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21st October 2016

Parole Review
c/o Social Policy
Department of Premier and Cabinet
PO Box 15185
City East QLD 4002

Attention: Mr. Walter Sofronoff QC

Via email transmission: parolereview@qld.gov.au

Re: Submission on the Review of the Queensland Parole Boards

Dear colleague**,**

We commence by thanking all involved for this opportunity to have input into this highly significant review. We hope and trust that this written feedback is of assistance - coupled with the opportunity which was provided to us to provide face-to-face feedback.

Preliminary Consideration: Our background for meaningful 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 people 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 in the delivery of innovative, professional and culturally competent legal and other support services. Our mission is to foster collaborative partnerships with our communities, key government and non-government stakeholders, to influence positive change, and deliver services to our people within or exposed to the justice system.

ATSILS provides legal services to Aboriginal and Torres Strait Islander peoples throughout mainland Queensland. 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). For over four decades we have practised at the coalface of the justice arena and are now well placed to provide meaningful comment. Not from a theoretical or purely academic perspective, but rather from a platform based upon actual experiences.

Additional background comments

It is widely known, that Aboriginal and Torres Strait Islander people are significantly overrepresented in the prison population, with incarceration rates approximately 15 times higher for Indigenous Australians, then non-Indigenous Australians. The Australian adult imprisonment rates, from 2000 to 2010, indicate Aboriginal and Torres Strait Islander people incarceration increased by 51.1 per cent, compared to Non-Aboriginal and Torres Strait Islander people's 3.1 per cent, and that the Aboriginal and Torres Strait Islander peoples rate, is steadily increasing exponentially. Currently, Aboriginal and Torres Strait Islander people represent approximately 26 per cent of the prison population, despite comprising only 2.5 per cent of Australia's general population[1].

Our organisation is well aware of the many challenges faced by Aboriginal and Torres Strait Islander prisoners, when accessing parole, and the reasons for return to custody, when on parole. Research demonstrates, that Aboriginal and Torres Strait Islander prisoners suffer

[1] Law Council of Australia, *Indigenous Imprisonment Fact Sheet*, (Law Council of Australia Publications, 2014) 1.

greater challenges in obtaining parole, than non-Aboriginal and Torres Strait Islander prisoners, and that Aboriginal and Torres Strait Islander parolees, are significantly less likely to complete parole. The 2012 Queensland Inside Out study found that, of the 420 Aboriginal and Torres Strait Islander prisoners who were interviewed, approximately 25 per cent of participants, "believed they were destined to return to custody again, after their release"[2]. However, parole if executed correctly, has the ability to address the over-representation of Aboriginal and Torres Strait Islander people in incarceration, by providing supported release, aiding integration back into community, and reducing the likelihood of reoffending.

Summary of observations

Please note that this brief summary does not encapsulate all of our recommendations as outlined within the body of this submission.

1. As with so many other areas (including any therapeutic approach) – parole is often as useful as the community-based support services that are available (Justice Reinvestment required).
2. The establishment in Queensland of a position akin to West Australia's Office of the Inspector of Custodial Services.
3. Staffing profile of probation/parole officers is inappropriate, particularly in relation to our client base (with a large percentage of young, Caucasian females).
4. Probation/parole staff are overworked - not only does such mean they tend to focus upon 'compliance' – but as often as not, look for reasons to 'breach' such that the client numbers on their books are reduced (via re-sentencing or parole suspension/revocation). More funding, less cases per officer is clearly required.
5. The introduction of case managers (and in relation to our clients, Indigenous case managers) to work in conjunction with the parole officers and to have a more hands-on mentoring approach with parolees (clearly focused upon rehabilitation rather than compliance) would be a huge benefit. Such would also relieve the workload burden on parole officers. If possible, these officers should be placed to establish links even before release so as to establish trust and rapport.

[2] Edward Heffernan, Kimina Anderson and Abhilash Dev, 'Inside Out: The Mental Health of Aboriginal and Torres Strait Islander People in Custody Report' (2012), *Queensland Government (Queensland Health)* 10.

6. Parole conditions imposed are often problematical for our client base: e.g. not to consort with known offenders. In some locations/communities such is neigh on impossible to comply with.
7. Too many being breached for matters other than re-offending (e.g. non reporting – Murri time). Please see **case examples below** – highlighting a few of the seemingly nonsensical reasons for parole suspension.
8. Enhanced cultural competency and more Indigenous staff in general.
9. Consideration for alleged parole violators to be brought back before the sentencing court rather than being subject to an administrative suspension – much in the same way as for an alleged breach of a community-based order. Such will provide a more balanced and equitable environment to consider all of the surrounding circumstances – as well as access to legal representation. Many parolees are not placed to adequately advocate on their own behalf.
10. Suitable accommodation is always a challenge – funding for half way houses to allow for graduated and supported release.
11. Increase court ordered parole options (having a fixed date solves a lot of challenges). For example – increasing the max head sentence from 3 to 5 years. BUT such is only workable if the parole system itself is working (given that such a change will see prisoners on parole for longer periods of time). So an integrated reform approach is essential.
12. Need for government to lead public opinion rather than follow it (e.g. get away from the electioneering 'tough on crime" cycle). Governments must invest in education of the public – so they realise that parole reforms are not about going soft on crime, rather being smart about it – reducing re-offending and thus making for safer communities.
13. Parole Board workloads can be reduced if the court has more scope to order fixed release. Such aside - they need to be better resourced – with less numbers per sitting.
14. It would be advantageous if applicants had an option to appear at their parole hearing (e.g. if there are "special considerations" – such as cultural challenges with paper work communication etc).

15. The parole boards also needs to provide feedback to applicants - including acknowledging receipt of an application and providing a reason(s) why an application was unsuccessful. Often prisoners are left in limbo for months – frustrations/stress.
16. Remote communities have special challenges re parole – lack of service providers etc.

Case Studies

Ordinarily we would provide such case studies towards the back of a submission as an appendix. However, by raising them here it is hoped that such will provide some context and greater 'colour' to certain of our submissions that follow.

Case Study 1:

A prisoner (serving a life sentence), who is a talented guitarist and had played lead guitar in the prison band, was released on parole. One of his conditions was not to enter licenced premises. The parolee is a Christian man who does not drink alcohol or take drugs. Since on parole, he had been attending church and had ambitions to guide young adult offenders to change their ways positively.

The parolee was asked to audition to play guitar for a singer who was due to perform at the 2016 ANZAC day celebrations. The parolee attended the audition which was held at approximately 12pm on a week day at a coffee shop. The singer auditioning the parolee had a vested interest in this coffee shop. The parolee was unaware the coffee shop held a liquor licence. The parolee's ATSILS's Prisoner Through Care Officer (PTC Officer) was in attendance at this audition and confirms no alcohol was consumed by any party on the day.

A staff member from Parole and Probation saw the parolee at the coffee shop and reported him to his parole officer. The parolee was then called in and advised that he would be breached. He was not offered a warning or second chance.

Rather than complain, the parolee advises his PTC Officer and waits at his halfway house to be arrested by the police. The parolee asked his PTC Officer to look after his guitar and amp for him. Within 24-48 hours the parolee is returned to prison. According to fellow prisoners, this parolee rarely leaves his cell and has become a recluse.

Case Study 2:

A prisoner in his mid-late 20's served a four-and-a-half-year sentence for armed robbery. He was released on parole and required to reside at a halfway house with curfew conditions. The parolee was doing well, with regular visits to his children and his mother once a week. He returned home to the halfway house each afternoon. The parolee had also been looking for employment and was keen to get work in the mines.

The parolee was visited by Criminal Investigation Branch Detectives who advised him that they had an old robbery charge on him. He was not arrested, but now feared attending court, being sentenced, and being returned to prison for another lengthy sentence.

One early evening, the parolee walked to a shop to purchase items such as cigarettes and soft-drink. At the shop he sees two uniformed police officers looking at him. The parolee panicked as he knew he was at the shop during his curfew hours. He absconds and does not return to the halfway house for fear he will be arrested and returned to prison.

The parolee has two small children, aged approximately five and six years old. The only reason the parolee wants to remain at large is because of his children – he regrets the time he wasted in custody, not being there for his children. He does not reoffend in any way *except* by breaching his parole by not being at his residence during curfew hours.

The PTC Officer learns of the incidence by the parolee's saddened mother. The PTC Officer speaks with the parole officer who advises that the parolee has not been breached yet, but police were looking for him to interview him on why he did not attend the front door when they made a late night curfew check.

Several weeks pass and the PTC Officer is advised by the parolee's family members that he is in hiding. His mother informs the PTC Officer that the parolee does not want to reoffend whilst on the run. The parolee, his children, mother and family members are all upset. The Parolee now lives in fear of once again spending time locked away from his children.

Case Study 3:

A PTC Officer is with his client, the parolee. The parolee had just completed a urine test, for his reporting and was now having a cigarette in the courtyard beside the Queensland Government hub.

A minute or so later, another former prisoner was seen walking towards the Queensland Government hub building. This former prisoner approaches the parolee and said hello, asked for a cigarette, and advised that he didn't know if he was going to make it home as his car was almost out of fuel. The former prisoner asked the parolee for $10 to buy fuel. The parolee gave him $10 and said goodbye.

The next day, the parolee contacted his PTC Officer and advised he had received a call from his parole officer asking him to attend that morning. The parolee requests that the PTC Officer attend with him. The PTC Officer obliges.

Upon attending, the parolee and PTC Officer learn that a probation and parole employee (who was also in the courtyard) saw the parolee associating and exchanging money with a former prisoner. The PTC Officer informs the parole officer that he witnessed the conversation and exchange of money, and its purpose. PTC Officer was asked to email what he had witnessed – he does so as soon as he returns to his office. The parolee advised that he was not breached, but was very concerned that the slightest suspicion could result in a breach.

A question also arises as to what the outcome might have been had the PTC Officer not been present to corroborate what actually occurred?

Case Study 4:

A prisoner (serving a life sentence) was convicted of murder. He was not a sex offender. When released on parole, one of his conditions was a non-cohabitation condition. On two occasions the parolee lost his public housing unit due to minor breaches of parole:

First, an open alcohol container was found in the parolee's unlockable room. The parolee said that the previous resident had left it there. There was no evidence that the parolee drank from the container.

The parolee was returned to prison. Months later, the parolee was approved for public housing and re-released on parole.

Second, at public housing unit, female swimwear was located on a [shared] clothesline. A girl was seen in the backyard of the unit. There was no evidence that the girl stayed at the residence overnight.

He was subsequently returned to prison for a breach of conditions.

Case Study 5:

A prisoner (serving a life sentence), who was not a sex offender, was paroled. His parole conditions were similar to those used under the *Dangerous Prisoners Sexual Offenders Act* 2003 (Qld). One of his conditions was not to have unsupervised contact with people under the age of 16 years.

The parolee's neighbour, who the parolee had had an altercation with on another occasion, made a complaint to police. The complaint stated that the parolee had tried to entice a young schoolgirl to come to his balcony for a conversation. The parolee's recollection of the event was that the person he wanted a conversation with was a friend, who was an adult over the age of 16 years, and that they spoke regularly about aboriginal culture.

The parolee was not officially breached for this allegation. The parolee was concerned that allegations made against him could jeopardise successful reintegration into the community.

Case Study 6:

A prisoner on an eight-year term was released into a boarding house, in New Farm – an area notorious for drugs. The parolee was doing well, compliant with treatment, and maintaining his programs. Two months into his release he was breached and had his parole suspended following a positive urinalysis sample. The parolee advised that he used drugs on one occasion to due to his mother being sick. He felt that he had no support in the community and that drugs were the only coping mechanism he knew that could take the pain away.

Since the breach, the parolee has been in prison for a further 12 months, despite being approved for parole release again. Delay in his release is due to not being able to get suitable housing.

Case Study 7:

A parolee misunderstood his Court Ordered Parole. The Order stipulated that he must report to Probation and Parole immediately upon release. The parolee however was of the understanding that the Magistrate said that his parole had been suspended indefinitely and therefore wasn't required to report to Probation and Parole. He was subsequently informed by police that he had breached his parole condition.

Case Study 8:

The Prisoners' Legal Service complained to the Queensland Ombudsman on behalf of a prisoner about a parole application. The application was lodged with the correctional centre on 4 November 2009, but it did not submit the application to the relevant parole board until May 2010. It is usual practice for a centre to notify the board of fresh parole applications as soon as possible.[3] The Ombudsman's investigation revealed that the centre had inadequate

[3] www.ombudsman.qld.gov.au

administrative practices in place to monitor and track parole applications. It also found that prisoners were not always asked whether they had lodged parole applications at their previous centre. The Ombudsman suggested that the centre review its current practices in relation to the processing of parole applications and suggested that the centre remind Sentence Management Unit officers of the need to ask prisoners about any current parole applications during the reception process[4].

These are a but a few of many such instances.

History of the Review

On 16 August 2016, the Honourable Bill Byrne MP, Minister for Police, Fire and Emergency Services and Minister for Corrective Services, established a review into the parole system, in Queensland. Mr Walter Sofronoff QC has been appointed to lead the review. The review will examine all facets of the parole system, in Queensland. ATSILS was cordially invited to provide comment or submissions, regarding the system of parole in Queensland, particularly with respect to the subsequent supervision and rehabilitation of offenders, to reduce the risk to the community. Findings or any recommendations arising from comments and submissions, due 14 October 2016, will be reported and provided to the Premier and Minister for the Arts, and the Minster for Police, Fire and Emergency Services and Minister for Corrective Services, by 30 November 2016.

The parole system enables prisoners to be released from correctional facilities and return back into the community, prior to the end of their term of imprisonment. Parole is subject to supervision and conditions on release, breach of which can result in prisoners being returned to prison. In broad terms, the rationale for parole is that in circumstances where risk to the community is considered to be acceptable, those prisoners who have already demonstrated good behaviour and progress towards reform, whilst in prison, might be released into the

[4] www.ombudsman.qld.gov.au

community, for the remainder of their term of imprisonment. Of recent times, there have been instances in a number of Australian jurisdictions, where the parole system has failed, with newly released prisoners, almost immediately, committing heinous crimes, including murder. Understandably, these cases give rise to community concern regarding the efficacy of the parole system. This review has been established in response to those concerns.

As part of the review, the review team seeks submissions and comments from the public, on the following:

- the operations of the parole boards, including the process of decision-making by the parole boards, about the grant or denial of parole, and the accountability of the parole boards for those decisions;
- risk to the community;
- the legislative framework for board-ordered parole and court-ordered parole, and
- the factors that lead to success or failure of parole, including the effectiveness of parole supervision, management, parolee monitoring and rehabilitation.

Part 1 – Parole Board Operations

Discussion points:

1. What should be the necessary qualifications for the President?

We propose the Queensland Parole Board ('QPB') president be a retired judge or magistrate, preferably of Aboriginal and Torres Strait Islander decent. We consider this would bring more independence to the role as the President would not be seeking a future judicial appointment, from the government, so potential political bias would be eliminated.

2. Where should parole boards be located?

The QPB, comprising the Queensland Parole Board, the Southern Queensland Regional Parole Board and the Central and Northern Queensland Regional Parole Board, are independent statutory bodies, established under the *Corrective Services Act 2006*[5]. QPB's play an

[5] *Corrective Services Act 2006 (Qld),* s. 227.

important role in the criminal justice system and members are responsible for making decisions about the release of prisoners on parole orders, as well as aspects of their ongoing management. It could be argued, that QPB members are essentially the voice of the community, and their role is to ensure that decisions are fair and just. Importantly, decisions must be made in the best interests of the safety of all Queenslanders. Aboriginal and Torres Strait Islander people, at times, find some of the conditions, set out in the parole orders, impracticable or not suitable, leading to revocation of parole[6].

The QPB meetings are currently held in either Brisbane or Townsville. QPB members appointed outside of these two locations are required to attend the meetings, via video conference link. We propose that the Parole Boards occasionally sit in other more remote Aboriginal and Torres Strait Islander communities. This would provide members an opportunity to see the type of issues parolees from these communities might face, and to speak with local Elders and Community Justice Groups about what solutions and support the community can offer, to these parolees.

3. What should be the composition of parole boards?

We support the proposition, that at least one quarter of QPB positions be filled by specialists who have knowledge and experience of Indigenous culture. The number should reflect the percentage of Aboriginal and Torres Strait Islander prisoners in Australia. The members who have this experience or knowledge should largely be constituted by Aboriginal and Torres Strait Islander people, including respected Elders and community leaders, doctors, psychiatrists, psychologists, and social workers. Having Aboriginal and Torres Strait identified QPB members will provide a greater understanding of remote and regional communities, as well as spiritual and cultural thinking. This would enable a QPB to carry out a more accurate risk assessment of indigenous prisoners when considering both parole release and parole conditions.

[6] Anne Grunseit, Suzie Forell & Emily McCarron, 'Taking Justice into Custody: The legal Needs of Prisoners' (2008) *Law and Justice Foundation of New South Wales* 30.

The remaining constitution of QPB should favour women, the aged, as well as professions from other cultures, to better reflect the culturally diverse nature of Queensland.

4. Should parole board members be liable to removal without reason?

Noting there is limited training of QPB members, we caution the removal of a board member without reason, as the removal lessens the experience and collective workings of the board. However, if the removal is for disciplinary reasons or due to absenteeism, we believe the rules of procedural fairness should be followed in any decision that relates to:

- An existing interest of a person;
- Discipline a board member; or
- Imposing a penalty on a board member.

5. Should the board members be remunerated for their reading time?

Parole Board members have a great deal of material to read before they can make a balanced decision on whether or not to release a prisoner on parole. Folio numbered case histories are provided to the board, prior to or during a meeting, electronically or delivered via courier[7]. The case history material includes a wide range of material including:

- Criminal history;
- Transcripts of proceedings;
- Verdict and judgement record;
- Any document forwarded by the Court's recommendation;
- Form 29 Application by prisoner for parole order or Form 28 application by prisoner for exceptional circumstances parole order and supporting documentation;
- Parole board report;
- Home assessment report;
- Psychological/psychiatric report/s;
- Parole board letters to the offender;
- Offender submissions to the parole board and those on behalf of the offender;

[7] Queensland Government, Queensland Corrective Services – Appendix – Parole Boards' Secretariat – Operational Guidelines (25 January 2013).

- Any other document requested by the parole board or report to the parole board; and program completion reports.

Additional documents which can be included to the case history, include but are not limited to:

- A copy of parole order (Form 33) or court ordered parole order (Form 31);
- Suspension notices;
- Board reports;
- Progress reports;
- Annual progress reports from probation and parole;
- Interstate parole transfer documentation;
- Urinalysis confirmation report/s; and
- Return to custody information[8].

QPB members need to be thorough and detailed in reading the extensive case histories, when making a decision, as this decision can adversely affect the parolee, their family and the community, if they get it wrong. QPB members should be adequately remunerated, if they have to read large volumes of material in their own time, prior to parole board meetings.

We understand that QPB members usually spend approximately 6-8 hours in preparation[9] and reading, before attending a Parole Board meeting, which often exceeds four hours' duration. According to QPB Annual Report 2014/2015, Queensland Parole Board met 80 times that year and considered on average 26 matters per meeting; South Queensland Regional Parole Board met 207 times that year and considered on average 54 matters per meeting; and Central and Northern Regional Parole Board met 132 times that year and considered on average 50 matters per meeting.

Acknowledging QPB members perform a great public service to the people of Queensland, their workload questions their capacity to be thorough and detailed, and seems tantamount to a full time job. Providing remuneration for reading time is a first step. Providing a realistic time frame to satisfy the role of membership, should be considered as well.

[8] Queensland Government, above n 5.
[9] Ibid, *Message from the President, Peter McInnes*

6. Should a greater number of board members be appointed to reduce the work load for current parole board members?

We are not in support of increasing the constituted number of QPB members, as this would not appropriately address the workload issue. To reduce the current workload of QPB members, and thereby the resultant stress and member's limited capacity, we propose increasing the number of sitting boards, and adding a Murri Parole Board, specialising in Aboriginal and Torres Strait prisoner parole matters only. Reducing QPB's workloads should be seriously considered to ensure that all decisions made give the parolee the best opportunity of successfully completing their parole orders, whilst adequately ensuring the safety of the community.

7. Are parole boards able to meaningfully deliberate on large numbers of cases per meeting?

Please see our comments in relation to discussion point 6.

8. Should a limit be placed on the number of matters considered at each meeting?

Please see our comments in relation to discussion point 6.

9. What criteria should be used to determine the number of cases that are dealt with at each parole board meeting?

In our submission, consideration should be given to prioritising the hearing of applications with criteria focusing on the vulnerability of the individual in question. Criteria would include, but not be limited to: age, mental health status, character of offending, as well as a person's cultural background – specifically indigenous persons.

Please again see our comments in relation to discussion point 6.

Part 2 – Transparency of parole decision making

Discussion points:

10. What should the role be for Ministerial Guidelines? Should these remain as 'guidelines' or should these become requirements in legislation?

Ministerial Guidelines[10] provide guidance, where necessary, to interpret parental legislation correctly, and thereby are only as good as their practical application. The benefit of them as presently provided for is that they are easier to amend than legislation. We therefore consider the Ministerial Guidelines should remain as guidelines only, and not be incorporated into legislation.

11. Should Queensland adopt an additional stage of review for serious violent offenders prior to consideration by the parole board?

We believe that minimum standard non-parole period schemes are effective and achieve better sentencing outcomes, we are not in support of an additional stage of review for serious violent offenders prior to consideration by the parole board. Minimum non-parole periods are set to 80% of prisoner's sentences before they can apply for parole. In our submission this regime provides adequate sanction for relevant offences with the existing availability of parole at the discretion of the board at that juncture.

12. What other matters should the parole boards take into account?

We understand that in Canada, Elder-Assisted Parole Board hearings are available to offenders who are Aboriginal, or to those who have demonstrated a meaningful commitment to an Aboriginal way of life[11]. An Elder-Assisted Parole Board hearing is attended by an Aboriginal Elder or Cultural Advisor, who can answer questions from Board members, about Aboriginal cultural and spiritual concerns. This process is just as rigorous as any other Parole Board of Canada (PBC) hearing. Elders are not involved in decision making, to grant or deny parole.

Canadian board members discuss the offender's case file with the offender's Parole Officer. During the hearing, if the offender has an assistant, they may deliver a statement to the board members. If a victim has prepared a statement, to read at the hearing, they will be invited to read their statement. Board members will interview the offender in order to decide whether the risk the offender presents can be managed in the community, or whether the offender's

[10] Ministerial Guidelines to the Queensland Parole Board 2015. See section 227 of the *Corrective Services Act 2006* (Qld) & Parole Orders chapter 5 of the *Corrective Services Act 2006 (Qld)*.
[11] Parole Board of Canada, www.pbc-clcc.gc.ca

release presents an undue risk to society. After the interview, participants and observers are escorted from the room, to allow board members to discuss and analyse elements of the interview, the offender's file information, and to make a decision. Once a decision is made, participants and observers are escorted back into the room, where Board members explain their decision for the offender.

We propose a similar regime be adopted when dealing with Queensland's Aboriginal and Torres Strait Islander prisoners, by implementing a system that addresses literacy and education barriers and cultural competency issues. A Murri Parole Board is certainly another option that should be explored.

13. Do the parole boards need other assessments (e.g. from experts) to make informed decisions about release?

We provide no response.

14. Should the parole board hearings be open to the public?

The QPB plays an important role in that it has to decide whether to let offenders back into the community. QPB members understand the media and public opprobrium over early release of notorious prisoners, and that the decision they make in releasing a prisoner on parole is a serious one. There is a real potential that QPB could release a prisoner, who could go on to commit some terrible act; or keep a prisoner in custody, when they are safe to be released, withholding their right to liberty.

Understanding these public interest concerns, we are of the opinion that QPB hearings should not be open to the public.

15. Should victims be able to appear before the parole boards?

We support this proposal. We also consider that a victim of an offence should include a person who has suffered injury, loss or damage as a direct result of the offence; and in cases where the offence resulted in a death, any member of the immediate family of the deceased.

Part 3 – Accountability mechanisms for the Parole Board

Discussion points:

16. Who should be able to challenge a decision to release a prisoner or to refuse to release a prisoner?

Currently, the only way a prisoner can really challenge a QPB decision, which has refused a grant of parole, is through a Judicial Review, in the Supreme Court of Queensland. There is no mechanism for a person, such as a member of the Executive Government or Attorney General, to challenge a decision of a QPB, to release a prisoner.

This raises concerns as, first, there is a 'constitutional prohibition on administrative bodies exercising judicial powers'[12] and, second, it questions a prisoner's judicial rights stemming from QPB's administrative body decisions and procedural fairness. To satisfy judicial rights, an open judicial hearing is, in our submission, the appropriate course to provide relief.

17. Should Queensland establish a review board to hear appeals about a decision to grant release to a prisoner?

We oppose (at least as a first preference), a review board to hear appeals about decisions to grant release to a prisoner, as an administrative body should not be given quasi-judicial powers and a review board would further remove judicial relief to prisoners (refer point 16). An appropriate right of appeal, based on merits and subject to specific statutory parameters, would satisfy prisoners' judicial rights. However, in the event that this is not a practical position to adopt, we would support a review board, as it would provide some further avenues of recourse outside the judicial review process.

If a review board is considered, further consideration should be given to who has the right to request a review of a decision of QPB. Concerns arise where a review could result from media hype, over a high profile offender. In such instances, the resulting decision reached by the

[12] Helen Blaber, 'Parole Bodies and Human Rights in Australia' (2012) 18 *Australian Journal of Human Rights* 1.

review board could be influenced by political pressure resulting in a decision to refuse parole, which might not be a truly independent decision based on the merits of the case.

18. Should there be a public review hearing?

We are of the opinion that any QPB hearings, including any reviews, should not be open to the public. Media saturation and public opprobrium, if the review hearings were to be made public, could lead to innocent family members being targeted by the media or members of the public.

19. Should prisoners be able to seek Judicial Review of decisions by the parole board?

As it stands Judicial Review is the only judicial safeguard to QPB's decisions. Understanding that, we consider that a prisoner's right to a Judicial Review, of a decision by QPB's not to grant a prisoner parole, is a right which should remain protected. Furthermore, we consider that privative clauses (laws which seek to remove the jurisdiction of the courts to review decisions of decision-makers, who act unlawfully or lack the power to make the particular decision) are an abrogation of a prisoner's basic rights.

We assert that any move to take away a prisoner's right to request a Judicial Review of a decision, made by QPB, would be a further step away from aspirational targets in the form of the *Standard Guidelines* and United Nations Treaties. This removal would result in prisoners being increasingly marginalised and silenced, and promote a policy environment characterised by lack of transparency and denial of accountability.

Who oversees the performance of the parole boards and the Probation and Parole Service?

Discussion points:

20. Should Queensland create an independent Inspectorate for parole boards?

We understand that the Office of the Chief Inspector, within QCS, is one of a suite of measures designed to maintain transparency and accountability for corrections in Queensland. The Chief Inspector is empowered by the *Corrective Services Act 2006*, to undertake inspections and reviews of the operations of corrective services, facilities and probation and parole

offices. His/her main responsibility is to provide independent scrutiny regarding the treatment of offenders, and the application of standards and operational practices, within the State's correctional centres. The partial independence of the role of Chief Inspector is maintained through a direct reporting relationship, with the Director-General.

However, many prisoners believe that official visitors, who make regular visits to correctional centres, to hear and resolve prisoner complaints, and who are required to report to the Chief Inspector, who has the responsibility to ensure that these reviews take place; are in fact, perceived to be 'part of the system', and are avoided. This statement is reflected in the significant decrease in the number of complaints dealt with by official visitors in recent years.

We therefore support an independent inspectorate being created for QPB's, and any new Review Board. Given the high number of cases being considered, the public interest in decisions and the potential impact of decisions on offenders, victim and their families, independent oversight of QPB's would assist with accountability and transparency.

We propose that an Office of the Parliamentary Inspector of Queensland Corrections be established, similar to the Parliamentary Crime and Corruption Committee, to assess and investigate complaints about the actions and decisions of QCS and QPB's. This office should also be empowered to make recommendations to the QPB's and other related authorities and report these recommendations to Parliament and Standing Committees.

21. Alternatively, should the powers of the Chief Inspector be expanded to include all facets of the correctional system in Queensland?

We refer to our comment above for point 20. In the event that an Independent Inspectorate is not established, then we submit that the powers of the Chief Inspector should be expanded, to include all facets of the correctional system in Queensland.

We are a strong proponent of the establishment in Queensland of a position akin to West Australia's Office of the Inspector of Custodial Services, which was established pursuant to the *Inspector of Custodial Services Act 2003*. The position has far reaching investigative powers and a very high level of independence (which we see as being crucial).

22. What special preparation or education should be given to members of parole boards?

Given the diverse make up of QPB members, the significant workload and the seriousness of their decision making, all QPB members should have appropriate and ongoing training with respect to Aboriginal and Torres Strait Islander cultural competency and support services available in community. QPB members need to comprehend what Aboriginal Torres Strait Islander prisoners face when applying for parole; what Aboriginal Torres Strait Islander parolees face while out in the community and what barriers there are for them throughout this process.

The barriers include but are not limited to:

- Lack of access to legal support;
- Lack of information and courses;
- Literacy and education deficiencies;
- Mental health issues;
- Difficulties in transition from custody to community;
- Lack of services and support on release;
- Lack of housing;
- Parole conditions being impractical;
- Substance abuse;
- Reasons for return to custody for low level offending;
- Lack of employment;
- Re-offending; and
- Domestic violence issues.

On understanding the challenges faced by our clients, QPB members will be able to make informed and practical decisions when deciding parole release and release conditions for Aboriginal and Torres Strait Islander Queenslanders.

23.1 Should the parole boards be required to annually report on murders and other serious offences committed by parolees?

We submit that this measure is not appropriate, as annually reporting on murders and other serious offences committed by parolees, whether it be to the Attorney General or a parliamentary committee, could put political and media pressure on QPB members, making them averse to taking any risk, and thereby influencing their decisions about releasing

prisoners to parole or imposing parole conditions. We consider that this added pressure, could detract from the independence of the QPBs.

23.2 Other than annual reporting, is there some other mechanism that could be used to document and understand when the parole system fails?

In 2015, the report of the Special Taskforce on Domestic and Family Violence in Queensland,[13] Not Now, Not Ever: Putting an End to Domestic and Family Violence in Queensland, recommended immediate steps be taken to enhance current review processes for domestic and family violence related deaths in Queensland. Of particular note, the report recommended the Government immediately consider an appropriate resourcing model for the Domestic and Family Violence Death Review Unit (DFVDRU) in the Office of the State Coroner to ensure it can best perform its functions to enable policy makers to better understand and prevent domestic and family violence.

We consider that a similar unit could be set up in the Office of the State Coroner to investigate unlawful killings or other serious offences committed by persons on parole, as many of these would probably constitute reportable deaths, and any inquests or coronial investigations would most likely provide information on issues that the parolee might have been facing, which could then be used by QPBs to better inform their decisions in the future.

Part 4 – Factors to increase success on parole

Discussion points:

24. Should the Queensland ratio of offenders to staff align more closely with the Australian average?

The June Quarter 2016 report, by Australian Bureau of Statistics[14], states that there are currently 7,752 prisoners in custody in Queensland, which makes up 20% of the total number of prisoners in custody, in Australia. The number of persons on community-based orders in

[13] Queensland Government, (Taskforce Report: Not Now, Not Ever: *Putting an End to Domestic and Family Violence in Queensland)* (2015).
[14] Australian Bureau of Statistics Report - 4512.0 - Corrective Services, Australia, June Quarter 2016

Queensland is 18,617 persons, which is 29% of the total of persons on community based orders, in Australia. In Queensland, 23% or 2,494 prisoners are of Aboriginal or Torres Strait Islander descent. Queensland has the highest ratio of community based offenders to Probation and Parole staff, coming in at 35:1, compared to the national average, being approximately 21:1.

Overloaded Probation and Parole Officers can resort to the easiest and simplest casework measure, namely compliance to relieve this load. Further, it has been identified that 'new Probation and Parole Officers, were supervising offenders without training, with some waiting up to 12 months before being trained'[15]. Also it has been suggested 'the quality of supervision and intervention provided by corrections staff, may have an influence on the choices of offenders completing their orders and also rehabilitation'[16]. Sadly, reported by Queensland Audit Office in 2013 to 14 Annual Report[17], QCS could not demonstrate any improvement in caseloads for regional case managers, responsible for high risk sex offenders. High turnover of staff, lack of training and supervision, huge caseloads and lack of diverse staff mix, has caused high numbers of offenders being returned to prison, for minor infractions. We recommend there should be a maximum client cap placed on the number of offenders per officer, at 20:1 (although this number could be increased somewhat with the inclusion into the parole team of our proposed mentoring officers).

25. What other steps or measure could be considered to enhance the ability to properly supervise offenders in the community?

We note that the *Corrective Services Act 2006*[18] was passed in May 2006, and heralded major changes to the way prisoners are managed, within the correctional environment and subsequently, on release into the community. The amended Act abolished remissions (time off a prisoner's sentence, for good behaviour), as well as conditional release (for sentences under two years), release to work and home detention. Supervised parole became the only

[15] Queensland Audit Office, 'Follow up – Management of offender's subject to supervision in the community (Report to Parliament 4: 2013-4)
[16] Queensland Audit Office, above n 19,13.
[17] Ibid, 14.
[18] *Corrective Services Act 2006* (Qld).

form of early release available to prisoners. The old Release to Work Program allowed prisoners to be released in the community for work purposes, twelve to eighteen months before their full-parole eligibility date, and the prisoners would then reside at a half-way house, with adequate supervision and conditions.

Halfway houses could be a way to enhance the ability to properly supervise offenders in the community, who QPBs consider are a greater risk of breaching their parole conditions, and which can offer support such as, rules, treatment programs, work requirements and curfews. Requirements can be made of the parolees while in a halfway house, including but not limited to: an inmate may not use drugs or drink alcohol; must get permission before leaving the halfway house; must participate in required programs; must look for a job; and an inmate who fails to comply with the rules of a halfway house, can be discharged and sent back to prison.

Halfway houses would work on community based orders, supporting and supervising prisoners on parole for longer periods of time, following an integrated reform approach. If there is a breach under a community based order, the parolee should be brought back to court, so that the matter can be properly considered, rather than the practices used currently, where a parole officer, on an alleged breach, can automatically have a parolee's parole suspended.

Different types of programing and services would also effect community supervision, while also supporting parolees. This could include: substance abuse programs; employment services; educational programs; cognitive therapy groups; financial counselling; life and parenting skills classes; anger management classes; behaviour medication programs; spiritual programs; domestic violence counselling and programs for sex offenders. Programs should be appropriate for low literacy level participants, where English is the second language and be culturally competent in its delivery.

We note that in some Canadian provinces, a more graduated form of release is utilised where:

- Offenders serving sentences of three years or more are eligible to apply for day parole six months prior to full parole eligibility.

- Offenders serving life sentences are eligible to apply for day parole three years before their full parole eligibility date.
- Offenders serving sentences of two to three years are eligible for day parole after serving six months of their sentence.
- For sentences under two years, day parole eligibility comes at one-sixth of their sentence.

We consider that the establishment of half-way houses, whether run by Community Corrections or private enterprise, as well as more graduated types of release and better placed programs, could enhance the ability to properly supervise offenders, in the community and lead to more successful re-integrations.

26. Will increasing funding and staff for the Probation and Parole Service be likely to reduce the risk of re-offending ('recidivism') by offenders on parole?

The transition from custody to the community, is recognised as a high-risk period for Aboriginal and Torres Strait Islander prisoners, particularly those suffering from a mental illness.[19]

In the Queensland 2012 study *Inside Out*[20]*,* more than half (54.3 per cent) of the participants had reported having suicidal ideations and reported that the suicidal ideations had been worse when they were out in the community, than when in custody. Furthermore, prisoners have expressed worry and fear for their return to the community, and a desire for there to be Aboriginal and Torres Strait Islander-specific transition officers, available.[21] One inmate stated:

> *Set up a support mechanism outside…where they [Aboriginal and Torres Strait Islander parolees] can feel a sense of belonging…so that they don't see jail as a place for social gatherings…*

[19] Heffernan et al, above n 2, 12.
[20] Heffernan et al. above n 2, 51.
[21] Heffernan et al, above n 2, 52.

We therefore recommend that an increase in funding and staff, for the Probation and Parole Service, could reduce the risk of re-offending by offenders, by reducing the case load ratio (refer to point 24) but knowing that this alone, will not reduce the risk of Aboriginal and Torres Strait Islander parolees, re-offending.

Consideration ought also to be given to proper resourcing of other integrated reform approaches such as: a specialised Murri Parole Board; more Aboriginal and Torres Strait staff being employed; Probation and Parole Officers properly trained and supervised; staff with a background in treating persons with mental illness; Indigenous mental health workers available to assist parolees who suffer mental health problems, who may be at greater risk of breaching their parole conditions or committing further criminal offences.

27. Are there specific issues in relation to parole that relate to Aboriginal and Torres Strait Islanders?

It is widely known that Aboriginal and Torres Strait Islander people are significantly overrepresented in the prison population, with incarceration rates approximately 14 times higher for Indigenous Australians than Non-Indigenous Australians. Aboriginal and Torres Strait Islander people represent approximately one quarter of the prison population, despite comprising only 2.5 per cent of the general population[22]. In the 2012 Queensland *Inside Out* study[23] found that of the 420 Aboriginal and Torres Strait Islander prisoners who were interviewed, around 25 per cent of participants "believed they were destined to return to custody again after their release[24]".

A University of Queensland report delivered June 2013[25], also highlights the challenges faced by Aboriginal and Torres Strait Islander prisoners, when accessing parole, and reasons for return to custody, when on parole. Research demonstrates that Aboriginal and Torres Strait Islander prisoners suffer greater challenges in obtaining parole, than Non-Aboriginal and Torres Strait Islander prisoners, and that Aboriginal and Torres Strait Islander parolees are significantly less likely to complete parole. Some of the main issues for Aboriginal and Torres

[22] Australian Bureau of Statistics, *Aboriginal and Torres Strait Islander Population* (30 April 2013).
[23] Heffernan et al, above n 2.
[24] Heffernan et al, above n 11.
[25] Victoria Apted et al, above n 10.

Strait Islander Queenslanders in prison, identified in University of Queensland report included:

- Access to legal support and information when applying for parole;
- Lack of access to computers and telephones;
- Lack of information regarding how to access Legal Aid;
- Lack of confidence or ability with written documents, or getting another inmate (at cost) to assist with an application.

It was also suggested that Aboriginal and Torres Strait Islander prisoners often felt dejected by the legal process and felt as though it was not worth even trying to obtain parole. Other emotional issues such as depression and despondency have been attributed to Aboriginal and Torres Strait Islander prisoners' poor access to legal support, because they might not feel motivated or optimistic about the potential outcome.

Another issue is shame, where prisoners feel embarrassed by the trouble they were in and did not want to draw attention to it by seeking legal support. Aboriginal and Torres Strait Islander emotional issues result in their legal issues (such as applying for parole) being neglected, resulting in fewer numbers of Aboriginal and Torres Strait Islander prisoners obtaining parole.

Lack of housing is a further barrier for Aboriginal and Torres Strait Islander prisoners seeking parole, as it is difficult to find appropriate housing that adheres to conditions placed on parole or deemed acceptable. This results in offenders remaining in prison simply because they do not have an approved address to be release to.

Many Aboriginal and Torres Strait Islander prisoners are detained in regional correctional centres. These centres typically are not resourced as well as those in metropolitan areas which causes particular disadvantage to prisoners there, as limited resources mean places in educational courses are competitive, and there are anecdotal reports of six to twelve month waiting lists.

Reporting on parole and adherence to conditions on parole, are also problematic, leading to breach of parole by Aboriginal and Torres Strait Islander parolees. Reporting is a difficult

concept for Aboriginal and Torres Strait Islander people, as they may not attach importance to it, or it may be overruled by other family commitments. Further, technical breaching of parole conditions has been found to be of great concern for Aboriginal and Torres Strait Islander parolees[26] (refer Appendix 1: Case Studies of Aboriginal and Torres Strait Islander parolee breaches of parole conditions).

28. Are the supervision practices in Queensland adequate?

On 20 July 2016, QCS announced the new Probation and Parole model.[27] This is part of a five year, $57.5-million-dollar reform of the community corrections system. It focuses on delivering tough new supervision and surveillance of offenders, stronger links with the courts and the judiciary and a suite of major new rehabilitation programs, needed to help some Queenslanders get their lives back on track. As parole is now the only form of supervised release for all prisoners, these changes are designed to ensure that all offenders are able to address offending behaviour, by starting rehabilitation programs according to assessed risk, and completing the programs under parole conditions.

The new Probation and Parole model comprises the following four areas:

- Induction and Assessment;
- Offender Management;
- Offender Intervention; and
- Compliance and Surveillance.

Specialist Induction and Assessment staff conduct assessments and establish a case management plan, for each offender, based on their reoffending risk and individual needs. These case management plans may include a range of activities and conditions, including program referral, individual counselling with external providers, compliance with drug testing regimes or employment preparation and assistance.

[26] Victoria Apted et al, above n 10, 15.
[27] Queensland Government, Queensland Corrective Service, Probation and Parole: The new probation and parole model (July 2016).

We believe that these measures when properly and fully implemented, should provide adequate supervision practices and support for offenders, if the staff involved are trained to deliver appropriately culturally competent programs and are supervised correctly.

29. Are Queensland's Probation and Parole Service staff properly equipped and resourced to manage risk to the community?

We refer to our submissions regarding point 24 and point 28.

30. How should the Probation and Parole Service manage or tolerate risk to the community?

The preoccupation with risk management, specifically the targeting of criminogenic needs, has become well known, within the correctional arena.[28] Indeed, empirical research supports the utility of what has been termed, the Risk-Need-Responsivity Model (RNR) of offender treatment, a perspective that focuses primarily on the management of risk.[29] In essence, the RNR proposes that treatment should proceed according to a collection of therapeutic principles: risk, need and responsivity.[30]

The *risk* principle is concerned with the identification of factors predictive of recidivism (usually static factors), with the level of intervention being matched to the offender's level of risk. The *need* principle states that therapy should target only those factors, that are empirically linked to offending (i.e. criminogenic needs). The *responsivity* principle stresses the importance of matching interventions to offenders' characteristics (e.g. motivation, learning style, and cultural identity).

The RNR has consistently produced positive (albeit, often modest) results in reducing recidivist behaviour by offenders. This suggests that whilst targeting risk has an impact on offending behaviour, it is by no means a complete answer. By extension, the RNR has increasingly received criticism for its narrow vision[31] which focuses largely on risk

[28] Andrews, D.A. & Bonta, J. (1998). The psychology of criminal conduct (2nd edn). Cincinnati, Ohio: Anderson Publishing Company.
[29] Andrews et al, above n 37.
[30] Andres et al, above n 37.
[31] T Ward, & M Brown, The Risk-Need Model of Offender Rehabilitation: A Critical Analysis. (2003).

management, and its relative neglect of the role of human goods and the value of building strengths, capabilities and well-being.[32]

It is our submission that a corrections model based on the Good Lives Model (GLM) is a framework of offender rehabilitation which, given its holistic nature, addresses the limitations of the traditional risk management approach. The GLM has been adopted as a grounding theoretical framework by several sex offender treatment programs internationally, and is now being applied successfully in a case management setting for offenders. The GLM is a strengths-based approach to offender rehabilitation, and is therefore premised on the idea that we need to build capabilities and strengths in people, in order to reduce their risk of reoffending.

According to the GLM, people offend because they are attempting to secure some kind of valued outcome in their life. As such, offending is essentially the product of a desire for something that is inherently human and normal. Unfortunately, the desire or goal manifests itself in harmful and antisocial behaviours, due to a range of deficits and weaknesses within the offender and his/her environment. Intervention should be viewed as an activity that should add to an individual's repertoire of personal functioning, rather than an activity that simply removes a problem, or is devoted to managing problems, as if a lifetime of restricting one's activity is the only way to avoid offending. Rehabilitation endeavours, should therefore equip offenders with the knowledge, skills, opportunities, and resources necessary to satisfy their life values, in ways that don't harm others.

The GLM is a theory of offender rehabilitation that contains three hierarchical sets of conceptual underpinnings: general ideas concerning the aims of rehabilitation; aetiological underpinnings, that account for the onset and maintenance of offending; and practical implications arising from the rehabilitation aims and aetiological positioning.

The GLM is grounded in the ethical concepts of human dignity[33] and universal human rights, and as such, it has a strong emphasis on human agency. That is, the GLM is concerned with individuals' ability to formulate and select goals and construct plans, and to act freely in the

[32] T Ward, .& S Maruna, Rehabilitation: Beyond the risk assessment paradigm.(2007, London, UK: Routledge).
[33] T Ward and K. Syversen, "Human dignity and vulnerable agency: An ethical framework for forensic practice." (2009). Aggression and Violent Behavior 14: 94-105.

implementation of these plans. A closely related assumption is the basic premise that offenders, like all humans, value certain states of mind, personal characteristics, and experiences, which are defined in the GLM, as primary goods. These are now defined as:

1. life (including healthy living and functioning);
2. knowledge (how well informed one feels about things that are important to them);
3. excellence in play (hobbies and recreational pursuits);
4. excellence in work (including mastery experiences);
5. excellence in agency (autonomy, power and self-directedness);
6. inner peace (freedom from emotional turmoil and stress);
7. relatedness (including intimate, romantic, and familial relationships);
8. community (connection to wider social groups);
9. spirituality (in the broad sense of finding meaning and purpose in life);
10. pleasure (feeling good in the here and now); and
11. creativity (expressing oneself through alternative forms).

Whilst it is assumed that all humans seek out all the primary goods to some degree, the weightings or priorities given to specific primary goods reflect an offender's values and life priorities. Moreover, the existence of a number of practical identities, based on, for example, family roles (eg. parent), work (eg. psychologist), and leisure (eg. rugby player) mean that an individual might draw on different value sources, in different contexts, depending on the normative values underpinning each practical identity.

Instrumental goods, or secondary goods, provide concrete means of securing primary goods and take the form of approach goals.[34] For example, completing an apprenticeship might satisfy the primary goods of knowledge and excellence in work, whereas joining an adult sports team or cultural club, might satisfy the primary good of community. Such activities are incompatible with dynamic risk factors, meaning that avoidance goals are indirectly targeted through the GLM's focus on approach goals.

31. Should breaches of parole be viewed more seriously?

[34] Ward, T. and J. Vess, et al,"Risk management or goods promotion: The relationship between approach and avoidance goals in treatment for sex offenders." (2006) Aggression and Violent Behavior 11: 378-393.

In our submission breaches of parole are presently treated with an adequate, and arguable excessively severe, degree of seriousness by Corrective Services and QPB's.

The more stringent the parole obligations, the greater the possibility of breaching those conditions. Viewing parole violations with a 'tough on crime' approach defeats the very thing that parole is intended for – parole is a justice reinvestment tool, designed to transition an offender (who has served their punitive time) back into the community with support and supervision, so as to reduce re-offending and thus making communities safer.

32. Should GPS tracking be a requirement for parolees in Queensland?

In our submission, the use of a GPS tracking device on parolees is a serious invasion of privacy and such should remain a discretionary tool as part of risk management considerations in individual cases. The basis of parole is for parolees to start taking personal responsibility of their lives and actions, and not about an extension of the prison fence, by detection.

GPS tracking devices are also problematic in their administration. GPS signals can be lost, and false reports can be generated because a parolee steps into an underground parking lot or subway.

Mental health disorders and management

Discussion points:

33. Does Queensland adequately support and treat prisoners with mental health disorders?

The NSW Inmate Health Survey, which is the most comprehensive study of prisoner health in Australia, identified the three most common mental health issues affecting Aboriginal and Torres Strait Islander prisoners, as being depression, anxiety and drug dependence.[35] A study in Queensland revealed that 73 per cent of male and 86 per cent of female Aboriginal and

[35] Phyllis et al., 'Editorial Healing for Aboriginal and Torres Strait Islander Australians at Risk with the Justice System: A Program with Wider Implications? (2012*) Criminal Behaviour and Mental Health* 22, 299.

Torres Strait Islander prisoners (of a sample of 396 Queensland inmates in high security prisons), suffered some kind of mental disorder.[36]

From these statistics, there is little doubt that Aboriginal and Torres Strait Islander prisoners suffer from high levels of mental illness. The issue at hand is how mental illness might be a barrier for Aboriginal and Torres Strait Islander prisoners in accessing parole, and what can be done for mental health afflicted prisoners. Aboriginal and Torres Strait Islander prisoners in the recent 2012 Queensland study[37] expressed a need for there to be more Aboriginal and Torres Strait Islander health professionals available while in custody, with accessibility to mental health services being an issue due to long wait times. We refer you to our answers in point 24.

Many offenders enter prison already on a treatment regime set by a doctor. Once inside, it is unlikely that the regime will be continued, as medications are not maintained, or are changed with no reference to the previously used community medical practitioners. The time from intake to seeing someone from Prison Mental Health is also far too long. Often people with acute needs (coming off drugs or suffering severe psychotic symptoms) have to deal with complications with their mental health after being incarcerated, even after transition from watch house to a correctional centre. Too many prisoners with complex mental health needs, report being given ineffective or excessive amounts or types of medication. Inappropriate medication impacts on Aboriginal and Torres Strait Islander prisoners with mental health issues, and can lead to attempts at self-harm and suicide whilst in custody.

We therefore recommend that greater access to health professionals and particularly those who are Aboriginal or Torres Strait Islander identified be implemented in prisons, as this would assist Aboriginal and Torres Strait Islander prisoners in addressing their mental health issues. These professionals might also be able to assist Aboriginal and Torres Strait Islander prisoners in finding appropriate programs when released back into their communities, so to help monitor their mental illness and transition appropriately to maintain any treatment regime successfully established.

[36] Heffernan et al, Prevalence of mental illness among Aboriginal and Torres Strait Islander people in Queensland Prisons. (2012) 197 *Medical Journal Australia* 1, 37.
[37] Heffernan et al, above n 45.

34. Are prisoners with a mental health disorder adequately supported as they re-enter the community?

Upon release on parole, many Aboriginal and Torres Strait Islander prisoners can return to remote communities where there is little mental health support. Whilst it is the responsibility of the parolee to follow up with their hospital or GP/mental health service, it is not unusual for someone with mental health issues to function erratically with everyday life.

This has the potential to further weaken an applicant's case when attempting to demonstrate that he/she could cope in the community. Follow-up services targeted at ensuring appointments are made and kept would aid the parolee in meeting their parole conditions and aid their wellbeing, this should involve reminders and direct assistance with transportation.

35. Are there sufficient services available to assess, treat and support offenders with a mental health disorder in the community?

Please see our response to points 33 and 34 above. The services available are limited, and even if more adequately resourced the key remains having a support service assist in linking parolees with service providers and practically assist them to access those services.

Discussion points:

36. Are there enough resources dedicated to the assessment and treatment of prisoners with a history of substance abuse?

Please see our response to points 33 to 35 above.

Mental health issues are synonymous with prisoners and parolees who have a history of substance abuse. There is a lack of resources and services dedicated to addressing substance abuse issues in prisons, as well as those aimed at linking parolees to support services on release.

A term in prison, if of sufficient duration, might immediately overcome a person's physical addiction to a substance or substances, but it does very little to equip a prisoner with the necessary skills and support to maintain sobriety post release.

To prevent relapse post release requires work to be done in custody, to educate and treat the habit, coupled with direct transition to similar supports in the community, upon their release. Of particular concern is the lack of in-prison assessment and ongoing treatment/programs for prisoners and parolees with methamphetamine abuse issues. If no treatment/programs exist for methamphetamine abusers, either in prison nor post release, how can a prisoner demonstrate to a QPB they have this problem in check, and satisfy them that they are not a risk to the community?

Treatment and programs however should not be seen as ticking a box, so a prisoner can be seen to be reducing their risk to the community, as set out in QPB Guidelines. Programs need to be adapted to meet Aboriginal and Torres Strait Islander cultural-specific needs, because if they are not, this will cause a barrier to participation and reintegration. In our submission there is not currently happening, and there needs to be appropriate resourcing of substance abuse treatment for prisoners and parolees.

37. How could the State better prevent relapse to substance abuse when offenders re-enter the community?

Please see our response to point 36.

It would also be of benefit for QPB to have the capacity to release offenders into community on ongoing programs. A support worker form Victorian Association for the Care and Resettlement of Offenders (VACRO) stated:

> *Where people can't complete a program while they are inside, it would be really good for motivation if there was the flexibility to be able to complete the program in the community… for example, where prisoners are doing cognitive skills training to learn how to make better choices, it may be even more beneficial to do this sort of learning*

in a community setting where they are confronted with actually having to make choices that matter.[38]

Supporting parolees at a community based level, to improve integration, is an idea endorsed by Australian Institute of Criminology.[39] This is especially apposite with Aboriginal and Torres Strait Islander Queensland communities, where kinship laws tie together the land, sea, wind, animals, plants and people. This fundamental law holds the community responsible to each other, maintaining socially acceptable behaviours.

For successful reintegration of Aboriginal and Torres Strait Islander parolees back into the community, the specific communities need to be consulted and supported to help reintegrate their kin. A community authority needs to be established, with community informed police, who have been culturally trained. Employment, services and programs must be provided to provide meaningful opportunities and support for parolee in their community. Further legal education for the community is needed so a better understanding of the law surrounding parole will allow the parolee and the community to understand the rights and obligations of community members on parole

38. Are sufficient services dedicated to manage people with a substance abuse problem in the community?

Please see our responses to points 33 – 37.

39. How could the government more effectively deal with the issues associated with substance abuse?

Please see our responses to points 36 – 37.

What other rehabilitation programs are delivered by QCS?

Discussion points:

[38] Victorian Association for the Care and Rehabilitation of Offenders, '*VACRO submission to the Sentencing Advisory Council: Parole in Victoria*' (2011).
[39] Matthew Wills, 'Reintegration of Indigenous prisoners: Key findings' (2008) *Australian Institute of Criminology: Trends & Issues*.

40. Is the current availability of programs prior to release from prison sufficient to reduce risk to the community?

Please see our responses to points 33 – 37.

41. Should the completion of rehabilitation be a mandatory requirement prior to parole release?

Please see our response to point 37.

Making rehabilitation mandatory would interfere with the discretion of the court. Courts structure sentences with rehabilitative aims in mind, together with the other objects under the *Penalties and Sentences Act 1992*. To suggest that a court ordered release date, or even eligibility, be made conditional on rehabilitative actions and completion of certain courses, which are already regarded as essential to a successful parole application, would be to further circumvent the court's discretion.

42. Is Queensland targeting the right issues through the delivery of rehabilitation and re-entry services?

Please see our response to point 37.

Queensland is generally targeting the right issues, however the practical delivery of rehabilitation and re-entry services is problematic and services around methamphetamine are non-existent.

With respect to Aboriginal and Torres Strait Islander Queenslander prisoners and parolees, as it stands, rehabilitation programs are not culturally appropriate or are lacking in availability. Further, re-entry programs are not linked to programs being utilised in prison and do not have the ability to take the programs from prison into the community.

43. How could Queensland improve the availability of programs and services for offenders in the community?

Please see our response to point 37.

We further submit that Queensland needs to allocate the appropriate funding to provide the services, programs and treatments, needed to support the design framework of QPB, with appropriately skilled and culturally competent personnel to administer to the services, programs and treatments.

Of importance is the lack of communication between the services, program coordinators, treatment providers and parolees. Lack of communication leads to unsuccessful treatments, incomplete programs, lack of access to services and frustrations and stress for parolees regarding their rights and obligations.

44. Should greater effort be directed to the delivery of re-entry programs, with extended support for offenders under supervision?

Please see our responses to point 37.

Part 5 – What is the legislative framework for parole in Queensland?

Discussion points:

45. Is court ordered parole effective?

The *Penalties and Sentences Act 1992* (Qld)[40] allows the court to grant court-ordered parole where the sentence is three years or less and the offence committed, was not a serious violent offence or sexual offence.

Court ordered parole is effective as it provides scope for sentencing courts to act with precision in how they seek to structure a sentence and to finely balance rehabilitative objects with deterrence and retributive aims. Importantly, it provides for certainty of release and duration of supervision on release to prisoners, which is an important factor to incentivise positive behavioural changes with prisoners.

As we submitted previously, issues regarding prisoners with educational and literacy difficulties are overcome to a large extent where no parole application is required.

[40] *Penalties and Sentences Act 1992* (Qld), s160B (3).

46. Should the maximum sentence for court ordered parole be increased from three years?

Court ordered parole was introduced to address the over-representation of short-sentenced, low-risk offenders in QCS facilities.[41]

Whilst we would be supportive of a proposal to increase the maximum sentence to which court ordered parole could apply – such is qualified. Caution is required as this will see prisoners on parole for longer periods of time. A well thought out integrated approach, to provide the support services and supervision to manage an increased number of parolees, for longer periods of time, would ideally to be put in place first, before increasing the maximum sentence available for court ordered parole.

47. Should there be more alternatives to court ordered parole available to the court when sentencing?

Please see our response to point 52.

We consider that one of the contributing factors which sees many parole suspensions and short prison stays for the offender, is the increased use of court-ordered parole in combination with a strict parole regime, and decreased use of suspended sentences. Since amendment to *Corrective Services Act* 2006, parole became the only option for early supervised release from prison. As a result, other forms of gradual or conditional release from prison, including work release, temporary absences or home detention, were no longer available.[42] This coupled with the strict parole regime, leaves the parolee limited options when they have breached.

With a suspended sentence a lawyer can provide cogent arguments to a court on why an offender should not be returned to custody for breaching the conditions of a suspended sentence. In Queensland, lawyers are not allowed to appear before a parole board, although in some circumstances, an agent can appear before a parole board, on behalf of an offender under the *Corrective Services Act 2006.*[43]

[41] Queensland Corrective Services, Court Ordered Parole in Queensland (Research Paper (No, 4) June 2013).
[42] Corrective Services Act 2006, s. 200
[43] Corrective Services Act 2006, s. 190 – Form 51

Courts need to have a wide range of sentencing options available to them, in order to promote the interests of individualised justice.[44] Courts need to have the discretion to impose sentences that align with the nature of the offence and the circumstances of the offender, and, where relevant, to set release dates accordingly. In respects to Aboriginal and Torres Strait Islander prisoners, it is commonly known that parole conditions are not achievable and not in touch with what might be achievable if Aboriginal and Torres Strait Islander parolees' cultural circumstances are not taken into account. As stated:

> *Formal directions in accordance with bonds or parole orders to individuals not to associate with specific others or warnings not to become involved in specific activities are likely to be either ineffectual (as an individual's obligations towards others are well established) or detrimental to traditional structures.*[45]

Alternative sentencing options for Aboriginal and Torres Strait Islander parolees living in remote or regional communities need to be developed, taking into account local circumstances and needs, and especially in conjunction with local justice mechanisms presently in existence or established in the future.[46]

Such mechanisms could include:

- Referral to a Murri Parole Board for consideration;
- Community release orders (release to Elder supervision or other appropriate authority;
- Local jails for 28 days' maximum periods (used for suspended parole only) and or locally developed alternatives (for example release to an outstation for work).

48. Should there be legislative principles guiding the court as to whether an offender should be placed on probation, a suspended sentence or court ordered parole?

[44] L Bartels and S Rice, 'Reviewing reforms to the law of suspended sentences in the Australian Capital territory' (2012) 14 *Flinders Law Journal* 253, 256.
[45] Aboriginal Welfare — Initial Conference of Commonwealth and State Aboriginal Authorities, held at Canberra, 21st-23rd April, 1937, AGPS, Canberra, 1937, 31
[46] Australian Law Reform Commission, *Recognition of Aboriginal Customary Laws*, Report No 31 (1986). Published on 12 June 1986.

We are not in favour of setting in legislation guidelines for the courts to follow as this restricts the discretion of those best qualified to determine these matters. Giving the courts discretion, to decide whether to place an offender on probation, suspended sentence or a court ordered parole, allows the court to make a decision, based upon a consideration of all factors involved, as opposed to having to decide based upon a predefined guidelines or rules. Allowing the court this discretion promotes individualised justice, which is particularly better suited to sentencing Aboriginal and Torres Strait Islander people.

49. Should there be a risk assessment performed on offenders prior to sentence?

The past several years have seen a surge of interest in using risk assessment, in criminal sentencing, to reduce recidivism by incapacitating or treating high-risk offenders, but also to reduce prison populations, by diverting low-risk offenders from prison.[47] We understand that in many locations in the United States judges are now enquiring into the risk assessment instruments, used by community corrections at sentencing, as research indicates statistical assessments outperform clinical judgment of even trained experts[48].

If actuarial assessment instruments could more accurately distinguish recidivists from those who will not reoffend then law enforcement resources could be reallocated to minimise crime. Individuals who are likely to commit future crimes, based on this assessment, might be incapacitated for longer periods (selective incapacitation) and provided with more educational programming, while low-risk defendants, could receive non-custodial or alternative punishments.

In our submission, these instruments do not presently offer anything beyond the existing situation – whereby comparable authorities are tendered to a court and legal argument is directed towards their points of relevance and distinction. Further, we have significant concerns that such a system would lead to a circumvention of material consideration being given to individual circumstances of an offender – where a tool provides an estimate or range

[47] John Monahan1 and Jennifer L. Skeem, University of Virginia School of Law, Charlottesville, Virginia, 2903-1738.
[48] *Dr. J.C. Oleson*, Risk Assessment at Sentencing (2011) *SMU Law Review.*

of 'appropriate' sentences courts would be loath to step outside these bounds for fear of appeal.

If Australia goes the way of United States, it is hoped risk assessment tools are only used with the understanding that the assessment will not address all factors for sentencing decisions and the final sentencing consideration should be left with the court. Currently we submit that the system is appropriately confined to *Dangerous Prisoners (Sexual Offenders) Act 2003* (Qld) applications, and where it is relevant the courts are equipped and experienced to assess risks.

50. Does QCS have the capability to successfully manage court ordered parolees in the community?

QCS reports that currently, this cohort of offenders will successfully complete their order in 84% of cases, and of those that are unsuccessful, only 11.9% contravene due to re-offending. On the face of it, this suggests QCS has certain capabilities, to manage paroles in community.

However, for Aboriginal and Torres Strait Islander community supervision to be effective innovative strategies are needed. The use of a Low Risk Offender Management (LROM) strategy would be welcomed particularly involving Biometric Reporting and Automatic Teller Machine style kiosks for offender reporting.

Biometric Reporting includes random and scheduled face-to-face supervision visits, which will be used as a safeguard against offender complacency, and ensure that offenders remain at low risk of re-offending.

The aim of this strategy is to:

- Provide a supportive compliance tool for staff to flexibly manage offender supervision.
- Create a positive impact on workload and time.
- Provide a greater focus on the supervision of higher risk offenders.

Eligibility for this strategy requires:

- The consent of the offender;

- The offender to have a Risk of Reoffending score of between 1 and 5;
- The offender must not have been convicted of a sexual offence and not be a declared serious violent offender;
- They must be subject to court ordered parole release.[49]

Following an assessment of any immediate risk, low risk offenders will be placed on a monitoring supervision regime. Suitability will be dependent on an offender's functional literacy, which is to be assessed at the point of induction. This could pose a problem for some Aboriginal and Torres Strait Islander people who experience problems with literacy and numeracy.

Biometrics System should reduce the workload of Probation and Parole Officers, allowing them then, to work more intensively with high risk offenders or offenders who require additional support; but we recommend that Probation and Parole Officers need to be made fully aware of the barriers which can adversely affect Aboriginal and Torres Strait Islander prisoners successfully completing parole.

See again our response to point 22 above.

51. Does the broad discretion of the Parole Officers to suspend an offender's parole interfere with the determination of release date by the sentencing court?

We consider that the broad discretion of Parole Officers to suspend an offender's parole interferes with the determination of release date by the sentencing court in those circumstances where relatively trivial re-offending or technical breaches of parole are at play. This is one reason why we would be in favour of a re-vamped system which saw alleged breaches brought back before the judicial officer.

However, we refer to our responses to point 47, regarding alternative sentencing options, and would support these sentencing options being more widely used.

[49] Queensland Audit Office, above n 20.

52. What is the impact of parole suspensions and short prison stays on the offender, the corrections system, and the parole board?

Please see our response to point 47 above.

When a prisoner is taken back into custody for a minor breach of parole, anecdotal evidence has seen prisoners losing gainful employment, loss of personal property, loss of hope for release, frustrated at liberties removed for minor breaching or lack of understand for breaching and loss of Queensland Housing rental unit. Loss of housing, as noted, makes it even more difficult to obtain release on parole, due to not having suitable accommodation. We refer to our response to point 27 and add is has been acknowledged anecdotally that technical breaching enables turnover of high caseloads by Probation and Parole Officers, through strict compliance with conditional breaches. That is, a 'breach first' mentality, rather than working with, and being supportive of, parolees – with the end game of a successful reintegration back into mainstream society. As outlined previously, such is often forced upon parole officers by virtue of unrealistic caseloads. The addition of intermediary mentoring officers would go a long way to addressing such.

We refer also to our response to point 54 and consider that prisoners on parole who only commit minor breaches of their parole conditions should not usually have their parole orders suspended by their Probation and Parole Officers. They should be given an opportunity to remain in the community, subject to further reporting and supervision conditions, or in the case of positive urinalysis results, be referred to alcohol or drug counselling.

53. Should there be an alternative body making determinations regarding offenders who have had parole suspended?

The QPB's remain the appropriate entity to make determinations on parolees whose parole has been suspended, subject to their capacity to make such determinations in a timely and effective manner.

We also support the expansion of the Office of the Queensland Ombudsman's functions in overseeing such decisions being made. In particular, a legislative oversight and advisory role could be provided to that Office such that QPBs' determinations on these matters could be

subject to ongoing review and policy amendments made where suggested by the Ombudsman.

54. Should parolees be immediately taken into custody when QCS suspends their parole?

The usual practice when a Probation and Parole Officer suspends a prisoner's parole is that the prisoner is brought back into custody. Currently there is no formal 'show cause' procedure by which a prisoner can dispute the suspension or cancellation of an order, prior to it being suspended or cancelled. The parole board must, however, give the prisoner a written information notice, on the prisoner's return to prison.[50] Prisoners can be returned to prison for up to 28 days on a suspension. Under requirements of procedural fairness, the prisoner must be provided with the reasons for the revocation and an opportunity to be heard on those matters. Submissions must be made within 21 days of receiving notification, of the intended suspension or cancellation.[51]

A Probation and Parole Officer can amend a parole order by adding, removing or changing conditions. For court ordered parole, the Probation and Parole Officer may take less formal actions also, such as giving a written or verbal warning or increasing surveillance. The Parole Board will be notified of the breach and may take further action. Alternatively, the prisoner can be taken back into custody.

We consider that given the current state of overcrowding in all Queensland Correctional Centres, the emphasis should be upon prisoners on parole, who only commit minor breaches of their parole conditions, being given opportunities to remain in the community, subject to further reporting and supervision conditions, or in the case of positive urinalysis results, be referred to alcohol or drug counselling (discretionary).

Further, as outlined above, we would be supportive of a mechanism which allows alleged breaches of parole (or at least those considered serious enough to warrant consideration of suspension of parole), to be brought back before the courts – much in the same manner as with a community-based order (e.g. breach of probation). Aide from allowing for a fuller

[50] Prisoners Legal Service Inc., 'Prisoners Grievances' (Newsletter Issue 57 Inside Out, March 2012).
[51] Prisoners Legal Services Inc., above n 8.

ventilation of the facts, and legal representation for what is often a cohort severely disadvantaged in terms of literacy, language etc – of providing recalcitrant parolees with a sharp wake-up call pursuant to the observations flowing from the presiding judicial officer.

Short stays on suspended parole cause frustration with suspended parolees, as they have to return to custody, where they could have shown sufficient cause to a court, who would swiftly reinstate parole, or with perhaps a minor sanction release them on parole again. Suspended parole does little to assist offenders in either meaningful rehabilitation, or to maintain often hard won accommodation or support services.

Consideration should be had to a breach application for parolees, where the courts can manage the matter on due consideration and where the parolee is given a forum to challenge the basis for the suspension or cancellation sought. A breach application before the courts, could be swiftly commenced (service of notice at parole address) and return to custody, authorised by a court only where a person fails to attend the breach proceedings or fails to otherwise explain the breach to the court's satisfaction.

Serious Violent Offenders

55. Should there be an enlarged regime of community supervision for serious violent offenders?

As it stands, the current regime for serious violent offenders involves being allocated to Case Management, but who also manages:

- Risk of Re-offending – Probation and Parole Version (RoR-PPV) score of 12 or over or RoR-PV score of 13 or over;
- Sexual offenders;
- All Serious violent offenders, declared in sentencing;
- All offenders sentenced to life imprisonment, an indefinite sentence or a sentence 'at the Queen's pleasure'; and

- Those offenders subject to an Intensive Drug Rehabilitation Order (IDRO).[52]

An offender allocated to Case Management, will remain in Case Management for the entire duration of the correctional episode, or until the time that all supervision orders are completed. Offenders with a RoR-PPV score of 12 or over are supervised by Case Management Officers, who supervise between 30 and 50 offenders at any one time. Offenders with a case management level of service are given priority over other offenders, for program placement on QCS programs. This is due to their higher level of risk of re-offending. Offenders with a Case Management level of service are generally directed to more intensive interventions, either Agency facilitated programs or external service providers.

Parolees are required to report to a Probation and Parole Officer between once a week and once a month. Reporting can be done over the telephone or in person, depending on the offender's level of compliance. Once the offender has successfully completed all the required intervention, and has not contravened their order in any way, they can be directed to report between once a month, to once every two months. Urinalysis is conducted on a targeted and random basis, and in accordance with risk identification processes.[53]

Offending behaviour programs are also delivered in some Probation and Parole locations and can include:

- The Turning Point Preparatory Program;
- The Getting SMART Program to address substance abuse;
- Indigenous specific programs to address substance abuse and familial violence;
- The Making Choices Maintenance Program to consolidate the benefits of previously completed custodial intervention programs; and
- A range of sexual offending programs.

In our submission there is a need for enlarging the regime of community supervision for serious violent offenders as the current regime is under resourced and over worked.

[52] Sentencing Advisory Council (Qld), 'Minimum Standard Non-Parole Periods" (Final Report to Minister for Local Government and Special Minister of State, September 2011). Noting also the pending return of the Drug Courts.
[53] Sentencing Advisory Council (Qld), above n 72.

To add more expectations onto this regime, would cause further lapses and gaps in this regime. We however consider, that reducing the number of offenders per reporting officer, should help reduce the risk to the community for serious violent offenders. Further appropriate and available service and programs are needed to target Aboriginal and Torres Strait Islander serious violent offenders, delivered by culturally competent skilled trainers.

56. Would there be community benefit in their being a system requiring serious violent offenders to be subject to much longer periods of supervision in the community, after their eventual release from prison?

Most Australian jurisdictions feature sentencing regimes which enable protective sentencing measures to be imposed on 'dangerous' offenders *at the time of sentence*. These include indefinite or indeterminate sentencing, mandatory sentencing and other sentencing regimes. In Queensland, if the court convicts an offender of a serious violent offence, the offender must serve 80 per cent of their sentence or 15 years in prison (whichever is less), unless the court has set a later parole eligibility date, as discussed above. It would appear that this question proposes a system whereby a person convicted of as a serious violent offender, who would already have served 80% or more of their sentence in prison, could have the period they have to be supervised in the community, extended beyond the period they were initially sentenced for by the court.

We consider that the implementation of a scheme to monitoring serious violent offenders on parole or extended supervision, in the community, beyond their full time release date, presents new challenges for the assessment of risk of reoffending; and these challenges need to be addressed, to ensure that the regime targets only those offenders, that are likely to reoffend.[54] It is only by addressing these concerns that the objectives of such a regime to further facilitate incapacitation and supervision of high risk offenders, to protect the community, and encourage offender rehabilitation, can be achieved.[55]

An additional question arises with the option of extending parole beyond what would have in effect been the full time discharge date. What say a prisoner is sentenced to 10 years

[54] Bret Walker, Independent National Security Legislation Monitor, *Declassified Annual Report* (2012) 37.
[55] Victorian Sentencing Advisory Council, above n 3, 12 [2.2.9].

imprisonment – and released on parole after 8 years. Assuming some form of extension of parole – such will mean he or she could still be on parole after 10 years. A breach of parole in say the 11th year, should perhaps be treated differently to a breach within the 10 year (full time) period.

57. Should there be minimum parole periods for serious violent offenders?

Please see our response to point 56.

Minimum parole periods also attract human rights considerations, as has the current *Dangerous Prisoners (Sexual Offenders) Act* 2003.[56] The United Nations Human Rights Committee[57] has held that the post-sentence detention of two men convicted of sexual offences, Kenneth Tillman in New South Wales, and Robert Fardon in Queensland, was incompatible with the prohibition against arbitrary detention under Art 9(1) of the *International Covenant on Civil and Political Rights*. The Committee also opined, without deciding the matter, the post-sentence detention of Tillman[58] and Fardon[59] may contravene the prohibition against double punishment under Art 14(7) and against retroactive punishment under art 15(1).

58. Should the board have regard to the offender's inevitable release into the community when considering an application for parole by a serious violent offender?

We support the QPB having regard to an offender's inevitable release into the community, as we believe that it is preferable for the majority of offenders to be released on parole, after serving a sentence of imprisonment, rather than being released after they have served their full sentence in custody. Parole can be useful for reducing the cost of incarcerating inmates, and for helping ease them back into community. The conditional nature of the release encourages good behavior while behind bars, and a constructive attitude toward life once released under supervision.

[56] *Dangerous Prisoners (Sexual Offenders) Act* 2003
[57] Tamara Tulich, "Post-Sentence Preventive Detention and Extended Supervision of High Risk Offenders in New South Wales" (2015) 38(2) University of New South Wales Law Journal 823.
[58] *Tillman v Australia*, UN Doc CCPR/C/98/D/1635/2007 (12 April 2010)
[59] *Fardon v Australia*, UN Doc CCPR/C/98/D/1629/2007 (12 April 2010)

Parole however can only be successful if conditions placed on the parole, can be adhered to. As previously stated, the more stringent the parole obligations, the greater the possibility of breaching these conditions. One parole officer identified that Aboriginal and Torres Strait Islander parolees often had more stringent parole conditions, including more appointments with family services and their parole officer, as a result of their community ties and more transient lifestyles.[60]

Impulsiveness should also be considered by QPB in considering parole application for serious violent offenders, as has been identified as an issue for prisoners who are released. The removal of physical boundaries and prison routines, might leave some prisoners vulnerable to re-offending[61] when release back into the community.

As one 35-year-old male Aboriginal prisoner stated[62]:

… when some of the guys get out of jail… they're pretty much lost you know? They're like a little kid in a fun park. Doesn't know which way to go…. You know, he's got no one there to point out how to do his seatbelt up, you know, so to speak.

We also consider that QPB needs to take into account, the various barriers which can particularly adversely affect Aboriginal and Torres Strait Islander prisoners re-entering the community so they might successfully complete parole. See our response to point 27.

Consideration of these factors should allow QPB to modify parole conditions, particularly for rural Aboriginal and Torres Strait Islander prisoners, in order to account for the often transient Aboriginal and Torres Strait Islander lifestyle. Offering, but not limited to, culturally competent employment and education courses in prisons, including information about maintaining employment, increased housing and accommodation support, allowing substance abuse and mental health services in prisons be coordinated into drug dependency programs on release, and providing Aboriginal and Torres Strait Islander female parolees access to emergency support accommodation, particularly if they are survivors of domestic

[60] Victoria Apted et al, above n 10.
[61] Victoria Apted et al, above n 10.
[62] Victoria Apted et al, above n 10.

violence or have children[63] will assist in reducing Aboriginal and Torres Strait Islander parolees recidivism.

Conclusion

With this submission, ATSILS has aimed to highlight the many reasons for Aboriginal and Torres Strait Islander prisoners' poor access to parole, and the reasons behind poor completion rates, while on parole. We have endeavoured to provide practical solutions aimed at breaking down the numerous barriers which Aboriginal and Torres Strait Islander prisoners face when applying for parole; as well as the challenges which Aboriginal and Torres Strait Islander parolees might face, whilst on parole.

Our thanks once again for this opportunity to provide out views. We also thank you in advance for your careful consideration of these submissions.

Please do not hesitate to contact us should you require any additional information or clarification on any particular point.

Yours faithfully,

Mr. Shane Duffy
Chief Executive Officer

[63] Victoria Apted et al, above n 10.