EDUCATION, ARTS AND COMMUNITIES COMMITTEE

Members present:
Mr NG Hutton MP—Chair
Ms W Bourne MP
Hon. DE Farmer MP
Miss AS Doolan MP
Ms KJ Morton MP
Ms CP McMillan MP

Staff present:
Ms L Pretty—Committee Secretary
Dr A Lilley—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE YOUTH JUSTICE (ELECTRONIC MONITORING) AMENDMENT BILL 2025

TRANSCRIPT OF PROCEEDINGS

Wednesday, 14 January 2026

Brisbane

WEDNESDAY, 14 JANUARY 2026

The committee met at 11.15 am.

CHAIR: Good morning, ladies and gentlemen. I declare open this public hearing for the Education, Arts and Communities Committee's inquiry into the Youth Justice (Electronic Monitoring) Amendment Bill 2025. My name is Nigel Hutton. I am the member for Keppel and chair of the committee. I start by respectfully acknowledging the traditional custodians of the land upon which we meet today, and paying our respects to elders past, present and emerging.

With me today as members of the committee are: Corrine McMillan, deputy chair and member for Mansfield; Wendy Bourne, member for Ipswich West; the Hon. Di Farmer, member for Bulimba, who is substituting today for committee member the Hon. Mick de Brenni, member for Springwood; Ariana Doolan, member for Pumicestone; and Kendall Morton, member for Caloundra.

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

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. Please remember to turn your microphone on before speaking and off when you are finished, and please ensure your mobiles are either switched off or placed on silent mode.

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

CHAIR: I now welcome Katherine Hayes and thank her for the submission provided. Good morning. I advise you that your submission is now live. We brought it to public awareness at about 8.45 this morning when the submissions went live. I invite you to make an opening statement before we have some questions for you.

Ms Hayes: Thank you very much, Chair. I wanted to thank the committee for considering this issue. The youth justice issue in Queensland is very topical and very political and is subject to a very heated debate within the media and the community at large. I wanted to acknowledge it is very important that the community, first of all, feels safe and is safe. It is for that reason that we make sure our submissions are based on data, evidence and facts. We look forward to receiving a report that is based on the current data. I would love to answer any questions on the data because I spend a lot of time delving into the publicly available police data and courts data.

Youth justice is an unusual area because it is one of the areas where there is unequivocal evidence about what works, and that is early intervention and rehabilitation of children and young people.

I also want to acknowledge that the youth crime debate in Queensland is very emotional. I think part of that is because there have been horrific incidents involving terrible tragedies where innocent people have lost their lives or have been permanently harmed. Part of that as well is a focus that innocent people are in their own homes going about their daily business and are the subject of crimes they try to do their best to avoid but become victim to regardless. It is in that context that we are not just one-eyed in promoting rights. We acknowledge that there is harm going on in the community, but there is a false dichotomy that is presented in the debate and that is pitting victims' rights against the rights of children. That is a false dichotomy because all rights need to be upheld. Unless victims' rights are upheld, then victims will not receive the support and will not be able to recover from the crimes that they are victims of, but unless children's rights are upheld, they will not receive the rehabilitation or the early intervention needed to get on a productive path. It is not an either/or; it is all rights must be upheld, particularly because the largest numeric cohort of youth crime is young people themselves.

We at the Youth Advocacy Centre have received numerous instructions from young people who have sought the electronic monitoring devices. A number of those have been successful; some of those were opposed by police or rejected by the courts. We have acted for a number of young people in the current cohort—that is 15-to-18-year-olds—who have received the electronic monitoring devices as a condition of bail. We have spoken to these young people and there have been mixed responses. Some young people find that they are an active, dissuading device from committing further crimes. It helps them desist any kinds of attempts from peers to continue to commit crimes. It can help them reconnect with family because they are more prone to comply with their bail conditions such as curfews and things like that.

There is also a cohort that has not found the experience to be positive. They find it uncomfortable. They find the technical issues to be overwhelming. They are prone to malfunctioning. There can be ongoing technical issues for young people. They are vulnerable to being found to have breached their bail condition. The Department of Youth Justice spoke about that not being the case, but I have spoken to our lawyer to check that and he has acted for young people who have been charged for the battery of their electronic monitoring device being low—that is not just out of charge, but being low. There are those charges for the quite technical breaches that can be brought.

There is also an associated shame—a resistance to finding employment because of the quite public nature of the EMD, but the Youth Advocacy Centre's position is that wearing an EMD is much preferable to detention in Queensland because of the failing detention system that we have. There have been recent reports which have drawn attention to this—in many circumstances, inhumane conditions in detention centres—which do the opposite of rehabilitating young people. It damages them further and they come out angry, particularly in the case of the Cleveland Detention Centre where children have been found to have committed more serious crimes when they are released from that centre. It is known as 'the crime factory'. They are held in solitary confinement. Despite the government's denial that this takes place, there is solitary confinement most days in detention centres. There is also separation which means that young people are locked down in their rooms for long periods of time. This can be for days at a time with perhaps 15 minutes outside their cell. That happens all the time. That is the basis for the Youth Advocacy Centre's support of EMDs for children aged 15 to 18. That is a particular cohort, and the review showed that that cohort can have improved offending behaviour.

However, it is important to note that currently, to be eligible for an EMD, the legislation has various factors which need to be met—and that was referred to by the Department of Youth Justice—and that is a stable home, a prosocial adult, access to Wi-Fi and access to a phone. Those factors themselves are a marker of likelihood to reduce reoffending. The fact that a child has an EMD puts them already in a cohort that is less likely to offend. Drawing attention in the review to the fact that the cohort with EMDs is less likely to offend, it is a bit of a flawed analysis because that cohort, by being eligible for the EMD under the present legislation, is less likely to offend in any event. It is not caused by the fact that they are wearing the EMD.

The other factor that came out of the review is that the cohort that is most likely to reduce their offending is those that are supported by bail support services. That is a support service that the Youth Advocacy Centre provides, along with many other organisations in Queensland. Those children who engage with services like bail support are the least likely to reoffend. Our services are voluntary and we are not associated with the government which is part of the reason why we have a high engagement from young people. Without the support services, there is no evidence that the EMDs themselves reduce offending, apart from anecdotal evidence.

The other factor is that, with 10-to-14-year-olds, there is no evidence anywhere that EMDs will be at all productive for this cohort. For a 10-to-14-year-old to be engaged in the youth justice system, they are much more likely to come from homes with domestic and family violence, they are much more likely to suffer from mental health issues and developmental delays, and they are much more likely to not have any stable accommodation. These factors alone mean that they are highly unlikely to be able to comply with the conditions imposed by having an EMD, which is you must keep the EMD charged, you must keep the EMD linked with a phone signal and you must be able to maintain it in reasonable condition.

The 10-to-14-year-old cohort themselves, by displaying those very factors, which mean that they are less likely to comply with the EMD conditions, are more likely to be in breach of their bail conditions by not having their EMDs charged and not having the ability to keep them in check with a telephone signal and things like that. That is our big concern: the 10-to-14-year-olds will be bound to conditions that they are not likely to be able to comply with. They are also going to be subject to conditions such as curfews for homes that are less likely to be safe. We have young people whose

bail condition has been to reside at an address where they experience domestic and family violence, where they experience various forms of neglect and abuse, and they are in breach of their bail conditions by not staying at those unsafe homes. We have many young people in those circumstances. The Youth Advocacy Centre strongly opposes the extension of the scheme to the 10-to-14-year-olds because there is no evidence to support that. In fact, we believe that they will be set up to fail and liable to be found to be in breach of their bail conditions.

A number of our children have had technical issues with their EMDs, and the technical issues are not straightforward. They can be not connecting with telephone signals, they can be that the battery charge might not be working, they can completely stop working, and the technical issues can be ongoing, requiring numerous visits to the watch house for long periods of time while police try to sort those out. There is also a difficulty in obtaining information around the limits of the EMDs. When one of our young people wanted to go swimming in summer, there was no clear answer about whether or not he could go swimming. There are still technical and procedural difficulties with the EMDs that need to be sorted out for the cohort generally, but we believe they make the application of EMDs to 10-to-14-year-olds unsuitable.

The statement of compatibility completely undermines and underplays the limitation of human rights and, in our view, it is misleading in that it does not consider less restrictive options for numerous examples, particularly for 10-to-14-year-olds. A less restrictive option for 10-to-14-year-olds is wraparound services. For a 10-to-14-year-old to be entrenched in the youth justice system so early, they require really intensive support to find them a safe home, address their mental health issues, address fetal alcohol spectrum disorder, if that is present—and it frequently is—and other neurodivergent issues which need to be addressed before looking at an EMD.

Finally, we believe that there should be a review mechanism in the legislation because a young person having an EMD for 400 days seems to be without justification and onerous, and it is difficult to understand how that circumstance could continue for over a year. That is all from me, but I am happy to answer any questions, including on any of the data.

CHAIR: Thank you very much, Ms Hayes, for your very comprehensive opening statement. In your opening statement, you referenced an individual child, and I recognise we are not going into the details of any individuals. The evaluation noted that breaches of bail were rarely the sole reason for court returns; that typically breaches of bails occurred alongside other measures which drew the youth back to being before the court. In the example you provided where the child returned because of limitation on the battery or the battery was low-charge, were there other matters that that child was also facing?

Ms Hayes: I do not know, but I would say that is probably the case, but my point is you are still liable to be charged with breach of bail.

CHAIR: Deputy Chair, you are deferring to the member for Bulimba?

Ms McMILLAN: I am.

Ms FARMER: Thank you, Ms Hayes, for your outstanding work and your, as usual, outstanding submission to the committee. You have made much in your submission about the need for wraparound services and about the evaluation report highlighting that. What commitments do you believe the government needs to make regarding wraparound services, should this legislation be passed?

Ms Hayes: I think that every child who receives an EMD does need to have access to the bail support services, and I think that is in the legislation. There is a bit of uncertainty at the moment about what it will look like over the next few years. As I put in the submission, we do not have any certainty beyond 30 June 2026. That uncertainty does not help the sector provide the best bail support services they can. Certainty around the provision of the bail support services and what that will look like would be good.

Miss DOOLAN: Thank you for all of the work you do for young people, Ms Hayes. My question is: do you accept that denying courts access to electronic monitoring devices limits their ability to tailor bail conditions to an individual?

Ms Hayes: The bail conditions for young people are really broad. They are much broader than adults. At the moment, they can be anything from you must attend school, you must not associate with this particular person, you must reside at this address and you must participate in this program. The discretion is really wide at the moment. Not allowing EMDs for 10- to 14-year-olds will not have a big impact because the more effective measures are already available.

Ms FARMER: In your submission you state—

> There have been a number of occasions that these applications were opposed by police and/or rejected by the courts due to the young person's unsuitability for EMDs by virtue of a lack of stable accommodation, absence of a parent or guardian to assist with compliance, lack of mobile phone access etc.

Do you believe these are matters the CEO of youth justice should consider, and can you comment on the police's opposition to those applications?

Ms Hayes: Yes. I think it is better to have the explicit requirements in the legislation. I understand that the suitability assessment will implicitly contain those. If that is the case, I cannot see why you would remove them. The police have opposed applications that the Youth Advocacy Centre has made where they believe the young person does not have a sufficient bail address or a stable home. Arguably, that is a protective mechanism within itself. It is preferable to have it clear in the legislation what the suitability requirements are so all parties across Queensland in all magistrates jurisdictions know what they need to consider.

Ms MORTON: The evaluation identified that young people reported that EMDs reduced contact with peers who encourage them to offend due to their fear of surveillance—and it is a great thing to keep them away from bad influences, so to speak. How do you reconcile opposition to EMDs for young people under 14 with the reality that bail compliance without adequate monitoring mechanisms often results in remand, which you also oppose?

Ms Hayes: With the 10- to 14-year-olds, we have a window to try to ensure the early intervention or rehabilitation measures are applied as strongly as possible. The more punitive the measures are the less likely there is to be rehabilitation and the more likely there is to be entrenchment in the youth justice system, particularly through breach of bail because that just keeps them on that path. First of all, the 10- to 14-year-olds are more likely to have issues with their capacity to understand the bail conditions and, second of all, are more likely to have less ability to ensure they keep their device charged because they are less likely to have a stable home—they are more likely to be in residential care or ranging around—so they are less likely to be able to comply with those conditions.

There is that window for 10- to 14-year-olds who have that capacity issue, and we consider that below 14 there is a capacity issue inherently, particularly in this cohort. We can see little benefit in having an EMD where the priority should be rehabilitation, early intervention and reconnection with family. We do not see the surveillance as providing any real benefit, and there is no evidence for that. Does that answer your question?

Ms MORTON: Just to clarify: as a tool in the toolkit, the concept of surveillance may be keeping the 10- to 14-year-olds who are arguably more vulnerable away from people who are engaged in that behaviour.

Ms Hayes: First of all, it sends an alert when there has not been compliance. It will not prevent. The only prevention happens where there is an incentive for the young people to not do it again in the future because they will get caught. It is understood that 10- to 14-year-olds in the youth justice system do not have the capacity to understand consequences or to understand the flow-on effect from their actions, so what is required is that step in thinking, 'If I don't comply with my condition, I will get caught. Therefore, I won't.' That is the prevention. It is not that if they do it then they will get zapped or something; it is that if they do it then somewhere down the track they will be caught out and then there will be a consequence. That does not work with that young cohort.

Ms MORTON: I understand that context. I was talking in the context of peers not wanting to engage with them because of the surveillance. Does that offer a layer of protection?

CHAIR: Member for Caloundra, we will move to the next question. I appreciate your desire to continue, and I thank you, Ms Hayes, for trying to provide a response. Member for Bulimba?

Ms FARMER: Ms Hayes, you raised the issue before about the frequency of EMDs malfunctioning. A number of submitters have raised that issue. For the benefit of the committee, can you illustrate what that looks like and what resources are involved? Could you take us through what happens if a young person in Dalby—and I do not even know if it applies in Dalby—has a malfunctioning EMD and has to go to the closest watch house? Who is involved? How long does it take? What resources are needed?

Ms Hayes: The device might inexplicably not be connecting to the phone reception for whatever reason—it could be because of a black spot or it just stops working. Often our workers take them to the watch house and there needs to be someone there who is across the details and can fix it. First of all, they need to get transport and someone to take them to the police watch house. They

are often at the police watch house for some hours. We have had kids who have had to go to and from the watch house numerous times. For example, yesterday we had a young person who was due to be fitted for an EMD midafternoon, but it did not happen until 9.30 last night because of technical problems. There can be hours involved because it is quite a clunky process and there are often gaps in people's technical expertise.

CHAIR: One last question: is it your position that for young people the court should accept repeat offending without that escalation, even where further victims may be created?

Ms Hayes: The best way to make sure you do not create victims is through early intervention and rehabilitation. We do not oppose it for 15- to 18-year-olds, but for that younger cohort it is even more vital to get them out of the youth justice system through early intervention. I will note that the 10- to 14-year-olds are likely to have been failed by every adult in their life and by the Queensland government on numerous occasions through the absolute failure of Child Safety. Almost every child we see has been failed by Child Safety over and over again. That is a big part of the problem that we then punish them for.

CHAIR: Thank you very much, Ms Hayes, for your time today.

Ms Hayes: Thank you.

ALLSOP, Mr Tom, Chief Executive Officer, PeakCare

CHAIR: Welcome. Thank you so much for your submission, which is now published. I invite you to make an opening statement, after which the committee will have some questions for you.

Mr Allsop: Thank you. I would like to begin by acknowledging the traditional owners on whose lands we are today and pay my respect to elders past, present and emerging. PeakCare is committed to community safety and also to the rights and wellbeing of children, young people, families and victims of crime. From that standpoint, our central message today is the evaluation of Queensland's electronic monitoring trial clearly shows that stakeholder concerns are not incidental. They go to the heart of whether this approach reduces harm or actually creates new harms.

Stakeholders have raised serious concerns about the lived experience of electronic monitoring for young people and families. They report physical discomfort and distress for children wearing the devices. They describe heightened stress in the home, with families effectively turning into compliance managers trying to keep a young person within curfew, managing routines and dealing with the consequences when things go wrong. They raise concerns that strict curfews can be unrealistic for young people and can actively work against engagement in education and other prosocial activities.

Stakeholders also highlighted stigma. For some young people a device can undermine dignity and social participation, making it harder to attend school, take part in sport or maintain employment. Others warn it can become a badge of honour, reinforcing harmful identity and peer dynamics rather than supporting rehabilitation. Either way, this is not a neutral intervention; it changes how a child is seen and how they in turn see themselves.

There were strong warnings about fairness and net widening. Stakeholders pointed out that the trial's requirements of having stable accommodation, reliability, access to electricity and a phone as well as a support person actually risk excluding or penalising the very children who are most disadvantaged. That means that the policies can embed inequity. Children in unstable housing, family crisis or poverty may be deemed unsuitable or may be set up to fail.

Stakeholders also raised concerns about additional charges and breach pathways. Even when breaches do not always lead to revocation, the reality of thousands of alerts and constant surveillance creates more opportunity for technical noncompliance, more police involvement and a greater risk of remand, particularly for the most vulnerable children.

Finally, stakeholders emphasised operational problems: lengthy and logistically difficult fitting processes, inconsistent practice due to training and onboarding gaps and alert volumes that are resource intensive for agencies to manage. That matters for public safety. If the system is overwhelmed by low-risk alerts, it is pulled away from the work that actually reduces harm and reduces victim numbers. Against that background, we are deeply concerned about any proposal to expand electronic monitoring to children who are younger, including those between the ages of 10 and 14.

The stakeholder concerns I have described—stress on families, stigma, unrealistic compliance expectations, inequities and breach escalations—would predictably intensify for these younger children. If parliament is considering expansion, PeakCare urges there be very clear safeguards.

Firstly, electronic monitoring must be strictly limited and genuinely a last resort, necessary, proportionate, time limited and used only when it prevents detention.

Secondly, a support model must be mandatory. Electronic monitoring should never be ordered without guaranteed intensive wraparound supports that are both therapeutic and practical to avoid the predictable technical breaches that will occur.

Thirdly, conditions must be designed to support normal childhood and rehabilitation. Curfews and exclusion zones should be the least restrictive possible, with built-in stepdown pathways and early review points.

Fourthly, governance must be strengthened through consistent training; clear operational protocols; transparent reporting on alerts, breaches and outcomes; an independent oversight; and a complaints pathway for children and families.

Finally, if eligibility is to be expanded below 14 there should be a statutory presumption against its use, with written requirements and reasons and independent child advocacy to ensure children understand the conditions and are not set up to fail.

The evaluation shows electronic monitoring is not simply something you strap on and safety results. It is an intensive regime that can impose real harms. If you proceed you must legislate safeguards that directly respond to those stakeholder concerns, otherwise expansion risks increasing injustice and instability without improving safety.

In conclusion, I leave you with the direct reflections of the Queensland government's own staff responsible for delivering the trial, who have described it as: administratively burdensome; ingrained with unclear responsibilities; having poor interagency coordination, training and clarity—role clarity gaps; and resulting in significant alert response fatigue. This is the foundation that has been set. These are not the words of confidence that Queensland is ready for a statewide expansion of this trial; these are words of caution that, without significant operational improvement, the outcome is likely to just be more of the same. I am ready for your questions. Thank you.

CHAIR: Thank you very much, Mr Allsop. In its submission, PeakCare raised concerns about the stigma—and you have spoken about it today—surrounding young people with electronic monitoring devices, and it referenced the final report statement that EMDs reduce their contact with peers who encourage them to offend due to the fears of their peers coming under surveillance themselves. Would you agree that reducing contact with peers who encourage young people to offend is a positive outcome for that young person?

Mr Allsop: No, I would not. I would not agree that we should use shame as a motivation to avoid participation of young people in their peer community. Instead, we should be investing in building prosocial mentoring and supports for those young people to set them up on a different pathway. If the intention is to provide a device and, therefore, a young person is seen as someone to be avoided by their peers, then that is probably the least possible support we can provide when the alternative is to actually invest in peer mentoring and wraparound support to help build prosocial pathways. As Ms Hayes said, that may be the first prosocial-supporting relationship the child has had with an adult in their life and it also may be the first relationship that sets them on a path to a different future.

CHAIR: Member for Bulimba, I believe the deputy chair is deferring to you.

Ms FARMER: Yes. Chair, I hope you do not mind if I take this opportunity to congratulate Mr Allsop on his new position but also to say how much you will be missed in this space. Thank you for your contribution and thank you for your excellent presentation. I want to ask about your statement about the support model that must be mandated. You speak a lot about wraparound services. The evaluation report, as you point out, was very strong about that. If this legislation is passed, which will significantly widen the number of young people involved, what commitments do you believe the government needs to make around wraparound services at the same time?

Mr Allsop: I thank the honourable member for the question and for her kind words. To take you very briefly to the experience of the young people who will be considered for electronic monitoring, we know that a quarter of them are in unstable housing, 60 per cent of them are actively experiencing and being exposed to domestic and family violence, more than half have a diagnosed disability or at least one diagnosed disability and almost half have a mental health issue or at least one mental health issue that has been diagnosed. Every one of those is an antecedent factor that pushes a young person on a path towards contact with the youth justice system when not adequately and proactively supported.

When we design wraparound supports for young people, it is about how do we ameliorate some of the consequences of those issues that a young person may face, build capacity within their support network and create a support network and wraparound for them to move them onto a different pathway and interaction with the youth justice system. The first interaction is that first best next step to set them on a different path. It is the supports and the wraparounds that are needed to be there first. It is not about compliance support; it is about the opportunity for a different pathway support including for their family. We know that there are a lot of family struggles and experiences for these young people. We know that for 60 per cent of these young people home is not a safe place for them. Confining them to an unsafe space is probably one of the worst things that we can do.

Miss DOOLAN: Just on that, do families you work with ever ask for stronger supervision tools to keep their child compliant and safe?

Mr Allsop: Very much so. We have families who are screaming out for support and help, particularly in regional areas where that support and help just does not exist. We know that the tyranny of distance for many of our families means that, despite knowing exactly what is needed, the most

that they may ever be able to access is a referral and assessment of their needs, but they will never be able to access the support that is genuinely needed. We see that particularly in our primary year students who may have a suspected disability diagnosed in prep, but it is not till the end of year 3 that they receive that support and by then it is far too late. Parents are screaming out for help.

We know the single most well-equipped parent is the state of Queensland, who often is the poorest parent a child can have. There are opportunities for much better support much earlier to set children up on a different pathway. If electronic monitoring devices are to be used, they should only be used as an adjunct where it would be of benefit for that young person and their family where they invest in that as an opportunity with adequate available and proactive supports.

Ms FARMER: Mr Allsop, I wanted to ask you about your reference to staff responses in the trial. I think we can see those in the appendix of the evaluation report. You refer to matters such as 'alert response fatigue' and a range of other things. Going in the same vein as my previous question, what actions do you believe the government needs to commit to across youth justice, police and corrective services in order for the system to actually work? Can you comment on that in your experiences as well?

Mr Allsop: Absolutely I can comment on that. I want to commend the Queensland government for transparency in publishing the Nous report, an evaluation into electronic monitoring devices. I think it is a brave government who publishes a report that provides an honest, truthful and not positive reflection of the operationalisation and current delivery of a critical service to Queensland. It is also an invitation to do a lot better for the children who are currently experiencing the trial and for the staff who commit to turning up to deliver on that. None of those staff want the dysfunction that exists within the current system. You see that if you turn towards the appendix of the evaluation report right at the back.

The actual responses of Queensland government employees to their perceptions of the effectiveness of this trial are that none of them reflected that they strongly agree that it is effective. We need to listen and honour the experience that they face because they are at the coalface. They are trying to do the good work. They want meaningful outcomes to occur. There needs to be a significant investment in improving the current infrastructure of service supports and technology that enables an effective delivery of a program. Queensland is not lacking in great policy ideas, but often it is the implementation and operationalisation of those ideas where we fall down. This is an opportunity to get the infrastructure right first and not proceed at haste into an expansion until we know and the Public Service themselves say, 'We are ready and we have an effective system to build on.' Right now that evaluation report does not say that.

Ms MORTON: Do you accept that structured supervision can stabilise a young person who is seeking help to manage their offending behaviours?

Mr Allsop: Can I seek to clarify what you mean by the term 'structured supervision'?

Ms MORTON: Any tools at all that minimise the risk of reoffending, particularly if they prevent those that may be bad influences not wanting to then engage with the young people we are trying to protect.

Mr Allsop: Thank you for the clarification. I believe that with the right tools we can make a very meaningful difference. When we provide the right tools to support workers and departmental staff then we can see them amazing outcomes. I think when you only have the wrong tools it can make that work much harder. It is like asking a window cleaner to clean with a hammer. It will probably not work very well. In this case if we only give our frontline workers access to a limited range of tools and blunt instruments that may not be effective in all circumstances we devalue their professional expertise and judgement, and we limit them to only having certain responses.

I think electronic monitoring devices in a narrow application can be of value when coupled with wraparound supports. We see that the evaluation is just a reflection of the fact that when you provide support to families they do better. Adjacent to that was the existence of electronic monitoring and, as Ms Hayes talked to, the antecedent factors that actually set you up to be eligible mean that you already have protective and strengthening factors which means you will have a better outcome. I think when it comes to the workers who will provide those structured supports, let's give them the right range of nuanced tools so that every young person gets an individualised response that sets them up on a different path.

Ms FARMER: Mr Allsop, you have expressed your grave concerns about 10- to 14-year-olds being included with EMD fitting for a range of reasons including their actual capacity to manage. It is likely this legislation will be passed. Do you believe there is a need for review given your extreme reservations?

Mr Allsop: I am very fortunate to be the father of a 10- to 14-year-old, so I can talk with some very deep experience.

Ms FARMER: Some may not say that is fortunate.

Mr Allsop: I will talk to the lived reality of a 10- to 14-year-old, knowing that he does not watch parliament. Most 10- to 14-year-olds will probably only remember the first instruction you give them and forget everything else. We need to remember and probably sit with and experience 10- to 14-year-olds for the capacity and learning and development of that particular age but also acknowledge that for the 10- to 14-year-olds who will interact with the youth justice system in particular very few of them will actually have a developmental age that matches their biological age.

In effect, if we are talking about a 12-year-old who comes into contact with that system, they may have a developmental age of six if we are lucky because of the trauma, the abuse, the harm that they have suffered. We need to account for that. Despite a young person who may appear to be 14 biologically, they will very rarely in the youth justice context be operating at a developmental age that is commensurate with their biological age. This bill and the wraparound supports need to consider that.

Neurobiologically and developmentally they are not able to comprehend the consequences in the same way that adults do. If we only design responses in anticipation of what an adult response would be then we will fail at every turn. We need to design responses that actually reflect their neurodevelopmental journey and also account for the fact that the harms and antecedent causal factors that have driven them to offend are actually developmentally damaging to them.

Ms FARMER: Chair, would you mind if I—

CHAIR: Sorry. I think you have had more than enough opportunity to provide a preamble to that question. I am going to go to the member for Pumicestone.

Miss DOOLAN: Do you believe it is fair for families and victims if the system waits for further offending before acting?

Mr Allsop: I have for half a decade now had the opportunity to stand before committees such as this one and suggest that if we did early intervention and prevention better we would likely have a lot fewer victims currently. I think that all of our investments should be focused on how do we prevent victims rather than just respond after someone has become a victim of crime. I would strongly encourage greater investment in the prevention of crime before it occurs, as well as opportunities to recognise that for children who particularly are emerging who may be starting to offend there is an opportunity for change, and I think we can invest in their opportunity, not just in the likelihood of probability of what will occur if we do not.

Ms FARMER: Mr Allsop, your submission refers to the fact that courts often have rejected applications for EMDs due to the young person's unsuitability by virtue of a range of reasons. Can you comment on why they may have opposed them and how that should be dealt with in this legislation?

Mr Allsop: I want to acknowledge the great work that our Queensland Police Service does under very difficult circumstances and also in response to the significant increase in contact requirements because of the trial activities themselves. You see in the evaluation report of the more than 5,500 requirements to make contact with this small cohort of young people I think there were fewer than 30 breaches of bail identified which is a fairly staggering difference despite the significant resource burden that is required.

Where the opposition to an application is put forward for the use of an electronic monitoring device it was because in our estimation it would not be suitable for that young person because of a range of reasons. If I were to speak to a domestic and family violence situation or housing instability, if a young person is identified as being at risk of exposure to domestic and family violence or does not have stable and safe housing, I think it would be very important that we fix those issues for that young person and we actively invest in addressing the domestic and family violence that they experience and try to stabilise housing for them and their family and likely siblings.

In addition to just the response to a yes or no as to whether a young person may be eligible, there is a responsibility that the government has to then take that next step that says, 'If housing is an issue, what can we do? If domestic and family violence is an issue, what can we do?' If they are a child in the child protection system, we should be able to do all of it because the state is the parent, and corporate parenting is such a critical piece. It is about not just saying why they may not be eligible but, if they are not eligible, why and what can we do? We know that in addressing that we might prevent a future crime.

CHAIR: Is supporting a young person to comply with bail conditions preferable to allowing failure that leads to remand and further system involvement?

Mr Allsop: In the context first, it is always more preferable that they are supported never to come into contact with the youth justice system in the first place and then, when they do so, that we individualise our support for that young person to ensure that we can have the greatest likelihood of success in their ability to comply with the condition imposed by the court. That should be through the tailoring of supports for that young person, while also acknowledging that we are not just holding these young people in time or in a purgatory while they wait for what are now protracted court dates. We know in the last five years we have seen extensive increases in the time it takes for a young person to be sentenced, so they are held for longer and longer on bail or on remand because of demands on the court.

Within that there is an opportunity to build the prosocial supports that a young person may need so that after sentencing they can continue to go on to make different choices. We miss a window of opportunity when we just hold young people in time rather than say, 'This is a moment of reconnecting you with education, making sure you're supported, making sure your diagnostic needs are met for the undiagnosed foetal alcohol spectrum disorder that you may have, making sure your mental health support needs are met, making sure your disability support needs are met.' Just monitoring where they are is categorically probably the least we can do to make a difference when it comes to supporting a different outcome. Also, that different outcome, if supported correctly, means fewer victims because that young person themselves has the best opportunity of taking a different path.

CHAIR: Thank you very much, Mr Allsop, for your time today. We will now take a 10-minute recess.

Proceedings suspended from 12.00 pm to 12.10 pm.

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

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

CHAIR: I now welcome representatives from the Queensland Family and Child Commission. I acknowledge Mr Luke Twyford, the Principal Commissioner, along with Ms Natalie Lewis, Commissioner. I thank each of you for the submissions that you have provided to our committee and acknowledge that they are now published on the committee's website. My intention, recognising the time, is that we take an oral briefing from you, Mr Twyford, and then an oral briefing from you, Ms Lewis, and then we will take questions combined. I think that is probably the easiest way to deal with it. Mr Twyford, please lead us off.

Mr Twyford: In the interests of time I will keep it to some high-level thoughts. I will start by acknowledging we are on the lands of the Yagara and Turrbal people and pay my respects to the elders past, present and emerging. I also acknowledge the First Nations people here in the room today and those watching online.

In essence, Chair, we are discussing a piece of technology. I want to start by saying technology is actually morally inert. It has no moral compass. It comes down to humans to decide when it should be used, who it should be used on, in which ways it should be used and how it should be overseen. I made a 15-page submission that I am open to questions on. In that I said that when electronic monitoring is implemented by suitably qualified and trained decision-makers for clearly articulated purposes and within a robust framework of accountability, oversight and review, electronic monitoring may assist a young person to change their behaviour. However, if EMDs are used as a punitive measure to surveil and drive behaviour change, they are likely to result in increased breaches of bail, further offending, delays to justice for victims, increased costs for courts and police, and more children and young people entering remand.

Over many years and many appearances before committees such as this in Queensland and in the Commonwealth, I have made the point that we need to see the youth justice system as a whole system. As at today, there are 38 young Queenslanders in our watch houses, including our remand centre. There are 300 in our detention centres, of which 264 are awaiting sentencing, and 20 of those 300 are under the age of 14. That is not a system that is showing signs of effectiveness or trauma informed approaches to prevent further criminal offending.

In my submission, I outline five key matters that we need to consider as a society if we are to expand the use of electronic monitoring. The first is that the expansion without eligibility thresholds increases the risk of net widening. The second is that electronic monitoring is not and can never be a substitute for timely justice. The third is that effectiveness depends on continued and mandatory wraparound supports and disproportionate impacts require explicit safeguards. The fourth is that sustainability, cost and workforce impacts must be recognised and addressed. Finally, we must recognise that electronic monitoring produces evidence, not safety for the community. On that, I will defer to Commissioner Lewis.

Ms Lewis: Let me be brief and let me be clear. I do not support electronic monitoring for children, not as a routine bail condition, not as a permanent measure, not as part of a statewide expansion. Electronic monitoring is not supported; it is surveillance. It restricts liberty and it interferes with privacy. It violates children's rights, it ignores what science tells us about child development and it contradicts everything we know about effective youth justice.

We do not have to speculate about its impact because children have told us. They describe it as heavy, humiliating and exhausting. They say it hurts. It keeps them awake at night. It makes school harder, if not impossible. They feel watched. They feel judged and ashamed. Some stop leaving the house. They pull away from sport, from friends, from community, from school—the very things that keep children connected to community, the things that allow them to disconnect from crime.

The bail conditions make it worse. Children told us that curfews are crushing—24-hour curfews feel like a trap. They set children up to fail. Afraid of breaching bail, some children say that they would prefer to stay in detention rather than risk another charge, even knowing that detention harms their mental health.

Children should be diverted away from the youth justice system, not subjected to new forms of control. Tracking a child's movement does not address harm. It does not meet need. It does not promote rehabilitation. An EMD does not change why a child offends. It does not address trauma. It does not fix homelessness. It does not repair families. It does not treat mental illness. This legislation

is built on a pilot with very small numbers and with some very significant limitations, including problematic attribution even for the negligible reported benefits. It is far from conclusive or compelling. This is not a strong evidence base; it is a risky experiment on children. When the evidence is weak the response should be caution, not expansion. Anything else is irresponsible public policy that risks foreseeable harm to children.

The one clear finding from the pilot—and it aligns with global evidence—is this: children do better when they are supported, not monitored. Monitoring alone does not work. International studies and meta-analysis are remarkably consistent. They show that mentoring improves emotional regulation and resilience; family-based therapies reduce reoffending and strengthen relationships; wraparound support increases stability in housing, school and community connection; and diversion keeps kids out of court and prevents long-term system entrenchment. These approaches work because they address the causes of harm, not just the behaviour. Surveillance does none of this. It controls movement, but it does not change lives.

Support works; surveillance does not. Where the evidence points is where the investment should go. This bill removes safeguards. It removes age limits. It removes offence thresholds. That is not reform; that is net widening—more children criminalised, more children pulled deeper into the system, more technical breaches, more detention and far less safety. We all know who will be harmed the most, and Aboriginal and Torres Strait Islander children are already vastly over-represented in the criminal justice system. Under human rights law, any restriction on a child's liberty must be necessary, reasonable, proportionate and the least intrusive option available. Electronic monitoring fails every one of those tests. My position is unequivocal: parliament should reject this bill. Please do not expand electronic monitoring for children. Thank you.

CHAIR: Thank you for your opening statements. Mr Twyford, my first question is to you. I refer to your very lengthy submission, for which I thank you. You stated that your support for the previous trial extension required including EMDs with wraparound services because, when combined, they could be used as an effective tool to increase bail compliance. Do you support the inclusion in this bill that the courts must be advised by the youth justice chief executive that those wraparound supports are available before they can impose an EMD?

Mr Twyford: The short answer is yes. The longer answer is I would like to see greater confirmation and commitment to that support being mandatory not just at the point of the court order but also on day 2, day 3 and day 40 of the bail period. I would be seeking some assurance that the support is present, ongoing and meeting need. As my submission for my last appearance on electronic monitoring said, this is all about good practice and we find it very hard in parliament to legislate what practice should be and what practice should not be.

The crux of my answer to your question is that a child who is on bail needs support, and that support must come from the parent, the state, the broader family and the peer network. It must come from the education system, the health system and the disability support system. I question how a magistrate can mandate all of those different government portfolios, both state-based portfolios and federal portfolios, leaning in to support that family. It comes down to good practice. Who is allocated by the department of youth justice to be the case manager of that child? How are they using their professional relationships across the support network to work with the family, to work with the household, to provide that mandatory support? The flip answer is if there is no mandated support then I do not support electronic monitoring.

Ms FARMER: Thank you both for your contribution to the wellbeing of children in Queensland. I want to go to that matter of wraparound services again. There is the matter of mandating—and you have made some strong statements about that, Commissioner. What commitments do you believe the government should be making to financially support the expansion of services, given we assume an increased number of young people will be fitted with EMDs?

Mr Twyford: In a way I would repeat what I just said. I used the word that there should be a case manager for each child on electronic monitoring. It is not clear to me that that is a current commitment or mandated requirement. I worry, particularly in child safety legislation—and I will apply the lessons from that to this conversation—about legislating too many procedural requirements. How do we enable a system to operate sufficiently and efficiently and to drive for best practice and innovation if the legislation is too procedural? In this case we need to consider the funding levels, the role descriptions, the role designs and the practice of those roles in supporting a young person.

I also want to tease this out. When we say 'support a young person on bail', we should not narrow that to supporting a young person to comply with bail. That is the least and the bare minimum. As a society and as a government we should actually be saying, 'How do we support this child to

change the life trajectory they are on?' In asking that question, we probably have a whole lot of support levels and levers that apply to the household—to mum, to dad and to siblings. The great question, therefore, becomes: is a case manager in the youth justice department the right person to be case managing what is a whole-of-family and whole-of-community need?

It has always been the challenge in our portfolios that focus on human services that we fragment the issues. There is individual case management for a young person who is offending, a male partner who is perpetrating domestic and family violence, mum's mental health and a sibling with an addiction to alcohol and other drugs, but it is the compilation and combination of those that are impacting the house. How do we mandate support across systems and expect it within each individual system?

I recognise that is a really long answer that is lifting it into the conceptual, but it is highlighting the root causes of youth offending. There is not always a cognitive decision to offend in a young person's mind; it is a long story of missing need and the inability of a service system to recognise and address that need.

CHAIR: Ms Lewis, would you like to add to that answer?

Ms Lewis: I will briefly. We have not necessarily seen anything in terms of predictive analytics around what that likely number might be. I can say that, from where we are at the moment, the service mix and the availability for children who are currently on bail or on community-based supervision is inadequate. There are definitely parts of Queensland that are starved for the right types of services and supports that children need.

When we are talking about the types of criteria and the types of young people and profiles we are mentioning here, it is fairly common to hear that described as complex. Therefore, the service array that needs to be available to address the multiplicity of needs does not exist to the level of sophistication that is required to deliver on what I think is the intent of the statements in the bill around the provision of support. Even if we said, 'We're going to trot out a particular program,' there have to be guarantees about the suitability of that program, there has to be equitable access for children, there cannot be an eight-month waiting list and the qualified and expert support that is required for fairly significant issues needs to be readily accessible for all children.

Miss DOOLAN: Thank you both for your appearance here and your submissions. You rely on the best interests of the child principle. Do you accept that supporting a young person to comply with bail is in their best interests?

Mr Twyford: If you use the word 'support' I would say yes. That is why I have given that data and that is how I distinguish my submission from the other submissions. If we are using electronic monitoring to have fewer children held in watch houses for extended periods I would say that it is in their best interests. If we are using electronic monitoring to have those 20 children under 14 not be in our detention centres in Queensland I would say, on balance, that is probably in their best interests. If we are increasing the number of children who are otherwise on community bail orders and increasing the surveillance and monitoring of them for no added impact other than to say there are now more children on electronic monitoring I would say that is absolutely not in their best interests, nor is it in the community's or the system's best interests.

I think this particular test—the best interests of the child test—is very relevant here, and it goes to the broader redesign of our whole youth justice system. If we are seeking to change the behaviour of children rather than to punish them we will design our system very differently from what we currently have. We would see a different model of youth custody. We would see a different model of bail. We would certainly see a different approach to judicial decision-making around youth offenders. My answer is, yes, it is in their best interests if it keeps them out of harmful and ineffective youth justice responses such as remand and detention centres. I will leave it at that.

Ms Lewis: Just to clarify: absolutely, I believe that it is in the best interests of children to support them to be on bail. Electronic monitoring is not support; it is surveillance. Support looks like working with the family to work on the relationships and to help parents to assert their parental responsibilities to help provide supervision to their children or to introduce structure or to ensure children have access to a quality day program. It is important not to conflate the purpose of electronic monitoring. It is a tool of the state for the purposes of surveillance; it is not in and of itself a form of support to children.

Ms FARMER: Ms Lewis, you referred to the data in the evaluation report that showed Aboriginal and Torres Strait Islander children had a lower reduction in reoffending than the rest of the cohort. Can you comment on why that would be and on what issues the department should be addressing?

Ms Lewis: Certainly. For Aboriginal and Torres Strait Islander children and young people who are in conflict with the law, it is well documented that they are far more likely to experience multiple disadvantages. For example, when we are talking about Aboriginal and Torres Strait Islander children, particularly the 10- to 13-year-old cohort who predominantly are in contact with the system, it is important to understand that equality before the law and the application of the law as it is described in the compatibility statement is ineffective in practice when you do not recognise and apply the concept of equity.

Aboriginal and Torres Strait Islander children in this state experience inequitable access to the types of universal and targeted supports that children need to thrive across their life course. They are not starting from a level playing field. When we are talking about the types of supports that Aboriginal and Torres Strait Islander children would need in order to comply with conditions and successfully get through to sentencing without further offending, we are talking about intensive support around housing stability, around domestic and family violence and around long-term projected exclusion from educational programs. All of these things impact on a child's ability to function in society. Unless we have sufficient resources and supports for Aboriginal children to achieve parity and equity accessing those types of supports that are supportive of children changing their behaviour, we will continue to see the disproportionate impact on Aboriginal kids.

CHAIR: Thank you very much, Mr Twyford and Ms Lewis. I appreciate your representing the Queensland Family and Child Commission.

BICKNELL, Ms Lauren, Senior Policy Officer (Youth Justice and Human Rights), Queensland Council of Social Service

KIPPEN, Ms Bronwen, Interim Executive Director of Research and Policy, Queensland Council of Social Service

CHAIR: I now welcome representatives from the Queensland Council of Social Service. Good afternoon and thank you so much for the submission that you provided which has now been published. I invite you to make an opening statement after which members of the committee may have questions for you.

Ms Kippen: Good afternoon. We would like to start by thanking the Education, Arts and Communities Committee for inviting QCOSS to appear at today's public hearing regarding the Youth Justice (Electronic Monitoring) Amendment Bill. We note the bill seeks to expand the use of electronic monitoring devices in the youth justice setting. Unfortunately, our CEO Aimee McVeigh is not able to attend this afternoon due to family reasons, and she wished for me to send her apologies for that.

By way of introduction, I am Bronwen, the Interim Executive Director of Research and Policy. I am joined by my colleague, Lauren. On behalf of QCOSS, I would like to begin by acknowledging the traditional custodians on the land on which we gather today, the Turrbal and Yagara people. We pay our respects to elders past, present and emerging, and acknowledge any First Nations colleagues here today. In acknowledging country and considering the context of the bill, we also reflect on the disproportionate impact of the youth justice system on Aboriginal and Torres Strait Islander children and youth. In this setting, it is our duty, as well as our immense privilege, to be guided by our First Nations colleagues.

We encourage the committee to engage closely with Aboriginal and Torres Strait Islander peoples in connection with this inquiry, and we also wish to emphasise the importance of considering the specific impacts of the bill on the rights of girls, children, children with a disability and culturally and linguistically diverse children. I will now pass to Lauren to make the opening statement.

Ms Bicknell: Good afternoon. Thank you for having us today. QCOSS appreciates the experience of individuals and communities impacted by crime. In our submission, we outlined that youth justice law and policy can have complementary policy objectives of community safety and uphold the rights of children, families and victims. To address youth crime and its impacts, approaches must be targeted towards the root causes of offending. We particularly call for culturally safe, trauma-informed, therapeutic and community-led supports, including as a stand-alone measure.

In our submission, QCOSS acknowledged there are mixed views in the community services sector on the limited use of EMDs in certain circumstances within a youth justice setting. There are also community services who do not support EMD use in a youth justice setting in any circumstance. Considerable concerns on the impacts of EMDs remain. We add that feedback from community services consistently outline concerns on the expanded application of EMDs as proposed by the bill. We acknowledge the evaluation of the EMD trial in Queensland, that it found there may be opportunities to responsibly widen EMD usage. However, the bill appears to go beyond the recommendations of the evaluation. It is also important to acknowledge the stated limitations of the evaluation.

In our submission, we outlined that if the bill does pass, at a minimum, substantial amendments should be incorporated to reflect the seriousness of EMDs and the foreseeably harmful and negative consequences which can result from their use on children.

Opportunities for amendments include: clearly articulating a targeted purpose and parameters for the use of EMDs; retaining current age limits in relation to eligibility, limiting eligibility to circumstances where serious offending is alleged; legislatively enshrining the requirement of the court to consider factors such as the views of the child and their family, the capacity of the child to understand and comply with an order to wear an EMD and whether electronic monitoring is the least restrictive option to enable bail; as well as incorporating legislative requirements for robust review and ongoing monitoring.

Many young people involved or at risk of involvement with the youth justice system have experienced trauma and need access to healing-centred support. Other drivers include housing, insecurity, poverty and mental health concerns, all of which similarly require therapeutic and supportive responses for children and families. We, therefore, raise concerns on the extensive expansion of EMD usage as proposed by the bill, given the negative impacts which can result from their use, and we emphasise the value of wraparound supports. We welcome any questions the committee may have.

CHAIR: Thank you so much, both for your submission as well as for the introduction you provided today. I will go to the member for Caloundra for our first question.

Ms MORTON: Thank you for your time before us today. Is it your position that courts should withhold bail conditions and remand youth due to gaps in service systems?

Ms Bicknell: I am sorry, could you elaborate on that question?

Ms MORTON: Your submission talks about the service system limitations. Is your position that courts should withhold those bail conditions and remand youth as an alternative, due to gaps in those service systems that you state?

Ms Bicknell: I am not sure I follow the part of our submission that you are referring to. We support decisions that enable bail, we support the need for wraparound services and the need for early intervention, diversion and rehabilitation. We see a lot of value in those responses.

Ms FARMER: Thank you both for appearing before us today. Please pass on our best wishes to Aimee. You speak very strongly about the need for wraparound services. The evaluation report particularly refers to limited evidence about EMDs in regional areas. Can you comment on what wraparound services are available in regional areas and what you see as being absolutely necessary to improve those in order to support a broader rollout?

Ms Bicknell: Something we have often called for is the need for a strategic analysis on investment in the support service system across Queensland. We really welcome recent funding from the government which has been directed towards community services, but we do see a need to consider and reconcile a clear answer to that question by engaging in strategic analysis and continuing to fund wraparound services which we know are effective.

Ms Kippen: I will add that, not necessarily specifically in relation to bail support but in general, in regional areas, we do consistently get feedback that there are gaps in services for young people and families, and the need for that support to be flexible and appropriate for the young person's needs to be very tailored to the individual. Sometimes programs are too restrictive and do not enable our member organisations to provide the support that they think is necessary and the young person has asked for.

Miss DOOLAN: Do you accept that unmanaged bail breaches increase the likelihood of reoffending and therefore increases the number of victims of crime?

Ms Bicknell: Our submission is supportive of the need for wraparound services to support children on bail, and we particularly make the point that those wraparound services can be effective as a stand-alone measure. In addition to that, we would really emphasise some of the concerns of the impacts of electronic monitoring devices in that they can result in a disengagement from prosocial activities, education and employment, and disengagement from all of those things can also result in reoffending or future engagement with the youth justice system.

Ms FARMER: In your submission, you talk about the disproportionate impact of the youth justice system on Aboriginal and Torres Strait Islander children and say that the investment in that community controlled sector is particularly vital. If this bill passes, what investment do you believe the government needs to be making to address that?

Ms Bicknell: This recommendation is in line with commitments under the National Agreement on Closing the Gap to increase funding into community controlled services who assist First Nations communities. We would suggest working closely with the community controlled sector to explore opportunities for further investment in that sector, and enabling and empowering that sector to do what they do best in supporting their communities.

Ms Kippen: I will add that, with that recommendation, that is based on overwhelming evidence that community controlled organisations are far more effective at supporting Aboriginal and Torres Strait Islander children and families.

CHAIR: I apologise to the committee in advance, but this question has a preamble. I accept that the deputy chair may pull me up for a point of order, but I am hoping it makes sense. In recent inquiries, we have heard from communities around the breakdown of societal norms and family relationships, and quite often heard around a desire for government to help reset relationships and put in place boundaries. Do you believe that the use of EMDs can be part of the solution in helping families to provide structure and support to young people who are on bail, so who have made choices that are poor in their life?

Ms Bicknell: Something that we emphasised in our submission as a factor to consider, when a court is ordering an EMD, is to particularly consider the views of the family and the child. The evaluation found that that was a significant factor when looking at effectiveness. Additionally, it is really important to engage closely with some of the negative impacts of EMDs. The evaluation report mentioned stress upon families. Something we tried to do in our submission was to really drive home that the effectiveness of EMDs is not without qualification, even in the evaluation report, and there are significant negative impacts that can come along with their use as well, including the impacts it can have on families.

Ms FARMER: My question is around the suitability report that the CEO must provide to the courts. Obviously that is being shifted from the act as a legislative requirement to one of regulatory. Do you believe it is important that the criteria the CEO uses in recommendations are transparent to everybody? Do you believe we should all know what those criteria are that will be considered?

Ms Bicknell: Some of the feedback we received on this was, firstly, considerations a court should consider should be enshrined in the legislation itself for a few reasons, one of which was to drive home the seriousness of making such an order, to really reiterate the seriousness of that bail condition in the legislation itself and to ensure that the legislation contains robust safeguards. I would encourage the committee to engage with the number of recommendations people made in this regard. Additionally, services felt that it is important that if the factors a court must consider were to change, that should be subject to significant scrutiny, which is another reason they should be embedded within the legislation itself.

Ms MORTON: Is it your position that courts should accept repeat offenders without any escalation of bail conditions—we are talking about repeat offenders where other things have been tried—even when it results in an increased number of victims in our community?

Ms Bicknell: In line with the feedback that has been provided by a number of witnesses today, we recommend a tailored approach to any circumstance, ensuring that the right responses are being engaged in the right circumstances.

Ms FARMER: I think it was you, Ms Bicknell, who made the comment that the bill goes beyond the recommendations of the evaluation. Could you elaborate on that, please?

Ms Bicknell: One of the recommendations in the evaluation for further consideration by the government discusses the potential for a responsible widening of EMDs. One of the examples it suggested was exploring other offences, but it does not mention exploring application to all offences. It also does not talk about expanding eligibility to other age groups. From memory, it certainly does not talk about expansion to children as young as 10. Off the top of my head, I am trying to remember what else it explored, but I just think that 'responsible widening' was the phrase the evaluation report used.

Ms Kippen: I will add that at the beginning Lauren mentioned there were mixed views across the sector, although it was with a lot of caution, but one position that there was no dispute about was around the widening of the age, and none of the organisations and members that we spoke to were supportive of using the devices on children under 15.

CHAIR: Thank you so much, Ms Kippen and Ms Bicknell, for your time today representing the Queensland Council of Social Service.

MERLEHAN, Mrs Natalie, Director, Voice for Victims

READING, Mrs Trudy, Director and Chief Advocacy Officer, Voice for Victims

CHAIR: I now welcome the representatives from Voice for Victims. Good afternoon. Thank you so much for joining us this afternoon and for your submission. Noting that it was published this morning, I invite you to make an opening statement after which committee members may have some questions for you.

Mrs Reading: Firstly, thank you for the opportunity to appear today. Voice for Victims began as a grassroots movement, bringing together Queenslanders who are calling for justice for victims of crime and highlighting significant gaps in the victim support system. From this movement, the Voice for Victims Foundation was established as a victim-led, not-for-profit organisation, dedicated to supporting and amplifying the voices of victims and victim-survivors impacted by serious violent crime. Our position is informed by lived experience and a strong commitment to policies that enhance community safety, while supporting meaningful rehabilitation for young offenders.

As outlined in our submission, the foundation supports the Youth Justice (Electronic Monitoring) Amendment Bill 2025 currently before the committee. The bill proposes embedding electronic monitoring permanently within the Queensland youth justice system as a bail condition for children, replacing its current trial status.

We previously made a submission in support of expanding the trial and welcome that progression. At that time, our support was grounded in the need to gather further data, particularly to better understand the short- and long-term impacts of electronic monitoring, its implementation and outcomes for the children involved. In preparing for today's appearance and our submission, we have reviewed the report and a number of the submissions published on the committee's website.

Too often the impact of legislation changes on victims is overshadowed by concerns about protecting the rights of offenders. While many offenders make a conscious choice to offend and must accept the consequences of that choice, victims suffer harm through no fault of their own and are rarely afforded the same consideration. If, as the report suggests, expanding the electronic monitoring to make it permanent has proven to be an effective deterrent, it is a tool that, when supported with appropriate information and sentencing, should be available to the courts for magistrates and judges to consider as an ongoing sentencing option.

I also wish to affirm that Voice for Victims has long advocated for early intervention and rehabilitation, and that position has not changed. We view electronic monitoring as a complementary measure, one that can help curb youth crime and in turn reduce the number of victims. In circumstances where detention is not available or appropriate, due to overburdened or inappropriate detention facilities, it is essential to consider other immediate and effective measures to ensure community safety. I will now hand over to my colleague and victim-survivor, Natalie Merlehan, who will make a brief statement.

Mrs Merlehan: In our presentation today, we have considered multiple perspectives. Our first one is from the foundation itself. We are a victim-centred foundation, and the initial perspective we have is around the reforms that aim to improve the bail compliance and reduce offending for offenders, including the enhancement of community safety and the reduction of risk and further harm. Victims of crime, including families and communities, repeatedly articulate the profound impact of reoffending on their lives, including the emotional, psychological, economic and social toll that it takes on them.

Electronic monitoring has the potential to help courts sustain bail conditions where appropriately reviewed and monitored through active monitoring of those devices, appropriate supports and wraparound services, and to give positive interactions to those being monitored with the education system and law enforcement. It is expected this would in turn see a reduction in those breaches that lead to additional victimisation. However, this must be balanced with evidence and tools that show that this actually works in practice and it does not create a veneer of supervision without addressing core behavioural drivers of offending and gives the appropriate support to the child and their caregivers.

Given the trial's limitations, a key concern for our advocacy group is the expansion of EMDs without strong evidence of effectiveness, or without embedding necessary support services and risks around community safety being compromised. Also, there are concerns around resourcing, allocation and technology that comes out of things like this and the inclusion of rehabilitation services that

research shows a reduction in reoffending. The Voice for Victims Foundation supports reform and technology that genuinely enhances the safety of community, while ensuring that victims' voices are heard in bail and sentencing processes.

As some of you may be aware, I was a victim of a violent youth crime incident almost five years ago. The offender in my incident was a repeat, escalating youth offender who was just shy of 18 at the time of the offence. On that day, the actions he took meant that three lives were lost, mine was profoundly changed and he caused long-term damage to a number of people, including myself, my family, the families of the people who died and the witnesses of the crime as a result of his choices. In this instance, I would have welcomed the option of an EMD being used for someone such as that repeat offender because I became a victim through a lack of requirement of meaningful therapeutic and rehabilitative supports, as well as monitoring. Without EDMs alongside these, children are unlikely to break the cycle of offending or heal the harm done to victims and families. My hope, as a victim, is that electronic monitoring for appropriate youth offenders may offer a middle ground between custodial remand and unsupervised bail, and may even be considered as a suitable option post custodial release to show an offender's ability to engage with services, attend education and appropriate courses, and adhere to curfews.

Along with my firsthand experience as a victim, being part of Voice for Victims, I also have a background in criminology and have spent a significant amount of time going backward and forth about how I personally and professionally feel about the impact of electronic monitoring. From a criminological standpoint, having worked in corrections, I know that the effective bail and diversion strategies require multiagency responses that integrate risk assessment, supervision and support, and that is only where adults are concerned. Using this method of monitoring on children requires a number of other considerations, including support for families and carers of these young people. Research, both nationally and internationally, shows that electronic monitoring can improve compliance with curfews and restrictions, but its impact on long-term reoffending is mixed, unless it is coupled with structured rehabilitation frameworks. In particular, monitoring should not be a substitute for essential services. It should always require that the young person stay engaged in education, employment and community. It should always include these supplementary interventions, including mental health services, family-based support, access to education and culturally appropriate programs, along with an undertaking by the offender that they will engage.

Ankle monitors alone are never going to be a meaningful way to address the root cause of offending behaviour, without additional rehabilitation, education and support underpinning that requirement.

CHAIR: Thank you so much, ladies, for your contribution and for the submission on behalf of Voice for Victims. I would like to start by acknowledging and thanking you for sharing part of your story in your oral testimony here today. Our committee has heard today often around the need to balance the rights of the individual versus the rights of society, and obviously Voice for Victims provides that voice for those who are the victim of the crime, as opposed to the person who is on bail. Can you give to us some insight as to the impact of repeat offending on victims and how they view any bail conditions that seek to make them safer in the community?

Mrs Reading: I think it is safe to say that the people we have supported over the last few years are advocates for bail restrictions, whether that be detention or monitoring. I think there is not a victim that I have spoken to who does not support having early intervention and rehabilitation, but at the same time there needs to be that balance in ensuring that victims and the community are kept safe, and I think anything that we can do to enhance that should be explored.

Ms FARMER: I want to thank you both for your tireless work for victims and also congratulate you on what you are doing to formalise the organisation and what it has to offer; it is really admirable. Of course, your concern is the impact on victims. We see the words and the data around reduction in reoffending and that, of course, means fewer victims are impacted. In terms of wraparound services, which clearly need to be provided with the EMDs in order for them to be successful and therefore assist victims, do you believe it is important that the government is really clear, if this bill is passed, what commitment they are going to make to wraparound services for the increased number of people who will be fitted with EMDs?

Mrs Merlehan: Thank you for the acknowledgement of the work that we do. It is greatly appreciated. I think, if nothing else, it is important in that it gives comfort to victims and people going through the court process that if someone is sentenced and has an EMD, that there are things that are going to assist them to divert from that life of crime, and I think that is a really significantly positive thing for the offender and for the victim, and then to be able to capture that data and look at the evidence that comes out of that as to how that is working and adjust long-term as well.

Miss DOOLAN: Thank you both for the work that you do. Thank you, Natalie, for sharing your story. Do Voice for Victims support interventions that aim to prevent reoffending earlier rather than waiting for further harm to be caused?

Mrs Merlehan: Yes, we definitely do. One of the big drivers that we do have is early intervention and rehabilitation support for offenders. We know that the earlier you can intervene with a family or the caregivers of a child who has risk factors, the better outcome for the child and the community at large, and spending that money earlier rather than investing it in correctional facilities is definitely a better way to spend money long-term. It may not always show immediate outcomes, but sometimes those deep investments early are a lot more profitable in the long run.

Ms FARMER: I would like to ask about victims in regional Queensland. The evaluation report does show that they did not have much data for EMDs and that they were not really being fitted consistently. What would you like to see the government committing to for regional Queensland to ensure that those same opportunities you are talking about are available to everyone, no matter where they are in Queensland?

Mrs Reading: I want to clarify: is that in the context of the EMDs or is that—

Ms FARMER: Both—EMDs and the wraparound support as well.

Mrs Reading: We would support and have supported the investment that has been made in early intervention already. Clearly, we know from speaking with victims in the north of Queensland, they have suffered significantly over the last few years. Nat, I am not sure whether you would like to expand on that, but victims obviously want to see fewer victims. Nobody wants to be a victim. Anything that the government can do now to prevent that is obviously preferable, and I think also the electronic monitoring devices are just another tool that is available to the courts.

Mrs Merlehan: I will add to that. Regional and rural locations pose significant issues around infrastructure, telecommunications and things like that, but outside of that, I think those are the communities where you actually need on-the-ground community buy-in as well to be able to actively divert children at those early ages. We have seen a lot of announcements around different programs and things, and I think there is still a little bit of a gap between them being announced and them rolling out, so I think it might be a wait-and-see as to how that will positively impact communities and where those gaps perhaps remain.

CHAIR: We have heard today around the stigma associated with young people and the wearing of these devices. Looking to reconcile that against the experiences and exposure of victims, can you offer a perspective on the stigma associated with being a survivor/victim of crime?

Mrs Merlehan: I am probably going to offer maybe an unpopular opinion. I am less concerned about the impact of a look of an EMD on a child than I am on the long-term physical and psychological impacts on victims. I have undergone a number of surgeries on my spine and will have long-term medical care at a cost to myself and while that occurs and there is nothing I can do to change that, but I did not choose to undertake an action which directly impacted someone.

Mrs Reading: To add to that, that is also consistent with what we are hearing from all of the victims that we have had exposure to. There is obviously a consideration that needs to be given to whether or not it is effective, whether or not there is the support around the child in wearing that device, but if you were to do a survey of victims, I think they feel that wearing one of these devices certainly does not have the same impact that they have had on their life.

Ms FARMER: Have you consulted the Victims' Commissioner at all in preparing your submission?

Mrs Merlehan: No, we did not.

Ms MORTON: You have touched on this, so I apologise if you feel like you are repeating yourself, but just to be very clear for our purposes, from your engagement with victims, do they support the courts having stronger tools to enforce bail compliance, particularly short of remand? Is there overwhelming support for that that you find amongst your victims?

Mrs Merlehan: Yes, it appears as though victims are very supportive of that, but again, as Trudy alluded to before, even in that instance, it is only usually with the support of additional wraparound services, not as a stand-alone mechanism.

Ms FARMER: Obviously you want this to work for victims. Given the concerns a number of submitters have expressed about efficacy, ability to monitor and sufficient resourcing, would you like to see a review of the legislation and services to make sure it is actually achieving what you would like it to achieve for victims?

Mrs Merlehan: I think the data collection evaluation of any significant change, especially in the youth justice system, is critically important. We always need to be open to the fact that you may not get it right on the first try, and there is always room for some changes, small and large, to make sure that the intended outcomes are actually matching what the change was intended to do for the community.

Miss DOOLAN: Again, this is quite a similar question to one earlier, but do you believe the government should take all measures to reduce the number of victims of crime in this case, allowing the courts the ability, where appropriate, to order a youth on bail to wear an EMD whilst being supported by youth justice programs?

Mrs Reading: Yes, we do. Again, assuming that there are those supports in place so that the child has the ability to meet the requirements of the bail conditions.

Mrs Merlehan: I will add to that. It would also need to be very clear because something that came out of the report, from my reading, was that there was a bit of a lack of understanding as to who was responsible for which sections, how responses would be managed and fatigue for alerts and things like that. Once those things have been captured a bit better and there is appropriate funding and agency ability to address that, then, yes, that is suitable.

CHAIR: Thank you very much, ladies. I would like to thank you for the time you have taken today to give voice to victims and to share your experiences with the committee as we look into this matter. We will adjourn for a short break. The proceedings will resume at 1.30 pm.

Proceedings suspended from 1.09 pm to 1.30 pm.

BODDICE, Mr Daniel, Member, Criminal Law Committee, Queensland Bar Association

HOARE, Mr Andrew KC, Chair, Criminal Law Committee, Queensland Bar Association

CHAIR: Good afternoon. We will now resume the public hearing for the committee's inquiry into the Youth Justice (Electronic Monitoring) Amendment Bill 2025. For those who are only joining us for the afternoon session, my name is Nigel Hutton. I am the chair of the Education, Arts and Communities Committee. With me here today are: Corrine McMillan, deputy chair and member for Mansfield; Wendy Bourne, member for Ipswich West; the Hon. Di Farmer, member for Bulimba, who is substituting today for the Hon. Mick de Brenni, member for Springwood; Ariana Doolan, member for Pumicestone; and Kendall Morton, member for Caloundra.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Please remember to turn your microphone on before speaking and off when you are finished, and please ensure your mobiles are either switched off or placed on silent mode.

Our next hearing participants are representatives of the Queensland Bar Association. I welcome Mr Andrew Hoare KC, Chair of the Criminal Law Committee, and Mr Daniel Boddice, member of the Criminal Law Committee. Thank you, gentlemen, for your time today. Would you like to make an opening statement, after which I am sure the committee members will have some questions for you?

Mr Hoare: Thank you for the invitation to speak today and thank you for the material which has been provided particularly in respect of the report on the review of electronic monitoring devices. At the outset, it is quite apparent from the report the difficulty in seeing a clear causation between the consequences of electronic monitoring devices and other rehabilitative steps which have been in place. It is also quite apparent from the report that the wraparound programs which have been developed in conjunction with an electronic monitoring device may have the desired rehabilitative effect. It seems the most prominent effect upon children's offending is the wraparound programs and those targeted programs. Respectfully, the difficulty the report writers have had in drawing a clear correlation between the effect of the monitoring devices and wraparound programs probably indicates the complexity of the individual offenders who have been the subject of the devices in position. That is at the outset.

In respect of the legislative alterations, there is not support at this stage for the expansion of the program to children younger than 15. I can cast it in these terms: even apparently in the older offending cohort there are necessarily difficulties in compliance which comes from the fact that they are children. That difficulty in compliance and noncompliance has had a knock-on effect on resourcing of the electronic monitoring devices—the resources developed from the QPS, QCS and then Youth Justice in respect of those breaches so far as they are apparent. It is a concern that in respect of younger children, even with those suitability protocols fulfilled—and I will go on to another issue which seems apparent from the legislation—there will be further breaches. When I say 'breaches' I do not mean of a basal sort. The Bar Association is always of a position that rehabilitating children so that they do not commit offences at large or otherwise is a primary goal of any legislative intervention.

I am speaking of when there has been a failure to charge a device or there has been an incidental breach of a condition which is not reoffending in the true sense—that is, committing offences against the public at large or in respect of property or otherwise. There is going to be a significant amount of resources developed just to monitor those children who may not have the maturity to otherwise comply. That is an unnecessary use of resources, particularly so when you have a finite bucket from which I am sure these funds are being drawn. That is our concern and that was a concern which was expressed in our submissions in general terms in August 2024, I think, when this proposal was first put in place.

The other matter—and this may be just a matter to clarify for my purposes, and I have already spoken about our broader resistance to an expansion of the cohort for the reasons which have been expressed. When we were looking through the bill, there is a removal of what is currently in section 52AA(1) (f), which were some statutory guidelines for the fulfilment of the preconditions for the attachment of the electronic monitor. That seems, in my reading of the bill, to be substituted by means of a regulatory intervention. I can understand why that might find its way into regulation because of the ease of reformulating a regulatory obligation. Is it the intention of the parliament that the preconditions of such matters which were in section 52AA(1) (f) will now be in regulation and developed to reflect further study and so on in respect of suitability criteria?

If it is not something which has been considered—I apologise: I am probably not here to ask you questions—then it is something which respectfully ought to be considered, because what is apparent from the review of the monitoring devices are issues from the stakeholders in respect of suitability requirements, the scope of the prerequisites for the devices and the suitability of the children in respect of it. Statutory guidance in respect of that is always useful. There is some statutory guidance in subsection (1) (f). If there is to be an amendment, and even if it finds its way into regulation, such statutory guidance will certainly assist the stakeholders in appropriately considering advocating for the devices and also for, importantly, magistrates determining who is a suitable vehicle for such a device.

It follows on from what was said earlier. There already seem to be some failings in the infrastructure in respect of the devices in remote areas where you do have children who present with some needs which are otherwise not being fulfilled. The resourcing will necessarily be increased when you expand the cohort because that is an issue which has already been identified. It is obviously not impossible to be overcome but, again, we are not dealing with a budget which is infinite in that regard, I am sure. Those are the matters which we wish to raise respectfully at this stage.

CHAIR: In terms of the question you raised of us, please be aware that the public briefing of the department was earlier today where a conversation occurred in regard to that. I would refer you to the *Hansard* that will come forward with some information in that space. The committee itself, rather than taking questions, is considering all aspects of the proposed legislation and ultimately will provide a report to the House which sets out thoughts and considerations for the House to consider and the House will ultimately vote on the legislation put forward by the minister.

Mr Hoare: I should say, Chair, I withdraw unreservedly anything derogatory.

CHAIR: No. No offence could possibly to be taken. In your oral statement you raised an outcome in regard to concerns around the prevalence or potential prevalence of youth being charged with infractions such as low battery and that being a potential sole charge. The evaluation itself does outline that magistrates noted that those things were not coming forward as single items but rather were generally a reflection of other charges that the young person was being caught for infraction of and that is included in that. Generally, it is a warning trigger as opposed to the actual major reason for their return to court on bail conditions. That is some background for you from some of the earlier sessions that we had this morning. We are very appreciative of your time.

I wanted to ask a question particularly around the law profession. One of the things that has been raised in submissions or the evaluation even stated that Youth Justice staff had some concerns that electronic monitoring devices may be a cause for lawyers to progress matters with a less sense of urgency because their clients are not in custody now. I am looking for your feedback and opinion on that. Is it your view that your association has found any evidence to suggest that there is less urgency attached to the furthering of these cases where students or young people are out in the community using EMDs?

Mr Hoare: It would not occur as a deliberate choice, but it would occur because of a marshalling of resources. If you have a child in custody opposed to a child at large who is complying with bail and is otherwise progressing in their rehabilitative stages, then you would be prioritising a charge in custody necessarily. That would necessarily have an incidental effect upon when the children who are not in custody are to be dealt with, but there would never be a decision being made by example of not dealing with that matter because of that fact. It would merely be within the natural resources of a practitioner and a practitioner's practice and where the workload occurs. Also, necessarily—and I think this is at all stages of the profession, whether it is the Law Society or the Bar Association—what you will find amongst the profession is a desire to have things resolved and resolved in an expeditious way as much as possible. I do not think that that would be occurring. That certainly has not been the type of feedback which has been brought to my attention in any event as the chair of the committee. If it were brought to my attention then I would be very concerned about it and a missive would be sent to the association generally.

CHAIR: Committee members, acknowledging that we did not have a submission to base this on the questioning is probably going to be more free flowing than previously. I would like to set the standard now. I am going to ask a follow-up question to try to define that a little bit further, but expect that to be provided to all members of the committee. You have stated that that is not the case but obviously there is a desire to remove children out of custody prior to dealing with ones who may be on bail and meeting their statutory conditions in the broader sense. Would that be any different to other bail conditions? Do you think that electronic monitoring devices as a bail condition would be treated any differently to other bail conditions that are allowed to be added?

Mr Hoare: No, I do not. I probably should have clarified that. What is significant is that the child is in the community. That is to be lauded in all respects. If that is where they can be, that is where they ought to be. The less time a child spends in custody is the desirable effect. Where that tension should exist, then the preference would be to address the child in custody so far as it can be dealt with efficiently, if you just had those two choices to make in a binary sense.

CHAIR: The deputy chair is deferring to the member for Bulimba.

Ms FARMER: I would like to refer to the question you asked us and actually turn it around. The provisions that are currently explicit in the act about suitability are now deferred under regulation to the CEO. Do you believe that the criteria that the CEO must consider should be transparent and, if so, why?

Mr Hoare: It should be transparent, it should be evidence based and it should be developed by reference to the type of report which has been provided to us. The reason for that is that it becomes a necessary focal point for a decision-maker in respect of considering and balancing the features of a particular individual so far as you can. The difficulty is always in respect of these matters the type of variability which you are going to have presenting in any child offender. Necessarily there are some limitations and parameters which can be determined to be more or less suitable which can be evidence based, qualitative based and the focus of a decision-maker in respect of this aspect of their discretion.

It is never—sorry, I withdraw 'never'. It would be less utile to have a broad discretion in a complex area without the refinement of focus. Although suitable in statutory language will get its meaning from its purpose within the statute, I do not see any particular evil in having a statutory focus for what a decision-maker would consider.

Ms FARMER: Are you saying that you believe it should be clear, recognising of course that there could be additional circumstances?

Mr Hoare: Yes.

Ms FARMER: There should be a fundamental set of principles for consideration and then of course the latitude to look at other matters as well.

Mr Hoare: Yes. How subsection (1) (f) presently reads is as I had examples of personal circumstances for a child in subparagraph (ii) which recites those necessities and base necessities for a sustainable bail program, I suppose, where they have stable accommodation, where they have appropriate support, whether it be from an adult or from an educational body and all those matters. They are there for a reason because experience has shown that they are matters which can heighten the positive effects of rehabilitation on a child. The reason why it should not be a closed system is that further study in respect of children which is developed as is expected in respect of how they are responding to particular wraparound treatments, as I think it is described, will necessarily expand that type of suitability on an evidence and experience qualitatively based system. It should not be limited now when the knowledge base grows in the future. There is some utility for that being in a regulation rather than in an act because of the flexibility of amending a regulation.

Miss DOOLAN: Is it consistent with the rule of law to provide courts with additional optional bail conditions rather than fewer?

Mr Hoare: The basic principle of bail is that it should not be more onerous than is necessary to reduce the risk to an acceptable level. The starting point is that the minimum conditions should be imposed upon any individual including children to reduce the risk. It also presupposes the presumption of innocence and it also presupposes that a person should not be detained in custody as a preventative measure. In cases like this when you were talking about children, a child engaging with the criminal justice system itself is indicative of some failure somewhere and some complexity of needs. Inevitably in respect of a child as opposed to an adult you will find more nuanced and complex bail conditions to deal with that individual. That just merely means that that complexity is what is necessary as a minimum level to reduce the risk. I think that is a function of youth justice. It is not necessarily inconsistent with the base considerations in what used to be a right to bail.

Ms FARMER: I would like to refer to the matter of wraparound services. We assume there will be a considerable number of more young people fitted with EMDs. The department has said to us today that they are not able to disclose any projections they might have made on those numbers or where. Given the absolute importance of wraparound services to the success of EMDs, and as you have said yourself perhaps they are the reason they are successful, do you believe that the government need to be very clear if it passes this legislation what their commitment is to wraparound support services and to what extent?

Mr Hoare: Absolutely that would be the case. What you see in the reporting and in the review is that there are children who are more ready to engage with the wraparound services. Part of that is that it seems they are then compliant with the electronic monitoring. This is where I say correlation is not causation. Their compliance with the wraparound services may give them insight, may create that necessary step in their maturity and back towards being a member of the community which is not committing offences and causing the community concern. As an adjunct of that, there is compliance with electronic monitoring. If there were to be a decision as to which would be more inevitably successful then resources should be spent on wraparound services and not on a monitoring system which does not seem to have a clear correlation with an absence of offending.

I did note the anecdotal matters which are reported in the review. It seems that some importance may be given to electronic monitoring, but it is very difficult to disentangle that from the other services which a child is engaging in. It seems fundamental that in the absence of the wraparound services the effectiveness of the electronic monitoring would be significantly reduced, so they are an adjunct of the other.

Ms MORTON: Where a court has already assessed a child as suitable for bail are you aware of any evidence or do you have any thoughts around evidence that would support preventing that court from using additional supervision tools to manage the risk, not just risk to the community but risk to the child as well?

Mr Hoare: Do you mean that once bail has been granted there then is an application for a further condition to be put in place?

Ms MORTON: No, if the child has been assessed as suitable for bail, is there any evidence that would prevent additional tools being used to supervise them?

Mr Hoare: No. There would be a presumption in the case of most children that there would be some resources developed around how they will be in the community—what their support network would be. Within that context, I can certainly conceive of a circumstance where community organisations have developed further programs specific to that child and have provided evidence to a court as to the programs which will be in place specific to that child. That is not unusual to occur. For example, if I call them in base terms, there would be the standard conditions of bail. Then there are other needs for that child which have been identified or addressed by another community organisation, and they put forward a proposal which then, to ensure compliance, becomes a condition of bail as well as the other conditions. There is no statutory limitation on the conditions which are imposed provided what is being imposed is effectively practical and can be enforced and maintained. I would not be advocating for a circumstance where such matters which might be needed individually could not be imposed as a condition of bail when subjectively necessary.

Ms FARMER: I would like to go to your statement earlier about failure to charge and about issues that are not actually to do with the primary offence. You talked about the resources to monitor children who actually may not have capacity to manage the device in the first place and unnecessary use of resources. Forgive me if I am putting words into your mouth, but could you elaborate on that? What does that look like if a young person is unable in and of themselves or for some other reason to comply? What does that actually look like in terms of resources?

Mr Hoare: The initial concern comes from this. If you have a bail condition which is too onerous then inevitably there will be a breach of that condition. There are fundamental breaches and it is important that they are not breached—that is, those matters which are directed towards the integrity of evidence, so the non-contact with witnesses, and then, secondly, the other matters which are directed towards risk, which is going to school or engaging with other programs which is again in the community benefit and then reoffending. Reoffending is a fundamental breach. When I say 'reoffending' I mean reoffending in a significant way.

Aside from that, if you have these conditions which require the device to be charged and if it is not charged that is a breach and you are speaking about young children as young as 10—I do not want to speak to others, but I have experience with young children as young as 10—the idea that, even with their best intentions, they could be relied upon to have that type of compliance at that level I think does not recognise, firstly, the reality of a child of that age and, secondly, the complex circumstances and inherent detriment which that child must have faced to be interacting with the criminal justice system at that young age in any event. The idea of spending resources in respect of something which will not assist that child at that young age is not utile, not effective and not to the benefit of the community of the whole.

Mr Boddice: As I read the report, it seems that the vast majority of stakeholders already have concerns about the resources that are in place or the lack thereof, with respect. When one considers expanding it beyond the very narrow scope that currently exists without significant consideration as to whether putting aside just the wraparound resources but just the mere resources to ensure compliance are in place, it seems like a recipe, with respect, for disaster. All that is going to occur is a number of very young people who are devoid of any form of maturity being either consistently breached or burdening the state with the expense of going to investigate a plethora of breaches. I think the vast majority of the recognised breaches were either a failure to charge or leaving an inclusion zone.

I would suspect that that will be maintained. Let's assume that the wraparound services that are required to make these devices effective cannot be provided to such a vast number of individuals. Expecting a 10-year-old without parental supervision, who is not going to school, who is struggling with his mental health or living in a state that is not conducive to any form of compliance or ability to comply to wake up in the morning and think, 'I better charge the device on my ankle,' is just not going to happen, with respect. It is not going to lead to what I understand the intention of the government's policy to be, and that is to minimise ongoing offending and to assist children rehabilitate.

With respect, I think you are looking at it backwards. There need to be processes in place to deal with resources and making sure that they are in place before there is any contemplation of expanding the use of a device to monitor a 10-year-old, with respect.

CHAIR: Thank you very much, gentlemen. Acknowledging your earlier comments, we heard from the department earlier today that those in the trial with wraparound services and supervision had greater adherence to their bail conditions. They had greater completion rates of bail—74 per cent versus 50 per cent for those not on electronic monitoring devices; lower reoffending rates—62 per cent versus 80 per cent; and less than 50 per cent of all bail breaches were consequential because the wraparound services engage with young people around 'Are you conscious of the fact that you need to make sure that you are plugging your charger in, and all those sorts of things along the way. My question is: do you accept these independent evaluation findings or does the Queensland Bar Association—

Mr Hoare: It is the way in which it is being expressed within the findings themselves because there is an accumulation of events which lead to a result. One of those is the electronic monitoring device. The other is the wraparound services. As I said before, it is difficult to untangle which has led to this positive result. It is plain that it is a positive result and this is something which should be lauded. The Bar Association is not saying otherwise. It is merely saying that it is not clear that this is a consequence of the electronic monitoring device rather than and logically, I would express in my experience, the wraparound services which are intervening in the child themselves in that very real way. I think that the monitoring device, if it is anything, is an adjunct perhaps. What seems to be creating that laudable result is the wraparound services.

CHAIR: Thank you, gentlemen. I do apologise. My question took us over time. I thank the representatives of the Queensland Bar Association for their willingness to appear before our committee today and for their evidence. I appreciate your lucidness on post hoc ergo propter hoc.

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

BURTON, Ms Bridget, Deputy Co-Chair, Human Rights and Public Law Committee, Queensland Law Society

HODGE, Ms Kristen, Co-Chair, First Nations Legal Policy Committee, Queensland Law Society (via videoconference)

JOLLY, Mr Peter, President, Queensland Law Society

CHAIR: Welcome. We would like to thank you for your submission and acknowledge that it is now published on the parliament's website. I invite you to make an opening statement, after which committee members may have some questions for you.

Mr Jolly: Thank you, Chair. Thank you for inviting the Queensland Law Society to appear today. In opening, I would like to respectfully recognise the traditional owners and custodians of the land on which this meeting is taking place—Meanjin, Brisbane—and I recognise the country north and south of the Brisbane River as the home of both the Turrbal and Yagara nations and pay deep respects to all elders past, present and future.

As the committee is no doubt aware, the Queensland Law Society is the peak professional body for the state's legal practitioners. We are an independent, apolitical representative body and we represent over 15,000 legal practitioners. We have a very strong committee structure, comprising members of the profession in key areas, which enables us to tap into the views of our members. Our submission was compiled following input from the QLS Children's Law Committee, the First Nations Legal Policy Committee and the Human Rights and Public Law Committee. In providing our evidence today, as I noted, we are an apolitical body and we seek to promote good law for the public good. In carrying out its central ethos of advocating for good law and good lawyers, the society proffers views which are representative of its member practitioners.

The QLS acknowledges that youth justice has a significant impact on our community, and we recognise the suffering and trauma of victims and their families. While the society affirms its support for initiatives aimed at safeguarding and strengthening community safety, we consider the protection of the rights of children and young people involved in youth justice interventions to be essential for achieving sustainable community safety. We also note the over-representation of Aboriginal and Torres Strait Islander children and young people in child protection and youth justice systems.

The QLS does not support the bill. As identified in its submission, the key issues to bring to the committee's attention are: the bill impacts the human rights of children and families, including the right to privacy, liberty, education and freedom of information; the use of visible ankle monitors causes significant trauma, which often leads to social isolation and disengagement from protective factors like education and employment; EMDs have a net-widening effect, trapping children within the justice system by exposing them to additional penalties for technical breaches such as battery depletion which would not otherwise be criminalised; and the proposed amendments are punitive and likely to result in an increase in the number of young people held in detention, and such an approach fails to address the root cause of youth crime and is unlikely to deliver a meaningful or lasting solution. While the study found that monitoring devices often correlate with reduced custody time, the success is heavily dependent on family support and wraparound services, especially Youth Co-Responder Teams.

The bill proposes to remove the eligibility criteria that previously limited EMDs to children at least 15 years of age who were charged with a prescribed offence. By permitting children as young as 10 years old to be monitored, the system will manage a much more vulnerable cohort; however, the study provides no examination of the effectiveness or safety of EMDs on this 10- to 14-year-old age group.

Removing the requirement for a prescribed indictable offence means that EMDs can be applied to any offending type. This significantly widens the net of children under 24/7 surveillance, potentially increasing contact with the criminal justice system for minor technical breaches such as battery depletion.

A major consequence of statewide expansion is the unreliable telecommunications infrastructure in regional and remote Queensland. EMDs require constant mobile connectivity to function. Without it, they produce no-communication alerts or fail to track location entirely, which can lead to children being unfairly reprimanded or breached, particularly in remote communities. Over

43 per cent of Aboriginal and Torres Strait Islander communities lack mobile service and about 46 per cent of residents are highly digitally excluded, compared to about 95 per cent for the broader Australian population. Remote communities face technological barriers that may increase the risk of breaches, often resulting in harsher consequences and further justice involvement. Expanding outside South-East Queensland also creates significant logistical burdens, particularly regarding the reporting of children to watch houses for device fitting and removal, which can take substantial time and staff resources.

As noted, I am joined today digitally by Kristen Hodge, Co-Chair of the First Nations Legal Policy Committee; by Bridget Burton, Co-Chair of the Human Rights and Public Law Committee; and by Damian Bartholomew, Chair of the Children's Law Committee. We welcome any questions the committee might have.

CHAIR: Thank you very much.

Miss DOOLAN: Thank you for your appearance today and your submission. Your submission raised a concern about proportionality. Do you accept the bill does not compel the use of EMDs and leaves the application to judicial discretion? Someone living in a remote community who does not have 4G or 5G technically would not be suitable for an EMD, so there is some flexibility around whether they have one or not.

Mr Bartholomew: There is obviously some discretion, but those factors need to be alerted, of course, to the court at the time and they need to be aware of them. Certainly the experience of our members is that the issues of functionality, even within South-East Queensland, have not been reasonably anticipated at the time of imposition. It is often difficult to gauge that. The challenges, of course, become that young people in regional areas are more likely, therefore, to be subject to those fallibilities of the technology, which leave them vulnerable to potential breaches and consequences.

Ms FARMER: I acknowledge that the really strong participation of the Queensland Law Society over many years on youth justice matters is much appreciated. Mr Jolly, I understand you are the new President of QLS, so I imagine we will be seeing you a lot. Thank you, and welcome.

Mr Jolly: Unfortunately for you!

Ms FARMER: I hope it is a pleasant experience. Given the matters you raised about the cohort under the current legislation and the issues with functionality, and given you referred to compliance issues with the proposed new cohort, what commitments do you believe the government needs to make with this expanded cohort if this legislation is passed to address the functional concerns which exist and the new ones which have been identified? What needs to be clear for it to succeed as much as possible?

Mr Bartholomew: The view of the society is that, before putting the bill forward, many of the difficulties and challenges that are outlined in the evaluation report should be addressed. The view of the society would be that, where there are issues in relation to functionality, those matters need to be streamlined. A recommendation, of course, of the evaluation is that the technology does need to be streamlined. It makes specific reference to the issues with the fitting of those devices and their removal and also the issues during the life of that mechanism. Those issues, of course, need to be resolved prior to the implementation of the legislation. Significantly, of course, implementing the wraparound services is essential to the success of this, and that is clearly pointed out in the evaluation.

Regardless of whether those two issues are addressed, the society's concern in relation to the expansion of the cohort cannot be addressed. It does not matter how positive those wraparound services might be for the 10- to 14-year-old age group because it is very difficult to see how that could address the fundamental problems that you would have if that age group were required to comply with electronic monitoring devices. There are also the adverse consequences that can happen for them and, indeed, the barriers that it may present for them in terms of reintegration into the community and their ability to be able to assimilate. Therefore, their long-term prospects of being active and prosocial members of the community, which is obviously what the whole community wants, would be affected.

Similarly, removing the requirements in terms of the offences to which the electronic monitoring devices could apply so they could be applied to any offence would seem to make a very wide group of young people very vulnerable. Again, it is difficult to see how the implementation of even the wraparound services in that regard could assist.

Ms MORTON: Thank you for your time here today. I am interested in expanding on what you were just speaking about and any potential position that the Law Society might have around balancing the rights of victims and the rights of perpetrators. Today, we have heard from victims around the long-term mental, physical, financial and emotional costs of being a victim. How do you think that balance could be achieved?

Mr Bartholomew: The Law Society has always promoted safe communities. We are always concerned, obviously, about the reduction in the number of victims. We obviously want everyone to be able to function and to live safely in the community. Our concern is that the expansion of this law will not assist in that regard. Indeed, it certainly has the potential consequence of stigmatising young children, preventing them from, in fact, reintegrating into the community and being able to access services such as school and, ultimately, employment, which we know are the factors that will ultimately decrease their likelihood of further offending, therefore decreasing the likelihood of there being further victims in the community.

Ms FARMER: In referring to the fact that the act currently stipulates what should be taken into account for suitability is now being referred under regulation to the CEO, do you believe it is really important that the matters that the CEO considers in recommending suitability are transparent?

Mr Bartholomew: I think that is very important. The society does have concerns about the removal of those requirements. One of the particular concerns of the society is that it does turn the court's mind to the notion that this is a significant infringement on a number of issues for young people and does have broader implications for young people than it might have for adults. It may have a far greater stigmatising effect not only on the young people themselves but also on their families and on their sibling groups and it may have long-term effects upon them. Even if a young person is acquisitioning to and accepting of an electronic monitoring device, they may not be able to appreciate the significance of that at the time that they are consenting to it.

In the experience of our members, it is been a very positive requirement for it to be in the legislation because it turns the court's mind to that notion that this is something that can only be imposed with particular restriction and that it is not something that should be as a matter of course in relation to young people. The experience of our members is that in the past when there have been additional programs put in place to address a particular cohort and a particular group of young people sometimes that has been inadvertently expanded beyond the original scope of that and it has become almost a standard condition without consideration of the significant stigmatising effect and, indeed, the perhaps adverse consequences and unintended consequences of that. The presence of those requirements within the legislation has been, in the view of the society, very positive.

If considerations are ever being undertaken in terms of that assessment, obviously clarity is very important for all parties and, indeed, the evaluation did make comment about the fact that there have been instances where the report has indicated that perhaps a young person was not suitable but the court has nonetheless imposed that order because there has been transparency around what has been required. It is very important for all parties. It is particularly important also for young people to be able to understand what are the considerations that have been undertaken in making those decisions and for their families and of course for victims as well to be able to understand what has gone into this process in terms of making this decision as to whether this young person should or should not have bail.

CHAIR: I would like to seek some clarity from that last response. Where repeat offenders result in further victims of crime, is it the view of the Law Society that proportionality should be assessed solely by the impact it has on the offender and the offender's family and others are in their surrounds? Where do victims fit into that assessment that you are suggesting should be made?

Mr Bartholomew: The assessment in terms of whether a young person is suitable for an electronic monitoring device or whether a young person is being assessed as being suitable for bail?

CHAIR: My concern is that the last answer appeared to suggest that the conditions for bail, while there is a set of conditions, really should relate back to the conditions of the perpetrator and the impact it will have on them and their family and how the conditions will apply to them and the consequences that it will have for them as opposed to the safety of the broader community. I am just looking for some clarity.

Mr Bartholomew: That is certainly not the position of the society. The position of the society is that of course it should be clear what considerations are being taken into account and how that decision is made. That is what is important. In relation to whether a young person should be given

bail, one of the considerations that of course the court must consider is the victim of the offence, but it is the risk of reoffending that the court is particularly focused on in terms of a grant of bail. Obviously that is about keeping the community safe, and that is a consideration that the court is required to make under the act.

Ms FARMER: I would like to ask a question of Kristen. I refer to the evaluation report which shows that the reported reduction in reoffending does not occur at the same rate with Aboriginal and Torres Strait Islander children. Could you please elaborate your thoughts on this and also what action you believe the government should be taking for wraparound supports with EMDs for those children?

Ms Hodge: I appreciate the opportunity to appear as a witness. I think the problem here is that electronic monitoring fundamentally contradicts the relational, community-based and culturally restorative approaches to both child rearing and justice that are foundational to Aboriginal and Torres Strait Islander communities. When you confine a child to a certain area, you sever their connection with country, land and waterways—their identity. That vital connection is physically severed essentially. There is a loss of identity. In close-knit communities it starts to mark not only the child but by extension their family. This public shame directly opposes any sort of cultural values that you might have to be able to resolve those issues from a private cultural perspective, because the device externalises punishment and it makes what we could potentially resolve in community in a culturally appropriate way really impossible to do. I think one of the foundational things is that it bypasses the authority of elders and families.

Probably one of the key things for children who have families who have experienced generations of state intervention—removal and surveillance from protection policies to ongoing policing—this device is not a neutral technology for them. It is like a physical manifestation of intergenerational trauma. Constant monitoring just engages a climate of fear, control and distrust in authority which I think reinforces the narrative that children are a problem to be managed and not a person to be healed.

I want to draw back a little bit on one of the questions that was asked about relying on judicial discretion in this system. We are operating in a system of systematic over-representation. The judicial officers are also operating in that system. We need mandatory cultural assessments from organisations because courts do not have the ability to make informed decisions about how a condition might be harmful to a community. That is where community controlled organisations need to come in at the ground because it needs to come from children, families and communities. Success is not measured by how many times you put a device on a child. Success is not measured by how many children do not re-enter the system. The only path to true success is to go through the community, not around them.

Miss DOOLAN: How do you reconcile opposition to EMDs for young people with the reality that bail compliance without adequate monitoring mechanisms often results in remand, which you oppose?

Mr Bartholomew: There are many responses to when young people find it difficult to comply with their bail conditions. I think the report clearly sets out the importance of wraparound services. The society recognises that young people in the youth justice system need particular supports. It is not against that need. It is not opposing it; in fact, it is advocating for it. What we have always advocated for is that there needs to be appropriate evidence-based supports that are shown to be effective and are shown to work. Our concern with this legislation is—certainly with the net-widening capacity of this legislation—that it may not work well. There is not any evidence to suggest that it would work with this cohort.

Ms FARMER: A number of submitters have referred to police opposing applications for EMDs under the current region on the basis that they just do not think the young people are going to be able to comply—FASD or lack of housing or all of those things. If the same criteria that are being used now were applied to 10- to 14-year-olds, do you think that would possibly rule out a lot of 10- to 14-year-olds anyway because of the very reasons that you are outlining—that it is very difficult for that age group to comply?

Mr Bartholomew: I think that is entirely possible. What is equally alarming is that the devices would be imposed but those barriers do exist for those 10- to 14-year-olds and they are not able to comply. Ultimately, they find themselves being remanded in custody with the added consequence of having breached their bail and having greater disillusionment and then future courts perhaps considering that they are not suitable for that—perhaps when they are older—perhaps when indeed that may have been an effective measure. There are considerable concerns, yes, in the fact that they might not be given it in the first place but, even if they are imposed upon it, what might be the adverse consequences of them having a device when they are not able to comply?

Ms MORTON: How much consultation do you undertake with your members to determine your responses or policy positions to proposed legislation?

Mr Jolly: I think the answer to that probably depends on the issue and the timeframes that we have. Generally, as I said, we are a member-based organisation, so it is not always possible to take a poll of all of our members. I have no doubt members have very different views about a number of topics. Generally, as I said, we do rely on our committee structure. We have a very sophisticated and very wide network of committees across a number of practise areas and policy areas. Those committee members are practitioners who are generally practising in that space. They bring to the society the views that the practitioners they interact with are expressing to them. It is effectively distilled up that way.

Ms MORTON: That process was undertaken for this particular response?

Mr Jolly: Yes, the input of the various committees here was sought in putting together that submission.

CHAIR: Member for Bulimba, you can ask a very quick final question if you have one.

Ms FARMER: It was not going to be that quick, but I will do the best I can. When you are talking about a breach of bail for something which is not the original offence, can you describe that journey? How does it occur? There is a failure to comply. Can you describe the resources and the journey from that point to the child then being breached and then what happens and who is involved?

Mr Bartholomew: There is no typical journey in that this can take a variety of different means. Breaches of bail—and, indeed, that has been a concern that some of our members have seen at work in the Childrens Court. Young people might actually have their matters resolved and have been sentenced for their matters and then weeks after—perhaps in some cases months later—a breach of bail is detected. There has been a review of their electronic monitoring device that perhaps had not happened earlier or of some other condition or it was realised that they were out after their curfew. Then they can be apprehended and brought before a court for a breach of bail even after their matter has resolved. That results in significant confusion perhaps for adults but particularly for children in that context.

For many other young people, the police will attend their trial. Their family will locate them. They still have a discretion as to whether the young person perhaps could be given a notice to appear in relation to that breach of bail, so it may not need to go back before the court. They may choose not to arrest them or they could. They could possibly say, 'Because you've breached your bail, we will arrest you on that offence.' The young person will then be taken to the watch house. There is then a requirement to notify their parents. Youth Justice need to be advised as well. There then needs to be consideration of the watch house keeper as to whether they should be granted bail or not. If the watch house keeper thinks you are in breach of your bail and you need to go to court then the young person is detained in custody. Maybe they are held at the watch house. Consideration then needs to be made as to whether they need to be retained at the watch house or taken out to the youth detention centre overnight.

There are then those issues about getting their paperwork before the court, whether that can happen on the same day or whether they are held overnight. They are then brought before the court within 24 hours ideally. Consideration then needs to be made about instructions. Obviously they need to see a lawyer. Then the matter can either be adjourned or resolved on that day. Yes, it can be quite a complex process.

CHAIR: Ladies and gentlemen, I thank the members of the Queensland Law Society for being our last hearing participants today. This concludes the hearing. Thank you to everyone who has participated today. Thank you to our secretariat and our Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. I now declare this public hearing closed.

The committee adjourned at 2.31 pm.