

Chapter 4

Western Australia

4.1 The committee's second report considered the impact of policies of the Northern Territory and South Australian governments on the lives of Indigenous people living in regional and remote parts of those states, after several visits to both the Northern Territory and South Australia. Since the second report, the committee has held public hearings in Fitzroy Crossing, Halls Creek, Broome, Narrogin and Perth in Western Australia (WA) and in Sydney, New South Wales (NSW). This chapter deals with the committee's findings in Western Australia, while chapter five details the committee's findings in New South Wales.

4.2 The committee travelled to Western Australia in 2008, with site visits to Fitzroy Crossing, Derby and Balgo. The committee returned to the region to hold formal hearings and collect further evidence. These hearings were conducted in Fitzroy Crossing on 24 August, Halls Creek on 25 August and Broome on 26 August 2009. A hearing in Narrogin was held on 8 October and in Perth on 9 October 2009.

4.3 The committee heard evidence from a broad range of organisations, government departments and businesses. The committee would like to express their gratitude to all witnesses who appeared before the committee or provided submissions. In the conduct of an inquiry in regional and remote areas, many witnesses travel great distances and sacrifice their own time to assist the committee. For this, the committee is grateful.

4.4 The committee would like to thank the Western Australian government for their cooperation with the committee's inquiry. The committee commends the Western Australian government agencies who participated in the inquiry for their openness, willingness to discuss issues in a frank and honest manner and for their timely responses to committee requests for information. The committee is deeply appreciative to all of the officers who appeared before the committee and to those who assisted the committee in the conduct of this inquiry.

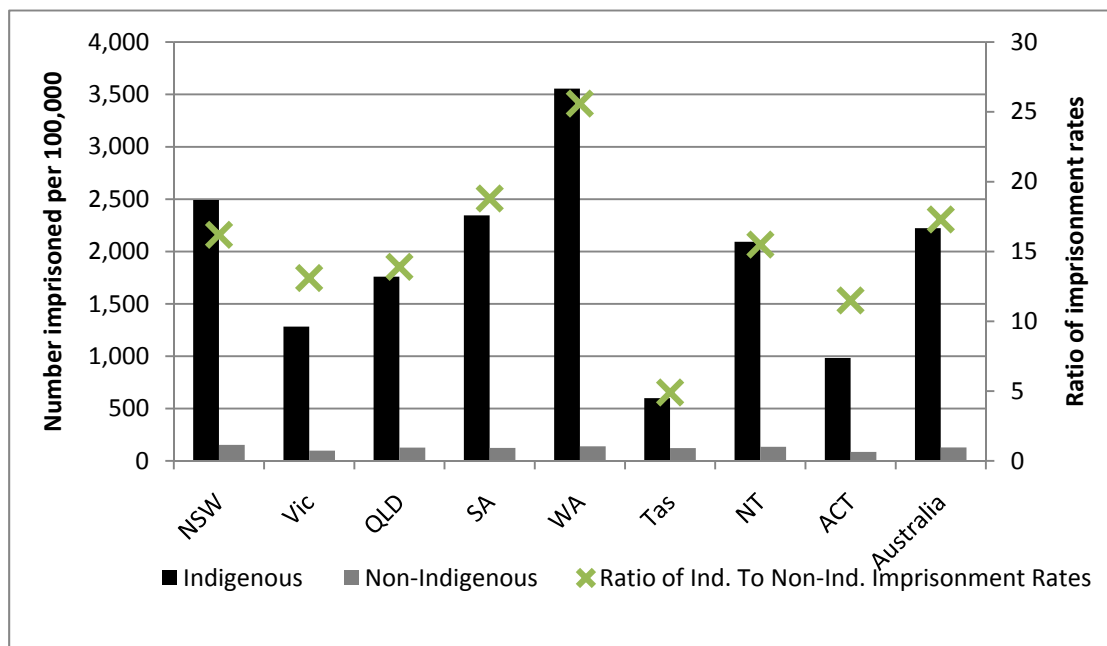
4.5 The committee would also like to acknowledge Ms Daisy Andrews of Karrayili Adult Education Centre for her welcome to country in Fitzroy Crossing and Mr Ken Colbung and members of the WAITCH project for the very warm welcome to country provided by the group at the committee's Perth hearing.

4.6 This chapter focuses on thematic issues that were raised consistently with the committee, including: the justice system and high rates of incarceration, municipal service delivery in remote communities, mental health, recent alcohol restrictions in the Kimberley and the prevalence of Foetal Alcohol Spectrum Disorder. These issues are discussed below.

Justice and the legal system

4.7 Western Australia has the highest adult Indigenous imprisonment rate in Australia, with 3556.3 per 100 000 people imprisoned in 2008.¹ Chart 4.1 compares Indigenous and non-Indigenous imprisonment rates across Australia.

Chart 4.1: Imprisonment rates by state/territory, 2008



Source: Australian Bureau of Statistics, *Prisoners in Australia, 2008*, catalogue no. 4517.0.

4.8 Chart 4.1 also shows the ratio of imprisonment rates in the Indigenous and non-Indigenous populations. The Indigenous imprisonment rate is 25.6 times higher than the non-Indigenous rate. This statistic does not take into account the younger age profile of the Indigenous population. As younger populations tend to have a higher rate of offending, the Australian Bureau of Statistics (ABS) also calculates an age-standardised statistic, which is more useful for comparing rates of imprisonment between Indigenous and non-Indigenous populations as it removes the bias towards imprisonment resulting from the younger age profile of the Indigenous population. The age-standardised ratio of imprisonment rates between the two populations in WA is 19.8.²

4.9 The Chief Justice of Western Australia, in a presentation to the Department of Corrective Services in 2009, set out a series of worrying statistics:³

- one in 15 Aboriginal men in WA was in prison in June 2008;

1 Australian Bureau of Statistics, *Prisoners in Australia, 2008*, catalogue no. 4517.0.

2 Australian Bureau of Statistics, *Prisoners in Australia, 2008*, catalogue no. 4517.0.

3 The Hon Wayne Martin, Chief Justice of Western Australia, *Corrective Services of Indigenous Offenders – Stopping the Revolving Door*, 17 September 2009, pp 1–5.

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- one in 160 Aboriginal women was in prison at that time;
 - Western Australia has the highest rate of detention for Aboriginal young people in Australia—approximately 700 per 100 000 in June 2007;
 - between 75 and 80 per cent of all young people detained in recent years were Aboriginal; and
 - Approximately 70 per cent of Aboriginal men leaving prison between 1 July 1998 and 30 June 2008 returned to prison by May 2009, compared to 40 per cent for non-Indigenous prisoners.

4.10 Appearing before the committee in Broome, the Aboriginal Legal Service of WA (ALSWA) elaborated further on recent juvenile detention statistics:

The statistics from last Friday indicate that 75 per cent of children in custody in WA are Aboriginal. That means 96 out of 131 children in custody at the moment are Aboriginal. The detention rate for Aboriginal children in WA is the highest in the country. It is double the national rate and 44 times higher than the non-Aboriginal rate. Superimposed over that, the recidivism rates for Aboriginal kids are absolutely staggering: 79 per cent for male Aboriginal juveniles and 64 per cent for female Aboriginal juveniles.⁴

4.11 The committee recognises that the high level of incarceration is not purely due to the justice system. It has its roots in poverty, lack of education and other socioeconomic factors affecting the Indigenous population. The committee received evidence from several organisations reflecting this view. Legal Aid WA, in their submission to the committee stated:

...the disproportionate number of Indigenous people in WA in custody, before the courts, and with children in State care is inextricably linked to health, housing, education and training and welfare problems in these communities. Improvements in the justice system will have reduced impact unless they are part of a holistic approach drawing on the strengths of these communities at the same time as well as addressing the problems in health, education, and welfare.⁵

4.12 ALSWA made the point that many juvenile offenders suffered from dysfunctional backgrounds making it more likely that they would offend:

...a lot of Aboriginal juvenile offenders are victims themselves. They are victims of dysfunctional family backgrounds, domestic violence, and exposure to alcohol and drug abuse by parents and other family members. They often suffer from serious physical illness or injury themselves, and

4 Mr Peter Collins, Aboriginal Legal Service of WA, *Committee Hansard*, 26 August 2009, p. 1.

5 Legal Aid Western Australia, *Submission 1*, p. 2.

they in turn become immersed in a system which is completely ill-equipped to assist them.⁶

4.13 The committee is of the view that the most obvious way to reduce incarceration rates is to create enduring improvements to the lives and living standards of Indigenous people. While recognising that the high incarceration rate is due to many social and environmental factors relating to the offenders themselves, the committee has also formed the view that the justice system itself could be improved in order to reduce the overly high rate of incarceration.

4.14 The evidence put before the committee suggests the need for a recalibration of the justice system, with more investment in both custodial and non-custodial programs that seek to address the causes of reoffending, rather than a reliance on the deterrent effect of imprisonment.

4.15 The committee would like to thank the WA government departments who engaged with the committee on issues of justice and corrective services. The committee formed a high opinion of officials who provided information to the committee during their WA hearings.

4.16 The following section considers issues raised by witnesses at the hearings in Western Australia. They are not in order of importance, but rather address each stage of involvement with the justice system.

Allegations of overpolicing

4.17 ALSWA was of the opinion that overpolicing in remote areas, particularly since the introduction of Multifunction Police Facilities (MFPF) was an issue. They called for more discretion to be exercised by officers in these areas:

We have a grave concern that permanent police presences in some of these communities means that Aboriginal people get charged with any number of minor offences, which brings them into contact with the system and, inevitably, leads to increased imprisonment rates.⁷

...the discretion that governs the decision to prosecute is structured in a set of rules called the [Director of Public Prosecutions] prosecution guidelines. ...They are rules that are reflected in a similar set of guidelines that are published by the police force. So the guidelines are well-known. The rules that should structure the exercise of a discretion as to whether or not to initiate a prosecution or whether or not to continue with it have been around for decades. It just seems that they are not being applied in practice. We are not asking for a serious crime not to be prosecuted but simply for the discretion at an early stage to be properly exercised so that inappropriate cases are not being brought before superior courts, particularly with young

6 Mr Peter Collins, Aboriginal Legal Service of WA, *Committee Hansard*, 26 August 2009, p. 5.

7 Mr Peter Collins, Aboriginal Legal Service of WA, *Committee Hansard*, 26 August 2009, p. 3.

people who, when you look at their culpability and the gravamen of their conduct, it just should not attract a criminal prosecution.⁸

4.18 Inspector Jim Cave, of the WA police, responded directly to these concerns, stating:

I heard this morning a concern raised by ALS in relation to the overpolicing in remote communities. The WA Police strongly reject this opinion and consider that the presence of police alongside a DCP officer working within the community can only benefit the community...

4.19 Inspector Cave particularly addressed concerns of overpolicing of traffic offences:

...Yes, we do police the communities, and that is mainly because of the serious and fatal crashes. The four main factors for those crashes are speeding, alcohol, not wearing a seatbelt and fatigue. We need to manage those; otherwise people are going to kill themselves. I reject the comment from Mr Collins that we are just picking on people for the sake of it.⁹

4.20 Acting Commander Darryl Gaunt emphasised that it was the policy of the WA police to use discretion where appropriate in remote communities:

With the remotes, one thing I hammer into the troops out there is that the focus out there is not to lock people up for driving under suspension or to book work orders on cars. That is not our focus.¹⁰

4.21 The committee recognises the responsibility of the police to maintain public safety. The committee encourages Western Australian police to ensure that the message of discretion advocated by the Acting Commander is well understood by officers in the field, and that appropriate training and support to police is provided in the application of guidelines that govern this discretion.

Recommendation 5

4.22 The committee recommends that the Commonwealth support the Western Australian Police in continuing to ensure that the message to use greater discretion in policing in remote communities is communicated to and well understood by officers in the field and that they have the appropriate guidelines, training and support to do so.

Driving offences

4.23 Legal Aid WA drew the committee's attention to the large number of Indigenous people in WA coming into contact with the justice system through driving

8 Mr Dominic Brunello, Aboriginal Legal Service of WA, *Committee Hansard*, 26 August 2009, p. 10.

9 Inspector Jim Cave, WA Police, *Committee Hansard*, 26 August 2009, p. 97.

10 Acting Commander Darryl Gaunt, WA Police, *Committee Hansard*, 9 October 2009, p. 120.

offences. According to a report released in 2007, approximately 30 per cent of the Indigenous prison population are there for offences relating to drink driving and drivers licenses.¹¹ The imprisonment rate for driving offences is 12.5 per cent for Indigenous people, compared with 2.9 per cent for non-Indigenous people.¹²

4.24 The following excerpt from an address by the Chief Justice of Western Australia describes the pattern of offending relating to drivers licenses:

There are significant structural issues at work which contribute to these statistics. The remoteness of many of the communities makes it extremely difficult for drivers licences to be obtained. Not uncommonly, because of the lack of alternative means of transport in the areas in which people live, young persons might be apprehended for driving without a licence before they are legally eligible to obtain a licence. Sometimes that might be because they had been directed to drive a vehicle by an older person who is intoxicated. The consequence of their conviction is of course that they are automatically disqualified from holding a licence for a period. Practical necessity might prompt them to drive unlawfully again during that period, with the result that another automatic disqualification follows. The result of this tragic cycle is often that Aboriginal people living in remote communities have no realistic prospect of obtaining a motor drivers licence in the foreseeable future, under the current legal regime. By the time they get to their 13th, or 23rd, or even 33rd conviction for driving without a licence, imprisonment seems the only appropriate penalty. By comparison to non-Aboriginal offenders who are in prison for driving offences, there are more Aboriginal offenders in prison for such offences who have never driven drunk or dangerously.¹³

4.25 Legal Aid WA recommended to the committee that in some situations there should be an amnesty around licenses, with ministerial discretion, in order to end a pattern of offending relating to licenses that results in imprisonment.¹⁴

4.26 A further problem related to driving offences is the application of fines. Given the low incomes of many offenders in remote communities, they have difficulty in paying fines. The application of a fine then leads directly to the offender being taken into custody when payment of the fine cannot be met.

...with the sorts of fines that are mandatorily imposed by the courts these days, people in these communities on CDEP or Centrelink do not have the capacity to pay. They do not pay and, eventually, they end up in custody for

11 *Indigenous Licensing and Fine Default: A Clean Slate*, Report presented on behalf of the Minister for Corrective Services, Margaret Quirk MLA, September 2007, p. 1.

12 *Indigenous Licensing and Fine Default: A Clean Slate*, Report presented on behalf of the Minister for Corrective Services, Margaret Quirk MLA, September 2007, p. 2.

13 The Hon Wayne Martin, Chief Justice of Western Australia, *Corrective Services of Indigenous Offenders – Stopping the Revolving Door*, 17 September 2009, pp 11–12

14 Mr Alexander Payne, Legal Aid WA, *Committee Hansard*, 9 October 2009, p. 3.

unpaid fines. Most of the Aboriginal women in custody in WA are in custody for unpaid fines.¹⁵

4.27 The Department of the Attorney-General in Western Australia informed the committee that a fine repayment scheme has been implemented in partnership with Centrelink that enables automated, gradual repayment of fines with the consent of the individual who is subject to the fine.¹⁶ The committee is pleased that this arrangement has been made available, but notes that continuing to impose fines on people in remote communities is likely to lead to a disproportionate number of offenders in custody.

4.28 The committee was pleased to hear that WA Police is making an effort to support greater education and driver awareness to reduce the likelihood of people having fines imposed against them, especially in relation to drivers licenses and driving offences.

The reality is that in some of those communities you would be lucky to find anyone with a drivers licence, and all you would do is perpetuate a problem that already exists. It is not our focus. Family violence and child abuse is our focus. Having said that, we will provide drivers licence education, particularly at Warburton. We run classes...in the court house. We do all that type of activity to help them get their licence. The major problem that occurs is not so much in Warburton; it is when they decide to drive to Laverton. The reality is that, once they go to a major town, they have to abide by the rules, because that is where Aboriginal people kill themselves. They kill themselves driving to those locations. Seat belt restraint is one of the big issues. They quite often do not wear seat belts. There is a large education push. What we did not want to do was lose the hearts and minds in the early days of this rollout to the point of nabbing people for what are seen as minor traffic offences when we are trying to develop their ability to normalise.¹⁷

4.29 Acting Commander Gaunt went on to state that although police in remote communities have a process in place to encourage people to get licenses and abide by road rules, there were significant problems associated with people driving in major towns.

As I tell all of the communities when I go and speak to them, there will be a point where we expect them to lift their standard—because that is why we are there. The state and the Commonwealth have made a significant investment in having us out there and the return on that investment needs to be that they have to raise the standard and their ability to get drivers licences and drive roadworthy cars and abide by normal road rules. What

15 Mr Peter Collins, Aboriginal Legal Service WA, *Committee Hansard*, 26 August 2009, p. 3.

16 Mr Andrew Marshall, Department of the Attorney General, *Committee Hansard*, 9 October 2009, pp 86–87.

17 Acting Commander Darryl Gaunt, WA Police, *Committee Hansard*, 9 October 2009, p. 121.

we do not do, though, is park at the stop sign at Warburton and grab them for driving through the stop sign, because it is counterproductive...

In the regional locations—the Hall Creeks, the Lavertons et cetera—they have to abide by the rules. It is a law-enforcement issue; it is where they kill themselves, and just as they are overrepresented in other areas they are also well overrepresented in fatal road crashes in those areas.¹⁸

Issues associated with bail

4.30 The committee heard evidence from a variety of witnesses about the difficulties associated with bail in regional and remote communities. Some witnesses felt that there was a lack of discretion in granting bail.

In 2005 I acted for a 15-year-old boy from a place called Onslow who had been in trouble in the past. He was charged with attempting to steal a \$2.30 ice-cream. He was refused police bail. He was refused bail by a JP in Onslow and ended up spending two weeks in custody before he was finally dealt with for attempting to steal a \$2.30 ice-cream.¹⁹

4.31 However, the committee recognises the difficulties faced by justice officials in remote communities in some circumstances.

Police have a duty of care to victims and juvenile offenders. It is difficult to contact a responsible adult to bail the child before he or she attends court.²⁰

4.32 This issue is particularly significant in light of the recent death of an Aboriginal elder who was denied bail after being charged with drink driving and died while being transported to the regional prison. The coronial inquest into the death found shortcomings in the understanding of the bail process by police and the Justice of the Peace in question. The coroner recommended that improvements be made to training for justice officials in remote areas to ensure a full understanding of their responsibilities with respect to the bail process.²¹

4.33 The case highlighted the problem of the justice system often necessitating transportation of offenders over long distances and away from family and community. ALSWA was particularly concerned for young people in the Kimberley who are taken into custody a long way from their home communities.

Those problems with overrepresentation and incarceration rates are compounded here because juvenile detention centres are in Perth. Kids who either are refused bail or are sentenced to terms of detention are transported all the way from the Kimberley to the two detention centres in Perth. They are incredibly damaging experiences for Aboriginal kids. In addition to that,

18 Acting Commander Darryl Gaunt, WA Police, *Committee Hansard*, 9 October 2009, p. 121.

19 Mr Peter Collins, Aboriginal Legal Service WA, *Committee Hansard*, 26 August 2009, p. 3.

20 Inspector Jim Cave, WA Police, *Committee Hansard*, 26 August 2009, p. 96.

21 Coroner of Western Australia, *Inquest into the Death of Mr Ward*, June 2009, pp 135–142.

kids who are sentenced or refused bail are sometimes held in police cells here in Kimberley police stations. We have had cases where 12- and 13-year-old children have spent over a week in a police cell before being transported south to juvenile detention centres. Some of the police cells here are appalling—totally ill-equipped to safely house children.²²

4.34 Legal Aid WA recommended that the *Bail Act 1982* (WA) should be amended to include consideration of the effects of transportation in the decision to grant bail.²³

4.35 The Department of the Attorney-General informed the committee that they are currently making changes to the Bail Act and establishing video conferencing facilities in Multifunction Police Facilities in an effort to improve access to justice in remote areas.²⁴

4.36 The committee will follow this review of the Bail Act and the impact any changes have on people living in regional and remote Indigenous communities.

Lack of innovative sentencing options in regional and remote areas

4.37 The lack of sentencing options in regional and remote areas of Western Australia appears to be a significant problem. Witnesses overwhelmingly pointed to a lack of community based sentencing options, including effective court orders, diversionary and rehabilitation programs or community service in remote areas. Where options did exist, they were under resourced and less effective than communities expected them to be.

...magistrates often do not have the same range of sentencing options in remote areas that they have in metropolitan areas, and even larger regional areas such as Kalgoorlie. That means that people might, for example, get a fine when they may require a supervisory order to address the underlying issue behind their offending, but that supervisory order is not available.

Even if they are put on orders, sometimes it is a really brief intervention by the community justice officers because they do not actually live in the community. It is a brief intervention when they go to the community on a monthly or bimonthly basis, and the top-up on supervision is often by phone. The counselling or program requirements for many orders are virtually nonexistent in those remote communities. Even the community service work is often not available in those areas, because of a lack of supervisors. Sometimes the work, even when it is available, is not really meaningful work that helps develop skills that might flow on to subsequent employment.

22 Mr Peter Collins, Aboriginal Legal Service WA, *Committee Hansard*, 26 August 2009, p. 2.

23 Mr Alexander Payne, Legal Aid WA, *Committee Hansard*, 9 October 2009, p. 8.

24 Mr Andrew Marshall, Department of the Attorney-General, *Committee Hansard*, 9 October 2009, p. 84.

That is a significant issue. It means that the underlying issues underlying the offending behaviour are not really being satisfactorily addressed.²⁵

4.38 This point was also made by ALSWA, using the example of Fitzroy Crossing:

Fitzroy Crossing...is one of the 26 large Aboriginal communities that is being targeted by the federal government with its new funding policy. It has one drug and alcohol counsellor for the whole town. There is no psychiatric or psychological diversion or rehabilitation program. There is no sex offence program. There is no victim offender mediation. There is a very limited capacity for the department of corrections or juvenile justice to put adults or juveniles on work orders, particularly females. So what it all means is that when a magistrate sitting in these jurisdictions is sentencing a person and trying to craft a fair and just community-based order, they have got no practical options which they can incorporate in those orders. The unfortunate consequence on many occasions is that magistrates become frustrated and turn to the next option in the line, which is a term of either suspended or immediate imprisonment, and that just increases incarceration rates.²⁶

4.39 The Department of Corrective Services was well aware of this issue, stating:

We have to be completely honest with the committee and say that remote delivery of programs is not happening in the short term due to lots of logistical problems and the fact that it is an expensive option and also that, in real terms, we do not have the staff or the skills to be able to deliver those programs.²⁷

4.40 The department informed the committee that it was beginning to increase the number of community programs, but that this was occurring from a very low base and remained concentrated in metropolitan areas. They were unable to run adult community programs in the Pilbara, the Kimberley or the Eastern Goldfields as the requisite psychologists and social workers were not there in sufficient numbers.²⁸

4.41 The department indicated that group programs in particular were logistically difficult to deliver in remote areas.

Generally, running a program involves eight to 10 people. Having those people in the same place at the same time within a remote community and then having the facilitators there is difficult. Some programs that we run quite intensively within the prison system are 460 hours. The reality is that

25 Mr Alexander Payne, Legal Aid WA, *Committee Hansard*, 9 October 2009, p. 3.

26 Mr Dominic Brunello, Aboriginal Legal Service WA, *Committee Hansard*, 26 August 2009, p. 9.

27 Ms Jacqueline Tang, Department of Corrective Services, *Committee Hansard*, 9 October 2009, p. 81.

28 Ms Jacqueline Tang, Department of Corrective Services, *Committee Hansard*, 9 October 2009, p. 81.

the integrity and the logistics of such an intensive program just do not happen.²⁹

4.42 The department also highlighted the cost and difficulty in attracting staff to work in regional and remote areas as central to the lack of community programs.

When people at public service levels, as in level 5 or level 6, are travelling out, apart from reimbursement of your accommodation and meals there is no other incentive to do that type of work than passion for the job. If you are travelling you are not paid an additional disadvantage allowance or anything for being away from your family for that period of time. With respect to program staff I have, we introduced in the last 12 months an Aboriginal facilitation unit where they are travelling throughout the state, largely in the north and across to Eastern Goldfields, delivering programs to offenders in custody. They can be away from their families for up to 20 weeks of any one year, but there is nothing that I can offer them as an incentive over and above their standard wage for a programs officer which is the same wage as they would get if they were delivering locally in Hakea or Casuarina prison.³⁰

4.43 This was in stark contrast to the incentive structure put in place by WA Police that offered officers a senior rank, 40 per cent salary loading in lieu of on-call and overtime payments, accommodation, an additional four weeks holiday per year and funding to take their family to the coast for a holiday twice per year.³¹ Similarly, the WA Department of Child Protection reported a 25 per cent package bonus including a vehicle, rent free accommodation and extra holidays for remote workers.³²

4.44 The committee is concerned that there are no corresponding incentives offered to staff of the Department of Corrective Services as compared with other Western Australian departments to attract and retain staff to perform challenging tasks in remote areas.

4.45 The committee notes that the appropriate remuneration of staff in remote communities is essential to the attraction and retention of a skilled workforce. The committee has found this to be the case in all remote communities that it has visited.

29 Ms Jacqueline Tang, Department of Corrective Services, *Committee Hansard*, 9 October 2009, p. 76.

30 Ms Jacqueline Tang, Department of Corrective Services, *Committee Hansard*, 9 October 2009, pp 78–79.

31 Acting Commander Darryl Gaunt, WA Police, *Committee Hansard*, 9 October 2009, pp 112–114.

32 Mr Terrence Murphy, Department for Child Protection, *Committee Hansard*, 9 October 2009, p. 58.

Recommendation 6

4.46 The committee recommends that all Commonwealth, state and territory government departments provide appropriate remuneration packages to staff in remote communities in order to attract and retain a skilled workforce.

4.47 The Department of the Attorney-General was also aware of calls to develop innovative sentencing options for regional and remote areas, stating:

We have currently got a review going of the state sentencing act, which is the primary act around the sentencing of offenders. It is a statutory review so it is looking at the existing act but, in the process, we are also putting together a paper around other innovative sentencing options. The key one is—we have had requests from our Chief Justice and other heads of jurisdiction—can we come up with, or has anybody come up with, a community based option that could work in regional and remote areas with a low overhead of supervision?³³

4.48 Non-custodial sentencing options may need to address actual causes of reoffending if they are to have an impact on imprisonment rates. Evidence presented to the committee by Dr Don Weatherburn, from the New South Wales Bureau of Crime Statistics and Research, suggested that unless measures were in place to address reoffending, non-custodial sentencing options are merely 'another step on the ladder...that a person goes up before ultimately ending in jail.'³⁴

If you want to reduce Aboriginal imprisonment and Aboriginal crime you really need to come up with alternatives to custody that are effective in reducing reoffending. Those programs, on the international evidence, have to address the underlying risk factors for involvement in crime. For Aboriginal adults the number one risk factor is drug and alcohol abuse; it is far more important than unemployment or financial stress or lack of social support. All of these factors are important, however drug and alcohol abuse stand out so far above the rest of the factors as predictors of adult Aboriginal involvement in crime that unless you do something about that you do not have too much hope of success.³⁵

4.49 Mr Jamie Elliot, of the Halls Creek People's Church described the dilemma faced by a friend who had had contact with the justice system and the need for diversionary programs to keep people in his situation from reoffending:

He goes through a stage where he works all the time. Then, after a while, things get tough and he gets back onto alcohol and goes straight back in again. He is at a stage in his life where he can only make one mistake and

33 Mr Andrew Marshall, Department of the Attorney General, *Committee Hansard*, 9 October 2009, p. 91.

34 Dr Don Weatherburn, NSW Bureau of Crime Statistics and Research, *Committee Hansard*, 15 October 2009, p. 22.

35 Dr Don Weatherburn, NSW Bureau of Crime Statistics and Research, *Committee Hansard*, 15 October 2009, p. 22.

that one mistake means that—bang!—he is straight back behind bars. There is very little margin for error right now. I thought: ‘What is there for him? He’s someone who is crying out for help but just can’t get it.’ I cannot find any really good program for young men or anyone in that situation.³⁶

4.50 Dr Weatherburn informed the committee that neglect and abuse were major contributing factors for juvenile offending. He informed the committee that an intensive program known as multisystemic therapy was being trialled in NSW. The program involves a team of people working with the individual and parents over a period of about six months, with intensive monitoring.³⁷

As a general rule you need to distinguish between programs that are designed to reduce juvenile reoffending and programs that are designed to reduce adult reoffending. You also need to distinguish between adults who are, for example, coming out of jail and who may have a heavy amphetamine or heroin dependence and where the appropriate response might be to place them on a methadone program—although I should say in passing that I understand a lot of Aboriginal people do not like methadone—or some form of treatment program to address the drug addiction and programs that might, for example, in a rural community do something to address the problems of spousal violence or family violence. I do not see it as a single magic bullet that fixes all problems, it is a matter of looking at the context, the resources available and the particular problem that you have at hand.³⁸

4.51 The committee is aware that the provision of services such as drug and alcohol rehabilitation or an intensive multisystemic therapy program in remote areas is extremely expensive. However, there is reliable evidence to suggest that incarceration is a much more expensive option over the long term.

4.52 For instance, the Law Reform Commission of Western Australia calculated that the annual cost of imprisonment for each adult in WA in 2007–08 was approximately \$100 000.³⁹ The same figure for the detention of a juvenile was \$173 000.⁴⁰ The Department of Corrective Services informed the committee that much of the annual cost of keeping an individual in prison was fixed.⁴¹ The marginal cost differential of moving an offender from imprisonment to a non-custodial program

36 Mr Jamie Elliot, Halls Creek People's Church, *Committee Hansard*, 25 August 2009, p. 43.

37 Dr Don Weatherburn, NSW Bureau of Crime Statistics and Research, *Committee Hansard*, 15 October 2009, p. 24.

38 Dr Don Weatherburn, NSW Bureau of Crime Statistics and Research, *Committee Hansard*, 15 October 2009, p. 24.

39 Law Reform Commission of WA, *Court Intervention Programs: Final Report*, June 2009, p. 11.

40 *Ibid.*, p. 11.

41 Ms Jacqueline Tang, Department of Corrective Services, *Committee Hansard*, 9 October 2009, p. 82.

is thus not a straight trade off in the short term, although it may be in the long term. The department informed the committee that in terms of this kind of cost-benefit analysis, 'the equations have not been done.'⁴²

4.53 The committee considers that there would be a tangible benefit in undertaking a cost-benefit analysis to determine whether a shift of funding from the prison system to non-custodial programs that address the underlying causes of offending would be cost effective and deliver better correctional outcomes. This would also have to take into account the long term social and economic benefits of lower numbers of Aboriginal people in WA prisons.

4.54 The committee is of the view that a reliance on imprisonment does little to address the underlying causes of offending and achieves little towards decreasing crime in remote communities. As Assistant Commissioner Tang told the committee at their Perth hearing:

Whether you are Aboriginal or non-Aboriginal and your circumstances are so poor or you are living in such poverty, imprisonment clearly cannot be a deterrent.⁴³

Recommendation 7

4.55 The committee recommends that the Western Australian government consider conducting a comprehensive analysis of non-custodial sentencing options to reduce the unacceptably high incarceration rates in regional and remote Indigenous communities, with particular attention to the social and economic costs and benefits of alternatives and the factors driving significantly high rates of reoffending.

4.56 The committee notes the existence of initiatives of the WA government such as Juvenile Justice Teams (JJT) that arrange meetings with the offender, a responsible adult and the victim of the offence. The committee commends the WA government on the implementation of such a program that seeks to intervene at an early stage of offending by young people. The committee notes however, the comments of Inspector Jim Cave concerning the lack of capacity of this program:

There has been a backlog of JJT meetings across the state and across the entire Kimberley. At present there are 162 JJT matters that are outstanding in the West Kimberley and 67 for the East Kimberley, which puts us in a very difficult situation. Juvenile offenders who have not appeared before the JJT are still offending, and the magistrates refer all offences back to the JJT until they have passed on that process, so in fact they do not get dealt with until they attend the JJT.⁴⁴

42 Mr Neil Fong, Department of Corrective Services, *Committee Hansard*, 9 October 2009, p. 82.

43 Ms Jacqueline Tang, Department of Corrective Services, *Committee Hansard*, 9 October 2009, p. 83.

44 Inspector Jim Cave, WA Police, *Committee Hansard*, 26 August 2009, p. 96.

4.57 The committee is also pleased to note that the WA government provides an Indigenous Diversion Program (IDP) in the Kimberley through the Kimberley Community Drug Service Team. The committee was advised that:

IDP Diversion Officers travel on the Magistrate's Circuit and service all related courts. From the base in Broome the West Kimberley IDP position services Derby, Fitzroy Crossing, Broome, Bidyadanga and Dampier Peninsular. The East Kimberley IDP position, based in Kununurra, services Kununurra, Wyndham, Kalumburu, Oombulgurri, Balgo, Halls Creek and Warmun.

The Indigenous Diversion Officers are court based and provide immediate assessment and referrals to treatment programs. Offenders are referred to IDP via magistrates, police and various other court stakeholders including legal representatives. Self referral is also acceptable. Once referred to IDP, the individual is assessed by the Indigenous Diversion Officer and referred to suitable alcohol and drug services. IDP Officers are responsible for providing treatment reports from agencies back to magistrates for sentencing.⁴⁵

4.58 Obviously for any initiative to be successful, it must be met with adequate resourcing. Dr Weatherburn made the comment that this was an area that governments often found difficult. To get results, programs needed to be large in scale. However, it can be difficult for a government to make large scale investments without evidence of results.

Across the country you will find programs that have been introduced that are quite effective but which have no capacity to produce a material reduction in crime because they are too small. That constrains politicians as they are not able to claim success in reducing crime rates because the measures they have taken win them votes in the short run but do not have any lasting capacity to make a measurable difference to public safety. The one thing that does is locking hundreds of people up every year. Well, if we put as much resources into post-release programs for people coming out of jail or even a fraction of the resources, you would see measurable effects on crime.⁴⁶

4.59 The committee is concerned that much needed programs such as the Juvenile Justice Teams and Indigenous Diversion Program discussed above, fall within the category of programs that Dr Weatherburn is referring to; that is they are small in scale and may not have an immediate measurable impact on reducing offending and recidivism.

4.60 Given the weight of evidence put to the committee on the need for these programs and the importance of reducing Indigenous incarceration rates, the

45 Correspondence to committee from WA government, received 12 October 2009.

46 Dr Don Weatherburn, NSW Bureau of Crime Statistics and Research, *Committee Hansard*, 15 October 2009, pp 31–32.

committee considers that these programs should be continuously evaluated for impact, and strengthened to ensure that individuals and communities are being supported to arrest the cycle of offending behaviour.

Lack of rehabilitation programs in custody

4.61 Statistics on the extremely high number of Indigenous people in prison are presented at the start of this chapter. The rate of recidivism by Indigenous prisoners who have served custodial sentences is also extremely high. For adults, the recidivism rate is almost 70 per cent for men and 55 per cent for women. For non-Indigenous men and women, the rates are significantly lower at approximately 40 per cent and 30 per cent respectively.⁴⁷ The extremely high rates of recidivism suggest that the custodial environment is doing little to deter reoffending, particularly for Indigenous prisoners.

4.62 The committee heard from the WA Department of Corrective Services that education and vocational training operated in each prison in the state.⁴⁸ The department has also moved to subcontract the delivery of some services in regional prisons such as drug and alcohol rehabilitation and domestic violence programs, although the committee has not received evidence as to the effectiveness of this.⁴⁹

4.63 The committee notes a recent inspection report by the Inspector of Custodial Services of Broome Prison, a facility with a majority Aboriginal population, found that:

...there is an almost complete absence of culturally appropriate programs that address offending behaviour for Aboriginal prisoners. One consequence of this is the higher rate of recidivism (rate of return to custody or community corrections) among Aboriginal prisoners, which incidentally, is highest at Broome Prison⁵⁰

4.64 One positive innovation is the expansion of work camps that operate as minimum security facilities to regional areas. The Department of Corrective Services informed the committee that these minimum security facilities would allow prisoners to work in communities while receiving on the job training. In addition to developing work skills, the program would enable prisoners to maintain a connection to home communities during their sentence. The department intends to redevelop the Wyndham facility and construct new facilities in the Wheatbelt and at Warburton.⁵¹

47 The Hon Wayne Martin, Chief Justice of Western Australia, *Corrective Services of Indigenous Offenders – Stopping the Revolving Door*, 17 September 2009, pp 4–5.

48 Ms Jacqueline Tang, Department of Corrective Services, *Committee Hansard*, 9 October 2009, p. 80.

49 Ms Jacqueline Tang, Department of Corrective Services, *Committee Hansard*, 9 October 2009, p. 82.

50 Office of the Inspector of Custodial Services, *Report No. 56*, November 2008, p. v.

51 Mr Neil Fong, Department of Corrective Services, *Committee Hansard*, 9 October 2009, p. 83.

4.65 The committee looks forward to following the progress of these facilities.

Recommendation 8

4.66 The committee recommends that the Western Australian government consider undertaking an audit of the substance and scale of rehabilitation programs and post-custodial release programs to address the unacceptably high rate of Indigenous recidivism in the state.

Recommendation 9

4.67 The committee recommends that the Western Australian government consider developing a comprehensive, culturally appropriate strategy to address Indigenous incarceration rates and recidivism that is based on sound international and domestic evidence.

Municipal services

4.68 At committee hearings held in the Kimberley and at a subsequent hearing in Perth, the committee encountered widespread confusion about the roles and responsibilities of organisations in delivering municipal services to remote Indigenous communities. In metropolitan and even regional Australia, this role would fall to local government. However, the unique situation of many remote communities, which fall outside of local government areas, presents existing local governments in these areas with a funding dilemma if they are to provide services. Shires in the Kimberley do not take a uniform approach to dealing with these communities and the communities themselves were often unclear about which organisations were responsible for providing particular services. The situation is further complicated by the roles of both state and Commonwealth governments in funding arrangements. In the words of the Director-General of the Department of Indigenous Affairs: 'To be honest, it is a confused place at the moment.'⁵²

4.69 The committee found significant deficiencies in the provision of rubbish tips, fire fighting facilities and road maintenance. These issues are addressed below.

4.70 The general confusion appears to arise from the Bilateral Agreement on Indigenous Affairs between the Commonwealth and Western Australian governments and signed in 2006. Under this agreement, municipal services, which had previously been funded by the Commonwealth, were to be 'regularised' and handed over to state and local governments:

The Governments agree as a priority to work together to improve the delivery of municipal services to Indigenous communities in Western Australia. To this end, the Governments will work cooperatively to progress the transfer of activities currently undertaken through the Australian Government's municipal services funding. It is envisaged that this will

52 Mr Patrick Walker, Department of Indigenous Affairs, *Committee Hansard*, 9 October 2009, p. 101.

involve a progressive transfer of responsibility and agreed levels of funding from the Australian Government to the Western Australian Government and increased involvement of local governments in service delivery to Indigenous communities.

4.71 The Commonwealth and WA governments agreed that transfers of responsibility would not result in an overall reduction in effort by either party, and the agreement acknowledged that increased involvement of local governments required the development of mechanisms to augment the revenue of local governments.⁵³ The Western Australian Local Government Association (WALGA) was critical of the agreement, on the grounds that as a bilateral agreement, the decision to hand over greater responsibility to local governments had been made without due consultation with local governments themselves.⁵⁴

4.72 Several shires that gave evidence to the committee held a similar view, expressing concern that they were being asked to take on liabilities and services in the absence of agreed funding and responsibility:

I will go back to the bilateral agreement, which was developed and signed off by the federal government and the state government without any consultation with local government and certainly without any consultation with any of the communities...

I acknowledge that it is now being handled under the COAG agreement in a different format, but the issues arising are very similar... What is the definition of municipal services? Who is providing these services currently? Is it FaHCSIA, the Department of Indigenous Affairs or the Department of Housing? Who is providing these services? In fact, what services are required? No-one did an audit; no-one asked. What services are being provided by whom and how are they being funded? That was a question we raised.⁵⁵

4.73 One exception was the Shire of Halls Creek, which considered that it had a duty to provide services to all communities within its borders.⁵⁶ The Shire had undertaken a business plan assessing what the provision of services might cost and suggesting a model for its delivery.

4.74 The committee asked the Western Australian government for a response to the Shire of Halls Creek business plan, titled *Regularising Local Government Services in Halls Creek Shire*. The government responded stating that the Halls Creek study and a similar study by the Shire of Derby/West Kimberley were being used to 'inform the

53 Bilateral Agreement on Indigenous Affairs between the Commonwealth of Australia and the State of Western Australia 2006–2010, s. 3.4.

54 Mr William McLennan and Ms Jodie Holbrook, Western Australian Local Government Association, *Committee Hansard*, 9 October 2009, p. 124.

55 Mr Graeme Campbell, Shire of Broome, *Committee Hansard*, 26 August 2009, p. 58.

56 Mr Warren Olsen, Shire of Halls Creek, *Committee Hansard*, 24 August 2009, p. 3.

continuing work of progressing the normalisation of local government services to Indigenous communities under the National Indigenous Reform Agreement.⁵⁷

4.75 The net result of the confusion arising from the 2006 agreement appears to be a reduction in the quality of municipal services. The more recent COAG National Partnership Agreement on Remote Indigenous Housing contains a provision for a report by December 2009 on a proposal for:

- clearer roles and responsibilities and funding with respect to municipal services and ongoing maintenance of infrastructure and essential services in remote areas.;
- a timeframe for implementation of new arrangements and for these arrangements to be in place from 1 July 2012.⁵⁸

4.76 The committee looks forward to the release of the report and will follow developments with interest in the next committee report in 2010. The committee is concerned that the 2012 implementation date may mean that no progress is made in the next two years. Given the poor condition of municipal services that the committee encountered in the Kimberley, the committee considers this to be an urgent priority.

4.77 The committee is also concerned that local governments consider that they are not engaged in the COAG process, despite being asked to play an integral role. Although the president of the Australian Local Government Association (ALGA) is a member of COAG and a party to COAG decisions, this does not appear to be translating into effective communication with or involvement of local governments in Western Australia.

Recommendation 10

4.78 The committee recommends that COAG increase the level of consultation and engagement with local governments in formulating its strategy to deliver cost-effective and appropriate municipal services to remote communities and develop an explicit communication strategy to ensure that local government in Western Australia is aware of its responsibilities.

4.79 Evidence received by the committee on the state of municipal services in remote communities suggests that there has been a decline in services following the bilateral agreement. The committee also found confusion on behalf of local organisations regarding where responsibilities for municipal services now lay.

Mrs Muir—A little bit of the confusion for us is...the funding moves around between service providers and there is no communication with us, for instance, so we do not actually know who holds the bucket of money that looks after the tips or who holds the bucket money that looks after

57 Correspondence to committee from WA government, received 12 October 2009.

58 Council of Australian Governments, *National Partnership Agreement on Remote Indigenous Housing*, p. 6.

sewage ponds and those sorts of things. Then there is a breakdown because, while our team do their work, they do not know what the pathway is to get those services done. That has been a significant problem for us, especially over the last two years, because funding has been moving around between service providers but nobody seems to know who is—

Senator SIEWERT—Why does it keep moving around?

Mrs Muir—The government seems to be moving things around but nobody tells us where the money is and who is actually doing the job. As you were saying, we might go to the [Indigenous Coordination Centre (ICC)] and complain, thinking the ICC is responsible for a certain thing. I had a meeting with a [Centre for Appropriate Technology (CAT)] lady last week and she clarified something for me that I thought had been in place for the last 18 months. She said, ‘No. CAT has had no responsibility for that over the last 18 months.’ Yet, we very clearly thought that they did.⁵⁹

4.80 In correspondence to the committee, the Centre for Applied Technology (CAT), a service provider based in the Kimberley, informed the committee that funding for municipal services was provided by the Commonwealth Community Housing and Infrastructure Program (CHIP) until recently. CHIP funding was then administered by the WA Department of Housing and Works (DHW). Where previously the funding had covered rubbish tip, internal road, firebreak and airstrip maintenance, the funding has now been restricted to power, sewerage treatment and water supply.⁶⁰

Centre for Appropriate Technology...currently provide municipal services to 48 remote aboriginal communities in the Kimberley under a FaHCSIA funding agreement. CAT have provided a similar service for many years. Over the past two–three years, the FaHCSIA funded [CHIP] program has been administered by the WA State's Department of Housing and Works (DHW).

Funding for Rubbish Tip Maintenance, Internal Road Maintenance, Firebreaks Maintenance and Airstrip Maintenance from the [CHIP] funding for the past few years through DHW has ceased. When questioned regarding the funding for the above maintenance activities the response has been that their focus is on housing and essential services (power, sewerage treatment and water supply) only.

These maintenance activities, which have not been funded, have resulted in the infrastructure coming into disrepair and requires considerable funding to restore them to a serviceable condition.⁶¹

59 Ms Patricia Muir, Nindilingarri Cultural Health Services, *Committee Hansard*, 24 August 2009, pp 54–55.

60 Correspondence to committee from the Centre for Appropriate Technology, received 26 August 2009.

61 Ibid.

4.81 In an answer to a question on notice about rubbish tip maintenance provided to the committee by DHW, the department stated that they were responsible for the maintenance of essential services (water, waste water and power) under the Remote Area Essential Service Program (RAESP).

There are 93 RAESP communities where this service is provided, generally based on population size. There is provision for replacement of failed essential service infrastructure in non-RAESP communities. The Department of Housing is not responsible for the provision of municipal services.⁶²

4.82 Mamabulanjin Aboriginal Corporation, a service provider appearing before the committee in Broome, was of the understanding that the municipal services program had stalled as a result of the bilateral agreement.

It is the same with municipal funding. It is the same with the federal FaHCSIA department. It is proven now that local government and the state government will not take the housing allocation off the feds in WA because it was never funded correctly. That has been proven because local government is saying, 'No, we're not going to take on that role,' and the state is saying, 'No, we're not going to take that money because you never funded the program properly.' So the municipal program has had to be put on hold for the last 2½ years, or even for three years, I think, because it was supposed to be handed over three years ago to the state and it still has not been handed over.⁶³

4.83 The committee is concerned that the bilateral agreement and subsequent developments have resulted in a situation where no level of government appears to taking responsibility for municipal services in remote Indigenous communities.

4.84 The sections below detail evidence provided to the committee on the poor state of three specific municipal services.

Rubbish tips

4.85 A number of witnesses attested to the sorry state of rubbish tips in small Indigenous communities in the Kimberley. There was some confusion in the communities themselves as to who was responsible for the funding and maintenance of rubbish tips. Kurungal Council, the representative body of Wangkatjungka, Ngumpan and Kupartiya communities, informed the committee that CAT handled the funding arrangements for municipal services such as rubbish tips.⁶⁴

62 Correspondence to committee from WA government, received 12 October 2009.

63 Mr Neil Gower, Mamabulanjin Aboriginal Corporation, *Committee Hansard*, 26 August 2009, p. 55.

64 Mrs Rhonda Wilcomes, Kurungal Council, *Committee Hansard*, 24 August 2009, p. 31.

4.86 As mentioned above, CAT no longer receive regular funding to undertake rubbish tip maintenance.

4.87 Complicating matters further for Kurungal Council, changes to Community Development Employment Projects (CDEP) funding has left the Council with less funding to pay the local workforce to undertake maintenance work such as fencing around rubbish tips.⁶⁵

4.88 The Shire of Derby/West Kimberley informed the committee that the Shire inspects tips on quarterly basis, however as the tips are not gazetted, they are not required to comply with legislation and corresponding standards that are required of communities that fall within gazetted areas.⁶⁶ For example, the Shire of Halls Creek informed the committee that the *Health Act 1911* (WA) did not apply to the land that many Indigenous communities are located on.⁶⁷ The WA government confirmed that as the Health Act does not currently bind the Crown, the Act does not apply to the many communities that are situated on Crown land.⁶⁸

4.89 Nindilingarri Cultural Health Services explained that under the former Aboriginal and Torres Strait Islander Commission (ATSIC), individual communities used to receive funding to manage their own tips, with a local Aboriginal organisation contracted to provide the service.⁶⁹ Karrayili Adult Education Centre was of the view that the new arrangements precluded local employment, stating:

There is no ongoing rubbish tip maintenance. There is no ongoing funding; it is sporadic, haphazard and uncoordinated, and people are not given the opportunity to be involved in the selection of people who do those jobs. There are plenty of good grader drivers and loader drivers within the valley who could be employed to do this work themselves.⁷⁰

4.90 The Shire of Halls Creek explained that community maintenance of the unsupervised tips was a major problem.

They have a level area, are fully fenced, have a good trench and have signs that say, 'Dump your putrescible waste in the trench and your green waste here and your old fridges over here, and tyres.' Unfortunately, nobody is doing any of that and that is the problem. They have such good tips that, if

65 Mrs Rhonda Wilcomes, Kurungal Council, *Committee Hansard*, 24 August 2009, p. 36.

66 Shire of Derby/West Kimberley, answer to question on notice, 24 August 2009 (received 10 September 2009).

67 Mr Warren Olsen, Shire of Halls Creek, *Committee Hansard*, 25 August 2009, p. 2.

68 Correspondence to committee from WA government, received 12 October 2009.

69 Mr Patrick Davies, Nindilingarri Cultural Health Services, *Committee Hansard*, 24 August 2009, p. 54.

70 Ms Tamela Vestergaard, Karrayili Adult Education Centre, *Committee Hansard*, 24 August 2009, p. 77.

they were sorting the refuse, the putrescible waste trenches for example would last for years.⁷¹

4.91 The committee notes that in addition to more effective provision of municipal services, successful management of tips will also require community education and support for their ongoing maintenance.

4.92 The WA Department of Environment and Conservation (DEC) informed the committee that waste management in the remote communities fell under the auspices of the *Environmental Protection (Rural Landfill) Regulations 2002*.

The regulations apply to landfill sites that receive more than 20 tonnes of putrescible waste per year. Landfill sites in this category and not exceeding 5000 tonnes per year of putrescible waste are required to be registered with DEC, be managed appropriately, be fenced effectively and subject to other requirements of the regulations.

It is estimated by the DEC that each person in a remote setting generates around 900kg of solid waste per year. The proportion of putrescible waste varies (25-45%), although it should be noted that in many remote settings most household waste would be disposed rather than recycled. The DEC entry point of 20 tonnes of putrescible waste would seem to imply that communities with a population of or in excess of 50 people would generate enough putrescible waste per annum to require a prescribed landfill site registered with DEC.⁷²

4.93 The department advised that the management and maintenance of landfill sites that were not registered with DEC was ad-hoc in nature.

The management and maintenance of landfill sites other than those operated by local governments in WA or private contractors registered or licensed through DEC is an ad-hoc approach. The involvement of key personalities in local government, private sector contractors and Aboriginal organizations is the driving force for much of the management of landfill sites in remote communities. Dedicated local people recognize the need to do something about landfill sites and get things done by whatever means and resources they can muster. This is assisted by the occasional funding from the Department of Housing or FaHCSIA to pay contractors to attend to crises when identified by environmental health practitioners working with Aboriginal communities, personnel from some participating local governments or community members.⁷³

4.94 DEC informed the committee that as the Health Act did not apply to communities on crown land, public health standards were not applied to those communities' rubbish tips. However, the Western Australian Department of Health

71 Mr Warren Olsen, Shire of Halls Creek , *Committee Hansard*, 25 August 2009, p. 8.

72 Correspondence to committee from WA government, received 12 October 2009.

73 Ibid.

funded approximately 60 Environmental Health Officers (EHOs) and Aboriginal Environmental Health Workers (AEHWs) across the state.

The Aboriginal Environmental Health workforce provides advice and assistance to remote Aboriginal communities for all environmental health affecting services (water, waste water, power, solid waste disposal, pest control, dog health, dust suppression and emergency management). The advice includes the technical understanding of management of these factors but it should be noted that there is no access to machinery to effect many of the changes. This is the responsibility of the infrastructure providing government departments. EHO's and AEHW's that identify significant problems with management of infrastructure including landfill sites can and do report them to the regional contractors and, in the lack of a response, to the government departments funding programs.

With respect to solid waste disposal, the difficulty is that DEC do not build, manage or fund landfill sites. The AEH workforce must appeal to Department of Health, FaHCSIA, local governments and any regional contractors to effect remedies.⁷⁴

4.95 The committee is strongly of the opinion that a more direct government chain of responsibility is needed to ensure appropriate environmental health standards in remote communities.

Fire fighting capacity

4.96 The committee was concerned by reports of a lack of fire fighting equipment in remote communities. The committee heard of two recent fires in remote communities that highlighted the dangerous lack of any chain of responsibility for emergencies in remote areas.

Last week there was a fire in Yiyili. I have had a number of reports from that. We did not actually learn about it until it was all over but apparently they rang [the Fire and Emergency Services Authority (FESA)] and FESA said to ring 000, so they rang 000 and thought that some sort of fire unit would be dispatched. They went up to the highway to wait for it and after a while they gave up. They rang the police in Halls Creek, who promised to follow it up for them. Presumably as a consequence of that they got a call from a senior FESA officer to say that no fire unit had been dispatched nor would one be dispatched and that it was a local government problem.⁷⁵

4.97 The lack of equipment and training in the communities themselves was no less disturbing:

We have fire hydrants at Wangkatjungka but no hoses, so if there is ever a fire we virtually have to aim the fire hydrant and hope it reaches the fire. We asked for fire trucks. There, again, CAT tried their hardest to get

74 Correspondence to committee from WA government, received 12 October 2009.

75 Mr Warren Olsen, Shire of Halls Creek, *Committee Hansard*, 25 August 2009, p. 10.

funding. If Kupartiya ever caught on fire, we would never get there in time to put it out. We have had a couple of fires at Wangkatjungka, but we were lucky enough that Christmas Creek, the station next to us, came out and helped the guys put it out with their little trailer. But it was not a huge fire. If ever anything happened that was bad, we would never put it out.⁷⁶

4.98 The committee considers that the potential for a disaster to occur in one of these communities is unacceptably high.

Road grading

4.99 One of the major expenses of shires in remote areas is the maintenance of roads. In Western Australia, there are approximately 9500 km of access roads serving 287 communities. Two thousand nine hundred kilometres of these roads are not serviced by local government.⁷⁷ These roads are ungazetted private roads. WALGA was concerned that the poor condition of most of these roads would be a significant liability for local government if it agreed to take responsibility for their maintenance under the bilateral agreement. WALGA informed the committee that to upgrade these roads to an acceptable standard would require \$110 million over 10 years.⁷⁸

4.100 The approach taken to road maintenance by each shire varied. One shire graded pastoral roads to the gates of pastoral properties. Where an Indigenous community lay beyond the gate, they would then grade the extra distance to that community.⁷⁹ Another shire would only grade gazetted roads due to concern about public liability.⁸⁰

4.101 The Shire of Halls Creek pointed to the economic benefit of well maintained roads. This benefit included increased tourist visitation through to better access for tradespeople and service providers. The Shire expressed its frustration that the existing state government funding for road maintenance would not give them the flexibility or scale of resources necessary to make long term improvements to the road network.⁸¹

Recommendation 11

4.102 As a matter of urgency, the committee recommends that all levels of government clarify who is to provide municipal services to remote Indigenous communities and arrange for the adequate resourcing of these services.

76 Ms Rhonda Wilcomes, Kurungal Council, *Committee Hansard*, 24 August 2009, p. 32.

77 Mr William Mitchell, WA Local Government Association, *Committee Hansard*, 9 October 2009, p. 122.

78 Mr William Mitchell, WA Local Government Association, *Committee Hansard*, 9 October 2009, p. 122.

79 Mr Andrew Twaddle, Shire of Derby/West Kimberley, *Committee Hansard*, 24 August 2009, p. 41.

80 Mr Graeme Campbell, Shire of Broome, *Committee Hansard*, 26 August 2009, p. 60.

81 Mr Warren Olsen, Shire of Halls Creek, *Committee Hansard*, 25 August 2009, pp 3–4.

Mental Health

4.103 The committee heard that there is a strong link between mental and physical health. Mr Darrell Henry, a psychologist working in communities in both the north and south of WA, expanded upon this link, stating:

We cannot make any real headway, in my view, in the physical health of our people without addressing this. I am sure that you are aware, but even in an area like diabetes, the research is there: the pathways of stress and distress and the neurological and endocrine system correlates of that and its effect on diabetes are well known. Yet we are struggling just in that one area. Unless we have a powerful therapeutic process around that as an issue you cannot get people who are well...

...when you look at the great wheels that run through our communities—wheels in terms of disturbance and hurt—there are family violence, child sexual abuse and neglect, suicide, the endless grieving, the dispossession and powerlessness, the multileveled layers of trauma that exist for our people.⁸²

4.104 Mr Henry informed the committee that there was a need for therapeutic programs to address this trauma, in addition to existing mental health services that tended to focus on serious diagnosed psychiatric conditions.⁸³

I have just come from a conference of Australian Indigenous doctors in Brisbane and the No. 1 priority they are putting forward, even though they are all medicos, is mental health—the deep need for social and emotional wellbeing programs.⁸⁴

4.105 The committee heard that Warmun Community, in the Kimberley, had employed Mr Henry to visit once a month in order to start trying to resolve some of the underlying issues in the community related to mental health.⁸⁵

4.106 The committee has previously commented on the lack of mental health services in Western Australia and in particular, the Kimberley, in its first report in 2008. The call for more mental health services in remote communities was repeated at public hearings in the Kimberley in 2009. The women's shelter in Halls Creek expressed a desire for such services for women and children at their facility:

A large number of people here require counselling, and I have had a lot of people coming to my doorstep saying, 'Will you counsel me? I have this issue.' Just like people go to the doctor's surgery up the road; I am wondering if there could possibly be a counselling service where people could go if they need help with anything. There are various counselling

82 Mr Darrell Henry, *Committee Hansard*, 8 October 2009, p. 34.

83 Mr Darrell Henry, *Committee Hansard*, 8 October 2009, pp 34–35.

84 Mr Darrell Henry, *Committee Hansard*, 8 October 2009, p. 34.

85 Mr Chris Clare, *Committee Hansard*, 25 August 2009, p. 14.

services but, for example, our women would not necessarily go up to the alcohol centre, because there are men there who are family men, and if they have just been in domestic violence situation they do not want to go up there. There are a few blockages. I think that a child psychologist is a real need...because we have children in, and they often get swept under the carpet because we are dealing with the parents' needs. The children often just go along with the package. It would be great if a child psychologist were to come.⁸⁶

4.107 The Commissioner for Children and Young People, Ms Michelle Scott, was deeply concerned by the lack of mental health services for children in the Kimberley in particular:

Just to give you one very simple example...in a community as large as the Kimberley community, there is not one child psychologist employed by mental health services for the whole of the Kimberley region, not one, despite the trauma and complex social issues which those children and their families experience.⁸⁷

4.108 The committee heard from several witnesses about ideas for therapeutic mental health programs that were based on connecting individuals to traditional culture, identity and country. One such model was the WAITCH project, a project to construct a holistic health learning facility that would be incorporated into a significant dreaming site. The project would build a traditional healing network based in Perth that would provide therapeutic healing and education in traditional medicine, counselling and other health areas. Participants from across WA would be trained in Perth before returning to their communities to pass on the knowledge. They would be kept in touch with the project through video conferencing technology where possible.⁸⁸

Alcohol restrictions

4.109 In March 2009, the Director of Liquor Licensing imposed restrictions on the sale of takeaway alcohol from outlets across the Kimberley. The sale of liquor with an alcohol content of more than six per cent in packages larger than one litre, and beer in glass containers larger than 400 millilitres is now prohibited. In effect, this curtails the sale of cask wine and large bottles of beer.

4.110 In addition, the sale of takeaway alcohol with a strength of greater than 2.7 per cent was restricted in Fitzroy Crossing on 2 October, 2007 and in Halls Creek on 18 May, 2009. In effect, this prohibited the takeaway sale of anything stronger than

86 Mrs Dale Reichel, Ngarangga Ngurra Aboriginal Corporation Safe House, *Committee Hansard*, 25 August 2009, p. 93.

87 Ms Michelle Scott, Commissioner for Children and Young People, *Committee Hansard*, 9 October 2009, p. 25.

88 Mr Vasudeva Barnao, WAITCH project, *Committee Hansard*, 9 October 2009, p. 15.

light beer. Stronger alcohol is still served within licensed premises in these communities.

4.111 A twelve month study into the effects of the Fitzroy Crossing alcohol restrictions by the University of Notre Dame was published in June 2009. The report found continuing health and social benefits arising from the restrictions and a need for increased support services to take advantage of the window of opportunity that the restrictions had created.⁸⁹ The committee's observations support these findings.

Police statistics

4.112 The Notre Dame report included quantitative data from the police station in Fitzroy Crossing. In comparing the year prior to the restriction to the year following its implementation, the police reported an 18 per cent decrease in the average number of tasks attended per month and a 28 per cent reduction in terms of alcohol related tasks.⁹⁰

4.113 The WA police presented data comparing the 14 weeks prior to the more recent Halls Creek restriction to the 14 weeks after its implementation:

I can tell you that arrests are actually down 40 per cent, the number of charges is down 50 per cent, domestic violence offences are down 39 per cent, nondomestic assaults are down 53 per cent, drink-driving is down 70 per cent, antisocial behaviour is down 27 per cent, reported offences are down 22 per cent, overtime is down 53 per cent and tasking jobs are down 46 per cent.⁹¹

4.114 In addition to these statistics, several witnesses mentioned that the restrictions had led to a restored sense of order in their towns:

Just the sheer noise level that used to happen when I first came here—you could not go to sleep at night without hearing screaming and arguing and that awful stuff of children screaming in the background. I was forever ringing the police saying, 'You've got to go and do something.' But I think the police humoured me at that point because it was always me who was on the phone again. That stuff has changed a lot.⁹²

89 University of Notre Dame, *Fitzroy Valley Alcohol Restriction Report*, July 2009, p. 10.

90 University of Notre Dame, *Fitzroy Valley Alcohol Restriction Report*, July 2009, p. 11.

91 Inspector Jim Cave, WA Police, *Committee Hansard*, 26 August 2009, p. 92.

92 Ms Christine Gray, Marninwarntikura Women's Resource Centre, *Committee Hansard*, 24 August 2009, p. 57.

Hospital admissions

4.115 In Fitzroy Crossing, the hospital noted a 36 per cent reduction in alcohol related emergency department presentations per month following the imposition of alcohol restrictions.⁹³ As noted in the Notre Dame report:

Since the imposition of the restriction there has been a significant reduction in patients presenting [to the Fitzroy Crossing Hospital Emergency Department] with alcohol related injuries, down from the stated maximum of 40 per night to perhaps a few alcohol related cases per night, and sometimes none. Staff report much greater job satisfaction through increased safety, both in the hospital and when on call-outs to communities. Staff workloads have reduced in the acute treatment of alcohol related injuries enabling staff to extend their skills into community health and preventative health care.⁹⁴

4.116 Dr David Shepherd presented similar statistics for Halls Creek for the 12 weeks following the restrictions, stating:

...there has been a 40 per cent reduction in rates of kids' admission to hospital and a 25 per cent overall reduction in the number of admissions to hospital. The coders do not tell us but I can tell you that there has been a dramatic reduction in the amount of after-hours callouts for the doctors and nurses, which were predominantly alcohol related injuries prior to the grog restriction...

... In the 12 weeks before the restrictions were brought in we had 57 presentations that required surgical intervention of some sort or another. In the six weeks after the restrictions were brought in we had seven cases.⁹⁵

4.117 The Western Australia Country Health Services (WACHS) noted that a positive unintended consequence of the restrictions was improved staff retention at Fitzroy Crossing Hospital.

In the times when there was a lot of alcohol being consumed, people felt they were just stitching up and supporting an ongoing melee. Now they feel as if they are making a contribution towards a health gain. That is really what attracts people to work in these places.⁹⁶

Other health and community outcomes

4.118 The committee heard that, in addition to reduced emergency department presentations, the restrictions at Fitzroy Crossing had encouraged greater attention to healthcare in the community.

93 University of Notre Dame, *Fitzroy Valley Alcohol Restriction Report*, July 2009, p. 26.

94 University of Notre Dame, *Fitzroy Valley Alcohol Restriction Report*, July 2009, p. 24.

95 Dr David Shepherd, *Committee Hansard*, 25 August 2009, p. 78.

96 Mr Bert Dorgelo, WA Country Health Service, *Committee Hansard*, 24 August 2009, p. 14.

The other outcome is that the community is more interested in health and there is an earlier intervention profile occurring. So the uptake of medications to do with chronic disease and staying with those medications is occurring now. In earlier days, we were seeing a far lower compliance and therefore a progression of disease. Chronic disease refers to diagnosed mental health as well as diabetes and the more classic description of chronic disease. These are indicators, but we are seeing a significantly positive trend.⁹⁷

4.119 The women's shelter in Fitzroy Crossing saw a decrease in client numbers following the restriction there, but numbers gradually increased over time. However, the women had less injuries now:

We are seeing not a great lessening of the numbers at the moment. We did initially, but those numbers have come up again. But the injuries are different. They are quite a lot less. We are not seeing the same horrific degree of injuries that women were coming in with. Women are leaving earlier—as soon as there is grog around they are gone and they are into the shelter and they support each other.⁹⁸

4.120 Dr Shepherd also mentioned that with the reduction in drinking, he expected an increase in the number of mental health presentations due to increased drug use and also because the increased levels of sobriety in the community would unmask mental health conditions that were previously blamed on alcohol consumption.⁹⁹

4.121 The Notre Dame report also found evidence that children were better supervised, sleeping better and attending school more regularly, suggesting positive educational outcomes from the alcohol restrictions.¹⁰⁰

4.122 Ms Kathleen Bates, of the Halls Creek People's Church, told the committee of a new sense of hope in the community that had seen improved care of children and a new found desire to improve their lives in young parents:

I have been talking to some of the younger ones who used to just spend every weekend drinking and not care about their kids or look after them properly, because the grandmothers are the ones who usually care for the kids who are around. But just this week I heard that some of the young women are getting together and want to go camping out. They are asking us for a tent so they can go out and camp with their kids out bush. It is really something good that is happening since the grog stopped. We would like to help these people like that and help them pull themselves together. Now

97 Mr Bert Dorgelo, WA Country Health Service, *Committee Hansard*, 24 August 2009, p. 14.

98 Ms Christine Gray, Marninwarntikura Women's Resource Centre, *Committee Hansard*, 24 August 2009, p. 57.

99 Dr David Shepherd, *Committee Hansard*, 25 August 2009, p. 85.

100 University of Notre Dame, *Fitzroy Valley Alcohol Restriction Report*, July 2009, p. 10.

they are able to think, to do things in their home and to look after their schoolchildren and other people.¹⁰¹

4.123 Yura Yungi Aboriginal Medical Services (YYAMS) noted a decline in the number of female clients aged 14–45 identifying as regular drinkers since the introduction of restrictions in Halls Creek. However, the incidence of dangerous levels of drinking amongst those that did identify as regular drinkers appeared to have increased. YYAMS thought it was too early to make any conclusions from their statistics to date.¹⁰²

4.124 Mrs Olive Knight, from Marninwarntikura Women's Resource Centre, spoke of the need for measures such as alcohol restrictions to be initiatives coming from the community:

Mrs Knight—The intervention that recently happened with alcohol here ... came from the grassroots. It came from a bush meeting where the women felt that enough was enough because we were the sufferers. Our children suffered and we suffered through domestic violence. We had to say, 'Enough is enough, so let us intervene in this situation.' I know that it was not a clear-cut choice for a lot of people. But it was a choice that came freely from our heart.

CHAIR—So an intervention to you means that someone else comes and does it rather than you doing it yourselves?

Mrs Knight—That is right. When someone else comes in and says, 'We ought to do it this way or that way,' and they begin to impose their paternalistic attitudes and approaches on us it creates a victim mentality amongst us as Aboriginal people, that is wrong intervention.¹⁰³

Drinking at licensed venues

4.125 The committee heard from some witnesses that the restriction of takeaway alcohol had resulted in increased drinking at licensed premises.

It has taken them to the pub—away from the home and away from their kids. And they are spending more money. They are spending more money over the bar than they would buying half a carton at the takeaway shop. So it has just made it worse, I reckon.¹⁰⁴

101 Ms Kathleen Bates, Halls Creek People's Church, *Committee Hansard*, 25 August 2009, p. 37.

102 Mr Christopher Loessl, Yura Yungi Aboriginal Medical Services, *Committee Hansard*, 25 August 2009, p. 69.

103 Ms Olive Knight, Marninwarntikura Women's Resource Centre, *Committee Hansard*, 25 August 2009, p. 71.

104 Mrs Millie Hills, Halls Creek Aboriginal Corporation, *Committee Hansard*, 25 August 2009, p. 49.

4.126 The women's shelter in Halls Creek observed that after just 14 weeks, alcohol consumption was on the rise, perhaps due to 'grog-running' but also due to increased drinking at the pub.

We think the reason is that the alcohol is back, whether or not it is through people bringing it back to Kununurra. I have also heard from different people in the community, 'Oh, we just buy light beer now and then we go and top up at the pub to get drunk.' That is the cheaper way to do it, unfortunately.¹⁰⁵

Importation of alcohol from out of town

4.127 There was considerable evidence indicating that residents in Fitzroy Crossing and Halls Creek are travelling to other towns to purchase alcohol and either drinking there or bringing it back to their community. The committee found that there seemed to be pattern whereby alcohol consumption decreased dramatically immediately following the restrictions, before gradually increasing again, albeit to a level below that prior to restrictions. For instance, the Halls Creek Sobering-Up Shelter reported the following pattern of events:

We have had about an 80 per cent reduction in numbers admitted to the sobering-up shelter since the restrictions kicked in which has been a great turnaround. There has been a slight increase in the last month where it would appear people are gradually getting supply lines for alcohol a bit more in place. We went from, say, five to 15 a night on any given night before the restrictions and are down to one to 1½ per night on average. In the last month that has gone up to about two or 2½ on average.¹⁰⁶

4.128 Indeed, client numbers for both the Sobering-Up Shelter and the Night Patrol had diminished so much, the staff, in conjunction with the Western Australian Drug and Alcohol Office were considering changing the service to more of a rehabilitation hub.¹⁰⁷ The committee strongly encourages this development.

4.129 The Ngaringga Ngurra Aboriginal Corporation Safe House also reported a similar pattern in their client numbers:

We did notice, according to statistics, that our numbers dropped remarkably when those restrictions came in. So it has had a very positive impact in regard to fewer D[omestic] V[iolence] clients. For the first month I was employed there were hardly any clients there due to alcohol related domestic violence. In July the numbers increased slightly. In August they

105 Mrs Dale Reichel, Ngaringga Ngurra Aboriginal Corporation Safehouse, *Committee Hansard*, 25 August 2009, p. 96.

106 Mr Robert Reichel, Halls Creek People's Church, *Committee Hansard*, 25 August 2009, p. 40.

107 Mr Robert Reichel, Halls Creek People's Church, *Committee Hansard*, 25 August 2009, p. 42.

have increased again. I do not really know the reasons for that except that people have been able to obtain full-strength alcohol.¹⁰⁸

4.130 Western Australia Police confirmed that they had noticed an increase in the number of cars transporting alcohol to Halls Creek:

At the moment we are running an operation to target sly-groggers. To do that, we patrol the highway between Halls Creek and Kununurra and Wyndham. We have been stopping a number of cars that are in fact purchasing alcohol at Kununurra or Wyndham and then returning to Halls Creek. We have not charged anybody at this point with sly-grogging, because we have had insufficient evidence, but quite clearly people are travelling to Kununurra and Wyndham, purchasing alcohol and bringing it back into the town. And they seem to be more organised, yes.¹⁰⁹

4.131 There was also strong evidence indicating that people in communities like Balgo, who had previously purchased alcohol in Halls Creek, were now travelling across the Northern Territory border to purchase alcohol.¹¹⁰

Relocation of drinking population to other communities

4.132 It was argued by some witnesses that the alcohol restrictions had merely pushed problematic drinking to other communities not covered by similar restrictions. Some argued that the decrease in police arrests and hospital presentations were more the result of a migration of the problem drinkers. Yurra Yungi Aboriginal Medical Service was of the opinion that many of their clients had shifted to other towns.¹¹¹

4.133 At the hearing in Broome, the committee heard some anecdotal evidence that people were travelling from Fitzroy Crossing and Halls Creek to circumvent the bans:

There have been a lot of people coming into town. It is like somebody said once: at certain times you will get a lot of people coming into Broome anyway. But if you drive around the town there are a lot of people wandering the streets and I wonder where they are sleeping, I really do.¹¹²

We have seen that problem come to Broome definitely from the Fitzroy mob and even the local mob. We know who our mob are around town and who is from out of town—different people and stuff. But restrictions or dry

108 Mrs Dale Reichel, Ngaringga Ngurra Aboriginal Corporation Safehouse, *Committee Hansard*, 25 August 2009, p. 92.

109 Inspector Jim Cave, WA Police, *Committee Hansard*, 26 August 2009, p. 101.

110 Father Matthew Digges, Catholic Diocese of Broome, *Committee Hansard*, 26 August 2009, p. 71.

111 Ms Virginia O'Neill, Yura Yungi Aboriginal Medical Service, *Committee Hansard*, 25 August 2009, p. 61.

112 Mr Bob Mahony, Nirrumbuk Skills Centre, *Committee Hansard*, 26 August 2009, p. 41.

communities do not address the problem they just push it somewhere else.¹¹³

4.134 Western Australia police statistics have not indicated that there is any large scale migration of Halls Creek residents, although itinerant drinkers from smaller communities may have returned to those communities:

Community members from Balgo, Billiluna and Mulan visited Halls Creek and, while there, drank alcohol from the liquor outlets. Since the liquor restrictions, some community members have returned home, whilst others have travelled to Kununurra and Broome. There is an increasing transient movement to those towns, but that has not increased the amount of offending to any great extent. Since 8 June 2009, Kununurra police have kept records with the origins of offenders and since that time there have been 306 people arrested, of which 194 came from Kununurra, 32 from Halls Creek, 23 from Kalumburu, 18 from Warmun, one from Balgo, six from Broome and five from Fitzroy Crossing. Of the 306 arrests in Kununurra, only 10.6 per cent are Halls Creek residents, which would be considered normal for a transient people.¹¹⁴

4.135 The night patrol service in Broome had not observed a rise in Fitzroy Crossing or Halls Creek people using their service as a result of the restrictions.¹¹⁵

4.136 Finally, the Notre Dame report into the Fitzroy Crossing restrictions did not find any significant increase in Fitzroy Crossing residents presenting at emergency departments in hospitals in Broome, Derby or Halls Creek (prior to Halls Creek restrictions).¹¹⁶

4.137 The Chairman of the Liquor Commission of Western Australia expressed the view that, to the extent that the migration of drinkers had occurred, this was not such a bad thing as it could lead to economies of scale in rehabilitation services in regional centres:

If you can move the main root of the problem to one place or a succession of places—and I feel sorry for the people in Wyndham, Broome, Derby, Geraldton and those coastal cities and towns that will have to bear the brunt of this, no doubt, as a wave of prohibitions and dry areas pushes the danger drinkers out into those places— but if they are concentrated in those big population centres, then in my view action can be taken by the Indigenous people themselves who run some very good programs in Kalgoorlie, Geraldton and Broome. If you resource them, they can look after these people and do something for them. They cannot do anything for them when

113 Mr William Clements, Nirrumbuk Skills Centre, *Committee Hansard*, 26 August 2009, p.42.

114 Inspector Jim Cave, WA Police, *Committee Hansard*, 26 August 2009, p. 93.

115 Mr Thomas King, Mamabulanjin Aboriginal Corporation, *Committee Hansard*, 26 August 2009, p. 46.

116 University of Notre Dame, *Fitzroy Valley Alcohol Restriction Report*, July 2009, p. 9.

they are stuck out Halls Creek, Fitzroy Crossing and a lot of these remote communities.¹¹⁷

4.138 The committee is concerned about the impact of individuals moving to or purchasing alcohol in places where there are no restrictions. There are two significant points that arise from this fact. The most important is the need for support, rehabilitation and diversionary programs that take advantage of the restrictions to make progress on the underlying issues of alcohol addiction, mental health, employment and education opportunities. Secondly, it may support the need for a regional approach to alcohol management that would seek to ameliorate the shifting of problem drinking from community to community. These points are discussed below.

Increased consumption of other drugs

4.139 The committee heard evidence suggesting that following the restrictions on alcohol, the consumption of marijuana in particular had increased.

...we have seen an increase in ganja recently. I remember the question that you asked Warren. I have only heard anecdotally. With people in Halls Creek that I know and respect I check out how they feel the liquor laws are going, and they are very positive about what has happened as a result of the new liquor laws. But they have said to me—and remember that this is anecdotal—that they are seeing a major upsurge in the use of cannabis.¹¹⁸

4.140 Dr David Shepherd informed the committee that he expected that the use of illicit drugs may increase and that he had already noticed this to an extent.¹¹⁹

4.141 The Notre Dame report found anecdotal evidence of higher drug use in Fitzroy Crossing but no concrete evidence to back the claim.¹²⁰

The need for diversionary programs and a regional plan

4.142 The committee is firmly of the view that alcohol restrictions alone will not deliver a permanent solution to alcohol abuse in remote communities.

Alcohol bans in some circumstances have worked but I think some caution needs to be exercised before anyone gets too excited about them. In my experience some of my clients have been extremely creative and determined in circumventing them...

... while alcohol bans are laudable in many ways, I suppose the flipside is that the utility of them is always going to be limited if there are not the

117 Mr James Freemantle, Liquor Commission of WA, *Committee Hansard*, 9 October 2009, p. 36.

118 Mr Chris Clare, Warmun Community, *Committee Hansard*, 25 August 2009, p. 22.

119 Dr David Shepherd, *Committee Hansard*, 25 August 2009, p. 85.

120 University of Notre Dame, *Fitzroy Valley Alcohol Restriction Report*, July 2009, p. 61.

complementary programs on the ground to deal with issues surrounding alcohol abuse.¹²¹

4.143 While the improvements to a range of indicators are impressive, the committee considers that the restrictions provide breathing space only and must be followed up as a matter of urgency with support, diversion and rehabilitation programs that seek to break drug and alcohol dependency. The Commissioner for Children and Young People, Ms Michelle Scott, voiced a similar concern:

...alcohol restrictions alone are insufficient. We need a comprehensive suite of services and programs that supplement, complement, reinforce and build capacity in the community. A child psychologist is a critical ingredient when you have families who are traumatised. Parenting programs are critical to that. Safe houses are critical to that. Positive programs for kids—whether they are before school, after school or holiday programs—are part of the suite of programs that you need, as are alcohol and drug programs and employment programs. From my point of view, as commissioner, on the ground that systemic approach is absent and there needs to be much better cooperation between the state and federal governments in delivering those sorts of reforms.¹²²

4.144 The committee is concerned that the level of service required is not generally available and where services are present, they are under resourced. For example, the committee heard the following from Nindilingarri Cultural Health Services in Fitzroy Crossing:

Mrs Muir—Nindilingarri Cultural Health Services have a drug and alcohol service. We are the only one in town. We get \$350,000 a year to deliver health promotion, disease prevention and all of the alcohol and drug services here, in a valley that has around 50 communities spread over a 150 kilometre radius. We currently have [3½] people working in that service. Obviously there is not much left in the way of resources once we pay wages, accommodation, transport and things like that. And that is all that there is.

Mr Davies—Prior to that that [rehabilitation service] building was a sobering-up shelter. That was a recommendation from the deaths in custody report, as we all know. I think it is the same budget that we are playing with right now. It was at the insistence of local people here in Nindilingarri that we changed that service because it was just catering for a handful of people. It was like having a revolving door; it was like a hotel. We wanted counselling services and we wanted staff looking at developing rehabilitation services because they were needed. It is only in its infancy stage too and that service is very stretched. The sobering-up shelter is still operating on the same budget.

121 Mr Peter Collins, Aboriginal Legal Service WA, *Committee Hansard*, 26 August 2009, p. 7.

122 Ms Michelle Scott, Commissioner for Children and Young People, *Committee Hansard*, 9 October 2009, p. 25.

Senator SIEWERT—So there has been no increase in the budget since before the restrictions?

Mrs Muir—There has been no increase at all despite us canvassing the drug and alcohol office consistently.¹²³

4.145 Mr Jamie Elliot, of the Halls Creek People's Church highlighted the need not just for clinical, but social diversionary programs for young people that would insulate them from returning to alcohol dependency:

I am working on incorporating a body called the Halls Creek sport and community association. That is about taking advantage of the opportunity that we have now that alcohol does not play a major part in our community. We need to start, like Auntie Kathleen said, lifting ourselves up and providing these activities so we can start being active. If alcohol comes back in some form or if people go somewhere where there is alcohol, they will be healthy and strong enough to say: 'I've been through that. I've started this sort of life now. I'm not going to go back to that way.'¹²⁴

4.146 Mrs Dale Reichel, manager of the women's shelter in Halls Creek informed the committee that residents needed to find entertainment that did not revolve around alcohol:

..the attitude of some people is that this town is no fun anymore because there is no alcohol. So I think that support needs to be in place to try and make some fun in town to bring the community together, not necessarily with drunkenness.¹²⁵

4.147 One witness promoted the introduction of entertainment options to encourage the responsible consumption of alcohol as a subsidiary to other activities.

I personally think there could be canteens in communities in a social setting where people can see that it can be used as a good social thing. It could be mixed with activities like movies and people playing darts in a friendly atmosphere rather than a whole mob of people sitting down and drinking until the grog has run out and then they get into hits and stuff.¹²⁶

4.148 Ms Kathleen Bates, also from the Halls Creek People's Church expressed a desire for a diversionary program that would take both young and old away from the town onto country where they could rebuild self-esteem and learn life skills.

Our parents had a station and we used to do a lot of horse riding. I would like to see a place just like our home was when I was a child. It would be

123 Mrs Patricia Muir and Mr Patrick Davies, Nindilingarri Cultural Health Services, *Committee Hansard*, 24 August 2009, pp 64–65.

124 Mr Jamie Elliot, Halls Creek People's Church, *Committee Hansard*, 25 August 2009, p. 38.

125 Mrs Dale Reichel, Ngarringa Ngurra Aboriginal Corporation Safe House, *Committee Hansard*, 25 August 2009, p. 96.

126 Mr William Clements, Nirrumbuk Skills Centre, *Committee Hansard*, 26 August 2009, p.42.

way out of town where people could go and learn things again. They could learn their skills again. A lot of people are hopeless and useless. They are drug addicts and after grog and after living on grog for so many years they have no hope. They are just walking around with their heads down. Maybe we need some funding to start off this place somewhere, wherever it is possible, where people can start living again...

...If we have a place out of town somewhere, people can go there and learn how to do things again without the grog and how to build up their self-esteem. Just the other day one of the young girls, one of my nieces, said to me, 'I wish there was a place where we could go where we can just build up our self-esteem.'¹²⁷

4.149 One such existing program is the Kimberley Aboriginal Law and Culture Centre's (KALACC) Yiriman youth diversionary program.

The basis of Yiriman is that the trouble with Indigenous youth today is their disconnection with culture, their disconnection with their elders and their leaders and their loss of identity. They do not know who they are and in the absence of a strong sense of identity they turn to drugs and alcohol and, when under the influence of drugs and alcohol, they come into contact with the justice system¹²⁸

4.150 This program, with its intensive case management and incorporation of traditional culture and identity may provide a useful example for agencies and organisations of the types of programs suggested by Dr Don Weatherburn referred to in paragraph 4.44 earlier in this chapter.

4.151 The committee is mindful of the evidence suggesting that alcohol is being brought in from outside the restricted communities, that there has been some relocation of drinkers to other communities. This, taken with the evidence above on the need for rehabilitation and diversionary programs suggests that a comprehensive regional plan is required to tackle alcohol abuse in the Kimberley.

4.152 This is a point made strongly by KALACC in their submission and comments to the committee:

...this organisation strongly supports alcohol restrictions, but you would have to think that the state government thinks that alcohol restrictions in and of themselves are a magic bullet and a solution to all the woes and all the ills in Aboriginal communities, and clearly they are not. We were aware then that on 7 November last year the Queensland government, at the cost of \$109 million, instigated a Queensland Indigenous communities alcohol management plan. On 19 November last year, we wrote to the state and Commonwealth governments saying that Western Australia, and the Kimberley, in particular needs a whole range of support programs and

127 Mrs Kathleen Bates, Halls Creek People's Church, *Committee Hansard*, 25.5.09, pp 37 and 42.

128 Mr Wes Morris, Kimberley Aboriginal Law and Culture Centre, *Committee Hansard*, 24 August 2009, p. 92.

mechanisms to support and to build on the positive gains that have come as a result of those alcohol restrictions.¹²⁹

4.153 The committee is of the opinion that a regional alcohol management plan that incorporates alcohol and drug rehabilitation and support services is a necessary step that will build on the restrictions already in place. The recommendation of such services also ties in to the committee's findings in relation to the WA justice system listed above.

4.154 In addition to an emphasis on rehabilitation and diversionary programs, a strategy that introduced harmonised liquor sales across the region would address the problems of migration of drinkers and 'sly grogging'. The committee is, however, also mindful that the restrictions in Fitzroy Crossing and Halls Creek were introduced at the invitation of many community members. A regional plan that imposed restrictions without community consultation and leadership may not be as effective.

4.155 The committee has been advised by the WA government that a Kimberley Alcohol Management Plan is close to being finalised and is just one part of a "broader, comprehensive and coordinated approach".¹³⁰ The committee understands that the plan will deal with action on the following five areas:¹³¹

- Prevention and education;
- Community capacity building and action;
- Policing and legislation;
- Monitoring, evaluation and communication; and
- Treatment and support services.

4.156 The WA government anticipates that a longer term comprehensive plan will be developed to "control alcohol availability, reduce alcohol demand, reduce harms associated with alcohol and other drug use and improve access to treatment and support".¹³²

Recommendation 12

4.157 The committee recommends that the Commonwealth work with the Western Australian government to support the development of an explicit plan to ensure that alcohol restrictions in regional and remote communities, including Fitzroy Crossing and Halls Creek, be supported by adequate rehabilitation and community support services to address alcohol addiction and problem drinking.

129 Mr Wes Morris, Kimberley Aboriginal Law and Culture Centre, *Committee Hansard*, 24 August 2009, p. 89.

130 Correspondence to committee from WA government, received 12 October 2009.

131 Ibid.

132 Ibid.

4.158 The committee further recommends that the plan include a consistent approach to alcohol management that includes effective community consultation and decision making.

Youth diversionary programs

4.159 The discussion above on justice issues and alcohol restrictions highlights the need for diversionary programs for offenders and people struggling with substance abuse issues in remote communities. The committee is of the view that youth diversionary services are essential and need to be adequately resourced. The committee was therefore dismayed to hear at its Broome hearing that funding for youth diversionary programs in Balgo had ceased and that petrol sniffing by young people in the community had recommenced. The committee visited Balgo in August 2008 and had undertaken to support the community in applying for funding for its youth service.¹³³

Father Digges—I am not sure what facilitated that, but the key to stopping sniffing is that the police cannot do that; you need a coordinated and sustained program of intervention by trained youth workers. They have had that for the last three years. Interestingly, the efforts of people at that community to obtain government funding for such a program were not successful, and private funding was obtained for the last three years. The Department of Community Development came on board at the eleventh hour to provide a small amount of funding—less than four per cent of the total value of the program.

Senator SIEWERT—But there is no funding left now.

Father Digges—No.

4.160 Alcohol restrictions in Halls Creek had exacerbated the situation as some community members were now travelling across the Northern Territory border to obtain alcohol from the roadhouse in Rabbit Flat. As committee has previously reported, the roadhouse in Rabbit Flat refuses to stock (non-sniffable) Opal fuel.¹³⁴

4.161 This situation illustrates the need to adequately resource diversionary programs for young people in remote communities, to insulate them against the dangers of substance abuse. Where the funding of such programs is stop-start in nature, the effectiveness of the service is severely compromised. The history of youth services in the region around Balgo are an obvious example:

For nine years there was a youth service operating there that battled for the first three years to get any funding. When funding was provided, it was provided on an ad hoc basis on three separate occasions by appeals of community people direct to politicians, really at times of great crisis. One I

133 Committee meeting notes, 21 August 2008.

134 Senate Select Committee on Regional and Remote Indigenous Communities, *Report No 2*, p. 121.

seem to remember was directly after the attempted suicide of three young men in one night. That service stopped and started, and of course the problem with services in remote communities that stop and start is that the forward momentum that has built up over a long time by people who have struggled to make a base, struggled to get people on board, struggled to survive in that community, which is often one not of their own culture, and then they move out of the community and the forward momentum is lost. When you restart the service you are starting from scratch again...When you have services that are financed for two years and then they stop, it is really setting agencies and setting communities up to fail. What I have noted is that many people just opt out and they give up. Interestingly, the funding for that service at Balgo stopped again on 30 June. Last night, just as I was getting my thoughts together for today's hearing, I was told that there were 16 people at that time sniffing in the community, six of whom sniff every day.¹³⁵

4.162 The need for security of funding to ensure the effectiveness of programs in remote communities is examined further in chapter 5.

Recommendation 13

4.163 The committee recommends that the Commonwealth and Western Australian governments work together to ensure that adequate and long term funding and support for the youth service in Balgo is provided.

Foetal Alcohol Spectrum Disorder

4.164 The committee was keen to inquire further into the prevalence of Foetal Alcohol Spectrum Disorder (FASD) at their hearings in Western Australia after being very concerned about the issue as described to them during their 2008 visit to the Kimberley. The committee heard from a variety of witnesses that awareness of FASD was growing, but that a lot more needed to be done in order to cater for children and adults affected by the disorder.

4.165 FASD relates to birth defects resulting from the consumption of alcohol by the mother during pregnancy. It is a broad diagnostic framework which covers a wide variety of physical, mental and developmental responses to exposure to alcohol while in the womb. Significant exposure to alcohol during pregnancy can cause a broad range of responses from more subtle attention deficit problems to severe facial distortion and inhibited mental and physical development. FASD is the umbrella term used to cover these issues.

4.166 Foetal Alcohol Syndrome (FAS) sits within the framework of FASD, at the most severe end. FAS is defined as 'a suite of abnormal characteristics including deficiencies in growth, abnormal morphology (especially in the face), and central nervous system problems including microcephaly, mental retardation, and behavioural

135 Fr Matthew Digges, Catholic Diocese of Broome, *Committee Hansard*, 26 August 2009, p. 71.

hyperactivity.’¹³⁶ There are a number of characterisations which present in FAS affected children and adults, including internal and external physical abnormalities and behavioural problems.

4.167 At the milder end of the spectrum, children and adults may be diagnosed with Alcohol-related Neurodevelopmental Disorder (ARND). ARND babies can appear to be healthy when born, but evidence of long term brain damage will become apparent later in life. They present with Central Nervous System problems but without recognisable facial distortion.¹³⁷ Children with ARND experience developmental delays, learning problems, impulsiveness, problems getting along with others, hyperactivity and problems controlling their behaviour. FASD affected children and adults appear to be particularly susceptible to behavioural and psychological disturbances throughout their life.¹³⁸

4.168 Dr David Shepherd, a doctor at the hospital in Halls Creek, informed the committee that he believed around 30 per cent of children in the region suffered from some symptoms of FASD, while 50 per cent of the children he treated at the hospital had symptoms.¹³⁹

4.169 In Fitzroy Crossing, local organisations are collecting data on birth metrics before and after alcohol restriction are in place.¹⁴⁰ The aim is to track birth cohorts into the future to determine the effects of the restriction on the prevalence of FASD. WA Country Health Service elaborated on the purpose of the research, stating:

...we were also aware that there was the huge potential of a dual impact through both drinking in pregnancy and also children being affected in early childhood by violence. The strategies and the investigation are quite deliberate to pick up the impact of violence as well as of foetal alcohol syndrome.¹⁴¹

4.170 The committee commends this endeavour and encourages governments to support research into FASD in Australia. Mr Patrick Davies of Nindilingarri Cultural

136 May M, ‘Disturbing Behaviour: Neurotoxic Effects in Children’, *Environmental Health Perspectives*, Vol 108, No 6, June 2000, pp 266–267.

137 Sampson, P, Streissguth, A, Bookstein, F and Barr, H, ‘On Categorizations in Analyses of Alcohol Teratogenesis’, *Environmental Health Perspectives*, Vol 108, Supplement 3, June 2000, p. 421.

138 Ibid, p. 422.

139 Dr David Shepherd, *Committee Hansard*, 25 August 2009, p. 80.

140 Mr Bert Dorgelo, WA Country Health Service, *Committee Hansard*, 24 August 2009, pp 16–17.

141 Mr Bert Dorgelo, WA Country Health Service, *Committee Hansard*, 24 August 2009, p. 17.

Health Services spoke of the need for an accurate assessment of the extent of the damage caused by FASD in order to provide an adequate level of support.¹⁴²

4.171 Mrs Olive Knight, from Marninwarntikura Women's Resource Centre, told the committee of the need to adapt education methods for the large proportion of children who suffered from FASD:

...there has to be a sea change where the education begins to be more flexible and cater for children of this nature. One of the things I have noticed beginning to emerge is that psychologists and other people have noticed a lot of behavioural problems in children of FASD. These behavioural problems have gone unnoticed in the past and there is a high level of incarceration within our prison systems.

Unfortunately I get very emotional about FASD because it has incarcerated a lot of my people and seen them gaoled without being noticed, and all of these things have gone unnoticed. Australia is behind the times and has not seen this very fact. Overseas, the United States and other people have gone ahead, studied FASD and begun to research it, but Australia has been lacking in all the research. I am not sure why this is so but while it has been happening our people continue to flood the prisons because of unrecognised psychological behaviours, possibly through excessive drinking previously.¹⁴³

4.172 Mrs Knight's statement has particular relevance to the committee given the discussion of the need to address the underlying causes of offending in Western Australia reported above.

4.173 The Commissioner for Children and Young People, Ms Michelle Scott, agreed that FASD was not given enough emphasis in Australia and elaborated on efforts by the state government in Western Australia:

Immediately after [a] visit to Fitzroy, I met with the director-general about [the FASD] issue and also had conversations with the Telethon Institute, who are also doing work. The health department has a health advisory network which is developing a model of care. The department for communities here is active to some extent on this issue. However, what was missing for me was a concerted effort and also just very practical advice to parents or guardians who might be caring for a child who has foetal alcohol spectrum disorder.¹⁴⁴

142 Mr Patrick Davies, Nindilingarri Cultural Health Services, *Committee Hansard*, 24 August 2009, p. 62.

143 Mrs Olive Knight, Marninwarntikura Women's Resource Centre, *Committee Hansard*, 24 August 2009, p. 58.

144 Ms Michelle Scott, Commissioner for Children and Young People, *Committee Hansard*, 9 October 2009, p. 28.

4.174 Mrs Knight informed the committee that the education department in WA was slowly adapting to the needs of FASD children through the provision of specialised workers and school psychologists. However, she saw that there was still a long way to go in terms of providing an education environment that could cater for children affected by the disorder. One of her personal recommendations was the use of on country and open learning for the children.¹⁴⁵

4.175 Dr Shepherd also raised the special needs of children affected by FASD in education.

There might be slight things you can do. The most important one is that those kids need different teaching methods. They need much stricter boundaries. They do not understand 'one, two, three—time out' because by the second time they have forgotten what the first one was for. There are some strategies around that that I think should be implemented.¹⁴⁶

4.176 The committee understands that FASD is not recognised on the national disability register and it is therefore difficult to get the requisite assistance for schools and carers to adequately support children with FASD. This was confirmed by Nindilingarri Cultural Health Services:

...we cannot gain assistance for the school and families like Olive's who are dealing with those sorts of children. Because it is not a recognised disability, that assistance is not out there. In terms of how well children here do at school, it has been put out by Kimberley Population Health Unit that something like 40 per cent of the children here are affected by FASD or early life trauma. Those children's ability to learn is severely inhibited by the disability they carry with them.¹⁴⁷

4.177 In Fitzroy Crossing, Mrs Millie Hills spoke to the committee about the need for the community to be aware of FASD and to counter it together:

We are in the process of getting a load of women together to come up with ways to deal with foetal alcohol syndrome. That is something we need to do ourselves. We do not need the government to tell us that; we need to make it our own business to work on foetal alcohol syndrome, to talk to the women if they are drinking when they are pregnant¹⁴⁸

4.178 Mrs Hills informed the committee that the various services and community groups in Halls Creek were meeting together in order to develop a community

145 Mrs Olive Knight, Marninwarntikura Women's Resource Centre, *Committee Hansard*, 24 August 2009, p. 62.

146 Dr David Shepherd, *Committee Hansard*, 25 August 2009, p. 80.

147 Ms Patricia Muir, Nindilingarri Cultural Health Services, *Committee Hansard*, 24 August 2009, p. 63.

148 Mrs Millie Hills, Halls Creek Aboriginal Corporation, *Committee Hansard*, 25 August 2009, p. 49.

strategy.¹⁴⁹ Yura Yungi Aboriginal Medical Service told the committee that they educated expectant mothers about the dangers of FASD with pictures and pamphlets with some success.¹⁵⁰

4.179 The high levels of suspected FASD which are being witnessed in regional and remote Indigenous communities mean that these communities have requirements specific to the issues surrounding the disorder. Individuals with FASD, whether infants, children, adolescents or adults, require structured primary care and various appropriate therapies to form a protective factor against severe secondary disability. The requirements are practical and immediate, and, if met, are likely to have a positive impact on the future of the FASD individuals as well as the broader community. Appropriate care for those already affected with the disorder is needed, as is education about the risks of maternal alcoholism. Prevention of further instances is urgently required.

4.180 The provision of assessment by specialists or trained FASD health professionals and an efficient diagnosis is necessary as a first priority service to towns with suspected FASD cases, such as Halls Creek and Fitzroy Crossing. Primary health care is needed for infants and children who may have severe physical health dysfunctions affecting a range of organs, muscles, as well as general physical functionality.

4.181 In order to limit the severity of secondary disability which results in behavioural problems, structured support treatments are required. The services provided to children with autism provide a good foundation, but certain services are not required in FASD patients and do not need to be provided. Also, in relation to the wide range of patient responses to prenatal alcohol exposure, individually tailored treatments should be provided.

4.182 Educational resources, teachers trained to cope with FASD students and schools equipped to deal with these children are a necessity when treating children with the disorder. The learning difficulties of FASD children require special education and understanding.

4.183 The committee considers that a focus on providing support rather than laying blame on mothers for consuming alcohol during pregnancy is necessary in order to break the generational cycle of FASD in Indigenous communities, as affected children and adolescents require specifically structured behavioural modification therapy as well as health care.

149 Mrs Millie Hills, Halls Creek Aboriginal Corporation, *Committee Hansard*, 25 August 2009, p. 59.

150 Ms Valma Banks, Yura Yungi Aboriginal Medical Service, *Committee Hansard*, 25 August 2009, p. 65.

Recommendation 14

4.184 The committee recommends that the Commonwealth considers the development of a communication strategy to provide simple, practical advice to parents and guardians caring for a child with Foetal Alcohol Spectrum Disorder, and that the status of FASD as a recognised disability is clarified to ensure that parents, caregivers, schools and communities are able to provide adequate support to children with FASD.

Housing

4.185 The lack of housing in regional and remote Indigenous communities remains a significant problem. The health and education problems that arise from overcrowded houses are well known.

Fifteen to 20 people can be in a house, kids included. It is causing abuse and a lot of sickness in the houses. They are put into substandard houses, houses that are in a poor condition.¹⁵¹

The main issues here in town really are housing, housing and housing. In Kevin Rudd's apology speech he made mention of the fact that Australia is the only developed country that has rates of trichoma that are ridiculous, and it is the same with middle ear infections and rheumatic heart disease. These things are nonexistent in Europe and America. We know that they are simply caused by poor sanitation and overcrowding.¹⁵²

4.186 The committee has reported on housing issues in its first two reports. In particular, chapter 4 of the first report listed housing as the number one issue raised during site visits to the Kimberley in 2008.¹⁵³

4.187 The committee heard from a range of witnesses that the lack of housing in remote communities was a major obstacle to the provision of services in those communities. In Fitzroy Crossing, as in Halls Creek, many witnesses told the committee that the lack of housing was a major barrier to recruiting and retaining staff,

Staff housing is the limiting factor to do with adding to services. Services could be easily funded, but staff housing is the limiting factor.¹⁵⁴

This is my last week working in support of the mobile playgroup because I do not have anywhere to live.¹⁵⁵

151 Ms Joan Bedford, Ngaringga Ngurra Aboriginal Corporation Safehouse, *Committee Hansard*, 25 August 2009, p. 93.

152 Dr David Shepherd, *Committee Hansard*, 25 August 2009, p. 75.

153 Senate Select Committee on Regional and Remote Indigenous Communities, Report No. 1, p. 23.

154 Mr Bert Dorgelo, WA Country Health Service, *Committee Hansard*, 24 August 2009, p. 20.

Not only are community members suffering because of a lack of housing; service providers are as well because we are at capacity. Even if all of our positions were filled we could not take on an additional staff member because we could not house them.¹⁵⁶

4.188 The housing shortage also limited the possibility of new services in the town:

Next year we will have two lawyers that have been allocated to us through the Attorney-General's Department. They will be here full-time if we can get housing. Attorney-General's are saying, 'If we can't get housing'— and they have investigated; they reckon they have tried everything—they might have to be located in Derby or Broome.' That is ridiculous, because they will come in for a few days, the same as we have now, and all the action happens after they have gone.¹⁵⁷

4.189 In addition, local staff were often in substandard or unsuitable housing. Providing accommodation to staff from out of town was potentially perceived as unfair by the local staff.

Local people ask us that too: how come you are looking for housing for everyone else and it is not for us? We absolutely agree with that. There is no housing available to offer anybody.¹⁵⁸

4.190 For locals in public housing, gaining employment with a government agency or other organisation may have the effect of disqualifying them from remaining in that public housing. The committee heard that this acts a significant barrier for recruitment by the Department of Corrective Services:

...most Aboriginal people in regional areas reside in public housing. With the change in policy if you are earning a particular amount of money, you lose that public housing. I think the committee would be aware that the availability of housing in remote areas is almost non-existent and what is available is extremely expensive particularly in the mining areas. So not only are we expecting people to come and work for us for not much reward, but we also penalise them by removing their public housing from them. It is a very big problem for us.¹⁵⁹

4.191 The committee was advised that eligibility for employees in WA government housing was governed by the *Government Employees' Housing Act 1964* (WA) (GEH

155 Ms Helen Fitzgerald, Marninwarntikura Women's Resource Centre, *Committee Hansard*, 24 August 2009, p. 24.

156 Mrs Patricia Muir, Nindilingarri Cultural Health Service, *Committee Hansard*, 24 August 2009, p. 64.

157 Ms Christine Gray, Marninwarntikura Women's Resource Centre, *Committee Hansard*, 24 August 2009, p. 66.

158 Ms Christine Gray, Marninwarntikura Women's Resource Centre, *Committee Hansard*, 24 August 2009, p. 27.

159 Mr Neil Fong, Department of Corrective Services, *Committee Hansard*, 9 October 2009, p. 76.

Act) and the Government Regional Officers Housing (GROH) policy. The GROH policy provides that employees who have been recruited locally are not eligible for accommodation, unless special circumstances exist which are supported by the employing agency and do not impede GROH's ability to fulfil its primary objective, which is to target government resources to house government employees relocating to country WA.¹⁶⁰

4.192 The committee was advised by the WA government that allocation of accommodation is at agency discretion, and may be provided subject to the following guidelines:¹⁶¹

- when the employing agency is experiencing difficulty in attracting and retaining appropriate staff, which is affecting core business;
- as a short term tenancy to meet an emergency situation; or
- when a client agency is bound under an Industrial Agreement to provide an employee with accommodation.

4.193 However, accommodation will not be provided when the locally appointed employee or the employee's partner or spouse owns accommodation in which they might reasonably reside (as prescribed under section 28 of the GEH Act) within commuter proximity (50km radius) to the employee's place of work.¹⁶²

4.194 Land tenure was another issue raised by witnesses. Mr Warren Olsen, Chief Executive Officer of the Shire of Halls Creek, informed the committee that land tenure affected the potential for housing and depot construction that might enable service delivery:

There is another thing about the lack of land tenure which affects the communities themselves. The Balgo community has no tenure at all over of the land which it occupies; they are essentially squatting on Aboriginal Lands Trust land out there. In the project that we recently did to look at a business plan for trying to provide local government services to those communities, one of the issues was that there was no land available. There is no land available to establish a depot, for example, or an office or to provide staff housing or any of those things, which I guess kind of limits your options for how you are going to go about that.¹⁶³

4.195 The committee notes that water and other service provision also affected the ability of governments to develop housing in remote communities. For example, the

160 Correspondence to committee from WA government, received 12 November 2009.

161 Ibid.

162 Ibid.

163 Mr Warren Olsen, Shire of Halls Creek, *Committee Hansard*, 25 August 2009, p. 2.

future growth of the town of Halls Creek was limited to approximately 100 houses because of the availability of water.¹⁶⁴

4.196 The committee notes that the provision of housing is a core element of the COAG agenda for Indigenous Affairs and will closely follow how additional housing is progressing in regional and remote communities throughout Western Australia in their subsequent reports. The committee was advised by the WA government that the Department of Planning and Infrastructure is currently developing a document titled *Planning for Aboriginal Communities Guideline for the Provision of Housing and Infrastructure to Remote Indigenous Communities in Western Australia*. The WA government intends for all future capital works to be "prioritised to communities that can provide a high standard of living for residents and which maximise the returns to government and community residents from future investment."¹⁶⁵

4.197 The committee understands that the Remote Aboriginal Communities Policy Framework is currently being finalised by the Department of Indigenous Affairs in WA to provide for the determination of investment priorities against a set of assessment criteria.¹⁶⁶

4.198 The WA government also advised that in order for the housing program to be progressed in remote Indigenous communities a set of factors has to be satisfied. These include:¹⁶⁷

- Land Tenure – To be eligible for capital funding provided by the Commonwealth Government under the National Partnership Agreement on Remote Indigenous Housing, communities must have suitable land tenure arrangements that enable access to and control of the housing assets by the State.
- Housing Management – the community must have agreed to a suitable housing management arrangement with the Department of Housing.
- Native Title issues need to have been resolved (or be capable of resolution in a timely manner).
- The community must have a demonstrated housing need.
- The Commonwealth and State Government have agreed to target the priority locations agreed by COAG under the National Partnership Agreement on Remote Service Delivery.

4.199 The committee looks forward to reporting further in their next report on how these policies are being operationalised in WA.

164 Correspondence to committee from WA government, received 12 November 2009.

165 Correspondence to committee from WA government, received 12 November 2009.

166 Ibid.

167 Ibid.

Employment initiatives

4.200 At the three hearings in the Kimberley, the committee noted evidence by some witnesses that training and education opportunities were not translating into employment outcomes following graduation.

...the government wants everybody to be trained. We have a lot of people out there who have so many certificates and still do not have a job.¹⁶⁸

...we have four training organisations in town as it is. Everyone is getting trained but no-one is getting new jobs.¹⁶⁹

4.201 Mr Patrick Davies, of Nindilingarri Cultural Health Services, informed the committee that despite ongoing training of environmental health workers, there was no guarantee of employment upon graduation, despite the need for a larger workforce in the communities.

Mr Davies—...There is a great opportunity in environmental health work in the communities—looking after sewerage ponds, the water supplies, the septic tanks and the housing. The overcrowding is causing all this extra stress and wear and tear on hardware in the houses. You need that constant maintenance in place. Who better to do it than the Aboriginal health workers who live in the community? We need to engage them and employ them properly. They have been training them for over 20 years in the Pilbara and the Kimberley in this state... If you are going to talk about environmental health training anywhere in this state, it was happening here in the Fitzroy Valley in a big way. We had 20 to 30 students training every time we went out training in the bush, and none of them have been employed.

Senator SIEWERT—That is the problem. None of them have been employed. There is no funding for employment.

Mr Davies—Yes. We are training our young ones, but training them for what? They are training for another job? That does not work in anybody's language.¹⁷⁰

4.202 Karrayili Adult Education Centre informed the committee of disillusionment amongst Indigenous communities that efforts in training and education did not seem to be leading to promised employment opportunities within communities. Rather, an outside workforce continued to take contracts for work within the community.

168 Mrs Caroline Sibosado, Lombadina Aboriginal Corporation, *Committee Hansard*, 26 August 2009, p. 78.

169 Mrs Millie Hills, Halls Creek Aboriginal Corporation, *Committee Hansard*, 25 August 2009, p. 50

170 Mr Patrick Davies, Nindilingarri Cultural Health Services, *Committee Hansard*, 24 August 2009, p. 53.

Increasingly, the ability for the community to have input and to control what is happening is being diminished because of the different and increasing administrative demands of different programs... [O]ne of the things that really brought it to the forefront for me the other day was when William came into my office to talk to me. He had just been out at his community, Gilarong, and he said: 'This government's confusing me. There are people coming from everywhere. What's happening?' He said: 'Back in the 1980s we were told, "You get the training and you'll be able to run your own organisation." That is getting increasingly difficult to do. It is further away.'¹⁷¹

We teach people basic plumbing tasks, but there are no jobs at the end. The department of housing and works issues job orders all the time for plumbing repairs, but our trainees cannot access that employment. There are many jobs that we could have at the end of this training that are not happening.¹⁷²

4.203 Nirrumbuk Aboriginal Corporation was of the opinion that existing targets for Aboriginal employment by service providers needed to be enforced to be effective.

If you go to the communities a lot of the work is done by outsiders. They rip in, rip out and there are no jobs. We are talking about preferred suppliers which can be done. I know a lot of the stuff now has 20 per cent Aboriginal involvement. That needs to be enforced, not just given lip service to, because it has always been there but it has never been done.¹⁷³

4.204 Karrayili Adult Education Centre emphasised the importance of mentorship as a useful tool to manage the transition from a training environment to normal employment.

I think there needs to be a shift in the training or education paradigm in going from the start with the individuals through to the training with the mentoring which is all part of the whole. You do not have a trainer separate to a mentor, separate to employment and following a case management person. So you have multiskilled people like the old-fashioned community workers used to be where you provide the social support alongside the training and the follow through and mentoring. On-the-job training is also effective therefore mentoring and support should be included in it.¹⁷⁴

4.205 The committee were therefore impressed by an apprenticeship program, incorporating mentorship, run by the Plumbers Trade Employment Union (PTEU) in

171 Ms Caroline Davey, Karrayili Adult Education Centre, *Committee Hansard*, 24 August 2009, p. 73.

172 Ms Tamela Vestergaard, Karrayili Adult Education Centre, *Committee Hansard*, 24 August 2009, p. 77.

173 Mr Bob Mahony, Nirrumbuk Aboriginal Corporation, *Committee Hansard*, 26 August 2009, p. 43.

174 Ms Caroline Davey, Karrayili Adult Education Centre, *Committee Hansard*, 24 August 2009, p. 79.

Melbourne for young people in Western Australian, the Northern Territory and Victorian Aboriginal Communities. A graduate of the program, Ms Tehani Mahony appeared before the committee in Broome.¹⁷⁵

4.206 Under the terms of the program, apprentices undertook their training in Melbourne with accommodation support and mentorship provided by the PTEU and private businesses involved in the program. Ms Mahony informed the committee that a company, NUDJ Plumbing Service, had been created through a partnership by Nirrumbuk Aboriginal Corporation, the PTEU, Cooke and Dowsett Plumbing and the Jarlmadangah community.¹⁷⁶ The company was set up to take in apprentices from the PTEU training program ensuring that apprentices would have employment available for them in their home communities. The committee considers that the holistic approach to both training and employment adopted by this program is an excellent model.

4.207 The committee would also like to see positive programs such as this one being included in the case studies proposed under COAG's National Integrated Strategy for Closing the Gap in Indigenous Disadvantage discussed in chapter two of this report.

175 Ms Tehani Mahony, NUDJ Plumbing, *Committee Hansard*, 26 August 2009, pp 33–35.

176 Ms Tehani Mahony, NUDJ Plumbing Services, *Committee Hansard*, 26 August 2009, p. 34.