



NT government's 'inflammatory rhetoric' about young offenders led to abuses, lawyers says

Neda Vanovac
ABC News
14 December, 2016

Inflammatory rhetoric used by the previous Northern Territory government to demonise young offenders created a political space that allowed young people to be assaulted in detention, a criminal lawyer says.

Russell Goldflam is the principal lawyer at the Alice Springs branch of the NT Legal Aid Commission, and told the Royal Commission into Youth Detention and Child Protection that the former Country Liberals Party (CLP) government took a hard-line approach to young offenders, particularly property offenders.

Cracking down on youth crime, particularly in the Palmerston area, was a major election platform for the CLP and resonated in the parts of the community that were worst affected by young repeat offenders.

Mr Goldflam quoted former attorney-general John Elferink as saying in September that "these are strapping young lads, but my goodness gracious me, we will crack down on them and we will control them".

Mr Elferink also referred to detainees involved in repeated serious incidents at Don Dale youth detention centre in Darwin as "the worst of the worst", Mr Goldflam said.

He said such comments from leaders in the NT were not new, and reminded him "very strongly of a similar period of rhetorical extravagance that occurred in the late 1990s".

He said the government at the time engaged in a similar style of polemic, passed mandatory sentencing laws specifically aimed at youths for property offending, and ended when a 15-year-old boy hanged himself in Don Dale.

"A couple of years ago, here we go again, the same vitriol and hatred being promulgated not just by shocks jocks but by the people we've elected to run our territory," Mr Goldflam said.

He pointed to former chief minister Adam Giles' Facebook "rant" shortly before the August election that "enough is enough", proposing to change the bail act to deny bail for young people arrested on repeat property offence charges.

"It gives permission to people who have the authority legally to use force against youths... effectively to use that force to punish," Mr Goldflam said.

"The way in which this inflammatory rhetoric was being pumped out into the community, in my view, had this toxic corrupting effect on the administration of our

youth detention and youth justice systems because it empowered, it permitted people perhaps, not to read as closely the protocols which were to restrain their behaviour."

Mr Elferink's statements "created a political space that made it more likely that children could be assaulted in detention", he said.

He acknowledged there were circumstances in Don Dale "that were no doubt extremely difficult to deal with".

"Nevertheless this background of inflammatory rhetoric in my view was extremely dangerous, was extremely damaging, and it infuriates me we haven't learned from the same events that took place in the 1990s with catastrophic consequences."

He said he feared similar consequences, such as another youth death in custody, could recur.

Indigenous communities alienated from legal system

Mr Goldflam said in his statement that the principle of detention being the last resort had to have a practical effect, and recommended supported bail accommodation be considered.

In Central Australia it was often difficult for children and families to comply with some bail conditions.

"In many cases, attempts are made to bail a child to a family member with various conditions, but it's a bit of a tenuous arrangement built on hope perhaps more than real expectation," he said.

"And sure enough, the aunty on the town camp isn't able to make sure the child's home by 7pm and the child's found in town at 8pm and that happens a few times and they aren't given bail again."

He said governments needed to approach youth detention in a "very careful way with detailed planning" and consultation with community stakeholders.

He said **Indigenous** communities were often alienated and disengaged with when it came to punishments, and that there had to be some consideration made of customary law in some instances.

But he stressed that those who committed serious crimes had to be punished.

"I've acted for children who have committed murder and rape, horrible, horrible crimes," he said.

"I don't want to sweep under the carpet the fact that there are some very young people who commit extremely serious offences - fortunately not very often - but when it happens, it happens, and the justice system is required to deal with them."

Request to extend the commission by six months

Meanwhile, a spokesperson for federal Attorney-General George Brandis confirmed on Wednesday that he had received a request to extend the reporting date for the royal commission to August 31.

"This is being considered as a matter of priority," the spokesperson said.

The commission has been dogged by delays and allegations that it has been rushed and unprepared for the volume of work required before it reported by its March 31 deadline.

It was originally scheduled to run for only six months.

During the December hearings lawyers for numerous stakeholders complained that there were delays in obtaining documents and that they were being informed at very short notice of witness lists, making it difficult to properly prepare for cross-examination.

The commission already indicated on Tuesday that this fortnight of sittings would end on Wednesday following Mr Goldflam's testimony, with about 10 proposed witnesses being delayed until the new year.