

SUBMISSION TO THE COMMUNITY SUPPORT AND SERVICES COMMITTEE

Concerning:

The Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021

By

**COOEE INDIGENOUS FAMILY AND COMMUNITY EDUCATION CENTRE - BIDJARA COMMUNITY AND
GOORATHUNTHA TRADITIONAL OWNERS PTY LTD - SOUTHEAST QLD FIRST NATIONS ELDERS
ALLIANCE - BAYSIDE COMMUNITY JUSTICE GROUP ELDERS - BRISBANE ELDERS - KNOWLEDGE
CONSULTING PTY LTD**

PROVIDING

**Thoughts, Knowledge and Recommendations pertaining to Issues Arising from
our consideration of the above proposed Amendment Bill 2021**



COOEE INDIGENOUS FAMILY AND COMMUNITY EDUCATION CENTRE

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**WE WOULD GREATLY APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE THE PARLIAMENTARY
COMMITTEE TO ELABORATE UPON AND DISCUSS THIS SUBMISSION AND OUR
RECOMMENDATIONS**

29 NOVEMBER 2021

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SUBMISSION AUTHORS CONTRIBUTORS AND SUPPORTERS

Reverend Aunty Alex Gater, a highly respected Elder, a proud descendent of the KOA people (her Mother), Winton and the KUKA Imagery Clan (Grandfather), Cooktown region. In 2005 Aunty Alex was the only Aboriginal woman from Australia to be one of 1000 women worldwide to be nominated for a Noble Peace Prize. In 2005 Aunty was also conferred with the NAIDOC Female Elders Award in recognition of her many years of work to fighting for human rights and justice for First Nations people.

She is widely acknowledged as an Advocate for First Nations rights at the local, state, national and international level. She was the first Aboriginal woman appointed as a fully ordained Minister and her counsel and advice has been sought by political, education, Spiritual, community and industry leaders on matters pertinent to the development of policies and programs for First Nations people. Aunty Alex was on the initial Justice Group to service the MURRI Court in Brisbane. She has worked with young people in the youth justice system and has been a cultural and spiritual figurehead for women of all social backgrounds for the past many years.

Professor Boni Robertson, a proud Kabi Kabi woman has had 37 years' experience working in senior academic, professional and advisory positions in Higher Education and Government at all levels. She currently holds a Professorial Adjunct position with Macquarie University and is on the Senior Executive of the World Indigenous Nations University. Professor Robertson has also held senior representative positions for First Nations people in Australia, the Pacific and Internationally in areas pertinent to justice and higher education. She is a previous member of QLD Parole Board, member of a number of committees working for advancement and protection of First Nations People.

Aunty Keelen Mailman AM, is a proud Bidjara woman from Western Queensland. She has managed and cared for Mt Tabor station, on her Traditional Lands, for 24 years, and was recognised in 2005 by the Queensland Museum as the first Aboriginal woman to hold such a role in Australia.

Keelen's leadership in the Aboriginal and wider Australian community has been recognised by numerous awards: 2007 Queensland finalist in the Australian of the Year; 2016 State and National awardee of Bernados Mother of the Year; 2021, awarded the Order of Australia for her commitment and contribution to her community and her culture. 2009 Keelen undertook a Rural Leadership course;

She is an Author: *The Power of Bones* her life story. She has overcome poverty, abuse, casual racism, and was surrounded by alcoholism. She reared her siblings as a teenager. She has three children and raised her sister's five children, and said that being a mother has been her major achievement.

Together with Aunty Sheryl Lawton, Aunty Keelen was instrumental in developing the Bidjara *Community and Goorathuntha Traditional Owners, Market Led Proposal for Healing and Rehabilitation Centres, 2017*.

Aunty Sheryl, Lawton, is a proud Bidjara woman. She has been the Chief Executive Officer of Charleville Western Areas Aboriginal Torres Strait Islander Health Services Ltd. (CWAATSICH) for the past 20 years. Previous to her becoming the CEO, Sheryl was employed in many positions of influence within Aboriginal affairs and Aboriginal Community control services, spanning Aboriginal Legal Services, Aboriginal Social Housing, Aboriginal Land Council and Aboriginal Childcare.

Throughout Sheryl's career she has been instrumental in the establishment of the Aboriginal Child Care Agency (ACCA) of South West Queensland and importantly the ongoing development and growth of CWAATSICH. Sheryl has also been an avid representative of Aboriginal Affairs at both the Regional, State and National levels. Together with Aunty Keelen Mailman, Aunty Sheryl was instrumental in developing the *Bidjara Community and Goorathuntha Traditional Owners, Market Led Proposal for Healing and Rehabilitation Centres, 2017*.

Mr Mervyn Langford, is Convenor, Bardon Consultative Group. Mervyn has been a health professional for over 50 years. He has worked in an extensive range of health facilities and high security facilities, in Australia and the UK – including 4 Australian juvenile detention centres. From early childhood he learned that no-one should be shackled by the colour of their skin - the antithesis of Australian judicial practice.

Keith Hamburger AM, former Director General, QLD Corrective Services Commission, now Managing Director, Knowledge Consulting Pty Ltd and a QLD Patron of the National *Justice Reform Initiative*. He was a member of the Queensland Parole Board for 11 years. Keith's experience in adult and juvenile corrections extends from the 1970's. He has worked extensively with First Nations people over many years in development of alternatives to ineffective processes of the criminal justice and social systems that are destroying the life chances of First Nations adults and children.

He visited Northern Europe to study best practice in adult and juvenile corrections, including holistic whole of government and community responses to social breakdown and crime. He has studied correctional practices in the USA, was a Key Note speaker at an American Correctional Associations annual conference in Nashville and was Chair of the Australian, New Zealand and South Pacific Islands Correctional Administrators Conference, Christchurch New Zealand.

Keith was Team Leader of a '*root and branch*' review of Northern Territory Corrections, including Juvenile Detention Centres. He was an Expert Witness to the *Royal Commission into the Protection and Detention of Children in the Northern Territory, 2017*. He led implementation of significant reform of corrections in QLD and has conducted major corrections consulting projects in all Australian jurisdictions, New Zealand, Solomon Islands and PNG.

SUPPORTERS OF THIS SUBMISSION

In preparing this submission we acknowledge the invaluable contribution of **Uncle Norm Clarke**, a well-respected Goonguri Elder who for past 40 plus years has worked with Governments, industry stakeholders and communities to overcome barriers to proactive and positive health, education and justice for First Nations people. His many achievements are acknowledged and respected by governments and community leaders throughout Australia:

- The first Aboriginal man to be appointed to a permanent position within the Queensland Fire Service; and as well to be awarded the Fire Services Medal in 2002; A MURRI Court Elder in Queensland for the past 15 years and now a member of the Bayside Community Justice Group;
- Developed and implemented a State-wide First Nations Learner Licensing Program across Queensland, recognised by Queensland Transport and QPS for helping over 25,000 First Nations people gain Drivers Licenses; and
- Showcased the value of community-based programs to prevent and deter First Nations people of all ages from negative engagement in the justice system, based on both western and cultural principles of education and learning.

We also acknowledge invaluable contributions by First Nations people: Ms Margie Kennedy, Mr Brett Nutley, Mr Barry Malezer, Ms Debbie Gibbs and most specifically the COOEE Elders, the Bayside Community Justice Group Elders, the greater Brisbane Elders and the many colleagues and Elders, who over the years, have been advocates and champions for youth justice, human rights, the rights of the Child, Truth Telling and education for Australia's First Nations People. The voices of these people have informed the text and tenor of this submission and are etched in the principles and aspirations contained within.

We have also had further valuable input to and support for our submission from:

Bardon Consultative Group: Mr Mervyn Langford (Convenor), Mr Julian Foley, Ms Helen Hamlyn, Ms Pauline Kennedy PSM, Ms Denise Proud, Ms Carolyn Page, Mr Phillip Venables, Ms Venner-Westaway and Ms Anna Heriot;

Enneagram Prison Project, Australia: Ms Hilary Langford, Mr Kyle Winter, Ms Donna Woodrow;

Marco Korn - Workplace Consulting and Leadership Coaching: Mr Marco Korn BA Hons (Psych), Some 32 years' experience, including working as a senior psychologist in Qld Corrective Services Commission correctional centres and in providing professional services to the Probation and Parole Service.

ACKNOWLEDGEMENT OF COUNTRY AND ELDERS PAST AND PRESENT

The tabling of this submission has etched within its text a deep respect for and acknowledgement of generations of Elders and all First Nations people whose lives have been marred by the imposition of colonial policies which have helped to embed within the justice system, a punitive spirit that has contributed to generational trauma, over incarceration, subjugation, child removal and community control.

In tabling this submission, the authors also pay homage to the non-Indigenous people who have acknowledged the consequences of ongoing punitive practices within the justice system at all levels; and resolved to work with First Nations people in the spirit of reconciliation and respect to give life to government policies that speak to the value of more humane and proactive practices, bi-cultural collaboration, and justice reform.

Guided by the principles of truth telling, healing and reconciliation, the authors call on the adoption of a new way of dealing with children in the justice system to honour Australia's obligation as a signatory Nation to significant documents such as the Rights of the Child, the UNDRIP and UN Declaration of Human Rights.

SUMMARY OF RECOMMENDATIONS

RECOMMENDATION No 1 – Page 11

*That the 'The Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021' with the objective of raising the minimum age of responsibility in Queensland from 10 to 14 years old and ensuring they are not incarcerated or otherwise punished under the criminal legal system **does not proceed in its current form**. Reasons for this, included in Recommendation No 2*

RECOMMENDATION No 2 – Page 12

That the Parliamentary Committee advises the Queensland Government that:

The objective of the 'The Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021' is a worthy one that is supported by a wide range of legal, medical, human rights and First Nations justice experts, advocacy organisations and corrections practitioners. However:

- ☐ *A First Nations submission to the Committee has raised strong arguments founded in evidence from across a range of professional disciplines that no child of any age should be criminalised, as this entrenches criminality, increases crime and wastes billions of dollars of tax-payers' funds;*
- ☐ *A proposal has been advanced by First Nations people, supported by corrections experts, for an alternative system that provides for a holistic response to family and community dysfunction, and the inevitable youth and adult crime, that will allow for phasing out of Youth Detention Centres in their current form, eliminate the present abhorrent prison overcrowding and the need for more secure cells;*
- ☐ *Evidence is cited that this alternative system will reduce juvenile and adult crime, including recidivism, increase community safety, save lives and save billions of dollars over the next decade in detention centre and prisons' infrastructure and operating costs.*

If this First Nations alternative system proves to be viable, then the Government could in the future consider amendments to legislation that removes all child offenders, up to and including the age of 17 years, from punishment under the criminal legal system.

RECOMMENDATION No 3 – Page 14

That the Parliamentary Committee, to inform its deliberations relating to (a) raising the age of criminality and (b) consideration of alternative options for dealing with children who offend - conducts an inspection of QLD's Youth Detention Centres in the company of Elders. It is also recommended that professional and custodial staff and Elders who visit these centres should be interviewed, as well as children who are detained there, as they will all have valuable insights to offer.

RECOMMENDATION No 4 – Page 16

That, if it is within the remit of the Parliamentary Committee, our submission is referred to the Auditor General for consideration to ascertain whether an investigation is warranted into financial waste arising from the building of secure prison cells, while ignoring more cost-effective options that were and remain available. Authors of this submission are available to provide additional information to the Auditor General to that included in this submission.

RECOMMENDATION No 5 – Page 19

*That the Parliamentary Committee **immediately** informs the Hon, the Premier, the Hon the Treasurer, The Hon. The Attorney General, the Hon the Minister for Corrections, the Hon the Minister for Youth Justice and the Hon the Minister for Aboriginal and Torres Strait Islander Partnerships of the 'Duty of Care' issues particularized in this submission for their urgent attention, having regard to the potential for loss of life and serious legal consequences that could accrue should this occur.*

RECOMMENDATION No 6 – Page 28

That in formulating any legislation relating to Queensland's criminal justice system, the Queensland Parliament should have regard to the Northern European experience where the justice system is underpinned by Restorative Justice and Justice Re-investment principles and the role and focus of the criminal justice system is seen as 'to contribute to keeping peace in our society'.

RECOMMENDATION No 7 – Page 34

*That a Justice Reform Office (JRO), an independent statutory body, as recommended by the QLD Productivity Commission's (QPC) Inquiry into Imprisonment and Recidivism, 1 August 2019 is established **as a matter of urgency**. One of its responsibilities would be to develop a Resilience Building Plan for First Nations and other disadvantaged communities for consideration by the QLD Government.*

RECOMMENDATION No 8 – Page 34

That the JRO, with membership as described in paragraph 76 above, is established as a matter of urgency, but initially constituted as a committee, that does not require Legislation and when Legislation is enacted this Committee membership forms the JRO.

RECOMMENDATION No 9 – Page 34

That to facilitate effective consideration by government and agencies of reform initiatives proposed by the JRO and to facilitate multi-partisan support for government efforts to reduce the drivers of social breakdown and crime and to significantly reduce crime, the Queensland Government moves urgently to establish an All-Party Parliamentary Committee to oversee the operations of the JRO Committee initially and then the legislated JRO;

RECOMMENDATION No 10 – Page 36

That the JRO Committee oversees development of Resilience Building Plans in up to five (5) Trial Communities in co-design with relevant government agencies and experts in this model. In each of these communities a locally owned Not for Profit enterprise (Public Benefit Corporation PBC) with a Board of local leaders, supported by independent expert Directors, is established. This vehicle will drive restoration of cultural authority and agency in impoverished communities. Successful trials in the up to five (5) communities will allow for a roll out of the model across QLD.

Success in these trial communities will provide evidence for the All-Party Parliamentary Committee to propose a Criminal Law (Raising the Age of Responsibility) Amendment Bill that raises the age of criminal responsibility to 18 years. While making Queensland safer, Queensland can become the first jurisdiction in Australia to cease the abhorrent practice of imprisoning children.

RECOMMENDATION No 11 – Page 36

That a Working Party is established to support the JRO Committee to develop the Resilience Building Plans driven by PBC's. The Working Party should be co-led by a First Nations person and a person skilled in the consulting and co-design work required in Recommendation 10. It should include a person skilled in Business Case development and First Nations people from Trial Communities and public servants from relevant agencies.

The JRO and Working Party should consult extensively with DATSIP as to the structure and operating model of the proposed First Nations PBC's having regard to DATSIP's Local Thriving Communities

(LTC's) Model which potentially can auspice or be the PBC. The models developed by Bidjara and Goorathuntha and COOEE will also inform development of the proposed PBC's.

RECOMMENDATION No 12 – Page 41

That the JRO is charged with the responsibility for development of a long-term plan with desired Key Performance Indicators for Queensland's criminal and social justice systems, linked to Queensland's electoral cycle.

RECOMMENDATION 13 - Page 41

That Queensland Government agencies with responsibilities in the criminal justice system, responsibilities affecting First Nations people and responsibilities that impact on social support systems, would benefit from building alliances with the Justice Reform Initiative.

RECOMMENDATION No 14 – Page 41

That the JRO develops a Community Information Program for consideration by the All-Party Parliamentary Committee and the Government relating to the Resilience Building Plan for impoverished families and communities. This information program will be built around facts relating to the following issues:

- a) Evidence that crime is a terrible consequence of largely place-based challenges that create insurmountable difficulties for impoverished families and communities lacking resilience and capacity to change their circumstances. This lack of resilience and capacity in First Nations communities has its genesis in loss of cultural authority and agency;*
- b) Evidence that over investment in police and prisons is driven by the consequences of under investment in Courts, community corrections responses and in resilience and capacity building initiatives in impoverished communities. This scenario actually causes increased crime. This position is supported by the Queensland Productivity Commissions Report into Imprisonment and Recidivism, 2019;*
- c) Evidence that a new paradigm is required, that is in effect a Resilience Building Plan, that restores cultural authority and agency in First Nations communities and rewards families and communities for achievements that enhance their circumstances and reduces social breakdown and crime;*
- d) Details of how the new paradigm will function utilising Not for Profit PBC's employing local people to provide resilience and capacity building initiatives and in delivering contracted services that direct surpluses back into communities for social enhancements and crime reduction;*
- e) Evidence of the relatively insignificant cost of the Resilience Building Plan as compared to the significant financial, social and community safety benefits from reduced crime that will accrue to Queenslanders from its implementation.*

INTRODUCTION

Our position on the proposed *Criminal law (Raising the Age of Responsibility) Amendment Bill 2021*:

1. Our position is that we do not support the Bill in its current form.

Our submission in no way detracts from what Mr Michael Berkman MP, Member for Maiwar is working to achieve by introducing the *Criminal law (Raising the Age of Responsibility) Amendment Bill 2021* to the QLD Parliament. We fully understand his intent to achieve enhanced legislative outcomes. We highly commend him for working to reduce the impact of the destructive and shameful existing laws currently driving **child criminalisation**. By placing this Bill before the Parliament, he has opened this critically important issue for Parliamentary and public scrutiny.

This will result in informed and evidence based effective options being considered and advanced for public consideration, as opposed to the myths relating to law, order and punishment that are regularly presented for public consumption.

2. We note the significant support recorded in the *Explanatory Notes* for the Bill across a wide range of legal, medical, human rights and First Nations justice experts and advocacy organisations for raising the age of criminal responsibility **to at least 14 years. Medical Neuroscientific evidence provided in the *Explanatory Notes* is critically important in considering the issue of *child criminalisation*. By supporting an increase **to at least 14 years** infers that these organisations would support a higher age.**

In this submission we respectfully propose an alternative approach to Mr Berkman MP's Bill founded in recommendations for systemic change in both the juvenile and adult justice systems that provides for community safety, together with cost-effective rehabilitation outcomes while ensuring **no child is criminalised up to and including the age of 17 years**.

3. Our position is founded in literature, best practice, our personal lived experience together with our families, the stories of our ancestors, our LORE and our personal experience in working at the *bleeding edge* of the interface of the current ineffective laws with families and communities, particularly First Nations families and communities, but not exclusively. We have a strong and evidence-based belief that:

☐ *Criminalising and incarcerating children **of any age** is an inhumane practice. It has no place in a civilised society. It inflicts immense psychological damage on already damaged children, seriously retards their social development and entrenches anti-social behaviour. Criminalising children is totally offensive to the underpinning values of a 'civil society';*

☐ *Child criminalisation destroys the life chances of children and tears families apart, it impacts particularly seriously on First Nations children and families, it is a significant driver of adult criminality, significantly reduces community safety, entrenches inter-generational trauma and poverty and demonstrably has wasted billions of dollars of taxpayers' funds over recent decades;*

☐ *Effective responses to juvenile offending must be holistic in nature taking into account:*

- *the need to preserve public safety;*
 - *the needs of traumatised children: that is, for them to be placed in a therapeutic environment where responses include initiatives to enhance relationships with family and kin where possible, mental and physical healing; creation of pride in culture for First Nations children, development of pro-social attitudes, re-enforcing the dangers of substance abuse, education, skills development, sport, recreation and art; and*
 - *the fact that many juvenile offenders come from impoverished and or inadequate families and communities lacking agency to care adequately for themselves and or their children. Therefore, treatment responses for the child must be designed in a holistic manner to build the self-efficacy of families and communities such that responsible parenting is encouraged and rewarded and healthy communities are created;*
- ❑ *Further, responses to juvenile crime must be developed in conjunction with responses to adult crime as the fundamental causes of both develop in lock-step together in many First Nations and other disadvantaged communities.*
4. Our submission summarises many of the existing failures and challenges in current approaches in juvenile and adult corrections, we reference multiple Inquiries, literature and best practice relevant to these challenges. We recommend alternative systems to support Courts in sentencing child and non-dangerous adult offenders that will not compromise public safety and that demonstrably will save billions of dollars of taxpayers' funds over the next decade, while saving lives and reducing crime.
5. Obviously, any proposal to raise the age of criminality to 17 years must be capable of **withstanding public and political scrutiny as to community safety**. We are confident that trials will demonstrate that our recommended alternative system is safer than the current juvenile justice model. It provides for the 24/7 control of Juvenile offenders up to the age of 17 years, does not involve the application of criminal law, will achieve higher rates of rehabilitation and reduce the number of juvenile offenders who inevitably progress to adult prisons. The Queensland Government will be able to phase out existing inhumane, ineffective and costly Youth Detention Centres over a period of a few years.
6. Our recommended alternative system for appropriately assessed non-dangerous adult offenders will provide Courts with 24/7 supervised accommodation on Traditional Lands and other appropriate places that potentially will reduce the secure prison population in QLD by up to 40% saving billions of dollars over the next decade. This estimate is arrived at from the Data in the *QLD Productivity Commission's report into Imprisonment and Recidivism, 2019* showing the median prison sentence in QLD is only 3.9 months and that 60% of offenders were in prison for non-violent offences¹. Based on this we believe that our estimate of up to a 40% reduction in prison population is achievable.

¹ Qld Productivity Report: Inquiry into Imprisonment and Recidivism, August 2019, Overview, Page xvii

7. In effect, our recommendations address:

- ❑ *The Perfect Storm of the Catastrophic Circumstances in First Nations and other disadvantaged communities, combined with catastrophic failures in QLD's Criminal and Social Justice Systems resulting in: A human, social and economic disaster destroying the life chances of thousands of children, unacceptable juvenile and adult crime and recidivism rates, enormous pain and cost for victims with billions of tax-payers' dollars being wasted on demonstrably inappropriate responses.*
- 8. We believe that our recommendations, once trialled in up to 5 communities, proven and then implemented across Queensland, will allow the Queensland Government to invite Mr Berkman MP to introduce, with the support of the Queensland community, a *Criminal Law (Raising the Age of Responsibility) Amendment Bill* that raises the age of criminal responsibility to 18 years. Queensland can become the first jurisdiction in Australia to cease the abhorrent practice of imprisoning children, while making Queensland safer.
- 9. In this submission we cite examples where well thought out proposals by First Nations Elders to improve both juvenile and adult corrections and to strengthen our families and communities have been disregarded and disrespected, to the great detriment of our people. We believe that the one fundamental pre-requisite to overcome the awful circumstances of First Nations people in QLD and Australia, as evidenced by our shocking over representation in juvenile detention centres and prisons, is for Ministers of the Government and bureaucrats at all levels to show genuine respect and recognition for the cultural authority, knowledge and wisdom of our respected First Nations Elders by restoring our agency to lead our people to a better place.
- 10. It is a shameful fact that we Australian First Nations people are possibly the most imprisoned race on our planet. The recommendations we make are designed to wipe away this shame which lies like a **black cloud** over this wonderful country. Our recommendations are culturally appropriate for our people, they will restore cultural authority and agency to our Elders in their leadership role, instil LORE in our children, create jobs for our people and pay homage to our ancestors for their life long struggle to achieve respect and equality for First Nations people.
- 11. While our submission mentions circumstances where we feel we have been disregarded and disrespected, we believe this is necessary for the Parliamentary Committee to understand the very difficult and so far, fruitless journey, our Ancestors and we have travelled in our attempts to achieve justice for our people. We earnestly hope, that in bringing his *Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021* before the Parliament, Mr Berkman MP has created a *watershed moment* where First Nations voices are heard, considered and acted upon by the Queensland Government and Parliament.

We commend our submission to you.

RECOMMENDATION No 1

*That the 'The Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021' with the objective of raising the minimum age of responsibility in Queensland from 10 to 14 years old and ensuring they are not incarcerated or otherwise punished under the criminal legal system **does not proceed in its current form.** Reasons for this, included in Recommendation No 2*

RECOMMENDATION No 2

That the Parliamentary Committee advises the Queensland Government that:

The objective of the 'The Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021' is a worthy one that is supported by a wide range of legal, medical, human rights and First Nations justice experts, advocacy organisations and corrections practitioners. However:

- ☐ *A First Nations submission to the Committee has raised strong arguments founded in evidence from across a range of professional disciplines that no child of any age should be criminalised, as this entrenches criminality, increases crime and wastes billions of dollars of tax-payers' funds;*
- ☐ *A proposal has been advanced by First Nations people, supported by corrections experts, for an alternative system that provides for a holistic response to family and community dysfunction, and the inevitable youth and adult crime, that will allow for phasing out of Youth Detention Centres in their current form, eliminate the present abhorrent prison overcrowding and the need for more secure cells;*
- ☐ *Evidence is cited that this alternative system will reduce juvenile and adult crime, including recidivism, increase community safety, save lives and save billions of dollars over the next decade in detention centre and prisons' infrastructure and operating costs.*

If this First Nations alternative system proves to be viable, then the Government could in the future consider amendments to legislation that removes all child offenders, up to and including the age of 17 years, from punishment under the criminal legal system.

SUMMARY OF JUVENILE AND ADULT JUSTICE SYSTEM FAILURES IN QUEENSLAND**Juvenile Justice - Operational Failures:**

- 12.** This section is included to provide the Parliamentary Committee with an overview, not only of the failures in Juvenile Detention centres, but also to indicate that these centres are counterproductive as a vehicle to reduce juvenile crime, and as demonstrated throughout this submission, should not be part of a suite of options to deal with juvenile offending.

13. Summary of operational failures:

As understood from information provided by Elders who regularly visit Juvenile Detention Centres, by professionals who provide services and from staff:

- ☐ On a regular basis, significant numbers of children are being held in Police Watch Houses. Community and family members believe these occurrences are not in accordance with Statutory requirements, further traumatising at-risk children. This action may also compromise the obligations of QPS Watch House Officers. **Watch Houses are totally inappropriate places for child detention;**
- ☐ Physical design and location of child detention centres is counterproductive to rehabilitation for all children and is highly culturally inappropriate for First Nations children. The inappropriate location of detention centres causes terrible dislocation of children from families and communities, inflicting great distress and contributing to recidivism;

- ❑ The cost of building these centres is *eye watering* and a waste of public money when compared to the effective alternatives **that have been available for years, but ignored;**
- ❑ The living accommodation and operational model of child detention centres is incredibly harmful for damaged, lonely, deprived, problematic children, many with significant physical and mental health issues, and ensures that the great majority will *never be healed*. Generations of incarcerated children, mostly First Nations children, have been on a direct *flight path* to adult prisons, some for very serious crimes. Elders report that a significant number very sadly take their own lives when they return to the community;
Note: *During the 1990's there was evidence that 90% of juvenile detainees went on to adult prisons. We do not have current statistics. However, it is very likely that there is still a high rate of progression to adult prisons. This is a shocking statistic that demonstrates a failed system. This data alone should have caused a rethink of the system years ago.*
- ❑ Children being held in secure remand custody because Youth Justice has not provided Courts with appropriately supervised alternatives that **could be readily made available;**
- ❑ Reports of detention centre overcrowding where design capacity is exceeded. Later in this submission we outline how exceeding design capacity exposes decision makers to potential very serious liability for failure in '*Duty of Care*' **in the event of a catastrophe involving loss of life;**
- ❑ Significant staff shortages in detention centres causing extensive *lock downs of vulnerable children during daylight hours*. We are told that Centres during daytime are regularly operating with night shift staff levels, causing significant discomfort to children who are locked down for prolonged periods of the day. This further reduces the Centre's ability to provide requisite health, education, rehabilitation and recreational opportunities, which is a failure in '*Duty of Care*';
- ❑ Inadequate specialist professional services, including physical and mental health services;
- ❑ Inadequate facilities for visiting professionals to interview children;
- ❑ Morale of staff is reported as very low;
- ❑ Supervision of young people under community orders from Courts is inadequate. Current system fails to ensure public safety and stability for children's living circumstances and effective involvement with education/ schooling;
Note: *All of the above indicate that there is serious 'duty of care' failings in QLD's Juvenile Justice System. Please see section later in this submission relating to 'duty of care'*
- ❑ First Nations families and community organisations who have the capacity to provide significant support to their young people who are at risk and or in contact with the youth justice system and who have viable solutions to these issues are either not meaningfully engaged with by Youth Justice and/ or are grossly underfunded;

- ❑ There is a long history of First Nations Elders not being **meaningfully consulted and or listened to** by Youth Justice and or government in relation to significant policy decisions taken by government. For example:
 - the unnecessary, wasteful expenditure of *many millions of dollars*, to expand secure detention centre accommodation across the State that demonstrably is a fundamentally wrong approach that increases youth crime and further devastates First Nations families, **in spite of cost-effective alternatives being available**;
 - the ankle bracelet decision that will not make the community safer, plays no part in rehabilitation and its implementation completely disregarded effective alternative solutions from Elders across QLD; and
 - Overlooking of First Nations people for a *Kinship Caring System* for their children;

14. Later in this submission we recommend phasing out of these inhumane, costly, highly damaging and ineffective Youth Detention Centres. Therefore, to assist in the Parliamentary Committee's consideration of this recommendation, we feel it would be of benefit for the Committee to inspect these centres.

RECOMMENDATION No 3

That the Parliamentary Committee, to inform its deliberations relating to (a) raising the age of criminality and (b) consideration of alternative options for dealing with children who offend - conducts an inspection of QLD's Youth Detention Centres in the company of Elders. It is also recommended that professional and custodial staff and Elders who visit these centres should be interviewed, as well as children who are detained there, as they will all have valuable insights to offer.

Adult Corrections - Operational Failures:

15. In our introduction to this submission, paragraph 3, fourth dot point, we said, "*responses to juvenile crime must be developed in conjunction with responses to adult crime as the fundamental causes of both develop in lock-step together in many First Nations and other disadvantaged communities.*"

A high percentage of juvenile offenders' graduate to adult prisons and as covered in our submission, a holistic '*whole of community*' response is required to this issue to address both juvenile and adult offending in concert. There is strong evidence that a significant proportion of adult offenders currently held high security prisons require 24/7 supervision in facilities other than secure prisons. As demonstrated by high recidivism rates, particularly for First Nations offenders, high security prisons for this cohort of offenders actually contribute to increased crime. That is, they are totally ineffective in terms of rehabilitation.

The operational failures summarised below show the perilous state of Queensland's high security prisons that needs to be addressed as a matter of urgency.

16. Summary of operational failures:

- ❑ Awful imprisonment rates – QLD is around 3 times worse than world best outcomes;
- ❑ First Nations people **unnecessarily** grossly over represented in prisons;

- ❑ Secure prisons **dangerously overcrowded** at average of 130% capacity. Arthur Gorrie C.C. at 150% capacity. Overcrowding is a huge *Duty of Care Risk* endangering staff, visitors and prisoners – **catastrophe involving loss of life is potentially imminent**;
- ❑ Capacity to deliver rehabilitation programs severely impaired, health services under significant pressure and inadequately staffed - anecdotal evidence that most short sentenced prisoners receive **no rehabilitation programs** and evidence provided to Courts of QCS either not providing prisoners with court ordered rehabilitation programs and or programs being provided by unqualified personnel;
- ❑ Prisoners Human Rights infringed;
- ❑ Unacceptably high recidivism rates;
- ❑ Anecdotal evidence that significant numbers of prisoners are being held past their parole date, many for reasons outside of prisoners' control; *See extract from ABC news report below relating to the current 'crisis' in Queensland's parole system.*

Extract from and ABC News Report 23 November 2021

"Queensland's parole system has reached an "absolute crisis point" with some prisoners left waiting in jail for a decision more than a year after their parole eligibility date has passed, prisoner advocates say:

- *The current average wait for a parole board decision is 44 days longer than the legal time frame*
- *Prisoners Legal Service estimates the backlog costs government is conservatively **\$3.9 million each month***
- *Fourth and fifth teams have been added to help fight the administrative backlog*
- *Prisoners Legal Service (PLS) director and principal solicitor Helen Blaber said the organisation was "routinely" seeing people who were waiting more than 10 months for a decision on their parole applications.*
- *In a statement Parole Board Queensland said there were 2,032 "outstanding matters" before the board.*
- *The law says an application for board-ordered parole must be decided within 120 days, or 150 days if the board defers the decision.*
- *But a new bill introduced by Police Minister Mark Ryan moves to temporarily change those time frames to 180 days or 210, if further information is required.*
- *A submission by the Queensland Law Society said the change was "inconsistent" with the recommendations of the 2016 Parole System Review, conducted by now-judge Walter Sofronoff, which led to the inception of the parole board in its current form.*
- *Ms Blaber said the bill would "effectively [allow] people to stay in prison for longer than what was determined at the time of their sentencing", and that "many" of those contacting PLS "are already outside of the 210-day time frame" proposed by the bill.*
- *"It's not going to fix the delays. It's not going to get people out of prison any faster. It's not going to improve the efficiency of the parole board," she said.*

In an August ruling, Sunshine Coast District Court Judge Glen Cash said there were 4,399 "outstanding files" being faced by the board in May, which included 2,084 applications for parole. The 2,032 "matters" currently before the board does not include parole suspensions.

According to Ms Blaber, the backlog has exacerbated overcrowding in Queensland prisons and created a "tinderbox" rather than a platform for rehabilitation. "It's a recipe for disaster," she said.

"What you've got to understand about prison is overcrowding means two people sleeping in a cell, one of them with their head next to the toilet in a very small environment."

Queensland has 9,828 incarcerated prisoners, the second most of any state or territory.

Notes:

- i) *All of the above indicate that there is serious 'duty of care' failings in QLD's adult prisons and disarray in the Parole System, through no fault of the Parole Board, is exacerbating the situation. Please see section below relating to 'duty of care'*
- ii) *Data in the QLD Productivity Commission's report into Imprisonment and Recidivism shows that the median prison sentence in QLD is only 3.9 months and that 60% of offenders were in prison for non-violent offences². Yet QLD Corrective Services (QCS) has failed to provide Courts with alternative low cost 24/7 supervised accommodation to high security prison cells that could house a significant proportion of this prisoner cohort and provide them with rehabilitation options not available in prisons. Further, QCS has obtained forward estimate funding to build more unnecessary high security cells, rather than adopt available lower cost, more humane and effective options that will improve community safety; e.g. Bidjara Community and Goorathuntha Traditional Owners, MLP for Healing and Rehabilitation Centres, 2017.*
- iii) ***This is a waste of public funds that is ongoing and of the order of billions of dollars (as evidenced in this submission). We respectfully suggest this waste warrants investigation by QLD's Auditor General.***

RECOMMENDATION No 4

That, if it is within the remit of the Parliamentary Committee, our submission is referred to the Auditor General for consideration to ascertain whether an investigation is warranted into financial waste arising from the building of secure prison cells, while ignoring more cost-effective options that were and remain available. Authors of this submission are available to provide additional information to the Auditor General to that included in this submission.

DUTY OF CARE CONSEQUENCES ARISING FROM OPERATIONAL FAILURES IN JUVENILE DETENTION CENTRES AND IN ADULT PRISONS

- 17.** This section deals with exposure to risk. There is evidence that currently, potentially catastrophic circumstances could arise at any time in Juvenile Detention Centres and in adult prisons. We feel that the fundamental question that Ministers and Director Generals of Youth Justice and Adult Corrections must turn their minds to is, **in the event of a worst-case catastrophe involving loss of life in a juvenile detention centre or in an adult prison and a Coronial inquiry establishes that 'duty of care' has been breached, could Ministers and Director Generals be held culpable?** We believe that it is likely they will be if the following is established: (Obviously these Accountable Officers will need to take legal advice on this.)

² Qld Productivity Report: Inquiry into Imprisonment and Recidivism, August 2019, Overview, Page xvii

- ☐ *Accountable Officers*, had allowed child detention centres or secure prisons '**design capacities**'* to be grossly exceeded such that safety of staff, detainees or prisoners was compromised, their *Human Rights* infringed and non-delivery of rehabilitation programs contributed to them being in the facility and delivery of health care was compromised (health care is required to be commensurate with expectations in the non-incarcerated community) and any or all of these factors contributed to the loss of life.

18.*Note: *Arriving at 'design capacity' requires clarity around the Youth Detention Centres and adult prisons required operational model so that designers create the most appropriate physical fabric – including maximum capacity - to support the safety and amenity of those who live and work there. The design takes account of physical and dynamic security needs as well as amenity for prisoners in terms of accommodation, employment, recreation, visits, spiritual and cultural services, health, food services etc and importantly provides facilities and an environment that supports prisoner rehabilitation.*

19. *Large High Security Adult Prisons and Child Detention Centres are highly complex and potentially dangerous facilities with significant logistical and operational challenges each and every day. The 'design capacity' takes account of this with inbuilt flexibility and capacity in the physical and operational design to cope with the 'unexpected'. Typically, the prisoner population of these centres is limited to 85% of cell capacity to assist with flexibility in prisoner placement and to allow for cell maintenance. **Note:** Anecdotal evidence indicates that at least one prison is operating at up to 150% capacity – i.e., 65% more inmates than considered appropriate by the designers.*

20. *Gross overcrowding in adult prisons, and we suspect in Child Detention Centres, destroys the effectiveness of dynamic security in the operating model, places the physical fabric under stress, creates significant unpalatable, unsafe and unhealthy accommodation issues, greatly compromises staff and prisoner safety and amenity and creates industrial and prisoner unrest. This unrest often results in damage to physical infrastructure, injuries to other prisoners and staff and tragically in a worst case, loss of life. **All of this will be explored in forensic detail in any Coronial Inquiry.***

Expansion on the risk of culpability by Accountable Officers in the event of a worst-case scenario

21. In the event of a worst-case scenario, involving loss of life in a Juvenile Detention Centre or in a Prison, a Coronial Inquiry will likely explore the following questions with Accountable Officers:

- ☐ Were Youth Justice and Queensland Corrective Services Risk Assessment and Risk Management Plans underpinning the decision to overcrowd Youth Detention Centres and adult secure prisons **accredited** and fit for purpose? and
- ☐ Is it reasonable to expect that Accountable Officers in allowing the design capacity of Youth Detention Centres and adult secure prisons to be grossly exceeded, knew or should have known, that a model supported by QCS, QLD Treasury, the Market Led Proposals Secretariat and DATSIP* had been proposed for Courts to use as an alternative to juvenile detention centres? **Note:** *The model, had it been implemented as recommended, would have greatly reduced juvenile detainee and prisoner numbers, particularly for First Nations people,*

improved rehabilitation, and strengthened First Nations and other disadvantaged Communities;

**Bidjara Community and Goorathuntha Traditional Owners Pty Ltd MLP*

- ☐ Is it reasonable to expect that Accountable Officers, should have known that grossly exceeding design capacity of facilities **was not an option to be countenanced due to ‘Duty of Care’ risks that cannot be adequately mitigated in these circumstances**, and in a worst case can lead to loss of life? and,
 - ☐ Why did Accountable Officers, in spite of alternative, effective options to overcrowding being available, not take steps in advance of overcrowding occurring to plan to implement these alternative options, including seeking formal approval from their Ministers to do this?
 - ☐ Did Accountable Officers sufficiently monitor the regularity and appropriateness in the delivery of health care provided in the overcrowded Facilities? Specifically, the ability of the health professionals to monitor the incarcerated adult prisoners and detained children’s risk of self-harm and suicidality; drug withdrawal and treatments associated with pre-admission incidents, as well as conflict within the centre. The absence of full operational staffing on any given day, suggests that the delivery of sufficient, professional health care delivery, monitoring and counselling would be intermittent and insufficient. The same queries would arise in terms of the appropriate delivery of education, access to family and legal visits, art and music therapy, sport and rehabilitation programs.
22. Given the operational failures we have outlined above, we are very concerned that a potential *catastrophic event* could occur at any time, and having regard to the above questions it is our view that a Coronial Inquiry may find the causes to be **indefensible**.
23. Committee Members will be aware that there was another *Black Death in Custody* in the [REDACTED] on [REDACTED] [REDACTED]. It will be instructive to know if this First Nations man began his incarceration history in juvenile ‘justice’. It begs the question: *How many more?*
24. On 24 April 2020, Ms Keelen Mailman AM, Bidjara Traditional Owner and Keith Hamburger AM provided a submission to the then Hon the Deputy Premier and to the Deputy Under Treasurer alerting them to the potential for a **catastrophic event** due to overcrowding of prisons and suggesting a course of action. We understand this submission was passed on to the Hon the Minister for Corrections. We are not aware of what action was taken in relation to this submission.
25. We remain concerned that our well-founded warnings relating to ‘Duty of Care’ and the potential for a *catastrophic event* do not appear to have been acted upon. Accordingly, we provide the following recommendation.

RECOMMENDATION No 5

*That the Parliamentary Committee **immediately** informs the Hon, the Premier, the Hon the Treasurer, The Hon. The Attorney General, the Hon the Minister for Corrections, the Hon the Minister for Youth Justice and the Hon the Minister for Aboriginal and Torres Strait Islander Partnerships of the ‘Duty of Care’ issues particularized in this submission for their urgent attention, having regard to the potential for loss of life and serious legal consequences that could accrue should this occur.*

26. Given that we, the authors of this submission to the Parliamentary Committee remain very concerned relating to ongoing ‘*duty of care*’ issues in adult prisons and in juvenile detention centres, that potentially could result in a **catastrophic event leading to loss of life**, we prepared a presentation to the recently appointed Commissioner for Corrective Services suggesting a course of action. **With Elders Cultural Authority**, Keith Hamburger AM met with the Commissioner on Monday 15 November 2021 and discussed this presentation.

Keith Hamburger informed the Commissioner that, as a matter of urgency, in conjunction with advice from his senior officers, he should form a view as to the validity of the assertions made in the presentation. If he and his senior officers believe the assertions are valid then clearly urgent mitigation steps are required to avert the likelihood of a *catastrophe*. In this event, we suggested the following Steps in our presentation:

Step 1:

27. Commissioner immediately (desirably, within days) prepares a ‘*frank and fearless*’ report to the Minister for Corrections advising of **his inherited, current perilous circumstances in QCS’s High Security prisons**, due to the failures covered in our presentation. His report should include the following:

- ☐ The potentially *catastrophic circumstances* that could arise in the foreseeable future due to extreme prison overcrowding that has significantly degraded the safety of prisons’ operating models for staff, visitors and prisoners;
- ☐ That he is taking steps to consult closely with each prison Superintendent, officer representatives and with key external stakeholders and in particular First Nations Elders, relating to short term measures to mitigate current adverse circumstances;
- ☐ The need for a whole of government response to this with lead agencies being, in the first instance, QCS, DATSIP, Youth Justice (YJ) and Treasury. To this end the Commissioner will consult with DATSIP, YJ and Treasury to achieve a *joint agency* submission to government for a staged approach with short term circuit breakers within adult prisons and YJ Detention Centres and with recommendations for mid- and longer-term initiatives, including initiatives driven by DATSIP’s **Local Thriving Community Model**;

In this ‘*frank and fearless*’ advice, the Commissioner should advise the Minister that:

- ☐ There is an apparent mismatch between the prisoner and youth detainee demographic and QCS and YJ’s infrastructure stock. Therefore, the *joint agency* submission including YJ and Treasury will

likely flag the need for changes to forward estimates planning for infrastructure. Such changes will be founded in cost benefit analysis of 24/7 supervised rehabilitative alternatives to secure prisons and youth detention centres, **including a Kinship Caring System**, for a large proportion of prisoners and youth detainees, particularly for First Nations people*;

*** Nature and role of these alternatives discussed later in this submission.**

- ☐ The Commissioner will discuss with DATSIP and YJ options for finding funds within their 3 budgets to fund the cost benefit analysis of alternative 24/7 supervised options in a number of *'Trial Communities'*, including consultancy costs, and discuss this with Treasury should additional funds be needed;
- ☐ That a *joint agency submission* will be provided to relevant Ministers within one month of approval to proceed as above, outlining a staged approach with short term circuit breakers within adult prisons and YJ Detention Centres **aimed at avoiding a catastrophic event** and with recommendations for mid- and longer-term initiatives. The *joint agency submission* will be founded in the following sources of information, and including advice from First Nations Elders, that will inform the recommendations for mid- and longer-term initiatives:
 - A Market Led Proposal (MLP) to the QLD Government, Stage 1a Proposal to Reduce Aboriginal & Torres Strait Islander People's Contact with the Criminal Justice System including Imprisonment, Bidjara Community and Goorathuntha Traditional Owners Pty Ltd, 17 March 2017;
 - The QLD Productivity Commission's (QPC) Report of their Inquiry into *Service delivery in Queensland's remote and discrete Indigenous Communities* on 22 June 2018;
 - A submission to the Queensland Productivity Commission (QPC) on the Draft Report: Inquiry into Imprisonment and Recidivism – February 2019, Keith Hamburger AM;
 - QPC's Report of their *Inquiry into Imprisonment and Recidivism* – August 2019
 - DATSIP's Local Thriving Community Model;
 - Local Thriving Community (LTC), Model, in development by South East QLD First Nations Elders Alliance, 2021;

28. Advise the Hon the Minister for Corrections that:

Commissioner intends to immediately establish a team, led by a Senior QCS Officer, to commence developmental work on the *joint agency* submission and to work with officers from Youth Justice and Treasury, without delay/when they become available, to finalise the submission to Ministers. The following three people are available to support this Team if the Commissioner so desires:

- ☐ Professor Boni Robertson: See CV Page 2 – Submission Authors;
- ☐ Keith Hamburger AM: See CV Page 2 – Submission Authors;
- ☐ Dr Mark Rallings is a Professorial Research Fellow, Swinburne University of Technology and currently holds Adjunct Professor appointments at Griffith University and the University of Queensland. He is a former Commissioner of Queensland Corrective Services, with nearly 15 years

corrections experience in Queensland and the UK. He is a QLD Patron of the Justice *Reform Initiative*.

29. The Commissioner advised Keith Hamburger that he would give consideration to matters covered by the presentation in paragraphs 27 and 28 above and hold discussions with the Director Generals of Youth Justice and DATSIP and with the Under Treasurer.

30. In concluding this Section on '*duty of care*' we cannot stress enough the extreme urgency of implementation of the steps we have suggested above to the Commissioner, Qld Corrective Services. Loss of life in Youth Detention Centres and or in adult prisons, in the current terrible operating circumstances, that we believe do not pass the '*duty of care*' test, will be devastating for victim/s and their families, but also for public officers should they be found culpable for the circumstances that caused the deaths. There is also potential for significant financial loss for government in the event of destructive activity in detention centres and prisons.

SYSTEMIC FAILURES IMPACTING ON YOUTH JUSTICE AND ADULT CORRECTIONS

31. QLD and other Australian Jurisdiction's Justice Systems are not founded in the Principles of Restorative Justice and Justice Re-investment

Note: *The following section of this submission has been extracted from a paper, Restorative Justice: Victims and Offenders: In the Context of Developing a National Approach to a Best Practice Response to Social Breakdown and Crime in Australia, Keith Hamburger AM (Paper first published September 2006, with statistical data updated January 2015.)*

This section on systemic failures is included to provide an understanding of the significant drivers of juvenile and adult crime and a framework to address the causes of crime that is relevant to the recommendations we make later in this submission.

32. Restorative Justice and Justice Re-investment principles have been applied over many years in Northern European States achieving world's lowest imprisonment rates for juveniles and adults. In Australia we have not re-engineered our Justice Systems to follow this approach, even though its social and economic benefits are well known. It would be interesting to know whether the Heads of all relevant government agencies in QLD have ever given *frank and fearless advice or any advice or recommendations* to their Ministers concerning this model.

33. German criminologist Dr Christian Pfeiffer, who during the early 1990's was Director of the Lower Saxony Criminological Research Institute, has said that the higher order role of the criminal justice system is '*to contribute to keeping peace in our society*' as opposed to the commonly held notion that the criminal justice system exists to '*punish offenders and through punishment deter offending behavior*'.³

Pfeiffer says by adopting this higher order role for the criminal justice system, it opens up a range of proactive, positive and cost-effective options for policy makers to consider to reduce offending behaviour and strengthen social cohesion as opposed to our current model which is largely driven by the **punishment imperative**. Consequently, our current Australian model is reactive, negative

³ Discussion between Keith Hamburger AM and Dr Pfeiffer, Hanover, Germany, 1991.

and not cost effective. He provided examples of proactive child developmental initiatives involving cross agency collaboration, rather than punitive interventions.

- 34.** If it was possible to punish crime away, the United States of America would have one of the lowest crime rates in the world. They have capital punishment. They have very long prison sentences as compared with those handed down for comparable crimes in Australia, relatively harsh prison conditions as compared to those in Australia and the highest imprisonment rate of any country included in the *World Prison Population List (2016 figures)*.

There is a stark difference between the imprisonment rates in northern European countries and that of the USA. When Keith Hamburger attended a correctional administrator's conference in America during the 1990's he was provided with information relating to:

- The horrific murder rate by world standards and high crime rates generally;
- High youth suicide rates;
- High rates of family breakdown and dysfunctional families;
- Over representation of African American people in prisons and in the criminal justice system generally; and
- Massive substance abuse problems.

He was advised that in some States the corrections budget equaled or exceeded the State's education budget, an appalling outcome that reflects seriously failed social and criminal justice policies.

- 35.** As a starting point we need to achieve broad political agreement as to where the balance should be in our various responses and initiatives in crime prevention. At State elections the issue of *Law and Order* is part of each major party's policy platform. No major political party wants to position itself so that its opponents can label it as soft on crime. Accordingly, at election time and in between elections, in the face of increasing social breakdown, more crime and sensational reporting of horrific crime, our political leaders make stern-faced announcements in an attempt to give assurance to the community.

- 36.** They promise more police, more resources for police, more judges to reduce court backlogs, longer prison sentences -including restricting the autonomy of judges in sentencing; more restrictions on phased release of prisoners which is to the detriment of the rehabilitation process thus increasing recidivism and crime; and increasing expenditure for more prison cells.

- 37.** We hear politicians and other commentators talking of the need to punish criminals not only for their own misdeeds but also as a deterrent to like-minded people, of the need to protect society from criminals, of the need to mount a *war on drugs* - and the rhetoric goes on. The misguided logic for this position is that *if we have enough well-trained and well-equipped police to catch most of the criminals and if the courts were tougher and we can take criminals off the street for long enough and if corrective services ran prisons, not motels, then we will have a safer community.*

Further, if the punishment inflicted on criminals is harsh enough it will deter others from becoming criminals. Thus, through an efficient and tough criminal justice system we will be able to largely punish crime away.

38. Sadly, the Australian political debate on the law-and-order issue has placed too much expectation on the capacity of the criminal justice system to reduce crime through punishment. Consequently, political and public attention and considerable public resources are being directed into reactive back-end options after the crime has occurred (i.e. police, courts and prisons) with far less than appropriate attention and funding being given to front end options that could prevent crime from occurring in the first place.

It is our position that when a social system is in decay and the political, public service and community focus is not on the underlying causes of this decay, then the criminal justice system will not be able to maintain *peace in our society*.

39. The criminal justice system will lose the respect of the community as it fails to meet the expectations set by our politicians for it to curb crime. We have seen many examples of this in recent years, where citizens, *shock jocks* and media have attacked the judiciary over sentencing practices and prison administrators for alleged *soft conditions* for prisoners thus weakening the community's respect for the efficiency and effectiveness of the criminal justice system.

40. The widely-held notion that we can punish crime away has its genesis, possibly, in the fact that the significant proportion of Australians in the 50 years plus age group can reflect on a childhood and young adulthood where there was less crime. We often hear comments such as, '*if I stepped out of line the local copper gave me a good kick up the backside and sent me home to dad where I got a clip around the ear and I didn't do that again*', or '*I went into National Service, a bit of good old army discipline, that really made a man of me*'.

41. They extrapolate from these experiences to the view that a bit of good discipline or stern punishment is what thugs/ criminals need to put them on the *straight and narrow* and therefore stricter discipline/ punishment will go a long way towards curing dysfunctional and criminal behaviour in society.

42. The problem for this line of thinking in considering broader social and justice policy is that the great majority of people, who have been and remain the law-abiding people within our community, come from loving and supportive family environments where discipline is imposed on children in an appropriate manner within that loving and supportive environment. The great majority of us in our formative years would have received more pats on the back than kicks up the backside and when we got our *kicks* or discipline it was appropriately applied and we understood it in the context of our total environment.

43. In considering policies and action to reduce crime and to make our community safer, we need to start with an understanding of the social demographics of the people who form the criminal sub culture in our society. These people mostly do not come from loving and supportive families. They mostly come from dysfunctional, impoverished and possibly abusive families where some or all of the following apply:

- ☐ Disagreements are dealt with by screaming and by violence;
- ☐ Child discipline is grossly inappropriately applied;
- ☐ Child health and nutrition is neglected;
- ☐ Substance abuse is a fact of life for family members;
- ☐ Children can be sexually abused;
- ☐ Children are not nurtured and appropriately socialized in their early formative years;
- ☐ Lack of parental commitment and or finances result in children being disadvantaged in relation to resources and activities that more fortunate children take for granted;
- ☐ No support with the trials and tribulations of school life;
- ☐ Adult carers maybe working extended hours or incarcerated for long periods of time.

44. These are the children that classroom teachers, commencing with pre-school teachers, across Australia can identify as our future criminals. These are the children, who come to school without breakfast, who show evidence of physical and emotional abuse, who don't have clean or appropriate clothes and who have it reinforced to them on a daily basis that they are different, that they are inferior. The Australian school classrooms and playgrounds become the bleeding edge of society for these children. They become disruptive in the school environment, they fail to cope, they truant, they drop out and many become the clients of the criminal justice system.

45. When these kids are truanting, vandalizing, committing petty crimes, a good kick up the backside by the *local copper* would have no positive effect - they have had far worse at home, and it would only reinforce the rest of the negativity in their lives. The threat of jail is of no concern; quite often they have visited Dad or Mum or other family members or associates in jail. Jail for many is part of their normal life experience.

Queensland Parole Board case files will show that a significant proportion of serious offenders come from dysfunctional, neglectful and abusive family backgrounds. This is not to excuse their crimes, but in the context of this submission, to provide some explanation of factors underpinning their behaviour.

46. We believe each of us needs to reflect on where we might have ended up today if we had been subjected to gross neglect and abuse as a young child. Some survive the physical and emotional trauma but most do not. They end up on the conveyor belt of the criminal justice system and, after causing considerable grief and cost to society, are deposited in big expensive bins called prisons to be "*rehabilitated*".

47. In this regard to achieve better understanding of the challenge we are facing it is useful to consider the following demographics of the Australian prisoner population (2015 figures):

- ☐ At least 50 per cent of the prisoner population is aged under 34 years⁴;

⁴ Australian Bureau of Statistics, above n 3.

- ❑ Prisoners with an intellectual disability are vastly over-represented in prison populations, with estimates of the prevalence of intellectual disability being 1.5 per cent to 29 per cent in prisons and 0.3 per cent to 3 per cent in the general population⁵;
- ❑ In Queensland 32 per cent⁶ (**higher now**) of the prison population is First Nations, compared with their representation of just over 4 per cent of the State's population⁷;
- ❑ The national rate of adult imprisonment for First Nations persons is 2,755 per 100,000, an increase of approximately 36 per cent since the December quarter of 2005⁸ **Note: The USA has the worst imprisonment rate in the world of around 1,000 per 100,000 of population. The figure of 2,755 per 100,000 of population for our First Nations people, most likely makes First Nations people (one of the oldest cultures on the planet), the most imprisoned people in the world. This is stark evidence of the tip of a horrific social, economic and criminal justice nightmare that is shameful for our great country. It is made more shameful that, as pointed out earlier in this submission, proposals by Elders to end this shame have been ignored and disrespected;**
- ❑ Some 60 per cent of prisoners are not functionally literate or numerate⁹;
- ❑ A high proportion suffers from mental illness. A 2009 study in NSW found that 49 per cent of prisoners had reported an *"emotional or mental problem"*. Female prisoners made up the majority with mental health issues at 54 per cent, with 45 per cent of females suffering from depression; 13 per cent suffering from manic depressive psychosis; and 9 per cent suffering from schizophrenia¹⁰;
- ❑ The aforementioned study also found that 30 per cent of prisoners were placed in care before the age of 16 years due to family breakdown, abusive parents and drug and alcohol problems¹¹;

⁵ Shasta Holland et al., *Intellectual Disability in the Victorian Prison System: Characteristics of prisoners with an intellectual disability released from prison in 2003-2006* (2007), 9. <

http://assets.justice.vic.gov.au/corrections/resources/0423a0c6-958e-4847-904a-61032a59a7d9/intellectual_disability_in_the_victorian_prison_system.pdf >

⁶ Australian Bureau of Statistics, above n 3.

⁷ Australian Bureau of Statistics, *Estimates of Aboriginal and Torres Strait Islander Australians, June 2011– 3238.0.55.001*, 20th January 2015

⁸ Australian Bureau of Statistics, above n 3.

⁹ Eileen Baldry, *The Booming Industry: Australia Prisons* (2008), 4. <

http://www.nobars.org.au/downloads/Baldry_Debate.pdf >

¹⁰ Devon Indig et al. *2009 NSW Inmate Health Survey: Key Findings Report*. (2009), 135.

< <http://www.justicehealth.nsw.gov.au/publications/2009-ihs-report.pdf> >

¹¹ *Ibid*, 30.

- ❑ A 2008 study of 199 female prisoners in NSW found that 59 per cent had experienced some form of sexual coercion or violence in their lifetimes¹². Other estimates suggest rates of up to 90 per cent for females, with the majority of abuse occurring in childhood¹³;
- ❑ 92 per cent of prisoners are male. (Males are 12 times more likely to be in jail than females)¹⁴;
- ❑ An increased incidence of foetal alcohol syndrome and acquired brain injury in First Nations children, inevitably results in increased incarceration rates¹⁵.

48. In a chilling pointer to the future in so far as crime and imprisonment rates are concerned, Brisbane's daily paper the Courier Mail in articles on August 2nd and 8th 2006 reported on "*Child Abuse Files of Shame*". Many of the children living in 'out of home care' had endured multiple placements and it was reported that the predicted outcome of this would be 'reduced health status, lower education levels, a lack of stability in future relationships and a higher incidence of imprisonment, drug abuse and mental health problems'.

49. In the most recent assessment (*following statistics are as at 2015*) by the Australian Institute of Health and Wellbeing (2012-2013)¹⁶, a total of 24,763 notifications of child abuse were investigated by authorities in Queensland. Of these 7,149 were substantiated with in the order of 1/3 of these being First Nations children. The First Nations figure is disproportionally high given First Nations representation in the State's population of around 4%. Sadly, experience in these matters tells us that these figures would most likely understate the total number of neglected and abused children. This is a significant ticking time bomb that will explode into an adult crime wave as this cohort group moves into its teens and early adult years.

50. Prisoner case files show that the significant proportion of these young people who come to prison after their 18th birthday did not suddenly decide to become an adult offender at this stage of their life. The evidence is that they come from the previously described social demographic of the dysfunctional family involving child neglect and abuse, under-achieving at school, poor peer group association and anti-social and or criminal behaviour as a juvenile. Disturbingly, a significant proportion has a background of mental illness. A grossly disproportionate number are First Nations people.

51. Therefore, if we consider a cohort group of neglected and abused children in the age range of one to seven years, the critical developmental years according to child psychologists, then we can expect this group to begin impacting on crime and imprisonment rates in the out years 11 through

¹² Richters, Juliet et al., *Sexual health and behavior of New South Wales prisoners*. (2008), 21. <
https://sphcm.med.unsw.edu.au/sites/default/files/sphcm/Research/Sexual_Health_NSW_Prisoners.pdf >

¹³ Hayley Clark and Bianca Fileborn, 'Responding to women's experiences of sexual assault in institutional and care settings' (2011) 10 *ACSSA Wrap*, 6-7 <
<http://www.aifs.gov.au/acssa/pubs/wrap/wrap10/w10.pdf> >

¹⁴ Australian Bureau of Statistics, above no 3.

¹⁵ <https://www.aic.gov.au/sites/default/files/2020-09/CRG-35-1415-FinalReport.pdf>

¹⁶ Australian Institute of Health and Welfare, Child Protection Australia 2012- 2013, Child Welfare Series No 58, Tables A5 Page 71, A6 Page 72 and A8 Page 75

17. This means that when we look at today's imprisonment and crime rates in Australia, we are looking at the consequences of social policy settings that were in place around two decades ago.

52. There is a frightening scenario for Australia, working with the figures quoted previously relating to neglected and abused children. That is, we already have a very large number of young Australians in at risk life circumstances where a significant proportion of this number are very likely to become involved in the criminal justice system, with all of the resulting grief for victims and cost to society. That is, today's approach to social problems has hard wired in an increasing crime and imprisonment rate for the next two decades, unless we can implement a circuit breaker.

53. Dr Pfeiffer, referred to previously, advised that in the decade following the Second World War a number of Northern European countries came to the conclusion that:

- ☐ To reduce social breakdown and crime, societies need to place emphasis on good social policy that protects and nurtures children and facilitates optimal development of their potential;
- ☐ The functioning of the criminal justice system should reflect the higher order goal of *keeping peace in society* and therefore should fulfill its *punitive* function within a *restorative* framework that seeks, if possible, to restore something to the victim, restore something to society if appropriate and if possible, restore the offender to a law-abiding lifestyle, that is, a *restorative justice* model;
- ☐ There is a time lag between implementation of social policy impacting on young children and the assessment of outcomes on their adult lives;
- ☐ There is a need for a 15-year business plan driven by government that takes a whole of community approach. The plan must be based on objective data on the current cost of crime, the extrapolated cost of crime over the life of the plan under current policies and the expected savings and benefits to be achieved over the life of the plan due to proposed policies and initiatives. Key achievement milestones can be assessed in line with the ongoing election cycle;
- ☐ The development of such a plan requires high level conceptual input from across a range of disciplines including economists, criminologists, social demographers, sociologists, educationalists, child and family psychologists, correctional, police and family welfare practitioners, judges, the legal profession and politicians. (In the Queensland context, this would include First Nations Elders); and
- ☐ There is a need to achieve community understanding and support for the appropriate balance between good social policy and the role and outcomes of the criminal justice system as reflected in the business plan. This is achieved through factual information being disseminated by governments, elements of the criminal justice system, community support agencies and academia concerning:
 - the underlying causes of crime and social breakdown;
 - statistics showing what is occurring and where and trends; and
 - information concerning world's best practice in addressing these issues, including what works and what does not work.

54. The Australian Institute of Criminology has estimated the total cost of crime to the Australian community as being in the order of \$47.6 billion per year.¹⁷ (2011 estimate- much higher now) In addition there is the associated degradation of the quality of community life and community assets and the personal loss, injury and grief caused to individuals. **With, potentially more than \$50 billion per year on the table surely this justifies the attention of government in terms of encouraging development of a business plan to claw some of this money back, even leaving aside the social and personal benefits for citizens.**

Changes in imprisonment rates do not necessarily reflect changes in crime rates. However, appropriate initiatives can reduce both crime and imprisonment rates resulting in massive bottom line budget savings over time as well as a safer community with an enhanced quality of life.

RECOMMENDATION No 6

That in formulating any legislation relating to Queensland's criminal justice system, the Queensland Parliament should have regard to the Northern European experience where the justice system is underpinned by Restorative Justice and Justice Re-investment principles and the role and focus of the criminal justice system is seen as 'to contribute to keeping peace in our society'.

FAILURE BY YOUTH JUSTICE TO GIVE ADEQUATE CONSIDERATION TO FIRST NATIONS INITIATIVES FOR ALTERNATIVES TO CURRENT INFRASTRUCTURE AND OPERATING MODEL

55. We have documented evidence of proposals as far back as 2015 proposing alternatives to Youth Justice to the ineffective and damaging approaches for problematic children that were never taken up. This is despite strong support from the then First Nations Board within the agency.

56. On 12 July 2019, representatives of Silver Lining Foundation Australia (SLFA) met with senior officers of the Department of Youth Justice. SLFA is a First Nations Charity, a company limited by guarantee and is an endorsed charity recognised as a Public Benevolent Institution (PBI). For over 19 years, SLFA has provided education, training and jobs for Aboriginal and Torres Strait Islander people throughout Queensland. SLFA is an accredited provider of Special Assistance Schools.

57. The agenda for the meeting was for SLFA representatives to make a presentation, supported by community leaders from Bidjara, Birri Gubba, Gangulu, Wakka Wakka, Gubbi Gubbi, Nywaigi, Goreng Goreng, Warrgamay, Djankun, Bindal, Ewamin, Gugu-Badhun, Jaggera, Kalkadoon, Quandamooka, Yugambeh-Mununjali, Yidinji, Kooma, Warrungnu, Jirrbal, Gulnay, Djiru, Banjin and Girramay, Wulgurukaba and Manbarra. The presentation had the endorsement of:

- ☐ Mr Mick Gooda, Gangulu man, former, Social Justice Commissioner AHRC and Commissioner on Royal Commission into Care and Protection of Children in NT; and
- ☐ Ms Jackie Huggins AM FAHA, Birri-Gubba Juru woman, Co-Chair, National Congress of Australia's First Peoples, historian and Aboriginal rights activist

58. The meeting was provided with a Power Point Presentation outlining a pre-cursor of the model recommended later in this submission and an offer by the SLFA and Keith Hamburger AM to work in co-design with Youth Justice, DATSIP and QLD Corrective Services officers to develop the

¹⁷ Russell G Smith et al., *Counting the costs of crime in Australia: A 2011 estimate*. (2011), 76.
http://aic.gov.au/media_library/publications/rpp/129/rpp129.pdf>

proposal, including pilot projects, to a costed Cabinet submission stage for agreed locations, with a plan and time table to expand the concept across QLD as the Pilot Projects mature and succeed.

59. Unfortunately, the response by the senior public servants present was underwhelming. As far as we are aware our proposal has not been given any further attention by the agency, nor have the First Nations organisations involved been given the courtesy and respect of feedback on the proposal.

60. On Tuesday 1 June 2021, Keith Hamburger AM met with the senior officers of the Department of Youth Justice to discuss the model for reform outlined later in this submission. Mr Hamburger informed these officers of his opinion that existing Youth Detention Centres were ineffective and inhumane and should be phased out. He suggested consideration of a reform model that had the support of First Nations Elders. Mr Hamburger was given an undertaking that his views would be raised with the Hon the Minister for Youth Justice and they would get back to Mr Hamburger. To date Mr Hamburger has not received any further communication from the Department of Youth Justice.

61. Had formal proposals by First Nations people from as far back as 2015 been taken up, we have no doubt that Youth Justice would not be in the parlous situation it is in today, Elders in communities would have agency to deliver justice and rehabilitation services to their people, many meaningful jobs for First Nations people would have been created in communities, many young people's lives would have been improved and / or saved, fewer First Nations people would be warehoused in the adult correctional system, youth crime would be less, and millions of taxpayer's dollars spent on ineffective detention centre infrastructure and operations would not have been wasted.

62. In our introduction to this submission we stated that *"the one fundamental pre-requisite to overcome the awful circumstances of First Nations people in QLD and Australia, as evidenced by our shocking over representation in juvenile detention centres and prisons, is for Ministers of the Government and bureaucrats at all levels to show genuine respect and recognition for the cultural authority, knowledge and wisdom of our respected First Nations Elders by restoring our agency to lead our people to a better place."*

63. Sadly, above evidence and other evidence in this submission demonstrates that we - the Elders of First Nations communities - are disrespected and not heard by government institutions in our own land, to the great detriment of our people". **This must change.**

The above are not isolated examples of dismissive treatment of proposals submitted by highly respected First Nations people to improve the circumstances of our people, while saving money for taxpayers and making QLD safer.

SOME HISTORY RELATING TO THE MODEL WE ARE PROPOSING

64. The model we are recommending has been developed over many years, from as far back as 2006 when Keith hamburger AM and Debbie Kilroy AM of *Sisters Inside* made a presentation to the Parliamentary Public Works Committee opposing the then government's intention to build a 4,000-bed secure prison at Gatton. They advised the Parliamentary Committee that the then Minister's announcement that the prison was required to meet a projected increase in prison population of

90% over the next decade through to 2016 was, in effect, *a government planning for the failure of our social system*.

65. That is, the Minister was asserting that the functioning of our society would fall into such disrepair that we would need 90% more secure prison cells in 10 years' time and the government was happy to spend billions of dollars on prisons, rather than invest much less in front end options to greatly reduce the social problems causing crime.
66. Interestingly, relevant to the above, Keith Hamburger, when Director General of Corrective Services visited Holland in the early 1990's to study corrections, he was told by his counterpart that when the Corrections Department was receiving increased prisoner numbers and approached the government for funds for more cells, they were refused. The Government advised the Department that it was their responsibility to work with other agencies to reduce the causal factors of crime so they would not need more cells. Some creative and effective options were developed, in lieu of more prison cells.
67. Debbie Kilroy and Keith Hamburger presented the Committee with an earlier version of the model we outline later in this submission, that would have averted the need for more secure cells, provided alternative 24/7 supervision and rehabilitation options for offenders at much less cost to government, strengthened First Nations communities, reduced crime and recidivism.
68. The Parliamentary Committee was impressed with the model and recommended to the government that it should be subjected to a cost benefit analysis prior to the government proceeding with their proposal to invest in a 4000-bed high security prison. The government of the day did not accept the Parliamentary Committee's recommendation and proceeded with the first stage of this prison. Successive governments, presumably acting on the recommendations of their public servants, have continued to increase the construction of **unnecessary** high security cells across Queensland for adults and juveniles.

In relation to the above, Keith Hamburger checked QLD prison daily state numbers in 2016, 10 years later, and found that indeed the Minister's prediction of an increase in QLD's prison daily states by 90% had been very accurate. His memory is that the prediction was out by 16 prisoners.

69. The terrible consequences of the decision not to conduct a *Cost Benefit* analysis of the alternative proposal to prison cells in 2006, is that the awful circumstances in many First Nations and other disadvantaged communities have not been addressed, as we assert, they would otherwise have been. Many hundreds, perhaps thousands, of lives have been lost across communities over the past 15 years because these circumstances were not addressed, crime has gone on unchecked, prisons are now grossly overcrowded by prisoners **who can be accommodated and rehabilitated in less costly accommodation than secure cells**. In addition, billions of dollars of taxpayers' funds have been wasted on the construction of secure prison cells **that were not needed**.
70. The QPC *Report of its Inquiry into Imprisonment and Recidivism*, August 2019 has identified the need for policy change. It makes recommendations and offers advice relating to initiatives that could cost effectively reshape QCS's infrastructure and operations to facilitate reduced recidivism and crime. It notes that the QLD Government will need an additional \$1.9 to \$2.7 billion by 2025,

above the \$861 million already committed, for additional prison cells. (Page XXVI of *The QPC Report*). The QPC Report provides recommendations aimed at obviating much of this predicted spend. Given financial circumstances post COVID-19, if these savings can be achieved, they will be timely for other high priority government needs.

71. The above QPC report made many very important recommendations, including:

“Recommendation 2

The Queensland Government should establish an independent statutory body (the Justice Reform Office) to improve the efficiency and effectiveness of the criminal justice system. Its key responsibilities should be to:

- approve policy and budget submissions from the core criminal justice sector agencies prior to submission to Cabinet and Cabinet committees*
- oversee justice system reforms*
- provide advice to government on priority criminal justice policy issues*
- lead and support evidence-based policy-making. The office should be responsible to a board that includes representation from each of the core criminal justice agencies and independent members. The independent members on the board should have a voting majority. Overview Queensland Productivity Commission xlvii*

Recommendation 3

The Queensland Government should require the Justice Reform Office to undertake the following specific tasks within 24 months of its establishment:

- ☐ *develop common performance objectives and indicators across the core criminal justice agencies, including targets for – reducing offending and reoffending rates – reducing Indigenous incarceration*
- ☐ *develop mechanisms for allocating resources to support system objectives*
- ☐ *develop systems to provide accurate and timely data to support decision-making, and improve transparency and accountability*
- ☐ *develop modelling that promotes understanding of how policy and other proposals are likely to impact across the system*
- ☐ *develop a framework to ensure criminal justice related programs and activities are adequately and consistently evaluated. Recommendation 4 The Queensland Government should introduce a justice impact test to ensure that decision-makers are informed of the full impacts of policy proposals. This test should assess:*
- ☐ *all costs and benefits of the proposal*
- ☐ *impacts on key stakeholders, including community members, government and community agencies*

- ☐ *alternative options. The justice impact test should be undertaken by the Justice Reform Office and should involve public consultation and reporting. Reduce the scope of criminal offences*

Recommendation 4

The Queensland Government should introduce a justice impact test to ensure that decision-makers are informed of the full impacts of policy proposals. This test should assess:

- ☐ *all costs and benefits of the proposal*
- ☐ *impacts on key stakeholders, including community members, government and community agencies*
- ☐ *alternative options. The justice impact test should be undertaken by the Justice Reform Office and should involve public consultation and reporting*
- ☐ *Reduce the scope of criminal offences*

Recommendation 5

The Queensland Government should seek to remove those activities from the Criminal Code Act 1889 and other relevant legislation for which the benefits of being included do not outweigh the costs. When assessing whether an activity should be redefined, consideration should be given to:

- ☐ *the extent to which the activity causes harm to others and the nature and level of that harm*
- ☐ *whether the use of criminal sanctions imposes costs on offenders that are proportionate to the harm caused to others*
- ☐ *whether the act of criminalisation creates more positive effects for society than negative ones—this should include an assessment of deterrence and any unintended consequences that might cause harm*
- ☐ *whether there are other, non-criminal options that might better prevent harm*
- ☐ *whether criminalisation undermines public perception of the legitimacy of the law. The government should assign a suitable body, such as the Queensland Law Reform Commission, the task of reviewing the stock of criminal offences. The review should also recommend removing those offences where an alternative approach to the criminal law is likely to provide better outcomes.”*

72. The QPC’s report was submitted to the Queensland Government on 1 August 2019. There is no evidence visible to us, after almost two- and one-half years since the QPC report, of action being taken in relation to critically important recommendations that provide for significant structural reform to address the issues covered in our submission. This is despite the urgency reflected in the overall report and in submissions to the Inquiry and the devastating circumstances impacting First Nations, and other disadvantaged communities, that result in our Youth Detention Centres and prisons overflowing and all the associated ‘Duty of Care’ issues.

73. The QPC Inquiry report was conducted at significant expense to taxpayers, and also to the numerous individuals and organisations who donated their time to make submissions and appear before the Commission of Inquiry. All who made submissions to the Inquiry, and who expected that the Queensland Government would act urgently and with determination to address recommendations for structural reform of the justice system, have been left bitterly disappointed.
74. Decision makers associated with this terrible disregard for the QPC's recommendations need to walk in our people's shoes to understand the pain and distress being inflicted on us on a daily basis as we deal with justice and social systems that ***do not heal, that do not rehabilitate, destroy families and communities - take away our children's futures.***
75. Demonstrably, by ignoring the QPC's report of its *Inquiry into Imprisonment and Recidivism* and as well significant recommendations in the QPC's Inquiry into *Service delivery in Queensland's remote and discrete Indigenous Communities*, 22 June 2018 and the many submissions over the years to government, this terrible disregard has cost Queensland taxpayers **billions of dollars**, and this cost is ongoing.
76. The fact that governments since 2006, when a Parliamentary Committee was first informed of an alternative option that the Committee recommended for cost benefit analysis, and this recommendation was ignored and building secure prison cells for adult prisoners and the criminalising *and incarceration of children* has continued; *represents significant failure in criminal and social justice policy.*
77. Concurrent with tolerating adult corrections and youth justice adding to our crime rate by the failures described above, taxpayers then are required to find funds to increase police and court resources to deal with the increased crime. All the while governments ignore the ideas and initiatives of First Nations people and practitioners in the criminal justice system, they ignore recommendations of Commissions of Inquiry¹⁸ and take no account of best practice experience and the literature that demonstrates how the underlying problems driving crime can be resolved, while still protecting our society from dangerous criminals.
78. The QPC's recommendation to establish an Independent Justice Reform Office is aimed at overcoming these types of failures, **a recommendation that, in spite of the urgency of the situation, particularly for First Nations people has not been adopted.**

¹⁸ The Royal Commission into Aboriginal Deaths in Custody, 1991;

QLD Parliamentary Public Works Committee Inquiry recommendations into Proposal to build a 4,000 cell Correctional Centre at Gatton;

The QLD Productivity Commission's (QPC) Report of their Inquiry into *Service delivery in Queensland's remote and discrete Indigenous Communities*, 22 June 2018 and report of their *Inquiry into Imprisonment and Recidivism*, August 2019 and a public submission to this Inquiry by, Keith Hamburger AM, February 2019;

RECOMMENDATION No 7

*That a Justice Reform Office (JRO), an independent statutory body, as recommended by the QLD Productivity Commission's (QPC) Inquiry into Imprisonment and Recidivism, 1 August 2019 is established **as a matter of urgency**. One of its responsibilities would be to develop a Resilience Building Plan for First Nations and other disadvantaged communities for consideration by the QLD Government.*

Justification for this Recommendation:

79. One of the key responsibilities proposed by the QPC for the JRO is to “oversee justice system reforms”¹⁹. Clearly, the disaster QLD is facing in First Nations and other impoverished communities demonstrates that justice system reform is urgently required. Further, such reform must be part of a holistic approach that includes initiatives to enhance family and community resilience thus reducing crime and recidivism.

80. An All-Party Parliamentary Committee should oversee the JRO (See Recommendation No 9 below). The JRO's Board should be co-chaired by two eminent Queenslanders, one a distinguished First Nations person and the other desirably a retired Supreme Court Justice. Board membership should include First Nations Elders and people with relevant criminal justice and community development experience.

Note: Given that establishment of the JRO will require enactment of legislation and therefore delay, and given the urgency of the disaster that needs to be addressed, we recommend:

RECOMMENDATION No 8

That the JRO, with membership as described in paragraph 80 above, is established as a matter of urgency, but initially constituted as a committee, that does not require Legislation and when Legislation is enacted this Committee membership forms the JRO.

RECOMMENDATION No 9

That to facilitate effective consideration by government and agencies of reform initiatives proposed by the JRO and to facilitate multi-partisan support for government efforts to reduce the drivers of social breakdown and crime and to significantly reduce crime, the Queensland Government moves urgently to establish an All-Party Parliamentary Committee to oversee the operations of the JRO Committee initially and then the legislated JRO;

Justification for this Recommendation:

81. All electorates are impacted by crime. Thus, Members of Parliament should have a voice on behalf of their constituents in policy development in this critically important area. An All-Party Parliamentary Committee process, with multi-partisan intent is a critical first step in demonstrating commitment across Political Party lines to deal with the social and economic disaster in First Nations and other disadvantaged communities.

82. The Committee process can allow the full impact of this disaster to be aired to create public awareness and existing policies, operational models and expenditure can be critically examined, expert opinions can be sought and innovative approaches considered.

¹⁹ QPC Final Report, Inquiry into Imprisonment and Recidivism, August 2019, Recommendation 2, Page xivi

This approach will improve community understanding of the drivers of crime and how to deal with these, including best practice in rehabilitation of offenders.

A RESILIENCE BUILDING PLAN FOR FIRST NATIONS AND OTHER DISADVANTAGED COMMUNITIES

83. Across our otherwise prosperous State, many impoverished communities in QLD have for decades endured an *'out of sight'* ongoing *disaster* where families are beset by poverty and unemployment, violence (including extreme domestic violence) and substance abuse. Neglected and abused children are endemic in these communities, driving youth and adult crime. Postcodes of offenders in our prisons confirm this. The life chances of thousands of children are being destroyed. Crime is inflicting enormous pain and cost on victims and society.

84. These families and communities lack the cultural authority and agency to change their circumstances to achieve pro-social outcomes. Therefore, it is no surprise that people in these circumstances commit crimes, often against their own family members; other members of their impoverished community; or the wider community; and ultimately go to prison. After prison many return to their prior environment and so become recidivists and re-offend.

85. In a natural disaster *'in plain sight'*, e.g., cyclone, flood or bushfire, urgent rectification is enacted. This *'out of sight'* human, social and economic disaster must be treated with the same sense of urgency. Strong feeling exists in our First Nations' communities that the reason for this disaster continuing untreated, when solutions are *'in plain sight'*, relates to *'institutionalised racism'*. We believe that respect must be shown for the capacity of the many good leaders and people in our communities by empowering us to implement a governance process where we have the cultural authority and agency to deliver services to our people to lift us out of poverty and achieve pro-social outcomes. ***No more having things done to us or for us and no more about us without us!***

86. Multi-partisan agreement on policies, governance systems and operational practices to devolve cultural authority and agency to our impoverished First Nations communities can be the catalyst for a paradigm shift in the way the challenges of social breakdown, crime and recidivism are addressed. Multi-partisan support will assist greatly in encouraging informed debate and objective consideration of new initiatives to reduce crime and defusing the often uninformed and sensationalised debate about *Law and Order*.

87. What is required is a *Resilience Building Plan* for First Nations and other disadvantaged communities. It needs to be a *place-based approach* to address the impoverished circumstances in specific communities, utilising locally owned *Public Benefit Corporations (PBC's)* in conjunction with DATSIP's *Local Thriving Communities concept* to restore cultural authority and agency, such that resilience and capacity within communities is strengthened. **The PBCs will be contracted and empowered by government to take ownership of community challenges and to deliver culturally appropriate solutions.** Solutions will include culturally appropriate resilience and capacity development initiatives in each community in concert with transfer of responsibility to the PBCs for delivery of identified services currently provided by government and other agencies.

- 88.** This approach will require regional and local coordination mechanisms to re-engineer the current siloed service delivery approach by government and other agencies such that jobs are created for local people employed by the PBCs/ LTC's. Operating surpluses created by the *Not-for-Profit* PBCs through the contract arrangements will be directed back into social and crime reduction initiatives within each community. Support will be provided such that the PBCs/LTC's are '*not set up to fail*'.
- 89.** It is critical that each disadvantaged community is treated with respect. In each of these communities there are people with great capacity and ideas to improve family and community circumstances. A *facilitation* approach is essential where these people are identified, encouraged and supported to provide leadership to deliver local, culturally appropriate solutions to their local challenges. Community development is not *a one size fits all* approach. Each community has its own unique strengths. These must be identified in each place and local people supported to build upon these.
- 90.** The above model - where surpluses are directed back into the community to improve social well-being and reduce crime - is derived from experience within Australia and internationally with *Justice Reinvestment* initiatives. Creation of jobs and new local infrastructure under the model will achieve progress towards reducing poverty and creating local wealth.
- 91.** The operational framework for the above approach is in supporting documents to the Market Led Proposal (MLP) to the QLD Government by *Bidjara Community and Goorathuntha Traditional Owners Pty Ltd*, 17 March 2017, in the submissions by Keith Hamburger AM to the QPC's Final Report, Inquiry into Imprisonment and Recidivism, August 2019 and documented models arising from developmental work carried out by Keith Hamburger AM on behalf of *COOEE Indigenous Family and Education Centre*, Cleveland, QLD.

RECOMMENDATION No 10

That the JRO Committee oversees development of Resilience Building Plans in up to five (5) Trial Communities in co-design with and relevant government agencies and experts in this model. In each of these communities a locally owned Not for Profit enterprise (Public Benefit Corporation PBC) with a Board of local leaders, supported by independent expert Directors, is established. This vehicle will drive restoration of cultural authority and agency in impoverished communities. Successful trials in the up to five (5) communities will allow for a roll out of the model across QLD.

Success in these trial communities will provide evidence for the All-Party Parliamentary Committee to propose a Criminal Law (Raising the Age of Responsibility) Amendment Bill that raises the age of criminal responsibility to 18 years. While making Queensland safer, Queensland can become the first jurisdiction in Australia to cease the abhorrent practice of imprisoning children.

RECOMMENDATION No 11

That a Working Party is established to support the JRO Committee to develop the Resilience Building Plans driven by PBC's. The Working Party should be co-led by a First Nations person and a person skilled in the consulting and co-design work required in Recommendation 10. It should include a person skilled in Business Case development and First Nations people from Trial Communities and public servants from relevant agencies.

The JRO and Working Party should consult extensively with DATSIP as to the structure and operating model of the proposed First Nations PBC's having regard to DATSIP's Local Thriving Communities (LTC's) Model which potentially can auspice or be the PBC. The models developed by Bidjara and Goorathuntha and COOEE will also inform development of the proposed PBC's.

METHODOLOGY FOR DEVELOPING RESILIENCE BUILDING PLANS

92. *Resilience Building Plans* driven by PBC's will be founded in Business Cases developed by the Working Party for the transfer of responsibility for service delivery of the functions/services listed below to the PBCs **under fee for service contracts** with government, including potential commercial opportunities to create enterprises/jobs within communities for First Nations people.

93. Business Cases will include a reward system that recognises achievements by families and communities to reduce crime and increase pro-social behaviour as measured against Key Performance Indicators (KPI's). Business Cases are essential to justify the proposed model having regard to costs and benefits and provide vital information to the wider community to justify the course of action proposed.

Service delivery functions/services proposed to be transferred to PBC's in Business Cases development:

Juvenile Justice

94. Court Support Services including:

- ☐ Secure 24/7 supervised Reception and Assessment Centres – where police will take all apprehended children (up to 17 years of age) for preparation of a holistic assessment of them personally and their circumstances and a recommended Treatment Plan for Court Consideration. These would be relatively small facilities, perhaps in the order of (12) beds. Actual size would be determined in co-design with Youth Justice;
- ☐ Secure 24/7 supervised Therapeutic Treatment Facilities where Courts can place problematic children who require intensive specialised treatment – maximum number of children per facility will be small, perhaps in the order of six (6);
- ☐ Kinship Caring System – where selected First Nations people, who receive training and accreditation and are paid for their services, provide accommodation and care for children placed with them directly by the Courts. They may also receive children from the Therapeutic Treatment Facilities, where the Courts are satisfied that the child is ready for such a placement. Their role will be to feed, clothe and care for these children, ensure they attend approved schooling, engage in cultural, sporting, recreational activities, access medical services as required and facilitate family contact under approved arrangements.

Notes:

- i) Supervised Assessment Centres and Therapeutic Treatment Facilities will be located across the State in appropriate locations conducive to family and community contact. Infrastructure will be provided by First Nations' PBC's;
- ii) All therapeutic programs to these facilities will be auspiced by First Nations PBC's and delivered holistically involving family members where appropriate;

- iii) All children will attend approved education as well as cultural programs including, *cultural healing and LORE*. Education, including cultural programs to be provided either by a mix of Elders, First Nations Special Education Service Providers and or mainstream education - depending on the child's capacity and circumstances;
- iv) Courts will receive regular feedback on each child's progress and may decide to adjust the Court Order on the basis of this progress or regression;
- v) This model, with adjustments can be adapted for non-First Nations children;
- vi) Over time, with the establishment of these facilities, numbers in existing Juvenile Detention Centres will diminish until they can be phased out. Perhaps the Business Case for the model should aim to phase out existing Juvenile Detention Centres potentially within three (3) years. The savings will be enormous as well as greatly reduced crime and improved community safety;
- vii) No child will be dealt with under criminal law. Legislation may need to be amended to provide Courts with the power to place children who have committed offences in the above supervised treatment systems and monitor their progress.

Adult Justice – Non-incarceration of non-dangerous adult offenders

95.Supervised Healing and Rehabilitation Centres on Traditional Lands and in other Appropriate Locations:

- ☐ 24/7 supervised adult Healing and Rehabilitation Centres where Courts can sentence offenders to be located under a Probation Order with a *residency clause**, who otherwise would have received prison sentences of up to 12 months. (**Residency clause enforceable by the Court -an option suggested by the then Deputy Chief Magistrate to the Chief Magistrate in a meeting involving them with the MURRI Court Magistrate and Keith Hamburger AM, where the Healing Centre concept was discussed, to which they gave in-principle support for. They also made an offer to assist the government with the drafting of legislation to cover these centres, if amended legislation was required*)
- ☐ This 24/7 supervised adult Healing and Rehabilitation Centre approach will:
 - i) achieve a significant reduction in prisoner numbers eliminating the current wasteful inappropriate use of costly secure cells;
 - ii) significantly reduce the gross over-representation of First Nations people in QLD prisons and assist in achieving '*closing the gap*' targets and in implementation of recommendations of the *Royal Commission into Aboriginal Deaths in Custody (RCIADIC)*;
 - iv) Offender rehabilitation outcomes will be greatly enhanced thus reducing recidivism and contributing to less crime and fewer people in prison; and

- iv) Secure prisons will only be used for offenders who are either dangerous or serving sentences of 12 months or more. This initiative alone will save billions of tax-payers dollars over the next decade.

Notes:

- i) This initiative when proposed as part of the Bidjara Community and Goorathuntha Traditional Owners MLP had in-principle support from the then Chief and Deputy Chief Magistrates and the Murrie Court Magistrate;
- ii) It was also supported by QLD Corrections, the Market Led Proposals Secretariat, QLD Treasury and DATSIP in 2017 for Business Case development. As covered earlier in this submission it was never progressed for Cabinet Budget Committee consideration with no explanation to the First Nations Traditional Owners who presented it;
- iii) Healing and Rehabilitation Centres will be located across the State in appropriate locations conducive to family and community contact. Infrastructure will be provided by First Nations' PBC's;
- iv) All therapeutic and rehabilitation programs to these facilities will be auspiced by First Nations PBC's and delivered holistically involving family members where appropriate;
- v) Programs will cover *cultural healing and LORE*, approved education, work skills training, Education, and cultural programs. They will be provided by a mix of Elders, First Nations Special Education Service Providers and or mainstream education depending on the adult's capacity;
- vi) Courts will receive regular feedback on each adult's progress and may decide to adjust the Court Order on the basis of this progress or regression;
- vii) This model, with adjustments can be adapted for non-First Nations adults;
- Viii) Over time, with the establishment of these facilities, significant numbers of adult offenders will be diverted by Courts away from prisons. This will significantly reduce operating costs in Reception Prisons. Healing and Rehabilitation Facilities provide the missing 24/7 supervised element between prison and relatively unsupervised Probation Orders for many problematic offenders. Perhaps the Business Case for the model should aim to reduce QLD prison population by some 40% over the next three (3) to five (5) years. The savings will be enormous (a reduction in billions of dollars in the forward estimates for prison cells over the next decade), as well as greatly reduced crime and improved community safety;

Adult Justice - Community Supervision

- ☐ First Nations Court support services via community corrections in preparation of presentence reports, community supervision and mentoring of offenders;
- ☐ Implement a changed role for QCS's Community Corrections Division in its relationship with First Nations PBC's.

Community Development

96. Initiatives:

- ☐ Community wide culturally appropriate cognitive change programs to underpin an approach to develop pro-social attitudes in a significant majority of community members;
- ☐ Parental support programs relating to child care, nutrition and intellectual development;
- ☐ Cultural, sport, recreation and community pride programs;
- ☐ Driver's license and road safety training;
- ☐ Housing services and Aged Care;
- ☐ Commercial activities relevant to each community e.g. agriculture, beef cattle, fencing, weed eradication and tourism with associated work skills training programs.

97. To build family and community resilience and capacity, it is essential that all of the above services are delivered under an *umbrella* local organisation that approaches the task with *holistic* intent for service delivery, such that the interrelationships between social, educational, health, criminal justice and commercial functions work in concert towards the overarching goal of a *resilient, safe and prosperous community*. Each PBC that will fulfill this *umbrella* role could be known as a *Family and Community Hub*. As stated above, DATSIP's *Local Thriving Community Model* has great relevance in operationalising this approach.

98. There exists significant literature and experience in application of the Community HUB Model to connect at-risk individuals or populations to health and social services and improve their health outcomes where tailored *pathways* or programs are developed to connect them to needed services. This experience can be applied in developing the PBC model proposed in this paper.

99. The above vital services all provide empowerment opportunities for local leaders and members of the community to become engaged in employment that not only benefits their families but their community as a whole. The business case for provision of these services by the PBC will demonstrate that this method of service delivery will be far more cost effective than the current model.

It will overcome the existing siloed approach to service delivery by government agencies and non-First Nations Not for Profits with their combined business models that **disempower First Nations communities**.

NEED FOR LONGER TERM PLANNING

100. In paragraph 52 above we referenced Northern European experience where Dr Pfeiffer said:

"There is a need for a 15-year business plan driven by government that takes a whole of community approach. The plan must be based on objective data on the current cost of crime, the extrapolated cost of crime over the life of the plan under current policies and the expected savings

and benefits to be achieved over the life of the plan due to proposed policies and initiatives. Key achievement milestones can be assessed in line with the ongoing election cycle.”

RECOMMENDATION 12

That the JRO is charged with the responsibility for development of a long-term plan with desired Key Performance Indicators for Queensland’s criminal and social justice systems, linked to Queensland’s electoral cycle.

COMMUNITY UNDERSTANDING FOR THE NEED FOR REFORM OF THE JUSTICE SYSTEM

101. For policy changes in this contentious area of *Law and Order* to be accepted, community understanding and support is essential.

102. In the context of community support, there now exists a National Justice Reform Initiative (JRI) driven by eminent highly qualified people seeking to assist all political parties in achieving a multi-partisan approach to solutions to this critical issue of social breakdown, crime and punishment.

JRI is an alliance of people who share long-standing professional experience or knowledge of the justice system. They believe there is an urgent need to reduce the number of people in Australian jails. They are working to present a strong evidence-based case for reform to governments, that it is now time to critically examine and act on the evidence which shows that jails are failing us all.

103. Founder and Board Chair of JRI is Robert Tickner AO, former CEO of the Australian Red Cross and Commonwealth Government Minister for Aboriginal and Torres Strait Islander Affairs. Co-Patrons in Chief of the JRI are The Honourable Sir William Deane AC KBE, former High Court Justice and Governor-General of Australia and The Honourable Dame Quentin Bryce AD CVO, former Governor-General of Australia. Names of Qld Patrons of the JRI can be found on JRI’s web site

RECOMMENDATION 13

That Queensland Government agencies with responsibilities in the criminal justice system, responsibilities affecting First Nations people and responsibilities that impact on social support systems, would benefit from building alliances with the Justice Reform Initiative.

RECOMMENDATION No 14

That the JRO develops a Community Information Program for consideration by the All-Party Parliamentary Committee and the Government relating to the Resilience Building Plan for impoverished families and communities. This information program will be built around facts relating to the following issues:

- a) Evidence that crime is a terrible consequence of largely place-based challenges that create insurmountable difficulties for impoverished families and communities lacking resilience and capacity to change their circumstances. This lack of resilience and capacity in First Nations communities has its genesis in loss of cultural authority and agency;*
- b) Evidence that over investment in police and prisons is driven by the consequences of under investment in Courts, community corrections responses and in resilience and capacity building initiatives in impoverished communities. This scenario actually causes increased crime. This position*

is supported by the Queensland Productivity Commission's Report into Imprisonment and Recidivism, 2019;

- c) Evidence that a new paradigm is required, that is in effect a Resilience Building Plan, that restores cultural authority and agency in First Nations communities and rewards families and communities for achievements that enhance their circumstances and reduces social breakdown and crime;*
- d) Details of how the new paradigm will function utilising Not for Profit PBC's employing local people to provide resilience and capacity building initiatives and in delivering contracted services that direct surpluses back into communities for social enhancements and crime reduction;*
- e) Evidence of the relatively insignificant cost of the Resilience Building Plan as compared to the significant financial, social and community safety benefits from reduced crime that will accrue to Queenslanders from its implementation.*

CONCLUSION

We look forward to discussing the substance of this submission with the Parliamentary Committee. We – the First Nation People of Queensland - and the wider community, must trust each other sufficiently to walk together to build a more cohesive, safe, thriving and creative society. A society where we all can enjoy freedom from fear and personal trauma and we can live in a respectful and cohesive society, where justice is implemented in a manner that is responsible and reflective and not resistant to the principles of accountability and reform.

We appreciate that we must all endeavour to ensure that the society we live in is safe and that people are held accountable for their behaviours. However, we trust that the members of this Parliamentary Committee recognise that the mistakes of the past cannot be repeated ad infinitum - that there has to be significant circuit breakers put into place, to address the errors within our current system that have done little to prevent and deter offending in society, but in cases, has placed many people, particularly our young, on a trajectory of vulnerability, trauma and crime.

We cannot continue generating more reports; we must look to the myriad of recommendations that have been ignored thus far and adopt a new approach to implementing true justice reform. Spending more money on programs and facilities that have a proven deleterious effect on us all would be deleterious in and of itself. Too much money has been wasted and squandered on ineffective infrastructure and services over an inordinate period of time and too many lives have been lost – needlessly, with First Nations people having suffered immensely as a consequence of this terrible situation.

Governments of all persuasions over the years have committed to adopting a new approach to addressing the myriad of concerns that can lead young people into the justice system. Sadly, and concerningly, such commitments in many cases, have failed to evidence any measurable implementation, accountability, cost effectiveness and systemic change.

We are convinced that the logic, truth and justice of this submission, is soundly based - while appreciating that many of the steps needed to progress this will need to be nuanced, as implementation highlights positives, omissions and areas where we can improve.

We also accept that there will be hesitancy by some people given the significant change in direction we are proposing. We respectfully ask those who have concerns to consider **the evidence in our**

submission that demonstrates the risks of not changing our approach are far greater than risks associated with the new approach we are recommending.

The stark reality is we can continue to build more and more prison cells, criminalise more and more children, destroy more and more people's lives, and throw more good money after bad – or we First Nations people, all of the wonderful non - First Nations people who support our struggle and you - our Parliamentary representatives - can take hold of the opportunity that Mr Michael Berkman MP's proposed legislative changes have provided to chart a new course.

As we said in our introduction to this submission, we First Nations people have felt **disregard** and **disrespect** over many life times as our Ancestors and now us, their descendants, have fought for First Nations people to put meaning into the word '*justice*' in the *criminal justice system*. In good faith, we want to work with Government and the wider society to move beyond the sea of broken promises and commitments that have been made ad nauseum over many years, and witness within the system a depth of integrity and commitment that speaks to the true essence of reconciliation, justice and reform.

We will never give up on our commitment to working with Governments, industry providers and the broader community to work through the myriad of issues that to date have hindered the implementation of the true principles of justice reform. Our Ancestors never gave up and we have worked with our colleagues to honour their voices that for generations have fought for reform in the justice system, not only for our own children, but for all Australians.

We owe it to our children for them to have a good life as they grow up in our culture. As a country committed to reconciliation, we owe it to each other as Australians to work together to address the systemic flaws that have hindered us from becoming the culturally inclusive and respectful society that we claim to be. We want a society where all children, regardless of race or creed, can grow up in a world that nurtures their familial, cultural and personal capabilities, that holds them accountable and responsible, but does not place them on a trajectory of trauma, vulnerability and criminality.

We respectfully present this submission that, if accepted, will allow First Nations people to demonstrate to our fellow Australians that the basis for solutions to the extreme disadvantage endured by so many of us lies in governments, the bureaucracy and the wider community demonstrating genuine respect for our culture, the cultural authority, knowledge and wisdom of our respected Elders. Giving us agency to implement our culturally appropriate solutions as outlined in this submission will be a clear demonstration of such respect.

We believe, should your Parliamentary Committee support the recommendations outlined in this submission, that this will prove to be a cathartic step in the history of this state as it will facilitate a momentous change in the functioning and administration of the criminal justice system, not only for First Nations people in Queensland, but for all Australians.

We believe the initiatives we are proposing have the potential to be taken up across Australia, not only because it is a cost effective and meritorious segue forward in addressing the current crisis within the justice system, but also because it aligns to the principles of justice reform, reconciliation, truth telling, Closing the Gap, the UNDRIP, Thriving Communities, the Royal Commission into Aboriginal

Deaths in Custody and many other documents of note that have promised a new way of addressing the myriad of concerns experienced by First Nations people and other disadvantaged Australians.

Our cost effective, strategic, culturally respectful and innovative recommendations will facilitate a concerted commitment to *Justice Reinvestment* and holistic reform that empowers First Nations and other disadvantaged communities to create thriving environments that places our children on a pathway in life that nurtures their social, emotional, spiritual and psychological wellbeing, and equips them with the skills and resources required to avert and divert them away from negative engagement with the criminal justice system.

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