

MEDIA RELEASE

COMPREHENSIVE RESPONSE TO INDIGENOUS INCARCERATION REQUIRED FROM GOVERNMENTS



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Federal and State governments must unite to address the appalling rates of Indigenous imprisonment in this country, the President of the New South Wales Bar Association Tim Game SC said today.

“A year ago the Australian Law Reform Commission released its Pathways to Justice Report, which recommended a suite of reforms aimed at reducing Aboriginal disadvantage in the justice system. Yet, twelve months on from the ALRC report, we have not seen any commitment from Federal or New South Wales Governments to implement and properly resource the report’s recommendations” Mr Game said.

“Although Aboriginal and Torres Strait Islanders constitute 2% of the national population, they comprise 27% of the national prison population. Furthermore, Aboriginal and Torres Strait Islander women constitute the most significantly over-represented population in Australian prisons and their rate of incarceration is increasing more rapidly than any other group. The Australian Law Reform Commission’s Report provided a comprehensive blueprint for urgent action to address the shameful over-representation of Aboriginal and Torres Strait Islander people in our prisons” Mr Game said.

Key recommendations in the Report include:

- Improved access to justice through increased funding of Aboriginal and Torres Strait Islander legal services;
- 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 the diversion of resources from the criminal justice system to community based initiatives that aim to address the causes of Indigenous incarceration;
- the adoption of Aboriginal Justice Agreements in each jurisdiction;
- the introduction of specific sentencing legislation to allow courts to take account of unique systemic and background factors affecting Indigenous peoples;
- the repeal of mandatory sentencing regimes which have a disproportionate effect on Aboriginal offenders;
- the establishment and proper resourcing of specialist Aboriginal and Torres Strait Islander sentencing courts, in particular the Walama Court, to be designed, implemented and in consultation with Aboriginal organisations.

“All of these recommendations are supported by the Association as important initiatives which will contribute to addressing Aboriginal incarceration rates” said Mr Game.

“The Association is particularly alarmed at the increasing number of Aboriginal and Torres Strait Islander women in custody. Nationally, Indigenous children are also heavily over-represented”.

“A consistent theme of the Report is the need for Commonwealth, State and Territory Governments to provide sufficient resources to ensure that the ALRC’s proposals can be effectively implemented in consultation with Aboriginal communities and organisations” said Mr Game.

“One pressing reform that has been advocated by the New South Wales Bar Association is the establishment of the Walama Court, a specific Indigenous adult sentencing court in NSW. Despite the advocacy of the Association and other groups including the Police Association of NSW, the NSW Government has not moved to implement this recommendation. We see the establishment of the Walama Court as a crucial step in addressing Indigenous over-representation in the justice system and urge the State Government to establish and properly fund the Walama Court as a matter of priority” Mr Game said.

“Indigenous imprisonment rates represent a blight on our justice system and without a meaningful response from government the problem will only get worse. Major changes to facilitate substantive, not just formal, equality before the law are urgently required” said Mr Game.

“The time for action is now – it is an embarrassment that, twelve months on from the ALRC Report, there has been no meaningful response from Federal and State governments on what is the most important single issue facing our justice system.” Mr Game said.

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