Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025

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CHANGE THE RECORD

Smarter Justice. Safer Communities.

Human Rights Law Centre

Submission on the Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025

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Change the Record

Change the Record is Australia's only First Nations-led coalition of Aboriginal Community-Controlled Organisations, along with legal, health, and family violence prevention experts. The coalition is united by a shared commitment to justice, working to end the mass incarceration of First Nations Peoples and to stop the disproportionate rates of family violence experienced by Aboriginal and Torres Strait Islander women and children.

Change the Record's work is grounded in self-determination and driven by a vision for systemic change. The coalition seeks to dismantle the unjust systems that criminalise Aboriginal and Torres Strait Islander people and to address the root causes of violence in their communities. Through evidence-based, culturally safe advocacy, Change the Record is challenging punitive laws, chronic underfunding, and the over-policing of First Nations communities—fighting for a future where children are supported, families are safe, and communities are strong and free.

Human Rights Law Centre

The Human Rights Law Centre uses strategic legal action, policy solutions and advocacy to support people and communities to eliminate inequality and injustice and build a fairer, more compassionate Australia. We work in coalition with key partners, including community organisations, law firms and barristers, academics and experts, and international and domestic human rights organisations.

The Human Rights Law Centre is a founding member of the Change the Record coalition, and a leading Australian human rights advocacy organisation that uses a combination of strategic legal action, policy solutions and advocacy to support people and communities to eliminate inequality and injustice and build a fairer, more compassionate Australia.

Acknowledgement

Change the Record and the Human Rights Law Centre recognise and acknowledge Aboriginal and Torres Strait Islander Peoples as the custodians and First Peoples of so-called Australia. With humility and gratitude, we acknowledge the Traditional Owners of the lands we work on and thank them for paving the way for us to continue the fight for justice in this country. Sovereignty was never ceded.

We pay our utmost respect to the families and communities of young lives lost in the system and will continue to work in solidarity towards justice. We also acknowledge the many who have survived these systems and who are still in these systems, who carry deep trauma that is often passed down through generations.

These tragedies are not isolated. They are the direct result of decades of government failure to protect Aboriginal and Torres Strait Islander children from harm. Successive governments have failed in their duty of care—allowing children to be harmed in out-of-home care, detained in unsafe and inhumane conditions in watch houses and subjected to traumatising experiences in youth prisons.

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1. Executive summary

The Human Rights Law Centre opposes the amendments in the Making Queensland Safer (Adult Crime, Adult Time) Amendment Bill 2025 ("**Bill**") to apply adult penalties to more offences.

There is no evidence base or legitimate aim for the existing adult penalties framework, let alone its expansion. The Bill is incompatible with human rights and the Government has not established any exceptional circumstances that can justify this incompatibility.

Adult penalties will result in greater numbers of children, particularly First Nations children, being incarcerated for longer periods of time. The Queensland Government already imprisons the most children in Australia.[1] The vast majority of these children, who are as young as ten, are Aboriginal or Torres Strait Islander.[2] Many of them also have disabilities and complex health needs.[3]

Prison causes children significant harm and increases the risk that they will have contact with the criminal legal system throughout their lives.[4] Adult penalties are therefore counterproductive to the safety of the entire community, which includes non-incarcerated people, children locked in police and prison cells and communities from which incarcerated children are taken.

There is no evidence that adult penalties deter children from engaging in offending behaviours. The Queensland Government has widely announced that its approach in the Bill reflects advice from an 'expert legal panel' ("**Panel**"). Yet, the Government has not made the Panel's advice or full terms of reference publicly available. From the Government's framing of the advice in documents tabled with the Bill, it appears that the Panel did not provide advice that adult penalties are effective in deterring offending behaviours or ensuring community safety.

In addition, there is no human rights justification for the Bill. Adult penalties are incompatible with international human rights law that is binding on Australia. The Queensland Government also admits that the Bill is incompatible with various human rights enshrined in the *Human Rights Act 2019* ("**Human Rights Act**"). However, the Government has neither tabled a statement of exceptional circumstances to justify the Bill having effect despite this incompatibility, nor provided a proper description of exceptional circumstances, nor provided any evidence of exceptional circumstances.

The Queensland Government is on notice that its approach to youth justice is harmful, discriminatory and unjustifiable from a human rights perspective. We refer to the complaint that has been made to the United Nations Committee on the Elimination of Racial Discrimination about the state of youth justice across Australia,[5] as well as the interim report of the Senate inquiry into Australia's youth justice and incarceration system.[6] Many of the damning issues raised though these mechanisms relate to the state of youth justice in Queensland specifically, including the adult penalties framework.

This Bill is part of a broader pattern of the Queensland Government increasing surveillance and punishment under the guise of 'community safety' (where it ignores both long-term community safety and the safety of certain groups within the community) and using false 'victim vs offender' narratives

[1] Australian Productivity Commission. (2025). *Report on Government Services 2025, Part F, Section 17 (Youth justice services)*, table 17A.5; Australian Institute of Health and Welfare, Youth detention population in Australia 2024 <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2024/contents/state-and-territory-trends>.
[2] Ibid, Australian Productivity Commission.
[3] Queensland Government, Department of Youth Justice, *A safer Queensland: Queensland Youth Justice Strategy 2024-2029*.
[4] E.g. Australian Institute of Health and Welfare. (2023). Young people returning to sentenced youth justice supervision 2021-2022; Walsh T, Beilby J, Lim P, Cornwell L. (2023). Safety through support: building safer communities by supporting vulnerable children in Queensland's youth justice system, 14; Australian Institute of Criminology. (2022). Effectiveness of youth diversion and restorative justice programs: A systematic review.
[5] Human Rights Law Centre, UN racial discrimination complaint about Australia's youth justice policies <https://www.hrlc.org.au/reports-news-commentary/urgent-un-complaint>.
[6] Senate of Australia Standing Committee on Legal and Constitutional Affairs. (2025). Australia's youth justice and incarceration system.

(where it ignores that the children it is seeking to imprison are currently victims themselves, have been victims, are victims to State-sanctioned harm behind bars and are often all of these).

The interventions and programs the Queensland Government has announced cannot overcome the detrimental impacts of imprisoning children. The Government must invest in services and programs by Aboriginal and Torres Strait Islander Community-Controlled Organisations and other community-based organisations that address unmet needs and prevent interaction with the criminal legal system in the first place. The services and organisations, and knowledge about what works, already exist. Communities, particularly First Nations communities, have the solutions.

2. Recommendations

We urge the Justice, Integrity and Community Safety Committee ("**Committee**"), in its report on the Bill, to recommend that:

1. **The Bill should not be passed**;

2. **Offences subject to adult penalties must not be expanded at any time without an independent review** of the operation of the *Making Queensland Safer Act 2024*, including the Act's necessity, impact on children and alternatives that are less restrictive on human rights, and with the review being developed and conducted through meaningful engagement with Aboriginal and Torres Strait Islander community-controlled organisations and communities;

3. **The adult penalties framework should be repealed entirely**;

4. **The principles of detention as a last resort and the preferability of non-custodial orders should be reinstated** in the *Youth Justice Act 1992*;

5. **The Panel's advice and formal terms of reference should be made publicly available, immediately**;

6. **The Queensland Government should invest in existing services and programs** by Aboriginal and Torres Strait Islander community-controlled organisations and other community-based organisations that address unmet needs and prevent interaction with the criminal legal system in the first place;

7. The Queensland Government should provide decision-making power, control and resources to Aboriginal and Torres Strait Islander community-controlled organisations and communities to **build a therapeutic, community service-led alternative service model for children already interacting with the criminal legal system**; and

8. **The Queensland Government should table a statement of exceptional circumstances** for the Bill that documents evidence of exceptional circumstances and the Bill's ability to address them.

<u>Recommendations in the event the Committee recommends the Bill be passed</u>

We strongly oppose the Bill. If the Committee recommends that the Bill be passed it will be endorsing legislation that causes harm, is not grounded in any evidence and overrides the Human Rights Act without a legitimate basis. This is an alarming standard to accept, as Australia is already falling short of its international human rights obligations through its ongoing imprisonment of children, as young as ten, in shocking conditions. Rather than moving forward, our justice systems are repeating the injustices of the past—failing our children, failing our communities, and falling far below even the most basic international requirements and standards.

While maintaining our opposition, if the Committee is inclined to recommend passage of the Bill, to reduce some of the harm the Bill will cause, support movement towards an evidence-based approach and ensure transparency, we call on the Committee to **maintain recommendations 4-8 above**.

Additional considerations for the Committee

We request the Committee refrain from repeating the 'victim vs offender' narrative that the Queensland Government is quick to use. Many children in the criminal legal system have experienced harm themselves, are subjected to state-perpetrated and state-enabled violence in police and prison cells and have been systemically failed by numerous government systems such as education, housing, health care, disability supports and child safety. The narrative needlessly pitches parts of the community against each other and intentionally distracts from the fact that all stakeholders, including those that oppose adult penalties, share the desire for a safe and thriving community.

Rather than engaging with this false and harmful binary and seeking to contrast different individuals' rights, the core questions for the Committee should be about whether children as young as ten who are disproportionately Aboriginal and Torres Strait Islander children and children with complex health challenges should be put behind bars and entrenched in the criminal legal system instead of addressing the root causes of offending behaviours, gaps in the above systems, the level of underfunding of existing community services and programs that are already working hard to address unmet needs, whether there is any reliable evidence that adult penalties improve the long-term safety of the entire community, whether there is any reliable evidence that adult penalties deter children from engaging in offending behaviours, whether there is any reliable evidence that there are exceptional circumstances warranting overriding of the Human Rights Act at this specific point in time, whether the Government is investing in any alternatives to prison and whether, having regard to all of these matters, the Committee considers it appropriate and desirable to detain more children in custody for longer periods of time.

We invite the Committee to imagine this vision for the future:

- Every child can access, and is welcomed, at school;
- Every child has appropriate housing;
- Every child has access to health care and disability supports;
- Every child is supported to learn from their mistakes in a safe environment;
- No child belongs in prison; and
- No child experiences barriers to their full potential and meaningful participation in society.

Polices and legislation that secure this vision is what will ensure community safety.

3. Consequences and context of Bill

The whole goal of adult penalties is to sentence more children to detention orders and for children to serve more time in detention. The Queensland Government concedes that the Bill will result in more children spending more time in prison.[7] The consequences of this are explored below.

These consequences should be alarming in any circumstances, given the use of detention as punishment is about the loss of liberty and does not justify harmful, inhumane and discriminatory treatment. Concerningly, we understand that the offences subject to adult penalties can apply to non-violent offending, a wide spectrum of seriousness and to children who have various levels of involvement as a party to the offence. The below consequences are the reality for a significant range of behaviour by children as young as ten.

[7] Statement of compatibility for the Bill, 3.

Prison conditions

Far from rehabilitation, prisons are sites of trauma for children, where they can be subjected to harmful and degrading practices such as solitary confinement, strip searching, use of force and detention in watch houses.[8] These conditions can lead to irreversible harm and even death.[9]

The use of adult watch houses in Queensland continues to be an enormous concern. There are well-documented issues with children being detained in cruel conditions in adult watch houses.[10] The government concedes that 'it is widely accepted that watchhouses are not appropriate or humane places in which to detain children, particularly for any lengthy period of time'.[11] The suite of recommendations contained in the Queensland Human Rights Commission's recent report on the detention of a child in a watch house[12] about basic minimum standards and obligations to oversee the health and wellbeing of children demonstrate how dire watch houses are. For example, the Commission's recommendations included recommendations for clear minimum standards around fresh air, privacy of toilets, daily changes of underwear and as well as identification of a person responsible for overseeing the health, welfare and human rights of children in watch houses.

While we understand the newly opened Wacol Youth Remand Centre will mean children are no longer held in watch house facilities designed for adults, and with adults, we are gravely concerned that the Centre is effectively a large watch house for children with physical constraints. Our broad concerns about the appalling conditions in watch houses apply to the conditions of the Youth Remand Centre.

We note that the removal of detention as a last resort in December 2024, which is a core principle of the rights of children worldwide, further compounds the impact of adult penalties by making it more likely that children will be detained and subjected to harmful prison conditions.

Entrenchment in criminal legal system

The earlier a child interacts with the criminal legal system, the more likely they will continue to have interactions with the criminal legal system throughout their lives.[13] Prison is criminogenic.[14] The Committee received and heard various evidence on these matters during the inquiry into the Making Queensland Safer Bill 2024. The best way of preventing offending is by preventing any interaction with the criminal legal system, including interactions with police, and preventing children being sentenced to detention of any length, let alone adult-length sentences.

The inquiry into the Making Queensland Safer Bill also heard that Queensland is a national outlier in youth incarceration, with more children detained each day in Queensland than any other state or territory. The Government has labelled youth crime an 'exceptional crisis situation'[15] despite overseeing the mass imprisonment of children. This itself is clear evidence that imprisoning children does not address crime – it only serves to entrench children in the criminal legal system.

Impact on Aboriginal and Torres Strait Islander children

The criminal legal system disproportionately impacts Aboriginal and Torres Strait Islander children. Queensland imprisons the most Aboriginal and Torres Strait Islander children out of any Australian jurisdiction: on an average day in 2023-2024 there were at least 210 Aboriginal or Torres Strait

[8] Human Rights Law Centre, UN racial discrimination complaint about Australia's youth justice policies <https://www.hrlc.org.au/reports-news-commentary/urgent-un-complaint>; Change the Record and Human Rights Law Centre submission to the Committee's inquiry into the Making Queensland Safer Bill 2024.
[9] Queensland Child Death Review Board. (2023). Child Death Review Board Annual Report 2022–23.
[10] See 8.
[11] Statement of compatibility for the Bill, 3.
[12] Queensland Human Rights Commission, Reports on unresolved human rights complaints, see 'Detention of a child in a watch house' <https://www.qhrc.qld.gov.au/resources/legal-information/reports-on-unresolved-human-rights-complaints>.
[13] See 4.
[14] Baldry E., Briggs DB., Goldson B. & Russell S., 2018. 'Cruel and unusual punishment': An inter-jurisdictional study of the criminalisation of young people with complex support needs. Journal of Youth Studies 21(5): 636–652; Cunneen C., Goldson B. & Russell, S., 2016. Juvenile justice, young people and human rights in Australia. Current Issues in Criminal Justice 28(2): 173–189.
[15] Statement of compatibility for the Bill, 4.

Islander children in detention.[16] Almost 70% of children in prison in Queensland are Aboriginal or Torres Strait Islander, rising to more than 80% for those aged 10 to 13.[17] Queensland's rate of imprisoning Aboriginal and Torres Strait Islander children increased approximately 45% between June 2020 and June 2024.[18]

Any misconception that First Nations children commit more crimes is harmful and unsubstantiated. Systemic injustices, including discriminatory policing and limited access to support services, rather than increased criminality drive their overrepresentation in the criminal justice system. There is an ongoing pattern of First Nations children being disproportionately impacted by ineffective 'tough on crime' policies adopted by Australian state and territory governments. In Queensland, recent examples other than the Making Queensland Safer Act and the current Bill include regressive bail laws with reverse onus provisions and the criminalisation of bail breaches. These too required the Human Rights Act to be overridden.

Impact on children with complex needs

The criminal legal system disproportionately impacts children with disabilities and complex health needs. The Queensland Youth Justice Strategy's snapshot of children in the criminal legal system in 2022-23 includes these statistics:[19]

- 81% have used at least one substance;
- 44% have one or more disabilities;
- 44% have one or more mental health disorders and/or behavioural disorders (diagnosed or suspected);
- 38% have used ice/methamphetamine in the past; and
- 16% have one or more psychological behavioural issues.

Our experience and countless inquiries have also shown that intergenerational trauma, poverty, out-of-home care, domestic and family violence, substance abuse, and homelessness are common experiences for children in the criminal legal system. We echo the Queensland Family and Child Commission's comments to the Senate inquiry into Australia's youth justice and incarceration system that the number of children in the criminal legal system with a diagnosed health issue or disability 'is an ongoing human rights violation that is further compounded by keeping these young people in custody where they may be harmed further'.[20]

We also draw the Committee's attention to the deaths of six children, known to both the child protection and youth justice systems, that were considered by the Child Death Review Board over 2022-23. Four were Aboriginal or Torres Strait Islander. The Board's documentation of the stories of two of these First Nations children shows how spectacularly the criminal legal system fails children with complex trauma and disabilities.[21] In the words of the Board, 'arguably, their experiences in detention served to cause further trauma, disconnection, and hopelessness'.[22]

Children's experience as victims

Governments are amplifying harmful narratives by positioning children against victims, creating a false dichotomy. Children interacting with the criminal legal system are often victims themselves – of abuse, trauma, neglect, or systemic disadvantage – and there is clear evidence that imprisoning children sets them up for a lifetime of interaction with the system. Punitive measures that do not serve

[16] Australian Productivity Commission. (2025). *Report on Government Services 2025, Part F, Section 17 (Youth justice services)*. Table 17A.5.
[17] Ibid, Table 17A.9.
[18] Australian Institute of Health and Welfare, Youth detention population in Australia 2024 <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2024/contents/first-nations-young-people/first-nations-young-people-in-detention-by-state-a>.
[19] Queensland Government, Department of Youth Justice, *A safer Queensland: Queensland Youth Justice Strategy 2024-2029*.
[20] Senate of Australia Standing Committee on Legal and Constitutional Affairs. (2025). *Australia's youth justice and incarceration system*, 4.51.
[21] Queensland Child Death Review Board. (2023). Child Death Review Board Annual Report 2022–23, 22.
[22] Ibid.

any rehabilitative purpose for children with vulnerabilities fail children, victims and the broader community.

The Act's focus on punitive measures is a political manoeuvre designed to exploit community fears, offering simplistic responses to complex issues while failing to address the systemic drivers of interaction with the criminal legal system. All members of the community desire a safe and thriving society. Currently, the Queensland Government purports to be improving community safety while it progresses legislation that immediately makes certain groups in the community – First Nations children and their families – less safe, and also makes the entire community less safe in the long-term.[23] Promoting 'community safety' requires evidence-based reform that benefits the whole community.

Broader context

This Bill is part of a broader pattern of the Queensland Government increasing surveillance and punishment on the basis of community safety without a proper evidence base.[24] For example:

- In December 2024, the Making Queensland Safer Act was passed on the basis of a four-word election campaign slogan, and the Government voting down the amendments moved by the Opposition to legislate a requirement for an independent review;
- In April 2025, the Queensland Government extended the trial of electronic monitoring as a bail condition for children by a further year despite no conclusive evidence over the prior four years of the trial that electronic monitoring reduces recidivism;[25]
- In April 2024, the Government introduced a Bill to deter knife crime by making police powers to use handheld metal detectors despite no evidence that the powers have reduced knife crime;[26]
- Successive Queensland Governments have made it harder for children to obtain bail; and
- The Government's commitment to 'Detention with Purpose' includes the use of solitary confinement, which is prohibited in international law given its severe, long-term and irreversible effects on health and wellbeing.[27]

While it claims to be investing in early intervention services and programs, we are concerned that the Queensland Government is ignoring existing community-based options that have strong relationships with relevant communities in favour of carceral responses that will not address the underlying causes of offending behaviours. The few specific strategies the Government has committed to are not true early intervention (either because they occur after a child has had contact with the criminal legal system or because they risk funnelling children into the system) or reflect government-branded financial announcements that are neither established nor proven interventions. For example:

- The 'Staying on Track' program applies after release from detention;[28]
- The 'Regional Reset' program[29] is based on 2013 government policy that failed and does not address underlying, ongoing systemic issues such lack of safe and affordable housing and gaps in health and disability supports;
- The Regional Reset program operates on a referral model including referrals from the police;[30]
- 'Kickstarter Grants' for early intervention programs are for trialling new ideas and short-term responses by organisations that 'can' deliver,[31] rather than supporting ongoing responses and

[23] Institute for Collaborative Race Research, Resources, see 'What makes communities safer – key points for discussing the violence of the "making qld safer' laws" <https://www.icrr.com.au/resources>.
[24] Ibid, see 'The violence of "making Queensland safer"'.
[25] Human Rights Law Centre submission to the Committee on the Youth Justice (Monitoring Devices) Amendment Bill 2025.
[26] Human Rights Law Centre submission to the Committee on the Police Powers and Responsibilities (Making Jack's Law Permanent) and Other Legislation Amendment Bill 2025, not yet published online.
[27] Human Rights Law Centre, Explainer: solitary confinement <https://www.hrlc.org.au/news/2018/2/7/explainer-solitary-confinement>; Walsh, T., Blaber, H., Smith, C., Cornwell., and Blake, K. (2020). Legal perspectives on solitary confinement.
[28] Joint media release by the Premier and Minister for Veterans and the Minister for Youth Justice and Victim Support and Minister for Corrective Services on 29 January 2025.
[29] Ibid.
[30] Liberal National Party statement on 8 October 2024.
[31] Department of Youth Justice and Victim Support, Kickstarter Grants <https://www.youthjustice.qld.gov.au/partnerships/kickstarter-grants>.

services that already exist and that are already delivering what they are able with insufficient funding to meet demand;
- 'Gold Standard Early Intervention'[32] is for programs that are 'proven' in accordance with the Government's strict KPIs and may ignore the success of community-led programs that are already achieving positive outcomes but do not have the resources to respond to government metrics; and
- 'Circuit Breaker Sentencing', as the name indicates, applies once a child has been through the courts and is sentenced.[33]

The Government has claimed that the former government had 'inadequate early intervention programs, creating a generation of hardcore repeat offenders'.[34] In doing so Government acknowledges the importance of early intervention. However, effective early intervention must occur prior to interactions with policing, judicial and prison systems and must not lead to contact with those systems. It must be used instead of incarceration, not to supplement it or attempt to mitigate the harms of adult penalties. The harms of incarcerating children that are outlined above are so severe, for children, their communities and the community as a whole, that they cannot be overcome by programs only available once a child is already in contact with some part of the system, or by programs that create pathways to becoming entrenched in the system.

4. Lack of evidence and legitimate aim

The adult penalties framework was purportedly made, and is proposed to be expanded, on the basis of community safety. However, there is no evidence about how the Bill will further this aim.
The explanatory notes for the Bill state that the policy objective of the Bill is to enhance community safety be prescribing new offences.[35] The explanatory notes then continue to explain that the Bill achieves its objectives by inserting new offences, and that there are no alternative ways of achieving the policy objectives.[36] By choosing to frame the objective of the Bill this narrowly, the Government has skirted the fact that there is no evidence to show that the Bill improves community safety.

Such efforts to avoid references to any evidence are unsurprising because we consider that there is none. As noted above, Queensland already locks up more children than any other Australian jurisdiction, proving that the current, carceral approach does not work.[37]

We also note that the explanatory notes state that the Bill follows advice from the Panel 'about offences that cause most harm to the individuals and the community more broadly'.[38] They also state that the Panel 'conducted consultation with stakeholders' without outlining the themes and outcomes of consultation.[39] The Panel's advice and formal terms of reference have not been made publicly available. This must occur as a priority for Parliament and the public to be able to assess whether the Bill achieves what it sets out to do and the reliability of the Panel's evidence. As it stands there is currently no evidence to justify the Bill.

We take this opportunity to raise some observations about the Panel's process, and query whether the advice is not being released because it contains both concerns from stakeholders and evidence against the Bill. The Human Rights Law Centre and Change the Record made a submission to the Panel opposing the expansion of adult penalties. We understand that many stakeholders met with the Panel, and lodged submissions, communicating the same. Broad opposition to the Bill is consistent with the significant opposition to the Making Queensland Safer Act. In the interests of transparency, we are interested to know whether feedback from these stakeholders has been reflected in the Panel's advice.

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[32] Department of Youth Justice and Victim Support, Our commitments, see 'industry briefing slide deck' < https://www.youthjustice.qld.gov.au/our-department/who-we-are/our-commitments>.
[33] Liberal National Party statement on 17 October 2024.
[34] Minister for Youth Justice and Victim Support and Minister for Corrective Services statement on 8 April 2025.
[35] Explanatory notes for the Bill, 1.
[36] Ibid, 1, 4.
[37] See 1.
[38] Explanatory notes for the Bill, 1.
[39] Ibid, 4.

More broadly, we also query whether the Panel's terms of reference even include consideration of evidence. This is because the reference to the Panel's advice in the explanatory notes refers to it providing advice on offences that cause harm, rather than the ability of adult penalties to prevent and deter offending, or address community safety.

Interestingly, the Government refused calls for an independent review of the Making Queensland Safer Act. During the Committee's inquiry into the Making Queensland Safer Bill, numerous stakeholders, given the Government's intent to pass the legislation, requested commitment to an independent review of the Act.[40] These calls were rejected and, when the Opposition moved amendments during the debate of the Bill to insert an independent review clause,[41] the government voted against those amendments.

Finally, we note that the Government has not set out why it considers there are exceptional circumstances that justify incompatibility with human rights or provided any evidence to support the claim of exceptional circumstances. We address this in more detail in the next section, as it is relevant to the human rights analysis of the Bill.

Ultimately, this clear lack of evidence calls into question the legitimacy of the aim of improving community safety. This is echoed by the statement of compatibility referring not only to the objectives of the Bill as framed in the explanatory notes, but also 'punishment and denunciation'.[42] The statement initially claims that they are 'in general, legitimate aims', however it then notes the negative impacts of the Bill likely outweigh those aims and continues to conclude that the Bill may be 'more punitive than necessary to achieve community safety'.

If the Queensland Government truly intended to improve community safety, it would be looking at alternatives to adult penalties (and incarceration more generally) which address the unmet needs and systemic issues that lead to offending behaviours.

5. Human rights incompatibility

The adult penalties framework, and the conditions of detention it pipelines children into, is incompatible with international human rights law and standards, including obligations that Australia has under the:

- Convention on the Rights of the Child;
- International Covenant on Civil and Political Rights;
- International Covenant on Economic, Social and Cultural Rights;
- Convention on the Elimination of All Forms of Racial Discrimination;
- United Nations Declaration on the Rights of Indigenous Peoples;
- Convention on the Rights of Persons with Disabilities;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- United Nations Standard Minimum Rules for the Administration of Juvenile Justice; and
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

The Bill cannot carve out the application of international human rights law. As noted above, adult penalties and other regressive youth justice policies are the subject of a current complaint to the United Nations Committee on the Elimination of Racial Discrimination.

While the Government admits that the Bill's adult penalties provisions are incompatible with the Human Rights Act, it seeks to rely on the override declaration in section 175A(12) of the Youth Justice

[40] Change the Record and Human Rights Law Centre, Queensland Aboriginal and Torres Strait Islander Child Protection Peak, Queensland Human Rights Commission, Queensland Law Society, Youth Advocacy Centre and YFS Legal submissions to the Committee's inquiry into the Making Queensland Safer Bill 2024.
[41] Amendments (clause 2), explanatory notes and statement of compatibility.
[42] Statement of compatibility for the Bill, 4.

Act and has not provided a fresh statement of exceptional circumstances. There is a brief statement in the statement of compatibility noting that 'the current situation with respect to youth crime in Queensland presents an exceptional crisis situation constituting a threat to public safety'.[43] This is a superficial statement that has not been substantiated by any evidence.

When Parliament passed the Making Queensland Safer Bill, including the override that Government now seeks to rely on, it did so based on the statement of exceptional circumstances that was tabled at the time.[44] We consider that the current Bill requires a statement of exceptional circumstances under section 44 of the Human Rights Act, and that Government must table this statement in Parliament as a matter of priority. The statement of exceptional circumstances should outline evidence both that a crisis situation exists, and that the legislation is able to effectively and immediately address that crisis situation. We note that 'exceptional circumstances' is an extremely high threshold.

We request the Committee issue a recommendation that a statement of exceptional circumstances is tabled. We note that if a statement is not tabled this sets a concerning precedent. There will be no transparency or accountability for the claim that there are exceptional circumstances that justify incompatibility with the Human Rights Act. In addition, if Government seeks to add further offences to adult crime adult time at some point in the future, on its current approach it would not be tabling a statement of exceptional circumstances even though the factual situation at that point in time could be manifestly different.

We also note that, like the explanatory notes for the Bill, the statement of compatibility initially seeks to frame the objective of the Bill in a way that is overly narrow, to facilitate a conclusion that there are no less restrictive options. It initially describes the Bill as amending the Youth Justice Act to add further offences to section 175A of the Youth Justice Act.[45] As a result, the statement of compatibility presents very technical proposals when presenting less restrictive options.[46] If the objective is to improve community safety, a less restrictive option would be investing in services that address the underlying causes of offending behaviours to prevent interaction with the criminal legal system, and to develop less restrictive models for children already in contact with the system.

6. Alternatives

Children deserve care, not cages. Rather than continuing to invest in prisons and avoiding investment in existing programs, the Queensland Government must invest in housing, health services, disability supports, community-based supports and self-determined alternatives, particularly First Nations led supports and alternatives. Solutions already exist and require an immediate funding boost.

By resourcing Aboriginal and Torres Strait Islander community-controlled organisations and other community-led organisations to build a genuine, alternative, culturally safe response, the Queensland government can help address the unmet needs that are causing contact with the criminal legal system in the first place and support every child in Queensland to thrive.

First Nations advocates and organisations have been advocating for community-led, non-carceral solutions that address unmet need and root causes of offending behaviours for decades. We note our submission to the Senate inquiry into Australia's youth justice and incarceration system, which addresses these matters in greater detail.[47] It explains the importance of raising the minimum age of criminal responsibility, raising the minimum age of detention and developing an alternative service model to support this.

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[43] Ibid.
[44] While a statement was tabled we note that we did not accept the attempted justification for the override in that statement: Change the Record and Human Rights Law Centre submission to the Committee's inquiry into the Making Queensland Safer Bill 2024, 11.
[45] Statement of compatibility for the Bill, 1.
[46] Ibid, 4.
[47] Change the Record and Human Rights Law Centre submission to the Senate Standing Committee on Legal and Constitutional Affairs inquiry into Australia's youth justice and incarceration system.

7. National and international attention

The interim report of the Senate inquiry into Australia's youth justice and incarceration system opens by acknowledging that the inquiry 'received strong evidence from a range of key stakeholders that Australia's youth (or child) justice system is in crisis', that there is 'disturbing evidence' about 'disadvantaged and vulnerable children and young people entering the system' and that 'serious concerns have been raised that the human rights of children, including rights arising under international human rights treaties to which Australia is a signatory, are being breached.'[48] Much of the evidence the Senate inquiry has heard and received is about the state of youth justice in Queensland, and has already been put to various Queensland parliamentary inquiries.[49]

Since the inquiry, a complaint has been made to the United Nations alleging a pattern of racial discrimination in youth justice policy across Australia.[50] The complaint strongly condemns adult penalties. It alleges draconian and punitive laws, escalation in these laws, ongoing inhumane treatment of children by criminal legal systems and persistent government inaction on independent recommendations for reform, including from the 1991 Royal Commission into Aboriginal Deaths in Custody and the National Children's Commissioner's landmark report in 2024, titled '*Help Way Earlier!*'.[51] The pathway to a sense of thriving community is not novel – it needs to be implemented.

8. Concluding remarks

We are witnessing a deeply concerning trend: state and territory governments are increasingly responding to complex social issues with punitive youth justice policies. Instead of tackling the root causes of disadvantage—such as poverty, trauma, disability, and lack of access to culturally safe support—governments are choosing to criminalise children, particularly First Nations children, often for political gain.

Children in need of care and compassion are being vilified, locked up, and pushed deeper into cycles of harm, all in the name of so-called community safety. These policies do not make our communities safer—they entrench inequality, drive up incarceration rates, and divert resources away from what we know works: prevention, early intervention, and community-led solutions.

Successive inquiries have made clear that the current punitive, carceral approach is not reducing crime or improving community safety. Locking up children only perpetuates the very harms it claims to solve. A fundamental overhaul of the criminal legal system is required.

[48] Senate of Australia Standing Committee on Legal and Constitutional Affairs. (2025). *Australia's youth justice and incarceration system*, 1.3.
[49] Community Safety and Legal Affairs Committee inquiry into the Queensland Community Safety Bill 2024; disbanded Youth Justice Reform Select Committee inquiry to examine ongoing reforms to the youth justice system and support for victims of crime; Economics and Governance Committee inquiry into the Strengthening Community Safety Bill 2023.
[50] Human Rights Law Centre, UN racial discrimination complaint about Australia's youth justice policies <https://www.hrlc.org.au/reports-news-commentary/urgent-un-complaint>.
[51] Australian Human Rights Commission. (2024). "Help way earlier!" How Australia can transform child justice to improve safety and wellbeing.