

TO Community Support and Services Committee, Queensland Parliament

FROM Janette Gillies

M:

E:

Cc: Mr Michael Hart, MP Burleigh@parliament.qld.gov.au

Submission supporting the Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021

Dear Committee

- We adults have a duty of care to nurture children, to protect their safety and wellbeing.
- We elect representatives to make laws and allocate resources equitably so that all children have their basic needs met - housing, education, healthcare, special needs support – so they can develop, learn and thrive .
- Current laws that allow children to be criminalised and imprisoned before they have developed the capacity to understand the consequences of impulsive action deny children their human rights and must be changed.
- I write to express my strong support for an alternative, non-punitive, culturally-inclusive model for children aged 10 to 14 who under current Queensland law can be deemed criminals and imprisoned.
- The great majority of children aged 10-13 in Qld detention and watch houses are First Nations children. As a priority, **First Nations people must be empowered & resourced to help determine action** to redress this profoundly unjust situation, **and to lead** implementation of alternative models tailored to their communities.
- **I support each of the provisions put forward by the Member for Maiwar, Michael Berkman.**

My background:

- 33 years in state education as secondary school teacher and principal, assistant director of Studies [Social Justice], Director of Quality Assurance and School Review [1963 – 1996]
- statewide trainer in risk management for child protection for the Children's Commission [then CCYPCG]
- education consultant, mentoring school leaders, conducting mediation and reviewing school effectiveness.
- alongside First Nations Elders & community leaders, consulted communities to lobby Bligh government for just laws and practices to reduce Indigenous imprisonment [ANTaR Qld Project 10% campaign]
- volunteered at Sir Leslie Wilson Youth Detention Centre [before its closure], Murri School, Acacia Ridge, and Arcadia College, Gold Coast [alternative campus for disengaged/excluded/ ex-criminalised young people]
- mother, grandparent [incl 1 with Down Syndrome, 2 with mental health issues, 1 with Asperger Syndrome]

1

Why we must reform the system and Raise the Age:

My professional, community and personal experience and relationships, updated with current research and anecdotal evidence, compel me to support this Bill with a sense of urgency:

- Child development research shows that children aged 10-13 years have not developed the neurological capacity to foresee or understand potential consequences of impulsive actions. Thus, children who inflict significant harm on themselves, others &/or property should not be criminalised. In most cases, this behaviour is indicative of at least one, often several, factor/s impacting their development: disability, learning &/or behavioural disorder, mental illness; trauma resulting from witnessing &/or experiencing substance abuse [including FASD], family violence, sexual/physical/emotional abuse &/or neglect. Children do not ask for any of this and should not be penalised but nurtured, guided and supported to thrive.
- All children who display aggressive, violent, destructive behaviours need, deserve and have a right to get support, based on timely cognitive/psychological/physical assessments by caring professionals who have culturally-sensitive, trauma-informed expertise and build non-judgmental relationships to support families. As Change the Record Co-Chair, Cheryl Axleby has stated: *Many 12 year olds are still in primary school. 13 year olds are starting their first year of high school. These children need our love and support to learn from their mistakes, grow and thrive. No child belongs behind prison bars.*
- I believe that failure to adequately resource schools and other child-related services to assess children presenting alarming anti-social behaviours and then to provide timely, culturally appropriate support is tantamount to systemic neglect within education, family/social services, police and justice departments.
- Schools, family services and police/justice professionals continue to exclude, shame and punish troubled children as 'bad', 'incorrigible' or 'criminal'. Such labels are unjust, unjustified, have no therapeutic value, and further alienate and marginalise children. There are proven ways to make schools and the wider community safe without demonising and harming children in the process. Education Queensland's 'Culturally Responsive Discipline' PD resources [Appendix A] articulate a vision '*for every Aboriginal and Torres Strait Islander student to be supported in their learning, experience academic success and feel a sense of belonging and connection to culture in their school community and classroom*'.

This excellent resource challenges principals and teachers, stating that these students ‘*continue to experience racism in the schooling system...racial discrimination from teachers, media and school materials that position Indigenous people as inferior; assimilatory policies; and low expectations...*’ It cites research re criminological perspectives on school exclusion and youth offending, ‘*Both schooling and its disciplinary mechanisms, and the criminal justice system, can exacerbate and help reproduce socioeconomic, race, and gender difference.*’ <https://www.tandfonline.com/doi/abs/10.1080/13632752.2021.1905233?journalCode=rebd20>

- Statistics on school disciplinary absences, even from Prep, demonstrate the urgency of early intervention for young children at risk of escalating negative behaviours and committing offences. Education Queensland’s PD resources state: ‘*understanding the inequitable nature of exclusionary school discipline and its disproportional use on (Indigenous students) is central to addressing broader concerns about racial/ethnic inequality in schooling. Aboriginal and Torres Strait Islander students are overrepresented in suspensions and exclusions, absences, early school leaving, low academic achievement.*’ Culturally Responsive Discipline Slide 19 [Appendix A] shows the disproportionate number of Aboriginal and Torres Strait Islander students with ‘disciplinary absences’, the most frequent reasons for suspension and exclusion circled in red. It is not difficult to see the almost inevitable ‘pipeline’ for many of these students to become involved with the criminal justice system, continuing a cycle of trauma and hopelessness.
- Our laws which allow 10 -14 year old children to be imprisoned are out of line with international jurisdictions, breach our human rights obligations and are not working to keep the community safe. Medical and criminological evidence shows that therapeutic and diversionary responses are far more effective. ‘*The United Nations, and over thirty other countries, have called on Australia to raise the age to at least 14 years old. If Covid has taught governments anything, it’s that you can’t pick and choose what medical advice you follow. The doctor’s orders are clear: raise the age to at least 14 years old.*’ Change the Record Co-Chair, Cheryl Axleby
- The Uluru Statement from the Heart makes this poignant plea: *Proportionally, we are the most incarcerated people on the planet. We are not an innately criminal people. Our children are alienated from their families at unprecedented rates. This cannot be because we have no love for them. And our youth languish in detention in obscene numbers. They should be our hope for the future. These dimensions of our crisis tell plainly the structural nature of our problem. This is the torment of our powerlessness.* This is not simply stating a First Nations problem. It is a call for our governments to recognise that structural racism and generational trauma continue to impact the physical and mental health, education experience and outcomes, and family stability of First Nations people. Raising the age of criminal responsibility to 14 is one small step to redress the historical erosion of human rights which has disempowered our First Nations.
- The Aboriginal and Torres Strait Islander Social Justice Commissioner, June Oscar, and many others have called for alternatives to detention: ‘*Alternatives include healing programs, time on country and with elders, wrap around family supports that include counselling and culturally safe forms of case-management and mentoring, diversionary programs and justice reinvestment initiatives. The detention of children should only ever be a measure of last resort, and no child should be held on remand. Too often in Australia, First Nations children are detained on remand or for minor offences*’ (Human Rights Commission).
- In 2019 the Department of Youth Justice requested that the Queensland Family and Child Commission assess the success of youth justice reforms and examine options for future investment. The QFCC’s Changing the Sentence report [Ref Appendix B] delivered 13 findings, including a call to invest in prevention and early intervention programs to help reduce factors contributing to a young person committing a crime. The report also called for specialised services to help the small number of young people already in the statutory system who are responsible for most youth crime. The findings of this report give weight to the provisions of the current Bill and can inform a new alternative model.

A new model for children under 14 should include:

- A **Justice Reinvestment** approach redirecting resources, eg the cost of detention \$1,600 per day, from the criminal justice system to evidence-based proactive and responsive early intervention and support programs in schools and communities, with **funding for First Nations-led solutions** a priority.
- Community based multidisciplinary expert panels** [outside of Youth Justice and Child Safety] to respond to antisocial behaviour, working with a child and their family to access services like youth drug rehabilitation, trauma-informed mental healthcare, family therapy, specialised disability support services. An independent Commission [or the Qld Family and Child Commission] to monitor, evaluate and share best practice.

- **Tailored, therapeutic wrap-around services** with intensive case management to respond to serious harmful behaviour.

Addressing concerns – holding the vision

I realise that there may be political obstacles to raising the age of criminal responsibility, for example:

- Community anxiety in Townsville in response to a wave of youth crime can become an electoral 'law and order' weapon. Local vigilantes already demonstrated extreme reactions. Such views must not prevail.
- The Queensland Police Union want to protect officers' safety, as we all do. Increased recruitment of Murri women and men to develop culturally-responsive, anti-racism policies and procedures, deliver training and serve as police officers [with key positions in the Qld Police Union] should be an immediate priority. Intensive trauma-informed training eg in de-escalating conflict, is vital to reduce harm and protect all involved.
- Financial and other support currently available under The Victims of Crime Assistance Act 2009 (Qld) (VOCA Act) should not be compromised by changes to the minimum age of criminal responsibility.

The government is in place for a four-year term, ample time and scope to pass the Bill and take public, alternative steps to prevent and respond to youth offending. To create a safe, inclusive society where children's rights are protected, this Raising the Age Bill needs cross-party support and commitment. Human rights must not be subject to party political divisiveness or the loudest voices. Our children deserve more.

In the words of National Children's Commissioner, Anne Hollonds:

'The evidence is clear that placing children in detention is not an effective deterrent, it does not rehabilitate them, and the younger children are when they enter the criminal justice system, the more likely they are to reoffend. Children living with disadvantage, disabilities, violence or trauma need our support. Punitive "tough on crime" approaches to misbehaviour should not replace effective systems to support the wellbeing and development of children. Imprisonment has severe, life-long negative impacts on children's health, development, education, and on their mental and emotional wellbeing. Other countries have found ways to support the welfare of children instead of imprisoning them. Australia needs to make our children a national priority' (Human Rights Commission website).

Yours sincerely



Janette H Gillies

[Redacted]

[Redacted]

APPENDIX A

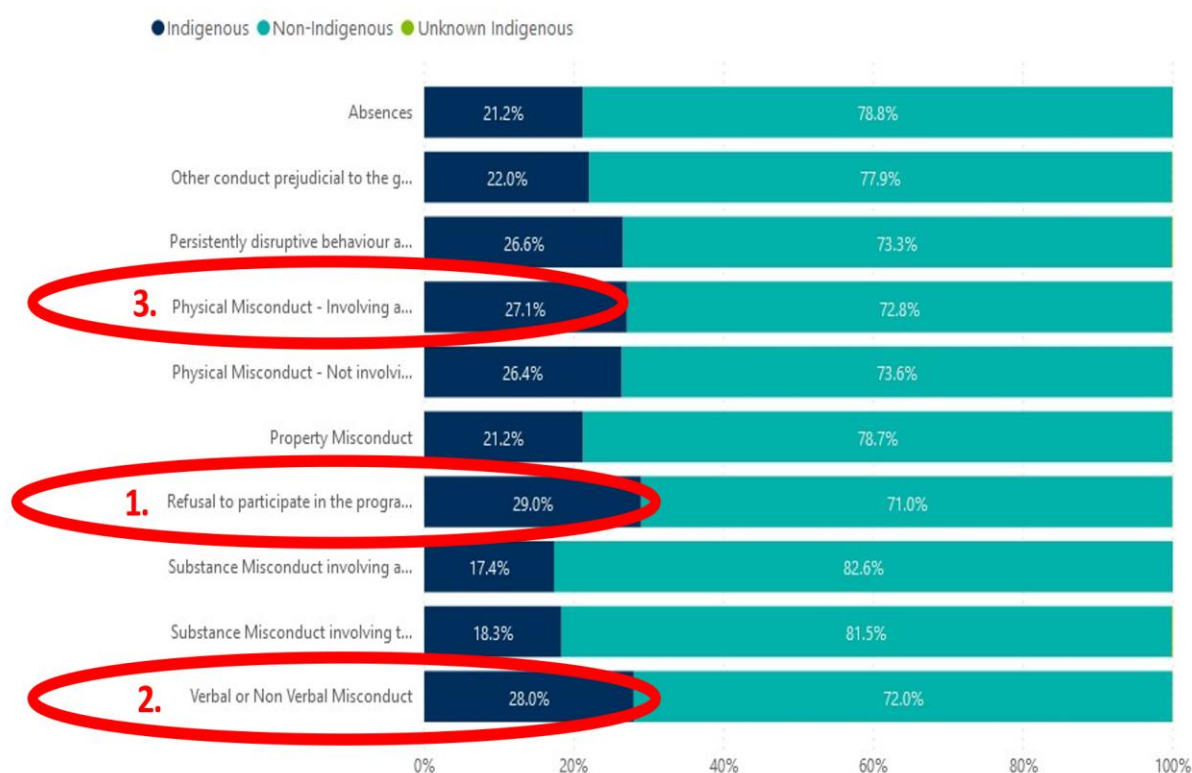
Education Queensland Professional Development resource materials, Culturally Responsive Discipline, copy provided by **Dr Natalie Swain**, Director State Schools Operations, Department of Education



Culturally
responsive disciplin

Department of Education

School disciplinary absences



Reducing youth crime in Queensland will only happen with change across the health, education, family support and legal justice systems, according to a new report issued by the Queensland Family and Child Commission (QFCC).

The QFCC's Changing the Sentence report delivered 13 findings, including a call to invest in prevention and early intervention programs to help reduce factors contributing to a young person committing a crime. The report also called for specialised services to help the small number of young people already in the statutory system who are responsible for most youth crime.

QFCC Principal Commissioner Cheryl Vardon said the report stemmed from a 2019 Department of Youth Justice request that the QFCC assess the success of youth justice reforms and examine options for future investment.

"I commend the Department for taking a proactive approach to making sure reforms delivered a reliable and trusted youth justice system and that children's rights, wellbeing and safety were being upheld and protected," Ms Vardon said.

"We looked at initiatives designed to keep children out of court and custody and in assessing impacts on children's rights we believe some are being neglected.

"There needs to be a shift away from a criminal focus to prevention and we will be briefing government and non-government agencies about these findings and proposed future directions."

Other report findings included:

- returning decision-making about Aboriginal and Torres Strait Islander young people in the youth justice system to local communities and community-controlled organisations
- more proactive and early responses to re-engaging children and young people with education
- revisiting health services provided to vulnerable children and their families, particularly aged under 14.

Ms Vardon said the report shows improving the youth justice system requires a preventative approach, across all services working with children and young people.

"The research showed us that communication must improve — in the court system, between organisations and families and between police and young people," Ms Vardon said.

"The report shows targeted interventions in the lives of young people can work but more needs to be done."

Work to inform the report included 83 meetings and interviews with 125 stakeholders from throughout Queensland such as service providers, government agencies, young people and their families.

To view a copy of the Changing the sentence: Overseeing Queensland's youth justice reforms report go [here](#).