

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Phone: +61 2 6277 3560

Fax: +61 2 6277 5794

legcon.sen@aph.gov.au

Dear Committee

Sovereignty of First Nations Peoples of Australia is a relevant consideration in any Parliamentary Legislation and Law Making Review.

1. Unceded Inherent Custodial Responsibilities residing with First Nation Mobs encompass the actions needed to protect People and Country, especially in contexts where matters of criminal ICE trafficking and incarceration records impact on the Health, Safety and Employment of Our Peoples.

1.1 Requested Recommendation (1.1) : This Submission asks the Committee and Commonwealth Parliament , and Parliamentarians, to consider the unceded Custodian Responsibilities of First Nations Peoples in all its deliberations and to allow for these Custodial Responsibilities to be expressed and operated within the context of this Bill and its ramifications.

1.2 Requested Recommendation (1.2) : The Committee is asked to recommend that Parliament allow for unceded Inherent Custodial Responsibilities of First Nations Peoples exercising Care for Country and the Peoples thereon to be a mandatory relevant consideration in this and all Parliamentary considerations and Legislation Making related actions.

2. Aboriginal Torres Strait Islander Families devastated by ICE support any measures that result in protecting the Community from the tragedies this drug causes, as well as broadly supporting the efforts to stop organised and serious crime from affecting Our Populace.

2.1 Requested Recommendation (2.1) : The Committee is asked to recommend that in recognition of Inherent First Nation Custodial roles to Protect Community that proactive positive Employment weighting be given to Aboriginal Torres Strait Islander Community Members whose proximity to experiencing the ICE tragedy motivates those Members of Our Community to be proactive Vigilant Protectors of Our People within the diverse roles available in Aviation and Maritime security in Our Country.

3. Conversely, any criminal and associated background checking through the AusCheck Act 2007 must necessarily encounter the over-incarceration rates of Aboriginal Torres Strait Islander Peoples. This Submissioner notes the Australian Greens Dissenting Report for the 2016 Bill: '1.4 Additionally, the Australian Greens also believe it is excessively punitive that someone who may have once been convicted of drug possession will no longer have access to the identification pass required for most roles within the maritime sector.

Access to employment is very important for those with a history of drug or alcohol abuse and should not be denied to people who have successfully rehabilitated their lives.'

Consequently this Submissioner puts that over-incarceration rates amongst Aboriginal Torres Strait Islander Peoples can be historically linked to issues of Intergenerational Trauma resulting from Displaced Possession and subsequent poverty. These factors generate an Aboriginal Islander Work Force Community containing disproportionately incarcerated, and post-incarceration,

employment pool participants requiring balanced Human Rights nuances in security assessments.

3.1 Requested Recommendation (3.1) : The Committee is requested to recommend that Parliament consider more broadly the effects of Intergenerational Trauma from Displaced Possession of First Nations Peoples when Law Making in relation to this Bill's dealing with the incongruous viciously circular reality of Inherent Custodial Responsibilities of First Nations as Protectors of People drawing on a Community of an over-incarcerated (Black Deaths in Custody prone) potential Work Force potentially in close proximity to, and affected by, the ICE trafficking and other criminal harms sought to be supply disrupted and protected against.

4. In the Report on Transport Security Amendment (Serious or Organised Crime) Bill 2016 [Provisions], 22 April 2016, at 2.19, the MUA claimed that that Bill did not address the security threat that middle and upper management of ports could potentially pose, since:

'A wharf is a very sterile area, full of steel boxes with seals on them and no manifest available to anybody, so you do not know if there are cigarettes or tyres or ice inside a container. I do not know, and none of the workers on the wharf know either. But who does know? That goes to one of the points in the gaps in security. It goes to the levels of workers who are exempt from the MSIC scheme, and that is middle and upper management. They may work a few blocks away or down in the city centre, but they place ships in different ports, they place workers on this thing, they put containers here or over there, and they are responsible for security and contracting security firms. There is a gap in security.'

(14. Mr Summers, Committee Hansard, 30 March 2016, p. 7; Report Transport Security Amendment (Serious or Organised Crime) Bill 2016 [Provisions], 22 April 2016).

4.1 Requested Recommendation : The Committee is requested to examine and recommend that the 2019 Bill's intended efficacy in

the stated additional purpose in the ATS and MTFOS Acts is muted if middle and upper management aviation and maritime administrators are not ‘caught’ by the expanded ASIC and MSIC schemes, yet are more powerfully co-ordinative of the ability to organise criminals.

5. This Submission notes some of the comments in the Bills Digest NO. 64, 2019–20, 4 December 2019, Transport Security Amendment (Serious Crime) Bill 2019, Author: Mary Anne Neilsen, Law and Bills Digest Section, Parliamentary Library, Department of Parliamentary Services, Parliament of Australia, page 12, (<https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fbillsdgs%2F7063224%22>) and seeks the Bill’s more directly articulated definition of “serious crime” as well as echoing with caution comments about the proposed Bill amendments that are “novel”, in that those amendments will allow the respective Regulations under the *ATS Act* and the *MTOFS Act* to ‘tier’ offences.

5.1 Requested Recommendations (5.1) : The Committee is requested to recommend that the Minister, Parliament :

5.1.1 Refer the detail of the eligibility criteria for further Public and Law Reform scrutiny once the Regulations are presented;

5.1.2 Directly define the term “serious crime” in relation to the additional purpose and other amendments proposed for this Bill.

6. Requested Recommendation (6) : Given the Human Rights issues raised in this Submission it is requested that the Committee seek a reconsideration by the Parliamentary Joint Committee on the Bill’s Human Rights contexts and concurrently seeks the United Nations Declaration on the Rights of Indigenous Peoples to be added to the PJCHR’s relevant considerations for all future Law Making.