A hand is shown reaching upwards from the bottom left. The background is a light blue gradient with white silhouettes of people and a faint map of South Australia. The text is centered in the upper half of the image.

Giving victims voice: Co-victims' of homicide views on murderers being released on parole.

Michael O'Connell
Commissioner for Victims' Rights
Sarah Fletcher
Assistant Commissioner for Victims' Rights



Government of South Australia
Commissioner for Victims' Rights

History of Parole process

- Did not develop from any specific source or experiment;
- An outgrowth of a number of measures –
 - Conditional pardon;
 - Transportation of criminals to Australia;
 - English & Irish experiences with 'Ticket of Leave';
 - Influence of penological reformers



Rationale for Parole

- Rationale for parole varies:
 - Humanitarian effort;
 - Medical model;
 - Rehabilitative model;
 - Means for maintaining prison discipline;
 - Way to reduce prison overcrowding.



Parole in SA

- In 1969 South Australia's first parole laws – s 42 Prisons Act 1936-76 - exemplified the 'indeterminate approach': assigning all responsibility for deciding prisoners' release dates and conditions to a Parole Board.
- Unless the Court stated a 'non-parole period', which they rarely did at that time, most prisoners were eligible for parole immediately they were sentenced.



Parole in SA

- In 1983 legislation SA enacted law that transformed patterns of sentencing and the administration of parole
- Amendments to the Prisons Act, 1936-83 removed the Parole Board's power to decide whether or not a prisoner sentenced to a year or more in gaol would be released at the end of the non-parole period, and allowed parole release dates to be brought forward by up to a third through remissions.
- The law moved SA more toward "determinate" modes of sentencing.



Parole in SA

- In 1990s 'Truth in Sentencing' law disallowed 'remissions' of up to a third.
- Currently, for most offenders who have been imprisoned for less than five years and a non-parole period has been fixed, release on parole happens automatically, subject to some exceptions.

Other offenders must apply to the Parole Board to be released on parole.

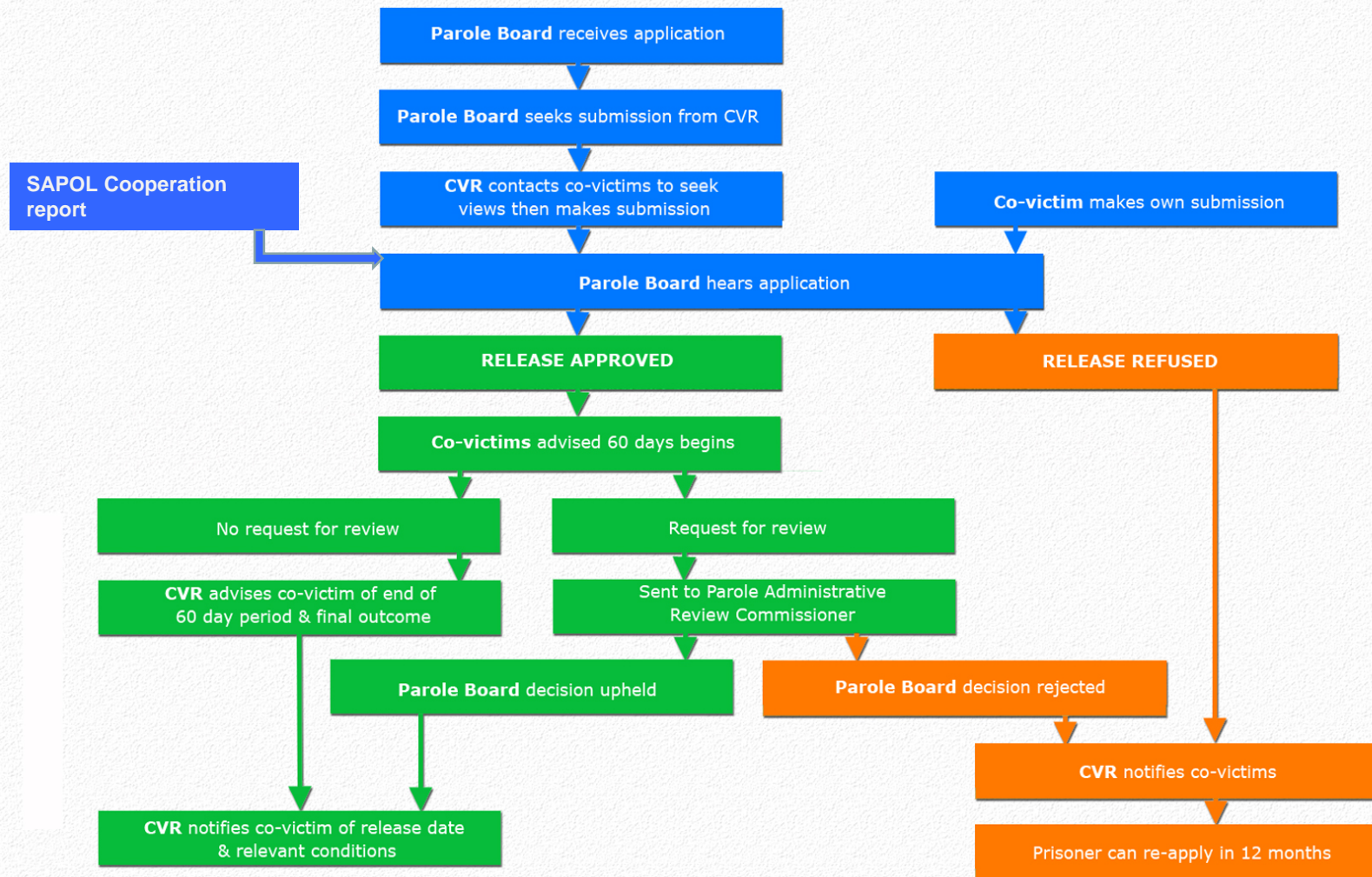


Evolution of Victims' Rights & Parole

- 1985 – Declaration on Victims' Rights
- 1982 – Release of information to registered victims
 - Submissions (written / oral)
- 2010 – Victims notified award of damages to prisoners
- 2015 – Impact of release on victim



Flowchart



Victim participation

- Black (2003) – a full model of victim involvement in parole decisions
 1. Right to be informed of an upcoming hearing
 2. Right to make submissions
 3. Right to have submission considered in parole decision
- Bernat et al. (1994) – submissions be prepared by a victim advocate to ensure “victim input occurs in virtually all cases”



Submissions include

- Ongoing issues relating to the impact of the offence on the co-victim and family members.
- Perceived safety concerns or other worries e.g. retribution
- Requests for 'exclusion zones'
- Any outstanding issues that the co-victim feels should be brought to the Board's attention
- No contact condition



28

- Applications for Parole

55

- Registered victims

106

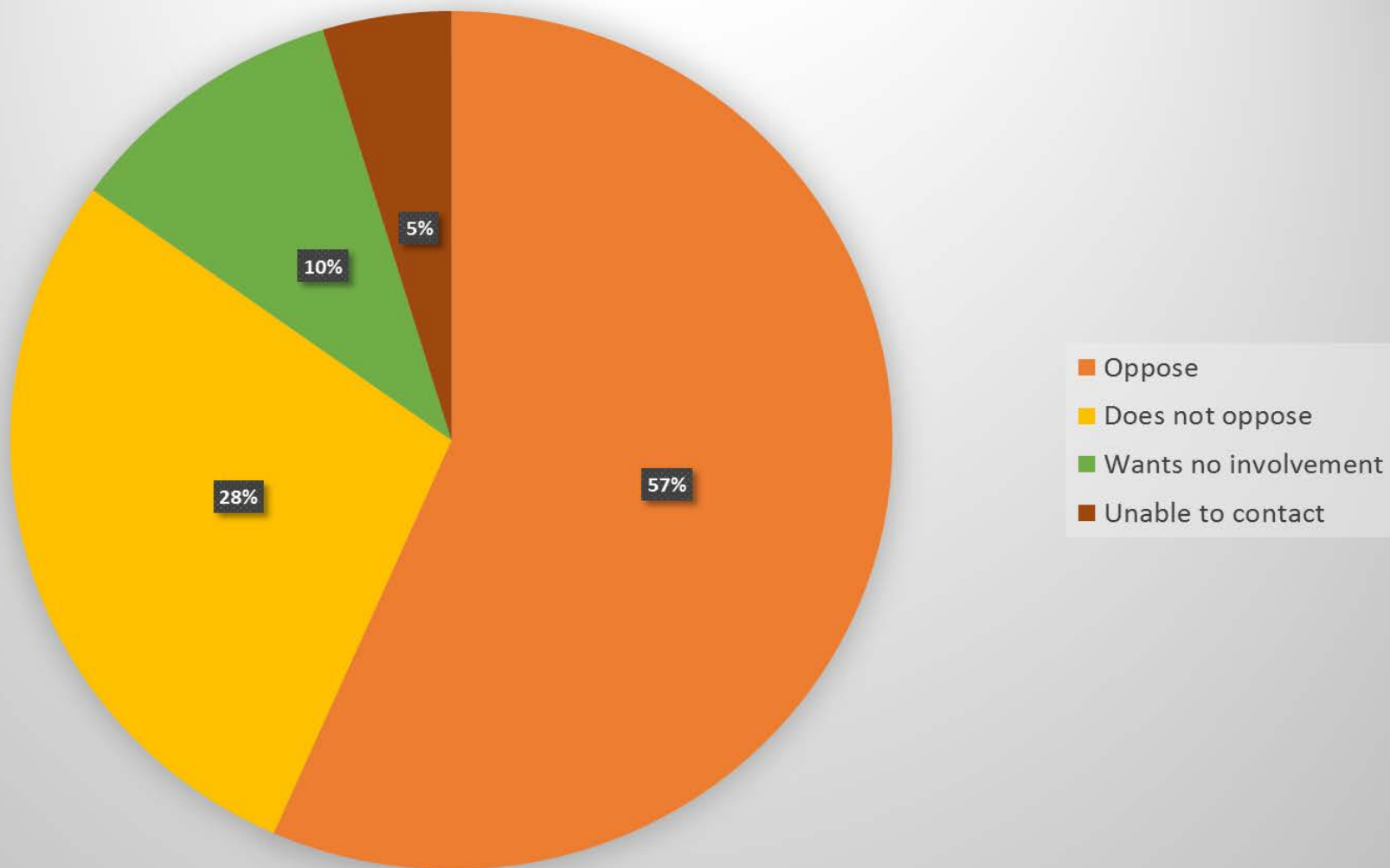
- Total victims identified

101

- Victims contacted by CVR



Attitudes to Release on Parole



Dominant themes - Opposition

- No remorse
- Given up their right to freedom
- Likely institutionalised & unable to cope
- Incapable of being rehabilitated
- Unjust - Life should mean life
- Risk too great / concern for community safety
- Release will bring back feelings of injustice - wish him to serve his sentence in its entirety
- Sentence to date inadequate (i.e. 5 years)
- Opposes but understands in eyes of law he is entitled
- Fearful - but more accepting with time



Themes – No Opposition

- So long as poses no risk to others
- Whilst in prison a burden on society
- Hopes he is released & able to get on with his life
- Does not oppose so long as Parole Board satisfied he is adequately rehabilitated
- Let bygones be bygones - wants the prisoner to get on the straight and narrow and wants these views communicated to prisoner
- Not her place to determine – fear not hatred

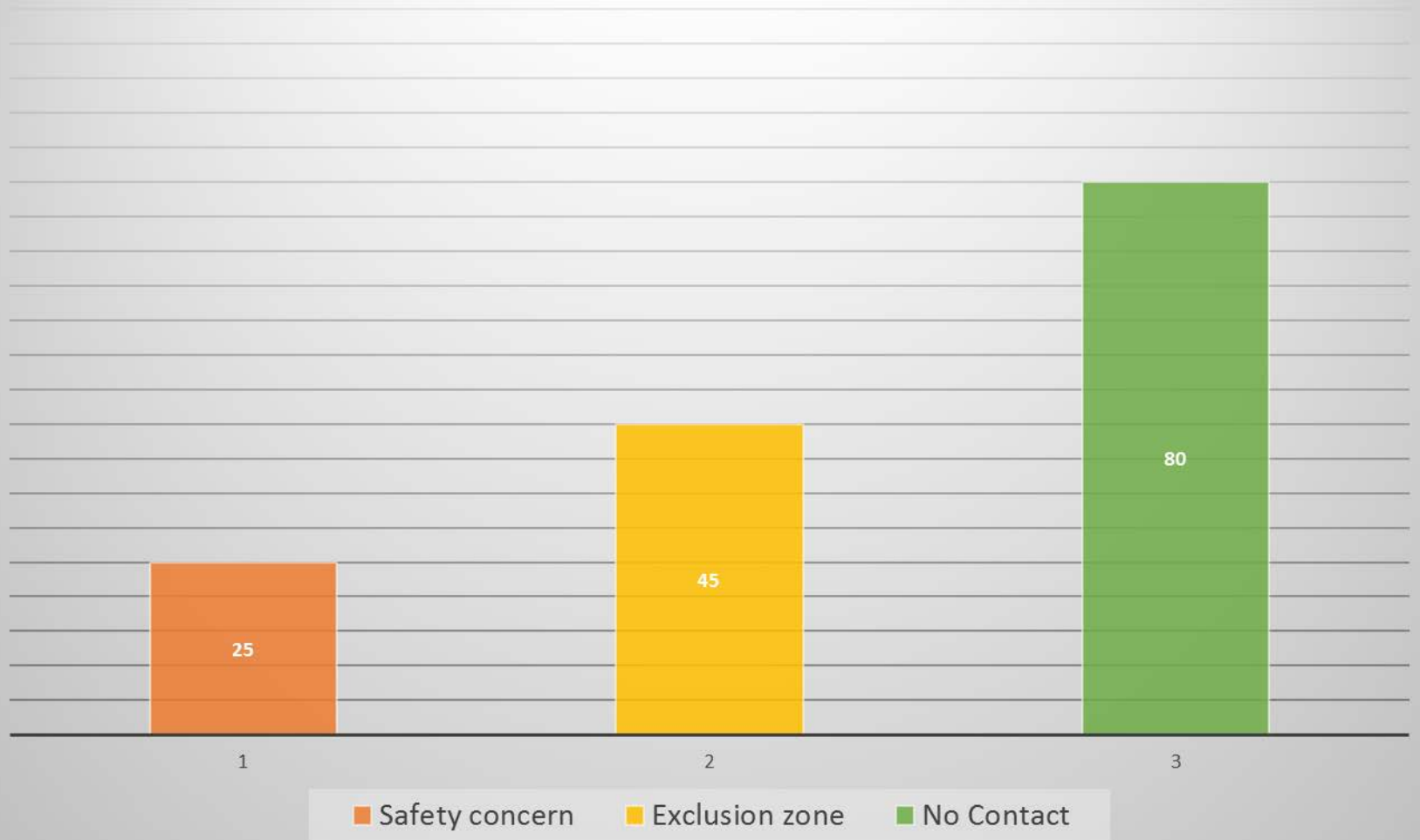


Themes – No involvement

- Does not wish to influence the Parole Board
- Believes in forgiveness (not minimising or excusing)
- Not for her to comment – no way of knowing if rehabilitated
- Not their job



Safety Concerns and Requests



Attitudes when advised of outcome

- Upset / Accepting
- Conceded prisoner had done over and above his initial 14 year non-parole period
- Acknowledged that this time would come and that the parole conditions addressed his submission
- Appreciative of information re: steps taken to rehabilitate
- Welcomed lifetime parole
- Pleased matter finally resolved and hopes all involved can now move on.
- Satisfaction in knowing where he can't go
- Accepting - stated exclusion zone will help
- Accepting - should be given a second chance
- Did not wish to influence process - has sent a forgiveness letter



Attitudes re Process

- Thankful/Appreciative to have input and be kept informed.
- Appreciative for all the assistance and to have been kept informed.
- Thank us and Parole Board for listening to her
- So very grateful to have a voice at this stage as it feels that their voices were somewhat silenced during the CJS process
- Thankful to be engaged - gave him an opportunity for the first time to find out exactly what happened to his father - 3 1/2 at time of murder
- Grateful of chance to express his view



Conclusion

ACCESS TO JUSTICE

Right to be consulted on key decisions that
affect them

VOICE AND VOICE RECOGNITION

