

## **Ministerial Guidelines to Parole Board Queensland**

## **SECTION 1 – GUIDING PRINCIPLES FOR PAROLE BOARD QUEENSLAND**

- 1.1 Under section 242E of the *Corrective Services Act 2006* (the Act) the Minister may make guidelines about policies to assist Parole Board Queensland in performing its functions. In following these guidelines, care should be taken to ensure that decisions are made with regard to the merits of the particular prisoner's case.
- 1.2 When considering whether a prisoner should be granted a parole order, the highest priority for Parole Board Queensland should always be the safety of the community.
- 1.3 As noted by Mr Walter Sofronoff QC in the Queensland Parole System Review *'the only purpose of parole is to reintegrate a prisoner into the community before the end of a prison sentence to decrease the chance that the prisoner will ever reoffend. The only rationale for parole is to keep the community safe from crime'*. With due regard to this, Parole Board Queensland should consider whether there is an unacceptable risk to the community if the prisoner is released to parole; and whether the risk to the community would be greater if the prisoner does not spend a period of time on parole under supervision prior to the fulltime completion of their prison sentence.

## **SECTION 2 - SUITABILITY**

- 2.1 When deciding the level of risk that a prisoner may pose to the community, Parole Board Queensland should have regard to all relevant factors, including but not limited to, the following—
  - a) the prisoner's criminal history and any patterns of offending;
  - b) the likelihood of the prisoner committing further offences;
  - c) whether there are any other circumstances that are likely to increase the risk the prisoner presents to the community (including any of the factors set out in section 5.1 of these guidelines);
  - d) whether the prisoner has been convicted of a serious sexual offence or serious violent offence or any of the offences listed in section 234 (7) of the of the Act;
  - e) the recommendation for parole, parole eligibility date, or any recommendation or comments of the sentencing court;

- f) the prisoner's cooperation with the authorities both in securing the conviction of others and preservation of good order within prison;
- g) any medical, psychological, behavioural or risk assessment report relevant to the prisoner's application for parole;
- h) any submissions made to Parole Board Queensland by an eligible person registered on the Queensland Corrective Services (QCS) Victims Register;
- i) the prisoner's compliance with any other previous grant of parole or leave of absence;
- j) whether the prisoner has access to supports or services that may reduce the risk the prisoner presents to the community; and
- k) recommended rehabilitation programs or interventions and the prisoner's progress in addressing the recommendations.

2.2 A prisoner is not eligible for parole if under section 8 (1) of the *Dangerous Prisoners (Sexual Offenders) Act 2003* (DPSOA), a court has set down a hearing of an application for a Division 3 Order in relation to the prisoner and the application has not been discontinued or finally decided.

2.3 For serious sexual offenders who are not subject to a DPSOA application at the time of applying for parole, Parole Board Queensland should consider the likelihood of an application being sought in the future, prior to making a decision to grant parole. It is recommended Parole Board Queensland apply the same criteria used by the Attorney-General in these instances.

### **SECTION 3 – DISCLOSURE**

3.1 Parole Board Queensland's decision making is open to review by the Supreme Court of Queensland under the provisions of the *Judicial Review Act 1991*. During the decision making process, when considering which documents should be disclosed to a prisoner, a primary consideration for Parole Board Queensland is ensuring that the prisoner is afforded procedural fairness taking into account the requirements of the *Judicial Review Act 1991*.

- 3.2 At a minimum, the principles of procedural fairness require that the substance of the material or main factors adverse to the prisoner be disclosed (including the proper disclosure of documents to the prisoner which may be relied upon in coming to a decision), and the prisoner be given an opportunity to comment before a decision is made.
- 3.3 In determining how procedural fairness will be achieved, Parole Board Queensland should, where possible, also take account of the following factors:
- (a) Sensitive third party information, including information received in confidence, must not be disclosed to a prisoner where it may place another party at risk, or in instances where the third party has provided a valid reason for requesting that it not be disclosed to the prisoner, unless the information can be disclosed in a non-identifying way;
  - (b) Correspondence from eligible persons as defined by the Act, or victims, must not be released to a prisoner;
  - (c) Raw psychological assessment data, treatment plans, program screening tools and program case notes should not be released in that format. A report interpreting the data is appropriate for release, if available. Some psychological or psychiatric reports may require controlled release, to allow the writer or another qualified person to explain the report findings to the subject of the report;
  - (d) Sensitive intelligence documents that could place the source of the information or the community at risk or jeopardise police or intelligence agency operations should not be released to a prisoner. Guidance on whether intelligence documents, or a summary or the relevant information within the documents, can be released to a prisoner should be sought from the Queensland Police Service and/or QCS intelligence officers; and
  - (e) Legally privileged documents must not be released to a prisoner unless approval has been provided by the writer of the documents for the release.

#### **SECTION 4 – APPEARANCE OF AGENTS BEFORE THE PAROLE BOARD**

- 4.1 Parole Board Queensland may grant leave to a prisoner to appear before Parole Board Queensland. Alternatively, Parole Board Queensland may grant leave to a prisoner's

agent to appear and to make representations in support of the prisoner's application for parole.

- 4.2 If a prisoner has been granted leave to appear before Parole Board Queensland and is likely to experience communication or comprehension difficulties due to cultural differences, intellectual or cognitive impairment, or other disabilities, or if a prisoner requests that another person make representations in support of their application for parole, leave may be granted for an agent to appear with the prisoner.
- 4.3 When determining whether the agent nominated by the prisoner is an appropriate person to make representations in support of the prisoner's application, Parole Board Queensland should consider:
- (a) the agent's relationship to the prisoner;
  - (b) the agent's professional qualifications and experience;
  - (c) the agent's membership, if any, of professional bodies that require their members to comply with a code of conduct;
  - (d) if the agent is a public servant, whether they are appearing in their capacity as a public servant or as an individual, and any conflict of interest this entails;
  - (e) fees charged by the agent to assist with the prisoner's parole application and to appear on the prisoner's behalf;
  - (f) whether the agent has any convictions for indictable offences or offences of dishonesty; and
  - (g) whether the agent is currently the subject of disciplinary or criminal proceedings.
- 4.4 Parole Board Queensland should not act solely upon information provided by the agent in relation to the prisoner, or in relation to support available to the prisoner on release, and should confirm such information by reference to other reliable sources, including but not limited to, reports prepared by QCS.

## **SECTION 5 – PAROLE ORDERS**

### **Release to parole**

- 5.1 When considering releasing a prisoner to parole, Parole Board Queensland should have regard to all relevant factors, including but not limited to the following—
- a) Length of time spent in custody during the current period of imprisonment;
  - b) Length of time spent in a low security environment or residential accommodation;
  - c) Any negative institutional behaviour such as assaults and altercations committed against correctional centre staff, and any other behaviour that may pose a risk to the security and good order of a correctional centre or community safety;
  - d) intelligence information received from State and Commonwealth agencies;
  - e) length of time spent undertaking a work order or performing community service;
  - f) any conditions of the parole order intended to enhance supervision of the prisoner and compliance with the order;
  - g) appropriate transitional, residential and release plans; and
  - h) genuine efforts to undertake available rehabilitation opportunities.
- 5.2 Parole Board Queensland should be aware that release onto a parole order may result in certain prisoners being immediately taken into immigration custody or removed from Australia. Before making such an order, Parole Board Queensland should ensure that the Department of Immigration and Border Protection is contacted to confirm its intentions regarding the relevant prisoner's release.
- 5.3 Parole Board Queensland should consider including an electronic monitoring condition in the parole order for any prisoner granted parole, pursuant to section 200 (2) of the Act. That is, a condition requiring the prisoner to comply with a direction by a corrective services officer, including a curfew or monitoring condition, in accordance with section 200A of the Act.
- 5.4 When Parole Board Queensland grants parole to a prisoner who was previously subject to an indefinite sentence for their offence/s, Parole Board Queensland must

refer to Section 174 and Section 174A of the *Penalties and Sentences Act 1992* to determine the period of parole supervision.

- 5.5 When Parole Board Queensland grants parole to a prisoner, particularly sex offenders, other serious violent offenders and prisoners serving a life sentence, careful consideration should be given to the imposition of a requirement that restricts prisoner access to websites, technology, application or tools that enable active and participatory publishing and interaction between the prisoner and individuals over the internet. This may include forums, blogs, wikis, social networking sites, and any other sites that allow prisoners to easily upload and share content.
- 5.6 When Parole Board Queensland grants parole to a prisoner, particularly sex offenders, other serious violent offenders and prisoners serving a life sentence, careful consideration should be given to the imposition of a requirement that restricts prisoner access to any personal introductory system whereby the prisoner can find and contact individuals over the internet (or any other means) to arrange a date, with the objective of developing a personal, romantic, or sexual relationship.

### **Exceptional circumstances parole**

- 5.7 Parole Board Queensland may release a prisoner on parole, if satisfied that exceptional circumstances exist in relation to the prisoner. If parole is granted, in the case of a prisoner claiming exceptional circumstances for serious medical reasons; Parole Board Queensland should first obtain advice from Queensland Health or other approved medical specialists on the seriousness, and management of, the prisoner's medical condition.

## **SECTION 6 – CONTRAVENTION**

### **Further offending**

- 6.1 If a prisoner on a parole order has been charged with a further offence, Parole Board Queensland should consider the suspension of the parole order and seek the prisoner's return to custody until a court determines the charge. Factors relevant to the exercise of any discretion may include the—

- a) seriousness of the alleged offence;
- b) whether the prisoner has been remanded in custody or released to bail;
- c) circumstances surrounding the commission of the alleged offence;
- d) prisoner's personal situation, including employment status;
- e) prisoner's response to supervision to date; and
- f) length of time needed to determine the outcome of the charge.

### **Failure to comply**

6.2 If a prisoner has failed to comply with a condition on their parole order or the parole order has been amended by the chief executive under section 201 of the Act or the chief executive has requested that the parole ordered be suspended under 208A of the Act, Parole Board Queensland should consider whether to amend, suspend or cancel the prisoner's parole order. In considering whether to do so, Parole Board Queensland should take the following into account, the—

- a) reasons for the chief executive's amendment or requested suspension (if applicable);
- b) seriousness and circumstances surrounding the prisoner's failure to comply;
- c) prisoner's home environment;
- d) factors outlined in section 6.1 (d) and (e); and
- e) if the prisoner is close to full time discharge whether the risk to the community would be greater if the prisoner does not remain on parole.

6.3 If Parole Board Queensland decides to amend a parole order, Parole Board Queensland should consider making additional conditions to reduce the risk of reoffending.

### **Unlawfully at large**

6.4 If a prisoner released to a parole order is unlawfully at large, every effort should be made to return the prisoner to custody. Parole Board Queensland should take any necessary steps to facilitate the prisoner's return to secure custody in accordance with Chapter 5, Part 1 of the Act.

- 6.5 If a prisoner on a parole order is unlawfully at large because the parole order has been suspended, Parole Board Queensland should consider cancelling the parole order if the prisoner is not returned to custody within a reasonable period.

#### **Suspension of parole orders**

- 6.6 A decision regarding whether or not to cancel a suspended parole order should be made by Parole Board Queensland as soon as practicable after the prisoner has returned to custody.
- 6.7 If Parole Board Queensland considers a prisoner suitable for release to parole, Parole Board Queensland should cancel the suspension of the prisoner's parole order.

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**Mark Ryan MP**

**Minister for Police, Fire and Emergency Services and Minister for Corrective Services**

