

## Youth Justice Reform Select Committee inquiry into youth justice reform in Queensland

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# Youth Justice Reform Select Committee

## Submission by Ken Cunliffe (Toowoomba Victim Advocacy)

[REDACTED], 16 February 2024

### Introduction

I would like to thank the Select Committee for affording me the opportunity to contribute to this critically important discussion. I also thank the Committee for taking on such broad terms of reference, and apologise in advance if at times I stray beyond what was asked.

I have been involved in advocacy for victims for almost two and a half years as a victim and private citizen, as a member of the group Toowoomba Victim Advocacy, and as a victim representative on the Youth Justice Ministers convened Youth justice Strategy Reference Group.

As a preface to my testimony, I wish to state that the primary responsibility of any government is the **safety and security of its citizens**. The implication is that the public must be protected from both domestic and foreign threats. The track record over the past few years has been poor. In no small measure has this been a result of ideological differences between governments, where we have often seen good policy badly implemented by one government only to be replaced when the next party takes government.

Law and order, including youth justice, should be subject to the same bipartisan approach that our national security enjoys where the policy of the day is endorsed and supported by all, and the ideological differences are played out behind closed doors. I implore all present to commit to this.

### Inquiries and Departmental Silos

Over the past year, I have participated in two parliamentary inquiries stemming from unchecked rising rates of youth crime including the Strengthening Community Safety Bill 2023 and Inquiry into Support Provided to Victims of Crime in Queensland. There was a third that I missed, the Inquiry into the Victims of Crime Assistance and Other Legislation Amendment Bill 2023. I missed this because I simply did not have the time, or inclination to keep repeating myself to a different audience. May I suggest that if this current inquiry cannot deliver a workable solution to youth crime through youth justice reform, then we really need a Royal Commission with very broad terms of reference.

In the time that I have been involved with advocacy for victims of crime, I have observed that a significant barrier to progress comes in the form of departmental silos. I have enjoyed very good engagement with the Youth Justice Ministry through my involvement in the Youth Justice Strategy Reference Group, but little from Police, and nothing whatsoever from the Attorney General, all of whom are directly involved with youth crime. This departmental separation goes much further, to the detriment of effective youth justice reform. I am certain that Child Safety, Education, Health, Sport, Employment Small Business and Training, Transport and Main Roads, and Housing, and possibly others would all contribute enormously to better outcomes, if only youth crime were on their agendas too.

I highlight one example. Recently it was announced that more money would be put into the School Breakfast Program. No doubt about it, those children that accessed it would perform better and be more engaged. However, what of those children that are unable to get to school because of disengagement, parenting issues, lack of transport, health issues, or any other reason? They are still going to fall through the cracks. I am pleased that Education and Youth Justice now fall under one Minister both portfolios are critical and I hope that neither takes second place.

I do not wish to depart too far from my goal of better outcomes for victims, but I do have many ideas that I am certain would have longterm benefits for children at risk, leading ultimately to

reduced crime. Two that I will introduce here are: a school subject designed around life skills, and compulsory school based sports, not just a PE class, for all children. I am happy to explore these suggestions further with the Select Committee.

Any inquiry must consider the role of all government departments in the solutions for youth crime!

## **Victim inclusion in justice process**

When my wife and I became victims of a home invasion and vehicle theft in 2021, we requested to access the justice process through Restorative Justice. This was not forthcoming and neither was any other access to justice process afforded to us. The trauma and sense of loss that we suffered was significantly magnified due to having no answers from the very "system" that was supposed to protect us. A year later due to my persistence and writing letters to the Youth Justice, and Police Ministers, and Attorney General, a senior police officer told the names and very vaguely the sentences imposed on the young offenders. I believe that none of the four served more than two weeks in youth detention. The night they invaded our home they stole four vehicles besides ours. One, a 13 year old, I understand had accumulated 11 pages of criminal history. Just six months later this child was dead. He was failed by a system that had also failed us as the victims of their crime, and thereby also failed the entire community of Queensland.

We are well aware of the tragic lives that many of these youth offenders lead. In that respect they are very much victims themselves. It is important that victims of their crimes have the opportunity to understand the life trauma that these children endure. It is equally important that victims are secure in the knowledge that the state has an effective management plan for these children that will: keep the community safe, prevent further criminal behaviour, and address the significant dysfunction in the childrens lives. Can we as a society live with it on our collective conscience that our inaction has contributed to a child's death?

I have spoken to many victims of youth crime in Toowoomba. The majority tell me that apart from their initial report to the police, they have had no further interaction with the justice system police or the courts. Some would prefer not to be a part of the justice process, but most would. As long as judges and magistrates hear cases in the absence of the victims, and often only hearing the offender through a remote connection or via their state appointed lawyer, there is a real danger that our courts will see youth crime as being victimless. I fear that is very much the case at present. Indeed, a two week sentence or bail for a child offender with 11 pages of criminal history defies any sense of justice.

If there is a single silver bullet that has a chance of delivering us from the scourge of youth crime, I think it would be to permit victims participate in the justice process.

I believe that it is equally important that young offenders face a face to face in the flesh encounter with a judge or magistrate.

## **Redefine a "Victim" in The Victims of Crime Assistance Act 2009 and the Charter of Victims Rights**

Currently direct violence is a prerequisite for triggering the Victims of Crime Assistance Act 2009 or the provisions of the Charter of Victims Rights. While I do not in any way wish to diminish the gravity or, or need for justice or support for victims of violent crimes, which include the most heinous of all crimes. I am not privy to the statistics, but it would be reasonable to consider that those individuals that venture into violent crime have a long history of non violent crime beforehand. Confronting early criminal behaviour decisively surely would be the best way to avoid an escalation to violent criminal behaviour?

There are some common adverse outcomes for victims of directly violent crimes and victims of home invasion. In particular, the trauma inflicted, which bears no material scars, becomes seared into the minds of those victims who often find it very difficult to get back on track. When my wife and I became victims we were completely disengaged from our business for three weeks, jeopardising the welfare of all almost 20 staff and putting our customers trade that relied on our services at significant risk. For all victims, this debilitating trauma can last for years.

There have been tradies in our region who have lost all of their tools of trade along with their work UTE. Nearly six months later they were still waiting for an insurance payout or for their tools to be recovered so that they could resume their normal work routine. I have spoken to mothers whose kids have been so severely traumatised by home invasion that months later, they still sleep in their parents bed out of fear. I understand that in the wake of a tomahawk attack in Toowoomba, the victim's elderly neighbour will not leave the security of his home out of fear that he will be next.

Currently, the law does not recognise any of these people as victims and they cannot access the justice system or the psychological or material support that would allow them to recover a bit quicker. There is a widely held view that there are no meaningful consequences for any youth offender, including hardcore recidivist offenders even when there is direct violence involved. The information is not readily available and is impossible for me to verify, but I believe that offenders responsible for crimes including murder are freed on bail and continuing to commit serious crimes in our community. We all sleep uneasily with this knowledge, and many live in sheer terror.

The Victims of Crime Assistance Act 2009, in my opinion is quite well written, but desperately needs adjustment in the form of a redefinition of home invasion so that it is considered a violent crime. Consequences for offenders must reflect both an offender's criminal history, and the trauma inflicted on their victims, whether physical or mental, and the material loss that they have suffered.

## **Community expectations**

Along my journey through advocating for victims of youth crime, I have come to understand that there would be as many different solutions to youth crime as there people offering an opinion. With rising crime rates you would expect the majority opinion to lean towards harsh mandatory sentencing, and that is definitely true. This poorly resourced and relatively disorganised group consists of victims and others in the community with empathy for what victims are experiencing at the hand of a relatively small cohort of recidivist criminals who churn the system. The exact opposite view is true of a small number of vocal, well resourced (financial backing, legal professionals and academics) childrens welfare/rights advocacy organisations. There is actually very little moderate opinion between these two extremes.

I recall a conversation with a deputy headmaster of a primary school. He told me that even a seven year old fundamentally understands the difference between right and wrong. This sentiment is shared across almost all of society. Yet in the midst of a youth crime crisis we hear a loud refrain from some child advocacy organisations to raise the age of criminal responsibility. It would be complete folly to entertain such a prospect before crime rates are tangibly reduced. I believe that the community rightly expects safety and security from the threat of youth crime first.

Society expects consequences for offending. Consequences need to be strongly deterrent, even when an offender first encounters the justice system. Any reasonable person would consider the prospect of rehabilitation for a genuinely remorseful first time offender, but an appropriately measured consequence is still necessary. Once an offender errs towards recidivism, there can be no further leniency, and community safety must be considered paramount. The state can reasonably be expected to manage crime to keep the community safe, and to have sufficient appropriate detention facilities to achieve that objective. Conditions in youth detention facilities need to be fit for purpose, humane, highly disciplined, and rehabilitative. I believe that smaller detention facilities located in the cities where the offenders families reside and where they commit the crimes would be preferable to a few mega facilities.

I am concerned with the narrative surrounding certain ethnic groups being over represented in the justice system with the implication that detention of those ethnic groups should only be as a last resort. Such discourse deepens racial division. The disparity between ethnic groups must be addressed outside of the justice system. Once a person enters the justice system the same rules must apply to all. I would like to see different ethnic communities empowered to employ their own cultural methods to raise children to be respectful of their fellow human society, and not just leave it to often severely dysfunctional families. This idea also speaks to those ethnic communities being empowered to play a significant role in managing criminal behaviour in their youth alongside the justice system.

## **We are failing our young people**

Unless we stop recidivism in its tracks, more vulnerable young people will be recruited into crime. I have spoken to parents of kids who have been recruited into crime who represent both dysfunctional (definitely far from the most dysfunctional) and also the best of homes. Parents and society never want to see their children stray like this.

I have heard stories where children are claiming a CentreLink allowance simply by stating that they can't live at home, and they are deeply involved in crime. In one case, a child (now adult) was living with his drug dealer and claiming the allowance from age 14. Surely institutional care is a better option if their claim is valid? Not all claims by young people are valid.

All too often drugs and alcohol are involved and unless a child is incarcerated, opportunities for detoxification and rehabilitation are: voluntary for the child, few in number, often far away, and very expensive to access.

By taking a soft on crime approach we are failing children too. In Toowoomba and surrounds over the past two years no fewer than five hardcore recidivist offenders, youths or young adults who had recently graduated from the youth justice system, have died in crashes involving stolen vehicles. Once again, society yields many extreme views "Good, one less to worry about" all the way to "He was a good kid". The truth is that these criminal children need to be protected from their own poor decisions. Their parents are not protecting them or are incapable, so that responsibility necessarily lies with the state justice system.

## **Conclusion**

I call for urgency in addressing youth crime through holistic, cross departmental strategies, ensuring victim inclusion in the justice process, and redefining legislative definitions of victims to better support those affected by crime. I further call for strong community and governmental action to improve safety, justice outcomes, and rehabilitation efforts for young offenders. I understand that these initiatives will take time to implement. In the meanwhile there must be real consequences for offenders that protect the community and inspire confidence that our justice system is working.