

# VICTIMS' VOICES

## LENIENT SENTENCING

### INSIDE THIS ISSUE:

Lenient Sentencing	1
Editorial	1
Vic. Courts Too Soft	2
Massaging the Figures	3
Sheriff Joe	4
Best Quotes	4

### EDITORIAL

I have to say that the support we at CVSA get from the media is in itself magnificent. Below is from the Herald Sun titled '**Enough of the Wrist Slapping**' "Truth in jail sentencing, which was recommended by the Sentencing Advisory Council more than three years ago and promised by the Victorian Govt. by last year, remains a shameful lie. Victims of violent crimes and their families see offenders walk free from the courts when they should be behind bars. The latest figures show the state's higher courts handed out a higher percentage of fully suspended sentences than in any other mainland state. It is a sorry and unjust law that allows one in four offenders convicted in the Supreme and County courts to go free. They serve not one day in jail. The Crime Victims' Support Association describes suspended sentences as a disgrace and says Victoria must be the laughing stock of the jus-

### Armed Robbers and Rapists Walk

Sunday Mail (QLD) 24/1/2010

Darrell Giles:  
ONE in 8 convicted rapists have walked free from Queensland courts without spending a single night in jail for their crimes.

Figures obtained by the Qld. Opposition reveal that 21 men convicted of rape and a further five convicted of attempted rape in 2008-09 were not given a custodial sentence.

In Queensland the maximum rape penalty is 25 years, but the average jail time is four to six years. Figures obtained by the Opposition also showed that of 468 offenders con-

victed for armed robbery in 2008-09, 131 did not spend a night in jail, or more than one-in-four.

Of 323 convicted for serious assault, 103 escaped prison time – almost one-in-three. In response the Attorney-General Paul Lucas said judges, not politicians, were in the best position to determine sentences. However the Opposition leader said "Labor tries to duck this issue by saying the courts are re-

sponsible for handing down the sentences. They are. But it is the Government that is responsible for writing the sentencing laws. And, if those sentencing laws stipulate that a convicted rapist must serve time in jail, then the courts will have to comply."



It's time for your sentence. Which wrist would you like to be slapped on?

### Maximum sentences for some crimes never imposed.

Daily Telegraph 1/1/2010

ONLY a handful of serious criminals have been hit with maximum sentences in NSW's superior courts over the past decade as judgments fail to reflect the Government's tough talk on crime.

Victims of crime have been left angry and bewildered by the fact that - apart from murderers and drug smugglers, who have been jailed for life - as few as five

crimes received the maximum sentence for their offences in the state's Supreme and District courts between 1999 and 2008. The maximum 25-year jail term for manslaughter was handed down just once. "I don't know why we bother," one Senior Crown prosecutor said. As a victims' advocate declared to the Daily Telegraph "What's the point of having maximum sentences if no-one gets them?"

Herald Sun 21 Mar 2010

-Noel McNamara

crimes received the maximum sentence for their offences in the state's Supreme and District courts between 1999 and 2008. The maximum 25-year jail term for manslaughter was handed down just once. "I don't know why we bother," one Senior Crown prosecutor said. As a victims' advocate declared to the Daily Telegraph "What's the point of having maximum sentences if no-one gets them?" "The judges have to sentence on the basis of specific factors including general deterrents. They have to ask themselves if they are sending the right mes-

sage to the community." Proof that the state's courts are soft on criminals comes from an investigation by The Daily Telegraph based on NSW Bureau of Crime Statistics and Research figures. The Daily Telegraph chose 87 offences, most of them common, including aggravated assault, violence, property and driving offences and can reveal that only in six categories was the possible maximum jail sentence imposed. These were murder, drug smuggling, two cases of driving while disqualified and one case of sexual intercourse without consent.

## LENIENT SENTENCING (CONTIN. FROM P.1)

### Retiring judge: Victorian courts too soft

G Wilkinson & N Ross

Herald Sun 25 Feb 2010

ONE of Victoria's most experienced judges has attacked the state's courts for being too soft on criminals.

Supreme Court Justice Philip Cummins (below right) said the courts had "fallen short on sentence" in cases involving sex offences, violence, and especially domestic violence.

Justice Cummins, 70, in his Supreme Court retirement speech to a packed courtroom of judges and lawyers, said: "I think that sentences imposed should better reflect parliamentary provision and community values."

**"Courts need to give more attribution to personal responsibility"**

He said he had no doubt every judge respected and was concerned for victims.

"(But) with sexual offences,

violence, and especially domestic violence, I think courts have fallen short on sentence," he said.

"Courts need to give significantly more attribution to personal responsibility and to the consequences of that responsibility," Justice Cummins said.

"The even hand of justice requires that victims properly be acknowledged and properly be respected."

Courts had failed to translate respect and concern to action, leaving it to the media, Parliament, and

commentators.

"It was not the common law or the courts that rid us of the blight of provocation, behind which much domestic and other violence escaped its true consequence," he said.

Justice Cummins has been widely regarded as a champion of victims' rights, declaring yesterday "I consider the courts have not sufficiently secured the rights of victims in doctrine, procedure and sentence.

Last year, he made a landmark judgment that sex offenders on ex-

tended supervision orders should be identified.

Yesterday he again called for open justice, saying: "Judges should not sit behind closed doors, hear parties in the absence of each other, or engage in undue pressure."

Former Federal MP Phil Cleary, an anti-violence campaigner described Justice Cummins' speech as honourable and brave.

"Justice Cummins is speaking in code in a sense. He's speaking to a group of judges. He can't personally name them and he can't point to all their sins. So he has given us a general interpretation.

There's no question that he's suggesting that it's been the interpretation of the law that's been a problem and that means judges have been a problem."



## TELL US TRUTH ON VIOLENCE (CONTIN. FROM PAGE 3)

a serious assault problem in Victoria when in fact there may well be a serious problem, or one at least that's as serious as it is in any other state".

Nor is that the only sign of police going shtum on the level of street crimes - or on their causes. Remarkably, former chief commissioner Christine Nixon



Ex-Commissioner Nixon

banned the use by police of the "gang" word to camouflage the fact that ethnic gangs were causing growing mayhem.

**Falsely claimed...**

There were persistent reports that police were also under pressure not to charge Africans in particular, most notoriously after they were attacked outside a Flemington housing commission estate in 2007.

Even less forgivably, Nixon intervened during the last federal election campaign to reject Liberal claims that the crime rate of Sudanese and Somali refugees here was worryingly high, insisting: "Those Sudanese refugees are actually under-

represented in the crime statistics."

We now know Nixon's claim was false: Sudanese were in fact over-represented in the few crime statistics she later let drop - and by a factor of at least four. I fear the new police leadership is also keeping us in ignorance.

**..might draw conclusions he doesn't like...**

Last June, new Chief Commissioner Simon Overland said muggings and assaults against Indians had soared, but then refused to release all the data, claiming it was too open to interpretation - which means you might draw conclusions he doesn't like. Meanwhile, he won't make clear that the real racial ele-

ment in many assaults on Indian students is not the ethnicity of the victims but of their attackers.

Now *Neighbourhood Watch* complains police have stopped giving its branches the raw crime figures in their area, offering only vague trend figures instead.

I know, police command and their Labor masters may again insist Victoria is indeed the safest state, and that they have the figures to prove it.

But what figures, gentlemen? And how to fix what most needs our greater trust: not your figures, but yourselves?

## MASSAGING CRIME STATS.

In the year 2000 South African Safety and Security Minister Steve Tshwete became very concerned about the increase in press reports of South Africa's violent crime rate and how it may reflect negatively on his government. He came up with a novel solution to his problem. From July 2000 he instituted a moratorium on the release of official crime statistics. One wonders if the moratorium, since repealed, might have been contemplated by various Australian governments as a way to address the public's concern about the increase in crime under their watch.

### Police Accused of Massaging Crime Stats Nick Tabakoff, Daily Telegraph (Sydney) 13-4-2010

Police are under pressure to come clean on the truthfulness of their crime statistics as an internal memo reveals they have failed to investigate many potential crimes, particularly assaults.

According to the NSW Police memo, a quarter of assault cases reported to some local area commands were "rejected".

Chief NSW crime statistician Don Weatherburn called for "independent checks" on police crime statistics. Last December, Dr Weatherburn emailed Police Commissioner Andrew Scipione over a trend which saw crime "rejection" rates soar in some areas.

He said rising rejection rates would call into question the "integrity" of the

statistics.

The problem was acknowledged by Deputy Commissioner Dave Owens in a December 2008 memo to police commanders.

He told them: "The rationale for the classification of many assault incidents as 'rejected' was generally not consistent with the principles out-

lined in recording standards."

There had been a rejection rate by "some local area commands" of "more than 25 per cent".

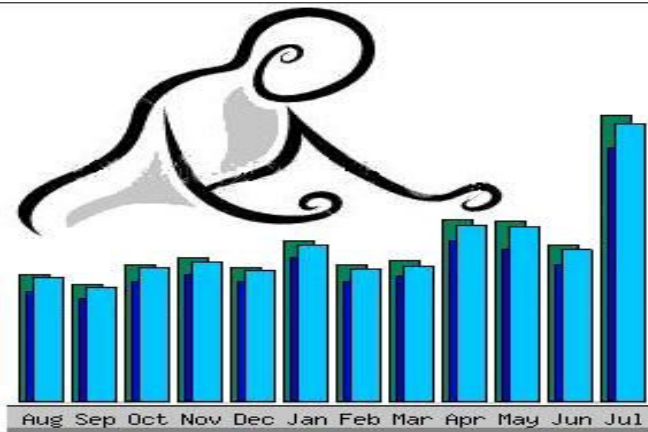
But Dr Weatherburn's December 2009 email to Mr Scipione stated a move to reclassify a number of assault incidents as "rejected incidents" has artificially exaggerated a

downward trend in "all forms of crime".

In one case, 227 assaults were rejected by the Newcastle local area command between April and December last year. A review ordered by Mr Owens showed that 93, or almost half, should have been investigated.

Dr Weatherburn said he rang Newcastle police about the rise in rejected assaults. He said he was told: "In a lot of cases, the victim won't give evidence."

But that was "no basis" on which to reject an assault, he said. Dr Weatherburn said that, since the mid-1990s, there had been a large increase in rejections, to above 5 per cent in many areas, a level which he said should set off alarm bells for police.



### TELL US TRUTH ON VIOLENCE Andrew Bolt, Herald Sun 17-2-2010

THE violence in Victoria is one scandal. The other scandal is that the Brumby Government and its police minions refuse to let us know how bad it's got.

Opposition Leader Ted Baillieu last week released statistics, based on police data, which showed the number of assaults had jumped 70 per cent since Labor came to power in 1999.

The most spectacular rises were in assaults of the kind you see outside nightclubs, or on city streets and railway platforms.

Assaults by strangers rose an astonishing 269 per cent, and pack attacks - assaults by gangs of four or more - were up 124 per cent.

Serious injuries resulting from assaults went from 1308 to 3114.

**Victoria** Police responded: "Due to changes in data collection it is very difficult to compare statistics from today to 10 years ago, specifically relating to the statistics quoted."

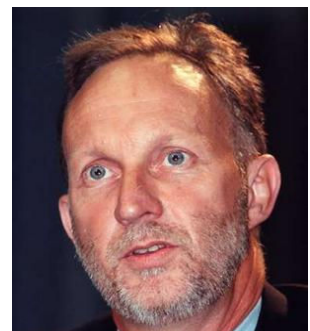
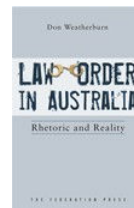
But we'd already had reason to fear Victoria's crime figures are tweaked to make us

seem safer than we are.

Last year the Ombudsman, George Brouwer, found crimes such

as assault were being under-reported in Victoria, in part because police here counted only crimes a witness would swear to, rather than all that had been reported.

He added: "I also identified that some police misuse the procedures for recording cleared crime to make it appear that more crime has been successfully solved



Don Weatherburn

than is actually the case."

Don Weatherburn, Director of the NSW Bureau of Crime Statistics and Research, and author of the book 'Law and Order in Australia: Rhetoric and Reality' concluded that Victoria Police's dodgy record-keeping "lures the Victorian public into thinking that there isn't (cont. p.2 <<)

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## JOE ARPAIO, THE 'CAN DO' SHERIFF

There is a law enforcement officer in the United States who has made a name for himself nationally because of his willingness to always do more than the minimum his job asks.

Joe Arpaio, sheriff of Arizona's Maricopa county, population four million, is not person to shy away from doing what he thinks is right merely because some people may disagree with him.

Since first being elected to office in 1992 'Sheriff Joe' has been tireless in his creative ways to maintain the peace and rule over the local prison of which he is in charge. He has instituted or strengthened crime prevention programs such as: bicycle registration, child identification, neighbourhood watch, a database of business owners in case of emergency, an animal abuse investigations unit together with hotline, run by deputies and volunteers, free mobile phones to domestic violence victims, and teaching abuse resistance to students.

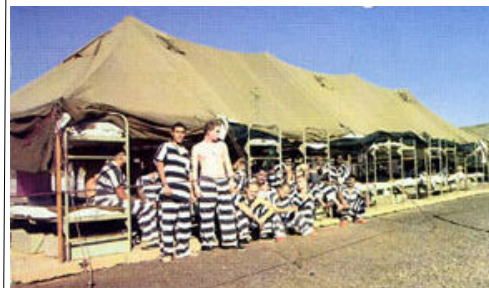
While jail inmate work can only be voluntary, he has encouraged enough convicts to work in various enterprises such as the prison farm for breeding pigs and growing vegetables and keeping the prison food bill down, a nursery for the annual sale of Christmas trees, and an animal shelter for taking in most types of animals, caring for them and giving classes in nutrition and animal behaviour for members of the public who will adopt. The shelter was previously costing the county \$18 million annually but Joe has brought that down to three million.

Needless to say he has incurred the wrath of various 'civil liberty' groups for some of his actions.

In 1993, vowing that no troublemakers would be released on his watch be-

cause of prison overcrowding, he created the Tent City jail which included a neon sign on a near watchtower that reads: "Vacancy". When convict complaints were made about having to live in tents under the hot Arizona sun he had an immediate response (see quotes). Later he banned cigarettes from his jails, pornographic magazines, cable TV and coffee. He put inmates in black-and-white striped uniforms and created chain gangs so the men under his charge could do free work on county and city projects. Then he started chain gangs for both women and juveniles so he wouldn't get sued for discrimination.

When he was told taking the prisoner's TV violated a Federal Court Order he hooked it up again but only allowed the Disney channel, the Weather channel and a channel broadcasting conservative commentator Newt Gingrich's lecture series.



### QUOTES BY SHERIFF JOE

***Too many jails in this country are just shy of being like hotels. That isn't right. I keep saying, 'People shouldn't live better in jail than they do on the outside.' Here in my jails, they don't.***

***It's 120 degrees in Iraq and our soldiers are living in tents too, and they have to wear full battle gear, but they didn't commit any crimes, so shut your damned mouths!'***

***A lot of police professionals will disagree with my belief about law enforcement's duty to prioritize animal abuse and neglect problems. They may justify their position by saying there is enough on their plates just dealing with felons. But I believe animal abuse and neglect is a serious problem that too often leads to far more serious offenses like child abuse and other acts of violence against people.***



[www.sheriffjoe.org](http://www.sheriffjoe.org)



If the citizens of Australia were to wonder why their law and order officials are not up to the mark of a Sheriff Joe Arpaio then it needs to be remembered that in Arizona, sheriffs, attorneys general and judges are voted in by the people at election time, while in Australia these officials are appointed and thrust upon us by politicians.