

COMMUNITY LEGAL CENTRES TASMANIA

30 January 2026

Sentencing Advisory Council
Level 1, 85 Collins St
Hobart TAS 7001

To Dr Karen Gelb,
Re: *Review of Life Sentences in Tasmania*

Community Legal Centres Tasmania (CLC Tas) welcomes the opportunity to provide comment on the review of life sentences in Tasmania.¹ Following consultation with our member centres, we do not believe that there is any justifiable reason for expanding the crimes for which a life sentence can be imposed. In support of our submission we draw on research demonstrating that the threat of a harsher sentence does not deter. We also note that maximum sentences of 21 years' imprisonment are already available for crimes committed pursuant to the *Criminal Code* and offenders convicted of multiple crimes are already able to be sentenced to sentences greater than 21 years.

CLC Tas is the peak body representing the interests of nine community legal centres (CLCs) located throughout Tasmania. We are a member-based, independent, not-for-profit and incorporated organisation that advocates for law reform on a range of public interest matters aimed at improving access to justice, reducing discrimination and protecting and promoting human rights.

What sentences attract a maximum penalty of life imprisonment, what factors are considered and how often is the maximum applied?

In Tasmania, treason and murder are the only two offences that carry a maximum sentence of life in prison with both offences expressly providing that a conviction may result in "imprisonment for the term of the person's natural life..."²

Prior to 1994, mandatory life imprisonments were imposed for murder and treason, however following the passing of the *Criminal Code Amendment (Life Prisoners and Dangerous Criminals) Bill 1994* (Tas), mandatory life sentences were abolished and replaced with discretionary sentencing with a maximum of life imprisonment. The rationale for the abolishing of mandatory life imprisonment was explained by Cox CJ in the case of *re Clark*:³

¹ CLC Tas would like to acknowledge those persons and organisations who gave freely of their time in assisting with our submission.

² Sections 56 and 158 of the *Criminal Code Act 1924* (Tas).

³ *Re the Criminal Code Amendment (Life Prisoners and Dangerous Criminals) Act 1994 and Re Steven Lionel Clark* [1996] TASSC 36 at para. 4.

The purpose of the Act in effecting these amendments is, clearly enough, to acknowledge that heinous though the crimes of treason and murder are, they may be committed in a wide range of circumstances which involve differing degrees of culpability. In respect of murder, the definition of the crime is set out in five separate paragraphs which contemplate a variety of different circumstances and states of mind on the part of the offender. Section 157(1)(a), for example, provides for culpable homicide to be murder if it is committed with an intention to cause death, while s157(1)(c) contemplates that an unlawful act causing death is also murder if the offender knew or ought to have known it to be likely to cause death in the circumstances, although he had no wish to cause either death or even bodily harm to any person. Then again the degree of danger such an offender may afford the public can vary from that presented by the psychotic hired killer to the greatly reduced risk presented by the misguided but well-meaning mercy killer. It was Parliament's intention to bring to an end the requirement of treating all alike with a mandatory life sentence, leaving their possible conditional release into the community in the hands of the Executive Government, and to substitute for that regime the court's normal exercise of judicial discretion in setting the appropriate punishment and determination by the court of the minimum period before which conditional release might be authorised by the Parole Board when the Board, as opposed to the court, had regard inter alia to the conduct of the prisoner during his incarceration.

In *Dobson v Tasmania*,⁴ the Tasmanian Court of Criminal Appeal clarified that any conviction for murder and not just an intentional killing may result in life imprisonment with the sentencing court required to assess each case according to the objective and subjective circumstances of the case. The facts in the *Dobson* case were that the accused who had pleaded guilty to murdering a young woman was sentenced to imprisonment for the term of his natural life. On appeal, the appellant argued that the sentence was manifestly excessive because while he did cause the victim's death by strangulation, he did not intend to cause her death. As a result, the appellant argued the crime did not warrant the harshest sanction, namely life imprisonment. The argument was unanimously rejected by the Court of Criminal Appeal:⁵

As a matter of principle, cases not involving an intention to kill are not to be regarded as necessarily less serious, thereby attracting a lighter sentence than that which is appropriate for other categories of murder. There is no principle that a crime of murder in which the accused is guilty by operation of the second limb of s 157(1)(c) is always recognisably outside the worst category of murder as that term is to be properly understood. Whether a crime warrants the imposition of a life sentence is to be assessed according to the objective and subjective circumstances of the case.

Another Supreme Court case that considered life sentences was *Kemp*⁶ in which the Supreme Court of Tasmania was re-sentencing a man pursuant to the *Criminal Code Amendment (Life Prisoners and Dangerous Criminals) Act 1994*, who had been convicted of murder and received a mandatory life sentence. The facts of the case were that the then

⁴ [2017] TASSCA 19.

⁵ [2017] TASSCA 19 at [27] per Tennent, Wood and Pearce JJ.

⁶ *Re the Criminal Code Amendment (Life Prisoners and Dangerous Criminals) Act 1994 and Re Dean James Kemp* [1997] TASSC 147.

21-year-old offender had knocked on the door of an elderly stranger and, when the man answered the door, stabbed him and fled. In re-sentencing the accused to life imprisonment with a non-parole period of 14 years, Chief Justice Cox found that the protection of the public may warrant a life sentence, finding that “the absence of any explanation for this violent behaviour is cause for concern that the public may need protection of a longer head sentence than one of finite duration”.⁷

Parole

It is also worth noting that “imprisonment for the term of the person's natural life...” is not necessarily a ‘life sentence’ with sentencing courts able to impose a period of parole as former Chief Justice Blow has observed:⁸

When an offender is sentenced to life imprisonment, the sentencing judge may fix a parole ineligibility period of whatever length he or she considers appropriate: *Sentencing Act* 1997, s 18(1)(b). However, when any other sentence is imposed, the parole ineligibility period must be at least half of the period of the sentence: *Sentencing Act*, s 17(3). Thus, for example, a 30-year sentence must result in parole ineligibility for at least 15 years, whereas a life sentence could be accompanied by an order permitting parole much sooner.

Murder and Life Imprisonment

In Tasmania, it is rare for an offender to be convicted “for the term of the person’s natural life”. Our review of Tasmania’s *Sentencing Database* found that over the last decade (2016-2025), twenty-one persons have been sentenced for murder in Tasmania but only 9.5 per cent (2 of 21) were sentenced to ‘life imprisonment’.⁹ Nevertheless, as Table 1 highlights, sentences for murder are long with the average fixed sentence being 23 years and persons convicted of murder required to spend an average non-parole period of 13.5 years in prison.

Table 1: Sentences for Murder in Tasmania’s Supreme Court (2016-2025)

Name of Offender	Sentence handed down	Judge	Sentence
Luke Shaw	11 December 2025	Brett J	Sentenced to 23 years’ imprisonment. Non-parole period of 16 years.
Annette Hancock	1 July 2025	Wood J	Sentenced to 19 years’ imprisonment. Non-parole period of 10 years.
Darren Wake	24 July 2024	Wood J	Sentenced to 26 years’ imprisonment. Non-parole period of 17 years.
Colin Drake	12 December 2023	Jago J	Sentenced to imprisonment for the term of his natural life. Non-parole period of 20 years.

⁷ Ibid. See also *Dobson v Tasmania* [2017] TASCCA 19.

⁸ *Dobson v Tasmania* [2017] TASCCA 19 at [18].

⁹ Supreme Court of Tasmania, *State of Tasmania v Colin Drake - Comments on passing Sentence* (12 December 2023); Supreme Court of Tasmania, *State of Tasmania v Shannon Duffy - Comments on passing Sentence* (13 November 2020).

Cedric Jordan and Noelene Jordan	28 June 2023	Pearce J	Sentenced to 22 years' imprisonment. Non-parole period of 12 years.
Braydon Kelleher	23 February 2023	Geason J	Sentenced to 16 years' imprisonment. Non-parole period of 8 years.
Natalie Maher	8 November 2021	Pearce J	Sentenced to 23 years' imprisonment. Non-parole period of 13 years.
Jack Sadler	28 May 2021	Pearce J	Sentenced to 32 years' imprisonment. Non-parole period of 20 years.
Shannon Duffy	13 November 2020	Brett J	Sentenced to imprisonment for the term of his natural life. Non-parole period of 18 years.
William Rothwell and Jacob Brennan	28 February 2020	Pearce J	Sentenced to 26 years' imprisonment. Non-parole period of 15 years. On appeal, Rothwell's non-parole period was increased to 17 years. ¹⁰
Bradley Purkiss	9 October 2019	Blow CJ	Sentenced to 24 years' imprisonment. Non-parole period of 14 years.
Darren Gale	2 August 2019	Wood J	Sentenced to 23 years' imprisonment. Non-parole period of 14 years.
Ian Rosewall	11 April 2019	Pearce J	Sentenced to 22 years' imprisonment. Non-parole period of 12.5 years.
Nathan Smith and Belinda Colbran	13 December 2018	Geason J	Sentenced to 24 years' imprisonment. Non-parole period of 14 years. Sentenced to 24 years' imprisonment. Non-parole period of 13 years.
Russell Nowoczynski	14 September 2018	Blow CJ	Sentenced to 22 years' imprisonment. Non-parole period of 13.5 years.
Anthony Finnegan	4 September 2018	Brett J	Sentenced to 21 years' imprisonment. Non-parole period of 14 years.
Kerry Bilston	16 May 2018	Pearce J	Sentenced to 19 years' imprisonment. Non-parole period of 10 years.

¹⁰ *Brennan v Tasmania* [2022] TASCRA 7 at para. 183.

Klaus Neubert	22 May 2017	Brett J	Sentenced to 25 years' imprisonment. Non-parole period of 15 years.
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Source: Supreme Court of Tasmania, 'Judgments' <https://catalogue.lawlibrary.tas.gov.au/#judgments>

Interestingly, sentences for murder have become more severe. In 1994, the then Attorney-General noted that persons convicted of murder were serving average prison sentences of 10-12 years.¹¹ As noted above, over the last decade, the average non-parole period has been 13.5 years.

The purposes of sentencing

Sentences in Tasmania may be imposed for one or more of the following purposes: protection of the community, deterrence, rehabilitation and denunciation.¹² While it is understandable that calls for a safer community would lead some to advocate for an expansion of the crimes for which a life sentence can be imposed, the sentencing data highlights that even when life sentences are legislatively prescribed, they are rarely imposed (a mere 9.5 per cent of murder sentences over the last decade) and even when they are imposed the offender is likely to be released on parole. Similarly, the view that the threat of an increased sentence may deter offences is misplaced with a majority of the Australian prison population found to be acting irrationally at the time of their offending, either affected by substance use and/or mental health issues.¹³

A good example of the ineffectiveness of increased sentences is found in a recent report from the Australian Institute of Criminology which provided data on homicide rates in Australia. The AIC report found that the homicide rate in Tasmania was 0.87 per 100,000 people which was the same as the rate for Australia (all States and Territories combined).

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Total
Number	63	50	49	39	12	5	3	11	232
Rate	0.76	0.73	0.90	1.35	0.65	0.87	0.64	4.36	0.87

Source: Australian Institute of Criminology, *Homicide in Australia 2022-23*

Queensland (0.90), Western Australia (1.35) and the Northern Territory (4.36) all had higher rates of homicide. Interestingly, all three jurisdictions impose mandatory life imprisonment and have harsher non-parole periods of imprisonment. In Queensland, murder attracts a minimum non-parole period of 20 years' imprisonment, and this increases to 25 years if the murder is of a police officer and 30 years if the person is sentenced for the murder of more than one person or has committed or previously been sentenced for another offence of murder.¹⁴ In Western Australia, an offender sentenced for murder must spend a minimum 20 years imprisoned.¹⁵ Finally, in the Northern Territory, murder attracts a minimum non-parole period of 20 years' imprisonment, and this increases to 25 years for a range of circumstances including that the murder was of

¹¹ Tasmania, *Hansard*, House of Assembly 19 October 1994, 75.

¹² Section 3 of the *Sentencing Act 1997* (Tas).

¹³ Victorian Sentencing Advisory Council, *Does imprisonment deter? A review of the evidence* (April 2011) at 11.

¹⁴ See *Corrective Services Act 2006* (Qld) s 181(1), (2)(a)–(c); *Criminal Code 1899* (Qld) s 305(2)–(4).

¹⁵ Section 279(4) of the *Criminal Code Act Compilation Act 1913* (WA).

someone in a prescribed occupation (including police officers and emergency services workers) or the victim was under 18 years of age.¹⁶

Should life sentences be imposed for other offences?

In the Supreme Court where more serious indictable offences are prosecuted, all sentences handed down are available on the *Sentencing Database*. A review of the database found that in 2025 there were 31 offenders who were sentenced for drug trafficking (see Table 2 below). Limiting the data to those offenders sentenced to imprisonment,¹⁷ the average sentence imposed was 2 years and 5 months imprisonment.¹⁸ Despite the majority of Australian jurisdictions having the ability to impose a life sentence for drug trafficking,¹⁹ we do not believe that there is any justification for significantly increasing the maximum sentence, with the average sentence handed down in 2025 around 1/10th of the average murder sentence and the maximum sentence able to be imposed already set at 21 years.

Table 2: Sentences for Drug Trafficking in Tasmania's Supreme Court

Name of Offender	Sentence handed down	Judge	Sentence
Ziggy Phillips	10 December 2025	Jago J	12 months' imprisonment wholly suspended for 18 months
Bianca Ford	3 December 2025	Shanahan CJ	18 months' imprisonment wholly suspended
Kush Kalra	20 October 2025	Shanahan CJ	18 months' imprisonment 9 months suspended
Jarryd Slater and Jordan Holmes	15 October 2025	Brett J	30 months' imprisonment with a non-parole period of 15 months 18 months' imprisonment suspended for 2 years
David Smith	26 September 2025	Jago J	21 months' imprisonment with

¹⁶ Section 53A of the *Sentencing Act 1995* (NT).

¹⁷ Offenders sentenced to Drug Treatments Orders and Home Detention Orders were excluded.

¹⁸ Offenders who committed multiple indictable offences crimes and received a global sentence are excluded. We have however included offenders who committed multiple crimes where the other offences were minor or the sentencing judge imposed a clearly identifiable trafficking sentence.

¹⁹ The Australian Capital Territory, Victoria, Queensland, South Australia and Western Australia all provide that trafficking may attract a life sentence. In Victoria and South Australia life sentences are limited to trafficking of commercial quantities of illicit drugs. See Table 1 of Sentencing Advisory Council, *Review of life sentences in Tasmania: Sentencing Advisory Council Consultation background paper*.

			12 months suspended
JMCW	12 September 2025	Wood J	11 years' imprisonment with a non-parole period of 6 years
Jye Donohue	3 September 2025	Cuthbertson J	Drug Treatment Order
Ian Mollison	2 September 2025	Jago J	18-month Drug Treatment Order
Shane Jackman	21 August 2025	Marshall AJ	18 months' imprisonment wholly suspended for 2 years
SJQ	14 August 2025	Jago J	2.5 years imprisonment with a non-parole period of 15 months.
Nicola Cherry	13 August 2025	Brett J	18 months' imprisonment with 12 months suspended
Thomas Marlow	7 August 2025	Pearce J	12 months' imprisonment wholly suspended for 2 years.
Daniel Smith	6 August 2025	Cuthbertson J	2 years imprisonment with 6 months suspended
Fahed Elniz and Tracy Elniz	26 June 2025	Porter AJ	7.5 years imprisonment with a non-parole period of 45 months
Daniel Bastick	20 June 2025	Cuthbertson J	9 months' imprisonment wholly suspended for three years
Justin Radcliffe	19 June 2025	Cuthbertson J	6 months' home detention order
Mark Roland	12 June 2025	Jago J	21 months' imprisonment with a non-parole period of 10.5 months
Jacob Haworth and Angelina Pallett	5 June 2025	Brett J	Drug Treatment Order
Jesse Moore	22 May 2025	Marshall AJ	2 years' imprisonment wholly suspended

Madelon Pace	20 May 2025	Pearce J	2 years and 9 months' imprisonment with a non-parole period of 16.5 months
Oneck Francis ²⁰	13 May 2025	Shanahan CJ, Estcourt J and Marshall AJ	27 months' imprisonment with a non-parole period of 18 months
Riarne Sweeney	16 May 2025	Shanahan CJ	12 months' imprisonment wholly suspended for 18 months
Shaun Bennett	12 May 2025	Cuthbertson J	12 months' imprisonment wholly suspended for three years
Elizabeth Eden	26 March 2025	Jago J	20 months' imprisonment wholly suspended for three years
Andrew Irving	24 March 2025	Marshall AJ	12 months' imprisonment wholly suspended
Trent Jones	19 March 2025	Jago J	16 months' imprisonment with a non-parole period of 10 months
Dylan Patmore	21 February 2025	Porter AJ	15-month home detention order
Eric Gintzburger	5 February 2025	Wood J	10 months' imprisonment wholly suspended for two years

Source: Supreme Court of Tasmania, 'Judgments' <https://catalogue.lawlibrary.tas.gov.au/#judgments>

What should the sentence be for particularly egregious crimes?

We acknowledge that there are a small number of particularly egregious crimes that are deserving of a long sentence of imprisonment. In the 2025 case of *State of Tasmania v MJR*²¹ the accused pleaded guilty to 77 counts of rape and other serious sexual crimes committed between 2018-2023. Aggravating factors included that the accused was HIV positive and did not wear any protection against the transmission of AIDS or STDs when most of the crimes were committed and the victim was aged between 9-14 at the time of the offending. The sentencing judge, Justice Estcourt described the case as "the worst case

²⁰ The Director of Public Prosecutions appealed on the basis that the sentence was manifestly inadequate in all the circumstances of the case. The appeal was dismissed: *Director of Public Prosecutions v Francis* [2025] TASCRA 2.

²¹ Supreme Court of Tasmania, *State of Tasmania v MJR - Comments on passing Sentence* (5 December 2025).

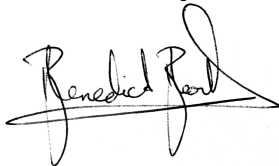
of child sexual abuse this Court has seen to date” and sentenced the accused to 40 years’ imprisonment with a non-parole period of 20 years.

Except for murder and treason, a maximum sentence of 21 years’ imprisonment is available for any crime in the *Criminal Code Act 1924* (Tas).²² However, the *Sentencing Act 1997* (Tas) also provides sentencing courts with the power to impose multiple sentences where more than one offence has been carried out.²³ In particularly egregious cases, it is likely that multiple offences will have been committed and taking all the circumstances of the case into account, the sentencing court already has the ability to impose a sentence greater than 21 years imprisonment. As a result, we do not see any need to expand the crimes for which a life sentence can be imposed.

In summary, we strongly believe that there is no justifiable reason for expanding the sentences for which a life sentence can be imposed. The threat of a harsher sentence does not deter with Queensland, the Northern Territory and Western Australia all imposing mandatory life sentences for the crime of murder with harsher non-parole periods of imprisonment and yet also having higher murder rates. If the purpose is to punish and/or to keep the community safe then it is hard to argue that 21 years is not a significant punishment and for particularly egregious crimes involving multiple offences, sentences of greater than 21 years are already able to be imposed.

If you have any queries, or we can be of any further assistance, please do not hesitate to contact us.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Benedict Bartl', with a stylized flourish at the end.

Benedict Bartl
Policy Officer

Community Legal Centres Tasmania

²² Section 389(3) of the *Criminal Code Act 1924* (Tas).

²³ Section 11(1) of the *Sentencing Act 1997* (Tas).