

The Canberra Times

We've been silent too long

By Ruth Barson and Julian Cleary
The Canberra Times
26 May 2016

We've been silent too long The federal government won't commit to closing the justice gap for Indigenous peoples, write Ruth Barson and Julian Cleary.

Governments around Australia are again playing politics with the lives and liberty of Indigenous people. As a nation, we should have no tolerance for such inequity and injustice.

This week the Northern Territory is set to introduce punitive bail laws that will see more young people locked up.

It is fair to say the Northern Territory's youth justice system is in crisis: the youth detention facility is a decommissioned adult prison and Indigenous young people constitute over 95 per cent of the youth detention population.

The answer to complex social issues should not be a resort to short-sighted 'lock 'em up' politics.

We all want a safer community; we all want to reduce crime. The question is what's the best way of achieving this?

The evidence is abundantly clear: sending children to prison entrenches them in the criminal justice system. That is, locking children up makes matters worse by compounding the underlying reasons for their offending - trauma from exposure to violence, Fetal Alcohol Spectrum Disorder, exposure to drug and alcohol misuse and complex behavioral issues. This is why detention must be a last resort.

Conversely, intervening early in the lives of disadvantaged children to address the causes of offending, preventing crime from occurring in the first place and diverting young people away from the criminal justice system not only reduces imprisonment rates, but also reduces offending rates.

In other words, we need resources to go into better education and employment opportunities, family counsellors, drug and alcohol services and proper housing. We need to support Indigenous people and organisations to develop local solutions to the issues they are best placed to understand.

If we look to the ACT, we can see evidence of what works if we get smarter in our response to crime.

In 2011 the ACT Commissioners for Human Rights and Children and Young People released a damning report about their youth justice system, saying that it's at risk of becoming "harmful and counterproductive".

To their credit, and in contrast to the Northern Territory, the ACT government developed an evidence-based Blueprint for Youth Justice that puts resources into early intervention and diversion programs.

The result: the ACT has seen a dramatic drop in police apprehensions, court orders and youth detention rates. The ACT's approach has both improved community safety and the wellbeing of young people who might otherwise have sunk into the quicksand of the justice system.

But the ACT approach to youth justice is unfortunately a rare example. When it comes to punitive governments and myopic policies, Western Australia also stands out.

Last week the independent Western Australian Inspector of Custodial Services released a report highlighting the disproportionate impact their fines system has on Indigenous women: the most likely demographic to be locked up for fine default.

Western Australia is the only jurisdiction in the country that fails to properly differentiate between those who will not and those who cannot pay their fines, and the results are devastating.

Ms Dhu, a 22-year-old Yamatji woman, tragically died in police custody almost two years ago after being locked up for unpaid fines.

Ms Dhu should have never been locked up in the first place. NSW has a fair and flexible fines system, which has resulted in no one being locked up for unpaid fines since the late 1990s; a system that Western Australia should adopt.

As this year marks the 25th anniversary of the Royal Commission into Aboriginal Deaths in Custody, we cannot forget that the Commonwealth Government has a role to play in failing to address the national justice crisis of Indigenous peoples' over-imprisonment.

Almost one in 10 Indigenous people aged 15 years and over have been imprisoned in their lifetime.

The Social Justice Commissioner has rightly called this a national emergency.

Groups such as Change the Record - a coalition of leading human rights and Indigenous organisations - are urging the Federal Government to introduce 'Justice Targets' to reduce imprisonment and violence rates as part of the Close the Gap Strategy.

Justice targets are measurable goals to reduce Indigenous peoples' high imprisonment and victimisation rates. Just as the Federal Government has committed to closing the gap in life expectancy within a generation (by 2031), it could also commit to closing the justice gap. But it is refusing to lead by example.

Despite a recent Vote Compass survey showing that Australians support action on Indigenous over-imprisonment rates, the federal government has failed to send a clear message that governments cannot arrest and imprison their way out of complex social issues.

When the federal government is shirking responsibility and our state and territory governments perpetuate policies that result in more Indigenous children and women being locked up, we must speak up.

We have evidence, answers and policies. The challenge is getting our governments to demonstrate commitment to equality and justice for all.

Ruth Barson is a senior lawyer at the Human Rights Law Centre Julian Cleary is an Indigenous rights campaigner at Amnesty International