

# BUILDING SAFER COMMUNITIES

## INTRODUCTION

The Greens want to create a safe, healthy and connected community, by building communities, not prisons.

This vision for justice reinvestment will ensure we keep our community safer by preventing and reducing crime, and focusing our attention on reducing recidivism. We're taking the smarter approach to the criminal justice system.

However, the current approach to justice and crime has created a range of social, legal and economic harms. It further reinforces the racial, social and economic biases and injustice in our society. We know that people experiencing poverty often have worse outcomes when they are in contact with the justice system - be that at point of arrest or when facing the courts.

Supporting people, and preventing the drivers of crime, which are often complex health, social and economic factors, is better achieved in the community than inside prison. To ensure equality before the law, the justice system must be responsive to those experiencing disadvantage and prejudice, acknowledging that many people who engage in offending behaviour have at some point been victims of crimes and subjected to trauma themselves.

We know that one way to keep people healthy and safe is to provide more supportive, community-focused policing, providing work and education opportunities, trauma services, family, domestic and sexual violence services.

That's why when the Greens gained the Justice portfolio, we drove the commitment to an ambitious target of reducing recidivism (reoffending rates) by 25% by 2025. The ACT is developing and trialling world leading approaches to justice reinvestment, justice health and smarter justice system design.

Justice reinvestment means diverting resources that would otherwise go to building maximum security prisons into community based programs such as housing, social supports and family-centred programs.

**Greens MLA Shane Rattenbury, as the first Greens Minister for Justice, has been successfully driving the 'Building Communities, Not Prisons' agenda in government, which has included:**

- Developing a strategy to Reduce Recidivism by 25% by 2025
- Deferring any expansion of the Alexander Maconochie Centre high security campus, and instead gaining cabinet endorsement to spend funds on justice reinvestment - an Australian first
- Enhancing our rehabilitation framework at the AMC, including the agreement to construct a purpose built reintegration centre
- Providing more supported housing options for people on bail and exiting detention - a major factor in reoffending - for better justice outcomes
- Early support for people living with a mental illness or disability
- Providing more pathways for safe and sustainable bail
- Bringing in world class expertise on justice reinvestment to drive our programs

**THE GREENS HAVE A PLAN TO GO FURTHER TO REDUCE RECIDIVISM AND BETTER SUPPORT OUR COMMUNITY, SO WE WILL:**

**INTRODUCE MORE JUSTICE REFORMS TO REDUCE INCARCERATION, BY:**

1. appointing a **Coordinator General for Justice Reinvestment**
2. reducing the **incarceration of First Nations women and men to parity with the non-indigenous community by 2030**
3. continuing **funding and expanding justice reinvestment programs with a \$20 million investment over four years**
4. **raising the age of criminal responsibility**
5. continuing to reduce the **number of young people in detention and pilot a three year throughcare support trial**
6. reviewing and reform **the drug diversion scheme to include more options for police to divert people from court**, and
7. **reviewing the Bail Act** in accordance with community safety, human rights and victim principles

## MAKE OUR JUSTICE SECTOR WORK FOR THE WHOLE COMMUNITY, BY:

8. appointing a **dedicated full time Coroner**
9. establishing an **Assembly Committee to examine Coronial processes** and explore the potential for a **Restorative Coronial Process**
10. establishing a **simpler, out of court human rights complaints conciliation mechanism**
11. **increasing funding to the Human Rights Commission**
12. delivering law reform and increased resourcing around **sexual assault and family violence, including a “one stop centre” for sexual assault**
13. co-designing a **community legal assistance strategy**
14. funding implementation of the **Disability Justice Strategy Action Plan**
15. developing a strategic vision for **Justice Health in the Alexander Maconochie Centre** that detainee health will be improved during their time in prison, and
16. introducing best practice **right to appeal** laws.

## OUR PLAN TO INTRODUCE MORE JUSTICE REFORMS TO REDUCE INCARCERATION:

### 1. APPOINT A COORDINATOR GENERAL FOR JUSTICE REINVESTMENT

Justice reinvestment requires long term thinking and commitment, and to truly drive the change we need to see, we will create a **Coordinator-General for Justice Reinvestment** empowered to work across government and deeply engage with the community.

### 2. REDUCE THE INCARCERATION OF FIRST NATIONS WOMEN AND MEN TO PARITY WITH THE NON-INDIGENOUS COMMUNITY BY 2030

With a Greens Minister for Justice and Corrections, we successfully drove the 'Building Communities, Not Prisons' agenda in government, which included developing a strategy to Reduce Recidivism by 25% by 2025, enhancing our rehabilitation framework at the Alexander Maconochie Centre and providing supported housing options for people on bail and exiting detention - a major factor in reoffending - for better justice outcomes. In particular a focus on preventing women from entering prison is vital due to the impacts of female incarceration on families and for the next generation. This work marks the strongest commitment yet of any government in Australia to the goal of reducing the unacceptable massive and increasing overrepresentation of First Nations people in jail and the justice system, but this requires both aspiration and whole of government commitment to achieve - not just one portfolio's efforts.

The Greens believe that with concerted effort that centres on community responses to justice, [based on a national Blueprint for Change developed by the Change the Record Coalition](#) and the [recommendations in the Australian Law Reform Commission Pathways to Justice Report](#), we can reduce the proportion of First Nations women and men in prison, and exceed the [Closing the Gap](#) targets. The Commonwealth has adopted a Closing the Gap target which aims for a 15 per cent reduction in over-representation by 2031 - which would mean only achieving [parity by 2093](#). The ACT Greens consider this is completely unacceptable, and demonstrates a shameful lack of political will and commitment to ending this ongoing inequity.

The Greens will push to steadily decrease the rate of Aboriginal and Torres Strait Islander detainee incarceration. The Aboriginal and Torres Strait Islander detainee population in the AMC increased from 16% of the AMC prisoner population in June 2014 to 24.7% in January 2020. Because this issue is so important the ACT Greens will reduce the **incarceration of First Nations women and men to parity with the non-indigenous community by 2030**.

### **3. CONTINUE FUNDING AND EXPANDING JUSTICE REINVESTMENT PROGRAMS WITH A \$20MILLION INVESTMENT OVER FOUR YEARS**

The Greens want long term funding for the justice reinvestment programs that have been in trial or pilot phases over the last term of the Assembly so that these programs can be embedded and deliver their promise. We also want to reconsider the full suite of current government and communities sector partnerships, for example the existing Adult Extended Throughcare program, to ensure they are fully embedded in the Justice Reinvestment model. The community organisations delivering these programs should be able to focus on their core operations, rather than on securing further one off or short term funding each budget. That is why we will commit a **minimum \$20 million over the next four years** for Justice Reinvestment programs.

Current programs that must be extended, as well as new programs to be developed include but are not limited to:

- A. [Ngurrambai Bail Support Program](#) - run by the Aboriginal Legal Service, it is designed to ensure people meet their bail conditions and stay out of jail. The service creates a care plan that helps coordinate support, treatment and supervision of the person on bail during the period to ensure they do not unnecessarily breach their bail through avoidable circumstances by missing a reporting appointment for example, and end up in detention.

- B. [Justice Housing Program](#) - Living without a secure lease, staying temporarily with friends or family, or in short-term transitional housing, can make it more likely that a person will continue to offend, due to negative social peer groups or family tension, or be refused bail or parole for having insecure accommodation whilst otherwise being ready to reintegrate with society. Homelessness is also clearly linked with criminal offending, and providing stable accommodation is a proven protective factor.. The Greens want to see the size and capacity of this service expanded **to include a dedicated womens and a dedicated First Nations program of supported accommodation** - both for bail and for post release.
- C. [The Drug and Alcohol Court](#) - The Greens fought to establish a dedicated Drug and Alcohol Court (DAC) in the ACT in 2016 to progress a reduction in reoffending. It's essential that we continue to refine the DAC model and respond to any unmet needs for participants and treatment services. The Greens have also announced a [\\$20 million annual boost to alcohol and other drug services](#), which will better support the sector in responding to DAC clients with often complex needs.
- D. [Yarrabi Bamirr Family Justice Reinvestment](#) - The ACT's first formal Justice Reinvestment project, Yarrabi Bamirr (meaning 'Walk Tall' in the Ngunnawal language) is a family-centric support model that began as a trial in 2017 working with Aboriginal and Torres Strait Islander families to improve life outcomes and reduce or prevent contact with the justice system, particularly trans-generational offending. It has shown highly successful outcomes in the 2 years of its operations. The 2019 evaluation concluded that Winnunga provided a proactive, intensive and problem-oriented system of case management. The participants reported significant improvements in their family, personal and social well-being. The evaluation also confirmed that the trial is helping keep families together, preventing homelessness and keeping people out of prison.

- E. [Strong Connected Neighbourhoods](#) - Delivered by Reclink Australia, the program currently works with residents living in public housing sites on Ainslie Avenue Braddon and Reid, and Illawarra Court Belconnen. The program works with high and complex needs residents who have been, are currently, or are at risk of becoming, involved in the criminal justice system.

An independent evaluation found that by proactively taking measures to strengthen the Ainslie Avenue community, incidents of violent crime in the broader 2602 postcode area reduced by 50% and reduced property crime by 60%. The evaluation also concluded that the program has been delivering significant financial savings associated with a reduction in recorded assault offences since the Program was implemented in 2009. Working closely with police and local community services providers, the Greens want this program rolled out to 2 more areas of high crime and poor social cohesion across Canberra by 2022.

#### 4. RAISING THE AGE OF CRIMINAL RESPONSIBILITY

The ACT Greens believe that [children do not belong in prisons](#). We want to raise the age of criminal responsibility to 14 so that children are not caught up in the criminal justice system while they are still vulnerable, developing and requiring our support. [This change has strong support from the legal and medical professions](#).

Children as young as 10 simply don't belong in prison. Where children are imprisoned, it sets the trajectory for the rest of their lives and increases the risk they will be involved in the adult criminal justice system as they mature. We can better support these children by providing them with the help they need to stay on the right path.

The [ACT will be leading the nation](#) in this important reform, and we now call on other states and territories to follow suit, to support children across the country.

Australia's minimum age of criminal responsibility of 10 is well and truly out of step with the rest of the world, and we have been chastised for this by the United Nations Committee on the Rights of the Child which recommends raising the age to 14.

With the right supports in place, and a well-resourced youth sector, we can provide better alternatives to custody for children under 14.

## 5. REDUCE THE NUMBER OF YOUNG PEOPLE IN DETENTION AND PILOT A THREE YEAR THROUGH-CARE SUPPORT TRIAL

[On average 33 per cent of young people in detention in the ACT are Indigenous](#), despite making up a small fraction of the population. They are [17 times more likely to be detained across Australia](#). The Greens want to dramatically reduce the number of First Nations young people in detention.

We also know that many of the children and young people who are involved in the criminal justice system have experienced trauma and neglect, are also part of the care and protection system, and experience a high rate of homelessness and associated insecurity.

Overcoming these multiple disadvantages requires enhanced early intervention through diversion and much more support for young people post custody to reduce the likelihood of reoffending. We will work across all relevant government agencies and First Nations controlled organisations to explore all possible opportunities for keeping young people out of detention, including the implementation of a three-year pilot for a youth specific extended through-care program for those exiting Bimberi as recommended by the Human Rights Commission in its [2019 Bimberi review](#). This pilot will be staffed by **three new social and youth workers**, and an evaluation report will be prepared in 2024.

## 6. REVIEW AND REFORM THE DRUG DIVERSION SCHEME TO INCLUDE MORE OPTIONS FOR POLICE TO DIVERT PEOPLE FROM COURT

While the ACT has had a range of progressive drug law policies over many years, the pathways out of the criminal justice system and into education and treatment have not kept up with the community's needs, in particular for young people and First Nations people. We want to see a sensible approach to drug diversion that ensures that every step of the way - from chance encounters with police, to appearing before court - that our system acknowledges that for many people, drug use is a personal and health issue, not one that seeks to impose criminal records and punishment. The Greens have also announced a [\\$20 million annual boost to alcohol and other drug services](#). We also need clear and evidence-based drug-diversion pathways that can get people who use drugs into these services and out of the justice system.

We know that we need to reform the current drug diversion system to focus on personal drug use as a health issue. Our plan is about reducing the interactions people have with the police, legal and criminal justice systems. The Greens will review and reform the current drug diversion system with input from the [Ministerial Advisory Council for Drug Law Reform](#) by 2022.

## **7. REVIEW THE BAIL ACT, IN ACCORDANCE WITH COMMUNITY SAFETY, HUMAN RIGHTS AND VICTIM RIGHTS PRINCIPLES**

The Bail Act 1992 regulates the process for determining whether a person accused of a crime is remanded in custody or allowed to remain in the community while awaiting trial. The processes in the Bail Act must strike a balance between community safety, procedural fairness and the human rights of both people accused of a crime and victims. There are people who are on extended periods of remand in custody who could possibly be better managed in the community; and it's also possible that some alleged offenders who are given bail should be detained in the interest of community safety.

The Greens want a wholesale review and modernisation of the Bail Act including an explicit hierarchy of objectives for the bail system and alignment with the Human Rights Act and the legislated Charter for Victims. We want to ensure consistency, fair application and a focus on keeping offenders connected with community services while on remand.

## **OUR PLAN TO MAKE OUR JUSTICE SECTOR WORK FOR THE WHOLE COMMUNITY:**

### **8. A FULL TIME, DEDICATED CORONER**

The coronial process is a vital piece of the judicial system that deserves a dedicated focus. It is about examining the manner and cause of death of people who die in certain circumstances, such as in custody or as a result of a motor accident.

Coronial inquiry processes are complex and time consuming. In the ACT Magistrates are appointed as Coroners to handle a caseload of inquiries on a rotating basis as assigned by the Chief Magistrate, who is also the Chief Coroner.

A dedicated, full-time coroner will help reduce delays in the inquiry process and allow more focus for developing and trialling therapeutic and restorative practices in the coronial process. It may also assist in ensuring that findings and recommendations relating to community safety are more consistent, and allow for more systemic consideration of accumulated recommendations over time.



## **9. ESTABLISH AN ASSEMBLY COMMITTEE TO EXAMINE CORONIAL PROCESSES, AND EXPLORE THE POTENTIAL FOR A RESTORATIVE CORONIAL PROCESS**

The loved ones and families of those whose deaths have been referred to coronial inquiry want - and deserve - increased support and answers. They are seeking a less adversarial process that better recognises the impact of the death of a loved one when considering legal facts.

Families are also seeking to have greater standing before the Coronial Court, to ensure the voice of their deceased family member is heard alongside more sterile representations taken from file notes and clinical records.

They want better answers about the services that may have provided treatment or care; about often benign but opaque government policies and procedures; and about the decisions and coordination of the various and many agencies that have often been in contact with people whose death has been referred to the Coroner's Court.

And at the end of this process - something that can unfortunately sometimes take many years - they want more than just a report with recommendations.

The Greens also strongly support consideration of restorative and therapeutic processes in the Coroners Court to provide greater transparency, justice and healing for grieving families and the community. That is why we will establish an Assembly Committee to publicly and comprehensively examine Coronial processes and potential legislative reform, and explore the potential for a Restorative Coronial Process pilot commencing in 2021.

## **10. ESTABLISH A SIMPLER, OUT OF COURT HUMAN RIGHTS COMPLAINTS CONCILIATION MECHANISM**

The Human Rights Act was Australia's first statutory bill of rights, providing a range of guarantees for how the Government will treat its citizens. However there is currently no accessible forum for directly raising breaches of human rights with the Human Rights Commission. At present, a person can start proceedings in the Supreme Court, which is a complex and expensive exercise, or they can rely on their rights to a limited degree in other pre-existing legal proceedings, for example, by raising the impact on their family rights if being evicted from social housing. There is currently no clear, simple way for human rights complaints to be conciliated in the Commission.

The Greens want a complaints conciliation mechanism established that would allow any person who considers that their rights have been breached by a public authority to make a complaint to the relevant authority. If not satisfied with the response the person can then take the complaint to the Human Rights Commission. The Commission would utilise its existing complaints-handling processes and conciliation expertise to offer quick, simple and accessible resolution of these complaints.

Queensland recently introduced a human rights complaint mechanism in its new Human Rights Act that clearly sets out an out of court human rights conciliation framework. The Greens believe it is time for the ACT to do the same.

## 11. INCREASED FUNDING FOR THE HUMAN RIGHTS COMMISSION

The Greens recognise that demands on the Human Rights Commission have been increasing, due to both the numbers of Canberrans seeking their services and the ACT Government's ongoing reliance on the Commission to deliver on our progressive legislative agenda. We know that if the Commission is to continue to provide this level of services in our ACT human rights jurisdiction, we must increase their funding and staffing.

The Commission's 2018-19 Annual Report showed that between 2016-17 and 2018-19 there was a 35% increase in complaints overall, and double the number of complaints about services for children and young people. 2018-19 also saw a 30% increase in the number of new clients registered for case coordination under the Victim Services Scheme and a 16% increase in the Financial Assistance Scheme applications.

Canberrans rely on the Human Rights Commission for support, advocacy and rights protection when they need it most. The Human Rights Commission does not currently have reliable ongoing funding to provide these services. **The Greens will provide extra funding to employ 6 new staff to meet this rising community demand.**

## 12. LAW REFORM AND INCREASED RESOURCING AROUND SEXUAL ASSAULT AND FAMILY VIOLENCE, INCLUDING A “ONE STOP CENTRE” FOR SEXUAL ASSAULT

The current justice system is failing victims of sexual assault, with [charges being laid in only 5% of reports recieved by ACT Policing](#) and only half of matters that do go to court resulting in a conviction. This is on top of already low sexual assault reporting rates. There are many reasons why this is the case, including difficulties establishing evidence and victims withdrawing statements because it's too traumatic to re-live the events or fear of stigma and victim blaming. We want to reform the system so that victims receive the justice and support they need and deserve.

The Greens want to develop a society-wide culture that understands and promotes sexual safety and consent. The Greens worked hard to start a community conversation about consent in the last Assembly and will continue to engage with the community, legal profession and victims of sexual and family violence to improve the law. We are committed to **implementing a positive definition of consent in the Crimes Act** to ensure it defines consent as free and voluntary agreement, rather than as it is currently defined, which only describes what consent is not.

**The Greens also want further systemic examination of the number of sexual assault matters which do not proceed to trial** and an up to date assessment of current processes and responses to identify areas for improvement. This will include undertaking a feasibility study to **establish a one stop centre for sexual assault**, bringing together key agencies such as forensics, policing, support services and other criminal justice entities. This study will consider the best possible location and operating model to enable women to only need to make one single assault report, rather than needing to repeat the traumatic story multiple times to multiple agencies. Both of these reforms will be overseen by the existing overarching Sexual Assault Reform Program, made up of heads of relevant criminal justice entities, who will meet regularly to ensure that progress is being made.

### 13. CO-DESIGN THE COMMUNITY LEGAL ASSISTANCE STRATEGY WITH COMMUNITY LEGAL SERVICES

Community legal assistance is crucial for the fair and equitable functioning of our justice system and our society. Furthermore, there is clear economic justification to invest for more in community legal centres, with [studies showing a cost benefit ratio of 1:18](#) meaning the benefit to the community is 18 times what the service costs. Our community legal centres and legal assistance providers do an amazing job of meeting the high community demand for quality legal advice and support, especially for people who cannot otherwise access legal representation.

The Greens want a community legal assistance strategy that is co-designed with the community legal organisations working at the coal face. The strategy to be developed under the National Legal Assistance Partnership Agreement should include a sector wide analysis to identify gaps that exist and ensure adequate funding to meet the needs of the community. Opportunities for collaboration and innovation should be encouraged so that the legal assistance services can provide assistance to hard to reach groups.

### 14. FUND IMPLEMENTATION OF THE DISABILITY JUSTICE STRATEGY ACTION PLAN

The Greens are committed to the [Disability Justice Strategy](#) which will improve the safety and rights of people with disability, the responsiveness of the justice system and how we achieve and measure change. The Strategy was the culmination of significant collaboration and co-design with people with disability. The Greens will fund the implementation of the Strategy's 2019-2023 Action Plan over the next four years.

The Greens will also provide ongoing funding for the intermediary scheme, which provides for specialised assistance for vulnerable victims of crime to engage with the criminal justice system. This will include **two additional in-house intermediaries to meet the needs of both child witnesses and adult witnesses with communication difficulties**, as well as some funding to evaluate the effectiveness of the ACT's intermediary scheme.

## 15. A STRATEGIC VISION FOR JUSTICE HEALTH IN THE ALEXANDER MACONOCHIE CENTRE THAT DETAINEE HEALTH WILL BE IMPROVED DURING THEIR TIME IN PRISON

The Greens want a clear Government policy position that the health of detainees will be better when they are released than it was when they were first admitted. The health of offenders has clear links to broader community outcomes, and improving their mental and physical health may in part support reduced reoffending.

To achieve this, Justice Health, as a division of Canberra Health Services, needs to be better supported and have extended responsibility for providing health care management for detainees leaving custody, as well as increased specialist care for vulnerable offenders on community based orders and parole.

This would mean, for example, that people with substance use issues would be appropriately treated and clean when they were released, that detainees with mental health issues would have mental health care plans and warm referrals to appropriate mental health services outside, and would have dietary and dental conditions addressed while they were in prison. Improving detainees' health will give them the best chance of a fresh start on the outside.

We would employ a new team of **6 advanced care nurses** with multi-disciplinary backgrounds to: better respond to women offenders' unique health needs; enhance First Nations people's health services; and engage in developing longer term care plans that would continue from inside to out of the AMC.

## 16. INTRODUCE BEST PRACTICE RIGHT TO APPEAL LAWS

The ACT still lacks appropriate 'right to appeal' laws to help address instances of wrongful conviction. Right to appeal laws allow a person who has been found guilty of a serious crime to make a new appeal where fresh and compelling evidence emerges that should be examined in the interests of justice; for example where new DNA evidence shows that the person convicted did not commit the crime.

The ACT Greens will ensure that best practice 'right to appeal' legislation is introduced and passed in the ACT, following consultation with the community and stakeholders.