

STRENGTHENING COMMUNITY SAFETY BILL 2023

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Submitter Comments:



24 February 2023

Committee Secretary
Economics and Governance committee
Parliament House, George Street,
Brisbane Qld 4000

By email: EGC@parliament.qld.gov.au

Dear Committee Secretary,

Re: *Strengthening Community Safety Bill 2023* ('the Bill')

Thank you for the opportunity to provide feedback in relation to the above.

About QCOSS

Queensland Council of Social Service (QCOSS) is the peak body for the social service sector in Queensland. Our vision is to achieve equality, opportunity, and wellbeing for every person, in every community.

QCOSS' position

We support the Queensland Government's commitment to making communities safer, addressing the causes of offending and reducing youth crime. Consistent with this objective, QCOSS encourages the Queensland Government to fund evidence-based approaches that work.

QCOSS strongly opposes the passing of the Bill.

This Bill will have a disproportionate impact on Aboriginal and Torres Strait Islander children and young people. 70 per cent of young people in youth detention in Queensland are Aboriginal and Torres Strait Islander.¹ This Bill will lead to more First Nations children being incarcerated, a move at odds with the Queensland Government's close the gap commitments and the *Path to Treaty Bill 2023*, which was remarkably introduced during the same week as the Bill.

Of significant concern, the *Strengthening Community Safety Bill 2023* (the Bill) is not compatible with the *Queensland Human Rights Act 2019* and the Queensland Government has sought to override the Act.² Overriding human rights legislation should only occur in exceptional situations such as war, a state of emergency or an exceptional crisis situation constituting a threat to public safety, health or order.³ Clearly, none of these circumstances are able to be relied upon to justify the Queensland Government's blatant disregard of the human rights of children and young people.

The Bill will lead to more children being incarcerated in Queensland. Queensland already imprisons more children than any other Australian jurisdiction.⁴ Queensland has the highest re-offending rate

¹ <https://www.cyjma.qld.gov.au/resources/dcsyw/youth-justice/resources/yj-annual-summary-stats-detention.pdf>

² *Human Rights Act 2019* (Qld).

³ *Human Rights Act 2019* (Qld), s43(4).

⁴ Productivity Commission 2023, Report on Government Services 2023, Part F, section 17: released 24 January 2023, Table 17A.1. <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/rogs-2023-partf-overview-and-sections.pdf>

in Australia,⁵ as well as the harshest youth justice laws in the country. Of children that enter Cleveland Youth Detention Centre, 96 per cent were charged with an offence within a year of release.⁶ The younger children are when they first have contact with the justice system, the more likely they are to go on to reoffend.⁷ Clearly, incarcerating more children will not make our communities safer.

If the Queensland Government is committed to keeping communities safe, any response to youth crime must include diverting children under the age of 14 from the criminal justice system. Significant investment must be made in a service system response that allow children the opportunity to learn from their mistakes and benefit from supports that will build the capacity of communities and families to help young people to engage in age-appropriate activities, such as education.

In 2021-2022, 188 children aged 10-13 spent time in youth detention, 150 of whom were Aboriginal or Torres Strait Islander.⁸ 84 per cent of young people placed in solitary confinement in 2021-2022 were Aboriginal or Torres Strait Islander.⁹ First Nations Peoples should be empowered and funded to design and implement an alternative to the criminal justice system for children under the age of 14.

Enclosed is part of our 2023-2024 Queensland State Budget submission, which outlines the investment required to divert children under the age of 14 from the criminal justice system.

Due to the short time frame provided to respond to this inquiry, QCOSS has framed this submission broadly in relation to breach of bail provisions, multi-agency collaborative panels, and the need for a service system response.

Breach of bail

The Bill has introduced breach of bail as an offence for children and removed the requirement for police to consider alternatives to arrest when they suspect a child on bail has contravened or is contravening a bail condition.

Instead of reducing the number of incarcerated young people, these measures will increase the population of incarcerated children and young people, damaging children and their families and not improving the safety of the community.

These provisions, in particular, are also not consistent with recommendations from the Women's Safety and Justice Taskforce report, *Hear Her Voice Report Two – Women's and girls' experiences across the criminal justice system* ('Hear Her Voice 2').¹⁰ The taskforce found that "current legislative administrative arrangements for watchhouses":

⁵ Productivity Commission 2023, Report on Government Services: Community Services.
<https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/rogs-2023-partf-overview-and-sections.pdf>

⁶ Queensland Parliament. Questions on Notice. 1270, 8 November 2022.

<https://documents.parliament.qld.gov.au/tableOffice/questionsAnswers/2022/1270-2022.pdf>

⁷ Sentencing Advisory Council Victoria 2016, Reoffending by Children and Young People in Victoria.

https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Reoffending_by_Children_and_Young_People_in_Victoria.pdf

⁸ Productivity Commission 2023, Report on Government Services 2023, Part F, section 17: released 25 January 2022, Table 17A.9. <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/rogs-2023-partf-overview-and-sections.pdf>

⁹ Queensland Parliament. Questions on Notice. 774, 16 August 2022

<https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/774-2022.pdf>

¹⁰ Women's Justice and Safety Taskforce 2022, Hear Her Voice Report Two, Women and girls' experiences across the criminal justice system,

https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0009/723843/Hear-her-voice-Report-2-Volume-2.pdf

- enable women and girls to be held in watchhouses for unreasonably long periods
- have a disproportionate impact on women and girls because of the additional transportation issues associated with there being fewer women’s prisons, and the complexity of their needs
- are not providing for women and girls’ basic needs or adequately protecting their human rights under the Human Rights Act 2019.”¹¹

Recommendation 105 outlined the need for a “review into issues impacting on the time women and girls are held in police watchhouses”,¹² and recommendation 106 outlined the need to amend the *Police Powers and Responsibilities Act 2000*, the *Corrective Service Act 2006* and the *Youth Justice Act 1992* in order to “provide a statutory limit on the period of time women and girls can be held in a police watchhouse,” to “clearly provide for minimum standards of the care for women and girls while they are held in a police watchhouse and require compliance with these standards,” and to “clearly identify agency responsibility for the transportation of adults and children between police watchhouses, correctional facilities or youth detention centres.”¹³

The Queensland Government provided a detailed response to the Taskforce recommendations.¹⁴ It outlined support in principle for recommendation 105, noting:

“The Queensland Police Service, Queensland Corrective Services and the Department of Children, Youth Justice and Multicultural Affairs will continue to progress the actions to expedite the transfer of offenders in watchhouses to correctional centres and detention centres, when ongoing custody is required by law. Any further actions will be informed by an independent review, and any recommendations of the Independent Commission of Inquiry into Queensland Police Service responses to domestic and family violence,” and that “The Queensland Government will consider the need for legislative amendments following implementation of recommendation 105.”¹⁵

Changes in this Bill, especially in relation to breach of bail offences, will result in the increased incarceration of girls in watchhouses. These legislative measures are a step in the wrong direction, and are not in line with the Government’s commitment to implement taskforce recommendations.

Multi-agency collaborative panels and funding for community services

QCOSS acknowledge the important role of multi-agency collaborative panels (MACPs) as an early intervention measure to divert children, especially those younger than 14, away from the justice system.

Our understanding of MACPs is that they operate differently in different areas of Queensland. Insufficient information has been provided about how the MACPs will operate moving forward. In particular, the role of community-controlled organisations and community service providers has not been explicitly explained. The Bill states that prescribed entities and service providers may contribute in MACP ‘from time to time.’ This appears to undermine the importance role non-government organisations, and importantly community-controlled organisations, play in supporting children and families.

Community Controlled organisations should be appropriately funded to convene MACPS, ensuring that First Nations People are at the centre of diverting children from the justice system.

The introduction of the Bill was coupled with an announcement for investment in services that “are

¹¹ Ibid, 493.

¹² Ibid, 27.

¹³ Ibid.

¹⁴ The State of Queensland (Department of Justice and Attorney General) 2022, Queensland Government Response to the report of the Queensland Women’s Safety and Justice Taskforce, Hear Her Voice – Report Two, women and girls’ experiences across the criminal justice system, <https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/a0705c73-62bd-4263-ab2c-694e5735d058/gg-response-wsitaskforce-report2.pdf?ETag=de17c1d3a721cd33689800bb204b14f5>

¹⁵ Ibid, 33.

proven to make a difference.”¹⁶ Investment in services is crucial to keep all Queenslanders safe, and will be effective, in contrast to measures in the Bill, which are likely to make communities less safe and undermine the ability of services to have an impact.

We make the following comments in relation to the funding announcements:

1. We note the Townsville Safer Communities Action Group has produced positive early outcomes and commend the focus on children from as young as 8. We support the continuation and expansion of this model. However, it is unclear whether this would be considered an example of a MACP, or whether this is in addition to MACPs and what the interrelationship would be. Echoing our comment above, Safer Communities Action Groups should place First Nations People with decision-making authority that is autonomous of government at the centre. Community controlled organisations should be resourced to participate in and lead these groups.
2. We support the continuation of the On Country Program. These programs should be expanded across the state in a way that enables local First Nations communities to design and implement their programs as they determine.
3. Further funding is required to guarantee that all children in Queensland have universal access to housing, education, health care, mental health services, disability supports and essentials such as food.
4. Investment to ensure disability screening occurs and is responded to for every child interacting with the criminal justice system must be prioritised. Diagnosis of any impairment should be undertaken and understood as potentially contributing to antisocial or unsafe behaviour. Reasonable adjustments should be made to any accountability measures.

A service system response

Breach of Bail, harsher punishments in this Bill alongside the Government’s commitment to build two new detention centres will not make our communities safer.

QCOSS supports responses to youth crime that are consistent with Bob Atkinson’s four pillars,¹⁷ as outlined in the Youth Justice Strategy.¹⁸

To build safer communities, the Queensland government must fund an evidence-based, service system response with community-led solutions to divert children younger than 14 from the criminal justice system.

While there is evidence that services and programs that support families and children when children are involved in the justice system are effective,¹⁹ the Queensland Government has never funded a comprehensive state-wide program that meets the needs of children under the age of 14 interacting with the justice system.

In 2020-2021, the Queensland Government provided \$25,277,033 in funding to 65 programs with the stated purpose of “young people aged 10-17 years who are in or at risk of entering the youth justice system.” The total amount of funding provided to these particular programs to date is \$65,867,324 (as at 30 June 2021).²⁰

¹⁶ www.statements.qld.gov.au/statements/97218

¹⁷ Intervene early, keep children out of court, keep children out of custody and reduce reoffending.

¹⁸ Youth Justice Strategy and Performance; Department of Youth Justice.
<https://www.cyjma.qld.gov.au/about-us/reviews-inquiries/atkinson-report>

¹⁹ See, for example, the studies referred to in the section titled ‘better outcomes for children outside the criminal justice system’ on p. 22 of the Queensland Family & Child Commission (QFCC) Raising the age of criminal responsibility: Issues paper dated 2 September 2022 (QFCC Issues Paper) (available at <https://www.qfcc.qld.gov.au/sector/monitoring-and-reviewing-systems/raising-the-age-of-criminal-responsibility>).

²⁰ Queensland Government Investment Portal, 2020-21 consolidated QGIP expenditure, available at https://www.data.qld.gov.au/dataset/queensland-government-investment-portal-expenditure-data-consolidated-view/resource/7efc8671-6385-4215-ba1b-e11d95a2df12?inner_span=True).

Of the 65 programs funded in 2020-2021:

- only 4 are state-wide programs:
 - the Specialist Counselling Service delivered by Griffith University;
 - the Legal Advocacy Service delivered by Legal Aid Queensland;
 - the Cultural Support program delivered by Murri Watch Aboriginal and Torres Strait Islander Corporation; and
 - the Youth Justice Family Led Decision Making Trial delivered by Queensland Aboriginal and Torres Strait Islander Child Protection Peak.
- the delivery of the remaining programs is limited to a particular local government area: 12 are in Brisbane; 10 in Townsville; 7 in Cairns; 5 in Logan; 4 in Mount Isa; 3 in Rockhampton, Toowoomba, Ipswich, Moreton Bay and the Gold Coast; 2 in Cherbourg and 1 in each of Bundaberg, Tablelands, Mornington, Mackay and Palm Island.

This means that only a limited number of programs are available to young people in any part of Queensland. Furthermore, not all of these programs are available to children under the age of 14. It is not clear how many of these programs, if any, would be able to offer emergency accommodation to children under the age of 14 or accept referrals from the police or other agencies 24/7.

To prevent youth crime and improve community safety, the Queensland Government should invest in a comprehensive service-based response to children under the age of 14 interacting with the criminal justice system.

The ACT government recently commissioned a review of the ACT service system to identify the changes required to implement a proposal to raise the age of criminal responsibility in the ACT to 14 (ACT Review). The ACT Review identified a number of opportunities for reform to build a stronger, more coordinated service system that will be more effective in meeting the complex needs of children interacting with the justice system and their families, which will, in turn, be of benefit to the wider community. As an alternative to the current youth justice model, the ACT Review proposed a therapeutic response, which would include:

- a non-justice embedded youth worker model and safe accommodation options to support police interactions with children who may be at risk of antisocial or unsafe behaviour;
- establishment of a Multidisciplinary Therapeutic Panel, a collaborative forum to make service delivery decisions for children with complex and challenging needs;
- establishment of a 'wrap-around service' responsible for coordinating work with children and their families. The service would:
 - convene a team of highly skilled professionals, as well as involving the child and their family members;
 - develop individualised child and family-centred plans to respond to the complex needs of children; and
 - include an assessment process that would embed restorative processes (which could include restorative meetings, apologies, victim impact letters and other forms of reparation), as a way of ensuring that victims' needs are also met.

The ACT Review provides a clear roadmap for how the Queensland Government could remove children under the age of 14 from the criminal justice system. To address the criminalisation and overrepresentation of Aboriginal and Torres Strait Islander children in the criminal justice system; First Nations' Elders, organisations, workers, families and communities must be supported to lead in developing community-led solutions.

International research shows that the recently introduced Youth Advocate Program facilitated by

Life Without Barriers reduces reoffending and the severity of reoffending behaviours.²¹ There are a range of other community-led programs for justice-involved children under 14 operating across Queensland. Unfortunately, community services focused on diverting children younger than 14 from the criminal justice system are chronically underfunded.

Conclusion

QCOSS does not support the Bill including breach of bail as an offence and harsher penalties. These punitive measures will not be effective in keeping communities safe. Rather, they will likely contribute to increased recidivism and criminalisation of children who need support underpinned by best practice and evidence-based research.

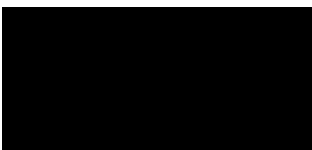
Many of the proposed changes are not consistent with the Government's own *Youth Justice Strategy 2019-2023*, which emphasised the need for a more holistic approach to addressing youth crime. Changes within the Bill are not consistent with recommendations of the Women's Safety and justice Taskforce. The Bill also blatantly disregards the *Human Rights Act 2019*.

Further, many of these changes will disproportionately impact Aboriginal and Torres Strait Islander children and their communities, and are not consistent with the Queensland Government's current work in relation to the Path to Treaty or closing the gap.

QCOSS supports an evidence-based, community-led, service-system response to reduce crime committed by young people, divert children from the criminal justice system and reduce reoffending. The Queensland Government should invest in services and divert children under the age of 14 from the criminal justice system.

Thank you again for the opportunity to provide our submission. If you have any questions, please contact Aimee McVeigh, Chief Executive Officer at [REDACTED]

Yours sincerely



Aimee McVeigh
Chief Executive Officer

²¹ Evaluation of the Youth Advocate Program, University of New South Wales.
<https://www.unsw.edu.au/research/sprc/our-projects/youth-advocate-program-evaluation>