

## STRENGTHENING COMMUNITY SAFETY BILL 2023

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**Submitted by:** TASC Legal and Social Justice  
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**Submitter Comments:**



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### **Inquiry into the Strengthening Community Safety Bill 2023**

#### **About TASC National Limited**

TASC Legal and Social Justice Services is a not-for-profit organisation that serves over 3000 people per year across more than 400,000 square kilometers of Ipswich and South West Queensland. Now in our 41<sup>st</sup> year, TASC has developed from a small community legal center to a committed provider of high quality legal advice, social justice and advocacy services. TASC is one of the largest regional community legal and advocacy services in Queensland, where the community and staff work together in partnership to continue to enable justice and change lives.

We are focused on social justice and support, and advocate for our clients, who are culturally and linguistically diverse, and come from the most vulnerable and marginalized sectors of our community. They include First Nation people, refugees and those with disabilities, mental illness and financial disadvantage. We do our best to support the community we work with to promote, protect and preserve their legal and human rights.

TASC welcomes the opportunity to provide submissions to the Inquiry into *Strengthening Community Safety Bill 2023*. We outline our response, with a strong focus on the impacts, rights and outcomes for our clients.

## **Insufficient Timeframe for Submissions**

A meaningful submission contributing to legislative change and law reform requires the analysis of extensive and stringent research, reliable and credible data and statistics, and ample time for consideration, reflection and recommendation. TASC recognises and seeks the committees understanding, that the provided timeframe for submissions is vastly inadequate weighed against the necessary time required, to traverse the voluminous quantity and variable quality of information and previous reports, to form conclusive, significant, recommendations.

Many of the proposed legislative changes in the *Strengthening Communities Safety Bill*, were previously considered at length by the Legal Affairs and Community Safety Committee in regards to the *Youth Justice and Other Legislation Amendment Bill 2015*.<sup>1</sup> Submission in that consultative process were received in a six week period from a broad range of stakeholders with notable experience in working, caring and advocating for children and young people. The extended time period for submissions allowed for thoughtful, evidence-based responses to the Committee, who were in turn afforded significantly more time to table their report. The current consultative process allows for only three days for submission, and two weeks for the Committee to table their report. TASC has significant concerns with respect to both the quantity and quality of recommendations able to be provided, and considered by the Committee under such time constraints. The Queensland Law Society also states, “the reporting deadline on the Bill is proof the Government are not prioritizing youth justice by rushing it through”.<sup>2</sup>

**TASC recommends a longer consultation period be implemented to ensure educated, informed and properly considered legislative changes.**

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<sup>1</sup> Parliamentary Committees, “Youth Justice and Other Legislation Amendment Bill 2015” (Legal Affairs and Community Safety Committee, Report 22, March 2016).

<sup>2</sup> Queensland Law Society, “Media Statement”(Queensland Law Society, News, 2023); [MEDIA STATEMENT - Queensland Law Society \(qls.com.au\)](https://www.qls.com.au/media-statement)

## Human Rights

The proposed changes which the Committee is tasked to consider, involves our most vulnerable citizens, children, and as such, should take the responsibility to consider their human rights very seriously. The Australian Human Rights Commission recognises that not only are children and young people entitled to the inalienable rights laid out in the Universal Declaration of Human Rights, they require additional, special, protection, to assist them in developing to their full potential in adulthood.<sup>3</sup> The Convention on the Rights of the Child provides those extra protections for children and young people, such as the right to live and grow up healthy, the right to education, and, importantly and relevantly to this issue, the right to be treated fairly, and to have a say about decisions that affect them.<sup>4</sup>

Australia is obligated as a signatory to the Convention to uphold those provisions, and the United Nations Committee on the Rights of the Children are informed by the Australian Human Right Commission on the progress of fulfilling those obligations.<sup>5</sup> The National Children's Commissioner produces reports specifically about children's rights in Australia, and the 2013 report, *What does the Children's Rights Report 2013 say?*, directly reflected the views of Australian children and young people.<sup>6</sup> The feedback resulted in the Commissioner recommending five ideas important to making life better for Australian children. These ideas included children having an opportunity to thrive, and, "the need to help children who have a really hard time right from the start, not waiting until the problems get really bad".<sup>7</sup>

The report also reiterates the need for children to not only be heard, but ensure that adults listen and take their view seriously. They additionally expressed their need for "adults to help them, respect them, and care for them when they need it, and to take action to make things better."<sup>8</sup> That is acutely lacking in this consultation process, the time to hear, listen and act on the views of the children, who are directly affected by these changing laws.

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<sup>3</sup> The Australian Human Rights Commission, "What are Children's Rights" (Australian Human Rights Commission, Education) [What are Children's Rights? | Australian Human Rights Commission](#).

<sup>4</sup> Ibid.

<sup>5</sup> The Australian Human Rights Commission, "What are Children's Rights" (Australian Human Rights Commission, Education) [What are Children's Rights? | Australian Human Rights Commission](#).

<sup>6</sup> Australian Human Rights Commission, "What does the Children's Rights Report 2013 Say?" (Australian Human Rights Commission, Education, August 2013).

<sup>7</sup> Ibid 10.

<sup>8</sup> Ibid.

The Australian Psychological Society's College of Forensic Psychologists stated in their 2015 submission to the committee, they were hopeful the Government would align legislation surrounding youth justice with human rights conventions, to "provide equal protection of all children".<sup>9</sup> The acknowledgement and intention for the Queensland Government to directly contradict those protective measures, causes great concern for the welfare of Queensland children, many of which already face difficult circumstances. This is also of concern to the Queensland Law Society, who stated, "We are disappointed with the emboldened decision to override this Government's Human Rights Act".<sup>10</sup>

The result of the amendments from the *Strengthening Community Safety Bill 2023* will be the further, and ongoing incarceration of children and young people, leading to devastating and long-term, social and physiological effects. According the Australian Youth Affairs Coalition, the impact of a young person being incarcerated include, a 'decrease in wellbeing, disengagement from education and involvement in the labour force, disruption to positive relationships and being socially excluded'.<sup>11</sup> These factors are acknowledged to be "known drivers of offending or recidivism".<sup>12</sup> In essence, changing legislation to reflect the new amendments is setting children and young people up to fail.

## **TASC recommends allowing, including and considering the lived experience and views of the children affected by the proposed changes to Youth Justice in Queensland.**

### **Previous Recommendations**

The Legal Affairs and Community Safety Committee ("LACSC") reported being advised when tabling their 2016 report, that the approach to those amendments would be an emphasis

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<sup>9</sup> Australian Psychological Society's (APS) College of Forensic Psychologist, "Submission" (Youth Justice and Other Legislation Amendment Bill 2015, January 2016).

<sup>10</sup> Queensland Law Society, "Media Statement" (Queensland Law Society, News, 2023); [MEDIA STATEMENT - Queensland Law Society \(qls.com.au\)](https://www.qls.com.au/media-statement)

<sup>11</sup> Australian Psychological Society's (APS) College of Forensic Psychologist, "Submission" (Youth Justice and Other Legislation Amendment Bill 2015, January 2016).

<sup>12</sup> Ibid.

on early intervention and rehabilitation for youth offenders.<sup>13</sup> In addition, the report states, “The policy will focus on evidence based coordinated and intensive approaches to reduce offending behaviours’.<sup>14</sup> The current Amendment Bill (2023) proposes the opposite to that approach, without any evidence to support the disregarding of previous advice or robust and broad community consultation. Most concerning, is the statement made by the Department of the Attorney-General in the 2016 report, “At the core of the policy is the evidence-based assertion that children and young people’s involvement in the youth justice system, especially detention, is the least desirable and effective approach to stopping childhood offending and **does not lead to long term and sustainable improvements in community safety**’.<sup>15</sup>

It is important to note, of the 24 submitters to the previous amendment bill, which included organisations such as the QUT Crime and Justice Research Centre and Queensland Family and Child Commission, 18, supported the above objective and policy. Additionally, there was support from stakeholders against incarceration for reasons of upholding our obligations to the Convention on the Rights of the Child, which provides, “The arrest detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”.<sup>16</sup> To support this, Professor O’Leary stated that young people do not consider the consequences of their actions due to their brains still being in development, therefore, “sentencing purpose of specific deterrence is particularly inappropriate for young people”.<sup>17</sup>

Most compelling is the submission from the Queensland Association of Independent Legal Services (“QAILS”), who submitted that the environment in detention “fosters criminality and provides offenders with a better ability to create criminal networks and to learn better offending strategies”.<sup>18</sup> Without a full and complete analysis of statistical representations post 2016 amendment changes, there is incomplete evidence to suggest the current proposed amendments would achieve positive outcomes. In fact, statistical information shows, the

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<sup>13</sup> Parliamentary Committees, “Youth Justice and Other Legislation Amendment Bill 2015” (Legal Affairs and Community Safety Committee, Report 22, March 2016)10.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> United Nations of Human Rights, “Convention on the Rights of the Child, November 1989, United Nations Core Instrument) Article 37(b).

<sup>17</sup> Parliamentary Committees, “Youth Justice and Other Legislation Amendment Bill 2015” (Legal Affairs and Community Safety Committee, Report 22, March 2016); “Hansard Transcript” public briefing Brisbane 17 February, pp1-2.

<sup>18</sup> Parliamentary Committees, “Youth Justice and Other Legislation Amendment Bill 2015” (Legal Affairs and Community Safety Committee, Report 22, March 2016); Submission 19, Queensland Association of Independent Legal Services.

youth offender rate decreased from 1,785 offenders in 2020-2021 to 1,778 offenders per 100,000 persons aged between 10 and 17 years in 2021-2022.<sup>19</sup> TASC therefore believes there is insufficient current evidence to support these proposed amendments.

**TASC does not support the Strengthening Community Safety Bill 2023, without the implementation of the following:**

- **Time to research and analyse current information and data relating to previous legislative amendments**
- **A broad community consultation process**
- **Collaboration and consultation with children and young people to consider their views.**
- **Amendments that consider the human rights of children and young people.**
- **Amendments void of political motivation**

*TASC would like to thank the committee for the opportunity to make submissions for the Strengthening Community Safety Bill 2023.*

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<sup>19</sup> Australian Bureau of Statistics, "Youth Offenders" (ABS data 2022); [Recorded Crime - Offenders, 2021-22 financial year | Australian Bureau of Statistics \(abs.gov.au\)](#)