



Honourable Yvette D'Ath MP
Attorney-General and Minister for Justice
Leader of the House

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6 JAN 2020

Mr Neil Laurie
The Clerk of Parliament
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Laurie

I refer to e-Petition 3211-19 tabled in the Legislative Assembly on 26 November 2019 titled *Criminals to pay for costs of their crimes*.

Queensland already has legislation that allows courts to order that an offender pay for damage caused in the course of criminal offending, by way of orders for restitution or compensation.

Section 35 of the *Penalties and Sentences Act 1992* (PSA) permits a court to make orders that an offender make restitution or pay compensation for loss, destruction, damage or unlawful interference with property done in the course of criminal offending or in connection with a criminal offence.

Court orders for compensation and restitution provide an inexpensive method by which a victim might receive money in return for personal injury or damage to property. These are orders that can be made along with orders for other penalties at the time an offender is sentenced and form part of the sentence.

I also note that in addition to restitution and compensation orders under the PSA, certain victims of an act of violence can seek financial assistance from the state under the *Victims of Crime Assistance Act 2009*.

With respect to the petitioners' reference to a failure to obey a police direction, I note that is an offence under section 791 of the *Police Powers and Responsibilities 2000* to contravene a direction or requirement of a police officer. The maximum penalty for that offence varies depending on the circumstances surrounding the circumstances in which the offence took place.

In relation to the petitioners' call for mandatory requirements for payment for damage done in the course of criminal offending, the *Criminal Code 1899* and other relevant legislation currently sets out the maximum penalties and sentencing principles that must be considered by the court when sentencing.

A particular offence can contain varying degrees of seriousness and a range of conduct can constitute a particular offence. Also, there are differences between offenders. These differences may include their age and criminal history, cooperation with

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authorities and any demonstrations of remorse. Under the present system of sentencing, the court can and must acknowledge these differences when determining an appropriate sentence. A mandatory requirement for an offence limits the courts ability to impose appropriate and proportionate sentences informed by circumstances of any case. The legislature cannot foresee every circumstance in which an offence might be committed and avoid the prospect of delivering unjust results for victims, offenders and the community. This is one reason why this Government is concerned about mandatory minimum sentences.

The Palaszczuk Government acknowledges that sentences must meet community expectations and that is why the Government committed to giving Queenslanders a stronger voice in sentencing issues through the reinstatement of the Queensland Sentencing Advisory Council (QSAC).

The QSAC is an independent council that plays an important role in promoting consistency in sentencing, stimulating balanced public debate on sentencing issues and strengthening public confidence in the justice system by educating and incorporating informed public opinion into the process. The QSAC also has an important research function and publishes information about sentencing that informs Parliament, the courts and the general community about sentencing issues.

Membership of the QSAC comprises legal experts and community advocates with extensive experience in criminal law, domestic and family violence, victims of crime, Aboriginal and Torres Strait Islander justice issues and youth justice. More information about the QSAC and its work is available online at: <http://www.sentencingcouncil.qld.gov.au/>

I thank the petitioners for bringing their concerns to the attention of the House.

Yours sincerely



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