Attorney-General and Minister for Justice
Minister for Women and Minister for the Prevention of Domestic and Family Violence

Queensland Government

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9 JUN 2022

Mr Neil Laurie
The Clerk of the Parliament
Parliament House
TableOffice@parliament.qld.gov.au

Dear Mr Laurie Neil

I refer to e-Petition 3629-21 tabled in the Legislative Assembly on 10 May 2022 titled *Repeat Juvenile/Adult Offenders*.

I would like to assure the petitioners that community safety continues to be a top priority for the Palaszczuk Government. That is why we delivered a record $2.86 billion Police Budget for 2021-22 to support police in keeping communities safe across Queensland. This is in addition to $290.6 million for youth justice services in 2021-22 to reduce offending and reoffending by young people.

**Imposition of electronic monitoring devices**

I note that current Queensland laws allow for electronic monitoring devices to be imposed on persons in the following circumstances:

- as a condition of bail for an adult defendant under the *Bail Act 1980* (the ability to impose this condition is not limited to 'serious offences');
- as a condition of bail for a defendant aged 16 or 17 years under the *Youth Justice Act 1992* (YJA) in certain circumstances, including when the young person has been charged with certain serious offences (such as assault occasioning bodily harm, wounding, dangerous operation of a vehicle, attempted robbery), and has been previously found guilty of an indictable offence;
- as a condition of a prisoner's parole order under the *Corrective Services Act 2006*;
- as a condition of a reportable offender's prohibition order under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004;* and
- as a condition of a prisoner's supervision release order under the *Dangerous Prisoners (Sexual Offenders) Act 2003*.

The electronic monitoring provision for young persons on bail was introduced on a trial basis by the Queensland Government in April 2021 as part of a suite of reforms which targets recidivist high-risk youth offenders. Other amendments included:

- creating a presumption against bail for youth offenders who are arrested for committing a prescribed indictable offence while on bail for another indictable offence;
- allowing courts to take into account assurances from parents and persons supporting a young person that bail conditions will be met when granting a young person bail;
- codifying the sentencing principle that offending while on bail is an aggravating factor when determining the appropriate sentence; and
- amending the Charter of Youth Justice Principles to include a reference to the need to protect the community from recidivist high-risk youth offenders.

Evidence of the efficacy and cost-effectiveness of the use of electronic monitoring devices on young people in other jurisdictions is inconsistent, which is why the Government is proceeding by way of a trial. The Government is currently considering the report of the six month review of the effectiveness of the legislative and program reforms conducted by former Police Commissioner Bob Atkinson AO APM. The Government is commissioning a 12 month review of the electronic monitoring provisions.

The law acknowledges, however, that no grant of bail is risk-free. A core principle of the criminal justice system in Queensland is that a person is presumed to be innocent until proven guilty of the offence beyond a reasonable doubt, but further, the power of a court to grant bail safeguards citizens from detention based upon untested allegations alone. It is for police and the courts to exercise their discretion and determine whether a defendant should be released on bail with certain conditions.

With regards to the petitioners' call for the mandatory imposition of electronic monitoring devices in certain circumstances, this would limit the ability of decision-making bodies to impose an order which is appropriate and proportionate to the circumstances of an individual case. A particular offence can contain varying degrees of seriousness and a range of conduct can constitute a particular offence.

Further, there are circumstances in which the imposition of an electronic monitoring device is not appropriate. For example, the imposition of an electronic monitoring device requires the person to have reliable access to electricity in order to charge the electronic monitoring device, capacity to understand the requirements of wearing an electronic monitoring device (such as charging requirements) and reside and frequent locations where there is telecommunications coverage.

When considering the imposition of electronic monitoring for individuals subject to parole, corrective services officers conduct an individualised suitability assessment to determine the viability of electronic monitoring within an individual's broader case management. The intent, suitability and operational viability of electronic monitoring is considered in the context of an individual's circumstances before the device is fitted.

**Parole**

With regards to the petitioners' call for recidivist adult offenders to be deemed ineligible for parole, such a law would again limit the ability of decision-making bodies to impose an order which is appropriate and proportionate to the circumstances of an individual case.

As noted by Mr Walter Sofronoff QC in the Queensland Parole System Review: 'The only purpose of parole is to reintegrate a prisoner into the community before the end of a prison

sentence *to decrease the chance that the prisoner will ever reoffend.* Its only rationale is to keep the community safe from crime.'[1]
There are two types of release on parole: court-ordered parole and board-ordered parole.

(a) Court-ordered parole

Court-ordered parole is intended 'to divert low-risk offenders from custody whilst ensuring post release supervision'[2] through the exercise of judicial discretion to determine what sentence and parole release date to impose in the particular circumstances of each case. The task of determining a penalty for offenders involves a complex balancing of interests. In deciding a sentence, the judge considers a range of factors including the offender's cooperation with the administration of justice, their character, age and personal circumstances, their prospects for rehabilitation, the community's expectations and the need to deter the offender and others from future offending.

Court-ordered parole, and therefore a fixed release date, is only available for sentences of three years imprisonment or less and cannot be imposed if an offender is convicted of certain offences such as prescribed sexual offences or serious violent offences.

(b) Board-ordered parole

Where a court cannot impose a parole release date as detailed above, a parole eligibility date is set and the prisoner must wait until this date to apply to the Parole Board Queensland (the Board) for release to parole. The Board determines whether a prisoner should be released on parole and what conditions should be imposed on such an order. The Board requires its decisions to be made in accordance with relevant legislation and *Ministerial Guidelines to Parole Board Queensland.* When considering whether a prisoner should be granted parole, the overriding consideration for the Board is community safety.

The Board can also amend, suspend or cancel a court or board-ordered parole order in certain circumstances, including if the Board reasonably believes that the prisoner poses a serious risk of harm to another, or poses an unacceptable risk of committing an offence. A prisoner's parole order may also be automatically cancelled if a further offence is committed during the period of the order and the prisoner is sentenced to a further term of imprisonment.

**Serious Violent Offences Scheme**

The Queensland Government recognises that sentences must reflect community expectations and that is why the Government committed to giving Queenslanders a stronger voice in sentencing issues through the reinstatement of the independent Queensland Sentencing Advisory Council (QSAC), after it was abolished by the Liberal National Party.

QSAC plays an important role in promoting consistency in sentencing, stimulating balanced public debate on sentencing issues and strengthening public confidence in the justice system by educating and incorporating informed public opinion into the process. QSAC also has an important research function and publishes information about sentencing that informs Government, the courts and the general community about sentencing issues.

In April 2021, I issued Terms of Reference to QSAC requesting a review of the serious violent offences (SVO) scheme. The SVO scheme was introduced in 1997 to respond to concerns about community safety and serious violent crime. To this end, I asked QSAC to assess how the SVO scheme is being applied, whether the scheme is meeting its objectives and to advise

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[1] Walter Sofronoff, *Queensland Parole System Review: Final Report* (November 2016), 1 [3].
[2] Walter Sofronoff, *Queensland Parole System Review: Final Report* (November 2016), 57 [263].

on any potential reforms needed to ensure that sentencing outcomes reflect the seriousness of this type of offending.

QSAC recently reported their findings and recommendations to me. The Government will respond to the report after a thorough consideration of the findings.

I thank the petitioners for bringing their concerns to the attention of the House.

Yours sincerely

**Shannon Fentiman MP**
Attorney-General and Minister for Justice
Minister for Women and Minister for the Prevention of Domestic and Family Violence
Member for Waterford