

8. Mandatory Sentencing

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Summary

8.1 Evidence suggests that mandatory sentencing increases incarceration, is costly and is not effective as a crime deterrent. Mandatory sentencing may also disproportionately affect particular groups within society, including Aboriginal and Torres Strait Islander peoples—especially those found guilty of property crime.

8.2 The ALRC recommends that Commonwealth, state and territory governments should repeal sentencing provisions which impose mandatory or presumptive terms of imprisonment upon conviction of an offender, and that have a disproportionate impact on Aboriginal and Torres Strait Islander peoples. This chapter does not provide an exhaustive list of such provisions because complete data is not available. Instead, this chapter highlights those mandatory sentences attached to offences that have been identified by stakeholders as having a disproportionate impact on Aboriginal and Torres Strait Islander peoples and suggests that states and territories do further work to identify and repeal mandatory sentence provisions that in practice have a disproportionate impact on Aboriginal and Torres Strait Islander peoples.

Impact of mandatory sentencing

8.3 Mandatory sentencing laws require that judicial officers deliver a minimum or fixed penalty (for the purposes of this Report, a term of imprisonment) upon conviction of certain offences on an offender.¹ While, mandatory sentencing laws are found in most Australian jurisdictions in various forms,² they are a departure from the standard

¹ This chapter does not consider strict liability offences.

² See, eg, *Migration Act 1958* (Cth) s 236B; *Crimes Act 1900* (NSW) 1900 s 19B(4); *Criminal Law Consolidation Act 1935* (SA) s 11; *Misuse of Drugs Act* (NT) s 37(2); *Sentencing Act* (NT) s 78F; *Domestic and Family Violence Act* (NT) s 121(2); *Crimes Act 1958* (Vic) ss 15A, 15B; *Road Traffic Act 1974* (WA) ss 60, 60B(3); *Criminal Code Act Compilation Act 1913* (WA) ss 297, 318.

approach to legislating the sentence for criminal offences in Australia. The standard approach is to provide a maximum penalty that may be imposed upon conviction, based on the parliament's assessment of the relative severity of the offence. This approach leaves sentencing courts to assess and determine the appropriate sentence in each individual case up to, and including, the maximum.³

8.4 The removal of the usual discretion of the court to consider mitigating factors or to utilise alternative sentencing options to deal with an offender are defining features of such provisions. Mandatory sentencing laws may apply to certain offences, or to particular types of offenders—for example, repeat offenders.

8.5 Presumptive minimum sentences can have a similar effect to mandatory minimum sentence, so much so, that stakeholders to this Inquiry generally grouped issues relating to mandatory and presumptive sentencing together.⁴ While mandatory sentencing provisions tend to entirely limit judicial discretion in relation to sentencing, offences with presumptive penalties allow for judicial discretion in sentencing, but only if 'there is a demonstrable reason—which may be broadly or narrowly defined'.⁵ Aboriginal Legal Service of WA (ALSWA) raised the presumptive penalty in relation to s 61A of the *Restraining Orders Act 1997* (WA), which related to repeated breach of violence restraining orders (VROs).

8.6 ALSWA noted that:

The sentencing court can deviate from the presumptive penalty if imprisonment or detention would be 'clearly unjust' given the circumstances of the offence and the person, and the person is unlikely to be a threat to the safety of a person protected by the order or the community generally.⁶

8.7 Parliaments have tended to regard fixed or minimum penalty provisions as a means of addressing community concerns that sentences handed down by the courts are too lenient when sentencing offenders.⁷ The arguments put in favour of mandatory or presumptive sentencing provisions include that they:

- promote consistency in sentencing;
- deter individuals from offending;
- denounce the proscribed conduct;
- ensure appropriate punishment of the offender; and

³ See ch 6.

⁴ Sisters Inside, *Submission 119*; Northern Territory Government, *Submission 118*; North Australian Aboriginal Justice Agency, *Submission 113*; Law Society of Western Australia, *Submission 111*; National Aboriginal and Torres Strait Islander Legal Services, *Submission 109*; Law Council of Australia, *Submission 108*; NSW Bar Association, *Submission 88*; Change the Record Coalition, *Submission 84*; Aboriginal Legal Service of Western Australia, *Submission 74*; Aboriginal Legal Service (NSW/ACT), *Submission 63*; Caxton Legal Centre, *Submission 47*; Victorian Aboriginal Legal Service, *Submission 39*; Legal Aid WA, *Submission 33*.

⁵ NSW Parliamentary Research Service, *Mandatory Sentencing Laws* (2014) 2.

⁶ Aboriginal Legal Service of Western Australia, *Submission 74*.

⁷ Crimes and Other Legislation Amendment (Assault and Intoxication) Bill 2014, NSW Parliamentary Debates, Legislative Assembly, 30 January 2014, 26621-5 (Barry O'Farrell, Premier).

- protect the community through incapacitation of the offender.⁸

8.8 There is evidence that mandatory sentencing increases the incarceration rate. For example, the Senate Legal and Constitutional Affairs Reference Committee noted that:

The Chief Magistrate of the Northern Territory provided the committee with evidence of incarceration rates as a result of the imposition of mandatory sentencing in the Northern Territory during the period 1997 to 2001. The Chief Magistrate noted that the imprisonment rate was 50 per cent higher during this period than following repeal of the laws. Non-custodial orders such as home-detention and community work were almost unused for property offences during the mandatory sentencing era.⁹

8.9 Stakeholders also noted that mandatory or presumptive penalty provisions:

- are ineffective—there is little evidence that mandatory sentences act as deterrents;
- constrain the exercise of judicial discretion;
- heighten the impact of charging decisions that are within the discretion of police and prosecutors;
- contradict the principles of proportionality¹⁰ and ‘imprisonment as a last resort’;¹¹ and
- reduce incentives to enter a plea of guilty, resulting in increased workloads for the courts.¹²

8.10 The North Australian Aboriginal Justice Agency (NAAJA) submitted that, mandatory sentencing law focus ‘on punitive and retributive aspects of sentencing and the fallacy of crime prevention through deterrence.’¹³ The National Association of Community Legal Centres (NACLC) submitted that mandatory sentencing laws ‘are arbitrary and undermine basic rule of law principles by preventing courts from exercising discretion and imposing penalties tailored appropriately to the circumstances of the case and the offender.’¹⁴

8 For a detailed discussion on these points, and the Law Council’s response to them, see Law Council of Australia, *Policy Discussion Paper on Mandatory Sentencing* (2014).

9 Senate Standing Committees on Legal and Constitutional Affairs, Parliament of Australia, *Value of a Justice Reinvestment Approach to Criminal Justice in Australia* (2013) [2.37].

10 *Chester v The Queen* (1988) 165 CLR 611.

11 See for example *Crimes (Sentencing) Act 2005* (ACT) s 10; *Crimes Act 1914* (Cth) s 17A; *Crimes (Sentencing Procedure) Act 1999* (NSW) s 5; *Penalties and Sentences Act 1992* (Qld) s 9(2)(a)(i); *Criminal Law (Sentencing) Act 1988* (SA) s 11; *Sentencing Act 1991* (Vic) ss 5(4)-5(4C); *Sentencing Act 1995* (WA) ss 6(4), 86. See ch 6.

12 See, eg, Victorian Aboriginal Legal Service, *Submission 39*; The Light Bulb Exchange, *Submission 44*; Caxton Legal Centre, *Submission 47*; International Commission of Jurists Victoria, *Submission 54*; Australian Lawyers for Human Rights, *Submission 59*; Aboriginal Legal Service (NSW/ACT), *Submission 63*; Human Rights Law Centre, *Submission 68*; Criminal Lawyers Association of the Northern Territory, *Submission 75*; National Association of Community Legal Centres, *Submission 94*.

13 North Australian Aboriginal Justice Agency, *Submission 113*.

14 National Association of Community Legal Centres, *Submission 94*.

8.11 Similarly, Kingsford Legal Centre noted that:

Mandatory sentencing undermines the fundamentals of the Australian legal system such as the Rule of Law and is inconsistent with the separation of powers, by allowing the executive branch of government to direct the exercise of judicial power and to limit judicial discretion. Mandatory sentences also contradict a number of sentencing principles, such as that Courts must have regard to the gravity of the offence, the impact on the victim, and the circumstances of the offending and the accused when imposing a sentence. In particular, mandatory sentences which impose a sentence of imprisonment go against the presumption that imprisonment should be a measure of last resort and only where no other sentencing option is sufficient.¹⁵

8.12 The Criminal Lawyers Association of NT (CLANT) and NT Legal Aid, referred to Mildren J's description of prescribed mandatory minimum sentences as the 'very antithesis of just sentences' in the NT Supreme Court matter of *Trennery v Bradley*.¹⁶ Mildren J went on to say that

if a court thinks that a proper just sentence is the prescribed minimum or more, the minimum prescribed penalty is unnecessary. It therefore follows that the sole purpose of a prescribed minimum mandatory sentencing regime is to require sentencers to impose heavier sentences than would be proper according to the justice of the case.¹⁷

8.13 While increasing incarceration, there is no evidence that mandatory sentencing acts as a deterrent and reduces crime.¹⁸ In fact, Victorian Aboriginal Legal Service (VALS) suggested that:

As opposed to providing a deterrent, the impact of mandatory minimum sentences and terms of incarceration for youth means a rise criminogenic behaviour learned within the prison system.¹⁹

8.14 The National Aboriginal and Torres Strait Islander Legal Services (NATSILS) submitted that such regimes can result in 'serious miscarriages of justice':

Mandatory sentencing regimes are not effective as a deterrent and instead contribute to higher rates of reoffending. In particular, [they] fail to deter persons with mental impairment, alcohol or drug dependency or persons who are economically or socially disadvantaged. They also have no rehabilitative value, disrupt employment and family connections ... and diminish the prospects of people re-establishing social and employment links post release. Significantly, mandatory sentencing prevents the court from taking into account the individual circumstance of the person, leading to unjust outcomes. This is an arbitrary contravention of the principles of proportionality and necessity, and mandatory detention of this kind violate a number of provisions of the International Convention on Civil and Political Rights.²⁰

8.15 Stakeholders noted that many mandatory and presumptive sentencing provisions disproportionately impact upon vulnerable groups, including Aboriginal and Torres

15 Kingsford Legal Centre, *Submission 19*.

16 Criminal Lawyers Association of the Northern Territory, *Submission 75*; Northern Territory Legal Aid Commission, *Submission 46*; North Australian Aboriginal Justice Agency, *Submission 113*.

17 *Trennery v Bradley* (1997) 6 NTLR 175.

18 See, eg, Michael Tonry, 'The Mostly Unintended Effects of Mandatory Penalties: Two Centuries of Consistent Findings' (2009) 38(1) *Crime and Justice* 65.

19 Victorian Aboriginal Legal Service, *Submission 39*.

20 National Aboriginal and Torres Strait Islander Legal Services, *Submission 109*.

Strait Islander peoples.²¹ In 2008 and 2014, the UN Committee Against Torture, in its regular reviews of Australia's compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, recommended that Australia abolish mandatory sentencing due to its 'disproportionate and discriminatory impact on the [I]ndigenous population.'²² Kingsford Legal Centre explained that:

a number of the crimes in Australian jurisdictions to which a mandatory sentence is attached are 'crimes of poverty' relating to property offences and theft. As a result, mandatory sentences have a discriminatory impact on people of a low socio-economic status and particular racial groups, including Aboriginal and Torres Strait Islander people.²³

8.16 The NT Anti-Discrimination Commissioner urged the 'repeal of mandatory sentencing provisions as they do not make our communities safer and have disproportionate impact on Aboriginal and Torres Strait Islander people.'²⁴ The NACLCL submitted that:

Of particular concern is the disproportionate impact on Aboriginal and Torres Strait Islander peoples in light of the over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system.²⁵

Repeal mandatory or presumptive sentencing provisions

Recommendation 8–1 Commonwealth, state and territory governments should repeal legislation imposing mandatory or presumptive terms of imprisonment upon conviction of an offender that has a disproportionate impact on Aboriginal and Torres Strait Islander peoples.

8.17 There are principled reasons for opposing mandatory sentencing, including those set out above. In fact, the ALRC has previously recommended against the imposition of mandatory sentences in relation to federal offenders.²⁶ Nevertheless, the Terms of Reference for this Inquiry are focused on those aspects of the criminal justice system that are contributing to the over incarceration of Aboriginal and Torres Strait Islander people. Accordingly, this recommendation requires a focus on those particular offence provisions with a mandatory or presumptive term of imprisonment which have a disproportionate impact on Aboriginal and Torres Strait Islander peoples. Identifying individual offence provisions with a disproportionate impact is not a simple exercise

21 See, eg, Criminal Lawyers Association of the Northern Territory, *Submission 75*; Aboriginal Legal Service of Western Australia, *Submission 74*; Human Rights Law Centre, *Submission 68*; Northern Territory Legal Aid Commission, *Submission 46*; Community Legal Centres NSW and the Community Legal Centres NSW Aboriginal Advisory Group, *Submission 95*.

22 UN Committee against Torture, *Concluding Observations of the Committee against Torture: Australia*, UN Doc CAT/C/AUS/CO/3 (2008).

23 Kingsford Legal Centre, *Submission 19*.

24 Northern Territory Anti-Discrimination Commission, *Submission 67*.

25 National Association of Community Legal Centres, *Submission 94*.

26 Australian Law Reform Commission, *Same Crime, Same Time: Sentencing of Federal Offenders* Report No 103 (2006) recs 21–3.

given the way data are collected.²⁷ With a view to abolition, Commonwealth, state and territory governments should review provisions that impose mandatory or presumptive penalties to determine whether they have a disproportionate impact on Aboriginal and Torres Strait Islander peoples.²⁸

8.18 The next section highlights those provisions identified by stakeholders as having a disproportionate impact on Aboriginal and Torres Strait Islander peoples. Most of those identified by stakeholders related to Western Australia (WA) and the Northern Territory (NT) where mandatory sentencing is most common.

Specific offence provisions

Western Australia

8.19 WA legislation imposes mandatory penalties upon conviction in relation to certain types of offenders, and to a number of offences.

Repeat home burglary

8.20 During initial consultations, sentencing for repeat home burglary (known as the ‘three strikes’ rule) was commonly raised as being of particular concern, and as having a disproportionate impact on Aboriginal and Torres Strait Islander people. The ‘three strikes’ rule provides that an adult offender with two prior convictions for burglary must, upon the third conviction, be sentenced to at least two years imprisonment.²⁹

8.21 Previous reviews concluded that this mandatory penalty ‘had little effect on the criminal justice system’, but did not make any recommendations regarding its retention or otherwise.³⁰ The offence of burglary can capture a broad range of conduct and the mandatory minimum sentences may be problematic, given the variance in the nature and gravity of conduct for which individuals are charged. For example, Legal Aid WA submitted that ‘a person who steals a wallet from a table inside a motel unit by reaching through the window, commits a burglary’.³¹

8.22 Legal Aid WA’s submission offers some insight into the reasons why Aboriginal and Torres Strait Islander offenders may be disproportionately impacted by the repeat burglary provisions:

Most young Aboriginal clients commit offences together. It may be that they are out at night because home is not safe, they are hungry, they are curious or they are simply

27 See ch 3.

28 See, eg, Legal Aid NSW, *Submission 101*; Commissioner for Children and Young People Western Australia, *Submission 16*; Legal Aid WA, *Submission 33*; Victorian Aboriginal Legal Service, *Submission 39*; National Aboriginal and Torres Strait Islander Legal Services, *Submission 109*; Caxton Legal Centre, *Submission 47*; Australian Lawyers for Human Rights, *Submission 59*.

29 *Criminal Code Act Compilation Act 1913* (WA) s 401(4)(b). For an example involving a young Aboriginal man, see *Western Australia v Ryan* (Unreported, District Court of Western Australia, 24 October 2016).

30 Rowena Johns, ‘Sentencing Law: A Review of Developments 1998–2001’ (Briefing Paper No 2/202, Parliamentary Library, Parliament of NSW, 2002) 75, citing Department of Justice (WA), *Review of Section 401 of the Criminal Code* (2001).

31 Legal Aid WA, *Submission 33*.

with the wrong people at the wrong time. Many of them are considered by police as parties to the offences committed by others simply by virtue of agreeing with police that they were 'a lookout', without any plan to commit the actual offence.³²

8.23 The Aboriginal Legal Service WA (ALSWA) confirmed that this provision impacted a number of their clients and provided the following example:

ALSWA acted for B who was a 20-year-old Aboriginal female from a regional location who came to live in Perth. She commenced a relationship and starting using drugs for the first time. B acted as a lookout while her boyfriend committed various burglaries. She was a repeat offender under the legislation despite having no prior convictions other than an offence of providing false details as a juvenile. The client was sentenced to the minimum mandatory term of 2 years' imprisonment; the prosecutor stated at sentencing that this case was not the type of case that the amendments to the 'three strikes home burglary laws' were aimed at and that the conduct did not warrant imprisonment.³³

8.24 In another example, ALSWA described how, but for receiving timely legal advice, a young Aboriginal male may have been mandatorily imprisoned for repeat home burglary after a 'third strike', in which the offender entered a home he believed to have been a friend's house to eat cereal and listen to music.³⁴

Breach of violence restraining orders

8.25 The *Restraining Orders Act 1997* (WA) provides the legal framework for the issuing of orders designed to 'restrain people from committing family violence or personal violence by imposing restraints on their behaviour and activities, and for related purposes.'³⁵ The Act provides for a presumptive penalty for repeat breach offenders. Section 61A(5) of the Act provides that an offender convicted of three or more breaches of a violence restraining order (VRO) will be subject to a presumptive term of imprisonment. The legislation allows a court to divert from the presumptive penalty in limited circumstances.³⁶

8.26 ALSWA reported 'serious concerns' that 'consent is not a defence'³⁷ to breaching a VRO, and that breaches of this type remain subject to the presumptive sentencing regime.³⁸ While most VRO are issued by a judicial officer, the WA legislation also provides for the issuing of a family violence restraining order by police officers.³⁹ A breach of a police issued order can result in a relevant conviction for the purposes of the mandatory presumptive penalty. ALSWA noted that police issued orders

32 Ibid.

33 Aboriginal Legal Service of Western Australia, *Submission 74*.

34 Ibid. The 12 month mandatory term of imprisonment applies where the offence was committed prior to the commencement date of the 2015 amendments. Offences committed after that date are subject to a 2 year mandatory term.

35 *Restraining Orders Act 1997* (WA).

36 Ibid s 61A(6).

37 Nor is it a mitigating factor for the purposes of sentencing: Ibid s 61B(2).

38 Aboriginal Legal Service of Western Australia, *Submission 74*.

39 *Restraining Orders Act 1997* (WA) Div 3A.

do not require the provision of sworn evidence, are not subject to judicial oversight, do not necessarily take into account the views of the victim and are often made by police as a matter of convenience, for example, sometimes police orders are issued against the female victim because the residence belongs to the male and the female is able to access alternative accommodation.⁴⁰

8.27 The Law Reform Commission of WA examined section 61A in the context of family and domestic violence. It reported that stakeholders in the Kimberly region had raised concerns that police orders were frequently not understood by the person bound by the order; or the person did not recall its existence because it was served on them at the scene, often when they were intoxicated.⁴¹ Nevertheless, the Commission was of the view that the limited discretion in s 61A should be retained.⁴²

Other offences

8.28 Stakeholders identified the following additional penalties to the offences for consideration:

- assault public officer (*Criminal Code Act Compilation Act 1913* (WA) s 318(4))
- breach violence restraining order (*Restraining Orders Act 1997* (WA) s 61A)
- reckless driving committed during police pursuit (*Road Traffic Act 1978* (WA) s 60B(5))
- dangerous driving causing death or grievous bodily harm committed during police pursuit (*Road Traffic Act 1978* (WA) s 59 (4A)); and
- dangerous driving causing bodily harm committed during police pursuit (*Road Traffic Act 1978* (WA) s 59A(4A)).

8.29 In relation to driving offences, NATSILS and ALSWA referred to the same case study:

‘John’ was charged with one count of reckless driving, one charge of driving without a licence and one charge of failing to stop. John made a rash and unfortunate decision to drive a motor cycle to work because his employer, who normally picked him up for work, was unable to do so.

When he saw the police he panicked, sped off, drove through a red light and veered onto the wrong side of the road. He had a relatively minor record—his only prior offences were failing to stop, excess 0.02% and driving without a licence. These offences were dealt with in 2010 by the imposition of fines and John had not offended since that time.

40 Aboriginal Legal Service of Western Australia, *Submission 74*.

41 Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws - Discussion Paper* (2013) 94. See also, Legal Aid WA, *Submission 33*.

42 Law Reform Commission of Western Australia, *Enhancing Family and Domestic Violence Laws - Final Report* (2014) 116.

... The magistrate indicated that, if it was not for the mandatory sentencing regime, the sentence would have been less or possibly not one of imprisonment at all.⁴³

Northern Territory

8.30 The ALRC understands that the NT Government is in the process of reviewing provisions that impose mandatory penalties. The ALRC welcomes the review. During this Inquiry, stakeholders in the NT identified a number of mandatory sentencing provisions to be particularly problematic in terms of their application to Aboriginal and Torres Strait Islander offenders. NAAJA submitted that:

The following provisions should be prioritised for immediate repeal, as they disproportionately affect Aboriginal people:

- Part 3 Division 6 of the Sentencing Act – Aggravated property offences;
- Part 3 Division 6A of the Sentencing Act – Mandatory Imprisonment for violent offences;
- Sections 120 & 121 of the Domestic and Family Violence Act;
- Part 3 Division 6B of the Sentencing Act – Imprisonment for sexual offences;
- Section 53A of the Sentencing Act – Mandatory non parole periods for offences of murder;
- Section 37(3) of the Misuse of Drugs Act.

The Northern Territory governments should also abolish:

- Provisions which remove the availability of suspended sentences (or other sentencing alternatives) for certain classes of offences or at all.
- Provisions which remove the availability of home detention orders for offences that are not suspended wholly.
- Mandatory minimum fines for traffic offences such as drive unregistered section 33 and drive uninsured section 34 of the Traffic Act.⁴⁴

8.31 CLANT provided a similar list of offences for repeal.⁴⁵

8.32 The *Sentencing Act* (NT) does not simply apply mandatory sentencing provisions based on the offence committed, but on whether or not the offence is a second or subsequent offence by the offender.⁴⁶ This means that there are mandatory terms of imprisonment attached to some offence levels, and mandatory minimums for others.⁴⁷

43 National Aboriginal and Torres Strait Islander Legal Services, *Submission 109*; Aboriginal Legal Service of Western Australia, *Submission 74*.

44 North Australian Aboriginal Justice Agency, *Submission 113*.

45 Criminal Lawyers Association of the Northern Territory, *Submission 75*.

46 *Sentencing Act* (NT) div 6A.

47 There is an 'exceptional circumstances' provision, which allows a court to deviate from the mandatory minimum term of imprisonment where it is satisfied that the 'circumstances of the case are exceptional', but it must still impose a term of actual imprisonment. See *Sentencing Act* (NT) s 78DI.

8.33 The *Sentencing Act* (NT) classifies individual offences into one of five offence levels. Kingsford Legal Centre submitted that the mandatory sentences in levels 1, 2 and 4 are of ‘particular concern with respect to Aboriginal and Torres Strait Islander people’,⁴⁸ and called for immediate reform. Level 2 mandates a term of actual imprisonment, for ‘any person who unlawfully causes harm to another.’ The provision does not require a consideration of the gravity of the harm caused.⁴⁹

New South Wales

8.34 Legal Aid NSW submitted that the mandatory minimum sentence attaching to the offence of assault causing death (while intoxicated) (so called ‘one punch’ laws) was particularly ‘inappropriate.’⁵⁰ In a 2017 review of those laws, the Aboriginal Legal Service NSW/ACT submitted that such laws should be repealed, because of the potential for the offence to have a disproportionate impact upon Aboriginal and Torres Strait Islander communities.⁵¹

8.35 One punch laws were reviewed by the NSW Department of Justice in 2017 which found the law to be largely untested having been introduced in 2014.⁵² Nevertheless, the Department stated that it ‘supports the retention of the offences and supports the principle of a lengthy sentence of imprisonment for the aggravated offence’.⁵³ The Department recommended that the offence provisions be reviewed again in 2020. The ALRC suggests that such a review should also examine specifically the impact of these laws on Aboriginal and Torres Strait Islander people.

48 Kingsford Legal Centre, *Submission 19*.

49 Ibid.

50 Legal Aid NSW, *Submission 101*.

51 Aboriginal Legal Service (NSW/ACT), Submission to NSW Department of Justice, *Statutory Review of Sections 25A and 25B of the Crimes Act 1900* (6 December 2016).

52 NSW Department of Justice, *Statutory Review of Sections 25A and 25B of the Crimes Act 1900* (2017) 4.

53 Ibid.