

Making Queensland Safer Bill 2024

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Committee Secretary
Justice, Integrity and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

Via online form: JICSC@parliament.qld.gov.au

Dear Committee Secretary,

Thank you for the opportunity to provide a submission to the Justice, Integrity and Community Safety Committee's examination of the Making Queensland Safer Bill 2024 (the Bill).

Relevant to this Bill, OPG is an independent statutory office performing functions under the *Public Guardian Act 2014* to promote and protect the rights and interests of children staying at visitable sites, including youth detention centres and police watch houses. OPG recognises that the rights and best interests of all children are paramount and must be a primary consideration in all actions concerning them. This includes their fundamental human rights under the *Human Rights Act 2019* and the United Nations Convention on the Rights of the Child. It is important to emphasise the increased impacts on First Nations children, given they are disproportionately represented in the youth justice system. OPG's role in the Queensland youth justice system is to work alongside other oversight agencies to provide independent monitoring and oversight through individual child advocacy and community visiting. Community Visitors listen to the children they visit with, educate them about their rights and facilitate the raising of complaints by them about the systems they interact with. OPG is the only government oversight body that provides individual advocacy to children detained in police watch houses and youth detention centres, including those on remand.

OPG holds concerns for children coming into contact with the youth justice system, should the provisions in this Bill commence. In OPG's experience, a significant proportion of children who engage with the youth justice system have a range of often prejudicial circumstances, which means they have unmet complex needs that manifest in offending behaviour. This is further exacerbated for children with neurodevelopmental disorders, who have commonly experienced multiple system failures in the health, education, child protection and justice systems in identifying and responding to their needs and intervening before the child participates in criminal offending. If these complex needs continue to be unidentified and unmet after the child is released from detention, the manifestation through offending behaviour is also highly likely to persist.

OPG is concerned about the Bill's removal of detention as a last resort and the creation of a sentencing framework of 'adult crime, adult time' for children. OPG notes that section 9(2)(a) of the *Penalties and Sentences Act 1992* is not proposed to be amended, which maintains the principle of imprisonment as a last resort for adults. This discrepancy between the child and adult sentencing frameworks could be seen as discriminatory toward children.

OPG anticipates that the amendments in this Bill will contribute to an increased number of children detained in both watch houses and youth detention centres. The Department of Youth Justice and Victim Support has advised that the additional bed capacity expected with the commissioning of the Wacol Remand Centre will not occur until April 2025. The proposals in the Bill will exacerbate existing

capacity demands and worsen overcrowding in youth detention centres and watch houses. OPG is recording increased numbers of children detained in police watchhouses and for prolonged periods. For the period 1 January 2024 to 30 June 2024, which directly follows reduced court capacity over the holiday period, there were an average of 61.3 children daily in a watchhouse. These children were held in a watchhouse for an average of 5.2 days.

Across 2023-24 there was a 76% increase in the number of rights and interest issues raised by Community Visitors on behalf of children detained in watch houses. Predominantly, the issues raised by children in watch houses related to lack of access to appropriate services while in a watch house, overcrowding and staff conduct. The most common issue raised in 2023-24 was the excessive lengths of stay of children in police watch houses.

Across the same period, the number of issues raised by Community Visitors on behalf of children in a youth detention centre increased by 33%. The most common types of issues were about concerns regarding the approach and conduct of staff within centres in addressing incidents and unmet complex needs, along with security at the detention centre (25%), the reintegration of children back into the community once their detention ends (16%), the high-risk behaviours of other detainees (15%), the programs and services (including therapeutic services) available to children (15%), and the living conditions at the detention centre (9%). Ongoing staff shortages in the youth detention centres have also led to an increase in prolonged isolation due to time spent locked in cells, which is particularly concerning for children's development and mental health and undermines any progress towards rehabilitation.

The issues and complaints raised by Community Visitors on behalf of children evidence the infrastructure, staffing and operational issues in watch houses and youth detention centres that already impede on a child's successful rehabilitation and re-integration back into the community upon release. The amendments contained in the Bill will exacerbate these known issues and in turn, the intended purpose of this Bill, namely the long-term safety of the community, is therefore unlikely to be achieved.

The Public Guardian's primary objective - to promote and protect the rights and interests of children in out of home care, police watchhouses, youth detention centres and authorised mental health services - is significantly fettered when those very rights and interests are expressly overridden by legislation in certain settings. It erodes the confidence that children have in Queensland's oversight system, as the raising of complaints to formally address rights infringements can have little effect as there are no options for resolution or improvement.

Youth offending is a complex and nuanced issue that requires a long-term, integrated multi-service system response to address underlying drivers, to ensure a preventative approach rather than responding after offending has already occurred. This includes addressing the deficiencies in existing systems including education, child protection, health, disability, and housing. OPG is concerned the Bill takes a unilateral approach which may result in long-term detriment to the safety and wellbeing of children, families, and ultimately the community.

I trust this information is of assistance. Should you require further information, please contact Ms Kelly Unsworth, Principal Policy Officer, OPG, by email at

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Yours sincerely

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Shayna Smith
Public Guardian