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Queensland Police Service Watch-house Review

Commissioner Natalie Lewis
Queensland Family and Child Commission



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Commission



Queensland
Government



Acknowledgement of Country

The Queensland Family and Child Commission acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Custodians across the lands, seas and skies where we walk, live and work.

We recognise Aboriginal and Torres Strait Islander people as two unique peoples, with their own rich and distinct cultures, strengths and knowledge. We celebrate the diversity of Aboriginal and Torres Strait Islander cultures across Queensland and pay our respects to Elders past, present and emerging.

We acknowledge the important role played by Aboriginal and Torres Strait Islander communities and recognise their right to self-determination, and the need for community-led approaches to support healing and strengthen resilience.

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Introduction

Thank you for the opportunity to provide a submission to the Queensland Police Service (QPS) Watchhouse Review. I am the Aboriginal and Torres Strait Islander Children's Commissioner at the Queensland Family and Child Commission (QFCC). I lead the work of the First Nations and Child Rights Advocacy team and maintain a steadfast commitment to ensuring the rights of all children are upheld in Queensland, with an explicit focus on Aboriginal and Torres Strait Islander children and young people.

I note that on 9 December 2024 there were 26 children in Queensland watch houses, including 21 First Nations children. I appreciate the QPS providing twice daily reports on the number of children in Queensland watchhouses and I acknowledge the QPS is not in favour of keeping children in watch houses.

Background

Children should never be detained in watchhouses and police station holding cells that also hold adults. There exists a clear regulatory framework which applies to watchhouses where children and young people are detained. This framework supports the consensus for the need to actively uphold the rights of children given their vulnerability and the nature of watchhouses. I am more than concerned about the continued slippage in our moral and legal obligations to Queensland children through the upwardly trending failure to meet our responsibilities to international and state laws and policy.

The United Nations Convention on the Rights of the Child

Queensland has international commitments to children's rights. The United Nations Convention on the Rights of the Child (UNCRC) was ratified by Australia in December 1990. In 2019, the United Nations Committee for the Rights of the Child released *General Comment 24 Children's rights in the child justice system*¹ with the following key points:

- The use of deprivation of liberty be used only as a measure of last resort
- All children in conflict with the law be treated in a way that upholds their rights and dignity so that some children are not disproportionately affected by laws, policies, or practices.
- The minimum age of criminal responsibility be raised to at least 14 years old.
- States should take adequate legislative and other measures to reduce the use of pre-trial detention.

Queensland Human Rights Act

Queensland also has obligations to children's human rights under the Queensland Human Rights Act (QHRA), specifically, section 33: Children in the criminal process:

- (1) An accused child who is detained, or a child detained without charge, must be segregated from all detained adults.

¹ United Nations Committee on the Rights of the Child, General comment 24, *Children's rights in the child justice system*, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-24-2019-childrens-rights-child>.

(2) An accused child must be brought to trial as quickly as possible.

Other rights that current watch house policies, practices and procedures are required to uphold include:

- Right to protection from torture and cruel, inhuman or degrading treatment
- Cultural rights for Aboriginal and Torres Strait Islander peoples.
- Right to liberty and security of person
- Right to education
- Right to health services.

Youth Justice Act 1992

Schedule 1 – Charter of Youth Justice Principles maintains the alignment between international and state obligations to children’s rights.

19. A child detained in custody should only be held in a facility suitable for children.
20. While a child is in detention, contacts should be fostered between the child and the community.
21. A child who is detained in a detention centre under this Act—
 - a. should be provided with a safe and stable living environment; and
 - b. should be helped to maintain relationships with the child’s family and community; and
 - c. should be consulted about, and allowed to take part in making, decisions affecting the child’s life (having regard to the child’s age or ability to understand), particularly decisions about—
 - i. the child’s participation in programs at the detention centre; and
 - ii. contact with the child’s family; and
 - iii. the child’s health; and
 - iv. the child’s schooling

QPS Operation Policy Manual

The Queensland Policy Manual 16.17.1 clearly articulates the responsibilities of officers and watchhouse officers in relation to the custody of children.

- (v) where all other reasonable alternatives have been exhausted and a child is to be held in a watch-house/police custody, the child:
 - a. is to be held for the least possible time
 - b. must be segregated from adult prisoners unless there are compelling reasons in the child’s interests (e.g. the detention of an Aboriginal or Torres Strait Islander child with Aboriginal or Torres Strait Islander adult prisoners may be safer than isolation where the child is agreeable, and the adult is of the same gender)
 - c. is to be, if detained for more than four hours, provided with materials for age-appropriate activities if available or otherwise supplied, unless any of these items constitute a security risk.
- (vi) a child in custody is to be treated/supervised in a manner that has due regard to that child’s age, level of maturity and vulnerability and is always consistent with the child’s safe custody.

- (vii) permitting daily visits by family members, legal representatives or other appropriate adults to children in watch-houses contributes significantly to the wellbeing and morale of such children.

It is unclear what constitutes reasonable alternatives in the OPM, the identification and consideration of those alternatives and by who. I see no evidence that this is done and hence there needs to be an emphasis on alternatives to watchhouses. This aside, the existing regulatory framework makes clear the States obligations when using watchhouses as places for the custody of children. The evidence highlights the known harms to children and the known workplace health and safety risks to Queensland police services staff arising from the continued policy and practice of using watchhouses to detain children and young people. Such risks should not be taken lightly given the ongoing need to override the *QHRA 2020* which the Queensland Parliament has clearly acknowledged the *Youth Justice Act 1992* be allowed to undertake the prolonged detention of young people in watch houses 'despite being incompatible with human rights.'²

Child Safe Organisations

Queensland recently passed the *Child Safe Organisations Act 2024* (the Act). The Act's primary purpose is to protect all Queensland children from harm and to promote the safety, wellbeing and best interests of children. Under the Act, the QPS is scheduled as both a Child Safe entity (refer section 10 and schedule 1) and a Reporting entity (refer section 29 and schedule 2). As a reporting entity it is critical that the QPS works collaboratively with Aboriginal and Torres Strait Islander community organisations, the Department of Youth Justice, human services professionals, advocates and children to embed the Universal Principal and the 10 Child Safe Organisation standards into watchhouse practices when children are detained and under the care and custody of the QPS.

Position

Let me be clear that children should never be detained in watchhouses or other facilities where adults are imprisoned. This position is informed by the well-known implications that such policy and practice have on both the social and emotional wellbeing of children and the workplace health and safety risks to staff. Instead of detaining children in watch houses, a clear assessment of a child's needs and circumstances should determine the most effective response. Trauma-informed care that addresses unmet needs and drivers of behaviour of children in conflict with the law must be available early and to all, regardless of where they live, or whether they have entered a guilty plea, or been found guilty. Where detention of children in watchhouses is deemed necessary for very short periods, detention practices should reflect international human rights standards, and the current governments commitment to ensure therapeutic interventions and rehabilitation. Failing to address the root causes of crime will perpetuate such behaviour and will not make Queensland communities safer.

An emphasis should be placed on keeping children connected to culture while in watchhouses. Relationships and culture are critical to children's wellbeing and to keeping them out of the youth justice system. For Aboriginal and Torres Strait Islander children, connection to culture is a protective factor and should be always prioritised regardless of the systems they may be involved in.

² See, e.g., *Youth Justice Act 1992* (Qld) ss 56, 210, 246A, 262.

Incarceration has been proven to have irreversible harmful effects, particularly on children, and it perpetuates inequalities such as a lack of consistent access to quality health, education, safety, family, and therapeutic programs that address the root causes of child offending and keep ALL members of communities safe. Overwhelmingly, it is our communities most marginalised peoples who are jailed and further risking their systemic vulnerability.

Despite this, the Queensland government suspended the state's Human Rights Act in 2023 to allow children to be detained indefinitely in police watch houses and re-introduced breach of bail as an offence and a presumption against bail for some more serious offences. Queensland's suspension of its Human Rights Act contradicts the UNCRC committee's recommendations and ignores advice from leading experts and advocates for youth justice that have continually stated that locking children in watchhouses and detention centres will not reduce recidivism nor keep the community safe.

If governments continue to ignore and not address the driving factors for offending in children, they are not only doing Queensland children a disservice, but they are also failing all Queenslanders (including victims of crime).

I note the recent findings by Deputy State Coroner Stephanie Gallagher who found watchhouses are not places that should keep adults for periods longer than 72 (no less children); citing officers were put in challenging environments because of the constrained facilities and resources provided by the State and that this situation raises concerns about the care and supervision provided in watchhouses. While the findings suggested to significantly reduce the upper limit of watchhouse detention for adults (from 21 days to 72 hours), there currently exists no upper limit for the detention of children in watchhouses.³ This highlights the discriminatory effect of current use of watchhouses for detaining children in Queensland.

The youth justice system should uphold the rights of children, keep them safe and promote their physical and mental wellbeing.⁴ Children that are detained in watchhouses are routinely denied basic rights and supports. Children's movement and exercise is restricted, family visits are unable to be facilitated in watchhouses, education is not provided or not to an optimal standard, health services are inadequate or non-existent and children are at times missing meals or, being provided with low nutrition snacks as a substitute.⁵

Children either have little privacy from each other and from adults in custody in the same facility or are isolated with little to no contact with others. Nothing about the watch house environment is rehabilitative. Instead, children in watch houses are in a constant state of fear, neglect and confusion which adds more complex layers to the trauma they have already experienced.

Again, I am appalled at my observation of a youth justice system which is increasingly not aligned to help children improve their lives. Indeed, the rights of children in conflict with the law were better upheld 2 decades ago when children could only be placed in a watch house with the approval of a senior executive, and only after efforts to find alternative accommodation had been exhausted. The following sections demonstrate how the States' perpetual over-reliance on watchhouses for the detention of children continues to place the QPS in a position that places operational practice in breach of the regulatory framework (above) and exacerbates the risks to children and staff within these complex environments. The exceptional circumstances that were cited more than 3 years ago, when

³ Section 16.17.1 of the Queensland Police Service Operation Policy Manual states the child is to be held for the least possible time

⁴ [Youth Justice Act 1992 - Queensland Legislation - Queensland Government](#)

⁵ Detention inspection report (2024) available at [Cairns and Murgon watch-houses inspection report: Focus on detention of children - Queensland Ombudsman](#)

the use of watchhouses increased because of detention centres reaching operational capacity, compounded by the COVID-19 pandemic have transitioned to become an operational norm. This has been reinforced because of numerous policy and legislative reforms that have normalised the use of watchhouses for the detention of children, for longer periods of time despite it being clear that this is not in the interests of children, nor the interests of justice.

Watchhouse data

In 2022-2023, the number of children who had spent time in police watchhouses and stations in Queensland totalled 8,119,⁶ equating to over 500 a month, with children as young as 10 spending time in adult watchhouse facilities without access to family visits, education, cultural continuity and appropriate therapeutic supports.

Close to 1,000 of these children spent five or more days in a watchhouse and 146 spent 15 or more days in a watchhouse.⁷

88 per cent of children in detention are unsentenced and have not been found guilty of an offence.⁸

Based on current capacity issues in Queensland youth detention centres and the very high numbers of children in unsentenced detention awaiting court outcomes, I am very concerned about both the short- and longer-term effects of this month's introduction of new mandatory sentencing laws. It is conceivable that if capacity in youth detention centres worsens some children who have committed lesser crimes will serve their entire sentence in a watch house. This will be counter to the current governments assumption that custody orders will be made more therapeutic.

Staff Capacity and Capability

Staff Training

*"There is limited guidance for watch-house staff on behavioural management strategies for children, and staff are not provided with specialist training geared towards working with children, let alone those with complex needs."*⁹

The above quote indicates concern over the QPS custody officers' current level of training, qualifications and expertise in identifying and responding to children who enter watchhouses in Queensland. We know that the lives of children who are in conflict with the law are often complex requiring the need for specialist, trauma informed, and culturally aware professionals to be employed in any space where a child is deprived of their liberty. I acknowledge the QPS shares this concern. The watch house environment exacerbates and compounds the effects of trauma for children and will never be a safe, rehabilitative place that allows adults to support children to address the impacts of trauma and reduce their unsafe behaviours in the community.

⁶ Children's Court of Queensland Annual Report. 2022-2023. https://www.courts.qld.gov.au/_data/assets/pdf_file/0010/786466/cc-ar-2022-2023.pdf

⁷ Children's Court of Queensland Annual Report. 2022-2023. https://www.courts.qld.gov.au/_data/assets/pdf_file/0010/786466/cc-ar-2022-2023.pdf

⁸ Children's Court of Queensland Annual Report. 2022-2023. https://www.courts.qld.gov.au/_data/assets/pdf_file/0010/786466/cc-ar-2022-2023.pdf

⁹ Detention inspection report (2024) available at [Cairns and Murgon watch-houses inspection report: Focus on detention of children - Queensland Ombudsman](#)

Assessment on Admission

I am particularly concerned about the level of training of custody staff given report findings that indicate health clinicians are not generally involved in the admission assessment processes of children.¹⁰ Children need to be safe when they are held in custody. Their admission to a watch-house must identify their individual risks and critical needs so they can be addressed. An assessment needs to be able to identify if a child:¹¹

- is at risk of self-harm or suicide
- has any critical physical health and medical needs that must be addressed
- has any mental health or cognitive impairments requiring special management.

The 2024 Cairns and Murgon watchhouse inspection report noted that the admission process at both watch-houses is inadequate. Health clinicians are not generally involved in the assessment process and the process is not specifically designed for children, including Aboriginal and Torres Strait Islander children who are disproportionately detained in both these watchhouses.¹² The QPS's Operational Procedures Manual (OPM) requires a 'fitness for custody' test but this is a brief risk assessment rather than a medical or psychological examination.¹³

The ongoing use of watchhouses to detain children maintains a situation that is dangerous for the wellbeing of children and likely to exacerbate the workplace health and safety implications on a staff population who, already manage complex environments, are not appropriately trained to recognise and respond to children with multifaceted needs including disabilities, intellectual impairments and developmental delays.

Cultural Safety

Aboriginal children and Torres Strait Islander children continue to live with the effects of colonisation and are continuously systemically marginalised, particularly in the youth justice setting. The recent QHRC review found a culture of racism existed within QPS and made 36 recommendations, including that the QPS should develop compulsory in-person training sessions to set the standard for QPS members in relation to workplace conduct and build knowledge of ways to prevent and respond to discrimination.¹⁴ The disproportionate contact of Aboriginal and Torres Strait Islander children in watchhouses presents a heightened necessity for continuous quality improvements towards cultural safety within this environment.

An Aboriginal or Torres Strait Islander child remains 25.9 times more likely than a non-Indigenous child to have been in youth detention in 2022-23 and accounted for 53 per cent of all distinct children with a proven offence finalised.¹⁵

For First Nations children detained in watch houses, their right to access culturally appropriate and safe services and legal representation is severely restricted.

¹⁰ Ibid.

¹¹ Ibid (Section 4.)

¹² Inspector of Detention Services. September 2024. *Cairns and Murgon watch-houses inspection report: Focus on detention of children*. <https://www.ombudsman.qld.gov.au/ArticleDocuments/591/Cairns%20and%20Murgon%20watch-houses%20inspection%20report%20-%20PUBLIC.PDF.aspx?embed=Y>

¹³ Queensland Police Service, *Operational Procedures Manual*, issue 102, Public edition, October 2024, chapter 16, s.13, <https://www.police.qld.gov.au/sites/default/files/2024-10/OPM-ch.16-Custody.pdf>

¹⁴ QHRC (2024) Strengthening the Service (Rec 16)

¹⁵ Children's Court Annual Report, 2023-2024 https://www.courts.qld.gov.au/_data/assets/pdf_file/0010/786466/cc-ar-2022-2023.pdf

First Nations children in watch houses are more likely to be moved further from family than non-Indigenous children. At times, First Nations children are being moved up to 1500km away from their communities and families to be held in watchhouse facilities and are often held in unsentenced detention for longer periods than non-Indigenous children.¹⁶

The Queensland Ombudsman recently found the need for more culturally and age-appropriate assessment tools to ensure the identification of the specific needs and risks associated with children. The findings outlined concerned that the policy and assessment tool police officers currently use is not designed for children.¹⁷

Health and safety of people in custody

Children in watch-houses are at risk of being separated from other children and held in conditions of isolation for extended periods, without the benefit of the safeguards that would apply to them in youth detention or adult prison.¹⁸

The UN's Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, found that isolation will exacerbate any existing mental health conditions.¹⁹ The QFCC child death review board reported the negative impact of prolonged isolation during detention which contributed to the deaths of 2 children following their release.²⁰

Children in watchhouses are routinely denied the most basic human rights and may experience irreversible psychiatric and developmental harm if placed in solitary confinement.²¹ This situation is evidenced to exacerbate negative outcomes for children with a diagnosed or suspected disability leading to the Disability Royal Commission to call on States to ban isolation practices for children with disability. I highlight the worrying gap that currently exists at admission and the lack of trained professional staff available to undertake assessments and the aggravating effect this will have on children with disability and cognitive impairments.

In Cairns watchhouse a 13-year-old boy was allegedly sexually assaulted by another older teenager. The teen accused of assault had been himself kept in the watchhouse for several weeks.²²

I fail to find any rational reason for detaining children in watchhouses when they are being accommodated in living conditions that are likely shown worsen existing health vulnerability and potentially precipitate new vulnerabilities.²³ This is a situation which will continue to heighten the risks to children and the facilities they are detained in.

¹⁶ The state of Queensland (Queensland Family and Child Commission), 2023, *Who's responsible: understanding why young people are being held longer in Queensland watch houses*, available from <https://www.qfcc.qld.gov.au/sector/monitoring-and-reviewing-systems/young-people-in-youth-justice/who's-responsible>

¹⁷ Detention inspection report (Section 4)

¹⁸ Detention inspection report (2024) available at [Cairns and Murgon watch-houses inspection report: Focus on detention of children - Queensland Ombudsman](#) (section 7)

¹⁹ United Nations, 2011, *Interim report of the Special Rapporteur of the Human Rights Council of torture and other cruel, inhuman or degrading treatment or punishment*, available from <https://digitallibrary.un.org/record/710177?ln=en#record-files-collapse-header>

²⁰ https://www.abc.net.au/news/2024-03-15/youth-detention-child-death-review-board-queensland-preventable/103589782?utm_campaign=abc_news_web&utm_content=link&utm_medium=content_shared&utm_source=abc_news_web

²¹ British Medical Association, 2018, *Joint Position Statement on solitary confinement of children and young people*, available from <https://www.bma.org.uk/media/1859/bma-solitary-confinement-in-youth-detention-joint-statement-2018.pdf>

²² Per Guardian [PressReader.com - Digital Newspaper & Magazine Subscriptions](#)

²³ See section 3 of the Detention inspection report (2024)

Children as victims of trauma

In Australia, and internationally, there is a well-established link between exposure to family and domestic violence, and children coming into conflict with the law. Links between experiences of family and domestic violence or child abuse, and child offending have been demonstrated.²⁴

Most children who spend time in adult watchhouses and youth detention centres have experienced childhood trauma and often the impacts on the child's mental health are left unaddressed. An analysis of "adverse childhood experiences" and trauma among children under youth justice supervision in South Australia (2022) found 9 in 10 children experienced a combination of maltreatment and household dysfunction.²⁵

Queensland Department of Youth Justice data showed that of the children in the youth justice system in 2023²⁶

- 44% have one or more diagnosed disabilities
- 30% are in unstable or unsuitable accommodation
- 38% have used methamphetamines in the past
- 26% have a parent who has been in custody
- 48% are not enrolled in education, training or employment.

For all children who were under youth justice supervision in 2022-23, Queensland had the highest number (1,863) and the second highest proportion (72.9%) in Australia of children who had previous contact with the child protection system in the 10 years between 1 July 2013 to 30 June 2023.²⁷ This suggests not only a breakdown in the care and guardianship provided by the state, but also that these children had experienced, or were perceived to be at risk of, neglect or abuse.

For younger children aged 10-13, Queensland had the highest number (686) nationally of children under youth justice supervision in 2022-23 who had prior interactions with the child protection system in the 10 years between 1 July 2013 to 30 June 2023.

We know that the younger a child is criminalised, the longer they are likely to spend in the youth justice system.²⁸ Raising the age of minimum criminal responsibility in line with the United Nations recommendations to 14 years old will mean more children are diverted away from the criminal justice system into therapeutic, rehabilitative supports that can address the underlying factors and prevent offending at a later stage, and fewer young children in watch houses.

²⁴ Queensland Police Service media release, *how domestic and family violence drives youth crime*, 24 June 2024, <https://mypolice.qld.gov.au/news/2024/06/24/how-domestic-and-family-violence-drives-youth-crime/#:~:text=Research%20shows%20exposure%20to%20DFV%20is%20a%20positive,been%20exposed%20to%20or%20being%20victim-survivors%20of%20DFV>.

²⁵ Malvaso C., Day A., Cale J, et al, 2022, *Adverse childhood experiences and trauma among young people in the youth justice system*, Australian Institute of Criminology, available from <https://www.aic.gov.au/sites/default/files/2022->

²⁶ Queensland Community Safety Plan https://www.qld.gov.au/data/assets/pdf_file/0029/477335/DPC9297-Community-Safety-Plan-single-pages-final.pdf?v2

²⁷ Australian Institute of Health and Welfare (2024), *Young people under youth justice supervision and their interaction with the child protection system 2022–23*, AIHW, Australian Government.

²⁸ NSW Council of Social Services, August 2024, [BOCSAR Report Shows Children are Being Criminalised for Disadvantage - NCSS - NSW Council of Social Service](https://www.ncoss.org.au/2024/08/bocsar-report-shows-children-are-being-criminalised-for-disadvantage/), <https://www.ncoss.org.au/2024/08/bocsar-report-shows-children-are-being-criminalised-for-disadvantage/>

Experts in the area have continuously said that jailing children will not reduce reoffending. This has been backed up with data from Queensland that shows more than 90% of children released from detention reoffend in the following 12 months.²⁹ There is a clear need for a holistic approach to working with children in conflict with the law that includes mechanisms to keep adults responsible for the whole life of the child across all areas of the child's life.

Recommendations

No-one, including the QPS, wants children in watch houses. There must be alternative, diversionary models for children in conflict with the law that work to keep both children and communities safer, and which take the pressure off QPS custody staff and facilities.

Strengthen the Regulatory Environment

Successive governments have continually weakened the regulatory framework which oversees children when they are in conflict with the law and demonstrated a flagrant disregard of obligations as duty bearers under international law and instruments to which Australia are signatories. At the most acute end, Queensland now treats children more harshly than adults when it comes to formal interactions with the justice system, particularly regarding the detention of children in watchhouses. Children should never be detained in watchhouses, but when they are this should be for periods no longer than 24 hours. The Queensland government must stop what appears to be becoming common, the practice of overriding the *QHRA 2020 and removing substantive protections for children*. While the emphasis has been on “toughness” against children, we would welcome a renewed commitment and urgent action to strengthen the regulatory environment and effectively protects the rights and promotes the safety of both children in watchhouses and the staff and facilities in which they are being detained.

Strengthening Oversight

The Inspector of Detention Services Bill 2021 Div 4. Ss 18 and 19 allows for independent visits to watch houses. While the performance of the QFCCs Commissioners oversight functions has not routinely nor proactively focussed on monitoring the conditions and treatment of children in, I believe that we could play a greater role in supporting an effective regulatory oversight strategy in collaboration with other statutory bodies. I would assert that this approach is necessary given the current circumstance and reasonably predictable escalation in the use of watchhouses because of recently introduced reforms. This would augment as opposed to being a duplication of the role of the Detention Inspectorate, providing additional safeguards and oversight that is focussed on the rights, safety and wellbeing of children. Given the truly exceptional nature of the circumstances where Queensland children are being accommodated in watch houses indefinitely, moving beyond any minimum assessment standards is not only justified but absolutely necessary in this instance.

As per the inspection standards for Queensland youth detention centres I propose that visits would involve

- engagement with detained young people
- citing copies of service logs (to review what services are being provided to children and by whom)

²⁹ Productivity Commission Report on Government Services- Youth Justice, 2024, <https://www.pc.gov.au/ongoing/report-on-government-services/2024/community-services/youth-justice>

- assessing the adequacy of external support in terms of meeting the needs and upholding the rights of children and young people, including health, education, mental health and disability support, access to legal representation and family and cultural connection.

Under such arrangements, I would provide summary reports at agreed points (e.g. monthly or bi-monthly) to the Inspector of Detention Services or based on any identified, reportable concerns.

Strengthen Child Safe Capability

Queensland recently passed the *Child Safe Organisations Act 2024* (the Act). The Act's primary purpose is to protect all Queensland children from harm and to promote the safety, wellbeing and best interests of children. Under the Act, the QPS is scheduled as both a Child Safe entity (refer section 10 and schedule 1) and a Reporting entity (refer section 29 and schedule 2). Given the known risks to children in watchhouses it will be important for the QPS to uphold the Child Safe Organisation principles into watchhouse practices whenever children are detained there.

As it seems likely that watch houses will fall under reportable conduct provisions in the Act (stated above) the QPS must take this opportunity to ensure that children are not harmed while in a watch house or police station. Under the present circumstances I am concerned the QPS would find itself at constant risk of being reported under s.26 of the Act.

Strengthening Admissions Assessment

Currently in Queensland there is no way for children in the youth justice system who have been diagnosed with an intellectual impairment or developmental delay to be exited from the criminal system into health or disability support. Children with developmental disorders, or disabilities should not be in the youth justice system at all. There are fundamental capacity issues at play that continue to be disregarded in children's interactions with the justice system. This must be addressed.

I share the Inspector of Detention Services' concerns that the deficiencies in the admissions process may mean certain complex needs are being missed. This is leading to a failure to identify significant health or medical issues that lead to children being denied proper assessment and treatment by qualified health practitioners. Failing to identify significant cognitive issues may expose very vulnerable children to harm, for example, from those with whom they share a cell. The failure to identify a serious self-harm risk may also have dire consequences.

This situation is also likely contributing to Youth Justice prioritisation decisions for admission to a youth detention centre being made with incomplete or incorrect information due to the police admission assessment process not identifying complex needs.

While children's rights to safety are my paramount concern, I do also want to highlight the probable workplace health and safety issues that arise for undertrained and ill-equipped QPS officers managing such complexity. It is an entirely unreasonable expectation, and the outcomes are likely harmful for all involved.

It is imperative that Queensland Police implement Recommendations 3-6 of the Cairns and Murgon watchhouse inspection Report across the State.³⁰

³⁰ Detention inspection report (2024) available at [Cairns and Murgon watch-houses inspection report: Focus on detention of children - Queensland Ombudsman](#) (section 4)

Alternative Accommodations

A systemic approach to prevention also includes closing pathways into the child justice system through the decriminalisation of offences which often are the result of poverty, homelessness, health vulnerability or family violence.³¹ The use of detention, especially watchhouses, should never been seen as a diversionary measure.³²

In the short term the government should commit to previously recommended alternatives to watchhouse detention including:

- Temporary, immediate accommodation at youth detention centres. While temporary structures are certainly not ideal, anything must be better than the travesty of holding kids in the conditions of a watch house.
- Transporting kids from the watch house each day to and from Brisbane Youth Detention centre, where they can at least access fresh air, proper health care, appropriate education and psychological support.
- Reinstating previously scrapped youth bail houses which the Ernst and Young evaluation found had provided safe, secure and stable accommodation with wrap-around services for young people. While the evaluation also found 85% of young people re-offending after leaving the accommodation the outcomes of the evaluation suggest that reoffending was most likely contributed to be ongoing social vulnerabilities and highlighted the necessity for longer-term support after leaving custody.

I would reiterate that these suggestions are short-term and provide a stop gap while the current government implements its response to a gold-standard prevention and early intervention program. Such long-term alternatives to accommodate children who are currently being detained in a watchhouse should:

- Stop the pipeline of children entering the youth justice system via child protection pathways.
- Uphold the right for parents to provide the primary care for children by establishing mechanisms for swift release of children to parents or appropriate adults.
- Ensure scaled-up investment in community-based services which are child and family centered, meet the needs of the community, deal with the social determinants of health and are culturally safe.
- Supported by a transformational youth strategy that changes the paradigm through which our society currently views children to safeguard accountability to our Community and our Children.

More Coherent Youth Strategy

In early 2024, I contributed a submission to the *Putting Queensland Kids First Strategy* consultation highlighting that in policy, budgets and services, children are consistently overlooked and unheard, dealt with by responses designed primarily for adults, or responded to through uncoordinated and fragmented approaches that do not holistically recognise or respect their rights and unique experiences and needs.

Governments should be informed by experts and children themselves and understand children holistically in the various contexts of their families, schools, communities, no matter where they are and what systems they may be involved in.

³¹ UNCRC General Comment 24 [para 12]

³² Ibid. [para 18 (e)]

A coordinated approach with clear accountability mechanisms and transparency to working with children in conflict with the law with evidence based, long term frameworks and commitments must be established if we are to keep Queensland communities safe and children out of watch houses.

Close the Gap

The Productivity Commission released a report in 2024 that clearly shows Australia and Queensland are not on track to meet several Closing the Gap targets, particularly Target 11 - reducing the rate of Aboriginal and Torres Strait Islander children in detention by at least 30 per cent by 2031.³³ The laws and amendments introduced in 2023 are seeing First Nations children spend longer in watchhouses and prisons making the Government's commitment to the Closing the Gap agreement harder to achieve.

The need to redress structural racism are consistent with the commitments contained in Closing the Gap (CtG). Previous research has found that racism is a unique determinant of health outcomes for Aboriginal people and cannot be attributed to any other specific risk factor such as socio-economic status.³⁴ Yet there continues to be a lack of evidence that whole-of-government or whole-of-organisation strategies aimed at driving and delivering the elimination of structural racism and unconscious bias are being progressed:

*We are yet to identify a government organisation that has articulated a clear vision for what transformation looks like, adopted a strategy to achieve that vision, and tracked the impact of actions within the organisation (and in the services that it funds) toward that vision.*³⁵

The Productivity Commission clearly articulates that government organisations [QPS] in articulating the need to start more strategic actions which create culturally safe environments capable of realising outcomes where Aboriginal and Torres Strait Islander peoples experience equal [justice] outcomes.³⁶ Queensland's failure to find a meaningful long term solution to the use of watchhouses is ultimately a commitment to see Aboriginal and Torres Strait Islander children as collateral damage in the war on youth crime approach.

Conclusion

Civil society and human rights organisations have provided clear, consistent, evidence based and unequivocal advice that children should never be detained in watchhouses. The measures further discriminate and over-criminalise children. The measures will exacerbate the existing overrepresentation of First Nations children, disregard children's developmental rights, erode procedural safeguards, fail to address the root causes of crime and will not result in increased community safety. Should the Queensland Government proceed continue with the ongoing use of watchhouse in contravention of the *QHRA 2020* there must be corresponding and immediate efforts to strengthen and clarify quality of those areas recommended above.

³³ Productivity Commission, 2024. *Review of the National Agreement on Closing the Gap*, study report. <https://www.pc.gov.au/inquiries/completed/closing-the-gap-review/report>

³⁴ Markwick, A., Ansari, Z., Clinch, D., & McNeil, J. (2019). Experiences of racism among Aboriginal and Torres Strait Islander adults living in the Australian state of Victoria: a cross-sectional population-based study. *BMC Public Health*, 19, 1-14.

³⁵ Australian Government (2024). Productivity Commission Review of the National Agreement on Closing the Gap (P.5).

³⁶ Australian Government (2024). Productivity Commission Review of the National Agreement on Closing the Gap (P.9).