

## **Law Council calls for mandatory sentencing to be dropped for alcohol-related offences on 25th anniversary of Aboriginal Deaths in Custody Royal Commission**

The Law Council of Australia will tell a Senate inquiry into the need for a nationally-consistent approach to alcohol-fuelled violence today that mandatory minimum penalties for alcohol-fuelled violence offences should be repealed.

The peak body for Australian lawyers emphasised that mandatory sentencing is not effective as a deterrent or consistent with rule of law principles. Alternate approaches could, for example, include tougher maximum sentences, targeted diversion or justice reinvestment.

However the Law Council's president, Stuart Clark AM, said the capacity of judges to exercise discretion was critical and cited the recent case of an Irish tourist who punched his brother in Sydney as an example of the danger 'one-size-fits-all' nature of mandatory sentencing.

"This case serves as a salient wake-up call for the perverse outcomes mandatory sentencing can create," Mr Clark said.

"If Barry Lyttle had been just a little more intoxicated and if his brother had died in hospital, we would have seen an automatic sentence of eight years in prison. How would such an outcome have served the community?"

"Mandatory sentencing undermines central principles of our justice system. It can actually create greater law and order problems, because we know that imprisonment can increase the chances of an individual engaging in more serious criminal acts down the track.

"Opposing mandatory sentencing does not mean being 'soft on crime.' Harsher maximum sentences can be introduced, but allowing judges room to examine the unique circumstances of a case is vital. Exercising judgement is what judges are there for."

Mr Clark also noted that mandatory sentencing for alcohol-related offences — as well as more broadly — was having a devastating effect on Australia's Indigenous imprisonment crisis.

"It is 25 years to the day since the Royal Commission into Aboriginal Deaths in Custody shocked the nation with its findings and things are now much, much worse," Mr Clark said.

"Whereas Indigenous Australians were seven times more likely to find themselves behind bars than their fellow citizens in 1991, today they are 14 times more likely. We have to open our eyes to the effect mandatory sentencing is having on this shameful national crisis.

"COAG should work toward a national agreement on alcohol-fuelled violence; and needs to establish a new National Indigenous Law and Justice Framework, setting out and funding an effective intergovernmental response to Indigenous crime and imprisonment.

"The rapid increase in prison rates since the 25th Anniversary of the Royal Commission into Aboriginal Deaths in Custody requires urgent intergovernmental action, starting with removal of mandatory sentencing laws."

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