



Smarter Justice. Safer Communities.



BLUEPRINT FOR CHANGE

Change the Record Coalition

Changing the Record on the disproportionate imprisonment rates,
and rates of violence experienced by Aboriginal and Torres Strait Islander people.



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Aboriginal and Torres Strait Islander people should be aware that this document may contain images or names of people who have since passed away.

About us

Change the Record is a coalition of leading Aboriginal and Torres Strait Islander, human rights, legal and community organisations calling for urgent and coordinated national action to close the gap in imprisonment rates of Aboriginal and Torres Strait Islander people and cut disproportionate rates of violence experienced by Aboriginal and Torres Strait Islander people, particularly women and children.

This document is a collaborative effort of the Change the Record Coalition Steering Committee, which includes:

- Aboriginal and Torres Strait Islander Social Justice Commissioner, Mick Gooda
- ANTaR
- Amnesty International
- Australian Council of Social Service
- Federation of Community Legal Centres (Vic)
- First Peoples Disability Network (Australia)
- Human Rights Law Centre
- Law Council of Australia
- National Aboriginal Community Controlled Health Organisations
- National Aboriginal and Torres Strait Islander Legal Services
- National Congress of Australia's First Peoples
- National Family Violence Prevention Legal Services Forum
- Oxfam Australia
- Secretariat of National Aboriginal and Islander Child Care
- Sisters Inside
- Victorian Commissioner for Aboriginal Children and Young People, Andrew Jackomos



The need for change

The year 2016 marks the 25th anniversary of the tabling of the Royal Commission into Aboriginal Deaths in Custody report in Federal Parliament. In this context we should reflect on what has been done to change the landscape of our justice system for Aboriginal and Torres Strait Islander people. The short answer is - not enough. Today, our nation faces an even deeper crisis than that interrogated by the commission in 1991.

In the past 10 years we have seen an **88% increase** in the number of Aboriginal and Torres Strait Islander people in prison, with Aboriginal and Torres Strait Islander people now **13 times more likely** to be imprisoned than non-Indigenous people.¹ At the same time, Aboriginal and Torres Strait Islander people – especially women and children – are increasingly experiencing violence with Aboriginal and Torres Strait Islander women **34 times more likely** to be hospitalised as a result of family violence.² As a signatory to international human rights conventions, all levels of government have a responsibility to act to address this appalling situation. This is a national crisis requiring a national response.

Given the enormous cost of imprisonment and violence rates – both socially and economically – it is clear that a different approach and urgent action is required. Current approaches by governments to address 'community safety' largely focus on law and order policy responses and fail to address the underlying reasons why individuals come into contact with the justice system in the first place. To change the record, all levels of government need to work with Aboriginal and Torres Strait Islander communities, their organisations and representative bodies to design and invest in holistic early intervention, prevention and diversion strategies. These are smarter, evidence-based and more cost-effective solutions that increase safety, address the root causes of violence against women and children, cut reoffending and imprisonment rates, and build stronger communities.

This document sets out the Change the Record Coalition's Blueprint for Change (*Blueprint*) to address this national crisis. It outlines the leadership role to be played by the Federal Government through the Council of Australian Governments (COAG) process, as well as the policy principles and solutions that should be adopted by all levels of government to support the *Blueprint*.

In developing the *Blueprint* the Change the Record (CTR) Coalition emphasises that all strategies must be grounded in a firm understanding of Aboriginal and Torres Strait Islander people's culture and identity, and recognition of the history of dispossession and trauma experienced by many communities. Respect for the principle of community control and self-determination through participation in developing and implementing policies and programs for change is fundamental to any successful approach.³

1 Australian Bureau of Statistics (2014), *Prisoners in Australia*, Cat. no. 4517.0. Canberra; Australian Bureau of Statistics (2014), *Corrective Services Australia, December Quarter 2014*, Cat no. 4512.0. Canberra.

2 Productivity Commission (2014), Commonwealth Government, *Overcoming Indigenous Disadvantage Report 2014*.

3 It is the position of the CTR Coalition that wherever possible services should be delivered by Aboriginal and Torres Strait Islander community-controlled organisations. Where this is not possible, organisations working with Aboriginal and Torres Strait Islander communities should be guided by the 'Principles for a Partnership-centred approach for NGOs working with Aboriginal and Torres Strait Islander Organisations and Communities'. These are accessible online at: www.acoss.org.au/principles-for-a-partnership-centred-approach.

Blueprint for change

Changing the record on Aboriginal and Torres Strait Islander peoples' imprisonment rates, and experience of violence, requires federal leadership, and a national approach to drive co-ordinated action across the country. The Blueprint outlines the CTR Coalition's core recommendations for a whole-of-government approach through COAG.

Federal, State and Territory governments should work with Aboriginal and Torres Strait Islander communities, their organisations and representative bodies to forge agreement through COAG to:

- a) Establish a national, holistic and whole-of-government strategy to address imprisonment and violence rates. This strategy should contain a concrete implementation plan and build on the National Indigenous Law and Justice Framework 2009-2015. In addition, the strategy should be linked to related areas of COAG reform including the National Framework for Protecting Australia's Children 2009-2022 and the National Plan to Reduce Violence Against Women and their Children 2010-2022.*
- b) Set the following justice targets, which are aimed at promoting community safety and reducing the rates at which Aboriginal and Torres Strait Islander people come into contact with the criminal justice system:
 - i. Close the gap in the rates of imprisonment between Aboriginal and Torres Strait Islander people and non-Indigenous people by 2040;*
 - ii. Cut the disproportionate rates of violence against Aboriginal and Torres Strait Islander people to at least close the gap by 2040; with priority strategies for women and children.**

In addition, these targets should be accompanied by a National Agreement which includes a reporting mechanism, as well as measurable sub-targets⁴ and a commitment to halve the gap in the above over-arching goals by no later than 2030.

- c) Jointly establish, or task, an independent central agency with Aboriginal and Torres Strait Islander oversight to co-ordinate a comprehensive, current and consistent national approach to data collection and policy development relating to Aboriginal and Torres Strait Islander imprisonment and violence rates.*
- d) Ensure that laws, policies and strategies aimed at, and related to, reducing Aboriginal and Torres Strait Islander imprisonment and violence rates are underpinned by a human-rights approach, and have in place a clear process to ensure they are designed in consultation and partnership with Aboriginal and Torres Strait Islander communities, their organisations and representative bodies.*
- e) Support capacity building, and provide ongoing resourcing of Aboriginal and Torres Strait Islander communities, their organisations and representative bodies to ensure that policy solutions are underpinned by the principle of self-determination, respect for Aboriginal and Torres Strait Islander people's culture and identity, and recognition of the history of dispossession and trauma experienced by many communities.*

4 These sub-targets will operate as indicators to track progress against the primary goals and include, for example, child removal numbers, recidivism, and poverty and disadvantage indicators.

Supporting the Blueprint: Policy principles and solutions

In order to be effective, any national framework for closing the gap in rates of imprisonment, and violence, must be supported by action at all levels of government. The below policy principles and solutions should underpin any national approach.

Principles	Policy Solutions
<p>1. Invest in communities, not prisons</p> <p>Evidence clearly demonstrates that strong, healthy communities are the most effective way to prevent crime and make communities safe. Prisons have been shown to be extremely costly, damaging and ultimately ineffective at reducing crime. Every dollar spent on prisons is one less dollar available to invest in reducing social and economic disadvantage through education, health, disability, housing, employment and other programs. Government funding must be reinvested into initiatives that address the underlying causes of crime.</p>	<p>1.1 <i>All levels of government need to prioritise budgetary and other measures to progressively invest increased resources into services and programs that strengthen communities and address the underlying causes of crime, leading to lower prisoner numbers and less expenditure on prisons.</i></p> <p>1.2 <i>All levels of government need to work together to improve and standardise data collection and evaluation mechanisms across jurisdictions.</i></p>
<p>2. Local communities have the answers</p> <p>Directly affected people are best placed to identify local issues in their community and implement local solutions. Aboriginal and Torres Strait Islander community controlled organisations have the unique capacity to provide culturally appropriate services, and are able to develop localised, tailored solutions that have the support of the community.</p>	<p>2.1 <i>Provide long term funding to Aboriginal and Torres Strait Islander community-controlled services commensurate with need across all sectors, and their representative bodies, to ensure quality, culturally strong services for Aboriginal and Torres Strait Islander peoples.</i></p> <p>2.2 <i>Support the development of place-based, Aboriginal and Torres Strait Islander community-controlled services based on identification of need</i></p> <p>2.3 <i>Work in partnership with Aboriginal and Torres Strait Islander communities, their organisations and representative bodies and State and Territory governments to support the identification and development of place-based 'justice reinvestment' sites.</i></p> <p>2.4 <i>Increase the coverage and capacity of Aboriginal and Torres Strait Islander community-controlled services to lead integrated and holistic supports for families based on their knowledge of local needs.</i></p>

Principles	Policy Solutions
<p>3. Recognise the driving factors of imprisonment and violence</p> <p>Along with the experience of poverty and disadvantage, involvement in the child protection system and family violence are two of the clearest indicators of people who are more likely to end up in the criminal justice system. Early intervention strategies to prevent crime must include measures to stop family violence and avoid exposure to the child protection system by supporting families and strengthening communities. These strategies will decrease imprisonment and violence rates.</p>	<p>3.1 <i>Embed Aboriginal and Torres Strait Islander decision-making into all phases of the child protection system, in particular through Aboriginal Guardianship laws implemented in all jurisdictions. This should include:</i></p> <ul style="list-style-type: none"> • <i>Family decision-making processes being available to all families at the earliest opportunity;</i> • <i>Community-based child safety structures to drive prevention strategies;</i> • <i>Legal, counselling and support services provided to parents and children at the earliest opportunity to assist in their engagement in the child protection system; and</i> • <i>Monitoring of child well-being and input into decision-making about children welfare.</i> <p>3.2 <i>Provide national coverage commensurate to need for holistic, culturally strong and intensive family support services, including child support, legal and counselling services, to strengthen families before and on coming into contact with the child protection system.</i></p> <p>3.3 <i>Support the development of holistic, integrated community-controlled early years' child and family services in all communities in need.</i></p> <p>3.4 <i>Establish, through COAG, a funding mechanism that prioritises early intervention investment to address the under-representation of Aboriginal and Torres Strait Islander children in the early childhood education and care system and over-representation of Aboriginal and Torres Strait Islander children in the child protection system. This should include an emphasis on funding for Aboriginal and Torres Strait Islander community controlled organisations that provide frontline services including child support, legal and counselling services.</i></p> <p>3.5 <i>Implement strategies that enable communities to develop and deliver their own holistic healing approaches to respond to the impacts of the intergenerational trauma experienced by many Aboriginal and Torres Strait Islander people.</i></p> <p>3.6 <i>Establish a Commissioner for Aboriginal and Torres Strait Islander children and young people in every Australian jurisdiction.</i></p> <p>3.7 <i>Implement economic development and poverty reduction strategies designed by Aboriginal and Torres Strait Islander people, and supported by governments, to increase employment opportunities. This should be complemented by a robust social safety net, including the provision of adequate basic income support.</i></p>

Principles	Policy Solutions
<p>4. Focus on safety</p> <p>The impacts of crime are felt most strongly by people in that community, particularly women and children who are often the victims of violent behaviour. Successful early intervention and prevention strategies will not only cut offending and imprisonment rates, but importantly will increase safety by addressing the root causes of violence against women and children and building stronger communities.</p>	<p>4.1 <i>Invest in national coverage of services commensurate with need for victims of violence, with priority for services that are Aboriginal and Torres Strait Islander community controlled, including Aboriginal Family Violence Prevention Legal Services (FVPLS) and Aboriginal and Torres Strait Islander Level Services (ATSILS).</i></p> <p>4.2 <i>Invest in culturally safe and targeted early intervention and prevention strategies aimed at increasing safety and reducing the experience of violence, with a particular focus on supporting Aboriginal and Torres Strait Islander women and children.</i></p> <p>4.3 <i>Implement Aboriginal and Torres Strait Islander led strategies to increase access to safe housing, including long term secure funding for specialist homelessness services, financial assistance and access to affordable housing. Examine law reform opportunities including victims of crime compensation to assist in addressing the systemic issues that inhibit access to safe housing.</i></p> <p>4.4 <i>Invest in evidence-based, culturally tailored men's behaviour change programs that enhance safety and are funded in addition to services for victims/survivors.</i></p> <p>4.5 <i>Develop strategies to ensure appropriate police responses and improve access to court and other justice services for Aboriginal and Torres Strait Islander victims/survivors.</i></p>



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Principles	Policy Solutions
<p>5. Services, not sentences</p> <p>The criminal justice system is often an ineffective or inappropriate way to respond to people who have a disability or are experiencing poverty, mental illness, drug or alcohol addiction, homelessness or unemployment. We need a social policy and public health response to such issues, not a criminal justice one. Services like adequate health care, disability supports, employment and training, drug treatment and affordable housing cost far less than prisons, and have a substantially better record of success.</p>	<p>5.1 <i>Ensure national coverage of services commensurate with need that are required to reduce violence and imprisonment rates. This includes but is not limited to legal assistance (ATSILS and FVPLS), prevention and healing services.</i></p> <p>5.2 <i>Develop a workforce plan that will enable national coverage of services. This plan should include:</i></p> <ul style="list-style-type: none"> • <i>Recruitment and retention;</i> • <i>Building the Aboriginal and Torres Strait Islander workforce; and</i> • <i>Building the cultural competency of all relevant workforces.</i> <p>5.3 <i>Ensure that individuals with multiple and complex needs are effectively supported, including by adequately resourcing service providers to improve co-ordination.</i></p> <p>5.4 <i>Provide legal assistance services including ATSILS, FVPLSs, Community Legal Centres (CLCs) and Legal Aid Commissions with funding to meet the civil, family and criminal legal needs of Aboriginal and Torres Strait Islander people, with priority for services that are Aboriginal and Torres Strait Islander community controlled.</i></p> <p>5.5 <i>Increase access to culturally-appropriate early intervention programs including support and programs based on voluntary participation which address:</i></p> <ul style="list-style-type: none"> • <i>Family violence;</i> • <i>Voluntary drug and alcohol issues;</i> • <i>Mental health issues; and</i> • <i>Employment and training.</i> <p>5.6 <i>Fund the development of culturally-appropriate early intervention and prevention programs targeted at women experiencing multiple needs (e.g. family violence, substance abuse and mental health issues).</i></p> <p>5.7 <i>Urgently finalise an official diagnostic tool for Fetal Alcohol Spectrum Disorder (FASD) and recognise FASD as a disability, whilst at the same time ensuring that mothers of children with FASD are not stigmatised or criminalised.</i></p> <p>5.8 <i>Support diversion programs for people with disability.</i></p>



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6. Community-oriented policing

Police have an enormously important and often difficult role to play in dealing with offending behaviour, responding to family violence and keeping us all safe. However, many communities describe experiences of over or under policing, harassment or racism, which can sometimes exacerbate the situation for already marginalised and disadvantaged communities. Changes to the ways police interact with and enforce the law in communities experiencing poverty and disadvantage, as well as a greater level of cultural awareness, can play a vital role in building trust, promoting safety, reducing crime and building stronger communities.

- 6.1 *Develop and implement strategies which are aimed at building stronger and collaborative relationships between police and Aboriginal and Torres Strait Islander communities, organisations and their representative bodies. These strategies should improve police interaction with the community and build the capacity of police to respond to family violence, mental health issues and other complex situations, in a culturally safe way.*
- 6.2 *Establish police policies and programs that promote diversion from the criminal justice system. For example, Establishing targets and incentivising smart practices, such as referrals to appropriate health or other support services.*
- 6.3 *Implement programs to increase awareness of the prevalence and impact of disability and mental health on offending behaviour/crime/contact with the justice system, and provide options for better policing and judicial administration.*
- 6.4 *Promote community-based initiatives, such as night patrols, that promote public safety measures and community empowerment.*



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7. Smarter sentencing

The hallmark of a justice system is fairness. Harsher sentences and laws that strip judges of their ability to make the sentence fit the crime, such as mandatory sentencing, need to be changed. A wider range of sentencing alternatives encompassing non-custodial options enables judges to ensure that sentences are tailored, fair and appropriate.

- 7.1 *Abolish sentencing and bail laws that strip judges of the ability to consider the particular circumstances of a case, such as mandatory sentencing.*
- 7.2 *Increase availability of diversion and non-custodial sentencing options.*
- 7.3 *Set minimum standards for criminal justice legislation dealing with people with mental-health related disabilities and ensure that people with such disabilities have access to community-based assessments and treatments.*

Principles	Policy Solutions
<p>8. Eliminate unnecessary imprisonment</p> <p>Many people are imprisoned due to an inability to pay fines or are convicted for relatively minor offences. In many instances, sending a person to prison is unnecessary and can contribute to further involvement in the criminal justice system. We need to rethink the costly practice of imprisonment and consider more effective community options.</p>	<p>8.1 <i>End custodial sentencing for low level offences, expand diversion schemes and community-based service orders, and ensure equitable access by Aboriginal and Torres Strait Islander people to non-custodial sentencing options.</i></p> <p>8.2 <i>Reduce unnecessary remand by expanding bail accommodation, case management for remand and other bail support programs.</i></p> <p>8.3 <i>Increase the availability of interpreters for legal and other services, particularly in remote and regional areas.</i></p> <p>8.4 <i>Provide adequate support to Aboriginal and Torres Strait Islander people navigating the justice system, including the provision of legal assistance. For example, additional supports should be provided to individuals with multiple and complex needs, particularly those with mental and cognitive impairments.</i></p> <p>8.5 <i>Move away from strict compliance models in regards to both parole and bail condition breaches, particularly relating to technical breaches or low level breaches.</i></p>
<p>9. Adopt community justice approaches</p> <p>Serious crime, particularly violent offending, damages individuals and communities, and impacts women and children disproportionately. Evidence tells us that therapeutic and restorative processes, such as Koori and Murri courts, drugs courts and healing circles, are ways in which the criminal justice system can help to rebuild relationships and deliver positive outcomes for the entire community. Investing in early intervention and prevention activities, such as community legal education, is more cost effective and prevents offending occurring in the first place.</p>	<p>9.1 <i>Support the development and implementation of culturally competent and specialist courts, such as Koori Courts, Murri Courts and Drug Courts.</i></p> <p>9.2 <i>Support the development and implementation of community-led therapeutic and restorative justice approaches including healing circles and youth conferencing.</i></p> <p>9.3 <i>Support early intervention and prevention programs including community legal education and outreach programs undertaken by ATSILS and FVPLS.</i></p>

Principles	Policy Solutions
<p>10. Young people don't belong in prison</p> <p>Punitive 'tough on crime' approaches to youth offending and misbehaviour fail to recognise that young people are still developing and that far more appropriate opportunities for support and positive reinforcement exist than putting children behind bars. Exposure to youth detention also substantially increases the likelihood of involvement in crime as an adult. Young people at risk must be supported to maximise their chances of achieving their full potential.</p>	<p>10.1 <i>Ensure legislation is in place that mandates that the principle of detention as a measure of last resort be observed at all times for any person up to and including the age of 17.</i></p> <p>10.2 <i>Increase the age of criminal responsibility to age 12 in all States and Territories (in line with recommendations from the Committee on the Rights of the Child), and ensure the presumption of legal incapacity continues to apply to 12, 13 and 14-year-olds.</i></p> <p>10.3 <i>Whilst observing the principle that detention must only be used as a measure of last resort, ensure that any person up to and including the age of 17, is detained in appropriate facilities. Youth detention facilities should be built for purpose and provide the supports that vulnerable children need in an appropriate and therapeutic environment.</i></p> <p>10.4 <i>Support the development of specialist youth courts.</i></p> <p>10.5 <i>Ensure that legislation in each jurisdiction dictating bail considerations and presumptions includes a presumption in favour of bail for young people and ensures that bail conditions take account of social and cultural factors and can be reasonably met by Aboriginal and Torres Strait Islander peoples.</i></p> <p>10.6 <i>Ensure that exclusion from school is used as a matter of last resort and that all appropriate supports are provided to enable Aboriginal and Torres Strait Islander children and young people to succeed at school. This should include the provision of restorative justice initiatives and healing programmes within school to enable the early resolution of issues.</i></p>



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11. Rehabilitation is in all our interests

A prison sentence should not be a sentence for life. Just about every prisoner will be released back into the community at some stage. It is in all of our interests to ensure that people in prison receive effective rehabilitation that includes education and programs and support services to increase their capacity to reintegrate into the community following release.

- 11.1 *Increase access to Aboriginal and Torres Strait Islander specific counselling services, drug and alcohol services, healthcare, disability supports and offence specific programs (e.g. family violence). This should include both before entering custody, during imprisonment, at time of release and post-release. This should include a specific focus on increasing access to services for victim/survivors of violent crimes that are imprisoned.*
- 11.2 *Improve the accessibility and availability of Aboriginal and Torres Strait Islander specific education/training and employment programs in prisons.*
- 11.3 *Improve detention conditions, particularly practices which can retraumatise individuals with lived experience of violence, including discontinuing routine strip searches for women and children and use of segregation facilities for prisoners experiencing mental health issues.*

12. Reintegration not recidivism

Unfortunately, far too many people fall back into crime soon after being released from prison. This tells us that not enough support is being provided to people while in prison and during their transition back into the community. Better support needs to be provided to assist people to lead productive lives and fulfil their potential, which includes the provision of affordable housing, health care, and training and employment.

- 12.1 *Provide intensive wrap-around support programs both pre and post release. This should include appropriate:*
 - *Family, health and disability services;*
 - *Employment and training programs; and*
 - *Supported affordable housing/accommodation for individuals post release.*
- 12.2 *Ensure support programs are specifically designed by and for Aboriginal and Torres Strait Islander people, and in the first instance provided by Aboriginal community-controlled organisations.*





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