

## Queensland Community Safety Bill 2024

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16 May 2024

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

Via email: [CSLAC@parliament.qld.gov.au](mailto:CSLAC@parliament.qld.gov.au)

Dear Committee Secretary

Thank you for the invitation to provide a submission to the Community Safety and Legal Affairs Committee's examination of the Queensland Community Safety Bill 2024 (the Bill). The Office of the Public Guardian (OPG) appreciates the extra time afforded to provide this response.

Relevant to this Bill, OPG is an independent statutory office which promotes and protects the rights and interests of children staying at visitable sites, including youth detention centres and police watchhouses. We recognise that the rights and best interests of all children are paramount and must be a primary consideration in all actions concerning them. This includes their fundamental human rights under the *Human Rights Act 2019*.

OPG acknowledges the importance of ensuring the community feels safe and supporting those who have been impacted by crime. However, there is no evidence that keeping children in detention or on remand decreases the crime rate and there is academic consensus that it does the opposite. Youth offending is a complex and nuanced issue that requires an integrated (not siloed) multi-service system response to address underlying drivers, to ensure a preventative approach rather than responding punitively after offending has already occurred. This includes support from systems including child protection, health, disability, education and housing. OPG is concerned the Bill takes a unilateral approach which may result in long-term detriment to children, families, and ultimately the community. This includes the *Youth Justice Act 1992* amendments which expand the electronic monitoring trial to include additional prescribed indictable offences and children who have been charged but not convicted of a prescribed indictable offence in the preceding 12 months. It also includes the *Childrens Court Act 1992* amendments which remove the current test for excluding potential attendees if their presence 'would be prejudicial to the interests of the child' and prevent the exclusion of a victim or a deceased victim's relative entirely. We anticipate implementation of this amendment may lead to an increase in service delivery demand for our child advocates, through increased referrals for children under dual orders requiring complementary youth justice advocacy in relation to proposals for media and certain persons to be present in court.

OPG has significant concerns about the *Youth Justice Act 1992* amendments which remove the principle of detention as a last resort and instead provide that a child should be detained in custody, where necessary, including to ensure community safety, where other non-custodial measures of

prevention and intervention would not be sufficient, and for no longer than necessary to meet the purpose of detention. This reform is contrary to Article 37 of the *Convention on the Rights of the Child* and the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), which provide that detention of a child shall be used only as a measure of last resort. This principle has long been upheld in youth justice legislation across Australia.<sup>1</sup> It is also inconsistent with the principle that the best interests of the child are a primary consideration in decision making, including sentencing decisions. The subjective language in the proposed amendment may give rise to inconsistent application and the potential for detention of children based on generalised community concerns around community safety, as opposed to the particular risks posed by that child. The proposed amendment may also result in even more children and being subject to periods of remand.

Should this amendment be passed, OPG anticipates that its implementation will lead to even greater numbers of children being detained in police watch houses, including for prolonged periods, and youth detention centres. Further overcrowding is highly likely given the amendment will commence on assent and prior to additional capacity becoming available at the proposed Remand Centre at Wacol (end of 2024). This amendment is therefore likely to increase demand for OPG community visitors and child advocates.

OPG notes the *Youth Justice Act 1992* amendments relating to bail may increase referrals to child advocates for relevant children requiring urgent advocacy to ensure the child protection charter of rights is upheld, which can impact bail outcomes. For example, if a child does not have a suitable out of home care placement, this reform increases the risk that the child will not be granted bail until it is remedied, with the potential for children be detained for extended periods due to systemic issues around placement availability in the child protection system.

OPG supports the *Youth Justice Act 1992* amendments to enable temporary transfers of children from police watchhouses to youth detention centres to facilitate their participation in programs and physical exercise at youth detention centres. This is a positive reform which may enable better access to services and promote physical and mental wellbeing. However, it is highly concerning that provisions are being embedded into the legislation to normalise prolonged detention in police watchhouses. The implementation of this reform will require appropriate staffing and resourcing. OPG is concerned that ongoing staff shortages at youth detention centres in Queensland, and the resulting use of separation (lock down) to manage those shortages, present challenges for implementation. There will also be an issue of equitable access to this initiative for children in remote and regional police watchhouses as it is likely to only be available to those detained in watchhouses that are in very close proximity to the detention centres.

OPG strongly supports the *Youth Justice Act 1992* amendments to include reference to disability services in the youth justice principles to highlight that a child's disability support needs must be met while they are in detention and must be part of an integrated service response. This is a critical inclusion for children with disability, who are a vulnerable cohort comprising approximately 44% of children in the youth justice system.<sup>2</sup> Successful implementation of this reform will require appropriate resourcing to embed disability service delivery and in particular, specialised positive

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<sup>1</sup> Australian Institute of Health and Welfare, *Youth justice in Australia 2022–23*, <<https://www.aihw.gov.au/reports/youth-justice/youth-justice-in-australia-annual-report-2022-23/contents/introduction>>

<sup>2</sup> Queensland Government, *Community Safety Plan for Queensland*, p.11, <[https://www.qld.gov.au/data/assets/pdf\\_file/0029/477335/DPC9297-Community-Safety-Plan-single-pages-final.pdf?v2](https://www.qld.gov.au/data/assets/pdf_file/0029/477335/DPC9297-Community-Safety-Plan-single-pages-final.pdf?v2)>; Queensland Government, *Youth justice: key information*, Vol 10 13 March 2024, <[https://desbt.qld.gov.au/data/assets/pdf\\_file/0017/18116/youth-justice-key-information.pdf](https://desbt.qld.gov.au/data/assets/pdf_file/0017/18116/youth-justice-key-information.pdf)>

behaviour support, within youth detention centres. It may also require increased community visitor advocacy to ensure disability services are provided in accordance with the child's needs.

OPG appreciates the need to balance the rights and interests of children with community safety and support for victims of offending. This is best achieved through multi-service system collaboration to address the underlying drivers impacting children and their families. Regardless of system changes, OPG will continue to uphold, promote and protect the rights and interests of detained children.

I trust this information is of assistance. Should you require further information, please contact Ms Kelly Unsworth, Principal Policy Officer, at [REDACTED] or on [REDACTED]

Yours sincerely

A black rectangular redaction box covering the signature of Shayna Smith.

Shayna Smith  
**Public Guardian**