



Family Council of W.A.

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Submission 8

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BY:.....

Committee Secretary

House of Representatives Standing Committee on Legal and Constitutional Affairs

Parliament House

Canberra ACT 2600.

Dear Secretary

Re: Inquiry into Crime in the Community

The enclosed submission has been compiled on our behalf by Kevin Moran an executive member of the Family Council of Western Australia, which embraces 26 separate organisations, comprising religious, educational and secular associations.

Kevin Moran was a police officer for 35 years before taking early retirement when Acting Chief Superintendent Perth Region.

His career embraced many regions of the State and many aspects of police work. He has been in Charge of various police stations and was Superintendent in Charge of the Pilbara Region.

He was a Prosecutor and an Assistant to the Coroners at Perth and Northam. He received a life membership of the Police and Citizens' Youth Club for his work with the youth of Collie.

He founded the Karratha Police Cadets that grew to such an extent as to be in numbers beyond the capacity of volunteers to cope. As a result they were transferred as a Cadet Unit to the Pilbara Regiment, which became the first cadet unit to be formed for many years, and was praised by the Governor of Western Australia.

His banning, against much opposition, of large glass liquor bottles for sale in the Pilbara was successful in dramatically lowering admissions to hospital and the trips per month by Royal Flying Doctor, relating to serious glass injuries.

The number of offenders appearing before court on serious assault by use of broken bottles was greatly decreased. It saved the many town councils, Royal Flying Doctor and medical organisations in the Pilbara many thousands of dollars.

His career has involved close relationships with both victims and criminals and he understands the dynamics of fear that pervades much of the community.

He believes it is the failure of the system fraught with the imposition of self-serving philosophies by trendy social engineers upon the young through the Children's Court, which encourages recidivism and thus makes adult criminals. He addresses this issue at some length.

Affiliated family oriented action groups, include: -

Australian Family Association, Parents & Friends Federation, The Knights of the Southern Cross, Jewish Community, Australian Parents Movement, Life Centre Melville, Family Law & Marriage Environment, Salvation Army, Catholic Women's League and the Newman Graduate Society

Kevin has written several books, one of which 'Sand and Stone', a two volume work, received an award from the Centre of Cultural Studies, sponsored by the NSW University and Canberra University for his 'Outstanding Contribution to Australian Culture'.

He has recently been a victim of an assault in his street by an 18-year old youth, who objected to being asked to lower the volume of his obscene language. The youth was charged with Bodily Harm and is yet to appear for a hearing, which is set in August 2002, near twelve months after the incident.

Kevin therefore has experienced both sides and can speak as both an officer and civilian victim.

Kevin states the Committee will receive many considerations relating to serious crime both blue and white collar. These are proper matters for the Committee to consider. However, Kevin's experience has indicated to him that the decline of community behaviour in what he deemed were the good manners of society that provided cohesion, respect and belonging, are now missing. This in turn has created our climate of fear.

He believes these issues must be addressed with equal importance, although from experience he has seen such issues are considered of no importance. Committees and their members maintain there are more substantial issues to consider than minor criminal matters. He hopes this committee will set aside such presumption and consider his views which are generally endorsed by our Council.

Yours sincerely



John Barich

Convenor

Types of crime committed against Australians

The answer to this question is clearly all types of crime from the minor to extremely serious.

It is obvious that our legislator and courts are concerned with those matters, which they rightfully consider serious. Unfortunately crimes, or as they are often deemed to be simple offences or misdemeanours, are of little consequence. In the cases involving juveniles, the judiciary simply can't be bothered with them and send them to some pseudo legal panel to deal with.

The types of crime, which the average Australian is concerned with in his daily life, is in the opinions of the Courts minor and penalties imposed reflect this, to the growing anger of the citizenry. These are lifestyle destruction offences and although serious crime may effect those of a particular group or family, it has very little effect upon the quality of life of the average citizen.

The average citizens simply wishes to live their lives peacefully, in harmony with those others in the community without the trauma of their lifestyle being destroyed by social type offences committed by offenders who have no need to fear either the police or courts.

These offences do not impose themselves upon the lives of Judges and Magistrates, nor on their well heeled solicitor colleagues from whose ranks they came. They therefore do not grasp the seriousness of these matters to the ordinary Australian living in his working -middle class suburb. It is only murder, rape, armed robbery and serious assault, which by their very nature evoke the necessary awareness in a Justice's mind and no doubt in the minds of those who may sit on an Inquiring Committee.

Home invasion with assault ranks as the highest of all concerns to our citizens and although Judges express strong views, weak sentences are given.

Those offences which, could be termed society's requirements for good manners such as drunkenness, minor assaults, road rage, disorderly conduct, graffiti, wilful damage and bad language, to coin a phrase are the entry level to greater offences. Our Judiciary does not even want to deal with them. They are sent to be dealt with by nice people who care for the welfare of the offender. Punishment seems of little consideration.

Obscenities

It is with a great deal of distress to our elderly and many others who are subjected to the words Fucking and sometimes Cunt mainly from the lips of our young in public places.

Also the entertainment industry and media under the guise of artistic merit use obscene language. The use of obscenities in a genuine dramatic context is also unwelcomed but reluctantly acceptable.

It is not acceptable to use of obscenities in song and discussion. Words mainly complained of are - fuck, fucking, and mother fucker. Obscenity was invented to convey excessive anger and to give offence. It still does to the majority of our citizens. The history of how these words developed as obscenities and still remain so to the general public, regardless of the views of trendy sophisticates, can be explained if necessary and references given.

It is interesting the ABC forbids (rightfully so) words that insult ethnic groups and Aborigines but encourages the use of words which insult or offends the average Australian, be they parents, the aged or youth. Although under the present Government there has been a lessening, whilst the ABC waits for an opportune time to again, as they say, bring their use of language to the cutting edge in public broadcasting.

Perpetrators of Crimes and Motives

Greed, Drugs, Passion and peer pressure provides the various reasons for the motives to commit a crime. However in recent years our Governments have taken an active part in the promotion of drug taking and the result is a dramatic increase in users creating the need for money to feed a State induced contribution to dependency.

The philosophy of drug 'Harm Minimisation' is not a program that should be embraced by Government The promotion of illegal substance use, through the encouragement to such practice by these programs is not acceptable to the general community. It is doubly unacceptable that their Government should be involved in pushing such a dangerous activity.

The failure of Harm Minimisation has been proven and many scientific papers and references are available through the Family Council if required. I do fear however committee members may have been indoctrinated prior to their appointment and any submission is possibly addressing closed minds on this particular subject to the detriment of our Nation, but never the less: -

The academics that promote this philosophy go beyond a simple belief in minimising the harm to users, but they are also committed to the legal use of drugs in many forms such as cannabis, hallucinogens, heroin and other injecting illegal drugs.

Example: (source *The 'Bulletin' dated December 6, 1988. Page 69*)

Bill Saunders, academic, "*who advocates decriminalising cannabis and the hallucinogens and restricted availability of injectable drugs -we've got to find a way to maximise the joy and minimise the harm.*"

Stephen Mugford, sociologist, "*We have to do away with the idea that illicit drug use is aberrant behaviour, that's bullshit -the central driving force is pleasure and consumption, drugs are the ultimate commodities -expensive things that make you feel good. They just happen to be illegal.*"

Alex Wodak, "*we should suspend notions of stopping drug use and adopt a more mature, less moralistic and hypocritical response to their role in society.*"

It is worth noting that this article is dated a considerable period ago. These examples were specifically selected to evidence persistence and the success of the drug legalisation lobby.

There has been a concerted campaign to legalise drugs from a small number of academics over an extended period. The harm minimisation concept is a first contrived step towards their goal of legalisation. Members of the Committee will now be aware of the legalisation of cannabis.

Harm Minimisation challenges the integrity of the Police role as enforcers of drug laws and protectors of society.

We do not believe our Police Officers should be involved in what many believe to be a nefarious and untenable approach to our drug problem. Regardless of what funding opportunities some Government Department have been given to push these views, Police should decline such an unhealthy societal imposition.

We insist that our Police remain aloof from such social engineering controversy and its generally unaccepted approach, because its message promotes a favourable view of drug use.

Fear of Crime in the Community

The fear of crime in the community is usually coupled with the lack of punishment that offenders (particularly juveniles) receive. This then provides them with no reason to stop re-offending, which in turn raises the fear of the community, as juveniles seem to rampage unchecked.

How did this occur?

It commenced well before the Report released on 27th September 1995 by the Australian Youth Foundation, which recommended the complete removal of Police from contact with Juveniles. It is however a signpost that indicates the continuing decline in effectiveness of the Juvenile Justice area to either prevent re-offending or rehabilitation of youth.

Australia now has a different type of youth workers than graduates of past eras. Recent generations of Social Workers have created zealots in the Youth Industry who manipulate young lives, causing unhappiness to families and concern to Society.

The philosophy of these social engineer extremists in youth work had its origins in the United States in the mid 1920's. Some sections in the Social Work Industry argued that a "specialised agency" was required to take over child rearing.

During the past two decades social reformers have destroyed parents' rights, elevated children's rights and attacked and redefined the family.

Discipline has been removed from the schools, punishment from the Courts and power from the parents.

There are those Youth Industry Workers who are not primary carers and protectors of youth, but are followers of a Philosophy based on the doctrine, "only they have the training and capacity to decide on questions involving children and youth."

They have successfully put their rationale into practice at the expense of parents, the judiciary and teachers. The only area they do not control is the Police but they have made inroads and soon the Police will do as they are directed by social workers.

Police, who stand between social workers complete control, have been under furtive attack for a number of years by these radicals employed in the juvenile field including Government agencies.

As youth have taken advantage of their rights, aided and abetted by Child Right advocates of the Youth Industry, parents in their efforts to control them have been denigrated, leaving the Police the last bastion against youth excesses.

Police has so far thwarted the objective of complete control. Police present a threat to their philosophical base, as officers are involved first hand and are aware of the damage caused to our young by their dogma of 'Children's Rights'.

The failure of covert attacks to make Police subservient to their ideals caused them much frustration but now success is near.

The report by Australian Youth Foundation to remove police from juvenile and children's matters received the full treatment from the media. The media made no inquiry into the integrity of the report's intent. They blithely accepted without question the findings and demanded Police defend themselves against sweeping statements and claims. The popular media soon ceased to give it prominence, but there are those so inclined who will continue to write articles or broadcast views that have near chipped away Police involvement with youth.

The ABC is staffed with many people with attitudes at variance with the general community. They appear to believe the National Broadcaster is there specifically for the dissemination of their views and promotion of particular lifestyles.

One of the stronger influences pervading the ABC, is Children's Rights. They often pursue this issue with the purpose is to influence the law-makers to adopt their view. An examination of laws relating to juveniles in each State will reveal many amendments that indicates the child rights' advocates have been very successful.

The laws have left our Youth unfettered. Like any group without restraint they will behave in such a manner as to cause the wider Society grave concern and fear.

Our cities are being despoiled, youth gangs flourish, even more young criminals are nurtured and drugs abound.

Therein lies the cause of the fear of crime in the community.

The impact of being a victim and fear of crime

The impact of being a victim can be calamitous, particularly assault during a burglary, or if beaten without cause and with delight by a marauding group.

The fear of being a victim and fear of crime unfortunately resides high in the mind of many of those people who reside in a town or suburb with Aboriginal populations. Unfortunately this is too often the case.

The rest of society also fears crime and many have been victims.

It may be an unpleasant observation, as may other submissions relating to fear of ethnic gangs. However, it is a reality and must be addressed. It must be without the kowtowing that often accompanies such matters.

Those who hang on every word or situation to employ the politics of aggrievement often attack people or organisations that raise such issues. It is hoped this committee will display some fortitude or else the problem will not be solved and the Aboriginal community will receive a great disservice as a result.

Strategies to support victims and reduce crime

It will be obvious from the many submissions the committee receives that victims need involvement in the legal process, but even more so they need to know that their fear of crime will not again become a reality.

It will be difficult, as any action or law put in place that will punish and make persons accountable for their actions, as such measures will be vehemently opposed by the social justice lobby, which receives unfettered support of many in the media and some politicians.

Corporal Punishment and discipline no doubt will be part of some submissions and such submissions are a reflection of the utmost frustration at the ineffectual Justice system forced upon Australia against the wishes of its citizens.

The Magistrate and Judge decide; not the people, nor their representatives on how they apply the law regardless of any strongly stated and clearly defined legislation to which they disagree.

This is a perverse power play to indicate their judicial independence and to reflect the separation of powers. That is, neither legislators nor the community will instruct them. If they have to refer to anybody it will be to those judgements in case law by their equals in the Judiciary and not the untutored outsiders.

Members of the Inquiry should automatically bring to mind many actions of the judiciary that is contrary to the views of the people or Parliament.

Although, the likelihood of any success in the matter of corporal punishment is negligible, the following is offered as it will no doubt be part of many submissions and as a result this submission is a contribution to the debate.

It is suggested that corporal punishment of serious offenders, who for example have bashed and robbed a pensioner, or bashed and raped an eighty year old woman or a five year old child deserves a whipping both as punishment and as a future deterrent.

The punishment should be carried out without fear of any lasting physical harm to the offender.

Corporal Discipline

Caning in schools is another matter and should properly be defined as corporal discipline. Let us define corporal discipline. It is the striking of the hand or fingers by a round piece of cane.

Corporal Discipline in schools is an effective tool within a range of actions. Its implementation is supported.

A school beset with problems of violence to pupils and teachers, with vandalism, graffiti and theft prevalent and then the cane promoted good behaviour and self discipline, it would then save difficult school children from later damaging misbehaviour.

The cane is not advocated for play groups, pre school or primary school. It should commence in the second or last year of primary, ending in 1st year High School.

Mandatory minimum sentences

Mandatory minimum sentences are a necessity. Governments' often claim of being tough on crime by enacting tougher maximum penalties which is a subterfuge on the people (who are awake to the lie) as there are already sufficient punishments, provided the Judges presiding are willing to sentence according to community demands.

Training for judges

Training for judges in their duty to the community should be required.

Compensation by offender to victim

The offender must be required to pay something, even if it is a part of his prison wages, from his future employment, or from his assets to compensation his victim(s).

The principle of parental responsibility

The principle of parental responsibility is obvious but over the past decade philosophies have developed within the Social Services area that have lessened the power of the parent. The ascendancy of social workers over the family have found Parents left with little power and social workers have on numerous occasions abused their jurisdiction.

Power of parents

The power of parents to uphold their responsibility must be supported by specific legislation.

Social Workers Powers

Social Workers Powers to arbitrarily intervene without accountability must cease. That is a Social Workers power to intervene must not be lessened, but an independent authority must be available for parents who believe they have been wronged, to have the Social Worker give justification for the actions taken.

Safety/interest of the community

The interest of the child must take precedent, although generally a sound principle, it can be a dangerous provision when the interest of the child is in conflict with the safety/interest of the community.

Proviso override this interest of the child principle

A 'proviso' to override this interest of the child principle is required for exceptional circumstances.

Children, adolescents and teenagers

The changing needs of children, adolescents and teenagers not only be addressed in care provisions, but should also be shown in the Courts.

Juvenile Court

Juvenile Court with different powers to sentence and to direct should be formed, working out of the same Courts as the Children's Court.

Removal of a child from parental care

The removal of a child from parental care should be subject to justification before a properly convened court within 24 hours of the removal. The parents should be notified and provided with legal representation if they wish to challenge their child's removal. This court should not impinge upon other legal proceedings, which is simply to decide on the justification of the removal.

Removal of and prevention of the employment of persons with a Criminal record

Removal of and prevention of the employment of persons with a Criminal record in any area of Social Work - Child Care or Youth Work be the subject of legislation and a vigorous enforcement of the proposal. This must happen due to the vulnerability of the clients.

Police role in protection of children.

The Police role in protection of children must be strengthened and such the provisions enhanced. Police not only provide the necessary intervention in times of moral and physical danger but also provide parents with support and early identification of dysfunctional families. This allows social workers some chance in effecting a satisfactory outcome. There are those social workers that wish Police removed from this interventionist role. If their doctrine is embraced the harm to children would be insurmountable. It would be completely against the wishes of our Society.

Lack of punishment in the initial appearance

The lack of punishment in the initial involvement with the Juvenile Justice Teams and subsequent Children's Court appearances of many juveniles indicates a massive failure of the caring-sympathetic approach. It is suggested that when a juvenile offender, after an appearance before a Juvenile Justice Team, attends Children's Court for the first time, he be given some real punishment that implies disapproval of his actions.

The present denial of punishment may satisfy the theorists and kind hearts, but it does nothing for the child. In actual fact the present approach can be held responsible for the recidivist behaviour of children, who when offending receive no punishment and obtain all that attention they seek. The destruction of the future lives of many children can be found in this encouragement for recidivism.

It is recommended the caring be enhanced, but the child be given the opportunity to become aware of society's disapproval of his actions and therefore incentive not to re-offend.

Court Orders must have punishments

Court Orders have within these documents the terms, cooperate, modify their behaviour, facilitate family functioning, maintain parental responsibility. Then there is the paragraph which offers excuse to the parents in the abuse of their child(ren), ie substance abuse, intellectual or psychiatric disability, range of other issues.

The Orders must have punishments included as an option.

Social Workers and other persons working with children must be subjected to mandatory reporting of crimes against children.

The conspiracy in "Perverting the Course of Justice" by Social Workers and others must cease, or the several Acts dealing with Criminal matters must be amended to allow Social workers to act within the law and child abusers to escape being charged. However, I believe that a child bashed by its parent(s) or sexually abused for example are Police matters and beyond the scope of Social workers responsibilities or capabilities. The work of 'facilitating family functioning' should not be used to condone criminal activity.

Guardianship/care orders

Guardianship/care orders must apply to fully cleared persons who have no psychiatric disability or criminal record, with particular reference to drugs and violence. A Police clearance of all guardians must be a requirement.

Victim Impact Statements

A victim and their family should be given the unassailable right to provide the Court with an Impact Statement in writing, or on oath, or both.

Consideration of the impact statement

The presiding Justice be required to present his/her considerations of the impact statement in the judgement and if the reasons for judgement are in writing the impact statement must be included explaining its effect upon the judgement or otherwise.

Pursuit of private judgement

The name of a juvenile offender be given to the victim, together with date of birth, address and employment. The victim can then pursue the perpetrator when he turns 18 years to obtain a judgement beyond any possible Criminal Injuries Compensation. ie stolen destroyed uninsured vehicle. If such a pursuit is not now legally possible amendments should be made to allow such recourse.

Legal Aid

Legal Aid to be automatically available to the victim to pursue all perpetrators for judgement beyond Criminal Injuries Compensation. This includes pursuit of juveniles reaching 18 years.

Advice of process

Legislation be enacted to require the presiding Court to advise the victim in writing each step in the Court process, including remands and bail. Advice on bail allowed, the hearing date, judgement and orders given must be communicated forthwith in writing to the victim.

Parole

Before a hearing into the parole of a prisoner is made the victim and arresting police officers must be advised and they should be given the right to appear to give their advice which must be recorded. The Parole Board considerations should be available for scrutiny if required by the victim.

Forfeiture of Civil Action by offender(s)

The offender(s) forfeit all recourse to civil action for any matter during the time he was unlawfully on a person's home or premises or committing a physical offence against a person anywhere..

Protection given to Victims to protect themselves

Home occupants and business proprietors be given a higher capacity to protect themselves, their family and others beyond the difficulties associated with the interpretation of reasonable force. It is suggested the term 'reasonable force' be replaced with the term 'force deemed necessary' by them to protect and remove offenders' from home or premises.

Taxis and Caravans

A taxi and an occupied caravan for the purposes of the legislation be deemed a place under the Act.

Criminal sanctions against occupiers

A proviso be enacted subjecting an occupier to criminal sanctions if he/she went beyond the force he/she deemed reasonably necessary. Penalties should be lower due to circumstances of mitigation. ie a force to render a perpetrator unconscious may be deemed necessary in a particular circumstance, but further assault upon an unconscious person could not be deemed necessary.

Kevin Moran

19th July 2002