

Parole Board of South Australia

Annual Report for the year ended 30 June 2024

To: The Honourable Dan Cregan, MP

Minister for Police, Emergency Services and Correctional Services

This report of the 55th year of operation of the Parole Board of South Australia for the twelve months from 1 July 2023 to 30 June 2024 is presented pursuant to the provisions of Section 64 of the *Correctional Services Act, 1982*.

Presiding Member's Report

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Preface

I am pleased to provide you with the Annual Report of the Parole Board of South Australia for the year 2023-2024.

The Parole Board in South Australia commenced operations in 1969 and on Thursday 21 March 2024, the Parole Board conducted its 3000th meeting. This provided an opportune time to reflect and appreciate the outstanding service given to the Board by members both past and present. It is at times difficult to acquire and retain members of the necessary skill and expertise to serve on the Board. Board members undertake their role very seriously and discharge their duties responsibly. They are sometimes exposed to unfair public criticism of the manner in which they undertake their roles but remain willing to provide this level of community service, and I would like to acknowledge their diligence and commitment.

On this note, the Board would like to acknowledge the outstanding contribution of a departing member, Mr Andrew Kyprianou, who gave outstanding service to the Board over many years.

On 23 April 2024 the Parole Board launched its own dedicated website providing access to the community with respect to Parole Board role and function, access to Annual Reports, legislation, and other information with respect to parole matters.

While no legislation was passed impacting the Board in 2023-24, The Board will be seeking legislative changes in the coming year. In particular, the Board has noted a rapid increase in the prescription of medicinal cannabis and other drugs of addiction to offenders subject to Parole and Extended Supervision Orders and the Board is assessing how the prescription of these types of drugs may be restricted to offenders subject to supervision by the Board.

This Annual Report notes that statistics with respect to Board meetings, interviews and applications for parole have remained relatively consistent over the last three years.

As predicted in the previous year's report there has been a significant increase in the number of Extended/Interim Supervision orders registered. Extended Supervision Order offenders continue to be a strain on Parole Board Secretariat resources and are a significant part of Parole Board work generally. Further increases with respect to offenders subject to Extended Supervision Orders will require both an increase in Board membership and Secretariat resourcing soon.



E F Nelson KC
Presiding Member, Parole Board of South Australia

Establishment and Functions of the Parole Board

The Parole Board of South Australia is a statutory authority established by State Parliament in 1969 and appointed to:

- consider applications for release on parole from:
 - prisoners serving a sentence of five years or more.
 - prisoners convicted for sexual offences; offences involving violence; offences involving firearms, arson and offenders who have been returned to prison for cancellation of parole.
 - prisoners sentenced to a term of life imprisonment.
- set the terms and conditions of release of all prisoners who become eligible for and are granted release on parole.
- review the progress and performance of prisoners whilst released on parole.
- consider reports provided by Community Corrections Officers and other professional organisations in relation to matters under Parole Board consideration.
- consider submissions from Victims of Crime and Police.
- review and amend the terms and conditions of parole where appropriate.
- determine appropriate penalties when breaches of parole have occurred.
- regularly review the circumstances and progress of prisoners sentenced to a term of life imprisonment.
- annually review those persons declared incapable of controlling or unwilling to control their sexual instincts pursuant to Section 57 of the *Sentencing Act, 2017*.
- assume responsibility for the supervision and monitoring of those persons found not guilty of offences by reason of mental impairment, pursuant to the provisions of Section 269 of the *Criminal Law Consolidation Act, 1935*, and who are released into the community on licence conditions set by the Courts.
- supervise Interim Supervision Orders and Extended Supervision Orders, pursuant to the *Criminal Law (High Risk Offenders) Act, 2015*.

Legislative Changes

There has been no legislative change that impacted on Parole Board matters in the period between 30 June 2023 - 1 July 2024.

Parole Board Secretariat

The Parole Board Secretariat provides administrative support to the Board. The Secretariat functions as an administrative unit of the Department for Correctional Services (DCS or the Department) and comprises the Secretary/Executive Officer and seventeen administrative staff. The Secretary/Executive Officer of the Board answers directly to the Presiding Member of the Parole Board in relation to all Board matters and to the Executive Director, Community Corrections and Specialist Prisons, DCS, in relation to matters of administration.

The wider role of the Secretariat is to provide the interface between the Parole Board and DCS; other Government agencies; Victims of Crime; the Judiciary; legal practitioners and the community in general. In addition to the essential flow of information between the Board and the Department, the Secretariat provides parole details to the Courts and the Director of Public Prosecutions to assist in the sentencing process.

Parole Board Membership

Parole Board members are appointed by the Governor in Executive Council for a term of up to three years and may be eligible for re-appointment. The Board is comprised of eleven members and two deputy members. All members of the Board are appointed in a part-time capacity.

Certain positions on the Board are defined by statute:

- The Presiding Member (Chairperson) is required to be either, a judge of the Supreme Court or District Court or a person who has extensive knowledge of, and experience in, the science of criminology, penology, or any related science.
- Two members are appointed as Deputy Presiding Members.
- One member must be a qualified medical practitioner who has extensive knowledge of, and experience in, psychiatry.
- One member must be a qualified social worker or sociologist.
- One member must have extensive knowledge of, and experience in, matters related to the impact of crime on victims and the needs of victims of crime.
- One member must be a person of Aboriginal descent.
- One member must be a former police officer.
- There are two additional deputy (occasional) members appointed to replace members who are unable to attend a Board meeting.

The Parole Board has a permanent meeting room in Flinders Street, Adelaide. This facility has adjacent holding cells to accommodate prisoners awaiting a hearing before the Board. The office of the Parole Board Secretariat is in the same building.

Members of the Parole Board in 2023-24

Ms Frances Nelson KC	Presiding Member	Barrister
Mr William Boucaut KC	Deputy Presiding Member	Barrister
Mr Nicholas Floreani KC	Deputy Presiding Member	Barrister
Mr Trevor Lovegrove	Member	Retired Police Officer
Dr Maria Naso	Member	Psychiatrist
Dr Katherine McLachlan	Member	Victim Representative
Mr Garth Dodd	Member	Aboriginal representative
Ms Sue Macdonald	Member	Executive Director (DCP)
Ms Vanessa Swan	Member	Retired Executive Director (DCS)
Mr Kevin Hill	Member	Retired Board Secretary
Mr Andrew Kyprianou	Member	Retired Social Worker
Dr Janina Gipslis	Deputy Member	
Mr Gregory May	Deputy Member	

Parole Board Meetings

Parole Board meetings are held 2-3 times weekly, usually on a Tuesday, Wednesday, or Thursday, sitting either as a Full Board (minimum of four members), or as a Division of the Board comprising three members including the Presiding Member or a Deputy Presiding Member as Chairperson.

Meetings for automatic release onto parole are also conducted as a division of the Board although attendance by prisoners at these meetings does not occur.

The Board additionally convenes frequently for summons meetings on Thursday evenings, and this is to both assess applications for offenders who are already in the community on home detention, as well as to address breaches of parole that are not so serious as to require a return to custody.

The Board conducts most of its business at the Flinders Street meeting room in Adelaide.

Interviews with prisoners and parolees are held either in person or by video conference if approved by the Presiding Member. Parole Board hearings are not open to the public. However, prisoners and parolees are entitled to legal representation and/or other professional support should they so request.

- During the 2023-24 financial year the Parole Board met formally in person, or virtually, on 118 occasions.
- A total of 938 prisoners/offenders were interviewed by the Board in the 2023-24 year.
 - 424 for Application
 - 261 on Warrant
 - 127 on ISO/ESO
 - 91 on Summons
 - 35 for Life Sentence Annual Review.

- Parole Board members also visited Prisons and Community Corrections Centres across the State and conducted interviews with prisoners and parolees at those locations.

Victims of Crime

Any person who registers as a Victim of Crime with the Department for Correctional Services is entitled under the provisions of the *Victims of Crime Act, 2001* to make a submission to the Parole Board in respect of a parole applicant who was the perpetrator of the offence committed against them.

Registered victims and those victims who contact the Parole Board independently are invited to make written submissions to the Board prior to any determination of the prisoner's release. Victims may also make submissions to the Board in person by prior arrangement.

These submissions are considered when the Parole Board is making a determination in relation to an application for parole or when setting conditions for the release of a prisoner. Where there is a known victim of an offence, the Board will set a condition of parole prohibiting the offender from contacting or attempting to contact the victim of his/her crime. Victims may also request that the Board set particular conditions in relation to where an offender resides, or places the offender should not attend, such as towns, shopping centres, educational facilities, or other areas where victims might frequent.

The Commissioner for Victim's Rights endeavours to contact the families of all murder victims and provides the Parole Board with advice in relation to any concerns or requests expressed by those families/victims.

Parole Release

A prisoner is eligible for parole consideration upon the expiry of the non-parole period that has been fixed by the sentencing court. An application for parole may be submitted to the Parole Board up to six months prior to the expiry of the non-parole period. In 2023-24, 9 new parole orders were registered.

These parole releases include:

Automatic Release (Section 66(1) of *the Correctional Services Act, 1982*)

In 2023-24 there were 415 automatic releases on conditions set by the Parole Board (Section 66(1) *Correctional Services Act, 1982*) compared to 454 in 2022-23. Under this legislation, prisoners who are serving a total sentence of 12 months or more but less than 5 years, other than those prisoners convicted for sexual offence, offences involving violence, arson, terrorism, serious firearms offences, or serious drug offences are paroled automatically after they have served their non-parole (minimum) period providing that they agree to comply with parole conditions set by the Parole Board.

All other eligible prisoners must apply to the Parole Board for release on parole.

Discretionary Release (Section 66(2) & 67 of the *Correctional Services Act, 1982*)

In 2023-24 there were 515 discretionary releases by prisoner application (Section 67 *Correctional Services Act, 1982*) compared to 532 in 2022-23. All prisoners eligible for parole consideration, regardless of the length of sentence who are serving a sentence of imprisonment for a sexual offence; an offence involving violence, arson, terrorism, serious firearms offences, or serious drug offences (as defined by the *Correctional Services Act, 1982*) apply to the Parole Board for release on parole. Additionally, where parole was previously cancelled by reason of further offending or for a breach of parole conditions, the prisoner must apply to the Parole Board for release on parole.

All prisoners serving a total sentence or sentences of five years or more, including prisoners sentenced to life imprisonment, are also required to apply to the Parole Board for release. An application for parole may be submitted no earlier than six months prior to the expiry of the non-parole period.

The Parole Board interviews the majority of prisoners who apply for parole before making a determination in respect of release on parole. Release is rarely refused without the prisoner first being given an opportunity of a hearing before the Board. The Board must provide written reasons for refusing the release of a prisoner within 30 days of the decision being made. Interviews are conducted either in person, or by video conference link if approved by the Presiding Member. All interviews and hearings conducted by the Parole Board are electronically recorded and full transcripts are produced. When release on parole is granted or recommended, the Parole Board must fix the conditions to which the prisoner will be subject upon release.

Life Imprisonment

Review of Life Sentenced Prisoners

The Parole Board is required, by statute, to review the progress and circumstances of each prisoner serving a sentence of life imprisonment or any sentence of indeterminate duration. This is most often done on an annual basis. The prisoner may elect to appear before the Board and be interviewed for the purpose of the review.

On 30 June 2024 there were 187 prisoners in custody serving a term of life imprisonment. A further 21 prisoners were serving an indeterminate term of imprisonment, either because the court had not set a non-parole period or they had been found incapable of controlling, or unwilling to control, their sexual instincts pursuant to Section 57 of the *Sentencing Act 2017*.

Parole for Prisoners Sentenced to Life Imprisonment

Amendments to the *Correctional Services Act, 1982*, in 2015, changed the procedures relating to parole for prisoners sentenced to life imprisonment.

A life sentenced prisoner is eligible to submit an application to the Parole Board up to six months prior to the expiry of his/her non-parole period. If the Board approves release on parole, the reasons for that decision are prepared and forwarded to the State Attorney-General, the Commissioner of Police and the Commissioner for Victim's Rights.

Any objections to a Parole Board decision to release a prisoner sentenced to life imprisonment must be forwarded for review by the Parole Administrative Review Commissioner (PARC) within 60 days of receiving the reasons for release on parole.

The PARC, having examined the evidence and material relating to the matter, may make any order considered appropriate. A decision of the Parole Administrative Review Commissioner is final. The current PARC is Mr Michael David, KC.

Criteria for Release on Parole

The paramount consideration of the Parole Board when determining an application from a prisoner for release on parole is the safety of the community.

The Parole Board must also take the following matters into consideration when determining an application for the release of a prisoner:

- any relevant remarks made by the court in passing sentence.
- the likelihood of the prisoner complying with the conditions of parole.
- where the prisoner was imprisoned for an offence or offences involving violence, the circumstances and gravity of the offence, or offences, for which the prisoner was sentenced to imprisonment (but the Board must not substitute its view of these matters for the view expressed by the court in passing sentence).
- if, in relation to an offence for which the prisoner was imprisoned, there is a registered victim – the impact that the release of the prisoner on parole is likely to have on the registered victim and the registered victim’s family.
- the behaviour of the prisoner whilst in prison or on home detention.
- the behaviour of the prisoner during any previous release on parole.
- any reports tendered to the Board:
 - (i) on the social background, or the medical, psychiatric, or psychological condition of the prisoner.
 - (ii) from Community Corrections Officers or other officers or employees of the Department.
- the probable circumstances of the prisoner after release from prison or home detention; and
- any other matters that the Board assesses to be relevant.

Parole Conditions

Parole is a privilege which enables a prisoner to be released from prison after the minimum period fixed by a Court (non-parole period) has expired, but prior to the end of the full prison sentence. If parole is granted, the prisoner must agree to obey the conditions of parole set by the Parole Board. Parole conditions will include a requirement that the parolee report to a Community Corrections Officer on a regular basis (usually weekly reporting as a minimum requirement). Parole conditions are designed to:

- provide a level of protection for the community from further offending.

- monitor the activities and progress of the parolee when released; and
- provide professional support to assist the reintegration of the parolee into the community and reduce the risk of re-offending.

Section 68 of the *Correctional Services Act, 1982* provides statutory conditions for the release of prisoners sentenced to life imprisonment. Additionally, the Parole Board must consider imposing a condition requiring a life sentenced parolee to be subject to electronic monitoring and/or to reside at a specified premises or parole hostel for a period of up to 12 months. The Adelaide Pre-Release Centre is declared as a parole hostel for this purpose.

Parole Orders

The daily average of offenders serving their sentence on parole in South Australia is 904. This number fluctuates depending on the number of prisoners released on parole and the number of parolees who complete parole or have their parole cancelled.

Parole Breaches

If an offender fails to comply with the conditions of the parole order, including conviction and sentence for further offences while on parole, that offender is in breach of parole and the Parole Board may take the following action.

Where a member of the Parole Board suspects on reasonable grounds that a parolee may have breached a condition of parole, the Presiding Member or Deputy Presiding Member may:

- (a) issue a warning letter to the parolee; or
- (b) summons the parolee to appear before the Parole Board; or
- (c) issue a warrant for the apprehension of the parolee, for the purpose of bringing the parolee before the Parole Board.

When a parolee is interviewed by way of summons for a less serious breach of parole, the Board may, if the breach is proved, admonish and warn the parolee of the serious consequences should a further breach be committed and/or order that the parolee serve up to 200 hours of Community Service Work as a penalty.

If a parolee is returned to custody for a serious breach of parole, the parolee is detained in custody awaiting a hearing before the Parole Board. At the hearing the Board will interview the parolee and make a determination as to whether or not a breach has occurred.

Where the Parole Board finds that a parolee has breached a parole condition, the Board may either release the parolee from custody (having already served time in custody) or cancel parole pursuant to the provisions of Section 74 of the *Correctional Services Act, 1982*. Under Section 74AAA, the Board may also suspend release on parole for a specified period, vary conditions or impose further conditions, on the person's release onto parole.

In 2023-24 parole was cancelled in 116 cases for breaches of parole conditions under this section of the Act.

- During 2023-24 the Parole Board issued 286 warrants for the arrest of parolees suspected of breaching their parole conditions.

Breach by Further Offending

Where a parolee commits an offence whilst on parole and receives a sentence of imprisonment for that offence, parole is automatically cancelled pursuant to Section 75 of the *Correctional Services Act, 1982*. The court must order that the new sentence be served cumulatively upon the unexpired balance of parole that remained at the time of the offence.

- During 2023 - 24 parole was automatically cancelled with respect to 11 parolees as a consequence of receiving a sentence of imprisonment for further offences committed whilst on parole. This compares to automatic cancelation of parole for 16 parolees in 2022-23.

Parole Orders Successfully Completed

A parole order is completed upon the expiry of the sentence of imprisonment imposed by the Court. A parolee is deemed to have successfully completed a parole term, notwithstanding some minor breaches during parole, if he/she is on parole when the sentence expires.

- During 2023-24 a total of 600 parolees successfully completed their parole orders representing an approximately 77% successful completion rate.

Section 57 and 59 of the *Sentencing Act, 2017*

Offenders who are convicted for serious sexual offences may, under Section 57 of the *Sentencing Act*, also be declared by the Supreme Court to be incapable of controlling, or unwilling to control, their sexual instincts. These offenders are detained in custody until further order of the Supreme Court.

The Parole Board is required by statute to review the progress and circumstances of these offenders every 12 months. The offender may elect to appear before the Board and be interviewed for the purpose of the review.

The Court may subsequently order, under Section 59 of the Act, the release of the offender on licence. The Parole Board is required to set the conditions for release and has responsibility for the supervision and monitoring of the licensee once released. The Board is empowered to return a licensee to custody and to cancel release where the Board is satisfied that the licensee has contravened, or is likely to contravene, a condition of licence.

Section 269 of the *Criminal Law Consolidation Act, 1935* - Mental Impairment

Persons who commit an offence but are found by the Court to be not guilty by reason of mental impairment, may be committed to detention for a period determined by the Court or may subsequently be released into the community on licence. The conditions of licence are set by the Court. Supervisory responsibility for those released on licence is divided between the Parole Board and the Minister for Health.

The Parole Board has responsibility for exercising supervision in all respects other than those conditions that relate to treatment or monitoring the mental condition of the licensee. The Parole Board has no power to return a licensee supervised under this *Act* to custody when a condition is contravened. The Court may order the revocation of the licence or variation of the supervision order on the application of the Director of Public Prosecutions.

As of 30 June 2024, there were 152 offenders subject to Parole Board supervision under Section 269.

Interim/Extended Supervision Orders

The Attorney General can apply to the Supreme Court for an Extended Supervision Order to a person who is a high-risk offender as defined by the *Criminal Law (High Risk Offenders) Act, 2015* (SA). The application has to be made within 12 months of the end of the person's sentence (including on release or parole or home detention) or extended supervision order or after the sentence is wholly satisfied (for life imprisonment).

The Supreme Court must consider at least one report from a medical practitioner including assessment on the person's likelihood of re-offending with similar offences. The Supreme Court's main determination must be based on the safety of the community.

Extended Supervision Orders can last for 5 years, and further orders can be made following this time.

Extended Supervision Orders include conditions that the person not commit further offences, not possess any firearms or ammunition, or offensive weapons. Other conditions can be imposed by the Court and these conditions can also be varied by the Court.

The Parole Board can also impose conditions on people under Extended Supervision Orders including in relation to requiring electronic monitoring, requiring the person to live at a certain address, undertake programs or activities, preventing communication with certain people, and various other conditions.

During 2023-24 a total of 182 new or further ISO/ESO orders were registered compared to 123 in 2022-23, 124 in 2021-22, 121 in 2020-21, and 40 in 2019 -20.

During 2023-24 the Parole Board issued and executed 147 warrants for the arrest of offenders suspected of breaching their ISO/ESO conditions, compared to 166 in 2022-23, 189 in 2021-22, and 164 in 2020-21.

As of 30 June 2024, there were a total of 157 ISO/ESO offenders being supervised by Community Corrections and the Parole Board, compared with 143 as of 30 June 2023, 140 as of 30 June 2022, and 133 as of 30 June 2021.

The *Criminal Law (High Risk Offenders) Act, 2015 (SA)*, continues to have a significant impact on the capacity of the Board relative to both the numbers of prisoners supervised on Interim/ Extended Supervision Orders, and the requirement to issue warrants and then interview these offenders.

Court Reports

The Parole Board is frequently asked by Judges of the Supreme Court of South Australia, District Court of South Australia and Magistrates Courts to provide Parole Board Reports in relation to people before the courts awaiting sentence.

In addition, the Board regularly provides reports to those courts in relation to persons found not guilty due to mental impairment where the court is considering a matter of release on licence.

The Parole Board Secretariat provides general and invaluable assistance daily to Sentencing Courts, the Office of the Director of Public Prosecutions and Legal Practitioners in terms of advising the expiration terms of parole periods and the calculation of balances of parole to be served.

For the year 2023-24, there were 13 reports completed by the Presiding Member, 9 by Deputy Presiding Members, and 34 by the Secretariat.

The Parole Board is also required to supply reports to the Minister for Correctional Services and the Attorney-General under Section 57 of the *Sentencing Act, 2017*, regarding offenders incapable of controlling, or unwilling to control, sexual instincts, as required by legislation. In 2023-24, 15 of these reports were completed by the Presiding Member.

ESO/ISO Reports to Attorney General's Department

The Presiding Member has provided 176 reports with respect to ESO/ISO offenders in the 2023-24 period, at the request of the Crown Solicitor's Office. This is a significant increase in reports from 132 in 2022-23 and in line with the increase in orders registered for the current year.

Reasons for Refusal/Release

A total of 23 Reasons for Release were provided by the Presiding Member (21) and Deputy Presiding members (2) with respect to life sentenced prisoners, to the Commissioner for Victim's rights, the Attorney-General and the Commissioner of Police in the year 2023-24.

In addition, it is required by the Board to provide Reasons for Refusal of parole to prisoners at institutions within 30 days of the decision to refuse parole. The Presiding Member has provided Reasons for Refusal on 33 occasions, and Deputy Presiding Members 11, totalling 44 in the year 2023-24.

Acknowledgments

The Parole Board wishes to acknowledge the co-operation and assistance received from the Office of the Minister for Correctional Services, the Attorney-General's Department, Chief Executive, Executive Directors, Officers and staff of the Department for Correctional Services; the Commissioner and Officers of South Australia Police; the Clinical Director of Forensic Mental Health Services, psychiatrists and staff of the South Australian Forensic Mental Health Service; the Crown Solicitor and Officers of the Crown Law Office; Officers of the Courts Administration Authority; the Officers of the Department of Immigration and Citizenship, and the Office of the Commissioner for Victim's Rights.

The Board acknowledges the work done this year by the Parole Administrative Review Commissioner (PARC), Mr. Michael David KC.

The Board also wishes to record its appreciation for the services provided by the staff of the Parole Board Secretariat who provide excellent support to the Board as they do each year.

The Parole Board relies on, and acknowledges, the provision of reports and assessments on prisoners and parolees by Departmental Psychologists, Community Corrections Officers and prison Social Workers. The Board also acknowledges those who provide programs and counselling to prisoners and parolees. These activities provide invaluable assistance and support to the Board in its primary objective of protecting the community and reducing the level of offending in South Australia.