

# First Peoples communities and criminal justice

## First Peoples' justice

### Urgent human rights issues

State and territory governments, most notably NT and Queensland, continue to implement harsh and punitive criminal justice laws and policies that significantly impact on First Peoples' children and young people and people with disability. Since 2024, Queensland, Victoria and the NT have passed legislation which means detention is no longer to be considered only as a last resort when sentencing children for some crimes. Children are regularly being held in solitary confinement. There is inadequate progress in developing and maintaining First Peoples-led diversionary and early intervention programs that address offending behaviour early.

Too many First Peoples continue to die in custody, with limited implementation of reform recommendations from coroners and others. Trust in government within First Peoples communities is low. Governments need to establish independent investigation processes, especially for police related deaths.

Aboriginal and Torres Strait Islander people continue to be overrepresented in prison and youth detention populations in Australia.

In 1991, the Royal Commission into Aboriginal Deaths in Custody reported that the reason Aboriginal people were dying in custody at much higher rates than non-Indigenous people, was because governments were locking them up in prisons at much higher rates. It found that too many Aboriginal people are in custody too often. It recommended changes to reduce Aboriginal overimprisonment and deaths in custody.

Since that landmark report, the rate of Aboriginal overimprisonment has worsened. Many of the report's recommendations have not been implemented, including:

- the abolition of mandatory sentencing laws

- the establishment of independent mechanisms for investigating police misconduct, and
- addressing racism and a lack of cultural diversity within police services.

Australian governments have committed to reducing Aboriginal and Torres Strait Islander overimprisonment under the Closing the Gap Agreement. However, the imprisonment rates are worsening as governments prioritise criminal justice policies like harsh bail laws that result in more people being locked up unnecessarily. Currently, Aboriginal and Torres Strait Islander people are around 15 times more likely to be in prison than non-Indigenous people.

Under the Closing the Gap Agreement, Australian governments have also committed to reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30 per cent by 2031. However, progress has not shifted from the baseline figure. First Peoples children and young people make up 5.7% of the Australian population aged 10–17. Nationally in 2023-24, the rate of Aboriginal and Torres Strait Islander young people aged 10–17 years in detention on an average day was around 26 times the rate of non-Indigenous young people.

People with disability continue to be significantly overrepresented in prisons and youth justice detention. First Peoples women are the fastest growing prisoner population.

The Australian Government has funded a range of justice reinvestment programs across Australia to reduce the rate at which Aboriginal and Torres Strait Islander people are involved in the criminal justice system.

Governments across Australia need to abandon harsh and often counterproductive criminal justice policies. Instead, they should work meaningfully with Aboriginal and Torres Strait Islander communities to support programs that address the root causes of crime including by supporting families, supporting health, education and employment initiatives and addressing poverty and other disadvantage.

## **Priority action**

**The Australian government should abolish mandatory sentencing laws and expand the use of appropriate non-custodial measures. Expand justice reinvestment trials. Adequately fund Indigenous legal assistance programs. Introduce independent monitoring and complaint mechanisms**