



**SUBMISSION to LEGAL AND CONSTITUTIONAL AFFAIRS
COMMITTEE**

**Inquiry into the value of a justice reinvestment approach to
criminal justice in Australia**

March 2013

1. Introduction

The North Australian Aboriginal Family Violence Legal Service

The North Australian Aboriginal Family Violence Legal Service Aboriginal Corporation (NAAFVLS) is an independent Family Violence Prevention Legal Service, funded by the Commonwealth Attorney-General's Department. NAAFVLS provides legal advice and representation, referral services and community legal education to Aboriginal and Torres Strait Islander men, women and children who are victims of family violence including sexual abuse.

NAAFVLS has an office in each Darwin and Katherine. Our Darwin office currently services the communities of Wadeye, Kunbarllanja, Jabiru, Angurugu, Yirrkala, Ski Beach, Wurrumiyanga, Pirlangimpi, Milikapiti, Galiwinku, Borroloola and Umbakumba. Our Katherine office currently services the communities Timber Creek, Beswick, Barunga, Victoria River, and Ngukurr.


The objectives of the corporation are to:

- (a) provide holistic support to families that are victims of family violence;
- (b) provide legal assistance in family matters to women, men and children;
- (c) reduce the incidence of violence and abuse in communities through community legal, education, early intervention and prevention and advocacy;
- (d) increase the recognition of the problem of violence and abuse in communities through community legal education, early intervention, prevention and advocacy;
- (e) facilitate long-term solutions to violence and abuse in communities through community education.

Family Violence in Aboriginal Communities in the Northern Territory

The rates of family violence in the Aboriginal population of the Northern Territory are particularly high. The Annual Crime Statistics report published by the NT Department of the Attorney-General and Justice, indicates that from 2011 to 2012, domestic violence was associated with the assaults on 82% Indigenous female assault and on 54% of Indigenous male assault victims (2012, 14). Indigenous females made up 73% of all domestic violence victims in the NT in 2011-2012, at a rate of 8,780 victims per 100,000 population (2012, p.14).

A number of risk factors have been identified as being associated with family violence.



A partners' behaviour including alcohol and drug use, levels of aggression and controlling behaviours, have been associated with intimate partner physical violence (Livingston 2011, pp. 919–925). Other risk factors associated with family violence in Indigenous communities include: financial stress and poverty, poor physical and mental health, lack of education, unresolved trauma, unemployment, inadequate housing, loss of identity and self-esteem, loss of land and traditional culture, race-based oppression, breakdown of community kinship systems and Aboriginal law, attitudes to violence against women, childhood experience of violence and abuse, personal stress and lack of social support (Creative Spirits, 2013).

This would suggest that a holistic approach, which addresses the broad range of risk factors associated with family violence is necessary to reduce the incidence of family violence. A successful strategy would need to engage and empower Indigenous people by enabling them to take control of their lives, regain responsibility for their families and communities and enhance wellbeing (COAG, 2004).

A justice reinvestment approach recognizes that imprisonment is not necessarily the best method for reducing the rate of crime, and that in fact prison often compounds the underlying forms of disadvantage that lead to offending in Aboriginal communities.

2. Aboriginal Imprisonment


Recidivism

The evidence strongly suggests that the reliance on imprisonment is not assisting with changing the behavior of perpetrators or addressing the underlying causes of offending. There is broad acknowledgment that the prison environment is often not conducive to the rehabilitation and healing of offenders (Krieg, 2006 p. 534). As a consequence, recidivism rates remain unacceptably high, with many Indigenous people leaving prison only to re-enter it soon afterwards (Calma, 2008, p. 163).

The punitive response of relying on incarceration of the offender to protect the victim of family violence has also been criticised by some Indigenous community members as being irrelevant, disempowering and likely to exacerbate the level of violence upon the perpetrators release from custody (Cripps and McGlade, 2008, p. 243).

Community Consequences of Incarceration

The high rates of Indigenous incarceration have long term costs to the community as a whole through disrupting family relationships, social networks and community cohesion.



Indigenous offenders have valuable roles to play in their communities, including financial and social contributions and family and cultural obligations. When community members are removed, additional burdens are placed on already stretched family members (Calma, 2009). Therefore, the incarceration of large proportions of the population often weakens the community and exacerbates social and economic disadvantage, creating the conditions for further crime.

Parental incarceration often adversely affects children by compromising their future health and development, disrupting education and compounding the social exclusion that already impacts on many children and families (VACRO, 2011, p.6). Up to 80% of Aboriginal women in prison are mothers (Behrendt, Cunneen & Liebesman, 2009), and an estimated 20.1% of Indigenous children in Australia will be affected by parental incarceration in their lifetime (VACRO, 2011, p.6).

3. Justice Reinvestment

Under a justice reinvestment approach to criminal justice, a share of the funds that would have been spent on costs associated with imprisonment is diverted to local communities which have a high number of offenders. The funds are invested in community wide programs and services that are aimed at addressing underlying causes of offending (Gooda, 2010). This re-orientates the criminal justice system to early intervention and prevention, rather than detention.

Community Direction and Control

Justice reinvestment has a very strong community focus. It recognises that community ownership and control, and responsiveness to local need are integral to the justice reinvestment concept.

We also recognise that, in order to effectively address the causes and consequences of offending, any initiatives need to also enhance Aboriginal self-determination and control over decision making that affects their community. Programs should be developed in conjunction with individual communities and should build on existing community strengths if they are to be effective. This relies on community consultation and engagement around the causes and solutions to offending.



4. Recommendations

There is a need for further investment in localised programs that intervene early and provide support for families to address the underlying causes and effects of family violence. Alternatives to imprisonment which allow perpetrators and victims of family violence to access rehabilitation and healing services in a supportive community environment are likely to be more effective than a jail term.

Existing Support Services and Programs

A number of valuable programs and services directed at victims and perpetrators of family violence exist in the communities which NAAFVLS services.

Most of the communities we service have a Women's Safe Houses or Crisis Accommodation which are able to provide temporary accommodation. These are an essential resource for women and young children escaping family violence.


The Indigenous Family Violence Offender Program (IFVOP) run by Community Corrections is available in many remote communities. IFVOP can be delivered in Wadeye, Nguiu, Pirlangimpi, Daly River, Maningrida, Milingimbi, Galiwinku, Groote Eylandt and Nhulunbuy. The program works with offenders as an alternative sentencing option to imprisonment and its aim is to reduce the incidence of family violence in Indigenous communities.

There are alcohol and drug rehabilitation programs available in the larger towns of Nhulunbuy, Katherine and Darwin.

Catholic Care NT provides counseling and support services to the Tiwi Island communities of Wurrumiyanga, Pirlangimpi and Milikapiti. Anglicare NT Resolve offer counseling services to residents of Nhulunbuy and the nearby communities of Yirrkala and Ski Beach. The local Miwatji Health Clinic offers counseling and anger management programs to the community of Galiwinku.

The communities of Ngukurr, Angurugu and Barunga have a fly-in counseling service available to visit communities.

We have observed a lack of counseling services available in the other Aboriginal communities we service. From our knowledge, there are currently no counseling services based in the communities of Borrooloola, Kunbarllanja, Jabiru, Wadeye and Umbakumba.



Mobile Outreach Service *Plus* (MOS *Plus*) are based in Darwin and travel to remote communities to provide counselling and support to children and young people who have been traumatised by abuse or neglect. MOS *Plus* are able to take referrals from most of the communities we service.

While the existing services are immensely valuable, there is great scope to expand the range of culturally appropriate services available in remote communities.

We recommend further investment in a range of early intervention programs and support services targeted at healing families experiencing family violence, including:

- **Community Education and Awareness Raising:** Culturally appropriate community education should be available to all members of the community, including women, men and children about the harmful impacts of family violence on families and communities.
- **Early intervention and prevention services:** Early intervention services targeting people at risk of offending. This would include children who have witnessed family violence and therefore have an increased likelihood of offending in the future. Behavioral change programs may address anger management, attitudes towards gender relations and family violence.
- **General services that address disadvantage in communities:** Investment in community run programs that address the needs of whole communities; including health, education, employment, housing, cultural strength, self-esteem and self-determination.
- **Rehabilitation programs:** A greater availability of rehabilitation programs that address alcohol and drug dependency. This would assist in reducing the risk factors associated with family violence.
- **Family counseling and mental health services:** There is a great need for culturally appropriate counseling services available to all community members, including children and families.
- **Men's Cooling Off Shelters:** Safe spaces in which men can spend time to relax, cool off and access support services.

It is important that diversionary and counseling programs are designed, implemented and owned by the local community members. By ensuring programs are culturally appropriate, and encourage Aboriginal people to draw strength in their identity, family, culture and community, they are more likely to effectively engage people.



5. Conclusion

The North Australian Aboriginal Family Violence Legal Service supports a justice reinvestment approach to criminal justice, which shifts funding from prison to addressing the underlying social and economic causes of crime in local communities.

We believe that alternatives to prison, including culturally appropriate early intervention and community education, are necessary to see a reduction in the incidence of family violence in remote Aboriginal communities in the Northern Territory.



References

Behrendt I., Cunneen C & Liebesman T., 2009, 'Indigenous Legal Relations in Australia', Melbourne.

Calma, Tom, 2006, 'Ending Family Violence and Abuse in Aboriginal and Torres Strait Islander Communities', Australian Human Rights Commission.

Calma, Tom, 2009, Aboriginal and Torres Strait Islander Social Justice Commissioner, 'Social Justice Report 2009', Australia.

Council of Australian Governments (COAG), 2004, 'National Framework for preventing family violence and child abuse in Indigenous communities'.

Creative Spirits, 2013, 'Causes of Domestic Violence'
<http://www.creativespirits.info/aboriginalculture/people/domestic-and-family-violence#toc1>

Cripps, Kyllie and McGlade, Hannah, 2008, 'Indigenous family violence and sexual abuse: considering pathways forward', *Journal of Family Studies*, v.14 (2-3), Oct 2008.

Gooda, Mick, 2010, 'Justice Reinvestment: a new solution to the problem of Indigenous over-representation in the criminal justice system', Australian Human Rights Commission.

Krieg, Anthea, 2006, 'Aboriginal incarceration: health and social impacts', *The Medical Journal of Australia* v. 184 (10) pp. 534-536.

Livingston, M., 2011, 'A longitudinal analysis of alcohol outlet density and domestic violence', *Addiction*, no. 106.

NT Department of the Attorney-General and Justice, 2012, 'NT Annual Crime Statistics 2011-2012', Darwin, NT.

Victorian Association for the Care & Resettlement of Offenders (VACRO), 2011, 'Next Generation on the Outside', Australia.