



Our Ref: 17/709-2

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New South Wales Sentencing Council  
GPO Box 31  
SYDNEY NSW 2001

**By Email:** [sentencingcouncil@justice.nsw.gov.au](mailto:sentencingcouncil@justice.nsw.gov.au)

Dear Council members

***Preliminary submissions – review of sentencing for murder and manslaughter***

Thank you for providing the New South Wales Bar Association (‘the Association’) with the opportunity to consider the Terms of Reference in the Sentencing Council’s review of sentencing for murder and manslaughter and provide preliminary submissions on the issue. The Association does not propose to make detailed submissions at this stage, however we do intend to provide more comprehensive input as the Council’s review progresses.

Having said that, as a preliminary step, the Association recommends that the Sentencing Council consider the following in its review:

1. Whether there is any evidence to suggest that longer sentences for murder or manslaughter will have a deterrent effect, either generally or with respect to the particular offender. A related issue is whether there is any evidence that the significantly increased sentences imposed for murder over the last few decades have had any deterrent effect.
2. Whether there is any evidence that “domestic” and “family violence” murders are currently being sentenced more leniently than other types of murders.
3. The appropriateness of retaining sentences of life without the possibility of parole, which disregard the possibility of future rehabilitation. This should be considered in the context of the powers of the State Parole Authority to refuse parole and the availability of Continuing Detention Orders and Extended Supervision Orders.
4. Sentencing of “battered” persons for offences of manslaughter. In particular, how a history of domestic or family violence on the offender at the hands of the deceased is to be factored into sentences for manslaughter where there has been a guilty verdict on the basis of related excessive self-defence, provocation or substantial impairment. In such circumstances should there be more scope for non full-time custodial sentences?

The Association looks forward to making further submissions to the Council during the course of this important review.

If you have any questions please contact the Association’s Executive Director, Mr Greg Tolhurst on 9232 4055 or by email at [gtolhurst@nswbar.asn.au](mailto:gtolhurst@nswbar.asn.au).

Yours sincerely



Tim Game SC  
President