




Speech By
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YOUTH JUSTICE AND OTHER LEGISLATION AMENDMENT BILL

 **Mr BERKMAN** (Maiwar—Grn) (12.20 pm): I rise to speak on the Youth Justice and Other Legislation Amendment Bill. Again, I find myself rising to oppose dangerous, kneejerk, disgraceful legislation—legislation that is backed in by both Labor and the LNP, which are apparently on a unity ticket when it comes to locking children up. Having attended the committee hearings in Cairns, Townsville and Brisbane, I have to say that it has been incredibly disappointing to see Labor buying into the politically motivated propaganda of the LNP and their News Corp mates.

One of the most egregious parts of this bill is the proposal to allow the court to order a GPS tracker as a condition of bail for some 16- and 17-year-olds. The Human Rights Commission called the government's evidence offered to support these monitors 'misleading and contradictory', and I agree. There is no evidence these GPS monitors will reduce youth reoffending. Rather, they will increase stigma, they will prompt racialised violence and vigilantism, and they will reduce young people's engagement with education, employment and support services.

Typical of the overall approach taken in this bill, GPS monitors will separate and isolate the most vulnerable kids from their community. They are a message that these kids do not belong anywhere but the criminal legal system. Evidence from the UK even says kids prone to offending may seek these monitors as a badge of honour—as a symbol of belonging to the only group that has ever accepted them.

I was especially surprised to hear the minister stand up in his second reading speech and say that these trackers were recommended by former police commissioner Bob Atkinson. What the Atkinson report actually recommended was that the government consider, with serious caution, electronic monitoring as an alternative to incarceration. Yet the minister's own department says, as is quoted in the committee report, 'These provisions do not facilitate electronic monitoring as an alternative to detention.'

The New Zealand study the government cites in its explanatory notes, far from justifying the measures in this bill, notes significantly lower rates of reoffending for those detained at home with electronic monitoring versus those imprisoned. While this does not compare GPS trackers on bail with no trackers on bail, it suggests that incarceration increases reoffending.

The department knows there is no evidence to support these trackers so it will call it a trial instead. They will use young kids in Queensland—disproportionately First Nations kids—as guinea pigs. Do they think that by removing the word 'tracking' they can separate this from the traumatic colonial practices inflicted upon Indigenous people? As my federal Greens colleague Senator Lidia Thorpe says, 'The colonial neck braces have now given way to ankle monitors.' The Queensland Aboriginal and Torres Strait Islander Child Protection Peak—

Honourable members interjected.

Mr BERKMAN: Hear this out.

Honourable members interjected.

Madam DEPUTY SPEAKER (Mrs Gerber): Pause the clock! Members, cross-chamber chatter will cease. I cannot hear the member on his feet.

Mr BERKMAN: The Queensland Aboriginal and Torres Strait Islander Child Protection Peak, Sisters Inside, Amnesty International and the Queensland Indigenous Labor Network all agreed with the submission from the Institute for Collaborative Race Research that these laws are 'unjustifiably authoritarian, punitive and racist, that they will disproportionately impact Aboriginal and Torres Strait Islander young people and that they are likely to exacerbate the existing over-representation of Aboriginal and Torres Strait Islander people in custody'. First Nations kids are less likely to be offered diversion and more likely to be impacted by any tightening of bail conditions and are around 28 times more likely to be imprisoned. They will be the ones hit hardest by the presumption against bail that this bill creates.

For folks unclear exactly what this means in practice, let me give an example—and it is one provided by ATSILS, the Aboriginal and Torres Strait Islander Legal Service. A 10-year-old child who is charged with stealing a can of soft drink and then released and charged again would, by default, be held in custody until their case is heard. In trying to show cause that their detention is not justified, this child could compromise their right to silence. Police are unlikely to release them anyway because, under the proposed amendments, that would just mean more paperwork for the officer to justify this decision.

I was frankly stunned to hear police in Cairns admit during the committee hearings that their officers will likely trump up charges against children so they meet the thresholds for this new law to apply. What a terrifying abuse of power against kids who could still be in primary school. Even more concerning is the likelihood that the presumption against bail will lead to more kids being held in adult police watch houses, with overcrowded detention centres where 87 per cent of the children there are already detained on remand.

Just a year ago both sides of this House were agreeing that it is unacceptable to have children kept in police watch houses. Suddenly the government no longer thinks it is a problem. The department's response to concerns, as outlined in the committee report, was, 'It is standard operational policing practice for a child who has been arrested and who is not suitable for release to spend time in a police watch house before appearing in court.' It is run-of-the-mill stuff apparently!

The minister is seriously trying to say that this reform will deter young people from committing further offences on bail. Let me put it perfectly clearly: it will not. I am not just saying that because I am ideologically opposed to keeping children as young as 10 locked up—as crazy as that may seem to some in this House. I am saying it because the evidence is clear. We cannot punish kids into rehabilitation. A young person's frontal lobe is still developing. This is the part of the brain that drives impulse control and understanding consequences. Children, especially those who have experienced trauma, do not have the neurological capacity to understand or respond to the punitive measures in this bill.

Like GPS trackers and the presumption against bail, First Nations kids will also be disproportionately impacted by the bill's proposal to allow police to use hand-held scanners in safe night precincts without any reasonable suspicion or warrant. Evidence from the UK on stop and searches shows about six for every 1,000 white people are targeted for these searches versus 54 for every 1,000 black people. That pattern will likely be repeated here because, as the Queensland Indigenous Labor Network notes, 'Policing and justice in Queensland is not colour blind.'

Studies from Victoria and the UK show stop and search practices do not reduce offending and there is no relationship between increased searches and a decrease in knife crime. It is frankly ridiculous for the government to compare this suspicionless scanning power to mandatory scanning in places like airports where everyone is scanned as a condition of entry, not just whoever the police choose. If this goes ahead, the 12-month review must look at who is being scanned and where.

The government has repeatedly claimed this bill is all about targeting a small cohort of recidivist young offenders, whom they call the hardcore 10 per cent. In fact, the minister in his second reading speech called these young people the 'hard nuts', presumably because the government thinks these children, including 11-year-olds, are something to be cracked. The way this government and the opposition are labelling and vilifying these children is despicable. Sisters Inside note that it 'sets children and the community against each other when, in fact, better responding to children's rights and needs is the strategy most likely to keep the community safe'. I keep returning to an African proverb I heard that captures this problem so well: a child who is not embraced by the village will burn it down to feel its warmth.

Who are these kids—the so-called hardcore 10 per cent; the *Courier-Mail's* kid crims? They are overwhelmingly some of the most marginalised and vulnerable kids in Queensland. They are cross-over kids from child protection. They have a background of trauma, family violence, substance misuse, unstable housing, fetal alcohol spectrum disorder and disrupted education.

They are kids like the young woman who addressed the committee hearing right here in Brisbane who has extensive trauma and a significant offending history. She said these laws would not have helped—they would have further criminalised her—not because she was choosing to rebel but because the system had fundamentally failed her. My heart really hurts remembering her words when she said, 'If someone just cared about me—and not only between the hours of nine and five, Monday to Friday—I think a lot of things that happened would not have.'

As Siyavash from the Youth Affairs Network of Queensland said, the message from these children is: 'love us more than we hate ourselves'. That is what this comes down to: kids need love and support, not cops and prisons. Instead of the punitive, kneejerk approach in this bill, we should address the root causes of offending like poverty, homelessness and substance misuse. We should build more public housing, make public transport free, and fund a universal free school breakfast and lunch program available to every student in a Queensland state school.

We should divert the funds we are currently spending on cops in schools and more youth prisons towards culturally appropriate wraparound services that are available when kids need them. We should raise the age of criminal responsibility from 10 to at least 14 to eliminate that early contact with the criminal justice system that we know increases offending later in life—but no. Instead of treating children as children who need love and support, this bill feeds the fear and division around a concocted 'youth crime crisis'.

The Youth Advocacy Centre says it will 'take us backwards 10 years'. Change the Record's assessment is even more grim. They say the bill 'will drive the cycle of incarceration and offending, trapping children in a criminal legal system which makes it more likely that they will continue to offend as adults, become homeless, suffer mental ill health and ultimately die an early death'. It is a shameful bill that will do absolutely nothing to improve community safety. In fact, it will make us less safe. I condemn the government for its spineless attack on the most vulnerable in our society.