NSW State Parole Authority

2006 Annual Report

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LETTER TO THE MINISTER

The Hon John Hatzistergos MLC
Attorney General and Minister for Justice,
Level 33 Governor Macquarie Tower,
1 Farrer Place,
SYDNEY NSW 2000

Dear Minister

In accordance with Section 192 of the Crimes (Administration of Sentences) Act 1999, I have pleasure in submitting to you, for the information of Parliament, the report of the State Parole Authority of NSW for the period 1 January 2006 to 31 December 2006.

Yours faithfully

I H PIKE AM
Chairperson
26 August 2007

The NSW State Parole Authority is an independent statutory body governed primarily by the *Crimes (Administration of Sentences) Act* 1999. In summary, the Authority:

- decides which inmates, whose sentence includes a non-parole period, will be released to parole;
- sets the conditions of release;
- determines if and how a parole order should be revoked;
- determines if and how a home detention or periodic detention order should be revoked, substituted or reinstated.

The Authority considers the release to parole of inmates who have sentences of more than three years with a non-parole period. A non-parole period is a minimum term of imprisonment during which an offender is not eligible to be released from prison to parole.

The *Crimes (Sentencing Procedures) Act*, 1999 permits a court which sentences an offender to a term of imprisonment of three years or less to also set a non parole period. The non parole period for these shorter sentences entitles the offender to be 'automatically' released from custody without the case having to come before the State Parole Authority. Of course, the release of offenders subject to 'automatic court based parole orders' is also dependent on appropriate post release plans and arrangements being made by the Probation and Parole Service.

When deciding whether to release an offender on parole, the Authority considers the interest 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 whether it has sufficient reason to believe that the offender, if released from custody, would be able to adapt to normal lawful community life.

The principal purpose of granting parole is to serve the public interest by closely supervising the offender during his or her period of reintegration into the community. In all cases, strict conditions of parole are imposed and the Authority may also set additional conditions specifically tailored to address the underlying factors of an inmate's offending behaviour.

When parolees fail to comply with the conditions of a parole order, it is the Authority's role to consider the revocation of parole orders, including those issued by courts. The Authority may also consider the revocation of a court-based parole order, before release, if the inmate shows an inability to adapt to normal, lawful community life or requests that the order be revoked.

Similarly, revocation of home detention orders, following breach of any condition(s) of an order, and revocation of periodic detention orders, following unauthorised absences or evidence of unsuitability for an order, are also responsibilities of the Authority. In some cases, this may involve the substitution of a home detention order for a revoked periodic detention order, following a positive assessment of suitability, or the reinstatement of home detention or periodic detention orders, following three months in full time custody and a positive assessment of suitability.

The Authority may also consider the release of an inmate before the expiry of a sentence or non-parole period if the offender is dying or there are other exceptional, extenuating circumstances.

YEAR AT A GLANCE

Item	2005	2006	%Change
Matters Considered	11,857	11,436	(3.5)
Authority Meeting Days	304	294	(3.2)
Private	100	100	0
Public	200	188	(6)
Policy	4	6	50
Parole Ordered - State Parole Authority	976	1,056	8.2
Parole Ordered - Court Based Orders	3,691	4,345	17.7
Total Parole Releases	4,662	5,401	15.8
Parole Orders Refused	568	430	(24.3)
Total Parole Orders Revoked	1,546	1,742	12.7
SPA Orders Revoked	428	457	6.8
Court Based Orders Revoked	1,118	1,285	14.9
Home Detention Orders Revoked	71	79	11.3
Revocation Rescinded	34	137	302.9
Variations to Parole Orders	40	125	212.5
Authority Formal Warnings	495	732	47.9
Overseas Travel Approved	55	39	(29)
State Submissions	14	10	(28.6)
Interstate Transfers (to NSW)	69	58	(15.9)
Appeals	4	28	600
Appeals – Finding against SPA	0	1	100
Matters heard via video conference	2,138	2,098	(1.8)
Meetings of PD/HD Division	51	50	(1.9)
Matters heard by PD/HD Division	2,259	2,433	7.7
PD-Orders Revoked	566	503	(11.1)
PD-Orders Re-instated	90	110	22.2
PD-Orders not Re-instated	82	118	43.9
PD-Section 162 Inquiries (attend court to explain absence/incident)	93	123	32.3
PD-Application to Revoke Refused (defective S72 notice)	18	12	(33.3)
PD-Application to Revoke Refused (sick leave granted)	202	185	(8.4)
PD-Revocation Rescinded (not AWOL)	22	6	(72.7)

KEY HIGHLIGHTS

- Successfully hosted the National Conference of Parole Boards and Parole Authorities in May 2006.
- Reappointment of Chairperson, Mr Ian Pike on 01.01.2006 and Judicial Members, Mr Charles Gilmore on 24.03.2006 and Judge Terence Christie QC on 15.12.2006.
- Reappointment of Community Members, Faye LoPo on 15.12.2006, Yiah Chan on 01.09.2006, Maritsa Eftimiou on 31.08.2006, Lloyd Walker on 01.07.2006 and Shelley Reys on 01.07.2006.
- Successfully managed the impact of new legislation that commenced on 10 October 2005.
- The number of offenders released totalled 1,056 representing an increase of 8.2%.
- The number of parole refusals totalled 430 representing a decrease of 24.3%.
- The number of revocations totalled 1,742 representing an increase of 14.5%.
- The number of periodic detention revocations totaled 503 representing a decrease of 11.1%.
- The number of periodic detention orders reinstated totalled 110 representing an increase of 22.2%.
- Increased video links with Correctional Centres improved security and reduced the cost of inmate transport.
- Improved access to offender documentation by victims of crime.

Private Review Meeting of the NSW State Parole Authority

CHAIRPERSON'S MESSAGE

2006 has seen the NSW State Parole Authority effectively discharge its highly responsible duties and meet its legislative obligations to serve the public interest. This has been achieved within a year of considerable change that has created additional demands on the Authority's operations.

Most significantly, it has been the first full year operating within the new legislation enacted through amendments to the *Crimes (Administration of Sentences) Act* 1999, which reconstituted the former Parole Board as the NSW State Parole Authority.

There is no doubt that the implementation of the new legislation presented a number of difficulties to be overcome. This was due, in the main, to the receipt of conflicting advice with regard to the interpretation of certain areas. The Supreme Court determination pertaining to the appeal of Maddison Hall served to clarify a number of these areas and, as a result, the Authority was able to review our associated protocols accordingly.

The impact of the introduction of the mandatory period of twelve months from refusal or revocation of parole to further reconsideration has been a particular focus. It has necessitated increased consciousness on the part of the Probation and Parole Service in adopting a concentrated case management role for individual offenders. There is little doubt that the amended legislation has resulted in an increase in the general prison population. Revoked parolees now spend a minimum of twelve months in custody and those offenders with a balance of parole of less than twelve months have to complete their full term in custody without a further opportunity for parole.

There is also considerable concern that manifest injustice does not apply in the case of balance of paroles and the Authority is approaching government to consider extending manifest injustice to these cases where parole has been revoked.

Attention is being brought to the difficulties that arise where an offender has a total parole period of twelve months and is refused parole on the first consideration. This creates an undesirable situation where an offender may complete their sentence without the benefits of parole before returning to the community.

The impact of legislative change on the appeal process, with appeals now reviewed by a single judge in the Common Law Division of the Supreme Court, was also evident. There was a surprising and significant increase in the number of appeals against determinations of the Authority despite the provisions for appeals remaining unaltered. However, by year end, there was every indication that the number of appeals were beginning to return to previous low levels.

It was most gratifying that the Authority was able to make a critical contribution to the Australian Law Reform Commission's inquiry into the law and practice governing the sentencing, imprisonment, administration and release of federal offenders. This resulted in the Authority's views being represented in significant sections of the final issues paper. In addition, the Authority, represented by both Chairperson and Secretary, were invited to appear before the General Purpose Standing Committee No. 3 Inquiry, into issues relating to the operations and management of the Department of Corrective Services, to analyse the Authority's involvement in the interstate transfer of parolees.

The Authority's relationship with the Drug Court continued to strengthen in 2006 with the recognition that, for offenders considered suitable, the Drug Court provides a last remaining opportunity for rehabilitation. The Authority maintains a willingness to make determinations for inmates to participate in the Drug Court as an alternative to custody and is committed to a constant review of

protocols to ensure the ongoing benefits of the relationship. The Authority has also adopted similar protocols for parolees charged with a further offence and assessed for the MERIT (Magistrates Early Referral Inter Treatment) Program.

The Authority is heartened by the large number of therapeutic programs, such as CUBIT, CORE, Young Offenders and the Violent Offenders Treatment Program, conducted by the Department of Corrective Services to assist difficult offenders to address their offending behaviour. With an appreciation of the limited funds and resources, we commend all those involved for their dedication and enthusiasm and particularly note the achievements of the Ngara Nura Drug and Alcohol Program in meeting a great many requirements for supporting a sober, crime-free life after jail.

In the year under review, the Authority regularly hosted, not only international visitors, but also an ongoing program of departmental visitors who took the opportunity to attend and observe both private and review hearings. This has supported a better understanding of the Authority's role and appreciation of the decision-making process. A further invitation is extended to other senior managers to take up this worthwhile opportunity.

The maintenance of public confidence in the administration of criminal justice is a matter of the utmost significance. As such, the ill-informed criticism of the media with regards to aspects of parole has been a continuing disappointment. Of particular note was one instance where headlines labelled the Authority as 'hypocritical' for failing to release a prisoner where a judge had fixed a non-parole period only days prior. The fact that the newspaper in question was clearly informed of the necessary time for the Authority to obtain reports, that indeed form part of its statutory obligation, did not lessen the virulence of the criticism. A dedicated website is being established in an attempt to partially address the ignorance of the Authority's processes and to enhance the community's perception of parole. It is apparent that clear reasons need to be freely available for each determination in order for the public to understand the Authority's role.

Certainly, the year's highlight was the success of the National Parole Conference attended by all Australian states and the ACT along with delegates from Canada, Fiji, New Zealand and Papua New Guinea. The conference detailed matters affecting parole and its contribution to criminal justice and enabled the sharing of relevant issues and the expansion of communal knowledge. Many thanks to Paul Byrnes, Robert Cosman, Graham Egan and the consultants involved for their exacting efforts in planning such a major event. Certainly, positive feedback has been received from all who participated.

Particular thanks should also be extended to Ron Woodham, Commissioner of Corrective Services, for his support of the conference and many other initiatives of the Authority.

The Authority acknowledges the valuable support of the varied government and community organisations that have assisted with its work during the year. In particular, the consistent commitment of the Probation and Parole Officers of the NSW Department of Corrective Services, for contributing essential services to the Authority's operation, and to the Secretariat and administrative staff, who have worked diligently through a period of immense change.

I acknowledge the enormous contribution made by the judicial members, the Hon Deirdre O'Connor, Terry Christie and Charles Gilmore and commend them for their dedication and commitment to the Authority. I thank them for their ongoing support. I would also like to personally express my appreciation to Lloyd Walker, Brenda Smith and Don Saville for their efforts in the induction and training of new members and to the invaluable individual contributions of official and community members for the dedicated and conscientious manner in which they discharge their important duties.

SECRETARY'S REPORT

The 2006 calendar year presented many challenges for administrative staff in preparing meeting agendas, implementing new systems and controls to meet the requirements of recent legislative amendments, in assisting with the planning and co-ordination of the National Conference and in continuing with the process of improving our service delivery to the Authority. The staff successfully met these challenges whilst coping with a third successive year where our caseload exceeded 11,000 matters.

The new parole amendments, which commenced in October 2005, necessitated significant administrative change to the process of notifying offenders of the Authority's decisions, dealing with old and new legislation cases, listing matters on future agendas in accordance with the provisions of the legislation and clarifying to offenders, staff, media and the public the requirements and expectations of the new amendments. Specific manual controls had to be implemented until enhancements were made to our 'module' within the Offender Information Management System (OIMS) database.

A particular change to the legislation has enabled victims of serious offenders to access specific documents that indicate the measures that the offender has taken, or is taking, to address his or her offending behaviour (with the exception of information related to medical, psychological or psychiatric issues). The Parole Authority Secretariat was given carriage of implementing this initiative and has worked co-operatively with the Restorative Justice Unit of the Department of Corrective Services. It has been our role to meet with victims and representatives from victim support groups, answer their questions, provide an overview of the programs undertaken by the offender and to explain and assist the victims to better understand the parole process in NSW. Understandably, these meetings are often emotional. However, the feedback from the victims has generally been very positive.

The period leading up to the Australian National Conference of Parole Boards and Parole Authorities in early May 2006 was exacting with many arrangements made to assist interstate and overseas colleagues, last minute changes to the agenda and timetable to be juggled and a second wave marketing and promotional campaign to attract further registrations from associated NSW Government Departments and agencies. I would like to express my thanks to all staff for their efforts in assisting our overseas and interstate guests and, in particular, to Kevin Underhill and Nigel Lloyd whose efforts, consideration and good humour attracted many compliments.

It would be remiss of me to not also acknowledge the particular contribution made by the previous Secretary, Mr Graham Egan and our Operations Manager, Mr Robert Cosman for the significant role they both played as part of the co-ordinating committee and in working so diligently to ensure the Conference was as successful as it could possibly be.

From my perspective, the Conference was immensely rewarding - particularly the sessions that brought together the senior managers from the Parole Boards across Australia and New Zealand. We all share similar concerns, problems and issues and the different approaches that various States and our friends in New Zealand are taking in response to these challenges means that there is much that we can learn from each other. I certainly hope that parallel sessions will continue to form a part of all future Conferences.

Whilst the Conference was a very successful event, the Authority did experience more than the usual amount of media interest and criticism during the year. The level of uninformed and sensational comments that followed the consideration of high profile cases required the Authority to review and refine its media strategy.

I would like to express my appreciation to Tim Allerton, Managing Director of City Public Relations, for his invaluable advice and assistance in ensuring that the Authority is now better prepared to address issues earlier and to ensure the facts are conveyed to all media outlets 'at the time of the decision'.

In the Authority's 2005 Annual Report, specific business objectives were identified for 2006. The following is an overview of our performance in achieving these objectives:

Objectives	Achievements
Planning and hosting the 2006 Australian National Conference of Parole Boards and Parole Authorities.	Hosted a very successful three day National Conference in May 2006.
Implement TRIM (Computerised management of documents and files).	Existing procedures are undergoing review with the assistance of consultants. Staff from the Department of Corrective Services Information and Technology Branch are also working closely with the Authority with considerable progress.
Developing and implementing a new Correctional Centre Report.	New report format designed that takes advantage of the current upgrade to the Department of Corrective Services offender database (OIMS) enabling electronic reporting by correctional centre staff and senior managers. (Project will proceed when upgrade is completed).
Initiating a program of training and development opportunities for staff.	Over 50% of staff have undertaken training opportunities at the Corrective Services Academy. Additional staff members have benefited from developmental opportunities in other sections of the Department.
Developing a Resource Manual for members.	The development of a Resource Manual for members has commenced and will be finalised next year.

A new Business Plan for 2007-2009 was developed during the year which includes the following specific objectives to be pursued in 2007:

- Introduction of an Electronic Document Management System
- Finalisation of on-line Correctional Centre Report
- Finalisation of Members' Resource Manual
- Development of a dedicated website for the Authority
- Continuation of the staff training and development program
- Effective management of media issues

In conclusion, I would like to express my appreciation to Ian Pike and all the members of the State Parole Authority for their ongoing support over the past year. I also wish to convey my particular thanks and appreciation to Robert Cosman, Operations Manager, for all his efforts and to the staff of the Parole Authority Secretariat whose dedicated actions and commitment contributed to a very productive and successful twelve months.

GOVERNANCE

Legislative Mandate

The Parole Authority was established, in its present form, as the Offenders Review Board, pursuant to the provisions of the *Sentencing Act* (1989), which was proclaimed on the 25th September 1989. A later amendment to the Act changed the name to the Parole Board. A further amendment to the Act which commenced on 10th October 2005 changed the name of the Board to the NSW State Parole Authority. There has been a Parole Board/Parole Authority in New South Wales since 31st January 1967.

On the 3rd April 2000, the *Crimes (Administration of Sentences) Act* 1999, replaced all the previous legislation, which governed the operation of the Authority. The *Crimes Legislation Amendment (Parole) Act* 2003 commenced on the 1st July 2003. On 10th December 2004 the *Crimes (Administration of Sentences) Act Amendment (Parole) Bill* was passed by Parliament. This amendment commenced operations on 10th October 2005.

New Legislation

On 29th November 2006 the *Crimes (Administration of Sentences) Amendment Act,* was proclaimed and commenced to operate on 1st December 2006. The principal amendments that impacted on the operations of the State Parole Authority are detailed below:

Lifetime supervision of lifetime parolees

Inserts a new section 128B so as to provide that any parole granted to an offender serving an existing life sentence is to be subject to a condition requiring lifetime supervision during which the offender must comply with obligations imposed by the Commissioner of Corrective Services.

Reinstatement of periodic detention orders

Amends section 164A so as to ensure that an offender's application for the reinstatement of a periodic detention order that has been revoked may not be made until the offender has spent at least 3 months in custody since the order was revoked and must indicate what the offender has done, or is doing, to ensure his or her compliance with the order in the event that it is reinstated.

Release of offenders pending assessment for home detention

Section 165AA currently permits the State Parole Authority, when considering whether to replace an offender's periodic detention order with a home detention order, to make an order releasing an offender from custody pending its decision. Amends section 165AA so that a similar order may be made to allow an offender who is not in custody to remain at large.

Rescission of revocation of periodic detention orders and home detention orders

Amends section 175 so as to restrict the State Parole Authority's power to rescind the revocation of a periodic detention order or home detention order, under all circumstances, to those situations in which it would be manifestly unjust not to do so.

Exclusion of rights of review in relation to revocation of periodic detention orders, home detention orders and parole orders.

Inserts a new section 175A so as to provide that revocation of an offender's periodic detention order, home detention order or parole order is not reviewable if the revocation occurs within the last 30 days of the offender's sentence.

Suspension of warrants of commitment

Amends section 181 so as to enable the State Parole Authority to recall or suspend any warrant that it has issued under that section.

Documents to which a serious offender's victim may be given access

Amends section 193A so as to restrict the class of documents to which a serious offender's victim is entitled to be given access to those documents that indicate the measures that the offender has taken, or is taking, to address his or her offending behaviour.

Consideration of Parole

In accordance with the provisions of the Act, the SPA considers at a private meeting whether or not an offender should be released on parole and makes a decision based on the written material provided by the relevant authorities. The offender does not attend the meeting.

If the SPA decides to order release on parole, a parole order is issued immediately and the offender is released on the due date. In the case of serious offenders, the SPA initially forms an intention to grant parole and the matter is adjourned to a public meeting. This provides the opportunity for any registered victim and the State to make submissions to the SPA at a public hearing before a final decision is made.

If the SPA decides that parole should be refused, it must determine whether a public hearing to review the decision will be held. Legislation no longer provides an automatic right for an offender to appear at a hearing. The SPA will either order a review hearing or order a hearing only if the SPA is satisfied, by way of a submission from the offender, that a review hearing is warranted.

Notification and application forms are sent to the offender after a decision to refuse parole. Offenders who have been granted a hearing can indicate whether they wish to attend or not, and/or if they wish to be legally represented. Appearances are now by audio/video link from the correctional centre and the offender can elect to be represented by a lawyer from the Prisoners Legal Service, the Aboriginal Legal Service or a private solicitor or barrister. The review will be listed at a public hearing about four weeks from the receipt of the application.

Offenders in custody who experience difficulties with completing the forms or making a submission are referred to the correctional centre's Manager of Offender Services and Programs who will arrange assistance in the completion of forms and submissions.

If the offender declines a hearing or does not convince the SPA a hearing is warranted, the SPA confirms the decision to refuse parole. The next time the offender is eligible for release on parole is the anniversary date of the earliest release date. If the offender has less than twelve months remaining he/she will be released on the date the sentence expires.

In the case of serious offenders, the SPA does not refuse parole initially but forms an intention to refuse parole. The same procedures for other offenders outlined above are then adopted in regards to the question of a review hearing.

If a review hearing is held, the SPA will decide after hearing all submissions and considering all reports if it should confirm the decision of intention to refuse parole.

If the decision is confirmed, the offender must wait usually twelve months to again be considered for possible release on the anniversary of the earliest release date, or be released at the expiry of the sentence if that date occurs before the anniversary date. The offender must apply though the probation and parole service for the SPA to again consider the question of parole.

If the SPA determines to reverse the decision and grant parole, the offender will be released on the appropriate date. For serious offenders, the intention to refuse parole would be changed to an intention to grant parole and the hearing would be adjourned to allow for possible submissions from registered victim/s and the State.

Offenders are usually released on the earliest date or the anniversary of that date. If the decision is made earlier than that date, the SPA can direct the date to be in a period no earlier than the parole eligibility date and no later than thirty five days after that date and, in any case, a period beginning no earlier than the date of the decision and ending no later than thirty five days after that date.

This provides flexibility and enables the SPA to ensure that an offender is released into an appropriate post release plan. A serious offender cannot be released within the first fourteen days of the thirty five day period outlined above. This allows time for an application to be made to the Supreme Court by the Attorney General or the Director of Public Prosecutions for a direction to be given to the SPA if the applicants were of the view that the decision of the SPA was made on the basis of false, misleading or irrelevant information.

Manifest Injustice

In some cases, after an offender has been refused parole, it is possible for an offender's case to be considered again before the offender's annual review for parole and without the need for an application so as to avoid manifest injustice. Early consideration of a case will only occur in the circumstances prescribed by clause 219A of the *Crimes (Administration of Sentences) Regulation* 2001 as constituting manifest injustice. The circumstances include:

- on the basis of false, misleading or irrelevant information
- because the offender had not completed a program, due to circumstances beyond the offender's control, and the offender subsequently completes the program satisfactorily
- because suitable post-release accommodation was not available, due to circumstances beyond the offender's control, and the accommodation subsequently becomes available
- because the offender had not completed a period of external leave, due to circumstances beyond the offender's control, and the offender subsequently completes the period of external leave satisfactorily
- because a medical, psychiatric or psychological report required by the SPA was not available, due to circumstances beyond the control of the offender, and the report subsequently becomes available and indicates that the offender is suitable to be considered for parole
- because information or material reasonably required by the SPA was not available, due to circumstances beyond the offender's control, and that information or material subsequently becomes available
- because an appropriate community health service that the offender required was not available, due to circumstances beyond the offender's control, and the service subsequently becomes available
- because the offender was charged with further offence(s) and the charge is subsequently withdrawn or dismissed.

Serious Offenders

If an offender is a serious offender managed by the Serious Offenders Review Council (SORC), a representative of the State of New South Wales and any Registered Victims of crime (i.e. on the Victims Register) are able to make submissions to the SPA before it makes its final decision on whether or not to release the offender on parole.

The Commissioner or any other authority of the state, may exercise the power of the state to make a submission. Submissions can be made irrespective of whether the initial intention made by the SPA is to release the offender or to refuse the offender release on parole.

A further change has been made to section 135 of the Act in respect of serious offenders. The following provision now applies:

S135 (3) "Except in exceptional circumstances, the Parole Authority must not make a parole order for a serious offender unless the Serious Offenders Review Council advises that it is appropriate for the offender to be considered for release on parole".

Revocations

If the SPA revokes a parole order, home detention order or periodic detention order, the Authority arranges a public hearing to review the decision to revoke the order. The offender can elect to attend the hearing via video link and/or be represented by a lawyer. The hearing takes place between four and six weeks after the offender whose order has been revoked, has returned to custody.

In the case of a decision to revoke a parole order being conformed, the offender is not eligible for re release on parole until twelve months from the date of return to custody. The SPA will consider the question of parole no earlier than sixty days before the eligibility date. The offender must apply to the SPA through the probation and parole service that he/she is seeking parole consideration.

If the balance of parole expires before the eligibility date, the offender is released on the expiry date.

In the case where a home detention order revocation has been confirmed, the detainee remains in full custody but can be reinstated, subject to a favourable home detention officer's assessment, after serving at least three months in custody.

Where a decision to revoke a periodic detention order is confirmed, the detainee stays in full time custody but can be reinstated, subject to a favourable probation and parole officer's report, after serving three months full time custody. Alternatively, the offender can apply to serve the balance of the order by way of home detention. If eligible, the offender will need a favourable home detention assessment.

There is a provision for the offender to be released from custody on a 'temporary release order' to facilitate the assessment process.

Members of the NSW Parole Board 2006

Front Row L-R: Ms S. Reys, The Hon D. O'Connor, Chairperson Mr I. Pike, Mr C. Gilmore, The Hon T. Christie, Mr J. Whelan
Second Row L-R: Ms Y. Johnson, Ms G. Vyse, Ms J. Nicholas, Ms B. Smith, Ms Y. Chan, Ms F. LoPo, Mr D. Saville, Ms M. Eftimou
Third Row L-R: Mr C. Whitehall, Mr R. Fitzgerald, Mr N. Day (SORC), Mr P. Walsh, Dr A. Sefton
Back Row L-R: Mr B. Inkster, Ms M. Thomas, Mr L. Walker, Mr G McNeil, Mr J Haigh.
Absent: Rev P. Walker, Ms M. Jabour, Mr B. Kilby, Ms M. Dawson, Ms J. Jousif

Composition of the Parole Authority

The Authority is constituted under the provisions of Section 183 of the *Crimes (Administration of Sentences) Act* 1999. At least four of the appointed members are to be judicial members and at least 10 are to reflect, as closely as possible, the composition of the community at large.

Judicial members may be judges or retired judges of a New South Wales or Federal Court, magistrates or retired magistrates, or persons qualified to be appointed as a judge of a New South Wales Court.

At least 10 community members may be appointed, though only four may sit at any meeting of the Authority.

The other three members do not require appointment to the Authority by the Governor. These are a member of the New South Wales Police nominated by the Commissioner for Police and an officer of the Probation and Parole Service nominated by the Commissioner of Corrective Services. The Secretary of the State Parole Authority is prescribed under the Act as a non judicial member and is appointed by the Chairperson to dispose of routine business of the Parole Authority.

As of the 31st December 2006, there were four judicial members, 16 community members and four official members serving on the Parole Authority.




Judicial Members of NSW Parole Board 2006

L-R: Chairperson Mr Ian Pike AM, Alternate Chairperson The Hon Deirdre O'Connor, Deputy Chairperson Mr Charles Gilmore, Deputy Chairperson Mr Terence Christie QC

Suspension of Parole Orders

The Commissioner is able to now apply to a judicial member of the SPA for an order suspending an offender's parole order and, if necessary, a warrant for the offender's arrest.

Such an order will only be made if the judicial member is satisfied that the Commissioner has reasonable grounds for believing that the offender is in breach of the parole order or that there is a serious and immediate risk that the offender will leave the state in contravention of the conditions of the parole order, harm another person or commit an indictable offence and there is insufficient time to call a meeting of the SPA to deal with the matter.

A suspension order remains in force for up to 28 days after the offender is returned to custody, to allow time for an inquiry to be conducted into those allegations contravention of the conditions of the parole order, harm another person or commit an indictable offence and there is insufficient time to call a meeting of the SPA to deal with the matter.

Appeals

The previous and current legislation has permitted an offender to appeal a decision of the Parole Authority. Prior to the legislative amendments that came into effect on 10th October 2005, all appeals were made to the Court of Criminal Appeal.

However, as a consequence of an amendment to S155 of Part 6 of the *Crimes (Administration of Sentences) Act* 1999, appeals are now made to a single judge sitting in the Administrative Division of the NSW Supreme Court. In such appeals, it is usually the case that the offender alleges that the decision of the Parole Authority has been made on the basis of false, misleading or irrelevant information.

There were 28 appeals to the Supreme Court in 2006. In one appeal the Supreme Court made a declaration that an error of law had occurred in the decision by the Parole Authority. An order was made quashing the determination of the Parole Authority.

An order was also issued for the Parole Authority to convene and reconsider the decision that had been made at an earlier review hearing. With the agreement of the Court, the Parole Authority dealt with the case at a scheduled private meeting. As the case was subsequently finalised and the appeal withdrawn, the Parole Authority did not seek to appeal the Supreme Court decision.

S156 provides for applications by the State to the Supreme Court in respect of decisions regarding serious offenders. There was one such appeal in 2006. The appeal was dismissed.

Appeals to Court of Criminal Appeal

Year	Number of Appeals	Withdrawn/ Abandoned	Dismissed
2004	6	6	
2005	4	1	3

Appeals to Supreme Court

Year	Number of Appeals	Dismissed	Withdrawn	Referred back to SPA	Finding against SPA	Ongoing
2006	28	13	4	1	1 (Matter later withdrawn)	9

OUR PERFORMANCE

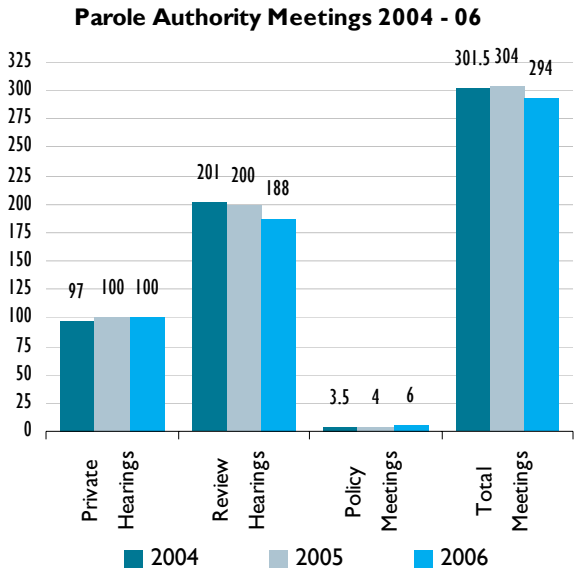
Cases Considered

The workload of the Parole Authority has increased significantly over the past five years which is a reflection of the increased number of offenders in custody and being supervised in the community as well as the impact of legislative change.

As a consequence of this workload, in late 2004 the Parole Authority increased the number of sitting days each week. There are currently two private meetings and four public review hearings that take place each week.

During 2006, the Authority met on 294 occasions compared to 304 in 2005. The total number of cases considered by the Authority in all meetings of the 2006 calendar year was 11,436. It is quite common for a single case to be considered on more than one occasion, particularly as the Authority must schedule a review hearing when it revokes or refuses parole, and also where the Authority needs to stand a matter over for additional reports or to ascertain the result of ongoing court matters.

There were also 50 'Secretary Sittings' in the 2006 calendar year. In these meetings, the Secretary makes various administrative decisions regarding a case that is under consideration by the Authority. Matters considered include the registration of interstate parole orders and taking a decision to stand a case over to a date in the future to follow court results.



PAROLE - CASE STUDY 1

Ms. D came to the attention of the Probation and Parole Service when she was subject to supervised bail, good behaviour bonds and parole orders. Her response to supervision had been characterised by non compliance and further offending behaviour resulting in breach action and subsequent placement in custody.

The Authority expectation is that, prior to any recommendation of release to conditional liberty; the offender must clearly demonstrate an improvement in behaviour. Ms. D's poor custodial record meant her release was not recommended.

Since that hearing, a marked improvement in the offender's behaviour was reported from all disciplines. Ms. D secured fulltime employment, did not incur any institutional misconducts and maintained contact with AOD services as directed. In addition to this, she became actively involved in the SMART program. Discussions with the offender's overseers and Offender Services and Programs engendered confidence in Ms. D's new willingness to comply. At the offender's subsequent Parole hearing, her release to conditional liberty was granted.

	2004	2005	2006
Total Cases Considered	11,541	11,857	11,436
Total Meeting Days	301.5	305	294

Parole Ordered

The principal purpose of granting parole is to serve the public interest by closely supervising the offender during his or her period of reintegration into the community. In all cases, strict conditions of parole are imposed and the Authority may also set additional conditions specifically tailored to address the underlying factors of an inmate's offending behaviour.

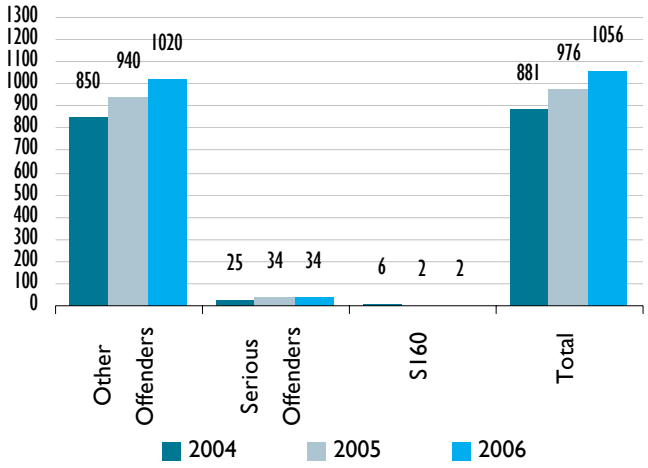
When the Authority does order that an inmate be released on parole, it does not always do so immediately the inmate becomes eligible. Parole may be ordered after one or more earlier refusals.

Parole was ordered in 1,056 cases in the 2006 calendar year, 34 of these were serious offenders and two were pursuant to Section 160 of the *Crimes (Administration of Sentences) Act* 2000 which permits the Authority to order parole before the expiry of the non-parole period if the offender is dying or there are other exceptional extenuating circumstances.

The 1056 offenders granted parole by the Authority represents 19.6% of the total of 5,401offenders who were released to parole in the 2006 calendar year. The balance of 4,345 offenders were all subject to automatic release on court based orders.

Total Number of Parole Releases 2006		
Court Based Orders	SPA Orders	Total
4,345	1,056	5,401

Parole Ordered 2004 - 06



Parole Ordered - SPA		
2004	2005	2006
881	976	1,056

OUR PERFORMANCE

Parole Revoked

If a parolee fails to comply with the conditions of a parole order, the supervising Parole Officer prepares a report for the Authority's consideration setting out the circumstances of the breach and the Authority has the power to revoke the parole order.

The Authority revoked a total of 1,742 parole orders in the 2006 calendar year. Of these, 670 were the result of a breach of conditions, other than the commission of another crime. Six serious offenders were revoked for failing to comply with the conditions of his/her parole order.

Breaches included the failure to maintain contact with the supervising Probation and Parole Officer, changing address without permission, leaving the state without permission, failure to attend a drug and alcohol rehabilitation centre and failure to abstain from alcohol.

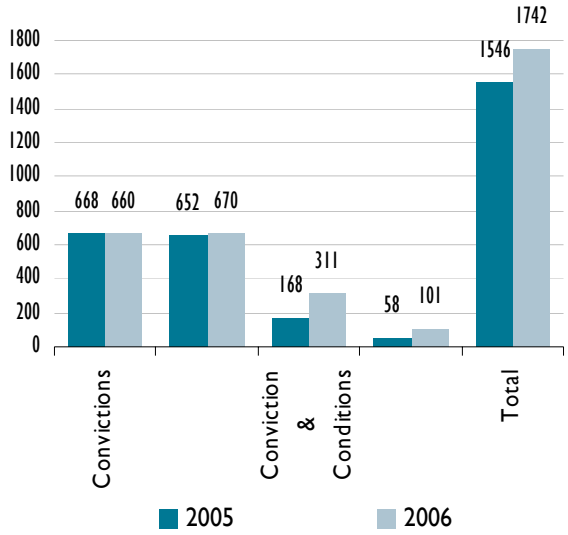
660 revocations, of which three were serious offenders, were the result of another conviction.

311 offenders were revoked for both a breach of conditions and a further conviction/s. There were two serious offenders who fell into this category.

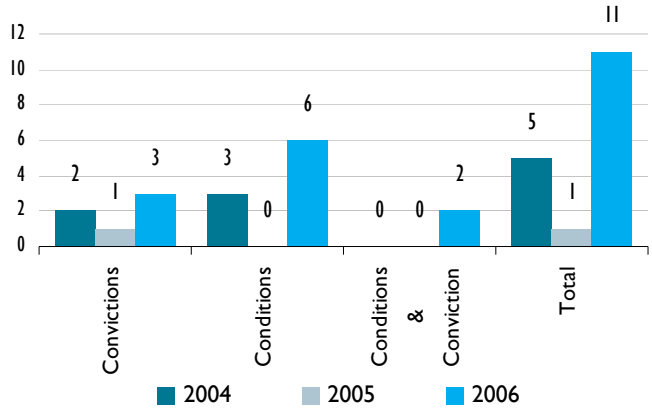
The Authority also revoked 21 Parole Authority orders and 80 offenders subject to a court based parole order prior to release.

Revocation of court based orders represented 73.8% of all revocation decisions made by the SPA.

Parole Revoked (All Offenders) 2005 - 06



Parole Revoked (Serious Offenders) 2004 - 06



PAROLE - CASE STUDY 2

Mr. K's response to three supervised orders was poor with all orders resulting in breach action due to further offending. He was released from custody as a close supervision parolee, however, concerns soon arose regarding his ongoing association with a notorious motorcycle club.

The Authority revoked Mr. K's order, as he was seen to be at a risk of re-offending and being unable to adapt to normal community life underpinned by his past failure on parole.

Mr. K displayed exemplary custodial behaviour but continued to state that he would not comply with a suggested special condition of Parole, that he have no contact with any member of a motor cycle club given the considerable risks he, his family and the community may be exposed to. As a result, at Mr. K's parole hearing, his release to conditional liberty was refused.

Parole Revoked 2006					
	Further Conviction	Breach Conditions	Both Conviction & Breach	Revoke Prior to Release	Total
SPA (Serious Offender) Parole Order	3	6	2	0	11
SPA (Other) Parole Order	146	193	86	21	446
Court Based Parole Order	511	471	223	80	1285
Total	660	670	311	101	1742

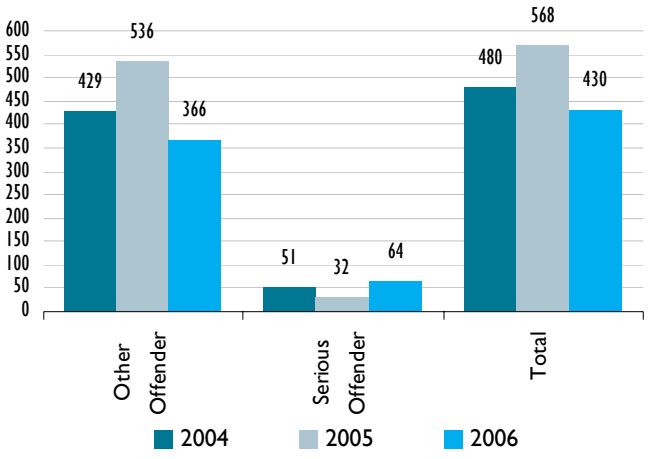
PAROLE - CASE STUDY 3

Mr. F was serving a sentence for the kidnapping of a woman with whom he had an extra-marital affair. He had consistently maintained his innocence and remained resistant to any intervention. Regarded by Centre management staff as a troublesome, manipulative inmate, Mr F's claims of an alleged injury at his last gaol of classification, necessitating the use of a wheelchair, were unsupported by medical evidence.

The Authority stated its intention to refuse parole citing the need for a psychological assessment and for Mr. F to address his violent offending behaviour. A review was granted and the inmate indicated his intention to be present and legally represented.

At the review the inmate was granted parole. The Authority took into account his special circumstances, the psychological report, the fact that it was his first custodial sentence and the availability of suitable accommodation. Mr. F was to have no contact with the victim and was required to complete an appropriate anger management course. If these parole conditions were not adhered to, he would be returned to custody.

Parole Refused 2004 - 06



Parole Refused - SPA		
2004	2005	2006
480	568	430

Parole Refused

Release to parole is not an automatic right at the end of the non-parole period and when granted is required to be in the interests of the community. This principle is supported by Section 135(1) of the *Crimes (Administration of Sentences) Act* 1999 which states that "the Parole Authority must not make a parole order for an offender unless it is satisfied, on the balance of probabilities, that the release of the offender is appropriate in the public interest".

When specifying its reasons for intending to refuse parole, the Authority takes great care to include all the issues and concerns at the time of consideration so that the inmate or their representative can fully address those issues at a review hearing. Should an inmate address the original grounds for refusal but additional issues of concern are identified during the review hearing, the Authority will confirm parole refusal until the new issues are resolved. 'Not in the public interest' (NIPI) is reason enough to confirm refusal of parole. The Parole Authority may decline to consider an offender's case for up to three years after it last considered the grant of parole to the offender.

Parole was refused in 430 cases in the 2006 calendar year of which 64 were serious offenders.

Parole – Other Matters

Revocation Rescinded

If the Authority determines to revoke parole, the offender is invited to attend a review hearing four weeks after they have returned to custody to argue why they should not have had their parole revoked . Although mindful of the Authority's duty in regard to decisions to revoke parole, it is accepted that injustices can occur where a mistake has been made over the evidence relied upon as a result of the Authority following its usual procedure. In such cases, the Authority will review its decision to avoid injustices in those cases where it is acting on incorrect information.

A total of 137 revocation orders were rescinded in 2006.

Warnings

Formal warnings are issued by the Parole Authority to borderline parolees who are at risk of breaching their parole conditions. Warnings are an effective tool for assisting Probation and Parole Officers to individually case manage offenders in the community and to encourage improved performance. In such circumstances, the warning is regarded as strengthening the officer's supervisory role as well as placing the parolee firmly on notice that continued failure to comply will result in revocation. 732 Authority warnings were delivered in 2006 of which five were serious offenders.

Public Review Meeting of the NSW State Parole Authority

Vary Parole Orders

In some instances it is necessary to vary the conditions pertaining to a parole order such as the case where an automatic court based order includes reference to a development program that is no longer accessible or where a more suitable one could be substituted. 125 variations to parole orders were made in 2006 of which two were serious offenders.

Overseas Travel

Applications for travel from parolees, who qualify for consideration, should be supported by the Probation & Parole Service with evidence provided of the need to travel overseas. In general, excessive travel or travel for recreational purposes is not approved by the Authority. Approval is not given until the Authority is confident that the parolee is stable and has adapted to lawful community living as demonstrated by regular contact with the Probation and Parole Service, compliance with the conditions of the parole order and stable accommodation and/or employment. It is unlikely that such stability could be satisfactorily demonstrated in less than six months from the date of release. 39 approvals for overseas travel were granted in 2006.

Victim & State Submissions

The *Crimes (Administration of Sentences) Act* 1999 gives victims of a crime the right to make submissions to the Parole Authority when it is considering making a decision about a serious offender that could result in the offender being released on parole, to work release or to a similar program. Before a serious offender's minimum term expires, the Authority will give preliminary consideration as to whether the inmate should be released on parole and will give notice of its intention to any victim of the inmate, who has registered his or her name on the Victims' Register. Generally the victim is given a minimum of 21 days to lodge notice of an intention to make a submission.

The Act also provides that the State may make a submission to the Authority when it considers there is other information that could be helpful to the Authority in its deliberations. 10 such submissions were made in 2006.

Interstate Transfers

Complementary state and territory legislation and protocols provide for the transfer of state and territory parole orders through a system of interstate transfer, registration and enforcement. The transfer scheme was developed to allow offenders released on parole to transfer to another jurisdiction for reasons such as family responsibilities or to pursue work or study opportunities. Under the complementary scheme, the parole order, once registered, ceases to have effect in the original state or territory, as does the related sentence of imprisonment. The laws of the receiving state or territory then apply as if the sentence of imprisonment had been imposed and served, and the parole order made, in that jurisdiction. Where the state or territory offender breaches the conditions of parole, the order can be legally enforced in the receiving jurisdiction.

There were 58 registrations of interstate parole orders in NSW in 2006.

Video Conferencing

The NSW State Parole Authority is a participant in the Cross Justice Video Conferencing system. The system is a joint initiative between the Department of Corrective Services, the NSW Attorney General's Department, NSW Police and the Department of Juvenile Justice and was introduced to avoid transport/escort costs and reduce the risk of escapes during external movements. Video conferencing studios are available in 17 correctional centres across the State.

The Authority has enthusiastically embraced the use of this technology and was the first court in Australia to undertake 100% of its hearing agenda via a video conferencing link.

In the 2006 calendar year there were a total of 17,851 Department of Corrective Services matters dealt with via the video conferencing network. There were 2,098 matters dealt with by the State Parole Authority. This represents 11.75% of overall system usage.

Parole - Other Matters 2004 - 06

Year	Revocation Rescinded	Parole Order Varied	Board Warning	Overseas Travel	Interstate Orders	State Submissions
2004	45	63	454	51	23	n/a
2005	34	40	495	55	69	14
2006	137	125	732	39	58	10

Periodic and Home Detention

Role of the Periodic and Home Detention Division (SPA)

A division of the Authority, consisting of a quorum of members including one judicial member, one official member and at least two community members, dedicates a separate day each week to deal specifically with cases arising from periodic detention and home detention.

During 2006 the Periodic and Home Detention Division met on 50 occasions. The total number of cases considered by the Authority in 2006 was 2,433.

The Authority undertakes two specific functions at each meeting. The first is to consider in 'private session' all submissions from the Commissioner of Corrective Services for inquiries under Section 162 and revocations under Sections 163 and 179 of the *Crimes (Administration of Sentences) Act* 1999. In general, the Commissioner may seek to have an offender's periodic detention order revoked if they e.g. 'fail to report on three or more occasions' or 'introduce drugs into the centre', etc.

The second function is to manage the normal public review hearing agenda at Court in respect of those periodic detainees who have had their order revoked or both periodic and home detainees who are seeking to have their revoked order reinstated. As is the case with offenders on parole, all detainees who have had their orders revoked must have their cases reviewed after being taken into custody.

At the public review hearing, the Authority will also consider applications to reinstate a periodic detention order that has been revoked, if the offender has served three months in full time custody, and has been assessed as suitable to return to the periodic detention program.

Periodic Detention – Other Decisions

	2004	2005	2006
Orders Revoked	550	566	503
Revocation to stand (return to custody)	366	284	404
PD order reinstated	144	90	110
PD order not reinstated	85	82	118
Section 162 Inquiries (attend court to explain absence/incident)	n/a	93	123
Application to revoke refused (defective S72 Notice)	n/a	18	12
Application to revoke refused (sick leave granted)	n/a	202	185
Revocation rescinded (deemed not AWOL)	n/a	22	6
Revocation rescinded (defective S72 Notice)	n/a	18	12
Revocation rescinded (other)	n/a	60	28
Temporary release order granted (interim HD assessment suitable)	n/a	73	69

Periodic Detention - Reasons for Revocation

	2004	2005	2006
S163 2(a) Fail to report (3) occasions	383	382	322
S163 1(a) Fail to comply with obligations	87	82	72
S163 (1A) Application to Commissioner on health/compassionate reasons	9	2	8
S163 2(b) Fail to report following re-instatement	20	55	55
S163 1(c) Offender applied for order to be revoked (HD consideration)	33	26	23
S163 (1C) Re-instated order - offender sentenced		1	0
S179 1(b) Sentenced to more than (1) month imprisonment	18	16	23
S179 (1)(a) Revocation of consecutive periodic detention order		2	0
Total	**550**	**566**	**503**

Periodic Detention Program

In New South Wales, where an offender is sentenced to a term of imprisonment which exceeds three months but is less than three years, the sentence may be served by way of periodic detention which generally requires the offender to remain in custody for two consecutive days of each week for the duration of the sentence. This permits offenders to maintain their ties to the community by remaining in employment and living with their families for the greater part of each week, and contributing to the community through community work. Periodic detention is also a more cost-effective sentencing option than full-time imprisonment.

In order to assess the suitability of the offender for periodic detention, the Probation and Parole Service is required to prepare a report to consider any factors which may affect the offender's ability to attend regularly including the offender's ability to travel, transport costs, medical condition and employment.

Periodic Detention Revocations

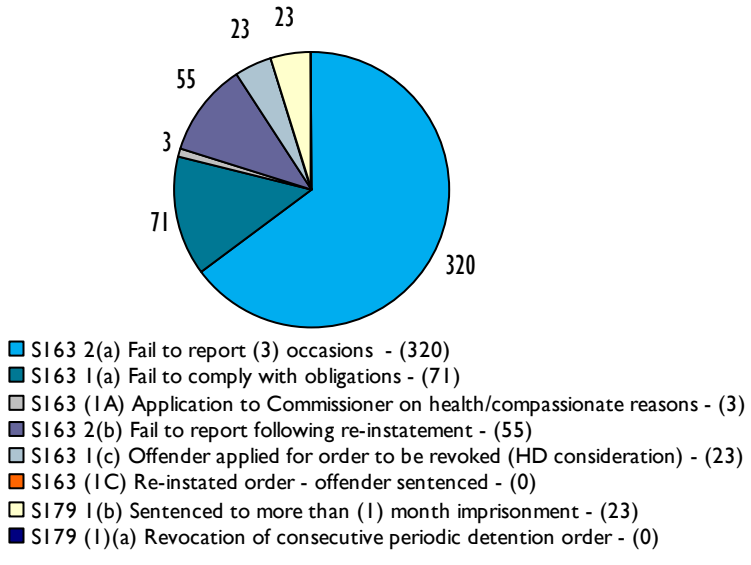
The Authority may revoke an order for periodic detention in a number of circumstances, including where an offender has not attended or failed to report for three detention periods without a reasonable excuse. If the order is revoked, the Authority may issue a warrant for the apprehension of the offender to serve the remainder of the sentence in full time custody or may determine another action such as having the offender assessed for suitability for home detention.

PERIODIC DETENTION - CASE STUDY 1

Mr. P requested leave from Periodic Detention claiming his girlfriend had assaulted him after a weekend of binge drinking. An immediate home visit was conducted that verified his claim. It was ascertained that both he and his partner were dependant on alcohol and he was referred to the Community Health Service and granted a fortnight's leave to attend appropriate appointments. Mr. P resumed Periodic Detention for three months until suffering a relapse which left him suicidal. Following a call to his Probation and Parole Officer, an ambulance was alerted and he was taken to hospital as a result of an overdose.

A case conference involving his Officer, welfare and psychiatrist was conducted to devise a case plan to assist him in complying with his Order. Placed on a safe management plan, Mr. P's time spent in custody was monitored and he was given work responsibilities. Regular contact was made both at the centre and home. With the assistance of the mental health team, Mr. P was able to begin addressing his mental and alcohol-related health issues and went on to successfully complete his Order.

Periodic Detention - Reasons for Revocation 2006



Home Detention Program

In NSW, when an offender is sentenced to a term of imprisonment not exceeding eighteen months, the sentence may, if ordered by the Court, be served by home detention.

Home detention is a rigorously monitored, community supervision program aimed at the diversion of offenders from incarceration in prison. The decision to allow home detention is based on the nature and circumstances of the offence, the degree of risk a prisoner poses to the community, and the suitability of the residence where the home detention will be served.

A home detention order is still a prison sentence and strict guidelines apply. Offenders are required to remain within their residences unless undertaking approved activities and may be required to perform activities and community service, enter treatment programs, submit to urinalysis and breath analysis and seek and maintain employment. Probation and Parole Officers monitor offenders' compliance with home detention conditions on a 24 hour-a-day basis utilising electronic means. Breaches of conditions, further offences or unauthorised absences may result in revocation of the home detention order and imprisonment.

The Authority has the capacity to respond to a breach at any time and can arrange the execution of a warrant on a 24 hour basis.

Home Detention Revocations

If a detainee fails to comply with the conditions of their home detention order; including being absent from their home without authorisation or where they have been charged with a further offence, the supervising Probation and Parole Officer prepares a breach report for the Authority's consideration.

Where the circumstances of a breach are confirmed the State Parole Authority has the power to revoke the home detention order.

In the 2006 calendar year 79 detainees had their home detention order revoked.

Home Detention Revoked 2004 - 06

Year	2004	2005	2006
	84	71	79

HOME DETENTION - CASE STUDY 1

Mr. M had a long history of drug use and related offending when he was placed on a six-month Home Detention Order. Whilst under intensive supervision, Mr. M began to make significant improvements to his lifestyle. With appropriate encouragement, he enrolled at TAFE to study hospitality and was still attending regularly when his Order expired. Mr. M also managed to maintain abstinence for the majority of his Order until suffering a relapse towards the end of the program.

Following this, he took the initiative to go onto the buprenorphine drug treatment program and successfully addressed the relapse. He also took steps to remove himself from his previous gang associations by commencing laser surgery to remove his 'gang style' tattoos. Mr. M gave positive feedback about his time on Home Detention, indicating that he believed the support he received from his supervising officers contributed to his attitudinal shift and subsequent lifestyle changes.

HOME DETENTION - CASE STUDY 2

On a random visit from his Probation and Parole Officer, Mr. S returned a positive reading for alcohol. He confessed that he had been drinking and blamed relationship problems with his wife. Mr. S had previously been referred to counselling for relationship issues on a number of occasions however had never attended. He had also tested positive for alcohol on two separate occasions and had received two written warnings in this regard.

It appeared that Mr. S had little commitment towards his Home Detention Order and, despite having had ample opportunity to address his alcohol use, had breached conditions when being fully aware of the consequences. As a result, his Home Detention Order was revoked.

Home Detention Assessments

In accordance with the provisions of the Act, the State Parole Authority may issue a home detention order following receipt of an application from an offender who is either currently serving a periodic detention order or whose periodic detention or home detention order has been recently revoked by the Authority.

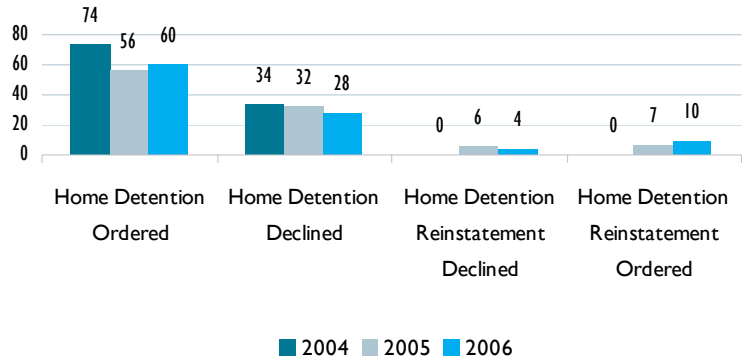
Applications to be considered for the home detention program generally fall into three categories. The first includes offenders currently serving a periodic detention order, who due to personal health issues, urgent family issues or other exceptional circumstances seek to 'self revoke' their order so as to facilitate consideration for the home detention program.

The second category are those offenders who have had their periodic detention order revoked, are currently in custody and apply to be considered for the home detention program instead of returning to the periodic detention program.

The third category relates to those home detainees who are currently in custody following the revocation of their order, have served three months in full time custody and are again eligible to apply for the reinstatement of their home detention order.

A home detention order is only considered by the State Parole Authority where the offender has been assessed by the Probation and Parole Service and a recommendation for home detention is made. The offender must meet the eligibility criteria specified in the legislation and have the nominated accommodation checked and found to be suitable. 102 home detention assessments were made in 2006.

Home Detention Decisons 2004 - 06



Judicial Members

Mr Ian Pike AM served as Acting Deputy Chairperson from the 2nd September 2002, until being appointed as Chairperson on the 1st January 2003 and was re-appointed on the 1st January 2006. Mr Pike was appointed as a magistrate in 1970 and retired as Chief Magistrate of NSW in 1997. Since his retirement he has acted as a consultant with the Judicial Commission of NSW. He has also acted as a consultant for AusAID carrying out judicial training and education in Sri Lanka and Papua New Guinea.

Mr Terence Christie QC was appointed to the position of Deputy Chairperson on the 15th December 2003 and was re-appointed on the 15th December 2006. Judge Christie was appointed as a Judge of the District Court in NSW in 1993.

The Hon Deirdre Frances O'Connor was appointed to the position of Alternate Chairperson on the 3rd May 2004 and was re-appointed on the 3rd May 2007. As a judge of the Federal Court of Australia, she served as President of the Commonwealth Administrative Appeals Tribunal and Australian Industrial Relations Commission. She is also a member of the Consumer, Trader and Tenancy Tribunal Peer Review Panel.

Mr Charles Gilmore was appointed to the position of Deputy Chairperson on the 24th March 2000 and was re-appointed on the 24th March 2003 and the 24th March 2006. Mr Gilmore was formerly a Deputy Chief Magistrate of NSW. Since his retirement in 2000, he has acted as a part-time member of the Victims Compensation Tribunal.

Community Members

Professor Ross Fitzgerald is the Emeritus Professor in History and Politics at Griffith University and serves as an academic, writer and broadcaster. He was a member of the Queensland Community Corrections Board. Professor Fitzgerald was appointed on the 16th December 2002 and was re-appointed on the 16th December 2005.

Mr John Whelan OAM is past President of the Labor Council of NSW and former National Vice-President, and life member, of the National Union of Workers. Mr Whelan was appointed on the 20th March 2002 and was re-appointed on the 20th March 2005.

Ms Shelley Reys is Managing Director of Arrilla – Indigenous Consultants and Services, a firm which assists indigenous and non-indigenous Australians to work together more effectively. She is also Vice-Chairman of the National Australia Day Council, Vice-Chairman of The Fred Hollows Foundation and Director of Reconciliation Australia. Ms Reys was appointed on the 1st July 2003 and was re-appointed on the 1st July 2006.

Dr Donald Saville has a long career within NSW Agriculture including Chief, Division of Animal Industries, General Manager (Policy and Planning) and Director, Sustainable Agriculture and Fisheries. He has undertaken a wide range of community service including the establishment of the first Community College in NSW. Dr Saville was appointed on the 25th September 2002 and was re-appointed on the 25th September 2005.

Mr Geoffrey McNeil has an established career in school education culminating in his role as Principal of Randwick Boys' High. Mr McNeil was appointed on the 11th April 1997 and was re-appointed on the 11th April 2000 and the 11th April 2003. Mr McNeil's appointment expired on 10th April 2006.

Dr Jennifer Anne Sefton was a medical practitioner for 38 years, with special interest in sexual and reproductive health, before retirement in 2003. From 1993 to 2002, she was Director of Women's Health for Corrections Health Service (now Justice Health). She was a member of the Department of Corrective Services Women's Advisory Committee from 1999 to 2005. Dr Sefton was appointed on the 14th January 2003 and was re-appointed on 14th January 2006 before resigning from 24th March 2006.

Ms Brenda Smith was formerly an Assistant Commissioner with the Office of the Commissioner, Strategic Development and the Probation and Parole Service within the Department of Corrective Services. Ms Smith was appointed on the 1st October 2002 and was re-appointed on the 1st October 2005.

Mr Lloyd Walker was Acting Coordinator for the Aboriginal Corporation for Homeless and Rehabilitation Community Services and was appointed Official Visitor of Lithgow Correctional Centre. He is a former Australian Wallaby player. Mr Walker was appointed on the 1st July 2000 and was re-appointed on the 1st July 2003 and 2006.

The Rev. Peter Walker has served as a Prison Chaplain for the Department of Juvenile Justice and as an Aboriginal Christian Welfare Officer culminating in his position as Managing Director of Australian Indigenous Christian Ministries, Sydney. Pastor Walker was appointed on the 1st September 2003. Pastor Walker's appointment expired on 31st August 2006.

Mr Robert Inkster OAM APM retired from the NSW Police in October 2004 at the rank of Detective Chief Superintendent having served 38 years. He is also Chairman of the Board of the Tow Truck Authority of NSW. Mr Inkster was appointed on the 17th January 2005.

Mr John Haigh has worked as a psychologist and advisor for the Department of Corrective Services, Department of Health and the Criminal Law Review Division of the Department of the Attorney General. Mr Haigh was appointed on the 8th August 1997 and was re-appointed on the 8th August 1999, 8th August 2002 and 15th September 2005.

Ms Yiah Chan holds a MSc in Criminal Justice Policy and has served as a Research Officer for the Queensland Criminal Justice Commission. Ms Chan was a member of the Classification Board of the Office of Film and Literature Classification and has also been a consultant for online and telecommunications content regulation. Ms Chan was appointed on the 1st September 2003 and was re-appointed on the 1st September 2006.

Ms Maritsa Eftimiou is a member of the Migration Review Tribunal, the Refugee Review Tribunal and the Consumer Trader and Tenancy Tribunal. She has been admitted as a barrister and solicitor to the Supreme Court of NSW. Ms Eftimiou was appointed on the 1st September 2003 and was re-appointed on the 1st September 2006.

The Hon Faye Lo Po' AM has served the NSW Parliament for a period of 12 years as the member for Penrith. Her ministries have included Community Services, Aging, Juvenile Justice, Disability Services, Women and Fair Trading. Ms Lo Po' was appointed on the 15th December 2003 and was re-appointed on the 15th December 2006.

Mr Peter Walsh APM was formerly the Senior Assistant Commissioner of the NSW Police Force after completing 38 years with the Service. He was awarded the Centenary Medal in 2000 for Service to the community and the Australian Police Medal for distinguished Police Service in 1996. He has served in 10 locations throughout NSW with the majority of his service in country NSW. He was appointed on the 17th January 2005.

Mr Barry John Kilby JP QS is a Board member of victims support group VOCAL and the Community Aid Panel (CAP) at Newcastle and has also been a Supervisor for Community Service through the Newcastle Police (CAP) for the past two years. He has held the position of a Scout / Venturer Leader at the Teralba Sea Scouts, for the past 12 years. Mr Kilby was appointed on the 11th October 2006.

Ms Gowan Vyse has a long history working in the disability sector and within the criminal justice system. She has worked with the Department of Ageing Disability and Home Care and currently holds a management position with the Office of the Public Guardian, Attorney General's Department of NSW. Ms Vyse was appointed on the 3rd April 2006.

Ms Martha Jabour is Executive Director, Homicide Victims Support Group (Aust.) Inc., a position she has held since 1993. She represents the Homicide Victims Support Group on the Victims Advisory Board, Victim's Interagency Committee, the Unsolved Homicide Review Committee, the NSW Health Sentinel Events Committee, the Homicide Squad Advisory Council, the Sentencing Council of NSW and the Youth Justice Advisory Committee. Her interests are to further promote victims' rights and needs, with a special focus on crime prevention, particularly in the areas of domestic violence, mental health and juvenile justice. Ms Jabour was appointed on the 4th October 2006.

Ms Marion Dawson has undertaken a wide range of Community Service, involving 17 years in Local Government between 1983 to 2004 as a Councillor and served a short period as a Deputy Mayor. She has served on committees for youth, aged and aboriginals. She was a member of Macquarie Area Health Board for 6 years. She is also in her 23rd year as a Trustee of Mount Arthur Reserve Trust (1984 – 2007). Ms Dawson was appointed on the 6th September 2006.

Official Members

NSW Probation and Parole Service:

Ms Jan Nicholas has been an official Probation and Parole Representative since the 22nd November 2004. Ms Mandy Thomas was appointed as on official Probation and Parole Representative on the 8th August 2005 and completed her appointment on the 7th February 2006. Ms Joanne Jousif was appointed as the second Probation and Parole Representative on the 8th March 2006. Mr Tom Harsas, Ms Linda Burridge and Ms Lyn Howse acted as deputies during leave by official appointees.

NSW Police Service:

Inspector Christopher Whitehall is the official Police Representative. Senior Sergeant Yvette Johnson is the official Deputy Police Member. Sergeant Tony Astley acted as the relieving police representative during leave by official appointees.

Management:

Mr Paul Byrnes, Director and Secretary
Mr Robert Cosman, Operations Manager

Departing Members

During the year, the appointments of community members Mr Geoff McNeil and Rev Peter Walker expired. Dr Jennifer Anne Sefton resigned in March 2006. The appointment of Probation and Parole representative Ms Mandy Thomas also expired. The Parole Authority wishes to sincerely thank all departing members for the outstanding contributions they made during their tenure with the Authority.

Secretariat

Legislation provides for a Secretary, who is ably supported by a secretariat of 22 officers. All Secretariat staff members are officers of the Department of Corrective Services.

Visitors

The NSW State Parole Authority was pleased to host the 2006 Australian Conference of Parole Board and Parole Authorities in May 2006. The Authority welcomed numerous delegates from all Australian States (except the Northern Territory), New Zealand, Fiji, Papua New Guinea and Canada to our private meetings and at our public review hearings at Court 17 during May 2006. Later in the year the Authority was again pleased to welcome Judge David Caruthers, Chairperson New Zealand Parole Board to our meetings.

Acknowledgements

The Authority wishes to place on record its appreciation of the efforts and services provided by: Department of Corrective Services staff, in particular Probation and Parole Service Officers, Psychologists, Justice Health staff, Correctional Centre Officers, Sentence Administration Branch staff, Crown Solicitor's Office, Police Service staff and the Parole Authority Secretariat.

Contact Details

The NSW State Parole Authority is located at Roden Cutler House, 24 Campbell St, Sydney. The Postal Address is GPO Box 31 Sydney 2001. The telephone number for enquiries is (02) 8346 1125 and the facsimile number is (02) 9212 6714. The Court for public review hearings is located on the ground floor, Hospital Road, Court Complex (behind the Mint Building, Macquarie Street, Sydney).

Secretariat Staff Members of the NSW State Parole Authority

ATTACHMENT 1

NSW State Parole Authority
Operating Guidelines

These guidelines developed by the Parole Authority are intended to assist Authority members in making their determinations. They are not intended to outweigh the objective evidence placed before the Authority or to inhibit Authority members in exercising their discretion

Issued April 2005

1. Public Interest

1.1 When considering whether a prisoner should be released from custody on parole, the highest priority for the Parole Authority should be the **safety** of the community and the need to maintain public confidence in the administration of justice.

1.2 Release to parole is not an automatic right at the end of the non-parole period and when granted is required to be in the interests of the community. This principle is supported by Section 135(1) of the *Crimes (Administration of Sentences) Act* 1999 which states that "the Parole Authority **must not** make a parole order for an offender unless it is satisfied, on the balance of probabilities, that the release of the offender is appropriate in the public interest.

2. Parole Consideration

2.1 Section 135(2) of the Act covers the matters that the Authority must have regard to in considering the grant of parole:

a) The need to protect the safety of the community,
b) The need to maintain public confidence in the administration of justice,
c) The nature and circumstances of the offence to which the offender's sentence relates,
d) Any relevant comments made by the sentencing court,
e) The offender's criminal history,
f) The likelihood of the offender being able to adapt to normal lawful community life,
g) The likely effect on any victim of the offender, and on any such victim's family, of the offender being released on parole,
h) Any report in relation to the granting of parole to the offender that has been prepared by or on behalf of the Review Council, the Commissioner, the Probation and Parole Service or any other authority of the State,
i) Such guidelines as are in force under section 185A,
j) Such other matters, as the Parole Authority considers relevant.

2.2 Appendix 1 details some of the documents that may be provided to the Authority and relevant information contained in those documents that assist in the decision making process.

2.3 While there will be exceptions, in principle an inmate should achieve the following before being granted parole:

(a) a recommendation for release by the Probation and Parole Service,
(b) a low level of prison classification indicating acceptable behaviour and progress in custody and a satisfactory record of conduct in custody, particularly with regard to violence and substance abuse. (Appendix 2 outlines the various prison classifications and definitions);
(c) satisfactory completion of programs and courses aimed at reducing their offending behaviour;

(d) suitable post release plans which relate to their assessed requirements on parole, including family or other support, employment, suitable accommodation and access to necessary programs in the community;
(e) a willingness and demonstrated ability and/or a realistic prospect of compliance with the conditions of parole;
(f) be assessed as a low risk of committing serious offences on parole, particularly sexual or violent offences, and have good prospects of successfully completing the parole supervision period;
(g) in the case of Serious offenders and other long term inmates, participation in external leave programs and a recommendation for release by the Review Council.

In accordance with the provisions of section 193C of the Act the Parole Authority must record its reason for granting parole.
Where the Authority decides not to accept the recommendations of the Probation and Parole Service the Authority should clearly indicate its reasons for doing so.

NB. Except in exceptional circumstances, the Parole Authority must not make a parole order for a serious offender unless the Review Council advises that it is appropriate for the offender to be considered for release on parole.

2.4 Serious offenders:

2.4.1 Serious offenders are defined in Section 3 of the *Crimes (Administration of Sentences) Act* 1999. A Serious offender is an offender who meets one or more of the following criteria:

- Is serving a sentence of penal servitude for life
- Is serving a former life sentence which has been redetermined
- Is serving a minimum term of 12 years or more
- Has been determined by the Commissioner of Corrective Services Parole Authority or a sentencing court to be managed as a Serious offender
- Has been convicted of murder and has a minimum and an additional term, or a fixed term
- Is one of a class of offenders prescribed by regulations as serious offenders

2.4.2 The Review Council (THE SERIOUS OFFENDERS REVIEW COUNCIL) is an independent statutory body responsible for the management of serious offenders in custody.

The Council does this by making recommendations to the Commissioner of Corrective Services on the prisoner's progress in custody and at the time of parole consideration makes recommendations to the Parole Authority as to whether or not, in its opinion, the inmate should be considered for release to parole.

2.4.3 Except in exceptional circumstances, the Parole Authority must not make a parole order in respect of a serious offender unless the Review Council advises that it is appropriate for the offender to be considered for release on parole.

2.4.4 If the Parole Authority seeks re-consideration of the Review Council's advice concerning the release on parole of a serious offender, the Authority must state its reasons in writing. Some of those reasons might include:

- Offender's post release plan compensates for any inadequacy in addressing offending behaviour

- The desirability of the offender completing day or weekend leave can be compensated by the strength of the community and/or family support available to the offender in assisting with integration into the community
- A strong employment program would be more beneficial to the offender and in the community's interest than further time spent in custody.

The Authority must also have regard to the provisions of section 198 (2A) of the Crimes (Administration

of Sentences) Act 1999 when formulating its reasons. The matters to be considered are as follows:

a) The public interest
b) The offender's classification history
c) The offender's conduct while in custody, both in relation to sentences currently being served and in relation to earlier sentences
d) The offender's willingness to participate in rehabilitation programs, and the success or otherwise of his or her participation in such programs
e) Any relevant reports (including any medical, psychiatric or psychological reports) that are available to the Authority in relation to the offender
f) Any other matter that the Authority considers to be relevant

2.4.5 If the Parole Authority forms an intention to grant parole it is required to give notice of its intention to registered victims of the offender. The names of registered victims are recorded in t he Victims Register maintained by the Department of Corrective Services. Victims have at least 14 days from the date an intention to grant parole is made to notify the Authority that they seek to have the matter reconsidered.

2.4.6 Intentions to grant parole where victims are involved and intentions to refuse parole are listed at a review hearing at which the offender and the victim may make submissions.

2.4.7 At review hearings victims are invited to make a submission either orally or in writing. This submission is generally made immediately prior to the final submission on behalf of the inmate. The victim's submission is taken into account in deliberations by the Authority as to whether or not a parole order should be made.

The State or the Commissioner for Corrective Services may at any time make submissions to the Parole Authority concerning the release of a serious offender. The Parole Authority is not to make a final decision concerning the release of the offender until it has taken such submissions into account. Such State submissions should be dealt with at a public hearing of the Parole Authority.

If the State or the Commissioner of Corrective Services makes a submission after the Authority has made a final decision for release to parole, the Authority must consider whether or not it should exercise its power to revoke prior to release (see section 130).

2.5 Inability of inmates to access programs in custody:

An inmate's inability to access programs because of prison location, protection status, gaps in service provision or any other reason may not solely be used to justify release to parole. In such situations, parole should only be granted where relevant factors in 2.3 are met and the Authority is of the view that having regard to Section 135 of the *Crimes (Administration of Sentences) Act* 1999 it is appropriate to make a parole order:

2.6 Inmates nearing completion of full time sentence:

In cases where an inmate has been consistently refused parole for poor performance and/or refusal to address offending behaviour etc. and is nearing completion of the sentence, the interests of the community can sometimes be served by releasing the inmate on parole for the balance of the sentence to monitor the offender's behaviour and provide assistance with reintegration into the community.

Factors for consideration before proceeding to grant parole include:

a) The likelihood of the inmate accepting and complying with parole supervision requirements;
b) The risk of re-offending during the supervision period;
c) The benefits to the community, if any, of granting parole for a short period.

Where an inmate is considered a high risk of re-offending, is a high impact offender (particularly sex

offenders and violent offenders) and is unlikely to accept assistance and comply with supervision requirements, the interests of the community are unlikely to be served by release on parole, even for a short period of time. Release to parole in these circumstances could render the Authority liable to justified community concern.

2.7 Deportation:

The Parole Authority will consider each case on its merits.
Factors to consider before granting parole:

a) whether a definite decision has been made by the Department of Immigration;
b) whether the offender has adequately addressed the offending behaviour;
c) whether the offender would otherwise be released to parole in Australia if not subject to deportation;
d) the seriousness of the offence;
e) the risk to the community in the country of deportation;
f) the post release plans in the country to which the offender is to be deported;
g) the duration of the period to be served on parole;
h) the fact that supervision of the parole order is highly unlikely to occur;
i) whether or not the offender entered the country specifically to commit the crime for which he/she has been sentenced.

3. Parole Refusal

3.1 In stating reasons for refusing parole the Authority should bear in mind the principle of 'public interest' contained in section 135 of the *Crimes (Administration of Sentences) Act* 1999 and referred to in 1.1 above.

3.2 When indicating an Intention to Refuse Parole (IRP) the reasons stated should commence with the overarching statement that 'it is not considered in the public interest to grant parole.'

For example, the papers could show:
Intention to Refuse Parole (IRP). Not in public interest (NIPI) because of:

- need to address offending behaviour;
- need for further alcohol & other drug counselling;
- unsuitable, unconfirmed or no post release plans/accommodation
- risk of re-offending
- need for psychological assessment re risk
- need for psychiatric assessment re diagnosis and treatment
- poor prison performance
- past failures on conditional liberty
- need to complete programs
- unlikely to adapt to normal community living
- outstanding criminal charges
- need for all reports
- such other reason as is appropriate.

3.3 In specifying reasons, care should be taken that the reasons stated for refusal include all the issues and concerns of the Authority at the time of consideration so that the inmate or their representative can fully address those issues at the review hearing.

3.4 Section 137C provides *inter alia* that for the purpose of its consideration of an offender's case, the Parole Authority may (but need not) examine the offender.

4. Review Hearings

4.1 Decision to hold a review hearing:

Section 139 of the *Crimes (Administration of Sentences) Act* 1999 provides that the Authority shall determine:

(i) if there will be a hearing whether or not the offender requests a hearing, or

(ii) that there will be a hearing only if the offender requests a hearing and the Authority is satisfied that a hearing is warranted.

4.2 The review hearing:

While the entire division of the Parole Authority presides at a review hearing, the judicial member controls the proceedings. It should always be remembered that a review hearing is not adversarial in nature and courtesy should be extended to all witnesses (including the inmate) and legal representatives at all times. In particular:

- Questions should not be asked aggressively and should be relevant to the issues
- Witnesses should be allowed sufficient time to answer a question before the next one is asked
- No community or official member should ever rebuke a witness or legal representative
- The legal representative should generally not be interrupted during his/her examination of witnesses or in the making of submissions
- No Authority member should foreshadow what the Authority's intention might be
- Board members should not use the review as a platform to express personal opinions or political views.
- Witnesses (including Probation and Parole Officers) should not be asked to comment on matters not within their area of expertise.
- Members should not ask a question similar to one already asked by another member or ask a question that indicates an opinion at variance with a question already asked. Such different views should be discussed privately.
- All protocol guidelines (as set out in the Parole Authority Code of Conduct and Protocol Guidelines) should be observed.

4.3 Review of intention to refuse parole:

4.3.1 All the reasons specified at the time the Authority indicated an intention to refuse parole should be reviewed at the hearing,

4.3.2 Parole should only be granted if the Authority is satisfied that all the reasons stated against parole being granted are no longer valid or can be managed All the reasons specified at the time the Authority indicated an post release without substantial risk to the community and the Authority is satisfied that the requirements of section 135 have been complied with.

4.3.3 Additional issues of concern may emerge during the review hearing. Should an inmate otherwise address the original IRP grounds but new issues are identified, the Authority should confirm parole refusal until the new issues are resolved. Not in public interest (NIPI) is reason enough to confirm refusal of parole.

4.3.4 Where 'poor prison performance' has been given as a reason for parole refusal, improved performance over a sustained period of time should be achieved by the inmate before parole is granted. Recent improvement in behaviour (following an IRP) is generally an insufficient response to justify granting parole.

4.3.5 If it is proposed to grant parole to an address not previously assessed by the Probation and Parole Service, adequate time should be allowed for this to be done before parole is granted. A standover period of at least three weeks should be allowed. A lesser standover period should only be permitted with the agreement of the Probation & Parole Authority member.

4.4 Review of Revocation of Parole:

4.4.1 At review hearings, the Authority sometimes becomes aware that a revoked parolee has been convicted of another offence, which was not evident at the time the parole order was revoked.

4.4.2 In such cases, if the offence was committed before the date that the order was revoked (not the date from which the order was revoked), the offender's record can be adjusted to include the new conviction as an additional reason for revocation.

4.4.3 If the new offence was committed after the date that the order was revoked it cannot constitute a breach of the parole order as the order no longer exists once it has been revoked. In such cases the records can be noted that a new offence has been committed but it cannot be used as an additional reason for revocation.

4.4.4 There is value in recording this information for use in future parole decisions.

4.5 Setting dates for re-parole consideration

4.5.1 Section 137A of the *Act* provides that an offender may apply to be released on parole within 90 days before the offender's eligibility date and upon receipt of such application the Parole Authority must consider whether or not the offender should be released on parole. However in any case the Parole Authority may decline to consider an offender's case for up to 3 years at a time after it last considered the grant of parole to the offender.

4.5.2 Section 137B provides that the Parole Authority may consider an offender's case at any time after the offender's parole eligibility date, and without the need for an application, in such circumstances as may be prescribed by the regulations.

5. Inmate Management

The Parole Authority may at any time make recommendations to the Commissioner for Corrective Services concerning the preparation of offenders for release on parole, either generally or in relation to any particular offender or class of offenders. The Commissioner must have regard to, but is not bound by, any such recommendation.

6. Revoking Parole

The Authority acknowledges that parolees are on conditional liberty. When substantive doubt arises concerning their compliance with conditions of parole and in particular whether or not they are leading a law-abiding life, e.g. being charged with further offences, then revocation should be considered.

6.1 Parole may be revoked for breaches against any of the conditions of the parole order.

6.2 Where a parolee has been charged with a further offence punishable by a term of imprisonment but has not yet been convicted, the Authority should exercise discretion for or against revocation on the individual merits of each case.

6.3 Factors relevant to the exercise of discretion whether or not to revoke may include:

- The public interest and perceived risk to the community.
- The seriousness and circumstances surrounding the commission of the alleged offence.
- The similarity of the alleged offence to the parolee's past offending behaviour.
- The strength or otherwise of the evidence against the parolee contained in the police facts covering the alleged offence.

- The parolee's response to supervision to date.
- The parolee's stability in the community.
- Recommendation from Probation & Parole regarding revocation.

6.4 Bail refusal or grant of bail should not be an overriding factor. Such status is liable to change at every court attendance. It should be noted that the Parole Authority generally has more information available to it as to the current status and conduct of the offender than does the court.

6.5 Where a parolee has been convicted of a new offence and sentenced to a term of imprisonment revocation is usually straightforward and will take effect from the date the new offence was committed.

6.6 The question of revocation where there has been a new conviction resulting in a community based order, Periodic Detention or Home Detention, rather than a term of imprisonment, is based on the considerations referred to in 6.3.

6.7 Failure to comply with conditions involving participation in programs or entry into a rehabilitation centre where such participation has been a significant factor in determining release to parole should be viewed seriously.

6.8 Consistent failure to keep appointments with the Probation & Parole Service should be viewed seriously given that effective supervision cannot occur without regular contact.

6.9 While substance abuse and charges should be considered seriously, reports from Probation and Parole of dirty urines may not necessarily result in revocation. Discretion may be applied, particularly if the offender is being open with the Probation and Parole Officer and is genuinely endeavouring to address his/her substance abuse.

6.10 Failure to provide the Probation and Parole Service with an address, which results in the Service being unaware of the parolee's whereabouts, must result in revocation. The parolee has effectively removed himself/herself from supervision.

6.11 Where a parolee commits an offence and is admitted to the Drug Court Program or the MERIT program, agreed protocols should be followed.

6.12 Revocation of Home Detention:

Section 167 of the *Crimes (Administration of Sentences) Act* 1999 provides the Parole Authority with the power to revoke a home detention order under various circumstances.

A person serving home detention is considered to be in custody (albeit in their own home). Consequently, the effective revocation date of a home detention order is taken to be the date that the revocation order was made.

The exception to this is where a home detainee has effectively removed himself/herself from the program by removing the electronic surveillance equipment and/or absconding. In such circumstances the revocation date should operate from the date that effective removal from the program occurred.

6.13 Revocation of parole prior to release.

The following matters, subject to Regulation 219(1), are to be taken into account before revocation action is taken:

- Inmate does not seek parole;
- The inmate is unable to adapt to a normal lawful community life;
- On application by the Commissioner of Corrective Services.

6.14 Revoke No Warrant

The Authority will sometimes revoke an order without issue of a warrant where the order has expired and the parolee has been otherwise in custody during the order.
Where the Authority receives a report of a breach of condition of parole and such a breach would normally result in revocation, the Authority in its discretion might revoke but not issue a warrant if the parole order has expired.
Under no circumstances will the Authority revoke and not issue a warrant prior to the expiry of the parole period.

7. Security of Certain Information

Section 194 of the *Crimes (Administration of Sentences) Act* 1999 provides that certain information given to the Authority should be endorsed under that section if in the opinion of the judicial member it would disclose the contents of any offender's medical, psychiatric or psychological report or would adversely affect the supervision of any offender, the security, discipline or good order of a Correctional Centre, or endangers any person, or jeopardises the conduct of a lawful investigation, or prejudices the public interest.

Information prejudicial to the public interest includes issues relating to privacy and third-party references and material. Such information may not be provided to the offender or his/her lawyer, nor may it be referred to in the course of a review hearing. However, it must be taken into account when the Authority makes it's determination.

8. Authority Warnings

While there is no statutory or regulatory provision for Authority warnings, many Probation and Parole officers recommend the issue of a warning rather than immediate revocation.

In such circumstances the warning is regarded as strengthening the officer's supervisory role as well as placing the parolee firmly on notice that continued failure to comply will result in revocation.

9. Overseas Travel

9.1 In principle, approval should not be given until confidence can be held that the parolee is stable and has adapted to lawful community living as demonstrated by regular contact with the Probation and Parole Service, compliance with the conditions of the parole order and stable accommodation and/or employment.

9.2 It is unlikely that such stability could be satisfactorily demonstrated in less than six months from the date of release.

9.3 Unless exceptional circumstances are proved to exist, approvals for overseas travel within the six-month period should be refused.

9.4 Applications for travel from parolees who qualify for consideration should be supported by the Probation & Parole Service and evidence provided of the need to travel overseas. In general, travel for recreational purposes alone should not be approved. Periods of travel should not be excessive, e.g. more than four weeks.

9.5 Parolees who are approved to travel overseas must provide the Probation and Parole Service with details of their itinerary including departure and return dates.

9.6 In certain cases, particularly if there has been a history of drug importation, and for compelling reasons approval for travel is given, the Authority may consider it appropriate to notify customs authorities of the parolee's travel dates.

9.7 Generally, unless exceptional circumstances exist, offenders on parole for drug importation offences would be refused permission to travel overseas.

Terms and Conditions

ATTACHMENT 2

The standard terms and conditions of parole are: -

1. The offender must be of good behaviour and must not, while on release on parole, commit any offence.
2. The relevant parole order may be revoked if the offender contravenes any of the terms and conditions of the order.
3. The relevant parole order may be revoked if the Parole Authority determines that it has sufficient reason to believe that the offender, having been released from custody, has not adapted to normal lawful community life.
4. The offender must, until the order ceases to have effect or for a period of 3 years from the date of release (whichever is the lesser), submit to the supervision and guidance of the Probation and Parole Officer assigned to the supervision of the offender for the time being and obey all reasonable directions of that Officer.
5. The offender is to report to the supervising Probation and Parole Officer or to another person nominated by that Officer at such times and places as that Officer or nominee may from time to time direct, and is to be available for interview at such times and places as that Officer or nominee may from time to time direct..
6. The offender is to reside at an address agreed on by the supervising Probation and Parole Officer and receive visits at that address by that Officer at such times as that Officer considers necessary.
7. The offender is not to leave New South Wales without the permission of the supervising Probation and Parole Officer's District Manager.
8. The offender is not to leave Australia without the permission of the Parole Authority.
9. The offender, if unemployed, is to enter into employment arranged or agreed on by the supervising Probation and Parole Officer or make himself or herself available for employment, training or participation in a personal development program as instructed by that Officer.
10. The offender is to notify the supervising Probation and Parole Officer of any intention to change his or her employment, if practicable before such change occurs, or otherwise at his or her next interview with that Officer.
11. The offender is not to associate with any person or persons specified by the supervising Probation and Parole Officer.
12. The offender is not to frequent or visit any place or district designated by the supervising Probation and Parole Officer.
13. The offender is not to use prohibited drugs, obtain drugs unlawfully or abuse drugs lawfully obtained.
14. An offender's supervising Probation and Parole Officer may, with the concurrence of that Officer's District Manager, direct that the conditions of the offender's parole order in relation to supervision are suspended. Such a direction takes effect when notice of the direction is given to the offender. This condition does not apply to an offender to whom section 128B of the Act applies.

Note: The period of supervision specified in in Point 4 must not be longer than the duration of the order or 3 years whichever is the lesser. However, the period of supervision of a serious offender may be extended by an order of the State Parole Authority in accordance with the *Crimes (Administration of Sentences) Act* 1999.

ADDITIONAL CONDITIONS:

The additional conditions do not automatically apply to an offender's parole order. The Authority will select specific 'additional conditions' to protect victims and to meet the post release plans and long-term supervision requirements of the offender. The Authority can also add 'special conditions' to meet circumstances not otherwise covered by the additional conditions.

15. The offender must submit to electronic monitoring of his or her compliance with the parole order.

16. The offender must comply with all instructions given by the supervising probation and parole officer in relation to the operation of monitoring systems. or herself without the approval of the supervising probation and parole officer.

17. The offender must totally abstain from alcohol.

18. The offender must, if so directed by the supervising probation and parole officer, seek assistance in controlling his or her abuse of drugs and/or alcohol and must authorise in writing that his or her medical and other professional and/or technical advisors or consultants make available to the supervising probation and parole officer a report on his or her medical, and/or other conditions at all reasonable times.

19. The offender must undertake and maintain a program directed towards controlling his or her abuse of drugs and/or alcohol arranged by the supervising probation and parole officer.

20. The offender must not use, or be in possession of, a prohibited drug or substance.

21. The offender must undertake urinalysis, where facilities are available, at the direction of the supervising probation and parole officer.

22. The offender must refrain entirely from gambling.

23. The offender must, if so directed by the supervising probation and parole officer, seek assistance in controlling his or her gambling.

24. The offender must, if so directed by the supervising probation and parole officer, enter a residential rehabilitation centre and must not discharge himself or herself without the approval of the officer.

25. The offender must enter the [name of centre] residential rehabilitation centre, must satisfactorily complete the program offered at that centre, and must not discharge himself or herself without the approval of the supervising probation and parole officer.

26. The offender must, if so directed by the supervising probation and parole officer, undergo psychological assessment and counselling at a place or places determined by the officer and must authorise in writing that his or her medical and other professional and/or technical advisers or consultants make available to the supervising probation and parole officer a report on such assessment and counselling at all reasonable times.

27. The offender must, if so directed by the supervising probation and parole officer, undergo psychiatric assessment, psychiatric counselling, other medical assessment or other medical treatment at a place or places determined by the officer and must authorise in writing that his or her medical and other professional and/or technical advisers or consultants make available to the supervising probation and parole officer a report on such assessment, counselling or treatment at all reasonable times.

28. The offender must submit to the supervision of the [name of parole service] and must, if the offender returns to New South Wales before the expiry of his or her parole order, report to the NSW Probation and Parole Service within 7 days of his or her return to New South Wales.

29. The offender must reside in [name of relevant state or territory jurisdiction] pending formal arrangements being made to transfer the offender's parole order to that jurisdiction in accordance with the provisions of the Parole Orders (Transfer) Act 1983.

30. The offender must not contact, communicate with, watch, stalk, harass or intimidate [name of person].

31. The offender must not contact or communicate with [name of person] without the express prior approval of the supervising probation and parole officer.

32. The offender must submit to supervision by the New South Wales Probation and Parole Service until such time as the offender has been deported. If the offender returns to Australia before the expiry of his or her parole order, the offender must report to the New South Wales Probation and Parole Service within 7 days of his or her return to New South Wales.

33. The offender must not be in the company of any person under the age of 16 years unless accompanied by a responsible adult.

34. The offender must not engage in any activity, paid or unpaid, involving the control of money or assets of other people or organisations.

35. The offender must comply with all directions of the mental health team, including treatment and medication.

36. The offender must comply with all conditions of a Drug Court order.

37. The offender must not associate with [specified person].

38. The offender must not enter, frequent or visit [specified place or district] or environs.

39. The offender must comply with all conditions and requirements of the Child Protection Register.