

**Submission
No 40**

**INQUIRY INTO HIGH LEVEL OF FIRST NATIONS
PEOPLE IN CUSTODY AND OVERSIGHT AND REVIEW OF
DEATHS IN CUSTODY**

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Date Received: 14 August 2020

Overpolicing of Aboriginal communities results in unnecessary contact with the criminal justice system. Young people in particular are policed for simply socialising in parks or shopping centres. They often face serious penalties and treatment for offences where non-Aboriginal youth only receive warnings. Overpolicing and disproportionate contact contributes to the overrepresentation of First Nations peoples in prisons, and it starts young, especially as the criminal age of responsibility continues to sit at only 10 years old.

Here in New South Wales, Indigenous people are imprisoned at a rate of more than 10 times the general population (ABS). 10 times that of non-Indigenous people.

In the March 2020 quarter Aboriginal people in NSW were imprisoned at a rate of 2427.4 people per 100,000, compared to a rate of just 220.7 for the general population. 1621 Aboriginal people were received as new prisoners across NSW in the quarter leading up to March 2020. At this time NSW had 5144 new prisoners. Indigenous inmates were 31 per cent of that figure while they only make up about 3 per cent of our state's population.

For a more specific example NSW has a cannabis caution regime, specifically designed to keep people out of the justice system for minor offences. The cautions are issued at the discretion of individual police. However, only 11.41% of Indigenous Australians found with cannabis were let off with such cautions, compared with 40.03% for non-Indigenous people. This is just one example where Indigenous people are given harsher penalties for the same offences as non-Indigenous people, even when the system is designed to prevent people from entering the criminal justice system.

The 1991 Royal Commission into Aboriginal Deaths in Custody recommended a key step in preventing deaths is to stop arresting Indigenous Australians at such high rates, which means this has to change.

Another thing that needs to change is that there should be independent oversight and investigations for all Aboriginal deaths in custody when they do occur. For the sake of the families this needs to include: allowing them to inspect where their relation died, interviews of all witnesses (including inmates), and being kept up to date as to the progress of the inquiry. They deserve so much better than what they have got.

Those responsible must face justice. Not one police or prison officer has ever been held responsible for any of the 435+ deaths in custody since the Royal Commission, or the thousands of deaths before the statistics started being recorded. This has to change.