

7 October 2021

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

By email only: lasc@parliament.qld.gov.au

Dear Committee Secretary,

Police Powers and Responsibilities and Other Legislation Amendment Bill 2021

Thank you for the opportunity to provide this submission to the Legal Affairs and Safety Committee in response to the *Police Powers and Responsibilities and Other Legislation Amendment Bill 2021* (**the Bill**).

Background

LawRight is a community legal centre and the primary facilitator of structured pro bono legal services in Queensland. LawRight's Court and Tribunal Services (**C&TS**) assists individuals with proceedings in the District Court and Supreme Court of Queensland, the Federal Court and Federal Circuit Court and the Queensland Civil and Administrative Tribunal. In collaboration with law firms, barristers, and university law schools, C&TS assisted 778 litigants and leveraged over 13,327 hours of pro bono services in 2019/20.

Despite not being listed on the prison directory or more broadly advertising our services, in the last six months, we have received over 300 requests for assistance from individuals impacted by delays in parole decisions. Due to our resources, our ability to assist this cohort has been limited; however, we have distributed legal information and resources to individuals as relevant and arranged 77 appointments for advice and task assistance with our volunteer lawyers.

On 15 March 2021, LawRight wrote to the Honourable Shannon Fentiman MP, the Honourable Cameron Dick MP, and the Honourable Mark Ryan MP to raise concerns with the significant delays in parole decisions being made for people in prison. This correspondence is available [here](#).

LawRight also participated in the KPMG review of the Board, in both the consultation process on 28 April 2021 and via a letter (written jointly with Prisoners' Legal Service (**PLS**)) raising key concerns on 21 April 2021. This correspondence is available [here](#).

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LawRight Submission – Amendment of Corrective Services Act 2006

Clause 21 Insertion of new ch 6, pt 15B – Temporary periods to decide particular parole applications

These amendments increase the timeframe the Parole Board (**the Board**) has to make a decision in relation to an application for parole. The proposed new timeframe for existing and new parole applications is 180 days or 210 days if the decision is deferred. This is an increase of 60 days from the current provision of 120 days or 150 if deferred. The amendment is to operate for 180 days following the proclamation of the Bill and will expire 390 days after, effectively applying to all parole applications commenced in the next six months as well as to all applications currently before the Board that have not yet been decided.

One of the stated objectives of the Bill and of this amendment, is to '*provide the Parole Board Queensland (the Board) with greater flexibility to respond to increased workload and the risks different prisoners pose to community safety*'. LawRight submits that risks to community safety and the reasons for the "increased workload" may not be cured by extended timeframes and may in fact, worsen. In the absence of commentary or evidence linking the extended timeframes with improved decision-making and community safety, or a commitment by government to addressing structural causes for the increased workload, LawRight does not support the amendment.

The amendment will in fact reverse timeframe reforms made as recently as 2017, following a recommendation in the Queensland Parole System Review report (**the Sofronoff Report**).¹ The Sofronoff Report recommendation was part of a suite of changes intended to improve the Board's decision-making process, several of which have yet to be fully implemented.

Presumably the report of the KPMG consultation will, or has also, raised potential structural concerns. In our joint letter with PLS to KPMG on 21 April 2021, we suggested a range of drivers of the delays. Increasing the timeframe in which the Board is required to make decisions will not improve the efficiency or effectiveness of the decision-making process without a contemporaneous commitment to address these structural concerns.

The link to community safety is similarly unclear and unresolved by the amendment, as the Board has already acknowledged that a large portion of individuals awaiting decisions have relatively straightforward matters.² Nor are we aware of any evidence or commentary to suggest that the Board is undertaking more detailed considerations of parole applications or hasn't continued to make careful decisions despite the current backlog.

¹ Walter Sofronoff, *Queensland Parole System Review* (Final Report, November 2016) [892-893] ('the Sofronoff Report').

² Peter Shields, 'Parole, the vital but misunderstood third limb of the criminal justice system in Queensland. The observations of a Deputy President of Parole Board Queensland.' (Speech, Queensland Law Society, 26 August 2021).

Without further transparency about the purpose of the amendment we presume that the main driver of the amendment is to reduce the present large volume of applications being filed with the Supreme Court seeking relief under s22(2) of the *Judicial Review Act 1991* (Qld) and to frustrate the power of the court to order appropriate relief for individuals impacted by a delay in decision making.

We are also particularly concerned that the timeframe will apply retrospectively to individuals who have already applied for parole. These individuals have exercised their right to apply for parole in the appropriate way and made post-prison arrangements based on the current timeframes. This timeframe is now being extended and will also delay their ability to seek appropriate relief from the Supreme Court if there are continued delays with their application.

While parole processes are an important mechanism in ensuring community safety and crime prevention, so is a defined and proportionate prison sentence and a fair criminal justice system. Prolonged incarceration, disruptions to the ability of prisoners to plan for employment, housing, Centrelink and vital community connections and the associated negative impact on mental health and behaviours are all connected to the likelihood of recidivism. We also refer to our previous correspondence noting the considerable cost to the State and therefore the community, of prolonged incarceration.

Summary

In summary, LawRight is concerned that the proposed extension of the timeframe for the Board to make a decision in relation to an application for parole is an ineffective, unfair and simplistic response to the current delays in decision making by the Board. We are concerned about the related impact on community safety, prisoner wellbeing, and the cost to the State of increasing the time individuals spend in prison. We are also not supportive of the amendments applying retrospectively to individuals with current applications for parole.

In the absence of any contemporaneous commitment to address the structural causes of delays in parole decision-making, we do not support the amendment and we look to the legislature to make this commitment.

If you have any questions about this submission or require further information, please do not hesitate to contact Ben Tuckett, C&TS Managing Lawyer at
ben.tuckett@lawright.org.au.

Yours faithfully



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