



WESTERN AUSTRALIAN BAR ASSOCIATION

17 May 2010

Hon Brian Ellis MLC
Standing Committee on Environment and Public Affairs
18-32 Parliament Place
WEST PERTH WA 6000



Dear Sir

Inquiry into the Transportation of Detained Persons

Thank you for your letter of 14 April 2010.

The Western Australian Bar Association does not feel that it is in a position to make any submission in relation to the matters numbered 1, 2 and 3 in your letter. That is not, of course, to say that these are not important issues. Rather, the Bar Association is not fully aware of all of the circumstances in relation to the implementation of the Coroner's findings in relation to the death of Mr Ward; nor does the Bar Association have the capacity to provide a fully reasoned and economically competent submission in respect of the feasibility of air transport or video conferencing of accused persons. That being said; video conferencing is a technology now widely and successfully used in Western Australia in various Court processes and it would be a surprise if the technology could not be used or adopted to deal with at least some processes that occur in remote areas of the State.

As to issues concerning the scope and efficacy of government action to reduce indigenous incarceration and recidivism rates; this is a matter of extraordinary breadth and complexity which has been the subject of numerous Government reports and consideration over many years. No doubt, the Committee will have regard to all of these matters during the course of its enquiry.

In respect of the matter numbered 4, that is whether the *Coroners Act* 1996 should be amended to require the Government to respond to coronial recommendations within a set time frame, can I make the following observations:-

1. The Western Australian Law Reform Commission is currently enquiring into this very matter. Representatives of the Bar Association have been consulted, and there have been extensive consultations with our members and others in respect of this matter.
2. This being the case, it may be sensible for the Standing Committee to liaise with the Law Reform Commission in respect of its enquiry.

3. I can say to the Committee, however, based upon my personal experience that there are a number of recommendations that have been handed down by Coroners in Western Australia over the past several years that are misconceived. That is, of course, not to say that the findings or recommendations made in respect of Mr Ward are of this character. It must, however, be borne in mind that not every recommendation made by a Coroner during the course of a Coronial enquiry is a sensible one nor one that could conceivably be implemented by Government. Likewise, in recent years, there have been several recommendations made by Coroners in Western Australia which, were they to be considered fully by Government, would doubtless require inquiry and investigation by Government of great complexity and therefore duration. This being the case, if Coroners in Western Australia are to continue to make recommendations of the type that we have seen in recent years, then an arbitrary time frame within which Government is to respond to all such recommendations would be misplaced.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Grant Donaldson', with a large, sweeping flourish at the end.

Grant Donaldson