

10 August 2017

Our ref: BDS-ChLC

Commissioner Ian Stewart  
Queensland Police Service  
Police Headquarters  
GPO Box 1440  
BRISBANE QLD 4001

Dear Commissioner,

**Youth criminal histories and section 148 *Youth Justice Act 1992* (Qld)**

We write to raise the issue of youth criminal histories being tendered in court proceedings against adults where no conviction has been recorded.

We note that section 148(1) of the *Youth Justice Act 1992* (Qld) provides:

(1) In a proceeding against an adult for an offence, there must not be admitted against the adult evidence that the adult was found guilty as a child of an offence if a conviction was not recorded

The provision came into effect on 1 July 2016, after the passage of 15 of Act number 38 of 2016, the *Youth Justice and Other Legislation Amendment Act (No 1)*.

We note that a year has passed since the legislation came into effect. It is of concern to the Society whether all necessary steps have been put in place by the Queensland Police Service to stop juvenile records (where no conviction is recorded) being placed before courts in Queensland.

We are writing to you in your capacity as Commissioner of Police. Under section 2A.1(t) of the *Police Service Administration Regulation 1990* (Qld) you are given the responsibility to collect the information relevant to the compilation of criminal histories. The relevant section is reproduced below for ease of reference:

- (t) maintenance of proper records, including, but not limited to, records about—
  - (i) the action taken by a police officer or someone else in relation to a person suspected of having committed an offence; and
  - (ii) the result of any proceeding against the person for the offence.

The word 'offence' is defined in section 3 of the Criminal Code as "*an act or omission which renders the person doing the act or making the omission liable to punishment...*"

Failure by the Queensland Police Service to adhere to the legislative scheme has already caused appealable error. In the case of *Ehlers v Queensland Police Service* [2017] QDC 6, an appeal was allowed where a youth criminal history was wrongly admitted in a sentencing proceeding.

We would appreciate your consideration of this matter and confirmation of the steps taken by the Queensland Police Service to ensure compliance with section 148(1) of the *Youth Justice Act*.

We thank you in advance for your consideration of this issue and look forward to a response at your earliest convenience.

Should you have any further enquiries, please do not hesitate to contact Acting Advocacy Manager, Binari De Saram on (07) 3842 5895 or [b.desaram@qls.com.au](mailto:b.desaram@qls.com.au).

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Christine Smyth', with a long horizontal line extending to the right.

Christine Smyth

**President**