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15 November 2023

Committee Secretary
Youth Justice Reform Select Committee
Parliament House
George Street
Brisbane Qld 4000

**By email:** youthjustice@parliament.qld.gov.au

Dear Committee Secretary

**Youth justice reform in Queensland**

Thank you for the opportunity to make written submissions prior to public hearings to commence on 22 November 2023.

As requested, this brief submission focuses on:

* Aspects of the terms of reference relevant to the work of the Queensland Human Rights Commission (the Commission); and
* Based on this work, the Commission’s views on how the current youth justice system may be improved to better protect children and young people, and the community.

The Commission may, in addition, prepare a further submission on the terms of reference which is due on 10 January 2024.

**The Commission’s role**

The Commission is an independent statutory authority with functions under the *Anti-Discrimination Act 1991* and *Human Rights Act 2019* (‘Human Rights Act’), which include:

* dealing with complaints of discrimination, sexual harassment, vilification, reprisal (under the *Public Interest Disclosure Act 2009*), and breaches of the Human Rights Act;
* reviewing public entities’ policies, programs, procedures, practices and services in relation to their compatibility with human rights;
* promoting an understanding, acceptance, and public discussion of human rights and the Human Rights Act in Queensland; and
* providing education about human rights and the Human Rights Act.

In carrying out these functions the Commission is concerned with the human rights of all people in Queensland — including those impacted by crime and those accused or convicted of crime. The Commission has given detailed consideration to human rights concerns relating to the youth justice system, and in relation to support provided to victims of crime, and has made regular submissions to Government, parliamentary committees, and justice agencies on these issues.

**Focus on reducing incarceration and reoffending**

The Commission appreciates the serious community concern that surrounds the issue of youth crime in Queensland. However, as the Commission has noted in previous submissions, ‘tough on crime’ programs and measures, that are reactive to crimes already committed, are not effective in rehabilitating children and reducing recidivism.

In this context, the best outcome for victims, young offenders and the broader community will be achieved by initiatives that reduce reoffending and incarceration — by tackling the causes and consequences of youth crime.

This is consistent with human rights obligations that emphasise that children should only ever be arrested, detained, or imprisoned as a measure of last resort, for the shortest period of time, and that all efforts should be made to apply alternative measures.[[1]](#footnote-2) It is consistent with protecting and promoting the human rights of all members of the public (in relation to, for example, the right to life, the right to security of the person, and the right to property), by reducing offending and recidivism over time. In addition, it promotes the rights of young people who may otherwise end up cycling in and out of detention to equality, to culture, to education, and to health.[[2]](#footnote-3)

The Commission has consistently referred back to the *Report on Youth Justice* (2018) by former police Commissioner Bob Atkinson on the Queensland Government’s progress on youth justice reforms and other measures to reduce recidivism (2018 Atkinson report).[[3]](#footnote-4) The report identified common features of children and young people in the youth justice system,[[4]](#footnote-5) and system deficits that contribute to initial and repeated contact with it.[[5]](#footnote-6) In response, it recommended the Queensland Government adopt as its policy position for youth justice the objectives of: intervening early, keeping children out of court, keeping children out of custody, and reducing reoffending (referred to as the ‘four pillars’) bookended by the principles of public safety and community confidence.

The objective of keeping children out of custody is also consistent with findings and recommendations of the Australian Law Reform Commission’s *Pathways to Justice* report (2017), made to both Commonwealth and State governments in relation to adults in the justice system. This included recommendations to support and develop justice reinvestment programs, reform bail, and improve access to community-based sentencing, particularly in remote areas.[[6]](#footnote-7)

The 2018 Atkinson report formed the basis of Queensland’s Youth Justice Strategy and Action Plan.[[7]](#footnote-8) However, since then a ‘tough on crime’ approach has diluted the effectiveness of the strategy recommended by Atkinson. The Government has:

* made legislative amendments in 2020 which limit a judge’s discretion to grant bail to a child, which were passed without parliamentary committee scrutiny;
* made legislative amendments in 2021 which introduce a presumption against bail for certain offences;
* announced in December 2022 ten new measures to fight youth crime, including increasing penalties, extreme high visibility police patrols and a fast-track sentencing program ‘so children spend less time on remand and more time serving their sentences’;
* made legislative amendments in February 2023 which made breach of bail an offence, and amended laws in relation to serious repeat offenders. These amendments override the application of the Human Rights Act, and will expire in March 2028;
* made further legislative amendments in August 2023, without parliamentary committee scrutiny, which allow for the declaration of watchhouses as youth detention centres and to which obligations under the Human Rights Act do not apply. The amendments, which override the application of the Human Rights Act, expire on 31 December 2026.

At the same time, the only announced, coordinated Government action taken to meet the rights and needs of children and young people has been to build more capacity in youth detention centres, and to convert an existing watchhouse and build a new remand centre to detain young people until there is further capacity in youth detention centres. The shift to a renewed focus on detention contributes to serious psychological and other harms for children and young people, and does not contribute to the long-term safety of the community.[[8]](#footnote-9)

**Work undertaken by the Commission**

A timeline of events concerning Queensland youth justice issues is annexed to this submission.

The Commission’s work has included:

1. Of significant and ongoing concern to the Commission is the increasing use of watch houses for the prolonged detention of children and young people while they await bail or placement at a youth detention centre, including children as young as 11. The Commission has highlighted these concerns through public submissions and media,[[9]](#footnote-10) and by engaging with relevant agencies directly (including in relation to transparency of watchhouse data, provision of services to detained young people, and design of new facilities to ameliorate the most immediate human rights concerns with watchhouse detention).
2. Conducting visits to watchhouses and youth detention centres.
3. Collaborating with other oversight agencies on issues affecting young people in the youth justice system, including the Queensland Family and Child Commission, the First Nations Justice Officer, the Office of the Public Guardian, the Queensland Ombudsman, the Inspector of Detention Services, the Queensland Audit Office, and the Australian Children’s Commissioner.[[10]](#footnote-11)
4. Participating in the Queensland Legal Affairs and Safety Committee’s Inquiry into support provided to victims of crime, and meeting with the Interim Victims’ Commissioner to discuss victims’ rights and interests in the context of responses to youth offending.[[11]](#footnote-12)
5. Advocating for an independent review of Queensland state school’s high rates of disciplinary school absences in which children with disability, First Nations children and children in out of home care are over-represented, as well as ongoing engagement related work, such as the targeted review of the *Education (General Provisions) Act 2006*, the review of the non state schools accreditation framework, and consideration of the recommendations of the Disability Royal Commission in relation to inclusive education.[[12]](#footnote-13)
6. Receiving complaints from young people in detention under the Human Rights Act and the Anti-Discrimination Act*.*
7. Intervening in court cases to provide independent expertise on the application of the Human Rights Act, such as in *Youth Empowered Towards Independence Incorporated v Commissioner of Queensland Police Service & Anor* [2023] QSC 174.
8. Engaging with the Australian Productivity Commission in relation to the review of the National Agreement on Closing the Gap.[[13]](#footnote-14)
9. Making submissions on the human rights implications of proposed legislative amendments, and supporting calls to raise the age of criminal responsibility.[[14]](#footnote-15)

**Key focus areas for reform**

On the basis of its work, the Commission suggests the following as key areas of focus, relevant to the Committee’s Terms of Reference, to ensure that the youth justice system better protects children and young people, and the community, while being consistent with human rights standards:

1. Renewed and demonstrated commitment to a whole of government, long-term human rights-based approach to youth justice that meaningfully addresses the causes of youth offending. This could be driven by the appointment of a Minister for Children with a stand-alone department that has sufficient authority to co-ordinate strategies across multiple portfolios, or alternatively the Department of the Premier and Cabinet should take on this co-ordinating function.
2. A coordinated Statewide media strategy to promote and support the four pillars policy position.[[15]](#footnote-16)
3. Genuine consultation with children and their families, including any groups who are over-represented in the youth justice system, including First Nations communities and people with disability.
4. Genuine consultation with victims of youth crime, their enhanced participation in youth justice processes, and review of the extent to which their rights are adequately protected under the Human Rights Act as part of its first statutory review.
5. Reform and provision of resources required to keep children in school, including by reducing the use of suspensions and exclusions.[[16]](#footnote-17)
6. Support for and expanding existing evidence-based diversion and reduction of reoffending programs.
7. Support for further justice reinvestment trials, including trials initiated in partnership with First Nations communities, in coordination with the Commonwealth National Justice Reinvestment Unit.[[17]](#footnote-18)
8. Repeal of amendments to the *Bail Act 1980, Police Powers and Responsibilities Act 2000* and *Youth Justice Act 1992*, including the offence of breach of bail applicable to children, to reduce the number of children and young people detained on remand.[[18]](#footnote-19)
9. Repeal of amendments to the *Youth Justice Act 1992* and *Police Powers and Responsibilities Act 2000* overriding the Human Rights Act to authorise prolonged detention of children in watch houses.[[19]](#footnote-20)
10. Providing greater transparency, including though publicly available real-time data on rates of detention of young people in watch houses.
11. Raising the minimum age of criminal responsibility to 14 years.[[20]](#footnote-21)
12. Ensuring that no child or young person is held in a watch house for more than 24 hours, and that any facility used to detain children and young people on remand meets minimum international standards specific to the pre-trial detention of children and young people.
13. Ensuring adequate staffing of existing youth detention facilities to enable children to receive necessary individualised therapeutic and educational services, and to eliminate the use of separation overall but particularly as a result of understaffing.
14. Creating a mechanism to ensure greater government accountability for reaching Closing the Gap targets.[[21]](#footnote-22)

Thank you for the opportunity to provide input to the Inquiry.

Yours sincerely



**Scott McDougall**

**Commissioner**

Youth justice and watchhouse detention – Timeline

* December 1990 – Australia ratified the United Nations *Convention on the Rights of the Child* (Article 37 details rights in relation to detention and imprisonment of children).
* 15 April 1991 – Final report of the Royal Commission into Aboriginal Deaths in Custody delivered.
* 1 September 1993 – *Juvenile Justice Act 1992* and *Children’s Court Act 1992* came into effect, substantially reframing the Queensland youth justice system.
* Late 1998: Large numbers of children held in police watch houses. In response, the Department of Families, Youth and Community Care (**DFYCC**), Queensland Police Service (**QPS**), and other entities took a range of measures to record and explore alternative options.[[22]](#footnote-23)
* March 1999: Australasian Juvenile Justice Administrators (now the Australasian Youth Justice Administrators) endorsed the *Standards for Juvenile Custodial Facilities*, based on the *United Nations Rules for the Protection of Juveniles Deprived of their Liberty* (the Havana Rules), the *United Nations* *Minimum Rules for the Administration of Juvenile Justice* (the Beijing Rules), and the UN *Convention on the Rights of the Child*. The standards continue to be applied in Queensland.[[23]](#footnote-24)
* June 1999 – Report of the Commission of Inquiry into Abuse of Children Queensland Institutions (**the Forde Inquiry**) tabled in Parliament, including recommendations regarding a list of basic rights of children in youth detention centres.
* August 1999 – DFYCC produced *Detention of Children in Watch houses*: a report on the outcome of the process to identify issues and recommend strategies to reduce the incidence and duration of time children spend in watch houses. The report notes with support a recommendation from the workshop, ‘That alternative placement options be developed for young people on remand in order to reduce the number placed in juvenile detention centres’.[[24]](#footnote-25)
* 2003 – Major amendments made to the *Juvenile Justice Act 1992* under the *Juvenile Justice Amendment Act 2002,* including encouraging increased use of diversionary options by the police and courts, removing requirements for a child to ‘show cause’why they should be granted bail in certain circumstances, and incorporating a new ‘charter of juvenile justice principles’ into Schedule 1.
* October 2004 – A Memorandum of Understanding agreed between the Queensland Police Service and the Department of Communities regarding the detention of children in watch houses.
* 2009 – Australasian Juvenile Justice Administrators (now the AYJA) released the *Juvenile Justice Standards* setting out the agreed standard for practice to be delivered by juvenile justice administrators released.
* 2010 – Amendments made to the *Juvenile Justice Act*, including a name change to the *Youth Justice Act 1992.*
* 1 July 2013 – Final report of the Queensland Child Protection Commission of Inquiry (**the Carmody Inquiry**) released, which recommend legislative reforms for child protection and oversight of youth detention.[[25]](#footnote-26)
* 2014 – The Queensland Government abolishes the Commission for Children and Young People and Child Guardian, and establishes the roles of the Public Guardian (with child advocates, community visitor program and powers of inspection and obtaining information) and the Family and Child Commission (to provide oversight for the whole child protection system).
* 28 March 2014 – Significant amendments made to the *Youth Justice Act 1992*, despite being viewed as ‘unduly punitive and inappropriate by the majority of stakeholders’,[[26]](#footnote-27) including relevantly removal of the principle that a sentence of imprisonment should be as a last resort and for the shortest appropriate time.[[27]](#footnote-28)
* October 2014 – Australasian Juvenile Justice Administrators (AJJA) *Principles of Youth Justice in Australia* were endorsed by all states and territories as the foundation document for youth justice in Australia, building on the AJJA *Youth Justice Standards* (2009). Updated in April 2019 (AJJA now known as Australasian Youth Justice Administrators).
* 1 July 2016 – In line with commitments made by the Queensland Government during the 2015 general election, the *Youth Justice Act 1992* was amended to repeal the 2014 reforms, reflecting international evidence that increasing the severity of punishment is ineffective in reducing recidivism in children and young people. This included reinstatement of the principle that detention be as a last resort and for the shortest appropriate period when sentencing.[[28]](#footnote-29)
* 19 August 2016 – The Independent Review of Youth Detention was ordered by the Queensland Attorney-General as a Commission of Inquiry. The review was preceded by the airing of CCTV footage, first person accounts, and allegations from young people and staff about excessive force at the Cleveland Youth Detention Centre. Ms Kathryn McMillan QC and Professor Megan Davis were appointed as Commissioners. The confidential report dated December 2016, was published with the Government’s response on 26 April 2017.[[29]](#footnote-30)
* January 2018 – The Queensland Premier appointed Major-General (Retd) Stuart Smith AO DSC as the independent Townsville Community Champion to consult with the community about youth crime. Major-General Smith’s report found consensus for a fair and sustainable approach to youth crime addressing five key themes:
* Share more information on action being taken to address youth crime.
* Hold youths accountable for their actions.
* Support youth and their families to participate in education.
* Promote role models and mentors.
* Improve the diversionary justice process and timeliness within the youth justice system.[[30]](#footnote-31)
* 12 February 2018 – The *Youth Justice and Other Legislation (Inclusion of 17-year-old Persons) Amendment Act 2016* commenced. This ended the practice of treating 17-year-olds as adults in Queensland’s criminal justice system, and the transfer of 17-year-olds from the adult justice system to the juvenile justice system. Due to the limitations of bed capacity in detention centres, this change resulted in children remanded in custody being temporarily held in police watchhouses for prolonged periods.
* 8 June 2018 – Mr Bob Atkinson AO APM delivered his *Report on Youth Justice* (**Atkinson Report**)[[31]](#footnote-32) to the Queensland Government recommending that the Queensland juvenile justice system be based on the following four pillars:
	+ - * 1. intervene early
				2. keep children out of court
				3. keep children out of custody, and
				4. reduce reoffending.

The report recommends:

* a focus on attendance at school and vocational training
* increased options for police to divert child offenders from prosecution
* increased options for courts to divert children from detention centres
* increased options for children to remain in the community rather than be remanded in custody.
* 11 December 2018 – The Queensland Government released *Working Together, Changing the Story: Youth Justice Strategy 2019-2023* (**Youth Justice Strategy**), responding to the Atkinson Report and adopting the four pillarsfor youth justice policy.
* May 2019 – Public concerns were heightened about the standards and human rights limitations associated with prolonged watch house detention of children, including as exposed in a Four Corners story and an Amnesty International report.[[32]](#footnote-33) The new Department of Youth Justice formed on 20 May 2019.
* 25 July 2019 – The *Youth Justice Strategy Action Plan 2019-21* (**Action Plan**) set out practical steps to implement the Youth Justice Strategy, and a specific commitment to reduce the use of watch houses to accommodate children on remand. Strategies included: a new 32-bed youth detention centre at Wacol, an additional 16 beds at Brisbane Youth Detention Centre, and additional resources at watch houses to provide appropriate support for children.
* 5 September 2019 – The *Youth Justice and Other Legislation Amendment Act 2019* received assent, amending the *Youth Justice Act* to support implementation of the *Youth Justice Strategy* by removing legislative barriers that may contribute to children being refused bail, breaching bail conditions, or remaining in remand detention for an extended period of time.[[33]](#footnote-34) (**2019 amendments**)
* September 2019 – The UN Committee on the Rights of the Child recommended the minimum age of criminal responsibility be 14.[[34]](#footnote-35) This recommendation was made specifically to Australia by the United Nations.[[35]](#footnote-36) The UN Committee similarly recommended that countries increase the minimum age of detention to 16 years of age.
* 1 January 2020 – The *Human Rights Act 2019* commenced, placing new obligations on public entities in Queensland.
* 29 January 2020 – A Public Health Emergency under the *Public Health Act* was announced by the Minister in response to the COVID-19 Pandemic.
* 10 March 2020 – The Queensland Government announced a five-point plan to crack down on youth crime following community anger over repeat offenders. The plan included tougher actions on bail, a police blitz on bail, and more resources to appeal court decisions where appropriate.[[36]](#footnote-37)
* 13 March 2020 – The fatal stabbing of a teenager by two other teenagers[[37]](#footnote-38) sparked renewed debate over youth crime and knife crime. The teenagers were ultimately sentenced for murder.
* 30 June 2020 – The Department of Youth Justice *2019-2020 Annual Report* recorded that no young people were held on remand in watch houses since late 2019 except for routine processing or awaiting transport in regional areas.[[38]](#footnote-39)
* 15 July 2020 – Commencement of amendments to the *Youth Justice Act* requiring that a child must be refused bail if judged to be an unacceptable risk to the safety of the community. These amendments were contained in the *Community Services Industry (Portable Long Service Leave) Act 2020*, declared urgent, and passed without parliamentary committee scrutiny of their compatibility with human rights[[39]](#footnote-40) (**2020 amendments**).
* Mid 2020 – Built capacity of Brisbane Youth Detention Centre increases by 16 beds, increasing Queensland’s safe capacity from 219 to 232 beds, and built capacity from 258 to 274 beds across two detention centres.
* 12 November 2020 – Department of Youth Justice renamed the Department of Children, Youth Justice and Multicultural Affairs as a result of machinery-of-government changes.
* December 2020 – New West Moreton Youth Detention Centre, stage 1, commenced operation with an additional 8 beds.
* 26 January 2021 – Tragic deaths of a couple hit and killed by a car allegedly driven by a 17-year-old male person.[[40]](#footnote-41)
* March 2021 – West Moreton Youth Detention Centre completed, providing 32 beds in total. Overall capacity over 3 detention centres is now 259 safe capacity, and 306 built capacity.
* 30 April 2021 – Further amendments to the *Youth Justice Act* made by *Youth Justice and Other Legislation Amendment Act 2021* commenced,including the introduction of a presumption against bail for prescribed indictable offences in certain circumstances. (**2021 amendments**) The Premier announced that former Police Commissioner, Bob Atkinson, would look at the effectiveness of the reforms after 6 months.[[41]](#footnote-42)
* 15 September 2021– Private member’s Bill, Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021, was introduced into Parliament, proposing to raise the minimum age of criminal responsibility in Queensland from 10 to 14-years-old, and transferring any children under 14-years-old out of custody. The Community Support and Services Committee report released on 15 March 2022[[42]](#footnote-43) recommended that the Bill not be passed but made recommendations regarding treatment of young people in the youth justice system and consideration of increasing the minimum age of criminal responsibility to 12 years.
* 28 October 2022 – Inspector of Detention Services Bill 2021 introduced, creating a new statutory office holder within the Queensland Ombudsman's Office with a focus on promoting the humane treatment of detainees and inspecting places of detention in Queensland, including: youth detention centres, adult prisons and watch-houses. On 21 January 2022, Legal Affairs and Safety Committee recommends that Bill be passed. The Bill received assent on 7 September 2022 but functions of the Inspector did not commence until 1 July 2023.
* January 2022 – Plans to repurpose the Caloundra watch house to a temporary, short-term youth remand centre withdrawn following community consultation.
* October 2022 – The Premier announced that the Qld government is considering expanding youth justice detention, with a new youth detention centre in Cairns.[[43]](#footnote-44)
* 15 November 2022 – Bob Atkinson’s March 2022 review into 2021 amendments released.[[44]](#footnote-45) The report reviewed the status of the eight legislated changes and nine policy initiatives six months after they were introduced.[[45]](#footnote-46)
* 1 December 2022 – Introduction of the Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Bill 2022. The purpose of the Bill is to facilitate visits by the United Nations Subcommittee on Prevention of Torture to places of detention in Queensland, following denial of entry of the Subcommittee to Queensland mental health units during its October 2022 visit to Australia. Legal Affairs and Safety Committee recommended that the Bill be passed 24 February 2023.
* 16 December 2022 – Childrens Court 2021-22 Annual Report was tabled in Parliament noting significant increase in young people held in youth detention and police watchhouses, with an average of 43 nights in unsentenced detention.
* 26 December 2022 – Two teenagers charged following a stabbing that resulted in death.[[46]](#footnote-47)
* 29 December 2022 – Qld Government announced 10 new measures to fight youth crime.[[47]](#footnote-48)
* 16 January 2023 – Appointment of inaugural First Nations Justice Officer, funded as part of the Government’s response to the Women’s Safety and Justice Taskforce’s first *Hear Her Voice* report to reduce the representation of First Nations people in the criminal justice system.[[48]](#footnote-49)
* 9 February 2023 – Townsville Magistrate, Viviana Keegan, granted bail to 13 alleged youth offenders triggering an appeal by police in relation to some of the children.[[49]](#footnote-50) The appeals ultimately did not proceed.
* 13 February 2023 – Report on the death of a man, following attack by teenagers at shopping centre taxi rank.[[50]](#footnote-51)
* 17 February 2023 – The QFCC initiated a systemic review of the drivers that cause children to enter and remain in Queensland watchhouses.[[51]](#footnote-52)
* 21 February 2023 –The Strengthening Community Safety Bill 2023 was introduced into parliament, with submissions due to the Economics and Governance Committee by 12pm 24 February 2023. The Bill intended to improve community safety by reducing recidivism amongst young people and strengthening youth justice laws to respond to serious repeat offenders. Amendments include four human rights Override Declarations in relation to:
* *Bail Act 1980* section 29 that makes it an offence for a child to break a condition of bail.
* *Youth Justice Act 1992* sections 150A and 150B, the effect of which is that a court may declare a child a serious repeat offender when sentencing for an indictable offence, and the court must have regard to the need to protect members of the community, impact of the offence on public safety, and the offending and bail history of the child.
* *Youth Justice Act 1992* section 246A that requires the court to revoke a conditional release order in relation to a prescribed indicatable offence where the child has breached the conditional release order, unless there are special circumstances. The child will be ordered to serve the sentence of detention for which the conditional release order was made.

The Committee’s report was tabled on 10 March 2023 and recommended the Bill be passed. It received assent and commenced on 22 March 2023. The overrides will expire on 22 March 2028 by virtue of s 45(2) of the *Human Rights Act 2019*.

* March 2023 – The Queensland Audit Office commenced an audit to examine how effectively public sector entities are delivering youth justice initiatives to help young people better connect with the community and reduce risks of offending.[[52]](#footnote-53) The audit lists DCYJMA, QPS, and DJAG as bodies that may be audited. Tabling is anticipated between January and March 2024.
* 10 May 2023 – The National Children’s Commissioner invited submissions on Youth Justice and Child Wellbeing Reform across Australia.[[53]](#footnote-54) This project is still ongoing.
* 11 May 2023 – The Queensland Government announced that the first of two planned new youth detention centres will be built at the Woodford Correctional Precinct northwest of Brisbane, and that the project is in the detailed design stage. Work is ongoing to select a site for new youth detention centre near Cairns.[[54]](#footnote-55)
* 18 May 2023 – Machinery-of-Government changes resulted in the Department of Children, Youth Justice and Multicultural Affairs being renamed to Department of Child Safety, Seniors, and Disability Services, with youth justice functions transferred to the Department of Youth Justice, Employment, Small Business and Training effective 1 June 2023.
* 19 May 2023 – Queensland Parliament’s Legal Affairs and Safety Committee tabled a report on the Inquiry into support provided to victims of crime.[[55]](#footnote-56) On 9 August 2023, the government indicated its support in principle for all 18 recommendations, including reforms to support access to information about criminal justice processes to victims.[[56]](#footnote-57)
* 1 July 2023 – The Queensland Ombudsman’s functions under the *Inspector of Detention Services Act 2022* commenced. Inspection standards for Queensland youth detention centres were published in August 2023, with standards for watch houses to follow.[[57]](#footnote-58)
* 26 July 2023 – The Australian Productivity Commission published its draft findings and recommendations on the ongoing implementation of the National Agreement on Closing the Gap.[[58]](#footnote-59)
* 8 August 2023 – A Supreme Court of Qld decision on a *habeas corpus* application for children currently remanded in watchhouse custody was handed down.[[59]](#footnote-60) The Supreme Court ordered the children be delivered by 10pm that day into the custody of the Chief Executive of the Department of Youth Justice, Employment, Small Business and Training, in accordance with s 56(1) of the *Youth Justice Act 1992*: *Youth Empowered Towards Independence Incorporated v Commissioner of Queensland Police Service & Anor* [2023] QSC 174.
* 24 August 2023 – The Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Bill 2022 passed with amendments introduced on 23 August 2023 and without Parliamentary Committee scrutiny. The amendments included four human rights Override Declarations in respect of:
* *Youth Justice Act 1992* section 56 – a child remanded to custody is in the custody of the Commissioner of Police until notified that the Chief Executive will accept the custody of the child (at a youth detention centre). The Chief Executive is required to consider various matters such as the child’s age and medical conditions, however a failure of the Chief Executive to provide procedural fairness to the child in deciding the date for delivery into custody does not affect the validity of the decision.
* *Youth Justice Act 1992* section 210 – a child sentenced to detention is in the custody of the Commissioner of Police until the Chief Executive advises the Commissioner a date when the Chief Executive will take custody of the child (at a youth detention centre). The Chief Executive is required to consider various matters such as the child’s age and medical conditions, however a failure of the Chief Executive to provide procedural fairness to the child in deciding the date for delivery into custody does not affect the validity of the decision.
* *Youth Justice Act 1992* section 262 – for places of detention established from 23 August 2023, before recommending the Governor in Council makes a regulation establishing a place of detention, the Minister must have regard to whether the establishment of the detention centre would be compatible with human rights. This does not require the Minister to comply with section 58 of the *Human Rights Act 2019*, and a failure to have regard to compatibility with human rights does not affect the validity of a regulation establishing a detention centre.[[60]](#footnote-61)
* *Police Powers and Responsibilities Act 2000* section 640 – failure to provide procedural fairness to a child transferred between watchhouses or to other places such as holding cells does not affect the validity of the decision to transfer the child.

In addition, new section 262A is inserted into the *Youth Justice Act 1992* which declares that section 58 of the *Human Rights Act 2019* does not apply to acts and decisions that:

* are reasonably necessary for the administration of this Act; and
* relate to a child, or the placing of a child, in a detention centre established from 23 August 2023.

The amendments received assent and commenced on 1 September 2023, except for amendments relating to section 262 and 262A of the *Youth Justice Act 1992* which commenced on 23 August 2023. The Overrides expire on 31 December 2026, unless postponed for up to 12 months.

* 24 August 2023 – The *Queensland Child Rights Report 2023*[[61]](#footnote-62)is launched by the Queensland Family and Children Commission, an inaugural report that analyses how Queensland upholds children’s rights and identifies changes needed to embed a child rights approach across government policy, legislation and systems to deliver better, more equitable outcomes for Queensland children.
* 8 September 2023 – The Queensland Government confirmed that the Caboolture Watchhouse is to be used as hub to detain young people exclusively if capacity issues prevent transfer of young people from watchhouses to detention centres.[[62]](#footnote-63) *The Guardian* newspaper report noted that advertising of jobs at Caboolture Watchhouse Education Support Hub had begun and an additional $462,000 had been provided in the state budget for delivering education to young people in watchhouses over two years.
* 5 October 2023 – The Queensland Government announced a new youth remand facility in Wacol[[63]](#footnote-64) to accommodate approximately 50 young people with delivery of stage one in 2024. The facility will be operated by the Department of Youth Justice, Employment, Small Business and training and will house young people in detention exclusively until the new youth detention centres open in Woodford and Cairns.
1. *Convention on the Rights of the Child*, arts 37(b), 40(3)(b); *Human Rights Act 2019* (Qld), s 26(2). [↑](#footnote-ref-2)
2. *Human Rights Act 2019* (Qld), ss 15, 16, 24, 27, 28, 29, 36, 37. [↑](#footnote-ref-3)
3. Bob Atkinson, *Report on Youth Justice* (Version 2, 8 June 2018). [↑](#footnote-ref-4)
4. These included poverty, a home environment characterised by neglect, domestic and family violence, and/or traumatic events; poor school attendance, and lack of access to vocational training and employment; undiagnosed and/or untreated health issues or unsupported disability issues, such as mental health concerns, childhood trauma, and cognitive and intellectual disability; and substance abuse. [↑](#footnote-ref-5)
5. These included youth justice system that has evolved from an adult criminal justice approach; no coordinated multi-agency approach to support at-risk children and their families, and lack of information sharing across systems; a shortage of after-hours services, both government and NGOs; youth justice processes that result in young people and children being detained and disconnected from protective factors, such as family, community, and school; and the need for reform targeting the over-representation of Aboriginal and Torres Strait Islander children in the youth justice system. [↑](#footnote-ref-6)
6. Australian Law Reform Commission (2017), *Pathways to Justice: Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander Peoples* (ALRC Report 133), recs 4-1, 4-2, 5-1, 5-2, 7-1, 7-2, 7-3. [↑](#footnote-ref-7)
7. Queensland Government, *Working Together, Changing the Story* (Youth Justice Strategy 2019-2023) and Queensland Government*, Working Together: Changing the Story* (Youth Justice Strategy Action Plan 2019- 2021). [↑](#footnote-ref-8)
8. As to the latter, see Bob Atkinson, *Youth Justice Reforms Review: Final Report* (March 2022), 25-28. [↑](#footnote-ref-9)
9. See, eg, Queensland Human Rights Commission, Submission to Children’s Commissioner, Australian Human Rights Commission, *Youth Justice and Child Wellbeing Reform across Australia* (30 June 2023), 6-7 (available at: <https://www.qhrc.qld.gov.au/resources/submissions>); Queensland Human Rights Commission, ‘Statement from Queensland Human Rights Commissioner Scott McDougall regarding the use of adult prisons and police watch houses as youth detention centres’ (24 August 2003). [↑](#footnote-ref-10)
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