

STRENGTHENING COMMUNITY SAFETY BILL 2023

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Committee Secretary
Economics and Governance Committee
Parliament House
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RE: Strengthening Community Safety Bill 2023 – Submission

Caxton Legal Centre Inc is well known for its delivery, over 46 years, of legal and social support services to Queenslanders who experience disadvantage, discrimination and exclusion.

As an organisation focussed on promoting and protecting the human rights of all Queenslanders and as one which provides services to both victim-survivors and offenders-perpetrators, Caxton is well-placed to provide this submission.

It is our view that certain provisions of the Bill fail common sense, fail community safety, fail young people, and fail what is just and right.

Caxton supports the submissions of the Justice Reform Initiative and Queensland Law Society and refers to and relies upon the evidence base discussed in those submissions.

Caxton joins with other organisations in its reproach of the short consultation timeframe on certain provisions of the Bill which accounts for the brevity of this submission.

From our experience, we respectfully submit that, when considering each of the provisions of the Bill, there are matters of great importance to be weighed by this Committee:

1. There is an urgent need to reduce the number of young people in Queensland watchhouses and detention centres. The provisions of the Bill which will result in an increase in the number of contacts young people have with incarceration-based solutions must be rejected.
2. Imprisonment is a cycle and needs circuit breakers. Increased exposure to imprisonment is not a circuit breaker. The provisions of the Bill which do not provide circuit-breaker opportunities for young people who are exhibiting anti-social behaviours must be rejected.
3. There are evidenced-based solutions for young people whose behaviours violate the property and personal rights of others and this Government is poised to invest in some of those. This Committee should reject the Bill or require the Government to defer provisions of the Bill which represent a 'tough on youth crime' approach until the prevention/early intervention, evidence-

based investments are fully operational. Otherwise, children who haven't and can't benefit from the prevention/early intervention investment (because they will be adults) will disproportionately bear the burden of this Bill.

4. The Government is committed to elevating Aboriginal and Torres Strait Islander-led approaches towards overrepresentation. The provisions of the Bill which thwart these approaches must be rejected.
5. The community wants to be safe. It wants deterrence and rehabilitation. There is no evidence in Queensland, Australia or overseas that 'tough on crime' measures improve community safety or that stronger punishments deter or rehabilitate, especially for young people who are to overcome by disordered thinking or neuro-underdevelopment. The tough on crime provisions of the Bill will not improve community safety and to the extent it increases the number of contacts young people have with incarceration-based solutions, it may increase youth crime. Because community safety objectives will not be achieved via this Bill, the provisions of the Bill which represent a 'tough on youth crime' approach to achieve community safety should be rejected.
6. The community wants young people with disability to receive the supports they need to live their best lives as equal citizens. The Bill disproportionately criminalises and punishes young people with disability. To the extent the provisions of the Bill disproportionately impact young people with disability, they must be rejected.
7. The community wants young people who have experienced or been impacted by domestic and family violence to get the supports they need to be safe, to be long-term survivors and to live their lives free from violence. The Bill disproportionately criminalises and punishes young people who are victim-survivors of domestic and family violence. To the extent the provisions of the Bill disproportionately impact young people who are victim-survivors of domestic and family violence, they must be rejected.
8. Adult watch-houses are not places for children. The Bill puts children into adult watch-houses more often and for longer. While the Government does not have any available child-appropriate locations/interventions for detaining and supporting children, the provisions of the Bill which will result in young people being held in watchhouses must be rejected.
9. Queensland youth detention centres are operating at capacity. The answer to this is not to build new youth detention centres at considerable cost or to hold children in watch houses, both of which increase anti-social behaviours, but to reduce the number of children going into custody in the first place. The provisions of the Bill which increase the number and length of times children will go into custody must be rejected.
10. The community wants cost-effective solutions. To the extent the provisions of the Bill will necessitate building new places of detention or to the extent the provision of the Bill will

broaden the opportunities for expensive downstream costs associated with increased incarceration (justice, health, housing, welfare), the Bill must be rejected.

11. The community wants laws that are compatible with human rights. This Bill is the first to not only limit rights but to expressly override the operation of the *Human Rights Act 2019* in key areas that ordinarily require new laws to be justified, proportionate and a fair balancing of all rights. Even with the pandemic, rights respecting processes were managed, not abandoned. The Committee would be concerned that this rights-theft approach sets a worrying precedent, especially when it extinguished the rights of some of the most vulnerable members of our community – Aboriginal and Torres Strait Islander children - some of whom are in this Government’s care, and all of whom it has failed to protect, nurture or educate. To the extent the Government has failed to engage in the proper exercise of its responsibilities under the Human Rights Act 2019, it must be rejected.
12. Section 10 of the *Racial Discrimination Act (Cth) 1975* is intended to prevent the making of laws that adversely target or disadvantage people of a particular race. The Committee will be concerned about whether these proposed laws are not only incompatible with its own human rights law, but would also be incompatible with that Commonwealth legislation, which the Queensland Government is not entitled to ignore. To the extent the provisions of the Bill fall foul of this legislation, it must be rejected.
13. A civil society wants its Government to adhere to the general principle of proportionality that should guide the criminal law and give the community confidence in the administration of criminal justice. There are a range of provisions in the Bill that increase the penalties for theft of a motor vehicle. The statement of compatibility refers to the average loss associated with theft of a motor vehicle as \$7,269. Most stealing offences of similar values carry maximum penalties of ten years or less, with offences committed in positions of trust (by employees and public servants) at the higher end. The maximum penalty for theft of a motor vehicle will now, at 14 years, exceed almost all other stealing offences. It will equal the maximum penalty for dangerous operation of a vehicle causing death. It will exceed the penalty for unlawful wounding, most sexual assaults and many other offences which objectively cause significantly greater harm to victims. It will be double the maximum penalty for coercive control, which seeks to criminalise campaigns of domestic violence, characterised by fear and control, that completely take over the lives of victims. All sense of proportionality has been lost if dangerous operation of a motor vehicle causing death, and theft of a motor vehicle, now carry the same sentence. To the extent the provisions of the Bill result in disproportionate penalties, it must be rejected.
14. The Government has a responsibility to shift the public conversation away from ‘tough on crime’ approaches towards a balanced public awareness of the drivers behind youth offending and evidence-based prevention and solutions. The manner in which certain provisions of the Bill are being presented, debated and introduced promotes popular (to some) but polarising and ineffective approaches. The Bill is likely to result in the community losing significant confidence

in the Government's responses when increased incarceration options do not reduce youth crime. This Committee is charged with the responsibility of managing a new narrative that gets the balance right.

This submission has been prepared by Cybele Koning, CEO, Caxton Legal Centre Inc. Cybele can be contacted on [REDACTED]

Your sincerely

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