

## **Making Queensland Safer Bill 2024**

**Submission No:** 38  
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**Submitter Comments:**

Dear Committee Secretary

Justice, Integrity and Community Safety Committee

Parliament House

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**Submission to the Justice, Integrity and Community  
Safety Committee Inquiry into: the Making Queensland  
Safer Bill 2024**

**Monday 2<sup>nd</sup> December, 2024**

## Terms of Reference

**On 28 November 2024 Premier and Minister for Veterans introduced the Making Queensland Safer Bill 2024 into the Queensland Parliament. The Bill was referred to the Justice, Integrity and Community Safety Committee for detailed consideration.**

**The Making Queensland Safer Bill 2024 will amend the *Youth Justice Act 1992* to:**

- introduce ‘adult crime, adult time’;
- remove the principle of detention as a last resort and that a non-custodial order is better than detention in promoting a child’s ability to reintegrate into the community;
- promote the consideration of the impacts of offending on victims in the Charter of Youth Justice Principles and when sentencing a child;
- ensure a child’s criminal history reflects their full history;
- enable a person’s child criminal history to be admitted when sentenced as an adult;
- default to an ‘opt out’ mechanism for victims on the victim information register; and
- alter the process relating to the transfer of 18-year-old detainees from youth detention centres to adult correctional centres.

**The Bill will also amend the *Children’s Court Act 1992* to:**

- ensure the victim or a member of the victim’s family can be present during criminal proceedings; and
- enable the media to be present during criminal proceedings by omitting the ability of a court to make an exclusion order under section 20(2).

## Introduction

Shane Cuthbert is a former criminal turned Law and Psychology Graduate and advocate for the Youth, Justice, Mental Health, Domestic Violence and the Environment.

Shane Cuthbert, has had the pleasure of speaking with Mr Peter Russo MP, Member for Toohey, Deputy Chair and Mr Michael Berkman MP, Member for Maiwar of this Committee as members of various Queensland Parliamentary Committees in relation to support for victims of crime<sup>1</sup> and decriminalising public offences<sup>2</sup>.

More recently, Shane Cuthbert and former Magistrate Pat O’Shane AM, made a joint submission to the Queensland Parliaments Youth Justice Reform Select Committee<sup>3</sup> (see Annexure A). Shane Cuthbert remains disappointed this Committee, failed to come together,

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<sup>1</sup> <https://documents.parliament.qld.gov.au/com/LASC-C96E/ISVC-98C6/submissions/00000054.pdf>

<sup>2</sup> <https://documents.parliament.qld.gov.au/com/CSSC-0A12/IDCPOHWR-FA50/submissions/00000022.pdf>

<sup>3</sup> Annexure A – Joint Submission to the Youth Justice Reform Select Committee. Queensland Parliament.

in the interests of Community Safety and the Protection of Children to make adequate recommendations and implement positive changes in this space.

## **The Prevalence of Crime in Queensland**

The BIGGEST ISSUES effecting Queenslanders are crime, housing and the cost of living. Youth Crime and Domestic and Family Violence account for most crimes committed across the State with Cairns reporting more of these crimes than any other region. (24,252 in the last 12-month period) Although the Queensland Police Service reports a reduction in crime overall (including youth crime) Domestic and Family Violence related offences continue to rise<sup>4</sup>. Although the terms of reference refer ONLY to Youth Justice matters, Domestic and Family Violence is a contributive factor/cause of youth crime.

## **Domestic and Family Violence**

The Cairns Post reports that during a 10-month period, the Cairns Magistrates Court dealt with 2000 Domestic and Family Violence related offences<sup>5</sup> (Highest in State) compared with 1300 in Townsville (Second Highest) and 1146 in Brisbane.

In Cairns, more than 100 women seek emergency support each week. 1 in 3 Cairns women experience Domestic and Family Violence and 1 in 4 Children in Cairns are exposed. Many of these children, having been subjected to Domestic and Family violence will be at a greater risk of offending.

I have been actively involved in reducing Domestic and Family Violence and Youth Crime in Cairns, as a graduate of law and Psychology. I have advocated to Local, State and Federal Governments regarding Domestic and Family Violence and Youth Crime, speaking recently to the Queensland Parliament Youth Justice Reform Select Committee.

Unfortunately, this important Committee was dissolved in April after failing to agree on an interim report. In addition, I am the founder of Domestic Violence Anonymous, an organisation which facilitates and supports male victims and perpetrators of Domestic and Family Violence across Australia. As a lead facilitator, I am engaging with men across the Country actively reducing Domestic and Family Violence.

In Cairns, I have been advocating for a 24-hour youth centre and since the Local Government

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<sup>4</sup> <https://mypolice.qld.gov.au/news/2024/07/26/queensland-police-service-release-latest-crime-statistics-for-2023-24-financial-year/>?

<sup>5</sup> <https://www.cairnspost.com.au/news/special-features/in-depth/shameful-reality-of-cairns-skyrocketing-domestic-violence-statistics-revealed/news-story/b7dfddca47983efcf4945307fda8f9be>

election in March, I have spent months, working with some of the most disadvantaged, criminalised, vulnerable and at-risk youth. As an unpaid volunteer, I have spent two-three nights each week, building relationships with the youth, buying them food, mentoring them and addressing their issues.

I am currently completing my (PLT) Practical Legal Training, and cross paths with the same kids I work with at night, during the day within the Cairns Courthouse.

### **Crime is Different, Throughout Australia**

I understand crime looks differently in different parts of Australia. I grew up in Blacktown and Mt Druitt once considered ‘the hood’. It was a low-socio economic area where Commission Housing was concentrated, drugs were easily accessible and the crime rate high. No matter where you are in Australia, where there is disadvantage, there is crime.

Cairns is a regional community toward the ‘tip’ or Cape of Australia where some of our most remote communities and cultures are located and, Cairns is used as a hub of sorts. It is the end of the line for many things, supplies, medical treatment and many Government Services. During the Cyclone Jasper Disaster in December/January, many of these communities were adversely affected and flown to Cairns where they could access medical treatment and housing.

This contributed to an increase in crime. On one occasion, I was in the Cairns CBD late at night, attending a dispute between a shop keeper and street kids that I work with. We had kids from Wujal Wujal, housed temporarily in Cairns that had been throwing rocks at the shop keeper and causing damage to his store. I addressed the Cairns Regional Council<sup>6</sup> in regards to this issue and others, as part of a deputation to the Council regarding the work I do in the CBD.

I have been critical of the Costs associated with the Cairns Regional Council City Safe security guards<sup>7</sup>, who were present on this occasion but unable to prevent the behaviour due to liability concerns associated with restraining kids.

I have been actively involved in reducing crime in the CBD, having introduced the street kids to the shop owners. Previously, there was a sense of entitlement and disrespect between the kids and store owners and I have been able to foster respectful relationships between them. Now, shop keepers are providing these kids with food and bottles of water on request, as opposed to having their stores trashed and ‘rummaged’ through, as was common in the past.

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<sup>6</sup> <https://www.youtube.com/watch?v=5LFh46tacqY>

<sup>7</sup> <https://www.youtube.com/watch?v=N-vGD8gKAIY>

## Personal Experience

I spent six months in prison sentenced for drunk driving, resisting arrest, evading police, trespassing and possessing explosives and a further year on remand when I was a young person. In total I spent 16 months in prison between 2015 and 2018, two months on remand in NSW, two six-month stints in Queensland, followed by another two months behind bars in Lotus Glen Prison, outside Cairns.

I'm not proud of this and none of it was fun. I was bashed and sexually assaulted in prison by an offender remanded in custody for the manslaughter of his three month old child. Now I see others going down the same path in Queensland, which has been gripped by a widely reported youth crime crisis.

So how do we fix it? The first way is to start listening to reformed convicts who understand the struggles that these children face, people like me. I know how to reach them because I was them.

My parents split up when I was four years old, and I don't remember spending much time with my dad. The stuff I do remember isn't great. One night he drank so much he must have forgotten he had kids. My little brother and I were forced to lay under a doormat to keep warm. I was five and he was three.

When I was about 7 years old my older (female) cousins began molesting me and making me perform sex acts on them. [REDACTED]

[REDACTED] Of course, I never told anyone about this abuse until recently, I had been groomed and told not to say anything. I told friends about it in High School who teased me [REDACTED] I was so ashamed I did not tell anyone else until I turned 30. In hindsight, an all boys high school was not the right place or time to speak about what had happened to me.

I also remember being abused by my mother. I was belted with wooden spoons, aluminium spoons and eventually plastic ladles as they would not break so easily. When the spoons broke my mother would become angrier, plates, phones, remote controls and many other objects laying around were thrown at my head. I was swung into walls and swung around the kitchen so often the kitchen cupboard doors began falling off, unable to withstand the constant beatings I endured.

Most of what I went through I have forgotten or purposely blacked out. It causes me a great deal of pain and distress to speak about it but I do in the hopes of helping others. For the last 6 months I have 2-3 nights per week in the Cairns CBD working with the most criminalised children, those at-risk, vulnerable and disadvantaged kids and I am speaking up for them. I know they too experience a great deal of abuse and trauma and many are unable to speak

about it. Even when they are, anything they say must be DE identifiable and watered down to the point that people forget these are real people, they are human beings and they are children.

When I was nine, I was hospitalised for a severe case of bullying. I was bullied by a number of older boys in Primary School and on one occasion one of them picked me up and threw me to the ground. The force of which broke my arm and I severed the main artery in the middle of the playground.

I passed out from blood loss and spent weeks undergoing surgeries in the Westmead Children's Hospital where I became addicted to Morphine. I remember coming down off the morphine before being released and I remember vividly not wanting to be awake. I know now that this is depression and not wanting to be alive. As a child I didn't understand that concept but when I was awake I was in pain, vomiting or going to the toilet and it was a horrible time.

Fed up with the bullies, I returned to school with a small pocket knife and although I didn't hurt anyone, I pulled it out in class which caused quite a stir. The children in my class were frightened and my teacher restrained me. That's when the 'system' took me in. I got tossed into a mental health facility (Redbank House for Adolescents with Treatment Resistant Psychiatric Issues) for 9 months because I was considered an 'out of control' kid.

Although it was not a youth detention centre, I was there with other kids who had stolen cars, broken into homes and were experiencing extreme behavioural and mental health issues. Naturally I tried my best to fit in with them, I began picking up bad habits, learnt to swear and started smashing windows. We would cause as much damage as we could partly for the reaction, partly because we were bored.

Some of my trauma doesn't compare to the nightmares experienced by the kids I am working with now, kids who are caught up in the judicial system and come from the most disadvantaged backgrounds you could imagine.

During my stints in prison, I met a bunch of kids who never had any support, never had a second chance and were never able to address their issues, their addictions and afflictions such as Foetal Alcohol Syndrome Disorder, sexual abuse and trauma stemming from adverse childhoods.

I was one of the lucky ones.

Kids need purpose, love, support and mentors: guys like me. Problem is that guys like me can't escape our criminal histories. I understand that if 'you do the crime, you do the time'.

With a burgeoning prison population and heavy reliance on criminalisation, Australia runs the risk of disenfranchising tens of thousands of its own citizens.

In our submission to the Youth Justice Reform Select Committee, myself and Pat O'Shane AM suggested that we need 24-hour youth centres where kids can go to feel safe, grab a feed and discuss their needs. Crime peaks between midnight and 2am and if kids knew there was a warm place they could feel safe, maybe this might not be the case.

We also proposed that Legal professionals should undertake mandatory training to work with vulnerable children during prison visits. If you want to represent or sentence a troubled child, you might benefit from a little empathy and understanding.

I've been asked to speak before the Queensland Government on issues in the past because of my lived experience. The first step is listening, the second is addressing their needs. When a child is released youth justice will schedule meetings for them and if they don't show a warrant is issued for their re-arrest. It's an endless cycle for some children in the system. When we can finally find the time to ask kids why they couldn't attend, the answer is usually that they didn't have money for the bus to get there. We need to remember these kids are kids and they need love. We need a system that can hold their hand and get to the bottom of why it is that they are offending.

In Cairns we have held 1,131 children in the police watchhouse in 2023 which is more than any other in the State. This is unacceptable and inhumane. Instead of throwing them in prison and forgetting about them until they're released and inevitably re-offend, we need someone who cares enough to take them to their rehabilitation appointments, to the doctors or a psychologist if they need one. It's not rocket science. We reduce crime through addressing the issues leading to it.

## **WHAT IS BEING DONE AND/OR PROPOSED**

### **The Governments Proposals**

#### ***On, 'the LNP 'Tough on Crime' Policies During Election'***

I was critical of the LNP 'Tough on Crime' election commitments and policies during the election and actively campaigned against them. During the election, the LNP made comments that crime increased "because the ALP come in" and "watered down their laws". In my view, this is not an accurate statement. I believe it is the NEWMAN era laws, 'tough on crime' policies and legislation, brought in under the LNP that INCREASED the prevalence and seriousness of crime. Consider also that, The LNP style of management is/has been historically, to cut costs, services and rehabilitative programs, BEWARE this will also further increase the prevalence of and seriousness of crime.



**On, *'Unshackling the Judiciary'***

it's an oxymoron.

As a graduate of law entering the legal profession, I agree with the theory of 'unshackling the judiciary', Magistrates and Judges are appointed based on merit, experience and expert knowledge of the justice system.

The problem I have with this 'slogan', used by the LNP during the election is that by saying 'let's unshackle the judiciary', it implies the judiciary is shackled and can't make the right decisions but that's incorrect.

Some legislation such as driving offences, provide mandatory sentences (loss of licence etc). A mandatory sentence means the Magistrates and Judges hands are tied and that, they are 'shckled'. Unshackling the Judiciary, means removing mandatory sentences allowing the Courts to provide they feel are appropriate under the circumstances.

**On *'Removing detention as a Last Resort and that a non-custodial order is better than detention in promoting a child's ability to reintegrate into the community'***

In regards to removing detention as a last resort, a principle that has been in place since 1911, I say this; The Youth Justice Act says "Courts must only detain young people as a last resort" meaning, ALL other options (bail, probations, community service, fines, home detention etc) are not suitable.

The reality is Courts have always had and will continue to use detention as a last resort anyway, changing the words does nothing to change or alter the 'execution' of the Act, reduce crime, increase sentences OR provide support for victims.

Prison as a last resort, has been a fundamental common law principle of the Westminster based law and legal systems since the thirteenth century, the idea is that a person should not lose their liberty unless there is no alternative.

**On, *'adult crime, adult time'***

I feel I have already highlighted the generally, the consequences of this proposal. 'Adult' or 'more' time in custody, does not act as a deterrent and prevent crime.

**On the proposal to, *'promote the consideration of, impacts of offending on victims in the Charter of Youth Justice Principles when sentencing a child'***

I think the Courts, Magistrates and Judges SHOULD consider the impacts of crime on victims and I believe the Courts already do this. If the proposal to allow victims and their families to be present during Court proceedings, the Courts will be more directly aware of the victims and their rights during trials and sentencing.

***On, the proposal to, 'ensure a child's criminal history reflects their full history and enabling the Courts to admit juvenile history when sentencing an adult'***

Although I have read and understand the proposals in the Bill itself, I have not had adequate time to research how, the proposals differ from those mechanisms currently in place for young people who turn 18 in custody and/or prior to custody. I will refrain from making any comment in regards to this proposal as a result.

***On, 'allowing the victim and/or a member of the victim's family to be present during criminal proceedings'***

I am not opposed to families and/or friends of the victims, support persons and others should be excluded from the Courts.

***On, 'allowing the media to be present during criminal proceedings removing the ability of a court, to make an exclusion order under section 20(2)'***

This, would restrict the Courts, Magistrates and Judges to make exclusionary orders and I am not supportive of the proposals. The amendment will have the effect of 'Shackling the Judiciary', the very thing the LNP campaigned AGAINST doing during their election campaign.

Generalised and 'shackling' laws, do not consider the circumstances surrounding any particular case, the offending behaviour, the particular offence type and the rights of media to report on matters in the public interest, the Courts are better able to do that.

The Courts are better able to, identify what circumstances, (if any) shall allow and/or disqualify the media from accessing the Court and restrict particular aspects of publications such as, the names of young persons etc.

In the interest of fairness to the accused and their to a fair trial, the Courts, Magistrates and Judges must balance this, with the needs and expectations of the community. These laws, take away the ability of the Courts to exercise discretion and I am opposed.

**Stand Alone, Breach of Bail Offence**

Currently, under the Youth Justice Act, a breach of bail is not a criminal offence. If a young person commits a crime whilst on bail, they are charged with that crime, and no separate

charge for the bail breach. If breach of bail was a standalone offence, the young person would be charged with two offences, the one they committed that led to the breach of bail and a breach of bail.

In Australia, sentences for offences run concurrently meaning that, the young person is sentenced for the most serious crime with which they are charged and all other sentences, will be served at the same time. This means that a young person could commit a string of offences, 20,30,40 offences and will only serve a sentence for the most serious.

Unlike in the United States where sentences accumulate. If you are sentenced as a young person in the United States to one year imprisonment x10 offences for example, you will serve 10 years in prison however, in Australia, you will serve the 1.

Although a 'stand-alone' bail offence sounds good, it is meaningless under our current systems.

### **America's War on Drugs**

America's 'War on Drugs' is not Working, Neither will 'Tough on Crime' Policies. Both the LNP and ALP have introduced and/or supported 'Tough on Crime' policies in the last 24 months. These policies are not working, and we cannot arrest or imprison our way out of this complex issue. Over the last 12 months under Annastacia and Steven Miles, Queensland has imprisoned more youth than any other State and continues to hold children in adult watchhouses. The ALP have rushed in new laws with limited community consultation, suspended the Human Rights Act and implemented the toughest laws and legislation in the country and still, our rate of recidivism is 91%.

The ALP and LNP both failed to make recommendations during the Youth Justice Reform Select Committee, a committee I presented to in Cairns and, a committee myself and former Magistrate (who once sentenced me) Pat O'Shane AM made an extensive submission to. We made several practical suggestions in the hopes of working with the Government to fix youth crime AND support, but this important committee was disbanded. It is clear that 'Tough on Crime' policies don't work.

In the 1970s, then Unites States President Richard Nixon introduced the 'War on Drugs' increasing penalties for users and dealers of drugs (tough on crime approach) BUT, even though the United States has locked up more of its citizens than any other Country, it is clear this approach is failing as grandchildren of those targeted in the 70s are also being held behind bars, the cycle continued.

What the war on drugs did, was create many fatherless homes where children, often raised by single mothers, struggled to access the same education and employment opportunities. These

children, often from low socio-economic areas had an increased risk of becoming criminalised and incarcerated. Now, the United States is now heavily engaged in reform.

### **Treatment in the Watch House**

Last year, the Queensland Government suspended its own *Human Rights Act*<sup>8</sup> in order to introduce legislation<sup>9</sup> that changes the *Youth Justice Act*<sup>10</sup> and allows children to be held in watchhouses indefinitely, this followed a Supreme Court decision in Queensland that found holding young people in watch houses illegal under the *Act*<sup>11</sup>.

Earlier this year, the Guardian reported<sup>12</sup> on the conditions within the Cairns Watchhouse, cells I am familiar with<sup>13</sup> (refer to Annexure B), cells without toilets and running water, a lack of adequate food, medical attention and legal support. These cells are used to hold some of the most vulnerable children, including those with disabilities or experiencing mental illness, who become distressed whilst within the watchhouse. Children are often held for long periods of time in cells designed for adults and held in solitary confinement.

As someone who has spent a considerable amount of time in solitary confinement as an adult (see Annexure B), I can share with this committee personal experience. I remember becoming so disorientated that I began speaking to myself, hallucinating and even began leaving crumbs on the floor so that ants would be attracted to my cell, and I would not be alone. Being held in solitary confinement for long periods of time is detrimental to our well-being and mental health. For children, this is particularly damaging because many are not yet equipped with positive coping skills and their young minds still developing.

### **Most Children are Victims of Crime**

I told the Inquiry into support provided to Victims of Crime last year that, ‘victims, when not provided adequate support can become perpetrators’. Most of the children I work with have experienced emotional, physical and sexual abuse. It is no surprise that one of the most criminalised young people in Cairns, has also suffered the most abuse. This young person is only 11 years old and has already spent time in the Police Watchhouse, Brisbane and Cleveland Youth Detention Centres and mental health facilities.

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<sup>8</sup> *Human Rights Act 2019* (Qld)

<sup>9</sup> *Child Protection (Offender Reporting and Offender Prohibition Order) and Other Legislation Amendment Act 2023* (Qld)

<sup>10</sup> *Youth Justice Act 1992* (Qld)

<sup>11</sup> *Human Rights Act 2019* (Qld)

<sup>12</sup> <https://www.theguardian.com/australia-news/2024/jan/21/queensland-police-watch-house-youth-juvenile-cairns>

<sup>13</sup> Annexure B – Shane Cuthbert Introduction to, and experiences within New South Wales and Queensland Prison Systems

Recently, a paedophile was arrested for exchanging ICE with the young person for sexual favours. This child, is now dealing with childhood trauma, having been taken away from abusive parents and placed into State care at a young age, an ICE addiction, the consequences of the crimes they have committed, youth detention, the watchhouse and the sexual abuse inflicted by this perpetrator.

We need to look at providing more support to young people to prevent these things happening. This means tougher penalties and increased supervision for convicted child sex offenders. These offenders, cause more harm in our society than any other criminal. Not only must the young person deal with the perpetrators abuse but so too does the community because these young people are falling through the cracks in our system where it becomes likely they commit crimes and creating more victims. The cycle continues.

As someone who has been incarcerated, I can tell you that most of the prisoners I met were once children, who had been abused and not provided adequate support. I think it's time politicians took a stand against the abuse of children and do more to protect them and introduce legislation that increases the penalties for child sex offenders and those that harm our kids. I have no sympathy for child sex offenders and people that harm our children. Why do our politicians?

## **WHAT WE NEED TO DO**

In a submission to the INQUIRY INTO MONITORING OF PLACES OF DETENTION (OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE) BILL 2022-SUBMISSION, I asked the Committee to consider the following.

To consider that my own rehabilitation is a credit to myself ONLY and not the criminal justice system OR prisons. The extreme violence and abuse that occurs in prisons does not support rehabilitation, it supports the increase of prevalence and seriousness of crime. I propose that the Government consult those with 'lived experience' in this space before introducing any legislation.

Inmates, prisoners and former prisoners are reluctant to speak for a number of reasons, in prison there is a fear of retribution from the system and also other inmates as you could be labelled a 'dog' and seriously harmed as a result. For those who have been released and moved on with their lives, they may find revisiting these issues traumatic, they may have moved on and made attempts to 'forget' that trauma. It is STILL happening.

There was a study conducted, (forgive me, I have tried to reference this study and could not find it) into Goulburn Prison which found a high rate of murders and extremely violent crimes were being committed by former Goulburn Prison inmates who had been beaten and

brutalised whilst in custody. The study ultimately supports the theory that, if we want to rehabilitate people and have less violent people, we need to treat them humanely.

To consider taking the opportunity, to establish a Royal Commission into institutional abuse and prisons generally. I would like to think that the Queensland Government is serious about the fair treatment of ALL Queenslanders whether they are prisoners or not and that, a Royal Commission into institutional abuse and conditions in custody generally, could provide valuable insights into the system and make positive changes possible.

### **The Need for Increased Penalties for Sex Offenders and the Protection of Children**

In Queensland, there are some very dangerous loopholes in the current legislation and also that proposed by the LNP (Qld). The LNP (Qld) proposes introducing a 'public' sex offender register which sounds great in theory but indicates the Government isn't capable of protecting children by monitoring these offenders and invites the public to do it instead. The responsibility of monitoring sex offenders in our community is not OUR job and we ask that the current and future Governments 'do better'.

Further, not only does the 'public' register promote and/or encourage vigilante attacks but there are serious concerns over these locations being targeted and becoming 'known' as sex offender homes, what happens when the offender moves away, and a member of our community becomes targeted simply because they have moved into the home? The Government has not yet proposed any legislation addressing this issue. I would propose that laws like those requiring real estate agents disclosing crimes, murders and deaths be implemented.

What we need to do is focus on closing the loopholes in our current 'unpublic' register (the one the police have access too). When the legislation was introduced in 2004 it was not retrospective which means anyone convicted of sex offences prior to 2004 is not on the register or monitored by Police, these people are still walking amongst us in our communities, our places of worship and schools. This dangerous loophole must be closed.

Currently, an offender is placed on the register for a period of five years (1st offence) 10 years for the second and 15 for the third. We must introduce mandatory supervision and registration for life. If a sex offender has a problem with that, I suggest they consider that OUR community is no longer concerned with protecting them, only with the protection of OUR children.

The Federal Government may consider legislation that improves information sharing between the State law enforcement agencies to better protect our children.

### **Probation and Parole Overhaul**

Probation and parole, collectively known as community supervision was originally designed as an alternative to imprisonment however, nearly half of the people going into jails and prisons are coming in from the failed and broken probation and parole system. I have seen it firsthand as someone with lived experience in the justice system once imprisoned. The parole system has over time, become more punitive than rehabilitative.

What this means is that instead of supporting those on parole orders to address their issues, they are instead being sent back to prison. An example of this is when a young person, subject to a parole order who provides a positive urine sample for drug use is arrested instead of being sent to a rehabilitation centre where their issues can be addressed. Not only are people spending more time in prison without access to rehabilitation, but they are also choosing to stay in prison and complete their full sentences, rather than be released on parole and if people are choosing to remain in prison, something is terribly wrong.

This means that when they are finally released, they are released back into the community without any supervision or support. Many are returning to the use of drugs and crime.

When an individual is under a probation and parole order, short staffing and underfunding means that they are unable to receive any meaningful support. I have spoken to case workers who have 93 files. This means that realistically, probation and parole officers are only able to spend 20 minutes per week with an offender which makes organising employment, services and programs difficult. I have been told by officers here in Cairns, that successful outcomes are currently measured in appointment attendance, they do not have the resources they need to provide additional rehabilitative support.

If the Federal Government should consider anything at all it is this, consider our justice systems have strayed from their rehabilitative design and force those systems to get back to that. Punitive systems do not work, and the Federal Government must consider introducing legislation that forces the State Justice Systems to comply with those rehabilitative principals. We shouldn't have States turning United Nations Inspectors away and we shouldn't have States over-riding Human Rights Acts. The Federal Government may also consider reviewing our Federal Human Rights Act and giving it some teeth.

### **Community Service Overhaul**

The Community Service System in Australia is a joke. We must seriously consider overhauling the system and promoting rehabilitation instead of costly community service programs. In Cairns, I was subjected to a community service order and required to clean graffiti. There was a young person working with us, sentenced to a community service order for graffiti who used the program to remove his rival gang's graffiti. Often, we would only remove or paint over one or two pieces per day, the program was extremely inefficient with a

Community Service Officer on more than 100k per year, supervise 4-5 offenders per day, achieving very little.

In NSW a friend of mine was the subject of a community service order where, supervised at a cost of more than 100k per year, was taught to knit woollen beanies. Again, this program was extremely inefficient with most attendees knitting at a rate of one beanie per week, thousands of knitted beanies could be ordered from China for less than the cost of supervision. These programs, designed to teach young offenders a 'lesson', are a waste of time and money.

Fortunately for me, I was studying full-time a double law and psychology degree, and I did not have to complete additional hours for my last community service order. Instead, my hours were wiped because I was studying, and I believe we could do more to promote rehabilitation by promoting study and rehabilitative alternatives to graffiti removal and other costly programs. Currently, Queensland TAFE is offering a range of free courses, funded by the Queensland Government.

I proposed to the Queensland Government earlier this year that that the free courses could be used to upskill young offenders saving money and supporting rehabilitation as a priority. Likewise, the Federal Government funds Counselling and Psychology sessions for those on mental health care plans under Medicare and these appointments could be promoted as alternatives to community service where offenders are addressing their issues.

These are all initiatives and services fully funded by State and Federal Governments that could have a positive impact on a young person's life and cost the Government less, allowing Corrective Services to allocate more funding to much needed Probation and Parole services.

### **Resi-Care Overhaul**

Of the youth I work with committing crime in Cairns, the majority have been placed into Resi-Care. Resi-Care or residential care refers to the provision of housing, supervision and necessities such as food and other services to young people who have been removed from their parents and/or primary caregivers.

Resi-Care is an alternative to foster care. Like the NDIS, this system has become extremely lucrative for care agencies and costly for the Government. In 2018-19, \$260 million dollars was spent on care homes compared with \$336 million in 2019-20 and \$440 million in 2022-23.

We have worked with children who, having missed the last bus back to their resi-care at midnight, slept in the CBD at the McDonald's on the Esplanade and many who refuse to reside at their resi-care homes for several reasons, the carers do not 'care' and/or, they are not 'allowed to care'. One Resi-Care worker was fired recently for taking a young person to an unapproved location, this was his family home, and the carer was directed to take them there by his supervisor.



Many carers have been sacked for going above and beyond what is provided for the young person and their care plans BUT, it is these carers who build meaningful relationships with the kids that make a positive difference in their lives. Another young person I work with was refusing to go home, choosing to spend his nights on the streets with us because he was not allowed tv access because he had 'abused' his tv time. This is the same child who, having been provided a PlayStation console by family members for his birthday, was unable to use it because it was not in his 'care plan'. What good is a 'care plan' if the children are preferring to be on the streets. This system must be overhauled.

Most carers do not adequately care for the young people, and this is because the 'care plans and internal policies of these organisations limit their ability to do so. The LNP suggests increasing carer shifts from 12 to 24 hours with the aim of promoting positive relationships between carers and young people. Instead of the revolving door of staff twice a day, the carers (I assume) will sleep, shower and eat in the home, better representing a 'normal' home life BUT, this will not completely fix the problem.

Resi-Care providers and carers must be more flexible, accountable and responsible and legislative change must be introduced to better support them to do that. The legislative changes must support them to pick kids up and get them home, prevent them from leaving where necessary and provide better supervision. If the State wishes to take these children from their homes and provide for them, they must take that responsibility seriously. The Government, carers and care providers must act like the child's parent and be allowed to do so.

### **Time Constraints**

The proposed changes are incompatible with Human Rights and Legislative reform of this magnitude, having such significant impacts on the most vulnerable, disadvantaged and at-risk children SHOULD be given the appropriate time for consideration.

As I write this, I am mindful that this report, due on the 6<sup>th</sup> of December (in 4 days) is probably already half written with the recommendations already proposed by the LNP Government. As I write, I am listening to the Public Hearings taking place in Brisbane, aware additional Public Hearings will be taking place tomorrow, in Townsville.

I am not satisfied this Committee, has adequately provided enough time to ALL stakeholders to speak to and/or make submissions to this Committee. As a result, it is likely that the submissions received by the Committee will be rushed and the report, rushed. In my view, we CANNOT afford to rush through legislation of this magnitude.

This Committee has not visited my community of Cairns and members of my community have not been provided an opportunity to engage in respectful, meaningful and informed debate around these issues and the proposals being considered by this Committee.

## **In Conclusion**

Over the last five years, there has been little reduction in the way of the 90% recidivism rate and/or the rate of crime. This, despite implementing the 'toughest' laws in the Country, keeping more kids in watchhouses and locking more kids in prisons than any other State.

Generally speaking, consequences don't work. An increase in sentencing, prosecution and punitive consequences will not act as deterrents. In a nutshell, those committing crimes and in particular, children, do not have the capacity to accept and/or consider the consequences adequately due to age, mental health issues and substance abuse.

ESPECIALLY, in regard to the 'worst of the worst'.

We MUST support children BEFORE they are facing time in Youth Detention and/or Prison, before the fear is gone and the revolving door begins. We need to get them 'on the way in' and divert them, this can be done with more supportive bail programs and a focus on rehabilitation. I suggest seriously considering changes to bail reforms in line with some of the bail reforms Pat O'Shane implemented during her time as a Magistrate.

Again, As I did in my joint submission to the Youth Justice Reform Select Committee, I suggest this Committee visit a youth detention facility, in order to better understand these facilities young people will be sent as a result of the legislation YOU seek to introduce.

I encourage you to take the time to speak to the children that will be affected by these laws. In addition, I would be pleased to welcome members of this Committee to Cairns and formally extend an invitation to ALL members to walk the streets with me and some of the most disadvantaged, vulnerable and at-risk children in my community.

The assumption, that increases in penalties will prevent or reduce crime is make believe, this was a commitment born of a desire to win an election and 'It is what its is'. The Government, in my view, is throwing children under the bus and has exchanged long term positive impacts for short term outcomes, a 'temporary' or "quick' fix in relation to crime.

I argue that locking up OUR children now, in the immediate or short term is incredibly DANGEROUS and that, we seriously risk increasing crime long term. These proposed changes do nothing to reduce or prevent crime and I predict the prevalence of, and seriousness of offences will increase as a result.

I do not support the bill. As an Advocate for the Youth, Justice, Homelessness, Domestic Violence and the Environment, a Graduate of Law, an individual with lived experience in this space, as a young offender and someone who spent time in custody as a young person and, as someone that works with the young people, this will affect.

If the Committee is to consider holding additional public hearings, I would greatly appreciate the opportunity to speak to this Committee in person, regarding this submission.

*“Injustice anywhere is a threat to Justice everywhere”*

*– Martin Luther King Jnr*

Signed



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Shane Cuthbert

Youth Justice Reform Advocate

State Parliament Candidate for Cairns