



LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE

Members present:

Mr ML Furner MP (Chair)
Mr DJ Brown MP
Mr JM Krause MP
Mr JE Madden MP
Mr AJ Perrett MP
Mrs T Smith MP

Staff present:

Ms B Watson (Research Director)
Ms K Longworth (Principal Research Officer)
Mr G Thomson (Principal Research Officer)

PUBLIC HEARING—EXAMINATION OF THE YOUTH JUSTICE AND OTHER LEGISLATION AMENDMENT BILL 2015

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 17 FEBRUARY 2016

Brisbane

WEDNESDAY, 17 FEBRUARY 2016

Committee met at 10.44 am

CHAIR: Good morning. I declare open this public hearing for the committee's inquiry into the Youth Justice and Other Legislation Amendment Bill 2015. This bill was introduced to the parliament by the Queensland government. The parliament has referred the bill to its bipartisan Legal Affairs and Community Safety Committee, this committee, for examination. My name is Mark Furner, the chair of the committee. With me are the deputy chair, Mrs Tarnya Smith, Mr Jon Krause, Mr Jim Madden, Mr Tony Perrett and Mr Don Brown.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. The proceedings are being recorded by Hansard and broadcast live on the parliamentary website. The media may be present and will be subject to the chairs discretion at all times. The media rules endorsed by the committee are available from the committee staff if required. All those present today should note that it is possible that you might be filmed or photographed during the proceedings. I ask everyone present to turn off their mobiles or switch them to silent mode. Only the committee and invited witnesses may participate in the proceedings. As parliamentary proceedings under the standing orders, any person may be excluded from the hearing at the discretion of the chair or by order of the committee.

The purpose of today is to assist the committee with its examination of the Youth Justice and Other Legislation Amendment Bill 2015. This bill aims to introduce a number of legislative changes to the Youth Justice Act 1992 and the Penalties and Sentences Act 1992. The changes will have the effect of substantially restoring provisions of both acts that were amended over 2013 and 2014. A number of stakeholders, all of whom have made written submissions to our inquiry, have been invited to participate in the hearings. The program for today has been published on the committee's web page and there are hard copies available in the gallery and in the chamber.

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

LAW, Mr David, Principal Lawyer, Youth Legal Aid, Legal Aid Queensland

O'LEARY, Prof. Jodie, Co-Chair, Youth Justice Subcommittee, Law and Justice Institute

WARD, Mr Jonathan, Member, Children's Law Committee, Queensland Law Society

CHAIR: Welcome. I thank you for your written submissions and for attending here today. I will ask you each to make a brief five-minute opening statement and then I will hand over to the committee for questions.

Prof. O'Leary: Thank you, Chair, and thank you to the committee for inviting the Law and Justice Institute to attend today and for the opportunity to contribute on this very important issue. By way of background, I am an assistant professor at the Faculty of Law at Bond University. I teach criminal law and have done so for a little over 10 years. Prior to that I worked at Youth Legal Aid. I appear today, though, in my capacity as co-chair of the Law and Justice Institute. The institute is largely constituted of barristers, solicitors and academics. As part of its objectives, the Law and Justice Institute lists advocating for law reform that is consistent with empirical data, principled reasoning and the preservation of judicial independence and discretion.

In sum, the Law and Justice Institute supports this bill's objectives to remove many of the provisions that were introduced in 2014. That is probably unsurprising given that the LJL appeared before the parliamentary inquiry related to those reforms and opposed their introduction on the basis that they were out of touch with the evidence as to best practice in youth justice.

Youth justice systems throughout Australia are based on the premise that young people are not small adults. Neuroscientific evidence indicates that young people's brains are still in development, with the result that young people do not consider the consequences of their actions in the same way

as adults do. As such, the sentencing purpose of specific deterrence is particularly inappropriate for young people and youth justice systems should aim to avoid stigmatising young people as offenders, to allow them to potentially age out of offending behaviour.

A number of the concerns that the LJL and others raised in relation to the 2014 reforms have been borne out with the introduction of those reforms. In its oral submissions at the last parliamentary inquiry, the Law and Justice Institute noted, *inter alia*, that the reforms, first, would operate disproportionately to further disadvantage particular groups such as Indigenous young people. The discussions that my co-convenor, Jann Taylor, has had with a number of legal practitioners and magistrates throughout Queensland, in both regional and metropolitan centres, have confirmed the fears that the provisions would apply inconsistently, particularly at the disadvantage of those in regional areas, which will often include Indigenous offenders. Advocacy by specialised practitioners and the knowledge of the judiciary in metropolitan areas has meant that it was quite common for orders prohibiting publication, for example, to be made in those metropolitan courts, while similar orders were not made in regional areas as often. Similarly, a decision by the Childrens Court of Queensland in Brisbane determined that punishment for the offence of breach of bail would be precluded by the application of section 16 of the Criminal Code against double punishment, with the result that often such proceedings then were not brought in metropolitan areas but that children in regional children's courts did not benefit from that decision. While there is a practice developing in metropolitan areas that restricts the admissibility of childhood findings of guilt, this practice again often did not extend to the regional areas.

Secondly, we were concerned that the 2014 reforms would come at a cost to Queensland. That cost was felt in Queensland in a number of ways. The removal of the sentence review process that previously existed, for example, as reported by the president of the Childrens Court of Queensland in his 2014-15 annual review, says that the reforms that now require resort to section 222 appeals are much more cumbersome, requiring a number of administrative steps, and that has resulted in a significant reduction in the number of sentence or revision proceedings, if you like. In the full years of 2011-12 and 2012-13, the number of sentence reviews was respectively 73 and 53, while for the whole of the 2014-15 year there had been only nine section 222 appeals. The judge expressed concerns, then, that there may well be inappropriate sentences imposed by magistrates that have not been appealed.

Concerns in relation to resourcing have been identified by magistrates in terms of the extra work that they have faced in dealing with applications to prohibit publication of identifying particulars. One of the significant costs, obviously, that the committee would be aware of is with respect to the costs afforded to the boot camp program. Those are the areas that I wanted to present in relation to the Law and Justice Institute submission.

Mr Bartholomew: The Law Society is grateful for the opportunity to appear here at the public hearing in relation to this legislation. I am the chair of the children's committee and I have a background in practice of over 20 years at the Youth Advocacy Centre, working in the area of youth justice. Mr Ward, who is also a member of the children's committee at the Law Society, has worked in the area at the South West Brisbane Community Legal Centre for eight years and before that did some work with both the Youth Advocacy Centre and at the YFS Logan. He is also very experienced in the area.

The society commends the introduction of this bill. We see it as an important first step in the repeal of the non-evidence based amendments to the Youth Justice Act and reinstates the principle that detention be a last resort, as well as amending the provisions relating to the publication of identifying information of children and young people. The society has long advocated for these reforms and has published a number of policy positions on youth justice and children and young people's issues. In particular, I would commend to you that the Queensland Law Society supports the principle of detention as a last resort, does not support the public naming and shaming of children involved in the youth crime and justice system, and supports the use and expansion of diversionary options for children and young people in the youth justice system.

The three key issues the society will talk on in this opening submission today are clause 16, the principle that detention should be as a last resort and that a young person should spend the shortest period on remand necessary in the circumstances; clauses 32 and 33, regarding the prohibition of identifying information; and clauses 40 and 41 in relation to sentence reviews.

The society supports the amendments set out in the bill regarding the principle of detention as a last resort and that young people should spend the shortest period on remand necessary in the circumstances. The society considers that this principle does not prohibit a court from ordering a

custodial sentence but rather prioritises noncustodial avenues. These amendments recognise the common law position that detention should be as a last resort and does not preclude or prevent the courts from ordering a custodial sentence where appropriate in the circumstances.

The society's submission goes into some detail in relation to a decision of *R v RAAQ*, in which a young person pleaded guilty to a count of rape and to two counts of indecent dealing. In that provision, it was considered that detention orders should be imposed only as a last resort and for the shortest appropriate period, but the Court of Appeal found that it was appropriate in that instance that, in the circumstances of that case, the primary judge was entitled to conclude that detention was the only appropriate sentence. The Law Society finds that the introduction of this provision will not preclude the provision of detention; it will just ensure that that is considered as a last resort. That Queensland case from 2012 demonstrates that courts must consider the principle but also have the power to order detention, and certainly it does not restrict or fetter the discretion of the court.

The society notes that amendments in clause 12 bring Queensland into line with the other states and territories in Australia. In relation to the prohibition of identifying information, clauses 32 and 52 amend the Youth Justice Act to state that a person must not publish identifying information about a child. However, the courts have a discretionary power to order identifying information about a child if it would be in the interests of justice to do so. The society supports these amendments in principle, as it ensures that these principles apply to all children, not just first-time offenders. These amendments are also important as they remove the category of first-time offenders and ensures that all children and young people do not have identifying information published about them, subject to the court's discretion.

In relation to sentence reviews, the society is supportive of the amendments to vest a Childrens Court judge with the jurisdiction to review a sentence order of the Childrens Court magistrate, which includes a review application. The availability of sentencing reviews will ensure consistency of sentencing in children's courts throughout the state and expand the jurisdiction to include magistrates' decisions in relation to breaches of community based orders. The society considers this to be an excellent initiative.

With respect to clause 4, it appears that there might be some drafting issues in that it may not extend the application of sentence reviews to breach matters. This is because most breach matters—that is, action taken under section 245 or 246 of the Youth Justice Act—are not sentence orders for the purpose of the act. The policy expansion to include breach matters is an excellent initiative. However, the drafting may need to be revised to ensure it achieves its purpose. The society notes that this may be achieved by either amending the definition of 'sentence orders' to include those breach matters or including a section such as section 252G. We now welcome any questions the committee may have.

CHAIR: Thank you. Mr Law?

Mr Law: I would like to extend thanks to the committee for allowing Legal Aid Queensland to appear at this hearing today. Legal Aid Queensland has 14 offices throughout the state. In each of those locations, lawyers employed by Legal Aid give advice and appear on behalf of children who find themselves before the courts in relation to criminal offences. The Brisbane office houses a specialist team, of which I am the principal lawyer, Youth Legal Aid. It is a team of six specialist lawyers who solely practise in youth justice matters. They provide advice and representation services to children all over South-East Queensland. Youth Legal Aid provides youth lawyer services in Brisbane, Pine Rivers, Redcliffe, Richlands, Ipswich, Holland Park, Wynnum, Beenleigh and Southport.

Legal Aid Queensland supports the principles of the Youth Justice Act, which primarily focuses, in broad terms, on the rehabilitation of children who commit offences, the reintegration of those children into the general community and the protection of the community from offending. The concept of rehabilitation and protection of the community go hand in hand. If the system successfully rehabilitates a child who has started committing offences then the community will necessarily be protected. There is nothing in the bill that would compromise the stated aims of the Youth Justice Act in rehabilitating children who break the law and protect the community from offences. We think many of the provisions preserve those concepts.

Another principle of the Youth Justice Act is that children should be dealt with expeditiously. A reintroduction of sentence reviews allows for a quick resolution of appeal matters, which reduces the risks that a child remains in legal limbo while an appeal is being heard. Legal Aid Queensland has also identified the issue in terms of the definition of what is a sentence order under the act, and that is part of the written submission that we provided to the committee. Thank you.

CHAIR: There has been some criticism that the government did not extend enough time to review the boot camps initiative. The committee heard in Townsville from a citizen who actually put in a countertender for another type of arrangement: Ms Parkinson. She said she was not overly impressed because it was a group of dongas with security put on them, very little infrastructure and a few horses. She did not see where the gross amount of money would possibly be spent. She went on further to indicate there was only around about a 27 to 30 per cent success rate. Do you believe if there had been more time to allow the objectives of the previous government in reference to boot camps there would have been a different outcome?

Mr Law: I have read the KPMG report into the boot camps. It seems that the difficulties identified in that report are around the program itself by that particular provider. I think there was some criticism from the elders in particular in regard to the reintegration of those children back into country and into culture. I am unsure whether if that boot camp had continued many of those recommendations would have changed in terms of the actual provision of the program itself. What we do not know is whether the boot camp that was in place had an effect on recidivism in a long-term sense, I suppose. We do not have that data. It would probably need to run more than 12 months for that purpose.

CHAIR: Mr Bartholomew?

Mr Bartholomew: I think the Law Society raised concerns at the time that the boot camps were introduced and we were concerned about the coercive nature of those. We were concerned around the lack of evidentiary material to begin with to suggest that those boot camps may be effective. At the time that the proposal was raised it was suggested to the Law Society that there would be an evaluation within 12 months. That evaluation did not occur until the evaluation that was recently done by KPMG. I think the Law Society's concern has always been that there appeared to be a lack of evidence to suggest that those boot camps were going to be effective and certainly it was disappointing perhaps to us that the evaluation took so long to occur.

Prof. O'Leary: I would support what has been said already in that the problem seems to be that the evidence base for the introduction of the boot camps was lacking. There has been some literature that suggests that boot-camp-like initiatives can be effective but that intensive, strict regimes will only be effective at reducing reoffending if they comprise a more therapeutic component and provide skills that are generalised to the young person's usual environment. As far as I am aware from the KPMG report as well into the sentence youth boot camp at Lincoln Springs, that therapeutic component seemed to be lacking, especially in the community integration program as well.

Mrs SMITH: The KPMG report was in response to the Auditor-General's report; it was not an actual evaluation of the program. An evaluation was never done of the trial. You would be aware of Michael Shanahan, the president of the Childrens Court of Queensland. In his annual report of 2014-15 he claimed that 10 per cent of juvenile offenders were responsible for 45 per cent of all proven offences. He said that these figures demonstrate the comments he had made in previous annual reports that it is that identifiable group to which attention must be given in attempts to rehabilitate if a significant decrease in offending by them as juveniles and later as adults is to be achieved. What part of this bill is going to address the issue of the 10 per cent of children who are committing 45 per cent of offences? How do we actually address that issue?

Prof. O'Leary: With respect to these particular amendments, I think the perception is really that these particular amendments would only be one part of an effective response. Going back to the pre-existing legislation would allow a less intrusive type of approach and avoid potentially stigmatising and institutionalising young offenders. As we said before, that is one aspect of this. There will need to be other approaches, but they will be front-end type of initiatives that will need to occur with those young offenders.

Mr Bartholomew: I think at the time of the introduction of some of these initiatives in 2013 there were concerns raised by the Law Society that, in fact, they were an application that applied to far more than the 10 per cent that you referred to and that are referred to by Judge Shanahan in his report. In many ways what this legislation does is tend to refocus the energies of the youth justice system back to those areas rather than having a broad swipe across the entire youth justice sector. Certainly, as we said in our opening remarks, we see this as being a first step and we welcome the initiative for the discussion paper which has been issued in relation to youth justice generally and also in relation to those three further areas in which the government has called for a response in relation to 17-year-olds and other issues.

Mr Law: I concur with those comments. This needs to be the first part of some significant changes within the sector. As a lawyer who appears in the jurisdiction on a daily basis, that 10 per cent committing so many offences, there are a million reasons those children offend in that way. There are

children in the child safety system who continually offend within child safety placements. We are seeing an increase in drug use, which is a real problem, particularly ice, amongst young people, and in particular areas we see some more aggressive behaviours as a result of that. There have always been issues with sniffing and volatile substance abuse in regional Queensland and rural Queensland also. It will really take an all-of-government approach in terms of children with those other factors with Child Safety and also the Department of Health in creating an all-of-government approach in order to deal with those particularly difficult offenders.

Mrs SMITH: I think it was up in the Townsville area there was the suggestion in one media report that it seems to be the same kids going through court and it is a revolving door and that we are too soft on crime. That was the community response even three or four years ago. There was community outcry coming through in Townsville. I am not picking on Townsville but that is where the media reports seemed to be coming from.

Mr Law: Yes. I attended the round table when the former attorney-general gathered a huge number of stakeholders around a table to discuss boot camps. One of the particular things about the children in Townsville who offend is that we see that real lack of male role models and the lack of connection to culture and country and that frustration from the elders as well. In each area the reasons for the kids offending in those areas can be quite unique. Having a response that addresses those particular needs may assist the community in dealing with those issues.

Mr MADDEN: Thank you all for coming in today. The bill provides for the removal of the offence of breach of bail. As I understand it, each of you three groups support that. But there seems to be some confusion in the community why this is an important issue. I would be interested in your views as to why we should remove the offence of breach of bail for juveniles.

Mr Bartholomew: From the Law Society's view, the case that is referred to and the case that was determined by judge Richards in relation to this matter, where it was felt that the principles of double jeopardy applied, is fundamental to our thinking around it, but at the time it was raised the Law Society was concerned that this provision in terms of a breach of bail arising from the committing of an offence whilst on bail is exclusive to juveniles, it does not apply to adults. This is not a section that has any application to adults. It is a particular provision that only applies to children. It did seem particularly unfair that there would be a situation where children could be punished twice for committing one offence when it did not apply to adults.

Mr Ward: Breach of bail is not considered insignificant through the youth justice system. It is routinely taken into account by magistrates when they are sentencing and also in the decision to give bail. The removal of that does not mean that it is now insignificant to breach bail.

Mr MADDEN: So the magistrates or judges can still consider it in the sentencing?

Mr Ward: Absolutely, and they do.

Mr Law: The public policy reasons for why breach of bail is not an offence for children are that children have very little control over where they live. If a child has a residential condition but there is violence in the home and they have to flee that, then technically they are committing an offence under the Bail Act. That is the reason it has never been an offence for children. If a child does breach their bail, under the police powers act the police officer can bring that child to court and apply for the revocation of their bail and under the Bail Act—not the Youth Justice Act but the Bail Act—the magistrate can revoke their bail. That occurs on a regular basis in Queensland. Last time I looked there were about 230 children in detention, and 75 per cent of those were on remand.

Mr KRAUSE: When we were in Townsville for a hearing in this inquiry we took some evidence from a local government councillor who previously spent 39 years as a police officer. He detailed a lot of experiences he had in policing—working with and relating to juvenile offenders. His view on a couple of matters was that, firstly, in his experience as a police officer, at around the age of 15 or 16 there was a general comprehension by youth about what they were doing and the consequences and awareness of what they were doing was right or wrong; and, secondly, he had quite a firm view about the usefulness of youth sentence conferencing. In fact, his view was that it was pretty useless. I just wanted to ask each of you in turn to give your comments about those views. I think it is fair to say that some of those views are pretty broadly reflected in the community as well.

Mr Law: I understand before the conferences were legislated out of the Youth Justice Act there was something like a 97 or 98 per cent satisfaction rate with the participants in those conferences. I think with conferencing we have to remember that the act talks about making a child responsible for the offending that they commit, and there is no more powerful tough-on-crime measure than making a child sit opposite their victim and apologise. I have been to hundreds of conferences and they can be

very powerful ways for a child to make amends to the community in general. There are some children who do have a poor attitude. There is always going to be those children, it is just part of nature. The ones I attended were pretty successful.

Mr Ward: Absolutely. I would agree with those comments about conferencing. It is a powerful thing for a young person to actually confront and speak to a victim. It is often a very beneficial thing for the victim as well to be able to meet the offender and develop a bit of a broader understanding about some of the reasons why that young person has committed that offence. The other thing about conferencing is that it is an opportunity for that young person to reflect on their stage and how they are dealing with some of the causes of offending. There might be family violence involved or drug and alcohol use and that sort of thing. Very often appropriate referrals for these young people come out of the fact that some professionals have actually spent some time with them and canvassed those issues.

Mr KRAUSE: Could I ask you to address the other point?

Prof. O'Leary: In relation to the comprehension of 15- and 16-year-olds, I see that Dr Richards is presenting later on today and she would probably be the best person to speak to you about this. She has done a lot of work in this area. As I said in my opening remarks, the evidence seems to suggest that young people's brains are still developing up until their early twenties, and, although they might have a general comprehension of something being wrong and a general comprehension of what the consequences of particular actions are, it has been described as having an unskilled driver behind the wheel. So they know about the car and they know what it does but they are not able to respond in the appropriate way, and that is because of these particular developmental issues. Obviously it is less so the older they get, but it certainly still exists—particularly with the cohort that we are talking about—for those with a high risk of recidivism. We are talking about young people who are often suffering from mental illness or intellectual disabilities, so they are going to suffer more greatly in terms of those developmental delays.

CHAIR: Thank you, Ms O'Leary. Unfortunately, we are way over time. I thank each and every one of you for your attendance here this morning and for your submissions.

LAUCHS, Ms Andrea, Assistant Commissioner of Advocacy, Policy and Sector Development, Queensland Family and Child Commission

RICHARDS, Dr Kelly, Crime and Justice Research Centre, Queensland University of Technology

VARDON, Ms Cheryl, Principal Commissioner, Queensland Family and Child Commission

CHAIR: Thank you for your written submissions and for your attendance here today. I will ask each group to make an opening statement of five minutes and then we will have questions from the committee. I will start with Dr Richards, please.

Dr Richards: Thank you very much for the opportunity to speak this morning. Our research centre focuses on a whole range of matters relating to crime and justice, but we do have a particular interest around youth justice matters. In my previous position I was employed as a senior researcher at the Australian Institute of Criminology, where my research also focused on youth justice, youth detention and so on. I will take just a couple of minutes to very quickly pull out the key points from the centre's submission.

Broadly, we support all of the changes to the legislation that are being suggested. We support the removal of the sentenced correctional boot camp order, primarily because there is no evidence that boot camps can reduce offending or reoffending among young people. Further to that, they are detrimental to young people. They take young people out of their families and communities, to which they will inevitably return.

We do not support the naming and shaming provisions that the previous government introduced. We see these as being very out of step with the rehabilitative nature of the youth justice system, and again there is no evidence that those sorts of provisions do anything to deter young people from committing offences. There is no evidence that they do anything to reduce reoffending.

Like the previous speakers, we support the removal of breach of bail as an offence for young people. Those sorts of measures ultimately see young people trapped in a vicious cycle which makes it incredibly difficult for them to exit the youth justice system. I am happy to say a bit more about that later if that helps.

We support the principle of making childhood findings of guilt inadmissible in adult court. Again, we see those provisions about making those findings admissible in an adult court as being incompatible with the rehabilitative focus of the youth justice system.

We support the reinstatement of the principle of detention as a last resort for young people. The evidence is really clear that youth detention is highly criminogenic. In other words, youth detention firstly does not deter offending and secondly creates a cycle in which young people go on to offend more. In our view, it should be reserved for cases in which it is necessary for the protection of the community. We support the reinstatement of the principle of imprisonment as a last resort under the Penalties and Sentences Act for similar reasons.

Ms Vardon: We are pleased to appear before the committee today in relation to the Youth Justice and Other Legislation Bill but particularly to speak to the recommendations in our submission, which you have before you.

The QFCC is a relatively new organisation in its current form. It is a statutory body established on 1 July 2014 under its own legislation, the Family and Child Commission Act. Our major role is to have oversight responsibility for, and evaluation of, the child protection reforms which are currently underway. Our mandate is set out in our legislation, together with some of the road map commission of inquiry recommendations which we have been asked to follow through.

We are committed to promoting the safety, wellbeing and best interests of children and young people in Queensland which we do in a number of ways: research, education, evaluation, oversight and advocacy. The mandate of the QFCC and the things on which I have to report include responsibility in relation to children and young people in the youth justice system. I need to be clear that there is no legislative oversight responsibility for children in the youth justice system that the QFCC has. I have a responsibility to promote and advocate for the safety and wellbeing of all children and young people in Queensland with those in need of protection or in the youth justice system.

I think it is important to keep youth offending in context. Most young people do not have formal contact with the justice system. In fact, during 2014-15 less than one per cent of young people aged 10 to 16 years in Queensland had at least one proven offence. I would reiterate the comment that

young people are at a particularly vulnerable age developmentally, making them likely to be susceptible to peer influences and to participate in riskier behaviour than adults. They are experiencing physiological, psychological and social change.

I am largely supportive of the policy objectives of the Youth Justice and Other Legislation Amendment Bill 2015, and I support the government's approach to making changes to Queensland's Youth Justice Act 1992 based on evidence. Changes which can make improvements for children and young people in contact with Queensland's youth justice system should be brought in swiftly.

I have a comment about 17-year-olds. Unfortunately, Queensland remains the only jurisdiction in Australia to include 17-year-olds in the adult criminal justice system, and that is despite calls from the United Nations Committee on the Rights of the Child for the removal of 17-year-olds from Queensland's adult criminal justice system. The QFCC and I would like to see 17-year-olds removed from the adult criminal justice system and transitioned to the youth justice system.

CHAIR: Dr Richards, I was interested in your submission with respect to the comprehensive health screening of adolescents. In a previous committee in a particular hearing we heard evidence from Indigenous communities in Northern Australia to the effect of young Indigenous youths swimming in dirty rivers and ponds, then developing symptoms of hearing loss as a result of that and then being incarcerated later in life. Could you expand on your comments in that part of your submission for the committee, please?

Dr Richards: I think health is a really overlooked factor when we talk about youth justice. We know that many, many people in contact with the youth justice system have profound health issues. They can be things like hearing issues and people might think, 'What's that got to do with justice?' Of course, once you are in a process like a youth justice conference, for example, if you cannot hear what is going on then you have very little chance of participating effectively in that process and seeing a fair outcome from it.

Foetal alcohol spectrum disorder is something else that really needs to be on the agenda, and we are only really just starting to recognise that now. FASD causes young people to be more impulsive than they normally are, to be incredibly influenced by their peers and to not learn from their mistakes. While it is all well and good to say that young people just get a slap on the wrist, the reality is that for some of these young people who do have these sorts of health problems they really need to be effectively screened and also supported if they are to remain outside of the youth justice system.

Mrs SMITH: When are we just making excuses for bad behaviour? At the end of the day we can say that they do not understand, but I know there may other people who would give contradictory evidence. I am just asking the question. Maybe even from a parental point of view, when is it just bad behaviour and we are making excuses for them?

Dr Richards: Sometimes, but we need to look at the characteristics of young people who are caught up in the criminal justice system. We are not talking about young Johnny who goes to a private school in downtown Brisbane; we are talking about young people who are Indigenous, who are from dysfunctional families, who are from dysfunctional communities, who have health problems, foetal alcohol spectrum disorder, mental health issues, alcohol and other drug issues and who are wards of the state. Young people who are in out-of-home care are massively overrepresented in the youth justice system. We can talk about whether we are just making excuses for them, but I think we need to be very clear about the group of young people that we are talking about, and they are really among the most disenfranchised people in the community.

Mr BROWN: In your learned opinion, all of the measures in the amendment bill are supported by empirical evidence; is that correct?

Dr Richards: Yes.

Mr BROWN: I will probably get in trouble from the AG on this, but can there be any more evidence that stacks up regarding incarcerated 17-year-olds? Should this have been addressed in this bill? Is there any reason to wait?

Ms Lauchs: In our view, no.

Ms Vardon: In our view, no.

Mr BROWN: There is no more evidence that we can collect about the benefits of trying to get 17-year-olds out of the justice system and recurring offending?

Ms Vardon: Not as far as I know. I am speaking from experience of working in the youth justice system previously and in adult corrections. You can keep on collecting evidence, but in my view sometimes that becomes a delaying tactic. At some stage, common sense and knowledge on the ground have to kick in.

Mr BROWN: In your opinion, we are just holding out on this for purely political reasons?

Ms Vardon: I cannot comment on that. I would not have thought so, no.

Mr PERRETT: Ultimately, what can be done with regard to repeat offenders, particularly Aboriginal and Torres Strait Islander people, who are certainly overrepresented in the juvenile justice system? Do you have maybe two or three suggestions about what can be done to address or change that?

Ms Lauchs: Lots of the research and evidence supports early intervention and prevention. I think more needs to be done in that space. The use of boot camps probably was not the best approach for that young cohort. There is definitely evidence to suggest that young people need to stay in their community and with their language groups and get some support from within. I am not sure in the youth justice space or in the child protection space that we have actually worked out what that will look like yet. There is a lot of work to be done to look at how we can actually prevent those offending, but I think the first work needs to be done in the community with the community, to try to prevent those young people offending and break that cycle of offending happening in those communities in the first instance.

Ms Vardon: In my view, it is not simply a youth justice issue; it is a matter of young people of Aboriginal and Torres Strait Islander background being overrepresented across a number of spheres of government, including out-of-home care and issues to do with school attendance and lack of housing, so there is a whole-of-government approach that is needed. It is part of the responsibility of the QFCC to pursue that whole-of-government response to reducing overrepresentation in many areas.

Mr PERRETT: It certainly appears that it has been around forever and there does not appear to be anything that seems to be reducing the incidence of these youth becoming part of the ongoing problem. That is what is concerning and it is why I asked whether there are any other measures that you can perhaps suggest from your knowledge. It might be a whole-of-government approach, but dealing with one aspect of it perhaps has not worked in the past and that is why we are looking for other suggestions.

Ms Vardon: I think some children are on a trajectory from the time they are born, if you like, that seems to be almost a self-fulfilling prophesy, that they will end up through various circumstances in the youth justice system. I think intervention has to happen right from day one, whatever the most appropriate intervention is. We see parents in trouble through their own circumstances or those with a lack of parenting skills for various reasons. We need to be much clearer about specific and earlier interventions with children whose life circumstances at that early stage have them on a certain path. We sometimes cross over and get confused about what that intervention can be, but clearly it is parenting skills and it is an understanding that parents have a responsibility to bring their children up in a safe environment. That is one of the roles of the QFCC as well. There are roles for the police and the judiciary in this as well.

Dr Richards: I echo my colleagues' suggestions around the early intervention stuff and the primary crime prevention, nurse-family partnerships which are a great initiative, positive parenting programs and so on. But in terms of what the youth justice system can do, once kids are in trouble they are in trouble and no amount of early intervention will change that for those young people. A couple of important things can be done. Often what happens is that we put these initiatives in—and youth justice conferencing is an example. We put that in place and then we create all these eligibility criteria, so we say, 'Oh gee, we only want young people who have not committed a violent offence. We only want young people who have not been repeat offenders.' That means that Indigenous young people are not eligible to participate in these programs, so essentially what we have—and it is not just in Queensland; it is across the board—is a system where all the white kids go through the diversionary measures, the youth justice conferencing and so on, and the Indigenous kids go straight to jail. Because they start offending earlier, they get picked up by police earlier, so if they are being excluded for having committed two offences, for example, they have no option; they have to go straight into detention. That is one thing.

The other thing I would suggest is that police are really varied in their views around diversion and there seems to be no accountability at all. Some police love it and they are diverting lots of young people; other police really just do not bother with it at all. There do not seem to be any sorts of mechanisms for measuring that or for making sure that police are doing what they are supposed to do. Half the time they let kids go to court and then the magistrate refers the young person out to some diversionary measure, which is crazy and very costly.

CHAIR: Ms Vardon, I refer to your answer to the member for Gympie with respect to parenting. As you would know, over a period there has been—if I can describe it—an erosion of the traditional family structure of husband, wife and so on to in many cases single-parent families. Is there evidence of that increase that you can put your finger on?

Ms Vardon: No, I am sorry, not directly, but I can certainly look for that. I think it is more to do with the supports that families—in whatever shape or form they take—have available to them. The QFCC has undertaken a very specific and well-targeted program of encouraging parents and families to seek support and to seek services as soon as they feel they might be in trouble. We have done that now for a year and a half, I think. We have recently received the baseline research into how well targeted that work has been. What we have found is that there is still a real stigma around parents—a single parent or grandparents, for that matter, who sometimes take over the reins of parenting—reaching out and asking for help. I suspect that is more of the issue: having services that are appropriate and accessible and where parents and adults do not feel stigmatised for the way that they are reaching out for help. I do not have anything about the structure of the family and likely trouble that kids get into.

Mr MADDEN: Thank you all for coming in today. I want to talk about victims of crime and what you think are the best ways to deal with the needs of victims of crime. I am thinking about things such as whether they should be informed of mention dates, whether they should be allowed in closed courts, whether we should use programs that are used in the adult area such as the Sycamore Tree Project. I am interested in your thoughts about how, beyond this bill, we might be better able to deal with the needs of victims of crime?

Dr Richards: I think they absolutely need to be part of it. There are a number of measures in place. Youth justice conferencing is a key one in which victims can participate. Certainly the research is very clear that victims are satisfied with youth justice conferencing. Putting aside the issue of whether they work, certainly we do know that victims feel very satisfied that they get to have their say, they get to meet the young offender and see that they are not a monster and so on. I would certainly support the continuation of that. With all of the other measures around keeping victims informed about mention dates and hearing dates and so on, I do not think any of those erode the rights of the young offender and would absolutely support those.

Mr MADDEN: There could be a staffing issue with the police—just a phone call to say, 'It's on tomorrow if you want to come.' Closed court is an issue—the fact that it is a closed court. They are not really entitled to be there for a bail application or a mention or even the sentence, only for the trial and only while they are there as a witness. I think they feel disfranchised in that space.

Dr Richards: Absolutely. It is really a tricky one. Perhaps there is another measure by which victims can be kept informed about what is going on, even in those situations where they cannot actually be in the room. Certainly the evidence shows that victims just want to know what is going on. They do not want to find out on the television or after it has happened. Really, being kept informed is a very empowering experience for victims of crime.

Ms Lauchs: I would agree. I think it is about taking a further look at the capacity of those organisations that support the victims being able to keep them as informed as possible, whether that is through the police or through other agencies like PACT or different places like that. Certainly I think the victims' rights need to be heard.

Mr MADDEN: Thank you very much for that.

CHAIR: If there are no further questions, I thank each of you for your attendance and your submissions to the committee.

SANDERSON, Rev. Dr Wayne, Private capacity

CHAIR: Reverend Dr Sanderson, thank you for your submission and for appearing here today. As we have done with previous witnesses, we will allow you approximately five minutes to make an opening statement and then we will hand over to the committee members for questions.

Rev. Dr Sanderson: Thank you, Mr Chair and committee members, for the opportunity to be here. I appreciate that in putting forward a personal submission it has the strength and the value for me of being quite unfettered and not necessarily needing to agree with one body, one person or another, but I can actually offer to you my particular journey and the relevance it has for the matters that we are dealing with here. I bring, in one way, a very simple notion that is underpinned by a lot of conviction and a fair bit of experience, other people's and my own. It is about government and community partnership in this enterprise of youth justice—the entire system: what it is about, why we would have one, what it is for and how best to do it.

Firstly, for the sake of community safety, it is very important and also, of course, dealing with the damage—and, yes, there is damage to victims—to be resourceful and inventive and always rethinking the best ways to be doing this. It is so multifaceted. I have sat pastorally quite a few times beside people who have had astonishing things happen to them out of the blue, although mostly not by young people—overwhelmingly not by young people, but nevertheless they are victims of crime. We need to be resourceful and sensitive and practical and inventive about that and there needs to be a good legislative framework for that.

Moving on, with the youth justice frame that is before us, I believe there are opportunities. I said somewhere in my written submission that the glass is, in fact, half full. I think in the state of Queensland we have learned a lot over the past four or five years and a bit longer about things that do not work very well and about things that just go in the wrong direction, really, in the preventive sense. The big question that is before us—it is a moment of truth, I think—is: are we really interested in preventing this stuff? If the answer is yes, then with the underpinning resources and abilities and commitments that a government can call on—a government that really is in tune with people; a government that is serious about getting the best resources out of the community to work with—then that is open to us. It is possible. It is there. I have seen some of it work in some places, but I have to tell you not nearly enough in recent years. There is my frame and there is my conviction: government and community partnership has many opportunities.

I have set forth—and I hope you will be interested in this—several concrete measures, programs and projects—meat-and-potatoes, feet-on-the-ground stuff—that can be done by sensible people of good will who want to work together instead of taking political pot shots at one another; the childish stuff. There it is. I think that is enough from me for now.

CHAIR: Consistent with the question I asked of the previous witnesses, I want to ask about dealing with health screening of young offenders. As someone who has extensive experience in respect of dealing with Indigenous children, can you elaborate on that particular point for me, please?

Rev. Dr Sanderson: I can. There are two or three really important current aspects of the foetal alcohol spectrum disorder prevalence incidence in the community. The difficult point about this is that its prevalence is increasing. It is primarily because of alcohol consumption certainly by a mother of a child during and before pregnancy, and fathers too. There is a particular input there which we would understand readily. We are not just talking about Indigenous people, Aboriginal people. We are talking about the bottom 20 per cent of income earners in our society and the prevalence of the overuse or the inappropriate use of alcohol in that group.

Of the Indigenous young people who come through the youth justice system, it is an anecdotal observation at this stage from youth justice here, people working in detention centres there, police officers all over the place, lawyers of various kinds, schoolteachers in country towns and so on that there is this increase in prevalence. Only in recent weeks has there been an important stage reached in the ability to get a screening system which will detect this early, if the screening is done early in the life of the child, through the public health system.

A team of paediatricians at the Gold Coast have given special priority in the research aspect of their work to this, led very ably by Dr Doug Shelton. They have reached a point where they believe they now have developed, in concert with colleagues, notably in the Kimberley district of Western Australia, where there has been major project running, a system which they believe is ready for use. They have appropriate support from the National Health and Medical Research Council which is critical.

The question remains: what are the effective and practical ways in which this screening can be done? When do you do it? Where do you do it? Who does it? Who has authority? So there is work to be done there by our public health authorities in concert with appropriate others within the state system to make that happen.

Mr MADDEN: Reverend, you would have heard me ask the previous submitters about the best ways to deal with the needs of victims of crime. I wonder whether you have anything to say about that.

Rev. Dr Sanderson: I think there are a number of levels at which we should be considering the best response or the number of responses—it is a number of responses by different people—to someone who has been wronged by crime. I will quote two extremes. The first is of the frail elderly lady who on pension day is at the deli counter in a well-known supermarket in a very busy shopping centre has her handbag snatched by a crazy kid. Guess what? The kid leaves the front entrance of the store and goes out on the footpath and the police are waiting for him. This has happened, actually. This says something about the responsiveness of the police—a big tick there; that is good. I get back to the person who has lost their bag. There is the trauma and shock and the upsetting of a person's assumptions about going out shopping. That is just the tip of the iceberg. There could be a terrible feeling of fear for that person. That is one end of it. Various fairly obvious measures can be taken to get the sort of support for that person that is needed.

The other extreme is a person who has suffered grievous bodily harm through a savage assault. Perhaps it was out of the blue. Perhaps it was done by somebody they did not even see or do not know. There are other and more complex forms of support needed for that. They will be health and medical services and liaison services to make sure the person is being personally, socially and emotionally supported, as with the old lady with the handbag. It goes on. There will be monetary damages. There will be all sorts of difficulties of that kind.

I believe that, where youth offenders are concerned, there certainly needs to be serious follow-through and continuity—this is the key thing I am saying—and a minder, pastoral, social support type role. I know some agencies do have this. The police do this to a certain extent. There are limitations on how far they can do this. Continuity with one person becomes really difficult.

I believe Queensland Health has the capacity. It depends where you look. Some of the regions of Queensland Health have not recovered from the budget savaging they had for this sort of work over recent years. They are still rebuilding. Some of them probably will not rebuild. I do not know that; I am just guessing. That is my best guess. It depends where you are in the state, but these sorts of liaison roles can be difficult. They are most commendable and I would support them. Use the community resources, too, and tap into those. I know this happens through the NGO social service agencies and sometimes churches that have a strong pastoral care reputation.

Mr BROWN: Can you expand on flexischools and Edmund Rice Education and indicate where they are located and how they fit into the system?

Rev. Dr Sanderson: I was hoping someone would ask me about this. Edmund Rice Education has developed across the last seven or eight years in various parts of Australia—high-priority hot spots for young people on the loose and offending and likely to offend. They have developed what I would call, with great respect, 'barefoot high school'. It is high school for kids who have a lot of trouble sitting still in a conventional classroom for a conventional period of instruction in a typical high school.

It is likely—we do not know yet—that a lot of these kids have small brains through foetal alcohol spectrum disorder. When assessment is done individually with some of these kids, that has been the case. I talk here of IQ tests and all that sort of thing. Is this kid going to have a wasted life? This is the challenge for flexischools. Edmund Rice said, 'No. We want this kid to have a life—a decent life, the best that he is capable of doing—and we want him to be of use to others. We want him to be a worthwhile person to others, too.'

They have five locations in Queensland. The one I know most about is at Deception Bay. There are two in Townsville.

Mr MADDEN: There is one in Ipswich.

Rev. Dr Sanderson: They are expanding but they are restrained by resources. They want to be able to develop several more of these. They have a strong student-staff ratio—much stronger than you will ever get in any high school. They are expensive. If you are going to have a flexischool that caters for the needs of about 40 children in, say, Deception Bay—I do not know if they are the details at Deception Bay, by the way—then you are probably going to have about seven or eight staff members. Five of those would be very experienced secondary school teachers. They do not hire anybody on their staff. A couple of the staff would be very seasoned, feet-on-the-ground youth workers with a lot of

initiative and ability to help the kids in their social situations, with their families and so on. Referral networks are very important to the flexischools. They build strong MOU type, committed relationships for wraparound social service type care for the family of that kid who is in trouble and arrived at barefoot high school.

There is an alternative system, which is very much a South-East Queensland thing. The Shaftesbury people are doing a comparable kind of model with a greater emphasis on preparation for technical and trade training. They have a considerable track record over the last few years in helping kids who would otherwise be lost to the education system and perhaps lost to the community to actually have the penny drop, see their own possibilities and get into trade training for a decent job and a pay cheque and everything that comes with that. I commend those resources.

Mr PERRETT: I would like you to expand on your comment earlier with regard to the 20 per cent at the lower end of the socio-economic spectrum. Earlier in some questioning I mentioned Aboriginal and Torres Strait Islanders, but we are not specifically referring to them because, as you mentioned, there are other sections of our community affected. Could you comment on the breakdown within their home environment and the ongoing cycle of not only alcohol abuse within the environment where these children are but also substance abuse including violence? Where does the government approach need to come from with respect to dealing with the broader and ongoing, what appears to be, habitual issues and problems within certain sectors of our society?

Rev. Dr Sanderson: I think you are pointing to a set of issues there which highlights for me the importance of early intervention. I have had the privilege of hearing from senior officers of the Queensland Police Service, past and present. Several retired but very active former police officers are in fact supporting the Balanced Justice campaign that I am here talking about with you. What they are telling me—and you have seen it in the news in recent months, particularly in Victoria—is that we cannot arrest our way out of this. In other words, the traditional and familiar methods and processes of the law are not enough. They are not irrelevant. You have to have them, for all the obvious reasons, but they are not enough.

What has to happen? I think the key is early intervention of the kind I mentioned in the case of the barefoot high school—the wraparound social support. Social service people of various kinds, but notably youth workers in the case of young offenders, need to be empowered by their agencies and by statutory provisions where they are needed to be fairly adventurous and on the front foot in intervening earlier. It is more engaging than intervening. It is the gentle approach. Of course, it might not be able to remain gentle forever. We know that. There needs to be a degree of assertiveness and a reality check and so on. You are going to have that difficult conversation with the people who are absolutely neglecting their kid. They do not have a clue about what is going on.

I have had those discussions with quite a few people in my time. We have to somehow be switched on enough and sensitive enough on one hand and yet courageous, resolute and assertive on the other hand to have those conversations early with people.

CHAIR: Thank you, Reverend Dr Sanderson for your attendance here today and for your submission.

Proceedings suspended from 11.59 am to 12.11 pm

MABO, Ms Gail, Private capacity

SMALLWOOD, Uncle Alfred, Private capacity, via teleconference

CHAIR: Thank you for participating in today's hearing. We would like you to make a brief five-minute opening statement and then committee members will ask questions.

Uncle Smallwood: Thank you. Wadda Mooli. That is from the Birri-Gubba language meaning 'greetings', such as welcome and goodbye. My name is Alfred Smallwood and I am a traditional owner of the Townsville area. I am from the Bindal clan group and our neighbouring clan group is the Wulgurukaba clan group.

I run a men's group up here, the Uncle Alfred's Men's Group. I have been running it for a number of years, about eight years, and I do it all voluntary. I have only been taking stats of attendance sheets from 2012 to 2015. From 2012 I had 400-plus attend my men's group; from 2013, it would have been 600-plus; from 2014, it was 700-plus; and from 2015, it was 700-plus. With the men's group, I also work with a lot of the youth justice young people. I am also an elder with the community justice group in the courts—with the juvenile court and the adult Murri Court. I am also one of the board of directors with the community justice group here in Townsville. On a weekend basis I work as a cell visitor in the watch house at the Murri Watch corporation. I have been doing that for a number of years also. I have a strong connection with offenders, both Indigenous and non-Indigenous, adults and juveniles.

I run my men's group once a week every week. I have now opened up a second men's group. As I said, I do all of this voluntary because I see the need to mentor these young people and try to keep them on the straight and narrow. The men who are coming through my men's group are people who have been in the law system and now they have found within themselves that they are back in the lore system. Now it is their turn to help the young people, but there is a barrier. It is a blue card that is stopping them from actually working with young people we want to try to get back on the road, just like I have been doing with the men. That is where I am at at the moment.

CHAIR: Uncle Alfred, is there anyone else with you today who would like to provide any evidence to the committee?

Ms Mabo: My name is Gail Mabo. I am Uncle Alfred's adviser. I volunteer my time to make sure that his men's group is running smoothly, as well as helping him with situations like this. He needs to have information broken down so he understands what it is that you are asking, so I am just here to advise him.

CHAIR: Uncle Alfred, congratulations on the expansion of your men's shed. Could you explain to the committee how you engage the Indigenous youth with elders and what sorts of results you are getting from that involvement?

Uncle Smallwood: I have never had an evaluation done with the young people. A lot of them come over to my office. My office is being run out of the Church of Christ centre. They have let me use one of the offices there. The youth who are doing their community service come over, and I mentor them and talk to them in exactly the same way I talk to the men in the men's group. It is all about them becoming young, strong warriors or the young women that they are. The main thing that I focus on is trying to teach them respect. The feedback I get is either from them when they talk to me personally by themselves after—they will say to me, 'I wish my grandad can talk to me like you do,' and that sort of thing—or from the workers as they tell the workers how they feel after they have been talking to me.

CHAIR: What sorts of results is that reaping in terms of repeat offences? Is there anything you can tell the committee regarding that at all?

Uncle Smallwood: With repeat offending, I do not know that they have reoffended until I see them in court. Because there are that many of them, I just know them by face, so I know when they are getting themselves into trouble again. I also take them out on camps with me. I do a lot of cultural stuff with them. When I do cultural stuff with them, I am pretty sure that they understand what I am talking to them about and they do not reoffend. But I cannot speak for the whole lot of them that I talk to.

Mrs SMITH: Uncle Alfred, I wish there were 20 more of you, with all the work that you are doing in the different areas as an elder for the people in Townsville. In your submission you talked about how children should be named and shamed. Other people who have presented to the committee before you have felt that that is not appropriate. Can you give me the reasons you think the kids should be named and shamed or what your thoughts are on that?

Uncle Smallwood: My honest thoughts on that are that they are not shamed by committing a crime. The only ones being shamed are their families. But I am talking about the offender themselves, because it is not the whole family that is offending. I will give you a typical example. I had my car broken

into two weeks ago. I reside in a block of units and I have been there 16 years. These young people moved in a week or so before my car was broken into, and I knew them from the juvenile courts going into Cleveland for car stealing. I would like the other people in these units to know that their neighbours are car thieves. These are my own personal thoughts. I am not saying to name and shame them so their families are shamed. It is because these young people have no shame or respect for anybody. They are my own personal thoughts on that. I understand why it is inappropriate to name and shame them but, as I have stated and I will keep stating, they have no shame or respect for anybody when they are committing their crimes, whether it be car stealing or whatever it is.

Mrs SMITH: Uncle Alfred, the Childrens Court report suggested that it is only 10 per cent of the kids doing 45 per cent of the crime. One of the concerns is: how do we address the repeat offender? Do you have any thoughts or suggestions on stopping kids from repeat offending?

Uncle Smallwood: I will keep stating to people that, with the program I run, I do it voluntarily on my own. People keep on saying to me, 'What don't you take them out on country?' My answer to them is that I cannot take them out on country because I have no funding. I only have a sedan and I am afraid I cannot tow a McDonald's cafe with me. These children have to be taught the law of the land and the sea. Until they do that, they will not have respect within themselves.

I will keep stipulating that it is no use sending these children to Cleveland because Cleveland is only a stepping stone to going to jail, which is what they are doing now today. My Uncle Alfred's Men's Group is not me myself. I have that many branches hanging off my men's group as in hunters, trackers, bushwalkers, painters, artists, didgeridoo players and dancers. The men who come to my men's group have that much knowledge and wisdom from their own life experiences that they say to me every day, 'We were young once. Why can't we help these young people?'

Mrs SMITH: That is beautiful.

Uncle Smallwood: The only thing that is stopping them is a blue card. I know personally when I talk to these men that they have never, ever harmed children. By the time they finish in the men's group they become that father, protector, provider and role model in their family. This is why they have respect now within themselves and they want to help other people, especially young people, not go down the path that they went down.

Mr MADDEN: Uncle Alfred, I come from Ipswich. I used to be lawyer there and I represented many juveniles in the courts in Ipswich. I was very pleased to see that you recommend that parents should attend court for appearances when their children are charged. I would like you to outline why you think that is important for both the children and their parents?

Uncle Smallwood: Thank you. I am glad you asked that question. As I stated before, I work for Murri Watch on a Saturday and Sunday. That is the only paid work that I do. I do not get paid Monday to Friday. When I do field trips for the detainees in the watch house—and a lot of times the young people are in there—I will go to someone's house and say, 'Mary's locked up in the watch house,' or 'John's locked up in the watch house.' They ask, 'What for?' and I say, 'He stole a car,' or 'She stole a car.' They say, 'No, she never. She was asleep,' or, 'They pulled up out the front and they made her jump out of the window.' But when you go to court and you listen to the prosecutor read out the facts of what actually happened, little John or Mary is not that same little John or Mary that told mum or the grandma what they did. That is why I would like to see the parents there. With the Indigenous people, it is mainly the grandparents that you are talking to; it is not the parents themselves, because I believe that you are talking to kids who have just had kids. I honestly believe that it is the grandparents that are suffering, because the parents of these kids today that are in trouble are in trouble themselves. That is only in the judicial system that I am talking about.

Mr MADDEN: Uncle Alfred, do you think we could do more to encourage parents to attend court for appearances? Do you think it should be mandated that they attend?

Uncle Smallwood: Yes. I think that, whatever rule comes in, they should be made to come to court. Let them get a bird's eye view of what these young people are up to. If a policeman goes to their house to tell their parents or grandparents what their kids are doing, they will just say it is not them and put the blame on some other kid in the neighbourhood. That is why I would like them to be in that courthouse. As an elder sitting in the court they tell me their story, but when I hear what the prosecutor says I nearly fall off the chair.

Mr MADDEN: I know. I have seen that happen. Thank you very much, Uncle Alfred.

CHAIR: Uncle, I take you back to the proposal for naming and shaming. I refer you to the evidence that the committee was provided in Townsville at its hearing on 22 January. A Professor Dawes was questioned by one of the members of the committee about this aspect. In response,

Professor Dawes indicated that if you are named and shamed you become what he referred to as 'labelled'. He went on to explain to the committee that he asked a young car thief who was going to jail what he was good at. He described, 'Well, I'm the best car thief in Townsville.' It therefore becomes a badge of honour. Would you agree with the rationale that if you start that process of naming and shaming offenders it becomes a badge of honour for them in your part of the world?

Uncle Smallwood: I was not thinking down that line of them becoming heroes within themselves. I was just talking about naming and shaming to make people aware of who is in their neighbourhood. It is very true what you are saying, that it gives them a badge of honour. Going into Cleveland, because there are big gangsters going into Cleveland, also gives them a badge of honour. They openly walk around the street telling everybody what crimes they commit. What would be the difference of naming them? You go to any high school and every kid in the school would tell you who stole a car last night—'John did 130 down Bayswater Road, so I'm going to do 140 tonight.'

CHAIR: It becomes a competition, doesn't it?

Uncle Smallwood: Yes. Everybody in the school knows who all the car thieves are.

CHAIR: Uncle, I do not think we have any further questions for you. I thank you and also Gail Mabo for assisting you today before the committee. I wish you all the best in your future good work you are doing up there with your men's group and also with juveniles. Thank you for your attendance before the committee today via teleconference.

Uncle Smallwood: Thank you. Wadda Mooli.

CHAIR: That concludes this hearing. Thank you very much to all of the witnesses who have participated today and to those who have observed the proceedings. Thank you for your interest in this inquiry. Thank you, Hansard. A transcript of the proceedings will be available on the committee's parliamentary web page in due course. The committee is to report to parliament by 1 March 2016. I now declare this public hearing of the committee's inquiry into the Youth Justice and Other Legislation Amendment Bill 2015 closed. If there were any questions taken on notice, your responses will be required by tomorrow.

Committee adjourned at 12.30 pm