

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

**Submission No:** 135  
**Submitted by:** Queensland Family and Child Commission

**Attachments:** See attachment

**Submitter Comments:**

# Queensland Family & Child Commission



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Youth Justice Reform Select Committee  
Parliament House  
George Street

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Dear Committee Secretary,

I welcome the opportunity the Youth Justice Reform Select Committee gives us to pause and reflect on Queensland's youth justice system, and the overriding policy that leads to our legislation, funding, programs and practice. This committee is an opportunity to reflect on and reaffirm the purpose of Queensland's youth justice system.

Youth justice policy is an area where there is little disagreement about the aim. Everyone wants the community to be safe, however, it is also an area where there is a huge gap between expert advice and community understanding - and where the scope and pace of change is volatile and more often based on individual incidents and their coverage in the media rather than emerging evidence of what works.

The dual goals of the youth justice system are to:

1. keep the community safe; and
2. change the behaviour of young people who are engaging in crime.

To aid the Committee the QFCC provided a submission on 15 November 2023 that attached our contemporary work analysing and making comment on the QLD youth justice system. This included:

- Yarning for Change
- Submission on the Strengthening Community Safety Bill 2023
- Interactive Map of the Child Protection and Youth Justice System
- Child Rights Report 2023
- Designing a Better Youth Justice System
- Section 40 Report (Excerpt)
- Restorative Justice Conferencing in Queensland.

Commissioner Natalie Lewis and I also provided verbal testimony at the public hearing on 24 November 2023, and in response to questions on notice at that hearing provided further written advice on 11 December 2023.

By a third letter dated 19 December 2023, the QFCC also provided a copy of the completed Review of the Use of Watchhouses, and in the coming months I intend to provide the

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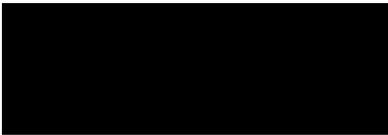


Committee with the published Child Death Review Board Annual Report (that includes a specific chapter on youth justice) and the QFCC Review titled Exits from Detention.

In considering further information that could assist the Committee, and after reviewing the public submissions that have been made to date, Commissioner Lewis and I resolved to individually write our own personal submissions for your use. Please find mine attached for your further consideration.

I am hopeful that these are assisting the Committee to perform its work under its Terms of Reference.

Yours sincerely



**Luke Twyford**  
**Principal Commissioner**  
**Queensland Family and Child Commission**

11 January 2024



## **Changes to the youth justice system must be designed and implemented strategically, with clear whole-of-system outcomes**

The youth justice system is complex. It involves multiple portfolios, departments, organisations, and community groups as well as the police and the courts. This fragmentation makes it extremely difficult to explain the process, the practice, and the outcomes – and it leads to fixations on the easily understood areas (particularly policing and detention) and diminished attention on the wider community portfolios which are involved with a young person and their family.

The youth justice portfolio exists in recognition that the adult justice and corrections systems are inadequate to respond to youth offending, and yet the clearest parts of the system - policing, the children's court, and youth detention centres – closely mirror the elements of the adult system in their conceptual design, practice, and operation.

When we attempt to visualise the entire youth justice system it is difficult to correctly identify the main players (the organisations, institutions, and funding streams) that form part of the system. For example, whilst it is easy to identify Queensland expenditure on youth detention, there is no similar budget line or description of investment in early intervention, prevention, and community-based youth justice services. Unlike other portfolios there is no sector leadership group or peak representative body, and many non-government organisations operating in the youth justice system are small place-based operations, or programs that sit inside larger national organisations that have a primary focus in other portfolios.

Queensland spends more on youth justice services than any other jurisdiction. In Queensland the real recurrent expenditure on youth justice services for 2021–22 was \$346 million increasing 14 per cent from \$302,785,000 in 2020–21. Total expenditure has increased over the last four years, however expenditure on community-based services has decreased, while detention-based service expenditure has increased.

The cost of detention-based supervision per young person has increased by 8.66% to \$2,086.32 per child per day.<sup>1</sup> In 2020-21, Queensland had the second highest percentage of young people returning to detention after release, at 91.26 per cent, following Victoria. The percentage of young people who return to detention within 12 months in Queensland has been consistently high.<sup>2</sup> Given that detention episodes fail to prevent reoffending in more than 90 per cent of cases this \$761,000 investment per child per year, should be repurposed.

In 2023 the Queensland Family and Child Commission produced a map of the Child Protection and Youth Justice System and published it on our website. The map received significant interest, and clearly highlighted several points:

- The journey through the child protection system includes multiple and clear connection points to family support services and universal support services for the family – whereas the youth justice system has a lineal approach with limited clear referral points to the universal

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<sup>1</sup> 'Cost per young person subject to detention-based supervision' is defined as recurrent expenditure on detention-based supervision per day, divided by the average daily number of young people subject to detention-based supervision.

<sup>2</sup> Australian Institute of Health and Wellbeing (2023). *Young people returning to sentenced youth justice supervision, 2021-22 supplementary data tables, Table s17*. <https://www.aihw.gov.au/reports/youth-justice/young-people-returning-to-sentenced-supervision/data>

and secondary support system.

- The journey through the child protection system was more holistic, in that all concerns about the child can be case managed together through an evolution of the case practice approach – whereas the youth justice process was transactional, with new behaviours by the young person treated as new charges, new cases, and new sentences.
- The journey through the child protection system typically ends based on behaviour change occurring (i.e. safety is restored) – whereas the youth justice process typically ended arbitrarily based on court outcome or end of sentence with no requirement for behaviour change to have occurred.
- The journey through the child protection system is overseen by the Child Safety Department – whereas the journey through the youth justice system has no clear single point of oversight (the police, court and sentenced components of the system operate separately).

The map produced by the QFCC was distinguished from other Queensland Government explanations of the system in that it brought together the court, police, and youth justice systems into one visualisation. This cross-portfolio understanding of the process is necessary if Queensland is to deliver successful reform in youth justice.

In reforming the youth justice system, we must also recognise that we will more successfully reduce youth crime by making changes outside of the youth justice system than we will within it. In a further section of this paper, I cover the root-causes of offending, however for the purpose of making the point for the need for a ‘whole of system strategy’ I will say: The biggest improvements Queensland will make to youth crime will be through the education, health, mental health, housing, and child safety portfolios. We will not reduce crime and make the community safer through the police and youth justice portfolios alone.

Ultimately my view is that Queensland is missing a single complete picture of the youth justice system and how it connects to necessary human service elements. Every one of our interactions with young people (from policing to diversion programs and detention) should form part of an integrated system including policing and detention as well as mental health, youth homelessness, education, disability, health, and employment systems however this has not been accurately visualised. Without a map of eligible pathways and criteria this network becomes a patchwork of programs that operate independently and transactionally.

## **Consequences are critical to shaping behaviour – but only if they recognise the developmental and cognitive stages of young people**

Theoretically, there are five main reasons humans have created sanctions for bad behaviour.

1. we use it to deter - in the hope that our punishment of one person scares others into not offending
2. we use it for risk management - to remove offenders who are a risk to society and to keep them away from and/or out of society
3. we use it for restitution and recompense - to remove any benefit the offender received from not following the law, and perhaps to restore the victim as best we can to the point where the offending had not happened
4. we use it for retribution through which we impose a punishment as a revenge, or as a way to harm the offender for the harm that they have caused, and
5. we use it to rehabilitate through which we compel offenders into facilitating their own positive transformation to becoming more pro-social, and to take accountability and learn from their past.

These five theoretical reasons for punishment are reflected in the five purposes of sentencing outlined in Queensland's *Penalties and Sentences Act 1992* – punishment, rehabilitation, deterrence (both personal and general), denunciation and community protection.

In practical reality the emphasis on any one of these reasons will vary, based on the actual offence, the legal system, and societal values. Each of the reasons for a sanction will define how that sanction is applied, and what effect it will have. For example, restitution and retribution may seek to make a victim feel better, whereas rehabilitation will make the community safer. I strongly suggest that the gap between the desire for retribution and the need for rehabilitation is why this Committee has been formed.

In this Committee's assessment of Queensland's youth justice policy, I ask you to consider these forms of sanction and pay due regard to the programs and services that emphasise rehabilitation, and for our higher risk young people, reintegration.

We do not make Queensland safer through the harsher treatment of young people. Our punishment approach is increasing recidivism rates not deterring them. If the long-term goal of reducing youth crime is to be achieved, efforts and investment should focus on:

1. reducing the individual, family, community, and structure factors that contribute to a young person committing crime
2. specialised reintegration services for the young people who are committing most of the crime – and especially services for their families.

### **Understanding effective punishment in a social and psychological context**

All behaviours have consequences.

Consequences are essential for shaping individual conduct and promoting societal well-being. Psychologist B.F. Skinner, a pioneer in behaviourism, asserted, "The consequences of a behaviour determine the probability that the behaviour will occur again". This early behaviourism concept

shapes the principle of reinforcement: Where positive consequences increase the likelihood of a behaviour recurring and negative consequences may deter it. Consequences send a message that certain behaviours are desirable, and others are unacceptable. Within a community, this principle helps maintain balance between individual freedom and collective safety and welfare. Consequences also help individuals understand the impacts of their behaviour on themselves and others, fostering moral reasoning and ethical decision-making.

In our pursuit of good youth justice policy we must acknowledge that anti-social behaviours that harm others need consequences - and we must also acknowledge that criminal law consequences are not the only options available to effectively address youth offending.

In considering the matter of undesirable or antisocial youth behaviour, it is vital to understand and respect the complexity of child development and the impacts of individual, environmental, and societal influences on child behaviour. Similarly, understanding an individual child's developmental stage is crucial in determining the effectiveness of consequence to deter or discourage repeat behaviour.

Over the past century, we have seen continued evolution of our understanding of human behaviour, brain development and indeed child development. This is reflected in contemporary understandings of responding to children's emotional and wellbeing needs in early childhood, to promoting learning and education in primary years, and supporting identity development through adolescence. It is imperative that these learnings are embedded in how we respond to youth offending – to promote behavioural correction for individual children and young people, to deter antisocial behaviour, and to ensure safety and security for the wider community.

The idea that criminal court processes and sanctions designed for adults will work on teenagers needs to be re-examined. Transactional and untimely judicial cases resulting in sanctions that fail to address the root causes of offending or fail to lead the young person through a learning and accountability process, are not effective. Our justice system is broader than our criminal justice system, and we can provide consequences for young people that are not criminal sanctions without 'letting them off'.

Psychologist Jean Piaget's cognitive development theory outlines distinct stages of understanding as children grow. In early years, children may respond better to concrete consequences (e.g. removal of privileges) while older children benefit from discussions about ethical decision-making and values. Sociologist Lev Vygotsky's socio-cultural theory underscores the role of social interactions in cognitive development. Considering socio-cultural theory in the context of cognitive development theory provides an understanding of the need for children to remain engaged with their community in order to best understand their behaviour in a social context and to promote pro-social behavioural decision-making. There is the need for positions of authority to lead discussions on values, ethics, and pro-sociality collaboratively with children. These discussions need to occur at the correct cognitive developmental stage to engage the child meaningfully in collective problem-solving. Incorporating collaborative discussions in the disciplinary process provides children and young people with the cognitive tools to understand the consequences of their actions. On the contrary, applying consequences that do not include this reflective understanding process – the learning of accountability – is not an effective way to steer future behaviour. Jean Piaget stated, "Children need to learn not only the consequences of their actions but also the principles that govern these consequences".

In my testimony to the Legal Affairs Standing Committee on 14 February 2022 I discussed the effectiveness of punishment of young people and stated: “All I would say on that is that as parents we tend to get it right. Parents with two children will punish or respond to poor behaviour differently depending on the child. The good parent will be focusing their actions on changing that young person’s mind and teaching them through the process, but also having a level of compassion that the punishment that is doled out is not creating permanent harm and is not offsetting the respect between a parent and a child but is driving towards better behaviour. As a society, I question how we create a [youth justice] system that does that. Many of us have referred to restorative justice approaches for that very reason. That is, we need to understand what is driving each young person and take them through a process of learning why what they did was wrong but, more deeply, why they did what they did; and engaging victims, the community and, in fact, statutory authorities around them to put in place the pillars that we have also spoken about today to ensure that the community is safer”.

### **Punishment in a child development and familial context**

Theories of child development, consequential learning, and cognitive processing are not new, and have been highlighted in many other strategies to influence, address, or improve responses to children. This is reflected in education strategies offering flexible modes of learning delivery, and health models providing understanding of developmental markers and milestones to understand how to best respond to a child’s needs in the context of their presenting behaviour. Parenting is a complex journey, filled with challenges and rewards. Central to this experience is the delicate balance between using incentives and punishments to guide a child's behaviour. Striking the right equilibrium is crucial for fostering a child's emotional well-being, moral development, overall growth, and their impact on those around them.

Parents use punishment as a tool to signal and respond to undesired behaviour. When a parent punishes a child for their undesired behaviour, they are mindful of the potential long-term consequences of harsh or disproportional punishment, including the links to future aggression, lower self-esteem, and long-term negative effects on a child’s mental health as it relates to safe attachments. Psychologist Diana Baumrind's authoritative parenting style promotes setting clear rules and expectations while maintaining open communication, and offering a middle ground that combines structure with warmth. This theory respects the need for children to continue to be nurtured despite behavioural indiscretions, and the need for this nurturing to continue throughout the disciplinary process to promote understanding of consequences and promote pro-social choices. This premise is reflected in psychologist Albert Bandura’s social learning theory – that observing the consequences of others’ actions contributes to the development of moral reasoning, however the key lies in the type and intensity of punishment.

Parents need to create an environment that allows children to learn from mistakes without feeling overwhelmed by shame. They need to foster a healthy sense of self-esteem and resilience. This balance between autonomy and shame is central to children developing values-based decision-making with an understanding of consequences and impacts of their behaviours. We need to this balance to create an environment where children see challenges as opportunities for learning rather than as threats to their self-worth. Overreliance on punishment can lead to shame, low self-esteem, and can contribute to power struggles and strained caregiver-child relationships.

For some children, the threat of criminal penalties can serve as a precaution and encourage children to change their behaviour, however, this is often not at the forefront of a young mind when

offending. The ability to plan and foresee the consequences of one's actions is vastly less developed in a teenager than an adult. A review of neuro-imaging research from children and young people at different ages indicates that the frontal lobes—the part of the brain responsible for cognitive functions such as impulse control, future planning, empathy, and social interactions— is not fully developed until around 25 years of age. The underdevelopment of the frontal lobes can have notable effects on adolescent behaviours. It is not unusual for adolescents to experience:

- difficulty holding back or controlling emotions
- a preference for physical activity
- a preference for high excitement and low effort activities (video games, sex, drugs)
- poor planning and judgement (rarely thinking of negative consequences); and
- more risky, impulsive behaviours, including experimenting with drugs and alcohol.

Our understanding of child development and parenting recognises that behaviour change, and pro-social development requires thoughtful consideration of how to most effectively discipline poor behaviour, and how best to make that a learning process for the child. Experts in child psychology state this is best approached when the person discharging the punishment has both self-awareness and keen insights into the specific personality and needs of the child. The key lies in understanding the developmental stage of the child, cultural influences, and the potential challenges and pitfalls associated with each approach. Ultimately, a holistic and adaptive strategy that combines discipline with positive reinforcement contributes to the overall well-being and growth of the child.

When used judiciously, punishment can deter undesirable actions and teach children about responsibility and accountability as a strategy to manage behaviour. Overreliance on detention is not an effective approach to behavioural change – especially when that detention experience does not allow for supported learning and reflective exploration for the child to better understand their behaviour, the reasons for their behaviour, or their understanding of how to make better behaviour choices in the future. Young people with multiple detention periods are not deterred by detention. With an overreliance on punishment without a balanced environment to promote individual learning, the justice system does not manage behaviour – it enforces compliance.

In the specific context of youth justice, we must teach and show young people how they form part of, and have responsibility to contribute to, a positive, vibrant, and safe Queensland community.

### **The Youth Justice Cohort**

Children and young people in youth detention often have a different neurodevelopmental and mental health profile compared to others who are not in custody. A multidisciplinary assessment of 99 children in youth detention in Western Australia's youth detention centre found 89 per cent had at least one severe neurodevelopmental or mental health disorder. These disorders included Foetal Alcohol Spectrum Disorder (FASD), intellectual disability, attention deficit hyperactivity disorder (ADHD), trauma/attachment disorders, depression, anxiety, learning difficulties, and speech and language disorders.

In 2018 - 2019, of the 3,128 children under youth justice supervision in Queensland, 56.8 per cent had also received child protection services (including investigated notifications, care and protection orders or out-of-home care) in the previous five years. Aboriginal and Torres Strait Islander children, and females under youth justice supervision were most likely to have received a child protection service in those five years. These circumstances of a young person's early life experiences must be

considered in the context of long-term impacts on their development and their capacity to make pro-social choices into adolescence and adulthood. Child abuse and neglect have particularly pervasive and long-lasting effects on children and their futures. The impacts of child abuse and neglect can include poor emotional and mental health, social difficulties, cognitive dysfunction, and behavioural problems including aggression. The world-leading research 'The Australian Child Maltreatment Study' released here in Brisbane in 2023, demonstrated the profound impact of child abuse and neglect.

Governments have a responsibility to promote physical and psychological recovery and social reintegration of any child who has experienced abuse and neglect. Many children under youth justice supervision (community or detention-based supervision) have a history of child abuse and neglect.

A significant impact of childhood neglect and abuse is the lowered ability to manage one's emotions and to self-regulate. Individuals who experience emotional dysregulation may find it challenging to modulate the intensity, duration, and expression of their emotions in appropriate ways. This can lead to emotional responses that are overly intense, disproportionate to the situation, or difficult to manage. Emotional dysregulation can stem from a variety of factors, including:

- **Neurobiological Factors:** Brain regions responsible for emotional regulation may function differently, leading to difficulties in processing and modulating emotions.
- **Past Trauma:** Experiences of trauma can disrupt a person's emotional regulation capabilities, making it harder to manage emotions in response to triggering situations.
- **Mental Health Conditions:** Conditions like mood disorders (e.g., depression, bipolar disorder), anxiety disorders, and personality disorders can contribute to emotional dysregulation.
- **Environmental Stressors:** High levels of stress, exposure to chronic adversity, and lack of supportive environments can challenge one's ability to manage emotions effectively.

Responding to emotional dysregulation requires a considered and supportive approach. To address behaviours in young people who are experiencing emotional dysregulation requires a response that provides validation, safety, empathy, promotes self-awareness, develops coping strategies, utilises distraction techniques, engages professional help, nurtures a support network, and develops skills. Importantly, addressing behaviours in young people who are experiencing emotional dysregulation must avoid negative criticism of their emotional experiences.

In 2022, the QFCC released the *Designing a better response to youth offending in Queensland* issues paper, outlining evidence supporting non-criminal responses to reducing offending.<sup>3</sup> In 2010, an international review of 29 trials over a 35-year period, showed that criminal justice responses were more likely than diversionary programs to lead to children reoffending. A similar study in 2018 showed police-led diversion to be more effective than traditional justice responses, with a 44 per cent reoffending rate compared to 50 per cent. A recent study by the UK Police has also showed police diversion has been successful at reducing reoffending among young people, compared to traditional criminal justice processes. Non-criminal responses can be particularly effective with children who may be at higher risk of deeper involvement with justice systems, based on their cultural background. Across Europe, cognitive and behavioural programs for young offenders are more common than programs based on punishment and deterrence, owing to the evidence that punitive approaches may contribute to reoffending rather than reduce it. These programs are typically mandatory for participants, delivered in community settings by social workers, educators, or mental health professionals. By operating on a risk- need-responsivity model, which targets the programs in a way that responds to the needs of the young person, they have led to average

reductions in reoffending by 30 per cent.

Research shows alternatives to criminal penalties, such as programs aimed to address the causes of children's behaviour, can lead to significantly better outcomes for children, and reduced offending in their communities. While criminal penalties may help some children to overcome offending, for many children exposure to the criminal justice system is linked to ongoing offending and poor outcomes in health and education.

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## All efforts should focus on addressing the root causes of offending

Creating an effective youth justice system requires us to understand the drivers of offending behaviour, the circumstances that led to offending, and the changes that are necessary in young people's lives to prevent reoffending. All efforts and investment in all areas of the youth justice system should focus on the root-causes of youth offending – and the actions across government, within education, health, housing, child safety, and communities, must be focused on pro-social engagement of Queensland's young people.

To date, Queensland has siloed youth offending as a police and youth justice issue. To address youth offending and promote pro-social youth behaviour and safety and wellbeing for the community, there needs to be a strategic approach across all portfolios. An investment in community will see greater impact on youth behaviour than an investment in policing.

Addressing root causes of offending is not discrete to early intervention or prevention strategies, but rather should be considered and embedded in every element of the youth offending response. That is to say, it is never "too late" to address root causes of offending, and the investment in exploring, understanding, and intervening with the drivers of offending needs to be present in every stage of the youth justice response – from deterrence and prevention strategies, through early intervention, and particularly in criminal justice responses such as custodial detention.

Left unaddressed, significant adversity remains a precursor to youth justice exposure. In 2020–21, 10 to 17-year-olds from the lowest socio-economic areas were five times more likely to be under youth justice supervision than those from the highest socio-economic areas. In 2022, a total of 1,605 young offenders were surveyed in the Youth Justice Census. Of these:

- 45 per cent were disengaged from education, training or employment
- 53 per cent had experienced or been impacted by domestic and family violence
- 33 per cent had a least one mental health or behavioural disorder (diagnosed or suspected)
- 30 per cent had been living in unstable and/or unsuitable accommodation
- 27 per cent had at least one parent who spent time in adult custody
- 27 per cent had a disability (assessed or suspected), including 17 per cent who had a cognitive or intellectual disability
- 19 per cent had an active Child Protection Order.

The best way to keep the entire community safe is to make every effort to prevent and address offending, in a way that addresses these underlying factors of adversity and disadvantage: Investing in school reengagement, youth employment programs, mental health services, youth centres, youth housing and parenting support. Building strong communities where there is economic security and opportunity for families, and where young people are valued and are motivated to contribute to society will provide the fundamental basis for pro-social behaviour.

Acknowledging these underlying circumstances of a young person's life is not about providing an excuse for their behaviour or ignoring the rights of victims – it is not a justification for illegal behaviour - it is about developing appropriate consequences that lead to rehabilitation and restoration – and ultimately reduce the level of crime in Queensland. It is to make communities safe.

For young people, a restorative justice response is more effective than a criminal justice response. Evidence shows that criminal justice responses are not working. Data from the Department of Children, Youth Justice and Multicultural Affairs shows a child who enters the statutory youth justice system at age 11 is more likely to stay in the system than a child who enters at 15. We also know that a criminal justice system can do more harm than good. Young people who leave detention are often more likely to commit more crime. In 2022, Youth Justice data indicated that 84-96 per cent of young people released from the three detention centres committed another offence within 12 months. If we want to reduce youth offending, we need to provide targeted responses to children that take into account the factors that contribute to their behaviour.

This will help to guarantee that children are provided with responses that support their pathway out of offending behaviour – via strengthened family, health, education and employment outcomes. Children, families and communities will benefit from a renewed approach to reducing harmful behaviour that has better long-term success at delivering community safety.

### **Families and communities must be involved in the delivery of youth justice services**

The single biggest source of successful crime prevention in Queensland are parents and family. Parental responsibility for the behaviour of their children is a critical element of our society that does not always translate into our youth justice system operations.

Evidence shows that children in contact with the youth justice system are some of the most vulnerable and disadvantaged members of our community. Family dysfunction, including domestic violence, and parental mental health, substance addition, under employment, and cognitive and other health issues are key risk factors in exposure to the youth justice system. Young people exposed to the youth justice system are too often treated in isolation – separate to their connection to a family unit, particularly where significant familial adversity remains a precursor to youth justice exposure. Accepting that the family unit is an extension of the individual is critical to the success of changing the young person's behaviour.

The youth justice system must be more inclusive of the parents and families of young people. Youth justice programs must bring specific focus to parental responsibility and capacity. Police and court decision making should include consideration of the home situations of young people to make effective decisions. Detention centres must be inclusive and engaging places for parents and families to interact with young people in a way that assists rehabilitation.

The QFCC supports extending community-controlled programs and the involvement of Elders and cultural authority in youth justice programs. We must capitalise on the opportunities presented within reforms such as Closing the Gap under the justice policy partnership to progress shared or delegated decision-making regarding policy development, program design and delivery and shared accountability for the development and performance of local responses to localised issues.

### **Government funding in all areas should be conscious of their contribution to addressing the root causes of offending**

While parents and families are the foundation for shaping their children's behaviour, multiple government portfolios and services play a critical role in providing a framework for pro-social youth engagement in community. Schools, sporting and cultural clubs, youth centres, local government events, and employment opportunities all provide circumstances for young people to be engaged and valued in their community – and in return they are less likely to engage in crime or anti-social behaviour.

As above, the opportunity for the Queensland Government is to consider how portfolios like business, employment, tourism, community development, housing, science, and arts can all provide greater pathways for Queensland's young people to engage in society pro-socially.

Of course, engagement in education is widely known to have a positive impact on social success. There is a clear and negative correlation between crime and the age at which a person discontinued with education.<sup>4</sup> Internationally, education is considered a key policy tool in efforts to reduce crime. Equitable access to quality, inclusive and responsive education is a fundamental pillar of an alternative response to children's offending behaviour. There is a causal link between Queensland's high rates of school disciplinary absences and youth offending that needs to be addressed. Local initiatives that I am aware of include school principals negotiating with PCYC so that students are referred into PCYC programs rather than being suspended or expelled. This combined with re-engagement programs such as those run by Everything Sauve, and teens take control achieve amazing transformation in young people while also operating outside the formal education system.

## **Community leaders must take responsibility for the narrative regarding youth crime and there must be greater transparency and reporting across the youth justice system to build community confidence and evidence must dictate where youth justice investment and effort is focused**

If we are to believe the media there is a prevailing ‘youth crime crisis’ in Queensland - however on any given day less than half of one per cent of Queensland children are involved in the youth justice system and the rate of youth offending in Queensland has been steadily decreasing since 2008. Furthermore, the majority of young people who have contact with the youth justice system do not reoffend after the first contact. Last year in Queensland, there were more criminal offenders over the age of 60 than people under the age of 13.<sup>3</sup>

Why then does Queensland have a strong public narrative about youth crime?

There is no doubt that youth crime is having an impact on the community, and there is legitimate fear. Tragic high-profile cases combined with the increasing availability of home-security footage and the ease of sharing on social media platforms have created an environment where social understanding of the prevalence of youth crime does not appear to match the evidence.

A particular problem within youth justice policy making is the constant need to balance the response to meet the divergent needs of young people, crime victims, the community and the media.

The QFCC has a legislative function to provide advice to government on the laws, policies and practices that apply to children and families. Each year we are required to report on Queensland’s success in meeting State and National goals. In our 2021–22 annual performance report, we outlined clear statistical evidence that:

1. The rate of youth offending in Queensland has been steadily decreasing since 2008.
2. There has been an increase in the use of diversionary practices in Queensland.
3. Over the past 5 years, there has been a decrease in the number and the rate of children and young people subject to: community-based supervision and custody, including unsentenced custody.
4. Queensland has the second highest rate of youth justice supervision and the highest number of young people detained.
5. The disproportionate representation of Aboriginal and Torres Strait Islander children and young people in the Queensland youth justice system is ongoing.
6. Queensland has one of the highest rates of unsentenced detention for children.
7. Disproportionate representation is highest for younger Aboriginal and Torres Strait Islander defendants.
8. Aboriginal and Torres Strait Islander children are less likely to be diverted from the youth justice system.

The statistical evidence for each of the above 8 points are contained in the QFCC annual report which

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<sup>3</sup> Crime report, Queensland, 2021–22 Recorded crime statistics, Queensland Government Statistician’s Office, Figure 10 Offenders by age and offence category, 2021–22.

was tabled in Parliament.

Evidence prepared by the QFCC through its 2023 Review of Watch houses<sup>4</sup> shows that:

1. Arrests of a small group of young people have increased.
2. Arrests for certain offences have increased and some young offenders are more likely to be detained than previously.
3. Court bail refusals have increased and bail granted has decreased.
4. Young offenders are being remanded in custody more frequently.
5. Custody is ineffective in responding to a cycle of reoffending and rearrest.

The picture that emerges from the evidence is that: overall Queensland young people are not engaging in crime; for those that commit crime the majority are not returning to the attention of the justice system; for those that are committing serious crime the current response is not working, leading to them committing more crime, at higher frequency. The nuance of this messaging is not translating to community understanding, and consequently the narrative and policy for youth justice are not aligned to evidence.

Responding to youth crime has been a major public policy challenge for most Australian States. Initiatives for responding to youth offending must be proportionate, purposeful, rehabilitative and reintegrative and investment should be outcome-oriented and produce measurable impact. Unfortunately youth justice policy is often driven by the perceived need to respond to public sentiment. Unlike other portfolios, a tragic case in youth justice is likely to lead to rapid legislation change and this appears to be a more likely outcome than it is in health, child safety, or domestic and family violence.

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<sup>4</sup> Queensland family and child Commission (2023). *Who's Responsible: Understanding why young people are being held longer in Queensland watchhouses*. (qfcc.qld.gov.au)

## **Successful results come from relationship-based, community-based programs that work holistically with young people**

The community has a poor understanding, and governments generally do a poor job of explaining what occurs in community youth justice services. Youth justice programs play a pivotal role in shaping the future of young individuals who have come into contact with the legal system. Successful programs are characterised by their ability to rehabilitate, prevent reoffending, and foster positive personal development.

The evidence is well established that behaviour change is more successful when individuals are nudged, rather than punished. Ayres, Grabosky and Braithwaite state that a strategy “based upon punishment as the first choice is unaffordable, unworkable, and counterproductive” they argue that “the trick of successful regulation is to establish a synergy between punishment and persuasion”.<sup>5</sup> A regulatory model that engages young people in a process of reflection and learning, that teaches responsibility and accountability is necessary.

The research tells us that successful community youth justice programs share common threads: they are rooted in evidence, are relationship-based, individualised to meet specific needs, focus on the young persons living arrangements and family circumstances, and encompass a comprehensive approach that extends beyond punitive and transactional measures.

The strength of all youth justice interventions depends on the ability of the adult workers to build relationships and rapport with young people and for these relationships to be enduring and extend beyond the bounds of detention centres and supervised orders to assist successful reintegration. To be successful real change must occur in the life circumstances of young people. If there is no material change in family, housing, schooling, employment at the end of a youth justice program it is unlikely to achieve sustained change. The most successful programs I have seen include long post-program case management (though-care) including employment and schooling support.

By investing in and implementing such evidence-based programs, society can pave the way for the rehabilitation, prevention, and positive development of youth involved in the justice system. The success of youth justice programs is intricately linked to evidence-based practices that address the complex needs of young individuals. Rehabilitation-centric programs like Functional Family Therapy and Multisystemic Therapy have demonstrated significant reductions in recidivism by focusing on familial and environmental factors<sup>6</sup>. Prevention-oriented programs, such as Positive Youth Development and School-Based Prevention, contribute to keeping youth out of the justice system altogether. Holistic approaches like wraparound services and restorative justice address the multifaceted nature of juvenile delinquency, emphasising individualised support and accountability.

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<sup>5</sup> Ayres, I., and J. Braithwaite. 1992. *Responsive regulation*. New York: Oxford University Press.

<sup>6</sup> Functional Family Therapy focuses on improving family dynamics by addressing communication breakdowns and dysfunctional patterns. It has shown success in reducing criminal behaviour by enhancing family relationships, thereby providing a supportive environment for the youth. A meta-analysis published in the *Journal of the American Academy of Child & Adolescent Psychiatry* (Sexton et al., 2016) found that FFT significantly reduced recidivism rates among juvenile offenders. Multisystemic Therapy is a family- and community-based intervention that addresses various aspects of a young person's life. It has been successful in reducing recidivism by targeting the underlying factors contributing to delinquency, such as family dynamics and peer relationships. Studies published in the *Journal of Consulting and Clinical Psychology* (Henggeler et al., 1998) reported a significant decrease in criminal behaviour among youth who underwent MST.

Ultimately our community youth justice system needs to ensure that:

1. those who work and engage with children are equipped to identify behaviours that can escalate to become harmful or offending
2. clear referral pathways exist for children to receive dedicated services focused on addressing the causes of their behaviour
3. case managers and service providers make active efforts to address a child's individual needs, helping them and their family make sustainable changes for long-term positive outcomes where children have behaved in harmful or unsafe ways, decisions can be made by a panel of diverse professional and community members with expertise in child and adolescent development, psychology, children's rights, and service provision
4. responses are provided within a statutory framework which clearly outlines the responsibilities of service providers, families, and carers to make sure children receive the support that addresses their needs.

The added benefit of community based youth justice is not only that it is more successful in changing young people's behaviour, but it is also far cheaper than detention. Last year the cost per child for detention services was \$2,086.32, 10 times more than the cost of a community-based intervention at \$244.53 per child.

## **Youth detention centres must be redesigned to be places of rehabilitation**

Detention by itself is not a solution. Taking away someone's liberty for a period of time is a punishment – the way we use this time is our opportunity to rise above punishment and use it for rehabilitation. If we do not design both the conditions and practice of detention to be restorative then detention is the most expensive, and least effective way of addressing crime.

Public understanding of the design and operation of youth detention centres remains grounded in medieval concepts of dungeons. I worry that somewhere in our collective subconscious there is a belief that people who offend must not only be deprived of their liberty, but that we must make them miserable throughout that deprivation. The use of prison settings for the rehabilitation of young people is extremely counterproductive. The practice of separation (isolation and confinement) creates an unsafe environment, and as Chair of the Child Death Review Board I see too many suicides and deaths from young people who have had multiple-detention experiences.

Youth detention centres, in their current design and operation, have proven to be ineffective in addressing the root cause of offending. Youth detention centres are highly expensive to operate and maintain, and persistent workforce pressures contribute to sub-optimal outcomes for young people, staff and the wider community. Added to this, young people are not in custody, and certainly not in sentenced custody long enough to enable the sorts of interventions required to address the causes of their offending.

On an average night in 2020–21, there were 228.2 children in detention centres in Queensland, more than any other state or territory in Australia. During that financial year, 64 per cent of these were Aboriginal and/or Torres Strait Islander children. When a young person is apprehended after offending, they must be taken to a safe place where they are provided with immediate ongoing intensive, rehabilitative support that addresses the causes of the offending.

A body of research has emerged showing that following time in detention, young people have difficulty finding housing and employment, participating in social groups, and maintaining interpersonal and family relationships. The Royal Commission into the Detention and Protection of Children in the Northern Territory produced evidence showing children left detention more likely, not less, likely to commit crime and Queensland's recidivism data shows that this is true here too.

Children who are a risk to themselves and community safety need to be taken to a safe place where they can receive a response that effectively addresses the root cause of their offending and adequately prepares them for a sustainable transition back to school, family and community. There is no need for this to be a prison setting. Several years ago I had the opportunity to rethink and redesign a youth detention system in another jurisdiction. Gathered around a whiteboard with frontline workers, political operators, police, parents, and lawyers we asked ourselves "what would be the best way to use the time we have with young offenders to change their behaviour?". The results of this process led to new concepts at odds with our current understanding of youth detention. For example:

- we hoped to teach young people responsibility, and yet our correctional officers made every decision
- we hoped to teach young people how to make better decisions, and yet our daily structure gave them no point to make a decision

- we hoped young people would be able to act differently in community when they were released, but we did nothing to teach and test this re-entry, or to keep community connections to lay the foundations (either within the fence line – or outside it)
- we hoped we could address the family dynamics that had contributed to the young person's behaviours, and yet we made it hard to positively enable family connection, family therapy or family mediation, and in fact system barriers made it incredibly difficult for family to visit
- we hoped to inspire young people to change their view of themselves and the life they could leave, and in doing so we had guards and workers that became the closest adult-champion that these young people had – and we removed this relationship on the day of their release, and
- we hoped to reengage young people in learning and employment, and yet we continued a 'classroom environment' approach that had proven to be unsuccessful in most of these young people's lives.

Other Australian jurisdictions have developed and implemented clear models of detention that underpin the treatment provided to a young person to support their effective rehabilitation, while maintaining community safety and confidence in the system. Whilst Queensland has a range of policies and procedures covering detention centre operations it has no similar single articulation of how its workforce, infrastructure, programs, practice, and sector funding works together strategically to rehabilitate young detainees.

The key features of a purposeful model for detention for Queensland could include:

1. articulating a clear youth justice philosophy with principles that directly shape the organisational design and service model features, including infrastructure design;
2. clearly placing detention within a broader continuum of youth justice service delivery, with an emphasis on family-focused intervention and through care, where services do not cease or pass to another agency;
3. establishing clear and measurable service standards, particularly around the standard day for detainees linked to a published evaluation and monitoring framework that provides transparency and accountability to all parties involved in the operation of youth detention centres;
4. placing a strong and dedicated emphasis on the people that operate within the facilities (their skills, capabilities and motivations, including explicit 'personal attributes' as a standard for all staffing decisions) and a cross-disciplinary approach recognising the numerous skill sets and capabilities that are required to work with young people in pro-social ways;
5. developing clear expectations on detention centres to have partnerships that make them part of the community service delivery landscape (enabling young people to maintain contact with support services that are best placed to ensure and maintain long-term behaviour change);
6. generating a better developed practice and approach to relational and procedural security, as well as positive behaviour support, in the context of physical and dynamic security;
7. place strong emphasis on the importance of children being connected to opportunity and connected to culture, family and community while in the facility; and
8. anchoring the principles of the system in actions that are measurable and directly linked to service model features and service standards.

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