

**PAROLE BOARD
OF TASMANIA**

2009 ANNUAL REPORT

**PURSUANT TO SECTION 64 OF THE
CORRECTIONS ACT 1997**

Year ending 30th June 2009

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1. CHAIRPERSON'S MESSAGE



2008/2009 has been another busy year for the Parole Board of Tasmania during a period of significant administrative change.

As a result of the review of the Board by Officers of the Department of Justice the Board's administrative functions were transferred from Risdon Prison to the Directorate of Community Corrections.

Ms Elizabeth Hawkes, a long serving member of the Board, resigned from the Board to accept the position of Secretary of the Parole Board of Tasmania.

Whilst her contributions as a member of the Board will be greatly missed, the enthusiasm she has shown for her new position more than adequately compensates for her loss as a member. I wish to publicly record my thanks to Ms Hawkes for her significant contribution to the Board over the last 9 years. I equally look forward to working with her in her new role.

Ms M Duvnjak was appointed as a member in May of 2009. I welcome Ms Duvnjak to the Board and I am sure she will contribute greatly to the workings of the Board.

The Board's workload has significantly increased throughout the period covered by this Annual Report.

The management of this workload has been greatly enhanced by the adoption of a paperless system. Gone are briefcases full of files, they have been replaced with memory sticks and laptop computers. This paperless system has led to

considerable cost savings coupled with an increase in security as well as providing greater efficiency to Board members in carrying out their tasks.

In no small part due to Ms Hawkes' efforts the Boards administrative functions and its overall efficiency has greatly improved. The Board is now dealing with prisoner's applications for parole well prior to their parole eligibility date, which in turn has allowed prisoners who are granted the privilege of parole to be released from prison shortly after their parole eligibility date.

As Chairperson I have made a conscious decision to make myself available to the media to discuss, where appropriate, individual applications for parole and to attempt to educate the public as to the rationale and purpose of parole.

The decision to grant a person parole is often a difficult one. As with decisions of this type, good outcomes are often ignored and adverse outcomes focussed upon.

Release on parole does not mark the end of a prisoner's sentence. Parole allows a prisoner to serve the balance of his sentence in the wider community, subject to appropriate conditions and under strict supervision. The privilege of parole can be revoked and the prisoner returned to prison.

The benefits of parole are twofold. Firstly it provides protection to the community by the imposition of appropriate conditions and secondly it encourages the prisoner's rehabilitation.

The alternative to parole is to simply allow the prisoner to serve his sentence of imprisonment and ultimately to be released back into the wider community with no restraints upon him and without supervision.

The conditions of parole are strict and the supervision intensive. The Board often revokes or suspends a prisoner's parole with the result that the prisoner is returned to prison.

In most cases, parole is not revoked because prisoners have re-offended whilst on parole. In the vast majority of cases parole is revoked because prisoners have failed to abide by the conditions of their parole, have failed to follow directions of

their probation officer or have relapsed into alcohol or drug use. The system of parole must be strict and the ability of the Board to revoke a prisoner's parole is an important part of that system.

Appropriate accommodation remains an issue for prisoners seeking to be released from prison on parole. Whilst a significant number of inroads has been made into the shortage of accommodation by the PTAP Program, an initiative of Bethlehem House Men's Assistance Centre, and Supported by the State and Federal Governments. There remains a shortage of appropriate accommodation for many prisoners on release from prison. Stable accommodation has been highlighted as one of the major factors in potentially reducing recidivism rates.

On behalf of the Board I acknowledge the valuable support it receives from various Government departments and non government organisations to enable it to carry out its statutory functions.

Finally I would also like to express my appreciation to all Board Members for their commitment, dedication, hard work and support during the year and for their invaluable individual contributions to the Board meetings and its objectives.

Andrew McKee

Chairperson

2. SECRETARY'S REPORT

The Parole Board of Tasmania underwent a fundamental change during the last financial year. The Parole Board transferred its administration and operations from the prison Service to the Community Correction Directorate.

A full time secretary was appointed to the Board as well as a part time administrative assistant.

The Board has moved away from using hard copies of files and entered the modern world of electronic documents and paperless meetings.

The introduction of a paperless office has

- reduced the cost and time involved in preparing for meetings,
- Improved the security and management of members papers
- eliminated inefficient work practises
- reduced courier costs
- reduced the risk of injury carrying large suitcases of files to meetings

I am happy to report that all members have readily embraced the new technology even if a little reluctant at first. The new arrangements are far more user friendly and more manageable.

The Board has also reduced the time limit between granting parole and prisoners actually being released on parole. Most eligible parolees are now granted and released on parole on their parole eligibility date. This has significantly reduced the need for the prison system to keep an inmate any longer than necessary, saving costs to that service.

Liz Hawkes

Parole Board Secretary

3. Legislative Framework for the Operation of the Board

The operation and functions of the Parole Board (“the Board”) are regulated by the Corrections Act 1997 (“the Act”).

Section 62 of the Act provides:

62. (1) *The Parole Board is established.*

(2) *The Board consists of 3 persons appointed by the Governor, of whom –*

(a) *one is to be a person who has practised as a legal practitioner or barrister of the Supreme Court or of a Supreme Court of any part of the Commonwealth other than this State for at least 7 years and has never been suspended from practice, had his or her name removed from, or struck off, the role of that Court or has been disbarred; and*

(b) *2 are to be persons whom the Governor is satisfied or experienced in matters associated with sociology, criminology, penology or medicine or who possess any other knowledge or experience that the Governor considers is appropriate for the purpose.*

(3) *The chairperson of the Board is to be appointed by the Governor from among the members of the Board.*

- (4) *Schedule 2 has effect in respect of the membership and meetings of the Board.*

Schedule 2 of the Corrections Act 1997 deals with the membership and meetings of the Board. Members are appointed for a period not exceeding 3 years and the appointment of a Deputy Chairperson and Deputy Members is authorised. Three members constitute a quorum at a meeting and questions arising are determined by a majority of votes of the members present and voting. The Board is not bound by the rules of evidence and may inform itself in any manner it thinks fit.

4. Membership of the Board

During the period covered by this Annual Report the Board consisted of the following Members and Deputy Members:-

Chairperson

Mr Andrew McKee

Mr McKee graduated from the University of Tasmania in 1991 with a combined degree of Bachelor of Arts and Bachelor of Laws. He was admitted as a practitioner of the Supreme Court of Tasmania on the 9th September 1992. Mr McKee is currently employed by the law firm Murdoch Clarke as a barrister and solicitor. He has worked continuously since his admission in private practice and with the Legal Aid Commission of Tasmania.

He was appointed a Deputy Member of the Board in 2002. In 2003 he was appointed Deputy Chairperson of the Board and in 2006 he was appointed Chairperson of the Board.

Deputy Chairperson**Ms Anne Perks**

Ms Perks graduated from the Auckland University in 1972 with an Arts degree in anthropology. She completed a Bachelor of Laws in 1985 at the University of Tasmania. Ms Perks was admitted as a practitioner of the Supreme Court of Tasmania in August 1986. She worked in the private legal profession until February 1989 when she joined the public service working for the Public Trust Office and the Legal Aid Commission of Tasmania as a solicitor until 1998. Since that time Ms Perks has been employed as the senior investigations and liaison officer for the Guardianship & Administration Board. She has recently been appointed the manger of Investigations & Liaison at that office. Ms Perks was appointed Deputy Chairperson of the Board in September 2006.

Member**Mr Leon Kemp**

Mr Kemp was appointed a Member of the Board in June 2003. He was a member of Tasmania Police for 33 years prior to retiring in October 2002. He served in both general uniform duties and criminal investigations. Mr Kemp also served for the Australian Civilian Police on Cyprus as a member of the UN Peace Keeping Force.

He is a past president of the Police Federation of Australia and the Police Association of Tasmania.

He is a recipient of the UN Medal, Police Overseas Medal, Australian Police Medal and the Commissioner's Medal awarded for diligent and ethical service.

Mr Kemp is currently a member of the Police Review Board in Tasmania and the Police Arbitral Tribunal in the Northern Territory. He is also a Derwent Valley Councillor.

Member Ms Marcia Duvnjak

Ms Duvnjak was appointed as a Member of the Board in May of 2009. Ms Duvnjak has been a legal practitioner since 1995. She completed a combined Arts/Law Degree at the University of Tasmania, her arts major was Psychology. She is currently employed with Gunson Williams as a Senior Associate. Her principal areas of practise include commercial litigation, criminal law , personal injuries law and administrative law.

Her tertiary studies in psychology included considering aspects of deviant and antisocial behaviour, recidivism and rehabilitation and this, combined with her legal practise enable her to have an excellent overall view of the many issues confronting the Parole Board.

Member Ms Elizabeth Hawkes

Ms Hawkes graduated from the University of Tasmania in 1986 with a Bachelor of Laws. She was admitted as a practitioner of the Supreme Court of Tasmania in September 1988. Ms Hawkes has worked continuously in the Legal Profession since 1988. She has been employed in Private Practice and has worked for the Legal Aid Commission as a legal practitioner and an Administrator.

She has also worked as a Youth Justice Conference Facilitator and as a Conciliator with the Magistrates Court.

She was appointed a Member of the Parole Board in 2000. Ms Hawkes resigned from the Board to take up the position of secretary.

Deputy Member

Ms Margaret Murray

Ms Murray completed her nursing training in Tasmania in 1969. She has from that time continued to gain further qualifications in that area both in Australia and overseas.

She became the Director of Nursing and Nurse Co-Director, Clinical Services Medicine at the Royal Hobart Hospital a position she held from 1993 to 2003 when she retired. She still provides casual on call nursing services to the Coronary Care Unit at the Hobart Private Hospital.

She was appointed as a Non Medical/ Non Legal Member (Community Representative) to the Medical Tribunal in 2006. This appointment is on going.

She was appointed as a Deputy Member of the Parole Board in 2003. She still holds this position.

Deputy Member

Mr Geoff Storr

Mr Geoff Storr has had a long career in the Corrections field. This has included an initial appointment as the Probation Officer for the West Coast and later the Huon/Channel district. He has served as the Manager of the Hobart Office of Community Corrections and following a period as Acting State Manager Community Corrections, was appointed permanently to the position in 1996. At that time, the State Manager was also responsible for the administration of the Parole Board, Interstate Parole Order Transfers and the administration of Services to Victims of Crime. Mr Storr was responsible for the latter stages of development and subsequent implementation of those elements of the Sentencing and Corrections Acts of 1997 which relate to Community Corrections and Parole.

After his time in Corrections, Mr Storr worked briefly in Consumer Affairs before taking on the role of Coordinator of the Official Visitor Program to the Prisons and the role of Principal Investigations Officer within the Office of the Ombudsman. This role involved the follow-on from the Ombudsman major investigation into deaths in Risdon Prison 2000. Mr Storr's position had a strong focus on ensuring the recommendations from that report were implemented and that the role of the Ombudsman and the Official Visitors were closely aligned.

Mr Storr's background and experience ensures that he has an excellent grasp of the issues related to Parole and the significance of early conditional release, from the perspective of the inmate, the victim and the community at large.

5. Meetings of the Board

The Board meets at the Risdon Prison Complex on a fortnightly basis.

The format of the meeting is in accordance with the agenda produced by the Board's Administrative Assistant prior to each meeting.

The Board personally interviews each and every prisoner who makes an application for parole. This position is to be contrasted to the majority of the other state Boards who do not interview prisoners but assess their applications based upon the documentation provided to the Board.

The Board interviews prisoners in two different locations depending upon the prisoner's classification.

Prisoners who are classified as maximum or medium are interviewed at the Risdon Prison Complex.

Female prisoners are interviewed via video link from the Mary Hutchinson Womens Prison.

Prisoners who are classified as minimum are interviewed at the Ron Barwick Minimum Security Prison.

6. Functions and Responsibilities of the Board

In summary, the Board performs the following functions:

- (a) it makes decisions as to which prisoners will be released on parole.
- (b) it determines the conditions upon which a prisoner will be released on parole.
- (c) it determines whether conditions of parole orders should be amended or varied
- (d) it determines if a parole condition has been breached by a prisoner and what action should be taken as a result of that breach.

7. Release on Parole

The Board is required to consider any application made by a prisoner who is eligible to be considered for parole.

7.1 Eligibility for Parole

Section 70 of the Act provides as follows:

70. Where prisoner eligible for parole

Subject to section 71, a prisoner is not to be released on parole before the completion of —

- (a) the non-parole period applicable to the prisoner's sentence; or*
- (b) a continuous period of imprisonment of 6 months —*

whichever is the greater, unless, in the opinion of the Board, there are exceptional circumstances warranting the earlier release on parole of the prisoner.”

Section 68 of the Act provides as follows:

68. Statutory non-parole period

- (1) The non-parole period in respect of a sentence of imprisonment is a period equal to one-half of the period of the operative sentence.*
- (2) Subsection (1) does not apply in relation to —*
 - (a) a sentence of imprisonment for the term of the natural life of the prisoner; or*

- (b) *detention in accordance with an order under section 19 of the sentencing Act 1997.*”

Section 69 of the Act provides as follows:

69. Prisoner not to be released on parole in certain circumstances

- (1) *A prisoner who has been sentenced to a term of imprisonment is not to be released on parole in respect of that sentence if –*
- (a) *the court has ordered that the prisoner is ineligible for parole pursuant to section 17 or 18 of the Sentencing Act 1997; or*
- (b) *the prisoner is ineligible for parole by operation of section 17(3A) of that Act.*
- (2) *If a prisoner is made the subject of a declaration under section 19 of the Sentencing Act 1997, the prisoner is not eligible to be released on parole until the declaration is discharged under that Act.*

The above sections of the Act read in conjunction with the Sentencing Act 1997 regulate a prisoner’s eligibility for parole.

Section 70 of the Act provides the Board with a discretion, in exceptional circumstances, to authorise the release of a prisoner on parole, without that prisoner having served the total non parole period.

Section 70 of the Act is usually invoked by prisoners by making an application for early release on parole. When dealing with such an application the Board considers the circumstances of each individual case. The legislation clearly provides that the circumstances must be exceptional. This phrase has been interpreted by the Board to mean that if the consequence to a prisoner or his or her family would be viewed as “the normal or foreseeable” hardships that would reasonably be expected to flow from a term of imprisonment, then such hardships are not viewed by the Board, as being exceptional.

The Board as presently constituted continues to deal with applications for early release on parole pursuant to Section 70 on the basis adopted by previous Boards. That being:

“The basic principle which is being adopted is that, if the considerations relied on by the prisoner were available for consideration by the Court imposing the sentence, the Board will not grant leave for an early application for parole to be made, for to do so would be tantamount to reviewing the sentence imposed.”

The total number of applications for early release on parole pursuant to Section 70 during the period covered by this Annual Report are to be found in Table Two.

7.2 The Role of the Board

The Board is required to make independent decisions as to whether or not a prisoner should be released on parole. If the Board is of the view that a prisoner should be released on parole, then the Board is required to consider what conditions it should place upon that prisoner's release.

When considering an application for parole the Board is required to act in accordance with the statutory criteria outlined at Section 72(4) of the Act.

Section 72(4) provides —

- (4)** *In determining whether or not a prisoner should be released on parole, the Board is to take into consideration —*
- (a)** *the likelihood of the prisoner re-offending; and*
 - (b)** *the protection of the public; and*
 - (c)** *the rehabilitation of the prisoner; and*
 - (d)** *any remarks made by the Court in passing sentence; and*
 - (e)** *the likelihood of the prisoner complying with the conditions; and*
 - (f)** *the circumstances and gravity of the offence, or offences, for which the prisoner was sentenced to imprisonment; and*

- (g)** *the behaviour of the prisoner while in prison and, if he or she has been in a secure mental health unit, while in that secure mental health unit; and*
- (h)** *the behaviour of the prisoner during any previous release on parole; and*
- (i)** *the behaviour of the prisoner while subject to any order of a court; and*
- (j)** *any reports tendered to the Board on the social background of the prisoner, the medical, psychological or psychiatric condition of the prisoner or any other matter relating to the prisoner, including in the case of a prisoner who is or has been a forensic patient any report of the Chief Forensic Psychiatrist; and*
- (k)** *the probable circumstances of the prisoner after release from prison; and*
- (ka)** *any statement provided under subsection (2B) by a victim of an offence for which the prisoner has been sentenced to imprisonment; and*
- (l)** *any other matters that the Board thinks are relevant.*

To enable it to apply the statutory criteria which it is required to do so pursuant to Section 72(4) of the Act, the Board is provided with a broad range of written materials to assist it in making its decision.

In any application for parole the Board will always be provided with the following documentation:

- (a) a comprehensive pre-parole report prepared by the applicant's parole officer.
- (b) an institutional report regarding the prisoner's conduct whilst imprisoned.
- (c) a record of the prisoner's prior convictions.
- (d) confirmation as to whether or not the prisoner has participated in any educational courses.
- (e) confirmation as to whether or not the prisoner has participated in the parole awareness programme.
- (f) a report from the facilitators of the sexual offenders treatment programme (if such a report is appropriate).
- (g) materials compiled by the Director of Public Prosecutions in relation to the crime(s) committed by the prisoner.

- (h) the comments on passing sentence.

The Board may also consider such other written material or reports as are presented to it and the Board deems relevant to the individual application. Such documents include but are not limited to the following:

- (a) psychological/psychiatric assessments and reports commissioned by the Board or provided to the Sentencing Tribunal
- (b) medical assessments and reports
- (c) assessments and reports from substance misuse programmes and treatment facilities
- (d) letters or submissions from the prisoner
- (e) interstate prior convictions
- (f) materials provided from interstate correctional services

7.3 Victim Impact Statements

Section 72(2B) (b) of the Act allows a victim to provide a written statement to the Board that:

- (i) gives particulars of any injury, loss or damage suffered by the victim as a direct result of the offence; and
- (ii) describes the effects on the victim of the commission of the offence.

Section 72(4) (ka) requires the Board to take that statement into account when considering a prisoner's application for parole.

The Board has in place a protocol with the Victim's Assistance Unit to enable information of relevance to a prisoner's application for parole to be provided to the Board.

The Board is provided with the following information from the Victim's Assistance Unit:

- (a) whether a victim is registered with the unit in relation to the prisoner's criminal behaviour;
- (b) whether that victim wishes to place materials before the Board for its consideration. If the victim wishes to place materials before the Board such materials are usually provided in the form of a Victim Impact Statement. Such statements usually outline in detail the impact of the prisoner's criminal behaviour on the victim;

- (c) whether the victim requests conditions attach to the prisoner's release on parole. If such a request is made by the victim the Board considers such requests and if appropriate makes specific parole conditions in accordance with the requested conditions. For example it is quite common for a victim to request a non contact clause to be made a condition of a prisoner's parole. When such a request is made by a victim the Board usually makes orders which imposes limits on the freedom of movement of the parolee in order to prevent or at least reduce the risk of the parolee coming into contact with the victim.

The provision of this information greatly assists the Board when assessing a prisoner's application for parole.

The Board, as it is required to do so in accordance with Section 72(4)(ka) of the Act, gives careful consideration and due regard to any victim impact statements provided to it. The Board is fully cognisant with the impact of crime on the greater community and/or individuals themselves.

Whilst the Board recognises that the views of victims, are a significant factor in considering an application for parole it must be remembered that such views are only one of a number of factors that the Board must have due regard to when assessing a prisoner's application for parole.

The Board is of the view that it would be wrong and contrary to the requirements of the Act if it were to refuse parole solely on the ground of a victim objecting to a prisoner being granted parole.

The Board works closely with the Victim's Assistance Unit to ensure that the present protocols in place work effectively for both the Board and the victims of crime. During the period covered by this Annual Report the Chairman of the Board has confirmed with representatives of the Victims Assistance Unit that the protocols presently in place are functioning efficiently.

7.4 Total number of prisoners released on parole

The total number of prisoners released on parole during the period covered by this Annual Report are to be found in Table One.

8. Conditions of Release

Section 72(5) of the Act provides:

(5) A Parole Order is subject to such terms and conditions as the Board considers necessary and as are specified in that order.”

The Board is given a wide discretion as to what terms and conditions will be included in a prisoner’s parole order.

The standard parole conditions which attach to every parole order made in Tasmania are as follows:

1. Upon release immediately report in person to the Manager, Community Corrections at XXX
2. Be subject to supervision on parole of a parole officer who shall be such person as is appointed for that purpose from time to time by the State Manager, Community Corrections.
3. Report to the Parole Officer, or any other person nominated by the Parole Officer, in the manner and at the places and times directed by the Parole Officer and shall be available for interview at such times and places as the parole officer or nominee may from time to time direct.
4. Reside at any address arranged or approved by the Parole Officer.
5. Only engage in employment which is approved by the Parole Officer.

6. Not change address or employment without first obtaining the permission of the Parole Officer, or, if that is not practical, then the Parolee shall inform the Parole Officer of any change of address or employment within 48 hours after its change.
7. Obey all reasonable directions of the Parole Officer including such directions as the Parole Officer may see fit to give as to counselling in relation to gambling, alcohol and drugs use.
8. Obey the parole officer's direction in relation to associates.
9. Not frequent or visit any place or district specified in direction by the Parole Officer.
10. Not leave the State of Tasmania without the prior written approval of the Manager Community Corrections.
11. Be of good behaviour and not violate any law and in particular not commit any offence involving:
 - (a) intoxication;
 - (b) dishonesty;
 - (c) sex;
 - (d) actual threaten personal violence;
 - (e) the possession or use of firearms or weapons;
 - (f) the possession or use of prohibited drugs; or
 - (g) traffic laws including the Road Safety (Alcohol & Drugs) Act;
12. Attend as directed by the Parole Officer any rehabilitation programme nominated by the Parole Officer and not, without the permission of the Parole Officer, be discharged from or do anything to bring about a discharge from that programme;

13. Do whatever is necessary to authorise all medication or other professional or technical advisors or consultants to make available to the Parole Officer relevant reports as to the Parolee's medical or other conditions at all reasonable times;
14. Not, other than in strict accordance with the directions given by a legally qualified medical practitioner, use, possess or administer any narcotic or psychotic drug or any drug or substance which cannot be legally obtained without prescription from a legally qualified medical practitioner unless the Parolee has such a prescription;
15. Present for urine testing as and when required by the Parole Officer and is to do all things and sign all such documents as may be necessary to enable such an analysis.

The Board regularly sets additional conditions which are tailored to maximise community protection by addressing the factors which underline a prisoner's offending behaviour. Such further conditions often include:

- (i) abstinence from alcohol or other substances;
- (ii) breath testing and urinalysis;
- (iii) reside at a specified location;
- (iv) participation in and completion of an assessment, treatment or counselling regime for example alcohol counselling, sex offenders programmes and psychiatric treatment;
- (v) conditions as to who the prisoner associates with and limiting the social movements of the prisoner by curfews;
- (vi) preventing contact with victims of the prisoners crime;

- (vii) excluding the prisoner from areas so as to prevent contact with the victim of the prisoner's crime.

9. Variation of Parole Conditions

Section 79 of the Act provides as follows:

79. Powers of Board to revoke parole orders, &c.

- (1) *Subject to subsection (2), the Board may, at any time, of its own motion or on receiving a report from a probation officer or any other person —*
 - (a) *revoke a parole order; or*
 - (b) *vary, amend or confirm a parole order; or*
 - (c) *suspend a parole order on such terms as it thinks fit; or*
 - (d) *exercise in relation to a parole order more than one of its powers under paragraph (b).”*

Section 79(1)(b) allows the Board to vary amend or confirm a parole order.

During a prisoners parole it may become necessary for the Board to review the conditions attaching to a prisoners parole order.

Such issues are usually brought to the Boards attention by the prisoner through his or her probation officer. The Board usually receives a report from the prisoner's probation officer outlining the proposed amendments to the parole order. Such a report usually includes recommendations from the probation officer either supporting or disregarding the proposed amendments to the parole order.

The Board considers the recommendations of the parole officer when considering to vary or revoke a condition of parole along with any material provided by the prisoner.

Such applications usually relate to changes in personal circumstances of the prisoner. For example a prisoner may have changed employment and a parole condition has become unworkable.

10. Revocation of Parole

10.1 Supervision of Offenders on Parole

In Tasmania, supervision of parolees is undertaken by probation officers of the Community Corrections Division of the Department of Justice.

Upon release from prison a prisoner is required to report forthwith to the Community Corrections office nearest to that person's place of residence.

The Board regularly seeks progress reports from probation officers. Probation officers report any concerns about the behaviour of parolees to the Board. This is particularly so in any case where it is suggested that one of the terms and conditions of the parole order has been breached or may have been breached. In the event of an allegation of misbehaviour or breach of the terms and conditions of the parole order the Board will depending on the circumstances:

- (a) issue a warning to the parolee;
- (b) issue a notice to the parolee requiring him to attend a board meeting to discuss the situation; or
- (c) issue a warrant for the parolee's arrest.

10.2 Breach of Parole

A breach of parole is constituted by a parolee's failure to comply with any of the terms and conditions on the parole order. Section 79 of the Act provides:-

- (1) *Subject to subsection (2), the Board may, at any time, of its own motion or on receiving a report from a probation officer or any other person –*
 - (a) *revoke a parole order; or*
 - (b) *vary, amend or confirm a parole order; or*
 - (c) *suspend a parole order or such terms as it thinks fit; or*
 - (d) *exercise in relation to a parole order more than one of its powers under paragraph (b).*
- (2) *Unless the Board considers it impracticable to do so, the Board is not to revoke or suspend a parole order granting parole to a prisoner unless it has first called on the prisoner to show cause why any of those powers*

should not be exercised.

- (3) If a person is sentenced to imprisonment for an offence committed during the period of his or her release on parole, the parole order is revoked whether or not, at the time of his or her conviction for that offence, the period of that release had expired.*
- (4) Subsection (3) does not apply where the execution of the whole of a sentence referred to in that subsection is suspended under the Sentencing Act 1997.*
- (5) If a prisoner's release on parole is revoked -
 - (a) in the case of a prisoner who is not a life prisoner, the prisoner is liable to serve the remainder of his or her sentence and the period of that release is not to be taken into account in determining how much of the term of his or her sentence remains to be served unless the Board otherwise directs; and*
 - (b) in the case of a life prisoner, the prisoner is liable to be imprisoned for the remainder of his or her natural life.**
- (6) Where the Board revokes a parole order applying to a prisoner after his or her release from prison, the Board may, by warrant signed by the Chairperson of the Board or the Secretary of the Board at the Chairperson's direction, authorise a police officer to apprehend the prisoner and return the prisoner to prison."*

If it is deemed necessary to issue a warrant for the arrest of the parolee, Section 80 (4) provides "on the issue of the warrant under this section for the apprehension of a prisoner on parole, the prisoner's parole is extended equal to a period commencing on the day on which the warrant is issued and ending on the day on which it is executed."

Section 80 (5) provides:

“If a prisoner is returned to prison after the execution of a warrant against the prisoner under subsection (1), the following provisions apply:

- (a) the Board, within 14 days after the prisoner is so returned to prison, is to give the prisoner an opportunity to be heard;*
- (b) the Board may, after complying with paragraph (a), exercise in relation to the prisoner the powers conferred on it by subsection (1) of section 79 as if he or she were a prisoner to whom that subsection applies ;*
- (c) if the Board revokes the prisoner's release on parole pursuant to section 79(1) the provisions of section 79(5) apply to the prisoner accordingly.”*

Of significance is the requirement to give the parolee the right to be heard in relation to any allegation that he or she has breached their parole. However, it should be noted that there is no requirement on the part of the Board to be satisfied beyond a reasonable doubt, nor indeed that any offence has been committed, or that if an offence has been committed, it is a serious one.

The Act makes it mandatory that a parole order is cancelled automatically if the parolee is sentenced to a term of imprisonment during the currency of the parole order.

The total number of prisoners whose parole was revoked during the period covered by this Annual Report is to be found in Table Two and Table Three .

11. Prison Programmes

11.1 New Directions (former Sex Offenders Treatment Program)

The New Directions Programme was introduced into the prison in 2008. This Program replaced the Sex Offenders Treatment Program.

Prisoners convicted of sexual offences are assessed and if eligible to participate in the programme are invited to participate in the programme. Assessment for participation in the program is conducted by the facilitator of the course.

Those accepted into the programme then undergo treatment in relation to their offending behaviour.

At the conclusion of the course the prisoner compiles a relapse prevention programme which assists the prisoner to identify triggers to his offending behaviour and provides the prisoner with mechanisms to assist him from re-offending. At the conclusion of the programme the Board is provided with a detailed report regarding the prisoner's participation in the course. Such reports are of invaluable assistance in assessing a prisoner's application for parole. The reports also assist the Board in formulating appropriate conditions which should be placed on the prisoner when released back into the community.

The Board has regular meetings with the facilitators of the program to discuss the number of prisoners presently enrolled in the program and their progress through program.

The Board is of the view that the sex offender's treatment programme plays an integral part in the rehabilitation of prisoners convicted of sexual based offences. The Board fully supports the continuance of the sexual offenders treatment programme conducted at the prison.

The statistics for the period covered by this Annual Report for New Directions Programme are to be found in Table 4.

11.2 Cognitive Skills, Drug and Alcohol Programmes

Education and drug and alcohol treatment programmes are to be encouraged for any prisoner within the prison system as a means to assist in the rehabilitation of the prisoner back into the community and ensuring the safety of the public.

During the period covered by this annual report the Board notes there has been a significant increase in the number of educational programmes offered to prisoners and an increase in the participation rate by prisoners in such programs.

The following programs are presently offered to prisoners:-

- (a) Making Choices: General Offending and Violence programme for medium to high risk offenders. This 100 hour Cognitive skills program is programmed to run twice a year.
- (b) Pathways: Drug and alcohol program. This 100 hour program is targeted at medium to high risk offenders and programmed to run twice per year.
- (c) Getting Started: This 24 hour low intensity program targets those inmates with shorter sentences, who have low responsiveness to their drug and alcohol issues or who have undergone a longer program and may require a maintenance program. This program aims to run 3 times a year.
- (d) Preparing for Change: is preparatory program of 16 hours, utilising a CBT approach which may be used for short term inmates or to help prepare inmates for other programs.

Drug & Alcohol programmes are conducted by the Salvation Army and other external providers.

12. Other Matters

12.1 Accommodation

As noted in the previous Annual Reports of the Board the availability of appropriate accommodation to parolees is limited. This situation remains a serious issue for the Board. The difficulty in parolees acquiring appropriate accommodation has been partially addressed by the provision of short term and longer term accommodation through Bethlehem House and PTAP. There remains a shortfall of appropriate. Stable accommodation has highlighted as one of the major factors in reducing the recidivism rate.

12.2 Media

The Board has made a conscious decision that it will make itself available to members of the media to answer questions where appropriate regarding parole applications of interest to the general public, and to discuss the role and functions of the Board. The Board through its website publishes its reasons for decision in relation to each successful application for parole.

12.3 Community Corrections

The Chairman of the Board meets with the Acting Director of Community Corrections on a regular basis to discuss issues affecting the Board and its interactions with the Department. The Parole Board has continued to maintain an excellent relationship with Community Corrections during 2009 despite increases in the workload of probation Officers in providing reports. Information continues to be provided on time and at a high professional standard.

12.4 Prison Service

The Chairperson and Secretary of the Board attend regular meetings with the Director of Prisons to discuss issues regarding parolees. As a result numerous new innovations have taken place including providing substantial and informative reports by prison staff and reducing delays in releasing prisoners.

The Board also thanks custodial officers for their assistance at Parole Board meetings.

13. Acknowledgements

Ms Hawkes was Secretary of the Board throughout 2008. The Board thanks her for all of her assistance.

The Board acknowledges the continued assistance and co-operation of the Office of the Director of Public Prosecutions and Tasmania Police.

The Board acknowledges the continue assistance and co-operation of Ms D Rabe, Manager of the Victims Assistance Unit.

The Board expresses its appreciation to Community Corrections and all the Probation Officers throughout the state for their professionalism and assistance to the Board.

27th October 2009

Andrew McKee

Chairperson

TABLE 1

Applications - Fixed Sentence Prisoners

YEAR ENDING 30 JUNE	CONSIDERED	GRANTED	REVOKED	REFUSED
1990	44	35	6	3
1991	59	46	5	8
1992	55	37	2	16
1993	46	33	2	11
1994	79	49	4	26
1995	62	44	4	14
1996	76	61	6	9
1997	134	56	3	75
1998	105	60	4	41
1999	132	81	6	45
2000	140	84	3	53
2001	146	83	9	54
2002	150	76	14	60
2003	116	54	23	39
2004	115	65	21	29
2005	155	86	25	44
2006	152	82	35	30
2007	127	77	27	19
2008	133	101	23	11
2009	156	125	27	15
Total 1990 - 2009	2182	1335	249	602

TABLE 2

Section 70 Applications (Exceptional Circumstances)

YEAR ENDING 30 JUNE	APPLICATIONS	GRANTED	REFUSED
1990	8	1	7
1991	18	0	18
1992	16	2	14
1993	6	0	6
1994	5	1	4
1995	11	2	9
1996	10	1	9
1997	13	0	13
1998	7	0	7
1999	6	1	5
2000	20	1	19
2001	9	1	8
2002	2	0	2
2003	0	0	0
2004	1	0	1
2005	4	0	4
2006	1	0	1
2007	3	0	3
2008	3	0	3
2009	6	0	6
Total 1990 - 2009	149	10	139

TABLE 3

Parole Performance - Fixed Term Prisoners

Year ended 30 June	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Released on parole	33	49	44	61	56	60	81	84	83	72	54	65	86	82	77	101	125
Revoked by Board	8	7	11	12	12	10	17	21	23	39	20	20	25	30	26	23	25
Revoked by conviction	0	0	0	3	2	3	0	2	4	2	3	1	2	5	1	3	2
Parole completed	21	26	50	54	38	29	59	53	52	67	38	74	38	38	46	94	82
On parole as at 30 June	28	57	40	39	67	79	89	111	119	180	267	193	68	75	87	108	144

TABLE 4

Sex Offenders Treatment Programme

YEAR ENDING 30 JUNE	CONSIDERED	GRANTED	REVOKED	REFUSED
2007	11	7	1	2
2008	1	0	0	0
2009	8	7*	1	1

*1 applicant was transferred to NSW. He was granted parole in NSW

Of the 23 applicants for parole who were considered Sex Offenders not all were eligible for the New Directions Program for a variety of reasons including,

- a low Static 99 risk score,
- disabilities,
- health concerns,
- and those who denied offending

15 applied for Parole (who did not participate in the course)

- 9 were granted Parole as they were assessed low risk
- 3 were unable to commence the program because of age and health restrictions and were assessed as low risk. (Parole was granted)
- 3 were refused outright. (2 have subsequently commenced the program)

Since the Review of the Sex Offender Program the criteria for eligibility has changed and more offenders will be eligible for participation. We should see a larger number participate in the program in the future.