



# ***LEGAL AFFAIRS AND SAFETY COMMITTEE***

**Members present:**

Mr PS Russo MP—Chair  
Ms SL Bolton MP  
Ms JM Bush MP  
Mrs LJ Gerber MP  
Mr JE Hunt MP  
Mr AC Powell MP  
Mr JM Krause MP

**Member in attendance:**

Mr MC Berkman MP

**Staff present:**

Ms R Easten—Committee Secretary  
Ms K Longworth—Assistant Committee Secretary  
Ms M Telford—Assistant Committee Secretary

## **PUBLIC HEARING—INQUIRY INTO THE YOUTH JUSTICE AND OTHER LEGISLATION AMENDMENT BILL 2021**

### **TRANSCRIPT OF PROCEEDINGS**

**MONDAY, 22 MARCH 2021**

**Brisbane**

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### **The committee met at 8.46 am.**

**CHAIR:** Good morning. I declare open the public hearing for the Legal Affairs and Safety Committee's inquiry into the Youth Justice and Other Legislation Amendment Bill 2021. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all share.

On 25 February 2021 the Hon. Mark Ryan MP, Minister for Police and Corrective Services and Minister for Fire and Emergency Services, introduced the Youth Justice and Other Legislation Amendment Bill 2021 to the parliament and referred it to the Legal Affairs and Safety Committee for examination.

My name is Peter Russo, member for Toohey and chair of the committee. The other committee members here with me today are: Mrs Laura Gerber, member for Currumbin and deputy chair; Ms Sandy Bolton, member for Noosa; Ms Jonty Bush, member for Cooper; Mr Jason Hunt, member for Caloundra; and Andrew Powell, member for Glass House, for whom Jon Krause, member for Scenic Rim will be substituting later on today. The committee has also granted leave for Michael Berkman, member for Maiwar, to ask questions at the hearing today.

The purpose of today is to hear evidence from stakeholders who made submissions as part of the committee inquiry. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. You have previously been provided with a copy of the instructions to witnesses, so we will take those as read.

These proceedings are similar to parliament and are subject to the Legislative Assembly's standing rules and orders. In this regard, I remind members of the public that, under the standing orders, the public may be admitted to or excluded from the hearing at the discretion of the committee. The proceedings are being recorded by Hansard and broadcast live on the parliament's website. Media may be present and will be subject to my direction at all times. The media rules endorsed by the committee are available from committee staff if required. All those present today should note that it is possible you might be filmed or photographed during the proceedings by media and that images may also appear on the parliament's website or social media pages. I ask everyone present to turn mobile phones off or to silent mode. The program for today has been published on the committee's webpage and there are hard copies available from committee staff. I also ask that if you take a question on notice today you provide the information to the committee by 12 pm on Monday, 29 March.

### **LLOYD, Ms Tammy, Group Manager, Children and Families, Anglicare Southern Queensland**

### **WILSON, Ms Amy, Program Manager, Inspire Youth and Family Service Inc.**

**CHAIR:** Good morning. I now invite you each to make an opening statement of no longer than three minutes, after which committee members may have some questions.

**Ms Wilson:** Thank you for the opportunity to speak. IYS has over 35 years of experience and work in the community. We have evolved to become an integrated multidisciplinary, community based organisation supporting young people and their families through a diverse range of targeted programs. IYS is considered a specialist provider in youth justice responses, housing and homelessness services for vulnerable and at-risk young people.

We believe that at a broader level a focus on more long-term early intervention strategies and offering more opportunities for positive activities increases the likelihood for better outcomes. Our experience specifically of what works with those who are in contact with youth justice are programs that are firstly trauma informed and include things like assertive outreach; are culturally safe; offer court support, group programs, prosocial activities, therapeutic interventions, individual and group

diversionary activities; and offer a holistic package of support for young people and their families. Most of all, it relies on forming meaningful relationships and supporting young people and families to form alternative narratives and to increase a sense of inclusion in society.

We strongly believe that every decision relating to children and young people needs to be founded in best practice. The amendments, we believe, will compound the negative experiences and negative narratives of the most vulnerable and marginalised young people, will likely further isolate and ostracise them from society, and will obviously lead to over-representation and increased number of Aboriginal and Torres Strait Islander young people and CALD young people in detention centres. We ask that the LAS Committee gives consideration to trauma informed, evidence based approaches to repeat offending and in doing so rejects the bill.

**Ms Lloyd:** Good morning. Are we speaking specifically about breaking the cycle, addressing the core reasons young people offend and keep reoffending? Our submission has already pointed out and we know that the committee is aware that the 10 per cent of young people who consistently reoffend are the young people who have come from the most disadvantaged backgrounds. Further stigmatising and penalising these young people will not stop them reoffending. More punishment is not that much different to their existing lives, because the punishments of poverty, violence and homelessness are already part of their everyday experience.

To change the story we need to take a whole-of-family approach. As the Premier wrote in her foreword to the current Youth Justice Strategy, we often talk about being tough on crime and tough on young offenders as if it were the same thing. They are not. Crime is a damaging outcome for everyone, both individuals and community, but the actions of young offenders are the product of their environment. They were born with the same potential for a good life as our own children but missed out on that lottery.

Being really tough on crime is about addressing the reasons for offending—not sending the police or ambulance to the bottom of the cliff once the damage is done. It is not just a fence at the top of the cliff but a whole interwoven mesh of supports that make sure kids do not get too near the edge. We fully agree with the Premier's comment that we need to work with families and communities, engaging them as part of a solution, because no-one is rehabilitated in isolation. This is the reality of being tough on crime. This is actually what it means to prioritise victims, because we are working towards ensuring there are fewer of them.

One case example that I would like to provide is a young person, 16 years of age, with a long history of offending and who has been in and out of detention on many occasions. The young person was referred to our service and over a three-month period built a healthy relationship with one of the staff. The young person spoke about his home life not being great, that often stepdad would get drunk and hit his mum, that there was not enough food to go around and that he felt helpless in protecting his siblings and mother so he would just take off. It was at these times he would meet up with friends, which often led to some form of crime. He stated that he did not always want to do this but that if he did not go along he had nowhere else to go. Staff asked him what could make a difference. His response was simple: to have a place I could go home every night and be safe. He then connected this with the detention centre. He said that, although you could not go where you want when you wanted, you were guaranteed to have a bed every night, three meals a day and someone always around that you could talk to.

Staff then encouraged the young person to take part in a life skills program, one of the focuses of which was meal prep. This taught the young person how to access food from food banks which was at no or low cost, make simple recipes, make more than you need today so that you can store for a rainy day, and allow the young person to take meals home to his family, providing a sense of self-worth and achievement. Approximately six weeks into the program, the young person's mother attended the service with a dish she had made for the staff to say thank you. She spoke about how proud she was of her son trying to change his ways. She said that she knows it is hard for him.

During this time, staff talked to the mother about her relationship with the child and what they would like to do moving forward. Mum said it was hard for them to connect. The young person suggested that mum come to this program and teach other children how to make the traditional family dishes. Obviously after doing a risk assessment, it was agreed this could occur. Now the mother and son attend the service together once a week and make food and share with the other children. During these visits, staff have had the opportunity to talk to mum about what is really happening at home, how mum needs to be safe and about how her children need to be safe. Although mum is not ready to leave this relationship, mum has put in strategies to send the children to family and friends when she knows that dad is going on a bender.

In focusing on the above examples, you will note that the behaviours we see from the young people are caused by what is happening to them and what has happened to them. Across the state the government is currently funding many services that are providing assistance to some of these children and young people. However, more funding is needed as many services have children on waiting lists, which means lost opportunities to get in and work with these young people. This needs to be expanded so that we can work more closely with the families to understand what is happening for them and to put in place sustainable supports—not just a bandaid—such as housing, education and finance. Early intervention is the key. We need supports within the service that can connect with the young people and families to see what is happening for them and to assist in providing relevant supports.

Our police officers do an amazing job every day in the community, making sure it is safe and responding to many calls with these young people; however, they are not social workers. They do not have the time or the resources to spend with these children and families to see what supports are needed. Our education system struggles with having children that are traumatised and often display behaviours that inhibit the learnings of others. These children and young people are often excluded from school. Our communities need to look at what we are offering within the communities to engage these young people in social connection, a safe place to go when things are not so good and a place to belong. The saying 'it takes a village to raise a child' is very true and we need to look at how we bring together a village to support these children.

**Mrs GERBER:** Thank you both for your appearance here today. Amy, I am interested in your perspective. You say that you are completely opposed to the bill and everything that is proposed, including the electronic monitoring devices designed with the purpose of trying to keep youth out of detention because they would have the ability to have these devices on. If not that, then what to deal with this small cohort of recidivist offenders who are terrorising communities up north in particular? What solution do you have?

**Ms Wilson:** Obviously you can hear that I am English. I used to work in the youth justice field within the UK. When I was working in the UK in the youth justice field we did have the tags. What we found was that young people used them as a trophy. That really did not help to try to change that narrative about where we would like to see young people and where we would hope young people would hope they could be.

I do not have the answer of what works—if I did, I would be screaming about that—but I have seen from other countries what happens around that early intervention. I know we are talking about this really high-end group of young people. We are trying to form really meaningful relationships in whichever way we can. For example, we will go into the detention centres. I will write handwritten letters to young people. I will help them to understand what trauma means to them and why potentially they might be responding in the way they are. What we find at the moment is that young people are not able to emotionally regulate themselves so are constantly responding in this emotional way and are not able to connect with the cognitive part of their brain. When we are putting tags on people and we are incarcerating them, it is not helping them to learn. They do not hear what is happening. I really do not know the right answer, but I feel that maybe it is about having a discussion and really unpicking what can work. I know early intervention works. I have seen it work.

**Ms BUSH:** Tammy, I hear you around early intervention and diversion. I think many of us do, and the submissions would support that too. You have given the example of a young person who explained that at least in youth detention there is a bed, there is clothing, there are warm meals and there is some kind of pastoral care. Given the investment the Queensland government has made in early intervention and diversion, I am really curious why there is still a gap. What is not happening for those young people, because those services with that investment should be available to a young person outside of detention?

**Ms Lloyd:** There are not enough services. I think that is the whole point. No one service fits the bill. We need to look at what we have for young people to engage in after-hours, because that is when often it is not safe to be at home, so where else can they go for that period of night until eight o'clock in the morning where they can get a meal, have a shower, connect with people and socialise in a healthy way? What programs do we have in the community? We look at the PCYC as an example, but it does not cater for these types of children. It needs to be something that is more robust, that is giving them skills that they can then move on and use to get employment, to help the family. The simple thing of being able to take a meal home for mum and share with the family gives a child that sense of achievement, self-worth—he is helping his family, he is contributing. It is about working with the families to find out when are the peak times. There are not enough of those services. It is about getting in at Brisbane

the times when young people are picked up by the police rather than throwing them in the watch house overnight—having paid professionals in there that can work with the young person, find out what is happening, go and visit the home and try to work with the family.

**Mr POWELL:** Thank you for your contribution. You are going to hear a consistent line of questioning from us because we have heard that, yes, we need early intervention and prevention desperately. We even heard from a senior sergeant asking why we cannot get intervention with the child when they first appear in the watch house, not the seventh or eighth time. We get that. As Mrs Gerber pointed out, we have this small percentage of kids who are recidivist, who have tried many of these programs and they have failed for them. We had one grandmother literally say, 'I have to report on my own grandson. He is a 100-kilo thug and the only place that he is safe—and the community is safe—is in youth detention.' Tammy, if not this bill then what? I get that you are going to tell me it is early intervention and prevention, but in the meantime we have a small group of young people for whom early intervention and prevention is way too late. What do we do for them at the moment?

**Ms Lloyd:** If you liken it to when you are teaching a child to ride a bike, they do not get it the first time. You might have to take them out 20 times. Eventually, slowly but surely, they will learn to ride the bike. You can remove the training wheels and then they can ride. It is the same for these children. The first time may not get through to them. When you put these children into detention, what work is done there to see where they are coming home to, because that is not changing? You release them and send them back into the same environment, with no supports to those families. If it is a child that is on a dual order with both child protection and youth justice, the department is having to find a family for these children. Foster carers are not going to take these children. Then they are put within the residential services. We have many of them, but it becomes quite limited to put them in those places because if there are too many under-12s needing beds then you have services saying, 'We do not want to pop them with these cohorts of children because then it could disrupt them,' so then where do they go? Then we put them into youth shelters and, again, there is nothing there for them. When children are detained, when they are in detention, what work is happening inside with the department and with the families to see what is going to be different for this child? Make it be different; make it be successful for the child. Talk to the child and find out what they think is needed. Time and time again I just see the child released and put back into the same situation. Nothing has changed, yet we are expecting them to change. How can you do that?

**Ms BOLTON:** Thank you for both coming. From what I am hearing, you are agreeing that those 10 per cent need to be in detention but they need the services from the department while they are in there—and for their families?

**Ms Lloyd:** I am not agreeing that children should be in detention. There is sometimes a time for them to be there. Obviously they are caught, they have done something wrong and now they are in detention, but it should not be that we just put them there and leave them there. If they are there, it is absolutely about the work that is occurring in there to bring them out to make sure it is successful for them.

**Mr BERKMAN:** Given your experience working with the kids that this bill purports to target, do you think it is ultimately likely to make communities more or less safe?

**Ms Wilson:** I believe it will make communities more unsafe because you are exposing children to the justice system earlier. Since this has all happened—and it is devastating what has occurred—within the court space more children are being held in custody for things they have done, or in watch houses, so we are exposing them to that because there is a fear of knowing where the line starts in terms of putting children back into custody. We are seeing an increase in them being in that system, so we are exposing them to other young people and to the whole system that children can be traumatised by in itself and it becomes normalised to them. They are then exposed to other young people who are committing offences that are of a higher nature and, again, it becomes the same thing of a competition. We are not addressing the underlying issues. I feel that the community becomes more unsafe because they are then with a peer group that is committing further offences. That is my perspective.

**Ms BUSH:** I have read your submissions and recognise the wonderful work that you both do in this space. Going back to my earlier question, does either service offer an after-hours service to young people? If not, what would be the barriers to you doing that?

**Ms Wilson:** At the moment we offer an on-call service, but we are not funded to offer after-hours. We have a youth centre down in a skate park which is unfunded. We are reopening it in a couple of weeks time. That is one day a week. It is not enough. Even in the area, all of the organisations get together saying, 'What is there for young people to do that is within their local area, where they do not have to go into the city to access it?' It is a long way.

**Mrs GERBER:** Moving back to the community issue, we have been in Mount Isa, Townsville and Cairns for community consultation. Overwhelming there we had members of the community presenting to us who were really scared and fearful, saying they do not feel safe, saying it is not fair for them. How do we balance the rights of the community to be safe and to feel safe and to not have crime inflicted upon them with the rights of the child? This bill is proposing to address that small cohort of offenders that nothing else has worked for. I am interested in your views on balancing the right of the community to feel safe with the right of the child?

**Ms Lloyd:** That is a hard one. There is not an answer. The community has a right to feel safe. As a parent whose own child was in the house on her own when it was broken into, I know what it feels like to be a victim and to see your own child go through years of being terrified to be left in the house again. Then I work with children who do this and so it is a really hard balance. I think Townsville is also really hard because it is a very small community, so when something happens it impacts on so many and then you have people talking and that just rolls on. When you are looking at places like Brisbane that are really big, you get exactly the same and probably the same amount of crime occurring in both places, but one is a smaller community and one is a larger one so it is kind of not in the public's eye as much. I do not know the answer. People have a right to be safe and feel that they can walk around their community safely, but I think the point is that for these children at one point in their life they were not kept safe. The system, the community, failed them when they were little children and now we are expecting them to trust adults and comply when no-one protected them or we did not protect them well enough.

**CHAIR:** One of the themes that came out of our regional visits is that there seem to be a lot of services competing for the same resources and then, in conjunction, competing against each other. The impression I was left with—and this is just my impression so I will take on board if I have misinterpreted it—is that there is no cohesion between the services because everybody seems to be jealous of their patch and they do not want to engage with the other service because that may mean they lose funding or what they do could be consumed into another service. Is there any way people could know what services are available in a given region or is there a coordinating body?

**Ms Lloyd:** Anglicare Southern Queensland do not have services in Townsville to do this type of work, but I believe another part of Anglicare does. Down in the Logan area and the Gold Coast area there are many interagency meetings where I find that people are genuinely working together. They come together to find out who has what funding, who has what service and how they can connect together to support the children and the families. Anytime a tender goes out everyone is going to compete for it, but then once people have the funding I think there is a genuine interest to work together. Could it be done better? Absolutely. I cannot talk about the regional ones, sorry.

**CHAIR:** That brings to a conclusion this first part of the hearing.

**STRANGE, Mr Warren, Chief Executive Officer, knowmore**

**WEGENER, Mr Lindsay, Executive Director, PeakCare Queensland Inc.**

**WIGHT, Ms Janet, Chief Executive Officer, Youth Advocacy Centre**

**CHAIR:** Welcome. I invite you to each make a statement of no longer than three minutes. We are pretty strict with the three-minute rule because we find that it is helpful in allowing the committee to ask questions.

**Ms Wight:** Thank you for the opportunity to speak to the committee this morning. The Youth Advocacy Centre takes this bill extremely seriously. We are very concerned that this bill will turn youth justice back about 10 years if it is passed in its current form. The facts have not changed so it is very unclear why the government is taking this course at this point in time and, indeed, why it needs to be done with such undue haste. It has been the situation for many years. I have worked in this sector for 30 years. It has been the situation for all of that time—that is, one per cent or less of our 10- to 17-year-olds are involved in the youth justice system. It has always been the case that it is a very small proportion of that group, consistently around 10 per cent, who are our at-risk young people who come back before the courts time and again. Therefore, it is really a bit concerning to understand how it is that we find this bill before the House with such undue haste.

We have provided you with a very in-depth submission so I do not see a lot of point in going through those points. The issues that we raised, of course, are very much about understanding why. You cannot address a problem unless you understand why that problem exists and what the evidence and the research shows to address that problem. I would argue that we have shown very clearly that the bill will not do anything to make the community safer. In fact, the risk is that it will do quite the opposite. In particular, the reversal of the onus of proof for show cause and for bail is simply going to fill our detention centres and, indeed, fill our watch houses. We will be back to the situation that we had 18 months ago when we had young people in this state held in the most appalling of circumstances. If you want to keep criminalising them, if you want them to keep the behaviours that they are showing, that is what this will do.

It is extremely clear, the evidence is there and it is well established, nationally and internationally, that what you need to do is get children out of the system. Bob Atkinson's report for the previous Palaszczuk administration was very clear about that point. He is a former police commissioner who well understands law and order and how communities feel about their safety and the need for community safety. As one of the previous speakers just said, the reality is that many of those children in fact have experienced violence and trauma and issues themselves. It is hardly surprising that they do not behave in a way that we feel is acceptable because that has not been modelled appropriately.

To take up the point raised earlier, if we have missed the early intervention and prevention—which we have done for these children—because the services are not there, what are we doing in a diversionary space to address that? That includes making sure that probation and community service orders operate appropriately and as well as they can, so that when young people are in detention they get the services they need by way of mental health and substance use, and there is a transition back to the community that involves their family or some adult that they can rely on who will help them get their lives into order. Unless we take that approach, this bill is actually going to take us backwards very seriously.

**CHAIR:** Thank you, Janet.

**Mr Wegener:** I should just say that I had an accident coming here. I am a bit sore and sorry for myself so this will be a very brief statement. I will be as quick as I can.

While appearing today in my role as executive director of PeakCare, the Queensland child protection peak body, I also bring to these hearings an extensive professional background as a youth justice practitioner, a senior policymaker and program director, a former manager of a youth detention centre and a director of the state's youth detention centres. This has enabled me to develop a close familiarity with young people who encounter the youth justice system and the range of policy and practice responses to youth crime that have been used over a considerable period.

Throughout my career I have observed governments of all persuasions wrestle with what sometimes seem to be competing agendas of the youth justice system to: firstly, work with young people and their families to rehabilitate and reintegrate those young people into their communities, thereby diverting them from continuing on a trajectory into the adult criminal system—in other words, an agenda that is child focused; and, secondly, protect the community from crime through the use of penalties intended to act as a deterrent to further offending, provide the victims of youth crime with a

sense of justice having been served and prevent further crime, at least for a time, by removing some young people from their communities through their incarceration in a youth detention centre—in other words, an agenda that is focused on community safety. These agendas often seem to be dealt with as two sides of a coin—a coin that is tossed in the air and that, upon landing, based on whatever direction the winds of public concern and media attention may be blowing at the time, determines which side of the coin becomes the prioritised policy agenda, or the prioritised policy agenda at least for a while until the coin is inevitably tossed into the air again, usually in response to a crisis, and we all wait to see how it will land this time.

In an attempt to manage this dynamic of competing agendas, governments often make use of rhetoric similar to adopting a balanced approach. This can go partway but certainly not all the way in reconciling these agendas and the balance can easily tip one way or the other. The greater challenge for governments is to integrate these agendas so they are not seen as competing but rather brought together in ways that mean the best interests of both young people and the communities in which they live are served well. In an overarching sense, the best means of achieving the long-term protection of our communities from youth crime lies with prevention and, when offences do occur, the use of strategies that hold young people to account in ways that are meaningful, logical and make sense to them, taking into account their maturity and their own sense of fairness and justice—strategies that do not further entrench young people on the trajectory into the adult criminal justice system but rather assist them to obtain a sense of belonging and worth that becomes conducive to their development of prosocial behaviours.

In relation to those who have been the victims of youth crime, there are some whose predominant interest is confined to seeking retribution—the harsher the better. The vast majority, however, are much more interested in understanding why the offending occurred and in being reassured that actions will be taken to reduce the likelihood of it being repeated, in respect of either them or others. Their preferences are to seek consequences for the offending implemented that are reparative in nature, rather than simply punitive, and restorative in allowing young people to grow out of crime and into productive law-abiding lives within their communities.

Especially in relation to young people who have experienced child abuse or neglect, the disadvantages of poverty or the scourge of racism, there are few who hold a view that they suddenly transform from children deserving of our compassion and understanding into kid criminals worthy only of our derision.

**CHAIR:** I am sorry to interrupt, Lindsay. Do you have much longer?

**Mr Wegener:** Only about two seconds. PeakCare is not convinced that the bill assists in reconciling the agendas of the youth justice system. It may be anticipated that those who react to the legislation will fall into three camps: those who count the legislation as a victory, those who are not appeased and see it as insufficient in getting tough on crime, and others who are disappointed that it represents a step away from international developments in youth justice. Whichever camp we belong to, no-one can be pleased or proud about this legislation. It represents an indictment on our society, the value we place on children and the emphasis we should be placing on preventing them entering into crime in the first place.

As referred to in PeakCare's submission, I urge the committee to refer to this research report just released in the United Kingdom. Unfortunately, it was released prior to the bill being introduced to the House. I think it is groundbreaking research in many ways and provides a good framework for evaluating this bill.

**CHAIR:** Lindsay, are you happy to table that report?

**Mr Wegener:** I am happy to table it, yes.

**CHAIR:** I seek leave of the committee to table that report. Leave is granted.

**Mr Strange:** I thank the committee for the opportunity to make a submission and to appear this morning. Consistent with the focus of our service, our submission is quite brief in its content and its focus. It is directed towards the inevitable impact of the change to the bail provisions that are under consideration in the bill. The placing of more children in the show cause position is inevitably going to result in increased incarceration rates. We want to ensure that everyone is aware of the risk that presents for children.

Youth detention settings are a particularly high risk for child sexual abuse. The royal commission into institutional responses to child sexual abuse was very clear as a result of all of the evidence and the stories that it heard from survivors and the examinations and the hearings that it undertook, and the research as well. Obviously there are a number of reasons for that. They are closed institutions.



They are institutions where there inherently is a very significant power imbalance. Additionally, particularly when we are talking about high-risk recidivist offending children, you are dealing with a group of children who often have very complex needs because of their own experience of trauma, mental health issues, substance abuse. You are putting those children in a concentrated environment together with children who are obviously there because of the allegations of offending made against them. You have a disproportionate gathering of children with harmful sexual behaviours or who have engaged in other criminal activities and you are putting them in a concentrated environment. It is imperative, we feel, that that be front and centre of everyone's considerations and that appropriate resourcing and safeguards are in place to keep those children free from that risk of child sexual abuse when they are in that detention setting to the extent that that is possible.

Queensland has had a sad history with youth detention settings. Our service has dealt with hundreds and hundreds of clients who have suffered sexual abuse in some quite notorious institutions. Our society and the government continue to pay a price for what happened to those men and women as children in environments where they should have had much more safety.

**Mr POWELL:** Thank you to each of you for your submissions, both oral and written. Janet, I want to come back to your opening statement. You would have heard me ask a similar question of previous witnesses as well. You said that this is going to set us back 10 years and that it is unclear why the haste. Let me preface this by saying that everyone we have heard from acknowledges that, alongside this bill, there needs to be prevention, early intervention and diversion. The people in Townsville would say, 'We have been calling for this for four years. It is hardly hasty,' and that they would be quite happy to return to a period 10 years ago because at least then they could walk along the Ross River with their dog and feel safe. What would you say to those people in Townsville who are currently experiencing what they are?

**Ms Wight:** It is difficult for me, living in South-East Queensland, to know what is happening on the streets in Townsville, Cairns and Mount Isa on a daily basis, but I do have contact with organisations that work in those places. I have visited Townsville and Cairns from time to time myself. Frankly, I have never felt unsafe in Townsville. I have stayed in the centre of Townsville with my daughter, who then would have been in her early teens. I have walked the streets of Townsville. I have never felt unsafe. I am really interested to understand what it is in Townsville that is problematic.

I think we need to be really careful, particularly when you have media such as the *Townsville Bulletin*—and I will name that very clearly—whipping up concerns and magnifying them to a degree that I am not convinced is accurate. Yes, the data around offending varies around the state. Of course it does. There is no flat average and there are pockets where it would be higher or lower, but I do not see that the level of offending could be said to be out of control. We know exactly who those young people are who might be in that space. We know who their families are. Why is it that we have not managed to engage appropriately with those families to see what their issues are, to resolve those issues and to give those children and young people the security and the framework that they need in order to get their lives back on the right track?

I was in Townsville for a conference a few years ago and there was a huge amount of rain that came up from Brisbane. The big headline that day in the *Townsville Bulletin* was 'Rain reduces crime'. There was a whole page in the paper on how having the rain and the wet meant that crime had reduced. I think it is very sad that a community sees that as something to comment on. I have to ask: should we not be looking at what is happening in those communities? What is it about those communities that makes them feel like this? I do not accept that it is just young people. Young people do not appear out of nowhere. They do not come from Mars aged 16 and start to offend. They are a product of and are raised by our communities and our families in our communities.

Something is going wrong or something needs to be addressed within our communities if that is how things are progressing. We cannot just blame children who are growing, developing and learning. They cannot have the responsibility for the problem of where they are at. There has to be a broader societal issue. Otherwise, I cannot understand why they would be in that space. Children are not born evil. They are not born wicked. Some of them are born with problems that need to be addressed—cognitive impairment or a range of other behavioural issues. Those can be addressed and we have the medical science and the science to do that. I think we have to look at ourselves as the adults and say, 'What are we doing as a society that that is how we as a community feel about our children?'

**Ms BOLTON:** On the trip to Mount Isa, Townsville and Cairns we did hear a lot of the reasons why, in the broader sense, that is happening—so it is complex. However, there seemed to be an agreement that the most important thing, even in Indigenous communities, for those who are creating the greatest amount of trauma is that they have another option. There are, of course, the on-country Brisbane

programs that are running. What do you feel about those programs, given that there seems to be agreement that they are great programs but also to expand those programs into the remote areas to take those youth out of community?

**Ms Wight:** I do not know that it is just about taking them out of community and then putting them back in. The transition points are so important. We would be led by Aboriginal and Torres Strait Islander peoples about what they feel is the most appropriate way of taking their children and young people to help them with their connection to country, to deal with the trauma that Aboriginal and Torres Strait Islander people continue to carry to this day and to try to transform that into something positive. If what happens is that that child goes back essentially to the same community and the same circumstances, nothing will change. That is the model that we have at YAC—trying to have lawyers working with social welfare staff so that we get them through court.

What we are trying to do is change where they are going back to so it is not just about a change in the young person; it is also about a change in their environment. That often means that families need support, and we give families support in a very specific way. We locate that support in Child Safety. Parents are reluctant to come forward and say, 'We are having a problem. We really need help,' because they do not want to be stigmatised. They do not want to be judged. They do not want to feel that the next thing that is going to happen is that their child is taken away. We have to be a much more family-friendly community as well so we can help those families. We can also help those families to readjust for when their young person comes back, so there a holistic response to the issue and not just a focus on the child.

**Ms BUSH:** Lindsay, you work with a lot with young people on dual orders. I am interested in your views around the ability of after-hours services that go beyond QPS?

**Mr Wegener:** It is one of the difficulties that we have in Queensland. It is made more difficult by the remote areas and the isolated communities in the state about getting the after-hours response. Absolutely young people often join with other young people after business hours and on weekends—that is what will happen. When we are looking at a lack of opportunity for them to engage in other kinds of activities that are constructive, of course it is a vulnerable period for them. It certainly helps when there is much more access to after-hours services in time frames that suit young people, not suit adults. Further to what Janet was saying and something that is relevant to your question is that, as a youth justice practitioner, one of the things I trained other practitioners to do was to examine the nature of the offence that had occurred—by understanding, by doing a very close examination of each and every offence and what were the contributing factors to that offence.

If we look at some of the things that have been occurring in Townsville, Gold Coast, Mount Isa and so on, a lot of it is around car stealing. These young people do not belong to sophisticated car-stealing rackets where the cars are being stolen to sell to other people or sold for parts or any sophisticated racket like that. This is much more opportunistic. It is an act of defiance—a very flamboyant, highly visible act of defiance. It is a much more severe version of vandalism or graffiti but with much more serious consequences to it. It gives us lots of indications about what we need to do to address that offending and the causes of that offending. Certainly alcohol and substance use is a major contributing factor to this. There has been not much media attention focused on that at all.

The other thing is: what is it that is making these young people thumb their noses and commit such visible offences to a society? Largely, it is because society is not at all embracing of them, and we see that in Townsville at the moment. I have great sympathy for anyone who has been a victim of an offence. I have been a victim of youthful offences. It is something that shocks you and hurts you and you feel very vulnerable when that occurs. Most people who are victims of offences want to understand why the offence has occurred and they want to see some reparation, but they want to see it not repeated in the future.

Most people are sophisticated enough these days to understand that children do not suddenly turn from being children who are victims of abuse or trauma or racism or whatever. They actually understand that they do not suddenly turn from children worthy of our compassion to young people worthy only of our derision. They are a bit more sophisticated than that. They want answers that address the reasons. Examination of that offending can assist us to do that. Examination of that offending would tell us that most of it happens at night-time and on weekends.

**Mr BERKMAN:** I really appreciate your contributions this morning and your submissions. We have only just this morning seen answers to questions on notice published that were taken a fortnight ago at the briefing from QPS. Would you be able to take on notice to respond to any issues that emerge from those answers from QPS?

**Ms Wight:** Yes, I am happy to keep talking in this space—whatever we need to do.

**CHAIR:** I do not know if it works that way.

**Mr BERKMAN:** I suspect that there is some very important information in those responses. I will go to my question, if I may. My question is in the context of the reversal of the presumption on bail. Janet, your submission identifies specifically the significant discretion the police have in deciding what charges to lay—whether they be simple offences, indictable offences or prescribed indictable offences. We heard from the officer in charge in Cairns that in his experience it is not unusual for police to exercise discretion in this way. What does the exercise of that discretion mean in practice under the amendments as proposed? Do you have any particular concerns about, for example, whether there is potential for racial profiling or other outcomes?

**Ms Wight:** When you have a discretion there is always a risk. Depending on what your focus might be, you can use processes and systems to achieve a result that you are looking for. All I can say is that of course not every police officer is problematic in terms of working with young people. We have young people who engage really well with some officers, but we know there are others who in fact do overcharge. They will look at a set of circumstances and put as many offences into that space as they can. It is also very common for charges to be at the very highest level. We at YAC are generally successful in the submissions we put in around reducing the number of charges, to make them more appropriate to the evidence and the level of behaviour, and/or to bring the charge into a more appropriate space in terms of the severity.

The charging and the discretionary nature of charging has the potential to be problematic depending on the focus that is taken by the police, by a particular station, by a particular area. Sometimes police feel the pressure from the community to do something and that can reinforce that way of exercising discretion. It is complicated. I am not saying that it will even be a conscious decision. It is just the way that the system works to some extent.

In terms of its actual impact, I would probably defer to QLS when they appear later on, because the members of that committee are active practitioners. While I am the CEO and have a legal background, I have not actually practised in the courts for some period of time now. I think it is fairly clear just reading the legislation that there is a high risk that we are going to have children in the watch house because we will run out of room in the detention centre as there will be more children being held rather than given bail.

**CHAIR:** That concludes this part of the session. Thank you for your evidence and thank you for your attendance today.

**CARTER, Ms Gemma, Social Worker, Arros Place Project Worker, Community Living Association**

**DONOVAN, Ms Rachael, State Coordinator, Create Foundation**

**DOOSTKHAH, Mr Siyavash, Director, Youth Affairs Network Queensland**

**MILLER, Ms Aimee, Young Consultant, Create Foundation**

**Mr Doostkhah:** Good morning. I might just read to try to keep to time; otherwise I will probably go all day. I begin with acknowledging that we are here on Aboriginal lands and acknowledge the cultural wisdom of elders past and present. We are highly privileged to have this unique opportunity to embrace and learn from this ancient sustainable culture. To continue to impose a dysfunctional, Anglocentric culture on the Aboriginal people of this land is to give credence to the notion of white supremacy.

I am assured that my learned colleagues from legal and human rights organisations will outline today how the proposed amendments are contrary to the principles of the best interests of the child and also contrary to our obligations under both domestic and international instruments. Instead, I will outline how the proposed amendments are based on a lack of knowledge and understanding of the cohort of children the bill targets, with little evidence that the amendments will do anything to change the behaviour of these children.

I put to you on notice that to enable these ill-conceived strategies you will be responsible for increasing hostility between children and police, increasing arrests, increasing court appearances, increasing numbers of young people on remand, increasing convictions, overcrowding of youth prisons and filling up the police watch houses with children again. We then will be forced to spend hundreds of millions of dollars building more youth prisons which will only appease councils, such as Mount Isa, which are failing so miserably in their economic development strategy that their only strategy for economic development is to lobby the state government to build youth prisons. I find that abhorrent. These extra costs will add to the existing absurd amount of money spent on criminal justice responses to what are social issues. We are not talking small bikkies here either, as you are aware; we are talking about billions of dollars here. The irony is that what we are achieving with this penal colony mentality is, at the end, a fractured society which is becoming less safe.

I can guarantee that the people who have commissioned and drafted the proposed amendments know little about the group of children they are targeting. There is a monumental gap in knowledge between public servants and youth workers, who are probably the only people who have managed to work out how to reach these children, how to build voluntary and trusting relationships with these children and how to support them in navigating the highly turbulent teenage years, regardless of the various disadvantages they are facing. I speak based on my 30 years experience of working with these children and researching learnings from other youth workers here in Queensland. Many of those years were actually in Townsville as well, so I do know a thing or two about Townsville.

The Youth Affairs Network Queensland, which I am the director of, represents 680 organisations around the youth sector. As the peak body for the youth sector, we can bring the vast knowledge of youth workers and practitioners as well as evidence from contemporary research to help government make informed choices, but instead for the past eight years we have been defunded. The attempt to silence the advocacy voice of young people and the youth sector is a slap in the face of our democracy and points to a political environment and culture within bureaucracy that perceives any criticism as being adversarial. Our children out there are hurt, damaged and crying for help. They are telling us loud and clear, 'Love us more than we hate ourselves.' That is the message from these children. 'Love us more than we hate ourselves.' Keep that in mind, please. Thank you.

**Ms Carter:** Good morning. I am a social worker and I work directly with young people with intellectual or cognitive disabilities who are experiencing complex circumstances. A number of these young people have been involved with youth justice, with the majority also having state care experiences. From our experience at CLA, we believe that the proposed reforms will not effectively improve community safety or reduce recidivism but, rather, further disadvantage young people at the intersection of youth justice and disability. Many people today will be speaking about how these changes do not align with human rights. This has been discussed in our written submission. I want to note that we believe these changes are not consistent with the Human Rights Act.

In our submission we identified a number of practice approaches that we believe are an alternative to the amendments proposed in the bill. We recognise that the government is seeking to address broad public grief and to increase public safety with these amendments. We empathise with Brisbane

the grief that communities are currently experiencing and share the opinion that change is needed to better address this issue. However, we do not believe that the proposed amendments are likely to improve community safety or reduce the recidivism of the small percentage of young people the target of these reforms.

The young people we work with have experienced extreme disadvantage over their lives due to many factors, be it multiple child safety placements, a lack of parental or guardian knowledge and understanding of disability, attending multiple schools, and disengagement from education. Many of the young people we support do not have a disability diagnosis. This lack of early identification of disability can impact how they are perceived in many situations. Rather than their actions being viewed as coping behaviours due to disability or trauma responses, they are often seen as challenging and difficult. This is of particular concern when police are involved and these behaviours are criminalised.

In our work we have supported young people connected with youth justice to meet their requirements using a disability focus. This has included: supporting people's emotional regulation, providing transport, exploring employment options, counselling, seeking other mental health supports, and seeking out diagnosis. Without this support these young people struggle to engage with the youth justice system in a meaningful way. This lack of disability-specific response to young people in youth justice is concerning in our work. What we know from our work is that insecure housing, poverty, disengagement from education, experiences of early childhood trauma and intergenerational trauma, and lack of access to family support and mental health services significantly increase the likelihood of young people becoming engaged in the criminal justice system.

Our concern is that these reforms focus on punitive approaches that will further perpetuate the cycle of youth criminalisation. Similarly, we see that these measures will disproportionately affect some of the most vulnerable young people in our communities, young people with cognitive and intellectual disabilities as well as First Nations young people, young people in the care of Child Safety who experience high levels of trauma and housing instability. We recognise that changes need to be made to address community safety. In both the Atkinson report and the Youth Justice Strategy, it was suggested that early intervention and preventive infrastructure and intensive and coordinated case management are appropriate responses. The feedback that we have from the young people we work with is that that should be sitting with community organisations.

**Ms Donovan:** Thank you for the opportunity to speak about the Youth Justice and Other Legislation Amendment Bill today. Today I am joined by Aimee Miller, a Create young consultant with child protection and youth justice experience. I start by acknowledging the traditional owners of the land on which we are meeting today and highlight the disproportionate effect that this bill will have on Aboriginal and Torres Strait Islander children and families.

The young people who come into contact with the justice system are not the hardened criminals responsible for serious crimes or the main reason for lack of safety in the community. Instead, they have often experienced abuse, neglect and systemic failings, are disengaged from school and other support systems, and experience the ongoing effects of trauma. Aboriginal and Torres Strait Islander children and young people are over-represented in both child protection and youth justice systems and are often disconnected from culture and community. I would like to now hand over to Aimee. Aimee is a brave young woman who, despite her experience of the youth justice system due to a system that failed her, is now kicking incredible goals in her life, is enrolled at university and is working as a youth worker.

**Ms Miller:** When I was 12 my cousin sold me to a man for sex. I was kept in his house against my will for three weeks. During the three weeks that I was there, I was fed methamphetamines, amongst an array of other drugs, to keep me awake so that I could make these men more money. Eventually I was able to leave, but I left extremely traumatised with a methamphetamine addiction and with a new group of people who I thought were my friends. These friends were all men, all in their 30s and 40s and all career criminals. I had not been shown love or compassion before, so I truly believed that these men cared about me. They taught me how to steal cars, how to pick locks, how to rob stores and how to sell drugs for them. By the time I was 13 I had an extensive criminal history. This was not because I was hanging out in these youth crime gangs that we see in the media. This was not because I was choosing to be difficult but because the systems that were in place to protect me failed me.

I was on a long-term child protection order to the chief executive for nearly all of my life. Between the ages of 12 and 17 I was often homeless as Child Safety were unable and, a lot of the time, unwilling to provide me with a placement, despite being mandated to do so. To me, it was better to stay with these older men and commit crimes for them and with them than sleep at a bus stop or in a park and risk being harmed by somebody I did not know. Because I had never been shown any care, love or even kindness in my life, I thought these men truly cared for me and I was scared to lose that. I would do anything to please them.

There were times that I purposely tried to go into the detention centre, because it was safer and more predictable than the streets and these men that I was hanging around. I knew when I would eat, that I did not have to share my bed with 40-year-old men and that I could shower alone and in safety. The electronic ankle monitoring device would have further criminalised me as a child. I would have had nowhere to charge it and no way to cover it to avoid the stereotyping and judgement from the general community but, most importantly, nowhere for my bail to be set to. I rarely had an address to live at and, if I did, the address would not have lasted long.

The presumption against bail and tougher bail conditions would not have done anything to address the underlying causes of why I was committing crimes. Instead, it would have put unrealistic conditions on me that, again, would have further criminalised me as a child—and not because I would have been actively choosing to rebel but because the department of child safety failed to meet my most basic needs, let alone address the underlying causes of what was happening. If I had some form of stability in my life, a stable place to live or even a constant person, that would have made a huge difference. If someone just cared about me—and not only between the hours of nine and five Monday to Friday—I think a lot of things that happened would not have and my criminal history would be non-existent.

**Ms Donovan:** Thank you, Aimee, for your courage and for speaking truth about this critical topic. This is an issue that requires bipartisan support and consistency so we can make lasting systemic change that will protect both this and future generations and ensure that stories like Aimee's do not happen to any other young people.

**CHAIR:** Thank you.

**Mrs GERBER:** Thank you so much, Aimee, for sharing your story today and for having the courage to appear before us. I know it is challenging. I have been in this parliament for only a year and I am still challenged to stand up and voice some really emotional stuff that I need to on behalf of my community. You have done that on behalf of all young people, so thank you. Is it all right if I ask you a question? I want to know what helped you. I am keen to understand what age you were and when you feel the system started working for you, if at all?

**Ms Miller:** There was a short period of time when I was maybe 14 that I was in a youth homelessness shelter. Because I was on a child safety order, I should not have been there. I was not allowed to be there. They did not have the funding to have kids on child safety orders. During the nine months that I was there I only had one charge against me, compared to 10 in a week. These youth workers were there 24/7 and the support they offered was so different to what Child Safety and Youth Justice could offer. It was thinking outside of the box and getting me engaged in my community and different sorts of activities I could do that I otherwise would have never thought of doing. I had never hung around children my own age either, so to have just a group of us in there with a shared experience I think really helped for that period.

**Ms BOLTON:** Aimee, thank you so much. I did not want to cry, but that was really instrumental and helps us enormously. Rachael, we have so many excellent organisations and programs operating. Do you follow every case that comes through for many years to see the results statistically? Do we have some statistics on the success?

**Ms Donovan:** Create is a peak organisation primarily working with children and young people with a child protection experience, and we all know that there is a crossover between child protection and youth justice. We have done a youth justice report where we have spoken to a small sample of young people with a youth justice experience. There is some data in that but, generally speaking, we do not collect the statistics of all young people who have had a youth justice experience and some of that longitudinal data of what happens as they grow older or anything like that.

**Ms BOLTON:** Would there be somewhere we could access that data as to the success rate?

**Ms Donovan:** I am not sure, but I could take it on notice and come back to you.

**Ms BUSH:** Aimee, thank you so much for giving us that lived experience and, Rachael, for helping to facilitate and being here today. Aimee, your story is horrific. I will put it bluntly. Did you tell people? Were people informed of what was happening to you at any point in this whole experience?

**Ms Miller:** Yes, they were informed for that three-week period that I was in this house. No, Child Safety did not offer me a placement; no-one knew I was missing. At that period of time no-one knew what was happening. After that, yes, the department of child safety were aware, my residential care providers were aware and Youth Justice was aware of what was happening, but not a lot was done.

**Mr BERKMAN:** Again, we really appreciate you giving us such direct experience in your evidence. I have a question to Create, to the two of you. The evidence is really clear about the consequences of kids interacting with police and the youth justice system compared with early Brisbane

interventions and supports. Your submission includes some really interesting testimony from people directly affected by that. I am interested in whether you can provide any more examples of how you have seen this play out. Aimee, how do you think the provisions in this bill would have impacted on your life and the likelihood of you reoffending?

**Ms Miller:** I am not sure. Are you meaning the presumption against bail and the electronic monitoring devices?

**Mr BERKMAN:** Yes.

**Ms Miller:** In my case and in the case of a lot of other young people, I do not think it would have been very helpful. As I mentioned, it would have further criminalised me as a child because I would not have been choosing to purposely go and reoffend or do things like this; however, I did not have anywhere to be bailed to. If I did, it would have been two nights in emergency accommodation, which meant I would have breached my bail conditions or I would not have been able to charge the electronic monitoring device. It would have been even more challenging for me to stick to these bail conditions that would have been imposed on me.

When we look at 16- and 17-year-olds, I think often it is easier for organisations to pick up the younger children because they have not been doing this for four, five, six years like we see with the older kids. The older you are, the harder it gets and the more likely you are to be further criminalised as a child and end up in the adult prison system. I do not think that any of these measures that have been proposed would support rehabilitating these young people and stopping that repetitive cycle of committing crime and going into juvie, committing crime and going into juvie.

**Mrs GERBER:** Gemma, thanks again for your submission and for appearing today. I want to pick up on something you said in your oral submission—that is, you recognise that change is needed in order to address community safety and, in your view, the change that is needed is early intervention. I want to talk about that a bit further. For the small cohort of children who are being targeted by this legislation, early intervention has already failed them; they have already gone too far from that. We are talking about kids who have been charged with prescribed indictable offences and then are on bail for further prescribed indictable offences—so multiple series of serious offences. I am interested in what you think this legislation could have in it to address that community safety issue that you have identified as necessary. If not this, then what?

**Ms Carter:** In the experience of our organisation, it is very much about the coordinated case management response. In my work I have been supporting young people to go through the youth justice system. I think there are limitations within that system on the support that can be provided and I think it is important to have community support for young people to understand what it means for them.

**Ms BUSH:** Siyavash, thank you for your submission. Picking up on your comment that there is a gap between what government knows and what the sector knows, that is why we are here: to hear that. Help us fill that gap. What is it that you think we need to know about this 10 per cent that we are not hearing?

**Mr Doostkhah:** I think Aimee very eloquently described her story—the fact that youth workers were some of the only people who actually managed to support her in all of those years. Youth workers possess a specific skill set that allows them to build voluntary meaningful relationships with these young people. In recent years the government has tried to say that we can do that ourselves, putting most of the investment in youth justice and even going as far as calling prison guards youth workers, thinking that it is a name that will do it. No real youth workers would ever turn a key on a young person. They are not youth workers; they are prison officers.

Youth workers are out there and only engage with young people on a voluntary basis; the young person has to choose to actually engage. A lot of the time it requires people like Aimee with a life skill. It is not so much a university degree; it is a life skill to actually be able to connect with those young people who are really on the margins. Now you put a percentage in front of them. They are young people who have been neglected and their trust in society has been broken. They have been damaged. As I mentioned before, these are damaged children who do not trust anybody.

Recently the Public Service have been trying to follow the economic model and have been trying to run human services as a business. They are putting money into the sector and are wanting to receive outcomes. They are pushing people. It is the concept of neoliberalism gone crazy. The problem between youth workers and the Public Service is that the Public Service is not being informed of what is happening on the ground. Our organisation is a peak body. We have 680 members—youth workers and organisations from across the state. They work with young people day and night. They are the

ones who know what needs to happen. We used to take that information and present it at the policy advocacy level and sit with the government. However, for the last eight years they have cut our funding and cut that advocacy work, which is a slap in the face for democracy. It is basically saying that there is a disconnect between the information the government and the Public Service are getting and what can really work. If you want to bridge that gap, it is about the public servants actually developing rather than what they are doing now, which is just managing contracts and outsourcing what they want to achieve. They need to actually become genuine partners with the community service organisations.

**Ms BUSH:** What has prevented the sector from moving some of their services to run after hours, even under the current funding arrangements, given that we are hearing there is such a gap after hours? What has prevented that?

**Mr Doostkhah:** I have been in this sector for 30 years and I have seen what has happened. It is the neoliberal economic agenda that has crept into all aspects of our lives. We are trying to run human services like a business. Say for instance the government gives one organisation \$100,000 to provide services to young people. It is about numbers. There is a group of young people who are so damaged that sometimes it takes months and sometimes years to actually build that relationship so that those young people voluntarily come to you and expose what is really going on in their life. That is not to just come and say, 'I need housing,' or 'I need stuff.' A lot of the deep hurt that is there needs to be resolved so they can go forward. A lot of the organisations are now forced not to do that. Workers might work with four young people for \$100,000 and there might be another organisation that works with 400 young people. All the money is in a competitive market based society—that funding model. All the funding is going to those organisations—a lot of them large, for-profit organisations with no base—rather than small community based youth workers who have life experience and can build those real relationships. That is the neoliberal world gone crazy.

**Mrs GERBER:** I am really interested in how we balance community safety with what is proposed in this bill and the rights of youth. We have held hearings in Mount Isa, Cairns and Townsville. We are in Brisbane now and we will be on the Gold Coast on Friday. It feels like the perspectives of those communities on the ground are vastly different. In Townsville, Cairns and Mount Isa we had whole communities presenting to us that they were scared, they did not feel safe in their community, they had experienced crime firsthand and they felt this small cohort of recidivist offenders were thumbing their noses at the law. I know that our last presenter talked to us about how you deal with that small cohort of offenders who are thumbing their noses at the law and at society and what you do about that. This bill is proposed to achieve some consequences. I am interested in your views on that, Gemma and Siyavash, if we have time, as to whether or not the need to impose consequences is a valid objective of the bill.

**Ms Carter:** I feel like it is a question about what those consequences are and how we do that in a way that is consistent with human rights. I agree with what Siyavash was saying around skilled staff. I think the most appropriate response is in early intervention and in having case management responses; that those staff members be appropriately skilled—that it be youth workers, social workers and people who have experience in this work who are responding to young people as young people and not as criminals; that that work be focusing on building relationships so that people feel safe; that workers have a trauma focus so they can understand where young people are coming from; that these actions are not necessarily coming out of places of anger but places of trauma or a disability focus—people who do not have an understanding of their disability, people who have been through child safety and other systems and then have been overlooked and their disability has not been acknowledged. In terms of early intervention, as you say, I think that is something that has happened for a lot of these young people. My question is: how effective was that early intervention? Were those staff appropriately skilled? Were people's disabilities taken into account?

**Mrs GERBER:** Clearly it was not effective because the system has failed these children, but it is about what we do with them now and it is about how we balance the rights of the community to feel safe and not have crime inflicted upon them with the rights of the child and these children who are essentially terrorising certain communities. The experience seems vastly different across Queensland, yet this bill is proposing to broadly apply it across the whole of the state. I guess that is the conflict and I am not sure how we address that.

**Mr Doostkhah:** Can I make a couple of a responses—

**CHAIR:** I am sorry, we have a lot of people waiting. I apologise. Thank you. That brings to a conclusion this session. Rachael, you said you were going to try to find something for us. It would be good if we could have that by 12 pm on Monday, 29 March. If it becomes too big a challenge or you cannot find it, it is just a simple matter of letting the secretariat know. Thank you.



**CLAY, Ms Naraja, Committee Member, Queensland Indigenous Labor Network**

**MORGAN, Mr Garth, Chief Executive Officer, Queensland Aboriginal and Torres Strait Islander Child Protection Peak Ltd**

**PANG, Mr Jerome, Chairperson, Queensland Indigenous Labor Network**

**SWAN, Mr Brad, Executive Director, Strategy and Engagement, Life Without Barriers**

**CHAIR:** Good morning. I invite each organisation to make an opening statement of no longer than three minutes. We are being fairly strict with time to allow questions from the committee. Thank you.

**Mr Pang:** My name is Jerome Pang. I am the chair of the Queensland Indigenous Labor Network. I am also a proud Kalkadoon man from Mount Isa in North-West Queensland. I am also a descendant of the Waanyi, Gangalidda, Lardil and Pitta Pitta peoples, and I would like to acknowledge the traditional owners of where we stand today and pay my respects to their elders past and present.

I am a young Aboriginal man who has been through primary and secondary schooling and is currently studying at university. However, despite achieving this, according to the Sentencing Advisory Council of Victoria, when I was 10 to 17 years old I was 23 times more likely to go to jail than a non-Indigenous person of the same ages. That is not right. It is why I am asking you to do something to lift justice on this measure.

The Queensland Indigenous Labor Network Committee notes that a number of youth justice advocates and lawyers have recently criticised the proposed changes as being reactive and missing the mark, especially if the end game is to reduce offending behaviours and recidivism amongst youth offenders. The Queensland Indigenous Labor Network Committee firmly believes the Queensland government should focus on implementing alternative sentencing regimes, diversionary and reinvestment restorative justice programs to address the over-representation of First Nation youths in the juvenile justice system. Furthermore, we believe the outsourcing of child welfare, family support and fostering programs to the private sector and for-profit church groups has been a failed and costly social experiment. The only winners in the outsourcing of child protection programs and services are for-profit organisations and the state, not the young people and families in crisis. We further believe such an approach shifts responsibility and accountability from the state to the private sector and for-profit church groups, resulting in no clear line of sight between service users and the department of child safety.

While the QILN Committee acknowledges the recent tragic loss of life on 26 January, we reject any kneejerk public endorsement of the Queensland Police Union and Police Service's tough-on-crime reform agenda. We further believe proposed changes to the youth justice laws fail to acknowledge evidence of what works, what helps and what we are doing to support young Queenslanders in out-of-home care in Queensland. Instead, we advocate a change of direction and support a raft of policy and legislative reforms that have been shown to lower youth crime rates and reduce offending behaviours. These include raising the age of criminal responsibility for which a child can be charged, arrested and detained from 10 to 14 years of age, to align with the United Nations Committee on the Rights of the Child's recommendation, and amending the Child Protection Act 1999 to extend the provision of care to young people in out-of-home care until they turn 21 years of age. We believe the state has a duty of care to provide safe, secure and supportive care to youth during their late teens and early adulthood, as their parents would. This should be seen as a win-win for the state in light of a recent study that shows for every year a young person remains in care there is a 41 per cent decrease in arrests and 40 per cent reduction in conviction rates.

The Queensland Indigenous Labor Network wishes to highlight recent published Australian Bureau of Statistics figures that show youth crime rates in Queensland for the charge of theft have halved over the past decade, from 4,989 in 2008-09 to 1,985 in 2019-20. These statistics also highlight a significant reduction in the number of offences committed by youth, from 16,007 in 2008-09 to 11,007 in 2019-20. The reduction in the number of offences committed by youth over the past decade would seem to indicate that current policies and laws might actually be working. We also draw your attention to the fact that around 75 per cent of youth in the Queensland youth justice system are known to the Department of Children, Youth Justice and Multicultural Affairs, while 50 per cent have been under the care—

**CHAIR:** Jerome, I am going to have to stop you. Garth?

**Mr Morgan:** Good morning and thank you for the opportunity to address the committee on the bill. The Queensland Aboriginal and Torres Strait Islander Child Protection Peak, QATSICPP, is a peak body representing Aboriginal and Torres Strait Islander community controlled child protection organisations across Queensland. We have around 35 members across the state who, at a local level, support a range of programs and services, including family participation and wellbeing services.

Aboriginal and Torres Strait Islander leadership have continuously called for governments to address the issues related to youth justice in our communities for over 20 years. We want our communities to be safe. The whole community should be a safe place, and accountability mechanisms are an important element of this. We share the distress that many families and victims of crime have experienced across Queensland, and we are deeply saddened to see any family experience loss—something that unfortunately Aboriginal people know too much about. For decades our relatives have called for increased investment in cultural solutions and investment in youth services. To the best of my knowledge, these calls have not resulted in any substantive or sustained funding or programmatic changes and, in fact, we have seen the opposite of that. Over the last 20 years we have seen a substantial decline in youth services for our children and young people across the state.

We are heartened by the Queensland government's commitment to reducing over-representation of our children in the youth justice system. Recently we have been working with the Department of Children, Youth Justice and Multicultural Affairs to address these issues in groundbreaking new work by introducing family-led decision-making in youth justice across four trial sites in Queensland. However, we have serious concerns about the potential for the measures introduced in this bill to undermine the reforms. In particular, we are worried about the introduction of ankle bracelets. Not only will they limit human rights generally but also they might impact on the cultural rights of children, in particular the right to return to country and help them to participate in on-country and cultural programs that are designed to help them heal and to address their offending behaviours. Many children we are talking about have significant and varied trauma experiences. We know that that impacts on brain development, and the subsequent choices and behaviours that result in that lead to offending often and they are the behaviours that we are trying to address.

The introduction of ankle bracelets has the potential to in fact increase harm and trauma which may exacerbate unhelpful responses from these kids. We are concerned about the lack of evidence relating to the use of them with children and, given that Aboriginal and Torres Strait Islander children are significantly over-represented in the criminal justice system, with approximately 71 per cent of all kids living in detention being Aboriginal children, we are concerned about the lack of consultation prior to the announcement of the measures and prior to the introduction of the bill.

QATSICPP believes that there is a critical need for the department to engage with communities. Community controlled services can come back to the committee with some proposed amendments to the bill that are both trauma informed and healing focused and that also seek to strengthen the likelihood of the bill actually achieving its policy intent, which these amendments, in our view, are likely to undermine. Thank you again for the opportunity and I look forward to taking questions from the members.

**Mr Swan:** Thank you for inviting us to speak here today. Life Without Barriers has been operating for over 25 years and is established in over 400 communities around Australia. In Queensland, we deliver out-of-home care for children in the child protection system and disability supports. We also operate the Multisystemic Therapy program in South-East Queensland to address serious youth offending. We also have a strong focus on evidence based programs.

What we know about the prevalence of youth offending is the criminological research that usually examines one or both of the following: the deterrence effect or the rehabilitation effect. Research shows that escalated youth justice responses are correlated with increased offending, and for chronic youth offenders we know that increasing deterrence through higher sanctions rarely stops that offending. We know that for many young people who have recently started offending it will cease after just one police caution or a court appearance. However, young people who become chronic offenders were not deterred at the initial contact, usually because the youth justice responses are targeted at the young person, not changing the important influences on them that are leading to the offending behaviour. For instance, in South-East Queensland, for young people aged 10 to 16 who received a supervised order, the count of criminal charges increased by 89 per cent in the 18 months after their order. This shows that in many cases the deterrence value of the youth justice response has less influence than the environmental factors that contribute to the offending.

Multisystemic Therapy was developed in the United States in the seventies and eighties through a research trial with young offenders. It is an intensive therapeutic model designed to address the root causes of youth conduct problems and to work with hard-to-reach families. For decades it has been

recognised as one of the most effective interventions worldwide for reducing offending among young people who have been to court or who have spent time in detention. MST addresses the factors relating to youth offending across the young person's key settings—their families, peers, school, neighbourhood, community and other support networks. The program works principally through the parents or carers, teaching them to set and enforce boundaries and helping improve family communication and problem-solving skills.

Life Without Barriers is delivering MST in South-East Queensland through the Youth Choices' Social Benefit Bond to a group of young people which includes the serious repeat offenders targeted in this bill. The five-year program started in October 2017 and the success is measured over 18 months following the program exit. So far we only have the results for the first year of the program. The Queensland government set a statewide target for reducing offending by five per cent in its Youth Justice Strategy, but so far the MST program has reduced charges laid by 28 per cent for the young people whose families have completed the program. This increases to 54 per cent reduction when one single person as an outlier is excluded from that count. We reduced the number of young people committing serious offences by over 26 per cent against a target of 10 per cent, and in the first 12 months post program we also reduced the number of nights in detention by 76 per cent. The Aboriginal and Torres Strait Islander families are also just as likely to agree to participate in the program and are more likely to complete the MST program than non-Indigenous families. Thank you for allowing me to speak here today.

**Mrs GERBER:** Thank you all for appearing today and for your submissions. Garth, my question is to you around electronic monitoring devices. I do not think a single submitter to the committee to date has said that that hits the mark in terms of doing what it is intended to do, which is essentially a diversionary measure to prevent repeat serious young offenders from being in detention by having an ankle bracelet. What we have heard from submitters is that they might see it as a badge of honour and then, conversely, it might marginalise them; that it is only available in certain geographical areas which means that perhaps it will not work outside CBDs or local courthouses; that kids are going to cut it off; that it does not target the right age bracket because it only targets 16- and 17-year-olds and some of the offenders that we are talking about are 12—the serious offenders who are committing crimes over and over again, serious indictable offences. If not electronic monitoring devices in order to divert them from detention and balance the interests of community, to keep the community safe from being affected by crime, then what? What do we do?

**Mr Morgan:** Thank you for your question. I was half expecting something like that because it is something we are all grappling with. Nobody really wants to see us slapping anklets on kids. I imagine it is a measure that was come to out of desperation and hearing the pain from the community. What I would say is that it does actually fall short of the mark. I think that, rather than an approach like that, we actually need to get hands-on and we have to have a partnership approach to working with these kids.

I will not go into all of the preventive stuff but, at the pointy end for these kids that are really hard to get through to and are reoffending, I think we need to, recognising that it is only a small number of kids, do things like set up panels with experts to case-manage, as in intensive case plans and intensive case management, these kids and take a child-centric approach based on the individual history, story and factors that are associated with that child. I think we need to take a whatever-it-takes approach, and that would include things like 24/7 support for that child. In the last session we heard how effective having 24/7 support from skilled youth workers is, so I think responses like that would probably go a lot further than an electronic monitoring response. What we are all trying to do is prevent these kids from offending again, both for the community's state of mind and feeling of safety and for the children—it is a crisis for these children as well. When there is a crisis, we need to be all hands on deck.

**Ms BOLTON:** In your submission, Jerome, you talk about alternative sentencing regimes. When we were at the regional hearings, there were so many suggestions. You could call them an expansion of on-country, where that might only be six to eight weeks. For the length of the sentence, instead of detention they to go out into areas where they cannot access the community, to get support not only for themselves but also for parents to be involved in that. What are your thoughts on that? Is that what you are referring to as alternative sentencing regimes?

**Mr Pang:** Yes, that is one of them. I think with those alternative sentencing regimes and the on-country programs, we really have to find in these communities elders and culturally appropriate people to run those programs. You cannot have someone from Brisbane running a program in Mount Isa. It is that sort of cultural appropriateness that we need in these programs, for these children to learn and to recharge their batteries on country with elders and with the inclusion of their parents, because I think we find too much in these situations the parents have not been allowed to parent their children. It

is either government agencies stepping in or there is intergenerational trauma which has disallowed the grandparents from parenting the parents and the parents from parenting the grandchildren. There are a lot of these situations where if elders in the community or culturally appropriate people could actually teach the children, the parents and the grandparents how to engage as a family unit in some aspects as well, that would be a very good addition.

**Mr BERKMAN:** Thank you very much for appearing today. I really appreciate your time. I have a question to QATSICPP first. Garth, other submitters have expressed the view that these laws are unjustifiably authoritarian, punitive and racist, that they will disproportionately impact Aboriginal and Torres Strait Islander young people, and that they are likely to exacerbate the existing over-representation of Aboriginal and Torres Strait Islander people in custody. Do you share those concerns?

**Mr Morgan:** Yes, I do.

**Mr BERKMAN:** Might I put precisely the same question to you, Jerome?

**Mr Pang:** Yes, we do.

**Mr BERKMAN:** To the Indigenous Labor Network, I really appreciated reading in your submission advocacy around raising the age of criminal responsibility as an important part of the solution to youth crime. Can you elaborate for the committee on why this is so important and how you see it changing the lives of particularly disadvantaged kids?

**Ms Clay:** There is evidence and research that shows that the earlier the child has interactions with the youth justice system the higher the likelihood that they will continue to have engagement with that system. Children's brains are still developing at the ages of 10, 11, 12 and 13. There are obviously scenarios where it is necessary to be talking to these children about behaviours and the different things that contribute to the offending, but I do not believe that we should be charging these children and setting them up for a future that has barriers from the minute they turn 13, 14, 15 or 16.

To Jerome's point, I too finished high school, but it was quite distressing to hear that I was 23 times more likely to end up in jail than I was to finish high school. When we look at Queensland's history with Aboriginal and Torres Strait Islander people, I think the criminalisation of 10- to 14-year-olds speaks to a deeper systemic issue that needs to be addressed. It is easy to put them into this one way where we criminalise them and we do punitive measures, but what would it look like if we actually addressed intergenerational trauma and if we invested in rehab and detox facilities for young people in this state?

According to Dovetail's 2018 report—they have a document online which has a list of all detox and rehab facilities in Queensland—as of 2018, there were fewer than 20 facilities in the state of Queensland. I think that is disproportionate and does not allow our young people, especially our Aboriginal and Torres Strait Islander young people, a safe and culturally appropriate and supportive place to heal. Unless they are given those opportunities, and while they continue to be criminalised and the government sees them as the issue, I do not think we are going to get anywhere. Raising the age is allowing these children (a) an opportunity to be a child and (b) an opportunity to engage in rehab and other mechanisms to address their trauma and to move forward and create a life for themselves. We need to be supporting our young people and not hanging them out to dry. That is what we are doing by charging 10-, 11-, 12- and 13-year-olds.

**Ms BUSH:** Garth, you referenced the intensive case management model, which can be beneficial for this particular cohort. There are models that are established in Townsville with TSCAG, Mount Isa under the Community Connect program and I think even Logan Together. I am interested in whether you know about the efficacy of those programs and what results they are getting.

**Mr Morgan:** I have not seen the data coming out of those specific programs. A question I would ask of them, though, is: is there someone within that panel structure that has cultural authority for that child? We know that often panels do their best and programs do their best to get an Aboriginal and Torres Strait Islander person to be a part of a process, which is really important, but we need somebody who is able to speak for that child in a cultural way and can have some authority over that child. I would say that that is probably an element that we would want for Aboriginal and Torres Strait Islander kids. I am not sure how important it is to have someone connected to a non-Aboriginal kid, but I would say that that is really important.

I think in the child safety space, for example, we have seen remarkable results where you get panels like that at the other end and it is diverting kids from coming into the child safety system in remarkable numbers. We would say that if we are going to experiment, let us not experiment by slapping anklets on kids; let us experiment with something where we know that there is a track record with children in other contexts like that.

**CHAIR:** Thank you for coming along and for your written submissions. That concludes this session.

**Proceedings suspended from 10.40 am to 10.59 am.**

**GREENWOOD, Ms Kate, Barrister, Prevention Early Intervention and Community Legal Education Officer, Aboriginal and Torres Strait Islander Legal Service (Queensland) Ltd**

**McVEIGH, Ms Aimee, Chief Executive Officer, Queensland Council of Social Service**

**CHAIR:** Good morning. I invite each of you to make an opening statement of no longer than three minutes. We have been fairly strict with that time line so that the committee has ample opportunity to ask questions. I also welcome Jon Krause, member for Scenic Rim.

**Ms Greenwood:** I appear on behalf of the Aboriginal and Torres Strait Islander Legal Service, which has 27 offices stretched across the state and close to most communities. We have been representing Aboriginal and Torres Strait Islanders for over 40 years and bring that experience to our submission. The committee already has my written submission, which goes into a fair amount of detail about the bill. I have also spoken about alternatives to the bill, albeit very briefly, in my final paragraph.

If I may escort the elephant out of the room, the bail laws are workable and fit for purpose. All exercises of bail discretion are an estimate of risk. Bail discretions are exercised very conservatively in this state. A figure that I found from a previous ACOSS submission to this committee was that 87 per cent of unsentenced youth are currently on remand. Whether that high number of its own creates a risk to the safety of the community is something that should be considered. In my view, if you have too many kids on remand you create a tipping point, and I will come back to that a little bit later.

The proposed laws seek to address a particular cohort, but what they are attempting to do is predict the risk based on some fairly broad factors, one being age and the other being prior convictions of an indictable offence. We do not even know what that list is, because none has been supplied to us yet. But that thinking is based on a fallacy of predictions. To talk about a more positive attribute and one which I had not expected being here today—but it is even more apposite—is that all parliamentarians are voters, but if we were to go down George Street on a sunnier day than today and pull out every voter we could find and fill the chamber floor with those voters, it would be highly unlikely that we would accurately identify who in fact are parliamentarians and, if we were to fill the chamber in that fashion, highly unlikely that we would even achieve quorum of parliamentarians in amongst all the other voters that we dragged in. That is the logic fault that is fitting at the bottom of this particular bill.

What has been raised by this committee over and over again—and, of course, it is the most important question of all—is: what would make a difference? We are not alone in facing rising numbers. Other jurisdictions have faced similar situations. There are two gaps which my submission identifies in terms of dealing with the kids, dealing with the risky ones, and taking positive steps that will actually improve community safety. One is the complete and utter lack of sufficient youth drug rehabilitation services. Listening to that brave young woman earlier this morning, you can bet your bottom dollar that one of the options that was not available to her was to go to a residential rehab and get that methamphetamine addiction sorted out. I will come back to that later. The other great gap is justice reinvestment projects. The committee has heard from a number of different people who are trying to fill the gap as best they can, but that area needs to be populated far better so that there really is a set of solutions, not just for the lucky few, but a serious provision of early intervention and prevention programs.

I mentioned the Maranguka Justice Reinvestment Project in Bourke, and I also, very much in passing, mention the Scottish justice reinvestment program. Bourke, which of course is closest to our conditions, had the worst crime rates across eight major crime categories in New South Wales. It was spending \$4 million per year just on locking up its kids. KPMG donated a cost-benefit analysis, which is available on the website. What they pointed to, after looking at a year of data, was a 38 per cent decrease in youth offending and a 31 per cent increase in retention of grade 12 attendances. The Scottish youth justice reinvestment program also came out of a crisis. There had been a street brawl, a young child had stabbed someone to death, and the Scottish government had the same soul-searching exercise that you are having now: what do we do differently? What they identified was to go back and look at all the interventions that had been missed with that particular child—that if things had happened earlier, that child would not have been on that street at that time with that knife, killing that unfortunate adult.

The other brief thing I want to say is that the narrative that ‘nothing works’ is wrong. In Townsville there is the high-risk court and basically it is everyone making the best of what they have with very little additional funding. Essentially, there is a special court day for the high-risk youth, so they are not in the general melee, they get a lot more attention than in the general youth call-over day and, if my memory is right, there is one case worker there to five high-risk youth as opposed to 15 or more youths.

**CHAIR:** Kate, I am going to have to stop you there.

**Ms Greenwood:** May I plead for a youth drug rehabilitation facility.

**CHAIR:** When questions are asked, Kate, you will have the opportunity to add. Aimee?

**Ms McVeigh:** Good morning and thank you for the opportunity to provide QCOSS's feedback on the bill. I begin by acknowledging the Turrbal and Jagera people, whose lands we are meeting on, and pay my respects to elders past and present. QCOSS is the peak body for community organisations in Queensland and we have a vision for equality, opportunity and wellbeing for all Queenslanders. We do not support this bill.

In our written submission we have outlined our concerns in relation to the most concerning parts of the bill, including the use of GPS trackers and reversing the presumption against bail. In our submission we have pointed to the human rights that are engaged by this bill. I note that the statement of compatibility prepared by the minister in relation to this bill is deficient and does not outline all of the rights that have been engaged.

When you apply the Human Rights Act to a law, if a government is seeking to make a law that is compatible with human rights, it must ensure first of all that there is a legitimate purpose for the bill. It must then make sure that when limiting the rights, or what it is proposing to do to limit those rights, there is a connection between that action and the legitimate purpose of the bill. It must then be sure that there is no less restrictive way of achieving the legitimate purpose and also that the benefits of the action outweigh the harms.

Clearly, community safety is a legitimate concern for both the government and the community. We know that the bill attempts to protect the community from approximately 400 children whom the government has identified as persistent offenders. The government has also told us some fairly specific things about these particular children. It says they are from tough and often traumatic family backgrounds. Some 31 per cent have a parent who has been held in adult custody, 57 per cent have been diagnosed with a mental health or behavioural disorder, more than half are disengaged from education and many are homeless.

You have heard today and through the submissions to this committee about services which actually are effective in diverting these particular children out of the criminal justice system. Given what we know about these children and given what we have heard about services, it is questionable whether there is a legitimate purpose for this reform. This is absolutely a social issue, and services are the right response.

Even if it is accepted that there is a legitimate purpose, it has not been established that these measures would at all have the outcome of addressing youth crime. Our submission and that of others point to evidence of exactly the opposite: in the long term, the bill is likely to entrench criminal behaviour. It is our view that there is insufficient evidence of the effectiveness of GPS trackers or reversing the presumption against bail. It is also our view and the strong view of our members who are the experts in providing supports to these young people that there are less limiting ways of diverting young people from the justice system.

In summary, we at QCOSS would say that there are services that can respond to these young people. If it is the case that the government has done an analysis of the available services and has identified gaps, our service sector stands ready to work with the Queensland government to develop a solution that puts the rights of people at the centre of a solution along with community safety. Thank you.

**Mrs GERBER:** Thank you both for your appearance and submissions today. Kate, I need to understand whether or not I have interpreted your oral submission correctly. Did you say that you believe that the indictable offences that would be covered by reversing the onus of bail are not defined in the act? Is that what you said, that you think those are not defined?

**Ms Greenwood:** Sorry, did I miss—

**Mrs GERBER:** They are all prescribed within the bill. All of the offences that would fall within the remit of reversing the onus are all prescribed within the definitions of the bill. However, did you also say that you believe that the bail laws are okay the way they are? Did I interpret your submission correctly there as well?

**Ms Greenwood:** Right now, either a police officer granting bail or a magistrate granting bail can have a look at anything on an offender's criminal history and decide that they are too much of a risk to grant bail to. You do not need these wide, sweeping formulas. The discretion is already there.

**Mrs GERBER:** In terms of one of the solutions that has been thrown up by the regional communities—Mount Isa, Cairns and Townsville—that breach of bail should be brought back as an offence, what is your view on that, Kate?

**Ms Greenwood:** Breach of bail has always been an offence for adults. It used not to be an offence for children. The main reason that used to be is that there are all sorts of reasons a child may breach bail, for reasons totally out of their control. For example, children often rely on transport to get to court or to report to police stations. If they are under curfew—I have represented kids who did have transport coming back, the transport did not show up and they then had to ring resi-care to say, 'I'm going to be late because I've got no way of coming back,' and resi-care—I would have thought they could have offered to give them a lift back but they just call the police, so the kids get a trip to the watch house. To me, that is not an offence. That is a kid who is operating under the conditions of being a kid not having a means of getting back. Why should that be criminalised?

**Ms BOLTON:** Aimee, the intent of the use of GPS trackers was so that detention did not have to occur. You are saying that there are less limiting ways than the GPS tracker, and we also heard earlier about intense managing. However, the community will be asking: are you saying that while they are actually not in detention? That is the great concern. On the one hand there is the GPS tracker and no detention, but you are saying less limiting ways. Are you saying less limiting while in detention or while out?

**Ms McVeigh:** No, absolutely not while in detention; less limiting ways while on bail. We would support a measure that means that the child has someone who is looking out for them, as well as that the underlying causes that see the child come into contact with the youth justice system are addressed. I know that the committee heard evidence from Life Without Barriers this morning. The Youth Advocacy Centre has models. I know that Sisters Inside have models. Many of our members have put evidence to the committee about services they are operating that have the desired outcome. There is evidence that services work. There is no compelling evidence that GPS trackers will work.

**Ms BOLTON:** Do we have statistics on what you are saying regarding not the GPS trackers but the efficacy of those programs, given the community would be greatly concerned if an offender is not being monitored by someone 24/7?

**Ms McVeigh:** At QCOSS, all we have been able to obtain are details of different services and those organisations having done evaluations on their own services and explained the effectiveness of that particular service. What I think would be helpful is if the government was to have a look at the services that are available and also think about the needs of these particular children and design a service system response that is targeted towards those children.

**Mr BERKMAN:** Kate, looking at the reversal of the presumption of bail—I did raise this question earlier, you might have heard—there have been submissions that identify the discretion that officers hold in laying more serious charges in the same circumstances, including indictable offences or prescribed indictable offences. The officer in charge in Cairns quite frankly told the committee that that is something he has experienced his office doing in practice. Can you help us understand, in the context of these new laws, what that means in practice for the child involved? Does it raise any particular concerns around potential for racial profiling or other outcomes?

**Ms Greenwood:** There is not a lot of data around to do with the use of tracking—is that what you are asking me?

**Mr BERKMAN:** No, sorry, the discretion for officers to lay more serious charges. The example that was given by the officer was: in circumstances of shoplifting, if you add the element of intent, entering the premises with the intention of stealing food or whatever it might be, then the option is open to the officer—

**CHAIR:** I think what Michael is trying to say is: will the police load up the charges?

**Mr BERKMAN:** Thanks, Chair.

**Ms Greenwood:** I can give examples of children who have been overcharged. A child stealing a sushi roll from a 7-Eleven could be charged as an unlawful taking away of goods or could be charged under the Criminal Code as stealing. A child snatching a hat from the head of another child could be charged as stealing from a person or could be charged as a robbery. It tends to be that most charges tend to be overcharged. A lot of the work of my legal service is to write submissions to try to make the charge actually fit the level of gravity. The Queensland Director of Public Prosecutions has guidelines as to how charges ought to be properly laid. We spend a lot of time writing, saying, 'That charge should actually be that charge.'

**Mr BERKMAN:** I am curious mostly about what are the consequences of these changes in that context.



**Ms Greenwood:** Consequently, if these sorts of charges, especially the example of the hat snatch, are charged as a robbery then you suddenly have a load of kids being refused bail for not very serious offending. They are the sorts of children for whom bail with conditions would be a much better solution than a refusal of bail.

**Mr HUNT:** Kate, we have heard a lot about a particularly problematic cohort or group within the youthful offenders. You spoke about the dire need for drug rehabilitation centres targeted at youth. Could you drill down into that and give us some linkages between what you are seeking and that more problematic demographic?

**Ms Greenwood:** One of the things I was going to suggest to the committee, and in fact what has been shown by all these submissions, is that you need a lot of people at the table to come up with the solutions to what is a difficult problem. Essentially, there are a number of issues. I know that money has been set aside in Cairns for a youth drug rehabilitation centre, but that has a way to go before it will be in place. I was working firstly up in Cairns and down in Townsville when the ice scourge was starting to move its way up the coast and into the smaller communities. The biggest issue was being able to find a residential drug rehabilitation bed for adults, let alone kids. There are better services up north. It is easier to find beds, although they are very limited, even up there. But where do you send kids? At the time I was practising up there—and I understand this to be case still—the problem was that you could not find residential drug rehabilitation for kids. I think someone was telling me there might be one down here. When you look at the numbers of kids who need intervention and help, the first way you make the community safer is by addressing that. In my view, once you get that done you are 60 per cent of the way home in trying to improve community safety.

**CHAIR:** That concludes this session. Thank you for your evidence and thank you for your written submissions.

**KILROY, Ms Debbie, Chief Executive Officer, Sisters Inside**

**MABO, Ms Boneta-Marie, Youth Programs Manager, Sisters Inside**

**MACKAY, Mr Joel, Strategic Campaigns Lead, Amnesty International**

**MUNN, Ms Maggie, Indigenous Rights Associate, Amnesty International**

**CHAIR:** Good morning. I invite each organisation to make an opening statement of no longer than three minutes, after which committee members may have some questions for you. We have been trying to be as strict as we can with the three minutes so that the committee is able to ask some questions.

**Ms Kilroy:** Thank you, Chair. I would like to acknowledge the traditional owners on whose land we gather today, the Turrbal and Jagera people, and acknowledge elders past and present. I want to acknowledge the ongoing shame as the colonising and genocidal policies continue today. This bill is another policy of white Australia that will continue the criminalisation and imprisonment of First Nations children. I am deeply concerned about the proposed reversal of the direction of youth justice policy in Queensland, just as we were starting to make inroads into our appalling record as the Australian state which criminalises the most children. We are actually returning to the dark ages. The bill is contrary to everything we know about what works in reducing the criminalisation of children over both the short and the long term. The evidence is clear that we need to address the causes of criminalisation, not lock more kids up.

It seems that right now is the time to expose and out the love affair that has been trying to conceal itself in darkness; that is, the love affair between members of this government and this parliament with police and prisons. We know you are in bed together. All we have to do is follow the money. If you deny this love affair—well, this bill just exposes how this government are not courageous or big thinkers. You just rely on prison and police to solve social issues that have pushed children and will push children to the margins. Particularly so, this bill will push First Nations children, their families and communities further to the margins of Queensland. This bill continues to perpetuate the worst aspects of colonisation: racism, vigilantism, abuse, the risk of more deaths in custody and other ongoing and inhumane treatment.

Last week we witnessed hundreds of thousands of women marching for justice to end sexual violence against women across this country. We witnessed the Premier and ministers and members of parliament in this House step forward with courage to expose their own experiences of sexual abuse, rape and sexual harassment. Their voices were heard loud and clear about their own abuse. Where is your courage now—your courage to protect children whom we expose to horrific ongoing abuse if this bill is enacted? Where is your courage, women? I say it in the context of the girls that we support who have experienced horrific sexual violence all their lives and the majority in the care of the state. Where is your courage now? You must reject this bill. I had a few other things to say, but I think I am going to take too long. I encourage you to be courageous. Thank you.

**Ms Mabo:** I, too, would like to acknowledge the traditional owners, the Turrbal and Jagera people, of the lands that we stand on and I talk from. My name is Boneta-Marie Mabo and I am a Mumbarra woman. I am of Aboriginal and Torres Strait Islander descent. I am a state youth program manager at Sisters Inside. We strongly oppose this bill.

The basic emotional wellbeing need of humans is to be seen and heard and to feel connected. These reforms will only exacerbate young people's disconnect from their communities and further marginalise them. Steering young people out of the criminal legal system will see a more productive future, not only for young people but also for our whole community as this would prevent them from being pipelined into the adult criminal legal system.

When children feel seen, heard and connected, they prosper. They believe that they have more choices and options in their life, and they will always self-direct out of the criminal legal system with the support of community. We know this because of how successful the Yangah bail support program has been. Since the beginning of 2020, 78 per cent of the girls that we have supported have not returned to youth prison. We know that 82 per cent of children who have been in prison will return to prison within 12 months. Investing more money into NGOs to intensely support young people will see a reduction in youth crime. When we raise the most marginalised in our communities, we will raise our whole community. Thank you.

**Mr Mackay:** I would also like to begin by acknowledging the Turrbal and Jagera people as traditional owners and their elders past, present and emerging. We have a lot to say but only a few minutes, so hopefully we can get more out in the questions. I would like to say from the outset that

Amnesty International opposes this bill as it stands. We are very concerned that this bill contravenes several international human rights laws and several United Nations and international guidelines that are specific to how justice and young people should interact. What I will focus on, though, is this idea of addressing recidivism. It is extremely important that recidivism is addressed. That is the intended outcome of this bill. To achieve this outcome the government has made the wrong assumption, and that assumption is that locking up kids is how you address recidivism. We know that locking up kids is not addressing recidivism because the same kids are going back to prison, so the whole assumption that prison will work is wrong and that needs to be addressed.

We know, for example, that if a child is locked up for the first time before they are 14 they are three times more likely to become a long-term serious offender. Again, that is because prison does not work. It is the programs and wraparound services that address the underlying causes of crime, racism, poverty and poor health. These are the things that we need to be focusing on and these are the things that work. The Queensland government knows that these things work because if it did not think these things would work it would not have funded the on-country programs in Northern Queensland, \$5.6 million over four years, which is a great and important investment, and it would not have spent nearly half a million dollars on other non-custodial services. We need to go in this trend, not towards locking kids up. Just to close, before I hand over to Maggie, Amnesty's main point is that prison does not work. We all know it. The government knows it. Let's look at other solutions.

**Ms Munn:** Amnesty International is gravely concerned about the impact these amendments will have specifically on Aboriginal and Torres Strait Islander kids. As a Gungarri woman I know firsthand the impact of the criminal justice system on my people and, more specifically, on our kids. It is no secret that Indigenous kids are likely to interact with the criminal justice system and police at some point. What we are concerned about is that this bill will make that more and more likely and as a result will funnel kids into detention and imprisonment. Once they are there, it is so hard for them to get out. What works in addressing youth crime is community and Indigenous-led programs. We have seen success with these programs, as Joel mentioned, in Mount Isa, Townsville and Cairns, and we can see how beneficial and impactful these alternatives are. When we invest in these programs, like the government has done in the past, we see a reduction in recidivism, all the while strengthening cultural ties and healing for these kids. These kids do not need increased police powers weaponised against them; they need support and nurturing from their communities and mob, and this can happen with success when alternatives to prison are supported.

**Mrs GERBER:** Thank you all for your appearance today and your valuable submissions. It is really appreciated. I am interested in how we actually come up with some solutions to deal with this small cohort of recidivist offenders who are very genuinely terrorising certain communities within Queensland. If not ankle bracelets, if not reversing the onus on bail, if not increasing parental responsibility within the act then what? Are you proposing on-country, which essentially has been proven to work for Indigenous kids? What to do with the rest of those kids? There are around 300 of them who are in this category. What is your solution if it is not what is in this bill?

**Mr Mackay:** Obviously it is hard to simplify and give you one answer, but the model and the system that Amnesty International's research has found to be best is justice reinvestment. I know that has already been mentioned today. Justice reinvestment brings the community together. It brings the schools, police, social workers and all government departments together, figures out what the local issue is and comes up with good solutions to limit recidivism, limit crime and increase education. I think QCROSS mentioned before the Maranguka program in Bourke. The stats there speak for themselves: the 30 per cent increase in year 12 retention, the 30 per cent decrease in recidivism. Obviously they are great results. Justice reinvestment has been around for a long time—not so long in Australia, about six or seven years. It actually comes from Texas, where the Texan government closed down five youth prisons because it was working so well. They did not need prisons anymore in that state. By diverting prison funds to these programs they are drastically cutting crime rates.

**Ms BOLTON:** I think you understand the difficult task we have. Across all the hearings, everyone has been talking about alternative solutions. However, those programs, as we have heard, take time—often months and years. At the moment we speak about 300 or 400 individuals. Our Indigenous communities have also said that something needs to be done. Whilst those longer term programs take months and years, what can be done to stop the crime and the fear? That is what we are trying to get to: if not what is in this bill, what is going to protect people while those programs are going on?

**Ms Kilroy:** I think the question of recidivism is the wrong question to ask. We must understand who these children are. If we as a community across this state of five-plus million people cannot assist and support 300 to 400 children then we have lost our way as adults. What is proposed in this bill is nothing new. It is draconian laws that have been layered upon since I was a 13-year-old child 47 years ago.

ago locked up in a youth prison, the same kid that you are talking about now. It was fundamentally flawed then and it continues to be fundamentally flawed now. We must come from a position of decarceration so that anything we do, anything that is funded, is a strategy that actually is about decarceration. We work towards abolition.

We must stop valuing property over children, property over people. We have our values wrong. In the context of this bill it is framed that way, that property is more important than children. Children are our future. You were all children yourselves. Maybe you were children who had a hard time; maybe you were not. We are talking about children who actually had less than all of us put together—the colonisation of this country, the intergenerational trauma of that, the theft of land for First Nations people. We have children who are homeless being taken into foster care who are on long-term orders under the director of child safety who are left homeless. We heard from Aimee this morning. What happened to her continues to happen to the girls we support today.

Nothing changes if nothing changes. If you endorse this, we will get the same. Like I said before, it is about tracking the money. Governments have a love affair with prisons and police. We fund prisons and police the tune of about \$3.4 billion a year and social housing with \$425 million. What is your priority? The priority obviously is prisons and police. They have the heaviest, hardest hitting unions in this state and they will continue to push you all for these draconian laws until we say, 'No, this is not how we treat a child.' To say that if we start a program now we will only see the effects of it years later is actually wrong. There are programs now that are working and they need to be funded appropriately. You need to get that research from Youth Justice to prove that these programs actually work and reject this bill. I will let Neta talk about the Yangah program and the success in that.

**Ms Mabo:** We were the pilot for the bail support programs that started in 2018. If you get the data from Youth Justice, at the beginning of our support there was a high number of young women who were in not only the youth prison but also the watch houses. From our support, doing the work that we do and how we do it, we were able to support these young people in the community to stay in the community. If you get the data from Youth Justice, you will be able to see from the end of 2018 and 2019 the dramatic numbers of the girls who were in youth prison. At times there were only two in there as opposed to 24. There are things that are working and they are working quickly.

**Ms BOLTON:** Earlier you mentioned that 78 per cent did not reoffend.

**Ms Mabo:** Yes.

**Ms BOLTON:** For the 22 per cent who did, who were being supported and had gone through a program, what do you believe was the catalyst as to why that failed?

**Ms Mabo:** In our service we only have two people servicing the area from the Gold Coast to the Sunshine Coast. We have a big area. If we had more resources, we would have been able to support all of those girls to stay out of custody.

**Mr Mackay:** On Ms Bolton's original question around the 300 to 400—what the government is calling the serious recidivists—this is where we have to look at intensive case management of these kids. That intensive case management has to focus on providing a wraparound service, like I talked about before with justice reinvestment. I think one of the programs we can look at here that has been successful or is looking to be successful is Target 120 in Western Australia. Target 120 is based on a New Zealand program where basically the government, with the police and with social services, identified the 120 families that were interacting with the justice system the most and targeted wraparound services and intensive case management at those families. It has been happening in New Zealand for ages and it is working really well there. It has been going on in Western Australia for two years and we are looking forward to seeing good results come out of that, too.

**Ms BUSH:** Debbie, in the regions we heard particularly about an increasing trend of young girls and women interacting in the criminal justice system. I was interested, given your work, if you can shed any light on why that is. Particularly with the services that are available now, are they meeting the needs of young girls and women through a gender lens for youth justice?

**Ms Kilroy:** We are the only specific service in the whole state that focuses on and supports girls and young women. There is no other service that does the gendered approach that we do. Girls are usually added on to other services that have been funded for boys. What we see and will continue to see while we continue resourcing police and prisons at such a high amount of money—billions of dollars—and not resourcing, for example, social housing is more children and people on the streets, homeless. That is the issue. Once you are homeless on the street and you are a child and you are black, you are actually going to collide with police very quickly. You will be targeted by police. We know that the First Nations girls here are always targeted every night they are homeless on the street. The

majority of the children are in the care of the state. Where is the state? Instead of blaming parents when the state has already taken their children and the state is the parent, why isn't that parent—the state—being held accountable?

We heard from Aimee this morning the same thing is happening. We have girls who do not want to go to residential care because they are being criminalised while they are there so they choose to stay couch surfing—or if there was a youth hostel they would be there, but they would be told they would not be allowed to be there by the child safety officer and that is where they are safe. They are actually stopped from being criminalised when they remove themselves from the environments that target them for criminalisation. I see time and time again on girls' criminal histories that their first offences usually come from being in residential care—a wilful damage charge, for example, because she has got upset because of the abuse that is happening in that house and she kicks a hole in the wall due to frustration. They call the cops. If your child kicks a hole in the wall, who do you call? The plasterer, yeah? You do not call the police. The intervention is very different with these children we are seeing who are in care. It must be unpacked. It must be stopped. Child Safety is a fundamental failure and fails these children, particularly First Nations people. They are homeless. When we talk about recidivism, that is actually blaming the individual. The state is at fault here, not these individual children.

**Mr BERKMAN:** I really appreciate your evidence. I think you have pretty effectively torn down the assertion that there is no service oriented response to do the job that this bill does, so maybe I will just ask you point-blank: the laws are unjustifiably authoritarian, punitive and racist, they will disproportionately impact Aboriginal and Torres Strait Islander young people and they will exacerbate the existing over-representation of Aboriginal and Torres Strait Islander people in custody. Do you agree?

**Ms Kilroy:** I agree; absolutely.

**Ms Munn:** Yes, so do we.

**Mr KRAUSE:** Ms Kilroy, are there any circumstances under which you think young offenders should be incarcerated?

**Ms Kilroy:** I think there are circumstances where anyone in our community who is violent needs to be removed from the community so that people are safe. Being an abolitionist is not about safety. We take safety very seriously. It is about coming up with other modes of safety and security, but we are not in that position. We are sitting in Parliament House talking about draconian laws that will incarcerate more people, so it is about finding places where those children—because we are talking about children—can be safe. If they are supported in the community, then those particular, as you call them, crimes—behaviours—probably will not happen, but in the world that we live in at the moment we need to sometimes remove someone from our community that is violent for safety, but prison is not the answer because it is a violent institution.

**Ms BUSH:** Just to come back to the point, at some point there was a conversation around looking at police call-outs to residential care. Debbie, what were the outcomes of that?

**Ms Kilroy:** There have been a number of committees set up by departments that have carriage for children in care and youth justice over the years—so for the last 15 years that I can remember—and we would get to a point where there would be recommendations made but they were not enacted because governments changed or ministers changed and things went by the wayside. One of the clearest and most tragic examples of residential care I can talk about was a young 13-year-old Aboriginal girl. The residential workers promised to take her to see her mother at the courthouse, because her mother was going to court, and it was the 13-year-old child's birthday. Because she had misbehaved in the context of what residential workers believed she did, she stole a car. They rang the police—triple 0—and said that they had been assaulted and that their car was stolen. They did not say they were residential care workers. They did not say she was a 13-year-old Aboriginal girl in care with mental health issues. When she had taken off in the car, the police were coming the other way with sirens on. It was only that the triple 0 worker had rung back to that house and got more details and her name came up on the screen of the police vehicle that she had mental health issues—all the details of her.

I will give police credit when police deserve credit. They turned the lights and sirens off and pulled over because they knew it was dangerous, but she floored the car—hit the accelerator—and wrapped herself around a tree and died. There were recommendations out of that about residential care and putting immobilisers on cars et cetera so cars could not be taken, but that could have been diffused really easily. If she was misbehaving in their context and swearing, deal with that with a consequence that does not stop her from seeing her mother. Why punish a 13-year-old child to not be able to see her mother on her birthday because she swears? Find something else for a consequence, but we do not do that. This is the fundamental failure.

We just recently had a 13-year-old Aboriginal girl a number of weeks ago. She had been arrested for wilful damage and causing fear whilst armed in public. She was outside resi-care with a saucepan, banging it on the road. That was the weapon and that was the fear that she was supposed to be causing the public. Please! This has become a point of ridiculousness, what we are doing to our children, and they are going to be pipelined into the adult system. That is when I talk about your love affair with prisons and police. Is that what you want? Is that the record that you want on your name—the abuse and trauma that this bill is going to cause these children, because it will? I was one of those children. Aimee was one of those children. Why? You must dismiss this bill in its entirety.

**Mr Mackay:** If I could add something to Ms Bush's question, and this is answering with regard to both resi and non-resi: I want to point towards the government doing good work in this space. Part of the half-billion dollar non-custodial response was the co-responder trial, and the early results of co-responding look good. As you know, this is where social work and other wraparound services and providers are working with police. We would like to see less police in that involvement going forward in the co-responsive program, but I just wanted to bring the committee's attention to that as well.

**Ms BOLTON:** Joel, you spoke of a New Zealand program model. In New Zealand do they incarcerate youth?

**Mr Mackay:** As a very last resort. Incarcerated young people are a very low number in New Zealand. They do not have an age of criminal responsibility and, as I said, it is a very last resort for what the government deems serious offences.

**Ms BOLTON:** What would be that last resort? Are we talking violence or are we talking robberies? What are we speaking about?

**Mr Mackay:** The small number of children in prison in New Zealand tends to be serious assaults, manslaughters, murders. Again, the numbers there are extremely small and that is because they have really good diversion and prevention programs. When children and young people are committing crimes, including serious crimes, they are diverted very early and very quickly and they are prevented very early and very quickly.

**CHAIR:** Joel, early in that answer you talked about criminal responsibility in New Zealand and I just missed what you said.

**Mr Mackay:** New Zealand has a bit of a different system compared to Australia in terms of criminal responsibility. They do not have a technical minimum age of criminal responsibility, so 18 is the minimum age of criminal responsibility in New Zealand.

**CHAIR:** How do they deal with youth offenders, then?

**Mr Mackay:** In the first instance diversion and prevention.

**CHAIR:** Thank you, Joel.

**Mr BERKMAN:** I am interested in hearing anything more you might offer about the way our existing minimum age of criminal responsibility interacts with all of the issues this bill is dealing with and whether you see raising the age as being a useful part of the response rather than the kinds of measures that are proposed here.

**Ms Kilroy:** As an organisation we do not agree with the campaign to raise the age of criminal responsibility. We believe that no child should be imprisoned, but that is not taking it out of the context that I discussed before about new modes of safety and security. It is about the fact that these are children. In Scandinavian countries it has been done before and we could be the lead state, not only in this country but in the world, in terms of how we treat our children. It needs to come from a context of supporting them with what they need, not the criminalisation of an imprisonment which they do not need because that just pipelines in. It feeds into the racial capitalist world and the driver of businesses which are big prisons. Yes, as of 1 July in this jurisdiction we will have no more private prisons, but that does not tell us that public prisons are any different or any better. A prison is a prison is a prison. Yes, they must not be commercialised, but when it comes to youth we stand firm that no child should be incarcerated.

There are many other ways to support children away from policing and that is about defunding the police, and that is not such a radical idea. If you think about the amount of money that has been removed from social services in this state alone, defunding police is not radical. Police are not mental health workers. They are not social workers. They are not student support people in schools where we put them. They are actually police. We need to remove them out of the social sector and fund the services that are required not only for children but also for families that are struggling, and it is

predominantly First Nations families and communities which are left behind. Here we once again stand in this House which is predominantly white and privileged and which has really no idea what is happening for black families struggling on the ground.

**CHAIR:** Thank you. That concludes this session. Thank you for your attendance. Thank you for your written submissions.

**BARTHOLOMEW, Mr Damian, Chair, Children’s Law Committee, Queensland Law Society**

**BELL, Ms Kristy, Committee Member, Criminal Law Committee, Queensland Law Society**

**REECE, Ms Laura, Member, Bar Association of Queensland**

**CHAIR:** Good morning. I invite each organisation to make an opening statement of no longer than three minutes, after which committee members will have some questions for you. We have been trying to be fairly strict with the three minutes so that the committee can ask questions.

**Mr Bartholomew:** I thank you for inviting the Queensland Law Society to appear at the public hearing on the Youth Justice and Other Legislation Amendment Bill 2021. In opening, I would like to respectfully recognise the traditional owners and custodians of the land on which this hearing is taking place, Meanjin—Brisbane. I recognise the country north and south of the Brisbane River as the home of both the Turrbal and Jagera nations and pay deep respects to all elders past, present and future. I also note the over-representation of Aboriginal and Torres Strait Islander children and young people in both the youth justice and the child protection systems.

The Queensland Law Society has been a longstanding advocate for reform in the youth justice and criminal justice systems. While the society appreciates that protection of the community is of vital importance, evidence indicates that youth offending is best addressed by investing in prevention and early intervention initiatives that provide a systemic response to the drivers of crime. It is the society’s position that the measures introduced by the bill are unlikely to reduce youth crime and will have a disproportionate impact on Aboriginal and Torres Strait Islander children and young people. I will now hand over to Kristy Bell, who is a member of the Criminal Law Committee and an accredited specialist in criminal law.

**Ms Bell:** Thank you, Damian. As indicated in our submission, the QLS holds particular concerns about GPS tracking for young offenders, the presumption against bail which will increase the number of children held in watch houses and youth detention facilities, and the amendments expanding the powers in the Police Powers and Responsibilities Act. We welcome any questions the committee may have. I will now hand over to Laura.

**Ms Reece:** Thank you. The Bar Association thanks the committee for the opportunity to give evidence on this important matter. At the outset, I would like to echo the acknowledgement of country by my good friend and colleague Mr Bartholomew. The experiences of the members of the Bar Association who practise in criminal law—both prosecute and defend matters in the Childrens Court of Queensland—underpin the substance of the response submitted on behalf of the association. Mr Benjamin, who was going to give evidence this morning, unfortunately is not able to due to some court commitments so I am here instead. He is my colleague on the committee.

The association, as is clear from the submission, opposes the amendments to the Police Powers and Responsibilities Act 2000, the Penalties and Sentences Act and the Youth Justice Act. The association has always opposed measures which fetter the discretion of individual judicial officers who consider an individual case. This is because mandatory approaches, both to sentencing and in this case to bail, fundamentally have the potential to create injustice. There can be no allowance for the relative seriousness of the offending involved and the circumstances of the individual child being considered. I will not go into some of the detail which has already been put before the committee this morning in terms of perhaps individual cases which might highlight some of the difficulties with this approach which is put forward in this bill. That is the opening statement on behalf of the Bar Association. I am happy to take questions.

**Mrs GERBER:** Thank you both for your appearance today. Damian, I would like to better understand your view. I see the government pitching this bill as one that strikes the appropriate balance. We have heard from the communities in Townsville, Cairns and Mount Isa that this bill does not go far enough and then, conversely, that the provisions within it are not going to achieve what they set out to achieve because, for instance, the ankle bracelets do not target the right age demographic or they are going to further marginalise or they are going to be used as a badge of honour. Then in regard to the reversal of the onus in relation to bail, they are saying that those kids do not actually have a home to go to. We have heard all sides of the argument in relation to the bill not going far enough and not achieving what it is meant to achieve, and then today we have heard all of the submissions saying that the bill is counterintuitive and that it actually should not be passed in any way, shape or form. Does the bill strike the appropriate balance? If not, what would you suggest we do?



**Mr Bartholomew:** Youth justice is obviously a complex area. I think the view, as clearly set out in the submission, is that this bill does not strike the appropriate balance. It does seek to address a small number of recidivist offenders, yet it has very widespread implications in terms of how it is drafted. That is a significant problem. Its effect is far more broad. In relation to the definition of prescribed offences, for which the show cause provision applies, I counted over 100 offences within that definition so already we see a very large number.

Certainly, the society hears those concerns of members of the public, and we share those concerns that of course we want the community to be safe, and the community is kept safe by having effective interventions. What we have seen in the evidence that is before the society is that incarcerating young people does not solve the issues. There may be a very immediate response, but we know that long term it in fact increases the likelihood of them reoffending and it does not keep the community safe. The society is interested in effective mechanisms that will assist young people and perhaps reviewing what processes are currently in place and why they are not working—looking at, when a young person does reoffend, why it is that the orders that currently are in place are not working.

We also need to remember that, when we are talking about that group of 10 per cent of young people, most of them have been detained before. When we are talking about that 10 per cent of young people, or the 390—whatever figure you want to make—what we know is that most of those young people have been detained before and it has not proven an effective intervention. It clearly has not worked in stopping them from offending. It is not about the length of time they have spent in there. What we need to look at is what is going wrong in our detention centres, as a starting point, as well as looking at what has not been effective there and what has not been effective in the community programs that those young people have already been subjected to. Those issues need to be reviewed.

**Mrs GERBER:** Following that, your suggestion is alternative sentencing regimes like, for instance, On Country; your suggestion is early intervention; your suggestion is trying to divert kids from the youth justice system, but for some of these children that has already failed them. If not detention and if not the measures in this bill, what are you suggesting specifically? Take the buzz words out of it. What are you suggesting, specifically?

**Mr Bartholomew:** I think what we need to look at is why those evidence based programs are not working—these are essentially those programs that are in place and those processes that we talk about, such as diversion, and the programs that are being run in the community by Youth Justice—and what has gone wrong. That, of course, is very important. We do not see consistent programs that are being operated from within the detention centres and into the community. How is that transition working when young people are exiting detention? Why is it that young people who are subject to supervision by Youth Justice are reoffending? What has gone wrong with that program? We do not have any analysis of that.

We see in other states that when a young person reoffends of course there is a review that is taken internally to review those issues and to find out why that young person has not responded. What we do know is that providing intensive support to enable young people to effectively participate in programs in the community is more likely to get results, and that is what we are seeing at an international level. We are providing some support for young people to participate; it is not simply identifying the program they need to go to but also looking at how they get there and how they maintain in that program. Looking at all of those issues is very important.

**Mr KRAUSE:** I want to follow up with Mr Bartholomew on early intervention. I think the member for Currumbin led you onto this question where there may be some failures in those programs and they are not working as they should and you said that needs to be looked at. Would you say, though, that while those things are being looked at the community should be protected from this hardened cohort of young offenders who are causing property damage and other criminal damage?

**Mr Bartholomew:** It is important, obviously, that we keep communities safe. However, what we do know is that keeping young people incarcerated also increases the likelihood of them returning and committing further crimes. That of course is the balance. Yes, it is important that we have effective review. I do not know that I would say that those programs are necessarily failing, but perhaps they need enhancement to ensure they are effective—so why it is that particular members of the community might need particular assistance to engage in those programs. Certainly, that is in relation to Aboriginal and Torres Strait Islander young people around why those programs are not working for them and what cultural needs could best be introduced to assist them to comply with those.

I understand the position of some of those members of the community who think that removing those young people and incarcerating them might be an immediate solution. However, what we know is that, ultimately, it is going to increase the likelihood that they will commit further offences. That does

not seem to be a satisfactory response, particularly being mindful of the other principles already within the Youth Justice Act and being mindful that there are some programs that are out there that have shown to be effective.

**Ms BOLTON:** Damian, I was asking earlier for some statistics and data collation, but I think you are saying that that has not been done because you asked why they are not working. I would have thought we would have that already. I was told that the data would be with Youth Justice. Are we aware of any data that we can actually access now to see the success of programs as well as why they are not doing what they should be doing?

**Mr Bartholomew:** I think that question is probably best directed to Youth Justice in terms of what processes they have in place to review when young people are alleged to have committed further offences whilst on bail. The society, of course, does not keep those statistics but the society is very aware of the evidence and the evidence based programs which are shown to be effective. That is the basis on which we formed our submission.

**Mr BERKMAN:** I think this is probably a question best directed to Kristy or Damian. It is zooming out a little bit. Can you outline for the committee the underlying rationale for having different criminal legal approaches for young people and adults and how this bill fits within that differentiation?

**Mr Bartholomew:** I think there is a long recognition that most civilised countries in the world—and anyone who has an understanding of neuropsychological development in terms of brain development of young people—have a different children's court and indeed recognise that young people need to be treated differently from adult offenders. Indeed, it has been an underlying principle of our legislation. In Queensland we have had a different children's jurisdiction for a considerable time. That is consistent with all of our international obligations. Indeed, all of the research would suggest that different interventions will work more effectively with children than they do with adults and you need different programs. We all know that we treat children differently under many different laws in our community, not just in the criminal law. The compulsions that we have and the prohibitions that we apply to young people are all based upon their brain development, and of course we need to reflect that in our legislation when we are dealing with young people in the criminal justice system.

In terms of the second part of your question about how that fits in with this legislation, well, it is very disappointing that it does not in many ways. That notion of introducing a show cause requirement for children into the legislation is very concerning, because there are difficulties that young people perhaps will have in being able to show cause and to advocate for their position in relation to their interactions particularly with the police but also in the context of the Childrens Court system, where they are dealing with an advocate with whom they are probably unfamiliar at the time they are first appearing.

In relation to the issue of the tracking devices, of course there are the provisions that are already well recognised about the importance of reintegration and, indeed, of not stigmatising young people. We have all of those confidentiality provisions that are contained within the legislation that are defeated by the fact that you then have a young person wearing a bracelet which is observable in the community. It does appear to be inconsistent with that notion that we need to have two different systems.

**Ms BUSH:** Laura, in your oral submission you mentioned words to the effect that you do not support any part of a bill that would be removing discretion from judges and mandatorily imposing a reaction. Can you confirm which parts of the bill you are speaking to in that regard?

**Ms Reece:** It is the presumption against bail and not really the changes to the sentencing principles—because that is obviously more informative than mandatory. It is really the idea of this group of prescribed offences which then create a presumption against bail for individual children. The difficulty with that is that there will always be a vast discrepancy in the seriousness of the type of conduct which can lead to a charge like that being imposed. It also does not give a magistrate or a Childrens Court of Queensland judge the opportunity to look at the objective circumstances of the child in the same way. It really does create that initial presumption against bail.

The difficulty with this—and this in some part might answer the member for Noosa's question—is that the Australian Bureau of Statistics has released statistics which show that there is significant success in the youth justice sector in terms of changes that have been made in investments in that space by the government over a long time now. That is including rehabilitation, restorative justice and that type of thing. There is a reduction of kids involved in the system overall. There is a reduction of offences. What is really change resistant is this small group of offenders. The difficulty in passing legislation—which obviously has this wider impact and a much less targeted impact than might be intended by the parliament when considering change like this—is this inherent risk that it will create unjust responses, that it will bring children who might otherwise be diverted from the criminal justice

system or dealt with outside of detention into that sphere, and that is what we are concerned about. That is the difficulty with anything which creates that mandatory requirement on a magistrate or a judge. Young people, as we highlight in our submission, who might not ever be sentenced to imprisonment will be detained potentially under the operation of this law, and we say that is unjust.

**Mr KRAUSE:** I want to follow up with Mr Bartholomew in relation to what we were speaking about earlier. I have been fortunate in my role in this parliament to be a part of the process for the changes made by the government over the last six or so years since their election in 2015. I reflect on the 2014-15 Childrens Court report which mentioned a cohort of about 150 recidivist youth offenders in the Childrens Court system at that time. The number that is being talked about here today is much higher than that, so I do see an evidence of failure in those programs over the last few years. Are you saying that we need to continue down that track with more of the same, or are there changes that need to be made to those early intervention initiatives to actually halt that course? When do you say we get to a point where the system itself is failing, not just the initiatives?

**Mr Bartholomew:** There would be questions. In terms of the statistics that you are talking about, when we look at those increasing numbers I do not know that we are always comparing apples with apples and how that core group of offenders is actually gauged seems to change. Therefore, I do not know that those figures have grown significantly in the way you might describe. I do not think the society is suggesting that we just continue to ignore what is not working. However, we need to look at why it is not working and whether there are sufficient supports that are currently being put in place. Where there is some evidence to suggest that these are the programs that need to happen, what can be done to enhance the engagement by young people in those programs? We know that keeping them in custody, of course, does not keep the community safe. It actually increases the likelihood that those young people may come out and reoffend. If we want young people to stop reoffending we need to be directing them towards those programs where there is an evidence base that suggests they are working.

**Mr KRAUSE:** While they are incarcerated or in custody they are not going to be reoffending, are they?

**Mr Bartholomew:** Not for the short period that they are there, but it does not in the long term keep the community safe. There is an immediate response. What we do have is a lack of continuity of programming existing right across our youth justice system in terms of young people who are participating in programs in the community: can they continue those programs in detention and can we offer the same programs upon their release? There is that lack of continuity. That all needs to be examined to determine why those processes are not working, rather than simply responding by keeping more and more young people in detention and, more particularly, the probable consequence of this legislation that will see young people being held in watch houses again, which the society has particular concerns about.

**Ms BUSH:** Laura, I want to go back to the point around judicial discretion and look at the sections that you have referred to. My read is that there is still a level of discretion for judges. They do need to consider aggravating factors as well as mitigating factors. I am interested in your views around a judge's ability to consider that discretion in sentencing and making bail arrangements.

**Ms Reece:** Certainly the presumption against bail does not mandate that a young person is remanded in custody. Effectively, though, it does make it much more difficult. It puts the onus on the young person, and we are sometimes talking about young people who do not have a huge amount of community support. They may not be there with their parents, which is another issue that we highlighted in our response around this undertaking that could be given by a parent. We know that a lot of children caught up in the youth justice system are under the care of the department. This is an ongoing issue. It is not going to go away soon, it would seem.

We are concerned that anything like the presumption against bail—while of course it is not truly mandatory and perhaps that is not the right word—does have that immediate dampening effect on the chances that that child will get bail. That is what we are concerned about. We are also very concerned, as is the society, that this will have the effect of young people being held in adult watch houses, which is a situation that has already, certainly in my experience—I have represented young people who have spent five or six weeks in an adult watch house as a result of pressures on the system during that time that we are all familiar with. It has not ended well for them. Locking up children in adult watch houses is really next level when we are talking about wanting them to re-emerge into the community as law-abiding citizens.

**Mr BERKMAN:** Laura, I would like to ask a related question around the provisions that put the onus on the child to show cause as to why they should not be remanded on bail. The response from the QPS, if I recall, when I put this to them in the early briefing, was that no child would be

unrepresented because there is a duty lawyer there and it is all hunky dory. Can you speak from your experience as an advocate as to the difficulties that kids are going to face, even if they do have a duty lawyer on hand, in making the case that they should be released on bail and, particularly, whether and how those issues are exacerbated particularly with disadvantaged kids, whether that is through cognitive impairment, mental health issues or related difficulties that they face?

**Ms Reece:** It certainly is true that there is a duty lawyer service available for children. There really is very good and widespread representation of children in courts in Queensland. I worked as a Childrens Court duty lawyer many years ago. The difficulty is that, as an advocate, all you can work with is what you have. If you have a young person in the watch house and the parent is not there—and, in fact, maybe they do not really live with their parent; maybe they are couch surfing—or maybe they have a mental health issue but they have not been properly assessed, you are really working with very little in order to make a submission on bail sometimes. Anything that imposes a further impediment in that process is difficult, from our point of view.

The difficulties around accommodation are widespread in terms of young people in the care of the department who are perhaps cycling through foster placements or through residential-care facilities. A large part of the problem with obtaining bail for a young person often is just getting an address—just having somewhere that young person can go. That reality has to underpin an understanding of how these changes impact on young people. When you have people saying that these kids should be in bed at home, maybe they do not have a home; maybe they sleep on the riverbed in Mount Isa. It is very convenient sometimes to look at these matters from the point of view of perhaps how we live our lives, but they really have to be seen in the way that they impact on kids who live vastly different lives in our community.

**Mrs GERBER:** Laura, I would like to put a choice to you. I get the sense that the legal fraternity is really not in favour of the presumption against bail because of the inherent risks that are involved in tampering with reversing the onus in the way that that does. If we look at inserting that provision, is that better for the child, or would you say it is better to insert provisions that bring back breach of bail or bring back that legislative reform that was taken out? Which would you prefer: the presumption against bail or bringing back breach of bail?

**Ms Reece:** It is a difficult question, because what we would always prefer is evidence based policy reflected in legislation that hopefully does strike that very difficult balance that we are all talking about, which is the interests of the community protected as well as the rights of the individual child. Those rights are not necessarily incompatible, because the right of the child to be rehabilitated and hopefully redirected from the youth justice system is also absolutely complementary to the rights of the community to feel safe. The difficulty with asking those questions is that we do not see any evidence that breach of bail as an offence would have the impact that you might hope it would in terms of deterring children from breaching bail.

What we see with this cohort of young people—and we act for some of them—is that it is very difficult to deter them. It is very difficult to rein them in. They have very little connection with the community. They have very little left to lose. They really are young people who do not think in the same way as a 13-year-old who is there with mum and dad, in a school uniform, whom I might meet tomorrow afternoon for a conference. The way that they are engaged with their community means that they are much less likely to breach bail. They are much more likely to be supported. They are a very different picture to this cohort of young people who we know are causing havoc. I am sorry that I cannot answer that question, because it is not really a choice that I could make fairly on behalf of the members of the association, but it is the answer that I can provide you with.

**Mrs GERBER:** What I was trying to get at is whether this is worse for kids. Is reversing the onus a worse situation?

**Ms Reece:** I think it is, but it does not mean that breaching bail as an offence is the answer. We are talking about young people—and we all know it from our own youth, I suppose, or from our own kids—whose thought processes are not about ‘am I going to be charged with breach of bail?’ It is much more basic than that. While I understand the genuine concerns of everybody to try to deter this kind of ongoing very risky and very damaging behaviour, with respect, legislation is misguided here.

**CHAIR:** That concludes this session. I thank you for your evidence today and for your written submissions.

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

**McDOUGALL, Mr Scott, Commissioner, Queensland Human Rights Commission**

**CHAIR:** Good afternoon. I invite you to each make an opening statement of no longer than three minutes, after which committee members may have some questions for you.

**Mr McDougall:** I acknowledge the traditional owners of the country we are gathered on today. I share the community's concern about the recent tragic events in Queensland. The commission appreciates the important and valid aim of these amendments, which seek to make Queenslanders safer—a human right that we all hold. However, based on the available evidence, it is unlikely this bill will ultimately improve community safety and serious questions must be asked about the human rights compatibility of legislation that does not achieve its aims. We still do not know who this cohort of serious recidivist offenders are, whether they are in fact recidivist offenders, which offences they are committing or how these measures will work to achieve a reduction in the crimes they are committing. We have had a lot of data put before the committee, including some that was published only this morning, but it provides very little illumination on the cohort of young offenders this bill is targeting. So far the only person who can speak to the experience of children and young people in the system is Aimee Miller, from whom the committee heard this morning. There is something deeply troubling about the development process for a bill that consults with law enforcement bodies but not more people like Aimee.

The evidence cited in support of the effectiveness of the electronic monitoring of children is misleading and contradictory. However, the commission's main area of concern with the bill is the presumption against bail for youth offenders. This bill will unavoidably result in an increase in the numbers of children in youth detention. Data provided to the committee from the department shows that in the 2020 calendar year between 269 and 376 children would have been subject to a reverse onus on bail. Even if magistrates and judges apply the provision in a conservative way, it seems unavoidable that children will be detained for prolonged periods in police watch houses, given the limited capacity of youth detention centres.

Any increase in numbers is also likely to aggravate the appalling over-representation of Aboriginal and Torres Strait Islander children in detention. The refreshed Closing the Gap targets agreed to only late last year obligate governments to reduce the number of First Nations children in detention by 30 per cent. This bill appears very likely to do the exact opposite. The commission strongly urges the committee to recommend against the passing of this bill.

**Ms Lewis:** I start by acknowledging the traditional owners of the country that we are gathered on today, which is particularly important given the point that Scott has just raised about the disproportionate impact that this is likely to have on Aboriginal and Torres Strait Islander people. We appreciate the need for community safety and the sentiments of sadness and frustration within the community. I acknowledge expectations that this issue is addressed with urgency and I recognise the significance of accountability in this complex equation.

The idea of getting kids off the streets might provide comfort for some but not for all. I believe what all people really want is to be safe in their homes and in their communities. They want crime to stop. They want to prevent the types of tragedies that have occurred from becoming the lived experience of others. They want to be safe, seen and heard. To give voice to children is part of the role of the children's commissioner. I want to share with you what children say they want. They want somewhere safe to sleep at night; help and support to fix the things they cannot fix themselves; mental health support; specialist substance misuse treatment; the abuse to stop; the violence in their homes to stop; to eat when they are hungry and to be cared for when they are sick; to participate in schools that see them for what they can become, not who they have been judged to be; to be understood in terms of what they can do, not why they cannot—nothing more than what we would all want for our own children; and to be seen, to be safe and to be heard.

To achieve that we need to confront and address the causes of offending, not condemn children who have offended. Accountability is key to the response. Incarcerating children and young people, particularly disproportionately Aboriginal and Torres Strait Islander children, is not the only means to this end. Accountability is not just an expectation reserved for young people involved in the system; it must also apply to the system itself. For those young people assessed at being at high risk of recidivism, we need to provide intensive, coordinated supports to address the multiplicity of needs. We cannot deprioritise particular rights of children simply because they have done the wrong thing or made a bad choice. They are not less deserving by virtue of being in custody or involved in the statutory system. Responding to deeds in the context of needs is what we need to do. This is not to suggest that

a free pass is given but that help needs to be given in equal measure to support young people to change their trajectory. It has been acknowledged by the Minister for Police and Corrective Services that the proposed laws ‘may compound the disadvantage faced by a child within a dysfunctional family or home environment’, and it is this point that I agree on the most.

Who are these young people who are from disadvantaged homes? Well, I would estimate it is the vast majority of the 344 young people whom this bill will impact. Of those, 219 children are Aboriginal and Torres Strait Islander children. Of those 219 Aboriginal and Torres Strait Islander children, 64 are currently subject to child protection orders. The state is their parent. More than half have diagnosed or suspected mental health concerns. More than 68 per cent have experienced prolonged exposure to domestic violence and a significant number of these children are either diagnosed with or suspected of fetal alcohol spectrum disorder.

The disproportionate representation of Aboriginal and Torres Strait Islander people continues to be a pervasive factor of all of the child protection systems and youth justice systems across this country. It is not a disproportionate rate of not caring about our children, nor an inherent badness of our children, nor apathy about the very confronting and real issues within our communities. To understand the over-representation of our people in statutory systems we need to recognise the under-representation, inequitable access to the enjoyment of rights—the foundations for healthy, thriving, happy and self-determining lives. The Youth Justice Strategy that evolved from Bob Atkinson’s review is evidence based, it is balanced and it is working. It is a long-term reform. We must stay the course.

In my opinion, the proposals within the bill present a dangerous detour. This line in the sand is going to wash away with the next tide. For every missed opportunity for structural reform, for every violent pendulum swing in the public policy in this particular social policy area, for every gap that we cannot or will not close, for every generation that we fail, there is another one behind them and that pursuit of equity for them is made all the harder. Thank you.

**Mr KRAUSE:** Mr McDougall, human rights considerations are inevitably a balancing act, are they not? In light of reports that were put out recently in relation to Townsville and the fact that \$25 million worth of cars were stolen there in two years from September 2018 to September 2020, especially in the suburbs of Kirwan, Cranbrook, Mount Louisa, Garbutt, West End, Kelso, Annandale, North Ward, Rasmussen and Aitkenvale, and your statement here this morning that spoke to the human rights implications—because you are the Human Rights Commissioner—to youth offenders, have you done any study or considered the impact on the human rights of people in Townsville who are enduring this horrific increase in vehicle theft or the victims of crime in any other sphere in relation to youth justice?

**Mr McDougall:** Thank you for the question. Nothing in our submission derogates from the rights of people in Townsville to have their property protected or, for that matter, their life protected. The question is: what is going to be an effective response to that issue? I would challenge the theory that just locking children up, or reversing the bail onus for a second offence, is actually going to protect people in Townsville. I was here when you asked the question of Damian Bartholomew. It might protect them in the very short term, but in the longer term it is not going to protect their property or their life. In terms of the compatibility assessment of the bill, the task of this committee is to assess its compatibility, and the focus needs to be on those most affected by the bill. Those most affected by the bill are children and they are highly vulnerable children.

**Ms BOLTON:** Natalie, you referred in your submission to the independent review in 2017. Is that not in place as yet?

**Ms Lewis:** My understanding is that the recommendation for the establishment of an independent inspectorate was accepted by government. I do not have information available to me at this point in time as to the status of implementation of that. The point of addressing it within our submission was to bring attention to a potential function, if in fact that has not been fully formed and established at this point in time. An important function potentially for the independent inspectorate may well be to monitor the duration of time young people spend in the watch house. That is probably for us, in terms of flow-on effects with regard to this bill, one of the most concerning ramifications.

**Mr BERKMAN:** I have a question for the Human Rights Commissioner. I was quietly incensed to read in your submission, and as we have heard this morning, that the statement of compatibility itself that accompanies this bill is misleading and contradictory. Can you share with us your view on what are the implications for Queensland’s human rights framework if we see statements of compatibility that are themselves relying on false evidence or misrepresenting evidence?

**Mr McDougall:** It is a matter for the committee to report back to parliament about the statement of compatibility. I would ask you to look at the evidence that was offered by the minister through the statement of compatibility in support of the effectiveness of electronic monitoring of children on bail.

The evidence that was proffered was misleading. Eventually the Police Commissioner in her correspondence, and I think the evidence of Michael Drane from the department, clarified that, in fact, there is not a clear evidence base in support of electronic monitoring for children. It is, in the broader context, to answer your question, important, if we are going to have an effective human rights regime that does protect and promote human rights in Queensland, that statements of compatibility refer to all of the relevant evidence and, in my view, it should have referred to evidence from the UK study from 2018.

**Mr BERKMAN:** You mentioned in your opening statement as well that there was some important evidence that had been published only this morning. I assume you are referring to the answers to questions on notice taken from the briefing.

**Mr McDougall:** Yes.

**Mr BERKMAN:** If you are able to, given the very recent publication of that information, can you share with the committee your views on any issues that arise from that? If not, is that something you could take on notice and return to the committee later?

**Mr McDougall:** To do justice to the question I would take that on notice. I will say, though, that there are some still unresolved issues, but I will leave it at that at the moment.

**Ms BUSH:** I have a question for the Human Rights Commissioner. We heard from police during their oral submission that GPS trackers could be one mechanism to reduce the risk of reoffending and potentially result in some young people then being granted bail who otherwise might be part of the 87 per cent that would be sitting in remand. I am interested in your views on that.

**Mr McDougall:** Sorry, can you repeat that question?

**Ms BUSH:** That perhaps having the opportunity to put GPS trackers on young people might be a protective factor and could actually assist them then in being granted bail and not being part of the 87 per cent of young people sitting in remand.

**Mr McDougall:** Again nobody knows—we are all speculating—but, from listening to the evidence of Laura Reece before, the sorts of children who are going to respond well to GPS tracking are unlikely to be children who are going to find themselves in that situation. In the last few months I have had a few conversations with police officers with some experience in dealing with children and talked to them about the effectiveness of this and whether, in fact, it is going to affect the criminal behaviour of some children. Some of them have speculated that it could actually make it worse, the reason being social media. Some children may actually take the opportunity to engage in high-risk activity and then publish it on social media, brazenly displaying their GPS tracker. Again that is speculative, but we just do not know. What we do know from the studies from overseas, in particular the UK, is that tracking is not the silver bullet that people seem to be looking for.

**Ms BUSH:** Natalie, you have mentioned that there is a view that having additional children in youth detention might provide comfort for some but not for all, and I would agree that there is a cohort of people out there—quite a vocal cohort of people—who believe that custody is the right option. I am interested in your views. In the work that you do, how do we challenge that perception?

**Ms Lewis:** I think the most compelling argument against that is that it does not work. People are wanting to see change, and I agree that absolutely there is a need to see change. People are upset and frustrated, but the response owed is a solution that will work—not an appeasement, not something that appears to be being done in response but something that will truly make a difference and have an impact on the rates of reoffending. I think that is the thing: it can do nothing but buy some time, because a child who has been exposed to trauma, who has experienced domestic and family violence, with intellectual disabilities, still has those issues after being in custody for two months. They still have those issues. Putting an ankle bracelet on a child does not make them less homeless or less hungry.

I think it is really important to focus on the things that work. Most times, particularly with regard to young people, the solutions cannot be found in the statutory system or within the legal system. What we need to do is consider that this is a cross-portfolio issue and that we need to focus on the issues around education. Half of these kids have not been in school for more than 12 months. They are owed, as a right, a quality education. They may not fit into the regular education system, but it means that we need to do more; we need to have other strategies to re-engage them in the enjoyment of a quality life. I think we need to look a little bit broader in terms of accessing those other social policy areas to truly meet the needs of children so that ceasing reoffending is actually a viable reality.

**CHAIR:** In relation to the cohort of persons who are not in school, are you able to assist the committee on any background at all? I know that is a pretty broad question. I would be very surprised if the children who are reoffending are basically in school.

**Ms Lewis:** On the data that has been provided to the QFCC, more than 50 per cent of the young people who are within this particular cohort of high-risk offenders have been actively disengaged from formal education, training or employment for more than 12 months.

**CHAIR:** Are there any programs, either through the Department of Education or elsewhere, to help re-engage the youth in education?

**Ms Lewis:** I think the bulk of heavy lifting with regard to re-engagement in a whole range of positive activities is actually being led by programming within the youth justice part of the department. That is to my point that it is actually a responsibility that lies outside of the locus of control of one small part of a department. What we see is that over the last couple of years Youth Justice has implemented some really great targeted strategies that are having an impact, but when we talk about prevention we have to be careful not to just label that at one point on the continuum. There is not one chance or one shot at this where you get one opportunity to get things right or to access these services. If you are not in the right headspace or in the right type of circumstance to make good on that, we do not get to say, 'You've lost your chance.' I think it is something that we have to think about. These types of services and supports to reintegrate young people need to occur and be available across the entire continuum, not just at the point of entry into the system.

**Mr KRAUSE:** Mr McDougall, in preparing your submission, to what extent did you consult with or draw upon sources that come from victims of crime or residents in relation to the matters that are sought to be addressed by this bill in relation to youth justice? Did you take any of that into account or is it solely focused on the offenders?

**Mr McDougall:** We did not formally consult with anybody outside of the commission in preparing for our submission. There was not a lot of time in which to prepare submissions and the time frames did not allow for that. That does raise the important issue about the lack of consultation that was undertaken in the formulation of the bill. We all would be in a much better position if evidence that has been presented to the committee since the bill was tabled was actually thrashed out within government in developing the policy in the first place.

**Mr KRAUSE:** Understood. Thank you, Mr McDougall. Did you actually draw upon any issues in relation to the victims of crime and what impact this might have on reducing crime in the community? Did you consider that in your submission?

**Mr McDougall:** We did. As per your first question, we looked at the rights of people to property and to defend—not to defend their property but to have their property and the right to life and the positive obligation that is imposed on governments, as we saw with COVID-19, to undertake positive steps to protect life. As I mentioned earlier, this bill primarily affects young people, who are owed special protection under the law.

**CHAIR:** That concludes this public hearing. Thank you very much to all of the witnesses who participated today. Thank you to our Hansard reporters. A transcript of these proceedings will be available on the committee's parliamentary webpage in due course. If any questions were taken on notice, your responses will be required by 12 pm on Monday, 29 March 2021 so they can be included in our deliberations. If there is an issue with trying to get the information as requested, just let the secretariat know and we will deal with it. I declare this public hearing for the committee's inquiry into the Youth Justice and Other Legislation Amendment Bill 2021 closed.

**The committee adjourned at 12.50 pm.**