

Indigenous People and the Law

AUSTRALIAN DEMOCRATS ACTION PLAN INDIGENOUS PEOPLE AND THE LAW INDIGENOUS AFFAIRS

“Indigenous people are substantially over represented in the criminal justice system”

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Indigenous Affairs
Portfolio**

The Australian Democrats are committed to working with Aboriginal Peoples and Torres Strait Islanders to reduce the overrepresentation of Indigenous people in our prisons and the continuing deaths in custody. Australian Indigenous people feature disproportionately in the criminal justice system as both victims and offenders. We support restorative justice as a way of dealing with both the rights of Indigenous victims of crime and of making offenders accountable to the community

The Democrats also support the right to a fair trial and the provision of culturally appropriate and holistic legal services specifically for Indigenous people.

Deaths in Custody

While noting the efforts of some Governments, a national strategy for the implementation of the recommendations of the 1991 Royal Commission into Aboriginal Deaths in Custody (RCIADC) is still needed.

In the decade following the RCIADC there have been 150 Indigenous custody-related deaths – significantly more than the 99 deaths in prison or police custody in the decade before the Royal Commission.

Prisoners face an increased risk of death after release from jail and Indigenous prisoners have a significantly lower survival rate after release than non-Indigenous prisoners.

The Democrats call for a national commitment to culturally appropriate post-release support for Indigenous prisoners, for example, a network of Indigenous run ‘Halfway Houses’ and community centres to ensure Indigenous people displaced from their own communities through jail or detention can forge new community ties.

Imprisonment Rates

Indigenous imprisonment rates continue to rise. Indigenous people are now over 15 times more likely to be imprisoned than non-Indigenous people and they comprise 20% of the prison population.

The Democrats call for a strategy based on restorative justice and the abolition of all sentences of less than 6 months. This would reduce the number of Indigenous people in prison by 54% over one year in NSW alone.

Alternative sentencing models, such as Circle Sentencing and minimum security farms and diversionary programs will help reduce incarceration rates but increasing



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rates of education and employment and improved life opportunities will make the real long term difference.

Indigenous Women

Indigenous women are the 'most legally disadvantaged group in Australia' and are incarcerated at a higher rate than any other group and are the fastest growing prison demographic. They represent half of all women taken into custody and are incarcerated at a rate of 19.3 times that for other women.

While over-policing of minor offences sees Indigenous women over-represented in jail they suffer from under-policing when victims.

The Democrats call for a specific national strategy to address the disproportionate effects of detention of Indigenous women including a focus on policing trends, holistic alternatives to imprisonment, eg. Healing Centres (Canada), and facilities to keep mothers with children.

Indigenous Young People

The rate of Indigenous juvenile detention is now 19 times that of non-Indigenous juveniles and Indigenous young people now make up 43% of all juvenile detainees but only 4% of the total juvenile population.

The Democrats call for a strategy to reduce Indigenous youth detention rates based on diversionary programs and alternative sentencing models such as circle sentencing (NSW).

Access to Justice

Indigenous Legal Aid Services

The Democrats strongly oppose the mainstreaming of Indigenous legal aid services.

We acknowledge that culturally appropriate legal services are the most effective way of delivering access to justice for Indigenous victims of crime and accused persons.

Any reforms in this area must be in partnership with Indigenous people and agencies and be effective and efficient.

The Democrats will continue to push for the strengthening and increased funding of Indigenous legal services.