



**COURT OF APPEAL
SUPREME COURT OF
QUEENSLAND**

CHAMBERS OF THE PRESIDENT

Crime Inquiry 2014
Submission 022

17 July 2014

Mr Ian Berry MP
Chair
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE. 4000

Supreme Court of Queensland
415 George Street
Brisbane QLD 4000
PO Box 15167
City East QLD 4002
PH +61 7 3247 9212
FX +61 7 3247 9232
www.courts.qld.gov.au

Dear Mr Berry

Thank you for your letter of 28 May 2014 concerning your inquiry on strategies to prevent and reduce criminal activity in Queensland.

The inquiry's terms of reference and its call for submissions largely deal with policy matters about which I as a judge do not wish to comment.

But I apprehend that some members of your inquiry and some of those who make submissions to it may perceive judges as out of touch with community expectations and that sentences are too low. That apprehension is supported by the New South Wales Parliamentary Research Service which recently noted that a majority of people surveyed (59 to 80 per cent) consider that sentences are too lenient. It also noted, however, that people who think that sentences are too lenient are more likely to be less knowledgeable about crime and imprisonment rates and, when asked to actually deliberate on cases, the majority (56 per cent) selected a sentence that was the same or more lenient than the judge's sentence.¹

The view that most informed lay people would sentence at the same or a lower level than judges is also supported by the 2010 Tasmanian Jury Sentencing Survey² which found:

¹ Public Opinion on Sentencing: Recent Research in Australia, Lenny Roth, June 2014 e-brief 08/2014, p 10.

² Jury Sentencing Survey, Warner K, Davis J, Walter M, Bradfield R, Vermey R, Report to the Criminology Research Council Grant: CRC04/06 - 07 April 2010; Public Judgment on Sentencing: Final Results from the Tasmanian Jury Sentencing Study, Warner K, Davis J, Bradfield R, Vermey R, Trends and Issues in Crime and Criminal

"Informed members of the public overwhelmingly approve of the sentences given by our judges. Based on the findings from 138 trials, jurors who have judged the defendant guilty are more likely to select a more lenient sentence than a harsher sentence than the judge. Moreover, when they are informed of the sentence they are highly likely to endorse it. The fact that this is the judgment of jurors makes it a strong endorsement of judicial sentencing. It is an important finding which should be heeded by politicians and policy makers."³

These conclusions are also consistent with statistics in recent annual reports of the District and Supreme Courts. The tables below set out the annual lodgment of criminal matters in the District and Supreme Courts over the last three years.

District Court of Queensland – Criminal Lodgments

2010-2011	2011-2012	2012-2013
5609	5120	4703

Supreme Court of Queensland – Criminal Lodgments - Trial Division

2010-2011	2011-2012	2012-2013
1529	1068	839

The annual reports do not record the number of lodgments in which sentences were imposed but it can be inferred that each year the District Court and the Trial Division of the Supreme Court between them impose thousands of sentences. The Court of Appeal hears appeals from these sentences. The tables below set out the number of applications brought by offenders for leave to appeal against sentence or to extend time to appeal against sentence, and sentence appeals brought by the Queensland Attorney-General or the Commonwealth Director of Public Prosecutions (CDPP).

Justice, No 407, February 2011. See also Using Jurors to Explore Public Attitudes to Sentencing, Warner K and Davis J, *Brit.J.Criminol.* 2012, 52, 93-112; *Australian and New Zealand Journal of Criminology* 2012, 45; and *Sentencing and Public Confidence: Results from a National Australian Survey on Public Opinions Towards Sentencing*, Mackenzie G, Spiranovic C, Warner K, Stobbs N, Gelb K, Indermaur D, Roberts L, Broadhurst R and Bouhours T.

³ Jury Sentencing Survey, Warner K, Davis J, Walter M, Bradfield R, Vermey R, 95-96.

Types of appeals filed			
Appeal type	2010-11	2011-12	2012-13
Criminal			
sentence applications	157	150	161
combined conviction and sentence appeals	35	47	56
Extensions (sentence applications)	23	23	18
Extensions (conviction and sentence)	13	21	10
sentence appeals(A-G/CDPP)	17	10	7
TOTAL	245	251	252

The tables above demonstrate that the vast majority of sentences in the District Court and in the Trial Division of the Supreme Court are accepted by both the offender and the community and do not result in the exercise of appellate rights. The bulk of those who wish to appeal against sentence are offenders who contend the sentence is too heavy. In very few cases does the Queensland Attorney-General or the CDPP contend, on behalf of the community, that the sentence was inadequate. The tables below set out the outcomes in appeals brought by the Queensland Attorney-General and the CDPP.

Appeals against Sentence by the Attorney-General (Qld):

2010-2011		2011-2012		2012-2013	
Allowed	Dismissed	Allowed	Dismissed	Allowed	Dismissed
2	4	3	2	3	6

Appeals against Sentence by the CDPP:

2010-2011		2011-2012		2012-2013	
Allowed	Dismissed	Allowed	Dismissed	Allowed	Dismissed
0	0	4	5	2	0

These statistics, the recent report of the New South Parliamentary Research Service and the Tasmanian Jury Sentencing Survey strongly challenge any community perception that sentences imposed by courts are too lenient.

I urge you and the members of your inquiry during your deliberations to consider whether the views of those who regard sentences as too lenient are informed and accurate.

I note that your call for submissions includes possible strategies to increase collaboration and cooperation between various participants in the criminal justice system. In determining

those strategies, I encourage you to consider whether the public should be better informed about crime and sentencing and how best to do this. By way of example, I refer you to the Sentencing Information Package prepared jointly by the Victims Services and Criminal Law Review, the New South Wales Department of Attorney-General and Justice and the New South Wales Sentencing Council.

I have shown the other judges of appeal a copy of this letter and they have authorised me to inform you that they agree with it.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "Margaret McMurdo". The signature is fluid and cursive, with the first name "Margaret" written in a larger, more prominent script than the surname "McMurdo".

The Hon Justice Margaret McMurdo AC
President