

PUBLIC CONSULTATION ON FURTHER SENTENCING GUIDELINES

QUESTIONNAIRE FOR CRIMINAL JUSTICE STAKEHOLDERS

28 June to 19 July 2021

MANSLAUGHTER BY REASON OF PROVOCATION

MANSLAUGHTER BY REASON OF AN UNLAWFUL ACT

Name

Role & Organization

Date

CONSULTATION QUESTIONS ON THE TWO PROPOSED SENTENCING GUIDELINES

Please expand the form in Word as needed for each response

and also if better re-attach the guidelines marked with tracked changes and comment boxes

Q1 Concerning each guideline, the Sentencing Advisory Committee (SAC) has proposed criteria in boxes for assessing 'consequences' and 'seriousness' in order to categorize offences. Do you agree with the box contents? Should other factors be added? If so, which?

Q2 Concerning each guideline, the SAC has proposed non-exhaustive lists in boxes of aggravating and mitigating factors pertaining to the offence and the offender. Do you agree with the lists? Should other factors be added? If so, which?

Q3 Concerning each guideline, applying the maximum sentence on the island where you live or practice, using imaginary case scenarios do you agree with the sentences contemplated? If not, what different sentences would you propose and why?

Q4 Considering each guideline, the grid at step 3 of stage 1 is expressed in years, not percentages as with all other guidelines, except murder where there is a practice direction expressing sentences in years. The thinking has been that manslaughter by reason of provocation or unlawful act is often a lesser plea or conviction on murder indictments, and so years are expressed to maintain consistency of approach where for murder as above sentences are in years. Do you think the manslaughter sentencing should be expressed in percentages to be consistent with the other guidelines?

Q5 Considering each guideline, at step 3 there is maximum credit available for plea if at the earliest practicable opportunity. Where there is a plea on a murder indictment, should this credit apply, or should the 'credit' be deemed the acceptance of the partial defence as a lesser plea to what is otherwise murder?

Q6 Considering the provocation guideline, does its structure take sufficient account of situations of long-term domestic violence, where instead of a spontaneous outburst of violence, there is slow-burn provocation, accumulating over time, resulting in a 'last straw' causing the killing? If not, what changes do you propose?

Q7 Considering the provocation guideline, at stage 2 of step 1 there is contemplation of a division between provocation arising from 'adultery' or 'infidelity'. Does this make sense? Is it a good idea? If so, is the definition of infidelity appropriate, or should it be more loosely defined as any sexualized provocation not being adultery; or if not, what definition do you propose?

Q8 Please state any other comments you may have, whether in general, or specific to the guidelines.