

# COMMUNITY IS EVERYTHING

A breakdown of the federal, state and territory issues  
for work in your region

AMNESTY  
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This document is an overview of the national and state issues but as this is an ever changing landscape check in with your community organiser if you are not sure of any details.

For kids, community is everything. It's kids' connections with family and community that lets them flourish, and sets them up for life.

But government policies are separating Indigenous kids from their communities. By locking up kids as young as 10, we are repeating our past mistakes and threatening our future as a fair, just and harmonious community.

The rates of Indigenous and non-Indigenous kids are locked up vary across the country. Western Australia, Queensland and the Northern Territory have the highest rates of overrepresentation of Indigenous kids in detention. But Indigenous kids are overrepresented nationally, and change is needed throughout the country

There are solutions: by supporting Indigenous-designed and led community programs, we can ensure all kids grow up in an environment that nurtures their potential.

Together, we can keep kids in communities for a brighter tomorrow.

## The national picture

- Between July 2014 and June 2015, Indigenous children were 24 times more likely to be in detention than non-Indigenous children in Australia.
- In 2014–15, one in every 35 Indigenous boys and one in every 154 Indigenous girls spent time in detention. Over the same period, one in 668 non-Indigenous boys and one in nearly around 3000 non-Indigenous girls spent time in detention.
- 30 June 1994- the proportion of Indigenous children in unsentenced detention was 32.8% by the 30 June 2008- that figure had increased to 55.1%.
- In Australia 10 and 11 year old children can be put behind bars and Indigenous 10 and 11 year olds make up 74% of 10 and 11 year olds.

## Making governments accountable with justice targets

A justice target is a goal to close the gap of over-representation of Indigenous people in the justice system. This target would sit inside the 'Closing the Gap' framework which governments have created with the aim to reduce Indigenous disadvantage on health, education and employment. This is about making sure Indigenous people have the same quality of life as everyone else. Justice targets would mean government recognises publicly that there is a problem and can be held to account on poor performance. For example, Victoria has had justice targets to reduce Aboriginal youth detention rates for 15 years and monitors and reports on progress. Because of this, a recent unintended rise in Indigenous children in detention because of changes to the Bail Act was quickly identified and addressed through reform in early 2016.

While it is fantastic that some states (Victoria, Australian Capital Territory, and recently, the Northern Territory) are showing leadership to reduce the rates that Indigenous kids are locked

up. We need a national solution to this national problem, patchwork solutions won't cut it. [The Australian Government must play a leadership role](#) in this reform, only then will we see a coordinated national approach effective enough to give all kids a better shot at life. Both levels of government – state/territory and federal must be on the same page and working towards the goal of building communities not prisons.

## Raising the age of criminal responsibility to 12

In all Australian states and territories the age of criminal responsibility is 10, however the UN Committee on the Rights of the Child has says that 12 is the lowest acceptable age. In 2005 the Committee said that the age of criminal responsibility in Australia is “too low”, and recommended raising it to 12, Australia did not act on this advice. This recommendation was reiterated again in 2012. While the numbers in detention and supervision are relatively low, 10 and 11-year-olds in this situation are even more likely to be Indigenous than in older age brackets.

- In 2014-15, 46 ten and eleven-year-olds spent time in detention and 32 of these children were Indigenous (70%).
- Criminologists have identified that contact with the youth justice system increases the likelihood of getting into more trouble in the future and if children enter the system at primary school age (10 and 11) they are likely to become entrenched in it.
- A recent Australian Institute of Health and Welfare study found that a staggering 83% of those children aged 10–12 who served a sentence of detention returned to sentenced supervision within 6 months.

## Reducing deaths in custody

15 April marks the 25th anniversary of the landmark 1991 Royal Commission into Aboriginal Deaths in Custody (RCIADIC). The Royal Commission was established to investigate the causes of deaths of Aboriginal people whilst in prison and came about because of mounting public concern around the numbers of Aboriginal people dying whilst in the care of the justice system. The final report made 339 recommendations on how this ongoing problem could be addressed, many of which focused on strategies to reduce the astronomical rates of Indigenous imprisonment. Sadly very few of these recommendations have been implemented and Aboriginal people continue to die in custody. Successive State, Territory and Federal governments have failed abysmally to heed those warnings found by the commission and national Indigenous incarceration rates are now at their highest since the Royal Commission. While the rates of deaths in custody have been very slightly reduced, the high rates of Indigenous incarceration continues to be a huge risk factor for further indigenous deaths in custody, this is why we're campaigning for national justice targets and other strategies to reduce imprisonment in line with RCIADIC.

## Reducing the numbers of unsentenced kids in detention

Remand is the detention of people before trial and acquittal or conviction. Often Indigenous kids are held in detention on remand because there are no bail hostels within a reasonable distance of where they live, not enough accommodation or a ‘responsible adult’ cannot be found to care for them until the court procedure.

On an average day in 2013/14 there were 488 unsentenced young people in detention in Australia at an average cost per day of \$1,207 per young person. This equates to a cost of over \$215 million dollars annually. If this money was instead invested into bail accommodation, it could significantly reduce rates of unnecessary detention on remand.

The Australian Government could make a valuable contribution to this end by providing funding to

the states and territories to improve the availability of supervised bail accommodation. In return the states and territories could commit to review and make necessary reforms to their bail laws and policies to ensure that unsentenced detention of children and young people is truly a measure of absolute last resort.

## Justice reinvestment

Justice reinvestment works by shifting investment in prisons to investment in communities—things like early intervention and diversion programs (see below). It is an approach that increases community safety by addressing why crimes occur in the first place building alternative pathways in partnership with community and local agencies, and improving outcomes for low-income children and families.

US States that have employed Justice Reinvestment have seen staggering results. In Texas, which once had some of the “toughest” criminal justice policies in the country, the benefits for young people are especially clear.

In Texas, between 2007 to 2012, the approach led to 2,800 fewer young people behind bars. In that time Texas actually closed eight juvenile correctional facilities. What did this mean for the safety of the community? Well, their crime rate dropped to the lowest it had been since 1974.

The 2014 Productivity Commission report on Overcoming Indigenous Disadvantage noted that “addressing over-representation of Aboriginal and Torres Strait Islander Australians in … youth detention requires testing new approaches.” It specifically identified justice reinvestment as an approach that has been shown to work and which should be trialled in Australia.

In our research Amnesty International has pointed to the work currently being done in the town of [Bourke in regional NSW](#) to make the case for the adoption of justice reinvestment. This is a promising example of a Indigenous community-led approach. As Alistair Ferguson, Chair of the Bourke Aboriginal Community Working Party put it:

Too many of my community were being locked up. Kids were being taken away. Families were being shattered, again and again ... And this was happening despite the huge amount of money government was channelling through the large number of service organisations in this town.

So we started talking together ... We decided that a new way of thinking and doing things needed to be developed that helped our children. We decided it was time for our community to move beyond the existing service delivery model, a model which had clearly failed.

## Early intervention

Early intervention is about preventing offending behaviour and supports the development of a child’s strengths and resilience. A growing body of research shows that most effective way to stop kids from ending up in the quicksand of the justice system is to provide support from as early an age as possible.

While many failed approaches focus on remediating visible and/or longstanding behavior, research has shown that prevention and early intervention are more effective.

Statistically, Aboriginal children are more likely to be in contact with police in the youngest age group (10–12) and are most over-represented among the youngest cohort who are subject to court orders and detention. Criminologists have identified that contact with the youth justice system increases the likelihood of criminality in adulthood, and the more intensive and restrictive the justice intervention, such as detention, the greater the likelihood of adult criminality and judicial intervention.

The Australian Institute of Criminology has developed a framework based on evidence of what works that recognises that to generate sustainable reductions in offending, the management and delivery of crime prevention programs and initiatives needs to support the implementation of long-term early intervention programs. An example of this type of program is the [Deadly Sista Girlz program](#) run by the Wirrpanda Foundation. As one of their mentors Josie Jansz puts it:

A lot of our work is about enabling and empowering young Aboriginal girls, and changing their attitudes and thinking.

We're looking at the bigger picture. It's not just what we do this year or for our funding period. It's about Aboriginal people of the future, and whether those kids can become really good role models for their kids themselves. We always say that we want to do ourselves out of a job; if you can say that, then you're really moving towards real change and not just the here and now.

## Diversionary programs

Diversionary programs change the course of individuals away from the criminal justice system and, where necessary into treatment. When it comes to kids, arrest is supposed to be a last resort and diversion should be a key part of the approach. We want to see police and courts looking for and offering smarter solutions for kids more frequently

Police are the first gatekeepers when it comes to diversion away from the system and they currently use their discretion much less frequently for Indigenous kids right around Australia. The low proportion of cautions issued to Aboriginal young people compared to arrests is particularly concerning as this means that they miss chances to get the support or treatment they need at an early stage as these types of referrals often accompany a caution. The Australian Institute of Criminology's research showed that most young people cautioned at the beginning of their contact with the justice system do not go on to have further contact

For example, in Western Australia (between 2008–09 and 2012–13) Aboriginal young people were diverted by police 35 per cent of the time, whereas non Aboriginal young people were diverted 59 per cent of the time. The reasons for the discrepancy are not adequately explained and Amnesty International has called for an investigation. If police don't divert Indigenous kids they are at higher risk getting stuck in the system, without the support they need.

Judges and magistrates often don't have enough options to divert kids that come before them. Amnesty International research to date has identified successful Indigenous programs that are not currently getting any support. One example is [Eugene Eades' work at Nowanup](#) in Western Australia. Eugene ran a cultural program for Indigenous boys who took part in the camp in 2009. He said that:

"Those four young fellas that I had here, the outcome from them being [on Nowanup] for those nine weeks and what they learnt about their culture and heritage and dreamtime, it changed their lives forever... they felt proud like a young Noongar man would after learning such things."

"These young fellows then go back to support their Elders in their own towns."

Despite Eugene's success, his and [similar Indigenous-designed programs](#) are struggling to find the funding to stay alive. Instead Australia hears more and more stories of Indigenous kids in detention. The program at Nowanup was entirely unfunded. Eugene worked without pay and the parents funded the boys' board and keep. He says that:

"It was a very sad situation because I have never ever liked at any time in my life, taking food off a mother or money off a mother, or a father or a home."

Eugene is not currently receiving any funding or delivering any programs for youth in contact with the justice system, despite a wish to do so.

## National calls on the Federal Government

These are the calls you can ask of your Federal MP:

- National leadership on the issue with the first step being the inclusion of justice targets to be included into the Close the Gap framework
- Encourage states to meeting our international legal obligations under the Convention on the Rights of the Child and increase the age of criminal responsibility to 12
- Greater support for Indigenous designed and led responses to turn this situation around.