

INDIGENOUS OVER-REPRESENTATION

HOW DISADVANTAGE AND INEQUALITY IS CONTRIBUTING TO THE OVER-REPRESENTATION OF ABORIGINAL PEOPLE IN CUSTODY

The over-representation of Aboriginal and Torres Strait Islander peoples in our criminal justice system continues to be a concerning issue.

Learning outcomes

Students will:

- analyse legal issues about criminal justice, and evaluate legal situations involving the rates of incarceration of the general population compared to the number of Aboriginal and Torres Strait Islander people.

Focus question

How does inequality impact the sentencing of Aboriginal and Torres Strait Islander people?

Key concepts

custodial sentence

evidence-based approach

imprisonment

reform

Curriculum links

This learning resource has been developed for students studying Legal Studies 2019 (General Senior Syllabus) in Year 11.

It ties in with Unit 1: Beyond reasonable doubt, Topic 4: Punishment and sentencing.

Getting started

Discuss the use of imprisonment with your students. Do they think it effectively achieves its purpose?

Important information

This resource has been designed to be used with QSAC's podcast [Sentencing Matters: Episode 9 – Indigenous welfare: How inequality is leading to longer sentences](#), and

[Australian Law Reform Commission, Pathways to Justice-Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples](#)



Further resources

The following websites may further enhance the learning outcomes associated with this resource:

[Australian Human Rights Commission, Imprisonment rates of Indigenous women is a national shame](#)

[Australian Institute of Criminology, Indigenous imprisonment rates](#)

[The Conversation, As Indigenous incarceration rates keep rising, justice reinvestment offers a solution.](#)

In some instances, the language used in these resources reflects that of the relevant educational syllabus as opposed to terms commonly used in Queensland legislation. For instance, the word 'retribution' is used in the syllabus, although 'punishment' is the closest equivalent used in legislation.

INDIGENOUS OVER-REPRESENTATION

If you haven't done so already, download and listen to QSAC's podcast

[Sentencing Matters: Episode 9 – Indigenous welfare: How inequality is leading to longer sentences](#)

Your turn

While you listen to the podcast, answer the following questions:

1. What is meant by 'inequality'?
2. Senator Kim Pate shares some statistics that demonstrate the over-representation of Indigenous women in Canada. What percentage of Indigenous women and girls are imprisoned in Canada?
3. What are the implications of mandatory minimum sentences?
4. How do mandatory minimum sentences both hide and exacerbate discrimination?
5. What reasons does Senator Pate give to explain why young Aboriginal women are being charged with more violent types of offences?
6. Changing public opinion about this legal issue is difficult. What idea does Senator Pate provide that may assist the community to understand the content of this type of offending? Do you think this would change your opinion?
7. What is a Gladue report? What are the pros and cons of these reports? Should we introduce them in Australia? Evaluate the potential impacts of this possible reform.
8. How can disadvantage and inequality contribute to the likelihood that a person will be sentenced to imprisonment?