



Let's Get Fine Defaulters Out Of Our Jails

Publish Date:

July 2016

Reporting of Andrew Leigh's reappointment as shadow assistant treasurer has been dominated by the strange decision of the Labor Party to reduce his salary by \$40,000. This is particularly a shame because Leigh is the author of a policy where Labor and a free market think tank like the Institute of Public Affairs can rightly see eye to eye.

During the election campaign, Leigh announced a Labor government would allow fines for administrative and criminal violations to be paid off via an income-contingent fine recovery process. This makes great economic and moral sense. It should be welcomed by both sides of politics.

As it stands, people who do not pay fines can be sentenced to serve short prison sentences.

Leigh's sensible alternative is that states and territories should be able to collect unpaid fines through garnishing offenders' incomes and reducing their government benefits. This would be done with the co-operation of the Commonwealth.



The tax and transfer system is already used to collect payment of university loans and unpaid child support, so this would simply be an extension of an existing practice.

This reform could lead to a range of savings. We could avoid incarcerating some people unnecessarily, ensure that those who have been fined actually have to pay their debts, and free up police and prison resources for more effective uses.

Putting someone in prison is expensive. Although fine defaulters typically only go to prison for short stints, the cost of their incarceration can be as high as \$770 per day in some jurisdictions. So instead of collecting payment from those who break the law, taxpayers instead foot the bill for them to go to prison. This might be acceptable if there were reason to think that fine defaulters are a risk to the community. In reality though, most people incarcerated for defaulting were fined for traffic offences.

And states are currently out of pocket because many fines are going uncollected. For example, a recent Western Australian government report found that there was up to \$55 million in unpaid fines in that state alone.

Once this proposed mechanism is in place it can be used to broaden the use of fines as an alternative to incarceration. This won't just help the budget – it is in the interest of victims too. The rights and interests of victims are too often forgotten in our criminal justice system. Restitution orders can be used to simultaneously punish offenders while repairing some or all of the damage suffered by victims.

Australia's criminal justice system is bloated and inefficient. Australia's prison population has grown almost 40 per cent in the last decade, and spending on prisons now tops \$3.6 billion per year. The worst offence committed by 47 per cent of Australian prisoners was a non-violent offence, and 59 per cent of prisoners have been incarcerated before. Altogether, this means that we are spending more and more every year to lock up people who pose little threat to the community while doing nothing to disrupt criminal careerism.

Monday's Four Corners report on abuse in juvenile detention has started a much-needed national conversation about criminal justice reform.

Similar issues have confronted the US, where in recent years conservatives have forged a path towards a criminal justice system that is fairer and more effective – and has helped keep the public safe. Several American states have passed reforms increasing the use of alternative punishments, improving probation services and re-entry pathways, eliminating criminal offences from the books, and limiting the use of strict and absolute liability. The insights from the US are readily adaptable to the Australian context.

But one lesson from the US stands out above all others: criminal justice reform is only achieved when conservatives take the lead. It is great that Labor and Andrew Leigh are talking about criminal justice issues. But if we are going to improve Australia's criminal justice system, and



achieve better results for victims, released offenders, and budgets, then the Liberal and National parties need to show some leadership as well. Criminal justice reform is a huge opportunity for whoever has the courage to take it on.

Appeared in the Canberra Times, 28th of July, 2016