



YOORROOK
Justice Commission

**Issues Paper 1: Call for
Submissions on Systemic
Injustice in the Criminal Justice
System**

October 2022

ISSUES PAPER 1: CALL FOR SUBMISSIONS ON SYSTEMIC INJUSTICE IN THE CRIMINAL JUSTICE SYSTEM

Introduction

The Yoorrook Justice Commission (Yoorrook) is investigating systemic injustice experienced by First Peoples in the criminal justice system in Victoria. Yoorrook is calling for submissions from organisations and individuals to assist this investigation. Submissions should be made by 21 November 2022.

About Yoorrook

Yoorrook is the first formal truth-telling process into historical and ongoing injustice experienced by First Peoples in Victoria since colonisation. Guided by its values and principles, Yoorrook will:

- Establish an official record of the impact of colonisation on First Peoples in Victoria.
- Develop a shared understanding among all Victorians of the impact of colonisation, as well as the diversity, strength and resilience of First Peoples' cultures.
- Make recommendations for healing, system reform and practical changes to laws, policy and education, and support the treaty making process.

Yoorrook is independent of government. It has been established as a Royal Commission under the *Inquiries Act 2014*. Yoorrook's goals are to achieve truth, understanding and transformation in Victoria. Yoorrook's [Letters Patent](#) set out its mandate in detail. Yoorrook is due to complete its work in June 2024. Yoorrook has recommended that its work be extended by two years until June 2026.

Yoorrook was designed by and is led and guided by First Peoples.

Yoorrook is Investigating Injustice in the Criminal Justice System

Yoorrook has decided to deliver a Critical Issues report in June 2023 on systemic injustice experienced by First Peoples in the criminal justice and child protection systems.

Yoorrook decided to focus on these issues in response to feedback from around 200 Elders at 29 yarning circles held across Victoria earlier in 2022. Evidence shows that injustice experienced by First Peoples in these systems is getting worse in many respects. Action on these issues cannot wait.

Yoorrook's report will make recommendations to help respond to these two critical issues. Yoorrook will continue to investigate these issues after June 2023 and may make further recommendations in subsequent reports. There is a separate Issues Paper dealing with child protection issues.

Call for Submissions

Yoorrook calls for submissions from organisations and individuals including:

- First Peoples with lived experience of the criminal justice system including their families
- Aboriginal Community Controlled Organisations
- current or former staff involved in the criminal justice system
- advocates and legal representatives
- non-government organisations
- service providers
- researchers
- government and government agencies

Submissions responding to this Issues Paper should be made no later than 21 November 2022 to allow time to analyse submissions and to inform hearings and other inquiries processes that Yoorrook will undertake for the Critical Issues Report due in June 2023. Submissions received after this date will continue to inform Yoorrook's ongoing inquiry.

Submissions will be published on Yoorrook's website, subject to legal review and any requests for confidentiality.

If you are also responding to Yoorrook's Issues Paper on the child protection system, you are invited to make a single joint submission addressing both issues. Yoorrook recognises the close connection between the two issues.

Systemic Injustice in the Criminal Justice System

Yoorrook acknowledges the ongoing harm caused to First Peoples' individuals, families and communities in Victoria in the criminal justice system. Yoorrook notes that despite the numerous inquiries, reviews and recommendations since the 1991 Royal Commission into Aboriginal Deaths in Custody, rates of imprisonment of First Peoples in Victoria have continued to rise.

Most recently the 2022 Parliamentary Inquiry into Victoria's criminal justice system found a clear disproportionate impact on Aboriginal Victorians of increased imprisonment rates due to recent changes to law and policy. The inquiry identified data gaps, damaging practices and the need for greater transparency and to improve practices to divert people away from the formal criminal justice system. Yoorrook also notes existing calls for urgent reform in Victoria on a number of issues including bail and remand laws and practices, public drunkenness, independent police oversight and raising the age of criminal responsibility.

The Focus of Our Inquiry

Yoorrook will focus its inquiry leading up to the June 2023 Critical Issues report on issues requiring urgent action. Yoorrook will not duplicate the work of the many reports and inquiries that have already been undertaken in this area. Rather, Yoorrook will build on this work, drawing on its unique perspective as a First Peoples' led inquiry. Yoorrook will seek to highlight the experiences of First Peoples in the criminal justice system and to identify and build shared understanding around the causes of systemic injustice for First Peoples in the criminal justice

system. Yoorrook will also explore the reasons why previous recommendations for reform have not been accepted or properly implemented.

Noting this context, Yoorrook invites submissions addressing the historical and ongoing systemic injustice experienced by First Peoples in the criminal justice system in Victoria. The key issues identified below are intended to guide your submission. You may respond to any or all of these issues or raise other relevant issues. You are invited to attach relevant submissions or research you have provided to other inquiries or reform processes.

Key issues identified include:

- the connection between colonisation and contemporary systemic injustice experienced by First Peoples in the criminal justice system
- imprisonment rates
- bail and remand
- deaths in custody (including reform of responses to public drunkenness) and other harm or abuse in custody
- over-policing and under-policing
- independent police oversight
- raising the age of criminal responsibility
- use of cautions, diversion, and other alternative responses
- gaps in health and disability screening and services
- connections between systemic injustice in the criminal justice system and systemic injustice relating to issues including child protection, homelessness, family violence, health, mental health and disability and substance misuse
- restorative justice
- rehabilitation
- use of First Peoples' lore and other cultural interventions and supports
- reasons why previous recommendations for reform have not been accepted or properly implemented

Yoorrook particularly welcomes:

- case studies which demonstrate systemic injustice and its causes
- examples of good practice that should be adopted or expanded to address systemic injustice
- identification of critical recommendations which have not been accepted or properly implemented

What Yoorrook will not do

Yoorrook is not a court and cannot overturn or change decisions of courts such as findings of guilt or sentencing decisions. Yoorrook can and will expose the truth of systemic injustice and recommend changes so that it is not continued.

How to Make a Submission

To make a submission for an organisation, agency or other entity, please go to:

<https://yoorrookjusticecommission.org.au/organisation-submissions>

To make a submission as an individual, please go to:

<https://yoorrookjusticecommission.org.au/submissions/>

Submissions should be made by 21 November 2022.

For queries about this Issues Paper or making a submission please contact enquiries@yoorrook.org.au or 1800 YOO RRK (1800 966 775).