



youth affairs network qld

A Breach of Trust

***Submission to the
Queensland Crime and Misconduct Commission's
Review of Queensland's Police Move-on Powers***

February 2009

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Review of Queensland's Police Move-on Powers**

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Introduction

Young people have a right to the protection of adults. They also have a right to participate in all aspects of community life. As adults we have a responsibility to protect and nurture young people and a responsibility is to ensure that all young people have real opportunities to participate in the social, economic, cultural and political life of our communities.

This submission opposes Queensland's Police Move-on Powers on the basis that they undermine young people's rights and are in breach of the communities responsibility to young people.

Specifically, YANQ's opposition to move-on powers is based on its view that they:

- are applied in a discriminatory manner against young people, indigenous people and people from culturally and linguistically diverse backgrounds;
- criminalise otherwise legal and harmless behaviour ('hanging out' for instance);
- have the potential to increase crime by exacerbating feelings of isolation and exclusion;
- divert resources away from addressing the socio-economic reasons for marginalisation, and instead encourage a legal/criminal response to young people and thus reduce the chances of them accessing appropriate support services;
- isolate homeless and otherwise disadvantaged people and reduce their ability to access support services.

These arguments are laid out in more detail below.

Stories from Young People – A Breach of Trust

In preparing this submission YANQ sought out young people who had experienced Queensland's Police Move-on Powers directly. The stories we heard indicate that as a community we have breached young people's trust. Young people should be able to trust that their community will protect them and encourage them to participate safely in all aspects of community life. The stories below show that, for a significant number of young people, this isn't the case.

Muslim Youth Services (MYS) in Brisbane and a second youth service from a coastal town in Queensland were both able to connect YANQ with young people willing to tell their stories¹.

The young people we heard from were all aged between 14 and 17 years of age. The first case study was provided indirectly to YANQ, via a youth worker employed by Muslim Youth Services. Stories 2-5 were obtained during a group interview with young people who had been invited to attend by their youth worker.

1: Because 'shoppers don't feel safe'

A young Muslim male aged 16 was with his 14 year old brother and a Sudanese friend, 16. The trio had just finished school for the day and had bought drinks from a Hungry Jacks store attached to a major suburban shopping centre.

After leaving the Hungry Jacks store, they were stopped by a policewoman who accused them of stealing the drinks. The boys pointed out that it was impossible to steal drinks from Hungry Jacks because the drink machines were located behind the counter. They also produced a receipt for the drinks.

The policewoman then accused them of stealing an elderly lady's wallet, and demanded to search them. One of the boys, who was now suspicious of the police officer's motives, objected to being searched and told her that he thought she was picking on them because of the colour of their skin.

The policewoman searched the boys anyway and found no 'stolen wallet' or any evidence of a stolen wallet.

¹ The second youth service is not identified because the six young people who shared their stories asked not to be identified in any way. They felt that naming the youth service, or the town in which the service is based could lead to them being identified.

The policewoman then instructed the boys to leave the shopping centre. The reason she gave was that 'shoppers didn't feel safe' with the boys around.

2: What is the 'Precinct'

A young man named 'Michael' was hanging out at a popular shopping precinct during the day when he was told to move-on by police officers. The police officers instructed him to leave the "precinct."

Michael followed the police officers instructions and walked to a bus station (several hundred metres away) in order to catch a bus home.

Before the bus arrived the police approached Michael again. This time he was arrested for not following their directions to move on. Michael was not aware that the bus station, though some distance from the shops, was technically part of the precinct.

3: No money for a Taxi

'Tom' was with 6 of his friends in a popular entertainment precinct in a coastal town. They were all just hanging out, not bothering other people although they had been drinking alcohol.

Police officers in a marked car approached the group of friends and instructed them to move-on. When the group started walking away from the area, the police gave further instructions to move-on to the taxi rank (in a different direction).

Some of Tom's friends protested that they didn't have enough money to catch a taxi. The police ignored these comments and instructed them again to move to the taxi rank.

When the group continued to walk in a different direction, the police stepped out of their car and forcibly grabbed Tom, arresting him and pushing him into the back of the car. The police then left, with Tom in the back and "drove around the block a few times."

Tom explains that they then asked him where his friends were. Tom explained "I was probably a bit cheeky, being a little drunk and all, but I said, 'I'm in the car, how would I know where they are?'".

Tom was then pulled out of the car and watched while the officers flashed their torch-lights in some nearby bushland. The officers returned to the vehicle and one of them hit Tom over the eye with his torch. Tom was then left to make his own way home.

4: Searched in Public

A 15 year old boy, 'Philip' was smoking in an outdoors area adjacent to a large shopping centre where he was approached by a police officer who asked what he was doing. Philip told the officer he wasn't "doing anything, just having a smoke." The officer then asked to see the cigarette packet. Philip handed the packet to the officer who then dropped it on the ground and stepped on it, twisting the packet between the ground and his boots while he pointed out that Philip was not old enough to legally smoke.

The police officer then accused Philip of being in possession of drugs and explained that he would need to search him. The officer then instructed Philip to remove his shoes, shirt and shorts. The officer searched through Philip's clothes, leaving Philip standing in nothing but his boxer shorts. After finding no evidence of illicit drugs in Philip's possession, the officer then instructed Philip to leave the area.

5: Assaulted for being a 'Public Nuisance'

A group of teenage boys were riding the bus home one evening, on their way back from a popular shopping precinct. After getting off the bus beginning the walk home, police officers in a marked car flashed their lights and ordered the group to stop.

Without making any explanation, the officers got out of the car and detained one of the group, 'Shaun', grabbing him and placing him in the vehicle.

Shaun was then driven to a dark street - "one without any lights" - where the officers pulled over and

stopped the car. One officer then got in the back of the vehicle and physically assaulted Shaun, grabbing him painfully by the neck and yelling that he was going to take him to the 'lock up'.

The first police officer got back in the front of the vehicle, while the second police officer tried to drag Shaun out of the car. Shaun wedged his feet under the seat and after a few moments the officer gave up and returned to the front of the vehicle. Shaun was then taken to the watch house where he was charged with being a public nuisance.

Impact of Intimidation & Harassment

The young men that told the stories above (2 to 5) explained that their experiences of intimidation and harassment had left them feeling angry and humiliated. They also felt powerless against police.

They went on to explain that they believed particular police officers were targeting them for intimidation and harassment.

Their feelings of persecution and harassment were summed up by statements such as:

"We literally have targets on our backs"

"They [police officers] keep bringing up the past"

"Coppers have a bad attitude towards us"

"We can't go anywhere without getting pulled up"

Failure of Complaints Processes

The young men (from the 2nd youth service above) expressed concerns that there was no use in making a complaint about treatment by police. They felt their complaints were not taken seriously and actually made them more of a target for intimidation and harassment. One young man commenting that "...lots of others are really scared [to talk out]."

Such levels of distrust in the police force and official complaints processes poses a danger both to young people and our communities. Some suggestions for how to address this are discussed at the end of this submission.

Frequency of Disclosure of Police Intimidation or Harassment

The three youth workers who assisted YANQ to connect with the young people who told their stories above all commented to YANQ that it was not unusual for young people to disclose similar experiences regarding poor treatment from police officers. After documenting the stories YANQ made contact with youth workers from three other services. All three agreed that, in their experience, it is not rare for young people they work with to disclose instances in which police officers have harassed them and/or verbally or physically abused them.

That no workers were surprised by the accounts above is cause for great concern. For the justice system to operate fairly and effectively the police force must be seen as a force that is there to protect **all** members of society, no matter their age, class, creed, sexual preference, ethnicity or religion. For a significant number of young people this does not seem to be the case.

Arguments Against Move-on Powers

Discrimination

Since the introduction of move-on powers in Queensland, YANQ has received a considerable amount of information from members which suggests that the powers are applied by police in a discriminatory and racist fashion. Research by Spooner (2001) that was conducted with YANQ's assistance in 2001 also found that young indigenous people are subjected to 'move-on' orders at a higher rate than non-indigenous young people. Thirty-seven percent of Spooner's subjects were indigenous, although indigenous people (at the time of the study) represented just 4% of the general

youth population in Queensland.

More recent research undertaken by YANQ in 2005 ('Sudanese Young People and Public Space' published in 2006) also suggests that young people from culturally and linguistically diverse (CALD) backgrounds are often subject to unfair scrutiny and coercion by police.

On several occasions during the last six years, the Youth Justice Coalition (YJC), of which YANQ is a member, has sent written requests to the Queensland Police Service for statistics on their use of move-on powers in Queensland. As at the time of writing, the QPS has not provided YJC with these figures and has provided no credible reason for not doing so. Without these statistics, we can only assume that the anecdotal evidence YANQ hears through its membership, and the research done by Spooner in 2001 are an accurate reflection of the discriminatory and racist fashion in which move-on powers are applied to young people, particularly young indigenous people.

Criminalisation of Harmless Behaviour

The outcome of such discrimination against young people, whether from CALD or indigenous backgrounds or not, is that harmless behaviour is criminalised. As the CMC is aware, police are able to enforce move-on powers if they consider that a person's presence causes "anxiety" to others. It is a sad fact that the mere sighting of a group of young people, especially a group of young people with dark skin, will cause some members of our community to feel anxious.

The prejudices of some members of our community should not be used as a basis for the use of coercive police powers against young people.

Potential to Increase Crime

The effect of this discrimination against and criminalisation of young people is that they feel alienated and excluded (Spooner, 2001). Ongoing discrimination and criminalisation may lead to an increase in youth crime. Some young people may react to unfair treatment by police and authorities by 'acting out' the very behaviours that authorities are attempting to suppress. This process begins with young people forming an identity based on their unfair and unreasonable exclusion from public spaces. For example, White (2003) argues that,

"The institutional racism and economic marginalisation experienced by ethnic minority young people is directly linked to group formations ... that privileges loyalty and being tough ... in the face of real and perceived threats."

In other words, move-on powers have the potential to encourage young people to identify with others based on their shared experiences of exclusion and thus to form 'gangs' that emphasise toughness and loyalty. This point has been made succinctly by a member of YANQ's, who stated in a previous submission:

"young people I work with have commented that, 'well, if I'm going to get in trouble for doing nothing, I might as well do something to earn it.'"

Isolate Young People from Services

Finally, while we have argued that move-on powers will increase the feelings of isolation within young people, they will also have the effect of physically isolating them from services that can meet their welfare needs.

A constant challenge faced by youth services is making sure that young people know that their services exist. One strategy to raise awareness among young people, particularly highly marginalised young people is through reach out programs. Young people, like the rest of us, like to hang out. Often they hang out in popular areas, such as around shopping or entertainment precincts. Consequently these are also areas that youth services use to make contact with young people.

Move-on powers force young people (particularly those who have the highest needs) away from these areas, either to areas that youth services cannot access (e.g. because they don't know about them or they are too dangerous for workers to enter) or into areas not presently covered by outreach services (e.g. outer suburban areas, or areas some distance from where youth services are based). This will mean that young people experiencing difficulties will be unable to receive the support they need.

Ignoring Long Term Costs

The social costs of move-on powers outlined above are all played out in the long term and difficult to measure. Nevertheless they are not inconsequential for either the individuals affected or the wider community. Unfortunately the immediate 'benefits' of removing people perceived as threats from one location to another are much more tangible and measurable.

By continuing a policy that favours short term benefits to a few, while ignoring the long-term costs to many, the Queensland Government is putting community safety at risk.

YANQ recommends abolishing move-on powers, and instead focusing on youth and other social services that can respond to the needs of young people and others, including the small number of young people taking part in anti-social behaviour. Some of the factors that are associated with young people engaging in anti-social behaviour (such as illicit drug use, assaults and harassment) are family breakdown, homelessness, non-attendance at school, bullying and physical/emotional/sexual abuse, to name a few. Social support services can help to address these and by doing so increase community safety. Move-on powers however do nothing to address these issues for young people. Rather the use of move-on powers will amplify the feelings of alienation and exclusion within young people, and, as argued above, increase the likelihood that they will take part in anti-social or criminal activities.

YANQ's members and colleagues in the Brisbane area often report to us that they have insufficient resources to meet the levels of demand for their services¹. By increasing resources for these services, along with improving basic social services such as social housing and social security, individual and community safety would be enhanced.

Our Responsibility to Marginalised Young People

As a community we have a responsibility to young people. We are responsible for ensuring they have real opportunities to participate in the social, economic and political arenas. This is not just our responsibility, but a fundamental right that all young people should enjoy.

Move-on powers undermine young people's rights and they are in breach of our responsibilities to protect and nurture young people.

At the very least, the stories detailed above indicate a lack of trust in the police force and the official processes of complaint. This is an indication of just how deeply marginalised these young people are. The community, including but not limited to the Police Force, must address this marginalisation as a matter of urgency.

On a social and economic level this can be done by adequately funding a number of basic services so as to ensure that all young people can enjoy their basic human rights. The basic services here include:

- Medicare – ensuring free access to GPs (regardless of whether a person can demonstrate their 'neediness').
- Income security – lifting the various social security payments so that they are at least equal to the poverty line (most payments fall below the broadly accepted definitions of 'poverty line' incomes).
- Job security – governments and communities must ensure that all people who wish to gain secure paid employment can do so. Leaving young people to fend for themselves in a jobs market that provides an insufficient work for all who want it is breach of our responsibility to protect and nurture young people. Implementing a Job Guarantee like that advocated by the Centre of Full Employment and Equity at the University of Newcastle² would go along way to providing job and income security for many young people.
- Public housing, including youth specific housing services – providing safe secure housing for vulnerable groups in society.

For some young people who face multiple or particularly complex challenges, more specific, targeted

1 Services such as, crisis accommodation, drug and alcohol counselling, family support, alternative education, reachout, emergency relief etc.

2 See <http://e1.newcastle.edu.au/coffee/>

services will be required.

Specific Alternatives to Move-on Powers

YANQ shares the communities concerns about safety in public spaces. We argue that public safety will be more secure if communities adopted crime prevention strategies that are inclusive of young people and other vulnerable groups .

There is little doubt that the small number of young people displaying threatening or anti-social behaviours would benefit from a more inclusive approach that emphasises greater access to welfare and recreational services. This approach would not have the effect of increasing young people's sense of isolation nor the chances that they would take part in anti-social behaviour. YANQ urges the Queensland Government and local communities in Queensland to:

- work with and adequately support local youth services that can provide intensive support to young people in a number of areas (emotional, social, educational, economic etc).
- increase resources for youth organisations that can support young people to plan and stage their own youth-focused recreation activities in public spaces.
- increase supported housing services for young people to ensure that all young homeless people have access to secure and safe accommodation.

Further advice on reducing anti-social behaviour in public spaces and including young people in activities in those public spaces is available from a number of sources including (full citations provided in the references section):

- White, 1998. Public spaces and young people - a guide to creative projects and positive strategies.
- White, 2001. Hanging Out: Negotiating young people's use of public space.
- International Youth and Public Space Network – <http://www.yspace.net>.

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About YANQ

The Youth Affairs Network of Queensland Inc. (YANQ) is the peak community youth affairs organisation in Queensland. YANQ represents young people and youth organisations across the State of Queensland. YANQ advocates on behalf of young people in Queensland, especially disadvantaged young people, to government and the community. The interests and well being of young people across the state are promoted by YANQ in the following ways:

- disseminating information to members, the youth sector, and the broader community
- undertaking campaigns and lobbying
- making representations to government and other influential bodies
- resourcing regional and issues-based networks
- consulting and liaising with members and the field
- linking with key state and national bodies
- initiating projects
- hosting forums and conferences
- input into policy development
- enhancing the professional development of the youth sector