

25.6.2014

Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

RE: Inquiry on Strategies to prevent and reduce criminal activity in Queensland.

Dear Ms Hastie,

In response to an article in the Courier Mail and your subsequent invitation by email to make a submission to the above Inquiry, I wish to present the following points in relation to the Qld Government's mammoth task of trying to prevent and reduce criminal activity in Queensland.

In particular I would like to address the criteria from a stakeholder's vantage point; that of a support person for several long term prisoners. As such I have had more than 11 years of association and dealings with the legal system, Qld Corrections, the Parole Board. As such I have a double sided appreciation of the cost of crime to families and the community. I am personally motivated towards addressing the underlying causes of offending in our society. I also have many years' experience in business management and believe I have some insight into how the Department could do some things better. I welcome the opportunity to make this submission.

I will refer to the Terms of Reference found on your website as follows;

- **The trends and type of criminal activity in Queensland, having regard to available crime statistics and issues in relation to unreported crime;**

Newspapers carry almost daily reports of violent party gatecrashing, bashings, unprovoked king hit attacks at nightclubs, drug and alcohol fueled violence, break and enter stealing, road rage, drug and alcohol influenced road accidents and driving offences many involving mobile phone use. Also in the news to a lesser extent are scammers, swindlers and business related crime and cruelty and neglect of animals which is always a general indication of the soundness or otherwise of society. However the newspapers seem to report more and more "sensational" stories these days and so perhaps they don't represent a true indication of the actual trends.

Trends In the rural area where I live frequently reported in the local paper include the theft of pet dogs for illegal dog fighting/betting, shop lifting, petrol theft, the theft of vehicles and domestic goods, and domestic violence.

Trends observed more generally across the State; drug dealing, drug influenced crime and violence, binge drinking and a general lawlessness and unacceptable behavior amongst young people leading to various offences.

As for unreported crime, I think there is a lot of domestic violence and child abuse that is not reported, along with drug associated crime and pornography.

However I can supply no statistical evidence apart from daily observed news coverage.

- **The social and economic contributors to crime.**

**Parenting:** One of the key social causes I think is the reduced importance given to good old fashioned manners and values and the time spent by parents and other key people in fostering these manners and values in our young Australians. These values used to be taught and enforced by parents in the home and reinforced by clubs and organizations such as the Girl Guides and Boy Scouts, and the very successful Girls and Boys Brigades. School teachers were empowered to apply physical discipline in the form of “the cane” and knew they had the support of parents to do so, so that children were exposed to uniform good values and behavior expectations from several different areas whilst growing up.

**Role Models:** Also there seems to be a noticeable lack of good role models for our young people. A lot of children these days are mainly brought up at child care centers and in front of the TV set and get their values from Facebook and such shows as Big Brother and similar very unreal “reality” shows. Modern families sometimes lack grandparents for many reasons and the role of good grandparents can’t be overvalued. The lack of real values, real parenting, real discipline and real love and belonging while growing up, can lead to young adults experiencing insecurity and feelings of inadequacy, lack of purpose and often leads to binge drinking to fit in and feel good. Sometimes it leads into bad company and crime. Good role models are vital so that young men and women can see and hear and understand what they themselves are supposed to be developing into.

**Dysfunctional families:** Some of the saddest cases that I know of are children who have been subjected to dysfunctional families and physical and sexual punishment and abuse all their lives, some in State and Church run children’s homes, some of whom grow up not surprisingly to be dysfunctional adults and commit crimes. Hurt people invariably hurt people. Some of these people are victims themselves but continue to be punished by the system instead of getting the help that they really need. I know of one young man who from a very early age saw his father abuse his mother and his brothers and himself. He ran away from home to escape beltings with electrical cables etc and got into crime to stay alive. He has spent most of his life in jail as a result. How can offenders like this be expected to rehabilitate themselves in jail and become part of the community without any experience of normal family life? How do we break the cycle? We need a better rehabilitation solution than imprisonment in such cases and they are becoming more and more common in our multicultural society.

**Mental Illness;** While the Australian Bureau of Statistics and Mindset websites report that suicide rates in Australia remain static at just over 2000 per year, they also report a growing and alarming incidence of mental illness and depression in young people. Recent media reports were that over 35% of children today are prescribed antidepressants!!! One noticeable and alarming report on 19.6.14 in an ABC TV documentary was that “GP’s often prescribe psychiatric drugs for children with behavioral problems when counselling fails”. When I was a child I received an appropriate consequence for bad behavior not counselling and definitely not drugs! What are we doing to our children? Another statistic on the same program was that the number of children prescribed Ritalin for ADHD had risen 35% over the last 4 years and now more than 20% of all Australians were affected by mental illness. That is an alarming statistic. One in five of us are not of a sound mind. What has happened to us?

**Moral Decline;** According to the second law of thermodynamics, all things including humans if left to themselves will deteriorate and this includes morals and values and even an appreciation for the value and preciousness of life itself. My garden is an example. If I don’t maintain it the weeds will soon take over no matter how lovely the plants were to begin with. Maintenance doesn’t happen by accident. We need to have programs and act positively to ensure that these values and morals are cultivated and reinforced in Australian schools and on Australian TV – and take steps to regulate and pull out the weedy/damaging ones. We need to return to the values and morals that this country was built upon. We

need women in the home and valued there as nurturer and mother, the number one profession. We need to encourage stable family units and provide parenting information and help to struggling families who don't know how to discipline and bring up children. Once this was the role of grandparents to teach and mentor the next generation but now we only have Dr Phil. The program "Super Nanny" highlighted the fact that the problem is not confined to Australia. The nation is only as strong as its families. This problem needs to be addressed in schools and in Government programs.

**Primary and Secondary School Programs:** There is plenty of evidence that the controversial School Chaplaincy program was doing a good job of assisting young people in a way that was acceptable to the majority of students. However this is not enough and too late. There is much more we could do to help our vulnerable youth like putting an end to Schoolies as it is now, and fining parents who allow their children to drink and vandalize property, and the introduction of a Social Ethics and Responsible Living Course for all High School children. The new ads on TV about the dangers of drugs are a good start. Having been a volunteer in primary schools in Qld for many years I have been amazed to find that a large number of children have never even heard of the Golden Rule, ie doing to others what you would like done to you, and not doing to others anything that you would not like done to you. I have seen this simple Rule literally transform children's behavior. In a social climate where even some of our top sports "heroes" are now resorting to bad behavior, such as biting other players, and are sometimes openly involved in violence and sex scandals, our children and youth need more help to identify what values to adopt and what to reject. It's sad and preventable that the media only present the sensational and scandalous and don't present the many good role models that are available. The seriousness of the problem is that we are now in the third or fourth generation of children who have grown up without good role models and largely instructed by the TV and their peers. It won't be easy or quick to turn this around but I am convinced we need to start. It does have a direct influence on our crime rates.

**As an illustration of the importance of teaching primary school children good values and morals and its relevance to early crime intervention, one very experienced prison chaplain told me that he had also become a Christian Education teacher in his local primary school because "prison chaplaincy is like being an ambulance at the bottom of a cliff whereas teaching Christian values in the class room was like erecting a safety fence at the top of the cliff. In other words it's far better to try to stop children falling "off the cliff", both for their sake and for their potential victims, than to try to help them after they have fallen.**

**Poverty, Consumerism and Poor Peer Pressure:** Economically these days people expect to have everything immediately and this, coupled with a lack of values and good role models, puts pressure on young people to turn to crime as an "easy" way to get what they want but can't afford. Young people are often introduced to crime by bad company and peer pressure. Gambling and drug use add to financial poverty and desperation leads to crime.

**Media Influence;** The media often undermines good values for their own purposes by sensationalizing crime and bad behavior, by showing scandalizing photos of models and TV stars with revealing clothing and provocative poses and making much of bad behavior and generally being a bad influence on our young people. The media, instead of portraying prison as a deterrent factor which it should be, seem to love to do "scandalous" far-fetched articles on how "easy" prisoners get it in jail, how light the sentences are, and other such rubbish which is far removed from the truth. If the media were allowed more access to prisons to print and present real news items about jail, then less people would end up there and then say, "I had no idea how awful jail is".

**Harsher Penalties?** Jail penalties in Queensland are generally harsh enough already and definitely are or should be a deterrent but it's not much use if potential offenders only find this out when they are already there! We need to let people know via the media how terrible it is to go to jail because it is, so that they will not want to go there. We need to find ways to effectively do this BEFORE they go there.

Harsher sentences are not the answer as without some reference or understanding of what that means, they just don't get it. One 15 year old boy, upon being sentenced to 13 years jail for a serious crime, sat in his cell the first night and tried to work out on his fingers how old he would be when he got out. It was years before he fully comprehended it. My point is that it doesn't matter how harsh the sentence is if the news is not getting through to the people who need to know in order for it to be a deterrent. And we need rehabilitation as well as punishment if we are to stop the cycle of reoffending.

### **SUMMARY – of the above comments on the social and economic contributors to crime.**

Dysfunctional families - victims of abuse – hurt people hurting people - Parents undervaluing and underachieving in their roles – lack of good role models and grandparents – not enough assistance or information available on disciplining and parenting - increase in psychiatric drugs used instead of discipline – lack of respect and values becoming more common – pressure to use alcohol and drugs to feel good – economic and peer pressure to have everything even if you can't afford it – bad company and peer pressure – unrealistic value systems and sources - media sensationalism and devaluation of morals and decency – the media could do more to assist instead - lack of factual information on the consequences of crime – false information as to what jail is like which takes away from the deterrent value – insufficient rehabilitation in jail - a combination of all or some of the above together with the inevitable nature of mankind, the law of Thermodynamics that shows that we will always slide downhill into corruption unless planned, timely and consistent maintenance is carried out.

- **The impacts of the criminal activity on the community and individuals, including the social and economic impacts; (how criminal activity has impacted you, or your community, directly or indirectly, including the social and economic impacts to families, businesses or the community at large).**

**Crime is a “loose loose” activity. Almost everyone loses.**

**The victim loses**, often suffering the effects long after the wounds have healed or the goods have been replaced, or the criminal has been punished. Some wounds don't heal and victims are sometimes left maimed and handicapped and unable to maintain relationships or a normal life. The court system is often very lengthy so lives are “on hold” during the process, extending the healing time and increasing the pain and stress. There is often loss of income, or even loss of jobs while recovering or the cost of counselling and ongoing medical costs. Often the emotional cost is the highest of all.

**The victim's family loses** and sometimes in life-changing ways that can't be turned around. If the victim has lost their life, the family may never recover.

**The tax payer loses** as the court process is costly and in addition, the tax payer foots the bill for the cost of offender incarceration and funding Correctional Centres. The prison “industry” costs the tax payer around \$500Million per year but doesn't produce anything except punishment. We could and should do better than this and it is possible to improve Qld Corrections to actually provide the rehabilitation they talk about in order to produce some rehabilitated citizens who are ready and able to contribute to society out the other end, and who are better equipped to earn their own way in future and repay some taxes instead of getting welfare because they have become institutionalised while in jail. There are more economical and more effective ways of deterring crime than incarceration.

**The criminal loses** his (or her) freedom and usually everything he owns goes to pay for lawyers. Often he loses his relationships and his children. Often he doesn't recover from the effects of jail finding it hard to start again upon release without support and without any money and his ability to get a job is made harder by his prison record. Sometimes he loses his health or contracts AIDS or Hepatitis or becomes addicted to drugs due to the stresses and pressures of incarceration and the company he is

forced to keep there. (I know of one young man who had never taken drugs until he went to jail and now he is addicted.) Drugs, while not readily available in jail, do come in through various avenues quite apart from being smuggled by visitors despite this being the main focus of correctional staff). The criminal loses a portion of his or her life while incarcerated, and this time could be and should be, used to better effect to ensure that it is not repeated or a waste of time. Many people who go to jail could be punished for their offence and deterred from future offences by other means of punishment rather than expensive and wasteful incarceration. We really only need to lock up people who are dangerous and who need to be removed from society for a time. This represents only a small percentage of the current jail population. Other people such as those who commit driving offences or accidental crimes and the like which would not be likely to reoccur, would be best to stay out of jail and earn their own keep and perhaps pay a percentage of it back to the victim. We need to look at what happens in other countries and learn from them. It's pointless to keep doing what doesn't work. Harsher penalties don't work. Queensland already has some of the harshest penalties in Australia despite what the media tells the population.

**The criminal's family loses** (if he/she is fortunate enough to have one). They lose their loved one for the length of the sentence, as every offender is someone's son, husband, father, brother, uncle, partner or friend. The offender's family often loses a great deal of money to lawyers, sometime selling homes and real estate and using all their superannuation and savings. They also lose their weekends for the length of the sentence as they will now spend their weekends travelling to whatever jail he/she is at and being processed and visiting the offender to try to maintain relationships and support him/her. They also lose their naivety about the Justice System and their media promoted prejudice that all offenders are "dirty rotten criminals" and that jail is a "walk in the park". They may also lose their social standing and their friends due to the stigma attached to having someone in jail. They become "drug suspects" every time they go to the jail and socially have an aura of mistrust imposed upon by having a family member who is a criminal. However many hate the crime and often carry the guilt and sorrow of what their family member has done and the burden of the hurt caused to the victim although they may never be able to express it. Mothers and fathers don't stop loving their sons or daughters when they do something inconceivable. Parents and family members are part of the community too but they are punished along with the offender. This also is the cost of crime.

**Society loses:** Many families break up when an offender goes to jail. Female partners of offenders are forced to raise families alone and this often means economic hardship. Wives on the outside do everything alone. Christmas and birthdays are especially difficult and depending on the length of the sentence, many families don't survive. Communicating and maintaining a relationship with a loved one in jail is difficult, time consuming, expensive and void of hope and encouragement. Maintaining a relationship over the long term is really difficult. I wish Qld Corrections would value family and visitors more, and make it a bit easier for them to hang in there for their offender loved ones by providing simple facilities like tea and coffee, a canteen where we can buy food instead of the vending machines that only sell chocolates and fizzy drinks (when they work), also better seating (the current standard steel star-shaped seating is extremely uncomfortable, provides no back support, and seats are too far apart for normal conversation) and a better environment such as a secure outdoor area with grass to walk around in. The jails in NSW have much better conditions for visitors and the NSW Department seems to value relatives and support people far more than Qld does. Support is vital to a released offender if he or she is to successfully reintegrate back into society. If the Department wants prisoners to have support when they are released it needs to encourage support people and not make visiting so difficult, uncomfortable and oppressive.

**Justice loses;** People can be over punished and this is detrimental instead of being a deterrent. We hear a lot in the media about the "tap on the wrist" sentences but not much about excessive sentences. But they do happen. I am personally grieved and offended by the senseless endless punishment that my friend is subjected to, which does not fit his crime, due to Qld's mandatory sentencing laws.

**Mandatory sentencing** invites injustice as the attached articles testify, and this is commonly known to be so. Mandatory sentencing does not allow the sentencing Judge to take into account the circumstances and degrees of the offence. I fully agree with suitable punishment for crimes as a deterrent. But sentences need to fit the crime. We need Truth in Sentencing in Qld. If injustice is allowed to happen, if law is more important than justice, if politics are allowed to interfere with justice, then inevitably the whole country loses.

When someone receives a Mandatory Life Sentence in Qld when they would have got two or three years in another State of Australia for the same crime, there must be something wrong! The cost to that offender and his family is enormous and crushing, but the cost to the Qld tax payer is also crushing, amounting to Millions of Dollars. And very often when a life sentence is given, there is usually a series of Appeals, as there is no reason not to appeal, as the prisoner can't get a harsher sentence so he might as well "have a go". This is another unnecessary expense to the State that is caused by Mandatory Sentencing. It doesn't make sense.

Labor's Wayne Goss introduced Mandatory Sentencing for murder in Qld in 1989 to win votes under the claim that it would ensure that such terrible crimes are fitly punished rather than leaving it to the Court to decide. However in the event of a case where an inadequate sentence has been given, the DPP can always appeal and the State Prosecutor has successfully done so on a number of occasions. So there is no need for Mandatory Sentences. They are costly, and invite injustice and inequality. I support a completely non-violent person who assisted a suicide in 2000 because a woman begged him to help her give herself an injection and he is serving a mandatory life sentence for that crime which is out of all proportion considering the crimes of others who are serving the same sentence. I feel it is an enormous injustice, not because he doesn't deserve to be punished but because the punishment doesn't fit the crime and the average person in the street agrees. It's heartbreaking to me and to his young son who is totally disillusioned with our Government.

**And the community at large loses.** The community loses as excessive funding goes towards Corrective Services to punish crime and could be better spent on Qld Police to prevent crime. The community loses because insurance premiums go up. The community loses because of the loss of security felt as a side effect of crime. The community loses because when so many young people end up in jail as they are doing right now, it becomes more acceptable and the "norm" and so more young people will continue to become vulnerable to the same fate. The Government has to realise that jail is not a deterrent in itself because it is too late to deter them once they have already committed the crime and are already in jail. And it doesn't work anyway because so many of them come back (recidivism) and this is despite the severity of sentences or the conditions experienced there because often they learn from other more experienced crims in jail and become worse criminals in jail. They never seem to realise that the really successful crims are not in jail!

This is another argument for finding other means of punishment than jail for most first time offenders.

**As Justice Dennis Challeen wrote on the subject of A Common Sense Approach to Criminal Justice;**

"We want them to have self-worth so we destroy their self worth

We want them to be responsible so we take away their responsibility

We want them to be a part of our community so we isolate them from our community

We want them to be positive and constructive so we degrade them and make them useless

We want them to be non-violent so we put them where there is violence all around them.

We want them to be kind and loving people so we subject them to hate and cruelty.

We want them to quit being the tough guy so we put them where the tough guy is respected.

We want them to quit hanging around with the losers so we put all the losers in the State under one roof

We want them to quit exploiting us so we put them where they can exploit each other.

We want them to take control of their own lives, their own problems, and quit being a parasite so we make them totally dependent upon us.

The only ones who gain from crime are the solicitors, lawyers and barristers some of whom earn unspecified and unbelievably large amounts (eg \$10,000 per day). Yet obviously they don't have to worry about "money back guarantees" or "warranties". The longer a case takes the more financially beneficial it is for them. The process is far from helpful to achieve justice as it favours the rich. The rest of us have to be content with Legal Aid.

- **the effectiveness (including the cost effectiveness) of crime prevention strategies such as imprisonment, justice reinvestment, early intervention, alternative dispute resolution, and other models used in national and international jurisdictions**

## **1. Imprisonment**

Imprisonment is expensive and not always the most effective or appropriate method of punishment or crime prevention or deterrence. Judges need to have other penalty options that they could impose such as Boot Camps, Weekend Detention, Community Service, Long Term Garnishee of wages, Compulsory Course Participation, etc. Only those prisoners who are a danger to society or of re-offending should be sent to jail.

Imprisonment should be of a progressive nature, allowing the prisoner to progress through the system from High Security to Residential to Low Security, WORC work camp, Release to Work, Weekend Detention and Home Detention. If these options for progress were available it would allow the prisoner to have something to work towards and while doing so, he/she would gain valuable self disciplining and behaviour management skills which would prepare them for release back into the community with a much better chance to stay out of jail.

Breaches depending on the nature of them, should be taken into account and have consequences in the progress system. A serious breach should have a serious consequence.

Good behaviour and good industry should be rewarded with progression.

In this way, the prisoner is encouraged to monitor their own behaviour and have something to work towards. The current system is almost entirely without progression, especially for long term inmates who need it the most.

Young offenders doing their first term in jail should NOT be sent to low security Prison Farms if their sentence is under three or four years. The purpose of Farms should be for rehabilitation for long term offenders (more than 4 years) to assist them to continue their demonstrated good behaviour and allow them more opportunity to continue to be responsible for their behaviour in

preparation for their release into the community. Short term offenders who are sent to Farms too soon tend to think it is too easy and therefore there is a danger that imprisonment could lose its deterrent value to those offenders.

We need more Low Security Farms not less. We need more rehabilitation not less. We need more progression, not less.

In a recent documentary on one of the USA's worst prison, the Super Max High Security facility in Colorado, where violence was an everyday occurrence and prison officers were constantly at risk of assault, the adoption of a progressive system resulted in an almost immediate and very significant reduction in violence and aggression. When asked why progression was so important, one inmate said it all in one word – Hope – something to work towards. When asked about the extraordinary success of the progression program, the General Manager said an interesting thing. He said it was the age old principle of “the carrot and the stick”. He said these hardened criminals who had done a lot of jail already knew about the stick, but what they needed to know about was the carrot !

Where is the carrot in our Qld jails? Our long term prisoners have no carrot, no rehabilitation, no hope. They more than any prisoner, need to have progression to avoid institutionalisation and a life time on social security when they are released.

The highly structured, highly controlled environment of High Security Facilities is not conducive to rehabilitation. Prisoners are told when to eat, when to sleep, when to exercise, where to line up, they have no choice of what to wear or what to eat or where to go. They have no decision making power except to obey, and no possibility of change until their time is up. Inmates tell me that it takes many years to learn to live in this High Security environment. Isn't it foolish of us to expect them to be able to undo in a few days what has taken many years for incarceration to do to them? Most of them will be released one day and it is in the community's interest to provide them with rehabilitation so that they can handle the change, get a job and re-establish relationships and re-establish their part in the community.

I have noticed the culture shock that inmates go through when released. One man said to me, “it messes with your head”. He was so glad to be released but struggled to adjust to the extreme differences of freedom to high security incarceration. He said that the first few months of freedom were nearly as hard as his first few months of incarceration. He is not alone. We need to provide progression and rehabilitation, not just courses about rehabilitation. We need more accommodation options for long term inmates to progress from High Security to Residential, to Village Life in cottages, and Low Security farms and Work Camps, Weekend detention. If this were implemented with good behaviour rewarded and bad behaviour receiving consequences, then our recidivism rates would reduce radically and more families would stay intact and cope better and cost the tax payer less. The safety of the community is well looked after providing the progression is monitored and that breaches are not overlooked. Recently an offender escaped from a low security facility and it was later revealed that his breach history was such that he should not have been considered as a suitable person to approve for low security. All programs need proper monitoring to be successful, but the improper monitoring and placement of one offender should not affect and exclude all offenders who have excellent behaviour and breach free histories. Each case should be taken on its merits and good behaviour must be rewarded not punished.

The outstanding success of the Work Release programs in the Northern Territory are something that Qld should put into effect as soon as possible. This outstanding program selects prisoners for placement in the workforce and they return to jail at night. A percentage of their earnings is



put in a trust account for preparation for their release. The recidivism rate of these prisoners is extremely low.

## **2. justice reinvestment**

Prevention is so so better than punishment! This excellent innovative program should be adopted along with appropriate monitoring to ensure that the money is spent wisely and not siphoned off. (It would be naive to think that the only crims are the ones on the inside.)

- **the experiences of Queenslanders with regard to the criminal justice system, including the experiences of victims of sexual violence and/or domestic violence and their interactions with the Queensland Police Service, the courts, prosecuting authorities, legal and support services and compensation processes**

Prison Officers. Correctional Centre Officers (CCO's) are or should be important role models to inmates, many of whom would not be there if they'd had the advantage of good role models earlier in their lives. While admittedly some inmates are rude and frustrating, there should be no place or tolerance for bullying or anger or oppression from CCO's towards prisoners or visitors. After all, the CCOs hold the balance of power and as such they should be professional at all times. I am saddened to hear from prisoners from time to time that there are Officers who love to use their position to bully and intimidate inmates. I can believe this because my own personal experience of the conduct and attitude of some CCO's and CSO's at one Qld Government managed jail was far from acceptable. However most staff are very professional. Prison officers should be trained in psychology and human relations more than restraint methods. After all what goes in must come out. Also CCO's have opportunity every day to use human relations and psychology skills to good effect, whereas they may only need restraint method training on rare occasions. Prisoners and visitors are people too, and people always respond to how they are treated.

- **Possible strategies to increase collaboration and cooperation between various participants in the criminal justice system.**

The Qld Parole Board could possibly work better with Stakeholders and support persons to improve the outcomes of prisoners on parole. The privacy laws should not be insurmountable in allowing Parole Officers to discuss progress and concerns with prisoner support people with the prisoner's knowledge and permission. This would be very helpful to inexperienced people offering accommodation and assistance to a prisoner on parole and also encourage openness and truthfulness so that the paroled person can't so easily deceive the support person if they were of a mind to do so. After all the main purpose is to ensure that the paroled person stays breach free and does not reoffend or return to jail.

More factual information should be provided to the media so that they can report more accurately and responsibly and less sensationally to the public especially in relation to the deterrent factors associated with imprisonment.

Thank you for considering my submission. It is encouraging that the Government is looking at improving the way we as a State deal with crime and crime prevention. It is encouraging that the LA&CS Committee is looking at better strategies than mandatory sentencing and harsher penalties to deal with crime prevention in Queensland.

Yours faithfully,

*Janet Wilkinson*

Janet Wilkinson



News

# Perth Now

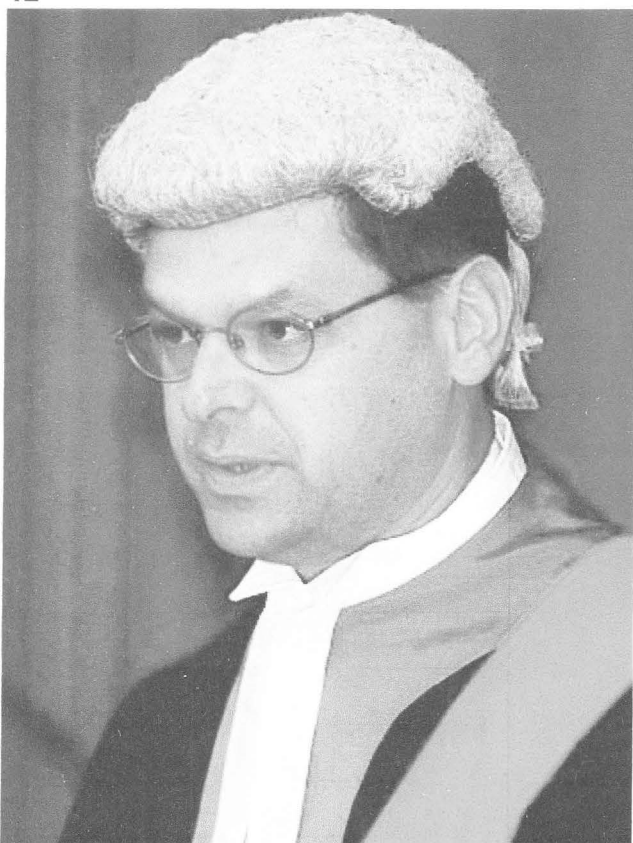
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News

## District Court Chief Judge Peter Martino says mandatory sentencing fosters injustice

- by: EXCLUSIVE KAITLYN OFFER
- From: PerthNow
- March 01, 2014 6:00PM

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District Court Chief Judge Peter Martino. Picture: File image

Source: News Limited

**ONE of WA's top judges has slammed mandatory sentencing – saying it just increases the risk of injustice.**

District Court Chief Judge Peter Martino told a recent Law Society of WA event that any reduction in sentencing discretion “increases injustice, rather than decreases”.

He also pointed to a recent article by *The Economist*, which found that housing inmates jailed under mandatory sentencing cost the US \$1.8 billion and racial minorities were most likely to be imprisoned.

“From time to time, usually when a difficult case has attracted publicity, there are calls for a reduction in

sentencing discretion and imposition of more and more mandatory sentences and rigid sentencing,” Justice Martino said.

“Experience has shown rigidity increases, rather than decreases, injustice.”

WA has mandatory sentencing for assaults against police and public officers and dangerous drivers who cause death or serious injury during a police pursuit.

The Barnett Government also wants to introduce mandatory sentences for assault during a burglary.

Justice Martino said it was also problematic when police or prosecutors were responsible for laying charges that carried mandatory sentences because such decisions were not made public.

“Mandatory sentencing applied that way can mean the law is not applied equally and transparently to all members of society,” he said.

“Decisions by police and prosecution authorities as to whether or not to lay charges or not are not always so transparent and there is potential for those decisions to be based on factors which are irrelevant and can result in injustice and loss of confidence in the application of criminal justice.”

Attorney-General Michael Mischin acknowledged that “the risk of injustice is increased by rigidity”, and high-profile campaigns based on particular cases did not enable a measured consideration of sentencing.

But Mr Mischin stood by the state’s current mandatory sentencing laws.

“There is a role for such sentences in appropriate circumstances, particularly if the trend of sentencing by the courts fails to reflect community expectations and the courts do not respond to Parliament’s attempts to change sentencing practices by way of the few strategies available to it, such as increasing maximum terms,” he said.

“As to its effectiveness, there has been a one-third reduction in the number of assaults on police following the introduction of mandatory minimum terms of imprisonment for doing them bodily harm.

“There appears to have been a positive change in the way potential troublemakers deal with police.”

Mr Mischin said the Government planned to introduce stronger penalties for violent home invasions and burglars “very soon” but “no other categories of offences are presently being considered” for mandatory sentencing.

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News

# The Advertiser

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News

## Mandatory sentencing laws attempt to undermine independency of South Australian judges

- by: Morry Bailes
- From: The Advertiser
- November 10, 2013 9:00PM

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Mandatory sentencing laws undermine the independence of our judges, says Morry Bailes.

Source: News Limited

**MANDATORY sentencing is an issue that has all too commonly been hijacked for political gain, leaving the wider community to believe the rhetoric used to justify its place in law, without real and genuine debate.**

The South Australian Parliament recently passed a Bill called the **Criminal Law (Sentencing) (Suspended Sentences) Amendment Act**, (<http://www.austlii.edu.au/au/legis/sa/bill/clsab2013508/>) which will take from a judge the ability to suspend a sentence of imprisonment in certain circumstances.

Our law is not a patch on what has been passed by the Queensland Parliament, which introduced mandatory minimum sentences of imprisonment for certain offences. It was a knee-jerk reaction to a complex issue. It is also the thin edge of the wedge.

So, what is wrong with politicians telling judges exactly what to do? Everything.

When a judge sentences a person he or she gets to hear all of the facts put by both the prosecution and defence. The judge is able to take into account all of the circumstances of a crime, hear from victims and victims' families and from the accused person, and make a complete assessment of all of the relevant facts and law.

It is only after this level of scrutiny that a sentence can be regarded as fair. Although sentencing principles and precedents exist, every offence and the facts surrounding it are different.

Our criminal justice system is grounded upon the need to impose punishment and create deterrence, but it is also based upon the concept of mercy.

While some politicians would have you believe that judges are soft on crime, allowing them to take the electorally popular high ground, that is simply not true.

A judge's job is not to be soft or hard, but to judge - fairly. That necessitates taking into account both sides of a story, including personal circumstances. If that ability is taken away, why have a judge at all?

Mandatory sentencing is a politician trying to do a judge's job from afar and without the individual facts relevant to the case. Put simply, it leads to unfair and unjust outcomes because it removes the courts' discretion to assess matters on their merits.

Interestingly, members of the public invited to perform the role of a sentencing judge in a mock scenario at court open days invariably impose a sentence "less than" that imposed by the judge in the actual sentencing hearing.

Before you pass judgment on this at times highly contentious debate, consider this. We are yet to see any evidence that mandatory sentencing makes communities safer or deters crime.

Instead it results in increased rates of incarceration in a discriminatory, unfair and unreasoned manner and is a poor use of taxpayers' money. In particular, mandatory sentencing can impact unfairly on indigenous people, young people and those with a mental disability.

As I expressed in **last week's column** (<http://www.adelaidenow.com.au/news/opinion/morry-bailes-lawyers-poor-reputation-unjustified-and-should-change/story-fni6unxq-1226752299673>) , our courts of law ensure that administrative decisions made by executive government (government agencies) are fair and correct, and that laws passed by Parliament are actually lawful.

Mandatory sentencing laws passed by parliaments are an attempt to undermine the independence of our judges. It subverts our judiciary, pure and simple.

It strikes at the very heart of the doctrine of the separation of powers which is the cornerstone of Australia's democracy, one that we ought to be proud of and ought to defend.

For everybody's sake, let's not follow Queensland's lead.

**Morry Bailes is SA Law Society president.**

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# Mandatory sentencing risks 'serious miscarriages of justice': Queensland Law Society

April 4, 2014

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Mandatory sentencing is an "undue fetter" on judicial discretion, is arbitrary and has the potential to lead to "serious miscarriages of justice", the Queensland Law Society says.

A paper Human Rights Commissioner Tim Wilson and QLS president Ian Brown will release on Friday labels mandatory sentencing "unfair and unworkable" and running contrary to the fundamental principles of the Australian legal system.

The state government has introduced at least 10 new mandatory sentences for crimes, including for sex offenders who remove or tamper with their monitoring bracelets and people found to be members of criminal motorcycle gangs.

Attorney-General Jarrod Bleijie said while the government "supports the judiciary independence and the importance of judicial discretion", it had "made a commitment to Queenslanders that we would make this state the safest place to raise a family".

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"We have brought in some mandatory sentences for serious offences, including child sex offences, murder and gun crimes," he said.

"A mandatory sentence doesn't necessarily mean jail time and one example of that is our mandatory graffiti removal order for vandals, where they are required to clean up their mess. That is a win for the community."

But the QLS policy research paper said when it did come to jailing, mandatory sentencing hindered justice because it removed a judge's discretion.

"The Northern Territory experience of mandatory sentencing in property law offences offer the following examples of injustice, where the facts of offending have become irrelevant;

"...A 16-year-old with one prior conviction received a 28 day prison sentencing for stealing a bottle of spring water...a 21-year-old broke into a smoko room on Christmas day and stole biscuits and cordial to the value of \$23. He received one years' imprisonment because he had two previous

convictions for property offences.

"Sentencing decisions should rest with highly trained judicial officers.

"Judges are in the best position to administer justice through judicial reasoning and comprehensive understanding of the offence and the circumstances surrounding its commission."

The law society found that mandatory sentencing did not encourage "transparent sentencing processes" and expressed concern it "disproportionately affect minorities".

The society instead supported educating the public on how sentencing worked, to "increase public confidence in sentencing decisions".

"Current research suggests the following, [that] 'the public at large is often misinformed about trends in crime and criminal justice and this lack of accurate knowledge is associated with lack of confidence in sentencing' and increasing penalties is unlikely to result in a change to public perception.

"...The community has limited or no access to comprehensive evidence on criminal justice sentencing and trends...government support for these educative functions is essential in order to promote public awareness and community understanding of the sentencing processes."

18/6/14 ALCOHOL & BINGING

# Police target parents in new initiative to tackle youth crime

A NEW Police Intervention initiative in Logan is aimed at reducing youth crime by involving parents in the court process with their children.

Steve Hollands, South Eastern Region Acting Assistant Commissioner, launched the initiative in Logan on Friday and said young offenders had a significant impact on Logan's community and policing resources.

"This PI Initiative seeks to improve the supervision of these youth, provide support to the families and the youth to address the underlying causes of crime," he said.

"Youth offending has a significant impact on the community and police recognise that parents and guardians are central to a child's discipline and behaviour.

"The PI initiative focuses on parental/guardian supervision and re-engaging them in the court process."

Senior prosecutor, Senior Sergeant Dave Clarke, Officer in Charge, Logan Police Prosecution Corps said he wanted parents to become more involved in the bail and sentencing outcomes and be provided with opportunities to seek help before their child's offending spirals out of control.

The first step in the process will involve operational police.

Parents and guardians will be served with a notice to attend court, to address any low parental attendance and supervision.

The notice will have information about parenting services with an invitation to contact police prosecutions for assistance with court orders.

Parents will be asked three core questions by investigating police officers around how they are managing their child's behaviour, what actions they will take to



**Steve Hollands, South Eastern Region Acting Assistant Commissioner, launched the Police Intervention initiative in Logan on Friday.**

prevent re-offending and whether any bail conditions would help them manage their child's behaviour.

Logan PI initiative co-ordinator and Children's Court prosecutor Sergeant Sharon Moritz said the PI Initiative was unique because it targeted parents as well as offenders.

"On some days a significant number of youth do not have a parent or guardian present at the Children's Court," she said.

"The prosecution will now be seeking their attendance at court with their child for all matters."

Police liaison officers will also engage with families and help them link into parenting programs.