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Reaction to Sentencing Procedures

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Role of the Court Chaplain

To support whoever requires assistance within the court system whether that be victim or defendant.

To assist in ALL COURTS where people ask for this assistance, maybe a one off Court case, or a hearing, or to sit beside a witness who fears having to face an offender or to be beside a family in a trial and then sit with them through the sentencing process.

To offer spiritual, physical and emotional support to all who enter the Court House.

To visit families following Court matters, to follow through with people sentenced to custody following a verdict etc. this is often after being found guilty in a trial.

To offer options to a Court for sentencing, such as diversion programs or rehabilitation.

To remain non-judgemental on all occasions.

Sentencing

When an offender is convicted following a trial or guilty plea, the court has a range of sentencing options available. These of course depend on the type, the seriousness and the circumstances of the crime and the maximum penalty available to the Court.

The judge or magistrate giving sentence must consider punishing the offender, reducing crime, rehabilitation, protecting the public and whether the offender showed remorse.

As Chaplains we are often asked to assist the Court with options to help the judge or magistrate in determining their sentence:

1. rehabilitation
2. diversion programs
3. financial counselling
4. relationship counselling.

Politicians and media often rely on crime statistics to lend weight to sensational stories. Often they are used by people to suggest that crime is increasing because sentences are too lenient.

People favour rehabilitation as a purpose of sentencing for young offenders, first time offenders and property offences, but unfortunately the perception can still be that rehabilitation is generally not always effective.

Sentencing is part of the criminal justice system that often attracts a large amount of media attention. Therefore sentencing acts as a focal point for all kinds of political and social debates about crime and justice.

Public opinion exercises great influence over government policy, sometimes at the expense of expert opinion. Fear of crime is capitalised upon by populist policies advocating tougher sentencing measures. This means that calls for harsher or mandatory sentences can carry political weight despite expert opinion and evidence asserting that such measures are ineffective in reducing crime.

Where do we, as chaplains and volunteers in the court, fit into the sentencing roles?

We are often there with family or victim when the sentencing has taken place and the Judge/Magistrate leaves the bench and therefore does not see the reaction and hear the questions that are asked.

Illustrations:

A number of instances will be presented as to reaction to sentences handed out:

- Family
- Lawyers
- Victims
- Children
- Offender
- Corrective Services
- Media

Most asked questions and comments

- What was the Judge talking about in that 2 hour lead up to the sentence?
- Why does the Judge/Magistrate have to go through all that evidence once it has been heard in the trial or hearing?
- Why do they need a psychiatrist report when there are no mental health issues?
- Why can't they use expressions that the general public can understand?
- Does my loved one have the right to appeal this decision?
- How am I going to cope without him or her ?
- How do I tell my children their mum or dad is not coming home?
- If my son was a drug addict he would have received a lighter sentence, but he is not!!!!
- How can they believe what he/she is saying?
- He needs rehabilitation not goal.

Language of the Court

Many clients and families/victims struggle with the interpretation of sentencing in court. They hear lawyers and judges talking about issues they do not know the meaning of. They hear stories of past sentencing and fail to see how that can affect the offender. They have sat through all the evidence, and for some have relived the crime, yet when it comes to sentencing some time later they have to live it all again.

If an offender has mental health issues or has a physical illness and is uncomfortable, they still have to sit for two hours or more in the dock contemplating their future. They are often embarrassed by the amount of people in the Court room, as their past and present is disclosed.

How can this structure change?

Maybe the sentencing procedure should be explained to those in Court before it actually takes place. Explaining step by step what will occur will make it more understandable for those concerned (family, accused, support person).

Explaining the need to go through everything again may assist those concerned. For example; why was a psychiatric report required? Why was a pre sentence report prepared?

People often become anxious when they hear the maximum sentence or fine given and they are left until the final stage of sentencing process to find out if that is going to happen to them.

When someone is on multiple charges, the sentence is either accumulated or concurrent, which is often confusing.

Although at the end of the sentence the lawyer will try and explain to the family the outcome, it is still difficult for them to understand as they are feeling frustrated, anxious and/or distressed.

Quite often there is confusion over the sentence because the magistrate or judge has been speaking so quietly that no one, including the accused, has been able to comprehend what is being said. On many occasions, I have had both family, victim and lawyers say it was too hard to hear what was being said.

Summing up

Sentencing could be easier for all concerned if:

1. an explanation is made of the proceeding that is about to take place
2. how the sentence will be decided
3. the judge, lawyers and prosecutors speak up so that they can be understood
4. when there are multiple charges that need to be dealt with, there is confusion as to the final sentence. Also, maybe the final date of release should be stated.