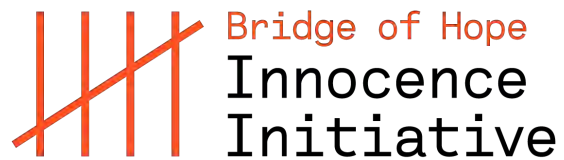


## INQUIRY INTO SUPPORT PROVIDED TO VICTIMS OF CRIME

**Submission No:** 42  
**Submitted by:** Bridge of Hope Innocence Initiative  
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**Attachments:** See attachment  
**Submitter Comments:**



Committee Secretary  
Legal Affairs and Safety Committee  
Parliament House  
George Street  
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The Bridge of Hope Innocence Initiative  
RMIT University



12 April 2023

## **Submission to Legal Affairs and Safety Commission Inquiry into Support for Victims of Crime**

Thank you for the opportunity to make a submission to the Inquiry into support provided to victims of crime.

The Bridge of Hope Innocence Initiative ('BOHII') is an organisation established at RMIT University which aims to prevent miscarriages of justice through advocacy and research. We are part of an international network of innocence projects, sometimes referred to as the "innocence movement", which seeks to create a fair, compassionate, and equitable system of justice for everyone. Paramount in BOHII's values is the need to minimise any further trauma to crime victims and their families.

Our submission urges the Queensland government to avoid the politicisation of victims' rights, particularly of co-victims in homicide cases, and to follow evidence-based criminal justice policies which protect the community from harm.

### **The Politicisation Of Victims**

"Victim's rights" refers to the obligations of state actors to victims of crime, including their rights to be protected, informed and supported.

BOHII supports the preservation and advancement of victim's rights, which include not conflating victim's rights with "penal populism" or the furtherance of "law and order" politics for political gain.

Penal populism is a media driven political process whereby politicians compete with each other to impose tougher prison sentences on offenders based on a perception that crime is out of control.<sup>1</sup>

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<sup>1</sup> Garland, David. "What's Wrong with Penal Populism? Politics, the Public, and Criminological Expertise." Asian journal of criminology 16.3 (2021): 257-277. Web.

Examples of penal populist proposals include increasing penalties for criminal offences, mandatory sentencing, increased restrictions on bail or parole or the introduction of fresh offences for highly publicised conduct.

Penal populist policies are often justified from the perspectives of “upholding the rights of victims” but frequently fall short of meeting victim needs. By overpromising likely success, populist policies retraumatise victims and increases the risk of crime within the community.

### **Case example: No Body, No Parole Laws**

A recent example of failed penal populist law-making in Queensland is the introduction of “no body, no parole” (NBNP) laws. These reforms were politically premised on the notion of providing closure to victims’ families by compelling convicted prisoners to disclose the location of homicide victims’ remains.

Despite expressing concerns about the aim of providing closure to victims’ families, NBNP policies across Australia have been implemented with little debate, consultation, consideration of their effectiveness, or most particularly, no evidence-based consideration of the impact of the policies on families when proven unsuccessful in locating victims’ remains.

Our recent study,<sup>2</sup> investigated the extent to which the legislative aims of NBNP had been met in Queensland. We examined ten No Body parole applications in Queensland that were publicly available at the time and found that although six of the ten individuals were found to have co-operated satisfactorily, no remains were found in any of the ten cases. Eight of the ten individuals volunteered information that led nowhere so it is clear that the Parole Board can find satisfactory co-operation even if information provided by parole applicants leads nowhere. Further, it was possible for the parole applicants to provide very late co-operation despite the emphasis in the legislation on timeliness, which then carries risks of encouraging false and reliable information to be proffered in exchange for potential parole and further extending trauma for victims’ families.

Co-victims of homicide, including family and friends of the deceased, are particularly vulnerable to politicisation.

The criminal justice system’s response to this type of homicide has a role in the meaning making, coping process, and recovery of family members and friends of homicide victims. Laws that enable participation in the system by loved ones allows them to have their harms acknowledged, but also run the risk of exploitation by politicians.<sup>3</sup>

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<sup>2</sup> Moffa, M., Ruyters, M., & Stratton, G. (2022). Still no bodies: Five years of “no body, no parole” in Queensland, Australia. *Journal of Criminology* (2021), 55(2), 162–179. <https://doi.org/10.1177/26338076221087458>

<sup>3</sup> Englebrecht C, Mason DT, Adams MJ. The experiences of homicide victims' families with the criminal justice system: an exploratory study. *Violence Vict.* 2014;29(3):407-21. doi: 10.1891/0886-6708.vv-d-12-00151. PMID: 25069146.

A poignant example is the response of Timothy Pullen’s parents after learning that the Queensland parole Board had provisionally approved parole for their son’s killer just days before NBNP laws were passed:<sup>4</sup>

I feel so duped, and to find out ...that Mark Ryan knew this fact and he kept it from us, we shook hands, we hugged, we congratulated, I just feel totally deceived by them...What was the point of standing there with us, congratulating us on a great job when they knew that one of our perpetrators had been granted parole. Kind of makes me feel like a political pawn that the Parole Board delayed contacting us.

It's crucial that the Queensland government consider the full impact of their proposals justified on the basis of “victims’ rights” to ensure they do not overpromise or mislead victims.

### **Focus On Evidence Based Policies**

To avoid the retraumatizing of victims, lawmakers should follow best practice evidence when designing criminal justice policies.

Whilst penal populist rhetoric often claims to be “tough” on crime, the results of populist policies are often to make communities less safe and re-offending more likely. As Garland (2021) notes:

*Populist measures are rarely “evidence-led,” nor are they justified by cost–benefit analysis or kitted out with evaluative criteria and performance metrics. Their goal is the immediacy of public support and political advantage, not the long-term accumulation of penological results. And while they claim to represent “public opinion” and “the will of the people,” populist measures are geared to respond to media headlines and vivid expressions of public mood rather than to the social scientific findings of public opinion research.*

It's therefore crucial that an Inquiry focusing on the needs of victim’s, look proactively at the way new criminal justice policies are introduced, ensuring they are informed by best-practice evidence and criminological expertise rather than a populist impulse.

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Thank you for the opportunity to provide feedback on this Inquiry. Please let us know if we can assist further.

Yours sincerely,

Dr Michele Ruyters and Jarryd Bartle  
RMIT University’s Bridge of Hope Innocence Initiative

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<sup>4</sup> Riga, R., O’Brien, C., & Maddison, M. (2017, August 16). Pullen family felt like ‘political pawns’ after being kept in the dark over parole for son’s killer. ABC News. <https://www.abc.net.au/news/2017-08-16/mother-says-was-used-political-pawn-over-parole-for-sons-killer/8813834>