

Submission to the Inquiry into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system

Australian Institute of Criminology

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Introduction

- The Australian Institute of Criminology (AIC) is Australia's national research and knowledge centre on crime and justice.
- The Institute seeks to promote justice and reduce crime by undertaking and communicating evidence-based research to inform policy and practice.
- The AIC is governed by the *Criminology Research Act* and has been in operation since 1973.
- The AIC is pleased to have the opportunity to contribute to the Committee's Inquiry into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system.
- There is a great deal of evidence to demonstrate that Indigenous young people are significantly over-represented at every stage of the criminal justice system in Australia.

Key points from AIC research

The AIC has conducted and is currently conducting research to contribute towards the evidence-base on the extent of over-representation of Indigenous juveniles and young adults in the criminal justice system.

Juveniles in detention in Australia

The AIC has monitored juveniles in detention in Australia for nearly three decades, since 1981. The Juveniles in detention monitoring program obtains data from each jurisdiction on a quarterly basis on the number of juveniles in detention, and the characteristics of these juveniles.

Data are provided on the sex, age, Indigenous status, jurisdiction, and legal status (that is, whether a juvenile is remanded or sentenced) of all juveniles. We also receive these data in relation to young adults, aged 18 to 21 years, who are detained in juvenile detention facilities in Australia, although this is not the focus of the program.

Data from the Juveniles in detention in Australia program demonstrate that:

- Indigenous juveniles comprise 58 percent of all detained juveniles in Australia.
- Indigenous juveniles are 28 times more likely to be detained than non-Indigenous juveniles.
- Indigenous male juveniles are 28 times more likely than non-Indigenous male juveniles to be detained, and Indigenous female juveniles are 24 times more likely than non-Indigenous female juveniles to be detained.
- This over-representation of Indigenous juveniles has been steadily increasing over the last decade.
- Rates of Indigenous over-representation among juveniles in detention vary among jurisdictions, and are influenced by a range of factors, including population size and/or Indigenous population size.
- While over-representation is high in the Northern Territory, as the Committee has noted, our data indicate that it has also been consistently high in other jurisdictions, including Western Australia.
- The proportion of Indigenous and non-Indigenous juveniles who are remanded, rather than sentenced, is quite even. Fifty-six percent of Indigenous juveniles in detention were on remand at 30 June 2007, compared with 61 percent of non-Indigenous juveniles.
- Our data suggest that Indigenous juveniles in detention are younger on average than their non-Indigenous counterparts. Twenty-two percent of Indigenous juveniles in detention were aged 14 years or less, compared with 14 percent of non-Indigenous juveniles. Twelve percent of Indigenous young people held in a juvenile detention facility are aged 18 years and above, compared with 36 percent of non-Indigenous young people.
- The most recent data on Juveniles in detention in Australia are currently being analysed, and could be provided to the Committee in confidence.

Juveniles' contact with the criminal justice system in Australia

The AIC recently began monitoring juveniles' contact with the police, courts and corrections in Australia. This monitoring program provides a broader insight into the over-representation of Indigenous juveniles in the criminal justice system. Data for this report are taken from existing sources, such as the Australian Bureau of Statistics, the Australian Institute of Health and Welfare and state and territory police annual reports, or are provided to the AIC by police departments. The most recent report on *Juveniles' contact with the criminal justice system in Australia* (Richards 2009) found that:

- Indigenous juveniles come into contact with the police disproportionately in comparison with their non-Indigenous counterparts, and are over-represented in contacts with the police.
- This level of representation varies among jurisdictions, partly because jurisdictions use different counting measures to record contact with the police (persons of interest, arrests etc). The AIC is currently negotiating with each jurisdiction with the aim of obtaining data that would allow greater comparability across jurisdictions. It is hoped

that these data will allow for a more informed account of Indigenous juveniles' over-representation among police contacts.

- In some jurisdictions, it appears that Indigenous female juveniles come into contact with the police at a higher rate than Indigenous male juveniles. This is another area that the AIC aims to explore further through future reports on Juveniles' contact with the criminal justice system in Australia.

Best practice examples of diversion programs for Indigenous young people

The Australian Institute of Criminology manages the annual Australian Crime and Violence Prevention Awards, which recognise good practice in the prevention or reduction of violence and other types of crimes in Australia, and assist governments to identify and develop practical projects that will reduce crime and violence in the community.

In recent years, a number of programs that have received an Australian Crime and Violence Prevention Award have been promising in terms of diverting Indigenous young people from the criminal justice system. These programs may have the potential to reduce the over-representation of Indigenous young people in the criminal justice system.

- *Coordinated Report to Young People at Risk (CRYPAR)* (Queensland) is a collaborative initiative that aims to assist young people in addressing factors that contribute to the development of criminal behaviour. CRYPAR provides a referral pathway that allows police officers to refer young people to an agency that is equipped to address the specific needs of the young person and their family. Referrals are responded to within 48 hours. The CRYPAR program has shown some promising early results by reducing young people's ongoing contact with the police, and reducing recidivism.
- New South Wales' Youth on the Go program assists youth at risk and young offenders to take responsibility for their lives through holistic training and employment programs. The goals of the program are to reduce young people's involvement in offending and to involve them in education or training. Young people in the program have completed accredited courses such as Senior First Aid, computer skills, health and hygiene, and surf skills. Indigenous programs, such as Red Dust Healing, are also delivered.
- The Caversham Training and Enterprise Centre (Western Australia) is a youth re-engagement initiative that provides young people at risk of school exclusion, with access to education and training. Young people are taught the necessary construction and trade skills to renovate a facility into an enterprise and training centre for predominantly Indigenous youth. The facility is used to educate students in numeracy and literacy, while building their resilience and autonomy. Participants are aged between 15 and 19 years and demonstrate risk factors associated with criminal behaviour. The program uses positive role models in informal surroundings to improve the employability of participants and reduce their risk of reoffending.

Cautioning and conferencing:

- Recent studies published by the AIC demonstrate that policing cautioning of juveniles can be an effective strategy in intervening early in young people's offending trajectories. Dennison et al.'s (2006) study of all children born in 1983/1984 in Queensland who were cautioned between ages of 10 and 16 years inclusive found that the majority of these (69%) did not have any re-contact with the criminal justice system as juveniles, and that "when compared with young people who were cautioned on their first contact, significantly more young people (42%) whose first contact resulted in a finalised court appearance had re-contact".
- Vignaendra and Fitzgerald's (2006) study of all juveniles cautioned and conferenced in New South Wales during 1999 (cautioned n = 5,981 and conference n = 1,711) also found that these diversionary measures resulted in positive outcomes for juveniles, and that continued contact with the criminal justice system is less common among those juveniles who participate in diversionary alternatives to court. Importantly, however, this was particularly the case for non-Indigenous offenders.
- Evidence suggests that Indigenous juveniles are often not afforded the benefits of cautioning or other diversionary measures. This is the case even where other factors (including offence type and offending history) have been controlled for (Allard et al. in press). There are a number of potential explanations for this, including: a lack of access to cautioning for juveniles in remote areas; police bias; and/or Indigenous juveniles being given high numbers of informal cautions before entering the formal justice system (i.e. a greater provision of informal cautions may lead to more severe outcomes when formal intervention is taken by police, i.e. more frequent court action).

Conclusion:

In conclusion, the AIC would like to highlight a number of key points that may further inform the Committee's Inquiry into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system:

- First, Indigenous young people are over-represented as both offenders and victims in the criminal justice system. Although there are fewer available data on young people as victims of crime, those we have indicate that Indigenous young people are over-represented among victims of child abuse and neglect, and homicide (Richards 2009).
- 'Victims' and 'offenders' are not discrete cohorts of young people, and the same young people may be recorded by police and courts as both victims and perpetrators of crime.
- There has been a great deal of debate about Indigenous over-representation in the juvenile justice system. Typically, the over-representation of juveniles among police contacts is attributed to either bias among police officers or more frequent and

more serious offending among Indigenous juveniles. Recent research conducted in New South Wales, South Australia and Western Australia (Snowball 2008a; 2008b) and Queensland (Allard et al. forthcoming) found that Indigenous young people were less likely than non-Indigenous young people to be diverted, even after controlling for the effects of age, sex, offence type and offending history.

- Other explanations for this may include: a lack of access to diversion for juveniles in remote areas; and Indigenous juveniles being given high numbers of informal cautions before entering the formal justice system (i.e. a greater provision of informal cautions may lead to more severe outcomes when formal intervention is eventually taken by police).
- It is important to remember that late adolescence is the peak age for most types of offending. In addition, the Indigenous population in Australia is a younger population, on average, than the non-Indigenous population. These demographic factors should be taken into account in any consideration of the over-representation of Indigenous young people in the criminal justice system.

References

- Allard T, Stewart A, Chrzanowski A, Ogilvie, Birks D & Little S (in press) *Police diversion of young offenders and Indigenous over-representation*. Canberra: AIC
- Dennison S, Stewart A & Hurren E (2006) *Trends & issues in crime and criminal justice no. 306: Police cautioning in Queensland: the impact on juvenile offending pathways*. Canberra: AIC <http://www.aic.gov.au/publications/current%20series/tandi/301-320/tandi306.aspx>
- Richards K (2009) *Monitoring reports 07: Juveniles' contact with the criminal justice system in Australia*. Canberra: AIC <http://www.aic.gov.au/publications/current%20series/mr/1-20/07.aspx>
- Snowball L 2008a. *Diversion of Indigenous juvenile offenders. Trends & Issues in Crime and Criminal Justice no. 355*. <http://www.aic.gov.au/publications/current%20series/tandi/341-360/tandi355.aspx>
- Snowball L 2008b. *Juvenile diversion of Indigenous offenders: A study examining juvenile offenders in Western Australia, South Australia and New South Wales*. Canberra: Criminology Research Council
<http://www.criminologyresearchcouncil.gov.au/reports/200607-C02.html>
- Taylor N (2009) *Monitoring reports 05: Juveniles in Detention in Australia 1981-2007*. Canberra: AIC <http://www.aic.gov.au/publications/current%20series/mr/1-20/05.aspx>
- Vignaendra S & Fitzgerald J (2006) *Reoffending among young people cautioned by police or who participated in a youth justice conference*. Sydney: NSW Bureau of Crime Statistics and Research