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25 October 2024

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600

Via email: legcon.sen@aph.gov.au

Dear Committee Secretary

Thank you for the opportunity to provide a submission to the Inquiry into Australia's youth justice and incarceration system. The Office of the Public Guardian (OPG) appreciates the extra time afforded to provide this response.

OPG is an independent statutory office which promotes and protects the rights and interests of adults with impaired decision-making capacity and children in the child protection system or staying at a visitable site. Relevant to this inquiry, OPG provides individual advocacy that gives an independent voice to children by:

- providing person-centred advocacy for relevant children in the child protection system (including those who may also be in the youth justice system), to elevate their voice and participation in decisions that affect them, and
- conducting community visits to monitor and advocate for the rights of children and young people in out-of-home care (including foster, kinship and residential care), and all children and staying at other visitable locations (including youth detention centres, police watch houses, authorised mental health services and other residential facilities).

I commend the Australian Parliament for undertaking this vital inquiry into a matter of highest importance for both Queensland and other Australian jurisdictions. There are many issues in the youth justice sector that are common across Australia, including non-compliance with the international minimum age of criminal responsibility, infringement or overriding of human rights, the use of separation (isolation) in detention, and the use of police watch houses to detain vulnerable children for prolonged periods. The sector would greatly benefit from national consistency and minimum standards for youth justice that are consistent with Australia's international obligations. Failure to remedy these issues with meaningful and progressive reform will create a damaging legacy for our next generation.

To this end, I invite the Committee to consider my recent submission to the Inquiry into Youth Justice Reform in Queensland, which is a comprehensive statement of my concerns with the Queensland youth justice system and my recommendations for reform (enclosed). This submission advocates for the minimum age of criminal responsibility to be increased to 14 years of age. It calls for increased

investment in early intervention and stronger collaboration between service systems to appropriately respond to the needs of children, including First Nations children, those with a disability and those in the child protection system. It discusses the need for increased investment in preventative strategies, diversionary options and trauma-informed responses to the underlying causes of offending behaviour, including programs led by Aboriginal and Torres Strait Islander communities to help address the overrepresentation of First Nations children in the youth justice system.

I also invite the Committee to consider my subsequent submission to the Queensland Community Safety Bill 2024, which further eroded the rights and wellbeing of vulnerable children in the Queensland youth justice system by removing the principle of detention as a last resort, expanding the use of electronic monitoring, and increasing media access to Children's Court proceedings (enclosed).

Having had the benefit of reading the Queensland Family and Child Commission's submission to this inquiry, I would like to reinforce the Commission's key areas of concern and opportunities for reform (enclosed). I also encourage the Committee to review the Commission's report, *Who's responsible: Understanding why young people are being held for longer in Queensland watch houses* (enclosed). This report contains compelling data about the drivers behind the increased use of watch houses and how it negatively impacts children and young people in Queensland.

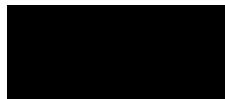
I welcome this national inquiry and am hopeful of its potential to generate much-needed reform and positive outcomes for our children, families and communities. In undertaking this inquiry, I encourage the Committee to consult with children who have had a youth justice experience about the matters being considered in the inquiry and any proposed reforms to address youth offending.

I also understand the Committee may be considering whether to hold public hearings outside Canberra. If so, I encourage the Committee to consider conducting a public hearing in Queensland and to visit a police watch house, as this would provide a valuable opportunity to engage directly with local stakeholders about the key youth justice issues impacting our state.

OPG will continue to raise the voices of children in detention to help shape a youth justice system that prioritises their rights, dignity and wellbeing.

I trust this information is of assistance. Should you require further information, please contact Ms Kelly Unsworth, Principal Policy Officer, at [REDACTED] or on [REDACTED].

Yours sincerely



Shayna Smith
Public Guardian

Enc. OPG submission to the Inquiry into youth justice reform in Queensland (January 2024)

OPG submission to the Queensland Community Safety Bill 2024 (May 2024)

Queensland Family and Child Commission submission to the Inquiry into Australia's youth justice and incarceration system (October 2024)

Queensland Family and Child Commission report, *Who's responsible: Understanding why young people are being held for longer in Queensland watch houses* (November 2023)