Queensland Community Safety Bill 2024

Submission No:	239
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Publication:	
Attachments:	See attachment
Submitter Comments:	

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SUBMISSION REGARDING THE QUEENSLAND COMMUNITY SAFETY BILL 2024

Thank you for the opportunity to provide a submission regarding the *Queensland Community Safety Bill 2024*.

I wrote the report *Safety Through Support: Building safer communities by supporting vulnerable children in Queensland's youth justice system*. The research for this report was funded by the Queensland Government. The *Safety Through Support* report was referred to several times by the Youth Justice Reform Select Committee in its Interim Report. The report is available here.

I take this opportunity to remind the drafters that children who are accused of crimes are amongst the most vulnerable members of our community. They, too, are community members. And they have generally been victims of crime before being accused themselves.

Statistics published by Youth Justice indicate that:[1]

- 53% of 'young offenders' have experienced or been victims of domestic and family violence;
- 30% of 'young offenders' live in unstable or unsuitable accommodation;
- 44% of 'young offenders' have a disability.

Furthermore, we also know that around three quarters of children under youth justice supervision were first known to Child Safety.[2]

I endorse the submissions of the **Youth Advocacy Centre** and **YFS Legal**. These organisations and their staff are unparalleled in their knowledge of and commitment to young people in the youth justice system. Their ongoing work with vulnerable children should be acknowledged, praised and revered.

I also note the following.

[1] Youth Justice 'Pocket Stats' 2023.
[2] T Carmody, Taking Responsibility: A Roadmap for Queensland Child Protection: Report of the Queensland Child Protection Commission of Inquiry, 2013, 36. See also K McMillan and M Davis, Independent Review of Youth Detention Report, 2017, 214.

1. Clauses 29-36 – Use of handheld scanners to detect knives

Increasing surveillance measures to detect individuals carrying knives will not address knife crime, and it will criminalise a larger proportion of individuals than intended.

It must be remembered that individuals who are sleeping rough will often carry knives for practical reasons, including food preparation. People who are homeless also often report that they carry knives for personal protection. These individuals do not pose a risk to community safety, yet they are likely to be criminalised under these provisions because they occupy public space and thereby attract police attention. These amendments, therefore, will result in a waste of police time and resources, without solving the problem of knife-related crime.

Importantly, receiving a charge or conviction for possessing a knife may have serious repercussions for individuals' employment prospects. It may also practically limit their access to education and training, because they may be unable to obtain a Blue Card. For children in particular, this poses additional barriers to becoming productive members of the community and forging a path for themselves to succeed in life. This is important because international research shows that having a hope for the future is predictive of desistence from offending.[3]

I strongly oppose these amendments.

2. Clauses 85, 88 – Electronic service of documents

Children are often charged with offences 'against justice procedures', including failure to appear in court.[4] Vulnerable adults are also frequently charged with these offences.[5] Allowing for electronic service of initiating documents is likely to result in an increase in the number of children, and other vulnerable people, who fail to appear in court.

Personal service is critical for children. As noted at p1 above, many children who are accused of offences are transient and may not have a permanent address, let alone access to a personal computer. Many children who are accused of crimes do not have a supportive adult in their lives.

Queensland is a geographically vast state, and internet is not always available, or service is patchy. To assume that accused children and other vulnerable individuals have access to mail or internet facilities demonstrates fundamental misunderstandings about the circumstances, and locations, in which many Queenslanders live.

I strongly oppose these amendments.

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[3] See particularly Lesley McAra et al, *Child-friendly Youth Justice*, 2017*:* https://thenayj.org.uk/wp-content/uploads/2019/03/NAYJ-Child-friendly-youth-justice-May-18.pdf#page=6

[4] N=247 in 2022/23: Childrens Court of Queensland, *Annual Report 2022/23*, 2023, 29.

[5] Particularly people who are homeless: see Tamara Walsh et al, 'Back off! Stop making us illegal' (2024) *Social and Legal Studies*: https://journals.sagepub.com/doi/10.1177/09646639241244953

3. Clause 91 – Anti-hooning laws

I note, and agree with, the observation of the Youth Advocacy Centre that this proposed provision is overbroad.

There are several categories of individuals who may well be present at – and apparently 'spectators' of – hooning group activities, but have not engaged in unlawful conduct of the kind described. This may include passers-by, children and other vulnerable individuals who are not present by choice, and people who have only attended the activity for a brief period of time.

I support the recommendation of the Youth Advocacy Centre that the proposed section 19C(1) be reworded to say:

> (1) A person must not—
> (a) **willingly** participate in a hooning group activity; or
> (b) without reasonable excuse, **willingly** spectate a hooning group activity; or...

4. Clause 112 – Amendments to section 20 of the *Childrens Court Act 1992* (Qld)

This proposal to allow certain persons, including media, to be present in Childrens Court criminal proceedings is disappointing, considering the myriad barriers that already exist to ensuring children's meaningful participation in criminal proceedings.

It is well-established in international and Australian law that children have a right to participate in proceedings that affect them.[6] This is a fundamental aspect of the right to a fair hearing.[7]

Children may choose not to disclose important personal information, that is relevant to the circumstances of the offence or sentencing, if they believe this information will be made public. Children have their whole lives ahead of them, and they have a right to have their personal information kept confidential. They have a right to our protection.[8]

As noted above, children who appear before criminal courts have often been subjected to abuse, neglect, homelessness, domestic and family violence, and other adverse life events. They already demonstrate a reluctance to disclose this information, which makes the job of judicial officers very challenging because they need to know this information to fairly determine the matter.

I strongly oppose these amendments.

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[6] See for example Queensland Youth Justice Principles 6, 7; United Nations Convention on the Rights of the Child art 12; United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) rule 14.2.
[7] *Human Rights Act 2019* (Qld) s 31.
[8] *Human Rights Act 2019* (Qld) s 26(2).

5. Clause 132 – Amendment to Principle 18 of the Youth Justice Principles

It is recognised throughout Australia, and around the world, that detention should be a last resort for children who are accused of crimes.

The United Nations Convention on the Rights of the Child – which is the most ratified convention in the world – states at article 37(b):

> **The arrest, detention or imprisonment of a child… shall be used only as a measure of last resort and for the shortest appropriate period of time.**

The proposed amendment to Principle 18 reverses the presumption against the use of imprisonment as a last resort, and seemingly directs judicial officers to consider detaining children 'where necessary'.

The existing provisions of the *Youth Justice Act 1992* (Qld) already direct the court to consider the safety of the community at the expense of the child's rehabilitation in some circumstances.[9] This is problematic enough. To encourage judicial officers to consider detention when sentencing children goes against every principle of national and international law in respect of youth justice.

International research has demonstrated that 'community safety' in a youth justice context is only achieved through supporting children. Children will only desist from offending if they have a hope for the future. Detaining children limits their access to family, community, education, training, and all of the life experiences that young people participate in to develop self-esteem and resilience.

Detention has been described as 'crime causing' in the international literature, and local statistics bear this out: 85% of children in youth detention will return to the youth justice system within 12 months of release.[10] Better outcomes in terms of community safety and cost effectiveness are achieved by providing children with safe housing, supportive adults, education and training, and hope for the future.

I strongly oppose this proposed amendment.

Thank you for the opportunity to comment. Please do not hesitate to contact me with any queries.

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Prof Tamara Walsh, May 2024

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[9] *Youth Justice Act 1992* (Qld) s 150A.

[10] Australian Institute of Health and Welfare, *Young People Returning to Sentenced Youth Justice Supervision 2021/22*, 2023.