

Youth Justice Reform Select Committee inquiry into youth justice reform in Queensland

Submission No: 75 including supplementary submission
Submitted by: Queensland Council of Social Services
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:

Committee Secretary
Youth Justice Reform Select Committee
Parliament House
George Street
Brisbane Qld 4000

youthjustice@parliament.qld.gov.au



Contact
(07) 3004 6900
qcooss@qcooss.org.au
www.qcooss.org.au

Postal Address
PO Box 3786
South Brisbane

Street Address
Ground Floor,
20 Pidgeon Close,
West End, QLD, 4101

**Queensland Council
of Social Service Ltd**
ABN 11 781 477 447
ACN 169 502 032

- seeks to remove children under the age of 14 from the justice system
- increases ongoing and sustained investment in First Nations-led evidence-based services and supports to address the underlying causes of offending
- seeks to ensure Closing the Gap justice targets are achieved
- ensures all children have access to culturally appropriate services and supports, including education, health, disability services, AOD services, and housing.

While it is important to build on the current strategy, it should be noted that the Queensland Government has not been adhering to the four pillars of their Youth Justice Strategy ('intervene early', 'keep children out of court', 'keep children out of custody' and 'reduce reoffending').¹ While there have been several welcome investments, the most recent Queensland budget included disproportionate spending on targeted police squads, along with building and staffing places of detention.²

The prevention of entry and diversion of youth offenders from the justice system with specific consideration of risk and protective factors that reduce crime

QCOSS members have emphasised that the root causes of problematic behaviour must be addressed to reduce crime and make communities safer. Children who are involved with, or at risk of involvement with the justice system, often have complex needs. Many of these children have multiple physical and mental health challenges and disability often caused by trauma and entrenched disadvantage.³

The Minister for Youth Justice has acknowledged that every young person identified as a 'serious repeat offender' in Queensland had a substance addiction.⁴

The Queensland Youth Justice Census 2022 indicates that, of the young people who were held in custody in a youth detention centre or watchhouse:

- 28 per cent of children had an active child protection order
- 39 per cent of children were living in unstable and/or unsuitable accommodation
- 45 per cent of children had totally disengaged from education, training or employment
- 35 per cent had a parent in adult custody
- 56 per cent had experienced or been impacted by domestic and family violence
- 83 per cent were known to be using drugs or alcohol
- 37 per cent were diagnosed or suspected to have a disability
- 27 per cent had at least one mental health disorder
- 19 per cent had at least one behavioural disorder.⁵

¹ Queensland Government. (2018). *The four pillars: A snapshot*. Department of Child Safety, Youth and Women. <https://www.dcssds.qld.gov.au/resources/dcsyw/youth-justice/reform/four-pillars-fact-sheet.docx>

² QCOSS. (2023). Queensland budget analysis 2023 – 2024. <https://www.qcoss.org.au/publication/state-budget-2023-2024-our-analysis/>

³ McArthur, M., Suomi, A., & Kendall, B. (2021). Review of the service system and implementation requirements for raising the minimum age of criminal responsibility in Australian Capital Territory (p. 7). *Australian National University*. https://www.justice.act.gov.au/_data/assets/pdf_file/0006/2072364/Raising-the-Age-Final-Report.PDF

⁴ Queensland Government. (2023). *Estimates—education, employment and training committee— education; industrial relations; racing* (Estimates Hearings Transcript 2023) (p. 78).

⁵ Queensland Government. (2023). *Youth Justice Summary Census 2022*. https://desbt.qld.gov.au/_data/assets/pdf_file/0019/17083/census-summary-custody.pdf

Children exposed to adverse childhood experiences and domestic violence are far more likely to become involved in the criminal justice system.⁶ In the 2021-2022 financial year, Queensland Police Service responded to 138,871 domestic violence cases, a significant rise from previous years, with reports of children as young as eight on the streets at night due to safety reasons.^{7,8}

The Queensland Audit Office has identified that there are few domestic and family violence supports available for children, especially in regional areas, and noted that multi-agency and holistic case management is needed.⁹

Poverty is also an underlying cause of children becoming involved in the justice system. In 2020-2021, 10 to 17-year-olds from the lowest socioeconomic areas in Australia were almost five times more likely to be under youth justice supervision than those from the highest socioeconomic areas.¹⁰

A community worker reflected on the fundamental importance of a holistic approach to supporting young people:

"It is important to get in early to break the cycle. I have seen children dragged away from school and through the courts for stealing a sausage roll and a drink. Sometimes children go through a treadmill of court over months for a small shoplifting offence. Children are getting sucked into the system with prolific offenders. I am working hard to make sure young people don't go to Cleveland Youth Detention Centre. When children go to Cleveland [Youth Detention Centre] it gets worse. They link with other peers involved in worse crime. It perpetuates the cycle. I would like to see more wrap around services for each young person...so the child isn't put through court and dragged out of school. These children need support to get into school, more boots on the ground to help them, help to go to footy training, basic dental health, grocery support to get food on the table and support for families."

Effective ways to stop recidivism and protect the community from offending and the opportunity for community-controlled organisations with specific reference to the role of First Nations Peoples to provide support solutions and services

The ongoing impacts of colonisation are devastating for First Nations communities leading to high rates of intergenerational trauma, social disadvantage and poverty, and impacting mass incarceration in the youth justice system.¹¹ As at June 2023, on an average night, there were 214 Aboriginal and/or Torres Strait Islander young people in Queensland detention, making up 70 per cent of the detention population.¹²

⁶ Ogilvie, J., Thomsen, L., Barton, J., Harris, D. A., Rynne, J., & O'Leary, P. (2022). *Adverse childhood experiences among youth who offend: Examining exposure to domestic and family violence for male youth who perpetrate sexual harm and violence* (Research report, 13/2022) (p. 12). Australia's National Research Association for Women's Safety. <https://anrowsdev.wpenginepowered.com/wp-content/uploads/2022/07/RP.20.07-RynneRR2-Young-men-HSB.pdf>

⁷ Dwyer, M. in Queensland Police Service. (2023). *Rise in domestic violence occurrences prompts safety message from police and support services*. My Police Queensland Police News. <https://mypolice.qld.gov.au/news/2023/03/01/rise-in-domestic-violence-occurrences-prompts-safety-message-from-police-and-support-services/>

⁸ Gillespie, E. (2023). *Children as young as eight out on the streets due to domestic violence*. The Guardian. <https://www.theguardian.com/australia-news/2023/mar/01/children-as-young-as-eight-out-on-the-streets-due-to-domestic-violence-queensland-inquiry-hears>

⁹ Queensland Audit Office. (2022). *Keeping people safe from domestic and family violence, (Report 5: 2022–23)*. (pp. 5,19, 21). https://www.gao.qld.gov.au/sites/default/files/2022-11/Keeping%20people%20safe%20from%20domestic%20and%20family%20violence%20%28Report%205%2022%E2%80%9323%29_0.pdf

¹⁰ Australian Institute of Health and Welfare. (2022). *Youth justice in Australia 2020–21* (p.15).

¹¹ House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs. (2011). *Doing Time – Time for Doing: Indigenous youth in the criminal justice system* (p. 12). <https://www.aph.gov.au/binaries/house/committee/atsia/sentencing/report/fullreport.pdf>

¹² Australian Institute of Health and Welfare. (2023). *Youth detention population in Australia 2023*, Table S1 and S11. <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2023/data>

Overrepresentation in younger children is even more alarming. In the 2022-23 financial year, 86 per cent of 10 and 11-year-olds, 88 per cent of 12-year-olds and 68 per cent of 13-year-old children accused in a Queensland court of law were Aboriginal and/or Torres Strait Islander.¹³ Of all children aged 10 or 11 who were held in Queensland watchhouses between 1 September 2022 and 30 September 2023 for two nights or more, 100 per cent were Aboriginal and/or Torres Strait Islander.¹⁴

The Queensland Government have been critiqued in the Productivity Commission's Closing the Gap report.¹⁵

"Governments are not consistently adhering to – and are sometimes disregarding – the Agreement... The Queensland Government made changes to bail laws that will mean more Aboriginal and Torres Strait Islander young people are incarcerated for longer periods of time. This is in the context of Queensland having one of the highest rates of Aboriginal and Torres Strait Islander young people in detention (40.9 per 10,000 young people aged 10-17 years were in detention in Queensland on an average day in 2021-22...)."

The Queensland Government should increase resourcing to community-controlled organisations to design, lead and implement programs for Aboriginal and Torres Strait Islander young people interacting with the justice system and their families. QCOSS members have consistently raised that current funding for community-controlled organisations is insufficient. This is compounded by short-term contracts and funding agreements that inhibit long-term planning. Community controlled organisations need to be supported and well-resourced.

Efficacy of justice programs including on-country programs, education, health and housing services

Community based interventions and services are critical to addressing the root causes of crime outlined above. To be effective, these services and supports should be complementary to lifting families out of poverty and ensuring every child has access to secure housing.

International evidence shows that childhood homelessness strongly increases risk of involvement in the youth justice system and is often linked to trauma.¹⁶ In Queensland, there are 150,000 households across Queensland with unmet housing needs.¹⁷ According to the 2021 census, 17,646 children under 12 were homeless on census night, up 11 per cent from previous data.¹⁸

The Queensland Government should urgently release a plan which details a path to end Queensland's housing crisis and ensure every child has a roof over their head.

A community worker in North Queensland reflected on a need for more resourcing:

"In Townsville there is only one bed of rest as safe accommodation for children involved in justice system. More safe places are needed for children after hours. Most services close earlier. There is a lot of alcohol and drugs in homes, domestic violence and overcrowding. Families need support for a safer environment for children."

There are numerous programs and initiatives achieving positive outcomes with children involved in the criminal justice system that should be further supported and expanded. There are also several funding gaps that must be addressed.

¹³ Children's Court of Queensland. (2023). *Annual Report 2022 – 23* (p. 25).

<https://documents.parliament.qld.gov.au/tp/2023/5723T2106-255C.pdf>

¹⁴ Queensland Government. (2023) Answer to Question on Notice 1195.

<https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2023/1195-2023.pdf>

¹⁵ Productivity Commission. (2023). *Review of the National Agreement on Closing the Gap Draft report* (p. 67).

<https://www.pc.gov.au/inquiries/current/closing-the-gap-review/draft/closing-the-gap-review-draft.pdf>

¹⁶ Thompson, S. et. al. (2013). Explaining homeless youths criminal justice interactions: childhood trauma or surviving life on the streets. *Community Mental Health Journal*.

¹⁷ Pawson, H., Clark, A., Moore, J., van den Nouwelant, R., Ng, M. (2023). A blueprint to tackle Queensland's housing crisis (p. 4). *UNSW City Futures Research Centre*. <https://www.qcoss.org.au/wp-content/uploads/2023/03/Hal-Pawson-Report-2023-Final.pdf>

¹⁸ Australian Bureau of Statistics. (2023). *Estimating Homelessness: Census 2021*.

<https://www.abs.gov.au/statistics/people/housing/estimating-homelessness-census/latest-release#data-downloads>

The On Country program seeks to strengthen young people's cultural and family connection and engage young people with education, training and employment through healing camps and cultural mentoring. The On Country program in Cairns, delivered by Jabalbina Yalanji Aboriginal Corporation (Jabalbina) has been praised by the Director General of Youth Justice for its positive results.¹⁹

In a 2023 QCOSS webinar, '*Diverting all young children from jails, watch houses and courts*' workers from Jabalbina shared a positive case study of a young boy involved in crime who participated in cultural mentoring, support and healing camps and has grown to become an employee of Jabalbina who mentors young children entering the program.²⁰

Currently, Queensland only has two 24-hour safe accommodation and diversionary hubs:

- Mount Isa Youth Hub is facilitated by North West Queensland Indigenous Catholic Social Services (NWQICSS). They provide a safe place for youth, with social, educational and cultural activities, and also provide case management referrals. Six beds are available at the hub through referral from Youth Justice and QPS.
- The Lighthouse is a 24-hour diversionary youth service facilitated by Townsville Aboriginal and Islander Health Service (TAIHS). Unpublished details from TAIHS show from 1 April 2023 to 30 June 2023, 241 clients attend the after-hours diversion through The Lighthouse. 72 diversionary programs were facilitated such as cooking, life skills, relationship and sexual education, cultural programs, alcohol and other drugs programs, Deadly Choices – healthy lifestyle and social activities. Multiple clients stayed at the Lighthouse for overnight stays. Unfortunately, the Lighthouse is only funded for one bed.

24-hour safe accommodation options and diversionary support must be available for children experiencing housing instability or domestic and family violence and should be expanded in other locations. These hubs must have enough beds, and staff who are trained to work with children who have experienced trauma.

A KPMG evaluation of the Sentenced Youth Boot Camp (SYBC) program introduced by the Newman Government, showed that the program was expensive, had low completion rates and may not divert young people from the justice system.²¹ Regarding bootcamps, KPMG stated:

*"There is no perceptible difference either in terms of frequency or severity of re-offending of the recidivists between the SYBC participants and the comparison cohorts, and so no reduction in costs of future sentencing or costs to the community of offending behaviour."*²²

Efficacy of evidence-based early intervention and prevention programs

Despite underfunding from the Queensland Government and a lack of demand-based and location specific service planning, community-led programs are effective in diverting young people from the justice system. For example:

- *Fire program*

The Fire program is delivered by Harbrow Mentoring in Cairns as a prevention and early intervention strategy to divert young people away from problematic behaviour and hot spots. Over 20 weekends from 26 May 2022, the program engaged with 1,920 young people, 1,341 of whom were diverted from the CBD hotspot and transported out of the area.²³

¹⁹ Gee, B. in Queensland Government. (2023). *Estimates – Education, Employment and Training Committee-Education; Industrial Relations; Racing*. (p.85). https://documents.parliament.qld.gov.au/com/EETC-797A/C20232024-1AA0/2023_08_03_Estimates%20EETC.pdf

²⁰ QCOSS. (2023). *Diverting all young children from jails, watchhouses and courts webinar* (video). <https://www.youtube.com/watch?v=MmpYXoRHYlc>

²¹ KPMG. (2015). *Final report for the evaluation of Queensland's boot camps*, July 2015 (pp. 13, 122, 124) <https://documents.parliament.qld.gov.au/com/LACSC-4B8C/C20152016-8140/tp1-20Aug2015.pdf>

²² Ibid, (p. 14).

²³ James Cook University. (2022). *Fire project evaluation: Final report (unpublished)*.

- *Horse Whispering Youth Program*

The Horse Whispering Youth Program delivers trauma informed, equine assisted programs for young people aged 12 to 18 who are at risk of disengaging from school, engaging in anti-social behaviours and/or interacting with the youth justice system. Survey responses from young people identified:²⁴

- 40 per cent improved engagement with educational/vocational opportunities and positive social interactions
- 22 per cent improved attentional focus
- 22 per cent improved emotional regulation
- 18 per cent improved communication
- 30 per cent improved trust and connection
- 35 per cent improved behaviour
- 28 per cent improved self-confidence.

- *Resolve*

YFS deliver the Resolve program, an early intervention case management and diversion program in Logan for children aged 12 to 16 years old displaying early signs of anti-social and offending behaviours. An interim evaluation by Griffith University from June 2022 to April 2023 found that of the young people who completed the program:²⁵

- 81 per cent had met their goals or needs
- 94 per cent improved their level of hope
- 78 per cent improved their life skills
- 84 per cent improved their wellbeing.

- *Ted Noffs Foundation*

Ted Noffs Foundation provide programs that help young Australians move beyond drugs, alcohol and youth justice involvement in locations such as Logan, Gold Coast, Caboolture and Townsville. An Australian evaluation of their PALM program in Sydney and Canberra, (noting the program also operates in Caboolture), found that there was a significant reduction in crime amongst high-risk young people who engaged in their program.²⁶

- *Youth Bail Support Service*

The Cairns and Yarrabah Youth Bail Support Service (CYYBSS) seeks to reduce the number of young people entering detention through legal support, advocacy and by supporting young people's needs. The initiative is a partnership between Youth Empowered Towards Independence, Gindja Treatment and Healing, and the Youth Advocacy Centre. The program provided 3,899 hours of court support on 2,649 occasions for 148 young people during the 2021-2022 financial year, with 24 percent of these young people aged 12-14 years.²⁷ CYYBSS supported young people via case management to reduce the likelihood of them entering the youth justice system in the future.

²⁴ Horse Whispering Youth Program. (2023). *Horse Whispering Youth Program Impact Measurement*. (Unpublished).

²⁵ YFS. (2023). *Evidence, Learning and Evaluation Summary, Resolve*. https://www.yfs.org.au/wp-content/uploads/2023/09/RESOLVE_EVIDENCE-LEARNING-and-evaluation-summary_280723.pdf

²⁶ Whitten, T. et. al. (2022). Influence of a residential drug and alcohol program on young people's criminal conviction trajectories. *Journal of Criminal Justice*. <https://www.sciencedirect.com/science/article/pii/S0047235222001519>

²⁷ Youth Empowered Towards Independence. (2023). *YETI: Annual Report 2021-2022*. https://yeti.net.au/wp-content/uploads/2023/02/YETI_AnnRep2022_FINAL.pdf

Other examples of effective programs can be accessed in Justice Reform Initiative's Alternatives to Incarceration in Queensland report.²⁸

Efficacy of alternatives to detention

The Queensland Government must fund an alternative to the justice system for all children younger than 14. The minimum age of criminal responsibility should be raised to at least 14.

Attached to this submission is our budget submission, which details an alternative to the youth justice system for children under the age of 14.

Efficacy of detention and other consequences of offending, and the most suitable infrastructure used for custody, detention or residential components necessary to reduce crime

Jailing young children can increase trauma and problematic behaviour, which fails to make anyone safer. Of the children sent to Cleveland Youth Detention Centre, 96 percent allegedly re-offend in the 12 months following their release.²⁹ Queensland has more children aged 10 to 17 in detention on an average night than any other Australian State or Territory, and more than NSW, ACT, SA, Tasmania and NT combined.³⁰ Queensland also has the highest recidivist rate of any state or territory.³¹

The Queensland Sentencing Advisory Council note the earlier a child engages with the justice system the greater the likelihood of longer ongoing involvement with the justice system across their lifetime.³² A report by the Sentencing Advisory Council (Victoria) found that:

*"The younger a child was at their first sentence, the more likely they were to reoffend (with any offence), to reoffend violently, to continue offending into the adult criminal jurisdiction, and to be imprisoned in an adult prison before their 22nd birthday... The six-year reoffending rate of offenders who were first sentenced at 10–12 years old (86 per cent) was more than double that of those who were first sentenced at 19–20 years old (33 per cent)."*³³

The Queensland Government has committed to building two new detention centres for children. In the 2021-22 financial year, it cost an average of \$2,086.32 per day to keep a child in detention.³⁴ In estimates hearings, the Director General of Youth Justice advised that the new 'therapeutic' detention centres would be more expensive.³⁵

Roundtable participants urged the promotion of evidence-based policy and an acknowledgment of the serious limitations of detaining young people. They raised that halting the planning and construction of youth detention centres and directing funds to early intervention and diversion would be an example of an evidence-based approach to reducing youth crime.

²⁸ Justice Reform Initiative. (2023). *Alternatives to incarceration in Queensland*, (pp. 18 – 27). https://assets.nationbuilder.com/justicereforminitiative/pages/337/attachments/original/1685393777/JRI_Alternative_s_QLD_FULL_REPORT.pdf?1685393777

²⁹ Queensland Government. (2022). *Response to Question on Notice*, No. 1270.

<https://documents.parliament.qld.gov.au/tableOffice/questionsAnswers/2022/1270-2022.pdf>

³⁰ Australian Institute of Health and Welfare. (2023). *Youth detention population in Australia 2023*, Table S14.

<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2023/data>

³¹ Productivity Commission 2023, *Report on Government Services 2023*, Part F, section 17: released 25 January 2023, Table 17A.26. <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/youth-justice/rogs-2023-partf-section17-youth-justice-data-tables.xlsx>

³² Queensland Sentencing Advisory Council. (2023). *Sentencing of offences committed by children aged under 14 in Queensland*. https://www.sentencingcouncil.qld.gov.au/_data/assets/pdf_file/0005/757013/sentencing-of-offences-committed-by-children-aged-under-14-in-queensland.pdf

³³ Sentencing Advisory Council (2016). *Reoffending by children and young people in Victoria* (p. xiii).

[https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Reoffending by Children and Young People in Victoria.pdf](https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Reoffending%20by%20Children%20and%20Young%20People%20in%20Victoria.pdf)

³⁴ Productivity Commission. (2023). *Report on Government Services 2023*, Part F, section 17: released on 25 January 2023, Table 17A.21.

³⁵ Gee, B. in Queensland Government. (2023). *Estimates—Education; Industrial Relations; Racing*, (p. 84). https://documents.parliament.qld.gov.au/com/EETC-797A/C20232024-1AA0/2023_08_03_Estimates%20EETC.pdf

Efficacy of systems and processes to provide immediate and ongoing support for victims of crime

More support is needed for victims of crime to ensure they experience a fair process. A study by the Centre for Innovative Justice about improving support for victims of crime found:

“A common misconception about victims of crime is that their goals in relation to the criminal justice process are punitive. The reality, however, is far more complicated. Several of the victims of crime interviewed demonstrated empathy for the person who had harmed them, particularly where their offending occurred in the context of significant disadvantage, substance misuse or mental health needs. Victims of crime also described not wanting others to have the experience they had, framing their aims in terms of harm prevention, rather than retribution.”³⁶

Restorative justice conferencing provides a safe environment for the victim to discuss the impacts of crime. The child has the opportunity to take responsibility, learn from their mistakes and understand impacts of their behaviour. Restorative Justice conferencing may include:

- verbal or written apologies to victims
- referral to counselling for the child
- a statement from the child regarding improving future behaviour
- financial restitution to victims
- production of a sorry painting, poem, or song
- voluntary work undertaken for the victim or the community
- child participation in an educational activity.³⁷

Roundtable participants agreed that reforms should take account of principles of restorative justice and justice reinvestment. This approach is supported by evidence. A 2016 evaluation of restorative justice conferencing over a six-month period in Queensland found that 59 per cent of children who participated in the program did not reoffend within the six months following their conference, 18 per cent showed a decrease in post-conference offending magnitude, and 22 per cent had an equivalent or increased post-conference offending magnitude.³⁸

Data was provided in Parliament on the reoffending rates of young people in Toowoomba who completed a restorative justice process, completed a supervised youth justice order, or completed a conditional bail program. The data demonstrated that reoffending rates were consistently lower among those who completed a restorative justice process.³⁹

The Queensland Government has committed to establishing a Victims' Commissioner by the end of the 2023-24 financial year.⁴⁰ The Women's Safety and Justice Taskforce recommended that once the Victims' Commissioner has been established, they should undertake a review of the *Charter of*

³⁶ Ellard, R. & Campbell E., (2020). *Improving support for victims of crime: Key practice insights*, Centre for Innovative Justice, (pp. 13, 14) RMIT University. <https://cij.org.au/cms/wp-content/uploads/2019/05/improving-support-for-victims-of-crime-key-practice-insights-centre-for-innovative-justice-november-2020.pdf>

³⁷ Queensland Government. (2018). *About Restorative Justice Conferences*. <https://www.qld.gov.au/law/sentencing-prisons-and-probation/young-offenders-and-the-justice-system/youth-justice-community-programs-and-services/restorative-justice-conferences/about#:~:text=Restorative%20justice%20conferencing%20is%20a,based%20response%20to%20criminal%20behaviour>.

³⁸ Queensland Government. (2018). *Department of Child Safety, Youth and Women, Restorative Justice Project: Twelve-month program evaluation* (p. 48). <https://www.dcssds.qld.gov.au/resources/dcsyw/youth-justice/program-eval/restorative-justice-evaluation-report.pdf>

³⁹ Queensland Government. (2022). *Response to Question on Notice No. 790 by the Minister for Children and Youth Justice and Minister for Multicultural Affairs*. <https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/790-2022.pdf>

⁴⁰ The Hon. Steven Miles and The Hon. Yvette D'Ath. *Interim Victims' Commissioner appointed, Joint statement*. 2 September 2023. <https://statements.qld.gov.au/statements/98579>

Victims' Rights.⁴¹ The Victims' Commissioner and their office should be supported to conduct a review, consulting comprehensively with community organisations, and conduct reviews into other priority areas as needed. We also note the upcoming review of the *Human Rights Act 2019* (Qld), which will provide an opportunity to consider how the Act can be strengthened in relation to victims' rights.

Conclusion

The Queensland Government should develop and implement a youth justice strategy that seeks to keep the community safe while respecting the human rights of children and victims. Further investment in early intervention and diversionary programs and initiatives to address the housing crisis and end poverty are effective evidence-based strategies to reduce youth crime. Of urgency, children should not be held in adult watch houses, and there is a need for an alternative to the justice system for children under the age of 14.

Thank you again for the opportunity to provide our submission. If you have any questions, please contact Aimee McVeigh, Chief Executive Officer at [REDACTED].

Yours sincerely



Aimee McVeigh
Chief Executive Officer

⁴¹ Women's Safety and Justice Taskforce. (2022). *Hear Her Voice, Report Two, women's and girls' experiences across the criminal justice system* (p. 14).
https://www.womenstaskforce.qld.gov.au/data/assets/pdf_file/0008/723842/Hear-her-voice-Report-2-Volume-1.pdf

Queensland Budget | 2024 – 2025

Invest in Queensland's youth services

\$38.1 million

Youth justice policies aiming to keep communities safe and support the wellbeing of children and young people should be evidence-based. The younger children are when they have contact with the justice system, the more likely they are to go on to re-offend.¹ To keep our communities safe, the Queensland Government should invest in an alternative to the justice system for children under the age of 14.

The United Nations Committee on the Rights of the Child has recommended that all State parties (including Australia) raise the minimum age of criminal responsibility (MACR) to at least 14 years of age. In Queensland, the MACR is 10 years of age.

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) recommended raising the age of criminal responsibility to 14.² A draft report from Council of Attorneys-General also includes a recommendation to raise the age of criminal responsibility to 14 without exception.³

As a priority, the 2024-2025 Queensland budget should include funding to implement an alternative, community service-led response to children under the age of 14 years old who are interacting with the justice system. The response must be supportive and therapeutic in nature. It should also adopt principles of restorative justice, ensuring that the needs of victims continue to be met.

¹ Sentencing Advisory Council (2016). *Reoffending by children and young people in Victoria* (p. xiii). [https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Reoffending by Children and Young People in Victoria.pdf](https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Reoffending%20by%20Children%20and%20Young%20People%20in%20Victoria.pdf)

² Commonwealth of Australia. (2023). *Royal Commission into Violence, Abuse, Neglect and Exploitation of people with a disability. Final Report – Volume 8, Criminal justice and people with disability* (p. 28). <https://disability.royalcommission.gov.au/system/files/2023-09/Final%20Report%20-%20Volume%208%20Criminal%20justice%20and%20people%20with%20disability.pdf>

³ Council of Attorneys-General Age of Criminal Responsibility Working Group. (2020). *Draft Final Report 2020: Council of Attorneys-General Age of Criminal Responsibility Working Group* (p. 80). <https://www.croakey.org/wp-content/uploads/2022/12/age-of-criminal-responsibility-working-group-draft-report-20201.pdf>

About the young person

In Queensland, only a very small percentage of children under the age of 14 years old interact with the criminal justice system. However, those children tend to have a range of complex needs that are often exacerbated by their experiences in the criminal justice system.

How many children?

In 2021-22, 121 children aged 10- to 13- years old (0.043 per cent of all children this age in Queensland) spent time in youth detention. 73 per cent of these children were Aboriginal or Torres Strait Islander.⁴

Queensland is jailing more children and has the highest recidivist rate of any state or territory.⁵ During 2021-2022, the average number of 10- to 13-year-olds in detention each night in Queensland was 20.⁶ This is more than the average daily number of children under 14 in detention in New South Wales, Victoria, South Australia, Northern Territory and Tasmania combined. Queensland has more children and young people in unsentenced detention than any other state or territory, including 121 children younger than 14 in 2021-2022.⁷ A further 67 Queensland children were, on average, under community supervision each day.⁸

The following table summarises data provided by the Children's Court of Queensland for the five-year period between July 2018 and June 2022.

	2018-2019	2019-2020	2020-2021	2021-2022
Distinct convicted children 10- to 13-years old. ⁹	523	342	342	311
Distinct children commencing a supervised youth justice order. ¹⁰	207	151	137	328
Court appearances by children 10- to 13- years old. ¹¹	Not provided	Not provided	611	594

⁴ Productivity Commission 2023, *Report on Government Services 2023*, Part F, section 17: released 25 January 2023, Table 17A.9. <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/youth-justice/rogs-2023-partf-section17-youth-justice-data-tables.xlsx>

⁵ Productivity Commission 2023, *Report on Government Services 2023*, Part F, section 17: released 25 January 2023, Table 17A.26. <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/youth-justice/rogs-2023-partf-section17-youth-justice-data-tables.xlsx>

⁶ Australian Institute of Health and Welfare. (2023). *Youth Justice in Australia 2021-22 Data - Table S72b*. <https://www.aihw.gov.au/getmedia/1e14970c-3547-44fc-a403-18184d76b965/aihw-juv-140-Detention-tables-2021-22.xlsx.aspx>

⁷ Australian Institute of Health and Welfare. (2023). *Youth Justice in Australia 2021-22*, Table S113b.

⁸ Youth Justice in Australia 2021-22 Data - Table S40a. <https://www.aihw.gov.au/getmedia/1e14970c-3547-44fc-a403-18184d76b965/aihw-juv-140-Detention-tables-2021-22.xlsx.aspx>

⁹ Children's Court of Queensland. (2023). *Children's Court of Queensland Annual Report 2021-2022*, Table 3. https://www.courts.qld.gov.au/data/assets/pdf_file/0010/756649/cc-ar-2021-2022.pdf

¹⁰ Children's Court of Queensland. (2023). *Children's Court of Queensland Annual Report 2021-2022*, Table 11. https://www.courts.qld.gov.au/data/assets/pdf_file/0010/756649/cc-ar-2021-2022.pdf

¹¹ Children's Court of Queensland. (2023). *Children's Court of Queensland Annual Report 2021-2022*, Table A12. https://www.courts.qld.gov.au/data/assets/pdf_file/0010/756649/cc-ar-2021-2022.pdf

The following table summarises data provided by the Department of Children, Youth Justice and Multicultural Affairs for the five-year period between July 2015 and June 2020.

	2015-16	2016-17	2017-18	2018-19	2019-20
Number of finalised charges brought against 10- to 13-year-olds ¹²	4,333	4,954	6,130	6,288	5,194
Number of proven charges (offences) by 10- to 13-year-olds ¹³	3,864	4,244	5,260	5,414	4,471
Number of 10- to 13-year-olds with a proven offence ¹⁴	536	502	567	525	345
Average number of 10- to 13-year-olds subject to community supervision each day ¹⁵	137	110	103	108	88
Average number of 10- to 13-year-olds in custody each day ¹⁶	18	16	23	22	18
Number of admissions of 10- to 13-year-olds to youth detention centres ¹⁷	337	392	525	313	348
Number of 10- to 13-year-olds admitted to youth detention centres ¹⁸	151	154	177	138	128
Percentage of young people in YDC on remand (i.e. not sentenced) ¹⁹	79%	81%	83%	82%	85%

Types of charges for children?

Between 2005-06 to 2021-22, the Queensland Sentencing Advisory Council identified that amongst children aged 10-14 years, theft was the most common offence sentenced in court (52 per cent), followed by unlawful entry (36 percent) and property/environment damage (28 per cent).²⁰

In March 2023, the Queensland Government implemented the *Strengthening Community Safety Act 2023*, making breach of bail a criminal offence. Between 1 March 2023 and 31 May 2023, approximately 71 children under 14 were charged under these laws.²¹

¹² Queensland Government. (2021). *Department of Children, Youth Justice and Multicultural Affairs, Youth Justice Annual Summary Statistics: 2015-16 to 2019-20, Courts Data*. <https://www.dcssds.qld.gov.au/resources/dcsyw/youth-justice/resources/summary-stats-overview.pdf>

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Australian Institute of Health and Welfare. (2022). *Youth Justice in Australia Reports, 2015-16 to 2020-21*.

¹⁶ Queensland Government. (n.d.). *Department of Children, Youth Justice and Multicultural Affairs, Youth Justice Annual Summary Statistics: 2015-16 to 2019-20, Custody data*. <https://www.dcssds.qld.gov.au/resources/dcsyw/youth-justice/resources/yj-annual-summary-stats-detention.pdf>

¹⁷ Queensland Government. (n.d.). *Department of Children, Youth Justice and Multicultural Affairs, Youth Justice Annual Summary Statistics: 2015-16 to 2019-20, Youth Justice Orders Data*. https://desbt.qld.gov.au/data/assets/pdf_file/0023/17168/yj-annual-summary-stats-orders.pdf

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Hilderley, L., Jeffs, S., O'Leary, J. (2023). *Sentencing of offences committed by children aged under 14 in Queensland*. Queensland Sentencing Advisory Council. (p. 12). https://www.sentencingcouncil.qld.gov.au/data/assets/pdf_file/0005/757013/sentencing-of-offences-committed-by-children-aged-under-14-in-queensland.pdf

Root causes of problematic behaviour

Children who are involved with, or at risk of involvement with the justice system, often have complex needs. Many of these children have multiple physical and mental health challenges and disability often caused by trauma and entrenched disadvantage.²²

In 2020–2021, 10- to 17-year-olds from the lowest socioeconomic areas in Australia were five times more likely to be under youth justice supervision than those from the highest socioeconomic areas.²³

An Australian study identified the following key social determinants increase the risk of incarceration:

- Experiencing out of home care
- Experiencing educational barriers
- Early contact with police
- Unsupported mental health and disability
- Problematic alcohol and drug use
- Experiencing homelessness or unstable housing
- Living in a disadvantaged location.²⁴

This is reinforced by an assessment of 99 children in youth detention in Western Australia, which found that 89 per cent had at least one severe neurodevelopmental or mental health disorder. These disorders included Foetal Alcohol Spectrum Disorder, intellectual disability, ADHD, trauma/attachment disorders, depression, anxiety, learning difficulties and speech and language disorders.²⁵

In Queensland, the Minister for Youth Justice acknowledged in August 2023 that every single Queensland young person identified as a 'serious repeat offender' had a substance addiction.²⁶ Results of the Queensland Youth Justice Census 2022 summary provides further insight regarding young people in custody, indicating:

- 28 per cent of children had an active child protection order
- 39 per cent of children were living in unstable and/or unsuitable accommodation
- 45 per cent of children had totally disengaged from education
- 35 per cent had a parent in adult custody
- 56 per cent had experienced or been impacted by domestic and family violence
- 83 per cent were known to be using drugs or alcohol
- 37 per cent were diagnosed or suspected to have a disability
- 27 per cent had at least one mental health disorder
- 19 per cent had a behavioural disorder.²⁷

²¹ Queensland Government. (2023). *Response to Question on Notice No. 800*.

<https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2023/800-2023.pdf>

²² McArthur, M., Suomi, A., & Kendall, B. (2021). Review of the service system and implementation requirements for raising the minimum age of criminal responsibility in Australian Capital Territory (p. 7). *Australian National University*.

https://www.justice.act.gov.au/_data/assets/pdf_file/0006/2072364/Raising-the-Age-Final-Report.PDF

²³ Australian Institute of Health and Welfare. (2022). *Youth justice in Australia 2020–21* (p.15).

<https://www.aihw.gov.au/getmedia/10da194d-5756-4933-be0a-29d41743d79b/aihw-juv-138.pdf?v=20230605182446&inline=true>

²⁴ McCausland, R. & Baldry, E. (2023). Who does Australia Lock Up? The Social Determinants of Justice. *International Journal for Crime, Justice and Social Democracy*, 12(3) (pp. 37–53). doi: 10.5204/ijcsd.2504.

²⁵ Bower C, Watkins RE, Mutch RC, et al., (2018). Fetal alcohol spectrum disorder and youth justice: a prevalence study among young people sentenced to detention in Western Australia, *BMJ Open* 2018 (p. 5).

²⁶ Farmer, Di in Queensland Government. (2023). *Estimates—education, employment and training committee— education; industrial relations; racing (Estimates Hearings Transcript 2023)*. (p. 78).

https://documents.parliament.qld.gov.au/com/EETC-797A/C20232024-1AA0/2023_08_03_Estimates%20EETC.pdf

²⁷ Queensland Government. (2023). *Youth Justice Summary Census 2022*.

https://desbt.qld.gov.au/_data/assets/pdf_file/0019/17083/census-summary-custody.pdf

In relation to education, it has been identified that the absence of a positive connection to school at age seven is a predictor of later offending behaviours.²⁸ School disciplinary absences and lack of supervision has been shown to increase the likelihood of students becoming involved in the youth justice system.²⁹

Children exposed to adverse childhood experiences and domestic and family violence (DFV) are also far more likely to become involved in the youth justice system.³⁰ During the 2021/2022 financial year, Queensland police responded to 138,871 domestic violence cases in the community, an increase of 48 per cent in the last 6 years. Of all Queensland DFV occurrences between 2016 and 2022, 31 per cent involved children. This has resulted in children as young as 8 being on the streets at night for safety reasons.^{31,32,33}

The Queensland Audit Office has identified that there are few domestic and family violence supports available for children, especially in regional areas, and multi-agency, holistic case management is needed.³⁴

International evidence shows that childhood homelessness strongly increases risk of involvement in the youth justice system and is often linked to trauma.³⁵ In Queensland, there are 150,000 households across Queensland with unmet housing needs.³⁶ According to the 2021 census, 17,646 children under 12 were homeless on Census night, up 11 per cent from previous data.³⁷

²⁸ Homel, R., Freiberg, J. & Branch, S. (2013). *Creating the conditions for collective impact: Transforming the child-serving system in disadvantaged communities*. Griffith University.

²⁹ Hemphill, S., Broderick, D. & Heerde, J. (2017). *Positive Associations between school suspension and student problem behaviour: Recent Australian findings* (p. 5). Australian Institute of Criminology. <https://www.aic.gov.au/sites/default/files/2020-05/tandi531.pdf>

³⁰ Oglvie, J., Thomsen, L., Barton, J., Harris, D. A., Rynne, J., & O'Leary, P. (2022). Adverse childhood experiences among youth who offend: Examining exposure to domestic and family violence for male youth who perpetrate sexual harm and violence. *Australian National Research Organisation for Women's Safety*. https://anrowsdev.wpenginepowered.com/wp-content/uploads/2022/07/RP_20.07-RynneRR2-Young-men-HSB.pdf

³¹ Dwyer, M. in Queensland Police Service. (2022). *Rise in domestic violence occurrences prompts safety messages from police and support services*. <https://mypolice.qld.gov.au/news/2023/03/01/rise-in-domestic-violence-occurrences-prompts-safety-message-from-police-and-support-services/>

³² Queensland Audit Office. (2022). *Keeping people safe from domestic and family violence: Report on a page*. https://www.qao.qld.gov.au/sites/default/files/2022-11/Report%20on%20a%20page_Keeping%20people%20safe%20from%20domestic%20and%20family%20violence%20%28Report%205_2022%E2%80%9323.pdf

³³ Gillespie, E. (2023) *Children as young as eight 'out on the streets' due to domestic violence, Queensland Inquiry hears*. The Guardian. <https://www.theguardian.com/australia-news/2023/mar/01/children-as-young-as-eight-out-on-the-streets-due-to-domestic-violence-queensland-inquiry-hears>

³⁴ Queensland Audit Office. (2022). *Keeping people safe from domestic and family violence, (Report 5: 2022–23)*. (pp. 5, 19, 21). https://www.qao.qld.gov.au/sites/default/files/2022-11/Keeping%20people%20safe%20from%20domestic%20and%20family%20violence%20%28Report%205_2022%E2%80%9323.pdf

³⁵ Thompson, S. et. al. (2013). Explaining homeless youths criminal justice interactions: childhood trauma or surviving life on the streets. *Community Mental Health Journal*.

³⁶ Pawson, H., Clark, A., Moore, J., van den Nouwelant, R., Ng, M. (2023). A blueprint to tackle Queensland's housing crisis (p. 4). *UNSW City Futures Research Centre*. <https://www.qcooss.org.au/wp-content/uploads/2023/03/Hai-Pawson-Report-2023-Final.pdf>

³⁷ Australian Government. (2022). *Australia's Children: Homelessness*. Australian Institute of Health and Welfare. <https://www.aihw.gov.au/reports/children-youth/australias-children/contents/shelter/homelessness>

Criminalisation of Aboriginal and Torres Strait Islander children

The ongoing impacts of colonisation are devastating for First Nations communities leading to high rates of intergenerational trauma, social disadvantage and poverty; and impacting mass incarceration in the youth justice system.³⁸ In 2021-2022, 86 per cent of 10 and 11-year-olds, 81 per cent of 12-year-olds and 65 per cent of 13-year-old children accused in a Queensland court of law were Aboriginal and/or Torres Strait Islander.³⁹ 100 per cent of all ten-year-olds held in Queensland watch houses between 1 September 2021 and 30 September 2022 were Aboriginal or Torres Strait Islander.⁴⁰

The Productivity Commission's Closing the Gap Report 2023a critiqued the Queensland Government's approach to youth justice as negatively impacting Closing the Gap targets.

"Governments are not consistently adhering to – and are sometimes disregarding – the Agreement.... The Queensland Government made changes to bail laws that will mean more Aboriginal and Torres Strait Islander young people are incarcerated for longer periods of time. This is in the context of Queensland having one of the highest rates of Aboriginal and Torres Strait Islander young people in detention..."⁴¹

First People's Disability Justice Consortium highlighted a "severe and widespread lack of early diagnosis and positive, culturally responsive support for Indigenous children and young people with cognitive impairment."⁴² Further to this, the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) indicated that 'the rapidly increasing over-representation of Aboriginal and Torres Strait Islander children aged 10-13 in detention in Queensland is one of the consequences of this limited investment in our children and young people.'⁴³

³⁸ House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs. (2011). *Doing Time – Time for Doing: Indigenous youth in the criminal justice system* (p. 12).

<https://www.aph.gov.au/binaries/house/committee/atsia/sentencing/report/fullreport.pdf>

³⁹ Children's Court of Queensland 2022, *Annual Report 2021 – 2022* (pp. 4, 21).

<https://documents.parliament.qld.gov.au/tp/2022/5722T2094-21DD.pdf>

⁴⁰ Queensland Government. (2022) Answer to Question on Notice 1016.

<https://documents.parliament.qld.gov.au/tableOffice/questionsAnswers/2022/1016-2022.pdf>

⁴¹ Productivity Commission. (2023). *Review of the National Agreement on Closing the Gap, Draft Report* (p. 67).

<https://www.pc.gov.au/inquiries/current/closing-the-gap-review/draft/closing-the-gap-review-draft.pdf>

⁴² First Peoples Disability Justice Consortium. (2016). *Aboriginal and Torres Strait Islander perspectives on the recurrent and indefinite detention of people with cognitive and psychiatric impairment* (p.11). https://fpdn.org.au/wp-content/uploads/2016/10/FPDN-Senate-Inquiry-Indefinite-Detention-Submission_Final.pdf

⁴³ QATSICPP. (2023). *QATSICPP submission: Strengthening Community Safety Bill 2023* (p. 5).

https://www.qatsicpp.com.au/wp-content/uploads/2023/02/QATSICPP-Submission-Strengthening-Community-Safety-Bill-FINAL_2023.pdf

Why the current criminal justice response is not appropriate

Medical evidence demonstrates that children aged between 10- and 14-years old are still developing intellectual and emotional maturity. At this age, the brain is still rapidly developing and children have limited capacity for reflection before action.⁴⁴ These limitations are well recognised, for example, children under 13 cannot sign up for Facebook, sign a legal document, start an individual bank account or get an individual Medicare card.

However, under the current criminal justice system, a ten-year-old displaying problematic behaviour can be arrested by a police officer and put in a detention centre or watch house without being sentenced. Under new legislation, a watch house or corrective services facility can be established as a youth detention centre even if it is incompatible with human rights, allowing children to be held in these places.⁴⁵

In a place of detention, a child may experience solitary confinement, cell isolation, lack of access to education, family disconnection, lack of sunlight and be exposed to harmful behaviours.^{46, 47}

Within the current criminal justice system, the root causes of problematic behaviour such as trauma, poverty, homelessness, disability, exposure to domestic violence, neglect and/or mental health challenges are not addressed.

Impacts of criminal justice response

The costs of continuing with the existing criminal justice response to children under the age of 14 years old are significant for the community, individual, and taxpayer.

■ Not effective in ensuring community safety

Rather than helping children and young people to reduce and avoid harmful behaviour, the current youth justice response to children under the age of 14 often leads to repeat offending.

Recent statistics demonstrate that the rate of reoffending by children and young people is high. 91 percent of children are alleged to have committed another offence after leaving detention in 2020-2021.⁴⁸ In 2023, 95 per cent of young people at Cleveland Youth Detention Centre in Townsville reoffended in the year of release and in 2021, 100 per cent of young people convicted of a crime on strict bail orders in Toowoomba reoffended within 12 months.^{49,50 51}

⁴⁴ Johnson, S. et al. (2009). Adolescent Maturity and the Brain: The Promise and Pitfalls of Neuroscience Research in Adolescent Health Policy. *Journal of Adolescent Health*, Volume 45, Issue 3 (pp. 217-220).

⁴⁵ Queensland Government. (2023). *Child Protection (Offender Reporting and Offender Prohibition Order and Other Legislation Amendment Bill 2022: Explanatory Notes*. (p. 11). <https://www.legislation.qld.gov.au/view/pdf/bill.third.exp/bill-2022-008>

⁴⁶ Amnesty International. (2021). *Kids in watch houses exposing the truth*. <https://www.amnesty.org.au/watch-houses/>

⁴⁷ O'Gorman, T. (2022). *Children's Detention by Terry O'Gorman*, Robertson O'Gorman Solicitors. <https://www.robertsonogorman.com.au/2022/february/24/childrens-detention-by-terry-ogorman/>

⁴⁸ Queensland Government. (2022). *Response to Question on Notice, No. 1270*. <https://documents.parliament.qld.gov.au/tableOffice/questionsAnswers/2022/1270-2022.pdf>

⁴⁹ Queensland Government. (2022). *Response to Question on Notice, No. 859*. <https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/859-2022.pdf>

⁵⁰ Queensland Government. (2023). *Response to Question on Notice, No. 722*. <https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2023/722-2023.pdf>

⁵¹ Queensland Government. (2022). *Response to Question on Notice No. 790*. <https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/790-2022.pdf>

Queensland Sentencing Advisory Council note that the earlier a child engages with the justice system the greater the likelihood of longer ongoing involvement with the justice system across their lifetime.⁵² A report by the Sentencing Advisory Council (Victoria) found that:

"The younger a child was at their first sentence, the more likely they were to reoffend (with any offence), to reoffend violently, to continue offending into the adult criminal jurisdiction, and to be imprisoned in an adult prison before their 22nd birthday...The six-year reoffending rate of offenders who were first sentenced at 10–12 years old (86 per cent) was more than double that of those who were first sentenced at 19–20 years old (33 per cent)."⁵³

There is consistent evidence that non-criminal responses are more likely to reduce offending.⁵⁴ Jailing children increases trauma and can increase problematic behaviour. The way to create safer communities is to invest in alternatives to the youth justice system that address the root causes of problematic behaviour, helping children grow and learn from their mistakes.

■ Negative consequences for the individual

There is significant evidence that exposure to the criminal justice system at a young age can have negative long-term outcomes for children. Research has demonstrated that experiencing a period of detention as a child or young person:

- is linked to lower educational attainment⁵⁵
- often leads to difficulties in finding housing and employment, participating in social groups and maintaining interpersonal and family relationships⁵⁶
- can lead to poor physical and mental health outcomes in adulthood⁵⁷
- has the potential to reinforce trauma previously experienced by young people involved in the justice system, which may increase the likelihood of reoffending⁵⁸
- can encourage the child or young person to identify crime as a "way of life", leading to further involvement with the criminal justice system.⁵⁹

Rather than addressing the complex needs of children with problematic behaviours, the current criminal justice response often exacerbates the issues they are experiencing.

⁵² Queensland Sentencing Advisory Council. (2023). *Sentencing of offences committed by children aged under 14 in Queensland*. https://www.sentencingcouncil.qld.gov.au/data/assets/pdf_file/0005/757013/sentencing-of-offences-committed-by-children-aged-under-14-in-queensland.pdf

⁵³ Sentencing Advisory Council (2016). *Reoffending by children and young people in Victoria* (p. xiii). [https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Reoffending by Children and Young People in Victoria.pdf](https://www.sentencingcouncil.vic.gov.au/sites/default/files/2019-08/Reoffending%20by%20Children%20and%20Young%20People%20in%20Victoria.pdf)

⁵⁴ Queensland Family and Child Commission. (2022). *Designing a better response to youth offending in Queensland, Raising the age of criminal responsibility: Issues paper* (p. 22). <https://www.qfcc.qld.gov.au/sites/default/files/2022-09/Designing%20a%20better%20response%20to%20youth%20-%20Raising%20the%20age%20of%20criminal%20responsibility%20Issues%20paper%200.pdf>

⁵⁵ Aizer, A. & Doyle, J. (2013). Juvenile incarceration, human capital and future crime: evidence from randomly-assigned judges. National Bureau of Economic Research, Working Paper 19102, June 2013, p. 9. <http://www.nber.org/papers/w19102>

⁵⁶ Gilman AB et al. (2021). The impact of detention on youth outcomes: a rapid evidence review. *Crime & Delinquency*, Vol 67(11), 5 May 2021. <https://journals.sagepub.com/doi/abs/10.1177/00111287211014141>

⁵⁷ Barnert, E. (2017). How does incarcerating young people affect their adult health outcomes?. *Pediatrics*, Vol 139(2), January 2017 (p. 2). <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5260153/>

⁵⁸ Jamieson, T. (2020). *Trauma of Young People in youth Detention Centres – GCI Insights*. <https://blogs.griffith.edu.au/gci-insights/2020/04/02/trauma-of-young-people-in-youth-detention-centres/>

⁵⁹ Payne, J. & Roffey, N. (2020). Youth crime as a 'way of life'? Prevalence and criminal career correlates among a sample of juvenile detainees in Australia. *Australian & New Zealand Journal of Criminology*, Vol. 53(4), pp. 460-476, 4 October 2020. <https://journals.sagepub.com/doi/abs/10.1177/0004865820960193>

Waste of taxpayer dollars

It costs approximately to \$15 million per year to detain children under the age of 14 in Queensland.⁶⁰ The total annual cost to Queensland associated with detention-based supervision (in the youth justice system, for 10- to 17-year-olds) came to \$218 million.⁶¹

Additional to this, the Queensland Government has committed to building a new youth remand facility costing \$250 million and allocated \$89.7 million to increasing detention centre capacity and preparations for new detention centres.⁶² The Queensland Government has committed to building two new detention centres. While full costings are not available, it has previously cost approximately \$150 million to build a single youth detention centre in Queensland.⁶³ These costs do not include the large expense of jailing children in watch houses.

There is a viable alternative

Many jurisdictions around the world do not treat children under the age of 14 as criminals. The table below identifies several jurisdictions where the MACR is 14-years old or higher.⁶⁴

MACR	Country
18 years	Luxembourg
16 years	Portugal, Argentina, Cuba
15 years	Denmark, Finland, Iceland, Norway, Sweden, Greece, Czech Republic
14 years	Austria, Germany, Italy, Russian Federation, Bulgaria, Cyprus, Croatia, Hungary, Albania, Andorra, Armenia, Azerbaijan, Estonia, Georgia, Latvia, Liechtenstein, Lithuania, Malta, Moldova, Montenegro, Romania, Serbia, Slovenia, Spain, Ukraine, Bolivia, Chile, Colombia, Paraguay, Peru, Venezuela

International jurisdictions also provide examples of how the state's response to children interacting with the justice system can be supportive and therapeutic in nature, prioritising the welfare of the child and avoiding entrenching them in the criminal justice system.

For example, in the Nordic countries, all children charged with an offence under the age of 15-years old (or 14-years old in Denmark) are dealt with *only* by child welfare authorities (as opposed to the criminal justice system).⁶⁵

⁶⁰ According to Productivity Commission. (2023). *Report on Government Services 2023*, Part F, section 17: released on 25 January 2023, Table 17A.21, <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/youth-justice/rogs-2023-partf-section17-youth-justice-data-tables.xlsx> in 2021-22, it cost \$2,086.32 per day (\$761,507 per year) to keep a child in detention. Based on the average number of 20 children in detention per night this equates to more than \$15 million.

⁶¹ Productivity Commission. (2023). *Report on Government Services 2023*, Part F, section 17: released on 25 January 2023, Table 17A.10. <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/youth-justice/rogs-2023-partf-section17-youth-justice-data-tables.xlsx>

⁶² Queensland Government. (2023). *Delivering solutions for a safe community*. <https://budget.qld.gov.au/overview/delivering-solutions-for-a-safe-community/>

⁶³ Queensland Government. (2019). *Palaszczuk Government announces historic new investment in Youth Justice reform*. <https://statements.qld.gov.au/statements/87221#:~:text=The%20construction%20of%20a%20new,existing%20Brisbane%20Youth%20Detention%20Centre.>

⁶⁴ Law Council of Australia. (2020). *Council of Attorneys-General – Age of Criminal Responsibility Working Group Review*, p.19; UNICEF Legal Minimum Ages and the Realization of Adolescents' Rights, January 2017 (as replicated in the QFCC Issues Paper).

⁶⁵ Lappi-Seppälä, T. (2011). Nordic Youth Justice (p. 199). *Crime and Justice in Scandinavia*, Vol 40(1), August 2011.

In Sweden, support measures provided to a child under the age of 15-years old charged with an offence could include the provision of financial support, or referral to non-institutional care programs.⁶⁶ Even where a young person is 15 years of age or older, it is open to courts to impose “special care measures” (which authorise social service authorities to provide care or treatment to the person who has committed the crime) and/or “youth service” (a program with a restorative or rehabilitative purpose), instead of penalties such as a fine or custodial sentence.⁶⁷

Similarly, in Norway, principles of restorative justice are applied, such that, even where a young person is 15 years or older and subject to the criminal justice system, priority is given to rehabilitative measures and custodial sentences are only very rarely imposed.⁶⁸

Closer to home, the ACT government recently commissioned a review of the ACT service system to identify the changes required to implement a proposal to raise the age of criminal responsibility in the ACT to 14-years old (ACT Review).⁶⁹ The ACT Review identified a number of opportunities for reform to build a stronger, more coordinated service system that will be more effective in meeting the complex needs of children interacting with the justice system and their families, which will, in turn, be of benefit to the wider community. As an alternative to the current youth justice model, the ACT Review proposed a therapeutic response, including:

- a non-justice embedded youth worker model and safe accommodation options to support police interactions with children who may be at risk of antisocial or unsafe behaviour
- establishment of a Multidisciplinary Therapeutic Panel, a collaborative forum to make service delivery decisions for children with complex and challenging needs
- establishment of a ‘wrap-around service’ responsible for coordinating work with children and their families. The service would:
 - convene a team of highly skilled professionals, as well as involving the child and their family members
 - develop individualised child and family-centred plans to respond to the complex needs of children
 - include an assessment process that would embed restorative processes (which could include restorative meetings, apologies, victim impact letters and other forms of reparation), as a way of ensuring that victims’ needs are also met.
- oversight of the Panel and wraparound service by a legislated oversight committee, responsible for identifying systemic issues that may have arisen because of the changes to raising the age of criminal responsibility and for recommending policy and legislative changes.

⁶⁶ Janson, C. (2004). Youth Justice in Sweden. *Crime and Justice*, Vol 31, cited in Queensland Family and Child Commission. (2022). *Designing a better response to youth offending in Queensland, Raising the age of criminal responsibility: Issues paper*. https://www.qfcc.qld.gov.au/sites/default/files/2022-09/Designing%20a%20better%20response%20to%20youth%20-%20Raising%20the%20age%20of%20criminal%20responsibility%20Issues%20paper_0.pdf

⁶⁷ Hollander, A. & Tärnfalk, M. (2017). *Juvenile Crime and the Justice System in Sweden*, 26 February 2017 <https://lawexplores.com/juvenile-crime-and-the-justice-system-in-sweden/>.

⁶⁸ Bauer, E. (2019). Rehabilitative Promise: Why Norway Uses Restorative Justice in Juvenile Law. *Michigan State International Law Review*, 24 January 2019. <https://www.msuir.org/msuir-legalforum-blogs/2019/1/24/rehabilitative-promise-why-norway-uses-restorative-justice-in-juvenile-law> citing Brandon, J. (2018). *Juvenile Justice: The American Justice System v., Other Countries*, 10 September 2018. <https://medium.com/@bjohns81/juvenile-justice-the-american-justice-system-vs-other-countries-3dc6860c77ad>.

⁶⁹ McArthur, M., Suomi, A. Kendall, B. (2021). Review of the service system and implementation requirements for raising the minimum age of criminal responsibility in the Australian Capital Territory, Final Report, August 2021 (ACT Review). (p. 7). Australian National University. https://www.justice.act.gov.au/data/assets/pdf_file/0006/2072364/Raising-the-Age-Final-Report.PDF

An alternative model for Queensland

The ACT Review provides a clear roadmap for how an alternative to the current punitive, criminal justice response could be rolled out in Queensland. Within an alternative model, a child under 14 displaying problematic behaviour would have their underlying needs met.

All aspects of the alternative model should be co-designed and implemented alongside community-controlled organisations and peak bodies to ensure cultural safety and engagement. Components of the alternative model should include (Figure 1):

- **Multidisciplinary Therapeutic Panels**

Multidisciplinary Therapeutic Panels (MTPs) should be established to develop case plans to meet and resource the needs of each child and their family regardless of their location. The case plan must identify the root causes of the problematic behaviour and response actions that include services and resources to address the root cause/s.

The MTPs should be collaborative and include representatives from the Department of Health, Housing, Education, Disability Services, Youth Justice and Aboriginal and Torres Strait Islander partnerships, as well as the Queensland Police Service (QPS). In addition to government representatives, relevant non-government service providers should be involved, including to enable ongoing case management. Where the child is Aboriginal and/or Torres Strait Islander the service provider should be community controlled.

The MTP would operate collaboratively, ensuring the case plan and other information is shared between organisations and agencies to ensure ongoing, coordinated support for the child. Critical to the success of an alternative model is ensuring the case plan travels with the young person.

The model adopted by the Townsville Stronger Communities Early Action Group contains some aspects of MTPs. However, this can be enhanced with stronger First Nations leadership through engagement with community-controlled organisations, inclusion of non-government organisations, ensuring case planning considers the needs of the child's family and guarantees access to the resources and services required to address the root cause/s.

- **Case management**

Case plans should be case managed by community services, and in the case of First Nations children, community-controlled organisations must lead and also have had input into the development of the case plan.

As outlined above, case plans must come with appropriate resourcing. This should include funding to the lead organisation to deliver on the identified supports. Examples of community-led case management include:

- Ipswich Community Youth Service deliver intensive case support as part of their Community Youth Response and Diversion program. In 2021, 73 per cent of intensive case support clients reduced offending behaviour and 60 per cent improved engagement in education, training and employment.⁷⁰
- In Victoria, the Dardi Munwurro Men's Healing program delivers a First Nations led case management approach for men and boys involved in the justice system. A Deloitte evaluation found it significantly reduced incarceration rates with the cost benefit analysis indicating each dollar invested is estimated to provide a return on investment of 50 -190 per cent per dollar investment in the program.⁷¹

⁷⁰ Ipswich Community Youth Service. (2021). *Ipswich Community Youth Service: 2021 Annual Report*. <https://icysagmtest.my.canva.site/final-agm-website>

⁷¹ Deloitte. (2021). *Strengthening Spirit and Culture: A cost-benefit analysis of Dardi Munwurro's*

In addition to these community-led case management programs, a range of successful programs should be expanded to ensure they are appropriately resourced to provide the appropriate supports to the young person. For example:

- Additional resourcing should be provided to expand the On Country healing camp and cultural mentoring program into other locations with case management. The program strengthens young people's cultural connection and engages young people with education, training and employment through healing camps and cultural mentoring. In Cairns, the program is delivered by Jabalbina Yalanji Aboriginal Corporation (Jabalbina) and has been praised by the Director General of Youth Justice for positive results.⁷²
- The Youth Justice Family Led Decision Making program is a family participation process operating in four Queensland locations, supporting children and their families to solve challenges and facilitate discussions to empower children to thrive outside the youth justice system. An evaluation of this program by Inside Policy found the program's delivery by Aboriginal and Torres Strait Islander community-controlled organisations were enabling factors for cultural safety and healing though access to cultural advisors, engagement with cultural programs and empowerment in decision making.⁷³
- Safe accommodation, diversionary support and transport

In locations determined according to need, 24-hour safe accommodation and diversion hubs must be established. These 24-hour hubs should provide safe accommodation options, diversion support and transport options for children experiencing housing instability, domestic and family violence or other safety concerns.

If a young person is picked up by police and they have no safe accommodation, the police should transport the young person to the diversionary hub and initiate a referral to the MTP, if a case plan is not already in place.

These hubs must be accessible for young people and have enough beds and trained staff to respond to the needs of young people in each location. They should include outreach workers who are actively engaging young people at night and are able to provide transport to the diversionary hub.

The community organisation delivering the diversionary hub must be adequately resourced to provide appropriate staffing on a 24-hour model. The organisation must also be receiving case MTP developed plans for young people.

Lessons can be taken from the only two 24-hour hubs that currently exist in Queensland:

- The Lighthouse is a 24-hour diversionary youth service facilitated by Townsville Aboriginal and Islander Health Service (TAIHS). Unpublished data from TAIHS show from 1 April 2023 to 30 June 2023, 241 clients attend the after-hours diversion through The Lighthouse. 72 diversionary programs were facilitated such as cooking, life skills, relationship and sexual education, cultural programs, alcohol and other drugs programs, healthy lifestyle and social activities. The program has positive youth engagement rates.⁷⁴ Multiple clients stayed at the Lighthouse as overnight stays. Unfortunately, the Lighthouse is only funded to provide one bed. More beds are needed to address the need in Townsville.

men's healing programs. <https://healingfoundation.org.au/app/uploads/2021/11/Strengthening-Spirit-and-Culture-Cost-Benefit-analysis-of-Dardi-Munwarro-Mens-Healing-Programs.pdf>

⁷² Gee, B. in Queensland Government. (2023). *Estimates – Education, Employment and Training Committee- Education; Industrial Relations; Racing*. (p. 85). https://documents.parliament.qld.gov.au/com/EETC-797A/C20232024-1AA0/2023_08_03_Estimates%20EETC.pdf

⁷³ Inside Policy. (2020). Consultancy services to evaluate My Family, Our Decisions, Our Way: The Aboriginal and Torres Strait Islander Youth Justice Family Led Decision Making Trial. (pp. 25 – 37). <https://www.qatsicpp.com.au/wp-content/uploads/2020/11/YJFLDM-Final-Report-26.05.20-copy.pdf>

⁷⁴ O'Reilly, S.; Braidwood, L.; D'Emden, D.; Gair, S.; Savuro, N.; & Zuchowski, I. (2019). Working collaboratively to highlight the voices of young people in Townsville (pp.101 - 103). <http://classic.austlii.edu.au/au/journals/JCULawRw/2019/7.pdf>

- Mt Isa Youth Hub is facilitated by North West Queensland Indigenous Catholic Social Services and provides a safe place for youth, provides social, educational, cultural activities and case management referrals. The Mt Isa Youth Hub provides after-hours service to the Mount Isa Watch House to assist with bail conditions for young people. Other hub activities include providing distance education to high-risk young people of Mount Isa and Kalpin Ngutharti Program for boys aged 10 – 17 engaging in at-risk behaviour. Six beds are available at the hub through referral from youth justice and Queensland Police Service.

- Ancillary supports

The MTP will be responsible for ensuring necessary referrals to appropriate services are fast-tracked. As part of their case plan, the young person must have access to the identified supports related to disability, mental health, housing, domestic violence, trauma and educational needs. In particular, referral supports should include:

- Disability and therapeutic support

Children identified by the MTP must receive culturally safe and fast-tracked access to disability assessments and support. This must take place as a matter of priority to ensure a relevant case plan is developed that provides disability support as required.

The Disability Royal Commission has recommended:

‘State and territory governments should ensure timely screening and expert assessment are available for individual children with cognitive disability involved in the criminal justice system (including, but not limited to, detention settings) and that they receive appropriate responses, including therapeutic and other interventions.’⁷⁵

The Queensland Government should ensure it supports current initiatives to improve access to disability assessments and support. For example, the Yapatjarrathati Project is a partnership between Griffith University and Gidgee Healing, an Aboriginal Community Controlled Health Organisation that provides innovative, culturally safe approaches for diagnosing and managing FAS-D in communities.⁷⁶ Early studies show the program is effective in increasing attendee knowledge, confidence, and perceived competence with the FAS-D assessment process within communities.⁷⁷

- Education support

Educational support must be enhanced for children displaying problematic behaviours and school disengagement. The Queensland Government must review the use of school disciplinary absences in Queensland schools that can impact the trajectory of disadvantaged children.⁷⁸ Flexible, inclusive, independent and Indigenous-led schooling models can play a positive role in supporting children's educational needs.

For example, Silver Lining Foundation facilitate First Nations led schools in regional Queensland to empower communities to deliver positive educational outcomes for disenfranchised young people, including those with a justice experience, to stop the ‘school to prison pipeline’. The schools include community breakfast and lunch programs, door to door pick up, home visits, Elder engagement, student

⁷⁵ Australian Government. (2023). *Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: Final Report - Volume 8, Criminal justice and people with disability*. <https://disability.royalcommission.gov.au/system/files/2023-09/Final%20Report%20-%20Volume%208%2C%20Criminal%20justice%20and%20people%20with%20disability.pdf>

⁷⁶ Griffith University. (2023). *Yapatjarrathati Projects*. <https://www.griffith.edu.au/research/impact/yapatjarrathati-projects>

⁷⁷ Miller, L., Shanley, D., Page, M., et. al. (2022) Preventing Drift through Continued Co-Design with a First Nations Community: Refining the Prototype of a Tiered FASD Assessment (p. 11). *International Journal of Environmental Research and Public Health*. <https://www.ciazabazalkoholu.pl/images/file/06122022/Preventing%20Drift%20through%20continued%20co-design%20with%20a%20first%20national%20community.pdf>

⁷⁸ Queensland Advocacy for Inclusion. (2023). *Right to Learn campaign*. <https://qai.org.au/a-right-to-learn/>

centred approaches, attachment informed education, restorative practices, cultural learning, connection with country. The average student attendance rate for the Mungalla School in 2021 was 66 per cent, with 28 per cent of students attending 90 per cent or more of the time.⁷⁹ It is important to note that many of these students have disengaged from other educational environments.

— Community-led restorative justice conferencing

Referrals should include community-led restorative justice conferencing. Current restorative justice conferencing may include:

- verbal or written apologies to victims
- referral to counselling for the child
- a statement from the child regarding improving future behaviour
- financial restitution to victims
- production of a sorry painting, poem, or song
- voluntary work undertaken for the victim or the community
- child participation in an educational activity.⁸⁰

A 2018 evaluation of restorative justice in Queensland found that 59 per cent of children who participated in the program did not reoffend, 18 per cent showed a decrease in post-conference offending and 23 per cent had an equivalent or increased post-conference offending.⁸¹ While 100 per cent of young people convicted of a crime on strict bail orders in Toowoomba reoffended within 12 months,⁸² only 64 per cent of young people who completed restorative justice in Toowoomba reoffended within 12 months.⁸³

To strengthen restorative justice approaches for children under 14 in Queensland, conferencing should be community-led, keeping the process separate from the justice system. Conferencing should adopt culturally safe approaches with First Nations representation. Community Justice Groups could potentially lead restorative justice processes for children under 14.

⁷⁹ Silver Linings Foundation. (2023). *Mungalla School Annual Report 2023*. <https://silverlinings.org.au/wp-content/uploads/2023/08/Mungalla-Annual-Report-file-Silver-Lining-School-Web-Res-FINAL.pdf>

⁸⁰ Queensland Government. (2018). *About Restorative Justice Conferences*. <https://www.qld.gov.au/law/sentencing-prisons-and-probation/young-offenders-and-the-justice-system/youth-justice-community-programs-and-services/restorative-justice-conferences/about#:~:text=Restorative%20justice%20conferencing%20is%20a,based%20response%20to%20criminal%20behaviour>.

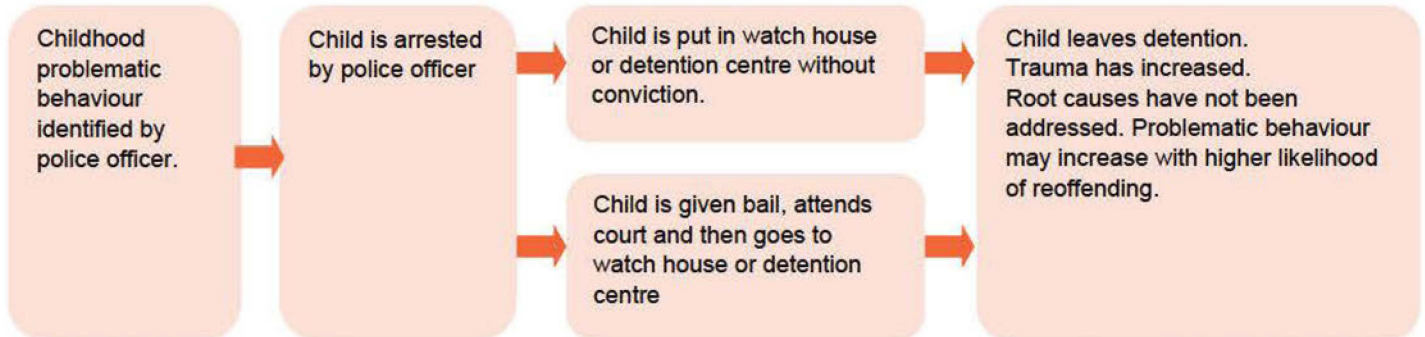
⁸¹ Queensland Government. (2018). *Department of Child Safety, Youth and Women, Restorative Justice Project: Twelve-month program evaluation* (p. 48). <https://www.dcsds.qld.gov.au/resources/dcsyw/youth-justice/program-eval/restorative-justice-evaluation-report.pdf>

⁸² Queensland Government. (2022). *Response to Question on Notice No. 790 by the Minister for Children and Youth Justice and Minister for Multicultural Affairs*. <https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/790-2022.pdf>

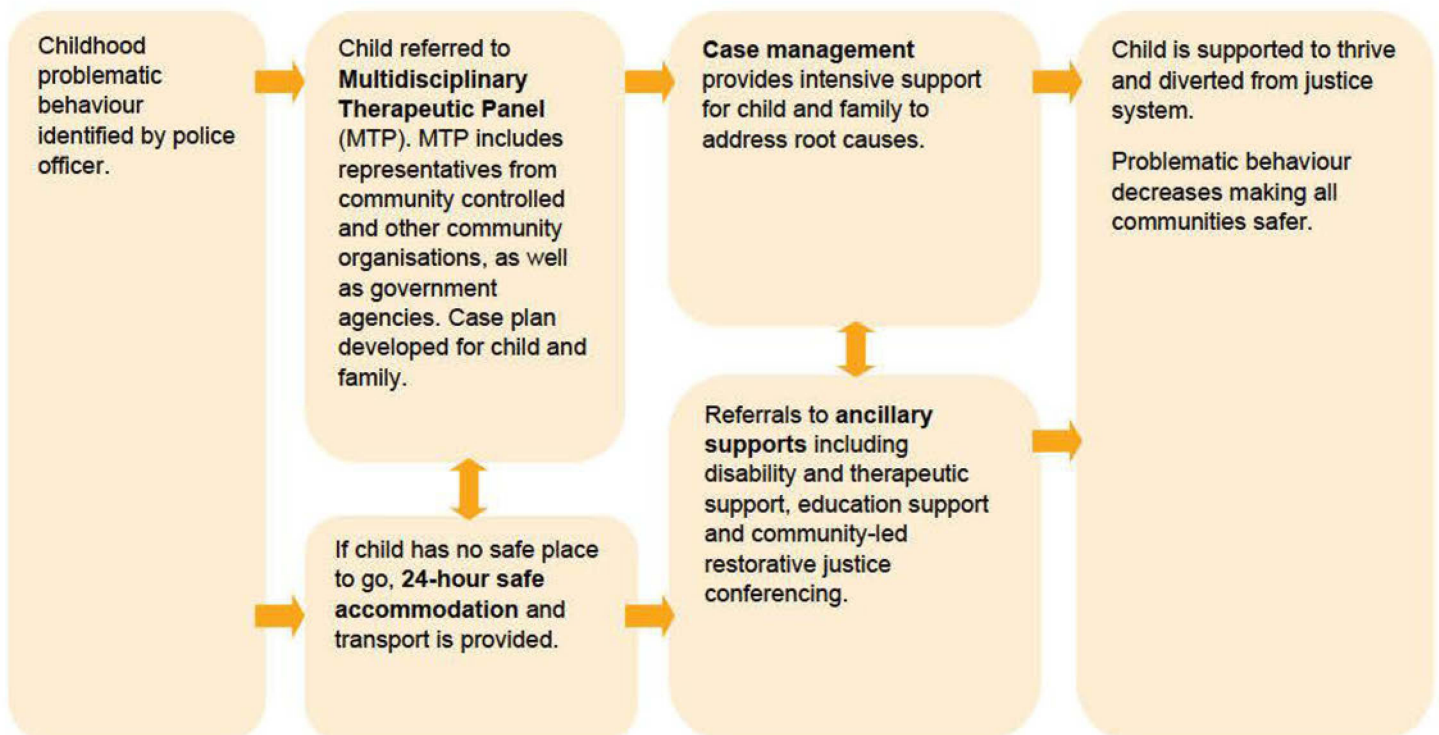
⁸³ Queensland Government. (2022). *Response to Question on Notice No. 790 by the Minister for Children and Youth Justice and Minister for Multicultural Affairs*. <https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/790-2022.pdf>.

Figure 1: Current and alternative model

Current punitive model – what can happen to a child aged 10 – 14 years



Alternative model for children aged 10 – 14 years



Cost of an alternative response

The ACT Review provides an indication of the costs that would be associated with adopting an alternative, service-led response to children interacting with the justice system.⁸⁴ The costs include:

- appointing members to the Multidisciplinary Therapeutic Panel: \$875 per diem for the chair and \$800 per diem for 8 other members, estimated to be at least \$110,000 per year
- providing secretariat support to the panel: approximately \$130,000 plus oncosts
- appointing a wraparound coordinator and three therapeutic coordinators for the wraparound service: approximately \$500,000 plus oncosts and allowances
- a brokerage for the wraparound service: \$50,000 per child per year
- employment of care workers as part of the embedded youth outreach response: approximately \$160,000 plus oncosts and allowances
- provision for crisis accommodation: up to \$1,500 per child per night.

MTPs, outreach, wrap around support and therapeutic coordination should be implemented in 12 Queensland locations based on need. Safe accommodation should be available in all locations and 24-hour safe accommodation and diversion hubs implemented in eight locations based on need.

Budget breakdown for Queensland service system response for children 10 - 13 years old

Program	Cost
MTP (Chair and 8 members) (12 locations)	\$1,320,000
Secretariat (12 locations)	\$1,560,000
Case management (12 locations)	\$6,000,000
Brokerage for wraparound service (121 children)	\$6,050,000
24-hour safe accommodation and diversion hubs in 8 locations with transport	\$10,400,000
Other accommodation	\$2,737,500
Additional costs including services, cultural support and other transport.	\$10,000,000
Community-led restorative justice	Assign existing funds for under 14s for community-led coordination. No additional funds required.
Total cost:	\$38,067,500

While most children needing safe accommodation will be supported through 24-hour diversionary hubs, other accommodation may be needed in locations with less need. Funds for 'Other accommodation' is based on providing accommodation to 25 per cent of children under 14 in detention each night (5 children). Please note that 'brokerage' is based on support for 121 10- to 13-year-olds who spent time in youth detention in 2021-2022. The 'additional costs' of \$10,000,000 is allocated for other services so children have access to support for their needs.

QCOSS acknowledges and thanks Clayton Utz for their support and assistance with the preparation of this paper.

⁸⁴ McArthur, M., Suomi, A., & Kendall, B. (2021). Review of the service system and implementation requirements for raising the minimum age of criminal responsibility in Australian Capital Territory (p. 7). Australian National University. https://www.justice.act.gov.au/data/assets/pdf_file/0006/2072364/Raising-the-Age-Final-Report.PDF

Youth Justice Reform Select Committee inquiry into youth justice reform in Queensland

Submission No:	75 - supplementary submission
Submitted by:	Queensland Council of Social Services
Publication:	Making the submission and your name public
Attachments:	See attachment
Submitter Comments:	

youthjustice@parliament.qld.gov.au

<https://documents.parliament.qld.gov.au/com/YJRSC-6004/YJRSC-54D8/submissions/00000075.pdf>



Contact
(07) 3004 6900
qcoSS@qcoSS.org.au
www.qcoSS.org.au

Postal Address
PO Box 3786
South Brisbane

Street Address
Ground Floor,
20 Pidgeon Close,
West End, QLD, 4101

**Queensland Council
of Social Service Ltd**
ABN 11 781 477 447
ACN 169 502 032

The strategy should be a whole of government endeavour, with the Department of Premier and Cabinet being ultimately responsible.

The Productivity Commission recently discussed what is required to affect meaningful change in the context of the National Agreement on Closing the Gap.² They observed:

“It has become clear that in order to see change, business-as-usual must be a thing of the past. Across the country, we have observed small tweaks or additional initiatives, or even layers of initiatives, as attempts to give effect to the Agreement. However, real change does not mean multiplying or renaming business-as-usual actions. It means looking deeply to get to the heart of the way systems, departments and public servants work. Most critically, the Agreement requires government decision-makers to accept that they do not know what is best for Aboriginal and Torres Strait Islander [Peoples].”³

As we raised in our previous submission, building on the four pillars of ‘intervene early’, ‘keep children out of court’, ‘keep children out of custody’ and ‘reduce re-offending’, the new Youth Justice Strategy should invest in communities, transfer the delivery of solutions to community, and should:

- be co-designed with First Nations Peoples and centre the voice of children
- be developed in accordance with Queensland’s *Human Rights Act 2019* (‘the Human Rights Act’)
- remove children under the age of 14 from the justice system
- increase ongoing and sustained investment in First Nations-led evidence-based services and supports to address the underlying causes of offending
- ensure Closing the Gap justice targets are achieved
- ensure all children have access to culturally appropriate services and supports, including education, health, disability services, AOD services, and housing.

The new strategy must address the gross over-representation of First Nations children in the youth justice system. As at 2021, of Queensland’s population aged 24 years or younger, 7.8 per cent identified as Aboriginal and/or Torres Strait Islander.^{4,5} However, First Nations children make up nearly 70 per cent of young people held in youth detention on an average night in Queensland.⁶ Of the children held in detention on an average night who are aged 10 to 13 years old, nearly 80 per cent are First Nations children.⁷

Based on member feedback, QCOSS recommends the new Youth Justice Strategy be long term, co-designed with First Nations Peoples, and should operate as a generational strategy supported by an independent evaluation framework and regular public progress reports. QCOSS members have highlighted the Queensland Government’s *Our Way Strategy* provides an example of what this could look like in action.⁸ The new Youth Justice Strategy should facilitate place-based and community-led programs and initiatives responding to the specific and unique needs of communities across Queensland.

² Commonwealth of Australia. (2024). *Review of the National Agreement on Closing the Gap Study Report, Volume 1*. Productivity Commission. (‘*Review of the National Agreement on Closing the Gap Study Report, Volume 1*’) <https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report/closing-the-gap-review-report.pdf>

³ *Review of the National Agreement on Closing the Gap Study Report, Volume 1*, p iii.

⁴ Australian Bureau of Statistics. *Queensland 2021 Census All persons QuickStats*. <https://www.abs.gov.au/census/find-census-data/quickstats/2021/3>

⁵ Australian Bureau of Statistics. (2022). *Aboriginal and Torres Strait Islander people: Census, Data table for Census article – Aboriginal and Torres Strait Islander population summary*. <https://www.abs.gov.au/statistics/people/aboriginal-and-torres-strait-islander-peoples/aboriginal-and-torres-strait-islander-people-census/2021>

⁶ Australian Institute of Health and Welfare. (2023). *Youth detention population in Australia 2023*, tables S1 to S15. <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2023/data>

⁷ Ibid.

⁸ State of Queensland. *Our Way Strategy*. Accessed 27 February 2024.

<https://www.dcsds.qld.gov.au/our-work/child-safety/aboriginal-torres-strait-islander-families/our-way-strategy>

The Youth Justice Strategy should also operate in alignment with the *Putting Queensland Kids First* strategy, which was recently opened as a draft for public consultation.⁹

Encouragingly, the *Putting Queensland Kids First Consultation Draft* includes a commitment to shift “...the balance of investment to preventative care and early intervention to achieve the best possible outcomes and return on investment,”¹⁰ and also commits to increasing investment in the community controlled sector.¹¹

Both strategies should be underpinned by a human rights framework, guided by the Human Rights Act, the United Nations Convention on the Rights of the Child (‘the CROC’) and the United Nations Declaration on the Rights of Indigenous Peoples. This framework can assist in identifying priority areas, and in framing rights-respecting policy and decision making. In particular, the CROC emphasises that “...childhood is entitled to special care and assistance...”¹² The CROC recognises “...that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding...”¹³ The CROC outlines the importance of supporting families to ensure they can assume their fundamental role within the community. This should be an essential element underpinning approaches to youth justice, alongside clear measures to respect, protect and fulfil the right to self-determination of Aboriginal and Torres Strait Islander Peoples.

QCOSS remains concerned about current investment into punitive approaches such as the building of two new youth detention centres and laws and policies that are increasing the numbers of children in detention in Queensland. For example, legislation that extended and expanded a trial for the use of electronic monitoring devices on young people released on bail, and introduced a breach of bail offence for children;¹⁴ or legislation that legalised the practice of detaining children in adult watch houses.¹⁵ These actions are inconsistent with the recently expired *Working Together Changing the Story, Youth Justice Strategy 2019-2023*, and the evidence of what works to keep communities safe and reduce offending behaviour. No contemporary and evidence-based strategy would include initiatives that seek to increase detention of children as young as 10. In the long term, high rates of incarceration of children will not result in a reduction in youth crime.¹⁶

2. How to instigate earlier assessment, intervention and prevention strategies that support children and their families to access health, education, housing and other services.

QCOSS member feedback has highlighted the importance of investing in programs to address the underlying drivers that lead to contact with the youth justice system. Members have highlighted gaps in the availability of community led and culturally safe mental health care for children, noting that many young people in contact with the justice system have experienced prior trauma without receiving sufficient therapeutic support.

Members have frequently emphasised that children in contact with the justice system have often been victims themselves and did not receive the help they needed to heal from negative experiences. They are penalised for failing to demonstrate empathy, when they have not always experienced empathy from others, including from the authorities. They are punished for problematic behaviour by a system that often compounds their trauma.

⁹ State of Queensland. (2024). *Consultation Draft: Putting Queensland Kids First*. Department of Premier and Cabinet. (‘*Consultation Draft: Putting Queensland Kids First*’) https://www.qld.gov.au/data/assets/pdf_file/0031/454468/consultation-draft-putting-queensland-kids-first.pdf

¹⁰ *Consultation Draft: Putting Queensland Kids First*, p 11.

¹¹ *Consultation Draft: Putting Queensland Kids First*, p 19.

¹² *United Nations convention on the Rights of the Child*, November 20 1989, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

¹³ Ibid.

¹⁴ *Strengthening Community Safety Act 2023* (Qld).

¹⁵ *Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Act 2023* (Qld).

¹⁶ State of Queensland. (2019). *Working Together Changing the Story, Youth Justice Strategy 2019-2023*, pp 4, 8-12. https://desbt.qld.gov.au/data/assets/pdf_file/0022/17149/strategy.pdf

Our members have also highlighted a need for improved cultural assessment tools in the disability context, where significant cultural and language barriers can impede accurate early assessment to ensure children receive the support they need.

QCOSS welcomes the *Putting Queensland Kids First Consultation Draft* that promotes the importance of prevention and early intervention measures, including access to integrated services, and access to universal health and social care, housing and education. The *Putting Queensland Kids First Consultation Draft* has identified a broad range of opportunities for important activities and initiatives. We anticipate further expansion as the *Putting Queensland Kids First* strategy is finalised following extensive consultation. The QCOSS pre-budget submission paper, [Giving all children a good start](https://www.qcoss.org.au/publication/queensland-budget-2024-2025-our-submission/), also calls for a number of specific measures that would result in positive early intervention and prevention outcomes:

- Establishing additional community-led early years hubs
- Funding to support the development and growth of Aboriginal and Torres Strait Islander early childhood services
- Expanding the free kindergarten program to include all three-year-olds
- Improving inclusive practices by creating schools that better reflect and help equip all young people
- Integrating child development and wellbeing into relevant services where children are presenting outside of early education and care programs
- Doubling the current investment into the Aboriginal and Torres Strait Islander Family Wellbeing Service.¹⁷

Experiences of poverty pose a major barrier to participating fully in the community and accessing support and critical services. In light of this, QCOSS sees a particular need for the Queensland Government to meaningfully address cost of living pressures and work towards eliminating poverty and disadvantage. Additional key asks in our pre-budget submission papers that would assist in this respect include:

- Ending Queensland's housing crisis
- Increasing funding to financial counselling services
- Reducing digital disadvantage
- Reducing food insecurity
- Providing ongoing energy bill-relief
- Helping low-income households access the energy transition.
- Enhancing gender responsive budgeting and gender responsive procurement measures to advance women's economic security.¹⁸

3. Reimagining youth justice infrastructure, including best practice standard accommodation for children and young people who are detained, held on remand or transitioning from detention to the community.

QCOSS takes this opportunity to emphasise that watch houses are not acceptable places to hold children in detention. Reports of the conditions children are enduring in watch houses are alarming. This includes children under the age of 14 remaining in watch houses for several weeks without appropriate access to food, hygienic conditions, clean clothing, natural light, and healthcare. These conditions are highly traumatic and causing significant mental health issues. This issue must be

¹⁷ Queensland Council of Social Service. (2023). *Queensland Budget | 2024 -2025 – Giving all children a good start*. <https://www.qcoss.org.au/publication/queensland-budget-2024-2025-our-submission/>

¹⁸ Queensland Council of Social Service. (2023). *Queensland Budget | 2024 -2025*. <https://www.qcoss.org.au/publication/queensland-budget-2024-2025-our-submission/>

urgently addressed to remove young people currently held in custody while implementing strategies to ensure this practice does not continue.

The Youth Advocacy Centre have outlined that watch houses are not suitable for children noting “...there are extremely limited facilities for visits by family; there are often no facilities for exercise or other age-appropriate activities; many children are staying for two weeks and in isolated incidents they may be staying for as long as five weeks; the children are being held in close proximity to adult prisoners; the police working in the watch houses often have no training in dealing with troubled young people.”¹⁹ We note correspondence published by the Committee that describes alleged concerns on a particular watch house regarding insufficient nutrition; insufficient opportunities for time outdoors; situations where children are sleeping on mattresses on the floor; where multiple children are held in the one cell; where children are not always afforded sufficient privacy when they use toilet and shower facilities; and where children are managing excessive noise levels from within the watch house.²⁰

The Women’s Safety and Justice Taskforce also highlighted distressing reports of watch house conditions as reported by women and girls:

“Many women and girls described their experiences in watchhouses as demoralising and degrading – experiencing overcrowding, long stays and denial of basic hygiene items (including menstrual products) and appropriate clothing and bedding. The Taskforce also heard of medication and medical treatment being withheld.

‘I was only able to shower once in my time in the watchhouse. I was given men’s prison clothing to wear, no underwear, and I was not able to change the whole time I was there. The food is disgusting, things like cold fish and chips. They had problems with the thermostat and the temperature got so high I had to beg to be removed from my cell because I felt like I could not breathe and I thought I was going to die. I had to sit in the exercise yard until the cell cooled back down. I was not treated as a human at the watchhouse.’”²¹

The Queensland Family and Child Commission (QFCC) have raised considerable concerns on the harmful and traumatising impacts of watch houses on children, and analysed current data that indicates children are spending longer periods of time in watch houses.²² The QFCC have also outlined concerns on understaffing in youth detention centres;²³ concerns that youth detention centres are routinely operating above ‘safe capacity’;²⁴ and concerns regarding the increasing number of lockdowns in youth detention centres.²⁵

Our previous submission to this Inquiry and our recent pre-budget submission outlines that youth detention is not an effective way to address problematic behaviour.²⁶ Detention has a criminogenic effect on children, and Queensland has the highest rates of youth detention in Australia. QCOSs urges the Government to implement a comprehensive, trauma-informed, culturally sensitive, and

¹⁹ Youth Advocacy Centre. (2019). *Orange Paper 1: The use of Queensland Watch houses to hold children*. <https://yac.net.au/wp-content/uploads/2022/10/YAC-Orange-Paper-1-QLD-Watch-Houses.pdf>

²⁰ Youth Justice Reform Select Committee. *Correspondence – Andrea Bates, 15 January 2024*. Published 31 January 2024.

²¹ Women’s Safety and Justice Taskforce. (2022) *Hear Her Voice Report Two, Volume Two: Women and girls’ experiences across the criminal justice system*, p 408. https://www.womenstaskforce.qld.gov.au/data/assets/pdf_file/0009/723843/Hear-her-voice-Report-2-Volume-2.pdf

²² Queensland Family and Child Commission. (2023). *Who’s responsible: Understanding why young people are being held longer in Queensland watch houses*. <https://www.qfcc.qld.gov.au/sector/monitoring-and-reviewing-systems/young-people-in-youth-justice/who%27s-responsible>

²³ *ibid*, pp 54-55.

²⁴ *Ibid*, pp 49-52.

²⁵ *Ibid*, pp 56-57.

²⁶ Queensland Council of Social Service. (2023). *Queensland budget | 2024-2025: Invest in Queensland’s youth services*. <https://www.qcoss.org.au/publication/queensland-budget-2024-2025-our-submission/>

community-led alternative to the justice system for children under 14. This should be supported by legislative reform to raise the age of criminal responsibility to 14.

4. How to improve:

- a. children and young people's engagement with positive programs, particularly for those held on remand or released on bail where engagement may be lower compared to those in detention.**

Community-led programs need increased funding to further support their work in assisting children and young people throughout Queensland. Our previous submission to the Inquiry provided examples of programs achieving positive results that could be expanded. Those programs may also provide models that could be successfully adapted to meet the needs of other local communities. There are many programs across Queensland that could be reviewed for increased investment.

In addition to specific opportunities to invest in positive programs, our pre-budget submission paper calls for broad measures to strengthen the sustainability of the community sector.²⁷ Organisations across the community sector have outlined that short-term, small, and ad-hoc funding underscores a highly challenging operating environment. We call for a Queensland Care and Support Strategy with a specific vision for a sustainable community services system, and a whole-of-government policy on the procurement of community services.

- b. children and young people's transition back into the community, including consideration of supported accommodation models.**

Our members have shared concerns regarding current gaps to support children who are transitioning back to their communities following time spent in detention. This can be a particularly challenging process where children have been separated from their families by substantial distances. Feedback has outlined that different communities will have different priorities in terms of what is needed to ensure children can effectively transition back into their community. For this reason, efforts to support successful transitions should be place-based, co-designed and community led. Members have shared that in supporting a child to transition back to their community, it is important to identify what is needed within their family unit and home environment. As outlined throughout this submission, positive results will rely on significant investment targeted towards supporting the whole family; ensuring genuine universal access to health and social care, education, and housing; and alleviating cost of living pressures.

5. The current operation of the Youth Justice Act 1992, including sentencing principles, the criteria for serious repeat offender declarations and traffic offences.

Any review on the operation of the *Youth Justice Act 1992* ('the YJA') must be undertaken using a human rights framework. In the past year the Human Rights Act has been overridden through the passing of two pieces of legislation amending the YJA and other related Acts.²⁸ These are the only instances where an override declaration has been engaged in Queensland. In both instances, the override was in relation to the human rights of children.

We emphasise the vital importance of maintaining the sentencing principle of detention as a last resort. The *Charter of Youth Justice Principles* outlines that "...a child should be detained in custody for an offence, whether on arrest, remand or sentence, only as a last resort and for the least time that is justified in the circumstances."²⁹ This principle informs any decision maker on whether to hold a child in any form of detention under the YJA. In sentencing a child for an offence, a court must have regard to this principle.³⁰ This principle is based on international best practice, in alignment

²⁷ Queensland Council of Social Service. (2023). *Queensland Budget | 2024 -2025 – Advancing the Sector*. <https://www.qcoss.org.au/publication/queensland-budget-2024-2025-our-submission/>

²⁸ *Strengthening Community Safety Act 2023* (Qld); *Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Act 2022* (Qld).

²⁹ *Youth Justice Act 1992* (Qld) sch 1, clause 18.

³⁰ *Youth Justice Act 1992* (Qld) s 150(1)(b) and (2)(e).

with the United Nations Convention on the Rights of the Child.³¹ The Queensland Government should not explore exception from this established position. We also urge the government to maintain the right to privacy of children and young people when they appear in court.

Mandatory minimum sentencing of young people should also not be explored.

Additionally, our members have outlined that the YJA would be strengthened with the incorporation of a stronger cultural rights based framework. An example of this in another context is the Aboriginal and Torres Strait Islander Child Placement Principle incorporated into the *Child Protection Act 1999* (Qld).³² Our members have also raised that the YJA should incorporate further opportunities to empower children and their families to actively participate in important decision making processes, enabling families to ensure they can support their children through positive pathways.

6. How to strengthen public confidence in the youth justice system, including by:

- a. examining the impact of social media and traditional news media on youth offending and community perceptions of safety**
- b. improving the way data on youth crime is communicated to the public.**

It is important for the community to feel safe, and for the Queensland Government to communicate how evidence-based therapeutic approaches to youth justice result in better outcomes for children and young people as well as safer communities. QCOSS members have regularly shared their frustration on the way in which youth justice concerns are discussed in the public sphere with a disproportionate focus on tough-on-crime narratives. They have highlighted a need for better story telling on programs and initiatives that are delivering positive results. Reflections from our members have often highlighted concerns that there is less interest in positive stories. They have emphasised a need for public discussion to connect with community concerns in a more nuanced way.

QCOSS coordinates the Queensland Raise the Age campaign, which is seeking to have the age of criminal responsibility in Queensland raised to 14. The campaign is an effective vehicle to amplify the voices of young people, families, community services, and community-controlled organisations to promote evidence based, therapeutic supports that address the underlying causes of youth crime. The government should partner with community organisations to elevate and share powerful stories, as well as positive trends that are demonstrated through readily available community sector data and government data. The Queensland Government has a clear role in helping to allay the distress and concern felt within the community and should also help to build awareness of where community members can turn to for support from appropriate channels and suitably skilled professionals when needed.

7. How to improve youth justice system responses to victims and ensure they are able to access support services across the state.

We highlight key points raised in our previous submission that responded to one of the Committee's Terms of Reference regarding the efficacy of systems and processes to provide immediate and ongoing support for victims of crime.³³ In that submission we outlined the value of restorative justice processes in achieving good outcomes for both victims and young offenders. We also referred to the upcoming establishment of a permanent Victims Commissioner. We noted recommendations from the Women's Safety and Justice Taskforce that, once permanently established, the Office of the Victims Commissioner should undertake a review of the *Charter of Victims' Rights*.³⁴ In their

³¹ *United Nations Convention on the Rights of the Child*, Article 37(b).

³² <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

³³ Child Protection Act 1999 (Qld) s 5C.

³³ Queensland Council of Social Service. Submission No 75 to the Youth Justice Reform Select Committee. *Youth Justice Reform in Queensland*. (9 January 2024).

<https://documents.parliament.qld.gov.au/com/YJRSC-6004/YJRSC-54D8/submissions/00000075.pdf>

³⁴ Women's Safety and Justice Taskforce. (2022). *Hear Her Voice Report Two, Volume One: Women and girls' experiences across the criminal justice system*, p 14.

https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0008/723842/Hear-her-voice-Report-2-Volume-1.pdf

capacity to identify systemic trends and issues, that Office should also be supported to further explore recommendations on ensuring effective justice system responses to victims and ensuring victims are able to access support services across the state.


In addition to our previous comments, we also encourage continued progress with respect to recommendation nine from *Hear Her Voice Report Two*, which proposed that "...the Queensland Government, in consultation with people with lived experience, Aboriginal and Torres Strait Islander peoples and service and legal system stakeholders, develop, fund and implement a statewide model for the delivery of a professional victim advocate service."³⁵

Conclusion

Thank you for the opportunity to provide additional feedback to the Youth Justice Reform Inquiry. Our submission has emphasised the need to ensure community safety, respect for the human rights of children and families, and to ensure victims feel heard and their rights respected. Current human rights failings in the youth justice system are not acceptable and must not continue. Inaction on this will result in increasingly catastrophic outcomes for communities, children and families. Queensland has the resources, skills and capacity to become a leader in the youth justice setting, and to implement an ambitious evidence-based strategy that is in alignment with a human rights framework while increasing community safety.

Thank you again for the opportunity to provide our submission. If you have any questions, please contact Aimee McVeigh, Chief Executive Officer at [REDACTED].

Yours sincerely



Aimee McVeigh
Chief Executive Officer

³⁵ Women's Safety and Justice Taskforce. (2022). *Hear Her Voice Report Two, Volume One: Women and girls' experiences across the criminal justice system*, p 12.
https://www.womenstaskforce.qld.gov.au/_data/assets/pdf_file/0008/723842/Hear-her-voice-Report-2-Volume-1.pdf