NSW STATE PAROLE AUTHORITY ANNUAL REPORT

2020

The Hon. Anthony Roberts MP
Minister for Counter Terrorism and Corrections
52 Martin Place
SYDNEY NSW 2000

Dear Minister

In accordance with Section 192 of the *Crimes (Administration of Sentences) Act, 1999*, I have the pleasure in submitting to you, for the information of Parliament, the report of the NSW State Parole Authority for the period 1 January 2020 to 31 December 2020.

Yours faithfully

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DAVID FREARSON, SC Chairperson

29 September 2021

**NSW State Parole Authority** 

Justice Precinct Offices

Level 3, 160 Marsden Street

PARRAMATTA NSW 2150

P: (02) 8688 3635

F: (02) 8688 3699

Court 1A, Level 1

**Sydney West Trial Courts** 

6 George Street

PARRAMATTA NSW 2150

W: http://www.paroleauthority.nsw.gov.au

E: Secretary.ParoleBoard@justice.nsw.gov.au

# Chairperson's forward

# The year 2020 proved to be one like no other and altered how we lived and worked in ways, previously thought impossible.

In March the NSW Government announced the State was to enter lockdown to slow the spread of the COVID virus in the community and issued directions to work from home.

The State Parole Authority, like most organisations, was suddenly faced with an extraordinary operational challenge.

Seemingly overnight, the Authority's offices at the Parramatta Justice Precinct was emptied of staff and Members who were plunged into a strange, new world of home offices, virtual meetings and dial-in conference calls for parole meetings and court hearings.

I am proud to report the SPA's 40 administration staff, none of whom had ever worked remotely before, rose to the task without skipping a beat. Within days, all employees transitioned seamlessly from their workplace desks to home offices and dining tables and did so without the need to cancel a single parole meeting or reschedule any court review hearings.

Authority Members too, continued carrying out their responsibilities without any disruption, adapting immediately to working remotely. Panels conducted sensitive discussions over secure phone lines while new protocols were quickly developed to allow members, advocate and journalists to use secure lines to phone into court proceedings for Review Hearings.

I wish to acknowledge, thank and congratulate the Authority's Director Amy Manuell and Deputy Director Elizabeth Leafe for their exceptional leadership in co-ordinating the monumental task of transitioning staff and Members en masse to a new way of working without compromising outcomes. I commend also the extraordinary efforts of Administration Team Leader, Krista Jimenez, who within days efficiently sourced, programmed and allocated enough secure

laptops to enable staff to work remotely, while also providing invaluable, ongoing technical knowledge and support.

Director Manuell, Deputy Director Leafe and Ms Jimenez showed outstanding commitment and dedication, being the only frontline personnel to remain on site at the SPA office throughout the lockdown period, thereby ensuring the continued smooth and uninterrupted administration of all parole meetings and hearings.

The Authority maintained remote work practices until July when staff and members once began gradually returning to the office, resuming face to face meetings and hearings.

## Reporting year notable outcomes

Despite the unprecedented upheaval to work practices, the SPA meeting days in 2020 increased from 422 to 443 days, with the number of matters totalling 26,947.

This represented a slight decline of 1.26% or 343 cases from the previous year.

The number of days listed for private meetings increased by 5 to 147 (3.52%) while the number of

public court hearings increased by 6 to 144 days (4.35%).

A total of 8792 offenders were released to parole in 2020, a decline of 2.67% from 9,033 in 2019.

The overwhelming majority of releases were Statutory orders - 7,243 compared with 1,549 which were SPA ordered releases.



# Chairperson's forward



The number of orders revoked fell 7.14% to 2,782. Of these, 568 were SPA orders.

The number of revocation orders rescinded increased 8.81% to 593 (up from 545 in 2019).

The Authority granted parole to 42 Serious Offenders and refused parole to 64 Serious Offenders.

In total, 264 inmates were refused parole in 2020, an increase of 13.3% from 233 refusals in 2019.

The workload for the Intensive Corrections Order Division continued its upward trend of previous years, increasing in sitting days from 90 to 100.

The number of orders revoked this reporting year decreased slightly more than 1 percent from 1,774 to 1756, while the number of reinstatements increased from 469 to 1014, a rise of 116%.

Despite the Government's amendment to the Crimes (Administration of Sentences) Act to allow the conditional release of low risk and vulnerable inmates in response to COVID 19, no offenders were released under this amended legislation.

I take this opportunity to commend the Commissioner CSNSW for his exemplary leadership and management of the initiatives and policies he implemented to manage and supress the spread of COVID-19 in the custodial environments across NSW.

Three offenders were approved for early release on compassionate grounds under S160 of the Act including two inmates suffering terminal illnesses and in palliative care. A third offender was released one week prior to his sentence expiry date, to allow him, as the sole surviving family member, to make funeral arrangements for his father.

A total of 131 Victim's Submissions were received in 2020 representing a significant 42% increase from 92 in 2019.

The Authority welcomes this positive trend, acknowledging the importance of allowing Victims and their families to have their voice heard during the parole process.

## Media Engagement

Given its complexity, parole is a commonly misunderstood process of the judicial system and is sometimes misreported.

To make the processes and decisions of parole more transparent and better understood and therefore more accurately communicated to the wider public, the Authority has undertaken to conduct regular information sessions with members of the media.

Journalists invited to attend the briefings are encouraged to ask questions about the parole process to better inform their reporting.

In the reporting year, 20 journalists attended SPA Media briefings and presentations conducted by the Director, Chairman and SPA Media Officer.

## Retirements and Appointments

In December 2020, we farewelled Judicial Member, the Hon Justice Graham Barr who stepped down after six years with the Authority. I wish to thank his Honour for his exceptional service to the judiciary and the people of NSW.

This reporting year we also welcomed several new Community Members including Ms K Brookes, Ms A Tassone, Ms R Caruana and Ms M Miller and the reappointments of Mr R Cosman, Mr F Mennilli and Ms K Lindley.

I look forward to serving with these panel members as Chairperson of the Authority.

# Chairperson's forward

### Conclusion

The end of 2020 unfortunately did not see an end to COVID-19 or the restrictions, snap lockdowns and disruptions to daily life that we have learned to accept with resilience.

We can only imagine how the future of the pandemic will unfold in 2021 but I have no doubt whatever challenges the Authority will face they will be met and surmounted admirably thanks to the ongoing hard work and dedication of all who work every day to ensure the best interests of community safety are protected.



Judge David Frearson, SC

Chairperson State Parole Authority



State Parole Authority Courtroom

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CSNSW Corrective Services NSW
SPA State Parole Authority
SORC Serious Offenders Review Council
ICO Intensive Correction Order
RHD Reintegration Home Detention

## Who we are

The NSW State Parole Authority (SPA) is an independent statutory authority governed primarily by the Crimes (Administration of Sentences) Act 1999.

The SPA consists of Judicial, Official and Community members who sit in panels comprising of five members. A panel has one Judicial, two Official and two Community Members.

## What we do

The SPA's primary role is the protection of the community by determining whether offenders can be safely released into or remain in the community. The SPA is responsible for determining the:

- Supervised, conditional release of offenders from custody to parole (for offenders serving sentences greater than three years, with a non parole period)
- Additional conditions offenders must comply with on parole
- Revocation of any parole order in NSW
- Revocation or reinstatement of Intensive Corrections Orders

# State Parole Authority ordered parole **VS** Statutory Parole

The "non-parole period" is a minimum term of imprisonment set by the Court at the time of sentence. An offender is not eligible for release from custody during the non-parole period.

The State Parole Authority only considers the release to parole of inmates who have sentences of more than three years and a non-parole period, as specified by the Court at the time of sentence.

The Crimes (Sentencing Procedures) Act 1999 prescribes that if a Court sentences an offender to a term of imprisonment of three years or less, with a non parole period, then the Court must issue a parole order and set the parole conditions. This is known as a Statutory Parole Order.

Subject to appropriate post release plans approved by Community Corrections, offenders serving sentences less than three years are released from custody 'automatically' on a statutory parole order, at the expiration of the non-parole period.

### How we do it

An inmate's release to parole is not an automatic right at the end of the non-parole period in circumstances where the sentence is greater than three years and one day.

Section 135(1) of the Crimes (Administration of Sentences) Act 1999 states that "The Parole 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".

The SPA conducts closed meetings to determine whether an offender should be released on parole. This decision is based on a range of documents and advice provided by the relevant authorities.

If parole is granted, a parole order is issued and the offender is released on their eligibility date. In the case of Serious Offenders, the matter is adjourned to a public hearing to provide the opportunity for registered victims and the State to make submissions before a final decision is made by the Authority.

If parole is refused, the offender is able to apply for a public hearing to review that decision. Offenders can appear by audio-video link and be legally represented. If the offender declines a hearing, or does not convince the SPA that a hearing is warranted, the decision to refuse parole is confirmed.

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

The next occasion the offender is eligible for parole is the anniversary date of the earliest release date. If there is less than 12 months remaining on the offender's sentence, they will be released on the date the sentence expires. Offenders may apply to have their case considered earlier under the provisions of manifest injustice.

In rare cases, the release of an offender before the expiry of a sentence or non-parole period may also be considered if the offender is dying or there are other exceptional circumstances.

### What we consider

In reaching decisions, the SPA considers the safety of the community, matters that impact the victims of the crime, factors that affect the offender and the intentions of the Sentencing Court.

It takes into account a broad range of material to determine if the offender is suitable to be released to parole in the community. This includes the:

- Nature of the offence/s
- Sentencing Court's comments
- Offender's history
- Risk to the community if the offender is to be released now or at a later time
- Post-release plans
- Reports and recommendations from medical practitioners, psychiatrists and psychologists, if available
- Reports and recommendations from **Community Corrections**
- Representations made by any registered victims or persons representing victim/s
- Submissions by the offender's support network (family/friends/potential employers or other relevant individuals)
- Representations made by the offender
- Submissions by the Commissioner Corrective Services NSW, the State of NSW and/or the Serious Offenders Review Council, if applicable

In all cases, strict supervision conditions are imposed on the offender and additional conditions may be included to specifically address the management of the parolee in the community.

#### These may include:

- Assessment, treatment and testing for alcohol or drug addiction
- Assessment, treatment and counselling for medical, psychiatric or psychological issues
- Restricted contact with individuals
- Restrictions on places the offender is able to frequent or visit
- Attendance development at personal programs
- Electronic monitoring

# **Victims**

It is a fundamental belief of the NSW Government that victims of crime should be treated with courtesy, compassion and respect for their rights and dignity as victims.

The New South Wales Government enacted the Victims Rights Act 1996 to establish the Charter of Victims Rights. This requires State agencies to have regard to the Charter in the administration of justice and other relevant affairs of the State.

The NSW Government also enacted legislation in the Crimes (Administration of Sentences) Act 1999 to establish the Victims Register which requires that victim submissions be taken into account when considering the release of an offender to parole.

Written notice is given to victims registered on the Register prior to the preliminary Victims consideration of an offender's release. This is coordinated through the Victims Support Unit, part of CSNSW.

Victims are able to obtain support and advice about writing a submission and having input into the decision making process undertaken by the SPA. This then allows the submission to be considered in the closed meeting of the SPA.

A registered victim of a serious offender also has an opportunity to make verbal or written submissions to the SPA at the public review hearing, before a final decision is made about the serious offender's release to parole.

Registered victims of serious offenders are also entitled to access modified documents regarding the serious offender's efforts to address their offending behavior.

# **Serious Offenders**

Section 3(1) of the Crimes (Administration of Sentences) Act 1999 defines serious offenders.

Serious Offenders include:

- inmates serving a sentence with a non-parole period of at least 12 years,
- inmates convicted of murder. or
- inmates the Commissioner of CSNSW has determined that designation of serious offender is appropriate.

The Serious Offenders Review Council (SORC) is the statutory authority responsible for managing serious offenders in custody.

A key role of the SORC is to provide advice to the SPA concerning the release on parole of serious offenders as they become eligible for release. In particular, advising whether or not it is appropriate for the inmate to be released to supervised parole.

Except in exceptional circumstances, the SPA must not make a parole order for a serious offenders unless the SORC advises it is appropriate.

If the SPA forms an intention to grant parole the matter must then be listed for a public hearing.

The public court hearing allows for the State of New South Wales and any Registered Victims to make submissions regarding the release of the offender before the SPA makes a final decision to either grant or refuse parole.

# Manifest Injustice

The Crimes (Administration of Sentences) Act 1999 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.

The provisions of manifest injustice previously only applied to offenders in custody who had been refused parole. The legislative change enacted in July 2017, enables manifest injustice circumstances to apply where a parole order has been revoked, as well as in cases where SPA has determined to refuse parole.

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

- It becomes apparent that the decision to refuse or revoke 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 or revoke parole is no longer relevant
- It becomes apparent that a matter that was relevant to the decision to refuse or revoke parole has been addressed in a way that warrants reconsideration of the decision or can be addressed by imposing additional conditions of parole.

The regulation also allows Community Corrections to make application to the SPA and request reconsideration of a decision to refuse or revoke parole, other than where parole was revoked because the offender committed an offence.

Community Corrections may also make application to the SPA and request that a matter is reconsidered where parole was revoked because while on release on parole the offender committed an offence for which any of the following sentences was imposed:

- · A non-custodial sentence
- A sentence with a non-parole period of less than 12 months
- A sentence with a fixed term of less than 12 months.

# Suspension of parole

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

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

A suspension order remains in force for up to 28 days after the offender is returned to custody. During this time, a full division of the SPA has the opportunity to review the offender's situation and determine whether it is appropriate to revoke the parole order, or allow time for an inquiry to be conducted into the allegations that led to the suspension of the parole order.

# Parole supervision

Parole is the supervised and supported reintegration of offenders in the community prior to their total sentence expiring. Parole provides a continuing measure of protection to the community, 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 offenders are free, as an offender 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 an offender's adaption to a normal, lawful community life.

Parole provides safety to the community by ensuring offenders are supervised and supported during their return to the community, and reduces the likelihood that the offender will commit further offences.

Parole provides an effective way of protecting the community so that the release of an offender 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 community.

As a bridge between custody and liberty in the community, parole is a form of conditional supervised release that involves a thorough review of information and assessment of risk.

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

## How orders are revoked

The SPA is also tasked with consideration of the revocation of all parole orders, including those issued by courts, if parolees fail to comply with the conditions of the parole order.

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

The Parole Authority is notified of breaches of parole through reports prepared by Community Corrections. The report outlines the breach of parole conditions, the parolee's response to supervision and a recommendation as to the type of action Community Corrections believe is appropriate for the Parole Authority to take.

Revoking a parole order and issuing a warrant for an offender's arrest and return to custody is the most severe penalty the Authority can take in response to a breach of parole.

When determining that revocation of the parole order is the most appropriate response to the breach, the Authority must choose an effective of revocation and identify the conditions on the parole order the offender has breached.

A warrant for an offender's arrest and return to custody is then created by the Secretariat, signed and forwarded to NSW Police. This warrant remains active until it is executed (the parolee arrested) and the parolee is returned to custody.

The warrant will outline the reasons for the revocation of parole (conditions breached), the date at which parole revocation was effective (the date parole ceased) and the remaining balance of parole an parolee is required to serve (the time between the date of revocation and order expiry).

Once returned to custody, the parolee is not eligible for bail on the revocation of parole, however, is eligible to appear at a public review hearing, so long as the balance of parole is greater than 28 days.

# 2020 Snapshot

Items	2018	2019	2020	%
Matters considered	20,875	27,290	26,947	-1.26
SPA Meeting Days	379	422	443	4.98
- Private	143	142	147	3.52
- Public	140	138	144	4.35
- Secretary Sitting	50	52	52	0
- ICO Division	46	90	100	11.11
ICO Revoked	618	1,774	1,756	-1.01
Reinstatement Ordered	309	469	1,014	116.20
Reinstatement Declined	2	2	1	-50.0
Total Parole Releases	11,109	9,033	8,792	-2.67
- SPA Orders	1,480	1,413	1,549	9.62
- Statutory Orders	9,629	7,620	7,243	-4.95
Total Parole Refused	229	233	264	13.30
Total Parole Orders Revoked	2,995	2,996	2,782	-7.14
- SPA Orders	542	585	568	-2.91
- Court Based Orders	2,453	2,405	2,214	-7.94
Total Revocations Rescinded	559	545	593	8.81
SPA Formal Warnings	655	669	310	-53.67-
State Submissions	29	48	31	-35.41
Victim's Submissions	111	92	131	42.40
Overseas Travel Approved	15	19	7	-63.16
Interstate Transfers to NSW	36	68	67	-1.48
Appeals	2	7	4	-42.86

# **Activity**



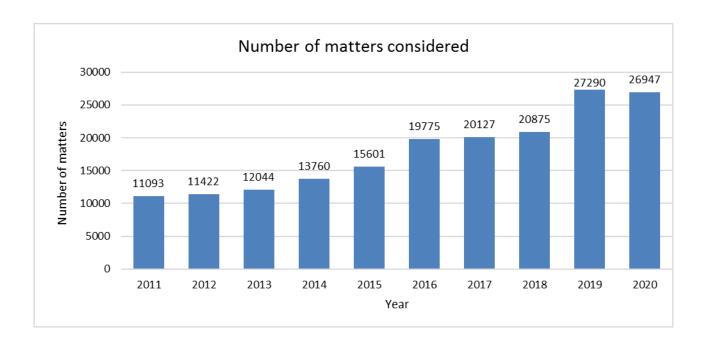
### Cases considered by the SPA

The SPA meets four times a week in divisions of five members to deal with its significant workload. Each week there are four closed meetings and four public review court hearings. The closed meetings are principally for consideration of release to parole, revocation of parole and intensive correction order matters. Of the public review hearings, three are held to review decisions regarding release to parole or revocation of parole and the fourth deals specifically with intensive correction order matters.

All documents are electronically distributed to SPA members one week prior to the meeting or hearing, for reading and consideration. Members then attend their designated meeting to deliberate together and determine the outcome of each matter.

All matters commence initial consideration in a closed meeting. However, a single matter may then be considered on multiple occasions, as is the case in public review hearings for matters where parole has been refused or revoked. Matters may also be considered on multiple occasions for reasons including stand overs for the receipt of additional reports or to await the outcome of court matters.

In 2020, there were 26,947 matters considered over 443 meetings and hearings. This total included 10,148 matters considered in 52 Secretary Sittings. These sittings are for the purpose of processing administrative decisions for cases under consideration. For example, decisions such as the registration of interstate parole orders, standing a matter over to a future date to allow for a report submission or for the final outcome of outstanding court results.



SPA Volume 2016 - 2020					
2016 2017 2018 2019 2020					
Cases Considered	19,775	20,127	20, 875	27,290	26,947
Meeting days	321	349	379	422	443

#### Parole ordered

In 2020, the total number of offenders released on parole declined almost 3% to 8,792. Of these, 1,549 were released on SPA parole orders, representing approximately 18% of all parole releases in NSW.

The remaining 7,243 offenders were released on Statutory Orders (released automatically from custody on a court order) and not considered by the State Parole Authority.

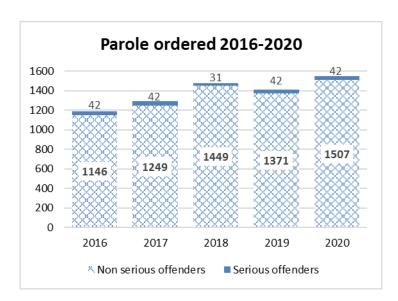
Three offenders on SPA ordered release were granted parole pursuant to Section 160 of the Crimes (Administration of Sentences) Act, 1999, which permits parole before the expiry of the nonparole period, if the offender is dying or where other exceptional circumstances exist.

Parole ordered by SPA Totals 2016 - 2020				
2016	2017	2018	2019	2020
1,188	1,249	1,480	1,413	1,549

#### Serious offenders

Of the 1,549 parole orders determined by SPA in 2020. 42 were made in relation to serious offenders.

There were no serious offenders granted parole pursuant to Section 160 of the Crimes Act (Administration of Sentences) Act 1999.



#### Parole refused

The SPA does not automatically release offenders to parole at the end of the non-parole period.

Three principal matters must be considered before releasing an offender:

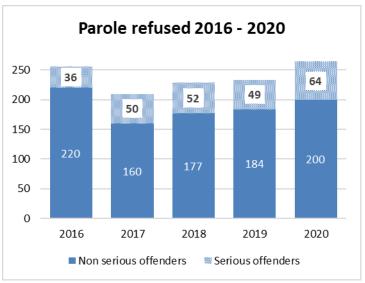
- 1. the risk to the safety of the members of the community in releasing the offender,
- 2. whether release to parole is likely to address the risk of the offender re-offending,
- 3. the risk to community safety of releasing the offender at the end of the sentence without a period of supervised parole,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

In 2020, parole was refused for 264 offenders, a 13% increase in refusals from the previous year.

Parole refused 2016 - 2020					
2016	2017	2018	2019	2020	
256	210	229	233	264	

#### Serious offenders refused

Of the 264 inmates refused parole by SPA in 2020, 64 were Serious Offenders.



#### Parole revocation

The SPA revoked a total of 2,782 parole orders in 2020, of which approximately 80% were statutory orders or court-based orders.

Of all revocations, 557 were the result of a breach of conditions other than the commission of further offences, sometimes called "technical breaches".

Technical breaches include the failure to maintain contact with Community Corrections, leaving the State without permission, failure to attend for appointments with service providers or failure to abstain from drug and/or alcohol use.

The total number of revocations resulting from outstanding charges or further convictions was 1,592 while 633 revocations were for both a breach of supervision conditions and further conviction/s.

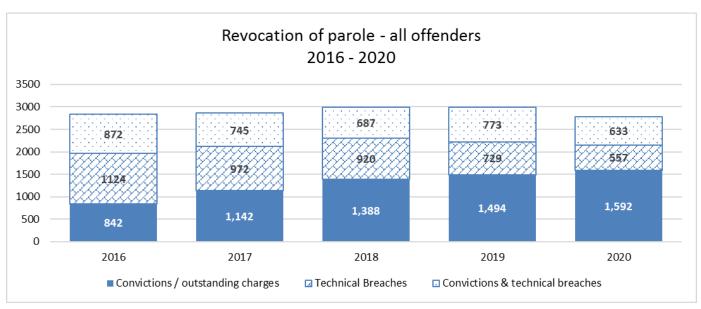
#### Serious offenders

In 2020, the Authority revoked parole for nine serious offenders.

Parole orders were revoked for four serious offenders for breaches related to re-offending.

Parole orders for five serious offenders were revoked for breaches of conditions and outstanding charges.

The revocation order was rescinded for one serious offender.

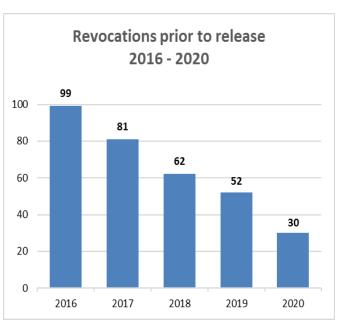


### Parole revocations prior to release

The SPA may also consider the revocation of parole prior to an inmate's release, including statutory parole, under specific circumstances outlined in legislation including where an inmate:

- presents as a serious and identifiable risk to themselves or the community, that cannot be mitigated by changing the conditions of parole
- does not wish to be released to parole
- may be identified as a terrorism related inmate

In 2020, SPA revoked 30 parole orders prior to release, 28 of which were statutory orders.



#### Parole revocations rescinded

Once an offender is returned to custody on a parole revocation warrant, they have the right of review in a public hearing before the SPA.

This provides the opportunity for the SPA to determine whether incorrect information was relied upon on the initial consideration of the case or whether there are circumstances that would support rescission of the revocation and the offender's return to parole supervision in the community.

In 2020, 593 parole revocations were rescinded and a further 30 revocations of parole prior to release were also rescinded.

Of the 593 parole rescissions, one related to serious offenders.

#### Parole revocations rescinded 2016 - 2020 30 33 59 600 30 60 500 400 300 593 559 512 515 455 200 100 O 2016 2017 2018 2019 2020 ☑ Revocations of Parole ■ Revocations Prior to Release

### Warnings

Formal warnings are issued to parolees who are at risk of having their parole orders revoked for breaching conditions of the order. These are separate to warnings provided by Community Corrections.

Parolees are advised in writing by the SPA that failure to comply with the conditions of parole may result in revocation of their parole order.

A total of 310 SPA warnings were issued in 2020 with one relating to a serious offender.

#### Variations to parole orders

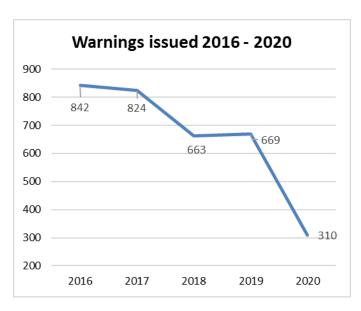
During the parole period, it may be necessary to vary the conditions of a parole order to ensure the order continues to be relevant and appropriate for the supervision of a parolee.

Parole orders may be varied for a multitude of reasons including the addition or removal of monitoring, the imposition electronic 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 87 parole orders varied in 2020.





#### **Overseas Travel**

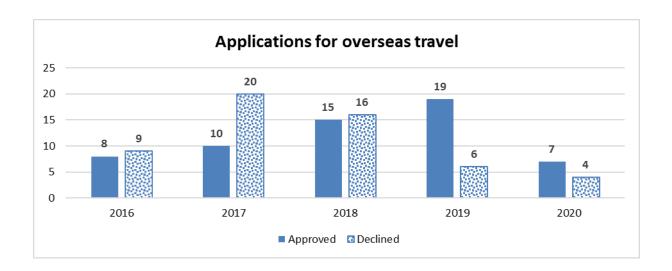
Parolees must seek approval from the SPA prior to travelling overseas and must provide evidence as to the reason for the request. Applications for travel must also be supported by a report from Community Corrections indicating the parolee's compliance with the parole conditions and stability in the community.

It is unlikely that such stability could be demonstrated in less than six months from the date of release to parole. Travel applications are generally for work or study opportunities or family reasons. Travel for recreational purposes is not approved.

In 2020, the SPA considered 11 applications for overseas travel, with four applications denied. The seven parolees approved for overseas travel reported as directed upon their return to New South Wales.

#### Serious offenders and overseas travel

No serious offender submitted an application for overseas travel in 2020.



### Interstate transfer of parole

Legislation in all Australian States and Territories enables the interstate transfer of parole orders for reasons such as family responsibilities or to pursue work or study opportunities.

Once a parole order is registered in the receiving jurisdiction it ceases to have effect in the originating State or Territory. The laws of the receiving jurisdiction apply as if the sentence of imprisonment had been imposed, served, and the parole order issued, in that jurisdiction. If an offender breaches the conditions of parole, the order can be legally enforced in the receiving jurisdiction.

In 2020, there were 67 registrations of interstate parole orders to NSW.

#### State Submissions

Section 153 of the Crimes (Administration of Sentences) Act 1999 provides the opportunity for the State to make submissions to the SPA concerning the release on parole of a serious offender.

There were 31 submissions received by the State for 30 serious offenders in 2020.

#### **Commissioner Submissions**

Section 141A of the Crimes (Administration of Sentences) Act 1999 provides the opportunity for the Commissioner of CSNSW to make submissions concerning the release on parole of any offender.

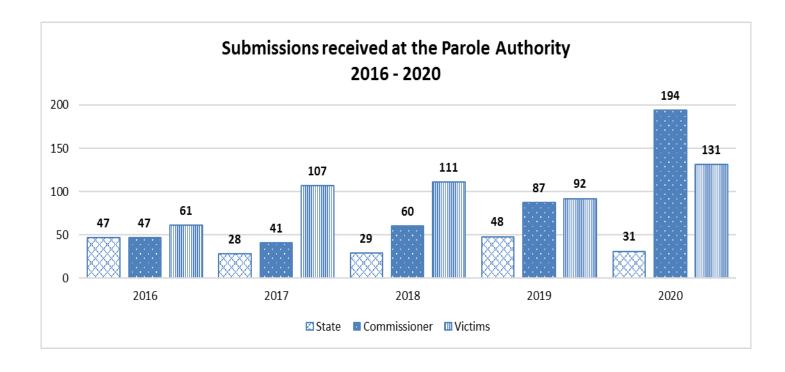
There were 194 submissions received from the Commissioner in 2020.

#### **Victim Submissions**

The Crimes (Administration of Sentences) Act 1999 gives 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 2020, the SPA received 131 submissions from Registered Victims, an increase of more than 42 % from the previous year. Of these 19 were in relation to serious offenders.



#### **Serious Offenders**

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 1,549 parole orders determined by the SPA in 2020, 42 related to serious offenders, representing less than 3% of offenders granted parole.

#### Parole refused:

Of the 264 offenders refused parole by the SPA in 2020, 64 cases related to serious offenders, representing 24% of all offenders refused parole.

Victim submissions - the SPA received 19 submissions serious offenders during 2020.

State submissions - the SPA considered 31 State submissions in relation to serious offenders in 2020.

Revocation of parole - parole was revoked for 11 serious offenders with 1 order rescinded.

Warnings - of the 310 offenders issued a warning in 2020, one was a serious offender

Variation to parole conditions - variations made to seven parole orders for serious offenders in 2020.

#### **Appeals**

The legislation permits an offender to appeal a decision of the SPA.

Appeals are made to a single judge sitting in the Administrative Division of the NSW Supreme Court. This legislation does not give the Supreme Court jurisdiction to consider the merits of the decision or the release of an offender to parole. The court may provide directions for the SPA to reconsider the matter.

In such appeals the offender generally alleges that a decision was made on the basis of false, misleading or irrelevant information.

In 2020, there were four appeals to the Supreme Court.

Section 156 of the Crimes (Administration of Sentences) Act provides for the Attorney General or Director of Public Prosecutions to allege that the SPA made a decision regarding a Serious Offender on false, misleading or irrelevant information or that erred in law. This allegation is then considered by the Supreme Court who may provide direction to the SPA to reconsider the matter.

There were no such appeals in 2020.

#### **Reintegration Home Detention**

Section 124 of the Crimes (Administration of Sentences) Act 1999 allows an offender to be released into the community on electronic monitoring no more than six months prior to their earliest release date. This is known as Reintegration Home Detention (RHD). The purpose of the scheme is to facilitate the reintegration of the offender back into the community.

Community Corrections identify appropriate inmates (whether being released on statutory parole or requiring SPA consideration) and provide appropriate assessment reports. For inmates on statutory orders, the assessment report is required to address the risk of re-offending and post release management plans while the offender is on parole. For inmates requiring SPA consideration, a Pre Release Report is provided and an RHD assessment. SPA then decides the appropriateness of release of the inmate onto RHD.

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 any 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 statutory or SPA). In 2020, 102 RHD orders were approved and 31 declined; two RHD orders were revoked and one revoked prior to release.

Reintegrated Home Detention consideration in 2019					
	Applications	Granted	Declined	RHD Order Revoked	Parole revoked prior to release
Statutory parole	31	19	12	2	0
SPA parole	102	83	19	0	1

#### Intensive Correction Orders (ICO)

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

In 2020, the SPA conducted 100 meetings to consider offenders with Intensive Correction Orders.

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 nonparole period. ICOs consist of a supervision/case mandatory 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 is 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.

In 2020, 8592 offenders commenced an Intensive Correction Order with 1,756 orders revoked.

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.

A total of 1014 Intensive Correction Orders were reinstated in 2020.

In some instances the SPA may rescind the revocation of an ICO, for example, if further charges are subsequently dropped.

This may occur at the scheduled review hearing or beforehand.

	Intensive Correction Orders 2016- 2020						
Year	Revoked	Rescinded	Reinstatement Ordered	Reinstatement Declined			
2016	445	15	214	13			
2017	497	26	231	2			
2018	618	34	309	2			
2019	1,774	71	469	2			
2020	1,756	80	1014	1			

# Membership



The SPA is constituted under the provisions of Section 183 of the Crimes (Administration of Sentences) Act, 1999. At least four of the appointed members must be judicial members; acting or retired magistrates or judges of a New South Wales or Federal Court. A minimum of ten community members are appointed to reflect the community while only two sit at any meeting.

Official members consist of actively serving members of New South Wales Police and Community Corrections, CSNSW.

As of 31 December 2020, there were eight judicial officers, 18 community members and eight official members serving on the SPA.

## **Judicial Officers**

#### Judge David Frearson, SC **SPA Chairperson Appointed 2020**

A highly regarded NSW District Court Acting Judge and former Deputy Director of Public Prosecutions, Judge Frearson has accrued considerable expertise and a commanding knowledge of criminal law over an impressive career spanning four decades. As one of the State's most successful Crown Prosecutors, he conducted numerous, highly complex trials and appeals over 20 years in the role. Appointed a Senior Counsel in 2004 and elevated to the bench in 2009, Judge Frearson was appointed Chairman of the State Parole in February 2020.

#### Judge David James Freeman

A highly regarded solicitor, then barrister before his appointment to the District Court in 1980, Judge Freeman 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. Judge Freeman brings to the SPA considerable experience in the field of criminal law. Judge Freeman was appointed as Alternate Chairperson of the SPA on 15 December 2013 and was re-appointed on 15 December 2016.

#### The Honourable Justice Graham Russell Barr QC

A renowned Deputy Senior Crown Prosecutor and Deputy Crown Advocate Justice Barr was appointed to the Supreme Court of NSW before retiring from that office in 2009. He was then appointed an Acting Judge and in 2013, Inspector of the New South Wales Crime Commission. Justice Barr was first appointed as a Judicial Member of the SPA on 17 December 2014 and retired in December 2020.

# Judicial Officers continued...

Mr John Bailey was appointed Acting Local Court Magistrate in 2008, sitting in the metropolitan and country circuits. Previously a Public Solicitor in the Criminal Indictable Section and a Local Magistrate from 1985-1996, he dealt with criminal and civil matters. Mr Bailey is the Proper Officer and member of the Board of the Australian charity, The East African Fund Inc., which has built a school in Tanzania to educate those less fortunate. Mr Bailey was appointed as a Judicial Member of the SPA on 23 November 2016.

Mr Shaughan McCosker was admitted as a solicitor in December 1988. Holding several Senior Management positions within the Local Courts, he was then appointed Acting Magistrate in May 1994, sitting at metropolitan and country locations. In 1995 he was appointed Magistrate of the Local Court of New South Wales attached to the Armidale and Taree circuit. Mr McCosker was appointed as a Judicial Member of the SPA on 23 November 2016.

Mr Ian Duncan McRae a Senior Managing partner of Farelle Goode and McRae Solicitors until his appointment as a Magistrate in 1988. Mr McRae 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 on 23 November 2016.

Mr Allan Moore was appointed a Magistrate in 1989 before retiring in December 2010. Mr Moore was 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. Mr Moore was first appointed as a Judicial Member of the SPA on 14 March 2012.

# **Community Members**

The SPA sits in panels of five members for every meeting and hearing. Two Community Members representatives are required to sit on every SPA panel.

The SPA currently has 18 Community Members who are appointed by the NSW Governor on the recommendation of the Minister for Counter Terrorism and Corrections.

In 2020, six new Community Members were appointed: Kharen Brookes, Rosemary Caruana, Soo-Tee Cheong, David Clarke, Megan Miller and Alanah Tassone.

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

Rosemary Caruana, a former CSNSW Assistant Commissioner, Community Corrections with an extensive career in criminal justice and human services who managed significant government reforms in those portfolios. She holds a Masters in Business Administration and Bachelor of Arts (Psychology) Hons. Appointed 26 August 2020.

Soo-Tee Cheong, formerly principal architect with STC Architects. His 50 year career includes highlights as Chair of the Design Review Panel Botany Bay Council, Commissioner of the Independent Planning Commission of NSW, Lane Cove Deputy Mayor and Vice President of the Chinese Community Association. Appointed 26 August 2020.

David Clarke is a solicitor who was elected to the NSW Parliament in 2003, serving until 2019 with several appointments including Chair and Deputy Chair of the Parliament's Standing Committee on Law and Justice. Appointed 26 August 2020.

Robert Cosman retired as the Director and Secretary of the NSW State Parole Authority in 2016 after completing 20 years of service in NSW Corrective Services. Previously with NSW Youth and Community Services, working with juvenile offenders, he also represented the Probation and Parole Service as the representative to the then Parole Board. Appointed 16 March 2016.

Peta Drake has an LLB from the University of WA and an LLM from the University of Sydney. After 20 years as a solicitor in private practice and in-house counsel in firms in Sydney and London, she established a retail home textiles brand in Australia. Appointed to the NSW Administrative Decisions Tribunal she has also volunteered with the Australian Red Cross' Immigration Detention Monitoring Program. Appointed 20 October 2015.

Wayne Gleeson retired from the NSW Department of Education in 2016. His teaching career commenced in 1978, attaining a Bachelor of Commerce (Economics) and a Diploma of Education from the University of NSW and held several senior teaching positions at Riverside Girls High School, Liverpool Girls High, Deputy Principal at Bass High School and Woolooware High School. Awarded the first Professional Teachers Council Outstanding Service Award for Legal Education in 2007. Appointed 25 October 2018.

# Community Members continued...

Rod Harvey APM retired from the NSW Police in August 2001 at the rank of Detective Chief Superintendent after 35 years' service, the majority of which was devoted to the investigation of major crime and the management of major investigations. In recognition of his service, he was awarded the Australian Police Medal, the National Police Service Medal, the NSW Police Medal and the National Medal. Since retiring as a police officer he has consulted with agencies including CSNSW and the NSW Police Force. Appointed 28 November 2012.

Stuart Hemmings FACE, GAICD, JP has a background as secondary school teacher of agriculture and science. A non-executive Director of the Primary Industries Education Foundation Australia he is an education consultant, including an Associate role with Cambridge Educatio). He has held several senior positions in the NSW Department of Education, including Director of Policy, Planning and Reporting in the NSW Public Schools portfolio. A member of the Australian College of Educators he was awarded Fellowship of the College in 2014. Appointed 20 October 2015.

Martha Jabour is Executive Director, Homicide Victims Support Group (Aust.) Inc., a position she has held since 1993. Her interests are to further promote the rights and needs of family members of homicide, especially children. Ms Jabour represents the community and family members of homicide of homicide on a range of committees and boards. Other areas of special focus are on crime prevention, particularly in the areas of domestic violence, mental health and juvenile justice. Appointed 4 October 2006.

**Karen Lindley** is a gemologist, and Managing Director of her eponymous company for more than 35 years, marketing Australian opals internationally. She holds a Diploma in Gemology and Fellowship in the Gemological Association of Australia. She has developed advocacy streams for victims of historical sexual assaults to seek justice resulting in the creation of the Purple Angel Society. She has held appointments in the NSW Government "Women in Business" Program as a mentor, a Minister for Small Business to the Board of Small Business Development Corporation and Women's Mentor Program for Australian Institute of Management. Appointed 21 December 2018.

Peter Lucas is a Chartered Accountant, Chartered Secretary, and Fellow of the Australian Institute of Company Directors. Since semi-retiring he has undertaken environmental, operational and financial risk management activities as an Independent Chair or member of several Audit & Risk Committees for NSW Government entities and for a Not-for-Profit charity involved in food security for less privileged Australians. A Justice of the Peace, he holds a Bachelor of Commence from the University of New South Wales and has held senior financial roles in the private and public sectors. Appointed 25 October 2018.

Frank Mennilli retired from the New South Wales Police Force (NSWPF) in 2018 at the rank of Assistant Commissioner after 41 years of service. His policing career focused on Criminal investigation before he moved into senior management, having 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. He is a recipient of the Australian Police Medal, the National Police Service Medal, the NSW Police Medal, along with numerous citations and commendations. Appointed on 21 December 2018.

Catriona McComish, is Director of Firefinch Consulting providing clinical, forensic and organisational psychology services to public sector agencies, training groups and NGOs. She enjoyed a 30 year career in public sector education, health and justice services developing and leading the delivery of mental health and behaviour change policy and programs in WA and NSW. Formerly a CSNSW Senior Assistant Commissioner, Community Offender Services. Appointed 23 January 2013.

# **Community Members continued...**

Megan Miller is an award winning broadcast journalist and highly regarded as an expert in public relations reputation management consultancy. She has held several senior position in the private and public sector including Network Seven, the NSW Police Force, NSW Corrective Services, NSW Ambulance and Sydney Water. Appointed 8 August 2020

**Donald Sword** 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 nongovernment 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. He is a member of the NSW Civil and Administrative Tribunal (Guardianship Division), the NSW Legal Aid Review Committee, and the Justice Disability Advisory Council. Mr Sword was first appointed on 20 October 2015.

Alanah Tassone, graduate of Macquarie University she holds a Bachelor of Social Science (Criminology) and has interned with Community Legal Centres, NSW and Homicide Victims Support Group (Aust)Inc. Her interests lie in criminological research and advocacy to prevent and reduce crime. Appointed 30 March 2020.

Lloyd Walker a legendary indigenous Wallaby great, he was the Acting Coordinator for the Aboriginal Corporation for Homeless and Rehabilitation Community Services and was an Official Visitor for Lithgow Correctional Centre. He has previously also been a Community Member of the Serious Young Offenders Review Panel with the Department of Juvenile Justice. First appointed on 1 July 2000 and reappointed successively, he is the SPA's longest serving Community Member.

# **Official Members**

Official Members are representatives of CSNSW Community Corrections and the NSW Police Force. One member from each organisation is represented on every SPA panel.

#### **Community Corrections Representatives**

NSW Community Corrections officers are nominated by the Commissioner of Corrective Services and representatives are appointed for 2 year terms.

Ms Joanne Moore was appointed as a Community Corrections Representative on 24 May 2018 and ceased her term in 2020.

Ms Ingrid Pedersen was appointed as a Community Corrections Representative on 28 May 2018 and ceased her term in 2020.

Ms Amy Ticehurst was appointed as a Community Corrections Representative on 2 July 2018 and ceased her term in 2020.

Sarah Gilmour was appointed as a Community Corrections Representative on 20 March 2020.

Liam McOnie was appointed as a Community Corrections Representative on 18 May 2020.

### **Police Representatives**

NSW Police Force officers are nominated by the Commissioner of Police.

Chief Inspector Hamed Baqaie. Senior Sergeant Pettina Anderson, Detective Sergeant Jason Wills, Sergeant Joanne Sinclair and Sergeant Kathleen Kelly are the appointed Police Representatives.

# Secretary

Ms Amy Manuell **Director and Secretary** 

Ms Elizabeth Leafe **Deputy Director and Assistant Secretary** 

# The Secretariat

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

Support Team - consists of administration officers that provide administrative support to the Secretariat, led by the team leader. This team is responsible for duties such as data entry, filing, 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.

The Intensive Correction Orders (ICO) Team consists of officers and a senior administration officer who are led by their team leader. Together, they are responsible for the preparation and collation of all ICO matters. 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 reading. The ICO team are also responsible for the preparation of warrants, orders, memorandums and correspondence. Given review hearings also occur for ICO matters, this team is responsible for the preparation and collation of all matters that go before the public review hearings at court each Wednesday. Preparation includes coordinating the 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.

The SPA has a **Principal Project Officer**, responsible for the completion and administration of projects related to the Parole Authority, acting as a conduit between the Authority and a number of external and internal agencies.

The SPA's Media Officer is responsible for developing and implementing communication and stakeholder engagement strategies, initiatives and platforms to support the operations of the SPA and to effectively communicate SPA decisions and key messages.

# **Guiding Principles**

#### Corporate Governance

Performance against corporate governance, service delivery and performance objectives.

Meet all statutory obligations ensuring all decisions are appropriate and in the public interest:

- Considered 26,947 matters in total.
- Conducted 147 private meetings, 144 public hearings and 100 ICO meetings, consisting of 16,799 matters.
- Conducted 52 Secretary sittings, consisting of 10,148 matters.
- Issued 1,549 parole orders.
- Revoked 2,782 Parole Orders and 1,756 Intensive Correction Orders.

Manage the existing corporate governance framework and maintain a program of continuous review and improvements:

- Tabled 2020 Annual Report in Parliament.
- Conducted regular operational / planning meetings and issued policy / procedure directives to staff.
- Met all Public Finance and Audit Act 1983 directives regarding the annual stock take, budget cycle and financial management requirements.

Develop strategic partnerships with stakeholders and improve public knowledge and awareness of the SPA:

- The SPA undertook several media briefing sessions to enhance understanding of the role of SPA and processes of parole. A total of 19 journalists attended SPA briefings in 2020.
- The website was updated to provide the public with information about weekly review hearings, operations and functions of the SPA and media releases.
- Continued to meet statutory obligations to victims by facilitating access to modified documents.
- Facilitated training sessions for Community Corrections Officers and custodial staff at the Academy and Community Corrections locations.
- Provided presentations to CSNSW staff and at the University of NSW.
- Maintained partnerships with CSNSW, SORC, NSW Police and the Mental Health Review Tribunal.

Develop a membership that embraces diversity and is reflective of the community:

Total Members: 32

- 37.5% are female (12 members)
- 1 indigenous member
- 6% have a CALD culturally and linguistically diverse (2 members)
- 6% live in regional locations (2 members)