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New South Wales Sentencing Council,
GPO Box 31,
Sydney, 2000.

Also sent electronically: sentencingcouncil@justice.nsw.gov.au

Dear Council members,

Submission – review of sentencing for murder and manslaughter

I wish to place on record my appreciation that Mr Speakman the Attorney General has requested this review of sentencing for those people convicted of murder or homicide in New South Wales.

I have no legal training but have always had an interest in the administration of justice in Australia and New South Wales in particular. Where I do so is in relation to sentences that involve mandatory life imprisonment with no option of parole in New South Wales.

I fully understand the need to deter others and to show that there is a mechanism in place that punishes those who consider themselves above the law. Having said that, I have great misgivings about the very concept of mandatory sentencing. Judges are, I believe, quite capable of coming to a conclusion about the appropriate sentence rather than that which is imposed upon them to by what I regard as draconian legislation that permits no wriggle room.

Some years ago on an ABC radio programme I listened to an interview with then Judge Lex Lasry from Victoria. He was defending the concept of judicial independence from the imposition of mandatory sentencing. In that programme he gave two examples of trials on charges of murder that he had sat on. While they were on the same charge the cases were completely different.

The first concerned a young man who took the life of another who I think was a drug dealer. During the trial he showed no remorse whatsoever. The second was of a young woman who I think was the victim of sexual violence and who finally retaliated and killed her tormentor. During the trial she was distraught and showed great remorse. The Judge was able to treat these cases quite differently due to discretionary sentencing and handed down a lengthy custodial sentence for the young man and a sentence tempered with mercy in the case involving the young woman.

I ask nothing more than that you consider these examples of how justice should be applied in New South Wales.

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To have laws with a "one size fits all approach" does not honour the word Justice and never will. I would further suggest that the very concept of mandatory sentencing is a vote of no confidence in the competence of the Judiciary of New South Wales.

I urge you to consider a recommendation to The Attorney General that the legislation dealing with mandatory sentencing with no hope of parole be appropriately amended to give hope.

Yours sincerely,

James Charles Mohr