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Imprisonment and recidivism inquiry
Queensland Productivity Commission
PO Box 12112
George St
Brisbane 4003

Submission to the Queensland Productivity Commission Inquiry into Imprisonment and Recidivism

To Whom It May Concern:

We thank you for the opportunity to provide a submission on this important matter, and commend the Queensland Productivity Commission for its interest in reducing imprisonment and recidivism in Queensland. Our submission primarily concerns the experiences of people with intellectual/cognitive disability who come into contact with the criminal justice system as offenders.

What is intellectual disability/cognitive disability?

The terms “intellectual disability” and “cognitive disability” refer to several conditions where a person has ongoing challenges in intellectual functioning (including reasoning, problem solving and learning) and in adaptive skills (i.e. everyday social and practical abilities) (Schalock et al., 2010). Cognitive disability, the term used in this submission, refers to intellectual impairment (particularly in the borderline (IQ range 70-80) and mild range (IQ range 50-69) (World Health Organisation, 2017)), autism spectrum disorder (ASD) (Crane et al., 2016) and acquired brain injury (including Foetal Alcohol Spectrum Disorder) (Gralton, 2014). The causal nature of cognitive difficulties may be unclear, and for many people in contact with the criminal justice system, there may be co-occurring mental illness, which can further complicate diagnosis (Baldry et al., 2013).
Offenders with cognitive disability

Many people with cognitive disability in contact with the criminal justice system have a history of social disadvantage and exhibit behavioural responses deemed 'too difficult' for disability services (Richards & Ellem, 2018). Compared to the general population, people with cognitive disability are more likely to have poor health (Allerton et al., 2011); are at greater risk of poverty (Emerson and Spencer, 2015); are subject to greater stigmatisation and violence (Larkin et al., 2012); and are more likely to have poor educational and employment outcomes (Young-Southward et al., 2016). Their lives may be further complicated by mental illness, problematic substance and alcohol use, and in the case of Indigenous Australians with disability, entrenched racism and discrimination (Baldry et al., 2016). Subsequently, offenders with cognitive disability occupy an especially marginal position in their communities and in the criminal justice system.

Over-representation

Studies in Australia and elsewhere suggest that both young people and adults with cognitive disabilities are over-represented within the criminal justice system. In Australia, young people with cognitive disability, particularly Aboriginal and Torres Strait Islander young people (Baldry et al., 2016) have been shown to have disproportionate levels of contact with the criminal justice system. According to the Australian Bureau of Statistics (2014), approximately 4% of young men and 3% of young women have an intellectual disability in Australia. In contrast, it was found that 48% of young people had an intellectual disability (including borderline intellectual disability) in a custody health survey conducted in New South Wales youth detention centres (Indig et al., 2016). A recent study conducted in the only youth detention centre in Western Australia found that 36% of 99 young people aged 13-17 years were diagnosed with Foetal Alcohol Spectrum Disorder (FASD) (Bower et al., 2018). The prevalence of adults with cognitive disability in the criminal justice system varies markedly between studies and jurisdictions (Hayes, 2012). Overall research suggests that this population is overrepresented in prisons and probation and parole services (Hayes, 2012); they are a profoundly disadvantaged and vulnerable group within the criminal justice system (Jones & Talbot, 2010); and they have high recidivism rates (see for example, Holland & Persson, 2011). Internal Queensland Youth Justice figures note approximately 12% of young people on orders as having a disability and approximately 18% a suspected disability. Generally these will be cognitive disabilities.
In addition last year (2017) 64 young people in Queensland were found unfit to plead in 'juvenile court due to cognitive impairment'.

**Interaction with the criminal justice system**

Offenders with cognitive disability may present with more problematic behaviour than general offender populations (Kaal et al., 2012). There may be difficulties with internalizing behaviours, such as anxiety, social withdrawal and sadness, as well as externalizing behaviours, such as poor impulse control, aggression and non-compliance (Woodman et al., 2015). People may have presented with these behaviours throughout childhood and adolescence, yet never received appropriate supports to develop more pro-social skills (Kleefman et al., 2014). Depending on their life experiences, many people with cognitive disability may be socially naïve and therefore easily manipulated by others; have difficulty responding to changes in routine (particularly if the person has some autistic traits); struggle with emotional regulation and moral reasoning; and have poor insight into the implications of their behaviour (King and Murphy, 2014). The presence of psychiatric co-morbidity and problematic substance use can compound these issues (Baldry et al., 2016).

Because of difficulties in intellectual functioning, offenders with cognitive disabilities may struggle to understand the legal process and to realise the seriousness of charges and the long-term consequences of their behaviour (Watt et al., 2017). They may be more apt to be implicated in crimes than other populations because of a lack of social skills and high levels of suggestibility (Bullis and Yovanoff, 2005). Many people with cognitive disability have communication challenges that make it difficult to relay or recall important information regarding offences and leave them at elevated risk of being misunderstood by criminal justice professionals (Sanger et al., 2014).

**Identification of cognitive disability**

There is general agreement in the literature that there should be appropriate mechanisms with the youth and adult justice systems to identify cognitive disability (see for example, Hepworth, 2011; McKenzie et al., 2012). Identification of disability is seen as a way of ensuring equity at the point of arrest (McKenzie et al., 2012); in forensic interviews (Snow et al., 2015); in competency to stand trial assessments (Watt et al., 2017); and in determination of sentences (Williams, 2006). Without appropriate
identification of disability needs, people with cognitive disability may not access relevant services or interventions (Kvarfordt et al., 2005; Bullis and Yovanoff, 2005).

Despite the clear advantages of identification, the above research indicates a lack of systematic screening of people with cognitive disability at all stages of the criminal justice system. Police officers and other criminal justice personnel may have little or no training regarding recognising and responding to cognitive disability (Ford et al., 2008; Mogavero, 2016). Anecdotal evidence of the Queensland criminal justice system indicates this is also a concern in our jurisdiction (M. O’Connor, personal communication, 2018).

There is a need for standardised brief versions of psychometric measures that have enough specificity to young people and adults where necessary. For people with cognitive disability, such tests need to account for less opportunity to live independently and to engage in full-time work, and to factor in lower levels of literacy, poor educational attendance and achievement, and the presence of emotional and behavioural problems. Administration of the screening tool needs to be time efficient, to account for the sheer volume of cases that are processed through the criminal justice systems. Appropriate guidance is needed so that the tools can be administered by multi-disciplinary staff (Kelly et al., 2012). In addition, these screening tools should emphasise function, rather than the need for a diagnosis, so that a holistic approach can be utilised in intervention (Hughes et al., 2017). A number of tools that meet these criteria have been trialled on young people and adults with cognitive disability, including the Child and Adolescent Intellectual Disability Screening Questionnaire (McKenzie et al., 2012); the Hayes Ability Screening Index (HASI) (Hayes, 2000); and the Kaufman Brief Intelligence Test (KBIT-2) (Kaufman and Kaufman, 2004). The screening tests available that meet these requirements can only identify those people who are likely to have an intellectual impairment, and do not provide the same level of conclusive evidence as a full psychometric and adaptive behaviour assessment by a qualified psychologist (McKenzie et al., 2012).

**Recommendations:**

- Youth Justice, Queensland Corrections, Legal Aid, Queensland Police Service to invest in standardised brief psychometric screening tools that can assess the likelihood of intellectual impairment
- Queensland criminal justice agencies provide appropriate training to all frontline staff to administer these screening tools
- The Department of Justice and Attorney-General Qld fund court support services which can assist in identifying offenders with an intellectual or cognitive disability and advising on appropriate follow up community supports

Use of risk assessments

Authors such as Thompson & Morris (2016) and Gralton (2013) suggest that extra factors need to be considered when undertaking risk assessments on people with cognitive disability. Offending behaviour needs to be understood in the context of the person’s disability; recognising that some people may not fully understand the implications of their actions; have difficulty in executive functioning; have sensory sensitivities that can lead to high levels of arousal and violent behaviour; and have poor social skills and awareness. Tranah and Nicholas (2013) recommend that existing risk assessment tools be adapted in terms of language and administration to accommodate people with cognitive disability, including the use of visual aids.

Recommendation:

- Youth Justice and Queensland Corrections develop Plain English and visual resources to complement existing risk assessment tools so that these tools have more relevance to people with cognitive disability

Interactions with police

Interaction with the police is often the first key element in the path of criminal justice encounters (Baker et al., 2014). In most jurisdictions in Australia, police are legally required to adapt procedures and protocols to accommodate individuals with impaired cognitive capacity. This can include adapting communication styles and obtaining the assistance of an independent person, as specified in the Queensland Police Service (QPS) Operational Procedures Manual (2017a). The literature however, points to several barriers to effective police responses to people with cognitive disability. These include little or no training regarding recognising and responding to people with a disability (Mogavero, 2016), failure to follow best-practice communication guidelines when interviewing people with cognitive disability (Agnew et al., 2006) and
'hypersurveilliance' of young people who have a long history of offending (particularly Aboriginal and Torres Strait Islander young people with a disability in the Australian context (MacGillivray and Baldry, 2013). Police culture and attitudes may also influence outcomes for offenders with cognitive disability (Paoline and Gau, 2017). While some authors have noted police officers' concerns for the vulnerability of people with cognitive disability (Parsons and Sherwood, 2016), Hellenbach's (2012) research found that some police officers regarded cognitive disability to be an illegitimate mitigation of an offender's wrong-doing. In a study by Douglas and Cuskelly (2012), some police officers did not regard it as their responsibility to identify a person with cognitive disability, stating that this was a matter for the courts.

**Recommendations:**

- Queensland Police Service to equip police with knowledge about people with cognitive disability through timely and comprehensive education and training
- Establish specialist multijurisdictional police units to work specifically with this population
- Create key performance indicators that specifically promote procedurally just policing of marginalized and vulnerable groups
- Invest in establishing formal (appropriately trained) support roles for people with cognitive disability when they are being interviewed by police

*Early intervention, prevention and diversion*

There is a strong argument that early intervention approaches for people with cognitive disability and offending behaviour need to occur well before entry into the criminal justice system. As Fyson and others (2003) argue, if effective responses to 'minor' incidents do not occur, particularly with young people, there is a chance for more serious behaviour to occur. Segeren and others (2018) found that young offenders with mild and borderline intellectual disability displayed disruptive problematic behaviour earlier in life than non-disabled offenders, sometimes even engaging in such behaviour in kindergarten. Intervention may need to occur during the pre-adolescence phase or earlier and involve working with family members in the young person's life (van Der Put et al., 2012; Segeren et al., 2018).

Similarly, there may be much benefit to be gained in offering specific diversionary programs to people with cognitive disability in trouble with the law. Hepworth (2011)
argues that such options do not mean there are no consequences to an offence, but that the intervention is offered in a different way and in the context of the person's community. The Youth Justice System in Queensland utilises an intervention framework that incorporates four key components: 1) supervision of court orders and bail support; 2) comprehensive support services; 3) offence-focused intervention; and 4) developmental intervention. Youth justice staff are generally responsible for the supervision of court orders and bail support that incorporate offence-focused intervention. The provision of support services is delivered by non-government and non-statutory government services, so that support is provided in the community and intervention outcomes can be more sustainable. There is growing evidence of the effectiveness of these multi-strategy approaches for all people with cognitive disability involved in the criminal justice system (Ellem, 2013).

**Recommendation:**

- Youth Justice develop its ability to identify young offenders with an intellectual disability at each stage of the youth justice system and develop a responsive system which supports these young people and their families to register for NDIS early intervention support.

*Prison and youth detention*

Persons with cognitive disabilities detained in prison and youth detention may be at significant risk of victimisation. Prisoners with cognitive disabilities may suffer several indignities within the prison environment — they may fail to get adequate support with daily living needs within the detention environment, and they may be subjected to sexual assault by other inmates and correctional staff; have their property stolen; be physically assaulted; or become unintentionally involved in illegal activities such as drug dealing (Walsh 2004).

It is difficult to determine the extent of victimisation of prisoners with cognitive disability, as official prison records are not likely to cover all incidents, and victims may be reluctant to report abuse for fear of retribution from other prisoners or being placed in protective custody (Finn 1989). People with cognitive disability may not have the verbal or written skills to air a complaint, may withdraw complaints due to the pressures of interrogative investigations, and may not even be cognitively aware that abuse is taking place (Langford 2005).
Prisoners with cognitive disability may respond to interpersonal trauma in prison life in a number of ways. Anger and aggression may be indicative of a person’s internal distress, impatience and impulsiveness (Taylor et al. 2004), and become an automatic response to situations of conflict (McDermott et al. 2005), or the person can direct these feelings to themselves in the form of self-injury or even suicidal behaviours (Smith and O’Brien 2004). Many prisoners with cognitive disability may be isolated within the prison system for their own protection (Adams and Ferrandino, 2008). This has the intent of reducing risk to the prisoner and others but may also increase the risk of suicidal behaviour for the person who is segregated (Human Rights Watch, 2003).

Prison staff report that they find prisoners with intellectual disability more difficult to manage than other prisoners, requiring greater staffing and more individualised attention in an environment where staffing resources are likely to be stretched to the limit (Myers, 2004). In a Victorian study, prisoners with intellectual disability had a greater number of rule infractions recorded against them than the general prison population and these were usually related to assaults, fights, attempted suicide and self-harm episodes (Holland et al., 2007).

Recommendations:

- Youth Justice advocate to the NDIA that young people in youth justice detention with NDIS support packages are able to continue to receive NDIS supports while in detention as part of process of successfully transitioning from detention.
- Further diversionary options be provided to adult offenders with cognitive disability in the community
- Prison systems should have in place processes for –
  - Identifying inmates with potential cognitive or intellectual disability
  - Arranging assessment of their disability and functional impacts of the disability
  - Support access requests to NDIS
  - Negotiate with NDIA for a pre-contact (in-reach) process by which external support agencies can link with a person for a significant period in custody before release to undertake comprehensive post-release support planning
Leaving custody and transition to community

How to effectively support ex-prisoners and young people with cognitive disability as they transition from custody to community is an understudied area however it is clear that there is a wide array of issues impacting on community reintegration for this group. While there is a growing body of research about individual and group psychological treatments particularly focused on criminogenic risk for people with cognitive disability (Lindsay & Michie, 2013), there are very few studies that focus on transition support for this population. Reintegration into the community, after time spent in custody, is a complex psychosocial phenomenon that requires a broad interdisciplinary perspective beyond the important contribution of psychological treatment, the impact of which is often measured by the single indicator of recidivism (McNeil et al., 2012). Failure to shift beyond this lens when considering transition support needs of people with cognitive disability has the potential to undermine and limit the effectiveness of evidence-based treatment and approaches (Barrenger & Draine, 2013). For many offenders with cognitive disability there are many individual and systemic factors which play a part in their experience of transition. Successful reintegration and abstinence from criminal activity is regarded in the research literature as a process which is influenced by a myriad of psychological, developmental and sociological factors (Maruna, 2001; Pycroft, 2014). An understanding of a person’s disability and its effects is important in the context of community reintegration, and lack of understanding by mainstream service providers and the broader community can lead to poor outcomes. The important domains to be considered here are:

Prisoners with cognitive disability may have difficulties accessing appropriate rehabilitation programs within prison, which can assist early release (Ellem, 2013). They may also have difficulty understanding and adhering to requirements of parole (Hayes, 2012); and recognising the implications of association with others engaged in criminal acts (Kaal, Brand, & van Nieuwenhuijzen, 2012). Diminished cognitive capacity, lack of confidence, poor literacy and numeracy skills can also prove problematic when accessing mainstream services and supports in the community (Abbott & McConkey, 2006).

Young people and adults with cognitive disability experience elevated rates of unrecognised health problems, chronic and infectious disease, inadequate health screening, higher rates of hearing, visual and speech impairment, higher rates of mental illness, premature death and disparity in health care service delivery (Fisher,
2004; Krahn & Fox, 2014). People with cognitive disability have been found to have high rates of co-existing psychiatric disorders with estimates that depression, schizophrenia and bipolar in this population is twice that identified in the general population (Cooper & van der Speck, 2009). This group may have difficulty accessing health services in prison and post release, communicating their health needs to medical staff, and disclosing their disability. Psychiatric disorders are not always detected in this group or presented to healthcare professionals due to misdiagnosis, diagnostic overshadowing and service access difficulties (Cooper & van der Speck, 2009). Young et al (2016) advocate for individualised support to assist the person with a cognitive disability to: navigate complex health systems; maintain healthy lifestyles; understand and adhere to medical advice; actively participate in healthcare decisions; and enhance capacity for self-management and health related autonomy.

People with cognitive disability leaving custody often experience challenges with problematic alcohol and substance use. Available data suggests that although people with cognitive disability overall may use less alcohol and other substances than people in the general population, those who do use substances are at greater risk of developing substance-related problems (Didden, Embregts, van der Toorn, & Laarhoven, 2009). Substance-related problems for people with a cognitive disability can lead to significant health issues including an increase in cognitive decline, poor impulse control, physical impairment, loss of self-care skills and heightened irritability (Slayter, 2008). When a person also has co-occurring mental illness and uses psychotropic medications, there may be further negative effects from substance use such as suicidal thoughts and ideation (Taggart, McLaughlin, Quinn, & Milligan, 2006). People with cognitive disability who have alcohol and drug use problems may also experience physical, psychological, financial and sexual exploitation by peers (Taggart et al., 2006). While there appears to be an association between alcohol/substance abuse and offending for people with an intellectual disability, the literature indicates that rehabilitation program responses in prison are generally ineffective in addressing the issue (Hassiotis et al., 2011; McGillivray & Moore, 2001). A study by Hassiotis and others (2011) on the psychiatric morbidity of prisoners with intellectual disability found that those with drug use and alcohol dependence received less treatment for drug addiction in prison than prisoners in the general population with substance problems. There were also a smaller number of prisoners with intellectual disability who had received any drug education when compared to the general population. McGillivray and others (2016) speculated that high dropout rates in these programmes may be an indicator of failing to adapt the content to people's learning styles and a lack of
strategies to ensure successful access and participation. Treating a person with a cognitive disability for substance issues can present certain challenges. A person with an intellectual disability may present with behaviours that appear to be associated with their disability but may actually mask substance use problems (Slayter & Steenrod, 2009). There may be communication and comprehension challenges in relation to treatment. For example, the person may have difficulties recalling their history of substance use (Miller & Whicher, 2009); have limited vocabularies and difficulty understanding and retaining information relevant to treatment (Burgard, Donohue, Azrin, & Teichner, 2000).

A strong association has been found between homelessness and incarceration and that these factors increase the risk of each other in the general offender population (Brackertz, Fotheringham, & Winter, 2016). In the first major study on the housing status of released prisoners in Australia, Baldry et al. (2006) found that 50% of participants in the study (n = 238) who moved accommodation more than twice in the first 9 months post-release were up to eight times more likely to be re-incarcerated during that time. Moving often, lack of family and professional support, lack of employment and worsening drug use were all associated with poor housing and return to prison. Less definitive data has been specifically gathered regarding ex-prisoners with cognitive disability. A recent paper by Young et al (2017) found that ex-prisoners who had been screened as potentially having a cognitive disability were more likely to be living alone, in unstable accommodation, or back in prison six months after release. Obtaining and maintaining stable housing requires a degree of financial literacy and ability to keep the home environment in liveable order (Backer & Howard, 2007). This may be difficult for someone with cognitive disability who may not always comply with rules in a supported housing arrangement leading to impairment-related disruptive behaviour (HCH Clinicians' Network, 2003). Programs such as the Housing First Model (HFM) which provides permanent supportive housing for chronically homeless individuals with serious mental illness and substance use disorder may be equally beneficial for ex-prisoners with cognitive disability (Brackertz et al., 2016).

Most prisoners have little in the way of financial resources when they re-enter the community and often need to rely on the assistance of others, including support from community agencies and informal supports from any social connections they have (Draine, Wolff, Jacoby, Hartwell, & Duclos, 2005). Lack of income and an inability to acquire it is likely to influence a person's reintegration success, leading to significant stressors in acquiring fundamental needs such as food and housing and exacerbating
the associated risk of reoffending (Harley, Cabe, Woolums, & Turner-Whittaker, 2014). Social security measures are often considered inadequate in alleviating poverty (Australian Council of Social Service, 2016; Feist-Price, Lavergne, & Davis, 2014). Nevertheless, additional support may be needed to help people to apply for and access such resources (Ellem, 2013).

Studies on offender reintegration in the general population have increasingly highlighted the need for positive and supportive relationships for ex-prisoners to aid in desistance from crime (Chui & Cheng, 2014). Social support is the support one receives from primary relationships, social networks, and communities. Positive social support may reinforce prosocial norms, values and expectations as well as assist a person to find employment and accommodation (Markson, Lösel, Souza, & Lanskey, 2015). Given the myriad of concerns facing ex-prisoners with cognitive disability, their need for social support may be even more salient than other ex-prisoners. Numerous studies have reported the difficulties people with cognitive disability have in overcoming loneliness, stigma and developing social connections. A number of evaluative studies have reported the success of Circles of Support and Accountability (CoSAs) in mitigating the risk of sex offenders in the general prison population when they re-enter the community (Fox, 2014; Wilson, Cortoni, & McWhinnie, 2009). While little research has explored the efficacy of such models with ex-prisoners with cognitive disability (regardless of offence type), the principles of engaging community volunteers to offer assistance to the released ex-prisoner may have some merit. Community engagement has long been considered an important component in supporting people with a disability, and disability service provision has adopted similar models of practice in the area of Person-Centred Planning which could be adapted for this purpose (Sanderson, Thomspson, & Kilbane, 2006).

Recommendations:

- Queensland Corrective Services and Youth Justice develop reintegration services specifically designed to cater for people with cognitive disability. These services would provide an intensive case management model to facilitate mutual cooperation between relevant agencies in contact with individuals with cognitive disability.

- Queensland Corrective Services and Youth Justice develop rehabilitation programs that are accessible to people with cognitive disability
Queensland Government invest in intervention models with people with cognitive disability that adopt harm reduction principles and consider community engagement strategies such as the Circles of Support and Accountability in offender management.

**Indigenous young people with cognitive disability involved in the criminal justice system**

There are five clear evidence-based strategies, emerging from our recent unpublished research and from the literature, that if incorporated into policy and practice are likely to improve the outcomes of Indigenous young people with cognitive disability involved, or at risk of involvement, in the criminal justice system as follows:

1) *First response Indigenous approach*

There is scarce but growing evidence that pathways into non-indigenous managed and staffed justice, health and social services are greatly facilitated by the first response of an Indigenous support worker, the utilisation of the family and young person's extended network and tapping into local knowledge and resources. This is particularly so for Indigenous young people, although the same principle applies to all ages of Indigenous people who have high and complex needs. It is widely acknowledged that Indigenous young people are reluctant to seek help, particularly from services that have primarily non-indigenous staff, which is often the case in criminal justice agencies, child protection and mental health services. The need for indigenous first response is related to recognition of issues of trust, familiarity, relationship, land, country, genealogy and the impact of previous negative experiences of being surrounded by unfamiliar white faces (Hinton, Kavanagh & Barclay, 2015; Westerman, 2004). While ideally it would be preferable to have Indigenous professionals, they are scarce. The first response Indigenous approach acknowledges the importance of an introduction of the Indigenous client by an Indigenous support worker, or local indigenous community member employed for such work, to the non-Indigenous professional, followed by ongoing support during each assessment or intervention.

A potential resource for providing culturally appropriate services to Indigenous young people with cognitive disability involved, or at risk of involvement, in the criminal justice system is the local Indigenous Controlled Primary Health Care Service, which are common throughout Australian cities and towns. These services deal extensively with
mental health, substance use and child safety issues within a culturally acceptable primary health care context and are often an enormously useful resource (and underutilised by mainstream services) in finding or coordinating appropriate services and supports for troubled Indigenous young people, including those with a cognitive disability.

2) Continuity of Care
Providing continuum of care is a well-established critical element in the provision of all justice, health and social interventions and extremely important in responding to young people with complex support needs. Our recent research shows that often Indigenous young people with cognitive disability involved, or at risk of involvement in the criminal justice system, are assessed and treated by numerous medical and psychological agencies without a coordinated response being developed (Ellem, et al under review). The most practical approach is for a single case coordinator (and if they are not Indigenous, an accompanying Indigenous Support Worker appointed) both of whom are acknowledged by all of the involved agencies across the criminal justice system, the health system, the child safety system, housing and social support systems and any other stakeholders involved. Effective wraparound planning for Indigenous young people with cognitive disability involved or at risk of involvement in the criminal justice system would involve agencies coming to a mutual agreement around priorities, and shifting from purely agency-driven agendas to a more holistic and person-centred frame (Malvason, Delfabbro, Hackett, & Mills, 2016). At a systemic level, there would be clear overarching mechanisms for coordination of services, such as formal partnerships and/or memorandums of agreement.

3) Culturally appropriate home and school support
Home and school support is a well-established practice in indigenous communities around Australia and is an important preventative strategy for young Indigenous people with disabilities at risk of criminal justice involvement. For example, organisations similar to Kummara in the Brisbane Metropolitan region (https://www.kummara.org.au/what-we-do/), is an indigenous service that is brokered in to assist parents in getting Indigenous young people to school with accompanying support and advocacy with the aim of sustaining school attendance which is known to be a protective factor against criminal justice involvement.

If Indigenous young people with cognitive disabilities are supported in a culturally appropriate and positive way to engage with school and community before their
situation deteriorates into criminal justice involvement, it is likely to have preventative impact. There is also growing recognition of the healing strength of community activities for young Indigenous people and families: sport, culture, art, music, dance and church, linked with key contact people in the community (Hinton, Kavanagh & Barclay, 2015)

4) Court Diversion
Court diversion is a well-established concept that has relevance to early intervention for young Indigenous people with cognitive disability involved or at risk of involvement in the criminal justice system. It is widely discussed in the literature as the most appropriate response when health, disability and social factors are clearly influencing offending behaviour. Our recent research shows that it is often inappropriate and unhelpful for this population to be sent to juvenile justice facilities and that the police sometimes also hold this view but have no alternative options (Ellem et al under review). These issues are discussed comprehensively in: MacGillivray, P., & Baldry, E. (2013). Indigenous Australians, mental and cognitive impairment and the criminal justice system: A complex web. It is clear that culturally appropriate court diversion processes should be rigorously explored when considering options for reducing the involvement of Indigenous young people with cognitive disability involved in the criminal justice system.

5) Harm Reduction Approach
Harm-minimisation approaches, rather than conditional support based on the cessation of individual risk behaviours, are gaining increasing efficacy in understanding effective approaches to supporting young people with high and complex needs. A harm reduction approach to service delivery allows young people who may otherwise be excluded from services to access non-judgemental support. It acknowledges that young people may have very low motivation to engage in service provision, and recognises that young people may not commit to support if there is an expectation they need to be highly committed to changing problem behaviour (Hickle & Hallett, 2016). An example of housing provision, relevant here due to the link between homelessness and offending behaviour, is the Housing First model, where the emphasis is not on complete abstinence of high-risk behaviours, but ensuring consistent, ongoing support to maintain housing tenancy and stability, engaging in positive community activities, celebrating small positive changes, and allowing and supporting the young person to define and reach towards their own needs and goals (Andvig, Saelor, & Ogundipe, 2018; Hickle & Hallett, 2016).
This submission has addressed many issues for people with cognitive disability in contact with the Queensland criminal justice system. It is likely that the recommendations presented here will be of benefit to other vulnerable offender populations. Improvements to the Queensland system for this group require interventions at multiple levels that are comprehensive, and collaboratively planned by key stakeholders. Such an investment in time and resources to make such changes will be of benefit to individuals and the broader community.

Yours sincerely,

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