

Orange Paper 1

The use of Queensland watch houses to hold children

Executive Summary

For many months, there have been a significant number of children in Queensland being held in watch houses around the State rather than in the two Youth Detention Centres.

The Youth Advocacy Centre understands that, on any given night at present, there may be **50 or more children** in this position. The conditions in the watch houses are grossly unsuited to children because:

- There are extremely limited facilities for visits by family;
- There are often no facilities for exercise or other age-appropriate activities;
- Many children are staying for two weeks and in isolated incidents they may be staying for as long as five weeks;
- The children are being held in close proximity to adult prisoners;
- The police working in the watch houses often have no training in dealing with troubled young people;

The health and safety arrangements are clearly unsatisfactory.

The situation **breaches**:

- the QPS Operations Manual,
- the UN Convention on the Rights of the Child,
- and the Principles of Youth Justice in the Schedule to the Act.

YAC considers that there are a range of measures that might be utilised to address the problem and seeks that they be implemented immediately. By the attached paper, YAC sets out its understanding of the scope of the crisis, and the possible solutions.

Background

1. **Towards the end of 1998, significant numbers of children were being held in police watch houses around the State rather than being accommodated in Youth Detention Centres.** It was generally accepted that a watch house was not an appropriate place for children and, in response, the following actions were taken:
 - a. In January 1999 the Department of Families, Youth and Community Care (“DFYCC”) established a register of all incidents of children being detained in watch houses;
 - b. Interim arrangements for the transport of children from watch houses to the detention centre were put in place by police (at that time over half of children held in watch houses were being held in regional Queensland centres);
 - c. An interdepartmental working group (including police, DFYCC, Department of Aboriginal and Islander Policy and Department of Justice representatives) was established;
 - d. Government arranged a workshop to “identify strategies to minimise the detention of children in watch houses” in March 1999 with a report released which included “strategies to reduce the incidence and duration of children in watch houses”;
 - e. A “Memorandum of Understanding between the Queensland Police Service and the Department of Communities Regarding the Detention of Children in Watchhouses” was agreed in October 2004 (“the MOU”);
 - f. QPS developed policy and procedures for the holding of children in watch houses which are currently contained in Chapter 16 of the QPS Operational Policies Manual (OPM) (see Appendix).
2. **The Corrective Services Act 2006 envisages that adults should not generally be held in the watch house for more than 21 days, on bail or sentence.** There is no such limit provided for children in the Youth Justice Act 1992. That is because there has always been an expectation that children will not be held in watch houses for a sustained period of time (supported by MOU and QPS OPM).

Current Situation

3. **Queensland has the capacity to accommodate up to 230 children across its two facilities**, namely the Brisbane Youth Detention Centre and the Cleveland Youth Detention Centre (“the YDCs”).
4. **Fewer than 230 children are being accommodated in the YDCs.** We believe that this is in part because some 24 beds are currently unavailable, due to security upgrades, but YAC understands that there has also been a failure to utilise beds efficiently¹.
5. **At present, on a given day, some 50 to 70 children are being held in Queensland watch houses, instead of being taken to YDCs.** YAC understands that the average stay for the children is in the order of two weeks, but there are reports of some being held for up to five weeks.

Concerns

6. **YAC considers that the current use of watch houses for holding children is an extremely unsatisfactory state of affairs because:**
 - a. The police who staff the watch houses do not have specialised training in responding to troubled teenagers²;
 - b. Watch houses are not physically designed to hold children for more than one or two days maximum (because it was not contemplated they would, or should, do so) in that:
 - i. they lack facilities for exercise, which contributes to poor behaviour and tension with police as children are inactive;
 - ii. there is generally no access to natural light or appropriate hygiene resources, which diminishes the health and wellbeing of the children³;
 - iii. there have been no facilities for education or other pro social activities so children spend all day in a cell doing nothing (whereas, if they were in a YDC, there would be a daily program of activities);
 - iv. there is limited access to health services: significant proportions of children in detention have mental health and/or substance use issues which watch houses are not equipped to treat;
 - v. children are effectively being held with adults because they are held in the same facility and the children can hear, and sometimes, see the adult prisoners around them;

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1. These have been in progress for some time and it is not clear to YAC when work will be finalised.
 2. We are informed that there is a significant level of frustration amongst QPS members because they are under-resourced to supervise adolescents for days at a time.
 3. For example, we understand that children do not have access to soap (as the result of some individuals using it to “graffiti” the windows) which means they cannot properly wash their hands after using the toilet. They are using the same tap to access water to drink. As a result, some children are not drinking enough.

- vi. children are extremely isolated because they have limited access to legal advice and to their families (and we understand that a number of children have been on suicide watch);
- vii. YAC is aware of at least two instances of children being injured as a result of accidents or fights – a predictable scenario where they are held in close proximity with no ability to avoid each other and without access to other activities;
- c. Research indicates that detention generally – and the watch house conditions in particular – are criminogenic: the conditions in the watch house and the lack of access to any services and resources which might have some impact on children’s engagement with the criminal justice system, are likely to magnify this outcome and increase the risk of children remaining in the system.

7. Children consistently report to YAC concerns as to lack of access to:

a. **Family** (visits or phone calls):

- i. one young person reports having no phone access and only one visitor in nine days;
- ii. the parent of another young person was denied telephone access to her son as she was advised that there was a domestic violence order that restricted her contact with him⁴;
- iii. another young person advised they had spent two days in the watch house with no advice that they could either have phone contact or family visits;
- iv. clients indicate that the police do not provide them with information in relation to their ability to have access to visitors and that this information has only been provided by Youth Justice Services subsequent to admission;

b. **Adequate food and nutrition:** most children report that the quantity of food provided in the watch house is inadequate and that the provision of food in the detention centre is significantly better. A number of children reported requesting more food from police but being advised “no mate”;

c. **Information about their rights:** no YAC client recalls being given any written information regarding their rights or standard of care whilst in the watch house nor could they recall this being provided orally to them;

d. **Health care,** including provision of medication which the young person brought with them into the watch house:

- i. parents say that they provided sealed medication that their child has to take consistently only to have the medication returned unopened at the time of the child’s release;
- ii. one young person advised they saw another young person pass out in the watch house due to their lack of access to prescribed medication;
- iii. some children report being held in a “suicide gown” without underwear based on historical assessments of mental health despite later information regarding mental health stability being available⁵;

4. The parent was alarmed and distressed being unaware of the existence of this order. The parent attended at the local police station that night and confirmed there was no domestic violence order in place but was still unable to speak with their son by telephone until the following day.

5. One 15-year-old male in the care of Child Safety advised that they were exposed when they sat in the gown.

e. General care:

- i. exercise: a number of clients advised that they would not be allowed out into the exercise area for days at a time with no explanation;
- ii. daily change of clothing: children consistently report that they have access to a change of clothes at best every second day;
- iii. toiletries: children have reported they did not have access to shampoo or deodorant⁶;
- iv. activities (such as are designed to relieve boredom and therefore reduce anxiety): most children indicated that they were bored with nothing to do;

f. Education: children have advised that there has been no educational facility and the only access they had to any writing material was charcoal, which was impossible to use in any meaningful way.

- 8. Children have reported a significant variance in the care provided to them at the watch house.** They indicated that requests for food, exercise, blankets, access to activities or television were refused without reason or completely ignored with no response. Children describe a generally negative engagement with police officers in the watch house or that they hardly saw them: *“There was just some guy in a box”*.
- 9. All this occurs in circumstances where children are awaiting a hearing and have not been convicted of any relevant offence.**
- 10. The situation set out above breaches the QPS Operations Manual, the UN Convention on the Rights of the Child and the Principles of Youth Justice in the Schedule to the Act (see Appendix).** That is especially because children are not permitted daily visits by family members, they are not being held in a facility suitable for children, they are not provided materials for age-appropriate activities, they are not well separated from adult prisoners, and they are being held in watch houses for extended periods.

Action

- 11. YAC acknowledges that the Department for Child Safety, Youth and Women, has been working towards early intervention strategies that might reduce the disadvantage which is the precursor to most offending.** YAC also acknowledges the work of the former Commissioner of Police, Bob Atkinson, in his recent report on the same issues. YAC further acknowledges that the remand problem and use of the watch house has been given some priority by the Queensland Government. The situation nevertheless persists, and greater transparency and discussion with other stakeholders is imperative.

6. A young person who had spent nearly 48 hours in a watch house in the Brisbane metropolitan area was unaware there was shower. Whilst some children reported that they received a clean towel, others indicated they were required to use the same towel for their entire stay - including one young person who had spent nine (9) days in the watch house.

12. YAC proposes the following actions:

- a. As to the interface between YDCs and the watch houses:
 - i. there be greater transparency about the number of children being held and the criteria and process being used to determine when and how children are being transferred to a YDC, potentially through the OPG being involved in this process on a daily basis;
 - ii. the criteria be underpinned by an understanding that a child is at higher risk in the watch house than in detention and recognise that, where there are issues around dynamics etc, in the usual course of events, the YDC could not refuse to take a child on this basis and so there must be strategies and mechanisms to deal with such situations already;
 - iii. there be a significant YJ presence at the watch house at all times, facilitating access to family, managing nutrition, facilitating activities and education⁷ ;
 - iv. the security upgrade at the YDCs be completed as a matter of absolute urgency: this could include contractors working 24/7 if necessary;
 - v. if it is correct that consideration is being given to making available a further 16 beds, that capacity should be enlivened as a matter of priority;
 - vi. temporary accommodation could be erected in or near the YDCs for low risk children in the short term;
- b. As to bail:
 - i. Youth Justice staff across the State be properly educated about the role of the bail support services coming on line in Queensland and understand that the aim of the bail support services is to have children on bail and remain on bail and to avoid breach wherever possible: departmental staff and community agencies need to work in partnership on this;
 - ii. the use of bail conditions be strictly monitored to prevent children being returned to custody due to inability to keep to unrealistic conditions;
 - iii. a range of strategies and resources be readily available so that children can be released: this includes supporting the roll out of YAC's Youth Court Assistance Program across the State to facilitate intervention as soon as possible in the YJ system and early on for those children entering the system who will not have any engagement at this point with YJ;
 - iv. consideration be given to a system that, where a young person is denied bail, they go immediately before a specialist children's magistrate;
- c. In the longer term, bearing in mind that a large proportion of young offenders are significantly affected by drugs and/or have mental health problems (usually related to significant trauma in their lives), there should be a major drug rehabilitation and mental health facility for children in Queensland, with proper transitional support in the community.

7. If this cannot be achieved in the watch house, access to an alternative place where children can be taken during the day must be identified, even if this is rotational. If this requires the employment of additional staff, that must happen.

Conclusion

13. Building more YDCs is not an appropriate option to accommodate those in the watch house. It will be costly in infrastructure and ongoing staffing, and research indicates it will not reduce the number of repeat offenders.

14. In any case, YAC considers that the detention of 230 young Queenslanders is more than enough.

15. Jurisdictions around the world are closing their YDCs or significantly reducing the numbers in them, by taking approaches to divert children from the youth justice system and we need to learn from these successes.

Youth Advocacy Centre Inc

15 March 2019

Appendix

QPS Operation Policy Manual

16.17.1

.....
(v) where all other reasonable alternatives have been exhausted and a child is to be held in a watchhouse/police custody, the child:

(a) is to be held for the least possible time;

(b) must be segregated from adult prisoners unless there are compelling reasons in the child's interests (e.g. the detention of an Aboriginal or Torres Strait Islander child with Aboriginal or Torres Strait Islander adult prisoners may be safer than isolation where the child is agreeable and the adult is of the same gender); and

(c) is to be, if detained for more than four hours, provided with materials for age appropriate activities if available or otherwise supplied, unless any of these items constitute a security risk;

(vi) a child in custody is to be treated/supervised in a manner that has due regard to that child's age, level of maturity and vulnerability and is consistent with the child's safe custody at all times;

(vii) permitting daily visits by family members, legal representatives or other appropriate adults to children in watchhouses contributes significantly to the wellbeing and morale of such children;

United Nations Convention on the Rights of the Child

Article 37

State Parties shall ensure that:

.....
(c) Every child deprived of their liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance.

Youth Justice Act 1992

Schedule 1 - Charter of Youth Justice Principles

.....
State Parties shall ensure that:

17. A child should be detained in custody for an offence, whether on arrest or sentence, only as a last resort and for the least time that is justified in the circumstances.

18. A child detained in custody should only be held in a facility suitable for children.

19. While a child is in detention, contacts should be fostered between the child and the community.

20. A child who is detained in a detention centre under this Act—

(a) should be provided with a safe and stable living environment; and

(b) should be helped to maintain relationships with the child's family and community; and

(c) should be consulted about, and allowed to take part in making, decisions affecting the child's life (having regard to the child's age or ability to understand), particularly decisions about—

(i) the child's participation in programs at the detention centre; and

(ii) contact with the child's family; and

(iii) the child's health; and

(iv) the child's schooling; and

(d) should be given information about decisions and plans about the child's future while in the chief executive's custody (having regard to the child's age or ability to understand and the security and safety of the child, other persons and property); and

(e) should be given privacy that is appropriate in the circumstances including, for example, privacy in relation to the child's personal information; and

(f) should have access to dental, medical and therapeutic services necessary to meet the child's needs; and

(g) should have access to education appropriate to the child's age and development

Acknowledgement

YAC affirms that the Aboriginal and Torres Strait Islander peoples are the Traditional Owners of Australia and acknowledges their unique relationship with their ancestral Country. In particular, we acknowledge the Turrbal and Jagera peoples, the Traditional Custodians of the land in and around Brisbane, and pay our respects to their Elders, past, and present. We acknowledge our Aboriginal and/or Torres Strait Islander staff and the insight they bring to YAC and their support for it to continue to develop as a culturally competent organisation.

YAC is proud to support its Indigenous clients and staff, its LGBTIQ+ clients and staff and welcomes diversity in all its forms.



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