

## **Caution and safeguards necessary in any move by Australia's AGs toward nationally consistent post-sentence preventative detention scheme**

The Law Council of Australia has welcomed the emphasis on maintaining safeguards in any nationally consistent post-sentence preventative detention scheme, as Australia's Attorneys-General meet today.

Ahead of talks, Federal Attorney-General the Hon George Brandis QC has indicated this morning that: "any post-sentence preventative detention regime contain a range of safeguards, including that only a court will be able to decide whether a person should be detained beyond the expiry of their sentence. This decision will be appealable and subject to regular review."

In addition, Mr Brandis noted that: "To make a continuing detention order, the court would need to be satisfied to a high degree of probability, on the basis of admissible evidence including experts' reports and psychological assessments, that the offender posed an unacceptable risk of committing a serious terrorist offence if released into the community, and that no other less restrictive measure would be effective."

Law Council of Australia President, Stuart Clark AM, has welcomed Mr Brandis's emphasis on safeguards ahead of the meeting, and urged the Attorneys-General from around the nation to proceed with caution.

"Keeping Australians safe from terrorism is obviously a profoundly important goal for governments at every level, but altering our post-sentence detention laws must be considered very carefully so as not to compromise the rule of law," Mr Clark said.

"The Attorneys-General who are meeting today have a heavy responsibility to ensure any post-sentence preventative detention regime accords with Australia's rule of law principles. If we fall short in this regard the forces of global terrorism will have claimed a victory over our nation."

Mr Clark noted several safeguards that needed to be part of any post-sentence detention scheme.

"Applications for post-sentence controls must always be heard by a court where the person who is the subject of the application is given the opportunity to answer the material on which the application is based," Mr Clark said.

"The scheme must be monitored by those responsible for its administration, the Parliament and the Independent National Security Legislation Monitor, and all orders must be periodically reviewed. The person who is the subject of the order must also be able to apply to the court to have their case reviewed should their circumstances change.

"There should also be a commitment that any new legislation, at any level, should also be reviewed within three years of its commencement."

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