

Serious Offenders Review Council

ANNUAL REPORT
FOR THE YEAR ENDED
DECEMBER 2008





Serious Offenders Review Council

Annual Report for the year ended December 2008

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The Hon. John Robertson
Minister for Corrective Services
Level 35 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 2008 to 31 December 2008.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'David D Levine'.

The Hon. David D Levine, RDF, 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 Corrective Services for presentation to Parliament giving information as to the Review Council's activities during the relevant year. This report covers the period 1 January 2008 to 31 December 2008.

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 may be defined as an Inmate serving a sentence of Life imprisonment or having been convicted of murder; or who must serve a sentence of at least 12 years before becoming eligible to be released on parole. As at 31 December 2008, there were 706 Serious Offenders in custody (an increase of 5.2% over the previous year), representing approximately 7% of the total Inmate population at that time. Included in the total of 706 are 29 female Serious Offenders.

About the Council

The Council is created by an Act of Parliament, namely 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 the Department of Corrective Services.

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 2008

Judicial Members:

Chair:

The Hon. David D Levine, RDF Q.C.

Alternate Chair:

Dr Larissa Behrendt

Deputy Chair:

Mr Charles Vandervord

Official Members:

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

Sue Knight, A/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

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 and extreme high security inmates (including the revocation or variation of any such designation), and
 - (v) the management of high security and extreme high security inmates (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 offenders,
- (c) to provide reports and advice to the Parole Authority concerning 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 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 the broader picture of the Council's activities. For example, the Council's secretariat on a daily basis deal with a litany of written and telephone enquiries from the gaols, Corrections Intelligence Group, the legal profession, Inmates and their families, as well as victims and their 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 up with the results of relevant appeals to the Court of Criminal Appeal. The Council is in frequent contact with Justice Health Service 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 Act.

**During 2008:**

- (i) The number of Serious Offenders increased from 671 to 706 (an increase of 5.2%). In 2008 Serious Offenders represent 7.2% of the total inmate population.
- (ii) 23 Serious Offenders were the subject of Parole Orders made by the Parole Authority. The Council supported the making of Parole Orders in all 23 of these cases. In 2008 the Council provided 119 reports to the Parole Authority.
- (iii) The Council held 22 meetings and made 1715 recommendations to the Commissioner in respect of Serious Offenders (including 705 recommendations approving the case management plans prepared by Correctional Centres). The Commissioner approved 1580 of these recommendations.
- (iv) The Council held 4 meetings reviewing the status of over 100 extreme high and high security inmates and as a result made 1728 recommendations to the Commissioner. The Commissioner approved 1724 of these recommendations
- (v) Assessment committees constituted by members of the Council spent 41 days at Correctional Centres and carried out 451 interviews with Serious Offenders.
- (vi) 48 applications were received by the Council seeking reviews of segregation or protective custody directions. Hearings were held in respect of 21 of those applications, where 3 were confirmed and 26 revoked. 6 applications were withdrawn by the inmates and 21 directions revoked by the General Managers of the Correctional Centres, prior to the hearing. 19 applications did not proceed for other reasons
- (vii) 38 inmates (out of a total of 60 applications) were the subject of recommendations by Council to have their escape-risk classification removed. The commissioner approved 34.
- (viii) 8 inmates (out of a total of 8 applications) were considered by the Special E Review Committee and were the subjects of recommendations by Council to have their escape-risk classification removed. The Commissioner approved all 8 recommendations.
- (ix) 121 applications from public interest inmates (out of a total of 156 applications) were the subjects of recommendations by Council to be approved for pre-release leave. The Commissioner approved 114 of these recommendations.
- (x) The Council provided 119 Reports to the Parole Authority containing advice to the Authority in respect of Serious Offenders eligible to be considered by the Authority for parole.
- (xi) 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.
- (xii) In April 2008 the Chairperson was invited by the Judicial Commission of NSW to deliver an informal address on the function of SORC to the Annual Conference of the Judges of the District Court of NSW in Wollongong.



- (xiii) In October 2008 the Chairperson attended a one day session of the 11th International Criminal Law Congress in Sydney to hear addresses by Luke Grant, Assistant Commissioner Offender Services and Programs and Dr Don Weatherburn, Director of the NSW Bureau of Criminal Statistics and Research.

Section 1: MEETINGS OF THE COUNCIL

- 1.1 The Council conducts regular meetings in the Conference Room at the historic Newington House, Silverwater. Minutes of each meeting are recorded in writing. During 2008, the Council met on 22 occasions in respect of Serious Offenders, and made 865 recommendations to the Commissioner as to their classification and placement, of which the Commissioner approved 730 recommendations. The Council also made 850 stays as is recommendations including 705 recommendations approving the case management plans prepared by Correctional Centres. 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 2008 guests included the Commissioner of Corrective Services, Assistant Commissioner, Offender Services and Programs, Acting Director Sex & Violent Offender Therapeutic Programmes, Senior Psychologists from the SORC Assessment Unit and Manager of the Offender Assessment Unit.
- 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 incarceration in a maximum security gaol for as long as he is so classified, to the lowest level classification towards the expiry of the non-parole period of the sentence, which classification permits him to be held in a minimum security gaol.
- 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 offender successfully taking part in such programs, is that by doing so the prospects of being released on parole, under the supervision of the 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 12 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.



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. The purpose of these visits is to interview relevant gaol staff, including the General Manager, concerning the progress of those Serious Offenders. Relevant inmates are also interviewed, individually. Generally speaking, these Inmates have been selected due to the fact that they are within eight years or less of the expiry of their non-parole periods and are eligible for a reduction in security classification. It should be noted that in September 2008 this time frame extended from 5 years to 8 years or less prior to the expiry of the non parole period following amendments to the Commissioner of Corrective Services' Guidelines for Serious Offenders. A significant number of the Correctional Centres visited are located in regional and rural New South Wales. Such exercises may occupy several days with overnight stays, depending on the number of inmates involved and the number of Council members available to take part in the assessments.
- 2.2 The written reports prepared by 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 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 gaol staff, without which such exercises would not be possible. During 2008, Assessment Committees spent a total of 41 days carrying out 451 interviews with Serious Offenders.



Section 3: HIGH SECURITY INMATE MANAGEMENT COMMITTEE

- 3.1 Once every three months members of the Council met 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 Security inmate or a High Security inmate. At its meetings the Committee is assisted by a number of senior officers of the Department of Corrective Services 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 the General Managers of those gaols which house relevant inmates as well as 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 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 security¹. All inmates so designated are reviewed by the HSIMC regularly. As of 31 December 2008 there were 60 inmates designated as Extreme High Security inmates and 39 inmates designated as High Security inmates. During 2008, the Council held 4 HSIMC meetings and made 1728 recommendations to the Commissioner. The Commissioner approved 1724 of these recommendations.
- 3.3 In practice, 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.
- 3.4 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 gaol 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.
- 3.5 In the Supreme Court of New South Wales in late October 2000, an application by a designated High Security inmate seeking declarations that such designation was invalid, was dismissed. No criticism of the HSIMC’s procedures is to be found in the published judgment. However, subsequent to that decision, the HSIMC did review certain of its procedures. Changes were made as a result of that review, and the HSIMC continues to review its procedures.

¹*Crimes (Administration of Sentences) Regulation 2001, clause 25.*



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 2008 a total of 60 applications were considered by the Committee, and in respect of 38 of those applications Council made a recommendation that their escape risk classification be removed. The Commissioner approved 34 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 2008 a total of 8 applications were considered by the Special E Review Committee, and in respect of all these applications Council made a recommendation that their escape risk classification be removed. The Commissioner approved all 8 recommendations.

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, for consideration and recommendation. The expression “public interest Inmate” is defined in the Operations Procedures Manual of the Department. 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 gaol staff, including the General Manager. During 2008 the Committee considered 156 applications for unescorted pre-release leave, and in respect of 121 of such applications recommended that pre-release leave be approved. 114 of these recommendations were approved by the Commissioner.



Section 6: SEGREGATION REVIEW HEARINGS

- 6.1 As at 31 December 2008 the total number of inmates within the NSW prison system in full-time custody (including unsentenced inmates) was approximately 9857, of whom about 16% 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:
- a. whether the decision was made in accordance with the relevant provisions of the Act;
 - b. whether the decision was reasonable in the circumstances;
 - c. whether the decision was necessary to secure the safety of the inmate or any other person;
 - d. the security of, and the preservation of good order and discipline within the gaol; and
 - e. the interests of the public.
- 6.4 During the year under review, 48 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 21 of such applications proceeded to a hearing, 3 were confirmed and 2 revoked; 10 applications were withdrawn by the inmates and 25 directions revoked by the General Managers of the Correctional Centres, prior to the hearing. 8 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 offender 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 offender becomes eligible to be considered by the 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 2008 the Council did not receive any requests for reports from the Supreme Court in respect of Serious Offenders applying to the Court to redetermine their life sentences. As at 31 December 2008 there were 7 relevant inmates whose life sentences have yet to be redetermined.

Section 8: REPORTS TO THE PAROLE AUTHORITY

- 8.1 The Council is required to submit reports and advice to the Parole Authority in respect of Serious Offenders as they become eligible for release on parole advising, in particular, whether or not Council supports release to Parole: Crimes (Administration of Sentences) Act 1999, Section 197(2)(b). The Council provided 119 Reports to the Parole Authority containing advice in respect of 100 Serious Offenders eligible to be considered for parole by the Authority.
- 8.2 23 Serious Offenders were the subject of Parole Orders made by the Parole Authority. The Council supported the making of Parole Orders in all 23 of these cases.



Section 9: THE COUNCIL'S SECRETARIAT

- 9.1 The administrative support staff of the Council is accommodated at Newington House within the Silverwater Correctional Complex. The small Secretariat of the Executive Officer & Registrar and eleven staff, is responsible for carrying out all secretarial and clerical work for the Council to enable it to fulfil its statutory responsibilities.
- 9.2 The Council wishes to place on record its indebtedness to the Executive Officer & Registrar and Secretariat and to acknowledge the dedication, hard work and commitment of each of the members thereof.
- 9.3 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 offender who is serving a sentence for life, or
- (b) an offender 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 offender 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 offender 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 offender 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 offender who has been convicted of murder and who is subject to a sentence in respect of the conviction, or
- (f) an offender 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.

	1995	1996	1997	1998	1999	2000	2001	2002
Total Inmates	6125	6232	6216	6726	7107	7440	7473	7809
Number of Serious Offenders	410	417	458	471	483	521	530	568
% Of Total	6.69	6.69	7.36	7.0	6.76	7.0	7.09	7.27

	2003	2004	2005	2006	2007	2008
Total Inmates	7848	8884	8948	9390	9487	9857
Number of Serious Offenders	594	628	644	662	671	706
% of Total	7.57	7.07	7.20	7.05	7.07	7.16



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 2008 there were:

- 50 serious offenders serving Commonwealth sentences
- 7 serious offenders serving ACT sentences
- 8 serious offenders serving sentences imposed in other jurisdictions.

The number of inmates serving non-NSW imposed sentences represents 9.21% of all serious offenders.

Inmates serving a "Life" sentence

As at 31 December 2008 there were 103 serious offenders serving sentences of "life". The meaning of a "life" sentence may vary depending on where and when the sentence was imposed.

Inmates sentenced to natural life

As at 31 December 2008 there were 38 serious offenders serving sentences of natural life. This represents 5.4 % of all serious offenders. These include either a life sentence imposed by the NSW Supreme Court since 1990; a life sentence imposed by the Federal jurisdiction; or an indeterminate life sentence imposed by the ACT Supreme Court.

These inmates comprise 33 inmates sentenced for murder in NSW following the introduction of the Sentencing Act 1989. The total also includes 2 Commonwealth inmates sentenced for drug offences and 3 ACT inmates sentenced for murder.

Inmates sentenced to life with a non-release recommendation

There are 10 serious offenders, sentenced to life with non-release recommendations prior to the introduction of the Sentencing Act 1989, who are subject to 154A(3) of the Crimes (Administration of Sentences) Act 1999.

Inmates sentenced to life with a non-parole period

As at 31 December 2008 there were 48 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 6.8% of all serious offenders.



Inmates serving life sentences eligible to have the terms of that sentence determined by the Court

As at 31 December 2008 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 8 serious offenders the subject of non-release recommendations who will be eligible 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 serious offenders are also subject to 154A(3) of the Crimes (Administration of Sentences) Act 1999 noted above.

TYPES OF OFFENCES

Inmates sentenced for murder

As at 31 December 2008, of the 706 serious offenders, 467 are serving sentences for murder. This represents 66% of all serious offenders.

Inmates sentenced for offences other than murder

As at 31 December 2008, of the 706 serious offenders, 239 are serving sentences for offences other than murder with a non parole period of 12 years or more. This represents 34% of all serious offenders. The offences include:

- Violent Offences including Robbery, Manslaughter, Wounding, Kidnapping (47 serious offenders): 6.7%
- Sexual Offences including Assault, Intercourse without Consent and Offences against Children (83 serious offenders): 11.76%
- Drug offences including Importation, Supply and Conspiracy (87 serious offenders): 12.32%.
- Acts in preparation for terrorism (2 serious offenders) 0.28%

Inmates managed as serious offenders by a direction of the Commissioner

As at 31 December 2008 there were 19 serious offenders that were managed as such by a direction of the Commissioner of Corrective Services. 2 were sentenced for serious sexual (or sexually related) offences, 10 for serious robbery offences, 6 for violent offences and 1 for manslaughter. This represents approximately 2.7% of serious offenders.

Inmates managed as serious offenders by a direction of the Parole Authority

As at 31 December 2008 there was 1 serious offender that was managed as such by a direction of the Parole Authority. The inmate is convicted of a sex offence and represented 0.14% of serious offenders.



TYPES OF OFFENDERS

Forensic Patients

As at 31 December 2008 there were 6 serious offenders declared forensic patients, by virtue of the provisions of the Mental Health Act 1990.

Female Serious Offenders

As at 31 December 2008 there were 29 female serious offenders. This represents 4.1% of serious offenders.

Of the 28 female serious offenders, 25 of them are serving sentences for murder. One of these females is serving a sentence of natural life. One is serving a sentence for a sexual offence. The remaining 3 female serious offenders are serving federal sentences for serious drug importation offences.

During 2008 one female serious offenders was released to parole. In its report to the Parole Authority the SORC supported her release to parole.

Aboriginal Serious Offenders

As at 31 December 2008 there were 76 serious offenders who identify themselves as Aboriginal. This represents 10.16% of all serious offenders.

Of these 76 Aboriginal offenders 59 have convictions for murder, 4 for violent offences including manslaughter and robbery, 11 for serious sexual assault offences and 2 designated by the Commissioner.

Age of Serious Offenders

As at 31 December 2008 the age of serious offenders was distributed as follows:

The youngest male serious offender at 31 December 2008 was 20 years old and the oldest male was 84 years old.

The youngest female serious offender was 23 years old and the oldest was 68 years old.





Serious Offenders Review Council

Annual Report for the year ended December 2008