

## 3. Incidence

---

### Contents

Summary	89
About the data	91
Data representing the ‘stock’ prison population	92
Data representing the ‘flow’ prison population	92
Over-representation	93
Trends in over-representation	96
The over-representation rate by ‘flow’	96
Aboriginal and Torres Strait Islander women	97
Charges before the courts	100
Remand	102
Trends in remand rates	102
The offence profile of remandees	103
Aboriginal and Torres Strait Islander women held on remand	105
Convictions and penalties imposed	106
Penalty by offence type	107
Offences that lead to a sentence of imprisonment	111
Acts intended to cause injury	111
Offences against justice	112
‘Flow’ statistics regarding offences leading to imprisonment	113
Short sentences of imprisonment	116
‘Flow’ statistics showing sentences of imprisonment	117
Recidivism and prior record of imprisonment	119
Limitations of the data	120
Prison reception statistics	121
Access to data on incarceration rates	121

For a version of this chapter with accessible figures and tables please see [www.alrc.gov.au/publications/incidence](http://www.alrc.gov.au/publications/incidence)

### Summary

3.1 There is publicly available prison data. Prison population statistics, taken from an annual census, are published by the Australian Bureau of Statistics (ABS).<sup>1</sup> The annual census prison population data represents the ‘stock’ prison population, taken on a single day. While census data is useful to gain an understanding of the national prison population, it is also limited by the nature of its collection. It cannot provide

---

1 Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0* (2016).

information on those who entered and exited prison in the six months prior or following census date, and tends to be biased towards those prisoners serving longer sentences.

3.2 The ALRC commissioned researchers at Curtin University (led by Associate Professor Anna Ferrante, Faculty of Health Sciences) to provide a deeper statistical overview of the incarceration rates of Aboriginal and Torres Strait Islander peoples. Part of this process involved an interrogation of the ‘stock’ data and an analysis of ‘flow’ statistics—data showing the characteristics of people entering and exiting prison between census dates. This chapter presents data from that analytical research, the key findings of which indicate that Aboriginal and Torres Strait Islander peoples are:

- **over-represented in the national prison population:** Aboriginal and Torres Strait Islander adults make up around 2% of the national population, and yet constitute 27% (10,596) of the national prison population (38,845).<sup>2</sup> In 2016, around 20 in every 1,000 Aboriginal and Torres Strait Islander people were incarcerated.<sup>3</sup> The rate of over-representation was most significant in WA.<sup>4</sup> Over-representation is both a persistent and growing problem—Aboriginal and Torres Strait Islander incarceration rates increased 41% between 2006 and 2016,<sup>5</sup> and the gap between Aboriginal and Torres Strait Islander and non-Indigenous imprisonment rates over the decade has widened.<sup>6</sup>

Aboriginal and Torres Strait Islander women constituted 34% of the female prison population.<sup>7</sup> The level of imprisonment of Aboriginal and Torres Strait Islander women exceeded that of non-Indigenous women by a factor of 21.2—that is an Aboriginal or Torres Strait Islander woman was 21.2 times more likely to be imprisoned than a non-Indigenous women.

- **more likely to be charged and brought before the courts:** Aboriginal and Torres Strait Islander peoples were seven times more likely than non-Indigenous people to be charged with a criminal offence and appear before the courts. While the most common offence type charged was ‘acts intended to cause injury’, ‘public order’ and ‘justice procedure’ offences also featured heavily in the offence categories for which Aboriginal and Torres Strait Islander peoples were charged.<sup>8</sup>
- **over-represented in the prison remand population:** Aboriginal and Torres Strait Islander peoples constituted 27% of all people denied bail by the courts and held in prison on remand.<sup>9</sup> The remand prison population has grown over

---

2 Ibid Aboriginal and Torres Strait Islander Prisoner Characteristics.

3 See Figure 3.2.

4 See Figure 3.2.

5 See Figure 3.3.

6 See Figure 3.3.

7 Australian Bureau of Statistics, above n 1, table 20.

8 See Figure 3.8.

9 Australian Bureau of Statistics, above n 1, table 8.

time, and Aboriginal and Torres Strait Islander people have continued to be over-represented in the remand population by a factor of over 11.<sup>10</sup>

Aboriginal and Torres Strait Islander women were particularly over-represented in the remand population, with their remand rate exceeding that of non-Indigenous women and non-Indigenous men.<sup>11</sup>

- **more likely to receive a sentence of imprisonment:** The level of over-representation of Aboriginal and Torres Strait Islander peoples in the criminal justice system increased from charge to imprisonment: Aboriginal and Torres Strait Islander peoples were seven times more likely to be charged with criminal offences, yet 12.5 times more likely to receive a sentence of imprisonment than non-Indigenous people.<sup>12</sup>
- **more likely to receive a short sentence of imprisonment:** Aboriginal and Torres Strait Islander offenders were more likely to receive a short sentence of imprisonment and less likely to receive a community-based sentence than non-Indigenous offenders.<sup>13</sup> ‘Stock’ data from the prison census showed that 10% of Aboriginal and Torres Strait Islander prisoners were serving a sentence of less than six months, and half (49%) were serving a sentence of under two years.<sup>14</sup> ‘Flow’ data indicated that 45% of Aboriginal and Torres Strait Islander offenders sentenced to imprisonment received a sentence of less than six months, compared with 27% of non-Indigenous offenders.<sup>15</sup>

Offences that led to sentences of imprisonment for less than six months for Aboriginal and Torres Strait Islander offenders included ‘acts intended to cause injury’ and ‘offences against justice procedures’, but also included ‘property damage’ and ‘public order’ offences.<sup>16</sup>
- **more likely to have a prior record of imprisonment:** Most (76%) Aboriginal and Torres Strait Islander prisoners in 2016 had been in prison previously, compared with 49% of non-Indigenous offenders.<sup>17</sup>

## About the data

3.3 There are two distinct data sets: ‘stock’ and ‘flow’. In short, flow

describes the characteristics of offenders *sent* to prison. The stock profile describes the characteristics of those *in* prison ... minor offenders generally end up accounting for a much smaller proportion of the prison stock than of the prison flow.<sup>18</sup>

10 See Figure 3.9.

11 See Table 3.3.

12 See Figures 3.3–3.4.

13 See Figure 3.11.

14 See Figure 3.16.

15 See Figure 3.17.

16 See Figure 3.14.

17 See Figure 3.19.

18 Don Weatherburn, *Arresting Incarceration—Pathways out of Indigenous Imprisonment* (Aboriginal Studies Press, 2014) 90.

### Data representing the ‘stock’ prison population

3.4 To provide the ALRC with an analysis of the ‘stock’ prison population, Curtin University used available and requested data from the annual census, *Prisoners in Australia* (ABS PIA), collected on 30 June each year and published by the ABS.<sup>19</sup>

3.5 ‘Stock’ data was used to show Aboriginal and Torres Strait Islander over-representation in the national prison population generally, and in the remand population. It was used to show sentence length for those in prison on census night, and to calculate prior imprisonment rates.

### Data representing the ‘flow’ prison population

3.6 To provide the ALRC with an analysis of ‘flow’, Curtin University used data from the ABS *Criminal Courts Australia* series (ABS CCA).<sup>20</sup>

3.7 Prison receptions were approximated from the ABS CCA data by counting the number of defendants in a period that were handed a custodial sentence by the courts. Although these custodial terms may not be served in the same period that the sentence was handed down, the commencement date was sufficiently close to allow for reasonable approximation. In addition, counting rules regarding the determination of ‘principal offence’ in court finalisations were not entirely the same as those used to determine ‘most serious offence’ in prison statistics; however, these were also sufficiently similar to allow comparison. Sentence quantum, as handed down by the court and described in ABS CCA publications (often referred to as ‘head sentence’) was also sufficiently similar to the ‘aggregate sentence’ in ABS PIA statistics to allow comparison.

3.8 Although presented as a national series, breakdowns by Aboriginal and Torres Strait Islander status from the ABS CCA were only available for selected jurisdictions—New South Wales (NSW), the Northern Territory (NT), Queensland and South Australia (SA). For other jurisdictions,<sup>21</sup> court finalisation statistics did not provide information about the Aboriginal and Torres Strait Islander status of defendants. When combined, NSW, the NT, Queensland and SA account for more than three-quarters of the Aboriginal and Torres Strait Islander general population in Australia and 60% of the non-Indigenous general population. Given this coverage, it was possible to use the available data to make reasonably accurate assessments of national trends.

3.9 The exclusion of Western Australia (WA) from ABS CCA most likely yielded an under-estimate of the true national rate of Aboriginal and Torres Strait Islander court finalisations, given the typically high level of Aboriginal involvement in the WA criminal justice system and the use of short prison terms to pay off fines.<sup>22</sup> ABS CCA

---

19 Australian Bureau of Statistics, above n 1.

20 Australian Bureau of Statistics, *Criminal Courts, Australia, 2015-16, Cat No 4513.0* (2017).

21 The ACT, Tasmania, Victoria and WA.

22 See ch 12.

also excludes traffic related offences,<sup>23</sup> which likely further contributed to an under-enumeration of national prison receptions.

3.10 'Flow' data was used to show Aboriginal and Torres Strait Islander over-representation rates. It was further used to show the charges that were before the courts, conviction rates, and the penalties imposed for both Aboriginal and Torres Strait Islander offenders and non-Indigenous offenders. It was also used to show the type of offences that led to imprisonment, and to illustrate sentence lengths for those prisoners who may not have been in prison on census night.

3.11 Across both data sets, where offence categories are cited, they are categorised using the Australian and New Zealand National Standard Offence Classification.<sup>24</sup> Only the most serious offence for each prisoner is published in the ABS PIA series.

3.12 There are limitations to the data used to inform this chapter. These are discussed at the end of the chapter, along with data limitations that may affect understandings of Aboriginal and Torres Strait Islander incarceration more broadly.

## Over-representation

3.13 Aboriginal and Torres Strait Islander peoples are disproportionately represented in Australian prison populations. In 2016, Aboriginal and Torres Strait Islander people constituted just 2% of the Australian adult population but comprised more than one quarter (27%) of the national adult prison population.<sup>25</sup>

3.14 As shown in Figure 3.1 below, the extent of the over-representation varied by state and territory. For example, in the NT, Aboriginal and Torres Strait Islander peoples constituted 30% of the general population, and 84% of the prison population. In Victoria, Aboriginal and Torres Strait Islander peoples constituted 1% of the general population and 8% of the prison population.

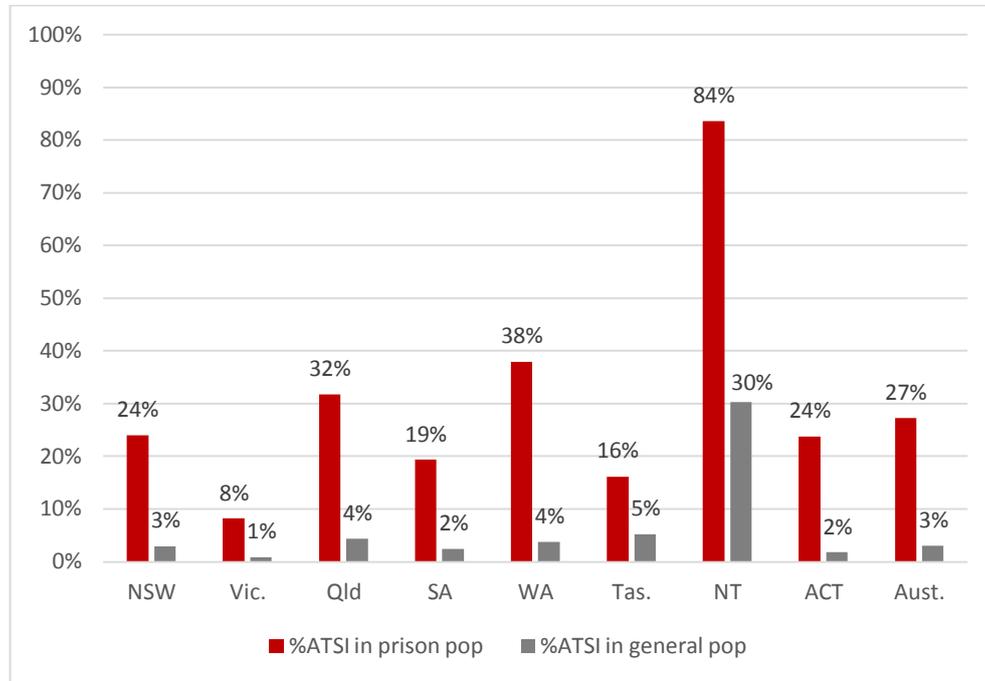
---

23 Australian Bureau of Statistics, *Australian and New Zealand Standard Offence Classification, Cat No 1234.0* (2011) div 14.

24 Australian Bureau of Statistics, above n 23.

25 Australian Bureau of Statistics, above n 1, *Aboriginal and Torres Strait Islander Prisoner Characteristics*.

**Figure 3.1: Percentage of Aboriginal and Torres Strait Islander people in adult prison population and the general population by state and territory (2016)**

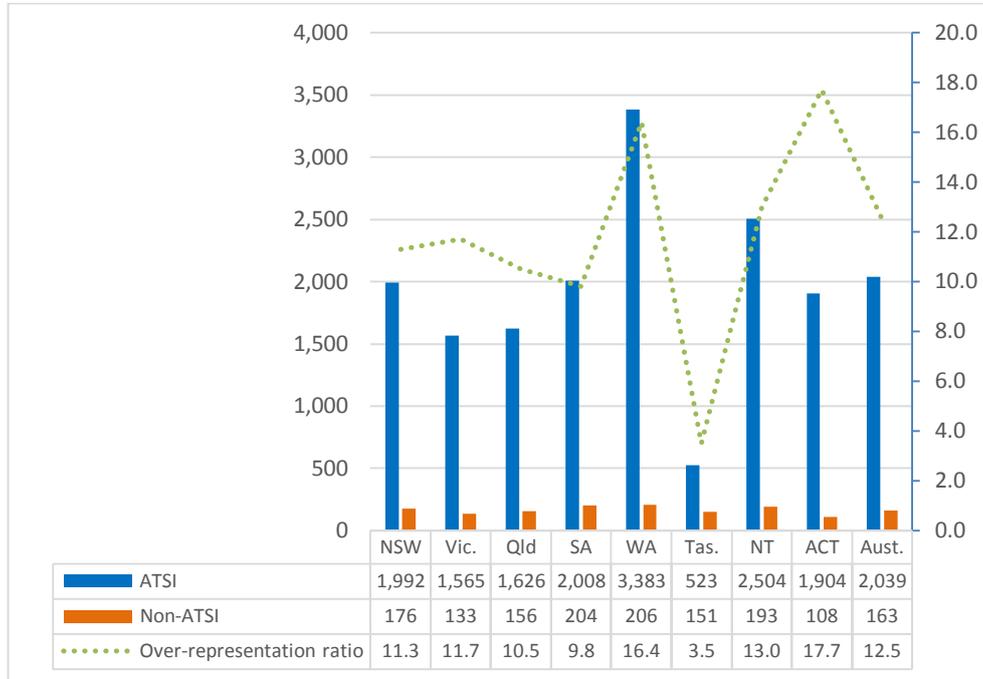


Source: **General population**, Australian Bureau of Statistics, *Australian Demographic Statistics, Cat No 3101* (2016) table 9 (Projected Resident Population, Series A(c)), table 12 (Projected Resident Aboriginal and Torres Strait Islander Population, Series A (c)); **Adult prison population**, Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0* (2016) table 13.

3.15 One method of quantifying the extent of the over-representation of Aboriginal and Torres Strait Islander peoples in prison is to estimate incarceration rates based on the relevant Aboriginal and Torres Strait Islander adult populations and non-Indigenous adult populations. The Aboriginal and Torres Strait Islander rate was calculated by dividing the number of adult Aboriginal and Torres Strait Islander people in prison in 2016 by the total adult Aboriginal and Torres Strait Islander population estimate for 2016, and then multiplying this by 100,000 to arrive at a per capita or, more correctly, a ‘per 100,000 person’ imprisonment rate.

3.16 A similar rate was calculated for the non-Indigenous population. This allows comparisons to be made of the rates and assessment of the extent to which one rate exceeds the other. This is shown in Figure 3.2 below.

**Figure 3.2: Imprisonment rates (per 100,000 persons) by Aboriginal and Torres Strait Islander status by jurisdiction (2016)**



Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0 (2016) table 16.*

3.17 As shown in Figure 3.2 above, the national imprisonment rate for Aboriginal and Torres Strait Islander peoples was 2,039 per 100,000 persons. That is, about 20 in every 1,000 Aboriginal and Torres Strait Islander people were incarcerated in 2016.

3.18 To put the rates of Aboriginal and Torres Strait Islander incarceration in perspective, the non-Indigenous rate was 163 per 100,000: less than 2 in every 1,000 persons. Aboriginal and Torres Strait Islander peoples were therefore over-represented in the imprisoned population by a factor of 12.5. In other words, based on census night statistics, Aboriginal and Torres Strait Islander people were 12.5 times more likely to be in prison than non-Indigenous people.

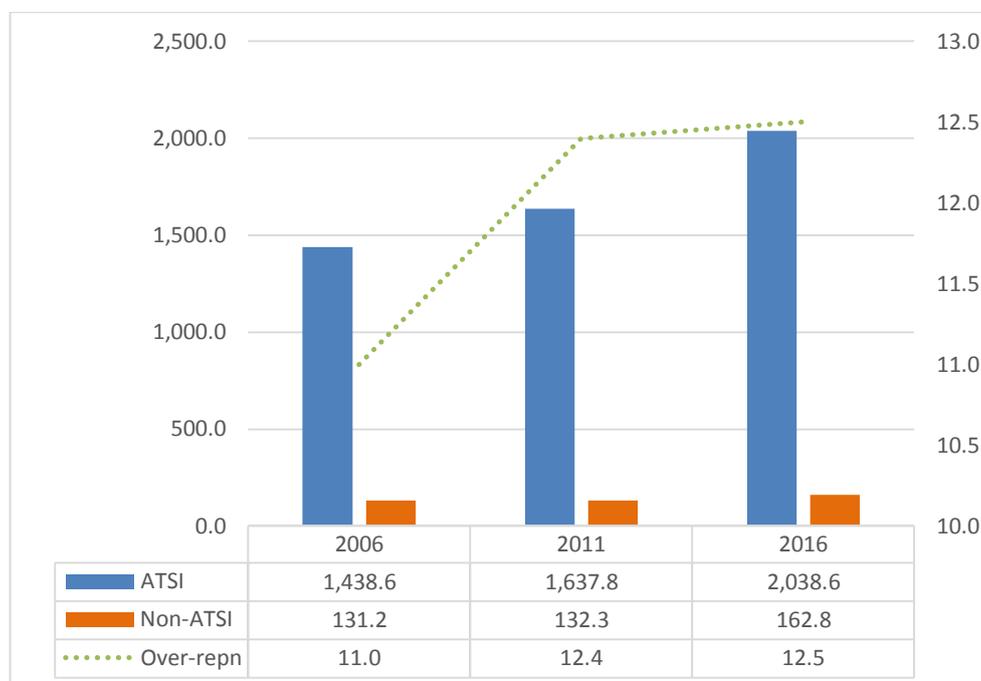
3.19 Figure 3.2 also shows that WA had the highest rate of imprisonment of Aboriginal and Torres Strait Islander people at 3,383 prisoners per 100,000 persons, as well as the highest rate of imprisonment of non-Indigenous people. In 2016, the Australian Capital Territory (ACT) and WA had the highest levels of Aboriginal and Torres Strait Islander over-representation in Australia (by a factor of 17.7 and 16.4 respectively). Note that, because the ACT has a small Aboriginal and Torres Strait Islander population, the ACT imprisonment rate is somewhat unstable. Caution should therefore be exercised in the interpretation of the ACT rate.

### Trends in over-representation

3.20 Figure 3.3 below shows that the imprisonment rate for Aboriginal and Torres Strait Islander people has increased 41% over 10 years, from 1,438 per 100,000 in 2006 to 2,039 per 100,000 persons in 2016. For non-Indigenous people, the imprisonment rate has increased by 24%, from 131 to 163 per 100,000 over the same period.

3.21 The over-representation of Aboriginal and Torres Strait Islander people in prison has increased from a factor of 11 to 12.5. In short, the gap between Aboriginal and Torres Strait Islander and non-Indigenous imprisonment rates over the decade has widened.

**Figure 3.3: Changes in Aboriginal and Torres Strait Islander and non-Indigenous imprisonment rates over time (2006-2016)**



Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0 (2016) table 17.*

### The over-representation rate by ‘flow’

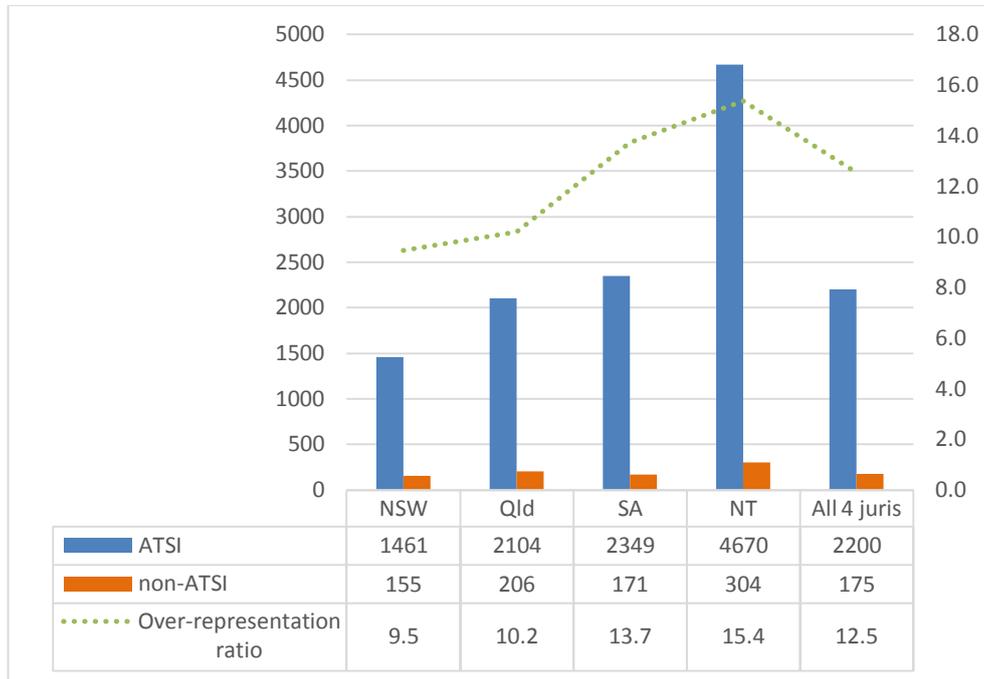
3.22 The rate of over-representation of Aboriginal and Torres Strait Islander people based on prison receptions derived from the ABS CCA (‘flow’) is similar to that derived from census data (‘stock’) at 12.5. The reception-based ratio is, however, likely to be an under-estimate of the true national ratio because it does not include WA figures, and it excludes traffic related offences.

3.23 In the NT and SA, the level of Aboriginal and Torres Strait Islander over-representation in prison increases when reception-based figures are used. In the NT, the

census-based ratio was 13.0 but this increases to 15.4 when reception-based prison figures are used. In SA, the census-based ratio was 9.8 but this increased to 13.7.<sup>26</sup>

3.24 Figure 3.4 below presents the prison reception rate across the four jurisdictions, measured through court sentencing decisions. For Aboriginal and Torres Strait Islander people, this rate was 2,200 per 100,000 persons, while for non-Indigenous people the rate was 175 per 100,000 persons—Aboriginal and Torres Strait Islander peoples were over-represented in prison receptions (across the four jurisdictions) by a factor of 12.5.

**Figure 3.4: Prison reception rate (per 100,000 relevant population) by Aboriginal and Torres Strait Islander status, measured through court finalisations resulting in prison sentences (2016)**



Source: Australian Bureau of Statistics, *Criminal Courts Australia, 2015-16*, 45130\_201516 (2017) requested table, table 3.

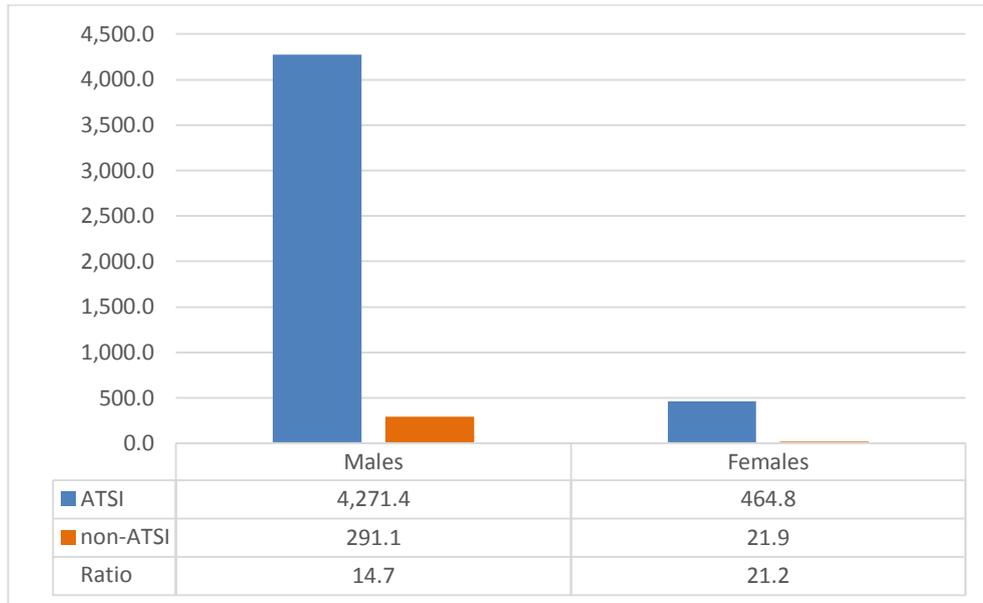
### Aboriginal and Torres Strait Islander women

3.25 Aboriginal and Torres Strait Islander women are over-represented in prison populations. On census night, their level of imprisonment exceeded that of non-Indigenous women by a factor of 21.2—that is Aboriginal or Torres Strait Islander women were 21.2 times more likely to be imprisoned than non-Indigenous women.

26 Note that in NSW, the converse is true: the census-based ratio is greater than the reception-based ratio (compare a factor of 11.3 to a factor of 9.5).

3.26 The rate of imprisonment of Aboriginal and Torres Strait Islander women (464.8 per 100,000) was not only higher than that of non-Indigenous women (21.9 per 100,000), but was also higher than the rate of imprisonment of non-Indigenous men (291.1 per 100,000). See Figure 3.5 below.

**Figure 3.5: Comparison of male and female imprisonment rates, by Aboriginal or Torres Strait Islander status (2016)**

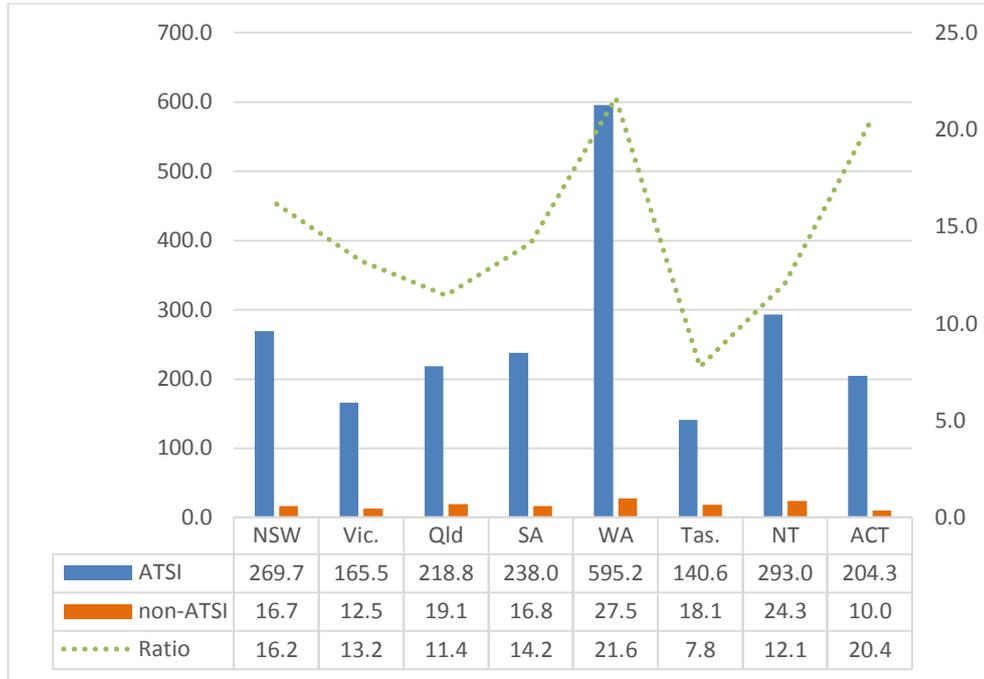


Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0 (2016) table 20.*

3.27 Jurisdictional variations in female imprisonment rates are shown in Figure 3.6.<sup>27</sup> WA presents as having the highest rate of imprisonment of women. WA also has the greatest differential between Aboriginal and Torres Strait Islander female imprisonment rates and non-Indigenous female imprisonment rates.

<sup>27</sup> The rates shown are not age standardised.

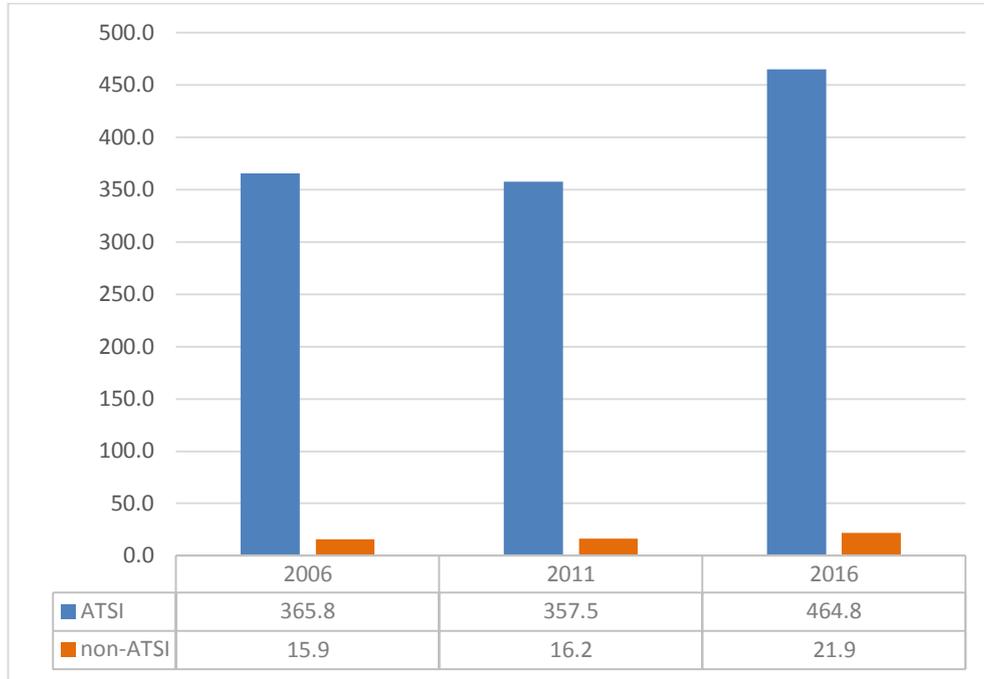
**Figure 3.6: Jurisdictional variations in Aboriginal and Torres Strait Islander female imprisonment rates and non-Indigenous female imprisonment rates**



Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0 (2016) table 20.*

3.28 Since 2006, the rate of imprisonment of Aboriginal and Torres Strait Islander women has increased. As Figure 3.7 below shows, this rate increased from 365.8 per 100,000 adult Aboriginal and Torres Strait Islander females in 2006, to 464.8 per 100,000 in 2016. The rate of imprisonment of non-Indigenous women also increased but was markedly lower at just 21.9 per 100,000 adult non-Indigenous females.

**Figure 3.7: Trends in the rate of imprisonment of Aboriginal and Torres Strait Islander women, 2006, 2011 and 2016**



Source: Australian Bureau of Statistics, *Prisoners in Australia* – (2006) table 5 (2011) table 4 (2016) table 20.

3.29 The ALRC discusses the particular issues attached to the imprisonment of Aboriginal and Torres Strait Islander women in Chapter 11.

## Charges before the courts

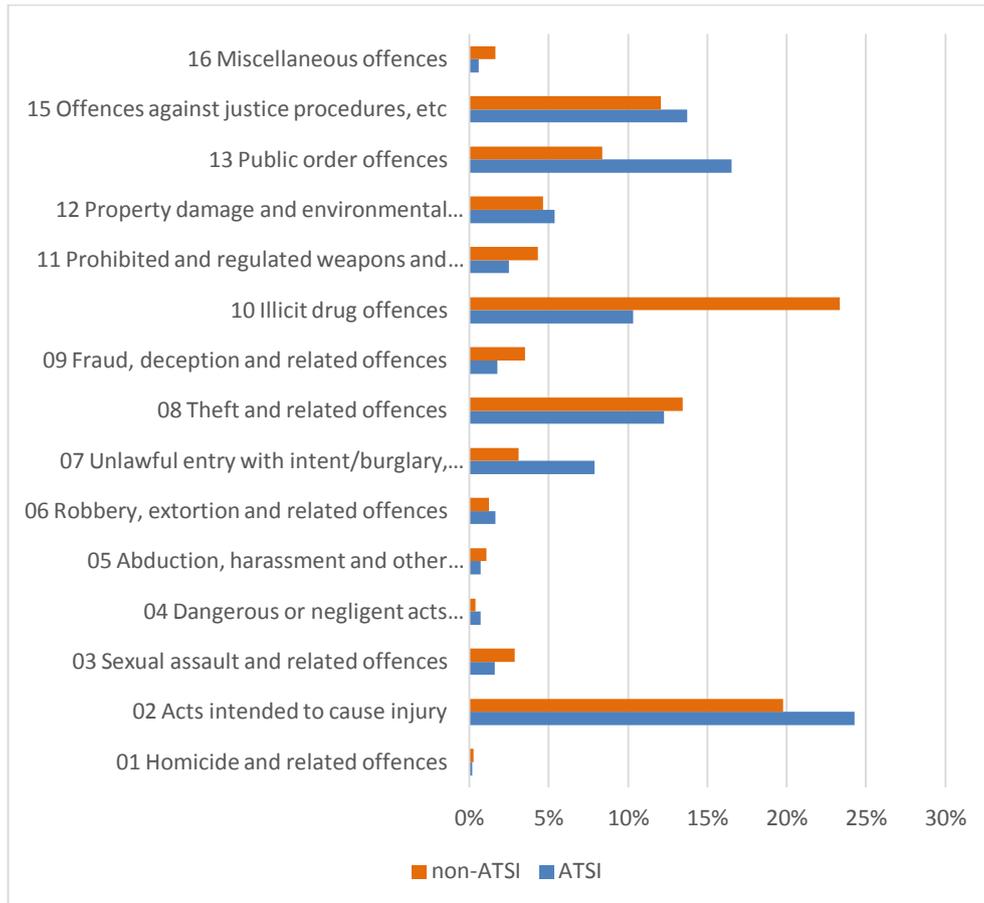
3.30 Over-representation of Aboriginal and Torres Strait Islander peoples is evident from the time of court appearance for criminal charges. The level of over-representation of Aboriginal and Torres Strait Islander people in court finalisations in 2016 was 7. That is, Aboriginal and Torres Strait Islander people were seven times more likely to be charged with a criminal offence and appear in court than non-Indigenous people.

3.31 Using the ANZOC categories,<sup>28</sup> the four most common offences for which Aboriginal and Torres Strait Islander people were charged and subsequently appeared in court were: acts intended to cause injury (comprising 24% of all Aboriginal and Torres Strait Islander defendants in 2016); public order offences (17%); offences against justice (14%); and theft and related offences (12%).

28 Australian Bureau of Statistics, above n 23.

3.32 In contrast, the four most common offences for which non-Indigenous people were charged and appeared in court were: illicit drug offences (comprising 23% of all non-Indigenous defendants); acts intended to cause injury (20%); theft and related offences (13%); and offences against justice (12%).

**Figure 3.8: Offence profile of Aboriginal and Torres Strait Islander people and non-Indigenous people who appeared in court (2016)**



Source: Australian Bureau of Statistics, *Criminal Courts, Australia, 2015–16*, 45130\_201516 (2017) requested table, table 1.

3.33 A high percentage of Aboriginal and Torres Strait Islander peoples were charged with offences within the category of ‘acts intended to cause injury’, yet 35% of these charges related to ‘serious assaults not causing injury’. Aboriginal and Torres Strait Islander peoples were over-represented in this offence type, constituting 44% of all people charged with ‘serious assaults not causing injury’.

3.34 A breakdown of ‘acts intended to cause injury’ is presented in Table 3.1 below.

**Table 3.1: Breakdown of people who appeared in court for ‘acts intended to cause injury’ offence types by Aboriginal and Torres Strait Islander status (2016)**

Sub categories of ‘acts intending to cause injury’	Aboriginal and Torres Strait Islander people		Non-Indigenous	
	number and % charged with acts intending to cause injury	% charged with sub category	number and % charged with acts intending to cause injury	% charged with sub category
<b>0211 Serious assault resulting in injury</b>	3,602 (32%)	26%	10,392 (32%)	74%
<b>0212 Serious assault not resulting in injury</b>	3,886 (35%)	44%	4,862 (15%)	56%
<b>0213 Common assault</b>	3,002 (27%)	18%	13,733 (42%)	82%
<b>029 Other acts intended to cause injury</b>	680 (6%)	15%	3,819 (12%)	85%
<b>TOTAL</b>	11,185 (100%)	25%	32,795 (100%)	75%

Source: Australian Bureau of Statistics, *Criminal Courts*, Australia, 2015-16, 45130\_201516 (2017) requested table, table 1.

## Remand

3.35 The prison population typically comprises two categories of prisoners—those who have been sentenced and those who are on remand (remandees). A person on remand has not applied for bail or has been denied bail by the courts and is in prison awaiting either trial or sentence. Bail decision-making is discussed in Chapter 5.

3.36 While equal proportions of the Aboriginal and Torres Strait Islander and the non-Indigenous prison populations were on remand (both approximately 30%), Aboriginal and Torres Strait Islander people were over-represented in the remand population on census night—constituting 27% (3,221) of all people in prison on remand.<sup>29</sup>

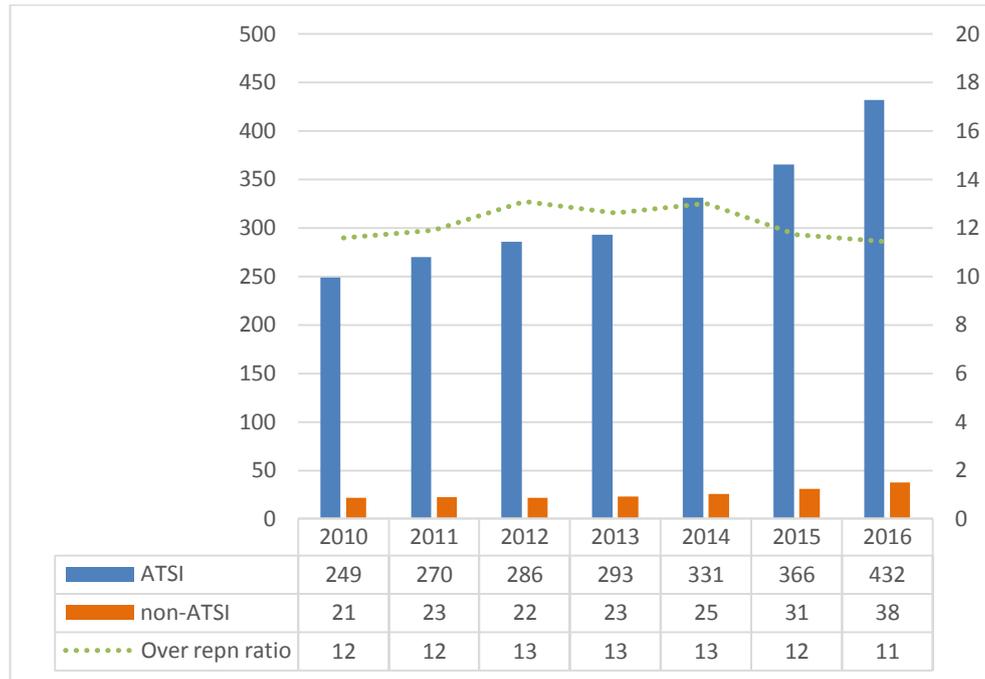
### Trends in remand rates

3.37 The over-representation ratio of Aboriginal and Torres Strait Islander people to non-Indigenous people in the remand population has remained fairly static. Since 2010, the rate of remand for Aboriginal and Torres Strait Islander peoples increased from 249

<sup>29</sup> Australian Bureau of Statistics, above n 1, table 8.

per 100,000 persons to 432 per 100,000 persons. The remand rate for non-Indigenous people increased from 21 per 100,000 to 38 per 100,000. While the remand prison population has grown over time, Aboriginal and Torres Strait Islander people have continued to be over-represented in the remand population by a factor of over 11.

**Figure 3.9: Trends in Aboriginal and Torres Strait Islander and non-Indigenous rates of remand, Australia (2010–2016)**



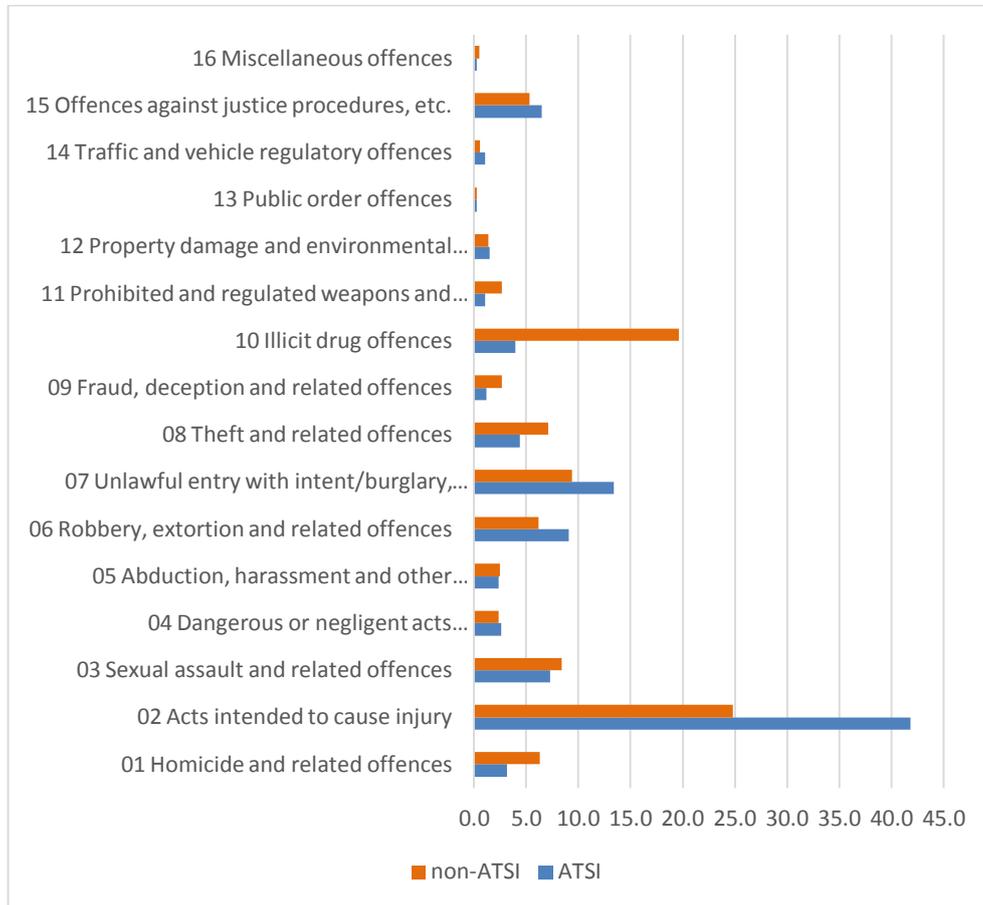
Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0* (2016) requested table, table 12.<sup>30</sup>

### The offence profile of remandees

3.38 The offence profile of the Aboriginal and Torres Strait Islander remandees and non-Indigenous remandee populations are shown in Figure 3.10. For both groups, the offence category of ‘acts intended to cause injury’ accounted for the largest proportion of remandees (42% of Aboriginal and Torres Strait Islander remandees; 25% of non-Indigenous remandees).

<sup>30</sup> Rates have been calculated using ABS estimated resident populations for Aboriginal and Torres Strait Islander peoples and non-Indigenous people, and are not age adjusted.

**Figure 3.10: Offence profile of Aboriginal and Torres Strait Islander remandees and non-Indigenous remandees (2016)**



Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0* (2016) requested table, table 12.

3.39 A more detailed examination of the ‘acts intended to cause injury’ category shows that, irrespective of Aboriginal and Torres Strait Islander status, most remandees were in prison for serious assaults resulting in injury (accounting for 54% of Aboriginal and Torres Strait Islander remandees and 58% of non-Indigenous remandees).

3.40 Aboriginal and Torres Strait Islander people remain over-represented in all offence types in this category, but especially so in ‘serious assault not resulting in injury’, of which Aboriginal and Torres Strait Islander people constituted 51% of remandees for that offence type. See Table 3.2 below.

**Table 3.2: Breakdown of Aboriginal and Torres Strait Islander remandees and non-Indigenous remandees for ‘acts intended to cause injury’ (2016)**

Sub categories of ‘acts intended to cause injury’	Aboriginal and Torres Strait Islander people		Non-Indigenous	
	number and % charged with acts intending to cause injury	% charged with sub category	number and % charged with acts intending to cause injury	% charged with sub category
<b>0211 Serious assault resulting in injury</b>	732 (54%)	36%	1,275 (58%)	64%
<b>0212 Serious assault not resulting in injury</b>	449 (33%)	51%	439 (20%)	49%
<b>0213 Common assault</b>	158 (12%)	28%	405 (18%)	72%
<b>029 Other acts intended to cause injury</b>	13 (1%)	14%	77 (4%)	86%
<b>TOTAL</b>	1,352 (100%)	38%	2,196 (100%)	62%

Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0* (2016) requested table, table 12.

### **Aboriginal and Torres Strait Islander women held on remand**

3.41 Aboriginal and Torres Strait Islander women are vastly over-represented in the remand population. The remand rate of Aboriginal and Torres Strait Islander women (104.3 per 100,000) on census night exceeded that of non-Indigenous women (6.7 per 100,000) and even exceeded the remand rate of non-Indigenous men (69.4 per 100,000).

3.42 The Aboriginal and Torres Strait Islander female over-representation ratio (15.7) also exceeded the over-representation ratio of Aboriginal and Torres Strait Islander men (10.9). See Table 3.3 below.

**Table 3.3: Remand rates by gender and Aboriginal and Torres Strait Islander status (2016)**

Persons on remand	Male		Female	
	Number	Rate (per 100,000)	Number	Rate (per 100,000)
Aboriginal or Torres Strait Islander	2,834	759.7	388	104.3
Non-Indigenous	8,079	69.4	788	6.7
<i>Over-representation ratio</i>		10.9		15.7

Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0* (2016) requested table, table 4.

3.43 The impact of short prison stays on Aboriginal and Torres Strait Islander women, including imprisonment on remand, are discussed in Chapters 5 and 11.

## Convictions and penalties imposed

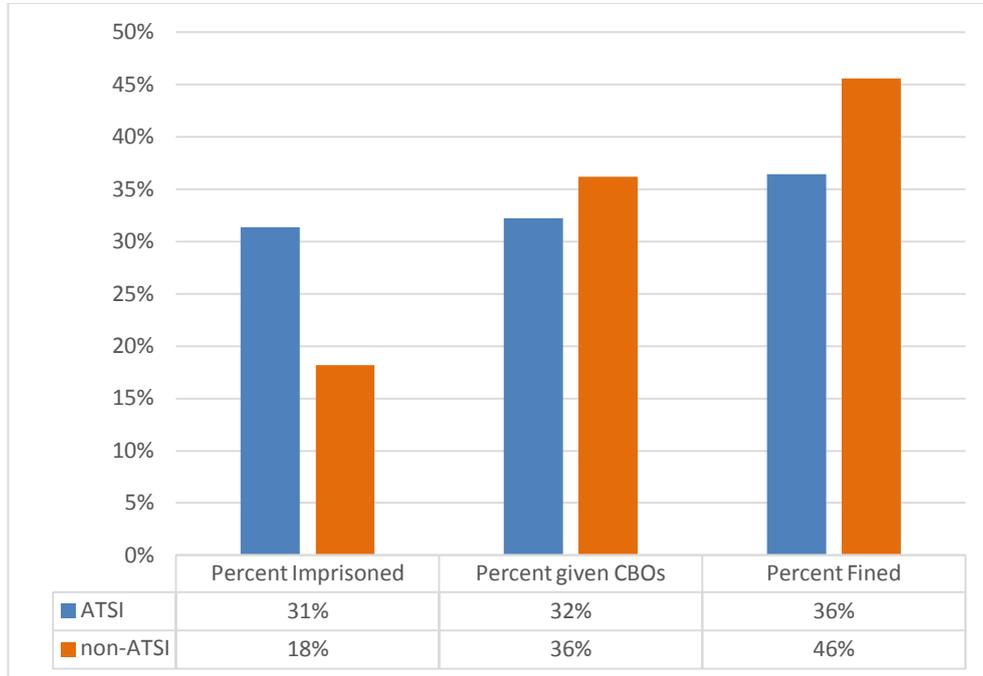
3.44 Aboriginal and Torres Strait Islander defendants were convicted in the same proportion as non-Indigenous defendants, but were more likely to receive a sentence of imprisonment.

3.45 The ‘conviction rate’—that is, the rate of people who enter a plea of guilty or who are proven guilty—did not vary substantially by Aboriginal and Torres Strait Islander status: 85% of Aboriginal and Torres Strait Islander defendants were proven guilty, compared with 81% of non-Indigenous defendants.

3.46 However, a greater proportion of Aboriginal and Torres Strait Islander offenders received a sentence of imprisonment. Almost one third (31%) of Aboriginal and Torres Strait Islander defendants were given custodial sentences, compared with just 18% of non-Indigenous defendants. A further third (32%) of Aboriginal and Torres Strait Islander defendants were given community service<sup>31</sup> (compared with 36% of non-Indigenous defendants), with the remainder issued fines (36% of Aboriginal and Torres Strait Islander defendants compared with 46% of non-Indigenous defendants). See Figure 3.11 below.

---

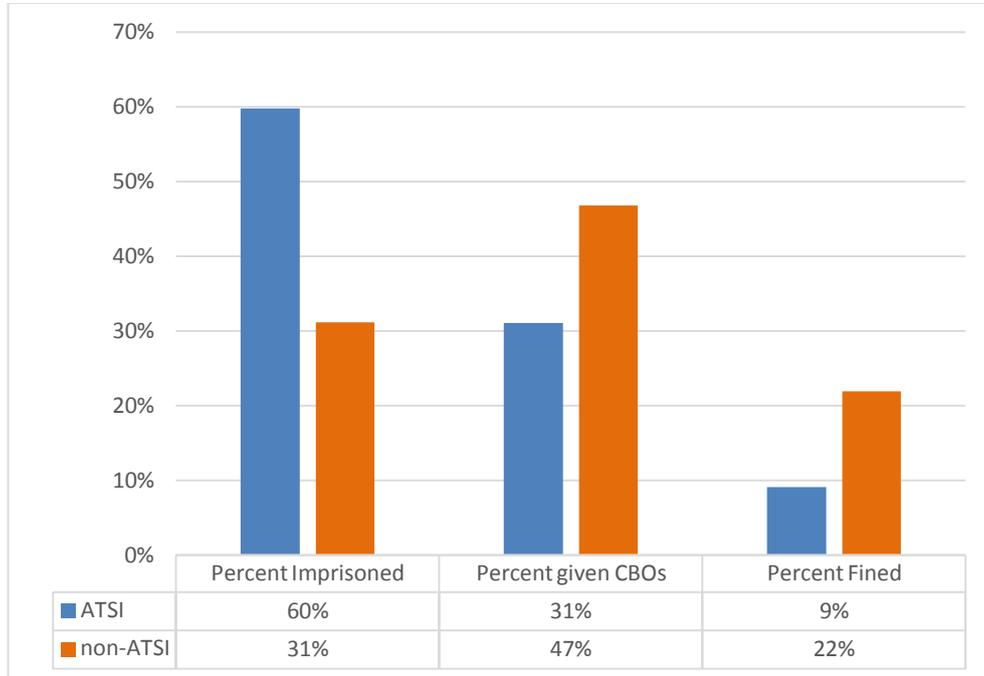
31 Considered community-based orders (CBOs) in the relevant Figures and Tables.

**Figure 3.11: Types of penalties imposed by the criminal courts (2016)**

Source: Australian Bureau of Statistics, *Criminal Courts, Australia, 2015–16*, 45130\_201516 (2017) requested table, table 3.

### Penalty by offence type

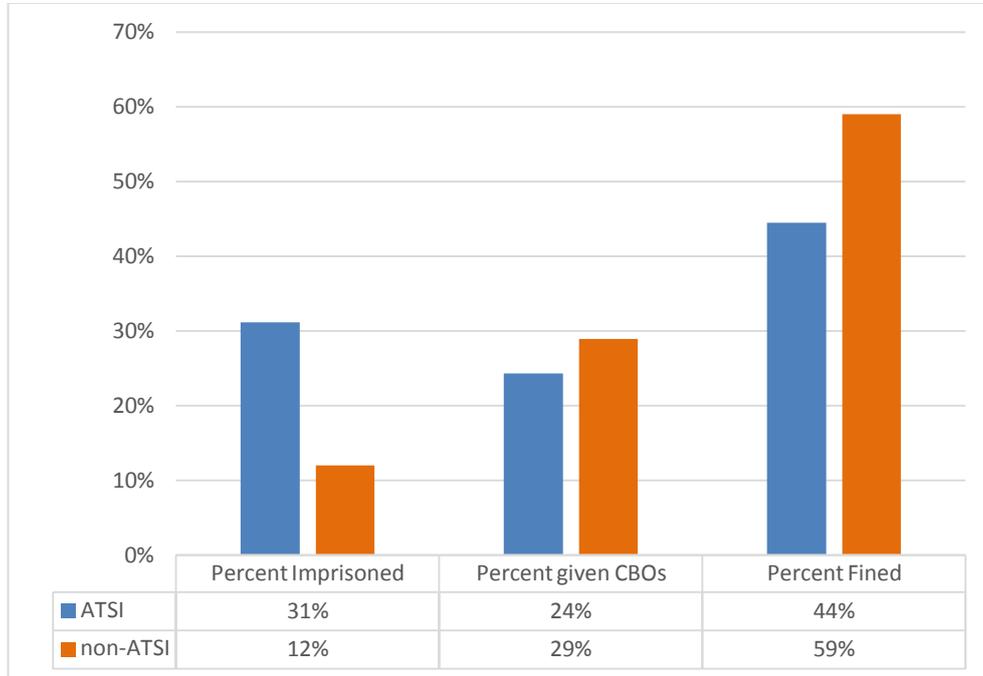
3.47 The types of penalties issued by the courts vary by offence type. For some types of offences, the types of penalties issued to Aboriginal and Torres Strait Islander offenders differed markedly from those issued to non-Indigenous offenders. For ‘acts intended to cause injury’—the most common offence type for which Aboriginal and Torres Strait Islander peoples were charged—three in every five Aboriginal and Torres Strait Islander offenders (60%) received a custodial sentence, compared with only one in three non-Indigenous offenders (30%). See Figure 3.12 below.

**Figure 3.12: Types of court penalties imposed for ‘acts intended to cause injury’ (2016)**

Source: Australian Bureau of Statistics, *Criminal Courts, Australia, 2015–16*, 45130\_201516 (2017) requested table, table 3.

3.48 The over-representation ratio of Aboriginal and Torres Strait Islander offenders receiving a sentence of imprisonment for ‘acts intended to cause injury’ to non-Indigenous offenders was 17.8 (908.5 per 100,000 compared with 50.9 per 100,000).

3.49 Figure 3.13 shows a similar tendency towards the use of imprisonment for Aboriginal and Torres Strait Islander offenders convicted of ‘justice-related offences’ compared with non-Indigenous counterparts, where Aboriginal and Torres Strait Islander offenders were over-represented by a factor of 21.1 (326.6 per 100,000 compared with 15.5 per 100,000).

**Figure 3.13: Types of court penalties imposed for justice-related offences (2016)**

Source: Australian Bureau of Statistics, *Criminal Courts, Australia, 2015–16*, 45130\_201516 (2017) requested table, table 3.

3.50 Justice procedure offending and ways to limit breaches of court orders are discussed in Chapter 7.

3.51 This pattern was not isolated to these offence categories. Table 3.4 shows that, for all offence categories except unlawful entry with intent, Aboriginal and Torres Strait Islander defendants were more likely to be handed a custodial sentence by the courts than their non-Indigenous counterparts.

**Table 3.4: Penalty differences by offence type, for Aboriginal and Torres Strait Islander offenders and non-Indigenous convicted offenders (2016)**

Principal offence	% of guilty defendants who are imprisoned		% of guilty defendants who get CBOs		% of guilty defendants who are issued fines	
	ATSI	Non-ATSI	ATSI	Non-ATSI	ATSI	Non-ATSI
<b>01 Homicide and related offences</b>	100%	98%	0%	0%	0%	2%
<b>02 Acts intended to cause injury</b>	60%	31%	31%	47%	9%	22%
<b>03 Sexual assault and related offences</b>	78%	75%	20%	21%	2%	4%

Principal offence	% of guilty defendants who are imprisoned		% of guilty defendants who get CBOs		% of guilty defendants who are issued fines	
	ATSI	Non-ATSI	ATSI	Non-ATSI	ATSI	Non-ATSI
<b>04 Dangerous or negligent acts endangering persons</b>	44%	23%	44%	46%	12%	31%
<b>05 Abduction, harassment and other offences against the person</b>	40%	29%	38%	44%	22%	27%
<b>06 Robbery, extortion and related offences</b>	83%	75%	17%	25%	0%	0%
<b>07 Unlawful entry with intent/burglary, break and enter</b>	49%	50%	48%	40%	3%	10%
<b>08 Theft and related offences</b>	22%	15%	41%	34%	37%	50%
<b>09 Fraud, deception and related offences</b>	38%	30%	33%	34%	29%	36%
<b>10 Illicit drug offences</b>	15%	12%	24%	34%	61%	54%
<b>11 Prohibited and regulated weapons and explosives offences</b>	28%	18%	31%	29%	42%	53%
<b>12 Property damage and environmental pollution</b>	19%	10%	47%	49%	34%	42%
<b>13 Public order offences</b>	6%	4%	30%	37%	64%	59%
<b>15 Offences against justice procedures, government security and government operations</b>	31%	12%	24%	29%	44%	59%
<b>16 Misc offences</b>	12%	5%	29%	26%	60%	69%
<b>Total defendants proven guilty</b>	<b>31%</b>	<b>18%</b>	<b>32%</b>	<b>36%</b>	<b>36%</b>	<b>46%</b>

Source: Australian Bureau of Statistics, *Criminal Courts, Australia, 2015–16*, 45130\_201516 (2017) requested table, tables 1-3.

3.52 The sentencing of Aboriginal and Torres Strait Islander offenders is discussed in Chapter 6. Ways to increase access to community-based sentences for Aboriginal and Torres Strait Islander offenders are further discussed in Chapter 7, and recommendations to decrease the potential harm caused by fines are discussed in Chapter 12.

## Offences that lead to a sentence of imprisonment

3.53 'Stock' statistics show that the four most common offences for which Aboriginal and Torres Strait Islander offenders were imprisoned were similar to those for which they were charged, excluding public order offences, and included: acts intended to cause injury (comprising 33% of all Aboriginal and Torres Strait Islander prisoners on census night); burglary (15%); offences against justice (11%); and robbery (11%). The offence profile of female Aboriginal and Torres Strait Islander prisoners was similar.

3.54 This can be contrasted with the four most common offences for which non-Indigenous offenders were imprisoned: illicit drug offences (comprising 17.5% of all non-ATSI prisoners on census night); acts intended to cause injury (17%); sexual assault (13%); and burglary (10%), which varied significantly from the top four offences charged.

3.55 As discussed above, 'stock' data are biased toward prisoners serving long sentences (i.e. serious offending). Accordingly, offenders charged with 'acts intended to cause injury' emerged as a significant sub-group of incarcerated offenders. Statistics which reported on 'flow' produce a different, though equally valid, profile of imprisoned offenders, providing insight into prisoners who commit less serious offences and receive shorter sentences. These are outlined below, and indicate that theft, public order and property offences also led to the imprisonment of Aboriginal and Torres Strait Islander peoples.

### Acts intended to cause injury

3.56 'Stock' data for prisoners incarcerated for 'acts intended to cause injury' showed some differences in the offences of Aboriginal and Torres Strait Islander populations and non-Indigenous populations in this category, where Aboriginal and Torres Strait Islander offenders were over-represented to a factor of 26.2<sup>32</sup> (293.4 per 100,000 compared with 11.2 per 100,000).

3.57 The majority of Aboriginal and Torres Strait Islander prisoners were incarcerated for serious assault resulting in injury. A greater proportion of Aboriginal and Torres Strait Islander offenders were incarcerated for assaults that did *not* result in injury (compare 30% of Aboriginal and Torres Strait Islander with 17% of non-Indigenous). Aboriginal and Torres Strait Islander offenders were grossly over-represented in the cohort of offenders imprisoned for 'serious assault not resulting in injury', making up 56% of all people imprisoned for that offence category.

---

32 Sentenced prisoners only.

**Table 3.5: Further breakdown of prisoners who are incarcerated for ‘acts intended to cause injury’ (2016)**

Sub categories of ‘acts intending to cause injury’	Aboriginal and Torres Strait Islander people		Non-Indigenous	
	number and % charged with acts intending to cause injury	% charged with sub category	number and % charged with acts intending to cause injury	% charged with sub category
<b>0211 Serious assault resulting in injury</b>	2,072 (59%)	41%	2,998 (62%)	59%
<b>0212 Serious assault not resulting in injury</b>	1,063 (30%)	56%	832 (17%)	44%
<b>0213 Common assault</b>	307 (9%)	30%	719 (15%)	70%
<b>029 Other acts intended to cause injury</b>	92 (3%)	25%	275 (6%)	75%
<b>TOTAL</b>	3,534 (100%)	42%	4,825 (100%)	58%

Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0* (2016) requested table, table 1.

### Offences against justice

3.58 A similar more detailed analysis of the people who were incarcerated for justice procedure offences on census night also revealed some differences between the Aboriginal and Torres Strait Islander populations and non-Indigenous populations, and clearly illustrated the disproportionate representation of Aboriginal and Torres Strait Islander peoples in these offence types—Aboriginal and Torres Strait Islander peoples constituted 34% of all people imprisoned for ‘justice-related’ offending.

**Table 3.6: Further breakdown of prisoners who are incarcerated for justice-related offences (2016)**

Sub categories of 'offences against justice procedures, government security and government operations'	Aboriginal and Torres Strait Islander people		Non-Indigenous	
	number and % charged with justice-related offences	% charged with sub category	number and % charged with justice-related offences	% charged with sub category
<b>151 Breach of custody</b>	55 (5%)	44%	70 (3%)	56%
<b>152 Breach of community-based orders</b>	718 (62%)	31%	1573 (69%)	69%
<b>153 Breach of Violence Orders/Non-Violence Orders</b>	344 (30%)	46%	398 (18%)	54%
<b>154 Offences against gov ops</b>	8 (1%)	14%	50 (2%)	86%
<b>155 Offences against gov security</b>	3 (0%)	7%	40 (2%)	93%
<b>156 Offences against justice</b>	36 (3%)	21%	139 (6%)	79%
<b>TOTAL</b>	1,164 (100%)	34%	2,270 (100%)	66%

Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0* (2016) requested table, table 1.

3.59 Aboriginal and Torres Strait Islander peoples were over-represented in 'offences against justice procedures' by 16.8<sup>33</sup> (129 per 100,000 compared with 7.7 per 100,000 for non-Indigenous offenders).

### **'Flow' statistics regarding offences leading to imprisonment**

3.60 'Flow' offence profiles showed that less serious offences also led to sentences of imprisonment for Aboriginal and Torres Strait Islander offenders, such as 'theft', 'public order' and 'property damage' offences.<sup>34</sup>

---

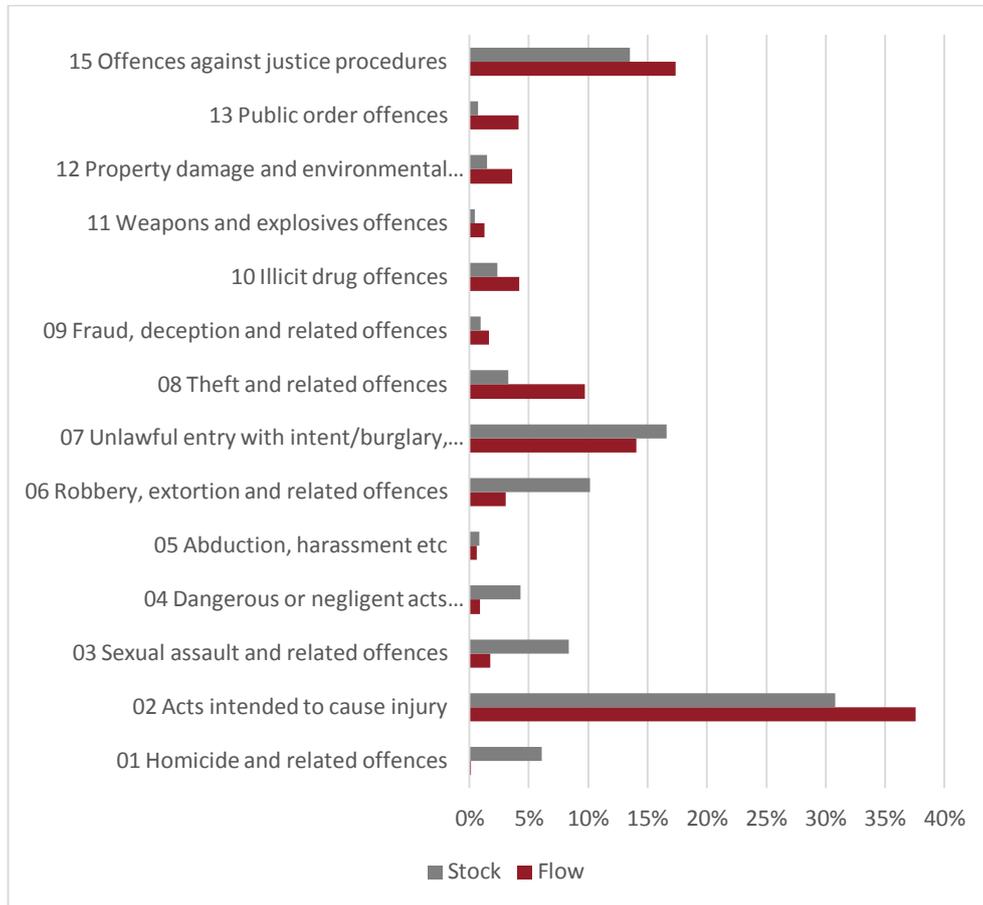
33 Sentenced prisoners only.

3.61 The differences between ‘stock’ and ‘flow’ figures are clearly shown in Figures 3.14 and 3.15 below. ‘Stock’ data generate a picture of a prison population heavy with serious offenders and longer sentences. ‘Flow’ data shows that Aboriginal and Torres Strait Islander peoples were also being imprisoned for low-level offending for short periods of time.

3.62 Figure 3.14 illustrates the difference in the offence profile of Aboriginal and Torres Strait Islander prisoners via the ‘stock’ and Aboriginal and Torres Strait Islander ‘flow’ populations. As the Figure shows, less serious offences—such as theft offences, public order offences, and property damage—feature more prominently in the ‘flow’ profile, along with acts intended to cause injury and justice procedure offending.

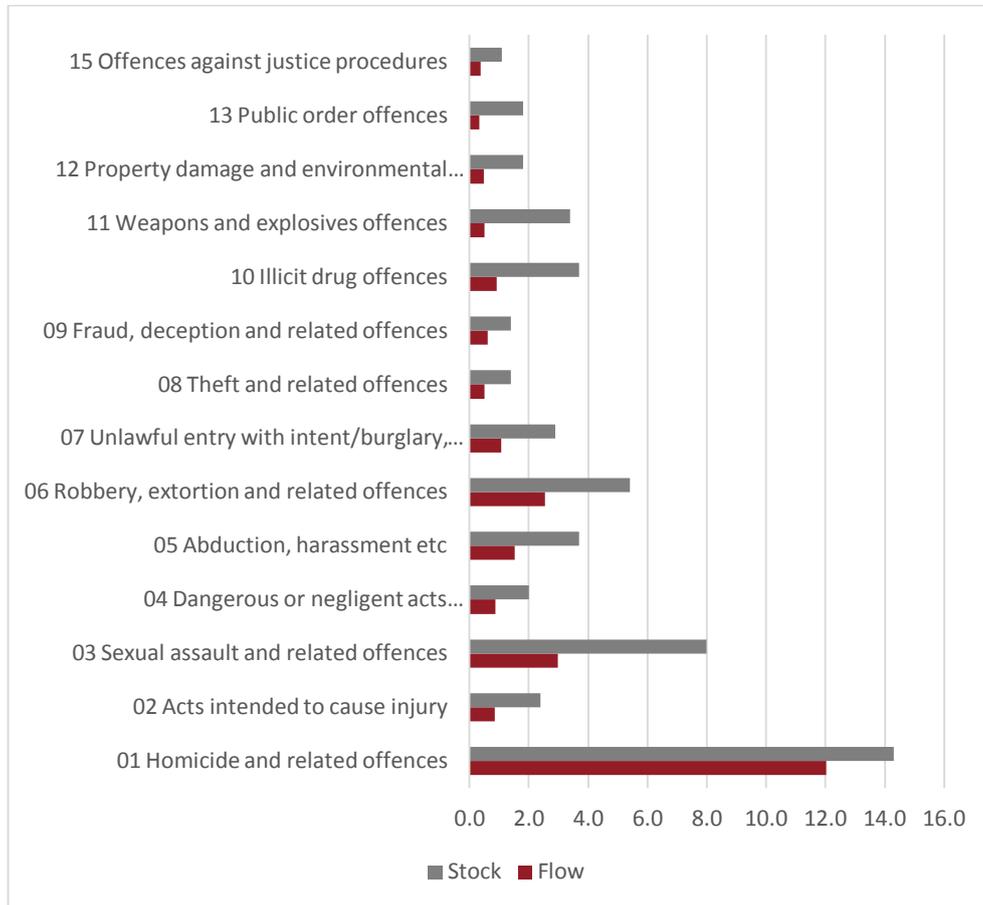
3.63 Figure 3.15 shows the comparable sentence lengths in years, and highlights the difference between ‘stock’ and ‘flow’ estimates, with flow statistics showing significantly shorter sentences than stock. Together Figures 3.14 and 3.15 show why reliance on just one set of data can skew understandings of the constitution of the prison population.

**Figure 3.14: Comparison of the offence profile of Aboriginal and Torres Strait Islander prison 'stock' (census) and prison 'flow' (reception) populations (2016)**



Source: Australian Bureau of Statistics, *Criminal Courts, Australia, 2015–16, Cat No 4513.0* (2017) table 51; Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0* (2016) table 10.

**Figure 3.15: Comparison of the average sentence length by year of Aboriginal and Torres Strait Islander prison 'stock' (census) and prison 'flow' (reception) populations (2016)**



Source: Australian Bureau of Statistics, *Criminal Courts, Australia, 2015–16*, Cat No 4513.0 (2017) table 51; Australian Bureau of Statistics, *Prisoners in Australia, 2016*, Cat No 4517.0 (2016) table 10.

3.64 The ALRC discusses short sentences of imprisonment in Chapter 7, with preference for the expansion of community-based sentences, where appropriate. Further data relevant to short sentences of imprisonment is presented below.

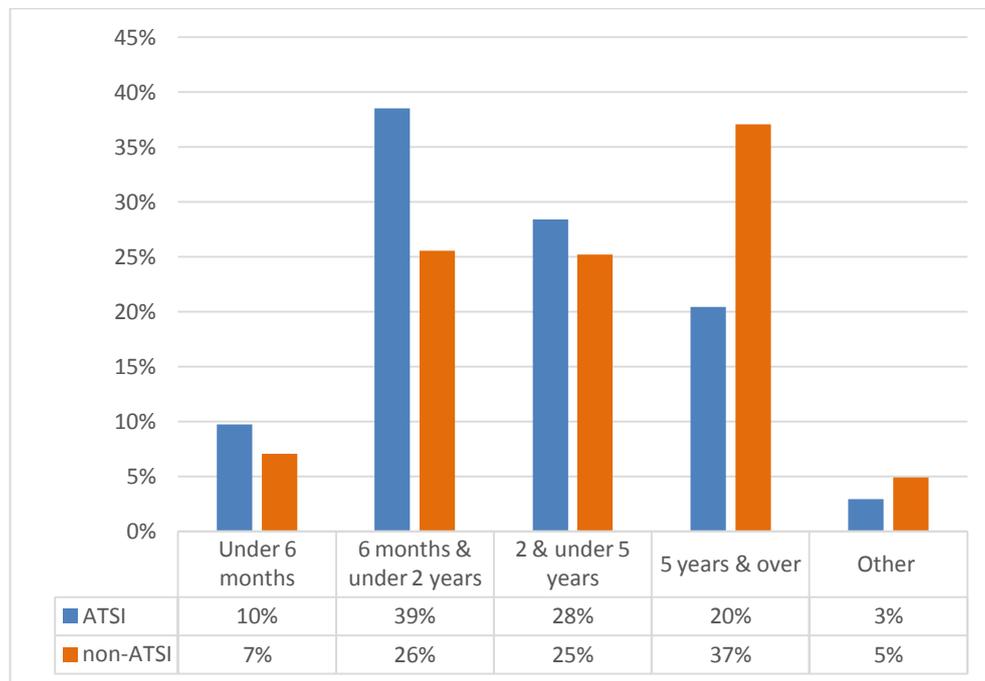
### Short sentences of imprisonment

3.65 Aboriginal and Torres Strait Islander offenders generally received shorter sentences of imprisonment than non-Indigenous people. This was apparent in the 'stock' statistics below, where the median aggregate sentence length for Aboriginal and Torres Strait Islander sentenced prisoners in 2016 was 2.0 years, compared with 3.5

years for non-Indigenous prisoners.<sup>35</sup> This contrast was also evident in the ‘flow’ data (see Figure 3.15 above).

3.66 ‘Stock’ data shows that Aboriginal and Torres Strait Islander prisoners received shorter sentences in almost all offence categories—the main exception being sexual assault offences where Aboriginal and Torres Strait Islander prisoners and non-Indigenous prisoners receive sentences of equal length. In 2016, almost half (49%) of all Aboriginal and Torres Strait Islander prisoners received an aggregate sentence length of less than two years, compared with one-third (32%) of non-Indigenous prisoners. This is presented in Figure 3.16 below.

**Figure 3.16 Aggregate sentence length of Aboriginal and Torres Strait Islander sentenced prisoners and non-Indigenous sentenced prisoners**



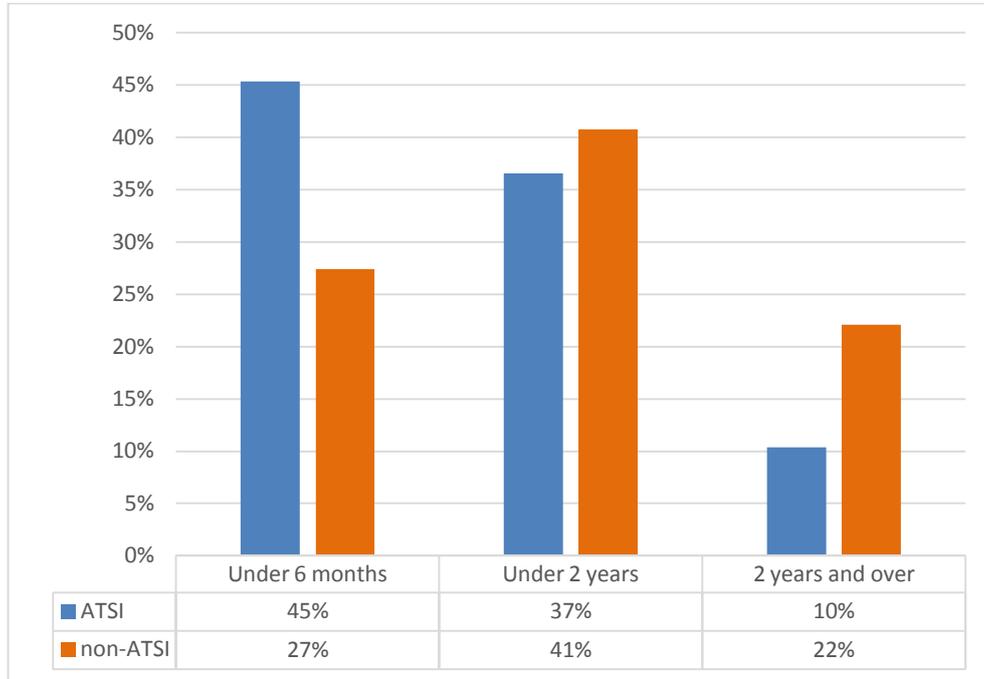
Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016, Cat No 4517.0 (2016) table 10.*

### ‘Flow’ statistics showing sentences of imprisonment

3.67 Figure 3.17 shows that, when counting ‘flow’, almost half (45%) of all Aboriginal and Torres Strait Islander defendants who received custodial sentences were handed sentences of less than six months (compared with 27% of equivalent non-Indigenous defendants).

35 Australian Bureau of Statistics, above n 1, table 10.

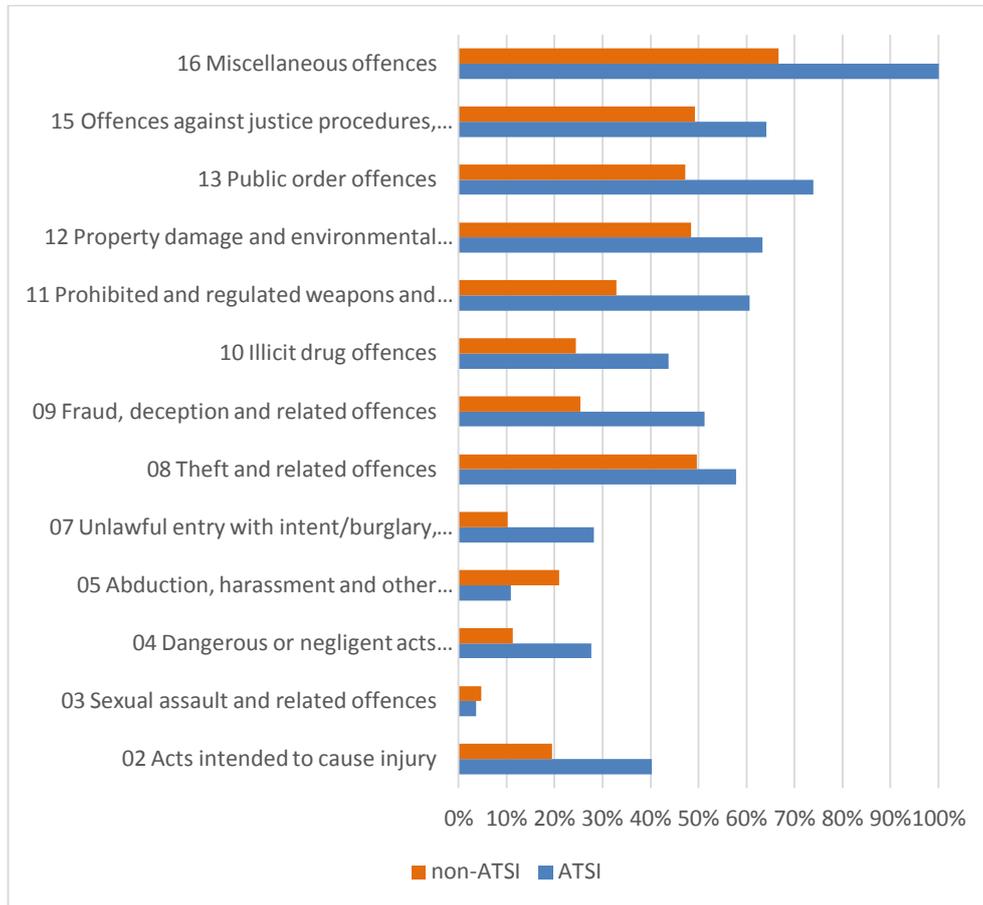
**Figure 3.17: Length of sentences handed down to convicted and imprisoned defendants, by principal offence and Aboriginal and Torres Strait Islander status (2016)**



Source: Australian Bureau of Statistics, *Criminal Courts, Australia, 2015-16, Cat No 4513.0* (2017) requested table 45130\_201516, table 4.

3.68 Figure 3.18 shows that—other than miscellaneous offences—most Aboriginal and Torres Strait Islander offenders who received a sentence of imprisonment for less than six months were convicted of public order offences, justice-related offences, and property damage offences.

**Figure 3.18: Proportion of custodial sentences given to Aboriginal and Torres Strait Islander offenders and non-Indigenous offenders that are under six months (2016)**



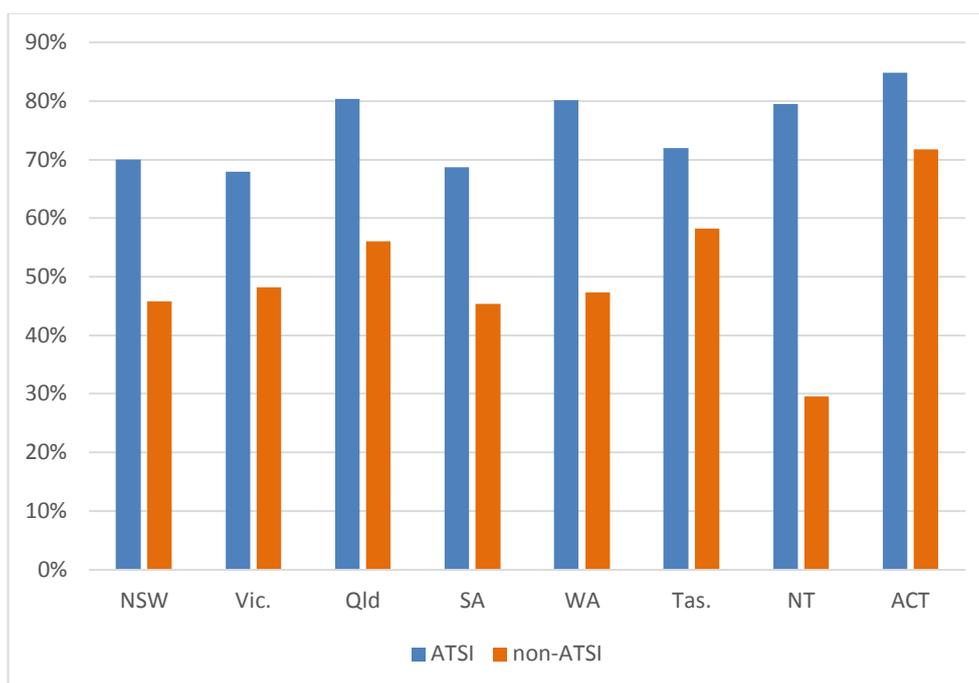
Source: Australian Bureau of Statistics, *Criminal Courts, Australia, 2015-16, Cat No 4513.0* (2017) requested table 45130\_201516, table 4.

## Recidivism and prior record of imprisonment

3.69 National estimates of the recidivism of offenders are not routinely published. Instead, the prior record of imprisonment of prisoners is examined. It is important to note, however, that prior record is *not* a measure of recidivism—it is incorrect to conclude that, because 76% of Aboriginal and Torres Strait Islander prisoners may be repeat offenders, the recidivism rate is 76%. Prior record is, for each prisoner, simply a count of all previous terms of imprisonment across the life-course of that individual. It is not adjusted for age or any other factor. It is *not* a forecast of the likelihood of future offending nor does it take into account the time period within which such offending might occur. It is, nonetheless, the only measure currently available.

3.70 Nationally, the proportion of prisoners with a prior record of imprisonment was very high: three quarters (76%) of Aboriginal and Torres Strait Islander prisoners and half (49%) of non-Indigenous prisoners in 2016 had been in custody on at least one previous occasion. As Figure 3.19 shows, in every jurisdiction, a greater proportion of Aboriginal and Torres Strait Islander prisoners than non-Indigenous prisoners had a prior record of imprisonment.

**Figure 3.19: Proportion of prisoners with a prior record of imprisonment by Aboriginal and Torres Strait Islander status (2016)**



Source: Australian Bureau of Statistics, *Prisoners in Australia, 2016*, Cat No 4517.0 (2016) requested table, table 14.

3.71 The ALRC discusses the role of prior imprisonment in bail decisions of accused Aboriginal and Torres Strait Islander peoples in Chapter 5 and in sentencing decisions in Chapter 6. Reforms that aim to minimise return to prison are discussed in Chapter 9 on prison programs, parole and throughcare.

### Limitations of the data

3.72 While the ABS PIA plays a pivotal role in providing vital imprisonment statistics for Australia, the series is not without limitations. As a census based collection, the statistics are based only on those prisoners who were present on the night of 30 June of the reference year. These statistics therefore only measure the 'stock' of persons in prison. They do not count or report on the total 'flow' of prisoners who come into and leave prison over a defined period. Any person who may have entered and exited prison prior to June 30 is not included in the PIA statistics.

3.73 'Stock' statistics are an important indicator of incarceration levels; however, they under count the number of prisoners who serve short sentences and, conversely, over count prisoners who serve longer sentences (being those who commit more serious offences and receive longer terms of imprisonment).

3.74 The statistics presented in the ABS PIA series are also incomplete:

- The series does not report on fine defaulters in the prison system nor does it provide any information on whether persons in prison for traffic/driving licence offences are related to the operation of fines enforcement systems in some jurisdictions, i.e. where driver's licences may be suspended as a result of non-payment of fines.
- The PIA series is also unable to report on the number of remandees who go on to serve a term of imprisonment. In a recent report entitled *What's Causing the Growth in Indigenous Imprisonment in NSW?* (2016), BOCSAR noted that up to 40 percent of Aboriginal and Torres Strait Islander defendants held on remand did not receive a custodial penalty on conviction in the study period. This statistic cannot be derived from ABS statistics and the extent to which remandees go on to serve prison sentences is not known.
- PIA also does not report on indeterminate prisoners.<sup>36</sup>

### Prison reception statistics

3.75 Unfortunately, publications that report on other aspects of the prison population (such as the number of people coming into or exiting prison) are not routinely reported or do not report in sufficient detail to monitor Aboriginal and Torres Strait Islander incarceration levels.

### Access to data on incarceration rates

3.76 In addition to undertaking data analyses, Curtin University was requested to provide the ALRC with proposals relating to improvements in data collection and the monitoring of incarceration rates of Aboriginal and Torres Strait Islander people. In consultation with a number of experts in the field, Curtin University provided the following proposals:

3.77 **More complete data on imprisonment levels:** If Australia is to reduce the number of Indigenous people who come into contact with the prison system it needs complete, timely and accessible information about incarceration levels of Aboriginal and non-Aboriginal people. National prison statistics are produced annually by the ABS but these are incomplete—they do not count or report on the total 'flow' of prisoners who come into and leave prison over a defined period.

---

36 Other limitations/exclusions of the series are described by the ABS in Australian Bureau of Statistics, *Prisoners in Australia 2016—Explanatory Notes* <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4517.0Explanatory%20Notes12016?OpenDocument>>.

3.78 Basic statistics on *both* the number of people coming into and exiting prisons ('flow' data) as well as the 'stock' of prisons (i.e. the number of people in custody on any one day) are essential for ongoing monitoring, and for the design and rigorous evaluation of new policies.

3.79 The following means of obtaining greater statistical information were put forward:

- Expansion of the current national prison publications to include the collection and dissemination of prison reception statistics. This would enable more effective monitoring of the prison population and improve the visibility of offenders who serve short sentences or who are incarcerated for less serious offences.
- More regular production of stock and flow statistics - on a monthly, or at least quarterly basis, so that appropriate time series and panel analyses can be conducted. The federal nature of Australian Government opens the possibility of examining the effect of policy change in one jurisdiction using other jurisdictions as a control but this requires more frequent measurement of key variables than is currently the case.
- Inclusion of additional or improved statistics on prisoners such as more detailed information on remandees (particularly time spent on remand and what proportion of remandees go on to serve terms of imprisonment), fine defaulters and/or offenders in prison for traffic/driving licence offences related to the operation of fines enforcement systems in some jurisdictions i.e. where drivers' licences may be suspended as a result of non-payment of fines.

3.80 Additional details such as place held (e.g. police lock-ups or corrections facilities) and release status are also relevant given limited information on parole and community based orders. Reception data on inmate health status e.g. known substance abuse, mental illness, and communicable or other disease (e.g. TB, diabetes, etc.) would also assist in understanding underlying and related issues. This information could be captured using a DUMA style methodology.<sup>37</sup>

3.81 **Improving accessibility to data:** Recognising that it is difficult to include all possible cross-tabulations in publications, it was suggested that:

- the ABS work with other national and jurisdiction-based crime statistics agencies to explore methods of making unit record data collected on prisoners more accessible to the research community – such as through data cubes and CURFs. This would provide greater flexibility in the use of the data and permit a more fine-grained analysis of issues as/when required.

3.82 **Information about upstream factors:** Many factors, not just penal policy/practice, are known to have a bearing on incarceration levels. It is important for

---

37 See Australian Institute of Criminology, *Drug use monitoring in Australia* <[http://www.aic.gov.au/about\\_aic/research\\_programs/nmp/duma.html](http://www.aic.gov.au/about_aic/research_programs/nmp/duma.html)>.

the community to have an understanding of how ‘upstream factors’ such as court/sentencing practices and policing policies/practice (e.g. arrest rates and bail decisions) influence imprisonment levels. For this reason, it was suggested that:

- national criminal court statistics be improved such that breakdowns of finalisations, sentencing decisions and penalties (quantum) by Aboriginal and Torres Strait Islander status are available for all jurisdictions. Information on traffic offences should also be included in the national court collections.
- the ABS NATSIS survey (Cat No 4714.0) be expanded to include more detail on self-reported offending and on the reason for arrest/imprisonment. At the moment it is possible to explore the correlates of victimisation but very difficult to explore the correlates of arrest/offending because there is no way of distinguishing between arrests for different kinds of crime.

3.83 It is critical that the Aboriginal and Torres Strait Islander status of defendants is accurately recorded and reported. This is especially important in WA which has the unenviable record of having both the highest rate of Indigenous imprisonment in Australia and one of the widest gaps between Aboriginal and Torres Strait Islander and non-Indigenous incarceration levels. It is disappointing that WA data, broken down by Aboriginal and Torres Strait Islander status, is not currently included in the ABS Criminal Courts Australia series.

3.84 **Recidivism rates:** National estimates of the recidivism of offenders are not routinely produced or published. Current proxy measures such as prior record of imprisonment are inadequate. It was suggested that:

- a nationally consistent approach to the estimation and analysis of recidivism rates, by way of detailed rigorous estimation of probabilities of returns to prison by offenders, with special attention paid to correlates of recidivism in prison populations. Consideration of a minimum length of follow-up time for estimates of re-imprisonment is also needed, this being critical for the development of risk tools.

3.85 The creation and use of properly validated risk assessment tools is also supported, as such tools, based on Australian prisons data, would assist in reducing the number of Indigenous people in custody. Prediction based on actuarial risk assessment tools have been shown to be more accurate than professional knowledge and experience, yet the level of investment in such instruments has been poor across Australia.

3.86 Finally, it was suggested that the best vehicle for conducting work on recidivism and risk assessment is through a collaboration between University-based researchers and national or state-based research agencies such as the Australian Institute of Criminology (AIC) and/or BOCSAR in NSW. This provides a useful blend of policy-relevant requirements, expertise in recidivism and the means to access critical data on incarceration and offending levels.

