

1 March 2024

Youth Justice Reform Select Committee
Parliament House
George Street
Brisbane QLD 400

By email: youthjustice@parliament.qld.gov.au

Dear Committee Members

Youth Justice Reform Inquiry, Priority Areas for Phase Two of the Inquiry ('the Inquiry')

Thank you for the opportunity to provide feedback in relation to the above.

About QCOSS

Queensland Council of Social Service (QCOSS) is Queensland's peak body for the social service sector. Our vision is to achieve equality, opportunity, and wellbeing for all Queenslanders.

QCOSS' position

QCOSS welcomes the work of the Committee in continuing to consult on significant themes and priorities that have emerged through the Inquiry. QCOSS previously responded to the initial call for submissions in relation to the Committee's Terms of Reference.¹ This submission has been prepared and structured in response to the Committee's priority areas for Phase Two of the Inquiry.

Our submission outlines that an evidence-based strategy must underpin the Queensland Government's response to youth crime. Queenslanders should not need to choose between keeping the community safe, treating children humanely and ensuring victims are heard and their rights protected. A credible youth justice strategy can achieve all of these objectives together.

As the Committee prepares to release its interim report, we emphasise that "tough-on-youth-crime" measures are not effective and are not consistent with Queensland's commitment to human rights. The continued use of adult watch houses to detain children and the current over-reliance on detention centres is counterproductive.

Our submission is informed by ongoing consultation with members of the community sector and other key stakeholders who have a deep understanding of best practice in supporting young people and families. These interventions are proven to reduce offending behaviours.

Our members are increasingly distressed by current government policies, which are harming communities, children and families and not resulting in safer communities.

1. A 10-year strategy for youth justice in Queensland that engages all government agencies and community organisations which deliver services along the youth justice continuum.

Member feedback has outlined that the strategy should extend much further than 10 years. A long-term strategy to address youth crime should be developed in partnership with First Nations Peoples.

¹ Queensland Council of Social Service. Submission No 75 to the Youth Justice Reform Select Committee. *Youth Justice Reform in Queensland*. (9 January 2024). <https://documents.parliament.qld.gov.au/com/YJRSC-6004/YJRSC-54D8/submissions/00000075.pdf>



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

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

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

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

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

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

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

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

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

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

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

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

⁷ Ibid.

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

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

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

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

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

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

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

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

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

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

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

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

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

¹³ Ibid.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

²³ *ibid*, pp 54-55.

²⁴ *ibid*, pp 49-52.

²⁵ *ibid*, pp 56-57.

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

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

4. How to improve:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

³² Child Protection Act 1999 (Qld) s 5C.

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

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

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

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

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

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

Conclusion

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

Thank you again for the opportunity to provide our submission. If you have any questions, please contact Aimee McVeigh, Chief Executive Officer at aimee@gcross.org.au.

Yours sincerely



Aimee McVeigh
Chief Executive Officer

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