

## Youth Justice Reform Select Committee inquiry into youth justice reform in Queensland

<b>Submission No:</b>	21
<b>Submitted by:</b>	Keith Hamburger AM and Voice for Victims
<b>Publication:</b>	Making the submission and your name public
<b>Attachments:</b>	See attachment
<b>Submitter Comments:</b>	

20 November 2023

Ms Sandy Bolton MP  
Independent Member for Noosa and  
Chair, Youth Justice Reform Select Committee  
Queensland Parliament

Dear Ms Bolton

Thank you to you and committee members for the opportunity to appear on Thursday 23 November 2023. Our presentation herewith provides the *Youth Justice Select Reform Committee – Inquiry into Youth Justice Reform* with a reform proposal founded in practical experience in the criminal justice system in Australia and overseas and supported by evidence, covering:

- The drivers of crime and key imperatives to ensure crime minimisation, driven by *Zero Tolerance* for crime, to drive best practice responses where victims' needs are at the forefront with other critical needs;
- A Structure for *Reform of Queensland's Justice System* including an overview of recommended more effective sentencing, control and rehabilitation options for juvenile and adult offenders and need to address the current ineffective and costly expenditure on corrections infrastructure and operations;
- A recommendation to trial a community owned and operated Not for Profit (NFP) entity approach to strengthening disadvantaged circumstances in First Nations and other communities and for reforming delivery of justice services to better protect our community;
- The urgent need to address critical '*duty of care*' issues in watchhouses, juvenile detention centres and adult prisons; and
- The significant benefits, including reduced crime and financial savings that will accrue from our reform model.

In addition, Ben Cannon, Coordinator, Voice for Victims, will speak to the committee on priorities that are critical for victims of crime. Correspondence between *Voice for Victims* and the Premier concerning these priorities has been provided to the Secretariat, Youth Justice Reform Select Committee.

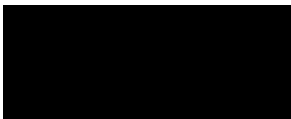
The presentation makes six (6) recommendations with supporting explanation. Recommendation No 1 is that the *Youth Justice Select Reform Committee – Inquiry into Youth Justice Reform*, takes steps to achieve Parliamentary approval for it to be redesignated as a *Multi-Party Parliamentary Justice Reform Committee* with Terms of Reference appropriate for this wider role. This change reflects the proposal we put to the Premier recommending such a committee to address juvenile and adult crime issues. This recommendation was not adopted.

We strongly believe that the issue of adult and juvenile crime must be addressed by the Parliament in a *multi-partisan manner* to arrive at the most effective policies and operations to reduce crime and make our community safer. Our presentation explains our position on this, provides a short summary of our proposal to the Premier on this matter and the reason for Recommendation No 1.

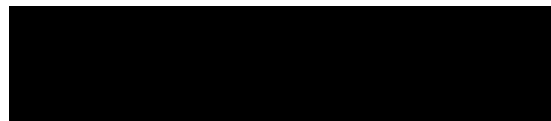
We have also provided material covering the long history of attempts by proponents of reform to encourage government and their agencies to adopt much needed recommendations. These recommendations would have averted the current crime situation, avoided the misallocation of funds to ineffective operations and infrastructure that has resulted in increased crime and addressed the terrible over-representation of First Nations people in the criminal justice system and in prisons.

We see your Select Committee, hopefully to become a *Multi-Party Parliamentary Justice Reform Committee*, and the *Independent Ministerial Advisory Committee* (IMAC) proposed to become a *Statutory Justice Reform Office*, as *watershed initiatives* to achieve far reaching reforms of Qld's justice system that will be a model for all other Australian jurisdictions. We wish you and your committee well in your important endeavours and we look forward to presenting our views to you.

Respectfully



Ben Cannon  
Coordinator  
Voice for Victims



Keith Hamburger AM  
Former Director General  
Qld Corrective Services Commission

# A REFORM MODEL TO EFFECTIVELY ADDRESS THE 'WICKED CHALLENGE' OF CRIME IN QUEENSLAND



BIDJARA LOST CITY SACRED SITE



COOEE INDIGENOUS FAMILY AND COMMUNITY  
EDUCATION CENTRE



BARDON CONSULTATIVE  
GROUP



## PRESENTATION TO THE YOUTH JUSTICE REFORM SELECT COMMITTEE

20 NOVEMBER 2023

THE INTELLECTUAL PROPERTY IN THIS PRESENTATION: DEVELOPED BY KEITH HAMBURGER AM, MANAGING DIRECTOR KNOWLEDGE CONSULTING PTY LTD IN CONSULTATION WITH ELDERS FROM THE BIDJARA AND COOEE FIRST NATIONS COMMUNITIES, 'VOICE FOR VICTIMS', BARDON CONSULTATIVE GROUP, BRISWEST CENTRE, INDEPENDENT RESEARCHERS AND PRACTITIONERS



# Acknowledgement

I respectfully acknowledge the Traditional Custodians of the Country and Nations throughout Australia and recognise the continuing connection to land, waters and community that was never ceded. I pay my respects to Elders past and present

I acknowledge the Bidjara and COOEE Elders, who work tirelessly on behalf of their people, for their input to this reform model. They put service to their people above their own needs. Generations of their Elders and Elders from all First Nations communities have fought for *Cultural Empowerment* to reform their circumstances, and sadly have passed on without seeing this essential outcome.

The reform model in this presentation is dedicated to the memory of all past First Nations Elders whose LORE and spirits empower their descendants to continue the fight for recognition, respect and justice.

I acknowledge the incredible work of Ben Cannon and his dedicated team in voice for victims for harnessing community support for their uncompromising approach to move government to act to meet the needs of victims, to enact zero tolerance for crime, for offenders to be held to account, appropriately and humanely dealt with to prevent further anti-social and violent crime and for primary interventions to prevent crime





I acknowledge the wonderful voluntary contributions by members of the Bardon Consultative Group and Briswest Senior Citizens to concepts contained in this presentation over numbers of meetings. These concerned citizens have a strong commitment to achieving social justice to underpin a safer community for all

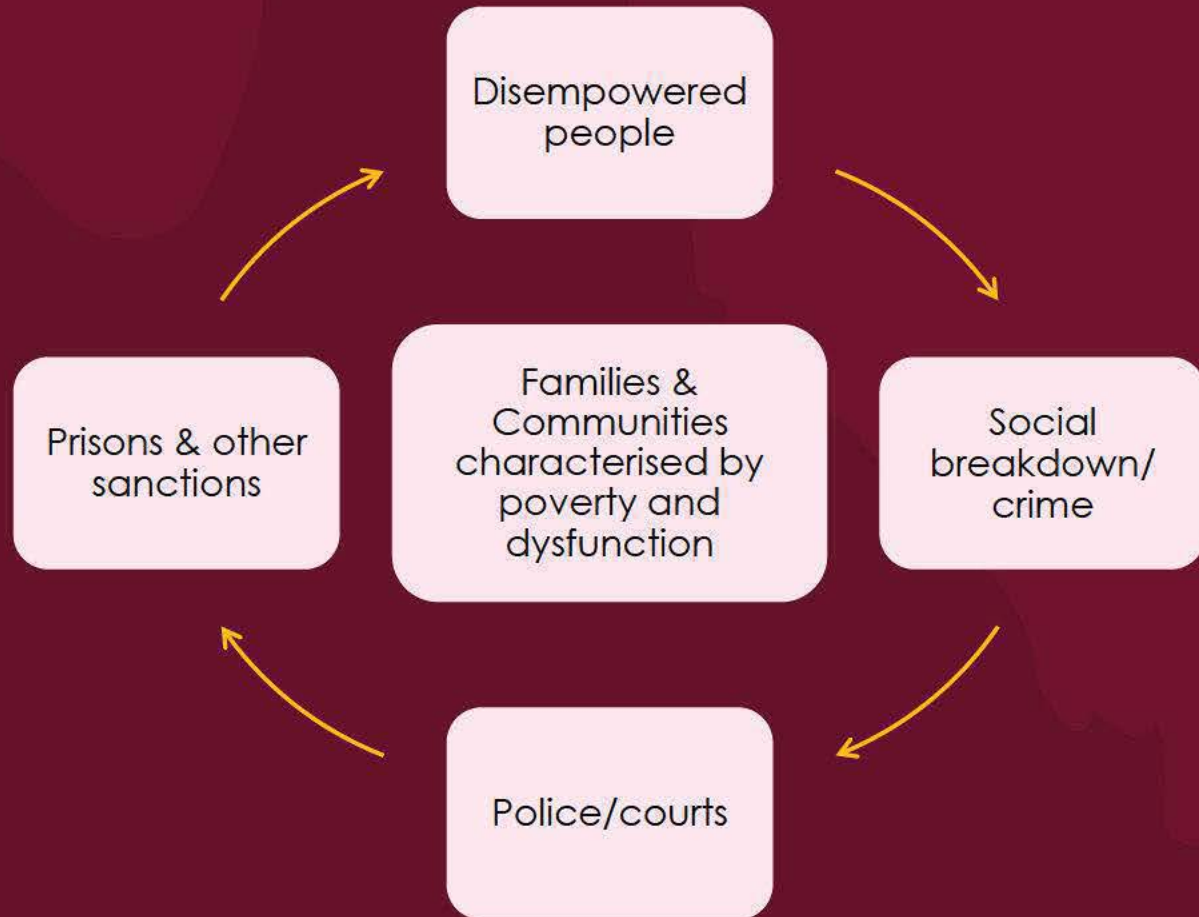
I also acknowledge the evidence based input and critical analysis of this reform model by retired members of the judiciary, eminent researchers, representatives of peak bodies, First Nations Elders across Qld and individuals committed to reform of our justice system and empowerment of First Nations people

## KEITH HAMBURGER AM – EXPERIENCE

- ❑ Chief Public Service Inspector
  - ❖ Team leader review of Qld prison system – Bredhauer review
  - ❖ Team leader review of riots at Boggo Road Prison – Longland review
- ❑ Contributed to Kennedy Commission of Inquiry into Qld prison system and to two reviews of Qld's parole system
- ❑ Deputy Director General Department of Welfare Services
- ❑ Deputy CEO Department of Harbours and Marine
- ❑ CEO & Assistant Commissioner, Department of the Public Service Board
- ❑ Director General Qld Corrective Services Commission and member of Qld Parole Board
- ❑ Visited Northern Europe, great Britain, USA, Singapore and New Zealand to study corrections
- ❑ In private practice carried out correctional consultancies in all Australian jurisdictions, New Zealand, PNG and Solomon Islands and investigated riots and incidents in Australian Immigration
- Detention Centres – expert witness to the NT Royal Commission into Care and Protection of Children



# Crime is largely driven by a cycle of dysfunction



- Literature, evidence from practitioners, and Commissions of Inquiry all tell us we need a new approach
- More of the same continues the awful cost to human life and to the Australian economy
- We don't act effectively to stop the 'Cycle of Dysfunction' – so we employ more police and build more prisons
- Treat problems with solutions that don't work – so we use more of same solutions – definition of insanity

# HOW TO EFFECTIVELY ADDRESS THE 'WICKED CHALLENGE' OF CRIME

Five key imperatives for government to ensure crime minimisation:

1. The law and sentencing options entrench '*zero tolerance for crime*' to achieve '*duty of care*' for citizens and *victims are supported psychologically and financially*
2. Sentencing incorporates *restorative justice principles* for children and adults. process should not criminalise children and turn them into adult criminals – *will achieve huge savings in justice expenditure*
3. Reinvest savings achieved by *restorative justice principles* into primary family and community crime prevention initiatives– '*justice reinvestment*'
4. Give *cultural authority* to first nations communities to co-create with expert practitioners locally owned public benefit corporations to contract with govt to deliver initiatives to prevent crime and provide community support and justice services
5. Empower leaders in non-first nations disadvantaged communities similarly to the First Nations communities' model above and reward all communities for success in crime reduction via '*justice reinvestment*' contract provisions



# HOW TO EFFECTIVELY ADDRESS THE 'WICKED CHALLENGE' OF CRIME

Qld is failing in all five imperatives. A policy of '*zero tolerance for crime*' to ensure '*duty of care*' for citizens will drive creativity to achieve imperatives 2 through 5 on previous slide

'*Duty of care*' for prisoners – has been enshrined in corrections since the 1991 Royal Commission into Aboriginal Deaths in Custody. Causes of all deaths in custody are investigated and *systemic failures are urgently addressed* to protect the lives of prisoners

When an offender kills someone in their home or on the street police forensically investigate to prove guilt, but government agencies' systemic failures often driving the crime are not investigated – *further, victims' needs have been neglected*

These systemic failures - wrong polices, ineffective and fragmented operations - *never see sunlight* and there is no sense of urgency to address these – *best practice is ignored*

# HOW TO EFFECTIVELY ADDRESS THE 'WICKED CHALLENGE' OF CRIME

**QLD GOVERNMENT FOR YEARS HAS BEEN ALERTED TO NEED FOR SYSTEMIC CHANGE – FOR EXAMPLE:**

- ☐ Primary crime prevention interventions in families and communities with local empowered responses providing joined up community-based services
- ☐ The ineffective responses to circumstances where children are not safe at home and out of home care is failing
- ☐ Alternatives needed to school exclusion policies
- ☐ More effective sentencing options for courts to control and rehabilitate juvenile and adult offenders rather than large ineffective high security facilities
- ☐ Cultural authority for first nations people to develop and own solutions to their challenges

**Many evidence-based submissions re the above and other issues, including an acclaimed report by the Qld Productivity Commission have been ignored**



**A STRUCTURE FOR REFORM  
OF JUSTICE SYSTEM  
RECOMMENDED BY US TO  
THE PREMIER**



## A STRUCTURE FOR REFORM OF JUSTICE SYSTEM RECOMMENDED BY US TO THE PREMIER

Creation of a *Statutory Justice Reform Office* (JRO) – previous slide – takes time. Due to urgency of matters later in this presentation; we recommended immediate creation of an ***Independent Ministerial Advisory Committee (IMAC)*** with members forming the *Statutory JRO* when created. Pleasingly, Premier approved IMAC, now being created, and has approved that members will form the JRO

Unfortunately, our recommended ***All-party Parliamentary Justice Reform Committee*** was not adopted, seemingly on advice by public servants, ***without consultation with us***. The *Youth Justice Reform Select Committee* was created instead to focus on juvenile issues

Given the intertwined multiple drivers of juvenile and adult crime and that solutions must be holistic across all age groups to address local family and community issues, we met with the Premier and her acting Director General requesting that the *Committee's* brief is widened to be an ***overall Parliamentary Justice Reform Committee, as we had recommended***

The Acting Director General advised the Premier against our request. He said that ***if the Committee saw fit, they could make a recommendation to achieve this***



# A STRUCTURE FOR REFORM OF JUSTICE SYSTEM RECOMMENDED BY US TO THE PREMIER

The need for a *Parliamentary Justice Reform Committee* covering adults and juveniles is reinforced by the critical 'duty of care' issues in watch houses, juvenile detention centres and adult prisons covered in slides 23 through 27 below that require urgent attention given potential risk to life and significant loss of costly infrastructure

## Recommendation 1

That the *Youth Justice Select Reform Committee – Inquiry into Youth Justice Reform*, takes steps to achieve Parliamentary approval for it to be redesignated as a **Multi-Party Parliamentary Justice Reform Committee with Terms of Reference** appropriate for this wider role

Following slides present an overview of our reform model for juvenile and adult offender sentencing, corrections / rehabilitation options, complemented by community owned and operated not for profit entities (NFP's) contracting with government on a *fee for service basis*, with *surpluses invested back into communities* to provide pro-social initiatives and services

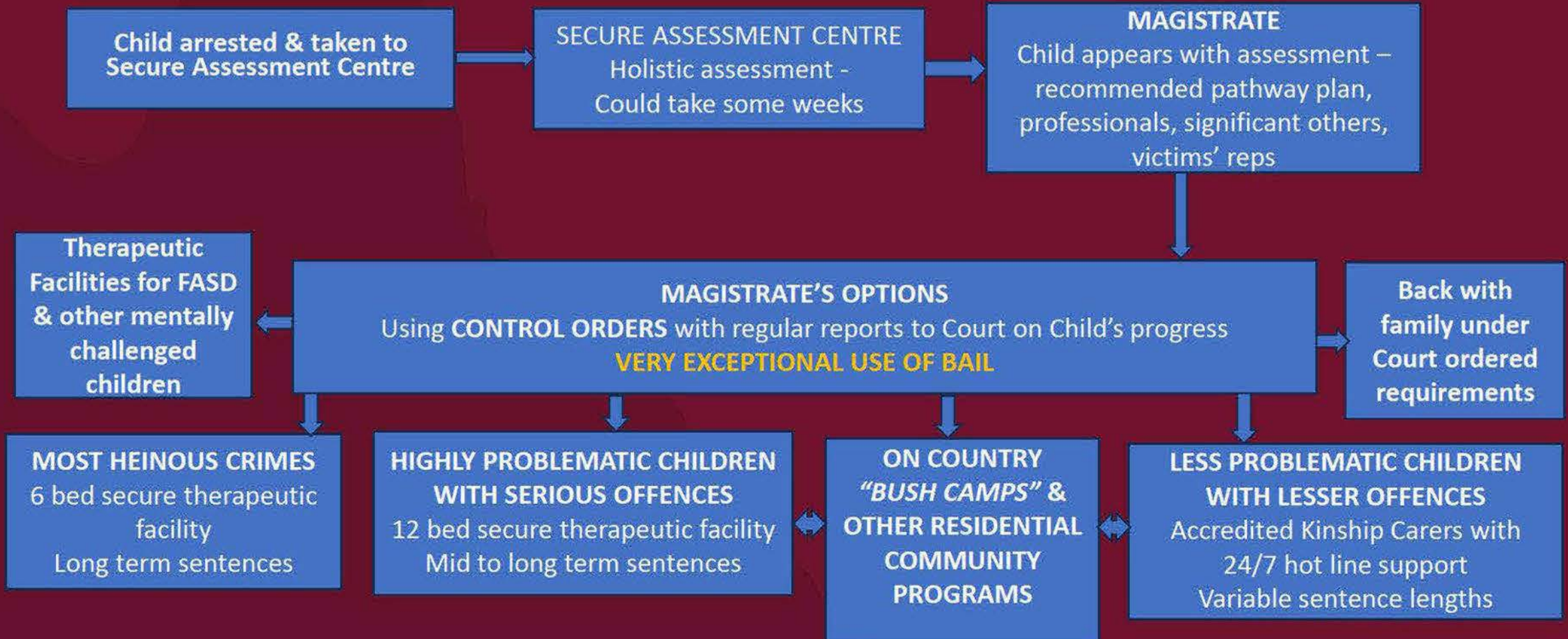
This approach will strengthen families and communities, facilitate children leading pro-social lives and thriving, reduce crime and incarceration and make huge progress towards *Closing the Gap* objectives

The slides also contain recommendations for a strategy for the *Youth Justice Reform Select Committee and the Independent Ministerial Advisory Committee (IMAC)* to progress the reform model



# OVERVIEW OF MORE EFFECTIVE SENTENCING, CONTROL AND REHABILITATION OPTIONS FOR JUVENILES

Court options below include therapy, education/ skills training, pro-social activities, cultural learning, community transition preparation and support





ADULT OFFENDERS BEFORE SENTENCING IN  
MAGISTRATE'S COURT ARE HOLISTICALLY ASSESSED  
FOR POTENTIAL PLACEMENT IN A 'HEALING AND  
REHABILITATION CENTRE' IN LIEU OF PRISON

FAVOURABLE RECOMMENDATION

DIVERSION  
OPTION  
FOR ADULT  
OFFENDERS

'HEALING AND REHABILITATION CENTRES' FOR  
ADULT OFFENDERS' BENEFITS:

- ❑ POTENTIALLY SOME 40% REDUCTION IN PRISONER NUMBERS
- ❑ BILLIONS OF \$'S SAVED IN PRISON INFRASTRUCTURE & OPERATIONS
- ❑ REDUCED RECIDIVISM
- ❑ ACHIEVES 'CLOSING THE GAP' OBJECTIVES

APPROACH PREVIOUSLY AGREED WITH THEN  
CHIEF MAGISTRATE -2017

IF MAGISTRATE AGREES WITH  
RECOMMENDATION – PLACES  
OFFENDER IN 'HEALING AND  
REHABILITATION CENTRE' UNDER A  
PROBATION ORDER WITH A  
RESIDENCY CLAUSE AND  
REHABILITATION CONDITIONS

'HEALING AND  
REHABILITATION CENTRES' ON  
TRADITIONAL LANDS AND  
OTHER PLACES OPERATED BY  
NFP'S UNDER SERVICE  
AGREEMENTS WITH  
GOVERNMENT

60% OF PRISONERS  
IN HIGH SECURITY  
CELLS ARE NON-  
VIOLENT  
35% ARE FIRST  
NATIONS

## NEED FOR A PAUSE ON CURRENT CAPITAL WORKS DECISIONS AND WORK BY CONSULTANTS AND BUILDERS IN JUVENILE AND ADULT CORRECTIONS

Government has announced the building of additional remand and detention facilities for juveniles and expansion of secure cell stock for adult high security prisons. We understand that design and or building work is underway

We don't have access to the business cases and *gateway review* analysis for these projects that justified this very large expenditure, (*round figures almost \$1 million per cell*). As covered in this presentation, it is our informed view that these projects, in the form proposed, will be ineffective in terms of rehabilitation and crime reduction and will waste public funds

The options proposed in this presentation will be far more effective and available in a shorter time frame than the above projects



## NEED FOR A PAUSE ON CURRENT CAPITAL WORKS DECISIONS AND WORK BY CONSULTANTS AND BUILDERS IN JUVENILE AND ADULT CORRECTIONS

### Recommendation 2

That the *Youth Justice Reform Select Committee* (recommended by us to be All-party Parliamentary Justice Reform Committee) convenes a meeting with IMAC (to be the JRO) with Qld Corrective Services Commissioner and the Director General Youth Justice to:

- ☐ Discuss the business cases and any gateway reviews for capital works (corrections facilities) being planned and or constructed by their agencies;
- ☐ Ascertain from them whether alternative options to these capital works were considered before proceeding with works now being planned or underway;
- ☐ Seek their views, after they have time to consider our reform model and consult with IMAC, on whether they are prepared to support to the *Youth Justice Reform Select Committee* and to their Ministers the following on next slide and recommendations 3 through 5 below

# COMMISSIONER AND DIRECTOR GENERAL ENDORSEMENT OF TRIALING OF THE REFORM APPROACH

## Recommendation 2 - Continued

- ❑ Request Commissioner and Director General to consider, in consultation with IMAC, the practicality and or desirability of pausing work currently underway on new and proposed facilities, and reconfiguring planning and funding to achieve infrastructure and operations to support the reform model in this presentation, that makes current infrastructure and operations largely redundant; and
- ❑ In the light of the foregoing, IMAC the Commissioner QLD Corrective Services and the Director General Youth Justice prepare a joint report and recommendations for consideration by the *Youth Justice Reform Select Committee*, (recommended to be *Justice Reform Committee*), Ministers and the Premier.



# STEPS TO IMPLEMENT TRIAL REFORM PROGRAMS

## Recommendation 3

Based on youth and adult crime demographics and local community interest – Cabinet approval is obtained for the *Select Committee* and IMAC (*to be the JRO*), to auspice relevant agencies to undertake the following:

1. Select 3 communities to trial our proposed *community strengthening, reform of offender sentencing and corrections options*, commencing with one trial, the other 2 communities as observers in a learning experience for their trials
2. Government to fund development of Business Case for first trial community to be co-created by community leaders with expert support, input from Peak Bodies and researchers. Look for charitable benefactor partnering in funding
3. Business Case to be founded in *restorative justice* for sentencing and *justice reinvestment* for family and community strengthening, and submitted to JRO and *Select Committee*, for recommendation to Ministers and Cabinet



# STEPS TO IMPLEMENT TRIAL REFORM PROGRAMS

## BUSINESS CASE DEVELOPMENT

### Recommendation 4

Facilitators work with *Trial Community* to create community leadership team and co-create reform model structure, operations and business case encompassing:

- ❑ Community owned and operated Not for Profit entity (NFP) contracting with government on *fee for service basis, all surpluses invested back into community to provide pro-social initiatives and services* such as:
  - ❖ Family support, child-care, education, health care, training and employment services, First Nations housing, enterprise development, justice services, pro-social programs, etc. Justice services to include youth and adults – see slides 14 and 15
- ❑ Community leadership team and facilitators consult with judiciary, police, relevant government agencies, local authority, proposed NFP service sub-contractors, including substance abuse treatment, training and education providers, Peak Bodies, etc to firm up services and NFP operating model; and
- ❑ Complete and submit business case to JRO and *Select Committee* and then to Cabinet for consideration

# KEY PERFORMANCE INDICATORS (KPI'S)

KEY ELEMENTS OF BUSINESS CASE TO ENSURE EFFECTIVENESS ARE:

## 1. KPI's, for example:

- ❖ Crime reduction, including domestic violence, violence generally, youth crime, driving and drug offences, graffiti, vandalism, etc
- ❖ Reduced recidivism, court appearances and offenders in high security cells
- ❖ Reduced school truancy and suspensions
- ❖ Increase in community pro-social activities
- ❖ Childcare and protection - focus on *'no child being neglected or abused'*
- ❖ Reduced unemployment through training and enterprise development etc: arising from services summarised on slide 20
- ❖ reduced capital and operational expenditure on youth detention centres and adult prisons
- ❖ etc

## 2. Longitudinal evaluation of the reform model by a tertiary institution



# IMPLEMENTATION PHASE

## Recommendation 5

Subject to Business Case and funding approval by Cabinet:

- ❑ Facilitators work with Trial Community to implement business case with observers from next two Trial Communities involved in studying process
- ❑ Approach agreed with government for development of business cases for trials in next two communities and implementation commenced
- ❑ Based on effectiveness of trials, develop a timetable to implement model across QLD – should set a time frame for this – perhaps no longer than three years

## URGENT NEED TO ADDRESS CRITICAL '*DUTY OF CARE*' ISSUES IN WATCH HOUSES, JUVENILE DETENTION CENTRES AND ADULT PRISONS

This is a critical issue (potential for lives to be lost and careers destroyed) requiring urgent attention by the Select Committee and IMAC (JRO) concurrently with development of the above reform model

Police watchhouses are reported as overcrowded and accommodating juveniles in unsatisfactory circumstances

Adult prisons and juvenile detention centres overcrowded. Adult prisons reportedly at 130% capacity statewide

Wilfully exceeding design capacity of watchhouses and prisons creates dire '*duty of care*' risks for staff and prisoners. In the event of a death, if a *Commission of Inquiry* finds that exceeding design capacity contributed to death, and authorities are found negligent, e.g. did not use safe available alternatives, they will face serious consequences



## URGENT NEED TO ADDRESS CRITICAL 'DUTY OF CARE' ISSUES IN WATCH HOUSES, JUVENILE DETENTION CENTRES AND ADULT PRISONS

Overcrowding is contributed to by agencies and government ignoring alternative options - as covered in this presentation, the Qld Productivity Commission's recommendations and submissions from First Nations people, Peak Bodies, researchers and practitioners

In adult corrections some 60% of prisoners in costly secure cells are reportedly non-violent offenders – **why are they in secure cells?**

Some 40% of First Nations offenders currently in secure cells should be in less costly, more effective *Healing and Rehabilitation Centres* – **why has this not been done?**

Qld prisoners 30 June 22 = 9,376 – if conservatively 40% of these are housed in *healing and rehabilitation centres* this saves 3,750 cells @ \$1 million per cell = \$3.75 billion being spent on unnecessary prison cells – cost of alternatives a fraction of this – yet QCS is building more secure cells now, that demonstrably fail to rehabilitate – **Auditor General should investigate**



## URGENT NEED TO ADDRESS CRITICAL 'DUTY OF CARE' ISSUES IN WATCH HOUSES, JUVENILE DETENTION CENTRES AND ADULT PRISONS

Terrible recidivism rates for juvenile and adult offenders, particularly First Nations, and awful progression rate of juveniles to adult prisons - **points to systemic failure in rehabilitation = failing in 'duty of care' to offenders and to the community given crime recidivists commit**

Recent anecdotal evidence from an experienced QCS officer and a First Nations Elder of sexual assaults arising from *double up, three up and four up* in cells, **including an instance where allegedly officers ignored a serious assault occurring on their watch**

The QCS officer is convinced that over the next 5 – 10 years there will be class actions against government for **damages in the tens of millions** from affected prisoners. Also, eye-witness and other evidence relating to inappropriate treatment of First Nations prisoners by correctional officers and of family members who visit prisons

We will encourage First Nations Elders to seek to appear before your Committee to provide firsthand details of these issues



## URGENT NEED TO ADDRESS CRITICAL 'DUTY OF CARE' ISSUES IN WATCH HOUSES, JUVENILE DETENTION CENTRES AND ADULT PRISONS

First Nations people are extremely concerned by the lack of transition and support arrangements for their people from prison to parole

This inhibits parole being achieved resulting in numbers being imprisoned beyond their parole date at great cost to taxpayers - **contributes to recidivism - more crime**

The Parole Board has been seeking transition options – a trial proposal has been available to Qld Corrections for some years – **sadly, no demonstrated sense of urgency to act**

A health professional has advised of problems with QHealth / QCS's Opioid Substitution Therapy Program, **allegedly creating illicit drug use in prisons and inflicting addicts back into the community**

## URGENT NEED TO ADDRESS CRITICAL 'DUTY OF CARE' ISSUES IN WATCH HOUSES, JUVENILE DETENTION CENTRES AND ADULT PRISONS

### Recommendation 6

That the *Select Committee*, convenes a preliminary meeting with the Qld Corrective Services Commissioner, the Director General Youth Justice, Commissioner of Police and IMAC:

- ☐ To discuss the assertions made in slides 23 through 26; and if there is agreement that serious challenges exist:
- ☐ Seek advice from them as to what action they are taking and or proposing to address 'duty of care issues'

Depending on the outcome of this preliminary meeting, the *Select Committee* may choose to take advice from IMAC and convene a further meeting with the above officers and IMAC



# IMPLEMENTATION OF THIS REFORM MODEL WILL ACHIEVE THE FOLLOWING

- ❑ Significant savings in detention centre and prison infrastructure (\$ billions)
- ❑ Small facilities focussed on rehabilitation of individual offenders will significantly reduce recidivism and crime, thus making our community safer
- ❑ Taking problematic juvenile offenders off the streets into assessment centres and then into small therapeutic control options will greatly reduce impulsive crimes – **car theft, break-ins, assaults – this is a major focus for voice for victims**
- ❑ Therapeutic facilities for FASD and other mentally challenged youth and adult offenders will reduce impulsive crime and treat these offenders humanely
- ❑ Applying *restorative justice* in sentencing and *justice reinvestment* to support primary crime prevention in disadvantaged communities will greatly reduce crime

# IMPLEMENTATION OF THIS REFORM MODEL WILL ACHIEVE THE FOLLOWING

- ❑ Ineffective, inhumane youth detention centres phased out – **recidivism reduced**
- ❑ Enhanced sentencing outcomes as magistrates have **holistic assessments** to work with
- ❑ Large reduction in adult prisoner numbers via *healing and rehabilitation centres*, recidivism reduced and *Closing the Gap* objectives met
- ❑ Large prisons phased out, small high security prisons for serious and dangerous offenders, billions of dollars saved over the out years, less crime and less victims
- ❑ **Victims and First Nations people empowered** in the reform decision making process
- ❑ Creates empowered *Not for Profit* agencies delivering early intervention and local justice services – **families and communities strengthened**



**THANK YOU TO THE YOUTH JUSTICE REFORM SELECT COMMITTEE FOR THE  
OPPORTUNITY TO PRESENT THIS REFORM MODEL**

**WE COMMEND IT TO YOU**



Department of Justice and Attorney-General  
Office of the Director-General

In reply please quote: 606008/1, 6712146

26 JUN 2023

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Dear Mr Hamburger

Thank you for your letter dated 7 June 2023 regarding your meeting with the Honourable Shannon Fentiman MP, former Attorney-General and Minister for Justice, Minister for Women and Minister for the Prevention of Domestic and Family Violence, concerning youth and adult justice reform.

I appreciate that, due in part to the recent machinery-of-government changes, you are seeking additional meetings with Ministers, Directors-General, and the Commissioner of the Queensland Police Service to discuss your justice reform proposal. I have discussed the important matters you have raised in your letter to me and my predecessors with Mr Bob Gee APM, Director-General, Department of Youth Justice, Employment, Small Business and Training, and we are happy to have a joint meeting with you. I encourage you to contact my office to arrange a meeting with us, via email at [REDACTED].

I also understand that through your earlier contact on these matters, the former Attorney-General committed to seeking an invitation for you to present to the Youth Justice Cabinet Committee (YJCC), and the attachment to your letter contains the proposed presentation. The timelines for meetings of the YJCC may have changed due to recent machinery-of-government changes.

My office will liaise with the secretariat of the YJCC and the Office of the Deputy Premier and Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympic and Paralympic Games Infrastructure, regarding your potential attendance at a meeting of the YJCC.

Mr Gee and I may also discuss how to ensure that your presentation is suitably streamlined and informed by other work currently being undertaken in the justice reform space with you at our joint meeting.

I trust this information is of assistance.

[REDACTED]  
Jasmina Jodic PSM  
Acting Director-General

cc Mr Bob Gee APM  
Director-General  
Department of Youth Justice, Employment, Small Business and Training  
[REDACTED]





19 September 2023

Hon Anastacia Palaszczuk, Premier  
and Minister for the Olympic and Paralympic Games

Dear Premier

**Re: Government's announcement of creation of an All-Party Parliamentary Committee relating to Juvenile Crime**

We refer to our letter to you of 13 September 2023 concerning the need for the above committee a Justice reform Office and a Task Force. In our letter we said, *"our seven recommendations provided to Ministers are an interconnected suite, commencing with the **Independent Ministerial Advisory Committee** articulating into a **Justice Reform Office (JRO)** that reports to an **All-Party Justice Reform Committee with these bodies getting to work immediately on root and branch reform**".*

In announcing the *All-Party Parliamentary Committee* there was no consultation with *Voice for Victims* concerning the matters raised in our above letter nor, as we understand it, has there been any consultation with other Parliamentary parties to achieve multi-partisan support for *Voice to Victims* proposed reform approach and the *All-Party Parliamentary Committee* you have announced.

In our view it is critical that all Parliamentary Parties support the reform model in the attached document and Chart so that meaningful reform can commence urgently.

We have attached for your consideration a document: *Steps to Establish an All-Party Parliamentary Committee and an Independent Ministerial Advisory Committee (IMAC) to subsequently become the Justice Reform Office (JRO), supported by a Task Force together with an explanatory supporting Chart.*

We draw your attention to **STEP 1 – MEETING IMMEDIATE SUPPORT NEEDS OF VICTIMS** as covered in this document that are critically urgent and require immediate attention. **Meeting of these needs cannot await finalisation of the process to create the All-Party Parliamentary Committee, IMAC, JRO and Task Force.**

Representatives of Voice for Victims would appreciate an urgent meeting with you to discuss the important and urgent issues covered in this letter and attached documents. We will contact your office to seek a time convenient for this meeting.

Respectfully

Ben Cannon  
*Voice for Victims* Advocate



Keith Hamburger AM  
Former Director General, Qld Corrective Services Commission

**RESPONSE TO PREMIER'S LETTER 28 SEPTEMBER 2023 RE VICTIMS SUPPORT AND JUSTICE REFORM  
DISCUSSION DOCUMENT - PREPARED BY KEITH HAMBURGER AM IN CONSULTATION WITH BEN CANNON  
VOICE FOR VICTIMS COORDINATOR AND TRUDY READING VOICE FOR VICTIMS REPRESENTATIVE**

## **INTRODUCTION**

Ben Cannon, Coordinator, *Voice for Victims* is currently overseas but is in regular communication. Ben says that **victims' voices** concerning the terrible cost of crime is the **WHY** that underpins the need for reform of our justice system. *Voice for Victims* argues strongly that **solutions to reform** of the failed approach by the justice system **must be hand in glove with solutions** to ensure that victims do not continue to bear the cost of justice and social system failures.

**Victims recognise that the system needs top – down change, but victims' voices reflecting their pain, suffering and financial loss will always be the WHY for this needed change. This is the reason why an essential element of our proposals to government is for victims to have a seat at the reform decision making table.**

Having regard to the foregoing, the purpose of this document is to facilitate discussion on Monday 9 October 2023 to clarify whether actions mentioned in the Premier's letter fully reflect our discussions with the Premier at our meeting on Wednesday 20<sup>th</sup> September 2023 and recommendations in prior submissions to government.

## **VICTIMS ASSISTANCE**

This is very urgent as victims are hugely disadvantaged by the lengthy delays in receiving financial assistance under present administrative arrangements. **Questions:**

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Another important IMAC issue is Stakeholder engagement in the reform process. There are numerous First Nations communities, community groups, victims, researchers, practitioners and individuals across Queensland who are energised to be involved in this reform process. Obviously, it is impossible to involve all these people in the JRO and Task Force. However, it is extremely important that these people do not feel left out of or ignored by the process.

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Ben has advised Ministers of ***Voice for Victims*** position that **there should be Zero tolerance for repeat offenders.** In relation to this issue, I draw attention to the document – *Steps to Advance Justice Reform Model* - attached to my email to the Premier, Jim and Mike of Wednesday 20 September 2023. Please see page 3, First Meeting of IMAC Agenda, paragraph **3 b ii) Root and branch reform of control and rehabilitation options for juvenile offenders.**

IMAC in this first meeting will note that First Nations people, researchers and practitioners have had reform options before government for some time with no meaningful response to **take all juvenile offenders off the street immediately they interact with police. Once off the streets they remain under Court Control Orders in secure and or close supervision options until they, through rehabilitation and or sentence requirements, can be safely transitioned back into the community.**

This approach will lead to a decrease in the spate of vehicle thefts, home invasions, serious assaults, etc, as well as a reform of Juvenile Justice infrastructure saving the Qld Government millions of dollars and saving lives of Queenslanders. **This model meets *Voice for Victims* request for Zero Tolerance not just for repeat juvenile offenders, but for all juvenile offenders.**



We propose this matter is dealt with at the first meeting of IMAC with a recommendation for IMAC to immediately request the relevant Minister to task departments to urgently assess the proposed reform options against current approaches in consultation with IMAC's Task Force and report back to IMAC and the Minister.

In relation to the above, it is important to note that the Premier's recent announcements in relation to building of additional youth detention centres and a youth remand centre are not compatible with the best practice solutions briefly mentioned above. I am not being disrespectful of the Premier as she has obviously acted on departmental advice which sadly is demonstrably flawed. I am happy to elaborate on this statement.

I would appreciate it if the above can be drawn to the attention of the Premier with the following suggestion that in announcing the appointment of IMAC members (Chair being a retired Supreme Court Justice) she says words to this effect:

*"I am aware of criticisms of my government's approach in building more youth detention centres from a range of stakeholders including practitioners in the criminal justice system, researchers and First Nations people. These stakeholders have proposed alternatives to the government's approach that they say are safer for the community and will be more effective in rehabilitation of young offenders. Voice for Victims have also requested that there should be a Zero Tolerance approach for repeat juvenile offenders.*

*I stress that my government's highest priority is the safety of Queenslanders, and I am committed to achieving a juvenile justice system that through early intervention prevents crime and when crime occurs the safety of our community is paramount during the offender rehabilitation process.*

*Accordingly, given the differing views being expressed as to how my government's objectives should be achieved, I have directed IMAC and its Task Force review the government's current approach for more detention and remand centres against alternative options and to provide me with urgent advice. I will request that IMAC at its first meeting gives me an indication as to when this advice can be provided. I will also request that the multiparty select parliamentary committee previously announced oversee the work of IMAC on this task."*

Looking forward to discussing the above matters on Monday.



Keith Hamburger AM

Mobile: [REDACTED]

8 October 2023

**RESPONSE TO PREMIER'S LETTER 28 SEPTEMBER 2023 RE VICTIMS SUPPORT AND JUSTICE REFORM  
DISCUSSION DOCUMENT - PREPARED BY KEITH HAMBURGER AM IN CONSULTATION WITH BEN CANNON  
VOICE FOR VICTIMS COORDINATOR AND TRUDY READING VOICE FOR VICTIMS REPRESENTATIVE**

## **INTRODUCTION**

Ben Cannon, Coordinator, *Voice for Victims* is currently overseas but is in regular communication. Ben says that **victims' voices** concerning the terrible cost of crime is the **WHY** that underpins the need for reform of our justice system. *Voice for Victims* argues strongly that **solutions to reform** of the failed approach by the justice system **must be hand in glove with solutions** to ensure that victims do not continue to bear the cost of justice and social system failures.

**Victims recognise that the system needs top – down change, but victims' voices reflecting their pain, suffering and financial loss will always be the WHY for this needed change. This is the reason why an essential element of our proposals to government is for victims to have a seat at the reform decision making table.**

Having regard to the foregoing, the purpose of this document is to facilitate discussion on Monday 9 October 2023 to clarify whether actions mentioned in the Premier's letter fully reflect our discussions with the Premier at our meeting on Wednesday 20<sup>th</sup> September 2023 and recommendations in prior submissions to government.

## **VICTIMS ASSISTANCE**

This is very urgent as victims are hugely disadvantaged by the lengthy delays in receiving financial assistance under present administrative arrangements. **Questions:**

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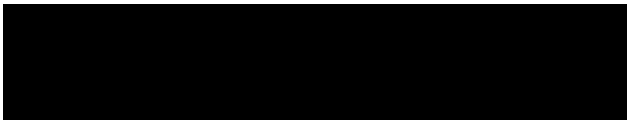
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Mobile 

8 October 2023

## **ACKNOWLEDGEMENT OF COUNTRY AND ELDERS PAST AND PRESENT**

*This submission has etched within its text a deep respect for and acknowledgement of generations of Elders and all First Nations people whose lives have been marred by the imposition of colonial policies which have helped to embed within the justice system, a punitive spirit that has contributed to inter-generational trauma, over incarceration, subjugation of communities and child removal. The authors also pay homage to the non-Indigenous people who have acknowledged the consequences of ongoing punitive practices within the justice system at all levels; and resolved to work with First Nations people in a spirit of reconciliation and respect to give life to government policies that value more humane and proactive practices, bi-cultural collaboration, and justice reform.*



**BIDGERA 'LOST CITY' – SACRED PLACE – PHOTO USED WITH PERMISSION OF BIDGERA ELDERS**

## **PROPOSED FIRST NATIONS JUSTICE REFORM PARTNERSHIP WITH QUEENSLAND AND FEDERAL GOVERNMENTS TO ADVANCE JUSTICE REINVESTMENT IN QUEENSLAND COMMENCING WITH COMMUNITY TRIALS IN PARALLEL WITH *TREATY - VOICE AND TRUTH TELLING***

**THESE TRIALS WILL DEMONSTRATE A REFORM MODEL WHERE LOCAL COMMUNITIES' CULTURAL  
AUTHORITY IS RESPECTED AND SUPPORTED TO:**

- ☐ **DEVELOP AND CHAMPION HOLISTIC RESPONSES TO ACHIEVE ECONOMIC SUSTAINABILITY AND HEALTHY, STRONG FAMILIES WITHIN A SAFE AND LAW-ABIDING FAMILY AND COMMUNITY ENVIRONMENT; AND**
- ☐ **WORK WITH FAMILY, CHILD SUPPORT AND JUSTICE AGENCIES TO DELIVER LOCAL RESTORATIVE JUSTICE AND JUSTICE RE-INVESTMENT INITIATIVES.**

**THIS SUBMISSION ALERTS DECISION MAKERS TO SIGNIFICANT 'DUTY OF CARE' FAILURES IN JUVENILE AND ADULT CORRECTIONS THAT REQUIRE IMMEDIATE ATTENTION AS WELL AS TO ASSERTIONS RELATING TO WASTE OF PUBLIC FUNDS THAT ARE RECOMMENDED FOR REFERRAL TO THE AUDITOR GENERAL FOR INVESTIGATION.**



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## AUTHORS

### LEAD AND COORDINATING AUTHOR

Keith Hamburger AM has led the preparation of this submission, contributing from his studies, professional experience in juvenile and adult corrections and from working with First Nations people over many years. He has coordinated input from the First Nations and non-First Nations *Contributing Authors* via one-on-one discussions, including in face-to-face meetings and on-line conferences. This submission contains Intellectual Property developed jointly by Keith Hamburger and First Nations people.

### AUTHORS BRIEF CV'S

**KEITH HAMBURGER AM:** Former Director General, Queensland Corrective Services Commission, now Managing Director, Knowledge Consulting Pty Ltd and a QLD Patron of the National *Justice Reform Initiative*. As Director General, Queensland Corrective Services Commission (QCSC), 1988-1997, responsible to the Board of QCSC, he led implementation of the recommendations of the 1988 Kennedy Commission of Inquiry into the then Queensland Prison Service. During this period QCSC Productivity Commission Reports show QCSC was one of the most cost-effective Corrections Services in Australia. This was due to a range of diversionary initiatives including First Nations Out Stations, the Western Outreach Camp Scheme, 24/7 supervised community hostels in urban areas, significant involvement by First Nations people in delivery of cultural programs and a strong focus on '*phased supported release*' from Correctional Centres. This resulted in closure of the Woodford Prison and reductions in recidivism.

He was a member of the Queensland Parole Board for 11 years. Keith's experience in adult and juvenile corrections extends from the 1970's. He has worked extensively with First Nations people over many years in development of alternatives to ineffective processes of the criminal justice and social systems that are destroying the life chances of First Nations adults and children.

He has visited Northern Europe to study best practice in adult and juvenile corrections, including holistic whole of government and community responses to social breakdown and crime. He has visited and studied correctional practices in the USA, Singapore and New Zealand. He was Team Leader of a '*root and branch*' review of Northern Territory Corrections, including Juvenile Detention Centres. He was an Expert Witness to the *Royal Commission into the Protection and Detention of Children in the Northern Territory*, 2017. He has conducted major corrections consulting projects in all Australian jurisdictions, New Zealand, Solomon Islands and PNG.

### CONTRIBUTING FIRST NATIONS AUTHORS

**PROFESSOR, AUNTY BONI ROBERTSON:** A proud Kabi Kabi woman has had 37 years' experience working in senior academic, professional and advisory positions in Higher Education and Government at all levels. She currently holds a Professorial Adjunct position with Macquarie University and is on the Senior Executive of the World Indigenous Nations University. Professor Robertson has also held senior representative positions for First Nations people in Australia, the Pacific and Internationally in areas pertinent to justice and higher education. She is a previous member of QLD Parole Board, member of a number of committees working for advancement and protection of First Nations People.

**UNCLE MICK GOODA:** A PROUD descendant of the Gangulu people of Central Queensland. He had a distinguished public service career including serving as Aboriginal and Torres Strait Islander Social Justice Commissioner of the Australian Human Rights Commission from 2009 to 2016 and Co-Commissioner of the Royal Commission into Protection and Detention of Children in the Northern Territory from 2016 to 2017.

He was appointed as a member of the Expert Panel on Constitutional Recognition of Indigenous Australians by Prime Minister Julia Gillard in 2010 and appointed to the Referendum Council in 2015 by Prime Minister Malcolm Turnbull. In 2015 he was appointed the Chair of the Queensland Government Stolen Wages Reparations Taskforce. In 2018 he was appointed the inaugural First Nations Housing Advisor to the Queensland Government. In 2019 he was appointed to the Eminent Panel for the Queensland Government's Indigenous treaty-making process. In November 2019, it was announced that Gooda would be one of 20 members of the Senior Advisory Group to help co-design the Indigenous voice to government set up by Ken Wyatt, the Minister for Indigenous Australians.

**AUNTY RACHEL ATKINSON, Chairperson: The Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP), Bachelor of Social Work, JCU.** As an Aboriginal, Yorta Yorta woman, Rachel Atkinson has dedicated her whole working life to improving the lives of her people. She has extensive lived experience working in rural, remote and urban Aboriginal and Torres Strait Islander communities and is determined to support the empowerment of Aboriginal and Torres Strait Islander people nationally.

Rachel has over 25 years' experience as a CEO of non-government Aboriginal and Torres Strait Islander organisations, including her current position as CEO of the Palm Island Community Company. She has presented at numerous local, interstate and international conferences and forums on topics including the over-representation of Indigenous Australian children in the child protection system. As a current member of the **SNAICC** National Executive, Rachel has also been pivotal in highlighting issues for Aboriginal and Torres Strait Islander families through media and parliamentary representation.

In addition to her role as Chair of QATSICPP, Rachel is also the Co-Chair of Family Matters Queensland and was previously a representative of the Aboriginal and Torres Strait Islander Child Protection Reform Committee. She has also been a past President of the Queensland Aboriginal and Islander Health Council and Chair of the Partnership for Queensland Aboriginal and Torres Strait Islander Child Protection Peak.

**REVEREND AUNTY ALEX GATER:** A highly respected Elder, a proud descendent of the KOA people (her mother), Winton and the KUKA Imagery Clan (Grandfather), Cooktown region. In 2005 Aunty Alex was the only Aboriginal woman from Australia to be one of 1000 women worldwide to be nominated for a Noble Peace Prize. In 2005 Aunty was also conferred with the NAIDOC Female Elders Award in recognition of her many years of work to fighting for human rights and justice for First Nations people.

She is widely acknowledged as an Advocate for First Nations rights at the local, state, national and international level. She was the first Aboriginal woman appointed as a fully ordained Minister and her counsel and advice has been sought by political, education, Spiritual, community and industry leaders on matters pertinent to the development of policies and programs for First Nations people. Aunty Alex was on the initial Justice Group to service the MURRI Court in Brisbane. She has worked with young people in the youth justice system and has been a cultural and spiritual figurehead for women of all social backgrounds for the past many years.

**AUNTY KEELEN MAILMAN AM:** A proud Bidjara woman from Western Queensland. She has managed and cared for Mt Tabor station, on her Traditional Lands, for 24 years, and was recognised in 2005 by the Queensland Museum as the first Aboriginal woman to hold such a role in Australia. Aunty Keelen's



leadership in the Aboriginal and wider Australian community has been recognised by numerous awards: 2007 Queensland finalist in the Australian of the Year; 2016 State and National awardee of Bernados Mother of the Year; 2021, awarded the Order of Australia for her commitment and contribution to her community and her culture. 2009 Keelen undertook a Rural Leadership course;

She is an Author: *The Power of Bones* her life story. She has overcome poverty, abuse, casual racism, and was surrounded by alcoholism. She reared her siblings as a teenager. She has three children and raised her sister's five children. Together with Aunty Sheryl Lawton, Aunty Keelen was instrumental in developing the *Bidjara Community and Goorathuntha Traditional Owners, Market Led Proposal for Healing and Rehabilitation Centres, 2017*.

**AUNTY SHERYL LAWTON:** A proud Bidjara woman. She has been the Chief Executive Officer of Charleville Western Areas Aboriginal Torres Strait Islander Health Services Ltd. (CWAATSICH) for the past 20 years. Previous to her becoming the CEO, Sheryl was employed in many positions of influence within Aboriginal affairs and Aboriginal Community control services, spanning Aboriginal Legal Services, Aboriginal Social Housing, Aboriginal Land Council and Aboriginal Childcare.

Throughout Sheryl's career she has been instrumental in the establishment of the Aboriginal Child Care Agency (ACCA) of South West Queensland and importantly the ongoing development and growth of CWAATSICH. Sheryl has also been an avid representative of Aboriginal Affairs at both the Regional, State and National levels. Together with Aunty Keelen Mailman, Aunty Sheryl was instrumental in developing the *Bidjara Community and Goorathuntha Traditional Owners, Market Led Proposal for Healing and Rehabilitation Centres, 2017*.

#### **CONTRIBUTING NON-FIRST NATIONS AUTHORS**

**EMERITUS PROFESSOR ROSS HOMEL AO:** Is Foundation Professor of Criminology and Criminal Justice at Griffith University in Brisbane, Australia. Professor Homel has published three monographs and six edited books, as well as more than 150 peer-reviewed papers and numerous high impact government reports. He has won many awards for his research on the prevention of crime, violence and injuries and the promotion of positive development and wellbeing for children and young people in socially disadvantaged communities. His accomplishments were recognised in January 2008 when he was appointed an Officer in the General Division of the Order of Australia (AO) 'for service to education, particularly in the field of criminology, through research into the causes of crime, early intervention and prevention methods.'

In May 2008 he was recognized by the Premier of Queensland as a 'Queensland Great', 'for his contribution to Queensland's reputation for research excellence, the development of social policy and justice reform and helping Queensland's disadvantaged communities.' In December 2008 he was shortlisted for 2009 Australia of the Year, in 2009 he received a Distinguished Service Award for Alumni, Macquarie University; in 2010 he received the Sellin-Glueck Award from the American Society of Criminology for criminological scholarship that considers problems of crime and justice as they manifest outside the United States; and (with Dr Kate Freiberg and Dr Sara Branch) won the Norman Smith Publication in Social Work Research Award for the best paper in Australian Social Work in 2014.

He has served as Director of the Key Centre for Ethics, Law, Justice and Governance, he was founder and director of the Griffith Institute for Social and Behavioural Research (now the Griffith Social and Behavioural Research College); he has served as Head of the School of Criminology and Criminal Justice; as a Commissioner of the Queensland Criminal Justice Commission; and in the early 2000s worked with Fiona Stanley and others to establish the Australian Research Alliance for Children and Youth and its associated ARC research network. He is a former Board member and Vice-President of the Council for Humanities, Arts and Social Sciences, and is a Fellow of the Academy of Social Sciences and former member of the Academy executive committee.

**DR MARK RALLINGS:** Is a founder and co-director of Making Good Alliance. In his varied career he has been a psychologist, small business owner, research assistant, police officer, and Commissioner of Queensland Corrective Services. Mark completed a PhD in psychiatry at the University of Queensland on the effects of occupational trauma on police. He is a Queensland Patron of the Justice Reform Initiative and holds Adjunct Professor appointments at Griffith University, the University of Queensland and Swinburne University of Technology. He was previously on the board of directors of the Australian Community Support Organisation (ACSO) and McCormack Housing.

**MR MERVYN LANGFORD:** A health professional for over 50 years. Mervyn is Convenor, Bardon Consultative Group of non-First Nations and First Nations people working for social justice. He has worked in an extensive range of health facilities and high security facilities, in Australia and the UK – including four Australian juvenile detention centres as well as multiple adult correctional centres in Australia and the UK. From early childhood he learned that no-one should be shackled by the colour of their skin - the antithesis of Australian judicial practice. He has worked extensively with First Nations people, including on the approach recommended in this submission.

**DR WAYNE SANDERSON:** Is an experienced Independent Consultant with a demonstrated history of working in the mental health care industry. Skilled in Non-profit Organizations, Government, Facilitation, International Relations, and Philanthropy. Has graduate qualifications from University of Qld; University of Canberra; Monash University and University of California @ Berkeley; AICD (grad).

Wayne is a member, Queensland Management Committee, Australians for Native Title and Reconciliation, February 2013 to present and Independent Consultant (Policy Research and Advocacy), Re-Imagine Associates May 2008 to present. He has undertaken public policy analysis Advocacy with government Leadership in the Youth Justice Reform Campaign. He has worked extensively to support reform for betterment of First Nations people's circumstances.

**MR JOHN HOCKEN:** A former Director General of the Department of Emergency Services and Office of Sport and Recreation and Chairman of the Board for the Queensland Fire and Rescue Authority, Chairman of the Board of the Queensland Ambulance Service and Board member of the Queensland Academy of Sport and the Lang Park Trust. Now a Director of Knowledge Consulting Pty Ltd and has significant experience in working on developmental projects with First Nations people. A past foundation Board Member of Silver Lining Foundation Australia Ltd, a First Nations educational organization that establishes schools specifically targeting disengaged First Nations young people and reconnects them back to traditional culture and an alternative learning environment.

**MR JULIAN FOLEY:** Julian has worked in central agencies in the Commonwealth Public Service and in Aboriginal employment in Canberra and Sydney. In 1989 he returned to Queensland to work in the newly-established Aboriginal and Islander Affairs Department and as Director, Office of Disability, he managed the process of reform of the State's institutions for people with intellectual disability. Julian subsequently worked for eight years in the Foundation for Aboriginal and Islander Affairs. In the community sector, his work covered the domestic violence, youth employment and development of case management software. Since retirement in 2020, he has continued to be involved in community issues, including ecosystem restoration, education and social justice for First Nations people.

**MR MARCO KORN - Workplace Consulting and Leadership Coaching:** Mr Marco Korn BA Hons (Psych), Some 32 years' experience, including working as a senior psychologist in Qld Corrective Services Commission correctional centres and in providing professional services to the Probation and Parole Service.

**DR TERRY HUTCHINSON:** Appointed an Adjunct Professor within the School of Law and Justice at Southern Cross University in November 2017. Prior to this, she held the position of Associate Professor in Law at Queensland University of Technology. Dr Hutchinson's research revolves around a sound use of the evidence base particularly in relation to children and youth justice, and she recently completed a funded Australian Institute of Criminology project (CRG 19/16-17: Examining Process: Court appearances via video link for young people in detention in Queensland). She is a on the Youth Advocacy Committee Management Committee, the Children's Court Committee and the QLS Children's Committee.

**MS PAULINE KENNEDY PSM:** Pauline holds a Masters in Social Welfare Administration and Planning (1999). She has held various positions in the Queensland public sector in Communities and Housing as well as positions in the community sector. She has spent her career leading change through community development, undertaking evaluations, research projects, policy reviews, and policy and program development.

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## SUMMARY OF RECOMMENDATIONS

### **Recommendation 1 – Page 23**

*That a Review Team **is established to urgently review** the assertions made in this submission relating to a ‘duty of care’ crisis in youth detention centres and in adult prisons; and if this crisis is confirmed, then to advise the Queensland Government on immediate short-term risk mitigation steps to avoid loss of life and infrastructure. This Review Team to be led by an independent, suitably qualified person, supported by independent child and adult rehabilitation experts, health and nutrition professionals, correctional security professionals and include departmental officers.*

*That the Terms of reference for this review are developed in consultation with the authors of this submission.*

### **Recommendation 2 – Page 24**

*That the report of this Review Team is provided to the Solicitor General for opinion as to whether Ministers and Directors General and other administrators are at risk of adverse legal consequences by existing circumstances in youth detention centres and in adult prisons due to ‘duty of care’ failures and whether risk mitigations proposed by the Review Team are adequate to obviate adverse legal consequences.*

### **Recommendation 3 – Page 24**

*That the assertions made in this submission relating to the ongoing waste of public money in the current capital works programs for youth and adult corrections are urgently either self-referred by Queensland Corrections and Youth Justice or by a central agency of government to the Auditor General for investigation. These assertions are founded in the evidence presented in this submission relating to incorrect specification of the objectives for these projects, departments ignoring best practice in crime prevention and offender treatment and ignoring evidence-based reform proposals.*

### **Recommendation 4 - Page 26**

*That the Queensland Government establish an independent statutory body - The Justice Reform Office - (JRO), to improve the efficiency and effectiveness of the criminal justice system as recommended by the Queensland Productivity Commission in its 2019 Report: Inquiry into Imprisonment and Recidivism; and that the resources of the First Nations Justice Office and the Criminal Justice Innovation Office are rolled up into this JRO. The JRO should have appropriate First Nations representation on its Board, desirably including an eminent First Nations person as Co-chair.*

### **Recommendation 5 – Page 27**

*That the LTC Joint Coordinating Committee, reporting to the Justice Reform Office, becomes the vehicle to advance trials and the subsequent potential roll out of the reform model proposed in this submission across Queensland.*

### **Recommendation 6 – Page 27**

*That a Working Party is established to report to the LTC Joint Coordinating Committee and undertake Business Case development for the selected Trial Communities. This Working Party to have Co-leadership by a First Nations person and an independent appropriately qualified person, with representatives from Trial Communities and include departmental officers. The Business Case will encompass: (See paragraph 68)*

## Recommendation 7 - Page 29

*That architecture involving the LTC Joint Coordinating Committee and Working Party to undertake Business Case development in selected Trial Communities to prove the reform program proposed by this submission, is raised with the Federal Minister for Indigenous Australians for consideration for Justice Reinvestment seed funding in partnership with the Queensland Government to advance Justice Reinvestment in Queensland.*

## Conclusion– Page 30

*A representative group of the authors of this submission would greatly appreciate the opportunity to discuss this submission, including recommendations, with relevant Directors General and then, with Queensland Government Ministers and with the Federal Minister for Indigenous Australians and her Officers.*

## INTRODUCTION

1. **This submission to Directors General and Ministers details the current crisis in the criminal justice system devastatingly impacting on First Nations people. It recommends an approach to save billions of dollars, make First Nations and disadvantaged communities safer and productive, restore *justice* in application of the criminal law, place Queensland at the forefront in *Closing the Gap* and recommends steps to avoid a *Class Action*, *Coronial Inquiry* or a *Royal Commission*.**
2. The *Acknowledgement of Country* on the cover page speaks “of the generations of Elders and all First Nations people whose lives have been marred by the imposition of colonial policies which have helped to embed within the Australian justice system, a punitive spirit that has contributed to inter-generational trauma, over incarceration, subjugation of communities and child removal”. This submission speaks for these generations of First Nations people by drawing attention to:
  - ☐ The awful failures in Queensland’s economic, social and justice systems that condemn First Nations people to being *commodities of the criminal justice system*, known as the *Injustice System* to First Nations people;
  - ☐ The disregard for First Nations *cultural authority* and their capacity, via *Cultural Agency* to implement reform to solve the destructive economic and social issues destroying their families and communities;
  - ☐ The systemic failures where a sensible balance is not achieved between, preventative primary interventions at the family and community level with the need for humane systems to control and where possible, rehabilitate offenders through *joined-up* processes with services to strengthen families and communities. This results in criminalisation of children and adults, tears families and communities apart, causes increased crime and wastes billions of dollars on not fit for purpose, ineffective operations and infrastructure within the criminal justice system;
  - ☐ That Queensland, Australian and international *best practice* is not being applied to resolve these systemic failures, even though this *best practice* is and or should be known to decision makers. This raises questions relating to the quality of information flow to Ministers and or to the process of government policy development that results in best practice being ignored;
  - ☐ The dreadful ‘*duty of care*’ failures within child and adult prisons that further criminalise children and adults and places lives of imprisoned children and adults and supervising staff at risk;

- The potential legal consequences for Government Ministers, Directors General and senior Operational Managers should these dreadful '*duty of care*' failures result in loss of life causing scrutiny via a Coronial Inquiry and or a Royal Commission into policy, risk management and operational failures that they were and or should have been aware of; and
  - The evidence of ongoing waste of public money in past and current Capital Works programs for youth and adult corrections in construction of **unnecessary and not fit for purpose** infrastructure that should be referred to the Auditor General for investigation.
3. This submission deals with the need for ***recognition that reform of our approach to social breakdown and crime generally is urgently required and particularly for First Nations people***, the need for ***consensus as to what should be done***, the need for ***architecture*** to drive reform and the ***strategic decisions*** required to achieve desired reform.
4. **We respectfully commend this submission to Ministers and Directors General for consideration. This submission is confronting. However, the issues require frank and fearless advice.**

#### **FIRST STEP IN THIS REFORM PROGRAM**

**To achieve consensus that current policies and practices are not working and that key stakeholders and decision makers have a sense of urgency that things have got to change.**

#### **Key Stakeholders**

5. For this reform model the Key Stakeholders are:

- First Nations families, communities and their representative organisations who are devastatingly impacted by current policies and practices that are not working, are inhumane, are a gross waste of public funds and they want things to change urgently;
- Sociologists, criminologists and related professions who have studied and or created best practice, who know that current policies and practices are not best practice, are not working, are inhumane, are a gross waste of public funds and they want things to change urgently;
- Front line government and non-government officers who work at the *bleeding edge* of broken families and communities and neglected and abused children E.g., Courts, police, adult and youth corrections, child and family services, housing, health, education, not for profit welfare services. They are mainly of the view that current policies and practices are not working, are inhumane, are a gross waste of public funds and they want things to change urgently;
- QLD and Federal Governments who each year are made well aware of failed outcomes across a range of *Key Indicators* relating to crime, social justice, social and economic outcomes, including government expenditure on ineffective policies and practices and lack of progress towards *Closing the Gap*. These governments know that current policies and practices are not working and they want things to change urgently; and
- The **wider community** via their personal experience with crime and the **Media** who shape and or reinforce community perceptions by daily reporting of crime, also know that current policies and practices are not working and they want things to change urgently.



Accepting the above evidence, we believe there is consensus that current policies and practices are not working and there is a sense of urgency that things have got to change. – **Sense of urgency is elaborated upon in paragraph 36 through 55.**

## **SECOND STEP IN THIS REFORM PROGRAM**

**To achieve consensus among key stakeholders on what we should do.**

**Consensus does not exist across key stakeholders on what we should do**

The various positions can be summarised as follows:

### **Key Stakeholder: First Nations families, communities and their Representative Organisations**

6. A dominant view by First Nations people is that their proposed solutions for a way forward are largely disrespected by governments as demonstrated by non-responsiveness to their well-developed proposals for reform. They feel this is driven by lack of regard for their *cultural authority* and capacity to implement required reform. They say this is founded in *Institutionalised Racism* that denies First Nations people *Cultural Agency* to solve the destructive economic and social issues destroying families and communities. They point to:

- ☐ Policy and system responses to social breakdown and crime that are not holistic, not culturally appropriate, not translated into local place-based action and drive high imprisonment and recidivism rates; and
  - ☐ A Justice System that entrenches *injustice* in First Nations communities via inhumanely imprisoning children in non-therapeutic settings resulting in most becoming adult criminals and many taking their own lives when back in the community; adults, most of whom were imprisoned as children, then being imprisoned as adults, once again in non-therapeutic environments, resulting in continuing offending creating many victims and also suicide by many offenders on return to community; families devastated by all of this; communities, through young people being criminalized being deprived of future leaders;
7. The view regularly expressed by wise and thoughtful First Nations Elders is that their people have been turned into a ‘*commodity by the criminal justice system*’. That is, by continuing to apply policies and practices that entrench economic and social disadvantage and thus criminality in First Nations families and communities, governments and bureaucracy are unthinkingly providing jobs in law enforcement, building and service industries for prisons and the non-First Nations not-for-profit sector doing things *to and for* First Nations people.
8. A former QLD State Government Minister announced the building of a new prison to Parliament by speaking at length about the number of jobs it would create and the benefit for the economy of the region in which it was to be located. Similar employment announcements relating to job creation are made relating to increasing the capacity of Courts, increasing the numbers of police and correctional officers and all of the other disciplines that control and or support criminalised First Nations and non- First Nations people who are mostly socially and economically disadvantaged.

9. It would be wonderful to hear Ministers announcing a genuine commitment to reducing the use of prisons via reform proposals as in this submission and the community-based employment that this would generate, particularly for First Nations people, while creating a safer society and saving billions of dollars of public expenditure.

**10. In summary, First Nations people say ‘what we should do’ is:** *For governments and bureaucracy to provide them with cultural authority, resources and agency to implement community driven solutions where they own and deliver the services necessary for effective economic, social and justice outcomes, thus largely removing the criminal justice system from their lives, as applies in the wider community. They want this to occur in agreed partnerships with government, bureaucracy and others.*

**Key Stakeholder: Sociologists, Criminologists and related professions**

11. These people fully understand that current policies and practices are not working and the need for urgency in achieving change. They feel extremely frustrated that international and Australian best practice in crime prevention, *Restorative Justice*, *Justice Re-investment* and including community strengthening initiatives owned and delivered by local communities, is largely ignored by the QLD Government and its agencies. This frustration is compounded by the fact that in QLD and Australia we have internationally acclaimed professionals in this field, including First Nations professionals who can add best practice to a *justice reform program*.

12. They point to the many Australian Commissions of Inquiry with recommendations not implemented, and in particular to the lack of meaningful action in relation to key recommendations of the *Royal Commission into Aboriginal Deaths in Custody* and the *QLD Productivity Commission’s 2019 Report into Imprisonment and Recidivism* and to under performance in relation to *Closing the Gap* desired outcomes. They are on the same page with First Nations people’s concerns relating to the apparent lack of regard for First Nations people’s *cultural authority* and capacity to implement required reform.

**13. In summary, Sociologists, Criminologists and related professions say ‘what we should do’ is:** *For governments, bureaucracy and independent skilled professionals in justice, criminology and community development to partner with First Nations people to develop and implement Trial Programs to prove this reform program championed by First Nations people – that is, there is consensus between First Nations people and this key stakeholder group.*

**Key Stakeholder: Front line government and non-government officers working at the ‘bleeding edge’ in First Nations communities, in police, correctional services, child safety, family services, education, health, etc**

14. As stated in paragraph 5 above, these officers are mainly of the view that current policies and practices are not working, are inhumane, are a gross waste of public funds and they want things to change urgently. However, it is fair to say, based on the experience of the authors over many years, that in terms of desired solutions to perceived system failures, views held by these officers are fragmented between those engaged in therapeutic social, health and educational responses and those with responsibility for law enforcement.

15. Those involved in front line law enforcement are largely of the view that strong law enforcement practices and punishment of offenders by incarceration is essential to maintain law and order and

to deter offending. However, within the law enforcement group there is a cohort at the community level, especially in regional communities E.g., police and community corrections officers, where their views tend to be more aligned to those of the therapeutic professionals possibly driven by their own local community relationships. That is, knowledge of offender's families and of their circumstances.

**16.**Industrial organisations working to advance and protect the rights and conditions of police and correctional officers hold strongly to the position that strong law enforcement practices and punishment of offenders by incarceration is essential to maintain law and order and to deter offending. This is understandable given the very negative perceptions they have of offenders driven by the often traumatic and dangerous circumstances their members face on a daily basis in dealing with such people. What follows is not a criticism, just stating a fact, that industrial organisations also have a vested interest in increasing their membership and reforms that would result in less police and corrections officers are potentially not welcome initiatives for them.

**17.**Nevertheless, we all wish to live in a safe, law-abiding society and where officers of the law should not go to work in fear of their lives. Therefore, industrial organisations must be closely engaged in the reform program proposed by First Nations people and their partners such that genuine concerns held by these organisations can be respectfully and meaningfully addressed.

**18.**Officers involved in front line therapeutic social, health and educational responses are largely of the view that it is impossible to punish social dysfunction and crime away and that a variety of joined up responses is required across a continuum of initiatives. Their thinking in relation to 'solutions' is in line with those proffered by First Nations people and sociologists, criminologists and related professions.

**19.***In summary, Front Line Workers views as to 'what we should do': are split along daily work experience lines. However, for community trials of this proposed reform initiative, there is strong evidence that community based front line workers would support the operational model outlined later in this submission. However, law and order industrial organisations must be respectfully and closely engaged in development of the proposed initiative.*

#### **Key Stakeholders: Queensland and Federal Governments**

**20.**In QLD individual politicians and Ministers in discussion with proponents of the reform proposal outlined in this presentation, from as far back as 2006 and up to the present day, have evidenced support for the proposal as have Directors General and Commissioners. In 2017 the Market Led Proposals Secretariat, QLD Corrections, QLD Treasury and DATSIP supported Business Case development for trial of an earlier version of the reform program covered in this submission. Funds were set aside in QLD Corrections and DATSIP's budgets for this work.

**21.**However, a Cabinet Budget Committee submission that had the support of Heads of Departments and Ministers was never progressed to Cabinet Budget Committee. First Nations Traditional Owners who presented the MLP were not afforded the courtesy of an explanation for this.

**22.**The above outcome has contributed to the now grossly overcrowded youth detention centres and adult prisons, increased crime, unnecessary loss of life, continued unnecessary social and economic



dysfunction in First Nations communities and to the waste of billions of dollars building unnecessary and not-fit for purpose youth detention and prison infrastructure.

- 23.**As noted in paragraph 5 above, governments are well aware of failed outcomes across a range of Key Indicators relating to crime, social justice, social and economic outcomes, including government expenditure on ineffective policies and practices and lack of progress towards *Closing the Gap*. In private discussions there is consensus across the political divide that the system is broken, that *root and branch* reform is required and that the reform proposal in this submission has merit, beginning with trials. However, politicians from all sides of politics in private discussions have advised of being fearful of being ‘wedged’ by being labelled ‘soft on crime’ by their political opponents, by law enforcement industrial organisations and by the media.

Officers who report to the Federal Minister for Indigenous Australians have been briefed on this First Nations reform proposal and have evidenced support. We are hopeful of a meeting with the Federal Minister in the near future.

- 24.***In summary, governments views as to ‘what we should do’: Are mixed. First Nations people feel disrespected by years of delay in consideration of their proposals and say: “We believe we have not been meaningfully engaged with in relation to government decisions that have entrenched our parlous circumstances. We continue to be appalled at our treatment by criminal justice system and other agencies dealing with our social and economic circumstances. It is beyond our comprehension that our reform model to address our circumstances in meaningful partnership with government has been ignored, even though it has had support from relevant Ministers and Directors General.*

#### **Key Stakeholders: The Wider Community and Media**

- 25.**The overwhelming majority of Queenslanders are fair minded and will support initiatives that are well thought through, sensible, safe and cost effective.
- 26.**First Nations and non-First Nations proponents of the *reform partnership* proposed in this submission have spoken at numerous public meetings and in the media to explain the need for reform and the potential benefits. Response has been overwhelmingly positive. In recent times senior members of the Judiciary have commented that they *can’t understand why the Government has not acted to trial the reform*. These community members and the Judiciary are responding in a situation where they have been informed and or are knowledgeable of the underpinning facts that drive the reform model, thus their positive responses to the logic of the model.
- 27.**Some underpinning facts that attract interest from community members in presentations are that the QLD Productivity Commission (QPC) in its 2019 report said the median prison sentence in QLD for adult prisoners is only 3.9 months and 60% of offenders are in prison for non-violent offences<sup>1</sup>. Yet thousands of these prisoners are in high security cells (*\$1 million each*) and Queensland Corrective Services (QCS) is building more cells, even though low-cost 24/7 supervised, effective alternatives known to QCS since 2006 can be provided under this reform proposal.

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<sup>1</sup> Qld Productivity Report: Inquiry into Imprisonment and Recidivism, August 2019, Overview, Page xvii

**28.**A First Nations submission to the QLD Parliament's Community and Support Services Committee considering changes proposed by a Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021, recommended the Auditor General investigate this unnecessary expenditure on secure cells. QPC estimates that around \$3 billion is needed for more secure cells by 2025 if policies don't change. This reform proposal can avoid much of this cost and save billions over the next decade. The QPC's report also made a range of recommendations aimed at reducing prisoner numbers.

**29.**However, there is a narrative that runs counter to the reform model that is largely driven by mainstream print and television media and utilised by opposition political parties to attack governments. *This narrative is that crime is out of control, that punishment of offenders is inadequate and that harsher punishment will deter criminals and reduce crime.*

Nightly commercial television news programs have turned crime into *reality television* by featuring each night, vision from police cameras, interestingly labelled as *exclusively obtained*, showing violent crime incidents, including car chases, in QLD and Australia and also USA footage. This leads to a prevailing community view that Courts are *soft and out of touch* and that governments have ineffective policy and operational settings relating to law and order. In terms of '*what should we do about this*', the voices given *mega-phones* via the media are those calling for harsher sanctions, that is the flawed position that we '*can punish crime away*'.

**30.**However, the conclusion promoted by the above narrative that Australian governments have ineffective policy and operational settings relating to law and order is correct. This has placed Courts in the position where the key sanctions they have available are ineffective youth detention centres and prisons. They don't have appropriate, safe, secure sanctions available where offenders, youth and adult, can be rehabilitated via therapeutic programs as part of joined up services that also deal with family and community circumstances that cause crime.

**31.**Those who offer harsher penalties as the solution to ineffective policies and operational settings have made an illogical and uninformed leap to the wrong solution. Such a solution is not founded in the '*science*' of crime prevention, takes no account of Australian and international best practice in community strengthening and crime prevention, including the outstanding cost-effective outcomes in Northern Europe over many decades, the accepted principles of *Restorative Justice* and *Justice Re-investment* and the highly effective Maranguka Justice Reinvestment Project, Bourke NSW, in contrast to the demonstrably ineffective systems of juvenile and adult corrections in Australia that fail to rehabilitate or strengthen families and communities.

**32.** We stress however, that our reform model is not proposing that dangerous offenders, many of whom commit heinous crimes, should not be locked in secure prisons for long periods. Some arguably should never be released. As the QPC report<sup>2</sup> shows, these are the minority of prisoners. Our reform model is aimed at the majority of offenders, young people and adults, where interventions need to be in place to stop their cycle of offending from commencing and or developing to the heinous stage – that is a primary prevention model.

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<sup>2</sup> Qld Productivity Report: Inquiry into Imprisonment and Recidivism, August 2019

**33.**Proponents of harsher penalties also ignore the unique adverse circumstances impacting on First Nations families and communities that this reform program will address. The anti-reform narrative summarised above has paralysed Australian governments through fear of losing *political capital* should they depart from the current ineffective policies and operations. They have become locked into more of the same '*failed solutions*' that demonstrably cause increased crime, loss of life, shattered families and communities and waste of billions of dollars of public funds each year.

**34.***In summary, the wider community and media: is open to supporting considered, well presented arguments for reform of the criminal justice system. This was demonstrated following the 1988 Kennedy Commission of Inquiry into the QLD Prison System. There is evidence that this First Nations reform proposal will be well received by the QLD community. It will require leadership from the QLD and Federal Governments, with support, which will be readily forthcoming, from high profile, highly credible Queenslanders to articulate the reform case and benefits via the media. A strategy for this follows later in this submission. See Paragraph 69*

#### **Summary of Findings relating to the second step in this reform program – Achieving consensus on what we should do.**

**35.**Key Stakeholders where there is **consensus in support** of this First Nations Reform Model:

- ☐ First Nations families, communities and their representative organisations;
- ☐ Sociologists, criminologists and related professions;
- ☐ Front line government and non-government officers;
- ☐ Relevant Directors General;
- ☐ Some Ministers have expressed private support; and
- ☐ Officers who report to the Federal Minister for Indigenous Australians.

Yet to be persuaded:

- ☐ The wider community and the media – but evidence exists they can be persuaded by evidence of community safety and economic benefits; and
- ☐ The Queensland and Federal Governments – For the Queensland Government, from evidence of private support by Ministers, should they receive *Frank and Fearless* support for the reform proposal from Directors General there is potential for government support. For the Federal Government, from discussions with officers there is indication that the Federal Minister for Indigenous Australians may support the reform proposal.

#### **NEED FOR SENSE OF URGENCY BY KEY DECISION MAKERS THAT THINGS HAVE GOT TO CHANGE**

**36.**In paragraph 5 above we concluded that consensus existed across Key Stakeholders, including *Decision Makers*, that current policies and practices are not working and *there is a sense urgency that things have got to change*.

**37.**This presentation is intended for the highest-level decision makers, Ministers and Directors General. **Therefore, it is important that it contains *frank and fearless advice* relating to the need for urgency, so there is no misunderstanding as to the need for urgency, due to the awful consequences that could arise due to currently active risks relating to:**



- Prisons and juvenile detention centres being dangerously overcrowded creating a ‘*duty of care*’ crisis. Design capacity has been **exceeded** placing inmates and staff at physical and mental health risk, **even though safe alternatives were available for implementation**. Current overcrowding means these risks **cannot be mitigated to a standard acceptable under law**. This exposes Senior Administrators and Ministers to potential **severe legal consequences in the event of a catastrophe involving loss of life**. They have been formally advised of this via submissions. Senior administrators should be aware of this risk from their professional experience;
- Rehabilitation programs in these overcrowded, not fit for purpose adult prisons and youth detention centres are either impaired or non-existent and inadequately staffed health services are under significant pressure infringing human rights. **All of this adds to ‘*duty of care*’ risks and contributes to recidivism and more crime;**
- **Further to ‘*duty of care*’ risks in Juvenile Detention Centres**, *“First Nations advocates are calling for an urgent investigation into Queensland’s youth detention centres after figures revealed 84% of children placed in solitary confinement over a 12-month period were Indigenous. The statistics, tabled in state parliament this month, showed while Indigenous children account for 62% of Queensland’s youth detention population, they made up 84% of those placed in solitary confinement between July 2021 to June 2022.*

*There were more than 25,800 separations involving Indigenous children, with tens of thousands of children across the state held in solitary confinement for up to 12 hours, according to the figures. About 80% of children in detention in Queensland are on remand, meaning they are being held in custody while awaiting trial or sentencing.*

*Cheryl Axleby, co-chair of the Aboriginal-led coalition of advocacy groups Change the Record, said the “appalling” figures show an investigation is desperately needed. “We know that locking children up in isolation for any amount of time causes them harm,” Axleby said. “To learn that dozens of those children were isolated because they threatened self-harm is extremely disturbing. These children need our help and support, not punishment.”*

*Maggie Munn, an Indigenous rights campaigner for Amnesty International Australia, called on the state government to ban the “shameful” practice of solitary confinement on children. Munn’s demand comes three decades after the 1991 royal commission into Aboriginal deaths in custody recommended solitary confinement be prohibited when used for punishment or behaviour management”. And in the same article:*

*“Siyavash Doostkhah, director of Youth Affairs Network of Queensland, said the separation of children during vulnerable periods of their development was “particularly concerning” and would do little to change their behaviour. We’re talking about children that come from neglect and abuse backgrounds. Abusing in this way further in these facilities is just reigniting those traumas ... it becomes a perpetual cycle.” And the departmental response in the same article*

*“A department spokesperson said young people can be placed in solitary confinement as a response to emergencies or “health, safety and security requirements”, such as contraband searches.*

*“Separations are an essential option to ensure the safety, security and good order of youth detention centres and ensure the welfare of all, including other young people and staff. Separations are subject to strict approvals, supervision protocols, time limits and record keeping, ensuring they are reasonable and justified and meet legislative requirements.”<sup>3</sup>*

The above statistics are appalling in many ways and point to inhumane treatment with associated ‘duty of care’ risks. To those of us who have worked in juvenile detention Centres, have studied best practice in dealing with young people who offend and or who personally know young people in detention in Queensland, **the departmental response above is very concerning**. It is lacking any knowledge of best practice in the treatment, rehabilitation and protection of this cohort of young people.

**Should a worst-case scenario occur, loss of life of a young person in detention, then the above statement will be forensically examined in any Coronial Inquiry or Royal Commission, in conjunction with evidence from Expert Witnesses, that will likely prove devastating for departmental officers;**

- ☐ Failure by juvenile and adult corrections to have in place effective community owned and driven offender control and rehabilitation initiatives, including 24/7 supervised and or supported diversionary programs for Courts to use in lieu of prisons. **This failure results in unacceptably high imprisonment and recidivism rates, unnecessary crime, including loss of life and waste of public funds on not fit for purpose infrastructure, that is secure cells costing around 1 million dollars each.**
- 38.** It is realistic to opine that should loss of life occur in a Youth Detention Centre or in a prison due to the above existing circumstances, then this will result in either a **Coronial Inquiry or in a worst case a Royal Commission of Inquiry**. There is significant documented evidence before Ministers and Directors General warning of this potential horrific outcome and consequences that would be investigated and ruled upon by such Inquiries. Potential also exists for **Class Actions** by prisoners on the basis of inhumane treatment and lack of rehabilitation programs that impacts adversely on their capacity to achieve parole, etc.
- 39.** Government policy and operational changes should never need to be driven by Coronial Inquiries or Royal Commissions. Particularly when in relation to the current parlous situation there are recommendations from numerous inquiries, First Nations and other proposals that would have averted the current situation, but have not been acted upon.
- 40.** Given that the above has been reported previously to Directors General and Ministers with no visibility of urgent response, we feel the need once again to stress the **NEED FOR URGENT ACTION**. This action should involve **MITIGATION OF EXISTING RISKS** while **CONCURRENTLY** implementing the steps covered below to trial this First Nations reform model that will **rapidly reduce the number of prison incarcerated children and adults**, while commencing to **STRENGTHEN THE ECONOMIC AND SOCIAL CIRCUMSTANCES OF FIRST NATIONS PEOPLE**.

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<sup>3</sup> Guardian Newspaper article, Wednesday 28 September 2022

41. In terms of **NEED FOR URGENT ACTION** another critical matter is the current Capital Works programs for youth and adult corrections that are incurring an ongoing waste of public money due to construction of **UNNECESSARY** and **NOT FIT FOR PURPOSE** infrastructure. The QPC 2019 report says the median prison sentence in QLD for adult prisoners is only 3.9 months and 60% of offenders are in prison for non-violent offences<sup>4</sup>.

42. Yet thousands of these short-term and or non-violent prisoners *churn through* high security cells (\$1 million each) annually, receiving little or no rehabilitation programs thus contributing to recidivism. And, in spite of this prisoner demographic, QCS is building more of these cells, even though lower-cost 24/7 supervised, alternatives with effective rehabilitation programs could be activated relatively quickly, as demonstrated by the former QLD Corrective Services Commission and as recommended in First Nations proposals below

- In 2006 a 24/7 supervised *Healing and Rehabilitation Centre* approach, in lieu of prisons for defined categories of First Nations offenders, was presented by Keith Hamburger AM and Ms Debbie Kilroy OAM to a *Parliamentary Public Works Committee Inquiry* into the need for a proposed high security prison at Gatton. The proposed model would have diverted large numbers of short term, non-dangerous offenders from prisons to lower cost more effective 24/7 supervised accommodation on *Traditional Lands* and in other places. **This approach would have obviated the need for the proposed Gatton prison.**

This All-Party Committee was favourably impressed by the proposal and recommended that it be subject to a cost-benefit analysis before the Government committed to building of the Gatton prison. **This recommendation was ignored by the then government and building of the first stage of this prison proceeded.**

- In 2017 a Market Led Proposal (MLP) for Healing and Rehabilitation Centres on Traditional Lands from Bidjara and Goorathuntha people, Charleville – Augathella region, that QCS, QLD Treasury and DATSIP supported. **This proposal, when implemented State-wide, would have diverted literally thousands of First Nations offenders direct from Courts to these centres, greatly reducing recidivism and saving billions of dollars in prison infrastructure and operations over the years following 2017.** Even though relevant Director's General supported this MLP and QCS and DATSIP set aside funds for Business Case development, it did not proceed to Cabinet Budget Committee for approval to proceed.

**This MLP was supported by the then Chief Magistrate, the Deputy Chief Magistrate and the Murri Court Magistrate. The Deputy Chief Magistrate had served as the Magistrate at Charleville for 2 years. He commented that had this model been in place then, he could think of only 2 offenders over the 2 years that he would have sent to prison. All the others would have been diverted from Court to the Healing and Rehabilitation Centre, saving not only infrastructure costs but significant operational costs of transporting prisoners, reception and processing and supervision costs in prisons. Also, recidivism rates would have been reduced.**

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<sup>4</sup> Qld Productivity Report: Inquiry into Imprisonment and Recidivism, August 2019, Overview, Page xvii



- A submission from Keith Hamburger AM to the QPC Inquiry into Imprisonment and Recidivism 2019 recommending the Bidjara and Goorathuntha Market Led Proposal (MLP), together with other initiatives, should be implemented to limit the use of high security cells to dangerous and long-term adult prisoners. Others adult offenders to be accommodated in a variety of other appropriately supervised options that would reduce recidivism and crime and make our community safer. **The QPC Report of its Inquiry supported a trial of this approach, yet this support was not acted upon by government;**
- A 2021 submission to the Community Support and Services Parliamentary Committee concerning The Criminal Law (Raising the Age of Criminal Responsibility) Amendment Bill by COOEE Indigenous Family and Community Education Centre et al, that recommended significant reform to sentencing and rehabilitation of juvenile and adult First Nations offenders. This reform would greatly reduce the use of secure cells through use of 24/7 supervised community-based options, joined up with family and community strengthening initiatives. **The recommendations in this submission have not been acted upon by government.**

The reforms for sentencing of adult offenders were those proposed in the MLP above. For Juvenile offenders, **the reforms would see phasing out of the not fit for purpose, inhumane Juvenile Detention Centres, replaced by:**

- **Secure 24/7 supervised Reception and Assessment Centres** – Children apprehended for offending or who are at risk, placed here for professional holistic assessment and a Treatment Plan for Court Consideration. **These would be small facilities operated by Child Safety Department, with First Nations support staff;**
- **Secure 24/7 supervised Therapeutic professionally staffed Treatment Facilities** - Where Courts place problematic children requiring intensive specialised treatment – maximum number of beds 6; **Owned and operated by First Nations Public Benefit Corporations (PBC's), under long term contracts with government;**
- **Kinship Caring System** – where selected First Nations people, receive training and accreditation and are paid for their services and they provide accommodation and care for children placed with them directly by the Courts. 24/7 on call professional support to be available to Kinship Carers; **System functions under the auspice of first Nations PBC's, under long term contracts with government;**

The above architecture would see:

- Courts receiving regular feedback on each child's progress and able to adjust the **Control Order** on the basis of the child's progress or regression. No child will be dealt with under criminal law;
- Supervised Assessment Centres and Therapeutic Treatment Facilities located across the State in appropriate locations, conducive to child and family therapy needs. Infrastructure and operations will be provided by First Nations' PBC's **under long term contracts with government;**

- All therapeutic programs to these facilities auspiced by First Nations PBC's and delivered holistically involving family members where appropriate;
- This model, with adjustments can be adapted for non-First Nations children;

**This model will allow Juvenile Detention Centres to be phased out potentially within 3 years. Financial savings will be large as well as greatly reduced crime. Concerning community safety, we can confidently assert that under the proposed reform model the current high incidence of vehicle theft crime by juveniles resulting in loss of life will largely be eliminated. This will be due to most of these young offenders having been diverted into the above closely controlled therapeutic options when they were at the risk of offending stage or early in their offending history, thus incapacitating them from committing these crimes.**

**Bail to their usual social and family circumstances under this model will be rarely used by Courts because of the appropriately supervised therapeutic options that will be available. Thus, *breach of bail* will largely become a non-issue.**

**The other critically important feature of the above model is that it is largely driven owned and operated by First Nations Public Benefit Corporations, where they have cultural authority and agency via a Justice Reinvestment approach to create employment and enterprise to improve the social and economic well being of their communities.**

**Note:**

*The above submissions were founded in the successful work by the QLD Corrective Services Commission in the 1990's, in implementing recommendations of the Kennedy Commission of Inquiry into the then QLD Prison Service. This work resulted in closure of the Woodford Prison and a significant reduction in recidivism. This was due to a range of diversionary initiatives including First Nations Out Stations, the Western Outreach Camp Scheme, 24/7 supervised community hostels in urban areas, significant involvement by First Nations people in delivery of cultural programs and a strong focus on 'phased supported release' from Correctional Centres. QCS would be aware of this corporate history.*

**43.QCS is also aware that the 2019 QPC Report of its Inquiry into Imprisonment and Recidivism estimated that in order of \$3 billion is needed for more secure cells by 2025 if policies don't change. Yet had the proposed policy and operational changes recommended in the above submissions been enacted we would be needing less prison cells not more. The First Nations reform model summarised in this submission again raises these policy and operational changes for consideration that demonstrably will save billions of dollars over the next decade, reduce crime and make our community safer.**

**44.We are advised that construction of a 1,500-bed high security prison is well advanced in South East Queensland. In the light of the evidence cited above and below in this submission, it is beyond comprehension that such a project, costing over a billion dollars, would be embarked upon.**

45. Evidence from literature and best practice is that large prisons are a *failed concept* in achieving effectiveness of rehabilitation and therefore community safety. This is borne out in Queensland by high recidivism rates. Their operational practices cause inhumane treatment of prisoners. They are culturally inappropriate for First Nations people. Their location and functioning causes extreme stress to prisoners and their families in relation to family contact. They compromise development of rehabilitation pathways to community and joined up family and community strengthening initiatives. They cannot provide a holistic response to offender and family circumstances that result in offending behaviour. Staff safety is compromised. They are much less cost effective compared to well-known alternatives that keep the community safer.

46. The question has to be asked how did a project of more than a billion dollars pass the feasibility *'gateway review'* that tests the appropriateness of objectives for a construction project of this scale? That is, do the objectives address the issues that cause the problems the expenditure is aimed at solving or, as appears to have happened in this case, were they incorrectly specified to address symptoms and not causes?

47. By any test, over a billion-dollar expenditure on a 1,500-bed high security prison is treating an objective to accommodate more prisoners, that is the symptom of entrenched economic and social disadvantage, compounded by inter-generational trauma. Had objectives been correctly set to address the causes of and how to treat criminality, then solutions would have been implemented for much less cost than this prison where we would have many less prisoners, less crime, lives would be saved, as well as a significant reduction in expenditure across the criminal justice system.

48. Correctly specified objectives point to appropriate policy decisions relating to infrastructure and operational models to achieve objectives founded in best practice standards, as defined in the literature and as evidenced by Australian and international best practice.

49. Why didn't the feasibility *'gateway review'* consider the alternative more effective options outlined above that clearly demonstrate that a 1,500-cell high security prison was not the solution to the cause of the problem and recommend against this expenditure and for investment of less funds into known alternatives for far more cost-effective outcomes?

And, in the light of the evidence in this submission, why did QCS propose and recommend to government the construction of this prison?

50. Concerning Juvenile offenders, as covered in paragraph 42 above, the First Nations COOEE Indigenous Family and Community Education Centre et al submission to a Parliamentary Inquiry in 2021 recommended alternative infrastructure, control and therapeutic treatment models for juvenile offenders that will make the existing inhumane, ineffective and not fit for purpose youth detention infrastructure obsolete, with the benefits of reduced crime, a safer community and millions of dollars of savings. These recommendations have not been enacted.

51. Very sadly, in the light of the above, we are aware of a letter of 13 September 2022 from the Department of Children, Youth Justice and Multicultural Affairs that inter-alia says: "*Our three*



*youth detention centres are operating at capacity and more infrastructure will be needed into the future as our population grows and existing infrastructure ages. In order to better understand and plan for this need, the 2021–22 State Budget allocated \$5.7 million for a business case on long-term additional detention centre capacity. Future infrastructure planning will include consultation with key stakeholders, including community sector organisations, at an appropriate time in the process”.*

52. We assert that. On the evidence provided in this submission, that \$5.7 million of public money will be wasted on a business case for a pre-determined inappropriate and ineffective outcome – *additional detention centre capacity* - that will continue to entrench inhumane treatment of children, turning them into adult criminals and further traumatising families and communities. Once again, spending public funds to treat a ‘*symptom not the cause*’, showing incapacity to correctly define objectives for major infrastructure projects, while ignoring best practice, including the available cost-effective alternative options under this First Nations reform proposal.

53. The above First Nations submission to the *QLD Parliamentary Inquiry into raising the minimum age of criminal responsibility* recommended that the above assertions relating to waste of public money on unnecessary and not fit for purpose infrastructure in adult and youth detention should be referred to the Auditor General for investigation. There is no evidence this has occurred.

54. Should circumstances arise where a Coronial Inquiry or a Royal Commission is deemed necessary, the mechanism for such inquiries would be put in place within a very short time frame. We respectfully suggest that in the circumstances summarised above where ‘duty of care’ failures exist putting lives of staff and inmates at risk, where lives are being lost in the community and where billions of dollars of public money are being wasted in construction of unnecessary and not fit for purpose infrastructure, action is required within a very short time by decision makers to implement initiatives to avert the need for a Coronial Inquiry or a Royal Commission of Inquiry.

55. However, we are of the view that one Inquiry that cannot be averted is the need for an Auditor General’s investigation into the above evidence that points to a large-scale continuing waste of public funds. Should this evidence be verified, then people need to be held to account for this and systems need to change.

The following recommendations provide a plan for immediate action.

## **RECOMMENDATIONS FOR IMMEDIATE ATTENTION BY RELEVANT QUEENSLAND GOVERNMENT AGENCIES DUE TO SERIOUS ‘DUTY OF CARE’ RISKS IN YOUTH AND ADULT PRISONS AND CONTINUING WASTE OF PUBLIC MONEY ON NOT FIT FOR PURPOSE AND INEFFECTIVE INFRASTRUCTURE**

### **Recommendation 1**

*That a Review Team is established to urgently review the assertions made in this submission relating to a ‘duty of care’ crisis in youth detention centres and in adult prisons; and if this crisis is confirmed,*

*then to advise the Queensland Government on immediate short-term risk mitigation steps to avoid loss of life and infrastructure. This Review Team to be led by an independent, suitably qualified person, supported by independent child and adult rehabilitation experts, health and nutrition professionals, correctional security professionals and include departmental officers.*

*That the Terms of reference for this review are developed in consultation with the authors of this submission.*

## **Recommendation 2**

*That the report of this Review Team is provided to the Solicitor General for opinion as to whether Ministers and Directors General and other administrators are at risk of adverse legal consequences by existing circumstances in youth detention centres and in adult prisons due to ‘duty of care’ failures and whether risk mitigations proposed by the Review Team are adequate to obviate adverse legal consequences.*

## **Recommendation 3**

*That the assertions made in this submission relating to the ongoing waste of public money in the current capital works programs for youth and adult corrections are urgently either self-referred by Queensland Corrections and Youth Justice or by a central agency of government to the Auditor General for investigation. These assertions are founded in the evidence presented in this submission relating to incorrect specification of the objectives for these projects, departments ignoring best practice in crime prevention and offender treatment and ignoring evidence-based reform proposals.*

## **A WAY FORWARD FOR CONSIDERATION BY QUEENSLAND AND FEDERAL GOVERNMENTS**

### **Public Sector Architecture to drive reform of the Criminal Justice System in Queensland**

**56.** The Qld Productivity Report (QPC) report of its *Inquiry into Imprisonment and Recidivism*, August 2019 recommended establishment of a Justice Reform Office (JRO). Following are extracts from the QPC report:

*“Recommendation 2: The Queensland Government should establish an independent statutory body (the Justice Reform Office) to improve the efficiency and effectiveness of the criminal justice system. Its key responsibilities should be to:*

- approve policy and budget submissions from the core criminal justice sector agencies prior to submission to Cabinet and Cabinet committees*
- oversee justice system reforms*
- provide advice to government on priority criminal justice policy issues*
- lead and support evidence-based policy-making. The office should be responsible to a board that includes representation from each of the core criminal justice agencies and independent members. The independent members on the board should have a voting majority<sup>5</sup> and*

*“Its statutory independence from government will give it greater freedom to explore options while using its relationships with the justice agencies and the community to facilitate the delivery of reform. As it will work with and across the sector, it is less likely than an oversight body that is more distant from the sector to suffer a lack of information and understanding. A risk is that it would*

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<sup>5</sup> Qld Productivity Report: Inquiry into Imprisonment and Recidivism, August 2019, Overview, Page xivi

have insufficient authority to drive reform in the other criminal justice agencies. However, this risk can be managed by establishing the office's functions (including to review and endorse policy and budget proposals) in legislation. The Justice Reform Office's authority can also be strengthened through:

- a strong mandate from government to pursue a reform agenda
- an independent governance structure, with representation from senior executives from the key criminal justice agencies and the community
- the responsible minister being the Premier or other senior minister”<sup>6</sup>. and

“It is proposed that the Justice Reform Office will also perform a range of other functions. These include:

- undertaking assessments of policy proposals
- establishing common performance frameworks across the criminal justice system and working with government to develop ministerial statements of intent for criminal justice agencies (Chapter 17)
- establishing funding arrangements to support justice reinvestments (Chapter 10)
- working with corrections to establish a plan for the development of future correctional infrastructure (Chapter 20)
- negotiating justice agreements with Indigenous communities (Chapter 22)”<sup>7</sup>

57. The QPC recommended JRO was a well-researched recommendation for a powerful independent statutory authority with a mandate to drive essential reform across the criminal justice sector, which would also have impacted other key government agencies. This recommendation was not implemented by the QLD Government. As far as we are aware, there has been no disclosure by government as to the reasons for this critically important recommendation not being adopted.

58. Had it been adopted, it is highly probable that the reform model proposed in this submission would have been in place by now, given the QPC evidenced support for a trial of this First Nations reform model in its report and its proposed charter for the JRO included **“lead and support evidence-based policy-making”**. This First Nations reform model, as covered in the detailed proposals mentioned in paragraph 42 above is **‘evidence based’**.

59. In the absence of a JRO we have seen ongoing unaddressed failures in dealing with the primary causes of crime, lives have been lost, the failed approaches to juvenile and adult rehabilitation have continued, the ongoing huge waste of public funds on not fit for purpose infrastructure in juvenile and adult corrections, the ongoing inhumane treatment of offenders in overcrowded facilities and lack of safe, secure, therapeutic and cost effective alternatives to secure prisons for Courts to use as sentencing options.

60. All of this reflects lack of **‘evidence-based policy making’**. This failure was what the JRO was designed to prevent through its charter of **“lead and support evidence-based policy-making”**.

61. We have received information that the government is proceeding with the establishment of a *First Nations Justice Office* and a *Criminal Justice Innovation office*. It seems that some of the functions

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<sup>6</sup> Qld Productivity Report: Inquiry into Imprisonment and Recidivism, August 2019, Overview, Page 116

<sup>7</sup> Qld Productivity Report: Inquiry into Imprisonment and Recidivism, August 2019, Overview, Page 119

of these two Offices would have been carried out by the Justice Reform Office. However, these two offices are not independent and are buried in the bureaucracy at a level where their capacity to drive needed reform across powerful agencies will be extremely minimal.

62. The establishment of these Offices ignores the advice of the QPC above that a benefit of the Justice Reform Office is, ***“Its statutory independence from government will give it greater freedom to explore options while using its relationships with the justice agencies and the community to facilitate the delivery of reform”.***

63. It is the strong view of the authors of this submission, founded in our professional experience and in the evidence based QPC Report, that a ***Justice Reform Office*** is the missing piece of architecture that is essential to achieve effective reform and operation of the criminal justice system in Queensland, in conjunction with government agencies with responsibility for social well-being and economic development in First Nations and other disadvantaged communities.

64. In submitting the recommendations below we are hopeful that after considering the above evidence, the Queensland Government will reconsider its position and act to create a Justice Reform Office with appropriate First Nations representation on its Board.

#### **Recommendation 4**

*That the Queensland Government establish an independent statutory body - The Justice Reform Office - (JRO), to improve the efficiency and effectiveness of the criminal justice system as recommended by the Queensland Productivity Commission in its 2019 Report: Inquiry into Imprisonment and Recidivism; and that the resources of the First Nations Justice Office and the Criminal Justice Innovation Office are rolled up into this JRO. The JRO should have appropriate First Nations representation on its Board, desirably including an eminent First Nations person as Co-chair.*

65. The next piece of architecture, that is essential to restoring cultural authority and agency to First Nations people to drive reform of their parlous circumstances, is already in place in Queensland. That is, the Queensland Government’s *Local Thriving Communities* (LTC) model.

66. DATSIP’s web site provides the following information:

*“LTC is a significant long-term reform that will embed change, resulting in a visibly different way of working alongside communities across the state to improve outcomes for Aboriginal and Torres Strait Islander Queenslanders. This approach is based on mutual respect and high expectations relationships, applying a collaborative approach to give Aboriginal and Torres Strait Islander communities a greater voice in shaping their future.*

*Independent decision-making bodies will begin providing a representative voice for engaging with Queensland Government to:*

- make decisions about their own future*
- build on their strengths as a community*
- invest in the things that will make communities stronger, that will make a difference to people’s lives*
- create thriving communities.*

*Community knowledge, research and evidence and lessons learnt over time will inform LTC, with the principles of self-determination, participation, equality and culture underpinning the initiative.*



*LTC will not replace existing decision-making structures”; and*

*“LTC is one element of Queensland’s Tracks to Treaty: Reframing the relationship with Aboriginal and Torres Strait Islander Queenslanders initiative. Another element is Path to Treaty;” and*

**“How the reform will be designed.** *The LTC is a new way of working for both the Queensland Government and remote and discrete communities. We will apply best practice for this reform by working with Aboriginal and Torres Strait Islander communities to co-design and implement the reform and establish local decision-making bodies, through engagement with government and key stakeholders.*

*This means we will seek advice and guidance from each community about how the decision-making bodies should work for their unique needs, and what needs to happen to establish them.*

*LTC supports Aboriginal and Torres Strait Islander Queenslanders to shape their own futures for their community.*

**The Joint Coordinating Committee.** *The LTC reform is overseen by a [Joint Coordinating Committee](#) that meets between four and six times a year to provide advice and guidance on design and implementation”.*

**67.** The authors of this submission believe that to advance the First Nations reform model, as covered in the detailed proposals briefly summarised in paragraph 42 above, is to commence with Trials of the reform in selected communities, perhaps commencing with two (2) trials concurrently, expanding to a further three (3) communities once the first two Trials are in place. Success with the trials will see the concept rolled out across Queensland reaping the benefits of reduced crime and government expenditure as outlined previously in this submission.

**68.** The authors envisage that the *LTC Joint Coordinating Committee*, reporting to a JRO, and supported by a *Working Party*, could provide the vehicle to advance trials and the subsequent potential roll out of the reform model proposed in this submission across Queensland.

#### **Recommendation 5**

*That the LTC Joint Coordinating Committee, reporting to the Justice Reform Office, becomes the vehicle to advance trials and the subsequent potential roll out of the reform model proposed in this submission across Queensland.*

#### **Recommendation 6**

*That a Working Party is established to report to the LTC Joint Coordinating Committee and undertake Business Case development for the selected Trial Communities. This Working Party to have Co-leadership by a First Nations person and an independent appropriately qualified person, with representatives from Trial Communities and include departmental officers. The Business Case will encompass:*

- ☐ Provision of Youth and adult justice services and community and family support initiatives and programs;
- ☐ Required infrastructure, equipment, staffing and operational models for proposed initiatives;
- ☐ Costs and benefits of operations;
- ☐ Capacity building needs in the ‘trial communities’;

- ☐ How support services will be provided, E.g., health, education, rehabilitation programs, food and clothing services, emergency response, visitations, legal services, transportation needs, etc;
- ☐ Exploration of options for non-government funding streams to implement the *'trials'* and also for ultimate State-wide expansion of the initiative. Some funding options are, from industry, ILUA's, philanthropic organisations and commercial opportunities in the communities;
- ☐ Contractual arrangements required between the *'trial communities'*, the *LTC Joint Coordinating Committee* and government for service delivery including open book costing on *Fee for Service* that includes an agreed surplus for re-investment into the community and the term of contracts, desirably long term E.g., 3 years X 3years X 3 years, or longer subject to performance reviews;
- ☐ Specification of Key Performance Indicators (KPI's) for all aspects of service delivery;
- ☐ Governance arrangements for all contracts and governance and reporting arrangements between the *'trial communities'* and the *LTC Joint Coordinating Committee* and the Queensland and Federal Governments;
- ☐ Reporting requirements to State and Federal Governments;
- ☐ **An Indicative plan for potentially billions of dollars of savings over the next decade through progress of the initiative State-wide; and**
- ☐ **A plan for the initiatives in the *'trial communities'* into which operational surpluses will be invested to support creation of a resilient, healthy, safe and productive community.**

69. The objectives for the JRO and *LTC Joint Coordinating Committee* in relation to the reform program are suggested to be:

- ☐ To significantly reduce First Nations people's contact with the Criminal Justice System and their over-representation in youth detention centres and in adult prisons, driven by *Justice Reinvestment Initiatives*, where First Nations people have resources, agency and cultural authority to create resilient, healthy, safe and productive communities. This objective to be pursued in parallel with the national program of *Treaty – Voice and Truth Telling*;
- ☐ To articulate to the Queensland community via media and other channels, the need for reform of the way social breakdown and crime is dealt with and the benefits that will accrue from a new approach, as well as the need for First Nations people to have agency and resources to apply their cultural authority to create resilient, healthy, safe and productive communities; and
- ☐ To oversee the co-design process, to be developed by the proposed *Working Party* in conjunction with the *LTC Joint Coordinating Committee* and selected Trial Communities, for the First Nations community driven holistic reform model recommended via First Nations submissions. This co-design process to include communication with Peak Bodies representing non-government service delivery agencies, as well as *front line* non-government agencies, academic institutions, relevant legal services and other key stakeholders that may be identified, concerning the co-design process.

**NOTE: The conceptual model advanced by this submission can be expanded, with adaptations, to non-First Nations lower socio-economic communities to strengthen those communities and reduce crime.**

70. The above approach addresses the concerns of First Nations people around loss of cultural authority, lack of agency and the stifling of community driven solutions. It provides a vehicle whereby Intellectual Property (IP), resources and governance are provided to local First Nations community entities to implement community owned and driven solutions for effective economic,

social and justice outcomes. These entities will become largely self-sustaining due to the *Justice Reinvestment* model proposed.

#### **Recommendation 7**

*That architecture involving the LTC Joint Coordinating Committee and Working Party to undertake Business Case development in selected Trial Communities to prove the reform program proposed by this submission, is raised with the Federal Minister for Indigenous Australians for consideration for Justice Reinvestment seed funding in partnership with the Queensland Government to advance Justice Reinvestment in Queensland.*

### **THE VALUE OF THIS REFORM PROPOSAL TO THE QLD AND FEDERAL GOVERNMENTS TO STRENGTHEN FIRST NATIONS COMMUNITIES, REDUCE CRIME AND GOVERNMENT EXPENDITURE 71.**

**The value to DATSIP** – Leveraging the Qld Government expenditure on the Thriving Communities program to secure the State’s full share of the new Federal funding over three years for Justice Reinvestment.

**The value to other Qld Government agencies** – similar approaches to Federal counterparts in Education, Employment, Health, etc. for concomitant funding.

**The value to the First Nation community** – the prospect of cultural authority to implement a professionalised system of community based Restorative Justice and Justice Reinvestment initiatives to reduce the level of incarceration of community members.

**The value to the wider community** – a well-structured, properly funded program for crime prevention, especially in the contentious area of juvenile crime, resulting in a safer community and meaningful progress towards ‘closing the gap’.

**The value to Queensland Courts** – having 24/7 supervised effective therapeutic and rehabilitative sentencing options available for the majority of juvenile and adult offenders, rather than costly and counterproductive prisons.

#### **The value to the Queensland Government:**

- ☐ A whole-of-government response to issues of concern to the Qld community, (and in particular, First Nations people) that are set out in various reports (most recently, the Women’s Taskforce Reports), with secured Federal funding to augment existing departmental programs; and
- ☐ Billions of dollars of savings over the next decade in infrastructure and operations by eliminating inefficiencies in juvenile and adult corrections systems and also through enhanced rehabilitation outcomes that reduce recidivism and crime.

#### **The value to the Federal Government:**

- ☐ Demonstration of a unique Justice Reinvestment initiative that works in concert with and complements the Government’s work with *TREATY - VOICE AND TRUTH TELLING*; and
- ☐ Reduces Federal Government outlays in social service payments and for other community support initiatives due to First Nations commercial enterprises creating jobs and more resilient, self-sufficient communities.

## **CONCLUSION**

**72.** A representative group of the authors of this submission would greatly appreciate the opportunity to discuss this submission, including recommendations, with relevant Directors General and then with Queensland Government Ministers and with the Federal Minister for Indigenous Australians and her Officers.

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## **REQUEST FOR 'A SEPARATE PRIORITY AUDIT'**

**by**

**The Queensland Audit Office (QAO) of Financial Waste and Mismanagement  
by Queensland Corrective Services and the Department of Youth Justice in  
the Provision of Imprisonment, Detention and Rehabilitation Services**



### **BIDJARA 'LOST CITY' – SACRED PLACE – PHOTO USED WITH PERMISSION OF BIDJARA ELDERS**

*We pay respect to and acknowledge the generations of Elders and all First Nations people whose lives have been marred by the imposition of colonial policies which have helped to embed within the justice system, a punitive spirit that has contributed to inter-generational trauma, over incarceration, subjugation of communities and child removal. We pay homage to the non-Indigenous people who have acknowledged the consequences of ongoing punitive practices within the justice system and resolved to work with First Nations people in a spirit of reconciliation and respect to achieve more humane and proactive practices, bi-cultural collaboration, and justice reform.*

**This request is made by: (Brief CVs in attached Submission)**

**KEITH HAMBURGER AM; PROFESSOR, BONI ROBERTSON; UNCLE MICK GOODA; AUNTY RACHEL ATKINSON; REVEREND AUNTY ALEX GATER; AUNTY KELEN MAILMAN AM; AUNTY SHERYL LAWTON; EMERITUS PROFESSOR ROSS HOMEL AO; DR MARK RALLINGS; MR MERVYN LANGFORD; REVEREND DR WAYNE SANDERSON; MR JOHN HOCKEN; MR JULIAN FOLEY; MR MARCO KORN; DR TERRY HUTCHINSON AND MS PAULINE KENNEDY PSM**

**Date: 23 October 2022**

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## INFORMATION ABOUT THE NATURE OF OUR CONCERN

1. Our concern is covered in the attached submission, *'Proposed First Nations Justice Reform Partnership with Queensland and Federal Governments to advance Justice Reinvestment in Queensland Commencing with Community Trials in Parallel with Treaty – Voice and Truth Telling'*. This submission, on Tuesday 11 October 2022, was provided to the Hon the Premier, the Hon the Attorney General, the Hon the Treasurer, the Hon the Minister for Police and Corrective Services, the Hon the Minister for Youth Justice and the Hon the Minister for DATSIP and to their Directors General. It was previously provided to the Director General, Department of Premier and Cabinet on 30 September 2022.
2. On Friday 14 October 2022 it was provided to the Hon Lynda Burney, Federal Minister for Indigenous Australians and to the Chair, National Aboriginal Community Controlled Health Organisation (NACCHO) which is the national leadership body for Aboriginal and Torres Strait Islander Health in Australia.
3. The submission details the current crisis in the criminal justice system devastatingly impacting on First Nations people. It recommends an approach to save billions of dollars, make First Nations and disadvantaged communities safer and productive, restore *justice* in application of the criminal law, place Queensland at the forefront in *Closing the Gap* and recommends steps to avoid a *Class Action, Coronial Inquiry or a Royal Commission*.
4. The submission in paragraphs 41 through paragraph 55 provides:
  - ☐ Information relating to the billions of dollars being wasted on unnecessary and not fit for purpose prison and youth detention infrastructure;
  - ☐ Summary details of more cost-effective alternatives to prison cells that were not adopted by Qld Corrective Services (QCS) and Youth Justice, resulting in waste of public funds, ineffective approaches to rehabilitation and community safety, increased recidivism and crime;
  - ☐ In paragraph 42, second dot point and the paragraph following the dot point, reference to a 2017 Market Led Proposal where the proponents feel that *prima-facie* evidence exists that the decision-making process in relation to their proposal was inappropriately interfered with, such that due process was breached. This resulted in Cabinet Budget Committee not being afforded the opportunity to consider the proposal, the proponents suffering financial loss and the State being denied the opportunity to trial innovative approaches to reduce social breakdown and crime;
  - ☐ In paragraphs 44 through 49, evidence that the QCS *'gateway review'* and decision-making process that led to an outcome to build a 1,500-cell unnecessary high security prison was likely flawed. **This requires urgent investigation given that construction is underway;**
  - ☐ In paragraphs 50 through 52, evidence is provided of Youth Justice currently embarking on a flawed process that will waste \$5.7 million of public funds on a business case for additional youth detention centre capacity that will result in more inhumane, ineffective and not fit for purpose youth detention infrastructure. This flawed process ignores alternative infrastructure, control and therapeutic treatment models for juvenile offenders with the benefits of reduced crime, a safer community and millions of dollars of savings.

## **DETAILS OF THE MATTER, INCLUDING THE TIMING, AMOUNTS INVOLVED AND ANY EVIDENCE WE HAVE OR WHERE IT MAY BE FOUND**

5. Paragraph 42 provides a timeline of proposals in 2006, 2017, 2019 and 2021 that if implemented would have diverted literally thousands of First Nations offenders direct from Courts to alternatives to imprisonment thus greatly reducing recidivism and crime and saving billions of dollars in prison infrastructure and operations over the years. Significant steps would have been made towards achieving *Closing the Gap* initiatives. These proposals, at various times, had the strong support of Magistrates, police, Directors General, senior officers in adult corrections and youth justice, Shire Councils, First Nations communities, corrections practitioners and researchers.
6. QCS and Youth Justice (YJ) should be able to provide the cost of adult prison cells and youth detention cells over that period as well as operational costs. Comparisons can be made of these costs with estimates of infrastructure and operational costs for the alternative models. Comparisons could also be made of the current high recidivism rates under the current system with likely much lower outcomes under alternative systems.

Officers at various levels in QCS and YJ will confirm that current infrastructure and systems do not support best practice in the treatment of offenders' needs.

7. The above comparisons and officers experience will highlight the enormous amount of money that has been wasted, likely to be in the order of billions of dollars, together with the terrible social dislocation and crime caused by current systems. This is supported by the Queensland Productivity Commission's (QPC) 2019 Report into Imprisonment and Recidivism where the QPC estimated that unless policies change around \$3 billion dollars will be needed for more secure cells by 2025.

## **DETAILS OF THE ENTITIES AND EMPLOYEES INVOLVED**

8. Queensland Corrective Services and Youth Justice.

## **WHETHER WE SUSPECT POSSIBLE CORRUPT CONDUCT OR CRIMINAL ACTIVITY**

9. As covered in paragraph 4 above, third dot point, proponents of the 2017 Market Led Proposal believe that their proposal was not afforded due process in decision making.
10. We have no evidence of corrupt conduct or criminal activity. However, given the large amount of money expended on not fit for purpose and unnecessary prison and youth detention infrastructure when more effective alternatives were available, we believe that any investigation of this matter should cover the governance systems in place relating to contact between infrastructure providers and decision makers to confirm the integrity of the system.
11. On the evidence available to us, we have questions relating to professional competence and whether Ministers are receiving '*frank and fearless advice*' relating to best practice. We say in paragraph 2, fourth dot point, page 9 of our submission of 30 September 2022, *Proposed First Nations Justice Reform Partnership with Queensland and Federal Governments to Advance Justice Reinvestment in Queensland Commencing with Community Trials in Parallel with Treaty – Voice and Truth Telling*, attached hereto: "*That Queensland, Australian and international best practice is not being applied to resolve these systemic failures, even though this best practice is and or*



*should be known to decision makers. This raises questions relating to the quality of information flow to Ministers and or to the process of government policy development that results in best practice being ignored”.*

**12.** We respectfully suggest that any investigation should explore:

- ☐ The extent of knowledge by decision makers in QCS and Youth Justice of *best practice* in relation to the system-wide holistic approach required to reduce social dysfunction, nurture families and children, create safer communities and ensure children from disadvantaged families are not failed and/or neglected by the education system; and their knowledge of the need for application of *Restorative Justice* and *Justice Reinvestment* principles within the criminal justice system to reduce crime, rehabilitate offenders and maintain the wider community’s faith in the criminal justice system;
- ☐ In terms of *best practice*, the extent of understanding by decision makers in relation to the specific needs of First Nations people and communities in relation to *cultural authority* and *agency* to deliver services to their people. In this context, the reasons for credible proposals over many years being disrespected and or not implemented should be explored with decision makers;
- ☐ Did Directors General support to their Ministers establishment of a Justice Reform Office (JRO) as recommended in the Qld Productivity Commission’s (QPC) report of its *Inquiry into Imprisonment and Recidivism, August 2019*? *“Recommendation 2: The Queensland Government should establish an independent statutory body (the Justice Reform Office) to improve the efficiency and effectiveness of the criminal justice system. Its key responsibilities should be to:*
  - ☐ If not, given the compelling arguments advanced for a JRO in the QPC report (see paragraph 56, page 24 of our 30 September 2022 submission, why not?
  - ☐ If they did support a JRO, what was the Government’s reason for not accepting their support for its establishment?
- ☐ Was *best practice*, that would have avoided expenditure of billions of dollars on not fit for purpose and unnecessary adult and juvenile prison cells, formally communicated to relevant Ministers during the decision-making process to build more adult and juvenile prison cells?
  - ☐ If not, why not?
  - ☐ If it was, what was the compelling evidence that caused the government not to accept best practice advice? And
- ☐ In the context of *best practice*, both Qld Corrective Services and Youth Justice need to advise how did projects costing billions of dollars pass the feasibility ‘gateway reviews’ that test the appropriateness of objectives for construction projects of this scale? **Please see elaboration of this in paragraphs 46 through 55 in our submission of 30 September 2022, Proposed First Nations Justice Reform Partnership with Queensland and Federal Governments to Advance Justice Reinvestment in Queensland Commencing with Community Trials in Parallel with Treaty – Voice and Truth Telling, attached hereto.**

The issue covered in paragraph 4, fifth dot point above, relating to \$5.7 million expenditure by Youth Justice on a business case for additional unnecessary and inappropriate youth detention centre capacity is also elaborated upon in **paragraphs 46 through 55 in our submission of 30 September 2022.**

### **IF WE BELIEVE THE MATTER IS A 'ONE OFF' OR IF IT INDICATES A SYSTEMIC ISSUE**

- 13.** We believe it is a systemic issue. Paragraph 2, page 9 and paragraph 3 page 10 of our submission of 30 September 2022 referenced above state:

#### **Paragraph 2:**

The *Acknowledgement of Country* on the cover page speaks “of the generations of Elders and all First Nations people whose lives have been marred by the imposition of colonial policies which have helped to embed within the Australian justice system, a punitive spirit that has contributed to inter-generational trauma, over incarceration, subjugation of communities and child removal”. This submission speaks for these generations of First Nations people by drawing attention to:

- ☐ The awful failures in Queensland’s economic, social and justice systems that condemn First Nations people to being *commodities of the criminal justice system*, known as the *Injustice System* to First Nations people;
- ☐ The disregard for First Nations *cultural authority* and their capacity, via *Cultural Agency* to implement reform to solve the destructive economic and social issues destroying their families and communities;
- ☐ The systemic failures where a sensible balance is not achieved between, preventative primary interventions at the family and community level with the need for humane systems to control and where possible, rehabilitate offenders through *joined-up* processes with services to strengthen families and communities. This results in criminalisation of children and adults, tears families and communities apart, causes increased crime and wastes billions of dollars on not fit for purpose, ineffective operations and infrastructure within the criminal justice system;
- ☐ That Queensland, Australian and international *best practice* is not being applied to resolve these systemic failures, even though this *best practice* is and or should be known to decision makers. This raises questions relating to the quality of information flow to Ministers and or to the process of government policy development that results in best practice being ignored;
- ☐ The dreadful ‘*duty of care*’ failures within child and adult prisons that further criminalise children and adults and places lives of imprisoned children and adults and supervising staff at risk;
- ☐ The potential legal consequences for Government Ministers, Directors General and senior Operational Managers should these dreadful ‘*duty of care*’ failures result in loss of life causing scrutiny via a Coronial Inquiry and or a Royal Commission into policy, risk management and operational failures that they were and or should have been aware of; and
- ☐ The evidence of ongoing waste of public money in past and current Capital Works programs for youth and adult corrections in construction of **unnecessary and not fit for purpose** infrastructure that should be referred to the Auditor General for investigation.

### Paragraph 3

This submission deals with the need for **recognition that reform of our approach to social breakdown and crime generally is urgently required and particularly for First Nations people**, the need for **consensus** as to what should be done, the need for **architecture** to drive reform and the **strategic decisions** required to achieve desired reform.

14. In the context of systemic failure, our submission attached: *‘Proposed First Nations Justice Reform Partnership with Queensland and Federal Governments to advance Justice Reinvestment in Queensland Commencing with Community Trials in Parallel with Treaty – Voice and Truth Telling – 30 September 2022*, in paragraphs **56 through 64** deal with the issues of **Public Sector Architecture to drive reform of the Criminal Justice System in Queensland**. These paragraphs relate to the recommendation by the QLD Productivity Commission’s 2019 recommendation that: *The Queensland Government should establish an independent statutory body (the Justice Reform Office) to improve the efficiency and effectiveness of the criminal justice system.*
15. Paragraph 56 in our abovementioned submission sets out the *key responsibilities* envisaged for a Justice reform Office. Following is an extract from our submission of 30 September 2022 referenced in paragraph 14 above of **paragraphs 57 through 63**:

### Paragraph 57

*The QPC recommended JRO was a well-researched recommendation for a powerful independent statutory authority with a mandate to drive essential reform across the criminal justice sector, which would also have impacted other key government agencies. This recommendation was not implemented by the QLD Government. As far as we are aware, there has been no disclosure by government as to the reasons for this critically important recommendation not being adopted.*

### Paragraph 58

*Had it been adopted, it is highly probable that the reform model proposed in this submission would have been in place by now, given the QPC evidenced support for a trial of this First Nations reform model in its report and its proposed charter for the JRO included “lead and support evidence-based policy-making”. This First Nations reform model, as covered in the detailed proposals mentioned in paragraph 42 above is ‘evidence based’.*

### Paragraph 59

*In the absence of a JRO we have seen ongoing unaddressed failures in dealing with the primary causes of crime, lives have been lost, the failed approaches to juvenile and adult rehabilitation have continued, the ongoing huge waste of public funds on not fit for purpose infrastructure in juvenile and adult corrections, the ongoing inhumane treatment of offenders in overcrowded facilities and lack of safe, secure, therapeutic and cost effective alternatives to secure prisons for Courts to use as sentencing options.*

### Paragraph 60

*All of this reflects lack of ‘evidence-based policy making’. This failure was what the JRO was designed to prevent through its charter of “lead and support evidence-based policy-making”.*

### Paragraph 61

*We have received information that the government is proceeding with the establishment of a First Nations Justice Office and a Criminal Justice Innovation office. It seems that some of the functions of these two Offices would have been carried out by the Justice Reform Office. However, these two*

*offices are not independent and are buried in the bureaucracy at a level where their capacity to drive needed reform across powerful agencies will be extremely minimal.*

**Paragraph 62**

*The establishment of these Offices ignores the advice of the QPC above that a benefit of the Justice Reform Office is, “**Its statutory independence from government will give it greater freedom to explore options while using its relationships with the justice agencies and the community to facilitate the delivery of reform**”.*

**Paragraph 63**

*It is the strong view of the authors of this submission, founded in our professional experience and in the evidence based QPC Report, that a Justice Reform Office is the missing piece of architecture that is essential to achieve effective reform and operation of the criminal justice system in Queensland, in conjunction with government agencies with responsibility for social well-being and economic development in First Nations and other disadvantaged communities.*

**Paragraph 64**

*In submitting the recommendations below we are hopeful that after considering the above evidence, the Queensland Government will reconsider its position and act to create a Justice Reform Office with appropriate First Nations representation on its Board.*

**Recommendation 4**

*That the Queensland Government establish an independent statutory body - The Justice Reform Office - (JRO), to improve the efficiency and effectiveness of the criminal justice system as recommended by the Queensland Productivity Commission in its 2019 Report: Inquiry into Imprisonment and Recidivism; and that the resources of the First Nations Justice Office and the Criminal Justice Innovation Office are rolled up into this JRO. The JRO should have appropriate First Nations representation on its Board, desirably including an eminent First Nations person as Co-chair.*

- 16.** Should the Audit Office agree to undertake the ‘Separate Priority Audit’ we are requesting, we submit that establishment of the *Justice Reform Office* with key responsibilities as recommended by the QLD Productivity Commission is essential to achieve best practice reform (systemic change) within the Queensland Justice System and other human service delivery agencies, that need to be part of a holistic response to social breakdown and crime.

**COPIES OF ANY SUPPORTING DOCUMENTATION**

**17. The following documentation is attached:**

**Correspondence to QLD Treasury – 24 April 2020:** Proposes reform model with significant saving in infrastructure and operational costs and rehabilitation outcomes – Recommendations were not responded to.

**Documents re Interference in Due Process of Market Led Proposal:** Part 1 and Part 2 – 24 April through 18 August 2020

**Email Trail:** Letter to Editor Courier mail and correspondence with the Office of the Minister QCS February 2021.

**Power Point Presentation:** *The Perfect Storm – Catastrophic Circumstances in First Nations and other Disadvantaged Communities, Combined with Catastrophic Failures in QLD’s Criminal and Social Justice Systems* – **15 November 2021.**



**Submission:** *To the Community Support and Services Parliamentary Committee concerning The Criminal Law (Raising the Age of Criminal Responsibility) Amendment Bill by COOEE Indigenous Family and Community Education Centre et al - 29 November 2021.*

**Letter to Commissioner, QLD Corrective Services – 24 December 2021:** Summarising key points arising from two meetings with the Commissioner. **This is an important letter in the context of this request for a ‘Separate Priority Audit’, as elaborated on in page 6 below.**

**Submission:** *‘Proposed First Nations Justice Reform Partnership with Queensland and Federal Governments to advance Justice reinvestment in Queensland Commencing with Community Trials in Parallel with Treaty – Voice and Truth Telling - 30 September 2022.*

**Justice Reform Initiative (JRI):** Questions put to Department of Youth Justice. A response has not been received to date – **September 2022.**

**Note:** The Goorathuntha and Bidjara peoples 2017 Market Led Proposal (MLP) is also available if required.

## **WHETHER YOU HAVE REFERRED THIS MATTER TO ANY OTHER ORGANISATION**

- 18.** Paragraph 42 of the attached submission: *Proposed First Nations Justice Reform Partnership with Queensland and Federal Governments to advance Justice reinvestment in Queensland Commencing with Community Trials in Parallel with Treaty – Voice and Truth Telling - 30 September 2022* references proposals and submissions to Parliamentary Committees, Government Departments and to the Queensland Productivity Commission over the period 2006 through 2021 recommending achievable reform to eliminate the current wasteful, ineffective expenditure in Queensland Corrections and Youth Justice.

As stated above, these proposals, at various times, had the strong support of Magistrates, police, Directors General, senior officers in adult corrections and youth justice, Shire Councils, First Nations communities, corrections practitioners and researchers.

There have been meetings with the Commissioner, Queensland Corrective Services and the Director General, Youth Justice as follows:

### **Commissioner for Qld Corrective Services**

- 19. On 15 November:** Keith Hamburger AM met with the Commissioner, Corrective Services, who then had been in the position for about 4 months and provided him with the **attached** Power Point presentation titled: *The Perfect Storm – Catastrophic Circumstances in First Nations and other Disadvantaged Communities, Combined with Catastrophic Failures in QLD’s Criminal and Social Justice Systems.* A follow up meeting was had on **Tuesday 21 December 2021.** Both meetings were in the order of one hour and the attached presentation was discussed constructively and in detail.
- 20.** The above attached Power Point presentation provides an overview of the ineffectiveness, inefficiencies and waste driven by current policies and operations within the overall system. It deals with the terrible ‘*duty of care*’ failings in prisons and youth detention centres, the waste of public funds due to ignoring of best practice and provided the Commissioner with a plan for immediate action commencing at Slide 25. The first step in this plan was for the: *Commissioner, immediately (desirably, within days), prepares a ‘frank and fearless’ report to the Minister for Corrections outlining, his inherited, current parlous circumstances in QCS’s High Security prisons,*

*due to the failures covered in this presentation and advise of a planned approach as covered in Slides 25 through 30.*

21. On 24 December 2021, Keith Hamburger wrote to the Commissioner (**copy of letter attached**) to summarise key points arising from the two meetings. This is an important letter in the context of this request for a *'Separate Priority Audit'* in that it:
- ☐ Alerts the then recently appointed Commissioner to the need for an Auditor General's investigation into financial waste in QCS's capital works program, together with a summary of the evidence to support the need for this investigation;
  - ☐ Reiterates, from the discussions between the Commissioner and Keith Hamburger, the need for urgent action in relation to *'duty of care'* failures in juvenile and adult prisons; and
  - ☐ Provides a plan for a way forward.

Keith Hamburger is not aware as to whether the Commissioner has discussed the attached presentation and letter of 24 December 2021 with his Minister and has no knowledge as to whether the Commissioner has taken any steps to refer QCS to the Audit Office for investigation or to implement the proposed action plan or any other plan in this regard.

#### **Director General, Youth Justice**

22. A telephone conversation (from memory in the months prior to June 2021) and a subsequent meeting between Keith Hamburger AM, the Director General and two of her senior officers on 1 June 2021. These discussions covered the need to phase out existing ineffective and inhumane youth detention centres and replace them with alternative infrastructure, control and therapeutic treatment models for juvenile offenders with the benefits of reduced crime, a safer community and millions of dollars of savings.

During the telephone discussion and the 1 June 2021 meeting, the Director General undertook to discuss Keith Hamburger's views with her Minister. Keith Hamburger has not received any further feedback from the Director General, Youth Justice. Similar meetings were held with the current Director Generals' predecessors and senior officers within YJ, once again with no outcome.

#### **Meeting with Director General DATSIP and Commissioner QLD Corrective Services 15 June 2022**

23. This meeting was attended by First Nations Elders from Charleville, Augathella and Redlands regions together with Keith Hamburger and Mr Mervyn Langford, Convenor, Bardon Community Consultative Group who have been working with First Nations people and Keith Hamburger on justice system reform. The purpose of the meeting was to encourage the Director General DATSIP and the Commissioner QCS to achieve a meeting with their Ministers where Elders could make a presentation on the need for reform of the justice system as covered in previous submissions.

This desired outcome was not achieved.

#### **A Parliamentary Committee**

24. A submission to the Community Support and Services Parliamentary Committee on 29 November 2021 concerning The Criminal Law (Raising the Age of Criminal Responsibility) Amendment Bill by COOEE Indigenous Family and Community Education Centre et al, (**copy attached**) that

recommended significant reform to sentencing and rehabilitation of juvenile and adult First Nations offenders. This submission made the following recommendation:

**RECOMMENDATION No 4 – Page 16**

*That, if it is within the remit of the Parliamentary Committee, our submission is referred to the Auditor General for consideration to ascertain whether an investigation is warranted into financial waste arising from the building of secure prison cells, while ignoring more cost-effective options that were and remain available. Authors of this submission are available to provide additional information to the Auditor General to that included in this submission.*

We have not been advised as to whether the Parliamentary Committee has referred this matter to the Auditor General.

**A submission to the Hon the Premier, Ministers and their Directors General**

25. A submission to the Director General, Department of Premier and Cabinet on 30 September 2022 and on Tuesday 11 October 2022 this submission was provided to Hon the Premier, relevant Ministers and Directors General: *Proposed First Nations Justice Reform Partnership with Queensland and Federal Governments to Advance Justice Reinvestment in Queensland Commencing with Community Trials in Parallel with Treaty – Voice and Truth Telling.*

This submission made the following recommendation:

**Recommendation 3 – Page 24**

*That the assertions made in this submission relating to the ongoing waste of public money in the current capital works programs for youth and adult corrections are urgently either self-referred by Queensland Corrections and Youth Justice or by a central agency of government to the Auditor General for investigation. These assertions are founded in the evidence presented in this submission relating to incorrect specification of the objectives for these projects, departments ignoring best practice in crime prevention and offender treatment and ignoring evidence-based reform proposals.*

To date we have not received a response from The Hon the Premier, relevant Ministers and Directors General to our submission, including the above recommendation for referral of this issue to the Auditor General.

**This is an extremely urgent matter as major infrastructure projects are either under way or in the planning stage. On the evidence we have provided in our submissions, we believe that an independent investigation will find that these projects are a waste of public funds. Thus, an ‘off ramp’ needs to be urgently implemented to curtail and or redirect expenditure from these projects to best practice evidence-based initiatives that will achieve effective outcomes.**

**CONCLUSION**

26. In conclusion we feel that the following extract from Keith Hamburger’s letter of 24 December 2022 to the Commissioner QLD Corrective Services attached to this *Request for a ‘Separate Priority Audit*, provides the basis for a way forward to both obviate the need for more wasteful expenditure juvenile and adult prison cells and address the terrible ‘duty of care’ risks in adult and juvenile prisons.

*“As I indicated to you, subject to agreement by you and your fellow DG’s and the Chief Magistrate, the COOEE et al team would be pleased to provide a presentation to a meeting of these officers of a potential Action Plan that could be put in place relatively quickly. This presentation would be built around the recommendations contained in COOEE et al submission to the Parliamentary Community Support and Services Committee, that is:*

- 1. Establishing an All-Party Parliamentary Committee to oversee reforms within the criminal justice system. This will facilitate multi-partisan support for government efforts to reduce the drivers of social breakdown and crime and to significantly reduce crime (**See recommendation 9 COOEE et al submission**);*
- 2. Establishing an independent Justice Reform Committee (JRC) as an immediate first Step, that will ultimately become the Justice Reform Office, recommended by the Queensland Productivity Commission. (**See recommendations 7 and 8, COOEE et al submission**). The All-Party Parliamentary Committee will oversee the work of this Committee;*
- 3. That the JRC oversees development of Resilience Building Plans via a Working Party, in up to five (5) Trial Communities in co-design with relevant government agencies and experts in this model. In each of these communities a locally owned Not for Profit enterprise (Public Benefit Corporation PBC) with a Board of local leaders, supported by independent expert Directors, is established. This vehicle will drive restoration of cultural authority and agency in impoverished communities. Successful trials in the up to five (5) communities will allow for a roll out of the model across QLD. Consultation will occur with DATSIP for this to fall under the umbrella of DATSIP’s Local Thriving Communities (LTC’s) Model (**See recommendations 10 and 11, COOEE et al submission**);*
- 4. That the JRC, that ultimately becomes the Justice Reform Office (JRO), is charged with the responsibility for development of a long-term plan with desired Key Performance Indicators for Queensland’s criminal and social justice systems, linked to Queensland’s electoral cycle (**See recommendation 12, COOEE et al submission**); and*
- 5. Development of urgent short-term plans to reduce tension and numbers of prisoners and detainees in adult prisons and juvenile detention centres.” Note: We the authors of this submission believe that urgent attention to these short-term plans is critical avoid ‘duty of care’ failures that could lead to loss of infrastructure involving significant cost and in a worst case, loss of life.*
- 27. Representatives of the people submitting this request for a ‘Separate Priority Audit’ would be pleased to meet with Audit Office representatives and or to provide more information as may be required.*

.....





## **PRESENTATION TO PUBLIC WORKS COMMITTEE SIR DAVID LONGLAND CORRECTIONAL CENTRE PROJECT**

This presentation is the outcome of an independent review by Knowledge Consulting of the submission by the *State In-corrections Network* to the Public Works Committee of the Queensland Parliament.

The review by Knowledge Consulting supports the thrust of the *State In-corrections Network* submission and makes recommendations for a way forward.



## PURPOSE OF PRESENTATION

To propose a way forward for the Sir David Longland Correctional Centre (SDL) project, that provides for refurbishment of SDL, but utilizes the funds allocated for additional cells at that centre to provide:

- A more flexible and cost effective approach to provision of prisoner accommodation through small regional correctional centres, to complement mid to long term initiatives to reduce the prison population;
- Better rehabilitation outcomes;
- Less stress from prisoner numbers at SDL - a safer environment;
- Regional employment opportunities;





## **IMPRISONMENT RATES**

**Imprisonment rates in Queensland are a cause for serious concern, both socially and economically:**

**Australian average imprisonment rate per 100,000 adults: 155**

**Queensland imprisonment rate per 100,000 adults: 177**

**Victorian imprisonment rate per 100,000 adults: 92**

***Figures for 2004- 2005 year - Productivity Commission Report on Government Services 2006***



## **COST TO QUEENSLAND**

If, on 2004-05 figures, Queensland's daily average prisoner population of 5,329 could be reduced to Victoria's daily average prisoner population of 3,596, at Queensland's recurrent and capital cost per prisoner per day of \$197.40, the saving to Queensland Treasury would be:

**\$124.8 million per annum in Corrective Services costs alone**

**Can we think of other priorities for this money?**





## COST TO QUEENSLAND

It gets worse: *"It is projected that by 2015 the State's prisoner population will have risen from 5,400 to 7,300"*, Minister for Corrective Services to Parliament on 29<sup>th</sup> March 2006. **That is, a further \$136 million in Corrective Services costs at today's costs.**

A significant proportion of those coming to jail in 2015 will be aged 18 – 24 years. Therefore, they are currently in the age range 9 – 15 years.

**What can we do now to stop today's 9 – 15 year olds coming to jail in 2015? Will building bigger and more prisons stop this social and economic tragedy?**

**Do we want to unthinkingly follow the USA model where in the early 1990's some State's budgets for corrections equaled their education budgets?**



## COST OF CRIME

The Australian Institute of Criminology has estimated the total cost of crime to the Australian community as being in the order of:

- **\$32 billion** per year; or
- **\$1,600** per Australian per annum;

On the basis of the above, crime is costing Queensland around **\$6 billion per annum** plus considerable suffering and fear;

***Can we afford not to plan and act to reduce this enormous economic and social cost?***





## **A BUSINESS PLAN APPROACH TO REDUCE CRIME AND THE COST OF CRIME**

The Queensland Government has made commendable effort to reduce crime.

However, we argue that the approach needs to be better integrated and focused on the underlying causes of crime in specific regions and communities.

**We need a business planning approach.**



## **A BUSINESS PLAN APPROACH TO REDUCE CRIME AND THE COST OF CRIME**

Unless something is done there will be 7,300 people in Queensland prisons each day by 2015, not contributing to our economy and taking \$'s from the budget bottom line after causing massive costs to our community, including grief for victims.

**There are potential savings of \$124.8 million per annum in Corrective Services 2006 costs alone, plus much more if the total of 7,300 is achieved by 2015 to say *“lets get serious about this and develop and implement a business plan”!***





## **A BUSINESS PLAN APPROACH TO REDUCE CRIME AND THE COST OF CRIME**

In 2015 if the 7,300 people in prison prediction is fulfilled with all its associated costs of crime, the Parliament, media and community of 2015 will be entitled to ask:

**“In 2006 and earlier did the then community leaders see this train wreck coming and what did they do”?**

**Did they seek to identify the causes of this social and economic tragedy and did they act wisely to apply intellectual energy and resources to address the causes”?**



## ISSUES UNDERPINNING THE BUSINESS PLAN

*“Good social development policy is the best criminal policy”. (State In-corrections Network Report)*

This philosophy has guided Finland’s approach to criminal justice, and has delivered Finland and other Northern European countries imprisonment rates at Victorian levels and better, and less crime than Queensland.





## ISSUES UNDERPINNING THE BUSINESS PLAN

- People who come to prison between the ages of 18 and 24 years, a significant proportion of the prison population, did not suddenly become anti social at that age;
- The causal factors mostly commenced during their pre-school and primary school years;
- Most come from disadvantaged families;



## ISSUES UNDERPINNING THE BUSINESS PLAN

- Therefore the social and economic policies impacting on disadvantaged families today will determine the crime rates and prison populations 15 – 20 years from now, as the current prison population was determined by the social and economic policies of the mid 1980's and earlier;
- Prison authorities can identify the regions and communities by post code from where the majority of offenders come;





## ISSUES UNDERPINNING THE BUSINESS PLAN

- It is possible to identify the causal factors on a community by community and region by region basis;
- It is possible to identify the cost of crime on a community by community and region by region basis;
- It is possible to set targets for a reduction in these costs on a community by community and region by region basis and to measure performance against targets;



## ISSUES UNDERPINNING THE BUSINESS PLAN

- In Queensland there are some of the best thinkers in the world on initiatives to reduce crime through community and individual capacity building. A number of these people have worked on best practice programs;
- There are best practice initiatives in a range of countries around the world relevant to Queensland's needs for community and individual capacity building to improve social cohesion and reduce crime;
- There are bench marks in Victoria and in Northern Europe against which we can measure our performance;





## ISSUES UNDERPINNING THE BUSINESS PLAN

- Queensland has enormous community resources available to be engaged in community and individual capacity building programs;
- Service Clubs including Rotary – a world wide organisation that has largely eradicated polio from the face of the earth – have resources, skills and programs that could assist;
- There are numerous other community organisations who would willingly engage with government to be part of a plan of action;



## ISSUES UNDERPINNING THE BUSINESS PLAN

The Queensland Government can harness the enthusiasm of the community to assist in achieving a safer and better community through:

- Visionary leadership that sets challenging and inclusive goals; and
- A plan to reduce our crime and imprisonment rates to worlds best practice over the next 15 years with interim performance goals;





## ISSUES UNDERPINNING THE BUSINESS PLAN

Innisfail represents a physical disaster that is being solved by political leadership, by local leadership, courage, enthusiasm, planning, funds targeted to need and community effort driven by a sense of urgency.

Community social disasters in Queensland can be solved the same way.

It requires political leadership, empowerment of local leaders and action driven by a sense of urgency that engages and resources the local community to implement best practice initiatives.



## **A BUSINESS PLAN TO REDUCE CRIME THROUGH COMMUNITY AND INDIVIDUAL CAPACITY BUILDING**

We urge the Queensland government to create and resource, with a sense of urgency, a visionary, integrated community and individual capacity building program resulting in:

- Savings of hundreds of millions of dollars for Queensland;
- Safer community and a reduction in the suffering caused by crime;
- Need for less prison cells;





## SDL REDEVELOPMENT AND EXPANSION AND CORRECTIONAL CENTRES BUILDING PROGRAM

The SDL expansion component of the redevelopment project, and other proposals to expand prison cell capacity, in our view, are flawed on two major counts:

- It takes a pessimistic view that Queensland is doomed to have double Victoria's imprisonment rate for the next 30 years, the life of prison infrastructure. *We are planning for social failure*; and
- It represents correctional “*worst practice*” in moving towards larger institutions where prisoners and staff become institutionalised, safety is at risk, it is difficult to contain costs and effective rehabilitation is compromised;



## **SDL REDEVELOPMENT AND EXPANSION AND CORRECTIONAL CENTRES BUILDING PROGRAM**

We suggest that best practice in correctional centre design to support offender rehabilitation requires:

- Smaller correctional centres, perhaps in the order of 50 to 100 beds, located in regional centres with appropriate support infrastructure;
- Each centre to have a specific core program treatment focus e.g. substance abuse, sex offending, anger and behavioural problems, skills development etc; and
- Staffing models that achieve appropriate balance between rehabilitation and security needs;





## **SDL REDEVELOPMENT AND EXPANSION AND CORRECTIONAL CENTRES BUILDING PROGRAM**

The smaller correctional centre model has many advantages:

- Better rehabilitative outcomes and therefore reduced recidivism;;
- More humane and safer living conditions for prisoners;
- Improved and safer working conditions for staff;
- Greatly improved staff – prisoner interaction;
- Can be constructed quickly to meet need;
- Does not create institutional ghettos e.g. Wacol precinct;
- Creates regional employment;
- More cost effective than the large institution model;



## RECOMMENDATIONS FOR THE WAY FORWARD

### Recommendation 1

The Queensland Government commission a Task Force with appropriate public sector and external representation to develop a strategy for an integrated and focused attack on the underlying causes of crime in specific regions and communities.

The strategy to be ultimately developed into a business plan that takes account of costs and benefits, sets performance milestones and provides for local leadership and community engagement in best practice initiatives.





## RECOMMENDATIONS FOR THE WAY FORWARD

### Recommendation 2

The Department of Corrective Services be requested to prepare for consideration by the Cabinet Budget Review Committee, a cost benefit analysis of a proposal for the future corrections building program to rely less on large institutional infrastructure and to move progressively towards a range of purpose built, program orientated small institutions located in regional areas.



## RECOMMENDATIONS FOR THE WAY FORWARD

### Recommendation 3

The refurbishment of SDL proceed, except for the expansion by 216 cells. The decision to expand the cell capacity be held in abeyance and reconsidered in the light of the cost benefit analysis proposed in Recommendation 2 relating to small regional correctional centres.





## RECOMMENDATIONS FOR THE WAY FORWARD

### Recommendation 4

Should the cost benefit analysis in Recommendation 3 support our contention that small regional correctional centres are more cost effective than large Brisbane based institutions, then the funds appropriated for the additional 216 cells at SDL be reallocated to build two small regional correctional centres to pilot study best correctional practice.



## **PRESENTATION TO PUBLIC WORKS COMMITTEE**

***THANK YOU FOR THE OPPORTUNITY TO MAKE OUR  
PRESENTATION***

***State In-corrections Network and Knowledge Consulting***