

NSW State Parole Authority

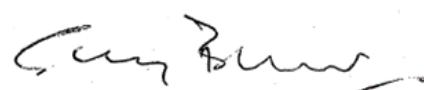
2023 Annual Report

The Honourable Anoulack Chanthivong
Minister for Corrections
52 Martin Place,
Sydney NSW 2000

Dear Minister,

In accordance with Section 192 of the *Crimes (Administration of Sentences) Act 1999* I am submitting to you, for the information of Parliament, the report of the State Parole Authority for the period 1 January 2023 to 31 December 2023.

Yours sincerely,



Geoffrey Bellew
Chairperson
1 November 2024

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Chairperson's message

It is my pleasure to present the Annual Report of the State Parole Authority of New South Wales for 2023.

It is unnecessary to delve into the detailed statistical data contained in this report to conclude that the workload of the Authority continues to be unrelenting. Section 135(1) of the *Crimes (Administration of Sentences) Act 1999* mandates that the Authority must not make a parole order directing the release of an offender unless it is satisfied that it is in the interests of the safety of the community to do so. That remains the fundamental yardstick by reference to which the Authority discharges each and every one of its functions. That the Authority is able to do so with the efficiency that it does, is testament to the work of a great many people.

To begin with, I would like to thank the staff of the Authority's Secretariat. Without their diligence and commitment, the Authority could not function as it does. The same can be said for those representatives of the New South Wales Police and Community Corrections, all of whom bring a level of expertise which is essential to the Authority's work. In that regard, 2023 saw the retirement of Jason Wills, a long-standing representative of the NSW Police. Sgt Wills served in that capacity for a significant period of time and I sincerely thank him for his immeasurable contribution.

During the course of the year, we held a number of on-line engagements with Community Corrections staff Statewide, in which I was able to speak with those officers directly, and answer their questions about the Authority's processes. I was also able to engage with those staff members from Community Corrections who attended meetings of the Authority in person. I have a firm view that mutual engagement of that kind is of benefit to everyone concerned, and propose to continue to engage with Community Corrections staff at regular intervals as the opportunities to do so present themselves.

Geoffrey Bellew
Chairperson

Who we are & what we do

The State Parole Authority is an independent statutory body created under the *Crimes (Administration of Sentences) Act 1999* (NSW).

Inmates in NSW can be released on parole in one of two ways – either under a statutory (court-imposed) order or an order of the State Parole Authority (SPA). The SPA only makes parole decisions for inmates serving prison sentences of more than 3 years and 1 day.

Inmates sentenced to less than 3 years in prison are automatically released on parole by the Sentencing Court at the end of their non-parole period.

Community safety is the most important consideration for the NSW State Parole Authority when making decisions about the conditional and supervised release of inmates to parole.

Inmates who come before the SPA are eligible for parole once they have served the non-parole period of their sentences. Inmates do not need to apply for parole the first time as the law requires them to be automatically be considered.

Once an inmate becomes eligible for parole, the SPA must decide whether it is in the interests of community safety to grant a parole order allowing them to continue serving the rest of their sentence in the community, with conditions and under the supervision of Community Corrections officers.

In every matter, the SPA considers the interests of the safety of the community, the rights of the victim, the intentions of the sentencing court and the needs of the offender.

Legislation requires SPA to begin consideration of an eligible offender for parole at least 60 days before the end of their non parole period (parole eligibility date) and any final decision must be delivered 21 days before that date.

Deciding parole for an offender is a complex process and involves the careful assessment and consideration of an abundance of material including a risk assessment, criminal history, Judge's remarks, report by psychologists or psychiatrists, advice and a pre-release report by Community Corrections and, where relevant, the recommendations and report by the Serious Offenders Review Council.

Victims of crime, or their family, can make a submission to the SPA which is considered during the decision-making process.

In the case of Serious Offenders, public review hearings are held in open court to allow victims and the State of NSW to make a submission before parole is decided.

NSW is the only jurisdiction in Australia to hold public hearings in court, allowing victims of serious offenders to make a verbal submission directly to the SPA if they choose.

The SPA records reasons to support every determination it makes.

Parole is an effective mechanism in our legal system and the research and evidence consistently shows supervised parole works in reducing reoffending.

Our People



Membership

The State Parole Authority (SPA) is constituted under section 183 of the *Crimes (Administration of Sentences) Act 1999*. Both judicial and non-judicial members are appointed to the SPA to make decisions. Legislation states that at least four of the appointed members must be judicial members, being judicially qualified to be appointed as a Judge of a NSW court, or being any judge or magistrate (retired or serving); at least one is to be a serving NSW Police officer, at least one is to be a serving Community Corrections officer and at least 10 are to be persons who reflect the composition of the community.

As of 31 December 2023, the SPA had **XX** judicial members, **XX** official members (being Police and Community Corrections members) and **XX** community members.

The SPA sits in divisions (panels) of five members for every closed meeting and public review hearing. Each division comprises of one judicial member, one Police member, one Community Corrections member and two community members.

When making decisions, the division only requires a majority decision, it needs not be unanimous.

Judicial Members

Chairperson - Geoffrey Bellew, SC

Admitted to the NSW Bar in 1991, appointed Senior Counsel in 2006 and sworn in as a Judge of the Supreme Court in 2012, sitting in the Common Law Division, and regularly as a member of the Bench of the Court of Criminal Appeal. A noted author, he has written numerous legal texts on various subjects including the law of evidence and is an Adjunct Professor of Law at Notre Dame University.

Outside the law, Judge Bellew remains a passionate rugby league devotee and is a proud, former Director of the National Rugby League Limited, the Manly-Warringah Leagues' Club and former Chairman of the Manly-Warringah Sea Eagles Football Club.

Appointed Chair of SPA in December 2022.

Membership

Judicial Members

Alternate Chairperson - David Freeman

A highly regarded solicitor, then barrister before his appointment to the District Court in 1980, David spent 21 distinguished years on the bench before retiring, having spent the final 15 years of his judicial career presiding over criminal matters only.

After retirement, he was appointed an Acting District Court Judge and in 2013 an Acting Supreme Court Judge. First appointed as the Alternate Chair in December 2013, he brings to the SPA considerable experience in the field of criminal law.

Deputy Chairperson - John Bailey

Appointed as an Acting Local Court Magistrate in 2008, sitting in the metropolitan and country circuits., John was previously a Public Solicitor in the Criminal Indictable Section and a Local Magistrate from 1985-1996 dealing with both criminal and civil matters. He is also a Director on the Board of the Australian charity, *The East African Fund Ltd.*, which provides education and financial assistance to those in East Africa, most notably the Fund has built a school in Tanzania. John was first appointed to the SPA in November 2016.

Deputy Chairperson - Mark Marien, SC

Mark has a distinguished career in law, spanning more than 40 years. He served as a Deputy Senior Crown Prosecutor, a Director of the Criminal Law Review Division of the Attorney Generals' Department and in 2009 was the first appointed President of the Children's Court of NSW. He has worked as a barrister in private practice and as a solicitor with the Commonwealth Director of Public Prosecutions and with the Commonwealth Deputy Crown Solicitor's Office. Appointed a Senior Counsel in 2003, the following year he was appointed to the District Court of NSW. Mark was first appointed to the State Parole Authority in December 2020.

Deputy Chairperson - Christopher Maxwell, KC

Highly regarded as an exceptional practitioner specialising in criminal prosecutions, Chris was appointed Senior Crown Prosecutor for NSW from 2018 to 2022. Joining the Office of the Director of Public Prosecutions in 1987, he became a Queens Counsel in 1989, and was deputy Senior

Membership

Judicial Members

Deputy Chairperson - Christopher Maxwell, KC continued...

Crown Prosecutor for more than 20 years. A prosecutor of war crimes at the United Nations Mission in Kosovo in 2002 he later served as the United Nations' Chief International Prosecutor. Chris was first appointed to the SPA in December 2022.

Deputy Chairperson - Allan Moore

Appointed a Magistrate in 1989 before retiring in December 2010, Allan was a Magistrate at Central Local Court for a period of 11 years presiding over the most serious of offences committed in the State of NSW. In February 2011, he was appointed as a Tribunal Member with the Victims Compensation Tribunal. Allan was first appointed as a Judicial Member of the SPA in March 2012.

Deputy Chairperson - Ian McRae

A Senior Managing partner of Farelle Goode and McRae Solicitors until his appointment as a Magistrate in 1988, Ian was the Home Fund Commissioner (NSW) from 1994-1997, a Senior Fellow of Corporate Directors Association of Australia Ltd (in 1996), a Senior Coordinating Magistrate in the Western Suburbs Local Court from 2002-2011 and was a previous Judicial Member of the NSW Racing Tribunal. Mr McRae was appointed as a Judicial Member of the SPA in November 2016.

Deputy Chairperson - James Wood, AO KC

One of the State's most admired and respected Justices of the Supreme Court, he was appointed a Justice of the Supreme Court of NSW in 1984, retiring in 2005 as the Chief Justice of Common Law and member of the Court of Appeal (1998 - 2005). He was a non-resident Judge of the Court of Appeal in Fiji (2004 - 2006) and has led a number of Commissions and inquiries, including corruption within the NSW Police Service and into Paedophilia (1994 - 1997), the Child Protection System of NSW (2007 - 2008), Inspector at the Police Integrity Commission (2005 - 2007) and was a Member of the Customs Reform Board (2013 - 2014), the Independent Review Cycling Australia (2012 - 2013) and the Human Research Ethics Committee at the Sydney Children's Hospital (2005 - 2014). First appointed as Chairperson of the SPA in December 2013, James resigned in February 2020 to accept a leading role at the World Anti Doping Agency before being appointed Deputy Chair of SPA in February 2022.

Membership

Community Members

Jeanette Boland

A former Detective Sergeant with the Australian Federal Police for more than 32 years, Ms Boland was awarded the Australian Police Medal and a Commissioners' Commendation for Conspicuous Conduct for her outstanding contribution to Countering Violent Extremism. A Board member of US consultancy, Children Recruited to Terrorist Groups (CRTG), she is also a co-founder of the Afghan Collective for Justice, and lectures in policing and leadership at the University of Tasmania.

Rev Dr Arthur Bridge

First appointed to the SPA in December 2021, Arthur has spent over 20 years working in the fields of community service, education and the Arts. In 1989 he was awarded a medal in the Order of Australia for his services to young people and was subsequently appointed a Member of the Order of Australia. Arthur is the Founder and CEO of Ars Musica Australis and he resigned from the SPA in 2023.

Kharen Brookes

Kharen has extensive experience in administration having been employed by several national retailers and is a personal assistant to a Managing Director of a Sydney signage company and is undertaking a degree in counselling. Appointed 30 March 2020, Ms Brookes' term expired in March 2023.

Rosemary Caruana

A former Assistant Commissioner with Corrective Services NSW with an extensive career in criminal justice and human services, she drove significant government reforms during this time. Rosemary holds a Masters of Business Administration and Bachelor of Arts (Psychology) Hons, she was first appointed in August 2020 and re-appointed in 2023 after undergoing a rigorous selection process.

David Clarke

A solicitor who was elected to the NSW Parliament in 2003 and served until 2019 with several appointments including Chair and Deputy Chair of the Parliament's Standing Committee on Law and Justice. David served one term with the SPA, appointed 26 August 2020.

Membership

Community Members

Robert Cosman

Retiring as the Director and Secretary of the NSW State Parole Authority in 2016 after completing 20 years of service in NSW Corrective Services, Robert was previously with NSW Youth and Community Services working with juvenile offenders and also represented the Probation and Parole Service, as the representative to the then Parole Board. Robert was first appointed on 16 2016 and ceased his tenure as a community member in 2023.

Graeme Hanger

Elected councillor on the Bathurst Regional Council in 2008, Graeme has served as both Deputy Mayor and Mayor, that term ceasing in 2019. A retired high school teacher, he was awarded the Order of Australia Medal in 2016 for his services to education and the community of Bathurst. Graeme was first appointed to the SPA in December 2021.

Rod Harvey

Retired from the NSW Police in August 2001 at the rank of Detective Chief Superintendent after 35 years' service, Rod's career was primarily devoted to the investigation and management of major crimes. In recognition of his service he has been the recipient of the Australian Police Medal, the National Police Service Medal, the NSW Police Medal, and the National Medal, along with several commendations. Since retiring as a police officer he has undertaken a range of consultancies and investigations, including engagements with CSNSW and the NSW Police Force. Rod was first appointed to the SPA in November 2012.

Martha Jabour

Martha is the Executive Director of the Homicide Victims Support Group (Aust.) Inc., a position she has held since 1993. Martha's strong interest to further promote the rights and needs of family members of homicide, especially children has led her to represent the community and family members of homicide on a range of committees and boards. Her other areas of special focus are on crime prevention, particularly in the areas of domestic violence, mental health and juvenile justice. Martha has the unique role of "victims' representative on the SPA, a position she has held since her initially appointment in October 2006.

Membership

Community Members

Karen Lindley

Managing Director of *Karen Lindley Pty Ltd* for more than 35 years., Karen ran a boutique business marketing Australian opals internationally and holds a Diploma in Gemology and is a Fellow in the Gemological Association of Australia. Karen has developed advocacy streams for victims of historical sexual assaults resulting in the creation of the Purple Angel Society and has been Director of the Survivors and Mates Support Network since its inception in 2012. First appointed to the SPA in 2018, Karen was appointed a Member of the Order of Australia in 2021 for her service to social welfare initiatives and the jewellery industry and her term ceased in 2023.

Frank Mennilli

Retiring from the New South Wales Police in 2018 at the rank of Assistant Commissioner after 41 years of service., Frank's policing career focused on criminal investigations before he moved into senior management and spent the last 12 years as the Region Commander for the South West Metropolitan Region and the NSWPF's Corporate spokesperson for Custody and Corrections. In recognition of his policing service, he was the recipient of the Australian Police Medal, the National Police Service Medal, the NSW Police Medal, along with numerous citations and commendations. Initially appointed in December 2018, Frank's second term ended in 2023.

Megan Miller

Megan is an award winning broadcast journalist and is highly regarded as an expert in public relations reputation management consultancy. She has held several senior positions in the private and public sector including Network Seven, the NSW Police Force and NSW Corrective Services, NSW Ambulance and Sydney Water. Megan was re-appointed for a second term during 2023, first being appointed in August 2020.

Catriona McComish

Director of Firefinch Consulting which provides clinical, forensic and organisational psychology services to public sector agencies, training groups and NGOs, Catriona has also worked in public sector education, health and justice services developing and leading the delivery of mental health and behavioural change programs in WA and NSW. Additionally, she has held appointments in

Membership

Community Members

Catriona McComish continued

the University sector in psychology and criminology research and teaching. Catriona ceased her public sector employment in 2006 as Senior Assistant Commissioner Community Offender Services it Corrective Services NSW and was first appointed to the SPA in 2013.

Peter Severin

Peter retired his public service career in 2021 as the Commissioner of Corrective Services NSW after nine years at the helm ending a career spanning almost four decades across a number of States within Australia. He has extensive experience in correctional jurisdictions having held several senior executive positions across Australia. He is currently the President of the International Corrections and Prisons Association and a member of the NSW Sentencing Council . Peter's term as community member at the SPA commenced in December 2021.

Donald Sword

Don works for an inner-city homeless service and teaches at the Sydney Institute of TAFE. On behalf of the NSW Ombudsman, he delivers training services to state and federal agencies and non-government organisations. He has served as an Official Community Visitor appointed by the Minister for Disability Services, and as an Official Visitor to the hospital at Long Bay Correctional Centre. Don is a member of the NSW Civil and Administrative Tribunal (Guardianship Division), the NSW Legal Aid Review Committee, and the Justice Disability Advisory Council and has been a member of SPA since October 2015

Lloyd Walker

Lloyd a legendary indigenous Wallaby great, making his test debut in 1988, he was formerly the Acting Coordinator for the Aboriginal Corporation for Homeless and Rehabilitation Community Services and has been an Official Visitor for Lithgow Correctional Centre. Lloyd has also sat as a Community Member of the Serious Young Offenders Review Council for one term and is the SPA's longest serving member.

Membership

Community Members

Deborah Wallace

A former Detective Superintendent, Ms Wallace served more than 36 years with the NSW Police Force and commanded specialist squads including the Gangs Squad, Middle Eastern Organised Crime and Strike Force Raptor, which targeted criminal bikie gangs. She currently hosts the true crime series, 'Million Dollar Murders,' and is President of the Swansea Workers Club.

Official Members

Police representatives

NSW Police representatives are appointed by the Commissioner of NSW Police.

In 2023, the official Police members were:

Hamed Baqaie	Pettina Anderson
Jason Wills	Joanne Sinclair
Kathleen Kelly	Christopher Stinson
Sean McWhirter	Derek Pontois
Michael Morris	Michelle Borg

Community Corrections Representatives

Community Corrections representatives are appointed by the Commissioner of Corrective Services NSW.

In 2023, the official Community Corrections members were:

Melissa Bostock	Amanda Carden
Benjamin Gillies	Bronwyn Grainger
Karen Langdon	Emma Marston

The Secretariat

The SPA would not function without the hard work of the Secretariat. Staffed by officers from CSNSW, the Secretariat works from the Parramatta Justice Precinct and is made up of four interdependent teams; the Submissions, Reviews, Intensive Corrections Order and Administrative Support Teams.

These teams all report to the Deputy Director and Assistant Secretary, while the Secretariat is led by the Director and Secretary. During 2023, the Deputy Director and Assistant Secretary was Ms Michelle Hudson, and the Director and Secretary was Ms Elizabeth Leafe.

Support Team - consists of six officers and a Senior Administration Officer that provide administrative support to the Secretariat, led by the Team Leader in Administration. This team is responsible for duties such as data entry into OIMS, preparation of agendas for SPA members, coordination of JustConnect, preparing requests for psychological and psychiatric reports and the preparation of documents to be forwarded to offenders and their legal representatives.

Submissions Team - consists of submissions officers and a senior administration officer who are led by the team leader. Together, they are responsible for the preparation and collation of all matters that go before the closed meetings. This preparation includes a wide range of tasks from requesting criminal histories, police facts and judge's sentencing remarks to coordinating the submission of reports from Community Corrections Officers. Upon receipt of all necessary documents for an offender's case, they are filed electronically for distribution to the Parole Authority members for their weekly reading. Submissions Officers are also responsible for the preparation of warrants, orders, memorandums and correspondence.

Much like the Submissions Team, the **Reviews Team** consists of reviews officers and a senior administration officer who are led by their team leader. The Reviews Team is responsible for the preparation and collation of all matters that go before the public review hearings at court. Each Review Officer is responsible for a particular day of the week. Preparation includes coordinating submission of updated reports, filing reports electronically, ensuring appropriate people are available to give evidence on the day (offenders, legal representatives or Community Corrections Officers) and the smooth running of the court hearing. Review Officers are also responsible for the preparation of warrants, orders, memorandums and correspondence.



State Parole Authority Processes

How decisions are made

The State Parole Authority's (SPA)'s processes are primarily determined by legislation, being the *Crimes (Administration of Sentences) Act 1999* [the Act] and associated regulation.

In circumstances where an inmate's sentence is greater than three years, with a non parole period, release to parole is not an automatic right.

Inmates do not need to apply for their first parole consideration. Legislation states that the SPA must begin assessing their suitability for release to parole at least 60 days prior to their eligibility date (non parole period) set by the court at the time of sentencing.

The SPA must make a final decision on parole no later than 21 days before the eligibility date. While the legislation requires every eligible inmate must be considered for parole, it does not mean inmates are automatically released by the State Parole Authority at the end of their eligibility date (non-parole period.)

In making decisions about the release of a person from custody onto parole to return to the community, the SPA members are guided by section 135(1) of the Act, that states:

The Parole Authority must not make a parole order directing the release of an offender unless it is in the interests of the safety of the community

In determining whether the release of an inmate *is in the interests of the safety of the community* the legislation necessitates panel members to consider three principal matters:

1. the risk to the safety of the members of the community in releasing the offender,
2. whether release to parole is likely to address the risk of the offender re-offending,
3. the risk to community safety of releasing the offender at the end of the sentence without a period of supervised parole, or at a later date with a shorter period of supervised parole.

How decisions are made

Legislation also requires the following matters be regarded in making a decision to release an individual to parole –

- a) the nature and circumstances of the offence
- b) relevant comments made by the sentencing court
- c) the criminal history of the offender
- d) the likely effect on any victim or victim's family
- e) repealed
- f) any report in relation to the granting of parole prepared by Community Corrections
- g) any other report in relation to the granting of parole to the offender that has been prepared by or on behalf of the Review Council or any authority of the State
- h) if the Drug Court has notified the Parole Authority that it has declined to make a compulsory drug treatment order in relation to an offender's sentence
- i) that an application has been made (but not determined) in respect of an offender:
 - i. for an extended supervision order or continuing detention order under the *Crimes (High Risk Offenders) Act 2006* or the *Terrorism (High Risk Offenders) Act 2017*
 - ii. for a continuing detention order under Division 105A of Part 5.3 of the *Commonwealth Criminal Code*
- j) any other matters that the Parole Authority considers to be relevant

Upon being provided with material to consider, each division carefully assesses the expert advice and information to make an assessment regarding an inmate's suitability for release to parole.

Materials for consideration

In both closed meetings and review hearings, material for consideration is electronically distributed to the members of the SPA one week prior to the meeting or hearing. This allows members to have a week to consider the information and form their own preliminary decision. Members then attend their designated meeting to come together, discuss their views and preliminary decision and determine the outcome of each matter.

A large amount of material for each offender is read and evaluated by panel members, including:

- Judge's Sentencing Remarks
- Criminal record
- Information about the offender's behaviour, classification and placement in custody
- Pre-release report by Community Corrections with advice on risk assessments, recommendations, and post-release plans
- Report by the Serious Offender Review Council (for Serious Offenders)

Other documents that may be provided include:

- Reports from psychologists or psychiatrists
- Submissions from the victims/s or family
- Submissions from the inmate, their family or legal representative
- Submissions from the State or the Commissioner of CSNSW

Closed Meetings

When an inmate is listed for initial parole consideration by the Secretariat, the SPA holds a closed meeting. It is called a closed meeting because only the five members of the panel take part in the process.

Inmates and their legal representatives do not attend closed meetings.

If parole is granted, a parole order is created by Secretariat staff and issued to Community Corrections staff in the correctional centre for explanation and provision to the inmate.

The inmate is usually released on their eligibility date (the expiration of the non-parole period).

If parole is refused, the inmate is able to apply for a public hearing to review the decision not to be released to parole. Inmates can appear by audio-video link at this review hearing and be legally represented.

When specifying reasons for refusing parole, great care is taken to include all the issues and concerns at the time of consideration so the inmate and their representative can address those issues at a public hearing.

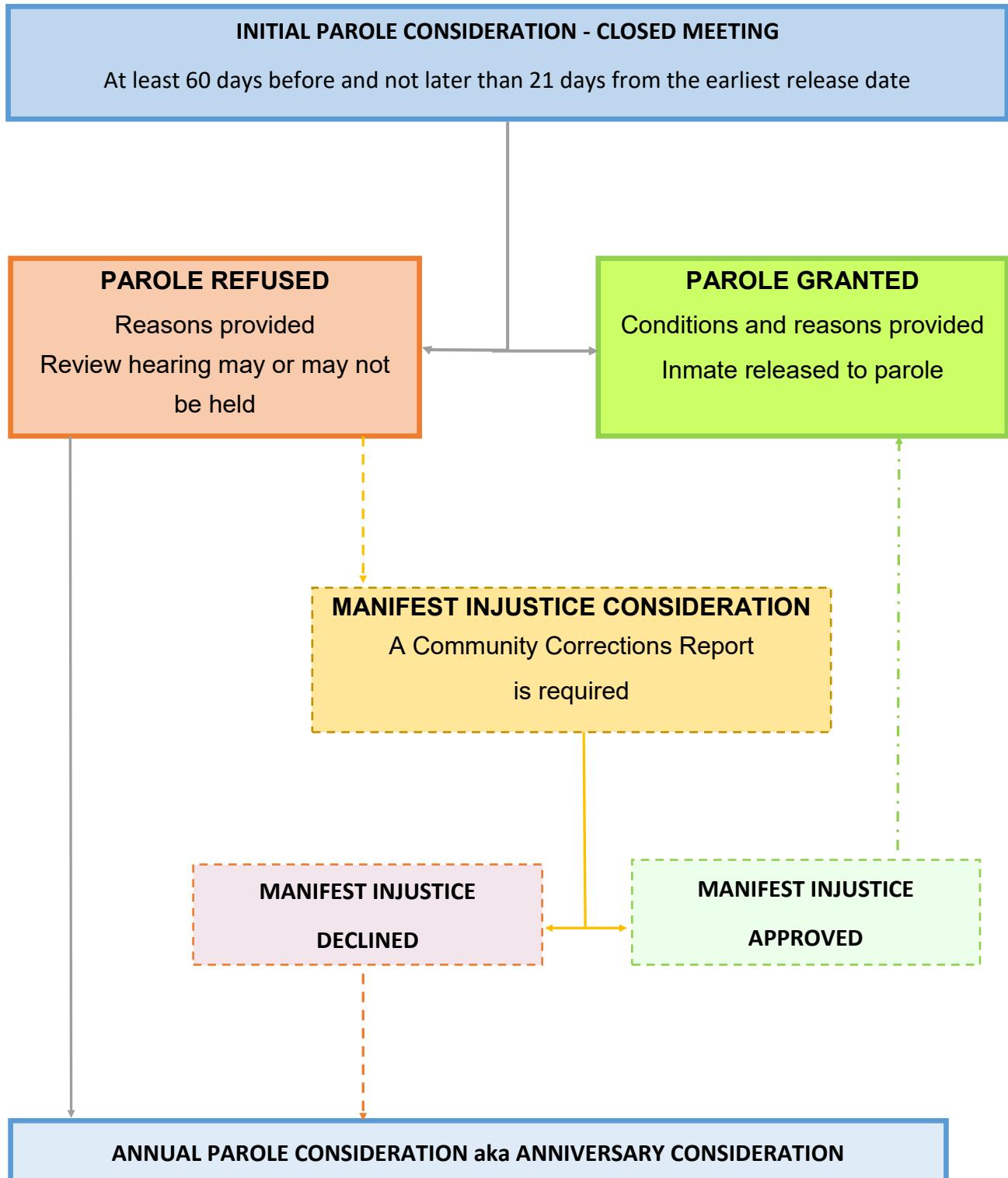
If the inmate declines a hearing, or does not convince the SPA that a hearing is warranted, the decision to refuse parole is confirmed.

If parole is refused on the first occasion, the next occasion the inmate is eligible for parole consideration is the *anniversary date* of the earliest release date, that is 12 months later.

Alternatively, inmates may apply to have their case considered earlier under the provisions of manifest injustice (see section below).

If there is less than 12 months remaining on the inmate's sentence, they will be released on the date the sentence expires.

Closed Meetings



Manifest Injustice

If an inmate is refused parole, the *Crimes (Administration of Sentences) Act 1999* [the Act] allows the SPA to consider an offender's case at any time after the date on which the offender first becomes eligible for release on parole...in such circumstances as may be prescribed by the regulations as constituting manifest injustice.

Clause 223 of the *Crimes (Administration of Sentences) Regulation* detail the matters that constitute manifest injustice. Manifest injustice circumstances may apply where parole has been refused and:

- ◆ It becomes apparent that the decision to refuse parole was made on the basis of false, misleading or irrelevant information
- ◆ It becomes apparent that a matter that was relevant to a decision to refuse parole is no longer relevant
- ◆ It becomes apparent that a matter that was relevant to the decision to refuse parole has been addressed in a way that warrants reconsideration of the recission or can be addressed by imposing additional conditions of parole.

Inmates or their legal representatives can make applications for parole consideration under these manifest injustice provisions, alternatively, the SPA can set a parole consideration date under these provisions. The regulation also allows Community Corrections to make application to the SPA and request reconsideration of a decision to refuse parole.

In order to be considered for parole under manifest injustice, information must be provided that at least one provision of manifest injustice is satisfied. Parole consideration occurs in the same way as any other SPA parole consideration matter, by way of reports in a closed meeting.

If release to parole is determined to be appropriate under the provisions of manifest injustice, then a parole order is made and the inmate given a release date from custody.

If the SPA finds the provisions of manifest injustice do not exist it will give reasons for the decision and re-list the matter for consideration on the inmate's anniversary date (if sufficient time remains).

Anniversary consideration

An inmate's anniversary date, or annual eligibility date can be the 12, 24, 36 month period following the inmate's refusal for release to parole.

If an inmate is refused parole on their parole eligibility date (earliest possible release date), the SPA can reconsider the matter for an inmate's release on their anniversary date.

The consideration occurs in the same manner as initial parole consideration, in a closed meeting.

Unlike initial parole consideration, inmates must apply for anniversary consideration in order to be considered for release. All material previously considered at the initial parole consideration is made available, along with any updated documents provided to the SPA.

Reintegration home detention (RHD)

Section 124 of the *Crimes (Administration of Sentences) Act 1999* allows an inmate to be released into the community on electronic monitoring no more than six months prior to their parole eligibility date. This is known as reintegration home detention (RHD).

The purpose of the scheme is to facilitate the reintegration of the inmate back into the community.

Community Corrections are the only agency responsible for nominating and identifying appropriate inmates (whether being released on statutory parole or requiring SPA consideration) for this scheme. Inmates or their advocates (including their legal representatives) cannot make requests for RHD consideration.

Community Corrections are then responsible for the preparation and provision of RHD assessment reports to the SPA.

For inmates on statutory orders, the assessment report from Community Corrections is required to address the risk of re-offending and post release management plans while the offender is on parole.

Reintegration home detention continued...

For inmates requiring SPA consideration, Community Corrections provide a Pre Release Report and an RHD assessment.

SPA then make the decision as to appropriateness of release of the inmate onto RHD. For those inmates with a sentence greater than three years, SPA need to be satisfied that release to parole is appropriate, prior to making an assessment as to the suitability of release onto RHD for the remaining non-parole period.

Offenders subject to RHD are strictly monitored by Community Corrections and electronic monitoring devices during this period.

Breaches of RHD are reported to the SPA in same manner as breach of parole.

RHD breaches may occur for a number of reasons, including:

- non-compliance with the conditions of the order
- the offender posing a serious and immediate risk to the safety of the community
- a serious and immediate risk they will leave NSW
- a significant change in circumstances that warrants revocation
- if the offender requests revocation
- if the parole order is revoked

The SPA has a number of options available to them in respect of breach of RHD, including:

- Revoking the RHD order
- Imposing additional RHD conditions
- Varying or removing some of the RHD conditions
- Providing a formal warning
- Taking no action

In circumstances where SPA revokes the RHD order, it must also consider whether it is appropriate to revoke the parole order prior to release (whether a statutory parole order or SPA parole order).

Serious Offenders

In NSW, a *serious offender* has a legislative definition. Section 3(1) of the *Crimes (Administration of Sentences) Act 1999* defines a serious offender as:

- an offender who is serving a sentence for life,
- an offender who has been convicted of murder and who is subject to a sentence in respect of the conviction,
- an offender who is serving a sentence for which a non-parole period has been set in accordance with Schedule 1 to the *Crimes (Sentencing Procedure) Act 1999*,
- an offender who is serving a sentence (or one of a series of sentences of imprisonment) where the term of the sentence (or the combined terms of all the sentences in the series) is such that the offender will not become eligible for release from custody, including release on parole, until he or she has spent at least 12 years in custody,
- an offender who is, for the time being, required to be managed as a Serious Offender in accordance with a decision of the sentencing court, the Parole Authority, or the Commissioner,
- an offender who belongs to a class of persons prescribed by the regulations to be Serious Offenders for the purposes of this definition.

The Serious Offenders Review Council (SORC) is the statutory authority that is responsible for managing *serious offenders* in custody, providing advice and recommendations to the Commissioner of CSNSW regarding security classification rating, placement and program participation.

One vital role of the SORC is to provide recommendations to the SPA concerning the release of serious offenders to parole and the appropriateness to do so. Except in exceptional circumstances, the SPA must not make a parole order for a *serious offender* unless the SORC advises that it is appropriate for the offender to be released on parole. Put simply, SPA cannot release an offender without the Review Council recommending that release is appropriate.

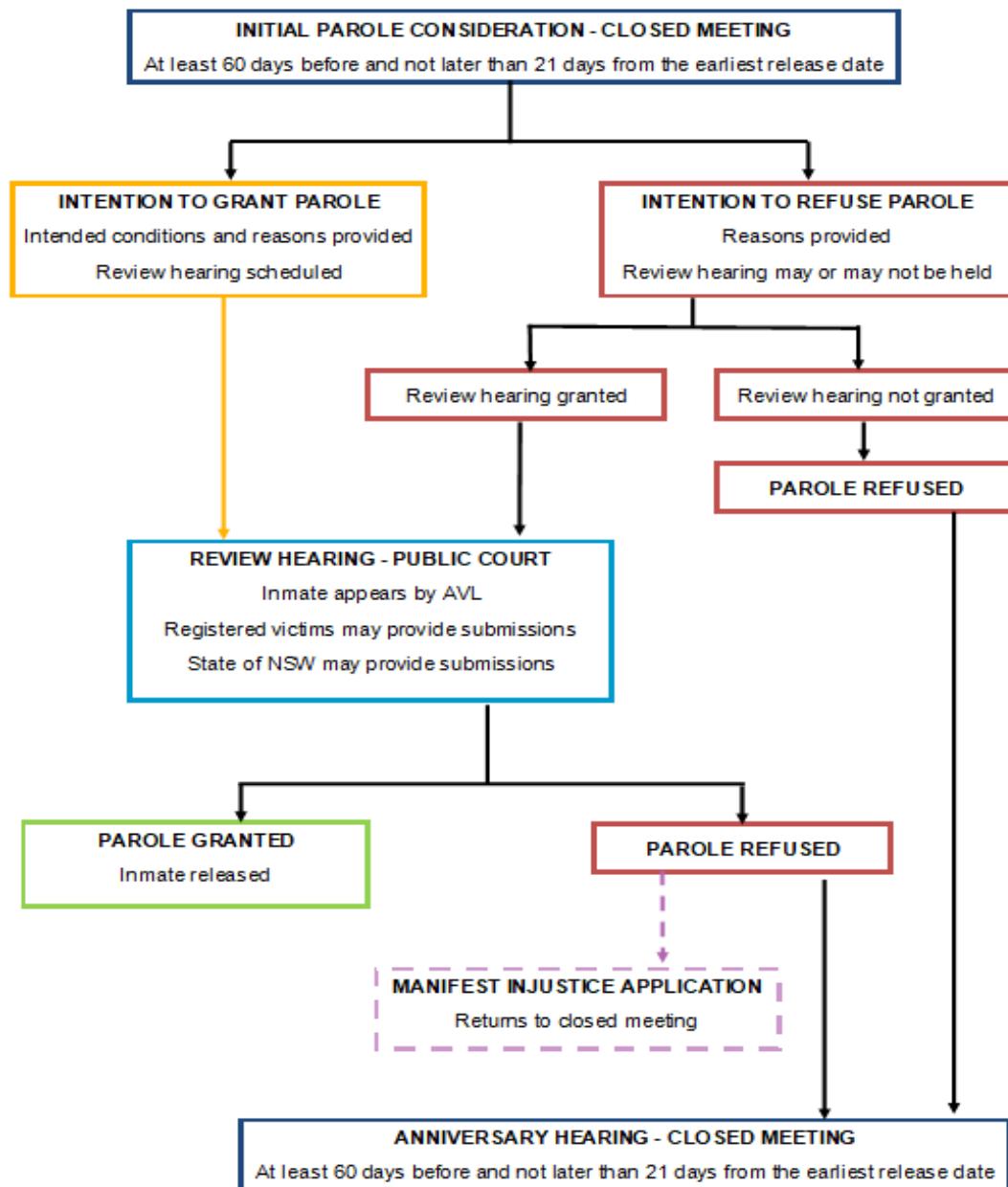
Initial parole consideration for a *serious offender* occurs in the same way as those that are not serious offenders. However, in the case of *serious offenders*, the SPA forms “intentions”, not decisions.

Serious Offenders continued...

If the SPA determines that release to parole is appropriate, an *intention to grant parole* is made and the matter is stood over to a review hearing to provide an opportunity for any registered victims to make submissions and to also provide an opportunity for the State of NSW to make submissions at the hearing.

If the SPA determines that release to parole is not appropriate, an *intention to refuse parole* is made and the inmate is able to apply for a public hearing to review the decision.

If the inmate is not released on the first occasion, the next occasion the inmate is eligible for parole consideration is the *anniversary date* of the earliest release date. Alternatively, inmates may apply to have their case considered earlier under the provisions of manifest injustice.



Matters of interest to the CSNSW Commissioner

Section 141A of the Act prescribes that the Commissioner of Corrective Services NSW (CSNSW) may at any time prior to release of an inmate, make a submission to the SPA concerning the release of that person to parole.

This requires the SPA to provide to the Commissioner all the material the SPA hold in respect of an inmate to assist in the preparation of the submission.

In practice, CSNSW will provide a “Notification of Special Interest” document to advise the SPA that the inmate is of interest to the Commissioner. This is usually received in time for the closed meeting consideration. When such a notification is received, consideration of the matter can:

- be stood over to allow for the Commissioner’s submission (prepared by the Crown Solicitors Office) to be returned to the closed meeting (time permitting, that no later than 21 days from the earliest release date); or
- be stood over to allow for the Commissioner’s submission (prepared by the Crown Solicitors Office) to be considered at a review hearing; or
- result in a provisional decision to release an inmate to parole and the matter stood over to a review hearing - in this circumstance, the SPA will provide the probable conditions and reasons for such a decision;
- result in a decision to refuse the inmate release to parole for reasons which may or may not relate to the Commissioner’s interest in the matter.

Parole consideration occurs in the same manner as it does for any other inmate being considered for release to parole by the SPA, with the additional information provided by the Commissioner of CSNSW for consideration by the SPA.

Revocation prior to release

Legislation allows the SPA to revoke a parole order (whether made by the Court or the SPA) at any time before an inmate is released to parole, if it is satisfied that the below circumstances exist and are justifiable:

- (a) *the offender, if released, would pose a serious identifiable risk to the safety of the community and that the risk cannot be sufficiently mitigated by directions from a community corrections officer or by changing the conditions of parole, or*
- (b) *the offender, if released, would pose a serious and immediate risk to the offender's safety and that the risk cannot be sufficiently mitigated by directions from a community corrections officer or by changing the conditions of parole, or*
- (c) *the offender has failed to comply with the offender's obligations under a re-integration home detention order, or*
- (d) *a re-integration home detention order applying to the offender has been revoked, or*
- (e) *the offender has requested the revocation, or*
- (f) *in the case of a parole order made by the Parole Authority, there has been a substantial change to a matter considered by the Parole Authority in making the order, or*
- (g) *any other circumstance prescribed by the regulations for the purpose of this section exists.*

An application for revoking a parole order prior to release is usually provided by Community Corrections and will be considered in a closed meeting. Upon a decision being made by the SPA, the inmate will not be released to parole and in all circumstances a review hearing will be listed to review the decision to revoke the parole order prior to release.

Victims

Victims of crime have an important role within the parole process and can assist the SPA with its deliberations before a final decision is made.

Any victim of any crime can send a written submission to the SPA to consider before a final decision is made about an inmate's release to parole.

Whether a victim of crime makes a submission or not, legislation compels the SPA to consider the likely effect an inmate's release to parole may have on any victim or victim's family.

Submissions can assist the SPA in providing insights about the impact of the offending, the victims' concerns and or fears and also allows victims to request that certain conditions be placed on the parole order if the inmate were to be released to parole.

Under the legislation (section 194 of the CAS Act), written submissions can be marked confidential by a Judicial officer, which prevents it being made public or available to any party other than the SPA. If requested, or in circumstances where the SPA may have concerns, victim submissions are kept confidential and not given to an inmate without a victim's consent.

Corrective Services NSW facilitates the Victims Register in NSW, which provides support to victims of crime by sharing certain information about inmates, such as an annual update on their location in custody, what is likely to occur during their time in custody and support in making submissions to the SPA.

Victims do not need to be on the Victims Register to have their submission considered by the SPA.

Registered victims of *serious offenders* can provide written submissions, but also have the legislated right to make a verbal submission to the SPA at a public review hearing before a final decision is made about that inmate's release to parole.

Registered victims of serious offenders are also entitled to modified documents held by the SPA. These documents are modified to the extent that they provided information to registered victims about how an inmate has addressed their offending behaviour in custody.

Review hearings

Review hearings are held at the SPA Court located in the South West Sydney Trial Court complex in Parramatta in specially designed courtroom for the SPA.

These review hearings are open to members of the public, with inmates appearing via audio-visual link from the correctional centre and in most cases, being legally represented. In NSW any inmate is able to access free legal representation from Prisoners Legal Service (Legal Aid) for SPA matters, alternatively, inmates are entitled to source their own legal representative.

Review hearings allow for a transparent examination of the matters that led to a refusal of parole, for legislative requirements to be fulfilled prior to a serious offender's release to parole or a parolee's return to custody after their parole order has been revoked. Similarly, review hearings are held in instances where Intensive Correction Orders have been revoked and the participant has returned to custody on the outstanding warrant.

In 2023, the SPA held review hearings every Tuesday to Friday. Wednesdays the SPA held review hearings for Intensive Correction Order matters.



Photo: State Parole Authority Court - Court 1A South West Sydney Trial Complex

Parole supervision

Parole is the supervised and supported reintegration of inmates in the community prior to their total sentence expiring. Parole provides a continuing measure of protection to the community during this period given supervision is a mandatory requirement of parole.

The Community Corrections division of CSNSW is responsible for the supervision of all parolees in New South Wales.

Release to parole is not leniency of the sentence provided by the Court or a reward for good behaviour.

Parole does not mean that inmates are free.

A parolee is still considered to be subject to their sentence and there are consequences for breaching the conditions of the parole order. The most serious consequence being return to custody.

Parole is an extension of the sentence that provides the opportunity to assist and monitor a person's adaption to a normal, lawful community life. As a bridge between custody and liberty in the community, parole is a form of conditional release that involves a thorough review of information and assessment of risk.

Parole ensures the safety of the community by ensuring that those released from custody are supervised and supported during their return to the community, and reduces the likelihood that they will commit further offences.

Parole provides an effective way of protecting the community by ensuring that the release of an inmate at the expiry of their sentence does not occur. This would result in the absence of assistance and supervision during the transitional period back into the community.

Parolees must abide by the conditions of their release. If the conditions of parole are not met, parole may be revoked and the person returned to custody.

Breaches of parole

A breach of parole occurs when a parolee fails to comply with any of the conditions of their parole order.

Breaches can include failing to report to their Community Corrections Officer, failing to obey directions provided to them by their Community Corrections Officer, leaving the State of New South Wales without permission or committing further offences.

For minor breaches of parole, the legislation allows for Community Corrections Officers to take action in response to the breach of the parole order. This may result in the SPA not being informed about the breach of parole. Responses of Community Corrections may include:

- Providing a reasonable direction to the parolee
- Recording the breach and taking no action
- Providing an informal warning to the parolee
- Providing a formal warning to the parolee
- Imposing a curfew of up to 12 hours in any 24-hour period

In more serious cases, Community Corrections notifies the SPA of breaches of parole by submitting a Breach of Parole Report. This report will outline the details of the conditions breached by the parolee, the parolee's overall response to supervision and the recommended action Community Corrections believe the SPA should take.

All breach of parole reports are considered in closed meetings. During these meetings, the SPA have a number of documents to consider including the Breach of Parole Report, criminal history and where relevant, NSW Police Facts before coming to a determination as to what action to take.

Legislation outlines the action the SPA can take in relation to a breach of parole. Depending on the nature of the breach, SPA could take the following action:

- Taking no action and noting the report
- Issuing a warning to the offender
- Standing the matter over to obtain updated information such as court results
- Imposing additional conditions on the order
- Imposing a period of home detention for up to 30 days
- Revoking the parole order and issuing a warrant for the parolee's arrest and return to a correctional centre.

Suspension of parole

If circumstances exist where a division of the SPA need to meet on a matter requiring urgent attention but are unable to be convened, the Commissioner of CSNSW may apply to a Judicial Member of the SPA to suspend a parole order and issue a warrant for a parolee's arrest and return to a correctional centre.

Such circumstances may occur when a parolee presents a serious and immediate risk to the community or themselves or concerns exist that the parolee will abscond, harm another person or commit a serious offence.

Upon a parole order being suspended, the suspension order remains in force for up to 28 days after the person is returned to custody.

During this time, a full division of the SPA has the opportunity to review the situation and determine whether it is appropriate to revoke the parole order or allow time for an inquiry into the allegations that led to the suspension of the parole order.

Pleasingly, in 2023, there were no applications made for suspension of parole.

Revocation of parole

Revocation of parole is the most severe penalty the SPA can take in response to a breach of parole. Legislation prescribes that a revocation order takes effect from the date of which it made (the meeting date), or on an earlier date as determined by the SPA.

A warrant for a parolee's arrest and return to custody is created by the Secretariat and forwarded to NSW Police for registering on the COPS system where it remains until it is executed ie. until an arrest is made and the parolee is returned to prison.

Once the SPA's Secretariat is advised an offender is back in custody a review date for a public review hearing is set.

Intensive Corrections Orders

A separate division of the SPA deals specifically with cases arising from Intensive Correction Orders (ICOs).

An Intensive Correction Order (ICO) is a court sentence of two years or less which is served in the community under the strict supervision of Community Corrections. It is the most serious sentence that can be served in the community.

An ICO is only available to eligible offenders, as determined by the legislation. ICOs are not available for offenders convicted of murder, manslaughter, sexual assault, sexual offences against a child, offences involving the discharge of a firearm or terrorism offences.

An ICO is for a fixed period and does not have a non-parole period. ICOs consist of a mandatory supervision/case management component. Courts can also add conditions to an ICO such as home detention, electronic monitoring, curfews, community service work, alcohol and drug abstinence, place restrictions and non-association requirements.

Community Corrections are responsible for the administration of these orders. If an offender does not comply with their order, a report may be prepared submitted to the SPA for consideration.

In response to non-compliance, the SPA may revoke the ICO, impose sanctions or issue a letter of warning to the offender. If an offender's ICO is revoked, the offender returns to custody.

Upon returning to custody, offenders can then apply for reinstatement of their ICO after serving at least one month in custody. The offender must satisfy the SPA that they can successfully complete the remaining period on their ICO and a reinstatement report from Community Corrections may be requested. Reports from Community Corrections are not required for reinstatement, but may be requested in circumstances where a work or home detention component is being considered.

In some instances the SPA may rescind the revocation of an ICO, for example if further charges are subsequently dismissed. This may occur at the scheduled review hearing or beforehand.



2023

Snapshot

Items	2020	2021	2022	2023
Matters considered	26,947	22,517	23,006	20,915
SPA Meeting Days	443	445	442	443
- Closed	147	150	148	149
- Public	144	145	145	144
- Secretary Sitting	52	52	51	52
- ICO Division	100	98	98	98
ICO Revoked	1756	1,592	1,691	1,625
Reinstatement Ordered	1014	846	701	611
Total Parole Releases	8792	8,479	8,100	6,722
- SPA Orders	1549	1,506	1,470	1,424
- Statutory Orders	7243	6,973	6,630	5,298
Total Parole Refusals	264	222	156	169
Total Parole Orders Revoked	2,782	2,501	2,394	2,228
- SPA Orders	568	521	525	508
- Statutory Orders	2,214	1,980	1,869	1720
Total Revocations Rescinded	593	389	449	387
SPA Formal Warnings	310	323	191	356
State Submissions	31	16	1	8
Victim's Submissions	131	144	177	129
Overseas Travel Approved	7	6	31	73

2023

Activity



Cases considered

The SPA meets eight times each week in divisions of five members.

Each week there are four closed meetings (principally for consideration of release to parole and revocation of parole and intensive correction order matters) and four public review hearings (to review decisions and a specific day to deal with intensive correction order matters).

A single matter may be considered on more than one occasion. All matters commence initial consideration in a closed meeting and therefore, every matter that appears at a public review hearing, such as for the refusal or revocation of parole; was first considered in a closed meeting.

Matters may be considered on multiple occasions, for example where it is stood over for the receipt of additional reports or to await the finalisation of ongoing court matters, this could occur in both closed meetings or at review hearings.

In 2023, 20,915 matters were considered over 443 meetings and hearings. This total included the 6552 matters considered in 52 *Secretary Sittings*.

The Secretary Sittings are for the purpose of dealing with various administrative decisions for cases under consideration and are considered by the Secretary alone. Examples of these decisions include the registration of interstate parole orders, standing a matter over to a future date to allow for a report submission or the finalisation of court results.

Parole granted

The SPA ordered the release to parole on 1,424 occasions in 2023, representing 21.2% of all released to parole in NSW. The remaining releases to parole were decisions made by the Court (statutory releases to parole) to release inmates automatically into the community without the deliberation of the SPA.

Of the 1,424 matters determined appropriate for release 4 were granted parole pursuant to Section 160 of the Act, which permitted their release to parole prior to the expiration of their non-parole period given exceptional circumstances were deemed to exist.

49 parole orders were made in relation to serious offenders, consisting of 3.4% of releases to parole. There were no serious offenders parole granted release under Section 160 of the Act.

Parole refused

In 2023, parole was refused in 169 cases. As per the SPA's legislated duty, three principal matters must be considered when determining whether release to parole is appropriate as per section 135 of the Act. Of the 169 matters of parole refusal, 13% were serious offenders, representing 24 of the 169 matters.

Submissions

Victim Submissions

The *Crimes (Administration of Sentences) Act 1999* gives registered victims of crime the right to make submissions to the SPA when it is considering a decision about an offender that could result in release to parole. Written notice is given to victims registered on the Victims' Register prior to the preliminary consideration of an offender's release. In 2023, the SPA received 129 submissions from victims.

Commissioner Submissions

The *Crimes (Administration of Sentences) Act 1999* allows the Commissioner of CSNSW to make submissions concerning the release of any inmate to parole. There were 11 Commissioner Submissions received in 2023.

Reintegration home detention

Reintegrated Home Detention consideration in 2023

	Applications	Granted	Declined	RHD Order Revoked	Parole revoked prior to release
Statutory parole	13	12	1	-	-
SPA parole	97	94	3	2	-

Revocation of parole prior to release

Of the 22 applications made, 20 inmates had their parole revoked prior to release. 17 of these orders were statutory parole orders, while the remaining three orders were orders made by the Parole Authority.

Revocation of parole

The SPA revoked a total of 2,228 parole orders in 2023 of which 1,720 were parole orders made by the court, statutory orders. Technical breaches of parole (called technical breaches as they do not involve re-offending) accounted for 409 of all revocations. 1,311 breaches were a result of outstanding charges or further convictions. The remaining 508 revocations were for both a breach of conditions and further conviction/s.

Rescission of revocation

Once a parolee is returned to custody on a parole revocation warrant, they have the right to have the matter reviewed in a public review hearing. This provides the opportunity for the SPA to determine whether there are circumstances which would support the person returning to parole supervision, rather than have them remain in custody. This return to supervision removes the revocation of parole decision and is called a rescission of revocation. In 2023, SPA rescinded 387 parole revocations and 10 revocations of parole prior to release.

Variation of parole orders

During the parole period, it may be necessary to vary the additional conditions of a parole order to ensure the order continues to be relevant and appropriate for the parolee. Parole orders may be varied for a multitude of reasons including the addition or removal of electronic monitoring, the imposition of geographical restrictions for the offender and to restrict contact between offenders and victims, or offenders and antisocial associates.

Requests to vary a parole order may come from Community Corrections, victims, the police and other sources. There were 54 applications to vary parole orders in 2023.

Overseas travel

Standard parole conditions necessitate that the SPA must provide approval for travel overseas during the parole period. Applications for overseas travel are provided via Community Corrections who supply a report indicating the purpose of travel and also indicate the parolee's compliance with conditions and suitability in the community. 2023 saw 73 applications for overseas travel, with the SPA approving these requests on 59 occasions.

Intensive Corrections Orders (ICOs)

During 2023, the Parole Authority revoked 1,625 ICOs, and upon review, rescinded 110 of these orders and reinstated 611 orders.

Community Corrections prepared 282 reinstatement reports to allow the Parole Authority to consider the suitability of a work or home detention component to be given to individuals who made applications for reinstatement..

158 ICOs were varied by the Parole Authority in 2023 and a further 74 orders were declined variation applications.

180 applications for overseas travel were submitted to the Parole Authority and 25 of these were declined, while 155 approvals were granted.

Serious offender specific data

According to Section 135(5) of the *Crimes (Administration of Sentences) Act 1999*, except in exceptional circumstances, the SPA must not make a parole order for a *serious offender* unless SORC advises that it is appropriate for the offender to be released to parole.

Parole granted

Of the 1424 parole orders determined in 2023, 49 of these orders were in relation to serious offenders. It is noted that none of these offenders were released under exceptional circumstances (Section 160).

Parole refusal

18 serious offender inmates refused parole in 2023.

State submissions

If the SPA wishes to release a serious offender to parole, the *Crimes (Administration of Sentences) Act 1999* provides opportunity for the State of NSW to make submissions prior to a final decision being made. Eight State Submissions concerning the release of serious offenders was made in 2023.

Revocation of parole

Of the 2,228 revocation matters in 2023, 18 were in relation to serious offenders. Of those, 6 were in relation to re-offending, 7 were for technical breaches and the remaining 5 were for both re-offending and technical breaches.

Variation to parole conditions

SPA varied 23 parole orders for serious offenders in 2023.

