Attn; QSAC, Anne Edwards.
07/08/2018

Re: Child Sentencing.

Dear Anne,

Please note I have edited and added to, this first letter.

The points I make in my submission, which follows the letter, are NOT intended to address the questions specifically, but rather the listed purposes, that give rise to the questions and the parameters of the factors that the determining criteria utilize in the assessment process itself.

It is my intention to put forth a new viewpoint, that outlines the failings in the purposes and therefore voids or brings into question the very nature of the review process.

With my extensive private enquiries into the Hemi case (specifically) I feel that THIS, is what the Queensland people are asking for and what the focus of the call for submissions should really be.

Letter;

For several years I have followed the alarming demise of public faith in the legal system of Qld.

In particularly, set against the backdrop of the case involving my very close friends, Shane and Keri Goodwin-Burke, in their case for the matter of justice for their son Hemi.

I have witnessed firsthand the grief, shock and dismay, time and again as day after day, they are refused an inch of ground or compassionate response from the offices of Yvette D'Ath, as they seek to change what they and almost all Queenslanders see as the unimaginable failings of the Child sentencing laws in this state.

To receive an eight-year sentence with a four-year non-parole period, for bashing, torturing and finally ending the life of a toddler under your care should carry a mandatory life sentence if voluntary rehabilitation programs are not entered into.

This is a sentiment held by not only those directly affected, but by every Queenslander, who in this case, signed the forthcoming petition, which I myself helped canvass to the public.

Whilst the Goodwin-Burkes and other affected families like them will no doubt continue to seek for adequate Justice, commensurate to crime, as recompense for that crime, I on the other hand argue for an overhaul of this stop gap system itself, for another reason.

Having come into the arena of social service (over two decades ago) through my own personal need for rehabilitation from a mental illness, I have spent my entire life since making myself available to those in need.

I have worked as a part time volunteer for the Dept of community welfare in NSW, been a Minister at a community church for over 6 years, helping to facilitate programs aimed at recovery from addiction and mental illness and have seen many people come and go from my care over my twenty-years as a Minister of God.

My wife and I currently run a small local program aimed at helping those who are struggling to come to terms with the inequalities and pace of the modern world, who are facing the rigors of suicidal/black thinking. I estimate this program has an over 70 % + success rate.

I would like to take the opportunity to say that I am pleased to have been given extended time to pen my submission, I look forward to hearing what the QSAC makes of it.

You have a mighty role to fulfil, and I hope the significance of the ability you have to end a great deal of suffering and disappointment is paramount in your conscious awareness and forthcoming consideration of this whole affair.

Allowing a baby killer to receive such a short custodial sentence, with only one rehabilitative program offered on a basis of voluntary participation, as in the case of little Hemi, is not only a deep mar on the face of Justice but shows complete ignorance by the judicial system of the process of true rehabilitation and a deep inadequacy in the understanding of the human psyche, pre and post disorder.

More disturbingly, it clearly reveals an overall ignorance of the process and practical facilitation of contemporary programs and rehabilitative modalities available, that are designed to 'restore' the balance of a person's inner equilibrium, allowing them stable functioning in the compartments of identity association, reasoning and common principle application.

A human being, who has been deeply traumatized by an experience that is drastically out of accord with their own accepted perception of daily life, *such as a returned soldier, a victim of rape, etc*, can take often decades to pass beyond the grip of the haunting visions and memories which are so emotionally 'loaded', to live what they would have once termed 'normal life' they often never fully recover.

It is also my considered opinion, *having lived thru my own inner hell*, that whether victim or perpetrator, an act so hideous as the deliberate ongoing brutalizing and killing of an innocent baby, could not but be something that signifies to all who share the common perception of acceptable human behaviour, that the perpetrator has indeed 'snapped'.

Furthermore, to claim diminished responsibility, due to being affected by alcohol, deems that the perpetrator has no inner sense of responsibility to the act committed and is more concerned with escaping and or earning a reduction in the overall sentencing, and has no understanding of the depth of the necessity for true rehabilitation.

To lose sight of one's powers to reason the parameters of a situation that results in the death of an innocent baby in such a way, is a CLEAR sign of mental dis-ease and the claim of diminished responsibility is a secondary 'mask' that hides what is truly amiss (a balanced sense of self) .

And unfortunately, allowing a person who has committed such actions to come out the other end of the justice system without adequate rehabilitation, is only guaranteeing that their cognisant capacity to manage same or similar situations is not only likely going to incapable of managing the task, but also guaranteed to be a shadow on their psyche that will corrupt clear vision their whole life.

It may in fact be made much worse by the mental languishing in guilt (or denial of) over those years.

In 2009 study results published by Deakin university, based on research from the Australian institute of criminology, only one violent offenders program (run by the NZ police force) was seen to have conclusive results, with only 32% being reconvicted after release.

In Qld, a 63% re-offence rate for violent criminals is the average statistic, and that has so many inconclusive factors driving the rate it is estimated it could be higher, a clear indicator of incompetency in system analysis and process.

In Qld, it has been my own experience(s) having once looked into offering a collaborative rehab program to Prisons Qld, and in talking with ex inmates, and given that prison rehabilitation programs do not have to be undertaken mandatorily, that not only is the current offering of rehabilitation programs inadequate for such an offender, but that these programs (*in the main overseen,* at the time of my application*, by the Catholic church*) are limited in scope and outdated.

In 2003 in Qld, there was only 134 hours duration to the violent offender program, whereas in NSW there was a rehabilitation program spanning 831 hours.

Which in 2009 has been reduced to, NSW 240 and Qld just 100 voluntary hours. This is not enough to guarantee rehabilitation of someone's mind in this situation and the statistics speak volumes to that.

Yes, my figures are based on the 2009 reports, but my overall view is based on a contemporary relationship I have with the process of rehabilitation, reporting and liaison with those both, previously incarcerated and ex security personnel and staff at several Qld prison institutions.

I also table the notion that the privatization of Qld prisons since 1990 must inclusively be a considerable factor in prison sentencing. No one can tell me that the pressures to reduce sentences, by our debt laden government, who foot the bill at the Qld taxpayers expense, cannot not be something effecting the inadequate setting of prison terms.

After all, it would be astounding to me if a private company such as the Corrections Corporation of Australia is going to take on the privatization of a prison if it were not for profit. Maybe I am wrong, maybe the privatization of Qld prisons is solely under the auspices of charity associations and good-hearted folk, who have no interest in profits. But I stray from my viewpoint in the main.

In my 'only one man' opinion, there is vast room for improvement within the assessing faculty who lend their voice to this issue now affecting Qld law.

To posture the response that (in my summary) '*any sentence is better than no sentence*' and that 'Oh they are only grieving parents' (as in the case of the ONE and only response to the Burkes many protestations, from clerks at Yvette D'Ath's office) is not only a slap in the face to Qld taxpayers but a serious indictment on the lip service and 'foll de roll' attitude of officers of the crown that should be held accountable to a standard based on higher morality and ethics rather than personal opinion and rebuke.

It states clearly that the office is grossly incompetent in not only their acceptance and understanding of the views of the commoners they serve, but also that they are ignorant of the full parameters of a socially contemporary 'duty of care' owed to victim and perpetrator alike, which I believe is rightfully and justly expected of a tax payer funded system.

In summary, a short term of imprisonment does little to serve both the sense of justice the people expect, OR the welfare of the inmate who clearly, in this case, needs proper rehabilitation.

The system is clearly broken, and those who would argue against my reasoning, citing the values and benefits of the existing system, are part of the very nature of the problem.

Perhaps I am wrong in this instance, in that the QSAC is independent of personal contribution regarding the garnering of public submissions for this matter. But the system is beyond the comprehension of the general public, in almost all of its chapters, departments and processes, so please forgive my broad acre denunciations, they are born of interaction and conversation with the public at large, from many walks of life and my own academic background.

We vote, we pay, we call for JUSTICE, on all levels.

SUBMISSION;

As stated earlier, the nature of my submission is not acquiescent to the calling of the consultation guidelines as requested, but rather a notation based on my consideration of the very purposes stated as the foundations for the questioning itself.

To begin with, I take into example the very first purpose, punishment. I will use reason, to establish my grounds and make my submission, based on the case of little Hemi.

1. Punishment; to punish the offender to an extent or in a way, that is just in all circumstances.

To be just in all circumstances, ALL circumstances must in fact be known. The notion of 'punishment' then, cannot also fall into the same set of purposes as rehabilitation.

If punishment is seen as inclusive of rehabilitation, the very notion of rehabilitation is going to be perceived as part of the punishment process and set up a field of resentment in the mind of the offender, who in this case, whilst trying to claim diminished responsibility, has not fully accepted that what he has done is a criminal act, but rather an accidental one born of circumstances beyond his full control.

If in fact, all circumstances are known, prior to sentencing, the understanding then, that a person with an alcohol addiction/problem, is so overcome with addiction, because of an inner affliction or 'inability to cope' that to them, is managed by the use or overuse of alcohol.

Alcohol then, should not be in the factoring or foundation for assessing diminished responsibility, but rather, the perceived need for it as a catalyst to manage oneself through the use of it should be.

In the case of little Hemi, alcohol is clearly used as a poorly, self-diagnosed treatment, in order to cope with a situation that was clearly unable to be dealt with without it, which no doubt contributed to the end result, but was not in itself the cause of it.

In that sense, the defendant was dealing with a sense of diminished capacity already in regard to his duty of care in the specific situation, and used alcohol as a mood inducing sedative to quell/alleviate himself from his pre existing, feeble sense of Self.

Punishing someone then, in a way that is just in all circumstances, fails in its appraisal of the circumstances if diminished responsibility is allowed to be claimed due to and based on excessive alcoholic ingestion.

In summary; A Pre-existing diminished internal capacity in that situation then, was in fact the catalyst, for bringing the bearing to mind that alcohol would alleviate the angst associated with the exposure of the condition.

Given the result, which exposes the cause, this choice to employ copious amounts of alcohol in the situation, was poorly appraised, signifying an ineptitude toward choice analysis, on behalf of the defendant.

THIS, is the capacity (pre-crime), that is in need of appraisal, and could be truly considered to be a case for diminished responsibility, not the resulting action born of ongoing choices occasioning the crime itself.

2. Rehabilitation, to establish conditions to help the offender rehabilitate.

As stated above in 1, if the appraisal and circumstances considered are inaccurate, incomplete or ignorant of all levels of understanding pertaining to the case, rehabilitation then is at best, going to be a one size fits all undervaluation of the full parameters of the matter.

It should also be stated, just to be obvious to all, that incarceration, is NOT rehabilitation, nor can it be considered rehabilitative, it may be a deterrent at the most, but that is all.

So, in this case, a sentence wherein the offender, who has already claimed diminished responsibility, (which as I have stated, clearly points to a pre-existing diminished condition) and is allowed voluntarily to enter a rehabilitative program, is insanity itself.

If one takes a pet, keeps it in a cage and does not train it, then they cannot reasonably expect that pet to respond to interaction in any acceptable way once let out. In fact, a deep resentment is almost certainly going to be the founding catalyst for highly possible retaliative action.

Likewise, then, if a criminal is locked in a cell, without rehabilitation… I am sure you can see where I am going with this.

For rehabilitation to be seen with validity, as one of the purposes attributed to sentencing criteria, it must be then, that there is a real and tangible path of rehabilitation available to begin with, or the purpose is unjustified.

Which in Qld, currently, as earlier stated, is a virtually non-existent curriculum entity. 100 voluntary hours.

My opinion on the matter however, having spoken to countless members of public in the Hemi case, is that they don't care about rehabilitation, but rather would feel satiated if life imprisonment with no release were the standard response to a child killer.

And I see elements of this reflected in the notion of a minimal, voluntary rehabilitation program and the fact that rehabilitation itself is even mentioned then as one of the purposes.

It seems as if the purpose 'rehabilitation' is rather then a peace keeping entry, to placate the likely left-wing under-skin irritant that exposes the archaic understanding of the judicial system in the face of a rising contemporary public understanding born of a sense of compassionate responsibility to do more to help offenders re-enter the public domain.

There is a subtle undertone of a 'lock em up and keep things moving along' mentality that many I spoke to voiced concerns about to me. Its as if there's an attitude that the problem is too big to resolve, prisons too full, so any sentence will do, just clear the courtrooms!

I don't intend to address the rest of the purposes, as far as I am concerned, they fall complicit to the two I already (briefly) have addressed.

I put then, that not only is the methodology associated with the processing of due justice based on its purposes at fault, (which is obviously the reason for this consultation paper calling for submissions to assist the QSAC address the situation) but that attempting to solicit public sentiment based on this consultation paper summary, and its faulted purposes guidelines, is folly and actually only endorses the failures it is trying to address.

To solicit a true and envigored contemporary legal landscape pertaining to this matter, the whole purposes themselves, guidelines and consultation process needs to be scrapped.

It will not be a simple, nor short term process to re-educate an entire system that has faltered so long under the auspices and beliefs born of ancient legal sentiments, but as with this very body, the QSAC, the signs are good that the government is at least aware of the issues at hand and attempting to remedy the situation.

However, half a remedy is no remedy at all and so I move that a subsidiary body be appointed to the QSAC to look into and report on, not only the contemporary validity of the purposes themselves, but also to bring to light via an investigation, the statistics and status of current violent offender rehabilitation programs in Qld prisons and relevant information regarding more successful violent offender programs, such as those offered in prisons in New Zealand and others in the private 'recovery' sector.

At your service,

[redacted]

Minister of God.

[redacted]