



**New South Wales  
Law Reform Commission**

**Parole  
Question paper 4**

**Reintegration into  
the community and  
management on parole**

November 2013  
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## Question Paper 4: Reintegration into the community and management on parole

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<b>Reoffending and the challenges of prison.....</b>	<b>2</b>
Life cycle of a prison sentence .....	2
Challenges of the prison experience .....	3
Reoffending data .....	5
Effectiveness of correctional programs.....	6
Throughcare .....	7
<b>Managing offenders in custody .....</b>	<b>8</b>
Case management of sentenced prisoners .....	8
Case management for serious offenders.....	10
In-custody rehabilitation programs.....	12
In-custody education and vocational programs .....	14
The problem of short sentences and limited time post-sentencing .....	16
<b>Transitioning offenders from custody to the community.....</b>	<b>17</b>
Pre-release external leave programs.....	17
<i>Difficulties accessing pre-release leave .....</i>	<i>19</i>
<i>Serious offenders and public interest inmates .....</i>	<i>20</i>
Transitional centres .....	21
Other transition options .....	22
<i>Back-end home detention .....</i>	<i>22</i>
<i>Day parole .....</i>	<i>25</i>
<i>Re-entry courts .....</i>	<i>26</i>
Case management for transition: planning and preparing for release .....	29
<b>Supervision and management of parolees in the community.....</b>	<b>32</b>
Conditions of parole.....	32
<i>Standard conditions of parole .....</i>	<i>33</i>
<i>Non-association conditions .....</i>	<i>34</i>
<i>Alcohol and drugs conditions .....</i>	<i>35</i>
Supervision of parolees .....	35
<i>Intensity of parole supervision.....</i>	<i>36</i>
<i>Duration of parole supervision .....</i>	<i>38</i>
<i>Information sharing and compliance .....</i>	<i>39</i>
<i>Electronic monitoring .....</i>	<i>40</i>
<i>Expertise and workload of Community Corrections officers.....</i>	<i>40</i>
Housing .....	42
Rehabilitation programs for parolees in the community.....	45
Case management and other assistance .....	47

- 4.1 In Question Paper 1 we considered the objectives of parole, including the objective of reducing reoffending. One of the ways that parole may achieve this is by providing an opportunity to manage and supervise the release and reintegration of offenders after they leave prison. However, the empirical evidence indicates that parole may be falling short on this objective (see Question Paper 1). This suggests that the supervised reintegration of offenders may need to be done better. This Question Paper considers:

## Parole question papers

- custodial case management of prisoners and the provision of in-custody rehabilitation, education and work programs, in terms of whether they effectively prepare offenders for release on parole
- the process of transitioning offenders from custody into the community, including external pre-release leave programs, transitional centres and other transition options, and
- the ongoing management, supervision and support of parolees in the community.

## Reoffending and the challenges of prison

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- 4.2 Reoffending data suggests that existing NSW parole strategies have not prevented high reincarceration rates. The barriers to successful reintegration of parolees are large. At the same time, correctional programs and the throughcare approach to case management can have a positive effect on reoffending.

### Life cycle of a prison sentence

- 4.3 From April 2011 to March 2013, between 74% and 84% of prisoners received into custody each month were on remand rather than under sentence.<sup>1</sup> Some programs, such as basic education classes in literacy, numeracy and IT, as well as alcohol and drug programs, are available to remand prisoners on a needs basis within resources.<sup>2</sup> However, other programs such as the CUBIT sex offender treatment program and the Violent Offender Therapeutic Program (VOTP) are not available to unsentenced prisoners. When sentencing remand prisoners to imprisonment, courts will backdate the starting date of the sentence to incorporate the time on remand. This can mean that there is only limited time remaining in the non-parole period after sentencing for the prisoner to participate in programs like CUBIT and VOTP.
- 4.4 Once sentenced, case plans are prepared for all prisoners with six months or more remaining until their earliest release date (either on parole or at sentence expiry).<sup>3</sup> The completion of rehabilitation programs or other intensive therapeutic intervention is likely to form part of the case plan.<sup>4</sup> As they approach their earliest release dates, offenders should have participated in programs to address offending behaviour as well as any relevant education or work programs. The offender's security classification should, if his or her conduct has been satisfactory, have been reduced to minimum security to enable participation in external pre-release leave programs, if the case plan recommends it as a necessary preparation for release.
- 4.5 On release to parole, nearly all parolees are subject to Community Corrections supervision.<sup>5</sup> An assigned Community Corrections supervisor will monitor the

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1. NSW Bureau of Crime Statistics and Research, *NSW Custody Statistics: Quarterly Update March 2013* (2013) 25.

2. Information provided by Corrective Services NSW (12 November 2013)

3. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 13.

4. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [7.1.3], [7.2.3].

5. Information provided by Corrective Services NSW (23 October 2013).

offender's progress on parole, identify areas where the parolee requires support and refer the parolee to appropriate programs and support services.

### Challenges of the prison experience

- 4.6 Prisoners face a number of disadvantages and challenges which they tend to experience to a greater degree than the average member of the general population. These challenges increase the difficulties of reducing parolees' reoffending.
- 4.7 While incarcerated, offenders adapt to living and functioning within the custodial environment.<sup>6</sup> The rigid routine of daily prison life removes the necessity for prisoners to make decisions in many aspects of daily life, such as shopping for food, clothes and other necessities, paying bills, applying for a job, and obtaining accommodation. This compromises their ability to live independently and take personal responsibility for their actions. In addition, during their time in custody, technological and social developments change the world outside and make it unfamiliar to them on release.
- 4.8 Imprisonment also involves confinement for extended periods with people who may be violent and anti-social. Institutionalisation can manifest itself through hyper-vigilance, aggression, emotional over-control, passivity, depression and loss of self-worth.<sup>7</sup> For some less experienced prisoners, prison can socialise them into adopting the pro-criminal attitudes and lifestyles of other inmates, which they bring with them into the community when released.<sup>8</sup>
- 4.9 Many offenders have few financial resources and debt is often a feature of their lives.<sup>9</sup> In-custody earning capacity is restricted as prison work wages are low. Many offenders are unable to save sufficient funds to pay for a rental deposit once released.<sup>10</sup> Offenders cannot leave prison to visit real estate agents' offices and they have to compete for limited access to prison telephones.<sup>11</sup> Arranging accommodation in the community is extremely challenging without assistance from

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6. M Borzycki, *Interventions for Prisoners Returning to the Community* (Australian Institute of Criminology, 2005) 36-7; A Grunseit, S Forell, and E McCarron, *Taking Justice into Custody: The Legal Needs of Prisoners* (Law and Justice Foundation of NSW, 2008) 140-9, 256-7; M Willis, *Ex-Prisoners, SAAP, Housing and Homelessness in Australia* (Australian Institute of Criminology, 2004) 106-8; L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 49-50.
7. M Borzycki, *Interventions for Prisoners Returning to the Community* (Australian Institute of Criminology, 2005) 37; A Grunseit, S Forell, and E McCarron, *Taking Justice into Custody: the Legal Needs of Prisoners* (Law and Justice Foundation of NSW, 2008) 140-9.
8. M Borzycki, *Interventions for Prisoners Returning to the Community* (Australian Institute of Criminology, 2005) 37.
9. A Grunseit, S Forell, and E McCarron, *Taking Justice Into Custody: The Legal Needs Of Prisoners* (Law and Justice Foundation of NSW, 2008) 119-122.
10. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 38; M Willis, *Ex-Prisoners, SAAP, Housing and Homelessness in Australia* (Australian Institute of Criminology, 2004) 133-4; NSW Premier's Council on Homelessness Non-Government Members Submission, *Homelessness Issues for People Leaving Custody* (2012) 9.
11. A Grunseit, S Forell, and E McCarron, *Taking Justice Into Custody: The Legal Needs of Prisoners* (Law and Justice Foundation of NSW, 2008) 169-176.

prison welfare officers, who may not always be available.<sup>12</sup> Offenders also face discrimination from real estate agents and landlords who do not want to lease premises to ex-prisoners.<sup>13</sup> Public housing is challenging because of the competition for scarce public housing stock by other members of the community on Housing NSW's waiting list.<sup>14</sup> Community organisations which provide short-term and crisis accommodation to ex-prisoners also experience heavy demand.<sup>15</sup>

- 4.10 Prison presents similar challenges to offenders trying to find post-release employment. Incarceration interrupts their employment history and deprives them of work experience. Ex-prisoners face stigmatisation and discrimination from some employers.<sup>16</sup> These issues exacerbate already low levels of employment skills, employment experience and educational qualifications. Difficulties arranging employment also interact with difficulties arranging accommodation.<sup>17</sup> Without a stable home an ex-prisoner may have problems contacting employers and presenting appropriately for interviews.
- 4.11 Positive family and social support is a third factor which can affect an offender's prospects of reintegrating into the community. Prison can weaken family and social ties, making the process of adapting to community life challenging.<sup>18</sup> Victorian research on the attitudes of the broader community has found that, in general, community members are not comfortable living near to or working with ex-prisoners.<sup>19</sup> These attitudes increase the obstacles that ex-prisoners face in adapting to normal lawful community life.
- 4.12 Finally, cognitive and mental health impairments are much more prevalent among prisoners than among the general population. A 2006 study of NSW prisoners on entry into custody found that 80% would have met the diagnostic criteria for a psychiatric disorder within the past year compared to 31% of a community sample. In particular, 65% of prisoners had a substance use disorder, 43% met the criteria

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12. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 19-23.
13. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 39-40; M Willis, *Ex-Prisoners, SAAP, Housing and Homelessness in Australia* (Australian Institute of Criminology, 2004) 30, 167.
14. NSW Premier's Council on Homelessness Non-Government Members Submission, *Homelessness Issues for People Leaving Custody* (2012) 4, 9; L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 5, 69, 76; M Willis, *Ex-Prisoners, SAAP, Housing and Homelessness in Australia* (Australian Institute of Criminology, 2004) 99.
15. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 39-40.
16. M Willis, *Ex-Prisoners, SAAP, Housing and Homelessness in Australia* (Australian Institute of Criminology, 2004) 134, 167.
17. M Willis, *Ex-Prisoners, SAAP, Housing and Homelessness in Australia* (Australian Institute of Criminology, 2004) 169.
18. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 50-51.
19. L Hardcastle, T Bartholomew and J Graffam, "Legislative and Community Support for Offender Reintegration in Victoria" (2011) 16(1) *Deakin Law Review* 111.

for a personality disorder and 25% suffered from post traumatic stress disorder.<sup>20</sup> A recent 2013 study commissioned by the Australian Human Rights Commission reported that 8% of NSW prisoners had an intellectual disability compared to 2% of the general population, and 49% of prisoners had suffered from a brain injury compared to 6% of the general population.<sup>21</sup>

- 4.13 Some work can be done through custodial programs to address these barriers to reintegration, such as providing educational and work programs to make prisoners more employable and other programs which prepare prisoners for life in the community. However, the magnitude of the issues they face suggests that successful reintegration requires robust post-release arrangements and support.<sup>22</sup>

### Reoffending data

- 4.14 NSW research indicates that there is a trend among released prisoners (regardless of whether they are on parole) to reoffend.
- 4.15 A baseline is provided by a 2012 study of adult and juvenile offenders convicted of at least one offence in 1994. These offenders received a range of penalties, including imprisonment. The study found that 40% of juveniles reoffended within one year and a further 15% within two years (a total of 55% within two years). It found that 21% of adults reoffended within one year and a further 10% within two years (a total of 31% within two years).<sup>23</sup> By contrast, a 2008 study on reoffending trends among offenders released from prison found a much higher rate of reoffending for released prisoners. The study reported that 64.5% of offenders released from a NSW adult prison in 2002 were either convicted of another offence or had their parole revoked within two years.<sup>24</sup>
- 4.16 A 2006 study specifically of reoffending by NSW parolees found that 64% of offenders released on parole supervision in the 2001-02 financial year had

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20. T Butler and others, "Mental Disorders in Australian Prisoners: A Comparison with a Community Sample" (2006) 40(3) *Australian and New Zealand Journal of Psychiatry* 272.
21. R McCausland and others, *People with Mental Health Disorders and Cognitive Impairment in the Criminal Justice System: Cost-Benefit-Analysis of Early Support and Diversion* (Australian Human Rights Commission, 2013) 3.
22. E Baldry and others, "Ex-Prisoners, Homelessness and the State in Australia" (2006) 39(1) *Australian and New Zealand Journal of Criminology* 20; M Borzycki and E Baldry, *Promoting Reintegration: The Provision of Prisoner Post-Release Services, Trends and Issues in Crime and Criminal Justice* No 262 (Australian Institute of Criminology, 2002); E Baldry, "Recidivism and the Role of Social Factors Post-Release" (2007) 81 *Precedent* 4; M Borzycki, *Interventions for Prisoners Returning to the Community* (Australian Institute of Criminology, 2005); Social Exclusion Unit, *Reducing Re-offending by Ex-prisoners*, (Office of the Deputy Prime Minister (UK), July 2002).
23. J Holmes, *Reoffending in NSW*, Bureau Brief No 56 (NSW Bureau of Crime Statistics and Research, 2012).
24. N Smith and C Jones, *Monitoring Trends In Reoffending Among Offenders Released From Prison*, Crime and Justice Bulletin No 117 (NSW Bureau of Crime Statistics and Research, 2008). This study's results were affected by the inclusion of revocation of parole, because revocation of parole does not mean that an offence has been committed. Parole orders can prohibit offenders from engaging in activities which are not offences, such as consumption of alcohol or engaging in gambling, and parole may be revoked for breaching such conditions.

## Parole question papers

reoffended by September 2004.<sup>25</sup> The study does not say how many offenders were still subject to parole orders when they reoffended.

- 4.17 The disparities in the statistics in these studies are due to the fact they are measuring different populations or outcomes.
- 4.18 The majority of prisoners (including those on remand) have served a sentence of imprisonment before. The proportion of offenders in Corrective Services NSW facilities as at 30 June 2012 with a previous episode of sentenced imprisonment as an adult was 53.2%.<sup>26</sup> Corrective Services NSW statistics also record that 42-43% of prisoners released from NSW prisons return to custody within two years.<sup>27</sup>

## Effectiveness of correctional programs

- 4.19 In 1974 Robert Martinson published a review of correctional rehabilitation, education and vocational programs and other measures, such as releasing offenders into the community on probation or parole. He concluded that “[w]ith few and isolated exceptions, the rehabilitative efforts that have been reported so far have had no appreciable effect on recidivism”.<sup>28</sup> Martinson’s work gave rise to a view among some criminologists and policy makers that “nothing works”.<sup>29</sup>
- 4.20 The “nothing works” view has been challenged by other writers in criminal justice literature. More recent reviews and meta-analyses show that some interventions can reduce recidivism and an international consensus of opinion has formed acknowledging their effectiveness, known as “what works”.<sup>30</sup> One strain of the “what works” literature focuses on whether a program “works” by whether it has been evaluated according to a sufficiently rigorous methodology and has been found to reduce recidivism.<sup>31</sup> A second strain of thinking focuses on reviewing programs and

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25. C Jones and others, *Risk Of Reoffending Among Parolees*, Crime and Justice Bulletin No 91 (NSW Bureau of Crime Statistics and Research, 2006).

26. Corrective Services NSW, *NSW Inmate Census 2012* (2013).

27. NSW Department of Attorney General and Justice, *Annual Report 2011-12* (2012) 63.

28. R Martinson, “What Works? – Questions and Answers About Prison Reform” (1974) 35 *The Public Interest* 22, 25.

29. D Andrews and J Bonta, “Rehabilitating Criminal Justice Policy and Practice” (2010) 16 *Psychology, Public Policy and Law* 39.

30. K Howells and A Day, *The Rehabilitation of Offenders: International Perspectives Applied to Australian Correctional Systems*, Trends and Issues in Criminal Justice No 112 (Australian Institute of Criminology, 1999); F Cullen and P Gendreau, “Assessing Correctional Rehabilitation: Policy, Practice and Prospects” (2000) 3 *Criminal Justice* 2000 109; F Cullen and others, “Nothing Works Revisited: Deconstructing Farabee’s ‘Rethinking Rehabilitation’” (2009) 4 *Victims and Offenders* 101; J Petersilia, “What Works in Prisoner Re-entry? Reviewing and Questioning the Evidence” (2004) 68(2) *Federal Probation* 4; S Aos, M Miller and E Drake, *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates* (Washington State Institute for Public Policy, 2006).

31. J Petersilia, “What Works in Prisoner Re-entry? Reviewing and Questioning the Evidence” (2004) 68(2) *Federal Probation* 4; S Aos, M Miller and E Drake, *Evidence-Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs, and Crime Rates* (Washington State Institute for Public Policy, 2006).



identifying principles that distinguish effective from ineffective programs.<sup>32</sup> Identified principles are:

- Risk principle: direct intensive services to higher risk offenders and minimise services to lower risk offenders
- Need principle: target offenders' criminogenic needs in treatment, and
- Responsivity principle: provide treatment in a style and mode that is responsive to offenders' learning styles and abilities.<sup>33</sup>

Corrective Services NSW and other corrections agencies in Australia do not accept that “nothing works” and have, in recent years, invested significant resources in developing and delivering programs that target moderate to high risk offenders based on the risks, needs and responsivity principles.<sup>34</sup>

## Throughcare

- 4.21 Throughcare is a “coordinated, integrated and collaborative approach to reducing the risk of reoffending” covering all offenders “from their first point of contact with [Corrective Services NSW] to the completion of their legal orders and their transition to law-abiding community living”.<sup>35</sup> It aims to achieve continuity of care for offenders and the seamless delivery of services with a view to preventing reoffending.<sup>36</sup> Throughcare involves:

- whole of sentence planning and integrated case management from custody to the community
- provision of seamless service to offenders across the correctional system, avoiding duplication and isolated work practices
- specific attention to offender's needs during times of transition between custody and the community, and
- effective working partnerships between the correctional system and external providers to achieve consistent interventions across community and custody.<sup>37</sup>

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32. J Petersilia, “What Works in Prisoner Re-entry? Reviewing and Questioning the Evidence” (2004) 68(2) *Federal Probation* 4; F Cullen and P Gendreau, “Assessing Correctional Rehabilitation: Policy, Practice and Prospects” (2000) 3 *Criminal Justice 2000* 109.

33. D Andrews and J Bonta, “Rehabilitating Criminal Justice Policy and Practice” (2010) 16(1) *Psychology, Public Policy and Law* 39, 44-5; F Cullen and P Gendreau, “Assessing Correctional Rehabilitation: Policy, Practice and Prospects” (2000) 3 *Criminal Justice 2000* 109.

34. K Heseltine, R Sarre and A Day, *Prison-Based Correctional Rehabilitation: An Overview of Intensive Interventions for Moderate to High-Risk Offenders*, Trends and Issues in Criminal Justice No 412 (Australian Institute of Criminology, 2011) 1; Corrective Services NSW, *Compendium of Correctional Programs in New South Wales* (2012) 1-2; Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [3.1.11], [3.1.15].

35. Corrective Services NSW, *Throughcare* (2008) 2.

36. ACT Chief Minister and Cabinet Directorate, *Seeing It Through: Options for Improving Offender Outcomes in the Community* (2011) 4.

37. Corrective Services NSW, *Throughcare* (2008) 2.

- 4.22 In essence, throughcare means using time in custody to prepare offenders to live lawfully in the community and then building on these efforts in an integrated way once offenders are released. It is seen as an essential feature of good correctional practice, aimed at providing programs and other interventions in a way that will bring down reoffending rates.<sup>38</sup> Corrective Services NSW is committed to the throughcare approach to program provision, offender reintegration and parole.<sup>39</sup>

### Managing offenders in custody

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- 4.23 Academic commentators have questioned whether philosophical commitment to throughcare is translating into effective implementation in practice, particularly in the custodial setting.<sup>40</sup> These commentators suggest that desire on the part of governments and corrections agencies to eliminate risk by prioritising security and surveillance can undermine the delivery of therapeutic and rehabilitative throughcare to offenders.<sup>41</sup> In this section, we consider whether the management of offenders in custody – including provision of in-custody rehabilitation, work and education programs – is effective in preparing offenders for life in the community.

### Case management of sentenced prisoners

- 4.24 Corrective Services NSW is required to prepare a case plan for all offenders when they become sentenced prisoners (except those with less than six months until their earliest release date).<sup>42</sup> Case plans are prepared by case management teams, which usually consist of a senior custodial officer and a member of staff of Offender Services and Programs. The offender participates in the preparation of the case plan, except in exceptional circumstances.<sup>43</sup> Case planning for prisoners eligible to be released on parole is driven by an assessment of the prisoner's risk of reoffending and criminogenic needs conducted by Community Corrections staff in the first 12 weeks after sentence, using the Level of Service Inventory–Revised (LSI-R) assessment tool.<sup>44</sup> In addition to the LSI-R risk assessment, serious sexual and violent offenders are subject to psychological risk assessments by the Serious

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38. M Borzycki, *Interventions for Prisoners Returning to the Community* (Australian Institute of Criminology, 2005) 9, 21.

39. Corrective Services NSW, *Throughcare Strategic Framework 2002 – 2005* (2002); Corrective Services NSW, *Community Corrections Policy and Procedures Manual* (2013) section A [1.1].

40. E Baldry, "Women in Transition: From Prison To.." (2010) 20(2) *Current Issues in Criminal Justice* 253; E Baldry, "Throughcare: Making the Policy a Reality" (Paper presented at Reintegration Puzzle Conference, Sydney, May 2007); T Walsh, *Incorrections: Investigating Prison Release Policy and Practice in Queensland and its Impact on Community Safety* (Faculty of Law, Queensland University of Technology, 2004).

41. E Baldry, "Throughcare: Making the Policy a Reality" (Paper presented at Reintegration Puzzle Conference, Sydney, May 2007) 16.

42. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 13.

43. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 14; Corrective Services NSW, *Case Management of Offenders Policy and Procedures* (2009) 1-2; Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [3.1.12], [3.2.3], [7.1.3], [11.1.3], [13.1.4], [14.1.3], [14.1.7].

44. Corrective Services NSW, *Case Management of Offenders Policy and Procedures* (2009) 3-8; Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [3.1.19], [7.1.3], [13.1.2]; Information supplied by Corrective Services NSW (12 November 2013).

- Offenders Assessment Unit.<sup>45</sup> The Unit prepares reports about prisoners' risks of reoffending, recommends program pathways and can assist with referrals to sexual and violent offender programs.<sup>46</sup>
- 4.25 The case plan is a "road map" intended to lead to reduced risk of reoffending.<sup>47</sup> It includes details of the treatment, services and programs that are recommended for the offender, the offender's health care needs, planned pre-release assistance for the offender and strategies to mitigate the effects of any disability.<sup>48</sup> Plans are intended to allow, as far as possible, for progression to the lowest security classification and access to pre-release leave programs before a prisoner's earliest possible release date.<sup>49</sup>
- 4.26 Case plans are administered day to day by an offender's assigned case officer.<sup>50</sup> The role of the case officer is to proactively advocate for an offender's needs and make referrals to appropriate services, such as Justice Health, the prison psychologist or welfare staff. Case officers are required to meet prisoners monthly, or at intervals required in case plans, to monitor their progress. Case plans are reviewed annually by the case management team or more often if required.<sup>51</sup>
- 4.27 The Public Interest Advocacy Centre (PIAC) has reported that some ex-prisoners experienced difficulties accessing support services and commonly raised a need for improved case planning,<sup>52</sup> although some ex-prisoners also reported positive experiences of support from Corrective Services staff. Additionally, the Law and Justice Foundation has highlighted the difficulties inherent in expecting custodial officers, who are responsible for security and enforcement, to also perform case management roles. Offenders may be reluctant to engage with these officers due to an "us versus them" mentality and shortages and security lock downs can restrict access to staff even for those offenders willing to engage with them.<sup>53</sup> On the other hand, combining the security and case management functions within the role of a custodial officer may lead to a more stable correctional environment because inmates are able to have their needs met by staff who are easily accessible.<sup>54</sup>

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45. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [26.2.1].

46. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [26.2.4].

47. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [7.1.3].

48. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 13A.

49. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [7.1.5], [7.19], [13.1.4].

50. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [3.1.13], [3.2.3].

51. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) ch 13.1, ch 14.1.

52. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 30-31.

53. A Grunseit, S Forell, and E McCarron, *Taking Justice Into Custody: The Legal Needs of Prisoners* (Law and Justice Foundation of NSW, 2008) 243-244.

54. A Grunseit, S Forell, and E McCarron, *Taking Justice Into Custody: The Legal Needs of Prisoners* (Law and Justice Foundation of NSW, 2008) 243-244.

## Parole question papers

- 4.28 Legal Aid NSW and the NSW/ACT Aboriginal Legal Service (ALS) suggested in preliminary consultations that planning for parole while offenders are in custody needs to improve.<sup>55</sup> They suggested that Community Corrections staff should be more systematically involved with in-custody case planning, as these officers have the best perspective about what an offender may require to live successfully in the community. We are advised by Corrective Services NSW that Community Corrections staff are always involved in in-custody case planning.<sup>56</sup> The Chief Legal Officer of the ALS has also previously criticised the quality of case management services in custody.<sup>57</sup> The ALS has developed an alternative case management system through its Prisoner and Family Support Unit to provide support to Aboriginal and Torres Strait Islander prisoners.
- 4.29 Although the throughcare platform has been adopted, practical issues make thorough implementation very difficult. The timing of an offender's release on parole is a major issue, with high demand for programs and some programs impinging on an offender's parole period. Security classification can also impede fluid case management. The current classification system is complex and it takes offenders time to progress through the system to the lowest level. We discussed in Question Paper 3 the effect the classification system can have on offenders' access to in-custody programs. If offenders are facing delays in accessing rehabilitation, education and work programs because of delays in attaining an appropriate classification level, release on parole may also be delayed, reducing the time an offender will be supervised and supported in the community. This may be affecting prisoners' prospects of successful reintegration. As we noted in Question Paper 3, Corrective Services NSW is working towards streamlining the current classification system.<sup>58</sup>

### 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?

## Case management for serious offenders

- 4.30 Serious offenders receive specialised input into their in-custody case management from the Serious Offenders Review Council (SORC). The definition of "serious offender" and SORC's role in parole decisions are discussed in Question Paper 3. In 2012, serious offenders constituted 7.6% of the NSW prison population.<sup>59</sup>
- 4.31 SORC's case management functions include reviewing a serious offender's security classification, placement in a prison and case plan and providing advice and

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55. Legal Aid and Aboriginal Legal Service (NSW/ACT), *Preliminary consultation PPAC3*.

56. Information received from Corrective Services NSW (12 November 2013)

57. J McKenzie, "Reducing Recidivism and Over-Representation in Prisons: Community Education and Intervention" (Aboriginal Legal Service (NSW/ACT), 14 February 2011).

58. Corrective Services NSW, *Preliminary consultation PPAC5*.

59. Serious Offenders Review Council, *Annual Report 2012* (2013) 9.

recommendations about them to the Commissioner.<sup>60</sup> SORC's role in the case management process involves regular visits to prisons by its Assessment Committees to interview serious offenders and speaking to their case officers and other relevant staff in the prison involved with the management of the prisoner.<sup>61</sup> SORC's recommendations, if accepted, may determine what programs will be available to an offender, and whether the offender will eventually progress to a classification eligible for pre-release leave programs.<sup>62</sup> We discuss SORC's role in decisions to grant pre-release leave in more detail later in this Question Paper at 4.65-4.67.

- 4.32 SORC is in a position to motivate serious offenders to address their offending behaviour and engage in activities to improve their prospects for successful reintegration on release. SORC can advise offenders of the programs and services which can maximise their chances of progressing through the classification system and being released on parole. As an independent body that directly advises the Commissioner on the case management of serious offenders, SORC can use its position to encourage the prioritisation of treatment and programs to certain offenders, where necessary.
- 4.33 Prisoners who are not serious offenders may still come under SORC's management if they have a security designation, an escape risk classification or if they are considered "public interest inmates".
- 4.34 Offenders can be designated by the Commissioner as "high security", "extreme high security" or "extreme high risk restricted" inmates.<sup>63</sup> A history of extreme violence or escapes, involvement in organised crime, or incarceration in connection with acts of public violence, terrorism or serial criminality, are indicators for a prisoner to be given such a security designation.<sup>64</sup> There were 75 offenders with security designations on 31 December 2012.<sup>65</sup> SORC provides advice and recommendations to the Commissioner about the case plans and placement of these offenders, including whether they should continue to be subject to security designations, through its High Security Inmate Management Committee.<sup>66</sup>
- 4.35 Offenders who commit escape offences must be given escape risk classifications, which means they cannot be held in minimum security prisons.<sup>67</sup> This restricts their access to pre-release leave programs and other programs that are only available in minimum security prisons, or minimum security areas of prisons. SORC provides

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60. *Crimes (Administration of Sentences) Act 1999* (NSW) s 197; *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 12C, cl 16, cl 27, cl 320.

61. Serious Offenders Review Council, *Annual Report 2012* (2013) 13; Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [18.1.7], [18.1.8].

62. Serious Offenders Review Council, *Annual Report 2012* (2013) 13.

63. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 25.

64. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [18.3.3].

65. Serious Offenders Review Council, *Annual Report 2012* (2013) 9.

66. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 12B, cl 16, cl 320(1)(c)-(d); Serious Offenders Review Council, *Annual Report 2012* (2013) 14-15.

67. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 24.

## Parole question papers

advice and recommendations about varying and revoking escape risk classifications to the Commissioner through its Escape Review Committee.<sup>68</sup>

- 4.36 For prisoners deemed by Corrective Services NSW to be “public interest inmates”, SORC’s Pre-Release Leave Committee provides advice and recommendations to the Commissioner on whether such prisoners should have their classification reduced to the lowest level, in order to access unescorted pre-release leave programs.<sup>69</sup>
- 4.37 Despite these other categories of offender who may experience some SORC involvement, some high risk recidivist offenders may still fall outside SORC’s jurisdiction. We have already asked in Question Paper 3 whether the definition of “serious offender” should be changed or expanded. This question also needs to be considered in light of the value that SORC can add to the case management process.

### 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?

## In-custody rehabilitation programs

- 4.38 Corrective Services NSW offers in-custody rehabilitation programs in a group therapy format to address issues such as sex offending, violent offending, domestic violence, drug and alcohol addiction, and other addictive behaviour like gambling. As indicated earlier, it adheres to the views of the “what works” literature.<sup>70</sup> Corrective Services NSW uses a Program Accreditation Panel to evaluate its programs to ensure they meet design, implementation and evaluation criteria which reflect the risks, needs and responsivity principles.<sup>71</sup> Each program is accredited at one of four levels depending on the range of evidence available to demonstrate its effectiveness and accreditation status is regularly reviewed.<sup>72</sup> Some of the in-custody group programs run by Corrective Services NSW include:
- for sex offenders: the CUBIT program, CORE Moderate program, Deniers program and the Self-Regulation program
  - for violent offenders: VOTP, the Pathways for Offenders at Moderate Risk of Violent Reoffending program, the Controlling Anger and Learning to Manage It (CALM) program and the Domestic Abuse Program, and
  - for offenders with substance abuse and other addiction issues: the Getting Smart program, the Intensive Drug and Alcohol Treatment Program (IDATP),

68. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 27; Serious Offenders Review Council, *Annual Report 2012* (2013) 16.

69. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [18.4.3]; Serious Offenders Review Council, *Annual Report 2012* (2013) 17.

70. Corrective Services NSW, *Compendium of Correctional Programs in NSW* (2012) 1.

71. Corrective Services NSW, *Program Accreditation Framework* (version 5.2, 2012) 3, 8.

72. Corrective Services NSW, *Program Accreditation Framework* (version 5.2, 2012) 11.

the Personal Ownership, Identity and Self-Empowerment (POISE) program and the Ngarra Nura program.

- 4.39 A comprehensive evaluation of the quality or effectiveness of the in-custody programs offered by Corrective Services NSW is beyond the scope of this reference, although it is clearly important that programs are effective and are an efficient use of resources.
- 4.40 We discussed in Question Paper 3 the difficulties that some offenders can have in accessing programs. Corrective Services NSW acknowledges that not all offenders can participate in group work programs, particularly:
- offenders with unstable mental health issues
  - offenders who are hostile to the program and disrupt its delivery, and
  - offenders who need significant personal assistance due to impaired cognitive functioning and inability to grasp abstract concepts.<sup>73</sup>
- 4.41 Corrective Services NSW does attempt to open program participation as far as possible to offenders with cognitive impairments. The Statewide Disability Service can provide advice on an intellectually disabled prisoner's capacity to participate in group programs.<sup>74</sup> No prisoner with a disability can be excluded from any program without contacting Statewide Disability Services.<sup>75</sup> Corrective Services NSW also tries to create versions of programs specifically for offenders with cognitive impairments, such as the Self-Regulation program for cognitively impaired sex offenders. Some offenders, however, have idiosyncratic needs that cannot be met by available programs and need to be referred to the Serious Offenders Assessment Unit or Corrective Services Psychology for advice.<sup>76</sup>
- 4.42 Prisoners tend to have lower levels of educational attainment than the general population. Corrective Services NSW's policy is that poor literacy should not exclude a prisoner from a program.<sup>77</sup> Instead, action should be taken to meet the needs of the individual, such as providing extra assistance with reading and writing tasks, or delivering the program in a way that maximises the individual's capacity to respond and engage.
- 4.43 Some preliminary submissions expressed concerns about offenders having insufficient access to programs and how this may adversely impact on their prospects of being released on parole.<sup>78</sup> The ALS and Legal Aid NSW observed in preliminary consultations that some programs are only available in certain correctional centres.<sup>79</sup> An offender would have to be transferred to one of these

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73. Corrective Services NSW, *Compendium of Correctional Programs in NSW* (2012) 8.

74. Corrective Services NSW, *Compendium of Correctional Programs in NSW* (2012) 8.

75. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [24.1.5].

76. Corrective Services NSW, *Compendium of Correctional Programs in NSW* (2012) 8.

77. Corrective Services NSW, *Compendium of Correctional Programs in NSW* (2012) 8.

78. Justice Action, *Preliminary submission PPA9*, 3; NSW Young Lawyers Criminal Law Committee, *Preliminary submission PPA10*, 3.

79. Legal Aid NSW and the Aboriginal Legal Service (NSW/ACT), *Preliminary consultation PPAC3*.

facilities to access the program. Corrective Services NSW acknowledges that there is high demand for programs and that waits for some programs are impinging on prisoners' parole periods.<sup>80</sup> If prisoners are facing delays in accessing rehabilitation programs, this may affect prisoners' prospects of successfully reintegrating into the community, because less time is available for parole supervision and assistance from Community Corrections.

### 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?

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

### In-custody education and vocational programs

- 4.44 Prisoners tend to have lower levels of educational attainment than the general population. A 2012 study of Aboriginal and Torres Strait Islander prisoners in Queensland found that less than 20% had completed any schooling, education or training beyond Year 10 level.<sup>81</sup>
- 4.45 Corrective Services NSW delivers education programs to offenders in custody through the Adult Education and Vocational Training Institute (AEVTI). AEVTI delivers courses from the NSW TAFE Access to Employment Education and Training Framework (certificates I, II and III), which develops knowledge and skills in literacy, oracy, numeracy, generic employability skills, job seeking skills, work place communication, workplace safety, women's issues and Aboriginal studies.<sup>82</sup> Courses which combine these units are offered at all correctional centres.<sup>83</sup> Other AEVTI courses educate offenders in English as a second language, the music industry, visual arts and crafts, IT, horticulture, general construction and small business management.
- 4.46 All prisoners serving three months imprisonment or more take a Core Skills Assessment to help determine their level of literacy and numeracy.<sup>84</sup> Prisoners complete an education profile interview with an education staff member before enrolment in a course, covering education and employment history, interests, aptitudes and aspirations. This provides a basis for an education plan that lists courses to be studied in the immediate and medium term. The plan is reviewed annually or after a change of correctional centre or classification.
- 4.47 Most offenders study part-time and work for Corrective Service Industries (CSI) within the prison to get on the job training.<sup>85</sup> Vocational courses and traineeships

80. Corrective Services NSW, *Preliminary consultation PPAC5*.

81. E Heffernan, K Andersen and A Dev, *Inside Out: The Mental Health of Aboriginal and Torres Strait Islander People in Custody Report* (Queensland Health, 2012) 21.

82. Corrective Services NSW, *AEVTI Policy and Procedures Manual* (2011) section 1.02, 2.

83. Information provided by Corrective Services NSW (12 November 2013).

84. Corrective Services NSW, *AEVTI Policy and Procedures Manual* (2011) section 1.02, 1.

85. Corrective Services NSW, *AEVTI Policy and Procedures Manual* (2011) section 1.02, 3; Corrective Services NSW, *Corrective Services Industries Policy Manual* (2007) section 1.3.



currently delivered in NSW correctional centres include hospitality, rural and agricultural studies, small motor maintenance, forklift, backhoe and other plant equipment operations, asset maintenance and laundry operations.<sup>86</sup> Traineeships in TAFE Certificates II, III and IV are conducted at a number of prisons.<sup>87</sup> Corrective Services NSW also runs a Work Readiness Program to assess prisoners with employability skills and deficits.<sup>88</sup> Prisoners work under CSI supervisors, who make case notes about their progress and prepare work readiness assessments every 6 months. Strengths and weaknesses are identified for the attention of case planners. This information is used to provide vocational and training programs to address prisoners' identified deficits.

- 4.48 Corrective Services NSW advises that the same basic suite of units from the NSW TAFE Access to Employment Education and Training Framework are delivered in all prisons.<sup>89</sup> A common standard educational framework at all centres facilitates the completion of courses when an inmate student is transferred to another centre. However, this is not the case for vocational courses, which are delivered at certain sites and are linked to employment provided by CSI. Corrective Services NSW advises that prisoners who have commenced a traineeship, or who are enrolled in a full time Intensive Learning Centre program, are not moved to other prisons until they complete the traineeship or program.
- 4.49 PIAC has submitted that offenders can have difficulty accessing educational programs in custody, particularly when they are reclassified and/or moved to another correctional centre.<sup>90</sup> Similar complaints about the availability of education courses in prison were reported by the Law and Justice Foundation in 2008. Prisoners said they could not participate in education or behaviour related courses in prison because courses were full or not offered in particular prisons. Some prisoners said they lost their places in courses when transferred to another prison.<sup>91</sup>
- 4.50 According to the national *Report on Government Services*, participation in in-custody education programs fell from 51.3% of eligible NSW offenders in 1996-97 to just 30.3% of eligible offenders in 2010-11.<sup>92</sup> Recently, participation has improved to 35.3% of eligible offenders in 2011-12.<sup>93</sup> Just over 21% of eligible offenders were enrolled in vocational education and training, while 14.1% were undertaking secondary school education. AEVTI's Policy Manual states that approximately 48%

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86. Corrective Services NSW, *AEVTI Policy and Procedures Manual* (2011) section 1.02, 3.

87. Information provided by Corrective Services NSW (12 November 2013).

88. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [22.1.4].

89. Information provided by Corrective Services NSW (12 November 2013).

90. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 23.

91. A Grunseit, S Forell and E McCarron, *Taking Justice Into Custody: The Legal Needs of Prisoners*, (Law and Justice Foundation of NSW, 2008) 63, 170-172.

92. Productivity Commission, *Report on Government Services* (2002) Table 10A.20; Productivity Commission, *Report on Government Services* (2012) Table 8A.26.

93. Productivity Commission, *Report on Government Services* (2013) Table 8A.26.

of inmates in NSW correctional centres participate in courses provided by AEVTI each year.<sup>94</sup>

- 4.51 In-custody work participation rates in NSW have been better than education participation rates. In 1996-97 66.8% of prisoners eligible to work participated in work.<sup>95</sup> This figure was 83.7% in 2000-01, 71.8% in 2004-05<sup>96</sup> and 76% in 2011-12.<sup>97</sup> However, the types of work available in custody may not always be good preparation for employment in the community.<sup>98</sup>

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

## The problem of short sentences and limited time post-sentencing

- 4.52 There is no obligation on Corrective Services NSW to engage in custodial case planning for offenders with less than six months to serve until the earliest release date. This is understandable because there is little that can be done for an offender by way of program participation in such a short time. Instead, custodial officers are required to identify any immediate risks and needs and refer offenders to services as required during the short time in custody.<sup>99</sup> These offenders may have high risks of reoffending or high needs that are not able to be addressed before they are released into the community, other than by way of a case officer making day to day referrals to services, such as health, welfare and psychology, as required. This may affect their prospects of successfully reintegrating into the community.
- 4.53 Some of these offenders may be serving fixed term sentences and so will not become parolees. Other offenders in this group (possibly because of length of time on remand) may still be released to serve a period on parole. Female offenders are particularly overrepresented among prisoners serving short sentences. They are also overrepresented among prisoners who experience short periods under sentence before release on parole.<sup>100</sup>

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94. Corrective Services NSW, *AEVTI Policy and Procedures Manual*, section 1.02, 1. According to Corrective Services, the AEVTI figure captures all individual enrolments as a percentage of the number of inmates in custody over one year, while the *Report on Government Services* figure is a one day 'snapshot' which represents the percentage of eligible inmates participating in education programs on a given day.

95. Productivity Commission, *Report on Government Services* (2002) Table 10A.20.

96. Productivity Commission, *Report on Government Services* (2006) Table 7A.25.

97. Productivity Commission, *Report on Government Services* (2013) Table 8A.26.

98. M Borzycki, *Interventions for Prisoners Returning to the Community* (Australian Institute of Criminology, 2005) 57-58.

99. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [7.1.3].

100. E Baldry, "Women in Transition: From Prison To.." (2010) 20(2) *Current Issues in Criminal Justice* 253.

**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?

## Transitioning offenders from custody to the community

- 4.54 As the non-parole period expiry date approaches, the focus of case management turns towards the release of the offender into the community. In this section of the Question Paper, we look at the transitional options available before release on parole that can help to prepare offenders for life in the community. The adequacy of these transitional options (and access to them) may be crucial for making the throughcare policy a reality for offenders.

### Pre-release external leave programs

- 4.55 Through pre-release leave from a correctional centre, offenders can experience time in the community to prepare them for full release on parole. Pre-release leave is not a requirement for parole, or the only way to prepare an offender for release, however, it does offer a number of benefits, such as:
- testing the appropriateness of an offender’s proposed accommodation and creating an opportunity to reintegrate as a family unit
  - establishing positive community support networks, such as churches, charities, community organisations and prisoner support groups, to rely on when released
  - establishing support from specialist services such as housing agencies, doctors, counsellors and psychologists
  - obtaining meaningful employment, which may be ongoing after release, or participation in external education or training, and
  - gradual acclimatisation to community life for institutionalised prisoners, increasing their independence and ability to take responsibility for themselves.<sup>101</sup>
- 4.56 The legislation and policies governing access to pre-release leave are complex. Under s 6(2) of the *Crimes (Administration of Sentences) Act 1999* (NSW) (CAS Act), the general manager of a correctional centre can issue a permit allowing an offender to undertake escorted work or other activities either within the grounds of a correctional complex (called a s 6(2) ON permit) or outside a correctional complex (a s 6(2) OFF permit). Under s 26 of the CAS Act, the Commissioner for Corrective Services can also issue a leave permit which allows an offender to be absent from a correctional centre for any approved purpose. Section 26 permits allow an offender

101. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.1.8].

to participate in either escorted or unescorted external leave but are generally used only for unescorted leave.<sup>102</sup>

- 4.57 Corrective Services NSW policy is that offenders must progress to the third lowest level of security classification (C1 for male offenders and Category 3 for female offenders) before being eligible for a s 6(2) ON permit.<sup>103</sup> Offenders must progress to the second lowest level of security classification (C2 for male offenders and Category 2 for female offenders) before being eligible for a s 6(2) OFF permit or escorted external leave under a s 26 permit.<sup>104</sup> Escorted external pre-release leave programs allow prisoners to participate in work programs, sports events and other supervised programs outside a correctional centre under escort from a member of staff.
- 4.58 Unescorted external leave under a s 26 permit is only available to offenders who have progressed to the lowest level of security classification (C3 for male offenders and Category 1 for female offenders).<sup>105</sup> Unescorted external leave programs include:
- day leave, where a prisoner is permitted to be absent from prison with an approved sponsor at approved locations from 8.00am to 8.00pm<sup>106</sup>
  - weekend leave, where a prisoner is permitted to be absent from prison with an approved sponsor at approved locations from Friday evening to Sunday evening (prisoners may not participate in weekend leave without first participating in day leave)<sup>107</sup>
  - work release, education and vocational training leave programs where prisoners are absent from prison while attending approved employment, education and vocational training, industrial training and work experience in the community<sup>108</sup>
  - attendance at community based counselling and life skills programs, such as Alcoholics Anonymous, Gamblers Anonymous and financial management courses,<sup>109</sup> and

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102. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [19.1.7].

103. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [19.1.4.1].

104. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 22-23; Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [19.1.4.1], [20.2.1].

105. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 22-23; Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.2.1].

106. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.3.2].

107. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.3.2].

108. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.4.1].

109. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.4.1].

- approved community projects programs developed between Corrective Services NSW and local councils, where offenders perform work to gain experience and life skills while making some reparation to the community.<sup>110</sup>
- 4.59 When an offender is being considered for unescorted leave, Corrective Services NSW contacts any registered victims of the offender and invites them to make a submission before the final decision is made.<sup>111</sup>

#### *Difficulties accessing pre-release leave*

- 4.60 In Question Paper 3, we discussed the difficulties some offenders experience in obtaining a low security classification. On 30 June 2012, 4411 sentenced male prisoners (about 65% of the total sentenced male prisoner population) were classified as C1, C2 or C3. Slightly under 20% (1257 prisoners) were C1, about 40% (2706 prisoners) were C2 and just 7% (448 prisoners) were C3. A higher proportion of sentenced female prisoners are classified at the lowest three classification levels, with over 80% (378 female prisoners) on 30 June 2012 classified as Category 3, Category 2 or Category 1. About 10% (52 prisoners) were Category 3, 60% (273 prisoners) were Category 2 and 10% (53 prisoners) were Category 1.<sup>112</sup>
- 4.61 When moving an offender to a lower security classification, Corrective Services NSW has to bear in mind public interest issues, such as community safety and the interests of victims, and make an assessment of the prisoner's risk of engaging in criminal activity. There will always be some prisoners who cannot be trusted to go into the community without supervision. Corrective Services NSW appears to be satisfied that many prisoners are suitable for escorted pre-release leave programs. However, only a small number are trusted to take the final step in classification and be eligible for unescorted pre-release leave. Although escorted leave may be a valuable tool for helping institutionalised offenders become accustomed to public spaces outside correctional complexes, unescorted leave is likely to be much better preparation for life on parole.
- 4.62 Other rules may also limit access to pre-release leave. For example, an offender must have a suitable sponsor in the community before being approved for unescorted day or weekend leave. The sponsor must be able to assist the offender to re-assimilate into family and community life, be able to convey the offender to and from the correctional centre, have known the offender from outside the correctional environment, be a "person of integrity" and preferably also be a "mature family member".<sup>113</sup> It is likely that many offenders would not know anyone suitable to be their sponsor. Corrective Services NSW has informed us that identifying a suitable sponsor may be a particular problem for older offenders, those serving longer sentences and older sex offenders,<sup>114</sup> who may be highly institutionalised. However,

110. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.4.17]-[20.4.18].

111. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.1.7].

112. Corrective Services NSW, *NSW Inmate Census 2012* (2013) 27.

113. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.3.8].

114. Corrective Services NSW, *Preliminary consultation PPAC5*.

in some instances, Corrective Services staff can function as sponsors and accompany offenders into the community.<sup>115</sup>

- 4.63 Timeframe policies limit access to external leave. Offenders are generally not eligible for unescorted work release or education leave until they have less than two years to serve before the expiry of the non-parole period. If the offender has participated in such leave, he or she is then eligible for unescorted day or weekend leave when there is less than 18 months remaining of the non-parole period. An offender who has not completed work release or education leave is only eligible for day or weekend leave when there is less than 12 months remaining of the non-parole period.<sup>116</sup> Offenders are only able to participate in one episode of day leave per month, one episode of weekend leave every two months, and are not allowed to participate in both day and weekend leave at the same time.<sup>117</sup>
- 4.64 Corrective Services NSW has advised us that the policies governing access to pre-release external leave programs are currently under review.<sup>118</sup>

### ***Serious offenders and public interest inmates***

- 4.65 As well as making recommendations about serious offenders' progression to lower security classifications, SORC makes recommendations to the Commissioner about serious offenders' suitability for either a s 6(2) or s 26 permit. Serious offenders are not considered for these permits without the approval of SORC.<sup>119</sup>
- 4.66 SORC is also responsible for making recommendations about escorted s 6(2) OFF permits and unescorted pre-release leave permits for public interest inmates through its Pre-Release Leave Committee.<sup>120</sup> In 2012 the Committee considered 180 applications for escorted or unescorted pre-release leave from public interest inmates and recommended that 144 be approved. The Commissioner approved 130 of these recommendations.<sup>121</sup>
- 4.67 Unescorted leave for both serious offenders and public interest inmates is subject to the same timeframe and other restrictions as for all other offenders.<sup>122</sup>

#### **Question 4.6: Pre-release leave**

How could pre-release leave programs be improved to:

- (1) prepare offenders sufficiently for life on parole; and

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115. Information provided by Corrective Services NSW (12 November 2013)

116. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.2.4].

117. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.3.2]-[20.3.4].

118. Information provided by Corrective Services NSW (23 October 2013).

119. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [19.1.4.5], [20.2.11].

120. Serious Offenders Review Council, *Annual Report 2012* (2013) 17.

121. Serious Offenders Review Council, *Annual Report 2012* (2013) 17.

122. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.2.4], [20.3.2]-[20.3.4].

(2) ensure offenders can access pre-release leave prior to parole?

### Transitional centres

- 4.68 Transitional centres enable offenders still serving their non-parole period to adjust gradually from the custodial environment to the community and provide support to address the challenges they face, such as finding accommodation and work, dealing with government agencies and arranging health and counselling services. Transitional centres may be a key means to address institutionalisation.<sup>123</sup>
- 4.69 There are currently two transitional centres run by Corrective Services NSW. Both are for female prisoners only. These centres accept offenders before their release on parole under a local leave permit and life at a transitional centre is designed to reflect community living.<sup>124</sup> Residents can access external services and networks in the community, from going shopping or to the hairdresser, to appointments with doctors, family counselling, and alcohol and drug counselling. They can attend programs in the community relating to their assessed criminogenic needs, such as parenting, employment, financial management, counselling, housing, education and health.
- 4.70 Bolwara House takes up to 16 women three to 12 months before the expiry of their non-parole periods.<sup>125</sup> It targets Aboriginal and Torres Strait Islander women with alcohol and drug issues to prepare them for release into the community.<sup>126</sup> Parramatta Transitional Centre is a community based centre for female prisoners to work intensively on their post-release goals.<sup>127</sup> It can accommodate up to 21 women, including women with children as approved by Corrective Services NSW's Mothers' and Children's Committee, and like Bolwara House, it provides opportunities for residents to access services and support in the community.<sup>128</sup>
- 4.71 Corrective Services NSW also has other residential style accommodation units to assist female offenders to transition into the community, including:
- two "Co-existing Disorder Residential Centres" at Parramatta and Cessnock that provide transitional accommodation and support services for up to 18 women prisoners with mental health and drug and alcohol issues, including referrals to residential rehabilitation programs, drug and alcohol services, Centrelink, TAFE

123. M Borzycki, *Interventions for Prisoners Returning to the Community* (Australian Institute of Criminology, 2005) 61.

124. *Crimes (Administration of Sentences) Act 1999* (NSW) s 26(2)(j); Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [20.2.7].

125. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [26.18.3]; NSW Premier's Council on Homelessness Non-Government Members Submission, *Homelessness Issues for People Leaving Custody* (2012) 35.

126. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [26.18.2]-[26.18.3].

127. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [26.19.2].

128. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [26.19.2]; NSW Premier's Council on Homelessness Non-Government Members Submission, *Homelessness Issues for People Leaving Custody* (2012) 9.

NSW and Housing NSW, and promoting life skills, such as budgeting, nutrition and general health care,<sup>129</sup> and

- an independent living unit adjacent to Dillwynnia Correctional Centre where women prisoners have a greater degree of freedom and responsibility than in the main prison and may participate in external pre-release leave programs such as works release and study leave.<sup>130</sup>

There are no designated transitional centres or similar units for male offenders; although there are supported accommodation options for male parolees which can perform a similar transition function. These options are discussed later in this Question Paper in the section on accommodation for parolees at 4.139.

### Question 4.7: Transitional centres before release

- (1) How effective are transitional centres in preparing offenders for release on parole?
- (2) How could more offenders benefit from them?

## Other transition options

- 4.72 Other jurisdictions use a wider variety of options to create a continuum between custody and parole. In preliminary consultations, Corrective Services NSW noted the value of having a range of transitional options available depending on the needs and circumstances of different offenders.<sup>131</sup>

### *Back-end home detention*

- 4.73 In NSW, home detention is only used as an alternative to a sentence of full-time imprisonment (“front-end home detention”). Some jurisdictions also use home detention as a transition mechanism prior to an offender’s release on parole (“back-end home detention”). Back-end home detention aims to help offenders secure and maintain stable employment and accommodation and to re-establish family and social support networks within the strict structure of home detention. This may help offenders to gradually transition from the custodial environment to the community.
- 4.74 A prisoner released on back-end home detention in SA must remain at his or her residence unless participating in paid employment, for urgent medical or dental treatment, or where permitted to be absent from the residence by an authorised officer.<sup>132</sup> The prisoner must be of good behaviour, obey lawful directions of an authorised officer, not possess firearms or ammunition, and comply with other conditions which the Chief Executive of the SA Department of Correctional Services

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129. NSW Department of Attorney General and Justice, *Annual Report 2011-12* (2012) 61; NSW Premier’s Council on Homelessness Non-Government Members Submission, *Homelessness Issues for People Leaving Custody* (2012) 34.

130. NSW Premier’s Council on Homelessness Non-Government Members Submission, *Homelessness Issues for People Leaving Custody* (2012) 37.

131. Corrective Services NSW, *Preliminary consultation PPAC5*.

132. *Correctional Services Act 1982* (SA) s 37A(3).



thinks appropriate, including submitting to electronic monitoring.<sup>133</sup> The Chief Executive may release offenders to back-end home detention when they have served at least 50% of the non-parole period and have less than one year remaining until the non-parole period expires.<sup>134</sup> The Chief Executive may revoke back-end home detention if the prisoner fails to comply with a condition of release, or for any other reason.<sup>135</sup> During 2011-12, 193 offenders were released to back-end home detention in SA.<sup>136</sup> The SA Department for Correctional Services describes it as one of its most intensive and successful community based programs.<sup>137</sup>

- 4.75 The UK has a home detention curfew scheme which applies to prisoners serving sentences of three months to four years, apart from certain prisoners, such as sexual and violent offenders.<sup>138</sup> Progression from full-time custody to home detention curfew is viewed by the UK authorities as a normal part of the sentence. UK prisoners released on home detention curfew must remain at their home address at night time, normally between 7.00pm – 7.00am, and are subject to electronic monitoring and other conditions. Breaching home detention curfew conditions may result in the prisoner being returned to full-time custody.
- 4.76 An analysis of the UK scheme found that offenders subject to home detention curfew were no more likely to reoffend after release than offenders with similar characteristics who were not subject to home detention curfew.<sup>139</sup> The analysis suggested that the overall outcomes of home detention curfew, especially taking costs into account, were preferable to keeping offenders eligible for the scheme in custody, as home detention curfew is cheaper to administer.
- 4.77 We considered back-end home detention in our recent report on sentencing.<sup>140</sup> Submissions to the sentencing reference were generally supportive of back-end home detention in theory but proposed a variety of models for back-end home detention in practice. We concluded that the option of back-end home detention should be subject to further consultation and development as part of our parole reference.
- 4.78 Specifically, we are interested in gathering stakeholders' views on the model of back-end home detention proposed by Corrective Services NSW. Corrective Services NSW suggested that, at sentencing, the court should decide whether an offender should be eligible to be later considered for back-end home detention. If the court wanted the offender to be considered for back-end home detention, it would set the non-parole period as usual but also a back-end home detention consideration date. This could be limited to say six months before the expiry of the non-parole period. When the consideration date arrived, SPA would either allow or

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133. *Correctional Services Act 1982* (SA) s 37A(3); SA Department for Corrections, *Annual Report 2011/12* (2012) 41.

134. *Correctional Services Act 1982* (SA) s 37A(1)-(2).

135. *Correctional Services Act 1982* (SA) s 37C(1).

136. SA Department for Corrections, *Annual Report 2011/12* (2012) 42.

137. SA Department for Corrections, *Annual Report 2011/12* (2012) 41.

138. UK HM Prison Service, *Home Detention Curfew*, Order No 6700.

139. O Marie, K Moreton and M Goncalves, *The Effect of Early Release of Prisoners on Home Detention Curfew (HDC) on Recidivism* (UK Ministry of Justice, 2011).

140. NSW Law Reform Commission, *Sentencing*, Report 139 (2013) 171-6.

refuse an offender access to the back-end home detention scheme in the same way that it makes decisions about release on parole. SPA could base its decision on statutory criteria and consider a report from Community Corrections which would consider the offender's accommodation options, the attitude of potential co-residents and the offender's overall need and suitability for back-end home detention.

- 4.79 This model would resolve one of the main problems with back-end home detention, which is that it offends the principle of truth in sentencing by allowing the release of an offender before the expiry of the non-parole period. Under the Corrective Services NSW proposal, the sentencing court would either allow or refuse an offender access to later consideration for back-end home detention. Any release to back-end home detention would thus be consistent with the intention of the sentencing court. At the same time, under the proposed model, the actual decision about participation in the scheme would be left to SPA to make shortly before the offender would otherwise be eligible for release on parole. This would allow SPA to consider factors such as the offender's behaviour in custody, security classification, program completion and accommodation options before approving the offender for back-end home detention.
- 4.80 The proposed scheme of back-end home detention would effectively be an extension of the existing day and weekend leave options, as an extra transition step between custody and full parole in the community. It could be used either in place of or in addition to pre-release leave. The benefits of external pre-release leave programs referred to earlier, such as obtaining stable accommodation and employment, re-establishing family relationships, and establishing positive community support networks would apply to back-end home detention.
- 4.81 However, the same problems that have limited the use of front-end home detention as a sentence in NSW would affect back-end home detention. We discussed these problems at length in our sentencing report. They include:
- restricted availability in regional areas (due to lack of adequate supervision and monitoring options)
  - lack of suitable housing, particularly for those offenders with cognitive or mental health impairments and/or no pre-existing accommodations options, and
  - the burden imposed on co-residents and the potential risks to the safety of co-residents.<sup>141</sup>

These issues would need to be resolved before back-end home detention could be used to transition many offenders to parole. Technical details, such as the effect on future parole eligibility of any breach of back end home detention, would also need to be worked out.

### 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?

141. See NSW Law Reform Commission, *Sentencing*, Report 139 (2013) ch 9.

### Day parole

- 4.82 Day parole is a form of longer pre-parole leave in Canada directed at preparing an offender for full parole. It exists in addition to programs providing short periods of escorted and unescorted pre-release leave. An offender on day parole is required to return to a correctional centre every night or at another specified interval.<sup>142</sup> Offenders can also be granted day parole where the conditions require them to return to a residential transitional centre every night or at specified intervals.<sup>143</sup> In this way, day parole is more structured and closely monitored than full parole.
- 4.83 None of Corrective Services NSW's existing pre-release programs permit offenders to be absent from correctional centres for more than two consecutive days. A system of day parole would create another transition step, allowing offenders to stay in the correctional centre or transitional centre overnight or on some nights every week but spend a larger proportion of their time in regular employment and other aspects of community life. It could be used on its own or in conjunction with other programs of pre-release leave and possibly back-end home detention.
- 4.84 In Canada, offenders serving a sentence of two years or more are eligible for day parole six months before eligibility for release on full parole.<sup>144</sup> Offenders serving sentences of less than two years are eligible for day parole after serving half of their non-parole period.<sup>145</sup> Even once they are eligible for full parole, offenders can be released on day parole instead of full parole if they require closer monitoring and a more structured environment than it is possible to provide on full parole.<sup>146</sup>
- 4.85 Offenders have to apply to the Canadian Parole Board for day parole. The Board will grant day parole if:
- the offender will not, by reoffending, present an undue risk to society during day parole, and
  - the release of the offender will contribute to the protection of society by facilitating reintegration as a law-abiding citizen.<sup>147</sup>

The Correctional Service Canada will recommend that the Board grant day parole if an offender has met the goals explicitly identified in the in-custody case management plan as necessary precursors to successful day parole. These goals may include considerations like completion of specific programs, remaining drug and alcohol free or attending regular meetings with a case manager.<sup>148</sup>

- 4.86 Once released on day parole, failure to comply with the conditions can lead to revocation and return to full-time custody. A 1998 study of Canadian offenders on

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142. Parole Board of Canada, *Policy Manual* (2013) [4.1.3].

143. W Gibbs, *Day Parole and Halfway Houses in Canada* (International Centre for Criminal Law Reform and Criminal Justice Policy, 2006).

144. *Corrections and Conditional Release Act*, SC 1992 (Can) s 119(1)(c).

145. *Corrections and Conditional Release Act*, SC 1992 (Can) s 119(1)(d).

146. B Grant and M Garl, *Case Management Preparation for Release and Day Parole Outcome* (Correctional Service Canada, 1998) 29-30.

147. Parole Board of Canada, *Policy Manual* (2013) [4.1.7].

148. B Grant and M Garl, *Case Management Preparation for Release and Day Parole Outcome* (Correctional Service Canada, 1998) 14-15.

day parole found that about two-thirds of offenders successfully completed the day parole period without being returned to custody. Most of those returned to custody had day parole terminated because of breaches of conditions (usually the conditions requiring abstinence from alcohol and drugs and overnight residence at a particular place) rather than reoffending.<sup>149</sup>

- 4.87 Day parole raises some of the same issues as back-end home detention. If it involves the release of an offender before the end of the non-parole period, a system of day parole may offend the principle of truth in sentencing. It might also depend on an increase in supported accommodation options and transitional centres for offenders.
- 4.88 Depending on how day parole is implemented, it may also have some similarities with the now abolished sentencing option of periodic detention. As with periodic detention, day parole may be an inefficient use of correctional centres and be unavailable in many regional areas due to the need for specialised centres. In our recent sentencing reference, we considered that these two problems with periodic detention were insurmountable and so recommended that periodic detention not be reintroduced.<sup>150</sup>

### Question 4.9: Day parole

- (1) How could a day parole scheme be of benefit in NSW?
- (2) If a day parole scheme were introduced, what could such a scheme look like?

### Re-entry courts

- 4.89 Re-entry courts have been used in some American jurisdictions as a process for transitioning offenders from custody into the community. They are modelled on drug courts, where judges case manage offenders with drug addictions with the assistance of a team made up of a prosecutor, a defence lawyer, community corrections, a drug treatment provider and other community program providers.<sup>151</sup> The team works together with the offender to formulate strategies to reduce the offender's risk of recidivism and help the offender reintegrate into the community. As we discussed earlier at 4.12, a large proportion of prisoners have substance abuse disorders. A re-entry court modelled on a drug court could be a useful tool to lower rates of recidivism and improve coordinated treatment for these offenders. However, re-entry courts have jurisdiction over a wide range of offenders and are not limited to dealing with drug dependent offenders.
- 4.90 Drug courts have been generally successful in reducing recidivism,<sup>152</sup> which has inspired some US jurisdictions to apply their case management model to prisoners

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149. B Grant and M Garl, *Case Management Preparation for Release and Day Parole Outcome* (Correctional Service Canada, 1998) 35.

150. NSW Law Reform Commission, *Sentencing*, Report 139 (2013) rec 9.7.

151. D Fetsco, "Re-entry Courts: An Emerging Use of Judicial Resources in the Struggle to Reduce the Recidivism of Released Offenders" (2013) *Wyoming Law Review* 591, 592-593.

152. S Vance, "Federal Re-entry Court Programs: A Summary of Recent Evaluations" (2011) 75(2) *Federal Probation* 64, 64; D Weatherburn and others, *The NSW Drug Court: A Re-evaluation of*

released on parole.<sup>153</sup> Like drug courts, re-entry courts are specialised problem solving courts which case manage offenders on parole, and help them transition from life in custody to life in the community.<sup>154</sup> Their functions generally include:

- reviewing offenders' re-entry progress and problems
- ordering offenders to participate in various treatment and reintegration programs
- using drug and alcohol testing and other checks to monitor compliance
- applying graduated sanctions to offenders who do not comply with treatment requirements, and
- providing modest incentive rewards for sustained clean drug tests and other positive behaviours.

4.91 Evaluations of re-entry courts in the US so far have been mixed. An evaluation of the District of Oregon Re-entry Court found that offenders who did not participate in the re-entry court program outperformed those who did on a number of important outcomes, such as employment and sanctions for non-compliance.<sup>155</sup> Other re-entry courts in Massachusetts, Michigan and Harlem appear to have produced more positive recidivism outcomes for participating offenders compared to offenders who did not participate in these programs.<sup>156</sup> These evaluations may need to be considered with caution due to limitations such as sample size.<sup>157</sup>

4.92 Supporters of re-entry courts point to the authority, respect and confidence which judges command as key advantages over present methods of supervising offenders in the community.<sup>158</sup> Re-entry courts use this as leverage to motivate offenders to change their behaviour and to organise social support to reintegrate them into the community. However, the success of re-entry courts could be explained by selection bias towards those offenders most likely to succeed, while others claim they are another form of intensive supervision which can be achieved by existing parole supervision methods.<sup>159</sup> In addition, if re-entry courts were to have power to release

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*its Effectiveness*, Crime and Justice Bulletin No 121 (NSW Bureau of Crime Statistics and Research, 2008) 1.

153. D Fetsco, "Re-entry Courts: An Emerging Use of Judicial Resources in the Struggle to Reduce the Recidivism of Released Offenders" (2013) *Wyoming Law Review* 591, 592-596; S Vance, "Federal Re-entry Court Programs: A Summary of Recent Evaluations" (2011) 75(2) *Federal Probation* 64, 64-66.

154. D Fetsco, "Re-entry Courts: An Emerging Use of Judicial Resources in the Struggle to Reduce the Recidivism of Released Offenders" (2013) *Wyoming Law Review* 591, 593-594; S Vance, "Federal Re-entry Court Programs: A Summary of Recent Evaluations" (2011) 75(2) *Federal Probation*, 64, 64-66; Z Hamilton, *Do Re-Entry Courts Reduce Recidivism?* (Center for Court Innovation, 2010) 8-11.

155. S Vance, "Federal Re-entry Court Programs: A Summary of Recent Evaluations" (2011) 75(2) *Federal Probation* 64, 66-67.

156. S Vance, "Federal Re-entry Court Programs: A Summary of Recent Evaluations" (2011) 75(2) *Federal Probation* 64, 66-67, 71; Z Hamilton, *Do Re-Entry Courts Reduce Recidivism?* (Center for Court Innovation, 2010).

157. S Vance, "Federal Re-entry Court Programs: A Summary of Recent Evaluations" (2011) 75(2) *Federal Probation* 64, 72.

158. D Fetsco, "Re-entry Courts: An Emerging Use of Judicial Resources in the Struggle to Reduce the Recidivism of Released Offenders" (2013) *Wyoming Law Review* 591, 594-597.

159. D Fetsco, "Re-entry Courts: An Emerging Use of Judicial Resources in the Struggle to Reduce the Recidivism of Released Offenders" (2013) *Wyoming Law Review* 591, 601.

a prisoner before the expiry of the non-parole period, it may compromise the principle of truth in sentencing.

- 4.93 In some ways, the NSW Drug Court already operates as a re-entry court for offenders subject to compulsory drug treatment detention. Offenders are case managed by the Drug Court through three stages of custody:
- Stage 1 – full-time detention in the Compulsory Drug Treatment Correctional Centre (CDTCC)<sup>160</sup>
  - Stage 2 – the offender is permitted to be absent from the CDTCC during the day to attend employment, education, programs and other approved activities,<sup>161</sup> and
  - Stage 3 – the offender is permitted to reside in the community at approved accommodation under intensive supervision.<sup>162</sup>
- 4.94 After considering assessment reports, the Drug Court may order that an offender progress from stage 1 to stage 2, and stage 2 to stage 3, after serving at least six months on the relevant stage.<sup>163</sup> An offender can reach stage 3 before becoming eligible for a parole order.<sup>164</sup> Offenders who fail to comply with their compulsory drug treatment personal plans may be regressed back to stage 2 or stage 1.<sup>165</sup>
- 4.95 Evaluations of the NSW Drug Court indicate that offenders who participate in its alternative program under Part 2 of the *Drug Court Act 1998* (NSW) are less likely to reoffend than those given conventional sentences.<sup>166</sup> However, the effect of detention at the CDTCC could not be evaluated, because of the absence of a control group.<sup>167</sup>

### Question 4.10: Re-entry courts

- (1) Should re-entry courts be introduced in NSW?
- (2) If re-entry courts were introduced, what form could they take and which offenders could be eligible to participate?
- (3) Alternatively, could the State Parole Authority take on a re-entry role?
- (4) If the State Parole Authority were to take on a re-entry role, which offenders could be eligible to participate?

160. *Crimes (Administration of Sentences) Act 1999* (NSW) s 106D(2).

161. *Crimes (Administration of Sentences) Act 1999* (NSW) s 106D(3).

162. *Crimes (Administration of Sentences) Act 1999* (NSW) s 106D(4).

163. *Crimes (Administration of Sentences) Act 1999* (NSW) s 106M(1)-(2), s 106N.

164. *Crimes (Administration of Sentences) Act 1999* (NSW) s 106E, s 106T; NSW Drug Court, *Policy 14: Parole for Participants of the Compulsory Drug Treatment Correctional Centre* (June 2010) 1-2; NSW Drug Court, *Annual Review* (2010) 3-4.

165. *Crimes (Administration of Sentences) Act 1999* (NSW) s 106M(3).

166. D Weatherburn and others, *The NSW Drug Court: A Re-evaluation of its Effectiveness*, Crime and Justice Bulletin No 121 (NSW Bureau of Crime Statistics and Research, 2008) 12.

167. J Dekker and others, *An Evaluation of the Compulsory Drug Treatment Program* (NSW Bureau of Crime Statistics and Research, 2010) 7.

### Case management for transition: planning and preparing for release

4.96 A key component of a successful throughcare approach involves equipping offenders before they leave custody with the information, resources and skills they need to establish a normal lawful life in the community. Corrective Services NSW relies on the *Planning Your Release: NSW Exit Checklist*, a booklet prepared by the Community Restorative Centre (CRC) and Corrective Services NSW, as the principal tool for preparing offenders for the detail of release from custody.<sup>168</sup> It contains a checklist of tasks, such as:

- obtaining identification documents
- arranging accommodation
- financial matters, such as opening bank accounts, organising welfare payments from Centrelink, and dealing with creditors
- organising a family or social support person to help adjust to community life
- organising health services and referrals in the community, and
- obtaining clothes, transport and a special gratuity from Corrective Services NSW on day of release in some cases.

The booklet should also contain the names of key staff who can assist with these areas, such as a welfare officer, an education officer, a Community Corrections officer and psychologist.<sup>169</sup> CRC's *Getting Out* handbook complements the *Planning Your Release: NSW Exit Checklist* and includes chapters on obtaining accommodation, health, returning to the family, dealing with government agencies and coping with isolation and depression. It is given to prisoners in the six months prior to release.<sup>170</sup>

4.97 In 2005-06 Corrective Services NSW introduced the Nexus program, a five session pre-release course for prisoners within six months of release.<sup>171</sup> The program facilitator guides prisoners through the *Planning Your Release: NSW Exit Checklist* and provides advice on post-release issues raised in the checklist, such as how to obtain identification documents, how to open a bank account, how to deal with Centrelink, housing options and accommodation support services.<sup>172</sup> The program is delivered in group or one to one settings. Corrective Services NSW reports that 552 offenders attended Nexus in 2011-12.<sup>173</sup>

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168. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [7.2.3].

169. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [7.2.5]; Community Restorative Centre and Corrective Services NSW, *Planning Your Release: NSW Exit Checklist* (2008).

170. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [7.2.7].

171. NSW Department of Corrective Services, *Annual Report 2005-06* (2006) 17.

172. Corrective Services NSW, *Compendium of Correctional Programs* (2012) 55-56; Community Restorative Centre, *Getting Out* (2007) 6; Community Restorative Centre, *Families Handbook* (2009) 144.

173. NSW Department of Attorney General and Justice, *Annual Report 2011-12* (2012) 73.

4.98 Other sources of release planning support for prisoners include:

- Inmate Development Committees, which are elected bodies of inmates to discuss and resolve issues affecting inmates with senior management<sup>174</sup>
- pre-release expos where government and non-government service providers, such as Roads and Maritime Services, TAFE NSW, Housing NSW, Centrelink and community housing providers meet prisoners, provide information about and process applications for services, and help avoid common post-release problems, such as lack of ID<sup>175</sup>
- weekly Exit Planning Team meetings, involving Offender Services and Programs staff, custodial staff, Community Corrections staff and members of the Inmate Development Committee to provide guidance and support in the last six months of a sentence. These teams use the *Getting Out* handbook to help inmates complete tasks, and prepare for pre-release expos
- Centrelink and Housing NSW staff visits to help with applications for housing and benefits, enabling offenders to finalise arrangements by the time of release<sup>176</sup>
- a special gratuity of between \$50 - \$100 in cases of demonstrated hardship, and particularly where there is a genuine need for clothing upon release<sup>177</sup>
- a payment to meet the cost of travelling to their homes within NSW on release where there is a demonstrated need, such as lack of finance and transport,<sup>178</sup> and
- arrangements by Justice Health for medication and health referrals to be made available at the time of release.<sup>179</sup>

4.99 Prisoners eligible to be released on parole receive additional support from Community Corrections to improve their prospects of successfully completing the parole order and reintegrating into the community. This support may include assistance in arranging accommodation in the community, including short term transitional housing to ensure that the offender meets SPA's requirements for demonstrated post-release accommodation.<sup>180</sup>

4.100 Despite these mechanisms designed to assist offenders plan and prepare for release, PIAC has reported dissatisfaction among ex-prisoners and community workers about the current level of release planning. The following common problems were identified:

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174. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [7.2.6]; Corrective Services NSW, *Operations Procedures Manual* (2001) [7.20].

175. Corrective Services NSW, *Offender Classification and Case Management Policy and Procedures Manual* (2012) [7.2.7].

176. Community Restorative Centre, *Getting Out* (2007) 15, 23.

177. Corrective Services NSW, *Operations Procedures Manual* (2012) [11.1.12].

178. Corrective Services NSW, *Operations Procedures Manual* (2012) [11.1.13].

179. Corrective Services NSW, *Operations Procedures Manual* (2012) [11.1.5.2].

180. Corrective Services NSW, *Community Corrections Policy and Procedures Manual* (2013) section K [1.4].



- lack of access to information about accommodation and support services for prisoners about to be released
  - difficulties accessing welfare officers in prison, and
  - inadequate training and education courses in prison, especially life skills courses to assist with reintegration into the community.<sup>181</sup>
- 4.101 In total, 22 of 26 ex-prisoners interviewed by PIAC identified difficulties and delays accessing welfare services and staff, together with perceptions of incompetence or inefficiency.<sup>182</sup> However, some ex-prisoners did report positive experiences in accessing prison welfare and receiving help contacting external organisations and obtaining post-release accommodation.<sup>183</sup> A 2004 report by the Australian Institute of Criminology stated that there was a large strain placed on welfare officers throughout NSW prisons, who tended to be overloaded with work.<sup>184</sup> The Law and Justice Foundation also reported in 2008 that there appeared to be a shortage of welfare staff in NSW prisons and that prisoners experienced difficulties and delays in accessing welfare officers.<sup>185</sup>
- 4.102 Some offenders may be motivated and organised enough to follow the detailed advice in the *Planning Your Release: NSW Exit Checklist* and *Getting Out* handbooks. However, for those offenders with poor literacy, poor social and life skills, and who are institutionalised, assistance from a welfare officer may be essential.
- 4.103 Overall, the current approach to release preparation seems to mostly require offenders to take the initiative in readying themselves for release. This may be an unrealistic way to provide release preparation assistance. A study of a sample of NSW prisoners in 2003 found that 73% reported being given no information about housing or post-release assistance before they were released,<sup>186</sup> although information provision may have improved since this study. An alternative to the current approach could be to resource additional officers within prisons who are specialised housing and throughcare workers. Such officers could engage in proactive case management to ensure that all offenders are equipped with the necessary information, skills and services in place before their release.

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181. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 19-24, 30-31.

182. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 20-22.

183. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 22-23.

184. M Willis, *Ex-Prisoners, SAAP, Housing and Homelessness in Australia* (Australian Institute of Criminology, 2004) 113.

185. A Grunseit, S Forell, and E McCarron, *Taking Justice Into Custody: The Legal Needs Of Prisoners* (Law and Justice Foundation of NSW, 2008) 165-166.

186. E Baldry and others, *Ex-Prisoners and Accommodation: What Bearing o Different Forms of Housing Have on Social Reintegration?* (Australian Housing and Urban Research Institute, 2003) 10.

**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?

## Supervision and management of parolees in the community

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### Conditions of parole

- 4.104 Under the CAS Act and the *Crimes (Administration of Sentences) Regulation 2008* (NSW) (the CAS Regulation), all parole orders are subject to three standard conditions that require an offender to be of good behaviour, not commit an offence, and adapt to normal lawful community life.<sup>187</sup> If an offender is subject to a court based parole order, the sentencing court decides what conditions to apply to the order beyond these standard conditions, although a supervision condition will automatically apply unless the sentencing court expressly removes it.<sup>188</sup> If the offender is released on a SPA parole order, then SPA selects the conditions to add to the standard conditions. SPA usually selects any additional conditions from a pre-prepared list of possible conditions.<sup>189</sup> Depending on offenders' circumstances, SPA may impose one or more of these conditions on a parole order, including conditions requiring the parolee to submit to electronic monitoring, abstain from alcohol consumption and refrain from gambling. There is no legislative limit on the conditions that either the sentencing court or SPA may impose. However, before imposing any additional conditions about residence or treatment, SPA must consider the Community Corrections pre-release report and must be satisfied that compliance with the conditions is feasible for the offender.<sup>190</sup>
- 4.105 Whether they are released on court based or SPA parole orders, nearly all parolees are required to accept supervision as an additional condition of their parole.<sup>191</sup> A parolee who is supervised by a Community Corrections officer is required to:
- (a) obey all reasonable directions of the officer,
  - (b) report to the officer (or to another person nominated by the officer) at such times and places as the officer may from time to time direct,
  - (c) be available for interview at such times and places as the officer (or the officer's nominee) may from time to time direct,
  - (d) reside at an address approved by the officer,

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187. *Crimes (Administration of Sentences) Act 1999* (NSW) s 128(1)(a); *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 224.

188. *Crimes (Sentencing Procedure) Act 1999* (NSW) s 51(1AA).

189. This list is published in SPA's annual report: State Parole Authority, *Annual Report 2012* (2013) 35-36.

190. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 225(1).

191. Information provided by Corrective Services NSW (23 October 2013).

- (e) permit the officer to visit the offender at the offender's residential address at any time and, for that purpose, to enter the premises at that address,
- (f) not leave NSW without the permission of the officer's community corrections manager,
- (g) not leave Australia without the permission of the Parole Authority,
- (h) if unemployed, enter into employment arranged or agreed on by the officer, or make himself or herself available for employment, training or participation in a personal development program as instructed by the officer,
- (i) notify the officer of any intention to change his or her employment:
  - (i) if practicable, before the change occurs, or
  - (ii) otherwise, at his or her next interview with the officer,
- (j) not associate with any person or persons specified by the officer,
- (k) not frequent or visit any place or district designated by the officer,
- (l) not use prohibited drugs, obtain drugs unlawfully or abuse drugs lawfully obtained.<sup>192</sup>

4.106 SPA can vary the conditions of any parole order while the offender is on parole. It can also add further conditions. SPA cannot add or vary conditions in a way that is inconsistent with the three standard conditions of parole or inconsistent with any conditions imposed by the sentencing court (for court based parole orders).<sup>193</sup>

### **Standard conditions of parole**

4.107 The standard parole condition that requires parolees to be of good behaviour is also found in several other NSW community sentences, such as good behaviour bonds.<sup>194</sup> In our recent report on sentencing, we considered the condition "to be of good behaviour" in the context of these community sentences and recommended that it be replaced with a condition "to not commit an offence". We observed that:

Although the courts and legal practitioners generally accept that an undertaking to be of "good behaviour" means that a person must not commit any further offence, this is not necessarily evident to those who have had little experience with the criminal justice system. Nor is it necessarily clear what the somewhat vague expression "to be of good behaviour" encompasses.<sup>195</sup>

This observation appears to be equally valid with respect to parole orders. As the other two standard conditions of parole require offenders to not commit an offence and to adapt to normal lawful community life, it is not clear what the concept of "good behaviour" adds to these two conditions.

4.108 In its preliminary submission, the NSW Bar Association noted that the standard condition requiring parolees to adapt to normal lawful community life may also be

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192. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 229(2).

193. *Crimes (Administration of Sentences) Act 1999* (NSW) s 128(2)-(4).

194. *Crimes (Sentencing Procedure) Act 1999* (NSW) s 95(b).

195. NSW Law Reform Commission, *Sentencing*, Report 139 (2013) 273.

somewhat vague in scope.<sup>196</sup> Many prisoners have experienced dysfunctional lifestyles in the community before their incarceration which would not ordinarily merit the description of “normal lawful community life”. Without adequate support with respect to issues such as housing, education and treatment for substance abuse, some parolees will have difficulty complying with such a condition and may be set up to fail.

- 4.109 On the other hand there may be circumstances where conditions of broad application are necessary. An offender who is being repeatedly arrested by police could not be said to be adapting to normal lawful community life. A chaotic lifestyle which increases an offender’s risk of reoffending may justify revocation of parole in some circumstances in order to protect community safety.
- 4.110 The condition that requires parolees to not commit an offence is also broad. A parolee fined for travelling on public transport without a ticket is technically in breach of this condition. It may be counter productive to return such a parolee to custody with the consequent disruption of reintegration efforts, employment, housing and family support. In our report on sentencing, we recommended that suspended sentences (if retained) should carry an automatic condition requiring the offender not to commit an offence punishable by imprisonment.<sup>197</sup> Such a condition would mean that minor fine-only offences, like regulatory transport infringements, do not constitute a breach of the condition. On the other hand, SPA has unlimited discretion to decide not to revoke a parole order in response to a breach. We will discuss SPA’s discretion not to revoke a parole order in more detail in Question Paper 5.

### ***Non-association conditions***

- 4.111 Parole conditions need to be appropriate for offenders for the duration of their time on parole. Conditions also need to avoid being overly onerous or unrealistic because of the risk of setting offenders up to fail. Such conditions may do little to minimise reoffending and maximise success on parole. For example, conditions that attempt to restrict an offender’s association with family members might be very difficult for an offender to comply with.
- 4.112 In *R v JJS* the Court of Criminal Appeal set aside a condition on a good behaviour bond requiring a 16 year old offender not to have unsupervised contact with a child under 12 years, on the ground that the condition was not defined with reasonable precision.<sup>198</sup> A major difficulty presented to the offender by this condition was that his nine year old sister lived with the offender and other members of his family and there was no definition in the bond of what constituted supervision or contact.<sup>199</sup> However, there may be circumstances where non-association conditions may be justified to prevent an offender from returning to his or her former criminal lifestyle, such as associating with former co-offenders.<sup>200</sup>

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196. NSW Bar Association, *Preliminary submission PPA4*, 1.

197. NSW Law Reform Commission, *Sentencing*, Report 139 (2013) 234-5.

198. *R v JJS* [2005] NSWCCA 225

199. *R v JJS* [2005] NSWCCA 225 at [18]–[21]

200. *Moefili v State Parole Authority* [2009] NSWSC 1146.

### **Alcohol and drugs conditions**

- 4.113 Moderate alcohol consumption is commonplace in Australia. Conditions preventing what is otherwise normal and lawful behaviour may be particularly difficult for an offender to comply with. Alcohol and drug dependency is a major issue for many offenders. Members of the community who have little or no contact with the criminal justice system struggle to reduce or end their consumption of alcohol and drugs, because of the addictive nature of these substances. Offenders are no different and parole conditions requiring offenders not to consume alcohol or use drugs may set them up to fail.
- 4.114 On the other hand, alcohol and drugs can play a major role in offending and reoffending and it may be appropriate in some circumstances to impose such a condition together with conditions requiring a parolee to seek counselling and treatment for alcohol abuse. Conditions prohibiting alcohol and drug use may also be a useful tool for Community Corrections officers trying to manage the behaviour and activities of parolees. It may be possible for additional conditions related to alcohol or drug consumption to be drafted in such a way that they can be useful tools for Community Corrections officers without setting an offender up to fail. For example, rather than a condition requiring an offender not to consume alcohol, a condition could require a parolee to follow a Community Corrections officer's directions about consumption of alcohol and presence in licensed premises and also require the parolee to seek treatment for alcohol dependence. Similarly, rather than the current requirement of supervision that requires a parolee not to "use prohibited drugs, obtain drugs unlawfully or abuse drugs lawfully obtained", the condition could instead require the parolee to submit to regular drug testing and follow the supervising officer's directions about drug use, treatment and counselling.

#### **Question 4.12: Conditions of parole**

- (1) How could the three standard conditions that apply to all parole orders be improved?
- (2) Should the power of sentencing courts and SPA to impose additional conditions on parole orders be changed or improved?

### **Supervision of parolees**

- 4.115 Supervision by Community Corrections enables monitoring and surveillance of parolees to deter and detect reoffending and breaches of other conditions. It also enables case management of parolees by the supervising officer, including making referrals to programs, treatment and other services. For example, a parolee who fails a drug test may be referred to a drug treatment or relapse prevention program. Community Corrections officers balance their monitoring and case management functions. For all court-based parolees, Community Corrections updates the case plan which was created in custody within the first eight weeks of their release.<sup>201</sup> For SPA parolees, Community Corrections takes over the custodial case management plan prior to release from custody and the plan is transferred to the relevant

201. Corrective Services NSW, *Case Management of Offenders Policy and Procedures* (2009) 1, 10; Information supplied by Corrective Services NSW (12 November 2013)

Community Corrections Office after release.<sup>202</sup> The case plan includes the programs, services and treatments recommended for an offender as well as the level of monitoring required for the offender, based on the results from the LSI-R risk assessment and the Community Impact Assessment tool.<sup>203</sup>

### *Intensity of parole supervision*

- 4.116 A parolee's level of assessed risk also determines the intensity of supervision. Through their LSI-R and Community Impact Assessment results, parolees are placed at one of nine supervision levels from Tier 1/Low (for the lowest level of risk) to Tier 3/High (for the highest level of risk). Parolees supervised at Tier 1/Low are required to report to their supervising officer at least once every eight weeks. Parolees supervised at Tier 3/High must report at least weekly and also receive home visits from their supervising officer at least once per month.<sup>204</sup>
- 4.117 For the first eight weeks after their release from custody, all new parolees are subject to the "new parolee level of supervision", apart from high risk offenders assessed as needing Tier 2/High or Tier 3/High levels of supervision. The "new parolee level of supervision" requires Community Corrections staff to have face to face contact with new parolees at least once per fortnight and to conduct a home visit at least once per month.<sup>205</sup>
- 4.118 One of the recently published Ogloff report's key criticisms of parole supervision in Victoria was that parolees were transitioned to lower levels of supervision based on the time they had spent on parole, rather than based on any assessment of their risk.<sup>206</sup> This is not an issue in NSW, as after the first eight weeks on parole, all parolees are supervised based on their assessed risk.
- 4.119 However, concerns have recently been expressed about the adequacy of supervision and monitoring of high risk offenders in NSW, particularly against the background of organisational changes at Corrective Services NSW. These changes included the merger of Community Offender Management (COM) (the former Probation and Parole Service) and the Community Compliance and Monitoring Group (CCMG), into a single Community Corrections division. The CCMG was responsible for supervising various offenders in the community, including offenders on extended supervision orders, home detention orders, intensive correction orders, prisoners participating in external leave programs, and some high risk offenders on parole.<sup>207</sup> Public concern was expressed at times about the intensity of CCMG's supervision of offenders.<sup>208</sup>

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202. Corrective Services NSW, *Community Corrections Policy and Procedures Manual* (2012) section K [1.3.3]; Corrective Services NSW, *Case Management of Offenders Policy and Procedures* (2009) 6-9.

203. Corrective Services NSW, *Community Corrections Policy and Procedures Manual* (2013) section A [1.16].

204. Corrective Services NSW, *Service Delivery Standards for Supervised Offenders* (2013).

205. Corrective Services NSW, *Service Delivery Standards for Supervised Offenders* (2013).

206. J Ogloff, *Review of Parolee Reoffending by Way of Murder* (2011) 27.

207. NSW Department of Attorney General and Justice, *Annual Report 2011-12* (2012), 59.

208. P Wright and W Collis, "State unit accused of spying on parolees" *Sydney Morning Herald* (Sydney) 9 August 2010

- 4.120 CCMG and COM were merged on the recommendation of an external review of Corrective Services NSW management structure in 2011-12. The review found that the merger would result in more consistent and effective case management and supervision for offenders, enhance the capacity to ensure public safety, provide a holistic response in case managing serious high risk offenders and be the most cost effective organisational arrangement.<sup>209</sup> The merger resulted in a net reduction of 200 positions between CCMG and COM,<sup>210</sup> although the net loss of positions involved in the direct supervision of offenders on community based orders was 92.<sup>211</sup> These losses, combined with concerns about whether CCMG's former functions of unannounced home visits and out-of-hours compliance checks on offenders are still carried out, have been subject to media coverage and public comment.<sup>212</sup>
- 4.121 Corrective Services NSW has rejected claims that the merger of COM and CCMG has had a negative effect on supervision levels.<sup>213</sup> It has stated that in the first month of the operation of Community Corrections, operational, face-to-face checks on all paroled sex offenders were on average 16% higher than previously.<sup>214</sup> Research indicates that intensive supervision is only effective in reducing recidivism when it is combined with the delivery of evidenced based rehabilitation programs.<sup>215</sup> This suggests that a risk based approach to supervision which targets monitoring, case management and evidence based interventions at high risk offenders will deliver better recidivism outcomes.

**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?

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

(a) monitoring for breach; and

209. Knowledge Consulting, *Review of Corrective Services New South Wales Community Compliance and Monitoring Group* (2012) 3.

210. Evidence to General Purpose Standing Committee No. 4, Parliament of NSW, Sydney, Wednesday 14 August 2013, 22 (Peter Severin, Commissioner of Corrective Services).

211. Evidence to General Purpose Standing Committee No. 4, Parliament of NSW, Sydney, 9 September 2013, 16 (Greg Smith SC MP, Attorney General and Minister for Justice).

212. See, for example, J Fife-Yeomans, "Attorney-General Greg Smith says Corrective Services are ensuring sex offenders on parole are telling truth" *The Daily Telegraph* (Sydney) 28 June 2013; K Needham, "Parole job cuts put public at risk: Labor" *Sydney Morning Herald* (Sydney) 25 August 2013; A Wood, "Government cuts 92 jobs from parole supervision program" *The Daily Telegraph* (Sydney) 16 September 2013; A Wood, "Shortage of parole officers is 'a danger'" *The Daily Telegraph* (Sydney) 10 October 2013.

213. Corrective Services NSW, "Serious Sex Offenders Contacts Doubled" (Media Release, 28 June 2013).

214. Corrective Services NSW, "Serious Sex Offenders Contacts Doubled" (Media Release, 28 June 2013).

215. S Aos, M Miller and E Drake, *Evidence Based Adult Corrections Programs: What Works and What Does Not* (Washington State Institute for Public Policy, 2006); D MacKenzie and L Hickman, *What Works in Corrections? An Examination of the Effectiveness of the Type of Rehabilitation Programs Offered by Washington State Department of Corrections* (University of Maryland, 1998).

(b) directing resources towards support, intervention and referrals to services and programs?

### *Duration of parole supervision*

- 4.122 Under the CAS Regulation, a parole order can only require an offender to be supervised for a maximum of three years or until the expiry of the head sentence, whichever is lesser.<sup>216</sup> If an offender's parole period is longer than three years, he or she will still be subject to the other obligations of parole and liable to be returned to custody if the order is revoked but will not be monitored in any way by Community Corrections and will not be obliged to comply with the requirements of supervision listed above at 4.105. SPA can vary the conditions of a serious offender's parole order while the offender is on parole to extend supervision for extra periods of up to three years at a time.<sup>217</sup> No other Australian jurisdictions limit the length of parole supervision conditions in this way.
- 4.123 Community Corrections is also able to suspend supervision of a parolee.<sup>218</sup> Supervision may be suspended when it is impractical (for example, the offender is in hospital). It may also be suspended because Community Corrections no longer considers supervision necessary. Supervision will usually only be considered unnecessary for parolees assessed at low risk of reoffending.<sup>219</sup> In making the decision to suspended supervision, Community Corrections officers will consider factors like:
- the parolee's compliance with parole conditions
  - verification of the parolee's residence and employment
  - any outstanding convictions or charges
  - whether the parolee has demonstrated a significant period of stability
  - any unaddressed criminogenic needs, and
  - the effect of reoffending by the parolee.<sup>220</sup>

Additional criteria apply to the decision to suspend supervision if the parolee is a sex offender or domestic violence offender, including a mandatory psychological assessment in the case of sex offenders.<sup>221</sup>

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216. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 228(1).

217. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 228(2).

218. *Crimes (Administration of Sentences) Regulation 2008* (NSW) cl 229(3).

219. Corrective Services NSW, *Community Corrections Policy and Procedures Manual* (2013) section A [1.22.3].

220. Corrective Services NSW, *Community Corrections Policy and Procedures Manual* (2013) section A [1.22.4].

221. Corrective Services NSW, *Community Corrections Policy and Procedures Manual* (2013) section A [1.22.5]-[1.22.6].



**Question 4.14: Duration of parole supervision**

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

**Information sharing and compliance**

- 4.124 An important part of supervision is monitoring parolees' compliance with their obligations and the directions of their supervisors. This may often involve checking parolees' engagement with external service providers; for example, their attendance at counselling sessions, Alcoholics Anonymous or psychiatric appointments, or their residence at their approved address. Timely sharing of information between Community Corrections and other agencies or providers may be essential in detecting parolees' breaches or any escalation of the risks they pose to the community.
- 4.125 The Ogloff review of parole in Victoria found that supervising officers often did not follow up parolees' attendance at scheduled appointments, programs and treatments. Instead, officers relied on parolees' self reports of compliance with these requirements. The report concluded that concerted efforts needed to be made to rectify deficiencies in communication between clinicians, external service providers and supervising officers.<sup>222</sup>
- 4.126 Government agencies like Corrective Services NSW are often subject to laws concerning the disclosure of information they hold. In the case of Corrective Services NSW, it is subject to privacy restrictions in the *Privacy and Personal Information Protection Act 1998* (NSW) and the *Health Records and Information Privacy Act 2002* (NSW). It is also subject to information disclosure prohibitions in other legislation such as s 13 of the *Criminal Records Act 1991* (NSW) and s 257 of the CAS Act. All of these Acts limit the circumstances in which Corrective Services NSW may disclose information it holds about parolees.
- 4.127 Corrective Services NSW has the benefit of a number of exemptions from compliance with these Acts. For example, it may disclose personal information for law enforcement purposes<sup>223</sup> and where reasonably necessary to provide services and programs to an offender effectively.<sup>224</sup> It may disclose health information where reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed.<sup>225</sup> These exemptions appear to be reasonably broad but may not cover all the circumstances where it may be necessary to share information about a parolee without consent.

**Question 4.15: Information sharing and compliance checking**

(1) How sufficient are:

222. J Ogloff, *Review of Parolee Reoffending By Way of Murder* (2011) rec 1.

223. *Privacy and Personal Information Protection Act 1998* (NSW) s 23(5).

224. *Privacy Code of Practice (General) 2002* (NSW) cl 16(b).

225. *Health Records and Information Privacy Act 2002* (NSW), schedule 1, cl 11(1)(j).

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

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

### **Electronic monitoring**

- 4.128 Some high risk parolees may have electronic monitoring included as a condition of their release to parole. In preliminary consultations, Legal Aid NSW suggested that GPS electronic monitoring devices are burdensome for offenders and are overused. This has been the subject of some comment in academic literature.<sup>226</sup>
- 4.129 Intensive supervision programs which include electronic monitoring without other interventions make little or no difference to recidivism rates.<sup>227</sup> However, electronic monitoring has some value as a tool which tells corrections staff where an offender is at any point in time. This has value in policing exclusion zones, such as a ban on child sex offenders going near schools or playgrounds, or a ban on offenders going to locations where victims reside. While it may well be inconvenient and burdensome for offenders to wear electronic monitoring equipment, there may be a significant public interest, in some cases, for an offender to be required to submit to electronic monitoring in the community.

#### **Question 4.16: Electronic monitoring of parolees**

- (1) How appropriate is the current electronic monitoring of parolees?
- (2) What are the arguments for or against increasing electronic monitoring of parolees?

### **Expertise and workload of Community Corrections officers**

- 4.130 The 2013 Callinan review of parole in Victoria highlighted the high levels of turnover for Victorian parole officers and the difficulties that Corrections Victoria experienced in attracting and retaining experienced parole officers. The review also criticised the levels of training and expertise among parole officers supervising serious offenders.<sup>228</sup> The review recommended that:
- supervising officers' caseloads should be reduced
  - incentives should be introduced to attract and retain experienced officers, and

226. M Martinovic and P Schluter, "A Researcher's Experience of Wearing a GPS-EM Device" (2012) 23(2) *Current Issues in Criminal Justice* 413.

227. D MacKenzie and L Hickman, *What Works in Corrections? An Examination of the Effectiveness of the Type of Rehabilitation Programs Offered by Washington State Department of Corrections* (University of Maryland, 1998); S Aos, M Miller and E Drake, *Evidence Based Adult Corrections Programs: What Works and What Does Not* (Washington State Institute for Public Policy, 2006).

228. I Callinan, *Review of the Parole System in Victoria* (2013) 7-8.

- experienced managers should directly oversee in the field other parole officers' supervision of offenders.<sup>229</sup>
- 4.131 On a similar note, the Ogloff report on Victorian parole supervision referred to the issue of intensity of supervision for serious offenders and commented that an intensive supervision is not just about frequency of contact, but also about supervision by more experienced staff and about supervising officers being themselves supervised more closely by experienced managers.<sup>230</sup>
- 4.132 The Probation and Parole Officers Association of NSW has been generally supportive of the decision to merge COM and CCMG into Community Corrections.<sup>231</sup> However, it has expressed concerns about experienced staff taking voluntary redundancies or retiring in the wake of the merger.<sup>232</sup> The Association has also highlighted workload issues for Community Corrections in some areas. It has described the merger of CCMG operations as straining Community Corrections Office staff and noted that:
 

...the differential transfers of workload and staffing throughout the organisation had resulted in considerable workload disparities at some locations. Some offices were faring relatively well while others had considerable imbalances between workload and resources.<sup>233</sup>
- 4.133 We understand from Corrective Services NSW that the Manager, Community Corrections or a Unit Leader allocates the supervision of offenders to community corrections officers in accordance with an officer's skills and experience. When high risk offenders are allocated for supervision within a Community Corrections Office, they are allocated to Senior Community Corrections Officers, who are officers who have formally demonstrated higher levels of skill and experience in the case management of offenders.
- 4.134 The Ogloff report recommended that Corrections Victoria consider establishing specialised supervision structures for some categories of high risk offenders. The report proposed that specialist case managers with expertise in dealing with a particular type of offender be used to supervise sex offenders and high risk offenders involved in interpersonal family violence.
- 4.135 The report also proposed that high risk offenders with non-specific patterns of offending should be supervised by an interdisciplinary case management team. Individual parole officers would still be responsible for day to day monitoring of the offender but they would present the case regularly to the case management team. The report suggests that the case management team could include the supervising officer, senior parole officers, rehabilitation program staff and non-government organisations or other service providers. It contends that the case management team approach would:

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229. I Callinan, *Review of the Parole System in Victoria* (2013) rec 19.

230. J Ogloff, *Review of Parolee Reoffending By Way of Murder* (2011) 27.

231. Probation and Parole Officers Association of NSW, *Newsletter February 2013* (2013); Probation and Parole Officers Association of NSW, *Newsletter July 2013* (2013), Probation and Parole Officers Association of NSW, *President's Report 2011/12* (2012).

232. Probation and Parole Officers Association of NSW, *Newsletter July 2013* (2013).

233. Probation and Parole Officers Association of NSW, *Newsletter July 2013* (2013).

...ensure that the offender is well understood and that their relevant range of needs are identified and addressed ... Such a collaborative effort may help supervise high risk offenders more effectively and would also ensure that cases are discussed and various perspectives are considered.<sup>234</sup>

- 4.136 Corrective Services NSW uses specialist teams to supervise some offenders in the community, such as Drug Court teams for offenders with alcohol and drug issues subject to orders of the Drug Court, and an “ESO team” which manages high risk sex offenders and violent offenders subject to extended supervision orders.<sup>235</sup>

### Question 4.17: Workload and expertise of Community Corrections officers

- (1) What improvements could be made to ensure parolees are supervised effectively?
- (2) What are the arguments for and against Community Corrections implementing specialist case managers or specialist case management teams for certain categories of offenders?
- (3) If specialist case management were to be expanded, what categories of offenders should it apply to?

## Housing

- 4.137 The problems that parolees face in finding suitable post-release housing are discussed in Question Paper 3 and earlier in this Question Paper at 4.9. A significant minority of offenders are homeless before they enter custody. Many return to homelessness upon leaving custody, or have unstable housing causing them to move several times in the months immediately following release.<sup>236</sup> Research undertaken with NSW ex-prisoners in 2003 estimated that approximately half of the sample experienced an episode of homelessness in the nine months post-release.<sup>237</sup>
- 4.138 A priority action in the *NSW 2021: A Plan to Make NSW Number One* state plan is to promote reintegration of people leaving custody through targeted housing and support models.<sup>238</sup> Similarly, the NSW Government’s *NSW Homelessness Action Plan 2009-2014* emphasises that transitioning people from correctional facilities into long term accommodation is a priority in addressing the broader problem of homelessness.<sup>239</sup> Corrective Services NSW recently joined Housing NSW’s *Framework for Multi-Agency Client Transition Planning to Reduce Homelessness*

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234. J Oglloff, *Review of Parolee Reoffending By Way of Murder* (2011) 29.

235. Information provided by Corrective Services NSW (12 November 2013).

236. E Baldry and others, *Ex-Prisoners and Accommodation: What Bearing do Different Forms of Housing Have on Social Reintegration?* (Australian Housing and Urban Research Institute, 2003) 10-11.

237. E Baldry and others, *Ex-Prisoners and Accommodation: What Bearing do Different Forms of Housing Have on Social Reintegration?* (Australian Housing and Urban Research Institute, 2003) 12.

238. NSW Department of Premier and Cabinet, *NSW 2021: A Plan to Make NSW Number One* (2011) 28.

239. NSW Government, *A Way Home: Reducing Homelessness in NSW – NSW Homelessness Action Plan 2009-2014* (2009) 28.

which sets out a number of service principles for the provision of housing to people transitioning from custody to the community, including the principle that there should be “no exits into homelessness”.<sup>240</sup>

4.139 Corrective Services NSW currently funds transitional accommodation and support services provided to parolees by non-government organisations, including:

- CRC, a non-government organisation which provides support services to offenders, including information, advocacy and referral services, casework services, accommodation and support services, and drug and alcohol counselling services
- Judge Rainbow Lodge, a supported transitional accommodation service for men released from custody, which also provides case management, counselling, employment and housing assistance, and referrals to other agencies and organisations
- Glebe House, supported accommodation for men with alcohol and drug issues
- Guthrie House, supported accommodation for women with alcohol and drug issues exiting custody
- New Horizons, supported accommodation for men released from custody with mental health issues, and
- Parolee Support Initiative, a supported accommodation project delivered by the CRC for parolees with a diagnosed mental illness or cognitive impairment who are ineligible for services from Family and Community Services. The project also receives support from Housing NSW and Sydney South West Area Health Service.

4.140 Corrective Services NSW also participates in a number of National Partnership Agreement on Homelessness funded projects, including:

- Targeted Housing and Support Project, which provides housing and support services to women exiting custody, and
- Sustaining Tenancies Far West Project (Broken Hill), which provides housing and support services to higher risk parolees exiting Broken Hill Prison.<sup>241</sup>

4.141 Until recently, Corrective Services NSW also ran eight Community Offender Support Program (COSP) centres to house parolees (and offenders serving other types of community orders) who were unable to source suitable post-release accommodation in the community. According to Corrective Services NSW there were 553 offenders housed in COSPs in 2011-12.<sup>242</sup> The COSPs provided offenders with support such as assistance with dealing with agencies like Housing NSW and Centrelink, and referrals to community programs and services run by Corrective Services NSW and non-government organisations.

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240. Housing NSW, *Framework for Multi-Agency Client Transition Planning to Reduce Homelessness* (2012) 11.

241. Information provided by Corrective Services (12 November 2013)

242. NSW Department of Attorney General and Justice, *Annual Report 2011-12* (2012) 89.

- 4.142 The PIAC report on ex-prisoners and homelessness reported a negative reaction among ex-prisoners who had experienced the COSP program.<sup>243</sup> Ex-prisoners said the COSPs were more like prisons than community life and did not effectively assist them reintegrate into the community.<sup>244</sup> Others have also criticised the way that many COSPs were co-located with prisons and were effectively a continuation of the prison experience.<sup>245</sup>
- 4.143 The NSW Homelessness Alliance in its 2011 policy statement called for more community-based programs run by non-government organisations delivering comprehensive case management services for offenders transitioning from custody.<sup>246</sup> It said that bureaucratically-run government services are difficult to negotiate with and inflexible in the service they provide. It considered them to be less beneficial to offenders than services provided by non-government agencies.
- 4.144 The PIAC report found that a number of ex-prisoners appreciated the non-government, community-managed transitional accommodation services they accessed after release.<sup>247</sup> This accommodation was seen as important for providing transitional housing and support services, facilitating community reintegration and getting established after a period of incarceration. However, the report emphasised the lack of such resources:
- A dominant theme that came through the consultations from both ex-prisoners and community workers was the need for more accommodation stock – more supported non-government transitional accommodation for ex-prisoners, more crisis accommodation, more affordable accommodation, and more stable housing.<sup>248</sup>
- 4.145 Corrective Services NSW has recently announced the closure of six COSPs because of their cost, the fact that they are underused and the widespread view among academics and non-government organisations that community groups should deliver accommodation and resettlement services.<sup>249</sup> One COSP at Long Bay will remain open and house high risk offenders and a second COSP at Campbelltown will be managed in future by a non-government organisation.<sup>250</sup>

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243. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 24-25.

244. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 24-25.

245. D Weeland, "Residential Centre or Day Prison? The Case of the COSP" (2009) 20(3) *Current Issues in Criminal Justice* 485; Justice Action, *Prisoners Set Free Into Prison? Community Offender Support Program (COSP) Centres* (2010).

246. NSW Homelessness Community Alliance, *Policy Statement* (2011).

247. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 60

248. L Schetzer and Streetcare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013) 80.

249. Corrective Services NSW, *New Community Support to Reduce Reoffending* (Media Release, Friday 9 August 2013).

250. Corrective Services NSW, *New Community Support to Reduce Reoffending* (Media Release, Friday 9 August 2013).

- 4.146 Corrective Services NSW has stated that community groups can work with offenders in custody who are nearing release and place them straight into stable housing.<sup>251</sup> It has invited community organisations to tender for the Funded Partnership Initiative (FPI) to commence in 2014.<sup>252</sup> The FPI will consist of three streams of community services addressing transitional support, offenders' children and families, and victim support. The transitional support stream will comprise over \$4.5 million each year and constitutes just under 80% of the FPI budget. The transitional support stream will provide for supported accommodation, support packages following exit from custody, support services for offenders with complex needs, and a case coordination and brokerage service. The FPI will replace a number of other funding streams, such as the Parolee Support Initiative.
- 4.147 Commentators have suggested that it is important that sufficient funding is made available to fund housing places and that housing services are provided to offenders in a coordinated and integrated way.<sup>253</sup> Corrective Services NSW also note that it is important to ensure that post-release housing support programs are effective in reducing recidivism and promoting reintegration. A review of US research on housing for ex-offenders obtained mixed results about the effectiveness of re-entry programs which included housing support.<sup>254</sup> Programs which included housing support for the general population of ex-offenders did not affect the incidence of recidivism. However, programs including housing assistance and support which targeted persons with mental illness and serious violent offenders did reduce reoffending, although the extent of the contribution of the housing component of the program to the reduction could not be ascertained. This suggests that further research on what kinds of post-release housing programs work is required to better inform planning and funding decisions.

#### 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?

### Rehabilitation programs for parolees in the community

- 4.148 Corrective Services NSW provides a number of programs to parolees, including:
- Dealing With Debt, a program that assists offenders to take control of their finances and avoid accumulating unmanageable debts<sup>255</sup>
  - Pathways to Employment, Education and Training (PEET), a community program developed and delivered in partnership with TAFE NSW, which assists

251. Corrective Services NSW, *New Community Support to Reduce Reoffending* (Media Release, Friday 9 August 2013).

252. Information provided by Corrective Services NSW (12 November 2013).

253. A Meehan, *Report on Pre and Post Release Housing Services for Prisoners in NSW* (NSW Federation of Housing Associations Inc, 2002).

254. M Miller and I Ngugi, *Impacts of Housing Supports: Persons with Mental Illness and Ex-offenders* (Washington State Institute for Public Policy, 2009).

255. Corrective Services NSW, *Compendium of Correctional Programs in NSW* (2012) 47-8.

offenders to access the adult education system or to develop the skills necessary to access work opportunities in the community<sup>256</sup>

- Sober Driver Program, a community program developed in partnership with the Roads and Maritime Services, the Motor Accidents Authority and the Department of Attorney General and Justice to address the criminogenic needs of repeat drink drivers.<sup>257</sup>
- 4.149 Corrective Services NSW reports that 489 offenders attended the PEET program in 2011-12, while 782 offenders attended the Sober Driver Program.<sup>258</sup>
- 4.150 Corrective Services NSW advises that not all community programs are offered in every location.
- 4.151 Some other rehabilitation programs for offenders are offered in the community, such as Community-based Sex Offender Programs treatment groups for low-moderate and moderate-high risk/needs sex offenders. A number of in-custody rehabilitation programs, such as CUBIT and VOTP, also have community components. The community component is offered to offenders who have completed the custodial program and is directed at “maintenance” to maintain the therapeutic gains made in the custodial program and work on any outstanding issues where there is room for improvement.
- 4.152 Some in-custody programs are designed to feed into community programs run by non-government organisations. Offenders who complete drug and alcohol programs in custody, such as Getting Smart, can continue to address these needs in the community by attending Alcoholics Anonymous and Narcotics Anonymous. Offenders with compulsive behaviours or addictions such as gambling can participate in the Getting Smart program in custody and continue to work with Gamblers Anonymous when released on parole. Community Corrections can refer parolees to the full range of programs and services in the community which are available to all community members.
- 4.153 As noted earlier in this Question Paper, a Program Accreditation Panel evaluates Corrective Services’ programs to ensure they comply with design, implementation and evaluation criteria that reflect the risks, needs and responsivity principles, which are identified by “what works” literature as central to effective correctional programs.<sup>259</sup> A comprehensive review of the effectiveness of programs is beyond the scope of this reference. However, ensuring that programs are evaluated and developed to effectively address the factors which lead to offending is important to promoting the objectives of parole.
- 4.154 Despite the range of programs provided or supported by Corrective Services NSW, parolees living in regional areas may have problems with access to programs. This

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256. Corrective Services NSW, *Compendium of Correctional Programs in NSW* (2012) 49-50; Corrective Services NSW, *Community Corrections Policy and Procedures Manual* (2013) section A [1.15.3].

257. Corrective Services NSW, *Community Corrections Policy and Procedures Manual* (2013) section A [1.15.3].

258. NSW Department of Attorney General and Justice, *Annual Report 2011-12* (2012) 70, 73.

259. Corrective Services NSW, *Program Accreditation Framework*, (version 5.2, 2012) 3, 8.



might be a particular issue for Aboriginal and Torres Strait Islander parolees. Offenders with complex needs might also struggle to meet the eligibility criteria for some community based programs.

**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?
- (2) Are there any problems of continuity between custodial and community based programs?
- (3) Can any improvements be made to the way the programs available to parolees in the community are selected or evaluated?

**Case management and other assistance**

- 4.155 In Victoria, the Ogloff report criticised the fragmented interface between custodial and community case management. The report noted that prisons and community corrections in Victoria maintained separate paper files on offenders and there were no mechanisms for parole officers to access an offender’s prison file.<sup>260</sup> As we noted earlier, for court-based parolees, Community Corrections updates the case plan which was created in custody, within the first eight weeks of their release. For SPA parolees, Community Corrections takes over the custodial case plan as the offender approaches his or her release date. All case plans are prepared and updated on the electronic Offender Integrated Management System (OIMS).
- 4.156 In NSW, both custodial and Community Corrections officers can access and record information on OIMS. However, it is not clear to what extent this system captures all relevant information about an offender, as Corrective Services NSW also maintains paper based files for offenders in custody and the community. The issue of integrated case management becomes particularly important if an offender’s parole is revoked and he or she is returned to custody. An offender may be in custody for some time and it could be important not to lose any gains made on parole. Throughcare would best be achieved if custodial and community case management was integrated such that programming and other support for an offender could continue with reasonable continuity whether the offender was in custody or the community.
- 4.157 As well as issues around the interface between custodial and community case management, it is not clear to what extent Community Corrections officers can provide “activist” case management that includes active procurement of employment and other supports for offenders.<sup>261</sup> A 2005 survey of Australian parole officers found that the majority of officers felt that the ideals of throughcare were not being achieved in practice because of a chronic lack of accommodation, mental health, employment and training services available to offenders after release from custody. Officers also reported difficulties in accessing crucial information from

260. J Ogloff, *Review of Parolee Reoffending By Way of Murder* (2011) 20-1.

261. M Borzycki, *Interventions for Prisoners Returning to the Community* (Australian Institute of Criminology, 2005) 23.

other agencies about offender's needs and the services that were available to meet those needs.<sup>262</sup>

- 4.158 Apart from housing and rehabilitation programs, parolees may need a range of other assistance and support. For example, many parolees are likely to need mental health treatment. As we discussed at the beginning of this Question Paper, up to 80% of prisoners have been found to meet the diagnostic criteria for a psychiatric disorder.<sup>263</sup> Parolees may also need physical health treatment and assistance in accessing such treatment as many prisoners and ex-prisoners experience chronic health problems from hepatitis C infection to tooth decay.<sup>264</sup> Parolees are highly likely to need some form of drug or alcohol treatment, including residential drug treatment. A 2003 study of Australian prisoners found that 62% were regular users of illegal drugs.<sup>265</sup> As we reported in the first section of this Question Paper, 65% of NSW prisoners have been found to meet the criteria for a substance use disorder.<sup>266</sup> The prison experience can weaken an offender's family and social ties, making it more difficult to adapt to life in the community. US researchers have suggested that reoffending can be reduced by revitalising a parolee's family support through parenting classes or family therapy.<sup>267</sup>
- 4.159 Parolees can struggle with tasks as basic as keeping appointments, taking public transport, opening a bank account or filling in forms to apply for services.<sup>268</sup> Proactive case management may be needed to prevent such minor difficulties from overwhelming a parolee's efforts to adapt to normal lawful community life. Some overseas jurisdictions have experimented with mentoring programs to try to fill this gap and complement professional case management from parole officers.<sup>269</sup>
- 4.160 We discussed earlier in this Question Paper the issue of large caseloads for Community Corrections officers in terms of the quality of supervision and surveillance of parolees. The same issue also arises in terms of the case management and support that Community Corrections officers are able to provide. In the 2005 survey of parole officers, many officers felt that effective case management and throughcare for offenders was hindered by large caseloads and

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262. E Baldry, "Throughcare: Making the Policy a Reality" (Paper presented at Reintegration Puzzle Conference, Sydney, May 2007) 9-12.

263. T Butler and others, "Mental Disorders in Australian Prisoners: A Comparison with a Community Sample" (2006) 40(3) *Australian and New Zealand Journal of Psychiatry* 272.

264. S Kinner, "Passports to Advantage: Health and Capacity Building as a Basis for Social Integration" (2008) 10 *Flinders Journal of Law Reform* 581, 583; S Kinner and others, "Counting the Cost: Estimating the Number of Deaths Among Recently Released Prisoners in Australia" (2011) 195(2) *Medical Journal of Australia* 64.

265. T Makkai and J Payne, *Drugs and Crime: A Study of Incarcerated Male Offenders*, Research and Public Policy Series No 52 (Australian Institute of Criminology, 2003) 29.

266. T Butler and others, "Mental Disorders in Australian Prisoners: A Comparison with a Community Sample" (2006) 40(3) *Australian and New Zealand Journal of Psychiatry* 272.

267. S Listwan, F Cullen and E Latessa, "How to Prevent Prisoner Reentry Programs from Failing: Insights from Evidence-Based Corrections" (2006) 70(3) *Federal Probation* 19, 22.

268. J Brown, "Managing the Transition from Institution to the Community: A Canadian Parole Officer Perspective on the Needs of Newly Released Federal Offenders" (2004) 5(2) *Western Criminology Review* 97.

269. C Visher, "Returning Home: Emerging Findings and Policy Lessons About Prisoner Reentry" (2007) 20(2) *Federal Sentencing Reporter* 93, 96-9.

growing administrative burdens.<sup>270</sup> In the US, too, lack of resources and increased workloads for parole officers have been identified as highly detrimental to the provision of services and support to offenders on parole.<sup>271</sup>

**Question 4.20: Barriers to integrated case management**

- (1) To what extent is Community Corrections case management able to achieve a throughcare approach?
- (2) What are the barriers to integrated case management?
- (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?

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270. E Baldry, "Throughcare: Making the Policy a Reality" (Paper presented at Reintegration Puzzle Conference, Sydney, May 2007) 9-12. See also M Borzycki and E Baldry, *Promoting Integration: The Provision of Post-Release Services*, Trends & Issues in Crime and Criminal Justice No 262 (Australian Institute of Criminology, 2003) 5.

271. J Petersilia, "Parole and Prisoner Reentry in the United States" (1999) 26 *Crime and Justice* 479, 523.



**Law Reform Commission**  
Attorney General & Justice

**NSW Law Reform Commission**

Level 13 Swire House  
10 Spring Street  
Sydney NSW 2000 Australia

GPO Box 5199  
Sydney NSW 2001 Australia  
DX 1227 Sydney

Phone: 02 8061 9270  
Fax: 02 8061 9376  
Email: [nsw\\_lrc@agd.nsw.gov.au](mailto:nsw_lrc@agd.nsw.gov.au)  
Internet: [www.lawreform.lawlink.nsw.gov.au](http://www.lawreform.lawlink.nsw.gov.au)

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