

15 April 2021

Honourable John Quigley MLC
Attorney General
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Email: Minister.Quigley@dpc.wa.gov.au

Dear Attorney General

THE URGENT NEED TO CONSTRUCT MORE CRIMINAL COURTS

1. I have been informed by substantial interested parties in the Court system in Western Australia that there is presently a shortage of courtrooms available for criminal trials. This is making the operation of the criminal justice system almost unworkable.

Recommendation

2. After careful thought and consultation with the Criminal Law and Courts Committees of the Law Society of Western Australia, the Chief Justice of the Supreme Court of Western Australia, the Chief Judge of the District Court of Western Australia and my executive, I recommend that a minimum of four, but preferably seven, new Courts be built as soon as possible. It would be best if at least four of them had the capacity of Courts 71 and 72 of the District Court.

Background

3. As you are aware, when the David Malcolm Justice Centre was created, it was designed to operate solely for civil cases and no criminal cases were to be permitted due to the leasing arrangements with The Como Treasury. Therefore, it has not assisted the criminal case load in Western Australia.

Causes of the demand for courts in the criminal area

4. The Supreme Court is currently utilising a number of District Court courtrooms on a regular basis and has been doing so for the last few years. This has been working to a limited degree over time but, especially since coming out of the pandemic, it is becoming unworkable.
5. The courtrooms in the District Court of Western Australia building are at capacity due to the following reasons.
 - a) The backload of cases from the pandemic in 2020 and from that one week of lockdown in February 2021;
 - b) The Supreme Court are using the District Court at an increasingly alarming rate; for instance, in the month of March 2021, there were six Supreme Court trials

being conducted in the District Court building, most of which had multiple accused and were all lengthy in duration;

- c) The Supreme Court trials usually require larger courtrooms, so they tend to utilise courts 71 and 72, which affects the day-to-day business of the District Court as those Courts are otherwise used for ceremonies, trial listing hearings every Friday, Duty Judge lists twice a week and other big District Court trials where there are multiple accused;
- d) The increase in workload and jurisdiction in the District Court has resulted in the District Court needing all of their courtrooms to conduct their own business;
- e) Trials are more complex and lengthier and are requiring more sitting days;
- f) The nature of the prosecutions from historical sex cases, cold cases, significant improvements in forensic investigative techniques and an expansion of expert evidence has placed greater demands for interlocutory hearings and larger trials and an increase in trials and overall workload, more murder trials and applications and hearings under high-risk offender legislation; and
- g) The District Court had implemented Covid-19 requirements such as four people only in a lift, which applies to all jurors and counsel. This placed an additional significant burden on the District Court building which had having to supervise and control all District and Supreme Court trials. These measures will be re-introduced immediately if any community spread is identified.

Alternate Options

- 6. The Law Society has carefully considered alternative options instead of building or creating new criminal courtrooms such as:
 - a) Longer sitting hours for jurors; but as you know that can lead to appeals for pushing jurors too hard and it is impractical for people on remand due to transport and accommodation needs;
 - b) Sitting in metropolitan courts such as Fremantle and other locations, but apart from Fremantle I have been informed that the other metropolitan courts do not have the infrastructure to accommodate jury trials or do not have available court space and it will be a burden on security with remand prisoners; and
 - c) Renovating Courts 10 and 11 in the Supreme Court building (being the 1987 extension) but again, that would be costly to fit out and not practical.
- 7. It is my understanding that the Central Law Courts are already being utilised by the District Court for sentencing and related matters. The Central Law Courts is an old building and does not have separate lifts for jurors and is not a practical place to conduct criminal trials. This is the reason why the District Court building was built.

Summary

- 8. If adding additional courts was to be considered, the location is obviously a matter for you and your Government. One option would be to acquire the Kings Hotel and renovate that into seven large criminal courtrooms with separate lifts for judiciary, jurors and legal practitioners. There is an existing tunnel between the Central Law Courts and the District Court building that may be able to be extended and run under that building.

9. The Supreme Court Justices and their staff are regularly walking to the District Court to conduct criminal trials which requires having all their files and legislation sent back and forth to the District Court from the David Malcolm Justice Centre. This is not only time consuming but has an added security risk for these staff members.
10. It may be that your Government will consider making the extra courts a permanent Supreme Court extension, thereby addressing both the urgent need for extra criminal courtrooms and the security concerns for Supreme Court Justices and their staff.
11. This system is under great strain due to the above reasons and seeks a rapid and significant investment by you and the Government to ensure the criminal justice system runs smoothly and that our community are delivered a fair and just system.
12. Essentially, the system is overloaded due to the limited infrastructure at present and needs your support urgently. These new courtrooms will provide a great asset to the citizens of Western Australia now and into the future. I hope this letter has provided you with insight into this situation and that you and your Government give this urgent community need, which is intrinsically linked to the proper and timely administration of justice, the attention it deserves.

Please note that this letter, excluding the confidential enclosure may be published externally by the Law Society of Western Australia.

If you have any queries please contact David Price, Chief Executive Officer on 9324 8605 or dprice@lawsocietywa.asn.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'J Boujos', with a large, stylized initial 'J'.

Jocelyne Boujos
President

Encl: Confidential snapshot of current position.

cc. Honourable Mark McGowan MLA
Premier and Treasurer
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