COMMUNITY SUPPORT AND SERVICES COMMITTEE

Members present:
Ms CP McMillan MP—Chair
Mr CG Whiting MP—Acting Chair
Mr SA Bennett MP
Mr MC Berkman MP
Mr JM Krause MP
Ms CL Lui MP
Mr RCJ Skelton MP (virtual)

Staff present:
Ms L Pretty—Acting Committee Secretary
Ms R Mills—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE CRIMINAL LAW (RAISING THE AGE OF RESPONSIBILITY) AMENDMENT BILL 2021

TRANSCRIPT OF PROCEEDINGS

MONDAY, 14 FEBRUARY 2022

Brisbane

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The committee met at 10.02 am.

ACTING CHAIR: Good morning. I declare open this public hearing for the Community Support and Services Committee's inquiry into the Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and the lands that we represent as members and pay our respects to elders past, present and emerging. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people, whose lands, winds and waters we all share.

On 15 September 2021, the Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021 was referred to this committee for examination, with a reporting date of 15 March 2022. My name is Chris Whiting. I am the member for Bancroft and I am substituting for Ms Corrine McMillan, the member for Mansfield, as acting chair of the committee for this morning. Ms McMillan will be joining the committee later today. Mr Stephen Bennett, the member Burnett, is the deputy chair. The other committee members are: Mr Michael Berkman, the member for Maiwar; Mr Jon Krause, the member for Scenic Rim; Ms Cynthia Lui, the member for Cook; and Mr Rob Skelton, the member for Nicklin, who is on the phone.

The purpose of today's hearing is to assist the committee with its inquiry into the Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021. I ask that any responses to questions taken on notice today are provided to the committee by 5 pm on Friday, 18 February 2022. The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to the chair's direction at all times. The media rules endorsed by the committee are available from committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings by the media and images may also appear on the parliament's website or social media pages. The program for today has been published on the committee's webpage and there are hard copies available from committee staff. I ask everyone present to turn mobile phones off or to silent mode.

Finally, in line with Queensland parliament's COVID-19 requirements, all members and visitors will be required to wear a mask during today's proceedings. Members and witnesses may remove their mask when speaking. Thank you all for your understanding.

BROOKS, Mr Philip, Deputy Director-General, Youth Justice, Department of Children, Youth Justice and Multicultural Affairs

CONNORS, Ms Kate, Deputy Director-General, Strategy, Department of Children, Youth Justice and Multicultural Affairs

DRANE, Mr Michael, Senior Executive Director, Youth Detention Operations and Reform, Department of Children, Youth Justice and Multicultural Affairs

HALL, Mr Phil, Acting Director, Youth Justice Legislation, Department of Children, Youth Justice and Multicultural Affairs

ACTING CHAIR: Thank you all for appearing before the committee today. I invite you to make a brief opening statement, after which committee members will have questions for you.

Ms Connors: Thank you, Chair, and thank you, committee members, for inviting the department to contribute to your inquiry on this bill. Chair, I echo your acknowledgement of the traditional custodians of the land on which we meet today and I pay my respects to elders past, present and emerging.

Across Australia, the minimum age of criminal responsibility is currently 10, with a rebuttable presumption against criminal responsibility up to age 14. Debate about the age of criminal responsibility has been ongoing for some time and the youth justice work group within the department and its predecessors has continued to monitor the available evidence and stakeholders' views on the subject. At this time, these are policy issues for parliament and government.

As you would be aware, the Department of Justice and Attorney-General administers the Criminal Code, which prescribes the age of criminal responsibility in Queensland. The Attorney-General represents Queensland at the national meeting of attorneys-general, or NAAG. Last year, NAAG, as you would be aware, put out a statement that state attorneys-general supported the development of a proposal to increase the minimum age of criminal responsibility from 10 to 12, including with regard to any carve-outs, timing and discussion of implementation requirements. The remit of us at Youth Justice is to generally work with children who come into the youth justice system and their families. We are responsible for implementing many Childrens Court decisions and we work closely with the Department of Justice and Attorney-General.

We thought it would be helpful for the committee to note the numbers of children in this age group in detention and under community supervision. These are the averages across nights, so we will do them to one decimal point, which is the way they are reported. On an average night in 2021, there were 17.9 children under 14 in detention. That is about 7.7 per cent of the average total detention population. Within that 17.9, 0.8 were aged 10 or 11—all of those children were Aboriginal and/or Torres Strait Islander—and 17.1 were aged 12 or 13. Of those, 13.9 were Aboriginal and Torres Strait Islander.

Also in 2021 in the community there were an average of 64.9 children under 14 supervised by Youth Justice on any given day. That includes on a supervised sentence order, on a conditional bail program or having been referred by the court for a restorative justice conference. That 64.9 is just under five per cent of the average daily number of children and young people under supervision. Normally there are about 1,300 as our average daily number under supervision in the community. Some 6.6 of those children were 10 or 11—all of those children were Aboriginal and/or Torres Strait Islander—and 58.3 were aged 12 or 13, and 49.8 of them were Aboriginal and Torres Strait Islander.

The total is that there are around 83 children aged 10 to 13 who are in custody or under supervision in the community on an average day in 2021. We thought it would be pertinent to note that, of those 83 children, 31, or around a third, were on an active child protection order. Our understanding is that police caution many more young children than they take to court and a majority of those young children they never see again. The offences for which young children are cautioned by police cover the whole range and they include property offences, traffic and motor vehicle offences but they do also include violent offences. Most offences are minor but some are serious, and some children present an ongoing risk of reoffending.

The numbers tell us a few stories. While a lot of children under 14 come to the attention of police for criminal behaviour, the offending of most of those children is minor and they do not represent a risk to the community. It is only a small number whose behaviour is problematic enough to warrant an ongoing intervention and a smaller number again of those children are in detention. Although those numbers are small, they do include some children who are a risk to themselves or others. A very concerning proportion of them are Aboriginal and Torres Strait Islander children.

The evidence tells us that children who become repeat offenders at an early age have in almost every case lived with profound and complex disadvantage for all of their short lives. Sometimes, while there might be supports and services in place, there are risks that need to be managed. At present in the most serious circumstances the criminal justice system uses custody to manage that risk. Again I stress: the numbers are very small but alternatives do need to be planned for any options that raise the age of criminal responsibility.

Following the NAAG statement last November, Youth Justice has started working with other agencies to prepare advice for government's consideration about what might be required to raise the age of criminal responsibility to 12. This includes questions of what new or expanded services would need to be delivered and, for the very small number whose behaviour poses a serious risk to themselves or other members of the public, what should happen to address that immediate risk. This involves consultation with key stakeholders and will look at service systems in other jurisdictions where the age is higher. If parliament chooses to pass this bill, we would expand the scope of that work to include children aged 12 and 13.

ACTING CHAIR: Thank you very much. I will go straight to the member for Maiwar to lead off with questions.

Mr BERKMAN: I appreciate your time today. That was a very helpful opening statement, too. Straight off the bat—I suspect this is a question that might need to be taken on notice—the Human Rights Commissioner recommended that the committee seek certain additional data from the department, as set out in paragraph 29 of their submission. Is that data that you are able to provide for the committee now or could that question be taken on notice?

Ms Connors: Yes, can we take that question on notice?

Mr BERKMAN: Please. That would be wonderful, thank you.

Ms Connors: No worries.

Mr BERKMAN: You have actually addressed some of the questions I was going to ask straight up, but maybe I will start with a general one. A number of the submissions argue that raising the age is consistent with the objectives of the department's youth justice strategies from 2019 and 2021 respectively, including specifically to intervene early, keep children out of court, keep children out of custody and reduce offending as well as reduce the over-representation of First Nations children. Is that a position that you would disagree with?

Mr Brooks: Before I answer the question, I acknowledge the traditional owners of the lands on which we meet, the elders past and present and the leadership on the committee. I am a Bidjara man and I want to pay respects to my family and my wife's family from north-west Queensland. I also acknowledge the committee's importance with the impact this could have on young people's lives, especially Aboriginal and Torres Strait Islander young people. In relation to what you suggested and Mr Atkinson's report, the answer is yes. Evidence and research show that any delay to a young person touching the criminal justice system has a profound impact on trajectories.

Mr BERKMAN: I do not mean to verbal you, but I just want to be clear. You would not disagree with the assertion in those submissions that this proposal is consistent with those objectives in the department's strategies?

Mr Brooks: Yes. Again, I am not trying to coat it, but the evidence is really clear that any delay in touching the criminal justice system has a profound impact on their trajectory.

Mr BERKMAN: The Human Rights Commission said in its submission that youth detention centres and watch houses where children are currently being held are 'unable to appropriately rehabilitate and humanely detain the high numbers of children currently in the system'. Do you agree that raising the age, as this bill proposes, would improve the department's ability to do those things by reducing the number of children who are detained?

Mr Brooks: In relation to our responsibilities, we undertake them seriously and we ensure the regulations are fulfilled. In relation to the numbers you heard from Ms Kate Connors, the actual impact is roughly 17.9 children on an average night. That is how much it would reduce for a built capacity of 306.

Mr BERKMAN: I guess the question, though, is whether that would improve the department's ability to achieve those outcomes that the Human Rights Commissioner says it struggles to do at the moment.

Mr Brooks: As I suggested, we fulfil our responsibilities and we do them well. One of the world standards when it comes to our detention centres and our program—and I would like to thank the staff—is that, because the numbers are so small, any time we operate a detention centre at safe capacity or under, it optimises our service delivery, but because they are so small there would not be a profound impact on the numbers.

Mr BERKMAN: These might not be numbers that you would have available straight off the bat, but are you able to indicate what proportion of the department's budget goes to those formal court proceedings, detention centres and the like—so those criminal avenues—as compared with the amount that is spent on early intervention and preventive programs?

Mr Brooks: For the point of accuracy, could we take that on notice?

Mr BERKMAN: Yes, please. That would be wonderful. You might not be able to answer this, but is it fair to suggest that the department's spending on detention, court and those formal avenues would be more than what is being spent at the moment on prevention and early intervention programs?

CHAIR: That is a fairly broad question and is asking for an opinion. I understand what you are getting at, if the department would like to answer that one.

Mr Brooks: Again, for the point of accuracy, could we take that on notice? What I can say is that there has been a significant investment—well over half a billion dollars—in relation to early intervention and also family support.

Mr BERKMAN: I do not mean to press the point and I very much appreciate you taking it on notice. Is it a fair statement that those prevention and early intervention programs, as they are funded at the moment, do not meet all the existing needs?

Mr Brooks: I think that is an issue not unique to Youth Justice. Ultimately, disadvantage is growing within the community. I was here on Friday regarding mental health and the services there, so I think there is a whole range of services. If there were infinite resources, of course we would put more in. Like I said, that is not a problem that is unique to Youth Justice.

Mr BERKMAN: The submission from Sisters Inside refers to what is described in many quarters as care criminalisation—that is, instances where police are called to respond to incidents in residential care settings. Sisters Inside refers to something as minor as throwing blu tack. Do you believe that is a really inappropriate response for such a minor incident as throwing blu tack? Are police the best placed people to meet the needs of children and to respond to a situation like that?

Mr Brooks: I do not know the specifics of that. What I can say is that a compassionate response obviously when a child is experiencing trauma is always the best approach.

Ms Connors: I can also say that there is a considerable amount of work between the department on the child safety side and police to limit the number of police responses for calls out to residential care services. We have an MOU with police around having the police only come when it is appropriate, and we are doing a lot of work with the sector as well. We are aware of the concerns that have been raised around criminalising children in out-of-home care and we are doing considerable work. There are examples—and the QPS could give more detail on this—particularly around the Logan area where there has been a lot of success around police working with residential care providers to make sure they only come when it is actually the most appropriate response for the young person.

Mr BERKMAN: I suppose it would not be a focus of the department's work if there was not a concern that there are still circumstances where police are responding to incidents that perhaps do not warrant police intervention.

Ms Connors: We continue to work with police on this. I do not want to speak for the QPS, but can I say that they are also keen to ensure that police are only called when it is an appropriate time for police to be called. We are aware, and there would be continuing cases, but I think both the department and the QPS have the same wish in mind on that issue.

ACTING CHAIR: Can I just confirm that you will be able to table the statistics that you started the presentation with?

Ms Connors: Yes, we can table those.

Ms LUI: Thank you for your contribution this morning. We heard from the member for Maiwar regarding intervention support to kids, and I think research shows how important that is. The explanatory notes to the bill have called for a review of service availability and gaps for children under 14 in Queensland. What kinds of services or support does the state offer to children who are at risk of offending or who are already on a pathway to offending?

Mr Brooks: I note the member's very vast electorate, and obviously it is very difficult regarding no centralisation of your electorate. It is important to note that 94.9 per cent of all Aboriginal and Torres Strait Islander young people in Queensland last financial year did not touch the youth justice system, despite the wicked over-representation. There is a lot of strength in our communities. The *Bringing them home* report in 1997 talked about child-rearing practices being removed and never replaced. Why is that important? This is really at the crux of what we are talking about because, ultimately, if we are able to assist young people, especially Indigenous young people, we could see a dramatic change in relation to the offences seen in Queensland.

The removal of child-rearing practices leads to childhood trauma. Ultimately, if you are a young person experiencing childhood trauma, you are more likely to touch the criminal justice system as a result of that and end up having a life of crime. The difference between those young people is profoundly interesting when you look at the research. Young people who age out and young people who have a lifetime of crime have the same disadvantage. When it comes to housing and educational outcomes, they actually have the same disadvantage.

The research has shown three areas, and this goes back to your point. Family support and obviously cognitive based therapy are the two answers to your questions. The research shows three things. One of them is around a lack of guilt, which is empathy, child-rearing practices. The other two regard lack of parental focus on education and lack of parental supervision. Those three things, as you could see, really point towards child rearing. What is interesting also in the research is that if parents were able to focus on education that actually overcomes the lack of child-rearing practices.

Mr BENNETT: I have a general question out of the submissions about community safety and community confidence going forward. If the bill passes, the assumption is that 10-, 11-, 12- and 13-year-olds would be removed from the Criminal Code, I guess. Ms Connors, you talked about

expanded services. What I am reading is that there is a concern that this might be the cart before the horse type activity, with raising the level before we start to deal with those entrenched issues in the community, whether it is poverty, homelessness or all of those other things. If these children are removed under this proposal, would they lose contact with the youth justice system? What do we do to provide that community safety and community confidence with those who are a threat to the community and themselves?

Mr Brooks: As it is currently constructed, the answer to that is yes. Youth justice is a tertiary service. To come back to the original point, the evidence shows that the longer touch they have with the criminal justice system, the worse trajectory they will end up having. Yes is the answer to that. I know that the committee is going to be looking for and thinking about two things. The first is: what does the diversion and/or triggers look like for a young person who is no longer touching the criminal justice system? The other one is: victims of crime will still want a sense of justice when antisocial behaviour is seen, so what does that actually look like?

Mr BENNETT: A lot of the submitters are talking about consistency in what these services might look like. From my experience, I would have seen a lot of those already in some form in our community. I have a question about the Abergowrie centre in Townsville as a solution to Cleveland. Could you briefly talk about that? From what I have read, that seems to have volume capacity and some good early intervention strategies.

Mr Brooks: There are quite a few young people from Townsville who go to Abergowrie.

Mr BENNETT: It is Catholic, isn't it?

Mr Brooks: It is. It is a little bit away from Townsville, just north of Townsville. Education absolutely is a key point. What we do know—and the research is really clear—is that young people who are successful in school almost never touch the criminal justice system. That is young people who have a high achievement in school.

ACTING CHAIR: One of the biggest things is there are multiagency and interagency programs. I have seen in my area how well it works, and I also note it is mentioned in the Atkinson report. Could you briefly outline an example of those multiagency approaches and how well they work dealing with children under 14?

Mr Drane: You are quite correct. I can speak to the recent experience of the Youth Justice Taskforce in terms of coordinating those multiagency panels to do intensive case management for young people, as the deputy director-general said in her opening statement. The myriad needs and the complexity of needs of young people who come into the youth justice system mean there is no single delivering agency. Youth Justice, as a tertiary response, takes a case management lead in that delivery, but it requires working with a range of partners and non-government agencies as well to deliver services to that young person in community so that they are sustainable and likely to have the greatest effect without removing that young person from community.

In the child protection system, we see that interagency work very effectively through the SCAN model. It is early days but we have seen that is very effective through SMART, our specialist multiagency response teams. At the point of court, the young person is referred to those and we can coordinate all the delivery of intervention and services in that young person's life. That means they are diverted out of the system. To answer your question, yes, spot on. That is the key to coordinating the service provision.

ACTING CHAIR: You mentioned the SCAN model. Can you give us some more details on that and how it works?

Ms Connors: It is similar to the SMART team. The SCAN model is where children in the child protection system who have multiagency needs are supported by a panel of Education, Health and Police. They might all be at the table to have a coordinated case management approach. They are a very similar model, except in the child protection system those children may not be subject to a youth justice order so Youth Justice is less likely to be at the table for SCAN.

Mr BERKMAN: Returning to one of the earlier answers, I do not think it is really in dispute that the system could benefit from more funding for early intervention, prevention and diversion. Do you agree that the evidence suggests quite clearly that more investment in that side of things is a more effective use of funds than ongoing expansion of detention centres? Justice reinvestment is broadly how that is described.

Mr Brooks: The evidence is really clear around the investment in early intervention and prevention in terms of reducing the number of young people in youth detention and being able to attend to their needs. Equally, we have to balance that with community safety. At the moment the

public is quite vocal regarding their safety, and they have a right to feel safe. If you have a look at the principles under the Youth Justice Act, one of them is regarding community safety. We have to balance both of those.

Mr BERKMAN: I am sure you are all familiar with this report that has come out of the ACT. It is a review of the service system and implementation requirements for raising the age of criminal responsibility. Would an equivalent piece of work in Queensland be helpful for the department's purposes to better understand what those triggers for engagement and diversion options look like in Queensland?

Ms Connors: Some of the work that we are doing at the moment is taking a similar look at what some of those options would be, noting obviously that the service implementation issues are quite different in Queensland from the ACT. We are carefully looking at the ACT's work, as I think all states and territories are, and building from that to think about what would be the implementation requirements in Queensland so we can provide that advice to government.

ACTING CHAIR: The time allocated for this session has now expired. I thank everyone appearing before us today. There are three questions on notice and we will need to have those answers provided by 5 pm on Friday, 18 February. The secretariat will be in contact to clarify those questions.

MULLINS, Dr Sharon, Executive Director, State Schools—Operations, Department of Education

STEVENSON, Mrs Hayley, Acting Assistant Director-General, State Schools—Operations, Department of Education

ACTING CHAIR: Welcome. Thank you for appearing before the committee. We will allow you to make a brief opening statement and then committee members will have some questions for you.

Mrs Stevenson: Good morning. I welcome the opportunity to provide an opening statement to the committee. Before I commence I would like to respectfully acknowledge the traditional custodians of the land upon which this hearing is taking place, the Turrbal and Jagera people, and pay my respects to elders past and present.

The guiding strategy for the Department of Education is 'every student succeeding'. This strategy outlines the plan for an inclusive, high-quality education system that meets the needs of every student. Student engagement is an integral part of the success of this strategy. We know that children who are in contact with the youth justice system at a young age are less likely to maintain their engagement with education and find employment.

The department recognises the importance of working not only with schools but also with parents, with other service providers and with the community in providing high-quality support to these children and young people. Without adequate support, young people who engage in antisocial behaviour risk becoming excluded from important support mechanisms such as school but also their families and support services. Early identification of students who are at risk and providing them with targeted but continuous support is crucial to their success.

As I am sure the committee is aware, many of our students and their families are experiencing increasingly complex needs. One of the initiatives the Department of Education has in place to support children and young people engaged in the youth justice system is the Education Justice Initiative. It commenced in 2018 and it involves Department of Education staff who are known as court liaison officers working with our Childrens Court. They are present whenever the Childrens Court is sitting. They locate themselves within the waiting area and during that time they introduce themselves and engage with the young person and their family if the family is present. They gather information about the level of the young person's engagement with education. They are sometimes called upon to provide that information to the magistrates as well.

In 2018 we started with two court liaison officers. We now have seven across the state linked to Childrens Courts in Brisbane, Ipswich, Richlands, Gold Coast, Logan, Beenleigh and Cairns, and we now have two in Townsville. The committee members may be aware that in Townsville we have a Childrens Court and it sits at the same time as a high-risk court. That has meant that our court liaison officer was torn between the two locations, so we have now provided an additional officer so that all of those young people can be supported.

After the hearing, our court liaison officers continue to engage with the young person and their family to try to smooth a reconnection to school and to ensure that re-engagement is successful. In 2021 our court liaison officers supported 1,232 young people; 434 were in the age group of 10 to 13 years. Of the finalised cases, 32 per cent of those young people were actually re-enrolled in a school, state or non-state, whereas they were not previously—that is quite a success of the initiative—and 48 per cent continue to receive support from our regional support services.

We know that engagement in school is a critical protective factor for young people. We also have a Regional Youth Engagement Service that is provided statewide. There is a service in each of our seven education regions. Every year those services support around 4,000 young people to become re-engaged with education.

There are lots of other services available in our regions and in our 1,250 state schools to foster the continued engagement of children and young people in their schooling. One example is the department's $100 million Student Wellbeing Package. As part of that package over three years we will be employing up to 464 psychologists or similar wellbeing professionals to support students from state schools, secondary schools and in our special schools. Also as part of that initiative there is a pilot whereby we are placing a GP in 50 secondary schools across the state. The GPs will be there one day a week providing access to free health care for the students at that school.

In addition, we have over 2,000 full-time-equivalent staff within our state schools providing support for behaviour, learning and guidance, like our guidance officers. Other positions are also based within our school communities such as school based police officers and school based youth

health nurses. We have a range of therapists like speech language therapists, physiotherapists and occupational therapists as well as youth support coordinators. We know that wraparound support is crucial for young people who are struggling with their engagement at school.

The department will continue to work hard every day to ensure the young people of Queensland are supported, confident and resilient and are ready to become active citizens in the community. I welcome any questions from the committee.

ACTING CHAIR: Before we go to the member for Maiwar, the member for Mansfield will be stepping into the chair at this point.

Mr BERKMAN: I very much appreciate your time today. You went some way in your opening statement to flesh out the significance of disengagement from education as a key predictive factor for kids' engagement with the youth justice system. The Youth Advocacy Centre's submission included some stats around suspensions of very young children. Prep-age children saw an increase in suspensions of 80 per cent since 2013, and disciplinary absences for children in years 6 and 7 increased 74 per cent and 144 per cent respectively in that same period. Do you have a clear sense of why those suspensions are increasing? What are the consequences of that? I will get to some specific questions about the flow-on effects, but I will leave it there for the moment.

Mrs Stevenson: We are concerned about the number of days of learning lost when students are subjected to a disciplinary absence such as a suspension or exclusion. We know that the behaviours we see young people exhibiting in the classroom and in the playground contribute to that. That is cause for concern at times for the other students in that our school principals need to provide a safe environment for all children to learn and also for the staff. That needs to be balanced with the expectation of the communities and the parent bodies around the environment provided within our schools. That is really pointing to the fact that there is a complex range of factors that go into that.

We are concerned, particularly about the rates of suspensions in the younger years. We are committed to doing work. It is about the supports that are provided in schools in our prep and early years or even on entry to prep so that our children who might not be developmentally ready for some of the rigours of schooling are supported. We have a sharp focus and I know that some of our regions are focused on that particular cohort to ensure that supports are implemented so that children are able to behave in a classroom in a way that would not result in those problematic behaviours and the consequences that flow from that.

Mr BERKMAN: Are you able to provide us any statistics, either now or you can take it on notice, regarding the number of kids in different age groups who do have suspensions or any of those disciplinary absences? How many kids are there? How many of them do not return to school after the suspension or exclusion from school? That is maybe where the interface between this bill and the education system is located—where the rubber hits the road—if kids are being excluded for the reasons you have discussed, not to delegitimise some of those. Are they not returning? Are they not coming back? Presumably they are the kids who are getting entwined in the youth justice system. Are you able to provide us with details of the numbers who are suspended or excluded, how many of those do not return and any statistics in relation to offence related suspensions? I know that is a specific provision in the relevant legislation as well.

Mrs Stevenson: We do keep a very close eye on the data and we do that type of analysis. We will certainly get the detail formally to the committee. We know that as the number of disciplinary absences increases, the likelihood of disengagement also increases. We have some safety net provisions in place when a young person is suspended for a long time or is subject to an exclusion. A regional case manager is allocated to maintain contact with that young person and to case-manage them to an alternative option for education. In that way we try to hold on to them through the regions.

In relation to the charge related suspensions pending exclusion, there is a separate section in the Education (General Provisions) Act that deals with that. They are relatively few in number because we seek the information from the Police Commissioner as to the charges, and they need to be very serious charges for us to seek and get that information to apply that particular disciplinary measure.

Mr BERKMAN: If you are able to provide that data on notice, that will be fantastic. I am aware of some recent research that also speaks to the over-representation of First Nations children in exclusions and suspensions. Are you able to include that breakdown in any data that is coming back?

Mrs Stevenson: Yes, absolutely.

CHAIR: Thank you for your submission. Can I clarify you are happy to take that question on notice and that you will return that information to us on the date that we suggest?

Mrs Stevenson: Yes, we are, Chair.

CHAIR: I have a comment and then a quick question to you both. The comment is that I understand and know that there are students who face the criminal justice system who do not necessarily have any suspension or exclusion history. I think that is a really important point to make. There are children we deal with as educators who have no history in the school, but their first encounter is with the criminal justice system and this is often a shock to our school communities. That is the comment.

There are moves nationally for a nationally consistent age of criminal responsibility. The question I have is in relation to the difference in resources that would be required to support a young person should the criminal age of responsibility be 14 as opposed to 12. Could you just talk us through the comparative extent of the resources required in that context should the age be raised to 14 and not 12?

Mrs Stevenson: We have had a look at some of the numbers, particularly around the age of young people who end up in detention in that category, and it is a fairly small number in comparison to the entire population that go to one of the detention centres. To the resourcing aspect, in Education we already provide support to these young people when we know about them. I think it is possibly about what will trigger Education knowing about these young people to then wrap the support around. I lean on the experience of the court liaison officers in that when they first have an introduction to children who are going to appear before the Childrens Court some 30 per cent of those young people are not known to the education system or do not have an active enrolment, so in a way that is a safety net. I think it would then be finding the trigger for involving Education and letting Education know that these young people are not engaged, because they are invisible to us. I think it is: how do we navigate that support system to trigger Education support kicking in?

Mr BENNETT: Thank you for the work you do in our state school and secondary school sector. It is somewhat sad to think that you have a role to play outside curriculum and other things, but I guess that is the reality of the social fabric. Identifying that education engagement and attainment is such an important part of every young person's aspirations and opportunity, I wanted to make the distinction in respect of your suspension or disciplinary process that it does not necessarily mean they are in the youth justice system, so we need to be very careful. Statistically, the numbers of children who are in the justice system having contact with police and other processes is decreasing, but there is a handful of children who are regularly doing it more often and probably more violently or whatever it is. What is the state sector doing with that? I commend you on all those processes you outlined in your introduction. I was somewhat ignorant to what the state sector is doing in that space, so it was quite enlightening.

Mrs Stevenson: We have really looked closely at the cohort of the young people that we know are committing the most offences and the most serious offences—that top 10 per cent. Really, when we start to look at the characteristics of their offending, it would be very challenging to support them in our mainstream settings, and that is by nature of their offences. In that top 10 per cent, it is generally because it is a violent offence, sometimes with a weapon. They would be the types of offences that our schools would look at and look at what would be the risk management process required to retain that student in a mainstream setting and keep the rest of the students and staff safe. It would be a balance and to see what mechanisms could be put in place.

In terms of the role that we might play, we know that many of those young people will have been at one of the youth detention centres. We provide education services in those youth detention centres so they are engaged in education. I think the role is then around the transition out—so once a young person leaves detention, ensuring we then progress them to an education, training or employment opportunity so that it does not cycle back around. That is a difficult challenge if a young person returns to their community and to their peers.

Mr BENNETT: Is the state sector looking at curriculum changes? Early intervention seems to be common from submitters. Is that always evolving and being reviewed or is there any significant in the pipeline for what early intervention might look like on a number of levels, including what we are talking about here today?

Mrs Stevenson: I might pass on to Dr Mullins to talk about the range of engagement measures we have in place—certainly those early intervention measures, prior to a young person becoming disengaged.

Dr Mullins: We have a range of programs that are specifically targeted at young children and young people who are disengaged, including early childhood development programs run for children with a disability from zero to five and programs to support children and young people to enter prep and then to have assessment done as to whether they are experiencing issues with emergent literacy

and numeracy. Then in the schools we have a range of specialists—speech pathologists, guidance officers, psychologists, physiotherapists, learning support specialists. There is a large range of support provided in state schools for children who are at risk.

Schools pay a lot of attention to data. We have a One School system that is able to collect and analyse a range of data that may show that children are experiencing difficulty. That could be attainment data. It could be behaviour data. It could be anecdotal information coming from families. It is definitely attendance data. Combined, that gives the school a really in-depth understanding of whether the young person is at risk. That is the business of every school principal and their leadership team, to identify that data.

As children progress through school, we know that the disengagement escalates in early high school and up to year 10 so we have a range of programs that support those young people. Hayley mentioned Regional Youth Engagement Service, which works alongside the Education Justice initiative for children and young people who are disengaged from school and are identified as disengaging from school. As we said, last year 4,500 young people were supported to reconnect. Not all of those young people have yet reconnected. Nearly 3,000 have reconnected. Some are still being case managed.

We recently introduced a program called FlexiSpaces, which has been established in 32 schools. The notion is that it is very important for schools to retain children who are at risk rather than lose them. FlexiSpaces are best practice models of how to support young people and provide customised approaches. We have 32 now and will have 52 by the end of this year. Early evaluation shows signs of promise that when you actually connect to a young person who is at risk and let them know that you really care about keeping them and engage in customised approaches it works.

We have a wide range of Indigenous programs that are focused at engaging and re-engaging young people. I have a long list of organisations that work with Indigenous children and Indigenous communities, but I will not rattle them off for you. One of the things the department is doing right now is introducing local community engagement through co-design, which is about not imposing programs on Indigenous families and schools with Indigenous kids but working with Indigenous communities and Indigenous young people to identify what are the local conditions and the local issues that are being faced and what are the co-designed and collaborative approaches that will engage families and Indigenous children in the Indigenous community to support young people.

There is a whole range of programs and services that we could give you an overview of. There is not enough time to describe the programs and services, but that gives you a bit of a flavour. Finally, I would just like to say that principals have a foremost obligation to design the work in their school and they have an imperative to lift the engagement and outcomes for every young person.

CHAIR: Would you be happy to table that document of support for our First Nations children?

Dr Mullins: Yes.

CHAIR: Is leave granted to table the document presented by Dr Mullins? Leave is granted. Speaking of First Nations programs, I welcome Cynthia Liu and acknowledge her presence here today as one of our First Nations members of parliament.

Ms LUI: Hayley, in your opening submission you mentioned the complex nature of working with some of the high-risk children. What are your thoughts around multiagency coordination in approaching some of these complex issues? In the Cook electorate we are trialling this approach, which I think is quite effective. From the Education perspective, what do you think of that approach of working with other agencies? Could you relate some of the success stories about how we can all work together to collaborate and foster a stronger partnership to address some of these vulnerable situations for families?

Mrs Stevenson: I agree that there is some amazing work going on across the state and in different regions across Queensland. The interagency work, I believe, is absolutely crucial in this space. We know that disengagement from education is just one element of the complex challenges that families and communities may be facing. We have seen in our Far North Queensland region that we have the leaders from the government agencies and non-government agencies around the table. They provide that collaborative case support so that we have a wraparound. If the young person's family requires support—if there are housing needs or other requirements—every agency works together to ensure that those barriers to education are overcome. Often it is the challenges experienced in the family or in the community that make attending school difficult, so it is about how we address those precursors as well as support young people. I also know that in Townsville there is collaborative work. The metropolitan smart panel works really effectively as well.

I think where we establish those protocols and where we have a commitment to vulnerable young people, we can see some great outcomes. As Dr Mullins said, this is hard work. It is challenging work, and we need a continual commitment to it. It is not a smooth road of getting a young person back into education and sustaining their enrolment, particularly if there are other issues like housing instability or complexity with parents, with mental health concerns or with drugs or alcohol. We need to continue to loop back into the other government agencies and provide that holistic support.

CHAIR: On behalf of the committee, I thank you both very much. Sadly, time is up. I am sure the committee would greatly benefit from and certainly enjoy having many more hours with you both. On behalf of the committee and as committee chair, I want to say how proud we are of the work that you do for our state education system and also for our many thousands of children who are part of our system. The work you shared today indicates the great hands that hold our children, particularly those who are most vulnerable. We know that many young people make mistakes and it is during that experience that our system supports them most. Thank you very much for your work for our children and also for the work that you do every day. I certainly have been witness to that over more than 15 years. Special thanks to you both as individuals.

I remind you that there was a question taken on notice. The committee would appreciate it if the answers to any questions taken on notice could be provided by 5 pm on Friday, 18 February. I know that the education department is very big machine, but if you have any concerns in relation to that date, could you let me know and I am sure we could work with you. Thank you very much.

LEAVERS, Mr Ian, General President and Chief Executive Officer, Queensland Police Union

MOORE, Mr Luke, Policy Officer, Queensland Police Union

CHAIR: I put on the parliamentary record my special thanks to Chris Whiting for chairing the committee earlier. I appreciate his stepping in for me as I was called to address some issues in my local electorate.

Thank you for your time this morning. The committee very much acknowledges how busy you are. The work that we are currently doing is very important for the children of Queensland. The committee appreciates your time this morning. I ask you to make a brief opening statement, after which our committee will have many very good questions for you.

Mr Leavers: Thank you for having me here today. I want to say at the outset that I speak on behalf of the 12,500 police in Queensland. With over 32 years in policing, I have done a reasonable amount of time in the former Juvenile Aid Bureau and the child protection investigation unit, so I have tackled these issues firsthand.

The QPU and all of Queensland's 12,500 police are completely against raising the age of criminal responsibility. We will create an entire generation of invisible criminals. All raising the age of criminal responsibility will do is condemn people who will never come into contact with the criminal justice system to a life of crime. This is perhaps the most irresponsible law and order policy I have ever seen and is so out of touch with what is happening out on the streets and in the minds of regular Queenslanders.

This policy will in fact have the reverse effect to what legislators desire by increasing crime and leading to more young people entering the criminal justice system when they become adults. We need fewer political stunts around the issues of youth offending. If it is not the age of criminal responsibility, it is another slogan designed to be electorally compelling. Meanwhile, communities suffer and the problem remains unfixed.

All raising the age of criminal responsibility will do is create an entire generation of invisible criminals. Often the only services available in regional or remote Queensland are the police. Other agencies are non-existent or barely there. This will disadvantage these communities. We are not about incarceration; we are about education, and the statistics speak for that. We divert 90 per cent of young people away from a criminal life into a good life, but we need to ensure that the age of criminal responsibility is a vehicle that ensures people are reformed.

We have seen what it looks like in Townsville and the results were devastating. In the early hours of this morning a group of six First Nations people were involved in a traffic crash. One is deceased and others are clinging for life at this point in time. It will be alleged that there was a 12-year-old in the car, more than one of the people in the stolen car was 14 and persons within that car were already on bail.

The experience of police around Queensland is that when young people are found to be committing offences or need assistance there are no fit and proper persons for them to be taken to during the night-time hours or the early hours of the morning. In fact, the only safe place for these young people is in the care of police because there are no responsible adults to care for them. This is really concerning. The Police Union are not about incarceration; we are about diverting and keeping people out of out of a life of crime. I do not want to see young people being used by criminals knowing that there will be no consequences for their actions and that by the time they reach the age of 14 they will already be entrenched in a life of crime and their life will be over before it has begun.

Mr BENNETT: Thank you for your submission that we tabled just a little while ago. Could you elaborate on what is happening in remote areas where police are active in our communities? Where do police divert these children to if it is not into the protection of police until they can engage Child Safety or any other agency that may have to be engaged?

Mr Leavers: In remote areas there are very few options available. Sadly, I have to call it for what it is. It is really saddening to me that in areas where our First Nations children are there are no services or no facilities to take them to. At times the only safe place is the PCYCs. They have now restricted their hours at times, but that is the only place where youth will go. I will get back to basics. As a responsible parent, you need to look after, educate and guide your child. You cannot leave it to everyone else and say it is their job to bring them up. There are no options.

Often there are programs which are being run around the state and communities—in Doomadgee and Normanton as well as on Mornington Island—where police are the people who are teaching them right from wrong and using methods to divert them away from a life of crime and giving

these young people an opportunity to change the direction of their life. There is no-one else available. If it is not the police, there is no-one else. Sadly, there are not responsible people to care for them in these places. It is fine to have carers to come in, to fly in and fly out, but that does not work. This is a very complex issue.

Mr BENNETT: I want to talk about this issue because it is serious. I have asked this question of previous submitters. Most of the submitters have talked about the need for expanded services to be implemented for this to be, if anything, successful. What is your experience as a police officer or what would your members like to see on the ground in terms of expanded services?

Mr Leavers: The argument is whether or not you take people to camps and things like that. People need to be around responsible people who actually care and will divert them from a life of crime, whether that is the PCYC—but it is not just a policing response. That is the sad part. We cannot leave it to the police to do everything. It is not our job to do everything in communities right across the state of Queensland, but we are the only ones who are there 24/7.

Late last year I had the opportunity to go to Abergowrie college inland of Ingham. That used to be a school for local people in the area. Predominantly they are Indigenous students. Last year they had 103 students. There are so many programs which give those young people opportunities to further themselves in life.

Mr BENNETT: They have capacity, as I understand, too. Abergowrie is not full.

Mr Leavers: There is more capacity. It is run by the Edmund Rice Foundation, I believe, or the Catholic Church. I am not going to advocate for religion one way or another, but they are actually doing a great job in giving these young people opportunities. I think that is where we need to go. It is actually cheaper than incarceration. Let's be honest about that. Let's see what we can garnish out of these young people. We need to give them options and skills for when they go back to their communities, even basic things.

You may be aware that I ran a national youth crime symposium on this very issue and the siloing of various government departments at all levels. We all need to work together. What I see there is a greater capacity, even when it comes down to basic things—and people may laugh at this—like how to cook fresh food and things like that. That is not available in many areas across Queensland. I look at everyone here and we are all privileged for having the upbringing that we had. These people have never had simple opportunities that we take for granted.

I think there is more to be done. I will go further. I think the age of criminal responsibility is a vehicle we can use to get people help, but we need to be engaged when young people are three, four and five and when young women are entering into pregnancy.

CHAIR: Would it be fair to say, and is it your position, that some of these programs, supports, resources, infrastructure and investment need to happen before any conversation happens around raising the age of criminal responsibility? Is that a fair question or comment?

Mr Leavers: Absolutely. It needs to be properly evaluated. I am all for giving young people a chance, regardless of what age. I think we need to be very clear on that. Let's give them an opportunity to be able to make decisions. Prior to the age of 10, in the criminal justice system, as you know, under the act we can take no action. We can caution, use diversion and mediation. Arrest is the last resort. We try to do all we possibly can to keep them out of the criminal justice system, but it does give us a tool to be able to look at other programs and supports for young people.

If that is taken away, we will lose the right. As I say in my report, what do we do if a 13-year-old stabs a teacher at school? No-one is criminally responsible. The offence has still been committed. How can we get in at an earlier age to educate and support young people so that we can lead them away from a life of crime? We owe it to them. I think it is an opportunity. We have not been able to fix it for as long as we have been about now, but we need to be more proactive and have things in place.

Arrest is a last resort. Police do not want to arrest. I can assure you of that. That is a last resort. When you go to some of these places and see the environment that these young people live in, you will understand. For some people it can become a rite of passage to be arrested by the police. Sadly, they are outside the home because if they are inside the home people are affected by alcohol and drugs and they are at risk of being abused physically and sexually. We need to be serious about that. That is why sometimes they are out on the streets. We cannot pretend that that is not happening.

Mr BERKMAN: I appreciate your time here today. We received this submission from you only about half an hour ago. I have only very quickly had a chance to skim it. There are a few points that I wanted to draw out of it, if I might.

Mr Leavers: Yes.

Mr BERKMAN: It is under your name, Mr Leavers. I assume this has been prepared by you?

Mr Leavers: Yes.

Mr BERKMAN: It states at the top of the fifth page—

> It is well documented in the media that organised criminals are using gangs to recruit young people into their organisations to groom them for a life of crime.

There is a footnote to that which is a single news.com.au article from 14 years ago. There is no mention in that article of any children below the age of 14 being recruited. In fact, I cannot see any mention of children other than one reference to 16-year-olds. What do you say about that article supports your assertion that it is well documented?

Mr Leavers: Sadly, that is the article that is available. There is not a lot which is publicly available. What we do know—

Mr BERKMAN: Can I stop you there? You said in your statement that you think it is 'well documented in the media'. Are you saying that is not the case?

Mr Leavers: Police are on the front line across the state of Queensland and we talk with all stakeholders involved. We know that people are using young people to commit crimes because there is no responsibility; they cannot be held to account. We know that is happening. It is happening whether we like it or not—

Mr BERKMAN: Could I ask you possibly, given time restrictions, to take on notice to provide any more documentary evidence to support that statement that you say it is well documented, because I would be interested to see it if you can provide it? If not, then perhaps the committee would appreciate you retracting at least that part of the statement, if it is not supported by documentary evidence. I will move on if I could.

Mr Leavers: I will certainly come back on that. Can I just be clear: our option is about protecting people, not putting them before the courts. That is our ultimate goal. I do not want to see a young person in jail. In fact, it saddens me. I will say those four people in Townsville—

Mr BERKMAN: Mr Leavers, I have some very specific questions I would like to ask, if I might.

CHAIR: Member for Maiwar, can I just remind you that our guests from the Queensland Police Union, while they do not need my protection, of course, are here as guests of the committee to provide us with some pretty significant information. Would you just ask your questions now and we will not continue with the cross-chamber banter?

Mr BERKMAN: Thank you. Leaving aside that question of the veracity of that statement, you have addressed in a few different ways that idea of children being recruited. You have described them on the one hand as vulnerable children being exploited and on the other hand as a hidden group of criminals. Is your position that, if these most vulnerable of children are being co-opted, irrespective of the outside influence and the co-option to which they are being subjected, they should be subject to criminal sanction? Is that your view?

Mr Leavers: No. As I have said, the way the law currently stands gives police the vehicle to be able to try and divert these young people away from a life of crime. Raising the age to 14 takes that option away from police. There is not the support across Australia and Queensland to be able to provide support. As you would be aware—and it is well documented and there is a task force in the Queensland police at the moment—we are doing all we possibly can to divert people away from a life of crime. This gives us the opportunity. I think it is a sad indictment upon our society that we pretend it does not exist and that these people do not have a chance. I have seen it firsthand where you know a young person's life is over before it has begun and you know what way they will go.

What I do know from some children in detention is that it is a sense of belonging. When they are in detention—and that is not where I want to get to, but they are there—they actually have people who care about them; that is, caregivers, teachers. Sadly, there is no support for them when they are released. That is a sad indictment upon our society but, as I say, this is a vehicle for us to be able to look after them and try and divert them from the criminal justice system. If you take that away, there are no options for police at all.

Mr BERKMAN: Despite the disagreement, I think we are in ferocious agreement that there need to be more of those supports and that police cannot be expected to step into the fray and to offer the whole gamut of supports that are needed by kids who, as you have identified in your submission, have backgrounds of disadvantage and poverty, disengagement from school, diagnosed or undiagnosed cognitive deficits or impairments, poor parental treatment, neglect, trauma—all of those

background factors. Police are not best positioned to address those needs and to support children, if I understand what you have said so far, but the key question is whether the supports exist and the triggers exist for children to be brought into those kinds of support services at the necessary time.

Mr Leavers: Police are probably not in the best position to deliver all of that, because our job is very multifaceted, but we are the only ones available and we are the only ones on the front line outside business hours.

Mr BERKMAN: And that should be not be the case. That is where I am saying we strongly agree on this.

Mr Leavers: Within our respective opinion pieces, we all agree on everything bar one thing. Who would have thought you and I would agree on so many things? We are right. We need more. The example was given of Abergowrie College. If you could replicate that around the state it would be a great thing, because these people are behind the eight ball before it has even started. That is the tragedy that I see.

Ms LUI: We have heard from previous speakers about the complex nature of working with vulnerable children in family. I do agree with you in that, in many of the remote communities that I look after anyway, police are usually the service that people turn to. I think there is a huge expectation that you will have all the answers. From listening to everyone here this morning, there is obviously high representation of Aboriginal and Torres Strait Islander children engaged in the justice system. I have heard from Education, Youth Justice and Child Safety about a multidisciplinary approach in addressing some of the complex issues with vulnerable children. What are your thoughts around culturally appropriate responses and possibly strengthening cultural and kinship structures in community, especially in remote communities where services are few and far between? How do we collaborate on that approach, working together with community to address this issue moving forward?

Mr Leavers: It is paramount that we do that and work with the cultures. There is a vast difference—and you will tell me more than I know—between a Torres Strait Islander and an Aboriginal person and someone who may be in Doomadgee or Charleville. It is completely different. Some people think it is one size fits all. Sadly, it is not. There is a lot that we can do and work with culture. An example I will give is: I was recently in Kowanyama and the mayor raised with me an issue with young people riding quad bikes without helmets. He said, 'What can you do?' I said, 'There is no point us coming in as the police and coming over the top. We need to work with the elders to solve this.' From my point of view, I do not want to see a young person die on a quad bike. I know the amount of injuries and fatalities we have on them, but that is where we need to work together. It is not about the police officer coming in with a big stick. It does not work. It is about education. We are very supportive of working with but, sadly, police are the only constant in those communities.

The burnout rate amongst our colleagues at Child Safety is high. Police tend to be the only ones who stay in it for a career or many years. For those people, sadly, what they see destroys them. We are not arresting people for truancy and shoplifting—far from it. It is very serious crimes by the time it gets to that point. It is about education. That is where we are coming from.

Mr BENNETT: I do not know if you have seen the specifics of the bill but, considering the issue and the spotlight put on the issue of detention in watch houses—the tragedy that is—on behalf of the members you represent can you talk to proposed new section 409, which mandates the three-day incarceration?

Mr Leavers: Without going into the specifics of 409, I can say that watch houses are not the place for young people to be in. Watch houses are a stopgap. We believe that they should be in proper detention facilities where we can provide what is required—that is, other services which we do not have the capability for in police watch houses. We do not have it in Mount Isa; we do not have it in Charleville. It is just not available to us. Three days is good and they need to be moved on to a fit-for-purpose facility, if you like to call it that.

Mr BENNETT: Yes, we all agree.

Ms LUI: What are your thoughts around diversionary mechanisms? I know that intervention support is really important. I mentioned before the multidisciplinary approach to addressing some of these issues. I wanted your perspective on diversionary mechanisms and how effective you think they are in your police work.

Mr Leavers: I think it works extremely well. There is more needed. That is a fact. We are doing as well as we possibly can with what is in place. We try and divert people away at each and every opportunity, which is really important. Sadly, there will be a core group none of us can do anything about. That is really sad. The only option to protect them and the community is incarceration. I have

said it before and I will stand by that. With more options available to us—and it has to be different. What happens in Kowanyama cannot happen in Cairns or Townsville; it has to be tailored to the individual needs.

When it comes to First Nations people—and I will happily be corrected on this—we need to engage the elders and those respected people within the communities if we really want it to work and have good things in place. I am aware that in some areas where people have been given the opportunity for work experience they have taken up apprenticeships. I think that is a great opportunity. The value of work is something that is very rewarding. If a young person never has that opportunity, they will never know what they are missing out on. There is a lot to be done. It is a real challenge. With Queensland being such a decentralised state, it is challenging. I will say it again: arrest is our option.

Mr KRAUSE: In a nutshell, you are concerned that the bill before us could leave young people who are on the wrong side of the law at the moment falling into a black hole of support all together?

Mr Leavers: Absolutely. I believe it would have the reverse effect.

CHAIR: Could I ask that you seek leave to table your paper in the parliament?

Mr Leavers: I seek leave to table the document dated 14 February 2022 under my hand. It is an 11-page document.

CHAIR: Thank you very much. Is leave granted? Leave is granted.

Mr BERKMAN: Mr Leavers, do you recall an occasion on which you or the Queensland Police Union have ever advocated for a reduction in police powers?

Mr Leavers: A reduction in police powers?

Mr BERKMAN: Yes.

Mr Leavers: No. All I am after is the tools to be able to do our job so we can protect the community.

Mr BERKMAN: Are you familiar with the saying, 'If the only tool you have is a hammer, every problem looks like a nail'?

Mr Leavers: I think you and I are probably going to disagree on this.

Mr KRAUSE: Point of order, Chair. This is irrelevant to the bill.

CHAIR: Thank you, Mr Leavers. I know the Queensland Police Service certainly does not need my protection. We have come to the end of our session. The committee thanks you for the work that you do for the many thousands of employees that you serve. Thank you for the great work that you do in leading our Police Service but also in supporting and protecting those members of our community who protect us. Thank you very much to both of you. Thank you for the time you have given to this bill. We hope that the contribution of everyone sitting here today will result in the legislation that Queenslanders right across the state need. Thank you very much.

Mr Leavers: Can I just say: I have only fought for changes in legislation to protect all Queenslanders, whether they be an offender or a victim, or to modernise legislation, so I have a very open mind.

CHAIR: Thank you very much.

ATKINSON, Mr Bob, AO, APM, Co-Chair, Domestic and Family Violence Prevention Council; Chair, Truth, Healing and Reconciliation Taskforce

CHAIR: Mr Atkinson, it is a great pleasure for our committee to have you with us this morning and to have your great knowledge and experience not only of the Queensland Police Service but also of our young people in all their diversity across Queensland. Welcome, Mr Atkinson. I hand over to you to make a brief statement.

Mr Atkinson: I thank you for the opportunity to be here today. I was in the fortunate position of being asked in 2018 to look at the youth justice system by Minister Farmer, who was the then minister for child safety, youth and women and the minister for the prevention of domestic and family violence. Her request to do that coincided with the introduction of the shifting of the age for young offenders from 18 to 17, to come into line with the rest of Australia, which occurred in February 2018. There were some slight issues at the time in terms of capacity in the youth detention centres to accommodate 17-year-olds.

With a small team this report was put together over the space of some four months with a number of recommendations. As I understand it, the primary one that the government accepted was what we called the four pillars approach. Essentially that was: early intervention, police diversion, court diversion and trying to reduce recidivism for those young people who were in detention so they had the best chance of not returning to detention or, later, to adult prisons. At the time we said—and, again, it is my understanding that the government adopted this—that those four pillars were underpinned by two principles. The first was community safety, which was paramount, and the second was community confidence, which was very important as well.

In the course of producing the report we looked at a number of topics, and one of those was the minimum age of criminal responsibility. There were three recommendations that flowed from that. The first was that the government support in principle raising the MACR, the minimum age of criminal responsibility, to 12 years subject to three things: national agreement and implementation by all state and territory governments; a comprehensive impact analysis; and establishment of needs based programs and diversions for eight- to 11-year-old children engaged in offending behaviour.

The second recommendation, No. 69, was that the government advocate for consideration of raising the minimum age of criminal responsibility to 12 years as part of a national agenda for all states and territories for implementation as a uniform approach. Thirdly, recommendation No. 70 was that in the interim the government consider legislating so that 10- and 11-year-olds should not be remanded in custody or sentenced to detention except for a very serious offence.

One of the issues that was before us at the time, and certainly still seems to be prevalent—and I am not in a position to provide the statistical data—is that anecdotally it has been suggested that, in terms of that small cohort of young offenders,10 per cent commit 50 per cent of serious crime. Currently, the age is reducing so that younger people—this is anecdotal—are committing more serious offences. That would be something that would need to be carefully considered. We said at the time that, if the age were to be raised to 12, the concern that children are committing offences at a younger age would need to be tested as part of an overall impact study and implementation strategy. My understanding is that that is still of concern today.

I am happy to take questions. That is probably all I need say at the moment, unless there was something you particularly wanted me to comment on.

CHAIR: I am sure the comments you have made have served us well. I am sure the committee will have a number of very important questions for you.

Mr BENNETT: Could you expand on some of the issues? You mentioned in the report that there are no quick fixes. In your closing you talked about some concerns, and I have raised with other submitters about expanding services to be ready for or able to provide wraparound services to those 10- to 12-year-olds who may not come under the Criminal Code if this bill passes. Could you expand on those concerns that were raised to you in your 2018 report?

Mr Atkinson: Yes, I will endeavour to. I think that is absolutely critical, and of course there are different models. One is a hybrid model that some jurisdictions have put in place for 10- to 12-year-olds. Hypothetically, serious crime would still be in scope—so murder, rape, armed robbery and violent and serious crime would still be in scope—and perhaps offences that were regarded as less serious would not be. That is the hybrid model. It is absolutely essential—and I was interested to hear the comments of the president of the Queensland Police Union—that there is a capacity to engage with young people whose behaviour becomes problematic. Let me go back.

Regrettably, my understanding is that in some families, particularly dysfunctional families, there is a lack of trust of authority and there is a reluctance to have children perhaps receive appropriate professional support. I do not think you could exclude the risk, but currently at least if a 10-year-old comes into the system, in the future there could potentially be the capacity for a court to order that child receive some form of professional assistance, particularly in terms of their cognitive ability, their ability to appreciate that what they are doing is wrong and their ability to make decisions in that regard. I hope that makes sense. I think it is an issue that is certainly worthy of mention.

It would be fundamentally important though that, if we were to raise the age of criminal responsibility from 10 to any other age, there is a capacity to properly and effectively deal with young people who otherwise would be committing offences. I am not sure—and I am not pretending to be an authority—about what happens elsewhere in Australia, but these are complex and difficult issues. I do not know that any jurisdiction in Australia is in a position yet to do that. I think we are looking at a very long-term process here. Over time hopefully our understanding of the causal factors, the linkages to behaviour, will increase and we will have a greater capacity not just to prevent these things happening but also to respond to them.

Mr BENNETT: Is the hybrid model in international jurisdictions so we might be able to see where that is located?

Mr Atkinson: It is my understanding that it is, yes.

Mr BENNETT: It is not in Australian jurisdictions, just overseas somewhere?

Mr Atkinson: Overseas, yes.

CHAIR: Deputy Chair, we will ensure our secretariat has some information for us at our next meeting.

Ms LUI: Do you think the bill's proposals are adequate to manage young people who have committed serious offences?

Mr Atkinson: I apologise for this. My personal circumstances have not allowed me in recent times to become fully aware of the bill. Again, I would be concerned that raising the age of criminal responsibility to any age from 10, to either 12 or 14 or to any other age, would have to be accompanied by a capacity to properly respond to what would otherwise be a serious criminal offence. Again, the four pillars that we came up with in this report were underpinned by the belief that public safety is absolutely paramount. I would have thought that any government would rate public safety as the priority over everything else. I hope that answers the question.

Ms LUI: In your report you mention that there is no quick fix and no single solution. I think some of the work that I have seen in my space or have experienced from working with stakeholders is exactly that: there is no quick solution to the problem. Can you describe some of the long-term and holistic measures that need to be in place to address the complex issues?

Mr Atkinson: That is an important point. There is no simple solution to this; there is no quick fix. It does not excuse or justify criminal behaviour for a moment. Part of the difficulty—and I say this with the greatest of respect—for many people in the community is that when they think of a 12-, a 13- or a 14-year-old they think of what they were like at 12, 13 or 14 or they think of the 12-, 13- or 14-year-old they know such as a grandchild, a neighbour or someone like that. There is not an awareness that children who are born perhaps with fetal alcohol syndrome into a dysfunctional family; exposed to domestic violence; exposed to abuse in any form, whether that is physical, emotional, psychological, neglect or sexual abuse; exposed to an environment where the role model might be someone who just got out of prison for committing a crime of violence are in an entirely different context to the young person they are aware of. The worst thing we can do, whether you are an adult or a child, is take your liberty away and put you into custody.

Some of these children have no fear of being in youth detention. When we have reached a point in our society where a child has no fear of being in youth detention, we have a serious problem and there is no quick fix. A child born today with fetal alcohol syndrome is likely to be subject to Child Safety at the age of 10, under the notice of the criminal justice system and then possibly on social security all their life. That could be 60 or 70 years. I do not think it is viable to think there is any quick fix. If I could go on a little bit more, we cannot give up, of course, and we have to do all we can.

I would like to comment on two things. Firstly, I think that a lot of these things are linked. I think there are linkages. There are linkages in terms of Indigenous disadvantage, if you do not mind my saying that. There are linkages to domestic violence. There are linkages to child abuse. As we get greater knowledge of these things, we will see more clearly those linkages and try to pull them together and draw them together.

From a personal perspective, I would like to see a trial somewhere of goal setting—whether that is in a town like Mount Isa or in a community—where everyone works together to achieve a set of goals. By 'everyone' I mean government organisations both state and federal, community organisations, elders—because you cannot disassociate for a moment the disproportionate representation of Aboriginal and Torres Strait Islander children in the system; that is just so significant—and NGOs that are funded by state and federal governments.

The first goal would be that no child will be born into this community with foetal alcohol syndrome. From what I am told the first three to four years of life are critical in terms of future educational capability and that the vocabulary that a child is exposed to up to the age of four and their environment will have a huge bearing on how they perform at school. So the second goal might be that in those first few years of life—before preschool or before year 1—we do all we can to support those children.

The third goal might be that no child is truant, that kids are going to school and that they are not lost in the system. We need to ensure that they register for school. In some more nomadic families the kids, I am told, do not even register for school, let alone attend. We need to have those basic goals for a start and that all of those entities and agencies work together to try to achieve those goals.

CHAIR: Thank you very much for your very thorough response.

Mr BERKMAN: It is a great privilege to have you appear today, Mr Atkinson, so thank you for your time. I am not sure whether you heard any of the earlier evidence this morning. We heard earlier from the department representatives that, in light of the Meeting of Attorneys-General's proposal to raise the age to 12, they are undertaking in the background a service system and implementation review looking at the requirements to raise the age to 12. They also suggested that they could slide that work out to investigate what is necessary to raise it to a different age. I am interested specifically in that differentiation between raising the age to 12 years and to 14 years. Obviously your report focused on 12 as the proposed age to raise it to. At the time that was consistent with what the UN recommended under the Convention on the Rights of the Child.

Based on what the department said it is doing and what it could do to address those service gaps, do you think there is a justification for the recommendations in your report, with all of the qualifications and recognition of the work that has to be done? Could we take those recommendations and apply them to raising the age to 14 in line with what the UN Convention on the Rights of the Child says nowadays?

Mr Atkinson: My own personal view is that 14 is a bridge too far. What I have said here is that, if all of those things as set out at recommendations 68, 69 and 70 were to successfully occur in terms of lifting the age to 12 then perhaps there would be no reason why that same model could not be applied at some future time if there was a will by the governments of Australia to raise it to 14.

Mr BERKMAN: It is fundamentally about whether the government has made the investment and taken the steps to ensure that the programs, the diversions required for a larger cohort of children, are in place.

Mr Atkinson: The age of criminal responsibility when I joined the police department—which was a terribly long time ago—was actually seven. In the early seventies—I cannot remember exactly when—it was raised from seven to 10. That is over 50 years ago and it was a very different society. I think we need to be very cautious of this and ensure that, if it is raised to, say, 12, then the mechanisms are in place to maintain public safety and community confidence and that the mechanisms are there too to ensure that young people, where appropriate, receive the necessary support they can. That might be through some court order.

At the risk of sounding repetitive, I think 14 is far too far, with respect. If the process is put into place nationally—and I think that is important too. For what it is worth, it is really regrettable when we have different legislation in the six states and two territories. It would seem very unfair that a 10-year-old might do something in Tweed Heads that is not an offence but if they stepped over the border into Coolangatta it would be. I think that is a quite unfair. I think that is why it is so important to have a national approach. I do not think I can add much more.

Mr BERKMAN: Given that the ACT is taking the lead on this and they are moving at this stage to raise the age to 14—you might be aware of this report. I have waved it around already. They are doing the kind of system and implementation review to ensure that they are able to raise the age to 14. Given your view that you have just stated now, is there not a risk for the other states if they lag behind and do not follow the lead of the ACT? Alongside that, in any case would there be value for that service system and implementation analysis to include a larger cohort to look at what would be required for those 12 and 13-year-olds?

Mr Atkinson: These are just personal views. I think it is very disappointing that the ACT may choose to go it alone. I have only read media reports. I am not aware of the detail or at what stage that is. I do think a national approach is important. Given the relatively small population of the ACT, if they do that and then it is transportable in terms of states like Queensland and Western Australia, I think is a very debatable issue. I think the jury would still be very much out on that.

CHAIR: Member for Maiwar, can I respectfully ask that we reduce the preamble to the questions in terms of the equity around members asking questions but also to aid the responder? If we can reduce the preamble, that would be really appreciated.

Mr BERKMAN: I will endeavour to, Chair.

CHAIR: Thank you very much, member for Maiwar, with the utmost respect. Mr Atkinson, I have a quick question for you. What impact would a rebuttal presumption in relation to criminal liability for 13 and 14-year-olds have in practice throughout the criminal justice system? I appreciate that you may not wish to respond to that question in light of your background. Do you have anything to offer in relation to that?

Mr Atkinson: Can I just be clear on the underpinning nature of the question? So that is the presumption that a child at 10 years of age is aware of right and wrong?

CHAIR: Yes.

Mr Atkinson: I think where it sits at the moment is probably about where it should be, for what it is worth. Of course I am not a lawyer and far greater minds than mine would be able to comment on that. I do think though that as we become more aware and knowledgeable in terms of the cognitive reasoning of young people who may be impacted by trauma and perhaps foetal alcohol syndrome we will be in a better position to assess these things—not just assess but respond to them as well hopefully with some form of highly professional treatment. I do not think we are there at the moment.

Mr BERKMAN: Mr Atkinson, I am interested in the point you made before about the previous raising of the age from seven to 10. I appreciate that it was a very long time ago. Can you describe to us in any way how that worked? I presume there were the sorts of objections to that change that we are seeing now. It now seems unimaginable that a seven-year-old could be criminalised. I am looking for your insights into that shift.

Mr Atkinson: My recollection is that it was a very different time. To me personally the greatest concern at the moment with young people is the theft of motor vehicles and the dangerous driving of those motor vehicles and the tragic consequences that can arise from that. Around the time, from my memory, when it was lifted from seven to 10, the level of criminal activity in our community was negligible compared to what it is today and the public safety concerns equally. They were very different times. I think it is impossible to compare it to our time today.

Ms LUI: Mr Atkinson, we heard from the Queensland Police Union earlier. They used the term 'invisible criminal' and they had concerns about raising the age from 10 to 14. They went on to say that education is needed in this space. I am interested to know your thoughts around that critical age between 10 and 14 and why we need intensive intervention support to divert kids away from criminal activity.

Mr Atkinson: I think there is a lot of research that also supports that. We need to try to do all we can in terms of diversionary activity to prevent young people being in detention but then ending up in the adult system as well. I think ethically and morally we have a duty to do that as a society. Also, the economic argument for doing that—that should not be the reason—would be very strong as well. The cost of keeping a young person in detention is very high as it is for an adult in the criminal justice system. If it were an economic argument, it would be viable as well.

Again, as we become more skilled and aware of these issues and better able to deal with them and find diversionary programs that are effective, we should target and look to the siblings of those 10 to 14-year-olds who are perhaps now aged eight and nine and who are probably at the greatest risk of progressing into the youth justice system when they do turn 10. They are idealistic suggestions, but I think they are still worthwhile.

Mr BERKMAN: Mr Atkinson, your report recommended adopting a number of targets that have not been met and in many cases the situation has worsened—for example, the number of children being detained on remand and the over-representation of First Nations people. Why do you think that is? Where is the system failing to do what it needs to do to meet those goals?

Mr Atkinson: Your committee I think is an example of this. We have inherited what has been a problem for a long time. Again, I think a lot of these things are linked. It is a great credit to the committee that you are even examining this issue because I think it was ignored for a very long time—that is, the disadvantage for Aboriginal and Torres Strait Islander people in the broader Australian community. Again, at the risk of sounding repetitive, many of those things are linked.

What I said in here was that in 2038 it will be the 250th anniversary of the arrival of the First Fleet. That is now only 16 years away. We will not have fixed it by then but if we have not at least made some gains in the right direction that would be a great shame.

CHAIR: Thank you sincerely, Mr Atkinson. Our time has come to an end. On behalf of the committee we thank you immensely. You did not have to do this but we do appreciate the time that you have given. We acknowledge the great contribution that you have made to this very issue for many years and will continue to do so. Thank you very much.

Mr Atkinson: Thank you, Chair.

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

McDOUGALL, Mr Scott, Commissioner, Queensland Human Rights Commission

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

CHAIR: I acknowledge the First Nations people and the land on which we meet today. I acknowledge our First Nations member of parliament, the member for Cook, Cynthia Lui. I acknowledge her and her people's great contribution to the land, winds and waters that we now all share.

I welcome our witnesses from the Human Rights Commission and the Queensland Family and Child Commission. Mr McDougall, you play a very important role in our state. I acknowledge the great work I have seen from you in the last couple of weeks. I appreciate your contribution to this bill and I know that the contribution you make ensures that the bills of our parliament will be better bills. Mr McDougall, would you like to make a brief opening statement?

Mr McDougall: The commission has made a submission in support of the bill. We support an increase in the minimum age in line with recommendations of the United Nations Committee on the Rights of the Child, which is presently 14, and note the UN committee's position that children under 16 should not be deprived of their liberty unless there are genuine public safety or public health concerns. I will return to that issue of community safety shortly.

When we are considering children who are presently subjected to detention in our justice system, it is important to remember that they are overwhelmingly: children from Aboriginal and Torres Strait Islander families and communities; serving time on remand; victims of family and/or sexual violence; living with mental illness, a learning difficulty or other disability; disengaged from school; and in many cases under the care and control of the chief executive of the department of child safety. Additionally, as I have highlighted on several occasions, it has become a regular practice in Queensland in recent years for children to be kept in adult watch house cells for prolonged periods—that is, for several days, sometimes for more than a week and occasionally for several weeks. I recognise that this treatment may not quite meet the legal threshold of cruel, inhuman or degrading treatment. However, in my view, to the extent to which it unjustifiably limits their right to humane treatment when deprived of liberty, it would be open to a court to determine that prolonged detention of children in watch houses is unlawful under sections 58 and 30 of Queensland's Human Rights Act.

Raising the age of criminal responsibility to 14 would at least take some of the pressure off youth detention capacity, as about seven per cent of children in detention are in this bracket. Moreover, if diversion of young offenders is effective in reducing recidivism, it will have a downstream impact on numbers of not only children but adults in detention. The evidence shows that children first detained in the criminal justice system aged 14 or younger are more than three times as likely to return to detention than those first detained at the age of 15 or above.

In reviewing the work that has been done in recent years, it is clear that the impediment to successfully addressing the problem is not a gap in knowledge. The *Four Pillars* report by Bob Atkinson clearly sets out strategies supported by research. The major issue appears to be a capability gap in developing effective early intervention and diversion capacity with sufficient coverage to meet the needs of children and families right across Queensland.

This is not just a question of the need for a substantial increase in investment in both program and capital expenditure. It also requires a demonstrable commitment to enter into genuine power-sharing relationships with Indigenous controlled organisations to ensure Aboriginal and Torres Strait Islander stewardship of programs. It also requires focused coordination of various portfolios, including essential agencies such as Queensland Health and Education Queensland, which clearly need to be much more engaged in youth justice prevention strategies.

Finally, to return to the issue of community safety, the rights of victims of youth offending must be properly considered. Children breaking into homes and stealing cars pose serious risk of endangering the lives of themselves and the public. This underscores the need for significant investment of government resources and attention to establish an effective therapeutic response to this complex yet solvable problem.

CHAIR: Thank you. That was very insightful as always. Commissioner Twyford, would you like to make a brief opening statement?

Mr Twyford: I would like to start by acknowledging the traditional owners of the land upon which we meet and pay my respects to elders past, present and emerging. I commenced as the Principal Commissioner of the Queensland Family and Child Commission on 31 January. I am here alongside Commissioner Lewis and I thank the committee for the opportunity to talk to our submission.

The QFCC welcomes opportunities to comment on the systems that affect the lives of Queensland's children. We have advocated for an increase to the minimum age of criminal responsibility since 2017, and it is our position that that age should be raised to 14. This position is shared by all Australian and New Zealand children's commissioners and guardians and it is also the position advocated by the United Nations. I acknowledge that raising the age of criminal responsibility requires complex system changes. During this important debate, I would like to emphasise that all children and young people in Queensland are valued. Very few children commit offences. On any given day less than one per cent—in fact, less than half of one per cent—of Queensland children are involved in the youth justice system. We do not need to demonise young people when discussing youth justice.

Testing boundaries and making mistakes are an important part of growing up. It is our role as a community to ensure that young people learn responsibility and accountability for their actions in ways that are pro social. Consequently, raising the age of criminal responsibility does not mean taking away responsibility. For young people, a restorative justice response is more effective than a criminal justice response. Evidence shows that criminal justice responses are not working. Data from the Department of Children, Youth Justice and Multicultural Affairs shows a child who enters the statutory youth justice system at age 11 is more likely to stay in the system than a child who enters at 15. We also know that a criminal justice system can do more harm than good. Young people who leave detention are often more likely to commit more crime. Last year, 61 per cent of young people who exited detention returned within 12 months.

If we want to reduce youth offending, we need to provide targeted trauma-informed responses to children that take into account the factors that contribute to their behaviour. A child who is not yet in high school does not belong in a prison setting or a watch house. Our response to young people who do wrong must focus on restitution, rehabilitation and restoration. In our submission on the current bill, the QFCC outlined evidence showing children in contact with the youth justice system are some of the most vulnerable and disadvantaged members of our community. It should not surprise anyone that family dysfunction, domestic violence, mental health, poor educational engagement, and cognitive and other health issues are the key factors in determining who will enter the youth justice system. In addition, we know Aboriginal and Torres Strait Islander children are disproportionately overrepresented, and Commissioner Lewis will speak to this in her opening statement.

In 2021, the QFCC released *Changing the sentence*, a report into Queensland's youth justice initiatives and options for further reform. Children and young people with lived experience of going through the youth justice system spoke to a lack of holistic support both before and after their experience with the youth justice system. Raising the age of criminal responsibility and improving the restorative justice practices for children will more effectively address the underlying behaviours and experience of trauma of young people who commit offences. An increase in the minimum age of criminal responsibility should be considered as part of the ongoing youth justice reforms aimed at ensuring that the rights, wellbeing and safety of our children and community are upheld. Thank you.

CHAIR: Welcome, Commissioner Lewis. I ask that you make a brief opening statement.

Ms Lewis: May I acknowledge the traditional owners of this beautiful country, the Jagera and Turrbal people, and also pay my respects to elders both past and present. It is my hope that we honour the legacy of all of our Aboriginal and Torres Strait Islander ancestors in the way that we speak about Aboriginal and Torres Strait Islander children and in the way that we respond to their needs.

If an eight-year-old, a 10-year-old, a 12-year-old or a 14-year-old were to approach any one of us and talk to us about an experience of feeling unsafe at home, about not having the food that they need, about not being able to attend school, we would, I would hope—and I can only imagine for most of the population—respond with compassion and that we would focus on the failure of the adults, services and systems to meet the needs of vulnerable children. We would focus on accountability and responsibility of services to act and to ensure an appropriate response to provide the supports that they need and that they are entitled to as children in Queensland. However, for the same child with the same circumstances of vulnerability who may have committed an offence or even multiple offences, we spontaneously shift the focus of responsibility and accountability solely towards the child on the basis of their actions or behaviour. We seem to automatically forgive or forget the failings of

the adults, of the services, systems and broader society that create the conditions for offending behaviour to develop in the first place. We appear to accept, despite overwhelming evidence to the contrary, that a firm punishment or a criminal consequence in the absence of supports to address a child's basic needs will somehow suffice. It has not and it will not.

Children aged 10 to 13 years lack the emotional, mental and intellectual maturity of adults. The history of abuse and trauma of many young people involved in the youth justice system further impacts their ability to make sound decisions. Acknowledging the circumstances of a young person is not about providing an excuse for their behaviour or privileging their rights above the rights of victims. It is about understanding what contributes to the offending behaviour of individuals so that we can provide appropriate opportunities for rehabilitation and restoration. It is to reduce the likelihood of reoffending. It is to make communities safe.

If our focus is on providing support necessary to change their circumstances, we can create the opportunity for just consequences and the possibility to understand how their behaviour has impacted upon others so they can take responsibility and make amends. A just outcome is more likely to be achieved in the context of the rights and lived experiences of both the victims and the offender.

As mentioned this morning in her evidence, Ms Connors advised us that on any average day in Queensland there are approximately 83 children aged between 10 and 13 under supervised youth justice orders that would be in scope for this particular reform. Not 8,000, not 800—83. Surely providing a just and age-appropriate response for 83 children is not beyond our imagination or capability.

Queensland's current minimum age of criminal responsibility has had devastating effects for Aboriginal and Torres Strait Islander children and young people. The empirical reality for our children is that their rate of contact with the youth justice system remains unacceptably high. The level of over-representation and disparity of outcomes are present across all points on the youth justice continuum. They enter earlier, stay longer and exit the system under positive circumstances far less often. Our children who have committed an offence are two times less likely to be afforded the opportunity to be diverted from the youth justice system. Conversely, compared to non-Indigenous young people, Aboriginal and Torres Strait Islander young people were 27 times more likely to be held in custody on an average day. Adjusting for the different population sizes, in 2021 the rate of detention in Queensland for Aboriginal and Torres Strait Islander children aged 10 to 13 was 28 times the rate of non-Indigenous children in the same age cohort. The National Agreement on Closing the Gap has adopted a target to reduce the rate of Aboriginal and Torres Strait Islander young people in detention by 30 per cent by the year 2031.

In the context of raising the minimum age of criminal responsibility, a dedicated focus upon 10 to 13-year-olds presents a significant opportunity to disrupt the offending trajectory of young people and move beyond rhetoric to close the gap in the incarceration rates of Aboriginal and Torres Strait Islander young people and adults. This success, though, is contingent on meeting each of the other socioeconomic targets across the areas that have an impact on the life outcomes for Aboriginal and Torres Strait Islander children: things like infant and early years, health equity, stable housing, living free from violence, education and employment, achieving equality and economic participation and, critically, the preservation or restoration of our connection to culture. What is certain is that without disruption, without a circuit-breaker, to divert investment inaction towards prevention and early intervention to address the drivers of the offences, there will continue to be relentless demand on the criminal justice system and absolutely no hope of reaching those targets.

In conclusion, let me be clear that we share the community's interest in reducing crime, increasing safety and creating an effective youth justice system that is safe for children, young people and staff. The evidence is clear that criminal justice responses will not deliver these results. We are firmly committed to reform that enables a just and age appropriate system. I believe that raising the age of criminal responsibility to 14 will contribute to that goal. We all want and deserve to live in safe communities. To have safe communities, we have to provide support to vulnerable children so that they, too, can experience safety. I support the objectives of this bill without reservation. Thank you.

CHAIR: Commissioner Lewis, it is always very insightful to hear you speak. Thank you for your contribution. I also thank the other commissioners for their ongoing work and certainly for their contributions to such important legislation here in Queensland.

Mr BENNETT: I do not want to be argumentative, but I do have a question for the three of you, noting that you made very similar contributions. My fear is that we have picked the easy thing to do with raising the age, whereas we all share the passion and the desire to resolve the causes of the issues you have raised. How would you draft our report to try to address those issues? If we do this

and we do not fix the other things that you all talked passionately about here this afternoon, I worry about the issues of community safety and community confidence, which we as elected representatives have to go back to our communities and talk about. I put that to you. If you could draft a committee report—if we all agreed that 14 is the age or 12 or whatever—how should we address with our constituents the key issues involved in changing one thing but not dealing with the causes? Is it open-ended?

Mr McDougall: I would be happy to draft the report for the committee! Seriously, one of the points I would make is that we do have this fantastic opportunity presented to Queensland for a comprehensive investment in youth justice—and not only youth justice but also across all the targets of the Closing the Gap framework. We need to seize that opportunity. The target that we have for youth justice is to reduce the number of children in incarceration by 30 per cent by 2031. In 2032, whoever is the premier will be standing up and saying, 'This is the story that we are telling the rest of the world about what we have done to close the gap.' At the moment with the way it is going, we are going backwards and that will be the story that is told. We still have plenty of time and we could easily achieve that target, but we need serious investment and sustained commitment. Ian Leavers talked about the siloing. That is what we need to break down. We need a serious taskforce that has Education Queensland and Queensland Health playing major roles. I know we heard from some of them this morning, but the programs that are in place are too piecemeal and do not cover the state in the way that is needed.

Mr BENNETT: Mr McDougall, haven't we reported extensively about a solutions framework over decades?

Mr McDougall: Yes. The answers are there. We know the science. What is lacking is the execution.

Mr BENNETT: As I have tried to articulate, are we jumping ahead with something that might be seen as an easy thing to do in this piece of legislation as opposed to really advocating for those solutions to fix the problems before we jump to this?

Mr McDougall: Obviously there is a need to have programs in place. We need to learn the lesson from the 17-year-old moving out of adults. We need to learn that lesson, but that does not mean that this needs to be delayed. It is a very small cohort of the overall children in detention, so it should be able to be addressed without having to delay things too far.

Mr BENNETT: That is a good point.

CHAIR: Commissioner Twyford, is it your opinion that perhaps the cart is put before the horse? Is it your opinion that it would be better to put forward programs of support and have those programs, interventions and specialists in the field prior to implementing such legislation?

Mr Twyford: It is my strong view that the programs and services have to be in place at the time the legal change would take effect. I have experience in another jurisdiction and I have watched many other jurisdictions struggle with what is the first step on this journey. I think the honest answer is that it needs to be a jump. We need the services, the legislation, the policy and the appropriate practices to all occur at the same time. Having a solid plan around implementation is critical.

I would say that changing the law in and of itself without the services would not be successful, but I would also comment that there are services out there. There are many Queenslanders providing services to young people. We did hear from the police services union today about the work they do for all Queenslanders, including young people under the age of 10. I think we need to be careful that we do not say there is a criminal justice system and it services vulnerable young people and there is another set of services that respond to teenagers who are not engaging in criminal behaviour. In fact, a young person is a young person and whether it is a criminal justice response, a therapeutic trauma informed response or a service system response, we are currently doing that. What we need in an implementation plan is to link those together and have clarity of understanding and purpose in how that was to work.

Mr BERKMAN: It seems from the course of the discussion this morning, hearing from both the department and the former commissioner, Mr Bob Atkinson, that a lot of the discussion is shifting away from 14 years and moving to talk about raising the age to 12. The numbers that you have referred to, Commissioner Lewis, make it very clear—and we heard from the department earlier—that that takes the cohort of kids we are dealing with from 83 down to fewer than eight, on average. I am keen to hear your reflections on what the difference is between 12 and 14. Quite aside from its alignment with the UN benchmark, what are we missing out on if the government focuses its efforts on 12 rather than 14?

Ms Lewis: Effectively we would be looking at trying to address precisely the same issues, but having a much more significant impact by including 14-year-olds. In terms of the transitional arrangements, I firmly believe that we need to get the service response in place but I also believe that we should be making a commitment to a time frame to implement the amendments to raise the age to 14. I think that the additional benefit in terms of trying to interrupt that trajectory can be measured when you look across the offending behaviours or the patterns of behaviour of children aged 10 to 14 years. There is not a substantial difference in terms of the seriousness or the volume of offences that are committed between 10 and 12 and then to incorporate 13-year-olds as well.

The other point that I would make is that I totally appreciate that a lot of the discourse around this has been talking about concepts that are weak on crime or soft, but the difference between what is being proposed in terms of alternative measures that focus on addressing behaviour is that they actually have a chance of eliminating the drivers of offending behaviour and actually make a real difference in terms of the impact. I think communicating punitive responses in relation to youth offences gives the illusion of accountability, but the proximity from the event—from the actual event of offending—and to the consequence for a 10 to 14-year-old means nothing. You are not in a position to try to work with young people to understand the connection between what was done and the consequence that was given. I think for the community that comfort around a punitive response is fleeting because it disappears as soon as the next offence occurs.

In relation to the services and supports, we already have a Department of Education, we have disability services, we have housing, health, mental health. This morning Mr Leavers spoke about invisible criminals. I would argue that the children we are talking about right now are invisible to the service system that is actually put in place to support them. I think what we need to focus on, before we look at implementing the legislative reform to raise the age, is making sure that those services can pivot and respond adequately to the distinct needs of children aged 10 to 14—within that particular cohort—regardless of where they live in Queensland because the disparity in access to quality services for Aboriginal and Torres Strait Islander children in regional and remote communities is absolutely unacceptable.

Mr BERKMAN: Could I put the same general question about 12 and 14 to the Human Rights Commissioner?

Mr McDougall: I would defer to the doctors about the medical related issues. Talking from personal experience—both as myself as a human being and as a father with a 15-year-old son—I think everyone recognises that in grade 9 kids go off the rails for all sorts of reasons. I certainly did to some extent. That is a critical age. How the system responds to that cohort is so critical in tipping them one way or the other. For me I think that is a really compelling reason for raising it to 14 at the very least so that that cohort are not being tipped into the criminal justice system unnecessarily.

Ms LUI: Thank you for your time here this morning. My question is to either Commissioner Twyford or Commissioner Lewis. Your submission supports the objectives of the bill to raise the age. Do you think the bill goes far enough to set up programs needed to support young people at risk? A previous speaker mentioned that young people who are in youth detention centres have no fear. I think we have to find that fine balance in how we approach the issue but also provide an effective mechanism to address the complex needs of these vulnerable young people. Do you think this bill says enough about setting up programs to support young people?

Mr Twyford: Without providing specific analysis of the drafting of the bill, what I believe is absent from it and may be in other bodies of law in Queensland, or may need to be added, are the legal hooks, for want of a better term, that may require a young person suffering trauma or suffering from alcohol and other drug addiction to be taken to a safe place for both their own safety and the community's safety. We know that currently detention and, in fact, police responses are in part about removing a child from an unsafe situation and taking them to a place where police officers and others attempt and do their best to make that young person safe.

I believe on analysis there may be some need to relook at the flow-on effects of this bill and what it would mean for our frontline workforce in terms of their powers and functions in responding to a person who is no longer criminally responsible. I would suggest that that would exist in some forms in our child safety legislation and other legislation in Queensland. What would be critically important, though, is linking that to the program referral forms. Our frontline workforce are very well trained and very much experienced in working in the current system. Having a watershed moment such as changing the criminal responsibility of an 11-year-old or a 12-year-old would present new challenges for frontline workers and we would need to be very careful that their response was both legal, correct and appropriate for the young person.

Ms Lewis: I might add that there are some incredible diversionary options that are being utilised in Queensland already. When we focus on augmenting those and potentially maybe shifting a little the composition of community justice panels or conferencing panels to incorporate service providers, we could actually bring them to the table and expect that they are able to shape the service offerings that they have to meet the needs of that particular child. I think some of the limitations that we have in the use of our restorative justice practices are that we cannot come good on the promise to provide young people with the supports that they need. They are then no more supported and no more ready to change their behaviour because we have actually not been able to deliver the services that are required. I think that if we had more of a focus on augmenting the success of our existing diversionary programs, there is certainly scope to be able to manage an increase in volume of 83 children.

The other thing that I wanted to point out is that, whilst not normally discussed in the context of recent reforms, there are a number of initiatives that are happening across the state. Even with the more complex children at the other end of the spectrum we are actually seeing some really positive results from complex case management. I use the example of the Johnathan Thurston Academy and some of the work that they are doing in North Queensland with children who basically have lived in the too-hard basket for the last two to three years. They have been able to engage, support and transition into meaningful employment or back into education with no further police contact. I would be more than happy to provide a copy of some of the case studies around that. Brisbane Aboriginal and Torres Strait Islander Community Health Service has leveraged a massive network of services that they provide to wrap around young people who are in contact with the youth justice system.

I think that we do have examples of what can be done and what can make a difference. We just need to invest in them and be prepared to bring them to scale to respond to the need.

Mr BENNETT: In your opening remarks—I made a note as you were speaking so I am not trying to put words in your mouth—you mentioned public safety. For those young people—it is a small number, I acknowledge—who may commit serious crimes, and we also have to acknowledge that that unfortunately is an occurrence from time to time, should we be looking at amendments around the hybrid model that Mr Atkinson referred to? I do not know if you were here for his presentation.

Mr McDougall: I am sorry, I was not.

Mr BENNETT: He says that it does not matter if they are 10 or 17; they have committed a really serious crime and they should be dealt with under a justice system and not treated differently because of an age barrier. Would that be something that you as the Human Rights Commissioner would even entertain a conversation around or even look at as a possibility? It is about community safety and confidence. I have to go back and represent the people who put me here.

Mr McDougall: I think it is absolutely fundamental that the community has confidence in the response. I do not think there is any question about children having to face consequences for any offending behaviour; it is a question of what those consequences are. What we want is effective responses. At the moment we have a criminal justice response. What we really need is a youth wellbeing response.

Mr BENNETT: The commission website talks about youth engagement and those sorts of things. I know you are asking youth what they want to do about themselves, and we have to be cognisant that they do have input, but is there any data on your website or any work that has been done?

Ms Lewis: Yes, certainly. In the *Changing the Sentence* work that we did, we had direct engagement with young people involved in the criminal justice system to talk about the things that they felt would make a difference. There were no surprises. They talked about having access to supports, about being treated fairly, about their parents being more actively involved and made aware of the things that were going on, about the importance of a trusted person and the opportunity to start to believe that returning to school might be a possibility or that a job in the future is not beyond them. When we created those opportunities for young people to imagine different, those were the types of things that generated the most input.

Mr BENNETT: That is on your website?

Ms Lewis: I might also just mention that at the moment, as part of an election commitment, we are in the process of doing direct engagement with Aboriginal and Torres Strait Islander young people who are involved in the criminal justice system.

Mr BENNETT: Is it called the advisory committee?

Ms Lewis: No, that is our youth advisory committee. We do engage with them and they do support us in the development of our submissions and reports, but the distinct piece of work is targeted towards ensuring that we ask and respond to the voices of Aboriginal and Torres Strait Islander children, who are so disproportionately overrepresented in the system, about what future reforms might look like and what things in the community would make a difference in their lives. We are hoping to be able to provide the first iteration of that report later this year, but I think it is probably the most comprehensive and certainly, with no apologies, focused on the voice of those children.

Mr BENNETT: Thank you very much. I would not expect anything less.

CHAIR: My question is to either Commissioner Twyford or Commissioner McDougall. From what I have heard today, and certainly from my knowledge around child development and child psychology as an educator, it would appear that raising the age of criminal responsibility could be considered a punitive measure to a very complex problem, particularly when we have seen many examples of chronological age not necessarily aligning to cognitive capacity or intellectual capacity to cognitive age. Do you have any comments in relation to that?

Mr McDougall: I am not sure if this is going to answer your question, but I guess one point I did want to make that is related to that is the party provisions in the Criminal Code and the impact they have. When you have especially young Indigenous children with older siblings—and I keep thinking back to that horrible tragedy in Townsville where four young children lost their lives, and I think about the 12-year-old boy in the back seat. You think about the moral culpability of that child sitting in the back seat and his elder sibling or cousin—I might be wrong there, but elder relative with a cultural connection, no doubt. If they had survived that accident, the 12-year-old boy would have been charged presumably. There is opportunity there to divert him from the system or to keep him in contact with the system and also those who are offending.

One of the things I did want to talk about today is the report that the commission has done. When I read it, the most powerful thing in it to me was the voice of a child who said that the most difficult thing in changing their criminal behaviour was forming new relationships—forming new friendships. If it is that simple then surely the system can respond in a way that is going to do that rather than form the wrong relationships for those children through the criminal justice system.

Mr Twyford: If I can add to that, I equally hope that this answers the question in some way. Obviously cognitive ability and individual development take different timelines for different people. Arbitrary ages are convenient and make running systems very easy, but in many cases there does need to be discretion around someone's idea of right and wrong and someone's ability to know before committing an act, as much as after an act, that what they did was illegal. Testing that through a police process and the court is critical if we are to maintain criminal responsibility. There are questions around the current approach we take with a young offender, around asking them if they did know right from wrong.

In my response I want to go back to the theory of punishment. As a society we create a criminal justice system not to punish but, hopefully, to protect. Therefore, the sanctions we provide to young people, in fact to any person, should be as much about rehabilitation—that is, that the person will learn and not do it again—as it is about restoration, which is that the victim and the community are put back to a place where there is less harm done to them than the harm that was done to them. The idea that criminal sanctions designed for adults will work on an 11-year-old or a 12-year-old do need to be questioned. That is what is before this committee in a very important way.

All I would say on that is that as parents we tend to get it right. Parents with two children will punish or respond to poor behaviour differently depending on the child. The good parent will be focusing their actions on changing that young person's mind and teaching them through the process, but also having a level of compassion that the punishment that is doled out is not creating permanent harm and is not offsetting the respect between a parent and a child, but is driving towards better behaviour. As a society, I question how we create a system that does that. Many of us have referred to restorative justice approaches for that very reason, that is, we need to understand what is driving each young person and take them through a process of learning why what they did was wrong but, more deeply, why they did what they did; and engaging victims, the community and, in fact, statutory authorities around them to put in place the pillars that we have also spoken about today to ensure that the community is safer.

CHAIR: Thank you, Commissioner Twyford. We are out of time. My sincere thanks to each and every one of you. The committee has had many interactions with both Commissioner Lewis and Commissioner McDougall and we thank you for your ongoing support and reflection of the work that we do as parliamentarians. Commissioner Twyford, we wish you the best in your career. We congratulate you on your appointment. We are sure that we will work together many times in the

coming years. I thank you sincerely for your time today. Commissioner Lewis, would you mind providing the data that you spoke about relating to the Jonathan Thurston intervention programs? We do have a closing date of 18 February for the committee to tie up the inquiry so could you have that information to us by then? If it is an issue, please call me and we can talk through that. Thanks again for your time today. We wish you well and thank you for your great contribution.

Proceedings suspended from 12.49 pm to 1.18 pm.

ABDUL-RAHMAN, Mr Albert, Community Activist, Tropical Brain and Mind Foundation (via videoconference)

HUTCHINSON, Dr Terry, Adjunct Professor, Southern Cross University

LONGHITANO, Dr Carlo, Forensic Psychiatrist, Townsville University Hospital and Associate Professor of Mental Health, James Cook University, Tropical Brain and Mind Foundation (via videoconference)

McGINTY, Professor Sue, Deputy Chair, Tropical Brain and Mind Foundation (via videoconference)

O'TOOLE, Ms Cathy, Consultant, Mentally Healthy City Townsville, Tropical Brain and Mind Foundation (via videoconference)

SARNYAI, Professor Zoltan, Professor of Neuroscience, James Cook University, Tropical Brain and Mind Foundation (via videoconference)

CHAIR: Good afternoon to each and every one of you. The committee thanks you for appearing before us today. The bill before us is an important bill and your contributions are greatly appreciated. I invite you to make a brief opening statement, after which committee members will have questions for you. Given we have half an hour, I will ask the lead to present a brief opening statement and then the committee will have questions for you. Dr Hutchinson, are you happy to make a brief opening statement?

Dr Hutchinson: Yes, I am. I wish to acknowledge the traditional owners of their land and their elders past and present. I have been teaching and researching in the area of criminal law, including youth justice, for over 20 years. Most recently I have been working on an Australian Institute of Criminology study on the use of video links in the youth justice system. We have heard today from a range of experts and stakeholders who have overwhelmingly recommended changing the age of criminal responsibility as the most rational and cost-effective solution to our current issues.

I believe it is important to recognise also that raising the age of criminal responsibility is not simply about keeping 10- to 13-year-olds out of detention centres and watch houses; it is directed to a change of mindset towards providing early targeted support for the individual child within the family and community and therapeutic options to avoid children, including those charged with minor infractions, being introduced into the criminal justice context in the courts. There are very many more children who are appearing before the courts on minor infringements such as fare evasion and shoplifting than there are in detention centres or with finalised appearances.

One specific concern that was raised at the public briefing is the suggestion that if the age of criminal responsibility is altered then children aged 10 to 13 will be used to commit crimes on behalf of adults. It is my view, as someone who spent time studying this area, that the risk of this happening is easily mitigated by using existing laws, specifically section 7 of the code and the doctrine of innocent agency as suggested by Mr Berkman at that hearing. If a young child lacks criminal responsibility then liability for the offence must fall on those procuring the action.

There are other options that are available, not as part of this bill but subsequently or in addition. Another option would be to introduce a provision in the Penalties and Sentences Act that states that it is an aggravating factor in the sentencing process when an adult offender incorporates or uses a child in the offence or criminal enterprise. This is also a child protection issue in that children under the care of such adults are in a very vulnerable position. As such, I strongly recommend that this concern does not hold up the passage of such an important bill.

From my recent research I have found that children in detention centres are some of the most disadvantaged in Queensland. It seems that the state is shifting its responsibilities for family services, antenatal, maternal and child health, mental health, special needs education support services and public housing onto the criminal justice system. In doing so it is criminalising the disadvantaged at a very young age. Raising the age of criminal responsibility will enable the transfer of resources and ensure that sufficient government funds are directed to providing targeted assistance for families and children in need rather than to building more detention centres.

Over the long term this bill will lead to better outcomes for the children involved, reduce intergenerational crime and ultimately save the taxpayer significant amounts of money by freeing up police and court resources to tackle more serious matters. Thank you for the opportunity to present.

CHAIR: Thank you for your leadership in this critical area. We have a range of contributors. I am conscious that the time we would take to go through everyone making an opening statement would be quite significant. Does anyone have a burning desire to make an opening statement before we move to questions?

Prof. McGinty: I will do that. Thank you for the opportunity to present to you today. Having read the other submissions to the inquiry and agreeing with the consensus that incarceration of 10- to 14-year-olds is a bad thing for both children and society, our group, which is made up of informed people from the Townsville community and connections to the Townsville community, wants to present a case for raising the age through a slightly different lens.

I will quickly introduce the people you can see on screen. I am the deputy chair of the Tropical Brain and Mind Foundation. Max Bennett was not able to link in today so unfortunately he is not here. Dr Lynore Geia has sent her apologies. She believes she has COVID and has gone home quite ill. Professor Zoltan Sarnyai is a neuropsychiatrist from James Cook University. Dr Carlo Longhitano is a forensic psychiatrist at Townsville Hospital. Mr Albert Abdul-Rahman is a community leader and a past foster carer for over 100 children. Ms Cathy O'Toole is a community consultant in mental health. At this point I was to hand over to Professor Max Bennett, who was going to give an explanation of his slides, but he has been unable to manage the Zoom link. I would like to give the opportunity, if possible, to Dr Carlo and Professor Zoltan Sarnyai to make a three-minute statement.

Prof. Sarnyai: Let me start from the point of view of basic neuroscience research that has emerged during the last 10 to 15 years. It is absolutely clear that the years between 10 and 18 are absolutely critical. This is the period of time in the human brain that a very important process is taking place. That is called synaptic pruning. Synapses are the connections between nerve cells. That is what nerve cells use to talk to each other. We are born with a lot more of these than we end up with in our adult life. That pruning—the decrease in the number of these excess connections—is taking place during the adolescent years. It is exactly between 10 and 18. This is a terribly important process because if the pruning does not take place properly then neurons will not be able to talk to each other properly. They will not be able to develop their normal connectivity. That connectivity is required to underlie behaviour, emotions and cognitive functions—very important human cognitive principles such as attention and impulse control.

I would like to add that the part of the brain that matures the latest, actually late teens, is the frontal cortex. The frontal cortex is the one that underlies impulse control. Insufficient impulse control is behind many of these offences that are taking place. Therefore, I think there is a good reason to believe that the improperly matured brain contributes to that in significant part. During this period of time, anything that affects the brain will have a structural effect. In other words, stress and trauma associated with the incarceration and many other things in their life will negatively influence this key process of synaptic pruning.

Dr Longhitano: From a forensic psychiatry point of view, the behavioural translation of what Zoltan just expressed is that younger teenagers are far less likely to listen to any rules and obligations unless they are driven by their own environment—that means their families, their community and their peer group. What actually makes a difference in behavioural change is pressure from their families and their peer group to behave differently. If young offenders believe that offending against a certain community is a good thing to do because they get praise from their own communities to do that, that is when they are more likely to do it again. If they believe that this is something that they are not meant to be doing, that is what is going to stop them doing it. It is a matter of survival. When you are younger, you do what your family and your community is telling you to do. An intervention that will actually work is to create a community that is healthy, that there is less discrimination within and that perceives any misbehaviour against the community around you as being a bad thing. When they achieve that, that is when the crime rates will go down.

Mr BERKMAN: I really appreciate everyone being with us here in the room, Dr Hutchinson, and online. I start first of all with the folks online, bringing the kind of neurodevelopmental and behavioural issues to the front. There has been a lot of talk of raising the age to 12 as opposed to 14. Can you in short form give us a sense of what that means? What is the difference from a developmental perspective in making that lesser shift to 12 rather than 14?

Dr Longhitano: I think it is a step in the right direction compared to 10, but I think it is not a far enough step. Fourteen is around the age when most of the early development will have taken place. It is a bit gender specific as well. Females tend to have brain maturation that is slightly earlier compared to males. I would expect most of the females by 12 years old would have reached the next

level of maturation, although I guess it is more likely to be completed by 13 years in a female, but the males would certainly need up to 13 or 14 for sure in order to have that step taken. I do not think 12 is good enough. It should be 14.

Ms LUI: Dr Hutchinson, you state that raising the age of criminal responsibility would result in a safer and more productive community, providing the requisite wraparound services are available. Do you think these support systems should be established before the legislative reform to raise the age of responsibility?

Dr Hutchinson: That is a hard question. I think we have had experience recently with bringing 17-year-olds into the youth justice system. It was 1993 when the provisions were made in the Juvenile Justice Act at that point for this step to happen. We still had another year. I was on the stakeholders committee for that time, before February 2018. I think there was still work that needed to be done when we actually brought those 17-year-olds into the youth justice system. I think you need to make a stand and the rest will follow. There are services there, but we need to get them into position. Until we make a stand and make a change, nothing will happen.

Mr BERKMAN: Dr Hutchinson, I want to effectively ask the same question of you. Can you speak to the distinction between 12 and 14? What do we miss if the government aims for raising to 12 rather than 14?

Dr Hutchinson: If you look at the statistics, there are not too many 10- and 11-year-olds in detention. It is the 12-year-olds and the 13-year-olds—the grade 9 cohort.

Mr BERKMAN: The statistics that we heard from the department this morning were that on an average day there would be around eight children in total in that 10- and 11-year age bracket, with 83 overall in the broader 10 to 13 age bracket.

Dr Hutchinson: This is my own opinion: if we raise it to 12, you are not really making too much of a difference. It is 14 where, as we have heard from the other presenter, especially with boys, the maturity is kicking in. In any case, in the Criminal Code doli incapax is to 14.

Mr BERKMAN: There are so many questions I could ask. Professor McGinty, could you elaborate a little on research that has been done recently on the significance of FASD and, more broadly, on cognitive impairment amongst this cohort of children who would be caught by this bill?

Prof. McGinty: I sent to you a paper by Bower and others, a Western Australian study from about four or five years ago, which showed that children in Western Australia—and I do not see why it would be any different in Queensland—have a high incidence of FASD. This is the only paper I know of that has been published. I know that since that time there have been others working on FASD, but I have not seen those papers. The percentage of young people with FASD in detention is very high, and particularly high for Aboriginal and Torres Strait Islander young people. Putting them into a system where they are just surrounded by other people who have done similar things to themselves is just creating a major problem.

There needs to be special attention given to the FASD children for alternative rehabilitation. Some work is currently being done around the Fitzroy Crossing area by Professor Elizabeth Elliott from the University of Sydney. This is one I am in touch with. She is probably one of the most prominent people, although there are very good people in Queensland doing this work too. They are trying to work with parents and caregivers to look at alternative ways of dealing with FASD young people.

Magistrates in Townsville have told me that it is beyond their powers to even inquire or to suggest that a child be assessed for FASD in the criminal system. There is a lot to happen in terms of loosening up the powers of the magistrates, particularly in the children's courts. We also need to look at the work that is coming out of the University of Sydney.

Ms LUI: What diversionary program could work for children suffering from FASD or with other neurodevelopment impairments who are offending? Given the high representation of Aboriginal and Torres Strait Islander kids in the justice system, can you speak to the complex nature of working with these children to address much of the issues? What are your views about diversionary programs that would steer children into more positive pathways?

Prof. McGinty: I will ask Dr Carlo and Mr Abdul-Rahman to speak to this.

Dr Longhitano: I could talk for an hour about that, so I will be very careful not to overstate. Being at the forefront of delivering mental health care in North Queensland, I am acutely aware of the lack of specific services targeting the deficits that happen in people who experience intellectual disability, because FASD, fetal alcohol syndrome, does manifest itself as intellectual impairment. The adolescent with intellectual impairment will have difficulties learning new behaviour and will be very

malleable by peer pressure and very easily led into behaviour that may then lead to criminal behaviour. As a psychiatrist working on the ground I can say that there is almost no service available for people who have intellectual disability, other than some brilliant support from NGOs and statewide services.

What is missing is a specific intellectual disability service on the ground that could have the skill to deliver psychological and behavioural treatment programs that make a difference in behaviour and take people out from that milieu where offending is normalised and where going to prison or to a reclusion place is actually an accolade rather than something that should refrain you from continued offending.

Yes, we badly need mental health services having support, like a statewide program that delivers the rehabilitation and the intellectual disability needs. I do not think that is available in Queensland. Having experience from Europe, where that is available, I can say that it does make a significant difference when you can refer a problematic child to a good quality service or disability service with occupational therapists, with education or family intervention, with psychologists, working together for the case management of that person as opposed to just taking away their freedom and doing some hit-and-miss intervention that will not deliver the kind of long-term oversight that you actually need.

You also need interventions for alcohol problems because you do not want to create more FASD children. You want to stop parents from drinking in the first place. Intervention that drives down the alcohol consumption, especially in some of the communities, is absolutely essential. Rehabilitation services that can act on the problems that are happening at the moment to reduce the effects of alcohol dependence in the community will also drive down the behaviour immediately, in the short term, whereas the other intervention will hopefully drive down the behaviour in the long run.

CHAIR: Professor McGinty, would you like to add anything?

Prof. McGinty: I would like Mr Abdul-Rahman to say a few words from his experience of having fostered over 100 children.

Mr Abdul-Rahman: I came to Australia in 1970. I joined the Australian Army. From that period of time to where I am at, at my age of 70, I looked after kids who were troubled. I have had about 100 kids come into my care, from the 1970s right up to the year 2000. My experience in that area was that kids were dysfunctional for the very reason that parental responsibilities were very much diminished to the point that kids did whatever they wanted to do. From my personal experience in growing up, it takes a community to look after kids. That is in my culture. I use that culture in my care. It really meant that if there is a space in my house then that space can be occupied by someone else, and in my particular case young kids who were homeless and very troubled indeed.

Out of the 100 kids or more I have had three suicides. Thank God not many had taken that pathway, but the three suicides were in the prison. When it comes to the question of incarceration and age, from my own personal environment and where I come from, my tradition and culture, I believe that no kid should be in prison. If you look at Australia and the way it functions today, it is a generational problem from when the First Fleet came bringing into Australia convicts. All those years that have gone by to where it is now, the penal system seems to be the major way in responding to young people who are committing crimes.

Now we are coming to the stage where we are discussing neurological issues that are causing these young kids to be problematic. The good professor mentioned about alcohol. Nobody speaks of what ice is causing our kids. Ice is about everyone, even about adults and everyone who is in control of our lives also and our kids, so nobody talks about the ice situation.

When you are talking about incarceration, I do believe that kids should not be in jail at a very young age. We should be taking responsibility. How do we take responsibility? The last speaker mentioned diversion programs to look after these kids and rehabilitating them and this and that. Sure, that is very much in greater need, but the basis of where we are at now is because we have neglected the care and attention from the grassroots, the roots of the problem. It is not necessarily just the Indigenous kids, but we have kids who are not Indigenous who are suffering the same second status as the Indigenous kids.

This is a collective issue. This is an issue that is inbred within our society and it is governed by the government. The government takes away responsibilities. The government takes a workable situation, a program that has been placed in, especially in the courts—we had a workable court situation that was implemented some years ago called the Murri courts. We were quite successful. I sat on the Murri courts. We looked at the culture of the kids, their background and things like that. We made recommendations to the courts.

CHAIR: I am sorry to interrupt you. We are out of time. I do appreciate your contribution so far and the points that you have made. I also thank each and every one of you for the work that you are doing for our young people, particularly in your area of Queensland. I thank Dr Terry Hutchinson from Southern Cross University for your ongoing research and your contribution to advocating for young people within our communities. Thank you, everyone. Thank you for your great insight. We trust that the bill will be a better bill as a result of you. Thank you.

BROWN, Dr Anne, President , ANTaR Queensland

HAMBURGER, Mr Keith, Cooee Indigenous Family and Community Education Centre

MANNING, Ms Bianca, Aboriginal and Torres Strait Islander Justice Coordinator, Common Grace

NUTLEY, Mr Brett, Cooee Indigenous Family and Community Education Centre

PRENTIS, Ms Brooke, Chief Executive Officer and Aboriginal Christian Leader, Common Grace

ROBERTSON, Professor Boni, Cooee Indigenous Family and Community Education Centre

SANDERSON, Reverend Dr Wayne, Researcher and Advocate on Youth Justice Policy, ANTaR Queensland

CHAIR: Mr Brett Nutley, who the committee knows very well, is a former employee of the Queensland parliament. We welcome you back here. It is really great to see you again. We thank you for your great work over many years here in our parliament. I will hand over to you, Mr Nutley, to make a brief opening statement.

Mr Nutley: Thank you, Chair. First of all, I would like to acknowledge elders past and present—especially all the work the elders did to get us to the table like this today to be able to have a say. I just want to acknowledge Aunty Boni here—she is a good old dear friend of mine—and also Keith Hamburger, who has worked very hard to put this together. I want to acknowledge the anniversary today of National Apology Day.

Thank you for the opportunity to present to you. Thanks also to the member for Maiwar, Michael Berkman MP, for presenting his amendment bill to stop the shameful practice of imprisoning children as young as 10 in not-fit-for-purpose facilities, scarring them for life, ensuring that most end up in adult prisons. Our submission is self-explanatory. The criminal justice system is broken. Prisons and detention facilities are grossly overcrowded and not fit for purpose for the majority of offenders. Awful duty-of-care issues exist for staff and incarcerated people. Recidivism rates are scandalous, pointing to serious failures in rehabilitation. First Nations people, as everyone has been saying today, are grossly over-represented in prisons and youth detention centres.

The government is planning to spend billions of dollars over the next few years on more prison cells and youth detention facilities that are not fit for the purpose of rehabilitation and are not needed due to the highly credible alternatives available. This expenditure will be wasteful, increase crime and reduce community safety. The model in our submission is founded in the lived experience of First Nations elders, the work of highly experienced Queensland correctional practitioners and clinical psychologists, extensive literature, reports by the Queensland Productivity Commission, best practice from Northern Europe, groundbreaking work in Queensland during the late 1980s and 1990s that reduced prison populations and recidivism, the Maranguka Justice Reinvestment Project, Bourke NSW and Victorian initiatives relating to child and community hubs.

Over the years, recommendations of commissions of inquiry and commitments to implement a new approach have not been honoured. Reform proposals by First Nations elders in Queensland have been disrespected by bureaucrats and not actioned. We have had enough of reports and unfulfilled promises. Our ancestors fought for reform that never came to fruition in their lifetimes. We owe it to them to honour their voices and to continue to fight for reform.

Michael Berkman's amendment bill creates a watershed moment where Queensland can lead Australia in justice reform and in achieving outcomes for First Nations people in relation to Closing the Gap, although, as we have said in our submission, we believe the amendment bill must apply to all children. Via our submission we have grasped this opportunity to provide a course of action for your committee's consideration. It is founded in best practice, research and evidence to address the current crisis in our prisons and detention centres as well as create a platform for short-, mid- and long-term reform.

Our proposed reforms are not going soft on crime. Dangerous young people or adults will still be held securely. Our model deals with the majority of offenders who are not in this category and require rehabilitation. Our rehabilitation facilities and systems will have appropriate security and will

function in a holistic manner with culturally appropriate family and community support initiatives to reduce crime and recidivism and make communities safer. We respectfully urge you to include our 14 recommendations in your report to the Queensland parliament. Multipartisan support by your committee for our reform initiatives will be a powerful step forward in ensuring that law and order issues are addressed on the basis of evidence and not on simplistic, unfounded rhetoric. This will benefit all Queenslanders.

Concerning recommendation 5, page 19, relating to duty of care, where lives are at risk, we urge you to immediately draw this recommendation to the attention of relevant ministers and not wait until your report is finalised. The volatile nature of prisons and youth detention centres means that a disaster could occur at any time. We stand ready to meet with ministers and directors-general to discuss potential actions to address this critical duty-of-care issue.

I would like to thank you all for listening to us today because it has been a long, hard road for the Aboriginal and Torres Strait Islander community. I was a prison officer for 12 years. I have seen where people end up from a life of crime and not having the proper rehabilitation and proper care in humane conditions. I have seen it. I have found Aboriginal deaths in custody. It is not a very nice thing. That was back in 1991. Nothing has changed. I implore you to please have a look at this and look at it as a healing process instead of an incarceration process if we can get around those things. Thank you.

CHAIR: Thank you very much, Mr Nutley. I now turn to the organisation Common Grace to make a brief opening statement.

Ms Prentis: I announce myself as a Wakka Wakka woman and acknowledge the traditional custodians of the lands upon which we meet, the Jagera/Turrbal peoples and Jagera peoples. I pay my respects and therefore thank elders past and present for the way in which they refresh, revitalise and maintain culture and I thank the elders for their work and their fight for equality, for justice and, above all, for love. I acknowledge the Aboriginal peoples here today and pay my respects to your country, your elders and your families and to the member for Cook, Ms Lui. I acknowledge you as a Torres Strait Islander woman. I declare sovereignty has never been ceded.

In 2013, nine years ago, as an Aboriginal pastor and a Wakka Wakka woman I sat in front of a Queensland parliamentary committee regarding youth justice. I was the only Aboriginal person to be part of that public hearing, even though most of the children we were talking about then—and still are today—were Aboriginal and Torres Strait Islander children. Today it is great to see the increase in Aboriginal representation at this public hearing. However, there is still a long way to go, obviously especially in our government departments and the Queensland police union. I want to especially acknowledge Aunty Professor Boni Robertson at this table today and Bianca Manning beside me who is a younger Aboriginal Christian leader, Gomeroi woman and social worker who is working with young people, children and Aboriginal families in Logan under the guidance of senior Aboriginal Christian leader Aunty Jean Phillips.

As an Aboriginal Christian leader and the CEO of Common Grace, I mainly work on education and faith in action with non-Indigenous Christians. We are a movement of over 50,000 people pursuing Jesus and justice. We are led by Aboriginal Christian leaders to pursue friendship and reconciliation in our lifetime, and there can be no reconciliation without truth and justice.

Many non-Indigenous Australians and Queenslanders are shocked when I tell them that the age of criminal responsibility is 10 years of age. I often get questions afterwards. Some do not even know what 'age of criminal responsibility' means. I tell them that Australia and Queensland send 10-year-old children to prison. Often they do not believe me. When you talk about your constituents, I wonder how many you are talking about.

As Aboriginal peoples in these lands now called Australia and Queensland, we know only too well the truth of what can happen to our precious children. In 2013 to that Queensland parliamentary committee I said these words—and they still ring true today, nine years later. We also remember it is 14 years since that apology and our children are still being taken. I said, 'I sit before you today heartbroken. I sit before you today heartbroken that we have not achieved reconciliation' in these lands now called Australia. I sit before you today heartbroken that Australia and Queensland 'have not succeeded in closing the gap and that' Australia and Queensland 'have not made Indigenous poverty history. I sit before you today heartbroken for the Aboriginal families who have children in … prison'.

Today I add that I sit before you heartbroken at listening to government departments and the Queensland police union presenting information which is not our lived reality as Aboriginal peoples in the state of Queensland. I sit before you heartbroken that our Aboriginal children and young people

are indeed being arrested for shoplifting and not having train fares. I sit before you heartbroken that our school principals receive little if any cultural awareness training—they do not know where to turn; that the Queensland police force receives no cultural awareness training, let alone anti-racism training; that we know that at some police stations in Queensland our Aboriginal police cultural liaison officers are not rostered on in the evenings, especially on Friday and Saturday nights; and that Aboriginal organisations and elders groups are not receiving adequate funding or any funding to be able to create the diversionary programs and early intervention programs we have been asking for for decades and are capable of delivering.

As Christians and followers of Jesus, Jesus calls us to love our neighbour as ourselves. That is all our neighbours, without distinction and without discrimination. That is love, without distinction and without discrimination. Jesus had much to say about children. In Matthew chapter 18 Jesus calls a little child to him and places the child amongst the people and says—

> Truly I tell you, unless you change and become like little children, you will never enter the kingdom of heaven. Therefore, whoever takes the lowly position of this child is the greatest in the kingdom of heaven. And whoever welcomes one such child in my name welcomes me.

Prisons, detention centres and watch houses are not where our children should be welcomed.

In July 2020 the new Closing the Gap targets were released. The week before, the attorneys-general from every state and territory met to raise the age of criminal responsibility. They said they needed another 12 months to consider raising the age. It is 19 months later. We are tired of waiting. This should have been done 12 months ago and you can do this today. It is time.

It is time non-Indigenous Australians took seriously the need to close the gap and the action that must be taken by enacting the Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021. It is time for the precious children of Queensland to be loved instead of locked up. It is time for an Australia and a Queensland that I dream of, pray for and need—an Australia and a Queensland built on truth, justice, love and hope. It is time today and then tomorrow to get onto the essential work of fixing the public housing crisis, alleviating poverty and providing culturally appropriate care to our precious children and their families. It is time today.

CHAIR: Thank you for your heartfelt contribution to this debate. Reverend Dr Sanderson, would you like to make a brief opening statement?

Rev. Dr Sanderson: I too acknowledge the traditional owners and the First People of this land. We in ANTaR are a whole mixed bag of people. There is not that many Aboriginal people who are full and participating members of ANTaR, but we have many Aboriginal friends. We seek their company and they seek ours. We have rich dialogue. We try very hard to be humble and listen well to what they have to say to us. We have established relationships all over Queensland between our 800-odd members and First People across the state.

I want to say four brief things. The first is about the relevance of removing the youth justice sanctions from under-14-year-olds. We have had the chicken-and-egg discussion for a fair bit here this morning—'Oh, dear. What will happen if we legislate?' It is not either/or; it is both/and. It is things we have not learned yet but we will learn as we commit to that principle for which there is abundant evidence of the need for. There would be no void.

I have met current sitting members of this parliament who have been wringing their hands and saying, 'You are going to let all these kids off.' Sorry about that, fellas. There is one point we need to stay with. Clearly, the diversion of under-14-year-olds out of the youth justice system requires major preparation in resourcing and coordination—noting what is said to us by the paediatricians. It is in one of the submissions before this inquiry. They say what they can do—paediatrician led but with other skilled people putting in—to help a kid who is caught in that 12-year-old offending cohort. They say what they can do for a big proportion of those kids to help them be ready by the time they are 14 for a decent secondary school education. It might not be that. It might be an alternative school or it might be Transition 2 Success—already a successful program of this government, already with a track record.

Secondly, the agency, ownership and resourcefulness of First Nations leaders in local communities and at a state level must be recognised respectfully and intelligently by our governmental, political and public sector leaders. They must be given realistic, locally relevant, secure support. That is budgeting right down to this, that and the other.

Thirdly, the government will be able to expand substantially on what it has already achieved—I instanced Transition 2 Success—in restorative justice using internationally proven grounded resources in alternative education, work skills orientation, health and disability assessment and, through care and treatment, relevant timely intervention with troubled families. Some of that is

happening, but it tends to be happening in some hotspots. The results are a mixed bag. The results are not all in yet and there is much more to be done there. At least the challenge has been recognised. We give a bit of credit for that to those who are responsible for its leadership.

Fourthly, please remember that we are not starting from scratch. The climate legislatively, the political culture, the culture of receptiveness and critical thinking in our wider communities throughout Queensland are a long way ahead of where they were 20 years ago. We need to understand that and understand just what it is within which we are working.

A part of this is my deep frustration as a 40-year-vintage Uniting Church minister and clinical psychologist, having served in dual capacities in many locations and responsibilities. I just do not understand how it is that we cannot learn from comparable places outside Australia. There are such places. I have instanced the province of Ontario in Canada and also to some extent the province of British Columbia. I am very familiar with how the youth justice system has reformed in both of those places. I am not the only one. We want to introduce relevant people in Queensland to people who are about 20 years ahead of us in some of those other jurisdictions. I will leave it there.

Mr BENNETT: The last two sessions have been quite intense. Reverend, I will pick up on something you said. I certainly do not apologise for having concerns about this bill. I certainly do not apologise for the issues around community safety and community confidence that people raise with me. It may well be ignorance. The fact is that we represent a large group of people who may not be as involved or engaged as all you learned people are. We have to be careful about what this looks like going forward. With all due respect to my colleague who introduced the bill, we are putting it through the wringer. Hopefully as a parliament we can come up with some good and meaningful change. I take on the comments about the need for change.

How do we get to the point where we have the mechanism in place to give those 10- and 11-year-olds the pathway away from incarceration or a life of crime—the words you have all used? My big concern is that we jump to this and you are going to let them off. That is probably the perception and reality in terms of the thinking in our community unless we can get the basics right and we can deal with homelessness and the other issues. Heaven forbid Closing the Gap is as bad as it was this time, with only one of the targets met, and we introduce another 13. We all have a lot of work to do before we can really hang our hat on success for the most vulnerable. I acknowledge that for 10- to 14-year-olds we need to do much better. How are we going to get this right so we can give the community confidence and provide community safety? We have just had an accident in Townsville and someone has died in a car accident again.

Rev. Dr Sanderson: I have far too much to say to you for the confines of this hearing. I am very happy to have a follow-up discussion. I find that good. It is good for me too. It is government and community partnership. I do not think we are doing that very well in Queensland. There are other places we could point to where I think it is being done pretty effectively. We all have a lot to learn in this—both the community for its part and the government for its part. There are trust issues. There are 'my taxes at work' issues. There are all those things. They are all in the mix.

Dr Brown: There have been a number of discussions that test cases could be run.

Mr BENNETT: The submissions are very well written. There is a lot of information.

Dr Brown: That is something that could also be looked at in this context.

CHAIR: I believe Mr Nutley had a contribution to make.

Mr Nutley: Briefly, I will give an example from the other night. My son works in the child safety field. He rang me up at nine o'clock at night and said, 'Dad, I've got this 14-year-old young Murri boy and he's got nowhere to go.' Then the penny dropped while we were sorting all this out. I thought, 'We need somewhere for these kids to go.' We can make all the changes that we can possibly make—change the bill or whatever—but they need somewhere to go where they are going to be safe, where the community is going to be safe and where they can learn how to be safe. I think that is what we need. My colleague was saying that we need a safe place to do that. We are actually working with Keith, Aunty Boni and a couple of other stakeholders on a process and a program that we can brainstorm this and put it together.

Mr BENNETT: As a committee we have never visited Abergowrie, but have seen it a lot in the submissions as something that has huge capacity. I know it is faith based. I do not care who runs it, to be honest with you. Is that something that could be a model to start?

Mr Nutley: I do not know exactly what Abergowrie has going out there currently, but I think everyone is trying to take the same leap forward.

Mr BENNETT: That is where you want to go.

Mr Nutley: That is where we want to go. Mr Hamburger has some really great ideas. We have been working closely with him and also with Aunty Boni and her sister at Cooee. We have a lot to offer, to put on the table.

Mr BENNETT: Some 45 pages. I read your submission. It is very good.

CHAIR: Professor Robertson?

Prof. Robertson: First of all, my respects to the traditional custodians of the land and all of my colleagues present. At no stage has there ever been a notion that our people and our supporters are purporting to go soft on crime, but to retain the operations of a system that has time and time again proven itself to fail to meet the needs of our people and many other people is a ludicrous move in itself. I say that respectfully. The one thing that our people need to ask good-hearted people like yourselves and people in government of all persuasions—it is about our people and governments working together—is: at what stage does the delusion stop? Our people have come to the table over the past 40, 50 or 60 years. An avalanche of reports have been commissioned by all levels of government. The recommendations are there. Money gets allocated. We come to the table in good faith only to find out 10 or 15 years later that nothing has been happening.

No-one is talking about going soft on crime. What we are talking about is making it a safer community, a more productive community—a community where healing really does take place. It means giving life to the text and tenor of all those recommendations that have been made and giving life to the commitment to justice reform. That is what we are asking for, not to retain the same old ineffective system.

CHAIR: Thank you, Professor Robertson. Mr Hamburger?

Mr Hamburger: Thank you for the opportunity to be here today. Earlier this morning the member for Burnett and you, Chair, each asked a very pertinent question. One was, basically, 'How do we write this report to fix this?' The chair raised a question about what comes first, the chicken or the egg: the programs or raising the age. They are critical questions.

There has been talk about community safety, which is critical, and community confidence. I have a long experience in corrections. I know that once you lose the confidence of the community it is history. The way we see it—and we have tried to explain this in our submission—is that there are probably two levels to this. One is at the policy level. That is where you are sitting, and you are grappling with this very serious question of raising the age. We very clearly sit in the position that no child should be criminalised. Then you come back and say, 'Yes, that is fair enough, but how do we control these dangerous young people and keep community confidence?'

Let's say that at the policy level we say, 'Yes, it's a good thing not to criminalise children.' Then we have to move to the next level. In my experience in corrections—and there has been literature around this. If you look at the postcodes of prisoners and young people in detention, you can draw rings on the map in Queensland of where these people come from—lower socio-economic, disadvantaged communities, First Nations communities. It is a place based problem.

I have visited many First Nations communities and worked with many First Nations people and wonderful people here with me. In each of these communities there are great people with great ideas who want to fix things and do things. I have not yet heard anybody talk this morning about giving agency and authority back to First Nations people. There is a saying out there that, as far as First Nations people are concerned, in Australia we have done things to them and we have done things for them. We have not respected them in that they have answers, they have culturally appropriate solutions and they can fix this. I have worked in depth with the Goorathuntha and Bidjara people at Charleville. In 2016 and 2017 they gave a well-thought-through model for a place based response to fix this. It did not get taken up, sadly. Now working with Cooee, it is the same thing. We have brilliant people who can make this work.

What has to happen is two things, I think, to answer your question about how you write your report. I am saying this with respect because it is your decision. I would say that the overwhelming evidence is that something has to be done about this age thing. If it were me, I would take it right up and say that a child is a child is a child, so if you are 17 and below that is where you go. But we have to balance that with what we have just talked about. What we are proposing is that perhaps there is some ground on this for the committee to consider that, in principle, there are some good arguments to do what I have just said; however, we have to do this carefully and thoroughly to make sure we do not put community at risk.

We are proposing a trial approach. The government has already put in place the local thriving community model. That model can fit beautifully with what we have put in our submission. We have suggested up to five trials, but we would probably start with one. The other four potential trial sites

would work with that trial site so they learn what is happening and we build the model. This is not a big problem. We are not talking about thousands and thousands of people. I remember going to England years ago and at the time I had 2,000 prisoners here in Queensland under my control in corrections. I asked my counterpart how many prisoners he had and he said that he had 55,000 at that time. He asked me how many I had and I sort of shrunk, because I had a small problem compared to what he had. This juvenile problem is small numbers.

I will not go over all of our submissions, but there is a model in there about how this could work. We believe that one of the big problems that has held us back for years is this political dogfight we get at elections about law and order and so on. We need to get a bipartisan approach to this. That is why we propose an all-party committee, so that people like yourselves can look at this objectively and superintend the Productivity Commission's recommendation for a justice reform office because, as Boni just said, the system has to be reformed. I have heard Youth Justice talk about reform, but they are tinkering around the edges.

Juvenile detention centres are inhumane places. I had one in my control for a while in corrections. I have seen them in Europe. I have seen them in New Zealand. I have seen them all around Australia and in Papua New Guinea. There is no place to put young people in juvenile detention facilities. The model we have put forward is a therapeutic system.

Mr Leavers this morning raised the point that the police are needed and that we need to keep the Criminal Code involved because they are at the front line, they are on the ground and they have the authority to do it. There is a different option to that, with respect to him—that is, under our model the court would have the power to do a control order. A child can still be apprehended but they are not taken to a watch house; they are not taken to a detention centre. They are taken to a therapeutic assessment centre. This is part of the northern European model where you get a multidisciplinary approach to getting the full needs of that child assessed.

From that, the court gets a pathway plan and there are two options. For the dangerous, highly problematic ones there is a therapeutic centre—not a detention centre—with small numbers, probably no more than six. All the literature tells us that when you are dealing with very difficult young people you have to deal with small numbers in a personalised way and you have a wide variety of activities. I will not go into that now. That is for the dangerous ones. It is much safer than the current system, because it will indeed rehabilitate and we will have less recidivism. Then we build a kinship caring system where First Nations people are paid and trained to run that. All of that is superintended by a public benefit corporation model owned and operated by First Nations people. Over the next three years, we could wipe juvenile detention centres away and Queensland would be the leader in this country in dealing with youth crime. I could say a lot more, but I will go quiet because I have taken up too much time. That is my first summary of it, anyway.

CHAIR: Thank you very much, Mr Hamburger. That is a very good summary of your submission and your work.

Ms LUI: Mr Nutley, in your opening statement you mentioned that the criminal justice system is broken. Can you elaborate on that?

Mr Nutley: I see a lot of young people going to jail and the high incarceration rate. We need an alternative, like what Mr Hamburger just said about a rehabilitation facility. I work closely with the justice group at the Wynnum court house, with Magistrate Sarra. He would love to have alternatives to put young offenders somewhere instead of youth detention. Sometimes he has no choice as he is bound by legislative processes and the law that he has to follow. That is one thing that is broken. I gave the example of my son the other night with the 14-year-old boy. If he had not found somewhere for that young man to go that night, you can bet your bottom dollar he would have stolen a car and driven out to Beaudesert. That goes back to what we were talking about before.

There are all these little things that are broken, but we need a safe place. As I was saying to Aunty Boni before, even with the departments of child safety and youth justice, the similarities are absolutely mind-boggling. A few years ago I saw that we had to recognise entities as advocacy areas for Aboriginal children and their families and Torres Strait Islander children and their families. That was all defunded. That has gone. There is no conduit or no advocate in that space. That is another thing that is not right.

There are a number of things. I would like to sit down and have a cup of tea with you, actually, and go through them one day. You can see where I am going with it. We need the infrastructure and we need the organisation that Mr Hamburger just spoke about. We need something like that probably yesterday instead of tomorrow. If we get that model right and work in partnership with the proper

authority, I am sure that we will get it right—without a doubt. Like I was saying before, with billions of dollars in funding for prisons, let us put the money somewhere it will cost less and be more community safe down the track. It is going to be a long haul, of course, but we will get there.

Mr BERKMAN: Thank you all for taking the time out to be here this afternoon. I want to direct my question primarily to Professor Robertson, Aunty Boni, largely because of the work that Cooee is already doing. I get the sense, from what I know of the organisation, that the alternative approaches we are talking about are already on the ground and happening through organisations like Cooee and others. Could you speak to the committee of your experience of that—its efficacy, the funding gaps that exist and how that impacts on you and the organisation? Finally, what do you say to the suggestion that we are putting the cart before the horse and that we need to have all that ironed out before we get to raising the age?

Prof. Robertson: For 22 years I have been working with the elders. I have been an academic for over 40 years. Cooee was established when service providers and governments of all levels in that particular area did not know what to do about the Indigenous youth concern. The elders put together a model. That model has now saved the lives of over 2,600 children and their families, all recorded. We have had representatives from all levels of government come to look at the model, make commitments and ascertain the validity of our statements. Everything is recorded and validated. We have had people from across the world come to look at the model because of its ability to deal not only with youth who perhaps are not doing the right thing but also with the family and non-Indigenous stakeholders, who are often at a stage where they do not know what to do about transforming change.

The one thing that always worries me is that somehow we talk about enacting change. Change never happens for us. It is maintaining the status quo. Our families, our children, become commodities in that process. It is our children who are making up the number of people in youth detention centres, in child safety and in the adult correctional centres. We spend many years, as I said before, working in good faith to make sure we can demonstrate an effective model of change. We knock on doors. We believe in good faith that change is going to happen, only to find out, as I said before, that change never takes place. It has to take place. If you just look at the number of our young ones who have been in care, even in the last 12 months, and who in this local area have taken their own lives, you cannot possibly divorce an assessment of the correlation between what is happening and the legacies of terrible policies that have been imposed upon our families, the consequences for our children now and the dire situation where we cannot get the help to do what we need to do and what we know does work. I would love it if this committee could come down and see firsthand.

The elders who set up Cooee actually negotiated with the magistrates the establishment of the Murri Court and the justice groups, trying to show that if we work together in good faith—we are two systems of law; we are two forms of culture, with people with good minds and like minds and hearts—we can make a difference.

I would say that in the important work you are doing the key question would be—RASP are bringing about a difference and all the answers have been there before and we can say it ad nauseam: why has the transformation that we have committed to over the years not taken place? We would not be sitting here now with broken hearts. This morning I watched the anniversary of the apology to the people who had been taken away, and I thought, 'It is criminal in itself that we talk about not wanting to raise the age of criminality, yet we are treating the consequences of those young people over years and years, where we have been treated like criminals for no crime other than being First Nations.' My own two brothers were casualties of that, and my mum and my nan. There is not one Aboriginal or Torres Strait Islander family that I know of that has not been touched by that consequence.

For us to sit here today—it is an emotional plea. It is an emotional plea, not in a way that is nonsensical but in a way that says to good-hearted people like yourselves—and I have said this ad nauseam: we cannot do it by ourselves. We know the answers, we have the solutions and we have faith that we can make a difference; we ask that you have faith in us that we do have the solutions. We just have to be funded appropriately to do that, because most of us are using our own funds to do what we know does work, can work, can bring about change, can transform young people when they are doing the wrong thing, can bring about change in communities and can really and truly give life to the aspirations that we have of this country being a healed country where truth is told and where we are at a point of true reconciliation. I do not know whether I have answered your question. I have probably gone around the garden and got back to where you asked, but not one aspect of that discussion can be excluded from the other. It is also intangibly linked. Thank you.

CHAIR: Thank you very much, Professor Robertson. The committee certainly respects the respectful way in which you have interacted with us and shared your stories, your wisdom and your immense academic knowledge. The committee thanks you sincerely, Professor Robertson. My

question is to Cooee. Some of the submissions to this bill talk about how many children are not identified as being at risk until they are arrested or detained—that is, they enter the justice system. Can you comment on how children at risk can be identified and assisted before they come to the attention of police? Could you help the committee with that understanding?

Prof. Robertson: Everything we have built our services upon is about identifying children at risk, putting in place strategies that are around principles of prevention and deterrence and working with families, the community, stakeholders, courts and governments to put in place a strategy that does actually bring about change. Right now, a lot of the strategies that are adopted outside of what we do are about maintaining the status quo—bandaiding. We are not into bandaiding. We really have to start focusing on prevention and deterrence strategies so that when a school identifies a child who might be having problems, we know whether they are at risk of further offending or whether they might just need a little bit of assistance at that point in time. It is really critical that we start turning the lens to re-funding strategies that are about prevention and deterrence, that are about, unfortunately, reform. It is about having tangible, hands-on engagement across service providers so that we can provide a safety net so that those children at risk are identified early. It is that early intervention that is going to bring down the incarceration rates and the offending rates. The good thing is that this has all been proven.

Mr Hamburger: What Professor Boni is also alluding to is one of the problems that goes back to the question about the criminal justice system being broken. When you take children out of their community and put them in a detention centre, as we heard from other speakers earlier, it is a whole family and a community issue. Once you separate them, you are not dealing with the other issue of the family. What Professor Robertson is talking about is in, let's say, the Cooee model where you bring family members and associates in and you work holistically with the whole group. You cannot do that when you lock little children away from mum and dad and everything else. It is that holistic approach at the community. It is a place based problem, so it has to be a place based response. The local First Nations people have to be given the power and the agency, and be paid and funded—and that is what our model talks about—so that the facilities are under contract to government, with key performance indicators around the very holistic response that Professor Robertson just explained.

Mr BENNETT: Brooke, would you mind elaborating on your submission for the establishment of an expert panel or a commission to be independent of Youth Justice and Child Safety to refer children and their families to for support? I guess it is leading on from the matters that Cooee is talking about as well. Would you be happy to talk to that and explain that to the committee? I do not have the page reference for you, I am sorry, Brooke.

Ms Prentis: I am trying to find exactly what you are referring to.

Mr BENNETT: It was talking about an expert panel or a commission to be independent of those departments, Youth Justice and Child Safety.

Ms Prentis: Yes, thank you. Sorry, I am there now.

Mr BENNETT: Sorry to put you on the spot like that.

Ms Prentis: I think it is very much what Cooee and Professor Boni Robertson have just said as well, and what I said in my opening statement. Common Grace is led by Aboriginal Christian leaders. The time for Aboriginal and Torres Strait Islander people to not be leading is over. We must be at the table. For Aboriginal children, young people and our families, the committee should be aware that we are seeing the systemic injustice because we are touching the youth justice system. We have corrections, police, housing, health, education—we see the whole lot and where our children and young people are being failed every day. Our families are crying out for support. They are often coming to us, as Aboriginal Christian leaders, for that help and support. This is our lived reality every day.

I did make a statement about government departments. My heart is a little bit broken that some of the government departments that came here do not have a First Nations representative sitting here. We are talking about a majority of Aboriginal and Torres Strait Islander young people. When all of those systems are failing us, we need to set up something different. The time is now. Whether it is a First Nations taskforce, it must be the grassroots community people. It is time that we must be heard and listened to.

Aboriginal and Torres Strait Islander peoples are in every electorate in Queensland, but very rarely do we see our members of parliament coming and seeing the real situation with housing. As an Aboriginal pastor, I supported our Aboriginal young people. They would come out of juvie and they had nowhere to go. You go back to an overcrowded house and you are confused, you are lost, you are sad and you do not know where you belong. To hear that some people think our children and

young people have this sense of belonging in the prisons is heartbreaking. I do not believe it is the reality. We need to fix this housing situation and poverty. Our kids are still going to school without school lunches. We need to set up this expert panel. It must be grassroots and Aboriginal and Torres Strait Islander led. That is the deep heart and desire, and that is where the real change can come.

As Professor Boni said, we have had the solutions. It is the government and the church structures in this state and nation that have not listened to us as Aboriginal and Torres Strait Islander peoples. It is not just being listened to; the gap can be closed. It can be closed.

I sit here as a chartered accountant, one of only 30 Indigenous chartered accountants in all of Australia. We want to talk about all of these different diversionary programs that we could set up—they are already running, but Aboriginal people are doing them out of our own pockets, as well as going into the prisons and into the courts—out of our own pockets. There are people like Aunty Reverend Alex Gator and so many others who support our children and young people through those court systems, and they are doing it on their own. Murri ministries is another brilliant example—the work that Aunty Jean Phillips and Bianca Manning are doing down at Logan. We have gone about and set up these things ourselves. It is hard work, but we are capable and we can do this. We need the support alongside us. I sit here as a chartered accountant and I know that it costs over $100,000 per year to keep a child or young person in the corrections system or in the youth justice system. I know it is far higher than that, but I do not have the exact number.

Mr BENNETT: It is 250 at Cleveland.

Ms Prentis: Yes, but if we are talking about 83 children that this raise-the-age bill attracts and if you just went with $100,000 per year, that is $8.3 million. I hope you have done the financial modelling and are ready to go with the programs but making sure that the funding gets to our Aboriginal and Torres Strait Islander peoples and organisations.

Ms LUI: My question is directed towards ANTaR. We heard from previous speakers today about a culturally responsive approach to addressing the issue of vulnerable kids, given that the large majority is Aboriginal and Torres Strait Islander kids in the youth justice system. In your submission you call for the rights of First Nations people to provide culturally responsive care for their children. Given that in Queensland we have Aboriginal and Torres Strait Islanders but then there are all the different regions which have different cultural practices, I am interested to know some of your thoughts about how they address some of these issues within their own community space. I am also interested to hear from Cooee.

Dr Brown: As has already been pointed out by other speakers, the responses really do need to be place based. Even though there would be an overarching consistent orientation, the actual immediate practicalities need to be attuned to local places, local communities, local needs and local families. I think there has been a lot of emphasis on how properly supporting young people is quite a personalised effort, whether we are talking about First Nations young people or any young people. A young person suffering complex disadvantage or trauma needs personalised support, so it is going to inevitably be place based. That is a significant commitment, but I think it is one that would reap immense benefits and would also be, indeed, fundamental to questions of healing and also treaty, since we are talking about treaty in a broader context.

CHAIR: Thank you, Dr Brown. Sadly, we have come to the end of our session. An hour went incredibly quickly due to the passion and compassion that each of you demonstrated. I thank you sincerely for your great love of our children of Queensland but also for the great work that you do for all children, whether they be First Nations children or white Australian children. The work you do is really important. The committee thanks you immensely for your strong advocacy and also for the intellect and knowledge you have of the issues of a very complex scenario that we face. I thank you each and every one of you for your time.

ACHESON, Ms Katie, Chief Executive Officer, Youth Advocacy Centre Inc.

ACKERMAN, Ms Michelle, Engagement and Support Manager, Youth Off The Streets

BOL, Mr Beny, Logan Program Manager, Youth Off The Streets

HANCOCK, Ms Lauren, Law Reform and Advocacy Officer, knowmore

McDOWALL, Dr Joseph, Executive Director (Research), Create Foundation (via videoconference)

McKEON, Ms Janet, Policy and Systemic Reform Officer, Youth Advocacy Centre Inc.

RAYAN, Ms Roba, Senior Lawyer, knowmore

CHAIR: Good afternoon to each and every one of you. Thank you for your great interest in the bill today. The committee certainly appreciates the knowledge, skills and experience that you bring to this very important legislation that has been proposed for our Queensland community. I invite each organisation to make a brief opening statement, after which our committee members, beginning with the deputy chair of the committee, Mr Stephen Bennett, will have some important questions for you in relation to your submissions. We will start with knowmore, an organisation that is known to our committee. Thank you for your ongoing support of the work that we do. I invite Ms Hancock to make a brief opening statement.

Ms Hancock: Thank you to the committee for the opportunity to make a submission and to speak today. I would first like to acknowledge the Jagera and Turrbal people, the traditional custodians of the land on which we meet. I recognise their enduring connection to the lands and water of the Brisbane area and acknowledge that sovereignty was never ceded. I pay my deep respect to their elders past, present and emerging and extend that respect to First Nations people here today and watching or listening online.

Knowmore supports the principles in the submissions made by our colleagues on this panel, and we acknowledge and greatly value their expertise in presently working with children and young people. Consistent with the service we deliver, our submission is relatively narrow in its focus. It is directed towards the interests of our client group as survivors of child sexual abuse, particularly in institutional settings. In supporting these people we see the profound and lifelong impacts of exposing children at a young age to the criminal justice system and youth detention.

In that are two of the key points from our submission that I would like to reiterate here. The first is that youth detention environments are high-risk settings for child sexual abuse. This is not an historical issue. The Royal Commission into Institutional Responses to Child Sexual Abuse heard from survivors who were abused in youth detention as recently as 2010, and the factors the royal commission identified as contributing to the risk continue to exist today. We particularly note the high proportion of children in youth detention with complex needs and histories of abuse, neglect and other trauma. I know this is a point that the Youth Advocacy Centre and Create have also raised in their submissions.

The second point is that child sexual abuse in youth detention can have significant lifelong impacts for survivors. We particularly see that in the large number of clients knowmore has assisted over the years who have been in Queensland prisons. Many of these people speak about how the sexual abuse they suffered as children in youth detention led to lifelong cycles of reoffending and incarceration often driven by anger, shame, substance use and mental health problems. Until the royal commission, most had never had a chance to speak about what had happened to them as children in detention.

The costs of all of this are significant, not just for survivors and their families but also for the community more broadly. The Queensland government also continues to bear a significant cost for what happened to survivors as children in detention including through the current National Redress Scheme, the previous Forde redress scheme and civil claims. We do not want to see a redress scheme in 20 or 30 years time for the vulnerable young children in detention today. It is important to get this right now.

Knowmore wants to see the minimum age of criminal responsibility raised to 14 years. The best way to keep these children safe from the risk of sexual abuse in youth detention is to keep them out of youth detention.

CHAIR: Thank you very much, Ms Hancock. I will now invite Youth Off The Streets to make a brief opening statement.

Ms Ackerman: I would like to acknowledge the traditional custodians of the land on which we meet today and pay my respects to elders past, present and emerging. I acknowledge that sovereignty was never ceded. I also pay my respects to any First Nations people here today.

Youth Off The Streets would like to thank the committee for allowing us to speak today regarding this legislation. This legislative issue is creating debate not only in Queensland but also in many jurisdictions across Australia and we welcome this essential discussion. Youth Off The Streets has been working with children and young people engaged in the juvenile justice system for over 30 years. Our position on the current amendment bill has been built on our experience; children, young people and community voices; and the wealth of robust evidence available related to the criminalisation and incarceration of children and its long-term impacts.

The evidence clearly demonstrates that the vast majority of children connected to the justice system have experienced significant individual and systemic disadvantage including complex trauma, violence, child neglect and abuse, homelessness, racism and discrimination, social exclusion and often levels of neurodivergence. The evidence clearly demonstrates that First Nations children are disproportionately connected to the child protection and criminal justice system, and we as a society have witnessed the impacts of colonisation, displacement and structural disempowerment of First Nations people and the impact that has had on children, young people, our families and community.

The financial cost of incarcerating a child is approximately $1,500 a day—and I know there was a debate about that earlier. The human cost is unquestionably higher. Youth Off The Streets advocates for investment in mechanisms that divert children from the criminal justice system including effective risk screening, early intervention and therapeutic responses that are age and culturally appropriate and put families and communities in the centre of co-designed solutions.

Today is a special day for me. My fourth grandchild was born this morning at about nine o'clock—a little boy. Celebrating his birth made me contemplate my oldest grandson. He still has trouble tying his shoelaces. Sometimes he forgets to take his pyjama pants off before he puts his school shorts on and goes to school wearing both. He loves playing video games and building Lego. He is quick to react to what he calls his 'annoying little sister'. He not long ago worked out that Santa Claus does not exist and he spends most of his time in his imagination, dreaming of being a famous basketball player. My grandson is 11. Under our current legislation he could be held criminally responsible for his actions. As a grandmother, this terrifies me. As an advocate for children and young people, I see my grandson in every single child we support across our organisation, and we all must do better.

Youth Off The Streets supports raising the age of criminal responsibility to a minimum of 14 years, in line with the international human rights standards and the UN Convention on the Rights of the Child article 3.1, which states—

> In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

The criminalisation and incarceration of children is not in the best interests of a child—not for my grandson and not for any other child in Queensland.

CHAIR: Thank you very much, Ms Ackerman, for your very powerful contribution. I now invite the Youth Advocacy Centre to make a brief opening statement.

Ms Acheson: Thank you for the opportunity to speak to the committee today. On behalf of the Youth Advocacy Centre, I would like to acknowledge the traditional custodians of the land on which we are meeting and pay respects to their elders present, past and emerging, many of whom we are talking about today. YAC supports raising the age of criminal responsibility to 14 without any carve-outs. Arguably this is not a great leap, as the only reason that under-14-year-olds can currently be prosecuted is due to doli incapax provisions under section 29 of the Queensland Criminal Code.

The questions at the heart of this debate are simple. Should we have the same expectations of a 12-year-old that we do of a 22-year-old or a 52-year-old? Should the same expectations of a child in late primary school or early high school be the same that we have for an adult? Should we respond to their actions and behaviours in the same way as we would to an adult's? If the questions were asked in any other context, we would say, 'Obviously not.'

The law has long recognised a child's vulnerability and immaturity. This is supported by international human rights frameworks. In our submission we have referred to a variety of individual laws that seek to protect children up to the age of 16 in some circumstances. More broadly, anyone

under 18 is legally a minor which places significant constraints on their ability to act autonomously. Until a person reaches 18, they cannot legally vote, get married without permission, get a tattoo without permission from their parents, get a passport without parental agreement, buy alcohol or tobacco products, or even make a will. That is an exciting thing in life, isn't it? Why does the criminal law fail to appropriately recognise the vulnerability and immaturity of children past their 10th birthday?

The younger a child enters the justice system, the greater the risk they will remain in it. The Youth Advocacy Centre's experience over the last 40 years is that the younger a child enters the system the more likely it is that there are serious problems within a child's life and environment. Research has demonstrated a clear relationship between the health and wellbeing of young people and the environment that they grow up in. Children should not be criminalised because of the challenges experienced by the parents; nor should we seek to blame the parents for the behaviours of the child. Rather, where parents are experiencing capacity or parenting issues, greater assistance should be made available to parents to address these and support them in supporting their children.

Where younger children are identified as having risk factors like mental health, cognitive impairment or substance abuse issues, these must be addressed with therapeutic rather than legal responses. The criminal law is not the gateway to these services, as was suggested earlier today. Criminalising children's behaviours reflecting their developmental challenges masks the need to intervene and effectively address their issues. The criminal law cannot respond to children in age and developmentally appropriately ways. Locking them up will not achieve this. The risk is that the system will enable them to return to it.

The answer to the question 'Should we have the same expectation of children as adults?' is clearly no. We need to change how we address children's behaviours, particularly those aged 10 to 13. Importantly, we need to have appropriate prevention and early intervention strategies in place to avoid the problems altogether. This fits well with the government's declared aim of giving children the best start in life.

The United Nations Committee on the Rights of the Child has been clear about this and has criticised Australian jurisdictions for a low age of criminal responsibility. Children belong at home, at school and in the playground; they do not belong in police stations, courts and detention centres. We thank you for the opportunity to be here.

CHAIR: Thank you, Ms Acheson. That was a very good contribution. Dr McDowall, would you like to make a brief opening statement?

Dr McDowall: I would like to pay my respects to the Indigenous elders past, present and emerging. Today I wanted to make sure that the voices of the young people in out-of-home care are heard and acknowledged in this context. Create is the peak body that represents the voices of children and young people in care. We are concerned about the nexus that is now being identified between child protection and out-of-home care as part of that and youth justice. We know that in the general population about 0.3 per cent of children within this age group would ever be concerned with youth justice, whereas in child protection we know it is seven per cent. There is a huge over-representation of young people from child protection heading into youth justice. If we look at it from the other point of view, of the young people in youth justice we know that over half—54 per cent—have had some connection with child protection. We know that about a quarter of them would be taken into out-of-home care. This makes a huge connection. The big issue in this context is that we know that 71 per cent of young people between the ages of 10 and 13 who have had their first connection with youth justice at that age have had a connection with child protection services.

We have heard such eloquent arguments today about the need to recognise that young people below the age of 14 should not be held criminally responsible. In our context, we have a lot of young people in this very place, in child protection, who fall into that category. We have to be aware that this group needs particular consideration.

CHAIR: Thank you very much, Dr McDowall. We will turn to questions.

Mr BENNETT: Thank you very much, everyone. Your contributions were well received and articulated. I come back to the submission from Youth Off The Streets. You support the bill. Hundreds of submitters have supported the bill. They all have 'buts' and some suggestions, which are important for us as a committee. You say that there needs to be a whole-of-government approach. You say that root causes of crime need to be addressed. Are you supporting the implementation of the bill regardless of the other reforms and other needs of the children you come into contact with? We hear consistent messages that there is a lot more to be done.

Ms Acheson: I would definitely say that, yes, we are supporting the bill. The age needs to be raised. Obviously there are multiple intersections across the causes and drivers of youth crime and criminal behaviours. We need to be responsive to all of those aspects. Systemic issues are not going to go away until we start to address them more methodically and we make sure that the therapeutic needs for the family as well as their children and young people are being met.

Mr BENNETT: Are the major systemic reforms you are alluding to those things we have been talking about—poverty, homelessness and others?

Ms Acheson: They are all drivers in this space.

Ms LUI: Thank you all for your time today. My question is to Youth Off The Streets. I was reading in your submission the case study of a nine-year-old boy. We have heard from a large number of submitters today about the complexity of working with vulnerable children, the multiagency support needed for those young people and how critical it is to address those issues early. What are your thoughts around agencies coming together to look at this issue from a community point of view and working together to find solutions? We know that education is critical. We want kids to achieve good educational outcomes, but then there are issues around health, domestic violence—the issues are quite complex. I would like your thoughts around how we can better facilitate that.

Mr Bol: We believe in the importance of empowering families and the community, because if you deal with the young people in isolation without looking into the environment in which they live you are not going to solve the problem. Our approach is that there needs to be a significant investment in families—looking at families as a whole, making sure you understand the situation in which they live and looking at the best way to empower the families and community. That is our approach. I think that will work better than locking the young people up.

Ms Acheson: I think you have heard lots of people speak today about place based responses. That is absolutely essential. Our communities are very diverse. We have large representation of multicultural communities as well. We have young people who are experiencing levels of cultural dissonance, of trying to find their feet in a space where they are not quite sure where they fit. If we do not respond to those young people as well as their families, their natural supports and the systems that are working with them to address some of their personal and family challenges then we are going to end up continuing to repeat the cycle.

Mr Bol: We have seen that with a lot of young people over the years. The older siblings have got into the youth justice system and then transition into correctional services. That becomes a cycle where you find up to five or six siblings in the criminal justice system. That is because we are not looking at other factors. We need to do that rather than just look at the criminality of the people.

CHAIR: Special thanks to both of you.

Mr BERKMAN: I appreciate everyone's expertise and time. I want to firstly ask a question of the Youth Advocacy Centre. Ms Acheson, you mentioned in your introductory statement that criminal law is not the gateway to access appropriate services. Can you elaborate on that a little? The suggestion might be made that if we raised the age we would need alternative or additional legal hooks for young people to access the support services they need. What would be your response to that?

Ms McKeon: I will answer that. We listened to the hearing this morning. We have been online. Obviously this is a matter of great interest to us. What we heard I think from the presentation from the Queensland Police Service was a concern that raising the age would mean that there was a loss of an opportunity for children to receive the services they need. From our perspective, it is absolutely and utterly inappropriate that a child only get the services and supports they need through being criminalised—through being put into the criminal justice system. That cannot be the gateway. That is where that comment comes from.

Obviously, when you seek to intervene in someone's life in some way you must have some legal imprimatur to do that. For example, with the mental health system we have a framework which says that in certain situations there can be an intervention in certain ways. We may need to look at how that would work in a youth justice context. For the first part, the early intervention and prevention part in particular and also the diversionary part, people need to talk to the children and the families concerned.

One of the issues we have always faced is the sharing of information between different portfolios within government, for example. We have these great complicated mechanisms for doing that. We have said to government several times: why do you not just ask for consent? If you ask for consent, lots of times you will get it. You will reduce any friction. You will reduce any potential for tension because you are engaging with people. We would see very much the same in this space.

If people are offered help and engaged in a positive way which is seen to be non-judgemental and about the wellbeing of the family and/or the child and probably both, there is a good chance that people will engage. Sometimes it takes a little persistence at the Youth Advocacy Centre. One of the things we are good at is picking up and the phone and going, 'Hi, just checking how you are going. We are still here. We can help.' People will come to you in due course. If you can be open and transparent about how you operate then that works well for people. It is about how you engage with people. That is the responsibility of organisations like ours, all the organisations that have come to you today and indeed government itself. It is about how we work with our community.

Ms LUI: You mention what was raised by the Queensland Police Union this morning. Can you comment on how children at risk can be identified and assisted before they come to the attention of police?

Ms McKeon: I think that happens all the time. The education system would be a great example. If we have 1,000 prep students being suspended, I would suggest there is a serious problem. That might simply be that parents are struggling with a child with undiagnosed ADHD. It could be that the child has a cognitive impairment. I would have thought where a school says about a child at that age, 'We need to suspend you,' somebody needs to be asking some questions.

Throughout the education system, there are opportunities to pick that up. To be really clear, we are not expecting teachers to be social workers or to take on any other role than what they are there for. That is absolutely not the case. We need to make sure that schools have the appropriate resources and supports, that referrals can be made or indeed that when parents identify for themselves that their child is struggling at school there is a person there they can go to because they think it is associated with some issue within the household or something of that nature.

The hospital system and the medical system probably have the capacity and the knowledge to pick up on things. I think we need to be a little bit clearer. It is not about being judgemental; it is about seeing where people are struggling and offering help. Throughout the life of a child, they engage with a range of groups. It could be that if they play a sport their coach might pick up that the child is struggling for some reason—maybe their demeanour has changed over time and the coach is concerned. All of these things are little triggers that mean we as a community need to ask some questions in an appropriate and non-judgemental way to help people feel comfortable to get the support they need.

Ms Acheson: We are just one of many great community organisations, along with Youth Off The Streets. There are hundreds of other services that support young people and see young people and their families and children quite early on. We have really good systems in place. We have an education system; we have a health system; we have community agencies. We have lots of people who are involved. We just need to make sure that those things are working well together—that they are resourced appropriately. As was said before, diverting funds from criminalisation to a preventive measure would actually have a strong impact. There is really good research about this. It is a really well researched area when it comes to the criminalisation of children. We do have some good researchers out there doing some work who could help us.

Dr McDowall: We have the whole of the child protection system. We are looking at mandatory reporting now throughout much of the community. We know that a lot of notifications occur and then we have a whole process we will go through, looking at substantiations and so forth. Surely we could use that system and develop it in ways to help us flag the young people who really need attention early on.

Mr BENNETT: I want to talk about early intervention and strategies to try to keep young people from offending. Unfortunately, we have a large number of serious criminals aged between 10 and 17—I guess they are classified as children. What would be the process now? The police would predominantly be the first on the scene at that criminal activity and they would pick up these young people. I am not trying to get back to the watch house argument. What could be done early? With all due respect to the police, who have written a submission, they talk about trying to divert away from incarceration in most cases. Can someone enlighten the committee on how that process would work? I am talking about someone committing a serious criminal offence in the middle of the night when the police would predominantly be there. You are not going to be there, and the other agencies today would not be the first on the scene, so I have some sympathy for their process. What happens after that?

Ms McKeon: I think we always need to be clear about what is a serious criminal offence, because different people have a different view of what that would be.

Mr BENNETT: Do you mean the lawyers or the magistrates?

Ms McKeon: I think everybody.

Mr BENNETT: 'Mr Public' or something?

Ms McKeon: Yes. Are we talking about something as severe as grievous bodily harm, where somebody is in hospital critically injured, or are we talking about a theft or are we talking about an assault on the street?

Mr BENNETT: As lawyers, there is a criminal threshold, is there? Something is called criminal.

Ms McKeon: No, because there are degrees. You have public nuisance offences. You have offences as low level as public nuisance, which is somebody drunk down the street yelling at the top of their voice which is annoying the neighbours. Then you go to a shoplifting offence, which is regarded as a minor theft. You have a theft of maybe a significant amount of money, you have fraud, you have burglary and you have common assault or grievous bodily harm. There is a range of things—

Mr BENNETT: Sorry to interrupt you. Mr Atkinson this morning mentioned a hybrid model in other jurisdictions—internationally, not domestically—that picks up some serious offences which he named, and I cannot recall them all. I guess we are talking more serious offences. I am trying to work out how we can divert currently and how we would see this sort of legislation work.

Ms McKeon: The police have the ability to caution and divert young people to a restorative justice process now. The police themselves introduced cautioning in the 1970s and it was put into legislation in 1992. With the greatest of respect to what you were told this morning, I checked the report of the president of the Childrens Court and it indicates that cautioning is declining, as are the referrals to restorative justice orders by the police. That is a recent trend—not just the last 12 months but in fact longer than that. We need to look at how and when police are diverting young people and whether that is being done at appropriate times.

Mr BENNETT: How would the committee find that data you have just referenced?

Ms McKeon: I can send you the link.

Mr BENNETT: Chair, is that appropriate?

CHAIR: Yes, absolutely.

Ms McKeon: It is in the annual report of the president of the Childrens Court which is on the court site. That is quite concerning. Obviously, we could increase those diversionary measures; that is another thing. We can look at those diversionary measures. We have graffiti orders; we have community service. There are all sorts of other things we could be doing rather than just putting children straight into the system. We could be looking at other ways of repairing harm. I think that is the whole point.

For children, are we really looking to punish them, because that is what the criminal justice system is about? However we try to smooth the edges, it is a punitive system. That is its main aim: punishment. That is why we have fines and that is why we have prison. For children, we need to look at something that is much more educative, that is more about restoring relationships and that is more about teaching young people the consequences of their actions. For us, I would argue that young people taking accountability for what they do is about them learning the consequences of their actions.

To take a very extreme example, you may or may not know of the Bulger case in the UK, where two young boys committed a quite horrendous crime on a small toddler. That was truly dreadful. But the reality is that the people who were working with those boys were quite clear that those boys did not understand the consequence of what they did in the sense of what impact that had on that child. I think I have put it in our paper. One of the psychiatrists said that the child actually expected that the toddler would just get up and walk away because that is what you see on television and in films. They just do not have the sense that that is final and there is no comeback from that.

That is a very extreme example. It is completely not normal for children to do that, but I use it by way of saying that children need to be taught. That is the whole point. When we are born, we are so unlike any other species. We are born unable to do anything for ourselves at all and it takes us a long time to learn all of the skills to actually exist in the world—in fact, it is age 25 as we are told by the brain scientists. This whole thing about learning, understanding and developing the skills and the knowledge is so crucial. I think that was a bit longwinded and I apologise for that.

Mr Bol: I think there need to be better strategic partnerships between the law enforcement agencies, the families and the key service providers to make sure we identify the gaps and resources and see where to divert the young people. They work very well. We have been working with the police very well in the past few years. I think that is what we need to have. It is more about collaboration and strategic partnerships.

Ms LUI: My question is to Youth Off The Streets. You have probably touched on this in some of your responses. Your submission calls for 'increased government investment in therapeutic divisionary responses that are linked to culturally safe and trauma-responsive structures'. Could you describe some practical examples of delivering culturally safe and trauma responsive structures?

Mr Boi: It has come down to engagement with the families, elders, members of the communities and the young people themselves and making sure there are culturally competent youth workers, social workers, to work with the young people. If we take that approach, that is exactly what we mean. At Youth Off The Streets, for example, like most of the other organisations, we usually identify the social complexity of the young person because we are dealing with young people from all different cultural backgrounds with a lot of different needs.

For example, as Michelle mentioned earlier, we have young people whose parents have been through different countries and they went through a lot of traumatic journeys and picked up different cultural experiences and everything. You find that some of the children were born in the camp and others were born in the safe country and then ended up in Australia. Within the family itself, there is actually a cultural identity crisis and a breakdown of communication. In order to understand that situation, you have to focus on relationship building and trust building with that particular family so they can open up and work with the school and then you see what would be the appropriate response to support that family as a whole.

Ms Ackerman: We have used significant cultural leaders across all of our communities who want to be able to support their communities the best way they can. I would encourage us to be looking to connect with those more to be part of the solution, to co-design with us the solutions. They have the answers; they just have not been asked the questions sometimes.

Mr BERKMAN: Dr McDowall, there are a number of submissions that talk about certain behaviours that would usually be tolerated in the family home that are much more frequently escalated to involve police when it comes to children who are in residential care, in out-of-home care. Do you have any examples of this kind of care criminalisation, as it is called, particularly with younger children?

Dr McDowall: If you look at the situation in residential care, you will find a lot of examples there. In residential care the staff are not always highly trained, certainly not in dealing with emotional outbursts and young people who are not able to control their emotions and their anger. We know that trauma is one of the factors that lead to this type of behaviour. You find often in residential situations with young people that something will happen and they will get angry. There might be a hole punched in the wall or something thrown. Rather than immediately using diversionary tactics to try to appease the young person and subdue the situation, generally what the staff do—and in many cases for their own protection—is call the police. If we had better trained staff in those contexts who understood trauma informed behaviour and could employ diversionary tactics, there would not be any need to call the police to do the behaviour modification. If the staff are not appropriately trained or experienced then obviously that is going to be the course of action. It is like self-protection. The staff feel as though that is the only way they can handle the situation.

That then leads to, as Kath McFarlane talks about, the criminalisation of the care system, because the young people then have this exposure to youth justice. If it happens early on, when they are quite young, that is one of the best predictors of future contact with youth justice. If we can do anything at that stage, when we have behaviour occurring, rather than bringing in the law and law enforcement to handle it—if we had better trained staff, they would be able to solve that problem in situ and obviously not lead to criminalisation and the stigma that that associates.

Ms McKeon: This is something that lawyers experience on a reasonably regular basis—young people charged particularly with property damage. Some of that has been very minor, like throwing a mug across the room or flicking a tea towel at a worker, and that has been said to be an assault. We have had children come to the Youth Advocacy Centre with a reasonably lengthy criminal history whose only offences are within a care environment. That has to support what our colleague is saying, that people need to be properly trained in de-escalation techniques. We have a longstanding worker at the Youth Advocacy Centre who was a residential care worker herself many years ago who said to me that she never had to call the police because it was all about de-escalation and managing the situation. That seems to be absolutely the problem. If your only history relates to the place where you live, that is seriously concerning.

Mr BERKMAN: I think you have gone some way to addressing what I was going to follow up with. I am interested in drawing out that comparison. If we had better resourced residential care facilities and appropriately trained staff, we might not see the police involved at all. But in those circumstances where we do, do you have any reflections on police—their capacity and their training as a general rule to handle those circumstances?

Ms McKeon: I do recall one case where a young person broke into an office onsite because a piece of personal property was there, they wanted it and they were told they could not have it. Because they went in and out and in out and in and out, they were charged with three counts of break and enter with intent. I do not think the system is necessarily helping to resolve the issues. I do think it is a problem for the police, too. It is not helpful to them to be called out to these sorts of things. I do not believe they enjoy it at all. They tell us that it is not what they want to be doing. I think it is about staff feeling more confident, better capable and more competent to deal with children with complex needs. As we have heard, the reason their behaviours escalate so quickly is that they cannot self-regulate. That is a consequence of where they are at.

Ms Acheson: We also have justice reform happening at the moment in Queensland. You heard Bob Atkinson this morning talking about the pillars and diversionary approach. Actually buying into that would be really helpful, looking at diversionary approaches rather than prosecution processes. I do think there are some pillars that, if we used them, could help the police to be involved with situations but not get really involved. If they get called that is fine, but they could be a community response. There are many things that are happening to try to start that, but I do not know that we have really fully bought into not prosecuting children as yet.

Ms Ackerman: Could I add to that around therapeutic intervention? It is a much broader systemic issue than that. Yes, our police definitely need to be trained in therapeutic crisis intervention, but so do our health sector, our education sector and all the people who have an intersection with children and young people, because they are the ones we are talking about—the screening—that we need working with us to respond to young people and children appropriately. I would encourage that across the entire system.

CHAIR: Ms McKeon, what impact would a rebuttable presumption in relation to criminal liability for 13- and 14-year-olds have in practice throughout the criminal justice system?

Ms McKeon: You are contemplating that the age of criminal responsibility would be 12 and the doli incapax type rule would apply to 12- and 13-year-olds. As it stands in Queensland at the moment, I do not think it would be of any assistance at all. The common law had a definition of doli incapax which is much broader, as I understand it, than the way it was drafted into our codified system. As such, it requires very little from the police prosecution to be able to pass that threshold.

In other areas of the country—and this is a problem we have, of course, as I think was alluded to by Bob Atkinson. It is a bit unreasonable that a child can be prosecuted one way in one state and one way in another. We do have to look at trying to do some national work on this. Absolutely, that would remain a problem in Queensland for sure. I do not think it does overcome the issue of the fact that a child should be 14 before they are held criminally responsible, because it is not a compromise, if I can put it that way, by going to 12 rather than 14. It is still about the capacity of a child to have the experience, the life skills and so on to be held accountable in a criminal justice system. Directly to your question, doli incapax as we have it now would not be particularly helpful. I suspect that my colleagues in the following session may be able to assist you more with that.

CHAIR: That is great, thank you. Following on from your comment in relation to the national agenda, in a circumstance where meetings of AGs have agreed to raise the age of criminal responsibility, what are the benefits of that national approach as you see it from your organisation's perspective?

Ms McKeon: We would argue from purely a justice perspective that if you are an Australian, wherever you are in country, you should be dealt with in the same way. It is a problem for this country in general, in my opinion. I would not presume to speak on YAC's behalf on this, but in my opinion the idea that the criminal justice system can vary around the country is problematic because of things like convictions, criminal records and so on. In one state you might attract a conviction that remains with you while in another state you do not and those sorts of things. Consistency is important, but I would not like to see consistency drive 12 rather than 14 by way of raising the age.

CHAIR: When I think about the law put forward by the Northern Territory, that potentially is problematic for the rest of the states.

Ms McKeon: It is a problem of a federated system, unfortunately.

Mr BENNETT: Does knowmore want to add anything to the conversation this afternoon? You have come a long way and you have sat there a long time. Now is your opportunity, I guess, if there is something you wanted to add to some of those conversations or something else.

Ms Hancock: Thank you for thinking of us. I appreciate the opportunity. Roba might add something, reflecting on our experiences assisting clients and the intergenerational effects of these things.

Ms Rayan: From 2015 to about 2017, knowmore worked with the royal commission by going into all of the prisons in Queensland, speaking to survivors of institutional sexual abuse and assisting them in making their statements to the royal commission. One of the things we found was the intergenerational criminality of families. In some prisons we would see up to three or four generations of family members—a father, his son and a grandchild—all in prison or in youth detention and there was never a circuit-breaker. One of the outcomes of raising the age to 14 would be getting that circuit-breaker and actually ending the criminality of families and stigmatising that family constantly. When that kid does something and they get in trouble, because it is a small community generally in regional Queensland, and police know that family, the person does not get offered the diversionary programs. They are immediately charged. It would be really great to have that circuit-breaker to stop the ongoing intergenerational criminality that I saw when I was working in the prisons.

Ms LUI: From listening to all of our submitters about community-led solutions that would address the issues around children in those vulnerable situations, what was missing in all of this was the conversation around parents, because we heard how the environment is taken into consideration. We need to unpack all the issues with the children's or young people's environment and where they come from. With everything that has been discussed today, it is all part and parcel of a positive way moving forward with all of this. There needs to be that holistic approach to addressing the issue because we are not just talking about the children in this case; we are talking about a whole family and community to address this systemic problem.

While there are services—and I appreciate all the different services out there doing extremely great work to address those vulnerabilities for our children—I am just trying to get my head around the enormity of this problem. It is not just with the kids; it is with the family, the environment, the community and society. We are always going to have all of those factors involved in this particular conversation moving forward. Some of your views around that would be much appreciated.

Ms Acheson: As a wraparound, YAC has an interesting model. We obviously have lawyers but we also have family support and youth workers who all work together, because we recognised that when a young person presented with legal issues there was much more going on, not only with them individually but also within their family. Our model has that wraparound because we recognise that you cannot just deal with the young person individually. A young person is part of a community and a family unit, whatever that looks like for them. It is so important that you address the issues that are going on holistically.

It is really complicated with the system that we have and the way that things are funded right now. We have an intensive bail support program at the moment which is addressing this in this particular way, where we are looking at a young person and the needs they have in the bail space but also looking at their family needs and the intensive support that is needed to support their caregivers. The evidence that comes out of that will be really interesting in terms of how that works, what works and what does not work. That is a local solution that is working with the community.

There are some great examples around Australia of how it can work when you get the community involved—not just the young person—and recognise that they do not stand alone. This young person is very rarely completely on their own. They have communities around them, whether chosen or biological, and it is really important to put the supports in place so that they can achieve the goals that they have. As you heard in the previous session, it is really important that it is place based and community and culturally appropriate. You cannot just say that one size fits all. What is a family? What is a community? It depends on who you are talking to and at what time and where. There are some really good things that are happening. We just do not have a lot of attention. We do not have the resources that are put into them to really give them the time and effort it takes to really see the evidence base on the approaches and how it is working.

CHAIR: Sadly, our time has come to an end. Sincerely, I thank each and every one of you. It has been really tremendous to have your insights. Thanks again for the time that you have given and for your compassion and your passion for the young people of Queensland, particularly our First Nations people. We certainly appreciate the wonderful work you do. Thank you.

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

RUSKA, Ms Keryn, Member, Human Rights and Public Law Committee, Queensland Law Society (via videoconference)

THOMSON, Ms Kara, President, Queensland Law Society

CHAIR: I now welcome our colleagues from the Queensland Law Society. I welcome Kara Thomson, President of the Queensland Law Society. It is great to have you here, Kara. Thank you for your ongoing support and work with our parliament and our legislation here in Queensland. I welcome Damian Bartholomew, Chair of the Children's Law Committee, and Keryn Ruska, member of the Human Rights and Public Law Committee. Thank you very much for being here this afternoon. I invite you, Ms Thomson, to make a brief opening statement, after which I am sure our committee will have some very important questions for you.

Ms Thomson: Thank you for the invitation to appear at the public hearing today and for providing us with the opportunity to provide an opening statement to you outlining our position. We do appreciate that. Firstly, I would like to acknowledge the traditional owners and custodians of the land on which this meeting is taking place—Meanjin, Brisbane. I recognise the country north and south of the Brisbane River as the home of the Turrbal and Jagera nations and pay deep respects to elders past, present and future. I also directly acknowledge the unacceptable over-representation of Aboriginal and Torres Strait Islander children and young people in the youth justice and child protection systems in Queensland.

To be very clear, as is apparent in our written submissions, the Law Society strongly supports a proposed amendment to raise the minimum age of criminal responsibility from its current position of 10 to 14 years of age. Our support of raising the age has been well documented in our legal policy submissions, call to party statements and advocacy through our work with the Law Council of Australia.

The bill brings Queensland into line with a significant body of international human rights law. It is consistent with the benchmark identified in its review by the United Nations Committee on the Rights of the Child. Whilst the Atkinson report in 2018 identified a benchmark of 12 years of age, since that time the United Nations has updated its position and we have, as you know and from hearing the submissions today, data supporting raising of the age of responsibility to 14 and support broadly across medical experts as well.

We recognise community safety as a significant concern. The Law Society recognises the importance of Queenslanders being and feeling safe within their community. As part of raising the age of criminal responsibility from 10 to 14, it is our view that the triage and treatment of the underlying causes of crime—including social and family dysfunction, disadvantage and education—will in fact provide greater protection for the community because therapeutic and diversion programs will ultimately reduce youth crime. Evidence suggests that the earlier the contact with the youth justice system the more likely young people will become recidivist offenders who are then entrenched in the criminal justice system. The raising of the minimum age will prevent this, resulting in fewer recidivist offenders, and will prevent the entrenchment of our young children in the youth justice and criminal justice systems.

I am joined here, as you mentioned, Chair, by two of our subject matter experts, both lawyers practising in this space. Damian and Keryn are able to elaborate further. In particular, I note there has been some discussion about section 29 and the practical implications of that. Damian can certainly talk to those issues.

CHAIR: It was remiss of me not to acknowledge Ms Thomson as the 2022 President of the Queensland Law Society and vice-president prior to that. It is great to be working with you. I am sure there will be many bills on which we will seek your expert guidance.

Ms Thomson: No doubt.

CHAIR: Thank you, Ms Thomson, and congratulations again on your appointment.

Mr BENNETT: It only gets better from here, Madam President, so it is all good. On a really serious note—it is something that we have been aware of for a decade and we have heard it many times today—is the over-representation of First Nations people. Your submission talks about the time of incarceration—I do not think 'incarceration' is the word to use—or remand of First Nations compared to non-Indigenous. Can you put some context around that for the committee? We know the numbers are high, unfortunately and tragically for First Nations. Is there a reason that we see that sort of statistical evidence?

Mr Bartholomew: I think perhaps the reason people are coming into contact with the youth justice system is that they have some entrenched disadvantage and a response has not been given to that disadvantage. Consequently, we are seeing a disproportionate number of Indigenous young people in that system.

Mr BENNETT: So through disadvantage there is a longer period of being on remand. Is 'remand' the term I am looking for, Mr Bartholomew?

Mr Bartholomew: It is. Unfortunately, that cohort of young people are coming to the attention of the police and they are being responded to in a way that involves them in the criminal justice system.

Mr BENNETT: Why is it longer for Indigenous than non-Indigenous? I am trying to use an analogy. If it is the same crime, why is there significant—

Mr Bartholomew: I think you have greater numbers of Indigenous young people. There is a greater strain that is being put upon the agencies that are attempting to assist them. There is perhaps more entrenched disadvantage that needs to be addressed.

Mr BENNETT: Sorry if I asked you to repeat yourself.

Mr Bartholomew: No, I think they are the issues.

CHAIR: I asked a question of a number of our previous submitters earlier today about the impact that a rebuttable presumption has in relation to criminal liability for 13- and 14-year-olds here in Queensland and what that looks like in practice throughout the criminal justice system. Could you give us some indication of that?

Mr Bartholomew: The position of the Law Society is that the minimum age of criminal responsibility should be 14. The reason for that is based upon all of the empirical evidence that we have, the research that has been done and of course the information that has been provided to us by the Committee on the Rights of the Child.

The Law Society is mindful of the fact that the recommendations of the Convention on the Rights of the Child is in terms of basic minimum requirements for the wellbeing of children. It is not a best practice document. It is a document about what we need to provide as minimum standards. It is very disappointing as a state that we would be thinking how we can actually do something less than the minimum requirement that is being stipulated as an international standard for children.

Also, to rely upon the current provision, as was alluded to by Ms McKeon in the previous presentation—to rely upon section 29 of the Criminal Code—it is a very low threshold and it depends upon the interpretation of the judiciary. What we have seen is that there is an inconsistent approach that is being dealt with and it also puts the onus back upon the child, back upon the legal representative, to be able to deal with the issue.

Unfortunately, we are particularly talking about Indigenous young people and families who are going to court—young people who just want to resolve matters. I experience that as a practitioner myself appearing in court saying, 'You may have this defence. It is open to you.' The younger the child is, the more likely they are going to say, 'I just want to get this over and done with. I don't want to have this matter adjourned. I don't want to fight this matter in terms of capacity.' Even if they were able to reach that low threshold, there are families there who encourage them by saying, 'We don't want to be here. We don't want to be in the court system. We just want to resolve matters.' When they are taken to the police station they are told, 'You can either take this matter to court if you say that you were not culpable or you can receive a caution.' It does not offer any great deal of protection in the system for many young people.

In addition to that, the section 29 rebuttable presumption of course is all about capacity currently—the capacity to know whether you are doing right or wrong. It does nothing to talk about the capacity to understand the legal system and its complexities, the complexities of the criminal justice system and how it works or sentencing provisions. Even if we could say that the young person might know how this is wrong, they do not understand what that is going to mean in terms of how the court system works, how sentencing principles work, the fact that their previous behaviour is taken into consideration in terms of their future behaviour—all of those systems.

It is far more complex for a young person than simply being able to understand whether this is right or wrong. It really offers very little protection to that 12- and 13-year-old if we in fact just change the age to allow that system to remain in place. What is quite clear from all of the evidence is that the criminal justice system is no place for 10- to 13-year-olds.

Mr BERKMAN: I really do appreciate your submission and your evidence so far. Do you have any thoughts about the possibility of raising the age to 14 and then potentially extending doli incapax to apply to children between the ages of 14 and 18, for example? Is that something you have seen elsewhere or that you might support?

Mr Bartholomew: I think the Law Society has seen a number of suggestions being put before the committee about how we could better reform the Childrens Court system. We are obviously very interested in anything that we can do that can enhance the Childrens Court system. Our focus, however, in terms of this submission is about the need to ensure that the age of criminal responsibility is raised to the age of 14. We would certainly be happy to be consulted in relation to other reforms at some stage.

Mr BERKMAN: Sorry, I did not mean to put you on the spot. This is a related question. If we have this cohort of kids younger than 14, they are going to struggle to understand the broader system and of course the benchmark for doli incapax. Do you think that most of those 10-, 11-, 12- or 13-year-old kids in the youth justice system are going to be capable of understanding the rebuttable presumption against bail that was introduced by the parliament?

Mr Bartholomew: The show cause provision?

Mr BERKMAN: Yes.

Mr Bartholomew: I think practitioners struggle to understand it. Parents certainly struggle to understand it. Seventeen-year-old clients struggle to understand it. Of course those issues are beyond them. Within the legislation there is some recognition within the youth justice system that courts should take into consideration that a child is under the age of 14. That is a consideration on bail, but how do you consider it? How do you import this knowledge of the criminal justice system on to this young child? They are challenges that as a system I do not think we are able to resolve because it is simply not designed to address that behaviour.

Mr BERKMAN: There were 300-odd submissions to this inquiry and 70-plus substantive submissions. All of those supported raising the age to at least 14. The exception we saw this morning was the Queensland Police Union, which opposes it outright. Clearly we know from the Atkinson report that former commissioner Atkinson supports raising the age to 12 with certain carve-outs and apparently does not agree with 14. What we are seeing is that everyone bar police and former police support raising the age to 14. Why is that?

Mr Bartholomew: I think because it clearly is the appropriate thing to do and there is a recognition that the criminal justice system does not respond adequately to this behaviour. It does not provide the responses that we are looking for to address the behaviour. In fact, if it was the panacea, if it was a silver bullet, of course there would not be this community support around changing it. It is a recognition that, in fact, it is not that this behaviour should not be addressed; it just should not be addressed in the criminal justice system. In fact, in many ways to involve these young children in the criminal justice system waters down the significance of it and waters down the processes of their lives because, in fact, in some ways for these 10- to 13-year-olds it can normalise the court system. Of course the court system and the criminal justice system have a role to play in the community in addressing serious criminal behaviour by people who are able to understand what they are doing and are refusing to engage in the supports that are provided to them. There is a role for the criminal justice system. However, it is not in dealing with children, particularly children who are under the age of 14.

Ms LUI: Mr Bartholomew and Ms Thomson, you state in your submission that young offenders tend to be under-represented when it comes to serious offences. I note your comments about 10-year-olds not having the capacity to understand the seriousness of the offences they commit. Do you think the bill provides sufficient measures to deal with those children who do commit serious offences?

Mr Bartholomew: I think there is a range of different supports that we need to have in the community to be able to assist young people to understand that. If young people are committing behaviours that are unacceptable, we need to be responding to that and we need to have processes in place to do it. Unfortunately, my experience—and I suspect that it is reflected in the submission of the Law Society—is that we hide behind the criminal justice system as a solution, but it is not a solution that will assist young people to address those behaviours.

We heard from the previous panel about young people in care being taken to court, and the notion that we are going to solve aberrant behaviour in a residential setting by taking a young person to court is unfortunately untrue. Unfortunately, we give the community a placebo by saying to them

that we can take these young people to court and we will address the behaviour, but we do not. What we fail to do is put in place the other systems that are of course needed to address that behaviour and to assist the families who are not able to support those young people. That helps us to identify the cracks within our health system, the cracks within our education system and the cracks within our child safety system that are not effectively working.

Mr BERKMAN: Mr Bartholomew, a moment ago you commented about the criminal justice response being effectively a placebo. That is a fascinating idea and a frame that I had not really thought about before. Do you have any further reflections on the chicken-and-egg argument that has been put forward by some folk, that we cannot raise the age until government is adequately funding those support services? To quickly touch on the explanatory notes—and I have not gone there yet today—clearly as a non-government member I have no capacity to propose spending and to actually increase government spending on these services to the extent that at least many of us would agree is necessary. What is your take on the chicken-and-egg argument that is thrown up against raising the age?

Mr Bartholomew: We must and should be providing appropriate resources for young people. We must be doing that. Indeed, as a community we should already be doing it because, as has been pointed out by the member for Mansfield, of course there is already a presumption within the Criminal Code which is rebuttable. What do we do with those 10- to 13-year-olds for whom, indeed, there is an indication that they do not have that capacity? How do we respond to that as a community? How do we address those behaviours? We already have a responsibility as a community to be addressing that and we address that issue in many other ways in the community for other groups. There are other groups for whom we find that there is not criminal culpability, but we still have to be able to respond and address those behaviours.

To answer your question, the chicken-and-egg situation is completely understandable. Of course when we have legislation we have to ensure that we have the capacity to respond to it. The Law Society also was a great advocate for the incorporation of 17-year-olds into our youth justice system. We saw that legislation being passed in the early 1990s but nothing happening until very recent years because people were saying, 'We're not ready; we don't have the resources.' Unfortunately, we do not put those resources in place. Even in relation to that, the experience of the Law Society, of our practitioners, was that many of the supports that were necessary for that to happen did not actually happen until we ripped the bandaid off and had the 17-year-olds in the system, and then we could see what the issues were. In much the same way, yes, we have to be as prepared as we can be but we should not allow children to be criminalised simply because as a community we do not have the appropriate procedures in place.

CHAIR: Mr Bartholomew, I am interested in assigning criminal responsibility to a chronological age. We know that many children sit on a diverse spectrum of capability, ability, maturity, intellect, experience, experience of abuse, fetal alcohol syndrome and a range of other issues. Can you talk us through the problem with assigning a chronological age to this complex problem?

Mr Bartholomew: There is a chronological age that the law, unfortunately, is required to apply in relation to a whole range of issues in relation to children's minority. I think Ms McKeon referred to that in her submission. As the Youth Advocacy Centre talked about, there is a range of different ages that the law prescribes when children and adults can do things and when minors can do things. There is always a degree of convenience that the law has to apply in relation to these issues.

What we need to do in reaching that age, of course, is look at what is the research, what is the capacity and what is the knowledge that we have within the community about what is appropriate for people at particular ages. Clearly, what all the evidence is showing us and what all the submissions indeed reflect is that there is this understanding—and it has been reached not just here in Australia but, of course, has been looked at at an international level—that 14 is the minimum age. Yes, it is difficult to prescribe an age and we would love to have a system that perhaps was even more sophisticated and better resourced where we are able to assess every young person, look at all of their particular circumstances and provide an effective report that looks at all of their social needs. However, we are talking about a resource system that is well beyond, I suspect, the capacity of the Queensland court system at the moment.

Mr BENNETT: Keryn, would you like to make a comment from the public law committee perspective?

Ms Ruska: I am on the Human Rights and Public Law Committee. The committee's view is that the international standard of at least 14 is the standard that should be applied and the QLS submission obviously supports that. I am a First Nations woman. My background has been working

in our communities over the years in a range of different roles, as a lawyer particularly and also as an academic. I want to reiterate that our children and young people are over-represented in the child protection and youth justice systems and so, of course, any change impacts our community disproportionately. It is really important to bear that in mind. I know you have heard from the Human Rights Commissioner and the commission for families and children about that issue.

We know that a strong sense of identity, developed by connection to family, community and culture, is a protective factor for Aboriginal and Torres Strait Islander people and it contributes to their long-term wellbeing, including less likelihood of contact with the criminal justice system. That was obviously a finding of the Royal Commission into Aboriginal Deaths in Custody and the *Bringing them home* report. It is supported by the Healing Foundation, by the national 'Family matters' campaign and by the Secretariat of National Aboriginal and Islander Child Care. That connection allows for the development of strong identity and has a protective effect for children, meaning less likelihood of criminal offending.

Children really need to be supported to develop that strong sense of identity. The criminalisation of children under 14, particularly, is going to really disrupt that development of identity. That identity and connection can be with other young people in the youth justice system; that is where children can develop their sense of connection, which is problematic. Being able to support children and young people, particularly those under the age of 14, to instead have that support, to have connection to their family, to develop strong identities is really crucial. I guess I have had more experience in the child protection system than the youth justice system, so that is from that point of view.

Ms LUI: Mr Bartholomew, I am interested to know your perspective on a national approach to raising the age.

Mr Bartholomew: Of course I think it would be highly desirable if the whole country adopted the position of this bill. That does seem to be highly desirable. The Law Society's point of view is that we have an obligation to represent the views of Queensland's children and we would not allow an injustice to perpetuate simply because the rest of the country was unable or was unwilling to address that injustice in relation to young people. We of course did persevere in Queensland in having 17-year-olds in our youth justice system when no other state in Australia did. Similarly, there have been other situations—thinking about the decriminalisation of homosexuality—when other states did not do that, but that did not mean that Queensland did not adopt that position. I do not think we should allow an injustice to happen in relation to our children because we are waiting for the other states to realise that that injustice is occurring.

I think we also have a greater perhaps imperative in Queensland based upon the very high rates of remand that we have. We have a higher rate of incarceration both of our First Nations people and of children generally. We have a higher rate of remand so, in fact, the injustices being caused within our community by identifying children as criminals is even greater than it is for the other states. Therefore, perhaps there is a greater imperative upon Queensland to pass this legislation. As I say, I completely support all others states getting on board, but I do not think the Law Society would be supportive of the notion that we would wait until the other states did that if they were unwilling.

Mr BERKMAN: You will be surprised to know that I have almost run out of questions. You have been very clear in your support of raising the age to 14 rather than 12. To finish off with, do you have any brief reflections on what you think it would it mean for the state to choose to raise the age to 12 rather than 14?

Mr Bartholomew: What it would do is perpetuate a problem. It would not solve it. It would be a partial situation to a significant human rights issue and to a significant injustice for young people. What would it do to partially fix a problem when we have a solution? It would be better to have a partial solution than to have no solution, but of course where you have the option of completely resolving an issue then obviously that is what the Law Society would endorse the government doing.

CHAIR: Thank you very much to the Queensland Law Society and to Ms Thomson, Mr Bartholomew and Ms Ruska for your time. Thank you for the work that you do for all of our committees of the Queensland parliament. You are a very important part of the legislative process here in Queensland. We thank you for your contribution.

That concludes our hearing. On behalf of the committee I would like to thank all of the witnesses and the stakeholders who have participated today. The committee recognises that the topic that was discussed was very hard for sections of our community. I greatly appreciate and value the respect

that we as a group showed to our First Nations children and to all children who, through disadvantage and poverty, have not had the experiences that we have all had as privileged Queenslanders. I acknowledge the work of the committee. I also acknowledge the work of the submitters and the sensitivity with which we have debated this issue today. I thank the many submitters who have engaged with this inquiry and who have not come to present today. There were many submitters we were not able to speak to, but certainly we appreciate reading their written submissions.

Thank you to our Hansard reporters, as always. Thanks for your patience. A transcript of these proceedings will be available on the committee's parliamentary webpage in due course. I now declare this public hearing closed.

The committee adjourned at 4.16 pm.