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**Submission to the Inquiry into the High Levels
of Involvement of Indigenous Juveniles and
Young Adults in the Criminal Justice System**

About ACTCOSS

ACTCOSS acknowledges that Canberra has been built on the traditional lands of the Ngunnawal people. We pay our respects to their elders and recognise the displacement and disadvantage they have suffered as a result of European settlement. We celebrate Aboriginal and Torres Strait Islander cultures and ongoing contribution to the ACT community.

The ACT Council of Social Service Inc. (ACTCOSS) is the peak representative body for not-for-profit community organisations, people living with disadvantage and low-income citizens of the Territory.

ACTCOSS is a member of the nationwide COSS network, made up of each of the state and territory Councils and the national body, the Australian Council of Social Service (ACOSS).

ACTCOSS' objectives are a community in which all people have the opportunities and resources needed to participate in and benefit from social and economic life and the development of a dynamic, collaborative and viable community sector.

The membership of the Council includes the majority of community based service providers in the social welfare area, a range of community associations and networks, self-help and consumer groups and interested individuals.

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Contact Details

Phone: _____
Fax: _____
Mail: PO Box 849, Mawson, ACT 2607
E-mail: _____
WWW: <http://www.actcoss.org.au>
Location: _____

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Table of Contents

About ACTCOSS	2
Acronyms.....	4
Summary of Recommendations	5
Introduction	7
Prevention	8
1. Addressing Aboriginal Disadvantage	8
Housing	8
Education	8
Employment.....	10
Health and Mental Health	11
2. A Well Resourced Community Sector	12
3. Facilitate Capacity - Building of Aboriginal Non-Government Organisations.....	14
4. Collaboration and Self-Determination.....	15
5. Combating Racism and Discrimination	17
6. Reduce the number of Aboriginal young people in Remand	19
Focus on Rehabilitation	21
Adequate Aftercare to Prevent Recidivism	22
Conclusion	24
Reference List.....	25

Acronyms

ABS	Australian Bureau of Statistics
ACTCOSS	ACT Council of Social Service
AJC	Aboriginal Justice Centre
ANTaR	Australians for Native Title and Reconciliation
ATSIC	Aboriginal and Torres Strait Islander Commission
CASAT	Cultural Awareness Self Assessment Toolkit
CDEP	Community Development Employment Projects
COAG	Council of Australian Governments
COSS	Council of Social Service
CRCAH	Cooperative Research Centre for Aboriginal Health
HREOC	Human Rights and Equal Opportunity Commission
ILC	Indigenous Learning Community
NATSISS	National Aboriginal and Torres Strait Islander Social Survey
NCOSS	Council of Social Service of NSW
PIAC	Public Interest Advocacy Centre

Summary of Recommendations

Prevention

Addressing Aboriginal Disadvantage

- Collaborate with state and territory governments to provide adequate and affordable housing for young Aboriginal people
- Investigate implementing Indigenous Learning Centres across Australia
- Facilitate greater participation of Aboriginal people in developing curriculum in schools
- Consider the real impact of the Youth Guarantee on communities experiencing disadvantage
- Seek ways to fund meaningful employment programs, such as Aboriginal Art industries and Caring for Country programs
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- Support early intervention initiatives to prevent Alcohol and Drug dependencies
- Formulate policies which recognise health to be socially determined
- Investigate holistic approaches to achieving parity in health

A Well Resourced Community Sector

- Collaborate with state, territory and local governments to ensure community organisations are sufficiently funded
- Facilitate community organisations to keep delivering culturally appropriate services
- Form partnerships with community organisations to retain and increase Aboriginal workers in the community sector

Build the Capacity of Aboriginal Organisations

- Devolve more power and resources to Aboriginal organisations.
- Invest in leadership programs for Aboriginal youth

Collaboration and Self Determination

- Build strong partnerships with Aboriginal communities
- Re-instate a national Aboriginal and Torres Strait Islander elected body
- Consider options encouraging self-determination concepts in communities
- Actively support self-determination of Aboriginal people in issues that affect them

Combat Racism and Discrimination

- Formulate national strategies, such as anti-discriminatory education programs to combat racism in criminal justice system
- Facilitate service providers and government departments to incorporate anti-racism policies in official policies and procedure documents

- Facilitate government departments and service providers become culturally aware

Reduce the number of Young Aboriginal People in Remand

- Encourage the NSW Government to amend the Bail Act 1978 to ensure young people are exempt from Section 22A
- Facilitate state and territory governments to ensure the Legal Aid system is adequately funded
- Encourage realistic bail conditions across all jurisdictions

Focus on Rehabilitation

- Invest in adequate through-care and after-care
- Invest in culturally appropriate rehabilitative programs in prison
- Improve cultural awareness and education programs for all involved in the criminal justice system

Adequate Aftercare to Prevent Recidivism

- Invest in adequate through-care and after-care

Introduction

ACTCOSS welcomes the opportunity to comment on the Inquiry into the High Level of Involvement of Indigenous Juveniles and Young Adults in the Criminal Justice System. Participation in the criminal justice system has severe long term consequences for the person, their families and communities. The effects of incarceration are longstanding, and include missed opportunities to develop skills, further education and difficulty in attaining appropriate employment well after the period of imprisonment. The consequences are intergenerational and can lead to prolonged social exclusion and recidivism.

The terms of reference identified for the inquiry, such as the current development of social norms and behaviours, the impact of alcohol abuse and disengagement from the educational system are linked to disadvantage. Consequently, the high level of involvement of aboriginal young people in the criminal justice system can be attributed to the failure of government policy to address the causes of Indigenous disadvantage for several decades. The representation of Aboriginal young people in the criminal justice system can be significantly reduced through holistic approaches to prevention, a focus on rehabilitation during incarceration and investment in adequate aftercare to prevent possible recidivism. Policies and procedures must be culturally appropriate, and there must be significant partnerships with local Aboriginal communities, Aboriginal organisations and government departments at a federal, state and local level.

Prevention

1. Addressing Aboriginal Disadvantage

Poverty has often been described as the mother of crime. The *Royal Commission into Aboriginal Deaths in Custody* certainly echoed this sentiment when it identified disadvantage as the primary reason for Aboriginal over representation in the criminal justice system.¹ Disadvantage manifests itself in inadequate housing, unemployment, poor education, family breakdown and poor health outcomes. It is critical to consider specific actions to address these issues in order to formulate effective crime prevention responses.

Housing

Affordable housing is a major issue for Aboriginal young people. According to 2006 Australian Bureau of Statistics (ABS) data, one in five Indigenous households were in housing stress, spending more than 30% of their income on housing costs.² During consultations for the ACTCOSS and Aboriginal Justice Centre (AJC) project *Circles of Support*, lack of appropriate housing for Aboriginal young people was repeatedly mentioned as a pressing issue.³ Attendees highlighted young people who are homeless before they become entitled to Centrelink benefits were at extreme risk and often resorted to crime due to lack of alternative financial means.

Recommendations:

- Collaborate with state and territory governments to provide adequate and affordable housing for young Aboriginal people

Education

Empirically, there is a strong negative correlation between educational attainment and various measures of crime. A Canadian study from the 1990s found more than two-thirds of all incarcerated men in 1993 had not graduated from high school.⁴ Other data from the 1988 National Longitudinal Study of Youth in Canada found 34% of all men aged 20-23 with 11 or 12

¹ *Royal Commission into Aboriginal Deaths in Custody*, 1991, 1.7.1
<http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/rciadic/>, accessed 10th December 2009.

² ABS, *A Social and Cultural Profile of Aboriginal and Torres Strait Islander People in Canberra*, 2006, 56.

³ ACTCOSS and the Aboriginal Justice Centre, *Circles of Support- Towards Indigenous Justice: Prevention, Diversion and Rehabilitation*, July 2008, 17.

⁴ L. Lochner, *Education and Crime*, University of Western Ontario, 2007, 5.

years of schooling reported earning some income from crime, compared with 24% with a high school degree.⁵

The data on Aboriginal education levels throughout Australia are concerning; by Year 9, half of Indigenous students have not reached the required literacy standards expected for their age and have higher rates of absenteeism from school.⁶ Furthermore, Aboriginal students tend to leave school earlier than non-Indigenous students, with 69% of Indigenous students still in school at age 17 compared to 89% of non-Indigenous 17 year olds.⁷

The ACTCOSS submission to the ACT Legislative Assembly Inquiry into the Education Achievement Gap in the ACT identified several strategies to enable Aboriginal young people to remain in education.⁸ The recommendations included supporting the expansion of programs that facilitate Indigenous Learning Communities (ILCs): institutions which encompass wider community needs and has a range of benefits. ILCs may offer children's health services, provide adult literacy or parenting classes, after hours internet access, or opening the school library to the broader community on weekends. In creating an ILC it would be necessary to think beyond traditional methods of educational delivery; exploring holistic approaches which can support students and families in an effort to improve outcomes for both students and the community. ACTCOSS also strongly recommends the facilitation of greater Indigenous participation in developing curriculums in schools.

The Federal Government's Youth Guarantee aims to retain all students in education until they at least achieve a Year 10 Certificate, and then remain in education, training or employment until the age of 17. However a blanket approach, such as a Youth Guarantee to may not have the intended outcomes, and special cultural considerations need to be accounted for when addressing Aboriginal disengagement from education.

Recommendations

- Investigate implementing Indigenous Learning Centres across Australia
- Facilitate greater participation of Aboriginal people in developing curriculum in schools
- Consider the real impact of the Youth Guarantee on communities experiencing disadvantage

⁵ Ibid.

⁶ ABS, *A Social and Cultural Profile of Aboriginal and Torres Strait Islander People in Canberra*, 2006, 5.

⁷ Ibid.

⁸ ACTCOSS, *Submission to the Inquiry into the Education Achievement Gap in the ACT*, September 2009, 11.

Employment

A study by the Australian Institute of Criminology concluded improved opportunities for employment reduced crime.⁹ There is a great need to facilitate Aboriginal and Torres Strait Islander employment in Australia. 36% of Aboriginal children in the ACT live in households without any employed parents.¹⁰ Furthermore, one fifth of Aboriginal people in the ACT reported Government income support as the main source of income in the previous two years.¹¹ Meaningful employment for Aboriginal young people is a pressing issue particularly in remote areas where there is often an absence of any sort of industry.

Since its inception in the late 1970s, the Community Development Employment Projects (CDEP) program offered Aboriginal people the choice to engage in culturally appropriate employment in their own communities. Though the scheme was often far from perfect, the program allowed Aboriginal Australians to maintain a traditional lifestyle while participating in paid work. Two areas which highlight the success of this combination are the Aboriginal arts industry and the Caring for Country programs.

The Aboriginal arts industry returns an estimated \$200-\$500 million every year.¹² The CDEP organisations provided services and support to self-employed artists and CDEP workers are employed in a range of administrative and management roles by arts centres.

Caring for Country programs in return have made important contributions to the Australian environment. Participants are involved in activities such as undertaking surveys of their land for weeds, carrying out autopsies on feral animals to check diseases, surveying the coast for illegal foreign vessels and collaborating with scientists who want to better understand the ecology of threatened or vulnerable species. Such work returns cultural benefits to participants as it provides an opportunity to interact with their elders and gather important information about their country.

ACTCOSS stresses the need to maintain community arts centres and Caring for Country programs despite the changes to the CDEP program. The Federal

⁹ S. Meyers, *Improved Employment Reduces Crime: Evidence from the African American Experience*, Australian Institute of Criminology, 1997, 1. <<http://aic.gov.au/documents/F/D/7/%7BFD73219B-0BF3-4C03-B092-1CB17221FF70%7Dch6.pdf>>, accessed 10th December 2009.

¹⁰ ABS, *A Social and Cultural Profile of Aboriginal and Torres Strait Islander People in Canberra*, 2006, 5.

¹¹ *Ibid*, 48.

¹² Senate Standing Committee on Environment, Communications, Information Technology and the Arts, *Indigenous Art-Securing the Future for Australia's Indigenous Visual Arts and Crafts Sector*, 2007, p. 6.

Government should seek alternative avenues to ensure these programs are well resourced.

Recommendations:

- Seek ways to fund meaningful employment programs, such as Aboriginal Art industries and Caring for Country programs.

Health and Mental Health

Poor health, particularly poor mental health is closely linked with offending behaviour. A 1995 study of young offenders in Queensland by the Australian Institute of Criminology found 60% of young offenders had some form of a mental health problem.¹³

Mental health problems and offending behaviour can be exacerbated by drug misuse. A 2008 edition of the *Australian Indigenous Health Bulletin* examined hospital data and found Aboriginal people have significantly more mental health disorders associated with drug misuse than non-Aboriginal Australians.

Parity in health has been identified as one of the targets by the Council of Australian Governments (COAG) in "Closing the Gap". Early intervention into alcohol and drug misuse assists young people to re-engage with the community while the problem is still minor. This was recently acknowledged by a report released by the National Indigenous Drug and Alcohol Committee which found such programs to be a successful diversion within the Aboriginal population, stemming the increase of offenders.¹⁴ Health and mental health outcomes are often socially determined by external factors, such as the environment in which a person lives and their ability to access essential services. Parity in health must be addressed holistically.

Recommendations:

- Support early intervention initiatives to prevent Alcohol and Drug dependencies
- Formulate policies that recognise health to be socially determined
- Investigate holistic approaches to achieving parity in health

¹³ C. Lennings, *Assessment of Mental Health Issues with Young Offenders*, Australian Institute of Criminology, 2003, 2.

¹⁴ Uniting Care Burnside, *Releasing the Pressure on Remand: Bail Support Solutions for Children and Young People in NSW*, 2009, 5.

2. A Well Resourced Community Sector

Social support from the community sector plays an important role in crime prevention. The NSW Standing Committee on Law and Justice *Inquiry into Crime Prevention through Social Support* found:

by far the most diverse crime prevention activity is undertaken by the non-government sector.¹⁵

The community sector, across all jurisdictions, offers significant social support for Aboriginal young people who may often feel neglected from mainstream government services. Organisations involved in this work include but are not limited to the areas of:

- Early childhood intervention and childcare services;
- Children and adolescent support services;
- Family support services;
- Primary health care services;
- Alternative education services for young people;
- Alcohol and drug services;
- Mental health services;
- Refuges and emergency accommodation;
- Community housing providers;
- Community legal centres;
- Indigenous organisations;
- Prisoner support groups; and
- Disability services.

Governments across Australia need to commit to providing appropriate services for Aboriginal young people. The 2006 Human Rights and Equal Opportunity Commission (HREOC) social justice report summarised government service responses to disadvantage by stating:

[there exists a] lack of support services, appropriate treatment and behaviour intervention programs, family based care services and accommodation options; the use of inappropriate and harmful practices such as physical restraint and medication; the risk of actual occurrence of physical and sexual assault and the reliance on police to resolve challenging behaviour. There is also evidence to suggest the lack of support services for children and appropriate policies and practices to deal with challenging behaviour often leads services to rely on or view juvenile justice facilities to provide a stable and secure environment and as a solution to a complex problem.¹⁶

¹⁵ The NSW Standing Committee on Law and Justice, *First Report of the Inquiry into Crime Prevention through Social Support*, 1999, 76.

¹⁶ Human Rights and Equal Opportunity Commission, *Social Justice Report*, 2006, 338.

Community organisations in the ACT have sought to provide social support in a culturally appropriate framework. In June 2009, ACTCOSS devised a *Cultural Awareness Self-Assessment Toolkit (CASAT)*. The CASAT assists organisations to document their own knowledge and understanding of Aboriginal and Torres Strait Islander Culture. By following the exercises in the tool-kit, organisations are able to critically evaluate practices in assisting Aboriginal and Torres Strait Islander people and plan to develop services to improve outcomes. Since its inception, the response from the community sector and from some government departments has been immense.

Governments, at federal, state and territory levels need to resource community organisations to continue with culturally appropriate practices. During the implementation of CASAT, it was revealed many community organisations would benefit from more cultural awareness training, and hiring more Aboriginal staff but lacked the resources to do so. A well resourced community sector, which is able to reach young Aboriginal people living with disadvantage is one important step in addressing past wrongs.

Recommendations:

- Collaborate with state, territory and local governments to ensure community organisations are sufficiently funded
- Facilitate community organisations to keep delivering culturally appropriate services
- Form partnerships with community organisations to retain and increase Aboriginal workers in the community sector

3. Facilitate Capacity - Building of Aboriginal Non-Government Organisations

Governments need to support capacity building of Aboriginal non-governmental organisations. Capacity building should respond to community needs through a multiplicity of initiatives aimed at enhancing the sustained ability of Aboriginal people to make informed decisions about issues that concern them.

Overseas research indicates that community capacity building in Aboriginal communities must be preceded by fundamental changes in the relationship between governments and the Indigenous populations.¹⁷ In Australia there has been reluctance by governments to fully devolve power and resources to Aboriginal organisations. This attitude needs to change. Policies and programs involving Aboriginal capacity building are widely considered an important approach to overcoming Aboriginal disadvantage.

When discussing community capacity building, the issue of leadership cannot be ignored. While it is recognised the effectiveness of leadership will vary within and between Aboriginal communities, Aboriginal young people deserve a level and quality of leadership, which can deliver positive changes. Leadership has to be a focus in any capacity building exercise.¹⁸ Investment in leadership involves two main purposes. Firstly, enhancing the capabilities of the existing leaders, and secondly the creation of a larger pool of leaders available within the community. In the context of community capacity building, specific measures aimed at increasing the capacity of Aboriginal institutional directors, office bearers and managers need to be improved as a matter of priority.¹⁹ Innovative funding arrangements are in need to specific attention if governmental community capacity building policies and program measures are to be sustainable.

Recommendations:

- Devolve more power and resources to Aboriginal organisations.
- Invest in leadership programs for Aboriginal youth

¹⁷ R. Taylor, *Indigenous Community Capacity Building and the Relationship to Sound Governance and Leadership*, AILC National NT Conference, 2003, 7.

¹⁸ Ibid.

¹⁹ Ibid.

4. Collaboration and Self-Determination

Collaboration, allowing Aboriginal communities to take control of the issues at hand is imperative in reducing the involvement of Aboriginal young people in the criminal justice system. The *Royal Commission into Aboriginal Deaths in Custody* found:

[the] success or otherwise of [crime prevention and diversion] schemes depends to a very large extent--and often wholly--upon the involvement of Aboriginal people, organisations and communities. The success of the schemes is very much connected with the empowerment of Aboriginal people.²⁰

The Commission continued:

The thrust of this report is that the elimination of disadvantage requires an end of domination and an empowerment of Aboriginal people; that control of their lives, of their communities must be returned to Aboriginal hands.²¹

Some approaches to these issues have stressed the importance of linkages between governments and Aboriginal community organisations, particularly those with a justice focus. For example, in Victoria there are Regional Aboriginal Justice Advisory Committees and Local Aboriginal Justice Advisory Committees engaged in developing and supporting criminal justice initiatives. Bodies such as these can provide important bridges between justice agencies and the community.

Key reports, such as *Bringing Them Home*, and *Little Children are Sacred* repeatedly stated the importance of self-determination for Aboriginal people, in issues relating to Aboriginal people. In recent years, the Australian Government has not been actively supportive of this view, as demonstrated by the abolition of Aboriginal and Torres Strait Islander Commission (ATSIC) in 2005. While ATSIC may have functioned imperfectly, reform rather than abandonment would have delivered preferred outcomes for the majority of the Aboriginal people. ACTCOSS notices the Federal Government has contributed to a new conversation on the reinstatement of a national Indigenous Elected Body and encourages the continuation of this dialogue. Despite the controversy surrounding the term "self-determination", no policy or procedure can be affected without the engagement of Aboriginal Australia in the process.

²⁰ *Royal Commission into Aboriginal Deaths in Custody*, 1991, 1.6.10, <<http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/rciadic/>>, accessed 10th December 2009.

²¹ *Ibid*, 1.7.6.

Recommendations:

- Build strong partnerships with Aboriginal communities
- Re-instate a national Aboriginal and Torres Strait Islander elected body
- Consider options encouraging self-determination concepts in communities
- Actively support self-determination of Aboriginal people in issues that affect them

5. Combating Racism and Discrimination

There is a tremendous need to address racism in the Australian justice system. The *Royal Commission into Aboriginal Deaths in Custody* found overt, hidden and institutional racism continued to adversely affect Aboriginal people.²² Evidence from one study in Victoria indicated when apprehended by police, Aboriginal youth were three times more likely to be arrested and charged with an offence than non-Aboriginal youth.²³ The prevalence of reactions to differential treatment was examined using data from the 2003 National Aboriginal and Torres Strait Islander Social Survey (NATSISS). The study found anger to be the most frequent reaction to racism with two-thirds of respondents reporting to this reaction.²⁴ Emotive responses further increased the likelihood of arrest or questioning by law enforcement officials.

Participants in the 2008 study *Circles of Support* also cited differential police treatment to be a major reason for Aboriginal over-representation in the criminal justice system. One attendee described the experience of her son who had been questioned for a minor offence while riding his bike. The attendee suggested a non-Aboriginal person was far less likely to be fined for such an offence. Furthermore, a record in relation to this incident undermined her son's opportunities in later life.

The Cooperative Research Centre on Aboriginal Health (CRCAH) paper *The Impact of Racism on Indigenous Health in Australia and Aotearoa: Towards a Reconciliation Agenda* canvassed a range of institutional and policy options for anti-racism interventions.²⁵ The recommendations included:

- Direct participation programs, such as anti-discriminatory education programs;
- Policies and protocols to address discriminatory behaviour at the organisational level;
- Further research to raise awareness of the problems discrimination.

ACTCOSS endorses these recommendations. Additionally, all people involved with law enforcement should be educated on the effects of racism on Aboriginal youth. Law enforcement officers need to be culturally aware of Aboriginal issues, such as history and heritage. Police departments across the

²² *Royal Commission into Aboriginal Deaths in Custody*, 1991, 1.7.2
<http://www.austlii.edu.au/au/special/rsjproject/rsjlibrary/rciadic/>, accessed 10th December 2009.

²³ Y. Paradies, R. Harris and I. Anderson, *The Impact of Racism on Indigenous Health in Australia and Aotearoa: Towards a Research Agenda*, Corporate Research Centre for Aboriginal Health, 2008, 6.

²⁴ *Ibid*, 7.

²⁵ *Ibid*.

country need trained Aboriginal liaison officers and staff should devise a system, which will assess their own cultural awareness and identify weaknesses, supporting improved service delivery.

Recommendations:

- Formulate national strategies, such as anti-discriminatory education programs to combat racism in criminal justice system
- Facilitate service providers and government departments to incorporate anti-racism policies in official policies and procedure documents
- Facilitate government departments and service providers become culturally aware

6. Reduce the number of Aboriginal young people in Remand

In 2008-2009, 301 Aboriginal young people under the age of 18 were remanded into custody in NSW.²⁶ A paper produced by Uniting Care Burnside in collaboration with the Council of Social Service of NSW (NCOSS) and the Public Interest Advocacy Centre (PIAC) *Releasing the Pressure on Remand: Bail Support Solutions for Children and Young People in NSW* discussed the reasons for this. The reasons included recent amendments to the *Bail Act 1978*, a stretched Legal Aid system and tough bail restrictions.

The introduction of Section 22A into the Bail Act is the primary reason behind the large number of young people in remand. This amendment stipulates children and young people can only apply for bail once except under particular circumstances. If bail is not granted during the first application, they may only apply again if they were not legally represented during the first application or if the court is satisfied with new facts of circumstances which have arisen since the first application. A 2009 report by the Bureau of Crime Statistics and Research demonstrated the amendment directly impacted on the increase of children and young people in remand and for longer periods of time.²⁷

Exacerbating the situation is an under resourced Legal Aid system. One magistrate and one solicitor may be dealing with 50 bail cases each.²⁸ In these circumstances, a young person is not guaranteed sufficient representation by the duty solicitor despite it being their only opportunity to access bail.

In addition, tough bail restrictions, which include robust non-association orders, area restrictions and curfews, make abiding by bail conditions difficult. Thus, even when a young person is able to obtain bail, they can find themselves back in the Juvenile Justice Centre if found in breach of a minor restriction. In 66% of cases where young people are remanded back into the Juvenile Justice Centre, the breach is as simple as not complying with a curfew order or not being within the company of a parent.²⁹

The *Releasing the Pressure on Remand: Bail Support Solutions for Children and Young People in NSW* recommended young people are exempt from Section 22A. Young people should not be limited to only one chance at accessing bail as this restricts the rights afforded to them under the

²⁶ Uniting Care Burnside, *Releasing the Pressure on Remand: Bail Support Solutions for Children and Young People in NSW*, 2009, 4.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

Convention of the Rights of the Child. In addition, the Legal Aid system also needs to be adequately funded and resourced so young people have access to sufficient legal support. Comprehensive community support should be available for young people who are granted bail under strict conditions to facilitate them to abide by the bail conditions and live in the community. Furthermore, the strict bail conditions should be realistic for young people to comply with and should be governed with a degree of flexibility. Lessening the numbers of children and young people on remand would put downward pressure on an overloaded system.

Recommendations:

- Encourage the NSW Government to amend the Bail Act 1978 to ensure young people are exempt from Section 22A
- Facilitate state and territory governments to ensure the Legal Aid system is adequately funded
- Encourage realistic bail conditions across all jurisdictions

Focus on Rehabilitation

In order to reduce recidivism, the penal system must attempt to rehabilitate those convicted of a crime. A rehabilitative system will have a greater impact on reducing crime than a strictly punitive system. The greatest benefit to the community would accrue if the ex-prisoner not only ceased to reoffend, but also productively contributed to community life and integrated into the life of mainstream society.

The Australians for Native Title and Reconciliation (ANTaR) conference held in February 2009 recommended an increase in both the quality and quantity of Aboriginal and Torres Strait Islander cultural programs in prison.³⁰ Such programs could be run by elders, and should be gender appropriate and evaluated. ANTaR also mentioned the need for more formal and informal peer support programs as a unique strategy for sharing culture and furthering opportunities for rehabilitation.

There appears to be very little data on Aboriginal rehabilitative programs within prisons. Though the need to build safe and supportive communities was listed as a headline indicator in the Federal Government's *Overcoming Indigenous Disadvantage (2009)* report, comments centred on programs after prison. While it is important to support ex-prisoners to reintegrate into society once their term is up, the journey to rehabilitation should begin upon entering the criminal justice system.

In addition, there is a need to improve cultural sensitivity within prison. Developing a correctional centre workforce sensitive to Aboriginal issues may nurture a more therapeutic experience of prison.³¹ In return, this will support offenders rebuild their lives after prison.

Recommendations:

- Invest in culturally appropriate rehabilitative programs in prison
- Improve in cultural awareness and education programs for all involved in the criminal justice system

³⁰ Australians for Native Title and Reconciliation, *Reducing Indigenous Imprisonment Forum Report*, 2009,3.

³¹ Ibid.

Adequate Aftercare to Prevent Recidivism

Research has shown post-release prisoners can experience multiple social and economic disadvantages, and these disadvantages are linked to offending and re-offending. There is increasing recognition that community safety can be enhanced by successfully reintegrating ex-prisoners into mainstream community.³²

Post-release interventions are a category of programs and services aiming to assist in the reintegration of known offenders into mainstream society. Victorian data suggests the Aboriginal population have higher rates of recidivism than the non-Aboriginal population. Aboriginal people are also less likely to use mainstream pre- and post- release support programs.³³

In 2005 the AIC published research into the effectiveness and variety of post- release and transition interventions across Australia. The evidence showed around two-fifths of individual programs included both pre- and post-custody components and could be considered examples of through-care. When asked if post-release programs in general involved through-care, only 56% of agencies responded positively. Thus whilst the majority of agencies supported through-care in general, it was not necessarily considered to be a principle underpinning all reported-upon programs.³⁴

Through-care implies services are continued, or at least mirrored between custody and the community. Notably, whilst custodial and community correctional functions fall under the umbrella of correctional services or justice departments in all jurisdictions, only 42% of surveyed government community and custodial respondents reported consulting with their complementary arm when developing programs.³⁵

There is a need for real 'through-care'; linking people to services in housing, education, employment and family reconciliation, as well as negotiating reintegration into Aboriginal community networks and specific supports for criminogenic needs, such as substance abuse.

³² Australian Institute of Criminology, *Interventions for Prisoners: Returning to the Community*, Prepared for the Community Safety and Justice Branch of the Australian Government Attorney General's Department, February 2005.

³³ Ibid.

³⁴ Australian Institute of Criminology, *Interventions for Prisoners: Returning to the Community*, Prepared for the Community Safety and Justice Branch of the Australian Government Attorney General's Department, February 2005.

³⁵ Ibid,130.

Possible strategies for these services include:

- Case management, supervision;
- Mentor networks;
- Individual counselling;
- Group peer based counselling and support;
- Family meetings; and
- Community forums.

The research undertaken by the AIC noted some important factors in successful implementation of initiatives at the post-release or transition stage. These include:

- The need for strong community partnerships to effectively deliver a range of programs in the community;
- The need for strong relationships between community workers and custodial institutions; and
- Relationships between clients and workers need to be established well before release to ensure a strong relationship that can survive the transition process.³⁶

Recommendations:

- Invest in adequate through-care and after-care

³⁶ Australian Institute of Criminology, *Interventions for Prisoners: Returning to the Community*, Prepared for the Community Safety and Justice Branch of the Australian Government Attorney General's Department, February 2005, 151.

Conclusion

The over-arching cause of the high level of involvement of Aboriginal young people in the criminal justice system, incorporating all main terms of reference for the inquiry is disadvantage. Aboriginal disadvantage is a complex phenomenon which has manifested itself through several decades. It is presented through inadequate housing, unemployment and low levels of education. Governments across Australia need to commit resources into affordable and safe housing, facilitate meaningful employment, and work with communities to achieve appropriate educational outcomes

The community sector is an important player in addressing Aboriginal disadvantage. Federal, state and local governments need to recognise this and ensure the community sector is well resourced. A strong community sector that engages in culturally appropriate practices will dramatically reduce the underlying cause of representation in the criminal justice system. In addition, governments should invest in building the capacity of Aboriginal organisations. Effective partnerships with Aboriginal organisations and groups, which accord a significant degree of self-determination, will ease conditions which allow for the involvement in crime.

Strategies addressing racism in the criminal justice system also need to be out in place. There is also a need for adequate rehabilitative programs and robust social support for prisoners in and on exit of prison to prevent possible recidivism.

While there is no 'magic solution' to reducing the over representation of Aboriginal young people in the criminal justice system, addressing disadvantage is the very first and a most important step to more optimistic future.

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