. It is sufficient that the input of SYORP is included in reports provided to the decision maker.

Question 6.10: Principles applying to young offenders in the adult parole system

(1) Should similar principles to those found in s 6 of the Children (Criminal Proceedings) Act 1987 (NSW) and s 4 of the Children (Detention Centres) Act 1987 (NSW) apply when SPA is dealing with an offender who is under 18?

Yes, if SPA is to continue to deal with offenders who are under 18. However the position of the Association is that SPA should not deal with offenders who are under 18.

(2) Should SPA make parole decisions for young offenders who are under 18 according to different criteria from those that govern parole for adults?

Yes, if SPA is to continue to deal with offenders who are under 18. However the position of the Association is that SPA should not deal with offenders who are under 18.

(3) If yes to (2), what criteria should apply to young offenders in the adult parole system?

See answer to 6.2 above. In relation to breaches of parole, the following criteria should apply:

> 'the least restrictive form of sanction is to be applied against a child who is alleged to have breached his or her parole, having regard to matters required to be considered under this Act'.

Question 6.11: Composition of SPA

When SPA is making decisions affecting young offenders, should there be a special composition of SPA to include members with youth expertise?

Yes, if SPA is to continue to deal with offenders who are under 18. However the position of the Association is that SPA should not deal with offenders who are under 18.

Question 6.12: In-custody and post-release support

(1) What specific problems do young offenders in Corrective Services NSW custody have in accessing in-custody programs and preparing for parole?

The Association has no specific knowledge of these problems beyond what is contained in the Question Paper. However, there ought to be a principle that, if a young person is transferred to a correctional facility, he or she ought not be denied access to any educational, rehabilitation or treatment program or service in the facility because of his or her age.

(2) How can the post-release programs, accommodation and support provided to young offenders supervised by Community Corrections be improved?

Improvements can be made by increasing resources and a focus on 'through care'. Ideally, all young offenders would continue to be supervised by Juvenile Justice NSW. At the least, young offenders supervised by Community Corrections in the community could be given access to programs provided by Juvenile Justice.

Should you or your officers require any further information, please do not hesitate to get in touch with the Association's Executive Director, Philip Selth on 9232 4055 or at pselth@nswbar.asn.au.

Yours sincerely

Phillip Boulten SC
President