COMMUNITY SAFETY AND LEGAL AFFAIRS COMMITTEE

Members present:
Mr PS Russo MP—Chair
Mr MA Boothman MP
Ms SL Bolton MP
Ms JM Bush MP
Mr JE Hunt MP
Mr JM Krause MP

Member in attendance
Mr SS Andrew MP

Staff present:
Ms M Westcott—Committee Secretary
Ms E Lewis—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE QUEENSLAND COMMUNITY SAFETY BILL 2024

TRANSCRIPT OF PROCEEDINGS

Friday, 24 May 2024

Brisbane

FRIDAY, 24 MAY 2024

The committee met at 9.09 am.

CHAIR: I declare open this public hearing for the committee's inquiry into the Queensland Community Safety Bill 2024. My name is Peter Russo. I am the member for Toohey and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people, whose lands, winds and waters we all share. With me here today are: Jon Krause, member for Scenic Rim and deputy chair; Sandy Bolton, member for Noosa; Mark Boothman, member for Theodore; Jonty Bush, member for Cooper; and Jason Hunt, member for Caloundra. I understand that Steve Andrew, member for Mirani, will be participating in today's hearing with the leave of the committee.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I remind members of the public that they may be excluded from the hearing at the discretion of the committee.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I kindly ask everyone to turn their phones off or to silent mode.

ATKINSON, Mr George, Voice for Victims Advocate, Voice for Victims

ATKINSON, Ms Lyndy, Voice for Victims Advocate, Voice for Victims

HAMBURGER, Mr Keith AM, Private capacity

READING, Ms Trudy, Voice for Victims Advocate, Voice for Victims

CHAIR: Thank you for joining us. I invite you to make an opening statement of up to five minutes, after which committee members will have some questions for you.

Mr Hamburger: My name is Keith Hamburger. I am a former director-general of Corrective Services in Queensland. I would like to comment briefly on four provisions in the Queensland Community Safety Bill. The first one I would like to speak about is youth justice principle 18, that a child be detained in custody where necessary. There are various issues around that. I would just like to state for the record that I disagree with this provision as I feel it is an add-on to the current failed youth justice system that, in my view, requires root-and-branch reform. The provision as it is currently written will not address the current disastrous youth crime situation, where juvenile offenders, particularly repeat offenders, are committing serious offences while on bail or on conditional release or are recidivists after serving time in Queensland's failed juvenile detention centres.

My position is that detention must be an option of first resort for juvenile offenders, particularly for repeat offenders. In taking this position, I propose a reformed juvenile justice system where police watch houses and ineffective youth detention centres have no part. The reform system that I envisage would function as follows. Police would take arrested offenders or young people who are at risk of offending to a therapeutic assessment centre, which is a secure facility where they will be fully assessed for their family, their social circumstances, their living arrangements, their mental and physical health, their educational history and any other relevant criminal history et cetera. That would likely take between three and four weeks of assessment in that secure facility. I am aware of how this operates in northern Europe. Based on the foregoing, a pathway plan is prepared for consideration by the court to achieve rehabilitation of the offender while preserving community safety. The professionals associated with the assessment centre prepare a holistic assessment of the victims' circumstances, with recommendations for compensation and support to accompany the offender's pathway plan to the court. So we are getting the victims' issues heard at the same time. The sentencing must be conducted under restorative justice principles, where the magistrate is supported by a panel—that includes

professionals who assess the victims' needs, those who developed the offender's pathway plan, together with victims—to advise the court on sentencing options as well as victim compensation and support needs.

The existing ineffective and inhumane youth detention centres can be phased out, and the courts would have a range of cost-effective, humane and effective alternatives for control of young offenders that will protect community safety while rehabilitating the young person. The therapeutic options proposed for the child offender will be joined up with primary interventions at the family and community level, including with the child's peer group associates, so the rehabilitation pathway for the child is facilitated.

The operating model to deliver the various control and therapeutic options ordered by the courts in sentencing will be driven by locally owned not-for-profit entities. These NFPs will deliver specified offender control and rehabilitation programs plus family strengthening initiatives including housing, aged care, health, community-wide cognitive change programs, enterprise development, cultural and prosocial activities et cetera. They will do that under government contracts. I propose that we do three trials of that reform model in three separate communities, where the business cases will be co-created by local community leaders and stakeholders, peak bodies and researchers for design and longitudinal evaluation.

That reform I have just briefly outlined takes offenders off the street early in their offending careers. Bail is rarely, if ever, used. We will not have repeat offenders committing serious crimes because they will be caught up early in their criminal offending career, placed into assessment and controlled from time of arrest through the court sentencing process and into rehabilitation processes designed to preserve community safety.

The other provision I would like to speak to very briefly is the one about the consideration of risks associated with granting bail. My position is that under the reform model I have just outlined all juveniles placed by police into secure assessment centres will remain there for three to four weeks while holistic assessments are conducted. They will then appear before the court and then go into a controlled system. Under that system, bail is a very unlikely option.

The other provision I would like to mention is the temporary transfers from watch houses to youth detention centres. I assert that no child should ever be placed in an adult watch house. The proposed reform model eliminates the use of watch houses for children. After arrest they will be placed into the secure assessment centre that I mentioned.

The final comment is about the provision for disability services into the youth justice principles. If we had the reform model I described, any disability issues would be addressed in that thorough, holistic assessment process, and that would take care of that. Thank you for the opportunity to make those brief comments.

Ms Reading: Thank you for the opportunity to represent Queensland's victims today. We do feel a little bit like we may have been overlooked. It seems a bit last-minute. I am not sure whether that is just part of the normal process.

Victims have been calling for reforms. When I say 'reforms' I mean reforms to the entire youth justice system, not just with respect to the act but all of the policies that come with implementing that. What is of most importance to us is that there are consequences for these juveniles' actions and that the rights of victims go above the rights of the offender. We fail to see how this bill is going to be achieve that. That is our core request.

It is encouraging to see that victims will gain access to the Childrens Court. It is something we have been calling for. Victims are also calling out for a victims advocate service to help them navigate the youth justice system as well as for victim impact statements to be taken into account when sentencing. Victims need meaningful involvement in this process and the bill does not, from what I can see, allow for that.

On the issue of increasing maximum sentences, a juvenile just four months off becoming an adult was sentenced to 14 years for the murder of Emma Lovell on her front lawn, where she was left for her children to find her. Evidence shows that increasing maximum sentences does not serve as a deterrent, so why are we not increasing minimum sentencing instead?

In the event this bill is passed, we see that more juveniles will be convicted, potentially. A big question we have is where the government propose they are going to put these children, particularly given that there are no new facilities to put them in. The same applies, I guess, with the extension of ankle monitors. If few juveniles have been involved in the trial already, where is the evidence that the courts will impose the use of these in the future?

In some respects, this does feel a little bit like a political fix rather than a solution to what is a critically important issue for us to get right. We need to stop putting these kids back into the environments that are causing them to offend in the first place and put them into secure facilities that will put them on the right track sooner. This is why we have worked so closely with Keith. He has been a very big support to us in understanding the system and for us to be able to speak on behalf of victims. We want to see fewer victims, not more victims. We want to see good support for victims. We believe that the programs Keith is referring to will help to bring the number of offenders down.

In terms of bail, as Keith said, if we were to adopt his system we would see less requirement for bail because they would be in these assessment centres. If a child is on their fifth bail order, let alone their 90th, surely you need to ask yourself why. The government are failing the kids and they are failing the community. Their heads are in the sand if they think this bill will fix this issue. Granting bail and putting them in resi care is not a solution. We really need to know from the government why they are refusing to move forward with this model.

After the last rally, Voice for Victims had a meeting with the Premier on 30 April. We were assured that we would have the opportunity to come back and speak to him about these proposals. We have followed through twice, for the record, seeking that meeting and we have heard nothing. Thank you.

Mr BOOTHMAN: Keith, I am very interested to hear more about this model you have talked about and the outcomes in northern Europe with these facilities. Can you explain which countries use it and how they implement it?

Mr Hamburger: I saw this in northern Europe back in the early 1990s. I was the director-general of Corrective Services at the time. My minister and I went on a study tour there. We went to northern parts of Germany and to Holland. We interviewed a Professor Christian Pfeiffer, who is an international expert in this situation. As you are probably aware, northern Europe has some of the lowest imprisonment rates in the world and certainly very low imprisonment rates for young people. It is basically because of the holistic assessment approach.

We all know that these children come from extremely problematic families and that they are carrying all sorts of issues including mental health. Our current processes are basically treating them like an adult offender—putting them into a jail and so forth. It is just not working. If you get a very thorough assessment—I am referring now to the northern European outcomes of low imprisonment—the court then is fully informed on all of the circumstances. If that assessment includes advice from professionals on the best way to deal with that child, you are going to get a better outcome.

The other thing I would say about it is: if you are dealing with highly problematic children, all of the experts say that you should not be dealing with more than six of them in an institutional setting. There should be small institutions with very intensive, individualised programs. I am not talking about soft options of putting kids out into community stuff. The court has to take community safety very seriously and it will set appropriate sentences. These facilities will be secure, but they will be small, with an intensive therapeutic model. Then there will be work with the families and communities they will go back to. My experience is that most recidivism is caused after they leave, because they go back to their old associates and they come back. We have to build a pathway for them back into the community. That is what these small centres can do.

Mr BOOTHMAN: It is not a detention centre but it is a facility where these individuals cannot come and go as they please. They are there to do a program. If they fail to participate, what happens then?

Mr Hamburger: Under the model that I saw, the courts do not lose sight of these people. At the moment in Queensland, courts sentence someone and they never hear what happens—whether their sentence worked or whatever. Under this model, the court sets the programs and the performance criteria the child must meet. Every month the court gets feedback. If the child is misbehaving and not doing what they are supposed to do, there is a range of options from top to bottom. They can be moved up and down through those options. The court is informed. Until such time as they are off any order, the court is fully aware of what is happening and the professionals who helped design that program are also involved. It is a very intensely supervised model.

Mr BOOTHMAN: They could potentially be in there for quite a long period of time if they refuse to participate?

Mr Hamburger: That is right. If they have committed a heinous crime, they are going to go away for a long time anyway. It is no good just storing them. At some stage they are going to be back in the community.

Ms BOLTON: Keith, within the 60 recommendations from the youth justice reform interim report there is capacity to adopt and take forward a model similar to the one you are talking about. What is needed to be done right now and how long would it take to see that realised?

Mr Hamburger: Right now, as we all know, we are in a disastrous social situation. We have people being killed on the streets, in their own homes and so on. It is extremely urgent. My view is—I have put this to government—that we need to set up some trial programs immediately. What should be done right now—today—is that the Premier should announce that he is going to set up a taskforce. He should give that taskforce one month. I think the taskforce should be headed by, potentially, a senior officer from juvenile justice and have a couple of other senior public servants and some independent experts on it. The Premier should say, 'I want to hear back from you in one month as to what we can do. Have a look at what Hamburger has been rabbiting on about and see whether that is feasible, or whether there is something else that is better, and come back and tell me.'

There has to be an admission up-front that we have this wrong at the moment. It is just not working. We all know that. To keep building more of these big detention centres is insanity. It is like continuing to take medicine that does not work. I would like to see the Premier say, 'It's time for a circuit breaker. I will set up a taskforce, with some independent support, to look at this. Come back to me and tell me whether Hamburger is talking rubbish or whether it is something that can be done. If so, let's get on with it.'

If they decide to go with it, I would say to pick a trial community. You have to solve this on a place-based basis. We know from the postcodes where these people are coming from. I have been working right across Queensland talking particularly to First Nations communities, and I know a number of communities that want to trial this. We find one and we put people in there to build the business case, before we do anything else, to go back to cabinet. In my experience, it will take three to four months to put that together. They could go back to cabinet with that and say, 'Here is a model we could trial in community X and it will cost this much.' Not only will it say what it will cost but it will give key performance measures for the savings it will make. I can tell you that in the out years it will make many millions of dollars of saving. Right now, decide to do it and set up a taskforce to report to cabinet in a month.

Mr HUNT: Keith, how do Ms Reading's comments about minimum sentencing align with Scandinavian exceptionalism? How does minimum sentencing map against what is done in northern Europe? From my understanding, there is a bit of a disjoint there.

Mr Hamburger: The model I have just described goes back to that very thorough assessment of the offender and then a sentence has to be determined in relation to how long we need for these programs to work. We have evidence behind that. The court has to consider not only that but also the nature of the crime. If it is a very heinous crime, under the Criminal Code there would be long sentences et cetera. That is a matter for the government and the courts as to what they should be.

With the great majority of offenders—adult and juvenile—there is a high churn. I think the average sentence for an adult prisoner is 3.9 months or something. A lot of juveniles go for short periods. Under the model I have described, some of these juveniles would probably go in for longer periods because we know that we cannot solve their particular serious problems in a few weeks or months. The sentence will be determined on the basis of expert evidence that the court can consider, having regard to the Criminal Code and having regard to the need for rehabilitation of the offender—and also the concerns victims might have. In that process I described there is a panel that victims are on. They have to take all of that into account.

I spoke to a magistrate in northern Europe. He said that sometimes in setting the sentence he has to adjourn and come back about three times in order to get some sort of feeling of consensus out of all of this. The good thing in this bill is more openness in the court. The media there can see all of this sort of thing and see how it is working. It was said to me by Dr Christian Pfeiffer that many victims say, 'When I went into court, I basically wanted him hung'—very serious outcomes—but then an outcome is struck that is less but they are comfortable with it because they understood exactly how it was constructed and all of the circumstances. Then you get more balanced media reporting out of that, because it is an open system.

Mr HUNT: From my understanding—I am more than happy for you to correct me—none of the northern European Scandinavian exceptionalism models embrace minimum sentencing. There is consensus and collaboration but there is no carte blanche minimum sentencing.

Mr Hamburger: That could well be right. I do not know the answer to that. I am not sure of that.

Mr ANDREW: I would just like to make a declaration of interest: I am a gun dealer, licence No. 51434, and I do use firearms in my other business, CQ Feral pest management.

CHAIR: I do not think anyone on this panel—

Mr ANDREW: It is just good to get it out of the road. Keith, have you put this model to government? Have you sent it through and had no feedback?

Mr Hamburger: Basically, what I have just described has been in presentations I have done to government; it has been in presentations to the parliamentary committee on raising the age of criminal responsibility; and I have had individual meetings with ministers and with two different premiers now where I have talked about this. There does not seem to be any appetite for it.

Ms Reading: Was it 2019 when it was first raised?

Mr Hamburger: In 2019 I did submissions to the Queensland Productivity Commission on this. They actually mentioned in their report that there should be a trial of what I was talking about. I can get the reference for that for you. The first proposal I put up on this happened to be in 2016, when the government was proposing to build a large adult prison. I put forward a model for smaller facilities in country areas et cetera. That got rejected. Then in 2016 and 2017 I worked with the Bidjara people in the Charleville region, where we developed a case for adult offenders to go to healing and rehabilitation centres. Given that 3.9-month churn and so forth we would take, probably within about 18 months to two years, 40 per cent of the prison population out into that sort of model. That got rejected. Now I have been pushing on.

I would just like to make a point here. If you look at adult prisons, that 3.9-month sentence and my experience of working in there and working with First Nations communities, I would be very surprised if we could not have within three years a 40 per cent reduction in prison numbers, which would mean billions in savings on capital infrastructure, on those big prisons that are not working. Likewise with juvenile detention centres. Basically, a cell costs a million dollars, with all of the paraphernalia that goes around that, so there are huge cost savings to be achieved. That is why it is so urgent.

In a month, with an independent group looking at this and saying, 'Let's give this a crack and get a trial going,' if the trials work—I am very sure they will; I know that there are a lot of communities interested—you could set a three-year plan where you would turn this whole system on its head and come up with a truly reformative system, reduce crime and reduce victims.

Mr KRAUSE: Ms Reading, were you consulted about this bill? You said that you met with the Premier on 30 April.

Ms Reading: We met with the Premier but, no, we were not consulted on this bill.

Ms Atkinson: The first time we knew about this was on Tuesday. I do not know if there should have been a bit more lead time. We just hope it is not going to be yet another committee that is given good ideas and it is just left to die, as with the former committee that was disbanded just recently.

Ms Reading: Like Keith said, we have put these proposals on the table a number of times with two different premiers. The first time we put this proposal forward was after our first rally in August last year. We had a meeting with then premier Annastacia Palaszczuk first—no, you had two or three meetings—

Ms Atkinson: And then the Premier in January.

Ms Reading:—and then with Steven Miles twice since then. We have put this on the table again and we have asked for follow-up meetings, which we were promised at that last meeting, but we have got crickets.

Ms BOLTON: Lyndy, just to clarify, those 60 recommendations from that last committee, as you know, the government has committed to either in full or in principle. It does give the pathway for what Keith is speaking about. It is definitely not in vain.

Keith, the new units that are being built, from my understanding, are small units of six within a larger complex. If we were to trial something in a community that agreed to, what would happen when there are more than six? If you are starting off with a pilot, what then happens to the others? I think it is about those logistics—trying to understand the bigger facility, where it has units of six where you could do exactly that but has the capacity to deal with more than just six at a time.

Mr Hamburger: That is a good question. I mentioned co-creation of the business case with the local community. Each community will have different needs. Those questions you raise will be answered in the co-creation of the business case, because there will be a number of very small facilities

for very difficult people. There will be a need for some, in the adult experience I have had, between 12 and 20 size where children are not so problematic and you could have a large tract of land, a range of things for them to do—get them into skills training and so on. There will be things like bush camps. There will be a range of options that will be designed for each community so that the courts, desirably, in those communities have five or six different options they can use but all well controlled—all with culturally appropriate things for First Nations people et cetera. That is part of the business case design.

Ms BOLTON: Ultimately, the new facilities being built with those small units could be amended to facilitate the types of reform you are speaking about?

Mr Hamburger: I would suspect not. I have not seen the design, but I have heard that they are going to be around 30 to 40 beds—the one in Cairns. I have heard that, but I do not know if that is right. They will be high-security, I presume, with fences and they will be like an institution. One of the big failings with that design and model is that it is totally disconnected from the community of interest. The people in juvenile detention centres have come from all over the state. I was talking about a holistic response involving the community. That cannot be achieved from that sort of facility. The ones I am talking about will be associated with the community of interest. I know that the communities I have been speaking to want that.

Mr HUNT: With regard to the time frames and notification, are you on the secretariat's subscription list so you can get notified about these hearings?

Ms Reading: I do not believe we are.

CHAIR: You are now.

Mr HUNT: I was going to say: have you considered subscribing so that you can—

CHAIR: It is a little bit easier than that.

Mr ANDREW: I have a lot of tribal people in my area who would be very interested in this. How many people have you spoken to on that level—the people who work with youth? Have you spoken to them out there? What are they saying? Are they frustrated?

Mr Hamburger: They are very frustrated. I will name some of the communities. I have done a lot of work with the Bidjara people in the Charleville region. I have done a lot of work with the Cooee organisation that represents Redlands and the bay islands and people into Logan and so forth. They definitely want this thing. I have spoken to people from Aurukun. I have spoken to Mount Isa people. I had a meeting with the shire council in Cherbourg a few years ago. They wanted to do it. I have built up expectations, and it worries me because then I go away and I am just another white man who does not do anything, because you cannot get anything happening. I am not going out there beating the drum again until I get some indication from government. Then we need to sit down with government and pick the first community where we get this business case and trial done. Then we can spread the word and get other people. They will just come out of the woodwork.

Mr ANDREW: Maybe you should bring them with you, Keith!

CHAIR: That brings to a conclusion this part of the hearing.

Ms Atkinson: Would you mind if you said just one thing? I know that time is limited. With 8,000 members on our Voice for Victims page, what I am seeing more and more of recently is that people are loath to report things that have happened to them—assaults et cetera. Perhaps it is a second assault, a third assault or a home invasion. They are now loath to report it because of the turnstile in the courts and they feel more traumatised when they hear that their offender is out on bail or out after three months after stabbing somebody. From a safety point of view, people just are not reporting. I think things will just become worse if we do not have something implemented like what Keith is suggesting.

CHAIR: That brings to a conclusion this part of the hearing. I thank you for your attendance. Keith, I know that you volunteered to send the Productivity Commission report.

Mr Hamburger: Yes, I can find those references for you.

CHAIR: Just send them through to the secretariat.

Ms BOLTON: Chair, could we also get what Keith was reading from?

Mr Hamburger: Yes, you can have that.

CHAIR: Can you send that in by email?

Mr Hamburger: Yes, I will do that.

CHAIR: Thank you.

ASSFALG, Mr Peter, Legislation Specialist, Shooters Union Australia

CHAIR: I invite you to make an opening statement of up to five minutes.

Mr Assfalg: I would like to thank the Community Safety and Legal Affairs Committee for the opportunity to appear as a witness. Graham Park, the Shooters Union Australia national president, offers his apologies due to illness. My position is Director of Special Projects with Shooters Union Queensland. I am a retired Queensland police officer and also a retired Army Reserve member. I trust that all of you have had the opportunity to read submission 114, provided by the executive committee of the Shooters Union Australia. Due to time limitations, I will focus on some specific issues.

I would like to open my statement by saying that it is regrettable that, with the breadth and complexity of Queensland Community Safety Bail 2024 proposals, more time was not permitted for submissions to be made and community consultation to occur. If possible, reconsider at least a three-month postponement of the bill to ensure more thorough consideration and input by all stakeholders.

A disqualified person being deemed to never be a fit and proper person for obtaining a firearms licence or to be a licensed dealer's associate seems manifestly excessive and should be assessed on a case-by-case basis as, in life, circumstances do change over time. The creation of class A, B and C offences could be construed as overreach in terms of assessing a fit and proper person's status, as the intention of tightening legislation to clarify issues often creates more unintended loopholes.

The bill contains non-definitive descriptions that will negatively affect our members. We are deeply concerned about the impact on their jobs and livelihoods in certain circumstances as well as the potential financial burden of costly legal bills. It is all very well to say that people can appeal decisions made; however, the cost of taking matters to court has ensured that most working Queenslanders will simply surrender their licence or aspiration to gain a licence rather than spend significant amounts in court litigation.

I would like to reinforce the Queensland Council for Civil Liberties' observations: clearly, the loss of livelihood in numerous circumstances through firearms prohibition orders; the possible abuse of DV temporary protection orders, with negative impacts on firearms owners and users; the secrecy of criminal intelligence, which denies natural justice; the lack of FPO protections and safeguards that have been provided in interstate jurisdictions; the silence on the criticisms of the interstate equivalent FPO legislation; and, equally, the ineffective oversight of the firearms prohibition orders under the current bill.

With respect to the explanatory notes, the ACIC estimate of illicit firearms is likely largely comprised of firearms imported illegally into Australian through our porous national borders or never registered, so any legislation enacted is unlikely to change that situation. Whilst not understating the seriousness of the issue, the stated rate of firearms misappropriated through theft last year seems significant as a percentage increase over the past decade, yet it remains minuscule in terms of the overall number of firearms held by licensed Queenslanders. Equally, the highly robust firearms regulation currently in place, limiting the categories of firearms readily available to most Queenslanders, means that criminals would most likely seek category C, D, H and R firearms illegally imported into Australia. The people likely to be target of the firearms prohibition orders would equally undoubtedly fail to be considered as fit and proper firearms licence holders under the existing legislation, so I do not really see it advancing safety or security for the people of Queensland in the greater scheme of things.

With respect to public policy and its impact on public interest and minority groups in society, I would like to reinforce the fact that the interests of the government are often distinct from those of the public. Public interest includes protecting individual rights. The QPS states that public interest will be the test applied to issues impacting on law-abiding firearms owners and users. It is not defined by the QPS except in connection with the prosecution of offences. Hence, the term is flexible, likely to evolve and change over time and be open to occasional abuse through defective interpretation.

Legitimate and highly regulated firearms owners and users in Queensland are a minority group in society being disadvantaged and discriminated against by draconian legislation, fuelled by a largely ignorant public often misled by unrealistic, violent, Hollywood portrayals, sensationalised media reporting and calculated political opportunism cloaked and sanitised under the veil of community or public safety. Has the bill been considered and found compliant with the provisions of the Human Rights Act 2019?

I would like to thank you for your time and for listening to the issues raised. As mentioned at the beginning of my statement, we have numerous concerns that have only been very briefly touched upon today, and those concerns seem to grow with greater review and consideration of the bill and the explanatory notes.

Mr BOOTHMAN: My question is seeking your opinion and guidance. A situation could arise that an individual has a firearm and a firearms licence and they decide to rent out one of the rooms in their house. That person may not be aware of an individual's history. Therefore, would that mean that anyone who wanted to rent a room in that house would have to have a weapons licence? That is the only way you could be sure that person does not have an FPO against them.

Mr Assfalg: That is a possibility. You could certainly ask for that declaration to be made or ask them to sign a stat dec to that effect. I think it is probably a little bit extreme to suggest that everybody would need to have a licence, but it certainly—

Mr BOOTHMAN: It would safeguard that individual, and that is the issue. You could potentially have a Facebook friend who has joined another group which may have some extreme views on matters. Then you could be tied up in that loophole.

Mr Assfalg: Absolutely. That is certainly a risk that is available.

Ms BOLTON: I refer to the expansion of police powers in relation to the removal of online content. Can you outline why those concerns exist?

Mr Assfalg: I must admit: that is probably not an area I have given major consideration to. As I said, the major points of concern by me and the Shooters Union are as I have outlined. With respect to the removal of content, at the end of the day we live in a democracy. I spent 42 years in the policing organisation preserving and protecting Queenslanders. I committed over 15 years to the Army Reserve for that exact purpose. With all due respect, I think any inappropriate content—assessing what is inappropriate is dependent on the individual's point of view. At the end of the day, one would think that inappropriate content most certainly could be removed or blocked. Again, who has the authority or the perspective to provide a definitive evaluation of anything? It is not something that has exercised my mind, I am sorry.

Mr ANDREW: I have to make another declaration. I am a member of the Shooters Union and SSAA. The situation with the FPOs—I am talking about what happens in the bush. A lot of these ringers go out, fight and have trouble. They will probably have these on them. They need work. What do you envisage for people in those situations who have to go and work on properties that maybe have these things and do not tell the owner of the property or the people who work there?

Mr Assfalg: That is the difficulty. At the end of the day, with information privacy principles, it is not like we can necessarily get a copy of a person's criminal history or identify any court orders that are in place. You are relying to a large extent on the honesty of the person making that declaration in response to the employer suggesting that they need some information to support the existence or non-existence of any limitations upon them working in that particular environment. A young ringer who is 19 who has a few too many drinks might get involved in an altercation and commit an offence. Times change. In 10 years time, are they necessarily going to be the same person? Those limitations can have a lasting impact on an individual. That is why I think they need to be assessed on a case-by-case basis.

While it is convenient to create a set of boundaries and barriers, there are unintended consequences. That is probably the point I am coming at. For all the good intentions that the bill may have, there could well be unintended consequences. Until the issues are more fully explored, we are not going to know—until a unique situation arises in court, where issues are brought up that would be mitigation of a situation. If we have a fixed term and a fixed requirement for something to happen, then without that wiggle room and without that flexibility I think we are creating a system and an environment that becomes more difficult.

As I said, licensed firearms owners represent less than 10 per cent of the community. With all due respect to any political party, they can largely afford to ignore them based on the fact that their rusted-on voters will support them irrespective of that 10 per cent or less of the community that is being negatively impacted by whatever legislation exists under the guise of public safety or public protection. At the end of the day, we have over 13,800 members of the Queensland Police Service—a fairly good ratio of police to public—and that does not seem to be reducing the offences that are being committed and the fear that people are feeling in society. In terms of tightening the regulations on the most heavily regulated portion of society, being licensed firearms owners, that calls into question the necessity for that to occur.

I will relate a personal experience. Prior to my retirement I was looking for more hobbies, so I wanted to get a category H firearms licence. I was a serving police officer. I carried a Glock pistol every day for work as a regional duty officer. Eighteen months prior to retirement, I joined the police pistol club, did my six months probation, attended the shoots and applied for my licence. Six months later, I was still waiting for some sort of response or indication as to whether I had met the standard required. I sent a letter to the minister. The minister's support sent me a letter back saying, 'We can't rush these things. There's public safety and other concerns here.' It was just a very generic response. Three months later I did get my licence, but I had waited nine months. I was not after any special conditions. I did not declare myself, but as a client service issue we have an organisation—I love the job; I love policing. I am not bagging it but, at the end of the day, if we cannot get a fundamental administrative process operating efficiently and effectively, how can we possibly justify putting in firearms prohibition orders and increasing a series of powers if we do not necessarily have an organisation that has the capacity to implement it the way it was intended or oversight in place to identify perhaps unintentional abuses of the system and process? Again, that is my personal view on that.

Ms BUSH: You made a comment about abuse of DV orders. I was curious about that. Obviously an element of the bill is looking at those higher risk DV perpetrators and whether or not they ought to have access to weapons. I was after clarification on your comment about the abuse of DV orders.

Mr Assfalg: There is no room for domestic violence in society. With all due respect, if a temporary protection order is taken out, the respondent has the obligation to surrender their licence and surrender their firearms. If they are employed in a capacity where use of firearms is required, we are putting them at risk in terms of maintaining their livelihood. There is no easy answer. All I would say is that it puts people at risk, potentially deprives them of livelihood and potentially creates additional stressors to perhaps an already existing domestic violence situation.

I know that the Prime Minister has said that we are currently in a DV crisis and that things need to change. As I understand it, since at the federal level we have been recording incidents of DV and associated intimate deaths et cetera, there has been a 70 per cent drop in deaths. I would regard that as a victory in terms of the reduction of violence and murders in our society. The number of 28 has been touted federally by our Prime Minister, but that included—with all due respect and with appropriate reverence—the victims of the Bondi stabbing, which could hardly be called intimate partner violence or death.

In fact, just the other day I was looking at John Cadogan on YouTube. He does a fantastic analysis of violence in the community and domestic violence, suggesting that—it is a serious matter; do not get me wrong, I am not trying to belittle it in any way, shape or form—the perceived crisis does not seem to exist. Even from the perspective of deaths per 100,000 members of the community, Australia represents a fraction of one per cent compared with, say, the United States, which runs at about seven or eight deaths per 100,000. Community violence is actually dropping and domestic violence has had a seven per cent reduction. It is almost a cause for celebration to an extent, other than the hysteria—sometimes unjustified—that has been built around the issue.

Ms BUSH: We will not have time to debate that, because that would take a long time, but I think what you are saying is that it is not so much an abuse of DV orders but the process that wraps around temporary orders that has an impact on your members?

Mr Assfalg: Correct. They can be issued for vindictive purposes.

CHAIR: That brings to an end this part of the hearing. Thank you for attending, Peter.

CLEAVER, Mr Jade, President, Firearm Dealers Association—Queensland Inc.

CHAIR: Welcome. I invite you to make an opening statement.

Mr Cleaver: Thank you for the opportunity to speak to our submission. The dealers association as a whole feels that this has been rushed. There has been no consultation on it. We were given an opportunity in February to meet with the minister and to read a brief, six-page overview. While the document said at the top 'public consultation', we were informed that it was cabinet-in-confidence. We raised our concerns that we were not allowed to consult with our members on this. There is impact to trade, clients and licences in this legislation, but we were not allowed to reach out to our members—rural members especially, with internet issues, being able to validate licences on the spot—get their feedback and then supply that to the minister and the government. That is very disappointing.

I would also like to touch on the explanatory notes. They note the increase of 60 per cent in firearms in Queensland, but the rate of stolen firearms has not gone up compared to the amount of firearms that have been purchased in the community for sporting, recreational and occupational use. That is not noted in the bill or explanatory notes. It has not gone up at the same rate as firearms entering the community for legitimate use. That should be noted. If we were looking at a 60 per cent increase in firearms ownership and an 80 per cent or 90 per cent increase in stolen firearms, that would be an issue. There is only a very small increase in the number of stolen firearms. It also draws conclusions, with no risk analysis, on stolen firearms being used in crime. It is data that we could not come up with. As Peter from the Shooters Union said earlier, a lot of the firearms used in crime are smuggled firearms and so on.

Also, the lack of consultation on this bill has an impact on dealers' licences and staff. There is no scope in this bill to support continuance of trade if there is an issue with a licence. They use words like 'suspend' and 'revoke'. The way a dealer's licence is, a corporation can own a dealership and a person is a nominee—and that person must be fit and proper, which is, of course, the way it should be. If something happens to the 'fit and proper' label on that nominee, that business needs to continue. That nominee can remove itself. There is nothing in this legislation that covers that. For example, in my business we employ 32 people. What happens to their jobs the next day?

In terms of a dealer's associate, if we look at the definition of that in the act, that goes right down to our employees because our employees are integral to the operation of our business. If something happens to one of those employees in their everyday life and they become disqualified, we have a disqualified associate and there is no guideline or framework for the dealer to say, 'You can take leave and sort this out with the court,' and the other 31 people have a job.

The ammunition checking side of things is new to us. Previously we have only sighted licences. The digital check online and Queensland police provide a service whereby we can type in a licence number and an expiry and it will validate it. It is internet based. Through that consultation in February which I mentioned earlier—it was cabinet-in-confidence—we did suggest changing it to include something that allowed for the system not being accessible. We note that that system will be down on Saturday. QPS is doing work on it. They seem to do that on Saturday morning, which is one of our high-volume times at ranges and in stores—everybody going to the rifle range on Saturday morning, everybody coming in to buy their stuff for Sunday. We need that service available. If there is an outage, what do we have to fall back on? Do we have a call centre we can ring that is manned, like the old credit card check system?

That section in the bill does not cover an outage. It covers the server being down but it does not cover if the program is not accessible or the program is being worked on. The server can still be running in the background. The legislation is not definitive enough. If dealers cannot access that portal, what do they do then? Who do they ring to make sure the server is up or down or to determine it is their fault? What happens if the NBN goes down in Roma for a week? Does Roma Outdoor & Sports have to send every person away for a week until their internet comes back and then they can access the server?

There is great strength taken in that licence, and this process of checking and validating that licence is part of every dealer's procedure. I know that it is part of ours. The licence can be checked in store three or four times—once by the person serving them, once by another person when they are getting served somewhere else in the store and then once at the check-out as they are leaving. I do not think we should take away from that process. The dealers need that section of the legislation repaired because it cannot only be a server outage that is an issue. Maybe a program does not work—maybe something goes wrong with a program—or maybe their internet does not work, especially for our rural dealers. This is one part we were not able to consult them on when we were first briefed with a broad overview of the legislation. They complain about internet outages all the time.

Mr KRAUSE: Do you have a copy of that cabinet-in-confidence consultation document?

Mr Cleaver: On my computer, yes—not here.

Mr KRAUSE: If you could bring that to the committee, that would be good, thank you.

Mr Cleaver: Yes.

Mr KRAUSE: There is something in the submission about antiques and firearms dealers not being able to check the FPO status of a client because there is no permit to acquire required for that. Is that one of the issues you were talking about just then in terms of there being logistical support for this sort of new regulation?

Mr Cleaver: We have had a short time to assess this bill. The firearms legislation for a trader is very complex, because we have to think of every little encounter we experience every day in our store. This week we were awarded the opportunity to meet with QPS and with the minister's office—the minister was not present—and discuss the legislation. There is a line that we have been made aware of that the supplier must know whether or not somebody has an FPO. We are happy with that one line of legislation to cover off the antique sales.

In saying that, how do we prove that we knew or did not know? As far as I am concerned, a document is the only answer—a signed document. One of the problems, due to lack of funding for Weapons Licensing Branch, is that we cannot even get a box changed on the internet to better instruct clients when applying for a licence. When you get your licence renewal, if you click the link to the guide to what you have to put with an application for a renewal, the link is broken. Clients do not know what they have to put with a licence renewal. Now, with this framework, are these forms going to be updated when we cannot even find information to renew our existing licences?

The government has provided no assurance at all. We have not viewed any trading paperwork. There is a form for antiques. It does not mention firearms prohibition orders. There have been no guarantees from government that they are going to amend forms. We have not seen any new forms yet. Based off previous history—I am not blaming QPS for this; I do not know who was responsible—if we cannot even get the forms for the current legislation or the current policies, how can we expect to get the forms for this new, complex legislation?

Mr KRAUSE: Correct me if I am wrong, but from your opening statement it sounded as though you were concerned that if an employee was served with an FPO the entire cohort of employees would be impacted by that.

Mr Cleaver: Through my discussions on Monday—again I will say that this has been forced through us very quickly. We are learning every single day. I have not stopped reading for 2½ or three weeks, going back over the same points and asking, 'What does this mean?' and reaching out to lawyers, experts and interstate dealers, asking what happens in their state with their clients in relation to firearms prohibition orders, because this is new to us.

We learned on Monday from QPS that if you get issued a firearms prohibition order your licence is done—finished—but if it is a commissioner or police warned firearms prohibition order you can reapply. There is no framework for business continuance in that statement. I did not ask any further questions on that when I was presented that information from QPS when they were talking about the legislation.

I will raise one issue. Say you have a dealership with 8,000 guns in it and the nominee gets a firearms prohibition order. It is a mistake. It goes to court. The judge says, 'No, this is wrong.' Then you have to reapply for a dealer's licence. Where do those 32 staff and 8,000 firearms go while you wait for seven months—that would be a good time frame to approve a dealer's licence, I think—or potentially 12 months while that reapplication is in process? There is no framework in the legislation to cover that. It could be simple. Through industry consultation they would have been able to achieve that framework, and it has not happened. A suggestion to the committee is that they could have a framework whereby the nominee is immediately removed from the business—that eliminates all public safety risk—and a new fit and proper, approved nominee is placed into the business while the courts are hearing this out.

In terms of the associates, it is not just the Weapons Act that we have to adhere to. We also have to also adhere to the Fair Work Act and to a lot of different acts as an employer. We have to think of their rights. We have to consult with HR, being the size that we are. An associate is an employee, because they are a decision-maker in the business; they might run a section. As I mentioned in my submission, my cleaner could be classed as an associate. He chooses all of the cleaning products for the business and makes sure we have the right mops and the right sponges so the floor is not slippery and replaces carpet tiles. If he is hit with a disqualification or an FPO—that does affect the dealer's licence—what are the processes set out by legislation for continuance? A very small amount of legislation could be put in there. That has not been done.

Ms BOLTON: You mentioned previously that there is a 60 per cent increase in registered gun owners.

Mr Cleaver: No, registered firearms.

Ms BOLTON: But there was not an increase in gun related crime in proportion to that.

Mr Cleaver: No, stolen firearms. They draw a very interesting line in the explanatory notes. I am no lawyer or police officer, but what I have learned about explanatory notes is that a court or a judge can go back through those explanatory notes to get what this act means—to get better definition down the track, in 10 years time—and lawyers will often read parliamentary explanatory notes to get a better understanding about what they are defending.

We have had an increase in the purchase of firearms in Queensland for legitimate use. Bear in mind: all of those firearms have been issued by approved Queensland police permit. It is an approved person for an approved recreational or occupational activity. When we touch on the occupational side of things, there is a tremendous amount of data out there that our feral population is running wild. We have invoices that show that pest destruction companies are buying $40,000 worth of ammunition at a time. We service that market quite heavily in our business, like a lot of rural stores do.

With the increase in registered firearms, the increase in stolen firearms has not a climbed at the same rate and it has not increased above it. Yes, it has increased—I do admit that—but I think the percentage that is listed here shows that, with the increase in firearms being quite significant—and justified by permit—stolen firearms have not increased at the same rate. That means the police are doing the right job. Weapons Licensing just did a project on the Darling Downs, I believe, on secure storage. That means that all of these projects that have been put in by QPS—

Mr BOOTHMAN: But do you believe there could be the unintended consequence that there will be more illegal firearms—

CHAIR: Mark, please let—

Mr BOOTHMAN: Sorry.

CHAIR: Sandy?

Ms BOLTON: I will just pass over, because obviously there is a burning question from Master Boothman.

Mr BOOTHMAN: Do you feel that one of the unintended consequences of this legislation could be that the amount of illegal firearms may increase because it would push it underground? Is that a concern for the registered dealers?

Mr Cleaver: Registered dealers do not deal in—

Mr BOOTHMAN: Obviously you do not deal with it. You have a 60 per cent increase in people buying guns, doing the right thing. Would this potentially force individuals to go elsewhere to do the illegal actions? Are you concerned about that?

Mr Cleaver: From a sporting point of view, I could not see it. By making a very rigid framework and applying it to an already—some people call it excessive—rigid framework, would it force people out of the sport and source it somewhere else? How do they then use it at a range? On the sporting side of it, I would say no.

The occupational requirement is a very interesting thing. I have been in front of many committees, ministers and everything else. No-one has ever been able to tell me how to run a cattle farm without a firearm. A firearm is a useful tool in the bush. As a company, part of our portfolio is two cattle farms between Condamine and Roma. How do they operate without firearms? If you were to restrict people from those everyday tools that they require to run a business then you may see an increase in that area. I do not know; I could not comment on that.

While I am on that, I refer to the last part of our submission. While we have left that to AgForce, I can say that there is quite a significant rural impact here. That is, a worker on a farm does not need to have a firearms licence but he must be an approved person. It is quite clear in the act. This framework of disqualification will potentially limit the amount of workers in the bush and limit the amount of workers on farms. That is not in the scope of the Firearm Dealers Association nor myself, but there will be a tremendous number of issues there. We are already seeing it as dealers. Queensland police and Weapons Licensing are saying, 'There's been a problem. Your 15-year-old at home has been charged with something. You have to move your firearms' or 'Somebody resides at your premise. You have to move your firearms.' That is also being applied rurally. With this framework and that policy being applied rurally, you will see farms without firearms. I do not think you will see farms without firearms; I think you will see a lot of sacked workers.

Mr ANDREW: As dealers, we have a critical role in helping to facilitate the Weapons Act and regulations. Have Queensland dealers been given enough time to really understand this? You have said that there was no consultation. You went into the outcome for the government and QPS a little bit. We work with them all the time. Could you open that up a little bit more?

Mr Cleaver: We had a meeting on Monday where we learned more about it. There were one of two positives but mainly negatives. Continuance of trade was not in there and things like that. We have not been given enough time on this. The retail space and wholesale space in firearms trade is a very complex thing and we see different circumstances all the time. We believe that our input into this legislation has been minimal or next to nothing.

Mr ANDREW: That is terrible. Thank you.

CHAIR: Just before we close, Jade, you were kind enough to indicate that you would send to the secretariat that document in confidence. Can you please not do that until the secretariat contacts you? I am seeking some advice on that and I have not been able to get it while you were here. The secretariat will definitely communicate with you.

Mr Cleaver: Via email?

CHAIR: Yes. Is that the best way?

Mr Cleaver: That is the best way, yes.

CHAIR: If they communicate in the positive, send it in. If they communicate in the negative, we will deal with it later.

Mr Cleaver: Okay.

Mr KRAUSE: That was my question, was it, Chair?

CHAIR: Yes. Thank you, Jade.

HAYES, Ms Katherine, Chief Executive Officer, Youth Advocacy Centre

Ms BUSH: While Katherine is coming up and while Peter from the Shooters Union is in the room, something is not sitting comfortably so I have to make this comment. The comment about DV victims taking out DVOs without merit or maliciously is an absolute DV myth and that has been very well debunked. With the greatest of respect to you and your members, I would be very disappointed if that was a view you were allowing to aerate amongst your members. I do not need to debate it; I just need to state that. It is not sitting well with me.

CHAIR: Good morning, Katherine. I ask you to make an opening statement.

Ms Hayes: I think the first point I want to make is that nothing you will hear from any of the people who are experienced in this field is new to anyone. We have heard it through the select committee and through previous committee hearings. All of the evidence is uncontroversial and agreed upon. There is no evidence that supports detention as affecting reoffending positively. There is absolutely no evidence. There might be opinions, but there is no evidence saying that detention reduces reoffending.

The amendments in the Queensland Community Safety Bill that impact young people in detention will not have any positive effect on community safety. We are aligned with Voice for Victims in wanting to reduce reoffending. Young people should be rehabilitated and encouraged on positive paths as much as possible. Detention in no way achieves this, particularly in its current form because it is without rehabilitation. The government has repeatedly introduced legislation that increases detention but has not commensurately increased any of the rehabilitation measures. This means that young people are coming out of detention centres and watch houses angry, traumatised and continuing on the path of reoffending. That is borne out in the data.

Watch houses are now serving as holding pens for kids who are not being held in detention centres, which are full. Watch houses are unusually full for this time of year. We have had kids—about 60 kids at any one time in April—held for up to four weeks at a time, in awful conditions. For example, in January in Cairns there was a 13-year-old Aboriginal boy who was sexually assaulted in the Cairns watch house. Before he was sexually assaulted by a fellow detainee in a cell—it was overcrowded—he had expressed suicidal ideations to the watch house officers, and this was not properly addressed. He was released. Shortly after he reoffended, which was completely foreseeable. When he was rearrested he was then transferred down to the Pine Rivers watch house and then the Caboolture watch house. He was held in the Caboolture watch house for three weeks. This was a traumatised boy who was further traumatised while in the custody of the Queensland government. His underlying causes of offending have in no way been addressed. This bill will only increase the potential for detention, increasing the trauma these young people will experience and entrenching their path of reoffending.

In the statement of compatibility with human rights it is said that the amendments do not infringe on any human rights, but I disagree with that. I am a lawyer who practised for over 20 years. The amendments clearly do change detention as a last resort. Firstly, Queensland is the only state that has a positive obligation to detain unless caveats are met, whereas in other jurisdictions detention is only to be looked at. They have a negative restraint; Queensland now has a positive obligation. In addition, judges and magistrates will be free to offer longer sentences because of the second limb of the test. So there is a lower threshold for detention and there is an opportunity for longer sentences. That will only result in higher numbers in detention in a system that is already not coping, where rehabilitation has not been properly prioritised by the government—with no options offered by the opposition either, it is worth noting.

The first human right that I argue is being breached by the amendments is the right of the child to have an age-appropriate response in the criminal system. That is in stark contrast to the adults still having detention as a last resort in the Corrective Services Act. It remains for adults but it is being removed for children. The human right to act in the best interests of the child is also being breached, arguably, by this amendment.

The only other comment I want to make is in relation to opening the court to media. First of all, when there is a prima facie case and the matter proceeds to the higher courts, the court is open. That is where the full facts are aired, and the media can report on that in an unrestricted way. The media has shown repeatedly—I would like to exclude the ABC, the *Guardian* and the *National Indigenous Times* from this—that it is not capable of balanced reporting on youth crime. The overall youth offenders rate has dropped dramatically for the last few years, and that is never reported. The data is constantly misrepresented and headlines are inflammatory. When you delve into the details and the facts of cases, they do not support the inflammatory headlines.

I do not think the media has shown that it deserves to be called into open courts, particularly in regional and remote areas where there may be a lack of matters to report. In the past, our workers have noted that there might be fairly minor matters reported in Childrens Court without balance in regional and remote areas, where offenders can be easily identified through the community.

Mr KRAUSE: Good morning, Ms Hayes. Thank you for your submission. I cannot recall if you saw any of the earlier proceedings. There were some alternative proposals put forward.

Ms Hayes: Yes, I know Keith well.

Mr KRAUSE: From listening to your opening statement, there seems to be a recognition that what is occurring in the intervention space is not particularly good at the moment.

Ms Hayes: Yes, not working.

Mr KRAUSE: Do you have anything to say about ideas that have been put forward by earlier witnesses?

Ms Hayes: I agree with Keith's model particularly in relation to working with small detention centres—small facilities with community support, designed with local community members and working in place-based areas. That means you do not remove the child 2,000 kilometres from their home, so a child from Aurukun is not removed down to Caboolture, which is what we see. The only query I have is in relation to the secure facility. That needs to be protected by proper procedures and legal avenues. The small facilities are a great idea, with a therapeutic process, which is what Keith emphasises.

Mr KRAUSE: Do you support the concept of open justice in terms of courts being open?

Ms Hayes: Yes, but open justice is not a black-and-white concept. You need to show that there is a balance in that. I have pointed to the philosophies and the case law on that in my submission, which shows that there needs to be a balance in the reporting. Open justice means full information, fair reporting and no misinformation, and that is not what is happening now. Yes, I believe in open justice.

Ms BOLTON: Did you have a chance to have look at the 60 recommendations that were adopted either in full or in principle from the Youth Justice Select Committee?

Ms Hayes: Yes, definitely. I noted that a recommendation in relation to detention as a last resort was to review it, not to amend it.

Ms BOLTON: Was there anything in there that concerns you at all or in particular that you thought, 'Yes, we need to move on in that space'?

Ms Hayes: I thought the recommendations contained a lot of really useful information. The information in that report is of great use and should be considered closely. I cannot remember any specific ones, but I do recall agreeing with about two-thirds of them. I think that one-third of the points of view can be completely justified but they do not necessarily aligned with mine, but that does not mean I do not think they need to be considered elsewhere and by other people.

Mr HUNT: You referenced declining rates of offending involving young people. I am guessing that that is recorded in multiple documents and multiple peer reviewed articles et cetera?

Ms Hayes: Yes.

Mr HUNT: Are you able to provide one or two of those that you think are especially useful?

Ms Hayes: In my submission I have extracted the graph from the Australian Bureau of Statistics which shows the latest figures.

Mr HUNT: Do you have a more fulsome article where you think, 'Look, I would really like you all to be familiar with this'?

Ms Hayes: Yes, I can locate one. In terms of rates of offending in Queensland?

Mr HUNT: Yes. I would really appreciate it, thank you.

Ms Hayes: No problem.

Mr BOOTHMAN: In your submission you talk about proposed section 19C in terms of prohibiting a person willing to participate in a hooning activity. In what circumstances do you feel this would potentially cause an individual some difficulty? They may be an unwilling witness. They may have been in the car, turned up at wherever it is and therefore are trapped by this legislation. Can you explain your thoughts?

Ms Hayes: I think you have pretty much said all I would say around this. It could capture someone who is present at an event—not necessarily of their own volition—or a young child who has been taken there with someone else and does not want to be there. That is the circumstance we are concerned about.

Mr BOOTHMAN: Okay.

Ms Hayes: I note that in the QPS response, though, they say that there has been a discretion not to proceed with charging a child in that circumstance, but we are noticing from looking at the data a definite hardening in the policing attitude to young people where their police diversions are at record lows and there is a much more open attitude to charging rather than diverting.

Mr BOOTHMAN: Why do you think it is less likely that they are going to give a diversion and instead charge the individual? Why do you think that is the case?

Ms Hayes: That is probably the context that we are in: community sentiment, which is based on the experience that people have—social media and the media—as well as the government and the opposition engaging in arguments about how this should be addressed.

Ms BUSH: Do you have any observations about what is contributing to watch houses being unusually full at the moment?

Ms Hayes: It is a very complex, systemic issue, but, in short, I think the court system is not properly resourced. We have the fast-tracking program at the moment that is pushing kids through the system more quickly, but about 80 to 90 per cent of the kids in detention centres are on remand. That is clogging up the detention centres. That is the first factor. The second factor is the high rates of arresting and lack of diversion that brings the kids back in. I think there is an underfunding of a lot of really great programs in the communities—fantastic programs—but they are all full up. We have kids ringing at least once a week asking, 'Have you got somewhere I can stay tonight?' We have to say no, so they are vulnerable to committing crimes. We are turning away kids all the time from our Intensive Bail Initiative program. They are great programs, but they are at capacity. I think all of that is clogging up the system.

Ms BUSH: Is it your view that the proposed rewording of the youth justice principles would in your words 'both lower the threshold for detention and create an opportunity for longer sentencing'?

Ms Hayes: That is my view having examined it and the view of the Youth Advocacy Centre.

CHAIR: Thank you for coming along. Thank you for your written submission.

LEWIS, Ms Natalie, Commissioner, Queensland Family and Child Commission

TWYFORD, Mr Luke, Principal Commissioner, Queensland Family and Child Commission

CHAIR: Good morning and thank you for joining us. I invite you to make an opening statement of up to five minutes, after which committee members will have questions for you.

Ms Lewis: Good morning. This morning as we come here I am challenged personally and professionally and conflicted to a degree because, normally when I come here or write reports or speak at conferences, our position is usually fairly easily established by considering the evidence, the research, the science, the guiding principles of the United Nations Convention on the Rights of the Child, the lessons from history and, most importantly, the perspectives of children who are most impacted. In relation to a number of these reforms, such as expansion of the criteria for electronic monitoring, I am conflicted because it is not an issue of evidence or impact; it is about what is least harmful—a child sitting in an adult watch house or the stigmatisation, shame and hypersurveillance of being fitted with an electronic monitoring device?

As a commissioner for children but critically for decision-makers, that should not be the context in which we form our opinions. I am happy to address my concerns about specific amendments—a number of which I consider unnecessary such as the removal of detention as a last resort, the EM trials, open courts and wanding expansion amendments—but I would like to address a couple of general points of concern that apply to the bill proper. The first is about accountability regarding the impacts of the proposed amendments. While I will use the QPS to illustrate, transparent accountability must apply to all of the agencies involved in administering the proposed reforms. Increasing police powers and responsibilities and resources and, frankly, the leadership of youth justice policy and program responses should attract a commensurate level of police accountability and transparent reporting as to the efficacy and the impact, positive and negative, of these initiatives on community safety and upon children. For example, when police report publicly on the number of implements or knives that are seized as a result of the wanding trial, they should also report on the number of innocent children and young people that are impacted and the number who are shamed publicly and subjected to unwarranted intervention. The impacts of this upon children and young people and their communities is critical to acknowledge and monitor rather than speculative estimations about the number of potential crimes that have been averted.

When reporting about matters such as Taskforce Guardian and the 1,200 arrests, as has been in the most recent media, we have to be cognisant of how the public consumes information and how they interpret that information because when the general public see 1,200 arrests they think 1,200 houses were broken into or 1,200 cars were stolen. That contributes and exacerbates the fear that is experienced in terms of the community and it derails their expectations in terms of what they want from government in order to feel safe. We should instead be expecting that there is reporting that is very explicit about the types of offences so people can put those numbers into context. If the majority of those 1,200 relate to breach-of-bail offences, that communicates a very different message about what the community has to fear.

Finally, I want to note a concern that I have more generally about the reform environment. I have probably become more acutely aware of this since last October when it comes to policy and legislative proposals in the justice space. For decades, we have become accustomed to reading evaluations or hearing reflections about past or continuing policies as having 'regrettable or unintended consequences' for Aboriginal and Torres Strait Islander people, for poor people, for people who experience vulnerability, for people with a disability and for marginalised Australians generally. There is this falsehood of unintended consequences. The consequences are known. They are well established by evidence and what we understand about child and adolescent development and what we know about the neurological effects of trauma and adverse experiences.

We know that Aboriginal and Torres Strait Islander children are disproportionately impacted by contact with the criminal justice system. We know that Aboriginal and Torres Strait Islander children are underrepresented in terms of equitable access to universal services and to specialist supports. The vulnerability and disadvantage of those of both social and economic type are more often criminalised and further compounded by interactions with our statutory systems. The consequences of increasingly punitive responses are harmful and ineffective. They are counterproductive in achieving the goal of community safety let alone the commitments and the targets under Closing the Gap. They are not unintended consequences; they are foreknown and they are, frankly, accepted. I think in the context of our collective commitments not just to Closing the Gap, the Human Rights Act in Queensland or to

not repeating the mistakes of the past or reframing the relationship, these known or even likely consequences should be publicly acknowledged when considering and passing legislation. At a minimum, they must be proactively monitored and transparently reported to the public.

Mr BOOTHMAN: My question is very similar to the member for Scenic Rim's question to the previous witness. I refer to the Voice for Victims and Keith Hamburger's submission. What are your thoughts? Have you spoken to Keith previously or have you heard about the proposed ideas? What are your thoughts on it?

Mr Twyford: Yes, I am aware of Keith's work and the multitude of ideas that are coming forward, including my own and the work of the commission and Commissioner Lewis. Detention does not work. This year the Child Death Review Board made very strong recommendations in that we are spending millions of taxpayers' dollars on a machine that is working less than five per cent of the time. It is a wasteful system. Unless we re-think the purpose of detention, we will not achieve community safety. We continue to call for addressing the root causes of offending in our families, in our homes and in our communities. Until we re-think what rehabilitation actually is and what it looks like, we will continue to come here discussing legislation that is purporting to be tough on crime but which has not produced the necessary evidence to show how it will cease crime, prevent crime or stop crime. Yes, I am aware of those proposals. They are all part of a bigger call for rehabilitative justice or restorative justice for relational-based youth interventions that actually change young people's behaviour.

Ms BOLTON: I think we heard very similar thoughts through the select committee. What I need to understand is that we do have youth who do present a danger to the community. The rehabilitation space obviously needs an enormous amount of work much earlier. We have gone through this before. In the interim—from now until that takes effect—what does the space look like to keep somebody and the community safe and rehabilitated? What does it look like? Does it look like a model that Mr Hamburger spoke about or is it a different model? This transition phase is going to be difficult until that rehabilitation space is expanded and works.

Mr Twyford: My position is that it is an incredibly complex space. If we continue to search for the magical program or the magical model, we will continue to cycle through youth justice policy reforms. If we take a step higher than that, we need an individualised response to each young person's root causes for their behaviour. We need a skilled workforce that understands how to do relationship building practice and how to do hope and healing in the terms of that young person's views of themselves and their life. That will look different in different services models depending on the cohort.

For young boys from Townsville the model will be different from that for older girls in Brisbane city. That is as it should be and that is how all our human systems operate. I think we do an incredible disservice when we see the youth justice system as a standalone isolated piece of government machinery. It is connected to our communities as it is to all of us and our relationships with the young people that we see in the malls, in the streets, in the sporting clubs and in the volunteer organisations.

It is also how each and every other government department operates. How does our education system operate to uplift and engage young boys who are feeling shameful that their intellect is not as strong as their peers? How does our health system respond to the adolescent mental health needs of young people in a way that meets them where they are? How does our youth homelessness system encourage prosocial behaviour when a young person is incredibly hungry and living and sleeping on the street?

Our view of youth justice needs to be broader and we need a bigger picture. Until we do that, we will continue to see detention as some sort of magical solution that keeps the community safe when all the evidence shows us that it is doing the exact opposite.

Mr HUNT: In fairly recent times we have had some fairly prominent people in Queensland describe young people and young offenders as either 'terrorists' or a 'generation of untouchables', implying that all of our Queensland youth are somehow implicit in the activities of a tiny fraction. I have a view—and I am essentially asking for your opinion on my opinion—that it is increasingly difficult now to have a nuanced conversation about this issue in the current media climate and in the current climate in Queensland. Is that your experience?

Ms Lewis: Absolutely. In the way that young people are talked about in the media and on social media it is as though there is this phenomenon that we have never seen in our history. We have always been able to anticipate that all young people go through phases of challenging authority. Young people struggle with identity.

There are a number of things that we know to be true of adolescence and of development. That has been presented in the context of criminality and of discussions about youth crime, and we have not had an alternative competing narrative that reminds us of the challenges and of the beauty of our

responsibilities in supporting child development in adolescence. There has not been a counter narrative that has been able to even come close to competing with the more dominant narrative about how problematic children and young people are, how entitled they are, how lawless they are. They are characterisations of children and young people that sadly have been accepted as normative.

I am a parent of a teenage boy. It disgusts me because the way that children and young people are described are not qualities that I see not just in my own child—I know everyone thinks their children are perfect—but in any of his friends or in that cohort. I cannot imagine what that messaging does to the mind of a 14-year-old boy when the community, the public and the media cast a characterisation of him which is so far removed from his perception of himself. You wonder how long it takes for that to become eroded.

Mr HUNT: I was in a meeting recently with the director-general of education. He talked to the forum about the damage this was doing with particularly senior high school students. When you besmirch an entire generation and call them a 'generation of untouchables' or language of that type, it is now actually starting to erode the health of our mid to later stage adolescents, and it is being picked up in schools. Is your office also finding that there is a difficulty now cutting through that web of negativity and characterisation?

Mr Twyford: I could speak on this topic for a very long time, but I will try to synthesise a couple of key points. The first is that youth justice policy has been weaponised. In our current climate it is used to value signal where we stand right across our community, in our media and in our parliaments, and that is a regrettable thing. Our human services portfolios need to understand the complexity and nuance of working with highly traumatised, highly complex family situations. When we try to simplify it into sound bites, we do a disservice to the quality of the policy that we need to actually solve our problems.

The second point I would make is that, as a society, we care for and love our children so strongly. In Child Protection Week every community leader stands up and talks proudly about how much the children are our future and that it takes a village to raise a child. Something happens when we as humans turn 10 years old. That love turns into fear or into distance or into a level of disregard. To your point I want to say that it is not that young people are starting to feel it; they have been feeling it for a long time.

In Queensland the leading cause of death for 10- to 14-year-olds is suicide. When we survey young Queenslanders, when we survey primary school students, 80 per cent are hopeful for their future. When we survey high school students, less than half are hopeful for their future. We have to do something different in Queensland right now, not just in the youth justice portfolio but right across our human services.

Mr ANDREW: Did you have much consultation on this bill?

Ms Lewis: We always desire more time to respond. We have been engaged in providing submissions to various committees and inquiries. For us we have a lot of information that we can draw on and pull together specifically. I think for some smaller agencies or organisations who are engaging in frontline work, I can see that the impact for them or their ability to fully participate would be limited by the amount of time given.

CHAIR: I am conscious of time. I will open it up for one question from each member, if any.

Mr BOOTHMAN: We are talking about the mental wellbeing of youth. Obviously social media has a lot to do with that. I know this is outside the scope of what we are talking about today, but do you have any thoughts about what we can do with social media to deal with the image issue of young people? Do you have any thoughts? It is a massive issue and it is something that I have always been very passionate about when it comes to social media and the potential harm it can have on young people.

Mr Twyford: My initial thoughts are that it is harmful to a whole range of people, not just under a particular age. There is no age cut-off where content on TikTok or Instagram no longer is unsafe for certain viewers. Again, I would draw back to my previous statements that these things are complex. There is a positive benefit to being able to communicate outside your world or your room or your very tiny remote community and feel like you can find people that you connect to and belong to. Social media and digital connection in that regard is incredibly positive. Equally, there are negatives to it.

I have recently posted a speech by a 12-year-old girl from Logan who, despite where I think your question is leading to, is calling for parents to get off social media, get off their devices and be better parents. I think that is a powerful message from a 12-year-old that I took joy in amplifying. To simplify my response to your question, social media exists. It provides benefits and consequences and

negatives. As mature adults and as parents and as children's commissioners, we need to mitigate, minimise and remove the risks. We need to use it as a tool for positives. Again, it is a complex issue that requires intellect, care and maturity.

Mr BOOTHMAN: It is very complex.

Ms BUSH: Have you engaged at all with JAG around the Justice Reform Office and the work that they are doing on the justice impact test?

Ms Lewis: I have had some limited engagement through my role on the Justice Policy Partnership for Closing the Gap. I understand that there is work happening to try to introduce that additional step of a regulatory impact statement. I think that that is a positive thing. I think we also need to make sure there is enough attention paid to agencies to truly understand what that means so that we do not create the opportunity to provide passive or superficial responses to that. We need to actually engage and review proposed legislation and programs with a level of scrutiny and with very clear statements about what the likely impact is in terms of the number of children who are incarcerated. I think sometimes when we read some similar statements the contributions from agencies are largely unhelpful.

CHAIR: Thank you for attending. Thank you for your evidence.

ALLSOP, Mr Thomas, Chief Executive Officer, PeakCare

CHAIR: I now welcome Mr Thomas Allsop, Chief Executive Officer of PeakCare. Thank you for attending. I invite you to make an opening statement of up to five minutes, after which the committee will have some questions for you.

Mr Allsop: I would like to start today by acknowledging the traditional owners on whose lands we meet today and pay my respect to elders past, present and emerging. As the peak body for the child and family sector, PeakCare is privileged to represent the voices and aspirations of hundreds of organisations and thousands of workers, volunteers and young people who are concerned about preventing crime, reducing reoffending and achieving greater levels of community safety.

As a peak body we know that, while the issues and solutions relating to youth justice may be systemic in nature, communities experience the impacts of crime on a deeply personal level. In considering the changes proposed by the Queensland Community Safety Bill, PeakCare holds a firm position that these extensively reactive approaches to addressing youth crime will not turn the tide on offending and they will not build greater community confidence. We need better responses that can address the unacceptable levels of offending that are being committed by a small number of young people; responses that can align with a visionary and generational strategy for keeping children and young people in our communities safe; responses that acknowledge the feelings and perceptions of the entire community and embrace the opportunity for solutions that are genuinely community informed and community-led.

PeakCare takes community safety very seriously. Given this, we do have questions as to how some of these legislative changes that are being proposed in this bill will actually achieve it—naming and shaming children being one, increasing periods of incarceration which have already been clearly shown not to have any deterrent effect on reoffending, and rushed expansions of programs that are yet to be evidentially validated. These will fail to make the community safer and they will create long-term impacts and significantly impinge on the rights of children and young people and our communities. We must remember that community safety is actually for all members of our community.

PeakCare prides itself on providing evidence-based research to support the positions we hold and the advocacy we undertake. Ensuring all of our policy positions and all policy positions made by government and legislative changes are based on actual evidence is critical to the success and the importance of ensuring taxpayer funds are being given to programs that will provide successful outcomes. Given this, while the proposed expansion of wanding and electronic monitoring trials may be appealing, there is no reasonable evidence yet to support any further expansion of these trials. PeakCare strongly recommends an independent evaluation be undertaken before any expansions are undertaken for these models.

PeakCare will always advocate for the voice of children. I acknowledge that there are no voices of children being heard by this committee today, and we want them to be heard. We appreciate the call for strengthening victim support, but we must note that most of the young people who come into contact with the youth justice system are also victims. Support and early intervention programs for these young people who have also been the victims of serious crimes is where we will see real change in creating community safety. There is no evidence to show that increasing the penalties and sentences for existing offences will modify or change offending behaviour. The research clearly shows that increasing periods of detention has no impact on the rate of reoffending. If anything, longer detention periods create a more direct pathway to adult offending.

PeakCare also holds serious concerns about the protections for young people should the Childrens Court be further opened up to victims and media. Whilst I acknowledge that for victims they may feel the perpetrator is being hidden by the courts because they are not publicly named and shamed, we must ensure what we can to protect those young people and their families from the incessant online vigilantism and bullying that occurs as well as ensure the right to privacy of children who have so often been the victims of horrendous abuse and neglect which we know is so often a catalyst for these offending behaviours. Allowing media to release the names of a young person going through the legal system will only cause long-term harm for both them and their families. I acknowledge that it may also cause harm for some victims. Victims should be provided with the same right not to be named in the media if they so choose. Everything that this bill talks to is only about addressing symptoms of crime. It is about prevention and early intervention as to how we address the causes. There is nothing in this bill that addresses the causes of youth crime.

Finally, PeakCare and I acknowledge the clarification of the wording around the removal of detention as a last resort for young people. However, I think it is really important to remember and acknowledge that Queensland does not and has never had a problem locking children up. Queensland

excels at locking children up. We lead the nation in locking children up. Queensland's problem has never been its inability to lock kids up; the problem is that we have a detention system that just does not work. When nine out of 10 kids are on remand and almost every young person who is detained reoffends within 12 months, the problem we face in Queensland today is this nonsensical notion that if we just continue doing the same thing somehow we will get a different outcome.

Mr KRAUSE: I noted some comments you made about the wanding powers which most recently have been legislated through Jack's Law. Do you think the wanding powers are ineffective in protecting people from knife crime? What is your issue that you have with them?

Mr Allsop: My issue is that we only focus on one area of a very complex problem. Very little investment is going into addressing the root causes of the fear and behaviours that actually compel young people and adults to carry knives. When we look at the evaluations and the Griffith evaluations of the wanding trials, over 13½ thousand young people were wanded—and adults were wanded—and one per cent of the time a weapon was found. Even for the current government, a one per cent success rate is fairly poor. I believe that we need to look at why our wanding trials are only identifying in one per cent of cases someone carrying a knife, the fact that the majority of arrests through wanding trials are for the possession of drugs and whether there is a slippery slope into a carve out or a workaround for reasonable suspicion tests. From that, there is a misconception that wanding trials predominantly target young people when we know that the average age of a person carrying a weapon is over the age of 18. I believe it is between 22 and 23. It is not that we oppose wanding trials; it is that we would encourage the government to consider a one per cent success rate not particularly successful in its current form. We encourage significant evaluation to inform what a better scheme would look like with significant investment in the preventative community work that is needed to support young people not to be fearful, which is the major driver that we know for young people carrying knives.

Ms BOLTON: In terms of the amendment to youth justice principle 18, you submitted that—

> This clarification does not appear to substantively change the provision of detention as a last resort and the clarification being made may support magistrates in their decision making.

Can you unpack that a little bit, because from my reading it looks as though you support the proposed rewording?

Mr Allsop: We do. I fully acknowledge and recognise the expertise that Katherine Hayes brings to that and what she has provided to this committee. I do not carry significant concern around the rewording, because I feel it does not really do anything different. I am not a lawyer. I do not profess to hold that legal expertise. I will defer to those who do for the legalistic interpretations of what that would look like. When it comes to detention as a last resort, I believe we have a political argument and, to a certain extent, a political nonsense that there must always be a last resort. When it comes to sentencing, if the least effective, most expensive and most punitive form is not the last resort, I would be really keen to know what should be. When it comes to last resorts, what is it if not detention? What is the new punishment that we provide young people? My question to the committee is: what replaces it?

Ms BOLTON: What are your thoughts regarding Mr Hamburger's proposed reform?

Mr Allsop: I had the opportunity of looking through the detail of Mr Hamburger's reforms as part of a suite of alternative models of detention that we should be considering, but, again, it is a detention model. Queensland's current detention system does not work. Any opportunity to improve it is something we should embrace and look at a diversity of different ranges of options, drawing on the international research of what we know reduces recidivism rates. There is a wealth of information that I acknowledge was heard through the select committee. If we only focus on getting better at detaining young people, we miss the opportunity to actually do generational change. The proceeding years and the decisions that are being made today will leave scars across the Queensland community for the next 10 years that we will have to rebuild from. The responses that we have for young people will manifest as increased rates of adult offending in years to come. The investments that we make now are what will change the future. We have opportunities to invest now for the next 10 years. That is not just in detention—that is prevention intervention. If we are investing at the front end, we are reducing that demand with time. We should be doing both. Right now, it seems we can only do one.

Ms BUSH: You have raised an interesting point in your opening. I know we have talked about this a lot in various committees: the rate at which young people are perhaps disproportionately labelled when you recognise that the majority of crime is committed by adults. Only eight per cent of total personal crime involves young people. The majority of violent offences involves adults, yet there is this real fixation by some in the public of labelling all young people as being terrorists and capable of great

violence. How important is that public education piece, because we all know the programs that do good work but they are sometimes harder to sell publicly? How important is that public education piece, and what obligations do we all have as adults and as services to do that work?

Mr Allsop: It is just over 12 months since the anniversary of when I stood up on the national stage to condemn the vigilantism that occurred in Rockhampton in response to young people who are alleged to have offended who are also involved in the child protection system. I wrote to both the government and the opposition asking that they stand with me and neither did, despite receiving private notions of support from both the government and the opposition for that call. I think it is absolutely critical. We need to recognise that today in Queensland we have almost 600,000 young people. The vast majority of those young people are living safe and flourishing lives and will be the future of Queensland. A very small portion of young people, very known to our systems, require support because they have been impacted by things in their lives that have pushed them down a path. We need individualised responses for every single one of those young people, but we need to acknowledge that that is a very small portion and we should celebrate our young people. We fixate on youth crime despite it being such a small portion. We forget that the majority of victims of crime are young people themselves. We have created in Queensland a problem of youth—not a problem of youth crime. Again, it is the silencing of the voices of young people which is so stark in that space. Yes, I think it is absolutely critical.

Ms BUSH: For those young people you work with who are victims, there is often the sentiment that victims want tougher sentencing or X, Y, Z when, in my experience, victims actually want crime to go down. They want what happened to them to not happen to others. Drawing from your experiences with young people who are victims, what are your views?

Mr Allsop: I would absolutely affirmatively agree that that is what the victims I speak to want. We are fortunate. As part of the peak body for child and family services, we represent 12,601 victims of serious crime through the child protection system. There is a significant number of child victims whose voices remain silenced while we only hear the views of some victims of crime. I think it is critically important that we listen to all victims and shape systems that respond to their holistic needs, particularly those who are not able to speak in their own right—those who are silenced because of their age. As we know, in the child protection system in Australia in general, if you are 16 to 24 the Australian Child Maltreatment Study says that you have a 43 per cent chance of being exposed to domestic violence. Today, children will return home from school to become victims of domestic violence in their home and they cannot speak up.

Mr BOOTHMAN: My question goes back to your comments about the reasons a young person would have the need to carry a knife and what is causing that. Obviously, with the current system there is a lot of community fear and concern about what is going on. We have children walking around at night. Local residents are thinking to themselves, 'What are they up to? Are they up to no good?' That is something which is certainly going on in the community. Obviously, the system at the moment is not working; therefore, we are looking at thinking outside the box. Do you have any thoughts on Keith Hamburger's ideas and potential solutions which have been used in northern Europe?

Mr Allsop: To your first question around knives and the drivers of fear around that, we have a wealth of evidence drawing on what has already occurred in the UK in that they only became successful in addressing and turning the tide on knife crime when they went to the root causes of why young people were carrying knives and found that it was driven through fear. Tonight we have young people who will be sleeping on the streets because there is nowhere else for them to go. It is predominantly fear of other young people and fear of adults. It is how they protect themselves when they are sleeping on a park bench. Again, it is also important to know that there are not that many young people carrying knives. When we wand 13,000 people and find 450 knives, that is not a lot of knives. We need to get to the root cause of why they are carrying knives. In terms of wanding, yes, where there are safeguards in place, but also to invest such a small amount of money in addressing the cause is almost an insult to the seriousness of the issue. There should be magnitudes of scale of increase in terms of how we are investing in preventing young people from carrying knives—through education, through understanding and through shifting that dynamic of fear and getting kids off the street.

To the latter part of your question around Keith Hamburger's principles in terms of that model, again it is a reactive model to address the demand after the crimes have been committed. We need to look at how to stop the crimes in the first place, because that will reduce the number of victims. There is an opportunity to do detention a lot better in Queensland. I cannot imagine how we could do it worse. As part of that, that is a model, but again it only looks at what happens after the crime is committed. I

am sure there would not be a victim who would say, 'I would like more crime to occur so we can do detention better.' Every victim will say, 'I want less crime to occur because I want it stopped in the first place.'

Ms BOLTON: I refer to your point about parallel measures. In terms of the rehabilitative process—and we heard this in the hearing—it is way too late for recidivists. There are those who will need some kind of containment or detainment, because this transition across to a much better and proper rehabilitative model is going to take time. Is there anything in amongst what is currently being looked at and what was also in those 60 recommendations that should be added for that transition?

Mr Allsop: I have two points to make in relation to that. I completely agree: we need to look as one as we cannot just be aspirational to the future without addressing the crisis that we face today. We need to have models that directly address and respond to those needs, including specific models for 10- to 13-year-olds that are separate to those of older young people in detention. We need to reconsider and have a look at the need for secure care models of support with appropriate safeguards for a very small number of young people and scaffold that with the right staff with the right level of skill and training.

I thought the recommendations of the select committee were very positive in the most part. Again reflecting Katherine's comments, I agree with the majority and look forward to the conversations about the rest. However, I have had the opportunity to read the government's response to each of those recommendations, which I think is very poor in the aspirations for what the government is trying to achieve in response to the recommendations of that select committee. That is what I have to contribute.

CHAIR: That brings to an end this part of the hearing. Thank you, Mr Allsop, for your attendance and your written submissions.

MORGAN, Mr Garth, Chief Executive Officer, Queensland Aboriginal and Torres Strait Islander Child Protection Peak

CHAIR: Welcome, Garth. I ask you to make an opening statement of five minutes. After your statement, the committee will have some questions for you.

Mr Morgan: Good morning, Chair, Deputy Chair and honourable members. I too want to start by acknowledging the traditional owners of the land on which we are meeting today and pay my respects to elders past and present. I am the CEO of the Queensland Aboriginal and Torres Strait Islander Child Protection Peak, which is the newly established youth justice peak in Queensland and also the child protection peak for First Nations children and families in Queensland. I thank the committee for the opportunity to provide some input on the Queensland Community Safety Bill this morning.

QATSICPP is deeply concerned about the youth justice crisis facing Queensland. We share the priority of all the committee members and all Queenslanders to keep communities safe. To do this, we know that we need to find ways to stop high-risk offending behaviours and serious repeat offenders from continuing to offend. We acknowledge and we share the distress that many families and victims of crime have experienced across the state. We are deeply saddened to see any family experience loss—something that we know too much about. The broader community is rightly concerned and seeking answers about how levels of offending can be reduced. I think all of us want to see no offending from young children. We know that having a sole focus, though, on that end of the youth justice continuum without also working hard to prevent crime in the first place will do little to resolve the current crisis that we are facing at the moment.

QATSICPP supports much of the bill. We do have some concerns as well so are cautious in supporting it. With over 90 per cent of young people in detention in Queensland being on remand, we welcome any amendments contained in a bill to remove any doubt that their participation in programs and services while being detained on remand will not be used against them as evidence in criminal proceedings.

We also do support the expansion of the handheld scanner provisions to prevent the prevalence of dangerous weapons on our streets. However, we do urge caution. Noting what other witnesses have said, our cautionary tale is that we want police to implement this in a way that is sensible and so that the net does not widen and brings into the system kids who do not need to be there for minor offences. There are other aspects of the bill that do concern us. Whilst QATSICPP strongly supports processes and services that help victims to recover from traumatic experiences, we see proposed changes about access to the Childrens Court as unnecessary and potentially harmful and prejudicial, as Katherine was saying before.

We are also deeply concerned about the ongoing detention of children in harmful environments like watch houses. I believe this concern is shared broadly across the community and across many parts of the system. We know that keeping kids in watch houses for extended periods causes real and lasting psychological harm. We are supportive of any measures that can keep young people out of watch houses. That is why we are cautiously supportive of the bill's intent to expand electronic monitoring as an alternative to detention. Whilst we have significant concerns about the ability of electronic monitoring to be effective as an appropriate response in the long-term, we believe that it has a role as an interim measure until we are able collectively to come up with better alternatives to locking kids up in watch houses for extended periods.

We do not argue with the need to detain some kids where there is a high risk and no alternative for ensuring community safety. However, as many witnesses before me have stated, detention is not a sustainable long-term solution to reduce youth offending. The research and evidence tells us that the solution for addressing young people coming into the criminal justice system is not to build a bigger system; it is to look further upstream to eliminate the need for increased punitive responses.

As the new youth justice peak, we will be working across community and government to develop sustainable and evidence-based responses across the whole continuum, which does include an increased focus on early intervention. Thank you and I welcome any questions.

Mr KRAUSE: Mr Morgan, I want to touch on your general support for the expansion of the wanding powers. I noted your word of caution around that. Could you expand a little further on the concern that you have?

Mr Morgan: Our main concern is that other offences will be picked up in the wanding trials where ordinarily there would be a much higher bar—minor drug offences, for example—bringing more kids into a system that is already under pressure and under strain. We do not want to see that. We

absolutely want to keep knives out of the pockets of kids, or of anyone really. Whilst I think the previous evaluation showed fairly low numbers, I do not want to see any kid with a knife in their pocket. We would support that with some caveats, that police do use their discretionary powers around the broader offences but also work with the community in a much more community policing way to try to prevent kids from walking around with knives in their pockets in the first place. That is where we sit on the wanding trials.

Ms BOLTON: Within your submission you raised concerns regarding the mandatory transfer of children when they turn 18. Have you thought about an alternative to that? Would it be something such as Mr Hamburger put forward?

Mr Morgan: Firstly, I would say it is addressing the root causes of vulnerabilities for these children, and 18-year-olds are still kids, really. We do not want to leave any young people in a more precarious position without first addressing that. We know that the adult system is less prepared, less well versed and resourced in supporting those needs for vulnerable people, particularly young people, so we would welcome a conversation with Keith. We know that he has lots of ideas.

The devil is in the detail. I would be supportive of any alternative to detention, including on-country type models. We do need to think really carefully about safety. The community needs to be safe but so do the children and so do the people working with the kids. We need to figure out a way to do that without taking kids miles away from where they live. We need to work out how to do that and embed therapy and rehabilitation in those programs, too.

Ms BOLTON: Basically, at the moment there is nothing that you can think of that would be an option from the current transfer once they turn 18?

Mr Morgan: The short answer is no. The slightly longer answer is that we actually need buy-in and engagement from a range of people across the system to make those things happen. We all know what works a lot of the time. We certainly know what does not work. What is missing is a collective commitment to getting things done. In this space, when you have differing views and opinions and multiple stakeholders who all have different agendas, we actually need to bring everyone together into the same room and agree on an approach. I think that is going to be the critical bit of work. I will be doing a lot of listening in the next couple of weeks to try to bring together people's viewpoints to craft up some feasible alternatives that can actually work in practice.

Mr HUNT: Garth, your submission acknowledges the intent behind electronic monitoring, but you have what seems to be a fairly lengthy cautionary tale as well. Could you talk to that a little, please?

Mr Morgan: The cautionary tale is just what I have described earlier. Unless we exercise caution in how any policy, really, is implemented then you are likely to get unintended consequences. We see it in a range of different places. This will be one of them where we need to have a really close look. We see it in child protection where we probably have the best legislation in Australia but we do not have consistent best practice everywhere in Queensland. I am concerned about that and in the wanding trials, as well. Were there any specific areas that you were particularly concerned about?

Mr HUNT: It is more around ankle bracelets.

Mr Morgan: I am sorry; I thought you said 'wanding'.

Mr HUNT: It is electronic monitoring.

Mr Morgan: We do not think there is evidence that electronic monitoring is going to substantially reduce community safety. There are a range of factors that might mean that kids end up with more charges, in that they are not charged up properly or they go out or they do not understand the order properly. There are those risks with those kids wearing the monitors. Plus, there is stigma and shame attached to the ankle monitors. Having said that, if you have the choice to spend a month at home with one of those or a month in a watch house, you would absolutely choose the month at home with an electronic ankle monitor. We do not think it is a good solution but we think it is the least worse of two bad options.

As I said before, we need to come together as a community and as a service system and figure out what it is that we are going to do. What is going to assure Queenslanders that they are safe? What is going to actually help Queenslanders to be safe? What is going to minimise the downsides for kids and victims and everybody working in the system? I do not think electronic ankle monitors will do that, but certainly it is a better option than having kids in watch houses.

Mr ANDREW: Garth, does your peak body and Child Safety dovetail very well? Do you work together on things like this to give information and consultation towards the government practices and the introduction of these bills?

Mr Morgan: There is a crossover in terms of the kids. The two systems do not necessarily speak very well. YJ and the child protection system used to be in one department and now it is in two. With different IT systems, sharing data and comparing apples with apples is sometimes tricky. What we do know is that roughly one-third of kids in the YJ space are on dual orders. That number is probably low because often if one system takes carriage of a child then the other system will not take out an order for that child so we think it is probably a bit higher.

What we worry about is where, in the child protection space, if kids are at risk—they are not in the system but are at risk of going into the child protection system—there are some supports you can provide families and you can wrap those supports around kids. We think that is a protective factor. If we do those supports early enough, we can stop kids coming into that system. However, within the YJ space we do not have that same scenario where we can provide the same level of supports to families, say family wellbeing services, and to kids who are at risk of falling into the system. I suspect what happens is that when kids age out of that protective family space you see an uptick in adult incarceration. I am really keen to talk to the Police Commissioner soon about what that looks like and how we can work to prevent that. Was there another part to your question?

Mr ANDREW: I am just trying to think of something like an MOU across government. You have your say and then that works throughout the police department plus all the—

Mr Morgan: We are absolutely all part of it. A number of our members have worked with young people for a long time. We have probably been focusing more and more on the youth justice space over the last four or five years. Some of our members are actually delivering youth justice services, and we are noticing that it is the same families. That is the basis really: how can we support families across both parts of the system?

When we are looking at the youth justice space, often we think about police and courts, which is really important but, as many others have said, we need to think about early intervention not being early in the justice continuum but early in the lifecycle as well. We would be really keen to work more closely with Education. When kids are transitioning from kindy to prep and we see some behaviours that pop up where kids are demonised or suspended, we suspect that it is undiagnosed disability, trauma responses and a whole range of other things at different transition points. There are a lot of reasons that we know can cause kids to offend, but we know that it is probably because there is a misdiagnosis or lack of diagnosis around mental illness, developmental delay, FASD. We are missing opportunities. The key thing for me is to identify those points and make sure that we are not missing opportunities very early, not just when they get into YJ system. Everyone needs to be involved. Community needs to be involved a lot more.

We do welcome that there have been a number of announcements for growth in funding in the YJ space, but that has all been into departmental resources, into staff for youth justice. Comparatively, a minor amount of money goes into community services. We know that community services are able to get more trust and get more engagement and buy-in from families and young people. We think that is a massive missed opportunity. We are not going to solve this by throwing more money at detention centres only. We need to ensure that we are investing in the right places. That is often before you get to the justice system. We need to invest in housing as well. Housing security is another key reason.

You are right. We do need to come together. I think the longer term view is that we do need a generational plan for eliminating over-representation of Aboriginal and Torres Strait Islander kids in YJ. I think we are about 27 times more likely to end up in prison. Queensland does lock up kids very well. We are the second-worst state in the country or the equal second-worst state in the country by quite a long way. We need to address that. I think we need a generational plan that works to support the long-term sustainable prevention and reduction in offending but also addressing the issues that we are facing with kids right now.

Mr ANDREW: Rather than just the reactive, punitive provisions.

Mr BOOTHMAN: Garth, you are obviously very passionate about this issue and you obviously have a lot of knowledge. You mentioned something about on country and other things that you are seeing out there. What programs do you think are making the biggest impact? What types of programs are they? Do you have any examples that you would like to share?

Mr Morgan: I think on country has a lot of potential. Youth justice family-led decision-making where families get involved in the process to create plans for how to support kids either through the system or prevent them coming into the system is another one. We think that there is something in intensive case management but not done by government. On country is an interesting one. We think that it is important. We do not think that it is being implemented particularly well at the moment. We need local traditional owners to be doing that work. We need kids to be going to where they are from,

if they know where they are from. We also need to include families. One of the big issues about taking kids out of a scenario is then plonking them back into that same scenario and doing nothing about the environmental context. You want to make sure that you are providing that therapy and support to kids, that behaviour change with kids, but then also bringing the family in to figure out 'How are we going to make this work when we are back at home together?' They are some examples.

What I am really interested in is not just the what but the why and the how. I say this in child protection all the time and it is true for YJ: whilst the numbers can look really bad in aggregate, there are always pockets of excellence. I see one of the key roles for us is in identifying what those pockets of excellence are, see what is working in local place-based areas—not only what is working but how and the why it is working. The why things are working might be because of the type of relationship that the person who is running a program has with the young people or a specific approach to a program, rather than the program itself. If we can extrapolate those things and magnify those things, I think that is what is going to drive change in the system over time.

CHAIR: Thank you for your evidence and thank you for your written submission. That brings this part of the hearing to a close. We will now adjourn for a short break. Proceedings will resume at 11.55 am.

Proceedings suspended from 11.35 am to 11.58 am.

CHAIR: We will now resume the public hearing for the committee's inquiry into the Queensland Community Safety Bill 2024. For the benefit of those who were not here before the break, my name is Peter Russo. I am the member for Toohey and chair of the committee. With me here today are Jon Krause, the member for Scenic Rim and deputy chair; Sandy Bolton, the member for Noosa; Mark Boothman, the member for Theodore; Jonty Bush, the member for Cooper; Jason Hunt, the member for Caloundra; and Steve Andrew, the member for Mirani, who is participating today with the leave of the committee.

The hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask you to kindly turn your mobile phones off or to silent mode.

McWILLIAMS, Ms Gina, Senior Legal Counsel, News Corp Australia, Australia's Right to Know (via teleconference)

CHAIR: I now welcome Ms Gina McWilliams. I invite you to make an opening statement of up to five minutes, after which committee members will have some questions for you.

Ms McWilliams: Australia's Right to Know thanks the committee for the opportunity to make further comments today about the Queensland Community Safety Bill. We commend the Queensland government for the work they have done in relation to the broad range of issues that the bill addresses. As we have explained in our written submission, there are only two parts to the bill that are of concern to our members because we believe they are likely to impact upon public interest journalism.

The first issue we have raised is in relation to the online content removal scheme that clause 4 of the bill proposes to insert into the Police Powers and Responsibilities Act. Despite being self-evident proponents of free speech, ARTK's members do see the merit in authorised officers being empowered to direct content depicting unlawful conduct be removed from online services. We further accept that the current drafting contains two prerequisites that should mean a removal notice cannot be directed at a news report, those being the requirement that the authorised officer suspects, firstly, that a person posted the material on the online service and, secondly, that the person posted the material for the purpose of glorifying the unlawful conduct. After all, it is journalists who post almost all content to the online services that ARTK's members provide, but they do so to report the news and not to bolster a criminal's reputation.

However, as we have said in our written submission, ARTK is concerned that the lack of a clear statement in the scheme that a removal notice cannot be directed at journalism could result in a well-intentioned but incorrect authorising officer issuing a removal notice to one of our members in relation to a news report. Should that occur, the substantial penalties available for failing to comply with a removal notice could apply and result in the relevant ARTK member being forced into unnecessary litigation. We do not believe this potential outcome is the intention of the Queensland government and there is a simple remedy to address the issue that is already a feature of the Commonwealth Online Safety Act 2021—namely, to add an express statement to the scheme that a removal notice cannot apply to journalism. The proposed drafting for such an amendment has been included in ARTK's written submissions for ease of reference.

The second issue we have raised is in relation to the amendments to section 20 of the Childrens Court Act which, amongst other things, allows journalists to attend and report on proceedings. It has been our long-held frustration that ARTK's journalists are barred from reporting Childrens Court proceedings unless or until they have proceeded on indictment and are being held before a judge. Again, ARTK thanks the Queensland government for the work it has done to bring this amendment about.

Clause 112 of the bill does not propose to provide journalists with an unfettered right to attend Childrens Court as it is open to the court to order otherwise. ARTK's members appreciate the need for all courts to have the ability to control their own processes and for that reason we do not object in principle to the bill granting the Childrens Court the power to order the exclusion of particular people from the courtroom, including journalists. However, we also recognise that childrens courts around Australia, including in Queensland, are rife with young people who have faced challenging upbringings that go hand in hand with tenuous mental health. The potential detrimental effect on a person's mental health is a basis upon which Queensland courts have already been invited to make non-publication orders pursuant to the Criminal Law (Sexual Offences) Act on the grounds that such an order is

necessary for a person's safety. After the bill takes effect, the Childrens Court will no doubt be invited to make exclusion orders on the same basis, including orders designed to limit publishing by ejecting journalists from the courtroom.

Once an exclusion order application is made, the primacy of the open justice principle and public interest are only two of 11 considerations the court must take into account when deciding whether or not to make the order, with all 11 factors having equal weight. As we explain in our written submission, in many cases at least four of those 11 factors automatically weigh in favour of excluding journalists, with only three favouring journalists remaining in the courtroom. In summary, ARTK is concerned that clause 112 sets journalists up to fail in their endeavours to remain in and report on proceedings in the Childrens Court before it has even been enacted.

The solution we have proposed is that open justice and public interest be matters that the court must take into account before making an exclusion order, with the remaining nine factors being matters that the court may additionally consider. ARTK submits that adjustment will result in section 20 being amended in a way that affords the Childrens Court sufficient flexibility to deal with exclusion order applications on a case-by-case basis, while also giving the best effect to the Queensland government's intention of getting journalists into childrens courtrooms. Again, the drafting for this amendment is included in our written submission.

Thank you for your time this morning. I am happy to take any questions you might have about the ARTK submission.

Mr KRAUSE: Ms McWilliams, thank you for your submission and for appearing at the committee. I thank you very much for taking part in the process. I note that this committee has heard from you a couple of times before. That was in relation to shield laws and the CCC, firstly when it was not given in relation to CCC proceedings and then when eventually, probably in part due to your lobbying, it was extended to CCC proceedings. Now we are hearing from you in relation to public reporting of youth justice matters.

We have heard from some other submitters on their view about the responsible or irresponsible nature of media reporting of youth justice matters. There is a variety of views about how the media does this. In relation to the present provision before us, which you have very helpfully suggested amendments to, what is your level of concern that it will be used to censor journalists from reporting on youth justice matters, not just from the state but also from participants in the justice system?

Ms McWilliams: The problem, of course, with a change that is so fundamental to a piece of legislation as this one is—as I said, we have previously not been able to report these types of proceedings at all and now we are going to be through the door—it may very well be a case of having to wait and see how it rolls out. However, from the outset there will be people who hold the view that journalists should not be in these courtrooms and that the pre-existing state of section 20 was the correct way to do it. Obviously, ARTK does not agree with that.

As we said in the submission, we can see one very easy way for an application to exclude journalists to be made and that is to raise safety grounds and rely on the mental health of the child who is the subject of the proceedings. We expect that if the bill is enacted in its current form that we will be met with applications of that kind. How often that occurs, I think, we will probably have to wait and see as the change takes effect and we have new cases going forward. We have raised the concern because we see it as one that we have already experienced in the non-publication order arena in Queensland and around Australia. Because of that, it is a natural fit for the changes that are being proposed here. It is why we have brought this concern to you.

Mr KRAUSE: How restrictive is the provision proposed in the bill compared to other jurisdictions?

Ms McWilliams: That is the problem with this particular area of law. There is no consistency around Australia as to the rules around when a court can disallow access to a childrens court, except to say that, after this amendment is passed, Tasmania will be the only remaining jurisdiction in which journalists have no right of access to a childrens court at all. As for the other six jurisdictions, the way that they approach it is very different. If you are really keen on learning about that, there is an extremely lengthy footnote in the written submission in which I have set out how each Australian jurisdiction approaches it. That information is there for you.

The only thing I can say directly on point is that Queensland's proposal will be the lengthiest and most fulsome provision of any Australian jurisdiction. Most of them are quite pithy. Usually, it is either that you can turf the journalist out on the basis of the administration of justice or the rights of the child

or concerns about the child. It is usually one of those two things. Clearly, you have given it a lot of thought and proposed a system that is looking at all the issues that could impact on the reporting of proceedings.

Mr KRAUSE: As a lawyer, you probably recognise that a lengthy provision can be both a good thing and a bad thing. What is your view on this provision in terms of how much it goes into detail?

Ms McWilliams: I recognised it as soon as I saw it. It is very familiar. One of the other things that we have included in our written submission, at the very end, is a line-by-line comparison with the same features of the Criminal Law (Sexual Offences) Act non-publication order regime, because many of the things that are taken into account there are the same as the things that are going to be taken into account under the proposed amendment. I understand where it has come from. I know that they are factors drawn from the *Hear her Voice* report by Her Honour Justice McMurdo.

I believe we actually made a fairly similar submission in relation to the Criminal Law (Sexual Offences) Act before that non-publication order scheme was put in place. We raised that same concern that open justice and public interest being only two of a set of factors that are to be taken into account, all of which have equal weight, would have a tendency to result in perhaps there being more often factors that exclude a journalist from the courtroom in this case or result in the making of a non-publication order in the case of the sexual offences legislation.

Perhaps in the case of the Childrens Court Act, that effect is even more so than it is in relation to sexual offences because you have very young people, you have people who come from very troubled backgrounds in a lot of circumstances, you have cultural influences and factors that need to be taken into account that may weigh more in favour of excluding a journalist in the case of the Childrens Court Act than they do in favour of a non-publication order being made in sexual offences. I think our concern is greater here than it was in relation to that other act, even though we accept that there is consistency between the two sets of drafting and we understand where it has come from.

Ms BOLTON: Ms McWilliams, you touched on the ban to stop the use of social media to gain notoriety. How should that apply or not apply to media agencies?

Ms McWilliams: Based on the current drafting, in theory at any rate, it should not apply to any of ARTK's members because of the two prerequisites that are already in the act. You have to be looking, firstly, at the person who actually posted the material online. The difference there would be in the case of someone who has engaged in some untoward conduct on the weekend and wants to brag about it to their mates. That would be them posting directly to, for example, their Facebook page. Whereas in our case it would be a journalist who has written a news article about something criminal which has occurred and they have posted the material onto a news website and they are the person who has done the posting. Really the only way that could be triggered directly by something posted to one of our websites would be if the young person who had engaged in the unlawful conduct perhaps uses, for example, the comments section on one of our news articles and posts something about it there.

Secondly, the other distinction, of course, is the fact that the young person who has engaged in the unlawful conduct is posting for the purpose of glorifying or boosting their reputation, whereas journalists, of course, are posting to report the news for the information of the Queensland public. That is already there. The reason we have raised this concern is because we did note that the drafting of that particular part of the bill draws quite a lot of inspiration from the Online Safety Act, the Commonwealth one, and that act does actually expressly state that removal notices in the equivalent area cannot be directed at journalism. We thought, for consistency sake and for the sake of clarity, that same carve out to make it very clear that you are not intending to direct this at journalism should be a feature of the bill.

Ms BOLTON: Thank you for that clarification.

Ms BUSH: Thank you for your submission. There are competing interests in providing access for media into children's courts. There is the public's interest in court matters and there is the victim's right to be included, which this proposed bill will be doing. They can be included in court proceedings and they should be afforded dignity and privacy when attending those hearings. There is also evidence that shaming young people does not help, in fact it can drive crime up. Stakeholders today have also spoken about their concerns with some media reporting of young people and youth crime so I am interested in what positive obligations are placed on you or News Corp or your members legally or you place on yourself to ensure that media reporting is factual, objective and does not contribute to false or harmful narratives of victims or young people. What are the guardrails that you put in place?

Ms McWilliams: How long have you got?

CHAIR: Not long.

Ms McWilliams: There is actually more than one answer to that question. We cannot identify any of these people because they are minors and there is a section in the Childrens Court Act—and also potentially the Child Protection Act, depending on what type of offence it is, it might overlap—and there is more than one automatic statutory restraint which prevents us from identifying who these children are. We are not proposing to do away with that. We have not even asked for that because there would be no point. That is our starting point.

The second thing, of course, is defamation law. We only have a defamation defence for a fair and accurate report of court proceedings. Going outside the bounds of what has occurred during the proceedings is something that would expose us to potential defamation risk, accepting that technically speaking you should not be able to identify any of these children from anything that any of our members report, which may preclude a defamation action, but still you would want the report to be fair and accurate. Over and above that, there are the Press Council rules. If you happen to be News Corp, there are rules that pertain to broadcasting, that I am not terribly familiar with because I do not deal with ACMA but I know they exist, and then on top of that most news entities have their own internal corporate reporting strategies, editorial codes, all of that kind of thing which we generally keep confidential but the existence of these things is not a secret. There are at least four layers of that kind of regulation at play to make sure that we get the reporting right. Is that going to mean the reporting might not necessarily be a little bit colourful sometimes? No, it will not, because at the end of the day it is still a news report and we want people to read it so it needs to be robust, but it will be done in that framework that I have just described and as accurate as it can be.

The other thing is, and I think this is a point that some of the Childrens Court magistrates have actually made to us, a lot of what happens at some of the earlier stages of Childrens Court proceedings tends to be quite procedural. It is about what are the next steps, what reports do we need to get in to get to this next stage, how long do we need to get to this next benchmark in how proceedings flow. That also will contribute to framing how the reports come out because we are limited to what occurred on the particular occasion with that particular child if you are reporting those proceedings.

CHAIR: Thank you for your submissions and your evidence today.

REECE, Ms Laura, Barrister, Bar Association of Queensland.

SMITH, Ms Charlotte, Barrister, Bar Association of Queensland

CHAIR: I invite you to make an opening statement of up to five minutes after which committee members will have some questions for you.

Ms Reece: The association thanks the committee for the opportunity to give evidence today at this hearing in relation to the Queensland Community Safety Bill. I appear along with my colleague, Ms Charlotte Smith, Deputy Public Defender at Legal Aid Queensland. She appears in her capacity as a member of the Criminal Law Committee, as do I. At the outset, the Bar Association does wish to register our concern about the haste in which these complex amendments are being sought to be made across a dozen acts. The bill was introduced on 1 May. The scope is significant. We just wanted to register at the outset our concern about those issues when it comes to such serious matters of law reform in our state. We have had an opportunity to read the submission of the Queensland Law Society and some of the other important stakeholders in the area of youth justice and we hold the same concerns, in particular to some of the areas purported to be amended by the amendments to the Childrens Court Act and the Youth Justice Act.

One matter to be raised at this juncture when considering the haste and the scope of change is that there has been such a great deal of legislative change in the area of youth justice over the last couple of years, in particular the serious repeat offender provisions which were only passed in March of last year. The first appeal arising out of one of those matters was heard in February of this year and it is still a judgement pending. It is the view of the association that where those sorts of measures were put in place to address concerns in the community and, of course, in the parliament around issues to do with youth crime, we have not really yet had an opportunity to see those provisions come to fruition.

I will address briefly two of the major changes sought to be made by this bill and then Ms Smith will address some other matters. We really have focused, for the purposes of today's hearing, on the Youth Justice Act and the Childrens Court Act. I will speak to the proposed amendments to sentencing principles and also to the amendments to section 20 of the Childrens Court Act. I am sure the committee has already heard and is well aware of the fact that article 37(b) of the Convention on the Rights of the Child 1989, which was ratified by Australia in 1991 and then formed the heart really of the Youth Justice Act which was passed in 1992, provides that detention shall be used only as a measure of last resort and for the shortest possible time. Those two principles set out in that article are reflected currently in our act in principle 18 and section 150(2)(e). It is the position of the Bar Association very clearly that the two amendments sought to be made to principle 18, which is, for the members of the committee, clause 132 and section 150(2)(e), which I think is clause 116, from memory, but I can check that, remove those principles from the Youth Justice Act. They remove the words of the Convention on the Rights of the Child, they remove the principles which have been accepted and recognised by the appellate courts as really the heart of the youth justice system, the spine of it, the thing that informs decisions that are made under that act when it comes to the difficult question of detaining children. Clause 113, which really has to be read together with two clauses which amend existing principle 18 and section 150(2)(e), will effectively remove from the consideration of a police officer who is considering whether to charge or divert a young person in the criminal justice system when they are alleged to have committed an offence the requirement to have regard to those principles of detention as a last resort for the shortest time possible, and it refers it back then to what will be the amended principle 18.

In our view, inevitably this will lead to a greater number of arrests and fewer diversions across the youth justice space. We already know—and I understand from the live feed this morning that it has already been raised with the committee and members of the committee would no doubt be aware—that we have a very large proportion of young people in detention on remand as opposed to serving sentences. We respectfully note that in the explanatory notes in relation to the amendment to principle 18 there has been ongoing misrepresentation of principle 18—that is, that detention should be considered a sentence of last resort. This misrepresentation has suggested that the principle means courts are unable to impose detention if other penalties are available to the court. The explanatory notes note this is not correct. It goes on to state—

> The Bill clarifies principle 18 to state a child should be detained in custody, where necessary, including to ensure community safety, where other non-custodial measures of prevention and intervention would not be sufficient, and for no longer than necessary to meet the purpose of detention.
>
> Once a court has considered all options reasonably available, and if satisfied that other options are not appropriate in the circumstances, then detention can be imposed.

In our view, that explanation of the combined effect of the proposals in relation to principle 18 and section 150(2)(e) is incorrect and the effect that this will have on sentencing is that it will remove from decision-makers, from judicial officers, the overriding principle which has informed this decision-making for as long as it has been in the Youth Justice Act—but for a brief time when it was removed—and that it will change the process by which young people are being sentenced. This is not simply a clarification, that any misrepresentation or misunderstanding of the previous principles was just that, a misunderstanding, that the principles have always required of a judicial officer, when sentencing a young person, to start from the proposition that they need to go through each of the available options first before deciding whether, in fact, imprisonment is the only appropriate sentence and, of course, that takes into account community concerns, concerns as to risk of further offending.

It is the very clear position of the Bar Association that while there may be arguments made that this is not really a change, that this is a clarification or a restatement, that is simply not the case and that is now how it will be interpreted in the courts. When the proposal to alter this principle was announced by the government, the president of the Bar Association, Damien O'Brien KC, issued the following statement on 1 May 2024—

The Association does not support the proposed amendments announced by the Queensland Government.

The proposition that imprisonment is a punishment of last resort continues to apply to adult offenders in the vast majority of cases, and it seems incongruous that courts should be more readily able to detain children in custody. This is particularly so given that the shortage of available space in juvenile detention facilities means that children are, unacceptably, being detained in adult watchhouses.

The evidence is clear that the imposition of a sentence of detention upon a child profoundly impacts their mental health and emotional development and greatly increases the prospect of recidivism. In dollar terms, it is also costly. Whilst acknowledging that there is no immediate or simple solution, the Association's view is that the preferable approach is to invest in measures, such as housing, education and vocational training, that will lead to fewer children entering the criminal justice system in the first place.

The Association is concerned that this legislative response will merely serve to create more significant long-term societal problems.

The other matter which I wish to address briefly before my colleague, Ms Smith, speaks concerns changes to the Childrens Court Act. The principles of open justice are, of course, important. The Bar Association opposes the changes to section 20 which will allow representatives of the mass media to cover Childrens Court proceedings. Really, it is on the basis that there are appropriate moderations to the principles of open justice when we consider people who are particularly vulnerable. That is why the media cannot report on domestic violence proceedings. That is why the media cannot be in the court when individuals are giving evidence in serious sexual assault matters in the District Court and across a number of other categories. The association's position is that there is, of course, a balance but that the balance in the circumstances should be in favour of young people being able to attend court in a way that does not adversely affect them. They are already being dealt with for their offences. They are entitled to anonymity. In our submission, the vast majority of very serious matters will not resolve in the Childrens Court; they resolve in the Childrens Court of Queensland or the Supreme Court where there is ready access available to members of the mass media. Those are the submissions in response to those two matters.

Ms Smith: I will speak to the proposed changes in relation to electronic monitoring. In brief, it can be said that the concern which arises is that it seems to be indicated that those changes are being made to gain a greater dataset. What is known already is that any evidence regarding the efficacy of electronic monitoring when it comes to children on bail is equivocal. That is noted in the explanatory notes. The concern is that it is not some study that is being proposed but, rather, legislative change to substantially increase the number of children who would be subject to electronic monitoring. The proposed changes would mean that any child with one previous indictable offence, any indictable offence—that can be relatively minor offending—plus being charged with one prescribed and now widened category of prescribed offences within the past 12 months could be subject to electronic monitoring.

The very real likelihood that that will involve a broader cohort of children being exposed to being charged with more breach of bail offences and more children being remanded in custody seems inevitable, but the association remains very concerned that the practical implications of electronic monitoring for children are oppressive and may be particularly challenging for those who do not have stable accommodation and family members to support them. The requirements for charging batteries, for example, in monitoring devices, may be particularly difficult for children from disadvantaged and dysfunctional backgrounds. It may reasonably be expected that this would include large numbers of Indigenous children. The implications of electronic monitoring of children could lead to a process of

further criminalisation, as I have stated, via repeated breaches of their conditions of bail. We note in particular a report of Professor Tamara Walsh of the University of Queensland which was provided to the Youth Justice Reform Select Committee on 13 November 2023, and in particular a finding at page 64 of that report that there is no evidence that strict monitoring and arresting young people when they breach bail conditions reduces offending. I think that is a very important point to make.

The other matter I wish to address on behalf of the Bar Association is the proposed amendments in relation to permitting a leave of absence for children in watch houses to nearby youth detention centres. I understand that that is proposed to address that concern of children now being held in watch houses. The primary and strongly held position of the Bar Association is that no child should be held in an adult watch house in Queensland for any extended period of time. Regardless of the legality of such arrangements, watch houses are no place for a child. Holding them in such conditions is not only a breach of their human rights but also exposes them to stress, instability and trauma while depriving them of the ability to see daylight or go outside. While the stated aim of the proposal is to alleviate to some extent the human rights impacts of holding children in watch houses, the association is concerned that in practice it may have limited impact and that the transport of children between watch houses and youth detention centres is unlikely to occur due to the existing pressures on the Queensland Police Service in relation to prisoner transport to and from correctional centres and courts. There are further practical questions as to where children would be accommodated at youth detention centres during these visits and what programs or supports could be offered to them on an ad hoc basis.

Lastly, the association wishes to highlight the situation for Indigenous children, many of whom will not be held in watch houses that lie within a reasonable distance of a youth detention centre. The proposed measure is likely to have effect only within the south-east corner and Townsville and its surrounding region given the location of operational youth detention centres. That is also of great concern. We appreciate the objective of that change, but the fundamentals underlying it are of great concern to the association.

Mr KRAUSE: I note your reference to the United Nations Convention on the Rights of the Child. There are various other international conventions, too, that allude to rights for children and for other people in Australia and around the world. There are different types of rights—some for children, others for community safety, protection of the family et cetera. It is up to us as MPs and legislators to balance all of those rights, which sometimes is a difficult job. I note that you have made reference to the fact that the present provision is in accordance with the 1989 Convention on the Rights of the Child. Do you think that the present legislation actually adequately balances all the rights across the community for community safety—the rights of victims and the rights of children?

Ms Reece: We take guidance from the Court of Appeal. We have the act and then we have the Court of Appeal judgements which have provided, particularly over the last five to 10 years, some really clear guidance about what judges and magistrates are tasked to do when they sentence young people. It is quite clear that concerns around community safety and the risk of reoffending are paramount in the consideration of any sentencing court. Those principles are not overborne by the principles that young people should be detained only as a sentence of last resort, but they sit side-by-side. Principles of rehabilitation have more significance for young people than they do for adults. That recognises their ability to rehabilitate and it recognises their vulnerability and their probable lack of consequential thinking at the time that they commit offences. It is giving children a greater opportunity to rehabilitate than we often offer for adults.

Ironically, the changes here may very well put children in a worse position than they are as individuals charged as adults under the Penalties and Sentences Act. None of those sentencing considerations around deterrence, community safety and all of the matters set out in the sentencing principles of the Penalties and Sentences Act are absent from the considerations under the Youth Justice Act. It is simply stating that there are different considerations when sentencing children, and the balancing act is a different one. It does not mean that there is any one paramount consideration, but it is often a difficult balancing act for judicial officers, but it is one which we say strikes the right balance. It reflects children's rights to be dealt with in the way prescribed by the Convention on the Rights of the Child while also, of course, giving due regard to concerns around community safety. We have been here before and made the same submissions before this committee and other committees regarding those principles of detention being a last resort and that sentences should be for the shortest time possible do not stop judges and magistrates sending kids to jail.

For the kinds of matters for which Ms Smith and I now appear, often there is no question that the young person is serving a period of detention because the offending is so serious. It simply operates to require a judicial officer to start from a certain proposition and to reason through the options that

might be available to them. If that result is detention, then that is what that result is. There may be other options, which they are satisfied in all the circumstances, are the appropriate sentence. It does not mean that it stops them from sending young people to prison or detention.

Mr KRAUSE: In terms of the opening of the courts, you mentioned that the Bar Association opposes the amending provisions. As I understand it—and we have heard from Australia's Right to Know—the proposed amendment will only open the door; it is not a guarantee that media will be admitted because there is a long list of factors that could be utilised to exclude them. You mentioned in your opening statement that the principles of open justice are important, but then went on to list a whole range of reasons it should be overridden. Even when we have, I think it is, 20 per cent of youth offenders are the hardened cohort who are offending, you still do not think that there should be a basis for that to be reported upon by media when you have a small cohort engaging in much of the youth crime activity?

Ms Smith: It is reported on because those hardened cohort, to which you refer, are sentenced in the Childrens Court of Queensland, which is the District Court and the Supreme Court of Queensland. That is reported on. The concern is that these amendments open up the Childrens Court, which is the Magistrates Court, to reporting. In relation to the other measures that you spoke of in terms of the exclusionary provisions, that is another application that will have to be made in each and every matter in which a children is being represented in the Childrens Court. That will create another pressure upon Childrens Court magistrates to then hear those applications—probably on each and every occasion—seeking an exclusionary order if media are present in court. I could talk at length about it, but they are just a few concerns in relation to the question you have asked.

Mr KRAUSE: You still oppose the provision?

Ms Smith: Yes

Mr KRAUSE: Absolutely?

Ms Smith: Yes.

Ms Reece: The current situation allows for an application to be made by the media. Those are made and they are rejected or granted. In our view, that continues to strike the right balance between a situation where there is a vulnerable young person in court and the interests of the media in terms of open justice.

Ms BOLTON: Within its recommendations, the Youth Justice Reform Select Committee understood the need to develop the community confidence that has appeared to be eroded by those who are cycling through recommitting offences on bail and otherwise. One issue that we looked at was whether to lower the threshold for those serious repeat offender declarations—and everyone agrees that there has to be rehabilitation, that it has to be much earlier and all of that—but in the interim in Queensland we have 500 or 600 offenders on the index. We need a way that they can be contained or detained in a way and then receive the appropriate rehabilitation, because it is obvious that detention does not rehabilitate and is not working. We heard lots of evidence that the length of time that rehabilitation is needed is much more than three months or six months in detention. Given you have said that literally you oppose what has been proposed in terms of YJ18, is it because it is too broad a net and the net needs to be narrowed down? Is the main concern in terms of what will be captured within that are those who through diversion do have a hope of a better pathway? We did hear from a lot of different stakeholders that there are those who have to be contained or detained for the safety of themselves and the community.

Ms Reece: I think the concerns we raised in relation to the amendments to section 13 around a police officer taking into account the youth justice principles—is that what you are—

Ms BOLTON: No. You have spoken to section 18 about the clarification around detention as a last resort. If that were not in place, is the alternative a more targeted approach through the lowering of the threshold for serious repeat offender declarations?

Ms Reece: Our concern with the amendment to principle 18 and section 150(2)(e) is that it will lead to, first of all, more children coming into contact with the criminal justice system; and, secondly, lowering the threshold of sending them to detention and increasing the sentences that they might serve. I think that is the main concern we have. The way that the serious repeat offender provisions interact with that is probably—and Charlotte can speak to it—a different concern. The overriding principles really are about that whole sentencing process. Charlotte, would you like to answer the question?

Ms Smith: The serious repeat offender provisions are relatively new, so that is an amendment, as Laura spoke of, that was made in March of last year. In circumstances where that declaration is made in the course of sentencing a child, that then has the effect that the sentencing principles which a judicial officer can have primary regard to then include principles of community safety, so it has that effect of flipping those considerations.

Ms BOLTON: Yes, that is right.

Ms Smith: That is a significant change in and of itself and already erodes to a fair degree those fundamental principles of the Youth Justice Act which are detention as a last resort and for the shortest appropriate period of time. I think the very fundamental concern that we have identified in looking at this bill is that the concern of the association is that it has more far-reaching impact perhaps than parliament intends in that what has been said is that principle 18 will be changed in that way. That is one aspect of it.

What I would urge the committee to pay close attention to is the consequential amendments to section 150(2)(e) because that removes particular wording within the text of sentencing principles within the Youth Justice Act. It will remove the words 'only as a last report' and 'for the shortest appropriate period'. That a very significant change. It is not just that this is a change relating to principle 18.

Then the other concern arising is the reference to that at section 13 of the Youth Justice Act which has to do with what police officers are mindful of when they are considering arresting a child. No longer will a police officer arresting a child be directed to consider that a detention order should be imposed only a last resort and for the shortest appropriate period and for that to inform their arrest powers, but now they will be directed to the new reworded principle 18. They are the two aspects of this that I think are the most concerning.

Ms Reece: In relation to the serious repeat offender, I think if I understand your question, it is asking whether those more targeted provisions could be amended instead of perhaps the broader change being made.

Ms BOLTON: That is right—targeted to those where the communities have said, and even Indigenous communities have said, they do have to be detained and they should not be let out on bail. By lowering the threshold at which a declaration could be made, that that is a more targeted approach to this.

Ms Reece: I think they are more targeted provisions. In that sense there is less scope for them to have that more overall impact that we are concerned about. In response, I think the position of the association would be that it is only a year since those provisions have been in place. It would be excellent to be in a position to look at the data about how effective they have been—in particular, how effective they have been in communities where those issues with youth crime are particularly significant. As our position is always, we would support evidence-based policy informing any legislative change, particularly when it is in this very important area which balances the rights of children with the rights of the communities that they live in.

Mr ANDREW: We had a lot of people come in and tell us alternative ways of rehabilitation. Do you think the bill goes far enough to include that? Is there a review period within that in the bill itself? Do you think that what we have already put in legislation, as you spoke about, has been taken into consideration enough? Does the bill go far enough in certain places or does it not capture everything?

Ms Reece: I think we have that concern that there has been a lot of change. These changes are on the back of fairly major changes to the youth justice area. Being a practitioner in this area, it is constantly catch-up in terms of changes to the law and which young person is now captured by which provisions. In terms of rehabilitation, the Bar Association is not ever in a position where we can really give evidence on what we think rehabilitation should look like or what programs necessarily there should be. That is not our area of expertise.

Mr ANDREW: Surely you would not be against it though?

Ms Reece: No, absolutely not.

CHAIR: Do not interrupt the witness please.

Ms Reece: That is not an area we have expertise in. We certainly support the principles of rehabilitation as they underpin the Youth Justice Act and for the reasons which have been explained in many forums. In terms of the concerns about this act, it is major, it is complex and it comes off the back of significant change which one would hope would already be having some change but we just do not have an evidence base to see that yet.

Mr ANDREW: Has there been enough consultation?

Ms Reece: I think I have made the point about the bill being introduced on 1 May.

CHAIR: Jonty, this will be the last question.

Ms BUSH: It is a comment. I want to see whether it is something you agree or disagree with. We seem to get into the weeds in these debates around the rights of a victim and the rights of a child and we have this battle about whose are greater. My interpretation of the international rights of a child when it comes to the criminal justice system are there. If we are not upholding those rights and if we are overexposing children to the criminal justice system, they are more likely to continue committing more crimes and we are more likely to have more victims. That is my interpretation. Is that your interpretation or can you comment on that?

Ms Reece: Yes, absolutely. In fact, it echoes submissions that we often make in court which are that in certain circumstances a sentence which provides for a young person to be rehabilitated in the community will not only serve the interests of that young person but also serve the interests of that community better than detaining them, removing them from their family or their community, exposing them to criminal associations in detention and all of the alienation and issues which come with young people spending time in detention.

Ms Smith: I think it touches upon also some of the things that the existing Youth Justice Act already does very well in terms of diversion of young people and providing sentencing options which do not send young people to detention. There is a lot in the existing Youth Justice Act which does really good work in terms of addressing the concerns that you have raised.

CHAIR: Thank you for your evidence today.

COPE, Mr Michael, President, Queensland Council for Civil Liberties

CHAIR: I now welcome Mr Michael Cope, President of the Queensland Council for Civil Liberties. I apologise for the delay in calling you forward. I invite you to make an opening statement of up to five minutes, after which committee members will have questions for you.

Mr Cope: On behalf of the council I thank the committee for the opportunity to appear today. The council acknowledges obviously the community concerns which exist about knife crime and the recent tragic events concerning that and also obviously the general community concern about the increase in youth crime. At the end of the day in implementing legislation there is a whole series of other factors which need to be considered. Many of the measures in this legislation are in our view ill-considered and are not going to in fact help either the offender or protect the community. In fact, they are likely to do the opposite. The Council for Civil Liberties is not a prison abolitionist organisation. We do think that unfortunately some people need to be detained including young people, but under our current system far too many people are being detained whether they are young people or older people.

First of all, I need to note that I have made a mistake in the preparation of this submission which is that I did not realise that the bill actually amends item 18 of the youth justice principles. That means that the submission needs to be altered to say that we oppose the amendments relating to the change to the principle that detention ought to be a last resort. I want to reinforce something that was said in the Human Rights Commission submission, which I think is important. It notes in paragraph 18 of the submission that the current detection rate of weapons is around one per cent and it appears that a lot of other offences are being detected. It goes on in paragraph 24 to note the inconsistency between that and a situation where it appears that police are going to be using these powers to find all sorts of other offences, particularly drug offences. That is quite inconsistent with, in our view, one of the most important reforms this government has made which is in relation to decriminalisation of drug offences. I read an article recently where it was suggested—in fact, it is probably correct—that it is a more extensive decriminalisation than that in Portugal, which is usually the model for these things. I think that is an important point to emphasise.

Mr KRAUSE: I missed that last bit you were saying about the decriminalisation in Portugal. What was the point you made?

Mr Cope: I read a very interesting discussion which said the decriminalisation that has occurred in Queensland is more extensive than the model in Portugal, which is usually the model which we have certainly argued for in terms of decriminalisation. I think that article was probably correct.

Mr KRAUSE: I note your submission about the right of access to court. The Council for Civil Liberties I have no doubt would acknowledge the principles of open justice and the importance of it but it seems that you do not agree with the idea that media should be involved in this. There was not a lot of detail gone into in your submission other than that it is about rehabilitation. Could you expand on why you disagree that media should be allowed?

Mr Cope: No-one, not even Elon Musk if you bothered to have a conversation with him, actually thinks that the right to freedom of speech is an absolute right. The most free speech absolutist judge in the United States Supreme Court—I have forgotten his name—also accepted that one of the most significant sources of restrictions on the right to freedom of speech is in fact in the judicial system. In fact, if you look at the United States under their first amendment, although there is no US Supreme Court decision on the point, generally speaking in the US this idea applies—that in the juvenile justice system they are closed courts subject to broader rights of exception than perhaps this legislation has.

This is a point you get to where when you are considering free speech there are those other interests. In this particular situation when you are dealing with children, and for all the reasons that have been set out no doubt by other people including in our submissions, children are in a special category and they need to be dealt with in order to ensure that they have the best prospect of rehabilitation. As the Bar Association has also recently pointed out, when you get to more serious offences, they are open courts. In order to promote the community's interest and the rehabilitation of young people who are not in those categories, our position is that the media should not be allowed in, except in the exceptions that are already permitted under the legislation.

Mr KRAUSE: Okay. I noted your submissions, too, in relation to firearm prohibition orders and the serious concern raised about how they can be issued by police officers rather than by a court.

Mr Cope: Yes.

Mr KRAUSE: I want to ask—and I think you mentioned this as well in the submission—your view about how that can impact on associates of people who are issued with orders, particularly in the rural sector, and what amendments ought to be made to protect those people who are associates.

Mr Cope: Those submissions were actually written by Terry O'Gorman, who unfortunately cannot be here because he is recovering from not being very well. He has told me that if questions could be taken on notice he would be prepared to answer them. I am happy to answer general questions about that submission, but for that I would probably refer to Terry if we could do it that way, please.

Mr KRAUSE: Sure. Is that okay, Chair?

CHAIR: Yes, but can we just have the question again?

Mr KRAUSE: I was seeking comment about the impact on associates of people who have FPOs taken out against them, particularly in the rural sector, and the amendments that might be made to alleviate those problems.

CHAIR: Thank you.

Ms BOLTON: Good afternoon, Mr Cope. Can you outline to the committee your concerns regarding the power granted to police to remove content posted on social media about the commission of crimes?

Mr Cope: As the submission points out, these are free speech impinging provisions, so we need to understand how they interact with that right and what justifications there might be for restricting them. When you are trying to restrict freedom of speech, the difficulty always is to come up with a rule which is generalisable and which can be institutionalised in a way which does not impact with that right. Obviously, as I have already said, the right is not absolute, but it is a very important right. It is fundamental to a whole bunch of other rights that we have. Democracies cannot function without it. It is fundamental to creativity in society and all of those sorts of things, so how do we make those things interact? The problem with this bill is that it seems to me that the list of offences that are included in it are so broad that somebody is just going to turn up and say that some protestor who sat down in the foyer of some building at the University of Queensland, and therefore is a trespasser, cannot put their video of that up on social media.

The suggestion we have made is that it should be narrowed to apply to things posted by the actual offender to a set of specific offences, because, as I understand it, this is directed at people who are breaking into people's houses and people who are doing dangerous driving. You can list a more specific set of offences and therefore you get to this: what is the legitimate purpose of restricting freedom of speech? One of the legitimate purposes is that the person is attempting to incite other people, and there is a risk of doing so, to commit other offences, and I presume that at least part of the idea the police have about this is to stop that, because people are putting this up there and saying to their mates, 'Come and join me.'

All we are saying is: we want a more narrow provision which is restricted to those particular circumstances. In its current form, our concern is that at some stage somebody is going to come along and use it in some other, more free speech ways. Categories are always a problem, but political speech in any version of the world is the most important aspect of free speech. This current law, as I read it, could be applied in political contexts. If you want to achieve the objective that you have in mind, you can narrow it in a way which we think will achieve the results that people want but is not exposed to abuse because these categories are just far too broad.

Ms BOLTON: Thank you.

Mr ANDREW: Mr Cope, this is probably a question for Mr O'Gorman, but could you expand on the broad term 'public interest' a little bit? It is just to do with the FPOs.

Mr Cope: Do you have the bit of the submission where we—

Mr ANDREW: It does capture a lot of people. If you are on a farm, say, and you had contract fencers or musterers in there and you were working doing some other pest control work and there was someone who had one issued against them, how would that work? I do not think anyone has taken this into consideration.

Mr Cope: Are you referring me to some particular aspect of the submission or you have a general—

Mr ANDREW: Yes, just to do with the serious concerns around public interest that leaves it only to the imagination of how police issue a firearm prohibition order.

Mr Cope: I think that is part of the point we are making, isn't it—that the power is very unrestrained? We are certainly not an organisation which advocates for something like the US Second Amendment. As the submission says, we think it is legitimate to regulate firearms, but these powers are just far too broad and some of them are vested in police officers when they should be vested in courts. I am sorry, but if you have a question I can put it to Terry.

Mr ANDREW: That is okay, but that is the crux of it: so you think it should basically be issued by—

CHAIR: Steve, would you mind just reading the question out so that we can record it as a question on notice?

Mr ANDREW: Basically firearm prohibition orders and how that works in society and how that is going—

CHAIR: Steve, go slow.

Mr ANDREW:—sorry—to be issued by a police officer and the situation that surrounds that.

CHAIR: You do not need to comment, Mr Cope. We are going to do a question on notice.

Mr Cope: I think so, yes, because, as you can tell, I am not familiar. I have not read this stuff.

CHAIR: Steve, the question as I understand it—

Mr ANDREW: The broad term 'public interest' requires a clear definition and the particulars on what this means concerning types of situations with the QPS that are triggered to issue firearm prohibition orders. I can send that to you, Chair, if you would like?

CHAIR: Yes. Do you mind sending that to the secretariat?

Mr ANDREW: No, I will give it to Mary now.

CHAIR: That would be wonderful. Thank you.

Ms BUSH: Michael, you made some comments in your submission in relation to hooning. Would you mind expanding a little bit on that?

Mr Cope: The difficulty with all of this is that the amendments seem to be designed to create guilt by association—that is, just because you are standing there you are committing an offence. In our view, that is fundamentally wrong. If that was the intention of the original provision, we would have opposed it. I do not remember when it was introduced, but we do not support guilt by association. The common law case that I refer to in there is if people turned up to a boxing match. The common law says that just because they were standing there watching the boxing match does not mean that they were guilty of encouraging or counselling the offence or whatever association liability you are talking about. It is entirely inappropriate that people are found guilty of an offence which they do not have a guilty mind in relation to. As I say in the submission, at common law, if somebody has clapped or somebody yelled out and said, 'Go for it,' or whatever, in these days of everybody having cameras, if the police cannot find evidence of that, so far as we are concerned the people should not be convicted of the offence because there is no evidence that, apart from the fact that they stood there, they have encouraged the offence.

Ms BUSH: Thank you.

CHAIR: That brings to a conclusion this part of the hearing.

BARTHOLOMEW, Mr Damian, Chair, Children's Law Committee, Queensland Law Society

FOGERTY, Ms Rebecca, President, Queensland Law Society (via teleconference)

RUSKA, Ms Keryn, Member, First Nations Legal Policy and Human Rights and Public Law Committee, Queensland Law Society

CHAIR: I welcome representatives from the Queensland Law Society. I invite you to make an opening statement, after which committee members will have some questions for you.

Ms Fogerty: Thank you for inviting us to appear today. I acknowledge the traditional owners and custodians of the lands on which we meet—the Yagara and Turrbal peoples and, in my case, the Wulgurukaba people of Townsville. I acknowledge that Aboriginal and Torres Strait Islander children and young people are over-represented in the youth justice and child protection systems. The Law Society calls for evidence-based solutions that will actually keep our communities safe. We stand with fellow peak bodies and government bodies to advocate for measures that will address the underlying causes of crime and provide long-term, sustainable measures for community safety. This bill will not make our community safer. We strongly oppose the bill. There are many troubling features of this bill, but the willingness to dilute the principle of last resort for children and young people is especially concerning. I am joined today by Damian Bartholomew, Chair of the QLS Children's Law Committee, and Keryn Ruska, member of the First Nations Legal Policy and Human Rights and Public Law Committee. Thank you.

CHAIR: Do you also want to make an opening statement or go straight to questions?

Mr Bartholomew: Straight to questions is fine, thank you, Chair.

CHAIR: Thank you.

Mr BOOTHMAN: If you were listening to the evidence of Mr Cope from the Council for Civil Liberties, there was a question from the member for Cooper about the premise of a guilty mind in common law. What would that mean for an individual who potentially unwittingly had a person with an FPO living on their property but was unaware of the situation of that person and therefore they themselves then had no guilt in terms of that person whilst they still had a weapons licence? Under this legislation that would mean that that person potentially would lose his livelihood if he was a farmer or if he was a sporting shooter who culls vermin and feral species. What is your opinion on that? How would that affect these individuals? He does not seem to have guilt in that he has no knowledge of it, yet he will be punished for it.

Ms Fogerty: It is a very good question. I am afraid I would have to take that question on notice.

CHAIR: All right. Mark, could you—

Mr BOOTHMAN: Yes. If a landowner has an individual who comes to live or work on his property and he did not know that that person had an FPO against them, under the notion of what the member for Cooper said with regard to a guilty mind and common law, what would happen to that individual in a court? He has unwittingly brought an individual onto his property and he has no knowledge that that individual has an FPO against them.

Ms Fogerty: I understand the question. I was not present for the comments by the member for Cooper and for that reason—

Mr BOOTHMAN: The member for Cooper's question was mainly to do with hooning matters, but it just—

Mr ANDREW: Transpires, I suppose.

CHAIR: We have the question, I believe, fairly accurately, Rebecca. We will send it to you by email.

Ms Fogerty: Thank you.

Ms BOLTON: Could you explain why you think the new penalties for offences in relation to motor vehicles are unnecessary—I think that was in your submission—and also speak to concerns regarding emergency vehicles and their related penalties?

Mr Bartholomew: Firstly in relation to the penalties for motor vehicle offences, we are concerned about the increase in those because some of those, particularly in relation to children's matters, will require those matters to then proceed on indictment, which will cause further delays in resolution of the matters. We know that expediting resolution of children's matters is very beneficial,

both for the community in terms of the young people receiving their sentence and being able to avail themselves of available therapeutic supports and to ensure justice is effected quickly. There is a concern that, in raising some of these penalties to 14 years, the requirements of the Youth Justice Act will require the matters to proceed on indictment, therefore delaying young people in the system. That is a particular concern to my committee. A further concern is that there is no real evidence to suggest that that will have any real effect upon the community in terms of that increase having a deterrent effect.

I think in relation to the emergency vehicles, our particular concern is that it is already covered by existing legislation. The way the legislation is worded, if a young person was, for instance, to use the door of a motor vehicle to hit a police vehicle they are suddenly being hit with another charge where it could be quite properly contained within the current provisions of legislation and, indeed, is covered within existing provisions such as wilful damage that already exist within the code. It is about not having unnecessary and large amounts of charges that just confuse perhaps the charging process.

Mr ANDREW: Can I go back to Mr Boothman's question about revocation and disqualification of firearms licences due to guilty and associated people. Jade Cleaver, the Firearm Dealers Association president, brought this up morning. They have had a meeting with QPS and they cannot be assured that there is anything for these models to be reinstated. Say, for instance, Jade has 8,000 firearms and 32 employees. If someone works for him and has an FPO, bang, they shut him down. Where are all the firearms going to go? Where are the people going to go to work? Do you see that there is not enough in the bill to deal with these circumstances if this is actually going to go forward?

CHAIR: Before you answer that, I think this might be outside the remit of these good people in the sense of what committees they are on.

Mr Bartholomew: In fairness, the Law Society's submission does address our concerns in relation to those amendments. We are concerned with the very issue of the breadth of the consequences of that legislation. Our submission speaks in some detail about those concerns. Perhaps the issues that you raise reflect the concerns that were raised by the Bar Association earlier that we echo around the lack of consultation, lack of time perhaps, to consider some of the implications of this very serious legislation.

Mr HUNT: What do you understand the word 'glorifying' to mean?

Mr Bartholomew: That is a very real question and a proper question to be asking, and I think it is one of the very difficult questions that legal practitioners will face in terms of this legislation. I cannot, off the top of my head as a lawyer, provide to you a definition that I know of, so it is something that will require some significant consideration. It does raise a lot of issues as to how that might be interpreted and how courts might interpret that.

Mr HUNT: You would have a broad acceptance of the intent behind it.

Mr Bartholomew: I think we understand what perhaps is trying to be attained, but it is difficult perhaps to identify exactly how a court might interpret that word.

Mr HUNT: How would you interpret it?

Mr Bartholomew: Fortunately, I do not have to do that today. This is one of the considerations the Law Society makes: the impact of these amendments upon our members in terms of the complexities of laws that are being presented and the possible interpretations that may be given to them.

Mr KRAUSE: In relation to the firearms provisions in the legislation, it goes without saying that it is about community safety, but that has to be balanced, as your submission points out, with the rights of other people and firearm owners. Obviously, you think the balance is not right in the present bill. Could you expand on that further?

Mr Bartholomew: I think our submission fairly states the concerns the Law Society has, both in terms of the impact of the offence and in terms of the length of bans and the search provisions that are provided for in the bill. From my committee's point of view, we are also particularly concerned that young people are being properly provided with information and that there is adequate resourcing for doing that.

Mr KRAUSE: Do you have a concern with the firearms provisions—that there is potential for some people to be caught up in the regulations by association?

Mr Bartholomew: Our concern is not only in relation to the firearms in relation to that provision. That is obviously what we have put in in relation to the hooning provisions as well. The Law Society always has a broad concern to make sure people are not being found guilty by association and not by their mere presence. Obviously it has always been very important to us that the community have an understanding of the law and can appreciate their wrongdoing. Otherwise, it does result in injustice.

Ms BOLTON: I think you were here when I asked the question of the Bar Association regarding the youth justice principle 18. Is there anything you would disagree with the Bar Association on or anything different to add than what we have already heard?

Mr Bartholomew: I think we would absolutely echo the concerns that have been raised by the Bar Association in relation to that. I think perhaps the committee has heard concerns from many groups. There is probably nothing further that the Law Society can say, except to echo that extreme concern. Obviously the president in her opening statement has highlighted that, of all of the sections in the bill, it is the one that is of particular concern to the society.

Ms BOLTON: Do you think you would also echo the similar response they gave to the lowering of the threshold on the serious repeat offender declarations, given that that is a more targeted approach to those that are presenting a danger to themselves and our communities?

Mr Bartholomew: That is not something the Law Society has consulted on at this time. It is something that obviously we would give some consideration to, but I also would echo the comments that were made by Ms Smith from the Bar Association in terms of those provisions perhaps needing to be echoed and given their full implementation before we would be encouraging some tinkering with them. I think the Law Society would also be very aware of the fact that the notion that detention provides an answer to make community safer is something that the Law Society has not seen evidence of.

Ms BOLTON: I think everyone is in agreeance it is that rehabilitation; it is the early intervention. We obviously will have a transition period. Communities and different stakeholders have been quite clear that there is a particular number of young people that have gone through fairly consistently and may be beyond rehabilitation. That has been aired. I think in this transition stage, while we do get to that proper rehabilitation, it is about how we ensure those who need to be contained or detained are.

Mr Bartholomew: I think the Law Society is particularly concerned to see that those young people who are contained are receiving appropriate therapeutic and proper assessments in detention now and not waiting for future changes and to make sure that those young people who are detained are being detained properly and have availability of proper services and are not being contained obviously in watch houses and with adults.

Ms BUSH: There is a lot that we could talk about, but we do not have all the time in the world so I will just focus on your comments around the age related transfers into adult corrective facilities. You have some concerns there, probably not dissimilar to what the member for Noosa and I have heard on the youth justice inquiry, around some of the reasons an older person might be in a youth facility. Do you want to talk about that?

Mr Bartholomew: What we do know is that when young people transfer over to the adult system that often that interrupts their program of therapeutic reintegration. It is often difficult for their families to access them and they are not being given the opportunities for rehabilitation that perhaps are being offered to them that have been started in detention. If there is this uncertainty in relation to transfer then it creates a discouragement for young people to engage in those therapeutic supports. Certainly the Law Society long advocated for 17-year-olds to be included in the youth justice system and indeed has commended the current government for the implementation of that. It would be disturbing for us if it was undermined by these provisions.

Mr BOOTHMAN: I go back to the comments from the member for Caloundra about glorifying unlawful conduct. Hypothetically, if an individual shares a news item of a friend's individual handiwork that the media has put up on their website, would that be deemed as glorifying that type of behaviour, even though it may not specifically identify the person but they know exactly what that individual was doing? Potentially then you would have multiple shares of that on the internet platforms.

Mr Bartholomew: I apologise: I am simply not in a position to be able to foresee how a court might interpret this legislation, but there are obviously dangers of it. The focus of the Law Society is that it is, in fact, the people in control of that who should perhaps be penalised for allowing that material to be there and putting provisions in place to be able to have it removed—rather than, particularly in the example that I notice the representative from the media organisation spoke about, automatically assuming it would be a young person who might be posting this. But we do not want to see young people being penalised for, indeed, falling into a trap of doing what other adults do. That would be the concern of the Law Society. Obviously we do not want to see this being glorified in social media, but the people who have the control over that, of course, are the people who own those products.

Ms BOLTON: Is there anything that you believe needs to be given to our magistrates, our judicial systems, our courts, to enable them to keep communities safer?

Mr Bartholomew: I think what has been taken away from them in this bill is in terms of allowing a presumption that media will be in the Childrens Court. The Law Society acknowledges that there are occasions when it may be appropriate and in the public interest for the media to be there, but that is already provided for and is already utilised, as indicated by the Bar Association. Our members recognise the trauma that young people appearing in court have experienced in their lives. The Childrens Court is a court of disadvantage. The young people who are appearing in those courts are very regularly very hesitant to provide information to their lawyers about the disadvantage that they have experienced for fear of exposing that. If, in fact, the media are going to be present and there is going to be a presumption of the media being present, they are far less likely to be willing to disclose that information which is pertinent to the court in making proper decisions. Allowing media in there is actually going to restrict the capacity of magistrates and judges to make informed decisions because the proper information is not going to be placed before them.

CHAIR: Thank you for your attendance.

FULTON, Ms Sarah, Principal Lawyer, Queensland Human Rights Commission

McDOUGALL, Mr Scott, Human Rights Commissioner, Queensland Human Rights Commission

CHAIR: I now welcome witnesses from the Human Rights Commission. Good afternoon and thank you for your time. You may make an opening statement of up to five minutes, after which members will have some questions for you. This session will finish at 1.50.

Mr McDougall: Thank you, Chair, and good afternoon, committee. I am joined today by Sarah Fulton, our principal lawyer. I will not read out a speech in the interests of time but I will make a few points.

I did see the evidence of the Bar Association earlier. At the outset, I repeat what we said in our submission about strongly opposing the removal of the words 'detention as a last resort' in this bill. Obviously, the Bar Association has a very strong view that courts will interpret the change to that foundational principle, which obviously reflects the import of the convention on the rights of children, and that will lead to greater not just incarceration but also arrests by police officers. That view is out there. That view obviously conflicts with the advice of the minister in the statement of compatibility that human rights are not engaged by the removal of the principle. I guess it will be a question of whether an application is brought before a Supreme Court for a declaration at some point.

What I think has been lost in all the discussion about detention as a last resort is the implicit recognition in that foundational statement for how we should respond to youth offending, that imprisoning children is inherently harmful. That is what lies at the heart of that principle. It is incumbent on society and governments to create reasonably available alternatives to the imprisonment of children. What I hear from talking to magistrates and police officers and everyone involved in the system is an enormous frustration at the lack of options available to decision-makers other than putting children onto a pathway where they become criminalised and, ultimately, end up in adult prisons.

The second point I would like to quickly make is that a lot of the provisions are built on the premise that deterrence works. There is actually no evidence, that I can be pointed to at least, to demonstrate that deterrence, particularly increased penalties, works to deter offenders from future offending.

I would ask the committee to really carefully consider the impact of these laws on the Closing the Gap targets, in particular targets 10 and 11. We seriously need to address the appalling record of incarceration of the highest numbers of First Nations children in Queensland's overcrowded detention centres and watch houses.

Finally, I share the concerns of others that the amount of time that all of us have had to scrutinise these new laws is terribly inadequate. There are serious human rights implications with a number of these laws and they warranted a greater period for scrutiny.

Mr KRAUSE: In the submission you touched on the opening of the Childrens Court provision. Open justice is a principle that needs to be upheld and balanced against other considerations. You have mentioned that in the submission briefly. I would like you to expand a bit further on how you have come to the conclusion that the provision is defective and that it should not be opened up generally, because there is obviously a public interest in a lot of these matters.

Mr McDougall: I have a lot of sympathy for the principle of open justice. That has to be balanced against the rights of children, of course. I did want to make the observation that I do think one of the reasons we find ourselves in this situation, frankly, is that—and I think this is reflected in the work of the committee—there is clearly a disconnect between our justice system and the community. I do not think our leaders, frankly, have been good enough in explaining how the process works and explaining how courts get to outcomes. I do not think the media has been good enough in doing that either. I understand why a lot of the participants of these proceedings hold grave reservations about opening up the courts, because of the potential harm that would be caused to children. We recognise that the rights of victims are incredibly important in the process and they have not been served well historically by the justice system, particularly an adversarial justice system. In my view, there should be a detailed and thorough assessment over a period, not rushed laws, to look at ways in which we can improve the overall communication between the justice system and the community whilst safeguarding the rights and interests of victims and young offenders, who are owed special obligations in international law by virtue of being children.

I do also think that, if we are going to make changes to open it up, we need to resource the courts and the authorities who would police the new laws to ensure that when the media do act inappropriately—and I have strong suspicions that some members of the media will—action is taken

swiftly. One thing we know about deterrence is that it can work if you are known to be apprehended immediately for doing the wrong thing. This is one case where we should have the ability of the state to quickly come down on media who abuse the privilege of access to these very sensitive proceedings.

Ms BOLTON: I want to go to alternatives to detention. Earlier we heard from Mr Hamburger on his views and the reform model that he has spoken about quite extensively. Ultimately, it is a form of containment or detainment whilst being rehabilitated. Can you make a comment on that given that the realm you work in makes a very clear statement about detainment yet a lot that we saw during the Youth Justice Reform Select Committee was that rehabilitation takes time and sometimes it requires a residential component that is secure and for not a short amount of time but a long amount of time? Do you see that that type of reform within the system aligns with the rights of the child?

Mr McDougall: I should say that I did not see Mr Hamburger's evidence today but I am generally aware of the work that he has done. Yes, we obviously do need more different approaches. Yes, it does need to be recognised that some children are exhibiting behaviours that require their detention. That is without question. There is just so much more work that needs to be done at the front end of the problem. I think you could look to the submissions we made to your committee process. I am not sure if I need to restate that. I am very keen to see what will be coming from what I understand to be a plan that is in development. We clearly need heavy investment. There is lots of good work being done. What needs to be done is a body authorised to coordinate it in a better way and to amplify it. There are clearly some structural issues not only within the machinery of government that need attention but also in key areas such as health and education.

Mr ANDREW: It is sad to hear your point of view of the justice system, which is slowly becoming a legal system. I want to ask you one question: is this bill compatible with human rights?

Mr McDougall: That is a very big question. There would be elements of it where there are definitely limitations on human rights, and whether they can be justified is a question that the committee has to consider in your recommendations to parliament. Ultimately, as I mentioned before, it may well be that arguments are made that elements of this bill are incompatible with human rights. It remains to be seen how that plays out.

Mr ANDREW: Will you be following that up?

Mr McDougall: It is not our function to bring those proceedings.

Ms BUSH: The member for Mirani has stolen my question, which is fine. I do have a comment and then a question. Commissioner, I take on board your points around the need for leadership in this space and listening to voices but also balancing that with the evidence. I think of the Henry Ford quote: 'If I had asked people what they wanted, they would have said faster horses.' We do not often do good work in telling victims what a good justice response could look like so I really recognise that. I was interested in the response in your written submission around the recording of phone calls for young people in detention. That aspect had truthfully escaped me so far in the bill so I am keen to hear about that.

Ms Fulton: We have serious concerns about the provisions that would allow the recording of all phone calls by children. It would be developed through regulation and through other procedures. That is because of a number of factors specific to children. Children say things impulsively. Children do not have the same sense of what they can say and what they cannot say. Children may be trying to 'big' themselves up, essentially, to their friends or their family. Things may be captured that really could indicate particular conduct that widens the net of the type of behaviour that they might be targeted for. We have concerns around the right to privacy and the right to family and that it might impact on their willingness or ability to talk to family members. We would certainly need very close scrutiny of any procedures that were implemented around that to ensure children were not disconnected from their families and their friends.

Ms BUSH: I will have to have another look. Thank you.

Mr KRAUSE: Mr McDougall, I just looked through your submission again. I notice there is nothing in there about the firearm prohibition orders or changes to the Weapons Act. Have you considered those provisions of the bill and any human rights implications or balancing of rights implications in those provisions?

Mr McDougall: Thank you for the question. I do appreciate it because, with the amount of time that we had available to us to prepare our submission, we were not able to address it. It is a significant limitation on human rights, obviously, that does require close scrutiny. We were not able, in the amount of time available, to address it. However, I do know that Sarah has looked at the issue briefly. Are you able to comment?

Ms Fulton: I would not be in a position to speak to it. There is just so much in there and limited resources to be able to comment.

CHAIR: Would you have time to do it? How much time do you need?

Mr McDougall: I do not think, to be frank, we would have time within the limitations that the committee has.

CHAIR: It has been extended. We will send you an email.

Mr KRAUSE: The reporting date is now 2 August.

CHAIR: Yes, 2 August is the reporting date.

Mr McDougall: We could take that on notice, then.

CHAIR: Do we need to record the question or will you basically turn to your mind to the submission?

Mr McDougall: The human rights implications of those provisions in the Weapons Act.

CHAIR: Does that cover it?

Mr KRAUSE: Yes.

Mr HUNT: Your submission raises some concerns about the damage to emergency services vehicles and endangering a police officer. I read that again as we were sitting here. I think I understand, but could you flesh it out a little more for me?

Ms Fulton: I think it echoes the concerns expressed by the Law Society that there are existing offences to cover this behaviour and that the way provisions are drafted could bring in conduct that is minor or is not intentional and subject it to a very high penalty and a separate offence, which may then take that offence into a different jurisdiction in terms of how quickly things can be processed. It may complicate the proceedings at the beginning and also it appears disproportionate in terms of the penalties that are set for that offence. I think they are our major concerns. It can cover conduct that is not intentional. It may be that you are driving in a dangerous way that you should know could endanger a police officer but, again, if we are talking for example about children, there may not be that element of intention in the same way and it takes it into an offence with a maximum penalty of 14 years imprisonment. That may be where no-one has been hurt and no damage has been done, but you are facing the same maximum penalty as dangerous driving causing death, for example.

CHAIR: There are no further questions. One question was taken on notice by the commission. The secretariat will communicate with you on the timelines to get the answer to us in time for our consideration et cetera.

Mr McDougall: Thank you.

CHAIR: That concludes the hearing. I thank everyone who has participated today and to all those who helped organise the hearing. I thank Hansard and the secretariat staff. A transcript of the proceedings will be available on the committee's webpage in due course. I declare this public hearing closed.

The committee adjourned at 1.47 pm.