

MEDIA RELEASE

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UNIVERSITY
OF TASMANIA

ATTENTION: Chiefs of Staff, News Directors

TASMANIA LAW REFORM INSTITUTE

Today the Tasmania Law Reform Institute released its Research Paper No. 1:

Offending while on bail

This research paper examines the extent and nature of offending while on bail. This was done by seeing how often people who were charged were already on bail (for a previous offence) at the time of charge. The study also looked at the types of offences people were charged with, and the types of offences they were on bail for when charged.

The main findings of the study are:

- On 25.7% of the charge occasions, the person charged was already on bail.
- On charge occasions involving people who were already on bail –
 - a property offence was charged on 44.2% of these charge occasions;
 - an offence against the person was charged on 12.8% of these charge occasions;
 - the person charged was already on bail for a property offence on 42.4% of these charge occasions.

While the Institute would endorse attempts to reduce this level of offending, a cautious approach is recommended. In the Institute's view the benefits of granting bail and maintaining the presumption in favour of bail outweigh the *possible* gains of imposing the kind of tough bail laws (eg. removing the presumption in favour of bail in certain circumstances) that have been introduced in NSW, WA and the ACT. The Institute takes this view for the following reasons:

1. The significant benefits of granting bail for both the defendant and the community. These include allowing defendants to maintain employment, family and social ties, and saving the state the expense of keeping them in remand.
2. Removing the presumption in favour of bail infringes the presumption of innocence, which is a key aspect of our criminal justice process.
3. The findings of this study indicate that the level of offending while on bail in Tasmania is similar to that in other jurisdictions. Furthermore, people who are charged with offending while on bail were most likely

to be charged with, and to be on bail for property or public order type offences. Such offences are often of a minor nature. While these offences can have a significant impact on victims, often they would not lead to a sentence of imprisonment. This makes it difficult to argue that the mere allegation of such offences justifies detention.

4. Evidence that toughening laws would have little impact on the level of offending while on bail or on overall crime levels because of the difficulty in predicting re-offending and the small percentage of total crime that is dealt with by the courts.
5. More appropriate options are available, such as making improvements to the bail decision making process (eg by providing better information to those making this decision) and the bail system (eg by improving the use of bail conditions and supervision, and the way breaches of bail are dealt with) and undertaking further research of the phenomenon of offending while on bail.

The Research Paper can be downloaded from the Institute's web page at:

<http://www.law.utas.edu.au/reform/>

or a copy of the Issues Paper can be sent to any group or person, contact:

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