

STRENGTHENING COMMUNITY SAFETY BILL 2023

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Economics and Governance Committee

Strengthening Community Safety Bill 2023

Submission by



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This submission may be quoted in public documents.

Contents

1.0 Introduction..... 1

 About Anglicare SQ 1

2.0 ‘Smarter not tougher’ 1

3.0 Addressing causes rather than symptoms 3

4.0 Disregarding key protected human rights 4

5.0 Addressing community perceptions of a ‘youth crime crisis’ 5

5.0 Conclusion 10

Endnotes 11

1.0 Introduction

Anglicare Southern Queensland (Anglicare SQ) welcomes the invitation to make a submission to the Economics and Governance Committee consultation into the *Strengthening Community Safety Bill 2023*.

We have been strong supporters of this Government's previously stated commitment to youth justice reform based on sound evidence of what works and an increased focus on restorative justice, early intervention and rehabilitative approaches to reducing youth offending.¹ We have deep concerns however that the proposed amendments contravene this approach in fundamental ways by:

- targeting the most disadvantaged children in Queensland; and addressing the 'symptoms' rather than the causes of recidivism; and
- overlooking key protected human rights.

2.0 'Smarter not tougher'

We preface our discussion of the above points by acknowledging the deep anxiety that many community members are facing. While youth crime figures are actually decreasing,² we recognise that a community narrative around the prevalence of youth crime has become so embedded that facts are no longer convincing and a 'siege' mentality has developed in some communities. In the media (even articles ostensibly written to contribute balance to the debate), young people have been described as a 'burgeoning criminal generation' who are 'running wild' and 'fuelling Queensland's youth violence explosion'.³

'Tough on crime' solutions such as those proposed in the Bill speak simplistically into this narrative without reducing the actual incidence of youth crime. Multiple inquiries and submissions have pointed to evidence that:

- Making it easier to imprison children and young people, by changing bail laws for example, does not make the community safer. Detention increases young people's vulnerability and disadvantage, and therefore the likelihood that they will return to the prison system over and over, both as youth and as adults.⁴ The Queensland Government's own *Youth Justice Strategy 2019–2023* acknowledges as much, in pointing out that children and young people who have been through detention are at more risk of committing offences when they return to the community.⁵

About Anglicare SQ

Our comments in this submission reflect the direct expertise and experience of Anglicare SQ over decades of service delivery, working directly with many thousands of children, young people, and their families.

In the financial year 2020–21, Anglicare provided 410,876 nights of out of home care for children and young people and 7,252 nights of accommodation for young people experiencing homelessness.

We operate child and family programs and services across a geographic footprint double the size of the United Kingdom. This includes programs such as: foster and kinship care, residential care, Family Intervention Services (FIS), Intensive Family Support (IFS); Secondary Family Support (SFS), Supported Independent Living Services (SILS) and Assessment Support Connect (ASC), as well as youth justice services, and counselling and accommodation to young people aged 12–25 years who are homeless or are at risk of homelessness.

The social costs of this roundabout for the whole community were described in an Australian Government Senate Legal and Constitutional Affairs Committee report as “almost impossible to calculate”.⁶ The medium- and long-term impacts of high rates of incarceration in communities:

*... break down the social and family bonds that guide individuals away from crime, remove adults who would otherwise nurture children, deprive communities of income, reduce future income potential, and engender a deep resentment toward the legal system. As a result, as communities become less capable of managing social order through family or social groups, crime rates go up.*⁷

- Children and young people do not yet have the neurological capacity to fully assess risk, predict consequences or control their impulses.⁸ Increasing the maximum penalty for unlawful use or possession of a motor vehicle, for example, from seven to ten years imprisonment will be no deterrent at all to young people who are poor at assessing consequences because their neural pathways are still developing, or have been disrupted and delayed due to adverse psychosocial experiences in their lives.⁹
- Involving children and young people in the criminal justice system fails every test of good policy. It cannot be said to be the most ‘appropriate means’ given the probability of harm to the young people involved and the cost involved (approximately \$1500 per child, per day),¹⁰ and it rarely meets the ‘desired ends’ of reducing crime. As the *Queensland Youth Justice Strategy* points out, a combination of other comprehensive strategies, even delivered intensively, will be significantly more cost effective.¹¹

We recognise the effectiveness of multi-agency collaborative panels in contributing to intensive and holistic support for young people. As an active participant in the Gold Coast panel, we support the final measure in the proposed Bill, being to:

ensure the continuation of multi-agency collaborative panels which provide intensive case management and holistic support for young persons identified as high risk or requiring a collaborative response through a multi-agency and multi-disciplinary approach.

The issue facing the Queensland Government is therefore twofold: to address both youth crime, and the community’s perception of it.

3.0 Addressing causes rather than symptoms

The Queensland Government's own reports and strategies have pointed out on multiple occasions that the children most likely to become involved in the youth justice system are those from the most disadvantaged backgrounds. The children most 'at risk of offending' are also those most in need, and the lines between the two are blurred at best. We need therefore to separate children's *responsibility* for their actions from *criminalisation* of their behaviour, as the Child Rights International Network (CRIN) notes in a thoughtful policy paper:

We need to separate the need to identify, appropriately assess and respond constructively to children's responsibility for crimes from the quite distinct urge to criminalise them ... Children are responsible for many actions defined by criminal law as crimes — in so far as they did it. And many are also responsible in the sense that they did know what they were doing was wrong, in one way or another, when they did it ... But we must also recognise, as the Convention does, that their developmental status requires a special approach, for all our sakes ...

Keeping [children] out of the criminal justice system does not mean that young people who commit offences avoid 'justice' or that nothing is done about their offending ... Stopping criminalising children does not mean giving up on or giving in to children who are causing trouble and harm.¹²

Therapeutic and integrative approaches and environments that aim to address the effects of trauma, and enable connection of children to family and community, are much more likely to reduce recidivism in children. So too are universal supports that extend across mainstream housing (see boxed text), education, health, youth and the community sectors. Anglicare staff point out that, given the current housing crisis and potentially a lack of safety in the family home, detention is not always a deterrent for young people: "*detention can be seen as a meal, a safe bed and an opportunity to go to school*".

Whole-of-community supports provide a critical role in prevention and early intervention — normalising parenting skill development and experiences, enabling early support for those who might benefit from it, and building positive connection as well as capacity. In this way, educational, health and family support interventions become a positive 'step up', rather than imposed as 'fix ups' or punishments for the deficits of individuals or families.

Aboriginal and Torres Strait Islander communities and community-controlled organisations are at the very core of such responses for First Nation children and families. In their report, *Changing the Sentence: Overseeing Queensland's Youth Justice Reforms*, the Queensland Family and Child Commission reiterates the strong connection between culture and wellbeing; and the central role of Aboriginal and Torres Strait Islander communities and community-controlled organisations in

An Anglicare Intensive Bail Initiative (IBI) client, 'Mia', was experiencing homelessness. With support to meet her basic housing needs, Mia has achieved the following in only 3 months:

- Commenced employment
- Compliant with, and is on track to complete, her Orders by early 2023
- Has had no new offences, and no outstanding court matters
- Has completed a 13-week educational program.

decision-making about services and support for Aboriginal and Torres Strait Islander children.¹³ This is also consistent with Queensland's obligations under Closing the Gap.¹⁴

Funding for additional prevention and early intervention programs is critical, and directly addresses the causes of recidivism. It is also important however to build capacity in communities and the human services sector to deliver such programs. Supporting community development approaches in communities, and assisting the growth of networks of connection, support and meaningful activity, helps to build the 'villages' that raise thriving children. The youth and family sector, like other human services, is under significant pressure from increased demand; insufficient supply of qualified workers; and the increased cost of delivering services. Among other sources, a report from the 2021 Western Australian forum on the *State of the Youth Sector* offers comprehensive and practical ideas for better supporting young people and their families, and enabling flow-on support to young people at risk.¹⁵

4.0 Disregarding key protected human rights

In 2018, Attorney-General and Minister for Justice, The Honourable Yvette D'Ath, announced the introduction of the *Human Rights Bill 2018* to Queensland Parliament, saying:

Queensland's Human Rights Act will be a standard of achievement to which we all — government and citizens — should aspire...

*I am proud the Palaszczuk Government is taking a further step towards the protection of the human rights of Queenslanders with the introduction of the Human Rights Bill 2018.*¹⁶

Fewer than five years later, the current Bill has been introduced to Parliament with a two-and-a-half day public consultation period; and Police Minister Mark Ryan has explicitly conceded that the proposals are "incompatible" with Queensland's human rights act¹⁷ because we are in the midst of an "exceptional crisis situation constituting a threat to public safety" — seemingly on a par with war or a state of emergency.¹⁸

Human rights issues identified in the Bill's Statement of Compatibility, and over-ridden by government, particularly include making breach of bail an offence for children. This is determined to be "incompatible with the right of children to protection in their best interests" because *less restrictive options are available to achieve the same purpose*. The Statement notes that the amendment may make it more likely that children will be detained pending trial, and that it may also limit the ability to divert children away from formal criminal processes.¹⁹ This is surely exactly opposite to what both the Queensland Government and community want.

- The length of time between the action and the consequence makes it difficult for children and young people to link the two, effectively undermining the impact of any outcome.
- If court dates are adjourned multiple times without any outcome being reached, this can lead to heightened anxiety, particularly for the many children and young people in the justice system who manage mental health issues. Alternatively, Court dates become routine and meaningless from the child or young person's perspective. Either of these scenarios can lead to children or young people not attending when required, and consequent negative implications when the case is finally heard.
- Children and young people on remand may serve more time in detention waiting for their cases to be heard than they receive as a sentence. Apart from the injustice involved in this scenario, it means that the child or young person leaves court 'free', with what they perceive as no further ramifications arising from their offence. The connection between the offence and the outcome is even further weakened.

Anglicare SQ has pointed out in previous inquiries about the detrimental impacts of remand, and the impact of lengthy delays and court adjournments on young people (see boxed text). In a related comment, The Hon. Di Farmer, formerly Minister for Child Safety, Youth and Women, in the Explanatory Speech accompanying the introduction of a previous youth justice-related Bill also noted:

For some children, intensive and onerous bail conditions are likely to be counterproductive and increase the likelihood of a young person breaching their bail conditions and being remanded in detention for the breach.

5.0 Addressing community perceptions of a 'youth crime crisis'

Community perceptions of a 'youth crime crisis' are not unique to Queensland, or even to Australia. A New Zealand article by McArdle et al. (2018), below, is worth quoting at some length because it contextualises the issues currently facing the Queensland Government:

Similar to other liberal democracies, youth crime has been and still is an area of great concern to New Zealanders. Given the visibility of youth crime on television and the recurrent presence of high profile cases in media discourse, many members of the public have developed strong opinions on youth crime and how youth offenders should be dealt with by the judicial system. International studies have shown attitudes held by the public can be influenced by psychosocial factors such as fear, especially when it comes to attitudes towards crime and punishment ... [T]hese attitudes and opinions have the potential to influence political policy, as governments make policies that aim to reflect public sentiments ... This area of investigation is important, as fear of crime may influence the endorsement of punishment-oriented government policies, which have been shown to be largely ineffective at reducing youth crime.²⁰

This last point is important. The more unsafe people feel, the more likely they are to advocate for punitive responses to youth crime. In the McArdle et al survey, people who were categorised as feeling 'unsafe' or 'very unsafe' supported punitive options much more commonly, compared with those who felt 'very safe' (28.6% and 14.6% respectively).

However, the authors point out that to take this in isolation ignores more nuanced findings and implications. Both 'safe' and 'unsafe' community members also almost equally supported a desire for rehabilitative responses, a greater use of restorative justice and firm support for other progressive options. This highlights the complexity of public attitudes, and suggests that the public "may be much less punitive than politicians and media assume".

While this is a New Zealand study, there are clearly many parallels with the Queensland situation. The research is consistent with polling by The Australia Institute in 2020 that showed that nearly 6 in 10 Queenslanders agreed that public money currently spent on locking up children would be better spent instead on social services like family support, trauma and mental health support and public housing. Nearly 7 in 10 Labor voters (68%) Australia-wide agreed that directing funds into social services was a better use of public money, as above, than detaining children.²¹

We suggest that an important strategy for helping community members feel safer is to share more stories about what is working. There are few positive stories to tell about young people who breached bail and re-entered the justice system, had their life trajectory changed by a GPS tracker, or spent ten years in detention instead of seven.

On the other hand, there are many good stories emerging about programs that support young people and families when they need it, and contribute to the desired goal of a safer and healthier community. The following discussion about Anglicare's Intensive Bail Initiative (IBI) program, and other case studies, highlights some of these.

Anglicare's current Intensive Bail Initiative (IBI) works collaboratively across sectors to support 10-17 year olds who are among the small proportion of young people in Queensland at significant risk of serious and long-term offending.

The program is based on a belief that no single agency alone can achieve positive outcomes for vulnerable young people. We have a strong partnership with the Department of Youth Justice, that includes joint training, recruitment processes and multi-agency panels; and we are an official secondary partner to Street CRED, a QPS initiative. This is a multi-agency holistic approach to meeting the needs of vulnerable young people on the street and provides assertive outreach, including a street patrol on Thursday nights.

We also partner internally to leverage the depth and breadth of Anglicare SQ's services, including food supports and the Thread Together 'mobile wardrobe', which provides choice and dignity for young people to select brand new clothing as needed.

The IBI program has multiple components:

- Bail Support Services aim to address the reasons behind young people being remanded in custody by connecting them to critical supports and people in their community; providing the required support and interventions to young people; and increasing the confidence of the court or police that a young person will comply with the conditions of their bail. In 2022, BSS supported 190 young people.
- The After Hours Community Based Co-Responder is available to provide support and connection to services out of hours, including during times of crisis, and in response to call outs from the Queensland Police Service and the Youth Justice Co-Responder. In 2022, the community co-responder supported 99 young people.

- The Hub is a drop in space within our Gold Coast program, and includes young people who are still largely 'precontemplative'. This has been highly effective in developing trust and informal connections between the young people and the youth workers — every interaction is a chance for an intervention. The hub is a safe place for basic needs to be met, such as food, showers, clothing, and someone to 'have a yarn with'.
- The Intensive Family Partnership prioritises family members of young people who are deemed serious recidivist offenders, with complex and extreme needs. It is focused on practical problem solving and improving safety and living conditions at home; and involves intensive case work to support young people and their families to identify practical supports that will keep young people out of custody. In 2022, the Intensive Family Partnership supported 28 families.

Ben's story

'Ben' often does not engage with Youth Justice in the community, preferring to be with his friends. Non-compliance had been a barrier to setting up support for Ben largely due to his instability and transience – he could often not be found, and he had nil compliance on any orders.

Ben had been experiencing primary homelessness since the start of 2020, and was a methamphetamine user. This began he said due to his homelessness and fear of sleeping in unsafe locations.

Interventions / supports

Our relationship with Ben began in the Hub, focusing on informal engagement, relationship-building and pro-social role modelling. The hub also provided him with basic needs: clothing, shower, food and a safe place to retreat to. His engagement at the Hub had the side benefit of Youth Justice being able to locate him to report on orders.

We engaged with Ben on a range of issues. We looked at the intensity and frequency of his offending; identified the importance of 'the bros' to him, and worked with that through activities such as fishing, football, table tennis, and cooking a BBQ for 'the bros' to come along. We explored domestic and family violence issues, including the difference between discipline with love or violence. We also supported Ben to source appropriate accommodation where he could distance himself from drug usage.

Ben's current situation

Ben is still experiencing primary homelessness due to the housing crisis. He has however sourced employment, and has committed no further offences in the past six months. He is compliant with orders, and is engaging daily with Anglicare on a consistent basis.

Ben has identified a goal for the future, wanting to work toward being a youth worker. When we asked him — *If in 5 years you're doing what you love, what will have changed from now?*

His response? *Not being on the street.*

IBI parent feedback

Thank you for being there for me, [A] and [B].

We are so grateful and humbled with your guys generosity and help. We will be forever indebted to you and love yous so much. Good job guys, imagine if the whole world was like yous, it'd be such a beautiful place.

IBI parent feedback

[My] gratitude and heartfelt appreciation towards the BSS Program, especially Coordinator [T] and Senior Youth Worker [C] for the love and support I received many years ago when the BSS program started.

At that time, I was going through a lot mentally, facing a lot of hardships, struggling to provide food for my children and was not in a good head space. The BSS staff at the time really helped me find my way out of the dark space. By just being there for me, spending one-on-one time, talking me through my thoughts, encouraging me and providing my family with the basic essentials of food hampers regularly was life changing.

I was going through many issues relating to my husband and trying hard to balance my kids was so hard. My kids were going off the rails and doing crime mainly because I was going through a lot. It was tough but I thank [T] and her team for coming to my rescue and helping me get better.

Outcomes from Anglicare's previously funded Supported Community Accommodation (SCA) program demonstrated the value of intensive, holistic support. They included:

- 10 of the 11 young boys placed in SCA had either returned home to family or were supported to transition to accommodation services.
- All of the boys successfully returned to a learning environment either through attendance at TAFE, job skilling or employment.
- Two of our four young girls successfully transitioned out of the service to family, with both girls returning to education and/or employment.
- Across both sites, young people engaged in activities such as:
 - onsite programs including Aggression Replacement Therapy and mindfulness
 - a pre-tenancy course with Tenants Queensland
 - practical learner driving experience
 - onsite music studio and gym programs
 - the Logan PCYC Breaking the Cycle program
 - volunteering at Redlands Community Garden, gaining a professional referee as a result.

Our young client, aged 13, was on remand, being held in BDYC. When his bail was not granted, Anglicare connected with the child's family, who identified as Samoan, and linked them with a culturally appropriate youth worker. Meetings with the family and the child identified:

- The young boy didn't have a bedroom and was sleeping in the garage. This made supervision difficult and increased his opportunity to leave home at night.
- The parents struggled with the child's behaviours and how to manage these. They also had significant medical concerns of their own.
- The young boy recognised that he offended when he was bored. He wasn't attending school, but he had interests in football, church and boxing.

Anglicare's youth worker worked regularly with our young client to create plans and goals for when he was released and to ensure that he maintained a connection with the youth worker upon his release. The Anglicare coordinator and youth worker worked alongside the family to:

- identify a bedroom space and a rebuilt TV and game console to increase motivation for him to stay home at night
- plan youth worker support for the afternoon/early evenings to model and support the family with behaviour management
- provide advocacy around the child's return to school/sporting activities
- link his parents with an organisation who could assist with an NDIS application.

Legal representation at our young client's bail hearing stated it was very unlikely that he would be granted bail due to his very high number of offences. Anglicare supported the family at court and assisted his mother in preparing to address the Magistrate. Anglicare also prepared a letter detailing the supports in place for the child. He was granted bail with strict conditions, and was successfully completing programs and attending school.

5.0 Conclusion

The McArdle et al study and other research reveals that the public understands that responsibility should not fall solely on the youth offender but on society as a whole, and that offending has more to do with care and protection issues than it does personal culpability.²²

In a 2011 report for the Queensland Government, Little et al addressed possible 'front-end' options at the community level, to support the diversion of young people out of the justice system and reduce offending and re-offending. These included:

- Employing youth justice workers to formulate cultural support plans, provide practical support to offenders and their families and coordinate with other service providers.
- Assisting young people to re-engage with school or engage in other vocational or employment training opportunities.
- Active promotion and enablement of sport and recreational activities.

Anglicare's own work is based on a restorative practice/restorative justice approach that focuses on helping young people to understand the impact of their actions, accept responsibility and make reparation. A restorative justice approach sees offending as a violation of people and relationships, and thus "creates obligations to make things right".²³ It address the needs and harms experienced by victims, offenders *and* the community.

From our own extensive experience, therefore, we would add to Little et al's list above:

- Encouraging the strengthening of family relationships and supporting young people to repair and restore where they have caused hurt or damage.
- Supporting young people into long term accommodation options, and away from unstable options such as couch surfing. Our collaboration across Anglicare services (such as the partnerships established by our INSYNC youth homelessness services), for example, enables us to work with young people across multiple areas of need. Restorative practice strategies and therapeutic programs such as aggression replacement training are most effective where young people feel safe, secure and engaged. The support we offer young people focuses on building the support network of the individual child and their family, so that they are better prepared to manage adversity when it arises.

These more holistic interventions make genuine partnerships across government and sectoral silos critical and put early intervention squarely within the sphere of mainstream education, health, social care, youth and the community sector, rather being than a 'youth justice' issue.

It is evident from the discussion above that Anglicare SQ has grave concerns about the Queensland Government's current proposals, which appear in many ways to contradict the Government's stated commitment to evidence-based youth justice reform and attention to restorative justice, early intervention and rehabilitative approaches to reducing youth offending.

As Queensland Human Rights Commissioner Scott McDougall commented recently:

The measures introduced are predicated on a flawed perception that recidivist children will respond positively to punitive measures.

*Removing the rights of children ultimately does not uphold the rights of victims of crime.*²⁴

Endnotes

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