Queensland Child Protection Inquiry

Queensland Police Union Submission

The Queensland Police Union of Employees (QPUE) represents some 10,900 police officers and civilian employees of the Queensland Police Service ("QPS"). Its membership accounts for approximately 99% of eligible officers, and is responsible for advancing industrial and legal positions on behalf of its membership.

Queensland Police officers form part of the front line in protecting and removing children from abuse. The QPS is the premier law enforcement body in Queensland responsible for the prosecution of offenders who harm our children.

The QPUE welcomes this opportunity to provide its position on a number of factors facing police officers working within the child protection system.

Inexperience of Authorised Officers

The QPUE understands evidence in relation to the inexperience of some authorised officers from the Department of Child Safety has already been given to the Inquiry.

The QPUE joins in expressing its concerns about the experience and expertise of some of these authorised officers.

It is the experience of our members that circumstances have arisen when the Department has declined to take a child at risk of harm into custody, resulting in police officers successfully seeking the appropriate orders from the Court, ordering the removal of the child.

Additionally the QPUE understands that even in these cases where the police have intervened to protect a child, and the court has agreed the child is in need of protection by issuing its order, some authorised officers will then return the child to the home from which it was rescued, without taking adequate steps to ensure the child's protection.

Where an experienced child protection and investigation unit detective satisfies a Magistrate of the need for protection, the Department of Child Safety should be bound by the order, and incapable of "overriding it" without first returning to the court, and giving notice to the applicant police officer.

The QPUE is also concerned that DoCS solutions in some of these instances is the implementation of a parenting plan which results in the return of the children. While generally supporting the concept of parenting plans, the QPUE believes the parents should first be required to demonstrate they have undertake real steps to address the underlying issues which warranted police/DoCS intervention in the first instance. These steps should be demonstrated prior to the return of the children.

Late Notifications to QPS

IT has increasingly become the norm for DoCS to fax notifications, including priority one (urgent) notifications to Child Protection and Investigation Units ("CPIU") of a late afternoon, particularly on Friday afternoon. These are notifications which DoCS simply hasn't attended to during the course of the day. They are then sent to police with an expectation CPIU officers will drop everything and attend to DoCS work. Due to the nature of some of the notifications, this has to occur. Unfortunately this results in an increased workload for police, and other investigations need to be pushed back and workflows reshuffled to accommodate DoCS.

The QPUE believes DoCS should at the very least be in a position to liaise with CPIU offices early in the morning, in cases where DoCS believes it will be unable to attend to a notification.

It is also the case DoCS will effectively close at 5pm on Friday and not re-open until Monday morning, meaning QPS officers must undertake DoCS' functions over the weekend. In addition, DoCS will commonly close down for ten days over the Christmas period, again leaving its work to QPS.

It is the QPUE's position, DoCS should have officers, at least in major centres, available after hours, on weekends, and over the Christmas break. Whether these officers be rostered on duty or simply be required to attend call-outs for more urgent matters, the protection of children warrants having them available.

It is simply not acceptable police officers should be required to undertake the work of DoCS and fill in for them, just because DoCS has not made sufficient staff available to attend to calls for service. Child protection is not a Monday to Friday calling, and rostering staff outside of normal business hours is a must for DoCS.

Failing to Conduct Investigations

The QPUE is aware of numerous instances where DoCS does not investigate matters, but rather file them as Child Concerns Reports (meaning no action is taken), or simply refer the matter to police. For example, where a child attends school crying and with a red mark, making allegations of being physicaly struck by a parent, DoCS will often claim it cannot substantiate the harm, and instead refer it to police. This will occur without DoCS even speaking to the child in question. As a consequence, CPIU officers will attend and investigate, effectively doing ¾ of DoCS work for it.

This unwillingness to investigate seems to be a cultural issue across DoCS and results in children being left in situations where they maybe exposed to harm, while QPS frantically tries to fulfil DoCS' functions.

Protection of Unborn Children

The QPUE believes the Child Protection Act needs to be strengthened to allow for the protection of unborn children.

At present, provision is made in s21A, for the chief executive may take steps to investigate and offer help and support in circumstances where the chief executive suspects a child may be in need of protection after birth.

The section as it presently stands does not permit the chief executive to take steps to protect the unborn child, or ensure its safety prior to birth.

The QPUE believes an obligation must be placed on the chief executive to investigate allegations of harm to an unborn child, and to take all reasonable steps to provide protection to that unborn child. Clearly such an obligation would require providing the chief executive with additional powers to allow intervention.

Section 21A(5) clarifies the purpose of the section is not to interfere with the rights and liberties of a pregnant woman. It is the view of the QPUE this subsection needs to be abolished. Surely the rights and liberties of the unborn child need also to be considered. In particular, what greater right can an individual have then the right to life itself.

It is a criminal offence in Queensland to kill an unborn child, or otherwise do it grievous bodily harm or transmit a serious disease to the unborn child: see Criminal Code, section 313(2). Unfortunately there is no power for any agency to take steps to ensure the protection of the unborn child, and prevent harm. Subsequent conviction of a crime hardly does the unborn victim any good.

In addition, the offence as it stands, does not cover matters such as foetal alcohol syndrome or children born with drug and like addictions, due to the actions of the mother during pregnancy. The QPUE stops short of calling for amendments to the existing crimes to cover these situations, however believes the State must have the ability to intervene and protect the unborn child, when its mother either refuses to do so, or is incapable or unwilling to do so.

The QPUE acknowledges such powers would require a definition of when a foetus becomes a human being. The QPUE is not calling for anti-abortion laws, and does not enter into the debate concerning pro-life or pro-choice. However it seems accepted in Australian society that after a certain gestation period, abortion of a foetus is no longer medically advisable or safe. It is at this point the QPUE believes the unborn child should be afforded a right to protection.

Additionally, to remove any doubt, the QPUE believes any laws relating to the protection of unborn children should not prevent a termination in circumstances where such action is medically warranted.

The cost to society in providing care and assistance to children born with ailments solely as a consequence of the actions of the mother during pregnancy is astronomical. Those children also deserve a right to full life and health, and should not be disadvantaged simply because of the actions or inaction of their birth mother.

The QPUE recommends the chief executive be given a duty to investigate instances where an unborn child is at risk or likely to be at risk during a pregnancy, and where satisfied intervention is warranted, the ability to apply to the court for an intervention order.

The Court should be empowered to issue an intervention order allowing the chief executive to take the mother into care pending the birth, or otherwise imposing conditions on the mother during the pregnancy, which may extend to where she resides and who she has contact with. Such conditions could also provide for the regular monitoring and medical assessment of the mother.

Moving Child to Safe Place

The recent Queensland Police Service Annual Report demonstrates a substantial increase in crime across the board, particularly in areas of juvenile offending.

Police will often locate juveniles in situations where they are exposed to risk of offending or harm, but are effectively powerless to intervene. For example, children located late at night on their own, or with other children, are at risk of becoming victims of offences, or engaging in offending conduct themselves (i.e. public nuisance, damage to property).

At present the Act, section 21 allows police and authorised officers to take a child under the age of 12 years to a place of safety, until such time as a reasonable adult (such as a parent) is able to resume care of the child.

The QPUE believes this section should be expanded to allow police to take a child reasonably suspected of being under the age of 16 years to a place of safety, including for example the child's home. Such a power should be able to be exercised where the officer reasonably suspects the child is at risk of harm or of offending as a consequence of the circumstances in which the child is located. Examples of where the power could be exercised could extend to a child being located in vicinity of alcohol or tobacco products or associating with known offenders, or loitering in remote locations.

The exercise of the power should continue to be without warrant or court order, and should allow the detention of the child only for the time reasonably necessary to return the child to the safety of a reasonable adult who can care for the child. The obligation to report the exercise of the power to the chief executive should remain.

Such a power would allow police to intervene in circumstances where they suspected a child was at risk of either harm or offending, and prevent such harm or offending from occurring.

Publication of Child Witness Details

The Act section 193(2) provides details which may identify a child witness in a non-sexual offence proceeding may not be published on the order of the court. This subsection requires judicial intervention to protect the identity of the child, whereas the proceeding subsection, which deals with sexual offences, allows publication only with the permission of the court.

The QPUE believes subsection (2) should be reversed to prohibit the identification of child witnesses in any proceeding, unless the court or a justice otherwise orders.

Should the subsection be changed, children who give evidence in relation to assaults and other serious offences will automatically be afforded anonymity and the protection under the Act.

ANCOR

The *Child Protection (Offender Reporting) Act* 2004 came into force from 1 January 2005. The purposes of the Act is to reduce the likelihood of child sex offending through a monitoring process, together with allowing police additional intelligence information to assist in identifying possible perpetrators of subsequent child sex offences.

As a result of the Act and subsequent amendments, persons who commit sexual or serious offences against children are required to register with police. The registration process requires an on-going obligation to report their residential address, together with other personal details, including computer email addresses, description (including tattoos) and motor vehicle description and registration, amongst other matters.

Each time there is a change in any of the reportable matters, the offender must advise police. The responsibility for updating the ANCOR register lies with the officer in charge of the Child Protection and Investigation Unit ("CPIU") in the Police District in which the reportable offender resides.

The QPU understands it is common for reportable offenders to be required to update aspects of their registration up to 50 times per year. This arises from reportable offenders changing or acquiring new email addresses or on-line identities, through to offenders getting new tattoos or changing their place of residence or employment.

The QPU understands the need to update the ANCOR system, however has concerns about the workload this imposes on operational detectives. Detectives working in CPIUs are highly trained to perform difficult and stressful duties in a very specialist area. It seems peculiar those same detectives would be used for data entry purposes, rather than investigating crimes. The QPU recommends the Inquiry consider making recommendations for additional administrative officers to be assigned (together with necessary funding) to comprehensively take over data entry duties.

The period for reporting to police is usually in the range of 15 years to life. The QPU generally supports the purposes of the Act, and agrees there is a need for criminals who commit child sex offences to be monitored by police.

Each CPIU undertakes a quarterly "visit" with every high risk reportable offender. This in itself requires some considerable time for detectives to be away from their core investigative duties. Additionally, the QPU understands CPIU's will conduct additional "visits" with reportable offenders who are considered to be at a high risk of re-offending.

The QPU has a number of concerns with the operational aspects of the current offender reporting system. At the moment the ANCOR system is separate and distinct from the police computer system; QPRIME. There is no ability for the two systems to "talk to each other". A lot of the time the material which is input onto the ANCOR system already exists on the QPRIME system, and there appears to be a doubling up of data. This in turn requires additional data storage.

At present not all police have access to the ANCOR system as a consequence of legislative limitations. This, in and of itself, causes some concerns for the QPU. The QPU believes all police officers should be capable of ascertaining if a particular individual is a reportable offender. This could be easily achieved by "flagging" reportable offenders in the QPRIME system. It would also seem a better use of IT resources for the reportable offender's details (and all reportable matters) to be included in the offender's QPRIME profile.

The benefits in having reportable offenders flagged on QPRIME include police officers performing non-CPIU duties being alerted to potential situations for child sex offending, and being positioned to intervene. For example, where a traffic branch officer intercepts a vehicle for a transport offence, a check of the driver's details through QPRIME would indicate if the person was a reportable offender. The officer would then be in a position to assess the person's whereabouts (i.e. outside a school or child care centre) as well as have regard to the other persons in the vehicle (i.e. children or another reportable offender). Access to such information is likely, in the view of the QPU, to further reduce the opportunity for recidivist child sex offending.

The QPU also recommends the Inquiry consider the use of police resources for performing what is essentially a probation and parole function. It seems to the QPU Queensland Corrections is the better government department for monitoring child sex offenders who have been released from custody, or are otherwise in the community and subject to a reporting obligation. Monitoring, and supervising these types of people is a core function of Queensland Corrections. In fact, under the current system there appears to be a double up, whereby CPIU detectives perform ANCOR monitoring, at the same time as parole officers monitor an offender's compliance with parole conditions.

The QPU believes the responsibility for the administration and monitoring of reportable offenders should be transferred to Queensland Corrections, with the ability of police officers to provide assistance where required. To this end, Queensland Corrections should be given access to QPRIME to allow updating of reportable offender profiles.

Queensland Corrections has its own surveillance officers, together with its own prosecutions corps, and are just as capable of performing the monitoring functions under ANCOR as police. Queensland Corrections also has access to psychologists and other professionals, who are better qualified to assess reportable offenders and the risks they pose to the community.