

## Youth Justice Reform Select Committee inquiry into youth justice reform in Queensland

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# Youth Justice Reform Select Committee

*'Inquiry to examine ongoing reforms to  
the youth justice system and support for  
victims of crime.'*

Submission by the Lamberr Wungarch Justice Group,  
Normanton QLD 4890

-10 January 2024-



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## -Acknowledgement-


The Lamberr Wungarch Justice Group wish to begin by acknowledging the Turrbal and Yuggera peoples, Traditional Custodians of the land on which we will learn from each other today and pay our respects to their Elders past and present. We extend that respect to all Aboriginal and Torres Strait Islander peoples here.


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Dear Committee Members,

The Lamberr Wungarch Justice Group of Normanton thanks you for the opportunity to provide the Queensland Parliament with a submission regarding Indigenous Youth Justice issues that affect our community.

  
Joyce Downes  
President

  
Andrew Dawes  
Coordinator

  
Doug Thomas  
Secretary



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## **INTRODUCTION**

- 1.0 The Lamberr Wungarch Justice Group is a remote Indigenous body that aims to assist Indigenous people engaged with the Queensland legal system. We attend the Gulf Magistrates' Circuit Court in Normanton and assist various agencies and people in District and Supreme Court matters.
- 1.1. *'QLD to splash up to \$250 million on third children's prison to fix capacity'*<sup>1</sup>. The building of two new children's detention centres in Queensland highlights the ongoing failure of successive Governments to address the root causes of juvenile offending within our State and continues the politically savvy, get tough on crime rhetoric which, although a vote winner, fails to address the underlying causes of offending and will ensure the continued recidivism and dire social communal outcomes for Queenslanders generally and Indigenous and Torres Strait Islanders more specifically.
- 1.2. Our workload as a Justice Group is increasing, this corresponds with the increasing amount of Indigenous and non-Indigenous people in custody<sup>2</sup>. Queensland alone accounts for 29% of the National increase in incarcerated persons<sup>3</sup>.

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<sup>1</sup> Brisbane Times (5 October 2023), "*Qld to splash up to \$250m on third children's prison to fix capacity*" <<https://www.brisbanetimes.com.au/politics/queensland/qld-to-spend-up-to-250m-on-third-new-youth-prison-in-capacity-fix-20231005-p5ea0i.html>> Matt Dennien, accessed 24 October 2023

<sup>2</sup> Australian Bureau of Statistics (3 November 2022), *Twenty-seven years of Prisoners in Australia*, <<https://www.abs.gov.au/articles/twenty-seven-years-prisoners-australia#cite-window2>> accessed 24 October 2023

<sup>3</sup> Report: *Queensland has highest youth detention rate*, Queensland Legal Service Proctor, 15 November 2022 <<https://www.qlsproctor.com.au/2022/11/report-queensland-has-highest-youth-detention-rate/>> accessed 2 January 2024



- 1.3. In 1994, Australia incarcerated roughly 16,946 people a year. As a nation, we now lock up 42,970 people a year, with Queensland leading the charge<sup>4</sup> relative to other States and Territories. Of the roughly 43,000 in prison, 25,723 Australians have been incarcerated previously<sup>5</sup> .
- 1.4. It is against this backdrop of an ever-increasing adult and juvenile prison population that the Queensland Government seeks to engage with the community regarding “...ongoing reforms to the youth justice system and support for victims of crime.”<sup>6</sup> .

## **AUSTRALIAN BACKGROUND**

- 2.0 Queensland have, as have all the States and Territories, incarcerated Indigenous people, be they male, female or juvenile at a rate that far outstrips the non-indigenous rate of incarceration<sup>7</sup>.
- 2.1. This is due to the weaponisation of Australian Police forces to aid in the colonisation of our nation. Queensland Police were used to subjugate and put down Indigenous Australians physically, spiritually and culturally<sup>8</sup>. Indigenous and Torres Strait Islanders peoples forced assimilation was supported by Government policy at a State and

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<sup>4</sup> Ibid

<sup>5</sup> Ibid

<sup>6</sup> ‘Youth Justice Reform Select Committee’ Althea Briggs, Committee Support Officer, email received 23 October 2023

<sup>7</sup> Australian Bureau of Statistics (24 February 2023) *Prisoners in Australia*

<<https://www.qgso.qld.gov.au/issues/2951/prisoners-qld-2022.pdf>> appearing in The State of Queensland (Queensland Treasury) 2023, accessed 24 October 2023

<sup>8</sup> Hannah Baldry, Ailsa McKeon, Scott McDougall, *QUEENSLAND’S FRONTIER KILLING TIMES – FACING UP TO GENOCIDE*; page 101 to 103 <<https://law.uq.edu.au/files/1263/Queenslands-Frontier-Killing-Times-Facing-up-to-Genocide-Baldry-McKeon-McDougall-2015.pdf>> accessed 28 December 2023





Federal level by successive Governments of all political persuasions - a democratically supported and attempted cultural and physical genocide<sup>9</sup>.

2.2. With this being Queensland and Australian history, it is no surprise to the Lamberr Wungarch Justice Group that the referendum for a Voice to Parliament was defeated so soundly, particularly in Queensland<sup>10</sup>. We Australians inhabit a Nation with a selective amnesia in relation to our First Nations Peoples, that regards the subjugation and colonisation of Australia as a benign act; with a majority of non-Indigenous Australians believing our interactions were ambivalent, understanding and generous in nature, with this sanitised version of Australian history taught in schools - leaving out its murderous implementation and brutality, along with the ongoing consequences to our State and our Nation<sup>11</sup>.

2.3. Australia's failures towards its First Nations peoples have been described as a '*...National Tragedy...*'<sup>12</sup> with the Australian Law Reform Commission examining the incarceration rates of Aboriginal and Torres Strait Islander Peoples<sup>13</sup> via a litany of reports, inquiries and action plans<sup>14</sup>.

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<sup>9</sup> Ibid at 7

<sup>10</sup> *Queenslanders voted against the Voice to Parliament — more than any other state or territory in Australia*; Bridget Judd, Sarah Richards, Victoria Pengilley and Baz Ruddick and Lily Nothling; ABC online <<https://www.abc.net.au/news/2023-10-15/queensland-voice-to-parliament-vote-results/102977008>> accessed 18 November 2023

<sup>11</sup> Above, Ibid at 7

<sup>12</sup> Senator George Brandis QC, *"Incarceration Rates of Aboriginal and Torres Strait Islander Peoples"* (Media Release 27 October 2016 <https://www.indigenous.gov.au/news-and-media/announcements/minister-scallion-alrc-inquiry-incarceration-rate-indigenous>.)> accessed 24 October 2023

<sup>13</sup> Australian Law Reform Commission, *Incarceration Rates of Aboriginal and Torres Strait Islander Peoples*, Discussion Paper No 84 (2017) <[https://www.alrc.gov.au/wp-content/uploads/2019/08/discussion\\_paper\\_84\\_compressed\\_cover2.pdf](https://www.alrc.gov.au/wp-content/uploads/2019/08/discussion_paper_84_compressed_cover2.pdf)> accessed 24 October 2023

<sup>14</sup> Ibid at p21; 1:10





- 2.4. The physical, cultural, emotional and psychological harm experienced by First Nation's people is well documented and ongoing . These harms are yet to be effectively addressed by any government - be they at the State or Federal level . Indeed, the legislative created gap is not being closed .
- 2.5. First Nation's people and their communities have *'...been negatively affected by laws, policies and practices implemented by successive government policies, such as assimilation and child removal'*<sup>15</sup>.
- 2.6. Removal of Indigenous children from their families and the resultant communal and familial dislocation that stems from it, along with the lack of care displayed by Governments of all types for the removed children's and families wellbeing is reflected in the links between Out of Home Care (OOHC) and juvenile and adult incarceration<sup>16</sup> .
- 2.7. Due to the high rates of incarceration within the discrete Indigenous community, prison is normalised and therefore, juvenile detention becomes a driver along with peer pressure, of adult incarceration.
- 2.8. *"...90% of Aboriginal and Torres Strait Islander youths who appeared in a children's court went on to appear in an adult court within eight years—with 36% of these receiving a prison sentence later in life."*<sup>17</sup>

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<sup>15</sup> Ibid above at 8, p23; 1.14

<sup>16</sup> Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Inquiry into the Aboriginal and Torres Strait Islander experience of law enforcement and justice services* (25 April 2015) <[file:///C:/Users/norma/Downloads/Sub\\_05.pdf](file:///C:/Users/norma/Downloads/Sub_05.pdf)> accessed 2 November 2023

<sup>17</sup> Snowball L 2008. Diversion of Indigenous juvenile offenders. *Trends & issues in crime and criminal justice* no. 355. Canberra: Australian Institute of Criminology. <<https://www.aic.gov.au/publications/tandi/tandi355>> accessed 2 November 2023



2.9. Young people who are involved in *OOHC* are also 19 more times likely to be involved with Youth Justice within the same year<sup>18</sup> and Indigenous children make up 46.7% of children in care in Queensland as opposed to 53% for non-Indigenous<sup>19</sup>, whilst making up a fraction of the juvenile population.

2.10. The disadvantage experienced by Indigenous and First Nation's people is compounded by the ongoing and continual lack of services and infrastructure in remote and regional communities. These services are not being designed to service Indigenous communities specifically and with little to no community engagement regarding their establishment or operation.

2.11. The lack of effective legal services is no different from the lack of access to drug and alcohol programs, literacy programs, educational programs whether higher or vocational, in conjunction with limited access to basic employment programs. These failures of Government continue to compound the harm experienced by remote Indigenous community members.

2.12. This, as mentioned, is exacerbated by an ad hoc and unresponsive legal system that for so long was designed to punish and subjugated Indigenous and Torres Strait Islanders, or, at the very least, deny or delay Indigenous access to justice in a variety of fashions. The State

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<sup>18</sup>Emma Colvin, Alison Gerard, Andrew McGrath 2020. *Children in out-of-home care and the criminal justice system: A mixed-method study* Report to the Criminology Research Advisory Council Grant: CRG 22/16–17 p2 <[https://www.aic.gov.au/sites/default/files/2020-09/CRG\\_221617\\_final\\_report.pdf](https://www.aic.gov.au/sites/default/files/2020-09/CRG_221617_final_report.pdf)> accessed 2 November 2023

<sup>19</sup> Ibid





Government saw Indigenous Queenslanders as recalcitrant children that required to be managed by a succession of racist policies until 1975<sup>20</sup>, with the introduction of the *Racial Discrimination Act* (Cth). The then Queensland Government went so far as to challenge the validity of the Act in the High Court<sup>21</sup>.

2.13. From a report by the Commissioner for Community Relations on complaints of racial discrimination generated by the implementation of the *Racial Discrimination Act* for the proceeding 6 years found:

*"The settlements in many cases reflect the lack of vindictiveness by Aboriginal complainants and their modest demands.*

*There is no doubt that these attitudes arise from the lowly position of Aboriginals in our society. When the Racial Discrimination Act 1975 came into operation in 1975 it was the first time an avenue was available to the oppressed.*

*Aboriginal complainants had little expectation of justice and the respondents, confronted with Aboriginals seeking even modest apologies and undertakings not to discriminate again, found it difficult in some cases to take the proceedings seriously and in other cases demonstrated arrogance, anger and resentment.*

*Up until the present time, Aboriginals, in association with the Commissioner for Community Relations, have been pioneering the recognition of basic rights.*

*This has to be kept in mind in recognising that the settlements sought by Aboriginals often seem inadequate for the grave offence which they have suffered and which in the courts of law relating to whites would attract punitive remedies and monetary damages in many instances.*

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<sup>20</sup> *Racial Discrimination Act 1975 (CTH)* <[https://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol\\_act/rda1975202/](https://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/rda1975202/)> accessed 28 December 2023

<sup>21</sup> *Koowarta v. Bjelke Petersen and others Queensland V. Commonwealth of Australia - External Affairs Power* <<https://www8.austlii.edu.au/au/journals/MelbULawRw/1982/22.pdf>> accessed 29 December 2023



*Six years ago it was a revolutionary act to get a white man of power and affluence to say, 'I'm sorry' to an Aboriginal even when he knew he had broken the law by discriminating against him."*<sup>22</sup>

2.14 A young John Howard (MP) Member for Bennelong, attempted to undermine a legislative response in assisting people with an equitable outcome to societal injustice by saying that the *'...real...'*<sup>23</sup> path to *'...tolerance between the races and between persons of difference race is not primarily to be found through legislative coercion'*<sup>24</sup>, ATSIC be warned<sup>25</sup>.

2.15 This is against a backdrop of Queensland representatives. Senator Ian Wood, for example, speaking in the Federal Parliament, saying racism should be viewed more as a test of *"...character..."*<sup>26</sup>, whilst disparaging a man by the name of, presumably Charles *"...Perkins..."*<sup>27</sup> saying he and others like him *"...stir up the racial attitude..."*<sup>28</sup> within Australia.

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<sup>22</sup> *A Report by the Commissioner for Community Relations on complaints of racial discrimination and inquiries under the Racial Discrimination Act 1975 for the period 31 October 1975 to 9 October 1981.*

Community Relations Paper No. 18 October 1981. p5 and p6.

<<https://humanrights.gov.au/sites/default/files/CRC18.pdf>> accessed 2 January 2024

<sup>23</sup> John Howard (MP) Bennelong, 8 April 1975, *Racial Discrimination Bill 1975*, second reading, Historic Hansard <[https://historichansard.net/hofreps/1975/19750408\\_reps\\_29\\_hor94/#debate-39](https://historichansard.net/hofreps/1975/19750408_reps_29_hor94/#debate-39)> accessed 29 December 2023

<sup>24</sup> Ibid

<sup>25</sup> *"Howard silences Aboriginal advocates"*, The Sydney Morning Herald, April 16 2004, <<https://www.smh.com.au/national/howard-silences-aboriginal-advocates-20040416-gdiqvv.html>> accessed 29 December 2023

<sup>26</sup> Senator I Wood, *Racial Discrimination Bill 1975*, 22 May 1975, Historic Hansard <[https://historichansard.net/senate/1975/19750522\\_senate\\_29\\_s64/#debate-44](https://historichansard.net/senate/1975/19750522_senate_29_s64/#debate-44)> accessed 29 December 2023

<sup>27</sup> Ibid

<sup>28</sup> Ibid





## **WHAT DRIVES YOUTH INCARCERATION**

3.0 The Justice Group knows that higher levels of imprisonment do not equal a commensurate reduction in crime and the imprisonment of offenders does not guarantee a reduction in recidivism or crime<sup>29</sup> as illustrated in the submission by Professor Harrington and Professor Hogg to the *QPC Inquiry into imprisonment and recidivism*<sup>30</sup>.

3.1 Youth detention is ineffective at rehabilitating young offenders and reducing their rates of recidivism<sup>31</sup>. What does work is intensive, targeted, community support.

3.2 On average there were 278 children in detention on a night in the June quarter 2022<sup>32</sup> down slightly from its historic high of 289 in the March quarter.

3.3 *'...First Nations children make up 62% percent of youth in detention and 84% of those placed in solitary confinement according to statistics tabled in parliament in September 2022.'*<sup>33</sup>

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<sup>29</sup> Carrington, Kerry & Hogg, Russell (2018); *QPC Inquiry into imprisonment and recidivism Submission. Crime Justice and Social Democracy Research Centre, Australia*.p4

<<https://eprints.qut.edu.au/215450/1/122487.pdf>> accessed 31 October 2023

<sup>30</sup> Ibid

<sup>31</sup> Carrington, Kerry & Pereira, Margaret. (2009). *Offending Youth : Crime, Sex and Justice*.

<[https://www.researchgate.net/publication/279490638\\_Offending\\_Youth\\_Crime\\_Sex\\_and\\_Justice/citation/download](https://www.researchgate.net/publication/279490638_Offending_Youth_Crime_Sex_and_Justice/citation/download)> accessed 30 October 2023

<sup>32</sup> Youth detention population in Australia 2022, Australian Institute of Health and Welfare, 13 December 2022

<<https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2022/contents/state-and-territory-trends>> accessed 30 October 2023

<sup>33</sup> First Peoples Incarceration in Queensland, ANTaR Submission to Senate Enquiry into Raising the Age of Responsibility-Amendment Bill 2021 (Qld) <<https://antarqld.org.au/indigenous-encarceration/>> accessed 2 January 2024





- 3.4 The risk factors that drive youth incarceration broadly fall into four categories, social, familial, individual and communal.<sup>34</sup>
- 3.5 The incarceration of young people does nothing to prevent or cure the young person from re-offending. They have far more complex needs<sup>35</sup> that are not being meet in a community setting. This, the Justice Group argues, is self-evident.
- 3.6 Early intervention works<sup>36</sup>, diversion from formal judicial processes works<sup>37</sup>, along with coordinated and holistic responses, these policies work<sup>38</sup>.
- 3.7 The very same research undertaken by the Queensland Statistician states that:

*“...chronic offenders require intensive interventions that address criminogenic risks and support protective factors, or on providing a strength-based approach, focus on developing an individual’s skills and opportunities to increase overall wellbeing. Responses to youth offending may benefit from a coordinated, multi-agency approach to appropriately and effectively address the complex, presenting needs of young offenders. It may also be important to involve the family of the young person to increase the efficacy of interventions (where possible*

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<sup>34</sup> Queensland Government Statistician’s Office, QUEENSLAND TREASURY Youth offending Research brief April 2021 Figure 4, <<https://www.qgso.qld.gov.au/issues/10321/youth-offending-april-2021-edn.pdf>> accessed 2 January 2024

<sup>35</sup> Ibid p12

<sup>36</sup> Ibid at 33 p12, 5.1

<sup>37</sup> Ibid at 33, p13, 5.2

<sup>38</sup> Ibid at 33, p14, 5.4



*and appropriate). Furthermore, intervening early may result in long-term personal, social and economic benefits.”<sup>39</sup>*

3.8 But all these responses require a Queensland Legislature that prioritise community-driven action towards addressing juvenile offending and actively seeks to support youth offenders within those same communities; not responding by merely paying lip service to ideas that have had a proven impact on juvenile offending, whilst incarcerating more and more children.

3.9 This difference between signalled and real intentions can be seen by the rushing through of legislation which overturned<sup>40</sup> the *Human Rights Act 2019 (Qld)*<sup>41</sup> that would allow children as young as ten to be held in adult watch houses at Police stations, which are in crisis<sup>42</sup>, until they can be warehoused in juvenile detention facilities, because we, as a community, have run out of space to incarcerate them appropriately and in line with our International and National legal obligations.

3.10 We know as a remote, largely Indigenous community, what the underlying issues that drive juvenile offending are, but we also know that there is little political appetite to address the root causes, because

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<sup>39</sup> Ibid at 33, p15, 6.0

<sup>40</sup> *Strengthening Community Safety Act 2023 QLD*, <[https://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/qld/num\\_act/scsa2023362/](https://www8.austlii.edu.au/cgi-bin/viewdb/au/legis/qld/num_act/scsa2023362/)> accessed 2 January 2024

<sup>41</sup> *Human Right Act 2019, (Qld)* <<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2019-005>> accessed 2 January 2024; *Human Rights Act could be critical in divisive Queensland youth bail case*, Ben Smee, The Guardian , Wednesday 15 February 2023 <<https://www.theguardian.com/australia-news/2023/feb/15/queenslands-strict-youth-bail-laws-to-be-tested-by-bid-to-return-children-to-custody-expert-says>> accessed 3 January 2024

<sup>42</sup> *Watch-house review finds system in crisis*, Queensland Legal Service, Proctor, 13 December 2023 <<https://www.qlsproctor.com.au/2023/12/watch-house-review-finds-system-in-crisis/>> accessed 2 January 2024





it is a difficult and long-term problem. Created by historic Government abuses that now manifests in ongoing poverty, poor parenting, traumatic childhood experiences and out-of-home care - to name just a few factors associated with youth, and more specifically Indigenous youth offending<sup>43</sup>.

3.11 All of which, the Justice Group sees are difficult changes to bring about and policies to advocate for politically, in a State with the unaddressed socio-economic, cultural and history of ours. As far as the Justice Group is concerned, the unaddressed racial history of Queensland and the Government's role in it, looms largest for our clients.

## **THE LAW**

4.0 The Law is a sword that is dual edged<sup>44</sup>, it seeks to support the community by reflecting the community's broad views in relation to acceptable and non-acceptable behaviour through the legislating of laws for the community. But this can also victimise and criminalise a minority, who are marginalised in relation to those laws at the behest of the majority compounding previous legislative harm.

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<sup>43</sup> Ibid above at 33, p9, Fig 4

<sup>44</sup> *'...Figuratively, double-edged sword refers to something that has both good and bad consequences When you're wielding a double-edged sword, you have to be careful that you don't cut yourself when you're trying to swing it at an opponent. Such a sword can be helpful (in striking your opponent) and harmful (if you strike yourself'* Dictionary.Com <<https://www.dictionary.com/e/slang/double-edged-sword/>> \_ accessed 2 January 2024



4.1 This is referred to as the “*tyranny of the majority*”<sup>45</sup> and is historically well illustrated by Queensland State. This relates to laws and conditions placed upon its First Nations people, by the Queensland Government that are in stark contrast to obligations the State placed upon its non-Indigenous citizens, compounding the initial legislative harm visited upon First Nations peoples.

4.2 Indeed, Amnesty International and others believe this is still occurring, with the winding back of reforms which aim to keep children out of the youth justice system, instead they argue the Queensland Government is:

*“...doubling down on punitive measures that have the effect not of addressing youth crime, but of punishing Indigenous kids, condemning them to the criminal justice system, and as we’ve seen in the past 30 years since the Royal Commission, there is no accountability in that system.”*<sup>46</sup>

4.3 This assessment by Amnesty goes hand in glove with the Minister<sup>47</sup> acknowledgement that they will be targeting “...*serious youth*

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<sup>45</sup> ‘...A fear expressed variously by Plato, Aristotle, Madison, Tocqueville, and J. S. Mill. If the majority rules, what is to stop it from expropriating the minority, or from tyrannizing it in other ways by enforcing the majority’s religion, language, or culture on the minority?’ Oxford reference online <<https://www.oxfordreference.com/display/10.1093/oi/authority.20110803110431595>> accessed 2 January 2024

<sup>46</sup> QLD Parliament passes law which promotes systemic racism: NT next, 23 April 2021, Amnesty International <<https://www.amnesty.org.au/qld-parliament-passes-law-which-promotes-systemic-racism-nt-next/>> accessed 2 January 2024

<sup>47</sup> JOINT STATEMENT Premier and Minister for the Olympic and Paralympic Games The Honourable Anastacia Palaszczuk Minister for Police and Corrective Services and Minister for Fire and Emergency Services The Honourable Mark Ryan Minister for Children and Youth Justice and Minister for Multicultural Affairs The Honourable Leanne Linard, *Putting community safety first with tougher action on youth crime and its causes* <<https://statements.qld.gov.au/statements/97218>> accessed 2 January 2024





*offenders...*"<sup>48</sup> – code, we believe for “*Indigenous youth*”, with an enormous increase in Police funding [>\$332 million]<sup>49</sup> as a response to youth crime. This increase in money spent on policing will do little or nothing, as we have illustrated, to address the root cause of the offending whilst criminalising the most vulnerable and marginalised amongst us.

- 4.4 No doubt when these initiatives fail, the Queensland Government will build new detention centres, as we already have<sup>50</sup> and increase the police funding to criminalise an even larger cohort of “...*serious youth offenders...*”<sup>51</sup>.
- 4.5 This massive increase in police funding sits in marked contrast to the paltry \$4.22 million for early intervention in Townsville and \$1.5 million for Cairns midnight basketball<sup>52</sup>. All of which will do little to address youth offending in Normanton and the broader remote Indigenous Queensland communities.
- 4.6 The “*get tough on crime*” approach, the Justice Group would argue, is even more corrosive and exacerbates poor youth justice outcomes, when partnered with the legal representation that juvenile offenders can receive in relation to their offending, specifically in remote and regional communities.

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<sup>48</sup> Ibid

<sup>49</sup> Ibid

<sup>50</sup> Ibid above at 1

<sup>51</sup> Ibid above at 46

<sup>52</sup> Ibid above at 44





4.7 Specifically, *"...Where duty lawyer schemes are provided on a 'fly in fly out' basis, the ALRC has heard that time pressures may lead to the provision of compromised advice and representation."*<sup>53</sup>

4.8 The Justice Group can attest to this, referring to it as *"Post Code"*<sup>54</sup> justice or the *"sausage factory"*, where Government-funded agencies tasked with legal representation, capture data regarding numbers of clients, rather than the outcomes achieved for those clients after addressing their matters a process that is quantity, not quality driven.

4.9 The Justice Group has been unable to find any surveys regarding practitioners and their thoughts about access to remote justice in Queensland. However, a Victorian survey from 2011 found that:

*"...74% of all survey respondents agreed that their clients were disadvantaged compared to their metropolitan counterparts, by a lack of local access to Specialist Magistrates' Courts..."*<sup>55</sup> .

The Justice Group believes that if a survey were undertaken in Queensland, it would reveal similar results.

4.10 This is highlighted by the now retired Premier chastising the Queensland Courts for the Legislature's failure in addressing the

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<sup>53</sup> *Incarceration Rates of Aboriginal and Torres Strait Islander Peoples (DP 84)* Australian Law reform Commission, Context Contributing factors, at 1.28 <<https://www.alrc.gov.au/publication/incarceration-rates-of-aboriginal-and-torres-strait-islander-peoples-dp-84/1-introduction-to-the-inquiry-17/context-5/>> accessed 2 January 2024; *Queensland bail laws driving kids to plead guilty to crimes they didn't commit*, Dechlan Brennan, 28 June 2023, National Indigenous Times <<https://nit.com.au/28-06-2023/6541/new-bail-laws-driving-kids-to-plead-guilty-to-crimes-they-didnt-commit>> accessed 3 December 2024;

<sup>54</sup> *Postcode justice – rural and regional disadvantage in the administration of the law in Victoria*, 10 Aug 2011, Richard Coverdale, Deakin University <<https://apo.org.au/node/25842>> accessed 2 January 2024

<sup>55</sup> *POSTCODE JUSTICE - Rural and Regional Disadvantage in the Administration of the Law in Victoria* <<https://apo.org.au/sites/default/files/resource-files/2011-08/apo-nid25842.pdf>> accessed 2 January 2024





underlying causes of youth crime to the Government's satisfaction by saying:

*"...When these kids reoffend time and again, we need the police to catch them. And we need the courts to do their job."<sup>56</sup>*

The Justice Group believes that the Premier is attempting to shift blame for juvenile offending to the court system, accusing it of failing the Queensland community by not incarcerating these juvenile offenders at a higher rate. How much higher would the Government like the rate to be? we already lead the nation in incarcerated youth<sup>57</sup>.

## **TILTING AT WINDMILLS**

- 5.0 The Queensland Government has commenced the building of two new child detention centres which are soon to be completed<sup>58</sup>.
- 5.1 If we are to believe the popular press, youth crime is out of control<sup>59</sup>, every day brings a new outrage against moral decency and the decent Queensland community <sup>60</sup> , necessitating the ever-increasing

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<sup>56</sup> Ibid at 44

<sup>57</sup> Above Ibid at 5

<sup>58</sup> *New youth remand facility to be built at Wacol* (5 October 2023)

<<https://statements.qld.gov.au/statements/98865>> Joint Media Statement, accessed 25 October 2023

<sup>59</sup> *Daily Mail Australia*, online (25 June 2023) *Annastacia Palaszczuk's youth crime wave crackdown in Queensland fails with half re-offending* <<https://www.dailymail.co.uk/news/article-12229707/Annastacia-Palaszczuks-youth-crime-wave-crackdown-Queensland-fails-half-offending.html>> Ben Talintyre, accessed 25 October 2023; *Sky News*, online (24 July 2023) *Sky Queensland youth crime crisis continues 'spiralling out of control'* <<https://www.skynews.com.au/opinion/peta-credlin/queensland-youth-crime-crisis-continues-spiralling-out-of-control/video/b81692c2bc6503d74a7d8d05b846e68a>> Peta Credlin, accessed 25 October 2023; *9news* (23 October 2023) *Pressure on Queensland government to take more action on youth crime crisis* <<https://www.9news.com.au/national/pressure-mounts-on-queensland-government-to-take-more-action-on-youth-crime-crisis/1ca146de-9435-4d6f-94ac-026f00161a4f>> Mirah Davis, accessed 25 October 2023;

<sup>60</sup> Ibid



incarceration of juveniles in line with the Government's "...get tough..."<sup>61</sup> on youth crime approach whilst actively denying their human rights by amending the legislative safeguards Parliament had put in place<sup>62</sup>.

5.2 The Lamberr Wungarch Justice Group can only feel ambivalent toward the Government's announced review into youth crime by its seemingly cynical partnering this review, with the Government's review of support for Victims of Crime<sup>63</sup>.

5.3 It is the Justice Group's perspective that both are equally important in our community. So important in fact, that one should not be tied to the other for mere political purpose.

5.4 The evidence is clear from multiple sources<sup>64</sup> that the way to affect real change in juvenile offending is not incarceration but effective and concentrated community-based support.

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<sup>61</sup> *The Guardian Australia, online* (29 December 2022) *Queensland accused of 'kneejerk' response in announcing new penalties for young offenders* <<https://www.theguardian.com/australia-news/2022/dec/29/queensland-accused-of-kneejerk-response-in-announcing-new-penalties-for-young-offenders>> Joe Hinchcliffe, accessed 25 October 2023; *Putting community safety first with tougher action on youth crime and its causes* (21 February 2023) <<https://statements.qld.gov.au/statements/97218>> Joint Ministerial Statement, accessed 25 October 2023

<sup>62</sup> *"Deliberately harmful:" Queensland government overrides state's Human Rights Act*, Dechlan Brennan, 24 August 2023, *National Indigenous Times* <<https://nit.com.au/24-08-2023/7345/deliberately-harmful-queensland-labor-overrides-states-human-rights-act-again>> accessed 3 January 2024

<sup>63</sup> <<https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=232&id=4295>> accessed 3 January 2024

<sup>64</sup> *Youth Justice Strategy evidence, "What works"*, Department of Employment, Small Business and Training QLD <<https://desbt.qld.gov.au/youth-justice/reform/strategy/evidence>> accessed 2 January 2024; *Changing*





5.5 It is the Lamberr Wungarch Justice Group's fear that the Government's approach will only lead to more youths being incarcerated at an ever-increasing rate, as bail is made harder to get<sup>65</sup> and the net allowing the police to argue detention for the sake of community safety, deepens and expands. It seems like detention for youths is no longer seen as an option of last resort and therefore more Indigenous youths will be incarcerated because any change in proscriptive policing leads to increased Indigenous criminalisation, as it always has<sup>66</sup>.

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*the Sentence Overseeing Queensland's youth justice reforms*, Queensland Family & Child Commission, @5 p90 <<https://www.qfcc.qld.gov.au/sites/default/files/2022-06/QFCC%20Changing%20the%20Sentence%20lo%20res%20spreads.pdf>> accessed 2 January 2024; *Queensland's draconian approach to youth justice sets kids up to fail*, Ben Smee, 4 February 2023, The Guardian <<https://www.theguardian.com/australia-news/2023/feb/04/queenslands-draconian-approach-to-youth-justice-sets-kids-up-to-fail>> accessed 1 January 2024; *Facilitating positive change in Queensland youth justice*, Dr Troy Allard, Griffith University QLD, School of Criminology and Criminal Justice <<https://enlighten.griffith.edu.au/facilitating-positive-change-in-queensland-youth-justice/>> accessed @ January 2024; *'That's what is failing': Call for refocus in Qld youth justice debate*, Matt Dennien, 9 February 2021, Brisbane Times <<https://www.brisbanetimes.com.au/national/queensland/that-s-what-is-failing-call-for-refocus-in-qld-youth-justice-debate-20210209-p570vu.html>> accessed 2 January 2024; *Youth offending Research brief April 2021*, Responding to youth offending, Queensland Government Statisticians Office, @5 <<https://www.qgso.qld.gov.au/issues/10321/youth-offending-april-2021-edn.pdf>> accessed 2 January 2024; *Stop youth crime – get smarter, not tougher*, 30 January 2023, Youth Advocacy Centre <<https://yac.net.au/2023/01/30/stop-youth-crime-get-smarter-not-tougher/>> accessed @ January 2024

<sup>65</sup> *Youth Justice and Other Legislation Amendment Act 2021 QLD* <<https://www.legislation.qld.gov.au/view/html/asmade/act-2021-009>> accessed 3 January 2024; *Queensland to override state's Human Rights Act in bid to make breach of bail an offence for children*, Eden Gillespie, 21 February 2023, The Guardian <<https://www.theguardian.com/australia-news/2023/feb/21/queensland-to-override-states-human-rights-act-in-bid-to-make-breach-of-bail-an-offence-for-children>> accessed 3 January 2024; *Bail offences for young people skyrocket in Queensland*, Declan Brennan, 14 November 2024, National Indigenous Times <<https://nit.com.au/14-11-2023/8608/bail-offences-for-young-people-skyrocket-in-queensland>>; *Queensland kids face tougher bail laws than bikies*, Felicity Caldwell, 22 April 2021, Brisbane Times <<https://www.brisbanetimes.com.au/politics/queensland/queensland-kids-face-tougher-bail-laws-than-bikies-20210422-p571ez.html>> accessed 3 January 2024;

<sup>66</sup> *Queensland Child Rights Report 2023*, Queensland family and Child Commission, p21 <[https://www.qfcc.qld.gov.au/sites/default/files/2023-08/QFCC\\_Child\\_Rights\\_Report\\_1\\_YouthJustice\\_1.pdf](https://www.qfcc.qld.gov.au/sites/default/files/2023-08/QFCC_Child_Rights_Report_1_YouthJustice_1.pdf)> accessed 3 January 2024



- 5.6 The Normanton Justice Group had the pleasure of talking to the Chief Magistrate of Queensland, her Honour Brassington about the reality of the legislative impacts on our remote community. Her ability to listen, empathise and relate, at the community level with our volunteers was refreshingly comforting and her Honour is to be applauded, we feel that she received a valuable insight as to the challenges that we face. We understand that her Honour has worked in remote circuits in the far North before and so no doubt the stories shared were of no surprise to her Honour.
- 5.7 If incarceration of persons was going to work in reducing crime and recidivism, it would have worked by now and our prisons and detention centres would be few and receive less and less occupants as time progressed, obviously the opposite is true.
- 5.8 The Justice Group is ever hopeful that one of the reviews or reports or enquiries or commissions will be accepted and actioned according to its reported recommendations, recommendations that will not be diluted or altered by a legislative body that seeks to hold office at the expense of a community that suffers, through the modification of the recommendations by the Government due to their political considerations.





## **OUTCOMES**

6.0

- That the funding dedicated to community-based interventions be commensurate to the amount given to policing responses for Juvenile crime.
- That the Human Rights Act [QLD] be returned to its original wording and once again be a safeguard against Legislative populism, as it was designed to be.
- Remote and regional communities should be genuinely consulted and their ideas heard and actioned in relation to effective local responses to youth crime.
- Remote communities should have full-time residential staff and support 24 hours, 7 days a week. Not fly-in fly-out services. These are not intensive or community based.
- Police should be specifically recruited for service in remote and regional communities, much like any other specialist branch of their service.
- Oversight, disciplining and complaints regarding conduct of police should be effective and not be seen to be fraught with conflicts of interest - real or perceived.



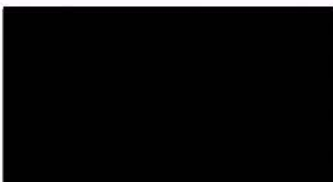
- That a single Statutory body be set up independent of political interference to oversee and implement reforms within the Youth Justice space with direct First nations input as the building block of that body, with the director appointed by Parliament in similar manner to Judges.





Once again, the Lamberr Wungarch Justice Group would like to thank the Youth Justice Reform Select Committee for the opportunity to provide a submission to the Queensland Parliament.

On Behalf of the Board,



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