ECONOMICS AND GOVERNANCE COMMITTEE

Members present:
Mr LP Power MP—Chair
Mr RA Stevens MP
Mr MJ Crandon MP
Mr JR Martin MP
Mr DG Purdie MP
Mr A Tantari MP
Mr CG Whiting MP

Staff present:
Ms J Langford—Committee Secretary
Ms M Salisbury—Assistant Committee Secretary
Ms R Duncan—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE STRENGTHENING COMMUNITY SAFETY BILL 2023

TRANSCRIPT OF PROCEEDINGS

Tuesday, 28 February 2023

Brisbane

TUESDAY, 28 FEBRUARY 2023

The committee met at 12.01 pm.

CHAIR: Good afternoon. I declare open this public hearing for the committee's inquiry into the Strengthening Community Safety Bill 2023. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay my respects to elders past and present. We are extraordinarily fortunate to live in a country with two of the oldest continuing cultures in those of Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all share.

My name is Linus Power, the member for Logan and chair of the committee. Other members of the committee are: Mr Ray Stevens, the member for Mermaid Beach and deputy chair; Mr Michael Crandon, the member for Coomera; Mr Dan Purdie, the member for Ninderry; Mr Adrian Tantari, the member for Hervey Bay; and Mr Chris Whiting, the member for Bancroft, who is substituting for Mrs Melissa McMahon, the member for Macalister.

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.

The inquiry being undertaken by the committee has come about as a response to matters that have resulted in criminal charges, some of which are pending before the courts. The Legislative Assembly and its committees recognise that matters awaiting or under adjudication in all courts exercising a criminal jurisdiction should not be referred to from the moment a charge is made against a person until the matter is resolved. All witnesses are therefore reminded not to refer to matters before the criminal courts in their evidence. Witnesses should also ensure that any question or statement concerning a child subject to the Child Protection Act 1999 or the Youth Justice Act 1992 is made in a non-identifying manner. 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. I also remind participants to please turn their mobile phones to silent mode.

COSTELLO, Mr Sean, Principal Lawyer, Queensland Human Rights Commission (via videoconference)

McDOUGALL, Mr Scott, Queensland Human Rights Commissioner, Queensland Human Rights Commission (via videoconference)

CHAIR: Good afternoon to you both. Thank you for agreeing to brief the committee today. Would you like to make an opening statement before we start questions?

Mr McDougall: Thank you for the invitation to participate in this important accountability process. I have a number of points I would like to make as part of the opening statement, the first one being the inadequate consultation for this bill. The bill was developed over a six- to seven-week period during which there was, unfortunately, no consultation with my commission. Two and a half days to prepare submissions in response to such an important bill with such far-reaching consequences is wholly inadequate and is not consistent with good lawmaking practice.

The second point I would like to make is that victims' rights are fundamentally important. The right to property, the right to liberty and security of the person and the right to life are all highly relevant to this discussion. Indeed, the right to life creates obligations on the state to take positive steps to protect life and it is important that those positive steps actually work to reduce crime.

During the pandemic the Queensland government relied heavily on the right to life to enact major restrictions and, despite declaring a public health emergency, it did not ask parliament to override the Human Rights Act. There is no justification for overriding the Human Rights Act in this case. The evidence relied upon by the police minister does not make out a case for overriding the act

and cannot be described as comparable to a war, a state of emergency or an exceptional crisis situation constituting a threat to public safety, health or order. In fact, it is at times of acute public anxiety that holding fast to our fundamental values, as enshrined in the rights protected in the Human Rights Act, is more important than ever. Rather than abandoning the rights of children, many of whom are themselves victims, we should be strictly scrutinising our laws and programs to uphold those rights.

In terms of the substance of the bill, a number of the proposals rely on deterrence as a means of protecting against future criminal activity. No evidence has been presented to suggest that recidivist children will be dissuaded from, for example, stealing cars because of an increase in the maximum penalty. Other initiatives are directed at maximising the amount of time children are incarcerated before and after sentencing. Evidence cited by Professor Ross Homel suggests that pre-trial detention triples the chances of children reoffending. In this regard, the proposal to introduce a breach-of-bail offence will inevitably lead to a significant impact on the numbers of children brought into custody.

Finally on that note, I would like to again place on the record my serious concerns about the continuing practice of using adult watch houses as overflow facilities for detention centres. I take this opportunity to remind both the parliament and the executive that children remanded into the custody of the state of Queensland are owed a duty of care by those public officials responsible for their safe custody.

CHAIR: I now turn to the deputy chair, Mr Ray Stevens, for a question.

Mr STEVENS: Thank you, Mr McDougall, for your presentation. There are certain questions on the specifics of the bill. I particularly refer to the bail issue, which you mentioned in your opening remarks. How would you address recidivist offenders in terms of the human rights amendments to this bill? How would you address those repeat offenders who sometimes have 80 offences before them? To protect the community, how would you address the amendment to this bill?

Mr McDougall: That is a good question. The explanatory notes to the bill themselves identify that the reasonably available alternatives to introducing that bail provision have been considered and dismissed. Those alternatives include providing much greater support to children who are on bail in order to comply with their bail conditions and not reoffend.

I do not think you can have this discussion without recognising the serious situation that we have in Queensland with the crisis that exists both in our housing and in our child protection and youth justice systems. There are reports in the *Courier-Mail* today that I read that show that Queensland is well behind other states, in particular New South Wales, in terms of the number of placements that are available in out-of-home care for foster parents and for kinship carers. The high reliance that our child protection system currently has on residential care is simply a recipe for a disaster in terms of youth offending. What is needed, clearly—and unfortunately we do not really see any evidence of this happening—is a comprehensive, whole-of-government plan that tackles the underlying causes of youth offending and not just punishes those children who get caught up in the system.

There is clearly a link between youth disengagement from education and offending. There is an ongoing situation in Queensland where children are being suspended and expelled from the education system without any checks or balances, without any arrangements or review rights, without protections being put in place to ensure those children maintain a connection with the education system. There is a massive piece of work that needs to be done within government to address the underlying causes of youth offending. Unfortunately, we are not seeing the resources and effort applied to successfully address those causes.

Mr STEVENS: The matter you just raised in terms of the alternative solutions to the problem are basically long-term solutions that require a lot of money and a longer term to address the issues, even down to family behaviour—all those types of things. We get that. However, the issue is that we as politicians represent communities right across Queensland. We come from both sides of politics and we hear great community concerns about the safety of people in their own homes and their own cars. In some cases, lives have been taken. When I asked for an alternative to this bill, which is going to be before parliament in two weeks time, I was hoping you might be able to give the committee some amendments that may immediately address those threats to the communities we represent—other than the breach-of-bail provision of the bill. Do you have some short-term answers?

CHAIR: With respect, the question seemed to be about the witness who is representing the Queensland Human Rights Commission. You seem to be asking for—

Mr STEVENS: I am asking for an amendment to this bill that would replace breach of bail, because we are talking about the bill.

Mr McDougall: I may have answered the question in terms of what are reasonably available alternatives to that particular provision. As I said earlier in my opening, I want to recognise the harm and trauma that youth offending causes to victims, and the government clearly does have an obligation to protect its citizens from crime. However, we need to come up with solutions that will actually work to reduce crime and therefore protect the community in a way that is much more

CHAIR: Commissioner, you have clearly outlined that there are competing human rights in practice—the right to feel safe and free from fear in a person's home as opposed to the rights of those who have committed the offence. Those things are ultimately for the judgement of those who have been democratically elected.

Mr McDougall: That is a statement, Chair, or a question?

CHAIR: Are those things under the Human Rights Act ultimately for the judgement of those who have been democratically elected?

Mr McDougall: In Queensland we have a parliamentary model—a dialogue model—of human rights protections where the sovereignty of parliament is supreme and, yes, you are correct and human rights can be overridden. So, yes, you are correct in saying that.

CHAIR: Those human rights were drawn up by the parliament in the last parliament as the best attempt to express what human rights are about but ultimately are also a creation of the parliament. Are they not also a creation of the parliament?

Mr McDougall: Yes, they are. As I said, it is a parliamentary model where the sovereignty of the parliament is supreme. Of course, human rights still exist internationally and need to be recognised, and the act reflects that so that when parliament does decide to act incompatibly with human rights it can but it does not have to make a declaration that it is overriding human rights, and that is what the minister has proposed that parliament do. I do think it is important that parliament understands that it does not need to make an override declaration in order to enact these laws. There have been laws previously enacted that were incompatible with human rights, but the parliament did not see fit on those occasions to make an override declaration.

CHAIR: That was going to be my next question. Under the act you just outlined how the parliament has the ability to override the previous act to confirm the sovereignty of parliament to do what democratically elected people believe should be done for public good for the people of Queensland, but further you have come before this committee before, notably for the Public Health Act, where you said that those actions were in breach of the Human Rights Act and evidence has really borne out that not taking those actions would have seen thousands of Queenslanders die. Is it not right that the Queensland parliament make the judgement about what policy is best to achieve the policy aims as stated in the bill introduced into the parliament?

Mr McDougall: I think, Chair, with respect, the submissions that the commission made throughout the pandemic were supportive of most of the restrictions. We did say that they could improve the compatibility by making various adjustments—for example, having specific pandemic legislation—so I would take issue with the fact that we opposed pandemic measures. The point is that during the pandemic parliament preserved the operation of the Human Rights Act and it operated as a really important safeguard to executive decision-making throughout the pandemic and, again, I would say that we need to preserve the Human Rights Act. We do not want to set precedents where governments decide to suspend the operation of the Human Rights Act simply because there is public anxiety—legitimate public anxiety—about a particular issue. It is in those situations that we actually need to stay fast to our values and our rights.

CHAIR: With respect, you are making an assertion about the decision the relevant minister and/or this committee and/or the parliament would be taking. Earlier you made a statement that this policy had only been prepared for six weeks. That fact I know to be not true. On what basis did you make that claim?

Mr McDougall: Chair, I was operating on the assumption that, from the announcement on 29 December of the 10 initiatives that would be introduced to parliament in the first available sitting, the drafting of the bill commenced from that point of time. That is the assumption. I would not be in a position to know exactly what period of time the drafters took to prepare the bill, but what I do know is that we were not consulted, and it seems that nobody that I am aware of or no stakeholders outside of government and even within government were consulted.

CHAIR: Certainly.

Mr CRANDON: Mr McDougall, during your opening statement you reflected on the rights of the children who themselves have been victims, and I accept that as a truth with some of the work that I have done looking at these things over several years, but what about the victims—their victims? What of their rights to be safe? What consideration do you give to their human rights? Do you have a responsibility as Human Rights Commissioner to consider their rights? So there is that point. These laws give the rights of the many consideration rather than the individuals who are causing so much havoc. What is your take on the other side of the coin: the victims of these young people?

Mr McDougall: Of course I have a responsibility to consider the rights of all people affected by the legislation and that, as I said at the outset of my opening statement, includes victims and their right to property, the right to personal security and of course the right to life. I have complete and utter empathy for the victims of recent tragedies that have occurred and well understand the need to protect community safety, but ultimately it is not just my opinion but it is the opinion of many experts and those who have made submissions to this committee that the laws that are proposed to be passed will not actually improve community safety and will in fact create a risk of further increased offending that does not improve community safety. I appreciate that we are in a bind, but that just underscores the need for a comprehensive plan to address urgently the underlying causes of this problem.

We talked about COVID. I can tell you that it is quite clear that COVID has had a big impact on young people, both their mental health and their engagement with education, and I would ask: what has been done to address that? Has there been an audit, for example, to identify the children who have disengaged from education during the pandemic? Have there been any special efforts made to support the families of those children to ensure that they are re-engaged, that they are safely housed?

Mr CRANDON: Coming back to my question, you are going off on a tangent of asking us questions about this—that and the other thing; my questions relate to the balance that you need to strike where you are the commissioner for human rights. In terms of the balance that you need to strike, how have you come to where you are? Clearly the laws as they currently stand are not working. These changes and what you are saying about various so-called experts saying that these will not work are their opinions; others believe that they will work. It is all very well to smile about it and say, 'Yes, okay, well, if you don't listen to them,' but at the end of the day the laws that we have now are not working. These laws are proposed with a view to watching it carefully—

CHAIR: Member for Coomera, you are getting into a bit of a speech here.

Mr CRANDON: I am sorry, Chair. Coming back to the balance, can you tell me what you have considered, as far as the balance is concerned, for the victims of these people?

Mr McDougall: With the greatest of respect, I think I did answer the question. We obviously do have to balance the rights, as I mentioned earlier. Ultimately, when it comes to individual questions of bail, that is a question for the judiciary to determine, weighing up the various risk factors and, rightly, the parliament has a role in collaborating what the laws are in that risk assessment.

Mr WHITING: Commissioner McDougall, you said originally that the Queensland government used this in terms of right to life and the response to the COVID pandemic. I note that the Australian Human Rights Commission on COVID said that restrictions on human rights can sometimes be justified if they are necessary to protect public health, so surely there are circumstances where restrictions on human rights are necessary to protect public safety.

Mr McDougall: I would not disagree with that. Again, it is a question of balance, but I keep going back to the point that if you are going to introduce laws to improve community safety then you need to look at the evidence as to whether they actually will improve community safety, and before you you have submissions citing credible evidence from academics, including research from the United States—

CHAIR: Commissioner, I do not mean to interrupt you, but you are going over the same ground again. You are here to give us advice on the Human Rights Act rather than your view of the correct policy position. The member for Ninderry has a question.

Mr PURDIE: It is a similar question to the member for Coomera's but going to that evidence that you are talking about from academics. This committee is going to be hearing from Michelle Liddle soon. Her son Angus was 15 years old when he was walking home on a Friday night and he got stabbed to death by, as we know now as it has been publicly reported, two repeat violent juvenile offenders who were out on bail after previously stabbing someone else and committing violent crime. While they were out on bail for that previous crime, they were breaching their bail. The police were powerless to intervene at that stage because breach of bail was not an offence. He has lost his life.

After getting charged for that murder, they both get released on bail again and they continue to breach their bail. When the Beaumont-Liddle family report that to the police, they are told that the authorities and the police cannot take any action because breach of bail is not an offence.

You have mentioned a couple of times today about the academics and that overwhelmingly there is no evidence that this will improve community safety. I do not want to pre-empt what this committee might hear later today, but from us talking to victims—and not just this family but also the Lovell family from North Lakes, and there have probably been eight to 10 other innocent victims in similar circumstances—they would probably dispute the evidence that you are saying that overwhelmingly particularly breach of bail being an offence would not improve community safety. What do you say to those people with the lived experience who say to us that it will?

Mr McDougall: As I mentioned before, I have acute empathy for the victims of these tragedies, and clearly there is a logical argument that taking children off the street and putting them in a jail cell, where they are unable to commit an offence, is an effective solution. Clearly that is the intention behind this bill. However, those children will eventually get out and what we know from the evidence is that they are going to be more likely to reoffend and cause harm to other victims. I do not know that I can make it any clearer than that. Thank you, committee.

Mr PURDIE: You talked about breach of bail and putting these kids into detention—and the kids in watch houses is another conversation—but do you agree that giving the police the powers to intervene early by making breach of bail an offence so that if someone breaches that bail police can intervene early to correct that behaviour and put them back before the court, before they go on to commit another violent, substantive offence like a murder, would improve community safety? We are not talking about—

CHAIR: We are asking the Human Rights Commissioner to make a determination on a policy decision, which is—

Mr PURDIE: Mr Chair, I have asked a couple of times now that there is no evidence to support that—

CHAIR: I understand that. I am not sure it is the commissioner's role but I will put the question to the commissioner.

Mr McDougall: Chair, I think I answered that question with the earlier answer, to be honest.

Mr TANTARI: Commissioner, wrapping it up, is it really possible to reconcile protecting the human rights of youth offenders with the objective of strengthening community safety?

Mr McDougall: That is a really good question. I think, yes, it is. Queensland has found itself in a position now, because of the factors that I mentioned earlier, where we have a crisis and it is difficult to respond to. There are plenty of jurisdictions around the world that do not grapple with these problems. They do not have large numbers of children in detention and they do not have policies and processes in place that will funnel more children into the criminal justice system so, yes, it is possible to protect the rights of children and also protect the rights of victims.

CHAIR: Thank you, Commissioner, for your feedback. I ask the Queensland Law Society and the Bar Association to step forward.

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

BENJAMIN, Mr James, Barrister, Bar Association of Queensland

FOGERTY, Ms Rebecca, Vice-President, Queensland Law Society

HODGE, Ms Kristen, Co-Chair, First Nations Legal Policy Committee, Queensland Law Society

REECE, Ms Laura, Barrister, Bar Association of Queensland

CHAIR: I welcome representatives from the Queensland Law Society and the Bar Association of Queensland. Would you like to make an opening statement before we start questions?

Ms Fogerty: In opening, I would like to respectfully recognise the traditional owners and custodians of the land on which this meeting is taking place, Meanjin. We note the over-representation of Aboriginal and Torres Strait Islander children and young people in the child protection and youth justice systems whom this bill, if passed, will disproportionately impact. The Queensland Law Society acknowledges that youth justice has a significant impact on our community. We recognise the suffering of victims and their families. We stand with other peak bodies in our strong opposition to this bill.

This bill will not keep Queenslanders safe. It fails to recognise the underlying causes of crime. It fails to integrate evidence-based policy. We join with other stakeholders in expressing our disappointment in the government's approach to consultation and that the Human Rights Act has been overridden. In providing our evidence today, we emphasise that we are apolitical. We seek to promote good law for the public good. We welcome any questions you may have.

CHAIR: Thank you. Mr Benjamin, would you like to make an opening statement?

Mr Benjamin: The Bar Association also acknowledges the traditional owners of the land on which we meet and also acknowledges those things expressed by the Vice-President of the Law Society about the over-representation of Indigenous people in our legal system, our criminal justice system and our child protection system. The Bar Association is grateful for the opportunity to make submissions today given that the extremely short deadline for the provision of written submissions meant we were unable to finalise a considered response in the time frame. Fortunately, our colleagues at the Law Society, with their significantly greater membership base and with whom we appear today, were able to do so. The association notes and joins in the submissions made by the Queensland Law Society.

The Bar Association also opposes the amendments that are proposed. The greatest concern for the Bar Association is that this represents the first proposed use of section 43 of the Human Rights Act. That section recognises within its own wording that the suspension of the operation of that act is a power that is exceptional and is only to be used by the parliament in exceptional circumstances. The association has grave concerns about the extent of the supposed crisis actually warranting the suspension of the operation of that act in the present circumstances and notes what was said by the Human Rights Commissioner in that regard.

The Bar Association is extremely concerned that the first time parliament is considering overriding the operation of the Human Rights Act is in relation to laws dealing with the custody and sentencing of children. Children, of course, have no meaningful way of participating and having their voices heard in the parliamentary process. They can only rely on the adults in the room. To suspend the Human Rights Act and its operation to ensure the ability of the executive to detain more children for longer is fundamentally contrary to what is known to work. The creation of a breach of bail offence will only serve potentially to increase the numbers of children in detention. This, of course, is contrary to what the youth justice system and the Youth Justice Act are intended to achieve. The crisis in our watch houses is well known and has been referred to already. To increase the numbers of children in detention will only make an already deplorable situation even worse.

Finally, the association notes as part of its opening statement, as the Law Society notes in its submission, that bail for children is different from bail for adults. Bail involves a written signed promise to do things and failure to do them can result in a penalty being imposed. The ability of children to sign a written contract to perform certain obligations is, under our law, omitted and rightly so. The

ability of anyone who has signed as the other party to such a contract to enforce the contractual obligations of children is also limited for the same reason. With the introduction of a beach of bail offence effectively saying that children can be locked up for failing to keep a promise seems at odds with what is otherwise a legal presumption.

Mr STEVENS: I have a question for Mr Benjamin who is fairly well cloistered, I am sure, in his barrister's office.

CHAIR: Order!

Mr STEVENS: To glibly say that a supposed crisis is going on out there with youth crime—

CHAIR: Can we have a question?

Mr STEVENS:—ignores all the issues we are dealing with under this bill today. I would like Mr Benjamin to describe how, in reconciling the human rights of youth offenders in this bill, you would change the bill to strengthen community safety? What amendments should we be moving to strength community safety and protect the residents that we represent?

CHAIR: Deputy Chair, I ask you not to be combative with the witnesses. Equally, Mr Benjamin, if you could not respond to that. However, the question does have some substance so I put the question to Mr Benjamin.

Mr Benjamin: Assuming the question is not about my 'cloistered existence'—

CHAIR: Order! I asked you not to engage with that.

Mr Benjamin: The association's job, with respect, Deputy Chair, is not to provide policy advice to the government but to provide submissions in relation to proposed legislation. The Bar Association of Queensland has, as the first object in its constitution, the promotion of the cause of justice. The cause of justice is fundamentally underpinned in the association's submission by a recognition that human rights, whilst a creation of statute in this jurisdiction, are important and the human rights of children, because as I have said children cannot meaningfully participate in this process, are even more so because of that. The association is not coming before this committee with proposals on how to better achieve the safety of the community. The association is here to provide feedback and answers in relation to the proposals that have been put forward by the government, by the parliament, by the minister who has introduced this bill.

Mr STEVENS: Mr Benjamin, could you explain that in your submission you recommend the removal from the bill of clause 20, 'Sentencing principles', that a court must take into account any bail history. You want that removed, as I understand it, or 'bail history' to be defined in a 'clear, precise, narrow and unambiguous way'. Can you explain why the society has issues with bringing bail history before the court?

Mr Benjamin: I cannot speak for the Law Society, Deputy Chair. I can only speak for my association. My association has concerns about that largely because anything that serves to fetter the exercise of judicial discretion by telling judges what they must and must not have regard to necessarily ends up with results that do not and are not able to take into account all relevant matters. The experience of our members who appear in these jurisdictions on a regular basis is that judicial officers already have regard to those matters when they are relevant. The question of a child's bail history, if relevant, will be included in presentence reports prepared by the department and given to the court to assist in the sentencing process. A child's history of bail will necessarily be known by any judicial officer who is making another decision about bail. The ability for those matters to be taken into account already exists. The association has concerns with any proposed laws that serve to highlight one matter in sentencing at the expense of others, which only serves, in effect, to fetter the full and open operation of judicial discretion.

CHAIR: Mr Benjamin, one of the things we are putting forward is that judges have a greater regard, in some circumstances with repeat serious offenders, to public safety. You do not see it as the role of the legislature to ask judges to emphasise public safety?

Mr Benjamin: Chair, the role of the legislature is to pass laws. I accept that and those laws are then implemented and interpreted by the judiciary. Of course it is the role of parliament to tell the judges what the law is that they must apply. The Youth Justice Act, as part of the charter of youth justice principles found in schedule 1, already has, as the very first youth justice principle, that the protection of the community is important. The Court of Appeal has interpreted the Youth Justice Act to confirm that the charter of youth justice principles is not set out in any sort of hierarchical fashion. Because it is put in numerical order is not to say that one principle takes precedence over any of the other principles that must be applied. The association's submission is that that is exactly the way

things should be. Whilst legislation can guide the exercise of judicial discretion, it needs to do so in the most broad and open way possible so that those who are tasked with making the difficult decisions are able to bring to bear a consideration of the issues that is appropriate to the particular circumstances of every case.

CHAIR: If we feel that there is not enough attention being paid to public safety, should we be powerless in the face of giving any kind of guidance with the full ability to interpret that in a proper statute, but not to give guidance about public safety? Should we be powerless to do that?

Mr Benjamin: With respect, Chair, I am not suggesting that the parliament does not have the power to do so and I am not suggesting that the parliament ought to be powerless to do so and I do not think anyone from my association would do so. The Bar Association has a long history of supporting the broadest possible exercise of judicial discretion in individual cases.

Mr TANTARI: My question is to the Law Society. From reading through your submission, you are very supportive of a number of the areas that the government currently has in regards to restorative justice, particularly those areas regarding multiagency agreements and that sort of thing. Given that, do you have any suggestions about how the bill's provisions relating to breach of bail could be amended to better balance the rights of children with the need to strengthen community safety?

Mr Bartholomew: I think what needs to be recognised and understood is that the breach of bail provisions only serve to criminalise young people for engaging in what would otherwise be non-criminal activity. There is already a power that exists. The power already exists for the police to apprehend a young person who is breaching their bail conditions, to bring them before the court and to ask for their bail to be reviewed and that bail can then be cancelled. That does happen and happens frequently. That is not a power that does not exist. This beach of bail condition only serves to criminalise that behaviour of the young person and give them a penalty for it and, indeed, so disenfranchising, perhaps, that young person more as a result of that criminalising of what would otherwise be non-criminal behaviour. If they commit an offence as part of that breach of bail, if they are breaching their bail by committing an offence, they can already be charged for that offence and will already receive a penalty for it.

We need to understand that young people are different from adults. Their bail is different from adult offenders in that when we are in the children's jurisdiction we acknowledge that young people's brains are still developing, that they may need more support and that they may need more assistance. What we see is that young people going before the Childrens Court are often placed on much greater and much more onerous conditions than we would otherwise see for adults. Courts put those in place aware of the fact that young people need that additional support so the risk of them breaching those conditions is much higher than it would otherwise be for adults. There are significant concerns that the society has then about penalising those children, criminalising them and then forming part of their criminal history.

Ms Fogerty: I will just add on the issue of bail history that that is part of the reason we expressed concerns about the broadness of that phrase. Bail history might mean a child did not report in compliance with a reporting condition of their bail because there was no parent to take them to the police station or they had no money for public transport to get there. That is non-criminal behaviour. It is questionable whether it is behaviour that should be the subject of a specific statutory provision to be held against the child.

CHAIR: That will be put before the magistrate.

Mr CRANDON: Mr Benjamin, in your opening submission you criticised the government for its lack of consultation over an extended period of time. I agree that the government could have done much better in terms of the consultation process. You do not get any argument from me on that.

CHAIR: Except in parliament when you said we should have moved it last week!

Mr CRANDON: I take exception to what you have just said there, Chair. In January, we called for parliament to resume early so we could have dealt with it. Mr Benjamin, our goal as members of parliament is to keep our community safe. There is much more that needs to be done. Again, you do not get any argument from me in that regard. What of about the rights of the victims, many of whom are also children, as alluded to a short while ago by the member for Ninderry?

Mr Benjamin: The rights of victims quite properly have a role to play in the judicial process, and they do. I prosecute and I defend; I have seen both ends of that bar table. I have sat in court representing the people whom we are talking about today and listened to the families who have lost their own children read harrowing victim impact statements to the court. The law recognises the rights

of victims to be heard as part of that process. Where the greater difficulty arises, with respect, is in the use of the law as a deterrent. What that envisages is the protection of future victims. That presupposes the existence of a victim and to some extent presupposes the circumstances that that victim is going to find themselves in. The rights of people who have been victims of crime to be part of the process that deals with the crime of which they are a victim is, as I say, already well recognised and is a very important part of the process. Where the association sees difficulties is in balancing future rights or imagined rights against existing rights of children. That is what this bill seeks to effect—the existing rights of children and not the future rights of other victims.

Mr WHITING: Mr Benjamin, I follow up on question from the member for Mermaid Beach on the term 'supposed crisis' that you use. Is it 'supposed' in that the rate of offending is not as widespread or is it 'supposed' in that the impact of offending is perhaps not as great as Queenslanders feel?

Mr Benjamin: The Childrens Court report includes within it reports on statistics from the previous year of matters that have come before the court. It relies on statistics kept by the court about findings of guilt that have been made, statistics kept by the court about which of the offenders dealt with in that year have been dealt with previously—those who are recidivist and what offences they have previously been convicted of. What the data recognises is that we are talking about a very small group of children responsible for a large number of offences, but these laws and the proposed laws will not only affect those children who are recidivists. I accept that there are parts of the bill that are proposed to address that very issue, but the proposed amendments to the acts in question will not just affect those children and that very small cohort. This represents a suspension of the Human Rights Act in relation to section 29 of the Bail Act for all children regardless of the seriousness of the criminal offence they are facing and regardless of their history or absence thereof. It suspends the operation of the Human Rights Act for a child who is 14 who has been brought before the court for the very first time on a shoplifting offence, is granted bail with a condition that they must stay at home unless in the company of their parents and they leave home without their parents even though they have never been in trouble before. They are going to be committing a criminal offence.

CHAIR: I make two points: firstly, a magistrate gets to make a judgement about that; and, secondly, you are officers of the court, is your position to encourage that the directions of the court, even if applied to children, not be followed? That seems to be the substance of what you are arguing.

Mr Benjamin: I would never make a submission to the court that any judicial officer—magistrate, judge or whoever it may be—not apply the law that exists. That would be contrary to the oath I took upon my admission. That does not, in my submission, prevent this association from making submissions on proposed laws. Ms Reece would like to add something.

Ms Reece: I add briefly to the question from the member from Bancroft as posed to my colleague. I recommend to the committee a decision of Her Honour Judge Fantin yesterday in the Childrens Court of Queensland at Cairns. The citation is R v TA 2023 Queensland Childrens Court 2. It is published on the court's website. The reason the members of the association come down to Parliament House to talk about a 'supposed crisis' is, unlike the statistics that the Childrens Court report provides, we see firsthand the circumstances not only the offending that offends rightly our community but also the circumstances of the young people. This young person, very briefly, Chair, was a party to a robbery. The statistics of robbery offences, for example, will include a number of children who are there as parties as part of their criminal responsibility. That young person was kept in solitary confinement. They had foetal alcohol syndrome and they had ADHD. For a vast majority of the time that they were kept in youth detention they were in solitary confinement. These are the real concerns that members of the association hold about laws which provide no alternative but to lock children up.

Mr Bartholomew: Perhaps if the Law Society could just endorse those comments by Ms Reece and—

CHAIR: Sorry, these are practices under the current laws that you are bringing up? What is the relevance of the judge's decision?

Mr Bartholomew: Perhaps, Chair, I could assist you because that is what I did—

CHAIR: Order! I will turn to the member for Ninderry for a question.

Mr PURDIE: Mr Benjamin, you talked before about the full and open judicial discretion and how important that is, and I think we all agree with that. Something that is not in this bill—but we have been asking questions today about how we can improve it—is a lot of people have already raised with us removing detention as a last resort from the youth justice principles. You explained to us before it is not a hierarchy. The No. 1 principle being community protection is not necessarily the

overarching one. We have seen in appeal court decisions, as you would have too, where judges often go through and highlight repeat offenders, the violence, the issues around community safety but finish with, 'I am mindful that detention must be the last resort,' so subsequently they choose another option. What are your thoughts on detention as a last resort being in the youth justice principles, bearing in mind how supportive you are of full and open judicial discretion?

Mr Benjamin: The recognition that the detention of children should only occur as a last resort and only for the shortest period appropriate in the circumstances is a recognition of this country's obligations under international law.

CHAIR: But nonetheless it is a direction to the judiciary?

Mr Benjamin: It is. It is a direction included in the legislation based on what is understood to be best practice in dealing with young offenders. The fact that detention must occur only as a last resort and only for the shortest appropriate period does not mean that young people do not get detained. I have young people—

Mr PURDIE: In relation to judicial discretion it does essentially bind magistrates when making a decision that if other options have not been exhausted they cannot use detention—

CHAIR: I think we have made the point and I think the point has been answered.

Mr Benjamin: With respect, it does not bind magistrates in that regard at all.

CHAIR: It gives direction to.

Mr Benjamin: It does. If a sentencing judicial officer, be they a magistrate or a judge, is dealing with a child who has committed a serious offence, even if that offence is their first offence, if it is serious enough the child will be detained. I have personally represented young people who have been convicted of murder who have never otherwise been convicted. They are detained. They are locked up. They are punished in a way that is appropriate having regard to their age and the fact that they are young at the time. The fact that detention must be imposed only as a last resort is not something that is binding on judicial decision-makers, with respect.

CHAIR: Ms Fogerty, I think everybody on the panel is deeply troubled by the high rates of incarceration of First Nations Indigenous children. However, we also see in the commission of those crimes danger being presented both to themselves and to others, especially with unlicensed use of a motor vehicle. The suggestion of the Law Society is not that the current laws be removed because of the disproportionate number of Indigenous people incarcerated or being charged. I may not have made that absolutely clear but I will give you some—

Ms Fogerty: Pardon?

CHAIR: I may not have been absolutely clear, but I think you got the gist of what I was asking.

Ms Fogerty: You were not absolutely clear, with respect, but I will nonetheless do my best. We are concerned to ensure that there are things like increased legal aid funding and funding to the Aboriginal and Torres Strait Islander legal services as well as to the legal assistance sector to ensure more protection of Indigenous children. We want to see intermediaries such as speech and language therapists. We want to see speech pathologists being provided to children in the youth justice system. We want to see a separate children's court with imbedded social support services available as factors that we think will decrease all types of crime, including motor vehicle related crime, rather than an increased maximum penalty.

Ms Hodge: I just wanted to make some general comments because I have been listening to everybody and to everybody's questions. I recognise that you are trying to do something quickly and trying to stop something in the short-term, but we have been talking about these issues for quite some time and we sat before a committee in 2019. My greatest concern is that a government that stood in front of us and dropped a treaty bill on the same day turned around to put our children at more risk of being in prison. Some 70 per cent of our Aboriginal and Torres Strait Islander youth are likely to be detained, and they are the ones in these youth detention centres. It goes back to education. It goes back to removal from culture and from land. One of the aunties said to me yesterday, 'I pictured a painting when I saw that the government was looking towards their Path to Treaty, but now that painting has been changed because we are moving forward as adults but we are leaving our children behind.' I know that you are trying to do a quick fix and trying to protect everybody at every level, but putting children in these types of institutions where they feel completely isolated is going to create more criminals. It is going to create more crime. It is going to create violent offenders in our youth.

If we can focus on the social aspect as to why Aboriginal and Torres Strait Islander children or why youth in general are in these positions and we put our resources into that, then we will not need to use detention as a last resort because we will have addressed the issues that are causing it. These

legislative provisions require that the child is making an informed decision and that they have checks and balances. They are going to know that 'if I enter a home with somebody else and pretend I have a weapon or I have a weapon at the age of 16, potentially that means I am not going to see the outside of a prison until I am 30'. How are our children going to develop from that level when they are being put into solitary confinement? We need to address the cause of crime, not make punishment the way that we prevent it.

CHAIR: What is tough for the committee though, Ms Hodge, is that—remembering that in that scenario where a child is not going to see the outside of a cell until they are 30, a person died at the other end of that equation—the overwhelming majority of children, the overwhelming majority of Aboriginal children, even as 16-year-olds, know that equation and know that doing the right thing and not putting others in danger is important. How do we affect those who are repeat serious offenders who are undertaking these actions?

Ms Hodge: Put resources into them, increase support, implement programs. Obviously there are fundamental breakdowns in the education system and the social system. In our schooling system, if we focus on what the social needs of the child are—I am not saying that because of somebody's background or their nationality they need special consideration, but we are dealing with a group that are the most disadvantaged in Australian society. We have legislation implemented at a Commonwealth level. We are also looking at a path to treaty. How do we look at creating a future together if the creation of a future together leads to all of our children going to jail for non-criminal offences?

CHAIR: As the member for Logan, overwhelmingly the children in Logan who are going to be affected by these laws are not Indigenous. Should the laws only affect South-East Queensland?

Ms Hodge: No. I do not think that is the case. The issue is that you are implementing a piece of legislation that is going to affect every single person under the age of 18. The people who are greatly affected by the current laws, which you are strengthening—70 per cent of the population is Aboriginal and Torres Strait Islander. Those considerations do have to be brought into this—the trauma of colonisation, reconciliation action and the path to treaty. How do we get to a treaty process when our first option is to put our children in jail?

Mr WHITING: Ms Hodge, you have talked about some issues that are outside the bill. Have you considered those other issues that have been announced at the same time? I am talking about the on-country programs, the investment in community-based programs, the expansion of intensive case management and the expansion of co-responder teams. Have you had a look at those things that are outside the bill that might affect your view of the bill itself?

Ms Hodge: I do think there are programs around that could contribute. Right now, it appears that all of those are going to go into this bill. It is going to divert resources and divert police powers into the operation of this bill and it is going to give more discretion. Yes, I see there are some aspects of public policy that are going to contribute but, if we are spending all of our resources to putting people in detention, that is not going to free up much space to deal with the reasons youth are committing crime. Those programs are successful and can work if they are implemented properly, so why aren't we putting resources into those programs instead of into building new detention centres?

CHAIR: The two things are not necessarily contradictory, though, are they? We can work on intervention at earlier ages and also create serious consequences for those who have created serious hurt for other Queenslanders.

Ms Hodge: Yes, but you are acting like creating a more serious mechanism is going to stop recidivism by a small number of groups, potentially exposing other youth to the criminal justice system who would not ordinarily be exposed. It is not just strengthening with the laws as they are now to deal with recidivism. This has the potential to pull other people into detention centres that the current laws do not, and that is the concern. We are already at capacity in our detention centres and we are putting in laws that at any point are going to see more people in jail.

CHAIR: There being no further questions, we will move on to PeakCare Queensland. Thank you very much for your contribution.

WEGENER, Mr Lindsay, Executive Director, PeakCare Queensland

CHAIR: I welcome Mr Lindsay Wegener from PeakCare Queensland. Would you like to make an opening statement before we move to questions?

Mr Wegener: Yes, I will. On 28 January this year, an open letter to the Queensland parliament was published as an advertorial in the *Courier-Mail*. The subject of this letter was 'Stop youth crime—get smarter not tougher'. Over 40 organisations and an additional 20 individuals—predominantly respected academics—submitted their logos and names to serve as signatories to this letter. Since then, PeakCare has created a webpage to allow others to add their logos and names to the letter. There has now been an over 50 per cent increase in the number of logos posted on that webpage, and these logos are continuing to be received. It should be noted that each of these logos represents the views of scores, if not hundreds and sometimes thousands, of people who work for or are associated in other ways with those organisations.

It serves as a reminder of the strength of opinion held about getting smarter, not tougher, in the ways in which we deal with youth crime. This is further highlighted by the opinions expressed within the vast majority of submissions that the committee has received in response to the bill. As noted in PeakCare's submission, the bill appears to have been based predominantly on the premise that: firstly, the threat of harsher punishments will deter children and young people from offending, despite clear evidence that harsher punishments serve little or no deterrent value; and, secondly, the incarceration of more children for lengthier periods of time will restore safety within their communities. This may be true for the period of their incarceration, but the evidence indicates that their incarceration will increase the likelihood of more serious and frequent offending and their escalated progression into a lifetime of involvement with the criminal justice system. In other words, the bill is a long way off from presenting smart solutions.

The starting point for these discussions and debates should not be based on whether the approaches to youth crime are too tough or too soft. If that is the starting point, the messages contained within our open letter have not been heard or not understood or, for whatever reason, simply rejected. It is not about being too tough or too soft; it is about getting smarter.

During the hearings you will hear the opinions of many people like me who have significant reservations about this bill. You will also hear from representatives of people who have been the victims of crime. The groups you will not be hearing from are the children who have or have allegedly committed offences and have been drawn into the youth justice system. To me it seems incumbent upon this committee to also hear from these children and, importantly, to visit the youth detention centres and watch houses used to incarcerate. If you elect to speak to these children, my suggestion is that you consult with the appropriate First Nation leaders and the organisations about the appropriate protocols you should observe, as the majority of the children you speak with will be Aboriginal or Torres Strait Islander children.

There has been commentary of late stating that youth crime occurring in Alice Springs has little difference with youth crime that is occurring in townships such as Mount Isa and Townsville. If that is true, it is likely that you may hear similar comments made by Aboriginal children to journalists who visited Alice Springs, as reported on by the *Courier-Mail* on 27 February—

"We have got reason to run amok in this town, everyone hates us and is racist," ...

"They call us little rats, little cockroaches, little black kids, little black beetles ...

"It doesn't make us feel good."

Hopefully, the children you speak with will state that this is not the case in Queensland, but there is only one way for you to make sure.

Closer to home you may hear from the children who have been turned away from youth homelessness services in Queensland because they are under 16 years old, as reported on in today's edition of the *Courier-Mail*. Of course you do not need to be 16 before you are eligible to be incarcerated within a youth detention centre or a watch house. Currently you can be as young as 10 for that to occur. PeakCare urges the committee to reject this bill and insists upon solutions being found that are smarter, not tougher.

Mr STEVENS: Thanks, Mr Wegener. One of your key concerns is that some children and young people outside the targeted cohort will be swept up in the reforms the bill is proposing and this will reduce the impact of other elements of the government's Youth Justice Strategy to divert these children and young people away from the adult criminal justice system. Can you explain how you

think the bill will capture these people outside the intended cohort of the bill? Also, what amendments to the bill would you suggest will protect the people outside the cohort the bill is trying to address?

Mr Wegener: I will answer that in two ways. One is about the specific provisions of the bill. The previous speakers have outlined some of the reasons they believe it will increase the likelihood of children escalating further into the youth justice system. The other though is, as I stated in our submission, we are really curious as why it is that in 2019 it was stated that around 10 per cent of young people offending commit the majority of offences and in recent months that has escalated to 17 per cent. We want to know why that is the case. It has been that it has coincided with an increase in vigilantism and calls by community groups, unfortunately, to harm children, not only those who have been engaged with the youth justice system but children—and that is of incredible concern to us. We are also aware that those kinds of—

CHAIR: Do you have any evidence of that or are you just noting the correlation?

Mr Wegener: I think any Google search will indicate it. But it is true that certainly—

CHAIR: Evidence.

Mr Wegener: One of the things that was posted that affected one of our member organisations that provides residential care services were calls made on a Facebook page for local residents to break into that centre and hang the children that are living there. That is an abhorrent thing.

CHAIR: You made a link between those actions on Facebook and a—

Mr Wegener: I think if you look at that—

Mr WHITING: Words on Facebook.

Mr Wegener: Yes, well—

CHAIR: Excuse me, Mr Wegener. Can I finish my question?

Mr Wegener: I think so—

CHAIR: Order, Mr Wegener!

Mr Wegener: Well, I am curious—

CHAIR: Order, Mr Wegener! Can I finish my question?

Mr Wegener: Yes, sorry.

CHAIR: I am the chair of the committee, so I prefer not to be interrupted, as well as other members when they are putting questions to you.

Mr Wegener: I am sorry. I did not hear you.

CHAIR: You said that things were put on Facebook and that was the cause of increased crime by a broader range of children. That seems to be a call unsupported by evidence.

Mr Wegener: I think it is incumbent upon the committee to examine what it is that is occurring. Certainly we have seen an increase in calls to vigilantism. We have seen an Aboriginal boy murdered in Western Australia. We have seen the opposition leader call for an end to vigilante groups and threats being made against children—I applaud him for doing so. We have seen hostile action directed to children in care. I think they are concerns. If we are curious about why it is that that 10 per cent has increased to 17 per cent, we need to be asking the question why, and we have not yet seen the analysis of that and an understanding of why.

As previously commented on, I would applaud the government for many initiatives that they have undertaken to ensure that young people are diverted from the youth justice system. We have heard examples of those services that are working incredibly well. There simply are not enough of them. The kind of rhetoric that is being espoused and the advertorials by the government in the paper about getting tougher on youth crime are not things that are just read by the community. They are heard about and responded to by young people themselves. So we can expect from young people's behaviours that there will be at times retaliatory action or the kinds of reactions by those children in Alice Springs: 'People hate us.' They think they are not wanted. They are told they are not wanted. How do we expect them to behave in the light of that kind of feedback from their communities?

Mr TANTARI: Mr Wegener, having read through your submission to this committee, I want to go back over some of the comments you have just made, in particular around getting smarter with strategies. You are critical of the government and say that the bill appears to be centred solely on getting tougher. You just mentioned that many programs have been put in place by this government over many years, including intensive case management and restorative justice. I have been told by the youth minister that somewhere around 20 to 25 programs have been put in place by her

department with regard to managing some of the issues relating to youth crime, and that is in addition to those programs that have been put in place by the police minister. Can you elaborate on what you believe should be smarter programs, given we already have many programs in place?

Mr Wegener: I think you have given good examples of smart programs and, as I say, we applaud those initiatives that have been undertaken. They were not reflected in the advertorials placed in the *Courier-Mail* about getting tougher. Where is the rhetoric about what works? Where is the rhetoric about what getting smarter means? There are additional things the government can do very constructively, which is about expanding these programs. We also know that more than 50 per cent of children who enter youth detention centres have not been attending school, so why is that the case? Why are the children who are at risk of entering into the youth justice system the same children who are at risk of school disciplinary absences? They include children in care, Aboriginal and Torres Strait Islander children and children with disabilities. The same groups that are over-represented in youth justice are over-represented in school disciplinary absences.

Mr TANTARI: Mr Wegener, are you saying that it is solely the responsibility of the government?

Mr Wegener: No, I think it is the responsibility of everyone. I certainly would say it is not the responsibility only of the department responsible for youth justice. This requires a whole-of-government investment. Every government department and agency should be on the same page, but so too should the community. If they are communicated with in a way that tells them how they can contribute to this then we should be doing so.

In terms of what is needed, where are the assessments that are occurring for every child in preschools and primary schools about the impact of fetal alcohol spectrum syndrome? We know that is a major feature of children who are in detention—that is, they have neuro disabilities that have not been detected and treated, and it is a major feature of those children who end up in youth detention centres. That needs to be addressed outside of the youth justice system but it needs to be addressed much more fully within schools. Teachers and schools need to be better resourced to meet the requirements of those children to keep them in school. We know that nonattendance at school is a major precursor to involvement with the youth justice system. We want to see more smart solutions like that. That is where an investment will really make a difference.

Mr CRANDON: Mr Wegener, I agree with everything you have said. We have to do all of that, but we are dealing with the pointy end of the issue right now. That is what we are dealing with here—the law aspect of this. With all of the wonderful work that you and others have done, we have seen an escalation in the violent crimes being perpetrated by a small minority of repeat offenders and an increase in that number. You ask: why the increase from 10 per cent to 17 per cent? Is it not in part that the current laws are not working?

Mr Wegener: I think you are certainly correct in asking why. That is why we are asking the question why it has increased so rapidly from 10 per cent to 17 per cent.

Mr CRANDON: My question is: is it not in part because the current laws are not working?

Mr Wegener: I do not believe so, because the current laws address something that is happening; they do not address why it is happening. To be smart we need to address the question 'why has it happened?' It is not about reacting to the symptom; it is about addressing the cause. That is what we think is smart.

Mr CRANDON: You do not accept that in part the current laws are faulty? You do not accept that at all? You are throwing that out completely?

Mr Wegener: The current laws or the bill?

Mr CRANDON: My question is: is it not in part that the current laws are not working? Do you accept that has something to do with it?

Mr Wegener: The current laws are not actually under question; it is about this bill. What I would say is that we can always do better and the current laws could be improved. I am saying that I do not think this bill improves them.

Mr WHITING: Mr Wegener, one of the things you talked about was mentioned previously by the Bar Association and the Law Society, and that is the claim that young people who are not recidivists would be caught up in this. Would a declaration of serious repeat offender help ameliorate the situation, making sure those are the ones who are caught up within these new laws?

Mr Wegener: Not really. If you look at the research, it indicates really clearly that the younger a child engages with the criminal justice system and their first encounter rapidly increases their chances of further encounters, so when we have laws created that increase the likelihood of them

being detained then we increase the likelihood of them reoffending. In that way, we think this will actually increase it. As is borne out of really well-known research, it increases enormously the propensity for children to be involved in the criminal justice system the earlier they become involved in criminal justice matters.

CHAIR: I think that is a statement of the obvious: the younger a person is doing criminal acts, the more likely they are to continue to do criminal acts. It is not very meaningful in public policy terms, is it?

Mr Wegener: I think it is. It does actually say in public policy terms where you need to have policy that supports where resources are allocated—

CHAIR: But in and of itself, if someone is creating a criminal act at a very young age compared to those who are not doing criminal acts at a young age, they are more likely to be involved in criminal acts in the future. That is not—

Mr Wegener: If they experience a period of detention and they experience—

CHAIR: That is not what you said, with respect. You said those that are involved in criminal acts.

Mr Wegener: If those criminal acts and their antisocial behaviour is dealt with through the criminal justice system, including in particular their detention, it will increase the likelihood of—

CHAIR: To rephrase it, where a magistrate as a judge has seen their behaviour as so much worse than the behaviour of others engaged in criminal acts that they take it upon their judicial discretion to give them a custodial sentence, you are saying that that is not the same cohort as anyone else? They are kids that have been judged by the magistrate to have done a much worse act than others. So all you are saying is that those who have done much worse acts than others—at least, as judged by the magistrate—are more likely to continue to do criminal acts. That is hardly a revelation, is it?

Mr Wegener: I think it is that if those interventions occur that divert—

CHAIR: You are implying that the same group of people, the young person who is engaged in such a bad criminal act that a magistrate has made the determination that they require a term of detention, is not the same group of people or the same people who the magistrate has determined did not warrant a period of detention.

Mr Wegener: I am not sure if I quite understand what you are saying.

CHAIR: I do not think you do.

Mr Wegener: No. Under the current laws, if the actions of a child warrant a period of detention, then of course the court is able to sentence the child to a period of detention, and they will do so. What it means, though, is that, in broadening who it is and the factors that the magistrate has to consider, it starts to limit the magistrate's ability to divert those children into other responses that are more effective with those children.

CHAIR: The law deals with serious repeat offenders—they have to be classified as such through criteria—so we are not talking about first offences, by definition. We are not talking about extremely young people who engage with the criminal justice system for the first time. We are talking about serious repeat offenders who, over a number of serious and repeat offences, have created hurt and hardship to others.

Mr Wegener: It does not consider the frequency of those behaviours. People who work with young people know that often the nature of offending by young people is different to the nature of adult offending. Most offending is done by children in association with their peers or with siblings. We also know that when effective work is done with young people it will mean that that kind of binge offending reduces over time, if there is effective work being undertaken with them. For a young person who has engaged with a peer network that is engaged in regular offending behaviour such as the impulsive behaviours of stealing cars or committing property damage, if that reduces significantly over time but then they relapse, for want of a better term, this locks them into getting more severe punishment. The magistrate needs to be able to consider that, just because they have a previous history, the frequency and nature of their offending should also be considered.

CHAIR: Which can be examined by the magistrate.

Mr PURDIE: Mr Wegener, I just did a Google search and it says you have been in this role since 2011.

Mr Wegener: Yes.

Mr PURDIE: I want to go back a bit. We are all perplexed now and we are asking the question—and you even raised it—why the percentage of repeat offenders has gone from 10 per cent to 17 per cent. I do not have any of these figures in front of me—and I know you do not either, and I appreciate that. The Childrens Court reports in 2014-15 showed quite a drastic reduction in the number of child offenders before the courts and the amount of crimes they were committing.

Mr Wegener: Yes.

Mr PURDIE: In 2015 there was a change of government which did bring in, which is on the record, an overt regime of watering down our youth justice laws on a number of occasions. They introduced a bill to remove further barriers to young people getting bail. Then I know off the top of my head—

CHAIR: This seems to be like a speech here.

Mr PURDIE:—there were 10,000 extra crimes committed by juveniles from 2015 to 2019. You have been in this job for a long time and we are all trying to pick your brain. We are talking about why this level of crime has increased—

Mr WHITING: Point of order.

CHAIR: There is a point of order. Member for Ninderry, are you putting a question?

Mr PURDIE: My question is: do you agree with that? Do you remember those figures? Do you think that watering down the legislation over the last eight years has led to the increase in crime which we are now experiencing?

Mr Wegener: In answer to the first part of your question, I have been a manager of a youth detention centre and the director of this state's youth detention centres for a period of time, so I am very familiar with young people who enter into detention and the kinds of behaviours they have and the kinds of pressures they are placed under that lead them into offending behaviours. I am very familiar with them. In addition to my role with child protection services as PeakCare executive director, I have been a youth justice practitioner and policymaker and, as I said, a manager and director of the state's youth detention centres, so these young people are well known to me. I think the other factor you are talking about is that this is a complex matter, as everyone I think recognises, and certainly the Police Service has recognised of late that the role played by social media in this is also a factor that needs to be considered. I do not think it is the legislation alone. It may or may not have had an impact: I do not know. I think we need to comprehensively do the research and evaluation and understand what it is. Certainly, as the police would say, the impact of social media has been enormous on how not only young people but also other groups behave in relation to young people.

CHAIR: We might now turn to the next witness. We thank you for your attendance here today and the information you have given.

LIDDLE, Ms Michelle, Member, Victims of Youth Crime Collective

CHAIR: I now welcome Ms Michelle Liddle from the Victims of Youth Crime Collective. Although this seems like a daunting process, with six people interrogating you, we are here to listen to you and be respectful. Would you like to make an opening statement? Then we might have some questions for you.

Ms Liddle: To the Economics and Governance Committee in relation to the Strengthening Community Safety Bill 2023, we the Victims of Youth Crime Collective have written this response. My name is Michelle Liddle. I am here because my family have experienced the unimaginable tragedy of homicide loss. On 13 March 2020, our son's life was taken by two recidivist young offenders out on bail. Through this experience we have taken it upon ourselves to source information, as very little is available to a victim's family. From the very beginning, it was clear that all rights were there for the young offenders and very little took into account their victims and the families left behind.

We would later learn that both offenders had taken part in a violent assault at a local train station, where it is alleged they stabbed a youth seven times. This was not a minor crime; this was a serious assault and was only part of several offences committed by both youths before being held in detention. Another was armed robbery—again, not a minor offence. It was after these and other offences both boys were able to make bail. They had only been on bail for a matter of eight weeks or so before they escalated their criminal actions to murder and took the life of our 15-year-old son. We feel that if bail had been made an offence and legislation was in place to make it function successfully we would not be in this position where we are and grieving our son's loss.

Sadly, we are not alone in this situation and have felt the need to form a collective and bring other high-profile families and cases together. These people have also been terribly affected by the bias and imbalance of laws and legislation that form part of the juvenile justice act as it stands now. In most of their cases, young offenders were out on bail or had an extensive history of offending, so it should have been obvious that their release was not a viable option if public safety was to be taken into account.

Again, most of these people were not allowed to mention the name of their loved one's killer or release images of the offenders, yet they had to endure being splashed all over the media and sometimes before they were even aware their family member had lost their life. If it is okay to risk letting the offender's family and friends have access to identifying information in regards to victims and their families, putting them at risk, then it should be equally acceptable for the public, victims' families and victims to be able to access information and images that would help identify people around them who may put them at risk of harm. If we are going to cite human rights, bringing back the balance includes the rest of our Queensland community in the equation.

In regards to support for young offenders and victims, there is very little funding for victims—there was $9 million announced just recently—but there is millions for young offenders. Again, that balance needs to be restored. We need people to be able to access help, support and programs that will make their journey through the court system and their grieving situation more livable. It is so hard for families in this position to have to figure out what are the right questions to ask. People are not forthcoming in giving them information. You sort of have to know what you need to ask already before the question is said. Again, as far as support goes, it all seems to be aimed at the young offenders. Most victims will have to fill out forms and apply for support and that can take years to be approved. That is just not good enough. I feel that is so wrong.

We have severe recidivist offenders able to make bail. We need to put systems in place that actually give the judges something to work with. We are looking at bail—the bill cites that of making bail an offence. We would like to know just what legislation is going to back that up and how that is going to work, because at the moment the judges' and magistrates' hands are tied. Again, that brings us back to the human rights—that is, that young offenders should be held in detention as a last resort. That is protective of the rights of the offender but it does not take into account the rights of the victims or victims that would be made. You cannot cite human rights without including the rest of the public in Queensland in that equation. It goes against that very statement if it is only there for the offenders and not actually taking into account the rights of the victims' families or other people in the community. We think that needs to be looked at again. In that sense, I would like to see it be remodelled and adjusted or amended to be functional to include the rights of everybody in our community whether they are an offender, a victim or just a member of the public.

Mr PURDIE: Michelle, while you are getting your breath, do you want me to ask you a question?

Ms Liddle: Yes, that would be great.

CHAIR: Ms Liddle, thank you for your contribution. I think I speak for the entire committee when I say that we are extraordinarily sorry for your loss and we are thinking of Angus. Member for Ninderry, do you have a question?

Mr PURDIE: Yes. Thank you, Michelle. I know that some other members of the collective could not come at late notice and you have stepped into the hot seat, so to speak, and you have done a great job. I want to ask you an easy question to start with because I know it is something you are passionate about and you have already touched on it. The government has announced, aside from this bill, some investment in a range of programs. What do you think specifically we as a parliament or as a government could do more of to support victims and their families? You have recently gone through this process. I know that you are passionate about trying to get more support for people like you and other members of the collective. What specifically could the government look at to better support you and other victims' families?

Ms Liddle: There are two things, actually. The first is if you could possibly look at amending or removing anonymity for serious recidivist offenders, because that is something that leaves the victims having to go through this long, tedious process of trying to get the missing pieces of what actually happened to their loved one in relation to a homicide or a violent act—so if we could take into account access to information for victims and their families, because it all seems to be geared to the offender. You are locked out of this because of the laws of anonymity, regarding them being young offenders and adolescents. Again, that adds to the trauma of families.

They need information to process this situation and their grief and so they are able to find their way through what is an unknown process to them—of going through the legal process, going through court and dealing with the police and even dealing with the media. It is very hard to navigate what information you are allowed to release. Again, I feel we have to take another look at anonymity and maybe remove that in regards to serious violent offenders. Keep it for young offenders who have done minor crimes or have not continuously reoffended and proved they are going to stay on that road, but use it in the case of offenders we are well aware of who have proven that they are going to continue to be a risk to the public.

The other would be funding and access to help. Through this process, we have seen the court chaplain removed and we have seen court support for adults removed. We are actually going backwards when it comes to access for help, information and support through that process. Also, when it comes to support for counselling and actually dealing with the trauma and getting through the grief, to be able to step forward and take part in this process, we need to back that better. It should be automatically in the case where it is known completely and utterly without doubt that this is their situation and there is documentation and police reports to back that up. Give them access quicker. Make that process shorter. These are people who are barely able to contain a thought, as you will see me struggle today. We are three years in and I find it very hard. Your mind shuts down when you talk about this subject.

Give them support so it is not such a big effort for them to navigate—trying to fill out forms, checking regularly to see about your approval. In our case it took over two years for us to be approved for counselling. That is unacceptable. We have Angus's younger brother, who was 12 years old at the time. We were locked down because of COVID so we could not access face-to-face counselling; we had to fund our own counselling and organise it. At the time, that was hard because Ben could not work. My partner, Angus's father, could not go back to work straightaway. He just was not up to it.

You are in a situation where you do not have an income coming in. You have mortgages but you have needs—you have needs for mental health care and you have needs for physical health care. In this situation, just as much as the mental effect is the physical effect on your body. We find all of that is taken into account for the young offender; all those needs are met. Dental, medical, counselling and education is included—all these processes are on hand for the young offender, but when it comes to victims, you are left scrounging, you are left knocking on doors and you are left searching through a mound of paperwork and trying to make sure you ask the right people in the right areas the right question, which just is not always possible.

Mr WHITING: Can you tell us who makes up the Victims of Youth Crime Collective? I have seen your photo there. There are a couple of familiar faces.

Ms Liddle: It is very fluid at the moment and it is early days. We just wanted people to have a place to go. At the moment on that first meeting, we had—I will not say some of their last names because some of them do not want to be identified—a lady called Anne who had been violently home invaded by our son's killer after he was released on bail for our son's murder. We thought she was a

very important part of this equation. We had Sharon who was not so much a victim, but she also was affected by the youth justice laws and legislation. She has an ice-addicted son who is an offender. To provide balance and out of respect for the courage it took for her to come to us as a group after what we have all endured, we were happy to have her as part of that because she, again, is a key and important part. She cannot access any successful help in trying to stop her son going further down that road. The hands of the police are tied, and she finds as a parent she has very limited backing through the courts to put her in a position to stop her son from going further down that road. Then we had Lee Lovell, who you would know; he lost his wife, Emma, just recently. It is early days for him.

People are just wandering around. They do not know where to go initially. You get your little pack, but it is not enough. You have to have more information than that. There is a broad spectrum of things that you have to then begin to understand in regards to even the hospital and information they can release in dealing with the police, in the court system, your part in that and what you are legally allowed to do or not, and what you can access. Lee is there.

Then we had Russell and Ann. You will know their case very well: they lost their son, Matt, his partner and baby Miles after being run down, unfortunately. They have come on board because, even at this stage down the road, they are still struggling to navigate just what they are supposed to be doing, or what they can do, and what help is out there. That is ridiculous. Like I said, this should be at the beginning of these people's experiences—straight up there should be more support. I think we almost need to do a round table where we bring everyone together in all areas in regards to this, along with victims, and every other party, and try to set up a better system of support to be in place for victims. They are there.

Then we have Judy Lindsay, who feels that in her situation the young offender in her case would have been caught earlier if the system had been working to catch these offenders earlier on in their offending. I am just trying to remember—

Mr WHITING: That is fine. To clarify, you said just one meeting and it has been held recently?

Ms Liddle: We have had the one meeting, but we have had months of conversations and back and forth and talks via phone and emails, and it is ongoing. It is ongoing daily. That was just to get together and to get ideas, to give them a voice and be able to put their thoughts in part of this submission. We wanted to bring that together. We have had this idea for a long time, but we needed them together in a room physically to put this submission together and to give them a chance to have their input.

Mr WHITING: So you got together and discussed the submission?

Ms Liddle: Yes.

Mr WHITING: That happened recently?

Ms Liddle: It did happen recently. Months before that we have been in conversations back and forth with these people, trying to provide any sort of information we can or support. Again, it is almost ridiculous that that should be a necessity. They would not have felt the need to come together like this if they all felt well supported and enlightened as to what direction they are supposed to be taking.

Mr PURDIE: Michelle, you mentioned this at the start of your submission. The committee heard earlier today, from at least one of the witnesses, that academics say there is no evidence that breach of bail will improve community safety. In your opening submission you said that in Angus's situation those offenders were on bail and they continued to commit crimes after the offence. As an expert who has lived in the system and lived with this horrific incident and representing other people in a similar situation, what do you think about the suggestion that there is no evidence that breach of bail would improve community safety?

Ms Liddle: I think we would not have been mourning our child if breach of bail had been an offence—not just had it been an offence but, like I said, it was structured so it was workable and the judge had a sliding scale which meant if you breach bail with an offence, straight up you are put back in for 30 days. If you continue to breach bail, you have to go back and serve the remainder of any other time you have accumulated. That is just an example. You guys are more knowledgeable in this, but I can tell you now: if these offenders were not on the street, they would not have had the opportunity to commit that next offence and, in our case, take a life.

Mr STEVENS: I take it that your association of victims of crime support this legislation going forward as a first step. You mention in your submission that you were in favour of mandatory minimum sentences being legislated. Can you further explain that recommendation from the victims, please?

Ms Liddle: In regards to mandatory minimum sentencing, as the laws and legislation for youth justice stand at the moment, there is no way a judge is going to give 14 years to somebody who has been out at night and stolen a car; there is just no way when they are not even going to give the full extent of 10 years for a homicide, for a murder. You have to go back to where, if that stands that we are going to leave detention as a last resort, the judge is always going to adhere to the lower end of the scale in trying to respect that. That is written in there in regards to human rights. Therefore, we need to put in place a mandatory minimum to give them a base to work from. We cannot have it encompass everyone; it has to be on a sliding scale. Even with a mandatory minimum, you cannot get a first-time offender and hold them to that if it is a minor offence. If it is a serious, a violent or life-altering offence, yes, you can. We have to look at having those mandatory minimums but also having a sliding scale in that and how it is implemented. We cannot have a one-size-fits-all policy because you cannot get someone who is a first-time offender and hit them with a mandatory minimum of five years, but you can when it comes to somebody who has proven over and over again that they are going to go on and commit serious offences.

CHAIR: Under the suggested laws that we are examining, if a serious repeat offender is declared as a serious repeat offender then the judge or magistrate is asked to look at public safety as one of the primary factors they consider. Those are new directions set by the legislature, that that is their focus. In that way, it has removed the last-resort incarceration provisions because the primary focus is on public safety. Do you think that would encourage more serious focus on the community's desire for a serious response for these serious repeat offences?

Ms Liddle: Yes, I do, absolutely. We have to take it into account. The rights of the offender cannot outweigh the safety and rights of the community as a whole. Again, like I said, that leaves an imbalance and it does not stand true to that statement. We have to, unfortunately, take into account more the rights of the public to be safe, in their homes and on the street, above the rights of the offender who has proven to be of risk to the public.

CHAIR: Thank you very much, Ms Liddle. I think our time is up. Member for Coomera, did you have a very quick last question and a very quick last answer?

Mr CRANDON: I am sorry, are we running that late, are we? Chair, I have a couple of questions. Thank you, Ms Liddle. I think you are very brave. I think you are doing an excellent job as well. You are very articulate. By the way, we are not more knowledgeable than you on this, believe me; you are far more knowledgeable than us. Support for victims of crime is a matter that comes to my mind because my family has experienced the need for that support. In your experience, are the rules about you being informed and receiving support different from cases where the perpetrator was an adult?

Ms Liddle: Look, we feel they are affected by whether the offender in your loved one's case is an adult or a youth. I do think that comes into it. Again, I can only speak from our experience, but we have spoken to people—and I do feel you are absolutely affected more so if you are the victim of a young offender. You are locked in to, like I said, less access. Again, it all seems to be about the care of the young offender, and you seem to get lost in that equation. Everybody is so concerned with respecting the rights of these young offenders, even having to get them to approve whether they are going to take part in any of these support systems provided. These offenders can deny themselves taking part in that if they want. There is nothing to force them to participate in these programs and the help that is handed to them. Again, it is very unfair that the very people who could benefit from those similar programs, support and help do not receive them. As you said, I do feel that is the case: it is more biased when it comes to the offender being a young offender.

Mr CRANDON: I have a final question. The perpetrator of the murder of your son Angus was able to get bail. Can you enlighten us as to how that could have happened? He was in jail accused of murder and he was granted bail. Can you enlighten us how that could possibly could have occurred?

Ms Liddle: Again, I think it comes back to that; you see 'detention as a last resort' is cited. I think the magistrate and the judges are going to follow that. Again, they are going to follow the system that is in place, and it is not a working one. They are going to go to the lower end of that scale. They are going to do what is necessary to keep that child from being detained for any lengthy period of time. In our case, from memory, it was a simple three-point criteria where they had to have parents willing to take them on and supervise them, they had to be willing to participate in support and there had to be a suitable property they could reside at.

Mr CRANDON: Then he went on and committed another offence?

Ms Liddle: He did.

CHAIR: Thank you, Ms Liddle. I think I speak for everyone when I say that we really appreciate your appearance here today. I know that you have been through so much trauma with your family. Your experience is important to this process, so thank you very much.

Mr CRANDON: You did a great job.

Ms Liddle: Thank you again for giving me the opportunity to have some say in this.

CHAIR: We would not have been able to do this without voices like yours who understand what it is like to be on the other side of the equation. We now turn to the videoconference. Member for Coomera, we have people on the videoconference who have been queuing up. They have been ready to go. That is why I was—

Mr CRANDON: We were only two minutes over, Chair.

CHAIR: I now welcome on video witnesses from the Queensland Aboriginal and Torres Strait Islander Child Protection Peak.

HILLAN, Ms Lisa, Director, Strategy, Queensland Aboriginal and Torres Strait Islander Child Protection Peak (via videoconference)

MORGAN, Mr Garth, Chief Executive Officer, Queensland Aboriginal and Torres Strait Islander Child Protection Peak (via videoconference)

CHAIR: Good afternoon. Would you like to make an opening statement before we ask our questions? Also I want to note that we have had a substitution of Mr James Martin for Mr Chris Whiting. Who wants to make an opening statement?

Mr Morgan: I would like to start by acknowledging the traditional owners of the land we are meeting on today, the Yagara and Turrbal peoples. I would also like to pay my respects to their elders past, present and emerging. I also want to acknowledge elders all across this state as well as the First Nations members of this parliament.

QATSICPP welcomes the opportunity to discuss our submission in response to the Strengthening Community Safety Bill. QATSICPP is the peak body representing Aboriginal and Torres Strait Islander community controlled organisations in Queensland's child protection system. We also work closely with a number of our member organisations in delivering youth justice initiatives, policy and programs for children, young people and families.

QATSICPP believes that everyone in the community has a right to feel safe. We are totally committed to partnering with elected officials, government departments and non-profit agencies to bring about programs and responses that will create safety for the whole community. We believe that the bill currently before the House will not substantively create safety and we think it will do little to reduce reoffending of young people who are caught up in the youth justice system.

We fear that the bill will lead to greater levels of incarceration, particularly for Aboriginal and Torres Strait Islander children and young people. In developing our submission to this committee we were unable to find any evidence to support the effectiveness of some of the punitive responses that were outlined in this bill. That is why we strongly oppose the bill.

The *Report on government services* published by the Productivity Commission in January this year found that First Nations children are 23 times more likely to be detained compared to non-Indigenous Queenslanders. In Queensland, Aboriginal and Torres Strait Islander children aged 10 to 13 years represented 80 per cent of all children in the same age range in detention or on a community supervision order. We know from the research that we will not have any sustainable improvement in community safety until we help children and young people break the cycle of offending. I am afraid that until we change our approach we are going to keep seeing higher and higher numbers of our children in custody.

For our First Nations children and young people caught up in this offending cycle, often their behaviour is grounded in poverty, disconnection, trauma as well as mental health and sometimes disabilities which are often undiagnosed and untreated such as fetal alcohol spectrum disorder. QATSICPP invites government to work with us to develop and resource First Nations prevention, early intervention and tertiary services that provide culturally safe, trauma informed programs. We know that the current investment in programs to support young people and their families to stay out of youth detention is woefully inadequate. We hope to see further packages of support announced over the coming months.

We acknowledge that there is a very small number of children and young people who do need to be detained for their safety and for that of the community. Queensland's current detention centres struggle with staff shortages and as a result we see many kids every year in adult watch houses. This can create long-term emotional harm and it will not help in breaking the cycle of reoffending.

We do not believe that building more prisons for children is the answer. However, if new youth detention centres are being built we need to focus on making them genuinely therapeutic and rehabilitative. We believe that First Nations leadership should be deeply involved in the design of physical environments, the design of programs and centres and the structured day mechanisms to ensure that Aboriginal and Torres Strait Islander children maintain connection to their families, community and culture.

As Aboriginal and Torres Strait Islander leadership, we acknowledge that we need a new way. We do need to take action now and we need to develop a way forward together. Thank you again for the opportunity. I welcome any questions.

CHAIR: We will now turn to questions. Member for Coomera, do you have a question?

Mr CRANDON: Thank you very much. You said that everyone has the right to feel safe. I would suggest that everyone has the right to be safe. I just want to make that point: to feel and be safe. Do you believe that the current laws are working?

Mr Morgan: I think any laws that end up in a massive over-representation of Aboriginal children and young people are not working. They are creating a cycle where children go into detention as children and then graduate into adult corrections. We have a national agreement on closing the gap that has specific targets to try to reduce the detention of both children and adults in incarceration. That tells me that the laws are not getting to the crux of the problem. They are not preventing the issues from occurring in the first place. Most people here would agree that we want to eliminate the need for prisons because by the time someone is imprisoned damage has been done to the community and we want to keep community safe. I would say that they are not working. If you are asking me what they should be, I would need a bit more time to redraft them. I am certainly willing—and I welcome it—to continue working with you on it.

Mr CRANDON: You said that a small number of young people need to be in detention to keep themselves safe and the community safe. Is that happening currently?

Mr Morgan: I think those children are in custody. I think—and certainly what members around the state have been telling me and what we hear from Aboriginal families across the state—there are some missed opportunities whilst those children are in custody to do the intensive work that is required to then stop them offending when they get back out. Our view would be that, in terms of the children who are already in the system, who are already in detention, we need to do more with them so we do not see them going through a revolving door. We want to stop the need for that and that means keeping community safer in the process. To answer your question directly, yes, I think they are in custody. I think we are missing some opportunities to prevent them coming back into custody.

Mr CRANDON: I was asking that question specifically because of the increase that we have experienced in recent times. Given the increase in this small cohort—10 per cent of offenders has now blown out to 17 per cent of offenders—how does that reconcile with your belief that the right perpetrators are currently in custody? How does that reconcile with that? There is something wrong here.

CHAIR: I am not sure of the question, Mr Morgan.

Mr Morgan: If I am understanding the question correctly, you are saying there has been an increase from 10 per cent to 17 per cent and, if we are saying that the right kids are in custody, how do we explain that increase?

Mr CRANDON: Yes.

Mr Morgan: I am not sure that the link between the kids that need to be in custody and the increase is direct and easy to follow. Certainly if we are seeing the numbers go up I would be interested to say they are reoffending, so we are missing an opportunity for those children. Sorry, let me rephrase for you. If children are going in and are then reoffending who perhaps had not offended prior to their first time in custody, surely we are seeing more kids who are going into jail and are coming out, reoffending and going back into jail. That for me would be what explains the number going from 10 per cent to 17 per cent: because they are continuing to offend.

In terms of what is the best point on the continuum to support those children to stop the offending, I think it needs to be a range of different points. Inside prisons we need to do more when kids come back out into community to hold them safer, to support them to make better choices, to support better behaviours to try to break that cycle. I think detention is one option. I do not believe it is the option that reduces reoffending. I think there is a real danger that kids go into jail and graduate: they learn how to be a better criminal and they graduate. Without addressing the underlying trauma and behaviour context for those children, we get kids who come out and are better prepared to offend as opposed to better prepared to stay out of the system.

Mr CRANDON: Damned if we do; damned if we don't.

Mr Morgan: It is a tricky one; I agree.

Mr TANTARI: In your opening address you talked about the need for the government to have a changed approach, that we need to think about how we go about managing this whole youth justice issue. In your submission you state in one of the areas that you believe there is some merit in the fast-tracking of a sentencing pilot to reduce the time a child is held on remand and increase the time they serve their sentence, but you hold concerns about resourcing and skills. Can you please elaborate on the concerns given the volume of programs we currently have in this state in this area?

Mr Morgan: It is almost like there are two questions in there. I just wanted to address the programs issue first. What we have seen is that, according to the government's own data, there is something like $340 million invested into the youth justice area and $7 million of that is for diversionary processes. There is not much transparency around how much funding goes into community programs that can prevent, so I cannot speak on the volume of programs that actually do exist to support children. I know that in the Aboriginal and Torres Strait Islander space we have On Country in a number of locations and we have youth justice family-led decision-making programs. There is probably a range of other broader social programs that are provided and funded, but I am not certain that they are targeted, specific programs to deal with the cohorts of children that we are talking about so I would be really keen to have further conversations with government about where those resources flow and what that means.

To the other part of your question about fast-tracking, our real concern is that we do not want to see children spending longer on remand than they would have got for their entire sentence, and we have heard reports from community over, for me at least, 15 years where this is the case, both in the adult setting and in the youth justice setting, where we have kids who, due to a whole range of factors and challenges with trying to get the system to work efficiently and effectively, do end up spending more time on remand. Our view is that what we ought to do is try to fast-track that to ensure that if a child is going to be spending time in custody and they will get detention we try to prioritise that so that they are not sitting, languishing in remand longer than they need to be.

CHAIR: I think we are all confronted by the proportion of First Nations children in detention. One of the things that I was interested in is the table on page 6 comparing non-Indigenous arrest, caution and community conference proportions to First Nations arrest, caution and community conference proportions. While it is difficult and interesting data, is that also reflective of whether it was their first interaction with a police interaction or are there contained in that, with the arrest options, children who have had more than one interaction? Are we comparing like with like in that table and is there a way to critique those figures? What can we draw from those figures, Mr Morgan?

Mr Morgan: I actually think what the table tells us is that there is an absolutely critical need to improve the relationship between police and the community, and I am not saying that this is driven just by police and how they engage with our young people. Sometimes our young people engage back with police in certain ways, and a lack of trust is one of those things that drives potentially some of those behaviours, so we can see an escalation on both sides. That may contribute to it. What we need to do is continue to work with police on their behaviours and the culture of policing. I sat in a police station in Inala when I was much younger, with less grey hair and more hair on the top of my head, and as a young professional listened to how some of those officers spoke to each other about Aboriginal and Torres Strait Islander children and young people, as well as adults, and there is some cultural stuff to do. I do not think anyone is denying that. The department and the police and the ministry are trying really hard to shift that. We need to continue to engage in those conversations to push that along.

We are in a lot of cases comparing like with like in the data—I am not concerned about the accuracy of that data—but what it tells me is that there are some underlying cultural, behavioural, trust issues and connectedness that need to be repaired if we want to see those percentages come down. If we look at the occasions, the occasions are bigger, yes. If the occasions were all, say, a thousand for both sides, we would still see a bigger percentage. I am really keen to unpack that and understand what is driving the change in percentages of most of the numbers. It is important, but for me it is also about the proportion where we get a harsher regime for Aboriginal and Torres Strait Islander kids. Does that answer your question?

CHAIR: Partially, but that proportion of arrests is obviously concerning compared to the proportion of non-Indigenous arrests. You always like to compare like with like in exactly the same circumstances.

Mr MARTIN: Before I ask my question, I declare that my wife works for the Department of Youth Justice as a speech pathologist and also I am a member of the AWU, which I believe is appearing later. Mr Morgan, you mentioned in your submission that you acknowledge that there is a small number of offenders who did need to be detained; however, you also express concerns about the bill's provisions to declare that a child offender is a serious repeat offender in certain circumstances. As a legal definition, is that not the most appropriate way to identify that cohort and, if not, what do you suggest would be an appropriate alternative?

Mr Morgan: Can you please rephrase that? I am not quite sure exactly what you are asking. Are you talking about the conversation around what is a serious repeat offender and we are saying that there are other ways to talk about these children rather than to label them as serious repeat offenders? Are you arguing that? Legally, that is the most appropriate way to describe these children.

Mr MARTIN: You mentioned that there were a small number of offenders who did need to be detained. Perhaps you can elaborate on who you think those offenders are. Are they not serious repeat offenders?

Mr Morgan: We see the news and some of the tragedies that have occurred over the last couple of years. I would say that those children who have custodial sentences are probably children for whom it is not their first time around and they may need to be detained in prison. What we are saying is that we would call for a positive approach and a strength-based framework for engaging with children earlier to prevent them from becoming a serious repeat offender.

QATSICPP held a conference in December last year. We have this really great group of young people who came through a program that we developed called the solid voices for our future, and a number of those young people were willing to share some of their time and talk to the crowd. There were about 230, 240 or 250 people there. They were willing to sit up on stage and respond to some questions and talk about their experience. I remember one of those young people breaking down, because the way that Aboriginal kids are characterised by the media and broader society is that they are the problem—they are the issue—when in reality a very small proportion of Aboriginal kids are that. By talking about that small group of kids in this way, when young people are on social all the time and when we hear the public discourse about youth being the problem, the damage that it does to a whole range of kids who do not deserve to be damaged by that language is what we are against. I am not sure if that answers what you are asking of me.

Mr MARTIN: Yes.

Mr STEVENS: Mr Morgan, can you explain your reasons for not supporting the child's bail history being taken into account during their sentencing?

Mr Morgan: The child's bail history?

Mr STEVENS: Correct.

Mr Morgan: What we were saying is that it should not be an offence and it should not be a detainable offence for missing a bail condition. Often it is not just about children committing a crime if they do not meet a bail requirement. There might be transport issues. There might be family issues. There could be a whole lot of complexities for these children. We know that the lives of the kids that we are talking about are really complex and some conditions may be really challenging for children at some times to meet, particularly kids who are in other systems like the child protection system, for example, and to criminalise that we think is unduly harsh. We are absolutely open and willing to have further conversations about what a solution might be to try to achieve that same policy intent, because I think I see where the intent is; we just do not think this will achieve the result that you are hoping to achieve because we might end up capturing a whole lot more kids in the net than need to be captured in the net and that puts a greater strain on the system—a greater bottleneck on the system—and we are not able to use our resources, which are limited, in the most effective way.

Mr STEVENS: But wouldn't the reasons for the child missing their bail conditions—if they could not catch the bus or did not have the money or whatever—be part of the record that would be presented to the courts?

Mr Morgan: Possibly they may. We are concerned about the history of what we see happen to our children, and I refer you back to that table that had quite a disparity between an arrest, a caution and a community conference for First Nations kids versus non-First Nations kids, and we are sceptical of anything that puts our kids at greater risk unduly. Lisa, I do not know if you had anything additional to add to that?

Ms Hillan: One of the things we have seen in the Aboriginal and Torres Strait Islander Legal Service—you will see that our submission points it out—is that when they have done recent analysis of where magistrates and others were given discretionary powers in terms of our non-discretionary powers in having to make these choices, Aboriginal and Torres Strait Islander young people are elevated through the system, and that is our significant concern. There is already evidence and there is already capacity to take into account a young person on bail, as the previous participants have talked about. If they commit a crime or an offence on bail, that is already taken into account. If it is discretionary and really significant mandates are given to magistrates then we see that Aboriginal and Torres Strait Islander young people are elevated, so that is the concern.

Mr PURDIE: Mr Morgan, in the submission you talk about some restorative justice programs in New Zealand, the ACT and New South Wales that seem fantastic. How does that compare to what programs are available here, particularly to Indigenous youth as they go through that youth justice program before essentially hitting the court process?

Mr Morgan: Thank you for the question; it is a really important one. We have some great potential in Queensland and there are some programs that are producing some benefits, but they could go further. I was really hoping to have the opportunity to talk to you about this. In Queensland we have the youth justice family-led decision-making program, which is really about trying to get families to all be involved in the child's life, particularly around their involvement in the youth justice system at a range of points on the continuum. At the moment we have four sites across Queensland. We think it should be rapidly expanded and expanded in a big way, but there could be some key tweaks to that program that would make it much more effective. The program as it stands does not allow for those workers to work with the broader family and particularly younger siblings, and I note that the funding package has provisions for working with younger siblings because that is part of the problem in that you see kids hanging out with other kids, particularly doing some of those offences that we are talking about that escalate, so we need to do that. We need to work with kids before they are 10 years old and actually in the criminal justice system.

One of the big things that we are hearing from those services is that there is a massive missed opportunity to engage with schools, because we know that if kids are staying in school and they are engaging in that then they are much less likely to end up in the criminal justice system. Those programs that we run in Queensland can do more to include case management support, so making sure that kids are following up and families are connected into the services and supports they need so that we can prevent. For me that is one that we are doing right now. The On Country program, even though early days, is beneficial. We can do more to strengthen the cultural connections within that program, particularly if we have traditional owners running the On Country as opposed to other Aboriginal organisations, so we can do some stuff to strengthen that.

I think the multiagency panels that Queensland has in place are showing some early really good results. I think that can be strengthened by having panels relating to Aboriginal kids led by First Nations organisations that are resourced to be part of that program. What we are hearing from members in the youth justice space is that they get called at short notice with no resources to try to participate in those multiagency panels, which are absolutely critical. We think if we put them at the centre of that then we will be able to achieve much better results and, I suppose, even higher reductions in reoffending than we are seeing even at these early stages.

CHAIR: Member for Ninderry, we do not have much time but do you have a follow-up question?

Mr PURDIE: Yes. Mr Morgan, currently are children compelled to do some of the courses as part of restorative justice programs? My experience is that often they just require an apology letter to the victim. Currently, can we compel kids to conduct and undertake these programs?

Mr Morgan: At the moment in the family-led decision-making program, children are not compelled. I think that is one of the things that the sector and the services that are providing that would really look at, so we can engage with children and make sure they are engaging in the program. There is a bit of an ethical debate to happen, a debate around consent, on that particular one, but it is certainly an issue that we are considering deeply.

We think we need to engage with communities and families, because families often want their children to engage in the programs even when sometimes those young people do not. It is a problem. I would be open to having further conversations about what we can do around that, because we are investing in these programs and we need to make sure they are getting to the right place. Sometimes it is about there being a misalignment and the programs not being fit for services, but at other times it is not. I would really like to get to the bottom of when it is not and how we can fix it so that we get more and more young people (inaudible).

CHAIR: Mr Morgan, obviously there are issues with someone who is being compelled to engage in restorative justice, but you are saying that where there is parental support for restorative justice there might be value in compelling the offender? Is that the suggestion? I am not quite sure.

Mr Morgan: I think what I am suggesting is close to that. I am suggesting that for a range of families where that is the case I really want to have the debate. I would like to bring them in and I would like to have conversations with them, separate to the young people who maybe did not engage. Maybe connect those who have engaged with those who did not, to try to come to some kind of community agreement on how we are going to do this. I think one of the key challenges is being able to identify those community members in the family who have cultural authority for those children.

What comes to my mind often is: if we have a strong cultural grandmother who is able to exercise that cultural authority over those young people then we have a much better chance of those young people going to those programs and complying. I think they need to be part of it.

You will probably recognise that when someone is dragged kicking and screaming to something there is less chance they are going to engage willingly and meaningfully. It is about what are the right levers and mechanisms we can use to get those children into—I am not saying that compelling them or making it compulsory is off the table, but we ought to have that conversation in a deep and meaningful way.

CHAIR: I think that is interesting because I know victims, at minimum, appreciate it if the families—the parents and caregivers—of offenders feel for the victims. That would be interesting to explore. We appreciate the feedback and the information you have given us, Mr Morgan. We also appreciate the submission you have given us. We thank Mr Morgan and Ms Hillan. You are welcome to stay on if you want to watch or you can look to our video broadcast.

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

CHAIR: I now welcome Mr Luke Twyford. Would you like to make an opening statement before we start our questions?

Mr Twyford: Yes, I would, Chair. I start by acknowledging the traditional owners of the land on which we meet today and pay my respects to elders past, present and emerging. I share the community's desire to reduce crime and increase community safety. The youth justice system is complex and involves many decision-makers across multiple portfolios. I would suggest that all youth justice systems have two purposes: to keep the community safe and to change the behaviour of young people who are engaging in antisocial and criminal behaviour. Creating an effective youth justice system requires us to understand the drivers of offending, the circumstances that led to offending and the changes that are necessary in young people's lives to prevent reoffending.

The Strengthening Community Safety Bill seeks to introduce harsher penalties for repeat offenders and to criminalise breach of bail. We support parts of this bill, particularly around the additional funding for community-based interventions and the embedding of the multiagency approach to addressing youth offending. In our submission we have called for changes to the youth justice system to be designed and implemented strategically, with clear whole-of-system outcomes and accountability.

Queensland currently detains more of its young people than any other Australian state and has done so for many years. Repeat offenders, by definition, have already been involved with the youth justice system. They have been in the courts, in the watch houses and in the detention centres, yet they have continued to reoffend. The strategy within this bill of doing more of the same without pragmatic and practical shifts in the service delivery to those offenders needs to be questioned. Evidence must dictate how we design and fund our youth justice system, and there must be greater transparency and reporting across the youth justice system to build community confidence.

The QFCC shares the concerns raised in numerous submissions that this bill is reactive and has the potential for negative consequences. We do not support the suspension of the Human Rights Act and the criminalisation of breach of bail, and we have significant concerns that the bill will have a disproportionate impact on Aboriginal and Torres Strait Islander children and jeopardise Queensland's progress in meeting its Closing the Gap targets.

The QFCC accepts that our youth justice system needs further improvement. It does. However, this improvement must be based on evidence of what works. Our submission outlines nine key actions that we believe need to dictate and be included in the redesign of the youth justice system. Young people must be held accountable for offending behaviour in a timely way. Families and communities must be involved in the delivery of youth justice services. There must be restoration for the community and for victims of crime. Trusted and respected adults in the young person's life must be engaged in changing their behaviour. Places of custody and detention must be redesigned to be places of rehabilitation. We must recognise the developmental and cognitive needs of children and young people and design solutions that address the root causes of their offending.

Mr STEVENS: Mr Twyford, in relation to breach of bail as an offence for children, you hold concerns regarding the introduction of the offence including the additional administrative burden for police and the courts and that breach of bail is a failure of the youth justice system. First, can you explain to me how it is an administrative nightmare for the police and, secondly, how it is a failure of the youth justice system?

Mr Twyford: That is a big double-jointed question and I will do my best. When a child is on bail, the police officer and the system have placed trust in them that they will abide by the conditions set. In fact, the decision-maker who grants bail has to have confidence that there are elements in that young person's life that will enable them to comply. That is the bail decision-making process. This bill introduces a crime for the breach of a bail condition. I think much of the debate, many of the submissions and the public narrative around breach of bail links to reoffending when on bail. I think it is absolutely important that we distinguish between reoffending while on bail and breaching a bail condition. To make breaching a bail condition a crime means that it is automatically a crime to not meet the conditions that the bail decision-maker made.

In other jurisdictions and in other reviews and historically, there have been bail conditions around: the child must attend school, the child must be home by nine—or five or six. If beaching that condition is automatically a crime then that crime must lead to an arrest, must lead to a detention, a

new bail decision about a breach of bail, a new court appearance. We see a plethora of bureaucratic, administrative paperwork that is necessary to prosecute a young person for breaching a bail condition.

The current system as it is designed, without this bill, is that the police are able to apprehend the young person who has breached a bail condition. They are able to bring them back before the court on their original charge and for the court to revisit its existing bail decision around that young person. It is much more streamlined. It is more timely in the sense of holding that young person accountable. I think where much of the debate goes to, when we talk about serious repeat offenders, is the element of committing a new crime whilst on bail. That is very different to breaching a bail condition.

CHAIR: One of the things is that the young person involved had been released on bail having been accused of a serious crime, presumably. They were to be released on bail only if they followed the conditions. That was the direction of the court. That is a serious undertaking as a serious accusation had been made. They had been let free despite the serious accusation but then breached the undertaking they made that meant they were not incarcerated. That is quite a serious issue, isn't it?

Mr Twyford: It is, and that goes to the second part of the question, which I am sorry I missed, around the failing of the system. We do see and have seen where bail conditions are imposed, it goes to the practice of who is imposing that bail decision and how they legally drafted the condition they are looking to impose. We understand that young people involved in the youth justice system are much more adversely impacted in their lives than the general cohort of children and young people. The youth justice census says that 50 per cent are disengaged from school, 30 per cent have an adult in their lives who is incarcerated, there are high rates of mental illness and ill health, and there are significant experiences of domestic and family violence. Crafting conditions around the fact that they must be in a certain residence at a certain hour does not take into account who the adults are in that young person's life. How those adults are behaving and treating that child is critically important.

One of the redesigns of the youth justice system that we call for is to look at that young person as part of a family and part of a community. Imposing a bail condition on a 12-year-old, 13-year-old, 14-year-old or 15-year-old young person fundamentally has to question and look at who the adults are in that young person's life who will help them comply. Who is taking that young person to school, if we are to impose an attend school condition, when it will now be a crime for that young person to fail? There must be an obligation on an adult in that young person's life to help them meet that bail condition.

CHAIR: Isn't it more important for those children to be attending school rather than missing school? Isn't that even more important?

Mr Twyford: Absolutely. Re-engagement with school is a fundamental pillar for what we call for. If we are going to address reoffending and youth crime, re-engagement in school is a critical solution and something we call for. Making it a crime to not attend school in a bail condition, causing a police officer to conduct an arrest and for the court to conduct another hearing seems to me to be the wrong approach around this young person who has done wrong. A bail decision-maker has made a decision and we need now to support that young person to comply. When they do not, let us bring on the original hearing. Let us bring on the consequences for the crime that led to the bail decision in the first place. Let us not create a new crime and a new court process.

CHAIR: You are suggesting that bail be taken away at that point?

Mr Twyford: I think if there had been a breach of trust—the bail decision-maker has shown trust in that young person—then, yes, that is appropriate. Bring back that decision and do a reanalysis.

CHAIR: Your concern is that creating an offence will not do that?

Mr Twyford: No. It is a new criminal prosecution.

CHAIR: But there is also a breach of bail to be considered.

Mr TANTARI: Mr Twyford, I would like to further examine one of the actions that you have listed in your submission, action No. 4, that families and communities must be involved in the delivery of youth justice services. In particular, you say—

The youth justice system must be more inclusive of the parents and families of young people.

Can you elaborate on how families and communities can be more involved in the delivery of youth justice services? How will this help children and young people to not reoffend and how will that keep the community safe?

Mr Twyford: Absolutely. Mr Morgan just spoke briefly to the role of programs involving Aboriginal and Torres Strait Islander parents and cultural authorities in the review of that young person's case. I come back to what I said at the start: our youth justice system is designed for, one, community safety but, two, changing a young person's behaviour. How do we drive behaviour change? Ultimately, it is by finding the authorities and the people of respect in that young person's life and engaging them in making longstanding change that addresses the root cause.

Many years ago the New Zealand youth justice system did some amazing work and some evaluations around reducing recidivism for young people in their detention centres. Ultimately—and I am really summarising this—they had workers who would go to the home of the young person. Whilst the young person was in detention, there would be a worker allocated to that young person's home who got that house ready for the young person's return. It was working with mum and dad about domestic violence, substance addiction, school readiness, food security. It was engaging the siblings in the household around their impact. We saw the transition out of detention being focused on the family group that would be there to support that young person not reoffend.

Another jurisdiction is currently looking at how it involves parents and cultural authorities being in and staying in, for temporary times, the detention centres that young people are held in. It is recognition that young people come from families and that young people commit crimes due to a whole variety of reasons; often the root cause lies within their family. The ability for the system to respond to that young person's ecosystem, their life, and to find the root cause that drives their behaviour and to change that root cause is ultimately where our youth justice system will find ways to change behaviour.

Mr TANTARI: You raised the New Zealand example. We have a very similar system in Queensland where intensive care is given to families. One of those programs is being run in my electorate of Hervey Bay. Obviously, looking at the data that is available, it is very successful. You are basically saying that that system should continue and be strengthened?

Mr Twyford: Be strengthened—absolutely. If we are to invest millions of dollars into our youth justice system, I would say that there is a clear need there. Some of the multiagency panels and the work being done by those groups that this legislation does embed for prosperity is very much focused on how we can expand, extend and strengthen programs that work holistically with the people in the young person's life to get that behaviour change.

Mr PURDIE: I have a similar question to that of the member for Hervey Bay. I was intrigued by what you talked about in terms of that program in New Zealand. I know that we have these intensive care trials—

CHAIR: Multiagency programs.

Mr PURDIE: Compared to New Zealand—I know that we have these intensive care trials—what normally happens in Queensland when a recidivist offender is in custody, while they are in custody and even when they get released?

Mr Twyford: There are many good programs with many good intentions, but they are not connected, in my view and in my experience. It is about how we work holistically and systemically across the system to deal with young people. The police play a very important role in the apprehension, arrest and prosecution of young people, and they will be involved in restorative justice conferences from time to time but certainly not in all restorative justice processes. Responsibility for the young person at that point, if there is a non-custodial sentence, will shift to the department of youth justice. There may be child safety officers involved in that young person's life. If it is a custodial sentence—and ignoring the matter of watch houses and judicial time frames—our youth detention workers will run programs within the detention facility that are around education, behaviour change, mental health and health needs. Those services stop when that young person leaves the detention centre. There is a real need to connect all of our programs holistically around a young person, from point of arrest through to many months if not years after their release from detention to provide continuity of the same strategy that we all are using to change that young person's behaviour.

CHAIR: Isn't the intensive management through multiagency panels doing exactly that—connecting police, social services and youth corrections—to intensively manage an individual they may feel is at risk of further reoffending?

Mr Twyford: It is, but it is, again, targeted at serious repeat offenders, so it is after the fact.

CHAIR: In some cases it is targeted to the whole family. The illustration you gave was about New Zealand, where someone had served a period of incarceration and was returning to a house. In some ways we very much do that type of management with kids who are at risk of reoffending.

Mr Twyford: That is correct. I am not saying that our entire youth justice system is broken; I am saying that there are parts of it that are working very well. They are not necessarily the parts that this bill is amending the laws on. Ultimately, the QFCC's submission and my very strong position is that our youth justice system must work effectively with families and approach young people through the lens of families and community. It must connect at service delivery so that the multiple case managers, case workers and police officers are delivering services holistically to that young person. Multiagency panels are a good way to coordinate that, but they are not addressing all of the young people in the youth justice system. They are, by the very nature of their resourcing, targeting the top end—and that is important—but there is a need to mirror that collective, whole-of-government response to young people and their families right across the entirety of the youth justice system.

Mr CRANDON: You are no relation to Reg Twyford at all?

Mr Twyford: No, not to my knowledge.

Mr CRANDON: Thank you. Just talking about the breach of bail, the problem we have is that they are ignoring the rules at the moment. Under the current bail conditions: 'I don't have to comply.' This is the child and he is being advised by older individuals: 'You don't have to comply with that, mate.' 'There's no negative outcome for me'—and they all are telling him that. That compares to what we are proposing in terms of bail conditions in the proposed legislation: 'I have to comply. If not, there's a negative outcome for me.' All of the people around them are going to be telling them that. It is, 'Mate, if you don't do this.' In the short term, surely that is going to work with some of these offenders: 'If you don't do this, you're going to get pinged. You're going to be back before the magistrate like that. You've got to comply with the rules.' In that respect, would you care to comment on that? Can you see how it has to work with some of them?

CHAIR: We have heard twice this morning that bail can be revoked, including from Mr Twyford.

Mr Twyford: I think there are several elements to that question. One is: what is in the mind of a young person when they are breaching bail and are the consequences clear?

Mr CRANDON: And we have people wrapped around them.

Mr Twyford: Our submission makes it clear that that is a part of the system that could be strengthened currently when making a bail decision. Either the police or the court should be very clear and very precise on the consequences of not upholding the conditionality of that bail decision. The solution you are driving at is that that young person, if they breach bail, is held accountable, and I would say that the current system has the levers in legislation to do that. I think we are collectively interested in the practice around why young people breach bail and then do not have that original bail decision revisited in a very quick time frame.

The addition of a new charge of a breach of bail condition separates the consequence of your breach of bail from your original offending event. If you steal a car, are granted bail and breach that bail condition, you are not brought back before the court on the charge of stealing the car—that is still a court process that is underway; you are brought before the court on a new charge of breach of bail condition. It is separating the consequence from the action in that young person's mind, potentially. I think there is real worry around how we create laws that translate into the practice and experience of what young people will go through in the future.

CHAIR: The alternative would be to suggest that last resort be removed when bail has been breached and move it to the original decision. Is that what you are suggesting?

Mr Twyford: I think if anyone breaches a condition that they have agreed to, yes, it should come back before the original decision-maker for reassessment.

CHAIR: Then the magistrate at that point has removed sentencing principles?

Mr Twyford: Again, it would be up to the magistrate, but part of that is the risk of reoffending—

CHAIR: It would have to be up to the magistrate, but the legislature could give sentencing guidelines.

Mr Twyford: I would have to take your advice on that.

Mr CRANDON: You may have partly answered. You mentioned the word 'potentially'—that potentially it will not be considered; it will be treated as a separate matter. Realistically, our magistrates are there. They are not going to be going, 'Oh, okay. You didn't go to school.' They will ask, 'What's the story? What's the background? Right.' They are going to bring everything else in behind that to determine what is likely to be the outcome. Right now it does not happen, but under the new laws, if you like, the magistrate would have the opportunity to do that. Would you care to comment on that?

CHAIR: I think this question has been put to Mr Twyford and he has outlined an alternative frame of dealing. We both have the agreement that it is a very serious thing to breach bail, but can you suggest an alternative structure to deal with that?

Mr Twyford: Absolutely. The breach of bail as a crime will lead to children with multiple charges for not attending school or multiple charges for being five minutes late from home.

CHAIR: An alternative phrase would be for breaching bail?

Mr Twyford: A bail condition, yes.

Mr CRANDON: Not attending school is the lower end of the spectrum in that regard.

Mr Twyford: I think that puts a lot of discretion in the hands of the people making those bail conditions.

Mr PURDIE: I want to pick up on what you just said. Wouldn't it be better potentially at that stage, when a child is on bail for serious offences, if he has stopped going to school and is breaching his conditions, that he is brought back before the court before he commits another serious violent offence like stabbing someone? Wouldn't that give the court and these intensive panels that we have now the opportunity to bring that person back before the court? 'You've stopped going to school. You're breaching your conditions. Before you murder someone, we need to look at what is happening here.'

Mr Twyford: I absolutely agree that a young person who does not meet their bail conditions should be brought back before the decision-maker as soon as possible and that there should be consequences for not meeting the bail conditions. It should not be a new criminal charge with a new criminal case.

Mr PURDIE: I appreciate that you have brought that suggestion forward to us.

CHAIR: We thank you for your submission and we have your written submission as well. We really appreciate it.

KILROY, Ms Debbie, Chief Executive Officer, Sisters Inside Inc.

MABO, Ms Neta-Rie, Youth Programs Manager, Sisters Inside Inc.

WHARTON, Ms Ruby, Community Development Officer, Sisters Inside Inc.

CHAIR: Good afternoon. Would you like to make an opening statement before we start our questions?

Ms Kilroy: I would like to begin by acknowledging the traditional owners of the land where we are meeting, the Turrbal and Yagara peoples. I pay my respects to elders past and present. Sovereignty was never ceded, which means this committee meeting is taking place on stolen land. It is important to remember and centre this reality, especially as we grapple with the repercussions of settler colonialism that result in extreme rates of mass incarceration of Aboriginal and Torres Strait Islander adults and children. I also acknowledge any Aboriginal and Torres Strait Islander people listening to this evidence or reading this transcript. As a white settler women, I want to make it clear that I do not speak for Aboriginal and Torres Strait Islander people. Instead, my perspectives that I am presenting here are informed by my own lived experience and by Sisters Inside's work with and for Aboriginal women and girls who are criminalised and imprisoned.

We always seek to work in solidarity with Aboriginal and Torres Strait Islander peoples in this place which includes recognising the ongoing advocacy, resistance and truth telling undertaken by First Nations communities since colonisation. I was one of the 13-year-old children that you now label 'serious repeat offenders'. I was incarcerated nearly 50 years ago in a youth prison for truanting school and, once released, I was repeatedly recriminalised. I was in and out of that youth prison until the age of 16 and then put in an adult prison at Boggo Road as a 17-year-old girl.

The harm of the racial gendered violence of policing in prison has continued in my lifetime for nearly five decades, and this bill will continue the harm that will be perpetrated against children, especially Aboriginal and Torres Strait Islander children. There have been royal commissions and inquiries into harm in state carceral institutions and there will be another one in the future because of this bill. Harm of children, particularly Aboriginal and Torres Strait Islander children, is inevitable when this bill is enacted into law.

It is interesting that I have just received a media release by the Premier, Mark Ryan and Leanne Linard saying that the laws are going to be enacted anyway, so I am not sure why we are wasting our time when the Premier has already stated that the law will be enacted. The government will be held responsible for this harm in future inquiries, and those members of parliament will be named as being a party to this harm that this generation of children will experience.

Today we want to focus on solutions. Sisters Inside works daily with girls who have been criminalised, remanded in watch houses and in youth prisons. We know the harm perpetrated as we see the injuries and trauma that each girl experiences in watch houses and youth prisons across this state. Our values-based driven, independent organisation has supported girls to no longer be criminalised and imprisoned. We know what works.

Government and departments are not willing to fund the solutions. They are not willing to expand the solutions of not only our organisation but a number of other organisations across this state. Sisters Inside Yangah Program has supported 62 girls since 1 January 2021 until today's date—many of whom have been labelled by the state as 'serious repeat offenders'. These are the girls who no other organisations want to work with or walk alongside to ensure they are never criminalised or imprisoned again. Forty-four of the girls are Aboriginal and/or Torres Strait Islander girls. Another 13 are girls of colour. Sixteen of the 62 girls were recriminalised in this period, and 12 of those 16 girls were on so-called child protection orders under the family policing system.

The 46 girls who have not been recriminalised have continued to be supported by Sisters Inside and are engaging in education and/or training programs, even when they are not on youth justice orders or any other type of order. The ones who are on the orders are complying with those orders—whether it be bail, conditional bail programs or probation or any other form of orders—and they are finalising those orders. They are also attending a number of programs that we have developed ourselves that are value-based driven programs for the girls because they are usually excluded from every other service in the community unless they are mandated to engage.

The girls we work with and walk alongside live daily with experience of trauma and removal from their families and their communities. We as adults cannot expect these children to assess their actions due to the lived trauma and harm and understand consequences such as breaching a bail condition. The threat—the law—imposing a great penalty does not affect behaviours. Children will

not change their behaviour because of proposed changes to the law. We need to enact a trauma-informed care task force that is an independent body that works to end harm for everyone in our communities. Hawaii has done this already and they now have no girls incarcerated in their youth prison. No girls have been incarcerated in the Hawaii prison for more than 12 months now, and they have reduced the number of boys to 12 because they have done the hard work and are not relying on draconian laws to actually lock more children up.

We must look at Hawaii as to how they are ending the criminalisation and imprisonment of children and we must be more courageous—not be the 'deep north' where we criminalise more children, because the harm that will be inflicted later on when they are adults will be more than we have ever experienced in the decades of my lifetime.

Mr STEVENS: Thank you, Ms Kilroy. In your submission you state that the bill will not keep the community safe or safer than it currently is, rather further criminalise young children and their families. The bill is designed for serious repeat offenders, which happens to be a very small cohort of Queensland children—probably somewhere around 400 throughout the state. Can you comment further as to why this is not at least a step towards addressing what, as you would admit, is a youth crime problem out there, with murders, car robberies and those types of things being committed by young offenders?

Ms Kilroy: I admit that there are behaviours of children that cause harm, but people in our community cause harm one way or another. The issue is: how do we address harm—not how do we label someone a criminal or a repeat serious offender, or whatever the language is—and then move from there. It is about addressing harm in our community for everyone and particularly this, as you called, cohort of 300 to 400 children.

What you are basically saying is that as adults—I think we are intelligent adults across this state—we cannot support 300 to 400 children in a way where harm is ended. I think that is a sad indictment on all of us. The work that we do with the girls who you would deem 'repeat offenders' actually works, and we have moved them away from the system so that their life goes on and no more harm is inflicted on them and they are not inflicting harm on others in the context of our support. That is what we need to do and that is what we need to fund.

CHAIR: We heard the quite tragic story from one of our witnesses today of their son being killed by someone who—you used the word 'criminalised'—had committed offences against the standards that we ask them to hold up—that is, not to hurt others. They murdered her son and were found guilty of that. It seems to me that your suggestion is that that is the state criminalising them and that no incarceration should happen to that young person.

Ms Kilroy: We have a trajectory not only in this state but in the Western world where we rely on the prison industrial complex. It is where children are removed from birth—predominantly Aboriginal and Torres Strait Islander children. I do not need to tell you the data in relation to that. The family policing system is engaging in the removal of Aboriginal and Torres Strait Islander babies from birth. They are then pipelined into foster families. Usually they are in a number of foster families over and over again and traumatised whether it is by physical abuse or sexual abuse. Then when the foster families no longer want them they are pipelined into what is known as residential care, and that is where they start being criminalised.

A number of girls we support are in or have been in those residential care programs where that is the first time they are criminalised because they are reacting—they are behaving in a way that is protesting about not being able to stay in safe accommodation and where they are further traumatised. We must provide safe accommodation for children so they are not being traumatised in the home that they are told to call home.

CHAIR: Respectfully, the question that I put to you was about the evidence that the witness—

Ms Kilroy: I did not hear her evidence, I am sorry.

CHAIR: I am summarising: her child was killed by—

Ms Kilroy: I know the story. I understand that. There is nothing worse than having your child or a person that you love killed. I have experienced that in prison myself in Boggo Road. I sat beside a woman closer than Ms Mabo is sitting beside me where she was stabbed to death and I was stabbed trying to stop that. I understand that trauma. However, what I did was work with the person who was convicted of her murder and then advocated for her to be released, because it was about her life and what had happened to her—without taking away responsibility. She has to live with that

every day of her life. It is about understanding the context of how we treat children and they end up behaving the way that they do. The more we push children to the margins, the more they are going to push back. The more we value, for example, a car and not a child, the more they are going to steal a car.

We have got our values all mixed up as adults. We need to provide ongoing daily support for these children, and prison is not the thing that ends their harm. It actually entrenches the harm and it is ongoing. You only have to look at Steven Marshall's submission—he is the whistleblower who watched this trauma in watch houses—and the recent case that was published on 21 February, last week, by District Court Judge Fantin in the case of R v TA of that 13-year-old child. They are not individual examples. These are examples of the daily experience of children in our watch houses and in our prisons.

CHAIR: I heard that but I do not know what I am supposed to say to a victim where their child has been murdered by other young people. Am I supposed to say to them that that is not a crime and there should not be consequences? Is that the suggestion you are putting to us?

Ms Kilroy: I am talking about a way that we as a community can move forward to end harm, not focus on harm that is actually then framed up as punishment and further harm on another human being. I will let Ms Mabo talk in relation to how we run our programs at Sisters Inside to address harm.

CHAIR: Are there any further questions?

Mr CRANDON: Ms Kilroy, we are talking about the pointy end of things here. We are talking about repeat offenders who are constantly being churned back out into our society. The case that we heard earlier was indeed such a matter. He was on bail. He committed a murder. He went back on bail and then committed additional crimes. We are talking about that end of the spectrum.

I understand everything that you are talking about. I have done quite a bit of research myself over many years in relation to what the issues are around accommodation, education, integration and all of those things, but we are talking about this very real issue that is happening right now in our society where at the pointy end we have these repeat offenders being released. We are talking about making sure that they are pulled up very quickly if they breach their bail conditions and perhaps then, because of the seriousness of their other crimes, being held in custody until they go through the court system. Do you disagree that we have to do something with regard to that pointy end of the whole system?

Ms Kilroy: I agree. We absolutely have to do something. We have to do something with all of these children that we are talking about no matter what—

Mr CRANDON: Sorry. I am talking about that end—the severe repeat offenders.

Ms Kilroy: I heard you and I am trying to—

Mr CRANDON: No, because you keep bringing it back to the whole cohort.

Ms Kilroy: That is what we are talking about, isn't it—300 or 400 children?

Mr CRANDON: No. I am talking about the serious end—

Ms Kilroy: You are talking about one child.

CHAIR: Order! Member for Coomera, you have put the question. Ms Kilroy, or one of the other panellists, if you have an answer—

Ms Kilroy: I am trying to answer that. I think there have to be consequences for behaviour, absolutely. However, I believe that causing more harm is not the answer to the question.

Mr TANTARI: Ms Kilroy, with regard to your statement, what are your suggestions for alternative approaches and how do you believe they could strengthen community safety?

Ms Kilroy: Neta-Rie runs our youth programs and Ruby works closely with Aboriginal communities and young people, so I might let them address that.

Ms Mabo: Our programs support these young women, especially our Yangah Program, which is a bail support program that actually supports young women who are on bail and who have been in and out of the system. A lot of the time we find that they are excluded from other programs because they are deemed too difficult for other services to handle and their needs are a lot more complex. At Sisters Inside we are a values driven organisation, so we understand that. When we support a young child and we address the needs that are specific to them, we generally see different outcomes and better positive outcomes.

It is probably difficult to hear this, but we do provide a lot of programs that are actually fun for criminalised children because so often they do not have the means because of poverty to engage in fun things, for children to be children. Also, they are generally excluded from other programs that are available to children. We ensure that they are able to be children. So often we see that children who are in these systems no longer get to be children. Youth justice takes a lot of time out of a child's life and they do not get to be children. By supporting children to be children and engage in children activities we create better outcomes.

Ms Wharton: Just recently we visited Gimuy, Cairns, on two occasions. We visited that place to meet with community members and organisations that are doing work on the ground to combat the so-called pandemic we are currently experiencing and talking about. There are many non-government agencies, groups and organisations around Gimuy that are delivering outcomes that are changing and altering the lives of these young people to an extent that is unimaginable. It is building cultural connection, it is building intergenerational relationships and it is building foundations so that harm is no longer occurring for people who are being criminalised and people who are the unfortunate victims of those situations. What we have seen in Gimuy is that the community is very outspoken and the community wants to be the solution for the change. They are ready to be there and they want to be there.

Mr TANTARI: With regard to these programs you are talking about and the outcomes you are getting, you are saying that those programs are involved with the community and the families.

Ms Wharton: Yes, indeed. First Nations people and First Nations community controlled organisations take a great deal of pride in intergenerational family relationships, and we maintain those family relationships. Whether or not a parent is in a position to be that main caregiver and role model, there are many other community members, blood kin or otherwise, who are ready and willing to step up. They are putting their hands up and they are just not being heard.

Mr TANTARI: Do you believe, Ms Wharton, there is a very small percentage we are talking about who, no matter what attention families and community give to them, will still offend?

Ms Wharton: Yes, I do believe, and I have—

Mr TANTARI: Do you believe that they offend because it is their nature to do that, or do you believe it is because of all of the other environmental conditions?

Ms Wharton: It is environment. It is 100 per cent environment and police expansion and the targeting of low-income areas, especially around Gimuy. Predominately, First Nations or other people of colour and low-income earners are definitely the ones who experience that, and Neta-Rie's experience proves that.

CHAIR: What I find difficult with 'it's just environment' is that there are lots of young people from very tough environments and Indigenous backgrounds who do not—

Ms Wharton: Are they living in missions like Yarrabah, Kowanyama or Aurukun?

CHAIR: Yes—who do not get involved in offences that hurt other people. That was the point I was making, that they come from those backgrounds. I have spent time in Yarrabah and communities. There are lots of young people who have traumatic, tough backgrounds but who have the ability themselves to make a difference and not hurt others.

Ms Wharton: Yes. I come from communities much like that in Cunnamulla, south-west Queensland, and Wee Waa, New South Wales, where one of the first ever recorded deaths in custody occurred. I have experienced equally as much. I am a First Nations person who has experienced police contact, and very fortunately I have not found myself within the system because of organisations like Sisters Inside and because of community stepping up to care for me and others like me and building a bridge in order for us to create opportunities for ourselves.

Mr CRANDON: First of all, I commend you for the work that you are doing with our young people. It is wonderful to hear that you were able to get through the mire, if you like, and are doing the work that you are doing, perhaps from a lived experience yourself. I commend you in that regard. I would make the point that no child is born bad, so I understand it in that regard.

Ms Kilroy, in your opening submission you were talking about the foster family system and the residential care system. Are you suggesting that is at the core of the issues that we have? If you are suggesting that, do we have any research we could rely on or look at in that regard—not perhaps for this particular hearing, but going forward from here?

Ms Kilroy: For the girls that we are supporting it is most definitely a huge issue. They have been in 10, 20, 30 or 40 foster homes since they were removed as a baby, and then by the time they are 11 or 12 they can no longer be placed in foster care so they are placed in resi care. I will briefly

talk about Mary. Mary was taken into foster care as a young baby. She was with one foster family for quite some time. By the time she was 12 she was not at school. It was difficult for her; she had learning issues. Then the family said they no longer wanted her.

Mr CRANDON: Just before you go on, can you go back to the beginning again. Why did she come into foster care as a baby? What was the reason; do you know?

CHAIR: I hope you are not using her correct name because obviously there are laws regarding the privacy of kids in foster care.

Ms Kilroy: No, I am not going to name her.

CHAIR: I just want to make sure you understand that.

Ms Kilroy: I understand that. I would not do that.

Mr CRANDON: What was the reason for her being placed in foster care?

Ms Kilroy: There was family violence originally. She was no longer wanted, so because she was still on an 18-year long-term order she was put in resi care. She did not understand why because the department did not tell her that the foster family no longer wanted her. The department of child safety asked us to tell her. I said, 'No, that's not our job. Child Safety is her guardian; they need to tell her that, not us. We will support her.' She was very distressed about that, so as a result of her behaviour police were called. That was the first time she was arrested.

She was arrested for wilful damage and going in public with a weapon to cause fear. When I think about going armed in public, I imagine that she might have had a knife or something like that. It was a saucepan out of the kitchen because she could not get food. There was a lock on the fridge door so she took a saucepan and went out and sat in the gutter and was banging the saucepan on the road because she was frustrated. The wilful damage was the saucepan and the going armed was the saucepan. The lawyers at that time pleaded her out. She pleaded guilty, then the slippery slope occurs. She gets moved from that resi care to another. Because of the behaviour, the trauma, the isolation and the rejection, she ends up kicking a hole in the wall. Instead of calling the plasterer, like I would with my children, the police were called even though it is her home. Then she was charged with another charge of wilful damage. That is where we became involved because she was referred by Legal Aid to Sisters Inside.

She has been in and out of the system because there was been no safe accommodation, and she does not want to go to resi care because she knows that is where she gets criminalised. She was placed at another home where she had been sexually abused. She told the child safety officer that she could not stay there. That is where she was bailed. When she first told the child safety officer they did not investigate what she raised with them about being sexually abused. The place she was taken back to had the same man there, who told us 'she can't stay there'. We told Child Safety, 'She can't stay there. She's not safe. She needs to be placed somewhere else.' The department said, 'No, she must stay there. If you leave, you're breaching your bail.' This is the issue about breaching bail. She made a choice—she was on a conditional bail program—to leave because she did not want to be sexually abused again as a 13- or 14-year-old child, and we supported her in that. When we talk about breaching bail conditions as an offence, this is about not understanding the context of a young girl's life if they are not safe.

In this case, as the Premier said, the laws will be enacted next week or whenever, and that will be a criminal offence for her when she has undertaken protective measures for herself and removed herself from an environment so she is not sexually abused again.

Mr CRANDON: Ms Kilroy, thank you for that. That is an example of something that could go wrong. We are talking about more serious offenders as well in that regard. Coming back, do you have research you can provide to us in relation to what you said about foster family and residential care being at the core of the issues?

Ms Kilroy: Yes, there is an academic in New South Wales named Katherine McFarlane who did her PhD around this.

Mr CRANDON: Can you send us a copy of that research?

Ms Kilroy: Yes.

Mr MARTIN: I have a question in relation to the drivers of offending and understanding types of offending, noting that you work with young people in the system. We have heard that there have been changes in the types of offending, moving towards break-ins, home invasions and car thefts. Could any of you from Sisters Inside share with us what you think could be driving that change in offences from your experience dealing with young people?

Ms Kilroy: There are a number of things. It is not one thing. One of the biggest things we have seen is more children being arrested for offences because there are more police being employed and targeted specifically in certain areas, so that is where we are seeing more children criminalised and in prison because of the policing situation. That is to be expected because, if you think about it, in 2021 there was a task force headed by Cheryl Scanlon of the QPS and 100 police headed up north, so we saw an explosion in the number of children being charged with more offences then. Now we have a new task force—I am not sure what happened to that task force, buy anyway we have another task force—and in this new package there are going to be 30 police flying around in planes to target specific communities, so we are obviously going to see where children—particularly Aboriginal and Torres Strait Islander children—are going to be targeted and there will be more offences again, so the numbers are going to go up. I imagine that, from 10 per cent a couple of years ago to now 17 per cent, the number of serious repeat offenders, or whatever they are called, will increase as well.

It is a concern when there is no actual support for the children in any of the communities. There are no activities; there is nothing. We know that girls whom we support have been charged and pleaded guilty to unlawful use of motor vehicles, whereas now they are engaged in the programs that we run after hours—because it is not a 9 to 5 issue; it is about after hours and weekends. For example, if a stolen car pulls up and someone says, 'Come for a spin', the girls are saying, 'No, we're going to Sisters Inside.' They are making choices because they want to come and engage in our programs because they are fun. They are directing the development of those programs and enjoying the outcomes and engagement moving forward.

The same model is not being implemented anywhere for boys that we know of other than in small pockets like Club Fight Back at Yarrabah. Young Aboriginal men who are now adult men with lived experience take young boys who are on orders—this is not funded; they get no funding—out on country and teach them culture, fishing, whatever it is, engage with them, build relationships, and they are getting outcomes but they are not getting funded. The little pockets of services or programs that we see are not being funded. This has been raised by us through the minister and the department, but government continues to fund the same programs, the same services that are getting bigger, but is not actually working with the group of children we are talking about here. They are the ones whom the focus needs to go on because the last thing I want is any more harm for anyone in the community and also for those children. It is about what we do now. We do have the resources and the ideas now to turn those children around, to move forward to be part of a community where there is no harm, but this bill is not it.

The other part that is more concerning, Sisters Inside believes, is not just that breach of bail condition becomes a criminal offence; it is where a police officer reasonably suspects that a child may breach a bail condition. It is even more concerning when we hand power over to police and they make the decision whether Billy or Mary is going to breach their bail condition. There will be a scoop-up of Aboriginal and Torres Strait Islander children and children of colour off the streets across this state and dumped in watch houses and prisons because of that. If people want to say, 'No, Debbie, the police are wonderful,' let's go back to the inquiry headed by Judge Richards where the police themselves gave evidence about racism, misogyny and sexism in the police force that has not been addressed. That is a bigger concern. Both are concerns, but to give police the power to reasonably suspect that a child is going to breach a bail condition—that power is handed over to police officers—is actually quite frightening.

CHAIR: There are no further questions and our time has expired. I thank Sisters Inside for your contribution to the bill today. We also thank you for your submission which we have on hand.

Mr CRANDON: And we have something being sent to us by Ms Kilroy.

Ms Kilroy: Yes, I will send the PhD research.

CHAIR: Thank you.

KAISER, Mr Joseph, Campaign Coordinator, Australian Workers' Union of Employees, Queensland

SCHINNERL, Ms Stacey, Secretary, Australian Workers' Union of Employees, Queensland

CHAIR: I welcome representatives from the Australian Workers' Union of Employees. I also declare that I am a member of the Australian Workers' Union. Ms Schinnerl, do you have an opening statement for the committee?

Ms Schinnerl: I do. The AWUEQ has coverage of the around 600 youth detention workers in Queensland's three youth detention centres. These workers fulfil the security function of these centres in a similar fashion—although not identical—to custodial correctional officers in adult corrective facilities. The youth detention workforce is heavily unionised and the vast majority of youth detention workers in Queensland are active members of my union.

From the outset, we wish to convey that, as Queenslanders, our members understand and accept that this crackdown on youth crime is warranted and we do not disagree that tougher measures on youth crime are necessary. However, the reason we are here today is because AWUEQ members in youth detention are subject to frequent and sometimes extreme workplace violence, and we do not want to see an already inherently unsafe job become even more unsafe. In 2022 there were 262 reports of assaults on staff in Queensland youth detention centres, and that is an average of five assaults on workers by youth offenders every single week. Preserving the health and safety of our members, no matter where they work, is a paramount priority for my organisation.

The proposed changes that will be given effect by the Strengthening Community Safety Bill 2023 hold the potential to affect the health and safety of AWUEQ members in youth detention. Our union holds three key concerns regarding the function and consequences of this bill. Our first concern is in regard to the mechanics of the provision that enables the transfer of persons who have turned 18 years old from youth detention centres to adult correctional facilities. The AWUEQ broadly supports the intention of the bill to move adult detainees out of youth detention and into the adult correctional system. Put simply, adult offenders belong in adult correctional centres and youth offenders belong in youth detention centres.

The proposed changes have the potential to deliver better health and safety outcomes for our members. However, the AWUEQ holds concerns that the bill as it is currently drafted does not take into account the safety and security of youth detention workers. As it stands right now, the bill does not provide a positive obligation on the chief executive or their delegate to take into consideration the safety of centre staff when assessing whether or not to transfer an adult detainee to an adult facility. There is, however, a positive obligation on the CE under subsection 276I(2)(e) in clause 33 of the bill to consider—

... whether a decision to not transfer the person would prejudice the safety or wellbeing of any detainee at the detention centre at which the person is, or is to be, remanded.

A similar provision exists under subsection 276DA(4)(c) in clause 33 of the bill when a chief executive is considering whether to grant an application for the delay of transfer. It is unclear why, when it comes to decisions regarding the transfer of these adult offenders out of youth detention, there should be a positive obligation to consider the potential for detainee-on-detainee violence when none exists for the consideration of potential detainee-on-centre worker violence.

Individual youth detention workers are also regularly the target of violence by specific detainees. In addition to this, they are at very real risk of serious injury when intervening to stop detainee-on-detainee violence, especially when it involves one or more adult detainees. With an average of five staff assaults per week in 2022 and a higher risk of harm being posed by adult detainees in these centres, it is clear that this hazard warrants placing a positive obligation on the chief executive to consider the safety and wellbeing of centre staff when deciding if and when a transfer will occur. This could be achieved by adding a similar subsection that a chief executive must consider the safety and wellbeing of centre staff when making decisions around transfers.

Another concern held by the AWUEQ is that the bill puts a similar obligation on the chief executive to consider the rehabilitation activities being undertaken by the detainee and the availability of those activities or like activities if a detainee was to be transferred. This obligation also exists for the courts when they are considering if an 18-year-old should be remanded to a youth detention centre instead of an adult correctional facility. The AWUEQ holds concerns that these proposed subsections may be incorrectly interpreted as a requirement to consider whether there are identical

rehabilitation and intervention activities available in an adult correctional centre. Youth detention centres offer a greater array of targeted rehabilitation services by design. Until the day comes that adult corrections

a silo. What happens at West Moreton is different to what happens at Brisbane, and what happens at Brisbane is different to what happens at Cleveland. Obviously, the cohorts differ significantly as well. You cannot across-the-board say that the older offenders are the riskiest to look after, because there are equally large cohorts of younger offenders who—

Mr CRANDON: And some of those younger fellows are pretty big too.

Ms Schinnerl: They are pretty big too, particularly when you are dealing with those from Islander communities.

Mr CRANDON: We heard on Monday from the police and they indicated to us that there are about 30 people aged 18 currently in the system. Has there been concern given to you over an extended period of time about the fact that they are still there? You have mentioned that one is 19 and still in juvenile detention.

Ms Schinnerl: It is an ongoing concern. The things that our members communicate to us in relation to their ongoing health and safety at work are not necessarily restricted to the age and size of detainees. It is about consequences. It is about being able to meet ratios—and that is the ratio that is dictated by their certified agreement, which is the minimum safety scenario where you have four young people being looked after by a minimum of one youth detention worker. I cannot say that age is the sole determining factor of health and safety at work for my members, but it is a factor in some circumstances—and that can be dynamic. It can be a factor one day and not the next. It just depends on the influx and the flows in and out of the detainees.

Mr CRANDON: Do you know the numbers at the moment in each of the detention centres? Do you get an update?

CHAIR: Do we have that question on notice?

Mr CRANDON: No. It was in relation to the 30, but not in relation to the total.

Ms Schinnerl: We do not get those daily updates, but I would have members who have access to that information.

Mr CRANDON: Could you provide us with the numbers?

CHAIR: I just want to caution that we may be asking the secretary to get numbers from members who have restrictions on the information they are allowed to provide. We might need to take some care.

Ms Schinnerl: The department could easily provide that information.

Mr CRANDON: I thought Ms Schinnerl indicated she could get those numbers.

Ms Schinnerl: I will take it on notice. I am actually meeting with the minister tomorrow to discuss some of these issues, so I am happy to ask that question directly of the minister and she can provide it to the committee.

CHAIR: I might do it if it is able to be provided because there might be restrictions about that.

Mr CRANDON: In each of the centres and the age of the older ones.

Ms Schinnerl: We can do that.

CHAIR: The proposed bill talks about whether rehabilitation of the same nature necessarily exists. In terms of management of these centres, both for the workers themselves plus also other younger and more vulnerable people, it would seem to be that you would make that judgement based more on the nature of the person turning 18—the nature of the young adult—and their status in their rehabilitation program as well as their status in being able to be managed post their 18th birthday.

Ms Shinnerl: Very much so, and that leads into that dynamic risk assessment scenario that our members undertake every day. One detainee experience differs significantly from the next. You may have 18-year-olds in the system who have been relatively well behaved and you will have others who are posing significant problems to other detainees and youth detention workers. I guess that is for the executive directors to decide, but simply what I am saying in terms of what the prerequisites are when considering those transfers is that staff safety must feature. If you are considering detainee safety, you must consider staff safety.

CHAIR: There being no further questions, we thank you very much. We note that you have endeavoured to get back to us, but we do not wish to impose on you something where we may be breaking conditions in relation to law.

Ms Shinnerl: That is fine.

CHAIR: I am just being careful.

Mr CRANDON: I understand.

CHAIR: With that, that concludes this hearing. We thank everyone who has participated today. Thank you to our Hansard reporters. A transcript of these proceedings will be available on the committee's website in due course. I declare this public hearing closed.

The committee adjourned at 3.46 pm.