



## Courts 'harsher' on Aboriginal driving offences

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ABORIGINAL offenders convicted of driving while disqualified in remote and regional NSW are being sentenced to jail at three times the state average.

The Aboriginal Legal Service has accused country magistrates of falling into "errant, idiosyncratic and overly harsh sentencing patterns".

That assessment is based on an analysis of 264 cases involving Aboriginal clients charged with driving while disqualified who had been sentenced between 2006 and 2012.

The exercise revealed 46 per cent had been given prison sentences. That figure rose to 60 per cent when suspended sentences were taken into account.

The study, which included all matters in which the ALS has acted in Dubbo and NSW circuit courts since 2006, showed that not only were jail sentences for indigenous people handed out

more often, but they were also for longer than the state average.

The study covered local and district courts in central-west towns including Dunedoo, Wellington, Warren, Peak Hill, Nyngan, Narromine, Coonabarabran, Forbes, Parkes, Mudgee and Gilgandra.

The jailing rate for the ALS Dubbo clients was 46 per cent, the study showed, whereas of all people convicted in local courts for driving while disqualified across NSW between April 2008 and March 2012 the jailing rate was only 15 per cent, according to the Judicial Commission of NSW.

More than one-third of the ALS clients in the Dubbo region who received jail terms were sentenced to terms of imprisonment of 12 months, compared with a 26 per cent state average. And 17 per cent were sent to jail for 18 months, compared with only 8 per cent of the general

population.

Almost 60 per cent of ALS clients sentenced in Dubbo and circuit courts received jail terms of 12 months and more, compared with a state average of 46 per cent.

A large number of Aborigines, who are grossly over-represented in the prison system, are serving sentences for petty offences or what the ALS describes as "poverty offences" such as driving while disqualified.

The offence is often committed by unemployed indigenous people who are issued with fines which they cannot pay, but they keep driving anyway out of necessity, ultimately leading to a licence suspension.

Dubbo-based ALS lawyer Stephen Lawrence said the sentences being handed down for driving while disqualified were disproportionate. "These statistics show sentencing trends

*Continued on Page 30*

## Courts 'harsher' on Aborigines

*Continued from Page 29*

completely out of kilter with community expectations," Mr Lawrence said.

"These jail rates are what the community might expect for violent assaults, drug dealing and serious frauds, not for disadvantaged people who drive a car in remote communities when they shouldn't.

"Indeed, this study shows that Aboriginal people sentenced in the Dubbo area over the last six years have, on average, been treated more harshly than people convicted statewide of unquestionably more serious Local Court offences such as dangerous driving causing grievous bodily

harm, possession of child pornography, supplying heroin and aggravated indecent assault.

"The lengths of the jail sentences imposed on Aboriginal people for drive disqualified offences in the Dubbo region over the last six years is certainly harsh, seemingly unfair and nothing short of a national disgrace," Mr Lawrence said.

"It is a pointer to the very significant role that traffic offences are playing in the tragic national picture of indigenous over-representation in the prison system."

Country magistrates had fallen into "errant, idiosyncratic and overly harsh sentencing patterns... The jail sentences we system-

atically see imposed on Aboriginal people for traffic crimes in the Dubbo region are not imposed in the city in this widespread way. The question needs to be asked why."

The Department of Attorney-General and Justice responded to the ALS figures, saying it keeps the criminal law of NSW under constant review, including examining and responding to sentencing trends and outcomes.

It had convened a licence disqualification working group to examine the legislation and penalties applicable to licensing offences such as drive while disqualified, which included representatives from the ALS, Legal Aid and the NSW police force.