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Committee Secretary
Legal Affairs and Safety Committee
Parliament House

Police Powers and Responsibilities and Other Legislation Amendment Bill 2021 (Qld)

Submission by Prisoners' Legal Service

8 October 2021

Introduction

Thank you for providing Prisoners' Legal Service (PLS) with an opportunity to comment on the *Police Powers and Responsibilities and Other Legislation Amendment Bill 2021* (the **Bill**).

PLS is a community legal centre that has operated in Queensland for over 30 years. We provide legal advice and representation to people in prison about matters arising from imprisonment. PLS has significant expertise regarding the impact of incarceration on the most vulnerable members of our society.

PLS conducts prison visits, operates a telephone advice line, and responds to mail from people in prison across the state. PLS also provides legal representation to people in prison, including supporting people to make submissions to the Parole Board and to seek judicial review of the Board's decisions. The majority of clients who receive legal representation from PLS are First Nations people and people with disabilities.

PLS does not support the proposed amendments to the *Corrective Services Act 2006* (Qld). We hold serious concerns about changes outlined in the Bill, which relate to parole eligibility, parole decision-making processes, extension of parole decision making time frames and the publication of parole decisions. This submission explains our concerns with the Bill, based on our position as legal experts who assist and represent people in prison with parole matters.

On 1 September 2021, PLS provided submissions to the Minister for Police and Corrective Services and Minister for Fire and Emergency Services in response to invitation to provide feedback on an earlier draft version of the Bill. These submissions replicate parts of our earlier submissions and include additional comments relating to the proposed extension of parole decision making time frames, which did not appear in the earlier version of the Bill.

Current context: a parole and prison system in crisis

At present, parole decision-making in Queensland is in crisis. Most people in prison who are applying for parole are experiencing significant delays in having their applications decided by the Board.[1] This situation has resulted in a substantial increase in applications for judicial review in Queensland courts.[2] Additionally, people in prison have successfully appealed or applied to re-open and vary their sentences to mitigate the impact of parole delays.[3] Judges and Magistrates are also citing parole delays to justify mitigating sentences at the first instance.[4]

In addition to its impacts in the courts, the current crisis with parole decision-making directly contributes to issues within prisons, particularly overcrowding; as at 17 August 2021, there were 10,153 people in prison.[5] The consequence of a prison system in crisis is that many of the purported rehabilitative purposes for which imprisonment is ordered cannot be achieved, which further

[1] See Felicity Caldwell, 'Prisoners kept behind bars for months amid backlog', *Brisbane Times* (20 April 2021) <https://www.brisbanetimes.com.au/politics/queensland/prisoners-kept-behind-bars-for-months-amid-parole-board-backlog-20210420-p57kqa.html>.

[2] See Kay Dibben, 'Judge slams Parole Board amid 'unprecedented' delays', *The Courier Mail* (5 July 2021) [accessed via Factiva]; David Murray, 'Killer sues in bid for release', *The Australian* (2 August 2021) 3 [accessed via Factiva].

[3] See e.g. Tony Keim, 'Six-month parole backlog leads to an immediate release', Proctor (18 May 2021) <https://www.qlsproctor.com.au/2021/05/six-month-parole-backlog-leads-to-an-immediate-release/>.

[4] See e.g. Peter Hardwick, 'Offender's sentence reduced due to Parole Board hearing delays', The Chronicle (Toowoomba, 22 July 2021) [accessed via Factiva].

[5] Katie Hall, 'Probe into parole glut', *Townsville Bulletin* (23 August 2021) 12 [accessed via Factiva].

undermines access to parole and, ultimately, community safety (as the majority of people in prison will be released).

In PLS' experience, the backlog is not solely due to the COVID-19 pandemic, but the increase in the number of people entering Queensland prisons and delays in obtaining release on parole.[6] In the long-term, it is not possible for the Queensland Government to build its way out of the problems of mass incarceration or the parole backlog by creating additional prison beds.[7] Attention should be redirected from short term fixes to addressing the underlying causes of a failing criminal justice system. The increasing prison population must be reduced by an overhaul of the criminal justice system, with a focus on longer-term outcomes and evidence-based policy making, as recommended by the Queensland Productivity Commission's Inquiry into Imprisonment and Recidivism (**QPC Inquiry**).

Legislative change and resourcing is required to improve the Board's processes, including changes that support greater accountability for delays. As we have previously outlined, in a joint submission with LawRight to KPMG, procedural challenges with parole decision-making could be immediately addressed through an increase in targeted legal representation with the mechanism of oral hearings enabling this to be cost-effective. We have **enclosed** a copy of our joint submission.

The remainder of this submission sets out PLS' feedback on specific aspects of the Bill.

Publication of parole decisions

Clause 17 of the Bill proposes that the Board must publish information prescribed by regulation. Clause 17(2) states that a regulation may prescribe a decision or class of decisions about a prisoner or a class of prisoner, and specified details of the decision, to be published.

PLS accepts that the publication of written decisions by judicial and quasi-judicial bodies generally supports transparency and consistency in decision-making, and can facilitate appeal or review rights.[8] For example, under the *Judicial Review Act 1991* (Qld), the requirement to provide written reasons is recognised as an essential pre-condition to substantive proceedings, because reasons demonstrate the lawfulness (or unlawfulness) of the decision in question.[9] Section 31(3) of the *Human Rights Act 2019* (Qld) also states that "all judgments or decisions made by a court or tribunal in a criminal or civil proceeding must be publicly available".

The impetus to publish decisions is not without limits. To protect the privacy and interests of participants in highly sensitive and personal matters, some legislation requires that decision-making bodies must de-identify decisions for publication. For example, section 758(1) of the *Mental Health Act 2016* (Qld) allows the Mental Health Review Tribunal to publish its final decision and any reasons for decision, including if the Tribunal is satisfied that the decision or reasons may be used as a precedent. However section 758(2) of the *Mental Health Act 2016* (Qld) requires that the publication of any decision or reasons for the decision must not identify any person. The requirement for de-

[6] See also Kerri-Anne Mesner, 'Prisoners spending too much time in jail due to Parole Board 'blown out' backlog', *Rockhampton Morning Bulletin* (28 May 2021) [accessed online].

[7] Cf Minister for Police and Corrective Services and Minister for Fire and Emergency Services, 'Queensland's second biggest infrastructure project surging ahead' (Media statement, 12 August 2021) <https://statements.qld.gov.au/statements/92923>.

[8] See for example Sam Boyle, Tamara Walsh and Lucinda Nelson, 'A Study into the Operation of the Queensland Mental Health Review Tribunal' (2021) *Medical Law Review* 1, 18; Judicial College of Victoria, 'Victorian Criminal Proceedings Manual', chapter 6 (last updated 30 August 2020) < https://www.judicialcollege.vic.edu.au/eManuals/VCPM/index.htm#27543.htm>.

[9] See *Judicial Review Act 1991* (Qld), ss 32, 20.

identification in section 758(2) reflects the intent of former section 525(3)(b) of the *Mental Health Act 2000* (Qld), which was superseded by the *Mental Health Act 2016* (Qld). Under the equivalent superseded section, it was prohibited to publish information that identified, or would be likely to identify (i) the person the subject of the proceeding, (ii) a person who appears as a witness before the tribunal in the proceeding,[10] or (iii) a person mentioned or otherwise involved in the proceeding. The Explanatory Notes to the *Mental Health Act 2000* (Qld) recognised that decisions under the Act and relevant material to be considered was "personal in nature; being principally concerned with medical matters". [11] The need to maintain confidentiality, as far as practicable, was presumably the rationale for not identifying any participants to the proceedings in published decisions.

At the federal level, the Administrative Appeals Tribunal (**AAT**) has a general power to publish decisions under section 66B of the *Administrative Appeals Tribunal Act 1975* (Cth). However, other relevant legislation restricts the type of information that can be published by the AAT in its decisions; in general, this legislation requires that the AAT must not publish identifying information in its decisions.[12] For example, the AAT's decisions in respect of certain protection visa matters under the *Migration Act 1958* (Cth) must not identify the applicant, their relatives or other dependents. This requirement presumably reflects the potential danger to applicants for protection if their identifying details are disclosed to the public. The AAT also maintains discretion to make directions restricting the publication of identifying information if It is satisfied that the harm arising from the publication of the information outweighs the public interest in publishing the information.[13]

From the examples outlined above, it is apparent that the public interest does not always justify the inclusion of identifying information in published decisions. In the context of parole matters, we note that with the exception of no body no parole hearings, the decision-making process is not conducted in public[14] and the information considered by the Board is routinely not disclosed to the applicant (with some information being kept confidential even on review).[15]

Parole matters involve highly personal and multifaceted considerations that relate to a person's whole life and their future plans, including the location, nature and type of accommodation, medical care (including in relation to substance use and mental health), the care of children, relationships with family members (including domestic and family violence considerations), and detailed information about the person's time in prison. PLS considers the nature of parole matters requires that published decisions about an application for parole, or a parole suspension or cancellation, must not include any information that identifies the applicant or any other person in connection with the application.

The publication of written reasons for parole decisions that contain identifying information raises the following specific concerns:

1. The written reasons may amount to a breach of a person's right to privacy under section 25 of the *Human Rights Act 2019* (Qld), to the extent that it discloses information about a person's personal life, including support networks, family relationships or recovery plans. This consideration may be relevant to the applicant for parole, as well as other parties named in the decision.

[10] Section 525 of the *Mental Health Act 2000* (Qld) applied to both the Mental Health Court and the Tribunal.
[11] Explanatory Notes, *Mental Health Bill 2000* (Qld) 122. See also p. 123.
[12] See Administrative Appeals Tribunal, Policy – Publication of Decisions (24 September 2020), 3-4.
[13] See for example *Administrative Appeals Tribunal Act 1975* (Cth), s 35.
[14] Cf Justice Debra Mullins, 'Update on "Judicial Writing in an Electronic Age" – Five Years On' (Paper presented at the South Australian Judicial Development Day, Adelaide, 3 December 2009) [16].
[15] See for example *Harms v Qld Parole Board* [2008] QSC 163.

2. The publication of identifying information may involve disclosure of information that would otherwise be considered confidential under section 341 of the *Corrective Service Act 2006* (Qld). This section prohibits disclosure of confidential information, except in very limited circumstances. Confidential information is broadly defined and includes information that could reasonably be expected to pose a risk to the security or good order of a prison, or that could reasonably be expected to endanger anyone's life or health, including psychological health.

3. The details in these decisions may be highly prejudicial to the individuals concerned, including people released on parole who may be returned to prison.[16] Parole decisions inevitably discuss the nature of a person's offences. In PLS' experience, disclosure of information about a person's offences within prison can unintentionally result in violence against the person, which places them at risk of harm and also poses a risk to the good order of the relevant prison. Because of the risk of harm to people named in published decisions, PLS does not send self-represented prisoners copies of judicial decisions or comparative sentences, even though many prisoners contact us requesting these resources which are necessary for appeal or review matters.

4. The details in these decisions could contribute to salacious and traumatic media reporting about the index offences. This has the potential to be particularly distressing for victims, family members and people leaving prison, especially when offences involve vulnerable persons such as children. Exposing a person recently released from custody to media reporting can adversely impact their well-being, which in turn, hinders rehabilitation prospects and community safety.

We note the proposed legislative change seems consistent with a recent change in the Board's practice to publish decisions of "considerable public interest".[17] We have reviewed a recent decision published by the Board in the matter of a woman who the Board decided to release from prison on parole.[18] We understand this is the first time that the Board has published written reasons for a 'straightforward' decision to release a person on parole (previously, the Board has only published decisions under section 193A of the *Corrective Services Act 2006* (Qld), considering whether or not a person had cooperated in circumstances where a victim's body or remains had not been located.[19] While we appreciate the Board's commitment to transparency, we remain concerned about the potential legal and ethical implications involved in more widespread publication of parole decisions that contain identifying particulars.

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[16] Note the Queensland Productivity Commission's inquiry into imprisonment and recidivism found that over 50% of people released from prison into the community will return to prison or to a community corrections order within two years. Queensland Productivity Commission, 'Inquiry into imprisonment and recidivism' (Report, 01 August 2019) [2].

[17] See Michael Byrne QC, President of Parole Board Queensland, 'Updates from President: Matters of considerable public interest' <https://www.pbq.qld.gov.au/>.

[18] See In the matter of LEE (Applicant) (Decision date: 25 June 2021; delivered on 26 July 2021). Available at < https://www.pbq.qld.gov.au/wp-content/uploads/2021/07/LEE-Annemaree-Coversheet-and-Decision-FINAL.pdf>.

[19] See Parole Board Queensland 'Decisions of the Parole Board' <https://www.pbq.qld.gov.au/publications/decisions-of-the-board/>. The decisions of Dennis, Stockman, Dobrovitch, Renwick, Patea, Lincoln and Nicholson were all made under s193A of the *Corrective Services Act 2006* (Qld). Earlier in 2021, the Board published a media release in the decision of another person, whose application was refused; in that matter, the Board declined to publish its reasons, citing the applicant's review rights under the *Judicial Review Act 1991* (Qld): Parole Board Queensland, 'Parole Board Queensland decision – Robert Long' (Media release, 3 February 2021) <https://www.publications.qld.gov.au/dataset/5adc55b6-dbd3-4039-b430-f1b037b47034/resource/076de272-0fa5-44ad-ad29-f9577b04a6d8/download/parole-board-queensland-decision-robert-long-03.02.2021.pdf>.

On a practical level, the requirement to publish certain decisions would also create additional work for the Board. Our understanding of the Board's current practice is that written reasons are routinely prepared *after* the Board has met and decided a matter. In recent times, PLS has filed judicial review proceedings to compel the Board to fulfil their legal duty to provide written reasons to our clients who have received adverse parole decisions, so that we can provide them with legal advice.[20] If a greater number of decisions are to be published, the Board would need to allocate work hours to prepare and review written reasons to ensure they are consistent with the meeting notes and appropriate for publication. In the context of current unprecedented delays in both making parole decisions and providing reasons in accordance with existing statutory duties, this would be a poor allocation of the Board's resources.

The current wording of clause 17 of the Bill is vague and, in light of the issues outlined above, it does not offer adequate safeguards to protect privacy, confidentiality and the public interest. If this clause remains in the Bill, we suggest it must be amended to require the Board to de-identify published decisions. Section 758 of the *Mental Health Act 2016* (Qld) may be a useful precedent in Queensland law. De-identifying published decisions would ensure an appropriate balance between the rights of people in prison and the public interest in transparent decision-making by the Board. This would not impact on a victim's ability to receive relevant information about a person in prison.[21]

Changes to parole eligibility for certain specified prisoners

Clause 7 of the Bill introduces new sections 175E to 175J, which creates a new process in respect of life sentence prisoners convicted of murder where the victim is a child or where the person's conviction relates to multiple murders. These provisions provide for the President of the Board to make a "restricted prisoner declaration", which could bar a person from applying for parole for up to 10 years after the declaration takes effect (see proposed section 175I(3).

Clause 7 of the Bill also introduces new sections 175K to 175T, which create a new process in respect of people in prison who are subject to the no body, no parole legal regime. As we understand it, the Bill provides for the Board to initiate a process to make a "no cooperation declaration" for a person in prison, even before the person becomes eligible for parole. By making a "no cooperation declaration", the Board bars the person subject to it from applying for parole. The person may apply for the declaration to be reconsidered and 'lifted' for the reasons outlined in proposed section 175S.

Clause 9 of the Bill introduces a new section 176A that severely restricts the ability for a person subject to a "restricted prisoner application" to access exceptional circumstances parole. Clause 8 also introduces a new section 176B that prohibits a person subject to a "no cooperation declaration" from applying for exceptional circumstances parole.

Clauses 11 and 12 of the Bill create new processes for consideration of parole applications by a person who may be subject to a "no cooperation declaration" or a "restricted prisoner declaration" respectively.

PLS strongly opposes these changes. In our submission, the new processes proposed in clauses 7, 11 and 12 of the Bill are convoluted, highly punitive and onerous, for the Board/President, Queensland Corrective Services and the person subject to either declaration. They are unnecessary to protect community safety because the Board is empowered to refuse any application for parole where it considers the person poses an unacceptable risk to the community.

[20] See for example *Corrective Services Act 2006* (Qld) s 193(5)(a).
[21] See *Corrective Services Act 2006* (Qld), ss 188, 324A and 325.

It is a well established principle of law that a minimum term of imprisonment represents the punitive element of a sentence because the crime committed calls for such detention.[22] The purpose of parole is to provide mitigation for the punishment in favour of rehabilitation, through conditional freedom where appropriate.[23] The primary consideration for whether parole should be granted is whether that person poses an unacceptable risk to the community.[24] The shift from a punitive to a risk focus upon completion of the minimum term, recognises that rehabilitation is one of the central, legislatively enshrined purposes of imprisonment in Queensland.[25]

With these measures, the Bill undermines the sentencing process and a person's prospects for rehabilitation, by giving the President/Board power to extend a person's sentence at the back-end. This effectively puts the President/Board into a position to impose an "irreducible life sentence", that is a lengthy term of imprisonment from which a person has no realistic prospects of release.[26] In other relevant jurisdictions, irreducible life sentences have been found to violate human rights provisions because, as Dyer argues, they represent the imposition of excessive and disproportionate state power over an individual's life.[27]

This Bill moves Queensland in the direction of jurisdictions in the United States, where excessive sentences are routinely imposed, resulting in what organisers and activists have termed "death by incarceration".[28] The established legislative framework in Queensland already recognises that deaths in custody should be prevented.[29] The proposed measures in the Bill operate to normalise deaths in custody by making it likely that more people will die in prison.

In the context of Queensland's mandatory life sentence for murder, these measures are highly disproportionate and inappropriate. We are very concerned about the potential unintended consequences of the proposed "restricted prisoner declaration" in combination with the Queensland Government's previous amendments to broaden the definition of murder. In relation to the "no cooperation declaration", we submit the Government must explore more proportionate mechanisms to ensure the Board considers the timeliness of cooperation in its deliberations. In circumstances where the Board is experiencing a significant backlog, it would be unreasonable for the Queensland Government to introduce legislation that invites the Board to make decisions before a person is even eligible for parole. Additionally, there is no justification for refusing access to exceptional circumstances parole, especially because the threshold is already very strict.

Clause 11 amends section 193 to allow the Board to require any life sentence prisoner to wait up to three years before making a further parole application, if their application for parole is refused. Clause 10 is highly punitive for life sentence prisoners, particularly given current delays in parole decision making. In practical terms, if a person applied today, they may wait over one year for their application to be refused (accounting for the delays and any deferrals of the Board's decision). In these

[22] *Power v R* (1974) 131 CLR 623; *Bugmy v R* [1990] HCA 18.
[23] *Deakin v R (*1984) 58 ALJR 367 [367].
[24] Ministerial Guidelines to the Parole Board 2017.
[25] See *Corrective Services Act 2006* (Qld), s 3(1); *Penalties and Sentences Act 1992* (Qld), s 9(1)(b).
[26] See Richard L. Lippke, 'Irreducible Life Sentences and Human Dignity: Some Neglected and Difficult Issues' (2017) 17 *Human Rights Law Review* 383, 383.
[27] See generally Andrew Dyer, 'Irreducible Life Sentences, Craig Minogue and the Capacity of Human Rights Charters to Make a Difference' (2020) 17 *UNSW Law Journal* 484 <http://classic.austlii.edu.au/au/journals/UNSWLawJl/2020/17.html>.
[28] See generally Felix Rosado, David Lee and Layne Mullett, 'Larger than Life: Building a Movement across Prison Walls to Abolish Death by Incarceration' in Alice Kim et al (eds.), *The Long Term: Resisting Life Sentences, Working Towards Freedom* (Haymarket Books, 2018) 31.
[29] For example, deaths in custody are reportable deaths under the *Coroners Act 2003* (Qld), s 8(3)(g).

circumstances, it would be unjust to allow the Board discretion to bar life sentenced prisoners from applying parole for a further three years.

Extension of time frame for the consideration of parole applications

Clause 21 of the Bill extends the timeframe afforded to the Board to consider a prisoner's parole application to 180 days or 210 days for a deferred decision under section 193(2) *Corrective Services Act 2006* (Qld). The extended timeframe will be retrospective and implemented for a temporary period of 390 days. The purpose of these amendments is identified as being to *"provide the Parole Board Queensland (the Board) with greater flexibility to respond to increased workload and the risks different prisoners pose to community safety."*[30]

We consider this temporary amendment will be ineffective in reducing the burdens associated with parole delays, is excessively prejudicial to people in prison and will compromise community safety.

PLS is at the forefront of the parole delays crisis. Since January 2021, we have provided 1841 services to people in prison about parole delays. Most people who contact us about parole application delays are already significantly outside of the existing time frame, with many application decisions already past the proposed maximum time frame of 210 days. In addition, many people in prison are experiencing unreasonable delays in reconsiderations of parole suspensions, for which there is no statutory time frame.[31]

As such, this amendment will have limited effect in reducing the number of judicial review applications filed in the Supreme Court of Queensland for the Board's failure to make decisions.[32] The extension of the statutory timeframes for parole application decisions will not address the delays associated with the consideration of parole applications and suspensions, nor will it improve efficiency in decision making processes.

These temporary measures are a short sighted and cosmetic solution to an issue which has arisen due to inadequate funding of the criminal justice system and associated support services by the current government. The parole delays are demonstrative and further reiterate the comments made by Walter Sofronoff QC (as he then was) in the *Queensland Parole System Review Final Report* (QPSR) where he noted *"…[t]hese failures are due solely to the failure of successive governments to apply the necessary money to the problem of community safety and crime…."*[33] These concerns were expanded upon by the Queensland Productivity Commission's Inquiry into Imprisonment and Recidivism (QPC Inquiry) which found that an essential first step to address the increasing prison population was to overhaul the criminal justice system, with a focus on longer-term outcomes and evidence-based policy making.[34]

Instead of implementing recommendations aimed at changing the trajectory of mass incarceration towards which Queensland is heading, these amendments roll back one of the fulfilled QPSR recommendations and will result in people staying in prison for longer.[35] This will compound the pre-

[30] Explanatory Notes, *Police Powers and Responsibilities and Other Legislation Amendment Bill 2021* (Qld) 8.
[31] Section 208 of the *Corrective Services Act 2006* (Qld).
[32] Section 22 of the *Judicial Review Act 1991* (Qld) enables a person to apply for an Order from the Supreme Court for a failure to make a decision within a statutory time frame or where there has been an unreasonable delay (where there is no statutory time frame).
[33] Sofronoff, W 'Queensland Parole System Review Final Report' (30 November 2016) 8.
[34] Queensland Productivity Commission, 'Inquiry into imprisonment and recidivism' (Report, 01 August 2019) [x].
[35] Recommendation 51 was implemented to reduce the statutory time frame for making decisions on parole applications from 180 and 210 days to 120 and 150 days: Sofronoff, W 'Queensland Parole System Review Final Report' (30 November 2016) 29.

existing problems identified by the QPSR and the QPC Inquiry and reinforces the government's focus on short term solutions which results in an increasing prison population.

Each day, courts are significantly mitigating the sentences of defendants because of the delays they will experience in being considered for parole.[36] This demonstrates the needs for all aspects of the criminal justice system to function effectively in order to function at all. For example, sentences which would otherwise be considered appropriate are now arguably manifestly excessive. Therefore, lower head sentences are being imposed or other community-based sentencing orders are being considered such as suspended sentences.

There is no suggestion that the delays have impacted the quality of Board decisions to warrant the extension of time frames from a community safety perspective. To the contrary, the Board take a risk averse approach in their decision making despite the delays, with many decisions being deferred for further information when they are already well outside of the statutory time frame.[37]

Extending the timeframe for consideration of parole applications is not within the interests of community safety. It does not prevent delays or address inefficiencies and instead results in:

- People spending additional time in prison when they have served the punitive element of their sentence and do not pose a risk to the community.
- People in prison being kept in a state of limbo about their liberty, with significant ramifications for their well-being and prospects of successful re-integration.
- Increased risk of institutionalisation. PLS has observed a discernible deterioration in the mental health of many of our clients due to the uncertainty they face regarding release.
- People being released at the expiration of their sentence without the benefit of community-based supervision.
- Increased distress of families and children of people in prison, particularly when support with parenting and financial responsibilities is required.

Each of these factors are well-documented as also increasing safety and well-being risks for the whole community.

There are no quick fixes to address parole delays. In our previous joint submission with LawRight, we identified some reforms that could immediately address procedural challenges with parole decision-making through an increase in targeted legal representation with the mechanism of oral hearings, enabling this to be cost-effective.

However, there are a range of whole of system recommendations available from the QPC Inquiry which identify how to address the underlying causes of the increasing number of people entering prison and coming before the Board for consideration. Measures such as implementing meaningful housing reform and intensive therapeutic supports for people exiting prison is one example of how to reduce the numbers of people returning to prison on parole suspensions. This is where government focus should be.

[36] See for example *R v Eru-Guthrie* [2021] QDC 174 and *GSB v Commissioner of Police* [2021] QDC 196.

[37] See also comments by Deputy President Peter Shields regarding Board members reviewing large quantities of material provided for parole decisions in Thomas Chamberlin, 'Parole Board Backlog: Two jails worth of prisoners awaiting parole decisions', *Courier Mail* (30 July 2021) [accessed online].

Conclusion

This submission has outlined PLS' position in respect of certain aspects of the Bill. For the reasons outlined, we do not support the proposed changes to the *Corrective Services Act 2006* (Qld).

The requirement for the Board to publish particular decisions in clause 18 of the Bill seems senseless when many people in prison are currently waiting for written decisions from the Board. Without the safeguard of de-identified decisions, we are concerned about the potential impact of publication for people in prison and people on parole, and the potential inconsistencies with section 341 of the *Corrective Services Act 2006* (Qld). Greater transparency and efficiencies in the Board's decision making would be better achieved through targeted legal representation and more oral hearings for parole matters. These changes would, in turn, support the publication of written decisions.

We are concerned that the new processes in the Bill related to "restricted prisoner declarations" and "no cooperation declaration" create an inappropriate shift in sentencing principles by extending the punitive element of imprisonment beyond the expiration of a minimum term. This raises significant human rights implications by creating the potential for the imposition of irreducible life sentences at the back end of a sentence.

These measures will also result in time and resources being directed away from consideration of the bulk of parole matters. They focus the Board's practice and resources on certain life sentence prisoners and high-profile cases. The effect of this focus is to undermine decision-making in respect of the majority of people in prison, who are not serving life sentences and whose convictions have not attracted significant mainstream media attention. In our submission, it is inappropriate to make policy and legislative changes to cater to concerns about a handful of people, when the consequences will be so far-reaching and punitive. This is particularly the case when existing safeguards exist to ensure the Board does not release people who pose an unacceptable risk to the community.

Extending parole decision making time frames will significantly impact the well-being and mental health of people in prison and result in community safety risks. It will not improve parole decision making efficiency or address the delays in decision making.

We note that in April 2021, the Queensland Government commissioned a review by KPMG about the Board's operations, in response to the backlog.[38] Given the considerable public and judicial interest in the findings of this review, we consider the results should be made public to facilitate a genuine consultation with all relevant stakeholders. We request that a copy of the final report produced by KPMG be provided to PLS and other relevant stakeholders as soon as possible, for the purpose of further consultation on this complex issue.

PLS is grateful for the opportunity to make this submission and is happy to provide further detail upon request.

Yours faithfully

[redacted]

Helen Blaber
Director / Principal Solicitor

[38] Katie Hall, 'State silent on cost of backlogged Parole Board review', *Townsville Bulletin* (23 August 2021) [accessed online].