

## The Greens (WA) 2017 policy

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### Justice

The Greens (WA) believe that all people have a right to a safe, peaceful existence, free from crime and the fear of violence.

The rule of law and access to justice are fundamental to a democratic society. The separation of powers between the executive, the parliament and the judiciary is crucial to the maintenance of freedom and justice. Equality before the law can only be achieved when there is recognition of the way in which cultural, social and economic issues structure choices and influence decisions.

For everyone to have equal access to justice there must be appropriate laws, procedures and policies and sufficient resourcing to overcome social, economic and cultural inequalities. In particular the cultural needs and economic and social disadvantages of Aboriginal and Torres Strait Islander peoples must be addressed.

#### Aims

*The Greens (WA) want:*

- courts and tribunals that are independent of the government of the day
- adequate funding of legal aid in both criminal and civil jurisdictions to ensure access to justice for all Western Australians
- a criminal justice system with a focus on rehabilitation and reducing offending behaviour that is based on principles of restorative justice<sup>1</sup> and the rights of victims and offenders
- imprisonment to genuinely be the penalty of last resort
- human rights, such as the right to silence, procedural fairness, innocence until proven guilty, and open courts, to be protected by legislation
- independent and effective handling of complaints about police, corrective services and the judiciary
- an end to the over-representation of Aboriginal and Torres Strait Islander peoples in the justice system (see also The Greens (WA) [Aboriginal & Torres Strait Islander Peoples](#) policy)

#### Measures

*The Greens (WA) will initiate and support legislation and actions that:*

- implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody (see also The Greens (WA) [Aboriginal & Torres Strait Islander Peoples](#) policy)
- introduce legislative protection of human rights at state level and continue to oppose the death penalty
- uphold judicial discretion in sentencing, and repeal mandatory sentencing<sup>2</sup> legislation
- establish a Western Australian Sentencing Advisory Council and a Judicial Commission

- implement alternatives to imprisonment, where appropriate, including restorative justice<sup>1</sup>, justice reinvestment<sup>3</sup> and diversionary programs
- implement the recommendations made by the Office of the Inspector of Custodial Services
- oppose the privatisation of prisons and prisoner transport
- increase legal aid funding and funding to community legal centres to ensure adequate advice and representation
- ensure government funding contracts with non-government service providers respect the independence and advocacy roles of the community sector
- support voluntary early intervention programs to prevent and address offending behaviour especially in children and young people
- reflect the principles of justice reinvestment<sup>3</sup>
- end the indefinite detention of accused deemed to be 'mentally impaired', with prison no longer a legal place of detention for mentally impaired accused
- ensure sufficient support programs and appropriate legal counselling for accused deemed to be mentally impaired, provided through both the trial process and the length of the accused's detention
- ensure determinations about the release of mentally impaired accused from custody, and the conditions to be attached to such release (if any), are made by the Mentally Impaired Accused Review Board but with a right of review before the Supreme Court on an annual basis
- encourage best practice police training and education to help officers respond effectively, including to domestic and family violence and situations involving youth, cultural and ethnic issues, and mental health issues (see also The Greens (WA) [Mental Health](#) policy)
- establish best practice processes and independent authorities for complaints about police, corrective services and the judiciary

(See also the Australian Greens [Justice](#) policy)

## Glossary

1. **Restorative justice** is a process that reduces re-offending and imprisonment rates. It helps to heal victims of crime and enables offenders to accept responsibility and provide restitution and reparation.
2. **Mandatory sentencing** - a requirement that magistrates and judges impose certain sentences, in some cases imprisonment, for certain offences regardless of any mitigating circumstances
3. **Justice reinvestment** - an alternative approach to our penal system, one that seeks effective responses to the causes of crime while simultaneously improving community safety and community wellbeing. Rather than investing in prisons, money is used to develop community based programs that aim to reduce offending and recidivism.

**Justice policy ratified by The Greens (WA) in 2017**