

31 October 2018

Mr Kim Wood
Principal Commissioner
Queensland Productivity Commission
PO Box 12112
George St
Brisbane QLD 4003

By email to: matthew.clark@qpc.qld.gov.au

Dear Mr Wood

Re: Inquiry into imprisonment and recidivism

The Queensland Branch of the Royal Australian and New Zealand College of Psychiatrists (RANZCP QLD Branch) welcomes the opportunity to provide feedback on the Imprisonment and Recidivism Issues Paper.

The RANZCP QLD Branch advocates for the rights of the mentally ill in the criminal justice system. This includes advocating for access to evidence-based, high-quality mental health services equivalent to those available in the community.

Unmet mental health treatment needs and the shortage of drug and alcohol services in prison are significant drivers of recidivism. We believe good mental health care can reduce recidivism.

We have provided answers to some of the Issues Paper's questions overleaf. Also attached to this submission is the RANZCP QLD Branch's [submission to the Department of Child Safety, Youth and Women's 'Youth Justice Strategy' consultation](#), and response to the Human Rights Watch report, 'I Needed Help, Instead I was Punished: Abuse and Neglect of Prisoners with Disabilities in Australia'.

We would welcome an opportunity to speak to you about these issues. To arrange a meeting or for further information about this submission please contact [REDACTED] Policy Officer via qldpolicy@ranzcp.org or by phone on [REDACTED].

Yours sincerely



A/Prof Brett Emmerson AM
Chair, RANZCP QLD Branch

Enclosed:

RANZCP QLD Branch submission to the Department of Child, Safety, Youth and Women's Youth Justice Strategy (September 2018)

RANZCP QLD Branch letter to Minister for Police re: Human Rights Watch report (March 2018)

Queensland Productivity Commission
Inquiry into Imprisonment and Recidivism

October 2018

working with the
Queensland
community

Background

Does the criminal justice system make the community safer, rehabilitate offenders and enact fair retribution? Does it do it well?

The Queensland Branch of the Royal Australian and New Zealand College of Psychiatrists (RANZCP QLD Branch) and its members have expertise in mental health and mental health disorders including the association between mental health and the criminal justice system. The RANZCP QLD Branch advocates for the rights of the mentally ill in the criminal justice system. This includes advocating for access to evidence-based, high-quality mental health services equivalent to those available in the community. We believe good mental health care can reduce recidivism.

Trends and causes

What factors are important to consider when thinking about crime trends and their impact on imprisonment? Are there other factors relating to crime rates that are important for this inquiry?

The correlations between mental ill health and incarceration are well documented (White et al., 2016). Incarceration rates in Australia have increased dramatically over the past decade and mental disorders are vastly over-represented among people in the criminal justice system when compared to those in the general community. For example people in custody are 10 to 15 times more likely to have a psychotic disorder (Ogloff, 2015; Butler et al., 2006; WHO, 2014).

Therefore the RANZCP QLD Branch supports Queensland Health's approach of providing mental health services across the spectrum of the criminal justice system.

What are the key factors that have driven the increase in Indigenous incarceration rates?

Aboriginal and Torres Strait Islander people with mental health problems are over-represented in the prison population. Approximately 73% of Aboriginal and Torres Strait Islander men and 86% of Aboriginal and Torres Strait Islander women in prison have a diagnosed mental health condition (Heffernan et al., 2012). Aboriginal and Torres Strait Islander people in prison also have a high prevalence of cognitive disability compared with the general indigenous population (Ogloff et al., 2017).

Both these issues identify the critical need to provide culturally appropriate mental health services for Aboriginal and Torres Strait Islander people in the criminal justice system.

Why have female imprisonment rates increased relative to male rates?

The RANZCP QLD Branch recognises there is a relatively higher prevalence of mental disorders among women in custody compared to men. This cohort has specific mental health needs including high rates of psychotic disorder and post-traumatic stress disorder. This is particularly the case for Aboriginal and Torres Strait Islander women who experience complex mental health problems and high rates of morbidity and mortality associated with their unmet mental health needs (Heffernan et al., 2015). As such, mental health services which specifically consider the needs of female prisoners including Aboriginal and Torres Strait Islander women are required.

Recidivism

What principal factors influence recidivism? What evidence is available to support an analysis of the causes of recidivism?

Nationally, the high rate of mortality and morbidity associated with mental health problems during the initial transitional period from custody to the community demonstrates the critical need for continuity of care of mental health services (Kinner et al., 2011; Alan et al., 2011). Untreated mental disorder is a risk factor for recidivism. Unmet mental health treatment needs and the shortage of drug and alcohol services in prison are significant drivers of recidivism.

It is well established that good drug treatment for prisoners can reduce both drug use and rates of re-offending, and that good prison health care contributes to a reduction in reoffending after release (WHO, 2014).

Costs and benefits of recidivism

How do the costs and benefits of prison compare to alternatives?

The RANZCP QLD Branch recognises that early intervention, diversion into health when needed and adequate mental health treatment is a cost effective intervention in the criminal justice system.

Reducing imprisonment

What strategies are most effective in permanently reducing crime that leads to imprisonment?

We recommend the Queensland Productivity Commission focus on early intervention and prevention strategies for all people across the age spectrum with a particular need to focus on children, young people, Aboriginal Torres Strait Islander people and women.

Are there early intervention, diversionary or sentencing options that the Commission should consider? What evidence of their effectiveness is available? Are there any barriers to providing these programs? If so, how might these be addressed?

The RANZCP QLD Branch supports the innovative work that is being done in this area through collaborations between Queensland Health and other agencies such as Queensland Police, the Department of Justice and Attorney-General, and Queensland Corrective Services.

We support the following initiatives which are already working well in Queensland:

- the positively evaluated Police Communications Centre Mental Health Liaison service and its role in early intervention for people with mental health problems coming into contact with police, and their diversion to health services prior to being charged
- increased training for police in managing mental health crises to assist them in making decisions regarding diversion to health services
- the Mental Health Support of Police Negotiator Program, which provides real-time support for police negotiators when dealing with individuals experiencing mental health crisis and provides opportunities for health intervention where appropriate

- the establishment of Queensland Health's recent initiative through the court liaison program which provides reports relating to criminal responsibility and fitness for trial. This represents a significant advance in the health and justice system capacity to provide early intervention and diversion of those with mental disorder before the courts
- the role of the Mental Health Court and its ability to divert people away from incarceration
- the Mental Health Intervention Project, a collaboration between mental health services, Queensland Police Service, Queensland Health and Queensland Ambulance Service (review is currently underway)
- the range of co-responder model initiatives (mental health and police collaborations) across Queensland Health.

The RANZCP Queensland Branch suggests the Commission specifically review opportunities to expand the Police Communications Centre Mental Health Liaison service that has proved a cost efficient collaboration for managing mental health crisis. It has opportunities to impact on criminal justice outcomes associated with mental health crisis. The RANZCP QLD Branch also supports an evaluation of the co-responder initiatives with a view to ensuring consistency in the model of care and state-wide coordinated governance in the delivery of this program.

Overall, we recommend the above programs be expanded and funded long term, and suggest the Commission consult with the Queensland Forensic Mental Health Service for further information about these programs.

The RANZCP QLD Branch affirms the significant benefits of a justice reinvestment approach to criminal justice involving measures to decrease rates of incarceration and recidivism by investing in services in the community, such as increased community mental health services and drug and alcohol rehabilitation programs. The value of a justice reinvestment approach lies in its potential to direct resources away from prison building and into community building, thereby strengthening and empowering communities to help people at risk of developing mental health issues and reduce offending.

A justice reinvestment approach involves:

- increased investment in early intervention programs for children, young people and adults through partnerships between mental health services, health services, schools, youth services, housing, employment, and other related organisations
- screening and assessment of mental health concerns of all people across the age spectrum entering detention, and mechanisms put in place to ensure that recommendations arising out of mental health assessments can be implemented
- targeted community based justice reinvestment initiatives for:
 - adults and youth with alcohol and other substance abuse disorders
 - young people with conduct disorder, and their families
 - Aboriginal and Torres Strait Islander communities
- built-in evaluations for all trials of prevention and early intervention programs to determine whether they have provided value.

An example of a successful justice reinvestment program is the Maranguka Justice Reinvestment project set in Bourke, a remote town 800km northwest of Sydney, where a number of Aboriginal families experienced high levels of social disadvantage and rising crime. The program is based on redirecting

resources spent on policing and punishment to projects that help prevent offender behaviour. Figures by Maranguka show that in Bourke between 2015 and 2017 rates fell by:

- 18% for major offences
- 34% for non-domestic violence related assaults
- 39% for domestic violence related assaults
- 39% for drug offences
- 35% for driving offences (Allam, 2018).

Consideration should also be given to directing people with drug and alcohol dependence to the health sector, and away from the criminal justice system, wherever possible. The Victorian Law Reform, Road and Community Safety Committee (2018) in its recent Inquiry into drug law reform recommended the personal use and possession for all illicit substances be treated as a health issue rather than a criminal justice issue. This would allow for timely referral of people apprehended to treatment and/or other social services, as required by their personal circumstances (LRRCS, 2018).

The Inquiry's report noted that globally, criminalisation of drug use is associated with increased rates of incarceration. The Committee recommended exploring alternative models of treatment for these offences, such as the Portuguese model of reform, which decriminalised the personal use and possession of all illicit drugs in 2001. Rather than being arrested, people caught with a personal supply are given an appropriate ruling or penalty by a Commission for the Dissuasion of Drug Addicts such as, they may be given a warning or be required to attend treatment services. The Commissions come under the Ministry of Health rather than Ministry of Justice and comprise a treatment professional, social worker and lawyer and are supported by a range of agencies such as treatment, health, employment, child protection, social services and schools.

Does the youth justice system effectively steer young offenders away from becoming adult offenders? If not, how could the system be improved?

There is a significant body of evidence documenting the links between mental health issues and incarceration, as well as between childhood trauma and future psychosocial problems. Children and young people in detention exhibit higher rates of mental health issues than the general population and studies have shown that treatment for mental health issues is an effective way to decrease recidivism in mentally ill offenders (RANZCP, 2016). Mental health care can also help to alleviate the impact of the psychological stresses of the detention setting for children and young people at risk of developing mental disorder.

The RANZCP QLD Branch recently provided a [submission to the Department of Child Safety, Youth and Women's Report on Youth Justice](#). We advocated for increased provision of mental health services to children and young people known to the child protection and juvenile justice systems. As well as for attitudes and practices within both systems to be guided by compassion and founded on a commitment to ensure that supportive, caring, and non-traumatising early experiences are provided for all children and young people in care.

It is the RANZCP QLD Branch's position that the incarceration of children should only occur as a last resort, for the shortest possible period of time and with the decision informed by the best interests of the child. Wherever possible, children and young people who have committed offences should be managed in community settings with primary caregivers to ensure their attachment relationships are not

threatened. When detention does occur, it is absolutely imperative that children in detention are treated with dignity and respect, and have adequate access to health care and non-clinical support.

The RANZCP QLD Branch considers it is likely that the early intervention and diversion programs referred to earlier could also play a significant role for children and young people. We recommend the Commission consider resourcing adaptations of these programs for the child and youth population.

Are current strategies appropriate for the diverse communities across Queensland? If not, how should current approaches be modified for these places or groups?

The RANZCP QLD Branch recognises there is a relative absence of culturally appropriate mental health programs for Aboriginal and Torres Strait Islander people. We support the introduction of a novel program delivered by Queensland Health – the Indigenous Mental Health Intervention Program. The program is currently piloted at two sites, the Brisbane Women’s Correctional Centre and the Woodford Correctional Centre and has demonstrated positive outcomes for Aboriginal and Torres Strait Islander people.

Preventing recidivism

Are the right programs and support services available for prisoners to encourage their rehabilitation?

The RANZCP QLD Branch is concerned with the absence of programs for the remandee population with mental health or drug and alcohol disorders, or cognitive disabilities. We support programs for both remandees and sentenced prisoners tailored to the responsivity factor of their mental health and cognitive disability. This will ensure that treatment gains are maximised. We consider that it is essential that programs provided by health services for mental health problems provide a multidisciplinary approach, including psychological interventions. However, this does not always occur.

We are concerned there is not adequate assessment of drug and alcohol problems or provision of appropriate psychological interventions and treatments for substance use disorders, including opioid substitution treatment.

The RANZCP QLD Branch affirms that effective treatment for mental health, alcohol and substance dependence, criminogenic and psychosocial needs is the best method to decrease recidivism in prisoners with mental illness. If one of the objects of the prison system is to protect the community by rehabilitating prisoners, ensuring that their mental health needs are treated – or at least not aggravated – is an important part of protecting against the risks of recidivism. In March 2018, the RANZCP QLD Branch responded to a Human Rights Watch report, *‘I Needed Help, Instead I Was Punished’: Abuse and Neglect of Prisoners with Disabilities in Australia*, which catalogues various incidents relating to the maltreatment of prisoners with disabilities. The response is attached to this submission.

We recommend the following practices be adopted to improve the rehabilitation of prisoners and prevent recidivism:

- mental health screening, assessment and treatment provided for people entering detention
- ongoing corrections staff training including
 - how to communicate with people with psychosocial, intellectual and/or developmental disabilities
 - appropriate medication practices

- appropriate responses to mental health crises including threats and instances of suicide and self-harm
- how to differentiate between disobedience and mental health-related behavioural issues
- culturally appropriate practices including sensitivity training
- appropriate resourcing to ensure
 - adequate staffing, including increasing the targets for Aboriginal and Torres Strait Islander staff
 - access to health services commensurate with that available in the community
 - appropriate facilities which can provide suitable spaces for medical observation and overnight accommodation
- improved mechanisms to report instances of abuse, bullying or other such behaviours.

Are sufficient support services available to prisoners after their release? Are these services effective? If not, how could they be improved?

For prisoners the transition out of custody is a risky period for relapse and recidivism. The RANZCP QLD Branch supports the positively evaluated Prison Mental Health Transition Service, which provides continuity of care and is a collaboration between Queensland Health and the non-government sector.

As described earlier, continuity of care of drug and alcohol treatment is an important risk factor for recidivism.

A recent review of the Queensland Forensic Disability Service System (Ogloff et al., 2018) noted that the introduction of the National Disability Insurance Scheme (NDIS) further complicates the transition of people with a cognitive impairment in prison. It was noted that the current practice is for the National Disability Insurance Agency to engage in planning for community based supports only once a prisoner is within 6 months of a release period. However, a significant number of people are in custody for short periods of time; those with complex disability support needs often cycling in and out of prison. As 60% of prisoners are released within 3 months and 80% within 6 months, it means that the majority of prisoners do not reach the 6-month trigger for NDIS engagement. The report noted 'this is unsatisfactory and provision must be made for appropriate supports to be put in place prior to a person's release in order to maximise successful community reintegration of people with a cognitive impairment and reduce recidivism rates.'

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21 September 2018

Hon Di Farmer MP
Minister for Child Safety, Youth and Women and Minister for the Prevention of Domestic and
Family Violence
Department of Child Safety, Youth and Women
Locked Bag 3405
Brisbane QLD 4001

By email to: YJStrategy@csw.qld.gov.au

Dear Minister

Re: Submission to Youth Justice Strategy

The Queensland Branch of the Royal Australian and New Zealand College of Psychiatrists (RANZCP QLD Branch) welcomes the Report on Youth Justice from Bob Atkinson AO, APM. We fully support the recommended approach to reforming the youth justice system in Queensland.

There is a significant body of evidence documenting the links between mental health issues and incarceration, as well as between childhood trauma and future psychosocial problems. Children and young people in detention exhibit higher rates of mental health issues than the general population and studies have shown that treatment for mental health issues is an effective way to decrease recidivism in mentally ill offenders (RANZCP, 2017). Mental health care can also help to alleviate the impact of the psychological stresses of the detention setting for children and young people at risk of developing mental disorder.

The RANZCP QLD Branch advocates for the increased provision of mental health services to children and young people known to the child protection and juvenile justice systems, as well as for attitudes and practices within both systems that are guided by compassion and founded on a commitment to ensure that supportive, caring, and non-traumatising early experiences are provided for all children and young people in our care.

Yours sincerely



A/Prof Brett Emmerson AM
Chair, RANZCP Queensland Branch

Reference

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Department of Child Safety, Youth and Women
Youth Justice Strategy

September 2018

**inform and influence
mental health policy in
Australia**

About the Royal Australian and New Zealand College of Psychiatrists

The Royal Australian and New Zealand College of Psychiatrists (RANZCP) is a membership organisation that prepares doctors to be medical specialists in the field of psychiatry, supports and enhances clinical practice, advocates for people affected by mental illness, and advises government on mental health care. The RANZCP is the peak body representing psychiatrists in Australia and New Zealand, and as a bi-national college has strong ties with associations in the Asia and Pacific region.

The RANZCP has almost 6000 members, including more than 4000 qualified psychiatrists (Fellows) and more than 1500 members who are training to qualify as psychiatrists (trainees). The RANZCP Queensland Branch (RANZCP QLD Branch) currently has 730 Fellows and 270 trainees. Its members hold positions in public and private psychiatry or both, and may specialise in a range of areas including perinatal psychiatry, child and adolescent psychiatry, and rural and remote psychiatry. Psychiatrists are clinical leaders in the provision of mental health care in the community and use a range of evidence-based treatments to support a person in their journey of recovery.

This submission has been prepared in consultation with the RANZCP QLD Branch Committee and the Queensland Faculty of Child and Adolescent Psychiatry.

Responses to consultation questions

Responses to the consultation questions are provided below.

Pillar 1 – Intervene early

1. How can we intervene early to better support families of children who are at risk of offending?

The correlations between mental ill health and incarceration are well documented (White et al., 2016). Epidemiological studies show a correlation between those who experience psychiatric disorders in childhood and adulthood, with children and young people with conduct disorder at particular risk of developing further mental health problems later in life (Kim-Cohen et al., 2003).

14% of children and adolescents experience mental health problems (RANZCP, 2010). Mental illness in infancy, childhood or adolescence can have enduring consequences if left unresolved. Among the many adverse outcomes are reduced self-esteem or confidence, reduced educational and occupational opportunity, increased risk of substance abuse and other mental disorders, as well as increased family conflict, family breakdown and homelessness (RANZCP, 2010).

Early intervention strategies targeting the mental health of children, particularly those who have experienced significant trauma and adversity, reduce the likelihood of adverse outcomes in relation to future offending.

The first 1000 days of a child's development (from conception to the end of a child's second year), and the early childhood years can be fundamental to a child's life successes. These early years are a unique period of opportunity when the foundations of optimum health, growth and neurodevelopment across the lifespan are developed. Many challenges faced by adults, such as mental health issues, obesity, heart disease, criminality, and poor literacy and numeracy, can be traced back to pathways that originated in early childhood (CCCH, 2017). Early intervention programs should focus on early childhood and the first 1000 days, with a focus on assisting new parents, families and schools.

The [Logan Together](#) initiative is an example of a long-term collective impact approach focussed on child development to create the best life opportunities for every child in Logan, Queensland. It aims to reduce rates of developmental vulnerability for Logan children to the state average by 2025 so that children in

Logan can grow up as healthy and full of potential as other Queensland children. *Logan Together* works with individuals, other community organisations, government departments and agencies, politicians and funding bodies to achieve their goal. Their six priority projects are:

1. community maternity and child health hubs strategy
2. the first three years: early development initiatives
3. early years neighbourhood networks
4. community mobilisation campaign
5. jobs for families project
6. social investment and service integration reforms.

It is important for families to be able to access mental health care which is affordable and easily accessible. Children and young people should be able to easily access psychological and/or psychiatric assistance, preferably with no costs involved. The RANZCP QLD Branch is concerned that limitations on Medicare funding restricts the amount of mental health support and treatment which can be provided to children and young people. Under the Better Access Scheme, Medicare subsidises up to 10 psychological sessions per year, which may be insufficient for treatment, and relies on families to fund any additional sessions. Even when treatments are subsidised by Medicare, families may struggle to fund the gap payment for psychologists and psychiatrists.

As part of a child's treatment the psychologist or psychiatrist may consider that liaison with the school is required, yet for psychologists there is no Medicare rebate to cover such meetings or phone calls, which discourages psychologists. Psychiatrists are able to liaise with schools and other parties when treating a patient only to a maximum of four times per year under the Medicare provisions for interviews with a non-patient under items 348, 350, 352. These interventions are often an essential component of effective therapy and this provision is inadequate for complex cases.

We recommend the Queensland Government lobby the Commonwealth Government to increase these provisions, as this is an inadequate amount to provide high-quality inclusive mental health care for children and adolescents. We also recommend the Queensland Government consider providing funding to enable psychiatrists, psychologists, and other health professionals to liaise with schools in complex cases.

When young people are identified as being at risk of offending, such as those with antisocial behaviour, families should be offered immediate and intensive support. Many families reportedly struggle to obtain assistance in such circumstances. Support could include parent education, in-home support workers and respite care for children with severe behavioural problems and disabilities. One example of an evidence-based approach to supporting vulnerable families and children is multisystemic therapy (MST). This type of therapy is an intensive, family-focussed, community-based intervention for families with children with significant and enduring behavioural problems.

In recognition of the significant links between mental health and juvenile offending, the RANZCP QLD Branch recommends:

- significant investment in prevention and early intervention programs for children and their families through partnerships between mental health, maternal and child health services, schools and other related organisations
- built-in, formal economic evaluations for all trials of prevention and early intervention programs for children and young people to determine whether they have provided value in terms of justice reinvestment

- screening of vulnerable children for early identification of mental illness and/or psychosocial difficulties
- development of targeted prevention and early intervention programs for at-risk children and young people, including Aboriginal and Torres Strait Islander peoples, and children in out-of-home care.

2. What community supports would be important to deliver early intervention to children, young people and their families?

To enable communities to provide early intervention programs to children, young people and their families, a collective approach is required which involves government departments, health services, housing services, schools, community organisations, community groups and other agencies working together with a shared goal. Most importantly adequate long-term funding is required as is the development of targeted intervention strategies, as per the *Logan Together* example provided above.

Pillar 2 – Keep children out of court

3. What are your views about police exercising greater discretion to divert children away from court by using warnings, cautions, restorative justice, and referral to rehabilitative programs and supports?

Police are usually the first point of contact for anyone who has allegedly committed an offence. Police may start legal action via court or non-court actions. Non-court actions include cautions, conferences, counselling or infringement notices. Diversion (from court) is an important aspect of the criminal justice system in Australia. It can take various forms:

- complete diversion from the system (such as informal warnings by police)
- referral to services outside the system (such as drug and alcohol treatment programs)
- diversion from continued contact with the system by the police or courts (such as conferencing).

Evidence suggests that police do increasingly divert children away from court. National trends over the 5 years from 2012 to 2017 show that the rate of young people under supervision on an average day fell steadily. The fall in the number of young people under supervision reflects the fact that, in recent years, the numbers of young people who have been the subject of legal action by police and who had charges finalised in the Children's Court, has fallen (AIHW, 2018).

The RANZCP QLD Branch supports police diverting children away from court and detention for minor offending. It is important that police diversions incorporate a focus on early intervention and rehabilitation, by providing appropriate referrals, such as to drug and alcohol rehabilitation programs, and/or diversion programs such as youth justice conferencing. Family involvement is also essential, as outlined below in relation to MST.

The RANZCP QLD Branch acknowledges that there may be some cases where it is in the best interests of a young person to be held more accountable for their behaviour. For example, Fellows have reported that some young people's offending escalates when they have received a number of cautions, without other supports or consequences being put into place. In such circumstances of repeated and escalating offences, informal warnings may be insufficient and less effective than formal identification and referral into rehabilitation programs. Police should ensure that their response is reasonable and proportionate to individual circumstances.

4. What community supports are needed to support police to divert children away from arrest and having to appear in court?

We are concerned that the Atkinson report noted that there 'is an absence of rehabilitation services for children in Queensland, and only one detoxification clinic for children, which is located in Brisbane' (p42, 2018). The report also states that 'a view exists that there are insufficient or inadequately accessible services for police to refer a child who they would consider suitable for diversion if sufficient support were available' (p23, 2018). Considering the geographical spread of Queensland, we are concerned that youth in rural, remote and certain regional areas may be unable to access any diversion programs or supports.

We recommend the Queensland Government fund and develop a range of relevant and appropriate community based rehabilitation programs which are accessible throughout Queensland. The RANZCP QLD Branch strongly supports the Atkinson recommendations that pathways for police to refer to services for the purposes of diversion, be enhanced.

Pillar 3 – Keep children out of custody

5. What evidence-based alternatives to detention centres would work in Queensland?

Wherever possible, children who have committed offences should be managed in community settings with primary caregivers to ensure their attachment relationships are not threatened. When this is not possible, there needs to be an assessment of the impact of family separation and the availability of alternate attachment figures. This is particularly important for Aboriginal and Torres Strait Islander peoples given the complexity of their family relationships arising from systems of kinship.

Studies on juvenile reoffending suggest reoffenders are more likely to be those that are disengaged from role models, teachers, care providers, and positive peer relationships.

Evidence-based community based youth interventions such as MST are an alternative to detention. MST is a widely disseminated evidence-based intervention for antisocial or disruptive behaviours in youths aged 12 to 16 years, with the intervention successfully implemented in more than 30 states of the United States of America, and in at least 12 other nations including Australia and New Zealand (Porter & Nuntavisit, 2016). MST is an intensive family- and community based treatment approach that targets the individual, family, peer, school, and community elements that contribute to and maintain problematic externalising behaviour in youth. MST is focused on empowering parents and other important members of the youth's ecology to develop the necessary skills and competencies to help the youth reduce problematic behaviour and function more effectively (Curtis et al., 2009).

The Western Australian (WA) Health Department has been delivering the MST program for over a decade. The WA Child and Adolescent Mental Health Service MST Program has received many awards, including the national award for Crime and Violence Prevention and the national Drug and Alcohol Award for Excellence in Prevention and Community Education in 2011, and an award at the 24th Australian and New Zealand Mental Health Conference Achievement Awards in 2014 (LWB, 2014).

The RANZCP QLD Branch recommends the Queensland Government consider MST programs as an alternative to detention.

6. What are your views about using youth detention centres only for dangerous and serious offenders?

National trends over the 5 years from 2012 to 2017 show that the number of young people in detention on an average day in Australia fell by 9%. However, in Queensland, this rate increased slightly (AIHW, 2018).

Young people may be referred to unsentenced detention by police (pre-court) or by a court (remand). On an average day in 2016–17, 61% of young people aged 10–17 in detention nationally were unsentenced, compared with 33% of adults in prison in the June quarter 2017. Queensland had the highest rate of young people in unsentenced detention in 2016–17, at 86%. The average total time spent in unsentenced detention was highest in Queensland and Victoria, at 62 days (AIHW, 2018). These outcomes suggest that in practice, detention is presently being used more broadly than only for high-risk and serious offenders, and appears to be inconsistent with principles of justice and rehabilitation. The RANZCP QLD Branch strongly supports the Atkinson recommendation that goals be set to progressively reduce the proportion of children on remand in custody, and that all children on remand in custody have access to rehabilitative programs.

The removal of a child from their home is a highly stressful experience, encompassing the child's loss of liberty, personal identity and familiar landscape, compounded by the loss of social supports and coping mechanisms including family and friends, school, sports and other activities. Events like this place psychological stresses on any child, with at-risk children more vulnerable to the effects of psychological trauma.

Clear evidence has established a relationship between the length of detention and the severity/comorbidity of psychiatric disorders (Bull et al., 2012). Detention has also been found to compound distress in children with prior experience of trauma, torture or neglect (Burrell, 2013). Even short periods of detention have been found to impact children's function (Fazel et al., 2012; Dudley et al., 2012).

It is the RANZCP QLD Branch's position that the incarceration of children should only occur as a last resort, for the shortest possible period of time and with the decision informed by the best interests of the child. Wherever possible, children and young people who have committed offences should be managed in community settings with primary caregivers to ensure their attachment relationships are not threatened. When detention does occur, it is absolutely imperative that children in detention are treated with dignity and respect, and have adequate access to health care and non-clinical support.

The RANZCP QLD Branch supports the use of youth detention centres for high risk and serious offenders only.

Pillar 4 – Reduce reoffending

7. How can we keep children and young people better engaged with school and vocational training?

The majority of court-involved youth have experienced academic failure, school exclusion, and dropout. Christle et al. (2005) found that schools can provide protective factors by offering a positive and safe learning environment, setting high yet achievable academic and social expectations, and facilitating academic and social success, which can minimise the risks for youth delinquency.

There is a range of children who are at risk of disengaging with school or vocational training, this includes but is not limited to the following: children with mental health issues, intellectual disability, learning disability, autism, ADHD, learning difficulties, communication or language disorders; children

from a culturally and linguistically diverse background, who are Aboriginal or Torres Strait Islander, who are in foster care, out-of-home care and those who have experienced trauma.

Schools are well positioned to identify social, behavioural and learning difficulties in students. The RANZCP QLD Branch recommends that schools conduct routine screening for cognitive impairments/learning disabilities and mental health issues, and be adequately funded to provide the support that is necessary.

Children and adolescents with developing mental illness and related disorders may face difficulties receiving adequate support in the school system, as currently support is often linked to a limited number of disabilities designated under the Education Adjustment Program, rather than a student's needs per se. Children and adolescents may not receive a fixed diagnosis as developmentally they may change over time. This is particularly relevant to children who have experienced trauma, abuse or neglect. The RANZCP QLD Branch advocates for equity of support for children and adolescents on a needs basis, and recommends the Queensland Government consider how to provide support to all students, irrespective of formal diagnosis, to maximise their learning potential.

While the Australian Curriculum touches on health and well-being, we suggest that consideration be given to embedding a social and emotional well-being framework into the school curriculum and early childhood education settings to encourage schools to recognise and respond to students' mental health needs. We recommend the Queensland Government develop and implement school-based mental health early intervention and prevention programs and services such as social skills programs, and anti-bullying programs, dedicated school mental health support services, as well as provide more school counsellors and/or guidance officers to assist in the delivery of these programs and provide mental health support to students. We suggest the Queensland Government refer to Mental Health First Aid Australia's 'Youth Mental Health First Aid Course' for an example of evidence-based training on how to assist adolescents who are developing a mental health problem or are in a mental health crisis.

Whenever possible, children and young people should be supported to remain in mainstream schooling. The RANZCP QLD Branch encourages schools to offer flexibility for different learning styles and be inclusive of all children with disabilities and mental health needs. We welcome the recently released Queensland Department of Education's 'Inclusive Education Policy' (2018). It commits the Department to a more inclusive state education system, and recognises that all children and young people have a right to attend their local state school; access and participate in high-quality education and fully engage in the curriculum alongside similar-aged peers; learn in a safe and supportive environment, free from bullying, discrimination or harassment; and achieve academically with reasonable adjustments and supports tailored to meet their learning needs.

However at present, children with behavioural problems may find themselves being suspended or excluded from mainstream schools, with no or limited suitable alternative education options available. This approach appears punitive and does not support the child and family to remain engaged in education.

We understand that the Department of Education offers alternative placements and pathways through Positive Learning Centres, District-based Centres and Flexible Learning Services. Positive Learning Centres are intended to integrate students of compulsory school age into mainstream schooling, or into more appropriate learning or vocational pathways. The RANZCP QLD Branch notes that there are only 15 Positive Learning Centres across the State, including only two in Brisbane.

Flexible Learning Services are intended to re-engage disengaged 15–17 year old youth and operate at a range of sites and can be affiliated with organisations that work with young people such as Edmund Rice

Education Australia. Engaging and supporting children who have left youth detention and re-entered the school system should be a priority for schools who have students in this situation.

The RANZCP QLD Branch recommends that the current alternative education pathways (outlined above) be reviewed to assess their effectiveness in supporting children to remain engaged in education, and whether the number of services is adequate to meet the needs in Queensland.

8. What types of evidence-based rehabilitation programs would make a difference for young people in the criminal justice system?

There is a significant body of evidence that children in detention have higher rates of mental health issues than the general population. It is imperative that children and young people in detention have consistent access to high-quality mental health care. Mental health functioning of children in detention should be routinely and comprehensively assessed.

Studies have shown that treatment for mental health issues is an effective way to decrease recidivism in mentally ill offenders and is essential for any meaningful attempt to rehabilitate young offenders.

There is a need for more dedicated specialist adolescent forensic psychiatric services for children in youth detention. Without adequate levels of developmentally appropriate mental health services, at-risk children and young people in Australian youth detention centres face significant obstacles in their paths to recovery and staff in youth detention centres face significant difficulties in managing children and young people in their care.

Many children and young people in youth detention have prior experiences of trauma which are difficult to address in detention settings where continued exposure to stress is likely to impact adversely on recovery. The RANZCP QLD Branch recommends a trauma-informed approach which has the potential to support at-risk children and young people on their paths to recovery and rehabilitation, and to support staff in youth detention centres in the management of children and young people under their care.

Trauma-informed care strategies include:

- the development of long-term strategies aimed at reducing, and where possible, eliminating the use of seclusion and restraint, including lockdowns
- facilities which cultivate an environment of safety, including:
 - consistent and unobstructed access to toilet facilities
 - respect for privacy when showering and toileting
 - appropriate rooming arrangements
 - temperature control
 - natural lighting
 - adequate cleaning and maintenance.

In addition to the strategies of trauma-informed care, and the MST alternative to detention example provided earlier, the Queensland Government should explore successful alternative youth detention models in other countries. For instance the Missouri model of youth detention has proven successful in the United States 'with a reportedly low rate of recidivism (8%), a stark contrast to other systems where recidivism exceeds 60%' (Nelson et al., 2010). This model has the following features:

- made up of small residential facilities designed for 10–30 youths

- located at sites that keep young people close to their homes
- facilities do not look like jails and try to resemble a home environment
- highly trained and educated staff
- youth are treated with respect and dignity
- youth sleep in shared cottage or dorm rooms
- intensive counselling and support provided
- individual treatment plans
- individualised education plan
- youth continuously participate in the reviews of their treatment and education.

The RANZCP QLD Branch recognises that certain institutions create environments where there is an increased risk of child abuse and would like to highlight the need for staff members to be vigilant and focussed on child safety. Staff should be trained and educated to manage detained children in a way that is conducive to rehabilitation and child safety.

The RANZCP QLD Branch recommends Queensland Government should ensure youth detention staff are provided with appropriate training and support by providing:

- thorough screening of potential staff members for suitability
- increased support of staff members to ensure they are psychologically equipped to deal with crisis situations and other workplace hazards
- improved education and training of staff in youth detention facilities around the development and mental health needs of children and young people, including appropriate responses to challenging behaviours such as threats or actual instances of self-harm and suicide, and how best to involve family members
- the inclusion of relevant facts about harmful practices in the training curriculum of staff members, including how to be sensitive when dealing with individuals affected by harmful practices in the past, and to understand the consequences of traumatic memories in the present.

Collaboration and cultural capability

9. How can we achieve more effective collaboration between communities, non-government organisations and government agencies to prevent and respond to youth offending?

Interagency collaboration is essential when addressing psychosocial problems in children and young people (RANZCP, 2016a). Children and young people who are at risk of offending or who have entered the justice system, should be supported in a hierarchical needs-based approach, incorporating housing, health, mental health, child safety, disability, education and forensic services, to reduce risk of offending and reoffending.

Once young people are involved in the criminal justice system, Youth Justice Services should play a central role in coordinating services. However, there appears to be a gap in the system when Youth Justice Services cease to be involved with a child or young person. The RANZCP QLD Branch suggests that Youth Justice Services should routinely screen young people for mental illness and cognitive impairments, and importantly, distinguish between the two, to determine appropriate referral pathways and collaborate with relevant services. That is, if a young person is found to have a cognitive

impairment, it is appropriate that they be referred to disability services, rather than mental health services.

Schools can play an important role in identifying children at risk of offending and offering support to vulnerable children. There is some evidence of collaboration between Queensland Health and the Department of Education, such as the Primary School Nurse Health Readiness Program which aims to screen the vision of every Prep student in Queensland. This occurs during school hours, on school premises at no cost to families. However, hearing checks are not routinely offered to school children in the same way, yet hearing loss and hearing impairment is prevalent among Aboriginal and Torres Strait Islander youth in detention. The House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs in its 2011 report 'Doing time – Time for doing: Indigenous youth in the criminal justice system' stated they 'received much evidence that hearing loss affects a large number of Indigenous youth and has the potential to have a negative impact on their contact with police, the courts and the corrections system' (p.108).

10. How can Aboriginal and Torres Strait Islander people have a greater say in the policy and programs affecting indigenous young people in the youth justice system?

Aboriginal and Torres Strait Islander young people are significantly over represented in the justice system. On an average day in 2016–17, more than half (58%) of young people aged 10–17 in detention were Aboriginal or Torres Strait Islander. Similarly, almost half (48%) of young people supervised in the community were Aboriginal and Torres Strait Islander (AIHW, 2018). Compared to non-Indigenous young people, Indigenous young people spent:

- 13 days longer under supervision during the year
- 9 days, on average, longer in detention
- 4 days longer under community-based supervision
- 7 days longer in unsentenced detention
- 4 days less in sentenced detention.

The RANZCP QLD Branch is committed to principles of participation, partnership, respect, negotiation and a willingness to learn in order to make a useful contribution to the mental health of Aboriginal and Torres Strait Islander people (RANZCP, 2014). The RANZCP QLD Branch identifies the importance of ensuring that Aboriginal and Torres Strait Islander mental health workers are appropriately engaged with and consulted, and that their unique skills, knowledge and insights are respected (RANZCP, 2016).

To facilitate Aboriginal and Torres Strait Islander people having a greater say in the policy and programs affecting Indigenous young people in the youth justice system the RANZCP QLD Branch recommends (RANZCP, 2016a):

- improved education and training of staff in the youth justice system around cultural competency and cultural responsiveness, including the effects of transgenerational trauma on the development and mental health of Aboriginal and Torres Strait Islander children
- approaches that promote the preservation of ties between Aboriginal and Torres Strait Islander children and their communities and cultures
- the use of professional interpreters where there are language barriers
- strengthening the implementation of the Aboriginal and Torres Strait Islander Child Placement Principles through: increased recruitment of Aboriginal and Torres Strait Islander carers and support

for their skill development, additional investment in developing Aboriginal and Torres Strait Islander leadership and participation in decision making and monitoring processes and improved linkages between communities and government including improved communication and education regarding the intent of the Principles

- greater collaboration with Aboriginal and Torres Strait Islander communities to facilitate the systematic accommodation of Aboriginal and Torres Strait Islander worldviews in decision-making processes regarding resource allocation, diversity employment, cultural competency training and program implementation and evaluation
- therapeutic and culturally sensitive treatment, advocacy and support services delivered to children and young people known to child protection services who are from Aboriginal and Torres Strait Islander communities. Services to be informed by an awareness of transgenerational trauma and the influence of culture on the aetiology and manifestation of mental health problems, delivered by Aboriginal and Torres Strait Islander mental health workers wherever possible and appropriate
- improved training, qualification, supervision, mentoring and remuneration of sufficient Aboriginal and Torres Strait Islander professionals including mental health clinical professionals and mental health workers to work closely with children and young people in detention as well as staff members
- the development of targeted services in youth detention facilities to meet the health needs of Aboriginal and Torres Strait Islander children and young people.

The RANZCP's 'Principles and Guidelines for Aboriginal and Torres Strait Islander Mental Health' (2014) contains requirements for psychiatrists working with Aboriginal and Torres Strait Islander peoples. A number of these requirements are relevant for staff working in the youth justice system.

Legislative change

11. What are your views about stand-alone child criminal justice legislation that combines youth justice, bail, and police powers legislation?

The RANZCP QLD Branch supports the development of stand-alone criminal justice legislation for youth, as recommended in the Atkinson report. A whole of system approach would likely make it easier for other stakeholders, such as treating psychiatrists, to be involved in the process of supporting young people as they navigate the criminal justice system.

A youth justice system should be responsive, flexible, and provide interventions that are reasonable, and proportionate to the individual circumstances and the developmental stage of the young person.

12. What are your views about a national agenda to raise the current minimum age of criminal responsibility? How might this be achieved?

The RANZCP QLD Branch supports raising the current minimum age for criminal responsibility to 12 years, through a national uniform approach, as recommended in the Atkinson report.

We note that the United Nations Committee on the Rights of the Child (2007) concluded that a 'minimum age of criminal responsibility under the age of 12 years is considered by the Committee not to be internationally acceptable' (AIHW, 2018).

13. What services and supports need to be in place for children below the minimum age of criminal responsibility (currently 10 years)?

Services need to be developmentally appropriate. As previously outlined, MST is recommended as the most effective intervention for children who have enduring and serious behavioural problems. This approach involves intensive, reactive, community delivered family therapy.

General questions

14. What do you believe is the single most important thing that Queensland can do to reduce youth offending?

The RANZCP QLD Branch affirms the significant benefits of a justice reinvestment approach to criminal justice involving measures to decrease rates of incarceration and recidivism by investing in services in the community. The value of a justice reinvestment approach lies in its potential to direct resources away from prison building and into community building, thereby strengthening and empowering communities to help people at risk of developing mental health issues and reduce offending.

A justice reinvestment approach involves:

- increased investment in intervention programs for children and their families through partnerships between mental health services, schools, youth work and other related organisations
- age-appropriate screening and assessment of mental health concerns and risk factors in all children and young people known to child protection services and mechanisms to ensure that recommendations arising out of mental health assessments can be implemented
- targeted justice reinvestment initiatives for:
 - parents and young people with alcohol and other substance abuse disorders
 - children and young people with conduct disorder, and their families
 - Aboriginal and Torres Strait Islander communities
- built-in evaluations for all trials of prevention and early intervention programs for children and young people to determine whether they have provided value in terms of justice reinvestment.

15. What is the single most important thing that Queensland can do to reduce the over-representation of Aboriginal and Torres Strait Islander young people in the criminal justice system?

As described above, a justice reinvestment approach is required, targeting Aboriginal and Torres Strait Islander communities.

As outlined at question 10, young Aboriginal and Torres Strait Islander people are more likely to be incarcerated than other people. Aboriginal and Torres Strait Islander people also suffer from high levels of psychiatric morbidity and mortality as well as high levels of drug and alcohol disorders. There are complex social and historical reasons for this including transgenerational trauma from decades of maltreatment compounded by individual traumatic exposures during childhood and lacks in schooling, employment and cultural self-determination.

Youth detention centres require clinically and culturally competent services to cater for the complex support needs of Aboriginal and Torres Strait Islander young people under their care.

16. Do you have any other thoughts, ideas or suggestions about dealing with youth offending in Queensland?

We recommend that the Child and Youth Mental Health Services and the Child and Youth Forensic Outreach Service be included as stakeholders in the development of the Youth Justice Strategy, and proposed legislative change.

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Youth Justice Strategy

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15 March 2018

Hon Mark Ryan MP
Minister for Police and Minister for Corrective Services
PO Box 15195
BRISBANE QLD 4001

By email to: police@ministerial.qld.gov.au

Dear Minister

Re: Addressing the needs of prisoners with psychosocial disabilities

On behalf of the Queensland Branch of the Royal Australian and New Zealand College of Psychiatrists (RANZCP QLD Branch), I am writing to express our concerns with the findings from the Human Rights Watch report, '[I Needed Help, Instead I Was Punished': Abuse and Neglect of Prisoners with Disabilities in Australia](#)', which catalogues various incidents relating to the maltreatment of prisoners with disabilities.

The RANZCP has long advocated for better mechanisms to address the mental health needs of prisoners with psychosocial disabilities. In recognition of the difficulties many governments face in achieving this objective, the RANZCP has recently published [Position Statement 93: Involuntary mental health treatment in custody](#) which is attached to this letter for your ease. A key product of the RANZCP Faculty of Forensic Psychiatry, this document details our profound concerns with the use of involuntary mental health treatment in custodial settings. While it is an unfortunate reality that, due to the lack of alternative treatment models in some areas, there may at times be no other option for providing timely treatment to people in custody with severe mental illness. However, we wish to emphasise the urgent need to provide alternatives to involuntary treatment in custody, and to ensure that the risks of involuntary treatment in custody are properly understood by everyone who owes a duty of care to prisoners.

The RANZCP has also published [Position Statement 90: Principles for the treatment of persons found not criminally responsible or not fit for trial due to mental illness or cognitive disability which we also trust will be of interest](#). This document details six principles to inform advocacy and clinical practice in forensic settings. These principles have been designed to balance considerations of effective treatment, community safety and human rights.

With regard to the Human Rights Watch's report, the RANZCP QLD Branch would like to reiterate our documented concerns regarding the need for:

- improved screening, assessment and treatment services for people with psychosocial disability
- ongoing staff training including:
 - how to communicate with people with psychosocial, intellectual and/or developmental disabilities

- appropriate medication practices
- appropriate responses to mental health crises including threats and actual instances of suicide and self-harm
- how to differentiate between disobedience and mental health-related behavioural issues
- culturally appropriate practices including sensitivity training
- appropriate resourcing to ensure:
 - adequate staffing, including increasing the targets for Aboriginal and Torres Strait Islander staff
 - access to health services commensurate with that available in the community
 - appropriate facilities which can provide suitable spaces for medical observation and overnight accommodation
- improved mechanisms to report instances of abuse, bullying or other such behaviours.

For these reasons, we support the Human Rights Watch's recommendations for adequate access to screening and support services for psychosocial disability, including culturally appropriate services and resources, as well as increased staffing levels and appropriate conditions and policies relating to the use of solitary confinement. The RANZCP QLD Branch also recognises that some recommendations have been provided to other actors including the Federal Government and we will be pursuing appropriate communication channels to affirm our support of those recommendations.

We are particularly concerned at the disproportionate use of solitary confinement on people with psychosocial disability. We understand well that seclusion practices are sometimes necessary in coercive settings. Seclusion has long been used in mental health-care settings as an emergency measure to manage violent behaviour or agitation. However, its use should be carefully exercised because isolation, particularly when prolonged, may evoke memories of past traumas, reawaken feelings of fear, powerlessness and loneliness and/or leave people alone with negative thoughts. This is particularly so when seclusion environments are accompanied by 24-hour lighting and a lack of social interaction, mental stimulation. Thus, the use of seclusion may well be retraumatising for individuals with prior exposure to trauma. In the RANZCP QLD Branch's view, seclusion should only ever be used as a safety measure of last resort where all other interventions have been tried or considered and excluded, and not as a default response. It should never be used for prolonged periods of time or as a substitute for inadequate resources, such as a lack of trained staff or safe spaces.

The damaging effects of solitary confinement in the mental health sector is well recognised. Seclusion and restraint is reducing in many psychiatric inpatient settings. All Australian jurisdictions have introduced laws, policies or guidelines focusing on reducing seclusion and restraint events in the mental health sector, time spent in seclusion and trauma associated with seclusion and restraint. The RANZCP QLD Branch is committed to reducing the use of seclusion and restraint in mental health-care settings, as detailed in the [Position Statement 61: Minimising the use of seclusion and restraint in people with mental illness](#).

We note that many studies have found that recidivism rates respond well to treatment for mental health issues.

While not all research findings are corroborative and further research is needed, effective treatment for mental health, alcohol and substance dependence, criminogenic and psychosocial needs is the best method to decrease recidivism in prisoners with mental illness. If one of the objects of the prison system is to protect the community by rehabilitating prisoners, ensuring that their mental health needs are treated – or at least not aggravated – is an important part of protecting against the risks of recidivism. Many of the practices documents in the report, however, are counterproductive to rehabilitation goals as they are likely to exacerbate underlying conditions and/or create new ones, thereby increasing the risk of recidivism.

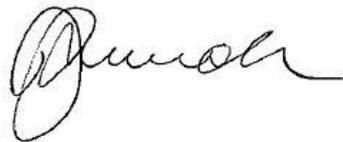
The RANZCP QLD Branch would therefore like to offer the knowledge and experience of our expert members to support the criminal justice sector to better managing the needs of prisoners with psychosocial disability. We would welcome the opportunity to discuss this matter further and would be happy to provide advice on alternate strategies which may be employed to manage challenging behaviours in coercive settings.

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