



COMMUNITY SAFETY AND LEGAL AFFAIRS COMMITTEE

Members present:

Mr PS Russo MP—Chair
Mr MA Boothman MP
Ms SL Bolton MP
Ms JM Bush MP
Mr JE Hunt MP
Mr JM Krause MP

Staff present:

Ms M Westcott—Committee Secretary
Ms E Lewis—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE CRIMINAL CODE (DEFENCE OF DWELLINGS AND OTHER PREMISES—CASTLE LAW) AMENDMENT BILL 2024

TRANSCRIPT OF PROCEEDINGS

Monday, 19 August 2024

Brisbane

MONDAY, 19 AUGUST 2024

The committee met at 10.29 am.

CHAIR: Good morning. I declare open this public briefing for the committee's inquiry into the Criminal Code (Defence of Dwellings and Other Premises—Castle Law) Amendment Bill 2024. My name is Peter Russo, member for Toohey and chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander peoples whose lands, winds and waters we all share.

With me here today are: Jon Krause, member for Scenic Rim and deputy chair; Sandy Bolton, member for Noosa; Mark Boothman, member for Theodore; Jonty Bush, member for Cooper; and Jason Hunt, member for Caloundra.

The purpose of today's briefing is to assist the committee with its inquiry. This briefing is a proceeding of the Queensland parliament and subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath, but I remind witnesses that intentionally misleading the committee is a serious offence. These proceedings are being recorded by Hansard and broadcast live on the parliament's website.

The media may be present and are subject to committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. I ask everyone present to please either turn your mobile off or to silent mode. I thank you for this.

DAMETTO, Mr Nick, Member for Hinchinbrook, Parliament of Queensland

HOLDEN, Ms Catherine, Advisor, Member for Hinchinbrook

CHAIR: I now welcome Mr Nick Dametto, member for Hinchinbrook, and Ms Catherine Holden, adviser to Mr Dametto. I invite you to provide an opening after which committee members will have some questions for you.

Mr Dametto: Chair, I thank you, the deputy chair and the other members of the Community Safety and Legal Affairs Committee for allowing us to brief you on our bill. Thank you very much for taking the time this morning to listen to what we will say about the Criminal Code (Defence of Dwellings and Other Premises—Castle Law) Amendment Bill 2024. I say from the outset that this bill has garnered quite a lot of public support so far; it has been overwhelming to be precise. We have had 63 submitters—51 of those in support of the bill, seven against the bill and we are not sure about the five that are confidential.

Over 40,000 Queenslanders signed our Queensland parliamentary petition calling for this important legislative change over a five-week period. The high volume of correspondence received by my office since introducing the bill has been overwhelming. The general support, phone calls and emails have been encouraging. We have had a lot of people reaching out to share the very personal and traumatic experiences that they have found themselves in when they have been unexpectedly thrust into a scenario of fighting for their own life while protecting their property, their premise or their loved ones.

The aim of this bill is very simple. It amends section 267 of the Criminal Code, 'Defence of a dwelling'. This defence can be used in a scenario where the home owner or resident uses necessary force to prevent or repel another person or intruder from entering their property. The concerns with this defence in its current form is that when encountering a home invasion a person is restricted to using only necessary force to prevent or repel the intruder. That necessary force must be used under a reasonable belief that the intruder is entering with the intent to commit an indictable offence.

The reason for this amendment is the unrealistic expectation on an individual to think completely objectively and respond proportionately when faced with a split-second decision of fighting for their life or preventing an attack on them or their loved ones. A misjudgement of this threat could lead to severe

consequences—legal or their own death or serious harm to them or a family member. Therefore, we believe that the provisions of section 267 of the code are insufficient to provide the needed protections for home owners and occupants when using force to respond to a home invasion.

Although this legislation seeks to change only one section of the Criminal Code, there is a larger meaning behind this legislative change. It is about empowering Queenslanders to feel safe in their own home. Why use the term castle law? The term castle law has been attached to this bill due to its similarities with the historic castle doctrine which arose as far back as 1600 in English common law. Back then the Court of King's bench held that 'the house of everyone is to him as his castle and fortress, as well for his defence against injury or violence as for his repose'. From that we developed the concept of one's home must be their castle. This was borne out of common law and we believe it still is a right and a belief held by modern day Australians.

More recently, castle law has become closely aligned with legislation in the United States where it extends to the use of firearms in self-defence. I want to be very clear to the committee that this bill makes no amendments to the current Queensland Weapons Act. We have a very strict regime in place in Queensland when it comes to who can own a firearm and the purposes for owning and using a firearm. We make no amendments to that act through the introduction of this bill. I make that explicit statement to everyone listening today.

The bill amends section 267 of the Criminal Code and the amendments provide clear guidance and legal protection for those individuals who use force to defend themselves or others within their homes. The proposed amendments seek to broaden the circumstances in which an individual can lawfully respond to a home invasion with such force that may result in grievance bodily harm or even death to the intruder.

Currently, under section 267 of the Criminal Code, when encountering a home invasion a person is restricted to using only necessary force to prevent or repel the intruder. This action may be taken under the reasonable belief that the intruder is entering with the intent to commit an indictable offence. It is unrealistic to expect an individual to think completely objectively while under attack in their own home. Thus, we believe the provisions under section 267 of the Criminal Code are insufficient to provide the needed protections for home owners and occupants during a home invasion.

Most Queenslanders are saying to us that they do not feel safe in their own homes. They do not feel that the law is there to protect them if they are defending themselves, their premises or their loved ones. The last thing we want after a home invasion is for a home owner to have to ring triple 0 and then their barrister and perhaps even mortgage their own property to keep themselves out of the court system. I am more than happy to leave it there and answer any questions.

Mr KRAUSE: Morning, Mr Dametto, and thanks for your presentation. I wanted to open by asking you to give us an outline of how you see the impacts on people when they are subject to break and enters and so-called home invasions. I know it is quite traumatic. What is some of the feedback you have received?

Mr Dametto: Some of the feedback we have received from those in support of the castle law bill is people's harrowing stories around their own experience during a home invasion. One gentleman from Gladstone said to us that he was faced with two intruders at his property. He questioned what he could or could not do at the time meaning he held back in defending himself. This resulted in him being in hospital dealing with his injuries for up to a week. He said that if castle law had been implemented he would have made some different decisions while trying to defend himself, knowing that the law would have galvanised his right to defend himself and his own property.

Mr KRAUSE: There was a loss of security in the home felt as well?

Mr Dametto: I think most people have been victims of home invasions or had someone break and enter their premises. I am one of those people. As soon as someone has broken into your home you do not feel safe there anymore. We were lucky enough to sleep through the incident, but I know others have not been so lucky.

Mr KRAUSE: What about the impacts on children?

Mr Dametto: Absolutely, children not being able to sleep or not being able to go to bed and feel safe in their own home and their own bed. Usually parents put their children to bed saying, 'Go to bed everything is safe,' but after a home invasion that is not the case.

Mr KRAUSE: What about broken relationships?

Mr Dametto: Yes, we have had people speak of PTSD off the back of a home invasion putting a lot of pressure on relationships.

Mr KRAUSE: It is a serious offence and I put to you that these are pretty bad people who impact people in the community?

Mr Dametto: Absolutely, and we are seeing an increase in the kind of home invasion violence that is happening. It has gone from people trying to sneak into your house to steal your car keys to alleged incidents like that which happened in Townsville last night where up to five youths entered a house with knives and demanded car keys. The way criminals are conducting themselves has changed.

Mr KRAUSE: What do you think is adequate punishment for those sorts of offences?

Mr Dametto: Adequate punishment depends on whether we are talking about adult offenders or youth offenders. I think youth offenders and adults should be locked up for this type of offence. They should be spending an amount of time incarcerated so they can actually be reformed.

Mr KRAUSE: I want to ask you a question that has arisen in my own mind upon review of your bill. Section 267 was put into the Criminal Code in 1997 by the then Liberal-National government in Queensland and essentially states that a person is able to use force if they believe on reasonable grounds another person is attempting to enter or remain with the intent to commit an indictable offence and, again on reasonable grounds, they believe it is necessary to use that force. I have a concern that your amendment to section 267 will actually narrow the scope of that defence because in subclause (2) of your amendment you specifically set out a number of scenarios in which force to cause death or grievous body harm is permitted. Your provision states—

... this section does not authorise the use of force that is intended or is likely to cause the death of, or grievous bodily harm to, the intruder unless—

- (a) the intruder—
 - (i) enters or attempts to enter the dwelling or other premises in the night;
 - (ii) uses or threatens actual violence; or
 - (iii) is or pretends to be armed ...

There are a couple of other situations. Apart from that, your amendment does not support force to be able to cause death or grievous body harm. Contrast that to the law as it is at the moment—inserted in 1997—where if you believe on reasonable grounds someone is entering your premise to commit an offence and it is necessary to use that force there is a defence to force. How do you respond to that concern that your provision is actually narrowing that defence?

Mr Dametto: I would not say it is narrowing it at all. It is being more prescriptive. Most people who have fed back to us the deficiencies of the current legislation at section 267 say that it is very grey. People have always pointed us to the Western Australian legislation which is lot more descriptive of when you can use such force. Most people are saying when they had to protect themselves and they ended up in a scenario where police then had to investigate because of the greyness of the provisions they usually had to go through a lengthy process whether or not the police decide to prosecute. It is then a very expensive and lengthy process if the police charge and prosecute and they have to go through the court system. Most lawyers will say to you that the current legislation has a fair bit of scope there—

Mr KRAUSE: Indeed.

Mr Dametto: The problem is that you are going to have to go to court for a lengthy time to find out whether or not the court rules in your favour. We are saying that we want the legislation to be more prescriptive. If a scenario plays out where there has been a home invasion—there have been a number of scenarios; I do not really want to go into specific details—or someone has broken into a property or chased someone into a property there is then a long inquest process. You go through a process where it is decided whether or not excessive force was used. We believe, and so do many Queenslanders, that if someone is in your property and you do whatever is necessary at the time you should be able to use force and you should be protected by the law for doing so.

Mr KRAUSE: I understand what you are saying. However, I think there is a principle in the way these laws are interpreted that if you prescribe something you could exclude a more general scenario. I wanted to ask you about that. I also want to ask about one of those provisions and that is where the intruder enters or attempts to enter a dwelling or other premises in the night. Can you tell the committee how innocent people who are approaching a premises might be protected from lethal force in this scenario? For example—and this is just an example—sometimes children engage in these sorts of things where they enter their friend's premises at night in order to hang out with their mates. Under this provision if the intruder enters or attempts to enter the dwelling at night that fits into one of the scenarios where lethal force is actually authorised. How do you protect against those situations? Are there some sorts of steps or verification that people would need to use before they can use lethal force?

Mr Dametto: That is a very good question. The reality is you still need to prove a case of self-defence. Just because someone is actually on your property or enters your property, that does not give you the right to essentially chase them down and use lethal force. There still needs to be a scenario playing out between the individuals that constitutes self-defence. Someone just sneaking through a window is not considered an attack. When there is a confrontation and there is an element of self-defence necessary, that is when this legislation would come into play.

Mr KRAUSE: You have just made a really good point because your bill refers to unlawfully entering the dwelling. In theory, someone sneaking through a window to play with their mate is unlawfully entering a dwelling—

Mr Dametto: There needs to be a confrontation.

Mr KRAUSE:—but then you referred to the confrontation. That is interesting because the 1997 provision, which is the law at the moment, actually refers to the person attempting to enter or to remain in the dwelling with the intent to commit an indictable offence, but your provision would remove that.

Mr Dametto: No, it does still have that in there, the indictable offence.

Mr KRAUSE: Can you point me to that please?

Mr Dametto: Yes, sorry.

Mr KRAUSE: Are you referring to subsection (b)?

Mr Dametto: Yes.

Mr KRAUSE: I see that.

Mr Dametto: They still have to constitute an intruder.

Mr KRAUSE: That is the current law as it is now. The problem with that is that subsection (2)(a) is quite prescriptive. I am a very bad lawyer—

Mr Dametto: I am not even one.

Mr KRAUSE:—but if you prescribe something in subsection (2)(a) you cannot use the general catch-all below it to authorise something that is actually prescribed in subsection (2)(a).

Mr Dametto: I would be of the understanding that because it is prescribed in subsection (b) it still constitutes—

Mr KRAUSE: Minds will differ, but the point I am trying to make is the current provision enables people to use force if they believe on reasonable grounds that someone is entering to commit an indictable offence. Yours is very much more prescriptive in subsection (2)(a) about when lethal force might be used. I will move on to another point. I just wanted to tease that out with you because I think there is an argument that you are actually narrowing the scope of this defence which could have some unintended consequences.

Mr Dametto: I think we will have to agree to disagree on that one.

Mr KRAUSE: Maybe. Part of the role of the committee is to examine issues and to try to look at all sides of an equation because there are others who would also say that this bill is widening the ability for people to use lethal force. I am going to look at it both ways here. In terms of justifying the use of lethal force—I have already asked this question. Forgive me, you answered it before that in order to trigger the use of the provision there needs to be some sort of confrontation, although I note that is not in the bill. I would like to ask about delivery driver scenarios. What if someone comes to a house and they are attempting to deliver something at night and through a mistake of fact where someone believes they are there unlawfully, there is the use of force. How is there protection against that?

Mr Dametto: Once again, there needs to be an interaction. In the case where someone comes to the front door or the front gate and puts no-one in danger or makes no threat, where is the element of self-defence? I am trying to get a grasp of how that would play out as a scenario where someone would have to defend themselves or their property. Just being on the premises does not give them the right to use deadly force upon the person.

Mr KRAUSE: I am not sure that is what your bill says though—

Mr Dametto: That is your interpretation.

Mr KRAUSE:—because that is one of the specific caveats in your subsection (2)(a).

Mr Dametto: They still have to enter the premises and not be outside. What are they doing on the premises? I have never seen a delivery driver come into my house.

CHAIR: We could debate this, but this is not the place for debate. This is the place for gathering information. Sandy, do you have a question?

Ms BOLTON: I refer you to page 3 of your written briefing regarding the legal repercussions for residents defending their homes. Have there been any specific examples in Queensland where this has occurred?

Mr Dametto: Where somebody has entered the premises and they have had to defend themselves?

Ms BOLTON: Yes, and they have faced legal repercussions.

Mr Dametto: I will refer to the case in the Burdekin only a few years ago in the member for Burdekin's electorate. The scenario played out where there was a female who decided she needed to seek refuge. There was a young gentleman, Mr Webber, who was sitting at home watching football minding his own business. He let this woman in who was quite hysterical. Then two full-grown men decided to try to bang their way into the house, ripping the flyscreen door off et cetera. They made their way into the premises and a scenario played out where Mr Webber had to defend himself. He grabbed a knife that was on the bench and he has defended himself.

During that process Mr Webber was investigated. He was not charged after the investigation. You can imagine—and it does not matter if it is a young man or anyone else in that scenario—that for anyone who has gone through the experience of one of the most heinous and horrific crimes being committed on them and then having to slip into defence mode and try to make sure the law is not going to find them foul of it, that can be quite a traumatic experience. In that scenario, if this legislation had been passed, after police arrived—and they took some time. He did not have time to ring triple 0 and wait. He had to make a split-second decision. After that scenario played out, it should have been clean cut that he was defending himself in his own home. If this legislation were to pass, that would be the case in such a scenario.

Ms BOLTON: Either way an investigation would have to occur.

Mr Dametto: Of course. Instead of an investigation, which would then entail trying to test whether or not the force was necessary at the time—and I think it is quite traumatic for that person to relive that experience.

Ms BOLTON: I am going to go to what I think are unintended consequences. I have been a victim. Over the years I have had my residence, going way back, broken into in the night by intruders. Unintended consequences could be, for example, instead of me fleeing out a window, if I had some form of weapon I could have thought to go and face the intruders. That could have led to something quite horrific happening including to me. It has been raised by a criminologist that the introduction of castle law could encourage people to arm themselves and inadvertently they could get hurt, as I described in my situation, or a situation like we had recently in my own community where someone was very frightened believing somebody was attempting to break in. The police were there very quickly. The situation was that the gentleman was trying to reach the accommodation of his friends. They had all been out at a bucks party. If she had been armed, that could have been quite a tragic situation. I am trying to understand how the types of unintended consequences could lead to especially females taking up weapons or arms and actually inadvertently being harmed themselves.

Mr Dametto: I will answer that in two parts. People unfortunately are already starting to arm themselves because of the way home intrusions have changed over recent years; everyone from adults to young offenders are carrying knives, blades and all sorts of weapons when they are entering a premises. Whether we like to acknowledge it or not, people are already starting to arm themselves in their own home with household items that they may be able to use to protect themselves.

The second part is if this legislation were to pass, that does not mean people have to go and defend themselves. They still have the ability to retreat. They still have the ability to walk away from a scenario. They still have the ability to flee. There is nothing in the legislation saying a person must defend their house. I would think the current self-defence laws would put someone in the same scenario; they would still have the ability to walk away from any intrusion or give up their possessions or give someone their car keys. That is up to them. If they decide to defend themselves—and most times when someone is faced with defending themselves flight is no longer an option; they are cornered or they are stuck in a room or a bedroom or something like that and all they have left to do is to fight—it should not be crossing their mind, to ask 'What's like-for-like force in layman's terms? What can I pick up here to defend myself with against this person?' That is what we are trying to address here.

Yes, you are talking about unintended consequences—and I think we should always be talking about that when going through a committee process—but there is already a number of unintended consequences under the current legislation.

Ms BOLTON: I must be different to some of the people you are talking to because when I was confronted and backed into a corner, it did not flash through my mind that in defending myself that was part of the decision. It was a very responsive, immediate thought to protect myself and pick up whatever was needed to do so. It did not occur to me to think I should not do that because maybe I would be investigated. This is obviously a very difficult area including the primal responses we have. The last part is about those nefarious reasons that people may use that law because they wish to harm or kill someone else and so they create a scenario where they could portray that the house was broken into by actually inviting someone into their house. How would castle law—either way, all I am seeing is it does not matter whether it is the current law or a future law; they would have to be thoroughly investigated.

Mr Dametto: Of course. Once again, you would have to prove self-defence. I think the Queensland Law Society spoke broadly in the media around this. I am not sure if they are one of the five submitters whose submission the committee has decided to keep confidential. Essentially, the language used by a member of the Law Society was that this would be state sanctioned murder. I think it is very inflammatory and also reckless of the Law Society to make such a comment. Someone who has a law degree or practises law would understand there are some very strong descriptive terms for what actually constitutes murder. Once again, if there is intent, that is murder. If it is premeditated, that is murder. That is why charges are downgraded all the way down to manslaughter in some cases.

I do not think it is the case that this legislation could be used to allow you to cause harm intentionally or even to kill someone. As a case in point, who is currently using the current self-defence laws here in Queensland to legally protect themselves against assaulting someone or intentionally trying to hurt somebody?

Ms BUSH: Thank you, member, for presenting. Your bill intrigues me in many ways.

Mr Dametto: No doubt.

Ms BUSH: I want to pick up on the member for Scenic Rim's comments. I am trying to understand at what point it reaches a threshold where 'castle law' would become a reasonable defence. I think you indicated that there would have to be a break-in—an intruder would need to enter a property, enter a person's home—and an altercation would need to happen. I am not sure if that is what your bill actually says. I want to talk particularly about the definition of a 'premises'.

A lot of other jurisdictions limit the definition of a 'premises' to a person's residential property where they are sleeping. Your bill is quite broad. A 'premises' is defined as a building or structure, or part of a building or structure, of any type; a group of, or part of a group of, buildings or structures, of any type; the land or water where a building or structure is situated; a vehicle or a caravan; a tent or a cave; and premises in which more than one person has ownership. That is anything. It is a workplace. It is every structure I can think of it. It is every car. Essentially, if a person breaks into a car, even if a person is not at threat but they have a reasonable belief that that person is about to commit an indictable act—which could be gambling—under your bill they can use lethal force.

Mr Dametto: To protect themselves, yes.

Ms BUSH: That is not what your bill says. Those are the elements of the bill. If someone enters any of those types of properties to commit an indictable offence, they can use force including fatal force. Do you think that there should be an amendment to clarify some of the points you have made today which are not in your explanatory notes or the explanatory speech or the bill itself to rein that in a little bit?

Mr Dametto: I am always ready to take suggestions on proposed amendments. That is why these things go through a committee process. What we wanted to do is broadly capture where people find themselves calling home these days. We have people living in tents. We have people living at their workplace. It is a pretty horrendous situation that we have here in Queensland.

Ms BUSH: Yes, I understand.

Mr Dametto: The *Courier-Mail* had a bit of giggle about including caves. People have lived in these places.

Ms BUSH: Of course. Your intention is that it is when someone is coming on to their property where they are and they are in direct personal harm's way.

Mr Dametto: Yes.

Ms BUSH: Thank you. That helps me better understand the intention. I wanted to pick up on the member for Noosa's questions around the suggestion that people might start to arm themselves. That has actually been the effect in other jurisdictions where this type of law has been brought in. Yes, there is a self-defence element but it also removes the duty to retreat. A lot of people then proactively weaponise themselves. It has actually led to increased homicides, not just a correlation but a causal effect. This type of legislation has caused more assaults and more hospitalisations on both the victim and the intruder. Robberies have in fact gone up in jurisdictions after this type of legislation has been brought in. Have you analysed the effects of this type of legislation in other jurisdictions?

Mr Dametto: Yes, I have. This legislation does not take away the opportunity to retreat or retract in those scenarios.

Ms BUSH: But it takes away the duty to.

Mr Dametto: No, it does not.

Ms BUSH: Yes, it does, but that is okay.

Mr Dametto: It does not take away the duty.

Ms BUSH: It legally will take away the duty to retreat. They have an option to retreat.

Mr Dametto: Sorry, I understand. Fair enough.

CHAIR: Let the witness answer the question and then you can ask another question.

Mr Dametto: Excellent, Chair. Thank you very much for your protection. The point I would like to make is that there is no 'castle law' legislation as it currently sits in the proposed bill across Australia. It is very difficult to decipher and decide whether or not this is working negatively or positively in Australia mainly because it is not happening anywhere in Australia. If you have a look at other jurisdictions—for example, the US—they have very different legislation there. As I said earlier, they have a completely different firearms regime in the US. They have the right to bear arms and all of those sorts of scenarios. It is in their constitution. The legislation we are proposing here is quite different. It does take in the castle doctrine—the principle that a person's home is their castle and they should be able to defend it. We believe that this piece of legislation gives those home owners a slight legislative right to use force if they find themselves in a scenario where they have to do so.

Ms BUSH: The majority of cases that police are called out to are domestic and family violence cases. For example, where a person experiencing domestic and family violence takes out a DVO and that perpetrator, who is banned from going back into the marital home, does come back—they often do come back and trespass for a range of reasons, including that they feel they have the right to or they are trying to menace—under this bill they would be committing an indictable offence.

Mr Dametto: They certainly would be.

Ms BUSH: So you would anticipate that the person experiencing violence could potentially use lethal violence to keep that person off their property?

Mr Dametto: That is exactly what we are proposing. There are a lot of people out there we meet with who say that the current DVO system is not working to protect them. As you just mentioned, a man or a woman could have a DVO put on them. They could be asked to remove themselves or be asked by the law to remove themselves from the place they reside. The fact that they are breaching that DVO should be of concern to us all. I am considering a scenario where, if someone were to breach that DVO and come back to the premises with the intent to hurt or force themselves upon that person when not invited back to the property, that person should have the right to defend themselves. If they are defending themselves in a way which constitutes legal force in that scenario, we would hope that this legislation would protect that person.

Ms BUSH: I do not know whether the bill specifies that they would need to be coming back to cause harm. I think it says they would need to be coming back to commit an indictable offence, which would simply be entering the property itself. Just stepping foot on the property would be a DVO breach, which is indictable.

Mr Dametto: Once again, there would still have to be an element of self-defence in that interaction.

Mr BOOTHMAN: Thank you, Mr Dametto, for coming here today and talking about your bill and pleading your case. On 25 April 1995 there was a shooting in Rochedale which led to changes to the legislation. That shooting involved a 16-year-old who broke into a person's house and was shot. There were no charges laid by the police in that matter. There were some changes made by the Criminal Law Amendment Bill 1996. I am trying to understand your mindset and beliefs in the failings of this current legislation, which was passed in 1997. Do you think that what happened in the Burdekin with Mr Webber was a reasonable outcome?

Mr Dametto: I guess you are asking for my opinion.

Mr BOOTHMAN: He was not charged.

Mr Dametto: Was it a reasonable outcome? You would have to ask Mr Webber whether he thinks it was a reasonable outcome for him and his family.

Mr BOOTHMAN: Unfortunately, the man has to live with taking a life. I can understand that. I would never want to be in his shoes.

Mr Dametto: I would not have introduced this legislation if I thought scenarios like that ended in a reasonable outcome or a favourable outcome for the victim. The fact that that young gentleman had to go through the process of trying to prove that the force that was used that day was necessary or reasonable would have been so traumatic. I understand Mr Webber has gone through a lot of trauma in that scenario, but also what played out afterwards with the inquiry and the inquest. Reliving that would have been horrific.

Mr BOOTHMAN: In any circumstances where you are taking somebody's life what that does to you mentally for the rest of your life is obviously going to be very traumatic. The current legislation deemed that what he did was reasonable to defend himself. Therefore, it was lawful.

Mr Dametto: That is correct. Like I said, it was quite a process to get to that point. There may be a case where the prosecution may decide to test that through the court and that is when it becomes a very expensive process.

Mr BOOTHMAN: I can understand that.

Mr Dametto: The reason we have been approached by so many people to introduce this legislation is that the current legislation is quite broad. Some people have described it as having a fair bit of grey area, and it is up to the discretion of the investigating officers as well as the courts to deem whether or not it was necessary or constituted.

Mr BOOTHMAN: The broad spectrum of the current legislation, which was passed in 1997, has so far proven to give reasonable grounds to take lawful actions to defend one's house and defend oneself.

Mr Dametto: I just want to make it clear that this is not an attack on the current legislation. This is intended to ensure that it is more prescriptive so people have the confidence to defend themselves in a scenario like that. Ms Bolton said earlier as part of her question that if she were in that scenario she would not have second-guessed what she would do. She would do whatever she felt was necessary at the time. That is what we are hearing from a lot of Queenslanders. They have said to us, 'We're already going to do what is necessary if we are put in that scenario.' All this legislation does, we believe, is galvanise their legal right to do so.

Mr BOOTHMAN: The word 'necessary', which you repeatedly use, is well and truly enshrined in the current legislation. I find it confusing that we are trying to narrow some perspectives, whereas the current legislation is quite broad. The incidents that the member for Scenic Rim hypothetically alluded to before are a bit of a concern because you could potentially take this further and innocent people may end up being tied up in this legislation.

Mr Dametto: Our point is to make sure that it is actually prescriptive in the legislation that you can use deadly force.

Mr BOOTHMAN: I understand where you are coming from. The current legislation is quite broad. I worry that if we put all of these examples in it narrows it.

Mr Dametto: I can understand your concern. Even if the law were to change, it would then be up to a court of law to test the legislation. There are been plenty of laws out there that have ended up in a scenario where things have changed. There have been unintended consequences not even identified by committees or the parliamentarians who have passed those laws. That is why we have the opportunity to change things constantly in the Queensland parliament. I think that is a process that is necessary here in Queensland.

The idea of changing this law came from people saying that, because there is such a grey area at the moment and it is not prescriptive and it does not prescribe that you can use deadly force, they are concerned that if they do so they would have to hire a barrister or a legal team to keep themselves out of the Supreme Court. That is what we are trying to do here. We are trying to swing the pendulum back towards the victim with this legislation.

I think everyone on this committee would agree that we have scenarios playing out where perpetrators seem to have more rights than victims. Queenslanders are starting to feel that right now. That is why I bring the voices of those 40,000 signatories to this petition in in this short amount of time. Those people are calling for this.

Mr BOOTHMAN: Wouldn't it be more prudent to look at tougher legislation for sentencing these home intruders, these people who commit these crimes? The argument is that victims of crime feel that justice is not being served. Therefore, tougher legislation for sentencing would be far more applicable in these matters. So for people who break into people's houses there would no longer be a soft-on-crime approach, so to speak.

Mr Dametto: There would have to be a multipronged approach to try to change the criminal behaviour we are seeing in Queensland right now—tougher laws on juveniles, tougher laws on adult offenders, for some people more time behind bars, for some people better rehabilitation. This is just another tool in a broad approach to look at fixing the crime problem here in Queensland. As you would be well aware, the KAP takes a multipronged approach to addressing youth crime and crime in Queensland—everything from adult crime, adult time to removing detention as a last resort. We want to see minimum mandatory sentencing for prescribed crimes like motor vehicle theft so we can tie that to our relocation sentencing policy. Added to that is giving victims the right to defend themselves in their own home.

CHAIR: That concludes this public briefing. Thank you for your attendance here today. Thank you to our Hansard reporters. A transcript of these proceedings will be available on the committee's webpage in due course. I declare the public briefing closed.

The committee adjourned at 11.16 am.