

**Interim Report:**  
**Inquiry into ongoing reforms to the**  
**youth justice system and support**  
**for victims of crime**

**Report No. 1, 57th Parliament**  
**Youth Justice Reform Select Committee**  
April 2024

## **Youth Justice Reform Select Committee**

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### **Acknowledgements**

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All web address references are current at the time of publishing.

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## Chair's foreword

*[Chair's signature to be added once approved]*

Sandy Bolton MP

Chair

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## Recommendations

<b>Recommendation 1</b>	<b>15</b>
That the Queensland Government reform the Youth Justice sector and Act to ensure there are consequences for action and put the rights of victims above the rights of offenders.	15
<b>Recommendation 2</b>	<b>16</b>
There is a need for all stakeholders in the youth justice system to be reminded that the four pillars in the Atkinson Report are preceded by wider principles that public safety is paramount and that community safety is essential.	16
<b>Recommendation 3</b>	<b>16</b>
That the Queensland Government commit to developing a long-term youth justice strategy that seeks to address the challenges identified in Queensland’s youth justice system, including siloes in service delivery and the accuracy and transparency of data. This strategy should be co-designed with First Nations people, communities and relevant stakeholders including victims groups.	16
<b>Recommendation 4</b>	<b>16</b>
That the Queensland Government conduct a thorough assessment of the level of care provided to children and young people in the child safety and youth justice systems and, if failing to provide the necessary care and stability, take action to reduce the correlation between these systems and reduce offending by this cohort.	16
<b>Recommendation 5</b>	<b>16</b>
That the Queensland Government review the scope of the Department of Youth Justice, and broaden its scope to intervene prior to contact with the youth justice system and through improved transition planning, by expanding the role the Department plays in:	16
<ul style="list-style-type: none"> <li>• early intervention and prevention efforts focused on diverting children and young people who are known to police or at risk of contact with the system, and</li> <li>• providing support to children, young people and their families as they transition back into the community from detention through transition plans that include supported accommodation where necessary.</li> </ul>	16
<b>Recommendation 6</b>	<b>16</b>
That the Queensland Government deliver the new <i>Putting Queensland Kids First: Giving our kids the opportunity of a lifetime strategy</i> as soon as possible and to ensure it: (i) is accompanied by significant investments in initiatives that target the risk factors associated with offending during young children’s formative years; and (ii) includes tangible performance indicators for assessing progress towards implementation.	16
<b>Recommendation 7</b>	<b>18</b>
That the Queensland Government immediately appoint additional Magistrates to the Childrens Court of Queensland.	18
<b>Recommendation 8</b>	<b>19</b>
That the Queensland Government ensure that the Childrens Court of Queensland has the resources it needs to operate in a culturally appropriate manner. This should include the provision of culturally safe spaces, appropriate training, and the appointment of	

relevant support staff, including First Nations Liaison Officers, at all Childrens Court locations.	19
<b>Recommendation 9</b>	<b>19</b>
That the Queensland Government immediately improve the accessibility and quality of the videoconferencing facilities available to children and young people at youth detention centres who are unable to attend court proceedings in person.	19
<b>Recommendation 10</b>	<b>19</b>
That the Queensland Government, in consultation with the Interim Victims' Commissioner, the Independent Ministerial Advisory Council and other key stakeholders, explore the feasibility of holding hearings of the Childrens Court of Queensland at youth detention centres in a manner that improves a child or young person's understanding of, and participation in, court proceedings.	19
<b>Recommendation 11</b>	<b>20</b>
That the Queensland Government consider introducing legislation seeking to operationalise the 'Childrens Court Trigger' in accordance with section 43(2) of the <i>Family Responsibilities Commission Act 2008</i> , to enable the Childrens Court to provide court advice notices to the Family and Responsibilities Commission in relation to a child or young person who has been convicted of an offence.	20
<b>Recommendation 12</b>	<b>23</b>
That the Queensland Government evaluate the trial, make the evaluation report public, and explore the feasibility of expanding to more locations: (i) the vehicle immobiliser subsidy scheme, including extending the deadline for using vouchers issued under this scheme; (ii) the helping seniors secure their homes initiative; and that the Government continue to monitor the effectiveness of these programs.	23
<b>Recommendation 13</b>	<b>27</b>
That the Queensland Government report to the Parliament on its progress implementing the 18 recommendations of the former Legal Affairs and Safety Committee, <i>Report No. 48, 57th Parliament – Inquiry into support provided to victims of crime</i> tabled on 19 May 2023; and commit to prioritising the implementation of recommendations 1 and 10 of that report, that the Queensland Government:	27
<ul style="list-style-type: none"> <li>• develop a pilot victim advocate service to support victims of crime to navigate through the criminal justice system, as recommended in that report</li> <li>• review youth justice conferencing and identify opportunities to better meet the needs of victims of crime.</li> </ul>	28
<b>Recommendation 14</b>	<b>28</b>
That the Queensland Government, through the work of the Office of the Interim Victims' Commissioner, continue to progress priority issues for victims of crime, including considering the development of a scheme for extending financial support to victims of non-violent crime.	28
<b>Recommendation 15</b>	<b>28</b>
That the Queensland Government through Victim Assist Queensland and in consultation with the Office of the Interim Victims' Commissioner, funds a public awareness campaign to inform victims of youth crime how they can access the supports available to them.	28
<b>Recommendation 16</b>	<b>28</b>

That the Queensland Government release the findings of the KMPG review of the financial assistance scheme administered by Victim Assist Queensland.	28
<b>Recommendation 17</b>	<b>28</b>
That the Queensland Government implement strategies to improve wait times for victims seeking support via Victim Assist Queensland and regularly report to the Parliament on its progress in reducing wait times.	28
<b>Recommendation 18</b>	<b>31</b>
That the Queensland Government in consultation with teachers, principals and key education stakeholders, review the operation of suspension, exclusion and absenteeism policies in Queensland schools to identify strategies to reduce the risk of school disengagement, improve support to staff, and promote safety within Queensland’s schools. The review should consider:	31
• whether disciplinary actions can be facilitated on-site, rather than prohibiting school attendance, and	31
• how the current policy and legislative framework for managing absenteeism can be strengthened to support school attendance, and to be more responsive where disengagement is identified.	31
<b>Recommendation 19</b>	<b>31</b>
That the Queensland Government review state funded alternative schooling programs, and based on this review, expand alternative schooling options and implement these in areas where there is currently demand for non-mainstream schooling placements.	31
<b>Recommendation 20</b>	<b>33</b>
That the Queensland Government commit to ensuring that all primary school aged children have access to a comprehensive, fully funded health assessment to assist with hearing, visual, learning, developmental and neurodiverse diagnoses.	33
<b>Recommendation 21</b>	<b>33</b>
That the Queensland Government explore opportunities to expand the availability of GPs and nurses in primary school settings and at all Youth Justice Service Centres to assist in preventative health screening.	33
<b>Recommendation 22</b>	<b>33</b>
That the Queensland Government through the Department of Youth Justice and Queensland Health commit to ensuring that all children and young people in detention receive comprehensive mental health and physical health assessments, including specialist referrals for ADHD and FASD, as a priority and incorporating a process to ensure referrals have been attended.	33
<b>Recommendation 23</b>	<b>38</b>
That subject to the Auditor-General’s findings, the Queensland Government:	38
• apply longer term funding contracts to state-funded youth justice programs and services and investigate new models that facilitate better collaboration among service providers	38
• fund existing programs to operate more flexible hours during crucial times for potential offending, including late at night and on weekends	38
• fund more programs for children under 10 years of age	38

- consult First Nations organisations about how contract tender processes could be more improved and identify any unnecessary barriers to First Nations engagement. 38
- consider a broader range of outcomes in future service or program evaluations, such as relationship building 38
- ensure it provides funding to a diverse mix of organisations, including smaller community-based organisations as well as larger organisations. 38

**Recommendation 24 40**

That the Queensland Government urgently implement the outstanding recommendations from previous reviews including the 2017 report, and the recommendations from Inquiries, on the Blue Card system to ensure that: (i) it does not create unnecessary barriers to people acting as kinship carers where this promotes the well-being of children; and (ii) it provides an avenue for people with a criminal or youth justice history to establish their suitability to work with children, subject to appropriate safeguards. 40

**Recommendation 25 42**

That the Queensland Government increase the availability of residential and non-residential Alcohol and Other Drug treatment services for children and young people in Queensland, particularly in regional and remote areas to support children to access treatment closer to home. This should be supported by a strategy to address alcohol and other drug use by children and young people in Queensland. 42

**Recommendation 26 47**

That the Queensland Government develop and implement workforce strategies that ensure the state’s youth detention centres are staffed at levels sufficient to ensure the safety of workers and eliminate the need to use ‘separations’ or ‘night mode’ as a result of staff shortfalls and begin reporting, within three months, on when ‘separations’ or ‘night mode’ are used as a result of staff shortfalls. 47

**Recommendation 27 47**

That the Queensland Government set clear and enforceable limits on the use of ‘separations’ at youth detention centres. 47

**Recommendation 28 47**

That the Queensland Government review changes made to Division 2A of the *Youth Justice Act 1992*, which regulates age related transfers to corrective services facilities, by the *Strengthening Community Safety Act 2023* to assess whether they are operating as intended. 47

**Recommendation 29 49**

That the Queensland Government publicly report on the number of children and young people detained in watch houses, and how long they have been detained, on a weekly or real-time basis. 49

**Recommendation 30 49**

That the Queensland Government work with relevant stakeholders to develop a statewide Code of Practice for the management of young people in watch-houses. 49

**Recommendation 31 50**

That the Queensland Government: (i) set clear targets for reducing the proportion of children and young people in detention who are being held on remand; and (ii) identify strategies for achieving those targets.	50
<b>Recommendation 32</b>	<b>50</b>
That the Queensland Government extend the Fast Track Sentencing program and expand it to all Childrens Court locations across the state, subject to the evaluation of the pilot program.	50
<b>Recommendation 33</b>	<b>52</b>
That the Queensland Government undertake comprehensive community consultations to develop a plan for transforming the state’s youth justice infrastructure and address overcrowding. These consultations should explore how alternative models of youth detention can better address the needs of regional and remote communities, investigate the feasibility of establishing facilities that cater exclusively to children under 14, and seek to build public support for the construction of new facilities outside of major metropolitan centres so that young people can be detained closer to, and supported by their communities.	52
<b>Recommendation 34</b>	<b>54</b>
That the Queensland Government expand Intensive Case Management to more locations, increase the number of children and young people it is funded to assist, and ensure the staff who deliver this program are remunerated at a level that appropriately reflects their expertise.	54
<b>Recommendation 35</b>	<b>57</b>
That the Queensland Government consider the Auditor-General’s findings arising from the audit of youth justice strategies and programs before making further investments in programs targeted at reducing recidivism.	57
<b>Recommendation 36</b>	<b>62</b>
That the Queensland Government fund a minimum 12-month transition plan for every child and young person transitioning back into the community after detention which is skills, education and health focused, including residential accommodation options. This will require the Queensland Government to identify suitable existing infrastructure for the residential education and training aspects.	62
<b>Recommendation 37</b>	<b>62</b>
That the Queensland Government urgently address housing availability for children and young people, including emergency and supported accommodation that are connected to support programs or services.	62
<b>Recommendation 38</b>	<b>63</b>
That the Queensland government commit to funding an independent evaluation of all substantive legislative amendments made to the Youth Justice Act to assess their impact on current youth justice and community safety objectives as articulated in a Youth Justice Strategy.	63
<b>Recommendation 39</b>	<b>66</b>
That the Queensland Government identify priority areas in which to urgently expand Youth Co-Responder Teams and the Early Action Group model and additional place-based responses to target the cohort of children and young people coming to the attention of police with a multi-agency service response for children and young people and their	

families. Ideally, the Early Action Groups model should comprise membership from the following agencies: Queensland Police Service, Department of Youth Justice, Department of Child Safety, Seniors and Disability Services, Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts, Queensland Health, Department of Education and the Department of Housing.	66
<b>Recommendation 40</b>	<b>67</b>
That the Queensland Government ensure an evaluation of the Elders Cautioning Pilot Program in Inala is completed, and made public, in a timely manner.	67
<b>Recommendation 41</b>	<b>67</b>
That the Queensland Government identify strategies to empower First Nations communities to deliver effective cautioning programs that are co-designed.	67
<b>Recommendation 42</b>	<b>69</b>
That the Queensland Government significantly increase the resources allocated to restorative justice processes in order to reduce delays and improve the experiences of victims who participate in these processes.	69
<b>Recommendation 43</b>	<b>69</b>
That the Queensland Government develop and implement strategies to ensure that children and young people are referred to restorative justice processes at the earliest opportunity. This should include measures to ensure that First Nations children and young people are referred to restorative justice processes at rates comparable to their non-Indigenous peers.	69
<b>Recommendation 44</b>	<b>70</b>
That the Queensland Government identify why some children and young people do not participate in restorative justice processes when given the opportunity to do so, and develop strategies to improve the rate at which children and young people participate in these processes.	70
<b>Recommendation 45</b>	<b>72</b>
That the Queensland Government immediately investigate and implement alternative options to watch houses and detention centres for children and young people with a significant mental health conditions and/or disabilities so they can be appropriately diagnosed, treated and to ensure justice outcomes are effective.	72
<b>Recommendation 46</b>	<b>74</b>
That the Queensland Government ensure that the Queensland Police Service is appropriately resourced to appeal bail decisions relating to children and young people to higher courts where they consider this to be appropriate.	74
<b>Recommendation 47</b>	<b>77</b>
That the Queensland Government ensure that existing Intensive Bail Initiatives are evaluated and, subject to that evaluation, consider expanding intensive bail support initiatives to ensure that children and young people with complex needs receive the help they need to comply with their bail conditions and are able to access that support across the state.	77
<b>Recommendation 48</b>	<b>78</b>
That the Queensland Government immediately investigate whether additional resources and/or changes to practice are necessary to ensure information that is relevant to the	

sentencing of children and young people, including offending history, is provided to the courts by relevant actors, including the Queensland Police Service, the Office of the Director of Public Prosecutions, and the Department of Youth Justice.	78
<b>Recommendation 49</b>	<b>80</b>
That the Queensland Government establish Youth Murri Courts in regional Queensland as a priority and explore opportunities to expand the model in other locations in Queensland.	80
<b>Recommendation 50</b>	<b>83</b>
That the Queensland Government: (i) establish residential rehabilitation programs that can provide children and young people with wrap-around supports over an extended period as part of a non-custodial sentencing order; and (ii) investigate whether changes to the <i>Youth Justice Act 1992</i> are necessary to facilitate the participation of children and young people in such programs as part of a non-custodial sentencing order, and introduced any changes identified as necessary.	83
<b>Recommendation 51</b>	<b>89</b>
That the Queensland Government immediately review the operation of section 150 of the <i>Youth Justice Act 1992</i> to determine whether the central principle of community safety is being overshadowed by the principle of ‘detention as a last resort’ as it relates to sentencing. This review should seek input from the Department of Justice and Attorney-General, the Department of Youth Justice, and expert legal stakeholders.	89
<b>Recommendation 52</b>	<b>89</b>
That the Queensland Government immediately develop and implement a plan to assess the impact of serious repeat offender declarations on the sentencing of children and young people in an ongoing manner and report on their impact to the Legislative Assembly annually.	89
<b>Recommendation 53</b>	<b>89</b>
That the Queensland Government immediately expand the scope of serious repeat offender declarations by lowering the threshold at which they can be made.	89
<b>Recommendation 54</b>	<b>89</b>
That the Queensland Government amend the <i>Youth Justice Act 1992</i> so that police officers and courts are required to rely on serious repeat offender declarations when making bail decisions in relation to a child or young person who has been charged with a prescribed indictable offence, in a manner that mirrors section 150B of that Act (which requires sentencing courts to rely on serious repeat offender declarations).	89
<b>Recommendation 55</b>	<b>93</b>
That the Queensland Government through the Queensland Police Service ensures it has effective workforce strategies in place to gradually reduce the gap between approved and actual numbers of police officers in all parts of the state, including for Child Protection Investigation Units.	93
<b>Recommendation 56</b>	<b>93</b>
That the Queensland government urgently review the impact of police staffing levels, resourcing and other issues such as attrition and morale, have on crime rates. This should include consideration of recruitment and training capacity for new police.	93

<b>Recommendation 57</b>	<b>99</b>
That the Queensland Government urgently improve the transparency of Childrens Court of Queensland proceedings by allowing victims of crime, their families and media access to courts.	99
<b>Recommendation 58</b>	<b>99</b>
That the Queensland Government ensure that victims of crime have access to specially trained staff who can provide them with clear and accessible information about how the youth justice system is responding to the behaviour of the person who offended against them and the outcomes this ultimately delivers.	99
<b>Recommendation 59</b>	<b>99</b>
That the Queensland Government, through the Queensland Police Service, assess and improve current practices for identifying victims of crime to improve the accuracy of victim data, and commit to providing victims data to the Queensland Government Statistician’s Office (QGSO) for analysis by the Crime Statistics and Research Unit.	99
<b>Recommendation 60</b>	<b>99</b>
That the Queensland Government expand the role of the QGSO Crime Statistics and Research Unit as an independent publisher of crime statistics for Queensland to include a new role in producing educational material to assist in the community’s understanding of crime trends in Queensland, including the number of victims of crime.	99

## Executive Summary

On 12 October 2023, the Legislative Assembly established the Youth Justice Reform Select Committee to examine ongoing reforms to the youth justice system and support for victims of crime.

During the course of its inquiry, the committee heard from a broad range of stakeholders, including academic experts, service delivery organisations, community groups, and government officials. The committee heard from a significant number of victims of crime, both through written submissions and at public hearings, as well as several young people with direct experience of the youth justice system. The views of these two groups were particularly valuable in assisting the committee in its work.

Youth crime is a contentious and polarising issue. Despite this, the committee's inquiry has identified some important areas of consensus among the community. For example, there is strong agreement that all Queenslanders have the right to feel safe, including children and young people. There is also consensus that Queensland's youth justice system is not meeting the community's expectation with regard to community safety and the rehabilitation of children and young people. Evidence also shows there is clear agreement across different parts of the community that Queensland should prioritise investments in early intervention and prevention and improve the support provided to victims of crime.

In other areas, the committee heard more divergent views from Queenslanders. Stakeholders shared very different ideas about what alternative forms of youth detention might look like and the kinds of facilities these would require. Different parts of the community also expressed a range of views about whether changes to bail and sentencing frameworks are necessary, and if so, what changes should be made.

**The committee has made 60 recommendations.** Broadly speaking, these recommendations relate to six key areas:

- Queensland's youth justice landscape
- improving support for victims of crime
- universal early intervention and prevention
- making rehabilitation effective
- the current legislative framework for youth justice
- building community confidence in the youth justice system.

Each of the committee's recommendations is based on the evidence it has received so far. Each is designed to improve the outcomes delivered by the youth justice system for young people, victims of crime, and the broader community. Some of these recommendations could be implemented relatively swiftly, but many will require action over an extended period of time. This reflects the committee's desire to balance the need for urgent change with the complexity of the youth justice system.

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## 1 The committee and its work

The Queensland Legislative Assembly established the Youth Justice Reform Select Committee on 12 October 2023. The Legislative Assembly tasked the committee with examining ongoing reforms to the youth justice system and support for victims of crime.

### 1.1 The scope of the inquiry

The committee's terms of reference direct it to consider:

- a. the prevention of entry and diversion of youth offenders from the justice system with specific consideration of risk and protective factors that reduce crime;
- b. effective ways to stop recidivism and protect the community from offending and the opportunity for community-controlled organisations with specific reference to the role of First Nations peoples to provide support solutions and services;
- c. the efficacy of:
  - i. justice programs including on-country programs, education, health and housing services;
  - ii. reducing people carrying weapons;
  - iii. evidence-based early intervention and prevention programs;
  - iv. reducing the numbers in custody on remand;
  - v. alternatives to detention;
  - vi. detention and other consequences of offending;
  - vii. the most suitable infrastructure used for custody, detention or residential components necessary to reduce crime; and
- d. systems and processes to provide immediate and ongoing support for victims of crime.

### 1.2 The committee's work so far

As of 27 March 2024, the committee has:

- received and accepted 220 submissions (listed in Appendix A).
- held 9 public briefings with a wide range of government departments and entities (as detailed in Appendix B), including:
  - the Department of Youth Justice
  - the Department of Education
  - Queensland Health
  - the Department of Justice and Attorney-General
  - the Queensland Police Service
  - Queensland Corrective Services
  - the Department of Child Safety, Seniors and Disability Services
  - the Department of Housing, Local Government, Planning and Public Works
  - the Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts
  - the Queensland Government Statistician's Office

- the Department of the Premier and Cabinet
- held 13 public hearings in Townsville, Cairns, Mount Isa, Rockhampton and Toowoomba, Brisbane, the Gold Coast and Kawana Waters (as detailed in Appendix C)
- held a number of private meetings and private hearings with relevant stakeholders, including Magistrates working in the Children’s Court of Queensland, victims of crime and young people with lived experience of the youth justice system
- conducted site visits at youth justice and police facilities, including:
  - Brisbane Youth Detention Centre
  - West Moreton Youth Detention Centre
  - Cleveland Youth Detention Centre
  - Cairns police watch house
- published an Issues Paper on victims of youth crime which called for submissions on issues specific to victim experiences of the youth justice system (see section 3.1 for more detail).

### **Committee comment**

The committee acknowledges that the opportunity for an ‘open to the floor’ session was not afforded to victims in Brisbane as it had been at hearings during the committee’s regional travel. The committee regrets this oversight.

The committee notes that the Chair offered to meet privately with victims and that a number of victims followed through on this offer.

### **1.3 Priority areas for community consultation**

Informed by the committee’s broader terms of reference and evidence it received, the committee identified a number of priority areas for further consultation. The priority areas initially identified by the committee were as follows:

- A 10-year strategy for youth justice in Queensland that engages all government agencies and community organisations which deliver services along the youth justice service continuum.
- How to instigate earlier assessment, intervention and prevention strategies that support children and their families to access health, education, housing and other services.
- 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.
- How to improve:
  - 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.
  - children and young people’s transition back into the community, including consideration of supported accommodation models.
- The current operation of the *Youth Justice Act 1992*, including sentencing principles, the criteria for serious repeat offender declarations and traffic offences.
- How to strengthen public confidence in the youth justice system, including by:
  - examining the impact of social media and traditional news media on youth offending and community perceptions of safety

- improving the way data on youth crime is communicated to the public.
- How to improve youth justice system responses to victims and ensure they are able to access support services across the state.

On further consideration, and after consulting with the community, the committee agreed to add three additional priority areas:

- Examination of the interaction between the youth justice and child protection systems, including residential care, and how to improve these systems to reduce the high number of young people under the state's care that have contact with police and/or the youth justice system.
- The appropriateness of current penalties, including an assessment of sentences given compared to the maximum prescribed by legislation.
- How to better assess and record the number of victims in Queensland (including all property offences and offences against the person) to ensure victims are accurately recorded in Queensland crime statistics and better able to access support.

#### **1.4 Structure of the report**

This report presents the committee's findings to date and is organised around six key themes:

- improving support for victims of crime
- early intervention and prevention
- making rehabilitation effective
- the current legislative framework for youth justice
- building community confidence in the youth justice system

Before examining these themes, the report provides an overview of Queensland's youth justice landscape.

#### **1.5 Terms used in this report**

The *Youth Justice Act 1992*, which sets out the framework for the youth justice system, applies to children. In Queensland, 'child' means an individual who is under 18.<sup>1</sup> However, stakeholders working in the youth justice sector commonly refer to 'young people' rather than children. In light of this, the committee uses the term 'children and young people' to refer to individuals who are under 18 in this report.

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<sup>1</sup> *Acts Interpretation Act 1954*, Sch 1.

## 2 Youth justice in Queensland

### Summary of this section

- Stakeholders firmly agree that all Queenslanders have the right to feel safe, including children and young people. However, there also appears to be consensus that Queensland's youth justice system is not achieving this outcome.
- Data suggests that the nature of youth crime is changing. There is a small but growing cohort of serious repeat youth offenders, who are often associated with offences that make people feel particularly unsafe. In addition, social media has made youth crime more visible and appears to play a role in some young people's offending.
- There are a number of challenges in responding to youth crime. For example, the youth justice system interacts with other systems including health, education, disability, housing, child safety, police and the courts. In addition, there appear to be very diverse views about what changes may be necessary to improve community safety now, and into the future.
- The Childrens Court of Queensland is an important part of the state's youth justice landscape. Stakeholders have suggested that increasing court resources and making some changes to the way it operates may help to improve the outcomes it delivers for victims of crime and offenders.

### 2.1 All Queenslanders have a right to feel safe

Youth crime is a contentious and often polarising issue that has been characterised by witnesses and in public discourse as being in a state of 'crisis'.<sup>2</sup> Stakeholders have highlighted the need for immediate and long-term youth justice system reform in Queensland. However, there are divergent views about how this might be achieved.<sup>3</sup> Despite this, there appears to be agreement among the community that all Queenslanders have the right to feel safe.

A significant number of submissions received by the committee assert or agree with the idea that Queenslanders have a right to feel safe. Stakeholders who gave evidence at public hearings expressed similar sentiments. For example, Mr Luke Twyford, the Chief Executive and Principal Commissioner of the Queensland Family and Child Commission (QFCC) observed that 'there is little disagreement' about the aim of youth justice policy, explaining 'everyone wants the community to be safe.'<sup>4</sup>

Similarly, Genevieve Sinclair, the CEO of Youth Empowered Towards Independence (YETI), told the committee, 'we all share a common interest in ensuring that the community is safe.'<sup>5</sup>

The committee heard from victims of crime who told the committee that they no longer feel safe at home or in their communities.<sup>6</sup> The committee received numerous submissions from people who had been victimised by young offenders in their own home – a space in which they expect to be secure.<sup>7</sup> For example, one victim whose house was broken into explained the impact this experience had on her:

<sup>2</sup> See for example, Mr Graeme Kimball, public hearing transcript, Kawana Waters, 23 February 2024, p 33; see also 'Qld youth crime: Everything you need to know about victims, crimes and what happens next', *Courier Mail*, 11 February 2024, accessed 15 March 2024.

<sup>3</sup> See for example submissions 33, 39, 50, 53, 55, 57, 58, 59, 60.

<sup>4</sup> Public hearing transcript, Brisbane, 24 November 2023, p 29.

<sup>5</sup> Public hearing transcript, Cairns, 7 February 2024, p 2.

<sup>6</sup> See for example submissions 35, 49, 80, 89.

<sup>7</sup> See for example submissions 35, 41, 61, 80, 89, 93 and 125.

Now I sleep with everything locked I even lock myself in the bedroom, I can't sleep very well jumping up with every little noise. I am 70 years old and love my house but it does not feel the same any more. I feel so unsafe all day and night.<sup>8</sup>

Other submitters stress that the right to feel safe should extend to all members of the Queensland community, including children in care, children engaged with youth justice, people with disability, First Nations people, and the people who work in the youth justice system.<sup>9</sup>

Chapter 3, Improving support to victims of youth crime, discusses the impact of crime on victims in more detail.

## 2.2 Youth crime is changing

Evidence before the committee suggests that the nature of youth crime is changing. Recent years have seen an increase in the number of serious repeat youth offenders in Queensland. The precise extent of this increase is difficult to assess because the index used to categorise young people as serious repeat offenders (the Serious Repeat Offender Index, or SROI) is relatively new, and because recent legislative changes affect the comparability of data from year to year.<sup>10</sup>

In 2020-21, the average daily number of serious repeat offenders was 312, but in 2022-23, this figure rose to 461.<sup>11</sup> Serious repeat youth offenders have also become responsible for a greater share of youth crime. In 2021-22, serious repeat offenders were responsible for almost half (48 per cent) of all charges proven against young people.<sup>12</sup> In 2022-23, this figure rose to more than half (54.5 per cent).<sup>13</sup>

At the same time, the kinds of offences committed by children, and in particular serious repeat offenders, appear to have changed. Between 2012-13 and 2021-22, the proportion of child offenders who were proceeded against by police for unlawful use of a motor vehicle increased from 6.7 per cent to 12.4 per cent. In the same period, the proportion of child offenders who were proceeded against by police for unlawful entry increased from 13.9 per cent to 17.2 per cent. As a result, children accounted for over half of all offenders proceeded against for unlawful use of motor vehicle, robbery, and unlawful entry in 2021–22.<sup>14</sup>

These particular offences – unlawful entry, unlawful use of a motor vehicle and robbery – are having a significant impact on the community's safety and sense of safety. Some stakeholders have highlighted the trauma of being victimised in a place where people expect to feel safe: their home. One stakeholder described youth offenders as 'brazen', evidenced by offending while people walk their dogs.<sup>15</sup>

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<sup>8</sup> Kathleen Doyle, submission 35, p 1.

<sup>9</sup> See for example submissions 11, 23, 102, 106, 111, 116, 120 and 121.

<sup>10</sup> The Serious Repeat Offender Index (SROI) categorises young people based on offending history (proven and pending, seriousness and repetition), time spent in custody, and their age. Since the SROI takes into account the number of nights a child has spent in custody over the previous 24 months, it is potentially affected by recent changes to Queensland's bail and sentencing frameworks. For more detail on how the SROI is calculated, see: Department of Youth Justice, Employment, Small Business and Training, briefing paper, 30 November 2023.

<sup>11</sup> Department of Youth Justice, Employment, Small Business and Training, briefing paper, 30 November 2023, p 3.

<sup>12</sup> Childrens Court of Queensland, *Annual Report 2021-22*, p 19.

<sup>13</sup> Childrens Court of Queensland, *Annual Report 2022-23*, p 24

<sup>14</sup> Queensland Government Statistician's Office, *Crime report: Queensland, 2021–22, 2023*, pp 60-61.

<sup>15</sup> Brad Neven, public hearing transcript, Rockhampton, 27 February 2024, p 4.

There have also been public attacks including fatalities at shopping centres in Queensland which have further impacted the community's safety and sense of safety.<sup>16</sup>

Stakeholders have also highlighted that youth crime is now more visible. One academic expert advised the committee that 'youth crime is more visible now than it ever has been in the past.'<sup>17</sup> This is partly due to the spread of technology, including smart phones, and the growth of social media.<sup>18</sup> As another expert advised the committee, such technology creates 'the ability for young people to broadcast their inherently stupid behaviours online to a very large audience in a very quick period of time.'<sup>19</sup>

When asked about the role of social media in youth offending, one witness stated, 'I think that the notoriety the offenders get from posting their crimes on social media drives others to do it, and it probably contributes significantly to the recruitment of more criminals.'<sup>20</sup>

In the last few years, there have also been several high-profile incidents in which young people committed serious, violent offences while reportedly on bail. These incidents have had a significant impact on public confidence in the ability of the youth justice system to protect the community from harm.<sup>21</sup>

### **Committee comment**

There is significant community concern about increases in certain types of offences and in the proportion of offences committed by serious youth repeat offenders – a cohort whose high-risk and sometimes violent offending is increasingly making the community feel unsafe.

While the contentious nature of youth justice policy means there may not be consensus on some issues, there is firm agreement in the community that all Queenslanders have a right to feel safe, at home and in their communities. The committee is in agreement that public safety is paramount and that youth justice reform must be responsive to the challenges in the current system.

## **2.3 Challenges in responding to youth crime**

Although evidence before the committee suggests that parts of Queensland's youth justice system are working, there are a number of challenges in responding to youth crime in Queensland.<sup>22</sup>

### **2.3.1 Siloed service delivery**

One challenge is that the youth justice system does not operate in isolation. It interacts with many other systems in complicated ways, including the education, health, child safety, disability and housing

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<sup>16</sup> Brett Geiszler, public hearing transcript, Townsville, 5 February 2024, p 30.

<sup>17</sup> Dr Troy Allard, Program Director, School of Criminology and Criminal Justice, Griffith University, public hearing transcript, Brisbane, 21 February 2023, p 5.

<sup>18</sup> Submission 130.

<sup>19</sup> Tom Allsop, Chief Executive Officer, PeakCare Queensland, public hearing transcript, Brisbane, 21 February 2023, p 26.

<sup>20</sup> Ken Cunliffe, public hearing transcript, Brisbane, 16 February 2024, p10.

<sup>21</sup> See for example submission 72.

<sup>22</sup> Stakeholders highlighted a number of programs and services that they considered to be working at different points along the youth justice service delivery continuum. For example, the Stronger Communities Early Action Group and co-responder models, education officers within the courts and on Country and other cultural programs as identified by Assistant Commissioner Marchesini, public briefing transcript, Brisbane, 5 December 2023, p 14; Ms Wendy Lang, public hearing transcript, Townsville, 5 February 2024, p 15; David Law, public hearing transcript, 24 November 2023, p 13; Dr Stephen Stathis, Director of Psychiatry at Children's Health Queensland, public briefing transcript, Brisbane, 6 December 2023, p 5.

systems, as well as the police and the courts. Many stakeholders told the committee that youth justice reform should take into account these interactions and find ways to improve them.<sup>23</sup>

For example, the National Children's Commissioner, Anne Hollonds, told the committee:

It [youth justice reform] is not only about redesigning the youth justice system, but also about addressing how the youth justice system interacts with other systems that are meant to support children and their families.

The youth justice system must be improved, but the other systems also desperately need reform. Currently, our basic public services across health, education and social services, including housing, are based on outdated models that are not fit for purpose for complex needs today. There is a lack of coordination and we keep tinkering around the edges with symptoms, rather than addressing the underlying causes of child maltreatment and youth crime. The unintended consequence is that we are criminalising children for the causal factors that are beyond their control such as poverty, disabilities, complex needs, trauma, maltreatment and homelessness.<sup>24</sup>

According to the QFCC, the issue of siloing extends to youth justice funding, making it difficult to visualise the youth justice system as a whole. It told the committee:

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.<sup>25</sup>

Queensland's youth justice system also intersects with non-government organisations and private enterprises that deliver services in the community. A number of stakeholders raised concern with the current funding models for these services. As discussed in more detail in section 4.3.1, short term funding cycles negatively impact on service quality and make it harder to attract and retain qualified staff.

Evidence also suggests that supporting children and young people who have multiple touchpoints in a siloed youth justice system can be further complicated by a lack of information sharing amongst the agencies and services involved.<sup>26</sup>

### **2.3.2 The root causes of offending**

Intersecting historical, environmental, institutional and systemic factors contribute to children and young people encountering the youth justice system.<sup>27</sup> This includes high rates of severe maltreatment, neurodevelopmental and other disorders (often undiagnosed) and trauma among certain cohorts.<sup>28</sup>

A significant proportion of children and young people who engage with the youth justice system have a range of complex and often prejudicial circumstances that impact their behaviour.<sup>29</sup> Children exposed to adverse childhood experiences and domestic violence are far more likely to become involved in the criminal justice system.<sup>30</sup>

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<sup>23</sup> Submissions 4, 8, 11, 17, 106, 111, 120, 126, 132 and 135.

<sup>24</sup> Submission 11, p 6; Anne Hollonds, National Children's Commissioner, public hearing transcript, Brisbane, 24 November 2023, p 37.

<sup>25</sup> Submission 135, p 3.

<sup>26</sup> Submissions 15, 55 and 84. See also section 5.4.2.

<sup>27</sup> Submission 51, p 7.

<sup>28</sup> Submission 51, p 7.

<sup>29</sup> Submission 132, p 6.

<sup>30</sup> Submission 75, p 2.

A 2022 Youth Justice census identified the following demographics about the cohort of young people under youth justice supervision:

- 45 per cent were disengaged from education, employment, and training
- 53 per cent had experienced or been impacted by domestic and family violence
- 33 per cent had at 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 that had been held 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
- 78 per cent used one or more substances.<sup>31</sup>

Child abuse and neglect have pervasive and long-lasting effects on children and their futures. The impacts can include poor emotional and mental health, social difficulties, cognitive dysfunction, and behavioural problems including aggression. Left unaddressed, significant adversity remains a risk factor for engaging in criminal activity and entering the youth justice system.<sup>32</sup>

According to the Office of the Public Guardian, this is further exacerbated for children with neurodevelopmental disorders, for example undiagnosed Fetal Alcohol Spectrum Disorder (FASD).<sup>33</sup>

The QFCC advised that 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.’<sup>34</sup>

### **2.3.3 Significant overrepresentation of First Nations children and young people**

Aboriginal and Torres Strait Islander children and young people continue to be disproportionately represented in Queensland’s youth justice system.<sup>35</sup> For First Nations children and young people, the root causes of offending also include the intergenerational impact of past acts of dispossession, colonisation and discrimination and the experience of institutional racism.<sup>36</sup>

The intergenerational trauma experienced by Aboriginal and Torres Strait Islander children and young people is also associated with high rates of social disadvantage and poverty, and involvement in the youth justice system.<sup>37</sup>

In Queensland, Aboriginal and Torres Strait Islander children and young people:

- are 21.3 times more likely to be in the youth justice system than non-Indigenous children and young people

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<sup>31</sup> Department of Youth Justice, Education, Small Business and Training, briefing paper, 8 November 2023, pp 4-5; submission 135, p 9.

<sup>32</sup> Submission 135, pp 7-9; Department of Child Safety, Seniors and Disability Services, briefing paper, 3 November 2023, p 1.

<sup>33</sup> Submission 132, p 6.

<sup>34</sup> Submission 135, p 9.

<sup>35</sup> Submissions 116, 129, 134.

<sup>36</sup> Submission 51, p 7.

<sup>37</sup> Submission 75, p 3.

- represent 8.8 per cent of all children and young people aged 10 to 17 years of age, but represent 65 per cent of all children and young people in youth detention
- represent 85 per cent of all children aged 10 to 13 years old on community-based supervision orders on an average day in 2021-22
- represent 87 per cent of all children aged 10 to 13 years old in detention centres on an average day in 2021-22.<sup>38</sup>

Professor Aunty Boni Robertson told the committee that discussion about youth justice cannot be divorced from ‘colonial consequences’:

I know that today is about youth justice but you cannot divorce the discussion around youth justice from the discussion around colonial consequences—the impact on our families, the abhorrent existence that a lot of our people have had that is still there today, the over-incarceration of our people in youth detention, child safety and adult centres. You cannot divorce any of those social indicators from each other.<sup>39</sup>

Aunty Boni also reflected on the fact that First Nations communities feel they are not being heard, particularly in relation to advocacy for alternatives to detention centres:

When we come to the table and in good faith we ask for help, the answers have already been given. They are just not being listened to—building multimillion dollar youth detention centres, when the elders have been asking for healing centres and rehab centres. I went back and looked and it is 27 years since the first letter was put in and they are still asking for rehab and for healing centres. We still have community-based programs that are out there doing extraordinary work, evidence-based work, all with measurable outcomes on very minimal funding, not recurrent funding. They have to go out and beg for funding.<sup>40</sup>

Stakeholders have advised that First Nations designed and led initiatives are required to address the significant overrepresentation of Aboriginal and Torres Strait Islander children and young people in the justice system, and to ensure Queensland meets its Closing the Gap justice targets.<sup>41</sup>

A number of stakeholders submitted that the government should address the over-representation of Aboriginal and Torres Strait Islander children and young people in the youth justice system and enable self-determination (see also section 4.3.3).<sup>42</sup>

Strategies for this include:

- ensuring earlier intervention and stronger collaboration between systems to appropriately respond to the needs of First Nations children and young people
- increased investment in preventative and diversionary options that address the underlying causes of offending behaviour
- developing targeted strategies in partnership with Aboriginal and Torres Strait Islander communities and/or controlled organisations to help address overrepresentation of First Nations children and young people in the youth justice system.<sup>43</sup>

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<sup>38</sup> Submission 116; Australian Institute of Health and Welfare data ‘Youth Justice in Australia 2021-22’, released 31 March 2023.

<sup>39</sup> Public hearing transcript, Brisbane, 8 March 2024, p 9.

<sup>40</sup> Public hearing transcript, Brisbane, 8 March 2024, p 8.

<sup>41</sup> Submission 37, p 2.

<sup>42</sup> Submissions 51, 102, 132, 134, 135

<sup>43</sup> Submission 132, p 9.

There is significant agreement amongst stakeholders that First Nations communities and voices must be involved in youth justice reform. For example, the Queensland Council of Social Service advocated for the development of a new youth justice strategy that is co-designed with First Nations Peoples.<sup>44</sup>

#### **2.3.4 Interaction between the youth justice and child safety systems**

Ms Deidre Mulkerin, Director-General, Department of Child Safety, Seniors and Disability Services (DCSSDS) advised that children and young people in the child protection system often experience similar vulnerabilities to those who have contact with the youth justice system, including abuse and neglect, trauma, poverty related issues, poor rates of school attendance, addiction, disability and mental health conditions.<sup>45</sup>

While only a very small proportion of children in the child protection system are also known to the youth justice system, there is a high proportion of children known to the youth justice system that are also engaged with the child protection system. DCSSDS advised that approximately 30 per cent of all children and young people classified as serious repeat offenders<sup>46</sup> were subject to both youth justice and child protection orders (or ‘dual orders’).<sup>47</sup>

Ms Mulkerin reiterated that the approximately 234 children on dual orders represent only 3.4 per cent of the 6,889 young people aged 10 to 17 who were subject to child protection orders as at 30 June 2023.<sup>48</sup>

However, addressing the interaction between these systems is critical to better supporting children and young who are in the care of the state. This need is particularly pressing given the observed increase in complexity in circumstances of children and families in recent years which has placed additional pressure on the child protection and family support systems. For example, during the COVID-19 pandemic, there was a spike in the number of children brought into the state’s care who were older than usual and suffering very serious mental health issues.<sup>49</sup>

To illustrate the complexity experienced by young people subject to dual orders the committee has included the below case study shared by the QFCC Principal Commissioner Twyford:

I will tell you about a deidentified case that came across my desk this week. It is a boy from Queensland. He is 15 years old. He has had 44 arrests, 259 police interactions, 50 court appearances and periods of detention, and he has not been in school for two years. In the last 12 months he has had eight different residential care placements. We see a young person that is completely disconnected and disassociated from anyone in his life who would provide structure and meaning. If you go back before any of the offending happened—and this is why I think you are talking to me about residential care despite being a youth justice committee—before school he had multiple domestic and family violence incidences in his home and parental substance use: alcohol, cannabis and IV drugs. In his first year of school there was an ADHD diagnosis. His attendance was sporadic, is the official record in the system. He was recorded as suffering emotional harm due to ongoing DV and his parents separated when he was in transition. The next year there was substantiated physical abuse, alleged neglect, lack of food, exposure to drug related behaviour and needles, and the school identified developmental delays.

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<sup>44</sup> Submissions 7, 11, 75,

<sup>45</sup> Public briefing transcript, Brisbane, 5 December 2023, p 36.

<sup>46</sup> As of 5 December 2023, 133 of 452 serious repeat offenders were reported to be under ‘dual’ youth justice and child protection orders. See, public briefing transcript, Brisbane, 5 December 2023, p 38.

<sup>47</sup> Deidre Mulkerin, Director-General, Department of Child Safety, Seniors and Disability Services, Response to Question Taken on Notice, public briefing, Brisbane, 5 December 2023, pp 1-2; Public briefing transcript, Brisbane 5 December 2023, 38.

<sup>48</sup> Public briefing transcript, Brisbane, 5 December 2023, 38.

<sup>49</sup> Deidre Mulkerin, Director-General, Department of Child Safety, Seniors and Disability Services, public briefing transcript, Brisbane, 5 December 2023, p 36.

...

What foster care home can start to provide security for this child when we are already down this track as a six- or seven-year-old? In the next year there is ongoing domestic and family violence, alleged sexual abuse—exposure to prostitution. He starts demonstrating sexualised behaviours and his father is entered as an inpatient to a mental health facility. The next year, when he is eight years old, his father is incarcerated. He is caught making a bong at school. The year after, he has an intellectual impairment diagnosis and he started to preregister for the NDIS. His mother has domestic and family violence issues with her new partner and there is another alleged physical abuse of the boy.

When he is 10 years old his mother commits suicide and he returns to his father's care. He then starts to demonstrate suicidal behaviours at the age of 11 and he is suspended from school multiple times for drug and alcohol use. When he is 12 years old he is diagnosed with PTSD and other behaviour dissociative behaviours. He is caught with a knife at school and he is physically assaulted by his father. At the age of 13 his father seriously assaults him. They are homeless, living in his car and his father dies of a drug overdose. He then enters residential care.

I gave you the statistics of his youth offending whilst in residential care before I gave you his life story to try to emphasise the point that we are dealing with highly complex young people.<sup>50</sup>

Section 5.4.1 discusses the availability of housing for vulnerable children in more detail.

### **Committee comment**

The committee notes that the number of children subject to both child protection and youth justice orders does not fully capture the extent of the overlap between these systems, as many children come into contact with these systems without becoming subject to court orders. As such, the proportion of children in contact with the youth justice system who are also in contact with the children protection system is higher than the proportion of children under 'dual orders'.

### **2.3.5 Divergent views on youth justice reform**

Youth justice reform is also challenging because there are divergent views amongst the community about the way forward. For example, there is significant disagreement about whether additional changes to the *Youth Justice Act 1992* (YJA) are necessary, and if so, what changes are required.

The YJA, now more than 30 years old, has been amended many times over the years.

Many organisations who made submissions, particularly those focused on service-delivery and legal and human rights advocacy, call for the repeal of recent amendments to the YJA, in particular recent overrides of the *Human Rights Act 2019*.<sup>51</sup> Many submitters emphasise the importance of retaining the principle that detention should be a last resort, with some also calling for the minimum age of criminal responsibility to be increased.<sup>52</sup>

In contrast, submissions from some individuals and local governments indicate support for removing the principle that detention should be a last resort. Generally, they expressed the view that this would hold young people accountable for their actions and improve community safety.<sup>53</sup> Several witnesses expressed a similar view at public hearings.<sup>54</sup>

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<sup>50</sup> Private briefing transcript, Brisbane, 4 March 2024, pp 4-5. The committee agreed to publish the private briefing transcript having consulted Principal Commissioner Luke Twyford.

<sup>51</sup> For example, submissions 16, 51, 94, 108, 119, 120, 122.

<sup>52</sup> For example, submissions 17, 19, 51, 54, 76, 82, 94, 102, 104, 105, 117, 120, 129, 131, 136.

<sup>53</sup> Submissions 30, 34, 43, 113.

<sup>54</sup> Aaron McLeod, public hearing transcript, Cairns, 7 February 2024; Robbie Katter MP, Katter's Australian Party, public hearing transcript, Mount Isa, 9 February 2024; Janice Humphreys, public hearing transcript, Toowoomba, 16 February 2024; Brendan Long, public hearing transcript, Toowoomba, 16 February 2024; Leyland Barnett, public hearing transcript, Rockhampton, 27 February 2024.

Stakeholders have also called on all sides of politics to stop politicising youth crime.<sup>55</sup> PeakCare advised the committee that Queensland communities:

...deserve evidence-based solutions to youth crime that actually work. They do not deserve political point-scoring about who is the toughest on crime. A bi-partisan approach based on getting smarter, not tougher, will produce better outcomes for everyone in keeping communities safe.<sup>56</sup>

### **Committee comment**

There are significant challenges for youth justice reform in Queensland.

The Department of Youth Justice has primary responsibility for providing services to children and young people in the youth justice system and for the administration of the *Youth Justice Act 1992*. However, it is clear that some children and young people are slipping through the gaps created by siloed service delivery – which cuts across education, health, child safety, disability, housing, police and the courts. It is timely to consider how the Department of Youth Justice might take on a larger role at each end of the current system: early intervention and prevention and supporting children and young people to successfully transition back into the community. This issue is explored further in Chapters 4 and 5.

For many children and young people who have contact with police or the youth justice system they were a victim before they were an offender. It is evident that the experience of significant childhood adversity increases the risk of contact with the justice system, and for some a more serious offending trajectory. This is important because if reform is expected to improve community safety by reducing recidivism, it must be responsive to the root cause of children and young people's offending, which often includes significant and complex trauma. However, the committee acknowledges that this is not the case for all offenders.

Meaningful reform should consider the significant overrepresentation of First Nations children and young people in the youth justice system. It should also address the intersection between youth justice and child protection which disproportionately impacts First Nations families.

The extent and nature of the correlation between the youth justice and child safety systems requires further examination. If, as is suggested, there is a high percentage of young offenders also having interactions with the child safety system, there needs to be a thorough assessment of the level of care provided to these young people and if there are failings, identify them to reduce the offending of this cohort.

Meaningful reform is necessarily informed by comprehensive evaluation of legislative amendments: what has made a positive difference, what has had no impact, and what has been detrimental in respect of achieving the desired objectives.

Divergent views about the way forward present another challenge. However, there is no disagreement about the need to improve community safety and support children and young people to lead meaningful lives supported by positive role models. These goals are not mutually exclusive. While there are divergent views, the committee acknowledges that some children need to be detained.

## **2.4 The Queensland Government's youth justice strategy has expired**

The Queensland Government's most recent youth justice strategy expired in 2023. The expiration of that youth justice strategy creates an opportunity for the development of another long term strategy.

*The Working Together Changing the Story: Youth Justice Strategy 2019–23* has four key pillars:

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<sup>55</sup> For example, submissions 20, 129, 134, 142; Natalie Lewis, Commissioner, Queensland Family and Child Commission, public hearing transcript, Brisbane, 24 November 2023.

<sup>56</sup> Submission 20, p 2.

- Intervene early: Children and young people in families at risk have their health, wellbeing, safety and education needs met.
- Keep children out of court: Children and young people with early or low level offending have positive family and community influences, are engaged in education, training and alternative activities, and get support to address their behaviours.
- Keep children out of custody: Children and young people who have offended have a safe place to live and are supervised and supported to repair harms, address behaviours, and reconnect with families and communities as an alternative to incarceration.
- Reduce re-offending: Children and young people who are repeat offenders get responses, punishments and support that work to stop re-offending and enable successful reintegration with their families, culture and communities.

These pillars were identified by Mr Bob Atkinson AO APM in his 2018 *Report on Youth Justice*. In that report, Mr Atkinson recommended that the government adopt a youth justice policy based on the four pillars, ‘framed or bookended by two fundamental principles — that public safety is paramount and that community confidence is essential.’<sup>57</sup>

A number of stakeholders have indicated support for the four pillars set out in the current Youth Justice Strategy. For example, the Youth Advocacy Centre recommended that the government maintain the four pillars as its policy position.<sup>58</sup>

Some stakeholders called for more promotion of the strategy. For example, the Queensland Human Rights Commission recommended that the committee consider the need for ‘a coordinated Statewide media strategy to promote and support the four pillars policy position.’<sup>59</sup>

Other stakeholders indicated support for the four pillars, but expressed concern they were not being delivered in practice.<sup>60</sup> A representative from YETI told the committee they would like to see a ‘recommitment’ to the four pillars because they reflect an approach that was designed collaboratively and ‘has a lot of merit.’<sup>61</sup>

#### **2.4.1 Opportunity to develop a long-term youth justice strategy**

There were varying views among stakeholders about the development of a long-term youth justice strategy. A number of stakeholders expressed support for a long-term approach. For example, Save the Children/54 Reasons stated that ‘meaningful youth justice reform will require a long-term strategy with accompanying action plans and investment, extending over a 10-year horizon.’<sup>62</sup>

Others proposed that the strategy should take a generational approach to addressing certain issues. For example, Queensland Aboriginal and Torres Strait Islander Child Protection Peak called for a generational plan to reduce the over-representation of Aboriginal and Torres Strait Islander children and young people in contact with the youth justice system.<sup>63</sup>

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<sup>57</sup> Bob Atkinson AO APM, *Report on Youth Justice*, 2018, p 6.

<sup>58</sup> Submission 104, p 10.

<sup>59</sup> Submission 16, p 5.

<sup>60</sup> For example, Queensland Council of Social Services, submission 75, pp 1-2.

<sup>61</sup> Genevieve Sinclair, CEO, YETI, public hearing transcript, Cairns, 7 February 2024, p 4.

<sup>62</sup> Submission 51, p 11

<sup>63</sup> Submission 116, p 13.

In contrast, a small number of stakeholders expressed concern that 10 years is a long time, and that a strategy might need to be revised more frequently if circumstances changed.<sup>64</sup>

Some stakeholders indicated that the appeal of a long-term strategy lay not only in its length, but in its potential to set out a bipartisan approach to youth crime. A representative of YETI explained their position to the committee:

In terms of bipartisan matters, we would love it more than anything because it is the last thing we want used as a political football. When we are trying to deliver a service on the ground and just do our job, we are trying to deliver interventions that work... We would love this to be thought through, with evidence, and agreed on—we all want the same thing—and then we could get on with it for the next 10 or 20 years and not worry about how a policy change or a sudden reaction tips and changes and impacts on our workforce.<sup>65</sup>

Another appeal of a long-term strategy identified by stakeholders was the opportunity to agree on policy and funding priorities, providing certainty and security to the youth justice and community support sector.

#### **2.4.2 Examples from other jurisdictions**

Some Australian jurisdictions have recently implemented long-term (ten year) youth justice strategies.

In Tasmania, the *Youth Justice Blueprint 2024-2034* sets out a multi-systemic approach for youth justice reform over the next decade.<sup>66</sup> This document sets out Tasmania's reform agenda, including investments in new youth justice facilities.

Similarly, Victoria's *Youth Justice Strategic Plan 2020-2030* identifies the challenges and opportunities facing the state's youth justice sector. It identifies the principles underpinning Victoria's youth justice system, the reform directions that the state will pursue over the decade covered by the strategy, and the actions it will take to progress those reforms in the shorter-term.<sup>67</sup>

Other Australian jurisdictions have shorter-term plans in place.

#### **2.4.3 Other considerations for long-term planning**

Several recent developments are relevant to long-term youth justice planning in Queensland. These include the government's announcement of two new strategies concerning early intervention and residential care, respectively.

In January 2024, the Queensland Government released the draft *Putting Queensland Kids First: Giving our kids the opportunity of a lifetime strategy* (Putting Queensland Kids First) for public consultation. The government described this as 'a blueprint for delivering better outcomes for children and families through early intervention', designed to improve outcomes in several areas, including health, wellbeing and development, as well as access to education, training and employment.<sup>68</sup>

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<sup>64</sup> North West Queensland Indigenous Catholic Social Services, public hearing transcript, Mount Isa, p 2; Mount Isa Neighbourhood Centre, public hearing transcript, Mount Isa, p 16.

<sup>65</sup> Public hearing transcript, Cairns, 7 February 2024, p 8.

<sup>66</sup> Department for Education, Children and Young People, Tasmania, 'Youth justice reform in Tasmania', 6 December 2023, <https://www.decyp.tas.gov.au/safe-children/youth-justice-services/youth-justice-reform-in-tasmania/>.

<sup>67</sup> Department of Justice and Community Safety, Victoria, 'Youth Justice Strategic Plan 2020-2030', <https://www.justice.vic.gov.au/youth-justice-strategy>.

<sup>68</sup> Hon Steven Miles, Premier, and Hon Di Farmer, Minister for Education and Minister for Youth Justice, 'The Miles Government is Putting Queensland Kids First,' joint media statement, 22 January 2024, <https://statements.qld.gov.au/statements/99536>.

In February 2024, the government announced the development of *Residential Care in Queensland*, a five-year plan that aims to halve the number of children and young people in residential care across the state and increase the number of children cared for by kinship or foster carers. The plan identifies a number of key actions that will be taken to achieve these goals.<sup>69</sup>

If a longer-term youth justice strategy is developed, it may complement other strategies such as *Putting Queensland Kids First*, and *Residential Care in Queensland*.

### **Committee comment**

Stakeholders expressed support for the four pillars of the state's current youth justice strategy. It is important that consideration be given to the two fundamental principles intended to frame those four pillars: that public safety is paramount and that community confidence is essential. Evidence suggests these fundamental principles, the overarching aim of the former youth justice strategy, have become somewhat disconnected from the four pillars.

Some committee members considered that the expiration of the current strategy provides a good opportunity to develop a new, longer-term strategy that articulates the importance of these fundamental principles and how youth justice policy will uphold them.

The Queensland Government has taken steps towards the development of a long-term blueprint for early intervention, as well as for residential care. The committee encourages the Government to deliver the new early intervention strategy as soon as possible, and to ensure it is accompanied by significant investments in initiatives that target the risk factors associated with offending during young children's formative years.

However, more is needed to address the challenges in the youth justice system. The QFCC is due to release its report in response to the Queensland Government's roadmap for residential care in Queensland. The committee will be paying close attention to these findings.

Collaboration across government agencies and community organisations needs to be improved. The Department of the Premier and Cabinet and the Department of Youth Justice is currently undertaking an analysis of data across the human services system, particularly for those children and young people with multiple 'touchpoints'. The committee considers this one avenue through which there may be valuable learnings about how to improve collaboration in the youth justice sector, including for the purposes of information sharing.

A long-term strategy for youth justice could build on these strategies, and also provide a blueprint for improving collaboration and workforce attraction and retention, addressing First Nations overrepresentation, delivering effective rehabilitation and building community confidence. It is important that any strategy for youth justice be co-designed with First Nations communities and Elders in recognition of the fact that the First Nations community is best placed to know how to support its children and young people.

### **Recommendation 1**

That the Queensland Government reform the Youth Justice sector and Act to ensure there are consequences for action and put the rights of victims above the rights of offenders.

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<sup>69</sup> Hon Charis Mullen, Minister for Child Safety, Minister for Seniors and Disability Services and Minister for Multicultural Affairs, 'Review completed into residential care system for children and young people', media statement, 7 February 2024, <https://statements.qld.gov.au/statements/99667>.

### **Recommendation 2**

There is a need for all stakeholders in the youth justice system to be reminded that the four pillars in the Atkinson Report are preceded by wider principles that public safety is paramount and that community safety is essential.

### **Recommendation 3**

That the Queensland Government commit to developing a long-term youth justice strategy that seeks to address the challenges identified in Queensland's youth justice system, including siloes in service delivery and the accuracy and transparency of data. This strategy should be co-designed with First Nations people, communities and relevant stakeholders including victims groups.

### **Recommendation 4**

That the Queensland Government conduct a thorough assessment of the level of care provided to children and young people in the child safety and youth justice systems and, if failing to provide the necessary care and stability, take action to reduce the correlation between these systems and reduce offending by this cohort. [Note: Requested confirmation of wording from Member for Currumbin]

### **Recommendation 5**

That the Queensland Government review the scope of the Department of Youth Justice, and broaden its scope to intervene prior to contact with the youth justice system and through improved transition planning, by expanding the role the Department plays in:

- early intervention and prevention efforts focused on diverting children and young people who are known to police or at risk of contact with the system, and
- providing support to children, young people and their families as they transition back into the community from detention through transition plans that include supported accommodation where necessary.

### **Recommendation 6**

That the Queensland Government deliver the new *Putting Queensland Kids First: Giving our kids the opportunity of a lifetime strategy* as soon as possible and to ensure it: (i) is accompanied by significant investments in initiatives that target the risk factors associated with offending during young children's formative years; and (ii) includes tangible performance indicators for assessing progress towards implementation.

## **2.5 The Childrens Court of Queensland**

The Childrens Court of Queensland (the Childrens Court) is responsible for hearing criminal matters involving children. In exceptional cases, the Childrens Court may order that a criminal matter involving a child be heard in an adult court. The Childrens Court also hears applications for child protection orders, and applications for domestic violence protection orders in which a child is a respondent.

The Childrens Court has two tiers, or levels: it can be constituted by Magistrates or by Judges. The vast majority (around 94 per cent) of criminal proceedings against children are dealt with by Magistrates, with Judges dealing only with more serious cases.<sup>70</sup>

The workload of the Childrens Court appears to have increased in recent years. For example:

<sup>70</sup> Childrens Court of Queensland, *Annual Report 2022-23*, p 26.

- between 2021-22 and 2022-23, the total number of charges dealt with by the Childrens Court increased from 37,156 to 43,031
- between 2021-22 and 2022-23, there was an increase in the number of applications for child protection orders from 5,870 to 6,149 (though this remained lower than in 2019-20)
- between 2019-20 and 2022-23, the number of domestic violence protection order applications in which a child was a respondent increased from 328 to 424.<sup>71</sup>

In the Childrens Court's most recent annual report, the President of the Childrens Court, Her Honour Judge Deborah Richards, emphasised the impact of this workload on judicial officers, particularly Magistrates. Her Honour explained:

As can be seen from the figures outlined in this report, the vast majority of the daily business of the Childrens Court rests on the shoulders of the Magistrates. In particular, the specialist Childrens Court Magistrates work hard to manage a significant workload of the Court. They are faced with a steadily increasing number of child protection applications. The work in that area is taxing, often urgent and the parents are likely to be unrepresented and distraught. It is difficult to make headway at times in relation to the complexity of these applications. Similarly, in relation to youth justice sentencing, the Magistrates work with a heavy workload, are often criticised, and sometimes threatened but they manage to remain dedicated to the task and apply the legislation as required. They deserve thanks and gratitude.<sup>72</sup>

The government has implemented some initiatives to help the Childrens Court respond to this increased workload. These include the Fast Track Sentencing Pilot which is discussed in section 5.1.4.

### **2.5.1 Options for improving outcomes delivered by the Childrens Court**

Generally, stakeholders offered positive assessments of the work undertaken by the Childrens Court. However, they also shared a number of suggestions for improving the outcomes it delivers for young people and victims of crime.

Some stakeholders suggested there is a need for more specialist Childrens Court magistrates. Legal Aid Queensland (LAQ) told the committee:

LAQ supports the appointment of specialist Childrens Court magistrates in all major population centres. The Childrens Court is a complex jurisdiction which requires magistrates to have specific knowledge in neuro-disability, trauma informed practice and be able to explain complex legal concepts in a way that children with educational and intellectual deficits can understand. Consistency in sitting magistrates allows a case management approach to children who offend which allows all stakeholders to be accountable in ensuring the child has access to appropriate interventions and support.<sup>73</sup>

Some stakeholders proposed new investments to strengthen the ability of the Childrens Court to operate in a culturally safe manner. For example, Professor Tamara Walsh, from the University of Queensland, highlighted the importance of this for the state's First Nations children, who constitute half of all child defendants. She made a range of suggestions, including making improvements to the physical spaces used by the Childrens Court, and appointing First Nations Liaison Officers to all Childrens Court locations.<sup>74</sup>

Some stakeholders highlighted a need to improve the way in which young people participate in Childrens Court proceedings. A number of stakeholders expressed a critical view of the video-conferencing facilities currently available, observing that their use significantly limits the ability of

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<sup>71</sup> Childrens Court of Queensland, *Annual Report 2022-23*, pp 26 and 37.

<sup>72</sup> Childrens Court of Queensland, *Annual Report 2022-23*, p 13.

<sup>73</sup> Submission 12, p 5.

<sup>74</sup> Submission 8, pp 69-79.

children to participate in, and understand, court proceedings. For example, a representative from LAQ explained why they think that video conferencing is a ‘terrible option’ for children:

If the child is going to get anything out of the intervention they need to participate in some way. We actively remove their participation by having them on video link. When you put a child who is neurodivergent, who has issues, in front of a screen and then you only have one video of a magistrate, they do not get to see their lawyer; they do not get to see the police prosecutor; they do not know who is in the back of the court. All they see is the magistrate, and the magistrate is talking to them in language they do not understand. Again, this is coming from my experience with caseworkers at the detention centre, who are excellent. The youth justice caseworkers at the detention centre are an excellent group of people. They will ring me up and say, ‘Can you come out and see that child?’ ‘Why?’ ‘They have no idea what just happened.’<sup>75</sup>

LAQ identified a variety of options for addressing this, including upgrading and expanding the videoconferencing facilities available at youth detention centres, and holding Childrens Court hearings at youth detention centres to ensure more young people are able to attend in person. However, they noted the latter option would require appropriate facilities to be made available and would require legislative change.<sup>76</sup>

Some stakeholders also highlighted a need to improve victims experiences of, and access to, Childrens Court proceedings. As discussed in more detail in section 7.2.4, below, Childrens Court proceedings are typically less transparent to, and accessible by, victims.

#### **Committee comment**

The Childrens Court of Queensland is an essential component of the state’s youth justice system. The committee met with a number of judicial officers working within the Childrens Court. In each case, the committee was impressed by their professionalism, depth of expertise, and commitment.

It is vital that the judicial officers working in the Childrens Court have access to the resources and facilities they need to deliver positive outcomes for the community. This means ensuring that there are enough magistrates to manage the increasing workload of the court, providing them with high quality training, and ensuring they have access to the kinds of facilities and support staff that are necessary to operate in a culturally safe manner.

Improving the videoconferencing facilities available at youth detention centres, and exploring the feasibility of holding hearings at youth detention centres, may improve outcomes for children and young people. The latter option would require consultation with victims of crime to ensure their ability to attend, and participate, in court proceedings is not adversely affected.

As discussed in section 7.2.4, the committee agrees that changes are necessary to improve the transparency of Childrens Court proceedings, particularly their accessibility to victims. Changes in this area have an important role to play in building, and maintaining, community confidence in the youth justice system.

#### **Recommendation 7**

That the Queensland Government immediately appoint additional Magistrates to the Childrens Court of Queensland.

<sup>75</sup> David Law, Assistant Director, Youth Legal Aid, Legal Aid Queensland, public hearing transcript, Brisbane, 24 November 2023, pp 15-16.

<sup>76</sup> Submission 12.

### **Recommendation 8**

That the Queensland Government ensure that the Childrens Court of Queensland has the resources it needs to operate in a culturally appropriate manner. This should include the provision of culturally safe spaces, appropriate training, and the appointment of relevant support staff, including First Nations Liaison Officers, at all Childrens Court locations.

### **Recommendation 9**

That the Queensland Government immediately improve the accessibility and quality of the videoconferencing facilities available to children and young people at youth detention centres who are unable to attend court proceedings in person.

### **Recommendation 10**

That the Queensland Government, in consultation with the Interim Victims' Commissioner, the Independent Ministerial Advisory Council and other key stakeholders, explore the feasibility of holding hearings of the Childrens Court of Queensland at youth detention centres in a manner that improves a child or young person's understanding of, and participation in, court proceedings.

#### **2.5.2 'Childrens Court Trigger'**

The primary objective of the Family and Responsibilities Commission, as set out in the *Family Responsibilities Commission Act 2008* (FRC Act), is to hold conferences with community members. Conferences are held to encourage clients, individuals and families to engage in socially responsible standards of behaviour while promoting the interests, rights and wellbeing of children and other vulnerable persons living in particularly First Nations communities. The Welfare Reform Communities include Aurukun, Coen, Doomadgee, Hope Vale and Mossman Gorge.<sup>77</sup>

The Commission may conference a community member who is a welfare recipient living in a welfare reform community if the person, or their partner, is in receipt of certain welfare payment.<sup>78</sup>

The FRC Act requires the Childrens Court to give the FRC a court advice notice within 10 business days of a child being convicted of an offence.<sup>79</sup> However, 2016 amendments to the *Youth Justice Act 1992* prohibiting the publication of identifying information about a child has resulted in Court advice notices no longer being provided to the FRC by the Childrens Court.<sup>80</sup>

The FRC submitted that this has stopped the FRC, and its Local Commissioner Elders, from being able to work with parents, and broader kinship where necessary, under the FRC Act to create a healthy home/kinship environment with the aim of reducing risk of recidivism by helping parents to resume primary responsibility for the welfare of their children and families.<sup>81</sup>

FRC Commissioner, Ms Tammy Williams, advised the committee that the FRC has made numerous representations to the Queensland Government seeking to resolve this issue. Ms Williams has submitted that she considers the matter could be easily resolved through a clarifying legislative amendment, specifically:

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<sup>77</sup> Family Responsibilities Commission, <https://www.frcq.org.au/how-we-work/>.

<sup>78</sup> Family Responsibilities Commission, <https://www.frcq.org.au/how-we-work/>.

<sup>79</sup> Section 43(2) of the FRC Act.

<sup>80</sup> Submission 217, p 1.

<sup>81</sup> Submission 217, p 1.

The FRC seeks amendments to be made to the FRC Act so that there is clarity in the interpretation and application of both Acts, in that the provisions which prevent the publication of identifying information about a child, do not interfere with the FRC's administration of the FRC Act.

Whilst it is noted that drafting appropriate legislative amendments is a matter for the Office of the Queensland Parliamentary Counsel, the suggested amendment would be a minor amendment to the FRC Act, which would not impact on the operation of the YJ Act's confidentiality provisions, except to the extent of allowing court advice notices to be provided to the FRC as required by section 43 of the FRC Act.<sup>82</sup>

The FRC submits that further delays in amending the legislation to operationalise the FRC's use of the 'Childrens Court Trigger' leads to missed opportunities for early intervention to vulnerable and at-risk First Nations young people and their families, living in remote communities. Further, the FRC consider it is also an underutilisation of existing resources and local infrastructure of the FRC, a public sector entity.<sup>83</sup>

#### **Committee comment**

The support available to families in welfare reform communities from the Family Responsibilities Commission is currently being underutilised with respect to court advice notices. It may be necessary to remedy any legislative impediment to the provision of notices concerning children and young people to ensure that the FRC can fulfil its role.

#### **Recommendation 11**

That the Queensland Government consider introducing legislation seeking to operationalise the 'Childrens Court Trigger' in accordance with section 43(2) of the *Family Responsibilities Commission Act 2008*, to enable the Childrens Court to provide court advice notices to the Family and Responsibilities Commission in relation to a child or young person who has been convicted of an offence.

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<sup>82</sup> Submission 217, p 1.

<sup>83</sup> Submission 217, p 1.

### 3 Improving support to victims of youth crime

#### Summary of this section

- Engagement with victims of youth crime formed an important part of this inquiry. Many victims shared their experiences with the committee in written submissions, at public hearings, and in private meetings.
- The Queensland Government has made some progress in addressing the needs of victims of crime. However, the evidence provided by victims suggests further action is necessary to improve outcomes for victims.
- Victims of youth crime told the committee they continue to experience difficulty in accessing the support they need, both due to the administrative process and to eligibility rules.
- Many victims report that restorative justice is a positive experience. However, many also experience significant delays and a lack of support during this process.

#### 3.1 The committee's engagement with victims of crime

To ensure it heard directly from victims of crime, the committee published an Issues Paper in December 2023. That issues paper provided an overview of previous reports and inquiries that examined issues relating to victims of crime, assessed the status of the recommendations made by previous parliamentary inquiries, and identified issues which had not yet been fully addressed.

The issues paper called for submissions from victims of youth crime, encouraging them to tell the committee about their experiences. In particular, the committee asked victims of crime about:

- their experience of restorative justice processes and how these might be improved
- how communication between government agencies and victims of crime might be improved
- any positive experiences of the youth justice system
- whether or not they were provided access to the courts for a youth justice matter, and how this experience impacted them
- their experience of accessing victims' support services in regional and remote areas
- how crime media reporting affected them, their family or their case
- any issues related to the immediate and ongoing support of victims of crime.

The committee received a significant number of submissions from individuals who identified as victims of crime. The committee also heard from many victims of crime in public and private hearings.

#### 3.2 The impact of youth crime on victims

The evidence before the committee highlights the significant and ongoing impacts of youth crime on its victims. As detailed below, youth crime impacts victims physically, mentally and financially, and can have a ripple effect through an individual's family, friends and community.<sup>84</sup> This evidence has also highlighted areas in which ongoing reform in this space may be improved.

The committee heard a number of victim accounts of young offenders violating the safety of their home, often where family members were witness to actual or threatened violence. For example, Mr Brendan Long told the committee of the profound impact a violent physical attack has had on a Toowoomba couple:

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<sup>84</sup> See, for example, submissions 72, 89 and 95.

A few weeks ago I visited the Toowoomba home of elderly couple Leigh and George McDougall. I went to primary school with George. I wanted to visit them to experience firsthand the impact of their home invasion. They were victims of a callous and traumatic home invasion. George was attacked with an axe while preparing breakfast for himself and Leigh. Mrs McDougall eventually let me into her home after many questions asked of me from behind a locked front door. I was shocked by what I was told. I wondered how governments and magistrates have allowed themselves to become so desensitised to human life. I asked her if she would be able to give an impact statement. She said that she is too afraid to leave the home and has asked me to speak on their behalf. I just want politicians and all magistrates to know of the ongoing trauma that these two people are experiencing as a result of a traumatic home invasion—with or without an axe.

Mr McDougall has had a long and distinguished career as an Army pilot. However, his life has changed forever. He is virtually disabled due to a severe axe attack not only to his chest but also to his wrist, and that is the main problem with helicopter piloting. The invasion has severely affected their mental health and, as a result, this callous incident has now permanently affected their 48-year-old marriage. As a result of the incident, Mrs McDougall now lives in the home on her own and has limited mobility with a wheelie walker to navigate through her home. She told me that her home was her castle and now it is her jail. She sleeps through the day and stays awake at night and has almost no family care at hand. She has the constant vision of blood spattered throughout their beautiful home. These two people are absolutely broken.<sup>85</sup>

In recent years a number of tragic incidents have occurred where offenders have later been found to be on bail when committing further offences. For victims of their subsequent offending, this is particularly traumatising. Mrs Julie Mallett shared with the committee the tragedy of losing her husband, Mr David Mallet, when he was struck and killed by a young man who was drink driving a stolen car. While at the time of the incident the young man was an adult, Mrs Mallett submitted that he had a very long criminal history and was out on bail with a suspended sentence at the time of the offence.<sup>86</sup>

Mrs Mallett was on the phone to her husband when he was struck by the car, and the impact of his loss is enduring:

My husband did not deserve to die in such a horrific manner. The offender received a 10 year sentence with an SVO (Serious Violent Offender), I received a 'life sentence' without my husband and my soulmate (we were together 46 years, married 43 years).

No one should have to go through what I have had to endure, the loss, heartbreak, the nightmares, the noise I heard on the phone at that moment which was my husband being mowed down. That noise haunts me day and night. No one should have to suffer this without a support network, and our Government did not help, offer or provide any support whatsoever.

This offender was on the streets, now as an adult, because of the lack of consequences for his criminal activity in his youth and the systems failure to deal with the youth crime issue to protect our community and its law-abiding citizens. He was well known to the Police in Bundaberg and beyond.<sup>87</sup>

A number of submissions also raised the financial impact of youth crime as a result of property theft, particularly theft of motor vehicles.<sup>88</sup> Kerry and Cathy Griffin reported being out of pocket by about \$10,000 after their home was broken into and 2 cars were stolen, along with mobile phones and wallets. The Griffins' described the impact of having to pay to repair their windows and change all the locks to their home, as well as replace the stolen property.<sup>89</sup>

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<sup>85</sup> Public hearing transcript, Toowoomba, 16 February 2024, p 32.

<sup>86</sup> Submission 72, pp 1-2.

<sup>87</sup> Submission 72, pp 1-2.

<sup>88</sup> See for example submissions 89 and 95.

<sup>89</sup> Submission 3.

In response to the significant impacts associated with motor vehicle thefts, the government is undertaking a vehicle immobiliser subsidy trial. The trial is currently operating in Mount Isa, Cairns and Townsville, and will conclude on 30 June 2024, unless extended.<sup>90</sup> Some stakeholders suggested that this trial be extended and/or expanded.

For example, Councillor Jenny Hill AM, the former Mayor of Townsville, called for the trial to be extended, noting that a shortage of accredited suppliers in Townsville had made it difficult for residents to make use of their vouchers in the time available.<sup>91</sup> Other stakeholders suggested that the trial be expanded to more locations, including Rockhampton, Logan, Toowoomba, the Gold Coast, Mackay, Ipswich and the Fraser Coast.<sup>92</sup>

### **Committee comment**

Motor vehicle theft often has a disproportionate impact on victims. It can result in substantial financial losses, and significantly undermine victims' sense of safety. The committee notes that vehicle immobilisers can prevent car theft and that the subsidy scheme has shown some promising results.<sup>93</sup>

The committee has also heard of the Helping Seniors Secure their Homes initiative which is being piloted in Cairns, greater Cairns, Townsville, Mount Isa and Toowoomba. There has been strong uptake of the initiative in these areas, with very positive feedback from those who enhanced their security through the initiative.<sup>94</sup>

One Member also raised the need to consider whether the current operation of section 282A of the *Youth Justice Act 1992*, concerning the release of information about children or young people detained in a detention centre to eligible persons, might create an unnecessary burden on victims in its current form.

### **Recommendation 12**

That the Queensland Government evaluate the trial, make the evaluation report public, and explore the feasibility of expanding to more locations: (i) the vehicle immobiliser subsidy scheme, including extending the deadline for using vouchers issued under this scheme; (ii) the helping seniors secure their homes initiative; and that the Government continue to monitor the effectiveness of these programs.

### ***Issues for further examination***

It is important that any unnecessary administrative burdens placed on victims are removed from the operation of the eligible persons register set out in section 282A of the *Youth Justice Act 1992*. Whether this is an issue in practice requires further examination.

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<sup>90</sup> Queensland Police Service, 'Vehicle immobiliser subsidy trial', <https://www.police.qld.gov.au/initiatives/vehicle-immobiliser-subsidy-trial>.

<sup>91</sup> Submission 43.

<sup>92</sup> Submission 91.

<sup>93</sup> Assistant Commissioner Stream, Queensland Police Service, public hearing, Brisbane, 5 December 2023, p 18.

<sup>94</sup> Chantal Raine, Acting Deputy Director-General, Department of Housing, public briefing transcript, Brisbane, 6 December 2024, p 23.

### 3.3 Action resulting from previous inquiries

Prior to the establishment of this committee, a number of other inquiries considered support to victims of crime. These inquiries made a series of recommendations which the committee highlighted in its issues paper on victims of crime.<sup>95</sup>

Partly as a result of these previous inquiries, there have been several recent and significant changes to how Queensland supports victims of crime. These include:

- establishment of the Justice Reform Office within the Department of Justice & Attorney General
- increases in the maximum amount of financial assistance available to victims of violent crimes<sup>96</sup>
- the appointment of the Interim Victims Commissioner, who has undertaken significant community consultation to inform the establishment of a permanent Victims Commissioner and identify what needs to be done to better meet the needs of victims of crime<sup>97</sup>
- the introduction of proposed legislation that will enhance the operation of Queensland Corrective Services' Victims Register and provide for the representation of victims on the Parole Board Queensland<sup>98</sup>
- the introduction of proposed legislation that will establish a permanent Victims Commissioner and the Sexual Violence Review Board<sup>99</sup>
- reforming Queensland's double jeopardy laws for specified violent offences.<sup>100</sup>
- Establishment of the First Nation's Justice Office.<sup>101</sup>

### 3.4 Areas requiring further action

Evidence suggests there remains a need to improve the support provided to victims of crime and their ability to access the services they need. For example, making it easier for victims to access support and improving the operation of restorative justice conferencing were identified by many stakeholders as necessary changes. Victims of crime also told the committee of the need to improve the transparency of the youth justice system (see section 7.2.4).

#### 3.4.1 Making it easier for victims to access support

Some victims of crime told the committee the financial support available to them was inadequate, or that they were ineligible for financial assistance due to the limitations of the relevant scheme. Several called for eligibility requirements to be changed to allow victims of property crime to access financial

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<sup>95</sup> Youth Justice Reform Select Committee, *Issues Paper 1: Victims of Crime*, December 2023.

<sup>96</sup> *Victims of Crime Assistance and Other Legislation Amendment Act 2023*.

<sup>97</sup> Further details about the work being undertaken by the Interim Victim's Commissioner is available on their website: <https://www.victimscommissioner.qld.gov.au/>.

<sup>98</sup> Corrective Services (Promoting Safety) and Other Legislation Amendment Bill 2024.

<sup>99</sup> The Victims' Commissioner and Sexual Violence Review Board Bill 2024 was introduced on 6 March 2024 and was referred to the Community Safety and Legal Affairs Committee for examination.

<sup>100</sup> Criminal Code and Other Legislation (Double Jeopardy Exception and Subsequent Appeals Amendment Bill 2023).

<sup>101</sup> Briefing paper from Department of Justice & Attorney General to Committee.

assistance, with some individuals telling the committee they were left thousands of dollars out of pocket as a result of break-ins and car thefts.<sup>102</sup>

Many victims of crime also told the committee that the administrative requirements associated with applying for support were onerous, inflexible or difficult to navigate, particularly for those with disabilities.<sup>103</sup> For example, Benjamin Holland, a victim of crime hit by an unidentified car, told the committee he had found it extremely difficult to access support via Victim Assist. He explained:

I have no way of getting any help. I have applied through Victim Assist. I have spoken to them. They want a numberplate for the car [that hit me]. I do not know the numberplate. I spoke to the police; they do not know the numberplate. They [the police] have even said, 'We'll speak to them [Victim Assist] for you.' They [Victim Assist] will not answer a call from the police... I am like millions of others who go, 'Do you know what? This is just too hard. I can't do it.'<sup>104</sup>

Other individuals told the committee they experienced significant delays in accessing support via Victim Assist. In some cases, people discovered that they were unable to access certain forms of assistance due to eligibility rules only at a very late stage. For example, Graeme Kimball, whose son Ryan was killed in a car crash in 2022, described his experience to the committee:

It was six months later that we were contacted by the DPP, and that is when we were finally offered support by VictimConnect and Victim Assist Queensland. So it was six months down the track before we got help. We filled out all of the necessary paperwork for victims of crime and financial assistance...

After nearly 12 months, we finally had a meeting with Victim Assist for financial assistance, to fill out the paperwork to apply for assistance with the ongoing medical specialists' fees, only to be told halfway through filling it out that we were ineligible to claim as we were not the actual victim.<sup>105</sup>

Many victims who made submissions stressed the psychological impact that crime had had on them and their families.<sup>106</sup> Several of them told the committee they have sought counselling, but many found this difficult to access. This problem appears to be particularly acute in regional and remote Queensland, where access to health services, including mental health services, is more challenging.

Other victims who shared their experiences with the committee highlighted the difficulty of obtaining information relating to their cases. They highlighted challenges in receiving information in a way that was timely, or that made sense.<sup>107</sup>

### **3.4.2 Improving the operation of restorative justice conferencing**

Restorative justice conferencing, also known as youth justice conferencing, is designed to benefit victims, as well as contribute to the rehabilitation of youth offenders.<sup>108</sup> Legal professionals with direct experience of the process told the committee that the process could help to restore a victim's sense of safety and security. A representative from the Queensland Law Society explained the impact of restorative justice conferences as follows:

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<sup>102</sup> Submissions 3, 46, 62, 72, 127 and 147.

<sup>103</sup> Multiple speakers, public hearing transcript, Toowoomba, 16 February 2024; Benjamin Holland, public hearing transcript, Southport, 22 February 2024.

<sup>104</sup> Public hearing transcript, Southport, 22 February 2024, p 35.

<sup>105</sup> Public hearing transcript, Kawana Waters, 23 February 2024, pp 30-31.

<sup>106</sup> Submission 35, 80, 89 and 125; Karynne Paul, public hearing transcript, Toowoomba, 16 February 2024; Janice Humphreys, public hearing transcript, Toowoomba, 16 February 2024; Peter Marten, public hearing transcript, Toowoomba, 16 February 2024.

<sup>107</sup> Submissions 3, 29, 95 and 147; Ken Cunliffe, Toowoomba Victims Advocacy, public hearing transcript, Toowoomba, 16 February 2024; Karynne Paul, public hearing transcript, Toowoomba, 16 February 2024; Janice Humphreys, public hearing transcript, Toowoomba, 16 February 2024..

<sup>108</sup> Department of Youth Justice, Employment, Small Business and Training, briefing paper, 8 November 2023.

We also know from representing people in those conferences that it can be an incredibly powerful experience in terms of a victim understanding what has happened and also no longer being afraid when they see that tiny little 10-year-old or the 14-year-old in the room and hear of their experiences. Also, if it is enter dwelling, a house burglary or something like that where people are expressing that they are feeling unsafe, a victim is able to have that discussion about, 'How did you get into the house?' or, 'Do I need to change the keys?' If the child says that they got in the dog door or they got in the backdoor, those are things that the victim can fix and then they feel safer in their own house. For other victims, it can be, 'You weren't specifically targeted. We were just going by and we saw your door open.' It can be very beneficial for victims in terms of helping them to feel more at ease and to feel safe.<sup>109</sup>

Some victims of youth crime told the committee they had had positive experiences of restorative justice conferencing. However, a number of victims also told the committee that they had experienced poor communication or felt unsupported during this process. For example, Joanne Cutter, whose home was broken into, told the committee that although she did not receive adequate advice or assistance to prepare for her conference, she found the process beneficial. She explained:

I really felt like he [the offender] understood he could change and his letter [to her] was thoughtful and gave other positive actions he would do in the future. The mediation was great but I felt it was only because I cared to make a positive difference for him. The actual Mediator did not suggest anything and was useless, there should have been a format or ideas like this given to me.<sup>110</sup>

Rob Molhoek MP, the Member for Southport, appearing as a witness, also shared his personal experience as a victim of crime. He told the committee that although the process was a positive experience, it was undermined by a lack of continuity in staff. He explained:

From the day that I was asked if I would be prepared to participate with one of the offenders, it took nearly five months to organise the initial meeting. There were three different case officers from the department of justice and youth assigned to the case, so it kept changing.<sup>111</sup>

Similarly, legal professionals told the committee that delays in restorative justice conference were often due to a scarcity of trained convenors. They suggested that delays undermined the effectiveness of the process, both because it creates a temporal disconnect between the crime committed by a young person and the consequences of that action, and because it is a source of frustration for victims.<sup>112</sup>

See also section 6.1.2, Restorative justice conferencing, for the committee's recommendations on this issue.

### **3.4.3 Victims' Commissioner**

The committee notes the recent introduction of the Victims' Commissioner and Sexual Violence Review Board Bill 2024 which, if passed, will permanently establish the Victims' Commissioner who will have the ability to:

- identify and review systemic issues relating to victims
- conduct research into matters affecting victims
- consult with victims of crime on matters relating to them, including their experience in the criminal justice system

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<sup>109</sup> Carolyn Juratowitch, Member, Children's Law Committee, Queensland Law Society, public hearing transcript, Brisbane, 24 November 2024, p 9.

<sup>110</sup> Submission 95, p 1.

<sup>111</sup> Public hearing transcript, Southport, 22 February 2024, p 39-40.

<sup>112</sup> Queensland Law Society and Legal Aid Queensland, public hearing transcript, Brisbane, 24 November 2023, p 9 and pp 14-15.

- publish information in relation to the criminal justice system
- provide advice to the Minister on issues affecting victims and the promotion of victims' rights, including making recommendations about improvements to government policy, practices, procedures and systems to support the rights of victims
- monitor the implementation of recommendations made by the Victims' Commissioner.

Importantly, the Victims' Commissioner will also manage complaints made by affected victims about alleged contraventions of the Charter of Victims' Rights.

### **Committee comment**

The committee has heard of the traumatic impacts of youth offending on victims, their families and local communities. Victims report lifelong impacts on their physical and mental health as a result of crime, and challenges in going about their day to day lives.

The committee acknowledges the enormous strength and courage of those affected by youth crime and thanks all victims who have participated in the inquiry to date through written submissions and public and private hearings.

While the committee notes the progress made in improving the support available to victims of crime, the evidence provided by victims of crime to this inquiry shows there is more to be done. Despite recent investment to boost victim support services, including to fund additional Victim Assist Queensland staff, victims are still reporting significant delays in accessing support available to them.

There may also be a need to extend the financial assistance provided to victims of crime, including by expanding eligibility to victims of non-violent crimes, including certain property crimes. As detailed above, many victims of crime experience significant financial hardship as a result, but are unable to access financial assistance. The need to support this group, however, may need to be balanced against the funding constraints and the need to ensure that victims of the most serious offences, such as homicide, receive support in a timely manner.

Making it easier for victims of crime to access support, and improving the operation of restorative justice conferencing should be top priorities. There is a clear need to ensure that victims of crime receive timely information about the sources of support available to them, and the kinds of assistance for which they are likely to be eligible. There is also a need to ensure that both QPS and the Department of Youth Justice have the resources they need to ensure restorative justice processes can be completed in an appropriate timeframe (see also section 6.1.2, Restorative justice conferencing).

Previous parliamentary inquiries made a number of recommendations relating to these issues.<sup>113</sup> It is timely for the government to provide an update on its progress towards the implementation of those recommendations. It is clear further reform may be required, however the committee considers this will fall within the purview of the Victims' Commissioner, should the relevant Bill before the House be passed.

### **Recommendation 13**

That the Queensland Government report to the Parliament on its progress implementing the 18 recommendations of the former Legal Affairs and Safety Committee, *Report No. 48, 57th Parliament – Inquiry into support provided to victims of crime* tabled on 19 May 2023; and commit to prioritising the implementation of recommendations 1 and 10 of that report, that the Queensland Government:

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<sup>113</sup> The committee's Issues Paper No. 1: Victims of Crime considers the recommendations of former parliamentary inquiries in more detail, <https://documents.parliament.qld.gov.au/com/YJRSC-6004/YJRSC-54D8/Issues%20Paper%20No.%201%20-%20Victims%20of%20crime.pdf>.

- develop a pilot victim advocate service to support victims of crime to navigate through the criminal justice system, as recommended in that report
- review youth justice conferencing and identify opportunities to better meet the needs of victims of crime.<sup>114</sup>

**Recommendation 14**

That the Queensland Government, through the work of the Office of the Interim Victims' Commissioner, continue to progress priority issues for victims of crime, including considering the development of a scheme for extending financial support to victims of non-violent crime.

**Recommendation 15**

That the Queensland Government through Victim Assist Queensland and in consultation with the Office of the Interim Victims' Commissioner, funds a public awareness campaign to inform victims of youth crime how they can access the supports available to them.

**Recommendation 16**

That the Queensland Government release the findings of the KMPG review of the financial assistance scheme administered by Victim Assist Queensland.

**Recommendation 17**

That the Queensland Government implement strategies to improve wait times for victims seeking support via Victim Assist Queensland and regularly report to the Parliament on its progress in reducing wait times.

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<sup>114</sup> See Recommendations 1 and 10, former *Legal Affairs and Safety Committee, Report No. 48, 57th Parliament – Inquiry into support provided to victims of crime.*

## 4 Universal early intervention and prevention

### Summary of this section

- Evidence suggests there is strong support across all parts of the community for greater investment in early intervention and prevention. Recent investments in this area are noted, but more may be required.
- Stakeholders have told the committee longer term funding models could help to improve the returns delivered by investments in early intervention and prevention.
- Regular evaluations of programs are important. However, some stakeholders highlighted there needs to be flexibility and recognition that some programs deliver important outcomes that are hard to measure.
- Many First Nations communities want to do more to help young people who are at-risk, or engaged with the youth justice system. However, they face a number of barriers and require more support to do this.
- The Blue Card system plays an important role in keeping Queensland’s children safe but requires review. However, evidence suggests that the system currently operates in a way that sometimes has unintended, negative effects on the wellbeing of children, particularly First Nations children.

### 4.1 Strong support for early intervention and prevention

Evidence suggests that there is strong support across different parts of the community for greater investment in early assessment, intervention and prevention. A very diverse mix of organisations and individuals – including youth advocates, victims of crime and young people with experience of the youth justice system – have told the committee that early intervention and prevention have a critical role to play in reducing youth crime.<sup>115</sup>

Experts and practitioners highlighted the strong evidence-base behind these approaches, arguing that early intervention and prevention are ‘what works’ to reduce youth crime.<sup>116</sup> Victims of crime stressed the importance of programs that address the challenges experienced by young children before they become engaged with the youth justice system.<sup>117</sup>

Some stakeholders called for a ‘paradigm shift’ in the focus of the youth justice system. The Queensland Mental Health Commission stated:

The challenge with the current justice response is that it is mostly a reactive response once a crime has been committed and an individual or community has already been negatively impacted. What is required is a paradigm shift to a more preventative and responsive system that looks at more effective, evidence based and holistic support for the young person and their family/kin network.<sup>118</sup>

Similarly, yourtown told the committee:

The only way to change the trajectory of young people at risk of contact with the youth justice system, is by ensuring that the right support is provided to them, at the right time. Most importantly, the ‘best time’ is long before potential contact with police or the youth justice system.<sup>119</sup>

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<sup>115</sup> Submissions 1, 2, 8, 17, 19, 20, 21, 37, 38, 39, 44, 50, 51, 53, 56, 70, 71, 75, 76, 83, 86, 94, 95, 96, 101, 102, 105, 106, 107, 108, 111, 113, 116, 117, 118, 120, 122, 123, 124, 126.

<sup>116</sup> For example, submissions 8, 17, 51 and 94.

<sup>117</sup> For example, submission 95.

<sup>118</sup> Submission 84, p 2.

<sup>119</sup> Submission 76, p 6.

Some stakeholders stressed the need for early assessment, intervention and prevention in certain areas. Many identified education, housing, health (including mental health) and disability as priority areas.<sup>120</sup>

#### **4.1.1 Importance of keeping children engaged with education**

The committee received a significant amount of evidence demonstrating that education is an important protective factor. Numerous stakeholders told the committee that disengagement with education is one of the earliest signs that children and young people are at risk of coming into contact with the youth justice system.<sup>121</sup>

Several submitters highlighted the fact that Aboriginal and Torres Strait Islander children and young people, as well as children and young people with disabilities, are at greater risk of disengaging with education and make up a disproportionate number of students subject to suspensions and school exclusions.<sup>122</sup>

Some submitters expressed concerns that schools do not always have the resources they need to keep children and young people engaged with education. A small number of submitters also suggested that policies relating to school exclusions may need to be reviewed to ensure they do not contribute to at-risk students disengaging from school.<sup>123</sup>

##### ***4.1.1.1 Alternative education models***

Stakeholders highlighted the importance of special assistance schools, or ‘flexi schools’, which provide an alternative educational environment to mainstream schooling. Principal Lyn Harland of Carinity Education, a flexible learning school in Rockhampton, advised that ‘the cohort of young people we have are those who have been on long suspensions or exclusions from their schools.’ Ms Harland advised that Carinity works with serious repeat offenders and other children and young people known to the youth justice system.<sup>124</sup>

Ms Harland highlighted the impact that suspension has on children and young people who may not be able to process the consequences of their behaviour:

What is the purpose of a school suspension? Do you send a young person home on a Monday for seven days who cannot read and expect them to know how to read by the next Monday? We do not. Why are you sending home a young person who does not know how to behave and respond and expecting them to know how to when they come back on Monday? What is happening during this time of suspension? The families are not getting any support.<sup>125</sup>

To observe an alternative education model, the committee visited Men of Business (MOB) Academy in Southport, a senior secondary school for boys in years 11 and 12. The founder, Marco Renai, highlighted for the committee the importance of a sense of belonging, particularly for reengaging young boys who have faced numerous obstacles in the mainstream schooling environment and in their personal lives.

#### **Committee comment**

For some children and young people who come into contact with the youth justice system, they have often been disengaged from school at a young age and for a number of years.

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<sup>120</sup> See, for example, submissions 17, 55, 70, 84, 107, 111 and 126.

<sup>121</sup> Submissions 8, 17, 20, 102, 104 and 132.

<sup>122</sup> Submissions 56, 111 and 132

<sup>123</sup> Submissions 17, 20, 102 and 104.

<sup>124</sup> Public hearing transcript, Rockhampton, 27 February 2024, p 24.

<sup>125</sup> Public hearing transcript, Rockhampton, 27 February 2024, p 24.

The current operation of school suspension and exclusion, and the management of absenteeism generally, appears to increase the risk of school disengagement, particularly for children and young people who may not have a strong support network. Given engagement with education is a critical protective factor for children and young people at risk, the committee considers it imperative to identify strategies to reduce school disengagement.

This cannot be done without consulting with teachers and principals. The committee wishes to acknowledge the enormous commitment of the staff working within Queensland's schools to support children and young people. Teaching is a difficult role made more challenging for staff who support students who are demonstrating complex behaviours. Reform in this space should not place more pressure on the role teachers and other school staff whose needs must also be supported. It should also take place in a manner that promotes the safety of all children and staff working within Queensland's schools.

The committee has also observed the need for more alternatives to the mainstream schooling model. Examples such as Carinity Education Rockhampton, MOB Academy, Indie School and the Clontarf Academy have highlighted that a different approach to schooling is required to support some children and young people to remain engaged with education.

#### **Recommendation 18**

That the Queensland Government in consultation with teachers, principals and key education stakeholders, review the operation of suspension, exclusion and absenteeism policies in Queensland schools to identify strategies to reduce the risk of school disengagement, improve support to staff, and promote safety within Queensland's schools. The review should consider:

- whether disciplinary actions can be facilitated on-site, rather than prohibiting school attendance, and
- how the current policy and legislative framework for managing absenteeism can be strengthened to support school attendance, and to be more responsive where disengagement is identified.

#### **Recommendation 19**

That the Queensland Government review state funded alternative schooling programs, and based on this review, expand alternative schooling options and implement these in areas where there is currently demand for non-mainstream schooling placements.

#### **4.1.1.2 Policing presence in schools**

The QPS advised that they run two programs which create a policing presence in schools:

- The School Support Officer Program is an early intervention program targeting at risk young people by establishing a positive relationship between police and the primary school community. This contributes to a safe and supportive learning environment and involves referral of children and young people to external support agencies
- The School Based Police Officer Program targets the secondary school community. The target cohort is young people aged 12 to 17 years.<sup>126</sup>

At a public briefing the QPS explained that these programs will operate from one precinct but the staff will have a catchment for service delivery which includes a number of schools.<sup>127</sup> What became clear

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<sup>126</sup> Queensland Police Service, briefing paper, 13 November 2023, p 8.

<sup>127</sup> Acting Superintendent Rob Fleischer, Community Engagement and Internal Support, Queensland Police Service, Brisbane, public briefing, 21 February 2024, p 20.

to the committee was the importance of placement-matching and the ability of QPS officers to build trusting and respectful relationships with students and young people.

#### 4.1.2 Need for early and systematic screening

The committee received a significant amount of evidence indicating that when systems fail, children and young people with disabilities, mental health challenges and behavioural disorder are often at an elevated risk of coming into contact with the youth justice system. The Department of Youth Justice advised the committee that in 2022:

- 27 per cent of young people under community supervision in the youth justice system had at least one disability (diagnosed or suspected)
- 27 per cent of young people under community supervision in youth justice system had at least one mental health disorder (diagnosed or suspected)
- 14 per cent of young people under community supervision in the youth justice system had at least one behavioural disorder.<sup>128</sup>

Among young people in custody, rates of disability and behavioural problems are higher. Notably, in 2022, 26 per cent of children in youth justice custody had a cognitive or intellectual disability, 21 per cent had Attention Deficit Hyperactivity Disorder (ADHD) and 12 per cent had Fetal Alcohol Spectrum Disorder (FASD).<sup>129</sup>

Mr Karl McKenzie of the Townsville Justice Group told the committee that FASD is ‘growing rapidly’:

I do not know how we as a community are going to handle that, because FASD ... can often present with very normal traits. ... We may be trying to punish people when it is no fault of their own: they have a medical condition. We need to start at the beginning in terms of health checks to know what we are dealing with.<sup>130</sup>

According to Keith Hamburger AM, almost 40 per cent of children in custody in Queensland have FASD. Mr Hamburger stated, ‘These children have complex needs. They need thorough assessment. At the moment, that is not being done and the courts are not getting that information.’<sup>131</sup>

In light of this evidence, many stakeholders told the committee there is a need to systematically screen children and young people for disabilities, mental health disorders and behaviour problems when they first come into contact with the youth justice system.<sup>132</sup> A smaller number of stakeholders proposed that this could occur even earlier and more widely, for example through systematic screening of children attending kindergarten programs, or at primary schools.<sup>133</sup>

#### **Committee comment**

The evidence-base for early intervention into diagnosable health conditions is strong. The right interventions at the right time have the ability to keep children and young people on the right path

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<sup>128</sup> Department of Youth Justice, Employment, Small Business and Training, briefing paper, 8 November 2023, p 7.

<sup>129</sup> Department of Children, Youth Justice and Multicultural Affairs, ‘Youth Justice Census Summary 2022: Young people in youth justice custody (2018 to 2022)’, [https://desbt.qld.gov.au/\\_\\_data/assets/pdf\\_file/0019/17083/census-summary-custody.pdf](https://desbt.qld.gov.au/__data/assets/pdf_file/0019/17083/census-summary-custody.pdf).

<sup>130</sup> Public hearing transcript, Townsville, 5 February 2024, p 5.

<sup>131</sup> Public hearing transcript, Brisbane, 23 November 2023, p 23.

<sup>132</sup> Submissions 17, 20, 56, 75, 102, 104, 106, 107 and 111.

<sup>133</sup> Submissions 120 and 124.

and identify significant health problems that can have deleterious effects on their behaviour and cognition.

The committee strongly advocates for strengthened early intervention measures to ensure that undiagnosed health issues are identified at the earliest opportunity. This preventive healthcare needs to be universally available.

For many children and young people in contact with the youth justice system, the first time they receive a comprehensive health assessment occurs when they are in detention.

#### **Recommendation 20**

That the Queensland Government commit to ensuring that all primary school aged children have access to a comprehensive, fully funded health assessment to assist with hearing, visual, learning, developmental and neurodiverse diagnoses.

#### **Recommendation 21**

That the Queensland Government explore opportunities to expand the availability of GPs and nurses in primary school settings and at all Youth Justice Service Centres to assist in preventative health screening.

#### **Recommendation 22**

That the Queensland Government through the Department of Youth Justice and Queensland Health commit to ensuring that all children and young people in detention receive comprehensive mental health and physical health assessments, including specialist referrals for ADHD and FASD, as a priority and incorporating a process to ensure referrals have been attended.

## **4.2 Recent investments in early intervention and prevention**

In June 2023, the Queensland Government announced a range of investments in early intervention and prevention. In the youth justice sector, these include:

- new funding for grassroots early intervention programs, including \$4.2 million for The Street University Townsville
- funding to extend and expand the Early Action Groups already operating in Townsville to Cairns and Mount Isa, to provide a whole-of-government response to the needs of identified at-risk young people
- additional funding to empower communities to develop local solutions to youth crime through community-based projects.<sup>134</sup>

In December 2023, the Queensland Government also announced a \$288 million education engagement package, which includes funding to:

- expand the Queensland Pathways State College
- increase engagement programs targeting First Nations young people
- expand FlexiSpaces in schools for students unable to be in the classroom

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<sup>134</sup> Anastacia Palaszczuk, Premier and Minister for the Olympic and Paralympic Games, Cameron Dick, Treasurer and Minister for Trade and Investment, and Di Farmer, Minister for Employment and Small Business, Minister for Training and Skills Development and Minister for Youth Justice, 'Record youth justice budget puts community safety first', media statement, 13 June 2023, <https://statements.qld.gov.au/statements/97933>.

- support interventions for young people at-risk of or known to youth justice.<sup>135</sup>

Many stakeholders welcomed these recent investments. However, several submitters expressed the view that current levels of funding for early intervention and prevention are not adequate.<sup>136</sup>

### **Committee comment**

The committee welcomes investments in early intervention and prevention. Generally, stakeholders shared positive assessments of many of these new and/or expanded initiatives, including Early Action Groups and Youth Co-Responder Teams. As more information about the impact of these initiatives emerges, there may be a need to expand them to more areas, as proposed in Recommendation 39.

## **4.3 How to boost returns on investment**

Evidence suggests that improving early intervention and prevention is not simply a question of providing enough money, but also making other changes that will allow Queensland to boost the returns delivered by investments in these areas. For example, as discussed in the following sections, improving the way funding is structured, increasing Queensland's ability to learn from experience, helping First Nations communities to do more, and reviewing the state's Blue Card system may help the state to improve outcomes.

### **4.3.1 Improving funding models**

In the youth justice sector, funding commitments for programs delivered by community organisations (rather than the government itself) are often made for a limited period: rarely more than four years, and frequently less. For example, the youth justice funding commitments announced as part of the 2023-24 budget (highlighted above) included funding over:

- four years for intensive bail initiatives, diversionary programs, and intensive case management – programs that support young people who have already come into contact with the youth justice system
- two years for the shopping precincts crime prevention program, expanded Early Action Groups, and community-based programs – programs that could be classified as early intervention or prevention.<sup>137</sup>

Several stakeholders told the committee that short-term funding cycles, combined with restrictive rules about how funding can be used, have a number of negative consequences that can undermine the impact of programs.<sup>138</sup> These stakeholders told the committee that short-term and piecemeal funding makes it harder to attract and retain skilled staff, undermines their ability to build relationships with young people over the long-term, and prevents them from offering holistic support.

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<sup>135</sup> Anastacia Palaszczuk, Premier and Minister for the Olympic and Paralympic Games, Grace Grace, Minister for Education, Minister for Industrial Relations and Minister for Racing, and Di Farmer, Minister for Employment and Small Business, Minister for Training and Skills Development and Minister for Youth Justice, '\$288 million package to keep students engaged in education', media statement, 4 December 2023, <https://statements.qld.gov.au/statements/99304>.

<sup>136</sup> Submissions 37, 50, 101, 108 and 111.

<sup>137</sup> Anastacia Palaszczuk, Premier and Minister for the Olympic and Paralympic Games, Cameron Dick, Treasurer and Minister for Trade and Investment, and Di Farmer, Minister for Employment and Small Business, Minister for Training and Skills Development and Minister for Youth Justice, 'Record youth justice budget puts community safety first', media statement, 13 June 2023, <https://statements.qld.gov.au/statements/97933>.

<sup>138</sup> Submissions 56, 71, 75, 86, 112 and 143; Nathan Andrews, Team Leader, Youth Transitions, Integrated Family and Youth Service, public hearing transcript, Kawana Waters, 23 February 2024, p 12.

Some told the committee it contributes to gaps in service provision and a loss of expertise when programs ‘disappear’ or are forced to scale-back because a particular funding commitment expires.<sup>139</sup>

For example, Queensland Youth Housing Coalition stated:

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 [sic] presenting need with the most appropriate support response.<sup>140</sup>

The Justice Reform Initiative explained:

In Queensland, community-led services and First Nations-led place-based responses need to be funded in ways that genuinely build sustainable long-term service delivery capacity. This includes the capacity to adequately pay staff (on long contracts) and develop a professionalised workforce. Short-term and pilot projects, and inadequate funding for staff, alongside overly onerous reporting requirements, make the core business of quality service delivery, together with staff retention, more difficult than it needs to be.<sup>141</sup>

A number of stakeholders suggested that greater investment in early intervention requires not only the provision of more funding, but the development of workforce strategies and supports to ensure that Queensland has the skilled workers necessary to implement early intervention effectively.<sup>142</sup>

Anglicare Southern Queensland explained:

It is also important however to build capacity in communities and the human services sector to deliver such programs. The youth and family sector, like other human services, is under significant pressure from increased demand; insufficient supply of qualified workers; and the increased cost of delivering services.<sup>143</sup>

Ipswich Community Youth Service told the committee that there is a need for more support for professional development in the youth justice sector due to the increasing complexity of the young people they support. They elaborated:

Children and young people are presenting with far more complexity than ever before. It is essential that structures and systems are put in place to enhance the sector’s ability to address the growing needs of their service users... There needs to be a return to government contracts that provide appropriate expenditure allowance for professional development, or government increasing funding to peak bodies to deliver specialist training.<sup>144</sup>

Other stakeholders told the committee that the provision of short-term funding is particularly problematic for organisations working in regional areas because it makes it harder to attract and retain staff. The Chief Executive Officer from Lifeline Darling Downs and Southwest Queensland, Rachelle Patterson, explained this problem to the committee:

There is no point providing contracts to NGOs for one to two years because generally you have staff coming from another area, perhaps Brisbane, and they plan their life around that. They are not going to wait until the end of a contract to find out whether they still have a position. Six months out, if you cannot

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<sup>139</sup> Rachelle Patterson, Chief Executive Officer, Lifeline Darling Downs and South West Queensland, public hearing transcript, Toowoomba, 16 February 2024; Jessie Conway, Service Manager, OurSpace, public hearing transcript, 27 February 2024.

<sup>140</sup> Submission 126, p 7.

<sup>141</sup> Submission 129, p 52.

<sup>142</sup> Submissions 76, 94, 116, 120 and 121.

<sup>143</sup> Submission 94, p 34.

<sup>144</sup> Submission 156, p 9.

tell them that they have a job then they are probably heading off to another organisation or they are returning to their city.<sup>145</sup>

Similarly, a representative of OurSpace in Rockhampton told the committee that the short-term nature of funding made it more difficult to build relationships with young people. This, in turn, impaired their ability to connect young people with the support they needed. They explained:

One of the things we have really been struggling with is that ongoing funding—the ability to actually apply for funding that is sustainable. One of the key outcomes of the spaces is that we have provided these kids with staff who are consistent. They do not change. Those relationships have been built. It has taken about two years to build that trust and rapport with the young people so that they feel comfortable coming to us and saying, ‘Look I stole this,’ or, ‘Look, I have a problem with vaping,’ ‘Mum and dad are fighting at home.’<sup>146</sup>

Some stakeholders welcomed recent funding announcements, but noted that the vast majority of new funding would be delivered via government channels, such as schools. They observed that this could limit the ability of programs to reach certain cohorts of young people, which community-based organisations may be better placed to assist. For example, a representative of Ipswich Community Youth Service told the committee:

There are large amounts of money currently going into schools. There is an assumption that all young people access schools. That does not happen. School funding is only relevant where young people are attending, and school funding is only relevant generally 40 weeks of the year. We talk about 12 weeks of the year which are often the most high risk for our children and young people because they are in environments that are often unsafe for the young people we are talking about, and also they do not have that safety network and structure of support that schools provide... if funding is only going into schools, you are disadvantaging a large number of children and young people who are not able to access those services.<sup>147</sup>

A number of stakeholders also told the committee that the limited amount of funding provided, and the manner in which it is allocated, promotes competition rather than collaboration between service providers. They expressed concern that this undermined the quality of services provided and contributed to some young people falling through gaps in service provision.<sup>148</sup> Gordana Blazevic, who provides advice to community organisations regarding grant applications told the committee:

It is very difficult for organisations to collaborate when they are all competing for the same bucket of money.<sup>149</sup>

In some regional communities, stakeholders also expressed concern that funding to deliver youth justice services is often awarded to larger organisations that lack connections to, and knowledge of, local communities. For example, a representative of Darumbal Community Youth Service in Rockhampton told the committee:

We applied for some funding, and it was a significant amount of money over three years. We thought we had a pretty good chance. ... The funding actually went to an organisation from Brisbane. They were

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<sup>145</sup> Rachele Patterson, CEO, Lifeline Darling Downs and Southwest Queensland, public hearing transcript, Toowoomba, 16 February 2024, p 17.

<sup>146</sup> Jessie Conway, Service Manager, OurSpace, public hearing transcript, Rockhampton, 27 February 2024, p 22.

<sup>147</sup> Amanda Margerison, Chief Executive Office, Ipswich Community Youth Service, public hearing transcript, Brisbane, pp 11-12.

<sup>148</sup> Submissions 39 and 143; Gordana Blazevic, public hearing transcript, Southport, 22 February 2024, p 32

<sup>149</sup> Public hearing transcript, Southport, 22 February 2024, p 32.

delivering it in a discrete community but the discrete community did not know anything about it. Consequently, it has not been delivered. That is a huge fail in my eyes.<sup>150</sup>

#### 4.3.2 Improving program evaluation

Many stakeholders told the committee that early intervention and prevention programs should be monitored and evaluated in a regular and systematic way so that Queensland can more effectively identify what works, and what does not.<sup>151</sup>

For example, yourtown elaborated on the importance of evaluations and explained how funding can affect whether they take place:

We need quality evaluations to build the evidence base and determine ‘what works’ and what doesn’t. While many early intervention programs can provide anecdotal evidence of ‘what works’, they are rarely evaluated, or funded to do so. Appropriate funding should be provided along with the funding to deliver the program to ensure that an evidence base is developed for what works within community based early intervention and prevention programs and approaches.<sup>152</sup>

The Justice Reform Initiative made similar comments, noting that evaluations not only need to be funded, but made publicly available to support learning across the sector. They explained:

A lack of resourcing for robust evaluation also makes measuring success extraordinarily difficult. Lack of transparency in terms of evaluation compounds this issue. While there has been improvements in the transparency over government in the youth justice space more recently, there is still limited publicly available evaluation data, which limits knowledge sharing between providers and across sectors on what works.<sup>153</sup>

Some stakeholders noted the importance of conducting evaluations in a way that provides flexibility and recognises that some of the most effective programs are those that invest in building relationships with young people – an outcome that is difficult to quantify. For example, the Justice Reform Initiative noted the importance of providing support for ‘culturally modelled evaluations centring Indigenous research methodologies for First Nations led programs.’<sup>154</sup>

#### **Committee comment**

Early intervention and prevention has a critical role to play in reducing youth crime.

For services and programs to deliver on community safety, there is a need for consistency. The current funding model for youth justice services and programs does not allow for innovative or agile practice (see also section 5.3, Improving rehabilitation programs). The committee has heard that this increases the siloing in service delivery, which impacts information sharing and collaboration across the sector. Short term funding cycles can also impact on service delivery and staff attraction and retention.

The committee considers that there is scope to improve the funding model for the sector to ensure services are operating to their full potential. This could include moving towards longer-term funding commitments, providing greater support for professional development and workforce planning in the youth justice sector, allocating funding for regular evaluations, and increasing the amount of funding that goes to First Nations organisations.

The committee notes that the Auditor-General is currently undertaking an audit of youth justice strategies and programs to determine whether they are effective in reducing crime by serious repeat

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<sup>150</sup> Rose Malone, Chief Executive Officer, Darumbal Community Youth Service, public hearing transcript, Rockhampton, 27 February 2024, p 12.

<sup>151</sup> Submissions 17, 20, 53, 71, 93, 129.

<sup>152</sup> Submission 76, pp 7-8.

<sup>153</sup> Submission 129, p 52.

<sup>154</sup> Submission 129, p 51.

offenders and community safety. The committee has been advised that the Auditor-General's report expects to table its findings in the House in the coming months. The committee will be paying close attention to these findings. See also recommendation 32.

### Recommendation 23

That subject to the Auditor-General's findings, the Queensland Government:

- apply longer term funding contracts to state-funded youth justice programs and services and investigate new models that facilitate better collaboration among service providers
- fund existing programs to operate more flexible hours during crucial times for potential offending, including late at night and on weekends
- fund more programs for children under 10 years of age
- consult First Nations organisations about how contract tender processes could be more improved and identify any unnecessary barriers to First Nations engagement.
- consider a broader range of outcomes in future service or program evaluations, such as relationship building
- ensure it provides funding to a diverse mix of organisations, including smaller community-based organisations as well as larger organisations.

#### 4.3.3 Empowering First Nations communities

Many stakeholders told the committee that First Nations organisations should be supported to shape and lead new solutions, including early intervention programs, in their communities.<sup>155</sup> These stakeholders suggested that First Nations organisations are best-placed to provide culturally-appropriate programs that address the needs of their communities. Many also highlighted that providing greater support to First Nations organisations would help Queensland to uphold its commitments under the National Agreement on Closing the Gap.<sup>156</sup>

Some stakeholders suggested that First Nations organisations, including community justice groups, should be provided with more funding. For example, Professor Tamara Walsh stated that despite increases in the funding provided to community justice groups:

...there is still a general belief that community justice groups are under-resourced and are not funded at the level of equivalent non-government organisations. The expectation is that they will rely substantially on the labour of volunteers, which is inappropriate and potentially exploitative.<sup>157</sup>

Similarly, several First Nations Elders told the committee that organisations within their communities received very little financial support, despite the importance of the programs they deliver.<sup>158</sup>

The committee also received evidence suggesting that First Nations communities could do more if certain roadblocks or barriers were removed. In particular, several highlighted challenges associated with the Blue Card system, as detailed in section 4.3.4, below.

<sup>155</sup> Submissions 50, 56, 60, 76, 83, 102, 108, 116, 117 and 122.

<sup>156</sup> Submissions 37, 38, 50, 56, 83, 94, 96, 108, 120, 135 and 136.

<sup>157</sup> Submission 8, p 49.

<sup>158</sup> Public hearing transcript, Brisbane, 8 March 2024.

#### 4.3.4 Reviewing the Blue Card system

The Blue Card system is designed to protect children in Queensland by ensuring that only appropriate people are able to work with children. Blue Cards are, for example, required to work (on a paid or unpaid basis) in childcare, education and foster care, as well as children’s sport and cultural activities.

Although Blue Cards play an important role in keeping children safe, evidence before the committee suggests that system currently operates in a manner that has certain undesirable and counterproductive effects.

For example, during the hearing in Mount Isa, some witnesses told the committee that the Blue Card system sometimes prevents families and communities from caring for at-risk children and young people. In particular, problems arise when people are unable to obtain Blue Cards due to historical convictions for offences which they consider have little bearing on their current suitability to work with children. This prevents them from acting as kinship carers, or working in the youth justice sector, and can contribute to at-risk children and young people becoming disconnected from their families and communities.<sup>159</sup>

Representatives from Injilinjji explained the impact of this issue on their community:

Blue cards are such a big issue in our community, especially amongst our black people. They did silly things when they were young, they have a family, they are 30 and are working in the community, but they still cannot get a blue card. They did not rape anyone, did not have a firearm or get busted for drugs. That really needs to be put on the table. It really holds our people down as a community—whatever colour you are—to be able to move forward.<sup>160</sup>

Other stakeholders working in the youth justice system also told the committee that they also experienced problems relating to the Blue Card system. Several organisations explained that the system impeded their ability to employ or work with young people who had ‘turned their lives around’ and had valuable experience to share with children and young people currently engaged with the youth justice system.<sup>161</sup>

In addition, the QFCC told the committee that Blue Card requirements sometimes precluded people from acting as kinship carers, even though they might be suitable carers. The QFCC observed that the inability of these people to provide kinship care may be contributing to recent increases in the number of children in residential care across Queensland. In light of this, the QFCC suggested it may be necessary to review some aspects of the Blue Card system, including whether it is appropriate to classify the provision of kinship care as a form of work or employment.<sup>162</sup>

#### **Committee comment**

The committee acknowledges that Queensland’s Blue Card system is considered the strongest in the nation. However the committee is concerned that the Blue Card system adopts an overly cautious approach and is currently operating in a manner that prevents some people, and in particular First Nations people, from experiencing the dignity of employment.

The committee is also concerned that the Blue Card system is limiting the ability of the youth justice sector to draw on the lived-experience of young people who have transformed their lives. The committee heard repeatedly that it is challenging to attract staff with the right mix of skills, experience and commitment. Yet it also heard inspiring stories from young people with experience of the youth justice system who shared their aspirations to give back to the community by helping others to turn

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<sup>159</sup> Public hearing transcript, Mount Isa, 9 February 2024.

<sup>160</sup> Hayley Iles, Manger, Youth Support Service, Injilinjji, public hearing transcript, Mount Isa, 9 February 2024, p 22.

<sup>161</sup> For example, see submission 178.

<sup>162</sup> Private hearing transcript, Brisbane, 21 February 2024.

their lives around. The Blue Card system should provide these people with a means of establishing their suitability to work with children, subject to appropriate safeguards.

Further, in relation to the need for young people to be brought up in culturally and psychologically safe homes, the committee is concerned that the Blue Card system may be preventing some people acting as kinship carers in situations where this would benefit a child or young person. Children and young people who are placed in residential care are commonly disconnected from their communities and cultures, something that can have a long-lasting and negative impact on their well-being.

The committee notes that the Blue Card system has been subject to several reviews in recent years, which have all highlighted the same issues regarding barriers to access. The last reported update at August 2023 indicated only 28 of the 81 recommendations made in the 2017 report of the Keeping Queensland's children more than safe: Review of the blue card system had been completed. While the committee isn't inclined to recommend a further review while work is occurring, it does want to emphasise the importance of urgently reforming Blue Card services to consider what practical and legislative reforms can be made to ensure that only those people presenting a current and likely risk to young people are prevented from working with children.

#### **Recommendation 24**

That the Queensland Government urgently implement the outstanding recommendations from previous reviews including the 2017 report, and the recommendations from Inquiries, on the Blue Card system to ensure that: (i) it does not create unnecessary barriers to people acting as kinship carers where this promotes the well-being of children; and (ii) it provides an avenue for people with a criminal or youth justice history to establish their suitability to work with children, subject to appropriate safeguards.

#### **4.3.5 Address critical gaps in service provision**

Evidence before the committee indicates that alcohol and other drug use is prevalent in youth offenders, particularly among serious repeat offenders. The 2022 Youth Justice Census indicated that:

- 78 per cent of young people under youth justice supervision in the community abused at least one substance, including 62 per cent who abused marijuana, 48 per cent who abused alcohol, and 20 per cent who abused ice and other amphetamines<sup>163</sup>
- 83 per cent of young people in youth justice custody abused at least once substance, including 70 per cent who abused marijuana, 50 per cent who abused alcohol, and 40 per cent who abused ice and other amphetamines.<sup>164</sup>

Consistent with this, the Department of Youth Justice advised the committee:

In Queensland substance use by young people in the youth justice system is an increasing issue with the use of marijuana and ice, and other methamphetamines rising from 2018 to 2022. The use of these substances by 10-13 year olds is increasing more than other age groups.<sup>165</sup>

Despite the prevalence of drug and alcohol abuse among children young people who offend, there appears to be significant gaps in the availability of services that can help them to overcome these

<sup>163</sup> Department of Children, Youth Justice and Multicultural Affairs, 'Youth Justice Census Summary 2022: State-wide (2018 to 2022) – under supervision', [https://desbt.qld.gov.au/\\_\\_data/assets/pdf\\_file/0022/17086/census-summary-statewide.pdf](https://desbt.qld.gov.au/__data/assets/pdf_file/0022/17086/census-summary-statewide.pdf).

<sup>164</sup> Department of Children, Youth Justice and Multicultural Affairs, 'Youth Justice Census Summary 2022: Young people in youth justice custody (2018 to 2022)', [https://desbt.qld.gov.au/\\_\\_data/assets/pdf\\_file/0019/17083/census-summary-custody.pdf](https://desbt.qld.gov.au/__data/assets/pdf_file/0019/17083/census-summary-custody.pdf).

<sup>165</sup> Department of Youth Justice, Employment, Small Business and Training, briefing paper, 8 November 2023, p 5.

problems. In particular, the availability of residential drug and alcohol treatment facilities for children and young people is extremely limited.

LAQ advised:

There is an absence of appropriate drug and alcohol rehabilitation facilities to address the abuse of substances by children including inpatient facilities. The first opportunity for many children to "detox" is when they are remanded in detention. This is of some concern as the detention centres do not have the expertise, staff or facilities to provide appropriate detoxification services for detainees.<sup>166</sup>

At present, Queensland Health funds Mater Misericordiae to deliver an alcohol and other drug residential rehabilitation service for young people. Although this program has a state-wide intake, it only has 5-beds, all of which are in Brisbane.<sup>167</sup> In December 2023, the Tedd Noffs foundation also opened a 10-bed residential treatment facility in Caboolture.

During its inquiry in 2021-2022, the former Mental Health Select Committee identified specific shortages of mental health and alcohol and other drug (AOD) beds and services across Queensland for children. The former committee's recommended that the Queensland Government increase child and youth mental health inpatient beds and services, particularly in regional Queensland.<sup>168</sup>

In 2022, the government committed to establishing a new, 10-bed residential treatment facility in North Queensland. However, construction of this new facility, which is expected to be built in Cairns, has not yet commenced.<sup>169</sup>

Queensland Network of Alcohol and other Drug Agencies Ltd (QNADA) also raised concerns about how AOD drug support operates in detention settings:

...it has become clear that service commissioning and contract management processes through Youth Justice are problematic and not aligned with similar processes in Communities or Health procurement. Planning and commissioning of health services should be undertaken by Queensland Health to ensure equitable access to health services (as required by the *Queensland Human Rights Act 2019*) and to provide some accountability to balance the operational requirements of youth justice (such as suspended access to health or education services due to a lack of youth justice staff).

QNADA also stated that detention centres and the broader youth justice system must also work collaboratively with community-based support and treatment services. Early coordinated planning with relevant service providers before a child or young person is released from custody is essential, including to address their housing, education and employment needs.<sup>170</sup>

The Queensland Mental Health Commission, an independent statutory office, was established to drive ongoing reform towards a more integrated, evidence-based, and recovery-orientated mental health, alcohol and other drugs (AOD) and suicide prevention system in Queensland.<sup>171</sup>

The current strategic plan is *Shifting minds: The Queensland Mental Health, Alcohol and Other Drugs, and Suicide Prevention Strategic Plan 2023-2028*, which complemented by two sub-plans including *Achieving balance: The Queensland Alcohol and Other Drugs Plan 2022-2028 (Achieving balance)*.

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<sup>166</sup> Submission 12, p 4.

<sup>167</sup> Queensland Health, briefing paper, 1 December 2023, pp 12, 14, 20.

<sup>168</sup> Mental Health Select Committee, *Report No. 1, 57th Parliament – Inquiry into the opportunities to improve mental health outcomes for Queenslanders*, p 128.

<sup>169</sup> Queensland Health, 'Cairns youth residential rehabilitation and treatment service', last updated 3 November 2023, <https://www.health.qld.gov.au/public-health/topics/atod/services/residential-rehabilitation/cairns>.

<sup>170</sup> Submission 78, pp 6-7.

<sup>171</sup> Submission 84, p 1.

Its current strategic plans highlight that despite investment in AOD residential beds, factors including COVID-19 have created additional social pressures on our young people, and currently in Queensland demand continues to outstrip the availability of treatment facilities.

### **Committee comment**

The committee has heard that children and young people in the youth justice system have overwhelmingly experienced childhood trauma, neglect, abuse and family violence. Sadly, for some children and young people drug use is a means to self-medicate as a result of significant trauma and/or mental illness, a learned or observed behaviour, and in some circumstances is coerced by peers or adults, including parents.

Demand continues to outstrip the availability of residential and non-residential AOD rehabilitation services in Queensland, including in regional Queensland where access to specialist services is further complicated by long wait times and the need for families to travel to access the help that they need. These services need to be expanded in a coordinated and comprehensive manner. This is likely to require a strategy, co-developed by the Queensland Police Service, Queensland Health, and other relevant agencies, that sets out how the government will address drug use among children and young people.

The committee also acknowledges that for children and young people who use drugs to be supported in their transition back into the community, transition planning must also include strategies to address alcohol and other drug dependency, alongside housing, education and employment needs.

The Committee notes that many of the recommendations in *Achieving Balance*, would also support the committee's observations throughout this inquiry to date. The committee urges the government to expedite its implementation.

### **Recommendation 25**

That the Queensland Government increase the availability of residential and non-residential Alcohol and Other Drug treatment services for children and young people in Queensland, particularly in regional and remote areas to support children to access treatment closer to home. This should be supported by a strategy to address alcohol and other drug use by children and young people in Queensland.

## 5 Making rehabilitation work

### Summary of this section

- Stakeholders have stated that they expect the state's youth detention centres to improve community safety by contributing to the rehabilitation of children and young people. However, evidence suggests that in its current form, youth detention is not meeting this expectation.
- Evidence suggests that this is the result of a number of complex factors, including the high rate of recidivism among children and young people released from detention, the impact of workforce shortages on the operation of youth detention centres, and the continued use of police watch houses to detain children and young people for prolonged periods.
- There appears to be broad agreement among stakeholders that alternative models of youth detention should be considered. However, there is no clear consensus on what these models might look like.
- To ensure youth detention is rehabilitative, stakeholders suggest Queensland needs to find new ways to get children and young people to engage with rehabilitation programs and improve the supports offered to children and young people as they transition from detention back into their communities.

### 5.1 Youth detention in Queensland

Evidence before the committee indicates there is strong agreement across different parts of the community that youth detention is not meeting the expectations of many young people, victims of crime, legal and community stakeholders and the community itself.

Evidence to the committee highlighted the dedication of staff working in challenging environments, and the committee wants to acknowledge and thank those who do work in this sector. However the committee sees opportunities to reform youth detention to better meet the expectations of its stakeholders, including its employees.

As detailed in the sections that follow, the challenges include high rates of recidivism among children and young people released from detention, the impact of workforce shortages on the operation of detention centres, and the continuing use of police watch houses to detain children and young people.

QFCC Principal Commissioner Twyford identified several of these issues when he told the committee:

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.<sup>172</sup>

#### 5.1.1 High rates of recidivism among children and young people released from detention

The community expects youth detention to contribute to the rehabilitation of young offenders. However, data provided by the Department of Youth Justice indicates that the rate of recidivism among young people released from detention in Queensland is very high. As shown in Table 1, on the next page, between 2019 and 2022, roughly 90 per cent of young people released from detention re-offended within 12 months.

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<sup>172</sup> Submission 135, p 16.

Numerous stakeholders argued that this high rate of recidivism shows that youth detention, in its current form, is not having the desired effect in terms of its rehabilitation of young people.<sup>173</sup>

The committee received direct evidence from three young people with experience of the youth justice system. They highlighted the lack of consequences, and that harsher penalties when they first started committing crimes may have stopped them from further offending.

They also mentioned a lack of consequences within detention facilities with programs, including education not compulsory or targeted. They raised that their criminal records would be wiped clean when they turned 18, and that there was little to fear knowing that harsher penalties wouldn't apply until then.

**Table 1 Most young people released from detention reoffend within a year**

12-months ending 30 June	Unsentenced	Sentenced
2019	91.6%	93.1%
2020	92.2%	88.2%
2021	93.7%	88.3%
2022	92.0%	91.7%

*Note:* This table shows the 12-month reoffending rate for young people exiting a youth detention centre between 1 July 2018 and 30 June 2022. 'Unsentenced' includes young people held in a detention centre on pre-court custody following police bail refusal or remand in custody. 'Sentenced' includes young people held in youth detention on a detention order. A young person is deemed to have reoffended if they committed an alleged offence that was subsequently referred to restorative justice or heard in court.

*Source:* Department of Youth Justice.<sup>174</sup>

### **Committee comment**

The voices of young offenders themselves have been largely silent through this and other Inquiries or reviews undertaken to date in respect of youth justice. The experience of the committee in hearing from several, highlights to us the importance of including their perceptions and experience of the youth justice system. They have come out of the other side and now want to help other young people, They are particularly well-placed, particularly with the benefit of some hindsight, to offer insights into legislative, policy and program development. In light of this, the committee will continue to take further evidence from and engage with former young offenders to identify problems and evidence of gaps in current systems.

### **5.1.2 Impact of workforce shortages on detention centres**

Evidence suggests that workforce shortages are impacting on the operational functioning of youth detention centres.

When detention centres are short-staffed, they employ a staffing structure informally described as 'night mode', during which children and young people spend the majority of the day 'separated' in their cells. Separations may also be used for other reasons, including to manage the behaviour of a child or young person which poses a risk to the safety of others.<sup>175</sup>

<sup>173</sup> See, for example, submissions 17, 19, 20, 24, 52, 82, 94, 101, 104, 105, 114 and 117.

<sup>174</sup> Department of Youth Justice, 'Response to Questions Taken on Notice at the briefing on 5 December 2023', pp. 13-14.

<sup>175</sup> Department of Youth Justice, 'Response to Questions Taken on Notice at the briefing on 5 December 2023', p 6.

A number of stakeholders told the committee that workforce shortages impair the ability of the state's youth detention centres in two main ways.<sup>176</sup> First, operating a centre in 'night mode' impairs the ability of detention centres to provide children and young people with access to education and other therapeutic programs. Second, the use of 'night mode' results in the prolonged isolation of children and young people, which has negative impacts on both their mental health and, consequently, their prospects of rehabilitation.<sup>177</sup>

The Queensland Ombudsman and Inspector of Detention Services described the impact of separations resulting from the use of 'night mode':

Separation impacts on young people in two ways: first, there is the direct harmful psychological impact; second, it reduces the opportunities for young people to participate in education and programs which are, at the end of the day, the key to our youth detention system having any chance of success at rehabilitation and, in turn, reducing crime when the young people leave the detention centre and thereby reducing the potential for impacts of crime on victims.<sup>178</sup>

The Child Death Review Board's most recent annual report, which covers the 2022-23 financial year, also highlighted concerns relating to the separation of young people in youth detention.<sup>179</sup> It documented the cases of two boys who were subject to extended periods of separation during their time in detention. Both boys identified as Aboriginal and/or Torres Strait Islander and had a number of disabilities and cognitive impairments, some suspected and some diagnosed. Both boys died after their release from detention. The Child Death Review Board stated that they died of suicide and drug overdose, describing both deaths as 'preventable'.<sup>180</sup>

The Child Death Review Board states that one boy spent 376 days in a youth detention centre, and was confined to his cell more than three-quarters (78.5 per cent) of the time. The other spent 319 days in youth detention, and was confined to his cell for more than half (54.2 per cent) of that time. Although several factors contributed to the use of separations in relation to each boy, workforce shortages were a significant contributor in both cases. In both cases, the use of separations had an adverse impact on the ability of each boy to participate in education and rehabilitation programs.<sup>181</sup>

In light of these two cases the Child Death Review Board expressed serious concerns about the continued use of separations in Queensland's youth detention centres. It explained:

Periods of separation, isolation, or solitary confinement can impact a child's health and wellbeing in severe, long-term and irreversible ways. Many of the children and young people in detention have experienced a life of significant disadvantage and marginalisation, with many being the victims of abuse and neglect. Being confined in a cell for extended periods of time, without interaction with peers, family, culture, and support networks creates an environment of re-traumatisation.<sup>182</sup>

In relation to staffing, the Department of Youth Justice advised the committee that, between April 2023 and November 2023, there was significant increase in the number of full-time-equivalent staff employed at the state's youth detention centres. As a result, according to that department, Queensland's youth detention centres are now 'over strength'.<sup>183</sup>

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<sup>176</sup> Submissions 11, 17 and 128.

<sup>177</sup> Submissions 11, 17 and 128.

<sup>178</sup> Anthony Reilly, Ombudsman and Inspector of Detention Services, public hearing transcript, Brisbane, 6 December 2023, p 2.

<sup>179</sup> Child Death Review Board, *Annual Report 2022-23*, Chapter 3.

<sup>180</sup> Child Death Review Board, *Annual Report 2022-23*, p 28.

<sup>181</sup> Child Death Review Board, *Annual Report 2022-23*, Chapter 3.

<sup>182</sup> Child Death Review Board, *Annual Report 2022-23*, p 38.

<sup>183</sup> Robert Gee APM, Director-General, Department of Youth Justice, Employment, Small Business and Training, public briefing transcript, Brisbane, 5 December 2023, p 2.

The Department of Youth Justice advised the committee that this increase in staff numbers, ‘has directly reduced the frequency of staff shortage-related separations across all 3 youth detention centres.’<sup>184</sup> However, it appears that separations still occur at the Cleveland Youth Detention Centre: in November 2023, 19 per cent of accommodation units at that centre were required to operate in ‘night mode’ for two hours or more on any day.<sup>185</sup>

Some stakeholders told the committee that, despite youth detention centres being formally ‘over strength’, workforce shortages continue to require the use of ‘night-mode’ in their operation. For example, a representative from the Australian Workers’ Union (AWU), which represents youth detention workers, told the committee:

A snapshot of units at Cleveland gathered by our members between Monday of last week and Wednesday of this week [i.e. mid November 2023] shows an average of five units in night mode or controlled cell occupation per day. This means over 30 per cent of the young people at Cleveland Youth Detention Centre are not receiving meaningful rehabilitation on any single day of that 10-day period.<sup>186</sup>

The AWU also told the committee that workforce shortages increase the risk faced by staff working at youth detention centres, including the risk of assault, and exacerbate the challenge of retaining workers.<sup>187</sup>

The AWU also raised concerns about the number of 18-year olds currently held in youth detention centres, noting that this cohort can pose a serious risk to staff safety due to their physical maturity.<sup>188</sup> They explained:

Our members report that adult offenders tend to be physically larger and stronger than the younger detainees, meaning that the effect of their violence towards others within the detention centres tends to be more severe. Moreover, they are often the architect of violence undertaken by the younger detainees, issuing directions for coordinated assaults on staff and other young people.<sup>189</sup>

The AWU advised the committee that according to its members, there were 27 people aged 18 or over being held in a youth detention centre as of 22 November 2023.<sup>190</sup>

### **Committee comment**

The committee has significant concerns about workforce shortages and the use of ‘separations’ and ‘night mode’ at Queensland’s youth detention centres. Staff shortages put workers at risk and reportedly have serious, adverse effects on the well-being of children and young people and their prospects for rehabilitation.

Separations may sometimes be a necessary and appropriate means of managing the risk posed by the behaviour of some children and young people. However, their use should be exceptional. The well-documented, negative effect that separations have on children and young people suggests Queensland needs to set clear and enforceable limits on their use.

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<sup>184</sup> Department of Youth Justice, ‘Response to Questions Taken on Notice at the briefing on 5 December 2023’, p 6.

<sup>185</sup> Department of Youth Justice, ‘Response to Questions Taken on Notice at the briefing on 5 December 2023’, p 6.

<sup>186</sup> Stacey Schinnerl, Queensland Branch Secretary, Australian Workers’ Union, public hearing transcript, Brisbane, 23 November 2023, p 2.

<sup>187</sup> Submission 23.

<sup>188</sup> Submission 23.

<sup>189</sup> Stacey Schinnerl, Queensland Branch Secretary, Australian Workers’ Union, public hearing transcript, Brisbane, 23 November 2024, p 2.

<sup>190</sup> Stacey Schinnerl, Queensland Branch Secretary, Australian Workers’ Union, public hearing transcript, Brisbane, 23 November 2024, p 2.

The committee notes there are safety concerns associated with people aged 18 and over who are held in youth detention centres. Division 2A of the *Youth Justice Act 1992* sets out a detailed process for the transfer of detainees who have turned 18 to adult facilities. This process, which is subject to a number of safeguards, was amended in early 2023.<sup>191</sup> It may be beneficial to review the impact of those recent amendments to ensure the process for transferring people who have turned 18 is operating as intended.

#### **Recommendation 26**

That the Queensland Government develop and implement workforce strategies that ensure the state's youth detention centres are staffed at levels sufficient to ensure the safety of workers and eliminate the need to use 'separations' or 'night mode' as a result of staff shortfalls and begin reporting, within three months, on when 'separations' or 'night mode' are used as a result of staff shortfalls.

#### **Recommendation 27**

That the Queensland Government set clear and enforceable limits on the use of 'separations' at youth detention centres.

#### **Recommendation 28**

That the Queensland Government review changes made to Division 2A of the *Youth Justice Act 1992*, which regulates age related transfers to corrective services facilities, by the *Strengthening Community Safety Act 2023* to assess whether they are operating as intended.

### **5.1.3 Continued use of police watch houses to detain children and young people**

Data published by the Childrens Court indicates that in 2022-23, more than 500 children and young people aged between 10 and 17 were held in custody in a police watch house or station each month. While the vast majority of these children and young people were held in police custody for 1 day or less, a significant number were held for a more extended period. In total, in 2022-23, 439 children and young people were held in police custody for 5-7 days, 408 were held in police custody for 8-14 days, and 146 were held in police custody for 15 days or more.<sup>192</sup>

The number of children and young people detained in watch houses has increased significantly since 17-year olds were brought into the youth justice system. Between February and June 2018 (after the relevant legislative changes took effect) an average of 140 children and young people were in court-ordered custody in a police watch house each month.<sup>193</sup> At the time, the Childrens Court explained this data as follows:

As a result of the pressure on detention centre capacity after the inclusion of 17-year olds within the youth justice system, young people, irrespective of their age, have been held in police custody in watchhouses following a court appearance for short periods of time until detention centre capacity becomes available.<sup>194</sup>

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<sup>191</sup> *Strengthening Community Safety Act 2023*, ss 29-35

<sup>192</sup> Childrens Court of Queensland, *Annual Report 2022-23*, p 49.

<sup>193</sup> Committee secretariat calculation, based on Table 34 in the Childrens Court of Queensland, *Annual Report 2017-2018*, p 38.

<sup>194</sup> Committee secretariat calculation, based on Table 38 in the Childrens Court of Queensland, *Annual Report 2022-23*, p 49.

In comparison, in 2022-23, an average of 557 unique children and young people were in custody in a police watch house each month.<sup>195</sup> However, the figures for 2018 may not be directly comparable with this more recent period, due to changes in the way the number of children and young people are counted and reported. Most notably, the figures for 2018 capture only children and young people who are in custody as the result of a court order, while the more recent figures capture children and young people detained in a watch house for any reason.<sup>196</sup>

Similarly, the Office of the Public Guardian advised that in the 12 months prior to December 2023:

- 80 children aged under 14 years spent one night in a police watch house
- 640 children and young people aged between 10 and 17 spent more than four nights in a police watch house
- 132 children and young people were detained in a police watch house for 14 days or more
- 46 children and young people were detained in a police watch house for 21 days or more.<sup>197</sup>

There is significant concern amongst the community about the continued use of police watch houses to detain children and young people. Numerous stakeholders told the committee that this practice falls short of community expectations, both because it is inconsistent with human rights standards, and because the negative impacts of this form of detention undermine children and young people's prospects of rehabilitation.<sup>198</sup>

For example, the Deputy Public Guardian told the committee:

Holding young people in watch houses, particularly for prolonged periods, is a safety and human rights issue because of the long-term risks to their health and psychological wellbeing. These vulnerable young people require targeted support for their wellbeing and rehabilitation which cannot be accessed in a watch house environment.<sup>199</sup>

To help reduce the number of children and young people being held in police watch houses, the Queensland Government committed to building a new youth remand centre at Wacol near Brisbane. This facility is expected to open in 2024. When complete, it will have the capacity to accommodate approximately 50 children and young people.<sup>200</sup>

### **Committee comment**

The committee has significant concerns about the continued use of police watch houses to detain children and young people, in some cases for prolonged periods. While this is sometimes necessary to protect the community, it creates risks for the children, young people and staff involved and has negative consequences to a child or young person's health and wellbeing. The committee believes that while this practice is occurring it's imperative that sufficient monitoring and oversight is available.

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<sup>195</sup> Childrens Court of Queensland, *Annual Report 2017-2018*, p 38.

<sup>196</sup> In addition, the data for 2018 was reported by Youth Justice Performance and Reporting, Department of Child Safety, Youth and Women, while the data for 2022-23 was provided by the Queensland Police Service. See Childrens Court of Queensland, *Annual Report 2017-2018*, p 38; Childrens Court of Queensland, *Annual Report 2022-23*, p 49.

<sup>197</sup> Nicholas Dwyer, Deputy Public Guardian, Office of the Public Guardian, public hearing transcript, Brisbane, 6 December 2023, p 7.

<sup>198</sup> Submissions 15, 16, 17, 28, 37, 38, 50, 51 56, 60, 75, 76, 83, 87, 96, 101, 108, 111, 120, 134, 136 and 142.

<sup>199</sup> Nicholas Dwyer, Deputy Public Guardian, Office of the Public Guardian, public hearing transcript, Brisbane, 6 December 2023, p 7.

<sup>200</sup> Department of Youth Justice, Employment, Small Business and Training, written brief, 8 November 2023, p 27.

In light of this, it is essential that both the public and the Legislative Assembly have accurate and up-to-date information about this practice.

Further, that while watch-houses are being used to detain children for longer-than-recommended periods, a code of practice be established to guide minimal statewide expectations. This code of practice should focus on upholding the rights and interests of children held in detention, so that they can enter detention with the best chance of meeting their rehabilitation goals.

#### **Recommendation 29**

That the Queensland Government publicly report on the number of children and young people detained in watch houses, and how long they have been detained, on a weekly or real-time basis.

#### **Recommendation 30**

That the Queensland Government work with relevant stakeholders to develop a statewide Code of Practice for the management of young people in watch-houses.

#### **5.1.4 High number of young people on remand**

On average, Queensland reportedly holds more young people on remand in youth detention centres than any other state or territory.

According to data published by the Australian Institute of Health and Welfare, in the March quarter of 2023, there were more than twice as many unsentenced young people in youth detention on an average night in Queensland than in any other state. In that period, there were, on average, 279 unsentenced young people held in detention each night in Queensland, compared to 118 in New South Wales, which reported the second highest figure.<sup>201</sup> This meant that almost 92 per cent of young people in detention in Queensland were on remand, compared to almost 77 per cent in New South Wales.

Some stakeholders told the committee that that large number of children and young people on remand puts considerable pressure on the state's youth detention centres, potentially impairing their ability to deliver effective rehabilitation programs.<sup>202</sup> For example, Professor Tamara Walsh, from the University of Queensland, told the committee that children and young people on remand face uncertainty about how long they will be detained, while their status (being on remand) reduced their ability to engage in programs and form positive peer relationships.<sup>203</sup>

In order to reduce the number of children and young people on remand in Queensland, the government announced the \$9.89 million Fast Track Sentencing Pilot in March 2023. This trial, which operates in the state's courts, will run for 18 months in Brisbane, Townsville, Southport and Cairns.<sup>204</sup> Its objective is to identify causes of court delay, reduce and address these delays, and ensure children and young people spend less time on remand.<sup>205</sup>

Initial data provided to the committee suggests this trial is already demonstrating positive court outcomes. At the end of September 2023, the clearance rate (a measure of the courts' ability to keep up with their caseloads) across all locations since the start of the pilot was 110.6 per cent for Fast

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<sup>201</sup> Australian Institute of Health and Welfare, 'Youth detention population in Australia 2023', <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2023/data>.

<sup>202</sup> Submissions 8, 19, 102, 132 and 134.

<sup>203</sup> Submission 8, p 58.

<sup>204</sup> DJAG, written brief, 8 November 2023, p 8.

<sup>205</sup> DJAG, written brief, 8 November 2023, p 8.

Track eligible files.<sup>206</sup> This figure (above 100 per cent) means that the courts were finalising or closing more cases than were commenced or re-opened in that period. A representative of the Magistrates Court Service also advised the committee that they have observed ‘a significant improvement in communication and information sharing processes between agencies’ and ‘engagement between parties to resolve matters more quickly’.<sup>207</sup>

Other evidence also suggests the pilot is having a positive effect. For example, a representative of LAQ told the committee:

In terms of fast-track sentencing, the initial figures are looking good. It looks like it is something that is working. The finalisations of the Childrens Court are very high, particularly in Brisbane... When fast-track sentencing is resourced properly, it is an amazing process to get matters dealt with quickly.<sup>208</sup>

The Queensland Government has also sought to reduce pressure on the state’s youth detention centres by constructing new facilities. It will build a new, 50-bed youth remand facility at Wacol, near Brisbane. This new facility, which is being constructed in an expedited manner, is expected to open later in 2024.<sup>209</sup>

### **Committee comment**

In some circumstances, such as when a child or young person’s behaviour creates a significant risk to community safety, it may be necessary for them to be detained on remand rather than released into the community. However, the high proportion of children and young people on remand places pressure on the state’s youth detention centres and undermines their ability to play a positive role in the rehabilitation of children and young people.

Despite reportedly positive outcomes associated with the Fast Track Sentencing pilot, the proportion of children and young people on remand remains high. Also, that pilot is limited to certain locations, meaning that children and young people in other parts of the state do not benefit from it. Assuming that the evaluation of the pilot provides a positive assessment of its impact, there appears to be a strong argument for extending that program and expanding it to more locations.

The committee notes recommendation 24 from Mr Bob Atkinson’s 2018 *Report on Youth Justice*: ‘That goals be set to progressively reduce the proportion of children on remand in custody, with annual targets and key milestones.’

### **Recommendation 31**

That the Queensland Government: (i) set clear targets for reducing the proportion of children and young people in detention who are being held on remand; and (ii) identify strategies for achieving those targets.

### **Recommendation 32**

That the Queensland Government extend the Fast Track Sentencing program and expand it to all Childrens Court locations across the state, subject to the evaluation of the pilot program.

<sup>206</sup> Department of Youth Justice, Employment, Small Business and Training, written brief, 8 November 2023, p 2.

<sup>207</sup> Kristina Deveson, Acting Executive Director and Principal Registrar, Magistrates Court Service, public briefing transcript, 5 December 2023.

<sup>208</sup> David Law, Assistant Director, Youth Legal Aid, Legal Aid Queensland, public hearing transcript, Brisbane, 24 November 2023, p 14.

<sup>209</sup> Department of Youth Justice, Employment, Small Business and Training, briefing paper, 8 November 2023, p 30.

## 5.2 Alternative forms of youth detention

Evidence before the committee suggests a significant level of agreement among the community that Queensland needs alternative forms of youth detention. However, there is less agreement among the community about what new forms rehabilitation should be introduced. As detailed below, while some parts of the community propose a move to more therapeutic alternatives, others suggest that Queensland needs ‘stronger’ or more punitive options.

Many service-delivery, advocacy-focused, and legal organisations, as well as many academic experts, told the committee that Queensland should expand On Country programs and develop an alternative, therapeutic model of youth detention.<sup>210</sup>

Some of these submitters cite international examples, particularly the Missouri model from the US, and the Diagrama model from Spain.<sup>211</sup> These models share a focus on building relationships with children and young people, keeping them connected with their communities, and providing them with wrap-around supports over an extended period of time. Both models differ from Queensland’s existing youth detention centres, including in the physical design of the facilities, and in that they cater primarily to children and young people who have been sentenced, rather than being primarily used to detain children and young people being held on remand.<sup>212</sup>

Some stakeholders stressed that implementing alternative, more therapeutic, models of youth detention would require not only new infrastructure, but a more fundamental change in the youth justice system. For example, a representative of the Justice Reform Initiative told the committee:

Places like Hawaii, Spain, Scotland, Scandinavia and even states in America really have a whole-of-system-wide change process that has moved away from the traditional punitive incarceration model towards a trauma informed, restorative and healing approach that is community-led and takes a whole-of-community approach incorporating community services, the community and government departments as well.<sup>213</sup>

In contrast, some other groups, and several members of the public, proposed the reintroduction of bootcamps or ‘relocation sentencing’, a model under which children and young people would spend extended periods of time working or studying in agricultural settings in remote areas.<sup>214</sup> Katter’s Australian Party, which advocated for the adoption of relocation sentencing, told the committee that remoteness is a key characteristic of this alternative to current modes:

The introduction of a remote location stands out as the key component within the [relocation sentencing] policy framework. By placing detainees in remote locations, the distractions and negative influences that often hinder rehabilitation efforts can be minimised. This approach not only supports offenders in focusing on their rehabilitation but also provides them with the therapeutic and psychological benefits of being immersed in nature, away from the temptations of technology and substance abuse.<sup>215</sup>

However, other submitters indicated that they oppose the reintroduction of bootcamps, stating that they are ineffective and can actually increase recidivism.<sup>216</sup>

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<sup>210</sup> Submissions 8, 70, 93, 94, 104, 110, 114.

<sup>211</sup> Submissions 21, 26, 94 and 110.

<sup>212</sup> See public hearing transcript, Brisbane, 21 February 2024, pp 4-5.

<sup>213</sup> Aysha Kerr, Queensland Advocacy and Campaign Coordinator, Justice Reform Initiative, public hearing transcript, Brisbane, 21 February 2024, p 3.

<sup>214</sup> Submissions 14, 22, 24, 31 and 43

<sup>215</sup> Submission 24, p 12.

<sup>216</sup> Submissions 19 and 75.

### 5.2.1 Recent developments

The Queensland Government has taken some steps towards developing and implementing alternative models of youth detention. In May 2023, the government announced plans to build two new youth detention centres: one in Woodford, northwest of Brisbane, and one in Cairns. According to the government, these centres will be designed in a therapeutic manner:

Both new centres will include therapeutic design elements which aim to support rehabilitation for young people and improve community safety. These elements include smaller, more home-like accommodation units purpose-built to encourage young people, staff and stakeholders to work together; consultation and treatment rooms; multipurpose spaces for education, skills development and training; and spaces for cultural connection.<sup>217</sup>

The new detention centre in Woodford is expected to be completed in 2026. At present, no completion date is available for Cairns.

In February 2024, the Queensland Government also announced that it will fund a new Intensive On Country Program trial for First Nations children and young people in contact with the youth justice system. This trial will build on the current On Country program, by offering an intensive cultural and residential experiences for longer periods in a greater range of locations. The program will also provide education and training opportunities and family support, including in-home family support.<sup>218</sup>

#### **Committee comment**

The committee visited all three of the state's youth detention centres. Queensland has an urgent need to expand the capacity of its youth detention centres. Existing centres are consistently operating at capacity. This creates operational challenges, increases risks to staff, undermines the ability of detention centres to contribute to the rehabilitation of children and young people, and results in a significant number of children and young people being held in police watchhouses, in some cases for prolonged periods.

The committee notes recent investments in youth justice infrastructure, including the new therapeutic detention centres being built in Woodford and planned for Cairns, and the new Wacol Youth Remand Centre, which is being constructed in an expedited manner. However, the committee considers that youth justice infrastructure needs to be reimagined to ensure it can facilitate rehabilitation.

It is clear that there are a range of views within the community about what kind of new infrastructure is required to deal with both ongoing demand and short term peaks. One option suggested to the committee is that mobile accommodation units could be located on the grounds of existing detention centres on a temporary basis. This option may warrant further consideration by the government.

Another option that warrants further investigation is the construction of facilities that specifically cater to children between the ages of 10 and 13. Such facilities could better respond to the needs of this cohort, and – by separating them from older children – may prove more successful in preventing their offending behaviour from becoming entrenched.

#### **Recommendation 33**

That the Queensland Government undertake comprehensive community consultations to develop a plan for transforming the state's youth justice infrastructure and address overcrowding. These

<sup>217</sup> Hon Leanne Linard, Minister for Children and Youth Justice and Minister for Multicultural Affairs, 'New youth detention centre to be built at Woodford', media statement, 11 May 2023. <https://statements.qld.gov.au/statements/97712>.

<sup>218</sup> Hon Di Farmer, Minister for Education and Minister for Youth Justice, 'New Intensive On Country trial tackles juvenile First Nation offenders', Media statement, 21 February 2024. <https://statements.qld.gov.au/statements/99756>.

consultations should explore how alternative models of youth detention can better address the needs of regional and remote communities, investigate the feasibility of establishing facilities that cater exclusively to children under 14, and seek to build public support for the construction of new facilities outside of major metropolitan centres so that young people can be detained closer to, and supported by their communities.

### 5.3 Improving rehabilitation programs

The committee's work so far suggests a number of ways in which Queensland could improve the effectiveness of rehabilitation programs. In particular, evidence received by the committee suggests that for children and young people to reap the benefit of the support available to them, there is a need for greater engagement with programs. As detailed below, some stakeholders have articulated the need for more, longer-term programs are available. However, there is no one size fits all model for rehabilitation programs and it can be difficult to assess their efficacy or value for money.

#### 5.3.1 Building on existing programs

In the 2023-2024 budget, the government committed significant additional resources for the Intensive Case Management program. This program, which typically works with selected children and young people for nine months, is focused on the rehabilitation of children and young people at high-risk of recidivism, including those classified as serious repeat offenders. It is currently operating in 16 locations across Queensland.<sup>219</sup>

A recent evaluation of Intensive Case Management was generally positive. It found that:

- more than 40 per cent of children and young people who completed the program had not reoffended since
- on average, the frequency of offending by those who completed the program halved
- there was a substantial reduction in the proportion of crimes committed by participants that involved harming another person.<sup>220</sup>

However, the evaluation also highlighted the heavy workload associated with the program, which requires youth justice workers to provide intensive support to children and young people, and the limited capacity of existing programs. For example, in the period from 2018-2022, the program directly engaged 134 distinct children and young people, a relatively small number.<sup>221</sup>

As a result, the evaluation recommended that the government invest in expanding the reach and capacity of Intensive Case Management programs to additional locations, and to work with a greater number of children and young people assessed as high-risk, including those classified as serious repeat offenders. It also recommended that the program be funded at a level that allows the staff who provide intensive support to be remunerated at a level that appropriately reflects the higher level of skill and cultural understanding that these programs require.<sup>222</sup>

#### **Committee comment**

As discussed in section 2.2, serious repeat offenders have become a significant problem in Queensland. This cohort is growing, and accounts of an increasing proportion of youth crime. As such, Queensland needs to build on the programs that have been shown to be effective in addressing the needs of this group and changing their behaviour, such as Intensive Case Management. These

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<sup>219</sup> Department of Youth Justice, Employment, Small Business and Training, briefing paper, 30 November 2023, pp 9, 32.

<sup>220</sup> Nous Group, *Evaluation of Intensive Case Management*, Final report, 5 May 2023, pp 21-27.

<sup>221</sup> Nous Group, *Evaluation of Intensive Case Management*, Final report, 5 May 2023, pp 3 and 6.

<sup>222</sup> Nous Group, *Evaluation of Intensive Case Management*, Final report, 5 May 2023, pp 3 and 6.

programs need to be funded at a level that allows them to expand both their geographical scope and the number of children and young people they assist. Funding levels must also be sufficient to allow the Department of Youth Justice to attract and retain the highly skilled practitioners on whom the success of this program relies.

#### **Recommendation 34**

That the Queensland Government expand Intensive Case Management to more locations, increase the number of children and young people it is funded to assist, and ensure the staff who deliver this program are remunerated at a level that appropriately reflects their expertise.

### **5.3.2 Encouraging young people to engage with programs**

Evidence before the committee suggests that it can be challenging to persuade children and young people to engage with programs designed to help them. For example, stakeholders told the committee that practitioners have to draw on specialised skills and experience, and in some cases cultural authority, to convince children and young people that programs are worthwhile and relevant to them.<sup>223</sup>

Under the *Youth Justice Act 1992* (YJA) and the *Bail Act 1980* (Bail Act), children and young people who come into contact with the youth justice system cannot, strictly speaking, be compelled to participate in therapeutic, rehabilitative or other support programs without some degree of consent. This is because:

- the bail process requires people to enter into an undertaking – i.e. make a promise to comply with their bail conditions – which necessarily involves an element of consent<sup>224</sup>
- diversionary pathways that may involve participation in a program, such as alternative diversion programs and drug diversion, are only available if a child or young person agrees to participate in these options<sup>225</sup>
- at sentencing, courts can only make non-custodial orders that may include participation in a program (a probation order, intensive supervision order, or conditional release order) if a child or young person expresses willingness to comply with these orders.<sup>226</sup>

One option for increasing engagement with rehabilitation programs would be to provide courts with more power to compel children and young people to participate in them. The committee has heard mixed views from stakeholders regarding the desirability of this option.

Some stakeholders expressed a cautious view when asked about compelling children and young people to participate in therapeutic and other support programs. For example:

- Several stakeholders noted that the prospect of being held in custody on remand, or being sentenced to detention, generally provides a strong incentive for children and young people to agree to participate in programs.<sup>227</sup>

<sup>223</sup> Aboriginal and Torres Strait Islander Legal Service and Youth Advocacy Centre, public hearing transcript, Brisbane, 23 November 2024.

<sup>224</sup> *Bail Act 1980*, s 20.

<sup>225</sup> YJA ss 39(1), 172(2); *Police Powers and Responsibilities Act 2000*, s 379.

<sup>226</sup> YJA, ss 194, 203(1)(a), 222.

<sup>227</sup> See for example, Ms Hayes, Youth Advocacy Centre, public hearing transcript, Brisbane, 23 November 2023, p 14.

- Ms Katherine Hayes, CEO of the Youth Advocacy Centre, stated that on-Country programs are more effective when participation in them is voluntary, explaining ‘without consent, you are facing an uphill battle. You need to have buy-in from them [young people]’.<sup>228</sup>
- Ms Kate Greenwood, Senior Policy Officer Closing the Gap, from the Aboriginal and Torres Strait Islander Legal Service, observed that compelling children and young people to engage in programs can be counterproductive, explaining that it would make it more difficult for on-Country programs to establish ‘cultural authority’.<sup>229</sup>

However, other stakeholders have indicated some support for this idea. For example:

- Ms Sheryl Batchelor, Found and Director of Yiliyapinya Indigenous Corporation, suggested that in certain circumstances, the ability to mandate participation in programs might be beneficial.<sup>230</sup>
- Some submitters indicate support for compulsory participation in programs, particularly ‘boot camp’ style programs in remote areas.<sup>231</sup>

### **Committee comment**

The committee has heard that ‘buy-in’ from children and young people is essential to building strong therapeutic rapport. Many practitioners have told the committee that it takes time to build relationships with children and young people engaging in programs across the spectrum of youth justice services, and this is often complicated by their experience of significant trauma.

The committee also understands that there are situations where children and young people may not have capacity to make decisions that are in their best interest, particularly those living with disability or mental illness, and that there are lost opportunities where children and young people fail to engage with programs available to them.

While orders made under the *Youth Justice Act 1992* may require a child or young person’s consent, or consider their willingness to comply, there is already a degree of coercion involved, particularly where a child or young person is faced with a more punitive alternative. The challenge in adopting a more coercive approach is that there is not clear evidence about how removing consent would alter a child or young person’s willingness to engage with programs, which is in the community’s interest.

### ***Issues for further examination***

The effectiveness of compelling children and young people into programs is debated, and is an issue that requires further examination, particularly in circumstances where children and young people may not be able to make decisions in their best interest.

### **5.3.3 Increasing the availability and length of programs**

A number of stakeholders raised concerns that the availability of programs is limited, waitlists are long and there are challenges with referral processes.

Inspector Michael Volk who oversees the QPS ‘Project Booyah’ told the committee ‘on a very big year we will get 3,000 applications’, for a program that has a current capacity of 220 per year.<sup>232</sup>

Other stakeholders noted that the effectiveness of rehabilitation programs is undermined by the prevalence of short-term interventions. These stakeholders suggested that effective rehabilitation

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<sup>228</sup> Public hearing transcript, Brisbane, 23 November 2023, p 13.

<sup>229</sup> Public hearing transcript, Brisbane, 23 November 2023, p 13.

<sup>230</sup> Public hearing transcript, Brisbane, 22 November 2023, p 33.

<sup>231</sup> See for example, submissions 4, 14, 22, 24, 31 and 43.

<sup>232</sup> Public hearing transcript, Kawana Waters, 23 February 2024, p 19.

requires sustained engagement with young people over an extended period of time. Some explained that longer-term programs have become more important over time as young people now present with more complex histories and needs than in the past.<sup>233</sup>

Mr Marc Harbrow of Harbrow Mentoring explained how important it is for youth workers to have the time to build trusting relationships with young people, particularly repeat offenders:

We try to engage them in structured programs, but they are not ready for structured programs. There is a whole step before we can get them to a boxing program. It is one-on-one social chats. ... Relationships take a long time to build. Then when you have a program that constantly has a new face every time, which has been said, it is very hard for the kid to develop trust. They are not looking at the organisation; they are looking at the individual.

It comes down to one-on-one work. If we do the numbers, you will probably all say that is a lot of youth mentors. Unfortunately it is, and that is where we are at. The only way we are going to see a decrease 10 years from now is through one-on-one mentoring with those high-risk kids...<sup>234</sup>

Ms Rachelle Patterson, Chief Executive Officer, Lifeline Darling Downs and Southwest Queensland has highlighted some of the difficulties arising from referral pathways which results in services having to engage in assertive outreach when a referral isn't initiated for families in need:

In Charleville, the FIS program, the family intervention service, can only work with families if we receive a referral from Child Safety. For several years we have had very few referrals. This has meant we have had no cases to work with in a town where all our other program staff have been flat out working with cases. Those referrals should have been coming from that same team leader who has a case load equivalent of two CSOs. We have taken matters into our own hands of late and have started engaging with families that are at risk of losing their children. We cannot keep waiting for referrals. We already know who those families are so we are instead being proactive to keep children safe, noting this means that technically we are working outside of our contract.<sup>235</sup>

While there is no one size fits all approach for rehabilitative programs, stakeholders identify the need for youth programs and services to be embedded in the community and responsive to local needs, including in terms of their opening hours. A representative of Queensland Health told the committee:

... Importantly, it is not the what; it is more the how some of these programs are established. We really need to ensure that they are co-designed. People with lived experience of families, the communities and First Nations people are part of the thinking and the design of what those place-based services need to be. You need all the agencies. You need the joint planning, the sharing of resources and the very assertive, flexible approaches—after-hours services and on weekends. It is all those sorts of elements.<sup>236</sup>

### **Committee comment**

Evidence suggests that there is a need for more rehabilitative programs that will support children and young people to address their offending behaviours which are community-led and reflective of local needs. There is an identified need for longer-term options for children and young people where engagement and participation may take longer given the complexities some of them face.

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<sup>233</sup> Senior Constable Greg Newman, Police Coordinator, Sunshine Coast Project Booyah, public hearing transcript, Kawana Waters, 23 February 2024; Dr Emily Moir, Senior Lecturer in Criminology and Justice, School of Law and Society, University of the Sunshine Coast, public hearing transcript, Kawana Waters, 23 February 2024; submission 143.

<sup>234</sup> Public hearing transcript, Cairns, 7 February 2024, p 21.

<sup>235</sup> Public hearing transcript, Toowoomba, 16 February 2024, p 15.

<sup>236</sup> Sandra Eyre, Senior Director Mental Health Alcohol and Other Drugs Branch (Strategy and Planning), Clinical Planning and Service Strategy Division, Queensland Health, public briefing transcript, Brisbane, 6 December 2023, p 11.

On the other hand, the committee has also heard that there are a lot of funded programs already operating and that better oversight and assessment of the efficacy of these programs will highlight where further investment would be beneficial to community safety. See also recommendation 21.

#### **Recommendation 35**

That the Queensland Government consider the Auditor-General's findings arising from the audit of youth justice strategies and programs before making further investments in programs targeted at reducing recidivism.

### **5.4 Improving transitions from detention**

Transitions from detention back to community emerged as a key issue during the committee's inquiry. Numerous stakeholders provided evidence that highlighted transitions as a crucial point at which children and young people require wraparound services and support. However, many expressed concern that children and young people do not always receive these supports and services.<sup>237</sup>

For example, some witnesses told the committee that children and young people released from detention often face challenges in securing access to flexible education options that support their return to school.<sup>238</sup> Other witnesses stated that children and young people often struggle to access safe and stable accommodation after their release, putting them in a position where a return to detention becomes more likely.<sup>239</sup> Some noted that this problem is particularly acute for children and young people in detention who are subject to child safety orders, especially those released to residential care placements.<sup>240</sup>

For example, the Youth Advocacy Centre told the committee:

Young people [released from detention] are presently provided with 72 hour plans which provide a level of support, but we have found that this is inadequate, with young people not being placed in a safe home, and left without support over weekend periods, leaving a crucial window open for reoffending.<sup>241</sup>

Similarly, Queensland Advocacy for Inclusion (QAI) said:

Many of YPP's [the Young People's Program, run by QAI] clients in youth detention have very poor transitional supports in place. YPP have worked with children facing release without access to the NDIS or appropriate support services, suitable housing, or access to money or financial support.<sup>242</sup>

Professor Aunty Boni Robertson told the committee that there used to be transition programs operating in Brisbane, however they have been defunded:

They get out and that is it. We used to have transition programs here in Brisbane. They are all gone now; they have been defunded. It breaks your heart when you see a little jarjum being released at seven o'clock or eight o'clock at night and there is nothing there for them. There should be programs that help them transition successfully back home, back into school, back into whatever it is they need to have their lives transformed.<sup>243</sup>

Regarding education, the Deputy Public Guardian told the committee:

Often the common information we receive through our community visitors is that children are leaving detention without even having basic access to any form of educational component, whether it be to get

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<sup>237</sup> Submissions 12, 19, 39, 55, 93, 94, 111, 112, 120 and 126.

<sup>238</sup> Submission 102.

<sup>239</sup> Submissions 19, 55, 111, 112 and 126.

<sup>240</sup> Submission 132.

<sup>241</sup> Submission 19, p 6.

<sup>242</sup> Submission 111, p 13.

<sup>243</sup> Public hearing transcript, Brisbane, 8 March 2024, p 9.

back into a mainstream program or into some form of flexi school or something offered through TAFE training or other institutions because of the fact they bring with them such a range of other complexities.<sup>244</sup>

Based on the evidence received by the committee so far, there are a number of options for improving the support provided to children and young people as they transition from detention back to their communities. These include improving information sharing in the youth justice sector and expanding the accommodations options available to children and young people released from detention.

#### 5.4.1 More accommodation options

Although stakeholders raised a range of concerns relating to transitions from detention, the availability of suitable accommodation for children and young people released from detention was frequently identified as a top concern.<sup>245</sup>

##### 5.4.1.1 *Many young people return to unstable or unsuitable accommodation*

Several stakeholders noted that according to data from the Queensland Youth Justice Census 2022, more than one-third (39 per cent) of children and young people held in a youth detention centre or watch house in 2022 were living in unstable and/or unsuitable accommodation.<sup>246</sup>

A representative of the Bar Association of Queensland told the committee:

It has to start with accommodation. A lot of our young people leaving detention do not have adequate accommodation. That is a very significant cause of offending behaviour because there is not stability. It also leads to the carrying of knives because, if you are sleeping on the streets or you are sleeping in places that are not safe, that is when children say that they are carrying knives for their own protection.<sup>247</sup>

Natalie Lewis, a Commissioner of the QFCC, stated:

Even children who have made poor decisions and who have made mistakes, kids have a right to live free from violence, to be safe and to know where they are going to be sleeping that night.<sup>248</sup>

Some stakeholders raised concern that at present, these groups do not enjoy the same expectation of safety as the rest of Queensland's community. For example, in public hearings, the committee heard about multiple instances of young people being released from detention without access to safe accommodation.<sup>249</sup>

Ms Hayley Iles, Manager, Injilinj, an Aboriginal and Torres Strait Islander Corporation for Children and Youth Services in Mount Isa, told the committee about the lack of accommodation for children, young people and families:

There needs to be culturally appropriate accommodation built in Mount Isa for Aboriginal and Torres Strait Islander young people that is funded and operated by Aboriginal and Torres Strait Islander organisations. Key elders and community people could form a group that supports the best needs of young people who are detained, remanded or are transitioning back into the community. That includes an assessment of what the needs of the young person are such as accommodation, medical needs, education and employment opportunities and the relevant service provider working with the young

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<sup>244</sup> Nicholas Dwyer, Deputy Public Guardian, Office of the Public Guardian, public hearing transcript, Brisbane, 6 December 2024, pp 9-10.

<sup>245</sup> Submissions 19, 55, 111, 112 and 126.

<sup>246</sup> Department of Children, Youth Justice and Multicultural Affairs, *Youth Justice Census Summary, 2023*. [https://desbt.qld.gov.au/data/assets/pdf\\_file/0019/17083/census-summary-custody.pdf](https://desbt.qld.gov.au/data/assets/pdf_file/0019/17083/census-summary-custody.pdf)

<sup>247</sup> Laura Reece, Criminal Law Committee, Bar Association of Queensland, public hearing transcript, Brisbane, 24 November 2023, p 11.

<sup>248</sup> Public hearing transcript, Brisbane, 24 November 2023, p 31.

<sup>249</sup> See, for example, evidence given by Katherine Hayes, Chief Executive Officer, Youth Advocacy Centre, public hearing transcript, Brisbane, 23 November 2023, p 8.

person and family to achieve good outcomes for that young person. There needs to be brokerage funds available to support the young person to acquire food, clothes, incidentals and other needs to be able to start functioning and to acquire the confidence to move forward in their lives; consistent wraparound service providers to support the young person to re-engage with their family and community; and Aboriginal and Torres Strait Islander native title groups to provide a cultural healing care for young people.<sup>250</sup>

Father Mick Lowcock also highlighted for the committee the impact that Northern Territory policy is having on the Mount Isa community, particularly in terms of housing availability:

Before Christmas, there were literally 200 people living in the riverbed here, mainly from the Northern Territory. It is that whole question of alcohol laws. Do not think about borders. If you are thinking about a 10-year plan, you should be talking about the Northern Territory and the top of the Kimberley. It should be a whole approach, because that is what we are dealing with. We are not dealing with Queensland; we are dealing with the Northern Territory and sometimes with the Kimberley.<sup>251</sup>

Other witnesses told the committee that popular, but misleading, narratives about youth crime can undermine the safety of vulnerable children and young people. For example, a representative from Integrated Family and Youth Service told the committee:

At times, popular narratives have specifically focused on children living in out-of-home care across Queensland being a large part of the problem. This has sometimes resulted in this particular cohort being disproportionately targeted by community vigilante groups who, through instances of mistaken identity, have placed children and their care workers at imminent risk of harm.<sup>252</sup>

Fearless Towards Success told the committee that the lack of supported accommodation was particularly problematic in terms helping serious repeat offenders to stay out of detention:

Many SRO's [serious repeat offenders] have unstable and unsafe accommodation or in fact are couch surfing. Why have we not invested in a suitable transitional facility to provide accommodation and support to assist them in re-engaging back into community and find suitable employment? How can anyone hold down a job if they don't have anywhere safe to live?<sup>253</sup>

#### 5.4.1.2 Residential care homes may not be suitable for children and young people transitioning from detention

The committee was advised by the Department Child Safety, Seniors and Disability Services that the vast majority of children and young people in the residential care system are not in contact with the youth justice system.<sup>254</sup> However, approximately one-third of the young people classified as Serious Repeat Offenders are subject to child protection orders.<sup>255</sup>

Some stakeholders raised specific concerns regarding the placement of young people exiting from detention in residential care homes. The Office of the Public Guardian advised the committee:

Children and young people are being placed in inappropriate residential care that is inadequate to meet their individual care and support needs. This fails to uphold their right to a safe and stable living environment, and places them at significant risk of further criminalisation and return to a watchhouse or detention. Residential care units, which are closed between 9am and 3pm daily, are not appropriate

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<sup>250</sup> Public hearing transcript, Mount Isa, 9 February 2024, p 20.

<sup>251</sup> Public hearing transcript, Mount Isa, 9 February 2024, p 8.

<sup>252</sup> Conrad Townson, Principal Adviser, Child Sexual Exploitation, Integrated Family and Youth Service, public hearing transcript, Kawana Waters, 23 February 2024, p 2.

<sup>253</sup> Submission 143, p 8.

<sup>254</sup> Department Child Safety, Seniors and Disability Services, briefing paper, 7 November 2023, p 1.

<sup>255</sup> Minister for Employment and Small Business, Minister for Training and Skills Development and Minister for Youth Justice, Response to Question on Notice No. 1266 asked on Thursday, 12 October 2023, <https://documents.parliament.qld.gov.au/tableoffice/questionsanswers/2023/1266-2023.pdf>.

placement options for bail or conditional release from detention, both of which may involve a 24-hour curfew.<sup>256</sup>

Similarly, a representative of the Aboriginal and Torres Strait Islander Legal Service told the committee that gaps in the support and supervision provided by residential care homes sometimes contributed to children and young people breaching conditions of bail and returning to detention. She explained:

...most children are tipped out in the middle of the day if they are in resi care, and one child rang up to say, 'My transport has fallen through. I cannot get back. I need help because I am on a curfew.' The response was to call the cops and have the kid arrested and put in the watch house.<sup>257</sup>

A representative of the Youth Advocacy Centre also told the committee, 'We do not believe that any of these serious repeat offenders should be in residential care; we think that is setting them up to fail.'<sup>258</sup>

Other stakeholders suggested that placing these children and young people in residential care could compromise the safety or wellbeing of others residing in those facilities. For example, the Mayor of Townsville stated:

Mixing people with a history in the youth justice system with vulnerable young people is unfair on the vulnerable, and criminal activity associated with offenders living in these residential facilities stigmatises those who do not deserve it.<sup>259</sup>

In evidence to the committee, the QFCC suggested there is a need for alternatives to residential care, including specialised facilities designed to cater to the needs of children and young people transitioning from detention. QFCC suggested such facilities could have more highly trained staff, offer a greater range of services (e.g. on-site education), operate in a different manner (e.g. by beginning to build relationships with children and young people while they were still in detention) and utilise physical spaces specifically designed to address the needs of this cohort.<sup>260</sup>

#### **5.4.2 Better information sharing**

Several stakeholders told the committee that poor information sharing magnifies the challenge of supporting children and young people as they transition from detention back to their communities. For example, a representative of North West Queensland Indigenous Catholic Care Services told the committee that poor information sharing makes it difficult for them to support children and young people returned to the community from detention:

We have young people who come from Cleveland to use our bed of rest while they are waiting for flights to go to community. We get no information. We do not even talk to Cleveland; all of our referrals come through Youth Justice. We have no information. We do not know if they have medical conditions. We have to really quiz to see if there are any alerts or anything that we need to be aware of.<sup>261</sup>

This suggests that improving information sharing between the Department of Youth Justice and the community-based organisations that support children and young people on their return to communities would be beneficial.

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<sup>256</sup> Submission 132, p 11.

<sup>257</sup> Kate Greenwood, Senior Policy Officer, Closing the Gap, Aboriginal and Torres Strait Islander Legal Service, public hearing transcript, Brisbane, 23 November 2023, p 13.

<sup>258</sup> Katherine Hayes, Chief Executive Officer, Youth Advocacy Centre, public hearing transcript, Brisbane, 23 November 2023, p 8.

<sup>259</sup> Cr Jenny Hill AM, Mayor of Townsville, submission 43, p 3.

<sup>260</sup> Private hearing transcript, Brisbane, 4 March 2024.

<sup>261</sup> Joelene McNamara, Youth Hub Coordinator, North West Queensland Indigenous Catholic Care Services, public hearing transcript, Mount Isa, 9 February 2024, p 3.

Hayley Iles, Manager, Youth Support Service, Injilinj told the committee that a fair law and order approach requires the rehabilitation of offenders and reoffenders. Ms Iles advised that better information sharing could allow services to better support young people:

All service providers are not able to access youth crime data. This information is held with the Queensland Police Service that will not release this information to the public and to services. We have tried on numerous occasions. For service providers to view criminal data would be invaluable in finding out what the gaps are in providing services to young people and to apply for funding for various activities that could support young people within the community.<sup>262</sup>

#### **5.4.3 Providing wrap-around support and engaging families**

A variety of stakeholders told the committee that there is a need to provide wrap-around support for young people released from detention over the long term. Many of these stakeholders emphasised that this support should not only be provided to young people, but the families to which they will return.<sup>263</sup>

For example, Rose Malone, the Chief Executive Officer of Darumbal Community Youth Service emphasised the importance of engaging with the families of children and young people in detention. She explained:

...they [young people in detention] come back out and they come back to the same situation that put them in there. No work is done with the family. That is the key thing: you have to have the family on board. You can teach the kids all you like. They actually come out and are really enthused and really want to change their life. They have had education in there and they have had structure—they understand all this—but they go back to a place where nothing has changed. If we do not change that, we are wasting our time over here. We have to work in a wraparound process.<sup>264</sup>

Similarly, a representative of North West Queensland Indigenous Catholic Social Services told the committee:

In terms of bringing young people back into the community, I think we need to start working with the families as soon as that young person goes into detention. I know that a lot of work happens a month or so before they come out of detention, but I think it really needs to start at the beginning with the family that is still at home.<sup>265</sup>

Some stakeholders expressed concern that the poor quality of support offered to children and young people transitioning from detention may be contributing to the high rate of recidivism among this cohort. For example, a representative of the Queensland Family and Child Commission told the committee:

The way we exit young people from detention is almost certainly back to the circumstance where they entered detention. If we are not using that period of time not only to work with the young person but also to work with their family or their external life circumstance then it is no wonder we have the recidivism rate. Over 90 per cent of young people who exit detention come back.... The idea that the young person suddenly becomes no-one's responsibility when they leave the detention centre door has to change.<sup>266</sup>

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<sup>262</sup> Public hearing transcript, Mount Isa, 9 February 2024, p 20.

<sup>263</sup> Submissions 12, 19 and 111.

<sup>264</sup> Rose Malone, Chief Executive Officer, Darumbal Community Youth Service, public hearing transcript, Rockhampton, 27 February 2024, p 15.

<sup>265</sup> Joelene McNamara, Youth Hub Coordinator, North West Queensland Indigenous Catholic Social Services, public hearing transcript, Mount Isa, 9 February 2024, p 3.

<sup>266</sup> Luke Twyford, Chief Executive Officer and Principal Commissioner, Queensland Family and Child Commission, public hearing transcript, Brisbane, 24 November 2024, pp 34-35.

**Committee comment**

Youth detention centres are intended to play a central role in the rehabilitation of children and young people who are detained within them. Unfortunately, in its current form, youth detention is not meeting this expectation.

Regarding transitions from detention, the committee considers that urgent action is required on two fronts in particular: expanding the accommodation options available for children and young people exiting detention and improving information sharing between the Department of Youth Justice and the community-based organisations that support children and young people returning to their communities.

**Recommendation 36**

That the Queensland Government fund a minimum 12-month transition plan for every child and young person transitioning back into the community after detention which is skills, education and health focused, including residential accommodation options. This will require the Queensland Government to identify suitable existing infrastructure for the residential education and training aspects.

**Recommendation 37**

That the Queensland Government urgently address housing availability for children and young people, including emergency and supported accommodation that are connected to support programs or services.

## 6 Operation of the legislative framework

### Summary of this section

- Diversionary pathways, including cautioning and restorative justice conferencing, are key parts of the youth justice system. Evidence suggests that while diversion works well overall, some aspects could be improved.
- Legislation requires courts to consider a broad range of factors when making decisions about bail and sentencing children and young people. This includes the principle that the community should be protected from offences and, in particular, recidivist high-risk offenders.
- The data suggests that courts impose custodial sentences on children and young people relatively rarely. However, in recent years, courts have reportedly imposed detention orders and conditional release orders (which may result in a child or young person spending time in detention) more frequently than in the past.
- Evidence highlights that there are divergent views among the community about whether current bail and sentencing frameworks strike the right balance between competing concerns.
- A number of stakeholders argue for the retention of the principle that detention should be a last resort for young people. However, some individuals and organisations told the committee this principle should be removed.

The Youth Justice Act has been amended multiple times since 1992. A comprehensive evaluation of legislative amendments is required to assess what has made a positive difference, what has had no impact, and what has been detrimental in respect of achieving the desired objectives. There have been multiple ‘big ticket’ amendments such as Boot Camps, the principle of detention as a last resort, making breach of bail an offence, and sentencing options (such as electronic monitoring devices and increased penalties). While there have been some stand-alone evaluations and assessments of aspects of these amendments, some commissioned by governments of the day and independent academic studies, there has been no comprehensive evaluation of the amendments in terms of youth justice and community safety objectives as articulated in a renewed Youth Justice Strategy.

### Recommendation 38

That the Queensland government commit to funding an independent evaluation of all substantive legislative amendments made to the Youth Justice Act to assess their impact on current youth justice and community safety objectives as articulated in a Youth Justice Strategy.

### 6.1 Diversion

Diversion – dealing with offences committed by children and young people outside the courts – is a central part of most youth justice systems. A child or young person’s ability to undertake clear, logical and planned decision making, and to consider the consequences prior to acting, are still developing. Diversion provides alternative options which are often more effective at helping children and young people to understand the consequences of their actions than formal court proceedings.<sup>267</sup>

Diversion can occur at two points in Queensland’s youth justice system:

- by police, before proceedings in court are commenced against the child or young person

<sup>267</sup> Department of Youth Justice, Employment, Small Business and Training, briefing paper, 8 November 2023, p 12.

- by the court, after proceedings in court have commenced and a child or young person has pleaded guilty to the offence.<sup>268</sup>

When police divert a child or young person, they have a variety of options. These include:

- taking no action
- administering a caution
- referring the child or young person to a restorative justice process
- referring the child or young person to a graffiti removal program
- referring a child or young person to a drug diversion assessment.<sup>269</sup>

Some of these options are discussed in more detail in sections 6.1.1 and 6.1.2.

Evidence before the committee suggests that pre-charge and pre-court diversion can successfully prevent some children and young people from becoming entrenched in the youth justice system.<sup>270</sup> Dr Molly McCarthy, Lecturer in Criminology at Monash University elaborated on recent Australian research which showed:

... that young people who are maximally diverted within their first couple of offences are more likely to be classified as low-to-moderate offenders over the ages 10 to 17 years than a chronic offender, and show a significantly reduced volume of overall offending in that period. We know that early diversion works and works well ... for reducing reoffending and reducing victimisation and improving community safety as a corollary.<sup>271</sup>

### 6.1.1 Cautioning

Under the *Youth Justice Act 1992* (YJA), a police officer dealing with a child or young person must consider whether a caution would be appropriate, unless the child or young person is accused of committing a serious offence.<sup>272</sup> Police can only administer a caution if the child or young person admits committing the offence, and agrees to be cautioned.<sup>273</sup>

Police are required to consider a range of factors when deciding whether to caution a child or young person. This includes the circumstance of the alleged offence, the child or young person's criminal history, whether they have previously been cautioned for an offence, and whether they have previously been dealt with under the YJA for an offence in some other way.<sup>274</sup> In practice, cautions are most commonly administered for theft and related offences. In 2022-23, such offences represented more than a quarter (26.6 per cent) of all offences dealt with in this way by police.<sup>275</sup>

A serious offence is an offence subject to life imprisonment or, if committed by an adult, imprisonment for 14 years or more. This means that cautions are not an option for dealing with certain offences commonly associated with serious repeat offenders, including unlawful use of a motor vehicle at night, in company one or more persons, or in a manner that involves (or threatens) violence against people or damage to property.<sup>276</sup>

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<sup>268</sup> YJA, Parts 2 and 3.

<sup>269</sup> YJA, Part 2.

<sup>270</sup> Submission 129, pp 24-39.

<sup>271</sup> Public hearing transcript, Brisbane, 22 November 2023, p 4.

<sup>272</sup> YJA, s 11.

<sup>273</sup> YJA, s 16.

<sup>274</sup> YJA, s 11.

<sup>275</sup> Childrens Court of Queensland, *Annual Report 2022-23*, p 28.

<sup>276</sup> *Criminal Code*, s 408A(1C).

A child or young person may be diverted multiple times. As the Queensland Police Service (QPS) advised the committee, ‘the diversion of a child is not limited to a single incident and instead, a child should be diverted on each and every occasion that a diversionary option is appropriate.’<sup>277</sup> If police fail to divert a child or young person where a court determines that this would have been appropriate, the court may dismiss the relevant charge.<sup>278</sup>

QPS advised the committee that it has made a significant investment in training police so that they are able to administer cautions where this is appropriate. QPS explained:

The Police Cautioning Workshop is available to all police and equips officers with the practical knowledge and skills to administer a caution in accordance with the provisions of the YJA. Delivered by experienced officers from the CPIUs, to 30 September 2023 the QPS had 3,379 caution trained officers across the state, an increase of 1,160 trained officers since 2019.<sup>279</sup>

In December 2023, Acting Assistant Commissioner George Marchesini, the head of QPS’s Youth Crime Taskforce, spoke positively about the use of cautions and their efficacy in terms of recidivism. He stated:

The largest cohort of young people coming to the attention of police have committed lower level offending. Police respond by diversion programs, including police cautioning and restorative justice conferencing. There are over 3,200 police officers across Queensland who are authorised to administer a caution. As a result, we are seeing around 70 per cent of young people who do not reoffend.<sup>280</sup>

This positive assessment of cautioning is consistent with academic research, which shows that children and young people who are cautioned are significantly less likely to reoffend.<sup>281</sup>

The use of cautions has increased in recent years. The Childrens Court reports that in 2022-23, QPS administered 15,515 cautions to child offenders. This was an increase of 1,170 (8.2 per cent) compared to the previous year. This increase in cautions was driven primarily by a growth in the number of cautions administered for theft and related offences (up by 331, or 8.7 per cent), acts intended to cause injury (up by 268 or 18.3 per cent) and unlawful entry with intent, burglary and break and enter (up by 198 or 12.1 per cent). In contrast, fewer cautions were administered for sexual assault and related offences (down by 47 or 5.9 per cent).<sup>282</sup>

Overall, numbers of cautions have increased by 44 per cent over the past decade.

Many stakeholders emphasised the value of cautions as a diversionary option, while several call for an increase in its use.<sup>283</sup> However, some stakeholders expressed concern that Aboriginal and Torres Strait Islander children and young people are less likely to be cautioned than their non-Indigenous peers. Several cited academic research that found that Indigenous children and young people are almost three times less likely to be cautioned than non-Indigenous children and young people.<sup>284</sup> Although that research was published over a decade ago, some stakeholders expressed concern that Indigenous children and young people in Queensland remain less likely to be cautioned.<sup>285</sup>

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<sup>277</sup> Queensland Police Service, briefing paper, 13 November 2023, p 9.

<sup>278</sup> YJA, s 21.

<sup>279</sup> Queensland Police Service, briefing paper, 13 November 2023, p 14.

<sup>280</sup> Acting Assistant Commissioner George Marchesini, Youth Crime Taskforce, Queensland Police Service, public briefing transcript, Brisbane, 5 December 2023, p 13.

<sup>281</sup> See submission 8, p 43.

<sup>282</sup> Childrens Court of Queensland, *Annual Report 2022-23*, p 28.

<sup>283</sup> Submissions 8, 56 and 94.

<sup>284</sup> Submission 8, p 19; submission 129, p 28.

<sup>285</sup> Submission 134.

### **Committee comment**

Cautions are an important and valuable form of diversion. However, there are concerns among some parts of the community that some children and young people are receiving a very high number of cautions prior to being dealt with by more serious means. It's important that Police get the balance right. Police cautioning provides an important opportunity to link children and young people with services designed to address the underlying causes of their behaviour, before they become entrenched in the justice system.

The committee heard about a number of new and recently expanded initiatives, including Early Action Groups and Youth Co-Responder Teams, and 'place-based'. While these initiatives are responsive to local needs, they share common themes including a multi-departmental approach, power-sharing amongst government and non-government organisations and established information sharing functions. The committee supports these initiatives and would like to see those expanded throughout all police regions.

### **Recommendation 39**

That the Queensland Government identify priority areas in which to urgently expand Youth Co-Responder Teams and the Early Action Group model and additional place-based responses to target the cohort of children and young people coming to the attention of police with a multi-agency service response for children and young people and their families. Ideally, the Early Action Groups model should comprise membership from the following agencies: Queensland Police Service, Department of Youth Justice, Department of Child Safety, Seniors and Disability Services, Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts, Queensland Health, Department of Education and the Department of Housing.

#### **6.1.1.1 Respected person cautioning**

Under the YJA, children and young who are members of an Aboriginal or Torres Strait Islander community may be cautioned by a respected person from their community, rather than by a police officer. This option is only available where a respected person is available and willing to administer a caution to the child or young person.<sup>286</sup>

Some stakeholders noted that the availability and efficacy of respected person cautioning varies between communities, in part because the capacity of First Nations communities to undertake certain roles, including administering cautions, varies significantly across the state. For example, Professor Tamara Walsh, from the University of Queensland, advised:

The *Youth Justice Act 1992* (Qld) includes several provisions that seek to promote cultural appropriateness and cultural participation for Indigenous people. Some of these provisions assume that representatives of a community justice group will undertake certain tasks such as making submissions to the court on bail and sentencing. However, not every community has a community justice group, and not every community justice group is sufficiently resourced to undertake these tasks.<sup>287</sup>

Indeed, it appears that First Nations communities are provided with limited financial support to deliver cautioning programs, despite the benefits these programs offer to the Queensland community as a whole. For example, in 2022, the Queensland Government committed almost \$200,000 to fund an Elders Cautioning Pilot Program in Inala.<sup>288</sup> Similar programs are currently being run by Elders in other

<sup>286</sup> YJA, s 17.

<sup>287</sup> Submission 8, p 7.

<sup>288</sup> Hon Leanne Linard, Minister for Children and Youth Justice and Minister for Multicultural Affairs, 'New local projects set to bolster efforts to reduce youth crime', *Media statement*, 4 August 2022, <https://statements.qld.gov.au/statements/95918>.

communities, including in Rockhampton, North Stradbroke Island, and Townsville, but stakeholders told the committee the programs in these communities are unfunded and operated by volunteers.<sup>289</sup>

Mr Mason McKenzie, Townsville Justice Group, told the committee that police cautioning has been very effective.<sup>290</sup> The committee heard from Mr Karl McKenzie how it operates in Townsville who also noted the positive outcomes of having both older and younger members of the community involved:

We have an older person and a younger person when we deal with the police with co-cautioning. The older person delivers admonishment and then the younger person links with the child and really shows them a future. It actually is quite wonderful watching the young ones link with the young ones. They can tell them exactly the same thing as you and I do and the kids are not interested. It is different when the young ones talk to them and say, 'Hey, mate, you've got a future.' ... The kids listen to each other and they talk about mates who have apprenticeships and are working out at the mines—things we cannot do.<sup>291</sup>

### **Committee comment**

Respected persons cautioning can be a powerful tool for changing the behaviour of young Indigenous people who have come into contact with the youth justice system.

It is important to determine the efficacy of these programs, including the Elders Cautioning Pilot Program in Inala, and support other communities to deliver programs that build on that example. To that end, the committee recommends that the Queensland Government: (i) ensure that an evaluation of the Inala pilot is completed, and made public, in a timely manner; and (ii) identify strategies to build the capacity of First Nations communities to deliver effective cautioning programs. Such strategies should ideally be co-designed with communities and be accompanied by sufficient funding to support their implementation.

### **Recommendation 40**

That the Queensland Government ensure an evaluation of the Elders Cautioning Pilot Program in Inala is completed, and made public, in a timely manner.

### **Recommendation 41**

That the Queensland Government identify strategies to empower First Nations communities to deliver effective cautioning programs that are co-designed.

### ***Issues for further examination***

The committee notes that some children and young people accrue a large number of cautions and has heard anecdotally that this is because some offenders engage in certain offending behaviour because they consider it will likely attract a caution rather than a charge. Whether this is an issue in practice requires further examination.

### **6.1.2 Restorative justice conferencing**

Young people can be referred to restorative justice conferencing, also known as youth justice conference, by both the police and the courts. Restorative justice processes include group conferencing (which includes an offender and victim) and alternative diversion processes (which do not include a victim).

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<sup>289</sup> Submission 129, p 31.

<sup>290</sup> Public hearing transcript, Townsville, 5 February 2024, p 2.

<sup>291</sup> Public hearing transcript, Townsville, 5 February 2024, p 2.

Police may make a referral to a restorative justice process if several requirements are met. These include a requirement that the child or young person to admit to committing the offence, and a requirement that they indicate a willingness to comply with a referral. Police must also consider the nature of the offence, the harm it caused to anyone, and whether the interests of the community and the child or young person would be served by dealing with the offence via a restorative justice process.<sup>292</sup>

The Childrens Court may dismiss a charge if it finds that the offence should have been referred to a restorative justice process.<sup>293</sup> Courts must also consider referring a child or young person to a restorative justice process:

- as an alternative to sentencing, if a child or young person enters a guilty plea for an offence.
- to help the court make an appropriate sentence order, if the court makes a finding of guilt against a child or young person.<sup>294</sup>

Data published by the Childrens Court indicates that in 2022-23, 2,164 distinct children and young people were referred to a restorative justice process. This was 3 per cent fewer than in the previous year. However, only about three-quarters (74.1 per cent) of the children and young people who were referred actually participated in a restorative justice process.<sup>295</sup> Children and young people were most frequently referred for theft and related offences, which made up almost one-third (30.8 per cent) of referrals.<sup>296</sup>

Research undertaken by the QFCC indicates that First Nations children and young people are less likely to be referred to restorative justice processes by the police than their non-Indigenous peers, but more likely to be referred to such processes by the courts.<sup>297</sup>

A variety of stakeholders noted the value of restorative justice processes, with several emphasising that it is not a 'soft option' for the children and young people concerned. For example, a representative of the Queensland Law Society explained:

It is actually very confronting for a young person to come into a room full of adults and sometimes an adult who might be a little angry or distressed at what has happened. It is a far more challenging option for a young person than getting another one of the options such as a reprimand, a good behaviour bond, even a probation. It takes an enormous amount of courage for young people to participate in that process. We encourage it as legal professionals because we know it is evidence based and we know that long term it can be very helpful for a child to understand in a real way the consequences of their actions.<sup>298</sup>

Other stakeholders pointed to evidence that shows restorative justice processes are effective in delivering positive outcomes, both in terms of reducing reoffending, and in providing benefits to victims.<sup>299</sup>

During the Toowoomba hearing the committee heard from one victim representative that:

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<sup>292</sup> YJA, s 22.

<sup>293</sup> YJA, s 24A.

<sup>294</sup> YJA, s 162.

<sup>295</sup> Childrens Court of Queensland, *Annual Report 2022-23*, p 28.

<sup>296</sup> Childrens Court of Queensland, *Annual Report 2022-23*, p 28.

<sup>297</sup> Queensland Family and Child Commission, *Restorative Justice Conferencing in Queensland*, June 2023, p 17.

<sup>298</sup> Carolyn Juratowitch, Member, Children's Law Committee, Queensland Law Society, public hearing transcript, Brisbane, 24 November 2023, pp 8-9.

<sup>299</sup> See for example submission 129, p 29.

I think it would give you a little bit of closure and perhaps the opportunity to talk about the impact on us. For me it was more the restorative justice side of things, gaining more of an understanding of where that child has come from—not their personal information but what has led them to that so we can, down the track, help these children. I think for me it is more closure and feeling like you are listened to and acknowledged as being a victim, because it sucks being a victim.<sup>300</sup>

This is consistent with an evaluation of restorative justice conferencing published in 2018. That evaluation found that restorative justice conferencing:

- was effective in decreasing both the frequency and magnitude (seriousness) of re-offending
- delivered benefits for victims, with 70 percent reporting that participating in a restorative justice process had helped them to manage the effects of crime.<sup>301</sup>

However, evidence provided by victims of crime paints a mixed picture of how restorative justice processes are currently working in practice. As discussed earlier in this report, while many victims told the committee they found the meeting with the offender to be a positive experience, they also reported problems with how the process was managed. For example, many victims stated that they experienced delays and turnover in the staff managing their case, or felt poorly supported to prepare for their conference (see section 3.4.2).

### **Committee comment**

Restorative justice processes can be a powerful tool to change the behaviour of children and young people and address the impact of their behaviour on victims of crime. The effective operation of restorative justice processes requires a significant increase in the resources allocated to them.

The committee is also concerned that there has been some instances where the opportunity to refer children and young people to restorative justice conferencing early, when it is most likely to be successful, may have been missed, particularly for First Nations children and young people.

The committee notes that only three-quarters of the children and young people who are referred to a restorative justice process actually participate in one. This represents another missed opportunity, both for the children and young people concerned, and for the victims affected by their behaviour. The committee considers that there would be significant value in identifying why some children and young people do not participate in restorative justice conferencing when given the opportunity to do so, and developing strategies to improve the rate at which young people participate in these processes.

### **Recommendation 42**

That the Queensland Government significantly increase the resources allocated to restorative justice processes in order to reduce delays and improve the experiences of victims who participate in these processes.

### **Recommendation 43**

That the Queensland Government develop and implement strategies to ensure that children and young people are referred to restorative justice processes at the earliest opportunity. This should include measures to ensure that First Nations children and young people are referred to restorative justice processes at rates comparable to their non-Indigenous peers.

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<sup>300</sup> Karynne Paul, submitter, public hearing transcript, Toowoomba, 16 February 2024, p 34.

<sup>301</sup> Department of Child Safety, Youth and Women, *Restorative Justice Project: 12-month program evaluation*, 2018, <https://desbt.qld.gov.au/youth-justice/evaluations/restorative-justice-conferencing>.

#### **Recommendation 44**

That the Queensland Government identify why some children and young people do not participate in restorative justice processes when given the opportunity to do so, and develop strategies to improve the rate at which children and young people participate in these processes.

#### ***Issues for further examination***

The issue of whether police should be provided the power to compel a child or young person to engage in youth justice conference requires further examination, with a focus on ensuring that victims' needs are met through this process.

#### **6.1.3 Young people of unsound mind or unfit to stand trial**

The *Youth Justice Act 1922* provides that the *Mental Health Act 2016* (Mental Health Act) applies to children.<sup>302</sup> Under that Act, the Childrens Court can dismiss a complaint against a child or young person if it is satisfied that they were of unsound mind when the offence was committed or is unfit for trial.<sup>303</sup> In such cases, the court may refer the child or young person to Queensland Health, the National Disability Insurance Scheme, or another entity that the court considers appropriate for treatment and care, provided that they do not appear to have a mental illness.<sup>304</sup> In serious, exceptional cases, the court can refer a child or young person to the Mental Health Court.<sup>305</sup>

A number of stakeholders expressed concern that the options provided by Mental Health Act are not used as frequently as they should be in youth justice matters. For example, Professor Tamara Walsh, from the University of Queensland, advised the committee:

These options are under-utilised: very few children have their charges dismissed on the grounds that they are or were of unsound mind or are unfit for trial, and very few children are referred to the Mental Health Court.<sup>306</sup>

Some other stakeholders made similar observations and suggested that new or expanded diversionary options may be necessary to address the needs of young people with disabilities who are found unfit to stand trial.<sup>307</sup>

The committee did not receive any evidence that quantifies how often the relevant provisions of the Mental Health Act are used in relation to children and young people. However, research conducted on fitness for trial assessments for youth offenders under the Act's precursor (the *Mental Health Act 2000*) found that young people were about half as likely to be found unfit to stand trial compared to adults.<sup>308</sup> The reasons for this discrepancy were not clear.

##### ***6.1.3.1 Alternative approaches in other jurisdictions***

Experience from other jurisdictions suggests there are a range of options for dealing with children and young people who have underlying conditions or disabilities that contribute to their offending behaviour.

<sup>302</sup> YJA, s 61.

<sup>303</sup> *Mental Health Act 2016*, ss 170 and 172.

<sup>304</sup> *Mental Health Act 2016*, s 174.

<sup>305</sup> *Mental Health Act 2016*, s 175.

<sup>306</sup> Submission 8, p 85.

<sup>307</sup> Submission 90.

<sup>308</sup> Bruce D. Watt, B., Jodie O'Leary, and Suzie O'Toole, (2017), Juvenile fitness for trial: Lawyer and youth justice officer professional survey, *Psychiatry, Psychology, and Law*, 24(2), pp 191–204.

The Australian Capital Territory, for example, recently passed legislation to enable the making of Intensive Therapy Orders in relation to children and young people. This change forms part of a broader package of reforms that include raising the age of criminal responsibility initially to 12 and then to 14 (by 1 July 2025).<sup>309</sup>

Under that package of reforms, Intensive Therapy Orders will provide a way of responding to children and young people over the age of 10 who engage in conduct that leads to a significant risk of harm to the child or young person or someone else outside of the criminal justice system. There will be no requirement for a child or young person to be charged with or found guilty of a criminal offence.<sup>310</sup>

Intensive Therapy Orders will allow the ACT's Childrens Court to:

- direct that a child or young person undergo an assessment and/or treatment in accordance with a therapy plan
- authorise that a child or young person be confined for this purpose where 'reasonably necessary as a last resort for the purpose of the assessment or treatment'.<sup>311</sup>

The threshold for making an Intensive Therapy Order will be quite high. The Childrens Court may only make such an order if it is satisfied that:

- if the order is not made, there will be a significant risk of significant harm to the child or young person, or someone else, due to the child or young person's conduct
- less restrictive options have been exhausted, are not appropriate, or are unavailable.<sup>312</sup>

Only the Director-General of the relevant government department can apply for an Intensive Therapy Order.<sup>313</sup> A variety of other safeguards will also apply.<sup>314</sup>

### **Committee comment**

Watch houses and detention centres are not equipped to support children and young people who are living with a significant mental health condition and/or a disability. This is an issue that is inexplicably linked to the need for children and young people to receive comprehensive health screening at the earliest opportunity, ideally before they have any formal contact with police or the courts.

The committee has heard concerning anecdotal evidence of children and young with complex disabilities being detained in circumstances that put both them, and the staff involved, in traumatic situations and create a number of safety risks to those involved.

Whether or not these children and young people are later assessed as fit to stand trial, there is an urgent need to identify alternative options for detaining this cohort. This requires facilities that are designed to accommodate their needs and, operated by appropriately qualified staff, and could potentially include secure therapeutic facilities. This will reduce the risk of harm to the children and young people concerned, as well as to staff. It will also provide the community with confidence that

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<sup>309</sup> *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023 (ACT)*.

<sup>310</sup> New Part 16.2 of the *Children and Young People Act 2008 (ACT)*, *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023 (ACT)*, s 14.

<sup>311</sup> New s 532 of the *Children and Young People Act 2008 (ACT)*, *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023 (ACT)*, s 14.

<sup>312</sup> New s 549 of the *Children and Young People Act 2008 (ACT)*, *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023 (ACT)*, s 14.

<sup>313</sup> New s 539 of the *Children and Young People Act 2008 (ACT)*, *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023 (ACT)*, s 14.

<sup>314</sup> *Justice (Age of Criminal Responsibility) Legislation Amendment Act 2023 (ACT)*, s 14.

the courts have tools they need to respond effectively to children and young people who require therapeutic, rather than criminal, interventions.

#### Recommendation 45

That the Queensland Government immediately investigate and implement alternative options to watch houses and detention centres for children and young people with a significant mental health conditions and/or disabilities so they can be appropriately diagnosed, treated and to ensure justice outcomes are effective.

## 6.2 Bail

Bail decisions relating to children and young people are clearly a top priority for many parts of the community. The committee received a substantial amount of evidence about how the current bail framework is operating in practice. However, as detailed in section 6.2.5, stakeholders shared highly divergent views regarding the operation of this framework and potential changes to it.

### 6.2.1 The current bail framework

The *Bail Act 1980* applies to children, but is subject to the YJA, which sets out a framework for bail decisions relating to children and young people.<sup>315</sup>

The YJA provides that a child or young person **must** be kept in custody if the police<sup>316</sup> or the court is satisfied:

- there is an unacceptable risk the child or young person will commit an offence that would endanger others, and a bail conditions would not be able to address this risk
- there is an unacceptable risk that the child or young person will not attend court as required, or will commit an offence, interfere with witnesses or obstruct the course of justice.<sup>317</sup>

In making decisions about bail, police and the courts **must** consider a wide range of factors, including:

- the nature and seriousness of the offence
- the child or young person's criminal history, home environment, employment and background
- the history of any previous grant of bail to the child or young person
- the strength of the evidence against the child or young person
- the child or young person's age, maturity, cognitive ability, and developmental needs
- whether there is someone willing to support the child or young person to comply with bail
- for Aboriginal and Torres Strait Islander children and young people, additional considerations including cultural matters and connection with family and community.<sup>318</sup>

Police and courts **may** also have regard to the following:

- the principle that detention should be a last resort

<sup>315</sup> *Youth Justice Act 1992*, s 47.

<sup>316</sup> The police decide whether or not to release a child or young person who has been charged with an offence on bail prior to their first court appearance. After their first court appearance, the court is responsible for bail decisions.

<sup>317</sup> *Youth Justice Act 1992*, s 48AAA.

<sup>318</sup> *Youth Justice Act 1992*, s 48AA(2).

- whether refusing bail would adversely impact a child or young person’s family relationships, schooling or employment
- other matters relevant to the particular child or young person, such as exposure to trauma, health or disability
- for children under 14, their vulnerability and community expectations that such children are entitled to special care and protection.<sup>319</sup>

In 2021, the YJA was amended to include a limited presumption against bail for some children and young people. This change was made due to concerns about the risk posed by serious repeat offenders.

The YJA now provides that bail **must** be refused if:

- a child or young person is charged with a prescribed indictable offence,<sup>320</sup> and
- the child or young person allegedly committed the offence while released into the custody of a parent, or at large with or without bail, or awaiting trial or sentencing for another indictable offence, and
- the child or young person cannot provide good reasons (‘show cause’) why their detention in custody is not justified.<sup>321</sup>

### 6.2.2 Bail decisions in practice

The majority of young people who are detained police are ultimately released on bail, either because bail is granted by the police, or because it is granted by a court. Notably, the fact that the police decide not to grant bail to a young person does not necessarily mean they will object to bail being granted by a court.

The QPS advised the committee that it normally objects to bail being granted in ‘between a third and half’ of cases in which a young person appears before a court, and that ‘the court agrees with us on about one-third of those occasions.’ This is broadly consistent with data provided to the committee by the Department of Youth Justice, indicating that in 2022-23, bail was granted following 57 per cent of court appearances at which a remand decision was required.<sup>322</sup>

However, evidence before the committee suggests that the number of serious repeat offenders who are granted bail is significantly lower. QPS advised the committee that it ‘does seek to have serious young repeat offenders held to account, particularly those that use violence and who are armed, and, where appropriate, their bail objected to in the strongest terms.’<sup>323</sup> This is reflected in data provided to the committee by the Department of Youth Justice, which indicates that on an average day in the 12-month period prior to 30 June 2023, just over one-third (36.4 per cent) of young people classified as serious repeat offenders were on remand (i.e. had been denied bail).<sup>324</sup>

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<sup>319</sup> *Youth Justice Act 1992*, s 48AA(3).

<sup>320</sup> *Youth Justice Act 1992*, schedule 4, defines a prescribed indictable offence as: a life offence; offences that if committed by an adult, they could receive a sentence of 14 years or more, except for an offence against the *Drugs Misuse Act 1986*, s 9(1) for which the maximum penalty is 15 years imprisonment; or offences against specific provisions of the Criminal Code (for example, s 315A, 323, 328A, 339).

<sup>321</sup> *Youth Justice Act 1992*, s 48AF.

<sup>322</sup> Department of Youth Justice, Employment, Small Business and Training, briefing paper, 8 November 2023, p 23.

<sup>323</sup> Acting Assistant Commissioner Andrew Massingham, Youth Crime, Queensland Police Service, public briefing transcript, Brisbane, 21 February 2024, p 12.

<sup>324</sup> Department of Youth Justice, Employment, Small Business and Training, Response to Questions Taken on Notice, 29 November 2023, p 3.

QPS also advised the committee that, in its view, the process for appealing bail decisions was working well. In February 2024, a representative from QPS told the committee:

We took 16 objections [to bail decisions] to the Supreme Court last year and we got a successful outcome in 12 of those. I think that aspect, in terms of if we are not agreeing with the decision of the magistrate and we need to ventilate at the Supreme Court level, is working effectively enough.<sup>325</sup>

The committee also notes the impact on a community whenever a young person commits a serious offence whilst on bail. Further, media reporting on youth crime often cannot capture the full extent of why bail was granted to a young person and what bail supports and conditions were placed on them. As already outlined in this report, communities have the right to feel safe and media reporting on young people committing crimes while on bail compromises public confidence.

### **Committee comment**

The committee acknowledges that differing assessments of the appropriateness of bail may often reflect differences in the information available to the police, the courts, and the public. When courts grant bail to a young person despite objections from the police, it can contribute to a perception within the community that public safety is not being given sufficient weight, even where a decision may have been justified in the circumstances.

The ability of the police to appeal bail decisions to higher courts constitutes an important check on this process. It provides an avenue for reviewing the appropriateness of decisions made by lower courts, and a mechanism for reassuring the public that police are able to have their concerns about the risk posed by young people taken seriously. As such, the committee considers it critical that QPS have the resources necessary to appeal bail decisions where they believe this is appropriate.

Additionally, the committee believes that greater transparency regarding Childrens Court decisions, coupled with a stronger public awareness and communication campaign would assist Queenslanders in understanding the current bail framework. The committee notes recommendations WHAT AND WHAT

### **Recommendation 46**

That the Queensland Government ensure that the Queensland Police Service is appropriately resourced to appeal bail decisions relating to children and young people to higher courts where they consider this to be appropriate.

### ***Issues for further examination***

The issue of whether sufficient weight is given to police recommendations regarding bail has been identified as requiring examination.

### **6.2.3 Impact of recent legislative changes**

Broadly speaking, recent legislative changes appear to have made it harder for some young people to get bail. The final report of the Youth Justice Reforms Review, completed in March 2022 (the 2022 Review) assessed the impact of the *Youth Justice and Other Legislation Amendment Act 2021*. It concluded that the changes made by that Act, including the removal of the presumption of bail in some cases (replaced by a requirement to show cause) had likely contributed to the observed increase in the number of children held on remand. The report stated:

<sup>325</sup> Acting Assistant Commissioner Andrew Massingham, Youth Crime, Queensland Police Service, public briefing transcript, Brisbane, 21 February 2024, p 15.

At 31 October 2021 the show cause provisions appear to be contributing to an increase on remand in custody rates. Compared to previous years, there was an increase in the number of distinct young people remanded in custody, an increase in the average duration in custody and an increase in average daily numbers of young people in custody.<sup>326</sup>

QPS advised the committee that it had observed ‘more serious repeat offenders are being kept in custody now than have previously been kept in custody.’<sup>327</sup> However, data provided by the Department of Youth Justice presents a mixed picture. While the number of serious repeat offenders on remand on an average day increased from 121 to 168 between 2020-21 and 2022-23, the proportion of serious repeat offenders on remand on an average day dropped slightly, from 38.8 per cent to 36.4 per cent.<sup>328</sup>

Recent changes to the bail laws have also contributed to a significant increase in the number of bail applications dealt with by the courts. In 2021-22 there were 145 applications for bail made in the Childrens Court, but this rose to 204 in 2022-2023.<sup>329</sup> There has also been a significant increase in the use of conditional bail programs. In 2022-23, the Childrens Court ordered 1,041 conditional bail programs, compared to 826 in the previous year.<sup>330</sup>

#### 6.2.4 Bail conditions for young people

Queensland’s courts can and do impose a wide range of conditions when they grant bail to children and young people. These can include requirements to reside at a particular address, attend school, comply with a curfew, not have contact with certain people (such a co-offenders or victims), or not attend certain locations.<sup>331</sup>

Children and young people may be offered support to comply with bail conditions. These are known as conditional bail programs, and are designed to assist children and young people who the court thinks are at risk of not complying with bail. As explained by the government itself, children and young people are likely to be offered a conditional bail program if they:

- have been refused watch-house bail and had their bail refused at their first court appearance
- have a history of failing to appear or not doing what their bail conditions say
- are in breach of a community based order
- are at risk of being placed in custody while a pre-sentence report is prepared.<sup>332</sup>

The Department of Youth Justice advised the committee:

A court may place a young person on a conditional bail program if they need extra support to meet their bail conditions. This could include one-on-one contact with a youth justice worker who will connect them with programs to help them stay out of trouble until their next court appearance. Programs can include

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<sup>326</sup> *Youth Justice Reforms Review*, Final report, p 61. <https://www.dcssds.qld.gov.au/resources/dcsyw/about-us/reviews-inquiries/youth-justice-reforms-review-march-2022.pdf>

<sup>327</sup> Acting Assistant Commissioner Andrew Massingham, Youth Crime, Queensland Police Service, public briefing transcript, Brisbane, 21 February 2024, p 15.

<sup>328</sup> Department of Youth Justice, Employment, Small Business and Training, Response to Questions Taken on Notice, 29 November 2023, p 3.

<sup>329</sup> Childrens Court, *Annual Report 2022-23*, p 9.

<sup>330</sup> Childrens Court, *Annual Report 2022-23*, p 42.

<sup>331</sup> YJA, ss 52, 52A.

<sup>332</sup> Queensland Government, ‘Bail and bail with conditions’, <https://www.qld.gov.au/law/sentencing-prisons-and-probation/young-offenders-and-the-justice-system/sentencing-young-offenders/bail-and-bail-with-conditions>.

educational or employment-related activities, programs that address risk of re-offending, cultural development, life skills, social skills and sporting programs.<sup>333</sup>

Although conditional bail programs are designed to help children and young people to comply with their bail conditions, they do not guarantee this outcome. Professor Tamara Walsh, from the University of Queensland, advised the committee that:

- in 2021/22, 821 children were ordered to commence a conditional bail program
- less than two thirds of children who commence conditional bail programs complete them successfully
- Indigenous children are less likely to complete a conditional bail program than their non-Indigenous peers, but constitute the majority of children on a conditional bail program.<sup>334</sup>

Some children and young people may be offered more extensive support through an Intensive Bail Initiative. These programs, which are currently available in Townsville, Caboolture, North Brisbane, Logan, the Gold Coast, and Toowoomba, are targeted at children and young people with more complex needs, including many who are classified as serious repeat offenders.<sup>335</sup>

Several organisations that provide children and young people with intensive bail support spoke positively about these programs. However, some noted that they remain limited both in terms of their geographical scope, and the number of children and young people they are funded to assist.<sup>336</sup>

A small number of stakeholders expressed reservations about the expansion of intensive bail initiatives, noting that they involve high levels of surveillance and set high expectations regarding children and young people's behaviour. As a result, where used inappropriately, such programs risk increasing, rather than decreasing, recidivism.<sup>337</sup>

### **Committee comment**

Conditional bail programs have an important role to play in helping children and young people to comply with their bail conditions. This contributes to two important goals: reducing the number of children and young people on remand and promoting community safety.

However, the committee has heard concern from some parts of the community that these programs are sometimes offered to children and young people who are highly unlikely to comply with their bail conditions. This appears to be reflected in data provided to the committee, which indicates that more than one-third of children and young people placed on a conditional bail program do not complete them successfully.

Some children and young people currently being placed on conditional bail programs may require the more extensive supports that are offered through intensive bail initiatives. This suggests a potential need to expand the geographical scope of intensive bail initiatives, and the number of places available in those programs.

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<sup>333</sup> Department of Youth Justice, Employment, Small Business and Training, briefing paper, 30 November 2023, p 46.

<sup>334</sup> Submission 8, p 63.

<sup>335</sup> Department of Youth Justice, Employment, Small Business and Training, briefing paper, 30 November 2023, p 46.

<sup>336</sup> Submission 51 and 94; Youth Advocacy Centre, public hearing transcript, Brisbane, 23 November 2024.

<sup>337</sup> Submission 8, p 63.

#### **Recommendation 47**

That the Queensland Government ensure that existing Intensive Bail Initiatives are evaluated and, subject to that evaluation, consider expanding intensive bail support initiatives to ensure that children and young people with complex needs receive the help they need to comply with their bail conditions and are able to access that support across the state.

#### ***Issues for further examination***

The committee considers that the circumstances in which conditional bail programs are offered to children and young people requires further examination to ensure these strike the right balance between community safety and the interests of the child.

#### **6.2.5 Divergent community views regarding bail decisions**

Stakeholders expressed divergent views about whether current bail frameworks strike the right balance between community safety and other concerns, including the prospects of a young person's rehabilitation.

A significant number of stakeholders took the view that recent legislative changes had made it too difficult for some children and young people to get bail. They suggested this undermined community safety in the long-term because it undermined children and young peoples' prospects of rehabilitation.<sup>338</sup> Some proposed that the relevant legislative changes requiring certain children and young people to 'show cause' why they should be granted bail should be repealed.<sup>339</sup>

In contrast, many members of the public and some victims' advocacy groups expressed concern that some bail decisions fail to adequately protect the community from harm. They took the view that it is too easy for children and young people to get bail, even when they have been accused of violent offences.<sup>340</sup> A number of individuals told the committee that they or members of their family had been the victims of crimes committed while children or young people were on bail.<sup>341</sup>

#### **Committee comment**

The committee acknowledges that there is significant concern among some parts to the community that some bail decisions do not strike the right balance between community safety and competing concerns. As noted above, the committee considers that the appeal process has an important role to play. Where the appeal process operates effectively, it provides the community with a degree of assurance that courts are striking an appropriate balance between the different factors they must consider when making decisions about bail.

The committee has identified a need to amend the *Youth Justice Act 1992* to ensure that serious repeat offender declarations are taken into account when bail decisions are made. See Recommendation 54, below, and the committee comment that precedes it.

#### **6.3 Sentencing**

The sentencing of young people is another high priority area for many Queenslanders. As detailed in section 6.3.5, it is another area in which stakeholders shared divergent views about the operation of the current system and potential changes to it.

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<sup>338</sup> Submissions 8, 56, 94, 111

<sup>339</sup> Submissions 16, 129, 134, 142.

<sup>340</sup> Submissions 48, 87, 147

<sup>341</sup> Submission 47.

### 6.3.1 The current sentencing framework

The YJA provides a framework that guides the sentencing of youth offenders. This framework requires courts sentencing children and young people to take into account:

- the Youth Justice Principles
- sentencing principles that apply to children and young people under the YJA
- special considerations that must be applied in proceedings against children and young people
- general principles that apply to the sentencing of all people.<sup>342</sup>

Table 2, on the next page, provides a summary of each part of this framework. As that table demonstrates, the sentencing framework for youth offenders is complex and requires courts to balance a wide range of factors.

Following changes made by the *Strengthening Community Safety Act 2023*, if a court has declared that a child or young person is a serious repeat offender (see section 6.3.6), the court **must have primary regard** to five factors during sentencing:

- the need to protect members of the community
- the nature and extent of violence, if any, used in the commission of the offence
- the extent of any disregard by the child or young person in the commission of the offence for the interests of public safety
- the impact of the offence on public safety
- the child or young person's previous offending history and bail history.<sup>343</sup>

#### **Committee comment**

The committee notes the very broad range of factors that courts must consider when sentencing children and young people.

The ability of the courts to balance the various factors they must consider when making decisions about bail is contingent on the quality of information provided to them. Some stakeholders have expressed concern to the committee that courts do not always have access to all relevant information about a child or young person.

For example, the courts are able to consider a child or young person's full offending history, not just their criminal record, at sentencing. However, the committee has been told anecdotally that this information is not always provided to the court in practice.

The committee considers it critical that courts have access to this kind of information in a regular and reliable manner, to ensure they are able to give it appropriate weight during sentencing.

#### **Recommendation 48**

That the Queensland Government immediately investigate whether additional resources and/or changes to practice are necessary to ensure information that is relevant to the sentencing of children and young people, including offending history, is provided to the courts by relevant actors, including the Queensland Police Service, the Office of the Director of Public Prosecutions, and the Department of Youth Justice.

<sup>342</sup> YJA, s 150.

<sup>343</sup> YJA, s 150A

**Table 2** Factors courts must take into account when sentencing children and young people

<p><b>Youth Justice Principles</b> relevant to sentencing (YJA, Schedule 1)</p>	<ul style="list-style-type: none"> <li>• <b>Principle 1:</b> The community should be protected from offences and, in particular, recidivist (repeat) high-risk offenders.</li> <li>• <b>Principle 2:</b> The youth justice system should uphold the rights of children, keep them safe and promote their physical and mental wellbeing.</li> <li>• <b>Principle 9:</b> A child who commits an offence should be held accountable and be encouraged to accept responsibility for their actions. They should be given a chance to have guidance, strengthen their family and to develop in socially acceptable ways.</li> <li>• <b>Principle 10:</b> A victim of an offence should be given a chance to be part of the process of dealing with the child for the offence.</li> <li>• <b>Principle 13:</b> A child’s age, maturity and, where appropriate, cultural and religious beliefs and practices should be considered.</li> <li>• <b>Principle 14:</b> If the child is of Aboriginal or Torres Strait Islander background, the child should be dealt with in a way that involves their community if possible.</li> <li>• <b>Principle 17:</b> A child should be supported to stay connected to the community, continue their education, training or employment and to continue to live at home, if possible.</li> <li>• <b>Principles 18 and 19:</b> A child should be detained in custody only as a last resort in a suitable facility and for the shortest time justified in the circumstances.</li> </ul>
<p><b>Sentencing principles for children</b> (YJA, s 150(1)(d) to (m), and ss 150(3)-(3A))</p>	<ul style="list-style-type: none"> <li>• The nature and seriousness of the offence.</li> <li>• The child’s previous history of offending.</li> <li>• Whether the child committed the offence for which they are being sentenced while waiting to have another charge or charges finalised.</li> <li>• Whether the child is a victim of, or has been exposed to, domestic violence, and whether this has contributed to the offence.</li> <li>• Any information about the child (including a pre-sentence report and bail history).</li> <li>• Any submissions made by a representative of the Community Justice Group in the child’s community if the child is Aboriginal or Torres Strait Islander (for example, the child’s connection with the community, family or kin, cultural considerations etc).</li> <li>• The impact of the offence on any victim, including those provided to the court in a victim impact statement.</li> <li>• Incomplete sentences, such as a sentence the child is still serving for another offence and/or any previous sentence the child is still serving or may have to serve ensuring the sentence is proportionate to the offence.</li> <li>• Mitigating factors, such as whether the child has demonstrated remorse, their background and whether they suffer from mental illness.</li> <li>• Aggravating factors, including the vulnerability of the victim, the extent of premeditation, and the degree of violence or harm caused. If a child is convicted of the manslaughter of a child under 12 years, requires the court to consider the age and defencelessness of the victim as an aggravating factor.</li> <li>• Any sentence the child is liable to have imposed due to a breach of their bail conditions.</li> <li>• Ensuring the sentence is proportionate to the offence.</li> </ul>
<p><b>Special considerations</b> (YJA, s 150(2))</p>	<ul style="list-style-type: none"> <li>• A child’s age is a mitigating factor (something that may reduce the severity of the sentence) in deciding whether to impose a penalty, and the type of penalty imposed.</li> <li>• A sentence served in the community (a non-custodial order) is better than detention in promoting a child’s ability to reintegrate into the community.</li> <li>• A child’s rehabilitation is greatly assisted by their family and the chance to participate in educational programs and employment.</li> <li>• A child without family support, educational or employment opportunities should not receive a more severe sentence because of the lack of support.</li> <li>• A detention order should be imposed only as a last resort (if no other penalties are appropriate) and for the shortest amount of time.</li> </ul>
<p><b>General sentencing principles</b> (YJA, s 150(1)(a))</p>	<ul style="list-style-type: none"> <li>• <b>Parity:</b> Co-offenders jointly involved in criminal conduct should receive similar penalties.</li> <li>• <b>Totality:</b> Sentences should reflect the overall criminality if multiple offences committed.</li> <li>• <b>The De Simoni Principle:</b> A person can only be sentenced for offences if they have been found guilty; other criminal conduct that was not charged must be disregarded.</li> </ul>

Source: Based on the Queensland Sentencing Advisory Council, *Guide to the sentencing of children in Queensland*, November 2021. Amended by committee secretariat to reflect legislative changes in 2023.

### 6.3.2 Youth Murri Courts

Some stakeholders advocated for the need to establish Youth Murri Courts across Queensland. Youth Murri Courts currently operate in Cairns, Mackay and Rockhampton. The goal of Murri Courts is to facilitate the appropriate resolution of criminal matters (other than serious indictable offences), by addressing the causes of a First Nations child's offending behaviour in a culturally safe manner.<sup>344</sup>

Murri Courts are more informal than generalist courts, in terms of both speech and attire, and there is closer collaboration between the court and various government and non-government entities to promote rehabilitation. A 2019 review of the Murri Court found that mentoring by elders and respected persons was a key ingredient of the court's success.<sup>345</sup>

Research conducted by Professor Tamara Walsh et al., *Safety through support*, explains how Murri Courts operate:

Murri Courts adhere to the principles of rehabilitative justice and therapeutic jurisprudence, and place significant emphasis on the person's offending behaviour in their community and personal context. Murri Court elders or respected persons sit alongside the magistrate during mentions and sentence hearings (as 'the Murri Court Panel'). Whilst the magistrate alone has the 'final authority' to make determinations as to bail conditions and sentencing, magistrates are 'encouraged' to 'give consideration to cultural and other advice' provided by panel members. The defendant is encouraged to speak openly to the magistrate and elders rather than through their legal representative.<sup>346</sup>

Mr Karl McKenzie, Chair of the Townsville Justice Group, proposed that Youth Murri Courts should be run by Indigenous Justices of the Peace with elders in the court. Mr McKenzie explained:

We think that is a better way of doing it rather than having the kids going straight into youth court. This would be entry-level offenders, medium-level offenders. It is similar to the adult Murri Court: they plead guilty, they come into the court and it becomes a court of therapy where we can look at other avenues rather than jail for those young people. It is more therapeutic than jail.<sup>347</sup>

#### **Committee comment**

The committee acknowledges the importance of addressing the underlying causes of a child's offending behaviour. The committee notes the importance of incorporating First Nations' 'lore' with the laws underpinning Queensland's youth justice system to improve outcomes for First Nations children. One avenue that this might be achieved is through the expansion of the Youth Murri Courts, particularly in regional Queensland.

#### **Recommendation 49**

That the Queensland Government establish Youth Murri Courts in regional Queensland as a priority and explore opportunities to expand the model in other locations in Queensland.

### 6.3.3 Types of sentences

When sentencing a child or young person, a court can give different types of sentences, called orders in the YJA.<sup>348</sup> Broadly speaking, there are four main types of orders:<sup>349</sup>

<sup>344</sup> Submission 8, p 71.

<sup>345</sup> Submission 8, p 71.

<sup>346</sup> Submission 8, p 71.

<sup>347</sup> Public hearing transcript, Townsville, 5 February 2024, p 2.

<sup>348</sup> YJA, Part 7, Divisions 4-11.

<sup>349</sup> This section is based on Queensland Sentencing Advisory Council, 'Sentencing children', <https://www.sentencingcouncil.qld.gov.au/about-sentencing/sentencing-children>.

- **Unsupervised orders.** These sentences are served in the community, without any supervision by youth justice officers. They include:
  - Reprimands, where the court formally warns the child or young person
  - Good behaviour orders, where the court orders the child or young person not to commit another offence during a set period
  - if a child or young person can afford to pay, fines.
- **Community-based orders.** These sentences are served in the community under the supervision of youth justice officers. They include:
  - Graffiti removal orders
  - Restorative justice orders
  - If the child or young person is found guilty of an offence that an adult could be imprisoned for, **and** the child or young person agrees to the making of the relevant order:
    - Probation orders
    - Community service orders
    - Intensive supervision orders
- **Custodial orders.** These are the most serious sentences available, and are served, or potentially served, in youth detention centres. They include:
  - Detention orders. A magistrate can sentence a child or young person to detention for up to 1 year. For most offences, a judge in a higher court can sentence a child to detention for up to 5 years. For certain serious offences, a judge can make a longer detention order, limited to 10 years except in exceptional circumstances.
  - Conditional release orders, where the court sentences a child or young person to detention, but suspends that sentence subject to strict conditions that the child or young person must comply with on their release into the community.
- **Other orders.** These include:
  - Restitution and compensation. If a child or young person can afford to pay, a court can order them to pay money to a victim to compensate them for an injury or property loss. Where a parent's lack of supervision contributed to an offence, the court may order the parent to pay compensation instead.
  - Disqualification, where a court prevents a child or young person from having or getting a driver's licence for a set period of time.

#### 6.3.4 Sentencing decisions in practice

In practice, courts impose the most serious sentences, detention orders and conditional release orders, relatively rarely. Data published by the Queensland Sentencing Advisory Council indicates that between 2005-2006 and 2018-2019, Magistrates Courts most commonly sentenced children to reprimands (29.8 per cent of cases), good behaviour orders (16.8 per cent of cases), probation (15.4 per cent of cases), and community services (14.0 per cent of cases). Magistrates imposed custodial sentences relatively rarely, making detention orders in 2.9 per cent of cases, and conditional release orders in 2.7 per cent of cases. Magistrates imposed other types sentences, including restorative

justice orders,<sup>350</sup> intensive supervision orders, and orders to participate in treatment programs relatively rarely (in less than 1 per cent of cases).<sup>351</sup>

Higher courts, which hear more serious cases, are far more likely to impose custodial sentences. In the period between 2005-2006 and 2018-2019, they imposed detention orders in 17.6 per cent of cases, conditional release orders in 11.9 per cent of cases, and probation orders in 39.6 per cent of cases.<sup>352</sup>

Most children and young people who are sentenced to detention are sentenced to a period of less than 6 months. In the period from 2005-2006 and 2018-2019:

- just over half (51.3 per cent) of children and young people sentenced to detention received a sentence of less than 6 months
- almost one-third (30.3 per cent) of children and young people sentenced to detention received a sentence between 6 months and 1 year
- 11.8 per cent of children and young people sentenced to detention received a sentence between 1 and 2 years
- 6.4 per cent of children and young people sentenced to detention received a sentence of 2 years or more.<sup>353</sup>

Data published by the Queensland Childrens Court suggests that in recent years, courts at all levels have made greater use of custodial sentences. Childrens Court data shows that in 2022-23:

- in the Magistrates Court (sitting as the Childrens Court), 6.5 per cent of children and young people convicted were sentenced to detention and a further 5.7 per cent were sentenced to a conditional release order<sup>354</sup>
- in the Supreme and District Courts,<sup>355</sup> 53.3 per cent of children and young people convicted were sentenced to detention, but no children or young people were sentenced to a conditional release order.<sup>356</sup>

### 6.3.5 Divergent community views about sentencing outcomes

The evidence before the committee indicates there is disagreement within the community about whether the current sentencing framework is delivering the right outcomes.

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<sup>350</sup> Magistrates may also refer a child to restorative justice conferencing without making a sentencing order, so this figure does not reflect frequency with which magistrates divert children via this channel.

<sup>351</sup> Queensland Sentencing Advisory Council, *Kids in court: The sentencing of children in Queensland*, Sentencing profile, November 2021, pp 37 -39.  
[https://www.sentencingcouncil.qld.gov.au/\\_\\_data/assets/pdf\\_file/0017/700433/Kids-in-Court-The-Sentencing-of-Children-in-QLD.pdf](https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0017/700433/Kids-in-Court-The-Sentencing-of-Children-in-QLD.pdf)

<sup>352</sup> Queensland Sentencing Advisory Council, *Kids in court: The sentencing of children in Queensland*, Sentencing profile, November 2021, pp 37 -39.  
[https://www.sentencingcouncil.qld.gov.au/\\_\\_data/assets/pdf\\_file/0017/700433/Kids-in-Court-The-Sentencing-of-Children-in-QLD.pdf](https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0017/700433/Kids-in-Court-The-Sentencing-of-Children-in-QLD.pdf)

<sup>353</sup> Queensland Sentencing Advisory Council, *Kids in court: The sentencing of children in Queensland*, Sentencing profile, November 2021, pp 37 -39.  
[https://www.sentencingcouncil.qld.gov.au/\\_\\_data/assets/pdf\\_file/0017/700433/Kids-in-Court-The-Sentencing-of-Children-in-QLD.pdf](https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0017/700433/Kids-in-Court-The-Sentencing-of-Children-in-QLD.pdf)

<sup>354</sup> Childrens Court of Queensland, *Annual Report 2022-23*, p 37.

<sup>355</sup> These courts hear a relatively small number of cases each year. As a result, the frequency with which they make certain orders fluctuates more widely than in the lower courts.

<sup>356</sup> Childrens Court of Queensland, *Annual Report 2021-22*, p 39.

Some stakeholders, including many victims of crime, expressed the view that more children and young people should be sentenced to detention and that they should be sentenced to detention for longer periods. Several proposed that mandatory minimum sentences should apply to certain offences, or that children and young people should serve sentences comparable to adults when they commit more serious crimes. Overall, these stakeholders suggested that these changes would promote community safety and ensure children and young people faced appropriate consequences for their actions.<sup>357</sup>

In contrast, other stakeholders expressed the view that more punitive sentences, including the introduction of mandatory minimum sentences, would undermine community safety in the longer term. Some suggested longer sentences are not effective in deterring children and young people from offending. Many took the view that greater use of detention would be likely to increase recidivism among young people, ultimately placing the community at more risk.<sup>358</sup>

### **Committee comment**

Although there are divergent community views about current sentencing outcomes, the committee has observed a degree of agreement that it would be beneficial for Queensland's courts to have more options available to them when they sentence children and young people.

In particular, there appears to be a need for an option that lies somewhere between existing custodial orders, which require children and young people to be detained in a highly secure residential environment (i.e. a detention centre), and probation and intensive supervision orders, which return children to the community (subject to supervision by the Department of Youth Justice) where they are typically required to participate in a variety of programs in a non-residential setting. This new option could take the form of a residential rehabilitation program that provides children and young people with wrap-around supports over an extended period, or something similar.

It is unclear whether establishing a new sentencing option along these lines would require legislative change or not. For example, it may already be possible to require a child or young person to participate in a residential rehabilitation program as part of a probation order. Under the *Youth Justice Act 1992* (YJA), children and young people subject to a probation order 'must satisfactorily attend programs as directed by the chief executive' (in practice, officers from the Department of Youth Justice).<sup>359</sup> However, a court can only make a probation order if the child or young person indicates a willingness to comply with it.<sup>360</sup>

On the one hand, the committee has heard from some stakeholders that courts could already order children and young people to participate in residential rehabilitation programs should they be available. On the other hand, the committee has heard from other stakeholders that legislative change might be necessary to ensure courts are able to mandate participation in such programs as part of a non-custodial sentencing order.

As a practical matter, expanding the range of sentencing options available to the courts may require significant investments in infrastructure, facilities and programs within communities. This will take some time, during which the government can investigate whether legislative changes are necessary and introduce amendments to the YJA if they are required.

### **Recommendation 50**

That the Queensland Government: (i) establish residential rehabilitation programs that can provide children and young people with wrap-around supports over an extended period as part of a non-

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<sup>357</sup> Submissions 31, 43, 67, 72, 81, 89, 92, 173 and 181.

<sup>358</sup> Submissions 102, 116, 119, 129 and 134.

<sup>359</sup> YJA, s 193(1)((b)(ii).

<sup>360</sup> YJA, s 194.

custodial sentencing order; and (ii) investigate whether changes to the *Youth Justice Act 1992* are necessary to facilitate the participation of children and young people in such programs as part of a non-custodial sentencing order, and introduced any changes identified as necessary.

### 6.3.6 Serious repeat offenders declarations

Under the YJA, a court may declare that a child or young person is a serious repeat offender if:

- the court is sentencing the child or young person in relation to a prescribed indictable offence
- the child and young people has previously been sentenced on at least one occasion to a detention order for a prescribed indictable offence
- the court has order, received and considered a pre-sentence report
- the court has had regard to the child or young person's previous offending history and bail history, any efforts of rehabilitation by the child or young person, including rehabilitation carried out under a court order, and any other matter relevant the court considered relevant, and
- the court is satisfied that there is a high probability that the child or young person would commit a further prescribed indictable offence.<sup>361</sup>

The YJA provides that relevant section has effect despite being incompatible with human rights.<sup>362</sup>

Whether or not a child has been classified as a serious repeat offender under the Serious Repeat Offender Index (a measure used by the Department of Youth Justice) has no legal bearing on whether or not that child will be declared a serious repeat offender by a court. However, a court could consider a child's classification under the Serious Repeat Offender Index if it is included in a pre-sentencing report or other information provided to the court about the child or youth offender.<sup>363</sup>

If a court declares a young person to be a serious repeat offender, different considerations apply during sentencing (see section 6.3.1 for detail). Broadly speaking, courts must give significantly greater weight to community safety when they sentence serious repeat offenders. The principle that detention should be a last resort (discussed in section 6.3.7) is also effectively displaced, since sentencing courts are required to give 'primary regard' to other factors, all of which are focused on community safety.<sup>364</sup>

The Department of Justice and the Attorney-General advised the committee that as at 14 March 2024, 55 children and young people had been declared to be serious repeat offenders by a court.<sup>365</sup>

When the government amended the YJA to allow for serious repeat offender declarations would be made, it stated that it expected that courts sentencing children and young people declared to be serious repeat offenders 'will be more likely to impose harsher penalties, including imposing a period of detention.'<sup>366</sup>

The committee has not received any evidence that quantifies the impact of serious repeat offender declarations on sentencing decisions. However, between 2021-22 and 2022-23, there was a slight increase in the use of detention orders by the court. In 2021-22, the Magistrates Court (sitting as the Childrens Court) imposed a sentence of detention in 5.8 per cent of cases, but in 2022-23 this figure

<sup>361</sup> YJA, s 150A.

<sup>362</sup> YJA, s 150A(6).

<sup>363</sup> YJA, s 151.

<sup>364</sup> YJA, s 150A.

<sup>365</sup> DJAG, correspondence, 21 March 2024.

<sup>366</sup> Explanatory notes, Strengthening Community Safety Bill 2023, p 10.

rose to 6.5 per cent. This increase may be partly due to the introduction of serious repeat offenders, although other recent legislative changes may also have contributed to this change.<sup>367</sup>

A small number of stakeholders expressed concern about the impact of serious repeat offender declarations. Some of them expressed concern that applying the label of 'serious repeat offender' to children and young people is pejorative and may reinforce negative identities and entrench serious offending by children and young people. Others stakeholders highlighted the fact that the provision for serious repeat offender declarations is incompatible with the *Human Rights Act 2019*, and suggested it (and other sections of the YJA inconsistent with that Act) should be repealed.<sup>368</sup>

For example, Sisters Inside Inc. were highly critical of serious repeat offender declarations. They explained their view of them as follows:

It carves into law a separate category of 'othered' children who are deemed to be such a 'future risk' that their incarceration is to be assumed. In effect, the children subject to these declarations are made less deserving of the typical legal rights and considerations afforded to children before the court. These children, often referred to as the 'small cohort', the '17 per cent' of 'serious high- risk offenders' who must be 'targeted', have essentially been cast by politicians as irredeemable and fit only for containment.... We remind the government that human rights are universal, inalienable, and unconditional.<sup>369</sup>

#### 6.3.6.1 Impact of serious repeat offender declarations on future bail and sentencing decisions

Future sentencing courts are expressly required to rely on serious repeat offender declarations made courts of a like or higher jurisdiction if they sentence a child or young person for a prescribed indictable offence during the 'relevant period'. The 'relevant period' is one year after a child or young person is released from detention or, if the child or young person is not sentencing to detention, one year after the declaration is made.<sup>370</sup> During this period, future sentencing courts must continue to have 'primary regard' to:

- the need to protect members of the community; and
- the nature and extent of violence, if any, used in the commission of the offence; and
- the extent of any disregard by the child in the commission of the offence for the interests of public safety; and
- the impact of the offence on public safety; and
- the child's previous offending history and bail history.<sup>371</sup>

In contrast, the YJA does **not** expressly require police officers and/or courts making future bail decisions to rely on serious repeat offender declarations. This means that when making decisions about bail relating to a child or young person who has been declared to be a serious repeat offender, police and the courts must consider the same factors (discussed in section 6.2.1) that they would in relation to another child or young person. They are not required to have primary regard to the five factors that are elevated with respect to sentencing.

#### **6.3.7 Detention as a last resort**

Queensland's Youth Justice Principle 18, known as the principle of detention as a last resort, provides:

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<sup>367</sup> Childrens Court of Queensland, *Annual Report 2022-23*, p 37.

<sup>368</sup> Submissions 84, 132, 134

<sup>369</sup> Submission 134, p 6.

<sup>370</sup> YJA, s 150B.

<sup>371</sup> YJA, ss 150B(2), 150A(3).

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.<sup>372</sup>

This principle plays a role in both bail and sentencing decisions.

The YJA provides that police officers and the courts **may** consider this principle when making decisions about bail.<sup>373</sup>

In contrast, courts **must** consider the principle of detention as a last resort during sentencing. This is required to two provisions of the YJA:

- Section 150(1)(b) provides that in sentencing a child, a court must have regard to the youth justice principles<sup>374</sup>
- Section 150(1)(c) provides that in sentencing a child, a court must have regard to certain 'special considerations', which in s 150(2)(e) are defined to include that 'a detention order should only be imposed as a last resort and for the shortest appropriate period.'

Both of the provisions relating to sentencing were re-inserted into the YJA in 2016,<sup>375</sup> having been removed from that Act in 2014.<sup>376</sup> Equivalents of both provisions were included in the original version of the Act adopted in 1992.<sup>377</sup>

#### 6.3.7.1 *How Queensland's courts have interpreted the principle*

Queensland's higher courts have made it clear that the principle of detention as a last resort, combined with other elements of the YJA, require sentencing courts to expressly explain why they have rejected alternative sentences in favour of detention. The leading judgement on youth sentencing states that courts must consider alternative sentences and give reasons why they concluded that they were not appropriate in the circumstances of a particular case.<sup>378</sup>

Following that precedent, detention orders have been overruled on appeal when courts failed to explain their reasons for imposing detention rather than another sentencing option. In one case, an appeal against a detention order was allowed where the sentencing court failed to give such reasons, despite having received a pre-sentencing report that assessed the child as suitable for a restorative justice order or a conditional release order.<sup>379</sup> In another case, a sentence of detention was overturned because the sentencing judge had not expressly explained his reasoning for rejecting the options of a probation order, a community service order, or a combination of the two.<sup>380</sup>

#### 6.3.7.2 *Other jurisdictions have divergent approaches*

As detailed in Appendix D, five Australian jurisdictions (including Queensland) have expressly incorporated the principle that detention should be a last resort into the legislation that underpins their youth justice system. The other jurisdictions that have expressly incorporated this principle are Western Australia, Tasmania, the ACT and the Northern Territory.

In New South Wales and Victoria, legislation provides that courts may only impose sentences of detention on children if they are satisfied that other, less serious sentences would not be appropriate.

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<sup>372</sup> YJA, sch 1.

<sup>373</sup> YJA, s 48AA(b)(i).

<sup>374</sup> YJA, s 150(1)(b).

<sup>375</sup> *Youth Justice and Other Legislation Amendment Act (No. 1) 2016*, ss 16(1) and 56(2).

<sup>376</sup> *Youth Justice and Other Legislation Amendment Act (No. 1) 2016*, ss 9(1) and 25(1).

<sup>377</sup> *Juvenile Justice Act 1992*, ss 4(b)(i) and 109(2)(e).

<sup>378</sup> *R v SCU* [2017] QCA 198.

<sup>379</sup> *R v MDD* [2019] QCA 197.

<sup>380</sup> *R v SDW* (2022) 12 QR 479.

In South Australia, a court can only impose a sentence of detention on a child if they have been declared to be a recidivist youth offender, if they are a serious firearms offender, or if the court is satisfied that a non-custodial sentence would be inadequate due to the seriousness of the offence or the child's pattern of reoffending.

In 2021-2022, the four jurisdictions with the highest rate of children and young people in detention (per 10,000 people) were the Northern Territory, Queensland, Western Australia and the Australian Capital Territory (see the table in the Appendix D). These are all jurisdictions which have expressly incorporated the principle into relevant laws.

### 6.3.7.3 *Stakeholders express opposing views about the principle*

During its inquiry, the committee has heard conflicting views, detailed below, about how the principle of detention as a last resort affects sentencing decisions in Queensland's courts, and whether it should be retained.

Most organisations working directly with youth justice have given evidence or made submissions emphasizing the importance of retaining the principle that detention should be a last resort.<sup>381</sup> Most of these stakeholders express the view that removing the principle that detention should be a last resort would be counterproductive and likely to undermine community safety in the longer term. Some expressed the view that removing the principle would be unlikely to change the behaviour of young people in practice as this cohort are less influenced by penalties designed as deterrents.<sup>382</sup>

For example, Natalie Lewis, the Queensland Child and Family Commissioner, told the committee:

I think that [the principle of detention as a last resort] absolutely is well founded in international law, and I think that it is a safeguard and a principle that we should protect. It does not get in the way of children being held in custody, otherwise we would not have 250 kids in custody right now. I think that it is an important safeguard. I think that it does not prevent courts from considering all of the information in front of them and making a decision that balances the requirement around community safety and the child.<sup>383</sup>

Similarly, the Youth Advocacy Centre submitted:

There is serious community concern that surrounds the issue of youth crime. However, all evidence shows that the 'tough on crime' approach does not reduce the occurrence of reoffending in young people. An increased use of detention of young people will actually compromise community safety in the medium to long-term and will contribute to serious psychological and other harms to young people.<sup>384</sup>

Several stakeholders emphasised that the principle does not prevent courts from refusing bail, or sentencing a child or young person to detention, where the circumstances warrant such a decision. For example, Ms Laura Reece, a member of the Criminal Law Committee from the Bar Association of Queensland, stated:

It [the principle of detention as a last resort] is simply the framework in which they [magistrates] are making a decision. They have to consider all of the options, and on the basis of the seriousness of the offending and concerns about ongoing safety and the young person's personal circumstances, they have to make the right decision within that framework. It does not dictate to them that they cannot detain that young person. I act for lots of young people who have no criminal history but they are in custody on

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<sup>381</sup> Submissions 17, 19, 51, 76, 82, 104, 117, 120, 129, 131, 136, 142, 184, 197 and 203 ; Youth Policy Collective, public hearing transcript, 24 November 2023; Integrated Family and Youth Service, public hearing transcript, Kawana Waters, 23 February 2024.

<sup>382</sup> Youth Advocacy Centre, public hearing transcript, Brisbane, 24 November 2023; submission 17,

<sup>383</sup> Public hearing transcript, Brisbane, 24 November 2023, p 33.

<sup>384</sup> Submission 104, p 3.

serious offences and they will absolutely get a detention order. There will be no question of it being off the table because of the principles of the Youth Justice Act.<sup>385</sup>

In contrast, submissions from some individual submitters and local governments indicate support for removing the principle that detention should be a last resort. Generally, they express the view that this would hold children and young people accountable for their actions and improve community safety.<sup>386</sup> At public hearings, several witnesses expressed a similar view.<sup>387</sup>

For example, Janice Humphreys explained her view as follows:

How are they facing the consequences if they have not got detention? It should not be a last resort. They need to be scared of the consequences, like we were when we grew up.<sup>388</sup>

Similarly, Councillor Jenny Hill, the Mayor of Townsville, stated that removing the principle from the YJA 'will remove one avenue for magistrates and judges use to avoid issuing sentences commensurate with public expectation.'<sup>389</sup>

### **Committee comment**

The committee is concerned about the lack of evidence regarding whether serious repeat offender declarations are having the desired effect. In particular, it is not clear how these declarations have affected sentencing outcomes for serious repeat offenders since their introduction.

The relevant provision of the *Youth Justice Act 1992* (YJA) is the subject of an override of *the Human Rights Act 2019* (HRA).<sup>390</sup> That override will expire in 5 years, at which point the Legislative Assembly may be asked to renew it.<sup>391</sup>

The committee considers there is an urgent need to assess, and continue to assess, the impact that serious repeat offender declarations are having on sentencing in practice. This review could inform any changes to serious repeat offender declarations, as well as any proposals to renew the override of the HRA.

As across the community, there are divergent views within the committee about the impact of the principles of detention as a last resort, and potential changes to it.

There is genuine concern in the community that the principle prevents courts from giving sufficient weight to community safety. However, courts are expressly required to give consideration to community safety when making bail and sentencing decisions. In addition, when courts sentence children and young people who have been declared to be serious repeat offenders for a prescribed indictable offence, they must give primary regard to five factors, all of which are relevant to community safety.

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<sup>385</sup> Public hearing transcript, Brisbane, 24 November 2023, p 7.

<sup>386</sup> Submissions 30, 34, 43, 113, 153, 157, 181; Aaron McLeod, public hearing transcript, Townsville, 7 February 2023, p 42; Janice Humphreys, public hearing transcript, Toowoomba, 16 February 2024.

<sup>387</sup> Aaron McLeod, public hearing transcript, Cairns, 7 February 2024; Robbie Katter MP, Katter's Australian Party, public hearing transcript, Mount Isa, 9 February 2024; Janice Humphreys, public hearing transcript, Toowoomba, 16 February 2024; Brendan Long, public hearing transcript, Toowoomba, 16 February 2024; Leyland Barnett, public hearing transcript, Rockhampton, 27 February 2024.

<sup>388</sup> Public hearing transcript, 16 February 2024, Toowoomba, p 39.

<sup>389</sup> Submission 43, p 2.

<sup>390</sup> YJA, s 150A.

<sup>391</sup> *Human Rights Act 2019*, ss 45 and 46.

The committee notes that there are divergent views amongst stakeholders about the impact of Youth Justice Principle 18 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.'

Based on the evidence received by the committee so far, it is unclear how removing or amending the principle that detention should be a last resort would affect bail and sentencing decisions in practice. As such, more targeted amendments may offer a more effective means of responding to community concerns about the impact of that principle on bail and sentencing decisions.

One option would be to expand the effect of serious repeat offender declarations, so that police officers and the courts are required to rely on them when they make bail decisions in relation to a child or young person who has been charged with a prescribed indictable offence. This could mirror the existing requirement, set out in s 150B of the YJA, for sentencing courts to rely on serious repeat offender declarations.

Another option would be to expand the scope of serious repeat offender declarations by lowering the threshold at which they can be made. This could be done in several ways, including by: (i) removing or modifying the requirement that a child or young person has previously been sentenced on at least one occasion to a detention order for a prescribed indictable offence; or (ii) modifying the requirement that the court be (currently) sentencing the child or young person for a prescribed indictable offence.

The committee notes that any such amendments to the relevant provision of the YJA may also require an override declaration under the HRA.

One member also proposed that the sentencing principles set out in s 150 of the YJA, and the Charter of youth justice principles set out in Schedule 1 of the Act, should be redrafted to make victims' rights paramount.

#### **Recommendation 51**

That the Queensland Government immediately review the operation of section 150 of the *Youth Justice Act 1992* to determine whether the central principle of community safety is being overshadowed by the principle of 'detention as a last resort' as it relates to sentencing. This review should seek input from the Department of Justice and Attorney-General, the Department of Youth Justice, and expert legal stakeholders.

#### **Recommendation 52**

That the Queensland Government immediately develop and implement a plan to assess the impact of serious repeat offender declarations on the sentencing of children and young people in an ongoing manner and report on their impact to the Legislative Assembly annually.

#### **Recommendation 53**

That the Queensland Government immediately expand the scope of serious repeat offender declarations by lowering the threshold at which they can be made.

#### **Recommendation 54**

That the Queensland Government amend the *Youth Justice Act 1992* so that police officers and courts are required to rely on serious repeat offender declarations when making bail decisions in relation to a child or young person who has been charged with a prescribed indictable offence, in a manner that mirrors section 150B of that Act (which requires sentencing courts to rely on serious repeat offender declarations).

***Issues for further examination***

The committee notes that there are divergent views amongst stakeholders about the impact of Youth Justice Principle 18 on arrest, bail and sentencing decisions. The committee has not yet received evidence about how further legislative change with regard to sentencing principles or the Charter of youth justice principles would improve community safety. These issues require further examination.

DRAFT CONFIDENTIAL

## 7 Building community confidence in the youth justice system

### Summary of this section

- Evidence received by the committee shows that some parts of the community lack confidence in Queensland's youth justice system.
- Community confidence in the youth justice system is crucial. It affects the sustainability of programs, as well as Queensland's ability to implement more ambitious and transformative reforms.
- Police resourcing is one factor that influences community confidence in the youth justice system. This makes it important to ensure that the resources allocated for policing are available where they are needed on the ground.
- There are variety of options for improving community confidence in the youth justice system. These options include sharing positive stories about children and young people, improving data and how it is communicated, and increasing the transparency of the youth justice system.

### 7.1 Community confidence is essential

Evidence provided by members of the public, particularly victims of crime, show that some parts of the community lack confidence in Queensland's youth justice system. Some members of the public have expressed the view that youth offenders are able to act with impunity,<sup>392</sup> while others have told the committee that they no longer feel safe, even in their own homes.<sup>393</sup>

Community confidence in the youth justice system is extremely important. Indeed, as discussed in section 2.4, one of the fundamental principles underpinning the current youth justice strategy is that community confidence is essential. If people are not confident in the youth justice system, they are less likely to feel safe, which is clearly highlighted by evidence provided to the committee. For example, some victims of crime linked their lack of confidence in the youth justice system with their ongoing sense of insecurity.<sup>394</sup>

Community confidence in the youth justice system also matters because a lack of community confidence can undermine the sustainability of programs. For example, Anglicare Southern Queensland told the committee that community confidence in the system directly affects their ability to deliver programs.<sup>395</sup> It ceased provision of its Intensive Bail Initiative in the Gold Coast, despite its apparent success, due to 'significant negative [community] feedback and misinformation generated and disseminated through social media and media outlets.'<sup>396</sup>

Other organisations expressed concern that a lack of community confidence would prevent Queensland from taking on more ambitious, transformative reforms of the youth justice system. For example, PeakCare Queensland explained:

Community confidence in the youth justice system is critical, including in our Aboriginal and Torres Strait Islander communities. Queenslanders have a right to feel safe and empowered to understand and influence the system, especially victims of youth crime.

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<sup>392</sup> Submissions 30, 31, 32, 46, 62 and 63.

<sup>393</sup> Submissions 35, 41, 61, 80, 89, 93 and 125.

<sup>394</sup> See for example submissions 30, 41 and 46.

<sup>395</sup> Submission 94.

<sup>396</sup> Submission 94, p 3.

Increased community confidence will also support the Queensland Government to continue to adapt the system according to evidence and best practice, moving away from punitive responses that do not work to reduce youth crime.<sup>397</sup>

Some witnesses drew a link between community confidence, and the public's willingness to invest in new initiatives. For example, Ken Cunliffe from Toowoomba Victims Advocacy told the committee:

I am well aware that a lot of the down-the-line interventions are going to cost an enormous amount of money... The community has to be confident before they are going to be willing to spend the tax dollars to implement any of those intervention processes.<sup>398</sup>

### **7.1.1 The role of police resourcing in shaping community confidence**

Evidence before the committee highlighted the role that police resourcing plays in shaping community confidence. While some stakeholders shared a positive view of the work that Queensland's police do, others expressed concern that police officers lacked the resources needed to respond to youth crime. Several submitters expressed the view that members of the public must have confidence that police resources will be available where they are needed if they are to feel safe, while some submitters suggested that Queensland needs more police.<sup>399</sup>

In contrast, other stakeholders suggested that Queensland does not need more police, but rather better trained police. For example, Professor John Scott, Head of the Queensland University of Technology's School of Justice, told the committee, 'Do we need more police? Perhaps not, but do we need better trained police, better resourced police? Perhaps so.'<sup>400</sup> He later explained his view:

It is a bad idea to increase police numbers if the police are not well trained and well resourced. We have to look after police, and part of that is training and resourcing. The state has finite resources.<sup>401</sup>

Data provided by the Queensland Police Service (QPS) suggests that the resources allocated to the police to respond to youth crime have increased in recent years.<sup>402</sup>

For example, QPS advised the committee that the number of approved permanent police positions in Child Protection Investigation Units (CPIUs) across the state increased from 515 in 2019, to 588 in 2023, an increase of roughly 14 per cent. However, the substantive headcount of officers in CPIU positions lagged behind approved numbers. In 2019, the substantive headcount of officers in CPIU positions was 505 (98 per cent of the approved number), but by November 2023, this number had only risen to 548 (93 per cent of the approved number). The discrepancy between approved positions and substantive headcount was particularly marked in the Ipswich District, which had 41 positions approved in November 2023, but a substantive headcount of just 30. This suggests that in late 2023, the Ipswich District CPIU was operating at roughly 73 per cent of its approved staffing level.<sup>403</sup>

More generally, QPS advised the committee that the substantive headcount of all police officers as at 30 November 2023 was 12,105. This was marginally lower than the figure at 30 June 2023, when the substantive headcount of police officers was 12,225 (a decrease of 120 officers). However, QPS also advised the committee that it had 585 recruits in training in November 2023.<sup>404</sup>

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<sup>397</sup> Submission 102, p 6.

<sup>398</sup> Public hearing transcript, Toowoomba, 16 February 2024, p 8.

<sup>399</sup> Submissions 27, 42, 54, 87, 159 and 165.

<sup>400</sup> Public hearing transcript, Brisbane, 22 November 2023, p 9.

<sup>401</sup> Public hearing transcript, Brisbane, 22 November 2023, p 10.

<sup>402</sup> Queensland Police Service, Response to Questions Taken on Notice, 8 December 2023.

<sup>403</sup> Queensland Police Service, Response to Questions Taken on Notice, 8 December 2023, pp 5-6.

<sup>404</sup> Queensland Police Service, Response to Questions Taken on Notice, 8 December 2023, p 7.

### **Committee comment**

There is an important connection between police resourcing and community confidence in the youth justice system. Therefore, it is important that the benefit of additional police resources allocated to the Queensland Police Service is realised, including approved CPIU positions. Of particular note is the gap between approved numbers and substantive headcount in certain parts of the state, such as Ipswich.

A key area for further attention is to examine the impact police staffing levels, resourcing and other issues such as attrition and morale, have on crime rates.

### **Recommendation 55**

That the Queensland Government through the Queensland Police Service ensures it has effective workforce strategies in place to gradually reduce the gap between approved and actual numbers of police officers in all parts of the state, including for Child Protection Investigation Units.

### **Recommendation 56**

That the Queensland government urgently review the impact of police staffing levels, resourcing and other issues such as attrition and morale, have on crime rates. This should include consideration of recruitment and training capacity for new police.

## **7.2 Options for building community confidence**

Evidence received by the committee so far points to a variety of options for improving community confidence in the youth justice system. As detailed below, these options include strengthening the regulation of traditional and social media, sharing positive stories about children and young people, improving how data on youth crime is collected and communicated, and increasing the transparency of the youth justice system.

### **7.2.1 Strengthening the regulation of traditional and social media**

Numerous stakeholders highlighted the role that traditional and social media can play in building, or undermining, community confidence in the youth justice system.<sup>405</sup> For example, City of Gold Coast told the committee that the tendency of the media to focus on negative stories, 'increases community concern and perceptions of reducing safety and general perceptions of young people within the community' regardless of whether rates of youth crime have changed.<sup>406</sup>

Save the Children/54 Reasons went further, stating:

Sections of the media promote toxic and often racist ideas about children and young people that are not based in fact, medical evidence, an understanding of trauma and child development, or respect for human rights. This has aptly been called a 'war on youth'.<sup>407</sup>

Several stakeholders suggested that stronger regulations may be needed to ensure that traditional and social media do not erode community confidence by contributing to the spread of misinformation or perpetuating excessively negative narratives about crime and young people.<sup>408</sup> Some of these stakeholders suggested that regulation could take the form of bans on certain types of content. For

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<sup>405</sup> Submissions 8, 20, 51, 71, 76, 94, 106, 121, 135 and 143.

<sup>406</sup> Submission 71, p 2.

<sup>407</sup> Submission 51, p 5.

<sup>408</sup> Submission 20 and 76.

example, PeakCare Queensland proposed that social media platforms be prohibited from publishing posts that boast about children's illegal exploits as well as 'hate messages' from 'vigilante groups'.<sup>409</sup>

Other stakeholders proposed that regulation could take the form of media guidelines for reporting on youth crime.<sup>410</sup> yourtown explained that guidelines could help the media to play a more positive and constructive role:

Developing media guidelines could help guide a more positive involvement of media in addressing the overall problem of youth crime. For example, given the way our society is informed by what they view in the media, the media could play an integral role assisting families to find support. The media have been receptive to guidelines about responsible reporting of suicide prevention and mental health. The same principles of reporting facts and sources of support could be beneficial for families and community members who are unsure of where to find support for their children and young people who are at risk of offending behaviour.<sup>411</sup>

### **Committee comment**

The committee acknowledges that traditional news media and social media each play a role in the community's understanding and perception of youth crime. However, there is disagreement among the committee about increasing regulation of the media in relation to youth crime.

Some members of the committee consider that the media and social media narratives of young people, and crime generally, complicates an already challenging and traumatising process for victims and communities. Other members consider that there is an opportunity to promote greater consistency and trauma-responsiveness in online crime and victim forums. Some members consider that greater regulation of traditional news media could assist in preventing the glorification of young offenders, which can encourage their peers to offend.

Other members of the committee consider that traditional and social media provide a means for communities to inform themselves of local issues, and for victims to find support networks. As such, they take the view that greater regulation of these platforms is not desirable.

#### **7.2.2 Sharing positive stories about children and young people**

A variety of stakeholders told the committee that investing in content that celebrates the achievements of children and young people, especially First Nations youth, could help to build community confidence in the youth justice system.<sup>412</sup> A common thread in their contributions was the observation that 'good news stories' about children and young people, including those engaged with the youth justice system, are often absent or underreported. This, some claimed, leaves the community misinformed about the kinds of interventions that are most likely to change the behaviour of young people in positive ways.<sup>413</sup>

For example, Anglicare Southern Queensland suggested:

...one important strategy for helping community members feel safer, against a backdrop of media and pockets of community fear-mongering, is to share more stories about what is working. There are few positive stories to tell about young people who breached bail and re-entered the justice system, had their life trajectory changed by a GPS tracker, or spent ten years in detention instead of seven. On the other

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<sup>409</sup> Submission 20, p 4.

<sup>410</sup> Submissions 76 and 94.

<sup>411</sup> Submission 76, p 10.

<sup>412</sup> Submission 94; Arika Appleby, public hearing transcript, Townsville, 5 February 2024; Deadly Inspiring Youth Doing Good, public hearing transcript, Cairns, 7 February 2024.

<sup>413</sup> Submission 94.

hand, there are many good stories emerging about programs that support young people and families when they need it, and contribute to the desired goal of a safer community.<sup>414</sup>

Similarly, at the public hearing in Townsville, one member of the public told the committee:

Something we need to focus on is good news stories and things that our young people are doing well in this community. We should start pumping those and sharing those actively.<sup>415</sup>

Some witnesses stressed that it is particularly important to ensure that positive stories about First Nations children and young people are visible to the public. A representative from Deadly Inspiring Youth Doing Good advised the committee that this is a critical part of what that organisation does:

To be honest, that is why we are called Deadly Inspiring Youth Doing Good because what we also set out to do as an organisation is challenge the perspective of our community around First Nations young people. We are all painted as young criminals, as delinquents, as young people who drink and will abuse their families. That is not who we are. We know we come from strong legacies, we know we come from strength and resilience and that is not anywhere in the media. It is not widely celebrated... The problem is that that investment in that prosocial, in the positive, in the celebration of young Indigenous leaders is not there.<sup>416</sup>

A number of stakeholders shared personal stories about how they turned their lives around after having engaged in youth offending. For example, Mr Joseph Te Puni-Fromont, founder of Everything Suarve, a youth service operating on the Gold Coast, shared his story of how he turned his life around:

I want to give you an understanding of why I started this [Everything Suarve] and where I have come from. I grew up as a young person around commission housing. Gangs, drugs and alcohol were in my community and often I saw that every day. At the age of 14 I lost one of my very first friends to suicide. At the age of 15 I was expelled from school. When I turned 16 my dad, who was a police officer, caught me drug dealing. Between 14 and 18 I lost six of my best friends. I was heading down that path, and I advocate very passionately for these young people because I once was one of them. I had community, I had family and I had support around me that changed my course of life. That is why I stand here helping these young people today.<sup>417</sup>

Mr Brett Nutley also told the committee about the importance of positive role models, including the influence of Elders and community in supporting him onto the right path:

When I was six weeks of age I was actually in foster care. I spent a long time in foster care. Then I was adopted but that did not work out. It started at six weeks of age that I was in care. I was put around to different homes and things like that. When I was a teenage boy, I was not a very happy young man. I used to get up to a lot of mischief up in Ipswich. I thought it was funny and I thought I was showboating and all these other things. I was pinching cars and things like that and doing really silly things. I could have kept going in that direction if I had not been put under the guidance of people who gave me an opportunity to stop that type of behaviour. The people who helped me through that were fantastic. One of the families that I stayed with was that of Dr Derek Chong. I actually grew up with Derek and his dad, Fred Chong, and those people. Also my high school teachers helped me out.

From having an opportunity, being helped out and having assistance it is a real story, because foster care is not a playground. It is not a very nice place and bad things happen to people. When I was halfway through grade 10 or grade 11, my teachers mentored me. There was a school guidance counsellor called Lance O'Chin, and we all know Uncle Lance. If I had not been given that assistance, that help and the

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<sup>414</sup> Submission 94, p 9.

<sup>415</sup> Arika Appleby, public hearing transcript, Townsville, 5 February 2024, p 42.

<sup>416</sup> Semara Jose, Co-founder and Executive of Opportunities, Deadly Inspiring Youth Doing Good, public hearing transcript, Cairns, 7 February 2024, p 27.

<sup>417</sup> Public hearing transcript, Southport, 22 February 2024, p 1.

resources, I would have taken a different direction altogether. It was actually community that supplied the resources needed for me to change my behaviour.<sup>418</sup>

### **Committee comment**

The committee agrees there is a need to highlight positive stories about children and young people, including those who have turned their lives around and overcome significant adversity.

There is significant value in making these stories more visible, particularly those that demonstrate strength, resilience and leadership of young Aboriginal and Torres Strait Islander peoples.

#### **7.2.3 Improving data and how it is communicated**

Data on youth crime and on victims of crime has an important influence on community confidence in the youth justice system. Evidence before the committee suggests there is room to improve the kinds of data that is collected and how it is communicated to the public.

A number of stakeholders stressed the complex nature of data on youth crime and the need to interpret it with caution. For example, Anthony Skinner, the Government Statistician, emphasised the importance of transparency and precision when discussing data on youth crime. He explained why data on crime trends can be difficult to interpret:

Across any content matter you will get different statistical measures from different sources reported by different organisations but on the same topic. It is important to look at each information source within its own context to understand the scope, coverage and definitions that are being used within that.<sup>419</sup>

He later observed:

...crime statistics and justice statistics is a complex space. In terms of reporting those, it is very easy to mix measures and concepts within a narrative and draw conclusions that might not necessarily hold.<sup>420</sup>

Despite the complexity of youth justice data, and data relating to the criminal justice system more broadly, there is currently no central agency responsible for communicating this data to the public in an accessible way. The Queensland Government Statistician's Office (QGSO), Queensland Government's lead statistical agency, has a Crime Statistics and Research unit. However, the QGSO's primary mandate is to provide statistical and demographic research services for government, not the broader public.<sup>421</sup> Its reports are, consequently, highly technical.

In contrast, the Queensland Sentencing Advisory Council has a that mandate expressly includes informing the community about sentencing in Queensland through research and publications, publishes.<sup>422</sup> To fulfil that role, it publishes a range of accessible guides and reports, and offers a variety of interactive tools to educate the public about how sentencing works.

Some evidence before the committee suggests that there may be some gaps in the data available, particularly regarding victims of crime. In particular, QGSO advised the committee that the government does not systematically publish data on the number of victims of property crime. Anthony Skinner, the Government Statistician stated:

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<sup>418</sup> Public hearing transcript, Brisbane, 8 March 2024, p 2.

<sup>419</sup> Anthony Skinner, Government Statistician, Queensland Government Statistician's Office, public briefing transcript, Brisbane, 21 February 2024, p 2.

<sup>420</sup> Anthony Skinner, Government Statistician, Queensland Government Statistician's Office, public briefing transcript, Brisbane, 21 February 2024, p 10.

<sup>421</sup> Queensland Government Statistician's Office, 'Our Service Charter', <https://www.qgso.qld.gov.au/about-qgso/our-service-charter>.

<sup>422</sup> Queensland Sentencing Advisory Council, 'About us', <https://www.sentencingcouncil.qld.gov.au/about-us>.

The methodology there [in the annual crime report] is that ‘victims’ is only for offences against the person. There is a range of reasons for that, because police need to be able to identify a victim of a crime; not all offence types are able to do that. That is why for offences against the person predominantly there would be a victim identified against that crime.<sup>423</sup>

He later explained that QGSO’s reports are based on the data made available to it by other agencies, and that collecting data on the number of victims of property crime would ultimately be a matter for the Queensland Police Service. Mr Skinner stated:

We report based on the data that we have available, and what we publish in the crime report is victims of offences against the person. To improve that administrative data is a question for Queensland Police.<sup>424</sup>

#### 7.2.4 Increasing transparency in the youth justice system

Evidence before the committee indicates that the transparency of the youth justice system, including its accessibility to victims, has a significant impact on the community’s confidence in that system.

Under the *Youth Justice Act 1992*, Youth Justice Principle 10 provides:

A victim of an offence committed by a child should be given the opportunity to participate in the process of dealing with the child for the offence in a way allowed by the law.<sup>425</sup>

Despite this, the workings of the youth justice system are often less transparent to the public than those of the adult criminal justice system.

The *Children’s Court Act 1992* provides for certain groups of people, including victims and the media, to be present in court during youth justice matters.<sup>426</sup> However, magistrates and judges are obliged to exclude these groups from the court if it would be prejudicial to the interests of the young person concerned.<sup>427</sup> In practice, this frequently means that courts hearing youth justice matters are closed to the public.

Some victims of crime expressed frustration at their inability to access courts hearing youth justice matters. Ken Cunliffe from Toowoomba Victims Advocacy told the committee this undermined their confidence in the youth justice system:

I think that victims are really the conduit between public confidence and the justice system. If victims have no confidence—and at the moment they do not. At the moment there is very little confidence in the justice system for victims and therefore also for the entire community and that is why I feel it is so important to get that access back.

...

Nothing will be meaningful for victims unless it is transparent. We need that transparency. I think that is one of the reasons we need that access to the court process. We need to be able to understand the reasons a judge or a magistrate have given their judgement, particularly if there is leniency.<sup>428</sup>

Similarly, Karynne Paull, a victim of crime, told the committee:

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<sup>423</sup> Anthony Skinner, Government Statistician, Queensland Government Statistician’s Office, public briefing transcript, Brisbane, 21 February 2024, p 3.

<sup>424</sup> Anthony Skinner, Government Statistician, Queensland Government Statistician’s Office, public briefing transcript, Brisbane, 21 February 2024, p 7.

<sup>425</sup> YJA, sch 10.

<sup>426</sup> *Children’s Court Act 1992*, 20(1) and (3).

<sup>427</sup> *Children’s Court Act 1992*, 20(2) and (3).

<sup>428</sup> Public hearing transcript, Toowoomba, 16 February 2024, pp 7; 10.

I think it [opening up the Children's Court] would give you a little bit of closure and perhaps the opportunity to talk about the impact on us [victims].<sup>429</sup>

The government recently announced plans to expand access to the Children's Court for certain groups, including families of victims and the media. However, details of potential legislative changes are not yet available.

### **Committee comment**

The committee agrees that there is an urgent need to build community confidence in Queensland's youth justice system. The evidence received by the committee so far demonstrates that community confidence is critical, both to the sustainability of current programs, and to Queensland's ability to reform of the youth justice system.

The committee acknowledges that youth justice is a challenging area in which to build community confidence. However, this inquiry has identified a number of options for action in this area.

An important first step in improving community confidence is improving the transparency of the youth justice system to victims of crime. As such, the committee welcomes the Queensland Government's recent commitment to legislative change in this area to allow greater access to Childrens Court for victims of crime and journalists. The committee considers this a priority area and key to improving community confidence.

There is also scope for transparency to be improved by ensuring that victims of crime have access to specially trained staff who can provide them with clear and accessible information about how the youth justice system is responding to the behaviour of the person who offended against them and the outcomes this ultimately delivers.

It is also essential that the community have confidence in the way data on youth is collected and reported.

The Crime Statistics and Research Unit within the Queensland Government Statistician's Office (QGSO) was established as an independent crime statistical body to publish crime statistics for the state. However, in practice, it appears to have a relatively narrow remit. While the QGSO publishes crime statistics on regular basis, it does not engage in the kind of public communication and education activities undertaken by the Queensland Sentencing Advisory Council. This matters, because merely publishing accurate and impartial data is not sufficient to ensure that data is viewed as trustworthy by the public. The public needs to understand how to interpret it, and why some data points might appear, at first glance, to contradict each other. This is particularly important in a contentious area, such as youth justice.

In light of this, the committee considers that it may be beneficial to expand the role and resourcing of the Queensland Government's Statistician's Office to allow the Crime and Statistics Research Unit to undertake the kinds of public communication and education activities currently performed in relation to sentencing by the Queensland Sentencing Advisory Council.

It may also be beneficial to explore how the government might collect data that provides a more comprehensive understanding of how crime affects Queenslanders. The committee understands that there are methodological challenges associated with counting the number of victims of property crime. However, that information could offer a more nuanced understanding of the impact of crime on victims and the support they need.

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<sup>429</sup> Public hearing transcript, Toowoomba, 16 February 2024, p 34.

**Recommendation 57**

That the Queensland Government urgently improve the transparency of Childrens Court of Queensland proceedings by allowing victims of crime, their families and media access to courts.

**Recommendation 58**

That the Queensland Government ensure that victims of crime have access to specially trained staff who can provide them with clear and accessible information about how the youth justice system is responding to the behaviour of the person who offended against them and the outcomes this ultimately delivers.

**Recommendation 59**

That the Queensland Government, through the Queensland Police Service, assess and improve current practices for identifying victims of crime to improve the accuracy of victim data, and commit to providing victims data to the Queensland Government Statistician's Office (QGSO) for analysis by the Crime Statistics and Research Unit.

**Recommendation 60**

That the Queensland Government expand the role of the QGSO Crime Statistics and Research Unit as an independent publisher of crime statistics for Queensland to include a new role in producing educational material to assist in the community's understanding of crime trends in Queensland, including the number of victims of crime.

DRAFT CONFIDENTIAL

## Appendix A – Submitters

<b>Sub #</b>	<b>Submitter</b>
1	Name withheld
2	Margaret Perkins
3	Name withheld
4	Name withheld
5	Nicole Miloseski
6	Gary Fiechtner
7	Yabun Panjoo Corporation
8	Professor Tamara Walsh
9	Mareeba Shire Council
10	Ragnar Purje
11	Anne Hollonds, National Children’s Commissioner
12	Legal Aid Queensland
13	Dr Troy Allard and Dr Molly McCarthy
14	Deb Lowry
15	Shane Cuthbert and Pat O’Shane AM
16	Queensland Human Rights Commission
17	Queensland Law Society
18	John Brodie
19	Youth Advocacy Centre
20	PeakCare Queensland Inc
21	Keith Hamburger and Voice for Victims
22	Rhys Bosley
23	Australian Workers’ Union
24	Katter’s Australian Party
25	Herschel Baker
26	Glen Milliner
27	Name withheld
28	Patrick Cahill
29	Name withheld
30	Name withheld
31	William D Featon
32	Rueben Richardson
33	Ken Dickson

<b>Sub #</b>	<b>Submitter</b>
34	Ian Ross Vayro
35	Kathleen Doyle
36	Desley Bettens
37	Glenys Woolcock – Horse Whispering Youth Program
38	Evelyn Williames
39	Queensland African Communities Council
40	Graeme Wilcox
41	Name withheld
42	Name withheld
43	Cr Jenny Hill AM, Mayor of Townsville
44	Tedd Noffs Foundation Ltd
45	Dr Alexis Kallio
46	Carol Schefe
47	Confidential
48	Name withheld
49	Name withheld
50	Women's Health and Equality Queensland
51	Save the Children / 54 reasons
52	Australian Lawyers Alliance
53	University of the Sunshine Coast Australia
54	Confidential
55	Queensland Teachers' Union
56	Aboriginal and Torres Strait Islander Legal Service
57	Confidential
58	Marta Fergusson
59	Philip Armit
60	Ruth Gould
61	Hayley Larter
62	Susan Jayasiriwardena
63	Christie Campbell
64	Name withheld
65	Name withheld
66	Name withheld
67	Peter Brown

<b>Sub #</b>	<b>Submitter</b>
68	Name withheld
69	Paul Jordan, General Manager, International Vi
70	headspace National Youth Mental Health Foundation
71	City of Gold Coast
72	Julie Mallett
73	Name withheld
74	Name withheld
75	Queensland Council of Social Services
76	yourtown
77	Queensland Health Victims Support Service, Metro North Mental Health
78	Queensland Network of Alcohol and Other Drug Agencies
79	Queensland Council for Civil Liberties
80	Name withheld
81	Frank Drew
82	HUB Community Legal
83	Act for Kids
84	Queensland Mental Health Commission
85	Beyond DV
86	Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT)
87	Confidential
88	Rev Dr Wayne Sanderson on behalf of Australians for Native Title and Reconciliation Queensland
89	Gaynor Williams
90	Connor Haddad
91	LC Distributors
92	Shannon Cozens
93	Name withheld
94	Anglicare Southern Queensland
95	Joanne Cutter
96	Youth Off The Streets
97	The Whanau Ora Community Clinic
98	Queensland Nurses and Midwives' Union
99	Dr Luke Price and Dr Linda Lorenza, CQU
100	Lucas Calais Ferreira
101	CatholicCare Social Services

<b>Sub #</b>	<b>Submitter</b>
102	PeakCare Queensland
103	Jess Watson
104	Youth Advocacy Centre
105	Youth Empowered Towards Independence (YETI)
106	Uniting Church in Australia, Queensland Synod
107	Dr Geoff Kewley, ADHD X
108	CREATE Foundation
109	Glenn Dawes
110	Dr Sanne Oostermeijer
111	Queensland Advocacy for Inclusion
112	Community Living Association
113	Local Government Association of Queensland (LGAQ)
114	Mornington Shire Council
115	Craig Coleman
116	Queensland Aboriginal and Torres Strait Islander Child Protection Peak
117	YFS Legal
118	Together Queensland
119	Know More
120	Commissioner Natalie Lewis, Queensland Family and Child Commission
121	Project Paradigm
122	Lamberr Wungarch Justice Group
123	Dr Terry Hutchinson
124	Zac Murphy
125	Name withheld
126	Queensland Youth Housing Coalition
127	Janice Macmaw
128	Name withheld
129	Justice Reform Initiative
130	D'Arcy Watson
131	Australian Child Rights Taskforce
132	Office of the Public Guardian
133	Name withheld
134	Sisters Inside Inc
135	Queensland Family and Child Commission

<b>Sub #</b>	<b>Submitter</b>
136	ANTAR
137	Institute for Urban Indigenous Health
138	Triple P International Pty Ltd
139	Guardians of Earth
140	Kerry Snell
141	LawRight
142	Change the Record and Human Rights Law Centre
143	Fearless Towards Success
144	Name withheld
145	Paul Taylor APM
146	Petford Wellness Association
147	Ken Cunliffe
148	Prof John Billingsley
149	Shelly Pappin
150	Name withheld
151	Kon Hofsetter
152	Thomas Lodewyke
153	Garth Hamilton MP, Federal Member for Groom
154	Elizabeth Anna Robbins
155	Name withheld
156	Ipswich Community Youth Service
157	Leyland Barnett
158	Kelly Owbridge
159	Name withheld
160	Rona Goold
161	Name withheld
162	Jim Goodsell
163	Name withheld
164	Selectability
165	Confidential
166	Name withheld
167	Emma Harman, Commerce North West
168	Russell Claus
169	Helen Wyland

<b>Sub #</b>	<b>Submitter</b>
170	Margaret Strelow
171	The Royal Australasian College of Physicians (RACP)
172	Name withheld
173	Philip Alexander
174	Manuel Otarra
175	Christiane Jaeger
176	Amanda Eatock
177	Name withheld
178	Fight 4 Youth
179	Rockhampton Community Based Crime Action Group
180	Name withheld
181	Graeme Kimball
182	Bob Pack OAM
183	Lyn Harland
184	Bronwyn Morris
185	Geoff Higgins
186	Confidential
187	Cairns Regional Council
188	Name withheld
189	DVConnect
190	Name withheld
191	Brett Geiszler
192	Name withheld
193	Mount Isa City Council
194	Queensland Progressives
195	Inspiring Brighter Futures Foundation
196	Youth Affairs Network of Queensland
197	Queensland Youth Policy Collective
198	Stephen Carey
199	Institute of Public Affairs
200	Our Space
201	Dr Kenneth O'Brien
202	Helen Kinniburgh
203	Anne Carlin

<b>Sub #</b>	<b>Submitter</b>
204	Every Child Central Queensland
205	Darumbal Community Youth Service Inc
206	Andrew Smith
207	Cairns Central ALP Branch
208	Sam Stitt, Family Focus
209	Major General Stephen Day - State President RSL Queensland
210	IFYS
211	Confidential
212	Inspiring Brighter Futures
213	Jenna Oakley
214	Queensland Indigenous Family Violence Legal Service
215	Cape York Institute
216	Rod Fincham
217	Family Responsibilities Commission
218	Name withheld
219	Chris Sanders and Jodi Lovely
220	Footsteps

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## Appendix B – Officials at public departmental briefings

### Public briefing, Brisbane, 5 December 2023

#### **Department of Youth Justice, Employment, Small Business and Training<sup>430</sup>**

- Robert Gee APM, Director-General
- Michael Drane, Senior Executive Director, Youth Detention Operations and Reform
- Lisa Pollard, Senior Executive Director, Strategy and Commissioning
- Megan Giles, Senior Executive Director, Regions and Statewide Services

#### **Queensland Police Service**

- George Marchesini, Assistant Commissioner, Youth Crime Taskforce
- Christopher Stream, Acting Assistant Commissioner, Road Policing and Regional Support Command
- Pete Brewer, Acting Assistant Commissioner, Domestic and Family Violence and Vulnerable Persons Command
- Robert Fleischer, Superintendent Community Engagement and Internal Support, Communications, Culture and Engagement Division
- Kerry Johnson, Superintendent, First Nations Unit

#### **Department of Justice and Attorney-General**

- Brigita Cunnington, A/Deputy Director-General, Justice Services
- Dr Kylie Stephen, Assistant Director-General, Women's Safety and Violence Prevention
- Dean Corless, Executive Director, Justice Reform Office
- Kristina Deveson, A/Executive Director and Principal Registrar, Magistrates Courts Service
- Tygh Field, A/Executive Director, Victim Assist Queensland
- Justin O'May, Director, Strategic Policy and Legal Services

#### **Department of Child Safety, Seniors and Disability Services**

- Deidre Mulkerin, Director-General
- Helen Missen, Executive Director

#### **Department of Treaty, Aboriginal and Torres Strait Islander Partnerships, Communities and the Arts**

- Kathy Parton, Deputy Director-General, Strategies Policy, Legislation & Program Reform

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<sup>430</sup> Now the Department of Youth Justice and the Department of Employment, Small Business and Training.

**Public briefing, Brisbane, 6 December 2023**

**Queensland Health**

- Michael Walsh, Acting Director-General
- Sandra Eyre, Senior Director Mental Health Alcohol and Other Drugs Branch (Strategy and Planning), Clinical Planning and Service Strategy Division
- Dr Stephen Stathis, Director of Psychiatry at Children’s Health Queensland
- Therese Hayes, Executive Director, Preventative and Prisoner Health, West Moreton Hospital and Health Service
- Katrina Roberts, Nursing Director, Neonatal, Children and Adolescent Services, Townsville Hospital and Health Service
- Associate Professor Scott Harden, Medical Director, Child and Adolescent Forensic Psychiatrist, Forensic Child and Youth Mental Health Service, Children’s Health Queensland Hospital and Health Service

**Department of Education**

- Hayley Stevenson, Assistant Director-General, Disability, Inclusion and Student Services
- Robyn Rosengrave, Executive Director, Student Engagement and Alternative Learning
- Kathy Morrison, School Supervisor, Disability, Inclusion and Student Service

**Department of Housing<sup>431</sup>**

- Chantal Raine, Acting Deputy Director-General, Housing and Homelessness Services
- Angela Stevens, Acting General Manager, Service Delivery
- Mary Crearie, Executive Director, Programs

**Queensland Corrective Services**

- Ursula Roeder, Deputy Commissioner, Community Corrections and Specialist Operations
- Tom Humphreys, Acting Assistant Commissioner, Strategic Futures Command

**Public briefing, Brisbane, 21 February 2024**

**Queensland Government Statistician’s Office**

- Anthony Skinner, Government Statistician
- Penny Marshall, Assistant Government Statistician, Crime Statistics and Research

**Queensland Police Services**

- Andrew Massingham, Acting Assistant Commissioner for Youth Crime

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<sup>431</sup> Now the Department of Housing, Local Government, Planning and Public Works.

- Rob Fleischer, Acting Superintendent, Community Engagement and Internal Support, Communications, Culture and Engagement Division
- Chris Stream, Assistant Commissioner, Road Policing and Regional Support Command
- Peter Brewer, Superintendent, Domestic, Family Violence and Vulnerable Persons Command
- James Hinchliffe, Director, Research Analytics, Policy and Performance Division

**Public briefing, Brisbane, 4 March 2024**

**Department of the Premier and Cabinet**

- Rebecca McGarrity PSM, Deputy Director-General, Policy and Reform
- Emma Ogilvie, Executive Director, Social Policy

**Private briefing\*, Brisbane, 4 March 2024**

**Queensland Family and Child Commission**

- Luke Twyford, Principal Commissioner

\* The committee agreed to publish the transcript of this private briefing after consultation with Mr Twyford.

## **Appendix C – Witnesses at public hearings**

### **Public hearing, Brisbane, 22 November 2023**

#### **Panel**

- Dr Troy Allard, Program Director, School of Criminology and Criminal Justice
- Dr Molly McCarthy, Lecturer in Criminology, Monash University

#### **QUT School of Justice**

- Professor John Scott, Head of School

#### **54 Reasons**

- Ms Mena Waller, Queensland State Director

#### **PeakCare Queensland**

- Mr Tom Allsop, Chief Executive Officer

#### **Yiliyapinya Indigenous Corporation**

- Sheryl Batchelor, Founder and Director

### **Public hearing, Brisbane, 23 November 2023**

#### **Australian Worker's Union**

- Stacey Schinnerl, Queensland Branch Secretary
- Joseph Kaiser, Campaigns Co-ordinator

#### **Youth Advocacy Centre**

- Katherine Hayes, CEO

#### **Aboriginal and Torres Strait Islander Legal Service**

- Pree Sharma, Prevention, Intervention and Community Legal Education Officer
- Kate Greenwood, Senior Policy Officer, Closing the Gap
- Helen Allport, Manager, Through Care Programs

#### **Knowledge Consulting Pty Ltd**

- Keith Hamburger AM, Managing Director

#### **Voice for Victims**

- Ben Cannon, Coordinator

- Trudy Reading, Volunteer Administrator

#### **First Nations Community Representative**

- Mr Brett Nutley

#### **Independent expert**

- Mr Bob Atkinson AO, APM

#### **Sisters Inside Inc**

- Boneta-Marie Mabo, State Youth Program Manager
- Ruby Wharton, Community Development Officer

#### **Public hearing, Brisbane, 24 November 2023**

##### **Queensland Law Society**

- Mr Damian Bartholomew, Chair, QLS Children's Law Committee
- Prof Tamara Walsh, Member, QLS Human Rights and Public Law Committee
- Ms Carolyn Juratowitch, Member QLS Children's Law Committee

##### **Bar Association of Queensland**

- Ms Laura Reece, Member of the Criminal Law Committee

##### **Legal Aid Queensland**

- Mr David Law, Assistant Director, Youth Legal Aid

##### **Queensland Youth Policy Collective**

- James Rigby

##### **Queensland Family and Child Commission**

- Luke Twyford, Chief Executive and Principal Commissioner
- Natalie Lewis, Commissioner

##### **Australian Human Rights Commission**

- Ms Anne Hollonds, National Children's Commissioner

##### **Queensland Human Rights Commission**

- Commissioner Scott McDougall

**Public hearing, Brisbane, 6 December 2023**

**Queensland Ombudsman**

- Mr Anthony Reilly, Ombudsman and Inspector of Detention Services

**Office of the Public Guardian**

- Mr Nicholas Dwyer, Deputy Public Guardian
- Kelly Unsworth, Senior Policy Officer

**Public hearing, Townsville, 5 February 2024**

**Townsville Justice Group**

- Karl McKenzie, Chair
- Dr Bruno van Aaken, Consulting Criminologist
- Mason McKenzie, Representative

**Individuals in private capacity**

- Bernice Hookey
- Reuben Richardson

**Queensland Youth Services**

- Wendy Lang, Executive Officer

**Townsville City Council**

- Cr Jenny Hill AM, Mayor of Townsville
- Bede Harding, Chief of Staff

**Townsville Aboriginal & Islander Health Service (TAIHS)**

- Randal Ross, CEO
- Tyrelle Smith

**Individual witnesses**

- Dennis Clancy
- Brett Geiszler
- Judy Chandler
- David Cassells
- Fay Gee-Hay
- Enid Surha

- Arika Appleby
- Arthur Burchett

**Public hearing, Cairns, 7 February 2024**

**Youth Empowered Towards Independence**

- Jess Finitsis, Youth Justice Manager
- Genevieve Sinclair, Chief Executive Officer

**Harbrow Mentoring**

- Marc Harbrow

**Deadly Inspiring Youth Doing Good**

- Semara Jose, Cofounder and Executive of Opportunities
- Merrissa Nona, Chief Executive Officer
- Daniel Rosendale, Business Manager

**Individuals in private capacity**

- Sharon Cavanagh-Luskin
- Shane Cuthbert
- Pat O'Shane AM
- Raymond Austin
- Joanne Borg
- Paul Taylor
- Aaron Mcleod
- Perri Conti

**Public hearing, Mount Isa, 9 February 2024**

**North West Queensland Indigenous Catholic Social Services**

- Dolly Hankin, DV Officer and Local Elder
- Faisal Khan, Chief Executive Officer
- Father Mick Lowcock, Chair
- Joelene McNamara, Youth Hub Coordinator

**Local MPs**

- Robbie Katter, Member for Traeger

**Mount Isa Neighbourhood Centre**

- Leanne Harris, Centre Manager

**Injilinj**

- Hayley Iles, Manager, Youth Support Service
- Jacob Takurit, Board Member

**Mount Isa City Council**

- Chad King, Director, Community Services
- Danielle Slade, Mayor

**Individuals in private capacity**

- Karl Howard
- Emma Harman
- Chris Boshoff
- Phil Barwick
- Aubrey Liyanage
- Lyn White

**Public hearing, Toowoomba, 16 February 2024**

**CatholicCare Social Services**

- Kate Venables, Executive Director

**Toowoomba Victims Advocacy**

- Ken Cunliffe

**Lifeline Darling Downs and Southwest Queensland**

- Rachelle Patterson, Chief Executive Officer

**Toowoomba Regional Council**

- Geoff McDonald, Mayor

**Goolburri Aboriginal Health Advancement Co. Ltd**

- Wade Collinson

### **Queensland Aboriginal and Torres Strait Islander Child Protection Peak**

- Justin Power, Director, Member Services

### **Individuals in private capacity**

- Brendan Long
- Karynne Paull
- Peter Marten
- Janice Humphreys

### **Public hearing, Brisbane, 21 February 2024**

#### **Justice Reform Initiative (via videoconference)**

- Dr Mindy Sotiri, Executive Director
- Aysha Kerr, Queensland Advocacy and Campaign Coordinator

#### **Youth Off The Streets**

- Michelle Ackerman, Director

#### **Ipswich Community Youth Service**

- Amanda Margerison, Chief Executive Officer

### **Public hearing, Southport, 22 February 2024**

#### **Everything Suarve**

- Joseph Te Puni-Fromont, Founder

#### **Fight 4 Youth**

- Leisa Logan, Director
- Billy Siemons

#### **Gold Coast Youth Service**

- Justine Marshall, Team Leader, Youth Homelessness and Outreach Support Team
- Matt Slavin, Team Leader, Gold Coast Youth Foyer

#### **Veteran Mentors**

- Matthew French, Founder and Director
- Troy Methorst, Director

### **Youth Music Venture**

- Ian Grace, Founder and President

### **Individuals in private capacity**

- Gordana Blazevic
- Benjamin Holland
- Marcelo Alcantara
- Danielle Dunsmore

### **Local MPs**

- Rob Molhoek, Member for Southport

### **Public hearing, Kawana Waters, 23 February 2024**

#### **Integrated Family and Youth Service**

- Conrad Townson, Principal Advisor, Child Sexual Exploitation
- Kurt Ludeke, Operations Manager
- Nathan Andrews, Team Leader, Youth Transitions

#### **Noosa Shire Council**

- Mayor Clare Stewart
- Larry Sengstock, Acting CEO
- Cheryl Pattison, Community Development Coordinator

#### **Sunshine Coast Project Booyah**

- Senior Constable Greg Newman, Police Coordinator
- Inspector Michael Volk

#### **University of the Sunshine Coast**

- Dr Dominique Moritz, Associate Dean, Learning and Teaching, Senior Lecturer in Law, School of Law and Society
- Dr Emily Moir, Senior Lecturer in Criminology and Justice, School of Law and Society
- Dr Kelly Hine, Lecturer in Criminology and Justice, School of Law and Society

#### **Individuals in private capacity**

- Graeme Kimball
- Andrew Smith

- Brendan Wilkins
- Elizabeth Robins

#### **Voice for Victims**

- George Atkinson

#### **Public hearing, Rockhampton, 27 February 2024**

##### **Yoombooda gNugeena Rockhampton Aboriginal and Islander Community Justice Panel**

- Aunty Esme Wesser, Elder
- Aunty Delilah MacGillivray, Elder

##### **Darumbal Community Youth Service**

- Rose Malone, Chief Executive Officer
- Barry Jard, Chair
- Kiah Woodall, Manager, Youth Justice Program

##### **Central Queensland University**

- Dr Linda Lorenza, Senior Lecturer, Central Queensland Conservatorium of Music, School of Education & the Arts

##### **OurSpace**

- Jessie Conway, Service Manager

##### **Carinity Education Rockhampton**

- Lyn Harland, Principal

##### **Individuals in private capacity**

- Leyland Barnett
- Brad Neven
- Sue Wurth
- David Bond
- Dr Wallace Taylor, OAM
- Graham Farmer
- Kyel Roberson
- Ken O'Brien
- Geoff Higgins

- Chris 'Pineapple' Hooper
- Stella Doyle
- Breann Hill

**Public hearing, Brisbane, 8 March 2024**

**First Nations Elders**

- Reverend Aunty Alex Gater
- Professor Boni Robertson
- Aunty Joanne McConnell
- Brett Nutley

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## Appendix D – Detention as a last resort around Australia

	Expressly adopts principle	Average detention rate <sup>432</sup>	Relevant legislative provisions
<b>Queensland</b>	Yes	4.8	<p>Youth Justice Principle 18 provides:                      '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'  <i>Youth Justice Act 1992</i>, sch 1</p> <p>In sentencing a child, a court must have regard to special considerations, including:                      'a detention order should be imposed only as a last resort and for the shortest appropriate period'  <i>Youth Justice Act 1992</i>, s 150(2)(e)</p>
<b>New South Wales</b>	No	1.9	<p>Children's Court cannot impose a sentence of detention 'unless it is satisfied that it would be wholly inappropriate' to impose a less serious penalty.  <i>Children (Criminal Proceedings) Act 1987 (NSW)</i>, s 33(2)</p> <p>A higher court must only impose a sentence of imprisonment 'unless it is satisfied, having considered all possible alternatives, that no penalty other than imprisonment is appropriate'  <i>Crimes (Sentencing Procedures) Act 1999 (NSW)</i>, s 5(1) [Note: this Act applies to children sentenced for very serious offences, such as murder]</p>
<b>Victoria</b>	No	1.2	<p>Courts must only impose sentences of detention if satisfied that less serious sentences are not appropriate  <i>Children, Youth and Family Act 2005 (Vic)</i>, ss 361, 410, 412</p>
<b>South Australia</b>	No	1.8	<p>Courts can only impose a sentence of detention on a young offender if:</p> <ul style="list-style-type: none"> <li>• they have been declared to be a 'recidivist youth offender'</li> <li>• they are a serious firearm offender</li> <li>• the Court is satisfied that a non-custodial sentence would be inadequate because of the gravity/circumstances of the offence, or because of a pattern of repeated offending</li> </ul> <p><i>Young Offenders Act 1993 (SA)</i>, s23(4)</p>
<b>Western Australia</b>	Yes	3.9	<p>General principles of juvenile justice include:                      'detaining a young person in custody for an offence, whether before or after the person is found to have committed the offence, should only be used as a last resort and, if required, is only to be for as short a time as is necessary'  <i>Young Offenders Act 1994 (WA)</i>, s 7(h)</p>
<b>Tasmania</b>	Yes	1.5	<p>General principles of youth justice include:                      'detaining a youth in custody should only be used as a last resort and should only be for as short a time as is necessary'  <i>Youth Justice Act 1997</i>, s 5(1)(g)</p>
<b>Australian Capital Territory</b>	Yes	2.5	<p>Youth justice principles include:                      'a child or young person may only be detained in custody for an offence (whether on arrest, on remand or under sentence) as a last resort and for the minimum time necessary'  <i>Children and Young People Act 2008 (ACT)</i>, s 94(1)(f)</p> <p>The principle is restated, in relation to the sentencing of young offenders, in s 133G(2) of the <i>Crimes (Sentencing) Act 2005 (ACT)</i>.</p>
<b>Northern Territory</b>	Yes	19.8	<p>Principles to be taken into account in administration of the Act include:                      'a youth should only be kept in custody for an offence (whether on arrest, in remand or under sentence) as a last resort and for the shortest appropriate period of time'  <i>Youth Justice Act 2005 (NT)</i>, s 4(c)</p>

<sup>432</sup> Productivity Commission, 'Youth Justice Services' in *Report on Government Services 2023* (released 24 January 2023). Available at: <https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/youth-justice>

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