

The Hon. Dean Wells MP
Acting Chair
Legal Affairs, Police, Corrective Services and Emergency Services Committee

Via email: lapcsesc@parliament.qld.gov.au

Parliament House
George Street
Brisbane Qld 4000

23 September 2011

Dear Mr. Wells,

I am a Co-Convenor of the Queensland-Northern NSW Amnesty International Human Rights in Law Group; a group which aims to proactively monitor the human rights impacts of Queensland legislation and legislative developments. I write to you today in regards to the ***Police Powers and Responsibilities and Other Legislation Amendment Bill 2011***, which is due to be reported on, on the 11th of November 2011.

I commend the Committee for its commitment to protecting the Queensland community; however, I am concerned that certain proposed amendments to the *Police Powers and Responsibilities Act 2000* (Qld) ('the PPRA') operate to the detriment of the rights and liberties of individuals.

My key concern surrounds the expansion of differential policing search powers, conferred in Clauses 6, 8 and 48 of the Bill. The notion of extending police searching powers does not align well with Section 17 of the International Covenant on Civil and Political Rights which protects against arbitrary and unlawful interference with privacy.

My concern with the expansion of police pertains to the disproportionate use of such powers against vulnerable individuals. This is supported by statistical evidence which confirms that such discretionary powers disproportionately affect minority groups, particularly indigenous individuals, young people, those with mental health issues, and homeless persons. Empirical research undertaken by QPILCH in

Brisbane clearly indicated that homeless people, particularly those who are young and Indigenous, are targeted in the use of police powers. Furthermore, homeless people have little knowledge about what constitutes a lawful police search, indicating their vulnerability to the misuse of expanded police powers.¹

Furthermore, I am concerned that the power of police to pat-down clothing and search the bags of a minor who is reasonably suspected of possessing alcohol, in the absence of a guardian, provided for by Clause 8 of the Bill, can cause embarrassing and upsetting psychological effects in vulnerable children, who are often naively unaware of their rights. The conferring of such police powers does not align well with Article 16 of the Convention of the Rights of a Child which upholds a child's right to privacy, honour and reputation.

With regards to Clause 62, which permits the taking of DNA evidence from children who may to assist in an investigation, I welcome the safeguards which: require a magistrate order to allow the procedure, prohibit the use of force in obtaining the sample, and entitle the child to be accompanied by a support person. However, despite these safeguards, I am concerned that the very act of requiring children to give DNA samples in an invasion of their privacy, and does not give sufficient regard to the interests of vulnerable children subject to the proposed amendment, especially where they are victims or witnesses of crime, and may hence be in a state of psychological fragility.

Furthermore, it is my submission, that Clause 18 of the Bill, which confers power in police to enter premises without notice of entry in order to attend to animals in the absence of an occupier, does not give sufficient regard to the fundamental legislative principle requiring that power to enter premises should be permitted only with the occupier's consent, or under a warrant issued by a judge or magistrate. This notion is also undermined by Clause 86 of the bill which removes the right of an occupier, provided for by s609 of the PPRA, to accompany a police officer during a search.

I ask the Committee to give consideration to the importance of the Bill's consistency with fundamental legislative principles and its application to individual rights and liberties, including the human rights of all persons.

I thank you for your time, and your consideration of the views of the public in this matter, and hope to engage further with you in regards to human rights issues that affect all Queenslanders, but particularly our most vulnerable.

Yours faithfully,

Catherine Drummond

¹ QPILCH & The University of Queensland (May 2005), 'Nowhere to Go': The Impact of Police Move-On Powers on homeless people in Queensland,