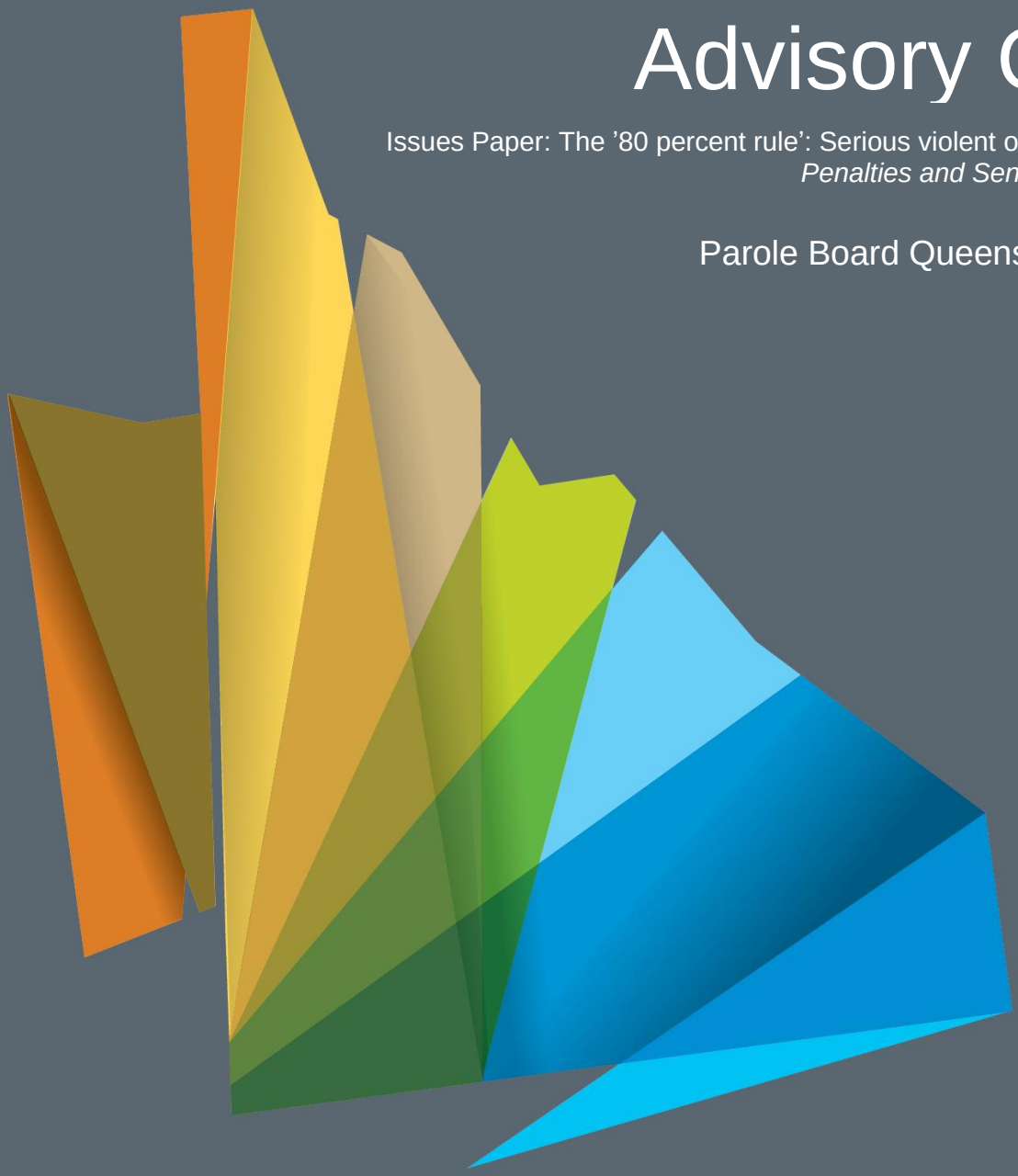
Queensland Sentencing Advisory Council

Issues Paper: The '80 percent rule': Serious violent offences scheme in the *Penalties and Sentences Act 1992* (Qld)

Parole Board Queensland Submission

4 February 2022



Parole Board | Queensland

Queensland Government

Serious Violent Offences Scheme Review

Introduction

Thank you for inviting the Parole Board Queensland ('the Board') to make a submission in response to the Council's Issues Paper 'The '80 per cent rule': The serious violent offences scheme in the *Penalties and Sentences Act 1992* (Qld).

Since 3 July 2017 the Board has been solely responsible for the grant or refusal of an application for a Board ordered parole order and the suspension, cancellation or amendment of any parole order. Hence the Board's role in relation to serious violent offenders is not limited to decisions about parole applications at first instance. The Board is involved in the supervision of serious violent offenders in the community through decisions about applications to amend and suspend parole orders. It is not uncommon for a person subject to a serious violent offence declaration to be returned to prison and re-released on a number of occasions.

The Board is committed to making evidence-based decisions about offenders and welcomes research into and discussion about the efficacy of its decision making. Beyond the following comments, the Board's submission is limited to issues which specifically relate to its functions.

The Board is supportive of Judges possessing discretion as to whether to make a serious violent offence declaration.

The Board welcomes the Council's focus on offenders convicted of domestic and family violence. Decisions about high-risk domestic violence offenders, including about conditions attaching to any potential parole order, are among the most challenging faced by Board members. The Board acknowledges the work of the Women's Justice and Safety Taskforce discussed in the Issues Paper, particularly in relation to consideration of a post-sentence supervision scheme for domestic and family violence offenders.

Programs and interventions (3-16)

The Board acknowledges that for the past two years program delivery, both in custody and in the community, has been interrupted by COVID-19.

The Board recommends that QCS provide regular updates to the courts about the availability of programs and interventions in custody. In addition to being relevant to the formulation of sentence, this information would permit Judges, should they consider it appropriate, to make comments about the desirability of a prisoner completing a specific program or intervention prior to being released on parole. These comments would be informative, not only for the prisoner, but also for the Board.

The Board's expectation is that prisoners who have committed very serious offences will ordinarily have commenced addressing any issues that have contributed to their offending behaviour prior to applying for parole. The Board considers exit reports for programs when

assessing a prisoner's insight, capacity and willingness to participate in treatment and intervention in the community should he or she be granted parole.

The Board is not always able to obtain accurate information about when a program will be offered at a particular Correctional Centre or about which applicants for parole will be offered a place the next time the program is delivered. The Board's perception is that demand for places on programs currently far outstrips available places.

The Board is particularly concerned about the very limited offering of programs focused on domestic and family violence offending and the current absence of a moderate or high intensity program targeting other offences of personal violence.

The Board would also like to draw attention to the fact that participation in many group programs is often problematic for prisoners who are victims of child sexual abuse. Many external services are currently offering counselling to prisoners who are victims of child sexual abuse.

How the Board decides whether a person should be released on parole (3.3.3, 3-18)

As the Issues Paper notes, when making decisions about parole the material considered by the Board includes any medical reports and psychiatric and/or psychological risk assessments relied upon at sentence. Where a prisoner is an open patient of the Prison Mental Health Service a report is obtained from this service. The Board also considers treatment summaries in relation to any one-on-one treatment received in custody. In some cases the Board is provided with an expert report prepared by Specialised Clinical Services within QCS. In relevant cases other health records and reports are obtained (for example, from the Neurology Clinic at the Princess Alexandra Hospital).

The Board frequently engages a psychologist and/or psychiatrist to provide a risk assessment report about applicants for parole who have committed very serious sexual offences and offences of personal violence, including offences against children.

The Board requests that prisoners provide consent to access their health care records. If a prisoner does not consent the Board can obtain relevant public health system records through Queensland Health[1].

The Board also takes into account any intelligence information available from QPS and QCS.

For prisoners who are domestic and family violence offenders, the Board usually requests that QCS undertake a survey and prepare a summary of the prisoner's use of the Prisoner Telephone System. The information gathered by QCS very often reveals prisoners continuing to commit domestic violence from prison, by, for example, using the prison telephone system to directly or indirectly threaten violence against a victim.

[1] There is an agreement pursuant to section 151(B) of the *Hospital and Health Boards Act 2011 (Qld)* between Queensland Health and the Parole Board Queensland which is available at Clinical documents, frameworks and MoUs | Queensland Health.

The Board also considers any submissions made by Community Justice Groups about the appropriateness of parole and suitable conditions. The Board is continuing to work to increase its engagement with Community Justice Groups, particularly those in remote communities.

This year, the Board will be focusing on improving information sharing with the Department of Children, Youth Justice and Community Affairs. Access to relevant information held by the Department is essential for the Board to accurately assess and respond to domestic and family violence by prisoners.

The quorum requirements in section 234 of the *Corrective Services Act 2006* have recently been amended. The President of the Board has directed that applications for parole by serious offenders, including prisoners subject to serious violent offence declarations, are to continue to be considered by five member boards, which include a QPS representative and a Public Service (QCS) representative.

Delays in assessing parole applications (3-19)

Delays considering parole applications have improved very significantly since August 2021. This is the consequence of the Board being funded to establish two additional Board teams (with Board members and Secretariat staff to support them). Team 4 has been operating since April 2021 and Team 5 since October 2021. As the Issues Paper notes, the legislative timeframes for parole applications have been extended for a six-month period. Applications received in the last week of January 2022 are expected to be considered by the Board in April or May 2022, that is, within the current statutory timeframes. The number of undecided applications for parole is decreasing. If Teams 4 and 5 continue to decide parole matters because funding is extended, the Board will comply with the recommenced 120 and150 day timeframes in the overwhelming majority of cases.

Question 6. How well are prison and post-prison rehabilitation or reintegration measures working for people who have been declared convicted of an SVO? How can they be improved?

The Board frequently encounters the circumstance that issues which have been identified by a sentencing Judge as contributing to offending have been insufficiently treated between sentence and application for parole. The Board may only request that a prisoner who is an applicant for parole be placed on a program or considered for individual treatment.

Other issues routinely encountered by the Board in relation to this cohort include:

- a dearth of suitable accommodation, particularly for prisoners who require disability support;
- scarcity of beds in live-in drug and alcohol rehabilitation facilities;
- the non-availability of electronic monitoring in some regional areas (related to telecommunications network issues); and
- concerns about the availability of QPS officers to undertake alcohol and curfew checks, particularly in remote communities.

The Board has repeatedly been informed that QCS is unable to provide the same high level of supervision to prisoners subject to serious violent offence declarations as it does for persons who are subject to supervision orders made under the *Dangerous Prisoners (Sexual Offenders) Act 2003*. In some cases the Board has refused parole because although the Board has the power to impose appropriate conditions, the level of supervision available in the community is insufficient to ensure community safety.