



COMMUNITY SUPPORT AND SERVICES COMMITTEE

Members present:

Ms CP McMillan MP—Chair
Mr SA Bennett MP
Mr MC Berkman MP
Ms CL Lui MP
Mr MA Robinson MP
Mr RCJ Skelton MP

Staff present:

Ms L Pretty—Committee Secretary
Ms R Mills—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE DECRIMINALISATION OF CERTAIN PUBLIC OFFENCES, AND HEALTH AND WELFARE RESPONSES

TRANSCRIPT OF PROCEEDINGS

MONDAY, 29 AUGUST 2022

Brisbane

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The committee met at 10.01 am.

CHAIR: Good morning, everyone. I declare open this public hearing for the Community Support and Services Committee inquiry into the decriminalisation of certain public offences, and health and welfare responses. I respectfully acknowledge the traditional custodians of the land on which we meet today 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 peoples, whose lands, winds and waters we all share. As a committee, we recognise our colleague Ms Cynthia Lui, the member for Cook, as a Torres Strait Islander woman.

On 24 June 2022, the inquiry into the decriminalisation of certain public offences, and health and welfare responses was referred to this committee for examination with a reporting date of Monday, 31 October 2022. My name is Corrine McMillan. I am the member for Mansfield and chair of this committee. My colleague Mr Steven Bennett is the deputy chair and member for Burnett. The other committee members are: Mr Michael Berkman, the member for Maiwar; Mr Robert Skeleton, the member for Nicklin; Ms Cynthia Lui, the member for Cook; and Dr Mark Robinson, the member for Oodgeroo.

The purpose of today's hearing is to assist the committee with its inquiry into the decriminalisation of certain public offences and the health and welfare responses. I ask that any responses to questions taken on notice today are provided to the committee by 5 pm on Wednesday, 7 September 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 are broadcast live on the parliament website. I welcome any viewers who are watching our hearing live today. All those present today should note that it is possible you might be filmed or photographed during the proceedings by media and that images may also appear on the parliament's website or on the parliament's 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.

WILLIAMS, Ms Kirsten, Systems Advocate, The Advocacy and Support Centre (via teleconference)

CHAIR: Good morning. Thank you for being with us today. We very much appreciate the time you have taken not only to make a submission to the committee but also to appear before us. I invite you to make a brief opening statement, after which committee members will have many important questions for you.

Ms Williams: Thank you, Chair, and thank you to the committee for the opportunity to speak this morning. If I may, I will give you a bit of information about who we are as TASC. We are a community legal and social justice organisation. We support our community from our offices. We have four offices: Toowoomba, Ipswich, Goondiwindi and Roma. We deliver high-quality, free legal advice and social advocacy to over 3,000 people per year. We also have community engagement programs such as a men's line and Street Reach. We do clinics in the Domestic Violence Action Centre and we do mental health advocacy through Baillie Henderson in Toowoomba and the Ipswich Hospital here.

We are very proud of the fact that we work with the community. Our clients include people who experience disadvantage and vulnerability; First Nations people; culturally and linguistically diverse people; and those with physical and cognitive disability. We also have a very large number of clients who are what would be considered the working poor. Our financial eligibility is reasonably high and we certainly do also help people who struggle day to day.

In writing our submission, our ideology was informed mostly by our clients' needs and always influenced by human rights. This one was supported by solid research that was undertaken by those with extensive knowledge such as fellow submitter Professor Walsh.

Our position in terms of begging is that we are recommending decriminalisation, for a number of reasons. The first is that begging is an act of necessity rather than criminality. The evidence supports the practice of begging being linked to homelessness, unemployment and poverty. We feel

as an organisation that penalising vulnerable people only makes them more vulnerable. We also feel it is a waste of resources. If the police choose to charge or to issue infringement or move-on notices, it is still using their resources. Then there are court resources as well. If the person is homeless—potentially transient—no-shows in court can compound the action and create more resource loss. It also creates debt. For somebody who has no means to pay, the roll-on effect is that the debt obviously goes off to SPER, which adds to the already millions of dollars in unpaid fines which eventually are written off and absorbed by the taxpayer. Finally, from the statistics that have been provided through research, there is no evidence that there will be an increase or a decrease of begging should it be decriminalised. There will still be need, regardless of whether it is an offence or not.

In terms of public intoxication, our position supports safety first and foremost. The current advantage of intoxication in a public place being an offence under the current legislation is that it enables Queensland police to detain intoxicated persons for the purpose of transporting them to an alternative place of safety. It is that safety aspect that we at TASC consider to be really important. We recommend the decriminalisation of the offence of intoxication in a public place, but we would like that to happen in addition to changes to the examples of 'potentially harmful things' under the Police Powers and Responsibilities Act. Under the act, 'potentially harmful things' allows Queensland police to detain and move people on to a place of safety without the offence nexus. They are not penalised as such, but there is still the safety aspect to it. First and foremost, we want the QPS to continue to have the power to detain people who are intoxicated for the singular purpose of their safety—and, obviously, for the safety of others in the public place if need be. We believe this may be achieved through changes to the legislation—changes to the PPRA—and to procedural policy such as the operations manual.

Again, from the research that we saw, there still will be public intoxication whether it is criminalised or not. The statistics will remain static, even if it is decriminalised. Our position is: we believe it is a social problem that cannot be managed properly through legislation. It really needs a more robust health and social response. We recognise that it relies heavily on available alternatives such as diversion centres and we support any efforts to increase funding for those extra facilities. We also acknowledge that a large percentage of those charged with public intoxication and public urination and begging are Aboriginal and Torres Strait Islander persons. We feel that any efforts should be targeted towards increasing the quantity of safe places that provide for their appropriate care and support. Thank you.

CHAIR: Thank you, Ms Williams. Thank you for your great insights.

Mr BENNETT: Good morning, and thanks very much for your time. I note that you predominantly service South-West Queensland. Are you able to provide any insights into regional Queensland? We all agree with everything you have said, but we particularly need resources in regional Queensland so that we can safely divert or offer services to people who find themselves intoxicated in a public place.

Ms Williams: Yes. We obviously rely on the same centres that the police do. We do not have our own areas that we can nominate specifically. I have used the information that has been provided to us from Queensland police in terms of their diversion centres. You can see from their research that there are not many centres. Our position would be to try to increase funding to try to get more diversion centres. It will still be the same problem, we believe, whether it is criminalised or not. The money and the support needs to go into creating more centres. I do not have specific statistics. I can certainly take that question on notice and get back to you to find out exactly how many diversion centres there are in the south-west.

Mr BENNETT: We have that information. Thank you for your kind offer, though.

Ms Williams: No worries.

Mr BENNETT: Obviously, a significant mountain of work will be needed to provide opportunities for, as you mentioned, certain demographics and parts of our state that unfortunately have a higher incidence. We all agree that there has been some success in the safe night precinct areas that have been introduced. Do you have you any feedback or observations about how they have been? These areas are not rural or remote; they are in precincts all over the state—in regional or capital cities.

Ms Williams: I feel that the Queensland police on the ground are sophisticated and empathetic enough to be able to understand the difference between intoxication from underlying trauma and social issues and just alcohol fuelled disorderly conduct. You can see from the statistics that it is quite high on the Gold Coast, where you would traditionally see overindulgence. Our position is that they still have section 6 of the Summary Offences Act that allows them to charge with public nuisance; Brisbane

they still have the ability to move people on in those safe precincts. They can still use public nuisance and other offences. By decriminalising in general, you are taking away the potential for extra vulnerability for those people who are vulnerable.

Ms LUI: Thank you, Kirsten, for your time this morning. You mentioned in your opening statement that this problem needs a social response. Are you able to comment, from the experience of your service, on the impact of fines on people who are charged with begging?

Ms Williams: Realistically, we have not had specific clients seeking legal advice for this charge. Queensland police statistics shows that the incidence is very low in terms of infringement notices and charges. There are very few people who are actually charged. That is why it is probably not going to make a huge difference, particularly when you look at begging. We have not had specific clients we have had to give legal advice to.

We do see people through our homeless clinics. Sometimes it is just the case that they do not have accessibility, but if they had more robust social measures or were able to utilise those social safety nets then the criminality aspect would not be there. They would not be in that position of need. A lot of people you find will self-medicate with alcohol. They are the people we are looking after where we try to set them up with more of a social response. Using legislation and charging them just compounds their issues as opposed to supports them.

Mr BERKMAN: I really appreciate your evidence so far, Ms Williams. I am very interested in the suggestion you have made around changes to the PPRa provisions on potentially harmful things. Do you see any potential for concern around those detention powers for police simply being expanded to cover people who are intoxicated in public? I guess it is a related question, but would any change along those lines be ultimately doomed to failure if we do not see that simultaneous increase in funding for the diversionary support centres that will ultimately provide that safe place for police to transport a person to?

Ms Williams: That falls on the assumption that the numbers will increase. If they stay the same, the need is still there anyway. When you have a look at how many diversion centres there are, particularly up north, there are not many. The need is there, whether it is criminalised or decriminalised.

We felt that including it in the 'harmful things' still gives the police the power, essentially, to detain for their own safety without the offence nexus. It is already there. Okay, it would rely very heavily on the discretion of the police. Is that putting faith heavily on the police? It probably is to some degree but, like I said earlier, I really think, from the experience I have had of them, the Queensland police understand the difference between public intoxication of somebody who clearly has social issues that need a certain amount of discretion and disorderly conduct due to alcohol. I honestly believe that, just as they would now under the PPRa, when they know that they have children who are intoxicated under 'harmful things'—they are using those powers already. Like I said previously, they do still have that offence under section 6 of public nuisance to be able to make that call. I guess it comes down to the police using their discretion and making the right call in the right moment.

Mr SKELTON: Noting the wide area that you look after, do you have a view as to what would be the impacts in terms of intoxication and begging in terms of resourcing in rural and remote communities?

Ms Williams: If we are going to try to increase the number of diversion centres, it is going to take more resources. I do not have specific statistics in terms of how many centres there are. The figures that have been provided to the committee already are fairly static. I do not think there is really any evidence to suggest that once you decriminalise it it is going to create this extra surge. For people who drink because they have underlying social issues and trauma, I do not think there will be more people saying, 'We can drink now because it's legal.' I sincerely do not think there will be much change in terms of how many people, but if we can increase funding and somehow increase resources then there are more resources for the people who have those underlying issues.

Dr ROBINSON: Thank you, Ms Williams, for your input today. In terms of your comments about police retaining the ability to detain an intoxicated person for safety, what would police then do in situations where currently there is no diversion centre or other place of safety to put them? Do you have any particular comment in that regard?

Ms Williams: As the deputy commissioner said in the public briefing and in their information, they use the watch house as a last resort. This is just a presumption, but I presume if there were no detention centres, no family members and no alternatives, the police have two options, essentially: either charge them with public nuisance, to be able to detain them in the watch house, or let them go, which obviously is not good in terms of duty of care. That is why there is a real need to answer the

Public Hearing—Inquiry into the decriminalisation of certain public offences, and health and welfare responses

call for more resources, to have more diversion centres. It is exactly the same thing as they do now. It is the same response. It is just that there is no charging up-front, essentially. Hopefully, it would be a last resort.

Ms LUI: Obviously this is an issue that is widespread. What is the difference in the number of charges for regional and remote communities compared to the regional towns and cities? Is there any vast difference of which you are aware?

Ms Williams: The statistics that I used are the statistics that were included, which the committee has. The Queensland Police Service issued a regional breakdown of its figures. I do not know that I have them on hand right now, but the committee has them from the original briefing on 12 July. The police have provided that breakdown.

CHAIR: Ms Williams, the committee really appreciates your time today. We thank you for your interest and certainly your advocacy for those members of our community who find themselves in the situation where they have been charged or are facing charges by the Queensland Police Service. I do not think there were any questions taken on notice. Thank you again for your time today. We certainly wish you a good day.

Ms Williams: Thank you so much.

CHESTERMAN, Dr John, Public Advocate, Queensland Public Advocate

MARTELL, Ms Tracey, Acting Manager, Office of the Public Advocate, Queensland Public Advocate

MARTIN, Ms Meg, Human Rights Lead, Queensland Council of Social Service

CHAIR: Thank you for appearing before the committee. I invite you to make a brief opening statement, after which committee members I am sure will have some very important questions for you.

Dr Chesterman: I begin by thanking members of the committee for inviting us here today. I acknowledge that I am speaking on the traditional lands of the Jagera and Turrbal peoples and pay my respects to elders past, present and emerging. As members of the committee know, I began my term as Public Advocate a year ago, in August 2021. My role is to be a systemic advocate and to promote and protect the rights of adults with impaired decision-making ability. The submission to this committee from my office largely referenced the recently released report my office put out and which we produced in collaboration with Professor Neeraj Gill titled *Better pathways: improving Queensland's delivery of acute mental health services*. That report makes 21 reform recommendations.

In the submission to this committee I drew the attention of the committee to the elements of that report that particularly focus on the ways in which people with acute mental illness in the community might be diverted away from being taken to emergency departments. These diversionary options are of relevance to this inquiry. In my office's submission I highlighted a number of the reform recommendations that engaged that particular topic. These included recommendations concerning extending acute care teams to deliver 24-hour outreach services; extending the co-responder program; extending the Queensland Health Crisis Support Spaces program to operate seven days a week, with openings to match times of peak presentations to emergency departments; and extending mental health training for the Queensland Ambulance Service and the Queensland Police Service. Also of relevance to this committee, this submission recommended improved discharge planning from authorised mental health services.

I will note in closing these preliminary comments that a number of the submissions to this committee centre on three points, as members know: supporting decriminalisation of public intoxication, public urination and begging offences; wanting to ensure that the removal of those offences does not lead to the same behaviour being captured by other offences such as public nuisance offences or to it attracting the use of particular police powers; and seeking to ensure, of course, that health and welfare initiatives can be resourced so that people are not unnecessarily facing justice responses to their behaviour. As I say, my role focuses on the rights of adults with impaired decision-making ability but I do, when thinking about this focus, support those points. I will end my preliminary comments there. In a moment, Tracey and I will welcome questions and comments. Thank you again for having us here today.

Ms Martin: I would also like to acknowledge that I am speaking on the lands of Jagera and Turrbal people this morning. QCOSS, the Queensland Council of Social Service, is the peak body for the social service sector in Queensland. Our vision is to achieve equality, opportunity and wellbeing for every person in every community. We have provided a detailed submission to the committee that is based on the views of our member organisations regarding the inquiry into decriminalising the offences of public intoxication, begging and public urination under the Summary Offences Act. QCOSS is strongly supportive of decriminalising these public offences and moving towards community co-designed holistic health and social welfare centric responses that will help address the many determinants of health.

The current operation of these offences disproportionately impacts certain groups including Aboriginal and Torres Strait Islander peoples; people experiencing homelessness, substance use issues and mental health; and people living with disability. The transition to genuine decriminalisation must be handled effectively through clear legislation, operation and policy guidance regarding the roles of first responders and the move away from punitive response measures. The transition must also be supported through mechanisms of accountability, training and support for all responders in navigating the cultural and attitudinal shifts required for the effective implementation of these changes to legislation. Health and social welfare based service providers and organisations must be resourced and supported in their primary roles as first responders across Queensland's diverse communities. Decriminalisation of these offences must also go hand in hand with further reforms to the criminal law

Public Hearing—Inquiry into the decriminalisation of certain public offences, and health and welfare responses

in Queensland. The current offences are not compatible with the Human Rights Act. Decriminalisation would assist to correct that incompatibility, and any potential impacts on the rights of others through decriminalisation would be demonstrably justifiable.

In our submission QCOSS has made a number of recommendations including: adequate training and guidance should be provided to police to assist in identifying what circumstances would warrant intervention by the Queensland Police Service; non-punitive health and social welfare based mechanisms of support or de-escalation should be engaged as a first response; communities and other service providers need to be supported to be those first responders; any police powers responding to public offences such as intoxication, begging and urination need to be strictly limited to ensure that offences such as public nuisance are not used as a catch-all offence; adequate investment in community and health services needs to be increased to meet needs and be available to first responders when and if needed; engagement, training and education with police as well as investment in community and health services should be co-designed and include consultation with key stakeholders, communities, representative bodies and community controlled health organisations as well as those with lived experience. This model can also extend to public education and messaging.

These recommendations should be made as part of a wider journey of law reform into public offences, including reform of public orders or move-along orders and low-level offences and consideration on the role and outcomes of alcohol management plans. This would be in line with applying a human rights protecting lens to criminal law reform in Queensland. We thank the committee for the opportunity to provide a submission and we look forward to the committee's recommendations on this matter.

Mr BENNETT: Dr Chesterman, I did not pick up your very brief and succinct opening, but you did talk about possible impacts on other issues with police. I am not trying to put words into your mouth, but I think that was part of that. Some of the evidence we have so far is that if we just take this approach of decriminalising it—and I think we all agree that so much work needs to be done for it to work—and the issue of safe night precincts, there is real risk that we cannot use banning notices if we start to do this sort of stuff. We all agree it is punitive and those sort of things, but there is so much concern about community safety. Have we done any more work on the unintended consequences? I use as an example the banning notices that Queensland police can use now in safe night precincts.

Dr Chesterman: My response is a general one. I am focusing on adults with impaired decision-making ability. We do want to ensure safety. The simple point I was making in my opening remarks is that if we do go down this path of decriminalisation then we do not want to see public nuisance offences suddenly skyrocket and the same behaviour being captured. We want health and welfare responses as well. Clearly, police still need to retain that power in relation to public nuisance, but we want to make sure we are not just swapping one thing for another. We want to see resources put into those health and welfare responses.

For people with impaired decision-making ability that particularly means ensuring there are referrals to ensure their support needs are being met—if it is NDIS funded services, then we can talk about that—but ensuring that people are not just coming to the attention of police, we move to decriminalise these offences, and the same thing ends up happening.

Mr BENNETT: With regard to a health based response, are you aware of any work that has been done about what is going to be needed? It seems we all agree that is probably the best way in some cases and we need that intervention, whether it is health professional, psychological support or allied health. Has any work been done on what is going to be needed if we go down a path of decriminalisation?

Dr Chesterman: One of the areas that we look at in our mental health report is the co-responder program where you have first responders—ambulance, police—being accompanied by mental health professionals who turn up and assist. If someone has a particular mental health need—

Mr BENNETT: Doesn't that happen now, Dr Chesterman? Do they not exist now?

Dr Chesterman: They do, but we are calling for them to be extended. They exist in a number of places. There are some organised by police and some organised by ambulance services. That is a really good model. That is the co-responder model. We talk about that on pages 21 and 22 of our report on mental health. Another one that I would refer the committee to, which you would know about, is the Working Together to Connect Care program, which is focused on people who present to emergency departments. I think it is run in a couple of hospitals at the moment. It is a combined health

and social welfare response with a range of community agencies involved as partners. When people who present, in this case to emergency departments, with complex social care needs, a coordinated response can be identified and worked through. That is a particular model—are you okay?

Ms Martin: I am very sorry. Long COVID is real.

Dr Chesterman: That is a good model that could be applied in this space as well.

Mr BENNETT: I will not ask Ms Martin to comment at this particular time, but later on if you want to make any comment that will be fine.

CHAIR: We can come back to you when you are ready, Ms Martin. We will give you a couple of minutes and we will come back to the deputy chair's question and ask you to comment.

Ms LUI: Dr Chesterman, you commented about different programs that you would like to see happen, the co-responder response program and the mental health training for ambulance and police personnel, which I think are all probably part and parcel of that holistic approach. I think our previous speaker made mention of the use of resources at our end and where they could be better spent. I realise that this collaborative approach is going to bring different agencies into the same space and there is going to be a huge shift towards changing behaviours and how we do things to address this social problem in community. I know that decriminalising different areas has been happening for a while and society accepts this is a social problem. We need to look at the social aspects of this problem. How do we get it to happen effectively where we are all going down the path of addressing it socially?

Dr Chesterman: That is a central challenge here: how do we take the community on the journey? When the community has a justifiable wish for safety and protection, how do we convince members of the community that this is the right approach? One of the things we have been fortunate to do in the last year is conduct a series of adult safeguarding round tables throughout Queensland. That is the subject of another report that we released this month on adult safeguarding in Queensland. We released the first volume. One of the things we did there was to get round tables together where we had a range of service professionals—police, ambulance, advocates, legal services, council workers, NDIS Quality and Safeguards Commission, Aged Care Quality and Safety Commission—around the table to talk about complex social care needs in a series of hypotheticals.

That is a longwinded way of saying that what we identified there was that getting people around the table to talk about people with complex social needs was a very effective way of getting good responses to complex questions. The antithesis of that is having a police response to an instance of behaviour that everyone knows will do very little to stop that behaviour in the future; it is just an immediate response. That is a really good point that you raised. How do we take the public on the journey with us? I guess it is communicating, 'What is going to be achieved by criminalising this particular behaviour?' We know the person is going to be back there next week possibly or the week after, whereas we do have a chance of changing that behaviour if we have this coordinated response.

Mr BENNETT: Ms Martin, I was curious about your insights into similar questions. We want to know the impacts of legislative change and the possible impacts, but the health response is coming up time and time again. What do we think we need to see to deal with those issues if we are not going to incarcerate people but we are going to look at a health response instead in some cases?

Ms Martin: From talking to our members, it needs to look at that unified, holistic response. It needs to look at engaging with the people who are on the ground, the people we represent in our community, our sector workers, around what they are seeing and engaging and what they actually need to support them in providing that first response, if that is to be where we go with this. A lot of people who are charged with offences—and I acknowledge, from looking at the data from QPS, we are not talking about a large volume of people—tend to fall into a group of people who are there because of factors that are affecting them. It is not people who are often choosing certain things, either; it is people who are often affected by homelessness, mental health, disability. These are behavioural issues that will, for most people in society, be confronting and difficult to engage with. Criminalising behaviours that are associated with this as well does not change or address the behaviours. It is not going to fix them, for want of a better phrase. Putting services in place or investing in services to support what is needed—mental health, disability, housing so that our community is not experiencing homelessness as well—will be part of that support mechanism to assist people around these factors.

Mr BERKMAN: You both mentioned in your opening statement the risk of police engagement with these criminal offences just shifting over into nuisance offences. In a lot of the conversation around this there seems to be an underlying assumption that there will be some level of police engagement. Even if we decriminalise these offences, policing will be a part of the response to all of

the behaviours that are currently tied to offences. I am interested to know whether you have in mind any particular legislative structural changes to address the ongoing exercise of police discretion in that engagement on the path to having a well-funded, comprehensive and effective health and social welfare response.

Dr Chesterman: It is a really good question. My response would be around training, particularly of police, and referral. We know that Queensland police officers are not trained to deliver a health or medically based response when they see someone with particularly a mental health crisis, yet we know that the main point of access for people seeking mental health assistance is contacting either the ambulance or the police—the first responders. We think there is some further training that could be done of police members. From our mental health report we know that there has been an increase in the knowledge of ambulance and police members following the introduction of the mental health liaison and co-responder programs that I talked about a bit earlier. They are picking it up on the job, as it were. I think that area of training is a key one.

The other one is that we know that there is a police referral service. We want to extend that and basically give members more tools with which they can divert people who need service responses and so they can engage those services to come and provide a response where they are not taken down the criminal justice path. I think those two areas—training and the ability to make meaningful referrals—would be important.

Mr BERKMAN: Do you have any comments to add, Ms Martin?

Ms Martin: I would agree with Dr Chesterman and also add consideration of the Human Rights Act and how that impacts police work, particularly when discretionary decisions are being made. Yes, the public does need to be considered in public offences, but so does the individual, particularly if there are significant effects that can result from detaining someone.

Mr BERKMAN: There was a very specific suggestion made by the Advocacy and Support Centre. I am not sure if all of you heard the evidence from the Advocacy and Support Centre. They suggested as one mechanism to allow police to retain powers to detain people and to transport them to places of safety. Certain changes could be made to the PPRA to ensure they have that power without necessarily requiring criminal conduct. Do you have any reflections on that and specifically on the risks that might come with police discretion that is retained in the exercise of those powers?

Dr Chesterman: I had not considered that one myself, but I would be a bit nervous about it because it would be capacious of misuse. I would be a bit nervous about it. I would have to consider it a bit more.

Ms Martin: I would not have any further comment on that one, no.

Mr SKELTON: I think you already alluded to this when you were talking about bringing the public along for the ride. Would you elaborate on the role of peer lived experience workers and any role they may have in responding to public intoxication?

Dr Chesterman: It is a really good question. In the mental health field we have sought greater involvement of those with lived experience in the range of ways we provide services to people suffering from mental ill health in terms of the design of emergency departments to the way the programs are organised and run. I think that is an area where there could be considerable merit, particularly in engaging people who have themselves been the subject of these offences and the policing response. Engaging them in terms of what would have made a difference to them in that circumstance could be meaningful.

Dr ROBINSON: Ms Martin, I have a question related to your submission. Feel free, Dr Chesterman and Ms Martell, to add to this. In terms of the threshold for the offence of public nuisance, you have raised questions about that being clarified or getting clarification in terms of the scope and potentially narrowing the scope. Do you have a view on how we would go about that? What would we drop out? How would we narrow that scope?

Ms Martin: We would recommend seeking input from the likes of the Law Society—I do note that some of those committees will be appearing today—to give their fully informed and legal viewpoints on that. QCOSS, with our background as the social services body, speaks from the background of our social services team. While I would like to weigh in to a degree on the legislation and what it should form, that is not my role or function here today; it is to talk around our legal services. I would seek the advice of bodies that know more such as the Law Society and those committees that, I am sure, would be well versed to be able to provide some clear opinions on those things.

Dr Chesterman: I had not thought about it prior to coming here today. I would echo those comments. The Queensland Law Society—I know they are presenting evidence later today—would be interesting to talk to. I would also make the obvious point, which committee members would have

Public Hearing—Inquiry into the decriminalisation of certain public offences, and health and welfare responses

already thought of, to compare what other jurisdictions in Australia are doing at the moment in terms of how they define and implement those public nuisance offences. That would be a good place for the committee to look.

Mr SKELTON: You stressed in your submission the need for a shift in attitude towards issues like public intoxication and begging. How would you describe the current attitude towards those offences and what attitudinal shift are we seeking?

Dr Chesterman: The attitude of the public?

Mr SKELTON: Yes.

Dr Chesterman: There would be a range of attitudes in the general public. I know there would be some people who are quite confronted and fearful as a result of those behaviours because they think, whilst they are behaviours not directed towards them, that things might escalate.

Mr SKELTON: Antisocial.

Dr Chesterman: Antisocial and things might escalate as a result. There is some fear in the general community. I think there is some misunderstanding in the general community. There would be other members of the general community who are not that phased by those behaviours. A public education campaign is required that goes to the basis of your question which is both to say that we do not want to give society's imprimatur to these behaviours—we want to say that they do appear antisocial—but we also want to ensure these are seen as manifestations of other problems that exist in a person's life that we put some attention on trying to address.

Mr BENNETT: Dr Chesterman, I am curious about the clients of the Public Advocate. We are talking about mental health patients and people with a disability. We talked before about the low numbers of people charged. Is there any breakdown of people who would identify as having a mental illness or a disability?

Dr Chesterman: No, not that I am aware of. I think that is a very good question. I would love to know the answer. We do not have that information.

Mr BENNETT: I do not think we have seen anything from the police where they break that down. I guess they probably do not break it down to that level.

Dr Chesterman: I suspect they do not. It would be interesting to even have an anecdotal take from people who are experienced in the area. I guess the issue is that it does take some degree of expertise to be able to identify that someone—

Mr BENNETT: Indeed, hence the co-responders that we need.

Dr Chesterman: Indeed. That is right.

Mr BENNETT: It would have to go a long way to shaping the responses, the health resources and the other infrastructure support that would go around what we do if we go down a path that we all agree is necessary.

Dr Chesterman: I think that is right. Some of the data that would be interesting would be the disability profile of people charged with these offences but also—and it would be overlapping—the homelessness profile.

Mr BENNETT: Very important as well.

Ms Martin: The intersectionality factors would be very interesting—homelessness, disability, mental health—to see if it is one or several or if there are combining factors that are playing out here for people being charged with the offences.

Mr BENNETT: For me it seems the response is going to be targeted and specific.

CHAIR: I refer to the terms of reference for the committee. Term of reference (h) talks about 'how existing public messaging on the harm of alcohol and other drugs, including alcohol related violence, can continue to be reinforced following the decriminalisation of public intoxication'. The committee is conscious of the preferred media message about the decriminalisation of these offences and how we can contribute or challenge the status quo or the social constructs of these issues.

Dr Chesterman: That is a really good question. It engages the member for Nicklin's question, too. My response to that would be that the generic advertising campaign around the harms of alcohol may not be the best to focus on the people who are being charged with these offences. Indeed, engaging people with lived experience who have been involved here would be very interesting. They would be able to tell you what would have worked for them when they were in that space and what would not have worked. That is an area of expertise that I do not have. Going down the pathway of engaging people with lived experience could be very fruitful.

Ms Martin: I would propose a question to the committee. Would the purpose of educating around the harmful effects of alcohol or the overuse of alcohol be to criminalise the use of it? If that is the intention, we have very low numbers that are being charged with it. The intent may not be there. I would agree with Dr Chesterman around the lived experience of people and what will actually work to support education on the harmful effects of the continued long use of alcohol.

CHAIR: Absolutely.

Mr BERKMAN: This is a question probably better directed to QCOSS given the breadth of your work and your members' work but perhaps equally the Public Advocate. The kinds of improvements in health and social welfare based responses that we need this to aim for have been highlighted by both of you. This may be too broad a question: is there a way to prioritise the improvements that are required in those services? I appreciated your comment, Ms Martin, about community co-design of those responses, but, zooming out from that a bit, are there any broader principles that we could recommend?

Ms Martin: I am happy to take it on notice to talk to our community sector to get their viewpoints on that and bring that back to the committee. While I may have ideas, that may not be the views of our members so I am happy to take that on notice if that works for the committee.

Mr BERKMAN: That would be great, thank you.

Dr Chesterman: I was going to come in with a thought there too. This links up to a previous question on data. If we did know, for instance, that most of the people coming to the attention of Queensland police around these offences are homeless then that would help us to prioritise the responses around homelessness. Having that data could be quite important.

Ms Martin: A potential idea might be a targeted site to trial and a co-design model of utilising particular services. Again, I am happy to take that on notice to talk to our members around ideas they have as they are the ones on the ground who see and work with the clients involved.

Mr BERKMAN: Thank you very much.

CHAIR: There being no more questions, that concludes this session. There was one question taken on notice by QCOSS. Ms Martin, the due date for response to the question on notice is 7 September. If you require more time, I am sure the committee will be happy to support you with that. That is to fall into line with our reporting requirements. Ladies and gentlemen, thank you very much for assisting the committee today. The committee is very encouraged by the work that you all do. The work we do know is supported by you and your organisations. We know you are busy, but we sincerely thank you for appearing today. We wish you a good day.

HOLMES, Ms Neroli, Deputy Commissioner, Queensland Human Rights Commission

CHAIR: Good morning, Deputy Commissioner. It is good to see you again. The committee certainly appreciates your time today, as always, and your encouragement and understanding of the work that we do. We certainly are very much looking forward to hearing your contribution. Without further ado, I welcome you to make an opening statement, after which I am sure our committee members will have many questions for you

Ms Holmes: Thank you, Chair. Before I start can I please acknowledge the traditional owners of the land on which we meet today and pay my respects to elders past, present and emerging. The terms of reference for the inquiry include changes to policing responses to decriminalise public intoxication and begging offences and the compatibility of proposed legislative amendments and service delivery responses to public intoxication and begging with the Human Rights Act. This legislation and the policing response must balance the ability of the Queensland Police Service to ensure community safety and public order with the rights of individuals and vulnerable persons who are disproportionately subject to the offences and policing response under review.

A number of human rights are engaged by the existing Summary Offence Act provisions. They are outlined in our submission but, briefly, the present offences limit the right to equality under the Human Rights Act due to the disproportionate impact they have on some members of the community. Other rights potentially limited depending on the circumstances include the right to life and the right to security, which may encompass the right to be safe, the right to freedom of movement, the right to peaceful assembly and freedom of association, the right to liberty and security of person, the right to privacy and reputation, and the protection from torture, cruel, inhumane and degrading treatment. It also may impact on the protection of families and children. This right may be limited in circumstances when a child under the age of 18 is charged or subject to a police response regarding one of these offences. The right might also be relevant to children being subjected to or witnessing behaviour that may impact on them.

The 1991 Royal Commission into Aboriginal Deaths in Custody recommended changes to how the criminal law and police approach public drunkenness. Those four recommendations, which I am sure the committee are familiar with, are as relevant today as they were in 1991. Queensland is the last jurisdiction to decriminalise public intoxication in line with these recommendations.

The most effective response in addressing and preventing repeated antisocial behaviour will generally be a health and welfare response. Such a response will also reduce the likelihood of victims being subjected to such behaviour. The Queensland Human Rights Commission suggests that a less restrictive way of achieving the purpose of the offences and police responses under review that is most compatible with protecting human rights would be to decriminalise the public urination, begging and public intoxication offences and instead resource further diversion practices, particularly health and welfare policies and services, consider amendments to the related offences and police powers, including in relation to public nuisance and move-on powers, to ensure those offences do not replace current criminal justice responses with even more punitive ones resulting in a limitation on human rights and, further, consider if further education and cultural change is required within law enforcement agencies to make sure those changes are implemented and effective.

We endorse the conclusion reached by Haylene Grogan, the deputy director-general of Queensland Health, where she said the current punitive criminal justice approach to public intoxication is not only unsafe and unnecessary but 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 people. Thank you.

Mr BENNETT: Good morning, Ms Holmes. It is lovely to see you again. You talked about community safety and expectations. I guess there are some problems with these sorts of legislative reforms and people's education. Compliments on the submission, by the way. I think it was the most comprehensive one we received and it is very insightful. I am wondering how we talk to members of the community who have real problems with feeling safe and protected when there are people carrying on intoxicated or being antisocial and urinating. Is it fair to say that we should be looking at all the human rights of our community? I am just trying to get a comment from you. We are just picking one cohort to talk about the human rights, but the community at large I think has an expectation and a right to feel safe as well.

Ms Holmes: Absolutely. That is the balance that has to be achieved in looking at a legislative response or a policing response to anything. There will always be incidences where sometimes the community is impacted to such a degree that it is reasonable to take some sort of action under the

Public Hearing—Inquiry into the decriminalisation of certain public offences, and health and welfare responses

Summary Offences Act by the police, but our submission is that arrest should always be the very last resort. That is a very basic royal commission recommendation. Really, that should not come into the forefront of a police officer's—or any person's—mind unless it is absolutely necessary.

I did read some of the submissions to the committee and I did see submissions from some members of the public who did wish these offences to remain on the books. They have their concerns. Any law reform is an educative process. I am not a comms expert so I do not know how to bring the whole community along with reform, but I guess any leaders in any community have to speak to their community about why it is necessary and why it is the best approach and that a health response to these issues is obviously a much better response than a criminal justice response and in the end will have a greater impact on protecting the community, rather than just repeatedly going through a churning exercise of arresting people, letting them out—no addressing of behaviours, no help being offered to individuals. I guess it is really trying to say that has been a punitive and unhelpful approach and taking a different approach will have a better response that will have a greater impact on protecting the community at large. How you get that message across I am not sure, but that is, I think, the message that needs to be given.

Mr BENNETT: Are we contrary to the Human Rights Act by taking a targeted cultural or demographic approach in communities that have higher incidence of incarceration? Is that still compatible with the Human Rights Act?

Ms Holmes: That would be compatible. The Human Rights Act does not say that everything has to be entirely equal. You can have special measures for groups that have been more severely impacted by things in society. You can take extra steps to help people get to a level playing field. If people are falling behind for some reason, due to disadvantage or other reasons that are disproportionately impacting on one group that is unfair, they are entitled to have extra resources devoted to them—special measures—to try to get the playing field level. There would be no harm in addressing messages or efforts in a targeted way. That would be compatible with human rights.

CHAIR: That is certainly a very important question.

Ms LUI: Thank you for your time this morning. In relation to public intoxication, you mentioned the charges are unsafe and unnecessary. Can you elaborate on that?

Ms Holmes: The experience we have seen is that, particularly with Aboriginal and Torres Strait Islander people, being arrested for public intoxication often results in being put in a police cell, and one of the major issues from the Royal Commission into Aboriginal Deaths in Custody was the very disproportionate number of deaths that were happening in the Aboriginal and Torres Strait Islander community as a consequence of being put in a police cell. I think we have seen that recently in Victoria with the Tanya Day case, where an Aboriginal woman who was intoxicated and asleep on a train was taken to a police station and as a consequence of being there was not being well supervised, fell over, banged her head and died.

Police cells are not safe places for people who are intoxicated to go to. Very often they are unsafe places. If the response is a health and safety response to a public health issue, it should not be taking people to a place where they are not always well supervised. Even though there are some very strict recommendations as a consequence of the royal commission that watch houses and other places like that do try to observe, they do fail. People can still have bad incidents happen in watch houses. It is culturally and personally often a very unsafe place for people to be. Being locked up just because you are drunk is an unsafe thing. There need to be other responses, such as taking someone back to a safe place if they need to be removed from the public area they were in.

With the number of homeless people we have at the moment, which is the reality of our community, unless they are unsafe to themselves or others we have to accept that people may well be drunk in public places because that is their home. If they are unsafe because of how they are behaving towards themselves, of course they need to be removed to a place of safety where they can be looked after. If they are going to step in front of traffic or something like that then they may need to be removed to a place of safety, but our view is that a place of safety should not be a police cell or a watch house.

Ms LUI: You also mentioned that Aboriginal and Torres Strait Islanders are more prone, I guess, to these charges. Could you speak to some of the contributing factors for why you think that is?

Ms Holmes: I think the royal commission went into that greatly. It really is a whole background of disadvantage that has arisen over the whole time that our colonial society has been in place in Queensland. I think there is accumulated disadvantage that is impacting on Aboriginal and Torres Brisbane

Strait Islander communities through the experiences of generational impacts, where their families have been exposed to racism and often very unfair and criminal acts towards them in their own right. That has led to great consequences for people having family breakdown or having very little opportunity to proceed in society in ways that others who have not had that disadvantage can: lack of educational opportunities, often very inadequate housing and social welfare constructs in their home communities, which means very little opportunity to progress, often resulting in despair or people not being able to manage. That can lead to people drinking. It is a tragic consequence of a long history that, I think, our community is becoming more aware of, but a lot of the broader community still may not be very aware of those issues. Of course, we have other processes in place at the moment, and hopefully we will have a greater discussion about that, but it does mean that there is a very disproportionate impact on some people who have very difficult lives, and alcohol is often a way of coping with a very difficult life.

Mr BERKMAN: I really appreciate your time this morning, Ms Holmes. Your evidence and other submissions have touched on the possibility of narrowing the offences around public nuisance to offset any risk that they might just displace the existing offences that we are looking at. Can you suggest for the committee any specific changes that you think should be made or, if not, more broadly what would be the main objectives of any such change?

Ms Holmes: We are very concerned that if we remove these lesser offences and the public nuisance offence stays on the book then that will be the go-to offence that police officers may move to if they are not well educated themselves by their senior officers as to when they exercise their discretion and how they go about it. The public nuisance offence, of course, is a higher level offence than the offences that we are discussing here today. We definitely do not want the default operation by police to go from arresting for public intoxication or public urination or begging to the nuisance offence.

I think the Law Society had some really great suggestions in their recommendation. I am not expert in this area but I did read some of the submissions that various entities have put in before coming to the committee today. I thought their recommendations were very logical and sensible. The sorts of things they were suggesting were—and I am sure they will speak to them themselves—that a police officer must not start a proceeding against a person for a public nuisance offence unless it is reasonably necessary in the interests of public safety. Often the public nuisance offences are generated by police themselves, not by a complaint by the public. They are just going about their ordinary policing duties and observe something and then initiate that process themselves. We would like that to be very restrained and as a very last resort and only in the interests of public safety. If someone is drunk but not impacting on their own safety or the public safety, leave them be.

In determining whether to proceed against a person for a public nuisance offence, a police officer shall have regard to all the circumstances pertaining at the material time, particularly the personal circumstances of the person, contemporary community standards, whether the conduct is sufficiently serious to warrant the intervention of the criminal law and any other relevant circumstances. That is a very good suggestion. And maybe a complaint from a member of the public is required before a police officer may start a proceeding against a person for a public nuisance offence. They have made a couple of other suggestions there: introducing a defence of reasonable excuse into the offence of public nuisance; inserting a vulnerable persons provision to ensure police officers consider alternative courses of action before proceeding against a vulnerable person for trivial or arguably only offensive behaviour; increasing the range of appropriateness of sentencing; and alternatives for petty offences.

Thoughtful and necessarily careful thinking needs to be done to try to trim back that powerful potential for the public nuisance offence to become the go-to offence rather than these lesser offences. I think it has to be a whole package.

Mr BERKMAN: One of the key issues that remains in a post-decriminalisation context, from all the submissions, seems to be: what is the nature of any residual or different police discretion around detention of people engaging in these behaviours and that kind of interface between the person, the police and the health and welfare response that sits at the other end of it. Can you elaborate on your view of how the committee should deal with the police discretion and what safeguards or barriers to the exercise of that discretion should be in place?

Ms Holmes: I think in a state as large as Queensland this is a real challenge where you have hopefully health responses available in every community. If someone does need to go to that health response, it is getting them from where they are in the street or wherever to the health response, whether the police calls that health response to try to come and collect that person, if that is what is

necessary, to take them to a safe place. That could be one option. I think the design of what this new system needs to be must be quite carefully thought through, depending on the circumstances of each community that this behaviour is occurring in, because there might be unique local solutions.

Often people do not have a great response to police interactions and that can escalate behaviour. It would be preferable for health responses to come out into the field and deal with issues if people need to go to a place of safety rather than the police, so maybe the police calling that group. With the state the size it is, that may not always be an option. There might be occasions where the police are the first responders who have to deal with issues that have to be dealt with. I think that is where good negotiated outcomes for each district or community, to try to get nuanced responses to fit what is available in that community and what resources have been created, is going to be necessary.

Mr BERKMAN: At least one submission has made the suggestion that the PPRA could be amended to broaden the scope of police powers to detain someone for the purpose of taking them to a place of safety. Does that suggestion raise any particular concerns or opportunities in your mind?

Ms Holmes: I think that would have to be carefully thought through. I do not know if a broad universal power like that would be necessary unless it is absolutely the last resort for protection and safety. I think those would be the only circumstances in which we would like that extra power to be granted.

Mr SKELTON: Ms Holmes, you recommend that the committee consider further education and that cultural change is required within the law enforcement agencies. Are you able to be more specific as to what you are referring to in that recommendation?

Ms Holmes: I guess the big issue is how police exercise discretion: when do they use their powers and when do not they use their powers? I think this is the nub of the issue, really. The royal commission really said arrests should be a last resort. With the churn of police officers and young police officers coming into the force, the education opportunities, on the whole, of how to behave as a police officer are quite limited. I am not sure how much time is spent on the issue of how you exercise your discretion and how you be a wise police officer in the face of provocation sometimes—or difficult behaviours or something that might be triggering as being antisocial.

For very young police officers who are often going out into the field, often in their second year, to places like Mount Isa or places that will have quite acute problems in this area, it is really important that they have senior officers who lead that culture very carefully, who tell them how they want their policing done in their area and not to over-police. The law-and-order response we often have is over-policing. Police officers, when they are in the field, like to do their job. They like to think, 'I have done my job today.' Their job needs to also be a little bit about social work; it is not all police work.

Those are the nuances that I would hope the senior leaders in the Police Service have—and I think they do have that, but it has to be drilled down to a lower level in the police force to make sure that every time police officers are going out and doing a difficult job they are thinking about human rights and they are thinking about what the objective is here. They are looking at those issues that I think the Law Society will talk about and that I have mentioned, to make sure that arrest is not the first go-to action when they see something that might be a little bit antisocial and they think about other responses and not just the law-and-order response.

I think it is that extra training and really emphasising that cultural change to thinking, 'Our job as police officers is to look after the whole community and to make sure that everyone is safe and to look at the long term and the big picture, not just immediately grabbing someone off the street and throwing them into a watch house.' I think that is a big piece of work that we need to get across, particularly to young police officers when they are first going about their work, to think, 'How do I do my job wisely and with an appreciation of where our whole community wants to go?'

CHAIR: Deputy Commissioner, I think that is wise advice for many of us.

Dr ROBINSON: Ms Holmes, in my electorate of Oodgeroo, which is the Cleveland area, from time to time, and at the moment, we have some real hotspots of antisocial behaviour. Sometimes young people are hooning around, sometimes drunk and sometimes not. Police are called away off other duties to have to go and resolve those things. We have a current example in the VMR car park area with a lot of residential homes around it. People in the community are very frustrated at what they perceive as a lack of police powers to actually do much about it. The police come in very carefully. The police I know tend to treat the young people very fairly. However, at the same time, there is a great deal of frustration right now at Cleveland Point and Wellington Point about these

ongoing issues. There is concern that if some powers around nuisance and public intoxication were to be seen as softened or reduced in some way then that would only exacerbate the situation. I am interested in any advice that you might have for my community and for the police.

Ms Holmes: I have sympathy for the community that experiences that problem. I think everyone who is living in a quiet neighbourhood does not like a lot of noise when they are trying to enjoy the quiet and peaceful environment of their own home. I guess, again, the issue is whether the police response is the best response or if there need to be other responses to whatever antisocial conduct is occurring in that area.

Without knowing precisely what the conduct is or having a precise idea of exactly who is doing that conduct—whether it is a health response or if it is just a drunkenness issue or if it is other antisocial behaviour by young people who may not have enough other activities in the area to divert them from doing that sort of behaviour—we would always hope that other community responses could come out that would divert people away from whatever that antisocial behaviour is, because it is not necessarily great for them and it is definitely not great for the neighbours. However, there might be something else that can be done to divert and attract the interest of those young people away from that behaviour rather than arresting them or just putting them in the watch house, because I do not know if that is a great solution to whatever is occurring.

You may find that once people start interacting with the criminal justice system it can quickly take them to a much worse place and they can become criminalised, so if you can avoid that first instance of putting people in the criminal justice system. People do act out when they are young—we know that—but they quickly outgrow it. It is trying to keep people on the straight and narrow without pushing them into feeling like, 'I'm being criminalised for something that's maybe a little bit dumb.' We know that young people do silly things sometimes, but criminalising that behaviour is not in the best interests of our community. If it is a boredom factor, then trying to divert people away from that behaviour and looking for other activities that are not as antisocial but as interesting to those people would be one way. How can the community come up with solutions for the people who are congregating down there?

Dr ROBINSON: On a different topic, some of the submitters suggested that the offence of begging may potentially contravene section 21 of the Human Rights Act in terms of freedom of expression. Just generally, do you have a view on that thought or that idea? How do we draw the line or draw boundaries in terms of freedom of expression and where that oversteps the mark? Do you have any thoughts in that regard?

Ms Holmes: I do not know if we identified freedom of expression in relation to that. We may have.

Dr ROBINSON: No, I do not know that it was necessarily your submission, but it came up with some submitters.

Ms Holmes: It could well be. You could say that is a way that people are expressing where they are at a particular point in their life. If they are homeless or have very limited assets or financial capacity, that may be a public expression of the stress they are experiencing. There is a potential argument that if you reduce that then that is a reduction of their ability to express that is where they are in society and how they are feeling. Begging is an acutely sad issue. People are having to beg. We do have a terrible problem with lack of housing at the moment and homelessness. Our community has some big issues that we are struggling with to try and work out how we deal with these issues. Punishing people who are experiencing the very hard end of our social order at the moment is probably not a human rights compatible way of going. We would very rarely ever think that begging should be a criminal offence. We would think of other responses that may be necessary.

I appreciate that if people are just going about their daily business and are approached by people who are begging that can be a bit of an imposition on their freedom of movement, so that can be a balancing act that needs to be achieved. If someone is being very persistent and difficult with people who are passing by, that might be a different type of behaviour to someone who is just quietly sitting there and indicating that they are in a very stressful and extreme circumstance. It is always a balancing act. If it flips from begging to something else, of course police always do need to retain some discretion, but arrest for that sort of behaviour should always be the last resort.

Mr BENNETT: I will start with a statement. I want to give a shout-out to the police. I am really proud that they have these powers to keep my community and other communities safe. My question is about what we are going to invest in in public health and social welfare—because that seems to be what we are looking at as a backup—so that police are not vilified for doing their job and protecting communities. What investment do we have to put in place? It is 'putting the cart before the horse'

stuff we are talking about. Is there any work being done on what social and public health responses are going to be needed to try and allow the decriminalisation of offences to keep our communities safe and responsive?

Ms Holmes: I can appreciate your comments. The police do have a very difficult job. If they are the only people out in the community responding, this is the problem. I think this is where this committee is looking at the health and welfare response that needs to be created to allow a better outcome for people who are experiencing these extremes.

Mr BENNETT: I do not have any specific examples of what we are currently doing in that space that will need to be ramped up or accelerated. We heard about co-responders from the Public Advocate, which was the first time I have heard of that. I guess that is one example.

Ms Holmes: I am not familiar with any particular work in Queensland. We have all of the diversionary centres and the night-safe work that people do. I would have thought there is going to have to be a ramping up of some of the existing services and the creation of some new services in a co-design model with the communities where it is most needed. It absolutely does need more in the social and health areas. I am not an expert on that, but we could look at other states to see what they are doing. They are not as big as Queensland, but some of them will have some good ideas. There may be other examples overseas. We have our own very creative people in Queensland who probably can come up with unique and bespoke solutions to some of these problems. We just need to start working at a community level with the impacted communities in some instances and with health and welfare experts to work out a response that is proportionate and does not drain the public purse. It is probably diverting some of the resources, possibly, away from the criminal justice response, so a justice reinvestment approach, to try and put more resources into the front end—trying to prevent the public drunkenness issue at the front end, trying to make sure that we do not have a growing cohort of people and trying to reduce that. That is a big effort over a long time. Sometimes it is very difficult to get people who are already disenfranchised in that system back to a healthier lifestyle. For young people coming through, you are trying to dissuade them from that so I think that a health and welfare response is the long-term solution to these issues.

Mr BENNETT: What we are seeing in our community is that public health and social welfare responders are going to need more protection. It is not going to be long before ambulance officers are going to have to have police or security for their own wellbeing because they are being assaulted all the time. It is very complex and I do not see it all falling on the police.

CHAIR: In light of the comments made by the deputy chair, what do you consider to be the appropriate role for Queensland police with regard to each of three offences under consideration if they were to be decriminalised?

Ms Holmes: I guess they still have public nuisance. When things do escalate, police always have to have a fallback capacity to look after the community but having some limits on the discretion of when police exercise their powers, as outlined by the Law Society and as I outlined earlier, to ensure they only use it when it is absolutely necessary and when there is no other option available. Arrest is the last resort, and really a health and welfare response should be the first response to these issues if it is necessary. With the level of homelessness we have at the moment, our community may have to accept there will be public behaviours that some people find antisocial unless our society takes bigger steps to try and find homes for everyone who is homeless and help them move into supported accommodation. That is the reality of where we are. That is a difficult issue for police, but they should only be using their enforcement powers when it is absolutely necessary. It should only be as a last resort.

CHAIR: We are unfortunately out of time. I am sure we could ask you many more questions. We thank you for your ongoing interest, support and encouragement of the work of the committee. We thank you sincerely for assisting us today. We know how busy you are at the Human Rights Commission, but we thank you for your time and we wish you a good day.

Proceedings suspended from 11.40 am to 12.00 pm.

BURTON, Ms Bridget, Director, Human Rights and Civil Law Practice, Caxton Legal Centre

LANG, Ms Rebecca, Chief Executive Officer, Queensland Network of Alcohol and Other Drug Agencies

POPOVICH, Mr Sean, Director, Policy and Systems, Queensland Network of Alcohol and Other Drug Agencies

RUSKA, Ms Keryn, Senior Principal Lawyer, IUHI Legal Service, Institute for Urban Indigenous Health and Caxton Legal Centre

WATSON, Mr Kaava, Director, Network Development, Institute for Urban Indigenous Health and Caxton Legal Centre

CHAIR: Good afternoon to each and every one of you. We thank you for your time today and we thank you for preparing your submission and then coming before us to tell us a little bit more about your knowledge of the area and certainly your insight into this particular inquiry. I invite each organisation to make a brief statement, after which committee members will certainly have many questions for you. We will start with the Queensland Network of Alcohol and Other Drugs. Ms Lang, would you like to make an opening statement?

Ms Lang: Thank you for the invitation to be here today. I will start by acknowledging the Jagera and Turrbal peoples as the custodians of the lands upon which we meet and pay my respects to elders past and present. QNADA is the peak organisation for the non-government alcohol and other drugs treatment and harm reduction sector in Queensland. What that means in reality is: we have around 60 member organisations that operate from more than 100 locations across the state, including in the far north and the far west, and including community controlled Aboriginal and Torres Strait Islander health services.

We are pleased to see this on the government's agenda. I think it is an understatement to say that it is beyond time that we abolished the offence of public intoxication, which is the subject of our submission to the committee. We have known for a very long time that police responses to intoxication or to drug possession more broadly are less effective than health responses, and we have struggled a little as a system to dream of a world of what that actually looks like on the other side. The good news for us is that, as the last state to consider this, we have the benefit of our sister states' and territories' experiences to draw on, and one thing that we would very much like to highlight is that nothing sharpens the mind for alternative responses more than the absence of the current response. So often the process of decriminalising or abolishing public intoxication as a criminal offence is thwarted somewhat by this last-resort option, this idea that the service is not available everywhere and all of the time. I think these problems are eminently solvable, but I think that while ever we have this fallback position what we do is hide and obscure the other solutions that are available to us as a community.

As I said, our members operate all across the state. While intoxication management is not necessarily something that they are funded to do, those services do provide a natural infrastructure for the types of expansion of diversion services we would like to see to provide people with a health response that prioritises the risks to their health and safety from their intoxication. Thank you.

Mr Watson: Thank you for the opportunity to appear before the committee in relation to this important reform. I am Kaava Watson, Director of Network Development at the Institute for Urban Indigenous Health. We start by acknowledging the traditional owners of the lands on which we all live and work right across all of our footprints and areas where we reside and work. The Institute for Urban Indigenous Health and Caxton Legal Centre have made a joint submission to the inquiry and we appear together today.

We support the decriminalisation of the three offences. At the outset we note that this is widely accepted and these reforms are overdue, having been recommended by the Royal Commission into Aboriginal Deaths in Custody over 30 years ago. It is well established that these offences have a disproportionate impact on Indigenous peoples. Our submission is that shifting from a criminal justice response to a health and welfare response is compatible with human rights—the existing community controlled health sector currently provides targeted, culturally safe and holistic health services to the Indigenous community, including a range of programs to address drug, alcohol and tobacco use and their underlying causes—and that existing programs can be utilised to provide appropriate health and welfare responses.

In addition, moving to a health and welfare response is cost effective and will minimise unnecessary interaction between police and vulnerable individuals. Research clearly shows that criminal justice responses to public order offences are costly for those who are charged due to the potential for escalation following interactions with police and to the state. The potential for escalation is particularly a risk for Indigenous peoples, given the history of policing in our communities. We further submit that, to achieve the objective of limiting the interaction between police and vulnerable individuals in public spaces, consideration should be given to the repeal or reform of other low-harm public order offences such as public nuisance. I am joined by Keryn Ruska, our IUHI Legal Service senior principal lawyer, and Bridget Burton, Director of Caxton Legal Centre for human rights and civil law practice. We are happy to take any questions.

Mr BENNETT: Thank you for coming; it is lovely to see you all again. You mentioned, and it is true, that Queensland is the last jurisdiction to look into this. I am referencing a report of 2020 which was done in Victoria about their reforms—you mentioned other sister states' results—and the report clearly indicates that nothing has changed in Victoria. They still have the same rates of people getting caught up in the public nuisance offence. Do you have other data you may be able to give the committee? Currently, the data I am reading says that even decriminalising public intoxication, which is predominantly what I am talking about, has not made any inroads in those other states.

Ms Lang: I do not have other data that I can give you today, but I can certainly take it on notice and see what we can find for you. I think the issue you highlight is the point I made in my opening statement about detaining someone in custody as an option of last resort for police. I think the system change is obviously a difficult thing to achieve, especially when what you are trying to do is to stop doing something, as opposed to amend or reform something which you are currently doing. I think what comes behind the change is the really important part for ensuring success. It is the changes to police guidelines in their operating manual. It is the changes to our service system so that police are aware of the places of safety that they can take people to. I have no doubt that we will need to establish new places of safety that police can take people to.

I will just note that this is not a conversation that is really limited to how we manage intoxicated people in public spaces; this is also the conversation happening in the mental health system at the moment around alternatives to EDs, because obviously hospitals are equally inappropriate places to watch houses for people who are intoxicated. They do not really have a medical need; what they have is a time-limited vulnerability. If we can hold them in a space that is able to connect them to medical care if they need it, that would be sufficient to the cause and potentially link them with services once they have sobered up, if that is something they would like to think about. There are options to do this in a voluntary way. I think the growth of our service system, and the projected growth in our service system over the next decade, puts us in a really good spot to allow our police to focus their efforts where they are best deployed, rather than dealing with people who should be in our health system.

Mr BENNETT: I am sure they would appreciate that as well.

Ms Lang: Yes.

Mr BENNETT: Did you want to add anything?

Mr Watson: I would probably agree with the sentiment of reform. It is not just the removal of something; it is what you are building in its place also. With regard to this notion of things not changing, I am not aware of the data or the report. I would be happy to have a read of it and provide some comment, but for us it is really the question of how we are dealing with really complex needs and issues of some of our most vulnerable people in our society. I think the evidence internationally across the board is that punitive measures do not result in any sense of rehabilitation or actually meeting the underlying needs of a lot of those people. I agree with the point that policing of public spaces is probably not the lens through which we are looking at this. We are looking at how it disproportionately affects, as I said, those who are most vulnerable and in need.

Ms LUI: Mr Watson, the Queensland Police Service have raised situations where diversion centres have refused to take particularly intoxicated clients because of previous experiences with that person being violent with staff members. What provision would you recommend be put in place for those circumstances?

Mr Watson: I think there is an issue around access and the options for access. With so few providers, it is probably difficult to place individuals. On the issue of availability of providers, I would also make the point that the issue of policing in removing people who are potentially a harm to themselves or a harm to others is one thing—it is a health response—but the issue of public drunkenness, in my mind, is an issue of availability of options. Better training potentially with a health lens over a lot of those diversionary programs may be of assistance.

Ms Ruska: From IUIH's point of view, we have the social health teams as well that are engaging with people on a more regular basis, before it is at that crisis point. Those sorts of programs are also of assistance, I think. If people are then at that point where they need that crisis response, the engagement already with the service is going to help with engaging those people and in having a better engagement and better response to it and would be less likely to cause issues in terms of transporting to places of safety.

Mr Watson: There may also be an issue around the sense of connection or relationship between local providers of diversionary programs and police if they are community controlled. I think it gives rise to a whole lot of issues that we have historically seen between our communities. To Keryn's point, it absolutely is around what options are available to police in working with them, whether it be diversionary program providers or other community members who can help facilitate a solution that does not require incarceration—finding family members or other community members who are open to, or know who their family members are and find a place for them. Sometimes it is not always a service response; it may be leveraging our community connections and families of people who are intoxicated.

Mr BERKMAN: I first of all put a question to IUIH and Caxton Legal Centre together. You would have heard the response from QPS in the earlier briefing on this inquiry and their concerns, as they put them, that if these criminal sanctions are removed then we will just see a commensurate increase in the number of public nuisance charges. What is your response to that?

Mr Watson: In my view, again it speaks to the issue. With any public order offence, I do not think you are dealing with the actual cause of the issue. We are dealing with people who have underlying issues and conditions that are not being met by any punitive measure. If it does increase public nuisance charges then our point would be that we need to remove the public nuisance charge so that we can ensure people are being provided the opportunity for adequate intervention.

Ms Burton: A lot of the public nuisance charges or the public order charges that we see arise out of an interaction between an individual and the police that has been initiated over something else. Public drunkenness and drinking in public in particular give police an opportunity to have an interaction with a person that might not otherwise have occurred because there is no other suspicion of wrongdoing. That interaction then escalates and results in a public nuisance charge. I think the fact that there are really low numbers of charges for public drunkenness and drinking in public kind of hides the real mischief of the existence of the offence, because it is providing that gateway to an interaction which then turns sour for one reason or another, often historical. Where we see really low numbers of charges for drinking, we have huge numbers of charges for public nuisance in Queensland. My understanding would be that removing the basis for the interaction will likely see a reduction in public nuisance offences; they just will not arise.

Mr BERKMAN: You have suggested in your submission particular changes to the public nuisance offence provisions. Could you speak to those? I note as well we have QLS representatives here now who have also made some specific suggestions. Could you elaborate on those recommendations and what you think they will achieve?

Ms Burton: The public nuisance offence does a number of things. It deals with violent, intimidating and threatening behaviour, which is quite troublesome behaviour in public, but at the same time it deals with disorderly and offensive behaviour. It asks you to look at whether someone's behaviour might impede the passage of another person, who is a hypothetical person in most cases, through public space. It is asking you to balance someone's real use of public space against a hypothetical person's potential use of that public space. It is a troubling from a human rights perspective where we look at proportionality and reasonable restrictions.

We are saying you can remove disorderly and offensive behaviour and still retain some scope to deal with the threatening and violent behaviour that makes streets unsafe for women in particular. It is the offensive and disorderly, two particular subsections that exist in the public nuisance offence, that are the most vulnerable to bias; they really invite it. What is disorderly for one person is definitely not for another. I think those reforms would have a really substantial impact on policing and rates of interaction between police and vulnerable people whilst retaining some of those protections that exist. My personal view would be take the section out altogether. I do not like public nuisance. To the extent it has some job to do, I think you can retain the task whilst removing some of the really troubling parts of it.

Mr SKELTON: Mr Watson, you state in your submission that the structures and systems are already in place in Queensland to support a therapeutic rather than a police-led response to public intoxication and begging. Would you please elaborate on those structures and systems more specifically? I note you did mention some community-based approaches and just having those connections.

Mr Watson: Predominantly we are talking about the community controlled sector, and we cannot speak for all over the state; we are South-East Queensland based. In terms of our response and providing a holistic wraparound service, it has really been a fundamental basis and guiding principle of the formation of the Institute for Urban Indigenous Health. We were essentially established because of the fractured nature of the health system. I make it clear that we are not giving praise to the state based and existing infrastructure as opposed to what we have tried to create in the community setting and how that interlinks and actually integrates with the mainstream system. That said, I think there is some work we are doing.

We did provide a submission to the health inquiry of the Queensland government. There is a need for us to look at a gap between what is really quite acute mental health need in terms of mental health wards and what is the community-based response in terms of supporting people with complexity. Often what we see is some people with mental health stepping in and out of quite acute facilities. There remains some uncertainty between the state and the feds around who is responsible to support people whilst they are in a community setting. That was the crux of our submission to the Queensland mental health inquiry.

As our submission states, when we are talking about that holistic approach, it is something we have been really conscious of building within our region of South-East Queensland, and that was the reason for our formation.

Dr ROBINSON: If we are seen to be and we do reduce some of the police powers—and I would be interested in your input in terms of specific things in the Redlands and my area of Cleveland, the Oodgeroo electorate, where there are certain areas where police are trying to bring a range of antisocial behaviour under control—youth loutish type behaviour, some drunkenness, some drugs. There are neighbours, people who live in the area and people walking their dogs at night through some of these areas, and the police are frustrated because they have to divert resources to keep going back to these areas. The police are handling it well in that they are trying not to use powers all the time with these young people, yet their behaviour is not changing and there is an ongoing problem. How does changing these laws help in those sorts of circumstances where young people are not responding?

Ms Lang: That is a very broad scenario. We have done some work with the former federal member in the Redlands, Andrew Laming. It all comes back to the same sorts of things. Young people are not out on the streets intoxicated and getting up to mischief because they just want to; there is a set of social circumstances around young people that can be adjusted, if you like, that will reduce the risk of them being out on the streets. Some of that is about safety at home; some of that is about being engaged in productive, meaningful, prosocial activity during the day, whether that is school, work, sports or whatever. The point then becomes that a policing response is never going to be able to address anything other than the community's concern about that, because it is obviously not within the remit of the Police Service to address those other things. The Redlands in particular is an area that has a lack of services available that are connected to the rest of the system. You have good acute services and good emergency services, but that community response sitting underneath it could do with a bit more development. If that was done then perhaps the frustration of police would be reduced. I would hope it would.

Mr Watson: I would probably agree with that.

Ms Ruska: I was going to say the same. I would agree with that. While we may have police providing an immediate response, that problem is still going to be there unless we can bump up some of the youth services and some of the support to deal with some of the underlying issues.

CHAIR: Ms Burton, I am interested about the people who are charged with these offences currently. How likely are they to be able to pay fines and generally navigate or manage their way through that process of charge?

Ms Burton: It is more than ordinarily complicated because of the underlying social issues, and adding a charge to that makes it more difficult for them rather than adding anything positive. This is probably an opportunity to give you a case study to explain how this functions in practice. I have a number of them. Let me pick out the best one to answer your question.

These are clients who have been seen through our men's bail support service. At that point they are remanded in custody and being held in a prison for offences that are effectively public order matters. This client was lying on a bench in a public suburban centre with a sign next to them that said 'Homeless. Any chance of some money for food, please?' They were arrested and charged with begging, refused bail and remanded in custody. The police submitted at that time, 'He is remanded Brisbane

for his own welfare. If granted release, will continue to commit similar offences.’ We have other clients who have been held for over a month on remand before being bailed and then being given bail conditions that they could never comply with because of their underlying disability. They have then committed other offences like public urination and are put back into remand.

Whilst it is an offence that on paper looks like it would likely—and almost always does—result in fines, when it gets acute for people, particularly homeless people, what they are also dealing with is periods of incarceration and some quite considerable periods of incarceration relative to the very minor nature of the offence. The fining of homeless people does not generate a payment of a fine. They do not have any means to do that. Sometimes there are community service requirements or work and development order type interventions, but they are punitive in nature and do not make a huge difference. What we have found with these clients that does make a difference is intensive social work support, but that is not something that is linked to the charge in itself. Does that answer your question?

CHAIR: Yes, absolutely.

Mr BENNETT: This is probably to the AOD group. I notice in your submission you talk about other drugs and some of the scare tactics. Considering the people who are giving evidence after you, could you talk about the possibility of illegal substances being caught up in this prospect of decriminalising, not just alcohol?

Ms Lang: We know that the substances that are currently listed as illegal in Queensland and around the world are not listed that way because they are particularly dangerous; they are usually listed that way because of the social circumstances of about a century ago. In terms of the issues we have around the policing of drug possession in this state, we have had a policy of diversion for 22 years, yet in the decade from 2005 to 2015 we still managed to convict 150,000-odd Queenslanders of drug possession. Obviously that conviction stays on your record and impacts your ability to get work, because everyone needs a criminal history check these days. The piece that sits behind that is that now a lot of research has been done over the last 20 years around what happens to people who have been diverted from the justice system or were successful in being diverted. The reality is that the vast majority of those people were never assessed as being eligible for any type of treatment. Their substance use was not of a sufficient kind of intensity that treatment would be warranted. Also, for the bulk of those people the interaction with police did not change their drug use trajectory. They are the two bases upon which we provide those services.

As our knowledge of that grows—people use drugs for a whole range of reasons; most often it is not problematic. Alcohol is a really great example of that. Most people’s alcohol use is contained and completely within the bounds of what would be considered acceptable behaviour. I guess that is reflected in the way we respond to public intoxication in some spaces. For instance, the Brunswick Street mall on a Friday or Saturday night will have a lot of people who are intoxicated and in a public space. Our response to that group of people is to provide them with chaplain services and sobering up spaces so that if police do come across someone who is at particular risk of harm or is at particular risk of harming others they have a place of safety to take them to.

In every circumstance where someone is intoxicated with a substance, the best response is a health response. Particularly when we think about things like public nuisance, the risk that someone would be transported to a watch house whilst intoxicated for the purposes of charging them with some other offence is exactly why we need to look at the operations manual that sits behind this change being implemented in Queensland—so that police understand that the behaviour we are trying to stop is people being intoxicated and being kept in watch houses because it is a completely inappropriate environment. If the only other alternative is an emergency department, it is not a lot better but it is a bit better.

We need to focus our efforts as a state on developing that social response that sits underneath. As Kaava was saying, it does not have to be a service response every time. There are communities which are small enough that they do not have a large service offering, but what they do have is a better understanding of who lives in that community and who is struggling in that community and a willingness to step up and provide that support.

Mr BENNETT: I have been on the Gold Coast with the Red Frogs brigade at schoolies. Has any work been done about how effective that is? That is a really good example of collaboration between health, police and all the other support agencies. It is something that we should be proud of to roll out. Are you aware of any work that has been done? I guess the Red Frogs would have all of that data.

Ms Lang: I imagine they would. To have been running this long, they would have had a service evaluation. The principle, though, is really well researched. The idea is that, where people are likely to experience vulnerability because of intoxication or be exposed to intoxication perhaps not by choice, having that health response and the safe space is a really effective way of preventing people moving into those crisis systems, whether that is hospitals or the criminal justice system.

The other really worthy service intervention that is currently being considered in Queensland is illicit drug safety testing, which obviously has a range of applications. At festivals there are a lot of substances, and naive, early-start drug users are sold something that they usually think is methamphetamine, or MDMA, or cocaine, but the difficulty is that you cannot tell what a drug is by looking at it. The development of portable FTIR machines has revolutionised what is possible in terms of telling people what is in their substance.

The early research coming out of those services in Europe—and in actual fact this was replicated in Canberra at the Groovin the Moo festival—is that when people are told that the substance is not what they thought they were buying they are more likely to discard it. These are really great behaviour change interventions. Sometimes when we deploy a police response to intoxication, we miss the opportunity to talk to someone afterwards and ask, ‘How did that work out for you? Is there something we can do to help you to avoid that situation in the future?’ I think that is worth investigating.

Ms LUI: When you talk about decriminalisation of certain public offences, I think it is quite specific to the problem. What we are talking about today is flipping the coin a bit in that we are changing the narrative and it almost becomes a very complex issue when you start to put a health lens across the issue. That is going to bring to the surface all of the different social issues that we have not really acknowledged in the past. What are your thoughts on the complex nature of what we are coming into?

Ms Lang: I have to agree with you really strongly. We have been doing some work with our member organisations over the last couple of years around what we are calling responsive systems. It is the way that the people we see in our treatment services are often already engaged with Child Safety, and if they are young they are engaged with Youth Justice as well. Obviously, the grown-up justice system has a lot of intersections with us as well, with things like the Drug and Alcohol Court, police diversion, court diversion and those sorts of things.

What our members report to us is that the system gets increasingly complex. At first, if we locate that complexity around individuals, we kind of miss the point. Our workforce will say that we are really great with dealing with complexity, but when we ask what workforce development they would like they say they want training in dealing with complexity. When you unpack that with them, it is the way that these other systems behave towards our clients, particularly around the treatment episodes they will be going through.

For instance, Child Safety has the power to demand someone’s record. That means that, at a consent point at the very beginning of engagement, services are obliged to tell a person that their confidentiality is limited by the fact that Child Safety might demand this file. What we do not necessarily have a good handle on at the moment, but our members report to us quite a lot, is that that has the opposite to the intent of the child safety officer—that is, keeping that child or that young person subject to a child safety order safe by providing them with a safe place to talk about things that might be, in the eyes of a statutory system, something they need to respond to but in a counselling session is a symptom of the trauma they have experienced, the poverty they are living in or the lack of access to any kind of support services to help them stay in school, for instance.

As I said, most people who use substances do so in the context of a full and productive life, and their risks around their substance use are either long-term chronic disease risks or immediate intoxication where perhaps they fall down the stairs at home or have a trip and fall. They are not a risk that they are going to be in a public space and come to the attention of authorities and pick up a criminal record merely by virtue of being intoxicated in a public place or occupying public spaces.

It is a little daunting at times to think about how we get justice systems to value health interventions as much as we value health interventions because it is a different way of looking at the world. Knowing about the social, cultural and structural determinants of health puts an onus on us to then think that we need to expand what we consider to be a health intervention. Obviously, you would not necessarily think that providing a kid with advice about how to get their ID in order is a health intervention, but from the perspective that their ability to access education, accommodation or a whole bunch of other things is limited by having that ID it suddenly becomes really critical to their health.

CHAIR: Thank you. I think you made some very insightful comparisons there.

Mr BERKMAN: Rebecca, in your opening statement you said something along the lines that the existing infrastructure within the network is very well positioned for augmentation to meet the needs in a broader health and welfare response. This question is to you and IUHI. Can you elaborate on that a little and also suggest how those services and their expansion might be prioritised? Obviously there are lots of things we could do, but what is the most immediate need and how do we leverage best off the existing services?

Ms Lang: QNADA members operate in more than 100 locations around the state in a permanent sense and then have outreach to a bunch of additional sites. Beyond our membership, there is also the community controlled broader health sector. Some of those are members of ours because they deliver alcohol and drug services, like IUHI, and others are not because they focus their effort in our part of the world on social and emotional wellbeing, which is kind of adjacent but not exactly the same. What you do have is people who are really well versed in substance use and people who are really well versed in how to assess whether someone's substance use is particularly problematic or whether the substance use is a symptom of the real problems they are experiencing and then help them deal with the underlying issues so the substance use would remit on its own.

We are moments away from the next five-year services plan from government that was part of the \$1.46 billion announced as part of the budget. Part of that is about growing alcohol and drug services around the state. I know that the Chief Psychiatrist also has a desire to improve the way that the public mental health system responds to substance use. That infrastructure gives you a starting point for whether we could add an overnight worker so that this could be a diversionary centre on the weekends or during the week.

Sometimes when we go to commission new services we prioritise this idea of the free market above the specialisation of our existing services system. We always think of something better that we have not heard of yet, as opposed to most of the people who want to work in this space already doing the work and our effort should be invested in supporting them to develop their service responses as the evidence base kind of grows and develops over time and we start to get a better understanding of things, like that substance use impacts on the brain are largely transitory and not permanent.

The other thing is how the commissioning of community services and the commissioning of health services is quite separate still. We have been participating in a community services industry reference group for government. That is bringing together the more traditional social services, like neighbourhood centres and homelessness services, with our types of services to talk more broadly about how we connect those things together in a way that gets best bang for the government's buck but also delivers for the Queensland community. If we can do that, people can get access to the sorts of services that I think most people in the community expect are available but might be a little surprised to see that are not as available as they thought they were once they got out and went looking for them for themselves.

CHAIR: Thank you, but we now have to move on. There was one question taken on notice and the due date for that response is 7 September. We would appreciate any information you can provide by then. I thank you all for your time today. We understand that you are all very busy, so the committee appreciates the support, guidance, knowledge and experience you have provided to us as we navigate our way forward.

GREENWOOD, Ms Kate, Barrister and Policy, Intervention and Community Legal Education Officer, Aboriginal and Torres Strait Islander Legal Service (Queensland)

JASPER, Ms Julia, Member, Criminal Law Committee, Queensland Law Society

O'CONNOR, Ms Lyndell, Chair, First Nations Legal Policy Committee, Queensland Law Society (via teleconference)

RUSKA, Ms Keryn, Member, Human Rights and Public Law Committee, Queensland Law Society

THOMSON, Ms Kara, President, Queensland Law Society

CHAIR: Welcome. Thank you for appearing before the committee today. Thank you for your very comprehensive submissions. We as a committee understand how much time it takes to make these submissions and then to appear before the committee. We certainly appreciate your guidance, knowledge and expertise. We will start with a brief opening statement from you, Ms Thomson. Then I will let you defer to who you need to defer to. When you are ready, the committee members will have numerous questions, I am sure.

Ms Thomson: Thank you, Chair. Thank you for inviting us to appear at the public hearing today. I have a number of subject matter experts here who are happy to answer questions as we go. In opening, I would like to respectfully acknowledge the traditional owners and custodians of the land on which this meeting is taking place here in Meanjin. I recognise the country north and south of the Brisbane River as the home of both the Turrbal and the Jagera people and pay deep respects to their elders past and present.

The Queensland Law Society commends the government for undertaking this inquiry and supports the decriminalisation of the three offences flagged in this inquiry. The society supports a genuine health centred approach to these issues, recognising that people who are charged with these offences may be experiencing complex health and welfare challenges that contribute to their behaviour. That is something the previous submitter spoke to. In this context, our submission makes two key overarching recommendations which we ask the committee to consider.

Firstly, we recommend that the government undertake a comprehensive review of all public order offences and their impact on marginalised groups. This review should include a focus on offences such as public nuisance and the use of police discretion in relation to police move-on powers to mitigate the risk that these offences and powers will simply replace the current criminal justice response to public intoxication, public urination and begging with a more punitive response.

Secondly, we recommend that the government consider the decriminalisation of personal use drug use and possession offences with a view to reinvesting funds and resources spent on the enforcement of drug use and possession offences to a more appropriate health and social welfare based response framework. We note that both of these recommendations have been supported by other bodies in their submissions to this inquiry.

While outside the scope of this inquiry, we consider that they should progress as a priority given their significant impact on marginalised groups in our community and, in particular, on the continued overincarceration of Aboriginal and Torres Strait Islander peoples. I am joined by a number of subject matter experts today who are more than happy to take questions. Thank you.

CHAIR: Thank you, Ms Thomson. Certainly, we value the contribution of those experts. We know that when we have expert involvement the laws of this state are the best they can be.

Mr BENNETT: I have a general question about two issues that are intertwined. You heard my question about the decriminalisation of drug use—I would like to flesh that out a little bit more—and about the cultural issues that you speak about in the police force. If we were investing more in health and social welfare, would those issues resolve themselves? We cannot be blaming the police for doing their job when the other service provisions are not there.

Ms Jasper: It is a difficult question for the society to answer as a group of lawyers who are not experts in the interaction between policing and any kind of health overlay response. Obviously, the hope would be that if you put all of those resources into place and you change police procedures and you have a focus which is more on health outcomes and harm minimisation, the outcome would be less offending of the type we are talking about today. If you are dealing with the underlying mental

health and drug issues, you are going to have fewer examples of public intoxication or public bad behaviour that would lead to a policing response with the kinds of low-level summary offences that we are talking about today. Obviously that is the stated aim. I do not have any particular expertise in that area.

Mr BENNETT: The submission talks about cultural shift and re-educating police officers.

Ms Jasper: Absolutely.

Mr BENNETT: There are a whole heap of issues beyond just talking about re-educating police about doing their job.

Ms Jasper: Certainly, but I do think that is an important part of it. Police are obviously working on the front line in relation to all of these issues. Going from the traditional policing response—identifying, investigating and prosecuting offences—to placing more emphasis on diverting people away from the criminal justice system and linking them into support services to hopefully prevent repetitive offending will require significant police training. I know that a lot of that work does happen, but prioritising it over a law enforcement style response I think will take some change.

CHAIR: Harm minimisation is a concept that Queensland and Queenslanders have struggled with over many years; it probably dates back to the Bjelke-Petersen era. Can you talk the committee through how the approach of harm minimisation will impact those offences that are particularly related to the social context of the victims and the notion of poverty offences, for want of a better term? How are the two related?

Ms Jasper: It is a difficult and complex relationship, especially when we talk about harm minimisation to the offender—wanting to put in place more protective measures, getting them into therapy and getting them into the health response that they need to prevent them from doing harm to themselves. It becomes much more complex when you are talking about the impact of their behaviour on the people around them and minimising harm, for example, in a domestic violence context or in a broader context. People have a right to feel safe when they are out in public and safe when they are out with their children in a public environment. Those two things are a very difficult interplay.

There needs to be enough appropriate police enforcement to ensure harm is not inflicted on others around the person who is experiencing these issues while also appreciating that there needs to be a response to enable harm to that person to be minimised. That is not just in the immediate moment that the offending behaviour or the antisocial behaviour is occurring but understanding that the law enforcement and criminal justice response to that behaviour has a potentially lifelong impact on a person. That impact can prevent them from fulfilling normal goals of a happy, productive life that involves work and travel. It can impact your ability to obtain insurance to buy a house. Criminal convictions, even at these low levels, can have wide long-term impacts on people that are sometimes not considered at the time the decision is made to charge or prosecute.

The law only punishes low-level summary offences by fine, but public nuisance it is punishable theoretically by a prison sentence. The statistics tell us that most of the time people get fines. You might say of a fine, 'That is low level. No conviction is recorded. That should have a minimal impact,' but that is not the case. It can lead to other consequences. It is more concerning when you have someone who has all of these other problems—a mental health problem or addiction problems—that have led to them coming to the attention of the police. Charging them with anything puts them into the criminal justice system, into the court system, which puts them at risk of other offences such as breach of bail, failure to appear and those sorts of things. The situation can very quickly escalate, the punishments that can be meted out by the courts can quickly escalate and the consequences obviously increase and become more serious over time. It can kick off a much longer, broader and more damaging process.

CHAIR: Thank you, Ms Jasper. I know, Ms Greenwood, that you have great knowledge in the area of harm minimisation, so I will hand to you.

Ms Greenwood: Thank you, Chair. By way of background, when I first joined ATSILS I practised in the three largest practice areas in ATSILS. I practised up in Cairns, in Townsville and in Brisbane before moving into the law reform area. In each of those places there were often very different styles of policing and approaches to the discretion of making these charges. I will give two extreme examples. On my first day in the Townsville office I was reading a QP9 where police had parked by the side of a park with binoculars and saw someone lifting a plastic container to their lips and saw their Adam's apple moving. That led to a public consumption charge which, in the grand scheme of things, was probably not the most appropriate response to help someone who was homeless and had other issues; nor was it particularly impacting on public safety.

Coming down to Brisbane, the welcome file was of someone who had been on an involuntary treatment order for five years and all charges were suspended. That was lifted and the charges were resumed. There were basically five years worth of begging charges, amongst other things. His charges filled a tall filing cabinet plus one large Australia Post box. Again, I wonder whether those choices of discretionary charging are doing much to improve public safety for someone who was deeply unwell. Fortunately, there is a happy ending to that one. He had been straightened out and given a great deal of assistance and is now on a very different trajectory, but the imposition of all those begging charges made not the slightest bit of difference to getting him on that different trajectory and having a much happier outcome than he had at that time.

The criminal justice system is not a particularly fit-for-purpose system for dealing with questions of pure public intoxication. I not talking about behaviour that goes beyond that but the mere fact of being drunk or intoxicated in a public place. There was earlier reference to the Victorian inquiry after a drunk Aboriginal woman whose only sin was to fall asleep on a train. Unfortunately, it resulted in the criminal justice system being invoked and her ending up in the watch house—it was not a particularly safe place for her—and it resulted in her death. That caused a rethink going back to the Royal Commission into Aboriginal Deaths in Custody recommendations which had been made 31 years earlier. When they were looking at what was then only 99 deaths, they found that one of the primary reasons for the number of deaths in custody was brought about by someone who was on a public intoxication charge being brought into the watch house. In the particular instance of Ms Day's case, the royal commission had investigated the death of her uncle in almost identical circumstances.

One of the very sad things to come out of the Seeing the Clear Light of Day report is that we are repeatedly making the same mistakes and we are repeating them over generations. Certainly nothing that you could point to in the Victorian report is all that strange in the Queensland experience either. For the particular charge of begging, there may be an aspect of affronting or interfering with someone's enjoyment of a space, but, otherwise, if someone has their little brown card out requesting assistance for funds, what impact is that having?

I would submit that these charges are very much due for being abolished. We are not talking about abolishing more serious charges but just purely intoxicated—nothing more; and purely begging with no other aspect to it—being offensive, disorderly or whatever. Finally, public urination is a charge that is so widely drawn that you could just about guarantee a very large proportion of the state's population has offended against that particular provision in the Summary Offences Act in the last few years in which it has been in force. When we refer back to the Queensland Productivity Commission's report on incarceration and what they call recidivism, it is actually reincarceration. When they talk about the various measures that can be taken to address this overincarceration crisis, they talk about reducing the stock of offences which have no real purpose and achieve no real result. In my submission, these three offences should be prime candidates for being repealed to start to achieve that reduction in the conduits into incarceration and reincarceration.

Mr BERKMAN: We appreciate your time today. I think you would have heard me in the last session asking about the suggested amendments to the public nuisance provisions that Caxton and UIH suggested. I am interested in any reflections you have on their more detailed answer to the question as well as any way you can elaborate on the recommendations in the QLS submission on the need for those amendments and consequences if such changes are not made.

Ms Jasper: I think the suggestions in relation to amendments that were made by the representative for Caxton were eminently sensible. The public nuisance offence is probably not an offence that is required at all. The more serious behaviour that it seeks to control can usually be covered by other more serious offences in the Criminal Code. If there needed to be a more low-level offence, if the decision was taken that that was what was appropriate, there certainly should be things done to narrow the scope of the current public nuisance offence. The most obvious one is anything to do with the use of offensive language. We know, as has been mentioned in other submissions, that the High Court has found that offensive language should not be criminalised—that that does not reflect the values or the views of members of society anymore, if it ever did.

There certainly can be changes to narrow the focus to enable police to intervene when there is threatening or frightening or dangerous behaviour in a public space in circumstances where it may not amount to a more serious offence like threats or affray or going armed in public so as to cause fear. There may be some scope to keep it in place as a summary offence, because affray and threats are offences which are strictly indictable and can only be dealt with by the District Court, and to have maybe a narrower offence than we currently have that is able to be dealt with summarily, with lower penalties and faster court processes but focused strictly on that behaviour—that threatening, dangerous, worrying behaviour that really does call on occasions for police intervention—but also

look at the prosecutorial guidelines in relation to the public nuisance offence to make sure that when a decision is taken by the PPC or the DPP to continue a charge they are looking at these other issues: they are looking at whether or not the charge in all of the circumstances—that is, the circumstances particular to that person on that day—is in the public interest. That is not something that typically will happen within our criminal justice system unless lawyers for the defendant make submissions to that effect.

These public nuisance offences are dealt with in the busiest courts in the state and they are an offence that is of a level that rarely qualifies for legal aid assistance because it very rarely is a circumstance where that person is likely to be sentenced to either jail for the first time or longer than six months in jail and it is also often that persons charged with those offences cannot afford private representation. It is not a case that that review, that public interest consideration, is made in relation to every prosecution, and I think that would probably lead to quite different outcomes in relation to, once a charge has been commenced, how it proceeds through the court.

One other aspect of it is: because of the nature of the charge, because you are talking about something where there is no complainant, so no victim per se, there is no alternative way of resolving the charge in the criminal justice system other than, 'Not guilty, not guilty, Penalties and Sentences Act'—the normal process—whereas something like an adult restorative justice program, which enables lower level offences to be resolved in a mediated environment where people are able to take accountability for their actions and investigate the reasons they behave that way and if they get through that process the charge can be withdrawn, is simply not available for public order offences. That could be another aspect to it: amendments to the Penalties and Sentences Act or another sort of program that is like a drug diversion type system that enables you to resolve these sorts of lower level public order offences outside of a Penalties and Sentences Act outcome.

Mr SKELTON: In your submission you state that a health-centric framework will also empower Aboriginal and Torres Strait Islander communities to inform development of cultural safety standards and ensure the model is underpinned by the principles of self-determination and cultural recognition. Would you please explain how you see that working in practice?

Ms O'Connor: First Nations people are disproportionately exposed to the issues related to street type offending. The way it is dealt with in the current criminal justice framework does not address underlying concerns of health issues and other socio-economic disadvantage. Essentially, people are being criminalised in terms of their disadvantage and poverty. The Royal Commission into Aboriginal Deaths in Custody—we all know that the recommendations were handed down 31 years ago—included reference to the need to obtain informed views of First Nations people and offer the ability for First Nations led alternatives to the way these matters are being dealt with at the moment.

In the way the current system deals with First Nations people, for example, there is a disproportionate interaction between police and First Nations people in North Queensland. First Nations people here make up a large proportion of the homeless population. Due to historical issues between First Nations people and the Queensland Police Service, the interactions often are difficult. There is a fear of interacting with police; there is a deep-seated distrust that often leads to, as Ms Jasper has indicated, other charges being brought before the court—for example, obstruct or assault police. This does not recognise the socio-economic disadvantage.

A First Nations led process that upholds self-determination recognises that Aboriginal and Torres Strait Islander peoples have expert knowledge in relation to the strength and resources that exist within their own communities and family structures and there would be an opportunity for those views and voices to be upheld in terms of determining how to move forward. Ms Ruska might want to add something to my response.

Ms Ruska: I totally agree with Ms O'Connor. Absolutely self-determination aligns with human rights obviously in the Human Rights Act. Also fundamentally we know that, for programs to be successful in terms of engaging people, if they are designed and delivered for community by community we are much more likely to engage. IUIH is absolutely a model for that, wearing my previous hat. IUIH as a network sees tens of thousands of clients and engages across the whole south-east and has been massively successful in that. The whole Deadly Choices campaign, the no-smoking campaign through that, has been wildly successful because it is a community program that people really engage with and trust and then through that are able to really deliver those broader social health and holistic programs.

I think the immediate response to public intoxication might be served by community organisations actually being able to provide the transportation as well, rather than it being on police. You might have a lot less of the impact on police and service providers and any likelihood of escalation

if that could be delivered by community as well and really minimise that police interaction to have a better outcome for everyone involved, including then police resourcing to be able to be diverted to where it is more necessary.

Ms Greenwood: I may also be able to assist the committee with a particular example. I was reflecting earlier, with the comment made about schoolies week, that I am of the age that I remember when a more forthright approach was being used towards intoxication during Schoolies Week, and the response has transformed with people who go on patrol and talk to the schoolies and take them to places of safety leading to a much better response to the problems. Up in Townsville, for example, there are senior members of the community who patrol a particular shopping centre. They wear the shirts so that when there are kids basically playing up they can be referred off to senior members of their community with cultural authority to basically haul them into line a little bit and to come up with a more suitable way of diverting them away from the problem at hand. That has been quite a successful set-up that works well. The police know that they are there and can refer the kids off to one elder in particular, Uncle Alfred, who is an extremely strong community member who leads this particular group, as I understand it.

Dr ROBINSON: Thank you to the whole panel. I have a question that has come up in the committee's work in terms of police powers and in cases where there is drunken behaviour. What do you see happening in terms of police not having powers or not exercising their discretion if police do not charge in a situation where there is public drunkenness but the person has gone on to either harm themselves further or commit some sort of more serious offence that may have been able to be prevented? These are real cases. Concern has been raised, if we were to change, that that could be detrimental to the community and to some individuals with drunken behaviour. What is your response to that being raised to the committee?

Ms Jasper: I assume this is in relation to the suggestion that police have an additional power to arrest someone or detain them for their own safety in that situation?

Dr ROBINSON: My understanding is that it is where there have been cases of drunken behaviour—

Ms Jasper: That has escalated.

Dr ROBINSON:—and it has escalated to something else. The discretion to arrest and put someone in some kind of watch house or facility—it may save the person themselves from further harm or it has escalated and they have done something worse. There would be a preventive role in retaining those powers and that discretion?

Ms Jasper: Certainly. The only issue would be where the police can take them. Obviously we know that, in terms of taking an intoxicated person to the watch house, it is not a safe environment for the person. The only alternative at the moment, certainly in most of Queensland, is to take them to an emergency department. If there were sufficiently resourced diversionary type centres such as what is in Townsville, it would become less worrying in terms of the safety of the individual. I can understand why it would be attractive to the police to have that power when they are concerned about what can follow on. The concern is that you do not want to have more intoxicated people in watch houses just because they are intoxicated. It just means that you would have to have adequately resourced alternatives, I suppose. Certainly if the behaviour escalates into something more serious, there is no question that the police have the power to arrest the person in those circumstances. Providing a blanket power to cover unforeseen, relatively rare—I am assuming—instances where things significantly escalate that could have potentially been diverted, if the unintended consequence is lots of intoxicated people in watch houses—I think that is a difficult balance to strike.

Ms Greenwood: It also raises the spectre of: 'Because I think you're intoxicated, I'm going to make a pre-emptive assumption that you're going to cause a problem down the line,' but you are not. One of the problems we see with over-representation figures across the board in a number of different areas is the perception of a risk that never arises. It would be better for the police to respond to behaviour which shows escalating behaviour rather than say, 'I think you will escalate later on.' That is a very problematic path, I would suggest, for police to go down.

CHAIR: I thank each and every one of you who attended our panel this afternoon. We really do appreciate the time that you have given. By all means you are welcome to stay for the final witnesses, but thanks again for your great work.

COSTELLO, Ms Kristy-Lee, Brisbane Programs Manager, Murri Watch Aboriginal and Torres Strait Islander Corporation

FAROOQUI, Mr Saad, Cluster Lead—Health & Services Integration, Micah Projects

GEORGETOWN, Mr Ken, Chief Executive Officer, Murri Watch Aboriginal and Torres Strait Islander Corporation

WALSH, Ms Karyn, Chief Executive Officer, Micah Projects

CHAIR: Good afternoon, everyone. It is a great pleasure to have you visit the committee today. Many of you are very familiar faces and faces that we certainly enjoy working with. Welcome. Thank you for your submissions and thank you for giving up your time today to this very important inquiry. We thank you for appearing before us. I will ask each organisation to make a brief opening statement, after which our committee will have questions for you.

Mr Georgetown: I acknowledge the member for Cook and Michael. Thank you for giving us an opportunity. My name is Ken Georgetown; I am the chief executive officer of Murri Watch. I am also a Ewamian person from up in North Queensland. Georgetown is my grandfather's country. I was born in Cherbourg, Wakka Wakka country.

As an overview, Murri Watch was established around black deaths in custody in the late eighties and early nineties. Murri Watch was formed in 1991 to divert people away from custody purely for intoxication back then. They would divert them to the watch house; then we would visit them and encourage them to come back to our purpose-built building at the Gabba, where we would look after them while they were sobering up. The Police Powers and Responsibilities Act change in 2000 meant that they could be diverted to a place of safety. Murri Watch is deemed as a place of safety. We would complete a form 44 and they would be diverted to our place so that we could look after them.

The state government funds the operation of Murri Watch. We have a cell visitor program on Palm Island. Townsville has a community patrol and a cell visitor program. Community patrol is where we take people who are in the vicinity of CBD hotspots out to a diversionary centre, Gurindal, which is 20 kilometres out of Townsville. We take close to 13,000 people to that centre each financial year. We have a cell visitor program and a small community patrol in Mackay as well. In Brisbane we have the diversionary centre, which is a 14-bed facility. Kristy-Lee is one of the managers of that program. We also look after the youth program where we look after them in a watch house. I will ask Kristy-Lee to talk more about that. We also have the Bowman Johnson Hostel, which is a 20-bed facility for homeless people. We do case management and case work. We do a lot of referrals for Micah and a few other organisations, mainly around housing.

I had a quick look at the committee's terms of reference. In relation to public urination, we think some of those people need to be diverted to places of safety. We think there are some policing issues as well. We think policing should be more about giving a warning or about looking at that person, as each individual case is different. We may need to use the option of diverting those people to a safe place. I am not quite sure what you are looking for. We have had 30 years experience in working with vulnerable people. It has come to a stage where it is not just about intoxication anymore. Other substances are being used as well. We are getting those people into our centre. We look after them while they are sobering up. Most times they stay for a couple of nights but mainly overnight. We usually use a referral system the next day or do an assessment with them.

Ms Costello: We have been in this space of public intoxication for 30 years now. We think that what we do we do well. Obviously there are still gaps in services. Ken is right: these days a lot of our clients have been drinking but their underlying issue is drugs or mental health. It is really hard for staff to manage clients coming in who are under the influence of drugs. They do not have that expertise. Not having any medical staff on-premise 24/7 is hard. We rely heavily on the Queensland Ambulance Service. We rely on the mental health hotlines and other services that do have that medical support.

Mr Georgetown: Our organisation does not have any professional support at all. When people come to our attention or come to our service, some of them need professional support. The hospitals are starting to try and refer those clients to us as well. I think the government is trying to change the focus of the service agreements that we sign up for so that if people come to the attention of the police and they are in a vulnerable state in a public space they can be diverted to a safe place. For some of the things that people get picked up for, such as urinating in public, they could just be warned, diverted or cautioned. I know that they are petty little crimes, but someone has to deal with it I suppose.

CHAIR: Thank you, Mr Georgetown. Ms Walsh, do you want to make a brief opening statement before we move to questions?

Ms Walsh: I would like to acknowledge the traditional owners of the land and elders past and present. I acknowledge Ken and Kirsty; we have had a 20-plus-year relationship with Murri Watch and work closely in providing transport. We have been providing the service for over 20 years.

We support the decriminalisation of begging, public intoxication and urinating in public because we think the cost outweighs the benefit. We see a lot of people. We were funded for the transport part of what we do from the same diversions in custody. We were part of a local planning group where people wanted a mainstream agency at the time because of a lot of divisions. Now we are an integrated service with health care and homeless responses at the same time. For us, the safe place is either Murri Watch or someone's home. We would do over 8,000 transports a year to people's homes and then follow up during the day if people are homeless. Originally, this program was not well designed in terms of a social and health issue. We think that needs to be relooked at. It definitely has really core components of health.

CHAIR: Thank you, Ms Walsh.

Mr BENNETT: I have a question around blue cards. What has incarceration and criminalisation of these offences meant to First Nations people, whether it is looking after children in their community or barriers to employment? Is that something you can answer or have we moved on from the legal eagle part?

Ms Walsh: I do not think these crimes on their own, when people are charged, would mean that they would not get a blue card.

Mr BENNETT: I understand from the Law Society that it does because they have a criminal conviction.

Ms Walsh: Yes, but you can go through the hoops of applying to get one. It does increase the criminal conviction, which is why we think it should be decriminalised. It certainly does increase the number of Aboriginal and Torres Strait Islander people in custody.

Ms LUI: Mr Georgetown, could you speak to the over-representation of Aboriginal and Torres Strait Islander people in the justice system? What are your thoughts around some of the long-term repercussions for Aboriginal and Torres Strait Islander people?

Mr Georgetown: We try to advocate for our mob at an early age when we can try to get a positive change. If they are in the system, like the blue card system, then they will not be able to get employment. It really impacts on that situation. Like Karyn said, you can apply for a blue card but some of our mob are still frightened to do that because they think they did something back in their early days when they were young. That impacts on them when they want to apply for certain positions.

Our whole approach is to try to change the system and to work with our mob to try to change attitudes. It is very difficult because they are into substances like ice and all of that sort of thing as well. It is very difficult to work with that cohort. We are trying to map out a youth program. As you may be aware, there are a lot of issues with youths in North Queensland and Brisbane. We have been successful in getting a Lowitja grant to do some scoping studies around that cohort—how we manage that cohort and where we facilitate them in a building or what infrastructure is needed. Their criminal history does impact on our mob when they get older. It does need to be decriminalised because it has a huge impact, particularly on Aboriginal and Torres Strait Islander people right throughout the country.

Mr BERKMAN: There have been a lot of submissions made in evidence this morning about how integral it is, if we assume that these offences will be decriminalised, to have a properly resourced and widely available health and welfare response instead of the police response. Your two organisations are the two that we will hear from today that are actually going to be responsible for the delivery of that. I am interested to hear from you just how much of an impact the struggle for funding over the years has had on the direct delivery of those health and welfare responses. What additional support do you need to really be able to step in and increase the availability and access for everyone who might come out from under the overarching criminal offences when they are decriminalised?

Ms Walsh: I think Murri Watch should be funded to have a much more multidisciplinary team and particularly to have a clinical or registered nurse on site 24/7. I would say the same for our outreach. We have nurses funded through the PHN, but it is not ongoing funding. They see thousands of people a year at night. Then trying to link them into proper care is a health response that is not adequate. For example, homeless health care is not adequate at the moment. For Indigenous people, we work closely with the Aboriginal and Torres Strait Islander medical service at Woolloongabba.

I think in the initial planning, way back in the nineties when this was seen as a public health issue, it was watered down into a social issue because of the cost of it. I think we need investment into making it a health response and making the right connections with people. A lot of people that we work with have now been reconnected but you still need to maintain that connection, and none of the services really have the capacity to do that.

I think the issues around drug use and the level of violence lead to needing more security. Workers are in situations all the time where they have to make judgements about their personal safety and the ability to do the job and a commitment to making sure that people are not put in the watch house, but you need a mental health clinical response as well because people can often be psychotic. On the other hand, you have safe places. They are only designated in the Valley where you have the chaplain service. You could argue the need for safe precincts right across the inner city of Brisbane. I am sure the regional cities would benefit from that as well.

We would advocate with government that we need 24/7 services now because we stop at midnight. People often have to work back due to the demand for services in Brisbane. I cannot speak for other areas. Mr Georgetown might want to talk to Townsville. You cannot always predict what is going to happen before midnight and what is going to happen between midnight and 6 am. I think the scope of what we do is undervalued in the way the money is attributed.

Mr Farooqui: I agree with what you are saying. Also, drug and alcohol use is quite often a symptom of underlying trauma and other issues. Having someone with that clinical experience to provide that episodic care at the centres plus on the streets is a really good thing. Providing that long-term AOD support would be quite beneficial as well. Quite often we transport the same people to Murri Watch or their homes without having the capacity to follow up on that long-term support over time, so having that AOD support or a support worker would be really good.

Mr Georgetown: I want to echo Karyn's comments. We definitely need that professional support. I think we need to look at having just one organisation running it in the state. There are five diversionary centres across Queensland. We have been trying to get to the government to see if we can have one organisation. They have done it with all the legal services. They now have one running it in each state and territory across the country. I think that is a cost-saving measure that needs to be looked at—one CEO, one CFO and so on. I think that needs to be looked at.

In Townsville, like I said, all of our services are 24/7 or on call. We probably do need some more funding, but I think we need to be smart about how we do it. We need to have one organisation operating in the whole of Queensland. The other states and territories do not have this sort of model. We could be one of those organisations that could be doing that and advocating for our mob to be kept safe as well.

We do have Palm Island and a lot of people from there frequent Townsville quite a lot. There is a lot of youth crime happening in that north region as well and we need to tap into services. It is difficult to get land and accommodation. It is probably difficult at the moment because of the shortage of housing stock plus with the builders going bankrupt across the country. There is a shortage of accommodation as well.

It is about our network as well. We have some handy people coming in. The Black Lives Matter movement is on our back as well, trying to support us. We have not so much real estate but people inquiring about how they can support Murri Watch to make a better future and have better outcomes for the clients that we deal with.

Mr SKELTON: Obviously I can see that having diversionary centres and having that clinical response may work in Brisbane and in the regional centres. How would we get those sorts of people or have that sort of network in some of our more remote areas where there is an absence of those sorts of professionals?

Mr Georgetown: It could be a fly-in fly-out service. It is hard to recruit people into those remote areas as well. It might have to be a fly-in fly-out service.

Ms Walsh: Or it could be done through integration with existing primary health and mental health services. I think the issues in the cities are different. For us, 50 per cent of the people we work with on the street have a chronic illness, 91 per cent have a mental illness and 74 per cent have experienced significant abuse or trauma. I am sure that would be replicated in regional areas but in smaller numbers. The integration or navigation of where those individuals are getting a service is probably something that could be looked at where the numbers are smaller. Where you have higher numbers, you just need the presence of clinicians.

If people go into the watch house, they are at risk of dying in custody. If they are left in their own homes—we have had over 22 deaths this year of people who have been supported and have been living either in their home or on the streets. They died in hospital. I think COVID has really shown Brisbane

Public Hearing—Inquiry into the decriminalisation of certain public offences, and health and welfare responses

the weakness of the system as it is. We really need to see the health related issues addressed. It would be a different strategy. It would need to be place based. I am sure there would be a need for some health response that would navigate the system a bit better around the individual needs that people have. When it is caught up in a law and order response, that increases the stigma and it increases the isolation of people and then they do not go to services. It is really important that that coordination happens in rural and remote areas and in the city. It would just be done differently.

CHAIR: Sadly, we have come to the end of our hearing. I thank each and every one of you for your time today and for the contribution that you have made to our inquiry. We value hearing about your expertise and your contribution to the sector, particularly the four of you who have worked for many years often dealing with and supporting some of our most vulnerable people. We do really appreciate your work.

That concludes our hearing this morning. On behalf of the committee, I would like to thank all of the witnesses and stakeholders who have participated today. I would also like to thank the many submitters who have engaged with this inquiry and who have certainly added to the academic content of our inquiry. I thank our Hansard reporters, who have had a busy morning. 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 1.44 pm.