



*The Chief Judge  
District Court of NSW*

The Hon Jerrold Cripps QC  
Chairperson  
Sentencing Council  
GPO Box 6  
SYDNEY 2001

4 July, 2011

Dear Chairperson,

Thank you for the opportunity to comment on the Sentencing Council's Consultation Paper relating to suspended sentences.

The first observation I would make is that caution should be exercised in interpreting figures which might indicate that sentences of full-time imprisonment have not decreased in proportion to the increase in suspended sentences. The reason for that caution is that since the introduction of standard non-parole periods, there is no doubt that in the higher jurisdictions sentences have increased and increased quite significantly in some areas. There has generally been an increase in the length of sentences and as a result judges assessing more people who should be sentenced to full-time imprisonment. This to some extent offsets the reduction in the number of people sentenced to imprisonment which might be expected from the introduction of suspended sentences.

I am aware that a principal philosophical reason for considering abolishing suspended sentences in Victoria has been the view expressed by Professor Arie Freiberg that a suspended sentence is a contradiction in terms and is confusing to the public. I fail to see that the term is confusing. The concept of suspending a sentence is easy to understand and there is nothing confusing about the word "suspended".

I note from the BOCSAR figures in 2003-2004 that in 83.8% of cases the sentences were successfully completed. That is a very high success rate and to my mind it proves how effective suspended sentences are. The usual statement to an offender when imposing such a sentence advises the offender of the drastic consequences of breaching the order and no doubt that is why they are so successful.

There are some areas where suspended sentences are particularly useful. One such area is where disqualified drivers continue to drive. In many of these cases the offender does not have a bad traffic record and cannot be said to be a danger on the road. In these cases gaol is regarded as the very last resort and sometimes the most effective way is to suspend a sentence for a persistent offender and simply advise them if they drive while disqualified again, they are sending themselves to gaol.

As to arguments that suspended sentences are used inappropriately, the answer is simply that they can be appealed by the prosecutor to the District Court from the Local Court and to the Court of Criminal Appeal from the District Court. We have a professional prosecution system in New South Wales that can be depended on to perform this review function.

As to the specific questions posed, I would answer as follows:

1. There is no need to reintroduce partially suspended sentences.
2. There is no need to reform the nature of conditions to them.
3. The term of two years is appropriate.
4. The operational period should not be changed.
5. There is no need for a guideline judgment. Indeed I do not see how a guideline judgment could be formulated.
6. There is no need to require legislative intervention as to cases appropriate for suspended sentences.
7. There is no need to change the provisions relating to breach.
- 8, 9 and 10. No change is required.

Yours faithfully,



The Hon Justice R O Blanch  
**CHIEF JUDGE**