

## **SUBMISSION**

### **Inquiry into Victoria's Criminal Justice System**

#### **Caterina Politi**

As a victim my experience with the justice system has been quite disappointing to say the least. I have been proactive to bring about change with my advocacy work and campaigning through STOP. One Punch Can Kill.

#### **THE SENTENCING**

As a result of the death of my son David Cassai we endured approximately 20 court hearings/ committal/plea/sentencing/appeals, etc. Throughout this whole process we counted for nothing. My son's killer was charged with manslaughter, however I strongly believe that it should have been a murder charge due to the circumstances of the attack on David and his friends. But that was not to be.

20 months after killing David, Dylan Closter pleaded guilty. He dragged out the process and at the door of the court, hours before the trial was to start he pleaded guilty and received a discounted sentence. How can this be? He fought the charges, there was clear CCTV footage of him as the aggressor. He only came forward after Victoria Police publicly announced for the perpetrators to hand themselves in as they have their names.

The police and prosecutors accepted the deal and then told me that this had occurred. There was no contribution from us victims. They say a trial would have been difficult for the victims, but this was never an option for us to choose.

In the judge's sentencing remarks Justice Hollingworth said the sentence would have been a maximum of 12 years and a 9 year minimum if he was found guilty by a jury. Instead he was given 9 yr 3 mth maximum with a 6 year minimum. I strongly believe this is excessive considering the perpetrator dragged out this guilty plea and he was never remorseful. I would have accepted this type of discount if he had pleaded guilty right at the start, but not after putting us through 20 months of courts.

#### **THE COMMITTAL HEARING**

The Committal Hearing is a luxury for the defence. In my son's case there was CCTV evidence which clearly showed who the aggressors were. I don't believe that there should have been a committal hearing due to the overwhelming evidence. The OPP should have pushed for the case to go straight to trial.

#### **VICTIM IMPACT STATEMENT**

The only voice we have in the whole justice system is to write a VIS and read it out to the court. This is the only vehicle to speak of our loss, grief and heartache of losing David. The impact it has had on our lives, the depression, anxiety, ill health and work. Whilst the judge acknowledged this the ensuing sentence did not result in a harsher sentence. We poured out our heart and tears in this traumatic experience for what? What would the sentence have been if the judge did not hear more than 20 VIS? What if a victim did not have anyone speak of their loss would that make their death any less significant.

#### **JUSTICE HOLLINGWORTH**

In the hearing for Thomas McCluskey I presented a VIS. This was written differently to the one I wrote for David's killer. This was more a point form, more matter of fact. I could not go through writing it differently. Justice Hollingworth did not like my VIS and began to berate me in court. She made me feel like I was the perpetrator. She humiliated me in front of all in the court. She treated me worse than the accused.

I had to leave the court, totally slain by her words and reaction.

The Justice is the educated one, the professional in dealing with these horrific matters. She could have just said that my statement would not be allowed and left it at that.

I did report this to the Chief Justice Marilyn Warren but of course what was she to say, she was always going to support her own.

## COURTS

I also highlight to the Chief Justice the issue with dealing with the offenders in the courts. Victims are forced to be in the same vicinity of the person who killed their loved one. David's killer and co-accused used the same toilets and their victims. It's unreasonable to sit at arms length away from these thugs, to use the same foyers, to wait in the same lines to enter these courts. There is not enough being done to fix these issues.

The response I received from the Chief Justice was "i didn't realise that"...

## SENTENCING

We have a continually battle with the legal eagles that harsher sentences don't work. They say it creates recidivist offending but how do we really know as harsher sentences are not the norm in Victoria. The courts err on the lower side. One of the perpetrators who was involved in the death of my son was on a 3 months suspended sentence at the time of offending. He had attached a couple late at night with a metal pole. That was his fourth offence and this his fifth. It is obvious that the lenient sentence did not deter him, rehabilitate him and think this is my chance to change. If he was in jail for 3 months then he would not have reoffended and he was the one to instigate the violence that night by attacking two teenagers approximately 45mins before Closter attacked David and his friends (totally unrelated groups).

I understand the jails are at capacity but this should not be the reason to not send a perpetrator to jail. If there is a need to build more jails then this must be done. Our society deserves to be safe. We know from history that many victims have lost their lives as a result of early release from jail or being given bail. The courts must consider the safety and lives of the innocent first and foremost.

## MANDATORY MINIMUMS

Once our legal eagles don't like mandatory minimums. They say it takes away the discretion from the Judges. I strongly believe if sentences were harsh enough then we would not need mandatory minimums. However, the use of 'precedent' in our courts somewhat takes away the discretion from the Judges as they are bound to sentence within this precedent. A judge before them has set a standard and pretty much they must follow this.

## VICTIMS

Many victims before me and many after me will suffer excruciating pain and grief. Many will experience the same repetitive failings in the law or the justice system. Many of these failings are highlighted by the victims and their loved ones have paid the ultimate price for these failings in the justice system.

With all the grief and trauma we have to go through to get some sort of justice, we are also the ones to bring about change. We must ensure that the politicians, law makers and those involved in the justice system are proactive to repair broken systems, fix the failings of our laws to ensure we minimise the number of victims of crime which in turn will reduce the strain on our courts and jails. Most importantly stop the senseless loss of lives and the trauma that follows.

## SUMMARY

Many reviews have come and gone and I know that change can be difficult, however if we all work together then we should be able to make the justice system fair for the victims who come before it.

I would be happy to discuss the above in more details if necessary.