



# INQUIRY INTO YOUTH JUSTICE REFORM IN QUEENSLAND

University of the Sunshine Coast submission

December 2023

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## 1. Introduction

The University of the Sunshine Coast (UniSC) welcomes the Queensland Parliament's Inquiry into Youth Justice Reform in Queensland<sup>1</sup> and is pleased to provide a submission.

UniSC would welcome the opportunity to elaborate on any aspect of our submission. If this is of interest, please contact Mr Jason Mills, Head of Government Relations on [jmills3@usc.edu.au](mailto:jmills3@usc.edu.au).

### About UniSC

UniSC was founded by its community in 1996 after Sunshine Coast residents campaigned for locally provided tertiary education opportunities. As the first greenfield university to open in Australia since 1975, we have helped unlock the innovation, productivity and potential of our regional communities through the contributions from our alumni, our 17,500 current students and our increasing research capability and impact.

Consistent with our mission to improve access to higher education in underserved locations, UniSC has strategically expanded our footprint into more regional communities, encompassing five campuses from Moreton Bay to the Fraser Coast. We collaborate closely with all levels of government, regional leaders, industry, and other partners to ensure our programs, research and support services align to create greater opportunities in all the areas we operate within.

On the world stage, UniSC is recognised by The Higher Education (THE) Impact Rankings as a global leader in climate action, clean water sanitation, life on land, and life below water. This ranking comes alongside the Australian Research Council's recognition of UniSC as a producer of world-class research in 26 speciality areas, including environmental science, medical and health sciences, neuroscience, technology, and psychology.

### Our Expertise

[Dr Dominique Moritz](#) is a Senior Lecturer in Law and Associate Dean (Learning and Teaching) in the School of Law and Society at UniSC. She is a leading researcher into children's decision-making and law. Dominique's work is inter-disciplinary and reflects a collaborative approach drawing upon law, criminology, psychology and medicine. Dominique has 19 peer reviewed research publications and has contributed to collaborative research projects attracting almost \$1 million in external grant funding. She holds a PhD, Master of Laws, Graduate Diploma of Legal Practice, Bachelor of Laws/Bachelor of Justice (Criminology) and a Postgraduate Certificate in Higher Education. Dominique has been admitted as a lawyer in the Supreme Court of Queensland. Prior to commencing research and teaching at UniSC, Dominique served as a police officer with the Queensland Police Service.

[Dr Emily Moir](#) is a lecturer in Criminology and Justice in the School of Law and Society at UniSC. She is a crime analyst specialising in how certain environments and situations enable opportunities for crime. Emily's research focuses on guardianship and citizen-led crime control, exploring how regular people not involved in law enforcement and the criminal justice system can help to detect, respond to, and prevent crime. More specifically, Emily has provided evidence-based evaluations of several related programs including the "Push!" program offered by Yunity in Deception Bay, the "JTYouGotThis" program from the Jonathan Thurston Academy, and the Queensland Police Service's state-wide campaign for "I live my life... without a knife program" and "Junior Rangers" program in Cherbourg. Overall, Emily has consulted with a variety of state and local agencies on projects related to community safety, crime trends, and project evaluations and is a member of the Editorial Board for the Security Journal.

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<sup>1</sup> <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=232&id=4295>

[Dr Kelly Hine](#) is a Lecturer in Criminology and Justice in the School of Law and Society at UniSC. Prior to joining UniSC, Kelly was a Lecturer at the Australian National University. She attained a double degree in Psychological Science and Criminology and Criminal Justice (with first class Honours) and holds a PhD in Criminology from Griffith University. Kelly is also on the Committee of Management for the Australian and New Zealand Society of Criminology (ANZOC). Kelly is a policing researcher and specialises in front-line policing, particularly, police-citizen interactions. Her research examines the decision-making processes and impediments involved during situations that are rapidly unfolding and typically dynamic and volatile. Kelly's research includes the use of force by police, the dangers of policing (including injuries and fatalities to both officers and citizens), policing major crises, the use of technology by police, and police diversity (both diversity within the workplace and policing diverse populations). In addition to her research interest in frontline policing, Kelly's areas of expertise include police misconduct and police integrity. Her research has implications for the way researchers examine policing practices and interactions, the way officers are educated and trained, and the policies and procedures the guide officers.

Carl Marlou Saranillo obtained his Juris Doctor degree from the Ateneo de Manila University – School of Law in 2011 and has been a member of the Philippine Bar since 2012. Prior to his enrolment with UniSC, Carl served as in house counsel for a Philippine-based multinational company. He has recently completed his Bachelor of Laws (Hons) at UniSC. His Honours thesis is currently under examination and is entitled "*Ang Kabataan ang Pagasa ng Bayan: A Comparative Analysis of Criminal Responsibility of Children in Australia and the Philippines*". The title is one of the famous phrases of the Philippines' national hero, Dr. Jose Rizal, and it translates to "the youth is the hope of the motherland". His paper focused on the age of criminal responsibility and its impact on children in conflict with the law, the *doli incapax* presumption, and diversion.

## 2. Recommendations

UniSC's submission makes the following recommendations against selected terms of reference for the Inquiry into Youth Justice Reform in Queensland. These recommendations are contextualised in Section 3 of this submission.

### Inquiry Terms of Reference

*2(a): The prevention of entry and diversion of youth offenders from the justice system with specific consideration of risk and protective factors that reduce crime*

Recommendations:

1. Raise the age of criminal responsibility to 12 years old.
2. Extend the *doli incapax* presumption to all young people, including those over 14 years of age.
3. Engage social workers to assess young people's capacity for offending and appropriate of diversion.
4. Decriminalise normal childhood behaviours such as consensual sexting.
5. Address child maltreatment in the community.
6. Enhance youth-police relations through community engagement, specialised training and education for police, and the use of diversion and prevention programs.

*2(c)(iii): The efficacy of evidence-based early intervention and prevention programs*

Recommendations:

7. Make intervention and prevention programs crime specific.
8. Ensure elements of effective youth prevention programs are applied and programs routinely evaluated.
9. Ensure the principles of effective crime prevention for young people are applied to prevent weapon and knife-based offences.

*2(c)(vi): The efficacy of detention and consequences of offending*

Recommendations:

10. Ensure detention of young people remains as a last resort.
11. Consider alternatives to current detention strategies.

### 3. Response to selected Inquiry Terms of Reference

#### 3.1 2(a): The prevention of entry and diversion of youth offenders from the justice system with specific consideration of risk and protective factors that reduce crime

##### 3.1.1 *Raising the age of criminal responsibility will prevent entry to the justice system*

The low age of criminal responsibility adopted in Queensland has resulted in children's early contact with the criminal justice system. Queensland youth, from 10 years of age, can be criminally responsible for offending behaviours (*Criminal Code* (Qld) s 29). However, this early contact with the criminal justice system needs reconsideration for several reasons.

Firstly, the minimum age of criminal responsibility, from age 10, is inconsistent with international human rights obligations. The United Nations Committee on the Rights of the Child (2007) suggested 14 years of age should be the minimum age of criminal responsibility in all jurisdictions. Other research has also called for the minimum age of criminal responsibility to be raised (Crofts, 2015; O'Brien & FitzGibbon, 2017). Youth younger than 14 years of age have not yet developed the "social, emotional and intellectual maturity" to be considered criminally responsible for their behaviour (Trevitt & Browne, 2020).

Secondly, most youth offending, in Queensland, is for minor offences. Based on Queensland data for the years 2020 and 2021, the most common offence committed by youth between 10 and 13 years of age was theft (Queensland Sentencing Advisory Council, 2023). Theft includes offences such as stealing, unlawful use of a motor vehicle, and shoplifting (Queensland Sentencing Advisory Council, 2023). Youth, therefore, are entering the justice system for minor offences and upon entry to the justice system, they are more likely to reoffend (Nina Papalia et al., 2019; Chen et al., 2005; Moffitt & Caspi, 2001).

Finally, other Australian states and territories have recognised the importance a higher minimum age of criminal responsibility and raised the age in line with international standards. For example, the Australian Capital Territory and Northern Territory have raised the minimum age of criminal responsibility to 12 (*Criminal Code 2002* (ACT) s 25; *Criminal Code 1983* (NT) s 38). These legislative changes mean youth under 12 years of age are not criminally responsible for offending behaviour. This shows a jurisdictional trend to reconsider the minimum age of criminal responsibility in Australia.

The previous attempt to raise the minimum age of criminal responsibility in Queensland was not successful. We acknowledge the Criminal Law (Raising the Age of Responsibility) Amendment Bill 2021 was introduced to Queensland Parliament in 2021 and sought to raise the minimum age of criminal responsibility from 10 years to 14 years. It was not supported at the time as there was "more work to be done" (Community Support and Services Committee, 2022). Since that time, more work has been done including substantial further research and movement in other jurisdictions. As such, we recommend raising the minimum age of criminal responsibility be reconsidered, in light of this Inquiry into Youth Justice Reform in Queensland, and that the minimum age be raised to 12, consistent with other Australian states and territories, or 14, consistent with the recommendations of the United Nations Committee on the Rights of the Child (2007).

##### 3.1.2 *Rethinking doli incapax will prevent entry to the justice system*

The failures and limitations of the *doli incapax* presumption has resulted in children's entry to the justice system. Queensland youth, between 10 and 13 years of age, can be found criminally responsible for their behaviour where they had the capacity to know that they should not have behaved in that way (*Criminal Code 1899* (Qld) s 29(2)). Youth 14 years of age or over do not have their capacity for offending assessed, as the *doli incapax* presumption no longer applies, and they are considered to have full criminal responsibility.

The *doli incapax* presumption is meant to protect younger children from entering the justice environment. It requires the prosecution to prove that the child knew their behaviour was wrong, rather than simply mischievous (Tuomi & Moritz, 2023; *RP v The Queen* 2016). Many factors can be used to rebut the presumption of *doli incapax* including age, type and circumstances of offence, expert evidence and child's upbringing (Crofts, 2018). Failing to rebut the *doli incapax* presumption means any charges against the child are dismissed. In this way, youth who did not have the requisite capacity for offending are not held criminally responsible for their behaviour. However, Bob Atkinson's Report on Youth Justice (2018) highlighted how *doli incapax* is 'rarely a barrier to prosecution' and that reality has not changed in the previous five years.

Children's brains do not fully develop until adulthood (Mendelson & Haywood, 2014). Youth can exhibit risk-taking behaviours when in the company of peers because adolescents' brains are influenced by their social relationships (Blakemore & Robbins, 2012). Youth can also be triggered by emotionally 'hot' contexts (such as an argument with a parent or a friend) because adolescents cannot emotionally self-regulate as adults can (Steinberg & Icenogle, 2019). All of these factors mean youth can respond without considering the consequences and should be considered before assigning criminal responsibility to a young person.

The *doli incapax* test in Queensland provides little protection to youth and needs to be rethought. Queensland's *doli incapax* capacity test offers the least protection to youth and is easier to rebut than other jurisdictions' *doli incapax* tests (Moritz & Tuomi, 2023). It only requires the prosecution to establish that the child had the capacity to know and does not consider whether the child had actual knowledge of the conduct's wrongfulness (Moritz & Tuomi, 2023; *R v B* 1997). Consequently, the presumption is rebutted if the prosecution can establish that the child "should have known better rather than whether they actually knew better" (Moritz & Tuomi, 2023). The common law test requires the prosecution to adduce evidence that the child had actual knowledge that the offending conduct was seriously wrong (*RP v The Queen* 2016). This test provides the most protection to youth as it requires "leading clear and probative evidence about the child's understanding at the time of the offence" rather than testing their capacity for understanding (*RP v The Queen* 2016). Amending Queensland's *doli incapax* presumption to align it better with the common law presumption will better ensure youth are only held accountable for criminal offending where they understood their behaviour was seriously wrong.

The *doli incapax* presumption should also be extended to all youth including those over 13 years of age. Currently, the *doli incapax* presumption only applies to youth between 10 and 13 years of age. Full criminal responsibility is imposed on youth between 14 and 17 years of age which means that the law considers that the children "possess the capacity to understand right from wrong in a criminal context; and ... that they can appreciate the moral underpinnings which characterise criminal behaviour" (Tuomi & Moritz, 2023; Lennings & Lennings, 2014). This assumption is erroneous. Firstly, both youth in this cohort and adults have the same criminal responsibilities despite the overwhelming evidence that a child's brain continues to develop throughout their adolescence (Cauffman and Steinberg, 2000; Delmage, 2013). Secondly, it assumes that a young person's age and their understanding of right and wrong is linear. Research has found that a child's chronological age does not necessarily reflect their mental age (Tuomi & Moritz, 2023; Lennings & Lennings, 2014). Ensuring the *doli incapax* protections extend to older youth will prevent entry to the justice system.

### 3.1.3 Engaging social workers to assess children's capacity for offending and appropriateness of diversion

Queensland police are the first contact, within the justice system, for youth who offend. There are issues with police determining a child's capacity for offending and whether (or not) diversion is appropriate. Discretion is complex as it involves individual decision-making and institutional regulation within policing organisations (Clark, 2014). Because individual police are involved in making discretion decisions, it can result in abuses of power; discriminatory policing; and unethical or corrupt behaviour (Findlay, 2021; Reiner, 2007). As such, police may not be the most appropriate decision-maker for capacity and diversion decisions.

Police diversion for young children is also producing inconsistent treatment between First Nations children and non-Indigenous children. Section 11 of the *Youth Justice Act 1992* (Qld) provides the police several options that can divert the child from the criminal justice system. The offences commonly committed by children entitle them to diversion. Despite this, there is evidence that the police discretion in terms of diversion is not uniformly exercised such that First Nations youth are less likely to be diverted compared to non-Indigenous children (Queensland Sentencing Advisory Council, 2023). The decision of the police to prosecute youth is not subject to any form of review. Unfortunately, decisions to prosecute First Nations youth can be made due to racial discrimination and systemic bias (Weatherburn & Thomas, 2023). Discretionary decisions made in collaboration with the community alleviates some of the challenges of traditional discretionary policing (Clement et al., 2009). Police should make decisions in conjunction with other experienced professionals like social workers.

Social workers are in a unique position to engage with youth who offend. Australian social workers are accredited professionals who work in the community to "address personal difficulties and structural barriers" (AASW, 2023). In Australia, social workers are already called upon to assist courts to resolve parenting disputes (Dodds et al., 2023). Therefore, social workers are in a better position than police to make appropriate decisions about a child's capacity for offending.

In further recognition of the importance of the role of social workers, there has been movement, internationally, for social workers to take a greater role in policing decision-making, including for diversion decisions. There is an emerging field of integrative police social work which invites qualified social workers into roles within police services (Logan, Madden & Solak, 2023). Social workers are uniquely positioned to consider complex community needs, de-escalate individuals' responses and divert community members away from the justice system given their extensive training and experience in community engagement and support (Ban & Riordan, 2023).

For example, social workers, in the Philippines, make diversion decisions for youth who offend. While the *Juvenile Justice and Welfare Act* (Philippines) (*JJWA*) recognises that the first point of contact of a child who has committed an offence will be the police, section 22 requires the child be referred to a social worker who determines the appropriate intervention for them. In determining whether diversion is appropriate, the *JJWA* (s 29) requires considering the following factors:

- (a) the nature and circumstances of the offence charged;
- (b) the frequency and the severity of the act;
- (c) the circumstances of the child, including their age, maturity and intelligence, among others;
- (d) the influence of the family and environment on the growth of the child;
- (e) the reparation of injury to the victim;
- (f) the weight of the evidence against the child;
- (g) the safety of the community; and
- (h) the best interests of the child.



Hence, due to their unique expertise, social workers should be engaged, either as embedded members of the Queensland Police Service (QPS), or to liaise with the QPS, in matters where children’s capacity needs to be assessed for criminal responsibility or where diversion options are being considered. We also acknowledge other human services professionals, such as psychologists, would also be well placed to assess capacity and/or make determinations about the appropriateness of diversion.

#### 3.1.4 Decriminalising normal childhood behaviours, such as sexting, will prevent entry to the justice system

Preventing the entry of young people from the justice system can be achieved through decriminalising certain behaviours. Where normal childhood behaviours are criminalised, youth are entering the justice system, despite them behaving consistent with normal childhood development. One of those childhood behaviours is online sexual behaviour, colloquially known as “sexting”.

Sexting is a frequent behaviour amongst young Australians. Sexting refers to sharing sexually explicit content electronically (Svantesson, 2010). While the exact prevalence is difficult to quantify, an Australian study reported 62% of 13 to 15 year-olds have received sexting material from peers (Lee et al., 2015). While sexting can be harmful, such as in revenge pornography situations, sexting can be overwhelmingly positive and developmentally appropriate experience for youth, who participate in sexting for many reasons including social interactions (Jorgensen et al, 2019) and body image confidence (Bianchi et al., 2017).

Sexting amongst children is currently unlawful. Queensland legislation considers sexting behaviours between youth to equate to child exploitation material (Moritz, 2022). While child exploitation material offences only relate to material featuring youth under the age of 16, the law applies to material where the young person appears to be a child so could capture all children, regardless of their age (Moritz, Pearson & Christensen, 2022). Youth are being sentenced to child exploitation material offences, even where their sexting behaviour is consensual, and it is unknown how many of these relate to peer-to-peer sexting interactions (Queensland Sentencing Advisory Council, 2017). Youth are not motivated to change their behaviour because of potential criminal consequences (Mutz et al. 2019). Criminalising sexting is also not supported in the community (Blyth and Roberts, 2014).

Sexting behaviours amongst youth need to be decriminalised. Using police and prosecutorial diversion is not enough to protect children from prosecution given that they are still entering the justice system when being investigated for child exploitation material offences (Moritz, 2021). Child exploitation material legislation should not capture sexting behaviours where it is consensual amongst youth (Moritz, 2021).

Reforming the law will prevent children’s entry to the justice system for normal childhood behaviours. Sexting should not be considered child exploitation material in consensual circumstances. A sexting exception or defence in the *Criminal Code 1899* (Qld), such as sections 91HA(9) and 91HAA of the *Crimes Act 1900* (NSW), maintains the important child exploitation material offence protections for harmful conduct while acknowledging the realities of children’s development and behaviour. More specifically, options to address the unnecessary criminalisation of normal childhood behaviours include amending the Queensland *Criminal Code 1899* to allow for the following:

- A. That section 228D decriminalise possession of child exploitation material in circumstances where a child is possessing sexting-related material of themselves;
- B. That sharing sexting material with another child, where they are within two to three years in age of each other, and where it is done consensually, should not be captured within child exploitation material offences; and
- C. That where a child receives sexting material, particularly where it is unsolicited, those circumstances should not amount to any child exploitation material offences.

### *3.1.5 The correlation between offending behaviours and child maltreatment needs to be addressed*

There is a direct correlation between child maltreatment and offending behaviour. Where caregivers mistreat and abuse youth in their care, it can disrupt the child's brain, socio-emotional and cognitive development (Egeland, 2009). They are then more likely to enter the justice system.

Child maltreatment is, unfortunately, highly prevalent in the Queensland community. The Australian Child Maltreatment Study, published earlier this year, outlines the prevalence of child maltreatment in the community; namely, 32% of children have experienced physical abuse, 28% have experienced sexual abuse, 30% of children have experienced emotional abuse and almost 40% of children have been exposed to domestic and family violence (Mathews et al, 2023).

Vulnerable youth are being held responsible for reacting to unsafe environments which adults have constructed. Youth "need early intervention and support...to reduce the risk of their later offending" (Cashmore, 2011). Child maltreatment highlights a much broader issue for this Inquiry as child maltreatment needs to be addressed to prevent children's entry to the justice system.

### *3.1.6 Police should enhance youth-police relations through community engagement, specialised training/education, and utilising diversion and prevention programs*

Police are typically a young person's first interaction with the criminal justice system and, as such, police hold a pivotal role in shaping the trajectory of young individuals' lives (Brunson & Pegram, 2018; Cunneen et al., 2015). The first interaction between youth and the police can play a critical and influential role in forming a young person's attitude towards police and authorities (Hinds, 2007). Furthermore, police officers' decisions and actions can either steer youth towards continued involvement in the justice system or guide them towards supportive and rehabilitative alternatives, thus playing a crucial role in the landscape of youth justice reform.

To build trust and cooperation with youth, police need to actively participate in community engagement and procedural justice practices. When police engage with youth in a procedurally just way, young people are more likely to view police as legitimate (Hinds, 2007; Grossman & Sharples, 2010). In turn, they are more likely to follow police directions and make decisions that align with legal and social norms. This not only influences their behaviour during their teenage years, but also carries into adulthood. This is particularly important given that youth tend to have disproportionately higher contact with police compared to adults (Thurau, 2009) and tend to hold more negative attitudes about police (Hurst & Frank, 2000; Fagan & Tyler, 2005). Additionally, regular, non-enforcement interactions between police and youth can help build trust. Activities like sports events, community service projects, and educational programs where police participate as mentors or coaches can be effective. For example, the Youth Community Alliance (YCA) project aimed to build positive youth-police relationships by increasing informal contact (such as self-defence classes, movie nights, and a youth challenge). The program was found to be effective in enhancing youth-police relationships and increased perceptions of legitimacy and cooperation (Hinds, 2009). Additionally, establishing councils where young people can voice their concerns and suggestions directly to the police fosters a sense of mutual respect and understanding (Checkoway & Richards-Schuster, 2003). Therefore, police should aim to enhance youth-police relations through community engagement and build trust through regular informal interactions.

To interact more effectively and respectfully with young people, police officers must have youth development knowledge including a thorough understanding of the psychological and social development stages of youth (see section 1.1 and 1.4). This knowledge can be acquired through specialised training and education programs for police. Such programs should include comprehensive modules on adolescent psychology, covering aspects like cognitive development, emotional regulation, and social influences that shape youth behaviour. By equipping officers with this knowledge, they can approach situations involving young individuals with greater sensitivity and understanding, leading to more positive interactions and outcomes. This approach not only benefits

the youth by ensuring they are treated appropriately for their developmental stage but also enhances the efficacy of police interventions by fostering trust and respect between young people and police.

To appropriately and constructively handle minor offences, police should adopt and actively participate in diversion and prevention programs. Police should actively engage in referring young offenders to suitable diversionary programs, as outlined in section 2, as an alternative to processing them through the formal justice system. Such involvement not only serves the purpose of appropriate and constructive handling of minor offences, but also plays a pivotal role in building trust between youth and police. These programs, designed to divert youth away from the justice system for minor offences, emphasise solutions like counselling, education, or community service. This approach not only minimises negative encounters between young people and the police, but also prevents the accrual of criminal records that could hamper future life opportunities. By focusing on restorative and educational measures rather than punitive actions, these programs aim to address the root causes of delinquent behaviour and offer young individuals a chance for rehabilitation and positive development. The active role of police in these programs underscores a commitment to community-centric policing, where the goal is to support the growth and well-being of young people, steering them away from repeated offending and towards more productive paths.

### 3.2 2(c)(iii): The efficacy of evidence-based early intervention and prevention programs

#### 3.2.1 *Intervention and prevention programs need to be problem-specific*

A consistent finding within criminology research is that crime is not randomly distributed, instead, crime events are concentrated in specific places, at specific times, and consistently involved a small group of repeat offenders and repeat victims (Clarke & Eck, 2005). This identification of crime patterns and the role opportunity plays in crime events has contributed to the development of a targeted problem-prevention framework known as problem-oriented policing (POP) (Goldstein, 1990). There are two principles of POP that can be applied to the prevention of youth offending and crime:

- a. Responses to crime and disorder problems need to be crime specific. As different types of offending (or undesirable behaviour) have different characteristics and opportunities, focusing on a specific problem is required for prevention to be most effective. For example, preventing young people from stealing cars will require different interventions than preventing theft from shops as these two types of offending have different motivations, risk factors, and opportunities. Questions should cover the “who, what, when, where, and how” to understand the problem in-depth (e.g., see Scott, 2011). Understanding the factors that contribute to a specific problem will help to develop local, targeted, and effective intervention strategies.
- b. Prevention efforts should be collaborative and not solely rely on the criminal justice system (Goldstein, 1990). This is particularly important in the context of young people where certain types of behaviour may not be criminalised, and/or where diversion from the justice system is preferable. We recognise that (depending on the problem targeted), preventing youth offending requires cooperation from law and justice professionals, criminology, social work and human services, psychology and counselling, and health care workers (Scott, 2011). Prevention efforts can also be successful without exclusively relying on the detection and arrest of offenders.

### 3.2.2 Elements of effective youth prevention programs should be applied, and programs should be routinely evaluated

A consistent body of research has found common elements of effective programs to reduce and prevent youth (re)offending. Importantly, youth prevention programs that focus on diversion, building positive relationships and skills, and therapeutic models are most effective. Table 1 sets out elements of effective programs for the Inquiry’s consideration. Further, ongoing evaluation of programs is required to build an evidence based to ensure effective and best-practice programs are funded. In particular, evaluations also need to extend beyond ‘what works’ to understand what works who whom, and under what circumstances. Employing such approaches aligns with realist approaches to evaluation and allow for a more comprehensive understanding and consideration of diversity in evaluation research. Consideration of diversity is especially important given the over-representation of First Nations young people in the youth justice system in Queensland. Resultingly, ongoing funded research is needed to evaluate the effectiveness and outcomes of programs in problem-specific situations that are targeted and tailored to the unique situations of Queensland.

The Jonathan Thurston Academy “JT You Got This” program is one such example. The program focuses on building self-efficacy and motivation in disengaged young people who are involved (or at high risk of becoming involved) in the youth justice system. The program instils a strength-based approach to foster skill building, future planning, and positive relationships between other young people and program staff. Importantly, in the context of Australia, the program provided a safe, inclusive place for First Nations youth and Jonathan Thurston served as a positive Indigenous role model. Researchers from UniSC evaluated the program and found a reduction in property and violent offending in the young people involved, an increase in school engagement and attendance, and other productive life outcomes such as gaining employment and driver’s licences (Rayment-McHugh & Moir, 2022).

Table 1: Components of effective programs to reduce youth (re)offending

| Effective program element  | Definition   |
|--|--|
| <b>Program development</b>   |  |
| Theory driven<br>(Nation et al., 2003; Pooley, 2020)               | Programs should be based on empirically tested theories and research. A program should be linked to a theory of change which explains how program activities will achieve the desired outcomes. Programs that are based on existing theory and research evidence are more likely to be successful at reducing reoffending. |
| Culturally relevant and safe<br>(Pooley, 2020)                     | Programs designed for First Nations young people are more likely to be successful than traditional programs. Programs should include culturally appropriate activities and traditions and incorporate co-design with First Nations staff in the design, development, implementation, and ongoing management.               |
| Problem specific<br>(Eck, 2011; Scott, 2011)                       | Programs should focus on a very specific type of antisocial or criminal behaviour. The problem should be analysed in depth to understand what is happening; where, when, and how a problem is occurring; and who is involved.  |
| <b>Program implementation and management</b>                       |  |
| Trained staff (Nation et al., 2003)                                | Staff should be supported and trained in working with young people and the implementation of the program.  |
| Dosage<br>(Lipsey et al., 2020; Nation et al., 2003; Pooley, 2020) | Young people should have appropriate exposure to the program in the number of hours and number of sessions. Dosage should match the risk, needs, and responsivity of young people. Effective programs provide follow-up support after program completion.  |

| <b>Effective program element</b>  | <b>Definition</b>  |
|---|--|
| Timing (Nation et al., 2003)  | Programs should be implemented early to reduce risks of offending and increase protective factors. Programs should commence prior to young people engaging in antisocial or criminal behaviour.  |
| Collaboration (Nation et al., 2003; Pooley, 2020)   | Successful programs provide comprehensive approaches between internal and external agencies for a broader range of services and interventions. This helps with the sharing of resources and expertise.   |
| Program fidelity (Pooley, 2020)   | Programs are more likely to be successful when they adhere to program protocols and design but can also be flexible to local context and specific young people's needs.  |
| Evaluation (Eck, 2011; Lipsey et al., 2020; Nation et al., 2003; Scott, 2011)                       | Programs have clear goals and outcomes which are routinely evaluated. Desired outcomes can be broad and may include reduced reoffending, increased engagement at school and/or work, reductions in antisocial behaviours, reduced arrests or court appearances, among other things. Evaluation should include a process evaluation (was the program implemented as intended?) and an outcome evaluation (was the program successful?). |
| <b>Program components</b>   |  |
| Diversions (Wilson et al., 2012)  | Diversions from the criminal justice system are more effective at reducing re-offending in young people than legal interventions. Diversionary programs are most effective for young people with little police or criminal justice system contact, suggesting early intervention and diversion are key ways to reduce youth offending.   |
| Comprehensive and therapeutic (Lipsey et al., 2020; Nation et al., 2003)                            | Effective programs have multiple interventions and engage multiple groups (e.g., communities, schools, families, peer groups). Programs which focus on therapeutic programs (e.g., counselling, skill building, restitution) are more likely to be successful than discipline and fear-based programs (e.g., boot-camps, 'scared straight.')   |
| RNR model – risk, needs, responsivity (Lipsey et al., 2020; Pooley, 2020)                           | Services are matched to a young person's risk, needs, and responsivity. Programs which target high-risk young offenders are more likely to produce larger reductions in offending (risk). Programs also need to target a young person's physical, psychological, and social needs that are linked to their offending (needs) and be adapted to a young person's abilities, motivations, and learning styles (responsivity).            |
| Strengths based (Wilson et al., 2012)   | Effective programs focus on a young person's skills and strengths. Program staff treat participants with respect and focus on their positive abilities. Young people disengage from programs when too much attention is placed on their failures or deficits.  |
| Skill acquisition (Lipsey et al., 2020; Nation et al., 2003)  | Effective programs incorporate skill development and active, hands-on experiences. Skills can include cognitive-behavioural, social, academic, and vocational. Programs that focus on behavioural and cognitive-behavioural skills have been shown to be most effective at reducing youth recidivism.  |
| Positive relationships (Baier et al., 2020; Lipsey et al., 2020; Nation et al., 2003; Pooley, 2020) | Young people build positive relationships with prosocial adults, role models, mentors, and program staff. Group counselling and mentoring programs have been shown to be most effective at reducing youth re-offending.  |

### 3.2.3 *The elements of effective crime prevention for young people should be applied to prevent weapon and knife-based offences*

Fundamentally, the principles outlined in section 2.2 can be applied to programs to effectively prevent youth from engaging in weapon and knife-related offences. Diversionary programs that focus on strength-based approaches, education around the risks and impacts of knife crime, and involve mentoring and collaboration between law enforcement, communities, and families have shown promise at reduce knife-crime (Phillips et al., 2022). An example of a campaign is the 2021 Queensland Police Service's *I live my life...without a knife* campaign (Queensland Police Service, 2021). The state-wide campaign aimed to increase community awareness of the risks and penalties of carrying knives in public places and to maintain or reduce knife-related offences among young people in public places. Researchers from UniSC evaluated the campaign and found that police presentations to school-aged children were effective at increasing knowledge of the risks and penalties of carrying in public (Moir, Hine, Rayment-McHugh, McKillop, & Bartels, 2022). Over 70% of youth reported improved knowledge around knife carrying laws after the presentation in their school. Further, over 50% of young people reported improved knowledge around the risks of knife carrying, suggesting primary prevention strategies based on educational campaigns can have positive effects on improving community awareness of the harms and consequences of knife-related crime. The campaign also focused on community engagement to increase awareness of the issue, and increased policing activity to detect knife-related crime. Key findings from the evaluation demonstrated that during and after the campaign, knife carrying and knife-related occurrences declined 16% and 5% among those aged 10-24 throughout Queensland (Moir et al., 2022).

## 3.3 2(c)(vi): The efficacy of detention and consequences of offending

### 3.3.1 *Detention is harmful to children and must remain as a last resort*

Imprisoning children causes many unintended and harmful outcomes for those children and the community (Clancey, Wang & Lin, 2020). The Royal Commission into the Protection and Detention of Children in the Northern Territory (2017) highlighted catastrophic effects on incarcerated youth including:

- a. Many children are abused and assaulted within detention;
- b. Many children are deprived of basic human rights in detention (such as food, water, use of toilets etc.);
- c. Imprisonment causes ongoing psychological damage to children; and
- d. Children are more likely to reoffend when they have served a period of imprisonment.

Imprisoning youth also contributes to the overrepresentation of First Nations children in the criminal justice system (Crofts, 2015); and can cause substance abuse issues (McNair et al., 2019). Detention must remain as a last resort for all children, regardless of their age.

### 3.3.2 *Alternatives to existing detention strategies must be considered*

An example of alternatives to detention for youth comes from the Philippines. A *Bahay Pagasa* ('BPA'), translated as 'House of Hope' is required to be established in each locality in the Philippines to address offending behaviour in young people (JJWA s 49). The BPA is a caring institution established, funded, and operated by local government units or non-government organisations accredited by the government.

The BPAs provide support to youth in different age ranges and circumstances. Youth who are 15 to 17 years of age whose cases are pending trial; 12 to 14 years of age who have committed a serious offence<sup>2</sup> or a repeat offence; or 12 to 17 year olds whose best interests require them to be placed in the facility, can all be transferred to a BPA. A multi-disciplinary support team comprised of a social worker, a psychologist/mental health professional, a medical doctor, an educational/guidance

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<sup>2</sup> Where the offence is punishable by a penalty of more than 12 years imprisonment such as murder, rape and drug offences: JJWA s 20A.

counsellor and a member of the local council for the protection of children manages the BPA and is responsible for the case management of children placed in the BPA (Department of Social Welfare and Development, 2015) The support team's duties include assessing the adequate intervention that a child needs, implementing interventions, monitoring the child's progress, and providing after care and case termination (Department of Social Welfare and Development, 2015).

Intensive juvenile intervention and support is mandatorily provided to youth between 12 to 15 years of age and can also be provided to older youth where the support team determines it is needed. The intensive intervention includes: intensive individual and group sessions anchored on cognitive-behavioural theories and an applicable therapy model; sessions for the young person's parents and other family members based on a team member's assessment; psychiatric evaluation; monitoring the young person's progress; and a trial reintegration to the family and community.

The BPA ensures involvement and continued contact with the young person's family. The BPAs services are extended to the young person's family members and family members participate in the intervention program (Juvenile Justice and Welfare Council, 2014). Maintaining familial contact ensures that the child is supported emotionally and actively supervised (Magidson & Kidd, 2021).

#### **4. Importance of ongoing research and evaluation**

While we have outlined key recommendations to reform and improve the youth justice system in Queensland, it is imperative to recognise the critical role of ongoing research in ensuring the effectiveness and relevance of these interventions. Therefore, we strongly argue for increased research funding, specifically targeted towards evaluating the effectiveness of responses and interventions within Queensland's unique context.

Queensland's diverse population necessitates tailored approaches in youth justice. Increased funding would enable comprehensive research into the specific needs and challenges faced by our youth, especially those from marginalised and Indigenous communities. By understanding these unique factors, we can develop more effective, culturally sensitive, and inclusive interventions.

Moreover, investing in research allows for continuous learning and adaptation. The dynamic nature of social issues, influenced by evolving societal norms and technological advancements, demands that our responses in youth justice be regularly assessed and updated. This ensures that our strategies remain relevant and effective in addressing current and emerging challenges.

Research also plays a pivotal role in policy development and implementation. Evidence-based policy making, informed by rigorous research, leads to more effective governance and resource allocation. It reduces the risk of implementing well-intentioned but ultimately ineffective or harmful interventions.

Lastly, increased research funding would facilitate partnerships between government bodies, academic institutions, and community organisations. These collaborations are crucial for developing a holistic understanding of the issues at hand and for devising comprehensive strategies that address them.



## 5. Resources and references

### Relevant UniSC Resources

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