

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

Submission No: 126
Submitted by: Queensland Youth Housing Coalition
Publication: Making the submission and your name public
Attachments: See attachment
Submitter Comments:



QUEENSLAND YOUTH JUSTICE REFORM SUBMISSION

January 2024

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Overview

- Poverty, Domestic & Family Violence and Homelessness exacerbate the vulnerabilities of young people. Experiencing unmet need in systems responsible for responding to those impacted by these issues often leads young people to engagement with the Youth Justice system. First Nations young people are overrepresented in all domains.
- A significant proportion of young offenders are also victims of crime.
- Early Intervention and Prevention plays a key role in diverting young people away from chronic homelessness, poverty and reoccurring exposure to the criminal justice system. Early Intervention needs to begin early in life with an initial focus on the holistic wellbeing of children and families in the primary school system, extending into engagement in secondary education systems.
- A lack of accommodation and support options for young people detrimentally impacts their capacity to get bail and prolongs young people's time in custody.
- There is a need for a cross-government intersectional approach that compels engagement and support across multiple domains including Youth Justice, Child Safety, Housing, Health, Disability and Education.
- The youth justice strategy needs to include provisions to address the housing needs, and planned transition, of young people exiting detention.

The Status Quo

Queensland has the second highest rate of children's incarceration in Australia (at a rate of 4.8 per 10,000), significantly higher than the larger states of New South Wales and Victoria (Justice Reform Initiative, 2023). Although the Northern Territory leads Queensland in terms of rate, more children are incarcerated in Queensland than anywhere else in Australia. While the children's prison population has decreased in New South Wales by 24% and in Victoria by 34% since 2019-2020, Queensland's child prison population has increased by 41% (Justice Reform Initiative, 2023). Considering that locking young people up is harmful and expensive, it does not reduce crime, is counterproductive to community safety and improving life outcomes, and does not address any of the social drivers of contact with the criminal justice system (Queensland Family and Child Commission, 2023a; Justice Reform Initiative, 2023), Queensland's approach to young offenders is counterintuitive.

It is evident that vulnerable and marginalised young people in Queensland often do not receive the timely assistance they require from the various systems charged with responding to their needs. For some young people this lands them in the youth justice system and further entrenches their disadvantage. In 2022, 45% of young offenders in Queensland were disengaged from education, employment and training, 27% had one or more disability, 27% were diagnosed with one or more mental health disorder, 14% with one or more behavioural disorder, 53% had been impacted by domestic and family violence, and 30% were in unstable and/or unsuitable accommodation (Queensland Government, 2023). Aboriginal and Torres Strait Islander young people were significantly overrepresented comprising 59% of all young offenders (Queensland Government, 2023). Young people who have been in out-of-home care are at a higher risk of having contact with the youth justice system (Queensland Family and Child Commission, 2023b). Analysis by the Queensland Family and Child Commission (2023a) showed that high rates of recidivism follow detention and that the detention centre population is largely comprised of 'repeat offenders'. Unless the core drivers of youth offending are targeted, Queenslanders will continue to cover the exorbitant cost of a system with "no evidence of efficacy in terms of rehabilitation, deterrence or community safety in the long term" (Justice Reform Initiative, 2023, p. 2).

Poverty, Domestic & Family Violence and Homelessness – Intersections with Youth Justice

Core to addressing homelessness in Australia is an acknowledgement of, and targeted response to, the issue of poverty and social disadvantage. From Queensland Youth Housing Coalition's perspective, offending behaviours and homelessness sit within a symptomatic continuum of structural imbalances, poverty and social disadvantage. Relevant to this, is the reality that, in Australia, 1 in 6 children are living in poverty (Davidson, Bradbury & Wong, 2022). The Anglicare Rental Affordability Snapshot (Anglicare Australia, 2022) surveyed over 45,000 rental listings across the country and found affordability is at an all-time low. Of extreme significance is that young people on youth allowance payments are being left behind and face being locked out of the private rental market. This data highlights how fierce the private rental market is for young people on Centrelink payments. The results show that a young person on youth allowance in Brisbane, accessing a share house for a single room, would outlay 67% of their income in rent (Anglicare Southern Queensland, 2022). This places young people at the bottom of a competitive and what has been described as a "brutal" market (Anglicare Southern Queensland, 2022, p. 5).

Experts regularly draw a clear link between young people experiencing homelessness and juvenile offending and note that they are at a higher risk of becoming involved in the criminal justice system than their housed counterparts.

Young homeless people are often unable to support themselves, ineligible for benefits, and unlikely to find employment. Consequently, they may engage in survival behaviours—begging, theft, drug dealing and prostitution—to earn income for food and shelter. Not only are some of these behaviours illegal, they are also more visible to police due to the lack of privacy experienced by homeless people.

Furthermore, trauma adds to the risk of offending behaviour, contributing to the link between child maltreatment, homelessness and offending. Experiences of trauma—both prior to leaving home and a result of being homeless—lead to poor self-regulation and coping skills, placing the young person at high risk for serious illegal behaviour (Hurren & Stewart, 2017).

The marked correlation between homelessness and involvement in the criminal justice system arises from specific vulnerabilities that exist for homeless and at risk young people, many of whom:

- Have been harmed or continue to be harmed and/or are at risk of harm that includes physical, sexual and emotional abuse and/or neglect;
- Have no significant adult figure who can exercise care and responsibility;
- Experience Domestic and Family Violence and/or family conflict and breakdown;
- Have limited or no support networks;
- Experience the impacts of trauma;
- Experience disruption to education and barriers to employment.

Indeed, Domestic and Family Violence (DFV) is a significant factor in young people experiencing homelessness (AIHW, 2023). Queensland Youth Housing Coalition's (QYHC) research with Specialist Youth Homelessness Services (SYHS) confirmed the overwhelming impact of DFV on young people's wellbeing, in particular their housing stability. In 2022-23, almost a third of young people (31%) presented to Queensland SYHS experiencing DFV (AIHW, 2023).

The protective needs of young people may be further exacerbated as a result of particular disadvantage due to cultural and social factors, including the impact of discrimination. These include but are not limited to:

- Aboriginal and Torres Strait Islander young people;
- Young people with cognitive difficulties;
- Young people from Culturally and Linguistically Diverse (CALD) backgrounds;

- Young people with psychiatric conditions;
- Lesbian, gay, bisexual, transgender, intersex, queer, asexual and questioning (LGBTIQ+) and sistergirl/brotherboy young people;
- Young people with substance misuse issues;
- Young people who are pregnant and/or parenting;
- Young people exiting Juvenile Justice services, particularly young people on dual child protection and juvenile justice orders. (QYHC, 2021)

In Queensland at the time of the last Census, 27.4% of young people experiencing homelessness were Aboriginal or Torres Strait Islander. In north and western Queensland these percentages were far higher with 83.9% in outback Queensland, 49.8% in Cairns and 55.6% in Townsville (ABS, 2023). There were also high concentrations of Aboriginal and Torres Strait Islander young people in those regions who were represented in 'severely overcrowded' dwellings (ABS, 2023). QYHC is cognizant of and concerned by the over representation of Aboriginal and Torres Strait Islander children and young people in all our systems, including: homelessness, juvenile justice and child protection.

The long-term impact and effect of poverty on the trajectory of a young person's life are profound. Childhood experiences of poverty lead to detrimental impacts on development (Tucker, Marx, & Long, 1998); and poverty has been found to lead to elevated stress and family breakdown in the home (Joseph Rowntree Foundation, 2017). Countries with robust welfare states and concerted poverty reduction initiatives report lower rates of child poverty and homelessness (Fitzpatrick & Stephens, 2007). Research suggests that unless the structural drivers of homelessness are addressed the prevention or ending of youth homelessness is unlikely to ever be attained (Bramley & Fitzpatrick, 2018; Bramley et al., 2015; Culhane & Metraux, 2008).

Addressing homelessness is possible through preventative measures that focus on what leads to disadvantage and marginalisation, which includes addressing childhood poverty and trauma. The best way to end homelessness is to prevent people becoming homeless by providing enough housing supply that is affordable and accessible (Spinney et al. 2020). Research supports that preventative measures that reduce poverty, increase income and improve access to affordable housing, effectively reduce the risk factors associated with youth homelessness (Schwan et al., 2018a), and will see long term benefits to reduce young people offending (MacKenzie et al., 2020).

Young people who do leave home at an early age are more likely to experience multiple episodes of homelessness, be involved with child protection services, be tested for ADHD, experience bullying, be victims of crime (including sexual assault), have greater mental health and addiction symptoms, experience poorer quality of life, attempt suicide and become chronically homeless (Gaetz et al., 2016). A study of young people experiencing homelessness in Canada noted that violent victimisation was significantly higher among homeless young people compared to the general population (59.6% compared to 7.6%). Young women (37.4%) and transgender/gender non-binary young people (41.3%) reported higher rates of sexual assault (Gaetz et al., 2016). Responses that aim to support young people transitioning out of an experience of homelessness, or inevitably engaged within the youth justice system, must incorporate trauma-informed practice and seek to therapeutically address the history of abuse and violence encountered in the home environment (notwithstanding the trauma experienced through homelessness itself).

QYHC's interviews with community practitioners working with young people from a refugee background highlighted the difficulty that many young people face settling in Australia. To avoid family conflict, alongside trying to manage past trauma, young people may access drugs and alcohol to cope and will often have nowhere else to undertake these activities other than public spaces, leaving them exposed to engagement with law enforcement. Research by Couch (2017) also highlighted the difficulty many refugee young people experience locked out of school, employment and participation

in pro-social activities. Marginalisation and a lack of attachment to neighbourhood, community and social groups leads many young people down a pathway to drinking and making money through street crime (Couch, 2017).

Many young offenders are also victims of crime

Public policy debate regarding youth offending often ignores the myriad of issues young people, in particular vulnerable young people experiencing homelessness, face. A young people's experience of homelessness is filled with anxieties about survival, concern for personal safety and vulnerability to violence as a major source of fear (Adler, 1989). Young people are more characteristically the victims of crime, than they are the perpetrators (Gaetz, 2002; Yoder et al. 2013). Young people rough sleeping lack private space to rest, recover and protect themselves whilst indiscretions become inevitably public. Due to their visibility, young people are vulnerable to exploitation, whether by unscrupulous landlords, employers, sexual predators or other criminals (Gaetz, 2002). This vulnerability is a particular concern of Queensland SYHS providers who recognise that some young people Under 16 years of age experiencing homelessness are unable to access a Child Safety response or safe housing options. Opportunities exist to 'break the cycle before it starts' and support and guide at risk young people away from exploitative and nefarious persons within the community (a Victorian early intervention project 'Living Free' that works alongside young women is detailed further below). Breaking the cycle needs to begin early in a child's life with concerted efforts to support children and their families necessary from early primary school.

Research highlights that young people experiencing homelessness have an increased involvement in the criminal justice system (Yoder et al. 2013), and report negative interactions with law enforcement (Schwan et al, 2018b). Oftentimes young people experiencing homelessness struggle to arrange Centrelink benefits and disengage from education and employment. During these difficult times, young people, often compounded by mental health challenges and the effects of trauma, engage in behaviours that expose them to the attention of authorities (Gale, 2019). Transition from incarceration to independence can often place a young person at greater risk of homelessness given that support structures post-release are regularly inadequate (Estrada & Marksamer, 2006).

Across many jurisdictions in Australia hundreds of homeless young people each year who have been granted bail, and all of whom have yet to be found guilty of a crime, remain incarcerated simply because they have no home (Gale, 2019). Within NSW between January 2018 and 2019, 260 children and young people were held in detention for up to 45 days because they had no accommodation to go to (Gale, 2019). Of these young people, 41% identified as Aboriginal and/or Torres Strait Islander (Gale, 2019). Given the breadth of research highlighting the effectiveness of interventions that divert young people away from prison and demonstrate positive outcomes for victims, (Wilson & Schwarz, 2012) it makes sense to focus far greater attention on diversion. Given the Queensland Government's intent to ensure that "no person exits from a government service to homelessness," (2022) accommodation specific supports for young offenders must be prioritised (Gale, 2019).

The remand challenges noted above have been evident through QYHC’s regular engagement with Specialist Youth Homelessness Services. Organisations have commented on the need for more housing options for young people who are leaving detention (see SEQ 25 quote provided). With housing being a requirement of bail, the need for accessible options for this cohort of young people is paramount.

The number of referrals for young people leaving detention or on bail is mind-blowing. They’re stuck in detention or in the watch house until there’s a housing solution for them. They need an immediate option often before they go before a judge, which isn’t conducive to QHIP guidelines. There needs to be housing for young people leaving detention and who are on bail. (SEQ 25)

There is another way

The apparent fixation on detention of young people is difficult to justify given the exorbitant cost and inefficacy of locking young people up in contrast to cost-effective and successful evidence-based diversionary programs (Note: Qld incarceration cost per year per young person - \$761,390, and incarceration cost per year for 267 young people - \$203,291,130; Australian Government, 2022). There is considerable evidence from a broad range of programs and projects that young people can be diverted away from engagement in crime if given early holistic support. Heartbreakingly, the policy and legislative context in Queensland “drives far too many people into prison who would be more likely to stop offending if they received support in the community” (Justice Reform Initiative, 2023, p.7). The key feature of successful, evidence-based approaches is the response being ‘community-led’ (Justice Reform Initiative, 2023). Shifting the engagement of young offenders away from court or youth justice departmental responses towards therapeutic community-led models (especially for First Nations communities), disrupts entrenched criminal justice trajectories (Justice Reform Initiative, 2023). Evidence-based case studies from within Australia and abroad demonstrate the value of:

- Early intervention and prevention;
- Place-based engagement;
- Bail support (linked to social and health well-being);
- Post-release support (linked to drug and alcohol programs);
- First Nations-led post-release services;
- Alternative and specialist court processes;
- Diversionary programs;
- Restorative justice processes;
- Alternative policing and first-responder models, and;
- Alternative detention models that incorporate rehabilitation and therapy (Justice Reform Initiative, 2023).

Early intervention and prevention in Queensland needs to go ‘back to the future.’ Over a decade ago Queensland had the Youth Support Coordinator (YSC) program in high schools – a statewide collaborative program for young people at risk or homeless. With national and international interest in this innovative program, Queensland was contemplating extending it to primary schools. An important consideration given the recognition that so many children in early primary school were experiencing disadvantage also. The program was coordinated by statewide hub within QYHC and run in regions across Queensland by youth homelessness services. Three evaluations conducted over the course of this program demonstrated significantly positive outcomes for marginalised young people and the satisfaction of key stakeholders including over 80% of school principals: *88% principals of the targeted schools believed it to be successful in targeting young people at risk of homelessness. 80%*

principals believed it was successful in targeting early school leaving (QYHC, 2010). Whilst a couple of regions still have YSCs and report continued excellent outcomes, it is no longer a statewide coordinated program for all schools and all students. This, or a similar program for young people is the perfect way to support children as their needs become evident. School staff don't need to do the support work with students, but they are perfectly placed to flag the need and refer to the program.

The Victorian 'Living Free' project is an excellent example of effective early intervention. Initiated in 2017, 'Living Free' targets two groups, girls aged 10-17 who have been reported missing and are at risk of becoming involved in the criminal justice system or sexual exploitation, and women aged 18-30 in early contact with the justice system (Kolovos, 2023). All young women in the program have been exposed to family violence, the majority have disengaged from school, and many require support for alcohol and drugs, their mental health, or both. Since commencement the project has supported 750 girls and young women with only 10% being charged with further offending and more than 90% who were disengaged from school connected to education and training (Kolovos, 2023). Despite the overwhelming results the project still seeks recurrent funding, relying on philanthropists and occasional grants to continue.

Targeted diversionary programs can also play a significant part in responding to young offenders, curbing rates of recidivism. The 'Right Step' diversionary program in Victoria engages more fully with the issues that may have led the young person into criminal behaviour (Wilson & Schwarz, 2012). 'Right Step' attempts to address substance use, mental health, family breakdown and disengagement from education, training and employment by providing tailored support including refers to counselling, rehabilitation, education and employment services. Review of the intensive eight-week program of counselling and case support revealed that of the 100 young people referred to the program 67% had not reoffended (Wilson & Schwarz, 2012). The evaluation report highlighted strong support from participants, parents, police, magistrates, education providers and employers, as well as forming good working relationships with over 40 partnering services. Cost per client was assessed as no greater than \$2500-\$3500 per capita (Wilson & Schwarz, 2012).

An Intersectional Approach to Young People Exiting Statutory Systems

The need for a whole of government intersectional approach in addressing young people's exposure to homelessness and the youth justice system is highlighted in the Final Report: Towards a Youth Homelessness Strategy for Victoria (Alves & Roggenbuck, 2021). Interventions in the youth homelessness domain and housing interventions in the youth justice domain work hand in hand. Alves & Roggenbuck (2021) emphasise the importance of early intervention and prevention, noting that addressing homelessness early in a young person's life can lead to future cost reductions in both the criminal justice system and health system. Similarly, the report drew attention to key provisions within Victoria's youth-specific justice policy (i.e. Youth Justice Strategic Plan 2020-2030), which highlights the need for partnerships between homelessness and housing providers and the justice system. These partnerships enable young people to experience positive transitions out of the justice system and have access to housing and support.

Effective partnerships with housing providers must also be accompanied by proper transitional supports within the justice system. There is a desperate need for a robust model of discharge planning and support that enables young people to receive case management whilst in custody, an aftercare plan upon release, alongside housing and support (Gaetz & Redman, 2016). Without transitional planning and support young people are not only at greater risk of homelessness, but also face increased risk of reoffending. An intersectional approach that engages cross-government departments overseeing youth justice, child safety, housing, health, disability and education gives young people the opportunity to address many of the issues that have led to involvement in the youth justice system.

Access to housing, alongside engagement in programs and supports that foster healing of trauma and substance use, and that strengthen connection to education and employment, will not only reduce youth homelessness but serve as effective crime prevention and public safety initiatives (Gaetz & Redman, 2016). Recognising the importance of a cross-government response to young offenders compels a need for a youth justice strategic plan that includes provisions to address the housing needs, and planned transition, of young people exiting detention, alongside other health, educational and child safety considerations.

In Conclusion

We know the importance of compassion for the countless children and young people who are traumatised as victims of abuse and crime and we advocate the same compassion for the small number who act out their trauma in inappropriate and sometimes illegal ways. We believe, as evidence indicates, that criminalising children and young people's behaviours that are often trauma based is counter-intuitive and potentially further traumatising. Most commonly, the behaviours displayed have an underlying message that adults need to pay attention to. As an organisation we aim for the developmental needs of children and young people to be more widely recognised across our society in order that children and young people receive the appropriate supports and interventions as they need them. Criminal behaviours exist in a continuum of diverse behaviours associated with complex social and familial factors. Addressing these behaviours in a holistic manner that includes a collaborative systems approach is necessary. We need to be asking: "Why are children and young people offending?" Equal attention to this is required alongside the questions currently being posed about how the legal system and wider community can best respond to criminal behaviours.

In order for a justice process to work well, ideally a child or young person needs to be guided in understanding the nature of their behaviour, its criminality and the impacts of their crime on themselves and others. Being supported to consider the consequences of their behaviour, taking responsibility for their mistake, making recompense to those harmed and recognising the need to change their behaviours is optimum. We know that adolescence is a crucial time of brain development and that biologically young people are predisposed to act more impulsively and take more risks. As such, decision makers need to recognise that the cognisance and decision making of young people is not always as developed as we may assume, and they require appropriate interventions until the brain is fully formed at the age of 25.

Young people who commit offences comprise a very small, complex and marginalised section of young people in our communities. They also tend to have a plethora of needs and we owe it to them to address these needs as soon as possible in their life trajectory. Understandably, those who commit serious offences need to be held to account. However, across the board what we need is a medical response for substance use, more drug and alcohol and mental health services, counselling for traumatised young people, educational responses for those who've disengaged and stable housing for children and young people and their families. If we are intent on raising young people who are active and engaged members of our communities, we need responses to acting out behaviours that are commensurate with their trauma and need. Punitive crime and punishment models don't work and they make no sense to young people in the midst of their often complex life experiences.

Instead of channelling billions of dollars of state revenue into tertiary responses Queensland must recognise the overwhelming evidence in support of social investment to tackle the core of youth offending. Rather than piecemeal funding that enables a small number of services to engage after the fact, we need concerted effort to empower community-led approaches to address the presenting need with the most appropriate support response. The principle of 'providing the response needed, when needed' must also guide responses from government agencies. It is critical that Queensland's response to young people who engage in offending behaviours acknowledges the poverty and

disadvantage that characterises the reality for the majority of those caught up within the youth justice system. We must intervene early and collectively to ensure evidence-based community-led approaches, especially in First Nations communities. In cases where serious offending does require the need for a custodial sentence the focus of this response must be dedicated to rehabilitation and therapy to ensure detention is a one-off remedial experience and not a necessitated revolving door.

Recommendations:

1. Unmet needs across all portfolios relating to children and young people need to be addressed through priority policy and practice, and legislation where necessary. This includes ensuring a focus by departments responsible for: education, child safety, housing and homelessness, disability, domestic and family violence and youth justice.
2. Aboriginal and Torres Strait Islander communities need to be adequately resourced to lead/provide the services and support children and families need.
3. A specialised organisation/team needs to be implemented for children and young people who are victims of crime to support them through their trauma including but not limited to court support and counselling.
4. Early Intervention needs to begin early in life with a focus on the holistic wellbeing of children and families in the primary school system continued through secondary schooling. Something similar to the Youth Support coordinator roles, student support coordinators based in community organisations and supporting young people in primary schools. This could be also be actualised as a local community hub where the school support coordinators sit with other professionals needed in the local community. It needs to be in place from prep through to year 12 and be supportive of those in the community, including the school environment but separate to.
5. Increased accommodation and support models, and options for young people exiting detention, are urgently required.
6. Accessing accommodation and support options for young people exiting detention need to be a central part of their case plan as soon as they enter youth detention.
7. A focus on therapeutic interventions for young people in detention, including specialist Alcohol and other Drug detox and rehabilitation.
8. There is a need for a cross-government intersectional approach that compels engagement and support across multiple domains including Youth Justice, Child Safety, Housing, Health and Education.
9. The Queensland youth justice strategy needs to include provisions to address the housing needs, and planned transition, of young people exiting detention.

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