

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S PORTFOLIO

**Program:** 1.7 National Security and Criminal Justice

**Question No. SBE16/120**

**Senator Dastyari asked the following question at the hearing on 12 December 2016:**

Mr Moraitis: There are federal offenders Australia, as you said, Senator. At this stage, there are about 990 federal offenders. Is that correct, Mr Bouwhuis?

Senator DASTYARI: How many, roughly?

Mr Bouwhuis: 990 as of 1 December.

Senator DASTYARI: 990. So, roughly 1,000. Is that high or is that normally what it is like?

They get around 1,000 and it stays at that figure?

Mr Bouwhuis: Yes, it is roughly around 1,000. I think it is slightly up on around 900 a few years back; but it is around that figure, yes.

Senator DASTYARI: And for the overall prison population, the figures that I have anecdotally been told are around—and I know this varies, but how many people are in the prison system at the moment?

Mr Bouwhuis: I do not have a figure for the states and territories. So I do not have a figure for total prison population, but I could take that on notice.

Senator DASTYARI: I was given a figure of around 60,000. Does that sound right?

Mr Bouwhuis: That sounds about right.

Senator DASTYARI: And that would take us to an incarceration rate—again, this is what I have been told—of 208 per 100,000, which places us second in the OECD. Does that sound right to you?

Mr Bouwhuis: That is not something that, personally, I would not know. I would have to take that on notice.

Senator DASTYARI: Senator Brandis and Mr Moraitis, I just want to touch on what role the federal government does have or can have when it comes to justice reform, noting that, obviously, only a few per cent of the prison population is federally. What coordination role is there when you start looking at the increasing prison population? I want to know, with the figure that the Productivity Commission has of around \$110,000 per person per year being kept in the prison system, whether there is a role or how something like the COAG process could be used to actually reduce some of that.

Senator Brandis: Thank you, Senator Dastyari. It is a good question. As you know, the Commonwealth does not operate prisons and Commonwealth offenders who are sentenced to terms of imprisonment are detained in state or territory prisons. Mr Moraitis or his officers can answer at an officials or departmental level, but I can tell you that the Commonwealth through the Law, Crime and Community Safety Council, which includes, by the way, state prisons ministers, does have the capacity to have a leadership role in this area, while acknowledging that the policy responsibility here lies with the states, as the operators of the facilities, and, as well, the Commonwealth can do particular things that are important in relation to the issue you raise. Let me give you an example. Only about two months or so ago I sent a reference to the Australian Law Reform Commission to examine indigenous incarceration rates, which is an important topic within the broader topic that you raise. The ALRC is embarking on that inquiry with published draft terms of reference to get community feedback.

So the Commonwealth as the peak government in the country in this as in other issues can, either through law reform initiatives or through leadership through the various COAG processes, play a part, but we should always acknowledge that this is the primacy of the states in this area. What

goes on at a departmental or officials level, perhaps the officials could speak to that.

Senator DASTYARI: And if you want to take it on notice, Mr Moraitis, I am happy for you to. I am conscious of time; I am happy for you to take it on notice and give a more—

**ANSWER PARTLY PROVIDED:**

Ms Close: I probably could not add too much more to what the Senator has said. We certainly, through the Law, Crime and Community Safety Council, work through a range of issues that affect both Commonwealth, state and territory jurisdictions to try and come up with nationally consistent positions and to explore those sorts of issues. I am not aware of that particular issue being looked at in the last 12 months. But, certainly, Commonwealth or state and territory agencies can place items onto that agenda.

**The answer to the honourable senator's question is as follows:**

As at 1 December 2016 there were 990 federal offenders in full-time custody. This figure is in line with the average number of federal offenders in full-time custody over the prior six months, namely an average of 994 federal offenders.

According to figures published by the Australian Bureau of Statistics in their *Corrective Services, Australia* report for the September quarter 2016 (released on 1 December 2016, available at

<http://www.abs.gov.au/ausstats%5Cabs@.nsf/0/9B3F80C43A73AF6CCA2568B7001B4595?Opendocument>), the average daily number of full-time prisoners (sentenced and unsentenced) in Australia was 39,005. According to the same report, the average daily number of persons serving community based corrections orders for the same period was 66,793.

According to figures published by the Australian Bureau of Statistics, the average daily Australian incarceration rate in the September quarter 2016 was 208 prisoners per 100,000 adult population (*Corrective Services, Australia*, September quarter 2016, 1 December 2016). In September 2016 Australia's incarceration rate ranked thirteenth against the 35 Organisation for Economic Cooperation and Development member countries (*World Prison Brief*, Institute for Criminal Policy Research (ICRC), University of London, available at <http://www.prisonstudies.org/country/australia>). This ranking is based on the ICRC's incarceration rate in September 2016 of 162 prisoners per 100,000 population. It should be noted that the Australian Bureau of Statistics rate is not directly comparable with the ICRC's rate and subsequent ranking, because the ICRC obtains national incarceration rates by counting the number of prisoners per 100,000 of the country's total population (rather than the adult population) to achieve greater international comparability.