

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

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# QUEENSLAND YOUTH JUSTICE REFORM INQUIRY

**Youth Off The Streets Submission**

**January 2024**



## **At nine years of age, Brandon<sup>1</sup> – the younger sibling of one of our clients – is already on the radar of police at Logan Central Station.**

Brandon, the youngest of seven children, has grown up in a home devoid of familial attention. His parents and several of his siblings have spent time in jail. Many of his cousins have been placed into state care. His mother struggles to hold down a job while looking after her children and grandchildren. She is at breaking point.

Brandon is no stranger to domestic and family violence, problematic alcohol and other drug use, and serious antisocial behaviour. His 'normal' is a chaotic environment shaped by intergenerational trauma, removal, poverty and chronic neglect.

Brandon's school was unable to manage his unpredictable behaviours. They were able to offer little more than intermittent supervision following periods of suspension.

He is now completely disengaged from education and spends his days associating with an older group of children who are known to the police for shoplifting and antisocial behaviour.

It is well established that the brain continues to mature until around 25 years of age. Not only is Brandon without positive peer and community influences – at just nine years old, he has neither the executive function nor the capacity to plan, rationalise and foresee the consequences of his actions.

If the criminal age of responsibility is not raised in Queensland, there is little doubt that Brandon will spend his next birthday in juvenile detention. He needs healthcare, practical and emotional support, and therapeutic treatment. Yet juvenile detention is ill-equipped to deal with complex mental health and post-trauma morbidities.

Placing Brandon in detention will only increase the likelihood of future engagement with the criminal justice system.

If the criminal age of responsibility is raised to 14, community services will have an additional four years to support Brandon and his family, assisting them to build a strong and positive future and break Brandon's cycle of offending.

"All we're asking for is an opportunity to go in and heal our own. If we raise the criminal age, it allows extra time for Aboriginal communities to heal our children so that they can be strong, so that they can dream.

"Instead of spending money on Aboriginal children in the justice system, use that money wisely and allow it to be put back into Aboriginal services, to allow us to go back into our community and repair what broke on that child's journey. Allow us to be the subject matter experts in our own community."

**Nicole Laupepa, Cultural Development Manager, Youth Off The Streets**

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<sup>1</sup> Name changed to protect the identity of the young person.

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4 January 2024

## Re: Youth Justice Reform Inquiry

Youth Off The Streets welcomes the opportunity to provide a submission to the Youth Justice Reform Inquiry ('the Inquiry').

We support the Inquiry's goals to examine ongoing reforms to the youth justice system and support for victims of crime.

Youth Off The Streets is a not-for-profit youth organisation that provides wraparound safety, support and opportunities for children and young people to build a positive future.

We offer crisis accommodation and housing services, alternative high school education, alcohol and other drugs counselling, youth justice support, life skills and employment programs, cultural support, and community engagement, among other services.

We are a non-denominational organisation with a focus on early interventions that empower young people and strengthen communities.

In the Logan region of Queensland, Youth Off The Streets has contributed a Youth Justice program for over 10 years, providing essential support services to children, young people and their families across the LGA.

Youth Off The Streets currently holds funding until May 2024 by the Department of Children, Youth Justice and Multicultural Affairs to deliver our new 'T-REK' (Together-Respected, Engaged, Kinnected) program.

T-REK targets two cohorts:

- young people aged 10–17 exiting custody, alongside their families
- young people aged 12–17 experiencing or at risk of education disengagement, suspension and anti-social behaviour

A six-month evaluation of T-REK has demonstrated encouraging outcomes.

Through the early-intervention mechanism of the program, young people have identified a 40% decrease in psychological distress through the Kessler 10 psychometric scale – which indicates positive emotional regulation, skill-development and response to underlying trauma.

Furthermore, monthly evaluation of the QLD Youth Justice program's short-term outcomes indicators demonstrates an positive increase in core-skills and areas of criminogenic needs:

- attitudes, personality and behaviour
- substance use
- cultural connectedness
- mental health and trauma
- education
- family circumstances

## Summary and recommendations

Youth Off The Streets looks forward to continuing our work within the community. We have drawn from our extensive experience and research to inform these recommendations.

1. The minimum age of criminal responsibility must be raised to at least 14 years. There should be no exceptions to this legislation; including (but not limited to) serious sexual offences, serious assault resulting in grievous bodily harm, murderer or manslaughter.
2. The minimum age that a child can be imprisoned in youth detention should be 16 years. Children aged 14-16 who are involved with the criminal justice system should be referred for therapeutic interventions, not detention.
3. Children aged 16–18 must not, under any circumstances, be supervised in adult detention facilities, including watch houses.
4. Increase government investment in early intervention services that support parental capacity to respond to child behavioural challenges and the effects of trauma. This includes maternal and child health services, early childhood services and other family services.
5. Increase government investment in therapeutic diversionary responses that are linked to culturally safe and trauma-responsive structures and provide sustained support for children and young people.
6. The planning, design and implementation of prevention, early intervention and diversionary responses should be child/ youth and community led, recognising 'culture' as a key protective factor.

## Risk and vulnerability

Children in the criminal justice system have higher rates of pre-existing psychosocial trauma. This demands a specialised therapeutic and rehabilitative approach.<sup>2</sup>

<sup>2</sup> Abram, K.M. & Teplin, L.A. 2004. "Posttraumatic Stress Disorder and trauma in youth juvenile detention". *Archives of General Psychiatry*. 61(4):403-410. doi:10.1001/archpsyc.61.4.403

The majority of children in custody have come from disadvantage, experiences with the child protection system, homelessness, neglect, trauma, or limited education.<sup>3</sup>

Statistically, children who engage with the criminal justice system are significantly more likely to have neurodevelopmental conditions such as:<sup>4</sup>

- foetal alcohol syndrome disorder (FASD)
- intellectual disability
- delayed language development
- autism spectrum disorder (ASD)
- attention deficit hyperactive disorder (ADHD)

Many children in the justice system are from communities characterised and stigmatised by poverty and entrenched disadvantage.<sup>5,6</sup>

Children aged 10–13 are physically and neurodevelopmentally vulnerable. The current age of criminal responsibility is inconsistent with evidence on child and adolescent brain development and cognition. Children under the age of 14 have a reduced capacity to understand and regulate their own behaviours.<sup>7</sup>

Youth Off The Streets strongly supports mechanisms that divert young people from the criminal justice system. We believe that the minimum age of criminal responsibility should be raised to at least 14 years, in accordance with international human rights standards, the recommendations of the United Nations Committee on the Rights of the Child and numerous independent reports. The criminalisation of children at an early age and incarceration during formative developmental periods negatively impacts their health, wellbeing and future prospects.

Incarcerating children is not keeping our communities safe. Queensland detains more children each day than any other state and has the worst recidivist rate in Australia.<sup>8</sup>

95% of young people incarcerated at the Cleveland Detention Centre allegedly reoffend within a year of their release,<sup>9</sup> demonstrating the ineffectiveness of incarceration.

In 2021, Youth Off The Streets advocated for the Queensland state government to increase the age of criminal responsibility from 10 years to 14 years, appearing before the Queensland Community Support & Services Committee with evidence to support our position.

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<sup>3</sup> Ibid.

<sup>4</sup> Australian Institute of Health and Welfare, 2021. *Youth detention population in Australia 2020*. Cat. No. JUV 135. Canberra: AIHW. [aihw.gov.au/getmedia/37646dc9-dc6f-4259-812d-1b2fc5ad4314/aihw-juv-135.pdf.aspx?inline=true](https://www.aihw.gov.au/getmedia/37646dc9-dc6f-4259-812d-1b2fc5ad4314/aihw-juv-135.pdf.aspx?inline=true)

<sup>5</sup> Queensland Government. (2023). *Youth Justice Summary Census 2022*. [desbt.qld.gov.au/data/assets/pdf\\_file/0019/17083/census-summary-custody.pdf](https://desbt.qld.gov.au/data/assets/pdf_file/0019/17083/census-summary-custody.pdf)

<sup>6</sup> 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*. [jusice.act.gov.au/data/assets/pdf\\_file/0006/2072364/Raising-the-Age-Final-Report.PDF](https://jusice.act.gov.au/data/assets/pdf_file/0006/2072364/Raising-the-Age-Final-Report.PDF)

<sup>7</sup> Victoria & Sentencing Advisory Council. (2012). *Sentencing children and young people in Victoria*. Sentencing Advisory Council.

<sup>8</sup> Productivity Commission 2023, *Report on Government Services 2023*, Part F, section 17: released 25 January 2023, Table 17A.26.

<sup>9</sup> Queensland Government. (2022). *Response to Question on Notice, No. 859*. [documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/859-2022.pdf](https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2022/859-2022.pdf)

Unfortunately, the committee did not heed the evidence provided by the community services sector and the age was not increased to align with the UN Committee on the Rights of the Child recommendations.

We call again for the Queensland government to make urgent and lasting legislative reform.

The earlier a child is exposed to the justice system, the more likely they are to reoffend.<sup>10</sup> To keep the community safe, the Queensland Government should remove children younger than 14 from the justice system and invest in services and support to prevent recidivism.

## **Responding to root causes**

Currently, the needs of children and the root causes of pain-based behaviour are not adequately addressed. Instead, jurisdictional interventions and punitive responses are focused on 'symptoms' of the behaviour.

These underlying, entrenched and neglected social issues create unsafe and unsupportive environments for child development. The use of the criminal justice system as a 'catch-all' for this cohort of children speaks of systemic failure to adequately support them, their families and communities.

The human rights of the child must underpin all infrastructure, programs and legislation. The embedded ideologies that cause social policy to result in disadvantage must be revised within a framework of intersectionality, particularly that between:

- child protection
- homelessness
- education
- domestic, family and sexual violence

Taking the lead from the homelessness space, government and community should ensure a child's involvement with the justice system is 'rare, brief and non-recurring'.

To achieve this ambitious goal, it is essential the Queensland government further commits to funding interventions at all key intervention stages:

- prevention
- early intervention
- crisis
- custody
- post-custody

These interventions must be co-designed with children, young people and the community. Funding must be recurrent and adequate to support ongoing, meaningful and sustainable outcomes.

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<sup>10</sup> Sentencing Advisory Council (2016). *Reoffending by children and young people in Victoria* (p. xiii).  
[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_by_Children_and_Young_People_in_Victoria.pdf)

## Community-led solutions and early intervention

The Inquiry must explore First Nations-designed and led initiatives to reduce the overrepresentation of Aboriginal and Torres Strait Islander children in the justice system – and to ensure Queensland meets its 'Closing the Gap' justice targets (particularly target 11).<sup>11</sup>

The current design of the youth justice system disempowers First Nations people. It reinforces social constructs that continue the cycle of intergenerational trauma and structural disadvantage.

A Euro-centric justice system exacerbates the cultural stress experienced by First Nations children, young people and communities. It considers culture a 'risk factor', overlooking the nurturing and protective effects that positive cultural connection, recognition and celebration of culture can have.

First Nations children have the right to grow up connected to and immersed in their culture. They must be supported to remain in their families and communities with appropriate social infrastructure.

Investment in place-based solutions will empower First Nations communities to support children in culturally safe ways, promoting personal and economic wellbeing. Choosing culturally-informed intervention methods and providing program environments that are culturally safe and respectful, where children/ young people feel valued, and their cultural identities are honoured will help achieve 'Closing the Gap' targets 14, 15 and 16<sup>12</sup>.

Family-led decision making in the Family Participation program is a positive step towards self-determination, cultural responsiveness and familial stability. Similarly, Murri Court demonstrates that culture can be harnessed in guiding First Nations children and young people to make better life decisions.

Both programs should be expanded to recognise the culturally and linguistically diverse groups within Queensland, their unique cultural protocols and the potential for traditional responses to achieve more sustainable outcomes for children and young people – and ultimately the community.

Early intervention programs in Queensland support children and make communities safer for everyone.<sup>13</sup>

Unfortunately, however, the Queensland government is underfunding community-led programs that focus on prevention and diversion.<sup>14</sup>

We are calling to further fund this type of work in the community and reduce children and young people's connection to the youth justice system in the first instance.

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<sup>11</sup> *Closing the Gap Targets & Outcomes*: [closingthegap.gov.au/national-agreement/targets](https://closingthegap.gov.au/national-agreement/targets)

<sup>12</sup> Ibid.

<sup>13</sup> Justice Reform Initiative. (2023). *Alternatives to Incarceration in Queensland*. (pp.18 – 27). [assets.nationbuilder.com/justicereforminitiative/pages/337/attachments/original/1685393777/JRI\\_Alternatives\\_QLD\\_FULL\\_REPORT.pdf?1685393777](https://assets.nationbuilder.com/justicereforminitiative/pages/337/attachments/original/1685393777/JRI_Alternatives_QLD_FULL_REPORT.pdf?1685393777)

<sup>14</sup> Queensland Council of Social Service. (2023). *QCOSS: Queensland budget analysis 2023-2024, Investing in Queensland's Youth Services*. [qcss.org.au/publication/state-budget-2023-2024-our-analysis/](https://qcss.org.au/publication/state-budget-2023-2024-our-analysis/)



## **Keeping children out of watch houses**

Watch houses are unsuitable for any child or young person.

The Queensland government must urgently cease this breach of human rights, reduce the number of children and young people in detention and fund an alternative to the justice system for all children under 14.

The alternative must be evidence-based, trauma-informed, culturally safe, therapeutic and non-punitive.

The QLD Government must invest in research to review responses achieving success in other jurisdictions, For example, best practice is demonstrated in New South Wales' Bail and Accommodation Support Service (BASS) and incorporate evidence based program frameworks within a QLD context.

## **Social impact and outcome measurement**

It is imperative that the Queensland system captures consistent, reliable and valid data to demonstrate program outcomes.

While the Youth Justice Strategy has improved by developing a Theory of Change and Program Logic, the sector has had little time to test its results.

Further investment in social outcomes and impacts should be prioritised. This ensures non-government organisations are funded to incorporate data measurement and reporting in their program delivery.

Back-end enablers, including data system design, training and research are essential to building an outcome/ impact framework that has fidelity and reliable at its core.

Good data-system design, training and research are essential to building a reliable outcome framework.

Yours sincerely,

**Michelle Ackerman**

Director Youth Support Services

Youth Off The Streets