



Queensland Association of Independent Legal Services Inc

15 October 2013

Mr Brook Hastie
Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

By email: lacsc@parliament.qld.gov.au

Dear Mr Hastie,

Police Powers and Responsibilities and Other Legislation Amendment Bill 2013

The Queensland Association of Independent Legal Services Inc. (**QAILS**) thanks the Legal Affairs and Community Safety Committee for the opportunity to comment on this legislative proposal.

This submission focuses on one aspect of the proposed legislative changes namely, out-of-control events (Clause 4).

In preparing this submission, QAILS has paid particular regard to the human rights of young people and individuals in the context of their dealings with police. The *QAILS Human Rights and Social Justice Policy* (**attached**) outlines our policy position with respect to, *inter alia*, children and young people, civil liberties and policing. This policy document guides the work that QAILS and its member Community Legal Centres undertake in advocating for increased human rights protections and laws and practices that are both socially just and human rights compliant.

About QAILS

QAILS is the independent peak body for Queensland's funded and unfunded member community legal centres (**CLCs**) operating across the State.

CLCs are not-for-profit, community-based organisations that provide legal advice, casework, information and a range of community development services to their local or special interest communities. CLCs' work is targeted at disadvantaged members of society and those with special needs, and in undertaking matters in the public interest. CLCs have been advocating for a rights based approach to equitable access to the justice system for over 30 years. CLCs are often the first point of contact for people seeking assistance and/or the contact of last resort when all other attempts to seek legal assistance have failed.

Lack of evidence to support legislative proposals

An overarching concern that we have is the lack of evidentiary basis for the proposed legislative changes. Specifically, we query the evidentiary basis for the following claims made in the Bill's Explanatory Notes:

- The assertion that organised events that become out-of-control are 'frequently undertaken for financial gain.' (p1, Explanatory Notes)
- The assertion of a causal connection between out-of-control events and the re-congregation of attendees continuing to offend and display anti-social behaviour, commonly resulting in 'excessive noise... fighting in the street, smashing bottles and screaming abuse at local residents.' (p2, Explanatory Notes)
- The assertion that out-of-control events have, in recent times, become 'ever increasing in size and frequency.' (p2, Explanatory Notes)

In our view it is poor law-making when a Bill that seeks to infringe upon the rights and liberties of ordinary citizens fails to provide any sound evidentiary basis to justify its curtailment of those rights and liberties. We submit that Legal Affairs and Community Safety Committee should require that the Minister produce actual data and evidentiary particulars to justify the claim that the Bill achieves an 'appropriate balance between the rights and liberties of individuals and the safety of the broader community' (p5). In our view, it does not.

Discriminatory

The proposed legislation explicitly targets young people and as such, is inherently discriminatory. Parties and gatherings are an essential and legitimate form of socialisation for young people, particularly those still in high school who do not meet the age requirements to attend licenced bars and clubs. Private gatherings at individuals' houses naturally serve as the primary site for socialising for this particular demographic in our community. Parties help us to celebrate important milestones (18th birthdays, graduations, school formals) and are a fundamentally ingrained form of cultural expression.

The introduction of Clause 4 will result in increased interactions between police and young people which will be likely to result in greater charges being laid against young people (or their parents). While this fits with the government's 'tough on crime' approach to youth justice, we suggest that it is neither sound policy nor a strategic use of government resources. This approach is likely to 'net-widen' the entry points to young people's interaction with the criminal justice system and will lead to greater strains on the judiciary as it responds to greater charges being heard.

Unnecessary

Police already have sufficient powers to respond to the types of behaviour or events that the proposed legislation anticipates. For example, section 577 requires police to investigate a complaint about noise as soon as practicable. This is a routinely used section within the PPRA which alerts police to the existence of excessively loud parties or gatherings. In our view section 577 is a sufficient trigger for police to investigate complaints about a so-called 'out-of-control event', and one which would open the door to further police action in accordance with their usual policing powers, should further action be necessary.

Punitive

The proposed out-of-control event powers may be triggered simply because a police officer seeks to prevent an ordinary, 'controlled' gathering from becoming out-of-control (proposed section 53BG(1)(a)). This is a startling incursion on the rights of ordinary Queenslanders to, put simply, have fun. This is a punitive approach that seeks to curtail ordinary, basic freedoms in our community. The proposed legislation defines a gathering of at least 12 people as having the capacity to become an out-of-control event. A gathering of at least 12 people is akin to the size of a generous dinner party – it is hardly the composition of an 'open house party' or 'Facebook party' (p2 Explanatory Notes). If the Legal Affairs and Community Safety Committee deems the proposed legislative changes acceptable, we submit that the lower limit for an out-of-control event be at least raised from 12 to 40 people as a minimum.

Available alternatives

Rather than introducing excessive and unnecessary new powers via Clause 4, the government could instead deliver innovative community awareness campaigns that focus on the risks and responsibilities of hosting parties associated with the use of social media platforms such as Facebook.

Yours sincerely,



James Farrell

QAILS Director