

11/03/2021

Legal Affairs and Safety (LAS) Committee

Email: lasc@parliament.qld.gov.au

Dear LAS Committee,

Youth Justice and other Legislation Amendment Bill 2021 ('the Bill')

Thank you for the opportunity to provide feedback on the Bill. Our submission responds to aspects of the proposed amendments to the *Youth Justice Act 1992 (Qld)*. We make no comment about amendments relating to knife crime and honing offences.

Community Living Association Inc. has three teams that provide direct support services to young people. ARROS, BEROS and Community Connections.

ARROS supports 15-25 year old young people who have a cognitive and/or intellectual disability and are experiencing complex circumstances including homelessness, interaction with Youth Justice and Child Safety and coinciding mental health and/or substance use issues.

BEROS works with young people aged 12-18 years old who are in the care of Child Safety and are self-placing, often sleeping rough and couch surfing. Many BEROS young people are also on Youth Justice orders.

Community Connections works alongside 12-18 year old young people and their families/significant others where there is risk of homelessness and early school leaving. The programs at Community Connections have an early intervention and prevention focus.

Across all of our teams we work with young people who have already become criminalised or who are at risk of coming into contact with the criminal justice system. A high proportion of these young people have experienced complex trauma; a number have intellectual or other cognitive disabilities. Some of these young people will be directly affected by the Bill.

While we support the goal of creating safer communities in Queensland, we do not agree that the method outlined in the Bill is an effective way to reduce youth crime and the recidivism of the small percentage of young people that the Bill aims to address.

Community Living Association Inc. does not support the Bill for the following reasons:

The *most* vulnerable children in Queensland are targets of this law reform

The target group for this law reform proposal are 'the most serious recidivist youth offenders' – the 10% - nearly 400 children who persistently offend in Queensland. Research consistently shows that these children experience profound social disadvantage including extreme poverty, histories of familial offending, exposure to family violence, unstable accommodation or homelessness, alcohol and substance misuse and disrupted education. Many are 'cross-

over kids' who enter the youth justice system after first having contact with the child protection system. A disproportionate number are Indigenous. Young people with an intellectual or other cognitive disability are also over-represented in Youth Justice and there is no specialised youth justice support for this group. These are *the most vulnerable* of all Queensland children caught up in the juvenile justice system. This reality was recognised in the 2019-2023 Youth Justice Strategy 'Change the Story' which spoke of the need to work differently and to address root causes of youth crime.

Key protected human rights have been overlooked

This Bill creates significant limitations on the human rights of Queenslanders.

The Statement of Compatibility does not identify all of the protected human rights of children engaged by the Bill. A number of key human rights have been overlooked. These include:

1. Protection from cruel, inhuman or degrading treatment or punishment
2. Children charged with a criminal offence have the right to a procedure that takes account of their age and the desirability of promoting their rehabilitation
3. Children in the criminal process who have been convicted of an offence must be treated in a way that is age appropriate.

The Bill is not compatible with the Human Rights Act

To demonstrate that a limitation on human rights is justifiable, a rational connection must be made between the law or action causing the limitation and a legitimate purpose.

There is insufficient evidence that putting GPS trackers on children and removing the presumption against bail will make the community safer (the purpose of the proposed Bill).

Instead, there is evidence that investing in services to assist children when they are charged with an offence and supporting families when they need it will reduce crime and result in a safer community.

Sticking with what works

Youth justice is a complex field that requires integrated, sustained, well-funded, community-based services that are evidence-based. The Bill does nothing to address the root causes of youth crime in Queensland.

Following are some examples of evidence-based interventions that CLA use that work to reduce re-offending:

- **Early intervention and primary prevention to address risk factors that might lead to a young person becoming criminalised.** *Community Connections support young people within school and community settings. Early intervention and rapid response to young people charged with minor offences including support to stabilise housing, access income, strengthen family relationships, access detox programs, connect with mental health support, re-engage with education and employment, strengthen relationships and*

connections within their local community has resulted in very few young people re-offending and getting caught up in the youth justice system.

- **Trauma informed and relationship centred approaches.** *Given the prevalence of early childhood trauma and intergenerational trauma for criminalised young people it is vital that workers engaging with this cohort are trauma informed to understand the impact of trauma on neurological development. As a result of trauma many young people have experienced disrupted or disorganised attachment with caregivers and therefore we focus on building strong, safe and trusting relationships as a foundation for repairing harm and allowing for restorative outcomes for young people.*
- **Intensive, holistic and integrated case management to young people who have been charged with an offence and their families/significant relationships to address the underlying cause of the criminalised behaviour.** *This is our core practice across all teams and has proven to be effective in reducing re-offending behaviours.*
- **Access to specialist services to help stabilise a young person's circumstances** *e.g. safe and secure housing, mental health services, AOD services.*
- **Strong collaboration across services to provide wrap around support for the young person.** *BEROS work closely with Youth Justice and Child Safety as well as other community organisations in a co-ordinated way to ensure better outcomes for criminalised young people. This is a key strategy for reducing recidivism identified in the Atkinson Report on Youth Justice 2018.*
- **Appropriate support for young people with an intellectual disability who have become criminalised.** *For ARROS young people on YJ orders, our support is typically around increasing stability and supporting future planning. Workers understand intellectual disability, use relationship-based practice and a trauma-informed approach. We support young people to access safe housing, access income and explore/ engage with employment or other meaningful roles. We support them to attend school, repair relationships and engage with flexible and holistic disability-specific supports, which most have not experienced previously. Often, we support young people to access mental health support and psychological assessments to support a diagnosis of disability so they can access the NDIS (If the young person wants to explore that option). We also work with other services to ensure young people with NDIS plans are supported to utilise their plans.*

Having our Transition to Employment program contribute to meeting bail conditions has also been supportive. Other programs young people had been linked with were often quite rigid and did not meet the support needs of young people with cognitive disabilities and trauma experiences – many were then labelled as being 'difficult' or 'disengaged'. We find them to be very engaged and motivated once we build a trusting relationship and respond flexibly and creatively to their goals. Supporting activities that build independence and access to safe, reliable resources has been effective in reducing reoffending behaviours. Eg supporting young people to get their drivers licence and find work that was meaningful for them has contributed to them reducing reoffending behaviours.

- **Advocacy around the need for targeted strategies for the early identification of young people with intellectual or cognitive disabilities in youth justice system.** *ARROS young people have told us that their interactions with the youth and adult justice systems have been extremely negative and traumatic. Frequently, police officers, the staff at courts, lawyers, child safety and youth justice workers do not recognise or acknowledge cognitive disability or how experiences of trauma have contributed to offending behaviours. Young people with cognitive disabilities who have experienced instability and violence (sometimes since infancy) are expected to understand how the legal system works, process and interpret large amounts of complex information and make decisions with limited support. Young people have told us they've been reprimanded for their lack of understanding and shamed when requesting support from ARROS workers to understand what is happening to them and what their options are e.g. multiple young people have told us*

they were chastised by police when they said they didn't understand the officer's questions. They told us that police laughed at them while they were crying and denied their requests for a support worker to be called. Young people have communicated to us that in order to improve youth justice, there needs to be greater understanding and support around disability and trauma in the community and justice system. They say they needed support earlier in life to stabilise their lives, and access disability-specific supports earlier in the legal process.

- **Culturally safe responses to Aboriginal and/or Torres Strait Islander young people.** *Recognising and responding to intergenerational trauma and providing referrals to First Nations specific organisations to build on cultural knowledge and sense of belonging.*
- **Meaningful use of time and building young people's connection with their community.** *Including education, employment, linking to informal supportive relationships, investment in young person's interest e.g. sporting teams, creative pursuits.*

We ask that the LAS Committee rejects the Bill.

We understand the need to create safer communities for all Queenslanders. GPS trackers and reducing the presumption against bail may seem to offer a quick response to offending behaviours of young people, however there is limited evidence that this approach will work. We also believe that the approaches outlined in the Bill are not compatible with the Human Rights Act. We do not believe that the limits against the human rights of young people are reasonable or justifiable without first investing in less restrictive ways of achieving community safety. Research and consultation into what works to reduce youth offending, as outlined in the Queensland Governments own Youth Justice Strategy and the Atkinson Report on Youth Justice 2018, indicates that investing in evidence-based, early intervention services is a more effective response to youth offending.

Yours faithfully,



Morrie O'Connor
Co-Ordinator
CLA Inc.