



Submission into the Queensland Sentencing Advisory Council (QSAC) review of the operation and effectiveness of the serious violent offences scheme under the Penalties and Sentences Act 1992 (Qld)

The Queensland Homicide Victims' Support Group (QHVS) recognise that the impact on the health and wellbeing on those who have lost a loved one to homicide is immeasurable. The harm associated with this kind of loss is life-long, severe, and impacts all dimensions of a person's health. While the imprisonment of the offender/s does not bring their loved on back, it does provide an opportunity for the justice system to strongly denounce and punish offenders for their actions. Punishment is a critical factor here – we are not talking about financial fraud or political corruption. We are talking about a person intending to seriously harm another person, resulting in death.

But as so many families discover, 'their day in court' too often becomes a devastating experience when they discover that the offender will not serve a long period of time in prison. In Queensland there is an average sentence of less than ten years (head sentence for manslaughter) with most killers serving only a fraction of that time. Witnessing the killer walk free (due to time served or having just a few years remaining of their sentence) is re-traumatising and creates a mistrust for the system.

What is their loved ones life worth, and how can our community accept that this is adequate?

Failing to punish offenders with a significant time in prison shows a complete lack of understanding of the impact on those who have lost. This belief is not based on the impact of media, or a lack of understand of sentencing processes. It is based on the firsthand experiences of thousands of families. It's clear that there has not been enough research on the victims' perspective – this needs to change.

Most families who are supported by QHVS feel that the current sentencing for manslaughter in QLD does not meet their expectations, and the SVO is used infrequently and without logic. There is a feeling that the court fails to understand what the term "serious" means. How can a person who stabs or shoots another person not be categorised as seriously violent? We are lost for words as to how the current SVO scheme came to be. How did the judicial system fail to recognise the seriousness of such crimes despite a scheme being in place to address this exact issue?

This sentiment was expressed by all homicide victims who attended the QSAC round table discussions. It is also consistently expressed by our members. Put simply, we feel that the current average length of sentence for manslaughter in Queensland is grossly inadequate. We also agree with the concerns of the 2019 QSAC report, that the SVO mandatory sentence requirement is exerting downward pressure on the head sentence to avoid the SVO label being applied.

While we are uncertain why the SVO appears unattractive to judges, we suspect that there may be increased concerns around a decision being appealed and in addition the rigidity of the SVO scheme reduces the prosecutions option to obtain a plea bargain.

If the ten-year limit is a roadblock that prevents judges from making appropriate decisions, then it should be removed. This is manslaughter – not petty crime. Judicial discretion is essential, and the community must be confident that the punishment will fit the crime.

Parole vs time served

The legal system requires a custodial date for those who are sentenced for manslaughter, and parole is an essential aspect of sentencing. Having these offenders closely supervised and supported to re-integrate is essential. As much as our members report that they wish to see offenders punished, they also do not want others to experience what they have.

Community safety must be the single most important factor when parole is being considered and stringent assessment of safety must occur. Our community must be assured perpetrators are not going to re-offend. The expectations on these individuals must be high in terms of behaviour and compliance both within the prison and adherence to the conditions of release.

Prisoners must be able to undertake effective, evidence-based rehabilitation programs which they must engage with, in a genuine manner. These must be tailored to suit the individual needs of the offender and be easily accessible. A strong emphasis on psychiatric or psychological support needs to be the basis for this. Work based skills are also essential if they are lacking.

As highlighted in the scoping review prepared for the Queensland Sentencing Advisory Council (2021), there seems to be a need to increase funding to provide improve access to rehabilitation programs and psychological support both within prisons and when on parole.

The provision of community supervision which allows a managed re-integration to society is logical. Conditions such as curfews, banning alcohol use and ensure suitable accommodation is arranged, support the prisoner and assist in reducing risk to the community. Continuity of education and support are essential which need to be provided by agencies that have stringent reporting requirements.

However there needs to be very high expectations for offenders who have killed. Reporting, ongoing education and support which links to what has already been occur whilst incarcerated and clear behavioural expectations must be set. New South Wales has introduced increased measures for violent criminals, which would be worth examining in greater depth. This also gives the victim an opportunity to face the offender at the parole application period. <https://www.justice.nsw.gov.au/Pages/Reforms/high-risk-offender-management.aspx>

Of course those who are already offending are already a risk, and greater emphasis on early intervention must be further examined and invested in. QHVSG has provided input into early intervention needs as a part of the Queensland Productivity Commission inquiry into imprisonment and recidivism (2018). We also provided this to the Children, Youth, Justice and Multi-cultural Affairs Taskforce (2021). I provide this document as a part of this review.

Of interest and worthy of further consideration is the use of restorative practices for violent offenders. Research and trials have been taking place in Queensland Health settings, which are report having positive results. These practices are also highlighted by the work of Terry O'Connell OAM, who has been recognised for his achievements in this area. The documentary by Australian Story ['Facing the Demons'](#) provides insight into this process.

The victims' voice

It is of utmost importance that victims of homicide are given the opportunity to receive timely information around ongoing investigations, court processes and Correctional service information. And whilst some may not wish to be involved, the option to be kept informed and have input into the relevant decisions that are made.

Not having this ability makes the journey worse, and we are pleased that there has been a genuine commitment from the QLD Police Service, the Office of the Director of Public Prosecutions, QLD Corrective Services and the Parole Board QLD to listen to the needs of our members, and to adjust where possible. We acknowledge the open communication lines that exist and the procedural and legislative changes that have occurred after listening the voice of homicide victims'.

This trend needs to continue not because of the Charter of Victims' Rights, but because it reflects a trauma informed practice that has significant benefits for the victims of homicide.

This voice will be best heard with ongoing support for organisations who specialise in support and understand the unique needs. It is best heard by dedicated organisations who are prepared to advocate for the rights needs of victims' of homicide. Generic support is not effective.

We acknowledge the ongoing foresight of successive QLD Governments in providing funding for the QLD Homicide Victims Support Group to operate. As one of only two financially supported homicide specialist support groups in Australia, we understand how important our role is in giving homicide victims a place at the table and providing insight for stakeholders.

Concluding statement

Our position in relation to the Serious Violent Offender Scheme is that it seems well intended, however its application seems to have been at best inconsistent and at worst, avoided. Violent criminals who have stabbed, strangled and shot victims have frequently escaped its use. Sentences over ten years for manslaughter seem to be routinely avoided to prevent the automatic application of the scheme.

From the firsthand experiences of QHVSG members, the scheme is not doing what it was supposed to and is in fact reducing the average sentence for homicide in QLD. It not meeting the expectations of homicide victims.

Sentencing is explicitly linked to rehabilitation and parole support Programs need to be evidence based and individually tailored to the needs of the offender. A large focus must be upon psychological interventions.

Higher behaviour expectations and scrutiny of those sentenced to manslaughter need to be applied to ensure that the community is protected, and support needs that extend beyond the prison environment.

Finally, we feel that early intervention, as outlined in our submission to the QLD Productivity Commission is a critical area of need in our community. If we prevent, we don't have to cure.

We sincerely thank the Queensland Government for honouring it's 2020 election commitment by undertaking this review. We also acknowledge the genuine way that the Queensland Sentencing Advisory Council has consulted victims of homicide in Queensland as a part of its review processes.



Brett Thompson

Chief Executive Officer

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