



# Changing the Sentence

Overseeing Queensland's youth justice reforms

Queensland  
**Family & Child**  
Commission



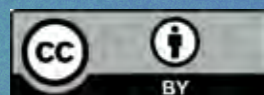
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March 2021

“ When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country.

# Acknowledgement

We acknowledge the Jagera and Turrbul peoples as the traditional custodians of the country on which we did most of this work and we pay our respects to Elders past, present and emerging.

Thank you to everyone we met with for your care, passion and compassion. In particular, we thank the young people and families who agreed to speak with us.

As written in the *Uluru statement from the Heart* 'When we have power over our destiny our children will flourish. They will walk in two worlds and their culture will be a gift to their country.'

# Foreword

The Queensland Government's *Working together Changing the Story: Youth Justice Strategy 2019–23* has a strong focus on prevention, early intervention and collaboration to tackle the underlying causes of youth crime.

In June 2019, the Director-General of the Department of Youth Justice asked the Queensland Family and Child Commission (QFCC) to help monitor initiatives linked to recent youth justice reforms and to examine options for future investments.

This report is the outcome of that request. While it was being prepared, three tragic incidents took place that significantly changed public discussion on the topics this report addresses. In June 2020, four Townsville teenagers died while riding in a stolen car driven by a 14-year-old. In January 2021, an allegedly stolen car driven by a 17-year-old struck and killed a Brisbane couple and their unborn child. Eleven days later, a young Townsville woman died after being hit by a car allegedly following a stolen vehicle in what was characterised as a 'vigilante' pursuit.

These deaths were senseless, and rightly led to community demands for changes that would prevent a recurrence. For those changes to be lasting, as a community we must actively engage with the potentially confronting concept that preventing youth crime also means addressing its causes. Youth justice is much more than just court, bail, diversion, or detention. It involves health, education, non-government organisations, community controlled organisations, victims of crime, the media, families, children and young people, and society as a whole.

Research shows the most effective way to improve the youth justice system is to take a preventative and supportive approach. With that in mind, this report looks at initiatives related to keeping children out of court and custody. We set out to determine whether youth justice reforms are delivering a system that is reliable, trusted and built on shared commitments. We also wanted to find out whether children's rights, well-being and safety are being protected.

To cover different demographics, we focused on Mt Isa, Townsville and North Brisbane. Over a period of seven months, we interviewed stakeholders from a wide range of organisations, analysed data on young people in the system, interviewed children and their families, commissioned a media analysis report, and studied three reform initiatives in depth.

We found that good work is occurring in the system, with state government agencies collaborating to keep children out of court and custody and placing more emphasis on working with families than they have in the past.

The three initiatives we examined are promising. It is particularly heartening to note that 790 police officers and police liaison officers nominated to participate in Operation Regenerate, and that there was a significant reduction in reoffending by the young people who took part. The other two initiatives are also delivering encouraging results.

These successes show that targeted interventions in the lives of young people can work. This should encourage those responsible for areas where this report has identified that more needs to be done.

Communication must improve — in the court system, between organisations and families and between police and young people. Good news stories need to be heard. The bad news reported in the media generates fear and mistrust in the community that does not help the system make the necessary shift away from a purely criminal focus towards prevention, rights and well-being, which are proven to make a difference.

We consulted the *Queensland Human Rights Act 2019*, the *Youth Justice Act 1992*, and the United Nations *Convention on the Rights of the Child* to identify the rights of children and young people in the youth justice system. Concerningly, we believe some of these rights are being neglected and, in some cases, are at risk of being breached.

Specialist health and education services are

# Foreword

currently provided too late in children's lives, or not at all in the case of those who live in remote areas. There is also not enough focus on continuing the education of children who struggle to fit into a mainstream school or are returning from disciplinary absences or youth justice interventions. This is difficult, but critical. We know disengagement from education can be an early indicator of a more general detachment from community, which in turn is one of the risk factors for criminal behaviour.

The services and support we provide should be more targeted and more focused on dealing with trauma and specialist early intervention. To help with this, Aboriginal and Torres Strait Islander communities and families and community controlled organisations should be directly involved in designing and prioritising programs. More needs to be done with these communities in terms of collaboration and early intervention.

I urge decision makers to consider the future opportunities listed in this paper. They are proposed to improve early support for families and reduce the over-representation of Aboriginal children and Torres Strait Islander children in the statutory system.

The Youth Justice Strategy includes the use of

prevention, early intervention and collaboration to tackle the underlying causes of youth crime. This is a sound approach, and the QFCC supports it. I congratulate those who have been involved in the reforms and initiatives to date and encourage the government to stay the course in order to achieve the intent of the youth justice reforms.

We have more work to do.



Cheryl Vardon  
Principal Commissioner  
Queensland Family and Child Commission  
March 2021



# Executive summary

## Executive summary

### Introduction

In June 2019, the Director-General of the then Department of Youth Justice<sup>†</sup> (Youth Justice), asked the Queensland Family and Child Commission (QFCC) to assist in 'monitoring youth justice initiatives and examining options that will inform future youth justice systems and processes.' The intent of this was to 'ensure that recent investment decisions of government are implemented and continuously improved to support the best outcomes for children, young people and the community'.<sup>1</sup>

This report addresses the Youth Justice request in the context of the QFCC's *Oversight Strategy 2020–22*, from which we drew two key questions:

- Are youth justice reforms ensuring there is a reliable, trusted system built on shared connections and commitment?
- Are youth justice reforms ensuring children's rights, well-being and safety are being upheld and protected?

The report considers activities and projects related to pillars two and three of the Queensland Government *Working together Changing the Story: Youth Justice Strategy 2019–23*<sup>2</sup> (the Youth Justice Strategy), which are:

- Keep children out of court.
- Keep children out of custody.

The Australian Institute of Health and Welfare defines a youth justice system as:

*the set of processes and practices for managing children and young people who have committed, or allegedly committed, an offence. In Australia, it deals primarily with young people aged 10–17 at the time of the offence.*<sup>3</sup>

When we refer to the youth justice system in this document, we are talking about all the

government and non-government agencies involved.

While Youth Justice was responsible for developing the strategy and related *Youth Justice Strategy Action Plan 2019–21*,<sup>4</sup> many initiatives, especially those relating to early intervention and prevention, are being led by other departments. The action plan includes seven Queensland Government departments as lead agencies.

We chose to draw heavily on the views of front line service providers in Mount Isa, Townsville and Brisbane. We also included the voices of a small number of children and family members. By listening to these groups, we could gauge the impact of reforms on the communities and individuals for whom they were intended.

### Findings on key questions

#### Are youth justice reforms ensuring there is a reliable, trusted system built on shared connections and commitment?

1. The percentage of children and young people in contact with the formal (statutory) youth justice system is very small—representing 0.3 per cent of children aged 10 to 17. Forty-five per cent of children and young people never return to the statutory youth justice system after their court matter is finalised.
2. There are good examples of state government agencies working together, and the focus on keeping children out of court and custody may be further strengthened by Aboriginal or Torres Strait Islander community controlled organisations and non-government agencies having opportunities to increase their leadership and participation in these collaborations.
3. There has been a strong move towards working with the families of children in the system, and agencies are recognising the importance of this. Lessons are emerging that will contribute

to ongoing improvement of services and greater benefits for families.

4. Behaviour change is hard, yet stakeholders understand and affirm the importance of support for young children and their families as a way to prevent initial or ongoing engagement of children in the youth justice system.
5. There are plenty of services for vulnerable young people in Mount Isa, North Brisbane and Townsville; however, many services are activity-based. High risk or repeat offenders need specialist help to address the offending behaviour, including treatment of poor health, trauma or family dynamics where that has contributed to the behaviour.
6. Data on over-representation of Aboriginal and Torres Strait Islander children in the youth justice system:
  - continues to show there is an insufficient response to the needs of Aboriginal and Torres Strait Islander children and their families
  - is not linked well enough to data on health, education and housing
  - is not detailed enough to use in local and community-led responses.
7. There has been no improvement to the statistics on over-representation. Despite this, Aboriginal communities and families, Torres Strait Islander communities and families, and families in general, have limited opportunities to provide input into program design and prioritisation of funds for initiatives intended for them. *Closing the Gap* action planning provides an opportunity for government to include Indigenous communities and agencies in decision making about how to achieve the youth justice target in the new agreement.
8. Legislative and policy changes, made in response to particular incidents, may make it harder for the system to achieve the intended outcomes of the Youth Justice Strategy.

#### Are youth justice reforms ensuring children's rights, well-being and safety are being upheld and protected?

9. Improvements to the rights, well-being and

safety of children can be made by police, educators and health providers. Examples of delays in school enrolment and in receiving medical treatment were provided to us and are included in this report.

10. The system does not always provide the most vulnerable children and families with equitable access to specialist services and support, particularly in remote communities. Access to these services is sometimes not available until children arrive in the statutory youth justice system.
11. Not enough health and education support is available for children below the age of 12. Recent funding for primary schools for extra psychologists is welcome and should be part of an ongoing funding shift to focus on the earlier years of schooling.
12. There has been a focus on student engagement in education, but not enough consistency in ensuring continuity of education for children on disciplinary absences or for those who struggle to fit in a mainstream school.
13. The Queensland Children's Court's efforts to produce plain English versions of charges and bail conditions for families and children is commendable, and this work needs to continue and expand to magistrates' courts.

### Future opportunities

As part of its brief to examine options for future youth justice systems and processes, the QFCC has found:

- The youth justice system would be more effective in improving the lives of vulnerable children and keeping the community safe if it viewed at-risk young people through a rights and well-being, rather than just a criminal, lens.
- New programs and projects where the primary audience is Aboriginal children and families, and/or Torres Strait Islander children and families, should be community-led.
- Governments (both state and federal) need to make long-term, outcomes-based investments

<sup>†</sup> In November 2020, the Department of Youth Justice was merged with the Department of Child Safety, Youth and Women to form the new Department of Children, Youth and Multicultural Affairs.

## Executive summary

in prevention and early intervention in the health of children and families, with regular review points. Investment should not be siloed by agency but shift to person-centred care.

- The Queensland Government should continue to strengthen the growing focus on prevention and early intervention for young children (that is, birth–five years of age) and their families through multi-agency co-operation and partnerships.
- Data needs to be linked to Youth Justice from other critical systems including Child Safety, Health, Education and the Queensland Police Service, and broken down to regional and local levels, to help communities make decisions and prioritise services relevant to their region (this is also in the *National Agreement on Closing the Gap*<sup>5</sup>).
- While a long-term culture shift within the Queensland Police Service towards crime prevention and community policing remains essential, there could also be regular training for police officers about working with children, Aboriginal peoples, and Torres Strait Islander peoples.
- Youth Justice, the Queensland Police Service, legal services and courts could consider collaborating on improving communication with families and children involved in the statutory youth justice system. This includes keeping families informed about the status or progress of their child's case, ensuring families have the means to attend court, and explaining things in ways that can be understood by the client and family.
- As identified in the Atkinson report,<sup>6</sup> a coordinated media strategy should be adopted to promote and support the policy position of the Youth Justice Strategy.

Chapter 5 provides more detail on future opportunities.

### Conclusion

The Youth Justice Strategy includes the use of prevention, early intervention and

collaboration to tackle underlying causes of youth crime.

This is a sound approach, and the QFCC supports it. While recent youth justice reforms may contribute to reducing the numbers of some young people in the youth justice system, they could be improved. Many initiatives focused on activities that did not include dedicated case management or specialised therapy and were not designed to cater for clients with very complex behaviours.

While national data suggests a downward trend of children placed on supervision orders or in detention, legislative change and new initiatives by government over many years have failed to improve the over-representation of Aboriginal and Torres Strait Islander children in the youth justice system.<sup>7</sup> Families must be included in all decisions relating to their children, and the rights of children made central to funding decisions and to the work of professionals, courts and family services.

As required by the Australian Government's *Closing the Gap* and outlined in the Queensland Government's *Changing tracks, an action plan for Aboriginal and Torres Strait Islander children and families*,<sup>8</sup> the Queensland Government must increase the pace at which it is returning decision-making affecting Aboriginal communities and Torres Strait Islander communities to those communities.

If the long-term goal of reducing youth crime is to be achieved, investment should focus firstly on reduction of the factors that may contribute to a young person committing crime, and secondly, on young people already in the formal system who are committing most of the youth crime.

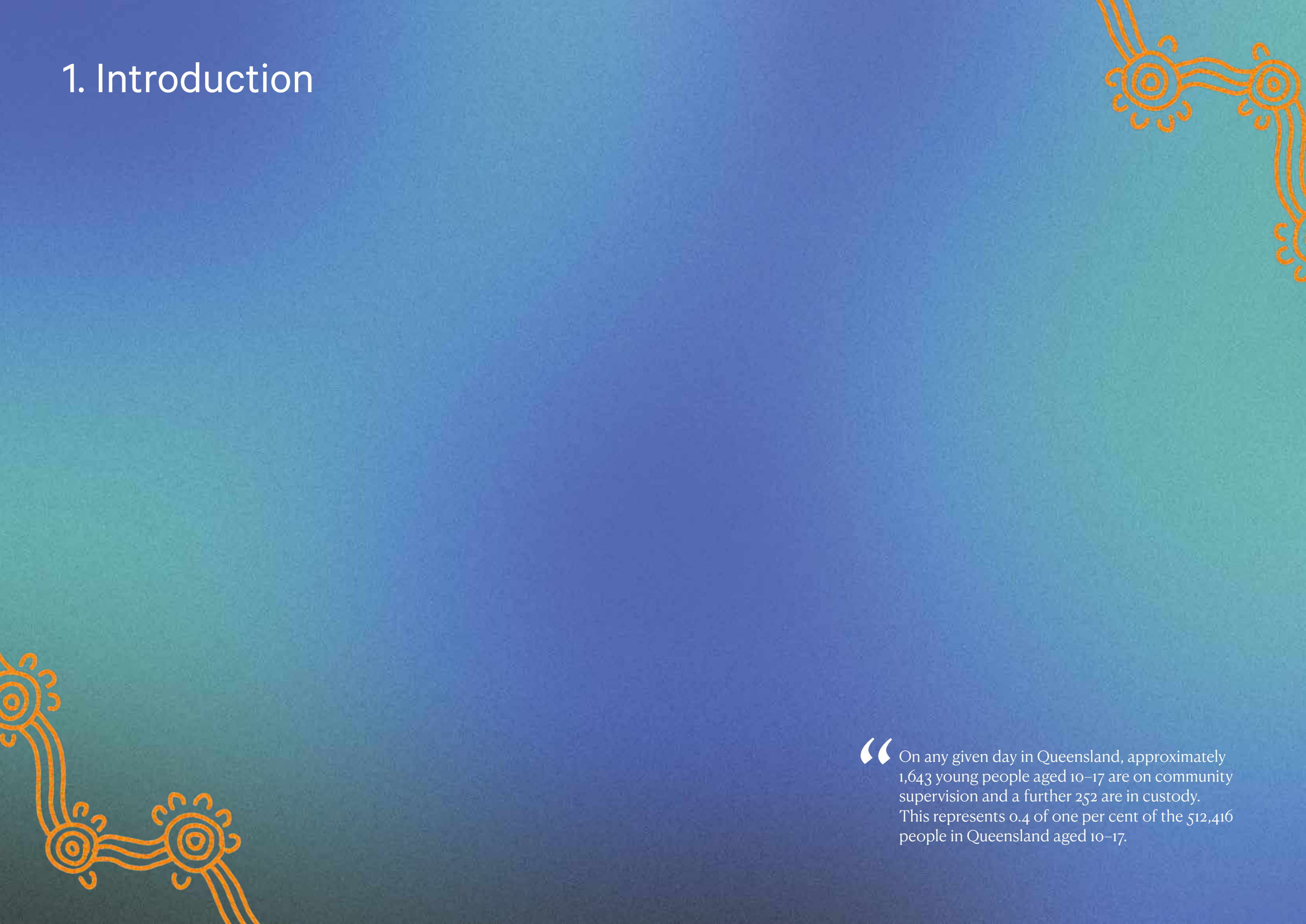
The QFCC urges government to stay the course and continue to provide long-term funding in accordance with the Youth Justice Strategy. This will support the significant strides needed towards reducing youth crime and realising the right of every Queensland child to be safe, with opportunities to succeed.

“Every single program they've got him in now, finishes once he goes to court. There's no help after that. It just stops dead. So, there's no continuity of care ... there's no follow on, there's no follow up.”

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# 1. Introduction



“ On any given day in Queensland, approximately 1,643 young people aged 10–17 are on community supervision and a further 252 are in custody. This represents 0.4 of one per cent of the 512,416 people in Queensland aged 10–17.

# 1. Introduction

## 1.1 Purpose

In June 2019, the then Director-General of the Queensland Department of Youth Justice† (Youth Justice) asked the Queensland Family and Child Commission (QFCC) to assist in monitoring Queensland Government youth justice initiatives in the light of recent reforms and investments. He also asked us to examine options to inform future youth justice systems and processes.

This report is in response to that request. It is not a review and includes no formal recommendations. Rather, it sets out findings and suggestions to guide future investment decisions and future directions within the youth justice system.

*The Family and Child Commission Act 2014* (the Act) requires the QFCC to promote and advocate for the safety and well-being of children and young people, particularly children in need of protection or in the youth justice system.<sup>9</sup>

The Act requires QFCC commissioners, in performing their functions, to:

- engage with, and take account of, the views of children, young people and their families;
- ensure the interests of Aboriginal people and Torres Strait Islanders are adequately and appropriately represented;
- respect and promote the role of Aboriginal and Torres Strait Islander service providers in supporting Aboriginal and Torres Strait Islander families and communities to protect and care for their children and young people ...<sup>10</sup>

Because of these functions, this report is particularly focused on the rights of children and young people and their families in the youth justice system, and gives attention to the significant over-representation of Aboriginal and Torres Strait Islander children in Queensland's youth justice system. (They make up 45 per cent

of young offenders but only seven per cent of the Queensland population.)

## 1.2 Project methodology

Our discussion of the youth justice system in this report is based on quantitative data and interviews with service providers. Our observations are illustrated by quotes and stories from community members, families, young people and frontline service providers.

We conducted an environmental scan of youth justice policy in Australia and of major policies and reforms in Queensland.

We identified three diverse locations in Queensland, choosing Mount Isa, Townsville and North Brisbane for their different remoteness classifications\* and demographics. This allowed for more in-depth consideration of any variances in common factors, such as front-line service provision, police arrest data, or media attention.

We sought advice from the central offices of government departments involved in the system about recent changes to policies and practices supporting youth justice reform.

To ensure consistency, we developed conversation plans for a series of interviews with government and non-government stakeholders. These interviews focused on activities and projects relating to two pillars of the *Working together Changing the Story: Queensland Youth Justice Strategy (2019–2023)* (the Youth Justice Strategy), which are to:

- Keep children out of court. (pillar 2)
- Keep children out of custody. (pillar 3)<sup>11</sup>

We chose these pillars because of the significant number of new government initiatives funded in 2019 that related to them and because of the QFCC's interest in considering initiatives intended

## Introduction

to improve opportunities and well-being for vulnerable young people.

Courts and custody are the points at which already vulnerable children become even more vulnerable. If governments want to make wiser investment decisions for both social and economic outcomes, the investment focus needs to continue to be on diverting children away from these points.

Drawing from the Queensland Family and Child Commission's *Oversight Strategy 2020–22*,<sup>12</sup> we sought answers to the following two questions:

- Are youth justice reforms ensuring there is a reliable, trusted system built on shared connections and commitment?
- Are youth justice reforms ensuring children's rights, well-being and safety are being upheld and protected?

One of the Oversight Strategy's three impact areas is system reliability, from which the first question was drawn. The strategy takes a rights-based approach to considering how systems are monitored. A priority is to deliver the best possible outcomes for Aboriginal and Torres Strait Islander children and families and promote a responsive system enabling Aboriginal and Torres Strait Islander people's self-determination.

We sought evidence of:

- active partnerships in the system
- reliability of the system (whether it is consistent, easy for end users to understand, and fulfilling its remit to divert children away from the youth justice system)
- trust in the system
- active commitment to improving the lives of young people and their families
- the upholding of children's rights, as outlined in the *Queensland Human Rights Act 2019*<sup>13</sup> and the United Nations *Convention on the Rights of the Child*.<sup>14</sup>

We sought views about the causes of the over-representation of Aboriginal children and

Torres Strait Islander children in the youth justice system. We gathered examples of good practice as well as evidence of where trust and reliability could be improved.

The project team conducted 83 meetings and interviews with 125 stakeholders from Mount Isa, Townsville and Brisbane between November 2019 and June 2020. Participants came from 43 organisations or regional offices drawn from:

- 13 government agencies
- 10 non-government agencies
- nine Aboriginal and Torres Strait Islander community controlled organisations.

<sup>†</sup> In November 2020, the Department of Youth Justice was merged with the Department of Child Safety, Youth and Women to form the new Department of Children, Youth and Multicultural Affairs  
<sup>\*</sup> The Australian Bureau of Statistics classifies Mount Isa as remote, Townsville as outer regional, and North Brisbane as major city.

## Introduction

### Organisations that provided information.

| Organisation  | Region/s                            | Type                              | Organisation role   |
|---|-------------------------------------|-----------------------------------|---|
| Aboriginal & Torres Strait Islander Community Health Service (ATSICHS)      | Brisbane                            | Community controlled organisation | Provides a range of health care services for the Aboriginal and Torres Strait Islander communities. It also delivers youth justice and family services for young people and families who have had contact with the police, court or youth justice system. |
| Aboriginal Torres Strait Islander Legal Services (ATSILS)                   | Brisbane<br>Mount Isa<br>Townsville | Not for profit (federally funded) | ATSILS provides professional and culturally competent legal services for Aboriginal and Torres Strait Islander people across Queensland.  |
| Act for Kids  | Brisbane                            | Non government                    | Provides therapy and support services to children and families who have experienced, or are at risk of child abuse and neglect  |
| Multi-agency re-engagement ASDAN program (MARA)—<br>Department of Education | Brisbane                            | State government                  | An alternative schooling model for disengaged or at-risk young people.  |
| Kurbingui   | Brisbane                            | Community controlled organisation | Provides mentorship, including after-hours street support and education for the Aboriginal and Torres Strait Islander communities.  |
| Life without Barriers (LWB)   | Brisbane                            | Non government                    | Provides care and support services across Australia in urban, rural and remote locations. Currently funded through a social bond to support young people in breaking the offending cycle and become valued members of the community.                      |

## Introduction

| Organisation   | Region/s                            | Type                              | Organisation role  |
|--|-------------------------------------|-----------------------------------|--|
| Multicultural Australia  | Brisbane                            | Non government                    | Multicultural Australia provides welcome and support to more than 5000 newly arrived Queenslanders every year, including refugees, migrants, international students and people seeking asylum.   |
| Murriwatch   | Brisbane                            | Community controlled organisation | Helps to divert from custody; makes cell visits.   |
| Operation Regenerate—<br>Queensland Police Service                           | Brisbane<br>Townsville              | State government                  | A bail compliance program to help break the cycle of offending.  |
| Forensic Child and Youth Mental Health Services—<br>Queensland Health        | Brisbane                            | State government                  | A specialist service for consumers who are currently involved in, or at risk of involvement in, the criminal justice system.   |
| Queensland Program of Assistance to Survivors of Torture and Trauma (QPASTT) | Brisbane                            | Non government                    | Provides flexible and culturally sensitive services to promote the health and well-being of people who have been tortured or who have suffered refugee-related trauma prior to migrating to Australia.                                     |
| Specialist multi-agency response teams (SMART)                               | Brisbane<br>Mount Isa<br>Townsville | State government                  | An initiative facilitated by Youth Justice to coordinate staff from government agencies to discuss specific cases of young offenders and make referrals for health and other supports, with the aim of reducing offending and reoffending. |



## Introduction

| Organisation                                     | Region/s             | Type                              | Organisation role   |
|--|----------------------|-----------------------------------|---|
| Youth Advocacy Centre (YAC)                      | Brisbane             | Non government                    | Provides legal services, youth support and family support assistance and services to young people, particularly those who are involved in, or at risk of involvement in, the youth justice and/or the child protection systems; and/or are homeless or at risk of being homeless. |
| Youth and Family Support Services— Youth Justice | Brisbane             | State government                  | Youth and family support services for children aged between 10 and 17 years who are at risk of offending or reoffending.  |
| Kummara Association                              | Ipswich              | Community controlled organisation | Provides a range of support and education services for individuals and families.  |
| Centacare North Queensland                       | Mount Isa            | Non government                    | A social services ministry of the Catholic Diocese of Townsville aiming to promote the well-being and resilience of individuals, families and communities.  |
| Community Connect                                | Mount Isa            | State government                  | A project facilitated by the Queensland Police aimed at improving community safety and reducing youth-associated crime in Mount Isa. Government agencies meet to share information about at-risk youth.   |
| Gidgee Healing                                   | Mount Isa            | Community controlled organisation | A health service for Aboriginal peoples and Torres Strait Islander peoples in Mount Isa, the Gulf and the north-west.   |
| Headspace  | Mount Isa Townsville | Federal government                | Headspace centres act as a one-stop-shop for young people who need help with mental health, physical health (including sexual health), alcohol and other drugs or work and study support. Headspace provides online and phone counselling services and vocational services.       |

## Introduction

| Organisation   | Region/s             | Type                              | Organisation role   |
|--|----------------------|-----------------------------------|---|
| Injilinj Youth Health Service—Aboriginal and Torres Strait Islander Community Health | Mount Isa            | Community controlled organisation | Provides a life skills program to disengaged/ disadvantaged youth. Influences existing health services to accommodate the needs of the Mount Isa young people by facilitating a greater understanding of their culture. Helps with transitioning young people into their own accommodation or a safe living place.                        |
| Mount Isa Transitional Hub—North-West Queensland Indigenous Catholic Services        | Mount Isa            | Non government                    | Connects at-risk youth with after-school activities and support services to help reduce youth crime rates.  |
| Mt Isa Family Support Service and Neighbourhood Centre (MIFSSNC)                     | Mount Isa            | Non government                    | Community-run centre with a mission 'to enable people within our community to connect with each other, learn how to be physically and mentally well, build self-reliance, and improve their national supports of family, friends, workmates and neighbours'.  |
| Alcohol, Tobacco and Other Drugs Service (ATODS)— Queensland Health                  | Mount Isa            | State government                  | ATODS provides a range of services including intake and assessment, outpatient (ambulatory) withdrawal, opiate substitution program, Diversionary and Recovery Team (DART), counselling and assessment for youth and adults, health promotion, needle and syringe program, and culturally appropriate support and stakeholder engagement. |
| Save the Children  | Mount Isa Townsville | Non government                    | Runs education and child protection programs in urban, regional and remote locations across Australia.  |

## Introduction

| Organisation  | Region/s   | Type                              | Organisation role   |
|---|------------|-----------------------------------|---|
| Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships | Mount Isa  | State government department       | Provides whole-of-government leadership, coordination and monitoring in policy, program and service delivery for Aboriginal and Torres Strait Islander Queenslanders and is responsible for seniors and disability services.  |
| Young People Ahead (YPA)  | Mount Isa  | Community controlled organisation | Provides support to young people experiencing homelessness or at risk of becoming homeless. Also supports young people exiting from statutory care.   |
| Edmund Rice Flexi School  | Townsville | Non government                    | Provides young people with an opportunity to engage in education in a flexible, supported learning environment. The young people have typically experienced one or more significant and complex educational, social, developmental, psychological, health, legal or familial situations demanding unique responses. |
| Tiddas Yarning Circle   | Townsville | Community controlled organisation | A community of women who meet to share ideas and support each other.  |
| Townsville Aboriginal and Islander Health Service (TAIHS)   | Townsville | Community controlled organisation | Provides culturally appropriate health care that encompasses physical, social, emotional, cultural, spiritual and economic well-being.  |
| Townsville Stronger Communities Action Group (TSCAG)  | Townsville | State government                  | Formed to help break the cycle of youth crime by dealing with underlying issues that lead some young people to offend. The group of state government representatives targets identified repeat offenders and coordinates services for at-risk youths and their families. Chaired by Queensland Police Service.      |

## Introduction

| Organisation  | Region/s | Type                        | Organisation role   |
|---|----------|-----------------------------|---|
| Department of Children, Youth Justice and Multicultural Affairs | Central  | State government department | Assists children and families to be safe and to thrive in culture and communities, free from abuse and neglect. Also responsible for multicultural affairs, the redress scheme for Queensland survivors of institutional child sexual abuse, and youth justice. |
| Department of Communities, Housing and Digital Economy          | Central  | State government department | Helps Queenslanders who need access to housing, improves social well-being of people and places, provides initiatives to make the most of information and communication technology and grow the arts sector.  |
| Department of Education   | Central  | State government department | Education services to ensure Queensland's education systems are aligned to the state's employment, skills and economic priorities. Also responsible for industrial relations and racing.  |
| Queensland Health   | Central  | State government department | Provides leadership and direction for the health sector, and encourages innovation and improvement in the delivery of health services.  |
| Department of Justice and Attorney-General                      | Central  | State government department | Responsible for administering justice in Queensland. Also responsible for women's policy and prevention of domestic and family violence.  |
| Queensland Police Service                                       | Central  | State government department | Responsible for community safety and crime prevention.  |



## Introduction

Given Covid-19 intra-state travel restrictions, most of our stakeholder interviews were conducted via video or audio call. We were able to make one introductory visit each to Mount Isa and Townsville before travel restrictions were introduced. Throughout the report we have included direct quotes from young people and from organisations on the front line of the youth justice system. We also received second-hand reports and reviewed youth justice, police and education data that indicated children are not getting the help they need in a timely way.

We logged all interview transcripts and coded them into themes relating to the two main questions listed earlier (relating to trust, reliability, collaboration and children's rights).

As part of its analysis, the QFCC:

- captured the perspectives of young people through interviews with them and their families
- invited front-line services and families to contribute to an illustration of the youth justice system from their perspective. (Visuals are sometimes easier than words.)
- commissioned a media analysis report to consider public perspectives on youth justice reforms and young people in the system
- analysed data to provide a snapshot of young people involved with the youth justice system
- studied the following three reform initiatives in greater depth:
  - Operation Regenerate, which is a Queensland Police Service initiative that helped 224 young people to comply with their bail conditions
  - Mount Isa Transitional Hub, which provides

after-school activities and connects at-risk young people with support and services to assist them and to help drive down crime rates

- the Specialist Multi-Agency Response Team (SMART), which is a partnership between the Department of Youth Justice; Queensland Health; the Department of Education; the Department of Child Safety, Youth and Women; cultural representatives and other services as needed, to assist with coordinated care, decision making, and support of young people in the youth justice system

Taken collectively, the material provides a rich insight into Queensland's youth justice system from multiple perspectives.

### 1.3 Context, scope and limitations

#### Context

This report was prepared during a period of heightened community awareness about youth crime in Queensland, with regular reporting in the media and commentary by Queensland politicians. In April 2019, there was an exposé on children in the Brisbane watch house.

In May 2019, Youth Justice was separated from the Department of Child Safety, Youth and Women and made a stand-alone department. In November 2020, following a state election, youth justice was merged within the Department of Children, Youth Justice and Multicultural Affairs.

COVID-19 restrictions were in place from the end of March, limiting our ability to conduct face-to-face interviews.

## Introduction

#### Out of scope

This report does not specifically consider the following matters:

- youth detention centre operations. Queensland's youth detention centre operations were the subject of an independent review in 2016,<sup>15</sup> and other reviews of youth detention facilities were conducted in New South Wales, the Northern Territory, Victoria and Western Australia between 2017 and 2019.<sup>16</sup> The QFCC, with the Australian Children's Commissioners and Guardians, published a statement on conditions and treatment in youth justice detention in November 2017.<sup>17</sup>
- processes and systems relating to young people on 'dual orders'<sup>†</sup> with both Child Safety and Youth Justice. Due to its broad scope this work considered recent reforms and the system, rather than particular groups of children.

#### Limitations

Hearing the views and perspectives of children and young people is a critical aspect of the QFCC's role. Early in the project, we contracted an agency to engage with and speak to a group of young people who had experiences in the youth justice system. Unfortunately, this coincided with the introduction of Queensland's most significant COVID-19 restrictions.

The inability to travel, as well as changes to how some face-to-face services operated during this period, made it harder for QFCC staff to speak with community groups, clients of services and young people in general.

These restrictions meant only six young people with experience of the youth justice system were directly interviewed. While we accept this small group does not speak for all children in the youth justice system, the views of these young people are not often heard and this, along with

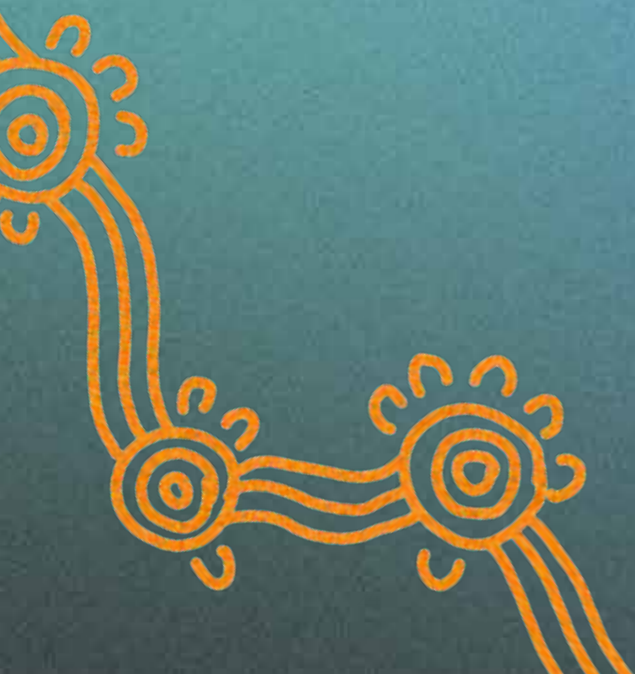
the consistency of their stories, were factors we balanced against the small sample when we were determining how to reflect their views in this report.

The QFCC will continue to seek out and hear the voices of children and young people about their experiences in the youth justice system.

“Refer young people to support services the first time they go to court. Help children to go to school so they can learn to read”. - Young person interview

<sup>†</sup> A child who is concurrently on an order under the *Child Protection Act 1999* and a youth justice order or program is on a 'dual order'—available from Practice Resource; Youth Justice: an overview, <https://www.csyw.qld.gov.au/resources/childprotection/practice-manual/practice-resource-youth-justice.pdf>, viewed 30 November 2020.

## 2. The Queensland youth justice system



“ The Youth Justice Act has five objectives. One of them is to recognise the importance of families and communities in the provision of services designed to rehabilitate and reintegrate children who commit offences.

# 2. The Queensland youth justice system

## The Queensland youth justice system

### 2.1 Overview

The Youth Justice system in Queensland deals with children aged from 10 to 17 who have, or are alleged to have, committed a crime. The minimum age of criminal responsibility in Queensland is 10, so children under that age who commit a crime cannot be formally dealt with by the Queensland Police Service or courts.

*The Youth Justice Act 1992*<sup>18</sup> (the Act) is the basis for administering youth justice in Queensland, including court proceedings. It recognises the importance of children's families and communities, particularly Aboriginal and Torres Strait Islander communities, in the provision of services designed to:

- i. rehabilitate children who commit offences; and
- ii. reintegrate children who commit offences into the community.<sup>19</sup>

A Charter of Youth Justice Principles (the Charter), appears at Schedule 1 of the Act and is intended to underpin its operation.<sup>20</sup> The first principle of the Charter is that the community should be protected from offences. The remaining 20 principles elaborate on appropriate ways to deal with children, including children with an Aboriginal or Torres Strait Islander background, as well as victims and parents.

It is clear from the Act and the Charter that administration of justice is only part of the expectations of the youth justice system and that child rights, diversion (from the youth justice system) and rehabilitation are also important elements.

Queensland's *Human Rights Act 2019*, which came into effect on 1 January 2020, is another important and relevant piece of legislation.<sup>21</sup> It includes a number of rights directly relevant to the broader youth justice system, in particular relating to families, culture, equal protection before the law, criminal proceedings, education and health. *The Human Rights Act* applies to public entities and to non-government organisations and businesses performing a public function.

The United Nations *Convention on the Rights of the Child* (the Convention)<sup>22</sup> is also fundamental when considering how effectively a large system supports children and young people. The Convention, signed and ratified by Australia in 1990,<sup>23</sup> proclaims not only a child's right to appropriate health and education but also the right to be involved in decisions affecting them and to have their opinions taken into account. This includes during judicial or administrative proceedings (Article 12).

### Other organisations

The Queensland youth justice system is broader than just Youth Justice itself, and is made up of many funded government and non-government services designed to help children to stay out of court and out of custody. The aims of these services include assisting children and young people to have a safe place to live, engage in their local community (including school) and address their health needs and behaviours.

In Queensland, the following government entities are strongly involved in the youth justice system, having early contact with at-risk young people and their families before they are known to Youth Justice:

- the former Department of Child Safety, Youth and Women (now the Department of Children, Youth Justice and Multicultural Affairs)
- the Department of Education
- Queensland Health (including hospital and health services)
- the Department of Justice and Attorney-General
- the Queensland Police Service.

The departments of Communities, Housing and Digital Economy and Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships are also involved in leading or supporting projects in the youth justice system. The appendix to this document provides a summary of the role of government agencies in the youth justice system.

In addition, there are numerous community controlled organisations and non-government organisations that specialise in providing support for at-risk young people and their families. Under a cross-agency approach, these agencies seek to address the complexities of offending behaviour in children and young people. These complexities are compounded by the fact that Queensland is a vast state geographically, with considerable regional variation in demographics and service availability and delivery.

In 2018, Bob Atkinson (special advisor to the Minister for Child Safety, Youth and Women) was asked to produce an independent report on youth justice.<sup>24</sup> This identified four pillars:

1. Intervene early
2. Keep children out of court
3. Keep children out of custody
4. Reduce offending.

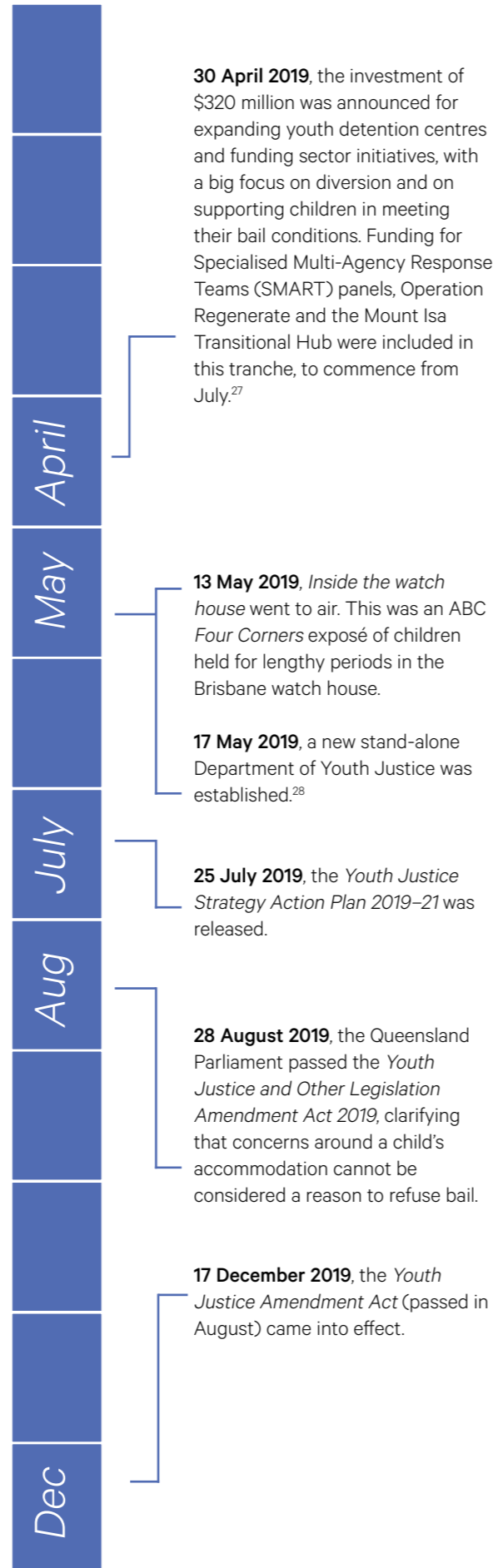
In response to this, Queensland released its first youth justice strategy in December 2018. A \$320 million package of initiatives was announced in April 2019 to support the strategy. It was followed in July 2019 by a *Youth Justice Strategy Action Plan 2019–21*,<sup>25</sup> identifying which government agencies would take the lead on specific actions.

The following timeline outlines the sequence of events over the last two years.

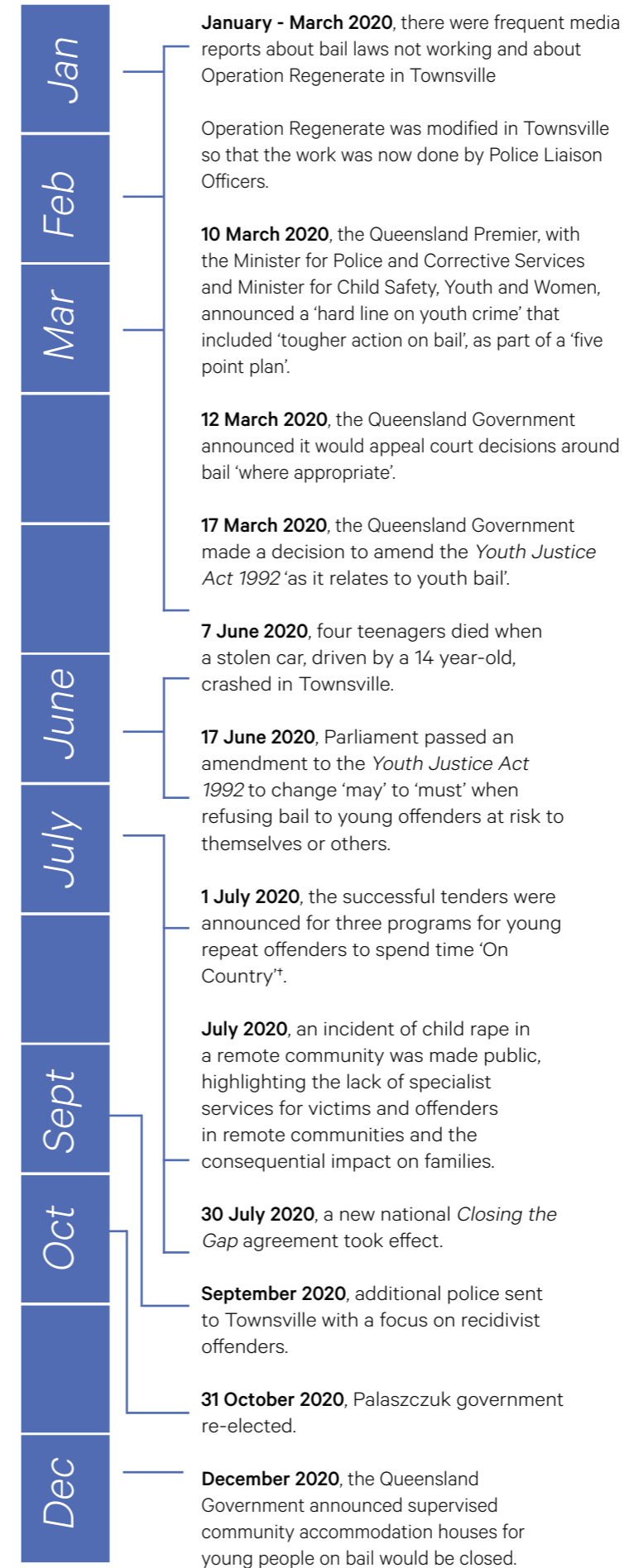
# 2018



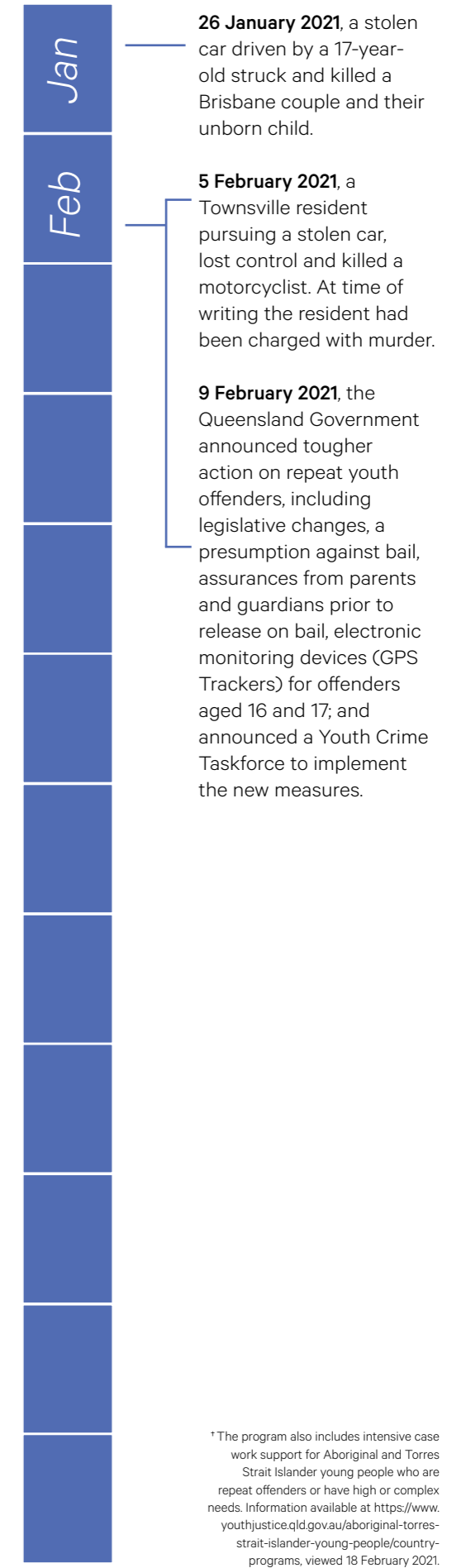
# 2019



# 2020



# 2021



<sup>\*</sup> The program also includes intensive case work support for Aboriginal and Torres Strait Islander young people who are repeat offenders or have high or complex needs. Information available at <https://www.youthjustice.qld.gov.au/aboriginal-torres-strait-islander-young-people/country-programs>, viewed 18 February 2021.

“ In Queensland, Aboriginal and Torres Strait Islander children account for seven per cent of the total population of 10–17-year-olds, but in 2018–19, they made up 45 per cent of young offenders.

## The Queensland youth justice system

### 2.2. Numbers and characteristics of young people in the youth justice system

On any given day in Queensland, approximately 1,643<sup>29</sup> young people aged 10–17 are on community supervision in the statutory<sup>†</sup> system and a further 252 are in custody<sup>30</sup>. This represents 0.4 of one per cent of the 512,416 people in Queensland aged 10–17. Of the young people who have had a finalised court appearance, 45 per cent have never returned to the statutory youth justice system.<sup>31</sup>

In 2018–19, 4,716 individual young Queenslanders committed at least one proven offence. Of these, 61 per cent were property offences. Only seven per cent were violent offences.<sup>32</sup> In 2019–20, 10 per cent of young offenders committed 48 per cent of proven offences.<sup>33</sup>

In Queensland, Aboriginal and Torres Strait Islander children account for seven per cent of the total population of 10–17-year-olds, but in 2018–19, they made up 45 per cent of young offenders.<sup>34</sup> Aboriginal and Torres Strait Islander children aged 10–17 also made up 14 per cent of children in contact with the police in 2018–19, compared to three per cent for non-Indigenous children.<sup>35</sup>

In 2019, there were 19,422 children who had formal<sup>\*</sup> contact with and received a Queensland Police Service action. They accounted for about four per cent of children aged 10 to 17. This was the lowest number of children in contact with police in the past five years (2015–2019). In 2019, children aged 10 to 14 represented 30 per cent of this cohort. The percentage of children aged 10–14 formally in contact with police in 2019 accounted for 46 per cent of children in Mount Isa, 34 per cent in Townsville and 27 per cent in North Brisbane.<sup>36</sup>

In 2018–19 in the two Queensland youth detention centres, Aboriginal and/or Torres Strait Islander young people accounted for 71 per cent of detainees.<sup>37</sup> At every escalation of statutory youth justice intervention, the percentage of Aboriginal children or Torres Strait Islander children involved increases.

In Mount Isa, the proportion of Aboriginal children and Torres Strait Islander children in the overall population aged 10–17 is 26 per cent, while in Townsville it is 12 per cent. However, of the children in contact with the police, 92 per cent in Mount Isa and 58 per cent in Townsville are Aboriginal and/or Torres Strait Islander.

Of children under Youth Justice supervision in Mount Isa between 2015 and 2019, an average of 93 per cent were Aboriginal and/or Torres Strait Islander children, while the figure over the same period was 78 per cent in Townsville. In 2019, 100 per cent of children in Mount Isa under the supervision of Youth Justice were Aboriginal and/or Torres Strait Islander, while the figure was 90 per cent in Townsville.<sup>38</sup>

#### 2.2.1. Children with complex behaviours

Within Queensland's small group of young offenders, there is an even smaller group of chronic, repeat or serious offenders. These small cohorts need more intensive help beyond that provided by many diversion programs because of a combination of factors that may include drug or alcohol dependency, school or employment problems, and/or an absence of appropriate care and support.

Our analysis suggests that community fear of these groups may be amplified by media attention. In order to make a difference to children and young people like these, the support provided by the system needs to start earlier in their lives (well before they enter the formal youth justice system) and continue for longer.

<sup>†</sup> That part of the youth justice system controlled by the *Youth Justice Act 1992*.

<sup>\*</sup> 'Formal contact' refers to children who have received a QPS 'action', including but not limited to; a caution, a restorative justice conference, a notice to appear and an arrest.

“Aboriginal and/or Torres Strait Islander young people aged 10–14 are more likely to be in contact with the police than non-Indigenous children in the same age group, with this even more likely for those aged 10–11.

## The Queensland youth justice system

| Location   | Percentage of those aged 10–17 in this location who identify as Aboriginal and/or Torres Strait Islander | Percentage aged 10–17 in contact with Queensland Police Service in this location who identify as Aboriginal and/or Torres Strait Islander | Percentage under Youth Justice supervision in this location who identify as Aboriginal and/or Torres Strait Islander |
|------------|--|---|--|
| Mount Isa  | 26   | 92  | 93   |
| Townsville | 12   | 58  | 78   |
| Queensland | 7  | 44  | 55   |

Figure 2: Average number of children under Youth Justice supervision between 2015 and 2019

“I think we deal with it [chronic offending] better now than what we have. I think that there have been some big improvements, but I still don't think that we're really targeting the kids that are chronic offenders.

GOVERNMENT STAFF MEMBER

We were told by interviewees in Townsville that there are 10–20 youth crime leaders and another 30–40 followers, and that this group may drive 45–50 per cent of Townsville's youth crime. Given this is a small number of young people and families, there is an opportunity for them to receive specialised, intensive intervention and support.

It is now well understood, both in Australia and internationally, that youth offending is closely linked to disadvantage. Children who offend are more likely to have experienced child abuse and neglect, disability, mental illness, drug and alcohol abuse, exposure to crime and violence, and homelessness.

Atkinson<sup>39</sup> reports research finding that children

from geographically remote locations were six times more likely to be under youth justice supervision as those from non-remote locations and that children from the lowest socio-economic areas were 10 times more likely to be under supervision.

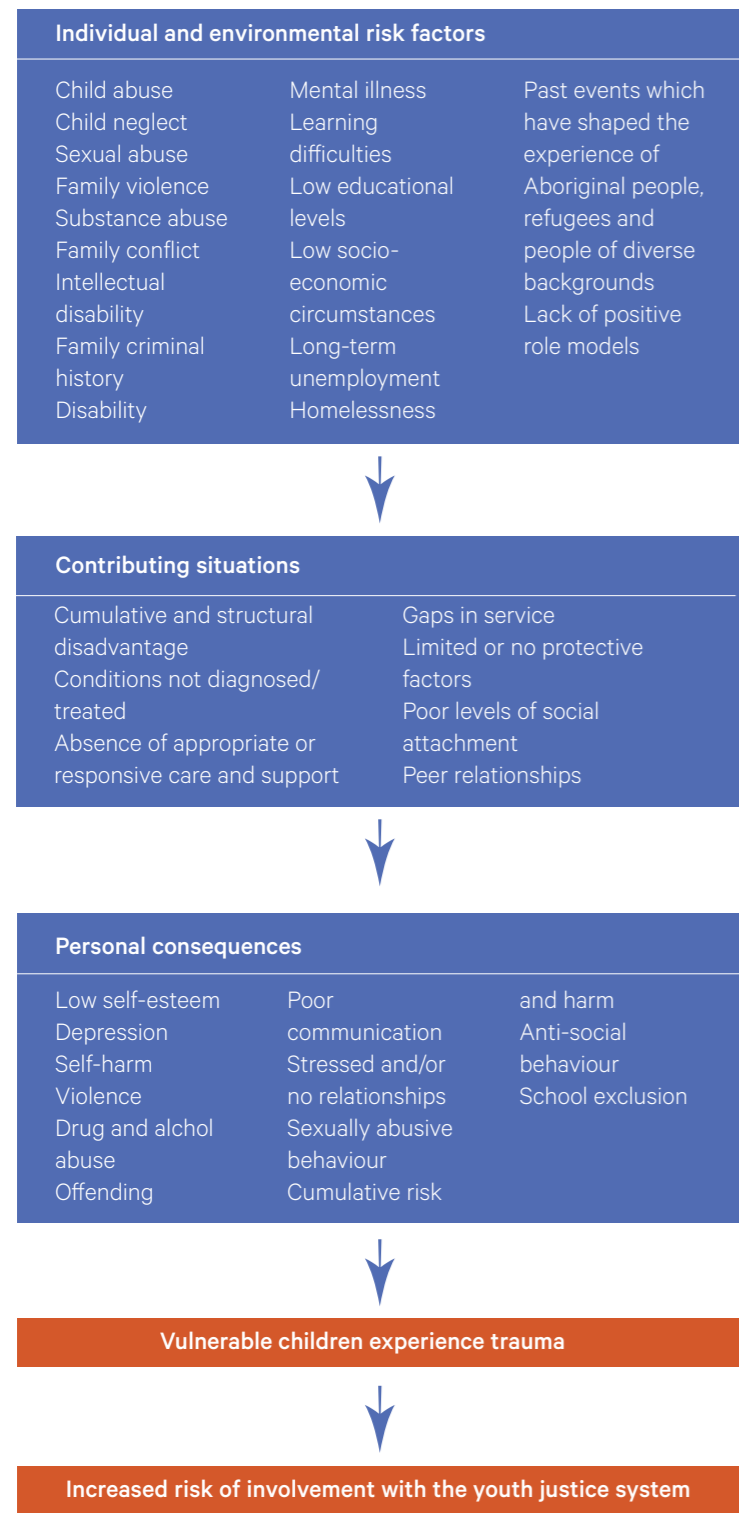
Eighty per cent of Queensland's young offenders have reported using at least one drug or volatile substance (such as sniffing solvents, aerosols or petrol) and 63 per cent have experienced or been affected by domestic and family violence. Fifty-six per cent have a mental health and/or behavioural disorder (diagnosed or suspected) and 53 per cent are disengaged from education, training or employment.<sup>40</sup>

Figure 3 shows the cascade of direct and indirect risk factors that may lead to an increased risk of involvement in the youth justice system.

### 2.2.2. Trajectory of younger children in the youth justice system

Queensland Police Service data shows that Aboriginal and/or Torres Strait Islander young people aged 10–14 are more likely to be in contact with the police than non-Indigenous children in

Figure 3: Risk of involvement in the youth justice system<sup>41</sup>



Definitions:

- Protective factors are positive influences that can improve the lives of individuals or the safety of a community. Examples are many but can include positive adult role models, healthy prenatal and early childhood development, participation in cultural activities, or good parenting.
- Social attachment theory suggests young children need to develop a relationship with at least one care giver for typical social and emotional development.

the same age group, with this even more likely for those aged 10–11.

Youth Justice profiled the youth offending trajectories of children aged 11 and 15 from 2015 to 2019 through the youth justice system.

There was a difference between supervised orders<sup>†</sup> versus unsupervised orders for children aged 11. Within five years of receiving a supervised order, 56 per cent of these children received another supervised order. By comparison, only 32 per cent of children aged 11 on an unsupervised order received another unsupervised order within five years. The different outcomes may be due to children under a supervised order committing more serious offences. It may be useful to investigate whether there are other factors.

In each of the three categories of supervised order, unsupervised order and any court order, Aboriginal children and Torres Strait Islander children aged 10–14 were more likely to stay in the criminal justice system than non-Indigenous children.

Figures four and five show that children who began offending at age 11 were more likely to stay in the statutory youth justice system than children who began offending at age 15. Aboriginal children and Torres Strait Islander children aged 10–11 accounted for 64 per cent and 57 per cent respectively of all children aged 10 and 11 in contact with the Queensland Police Service.

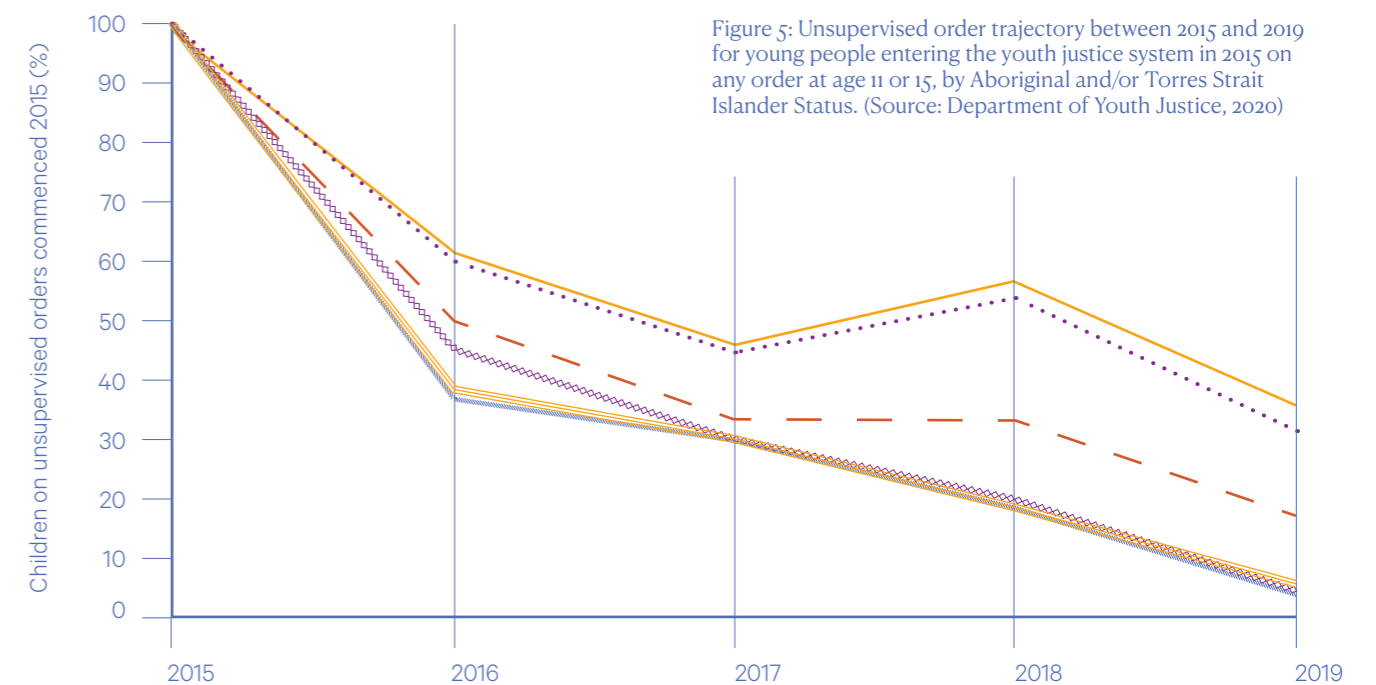
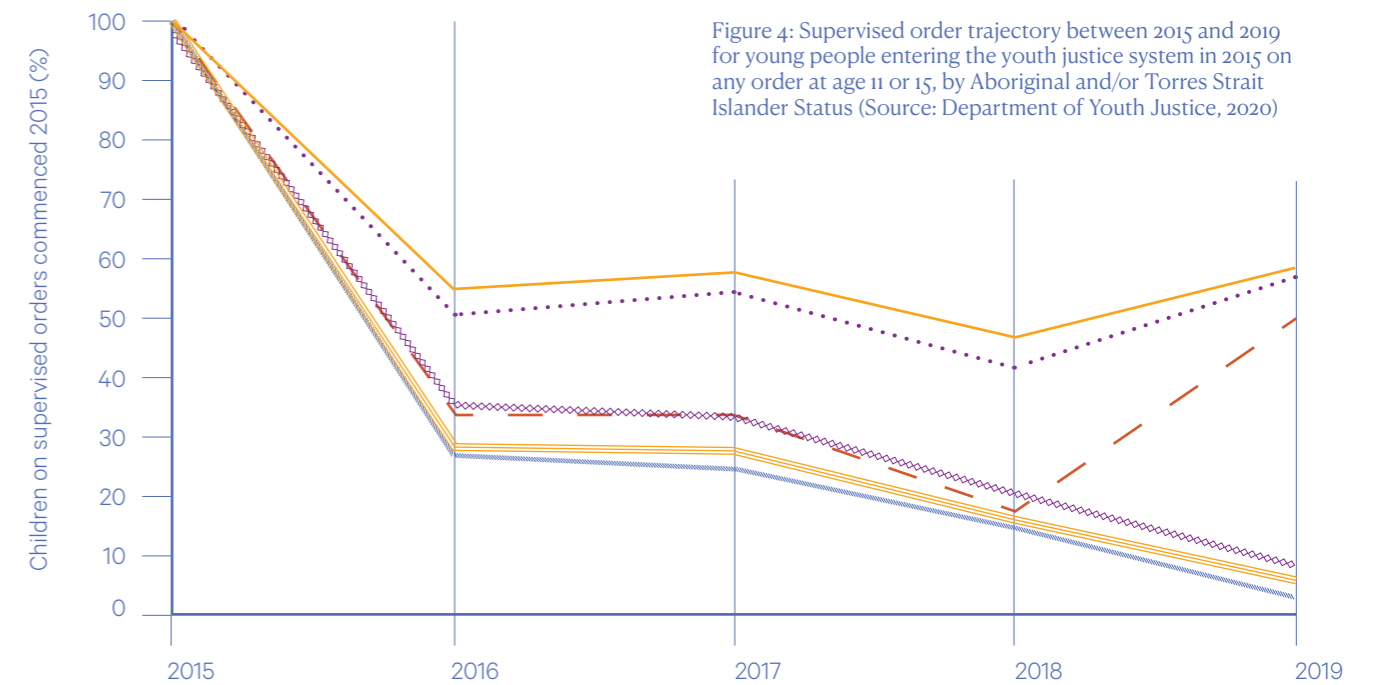
### 2.3. Youth justice reform

The Youth Justice Strategy aims to strengthen how we prevent children and young people becoming involved in the youth justice system, along with early intervention and rehabilitation methods. The strategy states that

*... prevention programs—such as those that improve parenting, strengthen community, support families at risk, address mental illness, disability and substance abuse and respond to childhood delay and education problems—are not only effective but are extremely cost-effective.<sup>42</sup>*

General public health and criminology literature

<sup>†</sup> Supervised youth justice orders can include: community service, conditional release, court-ordered graffiti removal, intensive supervision, probation, and restorative justice orders. Unsupervised youth justice orders can include: reprimand, good behaviour, and fines. Definitions obtained from Department of Youth Justice, *Annual summary statistics: 2014–15 to 2018–19*. Youth Justice orders data, available at <https://www.youthjustice.qld.gov.au/resources/youthjustice/resources/yj-annual-summary-stats-orders.pdf>, viewed 22 October 2020.



11 years Aboriginal and Torres Strait Islander ———  
 11 years Non-Indigenous - - - -  
 15 years Aboriginal and Torres Strait Islander ◊◊◊◊  
 15 years Non-Indigenous ———  
 11 years all .....  
 15 years all =====

and the work undertaken for this report endorse this position.

Prevention and early intervention were the focus of the Queensland Government's *Our Future State: Advancing Queensland's priorities—Give all our children a great start*.<sup>43</sup> However, under the *Youth Justice Strategy Action Plan (2019–21)*, \$195 million of the \$320 million funding package was directed to additional detention facilities.

The remaining \$125 million mostly aligns with pillars two and three of the strategy: keeping children out of court and custody. Many of these initiatives are diversionary activities, with some additional resourcing for courts. Approximately \$40 million has been dedicated to funding initiatives dealing with the precursors of anti-social behaviour, including Transition 2 Success,<sup>†</sup> Navigate your Health\* and an enhanced youth and family well-being service.

Within the second and third pillars, the Youth Justice Strategy calls for children and young people with early or low-level offending to:

- have positive family and community influences
- be engaged in education, training and alternative activities
- get support to address their behaviours.

The Youth Justice Strategy also says children and young people who have offended should have a safe place to live and be supervised and helped to repair harm, address behaviours, and reconnect with families and communities.<sup>44</sup> These are worthy aspirations, and the youth justice system and the broader community should be encouraged to stay true to them.

Of the initiatives announced in April 2019 as part of *the Youth Justice Strategy Action Plan*, QFCC chose three to explore in more detail, to better

understand how they were being implemented. They are:

- Intensive community supervision—Operation Regenerate
- Mount Isa Transitional Hub
- Specialised Multi-Agency Response Teams (SMART).

These initiatives were chosen because they dealt with different aspects of keeping children out of court and custody. Each was led by a different organisation, one was specific to one location, and two were state-wide.

### 2.4. The views of young people and families in contact with the youth justice system

We sought views from the clients of the system in two ways, through:

- interviews with six young people, which have been highlighted in this report.
- the collaborative design of an illustration providing a visual snapshot of how the current system is perceived by 13 family members and representatives from non-government organisations.

The responses from both groups indicate that families experience high levels of confusion about how the system works, and that there is poor communication between agencies and parents or guardians.

The QFCC intends to continue regularly engaging with young people with experience in the youth justice system (see Chapter 6 of this report).

It became apparent from our stakeholder interviews that, while many agencies asked clients about the *performance* of their services, few involved young people and families in the design of those services.

The following 12 points summarise advice from the young people we spoke to (who have been in the youth justice system) about how they would like to be treated:

1. Get to know children and young people as individuals; don't just focus on offending behaviours.
2. If you treat children and young people with respect, they will do the same.
3. Don't target children based on their race, their looks or their history.
4. Try to understand why children and young people might be having difficulties, and respond.
5. Support children and young people for as long as they need the support.
6. Make sure young people understand what is happening and what is expected.
7. Keep the parents and guardians of children and young people informed and involved.
8. The earlier the intervention the better—provide informal, accessible supports wherever young people are.
9. Refer young people to support services the first time they go to court.
10. Help children to go to school so they can learn to read.
11. Don't act without involving the child or young person.
12. Listen and respond to the plans and ideas each child and young person has for themselves.

The resulting illustration is shown in Figure 6.

Their advice to fellow young people thinking about engaging in crime included:

1. Stay out of trouble.
2. Think before you act.
3. Crime isn't always the option.
4. Police aren't all bad.
5. Be careful not to push your friends and family away.

6. Find out about the support services that are available.
7. Understand that good things can come from bad things.
8. Understand that people have worked hard for the things they own.
9. Once you know how crime affects you, you realise it's not worth it.
10. When you give up crime, it takes a long time for people to trust you again.
11. Think carefully about who your real friends are.<sup>45</sup>

Young people we spoke with identified sport and e-sport (the online gaming community, with its international connections) as ways of connecting with broader and more pro-social communities. The biggest challenge for young people trying to end their criminal activity was having no friends, because their friendship group had been fellow young offenders.

### 2.5. Aboriginal and Torres Strait Islander young people and the youth justice system

#### 2.5.1. Decision making

The substantial and longstanding over-representation of Aboriginal young people and Torres Strait Islander young people in the youth justice system demonstrates the need to make significant changes to the structures and systems that are currently failing vulnerable people.

Seventy-five per cent of Australians in a recent research study displayed 'implicit' bias against Aboriginal people.<sup>†</sup> Given that figure, a large number of people in decision-making roles in government or non-government agencies may also be biased, consciously or unconsciously, against Australia's Aboriginal peoples or Torres Strait Islander peoples.

<sup>†</sup> Transition 2 Success is a training and life skills program for young people aged over 15 in the youth justice system or at risk of joining it. More information is available at: <https://www.qld.gov.au/law/sentencing-prisons-and-probation/young-offenders-and-the-justice-system/youth-justice-community-programs-and-services/t2s/about-transition-2-success>, viewed 21 October 2020.  
\*Nurse Navigators (senior advanced practice nurses who have an in-depth understanding of the health system and who provide a vital service for patients who require a high degree of comprehensive, clinical care) work directly with Youth Justice service centre staff and connect directly with young people to obtain referrals to appropriate health services.

<sup>†</sup> The Guardian, reporting on Harvard Implicit project 2020, *Three-quarters of Australians biased against Indigenous Australians, study finds*, 9 June 2020, available at <https://www.theguardian.com/australia-news/2020/jun/09/three-quarters-of-australians-biased-against-indigenous-australians-study-finds>, viewed 22 October 2020; Research on implicit bias suggests that people can act on the basis of prejudice and stereotypes without intending to do so, that is, unconsciously, <https://plato.stanford.edu/entries/implicit-bias/>, viewed 13 July 2020.

# EXPERIENCES OF THE YOUTH JUSTICE SYSTEM



**A Child's Experiences**



**A Parent's Experiences**

Figure 6: Parent and child perspectives of the youth justice system

## The Queensland youth justice system

### About the Artwork

The Queensland Family and Child Commission engaged Saltwater People to facilitate a series of meetings to hear stories from a diverse range of practitioners and families engaged with the youth justice system.

Saltwater People listened to shared concerns about access to appropriate and flexible education and learning, lack of coordination between the police, families and services and the need for Aboriginal and Torres Strait Islander led service delivery including culturally safe mental health services and temporary accommodation services.

The artworks, created by Dylan Mooney, bring together these stories to visualise a youth justice system that is seen as complex, confusing and disempowering, but with the opportunity for system-led change.

### About the Artist

Dylan Mooney is a Yuwi man from Mackay, Central Queensland, a Torres Strait Islander man from Erub and Badu Island and an Australian born South Sea Islander. Dylan is a well-known emerging and contemporary artist with a prolific practice that sensitively investigates identity and socio-political issues. Dylan's work offers great insight into young people's lived experiences.

### Thank you

Saltwater People would like to thank those who were involved in these discussions. This includes; Young People Ahead, Injilinj Youth Service, Aunty Janice Binsiar, ATSICHS Brisbane, Kurbingui Youth and Family Development, Act for Kids and the Queensland Program of Assistance to Survivors of Torture and Trauma.

Some of the participants have been lifelong advocates for young people in need, and others are families, looking to improve their experiences of the system, to better support their children.

“They will never listen to us; we are only two per cent of the population.

MEMBER, COMMUNITY GROUP

There is an overwhelming body of research suggesting interventions that fail to actively engage with Aboriginal and Torres Strait Islander people at all stages (including development, implementation, delivery and evaluation) are likely to be ineffective.<sup>46</sup> Good practice demands that Aboriginal and Torres Strait Islander people and communities be fully involved in programs and interventions from their inception to ongoing operation and evaluation.

Among the ideas and priorities that were advanced to government decision makers about the youth justice system, and included in the *Youth Justice Strategy Action Plan 2019–21*, we found limited evidence of involvement of Aboriginal and Torres Strait Islander communities.

An exception was three recently funded On Country programs.<sup>†</sup> We welcome this initiative and the fact that funding was provided to Aboriginal-run organisations. To help make long-term investment sustainable beyond the four years, we suggest consultation with the local communities be incorporated into program monitoring, if that is not already a feature. The programs could also be used as leverage to expand participation of Aboriginal service providers and Torres Strait Islander service providers in the system.

Evaluation of program goals would ideally be led by the communities they serve, supported where needed by independent evaluators. Such actions would all align with the latest *National Agreement on Closing the Gap* to which state governments must respond with an action plan within 12 months. Engagement in the action planning process is included in all 2020 Ministerial Charter letters.

### 2.5.2. Connection to community & culture

Aboriginal Elders and other stakeholders we spoke with in Townsville felt the current generation of

## The Queensland youth justice system

young Aboriginal people in the youth justice system lacked respect for/understanding of their culture and lacked positive role models (particularly males). We were told many of their parents had also not received this cultural education, and that there are limited opportunities for it to be taught.

“It is impossible to ask these children to respect their community when they feel no connection to it. Identity is instead created through social media ‘likes’.

ELDER

“There is a very small cohort who are trying to one-up each other, so whether that's dealing with a certain car, a V8 or an expensive car or things like that, they're trying to, that's like their badge of honour, I've got this car, and so and so only got this car, or I am in here for 24 offences ... there's a very small cohort of children who are perhaps trying to one up each other ... if anything, I would say they are quite disengaged from their heritage, these young kids.

NON-GOVERNMENT STAFF MEMBER

Research shows there is a strong link between culture and well-being. Interventions that provide opportunities for Aboriginal and Torres Strait Islander young people to express their cultural identities can measurably improve well-being. Knowledge of one's culture is a protective factor. It promotes resilience and can be an important contributing factor in reducing the number of Aboriginal young people and Torres Strait Islander young people in the youth justice system.<sup>47</sup>

Staff from both the Aboriginal and Torres Strait Islander Legal Service (ATSILS) and Townsville Aboriginal and Islanders Health Services (TAIHS) told us that a recently started cultural mentoring program in Townsville had noticeably sparked the interest and enthusiasm of their clients.

“Some of the young boys and girls that are being matched with a mentor, just their enthusiasm to—you know they're so detached from community and culture—but to see them getting involved in the cultural activities ... is quite exciting to see, how excited the young people are about that

NON-GOVERNMENT ORGANISATION

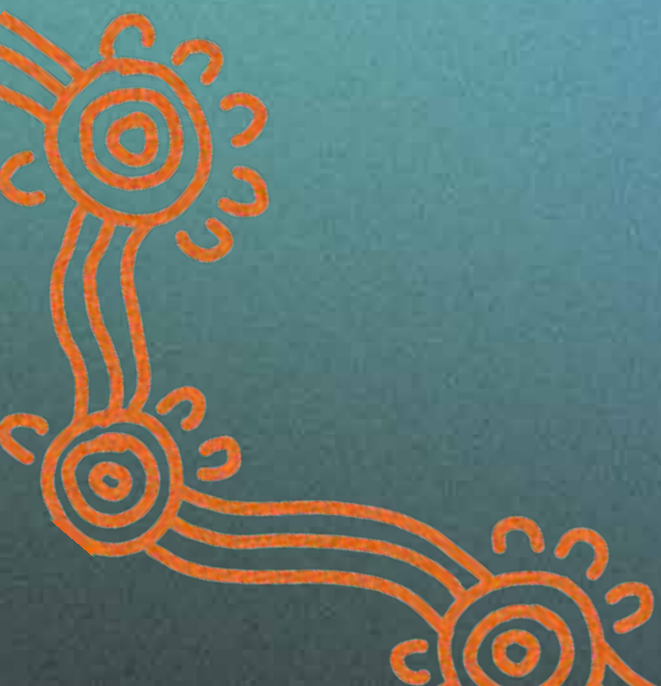
A community controlled organisation indicated that staff from other parts of Queensland found Aboriginal young people and Torres Strait Islander young people they worked with in Brisbane very disconnected from family and cultural knowledge.

“...I'm talking on behalf of the young men, the rite of passage isn't going to jail, that's not our purpose in life as young Indigenous men ... it'll be where we get someone who can go in and really teach the kids what our real rite of passage is as a young Aboriginal or Torres Strait Islander man, and build their base in terms of their cultural identity and then hopefully getting them looking at life a bit differently and even though the over-representation [in youth justice] is right up the coast, but when you see those families who had real strong connection and have had that humble upbringing, you can definitely see ... culture is a big thing, when it comes to our young people, because when you know who you are and where you're from, you're more proud and you don't want to ruin that pride, you don't want to ruin that reputation of who you are, so that's just one thing that our kids of today are failing to gain, is just identity.

One young Aboriginal boy we spoke with in Brisbane was dismissive of involvement in cultural activities, identifying it as something he may do once he became an adult.

<sup>†</sup> Farmer D, *On Country programs for Townsville*, Media statement 1 July 2020. Three programs are to be delivered in Mount Isa, Townsville and Cairns, to the value of \$56 million for four years. Available at <https://statements.qld.gov.au/statements/90127>, viewed 1 October 2020.

3. Is the youth justice system reliable, trusted and built on shared connections and commitment?



# 3. Is the youth justice system reliable, trusted and built on shared connections and commitment?

In this chapter, we discuss how reliable the youth justice system is, with 'reliability' defined as consistent, easy for end users to understand, and fulfilling its purpose. As part of this, we explore the consistency of the Youth Justice Strategy itself, and then of some of the important players in the youth justice system. While recognising the complexity of the work, we go on to question how complex the system itself is for its users.

We also examine how trusted the system is, and the role the media can play in this.

Finally, we consider whether the various elements of the system share connections and commitment and how effectively government agencies collaborate between themselves, with young people and families, and with community and community organisations.

## 3.1 Is the youth justice system reliable?

### 3.1.1 Consistency

The evidence underpinning the *Working together Changing the Story: Youth Justice Strategy 2019–23*<sup>48</sup> (the Youth Justice Strategy) is that putting young people in detention does not improve their life outcome. Nor does it prevent re-offending.

Current implementation of the Youth Justice Strategy's second and third pillars emphasises

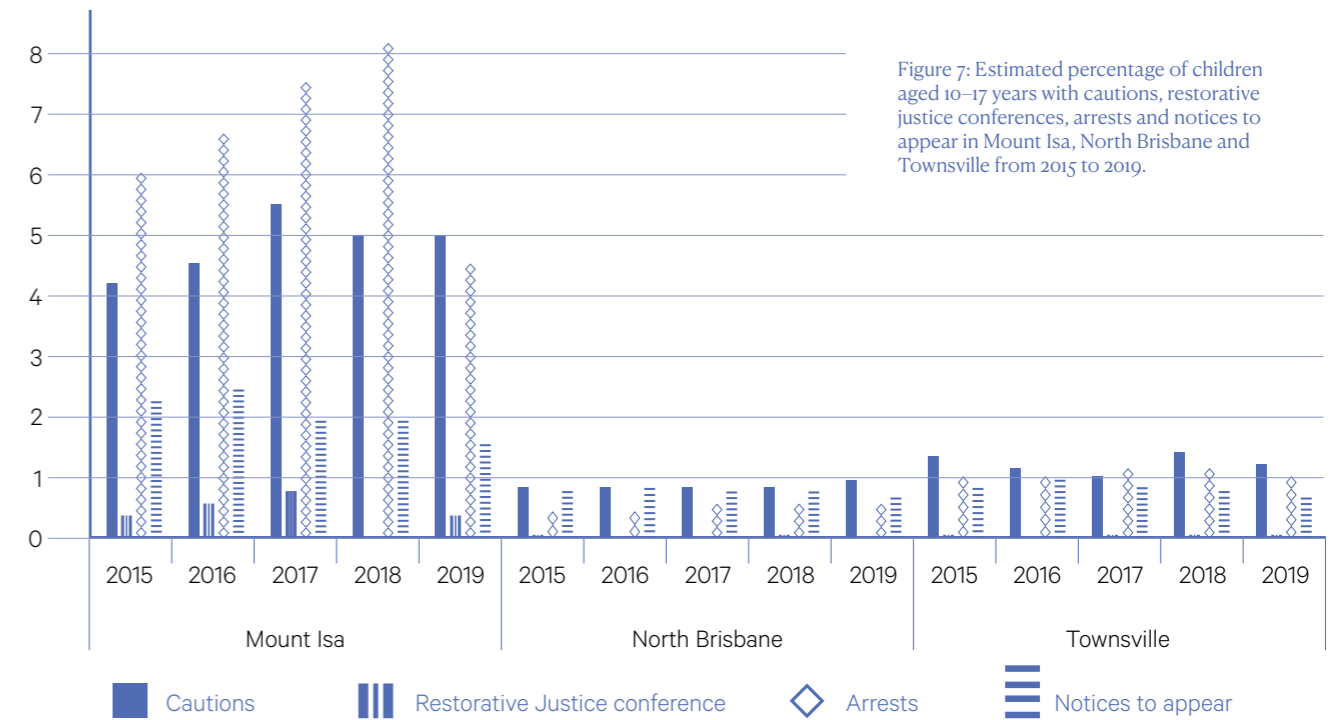
the delivery of detention as a last resort and of short-term activity-based diversions. This means young people leave the statutory system without assurance of access to follow-up services.

This is partly because Youth Justice and its contractors are not funded to provide such services. This approach will not help the small group of high-risk offenders who commit most of the youth crime and who have the most complex needs.

#### Queensland Police Service

The Queensland Police Service plays a central role in the youth justice system. For less serious offences, officers can choose to take no action, caution young people rather than charge them, and offer restorative justice,<sup>†</sup> or the opportunity to attend drug diversion or graffiti removal programs.<sup>49</sup> Police can propose or oppose bail, or offer protected admissions.\* They are involved in diversion and bail support programs,\* the best-known being the work of the Police Citizens Youth Club (PCYC) over many decades and, more recently, Project Booyah (a Queensland Police youth mentoring program), Operation Regenerate (see section 3.1.3) and the new co-responder model with Youth Justice.\*

How the Queensland Police Service implements youth justice policies at state or regional levels will influence youth crime statistics and the numbers of young people proceeding through the



|  | Queensland                 | Mount Isa                  | North Brisbane            | Townsville                 |
|--|----------------------------|----------------------------|---------------------------|----------------------------|
| Estimated population of children aged 10–17 years                                | 10%                        | 10.6%                      | 10.5%                     | 10.4%                      |
| Estimated Aboriginal and/or Torres Strait Islander population (aged 10–17 years) | 8%                         | 41%                        | 2.5%                      | 14%                        |
| Index of relative socio-economic disadvantage*                                   |                            |                            |                           |                            |
| Least disadvantaged quintile   | 20%                        | 6.4%                       | 46.6%                     | 13.6%                      |
| Most disadvantaged quintile  | 20%                        | 28.7%                      | 3.8%                      | 24.3%                      |
| Crime—the rate of all (juvenile and adult) reported offences in 2018–19          | 10,306 per 100,000 persons | 32,585 per 100,000 persons | 9,247 per 100,000 persons | 14,131 per 100,000 persons |

Figure 8: Regional snapshot of Mount Isa, North Brisbane and Townsville using Queensland Police Statistical Information System (POLSIS) demographic profiles<sup>†</sup>

\*The Index of relative socio-economic disadvantage summarises a range of information about the relative economic and social conditions of people and households within an area, grouping them into quintiles (fifths) from most disadvantaged to least disadvantaged. (Australian Bureau of Statistics)

<sup>†</sup> Regional profiles have been derived from the Queensland Police Service POLSIS database and relate to Queensland Police Service districts, which consist of multiple local councils and shires.

<sup>48</sup> Restorative justice views a criminal offence as more than an act of breaking the law and examines the impact on society—the harm caused to the victim, family relationships and the community. A restorative justice or community conference is a meeting between a child who has committed a crime and the people most affected by that crime. From Queensland Government website, Restorative Justice Conferences, <https://www.qld.gov.au/law/sentencing-prisons-and-probation/young-offenders-and-the-justice-system/youth-justice-community-programs-and-services/restorative-justice-conferences/about#:~:text=It%20has%20proven%20that%20it,harm%20caused%20to%20the%20victim>, viewed 26 October 2020.

\* A protected admission interview allows a child to admit to an offence during an interview, but any admissions made are not admissible in court. From Queensland Police Service, Operational Procedures Manual Ch. 5, section 5.8.1, Issue 78, public edition, 6 October 2020, <https://www.police.qld.gov.au/sites/default/files/2020-10/OPM%20-%20Chapter%205%20-%20Children.pdf>, viewed 27 October 2020.

\* Which help young people to comply with the terms of their bail.

\* The co-responder service began in May 2020, replacing Operation Regenerate. Youth Justice staff patrol hotspots with police 24/7 and work with young people who are at risk of entering or becoming further entrenched in the youth justice system.

## Reliability, trust and shared connections

court system and into custody. An example of an operation may include police targeting a particular precinct for a period of time in order to reduce crime.

“Those pillars ... the 2 and 3 that you're looking at [from the Youth Justice Strategy], we can't actually do anything about that around the courts. It's about whether the police want to. So ... a case here of an individual down the mall begging for a dollar, has no home, was begging for a dollar, then got a bit cheeky with the police officer so the police officer went, 'Oh,' instead of just going, 'you know what, don't worry about it,' wanted to show his force and his brute and then lock him up for a few days. So, you know what I mean, that—we can't reduce the number of individuals that are going to court.

NON-GOVERNMENT ORGANISATION

There were variations in police actions between 2015–2019 across Mount Isa, North Brisbane and Townsville (the three locations we focused on for this document), when compared to whole-of-Queensland data. Figure 7 shows that Mount Isa children had proportionally many more interactions with police than children living in Townsville or North Brisbane did.<sup>50</sup>

Figure 8 shows the proportion of children aged 10–17 who identify as Aboriginal or Torres Strait Islander is far higher in Mount Isa, at 41 per cent, than in Townsville or North Brisbane. Of the three locations, Mount Isa also has the highest proportion of disadvantaged residents.

Cautions were the most common police action used with children aged 10–17 in Queensland over the five years, with a six per cent increase in 2019 compared to 2018. This was possibly a response to the Youth Justice Strategy and related reforms

encouraging an increased focus on diversion and prevention. The next most common actions were arrests and notices to appear (a requirement to appear in court).<sup>†</sup> In Mount Isa, arrests were the most common police action over the five-year period, except for 2019, when cautions slightly outnumbered arrests.

Another regional variation in the Queensland Police Service data was that North Brisbane consistently had higher numbers of notices to appear than arrests, whereas Townsville and Mount Isa had far more arrests than notices to appear. This meant young people in both Mount Isa and Townsville were far more likely to be taken to a police station and processed rather than being issued an 'on the spot' notice informing them when and where to appear at court (and potentially reducing some exposure to the criminal justice system).

The Queensland Productivity Commission report on adult imprisonment and recidivism cites research suggesting 'that the experience of arrest ... leads to an increase in the perceived likelihood of being apprehended for a future crime' and that self-identification as an offender is considered strongest when they 'are younger and more impressionable'.<sup>51</sup>

The Queensland Productivity Commission report into imprisonment and recidivism in the adult system suggests options to divert adults away from court and custody are more limited in Queensland than other states.<sup>52</sup> The Queensland Government could consider if additional diversion options may also be possible in the youth justice system, especially for children under 14. The 2020 Charter letter for the Minister for Police and Corrective Services requests that he 'work with other ministers to increase the proportion of offenders, particularly young people, diverted from the criminal justice system'.<sup>53</sup>

## Reliability, trust and shared connections

The Queensland Police Service could also consider if more could be done to maximise the use of options currently available to officers. Queensland Police Service data for 2015–2019 identifies that of the four options available in that period, restorative justice conferencing was used the least. Figure 7 shows it was used more in Mount Isa than in Townsville or North Brisbane. As well as the regular training provided by the Queensland Police Service, we were informed that the restorative justice specialist in Mount Isa's youth justice service centre was delivering short bursts of face-to-face training to Mount Isa police during 2020.

At times, variations between police districts or regions in operational matters may be beneficial for a child:

“One of the modifications that I know QPS [Queensland Police Service] have made up here is that sometimes they will meet a child and a parent, or a child for a second time if a child's not making admissions the first time, sometimes the police will send them away and say 'Hey I want to meet with you and Mum next time or you and ATSI or whoever, and perhaps we can have another talk about this again and we'll give you another opportunity to talk about what happened that day'. So I've spent quite a lot of time in Brisbane, the Gold Coast, Toowoomba, and let me tell you, in not all cases, are police willing to give a child a second chance, like the police do in some of the areas like up here.

GOVERNMENT DEPARTMENT

Young people and families we spoke with indicated the Queensland Police Service needs to improve internal communication between its various units about how individual young people and their families can be supported in their dealings with police.

We heard from a young person and their family how the behaviour and communications skills of 'general

duties' police was vastly different to that of officers from, for example, Child Protection Investigation Units or Operation Regenerate. Other examples indicated general duties police were not aware of the work being done with particular families by other parts of the police service.

“There was a young person who was referred to Operation Regenerate but also had an interface at a point in time with the SMART panel and even to this day, that young person who resides with their elderly grandmother will receive visits from [general duties] police ... for example, he had been issued a mobile phone by a community controlled organisation and the police said, 'That's not your phone. We'll seize that.' ... what we have is that disconnect between the local police versus what the Bail Hub [Operation Regenerate] and the other policing units are doing.

GOVERNMENT DEPARTMENT

Such inconsistency also raises questions about police culture, including behavioural expectations of police officers, and the perceived value of community policing opportunities. There is also a need for more Aboriginal people and Torres Strait Islander people in the Queensland Police Service. Both recruitment and retention approaches may need to be regularly examined and refreshed.

In addressing the over-representation of Aboriginal and Torres Strait Islander children in Queensland's court system (they are 10 times more likely to have a matter processed by a court than other children) the Smith report (on local solutions to address youth crime in Townsville) suggested formalising 'delivery of cultural expertise into judicial processes', including appropriate compensation for Elders who agree to be involved with courts.<sup>54</sup>

Department of Education and Queensland Health

Children often arrive in the statutory youth

<sup>†</sup> Instead of arresting someone or holding them in custody, police can provide a 'notice to appear', informing the person when and where to go to court and what the charges are. Definition from Legal Aid Queensland, *Being charged with an offence*, available at <http://www.legalaid.qld.gov.au/Find-legal-information/Criminal-justice/Police-and-your-rights/Being-charged-with-an-offence#toc-notice-to-appear-2>, viewed 22 October 2020.

## Reliability, trust and shared connections

justice system disengaged from education and with limited literacy. Interventions need to be available in primary school, particularly during known sensitive transition points like the move into Year Two,<sup>†</sup> and the move from primary to high school (years six to seven). It should be considered whether funding already provided by the Department of Education for high schools through its *Youth Engagement Strategy*<sup>55</sup> needs to be brought forward to primary school.

Schools and local health agencies can work together more closely to identify and offer early intervention to families and children. In early years classes, schools may see signs of health or learning issues, or of struggling families, that may not be visible to other agencies. A pro-active approach, whereby families are directly contacted and offered support, is likely to be more effective than one where a government agency provides a referral for a parent to follow up.

The *Youth Engagement Strategy*, which involves rolling out flexi-spaces<sup>\*</sup> in high schools, promoting high-quality alternative schools<sup>\*</sup> and establishing regional youth engagement hubs<sup>56</sup> to re-engage young people disconnected

from work or study, may benefit young people already caught up in the youth justice system. This is in addition to the long-standing system of guidance officers, youth support coordinators and behaviour management support for teaching staff. It will be useful to monitor this strategy's progress in relation to the cohort of young people in contact with youth justice.

We note the good work being undertaken by the Department of Education's youth support service and community liaison officers. The support they provide is of a practical rather than therapeutic, nature.

The Children's Court of Queensland advises that from January to September 2020 the Education Justice initiative supported 794 children. Of these 35 per cent were re-enrolled at a new state or non-state school, 41 per cent received ongoing support by a specialist, seven per cent were directed to vocation, education and training and 17 per cent were dealt with (including being supported in education while in detention). The Children's Court calls the initiative a 'tremendous success'.<sup>57</sup>

### Education Justice Initiative

A promising project operating since late 2018 is the Education Justice initiative. The purpose of the project is to improve educational outcomes and reduce reoffending for young people who appear before a Children's Court. Court liaison officers work in the following locations: Brisbane, Ipswich, Gold Coast, Beenleigh, Townsville and Cairns. Their aim is to:

- connect or reconnect young people of

compulsory school age with appropriate education or training pathways, in particular, young people making their first court appearance, and to offer support that can help them improve their opportunities and life outcomes;

- work closely with other government agencies and stakeholders to devise tailored advice and support to young people who appear in court.

<sup>†</sup>An experienced flexi-school educator advised us the revised Australian curriculum and the introduction of a 'Prep' year in Queensland means struggling students may start to disengage as early as Year Two because from then on children need to 'read to learn'. Before then, children are learning to read.

<sup>\*</sup>Spaces are being transformed in existing school buildings to create an inviting hub for those students who are struggling to engage.

<sup>\*\*</sup>An Alternative Learning Program delivers bespoke approaches to curriculum in response to students' individual learning, behavioural, social and well-being needs, in a supportive environment that is outside of a students' regular classroom, and for a period of more than five hours per week. Alternative Learning Programs aim to enable students to return to their mainstream program as soon as possible., Education Queensland, Procedure: *Establishment of an alternative learning program*, available from <https://ppr.qed.qld.gov.au/education/learning/Procedure%20Attachments/Establishment-of-an-Alternative-Learning-Program/Establishment-of-an-alternative-learning-program.pdf>, viewed 2 December 2020.

“Every single program they've got him in now, finishes once he goes to court. There's no help after that. It just stops dead. So, there's no continuity of care ... there's no follow on, there's no follow up.

### 3.1.2. Complexity of the system

*“You expect a kid in a family to understand plans and care plans and youth justice sentences of various agencies, sometimes contradicting each other or not talking with each other, and it's confusing for them. So I think that multi-agency, interagency kind of approach to any intervention is quintessential to divert people from the criminal system, reduce reoffending, all that stuff... they usually end up having three or four case plans.”*

GOVERNMENT DEPARTMENT

Families in crisis find navigating the system very hard, if not impossible. This complexity is one of the reasons why the multi-systemic therapy trial,<sup>58</sup> run by Life Without Barriers (a non-government organisation that provides care and support services) and funded by the Queensland Government, requires therapists to act as a family's single contact point for services. It is also why the Queensland Government has

funded an expansion of Navigate your Health<sup>†</sup> from its pilot supporting children in the child protection system in Brisbane to also support children in the youth justice system and to extend the service to Cairns.

If funding for similar kinds of intensive support could be granted to community controlled organisations (with training provided if needed), they may provide the kind of family-focused support that is needed by local communities. This could be further investigated by government. Willingness by Aboriginal families or Torres Strait Islander families to be clients of intensive support programs may be improved if the service is run by a community controlled organisation, or if Aboriginal or Torres Strait Islander people are employed in key positions.

The health system is made up of many players. The Queensland Government, through Queensland Health, has hospital and health services in regions, as well as Children's Health Queensland. Meanwhile, the Australian Government funds public health networks and

#### Tern program

Townsville Headspace was successful in receiving Commonwealth funding for a program it designed called the 'Tern' program (this is not an acronym; it is named after a bird). The Tern program works with young people for up to two years. It is based on the New South Wales Blue Knot program<sup>‡</sup> working to help young people who have experienced trauma that is still affecting their lives. As well as a therapeutic component, there are also social inclusion groups and programs, a general practitioner on site and help with advocacy and support appointments.

If a young person has to go to court, needs help navigating the National Disability Insurance Scheme (NDIS) or is experiencing homelessness, they can be assisted. Tern has started a relationship with Central Queensland University to provide evaluation, with the potential for it to be rolled out to other Headspace centres.

Information provided by Headspace Townsville

Headspace (one-stop shops for young people who need help with mental health, physical health (including sexual health), alcohol and other drugs or work and study support). The National Indigenous Australians Agency and non-government agencies also fund some health programs for Aboriginal and/or Torres Strait communities.

The introduction of 'navigators' to help families deal with a complex system is likely to prove helpful for those families who are already known to the system and willing to receive help. However, it does not resolve the underlying problem of how best to support families with multiple health or social concerns before matters reach a crisis. Furthermore, if there is a need for highly specialised support in the areas of drug or sex crime rehabilitation, families living outside Brisbane will be unlikely to find any help, and the availability of a navigator becomes irrelevant. Some stakeholders we interviewed strongly advocated for greater outreach by health agencies working with young people and their families.

The importance of reaching out to services on behalf of clients may also be new for some Youth Justice staff. We were told by some that the additional funding to procure services from other organisations, while very welcome, meant they needed to be more aware of the range of contracts and of ensuring referrals were 'shared' appropriately between providers. This is something that is likely to become easier with time.

### 3.1.3 Fulfilling its purpose—diversion and intervention

Of the 15 initiatives (not including new detention facilities) funded by government in April 2019, eight were designed to divert young people at risk of committing crime away from their current path or to help young people meet bail conditions and reduce re-offending. Diversionary programs focus on short- or medium-term outcomes by providing alternative activities that may help reduce the amount of anti-social behaviour.

We looked at two diversion initiatives in more detail: the Mount Isa Transitional Hub (the Hub) run by North West Queensland Catholic Social Services, and the Queensland Police Service-led Intensive Community Supervision bail project (Operation Regenerate).

In a 12-month period, 350 individual young people accessed the Hub, with the Queensland Police Service and Youth Justice reporting a decline in police needing to conduct street welfare checks of children aged 10–17 years old and a marked decline in offences committed.<sup>59</sup> It was difficult to directly link these outcomes to the Hub due to changes to other services over the past 12 months and without the case management capability to track longer-term outcomes for children and families.

During its second six months of operation, the Hub linked with:

- the Department of Education to establish a satellite school
- other at-risk youth services to deliver activities within the Hub.

Through the consistently high numbers of children accessing the Hub, it appears the children have been enjoying the programs and services offered there. Funding has been provided for a further 12 months, until June 2021.

Operation Regenerate provided help to comply with bail conditions (bail compliance) on an individual basis. The program was funded from July 2019 until June 2020 in six locations across Queensland. The initiative aimed to divert 60–80 young people from detention by June 2020 and reduce the rate of re-offending by five percent.

The Operation Regenerate initiative demonstrated many individual successes, working with young people by building positive relationships and working with other agencies to support the young people with bail compliance. We received feedback from participants about how much they enjoyed Operation Regenerate.

<sup>†</sup>This is a two-year pilot initiative being led by Children's Health Queensland, in partnership with the Department of Child Safety, Youth and Women and the Aboriginal and Torres Strait Islander Community Health Service—Brisbane, to improve health outcomes of children and young people in care.—Clinical Excellence Queensland, Queensland Health nd, *Navigate your Health*, available at [Navigate your Health | Improvement Exchange | Clinical Excellence Queensland | Queensland Health](https://www.navigateyourhealth.com.au/), viewed 2 November 2020.

<sup>‡</sup>Information available at the Blue Knot Foundation, <https://www.blueknot.org.au/>, viewed 16 October 2020.

## Reliability, trust and shared connections

*“I reckon if I wasn't put with Regenerate I don't reckon I would have been able to stop crime to be honest because it basically filled my days with activities ... so now I've actually got stuff that I can go and do. It's basically put activities in my way to stop me from getting to that point where I'm just going to blow ...”*

YOUNG PERSON INTERVIEW

An internal call-out within the Queensland Police Service saw 790 police officers and police liaison officers nominate to participate in the initiative. As a result, the initiative offered an additional benefit by allowing police officers to better understand the background of young offenders (and sometimes their families) in a relaxed situation.

*“The young person was a joy to be around. It was hard to imagine that the person we spent time with was the same young offender who had committed such serious and at times violent crimes. We watched her grow in confidence and begin to see a future for herself. It was great to talk with her father who expressed pride in her progress and acknowledge that he had made mistakes in the past and that he wanted better outcomes for the young person's future.”*

FROM OPERATION REGENERATE CASE STUDY

The initiative helped 224 young people to comply with their bail conditions. While the program was running, Queensland Police Service data demonstrated a significant reduction in reoffending by its clients, meaning that young people were diverted from custody. The young people were mostly aged 12–17, with the Northern and Far Northern police regions able to engage children aged 10 and 11. Fifty per cent of participants in the Operation Regenerate initiative identified as having Aboriginal and/or Torres Strait Islander heritage.

The project concluded at the end of June 2019 and was replaced by a co-responder model involving police and Youth Justice working jointly to divert young people from the youth justice system. This joint approach may prove a useful enhancement of the original scheme. From its inception until January 2021, the co-responder model has engaged with around 6,400 children.

During 2019–20, 66 per cent of youth offenders were diverted from possible court action by police using alternatives including cautions, community conferences or other actions. This was the highest proportion of diversion in 10 years. In the same period, there was also a decline in the total number of youth offenders.<sup>60</sup>

The funding structure of many youth justice programs means that as soon as court proceedings or bail conditions are completed, the young person can no longer access the program, and the individual support they are receiving ceases.

*“Parent: So, there's all these programs, every single program that they've just got him in now, finishes once he goes to court. So how the hell does anything—there's no help after that. It just stops dead. So, there's no continuity of care ... there's no follow on, there's no follow up. So, what happens? Then the kids will get into trouble again. And the whole cycle will happen again. And this will keep going and going and going. But if there's that continual support, then at least maybe there is hope.”*

INTERVIEW

Many initiatives were not designed to offer long-term health and welfare improvements for children and their families. We were told that some initiatives could not or would not accept children from the high-risk groups of chronic offenders or those with complex behaviours.

## Reliability, trust and shared connections

“Keep the parents and guardians of children and young people informed and involved. The earlier the intervention the better—provide informal, accessible supports wherever young people are”. - Young person interview

*“They [the Transitional Hub] are an activity-based program. The activities are great but again, they've got no case management component, or they haven't got a case management component working alongside of them ... Whilst they're providing activities to the kids, the home environment is still the same that they just go back to ... I think this was purely around the amount of funding that was on offer at the time. It wasn't enough for the case management part, so they got funded for the activities part for the Hub, but they didn't get funded for the case management part. That's the missing link. Yes, when I hear people saying nothing's changed ... it won't if that part's not funded because it's about family, it's not about individual kids. They do some fantastic work with the kids and they're there for the kids. They can do what they've been funded to provide. I don't think there's a lot of understanding around that.”*

NON-GOVERNMENT ORGANISATION

Staff of a community controlled organisation explained how, with appropriately skilled staff, it was able to extend its activities towards a more structured, case management approach.

*“... we were doing Thursday night originally before COVID-19 hit our shores, that was a diversionary activity I would say where we would have the opportunity to engage young people, talk about if they had warrants out,*

*court dates. That was a time that we could discuss that with them, and this was before we were able to do case management, so we were only funded to do diversionary activities, so that was the only conversations our youth workers could kind of have with those kids, court dates and warrants, and if they needed assistance somehow, or if we could get them home. With case management now, [we are] over the whole case and can actually have a voice now, really get YJ [Youth Justice], Child Safety on board, and really advocating for the kid, or young person, where we weren't able to do that which I think is really good - even if it means organising stakeholder meetings with other services and things like that, just to try and get other services off the ground, there's kids who are actually doing it tough and are at risk, and with the intentions of trying to pull them back from the path that they're heading down to and onto the straight and narrow ...”*

Education and training provide opportunities for diversion. Even so, a child who has been disengaged from school for a long time will need considerable support to transition back into a mainstream system. This was pointed out to us by several stakeholders. A lack of transition support and life skills training may set these young people up to fail. There are some pockets of excellence in this, that also involve families, as offered by a non-government provider:

*“With our youth in all our communities, the thing we grapple with is people try and force*

## Reliability, trust and shared connections

*youth into apprenticeships and traineeships when they're not ready to do that. So while people are ticking their boxes to say we got 10 youth in traineeships this month, we've exceeded our targets, how often do those 10 trainees attend their places of work or places of apprenticeship? They might start off with a bang for a week and then they drop off. We're seeing that the work is not being put in for the readiness.*

*What is this going to look like? What does this mean? It means I have to get up at 8 o'clock every morning six months or a year and that I have a boss and I'm going to be told what to do and I'm going to be pulled up if I do something that's not quite right. Those are the things that our kids have not learned in terms of structure and they've not been at school to learn that type of stuff... That's not been embedded into their life. Then we're chucking them into a job or a traineeship that does have that structure... We just got three into Kicking Q [an apprentice traineeship based in Townsville], but we've prepared them for it. They're doing really well, and these are ex-petrol sniffing kids. We sit with the family and we do all the Abstudy and all of the things required for the school. We prepare the family to walk alongside their young person, to get on the plane, to travel with them to their first day of school.*

*What they have to do is they have to hand over their young person to the school and they have to make their way back, but that's all paid for through Abstudy—because a lot of these people haven't been out of community, these adults. Some of them haven't been on a plane, so we need to [also] teach those skills for the adults, for their carers.*

Difficult life experiences are known to increase the likelihood of a child entering the youth justice system (refer Figure 3). Because of this, the youth justice cohort needs more intensive, specialist education and health services, and these need to

be available when children are in primary school.<sup>61</sup> Some of these children receive their first cognitive or mental health assessment only when they have entered the statutory youth justice system.

### 3.2. Is the youth justice system trusted?

*“Anything that works for our community, they get rid of it.*

COMMUNITY MEMBER

The system is not trusted by its clients or the broader community, although the reasons behind the mistrust may vary greatly. While we found evidence that young people do develop trusting relationships with individuals in services, staff turnover and short funding periods for initiatives can make services less stable and reliable. Therapeutic relationships need time and patience to build before behavioural change becomes more likely, and regular announcements of changes to legislation or approaches, intensified by the recent media spotlight on the youth justice system, makes this harder to achieve.

*“It's hard because the focus in the NGO [non-government organisation] space is to build rapport and work for those families—but that takes time and often government wants answers straight away and wants things to be fixed.*

NON-GOVERNMENT ORGANISATION

#### Urgent access to support - education

Delays or inability to access support also build mistrust. In the case of Aboriginal communities and Torres Strait Islander communities, the starting position for many may already be one of mistrust of government for historical reasons. Perceived deficits will feed pre-existing beliefs.

It can take too long to arrange the necessary

## Reliability, trust and shared connections

support for high-risk young people. They and their families often need urgent assistance and attention.

The following advice was received from a non-government service about school re-enrolment in Mount Isa.

*“[We have] heard many guardians complain about how it is very hard to re-enrol a young person after they have disengaged with schooling. There are only two options our clients have in these circumstances, Edmund Rice Flexible Learning Centre<sup>62</sup> (Flexi) and Spinifex Junior or Senior.*

*Most have to start at Flexi, which requires an interview with the principal or other worker, which can take time to obtain, then they can start at Flexi and if they show regular attendance they may be able to enrol with Spinifex.*

*There can be a further delay with young people who have recently returned to community from Cleveland Youth Detention Centre, as they need to wait for paperwork from Cleveland regarding their education before they can obtain an interview.*

Atkinson<sup>63</sup> reports that between 2015–17, only about 30 percent of children in the youth justice system aged 15 and under regularly attended school and in 2017, about one-third who were of compulsory school age were not enrolled. The rates were even higher for Aboriginal children and Torres Strait Islander children. In this context, having rapid and simple re-enrolment when a young person is changing schools or returning from detention is crucial.

#### Urgent access to support - health

We were given two examples of urgently needed medical treatment for children being delayed

due to a requirement to undertake a health assessment and obtain a child's consent to do so.

*“... they've been assessed as not being able to understand court proceedings so the whole thing is meaningless to them and as soon as this one child is released, they re-offend straight away, land themselves back into custody. We're trying and it seems utterly, fundamentally wrong that a kid who has been assessed as not being fit for trial is sitting in detention.*

*We have tried to progress a bail merit assessment for them so that LAQ [Legal Aid Queensland], the youth team in Brisbane, could assess whether they think they should be released on bail. They weren't able to assess this child because this young person wouldn't consent and we know that the consent is meaningless because they're not fit for trial, so they probably can't make a decision to consent or not consent. That kid just sits there in custody while we all kind of do our processes and procedures to again find them not fit for trial.*

GOVERNMENT DEPARTMENT

*“...They can't sit down for five minutes with someone to do an assessment or to give instructions... they're completely out of control in terms of their behaviours. Because nobody can do an assessment, the child's got no diagnosis, their lawyer can't take it to sentence because they can't take instructions for them, no one can progress a fitness for trial referral because the child can't do the assessment, so we have an eleven-year-old sitting in custody, we just got nine fresh offences sent through to us today because they break and bite and spit every day...*

*Without some sort of exceptional plan behind the scenes, they are just going to sit there in custody and accumulate offences and go in*

## Reliability, trust and shared connections

and out until their health is addressed. It's not normal by any means for a kid to be acting like this, so this kid probably has extreme trauma and neglect and whatever else in their history, probably a host of diagnoses as well, but no one can do anything because no one can get anywhere near them.

GOVERNMENT DEPARTMENT

Our observation is that access to universal services such as education and health cannot be delayed because the right assessment form has not been completed. It is clear a child spitting and fighting needs urgent help. Whether through identifying a different health worker who may be better able to forge a connection with the child, or through a variation to the consent process, health providers must respond to that urgent need. Regarding court, fitness for trial assessments need priority and if the child needs health treatment, services should be provided quickly and continued for as long as they are needed, including after the child has left the formal youth justice system.

“Like half of my mates that go to court see it as go to court, finish it, I'm back out in the city tomorrow. There's no program. And there's no you're in trouble and they send you to boot camp sort of thing. And I know that sounds silly. Send them to Booyah [a police youth mentoring program], I don't know, send them somewhere where they have to go. And especially kids that go to the city and don't have that opportunity with a family, they can't get any services. Like I've got mates that can't get any services.

YOUNG PERSON, INTERVIEW

“Elders want to be involved at the beginning of planning not when things are in crisis”.  
- Community member

“Our mental health service is limited to making sure we understand acuity and someone that's acutely unwell or suicidal or that has the access to the right immediate response. But it's kind of patchwork, it's not something that's going to help longitudinally a kid because—I mean it is with for some kids that will engage in some clinical work and brief intervention in the Youth Justice clinic, but if there isn't a whole system approach where there is a lot of other supports wrapped around a family and a kid, it's often difficult to achieve.

GOVERNMENT DEPARTMENT

Further investigation is needed to understand what prevents our system from helping children with such significant health or education needs and whether innovative solutions could be found to ensure access to rapid treatment. Insufficient specialist facilities away from major cities is known to be a problem throughout Queensland, and several stakeholders lamented the lack of acute support for adolescent mental health and drug and alcohol recovery.

### Community controlled organisations

However, we note the community controlled organisations we spoke with in Townsville, Mount Isa and Brisbane are trusted both by their community and by government. They are being funded to run useful integrated programs across health, family support, cultural support and youth outreach, with committed and competent staff. To see change in the over-representation of Aboriginal and Torres Strait Islander children in youth justice, we believe the role of community

## Reliability, trust and shared connections

| Location                   | Number of children in formal contact with police | Children in formal contact with police as a % of children aged 10–17 in that location |
|----------------------------|--|---|
| Mount Isa police district  | 383  | 12.8  |
| Townsville police district | 887  | 3.5   |
| North Brisbane             | 2081   | 2.6   |

Figure 9: Number of children in formal contact with police<sup>73</sup>

controlled organisations in the youth justice system can be expanded.

The Queensland Productivity Commission report Service delivery in remote and discrete Aboriginal and Torres Strait Islander communities contains some interesting parallels with the observations in this document. The report sought examples of good practice and highlighted Aboriginal community controlled health services for their ability to:

- make services more accessible to Indigenous Queenslanders, including through reduction of 'unintentional racism'
- demonstrate superior performance to mainstream general practice
- offer helpful by-products of training the medical workforce and employing Indigenous people.<sup>64</sup>

The Productivity Commission also proposed that: *Service delivery models that remove impediments to communities providing services, place people at the centre of service delivery, and fund [pay] for performance are more likely to improve outcomes.*<sup>65</sup>

Transition of funding to community controlled organisations should continue, to better match the proportion of Aboriginal children and Torres Strait Islander children in the statutory youth justice system, and involve methods such as funding pools to local communities and extended contract

lengths.<sup>66</sup> Since 45 per cent of young offenders are of Aboriginal or Torres Strait Islander descent, funding to local organisations that specifically support those families and communities could be more proportionate.

“In a system that is disproportionately focused on supporting Aboriginal and Torres Strait Islander families, [we should] promote formal network environments where CCOs [community controlled organisations] and other Aboriginal and Torres Strait Islander leaders play a greater role in knowledge-sharing, capability-building and driving strategic intent, and strengthening culturally appropriate referral pathways for Aboriginal and Torres Strait Islander children and families.<sup>67</sup>

### 3.2.1 Influence of media

Less than a year after the announcement of major youth justice reforms in April 2019, modifications were made in March 2020, with a particular focus on clarifying or toughening bail options.

The 'five-point plan' issued by the state government in March 2020 included:

- tougher action on bail. Offenders posing a risk to the community should not get bail
- a police blitz on bail, appealing court decisions where appropriate

## Reliability, trust and shared connections

- a 24/7 Police Strike Team involving youth justice workers for high-risk offenders
- culture-based rehabilitation for Aboriginal and Torres Strait Islander offenders through new On Country initiatives trialled in Townsville, Cairns and Mount Isa
- empowering local communities in the war on crime with \$2 million for community-based organisations for local community-based solutions.<sup>68</sup>

These changes occurred after community campaigning and significant media attention about youth crime, mostly in Townsville. (The timeline in section 2.1 of this document provides more detail.) The bail changes, a police blitz on bail and the strike team (later renamed the co-responder model) were state-wide changes.

Operation Regenerate also changed its Townsville operations after significant negative publicity in that city about police ‘babysitting’ young people and involving them in pro-social activities as part of its diversionary approach. Operation Regenerate did not have to change its approach in any of its other six sites during its nine months of operation.

An independent media analysis commissioned by the QFCC analysed reporting from across Queensland. It revealed that, between October 2019 and March 2020, topics related to the youth justice system were far more prevalent than between April 2019 and September 2019, with many of these media items being opinion or editorial pieces rather than reporting on the facts. This is despite there being less formal contact between police and children aged 10–17 in 2019 than there was in 2018.

The analysis highlighted that in both six-month periods, just under 50 per cent of coverage was either negative or very negative towards the Queensland youth justice system.<sup>69</sup> The analysis noted the regular use of spokespeople known to

consider the youth justice system to be failing and not tough enough.<sup>70</sup> Across the communities we focused on for this document—Mount Isa, Townsville and Brisbane—there was greater variation in the second six-month period. The volume of reports increased threefold in Townsville, while reporting in Brisbane significantly reduced and stayed relatively stable in Mount Isa.<sup>71</sup>

In Townsville, there was limited reporting of spokespeople from the communities of the involved young people, of service providers with knowledge about the needs of young people, or interviews with young people themselves. Academic staff from James Cook University were occasionally used, and they were able to speak about the precursor factors influencing youth crime.

Given the influence of media on community confidence in the system and on political decision making, it may be helpful for the state government, as part of a broader media strategy, to identify spokespeople to regularly advocate for the principles behind the Youth Justice Strategy and the goal of long-term systemic change. The Atkinson report outlines an approach to media engagement, including developing local media plans to keep the community informed, sharing success stories and enhancing public awareness of the challenges. Atkinson recommended the government ‘adopt a coordinated state-wide media strategy to promote and support the Four Pillars policy position.’<sup>72</sup>

Our media analysis suggests the amount and nature of reporting about youth crime did not always match the statistics.<sup>†</sup>

### Crime statistics

Of the three regions we examined in more detail, Mount Isa’s youth crime statistics were the worst in 2019 as a proportion of its population of children aged 10–17, with 383 children formally

## Reliability, trust and shared connections

in contact with the police. Pleasingly, this was the lowest number of Mount Isa children in contact with the police in the past five years, but in percentage terms, it was still approximately 12.8 per cent of the population in Mount Isa aged 10–17.

Townsville had 887 children aged 10–17 formally in contact with the police in 2019. This was also the lowest number of Townsville children in formal contact with the police in the past five years, with the highest number in 2018.

In North Brisbane, 2,081 children were formally in contact with police in 2019. This was the highest number of children in contact with the police over the past five years.

Property offences remained the most common crimes committed by youth offenders over the five years. In 2019, approximately one third of youth offenders in Mount Isa and Townsville allegedly committed offences ‘against the person’ (for example an assault or a robbery) while the number was 17 per cent in North Brisbane.

### The effect of negative media

We were told by staff of a community controlled organisation that when negative views of the system and of children are published in the mainstream media and revealed on social media, particularly in Townsville, it is troubling for both staff and young people.

“... it has a flow on effect with our workforce as well, because when you’re sitting with these young people and you see the terror in their eyes around community’s perspective and they are remorseful in most cases around what’s happened. But to sit there and see a child like that, it does have an impact on staff as well.”

The youth justice system emphasises the need

for a youth offender to be accountable for their actions. However, if community groups and media want the situation to change, they also need to be accountable in terms of:

- reporting facts rather than opinions
- moderating inflammatory remarks
- understanding the circumstances of the children involved
- supporting young people
- reporting good new stories
- seeking spokespeople from a broader range of sources
- presenting a balanced viewpoint.

“...when we look at Townsville as a community and what’s going on here at the moment, in regards to youth crime, like even with Facebook, with that platform, there’s a lot of groups that are being created ... you just don’t know who is around that potentially can inflict harm on someone. And you can see all through these Facebook posts, the negativity that runs through this community around young people; it’s so disturbing at times ...

And I guess that’s probably the perspective that I think the community needs more education around it, we are dealing with children, and their rights to be protected and to have that opportunity to learn how to engage in their communities is not encouraged by those kinds of people in the community. And I think that lots of those people are not held accountable by the Bulletin and other social media ...

NON-GOVERNMENT ORGANISATION

We also heard about activities and projects in Townsville helping to improve the lives of young people, for example:

“... so we raised \$200,000 in the community to renovate an old cricket club and then we’ve got 12 months of funding for a staff member

<sup>†</sup>Data in the following four paragraphs comes from: Queensland Police Service 2020, Unique Offender data 2015–2019, unpublished.

## Reliability, trust and shared connections

*to get the model up and running ... that's all been based on where there was an event in Townsville called Hit the Hill, which was a suicide prevention event, and we raised \$60,000 through that event. And the other odd \$40,000 has been through community donations.*

**NON-GOVERNMENT ORGANISATION**

Frequent, exaggerated headlines on the volume of youth crime, and limited viewpoints, makes it difficult to have a balanced discussion across the community about solutions. It can also build mistrust between different community groups and between communities and government.

Public advocacy by community groups (on behalf of young people and their families in Townsville and supported by Youth Justice) about the role the whole community plays in raising young people, may be beneficial in balancing some of the negative public discourse. The QFCC can also play an advocacy role here.

### 3.3. Is there evidence of shared connections and commitment?

#### 3.3.1. Collaboration between government agencies

We saw several examples of government agencies collaborating to improve outcomes for young people, including specialist multi-agency response teams (SMART) throughout Queensland, the Townsville Stronger Communities Action Group (TSCAG) and Community Connect in Mount Isa.

*“ We heard through one of our alternate education places here, that we had kids going to school, so by being able to get that information and feed it to Housing, Housing was able to see that there was an advantage to supporting that family because there was already those kids trying to do what they could*

*to move outside of what their norms are.*

*I think that's been a great thing that's been able to come out of this, not only is it just when the parents are trying to make the change, which we are having at the moment, there's two parents that really want to make a change for their kids, but the kids have actually been driving it ...*

**COMMUNITY CONNECT**

SMART is one of the three initiatives we considered in more depth, along with the Mount Isa Transitional Hub and Operation Regenerate. SMART has been funded for four years from July 2019. There are some similarities with Community Connect and TSCAG, in that government members meet to share information about specific cases in order to find appropriate referrals and solutions.

The purpose of SMART is to reduce a young person's risk of re-offending through holistic intervention plans (SMART plans) addressing complex needs across the domains of mental health and health, substance misuse, disability, education, and child safety and well-being. Panels oversee development of SMART plans involving the core departmental members. These plans may involve external agencies as required.<sup>†</sup>

Eight SMART panels are established across Queensland. Youth Justice chairs them, and panel members include Queensland Health, the Department of Education and the Department of Child Safety, Youth and Women. Other panel members (including cultural representatives and local services) can be brought in as required.

The initiative is in the early stages of implementation, and it is too early to expect to see evidence of reduced re-offending by young people.

Differences in departmental views about when

## Reliability, trust and shared connections

to obtain a child's consent for assessment or treatment and what is in the 'best interest of the child' were a challenge when first establishing the panels. Until now, Queensland Health's position on consent has meant their officers may only provide general advice and expertise to the panel without disclosing confidential information about individual clients.

A practical way of assessing the 'best interests of a child' would benefit cross agency collaboration and planning.

#### *Involvement of community groups*

We were often told about the benefits accruing from government department representatives working more collaboratively. However, we were surprised by the lack of engagement and collaboration of these groups with the communities most impacted by the youth justice system.

*“ Expansion of youth justice initiatives since 2018 has involved minimal consultation or collaboration with community members. Focus has been on currently funded services rather than consultation to discuss community issues and ideas.*

**NON-GOVERNMENT ORGANISATION  
(THE REPRESENTATIVE SAID OTHER SERVICES ALSO NEED TO DISCUSS PROJECT IDEAS WITH COMMUNITY MORE AND EARLIER IN THE PROCESS, NOT ONLY YOUTH JUSTICE.)**

In towns where a high proportion of young people in the youth justice system identify as being Aboriginal and/or Torres Strait Islander, community controlled organisations or Traditional Owners should be standing members of groups like SMART, TSCAG and Community Connect, and be offered the opportunity to lead decision making about their young people. At the time this report was written, they were not included at all.

It was good to see that new community-based

crime action groups, arising from the March 2020 'five-point plan', include community and non-government representatives, alongside government members. These groups are chaired by the Queensland Police Service.

In the case of the SMART panels, referrals beyond state government departments—particularly for health treatment, where there are several federal and non-government options—would likely be beneficial for clients. Many clients face health-related issues, and we believe there needs to be a shift towards treating youth offenders with complex behaviours from a health and well-being perspective.

#### *Other government departments*

It may also be appropriate for the Department of Communities, Housing and Digital Economy to sit on SMART panels as it does on TSCAG and Community Connect, given housing instability can be a precursor to youth crime.

Close working relationships between Youth Justice and the police at all levels are essential to building an understanding of each other's processes, of how policy changes are being implemented, and of whether training or education on policy changes needs to be offered by either department. The new co-responder model, introduced in June 2020, may be beneficial in forging stronger relationships.

While the government departments of Education and Health are not on the youth justice front line in the same way as the police, some of the same internal and cross-agency systemic issues are apparent.

These huge departments contain thousands of staff working with hundreds of thousands of clients, with reach into every town and small community in Queensland. Their size requires regions and services (or even individual schools) to have a degree of autonomy.

The tiny numbers of children in, or at risk of

<sup>†</sup>Department of Youth Justice, SMART panel terms of reference, December 2019.

“We’ve found with most of our work, where we do have the parents on board, it is working really well. We reach outcomes faster than we thought we would. We’ve seen major issues being sorted, order put into chaos for some of these families.  
Community Controlled organisation

## Reliability, trust and shared connections

entering, the youth justice system, represent a handful in each departmental region. These children are most at risk of a poor life outcome if they are set on a crime trajectory, and they will cost their families and the community the most over their lifetime.

These departments would benefit the community by sharing the facilities and resources they control in remote communities to extend their services, undertake capacity and capability building of local agencies and individuals, and provide a physical location for local community controlled organisations to provide services. School campuses can be used to offer a range of services, including health and mental health outreach, with support from Queensland Health and Children’s Health Queensland. Some schools do this already.

“The local high school ... we’ve been talking with the principal there, and ... he is really supportive of us running an after-hours youth outreach to the school. So ... all these services ... were coming in during school hours, but no one was really capturing people after hours, so we proposed doing an after-hours. And the Principal basically said, take whatever you need in the school to be able to run that, which was fantastic. So, he was happy to give us classroom space, football fields, basketball courts, whatever we needed to run that.

NON-GOVERNMENT ORGANISATION

We have heard positive stories about individual teachers and principals making schools available for other support services, providing cultural and language training in remote schools, or paying special attention to a struggling student.

“I got this teacher there ... It’s actually really nice ... It’s actually decent because there’s some teachers there that you can rely on ... He’s probably my favourite teacher. He helps me with

quite a lot, like everything basically. When I don’t do my tests, he basically makes me do my tests. So, I have to do them. I can’t get out of it.

YOUNG PERSON INTERVIEW

However, these individuals can’t ensure a consistent service to vulnerable children and families across Queensland—not on their own.

### 3.3.2. Collaboration with non-government organisations

While there are examples of non-government organisations working effectively with government agencies, we also heard some evidence of the opposite. Non-government organisations told us of feeling the weight of the power imbalance between themselves and their government funding body. Some were reluctant to attend service provider meetings because they felt exposed to potential (public) criticism or, more often, because the meeting intention was unclear. We were told about different alliances and networks, undoubtedly established to provide support and to share information, but which in smaller towns like Mount Isa, has led to the same service providers being required at multiple meetings.

#### Involvement of community leaders and families

Traditional Owners and community leaders are asking for genuine collaboration in the development of initiatives for their communities. Yet we found little evidence of participation by communities in developing funding priorities or designing services.

“The community was not consulted on what’s needed or what’s working. All three levels of government should come together with the community to help discuss possible solutions because each of them have different areas of responsibility that need to work together

COMMUNITY MEMBER

## Reliability, trust and shared connections

“Elders want to be involved at the beginning of planning not when things are in crisis  
**COMMUNITY GROUP**

There is capacity for community controlled organisations to lead case management teams and the local and regional alliances that relate to the youth justice system, with government representatives playing a supporting role. This would be particularly beneficial in smaller communities and regional towns where they hold the long-term local knowledge, while government personnel may only stay in smaller towns for a few years. Where specialist skill sets are still lacking, funding bodies could bring those skills in to work alongside community controlled organisations or be placed within them under capability development arrangements.

Family-led decision making, facilitated by community controlled organisations, has been operating in the child protection system and is currently being trialled in Youth Justice.<sup>†</sup> The approach focuses on the family being included in designing the goals of the intervention and in making decisions about what actions need to occur. For the intervention to be successful, family participation needs to be voluntary. This means time and patience are needed to allow families to consider their participation, often in a context of family or historical mistrust of government, and for services to then be ready to act immediately if family members agree. The community controlled organisation relies on receiving referrals from a government agency.

“We need to have that holistic view around the impacts of past policies, procedures,

community perceptions and experiences of the family and their young people. I think that in itself, if you exclude a young person or family from the decision making, I think that does take longer to address the issues. Dealing with a child without their family can become very challenging.

We've found with most of our work, where we do have the parents on board, it is working really well. We reach outcomes faster than we thought we would. We've seen major issues being sorted, order put into chaos for some of these families, working with parents who work better through the crisis as they occur, and I think that's probably been one of our bigger things that we celebrate when we are actually still there to support them through a crisis and you see them applying the strategies that we've been talking about.

**NON-GOVERNMENT ORGANISATION**

There is an opportunity for the youth justice system to hasten progress towards greater participation in decision making for Aboriginal peoples and Torres Strait Islander peoples by how it funds and commissions other agencies to provide services.

The Queensland Productivity Commission report found that, even where multiple services were available in some remote communities, well-being indicators were not improving. The report instead drew a connection between greater well-being and greater autonomy.

For example, Yarrabah, one of the larger discrete communities, is only 50 kilometres from Cairns but has the highest level of socioeconomic disadvantage of any local government area in Queensland.

<sup>†</sup> Family-led decision making is where a child's family group collaboratively identify and address safety concerns, with the intent of forming alternative plans to ongoing intervention. Where it is determined the child is in need of protection, family-led decision making is focused on identifying strategies to minimise the degree and length of necessary ongoing intervention, including keeping the child connected with family, community and culture where the child cannot remain safely at home. *Child Safety Practice Manual ch. 10.1 Decision-making about Aboriginal and Torres Strait Islander children*, available from <https://www.csw.qld.gov.au/child-safety/child-safety-practice-manual/chapters/10-general/10-1-decision-making-about-aboriginal-torres-strait-islander-children/key-steps/3-refer-family-family-led-decision-making>, viewed 4 December 2020.

## Reliability, trust and shared connections

Differences in the level of governance autonomy in communities may contribute to differences in outcomes. This is particularly evident in the Torres Strait, where, for historical reasons, governance autonomy has remained relatively high, and measured indicators are better than in other discrete communities. This finding is consistent with academic research on outcomes in Indigenous reserves in Canada and the United States.<sup>74</sup>

The Productivity Commission proposed a reform for service delivery in remote communities that is also relevant to youth justice service provision. The proposal includes:

- structural reform to transfer accountability and decision making to regions and communities
- new service delivery models that suit the circumstances.<sup>75</sup>

The Productivity Commission notes capacity and capability building must be supported along with independent oversight and timely and transparent data and reporting to keep reforms on track.

### Challenges in regional centres

In smaller towns or regional centres, the concentration of services and programs in one or two providers limits choice of where clients may access services. It can also create concerns about confidentiality of personal circumstances if family members or associates are employees of the service.

There can also be tension within and across Aboriginal and Torres Strait Islander communities and organisations, because of historical forced relocation of Traditional Owners.

Limited choice can also be a problem if a family or individual has a negative experience with a service and becomes reluctant to use it in future. Also, competition between providers for limited funds damages relationships between organisations that need to work together. This was mentioned

to us by organisations in Mount Isa, where this is currently a very real problem.

A number of interviewees shared their perception that larger organisations are unfairly advantaged in their ability to write tenders, collect data and evaluate programs and, rather than being required through government procurement processes to support the building up of smaller, community-based operations and community controlled organisations, use their size and reputation to unilaterally 'grab' government funding. We heard these views in both Townsville and Mount Isa. It is possible that competition in the tendering process may not always be producing the best outcome for local communities.

“Because we are locals, we understand the issues and needs of our community, we don't turn off at seven o'clock when we go home, we have to go home to our families and sometimes we need to support them through that journey themselves too.

**NON-GOVERNMENT ORGANISATION**

Youth Justice has a First Nations Council of external representatives, a First Nations Action Board of Aboriginal and Torres Strait Islander departmental staff, and a Cultural Unit. These groups may be able to act as allies to support stronger engagement of Aboriginal peoples and Torres Strait Islander peoples in developing procurement priorities and modifying commissioning processes. However:

“The right to self-determination is not about the state working with our people, in partnership. It is about finding agreed ways that Aboriginal people and their communities can have control over their own lives and have a collective say in the future well-being of their children and young people.<sup>76</sup>

### 3.3.3. Collaboration with young people and families

We found many good examples of agencies working with families, not just the young person. We think this should continue and be expanded. As well as trialling family-led decision making, Youth Justice has integrated case management<sup>†</sup> teams in Townsville and the Youth and Family Support Service in North Brisbane. They provide assistance to children who are at risk of offending and to their families. All see working with families as part of their core business.

One non-government organisation noted this change of focus:

“... definitely seems as though those case workers are really working very closely with families as a whole, which I have seen as a bit of a change recently. They're not just dealing with the young people, they're actually engaging with their social networks as well, and I think that has been incredibly beneficial to have everyone as a whole involved in assisting these young people through that court process. The fact that youth justice are bringing parents to court, has been a huge assistance so that we can then also speak with the parents. The judiciary are reluctant to finalise their matters without parents being there, and a lot of our clients are socio-economically quite challenged, and don't have those facilities to be able to come to court, so the fact that they are being brought into court, is incredibly helpful from our part. But [it] also helps us engage them with other court services, or other services for people who are attending court, just putting the parents in touch with them as well, not just leaving it to a 13 year old [to] go and talk to these people, the fact that the parents are being involved in that as well is incredibly beneficial.”

### Family involvement in education

The Queensland education system expects active family/parent/guardian involvement in a child's education.<sup>77</sup> For vulnerable or overwhelmed families, proactive involvement in a child's school is unlikely, but these families are the ones teachers most need a relationship with.

Schools need to give priority to allowing time for this relationship to build. In our interviews, we were told the obligation on families to participate in their child's education can create barriers for culturally and linguistically diverse immigrant and refugee families:

“One thing that I understood from this country and many other people from refugee backgrounds, is that [the] education system here is a partnership between the family and the school. But for many of the other places where we've come from education is just about the school. The child talks to the school and that's it. So, these are some of the things that many families don't know about.”

NON-GOVERNMENT ORGANISATION

This doesn't mean these families don't want to be involved or don't care about their children's education. They do.

### 3.4. Findings—Are youth justice reforms ensuring there is a reliable, trusted system built on shared connections and commitment?

1. The percentage of children and young people in contact with the formal (statutory) youth justice system is very small—representing 0.3 per cent of children aged 10 to 17. Forty-five per cent of children and young people never return to the statutory youth justice system after their court matter is finalised.

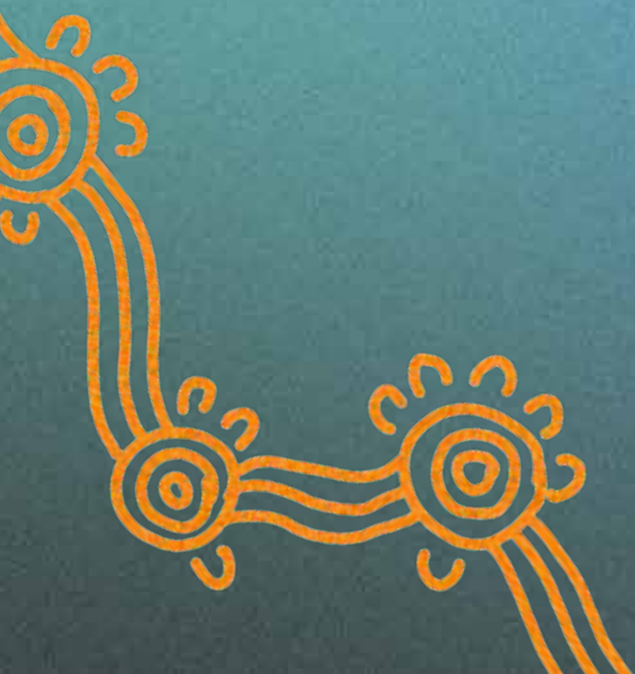

2. There are good examples of state government agencies working together, and the focus on keeping children out of court and custody may be further strengthened by Aboriginal or Torres Strait Islander community controlled organisations and other non-government agencies having opportunities to increase their leadership and participation in these collaborations.
3. There has been a strong move towards working with the families of children in the system, and agencies are recognising the importance of this. Lessons are emerging that will contribute to ongoing improvement of services and greater benefits for families.
4. Behaviour change is hard, yet stakeholders understand and affirm the importance of support for young children and their families as a way to prevent initial or ongoing engagement of children in the youth justice system.
5. There are plenty of services for vulnerable young people in Mount Isa, North Brisbane and Townsville; however, many services are activity-based. High risk or repeat offenders need specialist help to address the offending behaviour, including treatment of poor health, trauma or family dynamics where that has contributed to the behaviour.
6. Data on over-representation of Aboriginal and Torres Strait Islander children in the youth justice system
  - continues to show there is an insufficient response to the needs of Aboriginal and Torres Strait Islander children and their families
  - is not linked well enough to data on health, education and housing
  - is not detailed enough to use in local and community-led responses.
7. There has been no improvement to the statistics on over-representation. Despite this, Aboriginal communities and families, Torres Strait Islander communities and families, and families in general, have limited opportunities to provide input into program design and prioritisation of funds for initiatives intended for them. *Closing the Gap* action planning provides

an opportunity for government to include Indigenous communities and agencies in decision making about how to achieve the youth justice target in the new agreement.

8. Legislative and policy changes, made in response to particular incidents, may make it harder for the system to achieve the intended outcomes of the Youth Justice Strategy.

<sup>†</sup>These use a framework intended to address factors contributing to high-risk offending. It involves collaboration with the young person and their families and includes an individualised intervention plan. From Pieper, S, Jones, A & Galston S, 'Integrated Case Management: A holistic and collaborative approach to the case management of high risk young offenders in Townsville, Australia', *James Cook University Law Review*, 2018 pp. 253–260, available at <http://www.austlii.edu.au/au/journals/JCULawRw/2018/20.pdf>, viewed 2 December 2020.

## 4. Are children's rights, well-being and safety being upheld and protected?



“ A child who commits an offence should be dealt with in a way that strengthens the child's family. Parents should be encouraged to fulfil their responsibility for care and supervision of their child and be supported to fulfil this responsibility. Youth Justice Act Charter of Principles.

# 4. Are children's rights, well-being and safety being upheld and protected?

## Children's rights

In answering the second of our two questions, we considered the Charter of Youth Justice Principles (the Charter), which was designed to underpin the operations of the *Youth Justice Act 1992*, the *Queensland Human Rights Act 2019* and the United Nations *Convention on the Rights of the Child* (the Convention).

Among other issues, they specifically address the following:

- the right to protection of families and children
- cultural rights
- rights in criminal proceedings
- the right to education
- the right to health services.

We then examined whether the system is protecting the well-being of children and young people in terms of access to health and education; and whether children and young people are safe, in stable accommodation and in their dealings with police.

### 4.1 Are children's and young people's rights being upheld?

#### 4.1.1. Right to protection of families and children

*The Charter states: Parents should be encouraged to fulfil their responsibility for care and supervision of their child and be supported to fulfil this responsibility (Principle 11). A child who commits an offence should be dealt with in a way that strengthens the child's family (Principle 9(c)).*

*The Queensland Human Rights Act (s.26(1),(2)) states: Families are the fundamental unit and are entitled to be protected by society and the state; Every child has the right to protection that they need and is in the child's best interests, because of being a child.*

*The preamble to the Convention states: The family as the fundamental group of society should be afforded the necessary*

*protection and assistance to fully assume its responsibilities within the community.*

As previously discussed, we found elements of the system are moving strongly towards working with families, rather than just with individual young offenders. This includes initiatives that incorporate family goal setting and family-led decision making. We applaud these and believe they should be expanded and given higher priority.

Activities intended to divert children and young people away from involvement with the youth justice system (diversion activities) are unlikely to provide lasting change unless the family is also involved in any intervention and provided with health, social and emotional assistance.

Families and carers we spoke with during this project were involved in the life of their children and keenly interested in helping them to navigate a very complex situation. On occasions when parents or carers do not appear at court or school to support their children, factors like language and literacy barriers, poverty, or their own past experiences of courts or schools may be causing difficulties.

#### 4.1.2. Cultural rights

*The Charter says: If practicable, a child of Aboriginal or Torres Strait Islander background should be dealt with in a way that involves the child's community (Principle 14).*

*The Queensland Human Rights Act (s. 27) states: No one should be denied the right to enjoy their culture, declare and practise their religion and use their language.*

*The Queensland Human Rights Act (s. 28) states: Aboriginal peoples and Torres Strait Islander peoples hold distinct cultural rights ... they have the right not to be subjected to forced assimilation or destruction of their culture.*

*The Convention states: A child belonging to*

*a minority has the right to enjoy their own culture, religion and language (Article 30).*

All staff working in the youth justice system will be working with Aboriginal families or Torres Strait Islander young people and their families. Development of their own awareness of (at a minimum) specific local cultural practices, ways of working, protocols and challenges are a critical part of this role.

“As a cultural organisation we actually think the culture is really central. We'll come at that as part of our questioning. 'What do you need us to do that's different? This is how we tend to work, the last time you worked with an organisation, what worked and what didn't?' 'Oh I didn't like the way they came to my house and didn't take their shoes off.' 'Yep okay, that's how you guys want us to be, we can do that, that's easy enough.' But it's really being upfront and clear from day one, the real leaders in this are your clients, it's not about coming at it as an expert.

NON-GOVERNMENT ORGANISATION

“If we had a balance of community services out there, celebrating the cultural identity in relation to the industries that are in Townsville, maybe put some perspective, I've worked in Cairns, and it is very tourist driven. So there is a lot of stages to present cultural identity, whereas in Townsville I think there is a lot more work that needs to happen across community that will not only promote cultural diversity, but particularly with young people as well, that they have the experience of seeing from that perspective

NON-GOVERNMENT ORGANISATION

Public entities need to continue proactive tactics to recruit and retain staff from a range of backgrounds, and provide training and protocols for raising staff awareness of cultural or religious

beliefs if they are going to be working with groups from different backgrounds—including culturally and linguistically diverse immigrant and refugee communities.

The cultural capability and expertise of Elders should be formally valued and appropriately remunerated throughout the system, in the same way we compensate other professionals. We were told several times about Elders being asked to contribute to or support a new initiative, but to do so without payment, or for the price of a bus ticket. Their unique cultural knowledge has been ignored over 230 years, and risks being lost in another one or two generations unless our system and society begin to properly value it.

#### 4.1.3. Rights in criminal proceedings

*The Charter states: A child being dealt with under the [Youth Justice] Act should be treated with respect and dignity (Principle 3(a)) and should have procedures explained to them in a way they can understand (Principles 6 and 7).*

*The Queensland Human Rights Act (s. 15) states: Every person has the right to equal and effective protection against discrimination and to equal protection of the law.*

*The Queensland Human Rights Act (s. 32(2) (a)(i)(j) and (3)) state: A person charged is entitled to: be informed about the charge in a language or type of communication the person speaks or understands; the free assistance of an interpreter if the person cannot understand or speak English; and to specialised communication tools [if needed].*

*A child charged with a criminal offence has the right to a procedure that takes account of the child's age and the desirability of promoting the child's rehabilitation.*

*The Convention: Article 37(b) and (c) states: No child shall be deprived of his or her liberty*

“Everyone in the court room thinks ... they're ... holding the children accountable and reading out their charges to them and asking if they plead guilty and then imposing a punishment, and it's all sort of to tick off the legal process, but it's often quite meaningless to them.

## Children's rights

*unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall conform with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; and that every child deprived of liberty shall be treated with humanity and respect*

We are concerned the rights, safety and well-being of children in this regard are at risk of being breached.

In our interviews, we heard that children and their families frequently do not understand, or have misunderstood, the court process and their obligations. We note these young people are frequently disengaged from mainstream education, training or work (around 53 per cent)<sup>78</sup> and may have relatively low formal English language and literacy levels.

“A huge hurdle that a lot of our clients face, is just getting to court and then the flow on ramifications from that is them failing to appear, and then being picked up by the police and being put into the watch house. So the fact that they can be organised to be transported into court is a huge assistance. **NON-GOVERNMENT ORGANISATION**].

Here is an extract from a stakeholder interview about court:

“... When they talk about in the Youth Justice Strategy, holding children accountable, you just see it in the court room that everyone in the court room thinks that's what they're doing with the children, it's holding them accountable and reading out their charges to them and asking if they plead guilty and then imposing a punishment, and it's all sort of to tick off the legal process, but it's often quite meaningless to them, and then we get feedback from their caseworkers, when they go in to do their initial report for probation or community service, and their case worker ... will check if they understand why they are there and what happened in court and often they don't or they're confused why they're now having to sign in for probation because they thought they already had their punishment when they were on curfew for bail.

**GOVERNMENT ORGANISATION**

Our interviews with young people touched on the court and legal processes. This extract of an interview with a 13-year-old and their carer further illustrates the confusion outlined above.

### Transport

When we asked stakeholders about 'hot issues', a lack of public transport came up multiple times. Mount Isa has no public transport service at all, and popular outdoor recreation areas (like Lake Moondarra) are many kilometres from town. Brisbane and Townsville lack frequent public transport in the suburbs housing immigrants or people on low incomes who are most likely to be without cars. This restricts access to work opportunities for young people and limits their access to sport and recreational programs.

Boredom and lack of access to recreation may exacerbate other issues already pushing some

young people towards committing crimes. Lack of affordable transport prevents young people engaging more in their community and general society. This is an area where local governments can play an important role, working with young people to improve the amenity of their town or suburb. More specifically, where Youth Justice and other service providers are proactively engaged in getting families to court or young people to school or to other important appointments, it is perceived to be a significant support for families who otherwise would not have the social or economic resources to make these arrangements themselves.

“**Carer:** He's still on bail... He doesn't come off bail until he finishes that—what do you call it? What's that thing they put you on?

**Young person:** Restorative justice.<sup>†</sup>

**Carer:** Restorative justice. So however long that takes. Once that's finished, then he's off.

**Interviewer:** Wow, that's going to take a long time. What's restorative justice?

**Carer:** I don't know because if something happens with that he goes back again, doesn't he? I think ...Yes, if he doesn't complete that he goes back for re-sentencing. That's how it normally works. So, they give him the benefit of the doubt. They do that.

**Young person:** Sentencing? Would I go to juvie?

**Carer:** No, if you don't do that course properly, if you muck around, don't do it, then you go back for—you won't get that. They'll re-sentence you on it. So, you'll probably get probation or whatever or ...

A restorative justice court order may well prove beneficial for this young person, but their court appearance has clearly provided a very limited understanding of the process and the actions they need to take. Courts, the children's lawyers and youth justice case workers all share responsibility for clearly explaining outcomes and obligations.

We commend the recent work of the Children's Court of Queensland in producing plain English versions of charges and bail conditions.<sup>79</sup> We encourage the continuation of this work across

more parts of the court process and suggest magistrates' courts across Queensland adopt the plain English material.

Consideration of a child's ability to understand the court process should not be limited to the 'fitness' assessments conducted by Queensland Health. It could also extend to ensuring magistrates understand intellectual, cognitive and mental health issues that face some young offenders, and the different options required across them.

Magistrates transferring to regional parts of Queensland should consider building their awareness of the cultures, languages, protocols and practices specific to that location. Our observation is that current awareness and knowledge by magistrates of these matters may be inconsistent.

A Youth Justice 'benchbook',<sup>80</sup> published in November 2020 by Queensland's Department of Justice and Attorney-General, may assist the legal profession in dealing with these matters. The benchbook outlines relevant legislation and processes, including the process for identifying capacity to plead. It also includes information about neurodevelopmental impairments, diversionary programs, and tips for effective communication with Aboriginal and Torres Strait Islander young people

#### 4.1.4 Right to education

*The Charter states: A child should be dealt with under the Youth Justice Act 1992 in a way that allows them to continue their education, training or employment without interruption, if practicable (Principle 17(b)).*

*The Queensland Human Rights Act (s. 36) states: Every child has the right to have access to primary and secondary education appropriate to the child's needs; and vocational*

“When I'm in class I don't really understand much. And I want someone to explain it to me, and I feel a bit shame to put my hand up in front of the class and ask that like I can't read and I need help with it, you know?”

<sup>†</sup> A restorative justice conference is a meeting between a child who has committed a crime and the people most affected by that crime. From Queensland Government 2018, *Restorative Justice Conferences*, available at About restorative justice conferences | Your rights, crime and the law | Queensland Government (www.qld.gov.au), viewed 19 October 2020.

education and training based on [their]'s abilities.

The Convention asks countries/states to: take measures to encourage regular attendance at school, reduce drop-out rates and ensure school discipline is administered consistent with a child's human dignity (Article 28(2) and (3)). Education should develop respect for the child's parents and their own cultural identity, language and values as well as the values of the country they live in (Article 29(c)).

Everyone we spoke with about education said how critical it was for their child, or for children they worked with, to be engaged in school and able to learn. All children we interviewed wanted to be at school or to have more education than they were currently receiving. Young people and families also spoke about individual schools, teachers and principals they trusted.

However, we heard from young people and their families of feeling like they were being pushed out of school if their behaviour was perceived as too difficult, and then not provided with alternatives.

“At the time of his alleged offending, Alan [not his real name] was disengaged from education, having recently been excluded from two local state high schools. It is unclear why these events occurred; however, Alan's communication skills were poor and this may have contributed to his difficulties at school. In particular, Alan has a stutter and he will immediately cease speaking if he begins to stutter, and refuses to repeat himself in the event his speech was not clear. Alan's attitude was immediately positive when

approached by [police] officers to participate in the Operation Regenerate program, and early on he asked officers for assistance to re-engage in school and obtain a part-time job. Despite his generally poor communication skills, he was enthusiastic about all activities and engagements with officers and demonstrated polite and cooperative behaviour. Some of the activities Alan has participated in include football, boxing, and learning sand art.

**OPERATION REGENERATE CASE STUDY**

“... even if we are engaging with all the right people, we are still having doors shut in our face constantly so these young people are getting rejected over and over and over again, and normally they get to a stage where they're just wanting to be normal or they get over to wanting to offend and wanting to do these sort of things and for them to be normal. ... it's that connection to school and their peers—and chances are they won't get another opportunity, because we've got 13, 14 year-olds that aren't given an opportunity to go back to mainstream education and they don't want flexible learning.

**GOVERNMENT ORGANISATION**

Schools have a difficult role in balancing the competing pressures in decision making. The community needs to trust that schools are safe places for all students, but the system needs to uphold the right of every child to have access to appropriate educational options—particularly if they are of compulsory school age.

“Listen and respond to the plans and ideas each child and young person has for themselves. Don't act without involving the child or young person.” - Young person interview

“We have industrial bodies who very much say zero tolerance to any sort of violence towards staff, we have a community that makes it very clear, directly to principals or via Facebook whether they believe the behaviour of the child is acceptable or not. So principals are having to make these decisions in very complex ... pressured circumstances where there is pressure from their own staff, pressure from the parent group, pressure from industrial bodies, so there's a whole lot that's going on in that space.

So, it's not just a lack of will with all these competing matters. Yeah, the parents can be really vocal if there's a kid mucking up in their class, regardless of what their background or the reasons for that behaviour being displayed

**DEPARTMENT OF EDUCATION REPRESENTATIVE**

We heard from some support services and parents that their children didn't feel included at schools. They felt schools were not culturally safe, and their children were pushed through the school system but exited unable to read.

The following example comes from our interviews with young people where a young person in a regional town was only able to access a school campus once a week and her youth justice worker was attempting to teach her to read.

“Interviewer: So, tell me, are you going to school at the moment?”

**Interviewee** (Young person, aged 11): Yeah. I do every Wednesday one hour. But I was thinking of going back to school. But I don't know how to read ... and spell ... [Youth justice worker] is helping me with reading. And I got some books here and stuff that she was helping me with ...

**Interviewer:** Tell me, you were saying that

you go to school just a little bit. What is it that means that you only go to school a little bit? Why is that?

**Interviewee:** When I'm in class I don't really understand much. And I want someone to explain it to me, and I like I feel a bit shame to put my hand up in front of the class and ask that like I can't read and I need help with it, you know? ... So that's why every Wednesday I've got one on one. I got just one teacher.

We should be tilting the system to have our best educators work with our most challenging children. What tends to happen is that, you know, remote communities, rural communities become the first placement for young teachers coming out of teacher training. And they do that, they go and spend a couple of years there so that they get a better option later on to transfer to what you might call a more attractive location. So we need to tilt the system to put our better educators with the children ... with the most need.<sup>81</sup>

In this context, we note the Department of Education, through its Youth Engagement Strategy,<sup>82</sup> is intending to gradually introduce 'flexi-spaces' within 52 secondary schools by 2022. Spaces are being transformed in existing buildings to create an inviting hub for students struggling to engage. These 'flexi-spaces' may also present an ideal venue for offering life skills programs or for hosting visits from other services providing health or cultural support.

“We know that if we can get kids back at school it reduces the time they're out in the community doing what they do but also that whole family connection. If we can get them staying at home rather than couch surfing, if we can get them in school or working, we know we get a much better trajectory.

**NON-GOVERNMENT ORGANISATION**

## Children's rights

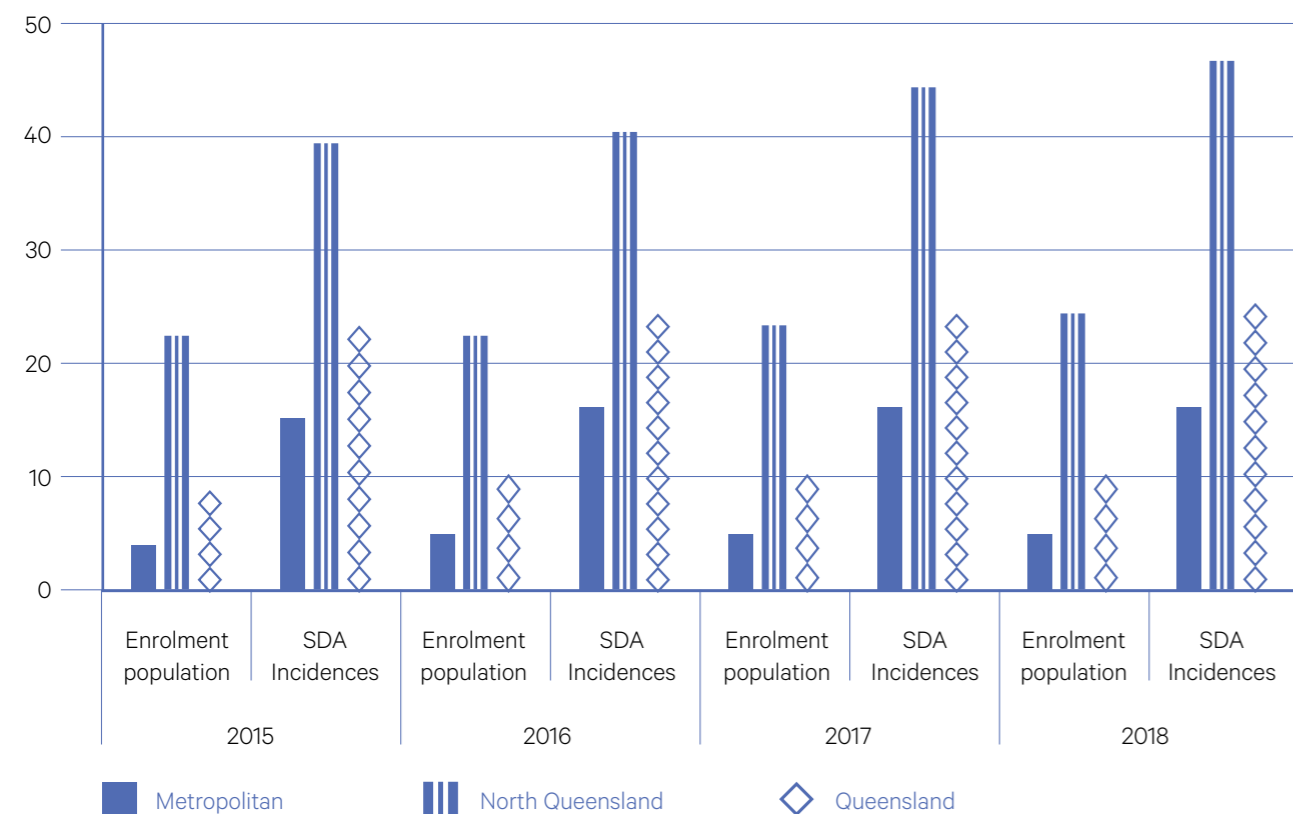


Figure 10: Percentage of Aboriginal and Torres Strait Islander enrolment population and involvement in student disciplinary absences (SDA) in two education regions from 2015 to 2019.

Around 53 per cent of children in the statutory youth justice system are disengaged from education, training or employment. Disengagement from education can be an early public sign of trouble at home (such as housing instability, family violence or family ill-health) or of undiagnosed mental or cognitive health issues.

### Student disciplinary absences

For some children, school disengagement is demonstrated through anti-social behaviour that results in suspension or exclusion. For this reason, considering student disciplinary absence data in this report is important.

Several years ago, decision making for suspension and exclusion was devolved to school principals. Prior to that, principals had been obliged to recommend exclusions to a regional director. Between 2015 and 2018, the numbers of

suspensions and exclusions steadily increased, with a small decline in 2019. State school exclusions in Queensland numbered 1,674 in 2019,<sup>83</sup> while in Victoria, with a larger school-aged population, there were 184 exclusions.<sup>84</sup>

From 2020, Queensland schools are required to develop a Student Code of Conduct, outlining staff responsibility to consider a student's individual circumstances, including behaviour history, disability, mental health, home environment and care arrangements when responding to inappropriate behaviour.<sup>85</sup>

Students subject to a long suspension or exclusion may appeal the decision to the Director-General of the Department of Education.<sup>86</sup> It is likely many vulnerable families would not have the time, energy or system knowledge to launch an appeal. This kind of process only creates a barrier.

## Children's rights

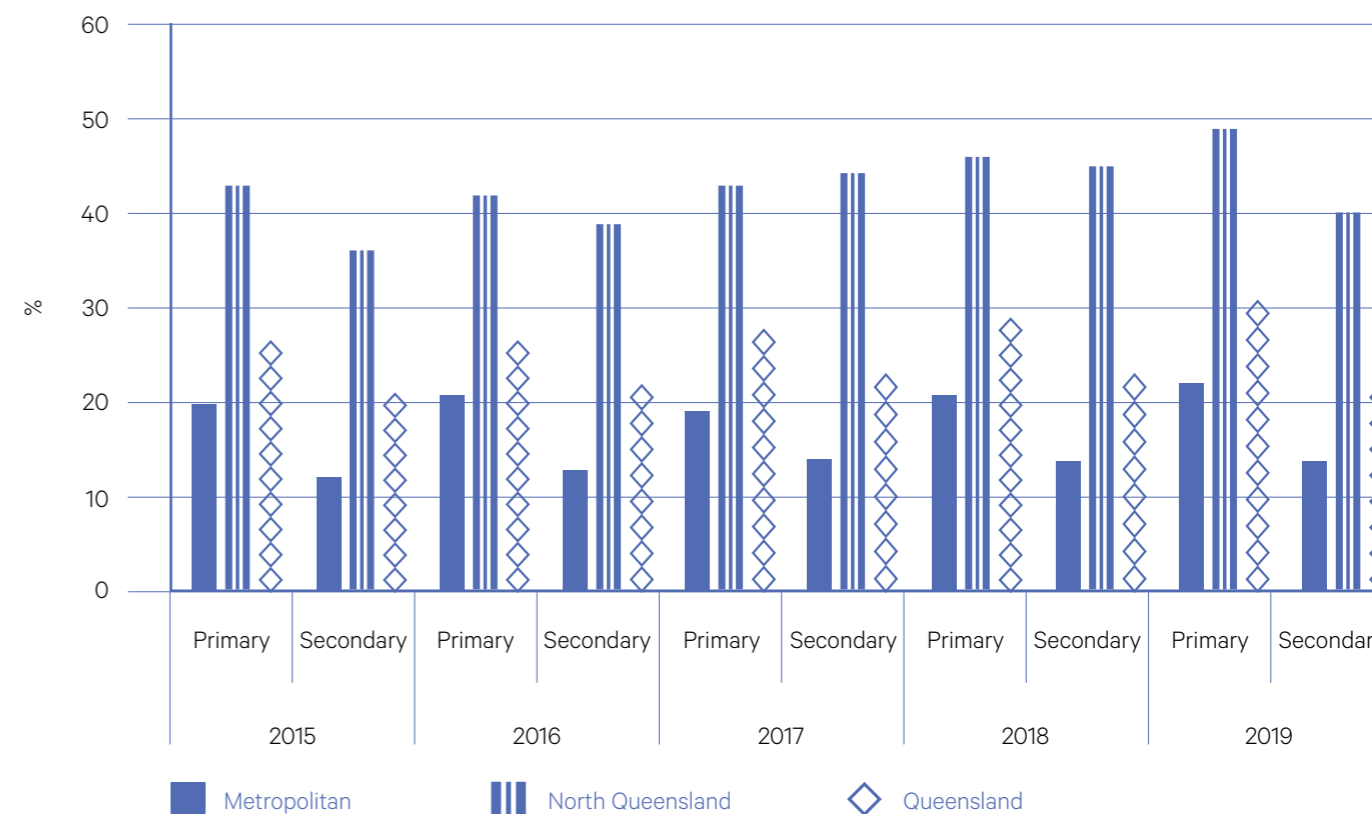


Figure 11: Percentage of Aboriginal and Torres Strait Islander primary school children involved in student disciplinary absence incidences compared to percentage of Aboriginal and Torres Strait Islander secondary school children involved in student disciplinary absences in two education regions from 2015 to 2019.

Publicly available data from the Department of Education shows about 25 per cent of disciplinary incidents (31 per cent in primary school) across Queensland relate to Aboriginal children and Torres Strait Islander children.<sup>87</sup> Their proportion of the total student population of Queensland was 10.3 per cent in 2019.<sup>88</sup>

Figure 10 shows enrolments and disciplinary incidents for Queensland and for two of the seven Department of Education regions. The two regions align with the three locations in Queensland that we considered in this report. Figure 11 compares primary school and secondary school disciplinary absences.

Suspensions and exclusions occur from Prep year up. The latest suite of Department of Education initiatives—targeting alternative education, student support and engagement—

nearly all start at high school level. They are too late.

Earlier intervention with very young children showing complex behaviours is likely to prove a more effective long-term solution. There is wide-ranging research demonstrating<sup>89</sup> that more focus and resourcing needs to be given to supporting children from birth–five years—and their families. Several priorities in the Education Minister's 2020 Charter letter<sup>90</sup> relate to this focus.

### Flexible learning schools

For some youth offenders, a flexible learning school with smaller cohorts and more individualised education may provide structure and life skills that help divert them from reoffending. For others, greater maturity and the appropriate support means they can re-enter mainstream education. These are both great outcomes.

“Both the adult prison and the youth detention centres would probably have enough people to build many hospitals in both of them and it’s a failing of our system that jail, even though it’s a more expensive solution, seems to be the preferred solution.

## Children’s rights

We heard criticism that flexible learning schools don’t produce quality academic outcomes or pathways to further education, training or employment, and we understand there is work under way within the Department of Education to look at this.

However, alternative education providers told us it would be unusual for a young person in the youth justice system (or who has recently left it) to progress at an average pace in their education, even in a highly modified program. The young person will almost always have missed significant amounts of education and will often have difficulties learning, for a variety of reasons. We were also told it takes a long time for educators to obtain the trust of these young people and their families.

An alternative learning school in Brisbane provided an insight into the daily regime for its students who are part of the youth justice system.

“So, a lot of these kids that do come for one hour and they go through to child youth mental health or they go through to a court hearing, they’re actually attending. They’re attending to their life. So, [staff member] put a key together for all the schools locally, to determine what actually is a true reflection of what they are attending. That they are engaged, it’s just not by the OneSchool [the Department of Education information system] record that says that you are either on the school grounds or you are not. That made a really big difference then, when we were reporting our data. Because it was a more accurate reflection that these kids are actually managing their lives. They’re not just hiding.

We track attendance and engagement as a whole. For example, one of our young people, their engagement last term was 34 days of 35 days, engagement includes coming to school, court appearances, Child Safety appointments, Youth Justice appointments ...

*It was phenomenal. And this was from a kid who Term 4 last year, engagement as a whole was two days. Two out of 35 days. And angry. Like completely disengaged with school, with Youth Justice, with Child Safety, was reported missing multiple times, multiple court appearances, incarcerations, and a turn-around in his personal life resulted in near perfect engagement and attendance.*

This school also regularly receives visits from other support services, to help with activities or provide advice. The school maintains close contact with parents and guardians.

### 4.1.5 Right to health services

“The Queensland Human Rights Act (s. 37(1)) states: Every person has the right to access health services without discrimination.

The Convention (Article 24) recognises: the right of a child to a high standard of health and access to medical and rehabilitation facilities. Article 23 recognises the right of a disabled child to special care provided free of charge including access to education, training, health, rehabilitation, employment preparation and recreation, so as to achieve the fullest possible social integration and personal development

My personal view is both the adult prison and the youth detention centres would probably have enough people to build many hospitals in both of them and it’s a failing of our system that jail, even though it’s a more expensive solution, seems to be the preferred solution for investment for dealing with these kids

**NON-GOVERNMENT ORGANISATION**

“We identified that one young male had difficulty with his sight and he had never been—he’d never raised this with his family so we ended up taking him to the optometrist,

“Try to understand why children and young people might be having difficulties. Support children and young people for as long as they need the support. Make sure young people understand what is happening and what is expected”. - Young person interview

*getting him an eye test and revealed that he did require glasses so then another officer had links with another different optometrist and we facilitated him getting some glasses at a discounted rate for the family.*

**OPERATION REGENERATE CASE STUDY**

Despite state funding for more early intervention services, some children still only receive medical referrals and the possibility of treatment when they arrive in the statutory system—Child Safety or Youth Justice. This is very unfortunate, because it is possible that early health interventions could have prevented them entering the system in the first place.

The trajectory charts in section 2.2.2 show the earlier a child enters the statutory youth justice system, the likelier they are to return to the system. Since family dysfunction, and cognitive or other health issues are key factors in young people entering the youth justice system, we believe there should be early and consistent outreach to vulnerable families so health and other assessments can be conducted regularly from infancy and in a non-criminal setting.

Multi-agency panels like SMART<sup>†</sup> could be usefully deployed in specialist assessment, outreach and treatment referral. This could

happen before children enter the statutory youth justice system, not after, as is the case at present.

Providing effective, reliable and trusted services for Aboriginal peoples and Torres Strait Islander peoples will help all people, particularly those living in rural and remote Queensland.

### Sex offences

The number of serious offences by young people as a proportion of the number of all proven offences is small, at just over seven per cent per year.

The number of sex offences by young people is even smaller, at around 0.3 per cent of proven offences.<sup>91</sup> However, the impact on victims and their families is immense. Young offenders should be offered the opportunity of rehabilitation, not just for their sake, but also for the safety of the community. There is currently limited access to sex offender rehabilitation programs in Queensland for adolescents unless they have already been convicted.

“Griffith Youth Forensic Service is about the only treatment clinic [for sexual offenders] I’m aware of. But that’s very common in forensic practice in my experience anyway with adults as well. There’s reasonable-ish resources for

<sup>†</sup>Which assists with coordinated care, decision making, and support of young people in the youth justice system.

*assessments, reports, sentencing prep, but there’s a real need gap in relation to treating these people.*

**GOVERNMENT ORGANISATION**

The cessation of funding for a specialist sex offenders rehabilitation service in a remote community after just a few years is disappointing, and the potential ramifications of the decision were highlighted in the most appalling way when news came to light in mid-July about the rape of a small child by other children in another remote Aboriginal council area.

### Mental health, alcohol and drugs

Queensland Health mental health staff attend courts and offer assessments on young people they deem could benefit from a mental health assessment based on a range of metrics including acuity, age and offending. The child has to provide consent for this assessment.<sup>92</sup>

We were told that generally, adolescent alcohol and drug services and mental health services, especially forensic (relating to assessment or treatment of people with a mental disorder and a history of criminal offending) only see children when issues are significant, when they may already be offending or re-offending to obtain more drugs or because of other issues in their life.

“I don’t think we’ve had one referral of a young person from [Youth Justice] where there hasn’t been other co-morbidities or, you know, other problems going on. Like you don’t see offending in isolation when there’s substance use involved ... and normally quite complex.

**GOVERNMENT ORGANISATION**

“We’ve had referrals from police and everything where ... we’re finding out that they’ve had no support. ...One wasn’t even under NDIS, never been assessed and he’s 19 years-old.

**NON-GOVERNMENT ORGANISATION**

### Drug rehabilitation

We were advised while conducting interviews for this report that some Gulf communities have significant concerns about volatile substance misuse, with very limited rehabilitation options available. Children and families in remote Queensland are particularly at risk of having their rights neglected because of the fewer avenues to receive help and advice, the relative invisibility of these communities, and the limited availability of specialist education and health services.

We understand there are also limited adolescent drug rehabilitation options in Queensland. In particular, we were told several times about the lack of public inpatient facilities for drug and alcohol rehabilitation for children in regional Queensland.

“... so think about like this from a young person’s perspective, anyone [in Mount Isa] who’s severely unwell or psychotic or having drug induced psychosis has to be flown to Townsville, sedated, admitted with the unit there, away from their family and friends. What we’re dealing with out here is really quite trauma inducing. And so yeah, in terms of detox and rehab with young people, that is like—I feel like that is not even a thought at the moment. It’d be mental health first, and then maybe one ... adult detox bed, then maybe the young people.

**GOVERNMENT ORGANISATION**

## 4.2 Are children and young people safe?

### 4.2.1 Stable accommodation

Legislative and funding constraints mean very few temporary housing services are available to children under the age of 15. Younger children are expected to be referred to the Department of Children, Youth Justice and Multicultural Affairs (specifically Child Safety) for investigation and placement in out-of-home care if necessary.

“A lot of the time the kids are getting picked up at night after hours, they’re getting taken back to what we think are safe places and they’re not. Support services are trying to link back up with them the next day and they’ve disappeared.”

## Children’s rights

While emergency placements of children aged over 13 can be sought by Child Safety from federally funded specialist homelessness services, placements are expected to only last for three days.<sup>†</sup> The ability to quickly arrange alternative accommodation for younger children who are homeless or ‘self-placing’ appears to be constrained by Child Safety’s heavy caseload.

Several stakeholders suggested there is currently a service gap for young people aged 10–15 who will not go home and who don’t meet the current Australian Government criteria for independent living. They spoke to us about the potential benefits of having temporary emergency accommodation for children below 16, allowing safe places for young people to sleep and more time for service providers to meet with them and investigate longer-term solutions.

“... a lot of the time the kids are getting picked up at night after hours, they’re getting taken back to what they think are safe places and they’re not. Support services are trying to link back up with them the next day and they’ve disappeared, and then they come out at night-time and no support services are open. You need some diversion centres around that we can place these kids for the night so the support workers can catch up with them in the morning.”

NON-GOVERNMENT ORGANISATION

Others suggested that introducing emergency accommodation for these young people would side-step the real issue and the real need—which is to understand why these children do not want to go home and then provide that family and young person with holistic support or intervention

Apart from the obvious personal safety concerns for young people without a safe home to live in, government stakeholders emphasised the importance of stable accommodation and a stable home environment to success in learning and to good mental health.

“If the kid doesn’t have a home base and safety in their home environment, we cannot do a lot. We cannot provide a meaningful service. I think that ... intervention [is] where the kids are able to have a home with relatively stable home environment. One pro-social adult in their life. Engagement and education. It’s a big one. Engagement and pro-social activities. Then you can build on top of that with some mental health interventions that will teach some skills alongside life skills and everything else  
GOVERNMENT ORGANISATION]

An evaluation of supervised community accommodation (colloquially known as bail houses), managed by Youth Justice, found they had provided safe, secure and stable

“Get to know children and young people as individuals. If you treat children and young people with respect, they will do the same. Don’t target children based on their race, their looks or their history”. - Young person interview

<sup>†</sup> Guidelines for Supported Accommodation Assistance Program (SAAP) youth services and the Department of Child Safety in relation to the ‘placement’ by the Department of Child Safety of an unaccompanied child or young person in the care of the state in a SAAP youth service, MOU, v.1.4, May 2018.

accommodation for young offenders who do not have a place to live. While 77 per cent of young residents met their bail conditions while living there, almost 85 per cent reoffended after leaving the accommodation.<sup>93</sup>

However, the evaluation also found the bail houses were not cost-effective and in December 2020, the Queensland Government decided to stop funding them.

### 4.2.2 Dealings with the police

Of the six young people we interviewed, the age of first contact with police ranged from eight to 14 years.<sup>\*</sup> All except one young person had experienced multiple contacts with police. We heard both positive and negative stories from these young people about their interactions.

Four participants spoke about police officers using derogatory language, communicating aggressively and using excessive force during arrest or searches. Both young people who identified as Aboriginal reported racist behaviour.

Police notification of parents and carers when young people are arrested or taken to a police station for questioning was reported to be inconsistent. One interview participant said that on one occasion they were taken from home by police late at night without their parent being told, despite the parent being at home.

When it came to having support during a police interview, which is a legislative requirement,<sup>94</sup> the one young person who had a single contact with police reported their police interview occurred with a family member present. Another young person said they were always asked if they wanted an adult present. A third said they had never been offered adult support in this context, and the remaining participants said the process was inconsistent in their experience.

One parent who was present at the interview with their child said they had made complaints to the police about their child's experiences but were unsure whether anything happened as a result.

The young people were also able to identify examples of more positive experiences. One participant contrasted their experiences of police officers from Child Protection Investigation Units with other police officers. This young person felt Child Protection Investigation Unit officers knew how to communicate with young people, recognised mental health difficulties, were not aggressive, contacted parents/guardians, organised legal support, and made referrals for ongoing support. In contrast to other experiences, this young person said this approach made them feel 'safe' and 'secure'.

Another young person contrasted the demeanour of arresting police officers with police officers at the watch house, who they described as being attentive to their physical and emotional needs and who they said encouraged them regarding their future.

Examples were also provided of police being interested in getting to know young people in the community as people—not just in relation to concerning behaviours. This kind of interaction made one young person feel more likely to be honest and engage with police. Two participants also spoke about positive experiences of police participating in inter-agency meetings at school.


### 4.3 Findings—Are children's rights, well-being and safety being upheld and protected?

- Improvements to the rights, well-being and safety of children can be made by police, educators and health providers. Examples of delays in school enrolment and in receiving medical treatment were provided to us and are included in this report.

- The system does not always provide the most vulnerable children and families with equitable access to specialist services and support, particularly in remote communities. Access to these services is sometimes not available until children arrive in the statutory youth justice system.
- Not enough health and education support is available for children below the age of twelve. Recent funding to primary schools for extra psychologists is welcome and should be part of an ongoing funding shift to focus on the early years of schooling.
- There has been a focus on student engagement in education, but not enough consistency in ensuring continuity of education for children on disciplinary absences or for those who struggle to fit in a mainstream school.
- The Queensland Children's Court's efforts to produce plain English versions of charges and bail conditions for families and children is commendable and this work needs to continue and expand to magistrates courts.

<sup>\*</sup> The minimum age of criminal responsibility in Queensland is 10. For children aged eight, police contact would be informal.

## 5. Future Opportunities



“ If the long-term goal of reducing youth crime is to be achieved, investment should focus firstly on reduction of the factors that may contribute to a young person committing crime, and secondly, on young people already in the formal system who are committing most of the crime.

# 5. Future opportunities

## Future opportunities

As part of the Queensland Family and Child Commission's brief to examine options to inform future youth justice systems and processes, we make the following observations:

- The youth justice system would be more effective in improving the lives of vulnerable children and keeping the community safe if it viewed at-risk young people through a rights and well-being, rather than just a criminal, lens.
  - Youth Justice deals with the most complex cases and attempts to re-engage them with education and health agencies. As a matter of urgency, the broader youth justice system (and particularly the health and education components) should consider playing a more active role in the system and at an earlier stage. [For more detail, see Findings 5, 10, 11 and 12.]
  - Specialist and intensive health services should be funded for remote communities and for the small number of young people who are very unwell and/or have committed a serious offence against a person or people. [Findings 6 and 10.]
  - The health system could strengthen its role in identifying and working with vulnerable families and young people earlier. [For more detail, see Finding 11.]
- New programs and projects where the primary audience is Aboriginal children and families and/or Torres Strait Islander children and families, should be community-led. [For more detail, see Findings 2, 6 and 7]. This could include:
  - expanding government collaboration to include non-government organisations, community controlled organisations, community members and families and young people in program design and decision making
  - expanding participation in decision making by Aboriginal communities and Torres Strait Islander communities. This could also include changing the competitive tendering

process and providing investment pools to communities from which they prioritise and commission services

- providing additional resourcing to community-controlled organisations or local communities to be used to establish or strengthen the knowledge or skills of local agencies.
- consulting communities regarding overarching procurement strategy and priorities.

- The departments responsible for Youth Justice, Health and Education and the Queensland Police Service should consider developing policies dedicated to addressing systemic, social and policy barriers that may be contributing to the disproportionate representation of Aboriginal children and Torres Strait Islander children in the youth justice system.

This would align with initiatives outlined in *Changing Tracks, an action plan for Aboriginal and Torres Strait Islander children and families*. There are important elements within this action plan relevant to all government agencies. [For more detail, see Findings 7, 9 and 12.]

- Governments (both state and federal) should consider making long-term, outcomes-based investments in prevention and early intervention in the health of children and families, with regular review points. Investment should not be siloed by agency but should shift to person-centred care.<sup>†</sup> [For more detail, see Findings 3, 4, 5 and 8.]
- Linking government data that is shared with and informed by community should be considered. Data needs to be linked to Youth Justice from other critical systems including Child Safety, Health, Education and the Queensland Police Service, and broken down to regional and local levels, to help communities make decisions and prioritise services relevant to their region (this is also in the *National Agreement on Closing the Gap*<sup>96</sup>). [For more detail, see Findings 2, 6 and 7.]

To assist with accountability, the data should be broken down in the following ways:

- at regional and local level
- to help communities make decisions that are relevant to their region and to help them prioritise services. (This is also in the *National Agreement on Closing the Gap*<sup>96</sup>)
- to identify if there are hot spots of over-representation of Aboriginal children and/or Torres Strait Islander children in the youth justice system and where there is good practice occurring
- to permit easier analysis of the impact of local initiatives on keeping young people in that location out of court and custody

- While a long-term culture shift with the Queensland Police Service towards crime prevention and community policing remains essential, there could also be regular training for police officers about working with children, Aboriginal peoples, and Torres Strait Islander peoples. [For more detail, see Finding 9.]

This could focus on:

- obligations under the Queensland *Human Rights Act 2019*
- how exposure to trauma, undiagnosed health issues and family dynamics can become causes of offending by young people
- improving induction into local history and protocols whenever staff are posted to areas with large Aboriginal or Torres Strait Islander populations, with this induction provided by local community members.

- Youth Justice, the Queensland Police Service, legal services and courts should consider collaborating on improving communication with families and children involved in the statutory youth justice system. This includes keeping families informed about the status or progress of their children's cases, ensuring families have the means to attend court, and explaining things in ways that can be understood by the client and family. [For more detail, see Findings 3, 9 and 13.]

- As identified in the Atkinson report<sup>97</sup>, a coordinated media strategy should be adopted to promote and support the 'four pillars' policy position of the Youth Justice Strategy.

<sup>†</sup> In 2017 the Australian Productivity Commission recommended that all Australian governments 'should re-configure the health care system around the principles of patient-centred care ... within a five year timeframe'. The Commission defined patient-centred care as '[giving] prominence to the preferences, needs and values of consumers ... Patients would be given the information and power to be cocreators to treatments and disease management. Medical records would be owned by patients and they would be able to add comments.' Australian Productivity Commission 2017, *Shifting the dial: five-year productivity review*, p. 65, available at <https://www.pc.gov.au/inquiries/completed/productivity-review/report>, viewed 24 November 2020.

## 6. Next steps for the QFCC

“ The youth justice system would be more effective in improving the lives of vulnerable children and keeping the community safe if it viewed at-risk young people through a rights and well-being, rather than a criminal, lens.



# 6. Next steps for the QFCC

Youth Justice should consider reviewing its communication and media approach to ensure it includes collaboration with and up-skilling of other organisations to help deliver its messages to the broader community more effectively. Those involved could include non-government organisations working in the system, community members, and children or adults who have come through the system and are out the other side. [For more detail, see Findings 1 and 2.]

The Queensland Family and Child Commission's position is that the safety and well-being of children and the maintenance of their rights are fundamental to the operation of the youth justice system.

In this light, the QFCC is interested in pursuing further work in specific areas, including:

- the system of health services provided to vulnerable children and their families, particularly young people aged below 14
- how Queensland children are being helped to remain engaged in education
- the safety of children and young people in their dealings with the Queensland Police Service
- working with Queensland Treasury to scope a piece of work to better understand the cost of youth justice responses, including early intervention.

The QFCC advocates for active effort by government to improve its accountability for handing back leadership and resources to Aboriginal communities and Torres Strait Islander communities and for delivering trusted and reliable services to those who need them most.

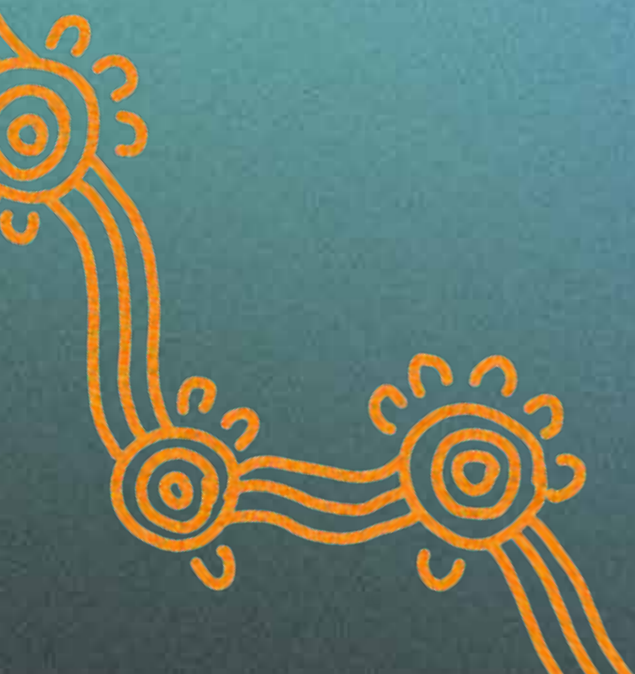
The QFCC will continue to oversee Queensland's youth justice system by:

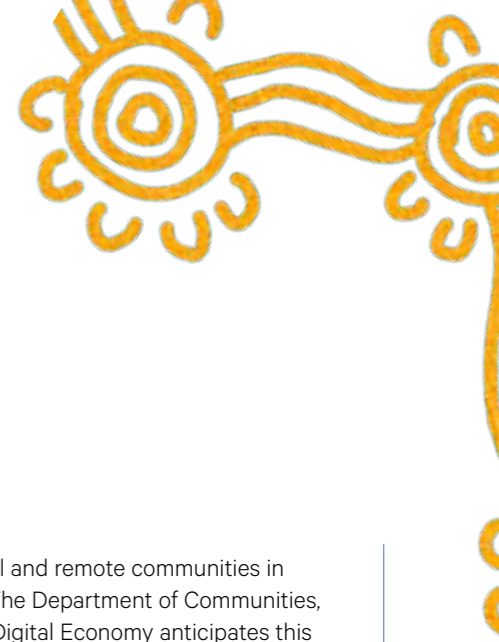
- instituting a regular means of speaking with children and young people and their families who are in, or at risk of joining, the youth justice system. (This is also required by the Attorney-General's 2020 Charter letter, where the QFCC is asked to undertake a 'culturally

appropriate community conversation with Aboriginal and Torres Strait Islander children and young people about their interactions with the justice system<sup>98</sup>)

- coordinating regular media analyses as part of our data collection and monitoring role
- undertaking targeted visits to rural and remote communities to better understand the challenges and strengths of those communities and how their young people can be better supported
- continuing to actively promote the positive stories and strengths of Aboriginal families and Torres Strait Islander families and sourcing a broad range of communication channels for doing this
- reporting back key findings of this report to the stakeholders who provided us with their valuable time and knowledge. This is an important component of the QFCC's desire to build stronger relationships with non-government agencies, Aboriginal communities and Torres Strait Islander communities.

# Appendix





## The role of government departments in youth justice reform

The Queensland Family and Child Commission (QFCC) requested information from key government departments about their contributions to the Queensland Government's *Working together Changing the Story: Youth Justice Strategy 2019–23*<sup>99</sup> (Youth Justice Strategy).

We received information from:

- Department of Children, Youth Justice and Multicultural Affairs
- Department of Communities, Housing and Digital Economy
- Department of Education
- Queensland Health and hospital and health services
- Department of Justice and Attorney-General.

As a result of the Youth Justice Strategy, all these agencies had modified elements of their approach to dealing with young people in, or at risk of entering, the youth justice system. They introduced new initiatives unilaterally or through projects in the Youth Justice Strategy action plan. Some agencies advised they would have made changes even without the launch of the Youth Justice Strategy.

Agencies reviewed existing policies and procedures to ensure they were consistent with the intent of the strategy. At about the same time, they were reviewing policies to ensure consistency with the *Queensland Human Rights Act 2019*, which came into effect on 1 January 2020.

The agencies responsible for child safety, youth justice, health and education, and the Queensland Police Service, are members of **Townsville's Stronger Communities Action Group**, Mount Isa's **Community Connect** (both chaired by police) and the eight Specialised Multi-Agency Response Teams (SMART) panels, established across Queensland and chaired by Youth Justice. Ten government agencies also sit on the **Youth Engagement Alliance**, chaired by the Department

of Education, with the aim of improving re-engagement of young Queenslanders in education, training or employment. As well as the abovementioned agencies, the Alliance also includes Premier and Cabinet, Treasury, Employment, Small Business and Training, and Aboriginal and Torres Strait Islander partnerships.

The Queensland Government's five point plan, announced in March 2020, introduced **community-based crime action groups** to 10 locations, chaired by the Queensland Police Service and again including the agencies responsible for health, education, children, youth justice and housing, but also local councils, community members, local medical providers and other non-government service providers. The purpose of these action groups is to 'co-ordinate and deliver local services and initiatives to reduce youth re-offending and build a community focus on youth development for the ongoing growth and safety of the local community it serves.'<sup>100</sup>

Outlined in the following paragraphs are some more of the government initiatives supporting the two pillars of the Youth Justice Strategy of keeping children out of court and custody.

### Department of Children, Youth Justice and Multicultural Affairs

Work is underway to replace the current client management database with a new system called Unify. It is expected to improve information sharing with the Department of Education, the Queensland Police Service, Queensland Health and doctors, and implement a contemporary case and client management system.

### Department of Communities, Housing and Digital Economy

The Homelessness Programs team sits within the Housing unit. The team coordinates, funds or contributes to a number of projects, including:

- a Homelessness social benefit bond (**Youth Connect**<sup>101</sup>) for young people aged 15–25

- family coaches for those with children under eight living in public housing
- leasing private properties and then sub-letting to improve housing outcomes for young people involved in the youth justice system and their families.

Federal funding of specialist homelessness services under the *Supported Accommodation Assistance Act 1994* is coordinated by Housing to provide transitional supported accommodation and related services to help homeless people, including 'independent young people above the school-leaving age for the state concerned'.<sup>102</sup>

Housing also provides funding through the National Housing and Homelessness Agreement to the Department of Children, Youth Justice and Multicultural Affairs to deliver the **Youth Housing and Reintegration Service** (YHARS). This program assists young people aged between 12 and 21 years who are homeless, or at risk of homelessness, to transition to greater independence and stability.

Again, the accommodation arm of YHARS is only available to young people aged 15–21. The Department of Children, Youth Justice and Multicultural Affairs is responsible for the program and contract management of YHARS. There are six YHARS support services dispersed throughout Queensland: at Hervey Bay/Maryborough, Inala (Brisbane), Mount Isa, Rockhampton, Toowoomba and Townsville, providing a range of services including support, financial help and access to different accommodation options.

As of August 2020, Housing had a funding relationship with 15 **Indigenous Community Controlled Housing Organisations** (ICHO). Housing estimates there are about another 50 Indigenous housing organisations in Queensland not registered with the department.

A peak body for Indigenous Community Controlled Housing Organisations is being established that will represent ICHOs across

urban, regional and remote communities in Queensland. The Department of Communities, Housing and Digital Economy anticipates this peak body will deliver sector development activities, workforce development initiatives and organisational capacity building.

### Department of Education

The department of Education has supported the **Youth Justice Strategy** through the introduction of six court liaison officers as part of the Education Justice initiative. This initiative gives the department more knowledge of the young people who are disengaged from education. From January to September 2020, the Education Justice initiative supported 794 children, assisting them to access education and referring them to other support services at a time when they have often disengaged from school.<sup>103</sup> The Department of Education is currently (early 2021) evaluating the initiative.

Implementation of a **Youth Engagement strategy** is also underway with the department investing in regional youth engagement hubs, a Youth Engagement Alliance with other government departments, and the creation of 'flexi-spaces' in mainstream high schools.

**Flexi-spaces** are intended to embed an inclusive, high-quality learning environment for students at risk of disengaging from their education. Participating schools receive funding to purchase resources and modernise existing spaces to deliver individualised and high-quality teaching and learning strategies.

Students in need of additional support are eligible to access the flexi-space on a case-by-case basis, only after efforts to make suitable adjustments in class, or the wider school setting have been attempted. Students who access the space continue to undertake some subjects with the rest of their peers in 'mainstream' classes and are assisted in returning to mainstream classes full-time when appropriate.<sup>104</sup>

As part of the Department of Education's regular review cycle, a revision of the entire suite of departmental behaviour policies and procedures was completed in March 2020. One intention of the revision was to clarify that principals need to consider the individual circumstances of young people and use tools like behaviour risk assessments and functional behaviour assessments to judge the degree of modification required for that individual, and other school members, to be safe and learning.

These assessments may help to prevent the application of student disciplinary absences by de-escalating poor behaviour early on.<sup>105</sup>

### Queensland Health

Queensland Health operates several programs specifically for children in the youth justice system:

The **Child and Youth Forensic Outreach Service (CYFOS)** (not available in Mount Isa), provides specialist mental health support to community-based services, including Youth Justice service centres. CYFOS provides assessment and treatment interventions to a number of young people on 'integrated case management' with Youth Justice. It supports restorative justice by assessing a young person's readiness for a conference and providing therapeutic support, which can involve offence-specific interventions, during the conferencing process.

**Police and court drug diversion** is intended to divert young people from involvement in the criminal justice system for minor drug offences. The service provides assessment and brief interventions for young people about their substance use.

The **Health Court Liaison service** provides specialist assessments such as fitness for trial and soundness of mind, general mental health assessments and brief interventions. The Queensland court system and Queensland Health have a Memorandum of Understanding to share databases. Queensland Health can match cases

between its mental health database and the court system, so it can know when a young person appears in court, their age and whether they're known to mental health services or not.

Queensland Health mental health staff attend courts and offer assessments to young people they deem could benefit from a mental health assessment based on a range of metrics including acuity, age and offending. The child's consent to this assessment must be obtained.<sup>106</sup>

While clinical need remains the overarching consideration for prioritising health care services, referrals of young people aged 10–14 are now prioritised across specialist forensic services. In addition to providing court-required assessments, Queensland Health can offer a general mental health assessment to any young people attending court. Children aged 10–12 will be seen automatically if they consent, as will be those who have committed serious offences. These assessments may contribute to the young person gaining access to a diversionary program. The court liaison service is available in Mount Isa (serviced monthly from Townsville), Townsville and North Brisbane.<sup>107</sup>

**Navigate your Health** has been expanded from a service for children in child protection to include young people in contact with the youth justice system.<sup>108</sup> Nurse Navigators advise families on service options available to them. At time of writing this report, Nurse Navigators had been appointed in Brisbane, Logan and Cairns, with more expected. Queensland Health is collecting data about the project so it can be evaluated.

There are, in addition, a number of relevant general services that young people can access, noting many young people in the youth justice system are either formally identified, or suspected as needing, some kind of specialised health support. The **Child and Youth Mental Health Service (CYMHS)** is available in 50 locations across Queensland, providing community mental health services to infants, children and young

people up to the age of 18 years who have complex mental health needs.

An **Assertive Mobile Youth Outreach Service (AMYOS)** targets difficult-to-engage young people with specialised mental health services. Clients must be aged between 13–18 and be a current client of CYMHS. CYMHS is available in Mount Isa, but AMYOS is not. CYMHS is also available in Aurukun, Coen, Kowanyama, Palm Island, Thursday Island (Waiben) and Weipa.<sup>109</sup>

### Department of Justice and Attorney-General

As part of its response to the Youth Justice Strategy, the Department of Justice and Attorney-General established a Youth Justice Project Management Office and funded a **Children's Court Jurisdictional Lead Team** to provide dedicated policy and procedure support to courts.<sup>110</sup>

Youth justice funding enabled an additional 80 court days in 2018–19, then a further 255 sitting days in 2019–20, including allocations to the Queensland Police Service, Legal Aid Queensland, the Aboriginal and Torres Strait Islander Legal Service and other legal support services.

The additional days allow time for more complex youth justice matters to be given due concentration by the court. A by-product of the additional resourcing has been the establishment of a children's court data dashboard, allowing for review of trends across all Queensland courts, including regional variations.

The **High-Risk Youth Court** in Townsville was introduced from a recommendation in the 2018 Smith report, *Townsville's voice: local solutions to address youth crime*.<sup>111</sup> The intention is to demonstrate a more therapeutic approach and alliance with the person coming before the magistrate. Elders from community justice groups (funded primarily by the Department of Justice and Attorney-General) are involved with the High-Risk Youth Court, providing information about

cultural circumstances to the court and specific cultural support to young people.

### Queensland Police Service

The Queensland Government's **five point action plan**, announced in March 2020, included a leadership role for the Queensland Police Service in all actions apart from the On Country programs. The five action points were:

1. **Tougher action on bail.** Offenders posing a risk to the community should not get bail
2. **A police blitz on bail**, appealing court decisions where appropriate
3. A 24/7 Police Strike Team involving youth justice workers for high-risk offenders (now known as the **co-responder model**)
4. Culture-based rehabilitation for indigenous offenders through new On Country initiatives trialled in Townsville, Cairns and Mount Isa
5. Empowering local communities in the war on crime with \$2 million for **community-based organisations** for local community-based solutions.

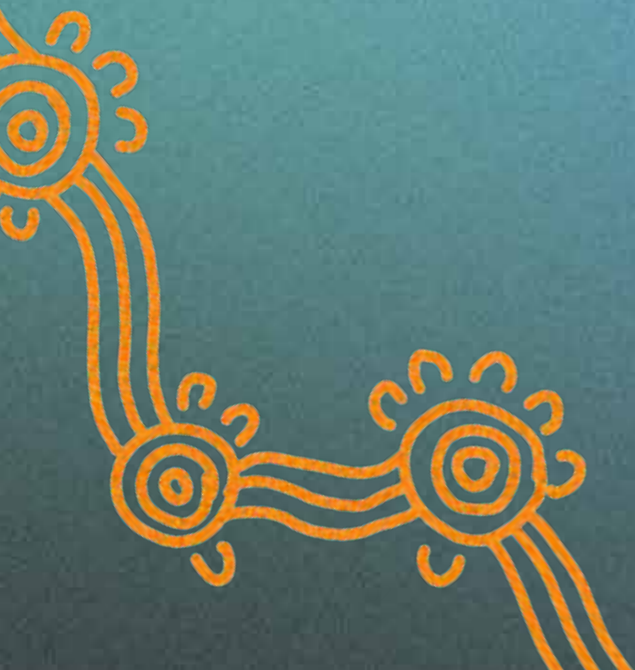
The Queensland Police Service has a detailed Operational Procedures Manual, which is regularly updated. Chapter 5 deals with children and supports effective administration of the *Youth Justice Act 1992* and other laws, when dealing with offenders aged under 18.

The chapter includes relevant information from the *Queensland's Human Rights Act 2019*. In relation to the Charter of principles in the *Youth Justice Act 1992*, the manual states:

Officers should apply these principles when dealing with children who may have been involved in the commission of an offence.<sup>112</sup>

Chapter 5 of the manual discusses diversion, graffiti removal, restorative justice, the cautioning process, protected admissions, the process for commencing proceedings against a child (including presence of a support person), ensuring the rights of children taken into custody, and notifying parents.

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<sup>3</sup> Australian Institute of Health and Welfare, Overview of the Youth Justice System, <https://www.aihw.gov.au/reports-data/health-welfare-services/youth-justice/overview>, viewed 10 February 2021.

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<sup>5</sup> Australian Government, *National agreement on closing the gap: At a glance*, <https://www.closingthegap.gov.au/national-agreement-closing-gap-glance>, viewed 22 October 2020.

<sup>6</sup> Atkinson, B 2018, *Report on Youth Justice*, version 2, Recommendation 66, p. 100, Available from <https://www.youthjustice.qld.gov.au/resources/youthjustice/reform/youth-justice-report.pdf>, viewed 5 February 2021.

<sup>7</sup> Australian Productivity Commission, Report on Government Services 2021, Youth Justice Services, available from <https://www.pc.gov.au/research/ongoing/report-on-government-services>, viewed 21 January 2021.

<sup>8</sup> Queensland Government, *Changing Tracks: An action plan for Aboriginal and Torres Strait Islander children and families 2020–2022* (second action plan), available at <https://www.csyw.Queensland.gov.au/resources/campaign/supporting-families/changing-tracks-action-plan.pdf>, viewed 10 September 2020.

<sup>9</sup> Queensland Government, *Family and Child Commission Act 2014*, s. 9(b)(ii), available at <https://www.legislation.qld.gov.au/view/pdf/inforce/2014-07-01/act-2014-027>, viewed 30 October 2020.

<sup>10</sup> Queensland Government, *Family and Child Commission Act 2014*, s. 23(1), available at <https://www.legislation.qld.gov.au/view/pdf/inforce/2014-07-01/act-2014-027>, viewed 30 October 2020.

<sup>11</sup> Department of Youth Justice, *Working together changing the story, Queensland Youth Justice Strategy 2019–2023*, available at <https://www.youthjustice.qld.gov.au/reform/youth-justice-strategy>, viewed 26 October 2020.

<sup>12</sup> Queensland Family and Child Commission, *QFCC Oversight Strategy 2020–2022*, available at <https://www.qfcc.qld.gov.au/keeping-kids-more-safe/monitoring-reviewing-systems-protect-children/oversight-strategy>, viewed 26 October 2020.

<sup>13</sup> Queensland Government, *Human Rights Act 2019*, available at <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2019-005>, viewed 20 October 2020.

<sup>14</sup> United Nations, 1990, *Convention on the Rights of the Child*, available at <https://www.unicef.org/child-rights-convention/convention-text>, viewed 20 October 2020.

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