

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

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**Submitted by:** Queensland Network of Alcohol and Other Drug Agencies Ltd  
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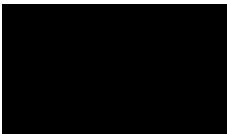
Dear Committee

Thank you for the opportunity to provide a submission to the Youth Justice Reform Select Committee. The Queensland Network of Alcohol and other Drugs (QNADA) submission is attached.

QNADA represents a dynamic and broad-reaching specialist network of non-government alcohol and other drug (NGO AOD) treatment and harm reduction services across Queensland. We represent and support over 60 specialist NGO AOD providers, including 9 specialist youth organisations providing AOD services and 14 Aboriginal and Torres Strait Islander Community Controlled Health services. This submission is made following consultation with QNADA members and approved by the CEO.

QNADA is pleased to provide further information, or discuss any aspect of this submission. Please do not hesitate to contact me at [Rebecca.Lang@qnada.org.au](mailto:Rebecca.Lang@qnada.org.au) or by calling [REDACTED].

Yours sincerely



Rebecca Lang

**CEO**



# Youth Justice Reform Select Committee

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*Submission – January 2024*

This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). Its content is informed by consultation with QNADA member organisations providing alcohol and other drug treatment and harm reduction services across Queensland, as well as a review of relevant research and reports.

This submission discusses a range of issues relevant to the Committee's terms of reference including:

1. the prevention of entry and diversion of youth offenders from the justice system with specific consideration of risk and protective factors that reduce crime;
2. 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;
3. the efficacy of:
  - i. justice programs including on-country programs, education, health and housing services;
  - ii. evidence-based early intervention and prevention programs;
  - iii. reducing the numbers in custody on remand;
  - iv. alternatives to detention;
  - v. detention and other consequences of offending;
  - vi. the most suitable infrastructure used for custody, detention or residential components necessary to reduce crime.

### **Effective Responses**

We note the National Closing the Gap targets include reducing the rate of young people (ages 10 to 17 years) in detention by 30% by 2031.<sup>i</sup> To meaningfully achieve this, we support the range of actions called for by the Queensland Aboriginal and Torres Strait Islander Child Protection Peak including:

- a significant long-term increase in community controlled youth services;
- delegating authority and appropriate functions to these services from youth justice;
- the implementation of community-led justice reinvestment approaches;
- intensive and culturally appropriate case management; and
- a long term commitment to achieve the changes required.<sup>ii</sup>

It is critical that opportunities to minimise unnecessary contact with police and other justice agencies are optimised, including by ensuring that community controlled and non government services for young people are available, when and where they need them. Services must be acceptable and accessible to young people, and by investing in First Nations-led, local solutions, the number of young people interacting with the youth justice system can be minimised through solutions that prioritise the protective strengths of families and communities, and the value of independent, non-government diversion and bail support programs, who are better positioned to build trust and work with children and young people preventatively.

To support effective relationships and engagement, alcohol and other drug treatment and harm reduction services must be voluntary, confidential and delivered in a way that ensures that young people and their families feel safe. This is because most:

- have complex histories of abuse and trauma;
- prior poor experiences with police and other statutory bodies;
- a general distrust of services; and
- experience stigma and discrimination in their daily lives, including from police and the courts.

The vast majority of people who use alcohol and other drugs do not experience problematic use and never come into contact with any services for reasons related to their use. This includes specialist health services like alcohol and other drug treatment and harm reduction services, as well as agencies like police, courts, child safety or youth justice. For people who do access specialist AOD treatment, contact with agencies like police, justice and child safety are associated with a range of adverse outcomes, including:

- on a person's disclosures with treatment services, with potential follow-on impacts for treatment effectiveness;
- heightened stress; and/or
- disruptions to treatment delivery, particularly during periods of imprisonment.

Once in the system, children and young people often move between systems at different points in time which can lead to compounding harm, exclusion and disadvantage that has detrimental impacts over the longer term, including increased likelihood of further system engagement, limiting future employment prospects and/or restricting access to secure housing.

QNADA's member services work at the intersection of multiple systems and provide support to people who have had contact with, or are likely to have contact with, the youth justice system. We note young people aged 15 to 24 years are more likely to be victims of crime, including of physical and/or threatened assault, than any other age group.<sup>iii</sup> There is no real way to predict how these experiences will impact a child or young person's ongoing health and behaviour however, for young people who do offend, there is a significant likelihood that they have been victims of more serious offences than they have committed, and that they have experienced multiple forms of disadvantage, abuse, and neglect.

During adolescence, the brain is undergoing extensive remodelling with the full development of the prefrontal cortex – the section that helps us to understand consequences, solve problems and control impulses – only finishing at age 25.<sup>iv</sup> This impacts the way that children and young people make decisions, as well as their ability to fully comprehend the outcomes of their actions.<sup>v</sup>

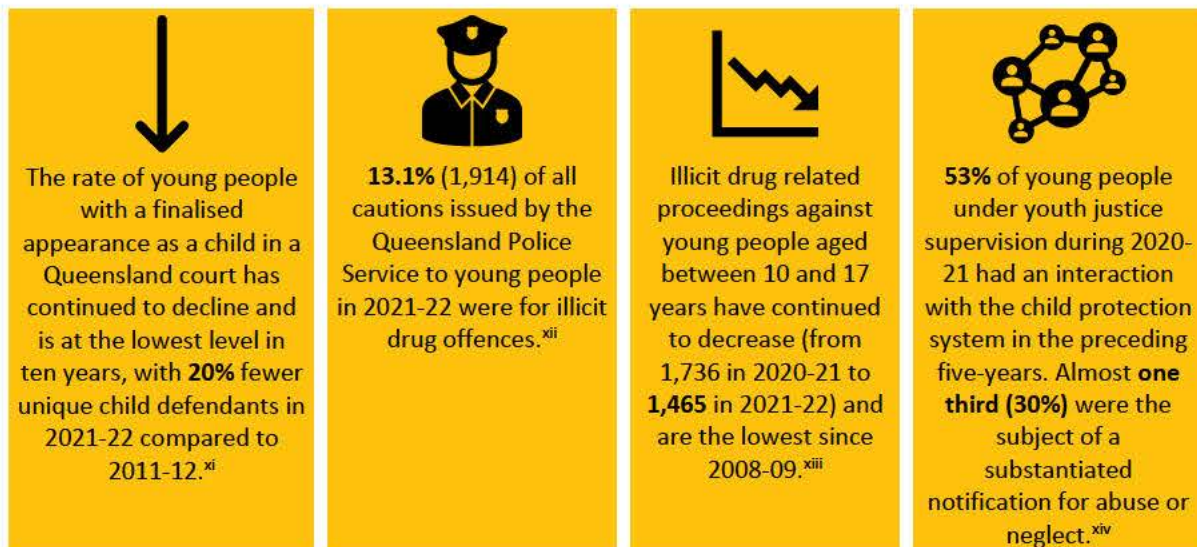
The 2018 *Report on Youth Justice* in Queensland found that children and young people in the youth justice system are more likely to have undiagnosed and/or untreated health issues including trauma, mental health, substance use and intellectual disability.<sup>vi</sup> This report identified that children and young people under supervision orders have an increased likelihood of more frequent drug use and an earlier initiation of use, compared to other children the same age.<sup>vii</sup>

There is also a strong intersection between the youth justice and child protection systems. Children and young people who are brought to the attention of child protection systems as a result of abuse, neglect or concerns about parental capacity to care, are at least nine times more likely to be under the

supervision of youth justice services.<sup>viii</sup> Contact with the youth justice system for this group also occurs at an earlier age, which increases the likelihood of progression to the adult criminal justice system.<sup>ix</sup> Often, offences are related to a young person’s care situation, particularly for those in out of home care.<sup>x</sup>

Children and young people who have been or are engaged with both the child protection and youth justice systems are also likely to have:

- been exposed to problematic substance use in their homes (89%);
- used alcohol and other drugs (73%); and
- have a greater number of charges if substance use was present (an increase of 20 charges on average).



There is clear evidence demonstrating the need for developmentally appropriate interventions, the importance of protections for children on the basis of their vulnerability, which underpin the United Nations Committee for the Convention on the Rights of the Child’s unequivocal position that the age of criminal responsibility should not be set below 14 years (currently 10 years in Qld).<sup>xv</sup>

### Current Responses

Queensland spends \$218 million on the incarceration of children each year.<sup>xvi</sup> There is a negative return on this investment for the community, with the experience of being in a youth detention facility increasing the likelihood of future offending.<sup>xvii</sup> Over 85% of children and young people in Youth Detention Centres in Queensland have not been convicted of a crime, they are instead on remand awaiting the finalisation of their court matter, which may not itself result in a sentence of detention.<sup>xviii</sup>

Strategies that focus on an intensified police presence and enforcement, only serve to increase the number of children and young people who are brought to the attention of the justice system who otherwise would not be. ‘Over-policing’ is the act of increasing resources, typically police, in an attempt to reduce crime even though it is well known that this results in some communities being targeted and over-represented in child protection and justice systems.

Studies have found that contact can be reduced by minimising statutory intervention and maximising opportunities for diversion to appropriate supports and programs<sup>xix</sup> with the caveat that caution be applied to avoid a net widening effect which can increase the chances of a young person coming back

to the attention of authorities<sup>xx</sup> This is because where young people are connected to family, school and work, they are less likely to come into contact with police<sup>xxi</sup>

While a young person's substance use is often not the primary reason they come to the attention of police, over-policing and high visibility policing increases the risk of further engagement and subsequent over-criminalisation of young people. An approach that emphasises punitive responses to children and young people, also impacts their willingness to report their experiences of victimisation to the police and erodes their confidence in an effective justice response, even where such a report is made. It also increases the detection of low-level offences (including minor drug offences), has flow on operational impacts for police in responding to other community safety issues, and increases system costs. For example:

- a recent review of youth justice reforms in Queensland highlighted that the introduction of hand-held metal wands for use by police to detect knives has increased the detection of illicit drugs among young people.<sup>xxii</sup>
- the Queensland Family and Child Commission found that children and young people living in residential care were being exposed unnecessarily to police when officers were called to attend in response to behaviour that would not otherwise be considered criminal if it occurred in a family home.<sup>xxiii</sup>
- recent data from the Queensland Police Service shows that two thirds of all children, including those as young as 11 years, charged with new breach of bail offences in Queensland, were First Nations.<sup>xxiv</sup>

Significant issues with racism and a lack of cultural awareness in the police were recently identified by the *Independent Commission of Inquiry into Queensland Police Service Responses to Domestic and Family Violence*, who also raised concerns about the impact of over-policing on First Nations people and communities.<sup>xxv</sup> Identifying and calling out institutional racism, discrimination and unconscious bias, is key to addressing this practice within government agencies and other organisations.<sup>xxvi</sup>

It is also important that police and youth justice agencies have an awareness of the impact of statutory intervention on service provision and the ineffectiveness of mandated treatment. For example, where youth justice services mandate attendance, there can be flow on impacts for service engagement for a young person. This can result in a general reluctance by children and young people to disclose because of concerns about information-sharing, and lead to practice tensions given the role, expectations, and requirements of different stakeholders.<sup>xxvii</sup>

While there has been an increased focus on local and regional collaboration and coordinated care for children and young people engaged with the youth justice system<sup>xxviii</sup> to be effective this has to operate within agreed frameworks which respect the specialist expertise of service providers. Multi-agency collaboration needs to include a positive obligation for consent before sharing confidential information.

For young people who use drugs and are incarcerated, challenges to accessing equitable and appropriate healthcare must also be addressed. In this context, it has become clear that service commissioning and contract management processes through Youth Justice are problematic and not aligned with similar processes in Communities or Health procurement. Planning and commissioning of health services should be undertaken by Queensland Health to ensure equitable access to health services (as required by the *Queensland Human Rights Act 2019*) and to provide some accountability

to balance the operational requirements of youth justice (such as suspended access to health or education services due to a lack of youth justice staff).

Detention centres and the broader youth justice system must also work more collaboratively with community-based support and treatment services, in a way that prioritises confidentiality, choice and continuity of care. Early coordinated planning with relevant service providers before a young person is released from custody is essential, including to address their housing, education and employment needs.

By reorientating our approach to addressing the broader social and economic determinants of health, we can work towards reducing the well-documented harms associated with contact with the youth justice system, and collectively achieve better outcomes for children, young people, families and the broader community.

It is our view that:

- The minimum age of criminal responsibility must be raised to 14 years, in line with established international standards.
- Bail support programs are an effective way to keep children and young people out of watchhouses and off remand and must be expanded to ensure they are readily available.
- Policy and legislative responses must focus on addressing the broader social factors which elevate the risk of a young person coming into contact with police or entering the youth justice system, including poverty, homelessness, family violence, and problematic substance use. This extends to acknowledging and addressing the impact of stigma and discrimination on the design and implementation of the system.
- Services for young people must be delivered in a way that prioritises choice, confidentiality, and consent. Investment is needed to improve the availability, accessibility, and acceptability of voluntary alcohol and other drug treatment services for children and young people. Additional resourcing and workforce/sector development is also required to expand programs for young people across the spectrum of treatment and harm reduction interventions, in developmentally appropriate ways.
- To enable effective multi-agency collaboration, police and other statutory entities need to understand that their statutory role means they are not well placed to provide case management support. An effective cross system response would recognise non-government service providers are better positioned to provide intensive case management and support and have the specialist skills to do so.

### **Intersection with the Women's Safety and Justice Taskforce**

We draw the committee's attention to recommendations made by the recent Women's Safety and Justice Taskforce Report 2<sup>xxix</sup> with respect to girls in custody:

*Recommendation 150:* The Queensland Government establish and fund a specialist mental health and trauma support program to provide acute and non-acute assessment, treatment and care to women and girls in custody in Queensland, including those on remand. This program will support women and girls while they are in custody, during their transition into the



community and beyond to appropriately manage mental health issues and to heal from trauma experiences including in response to domestic and family violence and sexual violence. The program will deliver services that are trauma-informed and gender responsive and will aim to help women and girls to address factors contributing to their offending behaviour and reduce the risk of re-offending.

*Recommendation 163:* The Queensland Government, in consultation with women and girls with lived experience, First Nations peoples, service system and legal stakeholders accept and implement recommendation 10 of the Anti-Discrimination Queensland *Women in Prison 2019* report and design and implement a model to identify women and girls who are at risk of being refused bail and women eligible to apply for parole, to assist them to access appropriate accommodation, services and supports so that they are not held in custody longer than is necessary.

### **Intersection with Achieving Balance**

We draw the committee's attention to *Achieving Balance: The Queensland Alcohol and Other Drugs Plan<sup>xxx</sup>* with respect to priority actions for young people in the justice system:

#### *Priority 1, Prevention and Early Intervention*

Improve early identification of vulnerability and provide targeted programs for children and young people, including Aboriginal and Torres Strait Islander people-specific initiatives, and initiatives for people involved with youth justice and out of home care systems.

Improve awareness of the role of trauma and adverse childhood experiences in the development of problematic alcohol and other drug issues by embedding trauma-informed approaches throughout government and non government agencies.

#### *Priority 3, Expand diversion*

Introduce arrangements to encourage effective health-led support options for people who come into contact with the criminal justice system with holistic and coordinated intervention commencing at the point of contact with the system.

Collate the evidence and develop a collaborative, culturally safe proposal to implement a localised trial for 10 to 14 year olds for substance-related behaviours, and evaluate its impact.

#### *Priority 4, Reduce stigma and discrimination*

Build capacity of health services, law enforcement and other systems to provide strengths-based, culturally-safe, and person-centred responses to people with problematic alcohol and drug use and encourage help-seeking and acceptance of support.

### **Intersection with Leading healing our way**

We draw the Committee's attention to *Leading healing our way: Queensland Aboriginal and Torres Strait Islander Healing Strategy 2020 – 2040<sup>xxxi</sup>*, with respect to recognising the primacy of culture and its essential role in healing and making systems culturally safe and accountable.

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<sup>i</sup> [Closing the Gap targets - Closing the Gap - Australian Indigenous HealthInfoNet \(ecu.edu.au\)](https://www.ecu.edu.au/closing-the-gap)

<sup>ii</sup> Queensland Aboriginal and Torres Strait Islander Child Protection Peak Limited (2023) Youth Justice: Position Paper

<sup>iii</sup> Australian Bureau of Statistics (2021-22), [Crime Victimization Australia](https://www.abs.gov.au/australian-bureau-of-statistics), ABS Website, accessed 9 May 2023.

<sup>iv</sup> [Teenage brain development | Raising Children Network](https://www.raisingchildrennetwork.org.au/teenage-brain-development)

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- <sup>v</sup> [Teenage brain development | Raising Children Network](#)
- <sup>vi</sup> Atkinson, B (2018) Report on Youth Justice
- <sup>vii</sup> Atkinson, B (2018) Report on Youth Justice
- <sup>viii</sup> Baidawi, S. & Sheehan, R. (2019) 'Crossover kids': Offending by child protection-involved youth. Trends & issues in crime and criminal justice no.582. Canberra: Australian Institute of Criminology
- <sup>ix</sup> Baidawi, S. & Sheehan, R. (2019) 'Crossover kids': Offending by child protection-involved youth. Trends & issues in crime and criminal justice no.582. Canberra: Australian Institute of Criminology
- <sup>x</sup> [Raising the age of criminal responsibility - Youth Advocacy Centre \(yac.net.au\)](#)
- <sup>xi</sup> <https://www.qgso.qld.gov.au/issues/7876/justice-report-qld-2020-21.pdf>
- Excluding 2019-20 which was impacted by COVID-19 restrictions (by reference year). From 101.5 to 80.1.
- <sup>xii</sup> Children's Court of Queensland Annual Report 2021-22
- <sup>xiii</sup> Australian Bureau of Statistics (2023) Recorded Crime – Offenders 2021-22 Financial Year
- <sup>xiv</sup> Australian Institute of Health and Welfare (2022) Young people under youth justice supervision and their interaction with the child protection system 2020-21
- <sup>xv</sup> [Raising the age of criminal responsibility - Youth Advocacy Centre \(yac.net.au\)](#)
- <sup>xvi</sup> Justice Reform Initiative (2023) Jailing is Failing: alternatives to incarceration in Queensland.
- <sup>xvii</sup> PeakCare Queensland Inc. Youth Crime – Get Smarter, Not Tougher [Youth Crime - Get SMARTER, Not Tougher - PeakCare](#)
- <sup>xviii</sup> [Raising the age of criminal responsibility - Youth Advocacy Centre \(yac.net.au\)](#)
- <sup>xix</sup> McAra, L. & McVie, S (2007) Youth Justice?: the impact of system contact on patterns of desistance from offending, European Journal of Criminology, 4(3), pp. 315-345.
- <sup>xx</sup> McAra, L. & McVie, S (2007) Youth Justice?: the impact of system contact on patterns of desistance from offending, European Journal of Criminology, 4(3), pp. 315-345.
- <sup>xxi</sup> Youth Advocacy Centre Inc (2020) Orange Paper 2: A ten-point evidence-based plan for investment to address youth offending.
- <sup>xxii</sup> Atkinson, B. (2022) Youth Justice Reforms Review Final Report
- <sup>xxiii</sup> The State of Queensland (Queensland Family and Child Commission) (2018) The criminalization of children living in out-of-home care in Queensland
- <sup>xxiv</sup> [Two-thirds of children charged with Queensland's new breach of bail offences are Indigenous | Queensland | The Guardian](#)
- <sup>xxv</sup> [commission-of-inquiry-dpsdfv-report-part-4.pdf \(qpsdfvinquiry.qld.gov.au\)](#)
- <sup>xxvi</sup> [6. Priority Reform Three – Transforming Government Organisations | Closing the Gap](#)
- <sup>xxvii</sup> Dovetail (2012) Legal and ethical dimensions of practice: youth alcohol and drug good practice guide.
- <sup>xxviii</sup> Working together, Changing the story: Youth Justice Strategy 2019-2023
- <sup>xxix</sup> Women's Safety and Justice Taskforce (2022) Report 2: Women and girls' experiences across the criminal justice system.
- <sup>xxx</sup> Qld Mental Health Commission, [Achieving Balance: The Queensland Alcohol and other Drugs Plan](#)
- <sup>xxxi</sup> Leading Healing Our Way: The Queensland Aboriginal and Torres Strait Islander Healing Strategy 2020 – 2040 (<https://healingfoundation.org.au/>)