

Comparing Sentencing Outcomes for Koori and Non-Koori Adult Offenders in the Magistrates' Court of Victoria

Summary

There are many causes of over-representation of Koori people in Victoria's prisons. The findings of this report show that it is influenced by Koori people being more likely to be sent to prison. This difference may be influenced by Koori people being more likely to have been in both the youth justice system and the child welfare system. Both of these may be partly explained by the effects of colonisation and the economic and social impacts that followed.

The 2011 Australian census showed that Koori people made up less than 1% of the Victorian population but more than 7% of the Victorian prison population. The rate of imprisonment for Koori people was 13 times higher than for non-Koori people.

Recent Australian research has found that Indigenous people are given different sentences because they are more involved in offending, not because of any specific racial discrimination among magistrates and judges. However, racial discrimination contributes to the high levels of disadvantage that influence Indigenous people's involvement in crime in the first place.

The main aim of the Council's report is to compare sentencing outcomes for Koori and non-Koori offenders who have been sentenced in the Magistrates' Court of Victoria to imprisonment, partially suspended sentences, intensive correction orders and community-based orders. The findings of the report address three research questions.

Are there differences between Koori and non-Koori offenders?

For both Koori and non-Koori offenders, their most common crimes were offences of causing injury, although Koori offenders were more likely to be sentenced for this (33%) than non-Koori offenders (24%). Non-Koori offenders were more likely to be sentenced for a traffic offence (16% versus 9% for Koori offenders) or a drug offence (8% versus 4% for Koori offenders).

One-quarter (25%) of non-Koori offenders had not been sentenced before, compared with only 16% of Koori offenders. Koori offenders were also more likely to have been sentenced multiple times.

Koori prisoners are more likely to have problems with drug and alcohol use, to have poor education and employment histories, to have been held in youth detention or in adult prisons and to have breached previous orders.

Are Koori offenders more likely to get a prison sentence than non-Koori offenders?

Koori offenders were more likely to be sentenced to imprisonment (37% of Koori offenders versus 29% of non-Koori offenders). Even when other factors such as offence type and prior sentencing are examined at the same time, Koori offenders are still significantly more likely to be imprisoned.

For Koori offenders who get a prison sentence, are there differences in the length of their terms when compared with non-Koori offenders?

Koori offenders were more likely to be sentenced to a short term of imprisonment (less than 3 months), while non-Koori offenders were more likely to be sentenced to a longer term of imprisonment. But when other factors such as offence type and prior sentencing are examined at the same time, there is no difference in sentence length.