

## **STATEMENT BY THE PRESIDENT OF THE NSW BAR ASSOCIATION ON EARLY GUILTY PLEAS AND LEGAL AID**

There are serious concerns about the abolition of committals, the reduction in the quantum of discounts for late pleas, and the abolition of judicial discretion on discount.

The Bar Association supports the goal of seeking to reduce late pleas which result in wasted resources, particularly on behalf of the Court, Police and add stress to victims and witnesses generally. However, the Bar is concerned that the legislation, even if it is successful in achieving a substantial number of earlier guilty pleas, will not reduce the overall numbers or matters which proceed to trial. The scheme is focused on bringing forward pleas of guilty by punishing people who do not plead early not increasing the overall number or rate of pleas for guilty by providing greater discounts.

The curbing of judicial discretion to provide discounts for pleas of guilty after committal will result in fewer pleas of guilty because there is little incentive to plead guilty once a person is committed for trial. The sentencing discretion of judges should not be interfered with. The result is more trials and longer delays. The legislation ignores the fact that sometimes there is late disclosure of evidence during the trial that leads a accused to form a view to plead guilty – a Court will not be able to take this into account when dealing with a plea of guilty.

It will have little or no impact upon the trial caseload in the District Court. On current figures, the District Court Criminal caseload has over 2000 criminal trial outstanding and nearly 1200 sentencing matters. The average delay between committal for trial and finalisation is 378 days. The average delay between arrest and trial finalisation is over 2 years. This places enormous stress on victims and their families and witnesses. It also potentially jeopardises the prosecutions because the memory of witnesses may fade.

The only way to clear the backlog is to provide more resources for the District Court and funding for the Legal Aid Commission which is hopelessly underfunded. The Government's increase in funding is only a drop in the bucket

People need to be adequately represented by senior lawyers at all stages of the criminal justice process in order to receive proper advice about whether to enter a plea of guilty

and for the efficient running of a trial. Whilst I acknowledge the good intentions of the Attorney-General, these reforms do not come close to clearing the backlog of the criminal justice system which is close to breaking point.