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On behalf of North West Queensland Indigenous Catholic Social Services Limited

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**The Youth Justice and Other Legislation Amendment Bill 2021, Legal Affairs and Safety Committee  
Submission**

I would like to begin by quoting extensively from Don Weatherburn who has also produced a book called 'The Vanishing Criminal', co-authored with Sara Rahman in 2021. Weatherburn tests the most common theories behind the reduction in crime, and finds most wanting. At the end of the 20th century, Western Australia had the highest rates of car theft in the country. Sixteen people were killed in one 18-month period as a result of crashes linked to high-speed police chases with stolen cars. In 1992, it introduced mandatory minimum sentences of 18 months for car thieves. Four years later, it introduced three strikes laws for home burglary. Around the same time, police in WA were lobbying the government to make it **mandatory for all cars sold to be fitted with an immobiliser**, and for laws making it **illegal for second-hand goods dealers to accept goods without proof of identity and ownership**. "The secret to crime control is regulation not punishment," Weatherburn says. "It's much easier to control crime by blocking the opportunities for it than it is by scaring the wits out of people who try to offend, or trying to scare the wits out of them."

Crime rates in Australia have dropped steadily since the 1990s. In 2000, Australia had the highest rate of burglary, assault, sexual assault and robbery in a survey of 25 countries. By 2018, the crime rate had fallen by 60%, with some exceptions. Reports of sexual assault, child sexual assault, child exploitation, and internet fraud and identity theft have increased. Weatherburn tracked the trend for more than 30 years as head of the New South Wales Bureau of Crime Statistics and Research (BOCSAR).

Where significant contributing factors can be identified they are often small or unexpected. The introduction of mandatory engine immobilisers is credited with preventing 2,000 motor vehicle thefts a month, or a 15% reduction over the year. The regulation of stolen goods is credited with reducing burglary rates, by making the trade in stolen goods less profitable. . Crime is a young person's game: the bulk of offenders are aged between 15 and 24. And by 2000, there were considerably fewer people in that age bracket.

Jailing people had some effect, but not a significant one, Weatherburn says. Australia's prison population grew by 130% from 1985 to 2018, but the steepest rise occurred after 2010, when the crime rate had already substantially fallen. "Of all the tools available to government to deal with crime, one of the weakest is imprisonment and that's the one they reach for every time," Weatherburn says. "They really need to think about controlling the opportunities and incentives for crime." Young people who did come of age in the early 2000s were less likely to turn to crime because legal jobs were plentiful and well-paid."

"The media abhors a vacuum so as one crime dropped after another they started looking at crimes that hadn't dropped," he says. "No one used to pay much attention to assault, it was all about burglary and robbery and murder. And then when those started dropping – murder is still on the boil – people switched their attention to assault, and we have had endless coverage of assault, and we have also had endless

coverage of sexual assault and internet fraud. "The publicity surrounding crime hasn't dried up whatsoever, and politicians respond to public perceptions."

You have got more police chasing fewer offenders. "These days anyone can hop on the internet and find out what the crime rate trend is in any suburb in Australia ... so police accountability has gone up." The number of police has also increased while the number of people committing a crime has more than halved. That has given police space to be proactive, with sometimes questionable results.

Picking up someone for breaching a conditional release order strengthens the case for them to be imprisoned on remand. A third of all prisoners in Australia were unsentenced people held on remand. "What [police] know is if they let you get bail and don't fight it, and then find you in breach of bail and take you back to the court, they know the magistrate at that point will have no choice but to lock you up," Weatherburn said. "And instead of locking you up for a couple of days until you raise bail ... you are going to be locked up until your case comes to court. In some cases that can be months."

He says there is some evidence that locking up people on bail could prevent crimes, but that would be "a shocking crime control strategy". "You are basically locking up unconvicted people to reduce crime. I have a real problem with that kind of approach."

"The short answer is that prison works a bit, but not as much as the tough on crime crowd say, and the long-term effects of imprisonment on the crime rate require further investigation."

In commenting on the above:

- I acknowledge that there are 400 or so individuals who commit 48% of the crime in Queensland. However there is a small cohort of those here, about 40 maximum, that are a part of that number.
- There could also be significant under-reporting as some say, what is the point when nothing happens to them. In reality it why Police need to feed back to the community to encourage reporting of crime.
- In Mount Isa youth crime seems to be a much younger cohort than suggested by Weatherburn and in other parts of Queensland. Older youth seem to be able to access money and their crime will be more alcohol related and relationship based. The younger ones could be encouraged into crime as the older ones know they cannot be really dealt with by the Court as well.
- Going to youth detention is not always seen as a deterrent as some love going there for: meals, company, routine, stability, a break from the chaos of home, time with friends, meeting new friends in a similar situation which creates questionable bonds, ... I do know that the Yurru Ngartathati Murri Men's and Marapai Ngartathati Murri Women's Groups, we operate at NWQICSS Limited, do create a bond with the men or the women in their particular group but in a healthy way to encourage them out of their lifestyle situations.
- I have reservations about the trial the use of electronic monitoring devices as a condition of bail for some offenders aged 16 and 17 years old but the length of the trial could reduce these. If it will not prove an administrative nightmare, it at least may cause young people to be victimised and imposing more conditions that prove to be another imposition and causing an adverse reaction with the youth in question. Stigmatising the young people could cause further trauma to the youth in question who have a life of trauma in their history already. Also they are ingenious with technology and finding ways around issues they are confronted with. However if it is to help them realise that they are in a stage where they are being watched, it, may help.
- Recently in Mount Isa there has been an alarming increase in women becoming involved particularly in anti-social behaviour here. This is almost the first indicator of future youth crime by a number of young women who form groups. Social media is perhaps their biggest weapon to cause harm to others which eventually leads to street fighting and family conflicts. We have been involved in a number of mediations with these families.

- The lens through which particularly children and young adolescent people are viewed could be changed. In some countries, like Scandinavia, they look at the same conduct through a child protection approach, unless it is a very serious crime. There is real value in this approach as many of these young people are on “dual orders” with Child Protection as well as whatever results from the remand/conviction in Court simultaneously. Being able to have family involved in this process is vital. I think that is why the Scandinavian model is successful as they are in detention for some days and home for some days each week or so.
- It is undisputed that remand is the only option when young people have no stable address. But what are we doing about stable addresses? Who is responsible?
- What is serious youth crime is an issue too. The community fear of break-ins, stolen cars, .. is real. I think the community, Police and others involved have differing views on this.
- There needs to be greater Police work with victims to inform them of the results of their experiences of crimes. It seems as if youth get off Scot free or no action is taken. There needs to be greater reporting back to victims about the results of their investigations and prosecutions.
- Youth detention should be a last resort. Every effort should be made to avoid this – with greater resources to work with the family holistically. The issues facing many families are similar – substance abuse, domestic violence and mental health, so really front end resources e.g. health, housing and early education to give the family the best chance need to be in place and actioned.
- I think part-time detention, which has been trialled elsewhere, is an idea – so young Indigenous people don’t lose all contact with families whilst they are in Cleveland Detention Centre. There could be a prospect of some Elders being willing to supervise this.
- The issue so often is that Detention is so far away and it is either there or home and no options are really available for part-time detention. The State Government has no appetite for building anything out here because they can build two for the price of one here. This should be put to the Federal Government as the Black Deaths in Custody Report recommends this for adult and youth would be the same.
- If a young person is in detention, then there should be greater programmes rolled out which target issues such as family violence, drug education, sexual health, addictions and domestic violence. When they leave there should be a coherent case plan for them, i.e. accommodation, education and community links. Being released into the same environment is really counterproductive and there needs to be stronger links established to enable not just a transition but an understanding of the programmes already begun and how they can be continued and maintained back here.
- Ideally a facility located out of town but close enough to town is required. We could then cut off social media, mobiles interactions and a simple life with families involved too.
- At the least I would love to have them accommodated here for a few weeks, both adults and youth, to engage with family, organise their accommodation, benefits, and their education roll out. I am sure that this would lead to better results in the long term. At present, coming back from detention we just pick them up from the airport and drop them home!!
- Housing is an issue with overcrowding and youth wanting to be on the streets at night to get away from the adults drinking and card games and sleep rough.
- ABC radio personality, Madonna King, has a book she talked about on Drumbeat. It is “Ten-Agers” as what was once a 15 year old issue is now a 10 year old issue. It means we are more likely to see younger aged youth being involved in crime as we go into the future and all that goes with that in the lead up.
- Personally, I think that imposing more conditions, proposed bail changes, on youth may prove to be counterproductive if there is no real concerted effort to really support them.

The real issues for youth offending are not really addressed by the Court system:

- The main issue before the Court is the offence/s in question, even if a carer is asked to be present in Court. The Court process is not really conducive to helping the youth to understand the effects of

their offences on the community, what is behind their personal situation to cause this to be the case and what happens as a result of this Court process.

- The local Magistrate has asked for an option for local people to be involved in the process. We have begun engagement with some Aboriginal and Torres Strait Islander Elders in the Youth Court process, as distinct from Murri Court Elders, to reflect to the Magistrate what the community reaction to the offences are. We have just begun with some younger Elders but they see that there is a much wider need for engagement with the young people outside of the Court to be able to engage with them in the Court processes.
- The set-up of Youth Court, as in any Court, is where both prosecutors and lawyers mainly speak on behalf of the young person. This is often in a manner above the capacity of the young person to comprehend. Submissions focus on culpability relating to the issue/s before the court, with limited account of the true nature of individual circumstances. Sentencing laws allow for individualised sentencing, but time and system constraints mean this does not always occur. It does not help the young person to really be involved as well as to take the system as seriously as is needed but to merely endure the process.
- Court processes usually say someone is right and another wrong. The degree of the guilty plea is diminished when people are encouraged to plead guilty, to get it out of the road, there is a backload of offences, and the timeliness of dealing with offences can be in the past where life has moved on considerably since the offence is being dealt with. There are now multiple offences yet to be dealt with.
- The capacity of the young people to plead guilty is also an issue of concern. There are real concerns as to the capacity to plead by virtue of either intellectual ability or mental health status. There seems to be no baseline to assessment about the cognitive ability of a defendant. A significant problem is the lack of resources to assess and report on this in relation to a conviction or sentence and the sharing of this to appropriate people with consent of the family or individual.
- Many defendants just want to “get on with it” and plead rather than prolong the hearing. In theory there should be greater availability of this information for all, given NDIS and the assessments which should be occurring. Our service experienced a recent case for example where a mental health assessment was ordered for the Court. I asked and I was told that the solicitor, the Community Justice Group, Youth Justice Department manager, the family of the youth (the main carer) or the youth service involved could not have access to the report. The family were told it is CONFIDENTIAL. How are we supposed to deal with young people and their offences when this is the case? I have recently met with Queensland Health, Mental Health, locally to see how we can overcome this barrier. We hope to work towards an effective response for all.
- Statutory agencies are often ill equipped outside their primary functions to resolve these issues, often looking to NGOs for partnered responses to community safety issues across offending spectrums. Within our concerns is that these partnerships are not always underpinned by relevant and timely information sharing to address individual offending and recidivist risk. Information flow can be frustratingly ‘one way’ as well – agencies may ask for information without reciprocity or true exchange to their government funded partners.
- The involvement of ‘Community Connect’, working well in Mount Isa, in this process for co-ordination is really important as are the youth services as well.
- Youth crime largely occurs outside hours, where traditional models remain 9 to 5. Continued investment is required in services like the Youth Hub to be responsive to issues and when they arise, not within the constraints or convenience of business hours.
- The issues created by sentencing men to jail, and creating more fatherless families, is another way youth issues are created at an earlier age. This only adds to the issues of men being excluded from the families and being again seen as secondary to maternal raising of children. Young men need significant men in their lives to change behaviours in the long term.
- In the last three years our figures show that there has been a doubling of men going to jail from out here. There are now over 100 men from our Murri Men’s Group in jail at Christmas time when we send them a card. Significantly in this figure is DV related crimes. Whilst I understand this approach,

the long term effects of this will show that there will be more issues created in the community by 'fatherless families'. I think a bigger study is needed about the wider effects of jail on families, and no other alternatives being offered, which would help men and women understand the results of their behaviour and ways to overcome the system of jail as an only alternative.

- The Northern Territory border issues, mainly coming to avoid both the card system of receiving payments with no alcohol or gambling allowed, creates housing, health and social issues for the community and families too. Queensland is paying for their issues.

I am of the understanding that (a) and (b) below, do not apply to Mount Isa and North West Queensland and do not seem to be real issues here.

a - The trial of powers for police to stop a person and use a hand held scanner to scan for knives in SNPs on the Gold Coast. However knives are becoming a wider issue, even here.

b - The enforcement regime against dangerous hooning.