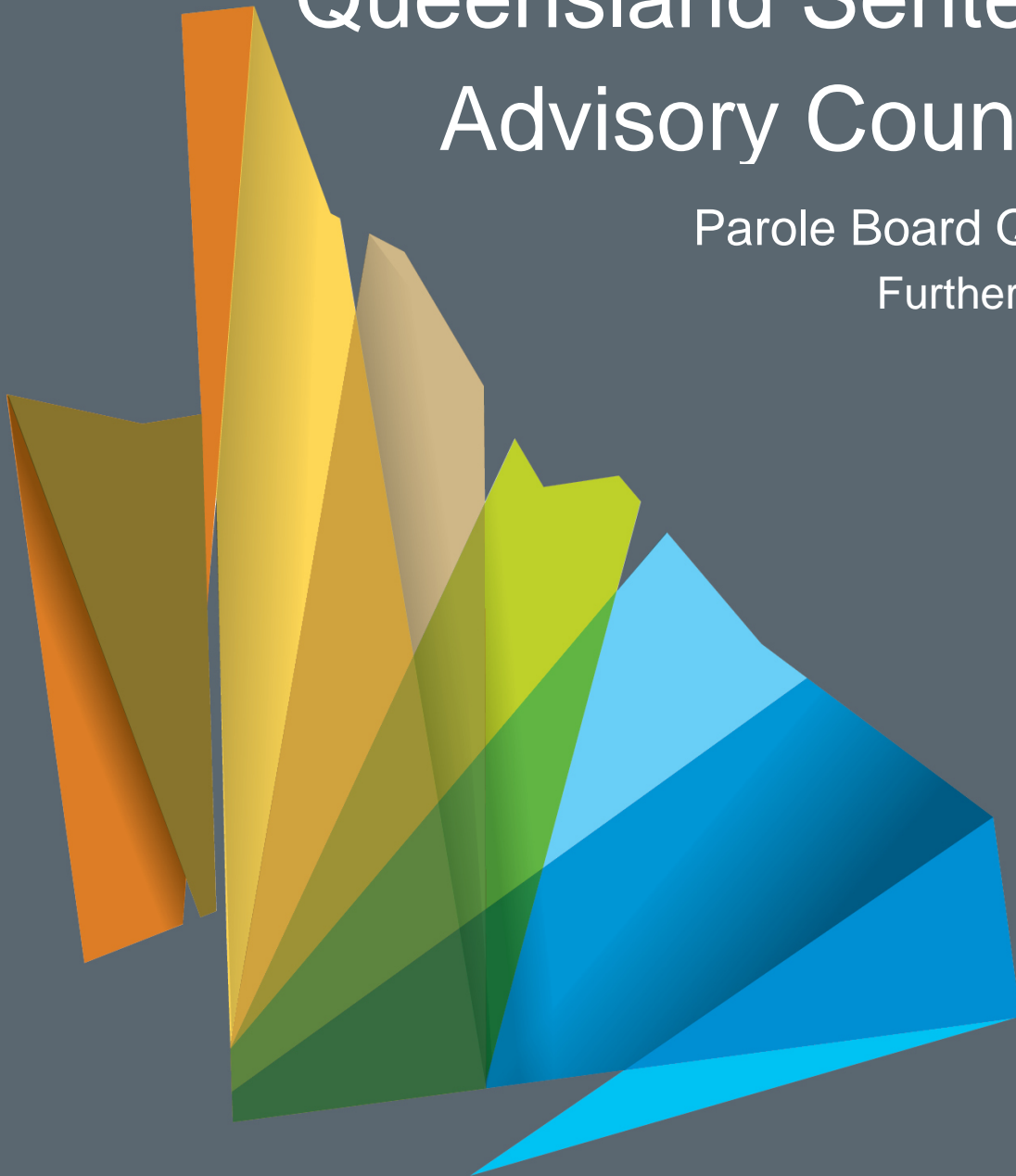


Queensland Sentencing Advisory Council

Parole Board Queensland
Further Submission
14 June 2019



Parole Board | Queensland



**Queensland
Government**



The Board has considered 'Option 4' with respect to the *Review of community based sentencing orders, imprisonment and parole options* as expressed in a letter under the hand of the Chair of the Council dated 12 June 2019.

The Board maintains its concern as expressed in its submission to the Council dated 31 May 2019, that is, the potential expansion of the ambit of court ordered parole, such as to include persons convicted of a sexual offence, is likely to significantly and adversely affect the workload of the Board.

Statistics expressed in Table 10-6 of the Options Paperⁱ show that between the period 2005-06 to 2017-18, **8,547** people were sentenced for a sexual offence. **79.6%** of those sentenced received a custodial penalty including but not limited to imprisonment and imprisonment with probation.

Statistics expressed in Figure 10-4 of the Options Paperⁱⁱ show that between the period 2005-06 to 2017-18, of those persons who received a custodial penalty, **4,951**ⁱⁱⁱ received a sentence of 3 years or less. Whilst discretion to impose a penalty that is neither a parole release date nor parole eligibility date remains (for example a suspended sentence), the Board submits that the entire class of persons may potentially be sentenced such that they fall within the jurisdiction of the Board.

The Board has been provided with a submission to the Council prepared by Queensland Corrective Services ('QCS'). The Board notes the contention of QCS that:^{iv}

The unintended consequence of excluding sexual offenders from COP appears to be that many sexual offenders are being granted sentences with no supervision (partially suspended sentences) or non-custodial sentences (probation) at a greater rate than they otherwise would be.

The Board notes with concern the statistics for those prisoners sentenced for sexual offences as obtained by the QSAC and which appear in Figure 10-4, namely:

- For sentences of less than 1 year, a wholly suspended sentence is the most commonly imposed penalty;

- For sentences of between 1-2 years, a partially suspended sentence is the most commonly imposed penalty;
- For sentences of between 2-3 years, a partially suspended sentence is the most commonly imposed penalty;
- For sentences of between 3-4 years, imprisonment (and consequently parole eligibility) is the most commonly imposed penalty.^v

Having regard to the evidence proffered above, the Board is of the view that 'Option 4.2'^{vi} is likely to result in expanded use of court ordered parole, and as a consequence, a significant increase in the workload of the Board.^{vii}

The Board's concerns in relation to the QCS statistics on successful completion of a parole order

The Board reiterates its concerns with respect to the current data regarding success on parole. In the Board's view, it is difficult to justify an increased workload in the absence of evidence indicating that the extension of court ordered parole is likely to be successful. The Board has had the opportunity to read the submissions of QCS.

The QCS submission, in addressing the 'Completed after Reinstatement' category, states:^{viii}

The relevant procedure directs staff to use this completion category primarily in cases a parolee has been suspended during the course of supervision, however then returns to the community following a period in custody and no further action has been taken against the order. This category is also used in cases where a parolee is charged with further offences and remanded in custody until the expiration of the order, while the further charges remain outstanding.

The Board emphasises that 'Completed after Reinstatement' is not limited to those parolees who are remanded in custody for further offences. The *Probation and Parole – Operational Practice Guidelines*, published by QCS provide that 'Completed after Reinstatement' applies when:



The Parole Board has suspended the order until the expiration date and the offender does not return to community based supervision during the order period.

This includes those orders that are suspended because a parolee has breached a condition of the order, for example, by failing to report, breaching curfew or using an illicit substance.

Attached and marked 'Annexure 1' is a sample of twenty-five (25) parole orders which were suspended by the Board, not reinstated by the Board, yet have been administratively finalised by QCS as "successfully completed after reinstatement".

Before a parolee has his/her parole suspended, and is returned to custody, the originating application made by probation and parole to suspend the parole order must be considered by a prescribed board member ('PBM') of Parole Board Queensland ('the Board'). Once the PBM suspends the parole order, that decision is either confirmed or set aside by the Board.^{ix}

To reiterate, only the Board has the power to suspend a prisoner's parole order.^x Once the parole order is suspended only the Board has the power to lift the suspension,^{xi} that is, to reinstate the parole order.

It is therefore an affront to the Board for a parole order which has been suspended by the Board to be listed as having been successfully completed due to the nuances of QCS accounting methodology.

To blithely record a prisoner successfully completing his/her court ordered parole under the heading, "completed after reinstatement", when that prisoner has been returned to custody for breaching his/her order, and has remained in custody until the expiration of the order, is not only at odds with the plain English dictionary meaning of the completion category heading, it is misleading.

Accordingly, the way in which a prisoner's parole order is finalised administratively by probation and parole staff, who are bound by the *Probation and Parole – Operational Practice Guidelines* published by QCS, obfuscates any meaningful analysis of the current data to determine the viability of court ordered parole.^{xii}

Conclusion

The Board supports Option 4.1 namely:

That a dual discretion should be introduced under s.160B of the *Penalties and Sentences Act 1992* that would allow courts to set either a parole release or parole eligibility date for sentences of three years or less, but retaining other criteria, including offences to which court ordered parole does not apply.^{xiii}

To be clear, the Board does **not** support Option 4.2 namely:

That a dual discretion should be introduced that allows a court to set either a parole release date or parole eligibility date when sentencing a person for a sexual offence in circumstances where the sentence of imprisonment imposed is three years or less.^{xiv}

The Board reiterates that in addition to the introduction of Option 4.1 (above), the Council should do the following:

- i. recommend an independent inquiry into the recorded data currently administratively recorded by Corrective Services on whether a prisoner has successfully completed a parole order;
- ii. recommend that a new simplified definition of whether a prisoner has successfully completed a parole order is adopted and utilised;

For example: *A prisoner has successfully completed their parole order if at the expiry of the parole order the prisoner is in the community and his/her parole order has not been suspended or cancelled.*

- iii. recommend that after a suitable period of time the new data referred to above is subject to critical analysis which forms the basis of a further inquiry into the reform to court ordered parole.



ⁱ QSAC, Community based sentencing orders, imprisonment and parole – Options Paper, April 2019 at 251.

ⁱⁱ Ibid at 253.

ⁱⁱⁱ The number of defendants that received a wholly suspended sentence of 1 year or less has been calculated by reference to the scale included in Figure 10-4 due to the actual number of persons being obstructed. Accordingly, the specific number of persons may be inaccurate, but only to an insubstantial degree.

^{iv} Queensland Corrective Services submission, page 12.

^v QSAC, Community based sentencing orders, imprisonment and parole – Options Paper, April 2019 at 253.

^{vi} As per page two of the letter under the hand of John Robertson, Chair of the Queensland Sentencing Advisory Council, dated 12 June 2019.

^{vii} Whilst the workload of the Board is not a determinative factor in this reference, it should be borne in mind that any increase in prisoners subject to court ordered parole orders, will necessitate an increase in the work load of the Board with the requisite need for additional staff and resources.

^{viii} Queensland Corrective Services submission, page 21.

^{ix} Queensland Corrective Services Act 2006, s208C.

^x *Queensland Corrective Services Act 2006*, Chapter 5, Subdivision 2A.

^{xi} Queensland Corrective Services Act 2006, s208.

^{xii} The Board, despite a request, has yet to be provided with a copy of the 'National Counting Rules' which are referred to in the Queensland Corrective Services submission at page 12.

^{xiii} As per page two of the letter under the hand of John Robertson, Chair of the Queensland Sentencing Advisory Council, dated 12 June 2019.

^{xiv} As per page two of the letter under the hand of John Robertson, Chair of the Queensland Sentencing Advisory Council, dated 12 June 2019.



ANNEXURE 1

Case No 1.

- A 47 year old is sentenced to 9 months imprisonment for domestic violence offences with a parole eligibility date of 29 April 2018.
- The Board grants the prisoner parole to a residential rehabilitation centre commencing 29 June 2018.
- The prisoner absconds from the rehabilitation centre on 9 August 2018 in breach of the parole order.
- The prisoner's parole order is suspended on 10 August 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No 2.

- A 49 year old is sentenced to 6 months imprisonment for domestic violence offences and released to parole on 29 March 2018.
- On 28 June 2018 the prisoner made threats of violence during a session with their treating psychologist. The prisoner is not charged with an offence.
- The prisoner's parole is suspended on 28 June 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No 3.

- A 42 year old is sentenced to 3 months imprisonment for breaching bail, drug and driving offences and released to parole on 9 November 2018.
- The prisoner failed to attend Probation and Parole upon his release to the order in breach of the parole order.
- The prisoner's parole order is suspended on 15 November 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No 4.

- A 39 year old prisoner is sentenced to 1 year 11 months and 22 days imprisonment for property and drug offences and received a parole eligibility date of 21 December 2017.
- The Board grants the prisoner parole commencing 8 June 2018.
- The prisoner provided a positive drug test on 4 July 2018; failed to report on 5 July 2018 as directed; and was evicted from his approved address in breach of the parole order.
- The prisoner's parole is suspended on 5 July 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No 5.

- A 54 year old is sentenced to 6 months imprisonment for disorder offences and released to parole on 28 September 2018.
- The prisoner failed to report on 4 October 2018, after being directed to do so at his first appointment on 28 September 2018, in breach of the parole order.
- The prisoner's parole is suspended on 5 October 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No 6.

- A 20 year old is sentenced to 5 months imprisonment for breaching bail and drug offending and released to parole on 7 August 2018.
- The prisoner failed to report on 20 and 22 August 2018 as directed in breach of the parole order.
- The prisoner's parole is suspended on 27 August 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No 7.

- A 24 year old is sentenced to 4 years and 4 months imprisonment for robbery and stealing with a parole eligibility date of 27 February 2018.
- The Board grants the prisoner parole commencing 29 August 2018.
- The prisoner failed to report on 3 September 2018 and absconded from their approved address in breach of the parole order.
- The prisoner's parole is suspended on 4 September 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No 8.

- A 23 year old is sentenced to 3 months imprisonment for failure to appear and released to parole on 15 August 2018.
- The prisoner failed to report on 24 August 2018 as directed, in breach of the parole order.
- The prisoner's parole is suspended on 7 September 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No 9.

- A 39 year old is sentenced to 1 year 4 months and 6 days imprisonment for contravening a domestic violence order and received a parole eligibility date of 7 May 2018.
- The Board granted the prisoner parole to reside at a live in rehabilitation centre commencing 20 August 2018.
- The prisoner absconded from the rehabilitation centre on 30 September 2018 and provided a sample of breath that returned a BAC of 0.295% that same day.
- The prisoner's parole is suspended on 4 October 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No. 10.

- A 45 year old is sentenced to 6 months imprisonment for common assault and sexual assault and released to parole on 28 June 2018.
- The prisoner failed to report on 4 July 2018 as directed, in breach of the parole order.
- The prisoner's parole is suspended on 6 July 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No. 11.

- A 36 year old is sentenced to 9 months imprisonment for property offences and released to parole on 16 March 2018.
- The prisoner failed to report on 26 June 2018 as directed, in breach of the parole order.
- The prisoner's parole is suspended on 10 July 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No. 12.

- A 34 year old is sentenced to 2 months imprisonment for breaching bail and released to parole on 17 October 2018.
- The prisoner provided a positive drug test on 15 November 2018 in breach of the order. The Board was also in receipt of confidential information about the prisoner's risk to the community.
- The prisoner's parole is suspended on 16 November 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No. 13.

- A 30 year old is sentenced to 8 months and 7 days imprisonment for breaching bail, domestic violence, weapons and drug offending and released to parole on 25 January 2018.
- The prisoner failed to report on 19 July 2018 as directed, in breach of the order.
- The prisoner's parole is suspended on 24 July 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No. 14.

- A 27 year old is sentenced to 8 months imprisonment for possessing dangerous drugs and supplying dangerous drugs and released to parole on 27 February 2018.
- The prisoner provided positive drug tests on 19 July 2018 and 7 June 2018 in breach of the order.
- The prisoner's parole is suspended on 24 July 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No. 15.

- A 29 year old is sentenced to 6 months and 12 days imprisonment for property, bail and drug offences and released to parole on 9 May 2018.
- The prisoner failed to report as directed on 5 July 2018, 17 July 2018 and 19 July 2018 in breach of the order.
- The prisoner's parole is suspended on 26 July 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No. 16.

- A 41 year old is sentenced to 6 months imprisonment for domestic violence offending and released to parole on 25 June 2018.
- On 9 July 2018 and 16 July 2018 the prisoner provided positive drug tests and on 26 July 2018, the prisoner refused to provide a sample for urinalysis testing.
- The prisoner's parole is suspended on 26 July 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No. 17.

- A 31 year old is sentenced to 9 months and 25 days imprisonment for bail, drug and property offending and given a parole eligibility date of 16 March 2018.
- The Board granted the prisoner parole commencing 9 July 2018.
- The prisoner failed to report on 25 July 2018 as directed, in breach of the order.
- The prisoner absconded from their approved address on 26 July 2018 in breach of the order.
- The prisoner's parole is suspended on 27 July 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No. 18.

- A 26 year old is sentenced to 6 months imprisonment for common assault and released to parole on 13 April 2018.
- The prisoner provided a positive drug test on 18 July 2018.
- The prisoner's parole is suspended on 31 July 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No. 19.

- A 36 year old is sentenced to 1 year and 6 months imprisonment for possessing dangerous drugs and released to parole on 6 June 2018.
- The prisoner failed to report on 30 July 2018 as directed, in breach of the order.
- The prisoner's parole order is suspended on 7 August 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No. 20.

- A 36 year old is sentenced to 9 months imprisonment for domestic violence offences and is released to parole on 14 August 2018.
- The prisoner failed to report on 28 November 2018 and 21 November 2018 as directed, in breach of the order.
- The prisoner's parole is suspended on 30 November 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No. 21.

- A 34 year old is sentenced to 3 months imprisonment for property offences and released to parole on 7 December 2018.
- The prisoner failed to report on 17 December 2018 as directed, in breach of the order.
- The prisoner's parole is suspended on 24 December 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No. 22.

- A 22 year old is sentenced to 10 months imprisonment for domestic violence and property offending and released to parole on 11 June 2018.
- The prisoner failed to report on 20 December 2018 as directed and absconded from his approved address in breach of the order.
- The prisoner's parole is suspended on 28 December 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No. 23.

- A 39 year old is sentenced to 9 months imprisonment for drug and driving offences and released to parole on 9 October 2018.
- The prisoner provided a positive drug test on 20 December 2018 and failed to engage in intervention to address their substance abuse.
- The prisoner's parole is suspended on 28 December 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

Case No. 24.

- A 24 year old is sentenced to 9 months imprisonment for offences of violence and released to parole on 7 September 2018.
- The prisoner failed to report on 19 December 2018, 4 December 2018, 29 November 2018, 26 November 2018, 8 November 2018, 1 November 2018 and 20 September 2018, in breach of the order.
- The Board was also in receipt of confidential information regarding the prisoner's risk to the community.
- The prisoner's parole order is suspended on 28 December 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.





Case No. 25.

- A 24 year old is sentenced to 6 months imprisonment for property offending and released to parole on 20 December 2018.
- The prisoner failed to report to, or engage with, probation and parole on their release from custody.
- The prisoner's parole order is suspended on 28 December 2018 and the prisoner is returned to custody.
- The prisoner remains in custody until the sentence expires.
- The prisoner's parole has been recorded as successfully completed after reinstatement.

