Queensland Government

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Queensland Health

Ms Corrine McMillan MP
Chair
Community Support and Service Committee
George Street
BRISBANE QLD 4000

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Dear Ms McMillan MP

Thank you for the opportunity to appear before the Community Support and Services Committee (the Committee) regarding 'the decriminalisation of public intoxication and begging offences in the *Summary Offences Act 2002* and the health and welfare responses'. It is important to understand the impact that these laws have on First Nations peoples, so any effort to change them is appreciated.

Given the significance of this inquiry, I have provided my written statement (slightly amended to me verbal statement my and to the Committee) as well as additional information to respond to questions posed by Committee members.

Mr Michael Berkman MP, Member for Maiwar, raised his apprehension that decriminalisation of these offences may increase the vulnerability of already disadvantaged First Nations peoples by removing the safeguard that Police detainment offers. I understand his thinking, however given the complexities with the relationship between many First Nations peoples and police this often leads to a larger problem. The Police are not housing providers and we continue to risk both parties if we continue to allow the Police to become 'temporary accommodation' providers. The purpose of decriminalising these offences is not to leave vulnerable people at the mercy of their environment, but rather to affect health and welfare responses that assist police in protecting them without evoking a criminal justice approach. This assistance may come in the form of bolstering support for police to deploy existing mechanisms more effectively such as delivering an intoxicated person to an alternative place of care, and/or considering the role of diversionary strategies (eg. through strengthened health role) and/or identified solutions developed through co-design and consultation with the Aboriginal and Torres Strait Islander community-controlled sector.

The other question relates to the hypothesis suggesting a link between health equity, specifically as it relates to the social determinants of health, and an increased incidence of offending behaviour irrespective of whether a person identifies as First Nations. The short response to this hypothesis is yes – any person suffering disadvantage in terms of the social determinants of health, is more vulnerable thereby increasing their susceptibility to engage in the risk-taking that leads to offending behaviour.

On a practical level however, it is important to recognise the disproportionate representation of First Nations peoples in this cohort, and the subsequent flow-on effect culminating in their greater representation in the 'offending statistics'. While the benefits of health equity can be broadly extrapolated to include all disadvantaged people, the reality is these benefits will be felt most acutely by First Nations peoples who comprise the majority of this group.

I would also like to clarify that while disadvantage applies to the broader community the difference is how people become disadvantaged. First Nations peoples have been disadvantaged since colonisation which has caused intergenerational trauma. Often it is thought that this no longer affects us, but it does. While we have progressed and will continue to progress, I think it is important not to apply disadvantage people and First Nations peoples with the same thinking.

I trust Community Support and Services Committee will find this information useful when considering the ramifications of decriminalising these public offences, particularly in respect to First Nations peoples. Thank you again for the opportunity to contribute.

Yours sincerely

Haylene Grogan
Chief Aboriginal and Torres Strait Islander Health Officer and Deputy-Director General
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5/8/2022

Inquiry into the decriminalisation of public intoxication and begging offences and the health and welfare responses

Queensland Health speaking notes from Haylene Grogan

- First, I acknowledge the Traditional and Cultural custodians of the country I am on today – the Turrbal and Yuggera peoples. I would like to pay my respects to Elders past, present and emerging, and in particular I would like to acknowledge my Elders who have afforded me the opportunities I have today.

- My name is Haylene Grogan, Queensland Health's first Chief Aboriginal and Torres Strait Islander Health Officer and Deputy Director-General of the Aboriginal and Torres Strait Islander Health Division. I stand on the shoulders of my ancestors and Elders who came before me. I take my responsibilities as Queensland's inaugural Chief Aboriginal and Torres Strait Islander Health Officer and Deputy Director-General very seriously.

- As a proud Yalanji and Tagalaka woman (with Italian heritage), I am honored to appear for Queensland Health today to offer our opinion on the decriminalisation of public intoxication and begging offences and specifically what this means for First Nations peoples. Being a First Nations' woman, I also bring some of my own lived experience.

- The current punitive, criminal justice led approach to public intoxication is not only unsafe and unnecessary but is also inconsistent with current community standards.

- A safe, pragmatic health-based approach is required. One that ensures the safety of *all* Queenslanders, particularly vulnerable First Nations peoples. To understand what I mean, I will try to set the scene and describe the realities of the current system in practice from the perspective of First Nations peoples. To do this, it is vital to start at the beginning, to understand the fundamental importance of both adequate healthcare and sufficient nutritional intake during pregnancy and up to the first two years of life. Iodine deficiency, for example, can lead to mental issues such as depression and cognitive impairment.

- Without this care, First Nations children are disadvantaged from birth and less equipped to take advantage of opportunities, even when these exist. Trying to catch-up later in life is very difficult; yet a reality that has constantly plagued First Nations peoples – playing 'catch-up'.

- And not just 'catch-up' in terms of practical health and wellbeing outcomes for First Nations peoples. But catch-up in terms of recovering from trauma caused by systematic disruption and disconnect from a way of life that impeded the passing of cultural knowledge so critical to its survival.

- Yet here we are more than 200 years later in 2022, and First Nations peoples continue to be left behind, experiencing disparities and inequities in accessing basic health services, which inevitably translates to poor health outcomes.

- And not surprisingly, the most prevalent of these poor health outcomes for First Nations peoples is the harmful legacy to their social and emotional wellbeing. Is it any wonder, when we combine a healthcare system not always accessible ... with the stigma that continues to shadow social and emotional wellbeing, that First Nations peoples turn to alcohol to self-medicate?

- Then what we have is a large proportion of disadvantaged, traumatised and vulnerable First Nations peoples using alcohol as a panacea, which subsequently increases their risk of exposure to the criminal justice system for public intoxication. A criminal justice system like other government agencies has institutional and systemic racism and biasness toward First Nations peoples.

- In fact, I understand data from Queensland Police demonstrate the most disadvantaged and vulnerable members of society, including First Nations peoples, are most likely to be **prosecuted** under the *Summary Offences Act 2005* – a prosecution that often creates a cycle of contact with the criminal justice system from which it is difficult to break.

- I take the opportunity to highlight two reports that have been highlighted to me…and that I understand captures what I mean: 1. *Kids in court: The sentencing of children in Queensland*; and 2. *Connecting the dots: the sentencing of Aboriginal and Torres Strait Islander peoples in Queensland.*

- I have been advised that the *Connecting the dots* report found more than **two-thirds** of First Nations peoples sentenced over a 14-year period to 2019 were repeat offenders.

- From here the story is familiar and well documented. The *Pathways to Justice Report*, for instance, I have been advised found that certain public order offences, like public drunkenness and begging, were a significant factor in the over-representation of First Nations peoples in the criminal justice system.

- In fact, it is incredible to be reminded that the Royal Commission into Aboriginal Deaths in Custody in 1987 (35 years ago) found the higher number of First Nations deaths in custody stems from their disproportionate detention rates, primarily due to arrests for public drunkenness.

- It goes without saying, the need for change is clear and evidence based. We need to find solutions to public drunkenness outside the criminal justice system. We need to tackle the underlying social and emotional wellbeing issues driving this vicious cycle. And a significant part of the solution is health equity. Health equity is not about enticing or forcing First Nations peoples to fit the system; it's about ensuring the system reflects the needs of First Nations peoples. And the only way for substantive, lasting and meaningful change to occur is through genuine co-design with my mob from the outset.

- Health equity demands we listen to, understand and represent First Nations peoples it is intended to help. These voices and lived experience from a range of urban, regional and remote communities, must be heard – after all, this is their future. And though it may sound simplistic, the wide-reaching benefits of health equity extend well-beyond the health portfolio. Health equity is a powerful enabler with a multiplier effect. I will try to explain what I mean.

- Health equity should ensure a First Nations mother has access to medical care and sufficient nutrition during pregnancy, providing her child with an optimal start to life. This start, along with sustained access to nutritious food, allows the child to develop physically and mentally, and take full advantage of the benefits of education.

- While health equity does not educate the child, without it, the child will never be able to attain the same level of academic achievement. Health equity should allow school aged children to learn and learn at school AND allow school leavers and graduates to get a job

and reach their potential – bettering themselves, their families, their communities, and Australian society as a whole.

- Health equity can be the means to transform the cycle described above into a virtuous cycle, where fewer First Nations peoples have social and emotional wellbeing issues and those who do are better able to cope with them and access culturally appropriate support. This leads to less self-medicating with alcohol, less public drunkenness and less need to criminalise this behaviour. It also enables a more tailored and considered model of care for those who fall through the net. These are the outcomes the public health response should deliver.

- I am pleased and proud to say health equity is eminently achievable, and we are on our way to realising it in Queensland. Queensland Health in partnership with the Aboriginal and Torres Strait Islander community-controlled sector, led by the Queensland Aboriginal and Islander Health Council (QAIHC) have commenced implementation of the historic, Australia-first, Health Equity regulation.

    - This health equity regulation was passed in August 2020 and April 2021— and is about reshaping local health systems with First Nations peoples.

    - First Nations representation (voice) on each Hospital and Health Board is now a legal requirement along with our first ever Health Equity Strategies which are being co-designed by each of our 16 Hospital and Health Services (we call them HHSs) with the community-controlled health sector, our First Nations staff, local Elders, Traditional Owner/Custodians and community.

    - Each HHS is also legally required to have First Nations workforce (our people) proportionate to the First Nations population they serve across every workforce level and every workforce category.

    - Our reforms to achieve health equity — designing and delivering healthcare with First Nations peoples — is historic and not only includes improving healthcare services but the improved coordination of those services; and significantly each HHS is now also legally required to deliver culturally appropriate healthcare that First Nations peoples need and want.

- These reforms *legislate* the principles of health equity I have discussed above; that is, First Nations peoples' involvement in the design, decision making and delivery of healthcare services in Queensland. What this translates to in practice can be summed up in a simple equation: **our people** in the system plus **our voice** in the system equals a better coordinated and more culturally capable system. *REPEAT*!

- This is why I am here before you, offering to assist as a conduit between you and First Nations communities when considering a public health response. Their message is clear – "nothing about us, without us" – and considering **First Nations first** embeds this in practice.

- Thank you again for the opportunity to attend today. We look forward to working with the Committee going forward.

END