

**From:** [PolicyADG](#)  
**To:** [Anne Edwards](#); [QSAC Admin](#)  
**Cc:** [PolicyADG](#); [Leanne Robertson](#)  
**Subject:** AG Brief Request - QSAC Child Homicide ToR Research Report, Due 31 July 2018  
**Date:** Thursday, 12 July 2018 11:44:30 AM  
**Attachments:** [image001.jpg](#)  
[image002.png](#)  
[Child\\_homicide\\_sentences\\_-\\_Research\\_report\\_2018.pdf](#)  
[AG\\_and\\_ADG\\_Copy\\_of\\_COMMS\\_Child\\_homicide\\_ToR\\_research\\_paper.docx](#)  
[image003.png](#)  
[Child Homicide in Queensland Research Report AG BRIEF.docx](#)

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Good morning Anne

Please see below DLO request for AG brief in relation to the QSAC Child Homicide in Queensland Research Report.

Template attached for saving into eDOCS.

Kind regards,

**Ayesha Latimer**

A/Executive Officer

Office of the Assistant Director-General

Strategic Policy and Legal Services

Department of Justice and Attorney-General

Ph: 3006 4517 / x61517

e: [ayesha.latimer@justice.qld.gov.au](mailto:ayesha.latimer@justice.qld.gov.au)

---

**From:** DLO

**Sent:** Wednesday, 11 July 2018 4:28 PM

**To:** PolicyADG

**Subject:** FW: COMMS - Child Homicide ToR Research Report

Good afternoon,

Can we please request a brief on this report? It's not urgent but if we could get it back later this month that'd be great.

Kind regards,

**James Mann**

Departmental Liaison Officer

Office of the Director-General

Department of Justice and Attorney-General

Ph: 37197418

---

**From:** Michael Kely [<mailto:Michael.Kely@ministerial.qld.gov.au>]

**Sent:** Wednesday, 11 July 2018 3:58 PM

**To:** DLO <[DLO@justice.qld.gov.au](mailto:DLO@justice.qld.gov.au)>

**Subject:** FW: COMMS - Child Homicide ToR Research Report

Can I get a brief on this please.

**Michael Kely**

Senior Policy Advisor

**Office of the Hon Yvette D'Ath MP**

Attorney-General and Minister for Justice

Leader of the House

---

P 07 3719 7412 | M [NP\\_49-Sch4](#) | **Parliament Phone:** 07 3719 7392 | **Email:** [Michael.Kely@ministerial.qld.gov.au](mailto:Michael.Kely@ministerial.qld.gov.au)  
1 William Street, Brisbane QLD 4000 GPO Box 149 Brisbane Qld 4001

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**From:** Vivien Csallo <[Vivien.Csallo@sentencingcouncil.qld.gov.au](mailto:Vivien.Csallo@sentencingcouncil.qld.gov.au)>

**Sent:** Wednesday, 11 July 2018 12:28 PM

**To:** Michael Kely <[Michael.Kely@ministerial.qld.gov.au](mailto:Michael.Kely@ministerial.qld.gov.au)>

**Subject:** COMMS - Child Homicide ToR Research Report

Good morning

Please see attached – the Research Report and associated Comms that will be released on Friday 13 July. DJAG Media and the SPLES ADG have also been notified.

Please note – the version of the report attached is not yet print ready – we need to do a final QA just for page numbers, table of contents etc – but there will be no substantive changes. This will take a little time to do and we didn't want to delay getting the info to you.

## POINTS OF NOTE

### Dataset:

12-year period of finalised homicide offences by Queensland criminal courts – 1 July 2005 to 30 June 2017. QFCC, QPS and ACS data were also integrated to reduce any potential for missing cases, and to provide a more comprehensive picture of the offence and its characteristics.

National Homicide Monitoring Program (NHMP) data enabled us to consider national patterns in homicide and child homicide – although this data is based on police charges not finalised matters as with our Courts data.

### Report:

A description of the offences finalised by Queensland criminal courts over 12-year period – no explanation for any identified patterns is presented.

### Points:

1. Disparity in average sentenced outcomes.

Adult manslaughter offenders receive significantly longer average sentences than child manslaughter offenders – 8.5 years compared to 6.8 years.

There are a number of issues to consider with respect to this finding: first, we are using average sentence because we are testing for significance – the median reveals closer sentences – 8.0 years for adult manslaughter offenders compared to 7.5 years for child manslaughter offenders. Both are discussed in the document but media may only focus on averages.

2. Difference in the range of sentences for adult manslaughter offenders and child manslaughter offenders.

The range for child manslaughter offenders is 1.5 years to 10 years

The range for adult manslaughter offenders is 1.5 years to 18 years.

This calculation is based on the offender's sentence for their most serious offence. There is one case in the dataset for child manslaughter in which the offender was sentenced to 15 years imprisonment, but this offender was also sentenced for murder at the same sentencing event which means their case is used for the murder category not the manslaughter category.

3. Parent is the greatest offender-victim relationship for child homicide. Within this group more than half are the victim's mother.

This is consistent with national and international findings. The proportion of female offenders is significantly higher for child homicide (24.2%) than for adult homicide (10.3%). Females are not as prevalent as offenders in any other sub-grouping of homicide. Female child manslaughter offenders received 5.9 years on average and men 7.3 years on average.

Clear patterns in methods of death are associated with gender – female offenders are most commonly associated with failure to provide the necessities, then strangulation/suffocation; while male offenders are most commonly associated with more violence and weapons – e.g. striking and stabbing.

4. Children at the greatest risk of homicide in their first year of life. This is the greatest risk of homicide across the entire life course (age 1-4 years is also high). Risk of homicide reduces to its lowest level at school age and then increases in late-teenage years in line with broader adult-related homicide risks and patterns.

The first year of life as the riskiest period for homicide aligns with all available national and international research as does the reduction at school age and then increases in late teenage years. The pattern for younger children also explains why female (mothers) occupy a greater proportion of the offender group – typically primary carers. Father (biological and step) increase from 1-4 year age category. It is suggested the increase in late teenage years is due to changes in socialisation and independence, reflecting the adult homicide patterns. Strangers and acquaintances also become more pronounced as offenders for this late teenage group. Changes in location of homicide offences are also identifiable – e.g. for young children private locations such as the home are more common yet public locations increase as a child matures.

5. The first and second most disadvantaged postcodes account for the greater proportion of child homicide cases.

Research confirms that parents who kill their children typically face a range of economic, social and structural disadvantage. Mental health and substance misuse are often associated with these cases but no definitive conclusion can be drawn about their individual or collective contribution due to reporting and data problems. It is accepted these are all part of a multi-dimensional problem.

I am in the office until around 3pm and then can be contacted on mobile NP\_49-Sch4 should you need anything urgently.

Thanks

Vivien

**Vivien Csallo**

**A/Senior Community Engagement Officer**

(07) 3224 7370

[vivien.csallo@sentencingcouncil.qld.gov.au](mailto:vivien.csallo@sentencingcouncil.qld.gov.au)

[www.sentencingcouncil.qld.gov.au](http://www.sentencingcouncil.qld.gov.au)

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\*\*\*\*\*

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**From:** [Patricia Leano](#)  
**To:** [Executive Services](#)  
**Cc:** [Leanne Robertson](#); [ADG Approvals](#); [Julie Rylko](#)  
**Subject:** AG Brief/AG approval by 5 October 2018 / Queensland Sentencing Advisory Council review of sentencing for criminal offences arising from the death of a child - final report  
**Date:** Tuesday, 18 September 2018 10:08:18 AM  
**Attachments:** [image003.png](#)  
[JAG-4520253-AG\\_Brief\\_RE\\_Sentencing\\_for\\_Child\\_Homicide.docx.drf](#)  
[JAG-4519168-AG\\_Brief\\_RE\\_Sentencing\\_for\\_Child\\_Homicide.docx.drf](#) [Att....drf](#)  
[JAG-4521760-QSAC\\_protocol\\_-\\_Attachment.docx.drf](#)  
[image002.png](#)

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Hi ESB

Please find attached the following for progression, seeking **AG decision by 5 October 2018** to

NP\_Sch3(2)(1)(b)

- **#4520253 – Brief**
- #4519168 – Terms of Reference (Attachment 1)
- #4521760 – QSAC communication protocol (Attachment 2)

Thank you

Kind Regards

**Trish Leano**

Executive Assistant, Office of the Assistant Director-General

**Strategic Policy and Legal Services**

Department of Justice and Attorney-General

Level 17, State Law Building, 50 Ann Street, Brisbane Qld 4000

P: 07 3898 0162 x81362 E: [patricia.leano@justice.qld.gov.au](mailto:patricia.leano@justice.qld.gov.au)

## Protocol for communication between QSAC, DJAG and key stakeholders

The Queensland Sentencing Advisory Council (QSAC) is an independent body established in 2016 under part 12 of the *Penalties and Sentences Act 1992*. One of the Council's key legislative functions is to publish the results of research. This research is undertaken by the Secretariat to support the Council to deliver its functions. The Secretariat is also responsible for disseminating the results of the research and information about the Council's role and activities.

This protocol sets out the process for the Secretariat to provide information about the Council's activities to the Department of Justice and Attorney-General and other key stakeholders.

### QSAC activities

Activity	Approvals required	Notifications	Timeframes
Face-to-face delivery of <i>Judge for Yourself</i> sessions with school groups, tertiary students and community groups.	None. Council has approved the activity, which is ongoing.	Council members are provided with a list of sessions and can nominate to attend.	N/A
Community engagement activities, such as focus groups or community meetings, may be designed to consult with members of the community about projects arising from Attorney-General references.	Project Board and Council	ADG	On finalisation of the project plan and in the fortnight before each planned event.
Presentations at professional conferences and forums on issues arising from the Council's research and project work.	Council DG approval of conference papers (through ADG)		One month in advance
Presentations or discussions with members of the judiciary.	Council	ADG and DDG, Justice Services	At least two weeks in advance
Meetings and roundtable discussions with key stakeholders on sentencing issues, most often relating to Attorney-General references.	Project Board and Council	ADG	On finalisation of the project plan and in the fortnight before each planned event
Podcast	Council chair	ADG	3 days before broadcast.

## Release of publications

The drafting of all public-facing documents (including media releases, fact or information sheets, presentations, conference or seminar papers) are a team effort within the Secretariat. This means that all teams must have input into the production of all public-facing documents.

All public-facing documents will be provided to DJAG in advance of the public release to provide adequate time to respond to issues that arise in the media. The release process is outlined below.

Publication	Approvals required	Notifications	Public release
Annual report	Council Attorney-General	ADG (through brief to AG) DG (through brief to AG)	In accordance with tabling requirements.
<b>Reference publication</b> Discussion paper, options paper, consultation paper, research paper	Council	ADG, DG, Attorney-General, Reform and Support Services (Courts Services) <sup>1</sup> and JAG Media provided with the report three days in advance of expected public release.	A date determined by the Council but no sooner than three days after provision to the Attorney-General.
<b>Reference publication</b> Interim or final reports	Council	ADG, DG, Reform and Support Services (Courts Services), <sup>2</sup> Attorney-General provided with the report by the date agreed in terms of reference or otherwise negotiated at the commencement of, or during, the project.  Face-to-face briefings will be offered to relevant key stakeholders no more than 24 hours in advance of the report's public release	Publication will be a date agreed between the Attorney-General and the Council, but not later than 21 business days after the provision of the report to the Attorney-General.
Self-generated reports—material produced as part of a statistical or research project where the objectives and timelines for such projects are established by the Council	Council	At the completion of a project, ADG, DG, Reform and Support Services (Court Services), <sup>3</sup> the Attorney-General and key stakeholders provided with a briefing that outlines the results of the project and content of the report.	A date determined by the Council but not later than 21 business days after the provision of the report to the Attorney-General. A copy of the final report will be provided to the ADG and DG at the same time as the Attorney-General.
Regular statistical reports, e.g. <i>Sentencing Spotlights</i>	Council	ADG, DG, DJAG Media, Reform and Support Services (Courts Services) and Attorney-General provided with a copy three days in advance of expected public release.	Three days after provision to AG

<sup>1</sup> Where a media release references Courts data.

<sup>2</sup> Where a media release references Courts data.

<sup>3</sup> Where a media release references Courts data.

		Key stakeholders (such as QPS) provided briefing if required.	
Media releases	Council	ADG, DJAG Media, Reform and Support Services within Courts Services <sup>4</sup> and Attorney-General media team provided with a copy three days in advance of expected publication date or three days before embargoed release to media as approved by Council	At least three days after provision of media release to ADG, DJAG Media, Reform and Support Services within Courts Services and Attorney-General media team

A media release, outlining key findings and any recommendations of the report, will be sent out on the date of public release — unless the Council has agreed to embargoed media releases going out prior to public release. All efforts will be made to ensure the ADG, DJAG Media, Reform and Support Services (Courts Services)<sup>5</sup> and the Attorney-General's office are notified by email and mobile/text.

The Chair, or other Council nominee, will be available to make comment to the media about the Council report. Council members will be provided with a briefing, talking points and training for possible media questions.

The Council will undertake other activities at its discretion to draw reports and other material to the attention of the community and stakeholders. This includes, but is not limited to, social media, eAlerts, conferences, seminars and podcasts.

<sup>4</sup> Where a media release references Courts data.

<sup>5</sup> Where a media release references Courts data.

# DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL

## BRIEF FOR NOTING

**Date:** X July 2018  
**To:** **Attorney-General and Minister for Justice**  
**Leader of the House**  
**From:** Queensland Sentencing Advisory Council  
**Subject:** Child Homicide in Queensland Research Report and Terms of Reference  
Research Paper  
**Requested by:** Attorney-General's office

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### RECOMMENDATION/S

That you **note** ...[number if more than one point]

### BACKGROUND SUMMARY

1. [Include only salient points related to the purpose; no more than half a page. Detailed information can be provided in attachments. Remember the reader is interested in the key relevant issues, not events that have passed and are no longer relevant.]

### ISSUES

2. [Focus information; use headings to structure material; be strategic and analytical; check that all questions asked in any request have been covered.]
3. [Analysis/Discussion of Issues - present a logical argument, including any appropriate research/data; avoid jargon, flag any problems or likely risks/opposition; where appropriate present options, including analysis and arguments for and against each option. Issues and analysis of issue can follow-on from each other.]

### EMPLOYMENT IMPACT

4. [Include 'Not applicable' if heading not required. Provide succinct information on anticipated employment opportunities and timeframes for those opportunities as a result of the project/issues raised (e.g. There will be XXX jobs created during construction between May 2012 and March 2013 and XXX jobs when in operation)]

### CONSULTATION WITH STAKEHOLDERS

5. [Include 'Not applicable' if heading not required. If not applicable please state why consultation has not occurred/is not relevant. Present positions that key internal/external stakeholders may/will take on this issue. Only report significant material]

### FINANCIAL IMPLICATIONS

6. [Include 'Not applicable' if heading not required. The financial implications of this proposal must be identified, including current and any out year impact and source of funding]

### POTENTIAL MEDIA

7. [Include 'Not applicable' if heading not required. You must decide if any issues raised in this brief could lead to any media coverage – positive or negative. If it could, you need to discuss this with Communication Services. You must also identify if matters raised in this



brief relate to, or require, external communications materials or strategies. If so, you need to discuss this Communication Services]

NOTED or APPROVED / NOT APPROVED		
<b>Attorney-General and Minister for Justice</b>		
<b>Leader of the House</b>		
<b>Comments</b>		
_____		
Yvette D'Ath MP Attorney-General and Minister for Justice Leader of the House	Chief of Staff	Policy Advisor
/ /	/ /	/ /

Contact Officer:	Name: Position: Phone: Date: x July 2018	Approved by:	Name: Anne Edwards Position: Director, Qld Sentencing Advisory Council Phone: 3239 6464 Date: x July 2018
Approved by:	Name: Leanne Robertson Position: Assistant Director-General, Strategic Policy and Legal Services Phone: 3898 0161 Date: x July 2018	Endorsed: David Mackie Director-General	_____
<input type="checkbox"/> Election Commitment <input type="checkbox"/> CBRC / Cabinet related <input type="checkbox"/> ECM related			

**From:** [Vivien Csallo](#)  
**To:** [Leanne Robertson](#)  
**Cc:** [Anne Edwards](#)  
**Subject:** Child Homicide Research Report release delayed  
**Date:** Thursday, 12 July 2018 3:40:52 PM  
**Attachments:** [image001.jpg](#)

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Good afternoon again Leanne

Apologies for the flurry of emails.

I just wanted to let you know that the Research Report will now be released Monday instead of tomorrow.

I have let Michael in the AGs office know as well.

Thanks

Vivien

**Vivien Csallo**

**A/Senior Community Engagement Officer**

(07) 3224 7370

[vivien.csallo@sentencingcouncil.qld.gov.au](mailto:vivien.csallo@sentencingcouncil.qld.gov.au)

[www.sentencingcouncil.qld.gov.au](http://www.sentencingcouncil.qld.gov.au)

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*We acknowledge the Traditional Owners of the land, and pay respect to Elders past, present and future.*

**From:** [Vivien Csallo](#)  
**To:** [Leanne Robertson](#)  
**Subject:** Child Homicide Research Report will be coming your way....  
**Date:** Tuesday, 10 July 2018 12:47:15 PM  
**Attachments:** [image001.jpg](#)

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Good afternoon Leanne

Just letting you know that the Research Report for the Child Homicide Sentences will be coming your way either late today or early tomorrow – with a release to the public (and media) on Friday.

Unfortunately, we have had some technical difficulties in design so we will have to send you a “non print ready” version – but **there will be no substantive changes** to the document (we will just need to fix little things like page numbers and possible formatting). We were worried that the time it will take us to finalise the document would not leave you with enough time to have a look at it.

Just wanted to let you know it’s coming.

Please let me know if there’s anything I can do in the meanwhile...

Vivien

**Vivien Csallo**

**A/Senior Community Engagement Officer**

(07) 3224 7370

[vivien.csallo@sentencingcouncil.qld.gov.au](mailto:vivien.csallo@sentencingcouncil.qld.gov.au)

[www.sentencingcouncil.qld.gov.au](http://www.sentencingcouncil.qld.gov.au)

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**From:** [Vivien Csallo](#)  
**To:** [Leanne Robertson](#)  
**Cc:** [Anne Edwards](#)  
**Subject:** COMMS - Child Homicide ToR Research Report  
**Date:** Wednesday, 11 July 2018 12:28:06 PM  
**Attachments:** [Child homicide sentences - Research report 2018.pdf](#)  
[image001.jpg](#)  
[AG and ADG Copy of COMMS\\_Child\\_homicide\\_ToR\\_research\\_paper.docx](#)

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Good afternoon

Please see attached – the Research Report and associated Comms that will be released on Friday 13 July. The Mins office has also been notified.

Please note – the version of the report attached is not yet print ready – we need to do a final QA just for page numbers, table of contents etc – but there will be no substantive changes. This will take a little time to do and we didn't want to delay getting the info to you.

### **POINTS OF NOTE**

**Dataset:**

12-year period of finalised homicide offences by Queensland criminal courts – 1 July 2005 to 30 June 2017. QFCC, QPS and ACS data were also integrated to reduce any potential for missing cases, and to provide a more comprehensive picture of the offence and its characteristics.

National Homicide Monitoring Program (NHMP) data enabled us to consider national patterns in homicide and child homicide – although this data is based on police charges not finalised matters as with our Courts data.

**Report:**

A description of the offences finalised by Queensland criminal courts over 12-year period – no explanation for any identified patterns is presented.

**Points:**

1. Disparity in average sentenced outcomes.

Adult manslaughter offenders receive significantly longer average sentences than child manslaughter offenders – 8.5 years compared to 6.8 years.

There are a number of issues to consider with respect to this finding: first, we are using average sentence because we are testing for significance – the median reveals closer sentences – 8.0 years for adult manslaughter offenders compared to 7.5 years for child manslaughter offenders. Both are discussed in the document but media may only focus on averages.

2. Difference in the range of sentences for adult manslaughter offenders and child manslaughter offenders.

The range for child manslaughter offenders is 1.5 years to 10 years

The range for adult manslaughter offenders is 1.5 years to 18 years.

This calculation is based on the offender's sentence for their most serious offence. There is one case in the dataset for child manslaughter in which the offender was sentenced to 15 years imprisonment, but this offender was also sentenced for murder at the same sentencing event which means their cases is used for the murder category not the manslaughter category.

3. Parent is the greatest offender-victim relationship for child homicide. Within this group more than half are the victim's mother.

This is consistent with national and international findings. The proportion of female offenders is significantly higher for child homicide (24.2%) than for adult homicide (10.3%). Females are not as prevalent as offenders in any other sub-grouping of homicide. Female child manslaughter offenders received 5.9 years on average and men 7.3 years on average.

Clear patterns in methods of death are associated with gender – female offenders are most commonly associated with failure to provide the necessities, then strangulation/suffocation; while male offenders are most commonly associated with more violence and weapons – e.g. striking and stabbing.

4. Children at the greatest risk of homicide in their first year of life. This is the greatest risk of homicide across the entire life course (age 1-4 years is also high). Risk of homicide reduces to its lowest level at school age and then increases in late-teenage years in line with broader adult-related homicide risks and patterns.

The first year of life as the riskiest period for homicide aligns with all available national and international research as does the reduction at school age and then increases in late teenage years. The pattern for younger children also explains why female (mothers) occupy a greater proportion of the offender group – typically primary carers. Father (biological and step) increase

from 1-4 year age category. It is suggested the increase in late teenage years is due to changes in socialisation and independence, reflecting the adult homicide patterns. Strangers and acquaintances also become more pronounced as offenders for this late teenage group. Changes in location of homicide offences are also identifiable – e.g. for young children private locations such as the home are more common yet public locations increase as a child matures.

5. The first and second most disadvantaged postcodes account for the greater proportion of child homicide cases.

Research confirms that parents who kill their children typically face a range of economic, social and structural disadvantage. Mental health and substance misuse are often associated with these cases but no definitive conclusion can be drawn about their individual or collective contribution due to reporting and data problems. It is accepted these are all part of a multi-dimensional problem.

**Vivien Csallo**

**A/Senior Community Engagement Officer**

(07) 3224 7370

[vivien.csallo@sentencingcouncil.qld.gov.au](mailto:vivien.csallo@sentencingcouncil.qld.gov.au)

[www.sentencingcouncil.qld.gov.au](http://www.sentencingcouncil.qld.gov.au)

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**From:** [Anne Edwards](#)  
**To:** ["Jimmy.sullivan@ministerial.qld.gov.au"](mailto:Jimmy.sullivan@ministerial.qld.gov.au)  
**Cc:** [Lucy Gazebeek](#); [Leanne Robertson](#); [John Robertson](#)  
**Subject:** Delivery of final report on sentencing for child homicide  
**Date:** Thursday, 25 October 2018 11:25:09 AM  
**Attachments:** [JAG-#4057046-v6-Protocol between Director and ADG.DOCX](#)  
[image001.jpg](#)  
**Importance:** High

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Hi Jimmy,

Tried calling just now, but this email should cover it.

As you will see in the protocol **attached**, we are expecting to provide copies of our final report to the ADG SPLS, DG, and Reform and Support Services in Courts (due to the fact that we have used Courts data) on the same day as we deliver the report to the Attorney-General. That is, on Wednesday next week (31 Oct), when we deliver the report to your office, our protocol says we will also share the report with those key DJAG individuals to enable them to brief up on the recommendations, and check the data.

Can you please confirm whether you are comfortable with this approach for this particular report? I figure I will make it usual practice for the Secretariat to check in each individual case...

Your advice would be most appreciated.

Thanks, A.

**Anne Edwards**

**Director**

(07) 3239 6464 / NP\_49-Sch4

[anne.edwards@sentencingcouncil.qld.gov.au](mailto:anne.edwards@sentencingcouncil.qld.gov.au)

[www.sentencingcouncil.qld.gov.au](http://www.sentencingcouncil.qld.gov.au)

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**From:** [Julie Rylko](#)  
**To:** [Emma Timms](#)  
**Cc:** [Leanne Robertson](#); [Jennifer Lang](#); [Deena Dalton](#)  
**Subject:** Draft - [redacted] NP\_Sch3(2)(1)(b) (confidential)  
**Date:** Tuesday, 11 September 2018 12:41:26 PM  
**Attachments:** [image001.png](#)  
JAG-#4519093-v2 [redacted] DOCX  
[image003.png](#)

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Hi Emma

As discussed, please find attached a (very rough) draft [redacted] we had been working up.

Please do not hesitate to call me if I can be of any further assistance.

Kind regards

Julie

**Julie Rylko**

Director, Criminal Law Team (1)

Strategic Policy and Legal Services

Department of Justice and Attorney-General

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Level 17, State Law Building, 50 Ann Street, Brisbane 4000

**P:** 07 3239 6571 **M:** [redacted] **E:** [julie.rylko@justice.qld.gov.au](mailto:julie.rylko@justice.qld.gov.au)

**From:** [Julie Rylko](#)  
**To:** [Leanne Robertson](#); [ADG Approvals](#)  
**Cc:** [Deena Dalton](#); [Patricia Leano](#)  
**Subject:** Draft email / ADG approval ASAP / QSAC Child Homicide Report  
**Date:** Wednesday, 24 October 2018 4:59:02 PM  
**Importance:** High

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Hi Leanne

As discussed, below is a draft email to the AG's office re the landing of the **QSAC child homicide report** for your review please.

Thanks

Julie

[DRAFT EMAIL]

Hi Jimmy

As you would be aware the Queensland Sentencing Advisory Council's report on its review of sentencing for child homicide is due to the AG next Wednesday 31 August 2018.

NP\_Sch3(2)(1)(b)

Happy to discuss.

Thanks



**From:** [Leanne Robertson](#)  
**To:** [Sarah Kay](#); [Julie Rylko](#)  
**Subject:** FW: ABC Radio Brisbane Breakfast - Mason Lee sentencing - Friday 7 September  
**Date:** Friday, 7 September 2018 10:24:58 AM  
**Attachments:** [image001.png](#)  
[ABC Radio Brisbane Breakfast - Mason Lee sentencing - 7 September.mp3](#)  
[image003.png](#)  
[image004.png](#)

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**From:** Jennifer Lang  
**Sent:** Friday, 7 September 2018 9:16 AM  
**To:** Brigita Cunnington <[Brigita.Cunnington@justice.qld.gov.au](mailto:Brigita.Cunnington@justice.qld.gov.au)>; Leanne Robertson <[Leanne.Robertson@justice.qld.gov.au](mailto:Leanne.Robertson@justice.qld.gov.au)>  
**Subject:** FW: ABC Radio Brisbane Breakfast - Mason Lee sentencing - Friday 7 September

FYI

---

**From:** Tim Goodwin  
**Sent:** Friday, 7 September 2018 9:14 AM  
**To:** Jennifer Lang <[Jennifer.Lang@justice.qld.gov.au](mailto:Jennifer.Lang@justice.qld.gov.au)>  
**Cc:** Roger McCarthy <[Roger.McCarthy@justice.qld.gov.au](mailto:Roger.McCarthy@justice.qld.gov.au)>; Paul Holmes <[Paul.Holmes@justice.qld.gov.au](mailto:Paul.Holmes@justice.qld.gov.au)>  
**Subject:** FW: ABC Radio Brisbane Breakfast - Mason Lee sentencing - Friday 7 September

Hi Jenny  
Here is the audio of John Robertson and Bill Potts discussing sentencing on ABC Radio this morning.

(There is a link to it below if the attachment is too large.)

Regards

**Tim Goodwin**

Manager, Media Relations

**Communication Services**

Department of Justice and Attorney-General

---

**P:** 07 3224 7382 (x47382) **M:** [NP\\_49-Sch4](#) **E:** [tim.goodwin@justice.qld.gov.au](mailto:tim.goodwin@justice.qld.gov.au)

**Media inquiries:** 3008 8765

---

**From:** Media Reporters [<mailto:mediareporters@premiers.qld.gov.au>]  
**Sent:** Friday, 7 September 2018 9:04 AM  
**To:** Media Reporters <[mediareporters@premiers.qld.gov.au](mailto:mediareporters@premiers.qld.gov.au)>  
**Subject:** ABC Radio Brisbane Breakfast - Mason Lee sentencing - Friday 7 September

**Bill Potts, Queensland Law Society** on how the sentence was reached for William O'Sullivan:

- It must be understood that O'Sullivan was sentenced to nine years, and to serve six – he

has already spent two years in custody.

- The sentence is one which is in line with current sentencing guidelines, but the Crown has a right to appeal that.
- Sentencing someone like Mr O'Sullivan is extraordinarily difficult listeners should read the judgement to see what was taken into account.
- Mr Potts says it must be stressed that this case was manslaughter, not murder
- People feeling disempowered or upset can write to the Queensland Sentencing Authority and tell them what they think ought to happen.

**John Robertson, Queensland Sentencing Advisory Council:**

- There is a principle in the *Sentencing Act* which judges are obliged to take into account
- QSAC are considering some work from the Attorney-General on the sentencing issue
- Submissions have been taken from legal bodies such as the DPP, Queensland Law Society and the Bar Association as well as from the Victims of Crime Association
- Sentencing is a very complex process, a plea of guilty is usually a factor that reduces the sentence because it can be evidence of remorse
- These cases are terribly difficult to prosecute because there are often very difficult problems of proof

Audio is available for download here: <https://drive.google.com/open?id=1Zlt-6jFNje8oBPgx2XEyhSLhrZ3HoAwo>

*Please note, links to broadcast files will expire 10 days from date of airing. Due to copyright restrictions, video, audio and press clippings are for internal use only.*

Regards  
Jodi

**Jodi Staunton Smith**

Senior Media Consultant, External Relations & Services

**Strategy and Engagement**

Department of the Premier and Cabinet

P 07 3003 9495 M NP\_49-Sch4

Level 29, 1 William Street, Brisbane QLD 4000

PO Box 15185, City East, QLD 4002

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**From:** [Leanne Robertson](#)  
**To:** [Roger McCarthy](#)  
**Subject:** FW: Child Homicide Research Report release delayed  
**Date:** Friday, 13 July 2018 10:08:00 AM  
**Attachments:** [image001.jpg](#)

---

FYI

Leanne

---

**From:** Vivien Csallo  
**Sent:** Friday, 13 July 2018 10:04 AM  
**To:** Leanne Robertson  
**Cc:** Anne Edwards  
**Subject:** RE: Child Homicide Research Report release delayed

Hi Leanne

Apologies again – the report will now be released on Thursday 19<sup>th</sup> which coincides with the Townsville Summit.

I have spoken to Michael in the AGs office

Thanks

Vivien

**Vivien Csallo**

**A/Senior Community Engagement Officer**

(07) 3224 7370

[vivien.csallo@sentencingcouncil.qld.gov.au](mailto:vivien.csallo@sentencingcouncil.qld.gov.au)

[www.sentencingcouncil.qld.gov.au](http://www.sentencingcouncil.qld.gov.au)

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**From:** Leanne Robertson  
**Sent:** Thursday, 12 July 2018 7:06 PM  
**To:** Vivien Csallo <[Vivien.Csallo@sentencingcouncil.qld.gov.au](mailto:Vivien.Csallo@sentencingcouncil.qld.gov.au)>  
**Cc:** Anne Edwards <[anne.edwards@sentencingcouncil.qld.gov.au](mailto:anne.edwards@sentencingcouncil.qld.gov.au)>  
**Subject:** RE: Child Homicide Research Report release delayed

Thanks Vivien.

Leanne

---

**From:** Vivien Csallo  
**Sent:** Thursday, 12 July 2018 3:41 PM  
**To:** Leanne Robertson <[Leanne.Robertson@justice.qld.gov.au](mailto:Leanne.Robertson@justice.qld.gov.au)>  
**Cc:** Anne Edwards <[anne.edwards@sentencingcouncil.qld.gov.au](mailto:anne.edwards@sentencingcouncil.qld.gov.au)>  
**Subject:** Child Homicide Research Report release delayed

Good afternoon again Leanne

Apologies for the flurry of emails.

I just wanted to let you know that the Research Report will now be released Monday instead of tomorrow.

I have let Michael in the AGs office know as well.

Thanks

Vivien

**Vivien Csallo**

**A/Senior Community Engagement Officer**

(07) 3224 7370

[vivien.csallo@sentencingcouncil.qld.gov.au](mailto:vivien.csallo@sentencingcouncil.qld.gov.au)

[www.sentencingcouncil.qld.gov.au](http://www.sentencingcouncil.qld.gov.au)

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**From:** [Anne Edwards](#)  
**To:** [Leanne Robertson](#); [Julie Rylko](#)  
**Subject:** FW: Delivery of final report on sentencing for child homicide  
**Date:** Thursday, 25 October 2018 1:02:10 PM  
**Attachments:** [image001.jpg](#)

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Hi there,  
We will deliver a copy to you on 31 Oct.  
Cheers, A.

---

**From:** James Sullivan [mailto:James.Sullivan@ministerial.qld.gov.au]

**Sent:** Thursday, 25 October 2018 12:02 PM

**To:** Anne Edwards

**Subject:** RE: Delivery of final report on sentencing for child homicide

Thanks Anne, that approach is fine.

Jimmy

---

**From:** Anne Edwards <[anne.edwards@sentencingcouncil.qld.gov.au](mailto:anne.edwards@sentencingcouncil.qld.gov.au)>

**Sent:** Thursday, 25 October 2018 11:25 AM

**To:** James Sullivan <[James.Sullivan@ministerial.qld.gov.au](mailto:James.Sullivan@ministerial.qld.gov.au)>

**Cc:** Lucy Gazenbeek <[Lucy.Gazenbeek@ministerial.qld.gov.au](mailto:Lucy.Gazenbeek@ministerial.qld.gov.au)>; Leanne Robertson  
<[Leanne.Robertson@justice.qld.gov.au](mailto:Leanne.Robertson@justice.qld.gov.au)>; John Robertson

**Subject:** Delivery of final report on sentencing for child homicide

**Importance:** High

Hi Jimmy,

Tried calling just now, but this email should cover it.

As you will see in the protocol attached, we are expecting to provide copies of our final report to the ADG SPLS, DG, and Reform and Support Services in Courts (due to the fact that we have used Courts data) on the same day as we deliver the report to the Attorney-General. That is, on Wednesday next week (31 Oct), when we deliver the report to your office, our protocol says we will also share the report with those key DJAG individuals to enable them to brief up on the recommendations, and check the data.

Can you please confirm whether you are comfortable with this approach for this particular report? I figure I will make it usual practice for the Secretariat to check in each individual case...

Your advice would be most appreciated.

Thanks, A.

**Anne Edwards**

**Director**

(07) 3239 6464 /  NP\_49-Sch4

[anne.edwards@sentencingcouncil.qld.gov.au](mailto:anne.edwards@sentencingcouncil.qld.gov.au)

[www.sentencingcouncil.qld.gov.au](http://www.sentencingcouncil.qld.gov.au)

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**From:** [Leanne Robertson](#)  
**To:** [Leanne Robertson](#)  
**Subject:** FW: Draft email / ADG approval ASAP / QSAC Child Homicide Report  
**Date:** Wednesday, 24 October 2018 5:45:00 PM  
**Importance:** High

---

**From:** Julie Rylko  
**Sent:** Wednesday, 24 October 2018 4:59 PM  
**To:** Leanne Robertson ; ADG Approvals  
**Cc:** Deena Dalton ; Patricia Leano  
**Subject:** Draft email / ADG approval ASAP / QSAC Child Homicide Report  
**Importance:** High

Hi Leanne

As discussed, below is a draft email to the AG's office re the landing of the **QSAC child homicide report** for your review please.

Thanks

Julie

[DRAFT EMAIL]

Hi Jimmy

As you would be aware the Queensland Sentencing Advisory Council's report on its review of sentencing for child homicide is due to the AG next Wednesday 31 August 2018.

NP\_Sch3(2)(1)(b)

Happy to discuss.

Thanks

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Kind regards  
Julie

**From:** [Leanne Robertson](#)  
**To:** [Roger McCarthy](#)  
**Subject:** FW: Reminder - Child Homicide Research Report released tomorrow.  
**Date:** Wednesday, 18 July 2018 3:25:00 PM  
**Attachments:** [image001.jpg](#)

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**From:** Vivien Csallo

**Sent:** Wednesday, 18 July 2018 2:52 PM

**To:** Leanne Robertson

**Cc:** Anne Edwards

**Subject:** Reminder - Child Homicide Research Report released tomorrow.

Hi Leanne

Just a courtesy email reminding you the research report is going out at 7am tomorrow – I have also reminded Michael in the AGs office

Thanks

Vivien

**Vivien Csallo**

**A/Senior Community Engagement Officer**

(07) 3224 7370

[vivien.csallo@sentencingcouncil.qld.gov.au](mailto:vivien.csallo@sentencingcouncil.qld.gov.au)

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Level 17, State Law Building, 50 Ann Street, Brisbane 4000  
P: 07 3239 6571 M: NP\_49-Sch4 E: [julie.rylko@justice.qld.gov.au](mailto:julie.rylko@justice.qld.gov.au)

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## DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL BRIEF FOR DECISION/ACTION

**Date:** 18 September 2018  
**To:** Attorney-General and Minister for Justice  
Leader of the House  
**From:** Strategic Policy  
**Subject:** Queensland Sentencing Advisory Council review of sentencing for criminal offences arising from the death of a child – final report  
**Requested by:** Internally generated  
**Decision required by:** 5 October 2018

### RECOMMENDATIONS

That you:

1. **note** that on 25 October 2017, the Queensland Sentencing Advisory Council (QSAC) received a reference to review the adequacy of penalties imposed on sentence for criminal offences arising from the death of a child;
2. **note** that QSAC is due to **deliver its report on this review to you by [Wednesday, 31 October 2018](#)**;
- ~~3. **note** there has been significant and ongoing community concern about whether the sentences for criminal offences arising from the death of a child are meeting expectations, particularly following some recent high-profile court cases;~~
- ~~4.3.~~ **note** QSAC proposes, in accordance with its communication protocol (**Attachment 2**) to **publicly release its final report on this reference on [Thursday, 22 November 2018](#)**; and

NP\_Sch3(2)(1)(b)

### BACKGROUND SUMMARY

1. There has been **significant and ongoing community concern** about whether the sentences for criminal offences arising from the death of a child are meeting expectations.
2. **QSAC is currently reviewing the adequacy of penalties imposed on sentence for criminal offences arising from the death of a child** under Terms of Reference (ToRs) you issued on 25 October 2017 (**Attachment 1**).
3. The ToRs require QSAC to:
  - consider and analyse penalties imposed on sentence for offences arising from the death of a child and report on current sentencing practices;
  - determine whether the penalties currently imposed for these offences adequately reflect the particular vulnerabilities of these victims;

- identify any trends or anomalies that occur in such sentencing, for example the nature of the criminal culpability which forms the basis of a manslaughter charge which may affect any sentence imposed;
  - assess whether existing sentencing considerations are adequate for the purposes of sentencing these offenders and identify if specific additional legislative guidance is required;
  - examine the approach in other Australian jurisdictions;
  - identify and report on any legislative or other changes required to ensure the imposition of an appropriate sentence for these offences;
  - identify ways to enhance community knowledge and understanding of the penalties imposed for these offences; and
  - advise on any other relevant matters.
4. Under the ToRs, QSAC must also consult with the community and other key stakeholders including the judiciary, legal profession, victim of crime groups, child protection advocacy groups and relevant government agencies.
  5. QSAC has a protocol for communication between QSAC, DJAG and key stakeholders (**Attachment 2**). Under the protocol, final reports for a reference will be provided to you by the date agreed in the ToRs and face-to-face briefings will be offered to relevant key stakeholders no more than 24 hours in advance of the report's public release. The protocol further provides **publication of a final reference report will be on a date agreed between you and QSAC, but not later than 21 business days** after the report is given to you.

## ISSUES

### Review scope

6. The review is specifically concerned with **penalties imposed on sentence over a 12 year period from 2005-06 to 2016-17**. This aligns with Queensland Courts data held by QSAC.
7. Issues identified through preliminary research and consultation focused on sentencing outcomes for offences involving child abuse and neglect. On this basis, QSAC determined the **focus of the review would be on the offences of murder and manslaughter** rather than other offences that may involve the death of a child victim (such as dangerous driving causing death, driving without due care and attention, or unlawful striking causing death). Decisions made by the Mental Health Court concerning child homicide offenders will also not form part of the review as they are not sentencing decisions.
8. As required under the ToRs, the review includes consideration of the approach taken in other Australian jurisdictions to the sentencing of child homicide offences. However, a direct comparison between Queensland sentencing outcomes and other jurisdictions will not be undertaken because the legislative frameworks and sentencing approaches are unique to each jurisdiction and, in such circumstances, comparisons are of little value.

### Consultation

9. **QSAC has consulted widely** as part of the review.
10. Stakeholders consulted by QSAC early in the review raised a number of challenges in investigating and prosecuting child homicide offences. These include the:

- difficulty in determining the cause of death, particularly in very young children and the need for specialist pathology reports which require specialist expertise and time to prepare;
  - fact there are often few or no witnesses to the events leading to the death and that those involved are often the child's parent or another family member; and
  - difficulty in establishing clear intent by an offender to harm or kill the child, particularly given the level of force required to cause a fatal injury to a child may be relatively low compared to that required to cause the death of an adult.
11. Another issue observed by QSAC is the broad range of circumstances in which manslaughter of a child is committed. The conduct causing a child's death may range from acts of criminal negligence (such as providing inadequate supervision of a young child in a bath) to the use of physical violence and intentional killing reduced to manslaughter due to the operation of the partial excuse of diminished responsibility where the person's capacity was substantially impaired.
12. **Possible options for reform canvassed in written submissions to QSAC (which QSAC has published on its website)** include:
- increased use of serious violent offence declarations;
  - increased non-parole periods;
  - expressly recognising the vulnerability or defencelessness of a victim as an aggravating factor for sentencing purposes;
  - greater use of restorative justice options;
  - education programs to increase community understanding of the sentencing process; and
  - enhanced communication between the Office of the Director of Public Prosecutions and family members of victims of child homicide, particularly where consideration is being given to downgrading a charge from murder to manslaughter.
13. On 19 July 2018, QSAC also released a separate research report on child homicide in Queensland containing a descriptive analysis of offences finalised by Queensland criminal courts from 2005-06 to 2016-17. Some of the key findings noted in this research report are:
- child homicide is complex and diverse;
  - the majority of child homicides occur in a private location, usually the victim's home;
  - children in Queensland are less likely than adults to be the victim of homicide events finalised by Queensland criminal courts;
  - a child is at greatest risk of homicide in their first year of life;
  - family members are the most common perpetrators of child homicide, with parents or parent equivalents representing the largest offender group;
  - while a majority of sentenced child homicide offenders record previous convictions, most did not record a previous conviction for a violent offence;



- females represent a higher proportion of perpetrators in the child homicide category than in any other category of homicide;
- all offenders sentenced by Queensland courts for child homicide received custodial sentences;
- adult offenders sentenced for child manslaughter are more likely to have pleaded guilty than those sentenced for child murder;
- for adult offenders sentenced for homicide, child homicide is more likely than adult homicide to result in a sentence for manslaughter, not murder;
- for adult offenders sentenced for manslaughter, the average custodial sentence is 8.3 years; and
- a quarter of adult offenders imprisoned for manslaughter of a child were declared to be convicted of a serious violent offence.

#### Recent sentence – William O’Sullivan

14. The recent sentencing of William O’Sullivan in relation to the death of Mason Jet Lee has attracted significant media and community interest.
15. On 30 August 2018, the Honourable ~~Chief Justice~~ Catherine Holmes, Chief Justice of Queensland, sentenced Mr O’Sullivan to nine years imprisonment for manslaughter and one year’s imprisonment for cruelty against a child. Both offences were noted as domestic violence offences. The Supreme Court set Mr O’Sullivan’s parole eligibility date at 29 July 2022, six years from the date in which he was taken into custody for the offences. The Court also declared that he had served a period of 762 days under that sentence as pre-sentence custody.
16. In sentencing Mr O’Sullivan, the Chief Justice had regard to the particular circumstances of the case, a number of Court of Appeal cases and a range of factors pertaining to the offender including: Mr O’Sullivan’s timely plea of guilty and his cooperation with the administration of justice; Mr O’Sullivan’s unfortunate background and lack of any experience of proper male parenting.
17. The Chief Justice did not make a serious violent offence declaration for a number of reasons, including that the accused did not have any previous history of serious violence and there was hope for his rehabilitation, the fact he had already suffered serious extra-curial punishment in the form of a savage assault while in prison, and that he had served at the time of sentencing just over two years in custody and will serve the remaining four years not only in the constraints of protective custody, but also in fear of further assault.
18. The sentence in this case has generated strong public opinion and interest in the QSAC review, with child protection advocates and the Opposition reported as calling for the sentencing system in Queensland to be overhauled.
19. On 13 September 2018, you lodged an appeal against the sentence in this matter.
20. While the deadline for public submissions to the QSAC review has closed, ~~the QSAC~~ Chair, Mr John Robertson has stated submissions regarding concerns about the sentence in the Mason Jet Lee case would still be welcomed by QSAC.

#### Way forward

21. As required under the ToRs, **QSAC's report for the child homicide reference is due to you by 31 October 2018**. There is no legislative requirement under the *Penalties and Sentences Act 1992* (which establishes QSAC and its reporting requirements) for you to table the report in the Legislative Assembly.

22. DJAG understands that QSAC has agreed to **publish the report on 22 November 2018**. Under the communication protocol at **Attachment 1**, QSAC will release all materials on its website on the night before the date of public release. On 22 November 2018, QSAC proposes to hold a **media event at 9.00am with a formal hand-over to you following a meeting with victims' families**. ~~It is~~ **QSAC** also proposeds to provide a high level briefing to key stakeholders in the afternoon of 21 November 2018.

NP\_Sch3(2)(1)(b)

#### **EMPLOYMENT IMPACT**

25. Not applicable.

#### **CONSULTATION WITH STAKEHOLDERS**

26. On 26 October 2017, QSAC called for preliminary submissions as part of the child homicide review. Submissions closed on 24 December 2017.

27. On 17 May 2018, QSAC called for further submissions on a public consultation paper (Sentencing for criminal offences arising from the death of a child). The consultation paper outlines the scope of the review, information about child homicide offences and the sentencing process and poses a series of questions for consideration by stakeholders. Twenty-seven submissions were received in response, including from the Queensland Police Service, victim of crime groups, legal stakeholders, family members of victims of child homicide and the general public.

28. QSAC also held a number of community engagement activities to generate discussion and inform community input, including two community summits - one in Logan on 16 July 2018 and one in Townsville on 19 July 2018.

29. QSAC has published on its website a number of submissions received as part of the child homicide review. Submissions have been made by a range of individuals as well as

stakeholders, including Protect All Children Today, the Queensland Homicide Victims' Support Group, the Bar Association of Queensland and Queensland Law Society. Stakeholders have a diverse range of views on this matter.

30. DJAG understands that the Department of the Premier and Cabinet is briefing the Premier and Minister for Trade on QSAC's review following the recent sentencing of William O'Sullivan.

#### **FINANCIAL IMPLICATIONS**

NP\_Sch3(2)(1)(b)

#### **POTENTIAL MEDIA**

32. QSAC's review relating to child homicide has received significant media attention, particularly in recent weeks since the sentencing of William O'Sullivan in the Mason Jet Lee case.
33. Publication of QSAC's report on its review of penalties imposed on sentence for criminal offences arising from the death of a child is likely to attract significant media attention.

NOTED or APPROVED / NOT APPROVED		
<b>Attorney-General and Minister for Justice</b>		
<b>Leader of the House</b>		
Comments _____		
<b>YVETTE D'ATH MP</b> <b>Attorney-General and Minister for Justice</b> <b>Leader of the House</b>  / /	<b>Chief of Staff</b>  / /	<b>Policy Advisor</b>  / /

Contact Officer:	Name: Deena Dalton Position: Senior Legal Officer Phone: 3006 4515 Date: 12/09/2018	Approved by:	Name: Julie Rylko Position: Director, SP Phone: 3239 6571 Date: 13/09/2018
Approved by:	Name: Leanne Robertson Position: Assistant Director-General, Strategic Policy and Legal Services Phone: 3898 0161 Date: 17/09/2018	Endorsed:	<u>David Mackie</u> <u>Jenny Lang</u> <u>A/Director-General</u> / /
<input type="checkbox"/> Election Commitment <input checked="" type="checkbox"/> CBRC / Cabinet related <input type="checkbox"/> ECM related			

## DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL BRIEF FOR DECISION/ACTION

**Date:** 18 September 2018  
**To:** **Attorney-General and Minister for Justice  
Leader of the House**  
**From:** Strategic Policy  
**Subject:** Queensland Sentencing Advisory Council review of sentencing for criminal offences arising from the death of a child – final report  
**Requested by:** Internally generated  
**Decision required by:** **5 October 2018**

---

### RECOMMENDATIONS

That you:

1. **note** that on 25 October 2017, the Queensland Sentencing Advisory Council (QSAC) received a reference to review the adequacy of penalties imposed on sentence for criminal offences arising from the death of a child;
2. **note** that QSAC is due to **deliver its report on this review to you by Wednesday, 31 October 2018;**
3. **note** QSAC proposes, in accordance with its communication protocol (**Attachment 2**) to **publicly release its final report on this reference on Thursday, 22 November 2018;** and

NP\_Sch3(2)(1)(b)

### BACKGROUND SUMMARY

1. There has been **significant and ongoing community concern** about whether the sentences for criminal offences arising from the death of a child are meeting expectations.
2. **QSAC is currently reviewing the adequacy of penalties imposed on sentence for criminal offences arising from the death of a child** under Terms of Reference (ToRs) you issued on 25 October 2017 (**Attachment 1**).
3. The ToRs require QSAC to:
  - consider and analyse penalties imposed on sentence for offences arising from the death of a child and report on current sentencing practices;
  - determine whether the penalties currently imposed for these offences adequately reflect the particular vulnerabilities of these victims;
  - identify any trends or anomalies that occur in such sentencing, for example the nature of the criminal culpability which forms the basis of a manslaughter charge which may affect any sentence imposed;



- assess whether existing sentencing considerations are adequate for the purposes of sentencing these offenders and identify if specific additional legislative guidance is required;
  - examine the approach in other Australian jurisdictions;
  - identify and report on any legislative or other changes required to ensure the imposition of an appropriate sentence for these offences;
  - identify ways to enhance community knowledge and understanding of the penalties imposed for these offences; and
  - advise on any other relevant matters.
4. Under the ToRs, QSAC must also consult with the community and other key stakeholders including the judiciary, legal profession, victim of crime groups, child protection advocacy groups and relevant government agencies.
  5. QSAC has a protocol for communication between QSAC, DJAG and key stakeholders (**Attachment 2**). Under the protocol, final reports for a reference will be provided to you by the date agreed in the ToRs and face-to-face briefings will be offered to relevant key stakeholders no more than 24 hours in advance of the report's public release. The protocol further provides **publication of a final reference report will be on a date agreed between you and QSAC, but not later than 21 business days** after the report is given to you.

## ISSUES

### Review scope

6. The review is specifically concerned with **penalties imposed on sentence over a 12 year period from 2005-06 to 2016-17**. This aligns with Queensland Courts data held by QSAC.
7. Issues identified through preliminary research and consultation focused on sentencing outcomes for offences involving child abuse and neglect. On this basis, QSAC determined the **focus of the review would be on the offences of murder and manslaughter** rather than other offences that may involve the death of a child victim (such as dangerous driving causing death, driving without due care and attention, or unlawful striking causing death). Decisions made by the Mental Health Court concerning child homicide offenders will also not form part of the review as they are not sentencing decisions.
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10. Stakeholders consulted by QSAC early in the review raised a number of challenges in investigating and prosecuting child homicide offences. These include the:
  - difficulty in determining the cause of death, particularly in very young children and the need for specialist pathology reports which require specialist expertise and time to prepare;

- fact there are often few or no witnesses to the events leading to the death and that those involved are often the child's parent or another family member; and
  - difficulty in establishing clear intent by an offender to harm or kill the child, particularly given the level of force required to cause a fatal injury to a child may be relatively low compared to that required to cause the death of an adult.
11. Another issue observed by QSAC is the broad range of circumstances in which manslaughter of a child is committed. The conduct causing a child's death may range from acts of criminal negligence (such as providing inadequate supervision of a young child in a bath) to the use of physical violence and intentional killing reduced to manslaughter due to the operation of the partial excuse of diminished responsibility where the person's capacity was substantially impaired.
12. **Possible options for reform canvassed in written submissions to QSAC (which QSAC has published on its website) include:**
- increased use of serious violent offence declarations;
  - increased non-parole periods;
  - expressly recognising the vulnerability or defencelessness of a victim as an aggravating factor for sentencing purposes;
  - greater use of restorative justice options;
  - education programs to increase community understanding of the sentencing process; and
  - enhanced communication between the Office of the Director of Public Prosecutions and family members of victims of child homicide, particularly where consideration is being given to downgrading a charge from murder to manslaughter.
13. On 19 July 2018, QSAC also released a separate research report on child homicide in Queensland containing a descriptive analysis of offences finalised by Queensland criminal courts from 2005-06 to 2016-17. Some of the key findings noted in this research report are:
- child homicide is complex and diverse;
  - the majority of child homicides occur in a private location, usually the victim's home;
  - children in Queensland are less likely than adults to be the victim of homicide events finalised by Queensland criminal courts;
  - a child is at greatest risk of homicide in their first year of life;
  - family members are the most common perpetrators of child homicide, with parents or parent equivalents representing the largest offender group;
  - while a majority of sentenced child homicide offenders record previous convictions, most did not record a previous conviction for a violent offence;
  - females represent a higher proportion of perpetrators in the child homicide category than in any other category of homicide;
  - all offenders sentenced by Queensland courts for child homicide received custodial sentences;



- adult offenders sentenced for child manslaughter are more likely to have pleaded guilty than those sentenced for child murder;
- for adult offenders sentenced for homicide, child homicide is more likely than adult homicide to result in a sentence for manslaughter, not murder;
- for adult offenders sentenced for manslaughter, the average custodial sentence is 8.3 years; and
- a quarter of adult offenders imprisoned for manslaughter of a child were declared to be convicted of a serious violent offence.

#### Recent sentence – William O'Sullivan

14. The recent sentencing of William O'Sullivan in relation to the death of Mason Jet Lee has attracted significant media and community interest.
15. On 30 August 2018, the Honourable Catherine Holmes, Chief Justice of Queensland, sentenced Mr O'Sullivan to nine years imprisonment for manslaughter and one year's imprisonment for cruelty against a child. Both offences were noted as domestic violence offences. The Supreme Court set Mr O'Sullivan's parole eligibility date at 29 July 2022, six years from the date in which he was taken into custody for the offences. The Court also declared that he had served a period of 762 days under that sentence as pre-sentence custody.
16. In sentencing Mr O'Sullivan, the Chief Justice had regard to the particular circumstances of the case, a number of Court of Appeal cases and a range of factors pertaining to the offender including: Mr O'Sullivan's timely plea of guilty and his cooperation with the administration of justice; Mr O'Sullivan's unfortunate background and lack of any experience of proper male parenting.
17. The Chief Justice did not make a serious violent offence declaration for a number of reasons, including that the accused did not have any previous history of serious violence and there was hope for his rehabilitation, the fact he had already suffered serious extra-curial punishment in the form of a savage assault while in prison, and that he had served at the time of sentencing just over two years in custody and will serve the remaining four years not only in the constraints of protective custody, but also in fear of further assault.
18. The sentence in this case has generated strong public opinion and interest in the QSAC review, with child protection advocates and the Opposition reported as calling for the sentencing system in Queensland to be overhauled.
19. On 13 September 2018, you lodged an appeal against the sentence in this matter.
20. While the deadline for public submissions to the QSAC review has closed, QSAC Chair, Mr John Robertson has stated submissions regarding concerns about the sentence in the Mason Jet Lee case would still be welcomed by QSAC.

#### Way forward

21. As required under the ToRs, **QSAC's report for the child homicide reference is due to you by 31 October 2018**. There is no legislative requirement under the *Penalties and Sentences Act 1992* (which establishes QSAC and its reporting requirements) for you to table the report in the Legislative Assembly.



22. DJAG understands that QSAC has agreed to **publish the report on 22 November 2018**. Under the communication protocol at **Attachment 1**, QSAC will release all materials on its website on the night before the date of public release. On 22 November 2018, QSAC proposes to hold a **media event at 9.00am with a formal hand-over to you following a meeting with victims' families**. QSAC also proposes to provide a high level briefing to key stakeholders in the afternoon of 21 November 2018.

NP\_Sch3(2)(1)(b)

#### **EMPLOYMENT IMPACT**

25. Not applicable.

#### **CONSULTATION WITH STAKEHOLDERS**

26. On 26 October 2017, QSAC called for preliminary submissions as part of the child homicide review. Submissions closed on 24 December 2017.
27. On 17 May 2018, QSAC called for further submissions on a public consultation paper (Sentencing for criminal offences arising from the death of a child). The consultation paper outlines the scope of the review, information about child homicide offences and the sentencing process and poses a series of questions for consideration by stakeholders. Twenty-seven submissions were received in response, including from the Queensland Police Service, victim of crime groups, legal stakeholders, family members of victims of child homicide and the general public.
28. QSAC also held a number of community engagement activities to generate discussion and inform community input, including two community summits - one in Logan on 16 July 2018 and one in Townsville on 19 July 2018.
29. QSAC has published on its website a number of submissions received as part of the child homicide review. Submissions have been made by a range of individuals as well as stakeholders, including Protect All Children Today, the Queensland Homicide Victims' Support Group, the Bar Association of Queensland and Queensland Law Society. Stakeholders have a diverse range of views on this matter.

30. DJAG understands that the Department of the Premier and Cabinet is briefing the Premier and Minister for Trade on QSAC's review following the recent sentencing of William O'Sullivan.

#### **FINANCIAL IMPLICATIONS**

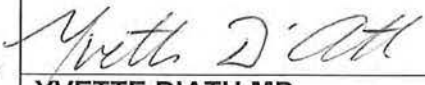
NP\_Sch3(2)(1)(b)

#### **POTENTIAL MEDIA**


32. QSAC's review relating to child homicide has received significant media attention, particularly in recent weeks since the sentencing of William O'Sullivan in the Mason Jet Lee case.
33. Publication of QSAC's report on its review of penalties imposed on sentence for criminal offences arising from the death of a child is likely to attract significant media attention.

NOTED or APPROVED / NOT APPROVED  
**Attorney-General and Minister for Justice**  
**Leader of the House**  
**Comments**

NP\_Sch3(2)(1)(b)

  
**YVETTE D'ATH MP**  
**Attorney-General and Minister for Justice**  
**Leader of the House**

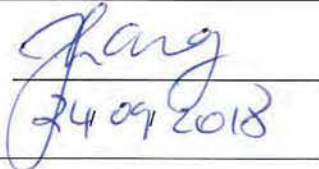
**Chief of Staff**

  
**Policy Advisor**

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3, 10, 18

Contact Officer:	Name: Deena Dalton Position: Senior Legal Officer Phone: 3006 4515 Date: 12/09/2018	Approved by:	Name: Julie Rylko Position: Director, SP Phone: 3239 6571 Date: 13/09/2018
Approved by:	Name: Leanne Robertson Position: Assistant Director-General, Strategic Policy and Legal Services Phone: 3898 0161 Date: 17/09/2018	Endorsed: Jenny Lang A/Director-General	 24 09 2018
<input type="checkbox"/> Election Commitment <input checked="" type="checkbox"/> CBRC / Cabinet related <input type="checkbox"/> ECM related			

**Attorney-General Correspondence Cover Sheet**  
**ESB Correspondence Completions Process**

Edocs #	4520253	Surname/Briefing Topic
		QSAC review of sentencing for criminal offences arising from the death of a child - final report

**PROOFED BY EXECUTIVE SERVICES AND DIRECTOR-GENERAL'S OFFICE**

ESB: Print on letterhead and envelope	..... VC .....	18 SEP/2018
ESB: Track to ODG on eDOCS	..... VO .....	18 SEP/2018

**APPROVED BY DIRECTOR-GENERAL**

.....  
Director-General

Date: 24/09 / 2018

DLO: Track to OAG on eDOCS	..... MM .....	25 SEP 2018
DLO: Track on OAG spreadsheet	..... mm .....	25 SEP 2018

**CLEARED AND SIGNED – OFFICE OF THE ATTORNEY-GENERAL**

DLO: Update spreadsheet & track to ESB	..... MM .....	03 OCT 2018
ESB/DLO: Scan signed copy	..... JC .....	4/10/18
ESB/DLO: Post and finalise in eDOCS	..... JC .....	4/10/18

**Division:** SPLS



## DEPARTMENT OF JUSTICE AND ATTORNEY-GENERAL BRIEF FOR DECISION/ACTION

**Date:** 18 September 2018  
**To:** Attorney-General and Minister for Justice  
Leader of the House  
**From:** Strategic Policy  
**Subject:** Queensland Sentencing Advisory Council review of sentencing for criminal offences arising from the death of a child – final report  
**Requested by:** Internally generated  
**Decision required by:** 5 October 2018

### RECOMMENDATIONS

That you:

1. **note** that on 25 October 2017, the Queensland Sentencing Advisory Council (QSAC) received a reference to review the adequacy of penalties imposed on sentence for criminal offences arising from the death of a child;
2. **note** that QSAC is due to **deliver its report on this review to you by Wednesday, 31 October 2018;**
3. **note** QSAC proposes, in accordance with its communication protocol (**Attachment 2**) to **publicly release its final report on this reference on Thursday, 22 November 2018;** and

NP\_Sch3(2)(1)(b)

### BACKGROUND SUMMARY

1. There has been **significant and ongoing community concern** about whether the sentences for criminal offences arising from the death of a child are meeting expectations.
2. **QSAC is currently reviewing the adequacy of penalties imposed on sentence for criminal offences arising from the death of a child** under Terms of Reference (ToRs) you issued on 25 October 2017 (**Attachment 1**).
3. The ToRs require QSAC to:
  - consider and analyse penalties imposed on sentence for offences arising from the death of a child and report on current sentencing practices;
  - determine whether the penalties currently imposed for these offences adequately reflect the particular vulnerabilities of these victims;
  - identify any trends or anomalies that occur in such sentencing, for example the nature of the criminal culpability which forms the basis of a manslaughter charge which may affect any sentence imposed;

- assess whether existing sentencing considerations are adequate for the purposes of sentencing these offenders and identify if specific additional legislative guidance is required;
  - examine the approach in other Australian jurisdictions;
  - identify and report on any legislative or other changes required to ensure the imposition of an appropriate sentence for these offences;
  - identify ways to enhance community knowledge and understanding of the penalties imposed for these offences; and
  - advise on any other relevant matters.
4. Under the ToRs, QSAC must also consult with the community and other key stakeholders including the judiciary, legal profession, victim of crime groups, child protection advocacy groups and relevant government agencies.
  5. QSAC has a protocol for communication between QSAC, DJAG and key stakeholders (**Attachment 2**). Under the protocol, final reports for a reference will be provided to you by the date agreed in the ToRs and face-to-face briefings will be offered to relevant key stakeholders no more than 24 hours in advance of the report's public release. The protocol further provides **publication of a final reference report will be on a date agreed between you and QSAC, but not later than 21 business days** after the report is given to you.

## ISSUES

### Review scope

6. The review is specifically concerned with **penalties imposed on sentence over a 12 year period from 2005-06 to 2016-17**. This aligns with Queensland Courts data held by QSAC.
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NP\_Sch3(2)(1)(b)

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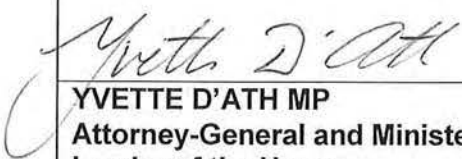
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NOTED or APPROVED / NOT APPROVED  
**Attorney-General and Minister for Justice**  
**Leader of the House**  
**Comments**

NP\_Sch3(2)(1)(b)

  
**YVETTE D'ATH MP**  
**Attorney-General and Minister for Justice**  
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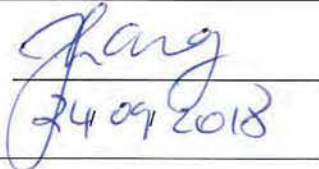
**Chief of Staff**

  
**Policy Advisor**

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Contact Officer:	Name: Deena Dalton Position: Senior Legal Officer Phone: 3006 4515 Date: 12/09/2018	Approved by:	Name: Julie Rylko Position: Director, SP Phone: 3239 6571 Date: 13/09/2018
Approved by:	Name: Leanne Robertson Position: Assistant Director-General, Strategic Policy and Legal Services Phone: 3898 0161 Date: 17/09/2018	Endorsed: Jenny Lang A/Director-General	 24 09 2018
<input type="checkbox"/> Election Commitment <input checked="" type="checkbox"/> CBRC / Cabinet related <input type="checkbox"/> ECM related			

**Attorney-General Correspondence Cover Sheet**  
**ESB Correspondence Completions Process**

Edocs #	4520253	Surname/Briefing Topic
		QSAC review of sentencing for criminal offences arising from the death of a child - final report

**PROOFED BY EXECUTIVE SERVICES AND DIRECTOR-GENERAL'S OFFICE**

ESB: Print on letterhead and envelope	..... VC .....	18 SEP/2018
ESB: Track to ODG on eDOCS	..... VO .....	18 SEP/2018

**APPROVED BY DIRECTOR-GENERAL**

.....  
 Director-General

Date: 24/09 / 2018

DLO: Track to OAG on eDOCS	..... MM .....	25 SEP 2018
DLO: Track on OAG spreadsheet	..... mm .....	25 SEP 2018

**CLEARED AND SIGNED – OFFICE OF THE ATTORNEY-GENERAL**

DLO: Update spreadsheet & track to ESB	..... MM .....	03 OCT 2018
ESB/DLO: Scan signed copy	..... JC .....	4/10/18
ESB/DLO: Post and finalise in eDOCS	..... JC .....	4/10/18

**Division:** SPLS



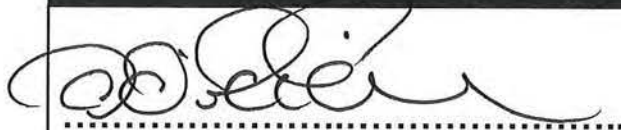
**Attorney-General Correspondence Cover Sheet**  
**ESB Correspondence Completions Process**

<b>Edocs #</b>	4519431	<b>Surname/Briefing Topic</b>
		Palaszczyk Anastacia MP - Sentencing
		for child Homicide.

**PROOFED BY EXECUTIVE SERVICES AND DIRECTOR-GENERAL'S OFFICE**

ESB: Print on letterhead and envelope	NP	10/10/2018
ESB: Track to ODG on eDOCS	NP	10/10/2018

**APPROVED BY DIRECTOR-GENERAL**



Director-General

Date: 10/10/2018

DLO: Track to OAG on eDOCS	MM	10 OCT, 2018
DLO: Track on OAG spreadsheet	MM	10 OCT 2018

**CLEARED AND SIGNED – OFFICE OF THE ATTORNEY-GENERAL**

DLO: Update spreadsheet & track to ESB	MM	15 OCT, 2018
ESB/DLO: Scan signed copy	MM	15 OCT /2018
ESB/DLO: Post and finalise in eDOCS	MM	15 OCT 2018

Division:

SPLS