Victoria Police Submission

Question 1: Parole Purposes

1.1 The Sentencing Advisory Council has proposed a working definition of Parole Purpose in regard to the Proper Management of Parolees. The three limbs are:

- Making Victoria a Safer Place for all
- Supervising and supporting the release and reintegration of prisoners
- Thereby reducing the incidence and impact of crime committed by them whilst on parole and after sentence completion.

Please provide comments:

1. Victoria Police is supportive of the working definition of parole purpose.
2. Consideration should also be given to the elements of harm minimisation for the community as well as the parolee. Parolees are under the supervision of the state and the safe release into the community is an important element of parole management.
3. A harm minimisation approach which leads to a reduction in crime and increased public safety is consistent with Victoria Police Priorities for 2011-2012. These priorities include:
   - Responding to public safety, especially on public transport
   - Reducing and preventing crimes against the person
   - Fighting serious crime and organised crime
   - Policing our roads
   - Responding to incidents and emergencies
   - Reducing and preventing property crime.
4. Based on this approach, Victoria Police suggests including the term ‘safe release’ in the second limb of the definition.

Question 2. Proper Management of Parolees

2.1 What are the legislative and administrative frameworks underpinning the current information sharing processes?

2.2 For example are there relevant provisions of the Police Regulation Act 1958 and Regulations and the Victoria Police Manual?

5. The primary provisions which consider information sharing between Corrections Victoria and Victoria Police are s 127A (1A)-(1B) of the Police Regulation Act 1958 and s 91of the Corrections Act 1986. Under Ministerial authorisation Corrections staff have access to information from police databases. The provisions are intended to allow for the exchange of personal information about persons in custody between Corrections staff and police. This assists both police and Corrections staff to fulfil their duty of care toward persons in custody by making relevant information more readily accessible.

6. Victoria Police also has a Memorandum of Understanding with the Adult Parole Board to provide a framework for cooperation between the parties, information exchange and to set out the agreed guidelines between the parties for:
   - Reporting of parole breaches relevant to adult correctional facilities;
• Provision of resources and funding to undertake extradition;
• Reporting of serious issues relating to community safety; and
• Process of exchange of information between the parties.

7. Under s 5.3 of the MOU Victoria Police and the Adult Parole Board agree to exchange all relevant information that is or may be useful to the other party at the earliest opportunity.

8. Section 7 provides detail in relation to the confidentiality and privacy of the information that is exchanged between Victoria Police and the Adult Parole Board.

9. Section 8 of the MOU further acknowledges the obligations of Victoria Police and the Adult Parole Board under all privacy laws, law enforcement and data security laws and associated requirements including:
   • Information Privacy Act 2000 (applicable Information Privacy Principles)
   • Health Records Act 2001 (applicable Health Privacy Principles)
   • The Standards and Protocols for Access to and Release of Law Enforcement Data under the Commissioner for Law Enforcement Data Security Act 2005. There are 43 standards and 32 protocols governing all aspects of law enforcement data security.

10. The framework is further supported by Standard Operating Procedures and the Victoria Police Manual.

Question 3. Information Sharing:
3.1 Do you have existing information sharing processes currently in place for the management of parolees who breach their parole conditions?

3.2 Are there any relevant further guidelines or policies for information sharing?
   e.g MOU with the Adult Parole Board

Question 4: Breach of Parole:
4.1 What information is provided by Victoria Police to the Adult Parole Board for decision making purposes, particularly in relation to breach of parole?

4.2 What information is provided by Victoria Police to Corrections Victoria for decision making purposes, particularly in relation to breach of parole?

11. The role of co-ordination of reporting of parole breaches to Corrections Victoria rests with Operation Repeat Offender Parole Enforcement (ROPE), an ongoing initiative of Victoria Police.

12. Since May 2011, considerable changes have been made to operating processes and information sharing by Victoria Police. This work has been undertaken in recognition of the weaknesses and existing information issues in the system:
   • A LEAP Parole Interest Flag is displayed on a parolee’s master name Summary screen. Special Conditions are not yet provided on LEAP but will be introduced late August 2011.
   • Parole Breach ‘tick box’ added to the Field Contact Report to record breach of parole.
   • ROPE granted access to Prisoner Information Management System (Corrections Victoria).
   • New data regarding parolees uploaded to LEAP once every business day.
   • ‘Parole’ warning flag is displayed in ‘Attendance & Custody’.
   • Proposals to amend the Victoria Police Manual Procedures and Guidelines.
13. From an operational perspective, processes have been established for information sharing regarding parolees:

   a. *Field Contacts* - When police officers speaking to a person on the street identify the person as a parolee, a brief description of the contact is sent to Operation Rope. Operation Rope put the contact details, including details of any behavioural breach or offence into a purpose built access database. The informants report and a summary is then sent to a generic Corrections Victoria email address to inform Corrections Victoria.

   Corrections Victoria is responsible for notifying the Adult Parole Board of the relevant breaches of parole.

   At this stage, no feedback is provided to Victoria Police regarding any action taken by Corrections Victoria regarding the Parolee.

   As noted above, work is being undertaken to provide access to databases in police cars, allowing members in the field to identify parolees and input details directly.

   b. *Police station contact* - Anyone who is brought into a police station currently has their attendance recorded using the application 'Attendance,' part of the e"justice system. This application identifies parolees and automatically notifies their case workers and supervisors. Every five days, a report is sent to Victoria Police containing a list of parolees who have been in attendance at a police station, the reason for attendance and action.

   Corrections Victoria is responsible for notifying the Adult Parole Board of the relevant breaches of parole.

14. Police attend the Adult Parole Board on hearing days and are advised on the outcomes on the day of hearing.

**Question 5: Cancel Parole**

5. Is the Board always informed when a serious breach of a parole condition has occurred and a prisoner is likely to have their parole cancelled if the Board were to know about the incident? If yes, how? If not, why not?

5.2 In the context of cancelling parole, please comment on any current constraints on information sharing between Victoria Police, Corrections Victoria and the Adult Parole Board?

15. As noted above, the Adult Parole Board is notified via Corrections Victoria. Victoria Police notifies Corrections Victoria of all field contacts via email to a Corrections Victoria email address.

16. Similarly, any attendance at a police station results in a direct automatic notification to a Corrections Victoria case worker. This information is then provided to Operation Rope at Victoria Police every five days.

17. In the event of a parole cancellation a warrant will be issued for the arrest of a parolee.

18. The main forms of information sharing constraints relating to the management of parolees who have breached their conditions are linked to historical, technological and resource constraints.
Question 6: Risk Management Actions and Sanctions

6.1 How does Victoria Police know if there is an unacceptable risk to public safety because of the behaviour of a parolee, i.e. what information is available and when?

6.2 Are there restrictions on what type of information and when it is available to the Victoria Police?

19. Where the behaviour of a parolee represents a risk to public safety, Victoria Police will undertake the following actions as appropriate:

- where the behaviour represents a breach of a parole condition which is not an offence (e.g. failure to live at the listed address) Victoria Police will notify Corrections Victoria.
- where there are additional offences, Victoria Police will notify Corrections Victoria, investigate the offence and charge the parolee for any new offence if this is supported by the evidence. Depending on the offence, the parolee may then be bailed.

20. When seeking to arrest a parolee who is suspected of committing further offences, a fresh warrant for arrest based on the new offence is preferred by Victoria Police members. An arrest which is linked to the parole puts the offender in the custody of Corrections Victoria, which in turn requires Victoria Police to apply to the Court to interview the parolee under s 464B of the Crimes Act 1958.

21. Based on the information provided by Victoria Police and Corrections Victoria the Adult Parole Board may choose to cancel parole.

22. Although Victoria Police may provide information to Corrections Victoria, regarding the summary of charges and the breaches, Victoria Police has no presence on the Board and has no capacity to make recommendations directly to the Board.

Question 7: Statutory Criteria

7.1 Are statutory criteria desirable to guide decision making in relation to the granting and revocation of parole, particularly with relation to violent crimes?

23. Based on the standard conditions of parole, there are two categories of breaches:

1. Behavioural breaches e.g. failing to live at a listed address, failing to attend personal development programs, associating with particular people.
2. Offences e.g. a standard condition of parole is the requirement to obey all laws.

24. Parolees may have a range of breaches on record since their parole. In practice, behavioural breaches may be indicative of offending and recidivism.

25. However, there is no clear guidance on the number and the type of breaches which will prompt a cancellation of parole. The Adult Parole Board may be notified of a range of breaches before deciding to cancel parole.

26. There is a valid argument for discretion when reviewing parole. Parole is intended to guide the safe release of prisoners, setbacks should not necessarily result in cancellation. However, the objectives of parole are also embedded in harm minimisation, for the community and for the parolee. Parolees are under the supervision of the state and the impacts on the community need to be considered, as well as the opportunity to assist the parolee access assistance.

27. In addition, members may also take the view that a conviction is necessary before a cancellation of parole will be considered. This is dependent on the daily composition of the panel. Noting the practicalities of the justice system, there may be a long time between charge and bail and conviction (or acquittal).
28. Whilst acknowledging the importance of a fair hearing, it is important that members exercise their decision making powers with due regard to the charge and the background of the parolee, including behavioural breaches.

29. It is also important that members exercise their discretion with consistency. A decision to await the results of a hearing is not consistent with the general approach taken by the Board.

30. Victoria Police would be supportive of guidelines or criteria for cancellation of parole based on the type and number of breaches committed and the risk to the community.

**Question 8: Any other issues**

8.1: Are there any other matters which you wish to raise?

**Should a police member sit on the Adult Parole Board?**

31. As noted above, although Victoria Police may provide information to Corrections Victoria regarding the summary of charges and the breaches, Victoria Police has no presence on the Board and no capacity to make recommendations directly to the Board.

32. The Adult Parole Board membership includes a number of members from the justice community and is required to consider a range of factors including the offender’s criminal history, previous history of supervision in the community and potential risk to the community.

33. Victoria Police may be in a position to comment on these factors and therefore in some cases it may be appropriate for a member of Victoria Police to sit on the Board or provide reports or advice directly to the Board for decision making purposes.

34. A number of other jurisdictions in Australia, such as NSW, SA and WA, require a police officer, or former police officer to sit on their state parole boards. This approach was also previously taken in Victoria.

35. Victoria Police would support having a police officer in a position on the Adult Parole Board, or providing advice to the Board in another capacity.

**Should breach of parole be an offence?**

36. Breach of parole is not currently an offence.

37. In South Australia legislation is currently being considered which would allow the parole board, on breach of any parole condition, to direct that person to serve a further period of imprisonment of up to six months.

38. Similar legislation in Victoria would require further consideration of the potential impact this would have on prisons, resources and what type and number of breaches should merit an additional six months imprisonment.

39. Victoria Police recommends that consideration be given to making breach of parole an offence.