

Barriers Within Bars

A knowledge synthesis
on Indigenous Prisoners
living with Disability

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Acronyms and Abbreviations

AIHW Australian Institute of Health and Welfare

ALRC Australian Law Reform Commission

CJS Criminal Justice System

DV Domestic violence

PwDs Persons with Disabilities

PWCD People with cognitive disability

NDIS National Disability Insurance Scheme

NSW New South Wales

YPWCD Young people with cognitive disabilities

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Barriers within Bars: Literature Review and Evidence Mapping

Introduction

Aboriginal and Torres Strait Islander people are significantly overrepresented in the Australian criminal justice system, a disparity that is further intensified among those living with disability. These overlapping forms of marginalisation reflect deeply embedded structural inequalities shaped by the ongoing impacts of colonisation, systemic racism, and ableism. Despite increasing attention to mass incarceration and justice reform, the specific experiences of Indigenous people with disabilities in custodial settings remain insufficiently examined, particularly in relation to how intersecting forms of disadvantage shape both pathways into incarceration and lived experiences within prison systems.

Recent national data underscore the scale and persistence of this inequality. As of June 2024, Aboriginal and Torres Strait Islander people comprised 36% of the total prison population, with numbers continuing to rise (Australian Bureau of Statistics, 2024). This trend has persisted into 2025, with increases in both overall prison populations and unsentenced

detainees, indicating a growing reliance on remand and custodial detention (Australian Bureau of Statistics, 2025). These patterns highlight that Indigenous hyper-incarcerality is not incidental but is produced and sustained through systemic processes embedded within legal, social, and policy frameworks borne out of two centuries of colonisation.

Within this context, disability represents a critical yet under recognised dimension of incarceration. People living with disability are disproportionately represented within the criminal justice system and often experience poorer outcomes across all stages of contact, including policing, sentencing, imprisonment, and reintegration (Dodd et al., 2024; Doyle et al., 2022). The intersection of Indigeneity and disability magnifies these inequities, reflecting compounded and cumulative disadvantage across the life course. Individuals entering custody frequently present with complex and unmet health, social, and disability-related needs, shaped by structural determinants such as poverty, trauma, limited access to education, and inadequate health and support services.

Mental health further illustrates the depth of this intersectional disadvantage. Aboriginal and Torres Strait Islander people in custody experience significantly higher levels of psychological distress, trauma, and mental illness compared to both non-Indigenous prisoners and the general population (Perdacher et al., 2022). Despite this, access to culturally safe and appropriate mental health care remains limited, and custodial environments often prioritise control and containment over therapeutic or rehabilitative approaches. These conditions both reflect and reinforce broader systemic inequities, contributing to poorer health outcomes and increased risk of recidivism.

The concept of intersectionality provides a critical framework for understanding the interplay of these dynamics. Rather than operating as separate or additive categories, Indigeneity, disability, socioeconomic disadvantage, and health status interact in complex and compounding ways to produce unique forms of marginalisation (Daniels-Mayes, 2023). Colonisation, in this context, is not simply a historical process but an ongoing structural force that shapes how Indigenous people experience both disability and the criminal justice system (Puszka et al., 2022). These intersecting inequalities influence not only who is imprisoned, but also how individuals are treated within custodial environments and how they are supported upon release.

While there is a substantial body of research examining Indigenous overrepresentation in prisons and a growing literature on disability within the criminal justice system, there remains a significant gap in understanding how these issues intersect. In particular, limited attention has been given to the lived

experiences of Aboriginal and Torres Strait Islander prisoners with disabilities, and the ways in which institutional systems respond to their complex and overlapping needs. This gap is especially pronounced in relation to culturally safe care, access to disability supports, and the cumulative impacts of incarceration on health, wellbeing, and reintegration outcomes. This literature review addresses this gap by synthesising research published since 2020 on Indigenous incarceration and disability in Australia. It adopts an cultural, intersectional and structural lens to examine how systemic, social, and institutional barriers shape the experiences of Aboriginal and Torres Strait Islander prisoners living with disabilities. The review is structured in three parts. First, it outlines the historical and structural context underpinning Indigenous overrepresentation in the criminal justice system. Second, it explores the lived experiences of Indigenous prisoners, with a particular focus on those with disabilities and complex health needs. Third, it examines the systemic, social, and policy barriers that influence experiences during incarceration and outcomes following release. Through this analysis, the review highlights how the concept of “Barriers within Bars” extends beyond the physical constraints of imprisonment to encompass the broader structural, cultural, and institutional forces that shape inequality before, during, and after incarceration. By situating these experiences within an intersectional and decolonising framework, the review seeks to contribute to a more comprehensive understanding of injustice within custodial systems and to inform more equitable, culturally informed and safe, and disability-inclusive responses.

Background and Historical context

The experiences of Aboriginal and Torres Strait Islander people with disability are shaped by the enduring impacts of colonisation, which continues to operate as a structural force influencing health, social, and justice outcomes.

Rather than a historical event, colonisation persists through institutional systems that shape how Indigenous people experience disability, access services, and interact with the criminal justice system (Puszka et al., 2022). Research consistently demonstrates that Indigenous people living with disability encounter intersecting forms of marginalisation, including racism, ableism, and gendered inequality, which collectively influence participation, wellbeing, and life trajectories (Daniels-Mayes, 2023). These overlapping forms of disadvantage highlight the importance of intersectional and decolonising approaches in understanding lived experiences.

Barriers to service access remain a persistent issue. Aboriginal and Torres Strait Islander people with disability often face mistrust of government systems, limited culturally appropriate services, and experiences of exclusion and disempowerment (James et al., 2024). These service gaps extend into the criminal justice system, where systemic failures contribute directly to poorer health and wellbeing outcomes for Indigenous people in custody. Correctional systems in Australia have been widely criticised as culturally unsafe, with disproportionate rates of incarceration and deaths in custody among First Nations peoples reflecting ongoing structural inequities (Centre for Innovative Justice, 2023).

These patterns are not unique to Australia but are reflected across settler-colonial contexts, where Indigenous people with disabilities are disproportionately represented in criminal justice systems due to the intersecting impacts of colonisation, racism, and ableism (Walsh et al., 2024). In Australia, these inequalities are particularly pronounced. Aboriginal and Torres Strait Islander people make up a significant proportion of the prison population, with high rates of remand and limited access to necessary supports (Knudsen and Roth, 2023). Correctional environments frequently fail to accommodate disability, with institutional practices and prison cultures often functioning in ways that inadvertently penalise impairment rather than support it (Dodd et al., 2024).

People with disability are overrepresented across all points of contact with the criminal justice system, including as victims, accused persons, and offenders, reflecting systemic barriers rather than inherent risk (Law Council of Australia, 2020). Many individuals enter custody with undiagnosed or untreated impairments, alongside histories of trauma and social disadvantage. For Indigenous people, these factors are compounded by structural conditions such as intergenerational trauma, family disruption, and limited access to culturally appropriate mental health and support services (AIHW and Indigenous Mental Health and Suicide Prevention Clearinghouse, 2023).

Structural determinants play a critical role in shaping pathways into incarceration. Factors such as psychological distress, substance use, trauma exposure, socioeconomic disadvantage, and remote living conditions are disproportionately experienced by Indigenous Australians, while protective factors including stable housing, education, and income remain less accessible.

As a result, Indigenous imprisonment rates are significantly higher than those of non-Indigenous Australians (Weatherburn et al., 2024). These patterns reflect the cumulative effects of structural inequality across the life course.

These inequities are particularly evident among children and young people with disability. Youth in detention frequently present with complex needs, including histories of abuse, neglect, family violence, and socioeconomic disadvantage, while lacking access to appropriate mental health care, communication support, and medication (Commonwealth of Australia, 2023). Indigenous children are disproportionately affected, with increasing concern about the criminalisation of young First Nations people, including those under the age of 14 (Holland et al., 2024). Within detention environments, Indigenous young people with disability are often further marginalised through exclusion, segregation, and limited access to support services (Bixby et al., 2022).

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Aboriginal and Torres Strait Islander people make up a significant proportion of the prison population in Australia, with high rates of remand and limited access to necessary supports.

The intergenerational nature of incarceration further reinforces these patterns of disadvantage. A significant proportion of prison entrants report having experienced parental or familial incarceration during childhood, with higher rates among Aboriginal and Torres Strait Islander people and young adults (AIHW, 2023). At the same time, many individuals face housing instability both prior to and following imprisonment, with a substantial proportion anticipating homelessness upon release. These intersecting forms of disadvantage contribute to cycles of incarceration that are difficult to disrupt. High rates of remand, restrictive bail conditions, and limited access to rehabilitation and reintegration programs further entrench these cycles, disproportionately affecting Indigenous populations (Productivity Commission, 2021).

Collectively, the literature demonstrates that the overrepresentation of Aboriginal and Torres Strait Islander people with disability in the criminal justice system is not incidental, but is structurally produced through the interaction of colonisation, systemic inequality, and institutional failure. These dynamics create a fundamental tension between the goals of community safety and the obligation to uphold the rights and wellbeing of Indigenous people with disability (Henderson and Bull, 2024). When justice responses prioritise containment over care, they risk reinforcing, rather than addressing, the underlying conditions that drive incarceration.

Building on this context, the following section examines how these structural inequalities manifest within custodial environments. The literature underscores that incarceration often compounds existing disadvantage, exposing Aboriginal and Torres Strait Islander people to conditions that are medically inadequate, culturally unsafe, and structurally neglectful. Within these environments, health and wellbeing are undermined by limited access to care, restrictive legal processes, and the absence of culturally appropriate mental health and disability supports, contributing to ongoing harm and further entrenching inequality.

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Theme I

Challenges and Barriers for Indigenous Prisoners (Part 1)

Medical and Health Issues

Aboriginal and Torres Strait Islander people in custody experience significant inequities in access to healthcare, reflecting broader structural disadvantage and systemic limitations within custodial environments. Although prisons are expected to provide a duty of care, incarceration results in the suspension of key health entitlements such as Medicare, the Pharmaceutical Benefits Scheme, and the National Disability Insurance Scheme (NDIS), disrupting continuity of care and restricting access to essential medications and supports. This withdrawal of services undermines the principle that imprisonment should not equate to the loss of fundamental human rights and disproportionately affects individuals with complex and pre-existing health needs.

The literature consistently demonstrates that prison environments are ill-equipped to respond to these needs. Overcrowding, limited staffing, and increasing prison populations place considerable strain on healthcare provision, contributing to delays, inadequate treatment, and reliance on punitive

management strategies such as isolation and restraint (Sotiri and Schetzer, 2024). These conditions exacerbate existing physical and mental health issues, particularly for Indigenous prisoners whose health profiles are shaped by intergenerational trauma, cultural disconnection, and limited access to care prior to incarceration.

Research highlights that individuals entering custody are often already experiencing poor health, reflecting cumulative disadvantage over the life course (Hampton and Abbott, 2025). Structural determinants, including exposure to foster care, limited education, early contact with the justice system, untreated mental illness or cognitive disability, substance use, unstable housing, and socioeconomic disadvantage, significantly increase the likelihood of imprisonment (Ruth and Eileen, 2023). For Aboriginal and Torres Strait Islander people, these factors are compounded by the ongoing effects of colonisation, including displacement from land, disruption of cultural practices, and intergenerational trauma, all of which continue to shape health outcomes (AIHW, 2023).

Despite these complex needs, custodial environments frequently fail to provide adequate care. Evidence indicates that both physical and mental illness are disproportionately prevalent among prisoners, yet prison healthcare systems remain under-resourced and ill-prepared to manage these demands (Productivity Commission, 2021). The increasing use of remand further intensifies these challenges, with a significant proportion of prisoners held without conviction, often in conditions that do not meet basic health and welfare standards (Sotiri and Schetzer, 2024). These systemic deficiencies not only undermine human rights but also contribute to the perpetuation of poor health outcomes and increased likelihood of recidivism.

Bail and Remand Laws and Procedures

In addition to health inequities, legal processes, particularly bail and remand practices, play a critical role in shaping the experiences of Indigenous prisoners. Across Australia, increasing reliance on remand has resulted in longer periods of pre-trial detention, with delays in court processes extending the time individuals spend in custody (Australian Bureau of Statistics, 2021). These patterns disproportionately affect Aboriginal and Torres Strait Islander people, who are overrepresented among remand populations and more likely to be held in custody prior to trial (Knudsen and Roth, 2023).

The literature indicates that structural and procedural factors contribute to these outcomes. Bail laws often fail to account for the lived realities of Indigenous people, including cultural obligations, kinship structures, and socioeconomic disadvantage.

As a result, individuals are more likely to be denied bail due to factors such as unstable housing, prior contact with the justice system, or inability to meet strict bail conditions, rather than the severity of the offence (Productivity Commission, 2021). These factors contribute to a significant disparity between arrest rates and incarceration rates, highlighting how systemic processes amplify inequality within the justice system.

High rates of remand also reflect broader patterns of social disadvantage. Risk factors such as psychological distress, trauma exposure, substance use, and adverse social environments are more prevalent among Indigenous populations, while protective factors – such as stable income, education, and housing – remain less accessible (Weatherburn et al., 2024). Consequently, Indigenous Australians are significantly more likely to experience repeated cycles of arrest, remand, and short-term imprisonment, creating a pattern of “churn” through the criminal justice system (AIHW, 2024).

Disability further complicates these processes. Evidence indicates that individuals with intellectual and cognitive disabilities are overrepresented in custody and often experience a mismatch between their needs and available supports (Trofimovs et al., 2021). Many enter the justice system with undiagnosed impairments, which may affect their ability to navigate legal processes, comply with bail conditions, or understand court proceedings. The lack of early identification and culturally appropriate assessment contributes to increased vulnerability at all stages of justice system contact (SYNAPSE et al., 2021).

Mental Health Challenges

Mental health challenges represent a central dimension of disadvantage within custodial settings. Research consistently demonstrates that prisoners experience significantly higher rates of mental illness, psychological distress, self-harm, and suicide compared to the general population (Marr et al., 2025).

These patterns are particularly pronounced among Aboriginal and Torres Strait Islander people, reflecting the cumulative effects of trauma, social disadvantage, and limited access to culturally appropriate care prior to incarceration (Perdacher et al., 2022).

The literature indicates that a substantial proportion of individuals entering custody present with pre-existing mental health conditions, many of which are untreated or poorly managed. For example, Marr et al. (2025) found that 62% of prison entrants reported a lifetime mental health condition, with 23.5% experiencing serious mental illness. These risks are further heightened for Indigenous women, who experience disproportionately high levels of trauma, mental illness, and social disadvantage.

Custodial environments often exacerbate these conditions. The prioritisation of security and containment over therapeutic care creates environments that are not conducive to recovery, while limited access to culturally safe and trauma-informed services restricts opportunities for effective support (Ryan et al., 2020). Isolation, lack of family contact, and disconnection from culture and community contribute to increased psychological distress, reinforcing the conditions that drive poor mental health outcomes.

These mental health challenges are closely linked to broader structural factors. For Indigenous people, separation from country, kin, and cultural practices intensifies experiences of distress and dislocation, while institutional environments may reproduce forms of control and marginalisation associated with colonisation. In this context, incarceration does not simply reflect pre-existing mental health issues but actively contributes to their deterioration.

At its most severe, these intersecting factors contribute to heightened risk of suicide and self-harm. Evidence indicates that Aboriginal and Torres Strait Islander people, particularly young people, experience significantly higher rates of suicide compared to non-Indigenous populations, with custodial conditions likely to further intensify these risks (D'Mello et al., 2025). Despite this, research specifically examining suicide risk within custodial settings remains limited, highlighting an important gap in the literature. Addressing these challenges requires a shift away from punitive approaches towards models of care that are culturally safe, trauma-informed, and responsive to disability. Without such changes, custodial systems will continue to reproduce cycles of distress, poor health outcomes, and re-incarceration, rather than supporting pathways to healing and wellbeing.

Theme I

Challenges and Barriers for Indigenous Prisoners (Part 2)

Human Rights Violations

The challenges outlined above extend beyond structural disadvantage to constitute systemic human rights concerns within Australian custodial environments. Aboriginal and Torres Strait Islander peoples are disproportionately subjected to incarceration within a system shaped by colonial legal frameworks and ongoing institutional discrimination (Boffa and Mackay, 2025; Broadfield et al., 2021). For individuals living with disability, these structural conditions are intensified, as their needs are frequently unrecognised and inadequately supported within custodial settings.

The literature consistently demonstrates that prison environments can undermine safety, dignity, and wellbeing, particularly for Indigenous people and those with disabilities. Across both youth and adult detention contexts, there is a documented lack of culturally safe, trauma-informed care, contributing to ongoing harm and reinforcing existing vulnerabilities (Boffa and Mackay, 2025; Harrison et al., 2025).

Correctional systems often fail to accommodate cognitive, psychosocial, and physical impairments, with institutional practices functioning in ways that inadvertently penalise disability rather than provide appropriate support (Dodd et al., 2024).

These failures are most visible in the context of deaths in custody, where systemic shortcomings in care and supervision are most acute. Coronial findings have repeatedly identified deficiencies in monitoring, access to healthcare, and the provision of culturally appropriate services, particularly in cases involving suicide (Chang et al., 2025). Despite longstanding recommendations following the Royal Commission into Aboriginal Deaths in Custody (Royal Commission into Aboriginal Deaths in Custody, 1991), many of these issues remain unresolved, reflecting a persistent gap between policy commitments and practice.

The intersection of Indigeneity and disability produces compounded forms of marginalisation, where individuals are simultaneously exposed to racism and ableism within custodial environments.

Comparative research across settler-colonial contexts highlights similar patterns, with Indigenous and disabled populations disproportionately subjected to institutional control and exclusion (Senier, 2021). In Australia, these dynamics are reinforced by limited access to rehabilitation and disability services, alongside the prioritisation of punitive over therapeutic approaches. As a result, correctional systems frequently fail to uphold fundamental human rights or address underlying needs.

Collectively, the literature demonstrates that these human rights concerns are not isolated incidents but are structurally embedded within the design and operation of the criminal justice system. This underscores the need for reforms grounded in cultural safety, disability inclusion, and trauma-informed practice (Boffa and Mackay, 2025; Commonwealth of Australia, 2023).

Structural Barriers to Housing, Cultural Safety and Disability Support

In addition to human rights concerns, Aboriginal and Torres Strait Islander prisoners experience significant structural barriers related to housing, cultural safety, and access to disability supports. Housing instability is a critical issue both prior to and following incarceration, with substantial proportions of individuals anticipating homelessness or reliance on temporary accommodation upon release (AIHW, 2024a). These patterns reflect broader cycles of disadvantage, where unstable housing, limited income, and disrupted social support networks contribute to ongoing contact with the criminal justice system.

The literature highlights the intergenerational nature of these barriers. A significant proportion of Indigenous prison entrants report familial histories of incarceration, reinforcing cycles of disadvantage that extend across generations (AIHW, 2024a). These dynamics are closely linked to broader structural inequalities, including poverty, limited access to education, and inadequate support services, all of which shape pathways into and out of custody.

Access to culturally safe healthcare and disability services remains a persistent challenge within custodial settings. Many individuals enter custody with complex and unmet health needs, yet access to appropriate care is often limited, fragmented, or disrupted (AIHW, 2024a). The identification of disability within prison populations is particularly inadequate, with assessment processes relying heavily on self-reporting and prioritising visible conditions. As a result, cognitive and psychosocial disabilities, including intellectual disability and acquired brain injury, are frequently underdiagnosed or misidentified (SYNAPSE et al., 2021).

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Collectively, the literature demonstrates that human rights concerns are not isolated incidents but are structurally embedded within the design and operation of the criminal justice system.

These identification gaps have significant implications across the justice system. Individuals with cognitive impairments are often unable to navigate legal processes effectively or understand their rights, increasing vulnerability during police interactions and court proceedings (Centre for Innovative Justice of RMIT University, 2024). More broadly, many prisoners with disability have histories of trauma, abuse, and institutional exclusion, which are compounded within custodial environments that lack appropriate support structures (Commonwealth of Australia, 2023).

Access to the National Disability Insurance Scheme (NDIS) represents a further systemic barrier. Research demonstrates that individuals transitioning from prison frequently encounter fragmented service provision, limited coordination, and significant delays in accessing supports (Doyle et al., 2022). While some prison-based transition services exist, their implementation is inconsistent and often insufficient to meet the complex needs of individuals with disability (Yates et al., 2022). These gaps contribute to ongoing cycles of disadvantage, increasing the likelihood of re-incarceration.

The absence of culturally safe environments further exacerbates these challenges. Correctional systems often fail to accommodate Indigenous cultural needs, resulting in disconnection from community, country, and cultural practices (Centre for Innovative Justice, 2023). Restricted access to family contact, limited opportunities for cultural engagement, and the absence of Indigenous-led services contribute to increased distress and reduced wellbeing.

For individuals living with disability, these conditions intersect with unmet support needs, compounding disadvantage.

Broader structural inequalities further shape access to services, including systemic racism, ableism, and geographic disadvantage. Individuals with disability often experience barriers across multiple systems, including healthcare, housing, and social services, which are reinforced within custodial environments (Commonwealth of Australia, 2023). Limited staff training, resource constraints, and low levels of disability awareness among justice professionals further restrict appropriate responses to complex needs (Centre for Innovative Justice, 2021).

Within custody, these barriers translate into everyday forms of exclusion and harm. Prisoners with disabilities frequently encounter inaccessible environments, limited access to healthcare, and inadequate support services, alongside increased risk of exploitation and abuse (Commonwealth of Australia, 2023).

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Individuals with disability often experience barriers across multiple systems, including healthcare, housing, and social services, which are reinforced within custodial environments.

Practices such as isolation, lockdowns, and restricted movement further exacerbate these conditions, particularly for individuals with cognitive impairments. Older prisoners and those with degenerative conditions, such as dementia, face additional barriers due to limited specialised care and declining social interaction (du Toit and Ng, 2022).

Taken together, the literature demonstrates that the overrepresentation of Indigenous people with disabilities in custody reflects systemic failures rather than individual-level risk. The absence of culturally appropriate, disability-inclusive support reinforces cycles of marginalisation, contributing directly to ongoing contact with the criminal justice system (Doyle et al., 2022). For Aboriginal and Torres Strait Islander people, these challenges are intensified by persistent institutional racism, stereotyping, and mistrust of services, further limiting engagement and access to support (Salerno, 2020).

Theme II

Lived Experiences and Compounding Challenges for Indigenous Prisoners Living with Disabilities

Building on the structural barriers identified in Theme I, this section examines how these inequalities are experienced in practice by Aboriginal and Torres Strait Islander prisoners living with disabilities. The literature consistently demonstrates that these individuals encounter overlapping and compounding challenges across health, disability, gender, trauma, and access to support, resulting in significant harm during incarceration and limited opportunities for recovery and reintegration.

Complex Health Needs and Neurocognitive Disabilities

Prison populations are increasingly characterised by complex and ageing health profiles, with a growing proportion of individuals presenting with multiple, co-occurring conditions. Older prisoners represent one of the fastest-growing groups in custody, many of whom experience conditions such as dementia and mild cognitive impairment, yet prison systems remain poorly equipped to provide appropriate care or specialised support (Heathcote et al., 2024).

Neurodevelopmental and cognitive conditions are also highly prevalent. Research indicates that a substantial proportion of prisoners meet criteria for conditions such as attention-deficit/hyperactivity disorder (ADHD), often alongside co-occurring mental health disorders and autistic traits (Rawat et al., 2022; Thekkumkara et al., 2022). Despite increased awareness, the literature highlights persistent gaps between identification and effective intervention, with diagnosis rarely translating into meaningful or sustained support within custodial environments.

For individuals with intellectual and cognitive disabilities, these challenges are further compounded by difficulties navigating prison systems and accessing appropriate services. Barriers to understanding legal processes, institutional rules, and available supports increase vulnerability and limit engagement with rehabilitation programs (Centre for Innovative Justice of RMIT University, 2024; Gormley, 2022). These issues are closely linked to the under-identification of disability and the absence of culturally appropriate assessment processes within prisons (SYNAPSE et al., 2021; Commonwealth of Australia, 2023).

Post-release outcomes further illustrate these challenges. Evidence demonstrates that access to community-based mental health and disability support is associated with reduced recidivism; however, access to these services remains inconsistent and uneven (Trofimovs et al., 2023). This highlights the importance of continuity of care across custodial and community settings, which is frequently lacking for Indigenous prisoners with complex needs

Structural Discrimination, Racism and Gendered Inequalities

The lived experiences of Indigenous prisoners with disabilities are deeply shaped by structural discrimination and institutional racism. Colonisation continues to influence contemporary carceral practices, contributing to the overrepresentation of Aboriginal and Torres Strait Islander people in custody and reinforcing broader patterns of disadvantage across health, education, and social systems (Kendall et al., 2020; Long and Tubex, 2026).

Despite formal commitments to equality within justice systems, the literature demonstrates that “equal treatment” does not result in equitable outcomes. Indigenous prisoners frequently experience reduced access to culturally safe healthcare and support services, while systemic racism within institutions affects both the quality and accessibility of care (Kendall et al., 2020). These dynamics are particularly evident for Aboriginal women, who experience disproportionately poor health outcomes and are more likely to report experiences of discrimination and neglect within custodial healthcare systems.

Gendered inequalities further intensify these challenges. The number of incarcerated women in Australia has increased in recent years, with Aboriginal women particularly overrepresented. Many are better understood as “criminalised women,” whose contact with the justice system is shaped by histories of violence, poverty, and social marginalisation (Long and Tubex, 2026). For these women, incarceration often reflects structural disadvantage rather than individual criminality.

Family relationships and caregiving responsibilities are central to these experiences. Many incarcerated women are mothers, and imprisonment disrupts maternal roles and relationships, contributing to intergenerational disadvantage and ongoing family separation (Piason and Beichner-Thomas, 2026). Limited access to parenting programs and family support services further constrains opportunities to maintain connections and support reintegration (Breuer et al., 2021; Long and Tubex, 2024).

These intersecting forms of disadvantage extend to disability. Individuals with intellectual disability and complex needs are more likely to experience repeated incarceration, yet are less likely to receive consistent post-release support, particularly where structural barriers limit access to services (Hwang et al., 2026). These patterns highlight how race, gender, disability, and socioeconomic status intersect to shape lived experiences within and beyond custody.

Intergenerational Trauma, Violence and Carceral Harm

The experiences of Indigenous prisoners with disabilities are embedded within broader histories of intergenerational trauma and systemic violence. For many individuals, incarceration is part of a continuum of harm that includes colonisation, family disruption, and exposure to various forms of violence across the life course.

The literature highlights the cumulative impact of multiple forms of violence within custodial settings, including structural, physical, and institutional violence (O'Donnell, 2022). These overlapping harms contribute to profound psychological and emotional distress, with some scholars describing conditions of incarceration as producing states of extreme marginalisation and exclusion. For Aboriginal and Torres Strait Islander people, these experiences are inseparable from the ongoing effects of colonisation, which continue to shape interactions with state institutions.

These dynamics are particularly evident for Indigenous women, whose experiences of incarceration are often shaped by histories of domestic and family violence, trauma, and reproductive health inequities (Jurgutis et al., 2025). Prison environments frequently fail to respond to these needs, with limited provision of culturally appropriate care and support, further reinforcing harm. Institutional practices such as segregation and isolation contribute to these outcomes, with evidence demonstrating their association with psychological distress, reduced access to services, and poorer reintegration outcomes (Brisbane et al., 2025). These practices disproportionately affect individuals with existing vulnerabilities, including those with mental illness and cognitive disability.

Collectively, the literature demonstrates that trauma and violence within carceral systems are structurally produced and intergenerational in nature. For Indigenous prisoners with disabilities, these overlapping forms of harm reinforce cycles of disadvantage that extend beyond incarceration, shaping long-term health, wellbeing, and social outcomes.

Education, Technology and Access to Meaningful Participation

Opportunities for education, skill development, and meaningful participation are critical for successful reintegration, yet remain limited for prisoners with disabilities, particularly Aboriginal and Torres Strait Islander people. The literature indicates that access to education within custodial settings is constrained by structural barriers, including restricted access to digital technologies, limited resources, and institutional priorities that favour security over learning (Hopkins, 2022). These limitations disproportionately affect Indigenous prisoners and those with disabilities, who may already experience disrupted educational pathways prior to incarceration.

Restricted access to digital platforms and communication technologies further contributes to social and educational exclusion. In custodial environments where internet access is severely limited, prisoners are often unable to engage with contemporary learning tools, maintain social connections, or access external support networks. This digital exclusion reinforces existing inequalities and constrains opportunities for skill development and post-release participation. Indigenous prisoners, in particular, have restricted access to culturally appropriate digital resources, and there is a lack of research evaluating their effectiveness in custodial environments. Initiatives such as the Stay Strong Custody Project demonstrate that culturally grounded digital tools can be implemented within high-security prison settings, offering a promising approach to improving wellbeing support (Perdacher et al., 2022).

More broadly, the impacts of incarceration on participation extend beyond the individual to affect families and communities.

The increasing incarceration of Aboriginal women has significant implications for family structures, with limited attention given to the role of fathers and broader kinship networks during maternal imprisonment. Strengthening family and community connections, including recognising the role of fathers in supporting children, has been identified as an important strategy for breaking intergenerational cycles of trauma exacerbated by incarceration (Miu et al., 2025).

Collectively, these barriers to education, digital access, and cultural resources restrict opportunities for skill development, social connection, and rehabilitation. Addressing these gaps requires greater investment in culturally informed and appropriate, accessible, and inclusive approaches that support meaningful participation both during incarceration and following release.

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Mental Health, Substance Use and Social Support

Mental health issues and substance use disorders are highly prevalent among incarcerated populations, reflecting the cumulative impacts of trauma, disadvantage, and systemic barriers. Recent evidence indicates that 62% of prisoners report a lifetime mental health condition, with 23% experiencing serious mental illness. Rates of self-harm (14%) and suicide attempts (12%) are also high, with women and Aboriginal and Torres Strait Islander people disproportionately affected (Marr et al., 2025). These findings highlight the significant unmet mental health needs within custodial settings and the importance of early intervention and diversion from the criminal justice system.

For individuals with disabilities, these challenges are further compounded by the nature of custodial environments. Research highlights how prison systems can operate as ableist spaces that fail to recognise, accommodate, or respond to impairment, often exacerbating existing conditions and contributing to ongoing harm (Dodd et al., 2024). This reinforces the broader pattern in which incarceration not only reflects disadvantage but actively reproduces it.

Trauma plays a central role in shaping both mental health outcomes and access to support. Individuals with histories of trauma often report fewer positive social support networks prior to incarceration and anticipate limited support following release. Those with traumatic histories, including older individuals and those with co-occurring substance use and mental health disorders, are particularly likely to experience reduced access to post-release support, highlighting the complexity of social support needs in this population (Pettus-Davis, 2014).

While social support is recognised as a key protective factor in reducing recidivism and supporting reintegration, its provision within custodial environments is often limited or ineffective. Peer support schemes, including peer-led induction programs, have been critiqued for reinforcing institutional hierarchies and shifting responsibility for care onto prisoners themselves. Rather than providing meaningful support, these approaches may leave individuals unsupported and contribute to further harm, reflecting broader limitations within carceral care systems (Schreeche Powell, 2025).

Collectively, these findings demonstrate that mental health outcomes in prison are shaped not only by pre-existing conditions but also by the quality and accessibility of support systems within and beyond custody. Without effective, trauma-informed, and disability-inclusive supports, these intersecting challenges contribute to ongoing cycles of disadvantage, poor health outcomes, and continued involvement in the criminal justice system.

Financial Constraints, Service Access and Reintegration Supports

Limited access to financial resources and coordinated support services presents a significant barrier for individuals transitioning from custody into the community. People leaving prison often experience difficulty accessing funding and navigating fragmented service systems, which constrains their ability to secure housing, employment, and ongoing care. Emerging evidence suggests that digital service platforms may offer a potential avenue for improving access by enabling individuals to locate services, coordinate support, and establish peer networks more effectively (Grierson et al., 2022). However, access to such tools remains uneven, limiting their overall impact.

Social connections also play a critical role in mitigating these challenges. Individuals who maintain contact with family and community networks during incarceration are less likely to reoffend, with early and consistent visitation associated with improved post-release outcomes (Cochran, 2014). These findings reinforce the importance of relational support in facilitating reintegration, although the strength and nature of these relationships are complex and not always adequately captured in existing research.

Additional vulnerabilities are evident among specific subgroups within the prison population. For example, incarcerated women, particularly those who are pregnant, face complex and heightened health and social risks. Research from the United States indicates that between 6-10% of incarcerated women are pregnant,

with many experiencing compromised health outcomes due to inadequate support and resources. Effective responses in these contexts have been linked to partnerships between correctional institutions and community or university-based services, highlighting the importance of integrated and collaborative approaches to care (Shlafer et al., 2015).

Collectively, these findings demonstrate that financial constraints, limited service access, and inadequate support systems significantly hinder successful reintegration. Addressing these barriers requires coordinated, accessible, and adequately resourced support models that extend beyond custody and respond to the diverse and complex needs of prison leavers.

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Individuals who maintain contact with family and community networks during incarceration are less likely to reoffend, with early and consistent visitation associated with improved post-release outcomes.

Intersectionality, Colonisation and Ongoing Inequality

The challenges experienced by Aboriginal and Torres Strait Islander prisoners living with disabilities must be understood within an intersectional framework that recognises the combined impacts of colonisation, racism, ableism, and gender inequality. Colonisation is not simply a historical process but an ongoing lived and structural reality that continues to shape experiences of disability, service access, and engagement with institutional systems. Across settler-colonial contexts, Indigenous people consistently access disability services at rates that do not reflect the prevalence of disability, highlighting persistent inequities embedded within service systems (Puszka et al., 2022).

The provision of disability services often fails to align with Indigenous cultural values, communication practices, and community-based approaches to wellbeing. These mismatches contribute to mistrust of services, reduced engagement, and poor relationships between Indigenous people and service providers (James et al., 2024). Experiences of ableism, disablism, stigma, marginalisation, and systemic discrimination further compound these barriers, reinforcing exclusion from both mainstream services and broader social systems (Puszka et al., 2022).

These inequalities are also evident within the implementation of the National Disability Insurance Scheme (NDIS). While funding allocations may be comparable, access to services is shaped by a range of factors, including geographic location, socioeconomic status, housing stability, and levels of need. Evidence from Southeast Queensland indicates that Indigenous Australians may access certain forms of NDIS psychosocial support at higher rates than non-Indigenous populations; however, access remains uneven and influenced by structural and contextual factors rather than equitable service provision. These findings highlight that disparities are not solely a matter of funding, but reflect broader systemic barriers that shape engagement with disability services (Zhou et al., 2025)

Broader systemic inequities continue to limit access to essential services, employment opportunities, and health care for Indigenous people with disabilities. These patterns reflect entrenched forms of disadvantage that extend beyond the justice system and shape life outcomes across multiple domains. The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2023) has emphasised the importance of incorporating the voices of Indigenous people with disabilities into policy and service design, highlighting the need for culturally safe, inclusive, and responsive approaches.

Taken together, the literature overwhelmingly demonstrates that the experiences of Indigenous prisoners living with disabilities are shaped by intersecting systems of inequality that operate across social, health, and justice contexts. These overlapping forms of disadvantage reinforce cycles of marginalisation, exclusion, and ongoing contact with the criminal justice system, underscoring the need for structural reform grounded in cultural safety, equity, and inclusion.

Building on the systemic, social and cultural barriers identified above, it is necessary to examine how these broader inequalities are operationalised within the day-to-day functioning of the criminal justice system. Institutional policies and procedures, particularly in relation to remand, bail, court processes, and prison regulations, play a critical role in shaping the experiences of Aboriginal and Torres Strait Islander prisoners living with disabilities. These systems influence not only the duration and conditions of incarceration, but also access to support networks, including family contact and visitation. The following sections therefore explore key areas of institutional practice, including remand and prison policies, visitor requirements and restrictions, administrative procedures, and the practical challenges faced by families seeking to maintain contact. In addition, attention is given to statistical patterns in remand and sentencing durations, as well as the impacts of extended bail and court processes, in order to demonstrate how policy frameworks contribute to ongoing disadvantage and reinforce systemic inequality.

Theme III

Systemic, Social and Cultural Barriers

Building on the structural inequalities and lived experiences outlined in previous sections, this theme examines the systemic, institutional, and policy-level mechanisms that sustain and reproduce disadvantage for Aboriginal and Torres Strait Islander prisoners living with disabilities. The literature consistently demonstrates that these barriers are embedded within the design and operation of the criminal justice system, reflecting the combined impacts of colonisation, systemic racism, ableism, and socioeconomic inequality (Walsh et al., 2024; McCausland and Baldry, 2023; Australian Institute of Health and Welfare, 2024b).

Systemic Inequality and Institutional Discrimination

Aboriginal and Torres Strait Islander people remain significantly overrepresented within the Australian criminal justice system, reflecting structural, rather than individual, drivers of incarceration. Despite comprising approximately 3% of the Australian population, Indigenous Australians account for over one-third of the prison population, with similar patterns observed across jurisdictions (Australian Bureau of Statistics, 2024; Australian Bureau of Statistics, 2025a; Australian Bureau of Statistics, 2025b; Walsh et al., 2024). These inequalities are reinforced by institutional processes, including policing practices, sentencing frameworks, and correctional systems, which disproportionately affect individuals experiencing social disadvantage, disability, and complex health needs (Kong, 2024; McCausland and Baldry, 2023).

Within legal processes, institutional bias and systemic inequality shape outcomes for people with cognitive and psychosocial disabilities. Evidence indicates that sentencing practices can position individuals with cognitive impairment as inherently risky or non-compliant, contributing to more punitive outcomes and increased likelihood of incarceration (Henderson and Bull, 2024; Toohey, 2021; Clark et al., 2022). These findings highlight that justice systems are not neutral but actively reproduce inequality through embedded decision-making processes and institutional cultures.

Broader structural constraints further limit participation in society for Indigenous people with disability, including inadequate access to healthcare, disability services, and social supports, as well as experiences of racism and ableism (Walsh and Puszka, 2021; Ogbeide et al., 2023). These intersecting barriers extend beyond custodial settings, shaping long-term life trajectories and increasing the likelihood of continued justice system involvement (Australian Institute of Health and Welfare, 2024b; McCausland and Baldry, 2023).

Aboriginal and Torres Strait Islander people are significantly overrepresented within the Australian criminal justice system, a pattern that reflects structural rather than individual drivers of incarceration. Despite comprising a small proportion of the population, Indigenous Australians account for a disproportionately large share of the prison population, with similar patterns observed across jurisdictions (Australian Bureau of Statistics, 2025; Walsh et al., 2024). These inequalities are reinforced by institutional processes, including policing, sentencing, and correctional practices, which frequently disadvantage individuals with complex needs. Within the justice system,

institutional bias and structural inequality shape outcomes for people with cognitive and psychosocial disabilities. Court and sentencing processes have been shown to position individuals with cognitive impairments as inherently risky, contributing to more punitive outcomes and increased likelihood of incarceration (Henderson and Bull, 2024). These practices highlight how justice systems are not neutral but are actively reproducing inequality through decision-making processes and institutional cultures.

Broader structural barriers further constrain participation in society, including limited access to healthcare, disability services, and social supports, alongside experiences of racism and ableism (Walsh and Puszka, 2021). These inequities extend beyond custody and shape life trajectories, contributing to ongoing marginalisation and increased contact with the criminal justice system.

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Broader structural constraints limit participation in society for Indigenous people with disability, including inadequate access to healthcare, disability services, and social supports, as well as experiences of racism and ableism

Bail, Remand and Court Processes

The increasing reliance on remand and restrictive bail practices represents a key mechanism through which systemic inequality is reproduced. National data indicate a substantial proportion of the prison population consists of unsentenced individuals, reflecting sustained growth in remand populations over time (Australian Bureau of Statistics, 2024; Australian Bureau of Statistics, 2025a; Productivity Commission, 2021). Across jurisdictions, this expansion has been associated with policy changes, court delays, and increased use of custodial detention prior to trial (Amnesty International Australia, 2026; Bartkowiak-Théron and Colvin, 2022). These trends disproportionately affect Aboriginal and Torres Strait Islander people. For example, in New South Wales, the Aboriginal remand population has increased significantly in recent years, with growing numbers of individuals held in custody prior to conviction (NSW Bureau of Crime Statistics and Research, 2025; Knudsen and Roth, 2023).

The literature emphasises that these outcomes are driven by structural factors, including poverty, housing instability, and limited access to legal and social support services (Australian Law Reform Commission, 2026; Bartkowiak-Théron and Colvin, 2022; Kong, 2024). Bail decisions frequently fail to account for these structural conditions. Individuals may be denied bail due to lack of stable accommodation, inability to meet strict conditions, or prior justice system contact, rather than the severity of the alleged offence (Productivity Commission, 2021; Australian Law Reform Commission, 2026).

These dynamics create significant disparities between arrest rates and incarceration rates, reinforcing the overrepresentation of Indigenous people in custody (Weatherburn et al., 2024; McCausland and Baldry, 2023). For Indigenous people living with disability, these barriers are further intensified. Cognitive impairment, mental illness, and limited access to legal support can affect understanding of court processes, compliance with bail conditions, and engagement with the justice system more broadly (Hughes et al., 2021; SYNAPSE et al., 2021). These factors contribute to repeated cycles of remand, short-term incarceration, and ongoing contact with the justice system.

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Cognitive impairment, mental illness, and limited access to legal support can affect understanding of court processes, compliance with bail conditions, and engagement with the justice system.

The increasing reliance on remand and restrictive bail practices has contributed significantly to rising incarceration rates in Australia, particularly among vulnerable populations. In jurisdictions such as the Northern Territory, nearly half of the prison population is held on remand, often under conditions that are more restrictive than those experienced by sentenced prisoners (Enciso, 2025). Nationally, as of 2024, an average of 18,036 individuals were held on remand, representing 41% of the prison population, reflecting a 13% increase from the previous year (Australian Bureau of Statistics, 2024).

Recent data indicate that as of 30 June 2025, there were 46,998 adult prisoners in Australia, with unsentenced prisoners accounting for approximately 42% of the total population (Australian Bureau of Statistics, 2025a). The overrepresentation of Aboriginal and Torres Strait Islander peoples is particularly pronounced, with 17,432 Indigenous prisoners comprising approximately 37% of the prison population (Australian Bureau of Statistics, 2025b).

Remand durations vary significantly. While many individuals spend short periods in custody (with 53% held for less than one week), the average duration increased from 4.5 to 5.8 months between 2001 and 2020 (Australian Government Productivity Commission, 2021). More recent estimates suggest an average remand period of approximately 6.5 weeks, although duration is highly dependent on factors such as court delays, case complexity, and bail eligibility (Amnesty International Australia, 2026; Liana, 2025).

The increasing reliance on remand disproportionately affects Indigenous populations. In New South Wales, Aboriginal remand populations increased by 63% between 2020 and 2025, with domestic violence-related offences contributing significantly to this trend (NSW Bureau of Crime Statistics and Research, 2025). Similarly, systemic factors such as poverty, homelessness, trauma, and limited access to support services increase the likelihood of bail refusal and prolonged detention (Bartkowiak-Théron and Colvin, 2022; Australian Law Reform Commission, 2026).

Bail policies also reflect structural disadvantage. Amendments to bail legislation and police discretion have contributed to increasing remand populations over time, with vulnerable individuals, particularly Indigenous people, young people, and those experiencing mental health issues, more likely to be denied bail (Hughes et al., 2021; Bartkowiak-Théron and Colvin, 2022).

Visitor Policies, Administrative Systems and Family Impacts

Prison visitor policies represent a key institutional mechanism through which systemic control is exercised. Access to visits is governed by complex administrative procedures, including pre-approval processes, identity verification, visitor lists, and strict security requirements (Fitzroy Legal Service, 2025; Queensland Government, 2025; State of Victoria Government, 2025). In some jurisdictions, visitors must complete formal applications verified by a Justice of the Peace, and visits are typically limited to 30–60 minutes, often once per week. Administrative requirements also include strict dress codes, limits on permitted items, and security screening procedures such as body scanning and searches. Failure to comply may result in denial of entry, suspension of visiting privileges, or restrictions to non-contact visits (State of Victoria Government, 2025).

These procedural and regulatory requirements are further shaped by broader structural constraints, including postcolonial policy frameworks, systemic racism, and discriminatory practices that disproportionately affect vulnerable populations. Such conditions create additional barriers for families already navigating restrictive bail conditions, stigma, and institutional marginalisation.

Visitor policies also incorporate strict behavioural expectations and discretionary authority. Visitors must comply with prison staff instructions and institutional rules, with enforcement measures including surveillance technologies such as sniffer dogs and searches. Non-compliance may result in refusal of entry, suspension, or restrictions to non-contact visits. Additionally, prison authorities retain discretion to refuse or restrict visits based on perceived security risks, including prior bans, criminal history, or institutional lockdowns (State of Victoria Government, 2025; Government of Western Australia Department of Justice, 2025).

Beyond these formal rules, families experience significant emotional, logistical, and informational challenges when attempting to maintain contact with incarcerated relatives. These include confusion about visitation processes, misinformation, limited availability of visits, long waiting times, and difficulties contacting prison staff (Justice Action, 2025). Overcrowding, geographic distance, and prison classification levels can further restrict access, increasing frustration and, in some cases, leading families to discontinue visits altogether (Department for Correctional Services Government of South Australia, 2025).

The emotional impact on families is considerable. Many experience grief, loss, stigma, isolation, and discrimination associated with incarceration, alongside fear of judgement and reduced capacity to seek support (Justice Action, 2025; Ryan and Ryan, 2024). Administrative complexity can intensify these effects, particularly for first-time visitors who struggle to navigate the system, contributing to broader patterns of social disconnection and disadvantage (Ryan et al., 2020; Metropolitan Remand Centre, 2021).

COVID-19 restrictions further intensified these challenges. Lockdowns, reduced visit availability, and the suspension of in-person visits disrupted family connections. While digital alternatives such as video and telephone calls were introduced, evidence suggests they were not adequate substitutes, particularly for young children, for whom the absence of physical contact negatively affected emotional wellbeing (Flynn et al., 2022). Although authorities have presented such technologies as viable alternatives, these findings highlight their limitations.

Despite these barriers, maintaining family connections remains critical. Evidence indicates that regular contact supports prisoners' mental health, strengthens family relationships, and contributes to reduced recidivism (Ryan and Ryan, 2024). However, inconsistencies across jurisdictions, combined with administrative, structural, and social barriers, continue to limit equitable access to visitation and reduce the potential benefits for prisoners and their families.

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The emotional impact on families is considerable. Many experience grief, loss, stigma, isolation, and discrimination associated with incarceration, alongside fear of judgement and reduced capacity to seek support.

Systemic Inequality, Discrimination and Health Impacts

The operation of bail, remand, and visitation systems reflects broader systemic inequalities embedded within the criminal justice system. Indigenous prisoners, particularly those with disabilities, face structural barriers related to socioeconomic disadvantage, discrimination, and lack of access to culturally appropriate support services (Australian Law Reform Commission, 2026). Systemic racism and negative attitudes within custodial settings further limit access to care and support, particularly where staff lack understanding of intergenerational trauma and cultural context (Nous Group, 2024). These conditions are compounded by stigma associated with mental illness and substance use, which remain poorly addressed in correctional environments (Nous Group, 2024).

Evidence also highlights systemic failures in managing vulnerable populations, including people with serious mental illness, who experience higher rates of homelessness, substance use, and reincarceration (Hewlett et al., 2026). Similarly, prisoners with disabilities often experience neglect and harmful treatment practices, reflecting ableist institutional environments that fail to accommodate their needs (Ben, 2024; SYNAPSE et al., 2021). Broader patterns of discrimination, including racial bias and over-policing, further reinforce inequality.

Indigenous communities are disproportionately affected by policies and practices that exacerbate disadvantage, contributing to ongoing cycles of incarceration (Anita Knudsen and Lenny Roth, 2023b; Kong, 2024). These systemic barriers are reinforced by broader social determinants, including unemployment, health inequality, trauma, and social exclusion, which continue to shape pathways into and out of the justice system (Australian Institute of Health and Welfare, 2024b; Vandeveld et al., 2026).

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Systemic racism and negative attitudes within custodial settings limit access to care and support, particularly where staff lack understanding of intergenerational trauma and cultural context.

The Remand and Prison Policy

The expansion of mass incarceration in Australia, particularly in the Northern Territory, is closely linked to broader institutional practices that regulate and restrict contact between incarcerated individuals and their families. The increased use of restrictive bail practices as a tool of community safety, combined with a lack of mandatory training within the justice system, contributes to rising remand populations and intensifies pressures on prison systems. For instance, nearly half of the Northern Territory prison population is held on remand, with remand conditions often reported to be worse than those experienced by sentenced prisoners. This over-reliance on remand has significant implications not only for incarcerated individuals but also for their families, as it increases instability, limits access to consistent visitation, and reinforces the institutional barriers previously discussed. As a result, there have been calls for urgent reform, with advocates arguing that bail and remand practices should be prioritised within broader legal and community-based reforms (Enciso, 2025).

Statistical evidence further highlights the growing reliance on remand across Australia and its intersection with visitation and family contact. According to a 2024 report, the average number of prisoners held on remand prior to court appearances was 18,036, representing 41% of the total prison population. This reflects a 13% increase from the previous year, indicating an increasing dependence on remand for individuals awaiting trial (Australian Bureau of Statistics, 2024). The growth in remand populations places additional strain on prison resources, contributing to overcrowding and

administrative pressures that further restrict visitation access. As outlined earlier, such constraints lead to reduced visit availability, longer waiting times, and increased difficulties navigating prison systems, thereby compounding the emotional and logistical burdens experienced by families.

Across jurisdictions, prison policies and bail practices vary, and the number of individuals held on remand or granted bail is not static. These variations further contribute to inconsistencies in visitation experiences and access to family contact. Evidence shows that within four months of being granted bail, 42% of young people and 21% of adults had committed new offending incidents. Overall, 65% of youths and 34% of adults either reoffended or breached bail conditions. Amendments to the Bail Act 1982, effective from 2 March 2020, were associated with a reduction in breaches among young people, with lower rates of offending while on bail observed following these changes. Several factors were identified as increasing the likelihood of offending on bail, including male gender, younger age, prior custodial history, previous apprehensions, and being on bail for violent offences. Lower rates of offending observed after March 2020 may also have been influenced by COVID-19-related restrictions (Carolyn, 2021).

These findings highlight the broader systemic tensions between risk management, community safety, and the maintenance of family and social connections. While restrictive bail practices are often justified on the basis of reducing reoffending, they also contribute to expanding remand populations, as reflected in the increasing proportion of individuals held on remand (Australian Bureau of Statistics, 2024; Enciso, 2025). This expansion reinforces institutional controls that limit visitation and social contact, as outlined in the preceding discussion of administrative and policy restrictions on prison visits (Fitzroy Legal Service, 2025; Queensland Government, 2025; State of Victoria Government, 2025; Justice Action, 2025).

In turn, these dynamics directly affect the wellbeing of prisoners and their families. Reduced opportunities for meaningful contact have been shown to undermine the emotional wellbeing of families and children, as well as limit the social support available to incarcerated individuals (Flynn et al., 2022; Justice Action, 2025). As discussed in the previous section, regular visitation is associated with improved mental health outcomes and reduced recidivism (Ryan and Ryan, 2024). However, the increasing reliance on remand and restrictive bail conditions constrains access to such contact, thereby limiting these rehabilitative benefits. These impacts are particularly pronounced for already marginalised populations, who are disproportionately affected by structural inequalities within the justice system (Enciso, 2025).

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While restrictive bail practices are often justified on the basis of reducing reoffending, they also contribute to expanding remand populations.

Statistics for Prisoners and Time Spent on Remand Before Court

As of 30 June 2025, there were 46,998 adult prisoners in Australia, representing an increase of 6% (2,595 prisoners) from 2024. The national imprisonment rate rose to 216 prisoners per 100,000 adult population, up from 208 in the previous year. Prisoners whose most serious offence or charge was acts intended to cause injury accounted for 29% of the total prison population. Of the total number of prisoners, 19,119 were unsentenced, representing 42% of all prisoners. Additionally, there were 17,432 Aboriginal and Torres Strait Islander prisoners, marking a 10% increase (1,561 individuals) from 2024. However, the available statistics do not specify the average duration of time that prisoners spend on remand before appearing in court (Australian Bureau of Statistics, 2025a).

Almost 60% of prisoners have previously served a prison sentence, with this proportion being even higher among Aboriginal and Torres Strait Islander prisoners. Many individuals in prison come from socioeconomically disadvantaged backgrounds, and the prevalence of physical and mental health conditions among prisoners is disproportionately high. As a result, a significant proportion of the prison population presents with complex and overlapping needs (Australian Government Productivity Commission, 2021).

According to the Australian Bureau of Statistics (2025b), between 30 June 2024 and 30 June 2025, the number of Aboriginal and Torres Strait Islander prisoners increased by 10% (1,561), reaching a total of 17,432. Over the same period, the age-standardised imprisonment rate for Aboriginal and Torres Strait Islander adults increased from 2,318 to 2,500 per 100,000 population. As of 30 June 2025, Aboriginal and Torres Strait Islander people accounted for 37% of the total prison population. Among this group, approximately 89% (15,597) were male and 11% (1,833) were female. The median age was 33.9 years, and around 76% (13,186 individuals) had previously experienced adult imprisonment.

Taken together, these statistical trends reinforce the broader patterns of institutional control and restricted family contact discussed earlier. The increasing proportion of unsentenced prisoners and the growing reliance on remand contribute directly to prison overcrowding and administrative strain, which in turn limit visitation availability and accessibility. As outlined in previous sections, such constraints intensify logistical barriers, reduce opportunities for meaningful interpersonal contact, and heighten the emotional burden experienced by families. The disproportionate representation of Aboriginal and Torres Strait Islander peoples within the prison population further highlights how these institutional dynamics intersect with structural inequalities, amplifying the impacts of restrictive policies on already marginalised groups. In this context, the expansion of remand populations not only reflects criminal justice policy settings but also contributes to the erosion of family connections that are critical for prisoner wellbeing, rehabilitation, and successful reintegration.

Long-Term Bail, Remand and Court Procedures

Australia's incarceration rates are at their highest levels in a century, with bail and remand practices contributing significantly to this trend. Although bail is intended to balance community safety with individual liberty, the reasons police refuse bail to vulnerable individuals remain unclear. What is evident is that a disproportionate number of vulnerable people are denied bail, resulting in extended remand periods that may exceed any eventual sentence imposed or prove unnecessary if individuals are later found not guilty. This pattern is particularly pronounced among vulnerable groups, including Aboriginal and Torres Strait Islander peoples, children, individuals with mental health conditions, people experiencing homelessness, and women (Bartkowiak Théron and Colvin, 2022).

The composition of the prison population further reflects these inequalities. Prisoners are predominantly male, relatively young, from low socioeconomic backgrounds, and disproportionately Aboriginal and Torres Strait Islander. Many experience poor physical and mental health, high rates of substance use, and histories of trauma, resulting in complex and overlapping needs (Australian Government Productivity Commission, 2021). Limited access to appropriate support services exacerbates these vulnerabilities, particularly for individuals on remand who have not been convicted of a crime. As a result, remand can have significant social and economic impacts on individuals, families, and communities (Bartkowiak Théron and Colvin, 2022).

Remand is rarely a short-term experience. The average duration increased from 4.5 months in 2001 to 5.8 months in 2020 (Australian Government Productivity Commission, 2021). While many remand episodes are brief, (53% lasting less than one week and 45.2% less than one month), there is considerable variability. Approximately 22.0% of individuals spend less than 30 days on remand before being released on bail. However, individuals may experience multiple remand episodes, and shorter periods are often underrepresented in annual statistics, meaning overall remand exposure may be underestimated (Australian Government Productivity Commission, 2021). The duration of remand is influenced by factors such as case complexity, court delays, bail eligibility, and legislative changes (Amnesty International Australia, 2026; Liana, 2025).

Recent data indicate that increases in the prison population are largely driven by growth in the remand population. In New South Wales, the number of Aboriginal remandees increased by 63.0% over the five years to March 2025, reaching 1,936 individuals. Over the same period, the number of Aboriginal prisoners in sentenced custody decreased by 3.0% (72 individuals), while total Aboriginal prisoner numbers rose by 18.9% (from 3,568 to 4,244). By March 2025, 45.6% of Aboriginal adults in custody were on remand. The number of Aboriginal adults held on remand for domestic violence related offences more than doubled, increasing from 359 in March 2020 to 740 in March 2025 (a 106.1% increase) (NSW Bureau of Crime Statistics and Research, 2025). During this period, the total NSW adult prison population rose to 13,103. In contrast, the non Aboriginal prison population decreased by 12.5% (from 9,877 to 8,644), highlighting the disproportionate growth in Aboriginal incarceration.

National data further illustrate these trends. As of 30 June 2025, there were 46,998 adult prisoners in Australia, representing a 6% increase (2,595 prisoners) from 2024, with an imprisonment rate of 216 per 100,000 adult population (up from 208). Of these, 17,432 were Aboriginal and Torres Strait Islander prisoners, a 10% increase (1,561 individuals) from the previous year. Approximately 42% of all prisoners were on remand (Australian Bureau of Statistics, 2025a). Additional estimates indicate that around 36.6% of non Indigenous prisoners are on remand, while Indigenous prisoners remain disproportionately represented within the remand population (Alan Austin, 2024; Anita Knudsen and Lenny Roth, 2023; Liana, 2025).

The growth in remand is closely associated with legislative and procedural changes. Since the introduction of bail legislation in the 1970s, the number of individuals held on remand has steadily increased. Amendments to bail laws and the exercise of police discretion have contributed to this trend, particularly where vulnerability influences bail decisions (Hughes et al., 2021). Vulnerability, encompassing factors such as race, age, gender, and socioeconomic status, plays a significant role in bail outcomes, with individuals experiencing multiple, intersecting vulnerabilities more likely to be denied bail. Despite this, only New South Wales and Victoria explicitly require police to consider vulnerability in bail decision making, and current legislative frameworks do not adequately account for intersecting forms of disadvantage (Hughes et al., 2021).

Indigenous overrepresentation in remand is shaped by broader structural and historical factors, including socioeconomic disadvantage, the impacts of colonisation, intergenerational trauma, substance use, homelessness, overcrowding, and limited access to education and health services. These conditions contribute to higher rates of justice system contact and reduced likelihood of bail. Aboriginal and Torres Strait Islander people may also experience direct and indirect discrimination in bail decisions, further reinforcing disparities in remand outcomes (Australian Law Reform Commission, 2026).

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Vulnerability, encompassing factors such as race, age, gender, and socioeconomic status, plays a significant role in bail outcomes, with individuals experiencing multiple, intersecting vulnerabilities more likely to be denied bail.

Additional complexities arise for Indigenous prisoners with disabilities, who face distinct challenges within bail and remand processes. Evidence indicates that Aboriginal and Torres Strait Islander individuals may be held on remand for low level offences due to factors such as lack of stable accommodation or cultural obligations that conflict with bail conditions. These circumstances increase the likelihood of bail breaches and subsequent incarceration. Furthermore, people with disabilities in detention experience systemic mistreatment, including solitary confinement, indefinite detention, denial of medication, and exposure to physical and sexual violence, all of which contribute to further harm and marginalisation (Ben, 2024).

Although remand prisoners are not convicted, they may still spend significant periods in custody. The duration of remand varies considerably depending on how it is measured. While the average total time spent on remand has increased from 4.5 to 5.8 months (Australian Government Productivity Commission, 2021), many individual remand episodes are relatively short. On average, the time spent on remand before court is approximately 6.5 weeks (with a median of two weeks), and a substantial proportion of individuals are held for less than one week or one month (Amnesty International Australia, 2026; Liana, 2025). This variation reflects differences in case complexity, court delays, and repeated remand episodes. In some cases, time spent on remand is credited towards a final sentence if a conviction occurs (State of Victoria Government, 2025).

While remand prisoners are theoretically subject to fewer restrictions than sentenced prisoners, this is contingent on maintaining institutional safety, order, and security (Government of Australia through the Corrective Services Administrators' Council, 2025).

Overall, the increasing reliance on remand highlights systemic issues within bail decision making, court delays, and broader structural inequalities. These dynamics disproportionately affect vulnerable and Indigenous populations, contributing to growing incarceration rates and reinforcing existing social disadvantage.

Systemic Inequality, Racism, and Barriers to Support in Custodial Settings

Systemic racism and harmful institutional attitudes significantly restrict access to health care and support services for Indigenous people, particularly within custodial environments. For First Nations peoples, whose cultures represent the oldest continuous living traditions in the world, experiences within contemporary justice systems are shaped by a history of adverse interactions with government agencies, law enforcement, and detention institutions. This historical context contributes to the profoundly traumatic nature of incarceration. Furthermore, the concept of intergenerational trauma and its ongoing impacts on First Nations families and communities is often poorly understood by correctional staff, which influences how individuals are assessed, diagnosed, and treated in custody (Nous Group, 2024).

These systemic issues intersect with complex health and social needs among incarcerated populations. Women in custody, for example, frequently experience higher levels of trauma, domestic violence, and separation from children, requiring more intensive and sustained support. Similarly, young people in detention show disproportionately high rates of Fetal Alcohol Spectrum Disorder (FASD) and other neurodevelopmental conditions. Despite the overrepresentation of individuals with substance use disorders in the criminal justice system, stigma surrounding these conditions remains a significant barrier to appropriate care within correctional settings (Nous Group, 2024).

Colonialism continues to shape contemporary inequalities in health and justice systems, operating as an ongoing process of political, cultural, and psychological intrusion. These dynamics create stressors comparable to forms of violence in the daily lives of Elders, mid-generations, and younger people. Research examining the experiences of the Yanyuwa people in northern Australia demonstrates both the persistence of these impacts and the active efforts of communities to preserve cultural knowledge through practice and intergenerational transmission (Kearney et al., 2025). These structural conditions contribute to systemic injustices in health and social service delivery, resulting in poorer health outcomes and reduced quality of life for disadvantaged groups, particularly within the disability community. Access to appropriate health and support services is often constrained by socioeconomic disadvantage, while fragmented systems and administrative complexity disproportionately affect individuals from low-income, rural, Indigenous, and culturally diverse

backgrounds. These cumulative barriers highlight the need for approaches that prioritise the perspectives of those experiencing intersecting disadvantage, alongside the development of disaggregated evidence to better inform targeted policy responses (Bobo et al., 2025).

Within custodial settings, these broader inequities are intensified. Support for Indigenous prisoners and individuals with disabilities remains limited, with restricted access to prison-based services due to staffing shortages, lockdowns, and limited program availability. Trust also presents a significant challenge, as some prisoners perceive support workers, including peer navigators, as aligned with police or probation authorities. Continuity of care following release is further undermined by unstable housing and unreliable communication, reducing the effectiveness of support interventions. These challenges are particularly evident in navigator-based support programs, where constrained access to correctional environments and limited staffing capacity hinder service delivery. Recommended responses include improving continuity of care, aligning release dates with service availability, standardising participant incentives, and expanding the use of full-time peer navigators to strengthen engagement (Hailemariam et al., 2026).

More broadly, Indigenous people may experience health systems as rigid, culturally unsafe, and, in some cases, retraumatising. These barriers are especially pronounced for individuals with complex or life-limiting conditions, where delayed engagement and limited referrals to appropriate services, including palliative care, remain significant concerns. Indigenous Hospital Liaison Officers play an important role in bridging cultural and institutional divides; however, structural constraints continue to limit equitable access to care (Panozzo et al., 2023).

Stigma, discrimination, and negative societal attitudes towards prisoners further reinforce these systemic inequalities. A United Nations Working Group, following an official visit to Australia, highlighted serious human rights concerns, including the detention of children as young as ten, the disproportionate incarceration of First Nations peoples, and punitive approaches to migrants, describing these as ongoing crises within the justice system. Negative perceptions of offenders and limited public trust in the criminal justice system have been shown to influence institutional responses, particularly during crisis periods, including reduced support for prisoners during COVID-19 mitigation measures (Eno Loudon et al., 2021).

These issues are compounded for individuals with serious mental illness (SMI), who are disproportionately represented within the criminal justice system and experience poorer health outcomes. Evidence indicates that individuals with SMI are more likely to experience homelessness (82.2% compared with 61.0%) and substance use disorders (82.5% compared with 53.3%) than those without SMI. They also spend, on average,

11.3 more days in custody per sentence and have higher rates of reincarceration and health service use following release. These findings highlight the extent to which correctional systems are required to address complex and unmet health and social needs among this population (Hewlett et al., 2026). Public attitudes further shape support for justice responses, with younger offenders receiving greater support than older individuals, and support declining where there is a history of prior offending (Langfield et al., 2026). In addition to these challenges, people with disabilities in detention experience ongoing systemic mistreatment, including restricted access to supports, the use of restrictive practices, and exposure to neglect and abuse (Ben, 2024). These conditions reinforce broader patterns of exclusion and marginalisation, particularly for individuals experiencing multiple and intersecting forms of disadvantage.

Overall, these findings demonstrate that systemic racism, colonial legacies, and institutional barriers are deeply embedded within custodial and support systems. These interconnected factors restrict access to healthcare and services while perpetuating inequality, particularly for Indigenous peoples and individuals with disabilities. Addressing these issues requires structural reform, improved cultural competency, and the development of more accessible, coordinated, and equitable support systems.

Psychosocial, Mental Health, and Reintegration Challenges

The most common reintegration challenges reported by prisoners include discrimination (31.3%), financial difficulties (29.2%), and unemployment (28.4%). Evidence suggests that both pre-incarceration and in-prison factors shape re-entry outcomes. In particular, pre-existing social support and mental health, alongside factors such as debt, housing stability, access to counselling, and psychological distress during incarceration, significantly influence post-release experiences (Vandeveldt et al., 2026). First Nations Australians experience additional psychosocial burdens shaped by a history of trauma, cultural dispossession, forced relocation, and assimilation, all of which continue to affect their physical, mental, and social wellbeing (Australian Institute of Health and Welfare, 2024b). Although most Aboriginal and Torres Strait Islander people have never been imprisoned, they remain disproportionately represented in the criminal justice system. Incarceration has intergenerational impacts on families, children, and communities, reinforcing cycles of disadvantage and contributing to poorer post-release outcomes, including instability in housing, employment, financial security, and mental health (Australian Institute of Health Welfare and National Indigenous Australians Agency, 2024). People in custody also experience high rates of disability and complex health conditions. First Peoples prisoners have a higher prevalence of conditions such as hearing loss, brain injury, cognitive impairments, and related disabilities,

many of which remain undiagnosed within the justice system. Improving early identification and connecting individuals to appropriate supports, including the National Disability Insurance Scheme (NDIS), may improve reintegration outcomes; however, there is limited evidence regarding how such supports are currently implemented for Indigenous prisoners (SYNAPSE et al., 2021). Despite some capacity for prisons to address non-criminogenic needs, their ability to respond to key criminogenic and psychosocial factors remains limited. Persistent challenges include psychological distress, substance misuse, poor treatment adherence, and behavioural issues, all of which are associated with an increased likelihood of recidivism (Dodd et al., 2024). Furthermore, individuals with disabilities often experience an ableist custodial environment that fails to accommodate their needs, while simultaneously exacerbating and penalising their impairments. These systemic failures disproportionately affect Indigenous prisoners with disabilities, compounding existing disadvantage and limiting opportunities for successful reintegration.

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Incarceration has intergenerational impacts... reinforcing cycles of disadvantage and contributing to poorer post-release outcomes, including instability in housing, employment, financial security, and mental health.

Summary

This literature review for the Barriers within Bars project demonstrates that the experiences of Aboriginal and Torres Strait Islander prisoners living with disabilities cannot be understood through a single lens.

Rather, they are shaped by intersecting systems of inequality, in which Indigeneity, disability, socioeconomic disadvantage, gender, and health status interact to produce compounded and cumulative forms of marginalisation (Daniels-Mayes, 2023; Walsh et al., 2024). An intersectional framework is therefore essential for understanding both the pathways into incarceration and the harms experienced within custodial settings.

At the core of these findings is the ongoing impact of colonisation. Colonisation operates not as a historical event but as a continuing structural force that shapes contemporary justice, health, and social systems (Puszka et al., 2022). The concept of hyperincarceration reflects this reality, where the overrepresentation of First Nations people is not incidental but is produced through

dispossession, intergenerational trauma, systemic racism, and discriminatory policy frameworks (Boffa and Mackay, 2025; Walsh et al., 2024). These structural conditions are further intensified for individuals living with disability, whose needs are often unrecognised or inadequately supported within justice systems that prioritise control over care (Dodd et al., 2024).

The literature consistently demonstrates that intersectionality is not merely additive but compounding. Indigenous prisoners with disabilities experience overlapping disadvantages that extend across their life course, including trauma, poverty, unstable housing, limited education, and barriers to culturally appropriate services (Australian Institute of Health and Welfare, 2024a; McCausland and Baldry, 2023). Once within the criminal justice system, these inequities are intensified through institutional practices such as restrictive bail laws, prolonged remand, limited visitation, and culturally unsafe environments (Bartkowiak-Théron and Colvin, 2022; Enciso, 2025).

Systemic barriers operate at multiple levels. At the structural level, policies relating to bail, sentencing, and remand disproportionately impact vulnerable populations, particularly Indigenous people and those with disabilities (Australian Government Productivity Commission, 2021). At the institutional level, prison environments are characterised by administrative complexity, limited resources, and inadequate service provision, restricting access to health care, disability supports, and rehabilitation opportunities (Bobo et al., 2025; SYNAPSE et al., 2021). At the interpersonal and cultural level, stigma, discrimination, and mistrust further limit engagement with services and reinforce exclusion (Nous Group, 2024; Eno Loudon et al., 2021).

The findings also highlight the central role of ableism within custodial systems. Prison environments frequently fail to accommodate cognitive, physical, and psychosocial disabilities, resulting in conditions that both ignore and exacerbate impairment. Individuals with disabilities are exposed to greater risks of neglect, mistreatment, and institutional harm, reflecting broader patterns of systemic ableism (Dodd et al., 2024; Ben, 2024). For Indigenous prisoners, these experiences are compounded by racism and cultural dislocation, producing a distinct and intensified form of marginalisation (Walsh et al., 2024). Mental health emerges as a critical dimension of this intersectional framework. High rates of psychological distress, substance use, and trauma are evident across prison populations, with significantly higher prevalence among Indigenous people and those with disabilities (Marr et al., 2025; Perdacher et al., 2022).

These conditions are both drivers and consequences of incarceration, creating cyclical patterns of disadvantage. Despite this, prisons remain ill-equipped to provide culturally safe and trauma-informed care, reinforcing gaps between need and service provision (Nous Group, 2024).

The impact of incarceration extends beyond the individual to families and communities. Restrictive visitation policies, geographical barriers, and institutional practices limit family contact, contributing to social disconnection, intergenerational trauma, and poorer reintegration outcomes (Ryan and Ryan, 2024; Flynn et al., 2022). Maintaining family connections has been shown to support mental health and reduce recidivism, yet these opportunities are often constrained by systemic and administrative barriers (Justice Action, 2025; Fitzroy Legal Service, 2025).

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Prison environments frequently fail to accommodate cognitive, physical, and psychosocial disabilities, resulting in conditions that both ignore and exacerbate impairment.

Reintegration outcomes further illustrate the cumulative impact of intersectional disadvantage. Prisoners commonly face discrimination, unemployment, financial instability, and housing insecurity upon release (Vandavelde et al., 2026). For Indigenous people with disabilities, these challenges are intensified by limited access to coordinated support services, including the National Disability Insurance Scheme (NDIS), and ongoing experiences of stigma and exclusion (Doyle et al., 2022; SYNAPSE et al., 2021). The failure to provide adequate post-release support contributes to cycles of reincarceration (Trofimovs et al., 2022).

Taken together, the evidence demonstrates that the barriers experienced by Indigenous prisoners with disabilities are not isolated but are embedded within interconnected systems of inequality. The concept of “Barriers within Bars” captures not only the physical and institutional constraints of imprisonment but also the broader structural, cultural, and social barriers that shape these experiences before, during, and after incarceration. Addressing these challenges requires a shift from individualised and deficit-based approaches to structural and intersectional frameworks.

This includes recognising the ongoing impacts of colonisation, addressing systemic racism and ableism within justice and health systems, and developing culturally safe, disability-inclusive, and trauma-informed responses (Puszka et al., 2022; Walsh et al., 2024). Without such reforms, the criminal justice system will continue to reproduce disadvantage, reinforcing cycles of incarceration rather than supporting pathways to healing, equity, and social justice.

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For Indigenous people with disabilities, challenges are intensified by limited access to coordinated support services, including the NDIS, and ongoing experiences of stigma and exclusion.

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