

Appendix B: Department of Youth Justice submission



Department of
Youth Justice

Our ref: 03166-2024
Your ref: 2024-00146(P1)

Mr Anthony Reilly
Queensland Ombudsman and
Inspector of Detention Services
Email: executive@ombudsman.qld.gov.au

Dear Mr Reilly

I refer to your letter dated 10 July 2024, providing your draft inspection report 'Cairns and Murgon watch-houses inspection report' (the draft report) and an opportunity to respond.

Young people should be held in a police watchhouse for the shortest possible time. Young people are held in police watchhouses as part of normal processing following arrest by police. If a young person is not granted bail by police, they will remain in a police watchhouse until they appear in court. If they are subsequently refused bail by a court, they will remain in a police watchhouse until they are admitted to a youth detention centre (YDC). In accordance with the *Youth Justice Act 1992* (the Act), while in a police watchhouse, young people are in the custody of the Queensland Police Service (QPS) which has the primary responsibility for meeting the young person's needs.

I note that 14 of the proposed recommendations in the draft report (recommendations 1-8, 10, 15, 16, 20-23) are directed to the QPS reflecting the QPS' role and responsibilities. While a young person is in QPS custody in a police watchhouse, the transfer of young people between watchhouses, including to the Caboolture Watchhouse Hub is the responsibility of the QPS.

I have outlined in previous correspondence to you that the current investments to build more detention centre capacity (Wacol Remand Facility and new YDCs at Woodford and Cairns) provide a solution to many of the issues that arise with respect to young people in Watchhouses, noting that the demographics of Queensland mean that there will continue to be a challenge to transport and provide improved custody options for young people in every location. Work towards improving the time taken to deal with matters (e.g. the Fast Track Sentencing Project) and the use of video links for Court appearances is also part of a system solution that is being further invested in.

The Department of Youth Justice (DYJ) ensures the protection and promotion of young peoples' human rights, especially for those most vulnerable, is at the forefront of its service delivery. It is also recognised that children remanded in custody, particularly those held in police watchhouses are vulnerable.

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Section 56 of the Act sets out the requirements for QPS and DYJ when a young person is remanded in custody by a court. Subsection 56(4) provides the matters that must be taken into consideration in deciding when a young person in the custody of the QPS will be admitted into a YDC. This provision requires the assessment of the risks and needs of individual young people in QPS custody and to be taken into consideration relative needs of other children. In practice this is a dynamic, daily, statewide assessment to inform the prioritisation of young people for admission to a YDC.

The draft report makes reference to the 'transfer' of young people from a police watchhouse to a YDC. Under the Act, young people are admitted from police custody into a YDC, and once admitted are then in the custody of the DYJ. For this reason, the draft report could more accurately refer to the admission of young people to youth detention.

Proposed recommendations 11-13 of the draft report are not consistent with the requirements of the Act. Further, these recommendations would result in the immediate admission of particular cohorts of young people to a YDC, irrespective of the regularly assessed relative risks and needs of all young people in custody in a police watchhouse. I am concerned that this could result in very significant unintended consequences for the safety and wellbeing of young people and the community.

Proposed recommendations 11-13 of the draft report would also require the immediate admission of some young people into a YDC. YDCs have been operating at full capacity and young people can be held in a police watchhouse until a suitable YDC bed becomes available. Admitting young people to a YDC which is at full capacity poses a very high security risk taking into consideration:

- the limitation of mixed ages, genders and individual needs of young people;
- developmental issues and immaturity of key areas of a young person's brain responsible for controlling emotions, impulsivity and decision making;
- double bunking impacts on privacy and dignity considerations as described under the United Nation Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules);
- double bunking and overcrowding were identified as a key contributor to the Western Australia Banksia Hill Juvenile Detention Centre riots;
- different infrastructure, including a much greater risk in open campuses in YDCs with these known risks having manifested in many places across jurisdictions leading to significant harm, injury and damage; and
- similarly in Victoria, a key learning from Parkville Youth Justice Precinct report found that prior to the riot, YDC assessments had indicated the potential for a riot to occur due to increasing tensions from overcrowding, limited resources, staff capacity and associated risks from an ineffective assessment and classification system.

There are considerable learnings, and warnings from inquiries, reviews and court findings that demonstrate that overcrowding YDCs results in significant harm. Where this harm occurs and results in the destruction of what is already very limited infrastructure, there is a compounding impact given the lack of alternative secure detention facilities along with the time it takes to repair damage.

Proposed recommendation 11-13 are directed towards the DYJ and QPS, however given these recommendations would likely require legislative amendment they should more appropriately be directed to the Queensland Government.

DYJ provides a range of supports and services to assist QPS to meet the safety and wellbeing needs of young people while they are in custody in a police watchhouse. Subject to the approval of the QPS, these supports may include:

- safety and wellbeing checks;
- case management and liaison with legal advocacy and bail support services;
- facilitation of contact with family and other people of significance;
- provision of practical items and other supports as required, such as warm clothing, toiletries and hygiene products, blankets, snacks, books and educational materials;
- funding non-government organisations to provide services and supports including cultural support; and
- advocacy within DYJ and the QPS in relation to the young person's needs, including direct liaison with the youth detention centre admission coordination unit as required.

Proposed recommendation 15, which is currently directed to the QPS, is about the provision of cultural support and advice for police watchhouses that detain children. Given the role of DYJ to provide supports and services to young people detained in police watchhouses, DYJ would be willing to assist QPS in the implementation of this recommendation.

Proposed recommendations 18 and 19 in the draft report relate to young people detained in the Murgon police watchhouse. I note that young people are infrequently detained in the Murgon police watchhouse and the implementation of these recommendations would require services and supports to be put in place from time to time as required.

I note the draft report does not discuss that during the relevant inspection periods, YDCs were operating at full capacity. Regrettably, some young people experience extended stays in police watchhouses despite significant efforts to minimise these occurrences. As you would be aware, there are a range of multi-agency systemic and local issues contributing to these extended stays. These issues include:

- the number of young people in youth detention who are on remand awaiting their matters to be finalised by the courts;
- extended stays in regional and remote locations, where due to court dates and the requirement for a young person to appear in person, transport to and from a YDC may not be possible. In these circumstances, DYJ, the QPS and a range of other government and non-government agencies work together to ensure the child's best interests and human rights remain paramount in all decision making;
- YDC capacity issues and sudden increases in particular cohorts (10 to 13-year-olds, female young people), which requires significant system agility across both DYJ and the QPS;
- transport delays and competing pressures for QG Air resources, particularly in north and far north Queensland; and
- localised issues, such as:
 - o watchhouse overcrowding in particular locations (which could be related to adults and/or young people), which requires DYJ, QPS and funded supports to mitigate within YDC capacity constraints, transport options and court requirements and outcomes; and
 - o specific watchhouse issues, for example – localised severe weather events, particular issues with the watchhouse (for example, property damage, staff shortages).

To assist in the finalisation of the report, I also take the opportunity to provide information about the significant program of work underway to alleviate some of the system pressures that contribute to young people being held in police watchhouses beyond usual processes times.

On 15 December 2023, the QPS transitioned the Caboolture watchhouse into a temporary Hub for young people remanded in custody. Young people awaiting admission to a YDC will remain in the custody of the QPS at the Hub with essential support and services provided by DYJ, the Department of Education, Queensland Health, the Youth Advocacy Centre and Murri Watch.

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The Hub can accommodate up to 31 young people and has a catchment area south of Rockhampton. Out of catchment transfers are considered in exceptional circumstances. The QPS will continue to manage and operate the Hub as a functional police watchhouse. Adult prisoners may be processed at the Hub while they await transport to another watchhouse and are held separately to young people at the Hub.

DYJ and a private health provider funded by QPS have a 24hour, 7 day a week presence at the Hub. The Forensic Child and Youth Mental Health service maintains an active presence and the Department of Education conducts lessons on site during school hours.

As you are aware, a new facility which will operate as a youth remand facility is being built this year by the QPS at Wacol, and two new therapeutic YDCs are planned for Woodford in 2026-27 and the Cairns region. These facilities will enable the youth justice system to administer the courts' decisions, while ensuring young people are not held in watchhouses for extended periods of time. The Wacol Youth Remand Centre will be completed in late 2024.

The DYJ remains committed to continuing to work collaboratively with the QPS to meet the safety and wellbeing needs of young people in watchhouses and will continue to work with your office, the Queensland Human Rights Commission, Queensland Family and Child Commission and the Office of the Public Guardian to monitor and review our services and responses.

Thank you again for meeting with me to discuss the report in detail and I again express my support for your work and thank you for your ongoing collaborative and constructive approach in the exercise of your functions. My office will be in contact in due course to arrange a time for us to discuss your final report.

Should your officers require any further information, they should contact [REDACTED], Senior Executive Director, Regions and Statewide Services by email at [REDACTED]@cyjma.qld.gov.au or on telephone (07) 3097 7566.

Yours sincerely



Robert Gee APM
Director-General

07 / 08 / 2024