



# NEW SOUTH WALES LAW REFORM COMMISSION

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## RESPONSE TO SCOPING PAPER

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### PAROLE REFERENCE

23 August 2013

Dear Sir/Madam,

Justice Action is pleased to respond to your call for responses on the Scoping Paper regarding the parole reference. Justice Action is an independent not-for-profit advocacy group that provides support to prisoners, and that pushes for law reform to better protect their rights. We believe the issues described below should be brought to the forefront of the community's attention, and should inform your inquiry. We also provide our consent to publish this document on the NSW Law Reform Commission Website.

Please find our reply to your 3 mains questions below:

**1. Are there any issues not identified in this paper that we should investigate?**

1A- The experience of prisoners themselves in dealing with the parole system<sup>1</sup>

- i) Do prisoners have trust in the parole system?
- ii) What would they like to see changed?
- iii) Do they feel they have sufficient/satisfactory preparation for parole in terms of access to effective rehabilitative programs that ready them for parole and final release?
- iv) Why do some prisoners forgo parole opportunities? What role do undesirable restrictive parole terms play in this issue?

1B- Objective detailed analysis of biases in parole decisions

- i) What can be done to combat race, gender, and sexuality biases, as well as mental health stigma in making parole decisions?<sup>2</sup>
- ii) What can be done to ensure that the decision makers are not affected by undue factors that alter their decisions? For example: some studies show that decision makers are much less likely to grant parole to applicants when they are tired and hungry, ie. before breaks.<sup>3</sup>

**2. Are there any issues identified that we should exclude or modify?**

2A- In assessing community input and expectations:

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<sup>1</sup> The UK Parole Board has shown the need to work with prisoners, and have them play a larger role in their parole decisions. See: David Clavert-Smith (Chairman of UK Parole Board) 'The Parole Board' (August 2013) *Inside Time*,

<[http://www.insidetime.org/articleview.asp?a=1375&c=the\\_parole\\_board](http://www.insidetime.org/articleview.asp?a=1375&c=the_parole_board)>.

<sup>2</sup> Joel Caplan, 'What Factors Affect Parole: A Review of Empirical Research' (2007), 71(1) *Federal Probation: A Journal of Correctional Philosophy and Practice*, 16-19.

<sup>3</sup> Shai Danziger et al, 'Extraneous Factors in Judicial Decisions' (2011), 1108(17) *Proceedings of the National Academy of Science Journal*, 6889-6892

- i) Special attention should be paid to the extent of scapegoating experienced by high-profile persons charged with breach of parole (ie. offenders who are heavily reported on in the media). These individuals are often treated unfairly, so as to make an example of them. Some studies should be conducted into the difference in treatment between such offenders and others.
- ii) Is the government doing its best in informing the public with objective data and news regarding justice issues, and parole decisions? How can misinformation about parole be tackled?

**3. What are the most important issues? Are there priority areas for reform?**

3A- The most important issue regarding parole is what happens in the lead up to parole. In other words, the following must be paid attention to, in order to ensure successful and law-abiding parolees:

- i) Incarceration conditions: Are the conditions of the prisons, and the treatment given to prisoners by prison employees (particularly guards) conducive to rehabilitation?
- ii) Treatment programs: do the prisoners have access to effective treatment programs, and other facilities that help them become eligible for parole, and help them abide by parole conditions? Also, how are the prisoners being treated and monitored during parole?

We hope that this response assists you in setting your question papers. We look forward to making our submissions in due course, and we note that we are available for a meeting, should you so wish. In the meantime, should you have any queries, please do not hesitate to contact us.

Regards,



Denise Hamad,  
and the JA team