

STRENGTHENING COMMUNITY SAFETY BILL 2023

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Social Work and Human Services, School of Public Health and Social Work, Faculty of Health, QUT submission to the Queensland Parliament Economics and Governance Committee Strengthening Community Safety Bill 2023.

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Position Statement

We write in opposition to the *Strengthening Community Safety Bill 2023* on the basis of its reactionary and draconian approach to youth justice and community safety. As social work academics with many years of collective practice and scholarship in young people and the criminal justice system, we are deeply concerned about the proposed Bill leading to much higher rates and numbers of young people, especially First Nations young people coming into contact with the criminal justice system. This submission draws on both our individual expertise and current research in the field. The proposed legislative changes are at odds with the policy intent of the Queensland Government's *Working Together Changing the Story: Youth Justice Strategy 2019-2023* and the Queensland *Human Rights Act 2019*. We strongly urge you not to proceed with the Bill.

Data and Evidence

The Australian Institute of Health and Welfare report that on an average day in Queensland in 2020-21, there were:

- 1,6110 young people aged 10 and over under youth justice supervision
- This is equivalent to 21 per 10,000 young people aged 10-17 years.
- Indigenous young people were 21 times more likely to be under supervision than non-Indigenous young people. 64% of those aged 10–17 identified as being of Aboriginal or Torres Strait Islander origin
- Of those under supervision, 86% were supervised in the community and 15% in detention.
- 91% of those in detention were unsentenced (awaiting the outcome of their court matter or sentencing), and 12% were serving a sentence.
- Young people spent an average of 35 weeks under supervision during the year.

(source: AIHW, accessed 23/2/23 <https://www.aihw.gov.au/reports/juv/138/youth-justice-in-australia-2020-21/contents/factsheets/qld>)

The full impacts of the COVID19 pandemic on youth offending require some further analysis and must be taken into account in the design of community safety policy. This data illustrates the nature of the challenge facing front line social welfare workers, police and the courts.

Too often, the data has been mis-represented by some within the media and the political system. On a statewide basis, the Department of Children, Youth and Multicultural Affairs advise that it is approximately 10% of young people are committing 44% of crime¹. It is a small cohort of young people who are involved in serious and repeat offending. Additionally, we understand that as much as 1/3 or 33% of all children and young people in youth detention are on dual child safety and youth justice orders. This figure alone illustrates the systemic failings of statutory

¹ Queensland Government (2019) Working Together to the Change the story: Queensland Youth Justice Strategy 2019-20

systems in Queensland which are currently unable to engage in effective early intervention prior to offending. We urge the department and all agencies to collaborate and take a shared responsibility in supporting young people to prevent youth crime and offending.

Key Issues and Areas of Concern with the *Strengthening Community Safety Bill 2023*

Proposed Suspension of the Queensland Human Rights Act 2019 as part of the Implementation of the Bill

The Bill requires the suspension of the Queensland *Human Rights Act 2019* relating to children and young people involved with youth justice services. This legislation requires the Queensland Parliament to have regard for the human rights when proposing or scrutinising new laws. It is unconscionable that the *Human Rights Act 2019* is to be suspended as part the of the Queensland Government’s “get tough” on youth crime. There are numerous elements of the Human Rights Act that are relevant to children and young people. These include:

- Sections 26 dealing with the Rights of Children,
- Section 27 Cultural Rights (General),
- Section 28 Cultural Rights Aboriginal and Torres Strait Islander peoples, and
- Section 33, the rights of children in criminal processes.

Specifically, Section 33 of the Act requires that

“A child charged with committing a crime or who has been detained without charge must not be held with adults. They must also be brought to trial as quickly as possible and treated in a way that is appropriate for their age. Children are entitled to opportunities for education and rehabilitation in detention. They must also be brought to trial as quickly as possible and treated in a way that is appropriate for their age. Children are entitled to opportunities for education and rehabilitation in detention.”

We know the systemic failings of government agencies and the abuse of children and young people in child safety out of home care and youth detention since colonisation. The *Human Rights Act 2019* provides a safeguard for one of the most vulnerable groups within the community, that is children and young people interacting with the criminal justice system. The Act must be maintained as part of any new policy approach to youth justice in Queensland.

Ignoring longstanding problems of structural inequality and intersectional complexities

Considerable research about the diversity and discrimination of youth justice systems has been undertaken in Queensland, throughout Australia, and internationally (ref?). The adverse impacts of youth detention have been argued repetitively and highlight the continual damage that is inflicted on young people through the failings of institutions specifically in relation to the reduction of crime (Goldson, 2008; Zoetl, 2017).

As highlighted in the Youth Justice Strategy 2019 – 2023, most young people who are in contact with Queensland’s Youth Justice system are overwhelmingly from already marginalised groups. Over half of the young people were living with a mental health disorder or behavioural challenges; over half of the young people have had prior involvement with the Child Protection system; and an overwhelmingly disproportionate number of First Nations young people are involved with the Youth Justice System (Queensland Government, 2019). Additionally, intersectional challenges intensify the complexity of experiences for these young people. For example, First Nations young people in contact with the youth justice system are more likely to have a cognitive disability than non-Indigenous young people (Dias et al., 2013; Hamilton et al., 2019), while young people who live in poverty are at a higher risk of offending than those in middle class families (Mulder et al., 2011).

The failure to consider and directly address the structural inequalities that contribute to the behaviour of young offenders will undoubtedly mean that offending will continue. Research suggests that both individual and environmental support such as addressing parenting skills, earlier diagnosis and treatment of mental health issues and a focus on personal coping strategies will counter recidivism (Mulder et al., 2011).

The effectiveness of the proposed amendments to the *Bail Act 1980*, the Queensland Criminal Code, the *Youth Justice Act 1992* and the *Police Powers and Responsibilities Act 2000* must be interrogated. These amendments unmistakably renounce the idea of transforming and rehabilitating young offenders, instead moving toward an archaic adultification of young offenders (Zoetl, 2017).

A whole of government and whole of community socially just model of leadership must be implemented

Social justice leadership is employed when leaders centralise marginalising circumstances such as race, class, gender, disability, and historical events, in their advocacy, leadership, practice and vision (Theoharis, 2007, p. 23). While often situated in an educational setting, much of the literature sees social justice leadership creating successful and transformative school cultures (DeMatthews & Mawhinney, 2014). It is demonstrated through an ongoing critical refinement of actions (DeMatthews & Mawhinney, 2014), and is a continuing practice of adjusting inequitable arrangements through sustaining and enhancing human rights (Goldfarb & Grinberg, 2002). Employed in the youth justice context, social justice leadership would be highly advantageous. Leaders must be free from their own personal biases to adequately lead from a socially just perspective (Furman, 2012), centering the inclusion of historically marginalised populations in decision-making (DeMatthews & Mawhinney, 2014). Successful policy and legislative reform depend on leaders disrupting and critiquing dominant discourses, while modelling non-discriminatory behaviour (Theoharis, 2007). While young people who offend need to remain accountable for their behaviours, this must be done in a way that works, not through punitive and paternal punishments. The further young people fall into the margins of oppression, the more vulnerable they become. Inclusion of additional and more consistent restorative justice processes

is needed for young people to comprehend personal responsibility and put into effect pathways to reparation.

Research tells us that socially just democratic processes must ultimately ensure that members of disadvantaged groups have opportunities to express their experiences, needs, and opinions in situations where differently situated others can hear (Young, 2006). Restorative justice does this, and a socially just leader will drive this. Further, collaboration and consultation with peak bodies and organisations working with young people must be prioritised. Leadership, ultimately, is the ability to transform values (Capper et al., 2006), and to promote changes that are collaborative, ethical and progressive (Kose, 2007).

Recommendations

We are strong supporters of the Open Letter to the Queensland Parliament “Getting Smarter: Not Tougher” on youth crime in Queensland that was published in *The Courier Mail* on Saturday 20th January 2023. The nine recommendations spelt out in this letter were:

1. Stop politicising youth crime
2. Take notice of the Facts
3. Protect our children – More than any other age group they are the victims of crime
4. Let First Nations Leaders Lead
5. Properly resource our Teachers and schools
6. Take account of children disabilities and mental health concerns
7. Tackle our social problems
8. Hold children accountable for their behaviour in ways that work
9. Divert children and young people under the age of 14 from the criminal justice system.

Each of these recommendations need to be taken seriously and reflected in government policy and practice. Additionally, we ask the government to do more at times of known peak offending. It is widely known that the summer months coincide with a peak in youth offending. We suggest the Queensland Government work proactively with non-government agencies and the community at this time to better support young people and prevent them from engagement with the police and youth justice services. An increase in flexible and responsive support services to young people during this critical time is strongly recommended.

We also urge you to return the original policy intent spelt out in your own youth justice strategy. Strategies that focus on higher levels of criminalisation of young people and **greater rates of incarceration deliver poor outcomes for children and young people** and do not make the community any safer. Now more than ever, we need strong leadership that brings the community together to prevent youth crime now and into the future.

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