

Commission of Inquiry into Queensland's Child Safety System – corporate parenting and the link between the child safety and youth justice systems

Submission by Legal Aid Queensland

23 January 2026

Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission to the Commission of Inquiry into Queensland's Child Safety System in respect of the role of the Department of Families, Seniors, Disability Services and Child Safety as a corporate parent and the link between the child safety and youth justice systems.

LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997*, LAQ is established for the purpose of “*giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way*” and is required to give this “*legal assistance at a reasonable cost to the community and on an equitable basis throughout the State*”. Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ's services, either directly or consequentially through impacts on the efficient functioning of the justice system.

LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ's lawyers in the day-to-day application of the law in courts and tribunals. LAQ believes that this experience provides LAQ with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavours to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

LAQ is the largest legal service provider in Queensland to children, young people, parents, and extended family members in relation to issues arising in the child safety system. LAQ provides legal aid funding for matters related to child protection litigation for LAQ's Child Protection Lawyers and preferred suppliers from private law firms.

LAQ's Child Protection Lawyers provide legal advice clinics, duty lawyer services, ongoing representation in child protection litigation for parents, children, and young people, and are regularly developing and contributing to training for lawyers and community workers engaged in the system. The Brisbane based Child Protection Teams also provide early advocacy through the Child Protection Early Legal Service and aim to increase availability and accessibility of legal support in designated regional areas through the Child Protection Outreach Legal Service.

This submission also draws from the experience of LAQ's Criminal Lawyers, including those in Regional Services. In particular, it calls upon the knowledge and experience of lawyers who regularly provide advice and representation services to children and young people across the full range of criminal law offences. These lawyers possess valuable knowledge and insight into the link between youth justice and child protection and the impacts this has on criminal legal practice, as well as the practical implications for defendants.

Definitions

Section 8 of the *Child Protection Act 1999* (CPA) defines a child as “an individual under 18 years”. As such the term child is used in this submission to refer to any person under the age of 18. It is acknowledged that older children may identify as a young person rather than a child, however the terms child or children is used consistently for readability and to remove confusion.

The Department of Families, Seniors, Disability Services and Child Safety is referred to throughout this submission as “Child Safety”.

Submission

Child Safety as a corporate parent

LAQ recognises the immense pressure placed on Child Safety to meet the complex needs of children in care and the logistical challenges that flow from the constant re-allocation and re-prioritisation of limited resources. These logistical and resource challenges are particularly evident, and particularly impactful on the lives of children, when they interact with corporate parenthood. The provision and resourcing of placements (both kinship, general foster care and residential care), support services, and preventative services all significantly influence the trajectory of a child's life.

In LAQ's experience, Child Safety is inconsistent in its role as a corporate parent. While LAQ lawyers have observed Child Safety to provide proactive support in some cases (particularly for younger children), a more common experience is that children receive inadequate or delayed assistance, particularly as they age within the system. Lawyers interacting with children in care are aware of inconsistent rule frameworks between residential care facilities and the differing levels of support and quality of care offered by providers. Common issues raised by children in residential care facilities include:

- Starkly different house rules concerning curfews, external activities, and access to facilities (for example, one child reported being denied access to the backyard of their residential placement during ordinary daytime hours).
- Varying levels of willingness to provide transportation for children, including to facilitate contact with biological family or to court.
- Different levels of tolerance or patience for 'poor' behaviour by children in the residential placement, which can lead to an escalation of consequences.

A common care model observed by LAQ lawyers is where children are permitted only to stay at a residential care placement during the night before being required to leave the placement during the day. The lack of supervision often leads to:

- Children being on the streets during the day, with no transport/assistance to attend school, court, or youth justice activities.
- Further offending occurring during hours where there is no person available to supervise/guide the children.
- Children being late to return home to placement for multiple reasons (either no transport, lost track of time, no ability to keep track of time) and if they are late the placement will be closed to them meaning they are homeless.

It is also observed that children in the care of Child Safety who live in residential placements are frequently:

- Charged with offences against carers (e.g. assaults) in circumstances where they are emotionally dysregulated and expected to form relationships with people they have never met.

- Charged with offences against property (e.g. wilful damage) during an emotional outburst or difficult situation (and sometimes the wilful damage is as low-level as a 12-year-old throwing food).
- Charged with offences of breaking/entering or trespassing when returning to an old placement or a friend's placement.
- Placed into residential care arrangements with 3 – 4 other children who are already entrenched in the criminal justice system, who they then form bonds with due to shared experiences and common ground.
- Getting into stolen cars when one arrives at the placement, along with other children, and then are subsequently charged with unlawful use of a motor vehicle and often offences that then follow the use of that vehicle.
- Subject to bail conditions that are more restrictive than the norm, because the bail conditions are made to align with the rules and restrictions of the residential placement.

In relation to children who leave their Child Safety approved placement, it is the observation of LAQ lawyers that:

- It is common for Child Safety officers to attend court and say that the child is “self-placing”. This can often mean that the child has returned to the care of their parent/s or other family members. When that child is applying for bail, this creates issues where Child Safety advise that they cannot support a placement back with the child's parent/s or other family members, however there is no residential care placement available. This may result in the child being remanded in custody longer than necessary.
- When the court has been advised that a child who has failed to appear at court is either “missing” or “self-placing”, often these children will then be located in the watch house charged with a string of offences only a few days later, indicating that during the time they were “missing” or “self-placing” they were in fact unsupervised and committing offences.
- The reality is multiple children in the child safety system who are described as “self-placing” are homeless and have been offered accommodation with an older person. That older person then exposes them to alcohol/drugs and sometimes sexual abuse which only entrenches criminal behaviour. Unfortunately, this is quite common and details of the exposure to alcohol/drugs/abuse is regularly seen in youth justice pre-sentence reports.

In the experience of LAQ lawyers, the inconsistencies and difficulties experienced by children in the corporate parenthood system create feelings of resentment towards residential care providers and, in turn, with Child Safety Officers and Child Safety itself. This can ultimately lead to the disengagement of children from the child safety system as they age. LAQ's lawyers have observed a downward spiral in which children refuse to reside in departmentally approved placements and begin to self-place, often in the environments they were originally removed from or in other unstable and/or unsafe accommodation arrangements. In turn, this can increase children's exposure to harm and anti-social factors and increase their rate of offending.

In the decision of *QPS v Jack Campbell (a pseudonym)*¹, his Honour Mac Giolla Ri gave detailed sentencing remarks which encapsulate the link between a failure to provide an appropriate placement and reoffending by a child:

16. On the day of Jack's sentence for these matters Child Safety advised that specialist 2:1 placement was not available and, in fact, there was no specific placement at all planned for Jack were he to be released that day. The unit within Child Safety with responsibility for placement, the 'Placement Services Unit' ('PSU') had not provided any 'update' to the Child Safety officers who were looking after Jack and present at Court to support him.
17. It is quite clear that with appropriate support Jack is quite capable of creating a tolerable future for himself but without that support he will continue on a sad merry-go-round of offending, incarceration and hopelessness.
18. It is unclear to me that the residential placement system as it currently exists in Queensland is a viable way to care appropriately for vulnerable children. I have previously received sworn evidence that no data is available to Child Safety on residential placements' ability to care for children or reduce their offending.
19. Similarly, the information provided to me by Child Safety in this sentence suggests that the resi system rarely, if ever, creates anything like a placement that gives a sense of security to a child because:
 - a) Placements are contracted out to various organisations and are 'opened' and 'closed' on an ad hoc basis.
 - b) Staff are rotated between homes and across various shifts.
 - c) A child's placement will usually be 'closed' if the child is absent for more than a few days, for example goes to detention or stays with friends or family.
 - d) Even if a child does remain in his or her placement, long stays in a particular placement are usually measured in weeks and months and not years.
 - e) As a result of the systems features, there is limited opportunity for a child/staff member to form a trusting relationship. If positive relationships form, it is likely to be despite rather than because of the system's design.
 - f) The system, in its current form, effectively prevents the "predictability, structure and routine" that Jack needs.

LAQ lawyers have also observed limited throughcare afforded to children transitioning into adulthood and exiting the child safety system. In the experience of LAQ lawyers, there is little scaffolding to empower children to independently meet their needs from the date of their 18th birthday. Rather, there is an abrupt cessation of support, in circumstances where children have, understandably, not yet mastered the ability and skills to live independently. This can and does inform the ongoing contact of young adults with the criminal justice system.

Child Safety has also, in the experience of LAQ lawyers, been inconsistent with meeting the needs of children in care who become parents themselves. Again, there appears to be a distinct lack of available resources to support children who give birth while subject to a child protection order; most particularly, the ability of Child Safety to arrange a placement of mother and newborn baby together

¹ [2024] QChCM2

is, in the experience of LAQ lawyers, severely limited. LAQ lawyers have also observed a lack of case planning support for children who become pregnant while subject to the corporate parenthood of Child Safety.

The link between child safety and youth justice

In LAQ's view, elements of the child safety system directly feed children into the youth justice system. A common example of this link is where children are charged with offences arising in their residential care placement, often for offences such as wilful damage, common assaults, and the unlawful use of house property or vehicles.

In the experience of LAQ lawyers, the behaviours that give rise to these charges are, in many cases, squarely within the realm of challenging or defiant behaviours that can arise in 'ordinary' adolescence. The crucial difference is that these behaviours are criminalised for children in the care system in a way that they are not for children in the care of their parents. In a family home, these behaviours are often managed and disciplined within the family. In residential care, however, the behaviours form the basis of criminal complaints, inevitably leading to the courts and to the wider youth justice system. What follows, in the experience of LAQ lawyers, is the establishment of strong peer bonds with other juvenile offenders, alienation from the wider community due to status as an 'offender', and entrenchment in the criminal justice system itself.

Experiences of information sharing

LAQ experiences of information sharing, communication and engagement between government agencies can vary significantly, largely depending on the individual Child Safety Officer allocated to a child. LAQ's criminal lawyers have had positive experiences where individual Child Safety Officers take the initiative to attend court to support a child and to provide the court with comprehensive details concerning Child Safety's intervention with a child and information on the child's engagement with support networks (including health, education and cultural activities). Conversely, LAQ lawyers have also witnessed cases where Child Safety has not been able to provide information concerning the efforts to support a child. This is particularly problematic, and has serious implications for the child, when children are remanded in custody. LAQ has experienced cases where Child Safety is called upon by the court to provide information relevant to an application for bail, and is unable to comment on:

- Whether Child Safety intends to apply for custody or guardianship, in matters where child safety concerns have been investigated and identified.
- Whether Child Safety has investigated whether residential care placements will be made available to a child upon release from custody.
- The engagements or referrals that have been made to address issues of concern including referrals to doctors and allied health professionals, educational pathways, and transportation.

In addition to the significant impacts that delays to information sharing can have on children in custody, LAQ notes that it also impedes the efficient functioning of the court, with multiple delays and adjournments often required before matters can be progressed.

