

Thursday, 25 March 2021

Time for a Government response to Pathways to Justice Report

All comments to be attributed to Law Council President, Dr Jacoba Brasch QC.

“The Law Council of Australia believes it is time for the Australian Government to take the lead in responding to the Australian Law Reform Commission’s (ALRC) *Pathways to Justice—Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples Report*.

It has been three years since the Report was tabled and still statistics, showing the disproportionate incarceration of Aboriginal and Torres Strait Islander peoples, continue to be alarming despite the majority of Aboriginal and Torres Strait Islander people never committing a criminal offence.

The ALRC emphasised in 2018 that over-representation in the prison population is a fundamental, persistent, and national problem, with Aboriginal and Torres Strait Islander people making up about three per cent of the population but almost 30 per cent of the adult prisoner population.

Comprehensive action is needed to avoid repeating past mistakes and instigating future inquiries that investigate the same issues, but to act on the recommendations and conclusions reached.

In this context, recently proposed ‘youth justice reforms’ in the Northern Territory are counter-productive and troubling. They include the automatic revocation of bail. This clearly goes against recommendations by the Royal Commission into the Detention and Protection of Children in the Northern Territory bail that a child should be denied bail very rarely, and detention should be a last resort. This Royal Commission cost taxpayers well upwards of \$50 million dollars.

Automatically placing young people into remand, and electronically monitoring them on the basis of a mere allegation they have committed a crime has no basis as a necessary or proportionate response to addressing crime.

On an average day, 96 per cent of young people in unsentenced detention in the Northern Territory are Indigenous.

A national approach is urgently needed to implement key recommendations from the ALRC around the provision of more diversion, support and rehabilitation programs before, during and after incarceration.

While the Law Council welcomes the move toward adopting Closing the Gap justice targets, more action is needed.

A Government response to the ALRC report has the potential to offer national leadership and support effective solutions.”

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