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Making Queensland Safer Initiatives

Commissioner Natalie Lewis
Queensland Family and Child Commission



Queensland
Family & Child
Commission





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 offer advice on the Government's proposed early intervention implementation programs. Although there is limited information so far about the programs and related tendering process, and a very limited timeframe allocated for this consultation, I strongly urge the path forward to be informed by the wealth of existing evidence of good practice in youth justice prevention and early intervention. There is significant research and expertise available, and evidence from existing community-based programs and services that should be incorporated into the decision-making process to ensure the Government's approach is both effective and grounded in proven strategies.

Previous approaches by multiple governments have attempted to establish new narratives while implementing the same old ideas. It is of the utmost importance that we land on a clear and objective approach to defining and measuring exactly what gold standard early intervention is within the youth justice context.

A gold standard early intervention approach must be rights respecting and occur early in a child's life, as well as early in any offending trajectory. It must deal with the whole of a child's life and consider and respond to the root causes that push children, and young people towards contact with the youth justice system. Critically, engagement in program responses under the banner of prevention or early intervention must never serve to facilitate or expedite a young persons entrenchment within the statutory system as a result of net widening. Program integrity and fidelity must be preserved through rigorous monitoring and evaluation throughout the entire process.

As 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 continue to advocate for more effective investment from the Queensland government to address the individual, social and economic dimensions of childhood that will help prevent or mitigate the factors leading to children entering the youth justice system.

The Queensland youth justice system continues to disproportionately affect Aboriginal and Torres Strait Islander children and young people. So great is their disproportionate presence in this system, that if gold standard early intervention focussed solely on reducing over-representation, this outcome alone would significantly change the state of youth justice in Queensland.

The limited time offered to provide feedback is also insufficient to engage with children, young people, their families and communities about what would work for them. I strongly advocate for genuine engagement and collaboration with First Nations children, families and communities. Without this, new initiatives will fail.

Scope

The Government has yet to present its framework for objectively identifying what would be a Gold Standard intervention and how the success of these Gold Standard early interventions will then be measured. I am concerned that old programs are not simply rebranded as new under this scheme. The evidence is clear that criminogenic responses alone will not reduce crime, increase community safety and create an effective youth justice system.

Therefore, the feedback will:

- Not respond to individual programs or initiatives
- present a clear framework within which program and/or initiative development, procurement, implementation and evaluation should be considered
- focus solely on Aboriginal and Torres Strait Islander children and young people

Principles

Children and young people have their own stories, experiences and expertise and collectively, we must create the conditions to enable them to exercise their agency ensuring, ultimately, that those impacted by systems play a role in improving them. A rights-based approach helps us to reframe Queensland's relationship with its' children – rather than children being simply passive, powerless, needing protection and subject to adults' interpretations of 'what's best'. When we do this thoroughly and together, we are growing our Rights-based approach for every Queenslanders. This doesn't discount the need for adult action and protection as duty bearers. These need to be balanced for our children and young people to flourish and active participants in creating Queensland communities in which we can all feel safe, valued and hopeful.

The FNCRA accepts that several human rights principles are a necessary pre-condition to the meaningful development and safe implementation of effective child related policy:

- Every Child: children's rights are universal - all rights are equally held by all children
- Every Right: children's rights are indivisible and interdependent – the denial of one right weakens other rights
- Every Time: children's rights are inalienable – these rights cannot be taken away or given up.

The following guiding principles offer a clear framework for objectively identifying what would be considered a 'gold standard' intervention.

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) right to self-determination:

- The United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) defines self-determination as the right to autonomy and self-government, the right to freely determine ones' own political status and to freely pursue economic, social and cultural development.¹
- The principle of self-determination has been described as the most fundamental of all human rights for Indigenous Peoples.²
- Self-determination has particular significance for Indigenous Peoples around the world, given their historic and contemporary exclusion from decision-making through the experiences of colonisation, dispossession, and paternalism. Self-determination reflects the aspirations of Indigenous Peoples worldwide to be 'in control of their own destinies under conditions of equality, and to participate effectively in decision-making that affects them'.³
- Self-determination is an inherent right of all Indigenous Peoples. Indigenous families and communities have the right to decide on their own futures. Self-determination should not be constrained by any one definition or understanding as it can mean different things to different communities. Culturally safe organisations do not attempt to own self-determination, but instead actively support and empower Aboriginal and Torres Strait Islander peoples through the provision of a culturally safe enabling environment.⁴

The United Nations Convention on the Rights of the Child (UNCRC)⁵:

- **Non-discrimination (Article 2):** All children have all these rights, no matter who they are, where they live, what language they speak, what their religion is, what they think, what they look like, if they are a boy or girl, if they have a disability, if they are rich or poor, and no matter who their parents or families are or what their parents or families believe or do. No child should be treated unfairly for any reason.
- **Devotion to the best interests of the child (Article 3):** When adults make decisions, they should think about how their decisions will affect children. All adults should do what is best for children. Governments should make sure children are protected and looked after by their parents, or by other people when this is needed. Governments should make sure that people and places responsible for looking after children are doing a good job.
- **The right to life, survival and development (Article 6):** Every child has the inherent right to life and Governments must ensure to the maximum extent possible the survival and development of the child.
- **Respect for the views of the child (Article 12):** Children have the right to give their opinions freely on issues that affect them. Adults should listen and take children seriously.

¹ UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: adopted by the General Assembly, 2 October 2007, A/RES/61/295. Retrieved from https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf

² Ibid

³ Dixon, M., Shelton, B.L., Roubideaux, Y., Mather, D., and Smith, C.M. (1998) *Tribal Perspectives on Indian Self-determination and Self-governance in Health Care Management*. Volume 1. Denver, Colorado: National Indian Health Board.

⁴ Gregory Phillips, (2015). *Dancing With Power: Aboriginal Health, Cultural Safety and Medical Education*. PhD thesis.

⁵ UNICEF, United Nations Convention on the Rights of the Child, 1989, available from https://www.unicef.org.au/united-nations-convention-on-the-rights-of-the-child?srsltid=AfmBOooM5KizQVZPhIpRrQO4Rm08acNj8WLY3oFgXMFiw_VJsfGsg

- **Valuing the guiding family and community relationships (Article 5):** Governments should respect and value the role of families and communities in guiding and supporting their children so that, as they grow up, they learn to exercise their rights and develop an understanding of individual and collective responsibilities.

These principles should inform policy decisions, program design, procurement processes and evaluation. Translating these principles into practice requires leadership by government. It also requires legislation compatible with the United Nations Convention on the Rights of the Child, a comprehensive rights affirming policy agenda and permanent mechanisms to promote coordination and monitoring. Making children involved with the system visible in policy development and program design to reform the system is achievable through quality participatory processes and the use of mechanisms such as child rights impact assessments. The First Nations and Child Rights Advocacy team that I lead at the QFCC is well placed and willing to support this work in line with our enduring commitment to improve outcomes for Aboriginal and Torres Strait Islander children and young people in Queensland.

Background

In Queensland, First Nations children aged 10-17 represent approximately 8% of Queensland's population of 10–17-year-olds. However, despite being a small portion of the youth population, data shows they represent:

- 45-55% of the children held in Qld watch houses each day
- 55% of children in the statutory youth justice system
- 70% of children in youth detention.

First Nations children are over-represented in arrests and are 14 times more likely to have a proven offence.

First Nations children are also:

- 48% of children in the child protection system
- 15% of the children being suspended or excluded from school (the average is 7.5%).
- 33% of all suspensions and exclusions when the child also has a disability and lives in out-of-home care

It is crucial that early intervention and prevention focuses not merely on diversion at the edges of the youth justice system but on providing early and consistent health, disability and learning support for First Nations families, especially in regional and remote Queensland.

To ensure the new investment in initiatives will address youth offending effectively, First Nations children and their communities must be at the forefront of program design, implementation and evaluation.

Definition of early intervention

Child rights-based approach to youth justice

A rights-based approach to youth justice offers a solution that not only effectively reduces crime but also provides long-term solutions to offending behaviours. It is more cost-effective than punitive measures and helps build public confidence in the justice system as well as increase community safety.

As the government develops policy and designs programs it is important that they have a clear focus on the children and young people most affected by the policy and programs.

Gold standard early intervention starts early in life (birth) not just early in the offending trajectory. We continuously advocate for a holistic and collaborative approach to youth justice that focuses on early intervention and family support, addresses the key risk factors for youth offending behaviours and recognises that for many children and young people they themselves are victims – as well as being financially disadvantaged, they experience higher rates of domestic and family violence and higher rates of abuse and subsequent removal by child protection. A youth justice response will not address those risk factors and therefore not reduce youth offending.

Taking a child rights approach acknowledges the key elements of early intervention should focus on:

- (I) age
- (II) specific to Aboriginal and Torres Strait Islander children
- (III) place - consider the specific context of any program or intervention
- (IV) relationships that build trust and confidence with communities; and
- (V) self-determining – led and implemented by Aboriginal and Torres Strait Islander community and the organisations that represent them
- (VI) focussed primarily upon redressing the drivers of offending behaviour by addressing the inequities in terms of access to universal, targeted and specialist supports that children and their families need
- (VII) each of the above domains should be based on reliable evidence in the design of any program or initiative.

Core considerations

Cultural Safety

The Productivity Commission clearly articulates that government organisations and the services they fund must start to undertake the strategic transformational change necessary to create culturally safe environments capable of realising Aboriginal and Torres Strait Islander peoples experience of equal life outcomes.⁶

Cultural safety values justice and refers to the need to redress racism and unconscious bias within the enabling environment delivering policy and services to Aboriginal and Torres Strait Islander Peoples (e.g., systems, policies, resourcing, evaluation, etc.). The need to redress structural racism are consistent with the commitments contained in the Closing the Gap Agreement (CtG). Previous research has found that racism is a unique determinant of health outcomes for Aboriginal and Torres Strait Islander peoples and cannot be attributed to any other specific risk factor such as socio-economic status.⁷ This means that efforts to address offending behaviour

⁶ Australian Government (2024). Productivity Commission Review of the National Agreement on Closing the Gap (P.9).

⁷ 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.

from Aboriginal and Torres Strait Islander children or young people, that does not address the root causes of the behaviour, is unlikely to achieve its intent.

Cultural safety is about applying a more strategically transformational approach to establishing a safe, enabling environment for Aboriginal and Torres Strait Islander children. This safe, enabling environment includes actions at the individual and institutional level, is transparent, accountable, and concerned with continuous quality improvement, and grounded in Aboriginal and Torres Strait Islander paradigms. Paradigm in this sense is about the frameworks through which Aboriginal and Torres Strait Islander worldviews might be understood, shaped by those ways of knowing, being and doing which are distinctive and vital to their existence and survival. These paradigms are specific to place, recognise the historical and political context, are deeply relational and grounded in spiritual inter-relatedness and interdependence with whole-of-environment. Approached in this way, cultural safety is a decolonising process that considers early intervention as simple justice, rather than as a case of special treatment or as trying to 'close the gap' using a deficit lens and individualised models.

Self-determination

Self-determination for Aboriginal and Torres Strait Islander Peoples to create and reinstate communities of care and cultural authority marks a key point of difference between the system that exists and the system that is required. Knowledge of their connection to extended family, community, Country and culture is also proven to be supportive of First Nations children's sense of identity and ability to build a pro-social role for themselves.⁸

One important aspect of self-determination requires the adoption of a place-based approach. Place-based refers to empowering communities to identify and respond to the unique high-risk behaviours present in their communities. For example, the justice reinvestment project in Bourke, NSW, has achieved significant reduction in youth offending and cost savings.⁹

A further example of Justice Reinvestment exists in Doomadgee.¹⁰ Gunawuna Jungai has been established to put First Nations rights at the forefront in the following ways:

- Ensure culture is at the centre of programs delivered in the community
- Community plays the lead role in design and delivery and endorsement of services such as health, housing, disability, education and youth justice
- Forge new partnerships with governments
- stop organisations from copying and pasting programs with weak KPIs into the community and help foster services that delivered tangible results.

Social and Emotional Wellbeing (SEWB)

⁸ Dudgeon, Blustein, Bray, Calma, McPhee and Ring, 2021, Connection between family, kinship and social and emotional wellbeing, <https://www.indigenoumhspsc.gov.au/getattachment/e129c621-58a4-4966-8730-dcf6e3a533a8/dudgeon-et-al-2021-family-kinship.pdf?v=1758>, AIHW.

⁹ [KPMG Report shows changes in Bourke had economic impact of \\$3.1m in 2017 & estimates \\$7m additional over 5 years - JustReinvest NSW](#)

¹⁰ <https://jungai.com.au/doomadgee-aboriginal-organisation/>

The importance of SEWB to any Gold Standard early intervention is paramount to upholding rights to self-determination. Western terms such as mental health/illness have been historically used to inappropriately report on the wellbeing of Indigenous people.¹¹ Any ability to appropriately respond to the needs of Aboriginal and Torres Strait Islander Peoples must necessarily be through an understanding of Aboriginal and Torres Strait Islander paradigms. And, specifically, in this context, our historical and contemporary experiences of injustice and the significant barriers that exist regarding access to justice for Aboriginal and Torres Strait Islander children and young people, shaped by both individual and collective experiences.

Aboriginal and Torres Strait Islander SEWB explores the domains that comprise Aboriginal and Torres Strait Islander perspectives about health, while also considering the historical, political, and social framework within which it exists. The following definition of Aboriginal health highlights this:

*The Aboriginal concept of health is holistic, encompassing mental health and physical, cultural and spiritual health. Land is central to wellbeing. This holistic concept does not merely refer to the “whole body” but in fact is steeped in the harmonised inter-relations which constitute cultural wellbeing. These inter-relating factors can be categorised as largely spiritual, environmental, ideological, political, social, economic, mental and physical. Crucially, it must be understood that when the harmony of these interrelations is disrupted, Aboriginal ill health will persist.*¹²

SEWB for Aboriginal and Torres Strait Islander Peoples can be understood as the healthy connections to the seven inter-related domains of the body, mind and emotions, family and kinship, community, culture, Country, and spirituality that support thriving individuals, families, and communities. For individuals, the experience and expression of the domains of SEWB can vary across the life span and between communities.¹³

Importantly, the SEWB framework upholds an Indigenous worldview of the self as inseparable from and embedded with the whole. That is, individualised responses to children that do not consider the existing needs of a family or community, may have limited benefit for the individual.

Accountability

Responsibility for improvements in this space extends beyond Ministerial portfolios, Government Departments and funded service providers. Similarly, the accountabilities are multidirectional and must be clearly articulated. There must be a clear and unapologetic orientation towards meaningful and measurable outcomes – for children and families engaging in programs, for the communities that they are connected to and for victims, impacted by crime. Accountability must also extend to all parties adhering to the agreed principles that underpin the *practice* of partnership.

¹¹ Dudgeon, Rickwood, Garvey & Gridley, (2014).

¹² Swan & Raphael, (1995, p. 19).

¹³ Dudgeon, Cox et al., (2014).

As government commences funding the implementing organisations, accountability must be assured from

- Government to the implementing partner
- Government to children and communities
- implementing partner and the children they work with
- implementing partner and Government

Procurement

All successful tenders must be able to demonstrate a genuinely outcomes-based approach (versus activity-based reporting) and be measured accordingly.

Given the disproportionate representation of First Nations children in youth justice, offers from Aboriginal and Torres Strait Islander community-controlled organisations (ATSICCOs) must be proactively sought.

We note that In September 2024, Allies for Children organisations (including Act for Kids, Barnardos Australia, Life Without Barriers, OzChild, Mackillop Family Services, Key Assets and the Benevolent Society) made a commitment to transition care of Aboriginal and Torres Strait Islander children to community-controlled organisations because:

“...Aboriginal and Torres Strait Islander children are best supported by ACCOs.”¹⁴

This is a tacit acknowledgement that non-Indigenous organisations have in the past won tenders to work with First Nations communities but, lacking the necessary capability, relationships and skill sets, then sought help from those same communities without sufficient recognition or compensation. All future investment must be flipped to prioritise First Nations-led organisations, with other organisations as minor partners, or establishment capital provided, where necessary.

All tendering processes must be accountable and transparent so the community can understand why one group was supported rather than another and substantive feedback can be provided to unsuccessful tenderers so they can work on improvements for future success.

Community of Practice

Establishing a community of practice across the Queensland government’s investment into gold standard early intervention would promote best practice. It would also establish long term continuous learning and knowledge sharing across the sector that would transcend the political cycle. Such practice would also include regularly engaging children and families. Children need to be central in evaluating initiatives and determining what is effective in improving their lives. Success measures for programs should also include children’s perspectives and lived experiences.

¹⁴ Life Without Barriers, 2024, available from [Historic commitment amplifies support for self-determination and ACCOs | Life Without Barriers](#)

Data Sovereignty

In the context of accountability within youth justice and early intervention, data indicators must measure what is important and meaningful for the Aboriginal and Torres Strait Islander Peoples to whom those data relate. Data Sovereignty is therefore about data that can tell the stories of who Aboriginal and Torres Strait Islanders are as Peoples, at multiple levels of disaggregation and how they want to be known, to both the nation state and to themselves. This ensures solutions are evaluated for their ability to meet the needs of children and young people and their communities. The governance of data is essential for nation building, to support Aboriginal and Torres Strait Islander controlled policy, and program needs and to evaluate their efficacy.¹⁵

The foundation of Indigenous Data Sovereignty affirms the rights of Indigenous Peoples to control every level of data¹⁶:

- development of indicators and measures
- collection methodology
- access
- analysis and interpretation
- governance
- distribution and reuse

Gold standard approaches to develop data must move beyond simplified rationalisations that serve only organisational objectives in an acknowledgement that the continuation of such approaches do nothing more than maintain the deeply political relationship between non-Indigenous organisations and Aboriginal and Torres Strait Islander Peoples.

Case Study/Example

Education

I note the Gold Standard early intervention funding is forecast to include schools. The government's tough on crime position comes with a duty of care to keep children engaged in education and disrupt a trajectory from disengagement to incarceration.

Work conducted by my team in 2024 indicated that schools need to better support children living with a disability, children living in out-of-home care and First Nations children. It is these three cohorts and their intersection, that are overrepresented in Education student disciplinary absences (suspensions and exclusions or SDAs) and also the youth justice system. Over one quarter of children in Queensland schools living in out-of-home care experience an SDA, 15% of First Nations children and 14% of children living with a disability. Too often there is a commencing assumption that these children do not or cannot have high educational aspirations. This is a bias that needs to be removed from all forms and levels of education.

¹⁵ Kukutai, T., & Taylor, J. (2016). *Indigenous data sovereignty: Toward an agenda*. ANU press.

¹⁶ Ibid

As outlined under the “Principles” section above, children and young people have their own stories, experiences and expertise and must have the agency to use their voice to improve decisions and systems that affect them. What we learned from speaking with children, young people and parents who had experienced an SDA was:

- SDAs had a highly detrimental effect on students' learning, even more so because most children being suspended or excluded were already struggling with learning
- insufficient learning support before the SDA often led to the behaviour that resulted in the SDA
- inadequate learning support was offered to students during and after the SDA
- family and community play a critical role in supporting students' educational engagement and attainment, and these voices must be heard by the school and by the government.

Better funding and teacher education may be needed to achieve this but should be attached to strong accountability measures that assess educational outcomes, not just attendance. Children living with a disability have the right to an education that will support their fullest possible social integration. Similarly, children living in out-of-home care are entitled to special protection and assistance that provides continuity of care.

For First Nations children and families, school systems need to be culturally safe places (curricula that fully integrates First Nations matters would be beneficial here) and a place where relationships between schools and family and community are nurtured. The development of Aboriginal and Torres Strait Islander community-controlled schools should be supported wherever communities wish to take this step.

While the separate Youth Justice schools and crime prevention schools do not appear to be part of this phase of consultation, I will briefly note that a 2015 evaluation of boot camps found that children’s education would be better supported within the mainstream system, with other children from a variety of backgrounds.¹⁷ This can work in an educational environment that is appropriately resourced to keep children engaged in learning and includes the non-discriminatory and supportive elements outlined above.

¹⁷ KPMG, 2015, Final report for the evaluation of Queensland’s youth boot camps, available from <https://www.publications.qld.gov.au/dataset/final-report-for-the-evaluation-of-queenslands-youth-boot-camps/resource/a654be83-cd7f-43b3-b6cd-cdf2c9c8b48d>