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**Fair** is getting  
compensation for  
wrongfully arrested youth

## False imprisonment of children class action

A class action has been launched in the New South Wales Supreme Court seeking compensation for children and young people who were unlawfully arrested by a police officer for breach of outdated bail conditions.

### What is the class action about?

Countless children and young people in New South Wales have been wrongfully arrested because of a long-standing problem with the New South Wales Police Force's computer system containing incorrect or out-of-date bail information. Police officers often rely on information from the Computerised Operational Policing System, known as 'COPS', to arrest people for suspected breaches of bail. However, where bail information on COPS is inaccurate, it can lead to the wrongful arrest of a person for breach of bail.

A young person's bail status can change in several circumstances:

1. when a case in the Children's Court is finalised and the person is released and is no longer on bail
2. when the Children's Court dispenses with bail and the person is no longer on bail; or
3. when the Children's Court varies the bail conditions; for example by removing or changing a curfew or a reporting requirement.

These types of changes in bail status are regularly not updated on COPS for days, weeks or sometimes even months. When police fail to update COPS to record changes in a young

person's bail status, there is a risk that the person will be wrongfully arrested for breach of bail. Children are often held for hours or even overnight before going to court and having the error recognised and their liberty restored.

Children and young people who were wrongfully arrested by police officers acting on the basis of incorrect bail information on COPS should be compensated for this unnecessary loss of their freedom.

### Who can benefit from the class action?

The class action is open to children and young people who meet the following three criteria:

1. they were arrested or detained by a police officer for breach of a bail condition
2. the bail condition was not current at the time that the person was arrested; and
3. the alleged breach of bail was for an offence being heard in the Children's Court of New South Wales.

It is important to note that the class action is only open to children or to young adults whose cases were being heard in the Children's Court.

## **Who is the class action against?**

The action has been taken against the State of New South Wales because the State is liable for the actions of police officers while they are performing their duties.

## **How do class actions work?**

A class action in the New South Wales Supreme Court is a representative proceeding where one person sues on behalf of other people who are in a similar position. In this case, Musa Konneh from Western Sydney commenced the class action in his own right and for the benefit of other children and young people who have been wrongfully arrested by a member of the New South Wales Police Force for breach of outdated bail conditions.

## **What sort of compensation can be awarded?**

The award of compensation in a case of false imprisonment is a means of signifying the unlawful interference with a person's liberty. The amount of compensation will vary from person to person depending on their individual circumstances, including the length of time for which the person was detained and the treatment of the person while in custody.

## **Public Interest Advocacy Centre**

The Public Interest Advocacy Centre (PIAC) is an independent, non-profit law and policy organisation that works for a fair, just and democratic society by taking strategic action on public interest issues.

PIAC has been working to address the systemic wrongful imprisonment of young people for several years and has provided advice to and represented young people in actions against the State of New South Wales for false imprisonment, excessive force and malicious prosecution. PIAC is one of the project partners for the Children in Detention Advocacy Project, which aims to challenge the systemic problems that lead to the unlawful and unnecessary detention of young people. PIAC is pleased to be working with expert class action lawyers Maurice Blackburn on this class action against the State of New South Wales.

## **Maurice Blackburn**

Maurice Blackburn has an unrivalled track record in successful class actions in Australia and has secured compensation for tens of thousands of claimants in a variety of cases relating to faulty products, corporate misconduct and price-fixing cartels. Maurice Blackburn is the only firm to have achieved class action settlements over \$100 million and in the past 18 months has settled four major cases involving corporate misconduct. Maurice Blackburn is pleased to be partnering with PIAC in relation to this class action against the State of New South Wales.

## Some typical examples of situations that fit within the class are as follows:

### Tamara

Tamara was charged with two minor offences and was placed on bail with a condition that she was not allowed to go into the city without her mother. She later pleaded guilty at Bidura Children's Court and received a good behaviour bond. After her case had been finalised at court, Tamara was no longer on bail and she could therefore go into the city without her mother.

Two weeks later while in the city on a Saturday night with her friends, Tamara was arrested by police for breach of bail because she was not with her mother. She told police that she was no longer on bail because her case had been finalised, however the police told her that their computer system said she was still on bail. Tamara was taken to City Central Police Station before spending the night at Juniperina Juvenile Justice Centre and then appearing at Parramatta Children's Court the next day. At court, the prosecutor acknowledged that the police computer system had not been updated to show that Tamara was not on bail and she was later released.

A week later, Tamara was in the city again with her friends. She was again arrested by police because her mother was not with her. Despite Tamara showing police the documents from her recent court appearance, she was taken in handcuffs to City Central

Police Station where the arresting officer telephoned Parramatta Children's Court to check her bail status. After the court confirmed that Tamara was not on bail, she was released by police, but only after she had been detained for more than two hours.

### Shaun

Shaun's bail conditions included a curfew requiring him to be home by 7 pm every evening. Shaun then found a job unpacking boxes during night shift at a local supermarket in Macarthur Square. Shaun went to the Campbelltown Children's Court and asked for his curfew to be removed so that he could work at night.

One week after his bail conditions had been varied, Shaun was stopped by two police officers while walking home from work after midnight. Shaun explained that his bail conditions had been changed by the Children's Court, however the police officers told him that their computer showed he was still on a curfew. Shaun was arrested for breaching his curfew condition and was detained overnight. The next day the court found there had been no breach of bail because his curfew condition had been varied a week earlier. Shaun was then released.

## Where to find out more information?

**Children and young people who have been wrongfully arrested for breach of bail can call PIAC (02) 8898 6517 or visit our Facebook page using the search term 'false imprisonment of young people'.**

Parents, guardians, youth workers and lawyers are of course also welcome to contact us on behalf of children and young people who have been wrongfully arrested by police for breach of bail.

## Our Class Action team



**Vavaa Mawuli**  
**Senior Solicitor, PIAC**

Vavaa Mawuli is a Senior Solicitor in the strategic litigation team at PIAC. She has advised clients and conducted litigation in relation to claims of discrimination, false imprisonment, administrative complaints and redress claims for Aboriginal clients. Before joining PIAC, Vavaa worked as a criminal lawyer for Aboriginal Legal Services in Redfern, Blacktown and the Northern Territory and has considerable experience in acting for young people in Children's Courts.



**Laura Brown**  
**Solicitor, PIAC**

Laura Brown is a Solicitor in the Indigenous Justice Program at PIAC. She has acted for young people in claims of false imprisonment against the State of NSW, and assisted Indigenous clients with issues of racial discrimination, police complaints and stolen wages. Before working at PIAC, Laura worked as a lawyer for Allens Arthur Robinson, including a secondment at Kingsford Legal Centre.



**Ben Slade**  
**Principal**  
**Maurice Blackburn**

Ben Slade is a Principal of Maurice Blackburn with over 26 years experience as a solicitor and consumer advocate. Before joining Maurice Blackburn, Ben was the Principal Solicitor of Redfern Legal Centre and later also the General Law Manager of Legal Aid NSW. Ben has acted or advised on more than 20 class actions in the Federal Court and the Supreme Courts of NSW and Victoria.



**Julian Schimmel**  
**Senior Associate**  
**Maurice Blackburn**

Julian Schimmel is a Senior Associate in the class actions department at Maurice Blackburn. He has conducted several class actions in the Federal Court of Australia in relation to faulty medical devices and corporate misconduct and he also acts for Greenpeace. Before joining Maurice Blackburn, Julian worked for several years as a criminal lawyer at the Aboriginal Legal Service in Wollongong and Redfern during which time he regularly acted for clients in various Children's Courts in NSW.



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## Public Interest Advocacy Centre office

(02) 8898 6500  
Level 9  
299 Elizabeth St  
Sydney NSW 2000

## Maurice Blackburn NSW offices

### Sydney

(02) 9261 1488  
Level 20  
201 Elizabeth St  
Sydney NSW 2000

### Parramatta

(02) 9806 7222  
72 Macquarie St  
Parramatta NSW 2150

## Visiting offices

### Newcastle

### Wollongong

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