

# Criminal Code (Defence of Dwellings and Other Premises—Castle Law) Amendment Bill 2026

**Submission No:** 004

**Submission By:** Justice Reform Initiative

**Publication:** Making the submission and your name public

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# Submission to the **Justice, Integrity and Community Safety Committee Inquiry into the Criminal Code (Defence of Dwellings and Other Premises—Castle Law) Amendment Bill 2026 (Bill)**

21 April 2026

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## Introduction

The Justice Reform Initiative (JRI) welcomes the opportunity to make a submission to the Justice, Integrity and Community Safety Committee Inquiry into the Criminal Code (Defence of Dwellings and Other Premises—Castle Law) Amendment Bill 2026 (Bill).

The Justice Reform Initiative notes that the Bill seeks to amend section 267 of the Queensland Criminal Code (the Code) to introduce the ‘Castle Doctrine’, otherwise referred to as ‘Castle Law’. This formal legal doctrine, founded on the basis of 17<sup>th</sup> century English common law and the principles of self-defence, is most notably applied across the United States (US) where it has existed for over 200 years.<sup>1</sup> It expands common self-defence principles by permitting an individual to use deadly force to defend themselves when confronted by someone in their home.<sup>2</sup> In the early 2000’s, this Castle Doctrine was expanded within several US states to introduce ‘stand your ground’ laws, which permit an individual to also use deadly force to defend themselves in any place where a person has the right to be (outside of the home).<sup>3</sup>

This submission will focus on the decades of evidence from the application of similar Castle Laws in the US, which shows there is no evidence to support that the proposed amendments will prevent, deter or reduce crime in Queensland. In fact, the evidence shows the proposed amendments are more likely to contribute to increased serious and violent offending, leading to worse outcomes for community safety in Queensland. The Justice Reform Initiative recommends that the Committee does not support passage of this Bill.

## The false promise of deterrence

The Explanatory Notes for the Bill suggest that the proposed introduction of the Castle Doctrine in Qld “sends a message to society that home invasions will not be tolerated and will act as a deterrence to potential home intruders.” This position is based on Deterrence Theory, which posits that people can be deterred from certain modes of behaviour by setting punishments for those acts.

The Justice Reform Initiative is not aware of any evidence to support the claim that the introduction of this legal doctrine will have a deterrent effect. Previous studies have shown that the Castle Doctrine and related stand your ground laws have had no deterrent effect on serious and violent offending (including burglary, robbery, and aggravated assault) in other jurisdictions.<sup>4</sup>

Deterrence Theory assumes that people who have the potential to commit offences will compare the expected benefit of committing a crime with the benefit of not committing a crime, and that by imposing a severe consequence or sentence for criminal acts, a rational actor would conclude that the cost of committing the criminal act would outweigh any potential benefit from the act.<sup>5</sup> However, there is little evidence that policies based on Deterrence Theory, that impose severe consequences (such as deadly

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<sup>1</sup> Encyclopaedia Britannica. (n.d.). *Stand-your-ground laws*. <https://www.britannica.com/topic/stand-your-ground-laws>

<sup>2</sup> Burris, S. (2021). Civilian use of deadly force in self-defense: Public health, stand your ground. *AM Journal of Public Health*, 111(4), 559–561. <https://doi.org/10.2105/AJPH.2021.306173>

<sup>3</sup> Yakubovich, A. R., Esposti, D. M., Lange, C. L. B., Melendez-Torres, G. J., Parmar, A., Wiebe, D. J., & Humphreys, D. K. (2021). Effects of laws expanding civilian rights to use deadly force in self-defense on violence and crime: A systematic review. *AM Journal of Public Health*, 111(4), e1-e14. <https://doi.org/10.2105/AJPH.2020.306101>

<sup>4</sup> Cheng, C., & Hoekstra, M. (2012). *Does strengthening self-defense law deter crime of escalate violence? Evidence from castle doctrine*. NBER Working Paper Series. National Bureau of Economic Research. <http://www.nber.org/papers/w18134>; Yakubovich, A. R., Esposti, D. M., Lange, C. L. B., Melendez-Torres, G. J., Parmar, A., Wiebe, D. J., & Humphreys, D. K. (2021). Effects of laws expanding civilian rights to use deadly force in self-defense on violence and crime: A systematic review. *AM Journal of Public Health*, 111(4), e1-e14. <https://doi.org/10.2105/AJPH.2020.306101>; Esposti, D. M., Wiebe, D. J., & Gasparri, A. (2022). Analysis of “stand your ground” self-defense laws and statewide rates of homicides and firearm homicides. *JAMA Network Open*, 5(2). <https://doi.org/10.1001/jamanetworkopen.2022.0077>

<sup>5</sup> Beccaria, C. B. (1772). *An essay on crimes and punishment* (New ed., with commentary by Voltaire). W. C. Little & Co; Bentham, J. (2018). *An introduction to the principles of morals and legislation*. Amazon CreateSpace Independent Publishing Platform. (Original work published 1789).

force through Castle Law) or harsher sentencing for criminal behaviour, are effective in deterring criminal behaviour or reducing crime.<sup>6</sup>

Deterrence Theory heavily relies on the rationality of the actors who would commit criminal acts. Deterrence Theory assumes that people will know the specifics of particular offences, the likely consequences or penalties attached to particular offences, and that they will be apprehended, prosecuted for and convicted of those offences. The disproportionate representation of people with substance dependency, mental illness and neurodevelopmental/developmental impairments in the criminal justice system immediately creates significant doubt as to whether people have the requisite knowledge or capacity to undertake the rational deliberations required to deter them from criminal conduct. In addition, where criminal behaviour occurs in the context of rage, anger or passion, people are not deliberating in a rational way as to whether the severity of the consequence or punishment outweighs the benefit of the conduct.<sup>7</sup>

The assumptions underlying Deterrence Theory also fail to acknowledge the contextual factors that increase the likelihood of criminal justice system involvement. These include having been in out-of-home (foster) care; receiving a poor school education; systemic and structural disparities experienced by Indigenous people; having early contact with police; experiencing homelessness; and coming from or living in a disadvantaged location.<sup>8</sup>

## Increased serious and violent offending

The Justice Reform Initiative submits there is evidence to support that the proposed legislative amendments may actually increase serious and violent offending. Several studies have shown similar Castle Doctrine and stand your ground laws in other jurisdictions have resulted in increased serious and violent crime (including increases in homicides, firearm homicides, gun crime, aggravated assault and robbery).<sup>9</sup>

Acknowledging the challenges of isolating casual effects<sup>10</sup>, these studies have shown heterogeneous associations between similar legislative changes and violent crime across several jurisdictions in the US. Consistent with previous studies, a recent study that looked at 41 jurisdictions across the US found stand your ground laws were associated with an 8 to 11% increase in national homicide and national firearm homicide rates. It also found an increase in state homicide and firearm homicide rates of 10% or higher within several southern states including Alabama, Florida, Georgia, and Louisiana. These increases account for an additional 58 to 72 homicides each month.<sup>11</sup> These findings were consistent with an

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<sup>6</sup> Mears, D. P., & Stafford, M. C. (2024). A theoretical critique of deterrence-based policy. *Journal of Criminal Justice*, 95, 102235.

<sup>7</sup> Knight, B. (2020, July 16). *Do harsher punishments deter crime?* University of New South Wales Newsroom. <https://www.unsw.edu.au/newsroom/news/2020/07/do-harsher-punishments-deter-crime>

<sup>8</sup> McCausland, R., & Baldry, E. (2023). *The social determinants of justice: 8 factors that increase your risk of imprisonment*. The Conversation. <https://theconversation.com/the-social-determinants-of-justice-8-factors-that-increase-your-risk-of-imprisonment-203661>

<sup>9</sup> D'Alessio, S. J., Stolzenberg, L., & Zgoba, K. M. (2022). The effect of self-defense laws on firearm use among criminal offenders. *Crime & Delinquency*, 69(13-14). <https://doi.org/10.1177/0011287221077629>; Cheng, C., & Hoekstra, M. (2012). *Does strengthening self-defense law deter crime of escalate violence? Evidence from castle doctrine*. NBER Working Paper Series. National Bureau of Economic Research. <http://www.nber.org/papers/w18134>; Esposti, D. M., Wiebe, D. J., & Gasparrini, A. (2022). Analysis of "stand your ground" self-defense laws and statewide rates of homicides and firearm homicides. *JAMA Network Open*, 5(2). <https://doi.org/10.1001/jamanetworkopen.2022.0077>; Yakubovich, A. R., Esposti, D. M., Lange, C. L. B., Melendez-Torres, G. J., Parmar, A., Wiebe, D. J., & Humphreys, D. K. (2021). Effects of laws expanding civilian rights to use deadly force in self-defense on violence and crime: A systematic review. *AM Journal of Public Health*, 111(4), e1-e14. <https://doi.org/10.2105/AJPH.2020.306101>.

<sup>10</sup> Burris, S. (2021). Civilian use of deadly force in self-defense: Public health, stand your ground. *AM Journal of Public Health*, 111(4), 559–561. <https://doi.org/10.2105/AJPH.2021.306173>

<sup>11</sup> Esposti, D. M., Wiebe, D. J., & Gasparrini, A. (2022). Analysis of "stand your ground" self-defense laws and statewide rates of homicides and firearm homicides. *JAMA Network Open*, 5(2). <https://doi.org/10.1001/jamanetworkopen.2022.0077>

earlier study that showed expanded self-defence laws resulted in an 8% increase in national homicides (largely classified as murder), equating to an additional 600 deaths per year.<sup>12</sup>

On the other hand, a systematic review of 25 studies in the US found smaller increases in violent crime (total and firearm homicide, aggravated assault, robbery) on average in some states, with the most notable increases in Florida where firearm homicide and total homicide increased by 24% to 45%. Another recent study that looked specifically at violent crime involving firearms found expanded self-defence and Castle Doctrine laws contributed to a significant rise in gun crime across 15 states in the US.<sup>13</sup>

Despite heterogeneity across jurisdictions and studies, the collective findings show expanded self-defence laws in the US have resulted in preventable and unnecessary violent deaths that would likely not have occurred if this legislation was not in place. Such studies highlight the severe and collateral consequences that may result from the adoption of similar legislation in Queensland. The learnings from other jurisdictions that have implemented Castle Doctrine and expanded self-defence laws clearly demonstrate the potential risks to community safety through the encouragement of violence and vigilante justice.

## Disparities in legal outcomes

While there have been mixed results across studies, some studies have further shown that Castle Doctrine and stand your ground laws have been inconsistently applied, resulting in disparate legal outcomes for individuals based on race.<sup>14</sup> Yakubovich et al (2021) found that stand your ground claims in Florida were more likely to be denied where the claimant was from a racial minority and the victim was white.

There is decades of evidence and research elsewhere that speaks to the disproportionate impact that the criminal justice system has on Aboriginal and Torres Strait Islander peoples in Australia as a direct result of colonisation, systemic discrimination and structural disadvantage. The proposed legislation has the potential to further entrench social and structural disparities faced by Aboriginal and Torres Strait Islander people and communities. It also has the potential to disproportionately impact children and young people, including Aboriginal and/or Torres Strait Islander children and young people. Burglary accounted for over 40% of finalised charges for children and young people between July 2024 to June 2025 (6,904 finalised charges over 12 months).<sup>15</sup> The proposed amendments fail to consider the impact that this legislation will have on children, families, and communities more broadly including as it relates to both personal and community safety.

## Incompatibility with human rights

The Justice Reform Initiative notes the Bill is incompatible with the *Queensland Human Rights Act 2019* (Human Rights Act) and the *United National Universal Declaration of Human Rights*, particularly in relation to the right to life for all people. The Justice Reform Initiative is concerned that policy and legislative reforms that are not compatible with the Human Rights Act as well as not founded in the evidence on what works to keep the community safety are being consistently implemented in Queensland over alternative evidence-based solutions. There have been several legislative amendments passed over recent years that have been incompatible with Queensland's human rights obligations on this basis of

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<sup>12</sup> Cheng, C., & Hoekstra, M. (2012). Does strengthening self-defense law deter crime or escalate violence? Evidence from castle doctrine. NBER Working Paper Series. National Bureau of Economic Research. <http://www.nber.org/papers/w18134>

<sup>13</sup> D'Alessio, S. J., Stolzenberg, L., & Zgoba, K. M. (2022). The effect of self-defense laws on firearm use among criminal offenders. *Crime & Delinquency*, 69(13-14). <https://doi.org/10.1177/00111287221077629>

<sup>14</sup> Yakubovich, A. R., Esposti, D. M., Lange, C. L. B., Melendez-Torres, G. J., Parmar, A., Wiebe, D. J., & Humphreys, D. K. (2021). Effects of laws expanding civilian rights to use deadly force in self-defense on violence and crime: A systematic review. *AM Journal of Public Health*, 111(4), e1-e14. <https://doi.org/10.2105/AJPH.2020.306101>

<sup>15</sup> Queensland Government. (2025). Children's Court of Queensland Annual Report 2024-25. [https://www.courts.qld.gov.au/data/assets/pdf\\_file/0010/891640/cc-ar-2024-2025.pdf](https://www.courts.qld.gov.au/data/assets/pdf_file/0010/891640/cc-ar-2024-2025.pdf)

‘community safety’. There is no evidence to suggest however, that the proposed changes will, or have improved community safety or that their breach of human rights obligations is justified.

## Options to reduce the likelihood of offending involving the home

The Justice Reform Initiative notes there was a Queensland Parliament Community Safety and Legal Affairs Committee inquiry into a similar bill, the Criminal Code (Defence of Dwellings and Other Premises—Castle Law) Amendment Bill in 2024. We note that in this inquiry, the majority of submissions were made by victims of crime, who supported the introduction of Castle Doctrine as an avenue for ensuring “accountability”, “greater community rights” and “the need to feel a sense of safety.”

The Justice Reform Initiative submits that there are alternative evidence-based policy, legislative and service sector responses to offending that respond to the needs of victims, hold people who commit crime to account, and strengthen community safety. Community safety is better served through prevention, early intervention and tertiary programs, services and supports that ensure accountability and responsibility, while also addressing the social determinants of criminal justice system contact and offending, such as being in out-of-home (foster) care; receiving a poor school education; systemic and structural disparities experienced by Indigenous people; having early contact with police; experiencing homelessness; and coming from or living in a disadvantaged location.<sup>16</sup>

Situational crime prevention approaches have also consistently been shown to reduce burglary and property offences by increasing the effort and risk associated with offending, without displacing crime and violence to other locations. Solutions where the Queensland Government could make investments include improved lighting, target hardening (making properties, places and people more difficult to access, damage or steal from), and surveillance.<sup>17</sup> There is also evidence to suggest that “secured by design” housing standards are effective at reducing residential burglary through embedding crime prevention into the physical layout and security features of homes.<sup>18</sup>

Furthermore, as noted in the Justice Reform Initiative’s position paper on victims of crime, restorative justice processes may present as a viable alternative that can meet many of the needs of victims of crime and provide a trauma-informed setting that will enable them to participate in a process designed to address the harm they have experienced.<sup>19</sup>

## About the Justice Reform Initiative

The Justice Reform Initiative is an alliance of people who share long-standing professional experience, lived experience and/or expert knowledge of the justice system, further supported by a movement of Australians of goodwill from across the country who believe jailing is failing and that there is an urgent need to reduce the number of people in Australian prisons.

The Justice Reform Initiative is committed to reducing Australia’s harmful and costly reliance on incarceration. Our patrons include more than 120 eminent Australians, including two former Governors-General, former Members of Parliament from all sides of politics, academics, respected Aboriginal and Torres Strait Islander leaders, senior former judges including High Court judges, and many other community leaders who have added their voices to end the cycle of incarceration in Australia.

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<sup>16</sup> McCausland, R., & Baldry, E. (2023). *The social determinants of justice: 8 factors that increase your risk of imprisonment*. The Conversation. <https://theconversation.com/the-social-determinants-of-justice-8-factors-that-increase-your-risk-of-imprisonment-203661>

<sup>17</sup> Clarke, R. V. (Ed.). (1997). *Situational crime prevention: Successful case studies* (2nd ed.). Harrow and Heston. [https://popcenter.asu.edu/sites/g/files/litvpz3631/files/scp2\\_intro\\_0\\_0.pdf](https://popcenter.asu.edu/sites/g/files/litvpz3631/files/scp2_intro_0_0.pdf); Welsh, B. C., & Farrington, D. P. (2009). *Making public places safer: Surveillance and crime prevention*. Oxford University Press.

<sup>18</sup> Armitage, R. (2000). *An evaluation of secured by design housing within West Yorkshire*. Crime Prevention Studies. <https://popcenter.asu.edu/sites/g/files/litvpz3631/files/04-Armitage.pdf>

<sup>19</sup> Justice Reform Initiative. (n.d.). *Victims position paper*. [https://assets.nationbuilder.com/justicereforminitiative/pages/2214/attachments/original/1770263711/JRI\\_Position\\_Paper\\_Victims.pdf](https://assets.nationbuilder.com/justicereforminitiative/pages/2214/attachments/original/1770263711/JRI_Position_Paper_Victims.pdf)

We seek to shift the public conversation and public policy away from building more prisons as the primary response of the criminal justice system and move instead to proven evidence-based approaches that break the cycle of incarceration. We are committed to elevating approaches that seek to address the causes and drivers of contact with the criminal justice system. We are also committed to elevating approaches that see Aboriginal and Torres Strait Islander-led organisations being resourced and supported to provide appropriate support to Aboriginal and Torres Strait Islander people who are impacted by the justice system.

The Queensland Patrons of the Justice Reform Initiative include:

- **Sallyanne Atkinson AO.** Co-Chair of the Queensland Interim Body for Treaty and a member of the Queensland University Senate.
- **Adjunct Professor Kerry Carrington.** School of Law and Society, University of the Sunshine Coast, and Director of her own Research Consultancy.
- **Mick Gooda.** Former Aboriginal and Torres Strait Islander Social Justice Commissioner and former Royal Commissioner into the Detention of Children in the Northern Territory.
- **Keith Hamburger AM.** Former Director-General, Queensland Corrective Services Commission.
- **Professor Emeritus Ross Homel, AO.** Foundation Professor of Criminology and Criminal Justice, Griffith University.
- **Natalie Lewis.** Commissioner, Office of the Aboriginal and Torres Strait Islander Children's Commissioner, Queensland Family and Child Commission.
- **Gail Mabo.** Australian visual artist represented in most major Australian art galleries and internationally. Gail is of the Meriam language group and clan of Mer (Murray Island) in the Torres Strait, is deeply engaged with young people in her community and is the daughter of land rights campaigner Eddie Mabo and educator and activist Bonita Mabo AO.
- **Professor Elena Marchetti.** Griffith Law School, Griffith University.
- **The Honourable Margaret McMurdo AC.** Former President Court of Appeal, Supreme Court of Queensland and Commissioner of the Victorian Royal Commission into the Management of Police Informants.
- **Dr Mark Rallings.** Former Commissioner, Queensland Corrective Services.
- **Greg Vickery AO.** Former President, Queensland Law Society and former Chair of the Standing Commission of the International Red Cross and Red Crescent Movement.
- **The Honourable Dean Wells.** Former Attorney General of Queensland.
- **The Honourable Margaret White AO.** Former Judge of the Queensland Supreme Court and Queensland Court of Appeal, former Royal Commissioner into the Detention of Children in the Northern Territory, and Adjunct Professor TC Beirne School of Law UQ.

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