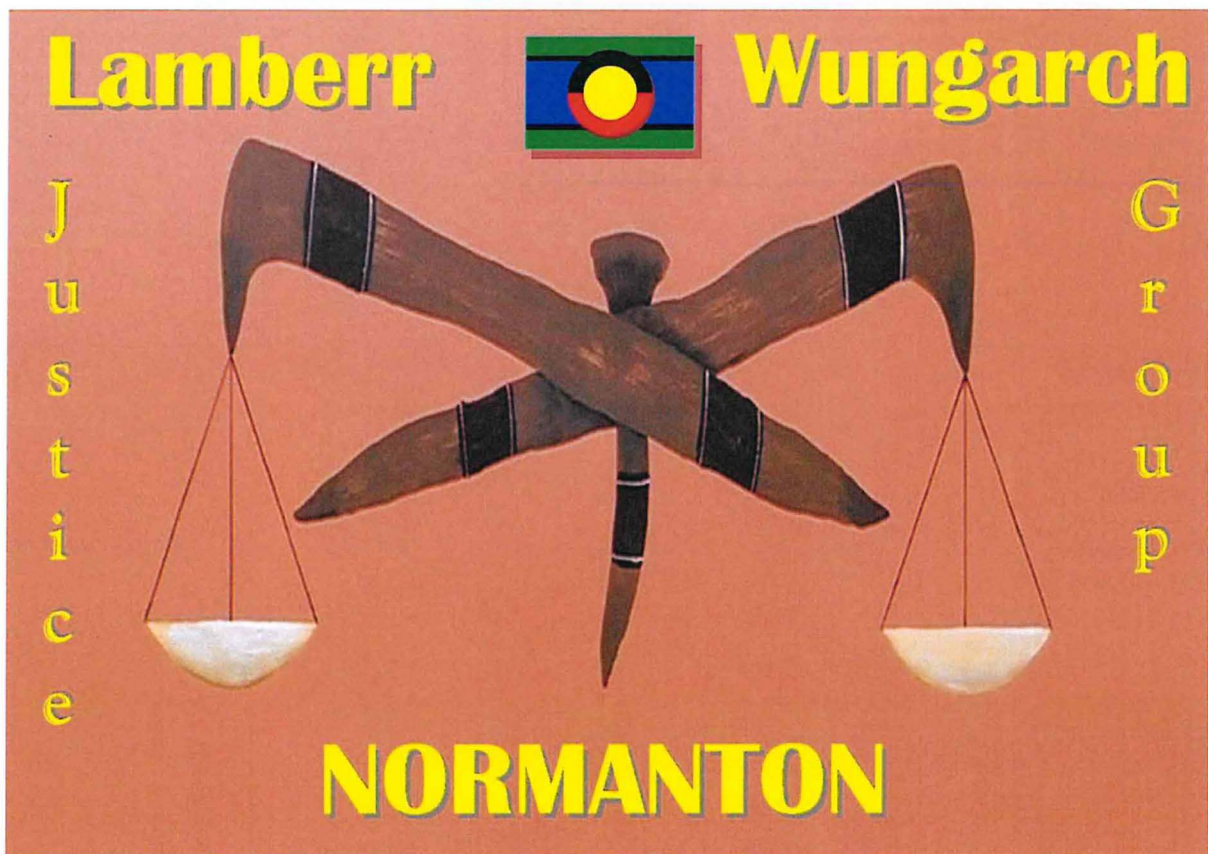


Making Queensland Safer Bill 2024

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Ill-conceived, draconian and needlessly punitive

Lamberr Wungarch Justice Group (Inc) submission into the Making Queensland Safer Bill 2024



The Lamberr Wungarch Justice group would like to acknowledge the Traditional owners of Meanjin.

The Jagera and the Turrbal people the Traditional Custodians of the land upon which the Queensland Parliament sits.

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The Justice Group's response is framed by our communities lived experience with the Queensland and Federal governments' historic and ongoing misguided attempts to assist Indigenous Queenslanders.

The Lamberr Wungarch Justice Group is vehemently opposed to the Bill in its current form as it will not make Queenslanders safer and will continue to exacerbate the trauma and harm done to the State's most vulnerable people, our Indigenous children.

The Lamberr Wungarch Justice Group fears the colonisation of Queensland continues apace with the introduction of the hopefully named “*Making Queensland Safer Bill 2024*”¹.

The incoming *Crisafulli* LNP government has sought to bring back the good old days of law and order by being tough on crime².

Specifically, juvenile crime.

Therefore, having a disproportional effect on Indigenous families.

Locking up children, any children, does not work.

If it did, there would be little to no juvenile crime in Queensland, specifically within Indigenous communities because Indigenous Queensland children make up 67%³ of all incarcerated children and we, as Queenslanders, incarcerate Indigenous children at double the rate of any other State⁴ in Australia.

So, locking children up plainly does not work, because if it did, it would have worked by now but instead, we are building two new children’s detention centres at Woodford and Cairns⁵.

Their construction must be due to the decreasing rates of childhood incarceration?

Or is the Lamberr Wungarch Justice Group mistaken?

¹ *Making Queensland Safer Bill 2024* (QLD) <https://www.legislation.qld.gov.au/view/html/bill.first/bill-2024-043>

² MEDIA STATEMENT: *A Fresh Start for Queensland: Making Queensland Safer Laws to restore community safety*, JOINT STATEMENT Premier and Minister for Veterans The Honourable David Crisafulli, Attorney-General and Minister for Justice and Minister for Integrity The Honourable Deb Frecklington, Minister for Police and Emergency Services The Honourable Dan Purdie Minister for Youth Justice and Victim Support and Minister for Corrective Services The Honourable Laura Gerber <https://statements.qld.gov.au/statements/101648>

³ *Queensland has the most children behind bars in the country*, NITV, 15 March 2024 <https://www.sbs.com.au/nitv/article/queensland-has-the-most-children-behind-bars-in-the-country/ebqi6ka0h>

⁴ *Youth detention population in Australia 2023*, Australian Institute of Health and Welfare, Fig 2:4 <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2023/contents/first-nations-young-people>

⁵ *New youth detention centres*, Department of Youth Justice and Victim Support, <https://www.youthjustice.qld.gov.au/our-department/strategies-reform/new-youth-detention-centres>

Make no mistake, this will disproportionately affect Indigenous Queensland children and their families because of the institutional systemic racism that has been allowed to continue under successive State governments, that ensures Indigenous Queensland kids will continue to bear the brunt of these current and historic “*get tough on crime*” policies.

When remote, predominantly Indigenous communities, have sub-standard access to health, education, mental health support, housing, training, employment, food security, childcare, water quality and a myriad of other social services other Queenslanders take for granted, combined with historic over policing, these incarceration rates and disastrous public safety outcomes will continue⁶ and plague our Queensland communities.

Expecting children and juveniles to be able to grasp the seriousness of their actions and understand the consequences that flow from those actions is unrealistic, ill-conceived and contrary to accepted socio and legal doctrine.

Children who have the misfortune to come into contact with legal systems suffer from “...*high levels of early adversity and trauma family difficulties and child protection involvement...*”⁷.

Clinicians estimate that 46.8% of children were assessed as either average or below estimated IQ range for age after undertaking a *doli incapax*⁸ assessment⁹.

A low age of criminal responsibility is contrary to universal standards of human rights¹⁰.

⁶ Water quality <https://water360.com.au/case-study/case-study-5-concerns-over-water-quality-in-remote-queensland/> ; Food costs <https://hw.qld.gov.au/blog/why-we-need-to-talk-about-queenslands-hidden-food-crisis/> Housing <https://www.abc.net.au/news/2024-09-21/yarrabah-housing-overcrowding-aboriginal-community-queensland/104371294>

⁷ P9 https://www.aic.gov.au/sites/default/files/2024-01/crg_41_20_21_children_aged_10_to_13_in_the_justice_system.pdf

⁸ “*doli incapax*” This principle requires that, to be held criminally responsible, a child aged less than 14 years at the time of alleged offending must understand that their actions are ‘seriously wrong’ rather than merely ‘naughty or mischievous’ *International Journal for Crime, Justice and Social Democracy* 8(1): 18–33. <https://doi.org/10.5204/ijcjsd.v8i1>

⁹ IBID https://www.aic.gov.au/sites/default/files/2024-01/crg_41_20_21_children_aged_10_to_13_in_the_justice_system.pdf

¹⁰ The Minimum Age of Criminal Responsibility, *Australian Human Right Commission*, Australia’s third UPR | 2021 https://humanrights.gov.au/sites/default/files/document/publication/1807_help_way_earlier_-_accessible_0.pdf

It entrenches children in the criminal justice system¹¹.

It does not and will not make communities safer.

Nearly three-quarters of children aged 10–13 who were sentenced to community-based supervision returned to the youth justice system within 12 months¹².

Some 88% of First Nation's children and 79% of non-Indigenous children will be back in the youth justice system within 12 months of being released from youth detention centres¹³.

These children are not living carefree childhoods as visualised in Weetbix commercials, most of them are merely surviving, day to day.

As mentioned above this is due to the historic dislocation of Indigenous culture and communities and the continued nonconciliatory Government position that is still paternalistic, condescending, patronising and overly punitive.

Instead of supporting communities and empowering them, we, as a State, would prefer to legislate and criminalise the very youngest and most vulnerable among us, knowing full well that the desired outcome will not be achieved and worse, that it will lead to even more damaging outcomes for those children unfortunate enough to be ensnared if this proposed *Bill* is legislated in its current form.

The Justice group's position is one that sees daily the trauma and dislocation still being suffered by remote communities.

¹¹ IBID https://humanrights.gov.au/sites/default/files/document/publication/1807_help_way_earlier_-_accessible_0.pdf

¹² above @10

https://humanrights.gov.au/sites/default/files/document/publication/1807_help_way_earlier_-_accessible_0.pdf

¹³ above @ 8

https://humanrights.gov.au/sites/default/files/document/publication/1807_help_way_earlier_-_accessible_0.pdf

We are concerned that once again it is easier to override the Queensland Human Rights legislation safeguards¹⁴ than to address the continuing disadvantage and affect real, lasting generational change for Indigenous Queenslanders and their communities.

Of course, this is a well-trodden path for successive Queensland governments whose value of the Human Rights of Juvenile Queenslanders must now be taken with a grain of salt.

After all, the previous Queensland government¹⁵ overturned portions of the Act¹⁶ to allow for children to be incarcerated indefinitely in adult watch-houses as well as altering the Bail laws surrounding alleged children's offending.

These emergency measures disproportionately disadvantage Indigenous Queensland children but that is of little consequence to a State that has walked back on its commitment to the Truth telling¹⁷ inquiry into our racially abhorrent treatment of its Indigenous peoples.

The various Queensland government Departments must have breathed a huge sigh of relief when the current government started the process of dissolving the inquiry, but this does not surprise Indigenous organisations.

After all, this is the State that voted overwhelmingly against the Yes campaign¹⁸. With the secretary of the Police Union¹⁹ during the debate railing against two sets of laws. This disgraceful misrepresentation of the plebiscite by a serving Queensland police officer

¹⁴ *STATEMENT ABOUT EXCEPTIONAL CIRCUMSTANCES*, Making Queensland Safer Bill 2024, Deb Frecklington MP, Attorney-General and Minister for Justice and Minister for Integrity <https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5824t0206/5824t206.pdf>

¹⁵ *Queensland to allow police watch houses to be used as youth detention centres, overriding Human Rights Act, in proposed law change*, Tobias Jurss-Lewis and Kate McKenna, ABC Wed 23 Aug 2023 <https://www.abc.net.au/news/2023-08-23/qld-watch-house-youth-crime-human-rights-prison/102767700>

¹⁶

¹⁷ *Ending QLD Truth-telling and Healing Inquiry is harmful and divisive*, Australian Human Right Commission, Friday 1 November 2024 <https://humanrights.gov.au/about/news/ending-qld-truth-telling-and-healing-inquiry-harmful-and-divisive>

¹⁸ *The brutal truth of the referendum result was that Yes campaign couldn't cut through to a hesitant electorate*, ABC online, Laura Tingle, Sunday 15 August 2023 <https://www.abc.net.au/news/2023-10-15/referendum-result-yes-campaign-political-inferno/102977030>

¹⁹ *Queensland Police Union president Ian Leavers condemned for comments claiming Path to Treaty legislation would give Indigenous criminals 'free pass'*, Meg Bolton, Nicols McElroy, Gemma Furgerson, ABC online, Wednesday 25 October 2023 <https://www.abc.net.au/news/2023-10-25/police-union-ian-leavers-truth-treaty-first-nations-mark-bailey/103018512>

highlights the animus felt by Police and more broadly, Queensland in general, towards the desires for self-determination sought by Indigenous Queenslanders²⁰.

One wonders how the current Parliament thinks it is viewed by Indigenous Queenslanders who have never been afforded a fair go, who have never had the advantages given freely to others within our State and who have suffered so much and have had so much taken from them by the hands of the majority, who view them ungrateful, undeserving and unworthy of protections other people, in our State take for granted.

How else are Indigenous people supposed to feel about a Parliament that seeks to undermine their struggle for equality and equitable outcomes for their communities and children?

When Indigenous children are vilified by institutions and individuals in order to further their own political and social agendas.

The unseemly haste with which we [the public] have been asked to create and submit submissions to the committee only reinforces the lack of serious consultation and tone-deaf position of the *Crisafulli* LNP government, which will push through this legislative instrument regardless of informed argument and independent experts who study within this area.

This will be to the detriment of our Queensland society, but Indigenous people more specifically.

The Lamberr Wungarch Justice Group knows that the Queensland government is creating another stolen generation through alternative means, lawfully lowering the bar for incarceration of children, overwhelmingly Indigenous, in order to justify their political “*dog whistling*”²¹ in relation to youth crime.

²⁰ *The referendum failed. But data shows the majority of Indigenous communities voted yes*, Bronte Charles, Rachael Knowles, SBS online, 16 October 2023 <https://www.sbs.com.au/nitv/article/the-referendum-for-a-voice-to-parliament-failed-but-what-outcome-did-most-indigenous-voters-support/i2reavyqn>

²¹ “*dog whistle politics*” is the practice of sending out coded political messages or subtle signals, which are designed to be understood only by a target audience. In society at large, it is not usually acceptable to make racist, sexist, or xenophobic statements. That means that politicians who want to make such statements need to use coded language, or, to put it another way, dog whistles. <https://politicaldictionary.com/words/dog-whistle-politics/>

Youth crime is merely code for, Aboriginal youth crime.

Against the continuing backdrop of failing closing the gap reports, the Queensland government wishes to imprison vulnerable children, the vast majority Indigenous, in line with adult sentencing guidelines.

A costly and ultimately futile attempt, by a State, unwilling to acknowledge its past and in doing so, failing to make a genuine attempt to alter Indigenous Queenslanders future by reduce juvenile crime and through it adult Indigenous incarceration rates.

Instead of providing support to communities to help address their individual needs, in relation to juvenile offending the Parliament has decided to lock up children, because.

The increased incarceration rates of children in Queensland will not make our communities safer but the government knows this already.

But this *Bill* however, does satisfy the majority of Queenslanders who view youth crime, as Aboriginal crime. The *Bill* in its current form is a continuation of legislation designed to subjugate and assimilate the most vulnerable, who have little agency of their own, due to previous and current State government policies.

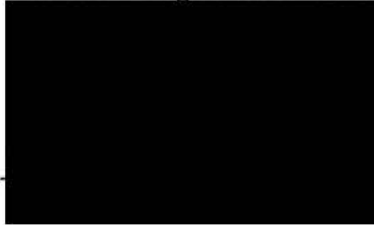
It saddens the Lamberr Wungarch Justice Group that experts in this area, the communities themselves are never given any real assistance, by the government, to effect lasting change.

This legislative course of action will inevitably lead to more dislocation, more deprivation, more suffering for individuals, families and our communities, more incarcerated, traumatised children, along with more inquiries by the Queensland State government into why Indigenous children are so overrepresented in the Queensland youth justice system?

These Kafkaesque outcomes would be funny, if the outcomes to Indigenous children weren't so tragic.

On Behalf of the

Lamberr Wungarch Justice Group Board



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If the committee would like further clarification or information regarding the Lamberr Wungarch Justice Groups' submission please feel free to contact us.