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Ref: AM

24 June 2011

Ms Viviane Mouait  
Policy and Research Officer  
The NSW Sentencing Council  
GPO Box 6  
Sydney NSW 2001

Dear Ms Mouait,

Thank you for inviting the State Parole Authority to provide a submission in relation to the Consultation Paper: Sentencing Serious Violent Offenders. A copy of this paper was provided to the Judicial members of the Parole Authority for their consideration and comment. Unanimously, the members felt that there was limited comment that could be provided to the Sentencing Council in relation to this issue, however, the following information is provided:

*Question One*

*Can serious violent offenders (who pose a significant high risk of violent re-offending following release) be identified in a single cohort?*

One common denominator in identifying serious violent offenders as part of single cohort would be that in almost all cases they are released without the benefit of parole supervision.

This could be for a variety of reasons such as reluctance to engage in treatment, the unavailability of appropriate treatment programs for their offence history, the concern regarding the risk they pose if released to the community during their parole period. In a number of these offenders may also have personality disorders that are not response to treatment or medication either in custody or in the community.

In identifying serious violent offenders as a homogenous group, consideration also needs to be given to differences between offences where:

- violence is within a domestic relationship/environment
- violence involves the use a weapon where the victim may be unknown to the offender
- offenders have cognitive limitations, developmental disabilities, brain injuries or significant mental health needs
- offenders who are violent within a custodial environment may not exhibit such violence in the community

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*Question Five*

*Are actuarial risk assessment methods or clinical risk assessment methods, or a combination thereof, appropriate as a basis for, (i) use in sentencing or (ii) applying a preventative detention scheme?*

In considering the use of risk assessment methods for use in sentencing, would the outcome of these assessments form the basis for reducing or increasing the sentence? eg. If two offenders committed similar offences and one offender scored higher than another on the VRAG would this then have an impact on the length of sentence or non parole period?

While a dynamic risk assessment tool (such as the VRAG or VRS) may have the appropriate use of having some impact on the sentence, this cannot be the case with an assessment tool such as the Psychopathy checklist (PCL-R) which measures personality factors that are not able to be readily modified by treatment or intervention.

Comment regarding a preventative detention scheme is provided further in this submission.

*Question Six*

*How can serious violent offenders with complex needs (a) best be identified? (b) best be managed ?*

(a) Offenders with complex needs should be identified at either the time of sentencing or upon entry to a correctional centre/mental health facility. This allows for such offenders to be housed appropriately within custody at the beginning stages of their sentence or remand period and ensure that program provision suitable to their complex need/s is available for the majority of the sentence.

(b) In custody it would be ideal to manage these offenders in one location if at all possible, this would ensure for program provision, staff with appropriate qualifications and expertise in the area of violence and additional needs and ensure that there was consistency in service delivery. This would ensure that as offenders are being considered for parole, significant intervention or treatment outcomes would have occurred (or have attempted to occur).

To assist with transition to the community (either on parole or during an extended supervision period), accommodation such as the Corrective Services Community Offender Support Program (COSP) Centres could be established. This would allow for continuity of service provision if managed and operated by staff skilled and qualified in the area of managing serious violent offenders.

*Question Thirteen*

*Is there scope for the Parole Authority to effectively supervise serious violent offenders within the current parole provisions?*

The Parole Authority's ability to oversee the supervision of serious violent offenders

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ceases at sentence expiry (as determined by the sentencing court). As such, there are currently no provisions in place to allow the Parole Authority to supervise any offender on an extended supervision order (ESO).

If extended supervision orders were to be created for serious violent offenders, the current practice of breaches of these orders being reported to the Supreme Court of NSW could remain. Alternatively, consideration could be given to enacting legislation to provide the Parole Authority with the jurisdiction to act on breaches of extended supervision orders, given the expertise the Parole Authority has in relation to breaches of conditional liberty.

*Question Fourteen*

*Should the Violent Offenders Therapeutic Program be expanded and if so in what respects?*

The Violent Offender Therapeutic Program should be extended to increase both staffing and program availability. This would ensure that any offender that was eligible for treatment would have access to program assessment, commencement and completion of treatment prior to their earliest release date.

*Question Sixteen*

*Should a form of preventative detention be adopted in NSW for serious violent offenders?*

There should be a balance between maintaining the public confidence in the administration of justice and the perception that offenders are being punished for offences that have not yet been committed.

It is considered that there is a general expectation that at the expiration of a sentence, an offender's obligation to their sentence is fulfilled. This cannot be the case if preventative detention is adopted.

*Question Seventeen*

*Are there programs that should be considered in this review, for the management of serious violent offenders that are not presently available (a) post sentence, (b) post custody?*

The Violent Offenders Therapeutic Program (VOTP) should be expanded within the custodial system while the VOTP Maintenance Program should be expanded within the community. The expansion of these programs would then allow for the participation in the VOTP Maintenance Program to a crucial element of an extended supervision order.

Consideration should also be given to what programs or intervention services that could be provided to those offenders that have significant personality disorders.

*Question Eighteen*

*Should models of indeterminate sentencing as practiced in other jurisdictions be considered for serious violent offenders?*

With very few exceptions, most offenders should be provided with the benefit of having some hope that they will be considered for release to the community at a pre-determined date. The inability to provide this to offenders may result in reduction of motivation or inclination to complete treatment, address their offending behaviour or behaviour appropriately within the custodial system.

Once again, thank you for allowing the Parole Authority to make a submission in relation to Sentencing Serious Violent Offenders and trust that the above information provides some assistance to the Sentencing Council.

Yours sincerely,



Robert Cosman  
Director and Secretary