

9th July 2019

Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

By email only: lacsc@parliament.qld.gov.au

Dear Committee Secretary,

Re: Youth Justice and Other Legislation Amendment Bill 2019

Thank you for the opportunity to comment on the *Youth Justice and Other Legislation Amendment Bill 2019* (the **Bill**). The brief submission that follows is reflective of resources available to us and the timeframe provided for the consultation.

ABOUT US

As you may be aware, Youth Affairs Network of Queensland (YANQ), is the peak body representing the youth sector in Queensland. With over 660 members made up of individuals and organisations from across the state, YANQ is the largest collective voice for the youth sector and the marginalised young people. Unfortunately, for the past seven years YANQ has been operating without core funding. This has meant that the youth sector and young people have not had the opportunity to contribute to policy development in any meaningful way.

THE PROCESS

As a state-wide membership based peak body we are, once again, very disappointed in the extremely short timeframe for lodging our feedback to the proposed Youth Justice Legislation changes. The timeframe provided has not allowed us to conduct consultation with the youth sector and for us to share the collective knowledge of the sector. This short consultation period has also prohibited the voices of young people themselves to be included in this process. As such, we do not believe that Government's commitment to "*continuous engagement with young people*" as articulated in the Queensland Youth Strategy and Queensland Government's "*Our Future State: Advancing Queensland's Priorities objectives for the community*" have been adhere to.

We strongly recommend that any future changes to the Youth Justice Legislation incorporates a comprehensive strategy for engaging with marginalised young people who are the key stakeholders. This can be done most appropriately by engaging the youth sector/youth workers who possess the relevant skillset to engage with this specific cohort of young people in a safe and trusting manner and present young people's views in a coherent manner.

THE BILL

YANQ does not support the bill in its current form. We do not believe that the health, wellbeing and safety of young people and more broadly that of the community has been adequately considered and reflected in the Bill. First and foremost, we believe that socio-economic structure and their shortcomings are the root of the issues which the Bill is trying to respond to. Children are a product of our society, they are a mirror that reflect to us the health of our families, communities and society as a whole. As such, responses to children's behavior should be informed and implemented within a social health framework.

Contrary to what is needed and despite all contemporary research/evidence, the Government seems fixated on responding to children's cries for help through the *No Justice Criminal System*. This penal colony mentality has costed our community dearly, wasting not only much of the Government's financial resources but more importantly wasting many lives needlessly. This preoccupation with punishment has also made our community less safe.

It is disingenuous of our politicians and public servants to pitch the community against young people by painting vulnerable children as a threat to "community safety" and passing laws that punish young people for the failing of our social systems.

All children deserve the love and care to flourish and grow up to lead productive lives. For whatever reason when this love and care is not provided by the family it is the responsibility of the community to step in and provide this support. The role of the Government should be to support the families and communities to ensure this love and care is provided to all children in a genuine way.

There is a simple test that could be applied to circumstances involving children's behavior that we find challenging. The test is to ask ourselves what would we do or expect others to do if it was our own child displaying such behaviors. If we find our own child displaying challenging behavior or behavior that is contrary to community/social norms or laws, wouldn't we take responsibility and try spending more quality time with our children and trying to find out what are the underlying factors that are manifesting in such antisocial behaviors? Wouldn't we change whatever we can to support our child to make positive changes? Or would we simply call the police and expect the *No Justice Criminal System* to deal with our child?

Unfortunately, the Bill fails to take to account the responsibilities that we as families, communities and society have towards our children and young people.

Despite the growing calls for the minimum age of criminal responsibility to be raised to at least 14 years, the proposed amendments do not incorporate this highly needed reform. It is an established fact that the earlier a child has contact with the *No Justice Criminal System*, the more likely it is for that child to end up becoming an adult criminal. Despite this information which underpins the Youth Justice Act 1992, little has been done to minimise contact between the children and the *No Justice Criminal System*.

In Part 2 of the Youth Justice Act 1992 there are a number of special provisions about policing and children which clearly states that a police officer must consider appropriate way to proceed. The Act outlines steps that a police officer must consider. However, despite repeated requests by YANQ from the Police and Youth Justice Department, no data has been provided to us that could demonstrated that this section of the Youth Justice Act is being adhered to by police officers. Our understanding is that police do not collect data in a manner that could be of use to evaluate their compliance with this prevision in the Youth Justice Act.

The over policing of Indigenous young people, which no doubt has its roots in racism and the discomfort of community members with people of colour, is also a significant factor contributing to the problems we are facing in the Youth Justice System.

Another significant contributor to the number of children ending up in the *No Justice Criminal System* are schools. The schools are simply abdicating their responsibility to care for our children as evident in the staggering growth of exclusions and suspensions rates (see table below). The nexus between disengagement from school and the *No Justice Criminal System* is very clear but not enough has been done to reform the way schools operate and treat young people. YANQ has undertaken substantial research in this area ([Engaqing Students in Engaqing Schools: Lessons from Queensland’s Alternative Education Sector](#))

Department of Education

Strategy and Performance
Analysis, Evidence, Insight

Released May 2019
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Queensland State Schools

School Disciplinary Absences by region, 2014-18
Count of disciplinary absence incidents

Region	2014					2015					2016					2017					2018				
	Short Suspension (1-10 days)	Long Suspension (11-20 days)	Exclusion	Cancellation	Full-Time Enrolment	Short Suspension (1-10 days)	Long Suspension (11-20 days)	Exclusion	Cancellation	Full-Time Enrolment	Short Suspension (1-10 days)	Long Suspension (11-20 days)	Exclusion	Cancellation	Full-Time Enrolment	Short Suspension (1-10 days)	Long Suspension (11-20 days)	Exclusion	Cancellation	Full-Time Enrolment	Short Suspension (1-10 days)	Long Suspension (11-20 days)	Exclusion	Cancellation	Full-Time Enrolment
Central Queensland	5 338	205	114	150	46 516	5 988	220	113	148	46 427	5 947	269	159	159	46 431	6 252	256	162	122	46 514	7 749	192	131	143	46 576
Darling Downs South West	5 761	195	99	184	41 342	6 238	235	86	161	41 392	6 558	248	118	138	41 460	6 844	276	135	126	41 664	7 280	275	105	121	41 979
Far North Queensland	5 106	241	104	183	34 488	5 397	251	79	149	34 951	5 586	193	77	110	35 193	5 977	265	87	150	35 316	6 145	300	89	122	35 492
Metropolitan	10 388	410	344	453	138 922	11 016	481	305	300	142 382	12 402	516	323	227	147 148	12 957	566	342	200	152 231	15 606	631	455	192	157 231
North Coast	13 772	405	214	407	109 747	15 468	473	231	360	111 034	16 171	512	213	295	113 038	17 478	612	263	301	114 966	18 140	590	249	238	116 454
North Queensland	5 161	299	147	108	33 114	5 512	346	102	125	33 154	5 249	255	108	72	32 870	5 574	303	115	80	32 632	6 583	337	162	66	32 666
South East	12 821	466	503	416	111 370	14 787	586	541	340	113 005	16 059	684	486	274	115 450	15 829	757	511	258	117 828	18 124	861	580	196	120 341
Total	58 347	2 221	1 525	1 901	515 501	64 306	2 592	1 457	1 583	522 345	67 972	2 677	1 484	1 275	531 590	70 911	3 035	1 615	1 237	541 171	79 627	3 186	1 771	1 078	550 739

The use of body worn cameras

There is a need for adequate consultation to ensure privacy issues of young people are taken to account in developing clear guidelines for such a use. It is highly important to be clear for what purpose the footage can be used for it not to become a tool for further punishment of young people. Recent footage obtained and released by media from Don Dale Youth Prison in NT and from Cleveland Youth Prison in Townsville highlights that having footage did not bring any positive change to operations of these facilities. Ongoing and independent monitoring of such footage is one way of ensuring any footage will be used for improving conditions endured by children in prisons.

Decisions about release and bail for children

The Bill does not sufficiently shift the obligation to adults and Government agencies to address the social issues that are the reason for high remand rates. The wording of section 48AD(2) should be changed from 'may' to 'must' to require courts and police officers to release children if satisfied that the child's release is consistent with community safety, and appropriate having regard to the matters outlined in the subsections.

Obligation must be placed on the Department of Child Safety, Youth and Women to find appropriate and safe accommodation for children who are on remand or at risk of being remanded. If a child is not subject to a child protection order, there must be an obligation on the Department of Youth Justice to identify accommodation, or to provide non-punitive, voluntary support to children's families, to allow children to be released as soon as possible.

Information sharing and services coordination

Confidentiality of young people must be maintained at all time. Young people must have the option of consenting to what information about them and to whom that information is going to be shared with. Any sharing of information without the young person's full consent is a breach of their confidentiality and basic rights.

Recommendations:

1. Consistent with current international and national consensus raise the minimum age of criminal responsibility to at least 14;
2. Utilise savings made from implementing the above recommendation to provide social health services to communities in need;
3. Undertake an independent audit of police proceedings before arrest and compare police proceedings including administration of 'cautions' to Indigenous young people compared to other young people;
4. Insure police comply with their obligations under the Youth Justice Act by having an ongoing reporting mechanism and an independent monitoring regime;
5. Prohibit the use of exclusions and suspensions by schools and reform the education system in line with democratic principles;
6. Add the fundamental pillar of 'prevention' to other pillars articulated in the Youth Justice Strategy and invest in prevention strategies as a matter of priority.

Conclusion:

We are aware that this submission is not what the Committee Secretary was looking for, in particular for raising issues which the Committee would find outside their terms of reference. However, we urge you to consider the issues we have raised and use your powers in whatever way possible to bring about genuine reform to the out-dated system which for all intent and purposes is manufacturing criminals from our vulnerable children.

A fraction of the cost diverted from the *No Justice Criminal System* to supporting children, their families and their communities can turn children's lives around, saving large amounts of money over time and more importantly creating safe and supportive communities.