



13 October 2021

The Secretary  
Legal Affairs and Safety Committee  
Queensland Parliament

Level 4, 16 Peel Street  
South Brisbane QLD 4101

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Dear Secretary,

**Re: *Police Legislation (Efficiencies and Effectiveness) Amendment Bill 2021***

The Youth Advocacy Centre Inc (YAC) appreciates the Committee providing additional time for the organisation to review the above Bill and provide a submission.

YAC is a community legal and social welfare agency for children aged 10-18 years of age who are involved in, or at risk of involvement in the youth justice and/or child protection systems, and/or are homeless or at risk of homelessness. YAC has worked for 40 years with some of our community's most vulnerable and disadvantaged children and whose involvement with the youth justice system is the result of their life circumstances and experiences.

YAC has concerns in relation to two aspects of the Bill:

- the provisions for access to digital devices
- swearing of affidavits regarding bail for children

We have had the benefit of being able to read the submissions made by the Queensland Law Society and the Queensland Council for Civil Liberties (QCCL) and support the comments they have made with respect to access to digital devices.

We agree with QCCL that the proposed amendments are likely to disproportionately affect vulnerable and/or disadvantaged people (which would include children) coming into contact with police. It seems that too often the impact on such groups is not adequately considered when legislation is being prepared even though we are aware that vulnerable and/or disadvantaged groups are overrepresented in contact with the police and the criminal justice system.

The Human Rights Statement accompanying the Bill accepts that the provisions have an impact on the rights to property, privacy and against self-incrimination. In this context, YAC considers the safeguards advocated by QCCL are not only desirable, but necessary.

With respect to the swearing of affidavits by police in certain situations before a senior police officer, it is noted that the provision is made for the document to be witnessed by the senior officer by use of an electronic document; inclusion of electronic signatures; and by audio visual link. It is therefore arguable that these options could also be used by Justices of the Peace (JPs) and Magistrates, which would presumably assist in terms of time.

YAC further notes that affidavits relating to service are straightforward and contain very clear facts. Affidavits relating to information gathered by police with respect to



bail for children is entirely different. The affidavit contains hearsay evidence (such as reported conversations with parents) and other evidential matters which may be open to challenge by the defence. The officer making the affidavit has a discretion about what they put into the document and the manner in which they present the information. Refusal of bail has serious consequences for the children involved. These issues should be acknowledged by maintaining the role of an independent judicial officer in the swearing of the affidavit to ensure that the officer has properly considered its contents and understands the consequences of it being a sworn document.

It is YAC's view that the proposed mechanism not be adopted in relation to bail affidavits under the *Youth Justice Act 1992*.

If this is not accepted, YAC submits that the rank of Sergeant does not seem to be particularly "senior" and, in many cases, could simply be the swearing officer's supervisor. JPs, Commissioners for Oaths and solicitors are all required to undergo training in relation to the swearing of affidavits. If officers of Sergeant level and above are to undertake this role, training should be a mandatory component for the Sergeant's exams, and, in the meantime, all current relevant officers should be required to complete the Commissioners of Oaths training before being able to make use of the provisions.

We thank the Committee for the opportunity to comment on the Bill.

Yours sincerely

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Chief Executive Officer

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