

NLAF Aboriginal Incarceration Working Group Report

The objectives of the Aboriginal Incarceration Working Group (**AIWG**) include addressing the problem of Aboriginal overrepresentation in NSW prisons by developing strategies and plans to reduce breaches of bail. In keeping with this objective, the AIWG hosted a bail conditions workshop at Legal Aid on 21 October 2019.

Bail conditions workshop - October 2019

The bail conditions workshop was facilitated by The Behavioural Insights Team and participants included members of the AIWG and others nominated by the group as offering creative insights into the challenges faced in setting and complying with bail conditions.

The workshop focussed on the levels of discretion involved in setting bail conditions, both at the police and court level, and the operational realities around how conditions are set. Participants practising in criminal law provided insight on the challenges faced both in the setting of bail conditions and people's understanding of those conditions once set. The workshop canvassed how to: obtain more appropriate conditions; assist clients to understand and comply with bail conditions; approach changing bail conditions.

The workshop addressed setting bail conditions from a behavioural perspective and concluded that there are several key factors that contribute to poorly set bail conditions. The impact of these has resulted in the imposition of 'routine bail conditions' which commonly do not consider the individual's specific case, may not reflect the purpose of bail or the local/community context and are often so broad as to be open to interpretation and variable enforcement.

The workshop identified creative and behaviourally informed solutions to improving compliance with bail conditions, including personalisation of court forms and processes; using plain English orders; simplifying the process for varying conditions and providing timely support and prompts to defendants to set plans about how they are going to comply with conditions.

At a meeting of the AIWG on 21 November 2019, the group agreed to organise a follow up workshop to focus on the next steps. The follow-up workshop will take place in January 2020.

BOSCAR data on Aboriginal over-representation in prison

At a meeting of the AIWG on 21 November 2019, the group discussed data from the NSW Bureau of Crime Statistics and Research (**BOSCAR**) on Aboriginal over-representation in prison by reference to a September 2019 summary of statistics for adult males, adult females, juvenile males and juvenile females. A copy of the BOSCAR data considered by the Group is Annexure A to this report.

The Group noted that the Aboriginal adult male prison population is still very high, even in the wake of sentencing reforms. It equates to about a quarter of the adult prison population and a third of those on remand. In the Aboriginal adult female population there is stability in the on-remand figures and a slight improvement in the imprisonment rates. The unacceptably high adult prison population will continue to be a focus of the work of this group.

The Group was pleased to see improvements in the imprisonment and on remand rates for Aboriginal juveniles, both male and female. The Group agreed that this positive outcome should be shared with its networks and members agreed to target methods of sharing this information through appropriate media channels. It also agreed that it would be beneficial to understand the sustained trend of improvement in the figures that relate to juveniles. The Group understands that BOSCAR is analysing the trend and will provide further details when the Group next meets

Next meeting: Thursday 13 February 2020, 9:30am to 11am.

Brendan Thomas

Chair, Aboriginal Incarceration Working Group

November 2019

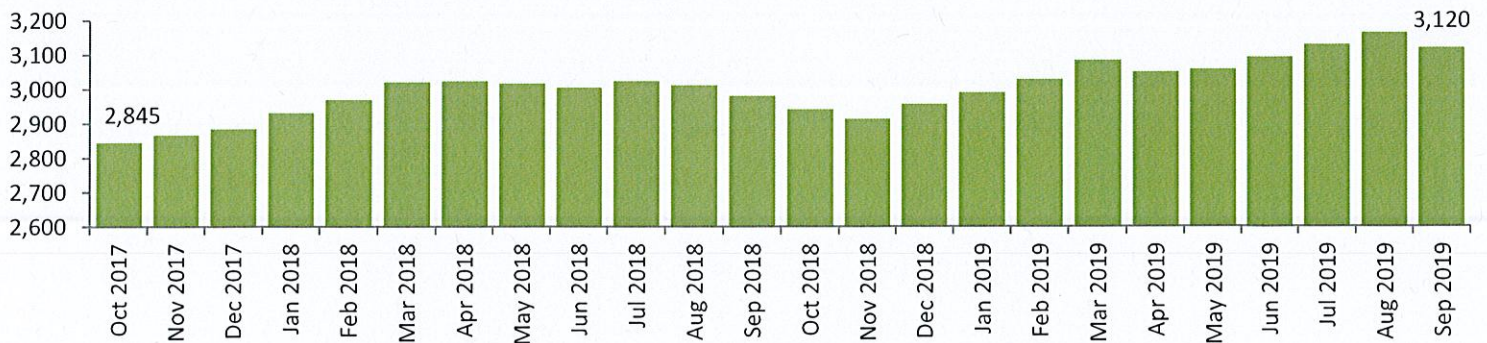
Aboriginal over-representation in prison

September 2019 Monthly summary – Adult males

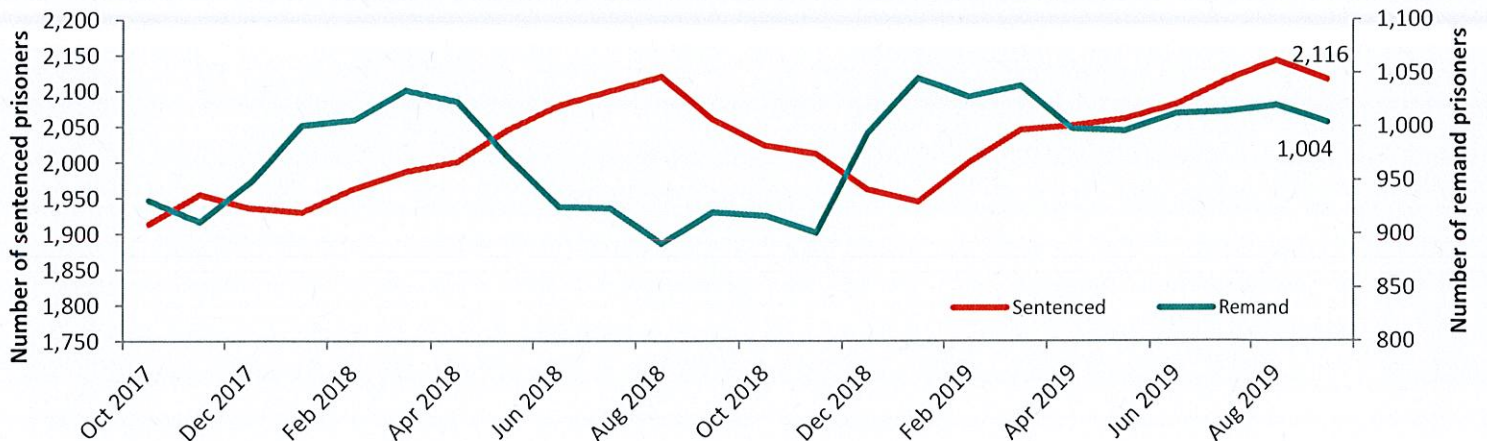


Key indicator	Most recent month	Highest month over past 2 years	Lowest month over past 2 years	2 Year trend [^]
1. Aboriginal adult male prison population	3,120 in Sept 19	3,163 in Aug 19	2,845 in Oct 17	
a. Remand	1,004 in Sept 19	1,045 in Jan 19	891 in Aug 18	Stable
b. Sentenced	2,116 in Sept 19	2,143 in Aug 19	1,914 in Oct 17	
2. % adult male prison population who are Aboriginal	24.9% in Sept 19	25.2% in Aug 19	23.6% in Oct 17	
3. Aboriginal adult male receptions	386 in Sept 19	462 in May 19	351 in Apr 19	Stable
4. Average Aboriginal adult male length of stay in custody	200.8 days in Sept 19	252.2 in Nov 17	184.1 days in Mar 18	Stable
5. Aboriginal adult male offenders proceeded against to court by police	1,315 in Aug 19	1,483 in Jan 19	1,035 in Jun 18	

Number of Aboriginal adult males in prison



Number of Aboriginal adult males in prison by legal status



[^] Where the trend is significant (i.e. $p < .05$) the percentage change compares the first and last month

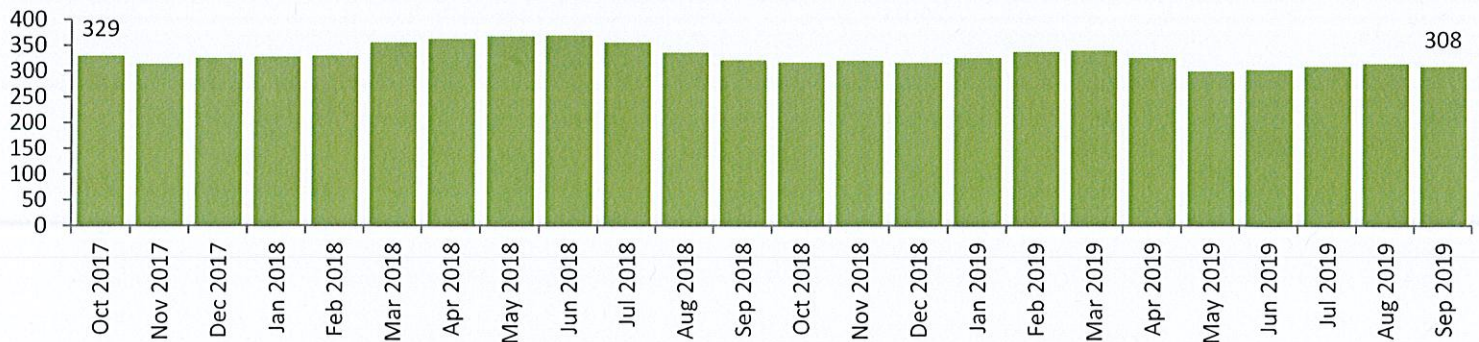
Aboriginal over-representation in prison

September 2019 Monthly summary – Adult females

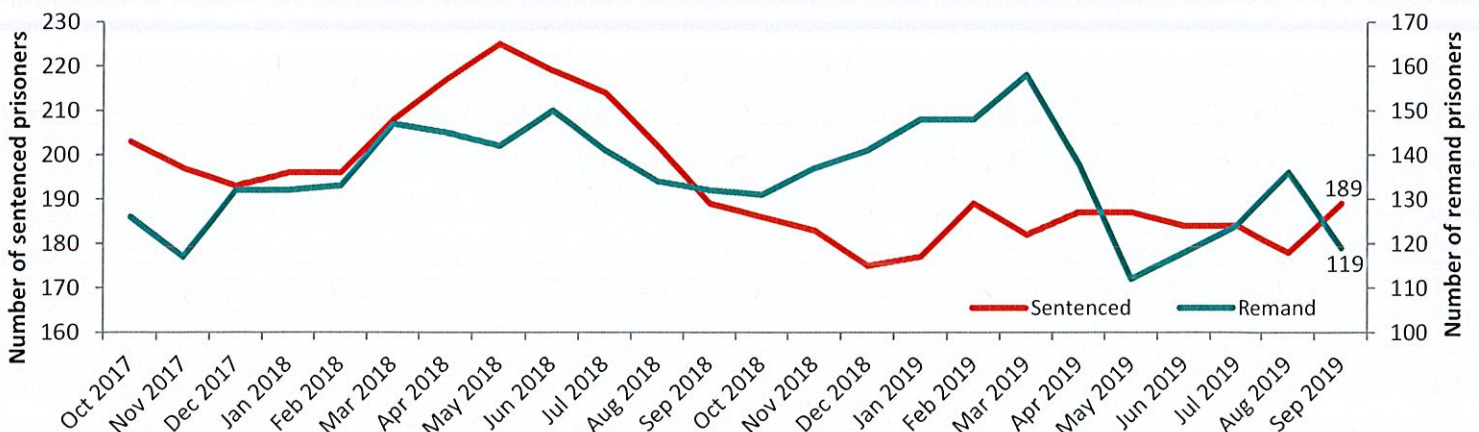


Key indicator	Most recent month	Highest month over past 2 years	Lowest month over past 2 years	2 Year trend [^]
1. Aboriginal adult female prison population	308 in Sept 19	369 in Jun 18	299 in May 19	
a. Remand	119 in Sept 19	158 in Mar 19	112 in May 19	Stable
b. Sentenced	189 in Sept 19	225 in May 18	175 in Dec 18	
2. % adult female prison population who are Aboriginal	31.7% in Sept 19	34.6% in Jun 18	31.6% in Jul 19	Stable
3. Aboriginal adult female receptions	79 in Sept 19	107 in Aug 19	69 in Jan 18	Stable
4. Average Aboriginal adult female length of stay in custody	86.9 days in Sept 19	164.2 in Sept 18	86.9 days in Sept 19	Stable
5. Aboriginal adult female offenders proceeded against to court by police	446 in Aug 19	560 in Dec 18	338 in Sep 17	

Number of Aboriginal adult females in prison



Number of Aboriginal adult females in prison by legal status



[^] Where the trend is significant (i.e. $p < .05$) the percentage change compares the first and last month

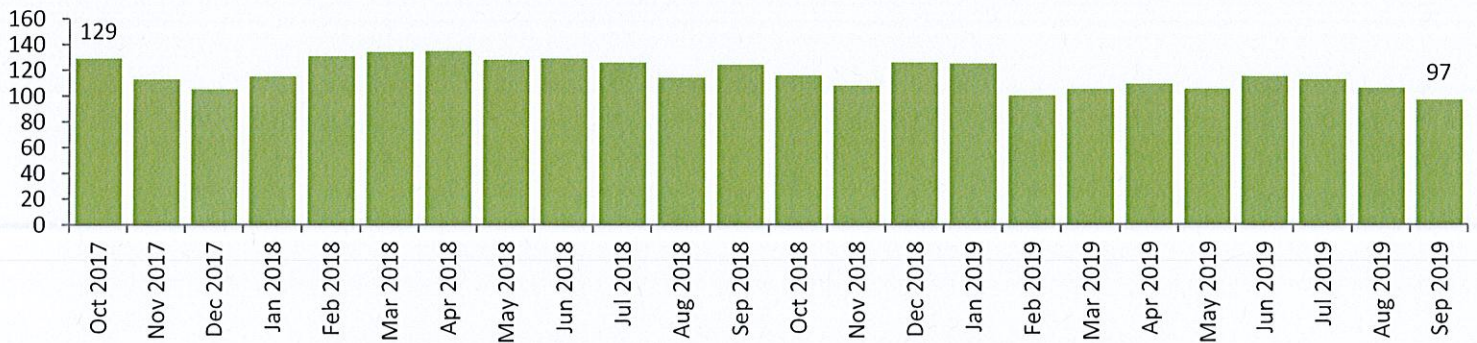
Aboriginal over-representation in prison

September 2019 Monthly summary – Juvenile males

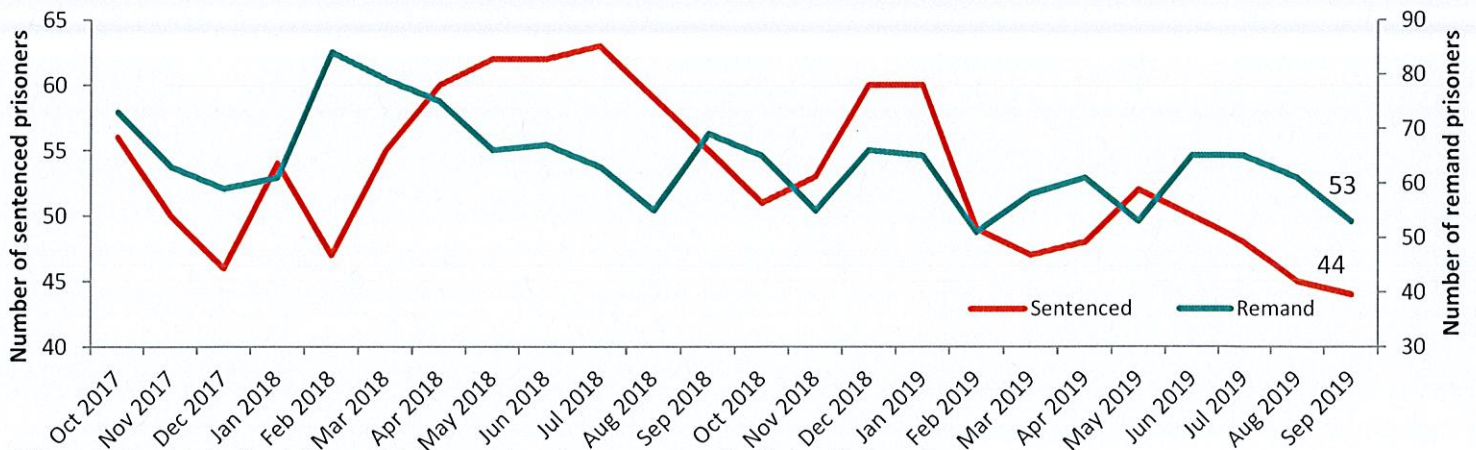


Key indicator	Most recent month	Highest month over past 2 years	Lowest month over past 2 years	2 Year trend [^]
1. Aboriginal juvenile male prison population	97 in Sept 19	135 in Apr 18	97 in Sept 19	
a. Remand	53 in Sept 19	84 in Feb 18	51 in Feb 19	
b. Sentenced	44 in Sept 19	63 in Jul 18	44 in Sept 19	
2. % juvenile male prison population who are Aboriginal	44.1% in Sept 19	53.2% in Dec 18	43.2% in May 19	Stable
3. Aboriginal juvenile male receptions	85 in Sept 19	125 in Jan 19	81 in Feb 19	Stable
4. Average Aboriginal juvenile male length of stay in custody	31.5 days in Sept 19	69.1 in Jul 19	20.8 days in Jan 18	Stable
5. Aboriginal juvenile male offenders proceeded against to court by police	236 in Aug 19	358 in Jan 18	236 in Aug 19	Stable

Number of Aboriginal juvenile males in prison



Number of Aboriginal juvenile males in prison by legal status



[^] Where the trend is significant (i.e. $p < .05$) the percentage change compares the first and last month

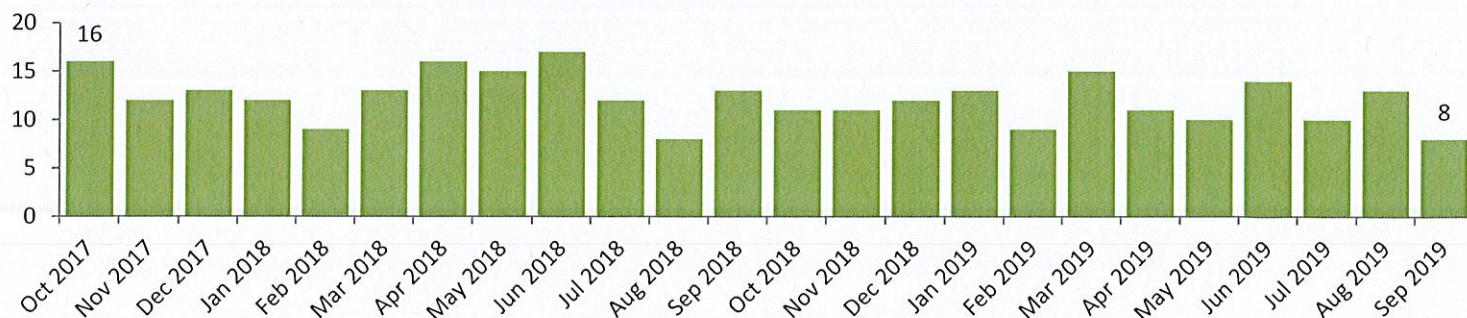
Aboriginal over-representation in prison

September 2019 Monthly summary – Juvenile females

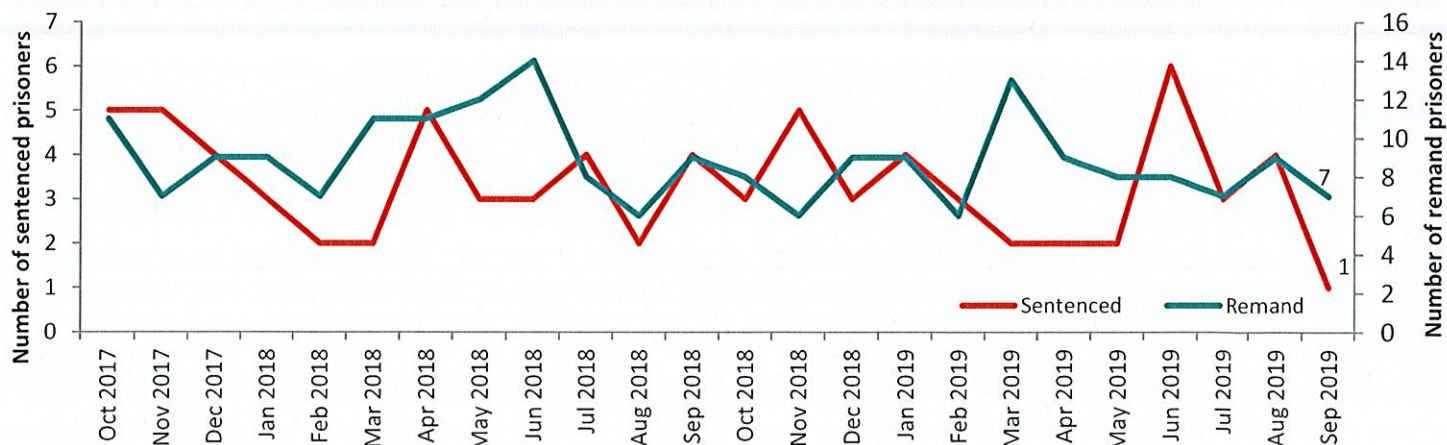


Key indicator	Most recent month	Highest month over past 2 years	Lowest month over past 2 years	2 Year trend [^]
1. Aboriginal juvenile female prison population	8 in Sept 19	17 in Jun 18	8 in Sep 19	n.c.
a. Remand	7 in Sept 19	14 in Jun 18	6 in Feb 19	n.c.
b. Sentenced	1 in Sept 19	6 in June 19	1 in Sept 19	n.c.
2. % juvenile female prison population who are Aboriginal	47.1% in Sept 19	63.0% in Jun 18	37.5% in Feb 18	n.c.
3. Aboriginal juvenile female receptions	14 in Sept 19	44 in Mar 19	14 in Sept 19	n.c.
4. Average Aboriginal juvenile female length of stay in custody	23.9 days in Sept 19	23.9 in Sept 19	4.1 days in Nov 18	n.c.
5. Aboriginal juvenile female offenders proceeded against to court by police	71 in Aug 19	122 in Mar 18	55 in Jun 18	n.c.

Number of Aboriginal juvenile females in prison



Number of Aboriginal juvenile females in prison by legal status



[^] Where the trend is significant (i.e. $p < .05$) the percentage change compares the first and last month. 'nc' indicates that the number of incidents recorded was too small for a reliable trend test to be performed.