

‘Colonial document’: Victorian justice department reports raise concerns about welfare of Indigenous young people

Independent review into ‘serious problem with systemic racism’ needed to safeguard Aboriginal Victorians, critics say



Internal reports make clear the Victorian justice department was told within months of the Andrews government passing strict new bail laws in 2017 that they would probably be detrimental to Aboriginal people.

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Sat 29 Jan 2022

Internal reports raise significant concerns about how young people from Aboriginal and African backgrounds are being cared for by the Victorian justice department as it struggles to deal with increasingly complex youth offenders.

The reports show police are failing to refer youths to a support program designed to prevent them from offending, while service providers are keeping information on youth offenders in insecure online databases and some youth justice stakeholders fail to appreciate the concerns Aboriginal families have about the justice system.

The overwhelming picture that emerges is of a system straining under the weight of children who are committing more crime and more serious offences.

The justice department released more than 1,200 pages of documents late last year in response to a question on notice which arose during a state parliamentary inquiry.

The evaluations of justice department programs were completed as recently as last November, and most had not previously been released.

One report showed the percentage of African-born offenders in youth detention increased threefold between 2013-14 and 2018-19 to about 16% of all detainees. A similar percentage were Aboriginal, according to the same report, meaning almost one in three youths in detention were either of African or Aboriginal backgrounds.

The overall number of youths being detained fell over the same period. Many of those who remained had extensive criminal histories. The 61 participants in one program, for example, had committed a total of 9,893 offences between them, at an average of 162 crimes each (though the evaluation noted their offending decreased while involved in the program, and after completing it).

The reports do not specify why young people from certain backgrounds could be overrepresented in the youth justice system.

But a series of department shortcomings are referred to, including the unpredictability of government funding, and the limited access to specialised support services for certain groups, including those who commit family violence, those battling mental health issues, and alcohol or substance abuse.

The reports also give a sense that some programs are not functioning as well as possible because of failures by police and other agencies, and in some instances because of strained relationships between some of those agencies, such as child protection and youth justice workers.

A program known as the Youth Support Service, which is designed to intervene early in the lives of children aged 10 to 17 who have come in contact with police before entering child protection or youth justice, was evaluated in 2019. The report found police officers considered completing electronic referrals to the program too onerous, despite the process only taking about five minutes.

Police are responsible for the majority of referrals to the program, and the report found similar issues had been raised when the program was evaluated in 2017, but had seemingly not been addressed. The report also found referral processes were “variable” across regions.

A person who works with young people and the justice department, who spoke to Guardian Australia on the condition of anonymity, said the failure of police to complete the referrals demonstrated a common theme in the state: police officers were given responsibilities for youth offenders they did not meet, leading to worse outcomes for children.

“Police shouldn’t be asked to perform the job of the social worker,” she said, “because they’re not trained.”

The reports also make clear the justice department was told within months of the Andrews government passing strict new bail laws in 2017 that they would probably

be detrimental to Aboriginal people – a cohort the department was at the same time spending significant time and resources on trying to keep from prison.

“The effects of this latest amendment will need to be investigated to determine whether it will have a disproportionate impact on Aboriginal Victorians,” a 2018 review of the Aboriginal Justice Agreement (AJA) found.

“On the basis of earlier amendments, it seems likely that such impacts will be felt.”

The same report notes that the relationship between the department and Aboriginal people should be improved, with one government committee member describing the AJA as a “colonial document” that reinforced the idea that “white fellas have the money and black fellas have to ask for it”.

In another report, which evaluated a therapy program and noted low referrals of Aboriginal youth, the department found: “There was also the perception by YJ [youth justice] stakeholders that Aboriginal families were suspicious of evidence-based programs generally.”

The youth justice sector worker who spoke to Guardian Australia said the statement reflected a common misunderstanding within the department: that Aboriginal people declining to participate reflects an unwillingness to get support.

“Aboriginal people are justifiably suspicious of trusting the government with their children,” she said. “That obviously leads to missed opportunities to have positive outcomes, even before children come in contact with the youth justice system.”

Nerita Waight, the CEO of the Victorian Aboriginal Legal Service, said bail laws must be urgently overhauled by the Andrews government, and called for a review into the culture of the justice department.

“The Department of Justice has a serious problem with systemic racism and there needs to be an independent review into its culture and decision making to ensure decisions, policies, reform initiatives and legislation emanating from it don’t cause harm to Aboriginal Victorians”.

Fiona Patten is chair of the parliamentary inquiry into Victoria’s criminal justice system, the inquiry which compelled the release of the reports in response to a question on notice.

The Reason party MP said the reports spoke for themselves by detailing that the justice system was not working, and was particularly failing society’s most vulnerable.

Patten said it was up to the Andrews government to determine whether it could divert some of the hundreds of millions of dollars it is using to build new prisons into programs which the reports showed, in some cases, were working.

“I’ve never been in government, but I can only imagine that announcing that you’re spending millions of dollars on building new prisons is deemed more popular than spending a fraction of that on keeping people out of prison.”

In a statement, the Department of Justice said the youth justice strategic plan for 2020-30 focused on preventing culturally and linguistically diverse young people from entering the system by supporting their diversion, education, housing, health and family, and to address the underlying drivers of their offending. The department declined to answer detailed questions about the contents of the reports.

“The Victorian government works to provide the best possible rehabilitation outcomes for young people from culturally and linguistically diverse backgrounds, based on what we know works to address offending and drive young people away from the justice system,” a spokesperson said.