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11 March 2021

Committee Secretary
Legal Affairs and Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

By email: lasc@parliament.qld.gov.au

Dear Committee Secretary,

Submission on the Youth Justice and Other Legislation Amendment Bill 2021

Thank you for the opportunity to provide a submission to the Committee's inquiry on the Youth Justice and Other Legislation Amendment Bill 2021 (the Bill).

Our comments are focused on the provisions in clause 24 of the Bill, which will insert a new section 48AF into the *Youth Justice Act 1992* and create a presumption against bail for certain children, specifically:

- children who are charged with prescribed indictable offences alleged to have been committed while the child was:

a) released into the custody of a parent, or at large with or without bail, or

b) awaiting trial or sentence -

in relation to another indictable offence.

We note that the amendments in clause 24 represent a departure from reforms introduced by the Queensland Government in the *Youth Justice and Other Legislation Amendment Act 2019*, which enacted a suite of amendments that sought to keep children out of detention

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knowmore acknowledges the Traditional Owners of the lands across Australia upon which we live and work. We pay our deep respects to Elders past, present and emerging.

wherever appropriate. Those amendments were consistent with the third pillar of the Queensland Government's *Youth Justice Strategy 2019–2023*, as recommended by Mr Bob Atkinson AO APM in his independent review of youth justice — *Keep children out of custody*.¹ The current amendments, by creating a presumption against bail for certain children, do not align with this.

In making this point, we acknowledge that striking a balance between maintaining community safety and enabling the appropriate release of children from custody is not straightforward. We also note that the proposed amendments appear to be targeted at those children in a “small cohort of recidivist youth offenders”² who are charged with particularly serious offences and/or offences that reflect specific issues of community concern.³ This is consistent with point 1 of the Queensland Government's Five-Point Action Plan on youth crime announced in March 2020 — *Tougher action on bail. Offenders posing a risk to the community should not get bail*.⁴

Nevertheless, the fact remains that the proposed amendments all but guarantee that the number of children who spend time in detention settings will increase. Given this outcome we raise the following points, which arise from our work in supporting victims and survivors who experienced child sexual abuse in youth detention institutions.

As we highlighted in our submission on the Youth Justice and Other Legislation Amendment Bill 2019 (the 2019 Bill),⁵ youth detention continues to be a high-risk setting for child sexual abuse. Two of the key reasons for this are that:

- Children in youth detention frequently have complex needs and histories of abuse, neglect and other trauma that increase their vulnerability to sexual and other abuse while in detention.
- Compared to other institutions, there is a heightened risk of young people in youth detention being sexually abused by other children. This reflects the fact that “children who have harmful sexual behaviours or have engaged in criminal or

¹ Queensland Government, *Working Together Changing the Story: Youth Justice Strategy 2019–2023*, p. 19, <www.youthjustice.qld.gov.au/resources/youthjustice/reform/strategy.pdf>.

² Explanatory Notes to the Youth Justice and Other Legislation Amendment Bill 2021, p. 1.

³ As reflected in the proposed definition of ‘prescribed indictable offence’ in clause 34.

⁴ The Hon. A Palaszczuk, the Hon. M Ryan and the Hon. D Farmer, ‘Hard line on youth crime’, joint statement, 10 March 2020, <statements.qld.gov.au/statements/89510>.

⁵ knowmore, *Submission on the Youth Justice and Other Legislation Amendment Bill 2019*, July 2019, <knowmore.org.au/wp-content/uploads/2019/10/Submission-on-the-Youth-Justice-and-Other-Legislation-Amendment-Bill-2019.pdf>.

antisocial behaviour are disproportionately clustered in youth detention institutions”.⁶

It is reasonable to expect that these risk factors will only be amplified by a legislative framework that results in increased rates of detention of recidivist, and likely more vulnerable, child offenders.

We also highlighted in our submission on the 2019 Bill that when a young person does experience child sexual abuse in detention, the impacts can be significant and life-long. This is particularly so in terms of the experience of abuse contributing to a young person’s further and continued involvement in the criminal justice system. We know that for many survivors, their experience of child sexual abuse in youth detention has contributed to “a cycle of reoffending and incarceration they have struggled to break, often driven by anger, substance use and mental health problems”.⁷ In fact, 90 per cent of survivors at the Royal Commission into Institutional Responses to Child Sexual Abuse who had experienced sexual abuse in contemporary youth detention identified their further involvement in the criminal justice system as an impact of the abuse.⁸ Such impacts are, of course, at odds with the general intent of the Bill to increase community safety and reduce youth offending.

We think it is important that the Committee, and the Parliament, continue to bear the above points in mind when considering the Bill. In our view, increasing the extent to which certain children are exposed to youth detention institutions gives rise to considerable risks that must be properly weighed against the policy objectives of the amendments.

In implementing the reforms contained in the Bill, there must be a corresponding commitment, and appropriate resourcing, to ensure that all relevant detention settings (including police watch-houses where those facilities are used to detain children for any period), are safe for children and that appropriate and effective reporting and monitoring systems exist to manage the clear risks those environments present.

⁶ Royal Commission into Institutional Responses to Child Sexual Abuse, *Final Report: Volume 15, Contemporary Detention Environments*, 2017, p. 82, <www.childabuseroyalcommission.gov.au/sites/default/files/final_report_-_volume_15_contemporary_detention_environments.pdf>.

⁷ Royal Commission, *Final Report: Volume 15*, p. 101.

⁸ Royal Commission, *Final Report: Volume 15*, p. 100.

Thank you again for the opportunity to provide these comments to the Committee. We have no concerns about our submission being published.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'W. Strange', written in a cursive style.

WARREN STRANGE

Chief Executive Officer