

26 October 2016

To Whom It May Concern,

Thank you for the opportunity to provide a submission to the Independent Review of Youth Detention. Please find our submission attached.

QNADA represents a dynamic and broad-reaching specialist network of non-government alcohol and other drug (NGO AOD) treatment and harm reduction services across Queensland. We have 39 member organisations, representing the majority of specialist NGO AOD providers.

QNADA would be happy to provide further information, or discuss any aspect of this submission.

Please don't hesitate to contact me at [Rebecca.MacBean@qnada.org.au](mailto:Rebecca.MacBean@qnada.org.au) or by calling 07 3023 5050.

Yours sincerely



Rebecca MacBean

**CEO**

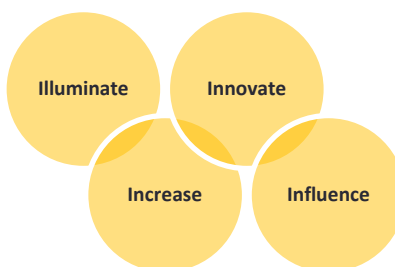


# Response to the Independent Review of Youth Detention

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## QNADA Vision

A cohesive, sustainable and high quality NGO AOD sector, that delivers the best possible outcomes for the Queensland Community. Four overarching strategies have been developed to support achievement of our vision



October 2016

This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). The content of this submission is informed by consultation with QNADA member organisations providing treatment services in Queensland, as well as a review of research and other jurisdiction's approaches to youth detention in Australia.

A significant proportion of QNADA members provide services to young people, with six providing specialist youth services. Our members see young people who experience the consequences of a youth justice system in need of reform and support many clients throughout their interaction with the justice system. For example, one member service reports that approximately 80% of young people they support have had contact with the youth or adult justice system at some point in their lives.

Young people who encounter the justice system are just as likely to be victims of crime as they are to offend. They are more likely to experience multiple forms of disadvantage, trauma and problematic substance use. As a result of systemic failure and limited resourcing, there are few opportunities available in Queensland detention centres for young people in custody to access adequate holistic and integrated care, especially for those young people who are on remand, which does nothing to reduce the likelihood of reoffending.

QNADA believes that there is a need for adequate, timely and accessible support for young people who are experiencing a wide range of issues both in custody and in the community. By investing in community-based strategies we can minimise the number young people interacting with the youth justice system which has been shown to have a better social return on investment than youth detention. Importantly, we believe where detention is the appropriate response, there is a need for detention centres and the broader youth justice system to work more closely with community-based support and treatment services.

There are too many young people on remand for lengthy periods of time, who could be better supported in the community. We need better assessment, better access to support programs, better service connectedness and communication to support young people and their families/caregivers. This will reduce the likelihood of reoffending and reduce the harms associated with problematic substance use.

### **Response to 1C/2C: Risk Assessment and needs assessment**

Young people benefit when services involved in their care are consistent, resourced and have access to the right information. It is often the quality of this care that determines how successful young people and families/caregivers are in their recovery and transition to independence, education and employment. Comprehensive risk and needs assessment (including neuropsychological) is integral for all young people entering the youth justice system. We are therefore concerned that young people on remand do not receive the same level of assessment and care as their sentenced counterparts.<sup>1</sup>

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<sup>1</sup> Kelly Richards & Lauren Renshaw, *Bail and remand for young people in Australia: A national research project* (2013), Australian Institute of Criminology.

Assessment plays a critical role in determining the ideal ways to work with a young person. For instance, in Australia and internationally, studies show an estimated 50% of young people in detention met criteria for one or more substance use disorders.<sup>2, 3</sup> Knowing whether a young person is experiencing a substance use disorder can help determine the type of support required to reduce their likelihood of reoffending.

Our members indicate there is need for youth justice and detention staff to be trained in appropriate assessment, treatment and referral for alcohol and other drug (AOD) issues. For example, there are frequent referrals for young people to attend residential detoxification/withdrawal management in cases where they have been incarcerated for a period of time that makes withdrawal unnecessary. This highlights the need for a comprehensive medical assessment for young people prior to entering detention, especially for those at risk of experiencing severe withdrawal symptoms.

Good assessment can impact on sentencing decisions and offer a way to plan appropriate responses that provide both consequences for offending, as well as strategies to address the root causes of the behaviour. For example, fetal alcohol spectrum disorders (FASD) are known to be associated with problematic alcohol and other drug use, mental health issues, and problems in school.<sup>4</sup> As studies indicate higher rates of FASD for Aboriginal and Torres Strait Islander peoples, who are overrepresented in the justice system, it seems likely identifying issues such as FASD would reveal alternative approaches to incarceration that involve better targeted support and subsequently lead to better outcomes for young people.

In addition, coordinated care planning both within and outside of the detention setting would ensure congruence and continuity of care. Assessments should be available (with consent) to community-based treatment and support services who are likely to continue to work with a young person involved in the justice system. With the right information these services can provide the aftercare and support to assist a young person to reduce their offending, engage in education/employment and become a productive member of the community.

### **Response to 5J/6B: Effectiveness of programs**

It is concerning to us that young people on remand don't have access to therapeutic programs or the same level of assessment as those serving a sentence. While we understand this is in part due to uncertainties surrounding when they will be released,<sup>5</sup> we believe these issues could be resolved through the coordinated care planning mentioned above and reduce the risk of reoffending.

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<sup>2</sup> Stephen L. Stathis, Paul Letters, Ivan Doolan & David Whittingham, Developing an integrated substance use and mental health service in the specialised setting of a youth detention centre (2006), *Drug and Alcohol Review*, 25, 149 – 155.

<sup>3</sup> Gary M. McClelland, Katherine S. Elkington, Linda A. Teplin & Karen M. Abram, Multiple substance use disorders in juvenile detainees (2004), *Journal of the American Academy of Child and Adolescent Psychiatry*, 43, 1215 – 1224.

<sup>4</sup> AIHW, Closing the gap, Fetal alcohol spectrum disorders: a review of interventions for prevention and management in Indigenous communities (2015), Resource sheet 36.

<sup>5</sup> Kelly Richards & Lauren Renshaw, Bail and remand for young people in Australia: A national research project (2013), Australian Institute of Criminology.

Fifty-four per cent of young people in detention in Australia during 2014-2015 were on remand.<sup>6</sup> One way to reduce the number of young people being held on remand is to reduce the range of matters that can be considered with regard to youth bail. Queensland is also only one of two jurisdictions that allows for ‘any relevant matter’ to be taken into consideration and while this may enable individual circumstance to be taken into account, it may also inadvertently keep young people in custody longer than appropriate.<sup>7</sup>

In 1999 the Forde Inquiry report noted that ‘one of the most obvious causes of systems abuse is the lack of funding and resourcing that has beset children’s services both in the past and present day’.<sup>8</sup> It is perplexing that in 2016, this statement is still relevant. For example, the Mental Health Alcohol Tobacco and Other Drugs Service (MHATODS) is still unavailable to young people in Cleveland Youth Detention Centre despite increasing rates of detention in Queensland between 2010-2011 and 2014-2015.<sup>9</sup> In addition, QNADA members report that the lack of resourcing of MHATODS at Brisbane Youth Detention Centre means they are only able to work with extremely high risk young people.

While we understand the release of young people on remand is dependent on processing times of the Children’s Court, we can do better in planning for a young person’s care through better assessment and coordination with external community support services, particularly in circumstances where young people on remand are sentenced to ‘time served’.

Delays in processing in the Children’s Court can result in unacceptably long-stays for those on remand. As a signatory to the United Nations Convention on the Rights of the Child, we must be careful to ensure we meet our obligations, such as Article 37 which states that youth detention should only be ‘used as a measure of last resort and for the shortest appropriate period of time.’<sup>10</sup>

Programs need to be funded in order to address the root causes of offending and reduce the likelihood of reoffending. Existing expertise can be mobilised to better support young people and their families/caregivers. In fact, several QNADA members already offer assessment and outreach support to detention centres upon request. With appropriate resourcing NGO AOD treatment services could expand the support provided in detention centres.

In addition, due to the geographically disparate nature of Queensland, we recommend ensuring community-based support services from the young person’s place of origin are engaged where possible prior to release to ensure continuity of care and support upon exiting detention. This includes engaging agencies or supports in more geographically isolated regions. Living outside a capital city should not preclude young people from receiving the appropriate levels of support.

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<sup>6</sup> AIHW, Bulletin 133, Youth Justice in Australia (2016).

<sup>7</sup> Kelly Richards & Lauren Renshaw, above n 5.

<sup>8</sup> Department of Families Youth and Community Care, Commission of Inquiry into the Abuse of Children in Queensland Institutions (1999), v.

<sup>9</sup> AIHW, above n 6.

<sup>10</sup> United Nations, Convention on the Rights of the Child, Article 37.

## Alternatives to youth detention

QNADA believes the Review presents an opportunity to explore alternative models that ensure detention is truly an option of last resort for young people. Queensland could look to Tasmania for an example of a successful alternative approach.

In 2013 the Commissioner for Children Tasmania released a report on the inquiry into *Alternatives to Secure Youth Detention in Tasmania*.<sup>11</sup> The report recommended justice reinvestment (i.e. redirecting funds allocated to incarceration to community-based alternatives) and stated:

*‘the cost effectiveness of custodial detention is further undermined by extensive research showing that not only does it not work to address the causes of offending, but it also tends to exacerbate factors that contribute to a young person’s offending and has adverse impacts on their education, employment and other outcomes.’<sup>12</sup>*

Tasmania now invests in a range of community youth justice programs where young people may be either supervised by NGOs or Youth Justice staff.<sup>13</sup> As of 2015, their social return on this investment is estimated at \$3.50 for every dollar invested in community based programs ‘though a reduced number of young people in detention and improved management of young people under community based supervision’.<sup>14</sup>

With the appropriate resources, there is an opportunity to leverage existing services in the community as an alternative to detention, in particular for those young people currently exposed to lengthy periods of remand. This would reduce the resource burden on the justice system, while also reducing the adverse impacts of detention on young people and supporting the use of detention as a last resort.<sup>15</sup>

With specific reference to NGO AOD community based and residential treatment services, these services are well positioned to provide an alternative to a custodial sentence where substance use is identified as a significant factor in relation to offending. Many specialist AOD services apply a coordinated case management framework when working with young people that is focussed on supporting the best interests of young people and their families.

A justice reinvestment approach has demonstrated efficacy in Australia and Tasmania provides one example of how alternative approaches to youth justice can be more cost effective and provide better outcomes.<sup>16</sup> It is essential that in cases where detention is an appropriate response, a coordinated whole of system approach is used to ensure the human rights of young people in the care of the State are not breached.

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<sup>11</sup> Commissioner for Children Tasmania, *Alternatives to Secure Youth Detention in Tasmania* (2013).

<sup>12</sup> Commissioner for Children Tasmania, above n 11.

<sup>13</sup> Tasmania Department of Health and Human Services: Community Youth Justice. Accessed 19<sup>th</sup> October 2016: [http://www.dhhs.tas.gov.au/youth/youth\\_justice/community\\_justice](http://www.dhhs.tas.gov.au/youth/youth_justice/community_justice).

<sup>14</sup> Save the Children Australia, *Social Return on Investment of Tasmanian youth justice programs* (2015), 51.

<sup>15</sup> Commissioner for Children Tasmania, above n 11.

<sup>16</sup> Commissioner for Children Tasmania, above n 11.

### **About the Queensland Network of Alcohol and Other Drug Agencies (QNADA)**

QNADA is the peak organisation representing the views of 39 NGO AOD organisations. Through our knowledge of the sector, network of experienced members and links across complementary human service delivery sectors, QNADA is well placed to provide practical advice and front-line service delivery experiences to inform policy and program advancement for the sector.