



AUSTRALIAN BAR ASSOCIATION

MEDIA RELEASE

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ABA opposes Victoria's proposed 'one punch' laws with mandatory sentences

The Australian Bar Association (ABA) has added its voice to the growing opposition within the profession to mandatory sentencing following the announcement in Victoria of proposed statutory minimum sentences of 10 years for 'one punch' or 'coward punch' assaults that lead to death.

The Victorian Government announced on Sunday it would introduce new laws which would require courts to sentence 'one punch' offenders, where the punch led to a fatality, to a minimum of 10 years in jail as part of its 'tough on crime' agenda.

"We oppose mandatory sentences, including legislated minimum sentences, in all States and territories on the basis that they do not achieve the stated policy objective – which is to deter offenders," said ABA President Mark Livesey QC.

"A series of cases have attracted a great deal of media attention, and while they are heinous acts and deserve severe punishment, we also need to recognise that they are often opportunistic acts, often fuelled by alcohol, and offenders are not likely to pause to consider that there is a mandatory sentence; as a deterrent these sentences have limited or no value," he said.

Mr Livesey highlighted that NSW had recently wound back proposal for a harsh mandatory sentencing Bill on the basis that judicial discretion was critical in the proper administration of justice. The NSW Government's Bill proposed mandatory minimum sentences between three to five years for a range of offences.

"Any imposition of mandatory sentencing undermines judicial discretion. We want our courts to be able to take into account all the facts of a case and to make a judgement relative to other cases, the severity of the offence and the circumstances. Research indicates that the public agrees with judges – once they know more about the case and not just a simplistic media report.

"And it should not be underestimated the cost involved in mandatory sentences. When there is so much to lose and nothing to gain from taking responsibility from an admission of guilt, more cases will run to trial. That is costly for courts, the prison system, and traumatic for the families of victims. The case for making these changes to sentencing and the results expected has not been made," Mr Livesey concluded.

Media inquiries: Jacqueline Stone 0403 272 843 or Mark Livesey 0402 149 606