

Committee Secretary
Standing Committee on Legal and Constitutional Affairs
House of Representatives
Parliament House
Canberra ACT 2600

Submission to inquiry on Crime in the community: victims, offenders and fear of crime

Justice Action would like to address the Terms of Reference as follows. Please note that this is not an exhaustive outline of our views but a sample. We would like to discuss this further if hearings are held in NSW.

(a) the types of crimes committed against Australians

What is 'crime'? In breaking down 'crime' into the loose categories of crime against property and crime against the person – where does that leave the types of shenanigans committed by the corporations such as HIH and OneTel? Where does it leave crimes committed under the heading 'corruption' as practiced by the elected officials in various levels of government and their agencies such as the police? Where is the crime of maladministration and flagrant breaches of admin. Law as revealed through yesterday's High Court decision, where tribunals fail to observe procedural fairness? What about the type of violence practiced by those in or with power – ministers of the Crown, bullying managers, violent partners in any relationship?

To elaborate further on the particular crimes committed by HIH. How else can the behaviour of members of boards, the chairpersons, the CEOs and various underlings be described? The effect that the failure of HIH had to pay out on people's premiums involving builder's warranties, car accidents, worker's compensation and perhaps most tragically, income protection for people with cancer and other incapacities was violent. These victims got no support – they had to live in fear and anxiety for weeks, or in some cases months. Many still live in fear of losing their houses, their health and more besides. Who is going to pay for all this tragedy?

Since many submissions will probably deal with the more 'visible' crimes such as theft, assault and vandalism, we want to emphasise the truly disastrous effect of some of the hidden crimes mentioned above. For example, people who are bullied in the workplace may be forced out of work by the injustice and stress they feel. In turn, their families will suffer – the prime victim may become impossible to live with and if they are the main earner, the family may end up with nowhere to live. Or they may be forced into much reduced circumstances.

So perhaps what is needed is a definition of what 'real' crime is versus the perception of crime.

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Perpetrators of crime and motives

Yes, more young males may be hauled up before the beak. They may in fact commit more crimes of violence, assault and theft than the average teenage girl. But is this the result in part of crimes committed against them when they were growing up? Violence in the family perhaps? Or being made to sit quiet and still in school and fiddle about with bits of paper rather than running and roaming and roaring as young animals should?

But again – young males gathering on street corners are perceived to be a worry whether they are or not. The knife searches carried out with such rigour by the NSW Police would hardly have picked little old ladies as targets. The people searched would have been young males, no doubt. And some would have had knives and some not. Some LOLs would have too – or at any rate scissors.

Motives for actual crimes can be – although it's no defence - that a person didn't know it was a crime. Motivation covers a huge range of reasons, or unreasons. People with psychiatric illness may not understand that what they are doing is hurting someone else; people who steal money may (still) be wanting to feed their family or they see it as a game, a challenge. Or you name it.

One serious issue is that punishment for crimes begets more crime. Many papers have been written on the cycle of crime and punishment. Many books, movies etc and it is a serious cycle indeed. It is not easy for a person who is a working (casual) poor, living in a housing commission flat, and without any good support networks and not much of a of decent life to start with. How much worse is it when this person is accused of stealing some small thing, is put on remand for 3 months and then does or does not get a custodial sentence. If they get a sentence, it could be said that they are 'guilty'. While in jail they may have access to some education or work programs. But if they don't or if they are acquitted or the charge dropped – the 3 months on remand may have spewed forth a person who now has nowhere to live, no job, no clothes or other possessions. They are would not have had access to jail education or work programs.

What do you think their motive might be for returning to a life of crime?

Fear of crime

We are not saying that there is no crime. Most people have been burgled or know someone who has had something stolen from them. When anything surprising and painful happens, people become more fearful because they can, quite justifiable see that "this can happen to me". Often this hurt goes away and the memory fades but many people do not recover, at least to their former selves.

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But what happens with the media is what happens with many issues. Short, sharp 10-second grab, 100 point headline, pictures that don't represent 10,000 words. Some media like ABC's Radio National try to give a balanced view but then their audience reach is nothing like that of Alan Jones, John Laws and A current affair. So therefore a miniscule percentage of people are affected by rational thought.

Strategies to support victims and reduce crime

Is supporting victims directly related to reducing crime? Maybe it would make more sense to prevent crime in the first place – either by getting rid of ridiculous laws like the personal use quantity drug crimes and prostitution, abortion or whatever.

Effectiveness of sentencing

Here I will quote from David Brown because I haven't time to elaborate. However, this sums up quite well what we feel. "The more punishment is permitted to simply mirror crime, the greater the risk of losing sight of any difference between them, of setting in train a brutalising cycle of violence and counter-violence in which the means ostensibly adopted to preserve a civil society end up threatening it."

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