

STRENGTHENING COMMUNITY SAFETY BILL 2023

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28 February 2023

Economics and Governance Committee
Queensland Parliament
George Street
Brisbane Q 4000

Via email to - egc@parliament.qld.gov.au

Re: Strengthening Community Safety Bill

Dear Committee Secretary,

The Queensland Police Union (QPU) represents over 12,500 police officers, watchhouse officers, liaison officers and band members throughout Queensland. We welcome the opportunity to provide feedback on the *Strengthening Community Safety Bill 2023* (the bill).

From the outset the QPU recognises that youth offending is a whole of government response and needs more than just legislation to address the issues of youth offending. We recognise the need for a robust framework of legislation to inform the function of Police and Courts but also acknowledge the need for wrap around services for offenders and their families, alternative justice models and programs that involve cultural and community leaders.

The Bill before the committee proposes to amend the *Bail Act 1980*, the *Criminal Code*, the *Police Powers and Responsibility Act 2000* (PPRA) and, the *Youth Justice Act 1992* and has been tabled under difficult circumstances. The need for community safety is paramount and police need all the tools available to them to manage youth crime in Queensland. The QPU supports this legislation and will provide feedback on particular elements of the bill.

Amendments to the Criminal Code

The QPU supports the proposed amendments before the committee.

Increasing the maximum penalty for unlawful use or possession of motor vehicles, aircrafts or vessels from 10 to 12 years meets the community's expectations. Tragically we have seen vehicles used as instruments of death in the community and the penalty must match the severity of the crime. It is clear that the current penalty has not gone far enough to curb the behavior of offenders and an increase on the penalty will serve as a deterrent.

The introduction of a new circumstances of aggravation with a maximum penalty of 12 years imprisonment for the offence of unlawful use or possession of motor vehicles, aircraft or vessels where the offender has published material advertising their involvement in, or of, the offending on social media is a step in the right direction. Police and the community have been taunted by these repeat offenders through the use of social media. The fact that some offenders feel proud of the criminal activity is a disgrace, these reforms recognise the communities' outrage and attempt to measure the arrogant behavior with tough penalties. The QPU knows that communities have had a gutful of brazen criminals celebrating their 'joyrides' on social media.

The devastating cost of vehicle thefts on victims are psychological and financial. On average, victims of vehicle theft incur \$5,000 in out of pocket expenses. Victims report mechanical and body damage as well as the loss of work tools, sporting equipment, stereos, personal navigation devices which often result in costs far beyond insurance coverage.

Even if insured, there are hidden costs such as insurance excesses, on-going loan repayments, car hire and alternative transport costs. Motor vehicle theft also adds to insurance premiums being higher than they need be.

A car is also essential to daily life - shopping, getting to and from university, taking children to school, social activities and work. One in five cars are never recovered. Individuals unfortunately report loss of income and employment as a result of losing access to a car.

The QPU has calculated the estimated annual value of motor vehicles stolen in 2021-22 in Queensland was \$183.4 million with Queensland victims of motor vehicle theft estimated to be out of pocket by \$86.0 million, this data was compiled and analysed from the National Motor Vehicle Theft Reduction Council figures. Finally, the estimate economic value of a statistical life in Queensland is \$4.9 million.

The financial implications from vehicle crimes are staggering and the current reforms will punish offenders who blatantly disregard the cost of the harm they commit.

The QPU welcomes the introduction of new circumstances of aggravation with a maximum penalty of 14 years imprisonment for the offence of unlawful use or possession of motor vehicles, aircraft or vessels where the offending occurs at night or where the offender uses or threatens violence, is or pretends to be armed, is in company or, damages or threatens to damage any property.

There is a large degree of violence occurring in our community and the response from the Parliament needs to be swift and severe. Laws can only ever be deterrents these laws will punish those who show complete disregard for the safety and wellbeing of their fellow citizens.

Amendments to the *Bail Act 1980* and the *Youth Justice Act 1992*

Breach of bail as an offence for youth offenders

The QPU strongly supports the amendment. If you do the crime you must do the time. The reality is that the current crop of repeat youth offenders are unmoved by the sanctimonious lectures of the judiciary. The Government has taken the necessary step of imposing a breach of bail offence on youth offenders. If this offence works for adults it will work for youth offenders. There is a need for further resources in the community to invest in support and services to reduce youth offending before the first offence. The current generation of repeat offenders have not responded to the current laws and the new breach of bail offence gives police and the courts another penalty to stop youth offenders.

Electronic monitoring

The QPU is strongly supportive of the proposal to extend the sunset clause in the legislation around the use of electronic monitoring devices (EMD). There is a clear need for a more robust evidence base (than eight people) with the use of EMD and the QPU is supportive of that. The fact remains that the Judiciary MUST exercise this option in imposing bail if these tools are to be effective.

Police powers to arrest for contravention of bail conditions

The QPU strongly supports the proposed changes and hopes the legislation will give effect to the changes envisaged. The data from the Queensland Police Service (QPS) is correct that there are increasing pressures (by the courts) on police officers to take alternative actions to arrest when a youth offender has contravened their bail. Simply removing the requirement for police to consider alternatives to arrest for juvenile offenders committing prescribed offences whilst on bail for other indictable offences is a good start however we foresee a situation where courts will still attempt to exert pressure on police for not considering other options. The pressures may well still be on police to use alternatives. It remains that the juvenile detention system will need to accommodate increased demand for detention and as will watchhouse facilities and we acknowledge this too, is an issue whole of government is addressing.

Strengthening the youth justice sentencing framework

Sentencing courts to consider youth offenders bail history

The QPU strongly supports this reform, and the pressure is on the Judiciary now to enact these laws in the court rooms. Youth offenders must be judged by the standards society expects offenders to be judged by, the principles of a fair go demand that past performance is an indication of future performance. In considering bail for youth offenders it beggars belief that magistrates do not take into consideration the history of bail non-compliance by the offender, these reforms meet the communities expectations.

Serious repeat offender declaration

In principle we strongly support the intention behind this legislation and what the Government is proposing to do. The QPU is concerned with the function of s 150A (3) and the current conventions around sentencing, the High Court¹ has provided clear guidance around sentencing. The QPU is concerned that the community's intentions envisioned in s 150A will be limited by a Judiciary who refuse to impose the will of the parliament to ensure that youth offenders are sentenced accordingly. On behalf of police the QPU wants to see certainty around these provisions to ensure that police are not forced to duplicate work to use provisions that the courts will deliberately avoid.

Implications of Serious repeat offender declaration

The QPU strongly support this proposal. There is an inherent risk however that the SRO model will generate more work for Police, Legal Aid, the Courts and the Judiciary however the QPU believes it will deliver a net positive outcome.

It must be stated clearly and emphatically, Police are not asking for Aboriginal and Torres Strait Islander youth offenders to be in detention in a manner that goes against the Queensland Government commitment to Closing the Gap targets however while the QPU is supportive of the proposal, the QPU is concerned that the risks identified in this proposal will fall on Police as individuals in First Nations communities when this is not the case; this policy is a decision of the Government and the QPU wishes it be known that while it is fully supportive of the proposal we do not wish for police to be targeted simply for enforcing this law.

Police know that they are at the "coal face" and need to use the mechanisms provided to them by the law to protect people, their property and the community. Police also understand that serious repeat youth offenders need intervention from other agencies and NGOs much earlier

¹ Hoare v The Queen (1989) 167 CLR 348, 354 (Mason CJ, Deane, Dawson, Toohey and McHugh JJ)

in their lives because by the time police have interactions with these juvenile offenders, it is often after years and years of causal issues for these offenders. Police are part of the solution in youth justice because police have great success when diverting offenders. The issue of repeat offenders needs to be addressed earlier in the pipeline, and QPU seeks for other agencies to “step up” and intervene earlier to address the root cause of these issues.

Conditional release orders

The QPU supports these proposed changes, and increasing the maximum period for which a conditional release order can be imposed to 6 months is a step in the right direction.

Expanding the scope of ‘prescribed indictable offence’

The QPU supports the amendment to the definition of ‘prescribed indictable offence’, as the inclusion of additional offences meets with communities’ expectations.

Transfer of persons turning or who have turned 18 years from youth detention centres

The QPU knows that police do not wish to see people under the age of 18 in watch houses for prolonged periods of time. In fact, police would like to see juveniles transferred to more appropriate detention facilities, rather than watchhouses, far earlier than currently occurs, however these offenders should certainly not be released back into communities to “reterrorise” innocent members of society. There is a clear need for a model to transfer those who become adults from juvenile facilities into adult facilities and the principles need to be clear with discretion remaining in this system.

Multi-agency collaborative panels

The QPU supports this proposal. Youth Justice has become an issue that is siloed across government agencies, departments and the NGO sector. There is a large body of peer reviewed evidence that advocates for a system of interventions a lot earlier in the lives of youth offenders. Modern criminogenic research demonstrates that the risk of youth offending can be accurately projected, modelled and predicted early on in an offender’s life.

The most beneficial response to this issue is intervening early in an offender’s life, involving departments outside of the youth justice arena and in the process this would prove an effective pathway to behavioural change.

QPU considerations

The QPU believes that there is an argument to bring forward some of the restorative justice and post sentence programs to add to the bail application stage which would in turn address these issues. The presumption of innocence must remain however there is an opportunity with bail and youth offenders to set orders and targets that can reduce the risk of repeat offending. The QPU argues the Government needs to think innovatively to ensure that consideration is given to the possibility of using bail as a chance to change and reset, especially for repeat offenders. The idea that the system is incapable of identifying offenders who would benefit from this process is a legal fallacy. While innocence can of course be presumed in each matter, the opportunity can be taken by the courts to impose directions on the lives of these youth offenders at bail hearings.

The goal of the Youth Justice Act is to divert offenders from the criminal justice system and into alternative streams. The system needs to lean into that stated goal to think flexibly. It could be that case that if the program set, during bail hearings is completed, then the charges could be discontinued? This would also mean that no criminal history would arise from the

instance. This would need to be at the lower end of offending but it certainly worth consideration.

The Government could then ensure that support services are anchored into the court process to divert youth offenders on and also to provide support to the families and carers around these offenders.

The QPU also wishes to see that those juveniles who are released early from detention, effectively on parole if they were an adult, and go on to allegedly commit further offences whilst on what could be considered parole, would be returned to juvenile detention to complete the balance of their original sentence as applies to adults.

The Government should be congratulated for this courageous legislation and for standing up to the out of touch legal fraternity who, by the looks of their submissions, clearly spend their entire time in their ivory towers and not in the real world.

I am available on [REDACTED] should you wish to discuss this matter further.

Yours faithfully,

[REDACTED]

IAN LEAVERS APM
GENERAL PRESIDENT & CEO