## For a just and fair Canberra, the ACT Government must:

* Enact legislation to raise the Minimum age of Criminal Responsibility from 10 to 14 years of age with no carveouts or exceptions, and invest in related support services for children, young people and their families to prevent first contact with the justice system
* Fund and implement all recommendations in the Inspector of Correctional Services Healthy Centre Review of Bimberi Youth Justice Centre
* In partnership with the Aboriginal and/or Torres Strait Islander community, establish an appropriate inquiry process to investigate the overrepresentation of Aboriginal and/or Torres Strait Islander peoples in the ACT justice system
* Improve access to justice by increasing funding to community legal centres, mediation and individual advocacy supports
* Fully resource the Justice Reinvestment and the Disability Justice Strategies to meet recidivism reduction targets, significantly reduce Aboriginal and/or Torres Strait Islander incarceration, and introduce gender-specific rehabilitation and diversion programs
* Expand specialist drug and alcohol programs and fix legislative barriers to enable the diversion of Canberrans away from the justice system and towards support
* Resource and expand eligibility for alternative sites of court processes, including the Drug and Alcohol Sentencing List and Galambany Circle Sentencing Court
* Fund Aboriginal Controlled Community Organisations who support people at risk or in contact with the justice system
* Fix the AMC. Refocus the prison on human rights and rehabilitation through:
  + Implementing all recommendations from the 2022 Healthy Prison Review (HPR22) and remaining recommendations from the 2019 review
  + Resource education programs and expand opportunities for tertiary education
  + Fund gender responsive health, education and wellbeing programs for women
  + Ensure community sector services providing programs in the prison are funded and supported to provide services and programs
  + Implement a needle and syringe program to support the health and safety of detainees
  + Ensure equivalence of healthcare, particularly for Aboriginal and Torres Strait Islander detainees and detainees with mental health needs
  + Expand eligibility and prioritise access to the Reintegration Centre to ensure it is used to its fullest capacity
  + Ensure that the transition to a non-smoking facility is responsive to the needs of detainees who use tobacco and includes ongoing support options, access to Nicotine Replacement Therapy and mental health care

## Justification

* The number of young people detained in Bimberi is increasing. Across the second quarter of 2022-23, **sixty** young people were detained. In the same period in 2018, **thirty-five** young people were detained.[[1]](#footnote-2)
* In the ACT, Aboriginal and Torres Strait Islander young people make up only 2.9% of the population aged 10-17 years[[2]](#footnote-3), however 2021-22 data suggests that 30% of the average daily number of young people in detention in the ACT were Aboriginal and Torres Strait Islander.[[3]](#footnote-4) Aboriginal and Torres Strait Islander children are 12 times more likely than non-First Nations young people to be in detention and almost six times more likely to be under a community-based supervision order.[[4]](#footnote-5)
* In the second quarter of 2022-23, **28%** of the young people in detention were Aboriginal and/or Torres Strait Islander young people. Aboriginal and Torres Strait Islander people make up only **6%** of the Australian population aged 10-17 years.
* In 2022, despite making up only **2%** of the ACT population, Aboriginal and Torres Strait Islander people represent **26%** of the AMC population.[[5]](#footnote-6)
* HPR22 found that Aboriginal and Torres Strait Islander detainees in the AMC were subject to disproportionate rates of **use of force** incidents, segregation orders, higher security ratings and strip searches.[[6]](#footnote-7) As of 2022, Aboriginal and Torres Strait Islander people are **twenty times more likely to be imprisoned** in the ACT than non-Aboriginal and Torres Strait Islander people, and twelve times more likely to be under a community corrections order.[[7]](#footnote-8)
* The percentage of eligible AMC detainees receiving education and training is at an **all-time low**, and the second lowest in the country at 11.5%, well below the national average of 23.7%.[[8]](#footnote-9)
* The known prior imprisonment percentage in the ACT has steadily risen from 71% in 2012 to just over 77% at end of 2022 – showing that recidivism rates remain high. [[9]](#footnote-10)
* A 2020 cost benefit analysis of the Galambany Circle Sentencing Court, a culturally relevant and appropriate sentencing option for eligible Aboriginal and Torres Strait Islander people, found that the court offered benefits of $10.7m in output gains and cost savings, compared with an operating cost of $3.3m. This represents a benefit cost ration of over three to one.[[10]](#footnote-11) An initial economic assessment of the Drug and Alcohol Sentencing List outcomes estimated that $14 million was saved through avoiding custodial sentences for participants.[[11]](#footnote-12)
* The 2018 ACT Disability Justice Strategy highlighted the lack of data on people with disability, their legal needs, and interactions with the justice system.[[12]](#footnote-13) Young people with a disability are overrepresented in the youth justice system.[[13]](#footnote-14)
* The Inspector of Correctional Services’ report on the review of the care and management of remandees at the Alexander Maconochie Centre 2018 said that only 37% of remandees feel they are ‘treated as a human being and a person of value at the AMC’.[[14]](#footnote-15)
* According to the AMC [2022 Healthy Prison Review](https://www.ics.act.gov.au/reports-and-publications/healthy-prison-reviews/healthy-prison-reviews/healthy-prison-review-of-the-alexander-maconochie-centre-2022) by the ACT Inspector of Correctional Services[[15]](#footnote-16);
  + Reported accessibility resources and detainee experiences did not align and 72% of detainees with disability reported that their needs, as they relate to their disability, were never or rarely met.
  + Boredom is a serious and ongoing issue in the AMC. 79% of detainees report that they are **bored most of time**. Boredom induced by a lack of opportunity for occupational activity is in direct opposition to the goal of rehabilitation.
  + Women in the AMC lack access to the same activities and opportunities as men and often have their programmed activities cancelled.
  + The AMC has not had an educational programs provider since 2021. Most detainees (82%) do not find that the education options provided meet their needs and 80% disagree that work they do during their detention will help them get a job when they are released.
  + All detainees face difficulties accessing healthcare services. Aboriginal and Torres Strait Islander detainees are frequently unable to access services through Winnunga Aboriginal Health Service, which has capacity for approximately one-third of the real need.
  + Most (88%) of the capacity of the Reintegration and Transitional Release Centre was not used over 2020-22.

## The Current Issues

* In May 2023, the ACT Government introduced the Justice (Age of Criminal Responsibility) Legislation Amendment Bill 2023 which raises the age of criminal responsibility from 10 years old to 12 years old at the immediate passing of the Bill, and to 14 years old by 1 July 2025. The Bill contains four criminal charge exceptions for children aged 12-14 years old that will remain in perpetuity. These charges include murder, sexual assault, grievous bodily harm, and committing an act of indecency. [ACTCOSS opposes these exceptions.](https://www.actcoss.org.au/publications/advocacy-publications/submission-raising-minimum-age-criminal-responsibility-discussion) Children who engage in the riskiest forms of behaviour must be met with therapeutic responses. Children do not belong in prisons, and given adequate funding, we have the capacity to support young people to stay out of the justice system.
* Aboriginal and Torres Strait Islander people are overrepresented in the justice system. The ACT Government has had moderate success with opening an alternative reporting site for bail and community corrections and this program must be expanded. ACTCOSS welcomed dedicated funding in the 2022-23 ACT Budget for an Indigenous Justice Team, but we need to ensure ACCOs are adequately resourced to support Aboriginal and Torres Strait Islander communities interacting with the justice system. ACTCOSS continues to advocate for an inquiry into the experiences of disadvantage of Aboriginal and Torres Strait Islander people, including overrepresentation in the justice system.
* To ensure equal access to justice, community legal centres need adequate funding for criminal matters and civil matters including child protection, financial issues, housing and family law issues. People with disability are also overrepresented as both victims/survivors and perpetrators in the justice system. Individual advocacy provides independent support to clients engaging with the justice system and can help prevent sustained systems contact. This is one element of the [Disability Justice Strategy](https://www.communityservices.act.gov.au/disability_act/disability-justice-strategy), the whole of which must be properly resourced and implemented.
* The ACT has committed to [reducing recidivism by 25% by 2025](https://www.justice.act.gov.au/__data/assets/pdf_file/0010/2103976/RR25by25-Plan.PDF). However, lack of appropriate supports, including housing, financial counselling, healthcare, culturally appropriate residential rehabilitation and education programs mean we are not on track to meet this goal.

|  |
| --- |
| Delivering commitments in the ACT Parliamentary and Governing Agreement |
| The Government should honour its commitments **under the** [**Parliamentary and Governing Agreement**](https://www.cmtedd.act.gov.au/__data/assets/pdf_file/0003/1654077/Parliamentary-Agreement-for-the-10th-Legislative-Assembly.pdf) for this term of Government as they relate to justice and community safety – these include:   * Raise the minimum age of criminal responsibility * Consider the best administrative arrangements to provide a holistic and coordinated approach to justice reinvestment, and to social inclusion and equality. * The ACT Labor Policy Platform for the 10th Assembly also included: * Continue to implement the Disability Justice Strategy Action Plan (17.7) * Delivering ongoing coordinated service response for young people aged eight to 15 years who are at risk of homelessness, or engagement with the child protection or youth justice systems (19.1) * Develop a new Youth Justice Strategy, including restorative approaches that support young people, with a pilot of Functional Family Therapy – Young People in 2021, and implement a Youth Justice Throughcare program to be delivered in partnership with community organisations (19.4).   The Act Greens Policy Policy Platform for the 10th Assembly included:   * Enhance drug diversion pathways for law enforcement (7.5) * Establish a First Nations Commissioner in the Human Rights Commission (9.9) * Implement the Disability Justice Strategy Action Plan (13.1) * Invest $20 million in justice reinvestment programs over 4 years (13.2) * Reduce incarceration of First Nations women and men to match non-Indigenous incarceration rates by 2030 (13.3) * Pilot a new Youth Justice throughcare program for young offenders leaving detention (13.4)   In their Policy Position Statement for this term, ACT Labor has also committed to:   * Continue working toward creating a Centre for Restorative Justice to ensure justice in Canberra is accessible, fair and healing. * Review of the rates and causes of Indigenous incarceration in the ACT, led and informed by the Aboriginal and Torres Strait community.   The ACT has also committed to reducing recidivism in the ACT by 25% by 2025 ([RR25by25](https://justice.act.gov.au/sites/default/files/2020-08/Plan%20-%20RR25by25%20-%20Plan%20for%20printing%20-%20web-%20%20Final_0.PDF)). |

1. ACT Community Services Directorate (ACT CSD), [*Bimberi Headline Indicators Report*](https://www.communityservices.act.gov.au/__data/assets/pdf_file/0015/2223510/Bimberi-Headline-Indicators-Report-May-2023.pdf), ACT CSD, May 2023, accessed 17 May 2023. [↑](#footnote-ref-2)
2. Australian Institute of Health and Welfare (AIHW), [*Youth Detention Population in Australia 2022: Understanding Youth Detention in Australia: Aboriginal and Torres Strait Islander People*](https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2022/contents/understanding-youth-detention-in-australia/aboriginal-and-torres-strait-islander-people), AIHW, 2022, accessed 15 March 2023. [↑](#footnote-ref-3)
3. Productivity Commission, [*Report on Government Services 2023: Community Services: Youth Justice*](https://www.pc.gov.au/ongoing/report-on-government-services/2023/community-services/youth-justice), Australian Government, 24 January 2023, accessed 8 February 2023. [↑](#footnote-ref-4)
4. Productivity Commission, *Report on Government Services 2023: Youth Justice*. [↑](#footnote-ref-5)
5. Productivity Commission, [*Report on Government Services 2023: Justice: Corrective Services*](https://www.pc.gov.au/ongoing/report-on-government-services/2023/justice/corrective-services), Australian Government, 31 January 2023, accessed 8 February 2023. [↑](#footnote-ref-6)
6. ACT Inspector of Correctional Services (ACT ICS), [*Healthy Prison Review: Final Report*](https://www.ics.act.gov.au/__data/assets/pdf_file/0011/2111888/11432RR-ACT-ICS-Healthy-Prison-Review-Nov-2022_Full-report_FA-tagged.pdf), ACT ICS, November 2022, accessed 10 March 2023. [↑](#footnote-ref-7)
7. Productivity Commission, [*Report on Government Services 2023: Justice: Corrective Services*](https://www.pc.gov.au/ongoing/report-on-government-services/2023/justice/corrective-services), Australian Government, 2023, accessed 1 March 2023. [↑](#footnote-ref-8)
8. Productivity Commission, *Report on Government Services 2023: Corrective Services*. [↑](#footnote-ref-9)
9. Australian Bureau of Statistics (ABS), [*Prisoners in Australia*](https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release), ABS, 2022, see Table 15, accessed 1 March 2023. [↑](#footnote-ref-10)
10. A Daly, G Barrett and R Williams, [*Cost Benefit Analysis of Galambany Court*](https://courts.act.gov.au/magistrates/about-the-courts/areas-in-the-act-magistrates-court/galambany-court), ACT Justice and Community Safety Directorate, 2020, accessed 15 March 2023. [↑](#footnote-ref-11)
11. M Rossner, L Bartels, K Gelb, G Wong, J Payne and S Scott-Palmer, [*ACT Drug and Alcohol Sentencing List Final Report*](https://courts.act.gov.au/__data/assets/pdf_file/0003/2054640/ACT-Drug-and-Alcohol-Sentencing-List_Final-Report.pdf), ACT Courts, June 2022, accessed 3 March 2023. [↑](#footnote-ref-12)
12. Disability Justice Strategy Project Team, [*Disability Justice Strategy*](https://www.communityservices.act.gov.au/disability_act/towards-disability-justice-in-the-act/part-1-summary-and-overview), ACT Government Community Services, 2018, accessed 8 February 2023. [↑](#footnote-ref-13)
13. ACT Inspector of Correctional Services, [*Healthy Centre Review of Bimberi Youth Justice Centre 2020*](https://www.ics.act.gov.au/reports-and-publications/healthy-prison-reviews/healthy-prison-reviews/healthy-centre-review-of-bimberi-youth-justice-centre), ACT ICS, 2021, p. 76, accessed 3 March 2023. [↑](#footnote-ref-14)
14. ACT Inspector of Correctional Services, [*The care and management of remandees at the Alexander Maconochie Centre*](https://www.ics.act.gov.au/reports-and-publications/thematic-reviews/thematic-reviews/2018-remand-review), ACT ICS, 2019, accessed 8 February 2023. [↑](#footnote-ref-15)
15. ACT Inspector of Correctional Services*,* [*Healthy Prison Review of the Alexander Maconochie Centre*](https://www.ics.act.gov.au/reports-and-publications/healthy-prison-reviews/healthy-prison-reviews/healthy-prison-review-of-the-alexander-maconochie-centre,-2019)*,* ACT ICS, 2020, accessed 8 February 2023. [↑](#footnote-ref-16)