



SERIOUS OFFENDERS REVIEW COUNCIL

Pre-Release Leave Committee

Escape Review Committee

High Security Inmate Management Committee

9 January 2014

Paul McKnight
Executive Director
NSW Law Reform Commission
GPO Box 5199
Sydney NSW 2001

Dear Sir,

PAROLE REVIEW – PAPERS 4-6.

I refer to my Memorandum of 3rd November 2013 and your letter of 4th November.

I have now read the materials constituting Question Papers 4, 5 and 6.

However I wish to revisit **Question Paper 3, in particular 3.55 “Relevance of Deportation” and Question 3.4**. This is an issue of immense complexity not least because of the Commonwealth element involved in the deportation decision making. The 10 matters SPA says it takes into account (3.56) could give rise to state of unreality in the context of S135(2)(f) *the likelihood of the offender being able to adapt to normal lawful community life*. SORC is often confronted with an offender convicted of a serious drug importation offence. The facts are not uncommonly that the offender is detained on arrival (on a first visit to this country) and thereafter is not otherwise than in custody. How, might one legitimately ask, can any rational conclusion be reached on this issue? The offender has never been part of NSW community life. This is often a matter of bemusement to SORC as is the question of whether the offender has *“adequately addressed the offending behaviour”*. By participating in what programs for failed drug importers? I cannot begin to consider a solution; however, the addressing by SPA of the 10 factors strikes me as facile and must involve evidence of factual matters of some complexity as well. I do not see any combination of either positive or negative answers to the 10 issues that rationally could present a realistic basis for the granting or refusal of Parole to a potential deportee. It may well be that the Sentencing process will have to be fundamentally changed in a way that makes it clear to the offender, to the public and to sentence administrators, *at the time of sentence, what, if any, parole considerations will expressly have to be addressed if a time therefor is fixed as part of the sentence structure.*

Question Papers 4 & 5

The several issues raised in the questions have been essentially addressed in the Memorandum of 3rd November 2013.

As to Question 4.2: on the basis that SORC's role is advisory only, I believe that an induction process be instituted for Judicial and Community Member, with a continuing education regime as to DCS Policy and Procedures relevant to SORC, to ensure a high level of uniformity in members' knowledge and understanding.

Question 4.6

SORC now considers recommendations for reduction to C3 only taking into account the Commissioner's new guidelines relating to that classification. SORC should give particular attention to the CC's views and take into account resources, both DCS and otherwise available to the offender. Some flexibility is critical at this point both in terms of SORC's recommendation and, with respect, the Commissioner's decision. Otherwise I leave a fuller response to the DCS or Branch.

Questions 5.11

SORC's role is its advisory participation in the administration of the sentence to be served by a Serious Offender. A Serious Offender has that status until the expiration of the whole sentence. Thus I agree with the content of 5.52.

Question 5.12

Upon return to custody after revocation, the Serious Offender is managed as such by SORC. SORC's advice as to proposed rescission of the revocation by SPA should be sought. SORC will have the benefit of Centre input

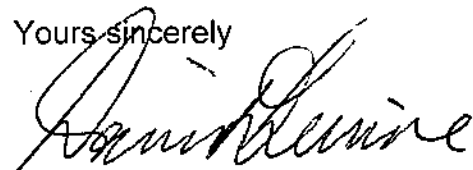
Question Paper 6.

I have no submission to make; this is a specialized field outside the scope of SORC.

I advise that I am retiring from the office of Chairperson of SORC on 31st January 2014.

If further material is sought by LRC then I suggest that enquiries be directed to Ms. Alyson McDade, Executive Officer & Registrar.

Yours sincerely



The Hon. David D. Levine AO RFD QC
Chairperson
SERIOUS OFFENDERS REVIEW COUNCIL