

6 March 2014

Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane Qld 4000

**Amendment to the Youth Justice and
Other Legislation Amendment Bill 2014
Submission 007**

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Dear Ms Hastie

Re: Youth Justice and Other Legislation Amendment Bill 2014 - Boot Camp Orders for Vehicle Offences

We welcome this opportunity to make a further submission regarding the *Youth Justice and Other Legislation Amendment Bill 2014* focusing specifically on the draft amendments proposing a mandatory boot camp order for recidivist vehicle offenders in prescribed areas. We have serious concerns about the proposed amendments based on three key points: the mandatory nature of the orders; the fact that the orders will only apply to 'prescribed areas'; and the fact that the efficacy of boot camp orders for preventing reoffending is yet to be proven. Each of these features gives rise to the potential for significant injustice. We also note a number of technical concerns in relation to the drafting of the legislation.

First, the amendments propose a mandatory sentencing regime which does not allow for a nuanced response proportionate to the offence. The maintenance of well-bounded judicial discretion is important to ensure that the sentence is appropriate given the nature of and circumstances surrounding the offence. Mandatory sentencing regimes can result in disproportionate punishment, and thus, significant injustice.

Second, it is clear from the Attorney-General's comments when introducing the Bill that these amendments are aimed at responding to a perceived crisis in terms of motor-vehicle offences committed by young people in the Townsville area. The amendments therefore target specific areas, rather than being uniformly applied across the State. This is problematic as it creates the potential for offenders to be dealt with differently for the same offence, based on their place of residence. Such disparity is unjust, potentially discriminatory, and may lead to long-term differences in trajectories of offending across the youth population.

Third, the amendments seek to expand the current use of sentenced boot camp orders. Boot camp orders have only been available in Queensland for a very short time and the Attorney General gave assurances that they would not be rolled-out until they had been adequately evaluated and their impact on recidivism had been assessed. While differences between the Queensland boot

camp model and the traditional military style model are noted, international evidence indicates that boot camps are criminogenic and result in increased reoffending. There is still no evidence that boot camps are an effective way of reducing youth offending, or indeed, whether there are harmful unintended consequences. Prior to the expanded use of such orders, it is our view that their effectiveness should be rigorously evaluated, particularly for offenders with a history of motor vehicle theft.

Finally, we note some technical concerns related to the drafting of the legislation. In particular, we note that the offender is required to 'reside' in the prescribed area. This means that 'recidivist vehicle offenders' who offend in the prescribed location, but who do not actually reside in the location, will be excluded from the provision. This raises some interesting evidentiary issues around residence, and is a clear example of the discriminatory potential of the proposed amendments. The focus of such a provision is, by default, on the person or population of people within a particular area, rather than on the offence itself. Furthermore, relevant areas are prescribed by regulation, rather than in legislation. This is concerning as it means that the scope of the provision could be expanded with relative ease.

The definition of a 'recidivist' or 'repeat' offender, both in relation to these specific amendments and in the Bill more broadly, is also problematic. In particular, there may be some practical implications in relation to the speed of various criminal justice processes. In practice, it is possible that a young person's first offence dealt with by the court may lead to further investigations and charges in relation to offences that had occurred prior to, or at the same time, as this 'first offence'. As a result, a young person can be deemed a repeat offender for offences actually committed prior to or with their first court offence. Timing of punishment is also likely to be a problematic issue in practice. If an offender must be sentenced to a boot camp order, but there is no place currently available, s/he will be left in a post-sentence limbo awaiting the disposition of sentence. The uncertainty of this position has consequences for the system, as well as for the offender themselves.

Offences involving young people and motor vehicles are concerning, and have the potential to cause significant injury and loss to victims, the community, and the offender personally. Attention should be paid to effective ways to engage with offenders to minimise this injurious behaviour. We submit that the proposed amendments are not an effective method to prevent further offending, and may in fact contribute to further long-term negative consequences for offenders and communities. Instead, an effective response to the problem these amendments seeks to address would take into account the community contexts in which the offences occur, and would provide early interventions with youth populations that would be preventative in focus.

Thank you for the opportunity to make this submission, and we are happy to provide further information or clarification as required.



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