

# **Serious Offenders Review Council**

The background of the cover is a photograph of a large, two-story classical building with a portico supported by columns. The image is overlaid with a blue gradient that is darker at the top and bottom and lighter in the middle. The building has a prominent triangular pediment over the central part of the portico. There are several windows on the upper floor, some with dark shutters. The overall tone is professional and institutional.

**Annual Report  
for the year ended December 2011**



# Serious Offenders Review Council

ANNUAL REPORT  
FOR THE YEAR ENDED  
DECEMBER 2011





The Hon. Greg Smith SC MP  
Minister for Justice  
Level 31  
Governor Macquarie Tower  
1 Farrer Place  
Sydney NSW 2000

Dear Minister

In accordance with section 209 of the *Crimes (Administration of Sentences) Act 1999*, I have pleasure in submitting to you, for the information of the Parliament, the report of the Serious Offenders Review Council for the period 1 January 2011 to 31 December 2011.

Yours sincerely

The Hon. David D Levine, AO RFD Q.C.  
Chairperson  
Serious Offenders Review Council

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## OVERVIEW

### About this Report

Under Section 209 of the Crimes (Administration of Sentences) Act 1999 the Council is required to submit an Annual Report to the Minister of Justice for presentation to Parliament providing information as to the Council's activities during the relevant year. This report covers the period 1 January 2011 to 31 December 2011.

### About Serious Offenders

This expression is defined in the legislation, and is set out in Schedule One to this report, together with information pertaining to the nature of the Serious Offender population and their offences. However, in general terms, a Serious Offender can be defined as an inmate serving a sentence of Life imprisonment, as having been convicted of murder; or who has been sentenced to a term of at least 12 years before becoming eligible to be released on parole. As at 31 December 2011, there were 729 Serious Offenders in custody (a decrease of 2.46% over the previous year), representing approximately 7.65% of the total inmate population at that time. Included in the total of 729 are 31 female Serious Offenders.

### About the Council

The Council is created by the Crimes (Administration of Sentences) Act 1999. The Council has been in existence since 14 January 1994.

The Council comprises the following categories of members:

- Judicial ..... These members are appointed by the Governor of NSW. Sitting or retired judges of a NSW Court, or the Federal Court, and magistrates, or persons qualified to be appointed as a judge of a NSW Court are eligible.
- Official ..... These members are appointed by the Commissioner of Corrective Services and are officers of Corrective Services New South Wales.
- Community ..... These members are appointed by the Governor of NSW as being persons who reflect as closely as possible the composition of the community at large.



## MEMBERS OF THE COUNCIL 2010

### Judicial Members

Chair:

The Hon. David D Levine, AO RFD Q.C.

Alternate Chair:

Dr Larissa Behrendt

Deputy Chair:

Mr Charles Vandervord (appointment ended September 2011)

Mr Luigi Lamprati SC (appointment commenced November 2011)

### Official Members

Mr Terry Halloran, Executive Director Inmate Classification, Case Management and External Leave Programs

Ms Rosslyn Quinn, Assistant Director Inmate Classification and Placement

Ms Sue Wilson, Assistant Director Inmate Classification and Placement (Deputy Official Member).

### Community Members

Mr Hatton Kwok

Mr Thomas Kenny

Ms Jan McClelland

Mr Lawrence Baker

Ms Janet Hayes (died in office 13 October 2011)

Ms Carol Mara

## PRINCIPAL FUNCTIONS OF THE COUNCIL

- a) to provide advice and make recommendations to the Commissioner of Corrective Services with respect to the following:
  - (i) the security classification of Serious Offenders,
  - (ii) the placement of Serious Offenders,
  - (iii) developmental programs provided for Serious Offenders,
  - (iv) the designation of inmates as High Security, Extreme High Security and Extreme High Risk Restricted inmate inmates (including the revocation or variation of any such designation), and
  - (v) the management of High Security, Extreme High Security inmates and Extreme High Risk Restricted inmate (including the periodic review of that management), and
- (b) to perform such other functions as may be prescribed by the regulations in relation to the management of Serious Offenders and other inmates,
- (c) to provide reports and advice to the State Parole Authority concerning consideration for the release on parole of Serious Offenders,
- (d) to prepare and submit Reports to the Supreme Court with respect to applications under Schedule 1 to the Crimes (Sentencing Procedure) Act 1999,
- (e) to review segregated and protective custody directions on application made by a relevant inmate to the Council,
- (f) to provide Reports and Advice to the Minister and to such other persons or bodies as may be prescribed by the regulations.



## PRINCIPAL ACTIVITIES OF THE COUNCIL

- (i) Convening twice-monthly meetings in relation to Serious Offenders, public interest inmates and the review of escapees: see Sections 1, 4 and 5 hereof.
- (ii) Convening three-monthly meetings in relation to High Security inmates: see Section 3 hereof.
- (iii) Conducting regular review hearings for inmates appealing segregation or protective custody directions: see Section 6 hereof.
- (iv) Conducting interviews with Serious Offenders approaching the expiry of their non-parole periods at correctional centres: see Section 2 hereof.
- (v) Providing reports to the State Parole Authority in respect of Serious Offenders: see Section 8 hereof.
- (vi) Providing Reports to the Supreme Court in respect of Serious Offenders seeking that the Court re-determine their Life sentence: see Section 7 hereof.

However, merely to state these statutory functions of the Council does not convey a complete picture of the Council's activities. For example, the Council's secretariat on a daily basis deal with an extremely wide range of written and telephone enquiries from correctional centres, Corrections Intelligence Group, the legal profession and inmate families. There is regular contact with the Courts because of the statutory requirement that Council must have regard to the remarks of the sentencing Judge (and therefore the necessity of obtaining a copy of those remarks in each case), and the need to keep itself apprised of the results of relevant appeals to the Court of Criminal Appeal. The Council is in frequent contact with Justice Health seeking advice and medical reports, and, from time to time, with the Mental Health Review Tribunal as a result of the shared responsibility in respect of Serious Offenders who are also forensic patients under the Mental Health legislation.

## DURING 2011

- (i) The number of Serious Offenders decreased from 747 to 729 (a decrease of 2.46%). In 2011 Serious Offenders represented 7.65% of the total inmate population.
- (ii) 45 Serious Offenders were the subject of Parole Orders made by the Parole Authority. The Council recommended the consideration of the release on parole in 45 of these cases. In 2011 the Council provided 138 reports to the Parole Authority containing advice in respect of Serious Offenders eligible to be considered by the Authority for release on parole.
- (iii) The Council held 21 meetings and made 1498 recommendations to the Commissioner in respect of Serious Offenders. The Commissioner (or his delegate) approved 1411 of these recommendations.
- (iv) The Council held 4 meetings reviewing the status of approximately 89 Extreme High Risk Restricted, Extreme High and High Security inmates and as a result made 1351 recommendations to the Commissioner. The Commissioner (or his delegate) approved 1085 of these recommendations.
- (v) Assessment Committees constituted by members of the Council spent 33 days at correctional centres and carried out 436 interviews with Serious Offenders.
- (vi) 35 applications were received by the Council seeking reviews of segregation or protective custody directions. Hearings were held in respect of 7 of those applications, all 7 were confirmed. 4 applications were withdrawn by the inmates and 21 directions revoked by the General Managers/ Area Manager of the correctional centres, prior to the hearing. 3 applications did not proceed for other reasons.
- (vii) 36 inmates (out of a total of 58 applications) were the subject of recommendations by Council to have their escape-risk classification removed. The Commissioner (or his delegate) approved 31.
- (viii) 1 inmate (being the only applicant) was considered by the Special E Review Committee and was the subject of recommendation by Council to have his escape-risk classification removed. The Commissioner (or his delegate) approved the recommendation.
- (ix) 156 applications from Public Interest inmates (out of a total of 198 applications) were the subject of recommendations by Council to be approved for escorted work permits on/off complex/ property and/or unescorted external pre-release leave program participation. The Commissioner (or his delegate) approved all of these recommendations.
- (x) The Council did not receive any requests for reports from the Supreme Court in respect of Serious Offenders applying to the Court to re-determine their Life sentence.



## Section 1: MEETINGS OF THE COUNCIL

- 1.1 The Council conducts regular meetings in the Conference Room at the historic Newington House, Silverwater. During 2011, the Council met on 21 occasions in respect of Serious Offenders, and made 1498 recommendations to the Commissioner as to their classification and placement, of which the Commissioner (or his delegate) approved 1411 recommendations. The Council also made 543 “stay as is” recommendations, all these recommendations were approved.
- 1.2 Meetings of the Council are held at such times as are fixed by the Chair and the procedure at such meetings is also determined by the Chair. A quorum comprises a judicial member, a community member and an official member. Generally speaking, not more than three community members can be present at a meeting of the Council.
- 1.3 However, the Chair may direct that any particular meeting of the Council is to be constituted by a meeting of a division of the Council consisting of a judicial member, a community member and an official member, and may delegate to such division any of the functions of the Council.
- 1.4 These meetings also provide the opportunity to invite guests to inform and update members on matters of interest to Council. In 2011 guests included Ms Danielle Matsuo, A/Director, Sex and Violent Offender Therapeutic Programs and Minga Wong, Senior Quality Assurance Officer, Design and Quality of Training.
- 1.5 In order to comprehend the importance of the Council’s core functions it is necessary to have some understanding of the significance of the security classification system. This allows the Serious Offender, in a proper case, to progress from the highest level classification, at the commencement of the sentence, which may require his/her incarceration in a maximum security correctional centre for as long as he/she is so classified, to the lowest level classification towards the expiry of the non-parole period of the sentence, which classification permits him/her to be held in a minimum security correctional centre. This progression, SORC ensures, is on bases particular to each individual inmate.
- 1.6 It is very much in the community’s interest that as many Serious Offenders as may properly do so progress to the lowest level of classification because it is only by so doing that the inmate becomes eligible to participate in unescorted pre-release leave programs. The purpose of such programs is to prepare the inmate for re-entry to normal life in the community following a lengthy period of incarceration. The inmate is also tested by this exposure to life in the community in the company of approved sponsors, thereby providing an additional opportunity to assess the inmate’s likely response when released from prison. An additional benefit which flows from an inmate successfully taking part in such programs is that by doing so the prospects of being released on parole, under the supervision of the Probation and Parole Service, are enhanced.
- 1.7 Thus classification determines, to a large extent, placement in a particular centre, which in turn may be decisive of what developmental programs are available to the inmate (e.g., alcohol or other drugs counselling, education, sex offender programs, violence prevention programs). The Council provides the Commissioner with written advice as to the most suitable classification of

the Serious Offender throughout the entire period of the sentence. In so doing, the Council has regard to the accumulated information gathered by the Council as to the inmate’s progress.

- 1.8 Each time the Council exercises its statutory functions, it is required to consider the public interest, and in so doing to take into account at least 14 specified subject-matters of which the protection of the public is to be regarded as paramount. The other matters which must be taken into account cover disparate topics including: the nature and circumstances of the offence, the inmate’s conduct during his current sentence, and, if applicable, during any previous sentence, the need to maintain public confidence in the administration of criminal justice, and the rehabilitation of the inmate and his eventual re-entry into the community as a law-abiding citizen (see Section 198(3) of the Act).
- 1.9 From its inception, the Council acknowledged that although not bound by Departmental policies, it would nevertheless generally be guided by them, departing from them only when it considered the particular circumstances justified such a course of action. Thus, for example, when making recommendations in respect of Serious Offenders considered eligible to undertake unescorted pre-release leave programs, the Council has regard to the time-frame adopted by the Department which requires such an inmate to be within a specified proximity to the expiry of the non-parole period of the inmate’s sentence.
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- 1.10 Death of Council Member: Council recorded its sadness at the sudden death of Ms Janet Hayes in October 2011. She was a respected community member since 2006 who had been a public figure in the Kempsey District including as Mayor and formerly as an Official Prison Visitor. The Minister asked that his condolences be conveyed to Ms Hayes’ family.



## Section 2: ASSESSMENT COMMITTEES

- 2.1 Assessment Committees, made up of Council members, visit those correctional centres throughout New South Wales which house Serious Offenders. Selected inmates are interviewed, individually. Generally speaking, these inmates are interviewed due to the fact that they are within eight years or less of their earliest possible release date and are eligible for a reduction in security classification. It should be noted that in September 2008 this time frame was extended from 5 years to 8 years prior to the earliest possible release date following amendments to the Commissioner of Corrective Services' Classification Guidelines for Serious Offenders. At these visits the Committees also meet with relevant correctional centre staff, including the General Manager, concerning the progress of those Serious Offenders.
- 2.2 The interview notes and proposals of the Assessment Committees are tabled at subsequent meetings of the Council and, together with other material on the inmate's file, provide the basis for the recommendations made by the Council to the Commissioner concerning the inmate's ongoing classification, placement and program participation. This may determine what developmental programs will be available to the inmate, and whether the inmate will progress, eventually, to a classification and placement which will allow for participation in unescorted pre-release leave programs. This participation may enhance the inmate's prospects, on the expiry of the non-parole period, of obtaining release on parole under supervision by the Probation and Parole Service.
- 2.3 These exercises carried out by the Council's Assessment Committees represent a significant proportion of the Council's overall activities, requiring, as they do, considerable input from the Council's secretarial staff, as well as from members. In addition, there is the time and effort contributed by the correctional centre staff, without which such exercises would not be possible. During 2011, Assessment Committees spent a total of 33 days carrying out 436 interviews with Serious Offenders.

## Section 3: HIGH SECURITY INMATE MANAGEMENT COMMITTEE

- 3.1 Once every three months members of the Council meet for the purpose of constituting the High Security Inmate Management Committee (HSIMC). This Committee convened for the first time in January 1998. The function of this Committee is to advise the Commissioner whether certain inmates (not confined to "Serious Offenders" or sentenced inmates) should be designated as an Extreme High Risk Restricted or an Extreme High Security inmate or a High Security inmate. At its meetings the Committee is assisted by a number of senior officers of the Corrective Services NSW who, although having no vote, nevertheless tender reports and advice to the HSIMC and are present during the conduct of the HSIMC meetings. These personnel include Assistant Commissioners, General Managers of those correctional centres which house relevant inmates as well as Corrections Intelligence staff and others.
- 3.2 The HSIMC, in its deliberations on recommendations, places significant weight on the advice of such personnel. If the HSIMC recommends that an inmate be designated either as an Extreme High Risk Restricted or a Extreme High Security inmate or a High Security inmate, the Commissioner may only act on such a recommendation if there is material on which he can decide that an inmate constitutes either a danger or an extreme danger to other people, or a threat or an extreme threat to good order and security. All inmates so designated are reviewed by the HSIMC regularly. As of 31 December 2011 there was 1 designated as an Extreme High Risk Restricted inmate, 52 inmates designated as Extreme High Security inmates and 33 inmates designated as High Security inmates. During 2011, the Council held 4 HSIMC meetings and made 1351 recommendations to the Commissioner. The Commissioner (or his delegate) approved 1085 of these recommendations.
- 3.3 In practice, the main consequences of being designated an Extreme High Risk Restricted inmate are that inmates will have "non-contact" visits, conversations with visitors will have to be conducted in English, or another language approved by the Commissioner within hearing distance of a Corrective Services translator, visitors will have to have prior approval for a visit before arriving at a correctional centre and will have to agree to a criminal records check, all outgoing mail from EHRR inmates will have to be written in English or another language approved by the Commissioner, unless the correspondence is to an exempt body, such as the Legal Aid NSW, inmates' phone calls will be limited to one monitored personal call a week, which will have to be in English, or another language approved by the Commissioner. The exceptions will be calls to legal representatives and exempt bodies such as the Ombudsman, money sent to the Corrective Services NSW for payment into an EHRR inmate's account will be returned to the sender and EHRR inmates will be designated as Serious Offenders and will come within the jurisdiction of the Serious Offenders Review Council.
- 3.4 The main consequences of being designated an Extreme High Security inmate are that the inmate is moved to different cells on a regular basis, must wear distinctive clothing on days when the inmate is permitted visitors, and the latter themselves are subject to special security measures. Such an inmate is also subject to stringent security arrangements when it is necessary to move the inmate, e.g., from prison to a courtroom.





- 3.5 The only practical consequence in the case of designation as a High Security inmate is that additional security measures may be employed when such an inmate is moved from the correctional centre to another place. In some Centres the inmate may be denied access to certain locations within the Centre by reason of his designation and as a result may be unable to participate in some programs conducted at those locations.

## Section 4: THE ESCAPE REVIEW COMMITTEE

- 4.1 Twice each month members of the Council meet for the purpose of constituting the Escape Review Committee. The function of this Committee is to deal with applications on behalf of inmates (non Serious Offenders) who have been classified as escapees within the meaning of the Regulation. The consequences of being so classified include confinement in correctional centres designated as being suitable to house inmates classified as escapees, possible limited access to certain developmental programs, and exclusion from pre-release leave programs. Applications from Serious Offenders who are classified as escapees are reviewed at the meetings for Serious Offenders (see Section 1).
- 4.2 Once an inmate has been classified by the Commissioner of Corrective Services in this way, he or she cannot be removed from that classification except on a recommendation to that effect from the Committee to the Commissioner approved by the latter. In order for the Committee to so recommend, it must be satisfied on the material before it, that there are special circumstances for so doing.
- 4.3 Clause 24 of Crimes (Administration of Sentences) Regulation 2008 provides, in effect, that an inmate “who commits an escape offence” is to be classified within one or other of the escape risk classifications prescribed. However the Clause appears to give rise to some difficulties as to the meaning to be given to the expression “escape offence”, which is defined as meaning “an offence of escaping from lawful custody or an offence of attempting or conspiring to escape from lawful custody. “This is so “whether or not he or she is prosecuted.”
- 4.4 The perceived difficulty arises in circumstances where the relevant inmate has not been convicted (i.e. found by judicial process) of an escape offence, but it is nevertheless asserted that his conduct brings him within the definition of escape offence. There is no provision as to how such an assertion is to be tested, nor as to the procedure by which the alleged conduct may be “found” to be an escape offence. Arguably, this constitutes either a separate administrative power in the Commissioner or at least blurs boundaries in respect of the common law and express statutory provisions, e.g. s.310A, Crimes Act, 1900. This unsatisfactory state of affairs was also pointed out in previous Annual Reports of the Council.
- 4.5 During 2011 a total of 58 applications were considered by the Committee, and in respect of 36 of those applications Council made a recommendation that their escape risk classification be removed. The Commissioner (or his delegate) approved 31 of these recommendations.
- 4.6 The Special E Review Committee was approved by the Commissioner in 2005 to consider progression in classification for those inmates who meet certain criteria including that the inmate was not behind a secure barrier of a correctional centre (unless the escapee was being held in custody as a fine defaulter at the time of the escape), and that the inmate did not incur a custodial sentence of more than 6 months in respect of the escape.
- 4.7 During 2011 only 1 application was considered by the Special E Review Committee, and in respect of the application Council made a recommendation that the escape risk classification be removed. The Commissioner (or his delegate) approved the recommendation.



## Section 5: THE PRE-RELEASE LEAVE COMMITTEE

- 5.1 It is the function of this Committee to review applications by so-called “public interest” inmates (other than Serious Offenders) for access to unescorted pre-release leave programs and escorted off complex projects, such applications having been referred to the Council by the Commissioner of Corrective Services NSW, for consideration and recommendation. The expression “public interest inmate” is defined in the Operations Procedures Manual of Corrective Services New South Wales. Generally, the definition covers certain types of offences, and has regard to the length of the sentence imposed for the particular offence.
- 5.2 For the purpose of discharging this function, members of the Council convene twice each month in order to constitute the Pre-Release Leave Committee to consider such applications. In order to qualify for consideration by the Committee, each such application must be supported in writing by relevant correctional centre staff, including the General Manager. During 2011 the Committee considered 198 applications for unescorted pre-release leave or escorted off complex/property permits, and in respect of 156 of such applications recommended that pre-release leave be approved. All of the recommendations were approved by the Commissioner (or his delegate).

## Section 6: SEGREGATION REVIEW HEARINGS

- 6.1 As at 31 December 2011 the total number of inmates within the NSW prison system in full-time custody (including unsentenced inmates) was approximately 9524, of whom about 16.5% were held in restricted placement of one form or another, including segregation. Restricted placement occurs either as separation from all other inmates (non association) or some other inmates (limited association). Inmates held in restricted placement are so held either as a result of a direction that they be held in segregation, or a direction that they be held in protective custody. In the case of segregation this is always as a result of a unilateral decision by the relevant authority, but in the case of protective custody, this may also derive from such a decision or, more likely, as a result of an application made by an inmate. The essential purpose of segregation is the protection of other inmates (and sometimes staff), whereas the reason for protective custody is to afford the inmate protection from certain other inmates.
- 6.2 Any inmate the subject of either a segregation direction, or a unilateral decision by the relevant authority in respect of limited or non-association protective custody has the statutory right, after 14 days in such confinement, to seek a review of the decision by lodging an application in writing with the Council.
- 6.3 In hearing and determining such applications the Council is not bound by the rules of evidence. It must notify the inmate of the hearing and allow the inmate to appear, with or without a legal representative. The Council, in deciding whether to confirm, amend or revoke the relevant decision, must take into account the following matters:
- whether the decision was made in accordance with the relevant provisions of the Act;
  - whether the decision was reasonable in the circumstances;
  - whether the decision was necessary to secure the safety of the inmate or any other person;
  - the security of, and the preservation of good order and discipline within the correctional centre; and thus whether
  - the interests of the public are served
- 6.4 During the year under review, 35 applications were made to the Council to review segregation/ protective custody decisions in circumstances where an inmate had been confined for a period exceeding 14 days, and 7 of such applications proceeded to a hearing, all 7 were confirmed; 4 applications were withdrawn by the inmates and 21 directions revoked by the General Managers/ Area Managers of the correctional centres, prior to the hearing. Three other applications did not proceed for other reasons. In the majority of cases the Council conducts such reviews by means of audio-visual facilities in relation to Centres where such facilities are available.



## Section 7: REPORTS TO THE SUPREME COURT

- 7.1 Schedule 1 to the Crimes (Sentencing Procedure) Act 1999 provides, in effect, that in respect of certain Life sentences imposed on Serious Offenders, such an inmate may apply to the Supreme Court seeking an Order that a non-parole period be set, with the result that at the expiry thereof the inmate becomes eligible to be considered by the NSW State Parole Authority for release on parole. Excluded is any inmate serving a life sentence imposed under Section 19A of the Crimes Act 1900 (N.S.W.), amended in this regard in 1989, which provides for the imposition of sentences for natural Life.
- 7.2 The Council is required to prepare and submit reports to the Supreme Court in respect of such applications: Crimes (Administration of Sentences) Act 1999, Section 197(2)(c).
- 7.3 During 2011 the Council did not receive any request for a report from the Supreme Court in respect of any Serious Offender applying to the Court for the re-determination of a Life sentence. As at 31 December 2011 there were 7 relevant inmates whose Life sentences have yet to be re-determined. There are a further 9 inmates, subject to non-release recommendations, who are eligible to make such an application after having served 30 years of their sentence.

## Section 8: REPORTS TO THE PAROLE AUTHORITY

- 8.1 The Council is required to submit reports and advice to the State Parole Authority in respect of Serious Offenders as they become eligible for release on parole advising, in particular, whether or not it is appropriate for the inmate to be considered for release on parole by the Authority (s.197(2)(a) and 135(3)). In 2011 the Council provided 137 Reports to the State Parole Authority advising the appropriateness of 116 Serious Offenders to be considered for parole by the Authority.
- 8.2 45 Serious Offenders were the subject of Parole Orders made by the Parole Authority. The Council had advised as to the appropriateness in all 45 cases.

## Section 9: SERIOUS OFFENDERS ASSESSMENT UNIT (SOAU)

- 9.1 The SOAU conducts comprehensive psychological assessments within the first six months of sentencing to assist in 'whole of sentence' case management planning for identified sexual and violent offenders. The rationale of a 'front-end' assessment is to increase opportunity for motivational enhancement and channel offenders into appropriate programs in a timely fashion prior to their Earliest Release Date (ERD). The team operates from a dedicated 27 bed unit in MSPC Area 1.
- 9.2 Since 2007 all newly sentenced SORC offenders have been automatically referred to the SOAU. Offenders are identified for assessment by a) referral directly from Serious Offenders Review Council, b) referral from the Commissioner CSNSW (generally via the Serious Sex Offenders Assessment Committee) and c) monthly data received from Corporate Research Evaluation and Statistics (CRES) flagging newly sentenced sexual and violent offenders. While the focus of the unit is the beginning of sentence, on occasions the Director, SVOTP has engaged the services of this unit to complete reports to the State Parole Authority.

## Section 10: THE COUNCIL'S SECRETARIAT

- 10.1 The administrative support staff of the Council is accommodated at Newington House within the Silverwater Correctional Complex. The small Secretariat consisting of the Executive Officer & Registrar and ten staff, is responsible for carrying out all secretarial and clerical work for the Council to enable it to fulfil its statutory responsibilities.
- 10.2 The Council wishes to place on record its indebtedness to the Executive Officer & Registrar and Secretariat staff and to acknowledge the dedication, hard work and commitment of each of the members thereof.
- 10.3 The contact details for the Council Secretariat are:  
 Executive Officer and Registrar  
 Serious Offenders Review Council  
 Private Bag 144  
 SILVERWATER NSW 1811



## SCHEDULE ONE

### SERIOUS OFFENDERS

#### Who is a Serious Offender?

The Crimes (Administration of Sentences) Act 1999 defines Serious Offender as follows:

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

### PROFILE OF SERIOUS OFFENDERS

#### Number of Serious Offenders over time

The following table represents the number of Serious Offenders as at 31 December for the years since 1995. The table also shows Serious Offenders as a percentage of the total inmate population. This percentage has remained relatively constant over the years. The numbers of Serious Offenders also includes Serious Offenders who have returned to custody for breach of parole.

Year	Total Inmates	Number of Serious Offenders	% of Total
1995	6125	410	6.69
1996	6232	417	6.69
1997	6216	458	7.36
1998	6726	471	7.00
1999	7107	483	6.76
2000	7440	521	7.00
2001	7473	530	7.09
2002	7809	568	7.27
2003	7848	594	7.57
2004	8884	628	7.07
2005	8948	644	7.20
2006	9390	662	7.05
2007	9487	671	7.07
2008	9857	706	7.16
2009	10128	710	7.01
2010	9912	747	7.54
2011	9524	729	7.65

### TYPES OF SERIOUS OFFENDERS

#### Jurisdiction

Included in the Serious Offender population, in addition to inmates convicted of N.S.W. offences by N.S.W. Courts, are inmates convicted in N.S.W. of offences against federal laws and inmates convicted in the Australian Capital Territory of federal offences, and who come within the definition of Serious Offender.

As at 31 December 2011 there were:

- 54 Serious Offenders serving Commonwealth sentences
- 8 Serious Offenders serving sentences imposed in other jurisdictions.

The number of inmates serving non-NSW imposed sentences represents 8.5% of all Serious Offenders.

### INMATES SERVING A "LIFE" SENTENCE

As at 31 December 2011 there were 97 Serious Offenders serving sentences of "Life". The meaning of a "Life" sentence may vary depending on where and when the sentence was imposed.

#### 1. Inmates sentenced to natural Life

As at 31 December 2011 there were 38 Serious Offenders serving sentences of natural Life. This represents 5.2% of all Serious Offenders. These include either a Life sentence imposed by the NSW Supreme Court since 1990 or a Life sentence imposed by the federal jurisdiction.

These inmates comprise 35 inmates sentenced for murder in NSW following the introduction of the Sentencing Act 1989. The total also includes 3 Commonwealth inmates sentenced for drug offences.

#### 2. Inmates sentenced to Life with a non-parole period

As at 31 December 2011 there were 43 Serious Offenders serving Life sentences in which the court had specified a non-parole period, at the expiry of which they become eligible for release on parole. If released to parole, the inmates will be supervised during the remainder of their Life sentences. This represents 5.9% of all Serious Offenders.

One of these inmates is also subject to 154A(3) of the Crimes (Administration of Sentences) Act 1999.

#### 3. Inmates serving Life sentences eligible to have the terms of that sentence determined by the Court

As at 31 December 2011 there were 7 Serious Offenders who are eligible to have the terms of their Life sentence determined by the Supreme Court of NSW under Schedule 1 of the Crimes (Sentencing Procedure) Act 1999. This means that those inmates sentenced in NSW to a term of Life prior to the introduction of the Sentencing Act 1989 may apply to the court to have a non-parole period and a head sentence set by the Court.

There are a further 9 Serious Offenders the subject of non-release recommendations who may apply to



have the terms of their Life sentence determined by the Supreme Court of NSW after serving at least 30 years of their sentence. These inmates are not eligible for a determination unless the Supreme Court, when considering the inmate's application, is satisfied that special reasons exist that justify the making of such a determination. These 9 Serious Offenders are also subject to 154A(3) of the Crimes (Administration of Sentences) Act 1999.

## TYPES OF OFFENCES

### 1. Inmates sentenced for murder

As at 31 December 2011, of the 729 Serious Offenders, 463 are serving sentences for murder. This represents 63.5% of all Serious Offenders.

### 2. Inmates sentenced for offences other than murder

As at 31 December 2011, of the 729 Serious Offenders, 266 are serving sentences for offences other than murder with a non parole period of 12 years or more including those deemed a Serious Offender at the direction of the Commissioner or NSW State Parole Authority. This represents 36.48% of all Serious Offenders. The offences include:

- Violent Offences including Robbery, Manslaughter, Wounding, Kidnapping (62 Serious Offenders): 8.5%
- Sexual Offences including Assault, Intercourse without Consent and Offences against Children (110 Serious Offenders): 15%
- Drug offences including Importation, Supply and Conspiracy (86 Serious Offenders): 11.8%.
- Acts in preparation for terrorism (8 Serious Offenders) 1.1%

### 3. Inmates managed as Serious Offenders by a direction of the Commissioner

As at 31 December 2011, 11 Serious Offenders were managed as such by a direction of the Commissioner of Corrective Services:

- 3 were sentenced for serious sexual (or sexually related) offences,
- 4 for serious robbery offences,
- 3 for violent offences
- 1 for murder.

This represents approximately 1.5% of Serious Offenders.

### 4. Inmates managed as Serious Offenders by a recommendation of the NSW State Parole Authority

As at 31 December 2011 there was 1 Serious Offender that was managed as such by a direction of the NSW State Parole Authority. The inmate is convicted of a violent offence and represents 0.13% of Serious Offenders.

## TYPES OF OFFENDERS

### 1. Forensic Patients

As at 31 December 2011 there were 2 Serious Offenders declared forensic patients, by virtue of the provisions of the Mental Health Act 1990.

### 2. Female Serious Offenders

As at 31 December 2011 there were 31 female Serious Offenders. This represents 4.25% of Serious Offenders:

- 25 of them are serving sentences for murder. Of these 25 females, 2 are serving sentences of natural Life.
- 2 are serving federal sentences for serious drug importation offences, 1 for supply large quantity prohibited drug
- 1 is serving a sentence for a sexual offence.
- 2 are serving a sentence for violence, one of which is designated a Serious Offender by the Commissioner.

During 2011 three female Serious Offenders was released to parole. In its report to the State Parole Authority the SORC supported their release to parole.

### 3. Aboriginal Serious Offenders

As at 31 December 2011 there were 74 Serious Offenders who identify themselves as Aboriginal. This represents 10.15% of all Serious Offenders:-

- 54 have convictions for murder,
- 6 for violent offences including manslaughter and robbery,
- 14 for serious sexual assault offences

### 4. Age of Serious Offenders

As at 31 December 2011 the age of Serious Offenders was distributed as follows:

- The youngest male Serious Offender at 31 December 2011 was 20 years old and the oldest male was 87 years old.
- The youngest female Serious Offender was 25 years old and the oldest was 72 years old.



# Serious Offenders Review Council

Annual Report for the year ended December 2011