

Court Backlogs Harm Victims and Defendants Alike

Defendants seeking justice and victims wanting closure are being left waiting as [extensive court backlogs](#) place extra pressure on our already struggling criminal justice system.

It has been reported that [a seventeen-year old complainant in a sexual assault](#) case has been unable to attend school for 5 years, waiting for her alleged tormenter – her uncle – to be brought to justice and give her some closure.

On the other side of the coin, defendants – many of whom ultimately have their charges withdrawn or thrown out of court – are increasingly being held behind bars for months or even years awaiting the finalisation of their cases.

Justice Delayed...

The [NSW District Court](#) is struggling to clear its backlog of cases.

At the end of July this year, [2042 criminal trials and 1195 sentencing cases](#) remained outstanding in the District Court – nearly double its caseload at the end of 2010, when there were 977 pending criminal trials and 722 sentencing matters.

Police Preferred Over Courts

Government funding to the NSW Police Force has risen significantly in recent years despite declining crime rates, but similar levels of extra funding have not been extended to our courts in spite of vastly increased caseloads.

Criminal Defence Barrister Phillip Boulten SC has criticised the state government's failure to adequately fund courts, saying:

“[the] government has provided ample resources for police investigations ... [and] the police have been very efficient in arresting people... [but] there hasn't been the same level of resources applied to the justice system”.

Harsher bail laws have led to a sharp rise in people being 'held on remand'; locked up while awaiting the outcome of their cases. Statistics released by [The Bureau of Crime Statistics and Research](#) (BOCSAR) suggest that one-third of our state's 12,550 inmates are now on remand.

Of concern is the fact that nearly 40% of all defendants held on remand in 2014 did not ultimately receive a prison sentence – indicating they were either innocent or should never have been behind bars in the first place. And locking people up is expensive – [the average cost to taxpayers](#) for keeping an adult in prison is \$237.34 a day, and nearly \$700 a day for each child.

No Compensation

Article 14(6) of the [International Covenant on Civil and Political Rights \(ICCPR\)](#) recognises a right to compensation for those who have been wrongfully convicted:

“when a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment is entitled to compensation according to law”.

However, this [right has not been recognised by Australian law](#). And unlike in many parts of the US, Australian jurisdictions do not have statutory schemes for providing compensation to those who are wrongly imprisoned.

This means that those who are accused of crimes and held behind bars for long periods of time, only to have the charges

withdrawn or dismissed, are rarely able to achieve compensation – unless they can prove an abuse of process, malicious prosecution or other form of serious misconduct on the part of the prosecution