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- 2 FEB 2010
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Australian Youth Affairs Coalition
Submission to the House Standing Committee on
Aboriginal Torres Strait Islander Affairs

*Inquiry into the high levels of involvement of Indigenous
juveniles and young adults in the criminal justice system*

January 2010

Australian Youth Affairs Coalition

The Australian Youth Affairs Coalition (AYAC) is Australia's non-government youth affairs peak body, which seeks to represent young people aged 12-25 and the sector that supports them.

AYAC boasts a growing membership of State and Territory youth peak bodies, national youth Organisations, researchers, policy makers and young people themselves, who are all passionate about creating an Australian community that supports and promotes the positive development of young people.

AYAC aims to:

- Provide a body broadly representative of the issues and interests of young people and the youth affairs field in Australia
- To advocate for a united Australia which respects and values Aboriginal and Torres Strait Islander heritage, promotes human rights, and provides justice for all
- Represent the rights and interests of young people in Australia, at both a national and an international level
- Promote the elimination of poverty and to promote the well being of young Australians, with a particular focus on those who are disadvantaged
- Recognise the diversity of Australian society, to promote the cultural, social, economic, political, environmental and spiritual interests and participation of young people in all aspects of society
- Advocate for, assist with and support the development of policy positions on issues affecting young people and the youth affairs field, and to provide policy advice, perspectives and advocacy to governments and the broader community
- Facilitate co-ordination and co-operation within the youth affairs field

AYAC and its members are dedicated to working for and with young people and seeks to ensure that they have access to mechanisms which allow them to make decisions about issues that affect them in the Australian community.

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Introduction

Although only about 5% of young Australians are Aboriginal or Torres Strait Islander, 40% of those under supervision on an average day were Aboriginal or Torres Strait Islanders. Their over-representation was particularly prominent in detention, where over half of those in detention on an average day and 60% of those who were unsentenced in detention were Aboriginal or Torres Strait Islanders. An Indigenous young person aged 10-17 years was 16 times more likely than a non-Indigenous young person of the same age to be under supervision in 2007-08, nearly 15 times more likely to be under community based supervision as a non-Indigenous young person and nearly 30 times more likely to be in detention.¹

For sometime now governments across the nation have been increasingly aware of the disproportionate level of Indigenous juveniles who have contact with the justice and detention systems. Despite growing evidence suggesting that the issue is becoming unworkable, jurisdictions have continually failed to implement effective strategies to reduce incarceration rates and have under resourced recognised intervention and diversionary programs. This coupled with the burgeoning cost of crime, estimated at more than \$32 billion annually² indicates the urgent need to develop strategies across jurisdictions that aim to ameliorate high incarceration rates and recidivism amongst Indigenous young people.

The importance of early intervention cannot be ignored if we are serious about working toward 'bridging the gap' between the Indigenous community and the non-Indigenous community. There is clear and recurring evidence to suggest that identifying problem behaviour in young people early can be greatly beneficial in reducing the likelihood of them having contact with the juvenile justice system.

Similarly we must be cognisant that young people, who display criminal tendencies or conduct, are far more likely to have experienced trauma, neglect, abuse and have low educational attainment levels³. It is our responsibility to rectify these inequities by ensuring that young people who are at-risk of offending are provided with adequate and suitable support at the earliest possible point to prevent future criminal or aggressive behaviour.

Many jurisdictions have responded to increasing rates of criminal behaviour in juveniles by purporting anachronistic solutions led by the familiar 'tough on crime' rhetoric, including increased police numbers, capital works programs to build new detention facilities to accommodate prisoner populations and legislative change that specifically target's young people⁴. This is despite considerable empirical evidence that such an approach fails to divert young people from crime and in some cases may entrench criminal behaviour.

We must commit to working towards a better future for Indigenous young people that:

- Promotes positive family and community engagement
- Provides suitable role modelling and mentoring

¹ Australian Institute for Health and Welfare, *Juvenile justice in Australia 2007-08*, available at <http://www.aihw.gov.au/publications/index.cfm/title/10853>, 2009, p. vii

² R. Cannon and K. Grogan, *Incarceration: unsustainable costs and diminishing benefits*, available at http://www.sacoss.org.au/online_docs/081111%20OARS%20Incarceration.pdf, 2008, p. 9

³ Mission Australia, *Young people and the criminal justice system: New Insights and promising responses*, available at http://www.missionaustralia.com.au/document-downloads/doc_details/126-young-people-and-the-criminal-justice-system-new-insights-and-promising-responses, 2009, p.1

⁴ R. Cannon and K. Grogan, *Incarceration: unsustainable costs and diminishing benefits*, available at http://www.sacoss.org.au/online_docs/081111%20OARS%20Incarceration.pdf, 2008, p. 9

- Recognises and works toward reducing inequity and disadvantage
- Provides ready access to opportunities to become economic and educational participators
- Promotes multi-systemic collaboration between both government and non-government service providers
- Provides adequate resources to programs which work to divert Indigenous young people from the juvenile justice system
- Provides adequate through-care and support for those leaving detention

Such a framework will result in a reduction in criminal behaviour and in turn will reduce the deplorable rates of incarceration.

AYAC welcomes the opportunity to contribute to a national discussion focused on ensuring we can work toward a reduction in the Indigenous juvenile incarceration rates. We believe that targeted and collaborative approaches will result in a better future for Indigenous young people and we look forward to being part of the implementation of strategies and programs that may result from recommendations from this Inquiry.

AYAC would also like to express interest in providing verbal evidence to the Inquiry. An opportunity which we would use to support Indigenous young people to provide their direct opinions and comments to the Inquiry, as we believe it is vital that young people's views are at the centre of any strategy that may be developed.

- **How the development of social norms and behaviours for Indigenous juveniles and young adults can lead to positive social engagement**

Positive familial and community engagement are vital factors in preventing Indigenous young people from having experience with the justice system.

Through delivery of programs that focus on ensuring young people feel connected to their community, we can make a substantial and long-term difference in the number of young people who participate in criminal behaviour and in turn may experience incarceration.

AYAC believes that there are three key areas that need greater resources and service innovation when working for and with Indigenous young people, these include:

Role Modelling

Effective and supportive role modelling for Indigenous young people is vital for long-term behavioural change. It is essential that government and non-government justice service providers work directly with Indigenous leaders and elders to develop and implement role-modelling strategies which aim to connect at-risk young people with suitable and supportive Indigenous role models in their respective communities.

Mentoring

Although many studies have indicated that mentoring programs have little impact on long-term behaviour⁵, there is growing evidence showing that they can be essential in impacting on immediate disconnection issues including truancy and drug and alcohol problems. Intergenerational mentoring programs can also assist with creating higher levels of community respect and engagement, which have seen success in reducing property damage and graffiti.

Peer to Peer Support

It cannot be underestimated how much young people's decisions and behaviours can be influenced by their peers and it is here that the greatest impact can be made. Peer based education and mentoring programs have been lauded across the globe for their ability to alter and evolve young people's behavioural patterns.

Being *connected* is a vital factor in ensuring that offending behaviour is reduced whether, this is to school, families, peers or the wider community. It is through creating and sustaining connectedness that we can ensure young people are encouraged to participate and display positive behaviours.

⁵ Jo Sallybanks, *What works in reducing young people's involvement in crime*, Australian Institute for Criminology, 2003 available at http://www.cmd.act.gov.au/_data/assets/pdf_file/0016/1843/ACT_juv_justice_web.pdf, p.30

- **The impact that alcohol use and other substance abuse has on the level of Indigenous juvenile and young adult involvement in the criminal justice system and how health and justice authorities can work together to address this**

One of the most significant gaps between Indigenous and non-Indigenous communities is found in the area of health and wellbeing. For Indigenous young people this manifests itself in a significantly higher propensity to develop reliance on dangerous levels of alcohol and illicit substances, a lower likelihood to participate in strenuous activity and higher likelihood of obesity.

A 2005 survey entitled Western Australian Aboriginal Child Health (WAACHS) Survey which surveyed over 5,000 young people found that:

- Over one-third of all young Aboriginal People aged 12-27 years (35%) and more than half of those aged 17 years (58%) regularly smoked cigarettes
- More than one-quarter of young people (27%) reported drinking alcohol. Rates of alcohol use were particularly high among 17 years olds, of whom 61% of males and 43% of females drank alcohol
- Approximately one third (30%) of Aboriginal young people have used marijuana at sometime in their life
- More than one-quarter (28%) of young people had not undertaken strenuous exercise in the week before the survey
- Three-quarters of young people (75%) who drank alcohol and regularly smoked cigarettes also used marijuana, compared with only 8% of young people who neither drank alcohol nor smoked cigarettes⁶

Such high rates of health issues or dangerous behaviours have significant implications for the juvenile justice system, with a majority of Indigenous young people who appear before the courts presenting to the justice system with significant addiction issues or as regular poly-drug users.

A study undertaken by the Australian Institute for Criminology, which surveyed 371 juveniles aged 10-17 years who were in detention centres, identified a substantial link between drug and alcohol use and offending. The report found that 72% of young people who had been detained self identified that drugs or alcohol had influenced their criminal behaviour. This number climbs to 82% when focused primarily on those who were recidivist violent offenders⁷

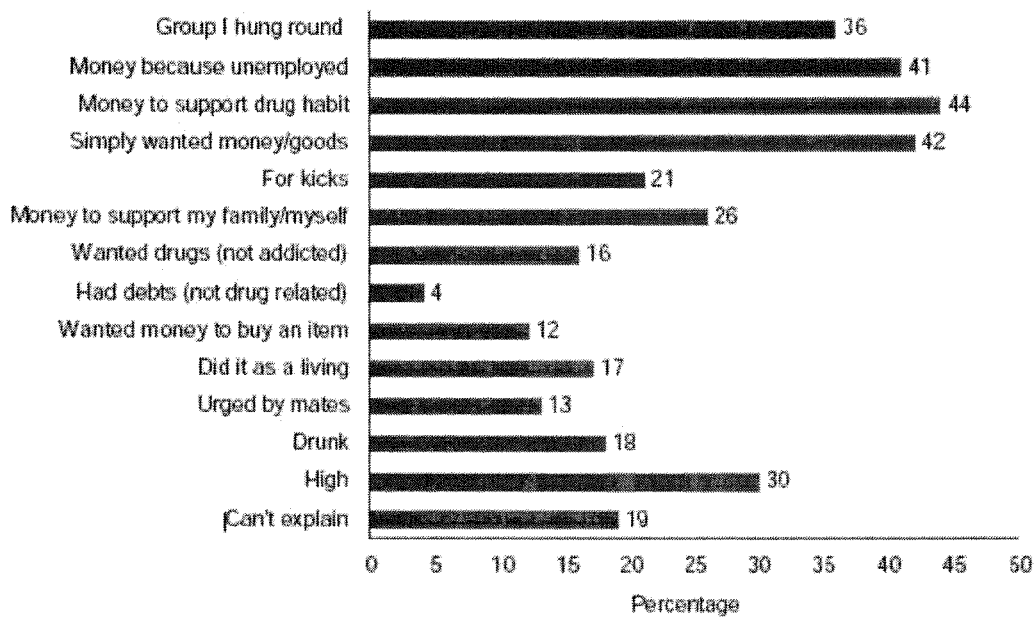
The Institute also found that over 40% of offenders self-identified as engaging in criminal behaviour for the sole purpose of procuring drugs to support an ongoing habit. That being the case the study found that drug use and procurement was only one of many motivators that led to criminal behaviour, demonstrated in *Figure 4.3 Reason for Committing Burglary* reproduced below from the Institute's report⁸.

⁶ Australian Institute for Health and Welfare, *The health and welfare of Australia's Aboriginal and Torres Strait Islander peoples* 2008, available at <http://www.aihw.gov.au/publications/index.cfm/title/10583>, 2008, p. 140

⁷ J. Prichard and J. Payne, *Alcohol, drugs and crime*, Australian Institute of Criminology Research and Public Policy Series, available at <http://www.aic.gov.au/publications/current%20series/rpp/61-80/rpp67.aspx>, 2005, p.44

⁸ J. Prichard and J. Payne, *Alcohol, drugs and crime*, Australian Institute of Criminology Research and Public Policy Series, available at <http://www.aic.gov.au/publications/current%20series/rpp/61-80/rpp67.aspx>, 2005, p.45

Figure 4.3: Reasons for committing burglary



Multiple reasons permitted.

What cannot be ignored are the significant risk factors that lead Indigenous young offenders toward addiction, with numerous studies finding direct correlation between abuse and neglect in early childhood with adolescent criminal behaviour and poly substance abuse. Such experiences had significant impact on the frequency and types of offences committed by young people with the Australian Institute for Criminology finding that:

- Regular violent offenders had suffered more abuse and neglect than regular property offenders
- Neglect and violent abuse was associated with an earlier onset of substance abuse
- One third of offenders surveyed identified as having been the victims of consistent violent or emotional abuse⁹

In the same vein the study found that criminal behaviour and substances abuse was significantly higher in young people who had become estranged from their families, with 42% of young people surveyed identifying that they were not living with their immediate family at the time of their last offence¹⁰.

The recognition of risk factors that lead young people toward criminal behaviour and drug and alcohol abuse must be at the forefront of any strategies that seek to prevent Indigenous young people's connection with the justice system. It is only through early detection and early intervention of such behaviours that we can hope to have an adequate ongoing impact.

State jurisdictions must be committed to reviewing and redesigning current mechanisms of dealing with juvenile justice clients. What is needed is a greater focus on developing pathways for young people who present to drug and alcohol and justice services that seek not only to curb substance abuse but which also recognise and provide support to alleviate other risk factors that lead to criminal behaviour.

⁹ J. Prichard and J. Payne, *Alcohol, drugs and crime*, Australian Institute of Criminology Research and Public Policy Series, available at <http://www.aic.gov.au/publications/current%20series/rpp/61-80/rpp67.aspx>, 2005, p.79,80

¹⁰ J. Prichard and J. Payne, *Alcohol, drugs and crime*, Australian Institute of Criminology Research and Public Policy Series, available at <http://www.aic.gov.au/publications/current%20series/rpp/61-80/rpp67.aspx>, 2005, p.79

- Any initiatives, which would improve the effectiveness of the education system in contributing to reducing the levels of involvement of Indigenous juveniles and young adults with the criminal justice system

Connection with the education system is a fundamental factor in determining whether or not young people may become involved in the justice system, with many studies showing that young people who do not attend school being considerably more likely to become involved in anti-social behaviour and criminal activity¹¹.

Schools therefore present us with fertile ground for developing, implementing and sustaining effective strategies, which focus on preventing and reducing offending.

Within schools, young people must have access to a suite of programs and services that assist them with dealing with issues they may be experiencing including low academic achievement and bullying. We must also consider that school structures and rules may need to evolve to best meet the needs of Indigenous students.

AYAC believes that the education system should focus on ensuring that the environments where young people learn are young person centred and ensure:

- That all school staff have sufficient training that assists them in identifying and supporting at-risk young people
- That young people have access to after-school activities that act as alternatives to criminal behaviour
- That young people have access to health and counselling services whilst at school
- That where needed, young people are placed in smaller class groups or are provided one-to-one support when they are identified as being at risk of disengagement
- That young people are empowered within the school to design and facilitate programs they believe are important and may assist other students
- That teachers be empowered through the curriculum to educate young people about social issues including drugs and alcohol, health and criminal behaviour so as to increase young people's abilities to make informed choices
- That where possible, relationships are created between schools and community organisations to ensure that when schools do not have the ability to deal with substantial complex problems, that young people can be referred and supported by expert organisations

It is even through simple strategies that school engagement can be increased with both the Northern Territory and the Western Australian Government introducing 'No School, No Pool' policies in regional communities where young people can only access community recreation facilities if they attend classes. 'No School, No Pool' has resulted in an up to 75% reduction in truancy in some communities¹².

¹¹ Jo Sallybanks, *What works in reducing young people's involvement in crime*, Australian Institute for Criminology, 2003 available at http://www.cmd.act.gov.au/data/assets/pdf_file/0016/1843/ACT_juv_justice_web.pdf p.30

¹² P. Poringneaux and P. Bush, *Indigenous Environmental Health: Report of the Fifth National Conference 2004*, <http://www.health.gov.au/internet/main/publishing.nsf/Content/ohp-ieh-conf2004.htm~ohp-ieh-conf2004-story.htm~ohp-ieh-conf2004-story-03.htm>

- **Best practice examples of programs that support diversion of Indigenous people from juvenile detention centres or crime, and provide support for those returning from such centres**

Effective intervention and diversion programs are vital to ensuring young people avoid connection with the justice system. These programs must seek to address broader social issues of inequity and disadvantage whilst also ensuring that the needs of young people and the community are met.

There have been numerous studies focussed on evaluating and promoting the importance of diversionary programs in assisting Indigenous young people from avoiding criminal behaviour and detention centres. Rather than duplicating the work that has already been undertaken, AYAC has provided three examples of such reports. For each example we have provided a short summary as well as the researcher's names and URL's so if necessary the committee can seek further advice from researchers or providers.

We hope that this list illustrates there is mounting evidence to suggest that there needs to be a dramatic paradigm shift in the way jurisdictions around Australia currently value and resource diversionary strategies.

Title	Diversion of Indigenous Young Juvenile Offenders
Researcher	Lucy Snowball , Australian Institute of Criminology
URL	http://www.aic.gov.au/documents/B/5/5/{B55AD658-DE8D-4A64-B10A-6C8BCAC34A9A}tandi355.pdf
Summary	
<p>Conferencing and cautioning are used as diversionary alternatives in the juvenile justice system and there is evidence to suggest they reduce reoffending. As Indigenous young people are overrepresented in the juvenile justice system, an important question is whether they are as likely to be diverted as non-Indigenous young people. This study used modeled data to examine juveniles' contact with the police and courts, and the differences in juvenile diversionary rates for Indigenous and non-Indigenous offenders in New South Wales, South Australia and Western Australia in 2005¹³</p>	

Title	What Works in reducing young people's involvement in crime?
Researcher	Jo Sallybanks, Australian of Institute of Criminology on behalf of the ACT Chief Minister's Department
URL	http://www.cmd.act.gov.au/__data/assets/pdf_file/0016/1843/ACT_juv_justice_web.pdf
Summary	
<p>This study undertaken in 2003 provides a literature review of Australian and international intervention and diversion programs aimed at reducing criminal behaviour and preventing young people's contact with juvenile detention facilities. Uniquely this study also provides examples of successful programs across a range of intervention strategies including social competence training, education & employment, mentoring, recreation and target group specific programming. The study also articulates common themes between each of the program and provides a framework for service development into the future¹⁴.</p>	

Title	The bleedin' obvious: Long term support reconnects at-risk young people
Researcher	Alistair Lemmon
URL	http://www.acys.info/journal/issues/v27-n1-2008/article_summaries_2008_march/article_1
Summary	
<p>Twenty young people with a history of incarceration, substance abuse and disconnection provided Whitelion with insight into 'what worked' in changing their at-risk behaviours. The answer was obvious – state support beyond 18 years of age, perhaps until the mid-twenties. These young people require specialised intervention, and assistance accessing community structures, particularly jobs, which would ordinarily be out of reach. One program recommended as a viable model for Australian community organisations wanting to reconnect young people is the rigorously evaluated Job Corps program (USA), which integrates accommodation, long-term support and employability training programs¹⁵.</p>	

AYAC would like to draw the attention of the committee to two case studies which evaluate the success of diversionary programs aimed at reducing criminal or anti-social behaviour whilst also meeting the health, educational and employment needs of their clients.

Title	Promising responses: Pasifika Support Services in <i>Young people and the criminal justice system: New insights & promising responses</i>
Organisation	Mission Australia
URL	http://www.missionaustralia.com.au/document-downloads/doc_details/126-young-people-and-the-criminal-justice-system-new-insights-and-promising-responses
Summary	
<p>Pasifika Support Services (PSS) is one of a number of projects developed and funded as part of the <i>Youth Partnership with Pacific Communities</i>, a whole of government approach initiated by the NSW Premier's Department to meet the needs of Pacific young people at risk of ongoing involvement in anti-social, risk-taking and criminal behaviour. It is a multi-systemic approach that aims to:</p> <ul style="list-style-type: none"> • Prevent or decrease young people's involvement in crime. • Strengthen their wellbeing and resilience. • Re-engage them on educational and employment pathways. • Increase the capacity of their families and communities to • Support them towards productive life pathways. • Increase the capacity of relevant agencies (including education, police, health, community services) to work effectively with the client group. <p>An independent evaluation by ARTD Consultants (2007) showed promising outcomes, with rates of re-offending reduced in the short and medium-term following participation in the program. Offending data for 23 Pacific young people who participated in PSS was collected in July 2007 and shows that in the six months prior to their referral they were charged with a total of 24 offences, 14 of which were serious. Sixty five percent of young people with a 12-month follow on period have not reoffended¹⁶.</p>	

Title	Yiriman Project Business Case- 'Kimberley Regional 'At-Risk' Indigenous Youth Diversion Program'
Organisation	Kimberley Aboriginal Law and Culture Centre (KALCC)
URL	http://www.parliament.wa.gov.au/Parliament/Commit.nsf/(Evidence+Lookup+by+Com+ID)/84767450D4893AA7C825760B0010758E/\$file/Sub+11+KALACC+(Attachment+1).pdf
<p>Summary</p> <p>'Kimberley Regional 'At-Risk' Indigenous Youth Diversion Program' works toward meeting the following objectives:</p> <ul style="list-style-type: none"> • To reconnect 'at-risk' Indigenous young people with family, community and culture • To build relationships across generations • To create opportunities to expand young people's world view • To support the development of future Indigenous leaders within communities • To provide pathways to meaningful employment <p>The Project was an initiative of Aboriginal elders and community members in 2001, wanting to divert young people away from 'risk-taking behaviour' - largely drugs and alcohol, suicide and offending. They felt that strengthening a connection to culture (land, elders, community, language, and practicing ceremonies) was fundamental to offering young people an alternative lifestyle, a sense of belonging, a strong identity and hope for the future. As most young people do not have opportunities to spend time 'on country', <i>Yiriman</i> was established to facilitate this¹⁷.</p>	

Despite these and a number of other studies pointing toward the need for a greater focus on the intervention strategies, many jurisdictions have failed to adequately resource and support successful programs that are resulting in real change to young people's behaviours. It is through increased resourcing of such services and programs that we can make the most difference.

Conclusion

AYAC believes the current incarceration rate of Indigenous juveniles is deplorable and is an indictment on governments at all levels across the nation. The mounting level of statistics and empirical evidence can no longer be ignored by Government's who rather than introducing evidence based strategies, take the tough on crime attitude toward juvenile justice. We have a responsibility to act quickly and effectively to reduce the incidence of criminal behaviour, but we also have a responsibility to work toward the removal of social inequities for Indigenous young people in the areas of health, education, poverty, homelessness and many other social factors that can lead Indigenous young people to crime.

We hope this inquiry is the catalyst for a significant rethink as to how we can best ensure Indigenous young people do not become connected with the justice system and offer the following recommendations to assist with achieving this.

Recommendations

AYAC recommends:

1. That all levels of Government invest greater amounts of resources and staffing in evidence based programs which intervene early and support Indigenous young people to avoid criminal and anti-social behaviour;
2. That young people are given holistic support that assists them with issues relating to health concerns, academic achievement and the long-term effects of experiencing trauma, neglect and abuse;
3. That localised, evidence based strategies are developed particularly in rural, remote and regional areas that work to ensure young people's engagement with their communities, families and peers;
4. That legislation should entrench the philosophy that incarceration should in all circumstances be the last resort for young offenders;
5. That education authorities work toward creating supportive environments that effectively meet the needs of at-risk young people and ensure staff at all levels are educated in regard to evidence based strategies that deal with disengagement;
6. That education authorities develop partnerships with community organisations that can provide expert support to young people at risk of disengaging;
7. That multi-faceted youth programs and centres be funded to ensure young people who are at-risk can access services readily;
8. That principles of restorative and rehabilitative justice be at the forefront of all jurisdictions' juvenile justice strategies; and
9. That governments work to ensure young people are valued and respected members of the community.

AYAC looks forward to the findings of this committee and hope to work with governments in the future to ensure real, evidence based changes are implemented to better the lives of Indigenous young people.

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