LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

Members present:

Mr IM Berry MP (Chair)
Miss VM Barton MP
Mr WS Byrne MP
Mr SK Choat MP
Mr AS Dillaway MP
Mr TJ Watts MP
Mr PW Wellington MP

Staff present:

Mr B Hastie (Research Director)
Mr G Thomson (Principal Research Officer)

PUBLIC HEARING—YOUTH JUSTICE AND OTHER LEGISLATION AMENDMENT BILL 2014

TRANSCRIPT OF PROCEEDINGS

MONDAY, 3 MARCH 2013

Brisbane

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Committee met at 9.03 am

Bartholomew, Mr Damian, Deputy Chair, Children's Law Committee, Queensland Law Society

Brown, Mr Ian, President, Queensland Law Society

Dunn, Mr Matthew, Principal Policy Solicitor, Queensland Law Society

CHAIR: Good morning. I declare open this public hearing for the examination of the Youth Justice and Other Legislation Amendment Bill 2014. Thank you for your interest and your attendance here today. The Legal Affairs and Community Safety Committee is a statutory committee of the Queensland parliament and, as such, represents the parliament. It is an all-party committee that adopts a non-partisan approach to its inquiries. Before proceeding further, I would like to introduce the members of the committee present today. I am Ian Berry, the member for Ipswich and chair of the committee. Present with me today is Miss Verity Barton, the member for Broadwater; Mr Bill Byrne, the member for Rockhampton; Mr Sean Choat, the member for Ipswich West; Mr Aaron Dillaway, the member for Bulimba; and Mr Trevor Watts, the member for Toowoomba North.

Today the committee will hear evidence on the bill from a number of invited organisations and the Department of Justice and Attorney-General. I wish to stress that the committee is undertaking its examination process on behalf of the parliament and has as yet made no recommendation nor put forward any proposals. The committee's proceedings are lawful proceedings and are subject to the standing rules and orders of the Queensland parliament. I ask all people present to turn off mobile phones or put them on silent mode. In the unlikely event that there is a need to evacuate, please follow staff directions. Members of the public are reminded that they are here to observe the hearing and may not interrupt the hearing. In accordance with standing order 208, any person admitted to this hearing may be excluded at the discretion of the chair or by order of the committee. Representatives of the media may attend and may record the hearing.

Moving to consideration of the bill, I now welcome representatives from the Queensland Law Society. Good morning and thank you for coming here today, Mr President in particular. I begin by asking if you object to being filmed or recorded by Hansard and the media, and can you confirm that you have read the guide for appearing as a witness?

Mr Brown: No objection and, yes, I have read the guide.

CHAIR: Thank you very much. Can you please introduce yourselves, speaking clearly for Hansard, and make a short opening statement if you wish. The committee will then ask you some questions. I make the comment that we have adopted a procedure to try to hear as many people as we can. It is a fairly important issue and, as a result, opening statements do decrease question time. Keep that in mind. Mr President, would you like to begin?

Mr Brown: Thank you, Mr Chair, and I thank the committee for inviting the Law Society to address you today on the Youth Justice and Other Legislation Amendment Bill 2014. At the outset, I congratulate the government on undertaking a process of consultation in relation to this very important piece of proposed legislation. I will make some very brief opening comments. I have with me Mr Matthew Dunn, who is a senior policy officer at the Queensland Law Society, and Mr Damian Bartholomew, who is the deputy chair of our Children's Law Committee.

The Law Society has a policy position on youth justice. This position was based on our view that the youth justice system should operate differently to the adult criminal justice system. Young people are more vulnerable and are less cognitively developed than adults and thus should be treated differently from adults. As such, the offending of young people must be viewed and addressed differently than adult offending behaviour.

Mr Bartholomew: The committee notes that the government's aim is to introduce a comprehensive and broad review of Queensland's youth justice system aimed at promoting the rehabilitation and accountability of young offenders, while better protecting the community from recidivism. The Queensland Law Society supports the government's initiatives. However, a focus on early intervention, crime prevention, restorative justice, justice reinvestment and rehabilitation of young offenders will lead to better protection of the community. The evidence shows that these measures are more effective at reducing recidivism than implementing harsher penalties for offending, which have only very little general deterrent effect. We also consider that in the long-term it is beneficial to ensure that young persons are supported to refrain from committing further crimes and become more productive citizens of the community.

We would like to comment only on a few aspects of the bill. These include the creation of the new offence of breach of bail, allowing a court to access youth criminal histories in adult sentencing matters even if a conviction has not been recorded, the removal of the prohibition of publication of identifying information about a child who is not a first-time offender, the removal of the prohibition of Children's Court proceedings for youth justice matters being held in closed court for repeat offenders and the provision stating that the court must not have regard to any principle that a detention order should be imposed as a last resort. If time permits, we can today discuss the automatic transfer of 17 year olds to an adult correctional centre, the removal of the court's power in relation to a breach of a boot camp order, mandatory sentencing for recidivist motor vehicle offenders as proposed and the comments in relation to youth boot camps made by Judge Shanahan.

CHAIR: Thank you. In terms of the motor vehicle one, we might leave that. It is rather debating something which is not yet before us. We will anticipate that coming forward. Perhaps I might start. I am interested in asking whether you think there is a link between detention and recidivism. When you take into account that detention orders decrease by 38 per cent, yet the number of charges increased by 9.7 per cent, do you have any take on that at all?

Mr Bartholomew: What we do know is that young people who go to detention are more likely to return to detention and, indeed, more likely to enter the adult criminal justice system. So sentencing young people to detention actually increases the likelihood of them returning to detention, of them entering adult jail and, of course, that means provides less protection to the community.

CHAIR: That is the issue, isn't it: is it cause and effect or a correlation? I do not know that I necessarily accept that as a premise, but I understand the position from which you are coming. Certainly I have spoken to shopkeepers, shop owners and chemists in the area of Ipswich, and this is as of Friday. One of the difficulties is that we get repeat offenders who come in, steal and visually hang around the mall. The police are really reluctant to do anything about them, for the small items and so forth. How do we stop that? How do we send a message to young people that you cannot continue to repeat offend?

Mr Bartholomew: Certainly the Law Society also wants to see a decrease in youth offending. Certainly that is the aim of the society as well. What we want to see is better investment in the community, those programs that are shown to work, providing better support for young people, looking at the cause as to why they are committing those offences and providing support to them to ensure that they do not commit further offences. Of course, that can be through more effective rehabilitation programs, by having appropriate services available to the community and to their families in the community.

CHAIR: Do you accept as a proposition that not everybody will react to programs, that there will be a proportion of young people, of youth, who will continue to repeat offend?

Mr Bartholomew: I think what has been shown is that the vast majority of young people who interact with the court system do not come back into the court system after a period and certainly most of them do respond very positively to the interventions that are provided. What we are also very aware of is that young people who are presenting in the youth justice system are, indeed, very young. Their brains are still developing and, indeed, they may not initially respond to some of those interventions but, as they grow and mature, they are able to absorb that assistance.

CHAIR: I accept that. I was perhaps picking up the keyword of 'most'. That is our problem: there is a certain percentage of young people—and we can sit here and debate the percentage—who will repeat offend. I know you have spoken about rehabilitation and I accept that, but deterrence is probably what we are debating here today as well. Whether it be 10 per cent, we are not reaching a certain percentage of people. In fact, they do not consider the judicial process as being particularly meaningful to them. There is no impact; they do not go to jail or detention.

Mr Bartholomew: Certainly, the current bill before parliament does not address that very discrete group of continuous reoffenders who perhaps are not effectively engaging in programs. It is a very broad response, this bill, in terms of anyone who is a repeat offender. So if someone has committed a shoplifting offence and comes back for a second offence, then the full impact of this legislation applies to them. Certainly there are a discrete group of young people for whom more intensive support does seem to be required and, indeed, putting more support and more programs in to respond to that group is something that the society is interested in.

CHAIR: You have correctly pointed out that this legislation is dealing with repeat offenders. Really, that is the thrust of what we are trying to do. Let us talk about closed courts, for instance. I know the Family Court has, in my time, been closed and then it was open and then closed and then it was open. Effectively, there are reasons as to why courts are open. It is trite for me to say, but transparency is a big factor. Young people might understand a little more of the process. Are there any other jurisdictions that have open courts to do with children?

Mr Bartholomew: There are other courts. Victoria does have an open court. However, most Australian states do not have an open court. That is largely because of the very personal nature of information that is coming before the Children's Court, so we know that young people who are appearing in the Children's Court are often our most disadvantaged young people, often they are young people intersecting with the child protection system, often they have been victims of crime themselves and one of the things that the society is aware of is that young people are the people who are mostly likely to be victims of offences in the community.

CHAIR: I accept all that, but ultimately there is a balance in the sense that I know parenting and a lot of factors influence youth and we do not all have an equal start in life. I appreciate that. But at some point in time you have to say to the shop owners and the people killed in motor vehicle incidents involving young people—and we have heard all the stories, we have seen them in the papers—at some point, do you agree that there has to be a deterrence factor?

Mr Bartholomew: And there is a general deterrent factor that already exists within the Youth Justice Act. So it is certainly not the situation that there are not situations where young people can be named currently under the Youth Justice Act. It is certainly not the position that young people cannot be sent to detention under the current Youth Justice Act. Indeed we have two detention centres which are very full, unfortunately, on many occasions.

CHAIR: Eighty per cent, I think somebody quoted.

Mr Bartholomew: A lot of young Queenslanders are going through the detention centres. It is certainly not that that does not exist in Queensland, what we are saying is that that should not be the first or second recourse.

CHAIR: At the moment it is last, whatever that means. There are certainly seven or eight courses they have to go through to get there.

Mr WATTS: Mr Bartholomew, you mentioned the Victorian system. Is there judicial discretion to close the court in those hearings if the judge felt it was necessary?

Mr Bartholomew: I am sorry, I am not familiar with the Victorian system. I anticipate that there is, but I am not sufficiently familiar to be able to answer that question.

Mr WATTS: Assuming the judge had the judicial discretion to close the court for a hearing, would that change your view on whether or not a hearing should be public?

Mr Bartholomew: There is already, of course, a provision within the Youth Justice Act that does allow other interested persons to be able to attend at court, certainly there is that discretion for a judicial officer. In the Children's Court of Queensland—in the higher court—for those more serious matters, we already have an open court system. So it is only matters before a magistrate where it is a closed court system. There is already discretion currently within the act for that to happen.

Mr WATTS: So there is discretion for the court to be open? I guess what I am suggesting is that if the normal course is that it is open but there is discretion to close it is that not similar in nature? Now we have handed it to the judiciary to decide whether it should being closed.

Mr Bartholomew: I think one of the complicating factors from the Law Society's point of view is that for our members, who are then appearing in court—and given the vulnerability of children and the likelihood of sensitive matters being presented before the court—there is an onus upon the young person or their families to disclose that information and indeed then for members of the profession to make those applications in the Children's Court. It then elongates a proceeding and can certainly delay those matters if on every occasion for every duty lawyer matter in the Children's Court solicitors have to make applications for a court to be closed. You can see that those matters are going to go on for some time.

Mr BYRNE: Of the suite of legislative changes that are being proposed by the government, can you advise us whether similar provisions already exist in any combination in any other jurisdiction?

Mr Bartholomew: No, not that I am aware of. Certainly there is no other state in Australia, that I am aware of, that does not have detention as the last resort. Certainly, of course, we are the only state in Australia where 17-year-olds are treated as adults in the criminal justice system. In any of the other states in Australia there is not a presumption on publication. I am not aware of any other state in Australia where children's criminal histories are admissible against adults.

Mr BYRNE: I note the comments from the chair earlier about the Townsville specific piece that was flagged in the department's legislation. Given that this will be the only opportunity I will have to talk to you about this matter before it ends up in the House, I imagine, in relation to the suggestion of a Townsville specific notion of mandatory sentencing for vehicle offences, are you aware of any similar provisions that punish offenders disproportionately because of a geographic region where the offence is committed?

Mr Bartholomew: I am not aware of that either in a children's court or an adult court. I am not aware of any mandatory penalties being imposed in relation to children. There were some mandatory penalties in the Northern Territory, but, as a result of intervention by the federal government, they were removed.

CHAIR: Just on that point, boot camp is the mandatory aspect of it, as I understand.

Mr Bartholomew: Of course, we have not had the benefit of any consultation in relation to that, other than the statements made by the Attorney.

CHAIR: I only raised it. I did not think you would want to go into legislation that we are not really dealing with.

Mr CHOAT: Mr Bartholomew, this morning we were discussing—and I also saw it in your submission—that one of the key issues is the vulnerability of young people and their cognitive development. As a parent of children who range in age from two to 16, I certainly understand that. I am sure most people in the room would understand that also. I am curious as to whether there is a position that your organisation would take as to at what age a young person reaches the level of maturity to understand what they are doing and perhaps the ramifications of that?

Mr Bartholomew: I suppose the Law Society is informed by evidence in relation to brain development. We are guided by the research in that area. What we do know is that brains are still developing until young people are 25. We know that there is significant development in terms of brain development and capacity still going on for young people even in their late teenage years. The Law Society is guided by evidence in relation to that.

Mr CHOAT: In terms of a more basic position, in your view at what age does a child know right from wrong?

Mr Bartholomew: Again, I do not think that you can say that there is a particular age. I think that is what the evidence would say. One of the things that we also know about young people who are appearing in the youth justice system is that they do tend to be more developmentally delayed than most of the population and that they are more likely to have some sort of disability or some sort of learning difficulty. The young people who are appearing in the youth justice system are perhaps the most immature of young people in that age group. There is not a specific age.

The law obviously does put some parameters around an age of criminal culpability. So in Queensland our age of criminal culpability is 10. There is the rebuttal presumption that is contained within section 29 of the Criminal Code until the young person turns 14.

CHAIR: In a practical sense today, do you know the age of offenders in youth detention centres?

Mr Bartholomew: I cannot say to you that I have had a look at a bed stay lately, but I am aware of young people as young as 11 being held in youth detention centres. I am aware that there are—

CHAIR: In fact, I have even heard 10.

Mr Bartholomew: Of course, that is within the scope of our legislation, unfortunately.

CHAIR: The oldest?

Mr Bartholomew: My knowledge of that is not as current as it perhaps once was, but I certainly know that there are 17-year-olds in there.

CHAIR: What if I suggested to you that there are 20-year-olds.

Mr Bartholomew: I am not aware recently of there being a 20-year-old. Certainly there has always been the capacity for the detention centre, whichever department it happened to be, to make an application to the court in the event that they felt it was appropriate for a person who had turned 18 to be transferred to the adult prison. There has always been the possibility for the detention centre to make that application. There is already existing the discretion for a judge or a magistrate, who is sentencing a 16-year-old whose offence will go past their 18th birthday, to order that automatic transfer at the time of sentencing.

CHAIR: Does the same argument apply, though, to this? If you have a 10-year-old with a 20-year-old, is that not a similar argument to a young person going to a prison where there are hardened offenders? I am trying to think where the difference is? Having a 10-year-old with a 20-year-old in a youth detention centre concerns me, does it concern you?

Mr Bartholomew: Certainly it would be of concern if they were to be held in the same section. Management of the detention centre is the issue—that is, being effective managers and being able to respond to that. We have 10- to 20-year-olds residing in the same homes in families. In the same way, all of those issues need to be managed. That is about effective management. We certainly have a disparity of ages. We currently have 17- to 25-year-olds being held in prisons with older offenders. So all of those things are obviously something that—

CHAIR: Are a management thing, as you have said.

Mr Bartholomew: A management thing.

Mr BYRNE: Referring to page 2 of your submission, which kinds of organisations operate in the bail assistance support programs that you recommend be expanded? How do those program work, briefly? Have you got any appreciation of the costs associated with those?

Mr Bartholomew: Yes, I am very aware of the Youth Bail Accommodation Support Service because it is located in the same organisation where I work. That service is a two-person model. It provides brokerage and assistance. It identifies the risks that young people face in terms of accommodation and why it is they are not able to locate. They are able to provide intervention in terms of material support to ensure that young people are able to be accommodated but also other support such as psychological assistance and counselling for families who are having difficulty maintaining young people in accommodation and the tensions that might be within that environment. They have been evaluated a number of times now and are trying to be an extremely cost efficient service.

CHAIR: Have you got any data in terms of the recidivists that we have been talking about—repeat offenders? Are they able to have an impact on them at all? If they do—

Mr Bartholomew: The purpose of a bail accommodation service of course is not to address recidivism. The purpose of that is to ensure that a young person is properly accommodated so that they do not reoffend due to a lack of accommodation.

CHAIR: I thought you said there was psychological counselling.

Mr Bartholomew: That is about maintaining that service. Obviously when a young person is offending or when a young person is alleged to have offended that can cause tension within a family environment. Sometimes the reason a young person does not have accommodation available to them is because of tension within the family. So being able to provide counselling services to be able to maintain that and to assist parents or whoever is providing that accommodation to better understand and maintain those young people is also very important.

A bail accommodation service does not exist in isolation. It exists in conjunction with other services that are being offered to a young person. Quite often a young person who is accessing a bail accommodation service can also be subject to a Conditional Bail Program and receiving assistance from the youth justice service centre. It does not exist in isolation. What we do know is that the Conditional Bail Program that is run by the Youth Justice Service has also been evaluated and been shown to be very effective intervention.

Mr BYRNE: How do you think removing the sentencing as the last resort element of this legislation will interact with the emphasis on rehabilitation that will still sit within the sentencing guidelines?

Mr Bartholomew: Obviously that will be a very difficult juggling act for judicial officers to have to consider. The principle of detention as a last resort is not something that just occurred in our legislation. It is something that has developed in common law over many years—looking at the

vulnerability of young offenders and the consequences for young people should they be sent to detention. It will be a very difficult exercise for judicial officers to have to determine. I expect it will elongate proceedings in the Children's Court.

CHAIR: I think you partly answered the question. Having said that, what you are saying is that, firstly, judicial officers still have that as a basis upon which they will sentence. They could still have last resort as part of their sentencing process, if they so wished? It is a matter of what programs are available and what the offences are?

Mr Bartholomew: I am not sure. The legislation specifically says that a judicial officer cannot consider the principle of detention as a last resort. They obviously have the other factors contained under section 150 of the Youth Justice Act to consider. Balancing those up will obviously be a difficult exercise, but they cannot specifically rely upon a principle that detention should be a last resort.

CHAIR: But you have just said that the common law exists, and basically what the previous legislation did was effectively statutorily embed the common law into the act.

Mr Bartholomew: Essentially what this is saying is that the common law principle cannot be considered. As I read it, I think it is certainly open to interpretation by an officer that they cannot consider the common law principle.

Mr WATTS: Just to clarify that point: at the moment if a judge feels that incarceration is the best option they actually cannot do that without going through certain steps. Would that be correct?

Mr Bartholomew: No. What a judge or judicial officer is required to do is to look at all of the facts and consider the principle of detention as a last resort. However, there certainly are instances where young people who are first offenders have been sentenced to detention because of the seriousness of their crimes. So there are a series of factors that have to be weighed up by any judicial officer in making a sentence.

Mr WATTS: So if it was not a serious crime but a crime that has been committed several times, I am just trying to get an insight into what the judiciary would do at the moment. Would they step through a process before it would step up to incarceration? Is that what you are saying?

Mr Bartholomew: It is not a strict ladder system. I think there are certainly decisions that have been made by the judges to say that we should not consider this to be a ladder system within the Youth Justice Act. So all of those sentencing factors are required to be considered—one of them being the principle of detention as a last resort—but that does not mean, as I have indicated, that a judge or a judicial officer cannot consider detention on a first occasion. They must, however, be mindful of the principle and be satisfied that there is no other alternative appropriate option for that young person, having considered all the factors within the Youth Justice Act including the importance of rehabilitation.

Mr WATTS: But given the change they can still do that. It is just that it does not have to be a last resort.

Mr Bartholomew: No. The concern, of course, is that detention as a last resort may be an option that a judicial officer—we know the dangers of young people being sent to detention and the fact that that may increase the likelihood of them reoffending and that that will have lifelong consequences for them. So certainly the Law Society's concern is that removing that principle means that judicial officers may be called upon to sentence more young people to detention.

Mr WATTS: But they have the discretion not to.

Mr Bartholomew: Of course it does not remove the discretion for them not to do that. However, the principle of detention as a last resort—which is not something, as I have indicated, that simply existed within the legislation; it is something that has been considered for many years by many courts and is part of our common law—will no longer be something that they could have regard to.

CHAIR: We will read the results of the Court of Criminal Appeal in due course, I daresay. Thank you very much. That concludes the committee's questions. Mr Brown, Mr Bartholomew and Mr Dunn, thank you very much for your attendance today and for making your contribution to our process.

Mr Brown: Thank you.

ALLEN, Ms Louise, Government Relations Manager, Amnesty International Australia

CHAIR: I now welcome the representative from Amnesty International Australia. Good morning and thank you for coming along today. Can I begin by asking if you object to being filmed or recorded by Hansard and the media and that you confirm that you have read the guide on appearing as a witness? They are two questions that you need to address. Are you happy to be filmed?

Ms Allen: Yes, I am and I have read the guidelines as well.

CHAIR: Can you please introduce yourself, speaking clearly for Hansard, and then please make a short opening statement if you wish to do so? The committee will then have some questions for you.

Ms Allen: Good morning. My name is Louise Allen. I am the Government Relations Manager with Amnesty International Australia. On behalf of Amnesty International Australia's 312,000 supporters, 40,000 of which live in Queensland, I would like to thank the committee for inviting me to appear before you this morning. I would like to begin by acknowledging the traditional lands upon which we meet, the lands of the Jagera and Turrbal people.

Ensuring community safety we believe is an important responsibility of any government. Every member of the community has the right to feel safe in their community and in their own homes. However, we also believe that it is imperative that the government implement measures that tackle the root causes of crime and not impose punitive measures which will only exacerbate the problem.

As outlined in our submission, Amnesty International holds grave concerns about the measures contained within the Youth Justice and Other Legislation Amendment Bill. We urge the committee to consider the serious and long-term detrimental consequences this bill risks having on the lives of at-risk young kids. We urge the committee to review the overwhelming evidence which all points to the ineffectiveness of the proposed measures and to consider the submissions to this inquiry, all of which are unanimous in voicing their concerns to the bill. We urge in the strongest terms for the committee to recommend that this bill not be passed and as a minimum that the bill be delayed until the youth justice blueprint has been developed in collaboration with youth and legal experts.

In considering the appropriateness of this bill, Amnesty International also encourages the committee to review the existing research in the Northern Territory which points to the territory's failed experience in deterring repeat young offenders through naming and shaming them. Naming and shaming will be detrimental to the rehabilitative prospects of young offenders which we believe should still be the priority when dealing with young people who commit crime. Amnesty International is also concerned with any measures that would see an increase in the number of young people being incarcerated. This includes the proposal to remove detention as a last resort, bail offences and the automatic transfer of 17-year-olds to adult correctional facilities.

In justifying the segregation of alleged members of outlaw motorcycle gangs from the rest of the adult prison population, Attorney-General Bleijie has repeatedly stated that gang members use their time behind bars to recruit new members and therefore have to be separated from the general prison population. This concern for recruitment and exposure to further criminal behaviour seems to be lacking in the automatic transfer of 17-year-olds to adult prisons.

Since the 19th century the widespread practice has been to separate children from adults in correctional facilities to avoid the risk of children becoming exposed to hardened criminals. We are puzzled that the Queensland government is concerned about the recruiting and influencing abilities of gang members but fails to apply similar concerns to susceptible and sometimes vulnerable 17-year-olds being sent to adult facilities. We are also concerned that, with 60 per cent of youth in Queensland detention being Aboriginal and Torres Strait Islander, the punitive measures in this bill will likely disproportionately impact on Indigenous young people.

I would like to conclude my statement by reiterating Amnesty International's three main recommendations to the committee: one is that the bill not be passed; the second is that the Queensland government work alongside the relevant youth justice and legal agencies to further develop the blueprint for youth justice which reflects the substantive Queensland based research that has been developed over the years; and the third is that the Queensland government implement, in consultation with Aboriginal and Torres Strait Islander people, culturally appropriate initiatives aimed at reducing Indigenous youth incarceration rates. Thank you. I am happy to take any questions if you have some.

CHAIR: Thank you. I think the member for Rockhampton would like to go first.

Mr BYRNE: Ms Allen, thank you for your submission. We may be going over ground that is reflected in your submission already, but I want to get it on the record in a succinct fashion. Can you give an opinion with regard to how these amendments address the amount of youth crime being committed by young people, particularly repeat offenders, where the major focus of the bill tends to be leaning towards punishment rather than rehabilitation?

Ms Allen: We think that rehabilitation is the primary goal in addressing young offenders. It is outlined not only in the UN Convention on the Rights of the Child but also the administrative rules known as the Beijing rules that, as the Law Society has spoken already, children should not be treated in the same way as adult offenders, and the overwhelming research is that deterrent measures are not effective in curbing recidivism amongst young offenders. So we would encourage the Queensland government to be considering the wealth of evidence that is out there and work alongside the experts who have been working in youth justice across the state.

Mr BYRNE: My next question is about some of the provisions. How helpful do you think it would be for sentencing courts to have access to childhood findings of guilt without conviction, especially considering the types of crimes for which a conviction is not recorded?

Ms Allen: As we have outlined in our submission, this violates international best practice and international human rights law, which stipulates that the privacy of the child needs to be maintained. In fact, the Committee on the Rights of the Child suggests that jurisdictions should go even further and that all children's records should be wiped when they turn 18. My question to the committee is that I do not see how recording convictions will actually detract a youth offender if this is a consideration that will only take place once they are an adult. It is not going to curb their behaviour as a 15-year-old or as a 16-year-old.

CHAIR: I just want to take you to that. I understand what you are saying, but effectively when this person is an adult it is for the judicial officer to understand. How else can a judicial officer frame and craft a sentence for this young man or young woman unless they know what offences they have committed? I know that when all of us think about youth we think of people who are misguided, of bad parenting and so forth. I have been to a school where there was a 12-year-old boy who raped two girls. He must go to school, so they have him in a room by himself and he is looked after by a teacher all day. Wouldn't a judge need to know that? You are saying, 'No. It is expunged.'

Ms Allen: There are already provisions within the law where judges can have access to offences where convictions have been recorded. I think there is a difference between a young offender who has raped two women and the type of offence we are dealing with where a conviction is not recorded. I do not think we can put the two in the same category.

CHAIR: I understand what you are saying but that was a question of degree. Now let's get to something where in fact a judge would think that he ought to know of a conviction and yet because the conviction was not recorded he will never know. Do we not believe that our judicial system is mature enough for a judge to know that?

Ms Allen: The underlying principles that we have seen both at the international level and in most jurisdictions in Australia are that when dealing with young people rehabilitation should be the most important thing that we put forward. Carrying over a conviction from the time they are a juvenile into their adult life limits their employment prospects and also limits their ability to have a positive contribution to society.

CHAIR: But an employer will not know about a person who does not have a conviction recorded against them.

Ms Allen: But there is also the opportunity of rehabilitation though.

CHAIR: Indeed.

Ms Allen: Central to our submission and to the submissions of a lot of other organisations—and this is the central concern with the measures that we have outlined—is that there is no evidence of deterrence, that having the availability of a conviction is going to deter a young offender from recidivism.

CHAIR: Sure. But our judicial system is based on rehabilitation. We do not know the measure or the degree of rehabilitation and protecting the public and deterrence. That is for judicial officers and parliamentary officers to decide; isn't it?

Ms Allen: But there are already measures in place where it is a serious crime for a sentencing judge to be able to have access to that information.

CHAIR: I put this scenario to you because it is a factual scenario. I have been to businesses in a mall situation where there are young people continuously offending. They unashamedly go in and steal and you see them back there the next day. They are on a first name basis with the police, yet nothing really happens. The public have to have some faith in our system, that it is working. Are they not entitled to some protection by relying on deterrence for repeat offenders?

Ms Allen: As I said in my opening statement, it is absolutely imperative that members of the public feel safe, that their businesses are not broken into and that they do not bear the consequences of theft. I think that there are two issues in place. But in terms of the deterrence measures that are being introduced in this bill, there is no evidence pointing to the fact that harsher measures are going to deter repeat young offenders.

In fact what we are seeing—and there is evidence spanning different jurisdictions across Australia and in the States as well—is that the younger a person is when they come into direct contact with the justice system, the more likely they are to reoffend and be reincarcerated. I really would like to put the emphasis—and what is lacking in this bill—on any of the diversionary programs. The Attorney-General is quoted as having said that the Queensland government is—

... cracking down on dangerous, repeat young offenders but also helping at-risk young people finding a better path in life.

While this bill contains a lot of punitive measures, I have not seen any of the other components of which he speaks, which are aimed at early intervention and diversionary tactics to ensure that kids who are offending at an early age do not go through this revolving door that everybody is trying to fix.

CHAIR: The evidence seems to be that youth crime is lessening, but at the same time the evidence seems to be that there are more charges and more convictions, but fewer people. Which means, by inference, that there is a lot more recidivism, and that is the issue. We have that certain percentage out there who all of that rehabilitation is not really helping. I am sure the courts go through all of the programs that are available, and there are quite a few. Do you have any response to that?

Ms Allen: I agree with those statistics, and studies both in the States and in Australia have found that. For instance, there were two studies conducted in America in 2006 which found that between 60 and 70 per cent of young offenders who served a custodial sentence will re-enter a detention centre within three years of being released. I think we agree here, but what I am suggesting is that harsh intervention methods are only going to increase recidivism.

What we know—and what youth and legal experts keep writing about and what their research keeps showing—is that there needs to be early intervention and diversionary programs. It is that moment where the child first appears in court that needs to be avoided. I would like to take this opportunity to again express our disappointment, for instance, that state-wide youth court conferencing was disbanded despite this being, from all accounts, a very successful program in getting both victims and young offenders in the same room together.

CHAIR: In summary, you are saying that if we do not send any young people to jail or detention, whatever the case may be, then they will not repeat offend. That is the impression that I am getting from what you are saying; in other words, there is no deterrence at all. It is all rehabilitation and no deterrence; is that what you are saying?

Ms Allen: Most young people should not be going to jail. In the example that you mentioned before about the young man who raped the two women—

CHAIR: Two girls.

Ms Allen: Two girls. I mean, that is not the type of offence that we are mainly dealing with. Statistics show—

CHAIR: No, but the other example are the ones that just simply go into shops, take what they want, come out, the next day go into the shops, and by the time you get the police there they are gone. The police say, 'Oh, it's too much trouble.' That is the concern as well. You have both spectrums, and that was the point I was making. As I see it, from your position there is not anything in this bill—not anything—that is productive, even though we are saying open the courts up and let us make children's courts a lot more transparent so that young people understand what causes them to get there.

Ms Allen: But let us look at the situation in the Northern Territory. That is the only jurisdiction in Australia that has a naming and shaming policy in place, and research is already finding that not only does it have detrimental impacts for the young person, but it also has no deterrent value.

CHAIR: We are talking about a very small community of Indigenous people who consider that going to court is a badge of honour, are we not?

Ms Allen: The UK had a naming and shaming policy for over 10 years, and in 2010 they abandoned that policy because they realised that it was not working. Other jurisdictions have tried these measures, and we urge the committee to look at the evidence that is coming out of both the Northern Territory and different international jurisdictions.

Mr WATTS: I just want to take you back to the ability to be able to bring in previous offences. I am interested to understand why a judge should not be able to consider a repeat offender's offences if no conviction has been recorded. I have great confidence in our judiciary's ability to be able to accept that information as part of their process in deciding what is now the suitable sentence. I am wondering why you do not have that confidence in the judiciary to be able to use that information.

Ms Allen: There are two reasons: one is that we think that the court already has systems in place where it can consider serious crimes; and secondly, we do not see how this is actually going to impact on current youth crime rates. I do not see the link between that as deterrence where there is again no evidence pointing towards it. How is that actually going to address the behaviour of a 14 or 15 year old?

Mr WATTS: I guess my question is: to give the judge the ability to see that information when sentencing, why do you think the judge should not see that information?

Ms Allen: Because it undermines every international best principle that has been established. When dealing with young offenders—and I know I sound like I am going on about the same thing here—but rehabilitation is the most important thing that a government can be doing and be addressing when dealing with young offenders. For a conviction not to be recorded, we are talking about crimes that are not that serious. They are not violent or—

Mr WATTS: I put it to you that if the objective is rehabilitation, if a conviction has not been recorded and there have been certain levels of rehabilitation and that is not working, should the judge not be able to see that that is not working when considering the sentence that is appropriate for the offence in front of him?

Ms Allen: But as we outlined in the submission, even the explanatory note acknowledges that this is in direct contravention of, for instance, the Beijing Rules and the United Nations Convention on the Rights of the Child. These principles are established based on well researched evidence to ensure the best practice for the child.

Mr WELLINGTON: Thank you for your submission. I hope it is not traumatic. You are doing well; great job there. In your submission you talk about—

> The proposed amendments ... breach international human rights standards relating to the fundamental rights of the child.

I know there are some African countries that have no regard whatsoever to international conventions and the rights of children. Can you give any advice or comment on what you understand the level of compliance is in Australia or the western world or the countries that we see as democratic countries that sort of look after children and human rights? Would you like to take it on notice and do some research perhaps?

Ms Allen: No, I can answer, but I certainly do not want to be seen to be comparing Queensland to African nations, which have their own set of challenges which we regularly monitor. Australia is a signatory to the Convention on the Rights of the Child, as it is a signatory to all other major international treaties. A number of issues continue to be recommended that are Queensland specific. The youth of the 17 year old, for instance, is an issue that is systematically criticised by the UN as breaching fundamental international human rights practices. The removing of the last resort, for instance, directly goes against the best principle for the child. We know that the moment a child goes into detention, that is going to open up the revolving door and they are going to become more and more entrenched in a life of crime.

Mr WELLINGTON: If it is the case that the Newman government goes down this road, what message do you see that sending to the international world about Queensland and what is happening in Australia?

Ms Allen: We would be very concerned, and that is why we again urge the committee to recommend that this bill not be passed or that it at least be delayed. We would like to see an evidence based approach to youth justice. I am not sitting in front of you saying that I have got any of the answers or all of the answers, but what I do know from our assessment of this bill is that it contravenes international best practice and international human rights principles.

CHAIR: I will put this to you fairly, because it was put to the Law Society. You mentioned 17 year olds going to prison and so forth. One of the difficulties is that you have got 22 and 23 year olds in youth detention centres, and I think the evidence that I have heard is that they can be as young as 10. I think there might be a 10 year old in there now. What do you say about leaving 22 and 23 year olds in youth detention centres?

Ms Allen: No, absolutely not, and I agree with the answer put forward by the Law Society. We have been very active in criticism. In Western Australia, for instance, after a riot in January last year at the Banksia youth detention centre, over 100 youths were transferred to the adult prison and there was minimal separation between the juveniles and the adults. We were very concerned about that. The Beijing principles are explicit in the fact that juveniles need to be separated from adults. The same would go that a 20 and 22 year old needs to be separated from a 10 to 13 to 15 year old, but that is about detention facility management.

CHAIR: You accept that in principle, but it comes down to the machinery of what happens in the—

Ms Allen: Absolutely. There needs to be no ability for either physical or verbal intimidation, and that is what we were seeing in Western Australia. Some of the kids that were held in Hakea, for instance, because the separation was just a wire fence, they were subject to daily verbal intimidation with threats to their personal safety upon release.

Mr CHOAT: Ms Allen, I must say it is commendable that Amnesty International feels that all people should have the right to feel safe in their homes, and, as you very clearly pointed out, that business people should also have the right to be able to conduct their businesses, not be molested, stolen from, whatever. I guess the question that I have for you is do you feel that the wider community—those individuals in their homes, those small business people—feel that the youth justice system as it exists to date is letting them down?

Ms Allen: I do not want to speak on behalf of all Queenslanders—I am a Queenslander myself—but I think anyone would want to see their government addressing youth crime. It is the responsibility of the government, and it is a complex area and one that needs to be managed appropriately. So what I can speak confidently on behalf of Queenslanders about is that people want to make sure that the systems that are being implemented are going to be effective.

Mr CHOAT: But do you feel currently that the average small businessperson is adequately protected in terms of youth crime?

Ms Allen: I think you would have to ask the business leaders that.

Mr CHOAT: I have. Have you been to any small businesses or has anyone from your organisation with regard to this legislation on the table been to any small businesses to ask them how they feel they are protected by the current system?

Ms Allen: We have been talking to communities throughout Queensland. But as I put to you—

Mr CHOAT: Any small businesses?

Ms Allen: As I put to you again, we are not disputing whether small businesses are having their property stolen, or whether houses are being broken into, or the impacts of having your car stolen—how that limits your employment or educational opportunities. We are not disputing that. What we have concerns about are the responses being introduced in this bill. Based on the international and domestic evidence that is available, we do not believe that the measures will actually aim to curb either house break-ins or theft from small businesses, and so again it is a plea to the committee. There are so many experts in Queensland. Queensland is in the really fortunate position that we have got some of the best legal and youth justice experts in this country. We have spoken with them as well. They would be very keen to work with the Queensland government to develop a sustainable blueprint that actually addresses some of the issues relating to youth crime.

Mr CHOAT: So where have they been for the last 20 years?

Ms Allen: They have put in submissions to this inquiry, and they have also put in submissions to the youth group survey last year, and we are concerned that those submissions have yet to be made public.

CHAIR: We will have to reserve the last question for the member for Rockhampton.

Mr BYRNE: It is a very quick one. You will notice that the legislation in its current form does not have any sort of sunset clause provision. I suppose being realistic about the likely trajectory of this bill and without prejudicing what we are doing here or other matters in the parliament, do you think it would be helpful for some sort of sunset clause or revision provision in the legislation downstream?

Ms Allen: What we would like to see is the introduction of the bill delayed until the youth blueprint is developed.

CHAIR: You have done an admirable job there, Louise, in fending the questions by your lonesome. Thank you very much for giving us your time and your expertise. It is very much appreciated. Thank you.

Ms Allen: Thank you.

O'LEARY, Assistant Professor Jodie, Co-Chair, Youth Justice Subcommittee, Law and Justice Institute of Queensland

TAYLOR, Ms Jann, Co-Chair, Youth Justice Subcommittee, Law and Justice Institute of Queensland

CHAIR: I now welcome representatives from the Law and Justice Institute of Queensland. Good morning and thank you for coming along today. I begin by asking if you object to being filmed or recorded by Hansard and the media and ask you to confirm that you have read the guide to appearing as a witness.

Prof. O'Leary: Yes, Chair, I have read the guide for appearing as a witness and have no objections to being recorded.

Ms Taylor: The same for me.

CHAIR: Thank you very much for that. I invite you to make a short opening statement if you so wish. The committee will then ask questions of you.

Prof. O'Leary: Thank you, Chair. I am an assistant professor in the Faculty of Law at Bond University and I am appearing today with Jann Taylor, barrister-at-law, but we are appearing on behalf of the Law and Justice Institute, as you mentioned, as co-chairs of the Youth Justice Subcommittee. The institute's objectives include fostering public debate on law and justice issues and to advocate for law reform that is consistent with empirical evidence and other fundamental principles. We thank the committee for inviting us to attend today and we are grateful for the opportunity to contribute.

In sum, the institute opposes the majority of the reforms under consideration here today as they do not have a solid foundation in the evidence of best practice in youth justice. We note the chair's earlier comments regarding the mandatory boot camp orders in relation to the unlawful use of motor vehicles in Townsville not being before the committee today, but we express the LJI's opposition to the proposal outlined in the department of justice brief and are willing to talk about that if given the opportunity. There is no surge in the number of young offenders. The system, on the whole, is not broken. However, the government and the chair have already indicated today that the proposals in this legislation really are targeted at a small group of young people who are committing the bulk of the offences—the persistent reoffenders. The submissions that you have before you—and the government agree—is that this group of young people are often known to the child protection system, can be homeless, have intellectual or other cognitive disabilities and mental illness, and have low levels of or are even excluded from education. A theme of agreement also running through these submissions is a reminder that these are young people that we are dealing with. There is scientific evidence that the capacity of young people to regulate their behaviour and make decisions through considering consequences is not developed. Instead, young people can be often described as impulsive, short-sighted and easily influenced by others. Layering on top of that exposure to emotional or physical abuse, substance abuse and/or intellectual impairment further impedes such development. So recognition of this difference in young people justifies a separate system of youth justice. We are not to treat young people the same as adults because they are not adults.

There is no support in the submissions and the consultations for the proposal to remove the longstanding and internationally recognised principle that detention should be a last resort for sentencing young people. There is no support for naming young people nor the other proposals which open children to further scrutiny and stigmatisation, leading to exclusion from opportunities necessary for their reform. There is no support for transferring 17-year-olds to adult correctional facilities automatically in the way proposed, with some submissions noting the already bad policy of having 17-year-olds dealt with as adults in the criminal justice system. Concerns are also raised about having a further offence for children of breaching bail by reoffending.

The reasons given include that the reforms do not align with Australia's international obligations; that they are unnecessary and excessive, their web covering not only those intended targets that we have mentioned but all young offenders and sometimes innocent bystanders such as victims or siblings; that they will operate disproportionately to further disadvantage particular groups such as Indigenous young people; that they are not fit for their articulated deterrent purpose and they will act against the necessary imperative of rehabilitating offenders, instead entrenching them in the criminal justice system; and that these reforms will come at a cost to Queensland, a financial cost that will need to be borne because of the increased number of young people likely to be detained and subsequently to be in adult imprisonment. By way of response, the department of

justice echoing the Attorney-General's earlier sentiments has cited significant community support. As we have discussed, the community represented in the submissions and consultations do not support the amendments. Further, there are obvious problems with the method and sample in the Safer Streets Crime Action Plan—Youth Justice survey, as are strongly stated in a number of the submissions. Even if we can consider that survey valid, it can hardly be said that that group of people were strongly supportive of a number of these measures.

Ultimately, it is expressed that these amendments are needed to protect the community from recidivism. The LJI is interested in what works in youth justice. Our interests and that of the government here are the same. We are all interested in what best protects the community. We say that the evidence speaks for itself. The measures proposed in the bill will not achieve that end and are likely to do just the opposite. Not only that, the measures will subject Queensland to international criticism and will result in further outlays—$660 a day for each extra child in detention when much less than that could have been utilised to change the course of that young person's future and the future for the Queensland community. Thank you.

CHAIR: Thank you for that. When I listened to your speech I must say I recalled something I read in relation to submission No. 2. It says—

> What we should be doing is taking them away from their social setting and placing them in a secure, organised, safe environment, teaching them social skills, reading and writing, preparing them for a trade, then finding employment for them when they are released ... meantime treating them with gentle firmness, kindness, consideration, thoughtfulness and even love ...

I must say that when I read that I thought that at a different time we would call that the stolen generation if we started doing things like that. My question leads on to Indigenous people. We cannot really make laws with Indigenous people alone in mind. That is one of my comments that I would like you to understand. In other words, legislation is a very broad based measure by which we try to change behaviour. The evidence seems to be that youth crime is decreasing but recidivism is seemingly increasing. I am really interested to know in a very practical way other than these measures what you would see as being a replacement for this broad battleaxe approach to the way we do our laws. It is over to you.

Prof. O'Leary: Yes, Chair. We do have some comments in respect of the statistics in relation to the number of offences that are said to have risen over a period of time. We are not convinced by those statistics as a way of measuring reoffending because there is some indication that the number of offences that people are charged with can vary depending on whether or not the police are taking particular policies et cetera. So changes in those numbers of offences do not necessarily indicate an increase in the number of offences. Regardless, we do agree with the point that it is this core group of young people that seem to be offending and appreciate that legislation is not the remedy but in fact that there are other regulatory measures and that resourcing should occur at these early stages, in fact through the sorts of measures that have been tried and tested in other jurisdictions such as in America in Texas and in Canada in the various justice reinvestment types of processes. We are suggesting that—

CHAIR: Could you drill those down? I appreciate that this is your tool of trade. For the uninitiated, what are the processes that are happening in Texas? I must say that Texas is one of the very few states in America that has the highest death rate penalty.

Prof. O'Leary: Yes, and this was particularly the problem that was addressed in Texas. There were spiralling numbers of people in imprisonment and the costs associated with imprisoning people in Texas were a concern for the government. This is only quite a new process in Texas, so the empirical evidence is not yet at a point where you could evaluate it completely. But certainly what has occurred is instead of investing money in expanding imprisonment and expanding correctional facilities they have reinvested that money in front-end initiatives—in initiatives such as encouraging employment programs as far back as assisting single mothers raising their children, which is really the point.

CHAIR: I was hoping you would concentrate on repeat offenders. I can understand what you are saying, but in terms of repeat offenders and employment there is a difficulty there, is there not?

Prof. O'Leary: There certainly is a difficulty there. If someone is removed from their community—if they are detained or imprisoned or if they are stigmatised with this brush of offender—then it does obviously impact on their employment and their employment is one of those features that will then assist them to become a contributing member of the community and to prevent them from reoffending. So it is this cycle if they are removed from that ability.

Ms Taylor: I think the reality is the correlation between offenders, child protection issues, homelessness and long-term unemployment in the home. All those factors are so relevant to the causes of offending for young people that it is very short-sighted to ignore investing in the cause rather than—

CHAIR: I do not think anybody is ignoring it, and I accept all those things. You do not need to convince me. I have been to schools. I know the parents in the ASDs and all those sorts of issues, and those issues do lead to behaviour, and we have myriad programs and things going on that clearly indicate it is working simply by the data. It seems something is working, but we still have this level of repeat offenders where we are not getting through, and that is the issue today. That is the reason you are here today. I will get you to comment because this is one of the issues that is important, but in terms of opening up the Children's Court to participants—you probably heard me say this about the Family Court; opening doors, closing doors and now they have doors you can hardly open et cetera—are we not sophisticated and mature enough to understand that we are entitled to hear what happens in children's courts in terms of what penalties are being handed out?

Prof. O'Leary: In relation to the opening of the Children's Court, the LJI is of the opinion that it will not achieve the deterrence objective that you are indicating—

CHAIR: I am not suggesting it as a deterrence; I am suggesting that it is transparent.

Prof. O'Leary: In terms of accountability?

CHAIR: Yes.

Prof. O'Leary: I appreciate that. The experience in the Northern Territory as mentioned by the representative from Amnesty is instructive in this regard, because the courts are open in the Northern Territory. To answer the member for Rockhampton's question earlier, they do have the ability to close the courts if it is in the interests of justice to do so. However, it seems that generally the courts are open, and that is from observations by the research done by Chappell and Lincoln in the Northern Territory. When they have observed the courts in operation there, the people that are in the courts when those courts are open are just other young people. There are no members of the community. There are no members of the media, or very rarely are there members of the media. So I am not quite sure how that—

CHAIR: It is a double-edged sword that argument though, isn't it?

Prof. O'Leary: In what way?

CHAIR: What you are saying is they are open but nobody goes in.

Prof. O'Leary: That is correct. My point is that they are open. People are not going in. The community is not interested in hearing about it apart from through the vehicle of the media perhaps. So I am not sure of the value of opening those courts when the adverse consequences to opening those courts would be that young people would feel—and this was, again, evidenced in the Northern Territory experience—less compelled to disclose fully what happens to them because of the embarrassment that they will see or feel just from having their mates there.

CHAIR: Yes, but before they even get to court the instructing solicitor and barrister have the facts from them in any event. So even before that, the facts of that young person's life and career are going to be given to the court, anyway. It seems to me, just on that point—and I think I need to challenge it on the basis that, having been in the Family Court, I know that every case that is following will see and hear of previous cases—youth offenders will be in court and they will be hearing about what happens to an offender when he is on his third or fourth. Surely, that must have some impact.

Prof. O'Leary: We submit it does not, because the experience and the scientific evidence in relation to young people making decisions suggest that they do not have that level of foresight. They do not think about, 'This is what is going to happen to me if I go out and offend the next time. This is what will happen to me and I need to avoid that. I don't want that trawled through the media and I don't want that sentence that that young person who I saw in the court got that day.' They are just not thinking like that. They are not thinking like we are. So the deterrent impacts are absent because of that particular developmental characteristic.

CHAIR: So when do we move from rehabilitation to deterrence? In parenting skills, do you not move from rehabilitation? We reach the stage where the behaviour of a child has to be reprimanded somehow. I do not want to go into the business of smacking; there are other ways to do it. I am just not getting the connect between the two. You have no deterrence at all? Is that what you are saying?

Ms Taylor: No. I think as it always has been there is a balancing act in any sentencing court and deterrence is very much a part of that balancing act. But the evidence suggests very strongly and fairly uniformly that rehabilitation will achieve the aims.

CHAIR: We know that. The data is there.

Ms Taylor: That is right.

CHAIR: It is the repeat offender we are worried about.

Ms Taylor: Could I just add that, when you say that the facts will be before a court, the issue perhaps in relation to this legislation is that the applications will need to be made as a matter of course for perhaps 70 per cent of the young people appearing because of the prohibition and confidentiality provisions relating to children in care. The applications that will be necessitated if this legislation is passed in its current form will burden the courts in terms of publication, naming. There will be a lot of prohibition. We cannot forget that anyone with children will know how they behave in front of their mates and that is a real factor. If it is the mates who are sitting in the court—

CHAIR: Yes. I had one recently. I just happened to be in a court when a young 19-year-old—an adult, of course—got into a fight outside a nightclub and had all of his mates there. I think they understood what a custodial sentence meant if you get into that sort of thing. The messages do get through. It might take a little bit of time, but the message is there. At some stage or other, we can make excuses for them, they will understand in time, surely—and if they do not, we are in trouble.

Ms Taylor: And if they are not going into custody, for example, and the court is open and you have a first-time shoplifter, then the deterrent aspect could be completely lacking by the acting out.

CHAIR: They might have a few others. I think a first offender probably would not get there, but maybe it does.

Mr BYRNE: I note on page 2 of your submission that the number of youth offenders dealt with in the Childrens Court has decreased in the past three years. What do you attribute that decrease to? Without putting words into your mouth, but leading a bit, do you suspect that the current legislation is delivering its intention?

Prof. O'Leary: Exactly. That is exactly what we suspect. We are saying that the system is not broken at the moment. What is happening is working. The legislation as it stands seems to have been affecting this decrease in youth offending. In fact, there were statistics released just last week from the Australian Bureau of Statistics, which were not reported in the media, which indicated that young offenders have decreased nationwide by over six per cent in the past year alone and in Queensland indeed the same position is the case. The problem is that, if this legislation is introduced, the evidence seems to suggest that it will entrench young people in offending and those second-time offenders who come within this net of naming and shaming and open courts will be the ones who will go on to continue to offend as opposed to just ageing out of criminal offending, which is the do no harm if we can type of principle in relation to youth justice. If we do nothing, it is more likely that they will age out as they mature, but if we intervene inappropriately then we will do more harm and that will result in recidivism and delayed and denied opportunities for those young people, which will result in recidivism—

CHAIR: I do not want to be flippant, but I hope they will not become self-funded retirees.

Mr WELLINGTON: With respect—

Mr BYRNE: I have a separate question. Accepting your expert knowledge on this subject and the way in which this bill is structured, it brings children's proceedings in many ways similar to adult proceedings. Is there any evidence that you are aware of that that is likely to have a deterrent value, which has been the subject of discussion here?

Prof. O'Leary: No, there is none—no evidence that it will have a deterrent value. In fact, the only evidence is that it will have a negative impact. As I said, the Northern Territory experience is one that can be used as an example in relation to that.

CHAIR: But with respect, that is the Indigenous study, is it not?

Prof. O'Leary: Yes. It was a study and related to Indigenous young people, but the study did not just recognise Indigenous young people who were offending in the Northern Territory. Their methodology was that they looked at various media reports that had occurred and they could not identify in a number of those media reports whether those young people were Indigenous or not.

The young people who they did speak to were indeed Indigenous and the stakeholders in the community who they spoke to did not confine their discussion purely to Indigenous young people. They noted these problems that existed in that particular system, particularly that the media has this overarching role as to who they choose to deter or not, if you like. It is ultimately up to the media to make this decision who they are going to publish details about.

As I have just mentioned, there was a real absence of the media reporting of a decline in youth justice offenders over a significant period. It seems that it is a quite quick step for the media to say that there is an increase and that there is a shockwave of youth justice offending. So leaving that ball in the court of the media seems problematic, because it will have an inconsistent and discriminatory effect. There will be certain people who the media will just choose to target and families that the media will just choose to target. Those people they will find interesting and they will follow, but for other young people the media is not there on the day, they have other things on, there is much more competition for news that day. So it just seems that, as a deterrent mechanism, leaving that in the hands of the media really undermines that deterrence as well.

CHAIR: Yes. I was not so much thinking that it was deterrence; I thought it was a matter of transparency. As I said before, I thought we were a reasonably mature society. Our media, I know, tend to become sensationalist, particularly as media now looks for magazine stories and so forth—topical stories. So I accept your point on that. I am not detracting from it, but I am just thinking that we are a mature society. We know that the media centres on stories that are the hot flavour of the month but, at the end of the day, the courts have to become a lot more transparent.

Prof. O'Leary: But there is the ability for the media to attend currently. They can apply to attend and they do where there is a matter of significant interest and they can report just without identifying that young person. So they can talk about what happened in court. They can talk about the nature of that offence. They can talk about the sentence that was imposed. If deterrence works, which I do not think it does, your deterrence is there. That is all they need. That is all the community needs in order to be able to follow through and say, 'This is what happens if I go to court.'

CHAIR: Thank you for that.

Mr WELLINGTON: I also have a question to our associate professor. I understand our Attorney-General has flagged his intention—or the government's intention—to introduce further amendments to the bill once it proceeds to debate in parliament dealing with the issue of mandatory sentencing. I understand it is intended that he will be speaking about this issue dealing with young repeat motor vehicle offenders in the area of Townsville. Would you like to make a comment for the benefit of the committee?

Prof. O'Leary: Yes. The Law and Justice Institute opposes that amendment as we know it to be from the brief that was provided to the committee by the Department of Justice and Attorney-General. We do so on a number of grounds. Firstly, we do not think that mandatory sentencing is appropriate in any instance. Taking the discretion away from courts to craft—to use the Attorney-General's word—an appropriate sentence that takes into consideration the particular features of that offender is the most appropriate way to deal with someone.

Apart from that, though, the fact that it is mandating a sentence to the sentenced youth boot camp program—which, as yet, it seems to me, has been not evaluated and certainly it is not available if it has been evaluated and I cannot see how it could have been evaluated given that the sentenced youth boot camp program has only just restarted in Townsville very recently so if there has been an evaluation it is too early to tell its success—resorting to a mandatory sentence which as yet we do not know if it works seems to be premature. The other issue that we take with that particular proposal is the removal of consent to attend the sentenced youth boot camp program. Currently, the young people are required to consent to attend those programs and that feature of consent is necessary in terms of rehabilitative programs. To get a young person to engage with the program, that consent is an important aspect. So taking that away from them and putting them in those boot camp programs could be problematic without that consent requirement.

Ms Taylor: We did think that the other issue may be that you are removing them from their communities. I understand the site of this boot camp that has now started in January again is quite removed from the communities within which these young people will have to operate in the future and with the community that they may have offended against. It is a bit artificial.

CHAIR: Yes. Just on that point about mandatory sentencing, the court of criminal appeal has virtually brought in mandatory sentencing by—I will not say by stealth—saying, effectively, that if you are in charge of a motor vehicle and you kill somebody and alcohol is involved, correct me if I wrong, but it is pretty well three years jail, is it not?

Ms Taylor: Ranges can and tariffs can be set. The High Court has just said that prosecutors cannot be making submissions to that effect, but certainly there are established ranges for sentence.

CHAIR: But the court of criminal appeal has actually said, in the prevalence of alcohol, of motor vehicles and the fact that we need deterrence, because motor vehicles kill people, they maim people. I suspect that is the issue here. We have repeat offenders using motor vehicles. You might get a guy who has stolen seven motor vehicles and he is lucky enough to get away with most of them. But that is the problem for us, is it not? At some stage or other he may, or she may, kill somebody. How can we deter that person? Another program for them, perhaps?

Ms Taylor: The issue that you have just raised is obviously a judicial decision to effectively set an appropriate range.

CHAIR: But he may not have killed anybody. He may have seven unlawful uses and still we think he can recover and we can change his behaviour and so forth. But that is the problem we have. Governments have to decide, 'Can we by legislation, with the broad approach—we cannot pick out any particular community other than make it youth justice—stop that person killing somebody?' Quite frankly, you are right about the media. They do cover those stories. We know of them. I do not what the population is in terms of how many people are killed by the unlawful use of the motor vehicles, but there is enough to concern me.

Ms Taylor: The point I was making is that we can trust the judiciary in that regard. I do not know where the change in that position arises.

CHAIR: We are diverting somebody to a boot camp.

Ms Taylor: I understand, but why mandate is the issue really. If the judiciary and our highest court in Queensland are able to effectively address prevalence, deterrence, community expectations by the imposition of certain sentences within frameworks, then mandating takes away the ability to consider when there is an exceptional circumstance, or there is a child fleeing abuse with his little sister in the car. The special circumstances need to be taken into account. Mandatory sentencing just removes that.

CHAIR: I appreciate your example, but I do not know how many times you can flee with your sister in the car.

Mr WELLINGTON: Perhaps, Mr Chairman, can I respond, if you are having a bit to say? I would like to say that it seems clear to me the Attorney-General no longer has confidence in the judiciary to be able to make an informed decision about an appropriate sentence and that is the reason the Attorney-General is flagging he intends to go down this road of mandating to the judiciary what penalties and sentences they are to impose. I think that is totally wrong.

CHAIR: We do ask questions. I think that question has been answered, I suspect.

Mr WATTS: I want to take you back to something that was said earlier. This is to do with looking at someone's record where conviction might not have been recorded. You both very clearly just said then that judges should have the discretion with information to be able to make a transparent decision, yet you would not give them all of that information to be able to make their sentencing if you do not allow that information into the court. I am just trying to understand why in one situation we should leave it to the judges and give them information and in the other situation we should restrict that information.

Prof. O'Leary: We are not really concerned about giving the judges that information. If the judges had that information and they did not disclose that to anyone then we would not have a concern.

Mr WATTS: There might be a different voice. I might seek both opinions.

Prof. O'Leary: The issue that we have, I think more so, is the fact that if you are then disclosing young offenders' criminal history in adult courts where that young offender did not have a conviction recorded, that the nature of that offending is so minor that the earlier court has made a decision that if we are to record a conviction, and the reasons for nonrecording of convictions again are to try to assist those rehabilitative goals, they have made that decision at an earlier stage. The problem is though, once that is then disclosed in open court in adult court it is again subject to the whim of the open court and the publicity regime that is available in the adult court as well.

Mr WATTS: If I might clarify one point and then let you continue, I understand the concept that there has been an offence, no conviction recorded, I guess what I am saying is what happens if that offence has happened again and again and again and again and again and again and then

continues on? Shouldn't a judge be able to say, 'Well, in isolation this one offence was a minor offence, no conviction recorded, but upon accumulation this seems to be a serious behavioural problem that needs to be dealt with differently'.

Prof. O'Leary: I would say that it is evident to the judges, if there is a conviction recorded for an offence of that nature, say, for example, an unlawful use of a motor vehicle or a stealing offence where, to get to the point to record a conviction for a young person there would generally have been recidivist type of activity. I think that that is already evident to the courts. I do not think it is necessary to change the law in that regard. I will let my colleague respond.

Ms Taylor: I agree with that. There are experiences in different states where they have different provisions. For example, in WA, at least a million years ago when I was practising there, they would allow disclosure of a juvenile criminal history if there had been continued offending for a certain period of time before the child turned 18—not 17, that is an entirely different issue. If the child did a few things and stopped, that was it, that history was never before the court. If they continued, then it could be. I am not advocating that position necessarily, but it may be an alternative way of addressing the issue that the government seems to think is an issue.

Mr WATTS: I might just seek one small bit of clarification, if I may. Your issue is that that offending may well be made public rather than that offending be known to the judiciary in sentencing.

Ms Taylor: I would say that is certainly a major concern. Judiciary regularly now are called upon to sentence—in the higher courts at least—people who have committed more serious offences. That might be a 17-year-old person that is still subject to a probation order. Because of the nature of what is going on, they are straddling the line between two jurisdictions, juvenile and adult, and there are very firm principles and rules that govern how that is done. So it is already occurring. But to make it a blanket approach just ignores the evidence and that is probably the thrust of all the submissions that this committee has had.

Mr BYRNE: This might be a bit of an informed hypothetical type question, but we can assume that this bill in one form or another, however crafted, is likely to pass through.

Mr WELLINGTON: Oh, there is a new way happening.

Mr BYRNE: Anyway, on the assumption that this is going to proceed in one form or another, and given the metrics that we know already about youth offender statistics, without being too incendiary can you give me some indication of where you think we will be if these measures are brought in and what the implications of that will be in terms of predicted measurables that sustain your position? That is pretty broad brush.

CHAIR: Are you trying to give us the idea of predicting the future?

Mr BYRNE: My whole point about this is you do not do something unless you understand the effect. I want to understand the effect that we are likely to be able to touch, taste, smell and see from this bill should it pass in its current form. Is that a better way of crafting the question?

Ms Taylor: I am aware that the member for Rockhampton was engaged in community projects and where to best put the money in the local community to address the issues, and whilst that does not directly answer your question, I think that is the ultimate answer. Something that potentially further entrenches young people in detention, in criminal justice systems, being named, all the provisions, have the very real potential, in my view, based on research, and I will let the academic perhaps answer rather than my anecdotal experience, if you take away the big stick of detention as something that is at the end of the road then certainly my feeling is that it will have the very real potential for further entrenching and increasing the numbers. But I will let the research speak perhaps.

Prof. O'Leary: I cannot say that the research has said what it would be if it was the other way. They have indicated problems with labelling and stigmatising young people and the result which is that they are further entrenched in the justice system. Obviously that would lead to further imprisonment. I note that the Department of Justice and Attorney-General in their brief indicated that they actually pretty much accepted that there would be an increase in the rates of young people in detention, but they said it would be offset by the measures in the blueprint that is going to be proposed. We do not know the measures in the blueprint so we do not know if that offset will occur, but we do know that they will increase. I do not see how the argument that is mounted in the brief, which is taking away the principle of detention as a last resort, will somehow reduce the number of young people on remand. I do not follow the logic of that argument at all. Regardless of taking away that principle, the judges and the magistrates still have to consider and still have to order

presentence reports if they are going to make an order of detention. So I do not see how there is any reduction in terms of the number of people on remand which seems to be the crux of one of the issues here: that there are too many young people on remand. We need to address that issue as opposed to further adding to the burden of our detention centres which are almost at capacity.

Ms Taylor: It is a very costly risk: $660 a day is what all the research suggests. That is a lot of money to be throwing at something that certainly does not seem to be founded by evidence.

Mr BYRNE: Given what you have just said, a formalised review process in this bill, whether it is a sunset clause or an obligation on the minister to undertake a substantive review of the effects of this legislation, do you think that would be of any merit?

Ms Taylor: It would be better than none.

Prof. O'Leary: We would certainly support, if the amendments went through—again we suggest that they should not—that there needs to be a review. We would also caution about the length of that review. It needs to happen sooner rather than later obviously, but in addition it cannot just be once because there are long-term impacts that this will have.

Mr BYRNE: A 12-month initial review and then three years. Does that make any sense at all?

Prof. O'Leary: Yes, it does.

CHAIR: Do you think that these sorts of measures are going to be tested within 12 months, two years, three years?

Prof. O'Leary: I think that there would be some effects noted within 12 months.

CHAIR: Like what?

Prof. O'Leary: The impacts perhaps on children and their employment prospects, their education prospects, what sort of interference has happened with those young people.

Ms Taylor: An evaluation of the boot camp.

CHAIR: We are talking about basically repeat offenders. You are saying we will know within 12 months whether it is working or not.

Prof. O'Leary: No, I am not saying that you will know whether or not in terms of recidivism it is working in 12 months. That is why I am saying there needs to be an extended period as well. There will be early indicators as to the impact that such measures may have on young people, particularly naming, for example. Young people could be spoken to. There could be research, as was done in the Northern Territory. That was over a lengthier period of time.

CHAIR: That was a very limited sample though, was it not?

Prof. O'Leary: In the Northern Territory, the young people they spoke to, yes, it was a limited sample.

CHAIR: I meant a very limited sample. I do not know that I could draw too many conclusions from that study by itself.

Prof. O'Leary: No, by itself certainly not, but there is international research, and research that draws on this theme of stigmatisation and labelling, which is not specific to naming, which is all about the fact that courts might be open or that criminal histories are recorded. Those are the same sorts of impacts. There is international research that supports that over lengthy periods of time. That is referred to in our submission.

CHAIR: I guess from my viewpoint, maybe I am looking at it simplistically, it concerns a certain section of youth and trying to change behaviour. We do not have any control over parenting and psychological issues, I appreciate that. I am accepting that that is a real problem in terms of having youth have certain behaviour which puts them on a path, but we have to try measures by which we certainly try to change behaviour. We have a number of programs now. There are a number of programs which they must pass before they become a repeat offender. There must be a point, must there not, at some stage where the community says enough is enough?

Ms Taylor: The point is we do not need new legislation for that. That point is reached regularly on a daily basis here when children have committed enough offences or a serious enough offence. As Mr Bartholomew indicated, they are detained on a first appearance in court. That does happen. There can be that condemnation expressed. That is already happening. I understand the legislation is addressed to this very, very tight end of recidivist offenders. Certainly they do exist, there is no question about that. They do cause significant damage.

CHAIR: It is the increase that is concerning us. That concludes our questions. I thank both of you for giving us your time, knowledge and expertise. It has been a worthwhile question and answer session, I must say. I certainly enjoyed that and I enjoyed your contribution. Thank you very much for coming along. I put on the record that the members for Nicklin and Broadwater are leaving to attend another committee meeting.

CATT, Very Rev. Dr Peter, Chair, Anglican Church of Southern Queensland Social Responsibilities Committee

SANDERSON, Rev. Dr Wayne, Private capacity

CHAIR: I now welcome the Very Rev. Dr Peter Catt and the Rev. Dr Wayne Sanderson. Good morning and thank you for coming along here today and assisting us.

Very Rev. Dr Catt: Thank you for the opportunity.

CHAIR: I begin by asking if you object to being filmed or recorded by Hansard and the media, and that you confirm that you have read the guide for appearing as a witness?

Very Rev. Dr Catt: No and yes.

Rev. Dr Sanderson: No objections and yes.

CHAIR: Thank you so much. Can you please introduce yourselves, speaking clearly for Hansard and please make a short opening statement if you wish. Then we will have some questions for you. Does it go on seniority?

Rev. Dr Sanderson: He is senior.

Very Rev. Dr Catt: I am the chair of the Anglican Church of Southern Queensland Social Responsibilities Committee. I thank you for the opportunity of appearing before the committee. I wanted to reinforce a couple of things that our submission made clear. Firstly, the proposed reforms appear to us to disregard the evidence in this area, which shows that punitive measures do not work with a small cohort of young repeat offenders who are the main trigger for this legislation. We noted that repeat offenders come from traumatic backgrounds on the whole where they have been maltreated and neglected, and the punitive measures simply reinforce the trauma and the antisocial survival mechanisms that go with it. Also we noted that the legislation does not reflect the preferred approach of most of the Queenslanders who completed the Safe Streets Crime Action Plan survey and that the bill pre-empts the blueprint for the future of youth justice, which is intended to provide an overall policy framework for this area. So if parliament is to be asked to pass the current punitive proposals, that should at least be done somehow in the context of the blueprint strategy so that there is a fuller understanding of how it all fits together.

The thing we would like to take a minute or so to expand on is the idea of a collaborative approach for handling this really important issue. We, like everyone else I think who has made a submission, are very keen on keeping Queenslanders safe; raising our young people to be valued and productive citizens; that it is actually a community responsibility and it cannot be achieved by government alone, which fits with the government's mantra for the Queensland Plan that the government cannot do it alone; and that there are actually individuals and organisations across the community that are more than willing to contribute to fulfilling that responsibility, so it is not as if the government needs to step in because there is no-one else prepared to do it. There are lots of people with expertise, long experience and a passion for helping young people who want to see them turn over a new leaf.

We propose a youth justice roundtable to play an active role in the shaping of the blueprint and we see that as an ongoing collaboration of people from the areas that impact on the lives of young people—educationalists, youth workers, employers, health professionals and young people themselves—and sharing a common agenda, open communication and a willingness to rely on existing activity and develop strategies to generate systematic change. We are very encouraged by some of the programs that are being done in other parts of the world, such as the UK based SOS Project, which actually addresses the very cohort that this legislation is seeking to address and has had an incredible turnaround in the recidivism rate and approach of young people to offending. Thank you.

CHAIR: Rev. Dr Wayne Sanderson, would you like to make an opening statement as well, and that way we can direct questions to both of you?

Rev. Dr Sanderson: Thank you, Chair, and members of the committee. I thank you for the opportunity to be here. I speak here on my own behalf. I am affiliated and connected to all sorts of things. The relevant ones I think I acknowledged in my written submission. I am still practising part-time as a semiretired clinical psychologist. A lot of it is pro bono and it is done with local communities that want to have a better connection between adults and kids. It is on the back of a lot of larger scale professional work that I did across the last 20 to 25 years. Notable in that was something I have not mentioned previously. I co-designed with three colleagues and then I

managed the operations and implementation of Australia's first ever national youth suicide prevention program. It was amply funded by the federal government at that time. It ran for three years. It covered the whole country. It had remarkable success. It sat beside a number of other similar programs. Those programs at that time had remarkable success as evaluated 10 years later by the best in the business at Sydney University's school of community psychiatry, bringing down steadily the rate of completed suicide of the age cohort 15 to 24. There was one remarkable exception to that success. We did not succeed with Aboriginal kids. We did not. Everyone else, yes. The total aggregate of age cohort in the community came down, but within that was a tragic exception. For me that punctuates some of what we are about here. It is a marker in our field of inquiry and concern.

I have been rather scathing in my written submission about the origins of this current move which brought us this legislation. I will say no more about that now. I want to become more constructive in about one and a half minutes, if you will allow me that. I think these are the sorts of things that I see no reference to, I see no suggestion or hint of this in anything like this legislation or supporting documents or even enthusiastic members of the government who will talk freely about it—and I have talked to quite a few. But these are the sorts of things that need to get our attention; things such as looking again at the youth conferencing system which operated with great effect in 17 locations around the state. You have probably seen the results of that. You do not need me to rehash it. Why did you close that down?

I am aware that there is substantial work being done in recent months within the Queensland Police Service, a special research unit they have operating there, to review entirely and reinvent the police cautioning system. To me, a police cautioning system which is reinvented and up to scratch and able to be used effectively by first response police patrol officers, that is the sort of system that needs to link in very closely. It needs to be a seamless garment with the youth conferencing system that you closed down. I will leave that with you there.

What I want to see out of this: I support what has been said earlier about the kind of review that is needed out of all this. It needs to be a fair dinkum review. I have heard of transparency. I believe in transparency. The question is, does the Attorney-General believe in transparency? Has he yet released the large number of very substantial—and you talk about 20 years going missing. Ask the Attorney-General. Very well represented are the fruits of research and practice and success in many communities, most of them in Queensland, across 20 years, notably from the Griffith School of Criminology's Justice Pathways to Prevention Project. Ask about that. It is there. It is available. You are better resourced than I am to do that sort of stuff.

A bit more: the Edmund Rice schools Youth + Flexi Schools already have a remarkable track record in predominantly Aboriginal hot-spot communities in Queensland. I am a frequent visitor to one of them because of some work I do in Central-West Queensland. They are ready to expand their program further in close collaboration with the youth justice system. They want to invite the youth justice system to sit beside them, redesign it, redo it, adapt it, make it work better. They are interested in the results; so am I.

Finally, I want to talk about the vexed issue, the troubling issue, of the over representation of Indigenous youth—I think it was 63 per cent last week, wasn't it—in detention, youth offenders in detention. That keeps quite a few people awake at night and I am one of them. The concern about how do you put special resources and special programs and special whatever into prevention, into every phase of the offending problem that we see? How do you do that with Aboriginal communities in such a way that it is not going to bring another stolen generation or whatever? How do you increase agency, moral agency, community autonomy, a robust economic environment in which people can have pride and have jobs and their kids can get a decent education without having to go goodness knows where. These are multifactorial things, but most of them do come home to the state government, actually, because of the health and the education and the whatever.

You have foetal alcohol spectrum disorder, which is increasing markedly. Ask the public health people. They know; they will tell you. Ask the people at the UQ clinical research centre where there is a special program on building programs, working on the experience, the data, the knowledge to build better programs of prevention for that. That is a big one; that is a really, really big one. That is a challenge. It is an opportunity for a state government that has a bit of perspective and, I think, a sense of the future for all Queenslanders.

I want to say about the Aboriginal situation that I think there is a lot to be gained in working much more closely with traditional owners. I am aware of five groups of traditional owners in regions well away from Brisbane who, at the moment, are working very hard on developing their system of mentoring which they want to offer to the youth justice system to work and to mesh in with it, to fit in

with it, so that there can be an authentic Murri cultural journey of mentorship in there with trusted elders, people of proven character and experience and so on, and graft that in where appropriate to boot camp. It might even replace boot camp in some situations, but the detail of that is for other people to look at. I better stop there. I have other things to say, but I had better let you have a go. Thank you.

CHAIR: Thank you very much. Who would like to start off?

Mr BYRNE: Thank you, Mr Chair. In the submission that was made, you have attached a report on the New York state juvenile justice system and the progress that they have made. What does the New York system do well that we do not do so well here in Queensland?

Very Rev. Dr Catt: I am not sufficiently aware of the difference between the New York system and the one in Queensland. We were really trying to offer other models just for the committee to look at while they were forming the legislation, to show that there are interventions that are working across the world. You would have to ask someone who is more into the technicalities of it. We were looking more at the philosophical approach, that there are other ways of intervening and here is a model. I was hoping that the people who actually want to craft the legislation would do the homework. One of our critiques is that it seems that this sort of evidence has not been analysed and used to frame the legislation.

Mr BYRNE: Thank you for that. Moving on, what whole-of-family intervention models currently exist in Queensland, if any, as you have outlined in your submission? What is the cost and effectiveness of those models, as opposed to the approach being considered by government presently?

Very Rev. Dr Catt: Can you repeat that question? It is a long question.

Mr BYRNE: I am looking at family intervention models currently existing in Queensland, if any. You have referred to those sorts of options in your submission. Do you have any appreciation of the cost or effectiveness of such models as opposed to the present approach being presented by this legislation?

Very Rev. Dr Catt: I do not have that sort of detail. I am happy to provide it later, if you would like me to.

Mr BYRNE: If you have formed an opinion at some point, I would love to hear it.

Very Rev. Dr Catt: Okay.

Rev. Dr Sanderson: I could list a few very briefly, if that helps. Firstly, the Cairns situation: we are aware there is a youth bail accommodation support type service there, operated under contract by Act for Kids. Act for Kids is a very progressive and productive organisation. They do wrap-around services attached to the bail service. By wrap-around I mean what you are saying: comprehensive family support. Yes, it is intervention, but it is intervention by skilled people whose intervention tends to be welcomed. That is the way they operate. That is one.

There are a couple in Logan. There is notably BoysTown. BoysTown has a big focus on kids who want to learn a pre-trade orientation, pre-trade skills, across a number of trade areas. That actually is a money spinner. They make money out of that and the kids make money, too. But the family becomes drawn into that. They do not act with kids; they do not deal with kids in isolation. They do what I am calling the wrap-around service with the entire family.

CHAIR: Just to follow on from what you have said so that I can understand where that relates to recidivism, you mentioned the boys' pretrade learning program. Do we know how many repeat offenders do not repeat after that? Is there any information that we can gather from that?

Rev. Dr Sanderson: I do not have sharp stats for you on that or current ones, but I do know that it is worth inquiring about it because they do have a high success rate in those terms.

CHAIR: Dr Catt, you used the word 'punitive' a number of times. I am just wondering, is there any particular reason you would do that? It is not a word that is often used in legal circles, but in your circles it probably is.

Very Rev. Dr Catt: It is and it seems to us that, given the majority of respondents to the survey are saying or at least the data we have from the survey is saying, people are looking for mechanisms that are more to do with intervention and modifying behaviour through collaborative approaches. This legislation seems to have picked up on what we see as the punish aspect. I have had conversations with people in the parliament who see that punishment needs to be part of the approach. It would seem to me that sometimes the desire to punish can overwhelm our desire, in the end, to create a safer community.

We want to focus on the individual. We have this idea that somehow punishing them will actually change their behaviour. I would actually question that. Fear of punishment might change the behaviour of people like me. I know when I was at school that there were kids who were not any good at maths, science or anything like that, but were really good at getting the cane. There were two guys in my class who were trying to outdo each other in terms of the number of times they got smacked because that was the only way they succeeded. They saw it as a badge of honour. I would question the whole approach if it is focused on punishment.

CHAIR: It is just the word 'punitive' that I have not heard for quite some time. I thought with sentencing that we do have deterrents protecting the public, setting the community standard, rehabilitation and those sorts of things.

Very Rev. Dr Catt: I think sometimes we dress up punishment as deterrents.

CHAIR: We are just talking about definitions, are we not?

Very Rev. Dr Catt: We could be.

CHAIR: I am just curious as to why you would use that word.

Very Rev. Dr Catt: I think it is punitive. There is justice which is either restorative or retributive. It seems to me that some of this is actually based on the idea of taking out retribution on those who offend. I do see it as punitive.

CHAIR: We are talking about repeat offenders as you know. We know that youth offences are coming down. That seems to be the evidence.

Very Rev. Dr Catt: Which is a great thing, yes.

CHAIR: Do you accept that recidivism and youth offending is increasing or do you not accept that as a premise?

Very Rev. Dr Catt: I accept that there is quite a small cohort of people in places like Townsville, which you were referring to before—it is a problem but it is focused on very few people—

CHAIR: You are not saying it is not everywhere, you are saying that it is only Townsville—

Very Rev. Dr Catt: No. In one of the dialogues before you were talking about the problem in Townsville. Whilst that is a huge problem in terms of the way it looks, it is actually based upon a few people.

CHAIR: Sure.

Very Rev. Dr Catt: I think what we have is an increasingly small group of people who are becoming really quite hardened. I guess the question is: what sort of intervention is going to stop them spiralling into becoming hardened criminals?

CHAIR: Do you think that they have not been through some interventionist program? Are you aware of that evidence?

Very Rev. Dr Catt: I imagine they have. I am proposing that maybe we need to try different programs or have a suite of programs.

CHAIR: Do you have anything in particular in mind? Is there anything you could mention today?

Very Rev. Dr Catt: The SOS program in the UK.

CHAIR: Tell me a little bit about SOS. How is that working? How well have they been doing in terms of recidivism and so forth?

Very Rev. Dr Catt: This is a program only for repeat offenders.

CHAIR: I got that impression.

Very Rev. Dr Catt: They report that 87 per cent of people who go through that program actually change their approach to offending.

CHAIR: How long does the program go?

Very Rev. Dr Catt: It has been going since 2006.

CHAIR: When someone enters the program how long would they remain in that program?

Very Rev. Dr Catt: Those sorts of finer details I cannot give you.

CHAIR: I am just interested. To whom were the safe streets crime survey directed? Who filled those out?

Very Rev. Dr Catt: Anyone who wanted to could fill it out, as far as I understood. There were 4,000 people from across the state who did.

Rev. Dr Sanderson: They could do it several times, too.

Very Rev. Dr Catt: One of the issues we have is that not much of that information has been released. Given previous comments about transparency, that would be one of our questions about this process. It seems to me that if a clause is just it can actually stand open process. I have questions why submissions and more data have not been released. If this is a just and good process and not a simplistic response to a complex problem then it could stand having the data released.

CHAIR: Let us start from a base. Is there any part of the bill that you accept as being reasonable? Perhaps we can start that way and you can tell me what you think. Are you just objecting to everything?

Very Rev. Dr Catt: We think the intention is good in that we do need to do something about people who are repeat offenders.

CHAIR: Can you be a little more specific? There are five or six major parts. Is there anything in the bill that you accept or do you simply not accept anything at all?

Very Rev. Dr Catt: I do question the need for the bill given the systems we already have. I guess in the end I would say we do not need the bill because I think we already have processes in place and it would be possible to have other programs to actually deal with repeat offenders. I really do question the rationale of even seeing things like naming and shaming as deterrents. I think it actually encourages people to earn badges of honour.

CHAIR: Again, you have been in the room when we have heard that asserted. I think it has been conceded that it was very narrow and dealt with Indigenous people where they go back into their small community and they call it a badge of honour. I do not know that I would be drawing too many conclusions from that, unless you have a different view.

Very Rev. Dr Catt: I am thinking more a broad stroke. I think that naming and shaming for some people becomes a way of achieving a badge of honour. Just as another anecdotal story, a few years ago we had Corey Worthington who had a Facebook party. The press was outraged and said the guy should be dealt with in some manner. He ended up in the *Big Brother* house as a celebrity. For him that was the only way he would get into the media. It gave him his 15 minutes of fame. If that were me I would crawl into my hole and disappear because for me—

CHAIR: He was the gentleman with the white glass, was he not?

Very Rev. Dr Catt: Yes.

CHAIR: That speaks for itself, I would have thought.

Very Rev. Dr Catt: That is my point.

CHAIR: I do not think that is a great analogy.

Very Rev. Dr Catt: It is in terms of how naming and shaming works. The attempt there was to name and shame him and to say that he is a bad boy, but he became a celebrity. He has a very different view of how naming and shaming works to what I do and I suspect people to those who have framed this bill.

Mr WATTS: Just on naming and shaming, if there was judicial discretion as to whether a name should be released or not released, how would you view that? You have said that some people would find it a big factor and therefore a deterrent for them continuing that kind of behaviour and would motivate them to change and others might use it as a badge of honour. If the judiciary had discretion, would you see that as a good thing?

Very Rev. Dr Catt: Not particularly because we are talking about young offenders. Given the way social media and people's names can stay on the internet forever and given we have heard lots of evidence about how people grow out of being offenders, I think it would be a retrograde step to have that sort of information available forever on someone's record. I do not see any benefit in it at all.

Mr WATTS: Even with judicial discretion as to whether they felt it was an appropriate path to take?

Very Rev. Dr Catt: I guess I would have to hear an argument that was a specific case to show how that would work. I cannot imagine a case where that would be helpful.

CHAIR: Dr Sanderson, it would only be fair for me to offer you the same chance to indicate what part, if any parts, of the bill you would find acceptable? I do not mind you giving me a precis but if you could be specific it will allow me to see where you are coming from.

Rev. Dr Sanderson: I will be very specific. The intent to do something about all this, from wherever that came from—from the mind of the Attorney-General or colleagues or whatever—

Mr CHOAT: The community, I think.

Rev. Dr Sanderson: Community reaction in specific communities—some communities more than others. That is the pretty strong message I get. The intent is there. It is well motivated, it seems to me, in a broad sense.

As I looked into the six measures the bill proposes and addressed them, I found—and I have conceded this in the written submission I have made; it is the only concession I am making—that there is a certain logic. If a kid reoffends while they are on bail then that is another offence and it has to be dealt with. That is one of the measures in the bill. Having said that, I must put that in the context of the total world in which the kid lives—his family, his community, the arresting officer in a little country town like Rolleston, Springsure or Mitchell. Real lives are being lived there and real measures need to be—

CHAIR: You know your neighbours and stealing from your neighbours is perhaps not a good idea. I think most would generally know whether somebody stole from them without naming them.

Rev. Dr Sanderson: That is it from me. That is my positive comment on—

CHAIR: The offence of breaching bail is the one you have—

Rev. Dr Sanderson: I hope you will view that in the context in which I wrote it.

CHAIR: Indeed. I am not going to hold you to it. I just needed to understand what you are prepared to concede. Do you see punishment as being an element of this bill?

Rev. Dr Sanderson: I do.

CHAIR: What parts?

Rev. Dr Sanderson: I think the entire tenor of the bill is punitive. I do not see anything in there that offers rehabilitative resources or outcomes. I do not see any insightful reference there. It is just not there.

CHAIR: There are no programs out in the community at this point in time that hopefully will divert?

Rev. Dr Sanderson: There are and I think I am across them. I am very happy to talk with anyone here about that when we all have time.

CHAIR: Can somebody become a repeat offender without going through the regime of diversions?

Rev. Dr Sanderson: Of course. Yes, they can. We need to look, firstly, at what is out there now in terms of diversionary, rehabilitative opportunities. I made it my business in the last 12 or 18 months to talk to three different groups of Queensland Police officers. The first are recently retired senior police. They have all sorts of perspectives on these things. It is always interesting. The next are the operational managers at the sharp end of police work. They are senior sergeants and inspectors. The other group is younger operational police. My kids are marvellous—they have extraordinary contacts.

I am hearing from them about the police cautioning system and what that involves. The young guys did not know anything about it; the rest of them did and they had thoughtful things to say—the senior officers, the operational managers, leaders and those who have just retired. The recently retired people had a lot to say about it and a lot to offer, I think, in the way it should be developed. I am suggesting to you that those things are dynamic; they are changing. But we need to look at what has just been lost as well, and we lost a highly productive diversionary program in the youth conferencing system. I think it has saved $12 million. Wow! How about that?

CHAIR: Sorry, I did not quite understand what you said about the $12 million. Was it saved or lost?

Rev. Dr Sanderson: I believe that when the youth conferencing system was closed it cost $12 million in its final year of operation. So by closing it down you save that outlay, presumably. I think that came from the government. That was in the news at that time.

I have one more thing to say about this. In terms of the work that is being done, some of which I instanced earlier, by BoysTown and a couple of others, I am loath to go through a big list of such enterprises and programs for this reason—and it is the same reason that a lot of those people are not here today and they have not put in submissions: they have been whacked already by serious funding cuts on state government purchaser-provider contracts and in some cases grants of various kinds for their work. They are not interested in putting their hand up for another go. That is a prevailing thought from responsible people. This is not ratbag stuff. These people are not antigovernment people. They are people who want to work with the government. They want to work with the community. Life is a bit insecure for some of those organisations.

CHAIR: Life is a little insecure for some businesses as well.

Rev. Dr Sanderson: Of course it is. But are we going to have a competition to see who is losing most here? How absurd would that be?

CHAIR: I am not talking about money; you mentioned $12 million. I am saying that the difficulty is—and this is anecdotal, but I have spoken to my shopkeepers and one chemist in the Ipswich mall whom I spoke to has repeat offenders who steal and come back and occupy the mall the next day. The police have given up on them. They do not even book them anymore. He just takes that as being an economic loss. What do we do with those people?

Rev. Dr Sanderson: I am not saying one program fixes everything, but I believe that there are certain types of programs which draw together the offenders, the law enforcement officers who are likely to have first response with them and the victims—the people who are losing—and they embark on particular contracted relationships which are negotiated. For the kids who are doing the offending, there are penalties that come out of that. This is before charges are laid and whatever else.

CHAIR: What are the penalties, if you don't mind my asking?

Rev. Dr Sanderson: There was more than one youth conferencing system operating in Logan, but what I am talking about now with the contracted relationships is an adjunct. It is a productive thing that was invented locally as an offshoot of relationships that were built through the youth conferencing system. The ratbag kid who grabbed the handbag from the old lady in the supermarket was out the door and five minutes later he was detained by a policeman—that is how silly the kid was. He is a first offender. He is drawn into a youth conferencing system.

CHAIR: Sure. But we all accept that the first offender will effectively go through a scheme. I am not particularly concerned about him. But what happens if he does it four or five times and he does not get caught the first three or four times?

Rev. Dr Sanderson: I understand. Some of the YC services did in fact deal with specific later offences or repeat offenders, but it was very prescribed. It was very specified to a local situation and so on, but it worked for them. There is a clue in there, too, I think. Often things that are invented locally—

CHAIR: But does deterrence not have a factor or feature in your—

Rev. Dr Sanderson: It does. There is a penalty to be paid—you bet. It is about how we all need to learn some accountability as we grow up. Some do it well; others do not do it so well.

CHAIR: We have heard that these people suffer from behavioural problems. They may be ASD. They inherit problems. I have spoken to Indigenous people about truancy. We have discussed those sorts of issues. But ultimately their behaviour by the age of 12 or 13 is ingrained. How do we deal with those people?

Rev. Dr Sanderson: The kid in the structured youth conferencing system, having heard the old lady say in her own words and in her own time and with support from her loved ones sitting near her about what that did to her, is asked to make an offer: 'Having heard this, do you want to offer something to Mrs So and So?' The kid might just be paralysed with fear and unable to do anything. He needs somebody to work with him, to help him and say, 'Look you have to come up with something here.' He is on the spot. There is a bit of a growth curve happening as we listen and watch. Sometimes—plenty of times I am told, certainly from the Logan area—there are outcomes where these kids build a respectful friendship-relationship with these people and do some work for them, such as mow the old lady's lawn: 'I will do that twice a month for the next three months,' or something like that. It goes from there. Some of these have been productive. I am very anecdotal here and I am feeling a bit uneasy about that. But people who can tell you a lot more about this are in the Griffith School of Criminology and Criminal Justice.

CHAIR: I appreciate that. I appreciate the evidence you are giving. Anecdotal or not it is still evidence, and I appreciate your contribution. On that note, we have drawn to a close. Gentlemen, thank you very much for giving us your time. It is appreciated. Thank you very much for that contribution.

Rev. Dr Sanderson: Thanks for the opportunity.

Very Rev. Dr Catt: Thank you for the opportunity.

PRENTIS, Ms Brooke, Churches Together Indigenous People's Partnership

ROBINSON, Major Bruce, Divisional Chaplaincy Coordinator, Salvation Army, South-East Queensland

RONALDS, Reverend Kaye, Moderator, Uniting Church in Australia, Queensland Synod

TUTIN, Reverend Canon Richard, General Secretary, Queensland Churches Together

CHAIR: I do not know whether you have had the opportunity to listen previously, but I will go through my routine and then we will get down to the nitty-gritty. I welcome representatives from the Uniting Church in Queensland, Queensland Churches Together, Churches Together Indigenous People's Partnership and the Salvation Army. Good morning and thank you very much for coming along and giving us your contribution today. Can I begin by asking if you object to being filmed or recorded by Hansard and the media and whether you confirm that you have read the guide for appearing as a witness? I will take all nods as meaning that you have done both. Thank you so much for that.

Can you please introduce yourselves, speaking clearly for Hansard, and then make a short opening statement if you wish? The committee will then have questions for you. We have a period of time within which to ask questions of you. So, taking into account that there are four people here, we might ask each of you to initially make your opening statement and then we can go to questions, rather than trying to divide the time up which would be far too difficult. I do not know about you, but ladies first for me. I understand that you are one delegation, but I am happy to listen to each of you if you have something to say. Bruce, I know you work in courts and so forth. So, please, feel free to each make an opening statement.

Rev. Ronalds: Thank you and good morning, honourable members all. I am Reverend Kaye Ronalds from the Uniting Church. I am the Moderator—that is, the elected state leader. So, like you, I serve a term of three years. I wanted to say thank you for taking the interest in our submission and giving us the opportunity to come and have face-to-face contact with you about that. I will share my opening statement and then ask the others to introduce themselves as they make theirs.

Late one winter evening while we were sleeping in our home in Rockhampton back in 2010 some young thieves broke into our house. The family were woken shortly afterwards because they stole the family car and smashed into one of the other cars parked in the cul-de-sac. A few days later we got the car back. It was almost out of petrol and slightly damaged. Well, some of our own teenagers have done that! We were thankful that the young people did not write themselves off or burn the car out because it would have been very inconvenient for us but a lot more inconvenient for them as they faced up to the consequences of their action. We have actually been burgled several times over the years. I share that anecdote because I want you to know that I, too, have been a victim of crime, albeit in a minor kind of way.

We really appreciate being able to share some of our anecdotes. While I am a layperson in terms of the law, I have a long experience in dealing with people and supporting families through a variety of roles. Some years ago I was a chaplain in a high school. I vividly remember going with one young man to the Magistrates Court over a drug issue and visiting with the family of another young man who had found himself on the wrong side of the law. Those young men are now fathers and holding down jobs, and they are providing for their families.

I urge you to listen deeper to the community and the concerns that they have for young people. If you listen to talkback radio, of course you will hear the great fear that is expressed by people who are concerned about their safety in the community, about the impact on businesses, about the fear that they have that their community is not the same as it was before. And those terrible stories certainly peak one's interest. We know that it is sometimes fuelled by violence, and alcohol and drug use does not help that, and a tiny few—perhaps one per cent of the population—in those teenage years engage in that kind of behaviour.

We are encouraged that there is a concern about reforming the youth justice legislation, but I notice that there is under development a blueprint for the future of youth justice. So I am wondering why it is that we are already talking about these proposed changes before we have had a chance to engage with that blueprint for the future of youth justice. So I would be urging the committee to encourage the parliament to go slowly with the response to these proposed changes, because I

think there is a lot more work that we could do to get the improvements, to do the research, to hear what works on the ground and to really make good legislation for a better community, a safer community.

I would like to introduce Brooke Prentis. I think she would like to share something of her life perspective and her passion for her people.

Ms Prentis: Firstly, I would like to acknowledge the traditional custodians of the land upon which we meet and pay my respects to the elders past, present and future. I think of all the Aboriginal leaders who have gone before me—people of great wisdom, compassion and warriors who have enabled our survival, people who have paved a way so that I may attempt to succeed in our country that as Aboriginal people we have cared for for thousands of years.

I sit before you today heartbroken. I sit before you today heartbroken that we have not achieved reconciliation in this country, that we have not succeeded in closing the gap and that we have not made Indigenous poverty history. I sit before you today heartbroken over these proposed legislation changes, because I am heartbroken for the Aboriginal families who have children in both juvenile detention and the adult prison system—and I do say children in the adult prison system for the 17-year-olds currently there because from my perspective as a Queenslander, from their community's perspective and from their family's perspective they are children.

I sit before you today heartbroken for the eight- and nine-year-old children in our schools who face racism every day, who come to their pastor with tears streaming down their face for the racist taunts they receive on a daily basis, for the further taunts that these good kids get from their classmates as they yell at them against their older brothers and sisters in juvie. I sit before you heartbroken to hear the prayers of these eight- and nine-year-olds praying every week for their brother or sister to be released from juvie. I hear the prayers and see the tears of the nans and the pas and the mothers for their children to be reunited with them in the kitchens of Ipswich.

But I also sit here heartbroken as I know the statistics are stacked against my people. Let us remember that over 60 per cent of the young people in our youth detention centres are Aboriginal or Torres Strait Islander peoples. I ask you a rhetorical question: have 60 per cent of the submissions or people attending this committee today been Aboriginal or Torres Strait Islander people?

This is a quote from 'The Justice System and Aboriginal People' from the Aboriginal Justice Implementation Commission in the section entitled 'The Meaning of Justice'—

> At the most basic level of understanding, justice is understood differently by Aboriginal people. The dominant society tries to control actions it considers potentially or actually harmful to society as a whole, to individuals or to the wrongdoers themselves by enforcement or apprehension, in order to prevent or punish harmful or deviant behaviour. The emphasis is on the punishment of the deviant as a means of making that person conform or as a means of protecting other members of society.
>
> The purpose of a justice system in an Aboriginal society is to restore the peace and equilibrium within the community and to reconcile the accused with his or her own conscience and with the individual or family who have been wronged. This is a primary difference. It is a difference that significantly challenges the appropriateness of the present legal and justice system for Aboriginal people in the resolution of conflict, the reconciliation and the maintenance of community harmony and good order.

I ask: what is our goal here today? Surely it is the maintenance of community harmony and good order. To achieve this, Aboriginal and Torres Strait Islander voices all over this state need to be heard and listened to in this state and in this country. When a government has the courage to do this our way with proper, authentic, far-reaching and face-to-face consultation, then just maybe we might actually come to build a state and country for all Australians based on respect, kindness and harmony.

You see, I know the names of many of these children that we are talking about today who are in the juvenile justice system, many who have turned 17 or are about to. You see, I do not know their name to shame them, but I know their name because they are loved children and grandchildren, sisters and brothers, nieces and nephews, and I know many of them as talented artists, funny comedians and loyal friends.

There is a quote from Uncle Mick Dodson that I wanted to share. He said—

> The history of human suffering of the Indigenous people of this country cannot be assuaged by legal decisions or the opening of a purse. It can be assuaged only by the opening of hearts.

I pray that these children we are talking about choose a different path, but I know the only way for this to happen is to have the right support networks around them and, I will add, culturally appropriate support networks; someone to tell them and teach them that they are valued and loved; someone to teach them about their culture. This is how we actually help to turn someone's life

around. Further embarrassment by naming and shaming, further restrictions on children and further imprisonment will only lead to one path being mapped out in front of these children: a path of destruction, a path of isolation, a path of heartbreak and continued heartbreak for the Aboriginal and Torres Strait Islander communities and a path that is very hard to turn left or right on.

I urge you to listen to the research, listen to the people that know these children and their communities and I urge you to try and seek out an alternative to these amendments together.

Major Robinson: I would like to share with you an instance that occurred just recently with a colleague of mine who is a chaplain in the courts. Her house was broken into by someone who lived around the corner. Speaking to her she felt violated, so I was just sharing with her as she journeyed through this process. She said, 'What I would like to do is have the opportunity to speak to the person who violated me.' She said that she could not wear her grandmother's watch because this person had taken it from her. What she wants to do is be able to say to that person, 'This is how you affected me,' through a mediation process so that the perpetrator would get to know the effects of their actions.

I see this as a valid way to move forward so that victims can have their say to their family and peers in their presence. In our system, sometimes victims do not get the opportunity to express how they have been affected. I would like that opportunity to be given, and we can do that through a mediation process so that then the perpetrators actually get the experience and potentially can make a change. 'This is what I did do that person.' 'This is how my family feel about it.' That has the power to change lives. I believe we can work through that way.

Rev. Tutin: I come to support those on either side of me because they come from the membership of Queensland Churches Together, which is an organisation of 14 churches in this state representing both eastern and western traditions. We also have various commissions through which we do our work, and one of those is the Churches Together Indigenous People's Partnership, or CTIPP, of which Brooke Prentis is currently the chair.

I think all churches have many anecdotal stories of buildings and facilities being broken into at various times. I do not think churches have escaped the crime that occurs at large in society. The violation that occurs to some of those buildings, particularly when they are places of worship, is something that is very difficult to work through at times. However, there has always been that element of desire to try and seek some form of justice, not just for the victims—in this case churches, perhaps, or the homes of parishioners or the businesses of parishioners—but also to try and do something with the perpetrators themselves. Why do they do what they have done? Is this the first time they have ever done it?

Those are very important questions to ask, and I realise the legislation under review does seek to look at repeat offenders, but we do question whether or not incarceration for a repeat offender actually solves any issues. My own thinking is that it probably raises more issues and creates more problems than solving the issue at hand; so too naming and shaming. When we name someone, we actually bring their identity before the community. But at the same time, when we shame them we lower their self-esteem to the point where they possibly will reoffend again simply because they see no other alternative because society is against them in the first place, and that perpetuates a cycle of crime that goes on and on and on.

Queensland Churches Together certainly supports the concerns of each of those present and others who have spoken before this committee. We hope that with consultation, particularly with our Indigenous communities of Aboriginal and Torres Strait Islanders throughout this state, and recognising the differences in culture from one end of the state to the other, then in many respects we may be able to stem this tide of repeat offending, but at the same time try to steer people into a better way of life. I do not think any of us wants to be named and shamed for things that perhaps we did on the spur of the moment or when we were egged on by others or we felt that we needed to do something in order to be accepted by other people. It is that style of activity that we need to look at as a whole rather than just saying, 'This person has offended again and again, and we need to do something punitive about it.' It is in those areas of justice and concern that Queensland Churches Together supports the submissions made before you today.

CHAIR: Thank you very much for that, Reverend. What I would like to do is I am just particularly interested if I could have each of you just give an indication as to what you find acceptable in the bill. For instance, naming repeat offenders; can I simply gather that you are all against that?

Major Robinson: I am.

CHAIR: New offence when you are bail. If you commit an offence while on bail, there is a new offence for which it will be noted. I understand the importance of that is that the judge will know that you committed an offence on bail. If you do not do it, the judge will not know. How do you feel about that? Is everybody in favour of that, or you are against it or you are not sure? 'Not sure' is fine. I am not asking for a black or a white answer, but just something that will give me an indication as to where we are at. Do you understand what I mean? Two offences. You are out, you have stolen a car or had an unlawful use of motor vehicle, you go and steal another one while you are on bail. That is a separate offence.

Rev. Ronalds: A good many of the young offenders are on remand, so they are on detention. That is another issue, I know.

CHAIR: Please forgive me if I take some liberties on the hypotheses, but let us take the hypothesis that they are out at large. If they steal while they are on remand, that would be quite difficult.

Rev. Ronalds: I guess one of the ones as mentioned in the paper that is of great concern about that particular issue is that if they are forbidden to make contact or to associate with people who have been part of the network—

CHAIR: It is a bail condition and they break the bail condition. The same thing applies. Do not use my analogy, but what I really want to find out from you is whether you think that is a reasonable thing, or are you saying this is too tough?

Rev. Ronalds: I think it is unreasonable and unlikely to succeed in terms of being a measure to keep them safe because—

CHAIR: Keep who safe; the victim or the offender?

Rev. Ronalds: Many of these offenders are also victims, but let me be clear. By the magistrate, for example, saying 'Do not associate with people named or groups so named', it is unlikely that these young people on bail will do that because—

CHAIR: Do what? Will obey the condition?

Rev. Ronalds: Will obey the condition.

CHAIR: It is like people reading contracts. Where do you stop? At some point in time we have got to accept responsibility. I do not know when that is. We are probably debating it right this moment. I have got four or five to go. I am just trying to get through this. So you are against it. You do not believe it ought to be a separate offence?

Rev. Ronalds: I think it is problematic because it is setting them up to fail. Because of the nature of the lives of young people, particularly young people who are in a vulnerable position, who feel isolated from the community and marginalised, the group that they are going to associate with are the people—

CHAIR: I understand what you are saying.

Rev. Ronalds: It is problematic for me.

CHAIR: It is just that the judge who is going to hear this eventually will have to decide. Reverend Tutin, what do you say?

Rev. Tutin: It is problematic, in my opinion.

CHAIR: I am happy with a 'problematic'. Ms Prentis?

Ms Prentis: I think the short answer is with all of the proposals, I am not in favour of any of them.

CHAIR: Can I leave you out from now on? I will just go through everybody else. You are against them all.

Ms Prentis: Yes.

CHAIR: I do not want you to take that as being detrimental, but I do not want to waste your time on it. Major Robinson?

Major Robinson: I think there are adequate responses by the judicial system already in place. They will know that they will receive an increased penalty for another offence.

CHAIR: I did not say that. It is still the magistrate. It is still the judicial officer. He might well say—and they do it often—'I will convict you of breaching the bail condition, but I will make it a concurrent sentence.' So the person may not get any more. But if it is ever looked at again by a

judicial officer, it will be recorded. I just do not know whether we are on the same planet. There is no extra penalty necessarily. In fact, I would say that the weight of the evidence is there is no extra penalty.

Automatic transfer 17 years from detention centre to prison.

Major Robinson: No, I am against that.

CHAIR: Even though the person is 20 or so, whatever the case may be, are you happy with that? Twenty years old in a detention centre, are you happy for that to happen?

Major Robinson: Yes.

CHAIR: Subject to machinery to keep them separate from the 10 year olds.

Major Robinson: That is right.

CHAIR: Brooke, you do not want that.

Rev. Tutin: I would be against that proposal.

CHAIR: Things are not looking too good for us at the moment.

Rev. Ronalds: At least we are having a conversation, Chair. Yes, the Uniting Church in 2007 did make a public statement about their opposition to moving 17 year olds into an adult prison environment.

CHAIR: Detention as a last resort or prison as last resort, whatever you want to use.

Rev. Ronalds: I think we are always going to want to use as many of our strategies and mechanisms that we can possibly use in order to bring people through a bumpy time in their life to a time when they can make maybe a more positive contribution to society. So I think it should be a last resort. Given that there are some programs that can, to use the term referred to by Reverend Dr Sanderson, be used as wrap-around programs, I think there are other alternatives.

CHAIR: Sure, and I am sure the judicial officer will understand that when he now considers just taking away one placement. In terms of absconding from boot camp, I think that is pretty well the same. No, that is a separate thing. In terms of absconding from a boot camp, what do you say about that? Sorry, it is not absconding from a boot camp; it is committing a vehicle offence and going to boot camp compulsorily without consent. What do you say about that? Do you understand what I am saying?

Rev. Ronalds: Yes, and I notice with the boot camps it is if they have, for example, run away or they have not engaged fully in the program. I guess we always need to ask the question: who has failed here? This is a voluntary program and therefore we would hope it is the kind of program that is very engaging and gives the opportunity for the young person to certainly have some physical challenges—that would seem to help us with our psychological challenges—and give them the opportunity. So I guess we have to say if they have run away somehow or other the good intentions of the program providers have not been met.

CHAIR: So it is not the running away person's fault; it is the program people?

Rev. Ronalds: I think it is a shared responsibility.

CHAIR: I am not trying to unfairly summarise you, but that is the impression I am getting.

Rev. Ronalds: No. I think that is what I would say.

CHAIR: So what do you say about the boot camps?

Rev. Tutin: Absconding from boot camps is something that needs to be explored. Why did the person abscond in the first place? It may have been something they have done or it may have been something they did not want to face. Again, as Kaye has said, it is something that has to be looked at before any other disciplinary measures are employed.

CHAIR: Bruce?

Major Robinson: I would agree with that statement.

Mr WATTS: Major Robinson, you said before that you believe there might be some stronger outcomes if a victim was allowed to explain to an offender the affect. What happens if the victim does not want to do that?

Major Robinson: Then it would not happen.

Mr WATTS: So what process would you suggest we adopt with a repeat offender who was not showing that level of remorse or understanding and offended against victims who did not want to go through that process?

Major Robinson: I guess an exploration as to what would affect them. Would it be peer pressure or family pressure? How would they respond—avenues of finding out how they would respond? What affects them would be the issue of bringing about a change in their behaviour.

Mr WATTS: Thank you. Reverend Ronalds, you said before that they are more than likely going to breach their bail conditions. What should a judge do then—a magistrate do—if they were in a situation where someone has committed an offence and the offence needs to be dealt with and heard at some time? Are you suggesting that nobody should be allowed out; they should all go on remand? I am wondering what conditions need to be put on that would be acceptable both to the community and the person who has then committed the offence.

Rev. Ronalds: I think being on remand would not be a helpful response. I understand the magistrate's concern that there is a problem in that similar circumstances occurred—that is, that the first offence that took place might be repeated. I would rather see them rather than put that as a bail condition have them connected up with a youth worker or a family support worker and maybe even include so many visits with the family support worker or something like that so that there is actually a chance to work with the young person.

Mr WATTS: But if there are then some bail conditions because the magistrate is clearly looking at it and saying, 'This set of circumstances created this offence and therefore you can't get yourself into those'—

CHAIR: Yet bail is on the assumption that you are actually going to reappear and keep the bail conditions. There is no suggestion of guilt.

Rev. Ronalds: I understand that. So it is about trying to keep the community safe and keep the young person in a fit state to be able to reappear at the time that it is required.

CHAIR: You are suggesting we have counselling before a person has been found guilty. Is that what you mean? You have an issue with a person 24 hours. How are you going to manage that—that they are not going to reoffend by going and visiting witnesses and so forth or persons who are going to testify against them? How is that going to happen?

Rev. Ronalds: I think you could refer a person to a community support agency, certainly before they are found guilty. I think the problem with some of the youth justice issues are that it is actually closing the door after the horse has bolted. The research tells us that it is not working terribly well to have young people in detention, even repeat offenders, in terms of restoring them to where they can take a healthy place in the community. The research from overseas as I understand it is that it is the family support mechanisms. It is the community development programs. It is working with local people. It is the restorative justice which is of course after—

Mr WATTS: That is my point. I am trying to understand if we are not imposing bail conditions and/or we are not punishing someone for breaching that or their committing an offence, then how does the magistrate assume innocence, because you are sort of suggesting that we have to do all of these things but the person may not have committed an offence at all?

Rev. Ronalds: But the magistrate could suggest that the person might take up some referral options not as a part of the bail conditions perhaps but as a process of responding to these people who have appeared before the court.

Mr WATTS: Thank you.

CHAIR: I thought we had actually made laws to say that people could be referred to certain courses while they are on bail but, believe me, we have had so many bills lately I do not know which one is which, except for this one. I understand what you are saying. The member for Rockhampton wants to ask a question.

Mr BYRNE: My question is to Reverend Ronalds. How are you?

Rev. Ronalds: Well thank you, Bill. Nice to see you again.

Mr BYRNE: With regard to this legislation, most of the evidence we have heard from the groups before us today has been concerned with just about everything except the intent. I do not want to put you too much on the spot, but if there is a legislative response that government can think about within that intent, excluding whatever is on the table at the moment, do you have any thoughts about what sort of legislative response rather than the options that are available to the executive arm of government? Government ministers have certain discretions and certain capacity

through budget processes that do not require legislation. Is there a legislative response to this core intent that many before us agree to that could be considered? That is pretty open and I do not want to put you too much under the lamp.

Rev. Ronalds: I think restorative justice has in other circumstances certainly given opportunity for a better outcome. Clearly at times the current system is not working, which is why the intent is there to reform the legislation around youth justice issues. We agree. That is a good thing. I think we heard from Brooke that something like 63 per cent of the young people in the system at the moment are from Aboriginal and Torres Strait Islander background, identity and culture. We heard from Brooke something about the different approach that Aboriginal and Torres Strait Islander people have around justice issues. I think we need to look for a way to include that in either the legislative response or the associated issues, and maybe Brooke would like to say a little more about that.

Ms Prentis: I speak from an Ipswich perspective; I was running an Aboriginal church in North Ipswich. Speaking to the grandmas and the grandfathers and the mothers as well and sitting in those kitchens, there are so many facets. It is poverty. It is a housing issue. One of the people I know that was released from the juvenile detention centre goes home into a three-bedroom house that has nearly 10 people living in it. How can you get your life back on track? There are not enough culturally appropriate services. We have not trained up enough Aboriginal youth workers or enough Aboriginal family support workers, but there is no funding to employ those people. I know many young Aboriginal Christian leaders who themselves have actually come out of the juvenile justice system and turned their lives around and they are unemployed. That just blows my mind because if they were employed they are the ones who can actually speak into these children's lives. I think that that is the approach that we need to take. There is not enough funding out there for services to employ Aboriginal people and we are not listening to the Aboriginal community.

CHAIR: Brooke, thank you for that. I have something to do with Aunty Narella at the Bundamba church. The member for Ipswich West and I had a conference a little while ago and one of the comments I made is that government cannot do everything. Things like truancy among Indigenous young people is a real problem.

Ms Prentis: So do you know why there is truancy—one of the reasons?

CHAIR: I know of truancy. I do not know the reasons for it, but—

Ms Prentis: One of the reasons—and particularly our people in Ipswich, because I have been into their kitchens—is that they are not sending their children to school because they cannot afford to buy them lunch and it is too shameful to send their children to school because they have no lunch.

CHAIR: Okay.

Rev. Ronalds: One of the responses that our church has made through our Indigenous ministries work is an Indigenous school in Townsville. There is about 275 young people, some in primary—day students—and some borders who are drawn from up around the cape and across into the Northern Territory. I would like to leave with you this book, because it is a Christian school—unapologetic about that—environment. It is not about youth justice in terms of legislation, but it is about government, state government, education. Should we be looking at more culturally specific opportunities for our young Aboriginal and Torres Strait Islander students to be educated? Should there be a different campus for example?

CHAIR: In terms of meals, I know that some schools do provide meals. Andy Robertson, for instance—I do not know whether you know Andy or not—provides breakfast for street kids.

Ms Prentis: Part of one of the initiatives I was involved with with the Purga elders was setting up the breakfast program at Ipswich State High School. We provided the food and volunteered with the Purga elders to serve children, but we only had funding for one day a week. Children cannot just survive on that for one day a week. I am not just saying that families cannot feed themselves, but it comes back to the core issue of poverty and disadvantage in that that is the history of this country for our people.

CHAIR: I hear what you are saying, but I know the data on state housing. While 2012 was pretty poor, I know Ipswich has definitely improved. Have they put down for state housing and so forth? I am just not following.

Ms Prentis: They are in state housing, but in some instances one family that I met with has not had a working kitchen for 18 months—no oven for 18 months—and that is in a state house.

CHAIR: I assume they have reported it.

Ms Prentis: They have reported it several times, but because now it has not been dealt with it just further adds to the disempowerment and heartbreak that these people suffer.

CHAIR: I suppose we should be getting back to the issue, but I appreciate you giving me that because that is certainly more information.

Rev. Ronalds: We are very glad to have the conversation around youth justice issues, and in churches we have a lot of skin in the game from those very informal contacts through youth groups, kids clubs, camps, day camps and all that sort of thing and we work with families in their high points and their low points. We sit with families whose teenagers are having a bumpy time. I have been a school chaplain. I know we have a lot of school chaplains in state schools and we have chaplains in private schools as well. They are the ones who know the stories about how the wrap-around support does make the difference.

Repeat offenders are a tough case, because they already have some deeply ingrained feelings of worthlessness. They have that feeling that they have been labelled a failure. I ask the question again: who has failed? Yes, some of these young people make some really stupid decisions. Young people, though, sometimes surprise me. The reason they surprise me is that they do things that are perhaps a little out of character. We expect young people to be impulsive. We know that their brains are not fully formed until they are 24 years old or thereabouts. We expect them to be a bit reckless. We expect them to sometimes not think about the long-term circumstances, but we know that a lot of these young people are from very disadvantaged circumstances and if we could work on that—and I recognise that it is not necessarily a youth justice issue but what can we do before we get to those—

CHAIR: But does deterrence form any part of the make-up or is it just simply all mediation counselling?

Rev. Ronalds: I think consequences and things like some kind of community works which says, 'I recognise that I have offended against the community,' is worth a try.

CHAIR: I do not think there is any doubt about that, but it is just that in Ipswich we have a bit of a problem with marauding youth—12, 13—who will pick on my next door neighbour, a good, strapping young man. I am being conservative when I say '12'. They took his McDonald's from him and gave him a flogging at night. I am just looking for solutions, but I cannot quite see mediation working in that instance.

Rev. Ronalds: Maybe funding some more youth workers in programs. I just think that it is about building personal relationships. The Christian story is that we believe that there can be forgiveness, there can be restoration. There is hope. All of our churches have a lot of prison chaplains and they are working alongside. We have worked with families on the outside as well as the offender who is in on the inside. There is a lot of the energy that goes into that.

CHAIR: Sure. I will not talk to you about debt and deficit, because you have probably heard it all before, but there is a limitation to everything, I guess.

Rev. Ronalds: I can understand you feeling frustrated and at a loss to say, 'What do we do with these repeat offenders? Is there a place for deterrence? Is there a place for punishment?'

Mr WATTS: But at what point do we start saying, 'There needs to be some personal responsibility for your actions?'

Rev. Ronalds: After 24 when the brain is a little more formed.

Mr WATTS: So you would say that for any offence before 24 there should not be any personal responsibility? I think that is not where we need to be.

Rev. Ronalds: No, I agree with you. I was just making the point. Yes, personal responsibility is important, but appropriate to the age and the maturity of the people and the circumstances.

CHAIR: You are the last response, by the way. Take your time.

Rev. Ronalds: I think for me it would be about continuing the conversation. I have really appreciated your time this morning and the careful listening that you have sought to do with us. I encourage you to continue the careful listening with those agencies that have some success with some of these young people. Wesley Mission, for example, deals with some of the homeless people in our community, deals with some of the marginalised people. I think mental health is a big issue. Personal responsibility for some—

CHAIR: Build pathways to parenting.

Rev. Ronalds: Exactly.

CHAIR: I can assure you, certainly with each of our electorates, we have done a lot. I have been to every principal in my electorate and a few others. Believe me, I know the problems. Can I say thank you for your contribution. You have brought another aspect to the conversation. As you say, it is a continuing one. I appreciate the time. Brooke, I do not know that I have met you before, but no doubt we will be speaking again. Thank you very much.

CHAIR: We might just take a five-minute break.

Proceedings suspended from 12.04 pm to 12.08 pm

AZZOPARDI, Mr Damian, Project Manager, Legislation Implementation, Department of Justice and Attorney-General

DOWNING, Ms Nicole Downing, Manager, Youth Justice Services, Department of Justice and Attorney-General

HARVEY, Mr Sean, Acting Assistant Director-General, Youth Justice, Department of Justice and Attorney-General

McANALLY, Ms Carolyn, Principal Legal Officer, Department of Justice and Attorney-General

ROBERTSON, Mr Ryan Robertson, Principal Policy Officer, Youth Justice Services, Department of Justice and Attorney-General

CHAIR: Thank you very much. We will now receive evidence from the representatives of the Department of Justice and Attorney-General. Can I begin by asking if you object to being filmed or recorded by Hansard and the media and that you confirm that you have read the guide 'Appearing as a witness'? Is everybody happy with that? For the purposes of the recording, I see nods all round. Could you please introduce yourselves, speaking clearly for Hansard and then please make a short opening statement, if you wish. The committee will then have some questions for you.

Just as a preamble, I suspect that you have been here for most of the hearing. So you really know the issues and the responses. I am particularly interested in hearing that there are a lot of programs around, but I just did not hear much in the way of data and so forth. I do not know whether you can address those sorts of matters. Let us have your response to some of the things that you consider to be major issues. While everybody was against the particular offences, I think you can safely say that you struck out. Not many people like our bill. Flippancy aside, I ask you, Sean, to commence with an opening address, if you so wish.

Mr Harvey: The first thing that I would like to say is that many of the submissions today relate to what will find its way to the blueprint in terms of a lot of the concerns that have been raised. We have for quite some time listened to those concerns and, whilst these measures may appear to be punitive, they are designed to deal with levels of offending by a certain cohort of people. The number of charges in Queensland from this year to last year have increased by almost 22 per cent and 10 per cent of young offenders commit almost 50 per cent of the crime. However, I am sure there are other questions around that and I am happy to answer those. I would like to focus on some elements of the blueprint in my opening address.

CHAIR: Indeed.

Mr Harvey: The blueprint is designed to target early intervention—so to stop young people from offending. It is also targeted to deal with those people who continue to offend. In real ways the blueprint is about outcomes for young people and their families. For example, we would like to introduce a family action plan, which is about the environment in which offending occurs—so dealing with all the issues of the family, not just the offender, to stop that young person offending. That family action plan is about getting people, being government agencies and NGOs, to sign up to real outcomes for that family. By that I mean that if, for example, the father has an alcohol related problem we would try to get the father to some sort of treatment. If the mother had some other difficulties, we would also try to support her. But departments and NGOs would have to sign up for a real outcome, that is, to do certain things so that the young person when they get up in the morning can go to school. That is a plan which has been developed on some English research and it is an example of what is in the blueprint. We want to work with education. We want to work with NGOs. In terms of education, we want to assess those people early who we think might end up on a life of crime continuum.

Many of the concerns that I have heard today are in essence for consideration of the government of the blueprint. We would still invite everyone who has made a submission to discuss further with us any other ways which reduce reoffending, because from my organisation's point of view that is a primary consideration.

The blueprint also deals with things such as reducing remand. Seventy-eight per cent in people of detention are on remand. So it is about working through the justice system to try to reduce some of the lengthy periods of remand to lessen the burden on detention. I can give you a range of

examples that have been raised today which are, in fact, in the blueprint. I cannot release the blueprint to you, because it has not been considered properly by government, but many of the issues raised today are addressed there.

I would like the committee to particularly note in terms of Indigenous people that we have a strong focus on dealing with some really more, what I see, outcome focused strategies, particularly in remote communities. Without being able to table the blueprint at this time, I can only tell you that many of the elements that have been raised during the submissions are dealt with within that document.

CHAIR: Okay. Is anybody else making statements or are you speak on behalf of everyone?

Mr Harvey: No.

Mr DILLAWAY: Thank you. We have certainly heard that this is focused on the repeat offenders. I would just like to understand, with the various elements within the bill, where you sourced that information or where you sourced the evidence to support that those are the right measures in conjunction with the blueprint.

Mr Harvey: We were informed by the Safer Streets survey initially. We also researched other jurisdictions. We also spoke to a lot of representative bodies and we put that information and research to government and ultimately they made some policy decisions.

CHAIR: I know there is a lot of experience out there, but I think it is Microsoft that says you don't do it unless you can measure it. I understand the anecdotal stories, but trying to extrapolate measures to change behaviour, do you find that organisations that deal with a lot of this are supplying data that we can use to target particular programs that work? That is the difficulty, is it not? Some work, some do not. We have to work out which ones do and reward those and stop the ones that do not.

Mr Harvey: I think that is an issue for those organisations, in some respects government in the past, to really quantify what things really work. Even international evidence is suggestive rather than conclusive. We receive submissions every day from members of the community about trying to do something about reoffending. I would say to you from the north we would get three or four submissions a week. We get general submissions, either by email or letters, about trying to stop reoffending and asking, largely in support of the current proposed legislation to be, from their perspective, tough on crime. We appreciate that as an organisation and balance that with an appropriate blueprint, but in answer to your question it is sometimes very, very difficult to get any qualifying information about whether a program works or not. As an organisation what we are trying to do is become outcome focused, which is to stop offending and reoffending in its simplest terms because the best outcome for young people is to not be involved in the justice system. That is the prima facie reason for doing anything.

CHAIR: Visiting schools you get a feel for what is happening from one to four. Is there any place for interplay between departments? Talking with principals, there is difficulty with parenting. Some kids come to school without being toilet trained, some have difficulty speaking English though they are English speaking people, and some suffer ASD, but I have been told you cannot diagnose ASD until certain ages. There seems to be a lot of problems permeating around that area. They adopt behaviour and it is very difficult to change behaviour at the age of 10 or 12. Their patterns are seemingly set. Is there any interplay between you and the Education and other departments that might be able to enrich the data we are getting?

Mr Harvey: I can only say that I think you are correct. I think that our relationships with other agencies has to improve. Much of what we see is related to environment. What is lacking is that we need a combined case plan for a specific young person, not 10 plans. Where things fail is that some organisations or some departments may intervene with a young person at various times, and my experience tells me that there are at some points 10 to 15 organisations that a young person might interact with over their time of offending. They all at some point have given assistance and everyone is grateful for that, but ultimately that is not a coordinated approach. So whether they are going to school or they are in the hands of Child Safety or there are health issues or environmental issues at home, those things really need to become one of a major plan for that individual who has been identified under the blueprint strategies as being at high-risk at an early age. That family action plan, which is about the family but also the individual plans, has to be coordinated by someone, and from my perspective Youth Justice has to take that role because ultimately we have to stop people offending and reoffending for their own interests and for the interests of the community.

Mr WATTS: We heard from both Brooke and then from Reverend Kaye Ronalds that wraparound services might be a better outcome than some of what is proposed in this bill. Correct me if I am wrong, but what I am hearing is exactly that: wraparound service will actually form a tranche of the youth justice system. My question is how does this bill interplay with that blueprint and on what timeline?

Mr Harvey: The blueprint is currently being considered and will go to cabinet shortly. Its relationship to these legislative amendments is to give a balanced platform, if you like. These measures are targeted quite clearly, as everyone has suggested, at repeat offenders. I would say to you though that all the practices and all the strategies within the blueprint are also designed for those people. Whilst young people might find their way charged with other offences because of bail problems, we would say to you that we would still try to support people through the blueprint, but ultimately this legislation empowers the blueprint because it deals with the hard end of offending in Queensland.

Mr WATTS: Just to follow up, are you suggesting that some of the mechanisms in this bill will then cause the blueprint to trigger at different points to try to offer a different outcome?

Mr Harvey: That is right. For example, young people going from detention at 17 with six months to serve, the blueprint talks about transition plans to the correctional facility. Queensland Corrections already have a youth offender area within jail which is specifically designed to assist young people in jail. We are developing transition plans for people leaving our detention who by these measures may end up in detention, but we also want to see those people transition back into the community so they do not reoffend. The first part might be the legislative changes, but ultimately the blueprint will take over at some point to try to reduce the levels of offending.

Mr BYRNE: I want to refer to evidence provided to the Carmody inquiry in August 2012 by a Mr Steve Armitage who was then the Assistant Director-General of Youth Justice in the department. I refer particularly to paragraph 115 of his statement where he said—

Research suggests that periods of incarceration, while providing the most serious consequence for behaviour and protecting the community from further offending for that period of time, have little effect on young people's future offending behaviour.

Mr Armitage was stating the position of the department in August 2012 based on all available evidence. My question is: what new evidence has come to light that has caused the department to revisit its position?

Mr Harvey: We certainly support the fact that incarceration does not necessarily mean that people will not reoffend.

Mr BYRNE: He said it has little effect. That means it has no effect, minimal effect. This bill is described by others who have given evidence here as pretty much giving effect to incarceration as being a preferred methodology. What I am asking is, is there something new that has come to the attention of the department, is there some evidence that supports this bill contrasting that with the clear evidence given to the Carmody inquiry?

CHAIR: Before you answer that, that is an opinion expressed by Armitage. Are you aware of—

Mr BYRNE: No, this is departmental evidence provided to the Carmody inquiry. This is a departmental statement of fact given in front of Carmody. That evidence is entirely challenged by this bill.

CHAIR: I thought it was an opinion. Is there something backing up that statement by Armitage? That is what I am trying to work out. I heard the statement. I have not read the Carmody report.

Mr BYRNE: I can table the submission.

CHAIR: I want to know is there any evidence that supports that proposition?

Mr Harvey: I think the first question that has to be answered is will it actually mean more people in detention. Given that remand rates are at 78 per cent within detention at the moment, I do think that young people who offend and their relationship to the punishment from that offence is really important, so the longer the matter goes along the less likelihood that young person can make a relationship to what they did in the first place. We believe that in terms of the last resort principles that magistrates will, in fact, reduce the remand time and therefore it is quite possible and realistic to say that they will not spend such long periods in remand.

Mr BYRNE: I am sorry, I do not see how the removal of the last resort provisions, which this bill represents, is in any way going to affect periods of time in remand. How do you see that correlation being made?

Mr Harvey: Only because our discussions with judiciary and things like that suggest that they will. That provision has always guided them about making initial sentences.

Mr BYRNE: Isn't remand essentially about capacity to address? The amount of time someone spends in remand is about court time essentially; how quickly they can bring matters forward. If the remand piece is in play long for juvenile offenders, is it not a matter of capacity of the court rather than discretion of the judicial officer?

Mr Harvey: Remand can be many things. It can be that someone has to prepare and take some period of time before the matter comes on. It is not necessarily whether the court is available or not. There are many reasons why. In sentencing it may be that magistrates particularly who deal with the majority of Childrens Court matters are more inclined to go straight to trying to progress the matter because of the removal of that principle. In answer to your question, it is not our position to change from what Mr Armitage said—that is, that detention does not necessarily get you the outcome you want to get. However, based on the Safer Streets survey, based on other academic research that we have supplied to the government, they have, in fact, made their policy decision based on those issues.

Mr BYRNE: I understand the policy position. I am not trying to hold your feet in the flames over this. I am concerned though about any additional evidence that the department may have—peer reviewed evidence perhaps from an academic environment—that gives any sort of substantiation to the essence of the measures in this bill. Am I asking too much to ask whether there is any material, peer reviewed, that can point to these measures having any prospect of changing the present dynamic?

Mr Harvey: There is no immediate evidence available to us to make that.

Mr BYRNE: Thanks.

Mr WATTS: We heard from Major Bruce Robinson about an approach that he suggested in relation to, I guess, victim mediation with a young offender. I just wanted to get your opinion on the success and if there is any evidence that that is successful or if it is something that has been considered as part of the blueprint or where that might fit in?

Mr Harvey: The conferencing had varying levels of success. It is going to be revisited in the blueprint, because one of the performance indicators of the previous conferencing regime was that 98 per cent of people found that it was a fair and just process, but, in a justice system understanding, that does not necessarily get you an outcome. In other words, did they want the young person to go and clean something up, did they want them to fix the graffiti, did they want them to do other things? In many cases, we would like to refocus that for the victim in their engagement with the young person and possibly to repair damage or some sort of giving back to the community in a real way.

Mr WATTS: So from a personal responsibility point of view?

Mr Harvey: That is right, but also to allow the victim opportunities. Again, they are matters for consideration by the Attorney-General at the moment.

Mr DILLAWAY: We heard earlier on about an open court for the Children's Court which is available down in Victoria at the moment. I wanted to get some comparisons between how that operates and how we believe it will operate if this bill passes, and what issues, I guess, have been identified in Victoria that we are addressing here in Queensland?

Ms Downing: Victoria has an open children's court system with option for the court to close, depending on consideration of issues of natural justice. They do, however, different to our proposed bill, have a prohibition on publication which means, regardless of who attends the court and who hears what, they cannot release that information unless the court determines so. That is one of the key differences. In terms of the administration of an open court, their advice to us is that they have worked quite well with their judiciary and that they can open and close courts quite effectively. Based on an open court only, they are not so concerned with that system, but as I said they do not have the publication ability, which makes quite a significant difference.

Mr DILLAWAY: One of the things that we have heard about is the elongating of the process, so the proposal then is of the judiciary working very closely with, I guess, the solicitors and the like to determine whether it is open or closed. Do you perceive that that will put more pressure on a time lapse of those being heard?

Mr Azzopardi: I am the implementation manager for this process. We are having discussions at the moment with both judiciary and registries and also beginning to expand them into the legal profession. I think we are going to need to continue to monitor that impact as we move forward. There is going to be a number of interplays to watch in this. Courts having discretions means that there will be decisions to be made and for both sides of the bar table they will want to put information before the court to inform them how the interests of justice should play out at any point in time. Courts are indicating to us it will start as a closed court. Some matters, for instance whether or not someone is a repeat offender, will be a matter of fact that can be established fairly quickly in the process. However, when a matter comes to the court to be determined whether it is in the interests of justice to close, that is going to be a matter for judicial discretion on a case-by-case basis depending on what information is brought forward by both police and defence. We will have to monitor that process to see that impact and that interplay in the courtroom.

Mr WATTS: As a supplementary to that, would the judge or the judiciary have the ability to restrict publication from an open court hearing under what is proposed?

Ms Downing: Yes, the current bill as it is drafted allows the court at any point in time to prohibit publication for a period or indefinitely.

Mr DILLAWAY: Just going back, one thing I certainly find, not only during the survey for Safer Streets but also undertaking surveys in my local area, is the concern about reoffenders out on bail offending again. I am wondering, do you have any statistics that indicate known offences that have actually occurred by young offenders whilst they are out on bail?

Mr Harvey: The figure stands at about 25 per cent of people on bail who commit further offences. Those offences sometimes mirror the offence. I do not have the statistics on this, but they sometimes mirror the original offence. If it is unlawful use of a motor vehicle, then they are more than likely to be involved in the commission of another unlawful use of a motor vehicle offence.

CHAIR: And burglary with burglary?

Mr Harvey: Burglary with burglary.

Mr DILLAWAY: So there is certainly a pattern?

Mr Harvey: Yes. I hear there are concerns about the breach of bail, but in part our consultation was with the judiciary who are frustrated by the fact that they imposed an order with some conditions—reporting and so forth—and the response by the young person to that was to go and steal another car. Some of those young people were supported by various organisations, but it did not stop their pattern of offending. The frustration for the judiciary and, in some respects, for my organisation is that there was no way to deal with those young people previously. This legislation does provide some avenue for that.

CHAIR: Sean, do you want to ask a question?

Mr CHOAT: I am fine thank you, Mr Chair.

CHAIR: Bill?

Mr BYRNE: Page 14 of the explanatory notes on the bill provides some figures relating to the public consultation undertaken as part of the Safer Streets Crime Action Plan—Youth Justice, which has been referred to on a number of occasions already in this hearing. Presumably, there are other results from that consultation process. Can you provide the full results of that survey to this committee?

Ms Downing: The survey results are actually sitting with the Department of the Premier and Cabinet and we would need to seek approval to release that outside.

Mr Harvey: We will endeavour to do that.

Mr BYRNE: I would not think it was state secrets.

Ms Downing: It is not our survey.

Mr BYRNE: There are no launch codes in there, et cetera.

Mr Harvey: It was a survey commissioned by them, so we will discuss that with them, absolutely.

Mr BYRNE: We have talked about the wrap-around whole-of-government type responses, including the not-for-profit sector. Am I making a false assumption that the preparation of this legislation has been fully consulted across communities and the other arms of government that would have a stake in this?

Mr Harvey: Yes.

Mr BYRNE: I assume then that they have expressed a view that you are reflecting here with your evidence today; is that right?

Mr Harvey: Yes.

Mr BYRNE: Thank you. That is enough for me.

Mr WATTS: In relation to the transfer of a 17 year old with six months still to serve, I am interested in what management exists currently to keep the maybe 20 to 22 year old away from the 10 year old? What management might exist at the point the 17 or 18 year old—or whatever age group—is transferred into a senior facility? What systems are in place there at the moment?

Mr Harvey: Currently in detention—and I can provide some figures, because I had heard this was raised before—the average age is 15 years, in detention. We currently have three 18 year olds in detention. I know there were discussions of people being in there in their 20s. There was an individual who was 20 years of age in detention in 2010, for example. At the moment, people who are in the older age bracket are usually housed separately from other young people. They are also dealt with, in terms of their case management, in a different way and different services are provided to them in a different way as well within detention.

What will happen in the future is that there will be a very clear transition plan. Prior to their removal from detention to a Queensland correctional facility, there will be discussions with the correctional facility and the detention centre about the young person, how they are doing, what sort of issues they might have, how they might be managed, whether they are violent, whether they need some sort of support mechanisms. That discussion, that interplay between corrections and youth justice, will result in a very defined plan for the transfer of that individual from a detention centre to an adult facility.

Mr WATTS: Just so I understand, a member of the judiciary sentencing someone would clearly understand that sentence is going to have this outcome—

Mr Harvey: Yes.

Mr WATTS:—as they were preparing that sentence, so they would have that sentencing discretion to change their sentence outcome, knowing that this is what is going to happen to that person at a certain age?

Mr Harvey: Yes.

Mr DILLAWAY: The QLS identified some concerns in regards to having the information available on past convictions. I want to understand: is that retrospective at all in nature? Is that something that will be admissible, I guess, once the act has been implemented?

Mr Azzopardi: In short, the operation of the section will not be retrospective in that it will apply in current time, but for a 22 year old who might appear in an adult court after commencement, if they have a record as a child that record will be available for the purposes of sentencing in the adult court.

Mr DILLAWAY: On that, that information is actually only available to the judiciary; is that correct? It is not available outside of that?

Mr Azzopardi: It is available for the purposes of sentencing. I am going to assume that if the sentencing is occurring in open court and it is set in open court, it would be available publicly.

Mr BYRNE: Part of your submission flags the specific amendments that are coming relevant to the situation in Townsville. Are those amendments going to be at a point of being able to be provided to this committee at any time in the near future?

Ms Downing: We are working with parliamentary counsel to draft at the moment. Once we have sought approval from the Attorney to provide that, we will be able to provide it.

Mr BYRNE: My interest is simply to get the committee to have a look at them rather than them being simply dropped in the House three minutes before we debate this.

Ms Downing: Our intention is to provide it to the committee as soon as possible.

CHAIR: There being no further questions, I close this public hearing. Thank you very much Assistant Director-General and your team for providing that overview to what has been a fairly fulfilling day in terms of the conversation and exchange. I thank all witnesses and advisors for their attendance here today and for the information they have provided. I thank members of the public for their interest in the work of the committee. I declare the committee's public hearing into the examination of the bill closed. Thank you so much for coming.

Committee adjourned at 12.45 pm