

# MEDIA RELEASE

## TARGETS MISS THE MARK ON JUSTICE FOR FIRST NATIONS



NEW SOUTH WALES  
BAR ASSOCIATION

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The New South Wales Bar Association has expressed its dismay at the unambitious justice targets announced by the Federal Government today which fail to prioritise critical initiatives to address the over-representation of First Nations People in Australia's criminal justice system, and are not accompanied by any additional funding.

"First Nations People remain unacceptably over-represented in NSW prisons and the criminal justice system, despite a number of reports and inquiries over some decades," the President of the New South Wales Bar Association, Tim Game SC, said today.

"As the 2018 *Uluru Statement from the Heart* recognises, this is not because First Nations People are innately criminal. As the Statement says, 'These dimensions of our crisis tell plainly the structural nature of our problem. *This is the torment of our powerlessness.*'

"Even now, action has not been taken to urgently address the inherent structural problems that remain in our criminal justice system. Findings of the Australian Law Reform Commission's 2018 [Pathways to Justice Report](#) remain unanswered, despite having widespread support from First Nations led organisations and the legal profession. Just this week the Council of Attorneys-General again put off consideration of raising the minimum age of criminal responsibility.

"A target aiming to reduce adult incarceration by 15% by 2031 is unambitious, disappointing and does not reflect the urgency with which this crisis must be addressed," Mr Game said.

The Association calls on the Commonwealth and NSW Governments to respond to, fund and implement the *Pathways to Justice Report*, including the following 10 urgent priorities:

1. the establishment of an independent justice reinvestment body, overseen by a Board with Aboriginal and Torres Strait Islander leadership, and the initiation of justice reinvestment trials to promote engagement in the criminal justice system;
2. the establishment of properly resourced specialist Aboriginal and Torres Strait Islander sentencing courts to be designed and implemented in consultation with Aboriginal organisations, including the Walama Court in the NSW District Court;
3. repeal of mandatory or presumptive sentencing regimes which have a disproportionate effect on Aboriginal offenders;
4. the expansion of culturally appropriate community-based sentencing options, resourced and supported by the State Government;
5. the diversion of resources from the criminal justice system to community-based initiatives that aim to address the causes of Indigenous incarceration;
6. the revision of bail laws to require bail authorities to consider cultural issues that arise due to a person's Aboriginality;
7. raising the minimum age of criminal responsibility and the minimum age of children in detention to 14;
8. the abolition or restriction of offences relating to offensive language to genuinely threatening language;
9. fine default should not result in imprisonment in lieu of or as a result of unpaid fines; and
10. the introduction of specific sentencing legislation to allow courts to take account of unique systemic and background factors affecting First Nations People.

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