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Position Statement

I am a NSW resident and the youngest sister of Anne-Marie Culleton who was 20 years old when South Australia parolee Jonathan Peter Bakewell absconded from South Australia and travelled to the Northern Territory where he raped and murdered Anne-Marie in her Darwin flat on 23 February 1988. He strangled her with her own bedsheet.

Bakewell received a life sentence with no parole, however he was granted parole following the laws being changed to allow life sentence prisoners to apply for a non parole period. I am currently fighting to keep Bakewell behind bars after he breached his parole numerous times for taking the same drugs he took the night he murdered my sister.

I also have lived experience of murder with stalking, as my 22-year-old cousin Desley was murdered in Brisbane along with her boyfriend in 1975, by an ex boyfriend who stalked and threatened her. He shot them both before killing himself.

Since 2019 I have been campaigning for law reform for life sentencing with no parole for murder with sexual assault. My campaign information is on my website <https://eileenculleton.com/>

In light of the recent shocking increase in femicide, I am broadening my campaign and calling for mandatory life sentencing without parole for murderers who commit the following categories of crime:

- murderers who sexually assault, stalk or commit sadistic acts
- murderers who abduct and murder a child
- multiple murderers

These reforms are based on those being introduced in the United Kingdom. The UK government has a Sentencing Bill 2023-2024 before parliament introducing a new clause for Whole of Life Orders for the “worst of the worst murderers”.¹

Clause 1 creates a new duty for the court to impose a whole-life order in cases of:

- the murder of a child that involves the abduction of the child
- murders involving sexual or sadistic conduct, and
- murders carried out for the purpose of advancing a political, religious, racial or ideological cause.

A whole of life order already exists in cases of two or more murders.

It is well documented that victims of murders involving sexual, stalking or sadistic conduct are primarily women. This occurs in both sexual violence and domestic violence related murders. Children abducted and murdered in sexual violence related murders are primarily girls.

It is also well documented that victims of murders involving two or more victims are primarily women and they are domestic violence related murders or sexual violence/sadistic murders. These are gender hate crimes. They are crimes of femicide.

¹ <https://hansard.parliament.uk/commons/2023-12-06/debates/77B5411B-A141-4048-8F1C-A19A28D9EFD8/SentencingBill>

Given that the Prime Minister Andrew Albanese acknowledged at the recent Canberra anti- violence against women rally that Australia has a national crisis of violence against women², these sentencing reform laws will help to keep women in the community safe. They will also send the strongest possible message that Australia does not tolerate violence against women. This will help to change the culture and attitudes that the Prime Minister spoke of at the Canberra rally. And this law reform will act as a deterrent because potential offenders will know they will never be released back into the community if they commit these crimes.

It is also well documented that those who murder with sexual assault, stalking or sadism and those who abduct and murder a child are psychopaths, sexual sadists and sadists and these are lifelong psychological traits that cannot be rehabilitated.

I have made previous submissions to the NSW Sentencing Council – regarding the NSW Review of Sentencing for Murder and Manslaughter. I made a 29 page Preliminary Submission on 8 March 2019³ to inform the consultation paper and a 39 page Submission on 7 February 2020⁴ in response to the consultation paper.

This submission will bring unique and valuable insights from 35 years of lived experience as a murdered rape victim family member dealing with the whole spectrum of the legal system. I also bring perspectives from recent years working as a homicide victim advocate campaigning alongside other victims in across Australia.

In general I support the use of good character in sentencing for non violent crimes.

I do not support the use of good character in sentencing for child sexual crimes. I am calling for 5A Special Rules for child sexual offences to be amended to remove “if the court is satisfied etc”

I do not support the use of good character in sentencing for the following most heinous types of murder crimes:

1. Murder with sexual assault
2. Murder with stalking
3. Murder with sadism
4. Murder with abduction of a child
5. Multiple murders including those who murder two or more people at the same time and serial killers

I also do not support the use of mitigating and subjective factors for the above crimes.

As with NSW 19B (Mandatory Life Sentences for murder of police officers), it is my position that mitigating factors should not apply to these types of murder:

I am therefore also calling for a special category to be created for the following types of crimes to be added to Crimes Sentencing Procedure Act 1999 Section 21 A 5.

² <https://www.news.com.au/national/crime/prime-minister-anthony-albanese-will-join-canberra-rally-calling-out-violence-against-women/news-story/92604400ff0abc1193ae57ba1271429e>

³ <https://sentencingcouncil.nsw.gov.au/documents/our-work/homicide/PMU14.pdf>

⁴ <https://sentencingcouncil.nsw.gov.au/documents/our-work/homicide/MU30.pdf>

And to insert

1. (5B) Murder with sexual assault
2. (5C) Murder with stalking
3. (5D) Murder with sadism
4. (5E) Murder with abduction of a child
5. (5F) Murder of two or more people (at the same time or in separate crimes)

I am also calling on the Sentencing Council to broaden the sentencing legislation to add the above 5 categories of offences to all subjective and mitigating factors because they are irrelevant to these most heinous of crimes. I assert these crimes should receive a full life sentence with no parole.

Sincerely

Eileen Culleton

Sister of Murdered Rape Victim Anne-Marie Culleton

Homicide Victim Advocate

<https://eileenculleton.com>

The use of Good Character and other subjective factors in sentencing is irrelevant to the most heinous types of murder crimes: murder with sexual assault, murder with stalking, murder with sadism, murder with abduction of a child and multiple murders

It is inappropriate in the most heinous types of murder crimes: murder with sexual assault, murder with stalking, murder with sadism, murder with abduction of a child and multiple murders; for the court to consider subjective factors and antecedents of the offender themselves. These are totally irrelevant to the crime.

The offender's character

If an offender has committed murder with sexual assault, stalking, sadism, child abduction or two or more murders, by their actions they are evidently not a person of good character, despite how they appear to others in the community.

As demonstrated below in regard to the offender's vocation and the Royal Commission into Institutional Abuse, sex offenders are commonly seen to be of 'good character'.

The offender's vocation

The offenders vocation is used to support the case for their 'good character' however, just as it is irrelevant to child sexual assault offences, so it should be made irrelevant to the most heinous types of murder crimes: murder with sexual assault, stalking, sadism, child abduction or two or more murders.

The Royal Commission into Institutional Child Abuse⁵ has shown that it is people operating in leadership roles in the most trusted and respected professions, in institutions that are pillars of the community such as religious organisations, educational institutions, sporting organisations, youth organisations, state institutions who are the most prolific child sex offenders. The reason for this being that child sex offenders use these vocations in order to gain access to their victims and trust from the community.

Similarly, it has been found with rapist murderers including serial killers that they are from the most trusted profession – being the police force.

- UK rapist murderer Wayne Couzens was in the most trusted profession – a police officer and was working guarding diplomats at the US Embassy.⁶
- USA serial killer and rapist Joseph James DeAngelo was a police officer.⁷
- Paris serial killer and rapist Françoise Verove was a police officer.⁸

Other high profile rapist murderers have also held trusted vocations:

⁵ <https://www.childabuseroyalcommission.gov.au/>

⁶ <https://www.bbc.com/news/uk-58746108>

⁷ <https://www.theguardian.com/us-news/2020/jun/29/golden-state-killer-joseph-deangelo-guilty-plea>

⁸ <https://www.theguardian.com/world/2021/oct/01/paris-serial-killer-of-80s-and-90s-was-ex-police-officer-dna-shows>

- Perth serial killer rapist Bradley Edwards was working in a trusted role as a Telstra technician.
- Queensland child serial killer and rapist Barry Hadlow was working in the local Woolworths supermarket and toyshop and was also an SES volunteer.⁹ Hadlow was such a prominent member of the community he played Santa Claus for the town's children's Christmas party.¹⁰

Domestic violence statistics also reveal that men who murder women, including with stalking, come from all walks of life and vocations.

Therefore vocation is irrelevant as is character in sentencing for the heinous types of murders listed above.

The offender's criminal history

If the offender has a record (or any significant record) of previous convictions is irrelevant to sentencing for the most heinous types of murder: murder with sexual assault, murder with stalking, murder with sadism, murder with abduction of a child and multiple murders.

One of the reasons for this is that given that 80% of sexual assaults go unreported¹¹ the fact that the offender does not have a previous criminal record does not guarantee they have not raped before.

According to a Australian Bureau of Statistics (ABS) Personal Safety Survey 2016, the majority of women (9 out of 10) who were sexually assaulted did not contact the police (87% or 553,900).¹²

When you also consider that of those rapes that are reported, only a small percentage proceed to trial, and according to an ABC Report¹³, a high number of cases are rejected by police or withdrawn by the victim, this also adds to the uncertainty about the offender's previous history.

Of those cases that do proceed to trial only a small percentage result in a conviction.

According to sex offender recidivism statistics and sex offender profiling it is highly likely the rapist murderer has raped before but hasn't been caught or convicted.¹⁴

⁹ <https://www.mamamia.com.au/sherele-moody-red-heart/>

¹⁰ <https://www.couriermail.com.au/news/queensland/sunshine-coast/one-monstrous-day-in-may-a-child-killer-changed-our-lives/news-story/6568143c31df0d3297aac22d1b6f41dd>

¹¹ https://www.aph.gov.au/about_parliament/parliamentary_departments/parliamentary_library/publications_archive/archive/violenceagainstwomen

¹² <https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Key%20Findings~1>

¹³ <https://www.abc.net.au/news/2020-01-28/how-police-are-failing-survivors-of-sexual-assault/11871364>

¹⁴ <https://aic.gov.au/publications/archive/recidivism-of-sexual-offenders>

The offender's marital status

The offender's marital or relationship status has no relevance to their propensity to rape and murder. Because this heinous crime isn't about sex or the lack thereof. It's about power and control and misogyny.

- QLD serial child rapist and killer who abducted his victims, Brett Peter Cowan, was married with a baby son when he abducted, indecently assaulted and murdered 13 year old Daniel Morcombe in 2003.
- QLD rapist murderer Barrie John Watts was married when he raped and murdered school girl Sian Kingi in 1987. In fact he got his wife to be an accomplice.
- WA serial killer rapist couple David and Catherine Birnie were also married.
- WA Claremont rapist and serial killer Bradley Edwards was married.
- UK Policeman Wayne Couzens was married with two children when he raped and murdered Sarah Everhard in 2021.
- QLD child serial killer and rapist who abducted his child victims, Barry Hadlow was married.

Any court that continues to give marital or relationship status any consideration in sentencing murderers who sexually assault their victims is using an archaic outdated premise and myths.

Murder with sexual assault is not about sex it is about power and control

It is time the judiciary drew on current best practice and up to date knowledge about violent sex offenders and rapist murderers instead of relying on outdated myths about these perpetrators.

Murder with sexual assault is a deliberate gender hate crime in which the male exerts power and control over the female to terrify, torture and degrade the victim.

Murder with stalking is also a gender crime with the purpose being power and control

The NSW Police website states:

“Stalking is a crime. It is an offence under the Crimes Domestic and Personal Violence) Act 2007.”¹⁵

“Stalking involves a persistent course of conduct or actions by a person which are intended to maintain contact with or exercise power and control over another person. These actions cause distress, loss of control, fear or harassment to another person and occur more than once.”¹⁶

The Victorian Law Reform Commission Stalking: Final Report 2022 states:

- Stalking is widespread, gendered, and mostly linked to family violence¹⁷
- The Personal Safety Survey estimated that nationwide, one in six women (17 per cent) have experienced stalking since the age of 15
- Of the women who were stalked 94% were stalked by a male.
- Most people were stalked by someone they knew, such as an intimate partner or former partner, work colleague, or acquaintance.

Given that by their nature murder with sexual assault, murder with stalking, murder with sadism, murder with child abduction and murder of two or more people are deliberate crimes, antecedents and subjective factors are irrelevant to sentencing.

it is clear that, like NSW 19B (Mandatory life sentences for murder of police officers)¹⁸, in which subjective factors, antecedents and mitigating factors are not applied due to the seriousness of the crime, so it should be with the crime of murder with sexual assault.

What we are calling for is a sentence to be framed in a similar way to 19B to ensure that as per section (2), (4) and (5), the life sentence is for the term of the person’s natural life, it is mandatory and no other law or act can authorise a court to impose a lesser or alternative sentence.

This also means that ‘mitigating factors’ would not apply to the crime of rape and murder just as they do not apply to the murder of a police officer.

¹⁵ https://www.police.nsw.gov.au/crime/domestic_and_family_violence/what_is_stalking

¹⁶ https://www.police.nsw.gov.au/crime/domestic_and_family_violence/what_is_stalking

¹⁷ <https://www.lawreform.vic.gov.au/publication/stalking-final-report/> p16

¹⁸ http://www5.austlii.edu.au/au/legis/nsw/consol_act/ca190082/s19b.html

Remorse should not be relevant to the most heinous types of murder crimes

As with NSW 19B (Mandatory Life Sentences for murder of police officers), it is my position that mitigating and subjective factors including remorse should not apply to the following most heinous types of murder:

1. Murder with sexual assault
2. Murder with stalking
3. Murder with sadism
4. Murder with abduction of a child
5. Two or more murders

Also genuine remorse is something that is impossible to ascertain because no one can read someone's heart.

Expressions of remorse are also problematic because offenders know that if they 'tick the boxes' in expressing remorse they will receive a reduction in their sentence. Thus it is common practice for offenders to express remorse and even write apology letters.

Judges, psychiatrists and parole boards are manipulated by offenders who lie to them

It is well documented that rapist murderers lie to their psychiatrists and psychologists and parole boards and supreme court judges in order to get sentences reduced, launch appeals against their sentences and to get parole.

I have personal experience of this in relation to my sister's rapist murderer Jonathan Bakewell.

In 2007 the appeal judge Justice Southwood cited Bakewell's new found 'remorse' in prison as a subjective factor in his conclusion that Bakewell's rape and murder of Anne-Marie Culleton was at a reduced level of seriousness:

*"Mr Bakewell admits that he is responsible for the crimes that he committed and he is remorseful for his crimes."*¹⁹

However given that true remorse and taking responsibility for the crime involves accepting your punishment, how can Bakewell be said to be remorseful when he refused to accept his punishment? Bakewell was originally given a life sentence without parole in 1989 however the laws were changed in 2004 to enable redetermination of life sentences after the offender has served 20 years. When the DPP attempted to redetermine his life sentence to 25 years (the minimum for murder with sexual assault), instead of being grateful for this, he appealed to try to get his sentence further reduced to 20 years so that he did not serve time for the rape, which was the only crime he plead guilty to. How is that demonstrating remorse?

Bakewell appealed all the way to the High Court of Australia and won on the grounds that he had transferred to a prison in SA and the NT laws no longer applied to him.

¹⁹ <http://www.supremecourt.nt.gov.au/archive/doc/judgements/2007/ntsc/20071016ntsc51.html>

Exposure in the Supreme Court of Bakewell lying to Parole Board for years about his numerous parole breaches for drug taking

In 2022 Bakewell admitted to the Supreme Court hearing in 2022 that he lied to the Parole Board for years regarding his numerous parole breaches for taking drugs – the same drugs he took the night he raped and murdered Anne-Marie Culleton.

It was revealed in the Supreme Court Judgement of 21 April 2022²⁰ on his application for a new nonparole period to be set after having parole cancelled, that Bakewell lied repeatedly to the Parole Board about his cannabis use. In his submission Bakewell finally admitted that he had been using cannabis several times a week for recreational purposes and not occasionally for pain relief as previously claimed.

This is damning. It was also exposed in the Supreme Court Judgement that Bakewell appeared before the Parole Board for returning 14 positive drug tests since his release in 2016, the first time being only 6 months after his release.²¹

Yet the Parole Board only issued five official breaches and incarcerated Bakewell five times before they finally cancelled his parole in October 2021. On the other 9 occasions he was only given warnings and the victim family were not notified.

In addition to this the Parole Board cited Bakewell's remorse as a reason for continually releasing him after his repeated breaches.

Given that Bakewell has been continually lying to the Parole Board since 2017, I called on the Parole Board to refuse Bakewell's parole. A convicted rapist murderer who continually lies to the Parole Board about drug use and who continues to flout his parole conditions is an offender who cannot be trusted in the community.

Further, a Parole Board that continues to release a convicted rapist murderer now they know for a fact he has continually lied to them, will have no confidence from the community.

Despite this call the Parole Board decided to release Bakewell in 2024 and his release is pending an appeal.

My previous submission to the Parole Board in 2019 in which I exposed Bakewell's history of lying and fabricating stories

It needs to be noted that in my 2019²² submission to the Parole Board I exposed Bakewell as a liar and a fabricator. In my submission I implored them to do their due diligence and homework in relation to Bakewell's credibility and history of lying, instead of blindly believing his statements.

Below is an excerpt from the section BAKEWELL'S LACK OF CREDIBILITY p22-23:

"Bakewell is a proven liar and fabricator of stories and this was evident in the Murder Trial transcripts, the Police Interview and the Voir Dire²³ which he mounted in a bid to get his video re-enactments and confessions thrown out and not put before a jury.

²⁰ Bakewell v R [2022] SASC 39 p6,7

²¹ Ibid p5,6

²² Eileen Culleton Further Submission calling for cancellation of Jonathan Bakewell's parole 30/08/2019 p22,23

²³ Voir Dire Appeal to prevent confession evidence being admitted to trial: R v Bakewell [1989] NTSC 68 (10 May 1989)
<http://www.austlii.edu.au/au/cases/nt/NTSC/1989/68.pdf>

Judge Kearney found Bakewell to be a liar who fabricated stories:

"I consider that he fabricated his account of various assaults, threats and inducements by different police officers so as to overcome the effect of the admissions which he had made on Friday 26 February and Saturday 27 February."
Voir Dire p64

"I consider the accused lacked credibility" Voir Dire p82

Bakewell lied and fabricated stories in his 'apology' letter to the Culleton family while applying for parole.

Bakewell lied and fabricated stories in his 'apology' letter to the Culleton family while applying for parole in 2015. I didn't realise this until I obtained a copy of the Trial Transcripts and cross checked Bakewell's claims with the evidence. In a submission to the Parole Board in 2019 I drew attention to Bakewell's lies and fabrications.

I referenced these lies in my submission of 2019 on pages 27 – 30²⁴.

- Bakewell fabricated numerous stories that the detectives threatened him with a gun, assaulted him and gave him over 20 cans of beer. (Voir Dire p83)
- The night of the murder Bakewell fabricated a story to the Catholic Priest Father John in order to get him to give him food by saying he was going to the caravan park with friends and a child. There was no child. (Police Interview Q114 and Trial Transcript p68)
- The night of the murder Bakewell lied to the Catholic Priest by calling him and telling him that he had nowhere to sleep when he had a place to stay with friends at the caravan park. (Trial Transcript p68)
- Bakewell admitted in the Police interview that he had a place to stay at the caravan park with friends (after his initial lie to them as well) (Police Interview Q107, Q118)
- Two witnesses testified that he had a place to stay at the caravan (Trial Transcript p39, p50).
- Bakewell admitted in the Police Interview that he lied to the priest in order to establish an alibi. He called the priest just before midnight to get him out of bed, to drive to pick him up so that he would have an alibi sleeping on the steps of the church.
- After the murder Bakewell said he went back to the steps of the church to sleep on the steps so the priest would think he had been there all night:

"I walked to the catholic church, thinking that if the Father saw me there in the morning he would think I stayed there all night." (Police Interview Q258 p16)

- The morning after the murder Bakewell fabricated a story to the Salvation Army Captain that he needed to borrow money to do a portrait, meanwhile he had already booked his bus to escape Darwin an hour later.
- The galling aspect of this fabrication is that when the Salvation Army Captain did not believe his story, Bakewell, who had just stolen \$120 from his murder victim Anne-Marie Culleton, then tried to emotionally manipulate the Captain by saying he did not want to lower himself to steal the money:

²⁴ Eileen Culleton Further Submission calling for cancellation of Jonathan Bakewell's parole 30/08/2019 p27,28,29,30

“One kind of key phrase that kind of stuck in my – in my mind resulting from that, that he did say he didn’t want to lower himself to steal the money...” (Trial Transcript p89)

There are many more fabricated stories and lies exposed in the Voir Dire, the Police Interview and the murder Trial Transcripts all of which the Parole Board should have had easy access to.”

However, despite this information, the Parole Board chose to continue to believe Bakewell’s claims. This case of Bakewell’s lies and fabrications over 35 years demonstrates how willing offenders who commit these most heinous types of murder are to lie and say and do anything to manipulate the judicial system for their benefit including expressing remorse.

Double murderer and rapist Martin Leach admitted lying to the judiciary

In 2004 when NT double murderer and rapist Martin Leach appealed his resentencing to try to have his life sentence with no parole reduced, he admitted that he would say anything to get released:

He admitted in his 2004 affidavit for his hearing that in the years following the trial he had made many false claims:

“There was a lot of exaggeration and a lot of false claims in there.”

He said he would say anything to get released:

I would have done anything, said anything to get rid of that label. To be honest I probably still would. The fact that maybe I’ve got to serve the rest of my life in gaol”²⁵

He even admits that he began believing his own lies:

“Mr Wild sort of sits there and talks about lies and in cases that is true. It doesn’t preclude the possibility of personally believing the lies at the time. You begin to live a lie.”²⁶

And later he effectively admitted that he had lied to the psychiatrist Dr Walton about his motivation for raping and murdering his victims. He had lied that they were friends of a prison officer and this was why he targeted them, because he was angry with the prison system for an alleged attempted rape of his wife that he admitted later was a lie. (p59, 60,61)

And it is also reflective of how dangerous it is when psychiatrists try to get rapist murderers to find excuses for their crimes such as ‘displaced anger’.

Leach admits that when this was proposed to him he fabricated a story that would fit with that narrative:

²⁵ https://supremecourt.nt.gov.au/data/assets/pdf_file/0006/769488/2004NTSC60-R-v-Leach-12-Nov-2004.pdf p57

²⁶ https://supremecourt.nt.gov.au/data/assets/pdf_file/0006/769488/2004NTSC60-R-v-Leach-12-Nov-2004.pdf p59

“A. Mr Walton also discussed with me the idea of displaced anger which would allow a positive answer to that question. However, consciously, no, that is not correct.”²⁷

Justice Martin stated that Leach was trying to manipulate the psychiatrists to change his diagnosis:

“[200] From the perspective of the respondent, I have no doubt that the respondent now believes that a finding as to his mental state in 1983 and as to his motivation for the crimes will be a significant factor in determining whether the court will accede to the Director’s application that the court refuse to fix a non-parole period. From the perspective of the respondent, a finding that in 1983 he was correctly diagnosed as an extremely dangerous psychopath, or a finding that he followed prison officers for a year and eventually murdered the two young women in a premeditated act of indirect revenge against the prison officers, are findings of extreme culpability. I am satisfied that the respondent took a feature from the false story he gave to his mother and sought to use it as an explanation for why he developed a hatred for prison officers and for the co-incidence of the trigger that set him on the course of committing the crimes. The respondent is endeavouring to avoid a conclusion that he suffers from the underlying and dangerous personality disorder diagnosed by Dr Gauvin.”²⁸

It is important to note that psychiatrists cannot guarantee the offender is telling the truth. In the 2004 appeal Lynch’s psychiatrist Dr Walton stated that psychiatrists are substantially dependent on the information given to them by the offender:

[177] During cross-examination, Dr Walton agreed that a psychiatric expert is, not exclusively, but very substantially dependent upon what information is given by the person being examined. Dr Walton acknowledged the difficulty attached to drawing conclusions by reason of differing accounts over time.²⁹

²⁷ https://supremecourt.nt.gov.au/_data/assets/pdf_file/0006/769488/2004NTSC60-R-v-Leach-12-Nov-2004.pdf p60

²⁸ https://supremecourt.nt.gov.au/_data/assets/pdf_file/0006/769488/2004NTSC60-R-v-Leach-12-Nov-2004.pdf p86

²⁹ https://supremecourt.nt.gov.au/_data/assets/pdf_file/0006/769488/2004NTSC60-R-v-Leach-12-Nov-2004.pdf p77

Mitigating factors should not apply to the most heinous types of murder

As with NSW 19B (Mandatory Life Sentences for murder of police officers), it is my position that mitigating factors should not apply to the following most heinous types of murder:

1. Murder with sexual assault
2. Murder with stalking
3. Murder with sadism
4. Murder with abduction of a child
5. Two or more murders

In the above types of murder “sexual assault”, “stalking” “sadism” and “abduction” are treated as an “aggravating factor” of the murder, whereas these extreme murders should be made their own categories such as “murder of a police officer”.

These types of murders are by their nature inherently extreme, horrific, abhorrent crimes which should not be minimised in any way.

I strongly object to the application of mitigating circumstances and any effort to try to reduce the seriousness of the offence and thereby reduce sentencing.

The process of applying mitigating factors to these extreme crimes leads to a degradation of justice as defence lawyers and judges rank them according to a macabre hierarchy of depravity of aggravating factor comparing them to ‘worst’ category of cases³⁰.

For example:

In 2019 Victorian Supreme Court Justice Elizabeth Hollingworth compared Codey Herrmann’s rape and murder of Aia Maasarwe with Jaymes Todd’s rape and murder of Eurydice Dixon due to ‘current sentencing practice’. This involved the judge comparing key ‘aggravating’ and ‘mitigating’ circumstances of each rape and murder. For example Justice Hollingworth said: ³¹

“On the one hand, Mr Todd killed his victim with his bare hands, rather than a weapon. He also did not commit any aggravating act, such as setting fire to the body.”

“On the other hand, unlike in this case, Mr Todd’s offending involved substantial premeditation. He had had a long-standing sexual fantasy to rape and strangle to death a woman, for more than a year.”

It was due to this macabre ‘ranking’ process that Justice Hollingsworth found, in relation to the rape and murder of Aia Maasarwe, “the case does not warrant the imposition of the maximum penalties.”³²

Despite the Victorian DPP calling for a life sentence it was not given.

³⁰ <http://www.sentencingcouncil.justice.nsw.gov.au/Pages/Sentencing/factors-sentencing.aspx>

³¹ <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSC//2019/694.html>

³² <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSC//2019/694.html>

This refusal of Justice Hollingworth to give a life sentence to Codey Herrmann is completely out of step with community attitudes towards the crime of rape and murder. Aiaa Maasarwe's murder shocked and outraged our nation and sparked vigils across the country and drew condemnation from our then Prime Minister Scott Morrison.

Similarly, the 2020 brutal stalking murder of 23 year old Melbourne woman Celeste Manno by Luay Sako who broke into her home in the middle of the night to stab her to death in her bed, was not considered 'worst category' and a life sentence was not given by Justice Jane Dixon in 2024.

This was despite the Victorian Director of Public Prosecutions calling for a life sentence for this "very extreme" crime.³³

"We say this falls within the worst case of offending," prosecutor Patrick Bourke KC said.

The refusal to give a life sentence to the stalker who murdered Celeste Manno was met with outrage nationwide and Celeste Manno's family are calling for mandatory life sentences for murder as a result.³⁴ and the petition³⁵ has over 56,000 signatures so far.

Celeste's mother Aggie Di Mouro wrote in the petition:

"Celeste's case should've set a precedent for all stalking offenders who escalate to murder. Justice Jane Dixon could have, and should have, taken the opportunity to set this precedent, but chose not to. A different judge might have decided otherwise, which is why I am insisting on an appeal. One person's decision and the discretion they are allowed shouldn't stop an appellate court from reconsidering the case."³⁶

Australia's justice system hit an all-time low on 23 December 2020 when Justice Stephen Hall refused to sentence Perth serial killer and rapist Bradley Edwards "never to be released", as called for by the WA DPP, with Justice Hall claiming Edwards crimes did not fit the category of 'worst case'."

This begs the question, if a serial killer and rapist is not a 'worst case' what is?

This 'ranking' practice also applies to subsequent appeals for reduced sentencing. For instance a rape and murder 20 plus years ago, when brought up for appeal would then be reviewed in relation to 'worst cases' that have happened since then and the likely decision being made that the non-parole period should be reduced.

I experienced the injustice of this practice in relation to my sister's rapist murderer Jonathan Bakewell's appeals to have his non-parole period reduced so that he would not have to serve time for the rape, despite this being the only crime he plead guilty to.

³³ <https://www.news.com.au/national/victoria/courts-law/celeste-manno-murder-killer-luay-sako-poses-risk-to-female-prison-staff-court-told/news-story/a523a0af25c04e9d1d09ed20eeb45ad3>

³⁴ <https://www.abc.net.au/news/2024-03-24/celeste-manno-rally-melbourne-cbd-mandatory-life-sentence/103625538>

³⁵ <https://www.change.org/p/justice-for-celeste-b412e4e2-b3af-460e-9f48-4f0c4beffa09>

³⁶ <https://www.change.org/p/justice-for-celeste-b412e4e2-b3af-460e-9f48-4f0c4beffa09>

In 1989 when sentencing Bakewell to life without parole, Justice Kearney described it as the most serious of crimes that fully warranted the sentence:³⁷

“Crimes such as the one you committed, Mr Bakewell, spread terror throughout the community, particularly amongst young women who live alone and who have to entrust their safety at night to the security of the locks of their doors. To such ordinary people, although you may not understand it, you are a figure of nightmare. They are entitled to look to the system of justice to protect them from such people as you and to demand a punishment which reflects their abhorrence of what you did.

In your case, the punishment laid down by law, is not a matter within my control, it is the punishment of imprisonment for life for the murder which you committed. I consider it is a punishment which in your case is fully warranted in every way and indeed represents the minimum punishment which a civilised society can rightly demand be imposed upon you.

In causing the death of this young woman you displayed such complete heartlessness and lack of any human compassion as to mark you out clearly from your fellow man. That you should be required by law to be condemned to prison for life reflects in part the community’s horror at what you did and their legitimate and proper need that the risk which you present to the community be removed from the community for many years to come.

.... The punishment now inflicted upon you contains some small element of retribution for what you did, which society can properly demand be imposed on you both for her and for those people ... on whom you have brought untold grief.”

Justice Kearney 1989

Justice Kearney’s sentiment was expressed in the community at the time. In a NT Parliamentary Debate on Wednesday 28 February 1990³⁸ regarding the murder and trial, it was agreed that the crime was “particularly horrific”. The Chief Minister Mr Perron said:

“The crime which we have been discussing was particularly horrific. Fortunately, in my view, justice was done.”

Another Minister, Mr Bell said:

“I remind the honourable members of the specific murder case involved. It was particularly horrific. It was a matter of deep concern that such a horrific crime should occur in Darwin. Reading some of the transcript of the case, I felt that the person convicted was somewhat less than human.”

However in 2007, after the NT Government changed the life sentence laws to allow non-parole periods to be set and Bakewell was appealing the NT DPP application to the Supreme Court to increase his non-parole period from 20 years to 25 years in accordance with new sentencing for

³⁷ SCC No 138 of 1988 The Queen and Jonathan Peter Bakewell (Sentence) p 475, 476

³⁸ http://classic.austlii.edu.au/au/legis/nt/consol_act/paa227/notes.html

murders involving rape, Justice Southwood minimised the seriousness of the murder. He made the following remarks:

*"...I would have determined that the relative seriousness of the crime of murder committed by Bakewell was not such as to require a longer non-parole period than 20 years."*³⁹

Justice Southwood 2007

Justice Southwood then compared Anne-Marie's rape and murder to other "worst" category of cases that exist to date, macabrely outlining both aggravating and mitigating factors and his own personal subjective view.

*"Having considered all of the objective and subjective factors referred to above and given what I consider to be appropriate weight to the sentencing purposes of punishment, denunciation and general and specific deterrence I would have determined that the relative seriousness of the crime of murder committed by Mr Bakewell was not such as to require a longer non-parole period than 20 years. Nor it the level of Mr Bakewell's culpability such as to require the court to fix a non-parole period."*⁴⁰

Not mutilating a body should not be a mitigating factor in any murder crime

The issue of mutilating the victim's body should not be made a mitigating factor in any murder crime.

What has our justice system come to when judges are giving a rapist murderer credit for not using weapons or mutilating the victims body?

In my sister's rapist murderer Jonathan Bakewell's case, one particularly reprehensible, ignorant and incorrect statement Justice Southwood made during the appeal in 2007 was:

*"The objective seriousness of the offending is also qualified by the facts that apart from the piece of sheet no weapons were involved in the attack on Ms Culleton and the prisoner did not mutilate her body."*⁴¹

This was an appalling statement and it was also incorrect. For the record, Bakewell did mutilate Anne-Marie's body. He threw her body under a scalding hot shower to remove to remove fingerprints and DNA evidence. He then wedged Anne-Marie's body face down in the shower recess so that her face and neck remained immersed in scalding hot water with the shower running and left her there in that state when he left her flat.

These actions, together with the high humidity in the closed bathroom, served to conceal the murder method by advancing body decomposition particularly on her face and neck.

This is how Anne-Marie's body was found by my sister and mother 40 hours later.

Due to the mutilation of Anne-Marie's face caused by being immersed in scalding hot water I was unable to see my sister's body to say goodbye.

³⁹ <http://www.supremecourt.nt.gov.au/archive/doc/judgements/2007/ntsc/20071016ntsc51.html>

⁴⁰ <http://www.supremecourt.nt.gov.au/archive/doc/judgements/2007/ntsc/20071016ntsc51.html>

⁴¹ <http://www.supremecourt.nt.gov.au/archive/doc/judgements/2007/ntsc/20071016ntsc51.html>

In the NT Parliament Question Time on Monday 19 October 2009⁴² after Bakewell's successful appeals to reduce his non-parole period from 25 years to 20 years, this action was raised as part of the horror of the crime:

"Mr MILLS to CHIEF MINISTER

In 1988, Jonathan Peter Bakewell raped and murdered his next door neighbour, Anne Marie Culleton, before throwing her body under a scalding hot shower."

Also for the record, 21 years later in 2009, both sides of government were still acknowledging it was a horrendous crime and stating that they do not believe Bakewell should have been given parole.

Mr MILLS (continued)

"Under your soft sentencing regime, Jonathan Peter Bakewell has been granted parole by the South Australian Parole Board and could be released from prison at any time. Given the aggravated nature of Bakewell's crime, he should have served at least 25 years inside. Can you explain to Territorians how it is that Bakewell could soon be walking free? Do you think Jonathan Peter Bakewell has done his time for his crime?"

ANSWER

Madam Speaker, it was an absolutely horrendous crime. I personally know some of our police officers involved in that investigation.

Regarding Bakewell being released on parole, we did challenge that matter in the High Court. We did not believe he should be granted parole. Ultimately the High Court rejected our challenge. The position of the government is that he should not have been granted parole."

Also what Justice Southwood failed to mention, in his unfortunate ignorance, is the fact that a ligature is a deliberate weapon of choice by the most sadistic sexual killers and serial killers. Bakewell, who used a sheet to strangle my sister while raping her is a sadistic sexual killer.

⁴² NT Parliament Question Time Monday 19 October 2009 p505

Strangulation should not be minimised as it is prolific in sexual and sadistic murders

Strangulation should not be minimised in sentencing as it has been firmly associated with sexual and sadistic murders and is prolific (⁴³, ⁴⁴, ⁴⁵, ⁴⁶).

It is critical that the sentencing council and judiciary draw on current evident based knowledge about the nature of the crime of rape and murder, particularly where strangulation and strangulation with a ligature is used, instead of relying on outdated myths about this crime. And to give serious consideration through the the evidence based lens of what is known and understood about rapist murderers who strangle their victims with a ligature.

In 1989, when Justice Kearney made his judgement and sentenced Bakewell for the crime of rape and murder, there seemed to be little research in criminal profiling of rapist murderers, including those who strangle their victims.

However, by 2007, when Justice Southwood was presiding over Bakewell's appeal, there were plenty of academic research reports stating that strangulation by ligature is cruellest, most sadistic method of murder. And it is also the preferred method of murder by sexual serial killers.

The chapter "Murder by Manual and Ligature Strangulation – Profiling Crime Scene Behaviours and Offender Characteristics" in the book *Criminal Profiling: International Theory, Research and Practice* ⁴⁷ referenced research articles going back as far as 1970 for example:

- Brittain, R.P. (1970). The sadistic murderer. *Med Sci Law*, 10, 198–207.
- Simonsen, J. (1989). A sadistic homicide. *Am J Forensic Med Pathol*, 10, 159–163.
- MacCulloch, M.J., Snowden, P.R., Wood, P.J. & Mills, H.E. (1993). Sadistic fantasy, sadistic behavior and offending. *Br J Psychiatry*, 143, 20–29
- Gratzer, T. & Bradford, J. (1995). Offender and offence characteristics of sexual sadists: a comparative study. *J Forensic Sci*, 40, 450–455
- Warren, J.I., Hazelwood, R.R. & Dietz, P.E. (1996). The sexually sadistic serial killer. *J Forensic Sci*, 41, 970–974.
- Meloy, J.R. (2000). The nature and dynamics of sexual homicide: an integrative review. *Aggress Violent Behav*, 5, 1–22.
- Kocsis, R.N., Cooksey, R.W. & Irwin, H.J. (2002). Psychological profiling of sexual murders: an empirical model. *Int J Offender Ther Comp Criminol*, 46, 532–554.
- Kraemer, G.W., Lord, W.D. & Heilbrun, K. (2004). Comparing single and serial homicide offences. *Behav Sci Law*, 22, 325–343.

Strangling a victim with a ligature in the course of a sexual assault and murder should serve to increase, not decrease, the objective seriousness of the murder.

⁴³ MacCulloch, M.J., Snowden, P.R., Wood, P.J. & Mills, H.E. (1993). Sadistic fantasy, sadistic behavior and offending. *Br J Psychiatry*, 143, 20–29.

⁴⁴ Meloy, J.R. (2000). The nature and dynamics of sexual homicide: an integrative review. *Aggress Violent Behav*, 5, 1–22.

⁴⁵ Simonsen, J. (1989). A sadistic homicide. *Am J Forensic Med Pathol*, 10, 159–163.

⁴⁶ Warren, J.I., Hazelwood, R.R. & Dietz, P.E. (1996). The sexually sadistic serial killer. *J Forensic Sci*, 41, 970–974.

⁴⁷ Chapter 4 Murder by Manual and Ligature Strangulation, Profiling Crime Scene Behaviours and Offender Characteristics, Hakkanen, H. *Criminal Profiling: International Theory, Research and Practice (73-87) 2007*

Ligature strangulation is also associated with deliberate and cruel crime scene behaviour, suggesting a “predator” murder pattern

In a study on sexual murder, Kocsis et al. ⁴⁸analyzed crime scene behaviour and provided an empirical model with distinct behaviour clusters. In sexual murders, ligature strangulation is associated with deliberate and cruel crime scene behaviour, suggesting a “predator” murder pattern.

The offender is able to exert greater control and power over the victim by strangulation.

In the journal article it stated that both Brittain ⁴⁹ and Gratzner and Bradford ⁵⁰ concluded that the offender is able to exert greater control and power over the victim by strangulation.

Another article “The Preference for Strangulation in a Sexually Motivated Serial Killer”⁵¹ references that killing by asphyxiation provides the killer with a “feeling of power”. The article also refers to how “the recognition and enjoyment of the helplessness of the victim is central to the psychology and motivation of the predatory sexually sadistic killer.”

Strangulation, particularly by ligature is the preferred method of murder by sexual serial killers

Compared with single homicide offenders, serial offenders are more likely to use strangulation as a method of killing ⁵².

Strangulation in serial killings has been associated with the need of psychopathic sexual sadists to have greater intimacy with the victim than projectile weapons would allow.

Dietz⁵³ associated strangulation in serial killings with the need of psychopathic sexual sadists to have greater intimacy with the victim than projectile weapons would allow in inflicting suffering on their victim.

Let’s also not forget Melbourne comedian Eurydice Dixon and ABC journalist Jill Meagher were both strangled by their rapist murderers.

As stated above, the act of strangulation is intrinsic to the crime of murder with sexual assault in most cases. This was referenced in the Eurydice Dixon case. In sentencing Jaymes Todd, Justice Kaye said:

39.... “Self-evidently, you would have known — as anyone else would — that the purpose of choking another individual is to prevent that person from breathing. The fact that you choked Eurydice over a period of time, during part of which you

⁴⁸ Kocsis, R.N., Cooksey, R.W. & Irwin, H.J. (2002). Psychological profiling of sexual murders: an empirical model. *Int J Offender Ther Comp Criminol*, 46, 532–554.

⁴⁹ Brittain, R.P. (1970). The sadistic murderer. *Med Sci Law*, 10, 198–207.

⁵⁰ Gratzner, T. & Bradford, J. (1995). Offender and offence characteristics of sexual sadists: a comparative study. *J Forensic Sci*, 40, 450–455

⁵¹ Pettigrew, M (2019), The Preference for Strangulation in a Sexually Motivated Serial Killer, *International Journal of Offender Therapy and Comparative Criminology*, Vol 63(5) 781-796, p7851

⁵² Kraemer, G.W., Lord, W.D. & Heilbrun, K. (2004). Comparing single and serial homicide offences. *Behav Sci Law*, 22, 325–343.

⁵³ Dietz, P.E. (1986). Mass, serial and sensational homicide. *Bull N Y Acad Med*, 62, 477–490

had both thumbs over her windpipe, is strong evidence on which to conclude, beyond reasonable doubt, that you intended to kill her by that action.

40 That conclusion is reinforced, first, by your conduct after you had returned home that morning, when you accessed on the internet, and viewed two pages of, a website entitled 'Brutal Rape Choking Till Death Strangle Forced Videos'. Secondly, it is reinforced by a matter to which I shall shortly refer, namely, your fascination with pornography involving the violent rape of women culminating in the strangulation of the victim to death, and the fantasy to that effect that was preoccupying you during the period in which you trailed behind Eurydice Dixon on her way home. Thirdly, it is also supported by the evidence of Dr Thomas and Professor Ogloff that, based on what you told each of them, your violent attack on Eurydice, culminating in her death, constituted the enactment by you of the whole of that homicidal fantasy."

Also, as discussed above the cruelty of strangulation is intrinsic to the sadistic drive of the rapist murderer. Justice Kaye stated in the sentencing of Jaymes Todd for murdering Eurydice Dixon, death by strangulation is a particularly cruel way for the victim to die.

"43... She was vulnerable and, in the circumstances, defenceless. In a most callous and cowardly manner, you set upon her, sexually assaulting and humiliating her, before cruelly strangling her to death. The sheer terror which Eurydice must have experienced during those dreadful moments is unimaginable. Her last moments on this earth must have been utterly horrifying for her. You inflicted that brutal assault, and took her life from her, by raping and murdering her in a most craven and sadistic manner."

Culpability – the nature of the most heinous types of murders carries inherent culpability

It is inappropriate in the most heinous types of murder crimes: murder with sexual assault, murder with stalking, murder with sadism, murder with abduction of a child and multiple murders; for the court to consider culpability. These crimes carry culpability and in particular moral culpability because by their very nature they are deliberate.

Prospect of Rehabilitation should not apply to sentencing of the most heinous types of murder

As with NSW 19B (Mandatory Life Sentences for murder of police officers), it is my position that prospects of rehabilitation should not apply to the following most heinous types of murder:

1. Murder with sexual assault
2. Murder with stalking
3. Murder with sadism
4. Murder with abduction of a child
5. Two or more murders

There is no guarantee rehabilitation programs work for murderers who are sex offenders, stalkers or sadists

There is no research proving rapist murderers can be rehabilitated

There is no research proving that rapist murderers can be rehabilitated. No state correctional authority in Australia has undertaken studies of repeat offending of homicide offenders let alone rapist murderers.

In a Centre for Criminology article “Counting the risk of murderers re-offending” by Roderic Broadhurst, Professor of Criminology and Ross Maller, Professor of Probability and Statistics at the Australian National University, the authors note that no state correctional authority has undertaken accurate studies of recidivism (repeat offending) of homicide offenders.⁵⁴

In regard to the effectiveness of treatment of sex offenders, a report prepared by the Australian Institute of Criminology for the Office of the Status of Women, “Recidivism of Sexual Assault Offenders: Rates, Risk Factors and Treatment Efficacy” found this to be questionable:

“While it is assumed that treatment will reduce the risk of sexual recidivism, the evidence is ambiguous. There have been few systematic evaluations of treatment programs and no definitive results regarding treatment efficacy.”⁵⁵

Rapist murderer recidivism

There is plenty of real life case evidence that rehabilitation programs do not work when it comes to rapist murderers.

One prime example is rapist murderer Terrence Leary. 17-year-old Vanessa Hoson was asleep in her family home in Sydney in 1990 when Leary broke in, attacked and murdered her.⁵⁶

⁵⁴ <https://criminology.research.southwales.ac.uk/cirn/research-projects/reoffending/>

⁵⁵ Lievore D 2004. *Recidivism of sexual offenders: rates, risk factors and treatment efficacy*. Archive. Canberra: Australian Institute of Criminology. <https://aic.gov.au/publications/archive/recidivism-of-sexual-offenders> (Accessed 29 November 2019)

⁵⁶ <https://www.smh.com.au/national/nsw/terrence-leary-given-another-chance-for-parole-after-explosive-attack-20160329-gnsg8w.html>

Prior to his first parole release, Terrence Leary had been deemed a “model prisoner” who had ‘ticked all the boxes’ for his rehabilitation.

Then NSW Attorney-General Greg Smith reported “Mr Leary completed programs to address his drug and alcohol issues and sex offending behaviour prior to his release on parole.”⁵⁷

Leary even completed a university degree in prison including a Bachelor of Arts studying sociology and anthropology.

Leary was released on parole despite Vanessa Hoson’s family’s protests, and in 2013 tried to rape and stabbed a woman at a bus stop. The victim is only alive today because the police arrived on the scene in time to save her.

Yet, incredulously, Justice Syme, in sentencing Leary for his rape and knife attack on the women at the bus stop, still took into account Leary’s rehabilitation programs in prison before his parole release - when evidently the prison rehabilitation programs did not work.

And this was despite Justice Syme saying Leary was still a danger to the community.

*“His unpredictability makes his management in the community a challenge,”⁵⁸
Judge Syme said.*

“Not all forms of antisocial behaviour can be treated through therapy.”

It is critical to note, if a so called “model prisoner” like Terrence Leary could repeat his crimes, this is clear evidence that sexual offending rehabilitation programs do not work. It is also evident that psychiatrists and psychologists who have input to parole release applications cannot predict human behaviour.

QLD Child Rapist Murderer Barry Hadlow was another rapist murderer who repeated his crime after release. Hadlow, after being released on parole for abducting and raping a school girl, abducted raped and murdered another child.

Sex Offender Recidivism

There has also been little research on Australia sex offender recidivism rates. The Australian Institute of Criminology report⁵⁹ stated that sex offender recidivism rates are underestimated due to the lack of recorded data for this crime.

One reason for this is that repeat sexual offenders may be identified for the principal offence for which they were convicted, which may not be the sexual offence.

Also, importantly, according to a Australian Bureau of Statistics (ABS) Personal Safety Survey 2016, the majority of women (9 out of 10) who were sexually assaulted did not contact the police (87% or

⁵⁷ <https://au.news.yahoo.com/murder-victims-sister-breaks-23-year-silence-17791130.html>

⁵⁸ <https://www.smh.com.au/national/nsw/terrence-leary-given-another-chance-for-parole-after-explosive-attack-20160329-gnsq8w.html>

⁵⁹ Lievore D 2004. *Recidivism of sexual offenders: rates, risk factors and treatment efficacy*. Archive. Canberra: Australian Institute of Criminology. <https://aic.gov.au/publications/archive/recidivism-of-sexual-offenders> (Accessed 29 November 2019)

553,900).⁶⁰ When you consider that of those rapes that are reported, only a small percentage proceed to trial, it makes estimating sex offending recidivism rates problematic. What is clear from the existing evidence is that sex offender rehabilitation programs do not guarantee success. Hence why we need to err on the side of women's safety. No risk to a woman's life is an acceptable risk.

The countless examples of sex offenders repeating their crime after being released from prison point to the fact that rehabilitation programs do not work.

Repeated recidivism of serial rapist Wayne Wilmot involved in abduction, gang rape and murder of Janine Balding

The repeated recidivism of serial rapist Wayne Wilmot involved in the abduction, gang rape and murder of Janine Balding in Sydney is a prime example that sex offender programs do not work.

In June 2024 Wayne Wilmot was jailed once again, just 2 weeks after release for breaching parole by accessing online violent child pornography.⁶¹

Before the attack on Ms Balding, Wilmot was found guilty of committing two other violent sexual assaults on women in public places.⁶²

In a report for the court during one of his recent appeals for release, a forensic psychologist said Wilmot would most likely commit "*a penetrative sexual attack upon a young woman previously unknown to him*".⁶³

"Any offence would probably be impulsive, opportunistic, and target a vulnerable woman," the report said.

The risk of such a scenario eventuating was "well above average" with the risk of violent re-offending "even higher".

Psychological assessments conducted on Wilmot in 2019 found him to have an IQ of just 74 and to be highly callous, manipulative and deceptive, consistent with psychopathy.⁶⁴

"In a judgment published on Friday, Justice Julia Lonergan noted Wilmot has an extensive history of violent sexual offending and had been diagnosed as displaying psychopathic traits.

Psychological assessments conducted on Wilmot in 2019 found him to have an IQ of just 74 and to be highly callous, manipulative and deceptive, consistent with psychopathy."

⁶⁰

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Key%20Findings~1>

⁶¹ <https://www.9news.com.au/national/wayne-wilmot-charged-breaching-court-order-two-weeks-after-release/ee91d5f9-4b90-4a6c-ab12-8569c009acdc>

⁶² <https://www.newcastleherald.com.au/story/8671148/serial-rapist-in-balding-abduction-back-behind-bars/>

⁶³ <https://www.newcastleherald.com.au/story/8671148/serial-rapist-in-balding-abduction-back-behind-bars/>

⁶⁴ <https://www.illawarramercury.com.au/story/8228816/psychopathic-traits-rapist-to-remain-behind-bars/>

Sex Offender Recidivism escalating to murder

This are also many examples of sex offenders escalating to murdering their victims after release.

ABC Journalist Jill Meagher's rapist murderer Adrian Bayley is a prime example of a repeat violent sex offender who escalated to murder. Bayley had a long history of rapes spanning more than 20 years.⁶⁵

Adrian Bayley also admitted faking his way through a sex offenders program to get parole release before murdering Jill.⁶⁶

Daniel Morcombe's killer, child rapist and murderer Brett Peter Cowan, had completed a sex offenders program while in prison for the second time for violent sexual assault of a child. Yet upon release Cowan abducted and murdered Daniel who was 13.

This begs the question, how many other prisoners have faked their way through sex offenders programs?

Michael Cardamone who raped and murdered Karen Chetcutti was also on parole.⁶⁷

Psychopathic Traits

Another key argument for not considering rehabilitation prospects for offenders of the most heinous type of murders: murder with sexual assault, stalking, sadism or child abduction is the criminal profile of these offenders that they possess psychopathic traits, which cannot be treated.

It is well documented that these murderers are psychopaths, sexual sadists and sadists - life long conditions that cannot be rehabilitated.

This was made very clear by Queensland forensic psychiatrist Dr Josephine Sundin in the recent parole hearing for Barrie Watts who abducted, raped and murdered 12-year-old Sian Kingi in Queensland.

"Forensic psychiatrist Dr Josephine Sundin told the board Watts met the criteria for anti-social personality disorder, psychopathy and sexual sadism."⁶⁸

"The doctor told the board that psychopathy and sexual sadism were "lifelong" conditions."

These types of heinous murderers will always remain a danger to the community.

⁶⁵ <https://www.abc.net.au/news/2013-06-11/violent-past-of-jill-meagher-killer-adrian-bayley-revealed/4745406?nw=0&r=Map>

⁶⁶ <https://www.abc.net.au/news/2015-03-26/adrian-bayleys-violent-history-of-sex-attacks/6349852>

⁶⁷ <https://www.theguardian.com/australia-news/2019/aug/27/victorian-murderer-never-released-horrific-killing-karen-chetcuti>

⁶⁸ <https://www.couriermail.com.au/truecrimeaustralia/police-courts-qld/sian-kingi-killer-barrie-watts-blocked-from-parole-bid/news-story/13a7e721fbf4a48f10c9219b45d7cbc8#:~:text=Schoolgirl%20Sian%20Kingi's%20murderer%20Barrie,Beck%20on%20November%2027%2C%201987.>

Male prison is an artificial environment designed for conformist behaviour, with no access to their target victims, so how a rapist murderer behaves in prison is irrelevant

Male prison is an artificial environment which is designed to encourage conforming behaviour. Also rapist murderers they don't have access to their victims: women and children. So it is absurd to base the rapist murderer's future dangerousness on how they behave in prison.

Just because a rapist murderer behaves well in prison or even is deemed a model prisoner, means nothing because evidence shows that when they are released they repeat their offences. For example:

NSW Rapist murderer Terrence Leary who was deemed a model prisoner and who even completed a Social Work Degree while in prison – when released on parole tried to rape and murder a woman at a bus stop.⁶⁹

⁶⁹ <https://www.smh.com.au/national/nsw/terrence-leary-given-another-chance-for-parole-after-explosive-attack-20160329-gnsq8w.html>

There is no proof rehabilitation programs work for murderers who stalk their victims

The Victorian Law Reform Commission Stalking: Final Report 2022 states that 50 percent of those sentenced for stalking reoffend within 4 years.⁷⁰

- There has been little evaluation of how effective the criminal or civil responses are to prevent stalking
- There are signs that these responses are not working well.
- Half of all people sentenced for stalking reoffend within four years.

These statistics reinforce my argument that prospects for rehabilitation should not be considered for murderers who also stalked their victims.

⁷⁰ <https://www.lawreform.vic.gov.au/publication/stalking-final-report/> p5

Conclusion

In conclusion, there are more mitigating factors and subjective factors that I could respond to, but I trust my examples suffice to support my argument that they should not be applied to the most heinous types of murder crimes: murder with sexual assault, murder with stalking, murder with sadism, murder with abduction of a child and multiple murders.

It is clear that, like NSW 19B (Mandatory life sentences for murder of police officers), in which subjective and mitigating factors do not apply, so it should be the case with the above types of murders.

I request the NSW Sentencing Council gives serious consideration to the issues raised in my submission when writing its interim report and when framing the terms of reference for the next stage of the public consultation process.