

**SENTENCING COUNCIL
Justice & Attorney General**

*Sentencing Serious Violent Offenders
Consultation Paper May 2011*

**SERIOUS OFFENDERS REVIEW COUNCIL
[SORC]**

SORC was provided with the above discussion paper on 19 August 2011 and the responses thereto from the Law Society of NSW dated 1 July 2011 and the NSW Bar Association dated 5 July 2011.

Such materials as were available to it were the subject of discussion at the Council meeting held on 6th September 2011.

As is known SORC is a statutory body comprised of official members from CSNSW, Community Members and Judicial Members. Thus there will be disparate subjective as well as professional opinions held on the various issues of principle and philosophy raised in the Discussion Paper. Essentially however this is irrelevant.

The principal function of SORC is to act as an advisory body in relation to the classification and placement of inmates. For present purposes it has no executive role. Even in relation to Parole, its function is merely to make a recommendation to the State Parole Authority [SPA] as to whether or not it is appropriate for SPA to consider a given serious offender for release on Parole. SORC does not decide the grant of parole.

Accordingly, as a body appointed by the Executive Government, to advise only in relation to the administration of sentences imposed antecedently according to law by the sentencing Judge for the reasons that Judge states, it is not especially placed to make submissions in relation to the issues in the discussion paper. SORC performs its role, and a mere advisory one, in accordance with the law as it is for the time being. The role of the Commissioner or his delegate as the

ultimate decision maker in the relevant areas would be well known to the Sentencing Council.

Accordingly, SORC can but propose as follows. In the event that legislation cognate with the *Crimes (Serious Sexual Offenders) Act 2006* is enacted to provide for serious violent offenders in relation to extended detention or supervision, the objectives no doubt will be the protection of the community and the provision of further therapeutic intervention where appropriate.

Neither objective can be achieved in the absence of resources necessary for those ends. This is so irrespective of the point of time when a judgment has to be made by a Court of Law as to the need for Orders under any contemplated legislation.

In relation to each offender, SORC must be in an informed position to advise as to what classification should be recommended, at which Correctional Centre, for what specified and available therapeutic and vocational programs known to be in place and staffed, to achieve within an identifiable time frame, desired objectives. This must be so under the present regime or any other outcome of the current review.

SORC performs its functions according to law, as has been stated, assisted by guidelines issued by the Commissioner and with the resources available to it. The fact that an inmate may be considered a “serious sexual” or “serious violent” offender by whatever criteria that may be applied cannot be attributable to any failure on the part of SORC as a statutory advisory body.

The Discussion Paper and the two submissions referred to are sensitive to the matters of policy, practice and purpose that have to be carefully balanced; SORC has had particular regard to these matters.

The criminological ends cannot, in SORC’s view, be achieved without a realistic and comprehensive audit of existing and potential means and resources.

The Hon. David Levine AO RFD QC
Chairperson: Serious Offenders Review Council
6th September 2011