



**WESTERN AUSTRALIA**

**PAROLE BOARD**

**ANNUAL REPORT**

**for the year ended 30 June 2006**

***Sentence Administration Act 2003***

## **SENTENCE ADMINISTRATION ACT 2003**

**TO: The Attorney General**

**FROM: The Parole Board of Western Australia**

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### **REPORT PURSUANT TO SECTION 112 OF THE SENTENCE ADMINISTRATION ACT 2003**

“Before 1 October in each year, the Board is to give a written report to the Minister on-

- (a) the performance of the Board’s functions during the previous financial year;
- (b) the number of prisoners released on parole during the previous financial year; and
- (c) the operation of this Act and the relevant parts of the Sentencing Act 1995 so far as they relate to parole orders (other than CEO parole orders), to Re-entry Release Orders and to the activities of the Community Corrections Officers in relation to those orders during the previous financial year.”

*This report covers the period 1 July 2005 to 30 June 2006.*

### **PAROLE BOARD MEMBERSHIP**

The following persons constituted the Parole Board of Western Australia as at 30 June 2006.

**Chairman:** Judge Valerie French

**Members:**

- Mr R Lane -MBA Detective Superintendent - Police Department representative (Commissioner of Police nominee).
- Mr A Parke, Department of Corrective Services [appointed by Mr C Murphy - CEO, Department of Justice Representative (prior to February 2006), then Mr I Johnson – CEO, Department of Corrective Services Representative (following February 2006)]
- Mr I Sarich BAppSc (Soc Wk) – Community Justice Services, Department of Corrective Services nominated by CEO
- Mr C Somerville BA - Community member.
- Mr G Hall BPsych MPsych MBA – Community Member
- Ms G Prideaux – Community Representative (Victim)

**Deputy Members:**

- Ms N Bennett Dip Teaching BE JP (Deputy to Mr C Somerville).
- Ms D Worthington (Deputy to Mr C Somerville)

- Mr R Fong (BA, BSocAdm LLB (Hons) Grad Dip Leg Prac)
- Mr P McDonald – Inspector (Deputy to Superintendent Richard Lane)
- Mr G Annetts - Inspector (Deputy to Superintendent Richard Lane)
- Ms D Annear (Deputy to Mr G Hall)
- The Reverend D A Robinson AM BA B Divinity M Theology (Deputy to Community Member)

Judge French commenced as Chairman of the Board on 10 April 2006.

The following persons also performed duties as members during part of the year:-

Ms D Bateman; Mr D Bandy; Ms A Kenworthy; Ms A Rabbitt; Ms A Walsh; Ms C Chamarette; Professor N Morgan; Ms H Fowler; Ms S McDonald

During the year, Ms Irene Morgan LLB (Hons) LLM, Legal Research Officer and the Parole Board Secretariat made significant contributions to the legal and administrative functioning of the Parole Board.

## **PREAMBLE**

### **1. Workload of the Board**

It is not generally appreciated that whilst judicial officers (Judges and Magistrates) sentence persons to terms of imprisonment and declare their parole eligibility, it is the responsibility of the Parole Board, in the case of most of the serious offenders, to decide or recommend when those persons should be released from prison. In this regard the Board has a most important and integral role in the sentencing process.

There were 95 scheduled meetings and 20 special meetings of the Parole Board during the year. Special meetings were held to consider unexpected events.

There were 174 occasions where video linking was used by prisoners requesting a review of a decision of the Board. The use of video-linking is seen as a valuable tool in allowing prisoners to make personal representations to the Board regardless of their location within the State prison system. The number of video-links used by prisoners have increased significantly since the last annual report.

The Board continues to encourage visitors to the Board and during the period of this report there were 47 visitors to the Board. The majority of visitors during the period were Community Corrections Officers.

<b>PAROLE BOARD CONSIDERATIONS 2005/2006</b>		
<b>Total Considerations</b>	<b>4969</b>	
<b>Outcome</b>	<b>Number of Orders</b>	<b>% of Total</b>
Release on Parole	1045	21.03
Defer Release on Parole	754	15.17
Parole Denied	204	4.11
Suspend Parole	472	9.50
Cancel Suspension	185	3.72
Cancel Parole	277	5.57
Re-entry Release	62	1.25
Deny Re-entry Release	221	4.45
Suspend Re-entry Release	1	0.02
Cancel Re-entry Release	4	0.08
No Action on Breach	55	1.11
Defer Action of Breach	24	0.48
Appeal allowed/upheld	29	0.58
Decision to Stand	276	5.55
Pre Release Program Approved	2	0.04
Defer Pre Release Program	29	0.58
Cancel Pre Release Program	0	0.00
Other Decisions	253	5.09
Adjourned	216	4.35
Cases Re-listed	58	1.17
Permission to Leave State	45	0.91
Auto Paroles (Secretary)	493	9.92
Other Decisions (Secretary)	226	4.55
Parolees transferred out of the State	21	0.42
Parolees accepted into the State	17	0.34

NB: The Auto Parole releases and other Secretary decisions were omitted from the previous Annual Report.

## **2. Visits by Board Members**

The Chairman and some administrative staff members visited Hakea Prison, Boronia Pre-release Centre for Women, Bandyup Women's Prison, Casuarina Prison and Graylands Hospital.

Due to the high staff turnover and changes in Board personnel, there were no visits to prisons in rural or remote areas.

In May 2006, the Chairman, Legal Research Officer and Manager participated in the National Parole Board Conference in Sydney.

## **3. Appointment of a Victim Representative and Victim Issues**

Over the years, Victim Issues have been given an increasing emphasis throughout the criminal justice system. It has been the Board's practice to consider the possible effect of an offender's release on victims and in April 2006, a victim representative in lieu of a community member was appointed to the Parole Board. It is anticipated that with proclamation of the *Sentence Administration Act 2006*, the appointment of the victim representative will be finalised.

The Board receives on-going advice and assistance from the Victim-Offender Mediation Unit and the Victim Notification Register regarding victim issues.

## **4. Availability of Programs**

The Department of Justice offers a number of treatment programs designed to rehabilitate particular groups of prisoners such as violent offenders and sex offenders. These programs are run at selected prisons, mostly in and around the Perth metropolitan area.

The Board repeats its concern made in its Annual Report of 2005 about the lack of availability of programs in several prisons and notes that:-

- (a) Prisoners in regional prisons can often only access programs if they are transferred to other locations.
- (b) The transfer of prisoners to another prison often means that they are further removed from their families and Aboriginal Communities.
- (c) Prisoners in protection units and those serving short sentences are particularly disadvantaged by the lack of available programs.
- (d) The Board reiterates it is concerned that there are currently not enough programs in regional areas, which are Aboriginal "specific". It is encouraging that some Aboriginal specific programs are being developed within regional prisons. However more work needs to be done in this area.
- (e) In regional prisons, there is a significant shortage of officers who can make assessments and facilitate programs for prisoners.
- (f) Women prisoners at Bandyup Prison and regional prisons also appear significantly disadvantaged in terms of program access.

It is apparent that there has been a marked decrease in the availability of custodial rehabilitation treatment programs in the past year. The Board understands that this is not simply a matter of too many prisoners and not enough resources to fund programs. As a result of policy changes in the delivery of programs, there is a critical shortage of properly trained facilitators to conduct the programs. Vital programs for violent offending, domestic violence and substance abuse are cancelled or postponed because of this shortage. This means that in some cases a prisoner's release on parole is denied or deferred to enable them to complete a program. In cases where the Board considers that the prisoner does not pose an unacceptable risk to the community the prisoner is released to complete a similar program in the community as a condition of parole. The Board is conscious of the increase in prison numbers this causes and the growing frustration amongst prisoners when their parole is denied or delayed because of the unavailability of rehabilitation programs.

There does not appear to be a similar crisis in the availability of rehabilitation programs in the community although there are problems in rural and remote areas of the State.

The Board reiterates its concern which was expressed in its Annual Reports of 2004 and 2005 that many of the prison-based treatment programs have not been subject to systematic evaluation in terms of their impact on recidivism or other measures of effectiveness.

## **5. Risk Assessments**

In considering a person's suitability for release on parole, section 16 of the *Sentence Administration Act 2003* requires the Board to consider a number of "parole considerations" including "the degree of risk" that the release of the prisoner would appear to present to the personal safety of people in the community or of any individual in the community.

The Board often relies on risk assessment conducted on prisoners by experts in the field. It is apparent from the Board's own observations and from the transcripts in the Mahoney Inquiry that it is, at times, very difficult to predict or assess a person's level of risk of re-offending in a violent or sexual manner. Risk assessment is not an exact science, particularly when someone may be assessed to be at a "moderately high", "low-medium", "medium-high", "moderate" or "relatively low" risk of re-offending. The Board has, in some cases, requested a risk assessment be conducted by a psychologist or expert who is independent of the Justice System. However, although the Board will take the advice of experts into account, it is the responsibility of the Board to make the ultimate assessment of a prisoner's risk of re-offending in reaching a decision to release a prisoner on parole.

## **6. Aboriginal Issues**

The high number of Aboriginal prisoners continues to present problems to the Parole Board. In the 2005 Annual Report, the following concerns were noted:

- \* Aboriginal prisoners do not move through the prison system to the same extent as non-Aboriginal prisoners and they tend to endure the worst prison conditions.
- \* Re-entry issues for Aboriginal prisoners, including getting home after their imprisonment has ended are more acute than for non-Aboriginal processes.
- \* Lack of detailed evaluations in core areas (including treatment programs).
- \* The need to consider new forms of program development rather than attempting a peripheral ex post facto "indigenisation" of generic programs.
- \* Program delivery has been poor over a sustained period in some prisons, especially in regional prisons.
- \* Many Aboriginal prisoners live in remote areas and are unable to access community rehabilitation treatment programs.
- \* Many Aboriginal prisoners are unable to be released on parole because of lack of suitable accommodation.

## **7. Mental Health Issues**

Mental health issues experienced by prisoners continue to be a growing problem for decision making by the Board. In any given Board meeting, there are prisoners who have been detected and diagnosed with some form of mental illness or mental impairment. Paranoid schizophrenia, borderline personality disorder, intellectual disability, dementia, drug-induced psychosis, risk of self-harm, chronic psychotic disorder, bi-polar disorder, psychopathy and depression are some examples of mental health problems which the Board has to take into account when considering a person's suitability for release to the community. People with an intellectual disability or brain damage can also pose difficulties on release.

The impact of drug abuse, particularly the increase in the use of amphetamines and methamphetamines, on mental health cannot be over emphasised. Drug-induced psychosis or the exacerbation of existing mental illness by drug use is fast becoming an intractable obstacle to the effective rehabilitation of offenders.

In summary, mental health issues have ramifications in terms of:-

- \* The provision of adequate psychiatric care and supervision in the community particularly in regional and remote areas of Western Australia.
- \* Treatment programs tailored to meet the needs and abilities of these prisoners.
- \* Suitable accommodation with support structures and supervision.
- \* Support and supervision in the community.

## **8. Lack of a Secure Facility with Supervision in the Community**

The Board reiterates its concern expressed in the Annual Report of 2004, that it is often inappropriate to place a person (particularly a person with a mental health problem or intellectual disability) in unsupported accommodation in the community. In many cases, it can be very difficult to find appropriate accommodation options to suit the needs of individuals.

In the Board's view, consideration should be given to the establishment of designated places which are not prisons but which offer appropriate security and supervision. Currently, no such places exist. The Board is concerned that some prisoners may have to spend a great part of their lives in prison because there is no alternative place for them to live.

## **9. Mahoney Report**

In November 2005, the Report of the Inquiry into the Management of Offenders in Custody and the Community (the Mahoney Report) was tabled in Parliament and was to become the effective blueprint for significant structural changes to the Parole Board. These changes have been incorporated into amendments to the *Sentence Administration Act 2003* that will be proclaimed early 2007. However, the Parole Board will continue to operate albeit under a new name and with an improved structure, increased functions and greater allocation of resources. It is noteworthy that the Mahoney Report, while recommending significant changes to the Board, acknowledged that the Board has a difficult job and that criticisms that have in the past been levelled against the Board are frequently unwarranted.

## **10. Restructure of the Board Administration**

The continuing increase in the Board's workload over the past five years has resulted in a restructure of the administrative aspects provided by the Secretariat to the Parole Board and the Mentally Impaired Accused Review Board.

As of 30 June 2006, eleven staff were employed as follows:

- Manager
- Legal Research Officer
- Senior Secretary
- Assistant Secretary
- Assistant Secretary
- Coordinator
- Administrative Officer
- Support Officer
- Records Officer
- Records Officer
- Records Officer

## **CONCLUSION AND ACKNOWLEDGEMENT**

2005 / 2006 has been a difficult year for the Parole Board. Although new legislation to implement the recommendations of the Mahoney Report will not be proclaimed until the early part of 2007 there has been a considerable amount of planning to lay the administrative foundation for these changes. At the same time the Board has continued to discharge its functions under the existing Sentence Administration Act. As from May 2006, the Board increased its weekly meetings from two to three meetings to enable the Board to have more time to consider difficult cases.

There has been a number of changes in personnel in the membership of the Board during the course of the year. I commenced as the first full-time Chairman of the Parole Board in April 2006 replacing Mr Henry Wallwork QC. On 28 February 2006, Ms Georgia Prideaux, the first victim's representative on the Parole Board was appointed.

Other members of the Parole Board retired during the course of the year. They were:-

- Ms C Chamarette
- Professor N Morgan
- Ms H Fowler
- Ms S McDonald

I would like to thank Mr Wallwork and the retiring members for their contribution to the work of the Board. Service on the Parole Board could be regarded as a "thankless task," but it must be recognised as an important and essential part of our criminal justice system. Unfortunately, it appears that some sections of the public do not appreciate that the purpose of parole is to reduce the risk of re-offending and thereby protect the safety of the community. Releasing prisoners into the community to complete their sentence on strict supervision and conditions is designed to promote their rehabilitation and reduce the risk of re-offending. It is not fully appreciated that if parole were not available to prisoners then they would be released into the community without the benefit of that supervision and the control of those conditions to modify their behaviour.

I would also like to take this opportunity to publicly thank the administrative staff of the Parole Board for their hard work and ability to keep "the ship afloat" despite the considerable difficulties of staff turnover, and the preparation and planning required for the changes to the legislation and the operation of the Board.