



Save the Children

54 reasons

“Don’t judge a book by its cover”: A rights-respecting approach to youth justice in Queensland

Submission to Youth Justice Reform Select Committee

21 December 2023

We acknowledge the Traditional Custodians on whose land we live and work, honouring their continued connection to land, sea, skies and water.

We pay respects to Elders and Ancestors of Country and celebrate their role in passing down sacred cultural, spiritual and educational practices.

We also acknowledge the strength and commitment of First Nations practitioners who work alongside children and young people to support and guide leaders of the future.

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Our perspective on youth justice reform in Queensland

Save the Children is a leading global non-government organisation focused on children's rights which has been active in Australia for over 100 years.

54 reasons is Save the Children's service delivery arm in Australia. We work with children, their families and communities in accordance with the 54 articles in the United Nations Convention on the Rights of the Child.

We are Australia's leading child rights organisation.

Our views on youth justice reform in Queensland are grounded in our extensive experience providing services across the state.

- We are a significant **youth justice** service provider, including in Townsville, Mackay, Hervey Bay, Mount Isa and the Gulf.
- We provide **domestic and family violence** services that work with women and children as victim-survivors, adolescent boys, and adult perpetrators.
- We are a delivery partner for the statewide VictimConnect service that supports **victims of violent crime**.

Our perspective is strongly informed by our experience providing these services and **what we hear** from children, families and communities across Queensland. This includes direct consultations and engagement with children and young people who have lived experience of youth justice and youth detention.

We are also informed by our broader work with children and families in Queensland and nationally. This includes our **policy and research** activities and our **services** spanning early childhood development, parenting and family support, school engagement and wellbeing, child rights education, disaster response and recovery, and collective impact and place-based initiatives.

All our work is directed at **making rights real** by translating child rights principles into policy, practice and tangible change for children, young people and their communities.

This submission includes direct quotations from young people in Queensland with whom 54 reasons works through our youth justice services, and who have lived experience of the system, including youth detention.

The quotations are from individual and group consultations undertaken to understand these young people's experiences of their rights in Queensland and enable their voices to be heard.

We share these words with their consent, with respect for their insights, and in the hope their views are taken seriously and acted upon.

Executive summary

By any measure, the current approach to youth justice in Queensland is not working. The punitive strain that runs through Queensland's youth justice system is ineffective in preventing offending and reoffending and undermines the system's ability to achieve its goals.

The current system does not address root causes, is not consistently evidence-based and is discriminatory. It reinforces intergenerational disadvantage and perpetuates a shameful over-representation of Aboriginal and Torres Strait Islander children and young people. It harms children and young people, while systemically violating their rights.

At the same time, public conversation about youth justice is alarmist and ill-informed. 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'.

It is unfortunate that 'tough' government responses are often framed as reflecting concerns about community safety. The punitive responses that public alarm encourages in fact make the community less safe, by causing increased offending and recidivism. The result is a vicious cycle, with extreme policy responses fuelling community concern rather than ameliorating it.

To achieve its objectives, the system needs an overhaul. A rights-respecting approach, based on upholding children's rights, can enable this fundamental change.

Rather than punishing and incarcerating young people, a child rights-based approach focuses system effort on addressing root causes, preventing and reducing contact with youth justice, and providing effective support to change trajectories. It builds on strengths rather than reinforcing deficit. It is a better and more effective basis for youth justice reform. It can make the difference, including for those young people who are at greatest risk and already tarred as 'serious repeat offenders'.

Victims of crime deserve support. Their desire for justice is more than understandable. However, this must not be confused with retribution, which neither enables justice nor prevents future harm. Community-based restorative justice approaches can 'square the circle' between upholding children's rights, ensuring accountability and supporting victims, to generate meaningful community-level change. The goal is connection and healing, not further division.

This Government has made significant investments in important aspects of an effective youth justice system. These should be continued and built upon as part of broader reform. To guide this broader reform, the evidence is clear and the solutions are known. There is no shortage of previous reports providing evidence of what should be done.

What is now needed is a clear vision and commitment grounded in rights-based principles, and the will to implement it through comprehensive, coherent and sustained reform.

We must hear what young people who have experienced the criminal justice system are telling us, through their actions and – when asked – with their words.

Only when we listen to these children and young people, and act to ensure their rights are upheld, will we become the stronger and more just society that everyone in our state rightly expects and deserves.

Recommendations

Save the Children and 54 reasons recommend that the Queensland Government:

1. **Adopt a rights-respecting approach** to youth justice reform that complies with child rights principles and standards.
2. **Establish a 10-year youth justice strategy**, underpinned by a **Children's Plan for Queensland** to drive a long-term, coordinated focus on children's outcomes.

In adopting a rights-respecting approach and establishing a 10-year youth justice strategy and a Children's Plan for Queensland, we recommend that the Queensland Government:

3. **Prioritise ending the over-representation of Aboriginal and Torres Strait Islander children** and young people in youth justice and enable self-determination.
4. **Take children's and young people's views seriously** in youth justice, and ensure children can participate in both policy-making and individual decisions affecting them.
5. **Shift system focus and investment to preventing offending and re-offending, and early intervention**, including:
 - a. Address the effects of colonisation, racism, intergenerational trauma and poverty as root causes
 - b. End the intergenerational and present-day pipeline between statutory child safety, out-of-home care and youth justice involvement
 - c. Prioritise family support and educational engagement as protective factors
6. **Embed effective therapeutic and trauma-informed support** for children and young people at every point of the system, with immediate priorities to include:
 - a. Effective support for adolescents using violence in the home
 - b. State-wide bail support, throughcare and post-detention services
 - c. A strategy to ensure rights-compliant youth justice workforces.
7. **Facilitate community-based restorative justice and meaningful victim engagement**
8. **Raise the minimum age of criminal responsibility to 14** for all offences, accompanied by adequate investment in Queensland's youth services.
9. **Reverse recent legislative changes that are inconsistent or incompatible with Queensland's Human Rights Act:**
 - a. Discontinue electronic monitoring of children
 - b. Remove restrictive bail measures, including criminalisation of breach of bail
 - c. Reinstate time limits for how long children can be held in police watch houses and remove the ability to declare watch houses to be youth detention centres.
10. **Bring youth detention in Queensland into line with child rights requirements:**
 - a. Prohibit the detention of children in police watch houses
 - b. End the use of solitary confinement
 - c. End the use of excessive and punitive force and restraint practices
 - d. Commit to ending the current model of imprisonment of children
 - e. Set a timeframe to establish child-centred, therapeutic, non-punitive and trauma-informed alternatives to current youth detention facilities.
11. **Apply a rights-respecting approach to all children and young people, including those designated as serious repeat offenders.**

Youth justice in context

Youth justice is an emotive issue. Public debate is unfortunately strongly influenced by ill-informed and alarmist commentary about youth offending and its causes. This can easily obscure the legitimate point that everyone has the right to be safe.

By contrast, there is clear expert consensus – across researchers, community-based service providers and peak bodies, and young people with lived experience of the system – about what causes contact with youth justice and drives reoffending.

- Intersecting historical, environmental, institutional and system factors contribute to children and young people encountering the youth justice system. This includes extremely high rates of severe maltreatment, neurodevelopmental and other disorders (often undiagnosed) and trauma, intersecting with institutional racism, the continuing legacy of colonisation and dispossession, and acute system failures – see Figure 1 below.
- These factors are exacerbated by challenges in every important part of children’s lives. This includes education barriers, health and development complexities, employment and societal barriers, and environmental barriers – see Figure 2 below.
- Systems are not addressing these complex, but known, root causes, challenges and barriers in a coordinated or effective way – see Figure 3 below.

Our 2023 report, *Putting children first: A rights respecting approach to youth justice in Australia*,¹ provides more detail and is the source for Figures 1, 2 and 3.

Figure 1: Factors causing contact with youth justice²



¹ Save the Children and 54 reasons, 2023, *Putting children first: A rights respecting approach to youth justice in Australia*, available at <https://www.savethechildren.org.au/getmedia/4befc9d7-c9de-4088-b591-547714fc8673/Putting-children-first-A-rights-respecting-approach-to-youth-justice-in-Australia-April-23.pdf.aspx> (*‘Putting children first’*)

² *Putting children first*, p 19.

Figure 2: Challenges and barriers contributing to contact with youth justice³

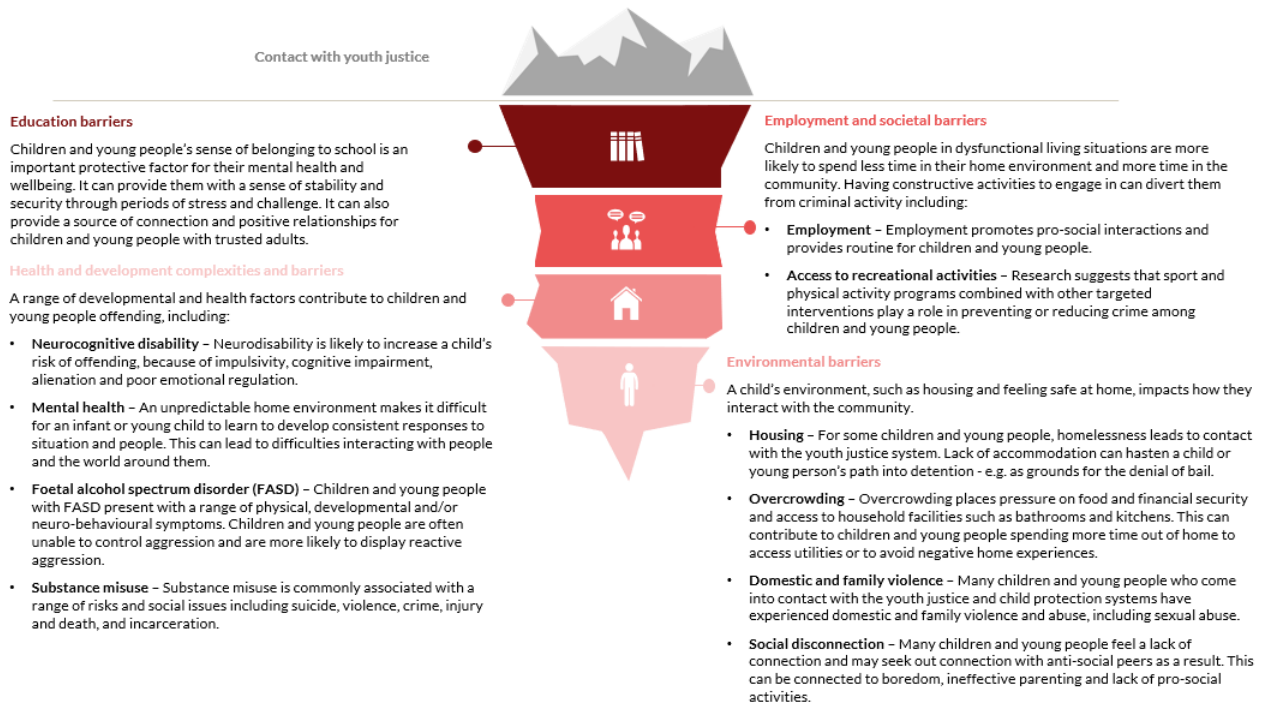
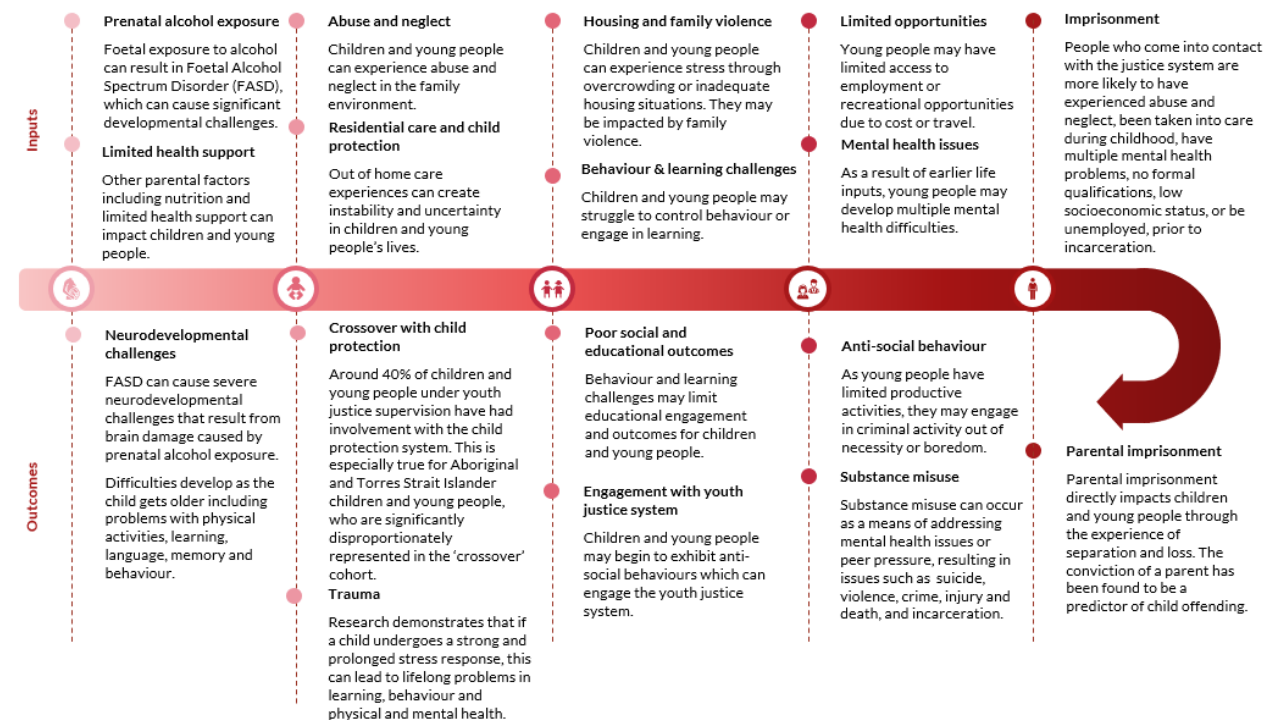


Figure 3: Service system deficiencies contributing to contact with youth justice⁴



³ Putting children first, p 20.

⁴ Putting children first, p 21. The statistic about crossover with child protection is national. The proportion in Queensland is comparable or higher.

A rights-respecting approach

Successive Queensland Governments have devoted significant attention to youth justice, and there is extensive evidence about what works. Yet major challenges in system performance persist, and large sections of the community continue to fear a 'crisis' in youth crime despite clear data to the contrary.

The toxic discussion in the media, social media and elsewhere is unquestionably a major barrier to meaningful change, along with a lack of political will to implement coherent and comprehensive evidence-based reform.

At a deeper level, lack of respect for children and young people and their rights is a fundamental impediment to more effective youth justice. Systemically, children's basic human dignity is not respected or upheld. Policy and legislative responses do not reflect an understanding of child development or the root causes that push children into contact with youth justice. This absence of a rights-respecting approach is a fundamental reason why our youth justice system continues to fail.

Children's rights

Children's rights are the human rights of children, as enshrined in the United Nations Convention on the Rights of the Child (CRC).⁵ They are the fundamental conditions, supports and protections that all children should have so they have the opportunity to reach their potential and thrive. They include the rights to health, education, an adequate standard of living, enjoyment of culture, being treated fairly, having adults act in their best interests, and being heard and taken seriously, among others. These basic rights cannot be forfeited or lost.

A rights-respecting approach takes these rights seriously and upholds them. It is informed by contemporary child development science and evidence, including about:

- How a child-centred, holistic and ecological approach supports children's healthy cognitive, physical and other development, including when they experience adversity
- Children's progressive brain development, social, emotional and cognitive capacity, and developing ability to understand the consequences of their actions as they grow older
- Children's response to trauma and how this impairs healthy development
- The importance of empowering children to exercise agency in their lives
- The types of support and interventions that effectively prevent and reduce children's harmful behaviour.

The Queensland Human Rights Act

The *Human Rights Act 2019* (Qld) should be a source of pride to everyone in our state. It represents a clear commitment by the Queensland Parliament, and the current Government, to upholding human rights as fundamental principles of our society and legal system.

When a government acts inconsistently with the Human Rights Act, and even more so when it overrides the Act altogether to enact measures that are incompatible with human rights – as

⁵ Children's rights are also established and influenced by other human rights treaties, declarations, statements and rules, such as the United Nations Declaration on the Rights of Indigenous Peoples: see *Putting children first*, pp 13 and 74-7 for more detail.

this Government has done twice in 2023 to enact youth justice measures⁶ – this is a sign that something has gone badly wrong.

Notably, the Human Rights Act itself is not comprehensive in its protection of children’s rights. It includes only some of the full range of rights that are enshrined in the CRC. As such, the Human Rights Act provides a crucial yardstick for human rights compliance, without encompassing the full breadth of a rights-respecting approach embodied in the CRC.

A rights-respecting approach to youth justice

Youth justice is an area where children’s rights are particularly important, and particularly challenged. A rights-based approach provides a comprehensive framework for achieving the policy objectives of youth justice – particularly preventing and reducing involvement with the criminal justice system, through childhood, adolescence and into adulthood. It provides overarching principles and clear, practical standards for youth justice systems.

Overarching child rights principles from the CRC that should guide youth justice reform are:

1. Children should not be discriminated against for any reason⁷
2. Children’s best interests should always be primary in decisions affecting them⁸
3. Children have the right to life, survival and development, which includes the right to receive child-centred supports that respond to their individual needs and circumstances and address root causes of challenges to their healthy development⁹
4. Children have the right to participate and be heard in decisions affecting them.¹⁰

Our report, *Putting children first*,¹¹ details how these principles translate to specific policy and practice reform. This submission highlights how both these overarching principles and more specific child rights standards are relevant in Queensland.

RECOMMENDATION 1

Adopt a rights-respecting approach to youth justice reform that complies with child rights principles and standards.

Building on what is already working

In this submission, we point to fundamental changes that are required to reform Queensland’s youth justice system and break the current toxic cycle of media-driven perceptions of crisis and knee-jerk reactions. We highlight acute child rights breaches that are occurring across Queensland due to government decisions.

At the same time, there are elements of the current youth justice system that reflect rights-respecting principles and evidence-based reform and investment by the Queensland Government, as well as important broader directions set by the Government, which will make a significant difference to youth justice outcomes if fully implemented. These include:

⁶ Through the Strengthening Community Safety Act 2023 and the Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Act 2023.

⁷ CRC Article 2.

⁸ CRC Article 3.

⁹ CRC Article 6.

¹⁰ CRC Article 12.

¹¹ See above n 1.

- Important investments in:
 - Early intervention and diversionary programs
 - Educational engagement as a protective factor
 - Restorative justice conferences and approaches
 - Bail support services, including the Intensive Bail Initiative and Intensive Family Partnership
 - Innovation grants, one of which has enabled 54 reasons to deliver the post-detention Back to Community program supporting young people aged 10-17 who are transitioning from Cleveland Detention Centre whose home Country is Mount Isa, Doomadgee or Mornington Island
- The Queensland Family and Child Commission's (QFCC) *Queensland Child Rights Report 2023*,¹² which provides data about children's rights issues in Queensland, spotlights youth justice as an area of particular focus, and recommends the development of a Children's Plan for Queensland
- The Queensland Government's commitment and Path to Treaty, which if fully implemented could support true self-determination and healing.

We recognise the challenges facing government in implementing evidence-based youth justice reform given the public dynamics that are in play. We encourage the Government to continue building on the above and other positive initiatives that are already underway, as a foundation for broader rights-respecting system reform.

A coordinated and long-term approach for children in Queensland

Meaningful youth justice reform will require a long-term strategy with accompanying action plans and investment, extending over a 10-year horizon. However, even such a long-term youth justice strategy will not be enough on its own.

We have all seen government strategies with good intent that set the right policy directions but fail to achieve their goals. Invariably this is because the hardest aspects of addressing complex policy challenges are not, in practice, prioritised over the lifetime of the strategy. These include genuinely shifting focus from acute responses to prevention and early intervention, and following through with sustained investment and resourcing for implementation across service systems, programs and workforces.

To set up Queensland to stay the course and 'future-proof' its next youth justice strategy, we support QFCC's recommendation that the Queensland Government also develop a broader Children's Plan for Queensland.

A Children's Plan for Queensland would establish a clear vision for Queensland's children and a practical roadmap to achieve it. The Plan would establish a long-term and comprehensive framework for how policies, services, investments and decisions that affect children are organised, connecting currently siloed portfolios, services and systems.

It would provide a coordinated plan for addressing the underlying forces and structures – such as intergenerational poverty and disadvantage – that drive children into contact with child safety, youth justice and other 'acute' systems and are the root causes of the problems and harm that these systems deal with.

¹² Available at <https://www.qfcc.qld.gov.au/child-rights/report>.

The development of a Children’s Plan for Queensland should be strongly informed by the views of children and young people themselves, including those with direct experience of the youth justice, child safety and other tertiary systems. It could draw on existing resources outlining what a National Children’s Plan could look like.¹³

RECOMMENDATION 2

Establish a 10-year youth justice strategy, underpinned by a Children’s Plan for Queensland to drive a long-term, coordinated focus on children’s outcomes.

Aboriginal and Torres Strait Islander self-determination

We cannot talk about youth justice in Queensland without confronting the extreme over-representation of Aboriginal and Torres Strait Islander children and young people.

**“only black fellas in the detention centre”
(16 years old)**

- Aboriginal and Torres Strait Islander children aged 10-17 are detained at between 23 and 28 times the rate of non-Indigenous children¹⁴
- Younger Aboriginal and Torres Strait Islander children are more over-represented in criminal proceedings, representing 86 per cent of all 10/11 year olds, 81 per cent of all 12 year olds and 65 per cent of all 13 year olds who are the subject of a proven charge¹⁵
- Aboriginal and Torres Strait Islander children and young people are over-represented among those receiving both child protection (child safety) and youth justice services. 67 per cent of Aboriginal and Torres Strait Islander children and young people under youth justice supervision had also received child protection services in the last five years, compared to 48 per cent of non-Indigenous children and young people.¹⁶

There is no way to understand these horrifying figures other than as a consequence of the continuing legacy of violent colonisation, dispossession and past and present-day institutional discrimination and racism experienced by Aboriginal and Torres Strait Islander peoples.

The trauma and intergenerational harm caused by these structural factors – sustained by a status quo that continues to marginalise the perspectives and priorities of those who are most affected and who have the most relevant insights and knowledge – is extreme. Its effects are visible in harm caused to the physical, cognitive, emotional and other development of far too many children today, often even before birth, and exacerbated by the barriers they face to connecting with their family, community and culture. In turn these manifest in

¹³ Australian Child Rights Taskforce, Save the Children & 54 reasons and UNICEF Australia, 2023, *Blueprint for a National Children’s Plan* (forthcoming).

¹⁴ Australian Institute of Health and Welfare (AIHW), 2023, *Youth justice in Australia 2021-22*, State and territory fact sheets: Queensland (tables S132b and S132c); AIHW, 2023, *Youth detention population in Australia* (average night in June 2023 quarter). Range is due to different time periods and measures covered by the two AIHW data sources.

¹⁵ Childrens Court of Queensland, *Annual Report 2021-22*, p 21.

¹⁶ AIHW, 2022, *Young people under youth justice supervision and their interaction with the child protection system 2020-21* (table S2).

developmental challenges and disorders, behaviours and contact with the retraumatising effects of the criminal justice system.

**“I feel like I don’t fit in [in my own country]”
(16 years old)**

To end this over-representation, the collective right of Aboriginal and Torres Strait Islander peoples and communities to self-determination must be supported. When communities are empowered to make decisions about the matters that affect them, outcomes are always better. Government’s responsibility is to invest in First Nations-led approaches for Aboriginal and Torres Strait Islander children, to enable these improved outcomes.

Importantly, supporting self-determination requires acting and working with an understanding of the specific history and context of each community, and not making assumptions about what community wants or applying a ‘one size fits all’ approach.

**“If they ever sat on the floor like us, they would understand. They’re all this has got to be this and that – nah. They think everything is good as shit, they think they are perfect cunts – try living in a house with no doors”
(16 years old)**

Based on [54 reasons](#)’ experience working in northern Queensland and the Gulf region in particular, specific things that governments and services must bear in mind are:

- To understand and respond to the causes of young people’s involvement with youth justice, and disengagement from employment and education, it is important to understand the specific local context that is shaping their choices and options.
- Local community history and context will not always be disclosed to outsiders. Those who have suffered violence, exclusion and other adversity because of these factors may feel ashamed and not tell service providers about it.
- Communities do not speak with one voice. The continuing legacy of dispossession means that different family, language and other traditional groups have often been displaced from their lands and are in close proximity with other groups where conflict may arise.
- Addressing community ‘need’ requires a context-specific approach, and genuine engagement to understand community circumstances, priorities and insights into what will work in the specific local or family context.
- Governments and services should not make assumptions about what self-determination looks like in any individual community, including self-determined arrangements for service delivery. Taking the time to listen and understand is essential.

RECOMMENDATION 3

Prioritise ending the over-representation of Aboriginal and Torres Strait Islander children and young people in youth justice and enable self-determination.



Children's and young people's participation in decision-making

Children and young people aged up to 18 have the right to participate in all decisions that affect them. This includes the right to be heard and have their views taken seriously, and to be supported appropriately to exercise this right and express their preferences, taking into account their age, capacity and circumstances.¹⁷

The right to participate is a fundamental right in itself. It is also the basis for the realisation of all other rights. Everyone has the right to shape their own lives. Children are entitled to specific recognition and support because they depend on adults in order to exercise that right.

To realise the right to participate, it is important that there is meaningful and ongoing engagement with children and young people. This can be contrasted to one-off or tightly circumscribed consultation or questioning which can easily be tokenistic.

The right is relevant to decisions of all types, from specific decisions within the youth justice system that directly affect a young person (such as court orders or goal setting in a diversionary program) to government policy decisions that shape the whole system.

At the **individual** level, supporting young people's participation has significant benefits:

- Ensuring that supports provided reflect the actual priorities and needs of the young person, and their community context
- Identifying activities that are meaningful and enjoyable to the young person in settings that feel comfortable for them, so that therapeutic and restorative work can be undertaken and positive relationships with adults and mentors can be built
- Building greater ownership and accountability – or 'buy-in' – by the young person into the supports available to them, whether these supports are voluntary or mandated
- Strengthening the young person's social and emotional wellbeing by building a sense of agency and control over their own life and being proactive about making improvements.

**“We don't really have young fellas that talk about culture and community and acceptance, you only have the older people telling you.”
(19 years old)**

At the **system and policy** level, incorporating lived experience into design, implementation and evaluation can enable better policy, more effective implementation, and strengthened civic engagement from those involved. A strengthened sense of civic engagement and responsibility has specific value in the context of youth justice, as people with lived experience who have achieved greater stability and positive engagement with society are particularly credible mentors for others who are still in contact with youth justice.

RECOMMENDATION 4

Take children's and young people's views seriously in youth justice, and ensure children can participate in both policy-making and individual decisions affecting them

¹⁷ United Nations Convention on the Rights of the Child, Article 12.



Prevention, early intervention and addressing root causes

Effective youth justice reform requires a focus on the root causes of undesirable behaviour. The primary aim should be preventing contact with youth justice in the first place. There is overwhelming evidence that preventive and early intervention approaches are the most effective and provide the highest return on investment, compared to late intervention once harm has already occurred. This is reinforced by our own experience at 54 reasons providing services in Queensland not only in youth justice, but also in educational engagement, family support, domestic and family violence, and victim support.

**“My daddy in jail, I’m in here probably my kid will be in here too”
(16 years old)**

The over-representation of Aboriginal and Torres Strait Islander children and young people in youth justice reflects the ongoing effects of violent colonisation and dispossession, institutional racism, and intergenerational trauma and poverty. Preventing a continuation of the intergenerational cycle – which sees each succeeding generation born into more deeply entrenched disadvantage and more likely to encounter the criminal justice system – requires a focus on those root causes, along with self-determination.

Some important dimensions of a focus on prevention and early intervention are:

- **Responses should be community-based and culturally appropriate and meaningful.** This means they should be grounded in community contexts and strengths, responsive to community priorities, and locally led and delivered wherever possible. This can include activities such as hunting and preparing food, building positive relationships with Elders, storytelling, dance and music. It can include opportunities to explore cultural identity and family genealogy (where appropriate) to further connect young people and help them gain more appreciation, knowledge, and respect for their culture and for themselves.

For example, in a Men’s Cultural Camp that 54 reasons supports in a remote region, there is an opportunity for adult male mentors to help young men understand what it is to be a man today. This can include questions and topics discussed in emotionally and culturally safe ways including self-identity, relationships, behaviours, and substance abuse.

**“Being able to do normal things (not crime) and feeling good about it.” [when asked what connection feels like]
(18 years old)**

- **Supports and services should be organised around children and young people,** in the context of their families, community and culture. This requires collaboration across government agencies, as well as with non-government service providers, to ensure that service delivery arrangements are child-centred and integrated rather than siloed and disconnected. In our experience, ‘child-centred planning’ is commonly a ‘tick box’ exercise. It should instead be the fundamental principle of effectively supporting a child or young person to turn their life around.
- **Access to material basics and an adequate standard of living** is foundational. Poverty crushes opportunity and manifests in vastly unequal opportunity. Without a roof over their head, regular meals and other material basics, it is extraordinarily difficult for young people who are already facing a raft of other challenges to stay on track.



- **Reducing the high crossover between the child safety and youth justice systems** should be a priority. There is no clearer illustration of how circumstances set before a child is even born can effectively determine their future opportunities than the intergenerational pipeline between these two systems. The shameful history of Aboriginal and Torres Strait Islander children being removed from their families – due to government failures to adequately support families, consider cultural context or accurately assess the harm of removal – is also a trajectory of intergenerational family trauma and increasingly entrenched poverty inherited by each successive generation. In turn, this – reinforced by similar dynamics in how systems continue to operate today – sets life trajectories that are extraordinarily difficult to escape.

To truly shift the foundations of the systems that are currently driving our most vulnerable children into contact with youth justice, a concerted focus is needed on addressing this persistent intersection with the harmful effects of past and continued inappropriate removals of children from their families and homes.

To have the best possible chance to avoid contact with youth justice, children and young people must have every opportunity to grow up strong in culture and experience belonging, love, connection, purpose and responsibility. Where they are unable to remain with their parents, the Aboriginal and Torres Strait Islander Child Placement Principle should guide decision-making. Both the youth justice and child safety systems require fundamental reorientation towards these purposes.

There are the ones [Child Safety workers] that want to help, and have seen how many kids have gone through the system and fucked up, and that's a lot to deal with. Trying to help kids but the kids aren't helping themselves – it's a big loop. They're emotionally and physically drained. Then they don't want to work, but someone new comes in who isn't as motivational [as them] ... and then these kids get [all this] shit build up on them, then they turn 18 and get kicked out of community. And then what, you know what I mean? I'm 18, where the fuck am I going?
(19 years old)

- **Family connection and support** is critical to prevent and reduce youth justice contact. While this can be challenging, government and services must enable meaningful – not just tokenistic – family participation, to uphold the best interests of the children and young people concerned. This often involves ensuring families are appropriately supported to, in turn, support the young person who is at risk, and partnering with families to provide that support. It also involves recognising the integral connection between the protective capacity of family and the protective strengths of connection to community and culture.

“I wish the school would have tried harder to keep me there. I think things would be different now.”
(18 years old)

- **Education is a powerful protective factor.** Maintaining or re-establishing engagement with education should be a high priority. Education can be a vital source of connection and for young people, a chance to form positive relationships with adults and the opportunity to acquire skills to equip them for future pathways into employment and adult life. Like family connection, access to education that includes young people and meets their needs is commonly identified by young people themselves as a priority, when they are asked.



“Most important thing I want to tell them is: Don’t judge a book by its cover. Don’t judge a kid by his family. Don’t judge the actions by the kid because of the family’s action. And get kids into school. I told workers I want to go to school, but they were never really motivated to get me into school. I said I want to go back to school, I want to do a trade ... you have to get me into some sort of education. It didn’t work out.”
(19 years old)

RECOMMENDATION 5

Shift system focus and investment to preventing offending and re-offending, and early intervention, including:

- a. Address the effects of colonisation, racism, intergenerational trauma and poverty as root causes
- b. End the intergenerational and present-day pipeline between statutory child safety, out-of-home care and youth justice involvement
- c. Prioritise family support and educational engagement as protective factors.

System-wide therapeutic and trauma-informed support

We have described above some important considerations for effective preventive and early intervention responses and approaches, including:

- Recognising and addressing **root causes** of risks and challenges
- Ensuring that responses are **culturally appropriate**, and locally led wherever possible
- Engaging family and the **protective strengths of family, community and culture**.

The same principles apply at all stages of involvement in youth justice, including through diversionary programs, bail programs, in detention, and post-detention services.

“We need encouragement, not judgement.”
(18 years old)

It is also essential that all supports and services across the system are **therapeutic and trauma-informed**. At [54 reasons](#), we often engage with young people in detention or on bail who put up a hard front and act unaffected by their experiences and ‘above it all’. However, once a more trusting relationship is formed, it becomes clear that this facade – an understandable, and in many ways rational, survival mechanism and trauma response – conceals enormous anxiety and stress on the inside. Services and interventions will not work unless they are tailored to respond to trauma and therapeutic in approach.

“I see myself as an injured lost boy trying to find myself. I need to get better at accepting help – then I can change”
(18 years old)

Embedding therapeutic and trauma-informed support across the system will require a commitment to long-term reform. We have also identified specific priorities below that could be part of a foundation for longer-term reform.

Adolescents using violence in the home

Although cases involving the use of violence in the home by adolescents are significantly under-reported, we know – including from our own experience working with families experiencing domestic and family violence at [54 reasons](#) – that it is a significant issue.

**“I grew up fighting, it is what we do and it’s all I knows how to do”
(16 years old)**

The justice system is poorly equipped to respond to adolescents using violence in the home. Many young people using violence at home are victim-survivors of violence themselves. Often, they still live with the adult perpetrator. National research indicates that 89 per cent of all young people using violence in the home have themselves experienced abuse. The probability of using violence in the home is highest among young people who have both witnessed violence between other family members and been subjected to targeted abuse.¹⁸

In this context, responding effectively to the use of violence by adolescents in the home requires a trauma-informed and whole-of-family approach, not a criminalising one. A criminal justice response to a young person using violence is almost certain to reinforce the intergenerational cycle of violence itself.

A trauma-informed approach recognises the trauma caused by adult-perpetrated domestic and family violence and seeks to safely strengthen the relationships between family members. The goal should be centring the experiences and needs of the young person, partnering with their protective parent or family members, and seeking to change the behaviour and attitudes of the adult perpetrator as well as the young person themselves.

State-wide bail support, throughcare and post-detention support

[54 reasons](#) provides rights-based bail support, intensive bail support and related services in Mackay, Hervey Bay and Mount Isa, and post-detention ‘back to community’ programs and other services in Townsville and Gulf communities, along with broader youth services.

In our bail support services specifically, an average of half of all clients are considered as high repeat offenders, most of whom are included on the Serious Repeat Offender Index. Most have some form of release order with tight scheduled supports in place for them each week.

**“There needs to be more support. There needs to be more things like you guys [54 reasons bail support workers] to help us kids.”
(18 years old)**

To decrease the number of children and young people being remanded in custody and reduce youth reoffending, **state-wide bail support** is essential. It should be an investment priority.

Effective bail support does more than keep young people out of custody. It also enables skilled workers to engage with young people through trauma-informed practice and a strengths-based approach, to help build a relationship between the young person and their

¹⁸ K Fitz-Gibbon et al, 2022, *Adolescent family violence in Australia: A national study of prevalence, history of childhood victimisation and impacts*, ANROWS, Research Report, Issue 15.

community, and with the services that can support them. It provides a non-punitive and meaningful way for young people to be supported and can be a ‘reset’ for them. In practical terms, it commonly includes a mix of activities that engage young people day to day – such as basketball, swimming and fishing – and activities that challenge their perspective, which can include activities on Country where appropriate.

“I helped a mate do his lawn the other day and it made me feel good – I didn’t even use drugs that day. I think I want to get a job doing this now. I like to feel useful – that builds me up.”
(18 years old)

The reality of the current system is that many children and young people continue to experience detention. To avoid this becoming a defining experience for their future trajectory, a **throughcare** model of support inside detention that links to **post-detention support** is critical. This is a significant gap in the current service system.

Building a relationship with a young person in detention is a necessary platform for effective post-detention support that can link the young person back to their community and avoid the common pattern of recidivism due to the criminogenic effects of incarceration. Systematic throughcare and post-detention support should be an immediate investment priority.

Rights-compliant workforces

Supporting and ensuring rights-compliant workforces is one of the most important and challenging aspects of youth justice reform. This means workforces who understand, respect and are capable of working in ways that uphold children’s rights – across police, youth justice agencies, youth detention centres, and community and social services working with children, young people, families and communities.

Trusting and consistent relationships with workers are key to engaging and effectively supporting children and young people. Where workers can form a ‘therapeutic alliance’ with young people, recidivism reduces. There is insufficient investment in training, supervision, coaching, support and structures for these workforces who are required to perform such critical and difficult roles. Providing this support, and ensuring sufficient staffing levels, is essential to effective implementation of any youth justice reform.

At the practice level, examples of rights-based guidance and resources are available. For example, **54 reasons’** workforce operates utilising a consistent child rights practice and outcomes framework and evidence-based single operating model for youth justice services.¹⁹

RECOMMENDATION 6

Embed effective therapeutic and trauma-informed support for children and young people at every point of the system, with immediate priorities to include:

- a. Effective support for adolescents using violence in the home
- b. State-wide bail support, throughcare and post-detention services
- c. A strategy to ensure rights-compliant youth justice workforces.

¹⁹ Further information available on request.



Community-based restorative justice and victim engagement

When considering justice and victims, it is important to begin by recognising that, unfortunately, many young people in the justice system have been victims themselves. Many of these children have been in and out of care.

In this context, punitive responses to youth offending are both unjust and ineffective. A parallel can be drawn to effective parenting. Effective parenting involves helping children learn right from wrong, holding them accountable for their actions (which can include appropriate consequences), and showing children what desirable behaviour looks like in a way that is personally and culturally meaningful for them. It avoids punishing children, shaming them, ostracising them from their family or withdrawing support from them.

Similarly, effective responses to undesirable behaviour that affects the community are not grounded in punishment and retribution. When a young person is incarcerated, they are being removed from their community and the opportunity to engage with their community about what they have done. In turn this all too commonly leads young people to view themselves as not part of their community, reinforcing their negative trajectory.

Instead, children and young people should be given every opportunity in community to learn right from wrong and to be accountable. This is about hope and healing. It is about asking the young person to step up to the plate, admit what they have done, and engage with those who have been affected. The best people to teach young people about the impacts of their actions, and the consequences, are the people who have been affected by it. The natural consequence of offending behaviour is not to be locked in prison; rather, it is to have a conversation with the person affected and talk about how to fix what has been done.

**“That I am wanted outside of prison.” [when asked what connection feels like]
(18 years old)**

These processes – grounded in restorative justice principles – are difficult. They require time and sensitivity, and meaningful engagement with family and with community, including those affected. However, when done meaningfully, they can bring the young person and the community back together. They can bridge the divide that too often exists, by enabling the community to see the young person as a child – and as a person – not a monster.

**“I want my family to notice the good things I do, not always concentrate on the bad things.”
(18 years old)**

Consideration could be given to how government could support financial restitution to victims being an outcome of a restorative justice or community-based process, where this is appropriate and agreed. This can help address the sense of injustice that victims may feel after a crime – for example, about being ‘out of pocket’ or that they ‘can’t get their car back’. This should not be implemented in a way that financially burdens the young person themselves. It could, for example, be a government-funded financial scheme available to victims where a young person undertakes appropriate action as part of their commitment to accountability such as returning to education, or undertaking employment training or community service.



Relationship between lore and restorative justice

Our comments in this section are informed by perspectives from Aboriginal and Torres Strait Islander people and leaders within [54 reasons](#) and our experience working with communities. We provide these general comments with the important caveat that 'lore' is not singular and its application must always reflect the specific community and context that is relevant.

Ultimately, to be effective, any response must be culturally and personally significant.

A culturally grounded response would not be to use lore as punishment, but instead a restorative justice approach involving a young person's parents, guardians, aunty, uncle, grandparents and/or kinship carers and potentially Elders from their community. This approach would include the cultural values of being rights based, honouring responsibility, respect, being relationship driven, and being reciprocal.

The way in which culture, Country and lore informs the process will be dependent on the community, the child's connections, the geographical location and resources available. However, values will remain the same and focus on helping the young person acknowledge the impact of their actions, determining appropriate ways they take responsibility for their actions, and restoring balance to the relationship – preventing further escalation of conflict, challenges in the community and their future behaviour.

Depending on the young person's circumstances, the response might include involving guardians, Elders, the victim and other community members. Effectively, the goal is to understand the impact and ensure accountability is determined by all people impacted by the young person's behaviour or offence, and a subsequent activity, initiative or response led by the young person to take responsibility and strengthen their role and connections in the community.

In some contexts, this may include the opportunity for the young person to go away with Elders for lore, or camp, on Country. This may include engaging in activities like hunting, fishing and gathering, and talking about what it is to be a man – for example, that being a man does not involve bashing women in order to be powerful.

“Best role models: a person who has had a bad past – but helping kids with their future. Mentors that have been through the system. Having that similarity is the connection. Gives a sense of hope – ‘you’re going to be doing great things one day’.”
(19 years old)

It is critical that the young person has a strong and respected adult as a mentor and supports so they can implement the restorative act and learn about their responsibility, consequence and impact in a meaningful way. This can support a process of re-education that allows the young person to develop, reflect, and learn prosocial behaviours while connecting them meaningfully to their community.

RECOMMENDATION 7

Facilitate community-based restorative justice and meaningful victim engagement.

Minimum age of criminal responsibility

In Queensland, children as young as 10 can be, and are, criminalised and jailed. This very low minimum age of criminal responsibility:

- Is inconsistent with medical evidence about children's brain development and capacity to understand the consequences of their actions
- Perpetuates intergenerational disadvantage and the over-representation of Aboriginal and Torres Strait Islander children, by criminalising children who are already the most vulnerable due to their circumstances and exposing them to the traumatic and criminogenic effects of involvement with the criminal justice system
- Directly contravenes the international child rights standard that the minimum age of criminal responsibility should be at least 14 for all offences²⁰
- Does not reflect expert advice, including the recommendation by the Working Group established by the Council of Attorneys-General to examine the issue that the age should be raised across Australia to 14 for all offences²¹
- Is increasingly out of step with other Australian jurisdictions, with the ACT, the Northern Territory, Tasmania and Victoria all having committed or legislated to raise their respective minimum ages of criminal responsibility to varying degrees.

Raising the minimum age of criminal responsibility to 14 in Queensland is a simple reform that would make a systemic difference. It should apply to all offences, and be accompanied by adequate investment to establish an effective alternative service system. This should be informed by principles of a rights-respecting approach, the extensive work on alternatives to the justice system to support a raised age of criminal responsibility in other jurisdictions (notably the ACT), and analysis undertaken in Queensland by QCOSS and others.²²

RECOMMENDATION 8

Raise the minimum age of criminal responsibility to 14 for all offences, accompanied by adequate investment in Queensland's youth services.

Queensland Human Rights Act compliance

In recent years, the Queensland Government has enacted a number of measures that are not evidence-based and appear motivated by a desire to be seen to be adopting 'tough on crime' approaches. These measures have been introduced successively and reactively in response to public commentary and events, rather than as part of a coherent proactive strategy. They stand in contrast to other, evidence-based reforms also implemented by the Government over the same period.

²⁰ United Nations Committee on the Rights of the Child, *General comment No. 24 (2019) on children's rights in the child justice system*.

²¹ Council of Attorneys-General, Age of Criminal Responsibility Working Group, *Draft Final Report 2020*, released in December 2022.

²² QCOSS, *Queensland Budget 2023: Invest in Queensland's youth services (\$26.3 million)*, available at <https://www.qcoss.org.au/wp-content/uploads/2023/02/2.0-Youth-services-budget-ask-23-24.pdf>.

A number of recent measures do not comply with child rights requirements. Amongst these, some are particularly egregious. Advocates and other experts raised significant concerns about all of these when they were legislated. None has proved effective. Indeed the available evidence, and 54 reasons' own experience as a service provider working in communities where the measures have been especially felt, suggests they have been counterproductive.

For example, in its review of the National Agreement on Closing the Gap, the Productivity Commission took the unusual step of publicly criticising the Queensland Government, stating that recent changes to bail laws do not reflect Aboriginal and Torres Strait Islander peoples' perspectives and priorities, 'exacerbate, rather than remedy, disadvantage and discrimination' and 'will mean more Aboriginal and Torres Strait Islander young people are incarcerated for longer periods of time'.²³

These measures – summarised below – should be reconsidered and reversed as a priority.

Electronic monitoring of children

Electronic monitoring of children through GPS ankle bracelets was introduced in early 2021 and described as being part of a "crackdown on youth crime".²⁴ It was subsequently extended. This is not a mainstream measure, in Australia or internationally. There does not appear to be any reliable evidence that electronic monitoring reduces offending by children, including after more than two years of its availability in Queensland.

What we do know is that the most effective measures are those that change patterns of behaviour and underlying factors leading to offending behaviour, such as lack of impulse control or empathy for others. Stigmatising and humiliating children by forcing them to wear ankle bracelets will not achieve this. This measure has no place in Queensland.

Breach of bail as a criminal offence and other restrictive bail measures

When children come into contact with youth justice, every possible step should be taken to avoid further contact, especially for minor infractions. Yet in early 2023, the Government made breach of bail conditions a criminal offence for children, as part of a package of restrictive bail measures enacted at the same time. As the Government itself acknowledged, this was not only inconsistent but directly incompatible with human rights. The Government took the extraordinary step of overriding the Human Rights Act 2019 in order to enact it.

Not only is criminalising breach of bail incompatible with human rights, but it has also had the opposite effect to what was intended. The Childrens Court of Queensland recently reported that the early 2023 package of measures 'seems to have resulted in an increase in the number of children in detention on remand' and 'has not, as yet, resulted in a decrease in offending'.²⁵ This ineffectiveness is unsurprising. The measures should be reversed.

Systematic detention of children in watch houses

Police watch houses are manifestly unsuitable environments for children, and children should never be held in watch houses at all. The abuses that have occurred in watch houses in Queensland have been widely reported over several years.

²³ Productivity Commission, 2023, *Review of the National Agreement on Closing the Gap: Draft Report*, p 67. At the time of this submission, the Productivity Commission's final report was expected to be handed to the Joint Council on Closing the Gap in January 2024 and publicly released in February.

²⁴ "GPS devices to tackle juvenile crime", Minister for Police and Corrective Services, Media Release, 14 May 2021.

²⁵ Childrens Court of Queensland, 2023, *Annual Report 2022-23*, p 1.

Yet earlier this year, in 2023, the Government again took the extraordinary step of overriding the Human Rights Act, this time to entrench the use of watch houses as detention centres for children. It removed the previous time limit for how long children could be held in watch houses and empowered the declaration of watch houses as youth detention centres. This was a big step in the wrong direction. It will inevitably cause real harm to children and young people and further entrench their involvement in youth justice.

A recent QFCC review highlighted that children in Queensland are increasingly being held in watch houses for extended periods.²⁶ The changes made in 2023 – in relation to bail conditions and use of watch houses – are clearly worsening the situation. At a minimum, these changes should be reversed. We strongly recommend that the Government go further in order to comply with child rights standards by prohibiting children from being detained in watch houses under any circumstances – see next section.

RECOMMENDATION 9

Reverse recent legislative changes that are inconsistent or incompatible with Queensland's Human Rights Act:

- a. Discontinue electronic monitoring of children
- b. Remove restrictive bail measures, including criminalisation of breach of bail
- c. Reinstate time limits for how long children can be held in police watch houses and remove the ability to declare watch houses to be youth detention centres.

Youth detention and child rights standards

The violations of the rights of children and young people in youth detention in Queensland are among the most egregious child rights violations in Australia.

International child rights standards reflect a global consensus and give clear guidance about the minimum acceptable standards for the use of youth detention and detention conditions.

Compliance with child rights standards for detention is important not just to ensure basic human dignity is respected, but also because when these standards are adhered to, outcomes are ultimately better. This is because children and young people have a better chance of rehabilitation and getting back on track when their rights are upheld, rather than becoming more deeply entrenched in the criminal justice system and experiencing lifelong harm due to inappropriate use and conditions of incarceration.

Legislation and practice in Queensland violates many child rights standards. These include:

- Detention should only be a measure of genuine last resort, including both unsentenced and sentenced detention.²⁷
- Children should never be detained with adults, or in adult facilities.²⁸

²⁶ QFCC, 2023, *Who's responsible: Understanding why young people are being held longer in Queensland watch houses*.

²⁷ CRC Article 37(b).

²⁸ CRC Article 37(c).

- The use of force and restraint in detention should never be excessive or punitive and should always be subject to strict safeguards.²⁹
- Solitary confinement of children should never be used.³⁰
- All places where children are detained should be subject to rigorous oversight and preventive monitoring by a suitable resourced and empowered independent entity.³¹

Violations of all these requirements have been widely reported over many years, and in most cases publicly acknowledged by the Government. Yet these practices and the legislation and culture that enables them continue. It is past time for a wholesale review of Queensland's youth imprisonment model, facilities and practices, followed by their replacement by more contemporary, fit-for-purpose and effective therapeutic alternatives.

Facilities of this type should only ever be used – if at all – for a very small number of children and young people, where there is no other alternative that would ensure their safety, and with the utmost focus on therapeutic support, rehabilitation, and upholding children's rights. Nonetheless, they are practicable and vastly preferable to the current youth detention centre model operating in Queensland.

For examples of what these alternatives could look like, Queensland could look to the work that has been done in relation to secure therapeutic facilities:

- In the ACT, in the context of raising the minimum age of criminal responsibility³²
- In Western Australia, as part of a blueprint for a revised youth justice system³³
- In New Zealand, to review international best practice for youth justice residential facilities.³⁴

RECOMMENDATION 10

Bring youth detention in Queensland into line with child rights requirements:

- Prohibit the detention of children in police watch houses
- End the use of excessive and punitive force and restraint practices
- End the use of solitary confinement
- Commit to ending the current model of imprisonment of children
- Set a timeframe to establish child-centred, therapeutic, non-punitive and trauma-informed alternatives to current youth detention facilities.

²⁹ United Nations Committee on the Rights of the Child, *General comment No. 24 (2019) on children's rights in the child justice system*, [95](f)-(g).

³⁰ United Nations Committee on the Rights of the Child, *General comment No. 24 (2019) on children's rights in the child justice system*, [95](h).

³¹ Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Part IV.

³² M McArthur, A Suomi and B Kendall, 2021, *Review of the service system and implementation requirements for raising the minimum age of criminal responsibility in the Australian Capital Territory*.

³³ Social Reinvestment WA, 2022, *Blueprint for a better future: Paving the way for youth justice reform in Western Australia*.

³⁴ I Matheson, 2023, *International best practice and models for youth justice residences: Evidence brief*, Oranga Tamariki Evidence Centre.

Responding to those most needing support, including ‘serious repeat offenders’

The relatively small number of young people who engage in repeated serious behaviour receive a disproportionate amount of attention, including through mechanisms like the Serious Repeat Offender Index.

In some respects, this is understandable. Children and young people who repeatedly come into contact with the youth justice system are clearly at risk of causing harm to themselves and others, and clearly in need of better support.

Our 54 reasons youth justice programs in Queensland work across a spectrum of risk and offending levels, from young people at risk of entering the youth justice system to those who are included on the Serious Repeat Offender Index. We are familiar with the particular challenges faced by this small cohort of young people and with what can help divert them from further offending.

In our experience, these children and young people are the most likely to have experienced the compounding adversity that pushes people into the youth justice system and traps them there. To respond effectively to them, a rights-respecting approach is equally relevant as for other young people, and in many respects more acutely important. For example, young people who are designated as serious repeat offenders are particularly likely to:

- Be experiencing significant neurodevelopmental disorders and other challenges. They have also, by definition, experienced the traumatic impact of involvement with the criminal justice system itself, including interactions with police, the court system and incarceration. This makes it particularly important for responses to be trauma-informed and therapeutic, in order to support these young people to gain an understanding of the consequences of their actions, change their behaviour and engage positively with society.
- Have fragmented connections to their family and community, and thus be denied the important protective effects that connection of this type provides. This makes it particularly important for responses to build these connections, rather than allowing these young people to fall even further to the margins of society without such support.
- Be demonised by victims, the broader public and in their own community. This makes it particularly important for responses to engage communities and victims through restorative justice processes that are aimed at connection, accountability and healing.

There is no silver bullet for addressing the complexities posed by young people who are coming repeatedly into contact with youth justice for serious behaviour. A rights-respecting approach can, however, provide a comprehensive system response that targets root causes, prioritises prevention and early intervention, and provides effective support at the point where it is most needed, for those who most need it. It is the most effective tool available.

RECOMMENDATION 11

Apply a rights-respecting approach to all children and young people, including those designated as serious repeat offenders.

The last word

We leave the last word to a young person who is engaged with our youth justice programs and whose lived experience of the system in Queensland has not undermined their sense of hope.

When you hit the hardest time in your life, when you feel like shit, [but when you don't] give up – that's when you know you'll succeed. When you get yourself up and move on – you're unstoppable. When you fall down, that's the best part. Because you get yourself back up – it's the hardest part as well. No matter how hard you fall down, you get back up. Don't give up.

(19 years old)

