

18 July 2014

Our ref 339/69

Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

By Post and Email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Research Director

### **Inquiry on strategies to prevent and reduce criminal activity in Queensland**

Thank you for inviting the Society to provide feedback for the Committee's inquiry on strategies to prevent and reduce criminal activity in Queensland.

We provide the following as preliminary comments on the terms of reference. This submission has been prepared with the assistance of the Society's Criminal Law and Children's Law Committees. We note that the submission is not exhaustive given the breadth of issues that can be canvassed in this Inquiry, and we reserve the right to provide further comments.

We request information from the Parliamentary Committee on whether the Parliamentary Committee will issue further documentation, such as an Issues Paper or interim Report, to elicit feedback from stakeholders on specific issues and recommendations which are being considered by the Parliamentary Committee. We suggest that this approach would be useful for stakeholders.

Please contact our policy solicitors for further inquiries.

Yours faithfully



Ian Brown  
**President**



# Submission

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*Inquiry on strategies to prevent and reduce criminal activity in Queensland*

*Queensland Parliamentary Legal Affairs and Community Safety Committee*

*A Submission of Queensland Law Society*

18 July 2014

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## 1. The trends and type of criminal activity in Queensland, having regard to available crime statistics and issues in relation to unreported crime

The Society notes that information on crime can be found from various sources including:

- Queensland Government statistician's office crime and justice statistics<sup>1</sup>
- Queensland Police Service Online crime data map<sup>2</sup> and
- Queensland Police Service Annual Report and (until recently) Annual Statistical Review.<sup>3</sup>

The Society is supportive of the public being well informed of trends and statistics on crime. We note that whilst reported offence statistics are important, providing information on conviction rates and sentencing is equally important to provide a holistic picture of crime.

Statistics alone without analysis or explanation can be misleading. For example, Professor Terry Goldsworthy published an article in January 2014 analysing the statistics on the effectiveness of Queensland's outlaw motorcycle gang laws introduced in October and November 2013.<sup>4</sup> The analysis highlights anomalies with the statistics, including:

- Of the 817 charges brought between 6 October 2013 and 5 December 2013 deemed to be part of Operation Resolute, only 28 (3.4%) are considered "organised crime" charges such as drug trafficking and extortion
- *"In Queensland, 73,309 offences were reported in October and November 2013. Bikies accounted for only 1% of these offences"*
- *"The offences laid against bikies account for just 0.8% of total drug supply offences in Queensland. For trafficking in dangerous drugs they account for 5% of offences. For production of dangerous drugs they accounted for only 1.3% of total offences"*
- *"It is easy to claim someone is a participant in arrest figures and media releases. It is not so easy to do this when subject to the scrutiny of the criminal courts, where actual evidence is required to be proven to requisite standards. In a number of instances, claims of bikie gang membership evaporated when the courts required proof."<sup>5</sup>*

We suggest that measures must be taken to enhance reporting of statistics and information to provide the full picture of all stages of the interaction of offenders (alleged or otherwise) with the criminal justice system.

The former Sentencing Advisory Council was tasked with providing information to the community to enhance knowledge and understanding of matters relating to sentencing, and to publish information relating to sentencing.<sup>4</sup> We are supportive of such functions to ensure that all relevant information, from police data to court outcomes, can be compiled and shared with

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<sup>1</sup> Queensland Government statistician's office, found at: <http://www.qgso.qld.gov.au/subjects/society/crime-justice/index.php>

<sup>2</sup> Queensland Police Service, found at: <http://www.police.qld.gov.au/forms/crimestatsdesktop.asp>

<sup>3</sup> Queensland Police Service, found at <http://www.police.qld.gov.au/services/reportsPublications/>

<sup>4</sup> Terry J. Goldsworthy Dr. "The end justifies the means: why Queensland is losing the bikie war" *The Conversation* (2014) found at: <https://theconversation.com/the-end-justifies-the-means-why-queensland-is-losing-the-bikie-war-21948>

<sup>5</sup> Ibid.

the public to enhance knowledge of crime. We submit that the Parliamentary Committee recommend that these functions should continue to be carried out, noting that the Society did not support the disbanding of the Sentencing Advisory Council in 2012.

The Society has long advocated that changes to the criminal law need to be based on empirical evidence and objective data, rather than anecdotal evidence, uninformed community perceptions or broad claims about 'what the public want'.

We suggest that the Parliamentary Committee should consider whether there would be benefit in establishing an independent body (or a partnership with an existing body, such as a university<sup>6</sup>) to regularly publish analysis of Queensland crime & sentencing data (not just raw data from various sources), with a view to reducing crime and recidivism.

For example, the NSW Bureau of Crime Statistics and Research aim is to:

- *identify factors that affect the distribution and frequency of crime;*
- *identify factors that affect the effectiveness, efficiency or equity of the NSW criminal justice system;*
- *ensure that information on these factors and on crime and justice trends is available and accessible to our clients.*<sup>7</sup>

The main activities are:

- *developing and maintaining statistical databases on crime and criminal justice in NSW;*
- *conducting research on crime and criminal justice issues and problems;*
- *monitoring trends in crime and criminal justice;*
- *providing information and advice on crime and criminal justice in NSW.*<sup>8</sup>

As has been noted, the formulation of policy and legislation in the area of criminal justice is often claimed by government to be a response to community values or perceptions. Concepts such as values and perceptions are nebulous however in the context of criminal justice the main issues can probably be distilled as follows:

- a perception that criminal offending is increasing
- a perception that courts when dealing with offenders:
  - do not appropriately apply the law to ensure that offenders are adequately punished
  - encourage repeat or other offending behaviour through lenient sentencing
  - do not reflect community values in imposing sentences seen as inadequate.

Are community perceptions appropriately informed and accurate? There is cogent evidence to suggest that such is not the case. This is demonstrated by Australian and overseas research. A study published by Professor Kate Warner from the University of Tasmania asked jurors

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<sup>6</sup> Such as the Crime Research Centre at the University of Western Australia, found here: <http://www.law.uwa.edu.au/research/crc>

<sup>7</sup> About us webpage, NSW Bureau of Crime Statistics and Research, [http://www.bocsar.nsw.gov.au/bocsar/bocsar\\_aboutus.html](http://www.bocsar.nsw.gov.au/bocsar/bocsar_aboutus.html)

<sup>8</sup> Ibid.

(who were fully informed about the facts of the case) to assess the appropriateness of the judge's sentence. More than half the jurors surveyed would have imposed a more lenient sentence than the trial judge imposed. When the jurors were informed of the actual sentence, 90% said that the judge's sentence was (very or fairly) appropriate.<sup>9</sup>

The NSW Parliamentary Research Service published a study in June 2014 "Public opinion on sentencing: recent research in Australia."<sup>10</sup> Some of the key findings of that study include:

- a discussion of research from Victoria that when given more information relevant to the sentencing process, people become less punitive
- a discussion of research from New South Wales indicating that between 2007 and 2012, the number of people who thought that sentences were *too lenient* reduced from 66% to 59% and those who thought that sentences were *much too lenient* reduced from 37% to 29% with evidence to suggest that people were becoming more knowledgeable about criminal offending trends and rates of imprisonment
- a discussion of a national study which found that public opinion on sentencing "*is more diverse and complex than simple opinion polls would suggest... The nuanced opinions expressed... highlights the problematic nature of gauging public opinion using top-of-the-head style opinion polls... It has been suggested that alternative methodologies are needed that tap into informed judgements as opposed to top-of-the-head opinions.*"
- A finding that when asked to deliberate on cases, a majority of people (56%) select a sentence that is the same or more lenient than the judge's sentence, and
- A conclusion that:
  - it is important for policy makers to be aware of the nuances of public opinion on sentencing and of the difference between informed and uninformed opinion, and
  - there is an identified need to better educate the public and the media on sentencing and the criminal justice system.

The NSW government has pursued initiatives to educate the public as outlined above. The NSW Department of Justice and Attorney General has published a Sentencing Information Package which outlines:

- the purpose of sentencing
- the process of the sentencing hearing
- sentencing options
- explaining parole, and
- the appeals process.<sup>11</sup>

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<sup>9</sup> [1] Warner K, public judgement on sentencing: final result from the Tasmanian Jury Sentencing Study. Trends and issues in crime and criminal justice, Australian Institute of Criminology, February 2011.

<sup>10</sup> Public opinion on sentencing: recent research in Australia, Lenny Roth, NSW Parliamentary Research Service, 2014, found: [https://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/key/Publicopiniononsentencing:recentresearchinAustralia/\\$File/public%20opinion%20on%20sentencing.pdf](https://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/key/Publicopiniononsentencing:recentresearchinAustralia/$File/public%20opinion%20on%20sentencing.pdf)

<sup>11</sup> Sentencing Information Package, found here: [http://www.sentencingcouncil.lawlink.nsw.gov.au/agdbasev7wr/sentencing/documents/pdf/01\\_sentencinginfopackmay2011.pdf](http://www.sentencingcouncil.lawlink.nsw.gov.au/agdbasev7wr/sentencing/documents/pdf/01_sentencinginfopackmay2011.pdf)

The Queensland Government website also provides some information in relation to sentencing, however not as comprehensively nor as easily accessible as the NSW resource. The Queensland Government website also contains a link to “A comprehensive sentencing profile developed in 2011 covers Queensland Court Outcomes 2006-10” however the link cannot be accessed.

In the view of the Society, any discussion of strategies to prevent and reduce criminal activity must involve consideration of:

- whether and to what extent community attitudes are evidence based, and
- steps to educate the community and those participating in the criminal justice system as to:
  - the incidence of crime and criminal offending trends
  - criminal offending behaviours particularly by reference to demography e.g. indigenous offending, juvenile offending etc. and
  - the purpose and process of sentencing and sentencing outcomes.

## 2. The social and economic contributors to crime

The Society considers that understanding the social and economic contributors to crime, and then initiating targeted strategies that focus on addressing these contributors, is important. We note research which may assist in consideration of these issues:

- What Causes Crime?, NSW Bureau of Crime Statistics and Research, February 2001<sup>12</sup>
- Understanding and preventing Indigenous offending, Indigenous Justice Clearinghouse, 2010<sup>13</sup>
- New Zealand Ministry of Justice project on addressing the drivers of crime,<sup>14</sup> and
- Youth Justice: Criminal Trajectories, Australian Institute of Criminology, 2003.<sup>15</sup>

Our legal practitioner members, who interact on a daily basis with the criminal justice system, have identified some factors which they see as contributing to crime including: family factors including exposure to domestic and sexual violence, mental health issues, socioeconomic status, disengagement from education, unemployment and drug and alcohol abuse. We also highlight significant concerns with the overrepresentation of Aboriginal and Torres Strait Islander peoples in the justice system.

Addressing factors that contribute to crime (such as addressing drug and alcohol abuse issues through rehabilitation) requires an early intervention approach, which focuses not just on legislative responses and dealing with offending behaviour, but on assistance to keep people out of the justice system. In this regard we note the work of the New Zealand Ministry of Justice on addressing drivers of crime, which we will discuss further.

<sup>12</sup> Don Weatherburn, Paper found at: <http://www.olsc.nsw.gov.au/agdbasev7wr/bocsar/documents/pdf/cjb54.pdf>

<sup>13</sup> Indigenous Justice Clearinghouse, Troy Allard, paper found at: <http://www.indigenousjustice.gov.au/briefs/brief009.pdf>

<sup>14</sup> NZ Ministry of Justice webpage found at: <http://www.justice.govt.nz/justice-sector/drivers-of-crime>

<sup>15</sup> Mark Lynch, Julianne Buckman and Leigh Krenske, paper found at: <http://www.aic.gov.au/publications/current%20series/tandi/261-280/tandi265.html>

Put another way, the resources being invested into the criminal justice system need to be targeted at the 'front end' of criminal behaviour (ie the causes), rather than the back end (ie the consequences). This has been the consistent view of practitioners, academics and sociologists for many years. The difficulty with ensuring this type of focus appears to be largely a political one. The rewards are real, and lasting, but they are subtle, and often times run counter to the 'tough on crime' mantra that has become commonplace in political dialogue. In reality, the community would benefit enormously from programs which address social and economic contributors to crime, thereby stopping or reducing crime, rather than a focus on only dealing with crime once it has occurred.

We also particularly note the brief prepared by the NSW Bureau of Crime Statistics and Research which provides a snapshot of various causes of crime. We agree that crime is "opportunistic", and occurs where a range of factors are present which incentivise crime. The factors identified in the paper include:

*lax physical security, lax personal security, lax law enforcement or a low perceived risk of apprehension, high levels of alcohol consumption, open illicit drug markets, attractive commercial or residential targets and easy opportunities for selling or disposing of stolen goods.*<sup>16</sup> [references omitted]

The opportunities that incentivise crime must also be addressed, particularly in terms of ensuring strong policing to prevent crime from taking place. There is a need to ensure proper resourcing for all aspects of the justice system - police enforcement, prosecutions and the courts - to ensure that crime is prevented and, where it occurs, dealt with appropriately.

### **3. The impacts of this criminal activity on the community and individuals, including the social and economic impacts**

The Australian Institute of Criminology collects information regarding the major costs of crime on the community.<sup>17</sup> We also note a 2013 study, "The monetary cost of offender trajectories: Findings from Queensland (Australia)",<sup>18</sup> which is relevant to this question (and which we have referred to in later sections of this submission).

### **4. The effectiveness (including the cost effectiveness) of crime prevention strategies, including imprisonment, justice reinvestment, early intervention, alternative dispute resolution**

The Society provides views in relation to each strategy outlined in the terms of reference.

#### *a) Imprisonment*

Imprisonment is an important aspect of the criminal justice system, acting as a deterrent for criminal behaviour and reflecting the community's denunciation of the offending behaviour. Imprisonment represents the most severe form of criminal penalty in our society.

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<sup>16</sup> NSW Bureau of Crime Statistics and Research, What Causes Crime, 2001, found at:

<http://www.bocsar.nsw.gov.au/agdbasev7wr/bocsar/documents/pdf/cjb54.pdf>

<sup>17</sup> Costs of crime webpage found at: <http://www.aic.gov.au/publications/current%20series/cfi/161-180/cfi169.html>

<sup>18</sup> Troy Allard et al, Griffith University, 2013, found at: <http://www98.griffith.edu.au/dspace/handle/10072/57216>

Having noted this, we highlight that research shows that imprisonment is not a strong deterrent for future criminal behaviour and has little to no impact on re-offending rates. The effectiveness of imprisonment as a crime prevention strategy must therefore be considered. The Victorian Sentencing Advisory Council in 2011 undertook significant research, 'Does Imprisonment Deter? A Review of the Evidence.'<sup>19</sup> Among its findings were that:

- *The evidence from empirical studies suggests that the threat of imprisonment generates a small general deterrent effect. However, the research also indicates that increases in the severity of penalties, such as increasing the length of imprisonment, do not produce a corresponding increase in the general deterrent effect.*
- *The research shows that imprisonment has, at best, no effect on the rate of reoffending and is often criminogenic, resulting in a greater rate of recidivism by imprisoned offenders compared with offenders who received a different sentencing outcome. Possible explanations for this include: prison is a learning environment for crime, prison reinforces criminal identity and may diminish or sever social ties that encourage lawful behaviour and imprisonment is not an appropriate response to the needs of many offenders who require treatment for the underlying causes of their criminality (such as drug, alcohol and mental health issues). Harsh prison conditions do not generate a greater deterrent effect, and the evidence shows that such conditions may be criminogenic.<sup>20</sup>*

These are significant issues which must be considered, particularly noting that imprisonment can result in greater rates of recidivism. We submit that these findings should be considered to ensure that the use of imprisonment is targeted, and is not used as a "one size fits all" approach to deterrence.

In this context we note that there have been a number of mandatory minimum legislative penalty regimes introduced in recent years, some of which have attracted mandatory imprisonment terms. The Society's long-held position is that the current sentencing regime in Queensland, having at its core a system of judicial discretion exercised within the bounds of precedent, is the most appropriate means by which justice can be attained on a case by case basis. We **enclose** Society's position on mandatory sentencing for your reference. We submit that a "one size fits all" approach to justice will not achieve reductions in crime and recidivism.

In addition we note our objection to recent legislation which has removed the principle of detention as a last resort from the *Penalties and Sentences Act 1992* and the *Youth Justice Act 1992*, and the inclusion of express provisions that the court must *not* have regard to any principle that a sentence of imprisonment should be imposed only as a last resort.<sup>21</sup> This fetter on judicial discretion is, in the view of the Society, inappropriate and undermines the ability of the Court to make sentencing orders that are proportional and appropriate. We submit that the legislation should not prohibit the Court from having regard to this principle, and submit that these provisions should be removed.

Furthermore, the costs of incarceration must be carefully considered. In 2012-2013 the average daily prison population was 5849, at a cost of \$ 315.52 per prisoner per day

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<sup>19</sup> VIC Sentencing Advisory Council paper found at: <http://www.sentencingcouncil.vic.gov.au/sites/default/files/publication-documents/Does%20Imprisonment%20Deter%20A%20Review%20of%20the%20Evidence.pdf>

<sup>20</sup> Ibid.

<sup>21</sup> Legislation amended under the [Youth Justice and Other Legislation Amendment Act 2014](#)

(contrasted with \$14.09 per prisoner per day for community corrections).<sup>22</sup> This equates to imprisonment costs of \$1,845,476.48 for all prisoners per day, or \$673,598,915.20 per annum. We note that the Queensland Budget 2014/15 contains \$63.1M over five years to accommodate growth in prison numbers (in addition to \$64.5M over three years in capital costs). From a fiscal perspective, we suggest the Parliamentary Committee should examine viable alternatives to imprisonment in circumstances where community safety is maintained and rehabilitation can be promoted.

In July 2013, various media outlets reported that the Government was considering removing court-ordered parole and suspended sentences.<sup>23</sup> The Society would be deeply concerned by any such moves. We consider that these are integral sentencing options for the court which must continue to be available.

It should be noted that when the New Zealand government abolished suspended sentences, the prison population grew by 23% in the first two years.<sup>24</sup> A 2009 New South Wales study compared suspended sentences with prison sentences and found no evidence that imprisonment was the greater deterrent and that, for those who had already been to prison, being sent back to prison actually increased the risk of further offending. The conclusion: suspended sentences were more effective in these circumstances.

Similarly, we are supportive of court ordered parole as an effective sentencing option. Queensland Corrective Services has confirmed that court ordered parole is its most successful supervision order, and that in 2012-2013, 72% of these orders were completed without cancellation or reconviction.<sup>25</sup> It has also been identified that Court ordered-parole has reversed the growth in short sentence prisoners, delaying the need to invest in prison infrastructure. Given the significant investment identified in the budget forward estimates relating to the growth in the prison population and increased capital expenditure, these positive outcomes are a further argument in support of retaining court ordered parole. We submit that the Committee should commit to ensuring that these sentencing options remain in place.

Further, we submit that the Parliamentary Committee should consider recommending an extension of court ordered parole to sentences of 5 years or less, which would align the regime of court ordered parole with suspended sentences.<sup>26</sup> Importantly, this will also ensure a greater level of supervision for offenders when released into the community, given the extensive conditions that can be placed on a person subject to court ordered parole.

#### *b) Justice reinvestment*

The Law Council of Australia has described justice reinvestment as:

*Justice reinvestment essentially refers to the diversion of funds that would ordinarily be spent on keeping individuals in prison, and instead, investing this money in the*

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<sup>22</sup> Report on Government Services, Justice (Volume C), Tables 8A.39, 8A.7, 8A.44 and found at: [http://www.pc.gov.au/data/assets/pdf\\_file/0016/132325/rogs-2014-volumec-justice.pdf](http://www.pc.gov.au/data/assets/pdf_file/0016/132325/rogs-2014-volumec-justice.pdf)

<sup>23</sup> Media articles such as: <http://www.abc.net.au/news/2013-07-31/attorney-general-orders-review-into-qlds-sentencing-laws/4855074>

<sup>24</sup> Sentencing Advisory Council, 'Suspended Sentences in Victoria: Monitoring Report', 2010

<sup>25</sup> The importance of court-ordered parole, Balanced Justice fact sheet, August 2013, found at: <http://www.balancedjustice.org/the-importance-of-court-ordered-parole.html>

<sup>26</sup> ss144 and 160B, Penalties and Sentences Act 1992

*development of programs and services that aim to address the underlying causes of crime in communities that have high levels of incarceration. It has been described as a “data-driven” and comprehensive approach which “makes us think more broadly and holistically about what really leads to crime and how we can prevent it.”<sup>27</sup> [references omitted]*

The significant potential benefits of justice reinvestment have been recognised in the United States where 16 states have signed up with the Council of State Governments Justice Centre, the Justice Reinvestment coordination body, to investigate or apply Justice Reinvestment schemes and other states have followed Justice Reinvestment through different avenues. In Australia there is increasing recognition of the benefits that justice reinvestment can bring.

The Society is supportive of the use of justice reinvestment.

We **enclose** our previous submission to the Federal Senate Legal and Constitutional Affairs References Committee Inquiry into the value of a justice reinvestment approach to criminal justice in Australia dated 1 March 2013. We consider that programs and mechanisms which address the underlying causes of criminal behaviour should be utilised in the justice system. The Society supports the justice reinvestment focus on evidence based policy making, and the processes involved in evaluating the quality and impact of new policy on an ongoing basis. Our submissions highlight a range of specific issues for Queensland, particularly using the justice reinvestment approach to address the overrepresentation of Aboriginal and Torres Strait Islander (ATSI) people in custody. The following statistics highlight the extent of the problem in Queensland:

- In 2013, ATSI persons were 12.2 times more likely than non-ATSI persons to be in prison in Queensland.<sup>28</sup>
- In 2013, ATSI prisoners made up 31% of the prison population.<sup>29</sup>
- Specifically for young people in Queensland, the Commission for Children and Young People and Child Guardian report 2011/2012 report states:
  - *ATSI children represent 6.4% of the total population of young people aged 10-17 in Queensland, yet offences by ATSI young people were:*
    - *17 times more likely to result in an Arrest by police,*
    - *12 times more likely to result in Childrens Court proceedings,*
    - *19 times more likely to result in a youth justice supervision order to be given by the courts,*
    - *33 times more likely to result in a sentenced detention order.*
    - *Aboriginal and Torres Strait Islander young people aged 10 to 13 years were detained in un-sentenced Detention (including Remand) at a rate 29 times that of non-Indigenous young people the same age.*<sup>30</sup>

<sup>27</sup> Law Council of Australia submission to the Senate Inquiry into the value of a justice reinvestment approach to criminal justice in Australia, March 2013, page 5, found at: <http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/docs-2700-/2704%20-%20Value%20of%20a%20justice%20reinvestment%20approach%20to%20criminal%20justice%20in%20Australia.pdf>

<sup>28</sup> Prisoners in Queensland 2013, Queensland Statistician, found at: <http://www.qgso.qld.gov.au/products/briefs/prisoners-aus/prisoners-aus-2013.pdf>

<sup>29</sup> Prisoners in Australia, 2013 found at: <http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/4517.0main+features412013>

<sup>30</sup> Child Guardian Report: Youth Justice System 2011/12, Commission for Children and Young People and Child Guardian, archived, found at: <http://pandora.nla.gov.au/pan/14014/20140117->

The Society considers these issues to be urgent and in need of reform to ensure rates of remand and imprisonment are reduced.

We note that the Senate Inquiry into the use of justice reinvestment was supportive of considering enhanced use of justice reinvestment.<sup>31</sup>

We also **enclose** information from the United States of America where justice reinvestment strategies have been used successfully in a number of jurisdictions.

As an example, we reproduce here below a case study on Texas published in a recent report from the Justice Committee of the House of Commons in the UK Parliament. The case study highlights the successful outcomes the strategy achieved in Texas (in terms of reducing recidivism, crime rates and cost effectiveness):

*Texas case study*

*Texas has long been regarded as a state with some of the "toughest" criminal justice policies in the US. In 2007, its prison population was projected to grow by more than 14,000 people over a five-year period, costing taxpayers an additional \$523 million for the construction and operation of new prison facilities. With bipartisan leadership, policymakers identified and enacted alternative strategies in an attempt both to increase public safety and avert the projected growth in the prison population at a net saving to the state as they would cost only \$240m. These included investing in: parole and probation policies; expanding the capacity of community-based treatment programmes and residential drug and alcohol treatment facilities; expanding drug courts and other specialist courts to place offenders who committed minor crimes in treatment programmes; and expanding the nurse-family partnerships programme (an evidence-based, community maternal health initiative, referred to in the UK as family nurse partnerships, that serves low-income women pregnant with their first child) using savings generated by reductions in prison expenditure with a view to improving outcomes for low-income children and families. At the same time funding was authorised for the construction of three new prisons which could proceed only if the new policies and programs were not effective. This has not been necessary. Furthermore, one prison has since been closed and the legislature has authorised the closure of two more. Texas now has the lowest crime rate since 1968.<sup>32</sup>*

We commend serious consideration of employing justice reinvestment strategies in Queensland, noting its potential positive impact on reoffending rates and reducing costs.

c) *Early intervention*

The Society expresses disappointment that the state's three specialist courts (Drug Court, Murri Court and Special Circumstances court program), aimed at diversion of offenders from

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[1126/www.ccypcg.qld.gov.au/about/news/2014/january/Commission-releases-Child-Guardian-Report-Youth-Justice-System2011-12.html](http://www.ccypcg.qld.gov.au/about/news/2014/january/Commission-releases-Child-Guardian-Report-Youth-Justice-System2011-12.html)

<sup>31</sup> Senate Inquiry Report found at:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/Completed\\_inquiries/2010-13/justicereinvestment/report/~media/wopapub/senate/committee/legcon\\_ctte/completed\\_inquiries/2010-13/justice\\_reinvestment/report/report.ashx](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Completed_inquiries/2010-13/justicereinvestment/report/~media/wopapub/senate/committee/legcon_ctte/completed_inquiries/2010-13/justice_reinvestment/report/report.ashx)

<sup>32</sup> Crime reduction policies: a co-ordinated approach?, UK Parliamentary Justice Committee report, June 2014, found at: <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmjust/307/30702.htm>

the justice system, have been abolished. The Society considers that early intervention through diversionary programs is essential.

There are currently pathways for diversion through the Magistrates Court Diversion Program, Queensland Courts Referral and the Indigenous Sentencing List.<sup>33</sup> As these are relatively recent innovations, we are not aware of relevant data as to the outcomes of the programs, and whether there is adequate and sustainable funding. We request that the Parliamentary Committee investigate further these programs and provide relevant information to stakeholders for further consideration.

Early intervention is particularly important for youth offending behaviour. The Society considers that a wider range of early intervention strategies should be available, and existing strategies should be better utilised. We highlight the importance of police cautioning, youth justice conferencing and drug diversion as important options for early intervention.

We note a 2013 study, *The monetary cost of offender trajectories: Findings from Queensland (Australia)*. The study found that a chronic offender costs between \$186,366 and \$262,799 by 26 years old, with 60% of costs accounted for by the criminal justice system. Importantly, a chronic offender costs over 20 times more than offenders in low offending groups.<sup>34</sup> The study suggests that there could be potential savings with expanding the use of diversionary practices to include adults:

*Therefore, most offenders only have one or two officially recorded offences but there is a small group of costly offenders who begin offending early in life or during adolescence and offend at high rates. These findings highlight the potential savings that would result from extending the use of diversionary practices to include adults who have had limited contact with the system or who commit relatively less serious offences. On average, each police caution costs \$1,103 while each Magistrates finalisation costs \$3,090 plus any supervision costs. Savings resulting from the more widespread use of diversion could be redirected to ensure that appropriate evidence-based programs are available for those who commit more serious offences or for those who have more sustained contact with the criminal justice system. There are a range of therapeutic interventions which focus on the family or the ecological environments of young people which are quite effective for reducing offending (see Ogilvie and Allard, 2011). While these programs have different target populations and involve different practices, evidence from meta-analyses suggests that programs focusing on the family reduce offending by between 13.3% and 52.0% (Aos et al., 2001; Drake et al., 2009; Latimer, 2001; Lipsey and Wilson, 1998; Welsh and Farrington, 2006; Woolfenden et al., 2001). Programs which adopt a Multi-Systemic Therapy (MST) framework reduce offending by between 7.7% and 46.0% (Aos et al., 2001; Curtis et al., 2004; Lipsey and Wilson, 1998; Littell et al., 2005). Given the efficacy of these programs, they are likely to be cost-effective particularly if targeted towards those on costly chronic offender trajectories.<sup>35</sup>*

Further, the study states:

*Decision-makers can use information about the cost of programs and the cost of offenders to assess the likely cost-benefits of programs. For example, an early intervention program*

<sup>33</sup> Queensland Courts, found at: <http://www.courts.qld.gov.au/courts/courts-innovation-programs>

<sup>34</sup> Troy Allard et al, Griffith University, 2013, <http://www98.griffith.edu.au/dspace/handle/10072/57216>

<sup>35</sup> Ibid.

*could target 100 potential chronic offenders, cost \$10,000 per participant and conservatively be held to prevent 10% of chronic offenders from developing a life of crime. This program could produce \$1.4 million in savings by the time targeted individuals turned 26 years old, over half of which would be direct savings for the criminal justice system. It should be noted, however, that savings to the criminal justice system could be more modest depending on whether reductions were such that fixed costs could be reduced or off-set by reductions in future costs.<sup>36</sup>*

A more concerted focus on early intervention and diversion for both adults and young people is a crucial step in preventing crime, and we note the potential for costs savings.

We also note that the government is undertaking a trial of Sentenced and Early Intervention Youth Boot Camps, with the trial due to run until late 2015. The Society supports non-custodial sentencing options for children and young people. In our view, it is imperative to maintain the principle that detention should be used as a last resort. We consider that for any sentencing option to be successful, including the Boot Camp Order, it must be based on empirical data and evidence based research. The evaluation of the boot camp trial should ensure an ongoing, detailed analysis of the relevant (and extensive) research in this area. Particular focus should be on deficiencies in the boot camp model identified in the research and ensuring that such deficiencies are identified and reported against in the Queensland context. This will ensure evidence based outcomes are reported on and taken into consideration when the efficacy or otherwise of youth boot camps is evaluated.

For example, a study from a US Department of Justice, "Correctional Boot Camps: Lessons From a Decade of Research" published in 2003, highlighted the following issues for consideration by policy makers:

- *Building reintegration into the community into an inmate's individual program and reentry plans may improve the likelihood he or she will not commit a new offense.*
- *Programs that offered substantial discounts in time served to those who completed boot camps and that chose candidates sentenced to serve longer terms were the most successful in reducing prison populations. Chances of reducing recidivism increased when boot camp programs lasted longer and offered more intensive treatment and postrelease supervision, activities that may conflict with the goal of reducing population.<sup>37</sup>*

Further a more recent study has suggested that:

*The purposes of juvenile boot camps is to rehabilitate young offenders, but current programs are punitive rather than treatment oriented (Marcus-Mendoza et al., 1998). Education and rehabilitation should be emphasized more than punishment functions. An emphasis on education may cause a decrease in recidivism among program graduates.*

*The focus of the camps should be changed from a punitive stance, since it is clear that punitive programs do not reduce recidivism. In addition, boot camps and aftercare programs should address family problems so that a new bond can be generated between the parents and the program graduates.*

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<sup>36</sup> Ibid.

<sup>37</sup> Paper found here: <https://www.ncjrs.gov/pdffiles1/nij/197018.pdf>

*Trends show that juvenile boot camps will continue to increase and large amounts of tax dollars will be spent on their operation. Therefore, more careful and focused analyses should be done and future research should try to determine what works and what does not work. Moreover, the best practices of boot camps should be studied and replicated to increase consistency and increase the chance of success of other boot camp programs. Successful boot camps will return responsible and law-abiding youth to the community.<sup>38</sup>*

The Australian Institute of Criminology (AIC) has identified a number of policy recommendations to “minimise the damage and maximise any positive outcomes of boot camps”:

- defining goals and specifying the client group
- structuring the length and nature of the program, including aftercare, in accordance with those goals
- having the referring authority independent of the courts to stem net-widening
- selecting staff appropriate to the clientele and their needs, in terms of race, gender, and specialist knowledge
- ensuring adequate staff numbers and their careful training and monitoring to minimise abuse
- protecting the health and welfare of inmates and staff, and the liability of staff and the state, with appropriate legislation and/or regulations
- considering boot camps within a broader framework of equal opportunity, and
- a commitment to evaluation.<sup>39</sup>

As boot camps have been in operation in Queensland since early 2013, we submit that consideration be given to an interim report being produced to inform the public of the outcomes and progress of the trial, based on identified deficiencies from empirical research. This will ensure that the evaluation is occurring consistently and transparently and that the public remains well informed.

*d) Alternative dispute resolution*

*Adults*

The Society is supportive of Justice Mediation, which currently operates in some (but not all) courts throughout Queensland. Justice Mediation as an addition to, or alternative to, conventional resolution of matters before the courts can provide parties and the community with a valuable tool. Successful mediation can impart powerful personal deterrence and provide both the complainant and defendant with rehabilitation tools. It can be particularly valuable in familial matters.

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<sup>38</sup> Is juvenile boot camp policy effective?, Kübra Gültekin, Sebahattin Gültekin, 2012, International Journal of Human Sciences found here: <http://www.i-humansciences.com/ojs/index.php/IJHS/article/view/1978/882>

<sup>39</sup> Boot Camps and Justice: A Contradiction in Terms? Lynn Atkinson, Australian Institute of Criminology, 1995, found here: <http://www.aic.gov.au/documents/B/8/E/%7BB8E5DC4C-4F1A-4D24-ACFA-5A77B248E391%7Dt46.pdf>

This extract from a 2014 AIC report on Restorative Justice in the Australian criminal justice system provides clear data indicating the program's effectiveness:

*Approximately 300 conferences are conducted each year. Agreement rates are consistently high, as is compliance by offenders with all the terms of the agreement (Department of Justice & Attorney-General personal communication October 2013).*

...

*In 2011, an internal review was conducted to provide an assessment of the effectiveness of the Justice Mediation Program with regard to client and stakeholder satisfaction and the degree of reoffending. The review found that the Justice Mediation Program is effective in achieving a number of important outcomes—high participant satisfaction rates and indicative low reoffending rates. For those participants who responded to the client satisfaction survey, satisfaction rates are high. Indicative reoffending rates found in this review were an average of eight percent, with one location having a rate of 1.5 percent. The review also found that the stakeholders were generally satisfied with the operation of the program, although they did make a number of suggestions for improvement, including increasing the number of locations in which the service is available (Department of Justice & Attorney-General personal communication October 2013).<sup>40</sup>*

We strongly encourage the Government to increase the number of courts that have access to the Justice Mediation Program. The initiative provides for resolution of suitable matters being resolved without valuable court time and resources being utilised. Justice Mediation can also reduce the high demand for the finite funding and resources Legal Aid has access to. Anecdotally, our members have also noted that because consent is required before Justice Mediation can be undertaken, it can result in positive effects on both victims and defendants.

However, it must also be noted that the current restricted access to the program based on geography is inequitable and places certain defendants at a disadvantage.

It is the understanding of the Society that various Courts have expressed an interest in adopting the scheme who are otherwise restricted due to resource issues. The Society is willing to assist where possible in any implementation of, or consideration of, an expanded Program. We suggest that the Parliamentary Committee should investigate recommending the expansion of justice mediation throughout the state.

### *Children*

The Youth Justice Conferencing Program allows police to refer an offender to mediation with a victim and their family. The Society is strongly of the view that youth justice conferencing is an effective diversionary tool and an appropriate mechanism to address young people's accountability for offending behaviour. The Childrens Court of Queensland Annual Report 2011-2012 stated that 95% of conferences resulted in agreement being reached, with 98% of participants indicating the conference was fair and they were satisfied with the agreement. Further, the 2014 AIC Report states:

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<sup>40</sup> AIC Report- Restorative justice in the Australian criminal justice system found here: [http://www.aic.gov.au/publications/current%20series/rpp/121-140/rpp127/05\\_restorative.html](http://www.aic.gov.au/publications/current%20series/rpp/121-140/rpp127/05_restorative.html)

*Data reported by the Queensland Department of Communities (Queensland Government 2010), for all conferences held between 1997 and October 2008, indicate a high proportion of both victims and offenders who were satisfied with conference outcomes and who reported the process was fair. During 2012–13, 99 percent of youth justice conferencing participants (including the victim and/or their representative) were satisfied with the outcome (Queensland Government 2013a). A study of the impact of the conference experience on reoffending among a sample of 25 young offenders who participated in conferences in southeast Queensland between 2004 and 2006, found that reoffending was less likely for those young offenders who saw the conference as a positive experience after hearing the victim's story and realising the impact of their actions (Hayes, McGee & Cerruto 2011).<sup>41</sup>*

We note that utilisation of youth justice conferencing by the police is particularly important following the removal of court ordered youth justice conferencing. The Society opposed the removal of court ordered conferencing, and we submit that it should be reinstated.

## **5. Other models in national and international jurisdictions which could be implemented in Queensland**

There are several initiatives to which we draw the attention of the committee. In our view, these models are worthy of detailed consideration to ascertain their suitability for implementation in Queensland. These initiatives are discussed in detail below:

- Infringements Court
- Corrections impact statements, and
- Recording from point of first contact for police.

### *Infringements Court*

Under section 119, *State Penalties Enforcement Act 1999* the Registrar is permitted to issue a warrant, directed to all police officers, for the arrest and imprisonment of an enforcement debtor for the period stated in the warrant.

In our view, the current system is flawed. At no time is the individual required to appear before a court for a hearing of the circumstances in relation to the non-payment of the fine. This results in significant disadvantage given that a person is deprived of legal representation and the opportunity to make submissions as to why the fine has not been paid.

We refer to an article from the Courier Mail dated 1 November 2011 entitled 'Simply jailing people who don't pay fines smacks of short-sighted injustice', which we have **enclosed**. The article details the concerning impacts of gaoling people purely on the basis of failure to pay fines. The case study of Julie is particularly disturbing considering her vulnerable circumstances and noting that she was unaware amounts were not being deducted from Centrelink payments to cover the fines.

The article references the Infringements Court which operates in Victoria. The Court is established under the *Infringements Act 2006* and provides a means through which disputes

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<sup>41</sup> AIC Report- Restorative justice in the Australian criminal justice system found here: [http://www.aic.gov.au/publications/current%20series/rpp/121-140/rpp127/05\\_restorative.html](http://www.aic.gov.au/publications/current%20series/rpp/121-140/rpp127/05_restorative.html)

as to unpaid fines can be resolved, but retains the requirement for a person to appear before the court to be dealt with. Specifically under section 159, *Infringements Act 2006* an infringement offender must be brought before the Court within 24 hours of being arrested. Section 160 contains a range of options available to the court, including:

- imprisonment
- discharging the fine (in full or in part) if the infringement offender has a mental or intellectual impairment or that special circumstances apply, or
- adjourning the further hearing of the matter for a period of up to 6 months.

We consider that this level of judicial discretion and objective (and evidence based) determination as to the circumstances of the matter is essential if this process is to be fair and reasonable. The Society acknowledges that the non-payment of a fine is a serious concern which may warrant imprisonment in some cases, however we consider that effective sentencing options have been removed by the inflexible nature of the current regime and that, more fundamentally, the person is denied natural justice.

We submit that the legislation governing, and operation of, the Infringements Court in Victoria be reviewed, with a view to establishing a similar regime in Queensland.

#### *Corrections impact statements*

We note that some jurisdictions in the United States have adopted 'corrections impact statements' which are used for proposals that will have sentencing and corrections implications. A brief summary of the nature and intent of the statements is set out below:

#### **Corrections Impact Statements**

*Fiscal impact statements put a price tag on proposed legislation. At least 16 states require the use of specialized corrections impact statements, which provide information to legislators that is unique to sentencing and corrections policies.*

*In Virginia, a corrections impact statement is required when a proposal will have a fiscal impact on correctional populations or criminal justice resources. Impact statements in Virginia include a six-year projection of correctional populations and associated increases in operating costs, an analysis of the impact on local jails and community corrections programs, and any required adjustments to the sentencing guidelines to conform with the proposal. In order for the General Assembly to adopt legislation that would result in a net increase in prison populations, a one-year appropriation is required in the amount equal to the highest single-year increase in operating costs identified within the six-year projection. As part of a larger corrections reform effort, Kentucky adopted a similar requirement in 2011.*

*Corrections statements often provide an analysis of the impact on existing programs, services and policies. In North Carolina, legislative fiscal research staff provide a five-year projection on correctional populations and bed capacity and the associated costs, including any capital costs for proposals that would increase prison populations. In addition, for bills that would create a new crime or change the classification or penalty range of an existing crime, the Sentencing and Policy Advisory Commission advises*

*whether the provision is consistent with the statutorily defined crime classification and punishment criteria. The criteria was established to ensure a systematic and rational basis for classification that is based on harm to the victim.*<sup>42</sup>

An example of the relevant legislative provision dealing with corrections impact statements appears below from the 2014 Iowa Code:

*Prior to debate on the floor of a chamber of the general assembly, a correctional impact statement shall be attached to any bill, joint resolution, or amendment which proposes a change in the law which creates a public offense, significantly changes an existing public offense or the penalty for an existing offense, or changes existing sentencing, parole, or probation procedures. The statement shall include information concerning the estimated number of criminal cases per year that the legislation will impact, the fiscal impact of confining persons pursuant to the legislation, the impact of the legislation on minorities, the impact of the legislation upon existing correctional institutions, community-based correctional facilities and services, and jails, the likelihood that the legislation may create a need for additional prison capacity, and other relevant matters. The statement shall be factual and shall, if possible, provide a reasonable estimate of both the immediate effect and the long-range impact upon prison capacity.*<sup>43</sup>

Specialised statements may assist in obtaining detailed information on specific proposals where necessary, and would contribute to greater transparency on the effect that proposals will have on the justice system.

#### *Recording from point of first contact for police*

We submit that consideration should be given to the use of video and, separately, audio tape-recording from point of first contact between police and their interactions with the public. The introduction of these measures could lead to a reduction in allegations of both assault complaints against police and allegations that, before the police station tape-recorder is turned on for a police interview, there were off tape threats or inducements made to a suspect during the period from point of first contact to the formal police tape-recorded interview starting.

We are aware that in the Fortitude Valley Police District as well as in the CBD Police District there was a trial some years ago of video recording of contacts between police and citizens in public places. We **enclose** various media articles, for your information, which detail this trial.

A small study done in California in 2013 showed that the use of body worn cameras decreased public complaints against police by 88% from the previous year, and officers' use of force fell by 60%.<sup>44</sup> This has led the England and Wales College of Policing to undergo an evidence-based trial on the use of body-worn video, with the results expected to give further information on the effectiveness of body worn video.<sup>45</sup> We suggest consideration of these

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<sup>42</sup> Sentencing and Corrections Policy Updates Newsletter, National Conference of State Legislature, September 2011, found at: <http://www.ncsl.org/issues-research/justice/on-the-fiscal-front-corrections-impact-statement.aspx>

<sup>43</sup> Iowa Code, found here: <http://coolice.legis.iowa.gov/Cool ICE/default.asp?category=billinfo&service=iowaCode&input=2.56>

<sup>44</sup> California police use of body cameras cuts violence and complaints, November 2013, The Guardian, <http://www.theguardian.com/world/2013/nov/04/california-police-body-cameras-cuts-violence-complaints-rialto>

<sup>45</sup> Interim findings on body-worn video help build the evidence base, February 2014, College of Policing, <http://www.college.police.uk/en/21387.htm>

findings to evaluate the potential benefits, and also the safeguards required, for the use of body worn cameras.

We also note that the Minister for Police, Fire and Emergency Services has indicated that body worn cameras have been purchased for officers for the G20 taking place in November 2014.<sup>46</sup> We submit that the Parliamentary Committee should recommend that detailed statistics on the use of these cameras should be maintained and released to the public for review, so that the data contributes to consideration of more widespread use in future.

## **6. The experiences of Queenslanders with regard to the criminal justice system, including the experiences of victims of sexual violence and/or domestic violence including their interactions with the Queensland Police Service, the courts, prosecuting authorities, legal and support services and compensation processes.**

Due to the complex nature of this term of reference, the Parliamentary Committee may be informed by considering the levels of the justice system and current government Inquiries. With respect to the experiences of victims, the Royal Commission on Institutional Responses to Child Sexual Abuse interim report in (June 2014) might contain relevant information. We also consider that the operation of the courts, the availability of access to legal services, and the work of prosecuting authorities is particularly relevant.

### *Experience of victims of sexual violence and/or domestic violence*

The Royal Commission on Institutional Responses to Child Sexual Abuse released its interim report in June 2014, covering issues such as reducing vulnerability and providing justice for victims.<sup>47</sup> This information could perhaps assist with the Parliamentary Committee's consideration of these issues.

The AIC also publishes regular research in relation to victim of crime issues, such as the June 2014 publication, *Victims' experiences of short-and long-term safety and wellbeing: Findings from an examination of an integrated response to domestic violence*.

### *Operation of the courts*

The Society supports and commends the significant amount of work undertaken expediently by Queensland Courts in the criminal jurisdiction. We particularly note the comments from the Queensland Government on the courts in the Report on Government Services 2014:

- In the Supreme Court (including appeals) the clearance rate was 110.5% in the criminal jurisdiction

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<sup>46</sup> Police Demonstrate G20 Summit Skills, Minister for Police, Fire and Emergency Services, The Honourable Jack Dempsey MP, 22 May 2014, found here: <http://statements.qld.gov.au/Statement/2014/5/22/police-demonstrate-g20-summit-skills>

<sup>47</sup> Found here: <http://www.childabuseroyalcommission.gov.au/about-us/reports>

- In the District Court (including appeals) the clearance rate was 119.1% in the criminal jurisdiction, and
- In the Magistrates Court the clearance rate was 97.5% in the criminal jurisdiction.<sup>48</sup>

The Society supports ensuring adequate resourcing for courts throughout Queensland to continue this work, including regional circuits and all support services required for the comprehensive operation of the courts system.

The Society also works closely with the courts to share information and address any issues relating to court operations, particularly through the Court Users Reference Group and ad hoc stakeholder consultation forums such as the Moynihan Roundtable, convened for the implementation of the *Civil and Criminal Jurisdiction Reform and Modernisation Act 2010*. We commend the courts' collaborative approach which assists in streamlining processes and operations.

### *Access to legal services*

The Society's view is that access to justice is inextricably linked with access to legal representation in criminal law matters. Ensuring legal assistance contributes to swift and fair outcomes in the justice system.

We support the work done by Legal Aid Queensland, Aboriginal and Torres Strait Islander Legal Services and community legal centres to assist disadvantaged persons in the criminal justice system. Early, adequate and sustainable legal assistance for disadvantaged persons in areas of State law where fundamental human rights are at stake is essential. Legal assistance should always be available in circumstances such as where individuals are at risk of serving a term of imprisonment of any duration and representation for vulnerable people, and particularly those with mental health issues.

The Society remains concerned with inadequate funding levels provided to Legal Aid Queensland to carry out its important tasks. This has led to a situation where funding guidelines for criminal law representation have been restricted inappropriately, for example providing that in certain circumstances an accused will only obtain representation where they are faced with a real likelihood of being sentenced to six months or more immediate incarceration in a correctional centre.<sup>49</sup> These decisions which have a significant impact on people are made in order to deal with budgetary constraints, however there is a broader concern that funding levels must be increased in order to ensure access to justice.

### *Prosecuting authorities*

A specific area in relation to which the Society's members have raised concern is in relation to disclosure provisions under the *Criminal Code Act 1899*. Our members report on a regular basis that the operation of these provisions is sub-optimal and need to be reviewed.

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<sup>48</sup> Report on Government Services 2014 (Justice), 7.67 found at: [http://www.pc.gov.au/data/assets/pdf\\_file/0016/132325/rogs-2014-volumec-justice.pdf](http://www.pc.gov.au/data/assets/pdf_file/0016/132325/rogs-2014-volumec-justice.pdf)

<sup>49</sup> Legal Aid Queensland – guidelines – state – criminal, found at: <http://www.legalaid.qld.gov.au/about/Policies-and-procedures/Grants-policy-manual/Pages/guidelines-state%e2%80%93criminal.aspx>

The current provisions assume that the defence know what disclosure to request. The reality, though, is that the defence do not know what they do not know, and accordingly will not be in a position to advise the prosecution of what documents they require. Whilst we are not aware of statistics regarding how many disclosure obligation directions have been made under rule 43A of the *Criminal Practice Rules 1999*, we consider that the operation of these provisions is so cumbersome and difficult that defence lawyers do not often utilise the provisions.

We consider that proper and continuous disclosure is a fundamental aspect of the changes introduced by the Moynihan Report in 2009 and the subsequent *Civil and Criminal Jurisdiction Reform and Modernisation Act 2010*. We suggest that this is an issue for consideration to enhance the operation of prosecution disclosure.

## **7. Possible strategies to increase collaboration and co-operation between various participants in the criminal justice system**

The Society's view is that a whole of government approach, and importantly collaboration with stakeholders, is required to address specific issues affecting the criminal justice system.

We note in particular the whole of government approach adopted in New Zealand in 2009 to address drivers of crime (materials are **enclosed**). The Ministry of Justice coordinates the group, which involves other agencies such as Ministry of Social Development, Ministry of Education, Department of Corrections, Ministry of Health, New Zealand Police and others. There are four priority areas:

- improving maternity and early parenting support
- addressing conduct and behaviour problems in childhood
- reducing harm from alcohol and improve treatment, and
- managing low-level repeat offenders.

The latest progress report shows that this whole of government approach has resulted in a 32% decrease in offending rates for Māori youth between 2008 and 2012, better outcomes in early childhood education and lower rates of preventable hospitalisations.<sup>50</sup> The Society suggests consideration of similar a whole of government approach, to ensure a coordinated, early intervention-based approach to the criminal justice system.

Close consultation with stakeholders is key to ensuring effective collaboration between all parties. We provide a specific example to demonstrate the benefits of this approach.

### *Police Powers and Responsibilities Act 2000*

A comprehensive review was undertaken of the *Police Powers and Responsibilities Act 2000* (PPRA), which resulted in the *Police Powers and Responsibilities and Other Legislation Amendment Bill 2011*. The Explanatory Notes to the Bill detail the significant consultation process undertaken with government and external stakeholders:

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<sup>50</sup> Addressing the Drivers of Crime: Progress report, December 2012, found at: <http://www.justice.govt.nz/justice-sector/drivers-of-crime/publications-and-background-information/addressing-the-drivers-of-crime-progress-report-december-2012>

*Extensive consultation has been undertaken throughout the development of the Bill. A PPRA Review Committee was formed and chaired by the Member for Ipswich West, Mr Wayne Wendt MP. The Committee consisted of members representing the following organisations:*

- *Aboriginal and Torres Strait Islander Legal Service (Qld) Ltd;*
- *Crime and Misconduct Commission;*
- *Department of Communities;*
- *Department of Justice and Attorney-General;*
- *Department of the Premier and Cabinet;*
- *Legal Aid Queensland;*
- *Office of the Director of Public Prosecutions;*
- *Public Interest Monitor;*
- *Queensland Council for Civil Liberties;*
- *Queensland Law Society;*
- *Queensland Police Commissioned Officers Union of Employees;*
- *Queensland Police Service (QPS); and*
- *Queensland Police Union of Employees.*

*All recommendations made by the PPRA Review Committee were considered during the preparation of the Bill. The majority of the Committee recommendations are included in the Bill.*

*The Queensland community was consulted on the Bill. The community was invited to provide comments during the policy development of the Bill from 5 April to 17 May 2010 and again during the development of the Bill from 28 March to 6 May 2011.*

*Intra-Government consultation was also conducted during the development of the Bill with:*

- *Department of Justice and Attorney-General;*
- *Department of the Premier and Cabinet;*
- *Queensland Health;*
- *Department of Communities;*
- *Department of Community Safety;*
- *Queensland Treasury; and*
- *Department of Transport and Main Roads.<sup>51</sup>*

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<sup>51</sup> Police Powers and Responsibilities and Other Legislation Amendment Bill 2011, Explanatory Notes, page 9-10

The Society commends the detailed and collaborative process which was utilised. The resulting Bill had substantial input from stakeholders as well as the public at the crucial early stages of the process. Even though there were still certain aspects of the final Bill which the Society had concerns with, the process adopted allowed the opportunity for all parties to share and consider proposed solutions.

We submit that the Parliamentary Committee should consider making recommendations to ensure collaborative consultation processes, similar to that outlined above, for the development of policy and legislative reform. This is an important area which could benefit from improved coordination between government and stakeholders.