

Making Queensland Safer Bill 2024

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Inquiry into the Making Queensland Safer Bill 2024

Introduction

The Queensland Mental Health Commission (Commission) is an independent statutory agency established under the *Queensland Mental Health Commission Act 2013* to drive ongoing reform towards a more integrated, evidence-based, and recovery-orientated mental health, alcohol and other drugs (AOD) and suicide prevention system in Queensland.

A primary function of the Commission is to develop a whole-of-government strategic plan to improve the mental health and wellbeing of Queenslanders. The current strategic plan is *Shifting minds: The Queensland Mental Health, Alcohol and Other Drugs, and Suicide Prevention Strategic Plan 2023-2028 (Shifting minds)*. *Shifting minds* is complemented by three whole-of-government sub-plans:

- *Achieving balance: The Queensland Alcohol and Other Drugs Plan 2022-2027 (Achieving balance)*
- *Every life: The Queensland Suicide Prevention Plan 2019-2029 (Every life)*.
- *Queensland Trauma Strategy 2024-2029 (Trauma Strategy)*.

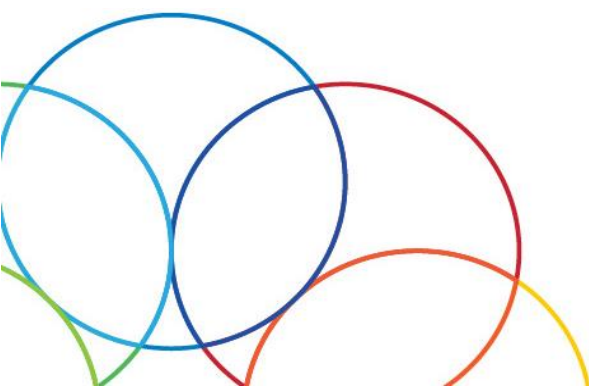
The Commission notes some proposals within in the Making Queensland Safer Bill 2024 (the Bill) that amend the *Youth Justice Act 1992* and the *Childrens Court Act 1992* will make these Acts inconsistent with the Queensland *Human Rights Act 2019* and the United Nations Convention on the Rights of the Child. For example:

- the introduction of ‘adult crime, adult time’;
- the removal of the principle of detention as a last resort and that a non-custodial order is better than detention in promoting a child’s ability to reintegrate into the community; and
- enabling media to be present during criminal proceedings by omitting the ability of a court to make an exclusion order under section 20(2).

It is noted the short timeframe for consultation on the Bill may lead to unintended consequences. The implementation of the Bill would benefit from more fulsome consideration of the human rights implications and the evidence base for what works to rehabilitate children and young people involved in the criminal justice system and support victims of crime.

Many children and young people in the criminal justice system are themselves victims of crime though they are more commonly impacted by crimes that occur in the home, including domestic, family and/or sexual violence, and other forms of abuse and neglect. They are, therefore, less likely to be reported to authorities and go formally unreported and unrecognised leaving lasting undressed trauma. The Commission recommends an approach that provides greater support to young victims of crime who are involved in the criminal justice system. Addressing childhood trauma early will reduce the likelihood of future involvement of these children and young people in the criminal justice, and associated costs within human services system.

Given the short timeframe, this submission is not intended to be a comprehensive response to full scope of the Inquiry’s consideration of the Bill.



The importance of community safety

The Commission supports the intent of the Bill in promoting and enhancing community safety in Queensland. All Queenslanders have a right to be safe in their homes, schools, workplaces and communities. The most effective approaches to enhancing community safety are a combination of strategies. The Bill does not align with current evidence. It may result in unintended consequences resulting in longitudinal harm. A 2024 systematic reviewⁱ into the impact of incarcerating young people found:

- Harsher sentences have little to no effect on deterring youth crime.
- While incarceration temporarily prevents individual crimes in the community, it often increases the likelihood of reoffending, leading to high rates of recidivism.
- Policies focused on punishment rather than rehabilitation can undermine long-term community safety.

The evidence suggests that young people who commit offences have high rates of trauma. A recent 2022 study by the Australian Institute of Criminology highlights the extremely high prevalence of adverse childhood experiences (ACEs) in young people under youth justice supervisionⁱⁱ. The study found an estimated 89 per cent of young people under supervision experienced a combination of childhood maltreatment and household dysfunction. The study notes that:

“developmentally focused and trauma-informed approaches may offer the greatest promise in assisting young people and keeping the community safe from crime”.

In addition to experiences of trauma, young people’s neurological development, combined with social and environmental influences, plays a significant role in offending behaviours. Young people often commit crimes impulsively, influenced by peer pressure, challenging circumstances, and/or limited decision-making capacity. Consequently, at the time of offending, it is highly unlikely that a young person considers the implications of harsher sentencing. This developmental reality further diminishes the deterrent effect of punitive approaches such as harsher sentencing or the public identification of young people who offend.

The evidence is clear that community safety is enhanced by interventions that address the root causes of youth offending such as those that prioritise rehabilitation, education, and support, rather than punitive measures. To enhance community safety, it is essential to implement and sustain a range of evidence-based initiatives that cater to diverse needs and challenges. This includes:

- developmentally appropriate community-based programs and services
- restorative justice approaches
- cross system collaboration
- public health interventions
- effective, community focused policing that moves from enforcement to a community engagement approach.

There is also a need to prevent trauma before it occurs and support families to keep children and young people safe. The *Queensland Trauma Strategy 2024-2029*ⁱⁱⁱ recognises trauma as a critical determinant of safety, health, and wellbeing and highlights the importance of trauma informed approaches across government, including the justice system. The *Trauma Strategy* emphasises the importance of providing early support, prevention and early intervention for people who have experienced traumatic events encompassing both children and adults. Childhood trauma, particularly when prolonged and without support, can affect the development of biological systems, disrupt a child’s bond with their primary caregiver, impair cognitive and language development, delay learning and skill acquisition, and affect the ability to form relationships and regulate emotions. These early disruptions often have lasting consequences, increasing the risk of involvement with the justice system later in life.

The *Trauma Strategy* highlights that many young people who come into contact with the justice system have undiagnosed neurodevelopmental disorders and have experienced severe child maltreatment making them victims of crime. The system’s response to these young people will either facilitate or hinder community safety efforts in the long-term.

The Commission cautions against the proposal to allow media to be present during criminal proceedings by omitting the ability of a court to make an exclusion order due to the impacts on accused children, young people and their families in terms of privacy and stigmatisation, emotional harm, bullying, harassment and public backlash/vigilantism, and upholding rights to fairness in the justice process.

The Commission recommends the Committee to consider that children in the youth justice system as overwhelmingly themselves, victims of trauma and provide them with commensurate support, alongside evidence-based ways to enhance community safety in line with international obligations and human rights.

Adopting a human rights approach

Evidence overwhelmingly demonstrates that punitive approaches are not effective in reducing crime and, in fact, often increase the likelihood of reoffending. This approach risks entrenching young people in the justice system and perpetuating harm. Additionally prioritising punishment over rehabilitation is not cost effective for the state of Queensland. For example, the former Queensland Productivity Commission's *Inquiry into Imprisonment and Recidivism* (2019) identifies that imprisonment is the most expensive form of punishment, with substantial expenditure on correctional facilities and associated services.^{iv}

The Commission recognises that a human rights approach involves carefully balancing the rights of different individuals and groups. Human rights frameworks encompass protections for both victims of crime and those who commit offences. For example, the *Human Rights Act 2019* provides protections for victims of crime, such as section 29 (1), which ensures the right to liberty and security of person. At the same time, the Act safeguards the rights of children involved with the justice system, such as sections 32 (3) and 33, which provides special protections for children to ensure their treatment is age appropriate and focused on rehabilitation.

Addressing complex issues such as youth offending, including serious crimes, must balance the voices of those affected and those who offend. Restorative justice refers to a range of evidence-based approaches designed to repair the harm caused by offenders and address the needs of victims.^v These approaches focus on accountability and have been shown to enhance victim perceptions of procedural fairness, satisfaction, and accountability for people who offend.

While incarceration may remain necessary in certain circumstances (e.g. due to the severity of the crime/risk to community safety), it should remain consistent with human rights and still incorporate elements, such as restorative justice, to address the underlying causes of offending to reduce recidivism and enhance community safety long-term.

As noted by Ackerman, Magram, and Kennedy in their systemic review:

‘ . . . there is a critical need for policies that reduce reliance on incarceration and emphasize community-based alternatives that promote positive youth development.’^{vi}

The United Nations *Convention on the Rights of the Child* Article 37 (b) states:

‘No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.’

The *Human Rights Act 2019* provides a framework for evaluating the impact of a decision or policy on a person's human rights, including the rights of children. Placing the needs of children and their families at the centre of decision-making has been shown to reduce offending and maximise rehabilitation when offending does occur.

Human rights law emphasises the importance of children remaining with their families and their rights to safety, access to health services, education, support for disability, and a stable living environment. These are recognised as protective factors against offending. By safeguarding these rights and address the social, cultural, structural, and historical determinants of health that contribute to offending, it will reduce crime and in turn enhance community safety.

A human rights approach:

- aligns with state, national, and international legal obligations
- is ethically sound
- is consistent with research evidence; and
- will contribute to long-term community safety.

First Nations children and young people involved in the justice system

The Bill is at odds with commitments to reduce the incarceration rates of Aboriginal and Torres Strait Islander children under the Closing the Gap agreement. Aboriginal and Torres Strait Islander peoples are disproportionately represented across adult and youth justice systems. Aboriginal and Torres Strait Islander children and young people are significantly overrepresented in Queensland's justice system because of ongoing systemic failures that disadvantage First Nations peoples. The Queensland Family and Child Commission's submission to the Strengthening Community Safety Bill 2023 identified this as one of 9 action areas which must be addressed^{vii}.

For example, the justice system has contact with Aboriginal and Torres Strait Islander children and young people an average of 5.5 years earlier than non-Indigenous young people,^{viii} largely due to First Nations peoples being more likely to experience institutional and systemic disadvantage in the context of ongoing racism and disconnection from community, language, culture, land, sea, and country.

The Commission considers consultation and co-design with local First Nations communities and peoples as a vital component to the success and impact of future policy, initiatives, and planning with respect to youth justice reform. Culturally appropriate early intervention initiatives and programs should be developed to support families and young people who are at risk to reduce the likelihood of First Nations children and young people entering the justice system. Such initiatives and programs should build on existing strengths in Aboriginal and Torres Strait Islander communities and be grounded in strong connection to community, family, culture, and country.

Future supports and services for First Nations peoples and communities should include principles of self-determination and cultural safety and should be developed to respond to intergenerational trauma and the impacts of colonisation. Solutions to reduce the rates of First Nations children and young people within the youth justice system requires a broader systems response, which incorporates social and emotional wellbeing as a framework to achieve holistic wellness in families and communities. First Nations peoples including elders, people with a lived experience, and children play a vital role in achieving this goal and should be included in all aspects of the discussion and design of any response to ensure its success.

For Aboriginal and Torres Strait Islander children and young people held in youth detention, there must be fair and equitable access to services, activities, and facilities, including services specifically related to their cultural identity, consistent with the *Inspection standards for Queensland youth detention centres*.^{ix}

Prioritise evidence-based prevention, early intervention, and diversion from the justice system

The Commission supports the Queensland Government's intention to implement a 'Gold Standard Early Intervention and effective rehabilitation' approach. The Commission would welcome the opportunity to support the Queensland Government in developing an approach that is informed by the evidence of what works to support children and young people involved in the criminal justice system, who, as mentioned, are overwhelmingly impacted by trauma. The Commission also welcomes the opportunity to support the Queensland Government agencies that will be responsible for implementing this approach.

Shifting minds, Achieving balance, Every life, and the *Trauma Strategy* collectively emphasise the importance of prevention and early intervention in addressing the needs of young people involved with the justice system. Research shows that children and young people involved with the justice system often experience a range of concurrent issues such as homelessness, poverty, neglect, and domestic and family violence. Moreover, there is significant crossover between children involved in Queensland's child protection and youth justice systems.^x

Children and young people involved in the justice system have significantly higher rates of mental ill-health, substance use, suicidality, and cognitive disability when compared to general youth populations.^{xi} In particular, as noted above, children and young people in youth detention present with complex needs and are more likely to have experienced childhood adversity and trauma.^{xii} Research suggests around 80 per cent of young people in Australian youth justice settings have experienced multiple traumas.^{xiii}

For example, Fetal Alcohol Spectrum Disorder (FASD) is one of the most prevalent neurodevelopmental disorders globally. FASD is caused by prenatal alcohol exposure and is considered a diffuse acquired brain injury, with impacts on physical health, mental health, substance use, and increased vulnerability to involvement in the criminal justice system. It disproportionately affects children in out-of-home care, incarcerated populations, and socially disadvantaged communities.

Research conducted at Banksia Hill Youth Detention Centre in Western Australia highlighted the prevalence of FASD in justice-involved young people, finding that 36% of detainees were diagnosed with the disorder and 89% having “at least one domain of severe neurological impairment”.^{xiv} Early diagnosis and intervention can significantly improve health, developmental, and social outcomes for children involved with the justice system.

The Commission, in partnership with Griffith University, is delivering a \$1.6 million pilot to expand early diagnosis and support for FASD. This initiative will enable community-based providers—spanning early learning, education, child safety, and youth justice—to complete several stages of FASD assessment, reducing the burden on specialists such as paediatricians. By decentralising the process, this approach aims to reduce wait times and increase accessibility, especially in rural and remote areas of Queensland. There is a clearly demonstrated need for preventative and early responses that are holistic, integrated, and coordinated. This includes responses that reduce social and economic disadvantage, maintain and support engagement in education, training, and employment, and provide opportunities for social participation.

In 2015, the Australian Research Alliance for Children and Youth conducted a review of the literature on early intervention and prevention. Notably, the review found:

‘Effective prevention and early intervention is possibly the most promising strategy for changing the trajectories of children. There is clear evidence that children’s life chances are influenced by their families and communities and that they are able to be changed for the better. Improving the wellbeing of children, young people and families at population-level requires flexible and responsive systems that are equipped to deliver preventive interventions and respond effectively early to emerging issues and challenges.’^{xv}

Prevention commences with ensuring children and young people receive the optimal start in life and that they are raised in loving, supportive environments where their physical, emotional, and social needs are met.^{xvi} A child’s social and physical environment, including before conception, are key determinants of mental health and wellbeing throughout life.^{xvii} In particular, the first 2,000 days of a child’s life provide a critical window of opportunity to positively influence their developmental trajectory and build foundations for the future.^{xviii} In order for children and young people to reach their full potential, they require access to quality health care and nutrition, protection from risk and harm, a sense of security and attachment, positive and nurturing family environments, responsive caregiving, and opportunities for early learning.^{xix}

Research consistently shows that the earlier a child comes into contact with the justice system, the more prolonged their involvement is likely to be, highlighting the importance of preventing and, at minimum, reducing involvement as much as possible.^{xx} Early childhood and family support systems should be in place to meet the diverse needs of various groups and communities, underpinned by a skilled and adequately resourced workforce to provide developmentally appropriate, trauma-informed, and culturally responsive support, care, and treatment for children, young people, and their families.

Effective early intervention, prevention, and diversion requires a combination of cross-sectoral short, medium, and long-term approaches. Improving public safety and addressing the complex causes of youth offending also requires a consistent and concerted effort to change over a long period of time.^{xxi}

The current system is largely crisis orientated and geared toward late intervention. Community-based services are often funded with short-term contracts and inadequate investment, which impedes the delivery of tailored and quality services. There is a need to invest in and fund initiatives over a sufficient period to ensure they are appropriately designed, implemented, improved, and outcomes are effectively evaluated. This requires well planned and coordinated investment, long-term commitments over successive governments, and managing public expectations about the length of time required to see meaningful outcomes.

Over the last 12 months the Commission has been exploring the suitability of piloting and evaluating Multisystemic Therapy (MST) in Queensland. MST is an intensive, holistic, home-based and client-centred family therapeutic intervention to address complex emotional and behavioural problems in children and young people. It is primarily focussed on supporting families of children with conduct disorders or behavioural issues and works by supporting the family unit as a whole. MST focusses on supporting parents to support their children so that they have the right tools to manage any behavioural or other challenges, and also working with schools and key positive social supports. It is an intensive model that works closely with families who are experiencing challenges to equip them with the right supports to parent their children effectively. It has a strong evidence base and has proved very effective in other jurisdictions.

The Commission has been drafting a review of MST in Queensland and working with interjurisdictional experts as well as other Queensland Government departments on whether there are opportunities to pilot and evaluate an MST model in Queensland. MST has been piloted in Queensland previously, though there were challenges in the implementation of these pilots that impacted on the evaluations. There has historically been reluctance in Queensland to revisit MST as a model given it is intensive, expensive and client, rather than clinician or service, focussed.

A most recent pilot in Queensland implemented by Life Without Barriers via a social benefit bond was delivered to a cohort of young people who averaged 35 criminal charges over the 18 months prior to the referral. The outcomes of the pilot identified a 92 per cent reduction in detention nights achieved in Queensland for the young people who were engaged in the program, as well as a 43 per cent reduction in offending, and an 18 per cent reduction in the proportion who seriously offended.^{xxii} The Commission understands that this was a small program with limited funding and issues in its implementation (primarily related to large numbers of referrals for families that did not suit the program eligibility that skewed the results). Despite these issues the results were still positive and there is opportunity to deliver a proper pilot and evaluation of MST in Queensland to expand these outcomes and identify opportunities to achieve better outcomes in terms of reduced offending and also improved family functioning, decreased substance use, and few mental health problems for these young people over time.

The Commission's review has identified that, given the strong evidence for the model, a possible pilot and evaluation in the context of the child protection or youth justice system would be beneficial in addressing the need to intervene with children, young people and their families before they reach a point where they are entrenched in the child protection or youth justice system, or needing to access acute mental health services. This will not only address system needs but will improve short- and long-term outcomes for children, young people and their families as well as future victims of crime.

Conduct disorders without effective interventions could be predictors of poor adult outcomes, problematic drug use, contact with the justice system, unemployment and other long-term adult difficulties.^{xxiii} Domestic and family violence perpetration and victimisation were also found to be predicted by early childhood and adolescents' factors.^{xxiv} Most of these difficulties have high costs on taxpayers and reduced outcomes when interventions are delivered at a later stage.

The cost of MST per young person in comparison with less intensive therapies can be viewed as expensive. However, this cost can result in a significant reduction in justice system costs^{xxv} and suicide-related hospitalisations.^{xxvi} Additionally, taking into consideration the improved mental health and wellbeing outcomes into adulthood would justify the costs associated.^{xxvii} At worst case scenario, the overall short-term costs on taxpayers would be a "break-even" and there would be significant savings in the long-term and MST would be considered cost-beneficial program.^{xxviii}

The Commission is continuing to progress its review of MST and opportunities to pilot the model in Queensland, though this has been primarily aimed at supporting those in the child protection system as this department expressed an early willingness to partner with the Commission on this work. The Commission would welcome the Committee's support in exploring further opportunities to partner with other government departments to pilot and evaluate an MST model in Queensland.

CASE STUDY

The family profile:

Laura was referred to the WA MST team from a school psychologist who was concerned about her two young sons (aged 13 and 14). The brothers had been attending school sporadically over the previous four weeks. The psychologist mentioned that the older brother had been involved in incidents of bullying and asking other students for money, allegedly to buy food for himself and his younger brother. With no direct contact information available, the only lead was the family's vehicle registration.

The MST clinician, already familiar with the school, reached out to the psychologist for further information. The clinician then successfully located the family, who had been living in their car at local parks after leaving a situation of escalating domestic and family violence in their rural hometown, 200 km from Perth. Laura explained that she left her previous residence due to safety concerns and initially sought refuge with extended family in the city. However, this arrangement broke down due to conflicts between her children and the relatives' children.

Laura also expressed concern over her sons' behaviour, specifically their involvement in stealing money from her and using it to purchase solvents from a local hardware store, which they were sniffing. Additionally, the older boy

had been demanding money from other children. The family's unstable living situation and financial insecurity contributed to these issues.

The result:

The MST clinician worked closely with Laura to address immediate needs. These included:

- Helping her secure a debit card from a local bank, ensuring her financial allowance was protected from being taken by the boys.
- A temporary refuge was arranged for the family, providing them with a more stable living environment.
- Assisting Laura in managing the issue around her son's solvent use.
- In collaboration with the school, the clinician organised transport for the brothers from the refuge and supported Laura in seeking long-term social housing.

Because of the MST program:

- The brothers participated in after-school sports and activities and attend school regularly
- The hardware store reported a significant decline in solvent-related incidents.
- Laura feels more connected to her sons and has gained confidence to appropriately manage their behaviour.
- A follow-up six months after the intervention revealed continued positive outcomes.
- The brothers remained engaged in school and extracurricular activities, and the family had successfully reintegrated with their extended relatives, with no further conflicts reported.

(The WA MST team has shared this de-identified case study and with permission from the family involved)

The return on investment for prevention and early intervention is likely to be significantly greater than current reactionary responses, which are both more challenging and expensive to resolve. Getting it right in the early years reduces downstream expenditure on mental ill-health, problematic AOD use, remedial education, welfare reciprocity,^{xxix} and the risks of children and young people becoming enmeshed in the criminal justice system. Expenditure on late intervention and crisis responses, such as youth detention, are not sustainable and result in poorer outcomes for children, young people, their families, and the community.^{xxx}

Conclusion

The Making Queensland Safer Bill 2024 has the potential to shape the future of youth justice in Queensland and have life-altering negative impacts on children and young people. While community safety is a vital goal, it is crucial to ensure that legislative changes prioritise evidence-based practices, rehabilitation, and compliance with human rights standards. By adopting a balanced approach, the Bill can achieve its objectives while supporting the long-term wellbeing of both offenders and victims.

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