

PAROLE IN NEW SOUTH WALES.

Judging by the type of commentary surrounding parole in the various forms of the media, there is a great deal of misunderstanding in the community about what parole is and how it operates.

Parole is an extremely important part of the Criminal Justice system. It is a means by which inmates may be subject to a phased release from prison while subject to supervision. If inmates are released at the end of their sentence without a period of parole they will be subject to no conditions on release and will be subject to no supervision or guidance.

It is a powerful motivation for prisoners to behave themselves while in custody so that they have the benefit of parole. Some have said that without the possibility of parole prisons would become unmanageable.

It is also a strong incentive to encourage prisoners to do programs to address their offending behaviour.

Studies show that an inmate released to parole is three times less likely to commit further offences than one who serves his or her entire sentence without parole.

The State Parole Authority (the Authority) must take some responsibility for the community's lack of knowledge of what it does and how it does it.

There is nothing secret about the Authority. Although some of its meetings are held in private, they are not secret. The results of its deliberations are all made public. Its members are publicly known. The appointment of judicial members and community members is published in the Government Gazette and the names of all members, judicial, official or community are published in the Authority's Annual Report.

All its Review hearings are held in public and with the rare exception of cases involving juvenile victims, all cases are heard in public.

It is often said that when an inmate is released on parole he or she has been subjected to "early release". This is not so. The inmate has been released in accordance with the original sentencing court's intention.

The Authority is often asked to extend the period an inmate should remain in custody. This is well beyond the Authority's powers. The Authority simply administers the sentence so far as the parole aspect of the sentence is concerned. That is why its legislation is contained in the *Crimes (Administration of Sentences) Act 1999*.

Parole in NSW is administered by the State Parole Authority. Each panel of the Authority consists of one Judicial Member, two official members (one Police and one Probation and Parole) and two community members.

When a court sentences a prisoner to a term of imprisonment exceeding 6 months it must first fix a non-parole period and then set the balance of the term during which the prisoner might be released on parole. That term will not exceed one third of the non-parole period unless “special circumstances” are found.

Parole is of two kinds – Court based parole and parole granted by the Authority.

For sentences, which do not exceed three years the sentencing court sets the non-parole period and the inmate is released on parole at the expiration of the non-parole period, subject to standard conditions together with any additional conditions imposed by the court.

The Authority will only have any involvement with such a parole order if it is revoked either prior to release or after release.

Where the sentence exceeds three years and the court has fixed a non-parole period, release to parole is determined by the Authority.

In summary, the Authority:

- Decides which inmates, whose sentences exceed three years and include a non-parole period, will be released on parole;
- Sets the conditions of release;
- Determines if and how a parole order should be revoked.

When deciding whether to release an offender on parole, the Authority considers the interests of the community, the rights of the victim, the intentions of the sentencing court and the needs of the offender.

The Authority considers a broad range of material when deciding whether or not to release an inmate to parole and must have determined that it has sufficient reason to believe that the offender, if released from custody, would be able to adapt to a normal lawful community life.

When an inmate is approaching the expiry of his or her non-parole period, the Authority considers an application for parole. Some sixty days prior to the earliest release date the Authority members consider the application for parole at a private meeting. One week prior to that meeting they are provided with all the necessary documentation including, but not limited to, the judge’s sentencing remarks, the inmate’s criminal history, various psychological and psychiatric reports, pre-release reports provided by

Community Corrections Officers (formerly known as Probation and Parole Officers). These pre-release reports are a history of the inmate's conduct in custody, their response to programs to address their offending behaviour, post-release plans and a recommendation for or against release to parole.

The information is provided to all members to read before the meeting. These days it is provided in electronic format. The amount of reading for each private meeting takes an enormous amount of time and when the meeting takes place each member is fully up to date on all aspects of the application and will have reached a preliminary view as to the determination. Judicial and Community members are paid for a day's reading as well as the day of the meeting.

When all members agree with the decision, the discussion takes only a short time. Where there are different views, discussion can continue for up to 20 or 30 minutes.

When the Authority determines to grant parole, it makes the order there and then and the inmate will be released on the earliest release date or such other date as is considered appropriate. If a decision is made to refuse parole the Authority determines whether or not to grant a Review hearing. If this is granted the review hearing is held in public with the inmate attending by video link. Each prisoner is invariably represented by a solicitor usually from the Prisoners Legal Service or the Aboriginal Legal Service. Some prisoners elect to brief their own private solicitor or barrister.

Serious Offenders are those inmates who have a non-parole period of not less than 12 years or who are convicted of murder, or are declared to be a Serious Offender.

Serious Offenders are managed by the Serious Offenders Review Council (SORC) and the Authority may not make a parole order for such offenders unless SORC determines that "it is appropriate to consider them for release on parole".

The Authority considers Serious Offenders for Parole in the same way as non-serious offenders, except for the additional reports provided by SORC.

Although the process of considering a Serious Offender for Parole is similar to that described above, the Authority can only proceed to forming an "intention to grant parole". If it does so it must then stand the matter over for a public review hearing and notify the State, the Commission and any Victims and invite them to lodge a submission. Frequently the Attorney General or Commission for Corrective Services will lodge a submission

opposing the release of the inmate to parole. There will then be a hearing in public and a determination made as to whether to grant or refuse parole.

Any victim may make a submission orally or in writing and the contents of that submission will be taken into account if an order for parole is made.

If an inmate is refused parole, he or she is not further considered for parole until a period of twelve months has elapsed.

The Authority also considers reports of breach of parole and determines whether or not to revoke parole. If it revokes parole, a warrant is issued for the return of the prisoner to custody. One month after the prisoner is returned to custody he or she is granted a review of the determination to revoke parole. That review is also held in public with the parolee appearing by video link and being represented by a lawyer. If the revocation is confirmed the parolee remains in custody for a period of twelve months before being again considered for release to parole.

The use of review hearings in NSW is unique throughout Australasia and is much envied by most of the Paroling Authorities in the other States and Territories.

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Chairperson

State Parole Authority of NSW

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