



8 December 2017

Queensland Sentencing Advisory Council (QSAC)  
GPO Box 2360  
BRISBANE Q 4001  
Email: [info@sentencingcouncil.qld.gov.au](mailto:info@sentencingcouncil.qld.gov.au)

Dear Sir/Madam

**Re: Sentencing for criminal offences arising from the death of a child**

We refer to the letter dated 6 November 2017 seeking Submissions on the above issue by 13 December 2017. We commend the Queensland Government for their efforts in making perpetrators of violent and deadly crimes against children, accountable for their actions.

Protect All Children Today Inc. (PACT) is a non-profit community organisation established in 1986 as a service provider of court support as well as advocating for vulnerable children, young people and their families. PACT's Child Witness Support Program provides support for children and young people who are required to give evidence in criminal court matters, either as victims of, or witnesses to, a crime. PACT recruits Child Witness Support Volunteers to provide child victims and witnesses with support and information about the Criminal Justice System. It is through our experience that we offer the following comments.

***What issues do you think the Council should explore in responding to the Terms of Reference – penalties imposed on sentence for criminal offense arising from the death of a child***

Firstly, we express deep concern over the number of child deaths that occurred between 2015-16, although we are uncertain as to how many of the deaths registered related to homicide matters. In relation to child homicide, we firmly believe that sentencing needs to reflect the serious nature of the crime and to discourage further deaths of vulnerable Queenslanders. In our opinion, offences of this nature should incur maximum penalties due to the extreme vulnerability of the victim.

Whilst PACT's involvement in the court process is completed by the time a matter goes to sentencing, we believe that public perception is that many child related death charges are downgraded from murder to manslaughter. Therefore, we suggest a review of the past sentencing practices to identify if this is in fact the case and if so, why.

We acknowledge the need for judicial discretion and for sentences to be based on precedence and the circumstances of each individual case. However, if the current sentencing system is not appropriate, nor capable of discouraging further offending of this nature, then it needs to be reviewed and amended to ensure better justice and meet broader community expectations.

PACT argues that sentences for child related homicides should be far harsher given the vulnerability of the victim and their lack of physical and emotional maturity to protect themselves.

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***Vice Regal Patron: His Excellency the Honourable Paul de Jersey AC, Governor of Queensland***

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**Proposed factors when determining sentencing.**

- The age of the child is particularly relevant; the younger the child, the more vulnerable they are to homicide due to their lack of physical and emotional maturity. They are also unable to adequately protect themselves, or seek protection from a responsible carer. The younger the child, the more dependant they are on their primary caregiver.
- The living arrangements, family composition and home environment of the victim child. Such as an abuse of a trust relationship where deaths are perpetrated by an immediate family member. Children raised in a blended or stepfamily environment may be at higher risk due to the absence of a genetic relationship, so this needs to be a factor of consideration.
- Child homicides committed by mentally ill offenders, where there has been a history of mental illness and psychiatric symptoms. Munchausen cases where the offender is likely to deny the offence, even in the face of overwhelming evidence.
- The nature of the offence and establishment of the cause of death, such as a head injury resulting from shaking, falling or blunt force trauma. Some child victims do not demonstrate external manifestations of abuse, so it may be more difficult to forensically determine the cause of death.

We believe that feedback should be sought from family members who have lost a child or family member to violence or neglect to determine their views regarding past sentences imposed. It is only with this insight that the Queensland Sentencing Advisory Council can make informed recommendations to the Queensland Government.

PACT is very grateful to be consulted about this important issue. Should your staff require clarification or further information on any of the issues raised, please do not hesitate to contact Mrs Jo Bryant, PACT's Chief Executive Officer.

Thank you for the opportunity to provide comment on this piece of legislation and trust that our input has been of value.

Yours sincerely

**Alexandra Marks**  
**Chairperson**

**Jo Bryant**  
**Chief Executive Officer**