To the Law Reform Commission,

From our contacts, it appears that people who are eligible for parole or who are currently released on parole have not been consulted with regard to this inquiry. As the individuals whom will be directly affected by any recommendations and reforms resulting from this inquiry, it is essential that their perspective on the issue is sought. We ask that this happen as soon as possible and for the Commission to advise us thatit has been done.

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

We would like a face-to-face meeting regarding this matter and we give full permission to publish the submission on your website.

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

Regards,

The Justice Action Team

We would like to reiterate that from our contacts, it appears that people who are eligible for parole or who are currently released on parole have not been consulted with regard to this inquiry. As the individuals whom will be directly affected by any recommendations and reforms resulting from this inquiry, it is essential that their perspective on the issue is sought. We ask that this happen as soon as possible and for the Commission to advise us that it has been done.

The Agreed Parole Plan

A core proposal that we ask for the Law Reform Commission to consider is the Agreed Parole Plan (APP). This has been previously proposed in the other question papers (1&2) regarding parole.

The agreed parole plan is a negotiated agreement between the SPA and the offender, which will be created with the support of Corrective Services. This should be created immediately following the delivery of the sentence. It will contain the requirements, which need to be fulfilled by both the prisoner and Corrective Services, in order for the prisoner to be approved for parole. This will include the programs, based on what is available, that must be completed and the behaviors that must be shown in order to be eligible for parole. If the prisoner has met these requirements at the time of the parole review, the prisoner should be approved for parole. This aims to remove the arbitrary aspects of parole decision-making.

The purpose of a parole agreement is that it is individualized to the circumstances and capabilities of the offender. This will require an individual list of criteria to be created and assessed for every person eligible for parole. From this, the SPA will be able to measure the individual's progress and preparedness for re-entering the community.This will empower and provide incentive for prisoners to use their time in prison effectively and engage in the services that are being offered in prisons. Also, it will establish mutual expectations and obligations between the SPA, Corrective Services and the prisoner.

This strategy, in conjunction with Justice Action's Justice Reform Initiatives (linked) will provide for an effective use of a prisoner's sentence and enhance the prisoner's ability to resettle into the community while on parole. Any changes to the agreement should be negotiated with the prisoner prior to being made. Also, the amendment and the reasons for this change should be recorded in writing and made available to the prisoner.

Question 3.1 - The Public Interest Test

While Justice Action agrees that a public interest test should be incorporated into s135 (1) of the CAS Act, we believe that the factors that are considered within s135 need to be broadened. There are further factors that should be considered when examining whether it is in the public's best interest to approve parole for an individual.

Protection of the community is best gained by having the person reintegrated into the community. The longer the person is held in prison the risk of ongoing damage to the individual's wellbeing and ability to re-settle into the community increase; losing positive links with family and community. Thus releasing an offender at the EPRD will be less damaging to the individual in the long-term. Furthermore, it is cheaper to hold a person on parole and redirect funding towards supported resettlement as part of 'justice reinvestment'. This is in the public interest.

Incorporating a test similar to what has been implemented in Queensland would be a positive step forwards. The Queensland test allows for the opportunities for support and assistance to be provided while on parole. This is something that needs to be incorporated into any public interest test for NSW.

Question 3.3 – Specific Issues given weight by SPA

(1) Should any changes be made to the way SPA takes completion of in-custody programs into account when making the parole decision? If so, how?

Through our communications with prisoners, Justice Action is frequently made aware that having access to programs is severely lacking and that they often are unable to complete programs in time for their review by the SPA. This often results in the rejection of parole, thus extending the person's detention as a result of a situation that remains out of their hands.

Our Justice Reform initiatives(linked) refer specifically to using the person's time effectively in prison. The use of cognitive behavioral therapies (CBT) (linked) is primary example of this as it allows the individual to address and develop insight to offending behaviors. Such programs should begin at the time of apprehension and should be conducted confidentially, as suggested in the paper.

Furthermore, improvements need to be made between the coordination of required programs and parole reviews. This can be achieved through improved scheduling, placing priority on the relevance of the program to the offence and the amount of time available to complete the course before the matter is reviewed by the SPA.

(2) Should any changes be made to the way SPA takes security classification into account when making the parole decision? If so, how?

While security classification is currently a consideration for parole, Justice Action argues that rather than referring to the security classification, the SPA should be assessing applicants on their preparedness to re-enter the community. At present, security classifications reflect the severity of the offence committed however we feel that these classifications by the Department of Corrective Services should reflect the ERPD and the APP. It should be expected that the prisoner would be prepared by this point in time to be released into the

community. As a consequence, it will also decrease the ability of Corrective Services to use security classifications as a discriminating factor for parole.

(3) Should any changes be made to the way SPA takes homelessness or lack of suitable accommodation into account when making the parole decision? If so, how?

Is it often the experience of many prisoners that once they released from prison, they are often left to their own devices, with limited sources of support other than a parole officer. The lack of trusted, confidential and independent pre-release support and preparation increases the risk of homelessness or recidivism. These services are essential to have been provided prior to and throughout the parole review process. This will increase the readiness of the individual and allow for an effective transition from prison to parole. Examples of pre-release services that could be implemented as a part of the parole process include mentoring, CBT therapies(linked) and access to computers in cells (linked).

Access to computers within cells will ensure that prisoners are prepared for their release into the community. Through access to computers and the Internet, they will be able to locate suitable accommodation; work or government supports, as well as reestablish connections to friends and family who will be able to provide ongoing support while out the person is on parole.

Question 3.4 – Deportation and SPA's parole decision making

It is important to remember that release on parole after completing a custodial sentence is not a discount. This is an important period that is designed to assist with the integration of the individual into the community.

The custodial period is determined as the necessary period before release. The parole period is designed to be one of resettlement. If an individual is to be deported after being granted parole, this does not mean that they have failed to complete their sentence. It should be viewed that they fulfilled their custodial sentence and are considered able to rejoin the community, hopefully with appropriate social support, wherever that is.

Question 3.5 – SPA's caseload and resources

The APP will allow the offender the ability to plan how to manage their time whilst in prison, ensuring they take responsibility for not only their crime but also their choices in rehabilitation and release. The implementation of the APP will not only shorten the length of hearings to review the parole applications but it will also lessen the SPA's overall caseload.

Question 3.6 – Planning for parole and assistance with parole readiness

As previously discussed, the Agreed Parole Plan (APP) is key to planning for parole and ensuring the person's readiness for parole. The inclusion of justice

reform initiatives(linked) such as the use of cognitive behavioral therapies, remissions, restorative justice and access to computers in cells will allow agreements between the SPA and the parole applicant to be carried out and completed effectively. Furthermore, it is also through these initiatives that the SPA will be able to assessed and measure a person's readiness for parole.

Question 3.7 Victim involvement and input into SPA decisions

Media, the public, and privacy

We are concerned about the influence of the media in situations about parole, publicizing the offence unnecessarily, disturbing the victim and the wider community. This is particularly regardingtheir focus on the past when the offender has dealt with the offence and undergone restorative.

For many offenders re-entering the community, it is difficult enough to resettle into the community. Resettlement needs to be done in a safe environment and any disturbance to this is wrong. When the media is made aware of publicized offenders to be released on parole, this is reported back to the public, creating mistrust of the individual despite serving their sentence. A parolee's ability to do successfully re-enter the community therefore is limited when the media and the general public is aware that have been released, where they are located and the offence that was committed.

Justice Action argues that when a person is considered, steps should be taken to protect the privacy of the individual. SPA hearings should be closed, similar to the Family or Children's Court, ensuring that vulnerable offenders are protected. The focus should be on the individual's successful integration into the community.

(1) Should victim's involvement in SPA's decisions be changed or enhanced in any way?

Justice Action argues that the involvement of the victim within the parole process should be kept at a minimum as much as possible and that any relationship with the victim should exist on the basis of restorative justice (linked).

We believe that an opportunity should be made available for a reconciliation to occur between the victim and offender whereby the offender is able to formally acknowledge and take responsibility for the crime and request the forgiveness of the victim. This does not mean that the victim must be obliged to accept such an apology however we believe that a reconciliation such as this would be key to ensuring the successful rehabilitation and reintegration of the individual into the community. In this same space, the victim will be provided with an opportunity to address any continued impacts felt since the offence took place.

After this period of reconciliation, there should not be any victim involvement in the parole proceedings unless there is a necessary and continuing relationship to be had between the offender and the victim. Any ongoing relationship can potentially be more destructive and traumatizing for both parties. The State has the obligation to carry out the sentence dispassionately and fairly.

Question 3.8 – Role of the Serious Offenders Review Council

(1) Should the separate parole decision-making process for serious offenders be retained?

Justice Action does not feel that separate parole processes should be established for 'serious offenders'. It is an unnecessary duplication and the resources for parole of 'serious offenders' should be directed to the SPA for deciding.

Question 3.9 – A different test for serious offenders

As previously stated above, there is no reason for separate tests for serious offenders. The primary focus of any test should be on the readiness for reintegration, not on the offence as the sentence reflects the seriousness of the offence.

Question 3.10 – Security classification ad leave for serious offenders

As previously discussed, the agreed parole plan addresses this issue.

Question 3.12 – Parole and the HRO Act

No changes need to be made to improve the interaction between parole decision-making and the provisions of the HRO Act. This is an unnecessary complication for the SPA to consider and so limiting the interactions would be the more preferable course of action.

Question 3.13 – Definition of 'Serious Offenders'

As above.

Question 3.14 - Parole in exceptional circumstances

On the issue of life sentences, Justice Action argues that any people on life sentences should be offered a parole period. This will allow for the opportunity for rehabilitation and reintegration of those individuals and engage the prisoner with the opportunities available to make the most of their time in prison.

Question 3.15 – Offender involvement and input into SPA decisions

(1) Should there be more scope for offender input and submissions to SPA and the first stage of the decision making process (ie the private meeting where a decision is taken or an initial intention formed)?

On this issue, Justice Action believes that the continued interaction between the SPA and the offender as a part of their APP will ensure that the offender maintains a voice throughout SPA proceedings. Furthermore, these interactions will ensure that the offender is provided adequate opportunities to demonstrate their preparedness for parole.

(2) Should any changes be made to the availability of public review hearings after a decision is made to refuse parole?

There should always be further hearings available in order to appeal parole decisions.

(3) Is there currently sufficient assistance available to help offenders to make meaningful applications for a submission to review hearings, and to help offenders understand what happens at review hearings?

Although there is some assistance in place, the PLS is limited in funds and is often unable to provide the ongoing support that is required by prisoners. What's more, de facto support is offered informally, provided by people who have had previous experience with parole proceedings, elders, and friendships that have been formed in the prisons.

Development of this paralegal support within a peer context would be a most beneficial way for offenders to make meaningful submissions to review hearings. This will allow their experiences to be validated as well as developing an understanding of their experiences while in prison and how they have progressed. Jobs, resources and appropriate training should be allocated to formalize those positions.

(4) Are there any problems with offenders not being provided with the material, which supports the SPA's decisions?

Our contacts have frequently reported dissatisfaction when it comes to the provision of materials. They often feel that they are not being given enough information about refusal for parole. As a result, many applicants are left feeling as though the SPA's decisions are unfair and arbitrary.

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

The parole board's powers are so large and should be available for appeal however; unfortunately, the current political climate and the resources available severely limit this opportunity for change.

Question 3.18 – Reconsideration after refusal of parole

(1) Should the 12 month rule (as it applies to applications for parole after parole refusal) be changed in any way? If so, how?

In many cases, the 12-month rule is too long to wait for many offenders to revisit the granting of parole. Application for reconsideration should be more reviewed more frequently than this. Justice Action recommends a period no longer than 6 months for reconsideration applications to be reviewed.

(2) Are there any issues with the requirement to apply for parole reconsideration or the assistance that offenders receive to apply?

Applications for reconsideration need to mark clearly what is required in order for the applications to be successfully received by the SPA and should not be blocked by excessive waiting periods.