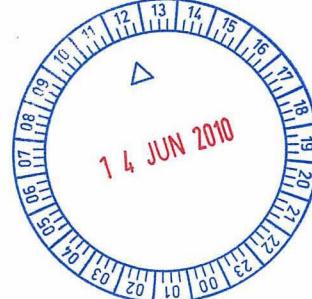




PUBLIC

Attorney General; Minister for Corrective Services

Our Ref: 35-08987



Hon B Ellis MLC
Chairman
Standing Committee on Environment and Public Affairs
Parliament House
PERTH WA 6000

Dear Mr Ellis / Brian

Thank you for your letter dated 22 April 2010, Mr Caunt's letter dated 6 April 2010 and the attached *Petition No 54 - Carnarvon and Gascoyne Region – Recommend a review of the judiciary to evaluate criminal sentencing and delivery of justice to the community.*

The Liberal-National Government was elected on its tough approach to law and order and believes that the community wishes to see the law strengthened in specific areas.

Therefore, the State Government is committed to undertaking the reforms necessary to ensure that the criminal justice system is more fairly balanced between the rights of the accused, the State and the interest of victims; and that sentencing deters offending by reflecting community expectations. In this context, the Government has made significant progress to implement its election commitments to improve law and order.

As you would be aware, the Government has secured the passage of the *Sentencing Legislation (Transitional Provisions) Amendment Act 2009 (WA)*. This legislation will ensure that when sentencing offenders, courts will no longer be required to discount sentences by a third. Instead, judges will now have the discretion to sentence up to the statutory maximums. In my view, this important legislation has sent a clear message to the courts that serious offenders should receive appropriate prison sentences.

In addition, the *Criminal Code Amendment Act 2009 (WA)* came into effect on 22 September 2009. It sets out mandatory minimum terms of imprisonment for those who cause bodily harm to certain classes of individuals such as police officers, prison officers, transit officers, ambulance officers and court security officers.

The Government has also committed to introduce legislation during its first term which will:

- Limit the discounts that courts can give for early pleas of guilty at a maximum of 25% in most cases, with this reduction only to be available when a real saving to the State is occasioned by the plea of guilty.

- Make it easier for the courts to refuse to make offenders eligible for parole, set longer non-parole periods, and where the offender ultimately does become eligible for parole, ensure community views are properly taken into account when the offenders are considered for release.
- Introduce Prohibited Behaviour Orders which will allow courts to prohibit particular offenders from behaving in a manner which has been demonstrated to lead that offender engaging in criminal or anti-social behaviour.
- Install mobile speed humps and CCTV at “hotspots” and introduce harsher penalties that target repeat and serious offenders who place themselves and the community at risk.
- Tackle illicit drugs by criminalising cannabis possession and cultivation, cracking down on drug dealers, protecting children from endangerment and banning the sale of drug kits.

Furthermore, as part of the effort to combat crime and other anti-social behaviour, a number of Government Agencies, including the Department of the Attorney General (DotAG), the Department of Corrective Services and WA Police, are signatories to Aboriginal Justice Agreements.

The WA Aboriginal Justice Agreements are about working in partnership with Aboriginal communities to reduce the over-representation of Aboriginal people in the criminal justice system.

While Carnarvon does not have a signed local justice agreement, the township of Carnarvon is supported by its community membership of the Yamaji Regional Justice Forum by DotAG, a Community Aboriginal Congress supported by the Department of Indigenous Affairs and the Mid West Gascoyne Human Services Regional Managers Forum. This Forum, which is chaired by the Mid West Gascoyne Police Superintendent, sits regularly in Carnarvon and enjoys the support of the Carnarvon Shire Council which responds to community development matters as they arise.

In addition, the DotAG Aboriginal Mediation Service has visited Carnarvon when requested and will continue to do so. Carnarvon will remain a high priority for the relevant Government Agencies.

I note that the Standing Committee on Environment and Public Affairs has asked for comments on sentencing. While the Government makes laws designed to protect the community, I hope that the Committee would appreciate that under our system of governance, the Government and the judiciary operate independently. Therefore, while parliament sets the maximum statutory penalties for offences, it is the responsibility of the presiding judge or magistrate, who has access to all the relevant circumstances and facts that are pertinent to each case, to sentence offenders in accordance with the law.

The WA Director of Public Prosecutions or the Police Prosecutor, who also operate independently of the Government, may appeal decisions where they believe that the presiding judicial officer “made an error of law or fact or of both law and fact”.

To assist the Committee in how sentences are determined, you may wish to access the Supreme Court’s website: www.supremecourt.wa.gov.au which contains a link to a booklet published by the Judicial Conference of Australia: *Judge for Yourself: A Guide to Sentencing in Australia*.

You may be interested to know that according to the Australian Bureau of Statistics, this State has the second highest rate of adult imprisonment in the country behind the Northern Territory. This demonstrates both the efficiency of our police service in investigating and apprehending criminals, and the willingness of the courts to impose terms of imprisonment on offenders.

Law and order remains a priority for the Government and I can assure you that the Government will continue to pursue its tough law and order program for the benefit of our community.

Thank you for your enquiry and I trust that the above information is useful.

Yours sincerely



C. Christian Porter MLA
ATTORNEY GENERAL; MINISTER FOR CORRECTIVE SERVICES

11 JUN 2010