LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

Members present:

Mr PS Russo MP (Chair)
Mr JP Lister MP
Mr SSJ Andrew MP
Mr JJ McDonald MP
Mrs MF McMahon MP
Ms CP McMillan MP

Staff present:

Ms M Westcott (Acting Committee Secretary)
Ms K Longworth (Assistant Committee Secretary)

PUBLIC HEARING—INQUIRY INTO THE COMMUNITY BASED SENTENCES (INTERSTATE TRANSFER) BILL

TRANSCRIPT OF PROCEEDINGS

MONDAY, 16 SEPTEMBER 2019

Brisbane

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The committee met at 9.30 am.

CHAIR: Good morning. I declare open the public hearing for the committee's inquiry into the Community Based Sentences (Interstate Transfer) Bill. My name is Peter Russo and I am the member for Toohey and chair of the committee. With me here today are James Lister, the member for Southern Downs and deputy chair; Stephen Andrew, the member for Mirani; Jim McDonald, the member for Lockyer; Melissa McMahon, the member for Macalister, and Corrine McMillan, the member for Mansfield.

On 21 August 2019 the Hon. Mark Ryan, the Minister for Police and Minister for Corrective Services, introduced the Community Based Sentences (Interstate Transfer) Bill 2019 to the parliament. The bill was referred to the Legal Affairs and Community Safety Committee for examination, with a reporting date of 8 October. The purpose of the hearing today is to hear evidence from the stakeholders to assist the committee with its examination of the bill. Only the committee and invited witnesses may participate. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence.

These proceedings are similar to parliament and are subject to the standing rules and orders of the parliament. In this regard, I remind members of the public that, under the standing orders, the public may be excluded from the hearing at my discretion or by order of the committee. The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to my direction at all times. The media rules endorsed by the committee are available from the committee staff if required. All of those present today should note that it is possible that you might be filmed or photographed during the proceedings. These images may be posted on the parliament's website or social media sites. I ask everyone present to turn mobile phones off or to silent mode. The program for today has been published on the committee's web page and there are hard copies available from committee staff. I now welcome representatives from the Queensland Law Society.

De SARAM, Ms Binny, Legal Policy Manager, Queensland Law Society

DUNN, Mr Matt, General Manager, Policy, Public Affairs and Governance, Queensland Law Society

CHAIR: Good morning to you both. I invite you to make a brief opening statement, after which committee members will have some questions for you.

Ms De Saram: Thank you for inviting the Queensland Law Society to appear at the public hearing on the Community Based Sentences (Interstate Transfer) Bill 2019. The president of the society tenders his apologies. He has been unable to attend today. As you know, the society is the peak professional body for Queensland solicitors, over 13,000 of whom we represent, educate and support. In carrying out our central ethos of advocating for good law and good lawyers, the society offers views that are truly representative of its member practitioners. The society is an independent, apolitical representative body upon which government and parliament can rely for advice that promotes good law and good evidence based policy.

As noted in our submission, the society welcomes and supports the bill, which will streamline and formalise the transfer and enforcement of community based sentences between Australian jurisdictions. With respect to the bill, our submission raises a couple of issues. On our reading of the bill, it appears that the mandatory conditions applicable to the order become those of the state or territory that take on the transferred order. We seek clarification of whether this also applies to special conditions attachable to a transfer order, such as psychiatric or psychological counselling.

We also seek some clarification on the term 'substantially corresponds' in section 13(2)(a) of the bill. Our concern is how this operates in states or territories where they may have abolished probation orders, community service orders and intensive corrections orders in favour of community corrections orders. Can a Queensland defendant still transfer an intensive corrections order or probation order to a state or territory that operates only a CCO? We would now welcome any questions that the committee may have.

Mr LISTER: I thank the Queensland Law Society very much for your appearance today. It is great to see you again. Given that this is a process that has been enacted in other jurisdictions, presumably there were interstate versions of your organisation pondering these same issues. Are you aware of how those advocates and their respective jurisdictions have handled the issues that you have raised?

Ms De Saram: I am not aware of how constituent bodies in the other jurisdictions have dealt with this issue, but I imagine they are supportive of it, because this bill formalises and streamlines those community based sentencing arrangements, which is efficient and wise, I think.

Mr Dunn: The two questions we raised might be something that the department can to fill in a little later today with regard to how they intend to handle orders and transferred orders into Queensland. For example, if you have a New South Wales offender who wants to transfer into Queensland and there is a psychiatric counselling condition on that order, how they are going to handle making sure that the psychiatric counselling conditions are fulfilled in Queensland is probably part of that.

What we are not completely sure about is whether there is a complete repetition of all of the services and support facilities that are available in each of the jurisdictions. If someone were ordered to do a particular type of violence counselling or something like that, I imagine that the department would have to try to look at the services available in Queensland and fit them into something that works as best and as close as possible. We are not quite sure exactly how that might work. We do not think that is a problem to stop the passage of the bill or to cause any significant issues, but just from a machinery point of view we are not quite sure how that might work.

The point that Binny raised around 'substantially corresponds' may be an issue, as you rightly point out, for Queensland offenders who want to transfer out but also may be an issue for interstate offenders who want to transfer into Queenslandmaking sure that we can again fit them within the envelope of the services and the type of orders that we have in our regime. We are not quite sure exactly how those little technical, fiddly bits will work, but I do not think either of those are show stoppers with respect to this piece of legislation.

Ms McMILLAN: You spoke about your concerns in relation to corresponding community based sentencing, particularly with the Northern Territory and one other state.

Ms De Saram: New South Wales has CCOs in place, yes.

Ms McMILLAN: In relation to the states that do not have ICOs, can you just talk to us about your primary concerns there?

Ms De Saram: Just being able to have those orders from the local authority being transferred—whether that would be possible in the term 'substantially corresponds'— I think was our main issue. For example, in Queensland we have intensive corrections orders. In New South Wales they have ICOs as well as CCOs but some jurisdictions just have community corrections orders. If someone from Queensland wanted to transfer their community based sentence to a jurisdiction that does not have an ICO, can that happen?

Ms McMILLAN: The ICOs and the CCOs are managed by the state?

Ms De Saram: Yes.

Ms McMILLAN: There is no overriding federal jurisdiction or federal body?

Ms De Saram: Not that I am aware of.

Ms McMILLAN: Is there a line of communication between the states?

Ms De Saram: I believe there is between the departments, yes. At the moment this scheme operates, but this bill formalises those lines of communication. At the moment there are informal arrangements between, for example, our department of corrective services and the New South Wales department of corrective services that allow interstate transfers to already occur, but this bill will just formalise it, streamline it and give it a much stronger framework in which to operate.

Ms McMILLAN: Sure, but there still will be inconsistencies between the orders and two states not having involvement; is that right?

Ms De Saram: I think it is more about whether the order that is in Queensland will be able to be administered in another jurisdiction. There is not necessarily going to be an issue; it is just that we seek clarification of whether, for example, an ICO in Queensland can be implemented in a state that has only a CCO.

Ms McMILLAN: Yes.

Ms De Saram: I understand that the Queensland Sentencing Advisory Council has released a report into community based sentencing. I think in that report they talk about the potential to have CCOs in Queensland. I understand that the government has yet to table its response. It may be a non-issue in the future.

Mr McDONALD: Thanks very much for being here today and your presentation. I am concerned that there might be a flood of interstate prisoners coming to Queensland. Will that affect our resourcing at all?

Ms De Saram: I understand that at the moment there are 87 interstate prisoners who are being handled by our Queensland corrective services department, but we have 147 Queensland community based sentencing orders being administered in other jurisdictions. I do not foresee there being a huge floodgates argument—I know Queensland is beautiful and everyone wants to live here, but—

Mr LISTER: Quite so.

Mr McDONALD: True.

Ms De Saram: I think there is also the ability for Queensland Corrective Services to exercise their discretion not to accept a community based sentencing order, even if all the eligibility criteria are satisfied.

Mr Dunn: Certainly the figures that we have at the moment show that these community based service orders are an export industry for Queensland rather than an import industry.

Mr McDONALD: Ms De Saram, if Corrective Services says, 'No, we don't want to accept that person,' what happens then? Do they just not come?

Ms De Saram: That is right.

Mrs McMAHON: Your submission raised the issue of right of appeal. Could you elaborate on your concerns around the right of appeal in the originating state or territory and then possibly go to the denial of the issuing of a transfer? Where does that potentially leave people subject to this bill?

Mr Dunn: Incoming offenders will need to apply to Queensland Corrective Services, who will have the opportunity to make a decision about whether to support that incoming arrangement or not. If they choose not to support that incoming arrangement, I think the question you are then asking is: does that person have the ability to challenge that decision of Corrective Services by saying, 'No, we won't accept you in our courts'? Having had a look at the bill, we think the decision of Corrective Services to say no to a person will be an administrative decision under the Judicial Review Act and that will enliven an appeal process there.

I know that other stakeholders have raised that there was not a time frame for a decision by Corrective Services and not necessarily the obligation to provide written reasons as to why they are saying no. That may cause a little bit of frustration in terms of starting that appeal process, because if Corrective Services does not make a decision then it does not tick over to the next part of the process necessarily. It would be an interesting thing to see prisoners and offenders in other jurisdictions having to apply to the Supreme Court of Queensland for an order to encourage Corrective Services to make a decision one way or the other and then go on with the process. There is a little bit of fiddliness around that.

Mrs McMAHON: Can I clarify that the process, as you outlined it, is that a person the subject of a community based order, say, here in Queensland who wants to transfer actually has to make a direct application to the other state where they intend to go rather than through Queensland Corrective Services? You outlined that someone in another state—

Mr Dunn: Coming in.

Mrs McMAHON:—actually applies to Queensland rather than going through their own corrective services organisation which then decides whether to transfer. Is the originating state generally cut out of this process?

Ms De Saram: No, I think it goes through the corrective services of the local authority and then it is like the two corrective services departments talk to each other.

CHAIR: That brings to a conclusion this part of the hearing. We thank you for your written submission and your attendance today.

GREENWOOD, Ms Kate, Barrister; Policy, Early Intervention and Community Legal Education Officer, Aboriginal and Torres Strait Islander Legal Service

CHAIR: I invite you to make a brief opening statement, after which committee members will have some questions for you.

Ms Greenwood: I speak for the Aboriginal and Torres Strait Islander Legal Service, which provides legal services to Aboriginal and Torres Strait Islander peoples through the entirety of Queensland. Our viewpoint is informed by practice, so our comments arise not just from a theoretical basis but also from a platform based on actual experiences. Nowhere is this more true than in the issue of community based orders, how the transfer of those orders can be effected and to give the community some sort of flavour of how and why orders go wrong and how they can be set back on track again. The committee would already have received my written submission. What I did was pull out four examples to illustrate the principles. I will pick up on that earlier question about how transfer is effected.

The first example I put in there is of Alicia—obviously the name and enough identifying details have been changed—who suffered foetal alcohol syndrome through circumstances obviously beyond her control. Her mother died, her father worked in the mines and he thought Alicia would be better off staying in a residential care facility in Queensland. Unfortunately, that was a deeply unsuitable place for Alicia. She was exposed to a cohort that regularly got into trouble. She lacked the ability to negotiate those social relationships and to stay out of trouble. She ended up being exploited in a relationship. Events escalated one night in a residential care facility. She was self-harming. One of the caseworkers basically physically intervened and the whole thing escalated.

The only reasonable sentence that could be given to her was a community based order—probation with access to various programs. That was back in the day before this mechanism that is being introduced. As her legal representative, both through finding out what programs were available in the very small community that her father worked at and talking to her Queensland probation officer, who then made the necessary contacts—I think someone from the community helped us identify who the local probation officer was in WA who dealt with that area. By a lot of background work we put all the necessary parties together, got the conversations going, structured an approach and basically went to the sentencing judge saying that what would absolutely be best for her would be to actually leave Queensland and go to Western Australia, where she would get support from her father and all the wraparound support he had organised. It is possible for her to do a probation order in Western Australia. Her probation officer is on board and has already had some limited interaction with her.

The way we achieved all of that was that we got a lengthy adjournment of six months and she went to Western Australia on bail. All those arrangements were settled into place and then when she came back for sentencing we were able to say, 'We've got a package. It works. It's been working successfully.' The sentencing judge was able to come up with a sentence that actually did what we look for in probation orders— that is, reduce the risk of reoffending, achieve rehabilitation outcomes through supervision and divert offenders away from sentences of imprisonment. The only other approach that could have been taken was to give her a suspended sentence, which would have necessitated a conviction being recorded and did not address all the underlying factors to do with her. That worked very well. One of the reasons we are very supportive of this bill is that we see it facilitating this sort of process, making it easier. Once this mechanism is in place, it would then give the sentencing judge, for example, a greater ability to add on what she saw as important in terms of programs and services. Then that would have been able to be transferred over to Western Australia.

There are other reasons people need to travel interstate. I gave the example of Ben, whose family was from New South Wales. What is very true of a lot of our client base is that employment can be transitory. There is a lot of casual employment: people will come up for fruit picking or for mines work which then may disappear and then they have to go back and work in another state.

Ben's story is not that unusual in that his family came up for work. While they were up here he got into a fight at a shopping centre. He saw a girl being disrespected. Being young and hot-headed, he acted excessively, which is how it turned into a plea of guilty. Then because he had an order based in Queensland and because his family moved back down south, he was struggling to comply with it. The informal arrangements work where someone is working successfully. If there are any sorts of glitches along the road, those informal arrangements do not work because obviously the officers do not want to lump a problem on an interstate colleague. Once I got to talk to him at some length about what was going wrong and why, I discovered that he was homeless and he was couch surfing. The places that he was couch surfing were away from easy transport by bus or by train and even walking to where he had to go to report. Like a lot of our clients, he was not very good at articulating that problem.

First, we got it back on track here. Then once it had been on track for a while we sought to have him transferred back down to Sydney, where he had housing and his uncle had an apprenticeship for him. All the factors that you would hope to come out of a probation order were achievable in New South Wales. For him, they were not so achievable here in Queensland. That is another very strong reason we do that.

A lot of our clients are actually juggling a lot of problems. Charlie did relatively well in school, but school cut off at grade 10, as it so often does—sometimes even earlier in rural and remote communities. Through sheer hard work he managed to get himself on to a specialist training program which would ultimately send him to the Northern Territory, but that also required him to go to Victoria to do some skills training. On top of all of that he was a carer, so he had a lot of commitments to help with a very close relative.

Then he was at a pub with some cousins. The cousins got into a fight and he ran in to assist a cousin. The same thing—he is young, he was not managing this properly, the whole thing escalated and he was in trouble. Again, the best way to get Charlie out of a situation where he had no real job opportunities and no opportunities for further education was to get him interstate. I was trying to do the same thing for Charlie that I had done for Alicia. Unfortunately, the logistics of it were too overwhelming and he dropped out. There was a missed opportunity there where something really positive could have been done for the Charlies of this world.

Finally Dahlia—and I think Sisters Inside will be talking more specifically about women and community based orders. So often someone who is regarded as a perpetrator is often a victim as well. Dahlia was subjected to a lot of violence. In honesty, she played up with a lot of violence—although not quite as much violence—out in the street. She was put on a community based order, which under normal circumstances she should have been able to do. However, she was the subject of domestic violence, she was heavily pregnant and she needed to have the baby somewhere safe, so she fled interstate where she had family in New South Wales and she had the baby. There was nothing we could do about putting that order back on track until she came back to Queensland because, again, under the informal arrangements, no probation officer is going to dump a difficult, noncompliant person on another officer interstate.

She did come back. She had had the baby. The baby was a bit older. We went back, we explained to the judge what had gone wrong and she was given another opportunity but also a slightly lengthier community based order to prove that she could do this and get this on track.

The ideal situation would have been for Dahlia to come back to the lawyers and say, 'I absolutely can't do this order for all of these following reasons,' and for her to be transferred to New South Wales. While the family were basically minding the baby for her, she could have done a great deal more of that order and in fact probably completed it, whereas now with a baby she will be doing it in little increments. The purpose of the order, which is to stay away from a bad group and to not get into trouble in public, had been reached. It is that now, four years later, all of this could have been done in a far more timely fashion, far more efficiently and with the benefit of protecting the community and rehabilitating the offender. Those are the examples I bring to you.

As has come out in that discussion, there are failures of community based orders, although I understand that a QUT study has recently shown that they are probably the most successful of all orders. A lot of my job as a lawyer, for example, is to unpack what went wrong, why it went wrong, whether there are conditions that are unreasonable, whether the probation officer has made an assumption that is not justified in the particular circumstances of this client and what we can do to bring this back on track.

Typically in a breaches hearing, you will have a recommendation from the supervising probation officer. There are some terrific probation officers who work really hard to achieve great outcomes; there are others who are more compliance based and it is a tick and flick: 'You failed'. The second area of discretion comes from the prosecutor on behalf of probation and parole, who will listen to arguments and often agree, 'All right, we will agree this time,' or, 'No, we won't.' Finally the judge or the magistrate has the final say on, 'Yes, we will give this person another go,' or, 'No, it is all too hard.' Probation officers also have the ability, off their own bat, if they see a client is struggling, to return to court and say, 'Look, they are doing fine here, here and here; they are doing terrible here and here. We think we can do without these particular conditions. If we have these conditions still in place then that will be the best way to achieve rehabilitation.' That is the typical process that goes on in the courts. I had not picked it up—

CHAIR: Excuse me, that brings to a conclusion this part of the hearing. We thank you for your attendance and for your written submission.

KILROY, Ms Debbie, Chief Executive Officer, Sisters Inside

McHENRY, Ms Katherine, Policy Officer, Sisters Inside

CHAIR: I invite you to make a brief opening statement, after which committee members will have some questions for you.

Ms Kilroy: Good morning. I would like to acknowledge the traditional owners of the land on which we meet, the Turrbal, Yuggera and Jagera people, and pay our respects to elders past and present. We acknowledge the continuing sovereignty of all First Nations people in struggles for justice.

As you know, Sisters Inside is an independent community organisation that advocates for the collective human rights of criminalised and imprisoned women and girls and provides services to support girls, women and their families. I am the CEO of Sisters Inside. The organisation started when I left prison in 1992. We have been supporting criminalised and imprisoned women and girls and their families for over 25 years. Our comments today are informed by our experience supporting women and girls in the criminal legal system through our programs, services and advocacy. We are well placed to inform the committee about the matters in the bill. We believe that all changes to sentencing legislation and practice must support decarceration, a reduction in the numbers of women in prison, while subject to formal supervision by Queensland Corrective Services.

Sisters Inside supports the purpose of the bill in its current form, which is to enable community based sentences imposed in participating jurisdictions to be transferred between jurisdictions. This will align Queensland with other states and streamline the process of interstate transfers of community based sentences. Criminalised women and their children are highly marginalised and one of the most disadvantaged cohorts in the Australian population. We welcome this legislation and support any efforts to simplify processes for women on community based sentences. We recognise the importance of allowing those who are subject to community based sentences to transfer jurisdictions to access community and family support, job and employment opportunities and to escape domestic and family violence.

Sisters Inside has identified three priority areas for consideration. The first is the time frame for making a decision. We are concerned that under clause 14 there is no given time period for the local authority to decide the request to transfer a community based sentence. We believe that it is important to connect time frames for the local authority to make a decision on the request. In the Queensland Corrective Services public briefing on this bill on 30 August 2019, Mr Tom Humphreys said that Queensland Corrective Services would consider transfer requests on a case-by-case basis and that it would take up to three months.

In the response to our submissions from Queensland Corrective Services received on 13 September 2019, Queensland Corrective Services conceded that it is in the best interests of all parties to consider the request in a timely manner. We, too, believe that timeliness and time frames are important and that it is in both parties' best interests to implement a time frame. Time frames are important as they provide accountability and transparency and will assist the local authority in decision-making and planning. While Sisters Inside understands that some cases may be more complex than others, there should not be an unlimited amount of time to make a decision.

As per the minister's explanatory speech, many reasons were outlined as to why women may wish to transfer to a new jurisdiction. These include: proximity to improved family and community support; to escape domestic and family violence; or to increase employment or study opportunities. If a woman is transferring from a confined employment opportunity, it would be near impossible for an employer to keep a position available for up to three months, potentially resulting in a loss of employment. Likewise, it is unrealistic for women who may need to escape domestic and family violence by relocating or who may need to return to their state of origin for caregiving responsibilities to wait extended periods for approval. She may be at risk of further violence if there is a delay in the transfer, as outlined by ATSILS' prior evidence today.

Timelines are evident in other legislation including the Queensland Corrective Services Act 2006. Sisters Inside proposes that, when a Queensland resident is requesting a transfer of a community based sentence to another state or jurisdiction, the local authority in Queensland has 48 hours to provide a request over to the interstate receiving authority. We also strongly recommend that, when a request is received from an interstate jurisdiction, the Queensland authority has 21 days to provide a written decision. Sisters Inside acknowledges that the imposition of a time frame may be difficult to enforce in another jurisdiction; however, it would be of great benefit for Queensland to enforce a time frame of any community based request going out of Queensland and making a decision on any request coming into Queensland.

Sisters Inside would like to reiterate that it supports the purpose of the bill, which is to streamline the transfer process to enable women subject to community based sentences to transfer their order with some ease. We assert that a time frame would better achieve that purpose. We therefore would like accountability and transparency in making a timely decision by implementing a time frame to make a decision to further streamline the process.

The second priority is decision-making. We would like to refer to our submission regarding our concerns about the discretionary nature of the decision-making process for approving or denying a transfer. The bill in its current form allows Queensland Corrective Services to exhibit discretion in registering or declining an interstate transfer. We are concerned about this discretionary nature. As Mr Tom Humphreys said in the public hearing on 30 August 2019, it would be up to the delegate to decide whether it is in the state's best interests to accept a person who is subject to an interstate community based sentence. We would like to know who decides what 'best interests' are. The determination of best interests can be vastly different, depending on who is making the decision at the time. This is already clear with the foremost example provided by Corrective Services where they believe it is not in the best interests to transfer someone with a history of not complying with directions. Perhaps a transfer is exactly what is needed to be able to comply. Perhaps the reasons for noncompliance previously are historic. Perhaps the noncompliance is rationalised by personal or specific circumstances or carries little relevance in the reason someone may wish to transfer their sentence to another jurisdiction.

We recommend that ministerial guidelines are developed to assist the local authority to make decisions that are fair, unbiased and consistent. Guidelines are essential to ensure that people are receiving similar decisions, irrespective of where the decision-maker is located. To make it clear, we are not asking Corrective Services to be compelled to accept a transfer of a community based sentence. Rather, we are making a recommendation that guidelines are developed to ensure that all decisions being made are fair, unbiased and consistent.

We refer to the response to our submissions by Queensland Corrective Services in relation to the alternative mechanism of allowing a travel permit as an alternative option. Sisters Inside asserts that this is not a practicable solution to those who wish to be received into Queensland if they are declined. Further, travel permits are only for a specific amount of time and once that lapses the person is to return to Queensland.

We are also concerned about the lack of information provided to the applicants should the local authority decide not to register the interstate transfer. There is no provision for written reasons for the refusal to be provided, only a written notice. This disallows the applicant the ability to respond to specific concerns regarding the refusal. This can affect their ability to challenge a decision successfully or understand why they have been declined. We suggest that clause 14(6) of the bill be amended from 'written notice' to 'written reasons'. Providing written reasons will also enable the local authorities to rationalise the decision-making which, as suggested previously, may also provide a fairer and consistent approach to the decision-making.

The explanatory notes outline that there is nothing that currently precludes the application of the Judicial Review Act 1991 to decisions made by the local authority. We believe that a process should be made available to allow an appeal at a local level rather than progressing directly to judicial review—a stepped appeal process. This could be implemented first by providing an opportunity to respond in writing to the written reasons before a final decision is made.

As outlined in the explanatory speech, a primary purpose of the bill is to enable a cohesive national approach and to assist those subject to community based sentences to have access to opportunities and support in alternative jurisdictions. Therefore, the committee must ensure that the decision-making is administered in a consistent and fair manner across all Queensland authorities.

The third priority is extensions to other legislation. While Sisters Inside recognises that the Community Based Sentences (Interstate Transfer) Bill 2019 relates only to community based sentences—including probation, community service orders, ICOs as well as drug and alcohol treatment orders—we also would like to comment on issues we have encountered in the process of transferring parole to alternative jurisdictions and recommend the committee consider including parole as a community based sentence. We are drawing from experience of women applying to transfer interstate on parole, which shines a spotlight on the process Corrective Services undertakes to date and how the hiccups in regard to decision-making and a time frame that is not imposed in legislation can actually hold someone up from moving interstate.

I would like to talk briefly about Jane, a woman supported by Sisters Inside who was released on court ordered parole in January this year. Prior to entering Queensland, Jane resided in New South Wales for most of her life. Jane's children have significant health needs and disabilities that require

ongoing support and assistance. Specifically, her 10-year-old child has Asperger's, her nine-year-old child has high-functioning autism and her one-year-old child has congenital cataracts. Jane wished to return to New South Wales immediately upon her release to court ordered parole to care for her children and to access her social supports; however, this was unable to be undertaken until June this year—some six months.

Similarly, Melissa is a woman supported by Sisters Inside who has very recently been released on to a Queensland based parole order. Melissa submitted her interstate transfer application to transfer her parole matters to Victoria in May 2019. A decision still has not been made in relation to this transfer. Melissa has a young child and has ongoing family matters in the Federal Circuit Court of Victoria. She is unable to resolve these matters until she returns to Victoria. She has no family support in Queensland and, without the assistance of Sisters Inside, Melissa may have been released into homelessness. Melissa intends on returning to Victoria so she can return to her family support networks and finalise her matters relating to her child in the Family Court.

Under the current framework, an interstate transfer application for parole may take up to three months to be processed. Regarding our earlier comments relating to timelines, we stress that it is simply unrealistic and unfair for women to await a transfer, even under this bill, when they do not know how long the process will take and may ultimately be denied the approval without written reasons. These specific examples showcase how necessary are timelines and reasons when determining a transfer of a community based sentence. It also evidences why transferring community based sentences is so necessary. We are happy to take questions.

Mrs McMAHON: With respect to the time frames and your proposal for 21 days, for any of the other states that have similar legislation in place—I know that they do not have time lines imposed—are you aware how long those processes take when someone applies, even for a travel permit? I note that you provided some examples. How do you feel the 21-day limit might be affected if the corrective services body has to go back to the applicant and the applicant then has to provide further evidence or information, say, about work or family or support networks and the impact that would have on trying to fit that 21-day time frame?

Ms Kilroy: I will start with the last question first and try to work back. Usually if more material is asked for with regard to consideration for any type of process, the timeline is extended between parties. That can be resolved. A travel permit is for a certain period of time. It is not extended, so the person would have to return to Queensland. For example, if Melissa, who has Family Court matters on foot in Victoria, is in the middle of a hearing but has to return to Queensland to comply with the community based order and so fails to appear in the family law matter, this could put her children at risk of being given to the care of the father, for example, or whoever is in that matter.

Mrs McMAHON: How long are these applications from other jurisdictions taking to process?

Ms Kilroy: Three months or longer. That is why we are asking for a time frame—or even for the language to be 'a reasonable time'. There is common law around what a 'reasonable' time is. We are asking specifically for a time line so that decisions can be made or further material is provided to the department to make such a decision.

CHAIR: That brings this part of the hearing to a conclusion. We thank you for your written submission and for your attendance.

Proceedings suspended from 10.19 am to 10.30 am.

HERON, Mr Robert, Private capacity

CHAIR: Good morning, Mr Heron. I invite you to make a brief opening statement, after which committee members will have some questions for you.

Mr Heron: Good morning, members of the committee. First of all, I think our police are doing a very good job with what they have. I definitely think they need more resources. I think a lot of issues recently have been handled very poorly. I think it was a little insensitive in the annual report, when we had our previous commissioner, when they said that one of the problems they had was negative media attention when they had actually made quite a few mistakes, in particular in regard to the previously discussed bill of this committee. I think it could have been presented better. That was regarding Fardon.

Mr LISTER: Mr Heron, thank you for coming in today. I see in your submission that you have concerns about the provision for the interstate travel permit to be ceased if the corresponding jurisdiction arrests the person under a warrant. Can you give a description as to why you feel that would be unreasonable?

Mr Heron: I think it was in section 24 and section 27 of the bill—one of the areas was in regard to persons arrested in Queensland. Section 27 was in regard to persons being arrested in the corresponding jurisdiction for which the travel permit was provided.

My concern would be that, for example, if someone were to be SWAT-ed where someone calls the police with false information or whatever, they end up with this case—a judge approves a warrant on basis of this—then they can be transported back. In the meantime, their place of residence is cancelled, they lose their job because they cannot attend it anymore, the police have to spend a lot of resources packing up their stuff and then arranging everything, and then you have to go through the permit process again to organise for them to return if that is possible. Sometimes the police do make errors—sometimes. Yes, as I said before, they generally do a pretty good job.

Mrs McMAHON: Proposed section 24(6) specifically refers to 'arrest with warrant', which means that police, in submitting a warrant application, have to provide the relevant evidence which is then tested by a magistrate or justice in order to issue a warrant. The terminology used is 'arrest with warrant' as opposed to 'arrest without warrant'. Have you any examples, issues or concerns where specifically an arrest with a warrant, where there has already been a threshold tested, has then resulted in no further charges or proceedings being laid?

Mr Heron: For example, missing a court date.

CHAIR: Mr Heron, your submission indicates a concern about the suitability of applicants for interstate transfer. Do you have any suggestions in respect to this?

Mr Heron: I realise there are humanitarian concerns and civil rights concerns that were raised in the Fardon case, and I accept those because they were the decision of a judge and all that, but a lot of the community members still are unable to accept a person like that into the community. Given that we have a shortage of police and our clearance rates, although they are good, are not super great right now—I am not very familiar with them because there was only a very small table in the 2018 annual report. There is not much information on how well the police are doing and what is being done to look into how well things are running. There has been no explanation from Queensland police regarding how quite a few bits of evidence, I believe, were destroyed. Very recently—I think in April—there was a stained dress from a rape case that was destroyed. There was another rape case where a statement was destroyed.

CHAIR: Mr Heron, I do not want to interrupt your flow of thought, but we are actually talking about the implementation of a new piece of legislation relating to community based sentences being transferred between states. I bring you back to why we are here. I will ask you one more question in relation to the bill. You also expressed concerns regarding the decision-making by enforcement officers about the interstate transfers and travel permits, particularly in relation to appeals. Are you able to expand on your concerns to the committee?

Mr Heron: Ultimately the operation of the police department lies with the commissioner, but I also think we need to make sure that the frontline police handling the cases are being consulted with, because the people who are operating on the front lines know all the current policy for their particular department and it may not necessarily be exactly what upper management is directly dealing with at the time. They will, of course, know the legislation—I do not doubt that—but they may have suggestions or better ways of thinking about how we can approach things. I certainly think if we are transferring more serious offenders into Queensland that should be considered from a public relations perspective, because there will be blowback in the media and from the community.

CHAIR: Do you mind if I ask you what your experience is in the area?

Mr Heron: I am just an ordinary bloke. I just have a high school education.

CHAIR: Thank you. There being no further questions from the committee, I now propose to close the hearing. I would like to thank all the witnesses who appeared today. I would like to thank the secretariat staff and Hansard. A transcript of these proceedings will be available on the committee's parliamentary web page in due course. I declare the public hearing for the committee's inquiry into Community Based Sentences (Interstate Transfer) Bill 2019 closed.

The committee adjourned at 10.40 am.