



Royal Commission into Aboriginal Deaths in Custody Recommendation

118. Home detention

That where not presently available, home detention be provided both as a sentencing option available to courts as well as a means of early release of prisoners.¹

Background²	The Royal Commission into Aboriginal Deaths in Custody (RCIADIC) found limited usage of home detention for Aboriginal people due to legislative restrictions and the unique cultural and logistical challenges faced by Aboriginal communities. Proposed amendments aimed to address these deficiencies by reducing qualifying periods and allowing confinement to broader localities rather than specific residences, thereby making the scheme more accessible and culturally appropriate for Aboriginal people. This recommendation sought to ensure that home detention serves as a viable alternative to imprisonment, accommodating the special circumstances of Aboriginal communities through sensitivity and consultation.
Intent	Provide home detention as a sentencing option and a means of early release from prison.
Responsibility	All state and territory governments.
Key contacts	Department of Justice and Community Safety (DJCS).

Key action taken

2005 Review³	<p>Department of Justice assessed Recommendation 118 as not implemented.</p> <p>Department of Justice</p> <p>Legal Policy advised that the 1996-97 Victorian Government Implementation Report noted that this recommendation had not been implemented. Initially, Victoria did not have a home detention program, and there were no plans to introduce one. Despite this, Victoria was recognised in the RCIADIC Final Report for effectively diverting individuals from custody.</p> <p>In 2001, the government introduced the <i>Correction and Sentencing (Home Detention) Bill</i>, sparking significant debate, but it did not pass. The legislation was reintroduced in 2003, leading to the program's launch on January 1, 2004. This initiative did not directly align with the RCIADIC's recommendations, focusing instead on broader questions about the suitability of home detention in sentencing practices.</p>
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¹ Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991) vol 3, 114 ('RCIADIC').

² Ibid vol 3, 109-114 [22.5.47].

³ Aboriginal Justice Forum (Vic), Department of Justice (Vic), *Victorian Implementation Review of the Recommendations from the Royal Commission into Aboriginal Deaths in Custody* (Review Report, October 2005) vol 1, 480 ('2005 Review').

118. Home detention

<p>2018 Review⁴</p>	<p>Deloitte concluded that Recommendation 118 was not implemented in Victoria as home detention was abolished in the <i>Sentencing Legislation Amendment (Abolition of Home Detention) Act 2011</i> (Vic).</p> <p>Deloitte noted that Community Corrections Orders were the most prevalent sentencing alternative for most offences in Victoria and could include conditions related to residence, location restrictions, and rehabilitation needs.</p>
<p>Since then</p>	<p>The Home Detention Program in Victoria was discontinued in 2011 with the enactment of the <i>Sentencing Amendment (Abolition of Home Detention) Act 2011</i> (Vic), following concerns that it was not aligning with community expectations for sentencing and public safety. Currently, Victoria does not offer a dedicated home detention scheme for early release. Instead, early release in Victoria is managed through parole and community-based orders, such as Community Correction Orders (CCOs), which are used as alternatives to imprisonment.</p> <p>While the Post-Sentence Supervision Scheme under the <i>Serious Sex Offenders (Detention and Supervision) Act 2009</i> (Vic) can incorporate home detention-like measures, including intensive supervision and electronic monitoring for high-risk offenders, home detention as a distinct option has not been reintroduced.</p> <p>The focus has shifted towards using CCOs, which involve strict conditions like curfews and rehabilitation programs tailored to individual offenders. Parole and supervised release remain the primary means of managing reintegration, with conditions sometimes reflecting those of home detention.</p>
<p>Evidence of impact</p>	
<p>Authorising documents</p>	<p><i>Sentencing Amendment (Abolition of Home Detention) Act 2011</i> (Vic)⁵ <i>Community Correction Reform Act 2011</i> (Vic)⁶ <i>Sentencing Act 1991</i> (Vic)⁷</p>
<p>Outputs</p>	<p>None identified.</p>
<p>Outcomes</p>	<p>Home detention is not a sentencing option for early release in Victoria.</p> <p>The current approach emphasises CCOs and parole rather than reinstating a standalone home detention scheme. These orders include conditions such as curfews and rehabilitation programs, which can serve similar functions to home detention in managing a person's reintegration.</p>

⁴ Deloitte Access Economics, Department of Prime Minister and Cabinet, *Review of the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody* (Report, August 2018) 225-226 ('2018 Review').

⁵ *Sentencing Amendment (Abolition of Home Detention) Act 2011* (Vic) ('*Sentencing Amendment (Abolition of Home Detention) Act* ').

⁶ *Community Correction Reform Act 2011* (Vic) ('*Community Correction Reform Act*').

⁷ *Sentencing Act 1991* (Vic) ('*Sentencing Act*').

118. Home detention

Community views

Ali Besiroglu, Victorian Aboriginal Legal Service⁸

The reality is that when Aboriginal people are in prisons, the number one risk to them is dying in custody. That is a problem. We need to keep Aboriginal people out of prisons. We need to invest in justice reinvestment, in supports that ensure that we're addressing the underlying causes of offending as distinct from just out of sight, out of mind, policies and locking people away.

Related recommendations

2005 Review⁹

Recommendation 111

That the Department of Justice (Corrections Victoria) report on the progress of the proposed Indigenous Adult Residential Program and provide a report to the Aboriginal Justice Forum.

That the Department of Justice (Criminal Law Policy):

- a) monitor the operation of the Correction and Sentencing (Home Detention) Bill 2001 with particular emphasis on breach rates of Aboriginal offenders and the impact on families
- b) report on the breach rates of Aboriginal offenders on Home Detention
- c) provide a report to the Aboriginal Justice Forum.

That the Victorian Government continue to implement and monitor Recommendation 118 through any monitoring process established as a consequence of this Review.

Assessment summary¹⁰

The intent of Recommendation 118 was to provide home detention as a sentencing option and means of early release from prison. This was one of several recommendations the RCIADIC made to promote more flexible and culturally sensitive alternatives to imprisonment, particularly for Aboriginal people.

No actions were in place in Victoria to address this recommendation so there was no evidence of outcomes. Home detention, which allowed a person to serve a term of detention (up to one year) at their residence, was introduced in Victoria in 2004 but abolished in 2012. The Victorian Government's justification for this decision was that it did not align with community expectations and had potential implications for public safety.

We found Recommendation 118 was still relevant as re-introduction of home detention would provide a valuable alternative to imprisonment and could be more effective in terms of rehabilitation as it would allow Aboriginal people to remain on Country and/or connected to community and kin.

⁸ Jarred Cross, "'Bail saves lives': changes to Victoria's bail laws will take state backwards, Aboriginal Legal Service warns", *National Indigenous Times* (online, 30 July 2025) <<https://nit.com.au/30-07-2025/19371/bail-saves-lives-more-amendments-to-vic-bail-laws-will-take-state-backwards-vals-warns>>.

⁹ 2005 Review, 510.

¹⁰ Meeting with Aboriginal Justice Caucus Working Group (Project Team, In Person 12 September 2024) ('Working Group Meeting (12 September 2024)'); Meeting with Aboriginal Justice Caucus (Project Team, In Person, 11 December 2024) ('AJC Meeting (11 December 2024)').

Assessment of Recommendation 118

Is the intent of the recommendation accurately described?

Yes No

Does the action taken align with the intent of the recommendation?

0 – No action taken

1 – Action taken is of little relevance to the intent of the recommendation

2 – Action taken partially aligns with the intent of the recommendation

3 – Action taken fully aligns with the intent of the recommendation

0

(Score out of 3)

Is there evidence of the desired impact or outcome/s?

0 – No evidence

1 – Evidence of output rather than outcome

2 – Some evidence action contributed to outcome/s

3 – Clear link between action and impact or outcome/s

0

(Score out of 3)

How relevant is the recommendation in the current context?

0 – No relevance – refers to practices, agencies or laws that no longer exist

1 – Low – some relevance, but most aspects of the recommendation no longer apply

2 – Moderate – remains relevant, but some aspects of recommendation no longer apply

3 – High – entirely relevant to current context

3

(Score out of 3)

Does full implementation have the potential to reduce incarceration, increase safety in custody and/or progress Aboriginal self-determination?

0 – No potential to improve Aboriginal justice outcomes

1 – Low – potential to improve Aboriginal justice outcomes, but none of the three identified

2 – Moderate – potential to progress one or two of the outcomes identified

3 – High – potential to reduce incarceration AND increase safety in custody AND self-determination

2

(Score out of 3)

Potential actions for further work

Advocate for the reinstatement of home detention to enhance Aboriginal self-determination and community involvement in justice processes.

Evaluate the impact/s of home detention including on incarceration rates and rehabilitation outcomes

High priority for further work

Relevance and potential impact

		Low (0-2)	Moderate (3-4)	High (5-6)
Extent of action taken and evidence of outcomes	High (5-6)			
	Moderate (3-4)			
	Low (0-2)			Rec 118

Bibliography

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Deloitte Access Economics, Department of Prime Minister and Cabinet, *Review of the Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody* (Report, August 2018)

Royal Commission into Aboriginal Deaths in Custody (Final Report, 1991)

Sentencing Act 1991 (Vic)

Sentencing Amendment (Abolition of Home Detention) Act 2011 ((Vic))