

OPINION

## ***Indigenous prison rates can fall fast: here's the proof***

By Thalia Anthony  
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*First Nations Australians are the most imprisoned people in the world. Justice targets for closing the gap were set down for the first time last week, providing a federal measure for reducing the Indigenous imprisonment rate. Yet the new target – to reduce it by just 15 per cent by 2031 – is hugely unambitious.*



*Indigenous imprisonment ... the close-the-gap target lacks ambition.*

This nation can do much better. Evidence of that comes this week from Australia's biggest state, NSW, where prisoner numbers – both Indigenous and non-Indigenous – have suddenly and radically fallen this year. Sadly, it has taken COVID-19 to achieve this reduction. Nevertheless, it shows what can be achieved when there is a will.

First, let's recap Australia's woeful position on Indigenous incarceration: it has doubled to 28 per cent of Australia's prison population since the 1991 Royal Commission into Aboriginal Deaths in Custody, yet First Nations people account for only 3.3% of Australians; in NSW, almost a third of all people in prisons are Indigenous; in the Northern Territory it rises to 84 per cent.

But there is hope. Prison statistics for the last quarter, released this week by the NSW Bureau of Crime Statistics and Research, show a 10.7 per cent decrease in the overall

prison population and an 11.3 per cent fall in the number of Aboriginal people in prison. Seventy per cent of that decrease is attributed to a decline in the remand population – people denied bail while awaiting trial or sentence. This is because police have been issuing fewer court attendance notices, and police and courts are more likely to grant bail. In April, the number of remandees released on bail doubled. There has also been a 27 per cent fall in the Aboriginal youth detention population.

The risk of COVID-19 in jails is great, especially if they are overcrowded, and authorities in NSW have acted accordingly.

Coronavirus is indeed an immediate reason to cut prison rates. In US prisons, COVID-19 infection rates are five times the community rate. Death rates are three times, and African-Americans account for 48 per cent of COVID-related prison deaths.

In Australia, the risks are heightened for First Nations people due to over-representation in prisons, chronic conditions that are co-morbidities for COVID, and systemic racism in health care. The NSW Supreme Court, in the case of *Rakielbakhour v DPP* this year, recognised that prisons are susceptible to the spread of COVID, that people in prisons are adversely impacted by onerous restrictions and that Aboriginal people are especially vulnerable.

A survey of people in NSW prisons and their families, conducted by Deadly Connections Community and Justice Services Ltd, found that COVID-19 restrictions on visits and programs and prison lockdowns were having a deleterious effect on First Nations people's mental health.

But now NSW prison numbers are the lowest since 2016 – and they are consistent with declines in Victoria. And while the fall has been rapid, it has come without a noted impact of community safety.

Yet tougher bail laws in recent years had swollen the remand population to a third of people in prisons, driven by a risk-averse, tough on crime mentality.

In March, the NSW Government introduced emergency measures to empower the Corrections Commissioner to release vulnerable people from prisons in response to the threat of COVID-19 to people in prison and the spillover to the broader community. But these laws have not been activated. With the latest COVID outbreak at NSW's Parklea prison and dozens of cases in Victorian youth detention centres, there is urgent need for releases as a precautionary measure.

Any improvements in NSW fall short of the calls of First Nations families and legal services for the immediate release people to prevent COVID-19-related black deaths in custody. And there needs to be a long-term government commitment to "decarceration", regardless of COVID.

But COVID is an opportunity to reflect on how reducing the prison population can happen in a short time frame – when there is a spirit of protecting lives rather than punishing the marginalised.

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