Expanding Adult Time, Adult Crime and Taking a Strong Stance on Drugs and Anti-Social Behaviour Amendment Bill 2026

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Submission By: Office of the Aboriginal and Torres Strait Islander Children's Commissioner

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Mr Martin Hunt MP
Chair, Justice, Integrity and Community Safety Committee
Queensland Parliament

Via email: JICSC@parliament.qld.gov.au

Dear Mr Hunt

Thank you for the opportunity to comment on the *Expanding Adult Crime, Adult Time and Taking a Strong Stance on Drugs and Anti-Social Behaviour Amendment Bill 2026*. The Bill has three parts. In this letter I comment briefly on all three.

My responsibilities as the Aboriginal and Torres Strait Islander Children's Commissioner include promoting and advocating for the safety and wellbeing of children and young people, particularly children in need of protection or in the youth justice system, and giving expert advice to relevant agencies about laws, policies, practices and services.[1]

As you know from previous submissions I have not supported any of the punitive changes made to Queensland's *Youth Justice Act 1992* over the last four years and I do not support this latest round of inclusions into the Act. These changes again displace the long-standing principle that children in conflict with the law should be treated in a manner that prioritises rehabilitation, proportionality and their best interests, with detention and punishment used only as a last resort.[2]

Community safety, victims' rights and the rights of young people who have offended, are interdependent. Often in the public discourse, and during processes, such as this, we witness the juxtaposition of children's rights and victims' rights accompanied by loud proclamations about putting victims' rights ahead of the rights of "criminals". It is unhelpful, particularly if justice is in fact a core goal. Children's rights and victims' rights are not mutually exclusive - they are mutually reinforcing. It is not only possible, but far more likely, to produce outcomes that are in the interests of justice and strong communities, when we respond to the needs of victims without neglecting the rights of children. A preparedness to discard, or make invisible, cohorts of children, the "soft bigotry of low expectations",[3] and the comfort of proceeding without fear of criticism from an under-informed or misinformed electorate, merely results in flimsy policy and poor outcomes for children and families in Queensland.

[1] Family and Child Commission Act s.9(1)(b) and (g).
[2] See UN Convention on the Rights of the Child, articles 3, 37 and 40, available from https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child
[3] G.W. Bush, N. Pearson and others.

Adult Crime, Adult Time

I welcome the funding of various early intervention programs for children at risk of being caught up in the statutory youth justice system, as well as the *Staying on Track* funding to support children when they leave detention. I look forward to seeing the results of this multi-faceted work once it has had time to bed down. I hope these programs will transparently demonstrate measurable outcomes that improved the lives of children and their families, and that they will demonstrably assist in diverting children away from the youth justice system and towards having the health, disability, housing and education support this cohort desperately needs.

I am disappointed that these preventive programs were not fully implemented before or, at least, at the same time as, the introduction of Adult Crime Adult Time amendments, so that as many children and families as possible could benefit from them. Instead, the government moved swiftly to enact punitive measures despite a long-term decline in youth offender numbers.

I have attached my submissions about the previous two Adult crime, Adult time Bills that introduced adult sentences for a total of 33 offences. The information in those submissions and the position I outlined, remains relevant.

In summary, Adult crime, Adult time laws

- further criminalise children, particularly Aboriginal and Torres Strait Islander children
- contradict Queensland's human rights obligations, including multiple articles of the UN Convention on the Rights of the Child (the Convention)
- prioritise punitive responses over evidence-based, effective community safety strategies, including removing restorative justice orders as an option, and increasing time on probation, where that has been ordered
- divert resources away from early intervention, disability support, mental health, family services and education into detention servicers and related operational costs (I note the new Woodford centre is costing nearly $1 billion just to build)
- increase the prolonged and harmful unsentenced detention of children
- fail to consider the best interests of the child, developmental and cultural support needs, and the effects of systemic disadvantage.

The Queensland parliament should not proceed with an expansion of legislation the Government itself accepts is rights-incompatible, and where the justification offered is insufficiently evidence-based. The government has repeatedly acknowledged, and does so again, that these laws are not compatible with the *Human Rights Act 2019 (Qld)*. Yet, they have been introduced because they "are supported by Queenslanders and are a direct response to growing community concern and outrage over crimes being perpetrated by youth offenders."[4] While community concern about crime is a legitimate consideration for governments, asserting public support alone cannot justify legislation that limits human rights. Under the *Human Rights Act,* any limitation on rights must be shown to be reasonable, necessary and proportionate, and the purpose of the limitation (in this case improving community safety) must be supported by evidence that less restrictive alternatives are not available (s 13).

[4] L. Gerber, Minister for Youth Justice and Victims Support, *Statement of compatibility*, p.8, available from https://documents.parliament.qld.gov.au/bills/2026/4277/Expanding-Adult-Crime,-Adult-Time-and-Taking-a-Strong-Stance-on-Drugs-and-Anti-Social-Behaviour-Amendment-Bill-2026---Statement-of-Compatibility-f97f.pdf

I ask that all members of the Queensland parliament answer this question: Why is one small cohort of Queensland children who are mainly living with a disability or from tough family backgrounds, or black, finding themselves excoriated by government ministers and some members of the public – the adults whose role it is to support and protect them? A more successful long-term strategy would be for political leaders to engage the broader community in a dialogue about how we can better care for our children and young people, including ensuring their best interests, and access to health, housing, education, cultural rights and the right to participate in decisions affecting them. This will, over time, improve social cohesion, and diminish the voices of racists and vigilantes.

The lack of transparency of the work of the Expert Panel across all three sets of amendments, including no provision of public advice on who it consulted with, is completely at odds with public service values and good governance. While remaining unclear, it appears unlikely there was consultation with First Nations communities, immigrant communities, or people living with a disability or in poverty, who are the groups most likely to be imprisoned and therefore most affected by these punitive laws. I look forward to the Expert Panel advice, being made public during the committee process. I hope it includes the advice provided on all three rounds of Adult Crime, Adult Time changes and the results of stakeholder engagements,

Expansion of Adult crime, Adult time in the current Bill

It is an indictment on successive Queensland governments that all legislation found incompatible with human rights so far has been related to how the State treats our children. The State can be a source of harm just as much as parental or stranger abuse of children and requires at least the same level of oversight and active efforts in harm reduction. Under the Convention, the State has a clear obligation to prevent harm, including risk of harm that is foreseeable and produced by its own systems. Australia has committed to these standards and therefore states and territories are accountable for their implementation.

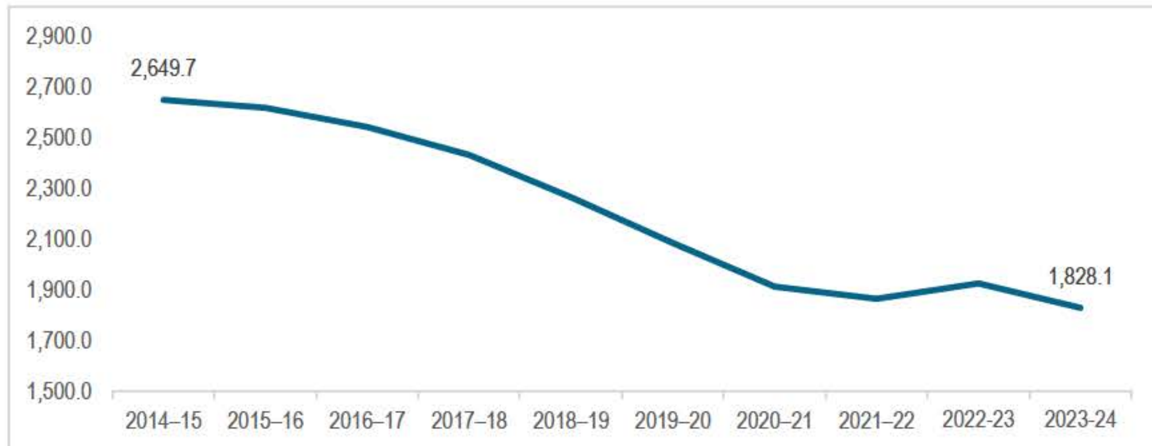
Harm is being perpetrated through

- reduced flexibility held by the Queensland Police Service to divert children, particularly younger or disabled children, away from statutory systems
- tougher bail laws, that consequently increase numbers in unsentenced detention
- longer sentences creating despair and fractured communities
- refusal to act on the Inspector of Detention Services concerns about separation and safety in detention centres
- refusal to incorporate safety improvements recommended by the Inspector of Detention Services into the construction of the Woodford youth detention centre
- insufficient rehabilitation programs for serious offences such as sexual abuse, rape or domestic and family violence or for drug and alcohol misuse
- an inability by the system to recognise that a child who has (or is alleged to have) committed an offence, can also be a victim, and responding to the "offending behaviour", not the trauma (or any other unmet need) that sits behind it.

The changes to Queensland youth justice law since 2023, alongside years of insufficient spending on health, disability and early childhood support for families – particularly for poor families and those living in regional and remote Queensland – has created significant financial and reputational risk for the

Queensland government, just as the number of children proceeded against by police was already slowly declining:

Figure 1: Queensland youth offender rates per 100,000 children aged 10-17 years, 2014–15 to 2023–24



Source: Australian Bureau of Statistics: Recorded Crime - Offenders

With the introduction of Adult Crime, Adult Time laws the State is likely to see

- more sentence reviews
- increasing numbers of discrimination and human rights complaints
- more assaults in watch houses and detention centres, leading to serious injury claims or even death
- increased self-harming and suicide attempts in detention centres* and possibly completion of suicide
- children found to have committed the most serious offences remaining unrehabilitated and continuing to offend into adulthood, creating more victims.

Administrative burden

In 2024-25, the average time taken to finalise proceedings in the Magistrates (Children's) Court was 112 days, 27 days more than the 85 days taken in 2023–24.[5] This not only negatively affects the child in unsentenced detention, but also victims. The length of time some children spend in unsentenced detention can mean immediate release upon sentencing, due to time served. In a few cases they may have been in jail longer than was required by the sentence. Every child has the right to prompt access to legal assistance and to a prompt sentencing decision Queensland *Human Rights Act 2019* s 32, the Convention Art.37).

Court cases cannot proceed without defence lawyers, yet legal aid services in regions are struggling to find them. More adult time sentences will lead to more appeals, further stretching the court system. With

*Public data from the 2026 *Report on Government Services* shows a significant increase in both the number and rate of incidents of self-harm and attempted suicide by children in Queensland detention requiring psychological or medical treatment, or hospitalisation, when comparing 2023-4 (50 incidents) with 2024-5 (112 incidents).

[5] Children's Court of Queensland, *Annual report 2024-25*, p. 32, https://www.courts.qld.gov.au/__data/assets/pdf_file/0010/891640/cc-ar-2024-2025.pdf

each new law passed, the load on police increases – the Queensland Police Union has already expressed discomfort with the extra administrative workload of issuing and maintaining electronic monitoring devices.[6]

Illicit Drug Enforcement and Diversion Framework

The Illicit Drug Enforcement and Diversion Framework (the Framework) narrows eligibility for diversion to first-time and low-risk individuals. For a minor cannabis offence or minor drug offence, a diversion program may be offered and accepted only once (currently twice). This proposed legislative change does not respond to the reasons behind the limited success of the current approach, which has been significantly affected by divestment of rehabilitative responses to substance use/misuse, a lack of residential/inpatient treatment options for young people and a lack of timely support service access and availability.

The Statement of Compatibility concludes this part of the Bill is compatible with human rights, on the grounds that

> *the initiative largely promotes a broad range of rights by reducing unnecessary criminalisation of low-level drug use and supporting proportionate, health-focused responses* (p.9).

However, the design of the framework raises significant concerns about whether it will, in practice, deliver the health-focused responses claimed. Within the Bill, they consist of just one opportunity to accept drug diversion, and only for possession of small amounts of cannabis or other drugs, when it is known that reducing or ceasing dependence on alcohol or illicit drugs can take several years and several rounds of rehabilitation. In the case of possession of small amounts of other drugs, police can issue a fine. Fines are often out of reach for young people and adults from low-income families and this part is therefore discriminatory.

While drug and alcohol misuse causes family and community disruption, for long term change to occur misuse must be primarily treated as a health issue to avoid stigmatisation and consequent refusal to access treatment. This is the position of the Royal Australasian College of Physicians which also supports moves towards decriminalisation of drug use and possession for personal use.[7] The longer-term consequences of not funding alcohol and drug rehabilitation alongside or instead of punitive measures, appear to not have been considered when preparing the Bill and the Statement of Compatibility.

Taken together, these changes risk net widening, where individuals possessing small quantities of drugs for personal use become more likely to enter the criminal justice system rather than receive health-based support.

The Statement of Compatibility and Explanatory Notes advise that police have more discretion when responding to children carrying minor quantities of cannabis:

> *"An eligible adult who is arrested for, or is questioned about, a minor cannabis offence, must be offered the opportunity to complete a drug diversion program however, an officer retains discretion when responding to children noting other options under the Youth Justice Act may be more appropriate"* (Statement of compatibility pp.3 and 10).

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[6] M. Dansie, *Electronic monitoring bill strengthening bail laws passes Qld parliament,* ABC News, 12 February, 2026, available from https://www.abc.net.au/news/2026-02-12/electronic-monitoring-bill-passes-qld-parliament/106335736.
[7] Royal Australasian College of Physicians, *Position statement: achieving a health-focused approach to drug policy in Australia and Aotearoa New Zealand*, 2024, available from https://www.racp.edu.au/docs/default-source/advocacy-library/racp-position-statement-achieving-a-health-focused-approach-to-drug-policy-in-australia-and-aotearoa-new-zealand.pdf?sfvrsn=7f8a01a_20

The Statement of Compatibility also notes that police discretion in charging may disproportionately fall on

> *"First Nations peoples, individuals with mental health conditions, those who are culturally and linguistically diverse and people with low socio-economic status [who] face greater prejudicial bias (p.10).*

This raises important concerns about consistency and equity in decision-making. Leaving diversion decisions entirely to police discretion risks producing uneven outcomes and may exacerbate existing disparities in the justice system.

Section 11 of the *Youth Justice Act 1992* already provides a clear framework prioritising non-criminal responses for children, including:

- taking no action
- cautioning
- restorative justice processes
- diversion programs.

Maintaining these provisions as the primary response for children would provide greater clarity and consistency while ensuring responses remain aligned with the rehabilitative objectives of youth justice legislation.

Meanwhile, alcohol misuse is a leading addition to the burden of disease in Australia and is associated with a range of health and social harms including violence, accidents, hospitalisation and death. The estimated social cost of alcohol use in Australia was $72.9 billion in 2020–21, projected to rise to $75.0 billion in 2022–23.[8] This compares to the social cost of cannabis use, estimated to be $5.2 billion with more than half that related to costs in the criminal justice system, that is cost of imprisonment, community supervision orders and victims of crime.[9]

Designated Business and Community Precincts

The provisions establishing Designated Business and Community Precincts engage several rights protected under the *Human Rights Act 2019*, as outlined in the Statement of Compatibility. In addition to those outlined, the use of broad discretionary powers in public spaces may also engage the right to equality before the law and protection against discrimination (s.15). In this part of the Bill, the Statement of Compatibility has not acknowledged the potential for disproportionate effects of banning orders on groups already subject to prejudice or bias, including Aboriginal and Torres Strait Islander peoples, immigrants and individuals experiencing socio-economic disadvantage.[10] Should this Bill proceed, it will be crucial to have transparent record keeping for the bans and move on orders in these designated precincts so that independent evaluations of their application can be conducted. I suggest a review period for this legislation must also be established to offer public transparency, given the precincts can be established by regulation.

Under s.13 of the *Human Rights Act 2019*, any limitation on rights must be reasonable and justifiable, including that the measure is necessary and proportionate and that less restrictive alternatives are not

[8] Australian Institute of Health and Welfare, December 2025, *Alcohol, tobacco and other drugs in Australia*, available from https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contents/drug-types/alcohol
[9] Australian Institute of Health and Welfare, December 2025, *Illicit drug use*, available from https://www.aihw.gov.au/reports/illicit-use-of-drugs/illicit-drug-use
[10] Schaefer and Mazerolle (2018), quoted in Moir, Prenzler, Rayment-McHugh; et al. *Nambour Community Safety Review Phase 2: Final Report*. p.29.

reasonably available. Where existing powers such as move-on directions may achieve similar objectives in preventing escalation of conflict, the use of longer bans affecting children should be carefully considered by your committee.

Banning some members of a community can have potentially significant consequences. Banning a child teaches them they are not welcome in spaces intentionally established for the whole community.

Alternative, less punitive approaches could be canvassed through stakeholder engagement with community groups and young people in regional centres. I suggest this part of the Bill be delayed until this can be done. The committee could invite young people to speak to them about the issues they face in business and community precincts, and possible solutions.

Yours sincerely

Natalie Lewis
Aboriginal and Torres Strait Islander Children's Commissioner
Office of the Aboriginal and Torres Strait Islander Children's Commissioner
Queensland Family and Child Commission

18 March 2026

Attachments
Submission to the Justice, Integrity and Community Safety Committee 3 December 2024
Submission to the Justice, Integrity and Community Safety Committee 16 April 2025

OFFICE OF THE ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN'S COMMISSIONER

SUBMISSION TO THE JUSTICE, INTEGRITY AND COMMUNITY SAFETY COMMITTEE

MAKING QUEENSLAND SAFER (ADULT CRIME, ADULT TIME) AMENDMENT BILL 2025

Commissioner Natalie Lewis,

Office of the Aboriginal and Torres Strait Islander Children's Commissioner

Queensland Family and Child Commission

Wednesday 16 April 2025

ACKNOWLEDGEMENT OF COUNTRY

The Office of the Aboriginal and Torres Strait Islander Children's Commissioner acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Custodians across the lands, seas and skies where we walk, live and work.

We recognise Aboriginal and Torres Strait Islander people as two unique peoples, with their own rich and distinct cultures, strengths and knowledge. We celebrate the diversity of Aboriginal and Torres Strait Islander cultures across Queensland and pay our respects to Elders past, present and emerging.

We acknowledge the important role played by Aboriginal and Torres Strait Islander communities and recognise their right to self-determination, and the need for community-led approaches to support healing and strengthen resilience.

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Reference: TF25/392 – D25/3783

Thank you for the opportunity to comment on the Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025.

SUMMARY

I do not support this amendment bill for the following reasons:

- **It significantly increases the risk of the arbitrary and prolonged detention of children**, in breach of Article 37 of the United Nations Convention on the Rights of the Child (UNCRC), which requires that detention be used only as a last resort and for the shortest appropriate period. The Bill expands adult sentencing without adequate safeguards, disproportionately affecting Aboriginal and Torres Strait Islander children and entrenching systemic discrimination.
- **It diverts critical public funds away from early intervention, education, and disability support**, which are essential to upholding children's rights to health (Article 24), development (Article 6), and an adequate standard of living (Article 27). The social and economic costs of further criminalising children will be borne by communities for generations.
- **It lacks clear evidence and fails the best interests and proportionality tests required by international human rights law.** Despite a decline in unique youth offender numbers, the Bill introduces punitive measures that are neither targeted nor justified—placing political expediency above the rights, dignity, and best interests of children.
- **It represents a fundamental neglect of Queensland children's rights, wellbeing, and participation.** The Bill has proceeded without transparent consultation with the children and communities it most effects, undermining Article 12 of the UNCRC—the right of children to be heard and have their views given due weight. It fails to provide pathways for reintegration (Article 40) and recovery (Article 39), further marginalising children already living with the cumulative impacts of poverty, trauma, and unmet health needs.

Long term, transformative change is needed. The experiences and circumstances of children caught up in the youth justice system reflect a series of missed opportunities, a neglect of children's basic needs and fundamental human rights across childhood. The stories of children in conflict with the law are generally characterised as personal failings when they are, more often, stories of systemic failure to see and respond effectively to the needs of children. The escalation of punitive responses to address community safety is not in the interests of victims or of justice, primarily because the incarceration of children is ineffective as a deterrent and in terms of the rehabilitative prospects within a custodial environment.

Active engagement with First Nations children, families and communities and resourcing them to better support their families and children, will empower those communities and uphold their right to self-determination.

Stronger oversight of the youth justice system within a balanced rights framing and improved legal support for children and families, are needed to align with the far more serious sentences now possible. Further, an increased focus on accountability of service systems, including government funded service providers, to actively engage with and provide the supports required to achieve positive outcomes for children and young people, must be a priority. This is a critical, but too often overlooked dimension of community safety.

KEY ISSUES

Risk of arbitrary and prolonged detention

This Bill adds 20 more offences for which adult sentences can be given by the courts, to the 13 offences that were already legislated. This is alongside other legal restrictions like presumption against bail and removal of the principle of detention as a last resort. It sits alongside a lack of safeguards, like no limit to the number of days children may spend in watch houses, or insufficient monitoring of time spent outside cells while in detention. I note the removal of restorative justice as a sentencing option for the "significant offences to which adult penalties apply" (s175A).[1] This further limits the already small number of diversion options available to courts.

The UNCRC, ratified by Australia in 1990, calls on States to treat every child accused of a crime "in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society."[2] The proposed addition of offences like stealing, arson against property, and drug trafficking, which are not direct assaults against the person, is widening a net that incarcerates children for many years, at a time of life when the brain is still developing,[3] in places with limited opportunity for rehabilitation. Children's brains are not adult brains. Therefore, children should not be subjected to adult punishment.

Already, Queensland is the state that jails the most Indigenous children. This should be a cause for shame and reflection, and a catalyst to urgently analyse and respond to the reasons why this small number of First Nations children end up in detention. Instead, these latest amendments leap ahead to a flawed response to improving community safety without first understanding and responding to root causes. This Bill will not help Queensland meet its Closing the Gap target for reducing the number of Aboriginal and Torres Strait Islander children in detention (Target 11). The pipeline of children from youth to adult detention is also likely to worsen the rate of Aboriginal and Torres Strait Islander adults in prison (Target 10). Queensland data for both targets is already worsening and is not on track.[4]

[1] Queensland government, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025, Explanatory notes p.3, https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5825T0283/5825t283.pdf

[2] UN Convention on the Rights of the Child, Article 40(1), available from https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child

[3] Raising children, Brain development: pre-teens and teenagers, available from https://raisingchildren.net.au/pre-teens/development/understanding-your-pre-teen/brain-development-teens

[4] Australian Government, Productivity Commission, Closing the Gap Information Repository, available from https://www.pc.gov.au/closing-the-gap-data/dashboard

Diverting critical public funds away from early intervention, education, and disability support

The increasing numbers of children in detention, despite the reduction in unique offenders, has led to the construction of a new detention centre in Woodford at a cost estimate in 2024 of $630M and a new remand centre at Wacol at a cost of $250M.

To house one child in detention for the equivalent of 12 months costs Queensland $800,000 or approximately $251 million a year for 318 children (on an average day) [5] in jail. This is in addition to the cost of building more jails. Given the well-established body of evidence that points to the ineffectiveness of detention in reducing offending, this is an investment in failure. This is money that could be going to health and disability support. This is funding that could be reinvested in building safe communities. This investment could be redirected to ensure that children have safe and stable accommodation, and access to quality, inclusive education experiences. This investment would yield far greater benefits in terms of whole of community safety if repurposed to provide effective, targeted responses for children and young people who are impacted by domestic and family violence and to address the lack of access to timely, quality mental health support when and where it is needed. Investing to support the prosocial participation of children and young people, so that they grow up connected to a community that values them rather than fears them.

The explanatory notes to the Bill acknowledge there is likely to be increased "demand for courts, police, the legal profession, corrective services, and youth justice. The Bill may also increase the amount of time that young offenders spend in detention centres and corrective services facilities, increasing demand for these facilities".[6] I would add, there are also likely to be more appeals against sentences.

This will drag more money into the criminal system and away from where communities (particularly regional and remote communities) need it – that is, family support, early years health and disability support and funding of local community organisations, including Aboriginal and Torres Strait Islander community-controlled organisations who know their local families and can support them to support their children.

The increased demand on detention centres increases the possibility that children will be separated or isolated while in detention due to lack of staffing. There is evidence of the deterioration in mental health that occurs in these circumstances, culminating in a greater risk of disturbances in detention centres that will affect both staff and children. The disruption and trauma for children and their families, will likely lead to lifelong health issues that both state and federal governments, as well as the community, will be paying for in terms of lost productivity, increased health costs, increased impost on the welfare system, and anti-social behaviour.

In 2023, Queensland's Child Death Review Board explored in detail the deaths of two First Nations boys who spent time in youth detention and whose disadvantaged families did not receive additional support when the children were young. The children both lived with significant disabilities and poor mental health and had experienced multiple "transactional…episodic…superficial and time-limited exchanges" from Youth Justice. The report goes on to say: "This is counter to evidence of what works, which is relational or relational-based interactions that have a longer-term, more personal, and deeper engagement with the young person".[7] Neither

[5] Australian Government, Productivity Commission, Report on Government Services 2025, Youth Justice Services, available from https://www.pc.gov.au/ongoing/report-on-government-services/2025/community-services/youth-justice

[6] Queensland government, Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025, Explanatory notes p.4, available from **https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5825T0283/5825t283.pdf**

[7] Child Death Review Board annual report, 2022-23, Chapter 3, p.31, available from https://www.qfcc.qld.gov.au/sites/default/files/2024-08/Child%20Death%20Review%20Board%20Annual%20Report%202022-2023.pdf

were attending school. Both experienced extended periods of isolation in detention in the year prior to their deaths. One child died by suicide and the other from a drug overdose, before they reached the age of 18. They and their families were failed by multiple systems.

No evidence of need

The latest Queensland Government Statistician's Office crime report shows unique youth offender numbers have declined over the last nine years, both as a raw number (a reduction of 2,150) and as a percentage of the population.[8]

Table 48 Count and rate of unique child offenders by number of police contacts[(a)]

Unique child offenders	2014–15		2022–23		2023–24		Change in rate	
							1 year	9 years
Number of police contacts in the reference year	number	rate	number	rate	number	rate	— % —	
1	8,924	1,853.2	7,167	1,267.9	6,888	1,191.3	–6.0	–35.7
2	2,738	568.6	2,224	393.4	2,294	396.8	0.8	–30.2
3	876	181.9	870	153.9	828	143.2	–7.0	–21.3
4–9	527	109.4	865	153.0	858	148.4	–3.0	35.6
10 or more	52	10.8	82	14.5	99	17.1	18.0	58.6
Queensland	**13,117**	**2,724.0**	**11,208**	**1,982.8**	**10,967**	**1,896.8**	**–4.3**	**–30.4**

(a) Police contacts represents the number of single days a unique offender was proceeded against by police in a reference period for one or more offence types on that day.

Note: Rates are calculated per 100,000 persons. Any rates and change in rates based on small counts (<10) should be interpreted with extreme caution.

While the number of children having four or more police contacts has increased, the figures are tiny - 957 children in 2023-24. The state population of 10–17-year-olds is 577,452[9] and the total population is 5.6 million.[10] This group represents 0.17% and 0.017% of those populations respectively.

This is not a crisis, except for the small number of families and children who suffer these punitive measures.

Given consultation with those likely to be most affected is common practice when preparing new laws, I would like to believe there was consultation with First Nations leaders, communities, families and children, given these are the groups most impacted by Queensland's youth justice system. However, I fear this may not have been the case due to the rushed nature of the last two rounds of amendments. If so, this is a further example, alongside a dearth of evidence that such laws are needed or effective, of a poor process sitting behind these amendments.

Not in the best interests of the child

The inclusion of 20 additional offences eligible for adult sentencing fails the best interests test required by Article 3 of the UNCRC: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration". The Bill does not consider how exposing children to harsher penalties, longer detention,

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[8] Queensland Government Statistician's Office Crime report, Queensland, 2023-24, Table 48, p.48, https://www.qgso.qld.gov.au/statistics/theme/crime-justice/crime-justice-statistics/recorded-crime#current-release-crime-report-qld

[9] Youth Justice pocket stats, September 2024, available from https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/18621352-f516-455f-b60b-3ece74738eac/youth-justice-pocket-stats-september-2024.pdf?ETag=9063bde891c6009e1878d012a28b1dde

[10] Queensland Government Statistician's Office, Queensland population counter, as at 30 September 2024, https://www.qgso.qld.gov.au/statistics/theme/population/population-estimates/state-territories/qld-population-counter

and reduced access to diversionary pathways serves their individual best interests. Instead, the Bill's punitive approach disregards children's developmental needs, life circumstances, and potential for rehabilitation. I recognise the Government has adopted an unapologetic position, of putting victims' rights ahead of the rights of children who have committed offences, but I would respectfully submit that this is not an either/or proposition. Community safety, as a primary goal, is not disputed. Justice, as a legitimate expectation, when people have been harmed is also not disputed. The rights of victims are not diminished by a system of justice that upholds the rights of children. Accountability and appropriate consequences for causing harm to others can be achieved, without denunciation or conscious violations of basic human rights of children.

Not reasonable, necessary or proportionate

The 20 additional offences proposed for adult sentencing are collectively not reasonable, necessary, or proportionate, as required by international human rights standards and the UNCRC, particularly Articles 37 and 40. There is no compelling evidence that adding these 20 offences is necessary to improve community safety. Existing legislation already allows serious offending to be given significant sentences. The addition of harsher penalties is inappropriate when early intervention, community-based supports, and culturally safe responses have not been adequately resourced or tested. Tenders for new early intervention programs are open at the same time as this Bill is being considered.

The Queensland Penalties and Sentences act (s.9(2)), still requires a court to use imprisonment of adults as a last resort apart from where violence or abuse is involved. However, the Youth Justice Act now directs courts to actively avoid using this principle. Thus, children are being treated more harshly than adults.

The expansion of adult sentences exceeds what is proportionate to meet the aim of short-term community safety and risks long term social and economic costs.

Neglect of Queensland children's rights, wellbeing, and participation

For the behaviour of 957 children, 0.017% of the population, the Queensland Human Rights Act (QHRA) has been overridden four times since 2023. The override is meant to apply in exceptional circumstances and the examples provided in the QHRA are war, a state of emergency, an exceptional crisis situation constituting a threat to public safety, health or order.[11] The four overrides only provide evidence of our collective incompetence as a community and government in supporting the most disadvantaged children and families in our society early on, before they enter the statutory youth justice system.

As my submission to the 2024 Amendment Bill stated, these changes erroneously separate government obligations to uphold children's rights from community safety. They will not make anyone safer. Instead, we must recognise that these children are themselves victims of poverty, disadvantage, untreated disability or mental illness, and provide them with the care, kindness and relational support they truly need.

Community safety, victims' rights and the rights of young people who have offended, are interdependent not divided from each other. I reiterate this Bill will continue the overcriminalisation of Aboriginal children and Torres Strait Islander children. The disproportionate number of First Nations peoples in youth detention and adult jail is a blight on our society. It damages communities and reduces the opportunity to build positive life outcomes and economic empowerment.

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[11] Queensland government, Queensland Human Rights Act, s43(4), available from https://www.legislation.qld.gov.au/view/pdf/2019-07-01/act-2019-005

In September 2024, 3,229 young Queenslanders had at least one proven offence. Of these, 44% had a disability and a further 44% had a mental health or behavioural disorder.[12] While there would be crossover between the two groups, this is also likely an undercount. These children should not be in the criminal system but receiving high quality holistic support to better live with their health and disability, so they may "enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community".[13]

SOLUTIONS

There are alternative ways to help children caught up in the youth justice system that will bring about long-term transformative change to the lives of disadvantaged children and families in Queensland and make the community safer in the long run. By embracing a rights framing, the youth justice system can aspire to meet the rights of all parties involved, rather than consistently neglecting some rights at the expense of others.

Better community support

Aligning with government plans to improve regional services, quality early years health, education and disability support must be available to low-income families in regional and remote Queensland.

Funding must be provided to Aboriginal and Torres Strait Islander community-controlled organisations in local areas in at least the same proportion as the representation of First Nations young people in youth justice, that is 50-60% of the program budget. These organisations understand their communities and must be given the autonomy to vary approaches to suit local and individual needs. Communities must be given greater self-determination to support, progress and measure outcomes for children and families.

Recognition of the impact of suppression and heightened police surveillance activities upon youth crime data should be incorporated into public messaging. The cumulative effect of multiple charges surrounding a primary offence (such as breaches of bail etc) can distort the public's understanding about the level (volume) and nature of crimes being committed by children and young people. Clarity, consistency and transparency of public reporting regarding offending is necessary to understand the effects of reforms, what is working and what is not, as this has a direct relationship with public confidence and perceptions of safety in the community.

I am committed to working with the relevant Government agencies to contribute to increased transparency and accessibility of relevant data through publication of an open access dashboard, monitoring interactions of young people with the youth justice system. A particular focus of this work is contributing to a better understanding of the drivers and dynamics of disproportionate representation of First Nations children and young people across the youth justice system continuum.

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[12] Youth Justice pocket stats, https://www.publications.qld.gov.au/ckan-publications-attachments-prod/resources/18621352-f516-455f-b60b-3ece74738eac/youth-justice-pocket-stats-september-2024.pdf?ETag=9063bde891c6009e1878d012a28b1dde

[13] UN Convention on the Rights of the Child, Article 23, available from https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child

All youth justice and child protection data must be publicly reported in a timely way, and disaggregated by age, indigenous status, gender, disability, and geographic location. This transparency will support reform and build self-determination and empowerment for local communities.

Government can engage the community and media in problem-solving and understanding root causes. This can start by explicitly outlining that it is more often poor children, abused children and children with a disability who are most involved in the youth justice system, instead of creating even greater fear through demonising this cohort. Further, one of the most common shared experiences of young people in custody or on supervised youth justice orders is disengagement from education and being subject to School Disciplinary Absences early in their educational journey. This provides a very clear indication of an opportunity to proactively engage, to change the trajectory of children's lives by placing attention and effort on keeping young people on a path to better outcomes. It is a highly effective intervention point to improve the immediate and long-term outcomes for children and an evidence-based strategy for creating safe communities, for everyone.

Stronger monitoring and oversight

Given children and young people are now subject to the possibility of lengthy adult sentences, this must be matched with stronger system oversight. The government can create greater service integration for children and their families by developing a Children's Plan for Queensland and appointing a dedicated Children's Minister. The Minister would have a clear mandate and authority to coordinate and implement the plan across government. This would help ensure a gold standard approach to prevention and early intervention is working as intended with all the involved agencies held accountable.

The disproportionate representation of First Nations children calls for establishment of an independent Aboriginal and Torres Strait Islander Children's Commissioner, which the state government has previously endorsed through the Federal government's National Framework for Protecting Australia's Children 2021-2031.[14] The Commissioner can regularly consult with First Nations leaders, communities, families and children about the effect of the laws on their communities and also provide coordinated system oversight. The Commissioner would have the ability to intervene when the rights of children are not upheld.

Stronger sector funding and system monitoring is necessary to reduce the risks of ill-treatment, isolation, lack of rehabilitation, or lack of support post detention. Robust child rights impact assessments (CRIAs) should be mandated for all proposed legislation and policies affecting children, to ensure potential harms are identified and mitigated early. An example of what such an assessment may look like is at Attachment 1.

Simplified and accessible complaints and monitoring functions should be consolidated across agencies to make it easier for children and families to navigate and resolve issues early. This could include the establishment of a Children's Advocacy and Complaints Hub, led by independent child rights experts and accessible to children directly. This function should be available across the continuum from initial police contact to sentencing and detention.

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[14] Australian government, Department of Social Services, available from https://www.dss.gov.au/child-protection/resource/national-framework-protecting-australias-children-2021-2031-0

Stronger legal support

The increased risk of lengthy sentences for children must be matched by well-funded, high quality public legal defence to reduce or avoid flawed justice processes. This will also reduce government exposure to reputational and financial risk.

Other legal and children's court mechanisms must also be reformed, for example:

- strengthen resourcing and capability-building for public defenders working in youth justice
- build a legislated off ramp, for children living with a disability, out of the youth justice system so they can receive the dedicated disability and health support they need to live a decent life
- reform the 'fitness to plead' process that expires every six months and keeps unwell children trapped in an endless loop of court, watch house and jail
- provide court-ordered forensic assessments to support services and families so that when a child or young adult is released appropriate treatment or support can be provided.

ABOUT THE OFFICE OF THE ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN'S COMMISSIONER

Under the *Queensland Family and Child Commission Act 2014* the Aboriginal and Torres Strait Islander Children's Commissioner is granted functional and operational independence in the exercise of their powers and functions.

Our vision is that

> Aboriginal and Torres Strait Islander children grow up strong in their identity, culture, and community, free from systemic racism and discrimination. They are safe, nurtured, and thriving in their families, with systems designed to support, not separate. They exercise their rights, participate in decision making, and contribute to solutions that are aligned to their identities and aspirations.
>
> The child protection and youth justice systems are defined by early intervention, Aboriginal and Torres Strait Islander family-led solutions, and culturally safe care.
>
> The Queensland Government strengthens accountability by integrating child rights into policy, legislation and service delivery.

Should Committee members have any queries about this submission they may contact Amy Lamoin, Executive Director, First Nations and Child Rights Advocacy, via email at **Commissioner@qfcc.qld.gov.au**.

Attachment One

Child Rights Compatibility assessment – Making Queensland Safer Bill (2025) (20 new offences)

The table below sets out a child rights assessment of the 20 new offences against the United Nations Convention on the Rights of the Child (UNCRC), as well as key principles such as proportionality, rehabilitation, and detention as a last resort, which are also reflected in Queensland's youth justice legislation and broader human rights obligations.

It is important to note that disability screening for children is critical across all alleged crimes to ensure that children's rights, capacities, and support needs are properly understood and upheld within the justice system. Many children who come into contact with the law may have undiagnosed cognitive, developmental, or psychosocial disabilities that affect their behaviour, decision-making, and ability to understand legal processes.

Where a child commits a sexual offence, quality rehabilitation must be provided so that such offending does not continue into adulthood.

Without timely and appropriate screening, these children are at heightened risk of discrimination, unfair treatment, and exclusion from necessary support and diversionary pathways. A fair system must embed comprehensive disability screening as a standard safeguard to protect the principles of non-discrimination, procedural fairness, and to avoid the criminalization of children with disabilities.

Offence	Relevant CRC Articles	Child Rights Conflict	Explanation of Breach
Going armed so as to cause fear	Articles 3, 37, 40	Fails best interests and proportionality principles	Intent-based offences may involve fear or coercion; adult sentencing risks disproportionate punishment without contextual assessment
Threatening violence	Articles 3, 37, 40	Context and level of maturity not considered	May arise from impulsivity or peer influence; criminalisation risks undermining rehabilitation goals.
Attempt to murder	Articles 3, 37, 40	May conflict with detention as last resort	Severity acknowledged but response must still consider age, culpability, and potential for rehabilitation and reintegration.

Accessory after the fact to murder	Articles 3, 37, 40	Fails to account for lesser culpability	Involvement may stem from fear or coercion; adult sentencing does not reflect nuanced roles children play.
Assaulting a pregnant person and killing, or doing grievous bodily harm to, or transmitting a serious disease to the unborn child	Articles 3, 37, 40	Fails to account for context and capacity	While serious, response must remain age-appropriate and aim for rehabilitation.
Torture	Articles 3, 6, 19, 37	Grave offence but child-specific approach required	Even for serious harm, CRC requires child-specific justice systems that avoid automatic adult penalties.
Damaging emergency vehicle when operating motor vehicle	Articles 3, 40	Fails proportionality test	Context often involves panic or reflects evolving maturity; custodial responses may be inappropriate.
Endangering police officer when driving motor vehicle	Articles 3, 40	Fails best interests and age-appropriate response	High-risk behaviour but still requires a child-specific assessment of maturity and rehabilitative alternatives.
Rape	Articles 3, 6, 19, 37	Requires child-sensitive but proportionate approach	Must be addressed seriously, but sentencing must remain consistent with principles of reintegration and non-discrimination.
Attempt to commit rape	Articles 3, 19, 40	Fails to assess maturity and context	Intent-based charge risks disproportionality if applied without developmental assessment.

Assault with intent to commit rape	Articles 3, 19, 40	Fails reintegration and proportionality principles	Intent-based charges risk harsh penalties inconsistent with age-appropriate justice.
Sexual assault, if the circumstance in subsection (2) (involving any part of the mouth) or (3) (while armed, in company, or involving penetration) applies	Articles 3, 19, 40	Context of coercion or group dynamics often overlooked	Must be treated seriously, but children's involvement often lacks intent or full understanding; rehabilitation and reintegration must remain central.
Kidnapping	Articles 3, 37, 40	Fails proportionality when intent or harm unclear	Offending may involve harm or coercion by others; full adult liability is inappropriate.
Kidnapping for ransom	Articles 3, 37, 40	Fails to account for developmental capacity	Serious offence requiring accountability but still must adhere to CRC principles of age-appropriate response.
Deprivation of liberty	Articles 3, 37, 40	Broad charge risks net-widening	May involve minor restraint acts among peers; risks criminalising typical adolescent behaviour.
Stealing, if item 12 (a vehicle) or 14 (a firearm for use in another indictable offence) applies	Articles 3, 37, 40	Fails contextual and maturity/developmental analysis	Frequently linked to group dynamics or peer pressure; adult sentencing undermines potential for rehabilitation.
Attempted robbery, if the circumstance in subsection (2) (armed or in company) or (3) (armed and with violence) applies	Articles 3, 40	Fails proportionality and best interests test	Intent and peer influence frequently misjudged in children; response must focus on diversion and development.

Arson	Articles 3, 37, 40	Fails to assess risk and rehabilitation opportunities	Where no harm to life occurs, adult sentencing breaches requirement for least restrictive measures.
Endangering particular property by fire	Articles 3, 40	Fails proportionality	Non-violent property offences should be addressed with restorative justice options.
Trafficking in dangerous drugs	Articles 3, 19, 33, 40	Fails to recognise coercion and exploitation	Children often recruited by adults or under duress; adult sentencing fails to protect child victims of exploitation.

3 December 2024

Making Queensland Safer Bill 2024

Commissioner Natalie Lewis

Acknowledgement of Country

The Queensland Family and Child Commission acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Custodians across the lands, seas and skies where we walk, live and work.
We recognise Aboriginal and Torres Strait Islander people as two unique peoples, with their own rich and distinct cultures, strengths and knowledge. We celebrate the diversity of Aboriginal and Torres Strait Islander cultures across Queensland and pay our respects to Elders past, present and emerging.
We acknowledge the important role played by Aboriginal and Torres Strait Islander communities and recognise their right to self-determination, and the need for community-led approaches to support healing and strengthen resilience.

Queensland Family & Child Commission
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The proposed 'Making Queensland Safer Bill 2024' erroneously separates government obligations to uphold children's rights from community safety and will not make anyone safer. Evidence avoidance in the development and consideration of these laws is neither in the interests of victims nor justice.

Known consequences

I share a commitment to reduce crime, increase community safety and create an effective youth justice system. The evidence is clear that criminal justice responses will not deliver these results. The evidence is also clear that making laws without appropriately scrutinising the unintended consequences of those decisions, will ultimately have far reaching implications. These actions lack transparency and accountability. The Bill will deliver consequences that, will be labelled unintended, but are predictable and known, and apparently acceptable. I call on the government to be fully accountable and transparent about the effects of these laws into the future. While community safety is a critical goal, it must not come at the expense of fundamental rights and freedoms. These are not mutually exclusive. We can create safer communities whilst simultaneously promoting and protecting the rights of victims and young people who have offended.

The impact of this legislation will certainly result in the overcriminalization of Aboriginal and Torres Strait Islander children and:

- overtly violates Article 37(b) of the UNCRC which states that detention should only be a measure of last resort
- violates Article 2 of the UNCRC which requires non discrimination in the application of rights
- breaches developmental rights including Article 40 of the UNCRC which emphasises rehabilitation and reintegration over punitive measures.
- violates the National Agreement on Closing the Gap, specifically Target 11 which seeks to reduce the over representation of First Nations children in detention.

Restricting children's rights

The Making Queensland Safer Bill 2024 (Bill) perpetuates a worrying trend by successive Queensland governments to turn their back on Australia's commitment to the United Nations Convention on the Rights of the Child. [1] The necessity to override the *Human Rights Act 2019* should be of the greatest concern for every Queenslander. Minimum mandatory sentencing laws are contrary to the fundamental principles of Australia's legal system and consequently further erodes judicial discretion, limiting the courts consideration of the unique circumstances of a child e.g. developmental maturity, disability and

[1] UNCRC General Comment 24, para. 30 (2019) on children's rights in the child justice system: *The Committee recommends that those States parties that limit the applicability of their child justice system to children… by way of exception that certain children are treated as adult offenders (for example, because of the offence category), change their laws to ensure a non-discriminatory full application of their child justice system to all persons below the age of 18 years at the time of the offence."*

experiences of trauma. The inter-dependent nature of rights means that when even just one section of the Human Rights Act 2019 can be overridden all rights are potentially undermined. In a youth justice context such laws should be seen as undermining the principles of the Youth Justice Act 1992, and the sentencing principles outlined in section 150. I am outraged by the governments demonstrated lack of care and duty to the rights and safety of all Queensland children via the overt discrimination contained in the Bill.[2] By the governments own admission this situation will inevitably lead to increased incarceration of children.[3]

More Costly

The cost per average day per young person subject to detention-based orders has risen from $1347 (2018-19) to $2086 (2021-22).[4] On an average day there were 287 young people in detention-based supervision (2021-22).[5] The Bill will cost the Queensland public significantly more in the coming years. This is in light of the evidence proving the expenditure will be less effective at reducing re-offending.[6] However, these are just the known cost to the system. In 2020-21 the Northern Territory government expenditure on detention increased by $35 million due to legal settlements with former Youth Detainees.[7] The financial costs of subjecting children to cruel, inhumane and degrading experiences will continue to mount on the youth justice system. I note that a number of legal experts have raised the potential for challenges to these laws, including constitutionally and future compensatory actions. The human costs are incalculable.

More Cruel, Inhumane and Degrading Experiences

Mandatory sentencing is shown to disproportionately affect the most marginalised.[8] Children who progress deeper in the justice system are more likely to have experienced abuse and neglect, have mental health problems and be developmentally delayed.[9] A 13-year-old child who suffered from foetal alcohol syndrome and attention deficit hyperactivity disorder who spent 139 days in juvenile detention, was confined in his cell for 20 hours or more on 78 of those days and on a further 10 days, he was held in his cell for 24 hours a day.[10]

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[2] Queensland Government (2024). Statement of Compatibility: Making Queensland Safer Bill 2024 (p. 6).
[3] Queensland Government (2024). Statement of Compatibility: Making Queensland Safer Bill 2024 (p. 4).
[4] ROGS (2023). Table 17A.21
[5] Ibid.
[6] **https://www.abc.net.au/news/2024-10-13/criminologists-debunk-youth-crime-crisis-claims/104445432?utm_campaign=abc_news_web&utm_content=link&utm_medium=content_shared&utm_source=abc_news_web**
[7] ROGS (2023). Table 17A.21
[8] Cumaraswamy, Dato' Param "Mandatory sentencing: the individual and social costs" Australian Journal of Human Rights, Dec 2011, 7(2); Ward, A. "Mandatory sentencing and the emergence of regional systems for the protection of human rights", Dec 2011, Australian Journal of Human Rights, 7(2)
[9] Cashmore, J. 2011. *The link between child maltreatment and adolescent offending: Systems neglect of adolescents,* Australian Institute of Family Studies available from: https://aifs.gov.au/sites/default/files/fm89d_0.pdf
[10] CC – AR (2022-2023), p. 2-3.

The UN's Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, found that isolation will exacerbate any existing mental health conditions.[11]

Further I note the public statement from the Chair of the UNCRC Committee, Ann Skelton in relation to proposed changes. She expressed deep concern regarding mandatory minimum sentencing and stated the suite of measures demonstrated a flagrant disregard for children's rights.

Less safety

I am concerned about the haste with which these laws have been progressed given their seriousness. It is a curious decision to set forth laws for greater safety while simultaneously *making amendments to remove the ability of the Children's Court to make an exclusion order even in circumstances where there may be a risk to the safety of a person or where it may prejudice the proper administration of justice*.[12] That the government has rushed this Bill based on their knowing that it will lead to greater levels of incarceration, in the face of a detention system struggling with capacity borders on reckless. This is in the face of unanimous expert consensus that youth crime in Queensland has been declining since 2008.[13] I hold grave concerns that will lead to more preventable deaths as the result of children experiencing cruel, inhumane or degrading treatment in Queensland youth detention centres.[14] [15]

I continue to advocate for a holistic and collaborative approach to youth justice that focuses on early intervention and family support, addresses the key risk factors for youth offending behaviours and recognises that for many children and young people they themselves are victims - they experience higher rates of domestic and family violence and higher rates of abuse and subsequent removal by child protection. A youth justice response will not address those risk factors and therefore not reduce youth offending.

More victims

I am extremely concerned about the impact of Legislative amendments and policing policies on the sharp increases in the number of victims. There has been increased numbers of victims with the average number of proven offences per young person rising from 7.8 (2019) to14.1 (2023-24).[16] The QHRCs submission to

[11] United Nations, 2011, *Interim report of the Special Rapporteur of the Human Rights Council of torture and other cruel, inhuman or degrading treatment or punishment*, available from https://digitallibrary.un.org/record/710177?ln=en#record-files-collapse-header

[12] Queensland Government (2024). Statement of Compatibility: Making Queensland Safer Bill 2024 p. 12

[13] **https://www.abc.net.au/news/2024-10-13/criminologists-debunk-youth-crime-crisis-claims/104445432?utm_campaign=abc_news_web&utm_content=link&utm_medium=content_shared&utm_source=abc_news_web**

[14] QFCC Child Death Review Board: Annual Report 2022-2023 (p. 22).

[15] **https://www.abc.net.au/news/2024-03-15/youth-detention-child-death-review-board-queensland-preventable/103589782?utm_campaign=abc_news_web&utm_content=link&utm_medium=content_shared&utm_source=abc_news_web**

[16] Queensland Government (2024). Statement of Compatibility: Making Queensland Safer Bill 2024 (p. 2). The statement makes the assertion that offences per unique offender are sounds indicator for number of victims.

Senate Legal and Constitutional Affairs Committee (2024) provides an informative timeline demonstrating how legislative, and policy implementation in Queensland has been closely correlated with increasing victim numbers (proven offences per young person):

- 10 March 2020: five-point plan announced to crack down on youth crime, including tougher action on bail, a 'police blitz' on bail, and more resources to appeal court decisions.[17]
- 30 April 2021: legislative amendments introduced a presumption against bail for youth offenders for certain offences.[18]
- 22 March 2023: legislative amendments to make breach of bail an offence and establish a new serious repeat offender regime, which override the application of the Human Rights Act until 22 March 2028.[19]
- 20 May 2023: a joint Department of Youth Justice and Queensland Police Service initiative, Taskforce Guardian was launched, in which 'rapid response teams' are deployed to 'youth crime hot spots.[20]
- Queensland Police Service announces 100th deployment of *Taskforce Guardian*, and reports that, over the course of 103 deployments across Queensland, 2093 children have been charged with 6167 offences and 980 children have been diverted from the youth justice system.[21]

Data provided to QFCC by Queensland Police shows that the 3 offence types with the greatest average number of offences per unique young person charged by TFG over the most recent 12-month period were:

1. Juvenile breach of bail – 3.6
2. Bail Act (breach) / fail to appear 2.2
3. Offender Management Warrant/s – 2

The vast majority of the increase in victims as indicated by the rise in offences per young person are for offences against the Crown. Young people continue to experience vastly more harsh treatment at the hands of the law than adults. This is leading to significant criminalisation of children and is likely to have the adverse effect of increasing offending behaviour.

More pathways

For too many children contact with the child protection system is the precursor to youth justice. So many of these children have never had their rights respected or their needs met. Recent data shows that for all

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[17] Anastasia Palaszczuk, Mark Ryan and Di Farmer, 'Hard Line on Youth Crime' (Joint Statement, Queensland Government, 10 March 2020).

[18] Amendments to the *Youth Justice Act 1992* (Qld) by the *Youth Justice and Other Legislation Amendment Act 2021* (Qld).

[19] Amendments to s 29 of the *Bail Act 1980* (Qld) and ss 150A, 150B of the *Youth Justice Act 1992* (Qld) by the *Strengthening Community Safety Act 2023* (Qld).

[20] The Honourable Di Farmer, 'First of five new 24/7 Co-responder teams rolled out' (Media Release, 20 May 2023) <https://statements.qld.gov.au/statements/97762>.

[21] Queensland Police Force, 'Taskforce Guardian marks 100th deployment' (Press Release, 15 October 2024) < https://mypolice.qld.gov.au/news/2024/10/15/taskforce-guardian-marks-100th-deployment/>.

young people under youth justice supervision in 2022-23, Queensland had the highest number (n=1,863) in the nation, and the second highest proportion (72.9%) in the nation of children who had previous contact with the child protection system in the 10 years between 1 July 2013 to 30 June 2023.[22] For children aged 10-13, Queensland had the highest number (n=686) nationally of children under youth justice supervision in 2022-23 who had prior interactions with the child protection system in the 10 years between 1 July 2013 to 30 June 2023. This highlights the importance of early intervention - both early in life and early in the pathway.

There is clear pipeline between child safety and the youth justice system. While children on a child protection order are under the guardianship of the government, they still often miss out on care and support, especially mental health, and education.

More racism; less voice

Aboriginal and Torres Strait Islander children continue to be disproportionately affected in this regard. Of young people 10-13 years, Queensland has more First Nations children aged 10-13 (n=539) under youth justice supervision that had prior contact with the child protection system, than the entire country had of non-Indigenous 10–13-year-olds (n=498) under youth justice supervision who had prior contact with the child protection system.[23] The impact of systemic racism on the over-representation of Aboriginal and Torres Strait Islander children was a central finding in Victoria's Yoorook Justice Commission's examination into the historical and current systemic injustices in the child protection and criminal justice systems.[24] There are no reasons to suggest the context for Queensland is any different. The amendments will have a greater impact on Aboriginal and Torres Strait Islander children, who are already disproportionately represented in the criminal justice system. To be clear, any systemic interventions that have inequality in effects, impacts or outcomes are discriminatory, regardless of their motivations or intentions.[25]

"Laws, policies and decisions are made and administered by people: from Ministers and senior public servants creating the laws and policies through to the public servants, police officers and others implementing them. All, in their respective roles, have the power and responsibility to address systemic injustice. They have human and cultural rights obligations to do so".[26]

This Bill is yet further evidence of the ongoing failure to deal with structural racism in Queensland. The past is present in this new Bill which maintains the unbroken line between colonisation and the disproportionately negative impact government-led systems have on Aboriginal and Torres Strait Islander Peoples. **Self-determination** for Aboriginal and Torres Strait Islander Peoples to create and reinstate

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[22] QFCC 2024. AIHW data report key findings.
[23] Ibid.
[24] Yoorook Justice Commission (2023). Report into Victoria's Child Protection and Criminal Justice System (p. 15).
[25] Commonwealth of Australia (2010). Working Together: Aboriginal and Torres Strait Islander Mental Health and Wellbeing Principles and Practice. Purdie, Dudgeon and Walker (Eds.) p.82
[26] Yoorook Justice Commission (2023). Report into Victoria's Child Protection and Criminal Justice System (p. 15).

communities of care and cultural authority marks a key point of difference between the system that exists and the system that is required.

Reduced wellbeing

The failure to address domestic and family violence within family and community settings are key contributors to youth offending behaviour. We know that the more adverse childhood experiences, and maltreatment in adolescence, the greater the likelihood of participation in youth offending.

The ground-breaking 'Banksia Hill study' (2018) found that 9 out of 10 children in Western Australia's Banksia Hill youth detention centre had severe neurodevelopmental impairment. These included problems with executive function, self-regulation, memory, cognition, attention and social skills.[27] There is no reason to expect the data for Queensland children in youth detention would be significantly different. An analysis of "adverse childhood experiences" and trauma among young people under youth justice supervision in South Australia (2022) also found 9 in 10 experienced a combination of maltreatment and household dysfunction.[28] For a small number of children, committing crimes and being arrested are a direct result of living with these impairments.

In Queensland it is reported that 33 percent of children in the youth justice system (including community-based supervision and youth detention) have a suspected or diagnosed mental health or behavioural disorder and 27 percent a suspected or diagnosed disability.[29] Currently in Queensland there is no way for children in the youth justice system who have been diagnosed with an intellectual impairment or developmental delay to be exited from the criminal system into health or disability support. Children with developmental disorders, or disabilities should not be in the youth justice system at all.

Less education

Disengagement from education and low educational attainment are further risk factors for youth offending behaviour. Despite a focus on youth disengagement, the education system is still failing to provide educational opportunities for all children, including First Nations children (retention rates from Year 7 to Year 12 is only 63 percent) and those in out-of-home care (child protection). These failures are evident in

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[27] Bower C., Watkins R., Mutch R., et al, 2018, *Prevalence of Foetal Alcohol Spectrum Disorder Among Young People in Youth Detention in Western Australia,* Telethon Kids Institute, available from https://www.telethonkids.org.au/news--events/news-and-events-nav/2018/february/young-people-in-detention-neuro-disability/

[28] Malvaso C., Day A., Cale J, et al, 2022, *Adverse childhood experiences and trauma among young people in the youth justice system*, Australian Institute of Criminology, available from https://www.aic.gov.au/sites/default/files/2022-06/ti651_adverse_childhood_experiences_and_trauma_among_young-people.pdf

[29] Department of Youth Justice, 2022, *Youth Justice census summary*, available from https://desbt.qld.gov.au/__data/assets/pdf_file/0022/17086/census-summary-statewide.pdf

Queensland, with 48 percent of those in youth justice system, totally disengaged from education, training, or employment.[30]

We know that for many of the children in the youth justice system, they have had or are experiencing multiple and compounding factors, which a juvenile justice response will not address, nor will youth justice responses prevent contact with the system and reduce further escalation.

An emphasis on addressing root causes before involvement in the justice system is key to achieving long term decline in youth crime. The solutions and responsibilities for promoting and protecting the rights of children, young people and victims and the safety of communities exists largely outside of the youth justice portfolio and the formal criminal justice system.

Urgent need for strengthened oversight

The previous government frequently referenced that youth detention centres in Queensland have a broad range of oversight. This includes actions taken to review and monitor youth detention and youth detention centres, including policies to make sure they are compliant with laws, regulations and ethical standards.

Internal oversight takes place separately and outside of everyday youth detention operations and includes:

- internal audit
- internal practice and improvement reviews
- operational performance reviews
- professional standards
- Youth Detention Team visits which involve:
    - quarterly visits; and
    - inspection report with independent assessments on (I) the security and management of detention centres and (II) the safety, custody and well-being of young people.

Eight agencies are currently involved in oversighting different aspects of a child's experience in the criminal justice system:

- Crime and Corruption Commission
- Inspector of Detention Services
- Office of the Public Guardian
- Queensland Audit Office

[30] Youth Justice (2023-24). Pocket Stats.

- Queensland Family and Child Commission
- Queensland Human Rights Commission
- Queensland Ombudsman
- United Nations Subcommittee on the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Civil society and human rights organisations have provided clear, consistent, evidence based and unequivocal advice on the proposed measures in the *Making Queensland Safer Bill 2024*. The measures are discriminatory and over-criminalise children. The measures will exacerbate the existing overrepresentation of First Nations children in detention, disregard children's developmental rights, erode procedural safeguards, fail to address the root causes of crime and will not result in increased community safety. Should the Queensland Government proceed with intended changes there must be corresponding and immediate efforts to strengthen and clarify quality oversight to protect the rights of children in detention.