

**Submission
No 24**

SENTENCING OF CHILD SEXUAL ASSAULT OFFENDERS

Name: Mr Greg Walsh OAM

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GREG WALSH & CO
SOLICITORS

ABN:17 311 840 214
18 LETTITA STREET
OATLEY NSW 2223
PO Box 185, OATLEY
TEL: (02) 9570 6511
FAX: (02) 9570 6599
A.H: 0414 970 132

WWW.GREGWALSH.COM.AU
GAW@GREGWALSHCO.COM.AU

Our Ref: GW:ts:WALSH

PRINCIPAL
GREG WALSH OAM

1 May 2014

SOLICITORS
ANGELA SKOCIC
LEO MURRAY

EMAIL TRANSMISSION

**Email to: Bjarne Nordin
Joint Select Committee
On sentencing of child sexual assault offenders**

Email address: childsexualoffencescommittee@parliament.nsw.gov.au

ALSO BY FACSIMILE: (02) 9230 3309

Dear Committee,

RE: INQUIRY OF SENTENCING OF CHILD SEXUAL ASSAULT OFFENDERS

I am taking this opportunity, and I must apologise for the lateness in doing so, to offer any assistance I can to the inquiry of sentencing of child sexual assault offenders.

I unfortunately due to various practice commitments was unable to apply myself to preparing a submission and as I have indicated I apologise for this.

I have approximately forty (40) years of experience in representing not only child sexual assault offenders, but also victims of sexual assault. At a time when I was a Councillor of the Law Society of New South Wales I chaired a task force that looked into the issue of victim's compensation for sexual assault victims.

In recent times I was the lawyer for "A" who was sexually assaulted by her father who was admitted to the Cedar Cottage Pre-Trial Diversion Program. I was approached by "A"'s sexual assault workers who sought my urgent assistance in seeking to overcome the grave injustice of how that particular case was dealt with by the Office of the DPP and Cedar Cottage and ultimately the District Court.

As the members might recall the then Attorney General the Honourable Greg Smith SC initiated an appeal which was to the New South Wales Court of Criminal Appeal which was successful.

I also disclose that I have not only appeared for offenders and victims of sexual assault in New South Wales but throughout the State of Australia and also in New Zealand. I've appeared for many offenders in other states especially in the context of historical allegations of sexual assault by members of religious orders.

In acting for such offenders I have had the opportunity of adopting a particular approach in respect of such offenders which I believe has considerable merit. In this regard I have had the opportunity of discussing such an approach with many members of the psychiatric profession including forensic psychiatrists and psychologists and sexual assault counsellors.

I understand that on Monday next there is a workshop being conducted where persons who have experience in this field will participate in a pro-active way in discussing various issues of interest to the Committee.

The methodology of approach on my part in the context of offenders of sexual assault is to initiate a support network whereby the offender is subjected to quite intensive psychiatric assessment by a very experienced forensic psychiatrist and over time is seen by an experienced psychologist who has particular expertise in psycho-sexual cases. As part of the support network there are various other members of the community who are asked to assist including (in the religious context) a spiritual advisor and other members of the community who are prepared to meet with the offender on a regular basis leading up to the time when the offender is sentenced and then still maintaining contact with the offender during the term of the sentence and then upon release continuing to support the offender in the community.

I wish to emphasize to the Committee Members that the impact of sexual assault upon victims is a profound one and my approach is not one whereby the sentencing of such offenders should be regarded as anything other than the most serious of crimes requiring clearly severe punishment.

However, as the Committee Members will probably well appreciate these offenders one day have to come back into the community. In the context of historical matters, many of the offenders are quite aged and have quite complex psycho-sexual backgrounds. It is a controversial issue, but many of my clients have tragically been sexually assaulted themselves in remarkably similar ways to which they sexually assault their victims. I'm not for a moment suggesting that this is any excuse but it is an interesting feature of my experiences of representing such persons over many years.

The approach that I take is one designed to assist the offender gaining (before sentence) as much proper insight into the offending behaviour as possible. In the context of nearly all of my clients they have shown very good insight into their offending and have been willing to undertake intensive psychiatric assessment and treatment.

In this regard, I will appreciate that the general view is that there is no cure for paedophilia. However, in many of the cases in which I am involved the offences occurred historically and there has been a significant period of years where there has been no reoffending behaviour. Nevertheless it is absolutely important that the psycho-sexual problems that invariably are apparent are properly subject to comprehensive investigation, assessment and treatment.

Ultimately when the offender is sentenced to a term of imprisonment they have already been able to gain significant insight into their offending behaviour. They are thus excellent candidates for programs such as the Cubit Program at Long Bay Jail and ultimately when

they are to be paroled they continue with their support network including the psychiatric, psychologist and other members of their network.

In many respects the approach that I take is similar to the implementation of a Mental Health Plan which is also sought to be implemented for other clients of mine who have mental health problems.

I have the experience of being in contact with previous clients over decades. One particular client who I will refer to as "X13" gave evidence before Justice Wood Royal Commission into paedophilia, and after serving his sentence he still continues to meet with his support network and clearly this is of significant benefit to the community because there is no reoffending. Indeed in my experience with the clients that I represent the recidivism rate would be extremely low. I understand that Dr Olav Nielszen, a forensic psychiatrist in Sydney, does have statistics in relation to recidivism of such offenders and it is my understanding from eminent psychiatrists that the reoffending rate is very low with these type of offenders.

The often publicised perception of sexual assault offenders is that they are depraved people who can never rehabilitate themselves and who should be ostracised whether in the prison or out of the prison.

It may well be that those views are correct. However in my considerable experience such offenders will come back into the community and I have a firm belief that the community is best served by such persons having been required to undertake the most intensive type of assessment which needs to continue before, during and after their sentence.

In this regard the type of network that I am referring to is not an easy one for the offender to necessarily deal with. It is my experience that members of the particular support network are extremely vigilant and conscious of a very important obligation ultimately to the victim or victims in the community. If any concerns arise then the forensic psychiatrist and/or forensic psychologist is immediately contacted on their mobile contact number and the offender is referred immediately for urgent assessment and if necessary disclosure to police.

In my experience especially over the last decade for instance religious orders have become increasingly responsive to taking active steps to make proper disclosure to police if any concerns arise in the context of any offender.

Kind regards

GREG WALSH & CO

