

Offender Services & Programs Corrective Services NSW

Policy for the Management of Offenders of Special Interest

EDRMS	D20/0171019
Original Approval Date	12 June 2020
Version Number	2.2
Version Date	28 April 2022
Status	Published
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Review date	8 February 2023

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Policy for the Management of Offenders of Special Interest

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1 Policy statement

The consideration and recommendation of an offender's release to parole is underpinned by the risk, needs and responsivity principles, critical functional analyses and legislative requirements.

Improving the identification and management of serious or dangerous offenders, including those that are of high interest to the public is fundamental to ensuring community safety and community confidence in Corrective Services NSW (CSNSW). These offenders are referred to as 'offenders of special interest' (OSI).

Serious offenders are already managed by the Serious Offenders Review Council (SORC): the oversight of these inmates' custodial journey, case management and program intervention is documented by SORC and recommendations on their progression made to the Commissioner and the State Parole Authority (SPA).

The CSNSW process of OSI identification, and the operational oversight of interventions provided to these offenders throughout their custodial sentence, is managed by multi-disciplinary committees and is supported by the High-Risk Offenders team (HRO team) within Offender Management and Programs (OM&P). Those not already under a governance oversight require the OSI governance to ensure community safety.

This oversight:

- allows for a clearer pathway for intervention throughout the custodial sentence
- enables a stronger assessment of the offender's ongoing risk to community safety and
- ensures all efforts are made to address any potential grounds for opposing parole prior to consideration for release on parole.

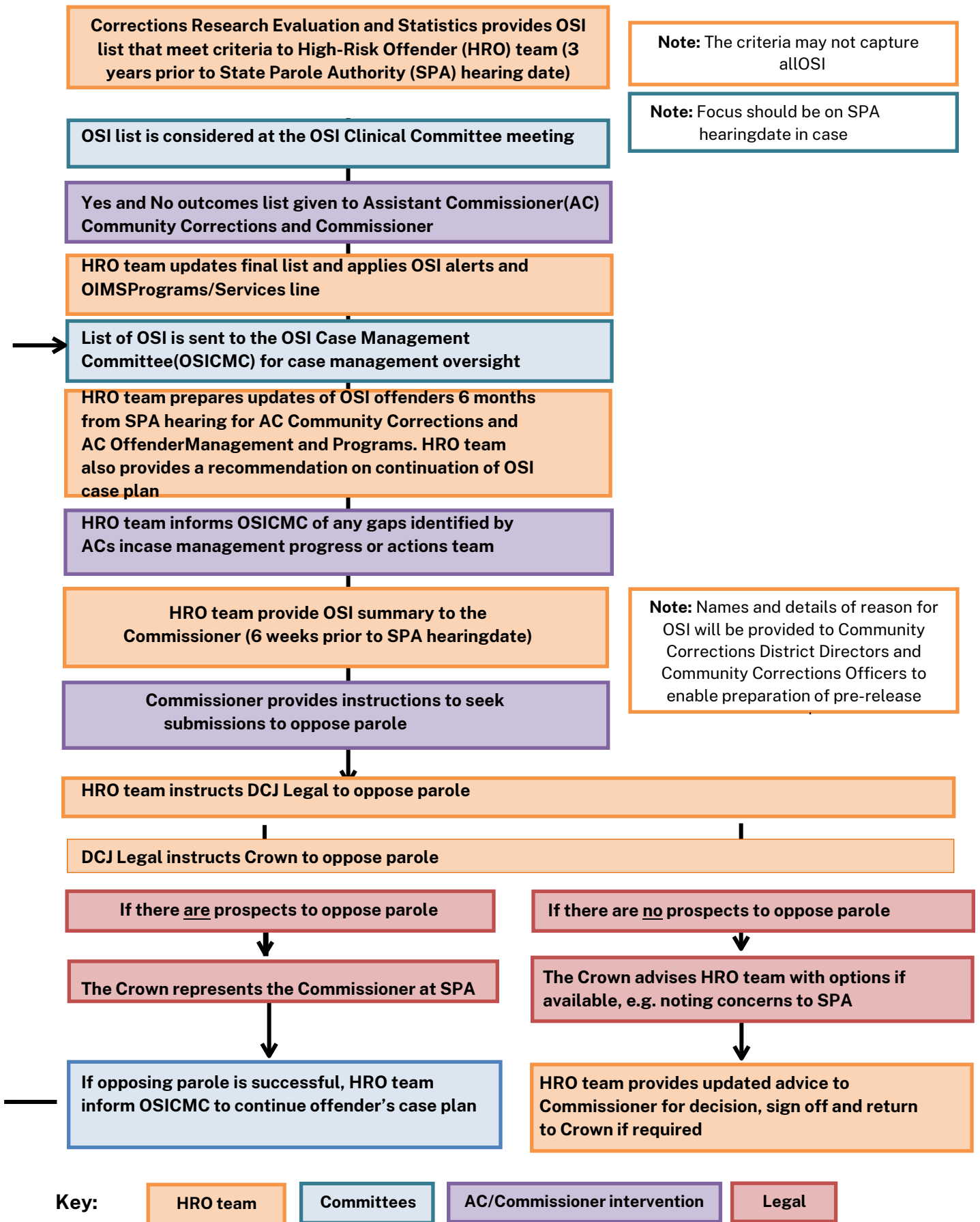
When assessing an OSI for release, the offender's whole sentence, current needs and risks must be considered. At times, this may require the offender to remain in custody beyond their initial non-parole period to ensure the custodial case plan is completed.

At times, offenders may continue to be a risk, despite all interventions being undertaken. The Commissioner, under section 141A of the *Crimes (Administration of Sentences) Act 1999* (CAS Act), may at any time make submissions to the SPA to oppose parole, seeking to keep the offender in custody to mitigate harm to the community.

This policy document provides guidelines and transparency around the management of OSI. It outlines the mechanism by which offenders are identified and explores how decisions about classifying offenders as special interest and submissions to oppose parole are made.

Figure 1 provides an overview of the OSI process. (See overpage)

Figure 1 Flowchart of Offender of Special Interest (OSI) process



2 Scope

This Policy outlines:

- the process for identifying an OSI
- case management of an OSI
- the different decision-making frameworks by parties in the OSI process.

3 Related policies

This Policy must be read in conjunction with the:

- Policy for prioritising offender services and programs in custody
- Inmate classification and placement policy and procedures – Serious Offenders Review Council and subcommittee managed inmates
- Policy and procedural documents for the management of offenders identified under the Terrorism (High Risk Offenders) Act 2017 (THRO Act)
- Policy and procedural documents for the management of offenders identified under the Crime (High Risk Offenders) Act 2006 (CHRO Act).

4 Management of OSI

4.1 Identification of OSI

4.1.1 **Potential OSI are identified by Offender Integrated Management System (OIMS)**

The criteria for OSI is derived from OIMS or manual intervention. OIMS automatically identifies potential OSI who:

- are being considered under the *CHRO Act* have current offences involving terrorism, serious violence or serious sexual offending
- have a recent history of offences involving terrorism, serious violence or serious sexual offending
- have committed any offence involving death
- are being considered under the *THRO Act* or
- Offenders designated as serious offenders and under the purview of the Serious Offenders Review Council (SORC).

Offenders must also have at least one of the following:

- media interest*
- be a High-Profile Parole Consideration offender
- registered victim/s** or
- be assessed as a medium-high or high risk of reoffending (or be currently unassessed).

*Note where the second flag is media interest, a media search is to be undertaken to determine the extent of any media coverage and whether it is likely that further media attention may occur at the time of parole consideration. This information is to be included in the OSI briefing.

**Note: where the second flag is a registered victim the Victim Support Unit will be consulted to determine whether the release to parole is likely to be contentious. This information is to be included in the OSI briefing.

The above criteria and the code used to identify the potential offenders in OIMS will not capture all potential OSI. Manual intervention will be required upon reception and at any stage of an offender's custodial sentence.

There are no restrictions for designating OSI outside of the parameters identified via OIMS. For example, an offender who is assessed as low risk but has a serious, high-profile offence may be considered.

If an offender is identified who may meet the OSI criteria due to their public profile or severity of offence, the HRO team must be notified at hroteam@justice.nsw.gov.au. Please refer to the HRO team OSI guide for further information about manually identifying offenders.

4.1.2 The HRO team reviews potential offenders for consideration

The HRO team reviews the list generated by manual notifications and OIMS to ensure offenders progressed to the Offender of Special Interest Clinical Committee (OSICC) meet the criteria for OSI. In making the judgement to remove offenders from the list, the HRO team refers to other sources of available information, such as sentencing remarks, psychological reports, reports by Community Corrections, OIMS reports, and assessment outcomes (including STATIC, LSI-R and TRAS). The HRO team will consider factors including, but not limited to:

- offenders assessed as lower risk of reoffending

The HRO team is responsible for assisting the Committee in formulating a recommendation for OSI. The HRO team develops briefings about offenders identified as potential OSI. The briefings include information about (but not limited to):

- current offences
- offending history
- custodial conduct
- prior community supervision
- potential risks and needs and strategies to address these risks and needs.

4.1.3 Decision making by the OSICC

The OSICC makes recommendations on OSI designations to the Commissioner. The HRO team's briefings of offenders are provided to the OSICC for consideration.

OSICC applies professional judgement and considers the following factors when deciding whether an offender meets the OSI criteria:

- gravity/features of offence
- risk to community safety

- recidivist sex/violence/serious offences
- high media profile offender
- victims
- custodial behaviour
- treatment pathway completion
- psychological/mental health and
- any other relevant information.

Offenders may be stood over for consideration at future meetings if further information, such as treatment pathways, is needed before making a recommendation. Reasons for designating an OSI, and any specific expectations regarding their management, are recorded with this decision.

A list of all offenders considered, including a summary of those not recommended, will be provided to the Commissioner. The Commissioner may decide to designate an OSI, even if a committee has not recommended it.

4.1.4 Role of SORC

The OSI designation has no impact on the role and functions of SORC.

The Commissioner may determine that an OSI offender not deemed as a serious offender be declared a Public Interest inmate. Public Interest inmates are only reviewed by the Pre-Release Leave Committee (a subcommittee of SORC) if the inmate applies for progression to C3/Cat 1 to participate in unescorted external leave programs.

4.1.5 Alerts and Programs/Services lines for OSI are added to OIMS

Following the recommendation of the committees and decision of the Commissioner, the HRO team is responsible for adding alerts and programs/services lines regarding OSI designation and information on the offender's progress in OIMS.

This ensures all staff working with the offender are aware that the OSI may be subject to a Commissioner's submission at release and the likely grounds for any such submission that may need to be addressed will be found in the Programs/Services lines in OIMS.

4.2 Oversight of Case management by the Offenders of Special Interest Case Management Committee (OSICMC)

OSIs are referred to the OSICMC for internal oversight and guidance in the creation of a case plan and for custodial case management strategies, intervention pathways, release planning and monitoring. The OSICMC is responsible for ensuring the offender has their needs met alongside of other priority offender groups.

The OSICMC considers factors relating to the offender, such as:

- level of risk posed to the community
- measures that have been taken to mitigate the risk to the community
- measures that are required to mitigate the risk to the community

- level of pro-social support likely to be available to assist reintegration back into the community.

Early guidance from the OSICMC on what is expected for parole to be supported strengthens arguments opposing release if offenders do not engage with interventions as required.

The Committee may make recommendations about post-release interventions to mitigate risks posed by an OSI.

4.3 Review prior to consideration for release.

All OSI are reviewed by the HRO team seven months prior to consideration for release.

Six months prior to consideration for release, the HRO team provides an update of the offender's involvement in required intervention or services as per their case plan, guidance on considering release and recommendations from the OSICMC. These are presented to the Assistant Commissioner, OM&P and to the Assistant Commissioner, Community Corrections, with a recommendation as to whether a Commissioner's submission is likely to be required (a recommendation can only be made if it is clear that all case management requirements have been addressed or if there is insufficient time left to address the outstanding issues).

Any issues identified by either the HRO team or the Assistant Commissioners regarding access or participation in services or interventions, or questions regarding post-release planning, will be referred to the appropriate Director in Community Corrections or OM&P.

Six weeks prior to consideration for an offender's release to parole, a recommendation is provided to the Commissioner via the HRO team regarding the need for a Commissioner's submission. The recommendation will provide critical analysis of the offender's circumstances and any progress against factors flagged at the time the offender was designated as an OSI (e.g., expectation of external leave), as well as their current risk level if released to the community.

5 Decision making frameworks

5.1 Factors underpinning decision making

5.1.1 SPA

The factors that SPA is required to consider when making parole decisions are defined in legislation in section 135 of the CAS Act.

The overriding consideration for SPA in making a parole order is whether it is in the interests of community safety. In considering this, the principal matters that SPA must consider are:

- the risk to the safety of members of the community of releasing the offender on parole
- whether the release of the offender on parole is likely to address the risk of the offender re-offending
- the risk to community safety of releasing the offender at the end of the sentence without a period of supervised parole or at a later date with a shorter period of supervised parole.

There are 10 other sources of information SPA must also consider, which are listed under

section 135(3) of the CAS Act. These include the nature and circumstances of the offence, comments made at sentencing and the likely effect of releasing the offender on parole on any victims or their family.

For serious offenders managed by SORC, a submission providing advice as to whether release to parole is appropriate or not is made directly by SORC to SPA, advice to this effect can be shared with Corrections staff in OM&P or Community Corrections.

Factors considered by SPA but which are not directly addressed by Community Corrections reports include the likely effect on a victim, the nature and circumstances of the offence, and comments made by the sentencing court.

5.1.2 Department of Communities and Justice Legal and the Crown Solicitor's Office

The Department of Communities and Justice (DCJ) Legal and the Crown Solicitor's Office (CSO) review the factors that SPA is required to consider under the CAS Act and provide advice to the Commissioner on the prospects should the Commissioner oppose release to parole.

5.1.3 Community Corrections

The report prepared by Community Corrections is one of the sources of information that SPA considers.

Community Corrections works with offenders towards the end of their sentence and are well informed as a result of reviewing offender's records, interviewing the offender, contacting family and significant others and liaising with service providers and other CSNSW staff (including custodial, psychology and programs staff).

Recommendations made by Community Corrections are made in the context of the whole of the offender's sentence. This includes whether treatment in custody has been completed, whether the involvement in services and interventions have addressed the offender's risk of reoffending and promote community safety.

Community Corrections District Directors provide oversight of the reports to SPA about release of an OSI on parole. District Directors must consider community confidence and community safety when endorsing a recommendation to release an OSI on parole.

5.1.4 Commissioner

The primary factors CSNSW considers when assessing an offender for release on parole are the offender's behaviour, response to custodial interventions, risk to community safety and the options available to manage those risks if the offender is released. These requirements are specified within legislation and policy.

Notice of a possible Commissioner's submission is given to SPA by the HRO team. The HRO team also provides instructions to DCJ Legal or the CSO to advise CSNSW on the prospects for success of the Commissioner opposing release to parole. The HRO team provides updated information to DCJ Legal and the CSO as required throughout this process.

The Commissioner determines when a submission is to be made to oppose parole. Consideration may include information that is known outside of case management and OSI processes. On most occasions, the recommendations of Community Corrections staff will

align with the decision of the Commissioner.

6 Document history

Version	Date	Reason for Amendment
1.0	12 June 2020	Initial publication
2.0	24 August 2020	Remove references to the functions of SORC
2.1	8 February 2021	Changes made to the OSI criteria that reflect changes in CRES data being received and also to the flowchart to include the processes of DCJ Legal
2.2	28 April 2022	Changes made to the workflow for 6 weekly briefings to the Commissioner and amended instructions briefings to the Commissioner.
