

THE HONEYMOON KILLER

Plea bargaining and intimate femicide

— a response to *Watson*¹

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The case ha[s] sullied Australia's image. It sends all the wrong signals... It sends the signal that you can kill and walk away and not face the kind of justice that you ought to. ... They [the Queensland Office of Public Prosecutions] are supposed to uphold justice and be there to protect the innocent victims, but instead it looks like they make deals and protect the guilty. ... To have the department of people responsible for upholding justice and protecting victims doing these deals/plea bargains and letting killers go in a year's time is setting the worst example possible.²

In October 2003, US citizen Christina Thomas died while scuba diving with her husband of 11 days, David Watson, near the wreck of the Yongala in Queensland's Great Barrier Reef. While initially considered a tragic accident, scepticism surrounding the circumstances of Christina's death emerged as the actions of her husband, a certified rescue diver, were considered by diving experts to be 'out of place'.³ For example, choosing to ascend alone to seek help, instead of attempting to bring Christina to the ocean's surface, was out of the ordinary. Further scepticism of Watson's actions emerged as he provided police with 16 alternate versions of what had occurred, and many of his claims did not match the evidence they had obtained. For instance, Watson claimed he quickly descended after Christina, however his dive computer provided no evidence of this. Similarly, in a police interview, Watson maintained that 'I pretty much just rocketed to the top [ocean's surface] ... I'm amazed that I didn't end up with the bends [a severe consequence from re-surfacing too quickly]'.⁴ However his dive computer indicated that it took him almost three minutes to cover a distance of 15 metres, while the scuba diver who found Christina's body and brought it to the surface covered almost double the distance, in less than two minutes. Additional indications of Watson's involvement in Christina's death materialised during the identification of her body, where Watson was overhead by a police officer saying, 'I'm so sorry. I never meant to hurt you. I shouldn't have kept taking you down. I'm sorry, I couldn't stop'.⁵ Despite the aberrations in Watson's story and his atypical conduct during both the course of Christina's death and the resulting five-year investigation into the case, Watson continually denied any involvement, until offered a plea bargain in 2009 at which stage he pleaded guilty to manslaughter by criminal negligence.

In June 2009, Watson was sentenced to four and a half years imprisonment fully suspended after 12 months. Following national and international backlash, alongside strong pressure from the Alabama Attorney General,

the Queensland Attorney-General lodged an appeal against the manifest inadequacy of the sentence.⁶ In a two to one decision, the Queensland Court of Appeal ruled that the sentence should remain at four and a half years, however the period of suspension should be increased to 18 months, including time served.

At the time of the Watson investigation, the Queensland criminal courts and the Office of the Director of Public Prosecutions ('ODPP'), the department responsible for prosecuting all indictable criminal cases in Queensland, were suffering from the impacts of increasing court delays, a massive backlog of cases and a lack of sufficient funding for prosecutions.⁷ Accordingly, *Watson*'s case raises significant concerns in relation to how court inefficiency and under-resourcing creates pressures for prosecutors to resolve matters in an attempt to clear court backlog and reduce their heavy workloads. Furthermore, it demonstrates how court inefficiency can infiltrate the sentencing process in order to compensate for the possible impacts of delays on all parties, particularly on an accused, due to the perception that delays impinge one's access to a fair and efficient process. Although acknowledging undue delay in sentencing an accused is in line with legislative guidance, in *Watson*, the priority given to the impacts of the delays on him ultimately fuelled some of the key problems historically associated with the favourable sentencing and representations of men involved in intimate femicide cases.

Using *Watson* as a framework for analysis, this article explores some of the limitations of an inefficient justice system and the potentially favourable sentencing and representations of men who kill a female intimate partner. In particular, we focus on the non-transparency surrounding prosecutorial discretion in making plea bargaining decisions and the potentially inappropriate motivations behind the use of discretion in this case. This article also critiques the disregard for deterrence, rehabilitation and punishment in Watson's appeal sentence, and explores the significant role that delay played as a mitigating factor to justify a favourable representation of Watson by the appeal judges. While we recognise that the problems of under-resourcing and increasing court delays must be addressed, we argue that a response which allows for the existing flaws surrounding the plea bargaining and sentencing processes to be exacerbated and excused, is not and cannot be the desirable way to address such concerns.

REFERENCES

1. *R v Watson; ex parte A-G (Qld)* [2009] QCA 279 ('*Watson*').
2. Carly Crawford, 'A laughing stock — dive-death family warns on plea deals', *Courier Mail* (Brisbane), 18 August 2009, 3.
3. Andy Toulson, 'Gabe Watson deserved murder trial', *Townsville Bulletin* (Townsville), 22 May 2010, 2.
4. See Queensland Police Service, *Transcript of police interview with Gabe Watson: 27 October 2003* <townsvillebulletin.com.au/article/2008/01/23/10038_hpnews.html> at 22 June 2010, 4.
5. Leonie Johnson, 'Final words', *Townsville Bulletin* (Townsville), 22 January 2008 <townsvillebulletin.com.au/article/2008/01/22/10010_news.html> at 22 June 2010.
6. Stacey Brooks, 'Australian Attorney General to appeal Gabe Watson sentence', *Birmingham News* (Alabama), 17 June 2009 <http://blog.al.com/spotnews/2009/06/an_australian_attorney_general.html> at 6 November 2009; Andy Toulson, 'Tina's dad fights, Thomas wants Watson appeal, then a trial in the US', *Townsville Bulletin* (Townsville), 9 June 2009.
7. Tony Koch, 'Queensland DPP overworked and underpaid' 17 May 2008 <theaustralian.com.au/news/dpp-overworked-and-underpaid/story-e6frg6oo-1111116364438> at 7 November 2010.

Court inefficiency and under-resourcing in the Queensland ODPP

Like many criminal justice systems, Queensland's courts and the ODPP face considerable problems emanating from a vicious cycle of delay and under-resourcing. Court delays are a significant problem confronting criminal courts because they negatively affect every aspect of proceedings and have harmful impacts on the associated parties.⁸ Traditionally, the negative impacts of delay were seen to affect accused persons, particularly those held in remand, on the basis of the human rights argument that individuals were being additionally punished before being found guilty or innocent. Delays have also been recognised as affecting judicial principles because 'no matter which theory is the cornerstone of punishment, each is at least partly dependent for its success upon getting to the offender without undue delay'.⁹ Thus, 'whether the emphasis is on protecting society, discouraging the offender or others from committing criminal acts, or rehabilitating the offender, delays may reduce any efficacy [the punishments] might have'.¹⁰

In the current climate, the quality of justice created by delays within criminal proceedings has also been questioned, with the Victorian Director of Public Prosecutions asking:

How often have we stopped to consider what delay in justice really means in human terms? What delay means to victims, to witnesses, to accused persons, to police investigators, to judges, to the community? Can any of us who have not been either a victim of crime or accused of committing a crime conceive the stress associated with waiting for a matter to be concluded? Lives are interrupted and put on hold. Family life is disrupted. Jobs are sacrificed. Freedom is curtailed. And when the matter finally meanders its way into court, the quality of the evidence led is adversely affected. Who benefits from this? No one — and it is certainly not justice.¹¹

The extent of court delays and the lack of available resources within Queensland's Supreme Courts and the ODPP are serious and compounded by the fact that the Queensland ODPP receives lower levels of funding than its counterparts in other states.¹² Between June 2002 and June 2008 Queensland's District and Supreme Courts had decreased the number of cases finalised each year by 16.6 per cent.¹³ In the Supreme Courts specifically, the most recent statistics released prior to Watson's plea deal and sentence showed that at June 2008, 18.8 per cent of cases remained pending for over twelve months and 7.8 per cent were pending for over two years.¹⁴ Significantly, at June 2008, Queensland's Supreme Courts had the highest number of cases pending for longer than two years nationally, by almost two per cent. Further to delays in pending cases, it is also noteworthy that 18 per cent (1108) of all cases (6070) in Queensland's District and Supreme Courts between June 2007 and June 2008 resulted in the prosecution withdrawing all charges, with 41 per cent of these cases pending for over two years before that decision was made.¹⁵ These statistics thus highlight the widespread accumulation of cases in Queensland's higher courts and the backlog in prosecutorial

resources in simply having authoritative prosecutors available to make plea bargaining decisions.

The pressures on the courts and prosecutors to respond to this level of inefficiency are enhanced by the findings of a confidential report released in May 2008, which described the Queensland ODPP as under-resourced and the prosecutors as 'overworked and underpaid'.¹⁶ The report revealed that the ODPP receives less than one-third of the annual funding of Legal Aid Queensland, and that on average, prosecutors handle 79 matters each annually, as opposed to the national average of 27 handled by their counterparts in other states. In addition, it estimated that each Queensland matter receives resources equivalent to approximately \$5500, in contrast to the national average of \$16 000. To address these resource limitations the report recommended that 49 new prosecutors be appointed and an additional \$5.9 million funding be provided to the ODPP annually from 2010 to 2012. In line with the court statistics, the report further highlighted the strains on Queensland prosecutors to prepare and resource cases, the potential pressures prosecutors face to promptly resolve matters to reduce their extensive workloads, and the backlog of cases.

While the extensive delays and insufficient prosecutorial resources inherent to Queensland's criminal justice system are problematic, our concerns lie where the need to alleviate delays and respond to these resource limitations become prioritised above other interests of justice. In particular, and as demonstrated in *Watson*, we consider that prioritising a response to resource pressures and delays can exacerbate public scepticism surrounding prosecutorial discretion in making plea bargaining decisions, and excuse traditional judicial perceptions of males who kill their female partners as 'one-off offenders', and 'non-threats' to the broader community.

Prioritising the response to inefficiency

In *Watson*, the most noteworthy period of delay emerged between the commencement of the investigation of the crime (October 2003), and the initiation of pre-trial proceedings, where Watson pled guilty (5 June 2009). In the context of this discussion, what is of most significance is that this delay became a prominent, if not the prominent motivation in the Crown's decision to enter into and accept a plea bargain.

It is a well-established argument that the most effective mechanism to increase efficiency in the criminal courts is to eliminate the number of trials which could have been resolved by an early guilty plea.¹⁷ To increase the number of early guilty pleas, incentives, usually in the form of sentence discounts or prosecutorial concessions on the format of charges and case facts (plea bargains), are offered to accused persons with the public justification that shorter criminal proceedings benefit all parties. Although no official records are maintained, research indicates that plea bargaining is frequently used to assist in resolving cases at an early stage.¹⁸ McConville argues that 'plea bargaining [is]

8. Janet Chan and Lynne Barnes, *The price of justice: Lengthy criminal trials in Australia* (1995); Jason Payne, *Criminal trial delays in Australia: Trial listing outcomes* (Research and Public Policy Series #74, 2007).

9. Judith Osborne, *Delay in the administration of criminal justice* (1980) 17.

10. *Ibid.*

11. Jeremy Rapke, '25th anniversary speech' (Paper presented at the Victorian Office of Public Prosecutions 25th Anniversary, Victoria, 27 October 2008) 4–5.

12. Koch, above n 7, 1.

13. Australian Bureau of Statistics [ABS], *Criminal courts 2007-08* 4513.0 Notes 67–74 <ausstats.abs.gov.au/ausstats/subscriber.nsf/0/2EBE862732FDD915CA2575670016BDE7/\$File/45130_2007-08.pdf> at 8 November 2010.

14. Steering Committee for the Review of Government Service Provision, *Report on Government Services 2009* <pc.gov.au/gsp/reports/rogs/2009> at 7 November 2010, 27.

15. ABS, above n 13, 1.

16. Koch, above n 7, 1.

17. Chan and Barnes, above n 8; Payne, above n 8.

18. John Bishop, *Prosecution without trial* (1989); Asher Flynn, 'Non-transparent justice and the plea bargaining process in Victoria' in Marie Segrave (ed), *Australian and New Zealand critical criminology conference proceedings 2009* (2009); Arie Freiberg and Robert Seifman, 'Plea bargaining in Victoria: The role of counsel' (2001) 25(2) *Criminal Law Journal* 64.

... when incentives such as plea bargains or sentence discounts are given, the public can view these as unjustly rewarding the accused, which can then result in victims feeling unfairly treated, public dissatisfaction, and decreased confidence in the administration of justice.

a widespread institutional practice and not isolated aberrational behaviour on the part of some maverick lawyers'.¹⁹ This view is also supported by the earlier work of Baldwin and McConville in the United Kingdom, which found that of 122 defendants who pleaded guilty, almost three-quarters claimed to do so after plea bargaining.²⁰

Although common, when incentives such as plea bargains or sentence discounts are given, the public can view these as unjustly rewarding the accused, which can then result in victims feeling unfairly treated, public dissatisfaction, and decreased confidence in the administration of justice. Reduced public confidence in this aspect of criminal proceedings is often attributed to the incentives associated with what are perceived to be lenient sentences, inappropriate sentence discounts, inadequate judicial decisions and prosecutorial discretion.²¹ Discretion is considered 'the freedom to break rules';²² as Aas observes, 'discretion is usually regarded as the opposite of rules and law ... where, instead of deciding a question by recourse or fixed rule ... there is no prescribed ... course of action'.²³ In effect then, prosecutorial discretion in plea bargaining directly conflicts with the criminal justice system's aims of consistency, certainty and equality, insofar as it allows for individual prejudices and biases to control aspects of proceedings. As a result of this conflict, a perception of discretionary powers being misused can emerge in the context of unscrutinised and unregulated processes like plea bargaining. This is particularly evident when there are strong efficiency reasons, such as under-resourcing within the ODPP, and significant case backlogs and delays in the criminal courts, which motivate the use of a plea deal over the expense and resource expenditure associated with running a criminal trial.

In *Watson*, a guilty plea to manslaughter was entered in exchange for an agreement that the murder charge be withdrawn and the Crown recommend the custodial sentence be suspended after a maximum of eighteen months. The Crown also recommended no parole conditions be applied so as to allow *Watson* to return to the US upon release. The Queensland Director of Public Prosecutions ('DPP') claimed the decision to enter into this agreement:

was made after a careful and thorough examination of the admissible evidence and was not taken lightly... Given the complex circumstantial nature of the case ... there was no reasonable prospect of proving, beyond a reasonable doubt, that he was guilty of murder.²⁴

However, this statement contrasts quite significantly with the claims of the victim's father that the ODPP 'assured us they were interested in pursuing *Watson* in relation to conspiracy to commit murder, perjury charges and fraud, following the conclusion of the coronial inquest'.²⁵ It also contradicts the Coroner's 2008 judgment, which read: 'I am satisfied there is evidence of sufficient reliability ... that a properly instructed jury could make a finding of guilt against David Gabriel *Watson* on a charge of murder'.²⁶ Further to these comments, the Coroner described the Crown's primary witness as 'an honest and reliable witness ... a significant observer',²⁷ thereby demonstrating the potential strength of the Crown's case in pursuing a murder charge. This comment is particularly interesting because witness reliability is a key factor considered by prosecutors in deciding whether to pursue charges, whereby the more reliable a witness, the stronger the case is likely to be.²⁸ Given the Coroner's recognition of these traits in the primary witness, the DPP's rationale for not pursuing the murder charge becomes somewhat contentious, particularly as this witness was also a US citizen, and there were significant costs associated with acquiring his testimony in a Queensland court.

The legitimacy of the Crown's motivations for accepting a plea bargain in *Watson* was also a central theme raised by several public figures including Queensland's Deputy Liberal National leader, the Alabama Attorney General and former Crown prosecutor Angelo Vasta, who claimed that 'money might well have been one of the DPP's considerations'.²⁹ These concerns were also voiced in editorials, such as the *Gold Coast Bulletin*, which maintained that

the *Watson* plea bargain raises questions about the way the DPP operates... we have to question just what is going on in the legal system here, where there is no transparency in this process of plea bargaining.³⁰

The justification of the ODPP — that *Watson*'s plea bargain was agreed to for the sole reason that there was a limited prospect of conviction — is problematic for two reasons. First, there was a lack of scrutiny applied to this decision and second, it obscures the primary purpose of plea bargaining to substantially reduce the cost and resource intensive process of running a trial.

19. Mike McConville, 'Development of empirical research techniques and theory' in Mike McConville and Wing Hong Chui (eds), *Research methods for law* (2007) 211.

20. John Baldwin and Mike McConville, 'Plea bargaining and the research dilemma' (1979) 1 *Law and Police Quarterly* 223, 224.

21. David Indermaur, 'Public perceptions of sentencing in Perth, Western Australia' (1987) 20 *Australian and New Zealand Journal of Criminology* 172; Julian Roberts, 'Public opinion and the nature of community penalties: International findings', in Julian Roberts and Mike Hough (eds), *Changing attitudes to punishment: Public opinion, crime and justice* (2002) 33.

22. Albert Frederick Wilcox, *The decision to prosecute* (1972) 112.

23. Katja Franko Aas, *Sentencing in the age of information: From Faust to Macintosh* (2005) 15.

24. Michael McKenna, 'Diver's admission killed murder rap', *The Australian* (Sydney), 10 June 2009, 3.

25. Toulson, above n 6, 2.

26. Andy Toulson, 'Yongala dive death, it's a murder trial — Gabe *Watson* to face court for wife's death', *Townsville Bulletin* (Townsville), 21 June 2008, 6.

27. Peter Michael and Stephanie Balogh, 'Warrant issued for dive husband', *Courier Mail* (Brisbane), 21 June 2008, 4.

28. Richard Fox, *Victorian criminal procedure: State and Federal law* (2002).

29. Courier Mail, 'Let us see if justice has been done', *Courier Mail* (Brisbane), 12 June 2009, 36.

30. Gold Coast Bulletin, 'What's going on with our legal system', *Gold Coast Bulletin* (Gold Coast), 9 June 2009, 16.

Sympathetic perceptions

A further issue exacerbated by discretionary powers and the prioritisation of case delays in *Watson*, relates to the ongoing sympathetic perceptions afforded by Australian criminal justice systems to males implicated in the death of their female intimate partners. Historically, such men have been represented in criminal proceedings as a 'special class' of criminal, whose crimes can be understood and excused as an aberration in their otherwise good character.³¹ Over the past decade academic and legal commentators have engaged in debates surrounding the favourable treatment and representation of these men, focusing predominantly on the problematic partial defence of provocation and its role in providing an excuse for men who commit intimate femicide.³²

In reviewing Watson's sentence, the justices of the Supreme Court sympathetically constructed him in a manner that has become typical of that afforded to male offenders in intimate femicide cases. This is evidenced by Chesterman JA's sympathetic description of Watson as a 'man of good character ... devastated by the loss of his wife whom he loved'. In addition, Chesterman JA identified Watson as a husband 'devoted to his wife' and later re-emphasised that he appeared 'devastated by her death'. Contributing to this favourable representation of Watson was the identification of delays as the most important factor in mitigation by two of the three justices, both of whom used this as validation for the (arguably lenient) sentence imposed. In making his judgment the Chief Justice stated:

The delay in the prosecution of the case ... [meant] that the respondent bore the burden of it hanging over his head (meaning, an unresolved allegation/charge of murder) [which resulted in] the adverse position in which the respondent [then] found himself because of extensive publicity in the interim.³³

Similarly, Chesterman JA identified three factors in mitigation as being of 'particular importance'; two of which related to the effect of the delays on Watson:

There was considerable delay in charging the respondent and bringing the case to trial. The delay appears unnecessary ... [and] caused the respondent considerable anxiety. Throughout its five years, the respondent faced the uncertainty of not knowing whether he would be charged and then the opprobrium of being accused of his wife's murder.³⁴

In contrast, no consideration was given to the impacts caused by the delays experienced by the secondary victims, being primarily the family of the victim. While Chesterman JA acknowledged that the victim impact statements provided by Christina's family contradicted the judicial construction of Watson, he dismissed their representation of him as a malevolent man motivated by the financial benefit of Christina's death, by claiming the statements were written in 'hostility' and reflect only the family's bitterness towards the accused. In doing so, the family's voices were apparently ignored and Watson's construction as a grieving husband and person wronged by the inefficiency of the courts was further promoted. As a consequence his lethal actions

were not treated with the seriousness they deserved and were further excused.

Sentence guidelines: not relevant to intimate femicide?

A related problem emerging in *Watson*, largely due to the extent of delay experienced in the case and the resulting prioritisation of this delay, was the inadequate consideration given to the principles of deterrence, punishment and rehabilitation in the sentence applied. Under s 9(1) of the *Penalties and Sentencing Act 1992* (QLD), the court must consider five main principles when sentencing an accused; punishment, rehabilitation, deterrence, denouncement and protection. However, in *Watson*, three of these principles — deterrence, punishment and rehabilitation — were deemed 'not necessary' by Chesterman JA who stated:

Punishment is not necessary as a deterrent, either to the respondent or anyone else, [because] the offence is unlikely to be repeated... The respondent is not in need of rehabilitation as that term is understood in the criminal jurisdiction of the courts ... [because] the offence is unlikely to be repeated.³⁵

Prior research suggests that this type of reasoning is not uncommon in cases involving intimate femicide, whereby the judiciary can be reluctant to view men implicated in the death of their intimate partners as dangerous, instead perceiving them as somewhat deserving of empathy and compassion.³⁶ This perception has persisted despite research showing that men who commit intimate partner homicide typically have a history of violence towards their victim. These men have typically engaged in higher levels of pre-meditated behaviour than that evidenced in non-intimate homicides, such as purchasing the weapon immediately prior to the killing or making previous attempts/threats to kill the victim.³⁷ This view is also prevalent even in light of cases such as *R v Robinson* [2009] VSC 420 in Victoria which involved a second intimate femicide being committed by the one offender providing some evidence and support for the argument that even where the offender is an intimate partner of the victim, there is a basis for requiring rehabilitation, specific deterrence and punishment, to discourage them from re-committing similar offences.

The lack of consideration given to rehabilitation, deterrence and punishment in *Watson* is also inadequate given the number of intimate homicides that occur each year. In a national homicide monitoring report, Dearden and Jones found that between 2006 and 2007, intimate homicides accounted for 22 per cent of all homicides nationally, and 20 per cent of homicides in Queensland.³⁸ Most notably, a female victim of homicide within this period was more likely to have been killed by her intimate partner than any other person, with intimate homicides accounting for 53 per cent of such murder victims. These figures highlight the need to apply a sentence that adequately punishes the use of lethal violence in a domestic context, and acts as a general deterrent against future incidents of intimate femicide.

31. Lundy Bancroft, *Why does he do that? Inside the minds of angry and controlling men* (2002).

32. Mandy Burton, 'Intimate homicide and the provocation defence — endangering women? *R v Smith*' (2001) 9 *Feminist Legal Studies* 247; Kate Fitz-Gibbon, 'Till death do us part: Judging the men who kill their intimate partners', in Marie Segrave (ed.), *Australian and New Zealand Critical Criminology Conference Proceedings 2009* (2009); Jenny Morgan, 'Provocation law and facts: Dead women tell no tales, tales are told about them' (1997) 21 *Melbourne University Law Review* 237.

33. *R v Watson*, above n 1, [17].

34. *Ibid* [106–107].

35. *Ibid* [98].

36. Bancroft, above n 32; Carolyn Strange, 'Masculinities, intimate femicide and the death penalty in Australia: 1890–1920' (2003) 43 *British Journal of Criminology* 310.

37. Myrna Dawson, 'Intimacy and violence: Exploring the role of victim-defendant relationship in criminal law' (2006) 96(4) *Journal of Criminal Law and Criminology* 1417; Elizabeth Rappaport, 'Capital murder and the domestic discount: A study of capital domestic murder in the post-Furman era' (1996) 49 *SMU Law Review* 1507.

38. Jack Dearden and Warrick Jones, *Homicide in Australia 2006-07: National Homicide Monitoring Program Annual Report* (2008).

A further issue ... relates to the ongoing sympathetic perceptions afforded by Australian criminal justice systems to males implicated in the death of their female intimate partners.

Conclusion

A major problem in Queensland's criminal courts and the ODPP arises from the lack of resources and efficiency in the prosecution of criminal cases and this is compounded, as demonstrated in *Watson*, by the opaqueness and absence of scrutiny surrounding the prosecutor's role in the plea bargaining process. Although *Watson's* plea bargain is not unusual, what is significant about the agreement are the presumed motivations fuelling the Crown's decision, the uncertainty surrounding *Watson's* level of guilt, and the apparent lack of consideration given to the coronial recommendations regarding the strength of the Crown's case. In light of these observations, it is evident that the lack of transparency surrounding prosecutorial discretion in making plea bargaining decisions is problematic, and *Watson's* case in particular highlights the potential for this to fuel perceptions that court inefficiency is prioritised above the interests of justice. *Watson's* case also highlights, and further adds to, the problematic trend of favourability in the representation and sentencing of men implicated in the death of a female intimate partner. Although the delays experienced by *Watson* were significant, this does not excuse the clear disregard for the sentencing guidelines of deterrence, rehabilitation and punishment in this case, nor does it legitimate a disregard for the victim impact statements of Christina's family.

While we recognise that the problems of under-resourcing and increasing court delays must be addressed, in the wake of *Watson*, and the national and international scrutiny that followed, we contend that Australian criminal justice systems need to send a clear and unequivocal message. This is that whether resolved by a trial or guilty plea, Australian criminal proceedings are fair and transparent, and the actions of men involved in intimate partner femicide are given much more weight than a desire for efficiency.

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