

Contents

Area of focus – Mandatory Sentencing for murder and sexual offences	2
Position Statement	3
Sentencing for murder with sexual assault.....	6
Sentencing Purposes.....	7
Aggravating and mitigating factors should not apply to murder with sexual assault	8
Subjective factors should not apply to the crime of murder with sexual assault	13
Remorse should not apply to the crime of murder with sexual assault	14
Culpability – the nature of the crime carries inherent culpability.....	14
Rehabilitation of rapist murderers cannot be guaranteed	15
There is no research proving rapist murderers can be rehabilitated	15
Sex Offender Recidivism.....	16
An offender’s future dangerousness	17
Victim impacts	18
The impact of having my sister raped and murdered.....	18
The positive impact of my sister’s rapist murderer originally receiving a life sentence with no parole	20
Impact of the injustice of law change to overturn life sentence without parole	20
Impact of Bakewell’s numerous appeals all the way to the High Court of Australia to have his non-parole period reduced	20
The High Court of Australia erased Anne-Marie Culleton and her rape and murder	22
The South Australia Parole Board erased Anne-Marie Culleton and her rape and murder	24
Impact of parole release in re-traumatising the victim family	25
Impact of parole breaches in re-traumatising the victim family and my campaign fight to cancel Bakewell’s parole.....	27
Bakewell’s Parole Breaches for drug taking	28
Bakewell’s long history of breaching parole and bail	28

Area of focus – Mandatory Sentencing for murder and sexual offences

My submission will address Chapter 4 – Mandatory Sentencing for murder and sexual offences.

Position Statement

My name is Eileen Culleton. I am the sister of Anne-Marie Culleton who at 20 years old was raped and murdered on 23 February 1988 by Jonathan Peter Bakewell who broke down the back door of her Darwin flat in the middle of the night to rape and murder her in her bed. This crime is every woman's worst nightmare.

I am calling for the NT mandatory sentencing laws to be strengthened in cases of murder with sexual assault, with a mandatory sentence of life with no parole.

I am calling for this law reform because I believe rapist murderers should never be given another chance to repeat their crimes. The only way to guarantee community safety is to lock rapist murderers up for life. For the term of their natural life.

I am also calling for this law reform because I believe it will deliver true justice and gender equality for victims. Rape is a gender hate crime perpetrated against women and rape and murder is a gender hate crime of the most heinous kind. A woman's life must be valued equally to the life of the man who took her life so brutally and that must be reflected in a sentence for the term of the rapist murderer's natural life.

A life sentence with no parole for the crime of murder with sexual assault will also serve as a powerful deterrent to offenders and will send the strongest possible message that the community does not tolerate this crime.

A mandatory life sentence with no parole for the crime of murder with sexual assault meets the sentencing purposes of retribution, incapacitation, denunciation and deterrence, ensuring just punishment, community protection, community condemnation and crime prevention.

Mandatory life sentencing without parole for rapist murderers also ensures certainty, equality and consistency of sentencing for the offenders, the victim families and the community.

I am calling for this law reform from the perspective of 33 years lived experience of the impact of the whole spectrum of political, legislative and judicial decisions in relation to the crime of murder with sexual assault.

I have experienced justice being done, with my sister's rapist murderer Jonathan Bakewell being sentenced to life with no parole in 1989 and then justice being ripped away with the NT law change in 2004 which saw Bakewell's life sentence reduced to just 20 years non parole.

What was particularly unjust was that, as a result of Bakewell's appeals all the way to the High Court of Australia, he never served time for the rape which was the only crime he pleaded guilty to. Under the new laws his minimum sentence should have been 25 years non parole (for murder with sexual assault). Yet Bakewell got his sentence reduced to just 20 years.

Since Bakewell's release in 2016 at the age of 55, he has breached parole four times for taking drugs, the same drugs he took the night he raped and murdered my sister Anne-Marie Culleton. Yet despite my pleas to cancel Bakewell's parole, the parole board keeps releasing him.

Bakewell is a sadistic rapist murderer. Drugs or no drugs, I believe Bakewell is as dangerous today as the day he committed his crimes and I am living in perpetual fear that he will strike again.

Bakewell is in South Australia where he was transferred while in prison, but, given that he had breached parole in South Australia and was on the run in the NT, after travelling through NSW and Queensland, when he murdered Anne-Marie Culleton, no woman in Australia is safe.

Eileen Culleton Submission to NT Mandatory Sentencing Consultation Paper 2020

I am also writing this submission because I am appalled at how broken the justice system of Australia has become with its weak sentencing and its failure to protect the community.

Today there is rarely true justice for murdered rape victims and their loved ones. Life sentences for the term of their natural life are rarely given today. In the NT murder with sexual assault carries a mandatory minimum sentence of 25 years. 25 years is not a life sentence. A woman's life must be valued equally to the life of the man who took her life so brutally and that must be reflected in a sentence for the term of the rapist murderer's natural life.

Sentencing for crimes of rape and murder are being reduced based on factors such as the principle of precedent. The crimes are being ranked according to a macabre hierarchy of depravity in which only those deemed the 'worst of the category' are given life sentences, such as those who have killed multiple times. How does this protect the community?

It is this logic that was applied to sentencing for Aiiia Maasarwe and Eurydice Dixon's brutal rape and murders finding they were not deemed 'worst category'. Murders which shocked and outraged our nation and sparked vigils across the country. Which drew condemnation from our Prime Minister.

Their rapist murderers Codey Herrmann and Jaymes Todd will be eligible for parole release when they are in their fifties. Young enough to strike again. This must stop.

At the time of writing this submission the Victoria DPP are appealing Codey Herrmann's sentence for raping and murdering Aiiia Maasarwe, saying it is manifestly inadequate and they are calling for his head sentence to be changed to a life sentence. Even so, they are not calling for life with no parole, which is the sticking point when it comes to justice and protecting the community.

Aiiia Maasarwe's father summed it up on 18 March 2021 telling the media he's lost confidence in the Australian legal system, and the current sentence is a mockery of justice and doesn't deter anyone who is thinking of harming a woman.

"We lost the most precious Aiiia. The sentence is a mockery of justice. We had expectations there would be appropriate punishment for the magnitude of this tragedy." Mr Maasarwe said.¹

Australia's justice system hit a new low on 23 December 2020 when Justice Stephen Hall refused to sentence Perth serial killer and rapist Bradley Edwards "never to be released", as called for by the WA DPP, with Justice Hall claiming Edwards crimes did not fit the category of 'worst case'.

Which begs the question, if a serial killer and rapist is not a 'worst case' what is?

It is also an outrage that sentencing for crimes of murder with sexual assault are being reduced based on 'mitigating factors' deemed to reduce culpability. How can anyone argue there are mitigating factors or excuses for raping and murdering someone? This is a crime which by its very nature is deliberate.

Rape and murder is a gender hate crime. Rape has nothing to do with desire or sexual attraction. It is a hate crime enacted to terrorise, torture and degrade the victim and is about the offender exerting power, control and dominance over their victim. The crime of rape and murder is an intentional gender hate crime of the most heinous kind.

¹ <https://www.9news.com.au/national/aiaa-maasarwe-prosecutors-call-for-rape-and-murderer-codey-herrmann-to-get-life-sentence/e39dd3b3-371d-4ce2-abc9-f02230099a5a>

Eileen Culleton Submission to NT Mandatory Sentencing Consultation Paper 2020

We need life sentencing without parole to protect the community because there is no guarantee prison rehabilitation programs work for rapist murderers. Jill Meagher's rapist murderer Adrian Bayley admitted faking his way through a sex offenders program to get parole release before murdering Jill.

Daniel Morcombe's killer, child rapist and murderer Brett Peter Cowan, had completed a sex offenders program while in prison for violently sexually assaulting a 6 year old boy, yet upon release Cowan abducted and murdered Daniel who was 13.

Rapist murderer Terrence Leary who murdered 17 year old Vanessa Hoson was considered a model prisoner who completed a sex offender program and even got a social work degree in prison, yet upon release he attempted to rape and murder a woman at a bus stop. And still he was given another sentence with a non-parole period.

The only way to guarantee community safety is to lock rapist murderers up for life. For the term of their natural life.

The crime of rape and murder also needs to be a separate offence because currently the crime is charged and tried as a murder. The rape is treated as secondary and just categorised as an "aggravating factor" of the murder. This crime needs to be tried as its own offence to reflect the true character of the crime. And it means the crime can have its own sentence of mandatory life with no parole.

We have a national crisis of violence against women. One in five women in Australia are sexually assaulted and one woman a week is murdered.

A national crisis demands a national response. We need uniform national laws to send a strong message in society and help to reduce all violent crimes against women. The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee 2018 Report recommends Australia adopt national laws to address violence against women.

This is why I launched a national petition on 25 November 2020, the International Day for the Elimination of Violence Against Women, in which I called for national uniform sentencing of mandatory life with no parole for the crime of murder with sexual assault.²

I called on federal Attorney General Christian Porter to put on the agenda of the next Council of Attorneys-General (CAG) meeting a law reform to create a new offence "murder with sexual assault" with a mandatory sentence of life without parole.

I also called on all the state and territory Attorneys-General to work together on this law reform to ensure uniform sentencing across the nation. My petition has received over 5,000 signatures so far.

It was after launching my petition that I became aware of this NT Mandatory Sentencing Consultation Paper. I recently came across the NT Attorney General's response to my petition on The Project website in which Attorney General Selena Uibo stated:

"As Attorney General, I am prepared to consider all correspondence received. Our Government has asked the NT Law Reform Committee to review mandatory sentencing and sentencing options."³

I trust my submission will be given the serious consideration it requires and deserves.

² <https://www.change.org/Life-For-Rapist-Murderers>

³ <https://10play.com.au/theproject/articles/attorney-general-statements/tpa201125khbpr>

Sentencing for murder with sexual assault

Under current NT legislation the crime of murder with sexual assault carries a mandatory minimum sentence of 25 years. 20 years for the murder and 5 years for the sexual assault.

I believe a sentence of 25 years for murder with sexual assault is manifestly inadequate and does not reflect the gravity of the crime.

Rape is a gender hate crime perpetrated against women and rape and murder is a gender hate crime of the most heinous kind.

A woman's life must be valued equally to the life of the man who took her life so brutally and that must be reflected in a sentence for the term of the rapist murderer's natural life.

It is my position that murder with sexual assault should be made a separate offence carrying a mandatory sentence for the term of the offender's natural life.

This sentence will deliver true justice and gender equality for victims.

The precedent for this sentence is in NSW where the murder of a police officer carries a mandatory life sentence for the term of the person's natural life.

19B⁴ (*Mandatory Life Sentences for murder of police officers*) of the Crimes Act 1900 (NSW).

Just as with the murder of police officers, the rape and murder of a person is a crime which inherently meets the criteria for 61 (1):

"... the level of culpability in the commission of the offence is so extreme that the community interest in retribution, punishment, community protection and deterrence can only be met through the imposition of that sentence."

I am proposing the offence to be framed in a similar way eg

"Mandatory life sentence for murder with sexual assault"

I am also proposing the sentence to be framed in a similar way to 19B to ensure that as per section (2), (4) and (5), the life sentence is for the term of the person's natural life, it is mandatory and no other law or act can authorise a court to impose a lesser or alternative sentence:

"(2) A person sentenced to imprisonment for life under this section is to serve the sentence for the term of the person's natural life."

(4) If this section requires a person to be sentenced to imprisonment for life, nothing in section 21 (or any other provision) of the Crimes (Sentencing Procedure) Act 1999 or in any other Act or law authorises a court to impose a lesser or alternative sentence."

(5) Nothing in this section affects the obligation of a court to impose a sentence of imprisonment for life on a person convicted of murder in accordance with section 61 of the Crimes (Sentencing Procedure) Act 1999."

⁴ http://www5.austlii.edu.au/au/legis/nsw/consol_act/ca190082/s19b.html

Sentencing Purposes

The proposed mandatory life sentence without parole for the crime of murder with sexual assault meets the purposes of sentencing under NT law in the following ways:

A mandatory life sentence with no parole for the crime of murder with sexual assault meets the sentencing purposes of retribution, incapacitation, denunciation and deterrence, ensuring just punishment, community protection, community condemnation and crime prevention.

Mandatory life sentencing without parole for rapist murderers also ensures certainty, equality and consistency of sentencing for the offenders, the victim families and the community.

Retribution – which is the notion that the guilty ought to be accountable for their actions and suffer the punishment which they deserve.

A life sentence with no parole is just punishment for taking a life in such a horrific and brutal way as is the case with rape and murder.

This would bring sentencing into line with community expectations for this crime.

Deterrence – specific deterrence which aims to dissuade the offender from committing further crime; and general deterrence which aims to dissuade others from committing the crime in question by making them aware of the punishment inflicted on the offender.

A mandatory life sentence without parole for murder with sexual assault will prevent these crimes by acting as a powerful deterrent for potential rapist murderers.

Incapacitation – which involves preventing a person from committing further offences during the period of incarceration, with community protection as the justification.

A mandatory life sentence without parole for rapist murderers will protect the community from the offender ever repeating the crime.

Denunciation – which involves the court making a public statement that behaviour constituting the offence is not to be tolerated by society either in general, or in the specific instance.

A mandatory life sentence without parole for murder with sexual assault would powerfully communicate society's condemnation of this crime and send the message that society has a zero tolerance for this crime.

In addition, a mandatory life sentence without parole for the crime of rape and murder will serve to recognise the life lost of the victim and the lifelong harm inflicted on their loved ones.

Aggravating and mitigating factors should not apply to murder with sexual assault

As with NSW 19B (Mandatory Life Sentences for murder of police officers), it is my position that aggravating and mitigating factors should not apply to the crime of murder with sexual assault.

Currently the sexual assault is merely treated as an aggravating factor of the murder, whereas murder with sexual assault should be treated as a stand alone crime.

The crime of rape and murder is an inherently extreme, horrific, abhorrent, violating crime which should not be minimised in any way.

I strongly object to the application of aggravating and mitigating circumstances and any effort to try to reduce the seriousness of the offence.

The process of applying aggravating and mitigating factors to crimes of rape and murder leads to a degradation of justice as defence lawyers and judges rank them according to a macabre hierarchy of depravity in which subsequent rape and murders are compared to 'worst' category of cases⁵.

Supreme Court Justice Elizabeth Hollingworth compared Aiaa Maasarwe's rape and murder with the recent rape and murder of Eurydice Dixon because that is 'current sentencing practice'. This involved the judge comparing key 'aggravating' and 'mitigating' circumstances of each rape and murder. For example the judge said:

"On the one hand, Mr Todd killed his victim with his bare hands, rather than a weapon. He also did not commit any aggravating act, such as setting fire to the body."

"On the other hand, unlike in this case, Mr Todd's offending involved substantial premeditation. He had had a long-standing sexual fantasy to rape and strangle to death a woman, for more than a year."

It was due to this 'ranking' process that the judge found, in relation to the rape and murder of Aiaa Maasarwe, "the case does not warrant the imposition of the maximum penalties."⁶

It is this logic that was applied to both Aiaa Maasarwe and Eurydice Dixon's brutal rape and murders finding they were not deemed 'worst category'.

This judgement is completely out of step with community attitudes towards these crimes which shocked and outraged our nation and sparked vigils across the country. Which drew condemnation from our Prime Minister.

Australia's justice system hit a new low on 23 December 2020 when Justice Stephen Hall refused to sentence Perth serial killer and rapist Bradley Edwards "never to be released", as called for by the WA DPP, with Justice Hall claiming Edwards crimes did not fit the category of 'worst case'."

This begs the question, "If a serial killer and rapist is not a 'worst case' what is?"

This 'ranking' practice also applies to appeals. For instance a rape and murder 30 years ago, when brought up for appeal would then be reviewed in relation to 'worst cases' that have happened since then and the likely decision being made that the non-parole period should be reduced.

⁵ <http://www.sentencingcouncil.justice.nsw.gov.au/Pages/Sentencing/factors-sentencing.aspx>

⁶ <https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/vic/VSC//2019/694.html>

Eileen Culleton Submission to NT Mandatory Sentencing Consultation Paper 2020

I experienced the injustice of this practice in relation to my sister's rapist murderer Jonathan Bakewell's appeals to have his non-parole period reduced so that he would not have to serve time for the rape, despite this being the only crime he plead guilty to.

In 1989 when sentencing Bakewell to life without parole, Justice Kearney described it as the most serious of crimes that warranted the sentence:

"Crimes such as the one you committed, Mr Bakewell, spread terror throughout the community, particularly amongst young women who live alone and who have to entrust their safety at night to the security of the locks of their doors. To such ordinary people, although you may not understand it, you are a figure of nightmare. They are entitled to look to the system of justice to protect them from such people as you and to demand a punishment which reflects their abhorrence of what you did.

In your case, the punishment laid down by law, is not a matter within my control, it is the punishment of imprisonment for life for the murder which you committed. I consider it is a punishment which in your case is fully warranted in every way and indeed represents the minimum punishment which a civilised society can rightly demand be imposed upon you.

In causing the death of this young woman you displayed such complete heartlessness and lack of any human compassion as to mark you out clearly from your fellow man. That you should be required by law to be condemned to prison for life reflects in part the community's horror at what you did and their legitimate and proper need that the risk which you present to the community be removed from the community for many years to come.

The punishment now inflicted upon you contains some small element of retribution for what you did, which society can properly demand be imposed on you both for her and for those people ... on whom you have brought untold grief."

Justice Kearney 1989

Justice Kearney's sentiment was expressed in the community at the time. In a NT Parliamentary Debate on Wednesday 28 February 1990⁷ regarding the murder and trial, it was agreed that the crime was 'particularly horrific'. The Chief Minister Mr Perron said:

"The crime which we have been discussing was particularly horrific. Fortunately, in my view, justice was done."

Another Minister, Mr Bell said:

"I remind the honourable members of the specific murder case involved. It was particularly horrific. It was a matter of deep concern that such a horrific crime should occur in Darwin. Reading some of the transcript of the case, I felt that the person convicted was somewhat less than human."

However in 2007, after the NT Government changed the life sentence laws to allow non-parole periods to be set and Bakewell was appealing the NT DPP application to the Supreme Court to increase his non-parole

⁷ http://classic.austlii.edu.au/au/legis/nt/consol_act/paa227/notes.html

period from 20 years to 25 years following the new legislation for murders involving rape, Justice Southwood minimised the seriousness of the murder. He made the following remarks:

“...I would have determined that the relative seriousness of the crime of murder committed by Bakewell was not such as to require a longer non-parole period than 20 years.”⁸

Justice Southwood 2007

It appears from the appeal transcript that Justice Southwood re-tried the case based on “worst” category of cases that exist to date, outlining both aggravating and mitigating factors and his own personal subjective view.

“Having considered all of the objective and subjective factors referred to above and given what I consider to be appropriate weight to the sentencing purposes of punishment, denunciation and general and specific deterrence I would have determined that the relative seriousness of the crime of murder committed by Mr Bakewell was not such as to require a longer non-parole period than 20 years. Nor it the level of Mr Bakewell’s culpability such as to require the court to fix a non-parole period.”⁹

One particularly reprehensible statement Justice Southwood made was:

“The objective seriousness of the offending is also qualified by the facts that apart from the piece of sheet no weapons were involved in the attack on Ms Culleton and the prisoner did not mutilate her body.”¹⁰

What has our justice system come to when judges are giving a rapist murderer credit for not using weapons, other than a sheet to strangle his victim?

In fact Bakewell did not need a weapon. His brute strength was his weapon. Brute strength that enabled him to bash in her locked door. Brute strength that had him initially strangling her with his hands. Brute strength that enabled him to tear a sheet to use as a ligature to suffocate her as he raped her.

Let’s not forget Eurydice Dixon and Jill Meagher were both strangled by their rapist murderers.

In fact what Justice Southwood failed to mention is the fact that the strangulation itself is intrinsic to the sadistic motivation for rapist murderers who strangle their victims to death.

This is well documented in the Eurydice Dixon case. In sentencing Jaymes Todd, Justice Kaye said:

39.... “Self-evidently, you would have known — as anyone else would — that the purpose of choking another individual is to prevent that person from breathing. The fact that you choked Eurydice over a period of time, during part of which you had both thumbs over her windpipe, is strong evidence on which to conclude, beyond reasonable doubt, that you intended to kill her by that action.

40 That conclusion is reinforced, first, by your conduct after you had returned home that morning, when you accessed on the internet, and viewed two pages of, a website entitled ‘Brutal Rape Choking Till Death Strangle Forced Videos’. Secondly, it is reinforced by a matter to which I shall shortly refer, namely, your fascination with pornography

⁸ <http://www.supremecourt.nt.gov.au/archive/doc/judgements/2007/ntsc/20071016ntsc51.html>

⁹ <http://www.supremecourt.nt.gov.au/archive/doc/judgements/2007/ntsc/20071016ntsc51.html>

¹⁰ <http://www.supremecourt.nt.gov.au/archive/doc/judgements/2007/ntsc/20071016ntsc51.html>

involving the violent rape of women culminating in the strangulation of the victim to death, and the fantasy to that effect that was preoccupying you during the period in which you trailed behind Eurydice Dixon on her way home. Thirdly, it is also supported by the evidence of Dr Thomas and Professor Ogloff that, based on what you told each of them, your violent attack on Eurydice, culminating in her death, constituted the enactment by you of the whole of that homicidal fantasy."

I believe this was Jonathan Bakewell's purpose too in strangling Anne-Marie Culleton. This purpose was reinforced by his conduct during the attack. The most telling was that he turned on the bedroom light of Anne-Marie Culleton's flat, despite telling police he could see where he was going and he knew the layout of the flat because it was identical to the flat he lived in next door.

Bakewell admitted watching her lying on the bed with the ligature around her neck struggling to breathe. It is evident he turned on the light so that he could watch her suffer. It is also evident he watched her die, despite his claims to the contrary.

As Justice Kaye stated in the sentencing of Jaymes Todd for murdering Eurydice Dixon, death by strangulation is a particularly cruel way for the victim to die.

"43... She was vulnerable and, in the circumstances, defenceless. In a most callous and cowardly manner, you set upon her, sexually assaulting and humiliating her, before cruelly strangling her to death. The sheer terror which Eurydice must have experienced during those dreadful moments is unimaginable. Her last moments on this earth must have been utterly horrifying for her. You inflicted that brutal assault, and took her life from her, by raping and murdering her in a most craven and sadistic manner."

Strangling a victim in the course of a sexual assault should serve to increase not decrease the objective seriousness of the murder.

Having said this, I need to reinforce that the reason I'm calling for mandatory life sentencing is that it is the crime itself, of murder with sexual assault, that is of the most objective seriousness. Not the method that was used to murder the victim.

Another important argument that I need to highlight from Justice Southwood's comments in Bakewell's appeal is, what has our justice system come to when judges are giving a rapist murderer credit for not mutilating the victim's body? How can this possibly in the eyes of any fair minded person serve to reduce the seriousness of the crime?

For the record, Bakewell did mutilate Anne-Marie's body. He threw her body under a scalding hot shower to remove to remove fingerprints and other evidence. He then wedged Anne-Marie's body face down in the shower so that it remained immersed in scalding hot water with the shower running.

These actions, together with the high humidity in the closed bathroom, served to conceal the murder method by advancing body decomposition. This is how Anne-Marie's body was found by my sister and mother 40 hours later.

In the NT Parliament Question Time on Monday 19 October 2009¹¹ after Bakewell's successful appeals to reduce his non-parole period from 25 years to 20 years, this was raised as part of the horror of the crime:

¹¹ NT Parliament Question Time Monday 19 October 2009 p505

Eileen Culleton Submission to NT Mandatory Sentencing Consultation Paper 2020

“Mr MILLS to CHIEF MINISTER

In 1988, Jonathan Peter Bakewell raped and murdered his next door neighbour, Anne Marie Culleton, before throwing her body under a scalding hot shower.”

Also for the record, 21 years later in 2009, both sides of government were still acknowledging it was a horrendous crime and stating that they do not believe Bakewell should have been given parole.

Mr MILLS (continued)

“Under your soft sentencing regime, Jonathan Peter Bakewell has been granted parole by the South Australian Parole Board and could be released from prison at any time. Given the aggravated nature of Bakewell’s crime, he should have served at least 25 years inside. Can you explain to Territorians how it is that Bakewell could soon be walking free? Do you think Jonathan Peter Bakewell has done his time for his crime?”

ANSWER

Madam Speaker, it was an absolutely horrendous crime. I personally know some of our police officers involved in that investigation.

Regarding Bakewell being released on parole, we did challenge that matter in the High Court. We did not believe he should be granted parole. Ultimately the High Court rejected our challenge. The position of the government is that he should not have been granted parole.”

This change in the judicial system’s attitudes towards the crime of rape and murder, based on the use of sentencing factors such as aggravation and mitigation and subjective factors relating to the offender themselves is what is contributing to reducing what judges deem the ‘level of seriousness’ of the murder.

I believe this is having a detrimental effect of watering down sentences for crimes of rape and murder, and upholding appeals by the offender and at the other end of the spectrum, resulting in decisions to release offenders on parole.

It is important to note Justice Southwood is now the Chair of the Northern Territory Parole Board.

Subjective factors should not apply to the crime of murder with sexual assault

I also strongly object to the application of subjective factors about the offenders found guilty of rape and murder in order to reduce their sentence. For example:

That the offender does not have any record (or any significant record) of previous convictions

It is my strong view that if a person has raped and murdered someone, they don't need to have a previous record in order to deserve a life sentence.

It is also important to note that given that 80% of sexual assaults go unreported¹² the fact that the offender does not have a previous criminal record does not guarantee they have not raped before. Indeed according to sex offender recidivism statistics and sex offender profiling it is highly likely they have, but that they just haven't been caught.¹³

Another example that is self evidently a contradiction of terms is:

the offender was a person of good character

If a person has raped and murdered someone they are evidently not a person of good character.

Another strong point of objection I have is regarding rehabilitation factors because there is no guarantee programs will rehabilitate a rapist murderer.

In regard to the effectiveness of treatment of sex offenders an Australian Institute of Criminology report found this to be questionable:

"While it is assumed that treatment will reduce the risk of sexual recidivism, the evidence is ambiguous. There have been few systematic evaluations of treatment programs and no definitive results regarding treatment efficacy."¹⁴ P8

¹²

https://www.aph.gov.au/about_parliament/parliamentary_departments/parliamentary_library/publications_archive/archive/violenceagainstwomen

¹³Lievore D 2004, "Recidivism of sexual offenders: rates, risk factors and treatment efficacy."

<https://www.aic.gov.au/sites/default/files/2020-05/recidivism-of-sexual-offenders-rates-risk%2520factors-and%2520treatment-efficacy.pdf>

¹⁴ Lievore D 2004, "Recidivism of sexual offenders: rates, risk factors and treatment efficacy."

<https://www.aic.gov.au/sites/default/files/2020-05/recidivism-of-sexual-offenders-rates-risk%2520factors-and%2520treatment-efficacy.pdf> p8

Remorse should not apply to the crime of murder with sexual assault

The issue of remorse should not apply to the crime of murder with sexual assault.

Firstly genuine remorse is something that is impossible to ascertain because no one can read someone's heart.

It is also problematic because offenders are told that if they 'tick the boxes' in expressing remorse they will receive a reduction in their sentence. Thus it is common practice for offenders to express remorse and even write apology letters.

I have personal experience of this in relation to my sister's rapist murderer Jonathan Bakewell. The appeal judge Justice Southwood cited Bakewell's new found remorse in prison as a subjective factor in his conclusion that Bakewell's rape and murder of Anne-Marie Culleton was at a reduced level of seriousness:

"Mr Bakewell admits that he is responsible for the crimes that he committed and he is remorseful for his crimes."¹⁵

However given that true remorse and taking responsibility for the crime involves accepting your punishment, how can Bakewell be said to be remorseful when he refused to accept his punishment? When he fought all the way to the High Court of Australia in an attempt to have his sentence reduced so that he did not serve time for the rape, which was the only crime he plead guilty to?

Culpability – the nature of the crime carries inherent culpability

The act of rape and murder carries an inherent culpability and in particular moral culpability because by its very nature it is deliberate.

Rape and murder is a gender hate crime. Rape has nothing to do with desire or sexual attraction. It is a hate crime enacted to terrorise, torture and degrade the victim and is about the offender exerting power, control and dominance over their victim. The crime of rape and murder is an intentional gender hate crime of the most heinous kind.

There are more aggravating factors, mitigating factors and subjective factors that I could respond to, but I trust my examples suffice to support my argument that they should not be applied to the crime of murder with sexual assault.

In conclusion, it is clear that, like NSW 19B (Mandatory life sentences for murder of police officers), in which subjective and mitigating factors do not apply, so it should be with the crime of murder with sexual assault.

¹⁵ <http://www.supremecourt.nt.gov.au/archive/doc/judgements/2007/ntsc/20071016ntsc51.html>

Rehabilitation of rapist murderers cannot be guaranteed

I am calling for mandatory life sentencing with no parole for crimes of murder with sexual assault because rehabilitation of rapist murderers cannot be guaranteed.

There is no research proving rapist murderers can be rehabilitated

There is no research proving that rapist murderers can be rehabilitated. No state correctional authority in Australia has undertaken studies of repeat offending of homicide offenders let alone rapist murderers. In a Centre for Criminology article "Counting the risk of murderers re-offending" by Roderic Broadhurst, Professor of Criminology and Ross Maller, Professor of Probability and Statistics at the Australian National University, the authors note that no state correctional authority has undertaken accurate studies of recidivism (repeat offending) of homicide offenders.¹⁶

In regard to the effectiveness of treatment of sex offenders, a report prepared by the Australian Institute of Criminology for the Office of the Status of Women, "Recidivism of Sexual Assault Offenders: Rates, Risk Factors and Treatment Efficacy" found this to be questionable:

"While it is assumed that treatment will reduce the risk of sexual recidivism, the evidence is ambiguous. There have been few systematic evaluations of treatment programs and no definitive results regarding treatment efficacy."¹⁷

There is plenty of real life case evidence that rehabilitation programs do not work when it comes to rapist murderers.

One prime example is rapist murderer Terrence Leary. 17-year-old Vanessa Hoson was asleep in her family home in Sydney in 1990 when Leary broke in, attacked and murdered her.¹⁸

Prior to his first parole release, Terrence Leary had been deemed a "model prisoner" who had 'ticked all the boxes' for his rehabilitation.

Then NSW Attorney-General Greg Smith reported "Mr Leary completed programs to address his drug and alcohol issues and sex offending behaviour prior to his release on parole."¹⁹

Leary even completed a university degree in prison including a Bachelor of Arts studying sociology and anthropology.

Leary was released on parole despite Vanessa Hoson's family's protests, and in 2013 tried to rape and stabbed a woman at a bus stop. The victim is only alive today because the police arrived on the scene in time to save her.

Yet, incredulously, Justice Syme, in sentencing Leary for his rape and knife attack on the women at the bus stop, still took into account Leary's rehabilitation programs in prison before his parole release - when evidently the prison rehabilitation programs did not work.

And this was despite Justice Syme saying Leary was still a danger to the community.

¹⁶ <https://criminology.research.southwales.ac.uk/cirn/research-projects/reoffending/>

¹⁷ Lievore D 2004. *Recidivism of sexual offenders: rates, risk factors and treatment efficacy*. Archive. Canberra: Australian Institute of Criminology. <https://aic.gov.au/publications/archive/recidivism-of-sexual-offenders> (Accessed 29 November 2019)

¹⁸ <https://www.smh.com.au/national/nsw/terrence-leary-given-another-chance-for-parole-after-explosive-attack-20160329-gnsq8w.html>

¹⁹ <https://au.news.yahoo.com/murder-victims-sister-breaks-23-year-silence-17791130.html>

"His unpredictability makes his management in the community a challenge,"²⁰ Judge Syme said.

"Not all forms of antisocial behaviour can be treated through therapy."

It is critical to note, if a so called "model prisoner" like Terrence Leary could repeat his crimes, this is clear evidence that sexual offending rehabilitation programs do not work. It is also evident that psychiatrists and psychologists who have input to parole release applications cannot predict human behaviour.

Jill Meagher's rapist murderer Adrian Bayley admitted faking his way through a sex offenders program to get parole release before murdering Jill.

Daniel Morcombe's killer, child rapist and murderer Brett Peter Cowan, had completed a sex offenders program while in prison for violently sexually assaulting a 6 year old boy, yet upon release Cowan abducted and murdered Daniel who was 13.

Sex Offender Recidivism

The countless examples of sex offenders repeating their crime after being released from prison point to the fact that rehabilitation programs do not work.

ABC Journalist Jill Meagher's rapist murderer Adrian Bayley is a prime example of a repeat violent sex offender who escalated to murder. Bayley had a long history of rapes spanning more than 20 years. Bayley admitted faking his way through a sex offenders program to get early release.²¹

This begs the question, how many other prisoners have faked their way through sex offenders programs?

There has also been little research on Australia sex offender recidivism rates. The Australian Institute of Criminology report²² stated that sex offender recidivism rates are underestimated due to the lack of recorded data for this crime.

One reason for this is that repeat sexual offenders may be identified for the principal offence for which they were convicted, which may not be the sexual offence.

Also, importantly, according to a Australian Bureau of Statistics (ABS) Personal Safety Survey 2016, the majority of women (9 out of 10) who were sexually assaulted did not contact the police (87% or 553,900).²³ When you consider that of those rapes that are reported, only a small percentage proceed to trial, it makes estimating sex offending recidivism rates problematic. What is clear from the existing evidence is that sex offender rehabilitation programs do not guarantee success. Hence why we need to err on the side of women's safety. No risk to a woman's life is an acceptable risk.

²⁰ <https://www.smh.com.au/national/nsw/terrence-leary-given-another-chance-for-parole-after-explosive-attack-20160329-gnsq8w.html>

²¹ <https://www.abc.net.au/news/2015-03-26/adrian-bayleys-violent-history-of-sex-attacks/6349852>

²² Lievore D 2004. *Recidivism of sexual offenders: rates, risk factors and treatment efficacy*. Archive. Canberra: Australian Institute of Criminology. <https://aic.gov.au/publications/archive/recidivism-of-sexual-offenders> (Accessed 29 November 2019)

²³

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/4906.0~2016~Main%20Features~Key%20Findings~1>

An offender's future dangerousness

The crime of rape and murder carries an inherent future dangerousness due to its nature.

Rape and murder is a gender hate crime enacted to terrorise, torture and degrade the victim and is about the offender exerting power, control and dominance over their victim. The crime of rape and murder is an intentional gender hate crime of the most heinous kind.

This is why this crime must have a sentence of mandatory life with no parole.

As stated in the 1994 criminal appeal to the High Court of Australia in which rapist murderer Andrew Garforth who raped and murdered nine year old Ebony Simpson in 1992, unsuccessfully attempted to get his sentence reduced:

*"There are some cases in which the circumstances of an offence on their own suggest the possibility of dangerousness. This is one of them."*²⁴

²⁴ *Garforth v The Queen [1994] HCATrans 125*

Victim impacts

My reason for sharing the lifelong impacts the rape and murder of my sister has had on me is to provide valuable insight to support my call for life sentencing with no parole for this crime.

I believe the current provisions relating to victim impact statements in sentencing for crimes of murder with sexual assault do not appropriately recognise the harms caused to victims because most murder trials take place shortly after the offence, whereas the harm impacts on victim family members is life long.

As a murder victim family member who at 19 years old lost her 20 year old sister Anne-Marie Culleton when was raped and murdered in her flat in 1988; the harms I have suffered have been life long and will continue to be.

Over the 33 years since the murder, I have experienced the impact of the whole spectrum of political, legislative and judicial decisions – from justice being served with the original sentence of life without parole, to justice being ripped away with a law change to enable parole, to the offender's appeals all the way to the High Court of Australia to get his non-parole period reduced, his release on parole, breaching parole four times, my unsuccessful fight to have his parole revoked and his latest release for the fifth time on parole in October 2019. Even if Bakewell's parole is finally revoked, I face a lifetime of fighting, because he can reapply for parole every 12 months.

The impact of having my sister raped and murdered

To assist the Law Reform Council and all who will read this submission, to understand the life long impacts of the crime of rape and murder on family members, I feel it is important to share some of these impacts on my life.

My sister Anne-Marie Culleton had her life brutally cut short at 20 years old when she was raped and murdered in her flat on 23 February 1988.

In the last few weeks of Anne-Marie's life, at 20 years old, she had reached a turning point of independence. She had a job, her drivers licence, a car, and five weeks prior, she had moved out of home into her first flat. She had hopes and dreams that she was excited about.

When she came to my 19th birthday dinner on 8th February 1988, she was absolutely glowing. I'd never seen her so happy in her whole life. That's the last time I saw her. Two weeks later on 23 February she was dead. Raped and murdered in the middle of the night by a man who broke down her back door to attack her in her bed.

I was interstate, studying at university when I received the devastating phone call that my sister Anne-Marie had been raped and murdered. In an instant I did not just lose my sister, I lost my youth, my future, my dreams, my idealism, my peace, my sense of security and my joy. I felt like the light had gone out of my world.

Anne-Marie's rape and murder in her home at night is every woman's worst nightmare and it became my living nightmare.

I was traumatised, devastated and heavily weighed down by grief and the senselessness of it all. Anne-Marie was a beautiful, talented, 20 year old young woman with a bright future ahead of her. With dreams she never got to realise.

Eileen Culleton Submission to NT Mandatory Sentencing Consultation Paper 2020

To think of the nature of her death causes me great anguish. It tortures me to think about the terror and suffering that my sister endured at her death.

To this day, seeing cases of other rape and murder victims on the news never ceases to disturb me as it triggers memories of Anne-Marie's death and my heart goes out to the victims and their families, thinking of their pain.

As a result of Annemarie's murder, I also lost my sense of personal security and safety and suffered from post-traumatic stress. The fact that Anne-Marie was attacked in her home in the middle of the night meant that as a young woman I felt constantly vulnerable. I became anxious if I was at home alone, even during the day. I suffered nightmares and would often stay awake until dawn - then I would feel safe enough to sleep for a few hours. This went on for a number of years.

The trauma of Anne-Marie's murder also impacted my relationships. After finishing university I never returned to Darwin to live as I could not bear the memories, or the societal stigma, and it was hard to even go home to visit. My mother had moved to Palmerston and to visit her meant driving on the highway past the prison creating a painful reminder.

I made the decision that I would not become stigmatised as a 'victim of crime' and moved to Western Australia to create a new life where, apart from one close friend, no one knew me and what had happened. This move negatively impacted my family relationships and friendships. It also impacted new friendships because I kept my sister's rape and murder a secret. I did this because I didn't want to be defined or stigmatised by this tragedy.

I also did not want to run the risk of inflicting fear on my young female friends. I wanted them to sleep peacefully at night in their beds.

It also meant that I could never mention Anne-Marie. When people asked about family, I'd have to bend the truth and say I only have two sisters. On the anniversary of her death and on her birthday I'd always have an emotional meltdown and could never tell anyone why. Despite my friendly outgoing nature, I kept an emotional distance from people and became emotionally isolated.

In relation to the impact on my family, while I cannot speak for them, words cannot describe the anguish I felt to witness my mother's grief and ongoing heartbreak at losing her daughter so young and in such a horrific way. Mum passed away in 2012. My eldest sister passed away two months later from cancer at just 47 years old.

The positive impact of my sister's rapist murderer originally receiving a life sentence with no parole

While nothing could bring back my sister, or erase the trauma and anguish of her murder, the original life sentence with no parole served to Jonathan Bakewell was critical in enabling me to have a sense of justice served, for my sister, myself, my family and the community.

It also gave me the peace of mind that Bakewell would never be free to rape and murder another woman again.

I built a productive life. I finished university, gaining a Bachelor of Arts Degree and a Graduate Diploma of Education and I worked at a senior level for a number of high profile charities, the private sector and for government. I also volunteered in the community, holding leadership roles.

And over time I overcame the PTSD that I suffered from in the years following my sister's rape and murder.

However Bakewell's parole release shattered my life. The PTSD came back but far worse because it is now Continuous Traumatic Stress Disorder in which I am living in a constant state of fear that Bakewell will attack again. This has been exacerbated by his multiple parole breaches.

Impact of the injustice of law change to overturn life sentence without parole

My sense of justice and peace of mind was destroyed when the NT sentencing laws were changed in 2004 to allow life sentence prisoners parole and Bakewell had his life sentence reduced to 25 years and then on appeal to the High Court it was reduced to just 20 years non-parole and he was freed in 2016.

I feel a great sense of injustice about this. My sister, my family and the community was robbed of justice with this law change and the subsequent release of Jonathan Bakewell.

Impact of Bakewell's numerous appeals all the way to the High Court of Australia to have his non-parole period reduced

This sense of injustice was further exacerbated by the number of appeals that Bakewell was allowed to fight to prevent his non-parole period being increased from 20 years to 25 years following the new legislation for murders involving rape.

This is despite the fact that Bakewell pleaded guilty to the rape at the time of sentencing and his sentence for the rape was 10 years, which he did not serve due to his head sentence being for life.

Bakewell had been transferred to a prison in South Australia and it was on this basis that he appealed, saying the laws of the Northern Territory no longer applied to him. In 2007 Bakewell appealed the NT Department of Public Prosecutions Application to the Supreme Court to increase his non-parole period from 20 years to 25 years following the new legislation for murders involving rape. When he lost his appeal, Bakewell then appealed all the way to the High Court of Australia.

Bakewell's High Court appeal was eventually successful and had his non-parole period was reduced to just 20 years. So despite the fact that he raped and murdered my sister and was originally given a life sentence with no parole, his sentence was reduced to just 20 years and he didn't even serve time for the rape. Where is the justice in this?

Eileen Culleton Submission to NT Mandatory Sentencing Consultation Paper 2020

To add insult to injury our family has had to suffer the injustice of having the appeal judges minimise the crime and effectively rewrite history. Justice Southwood in the first appeal stated in his opinion the murder was not serious enough to warrant more than 20 years non-parole.

*"...I would have determined that the relative seriousness of the crime of murder committed by Bakewell was not such as to require a longer non-parole period than 20 years."*²⁵

Justice Southwood 2007

Justice Southwood's comments are in total contradiction to those of sentencing judge Justice Kearney in 1989 who made the following remarks at sentencing:

"Crimes such as the one you committed, Mr Bakewell, spread terror throughout the community, particularly amongst young women who live alone and who have to entrust their safety at night to the security of the locks of their doors. To such ordinary people, although you may not understand it, you are a figure of nightmare. They are entitled to look to the system of justice to protect them from such people as you and to demand a punishment which reflects their abhorrence of what you did.

In your case, the punishment laid down by law, is not a matter within my control, it is the punishment of imprisonment for life for the murder which you committed. I consider it is a punishment which in your case is fully warranted in every way and indeed represents the minimum punishment which a civilised society can rightly demand be imposed upon you..."

Justice Kearney 1989

This example of appeal judges substituting the sentencing judges judgements and sentencing is exactly why we need mandatory life sentencing with no parole for rapist murderers.

Because appeal judges can re-sentence a prisoner many years later, based on their personal subjective view, which does not reflect the reality or gravity of the crime committed at the time. Nor do appeal judges take into account the impact of their judgements and comments and sentencing on the murder victim families.

²⁵ <http://www.supremecourt.nt.gov.au/archive/doc/judgements/2007/ntsc/20071016ntsc51.html>

Eileen Culleton Submission to NT Mandatory Sentencing Consultation Paper 2020

The High Court of Australia erased Anne-Marie Culleton and her rape and murder

I believe injustice occurred when my sister Anne-Marie Culleton's rapist murderer Jonathan Bakewell's appeal to the High Court of Australia had the impact of having the rape offence of his murder sentence erased.

The High Court Transcripts did not mention Anne-Marie Culleton's name. They did not state that the offender Jonathan Bakewell raped and murdered her. They said:

"It is not necessary to describe in any detail the facts which lead to the appellant being sentenced to life imprisonment."²⁶

They then just listed his crimes like it was a shopping list:

"It is enough to record only the following matters. In April 1989, an indictment was filed in the Supreme Court of the Northern Territory charging the appellant with aggravated unlawful entry of a dwelling house[11], aggravated sexual assault[12], murder[13] and stealing[14]. He pleaded not guilty to the charge of murder but guilty to the other three charges. At trial on the count of murder, the appellant was found guilty."

It beggars belief the court took this approach considering it was the five year sentence for the rape that Bakewell was appealing, despite having plead guilty.

The sole focus of the High Court seemed to be on the rapist murderer Jonathan Bakewell and his 'rights'.

It is important to note that disgraced former High Court Justice Dyson Heydon, who was recently found by a High Court investigation to have sexually harassed multiple female colleagues, was on the bench making the decision.

I have read the transcripts of the other rapist murderer appeal cases cited by the High Court in relation to Bakewell's case – such as that of Martin Leach who raped and murdered eighteen-year-old Janice Carnegie and murdered her fifteen-year-old cousin, Charmaine Aviet at a picnic spot in the Northern Territory. And that of Allan Baker and Kevin Crump who abducted, raped and murdered NSW woman Virginia Morse.

These rapist murderers appealed to the High Court to get their sentences reduced and they were unsuccessful. A key difference is that the murdered rape victims names and the details of their rape and murders were referenced in the High Court Appeal transcripts cited.

Bakewell eventually won his appeal on the technicality that the laws of the Northern Territory no longer applied to him because he had transferred to South Australia. But that was not the original primary premise put before the High Court of Australia.

What the High Court did in this case should serve as a powerful reminder that when the victim's name is no longer spoken and the crime of rape and murder is no longer spoken, injustice occurs.

I believe Bakewell's High Court appeal win was largely due to the fact that the High Court of Australia erased Anne-Marie Culleton and they erased the crime of her rape and murder.

They erased the 20 year old woman who only five and a half weeks before her murder had moved out of home into her flat. A young woman who had just got her drivers licence and a car and a new job. A young woman with hopes and dreams to become an artist, and to hang-glide and to travel to Greece. A young

²⁶ http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2009/24.html?context=1;query=bakewell;mask_path=

Eileen Culleton Submission to NT Mandatory Sentencing Consultation Paper 2020

woman who did a First Aid Course so she could save lives. A young woman who contributed to her community by voluntarily teaching English to new migrants.

They erased this young woman who was my sister, Anne-Marie Culleton.

There was no focus whatsoever on delivering justice for the murdered victim, nor justice for the victim family, or the community.

The focus was on the offender, Bakewell's rights. And the reprehensible quibbling over points of law was extremely devastating and disheartening reading and has caused me to lose faith in the integrity of the justice system. In my view we don't have a justice system anymore - it's a legal system that has lost its moral compass and lost its justice compass.

And now, that the offender has been released on parole, and re-released back into the community for the fifth time, after four parole breaches for taking drugs – the same drugs he took the night he raped and murdered Anne-Marie, this is a legal system that has inflicted on me a life sentence of injustice and anguish.

The South Australia Parole Board erased Anne-Marie Culleton and her rape and murder. Years later the South Australia Parole Board also erased Anne-Marie and her rape and murder. In their correspondence with me they did not mention her name or the crime of her rape and murder.

I was referred to in correspondence as “a victim of the crime committed by Jonathon Peter Bakewell”.

This erasure was reflected in the parole board’s dismissive attitude towards myself and my family.

I had to fight for months in 2016 to get an official letter informing me that they had released Bakewell on parole. And even then they refused to give me any useful information about his parole conditions.

When Bakewell breached parole the first time the Parole Board did not even inform our family as was their obligation, nor did they put him back in jail.

After his third breach, when I decided to call for Bakewell’s parole to be revoked, I was treated with contempt. From the SA Parole Board Chair Frances Nelson, the Premier Steven Marshall, the Attorney General Vickie Chapman and the Police Minister Corey Wingard.

It was only once I campaigned publicly to the media²⁷ that I received any kind of response.

However, the die was set.

Despite my 53 page submission and the submissions of other concerned members of the South Australia community who had come in contact with Bakewell during his parole, and despite his four parole breaches due to taking drugs, the same drugs he took the night he raped and murdered Anne-Marie Culleton, the parole board released him for a fifth time in 2019²⁸.

²⁷ https://www.adelaidenow.com.au/truecrimeaustralia/sister-of-annemarie-culleton-who-was-raped-and-murdered-in-1988-by-jonathon-bakewell-urges-parole-board-to-cancel-his-release/news-story/ac034390f9f68c9afc1c0138147717d9?utm_source=The%20Advertiser&utm_medium=email&utm_campaign=editorial

²⁸ <https://www.9news.com.au/national/jonathan-bakewell-released-from-prison-after-1988-rape-and-murder-of-anne-marie-culleton-adelaide-news/ba81ab57-b2c8-4078-b24e-3948801de337>

Impact of parole release in re-traumatising the victim family

At the prospect of Bakewell's pending parole release, the PTSD that I suffered from initially after my sister's murder came back, but far worse. Because I am now living with a very real fear that this rapist murderer Bakewell will strike again. So it's not just Post-Traumatic Stress Disorder that I am suffering from – it's also Continuous Stress Disorder which is far worse.

I did not fight Bakewell's parole release because I had no surviving family in Australia at the time to support me and I was suffering from the re-onset of PTSD at the prospect of his release.

Another reason why I did not fight parole was because I believed it to be a fait accompli. In 2016 the South Australia government had abolished the Executive Council which had vetoed Bakewell's release for years and the Parole Board were now free to go ahead and release Bakewell. The parole board's intention to release Bakewell was made very clear back in 2007 when Bakewell was fighting appeals by the NT DPP to increase his non-parole period.²⁹

Because I didn't fight Bakewell's parole release, I was living with great angst and guilt and a feeling that if Bakewell rapes and murders again I would be partly responsible because I did not try to prevent his release. This is not a burden that any murder victim family member should have to shoulder. It should not be the responsibility of the victim family to fight for justice and to fight for community safety.

This angst was exacerbated by Bakewell's subsequent four breaches of parole for taking drugs – the same drugs he took the night he raped and murdered my sister.

It was after the repeated breaches that I realised I had to fight to have his parole revoked. My fight was unsuccessful.

What is important to take into account is that even if Bakewell's parole is revoked, I will have to fight the parole release battle for the rest of my life because he could be eligible to re-apply every 12 months as is the law in South Australia.

All over the country victim families are facing a life sentence of fighting against the parole release of their loved one's rapist murderers. Notable cases that involved petitions on Change.org and significant media publicity are:

- Dante Arthurs case – with over 125,00 signatures³⁰ as at March 2021. It was successful in having his parole denied in 2019.
- Michael Guider case – with over 200,000 signatures³¹ 205,974 as at 3 Feb 2020. Unfortunately he was released in September 2019.
- Neville Towner case - reached over 150,000 signatures in June 2018³² before it was cancelled because Towner died in prison unexpectedly just prior to his parole hearing. At the time it was said to be the largest Change.org petition of its kind.

Having to fight parole release of your loved one's rapist murderer is a cruel and intolerable burden on the victim families.

²⁹ <http://www.supremecourt.nt.gov.au/archive/doc/judgements/2007/ntsc/20071016ntsc51.html>

³⁰ <https://www.change.org/p/john-quigley-do-not-release-dante-arthurs>

³¹ <https://www.change.org/p/stop-the-release-of-child-killers-who-won-t-provide-a-body-no-body-no-release>

³² <https://www.abc.net.au/news/2018-06-05/neville-towner-parole-application-over-lauren-hickson-murder/9837254>

Eileen Culleton Submission to NT Mandatory Sentencing Consultation Paper 2020

My proposed mandatory life sentencing without parole for rapist murderers will be vital for community safety and for justice and ending the parole battle nightmare for victim families.

This is why I have made this submission to call for mandatory life sentencing without parole for the crime of murder with sexual assault. Because I do not want any more victim families to suffer the life sentence of anguish and trauma that I am suffering:

- So murder victim families don't have to fight for justice
- So murder victim families don't have to fight for community safety
- So murder victim families don't have to be re-traumatised by having to constantly re-live the murder every parole review and fight parole.
- So murder victim families don't have to be re-traumatised by the thought of being responsible to prevent more murders.
- So murder victim families don't have to be re-traumatised by having to mount public media campaigns to fight parole release.

Impact of parole breaches in re-traumatising the victim family and my campaign fight to cancel Bakewell's parole

Since being released on parole in September 2016, Bakewell has breached parole four times for taking drugs – the same drugs he took the night he raped and murdered Anne-Marie Culleton.

The South Australia Parole Board refused to revoke his parole and released him for the fifth time in October 2019.

After the second parole breach I became so alarmed, I realised I had no choice but to fight to have Bakewell's parole revoked. My alarm was amplified when I was doing research on him and discovered while reading his Police Interview that he had breached parole in 1987 and was on the run from South Australia when he raped and murdered my sister. And that while on the run he had travelled to NSW and QLD before arriving in the Northern Territory. This revelation made me realise no woman in Australia is safe from Jonathan Bakewell.

In March 2019 I wrote to the South Australian Premier, Attorney General and Police and Correctional Services Minister, calling for urgent action.

In the meantime Bakewell breached parole again and in April 2019 he was sent back to custody. When my letters to the politicians were dismissed, with Bakewell's parole hearing scheduled for June 2019 I began a media campaign, speaking publicly for the first time in 31 years, first to the Sunday Mail³³ and then to the radio, 5AW Breakfast³⁴.

I also contacted the Opposition and questions were asked in the SA Parliament of the Premier in July 2019³⁵.

Bakewell's parole hearing was deferred to October. In the meantime I was contacted by members of the public who had been in contact with him and were alarmed at his behaviours and had written to the parole board calling for his parole to be revoked. I made a 53 page submission to the parole board which I copied to the key politicians and others, calling for the revocation of Bakewell's parole and for an urgent review of the parole board.

In October I mounted another media campaign, speaking on the TV news for the first time.³⁶ Unfortunately my campaign was not successful, my pleas fell on deaf ears and Bakewell was released for the fifth time on 18 October 2019.

I am horrified about this and am convinced from the new information that I received during my campaign that Bakewell is a sadistic rapist murderer who is just as dangerous today as he was the day he raped and murdered my sister.

³³ <https://www.adelaidenow.com.au/truecrimeaustralia/sister-of-annemarie-culleton-who-was-raped-and-murdered-in-1988-by-jonathon-bakewell-urges-parole-board-to-cancel-his-release/news-story/ac034390f9f68c9afc1c0138147717d9>

³⁴ <https://www.fiveaa.com.au/shows/david-and-will/Woman-s-Warning-As-Parole-Board-Considers-Releasing-Man-Who-Killed-Her-Sister>

³⁵ <https://twitter.com/EileenCulleton/status/1154320945189752832?s=20>

³⁶ https://7news.com.au/news/crime/convicted-murderer-and-rapist-jonathan-bakewell-to-walk-free-in-sa-c-508850?utm_campaign=share-icons&utm_source=facebook&utm_medium=social&tid=1571314920738&fbclid=IwAR3kWoCkDFuOGq1kdwY3bgu9Eh1IB-ZvhyFJ_UtFbMzoaTsd02Bx0OMIAc

Eileen Culleton Submission to NT Mandatory Sentencing Consultation Paper 2020

The problem is, that even if Bakewell breaches again and his parole is revoked, I will have to fight the parole release battle for the rest of my life because he could be eligible to re-apply every 12 months as is the law in South Australia.

It is the victim families who are given the life sentence of fighting against the release of these rapist murderers.

Bakewell's Parole Breaches for drug taking

- Bakewell was released from prison on 8 September 2016 after serving 28 years for the rape and murder of Anne-Marie Culleton on 23 February 1988. The original sentence was life without parole.
- 4 July 2017 Bakewell's first breach - the Parole Board did not jail Bakewell and did not notify the victim family of the breach.
- 15 November 2017 he was jailed after his second breach (four and a half months)
- 25 September 2018 he was jailed after his third breach (for only 5 weeks).
- 26 April 2019 Bakewell was jailed after his fourth breach.
- 18 October 2019 Bakewell was released for the fifth time

Bakewell's long history of breaching parole and bail

- Bakewell's history of breaching parole and bail dates back to 1980.
- In 1980 Bakewell breached bail for the charge of robbery in company involving the assault of a woman. He went on the run interstate for 7 years. He lived and worked in Sydney.
- Bakewell also went overseas to New Zealand for 12 months before he was deported. I don't know why he was deported.
- In November 1987 he was released on parole in South Australia after finally serving jail time for the 1980 robbery in company charge.
- November 1987 he breached parole by leaving the state, going to NSW, QLD and the NT.
- Bakewell caught buses and hitchhiked through multiple states. In NSW he passed through Sydney and Taree. In Queensland he travelled up to Cairns. He then travelled to the Northern Territory to Darwin.
- 23 February 1988 there was a warrant out for his arrest for the parole breach and he was on the run interstate in Darwin when he raped and murdered Anne-Marie Culleton.
- After the murder Bakewell used false names and caught buses and hitchhiked from Darwin to Alice Springs where he was apprehended two hours before catching a bus to Adelaide.
- During questioning for Anne-Marie Culleton's murder Bakewell told police he had breached parole before with no repercussions.