

Submission to the Inquiry into ACT Sentencing



Your wide ranging Terms of Reference are welcome, however I note that of the submissions received only one has attempted to comment upon the public perception of sentencing in the ACT and that submission too was from a lawyer.

From talking to laymen and women like myself there is a lack of public confidence in sentencing in the ACT. The law is viewed as a private world of legal professionals with little or no concern for the public's sense of justice or of its desire for safety. Similarly the Alexander Maconochie Centre (AMC), our "human rights compliant" prison, is seen as an expensive (\$465 per day per inmate compared with \$297 per day average elsewhere in Australia) indulgence established by a small group of the socially concerned.

Some of the negative attitudes to sentencing lie with public ignorance: the community is not told why a particular sentence was (or was not) handed down. One must accept that the media cannot provide exhaustive coverage of the reasons but equally, the public will not access the full transcript of the trial or of the judgement. Nevertheless a more comprehensive explanation for trial decisions is necessary if the public is to recover respect for our legal system's operation.

Certainly big criminal trials, murder for example, are well publicised but even here there is mitigation for the accused due to a troubled childhood, poverty and the like. One repeatedly hears and reads this type of excuse quoted derisively by the public, many of whom have experienced similar poor upbringings without becoming a criminal. The inference is that this explanation should not be taken into account when deciding on a penalty.

Individually there are a number of issues which should be examined and corrected, not only for the need to keep the public informed (and to allay the suspicion all is not well with the system) but also in the interests of simple fairness.

In no particular order these include:

- Bail being granted to people already on bail for another offence or offences (usually exposed by the media).
- Failure to name adults and no reason for the suppression provided
- No annual statistics made public of weekend/periodic detention or good behaviour bond breaches
- No annual details made public of recidivism or of (successful) restorative justice
- Inadequate explanations for seemingly light penalties so that victims feel punished
- No annual public record of parole board failures

 A.C.T. LEGISLATIVE ASSEMBLY COMMITTEE OFFICE	
SUBMISSION NUMBER	16.
DATE AUTH'D FOR PUBLICATION	11/03/14 <i>Be.</i>

- Doctors and particularly legal practitioners not publicly named for professional breaches – a concession not granted anyone else yet –
- Public naming of a female Francis Xavier schoolteacher and a Duntroon cadet both found NOT GUILTY of (separate) sexual misbehaviour – why not only name people when found guilty as I understand occurs in Germany.
- The law which prevents underage offenders being named even after they have committed subsequent adult crimes, e.g. the Clea Rose killer
- Underage offenders who commit adult crimes being named
- Inadequate facilities for housing the mentally unwell who it is claimed should not be in the AMC. It is understood this omission is being corrected but doubts exist about the cost, quality and type of inpatient.
- The widespread anger that if you take matters into your own hands to protect your family or property from vandals and hooners (because the police are too busy) you will be the offender
- Time delays bringing matters to Court appear to favour offenders i.e. period spent in remand
- The suggestion needles should be allowed in the AMC to assist those there for drug offences and the attendant implication drugs cannot be kept out of the prison – a mockery of sentencing
- Reluctance to address severe penalties for the “coward” or “killer” punch in the ACT
- No accountability of judges, magistrates, parole board members for their decisions – yes, there is an appeal process but this is regarded as an “old boy’s network” and nobody is ever removed from their position.

The above is not exhaustive but warrants consideration in any study of sentencing in the ACT.

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February 28, 2014