

It is just as well, on occasion – and the last issue of the year is as good an occasion as any – to acknowledge the strengths of our justice system, rather than dwell on the problems. This issue includes a story which suggests that our system is avoiding some of the issues affecting other jurisdictions.

The story is by Bernadette O'Reilly, who travelled with a colleague to Louisiana earlier this year to volunteer at the Innocence Project. The Innocence Project works on freeing wrongfully convicted prisoners.

Louisiana's justice system is different to ours. The numbers tell the story. Bernadette O'Reilly recounts that Louisiana has an incarceration rate of 816 prisoners per 100,000 people, the highest such rate in the world. In contrast Russia has an incarceration rate of 492 prisoners per 100,000 people; Germany's is 78. Australia also has a reasonably high incarceration rate: 196 prisoners per 100,000 people, somewhat higher than, for example, China's rate of 119.

Why does Louisiana have such a high rate of incarceration? There seem to be various reasons. One is that Louisiana has 'three strikes and you're out' laws, which mean that a third felony conviction generally results in a life sentence. Another is that in some areas prisoners of limited means – most prisoners, in other words – have limited access to public defenders. In some instances local private lawyers are allocated to appear pro bono for accused persons according to some sort of roster. The problem with that system is that someone facing a very serious charge may end up being represented by a lawyer having no particular interest

in, or experience of, criminal law. And as Bernadette O'Reilly points out, there have also been problems with false confessions – that is, confessions given or extracted after inappropriate interrogation techniques. Juveniles or persons with intellectual disabilities are particularly vulnerable to this.

We tend to step back and look at our justice system only after something has gone wrong. And of course the system isn't perfect – among other things there have been notable wrongful convictions in this country as well. But, without for a minute becoming complacent, we can at least be glad that we have many safeguards and programs – including programs such as Just Reinvest NSW¹ – which help avoid at least some of the issues that have affected other jurisdictions. As Bernadette O'Reilly points out in her article:

Although mistakes do occur, we at least have a funded Legal Aid and Aboriginal Legal Service. We have procedures and policies, such as recording a suspect's interviews, recording ID parades, children's independent person present when interviewed, and recording of forensic procedures, that provide some safeguards against many of the issues we observed in Louisiana.

The problem of wrongful convictions is the subject of another story in this edition. Geoffrey Watson SC recounts the sad story of Derek Bentley, who was convicted of murdering a policeman in 1952 and executed. He was nineteen years old. After sustained efforts by his family, in 1998 the Court of Appeal finally determined that the outcome of his trial was unsafe and unanimously quashed his conviction.

Other articles in this issue include Bret Walker SC's 2016 Hal Wootten Lecture on 'Lawyers and politics'. Anthony McGrath SC explains the new National Model Gender Equitable Briefing Policy. Dominic Villa has contributed a very useful piece comparing the SILQ and BarBooks accounting software systems for barristers. And Advocata's column asks why some barristers receive briefs and some don't.

This being the last issue of the year it is timely to acknowledge the effort of all those on the *Bar News* committee and elsewhere who have worked so hard in putting *Bar News* together during 2016. Putting out three issues a year takes a great deal of work. We couldn't do it without hard-working committee members, contributors – especially regular contributors and columnists – and other members of the bar who have been kind enough to help out in various ways with putting articles together. Chris Winslow of the Bar Association deserves a special mention. Thanks to everyone involved. And best wishes to all *Bar News* readers for the Christmas break and the new year.

Jeremy Stoljar SC

Editor

Endnotes

1. www.justreinvest.org.au