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8 August 2025

Mr Hastie KC
Reviewer
GPO Box 1054
Brisbane QLD 4001

By email: pbqreview@pbqreview.qld.gov.au

Dear Mr Hastie KC,

Re: Independent Review of Parole Board Queensland

Thank you for the opportunity to provide comments on the Independent Review of Parole Board Queensland (**Review**). ATSILS has made a number of recent submissions with respect to our views on the parole process and what, in our view, needs to be changed. We have **attached** those submissions to this submission for your convenience. In this submission, we have sought to document in writing feedback that was provided by way of oral submissions in our meeting with you on 29 July 2025, along with our recommendations on how best to address these issues.

Preliminary consideration: Our background to comment

The Aboriginal and Torres Strait Islander Legal Service (Qld) Limited (ATSILS), is a community-based public benevolent organisation, established to provide professional and culturally competent legal services for Aboriginal and Torres Strait Islander peoples across Queensland. The founding organisation was established in 1973. We now have 25 offices strategically located across the State. Our Vision is to be the leader of innovative and professional legal services. Our Mission is to deliver quality legal assistance services, community legal education, and early intervention and prevention initiatives which uphold and advance the legal and human rights of Aboriginal and Torres Strait Islander peoples.

ATSILS provides legal services to Aboriginal and Torres Strait Islander peoples throughout Queensland. Whilst our primary role is to provide criminal, civil and family law representation, we are also funded by the Commonwealth to perform a State-wide role in the key areas of Community Legal Education, and Early Intervention and Prevention initiatives (which include related law reform activities and monitoring Indigenous Australian deaths in custody). Our submission is informed by over five decades of legal practise at the coalface of the justice arena and we, therefore, believe we are well placed to provide meaningful comment, not from a theoretical or purely academic perspective, but rather from a platform based upon actual experiences.

Introductory comments

Parole is a critical tool that supports both prisoner rehabilitation and community safety. It allows eligible prisoners to serve part of their sentence under supervision in community, assisting them to reintegrate gradually with access to rehabilitation programs, support services, employment and family connection – all of which are key factors in reducing the likelihood of reoffending. A well-functioning parole system protects the public by not keeping prisoners locked away until the end of their sentence, but by giving them the tools and supervision to succeed on the outside.

Despite improvements made by following the QPSR and QPSR II, Aboriginal and Torres Strait Islander prisoners/parolees continue to face a number of barriers in relation to accessing parole and compliance with parole conditions[1] including, but not limited to, the following:

- the impacts of socio-economic disadvantage;
- a lack of adequate housing (or housing at all) prior to custody;
- the difficulty in securing a favourable decision on an Accommodation Risk Assessment (**ARA**) as part of the parole application process;
- the challenges that Aboriginal and Torres Strait Islander prisoners who are also victims of domestic and/or family violence may face when considering suitable accommodation upon their return to community (exacerbated when there are children to consider);
- complex health needs including, for example:
    - the significantly high prevalence of cognitive impairment and/or mental illness including depression and anxiety amongst those incarcerated;

[1] Dr Clarke R. Jones, 'Report for the Australasian Institute of Judicial Administration – Obstacles to Parole and Community-Based Sentencing Alternatives for Aboriginal and Torres Strait Islander Offenders' (Report, 2019) 17-24.

  - the significantly high prevalence of offenders also being victims of crime themselves often prior to their own offending, for example, Aboriginal and Torres Strait Islander women prisoners being victims of sexual abuse as a child and/or victims of domestic and/or family violence[2]; and
  - substance misuse and abuse;
- the lack of properly resourced, widely and readily available, culturally safe and trauma-informed rehabilitation programs and supports, internal and external, to help address the root causes of offending and thereby reduce the risk of reoffending (Please see Recommendation 39 in this Submission for further details on what is recommended in this regard);
- the difficulty in obtaining employment upon release;
- poor literacy levels;
- the experience of feeling shame which, for example, may prevent a prisoner from seeking much needed assistance in applying for parole or participating in courses and programs[3]; and
- the feeling of loss of hope in the legal process and the 'system' which may prevent individuals from applying for parole on the basis that they consider that it is not worth trying[4].

Many of the above barriers are magnified exponentially for Aboriginal and Torres Strait Islander individuals that are incarcerated in, or that are from, remote/rural areas.

A robust parole system that sufficiently takes into account the unique and different experience of an Aboriginal and Torres Strait Islander individual, in all relevant aspects of the system internal and external, has the potential to help reduce the numbers of incarcerated Aboriginal and Torres Strait Islander individuals by addressing relevant criminogenic factors in cultural context and, in turn, reduce the likelihood of such individuals offending/reoffending. This would not only contribute towards the Queensland government's commitments to Closing the Gap, it would also improve community safety.

[2] Council of Australian Governments, *National Plan to Reduce Violence against Women and Their Children 2010–2022* (2011) 1.
[3] Note 2, page 6.
[4] Note 2, page 6.

Comments on the Review

Please find below:

(a) a description of the issues that we have identified relating to the Parole Board's practices and procedures, the parole process generally and the role of victims in the parole process; and

(b) our proposed recommendations to address these issues.

1. Difficulty securing a suitable address to enable release on parole

We continue to observe significant challenges for our clients in securing approval of a proposed residential address as suitable accommodation for the purposes of parole. Below, we have outlined a number of the issues that we have identified, along with recommendations for how they could be addressed.

(a) Failure to communicate, or an inconsistent approach in communicating, the outcome of an AR assessment

The Custodial Operations Practice Directive (**COPDS**), Sentence Management, Parole Applications and Process, Item 7, relates to Accommodation Reviews (**AR**s), and provides that once a prisoner has submitted a request for an address in Queensland by completing the relevant Form 176 Accommodation Review Request (**AR form**) and provided the same to Sentence Management Services (**SMS**), SMS is required to forward this to the relevant Community Corrections office via the Advisory Reports page on the Integrated Offender Management System (**IOMS**). Item 7 goes on to provide that:

> *Community Corrections is required to complete and verify the AR within 21 days of receiving the request.*

We often see clients that have submitted an AR form and 21 days have elapsed, but the client has had no communication or notification from either Community Corrections, the Parole Board or otherwise, as to the outcome of the assessment of the address/es. Our practitioners then need to follow this up with the Parole Board. We often are advised that a recommendation was made, but this had not been communicated to the client. In circumstances where there was a recommendation that the accommodation was not suitable, our client would need to submit a new application, thereby restarting the 21-day period for assessment. This not only represents a procedural inefficiency, it causes unnecessary delays for our clients as this issue is only picked up once a response is followed up with the Parole Board.

In circumstances where there has been communication or notification to the prisoner regarding the outcome of the AR, the communication or notification is inconsistent. We have observed that sometimes the prisoner will receive a letter from the Parole Board and other times it might be a slip from Community Corrections/Sentence Management. Additionally, it appears that the process differs depending on the prison.

There needs to be a streamlined and consistent approach, wherein as soon as a decision is made as to whether the accommodation is deemed suitable or not suitable, that decision is immediately communicated to the client by written notice.

(b) Reasons not being provided for a decision of 'not suitable'

There is currently no requirement to provide reasons for a decision that an address is not suitable. This not only reflects a lack of transparency in the decision-making process, it makes the barriers to obtaining suitable accommodation difficult to address and overcome moving forward. This is increasingly a problem where a prisoner, for example, has been denied an address that was previously approved, leaving the individual with fewer (if any) viable options upon release. As an additional example, we have been advised of instances where suitability of accommodation has been denied in circumstances where the offender might have been staying at the address when the offence was committed, however, the offence itself was committed elsewhere. Being provided with reasons for refusal would assist in understanding the basis for such a decision and, where possible, addressing relevant concerns.

Recommendation/s

We recommend:

1. that amendments be made to the *Corrective Services Act 2006* to stipulate a 21-day period to make a recommendation as to whether an address is suitable or not suitable, including a requirement that once a recommendation is made by Queensland Corrective Services (Community Corrections), that they immediately communicate the outcome of the AR (i.e., the recommendation given, suitable or not suitable) to the prisoner by written notice;
2. that amendments be made to the *Corrective Services Act 2006* to require that where the Parole Board has decided that an address is not suitable, fulsome reasons be included in the written notice described in Recommendation 1, above, which is provided to the prisoner;

3. following the above, a tightening of relevant policies and procedures, coupled with training of relevant staff to ensure that there is a consistent approach across correctional facilities.

(c) Lack of clarity on the process for assessment making it hard to address issues

We are unclear on Community Correction's criteria and process for assessing whether a particular address is suitable or not. It is difficult for a parolee to have the best chances of success in obtaining a favourable recommendation on an AR, if there is a lack of clarity on relevant considerations and the assessment framework for making these decisions.

Recommendation/s

We recommend:

4. that Community Correction's criteria and process for assessing whether a particular address is suitable or not be available by way of a publicly accessible policy/procedure to aid in transparency of the decision-making process.

(d) Inconsistent approach as to whether one or multiple addresses can be put on an AR form

In our experience we have observed that some correctional centres will only accept one address per AR form, whilst others will accept one address for a private residence and one for a boarding house. Further, we have often seen an address rejected on the basis that Community Corrections could not get in contact with the relevant (as per the contact details provided) for an address. When one address is rejected, the prisoner must apply again, and the 21-day timeframe recommences again. This causes unnecessary delays.

In our view, AR forms should allow, at minimum, three addresses to be assessed. That way, if Community Corrections has difficulties getting in contact with one address, there are two alternatives to assess right away. This process will reduce work loads for SM and will fast track the AR process.

Recommendation/s

We recommend:

5. AR forms should explicitly allow a prisoner to provide multiple addresses (at least 3) for assessment;
6. relevant forms, policies and procedures are updated to expressly state that multiple addresses (at least 3) are permitted to be included on AR forms as assessed;
7. relevant staff are provided with training relating to Recommendations 5 and 6 to ensure that there is a consistent approach across correctional facilities.

(e) Lack of clarity/transparency on decisions of the Department of Housing to reject an address

Where an address to be included on an AR form is a social housing address, we are unclear on the process relating to obtaining consent from the Department of Housing. For example, where a client puts his mother's address down on an AR form and his mother lives in social housing, we are unclear on whether it is the prisoner, his mother or Community Corrections that must seek consent from the Department of Housing?

We are also unclear on the criteria that the Department of Housing uses when determining whether or not consent would be granted. There have been occasions in the past where a prisoner will get a notice that an address has been deemed unsuitable because the Department of Housing did not consent, however, no reasons are provided. Not only is this a procedural fairness issue, it makes it very difficult to address potential concerns. Further, given the current housing crisis, it leaves our clients with few, if any, alternative options. We note that this is a particular issue for our clients who are reliant on Dept of Housing accommodation and whose family members and support networks mostly reside in Dept of Housing accommodation.

Recommendation/s

We recommend:

8. there be a clear process (coupled with staff training) relating to when an address submitted for assessment is a social housing address which sets out who needs to seek consent, what criteria is used to assess whether consent would be granted or not granted, and a requirement that, in the event of a refusal to grant consent, fulsome reasons are provided in writing to the prisoner.

(f) The impacts of not being able to find a suitable address in the midst of a housing crisis

Addressing the barriers to prisoners securing a suitable address will mean that more prisoners will be able to participate in supervised release, rather than reaching their fulltime date without the benefit of supervision or pushing past their approved release date (subject to suitable accommodation being secured). We offer the example of a recent client who was granted parole, subject to the client securing a suitable address. This client was in custody for 10 months past his parole being granted, purely because he could not find a suitable address.

According to our current data, we are aware of at least 34 of our clients who are currently in that same situation.

Recommendation/s

We recommend:

9. amendments be made to the *Corrective Services Act 2006* to stipulate that the Parole Board should give consideration to family addresses first and, where such is not a viable option, then consider other options, or if legislative amendments are not supported, then this, at minimum, be stipulated in the Parole Board Ministerial Guidelines;
10. there be increased funding and resources for Post Release Housing and re-integration services.

(g) There is currently insufficient consideration of Aboriginal and/or Torres Strait Islander family/kin living arrangements and cultural context which is trauma-informed when assessing the suitability of accommodation

For Aboriginal and Torres Strait Islander prisoners/parolees, it is imperative that the AR assessment is culturally informed. We have received feedback that accommodation has been deemed unsuitable in circumstances which do not sufficiently consider the communal living lifestyle in Aboriginal and Torres Strait Islander communities and the difficulty to establish whom might be living under the roof at a point in time. Furthermore, we have been aware of instances where an address has been deemed unsuitable as there might be another individual living at the address that is on parole, which, given the realities of overrepresentation and in

consideration of historic criminalisation of Aboriginal and Torres Strait Islander individuals, has a discriminatory effect.

As an example, when assessing whether the residence of a prisoner's mother (that raised him/her) is a suitable address for the individual to stay upon release, consideration of the protective factors of that individual staying with their mother should be an influential consideration when weighed against other factors that may favour denial. We note that we are frequently seeing family addresses being refused for the reasons outlined earlier, whilst Boarding Houses are being approved. As is commonly known, a large number of residents in Boarding Houses are involved in the criminal justice system and drug use is often rife in these settings. It would appear to be a double-standard that family addresses are being refused, whilst Boarding houses, which set our clients up to fail, are being approved.

Recommendation/s

We recommend:

11. that officers within Community Corrections and members of the Parole Board are provided with training which covers, at minimum:
    (a) the socio-economic challenges that Aboriginal and Torres Strait Islander individuals and communities face;
    (b) statistics with respect to overrepresentation of Aboriginal and Torres Strait Islander persons that are incarcerated in Queensland prisons;
    (c) the impacts of colonisation and historical criminalisation of Aboriginal and Torres Strait Islander peoples;
    (d) the impacts over overincarceration on Aboriginal and Torres Strait Islander peoples, their families and communities; and
    (e) the impacts of overincarceration on the prison system including with respect to resourcing and overcrowding;
    (f) the government's commitments under the National Agreement on Closing the Gap, in particular, with respect to target 10 (Adults are not overrepresented in the criminal justice system); and
    (g) the cultural contextual factors which apply when considering what a suitable address is, for example, that communal living is common and the protective factors of returning the prisoner back to their community, for example, by having the benefit of place-based community supports and the positive impacts that being back on Country and connected with kin and culture has on their prospects of rehabilitation.

We also refer you to Recommendation 32 in this submission regarding embedding shared decision-making into the legislative framework.

(h) Losing a secured place in social housing

We have concerns regarding prisoners losing the place they have secured in social housing whilst waiting for their matter to be considered by the Parole Board. ARs are sometimes undertaken well in advance of consideration of the matter by the Parole Board and, as social housing places are held for a maximum of 5 months, there have been instances where a prisoner might have secured a place in social housing, however, that place has been forfeited before a decision has not been made on their parole application. We appreciate that it might be difficult to avoid such a scenario where matters are deferred so that the Parole Board can obtain further information (as an example), however, with housing options so difficult to come by, we believe this matter to be worthy of further consideration.

Recommendation/s

We recommend:

12. amendments be made to the governing legislative regime, and corresponding amendments to existing policies and procedures, to require the Department of Housing to give the Parole Board 2 or 3 months' notice before an approved social housing tenancy lapses;
13. implementation of an extension policy in circumstances where delays are caused by Community Corrections or Parole Board processes which are outside of the control of the prisoner;
14. amendments to relevant policies and procedures to enable prisoners who have lost a provisional social housing placement whilst awaiting a parole decision to be automatically given priority housing status upon release;
15. the implementation of an information sharing arrangement between the Department of Housing and Community Corrections, if one does not already exist, to allow sharing of information regarding parole application assessment progress so that the Department of Housing is able to make informed decisions and hold social housing placements for a prisoner where their parole decision is imminent;
16. expansion of the existing Post Release Housing program and/or funding for short-term transitional housing for prisoners that lose their social housing place whilst awaiting parole to ensure they have stable housing immediately upon their

release including, where possible, partnering with Aboriginal and Torres Strait Islander community-controlled housing providers.

Additional recommendation

17. Further expansion of the Culturally Engaged Release of Indigenous Prisoners (CERIP) program, given the over-representation of Aboriginal and Torres Strait Islander peoples within the criminal justice system.

2. The impact of section 340AA of the *Corrective Services Act 2006* (Sensitive information that need not be included in reasons)

Section 340AA of the *Corrective Services Act 2006*, which was inserted via the *Corrective Services (Promoting Safety) and Other Legislation Amendment Act 2024*, provides a list of types of information that a 'decision-maker' is not obligated to disclose when giving reasons for a decision or proposed decision made under the *Corrective Services Act 2006*.

We are aware of the recent Queensland Court of Appeal case, *Parole Board Queensland v McQueen* [2022] QCA 230, which related to the use of confidential information in information notices issued under the *Corrective Services Act 2006*. In that case the Parole Board indefinitely suspended a prisoner's parole. In their statement of reasons for their decision, the Parole Board stated that there was confidential information relevant to the Parole Board's decision, which they could not disclose. The Court of Appeal dismissed the appeal and, in its judgement, quoted the following relevant part of Brown J's judgement in the original decision (*McQueen v Parole Board Queensland* [2022] QSC 27 at [110, 111]:

> *I do not consider that the proper construction of the Act is to read s 208 together with s 341 to provide a discretion in the respondent to reduce the reasons provided in the information notice where the respondent's reasoning relied upon confidential information. Nor does it render s 341 of the Act without meaning when read with s 208 of the Act unless it is construed as providing such a discretion as contended by the respondent. Disclosure of the confidential information would constitute disclosure for the purposes of the Act, namely, to comply with the respondent's obligations to provide an information notice complying with s 208 of the Act.*

In our view, section 340AA, which was introduced after this decision, appears to be contrary to this decision and gives the Parole Board, in particular, even more power to withhold information from prisoners.

In our experience, when representing individuals seeking parole, we often face scenarios where the Parole Board has made a decision that is not in favour of a client and the Parole Board does not provide reasons for the decision, citing that it is not in the public interest to disclose the information. For example, we recently had a client who had eight addresses deemed unsuitable by the Parole Board with no explanation as to why. Since the recent enactment of 340AA, we have observed what appears to be, in our view, an overreliance on this provision, making it even more difficult to address concerns of the Parole Board.

Recommendation/s

We recommend:

18. the strengthening of policies and procedures associated with decision making under section 340AA of the *Corrective Services Act 2006*, particularly in relation to the criteria that must be used to assess whether the information is confidential for the purposes of section 340AA along with training for decision-makers about this process;
19. that policies and procedures emphasise a pro-disclosure bias to reflect the importance of procedural fairness.

3. Parole conditions stipulating no-contact with a partner where no corresponding DVO or DV history exists

We have observed instances where the Parole Board has included non-contact conditions with a partner of a client where there has been no corresponding Domestic Violence Order (**DVO**) with their partner or domestic violence history with their partner. We have found this to be excessive, given these clients have been permitted to have contact with their partners whilst in custody and, further, imposing a non-contact condition cuts off a significant support system for those clients, making their reintegration more difficult.

Recommendation/s

We recommend:

20. that the Parole Board's policies and procedures stipulate that:

    (a) parole conditions should be reflective of current orders in place, if any, i.e., DVOs and other relevant court orders, e.g., family court orders or other court orders prohibiting contact with certain individuals; and

(b) in circumstances where the Parole Board intends to impose a non-contact condition with respect to a partner or other individual/s and there is no corresponding DVO or other relevant order in place:

(i) the Parole Board is only permitted to impose more onerous conditions with respect to contact with a parolee's partner where there are exceptional circumstances, in which case reasons for those conditions must be provided in writing to the prisoner; and

(ii) the Parole Board should contact the partner or other individual/s to obtain their views first, noting that this should be a transparent process;

21. that additional training be provided to Parole Board members with respect to the above.

4. The parole suspensions regime

We refer you to our submissions on the Corrective Services (Parole Board) Bill 2025 (**attached**) which addresses, in detail, our views and concerns regarding parole suspension in Queensland. For this topic, we have elected to put our recommendations at the end of the section as the recommendations are in connection with all of the issues outlined below.

(a) Parole suspensions for minor breaches or being 'wanted for questioning'

We acknowledge that parolees that have engaged in new offending/reoffending are in a separate category for whom return to custody would, generally speaking, be fair.

We are particularly concerned about parolees that are suspended for otherwise minor breaches or under questionable circumstances, including, for example:

- parolees that have been released subject to wearing an electronic monitoring device and they have allowed the battery to go flat or failed to charge the device, or breached their curfew;
- parolees that identified that they needed help with their mental health whilst on parole, and presented at a mental health hospital for help and were subsequently breached;
- parolees that have used illicit substances (minor personal use);
- parolees that have engaged in gambling;
- parolees that have left approved accommodation (boarding house) because they no longer feel safe living there; and
- parolees that have been deemed to be 'wanted for questioning', only to be returned to prison with police not having spoken to them and waiting with either no

indication of what the questioning was about or when, or if, it will happen at all (in some instances, we have observed that police do not question them at all, and, therefore, they have been returned to custody with their time in community interrupted for what would appear to be naught).

(b) Inconsistency between parole officers about what is allowed and what is not allowed

We have observed that the approach of parole officers can differ significantly depending on the person. Whilst some parole officers might be tolerant of certain conduct, others will breach the parolee for the same conduct.

(c) Failure to provide reasons or sufficient reasons for a suspension

The reasons provided for suspensions are usually not very helpful and, in many instances, not disclosed at all, with the Parole Board citing confidentiality (see earlier comments regarding this issue). In our view, there is a huge overreliance on section 340AA of the *Corrective Services Act 2006* (Sensitive information that need not be included in reasons) and this makes the show cause process very challenging as it is very difficult to show cause when you are unclear on why you were suspended from parole in the first place. We further note that the Parole Board is not required to provide any evidence to support their reasons for the suspension or cancellation.

(d) Delays for prisoners waiting for re-release

There is currently no stipulated timeframe within which a prisoner's re-release must be considered and decided by the Parole Board, which can mean that a prisoner is waiting for an uncertain period of time to have an outcome and might, in fact, reach their full-time date without having the benefit of supervised release.

(e) The impacts of the very high rate of parole suspensions

There are incredibly high rates of parole suspensions in Queensland and Aboriginal and Torres Strait Islander parolees are overrepresented in the numbers of individuals that are suspended.

We refer you to the Parole Board's Annual Report of 2023-24 which stated as follows:

> *The Board is very aware of the over-representation of First Nations peoples within the criminal justice system, with a significant proportion of parole applications and suspensions before the Board involving First Nations peoples.'*[5]

We note that over a 22-month period between 3 July 2017 and 19 May 2019, the Parole Board reported that 6, 963 prisoners were returned to custody following a suspension of their parole order. That number equates to 81.9% of the total built cell capacity of all prisons in Queensland (see Parole suspensions in Queensland: an examination of Prisoners' Legal Service case files 2018-2020).

We further note that, as published in the Parole Board's 2023-24 Annual Report:

- there were 5,935 requests to immediately suspend a parole order (Parole Board ordered or Court ordered);
- of those, 5912 were suspended by the Parole Board;
- there were also 5,769 initial suspension decisions that were confirmed by the Parole Board[6].

The Queensland Government Response to the Queensland Parole System Review 2 Report, which outlined key findings of the Queensland Parole System 2 Review, stated 'the current rate of suspensions of parole is unsustainable for the system'[7], noting the high costs of accommodating an offender, amongst other things. It further stated that despite some improvements which came in response to the Queensland Parole System Review (2016), suspensions remain high, 'with suspensions occurring often shortly after a prisoner's release from custody and offenders remaining suspended for longer periods of time'[8].

ATSILS collects its own data in relation to the number of parole suspension matters that we have provided or are providing legal assistance for. We can advise that between September 2024 and June 2025, we recorded 483 matters relating to parole suspensions. This is compared with 964 matters relating to parole applications. The number of parole suspension matters represent 33%, i.e., one third, of all our matters relating to parole.

Parole is a critical tool that supports both prisoner rehabilitation and community safety. It allows eligible prisoners to serve part of their sentence under supervision in

[5] Parole Board Queensland, *Annual Report 2023-24*, Report (September 2024) 11.
[6] Parole Board Queensland, *Annual Report 2023-24*, Report (September 2024) 14.
[7] Queensland Government, *Government Response to Queensland Parole System Review 2*, Report (July 2024) 4.
[8] Ibid, 16.

community, assisting them to reintegrate gradually with access to rehabilitation programs, support services, employment and family connection – all of which are key factors in reducing the likelihood of reoffending. A well-functioning parole system protects the public by not keeping prisoners locked away until the end of their sentence, but by giving them the tools and supervision to succeed on the outside.

In relation to the impact of suspensions, Mr Walter Sofronoff KC stated in his Queensland Parole System Review Report in 2016:

> *Each time an offender's parole is suspended for noncompliance, there is a return to custody, but there are no programs available in custody that could be undertaken by an offender on a suspension. A period of imprisonment on suspension can be expected to cause serious disruption to any progress that the offender was making in the community. When the offender is released back into the community there is the real likelihood that she or he will be in a worse position than before suspension.*[9] (p91)

Decisions to deprive a person of their liberty by placing them in detention, including decisions to suspend the parole of a person such that they return to custody, carry profound consequences for that person, can significantly hinder their ability to successfully reintegrate into society and might, in fact, increase the risk of them reoffending upon release, which would have a negative impact on community safety. Simply put, it turns the parolee's life upside down. The parolee might lose their housing and/or their employment, and they will lose the benefit of support services in community. It is very disruptive to a parolee's supervised release. Accordingly, it is essential that such decisions are made with fairness, transparency, accountability and strict adherence to due process. We feel that it is also worth noting that, suspensions clog up prisons and watch houses and create more work for the Parole Board with respect to consideration of matters relating to re-release of the individual.

Recommendation/s

We recommend:

22. consideration of replacing the current regime of suspension relating to breaches other than new offending/reoffending (i.e., for minor breaches such as the examples provided earlier) that places priority on keeping a parolee in community whilst undertaking the show cause process to avoid disruption to the client's supervised release and progress, whereby the Parole Board could:

[9] Mr Walter Sofronoff KC, *Queensland Parole System Review*, Final Report (November 2016) 91.

(a) *before* issuing a return to prison warrant, issue a summons to the client to meet with the Parole Board with the parole officer in attendance and with the support of an Indigenous Liaison Officer and/or, with leave, a lawyer in attendance (this meeting could be undertaken by video link from the parole office or in person);
(b) in this meeting, have a conversation with the parolee and ask them to explain the relevant conduct which is the subject of the breach/es (verbal show cause);
(c) following the explanation, promptly make an informed decision (with a legislated timeframe) as to whether to cancel parole or allow the individual to remain in community.

23. in the event that the government is not agreeable to the above recommended approach, legislative amendments should made to the *Corrective Services Act 2006* to be stipulate a time period within which the Parole Board must assess and decide whether the suspension should be lifted or parole should be cancelled, as follows:
(a) for 'minor breaches' (defined with reference to the examples provided earlier, or alternatively, with those examples explicitly stated in the Parole Board Decision Making Manual and/or Ministerial Guidelines)—28 days;
(b) for more serious new offending/reoffending with a grant of bail—28 days from the grant of bail;
(c) for more serious new offending/reoffending with no grant of bail—6 months, to take into account that this process would take longer due to the complexity involved.
24. that amendments be made to the *Corrective Services Act 2006* or, at minimum, the policies and procedures of the Parole Board to stipulate that the Parole Board must provide a copy of the Advice to Parole or similarly prepared document which sets out the material which the Board relied upon in deciding whether to suspend or cancel a prisoner's parole (similar to the preliminary refusal annexures which are provided);
25. with respect to where QPS has made a determination that a parolee is 'wanted for questioning' with respect to a matter, that amendments be made to relevant legislation to prohibit the Parole Board from suspending parole (consistent with the presumption of innocence) or, if this is not supported, in circumstances where QPS has made a determination that a client is 'wanted for questioning' and the Parole Board has suspended parole for this reason, amendments should be made to relevant governing legislation:
(a) to require QPS to undertake that questioning within 28 days from the date of the return to prison; and

(b) if charges are not forthcoming, stipulate that the Parole Board must automatically release the client, if this was the only reason for their re-incarceration.

5. The impacts of section 179 of the *Corrective Services Act 2006* - immediate cancellation of an active parole application for a prisoner detained on remand for an offence

Section 179 of the *Corrective Services Act 2006* is the application provision for Chapter 5 (Parole), Subdivision 2 (Other parole order) and provides at subsection (2)(a)(i) that Subdivision 2 does not apply to a prisoner that is detained on remand for an offence.

The effect of this provision is that a prisoner that has a pending parole application who is charged with an offence and remanded in custody will have their parole application immediately cancelled and they cannot apply for parole again until the charge is finalised or they are granted bail. This includes an application for exceptional circumstances parole and is triggered even in circumstances where prisoners are eligible for parole on their index offence and are then charged with new offending, regardless of whether the new offences pre or post-date their index offence. It also occurs regardless of the outcome, e.g. even if the charge is dismissed. When the charge is finalised or the prisoner is granted bail, they are then required to resubmit a whole new application for parole and the 120-day timeframe restarts.

We offer the following hypothetical example to demonstrate the issues:

Susan was sentenced on the 1st of January 2024 to a period of imprisonment for 12 months with an immediate parole eligibility date. Susan submits her application for parole on the 2nd of January 2024. The Parole Board has 120 days to consider her application. Whilst in custody, Susan is charged with an old Commit Public Nuisance offence which occurred on the 25th of November 2023. She is given a Notice to Appear on 1 April 2024. She appears in Court by video link and seeks representation from ATSILS. One of our lawyers appears and adjourns the matter for a week so that we can arrange a video link to get her instructions and antecedence. Given that the client is currently serving a sentence the lawyer does not seek to apply for bail at the first appearance and the client is remanded in custody.

As soon as the Court remands Susan in custody, section 179 is triggered and the Parole Board will cancel her parole application, which they were due to consider. This means

that once her charge has been dealt with or when she receives bail on that charge, Susan will have to resubmit a whole new parole application, and the 120-day timeframe will start again. This causes significant delays in having clients parole applications considered. Particularly in cases where the charge is unlikely to attract a further term of imprisonment.

Based on our observations, it appears that the Court might not be familiar with the effect/impact of this section on a client's parole application and, therefore, it is pertinent for the lawyer representing the prisoner to bring it to the Court's attention.

Recommendation/s

We recommend:

26. that section 179 of the *Corrective Services Act 2006* be amended so that, where:
    (a) a prisoner has submitted a parole application which is pending an outcome; and
    (b) the prisoner is remanded in custody,
    in lieu of the parole application being automatically cancelled, the 'clock' on their parole application assessment is *paused* pending the outcome of the charge, with the *pause* permitted for no longer than 6 or 12 months (as an example), i.e., not an indefinite time period;
    or, if the above is not supported, we recommend that a member of the Parole Board or QCS is obligated to inform the court about the status of any parole applications for prisoners appearing in court that day (to allow the court to make more informed decisions as to whether to grant bail or not);
27. Judicial officers are provided with training with respect to the matters outlined in recommendation 26.

6. Barriers to accessing and participating in Rehabilitation programs

We refer to the following submissions, in which we have addressed our views on this issue in detail:

- Submission on the Parole System Review 2, **attached**; and
- Submission on the Police Powers and Responsibilities and Other Legislation Amendment Bill 2024, **attached**.

We make the following additional comments.

(a) Demand continues to outstrip supply for mental health programs along with rehabilitation programs generally

There are very high suicide rates and mental health issues within the cohort of Aboriginal and Torres Strait Islander offenders, however, mental health programs are few and far between and have very long wait lists. Furthermore, obtaining a diagnosis and getting treatment is almost an impossibility.

Waitlists for rehabilitation programs, in general, are extraordinarily long and certain courses are only offered at certain prisons. Courses ordinarily take a maximum of 15 prisoners at a time, yet the demand for these programs is far greater.

For domestic violence offenders, there is a specific absurdity where they are advised that they need to complete a domestic violence course, however, the only time that they can actually get onto to a domestic violence course is after they are charged, but not once they are incarcerated or on parole.

(b) Opportunities for improvement in the QCS process relating to rehabilitation

Soon after a prisoner is sentenced, QCS is required to undertake a rehabilitation needs assessment whereby they identify the courses that would be helpful for the prisoner to undertake. In our experience, we have observed that often this has not occurred at all, or, if it has, QCS has advised that the prisoner does not have to do any courses, following which the prisoner remains in custody until they can apply for parole and when they do, they are advised by the Parole Board that they should have completed a course/s. Additionally, we have represented clients that do not have the literacy skills to complete a course, and parole has been denied on the basis that they did not complete the course, even though this has been through no fault of their own.

In this regard, we refer to the case of *Gough v Southern Queensland Regional Parole Board*[10] where Applegarth J held that:

The failure to consider why the applicant had not undertaken the programs whilst in custody and the failure to consider the applicant's request to undertake them in the community (even at his own cost and as a condition of parole) indicates that the Board did not have proper regard to the circumstances in favour of the grant of parole, and did not consider the particular circumstances of the applicant in relation to undertaking the recommended programs. It is possible to characterise the Board's

[10] *Gough v Southern Queensland Regional Parole Board* [2008] QSC 222 at [73].

failure to consider the merits of the application in these respects as constituting an error of law. However, for the purposes of s 23(f) of the JRA I find that the Board did not have regard to the merits of the particular case.

We further refer to the case of *Cuzack v Queensland Parole Board*[11] wherein the Supreme Court considered whether the Parole Board's refusal to grant the applicant parole on the basis that he had not completed all recommended programs and, therefore, still had a high security classification was justified. Finding in the applicants favour the court held that:

The respondent's failure to have regard to whether the applicant could properly progress to a low security classification when he was unable to undertake recommended programs through no fault of his own amounted to a failure on the respondent's part to have proper regard to the circumstances in favour of the grant of parole. The respondent's failure to do so constituted a failure to consider the applicant's application on its merits and amounted to a breach of s 23(f) of the JR Act.

Additionally, we note that when practitioners enquire with QCS regarding when rehabilitation programs are scheduled to occur, QCS does not appear to know nor have a schedule or they are unwilling to share that information with practitioners.

(c) Opportunities for improvement in Parole Board processes relating to rehabilitation

When we assist clients that are seeking parole, we will advise them to complete the Form 29, AR form and a 'Relapse Prevention Plan' (this is not a mandatory requirement, but we encourage clients to fill them out). The Parole Board often subsequently advises that the Relapse Prevention Plan is 'underdeveloped' without providing any clarity on what the Parole Board wants to be included for it to be sufficient. This is particularly an issue for clients that have literacy challenges.

We estimate that approximately 90% of all preliminary refusals of parole that we see are due to 'outstanding treatment needs' and an underdeveloped release plan despite the fact that: we often find that our clients have not even been spoken to about outstanding treatment needs; and the Relapse Prevention Plan is a standard 'question and answer' form and does not lend itself to clients providing further details.

On some occasions, prisoners are not permitted to do a relevant rehabilitation program due to association issues , i.e., where it might have been determined that the

[11] *Cuzack v Queensland Parole Board* [2010] QSC 264 at [30].

prisoner is not allowed to be with another prisoner who is also participating in a relevant program, or around any people at all). However, this is, unfortunately, not taken into account by the Board and is held against the prisoner. Further, it appears that decision makers are relying solely upon QCS case notes. Our clients often tell us that they cannot recall some custodial incident having taken place and they were never spoken to about the incident. We have also observed instances where an officer has noted 'offensive behaviour' in relation to a prisoner, because the prisoner was rude and this is considered as a custodial incident, or where a breach hearing was heard in relation to a custodial incident and the client was found not guilty, and the matter is still taken into account by the Board. Not only is there is a lack of procedural fairness in this process, it clogs up the system causing delays.

Recommendation/s

We recommend:

28. relevant policies and procedures of QCS are assessed and, where required, tightened coupled with appropriate training of QCS staff to ensure that as soon as a prisoner is sentenced, their rehabilitation needs are immediately assessed and they are then waitlisted immediately for those courses.
29. rehabilitation courses be provided in alternative mediums, such as, in video format on an iPad, and with literacy support, where required;
30. that the Parole Board only be permitted to take into account a custodial incidents where:
    (a) there has been a breach hearing in relation to the custodial incident and the client has pleaded guilty or been found guilty; or
    (b) a safety order has been imposed as a result of the incident.

7. The increasing influence of victims in the parole process

We refer to the following submissions, in which we have addressed our views on this issue in detail:

- Submission on the Police Powers and Responsibilities and Other Legislation Amendment Bill 2024, **attached**; and
- Submission on the Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024, **attached**.

Recent amendments to the *Corrective Services Act 2006* enhance the role of victims of crime in the parole process, in our view, at the expense of a fair hearing for prisoners.

(a) Representation of victims of crime on the Parole Board

Recent amendments to section 221 of the *Corrective Services Act 2006* mandate that the Parole Board be comprised of 'at least one community board member must be a person who has expertise or experience relevant to victims of crime, including how crimes affect victims and the challenges victims face in interacting with the criminal justice system' (see section 221(4)). In our submission on the amending Act which brought in these amendments, we submitted that it was unclear what the threshold is for an individual to possess the requisite 'expertise or experience relevant to victims of crime, including how crimes affect victims and the challenges that victims face in interacting with the criminal justice system' and that an individual that has 'experience of the challenges that victims face in interacting with the criminal justice system' might not qualify that person to provide relevant and useful insight or views to appropriately inform the Parole Board's determinations about the parole, or otherwise, of individuals. We remain concerned that these amendments open the door to membership of individuals on the Parole Board whose personal experiences might not make them the most suitable, unbiased candidates for the role.

(b) Enhancing of the QCS Victim's Register

Recent amendments to the *Corrective Services Act 2006* enable a victim of crime to be able to make submissions to decision-makers about the parole of an individual. In our submission on these amendments, we raised concerns about a lack of clarity regarding: what this would entail; the type of information that the Parole Board would allow from a victim; and the weight that would be placed on this information in the Parole Board's decision-making process. We submitted that we were unclear on whether victims would be allowed to attend parole hearings to make submissions orally or via video link (noting that section 188 allows the Parole Board to accept submissions from eligible persons about a parole application via a voice recording, telephone or video link). As lawyers representing individuals that are seeking parole are not permitted to attend these hearings, we submitted that we do not support any proposed ability for victims to be able to make oral submissions at parole hearings and that doing so could be significantly prejudicial to those seeking parole by creating an imbalance between the rights of a victim and the rights of an individual seeking parole.

The principle of 'equality of arms' is a fundamental component of procedural fairness and the right to a fair hearing, as protected under international human rights law and the HR Act (section 31). This principle ensures that both parties have a reasonable opportunity to present their case under conditions that do not place one party at a

substantial disadvantage when compared with the other. In the context of parole hearings, the absence of legal representation for the prisoner creates a significant imbalance, particularly in light of the ability of non-legally qualified victims to present material that might be irrelevant, impermissible or unsubstantiated without any effective safeguards against consideration of such material.

In the interests of procedural fairness, we recommend that Queensland move to a model that mandates oral hearings for all parole decisions and/or introducing a system which provides prisoners with access to legal representation for parole decisions. We are aware that, in the New Zealand jurisdiction, parole hearings are able to be undertaken in person by way of submissions and oral hearings. Lawyers are able to attend these hearings and represent their client. In our view, this is essential, to help guide the client through the hearing, especially in circumstances where they might have literacy challenges and/or mental impairment/s.

Recommendation/s

We recommend:

31. amendments be made to the *Corrective Services Act 2006* to expressly mandate oral hearings for all parole decisions and/or that a system is introduced which provides prisoners with access to legal representation for parole decisions (this should be coupled with sufficient funding to community legal centres to meet the demand), or alternative, if this is not supported, that funding be made available for Judicial Review applications to the Supreme Court to challenge unlawful parole decisions.

8. Embedding a shared decision-making framework for parole

We note:

(a) the well-documented overrepresentation of Aboriginal and Torres Strait Islander peoples within the prison cohort;

(b) Socio-economic target 10 of the National Agreement on Closing the Gap - 'Adults are not overrepresented in the criminal justice system', the target for which is expressed as follows: 'By 2031, reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 percent';

(c) that the Productivity Commission's Closing the Gap Dashboard data shows that, Queensland's progress towards this target over the period of 2019 to 2024 has been assessed as 'worsening; with a 'high' rate of confidence in this assessment which was based data showing that the age-standardised imprisonment rate per

100,000 adults for Aboriginal and Torres Strait Islander adults has increased from 1,437.6 in 2016 to 2,188.8 in 2024[12];

(d) the commitments enshrined within the National Agreement on Closing the Gap with respect to self-determination and shared decision-making.

Further, we have identified that there is a need for there to be a link-up with the community that the offender is proposed to be released back into. In particular, there needs to be discussion with the Elders of the community regarding whether the community wants the individual to be placed there. Considerations should also be had as to whether sending the individual to the community will be setting them up to fail and whether the victim's family wants justice, such that it could expose the individual to retribution.

Recommendation/s

We recommend:

32. that a shared decision-making framework, co-designed with the Aboriginal and Torres Strait Islander community, be embedded into the legislative framework (an example of how this could work in practice is that where the Parole Board has concerns about the risk of returning a prisoner to a certain community or geographical location, the Parole Board share the decision making process with, or at minimum obtain the views of, local Elders or Community Justice Group to establish whether the community is supportive of that person returning.)

9. Automatic release for eligible prisoners to ease administrative burden on the Parole Board

The factors of conduct in prison and completion of programs are relied upon heavily to assess suitability for parole. These factors are largely absent for prisoners serving short terms of imprisonment as they do not have realistic access to programs, and even if they did, they are unlikely to have enough time in custody to show progress with rehabilitation. This makes the imposition of parole on prisoners serving short sentences is illogical, unfair and impractical.

The imposition of parole eligibility dates for prisoners who have breached their parole by low level offending, such as, commit public nuisance, creates a revolving door between prison and further parole considerations. The technicalities preventing a magistrate from being able to impose a fresh parole release date further clog up the parole system and do not improve community safety.

[12] Available at: < https://www.pc.gov.au/closing-the-gap-data/dashboard/se/outcome-area10>.

Recommendation/s

We recommend:

33. that relevant legislation be amended so that a court imposing a sentence of 12 months or less would only be able to impose a parole release date (i.e., no parole eligibility dates for short terms of imprisonment);
34. that amendments be made to the *Corrective Services Act 2006* to increase the scope of prisoners serving short-terms of imprisonment (12 months or less) that are eligible for automatic early release from prison without needing consideration by the Parole Board, which could be achieved by: expanding the threshold for automatic parole; streamlining low-risk parole applications; and the government consider re-introduction of court-ordered immediate parole eligibility (COIPE).

10. Parole orders are not always in simple English

Parole orders are not always in simple English and sometimes contradict each other, such that compliance becomes difficult. Taking into account the prevalence of potential language barriers, cognitive impairments and disability amongst the cohort of Aboriginal and Torres Strait Islander offenders, it is imperative that parole orders are simple to read and understand as this will promote compliance.

Recommendation/s

We recommend:

35. that policies and procedures of the Parole Board are reviewed and, where appropriate, strengthened with respect to the drafting of parole orders with a view to avoiding contradicting conditions and promoting the use of plain English;
36. that Parole Board members are provided with training in connection with recommendation 34.

11. Issues relating to security classification of prisoners

We often receive preliminary refusals where the Parole Board has taken into account a prisoner's security classification and has recommended that they progress to the residential unit before their release. Prisoners serving a life sentence are unable to be assigned a low security classification which prevents them from being placed in low security prisons or units.

Recommendation/s

We recommend:

37. that section 68A (1)(c) of the *Corrective Services Act 2006* be amended, along with relevant policies and procedures, to reflect a prisoner's current security risk rather than relying on their index offence.

12. Other recommendations

We also offer the following global recommendations for consideration:

Recommendation/s

We recommend:

38. that Queensland consider adopting the ACT approach of regular, structured parole management hearings to create structured checkpoints that aim to engage parolees, identify emerging challenges early and offer opportunities to course-correct before sanctioning breaches;
39. that the Parole Board is adequately funded and resourced to undertake its functions, in consideration of its workload;
40. that the Queensland government provide adequate funding and resources to bring Queensland Corrective Services' offender-to-staff ratio in line with the Australian average with a view to promoting stronger end-to-end case management and streamlining the parole process;
41. an increase in properly resourced, widely and readily available, *culturally safe and trauma-informed** rehabilitation programs and supports, internal and external, to help address the root causes of offending and thereby reduce the risk of reoffending;

    ***Note:** We understand, based on discussions in our oral submissions meeting with Mr Peter Hastie KC, that it might be beneficial to provide additional detail regarding what this means.

    To that end, we refer to the definition of 'cultural safety' in the National Agreement on Closing the Gap which states as follows:

    > *Cultural safety is about overcoming the power imbalances of places, people and policies that occur between the majority non-Indigenous position and the minority Aboriginal and Torres Strait Islander person so that there is no assault, challenge or denial of the Aboriginal and Torres Strait Islander person's identity, of who they are and what they need. Cultural safety is met*

through actions from the majority position which recognise, respect, and nurture the unique cultural identity of Aboriginal and Torres Strait Islander people. Only the Aboriginal and Torres Strait Islander person who is recipient of a service or interaction can determine whether it is culturally safe.

Priority must be given to programs that are designed and delivered by Aboriginal and Torres Strait Islander community-controlled organisations for the best prospects of engagement and positive outcomes. We encourage that the Reviewer include, as part of the Review, consideration of views from community-controlled organisations that currently deliver place-based programs to address the needs of parolees. To assist, we also have outlined some features below for consideration:

(a) *Community-led* – programs that are co-designed and delivered by/in partnership with Aboriginal and Torres Strait Islander community-controlled organisations;

(b) *Recognition of Kinship and Connection to Country* – programs that strengthen cultural identity, support healing through connection to Country and consider family and kinship obligations;

(c) *Cultural competency of staff* (particularly for programs that are delivered by organisations other than community-controlled organisations) - programs provide regular training to maintain/boost staff knowledge and understanding of cultural considerations/context pertaining to Aboriginal and Torres Strait Islander peoples navigating the criminal justice system;

(d) *Safe spaces* – physical and emotional environments where participants feel respected and free from discrimination/racism, and which also consider cultural considerations, for example, DV men's behaviour programs delivered by men, in respect of men's business and DV women' behaviour programs delivered by women, in respect of women's business;

(e) *Trauma-informed approach*, including:

  (i) *Acknowledgement of historical and intergenerational trauma* – programs must recognise the impact of colonisation, forced removals, systemic racism and loss of culture;

  (ii) *Healing-Focussed Interventions* – incorporation of First Nations healing practices, such as yarning circles, on-Country programs and traditional healing;

  (iii) *Strength-based models* – emphasising resilience, self-determination and community strengths rather than focusing solely on deficits or risks;

  (iv) *Safety and trustworthiness* – building strong trusting relationships with participants through consistency, transparency and empowerment;

42. the hiring of additional Cultural Liaison Officers, in consideration of the overrepresentation of Aboriginal and Torres Strait Islander offenders that require case management;
43. cultural training for parole and probation officers to assist in building upon knowledge relating to the Aboriginal and Torres Strait Islander individual's experience in navigating the parole system (which will help in better supporting those individuals be successful on parole); and
44. with respect to the Terms of Reference of the Review which relates to victims of crime:
    (a) there be clarification on how the Parole Board intends on consulting victims who are incarcerated;
    (b) there be clarification on what, if any, assistance will be or is being provided to prisoners if they want to be placed on the Victims Register; and
    (c) there be clarification on the process relating to how they can provide their views to the Parole Board.

We thank you for the opportunity to provide feedback on the Review.

Yours faithfully,

Shane Duffy
Chief Executive Officer