



MEDIA RELEASE

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AUSTRALIAN BAR ASSOCIATION WELCOMES NEW LEGISLATION ADDRESSING FINE DEFAULT IMPRISONMENT IN WESTERN AUSTRALIA

The Australian Bar Association has today welcomed the Western Australian government's new legislation aimed at reducing the rate of Indigenous incarceration for non-payment of fines.

ABA President Patrick O'Sullivan QC commended the announcement saying, "Imprisonment for default of payment is unjust, unfair to poor offenders, dangerous to vulnerable offenders, expensive and disproportionate in its effect on indigenous offenders. Today's announcement is a one step in the right direction to addressing Western Australia's alarming Indigenous incarceration rates."

The new Sentencing Legislation Amendment Bill 2016, introduced into Western Australia's Parliament by Attorney General Michael Mischin, proposes allowing an offender to undertake community work in lieu of paying a fine under an enhanced Conditional Release Order regime.

Last week, ABA President Patrick O'Sullivan QC met with the Western Australian Attorney General Michael Mischin to discuss fine default imprisonment and its impact on the State's Indigenous incarceration rates.

Along with changes to fine default imprisonment, Mr O'Sullivan QC also proposed the removal of mandatory sentencing and increased investment into justice reinvestment programs as a way to tackle Indigenous incarceration rates, with a particular emphasis on Indigenous youth incarceration.

"In Australia, Indigenous children and teenagers are 24 times more likely to be incarcerated than their non-Indigenous peers. However, in Western Australia, young Indigenous people are 52 times more likely to end up behind bars. These rates are unacceptable and continue to be a matter of deep concern to the Australian Bar Association," said ABA President, Patrick O'Sullivan QC.

"In Western Australia, it costs about \$300,000 per year to keep a child in detention. Given the fact they are more likely to graduate to adult prison than graduate from high school, we're clearly not investing that money very effectively."

The Australian Bar Association has proposed the following options to assist the Western Australian government to make cost effective and practical changes that would further reduce Indigenous incarceration rates:

- Removal of mandatory sentencing laws that have the biggest impact on Indigenous people but deliver minimum effects, such as minor assault, some driving offences and minor theft.
- Invest in Justice Reinvestment: Channel money that would have been spent on housing prisoners into community projects aimed at keeping Indigenous offenders out of prison. Oregon (US) experienced a 72% drop in juvenile incarceration after the state reinvested \$241 million from prison spending to treatment programs and improved probation and parole services.

“The over-representation of Indigenous people in incarceration is a national disgrace. It is time to take action that addresses the problem and delivers better justice outcomes for Indigenous Australians and the country as a whole.”

Rates of Indigenous incarceration in Western Australia:

- Indigenous people account for 3% of the Western Australian population, yet they make up approximately 40% of the prison population.
- The rate of imprisonment of Indigenous women is rising faster than the rate pertaining to males, with Indigenous women now comprising more than 50% of the female prison population in Western Australia.
- In Western Australia, Indigenous people aged between 10-17 are 52 times more likely to be incarcerated than non-Indigenous children.
- The gap between Indigenous and non-Indigenous incarceration rates has grown every year since 2010-11.

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