

Open letter to Australian governments on divesting from police and prisons

Recently we have witnessed Black Lives Matter protests around the world in response to police brutality and systemic racism. The international uprising from these growing movements has caused many Australians to pay attention to the voices of Aboriginal and Torres Strait Islander people who have been campaigning for justice on these issues for decades. Since the 1991 Royal Commission into Aboriginal Deaths in Custody there have been [438 known deaths](#) of Aboriginal and Torres Strait Islander people in police or corrective services custody. There has been a chronic [lack of accountability](#) for these deaths.

End the over-criminalisation and over-imprisonment of Aboriginal and Torres Strait Islander people

The overrepresentation of Aboriginal and Torres Strait Islander people in every state and territory criminal justice system in Australia is longstanding and well-documented. The causes and impacts of this have long been recognised in a series of government reports and inquiries, stretching back at least to the 1991 Royal Commission.

Aboriginal and Torres Strait Islander people are some of the most incarcerated on earth, with their [imprisonment rate exceeding that of African Americans](#). Aboriginal and Torres Strait Islander people comprise 2 per cent of the general population but [28 per cent](#) of those in prison, making them 12 times more likely to be incarcerated than non-Indigenous Australians. This overrepresentation is even more dramatic in youth prisons, where Aboriginal and Torres Strait Islander children comprise [over half \(58 per cent\)](#) of all those locked up, while comprising only 5 per cent of the youth population. These gross levels of incarceration, especially of Aboriginal children, represent one of Australia's most significant human rights breaches.

There is an urgent need to raise the age of criminal responsibility to keep young children out of prison. The minimum age of criminal responsibility in Australia is 10 years. This is [out of step](#) with international human rights standards and academic literature on the neurodevelopment of children. A low age of criminal responsibility disproportionately affects Aboriginal and Torres Strait Islander children who comprise the majority of those aged 10-13 who are criminalised. We support [national calls to raise the age](#) of criminal responsibility in Australia to at least 14 years to reduce the criminalisation of very young children.

Almost 30 years ago the Royal Commission into Aboriginal Deaths in Custody emphasised the urgent need to act to reduce the incarceration of Aboriginal people. It emphasised that the solutions lay largely outside the criminal justice system and that Aboriginal self-determination is fundamental to eliminating disadvantage and empowering Indigenous communities. Yet, earlier this month, [media reports](#) on draft new Closing the Gap targets highlighted a target for parity in the incarceration rates of Aboriginal and Torres Strait Islander people by 2093. The shocking proposal that Aboriginal and Torres Strait Islander people can wait 73 years to address current levels of over-representation demonstrates an extreme complacency and a willingness on the part of the government to subject generations of Aboriginal and Torres Strait Islander people to more violence, imprisonment and trauma.

The over-imprisonment of Aboriginal and Torres Strait Islander people was the focus of the Australian Law Reform Commission's (ALRC) [Pathways to Justice](#) report, which made 35 recommendations and set out a framework for reform. The report detailed in-depth what has been known in Australia for decades – that the criminalisation and over-incarceration of Aboriginal and Torres Strait Islander people is intimately linked to entrenched poverty, disadvantage and the ongoing effects of colonial processes, as well as discrimination within the criminal justice system. The report was delivered to the commonwealth government in December 2017. As with most of the recommendations of previous commissions and inquiries regarding fundamental reform, the government has so far failed to implement the recommendations or formally respond. As a matter of urgency, we call on federal, state and territory governments to respond to and implement the recommendations of the ALRC report to reduce the criminalisation and incarceration of Aboriginal and Torres Strait Islander people.

Divest from police and prisons and invest in positive social and community services

The Black Lives Matter movements have also brought into the mainstream, proposals to defund and divest from police and prisons and to instead focus resources on the socio-economic needs of communities. By investing in housing, early educational, family, social and health support, we can ameliorate many of the social issues which are known drivers of criminalisation and incarceration, and thereby enhance community and public safety. These types of social and community investments have been the consistent recommendations of previous reports.

All demographic information confirms that those who come into contact with the criminal justice system are [significantly more disadvantaged](#) than the general population. They are far more likely to have experiences of trauma; previous contact with child protection and youth justice systems; and to be homeless or experiencing housing instability. Alongside this, people enmeshed in the criminal justice system have disproportionately high levels of mental health disorders and cognitive impairment; substance use addictions; and chronic health conditions. Aboriginal and Torres Strait Islander people experience these disadvantages at a significantly [higher rate](#). The 1991 Royal Commission into Aboriginal Deaths in Custody recognised the ways in which these social determinants of imprisonment drive cycles of incarceration.

Increasing use of prisons to address social problems

For many years our governments have used criminalisation and imprisonment as a solution to multi-layered and complicated social disadvantages. This has re-intensified in Australia over recent decades with the rapid increase of the growth of imprisonment alongside significant downward trends in crime. Notwithstanding the effects of COVID 19 on temporarily reducing prisoner numbers, Australian prison populations have reached record levels. From 2012 to 2019, the Australian prison population [increased by 40 per cent](#), driven largely by increased rates of those on remand, women and Aboriginal and Torres Strait Islander people. The substantial growth in the number of people denied bail and held on remand means that unsentenced prisoners now account for [one-third](#) of the total Australian prisoner population.

Enormous public resources are spent on punitive criminal justice practices across all Australian states and territories. In recent years police and justice budgets have drastically outpaced spending in other areas. From 2008-09 to 2018-2019, Australian police budgets increased by 61 per cent, from [\\$7.68 billion](#) to [\\$12.4 billion](#). Annual expenditure on prisons alone in Australia in 2018-2019 was [\\$3.79 billion](#). All jurisdictions are building more or expanding

current prisons to accommodate growing numbers. As prisons are used as to manage growing numbers of people with complex health, educational and social needs, rehabilitation efforts are inadequate to the task and overwhelmed by the demand. [Almost half](#) of those released from prison will return within two years. It is clear that prisons do not ‘rehabilitate’, reform or deter the vast majority of those who have been there before.

As researchers, we understand and acknowledge the need to invest in solutions which are underpinned by evidence. The evidence is clear that in Australia and elsewhere, policing and prisons have become social problems in themselves. Contemporary policing practices cause significant harm to Aboriginal and Torres Strait Islander people who are over-policed and subject to surveillance and monitoring that produces offences and arrests. We recognise this also affects other ethnic minority communities who are subject to over-policing. The social and economic costs of prison are immense. Australian society is diminished by the increasing use of prison to address multi-layered social disadvantage.

No serious response to the problems of over-criminalisation, police harassment and surveillance (and the absence of adequate processes for complaint and [independent investigation](#)), and growing prison numbers will occur without a fundamental shift in power from government to community and a redeployment of money and material resources. We must stop investing in punitive criminal justice responses which trap people in cycles of imprisonment and disadvantage and instead refocus these resources on the social and economic needs of communities. As was recognised by the ALRC, any investment into communities which seeks to address the criminalisation and over-imprisonment of Aboriginal and Torres Strait Islander people must be Aboriginal community owned, developed and led, and underpinned by principles of self-determination. The ALRC highlighted the efforts of communities who are attempting to reorient the use of punitive responses to positive community engagement, including under the banner of justice reinvestment (for example, in [Bourke](#) and [other places](#)), as well as other local community led initiatives such as Aboriginal community patrols and sentencing courts.

Our call to action

This letter constitutes an urgent call for the recommendations outlined in the ALRC [Pathways to Justice](#) report and previous government inquiries and royal commissions to be put into practice. As these reports and research evidence make clear, criminal justice without social justice is not just or fair.

We call for:

- specific investment in effective diversion for Aboriginal and Torres Strait Islander people caught in criminal justice cycles;
- raising the age of criminal responsibility to 14 years of age;
- an end to ever-increasing police and corrections budgets;
- investment in community services and structural initiatives led by Aboriginal and Torres Strait Islander people;
- real government support for Aboriginal and Torres Strait Islander peoples’ calls for self-determination, control and voice, and for significant social and economic investment in their communities.

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