



ALS

Aboriginal Legal Service (NSW/ACT) Limited

ABN: 93 118 431 066

10 October 2017

Incarceration Rates of Aboriginal and Torres Strait Islander Peoples
Executive Director
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001

Dear Sabina Wynn,

Re: Discussion paper – ALRC inquiry into the incarceration rates of Aboriginal and Torres Strait Islander Peoples

I write to you on behalf of the Aboriginal Legal Service (NSW/ACT) Limited (ALS). The ALS thanks the Australian Law Reform Commission (ALRC) for the opportunity to provide this supplementary submission in relation to the discussion paper on the incarceration rates of Aboriginal and Torres Strait Islander Peoples.

The ALS has conducted a series of state-wide community justice forums convened by ALS staff and attended by community leaders and stakeholders to seek their input into the issues raised in the discussion paper. These forums have provided the ALS with important feedback on how community-designed and led solutions can help tackle the over-representation of Aboriginal and Torres Strait Islander people in incarceration.

The ALS appreciates the ALRC providing us with the opportunity to specifically engage with our clients and communities to present their perspective on the issues raised in the discussion paper. This demonstrates that the ALRC is considering the perspective of Aboriginal and Torres Strait Islander peoples and organisations through this inquiry. As the forums have confirmed, it is crucial that Aboriginal and Torres Strait Islander Peoples and Aboriginal community controlled organisations are afforded opportunities to lead efforts to address over-representation of Aboriginal and Torres Strait Islander people in incarceration.

Thank you for the opportunity to contribute to this inquiry.

Yours sincerely,

Lesley Turner
Chief Executive Officer

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1 Introduction

The ALS has conducted a series of state-wide community justice forums with ALS staff, community leaders and stakeholders to get their input on the issues raised in the discussion paper. Over 250 people attended forums in Coffs Harbour, Dubbo, Moree, Nowra, and Redfern over August and September 2017.

A survey was also provided to community members who were unable to attend the forums. The ALS received 63 responses to the survey. The vast majority (80%) of survey respondents identified as Aboriginal. A small majority of survey respondents identified as female (61%). Respondents were split across large cities, medium size cities/towns and rural or remote towns/communities in roughly equal thirds. The survey included a combination of Yes/No and short answer responses relating to the questions and proposals in the discussion paper.

The number of forum attendees and survey responses demonstrates the high level of engagement Aboriginal communities wish to have in this inquiry. The survey also indicated a high average level of satisfaction with ALS services (rating of 4.7 out of 5), indicating the importance of Aboriginal and Torres Strait Islander organisations to these communities. As ALS CEO Les Turner has recognised, engagement with Aboriginal communities through the forums and survey has provided:

“a range of realistic options that could be adopted within the criminal justice system and are focused on prevention and rehabilitation rather than punishment...”¹

The ALS believes it is crucial that the inquiry is driven by the perspective of Aboriginal and Torres Strait Islander communities. The findings of the forums and survey provide one basis on which to develop community-designed and community-led solutions to incarceration rates of Aboriginal and Torres Strait Islander people across NSW and ACT.

ALS conducted a thematic analysis of the content acquired through the forums and the survey. This analysis is presented over the following pages. Subjects covered include:

- Sentencing
- Prison programs
- Fines and drivers licences
- Access to justice
- Police accountability

The thematic analysis is complemented throughout with direct quotes from either the forums or the short answer responses in the survey, presented as below:

<p><i>“[quote].”</i></p> <p>[Forum attendee / survey respondent]</p>
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Note: forum attendees and survey respondents are collectively referred to as ‘participants’ throughout the document.

¹ Aboriginal Legal Service (NSW/ACT) Ltd, *Community Solutions to Stop Aboriginal Incarceration*, Media Release (6 September 2017).

2 Sentencing

In relation to sentencing, participants were asked to comment on the value of special sentencing courts for Aboriginal and Torres Strait Islander people relative to ordinary courts. In addition, a number of participants also provided comments on the value of community-based sentences relative to custodial options.

2.1 Special sentencing courts

Forum attendees in all locations and the vast majority of survey respondents suggested that special courts for Aboriginal and Torres Strait Islander people are better than ordinary courts. Many participants appreciated that the special sentencing courts are more culturally appropriate than ordinary courts. They noted that special sentencing courts allow: the magistrate to gain a deeper understanding of the disadvantages and discrimination faced by Aboriginal people; the elders and the community to be involved; and the personal circumstances surrounding the offence to be taken into account. Many participants also suggested that sentences imposed by members of the community are more reflective of the proper balance between punishment and rehabilitation.

Additionally, participants suggested that special sentencing courts are less intimidating for Aboriginal and Torres Strait Islander people than ordinary courts. This, they suggested, increases engagement of Aboriginal and Torres Strait Islander offenders in the sentencing process and their understanding of sentencing obligations.

"I think [special sentencing courts] are better ... The elders and respected persons have a say and talk to the person before sentencing and talk to them in a culturally appropriate way. Community members that sit as part of the court know the mob, where they are from and can assist in the person's rehabilitation when they are in community. They know the organisations, key contact persons and have knowledge that can assist a court. The people that appear at court have a chance to tell their story, what had led to their offending behaviour and why they did what they did. People feel more connected and are willing to listen to their peers and all parties can be very open with each other.

Survey respondent

Forum attendees in a range of locations noted the need for greater resourcing of specialist sentencing courts to expand their reach and improve their operation. Multiple participants recommended the expansion of the following special sentencing courts to other locations:

- The *Care Circles* model, which is a part of the NSW Children's Court jurisdiction. A number of participants applauded the manner in which community leaders and Aboriginal Elders have been engaged in the sentencing process through this model
- NSW Youth Koori Court
- NSW Drug Court
- Forum Sentencing

"Circle Sentencing needs adequate resources to run properly. For example, a support worker connected to Circle Sentencing is needed to follow up with people and support them with referrals."

Forum attendee

2.2 Community-based sentencing options over custodial sentences

Participants consistently emphasised the need for greater use of community-based sentencing options over custodial sentences. Participants noted, in particular, that community-based sentencing options are more appropriate and effective for young people and those with mental health, alcohol and/or other drug issues. There was strong support for expansion of the MERIT (Magistrates Early Referral In to Treatment) program across regional and remote NSW, and to individuals suffering from alcohol abuse. Other examples of effective community-based sentencing options cited by participants included rehabilitation farms, health facilities and alcohol or drug programs centred on identity development and Aboriginal culture.

3 Prison programs and release

Participants were asked to reflect on any prison programs of which they were aware, and comment on what is and is not working well. Responses focused on the cultural appropriateness of programs and on providing adequate support at release from prison, particularly for those on parole. Participants also identified several programs that they considered to be working well, and the elements of those programs that might be replicated elsewhere.

In addition, participants were asked to provide their views on extending programs to prisoners on remand or those on short sentences and on designing specific programs for Aboriginal and Torres Strait Islander women.

3.1 Culturally appropriate prison programs

Many participants considered existing prison programs to be culturally inappropriate. They suggested that the programs do not adequately address the effect of colonisation, dispossession and intergenerational trauma on inmates. Additionally, participants expressed concern at the loss of identity experienced by Aboriginal inmates, given repeated and lengthy separation from community through imprisonment.

“Research has been done on this but nothing is done – we keep getting the mainstream programs designed by non-Aboriginal people.”

Forum attendee

Forums and survey responses consistently emphasised the importance of community designed and delivered programs in prison to address these issues. Participants argued that such programs would be more likely to reduce recidivism. Programs should also involve family and include individualised healing services. Finally, several participants suggested that positive stories of rehabilitation and reintegration be more widely shared to provide positive role models for those in prison.

“Lower the crime rate by involving community in change management programs that actually work.”

Forum attendee

3.2 Support at release

Participants expressed concern at the lack of support for Aboriginal people released from prison. They noted that custodial training and programs do not provide adequate pathways for inmates when they leave prison and return to the community. Mental health, drug and alcohol and housing support services, they stated, must be provided in community. In addition, participants noted, those released from prison require ongoing training or employment to provide for successful reintegration. However these key services are not currently available in once Aboriginal people leave prison. As a result, when inmates are released they *“go back to the same environment they were in when they went into custody. They get back into the same environment and then end up back in gaol”* (Forum attendee).

“There is no support when [offenders] are released from gaol – it is ‘tick a box’ parole. Pre and post release support is severely lacking, there are no housing or employment opportunities.”

Forum attendee

Participants recommended that Corrective Services NSW staff connect with the local communities of prisoners prior to release. In partnership, staff and the local community can then develop initiatives in community that continue or extend upon existing programs provided in prison, respond to local needs and capacity and increase the likelihood of post-release employment and reintegration of Aboriginal and Torres Strait Islander offenders.

3.3 Parole

Participants provided a number of suggestions to reduce the risk of parole breaches for Aboriginal and Torres Strait Islander offenders.

Firstly, administrative arrangements should be 'sorted out' prior to release from gaol. This includes ensuring participants have a birth certificate, Confirmation of Aboriginality, Medicare card, health care card, Opal card and other basic identification documents prior to release. Without these documents parolees cannot access Centrelink, accommodation, health and other basic services.

Secondly, Corrective Services NSW staff should meet with prisoners prior to release to explain their parole obligations in plain English. A number of participants cited instances of illiterate prisoners signing release papers without understanding their obligations, leading to breaches of parole.

"Most Aboriginal clients want to get out on parole and sign the document. But they don't know what they are signing nor understand what is required of them – there are problems of numeracy and literacy"

Forum attendee

Thirdly, setting parole conditions that address drug or alcohol problems rather than setting parolees up to fail. For example, rather than setting bans on drinking, parole conditions should require parolees to go to detoxification or rehabilitation services and be appropriately supported to do this.

Finally, some participants provided suggestions to increase the cultural appropriateness of parole obligations. This included allowing parolees to engage in cultural activities while on parole, and empowering Aboriginal communities to actively participate in supervision of Aboriginal parolees. In this context, some participants cited decreases in breach rates and revocation of supervised orders in areas where Aboriginal Client Service Officers have been employed by Community Corrections.

3.4 Successful existing programs

Most participants were not aware of any prison programs they believed to be working well to address offending behaviour. In addition, a number of participants expressed concern that a number of programs that had received support from the community did not receive funding beyond initial pilots.

Successful prison programs that were cited by participants (in NSW and elsewhere) included:

- Balund-A Program - See http://www.correctiveservices.justice.nsw.gov.au/Pages/CorrectiveServices/Community%20Corrections/offender-management-in-the-community/balund-a_tabulam.aspx
- WEAVE programs. Participants noted that WEAVE is not Aboriginal controlled, but it has developed a very strong reputation in working well with the local Aboriginal youth and the broader Aboriginal community. This is crucial to its success. See: <http://www.weave.org.au/b/>
- Elders Visiting Program - See <http://www.healthinonet.ecu.edu.au/key-resources/programs-projects?pid=2276>
- Journey to Respect Program: See <http://eyrefutures.com.au/what-we-do/ican-innovative-community-action-networks/journey-to-respect-program/>

3.5 Extending prison programs for those on parole and short sentences

A clear majority of participants expressed support for providing more prison/diversion programs to those on remand and short sentences. Participants expressed particular concern at the length of time many people spend on remand waiting to be sentenced and restricted from participating in rehabilitation and other programs. Several participants also suggested developing specific programs for remand or short sentences as most existing prison programs are longer than the periods of custody for these inmates. Those participants suggested prioritising short courses on anger management, family violence and alcohol and other drugs.

"Restrictions on program participation for our people on remand limit their capacity to rehabilitate."

Forum attendee

3.6 Designing specific programs for Aboriginal and Torres Strait Islander women

A clear majority of participants believed there is a need for prison programs designed specifically for Aboriginal and Torres Strait Islander women. Many participants noted that incarceration of Aboriginal and Torres Strait Islander women has a significant, negative impact on families. This is particularly the case where children are removed while the mother is in custody, and placed in non-Aboriginal care or care that is not on Country.

These prisoners require culturally and contextually specific programs, which address issues of domestic violence and consider the needs of the children of prisoners.

"There needs to be more support for our Aboriginal women. Their incarceration has a negative impact on our families, especially the children."

Forum attendee

Most participants did not know of any existing prison programs designed specifically for Aboriginal and Torres Strait Islander women that are working well. Successful prison programs and/or services specifically for Aboriginal women that were cited included:

- *Aboriginal Women in Prison* program operated by Legal Aid - focuses on post release support and addresses specific issues of child protection and safety, housing stability, family and community supports to support transition
- *Justice Health* program operated by Waminda South Coast Women's Health and Welfare Aboriginal Corporation – provides support to Aboriginal women and their families in a case management approach. The program includes pre and post gaol support to re-engage Aboriginal women into the community. This program is a component of Waminda's family preservation model, which also includes intensive case management for at-risk kids (OOHC) and the Women's Domestic Violence Court Assistance Scheme.

Other prison programs and/or services for women in general that were cited included:

- *Miranda Project* – a holistic, inclusive crime prevention service targeting women with complex needs who are at risk of offending and reoffending.
- *Rosa Co-ordinated Care Network* operated by the Shoalhaven Women's Resource Group in Nowra - provides case management support for women to re-establish their lives after leaving rehabilitation and / or prison.

6 Fines and Drivers Licences

Participants were asked to comment on the issue of driving charges in their community, and to provide suggestions on how the delivery of driving programs and qualifications could be improved. Responses included suggestions to reduce the escalation of driving charges to incarceration, and to improve the access and availability of driving programs and qualifications.

6.1 Driving charges and fines

Participants identified the inability to pay driving fines as a common issue for Aboriginal and Torres Strait Islander people. This includes fines for offensive language and other offences related to other public nuisance. However, participants identified driving fines as particularly problematic for their direct link to incarceration.

Non-payment of driving fines results in financial hardship and a significant increase in the number of breaches of driver licences, particularly among young Aboriginal and Torres Strait Islander people. As a result of non-payment of fines Aboriginal and Torres Strait Islander people are disqualified from driving, yet continue to drive and are often charged for driving unlicensed. Many participants noted that this journey – from receiving a driving fine, non-payment of the fine, disqualification from driving, to a charge for driving unlicensed - has resulted in the incarceration of members of their community.

“Too many people are criminalised or put into hardship trying to pay off fines they can’t afford because they are unlicensed.”

Forum attendee

Additionally, participants identified the need to address the issue of repeated driving offences. It was suggested that the period of disqualification or time to re-apply for a drivers licence be reduced. This is particularly important for Aboriginal and Torres Strait Islander people who live in remote areas with no access to public transport or family members to assist with transport.

6.2 Drivers licence programs

Participants strongly emphasised the need to increase the availability, access and suitability of drivers licence programs for Aboriginal and Torres Strait Islander people. In addition to reducing charges for unlicensed driving, participants noted that a licence can increase employment prospects. Participants suggested providing driver’s education and licence program tailored to each community within schools and/or through Community Legal Education (CLE). CLE could be delivered at the local land council or through government agencies that are well-established in community. They envisaged the programs to include information on how to obtain a drivers licence, how to register, maintain and insure motor vehicles, and how to drive safely.

“We need a major program of education about driving for community. Everyone needs to understand the importance of a licence and not drink driving.”

Forum attendee

To maximise attendance, participants suggested that government fund the programs and provide vehicles to allow Aboriginal and Torres Strait Islander people to learn to drive. This would significantly reduce barriers to obtaining a licence. Participants also recommended that programs be community-led, by involving local community members in management and delivery of the programs. Finally, participants emphasised the need to ensure the programs are accessible in rural and remote towns, where driving is essential due to a lack of public transport and the distances between points of interest.

Effective drivers licence programs that were cited included the *Uncle Bucky Robinson Program* at Tabulum and the *Maranguka Driver Licensing Initiative* provided in Bourke as part of the Bourke Justice Reinvestment Program.

6.3 Drivers licence qualifications

Some participants, particularly in regional locations, identified a lack of reading and comprehension skills as a significant barrier to Aboriginal and Torres Strait Islander people in their community acquiring a driver's license. Participants noted that some Aboriginal and Torres Strait Islander people can neither read nor understand questions provided in the existing online test, which makes it incredibly difficult to complete the test. It was consistently suggested that an alternative to reading tests be available for those who cannot read but can understand what to do when it is explained to them.

"Offer alternatives to reading. That was an option in the past. How many people have family members who went for a drive with the local police officer and got their license? It is getting harder and isolates many people with learning issues or literacy problems"

Survey respondent

7 Access to Justice

Participants were asked to consider ways that access to and availability of legal services could be improved for Aboriginal and Torres Strait Islander people. Responses included suggestions to improve service delivery - including representation of local Aboriginal community members and ensuring cultural competence of all staff – and better coordinate service delivery across organisations and government agencies. Additionally, participants provided some technological and / or innovative solutions to improve access to justice services.

7.1 Aboriginal involvement in service delivery

Participants strongly emphasised that including Aboriginal people from local communities in service delivery is key to improving access to justice. They also suggested that service providers need to develop a strong relationship with community leaders to promote a more positive interaction in the community. Participants noted that many external lawyers and psychologists have difficulty communicating with Aboriginal clients due to their lack of connection with the local community. Accordingly, many participants noted the importance of the ALS Field Officer to facilitating the development of relationships with community members. The ALS Field Officer is crucial to assist Aboriginal clients to go to court and provide them with an understanding of the court process.

"We need Aboriginal lawyers who understand Aboriginal people."

Forum attendee

In addition, attendees recommended making service providers accountable Aboriginal people. To achieve this, there needs to be appropriate monitoring and evaluation of these services by Aboriginal communities. This requires funding to support their involvement.

"Place more control in the hands of Aboriginal people. This includes involvement and influence in the design, delivery and evaluation of programs and services especially those specifically targeting Aboriginal people and communities."

Forum attendee

Participants also demonstrated strong support for community justice groups. These groups provide members of Aboriginal and Torres Strait Islander communities and organisations with authority and funding to work cooperatively with justice agencies and staff to develop strategies within their communities for dealing with justice-related issues. Participants suggested that these groups would further promote the leadership of Aboriginal and Torres Strait Islander people and organisations within the community. Some participants also suggested these groups could develop Aboriginal Justice Agreements (AJAs) for their individual communities, in partnership with justice agencies and staff. These AJAs, it was suggested, would increase accountability for addressing justice-related issues in the community.

“Support and expand Aboriginal Community Justice Groups. [They are] a great way to engage with community and the sector.”

Forum attendee

7.2 Cultural competence

Many participants suggested that mainstream service providers lack cultural competence which can create a general dissatisfaction with these services amongst Aboriginal communities. Forum attendees, in particular, suggested that many service providers do not fully understand intergenerational trauma experienced by Aboriginal community members.

Some participants suggested that uniform cultural awareness training be provided to all organisations that provide services to Aboriginal communities. A number of participants suggested that ALS Field Officers be funded and supported to provide this education and training to service providers.

“Cultural history, family structures / relationships, cultural practices and education are needed.”

Survey respondent

Additionally, participants noted the importance of gender appropriate legal service delivery to Aboriginal communities. For example, female solicitors should be available to Aboriginal females for sensitive matters, and vice versa. Some participants also noted the general importance of engaging solicitors with an understanding of the unique needs of Aboriginal youth.

Finally, participants continually emphasised the importance of service providers building their connection with the community through active community involvement. Community programs and activities provide service providers with a valuable opportunity to create positive relationships with community members and to link services with Aboriginal culture.

7.3 Service and agency coordination

Many participants noted that there is a distinct lack of coordination and information sharing across government agencies with respect to Aboriginal justice issues. The fragmentation of service delivery conflicts with the understanding of many Aboriginal individuals and communities of government as one entity. As a result, participants noted, Aboriginal clients become dissatisfied and disaffected in their attempts to engage with government service providers, and they disengage from the system. One example of this fragmentation provided by participants was the case of Wreck Bay, which receives different services and is subject to different rules from different jurisdictions.

Participants in a number of locations in Northern NSW requested urgent mapping of services and auditing of government funding in their areas. They suggested there was minimal monitoring and reporting on program outcomes, and noted that they had little visibility of the gaps in service provision.

Participants particularly emphasised the importance of coordinating the services of Justice Health and Local Health Districts to increase access to health services for Aboriginal people upon release from prison. Forum attendees in Dubbo provided the example of ‘Headspace’ as an effective model of service coordination. Headspace is a centre where social workers, lawyers, psychologists, tutors and others are available for youth, allowing them to drop in and have access to these services in one location.

“There needs to be more collaboration between organisations. Lawyers need to know about other service providers and take a holistic approach.”

Forum attendee

7.4 Technological and innovative solutions

Participants offered a number of technological and/or innovative solutions to improve access to justice services amongst Aboriginal communities.

Participants noted that technology is a useful and necessary platform to engage and interact with community, particularly youth, and stressed the importance of developing strategies that can evolve through technology. Social media networks, it was noted, provide a free and easy avenue for communication that appeal to many young people. These networks could be more widely utilised to provide prevention and early intervention messages related to justice issues. In addition, the use of computer apps would allow for communities to keep informed and up-to-date about court dates and hearings, allowing for automatic notifications around parole orders or court dates and hearings that get sent straight to the client's mobile. These suggestions demonstrate the proactive approach Aboriginal communities are taking to engage with the desired outcomes of this inquiry.

8 Police accountability

Participants were asked to reflect on the relationship between police and their community, and comment on what is and is not working well. They were also asked to provide suggestions on how police could better understand the needs of their community, and how police could better work with communities to reduce family violence. Finally, the forums and survey canvassed support among the community for a number of police reporting and accountability initiatives – relating to questions 12–3, 12-5 and 12-6 of the ALRC discussion paper.

It should be noted that forum attendees in a range of locations noted that Aboriginal communities need to uphold their responsibility to take action on issues of criminal behaviour, alcohol and other drug abuse and family violence in their communities.

8.1 Relationship between police and community

The majority of participants considered there to be very little or nothing working well between the police and their community. Many participants stated that there is a lack of respect between the police and Aboriginal and Torres Strait Islander people in their community. Some participants suggested that this lack of respect was primarily due to a general lack of understanding and awareness of cultural differences among the police. These participants considered the communication skills and styles of the police to be culturally inappropriate.

“Police still have a lot to learn about how to deal with and respect the Aboriginal community”

Survey respondent

Many also believed that Aboriginal people are unfairly targeted by police. A number of participants suggested that institutional racism has become a feature of policing in NSW. These participants noted that police offer very little discretion when dealing with Aboriginal people, and that many communities in regional and remote NSW communities suffer from over policing. Forum attendees in a range of locations referred to police using harassment and intimidation tactics, especially against young people.

“Police target Aboriginal kids walking on the street and leave the white kids alone.”

Forum attendee

Many participants provided suggestions to increase the strength of connections between police and the community. A number of participants applauded the role of Aboriginal Community Liaison Officers (ACLOs) in brokering these connections, and suggested that ACLOs need to be stationed at all police

stations as well as out of regular hours (i.e. after hours and on weekends). Forum attendees in Nowra noted that there was a good working relationship with the local Police Domestic Violence unit, especially the Domestic Violence Liaison Officers. Many participants also suggested increasing the number of police officers who are Aboriginal and from the local community, and increasing the connection between police and ALS Field Officers. Forum attendees in Redfern suggested that the key to improving relationships is to have strong police leadership willing to work innovatively with the local Aboriginal leadership and community.

Participants also cited PCYC activities, NAIDOC events, Koori knock outs and Youth Justice Conferences as effective mechanisms to broker connections between police and the community. Some participants suggested that good stories from these activities and events could be more widely promoted by police.

8.2 How can police better respond to community, particularly with respect to family violence?

Participants suggested two strategies to ensure police better understand and respond to Aboriginal communities – cultural awareness training and community engagement. Participants suggested that training should include information specific to the community in which police are working, such as language training and descriptions of different cultural groups. They also suggested that it is important for police to demonstrate to the community that this training is being or has been conducted, through promotion and advertising. Finally, participants suggested that this training should not be a one-off; training should be ongoing with refresher courses.

“Ensure that cultural competency training for police is mandatory and is ongoing (not just one-off).”

Forum attendee

With respect to community engagement, participants strongly emphasised the importance of community policing approaches. This includes, among other things, frontline police attending cultural events and programs in their communities. This is necessary to combat perceptions of police in the community as only responding to ‘bad’ situations. Participants suggested that the police place particular emphasis on attending schools and educating children, to demonstrate that they are good community role models and potentially demonstrate policing as a viable career.

“There needs to be an increase in community engagement and development activities between local police and the Aboriginal community. The community is genuine in its desire to work with police and other justice partners.”

Forum attendee

In relation to family violence in Aboriginal communities, participants suggested that police work with the whole family, not only victims or perpetrators. Additionally, participants suggested police act proactively through ongoing engagement with families in which violence may be in issue. This would improve perceptions of police and increase trust placed in the police by the community to effectively respond to incidents if they occur.

8.3 Community support for reporting on engagement strategies, reconciliation action plans and Aboriginal and Torres Strait Islander employment strategies

Participants were asked whether police should:

- publicly report on their programs, strategies and outcomes with Aboriginal and Torres Strait Islander communities
- have a reconciliation action plan; and
- resource and support Aboriginal and Torres Strait Islander employment strategies.

A clear majority of participants supported all three proposals.

“RAPs, MOUs and the like work best when outcomes and decisions are made accountable to Aboriginal people. They need to be localised. They need to be reflective. They can include symbolic measures but should also contain practical measures so community can see actual change. Solutions need to be community based.”

Forum attendee

9 Other issues

Participants also provided a range of solutions to address other issues considered in the discussion paper or related to the issues in the discussion paper. Responses focused in improving community service orders, ensuring an ongoing focus on youth, addressing alcohol and other drug abuse and including justice targets in the Close the Gap policy.

9.1 Community service orders

Participants noted a number of issues with respect to Community Service Orders (CSOs). Some participants suggested that CSOs could more frequently use Aboriginal organisations, and that CSOs should always be served in the community of the offender. Some ALS staff also noted that a significant number of clients who get a CSO do not complete it, resulting in custody. This is often due to the fact that clients do not understand their responsibilities under a CSO or the consequences of non-completion, or because probation and parole staff do not comprehend cultural differences that may affect a client's ability to complete a CSO. To address this issue, ALS staff suggested: better education for clients as to their responsibilities under a CSO and consequences for non-completion; cultural competence training for Magistrates to ensure they set achievable conditions under a CSO; cultural competence training for Probation and Parole staff to assist them to understand the history and experience of clients' lives and give clients the best chance of completing the CSO.

9.2 Focus on youth

As noted in ALS' initial submission, Aboriginal and Torres Strait Islander people have a much younger age profile than the non-Indigenous population. This necessitates a particular focus on justice issues for Aboriginal youth, to avoid losing another generation of Aboriginal and Torres Strait Islander people to the justice system.

Participants consistently emphasised the importance of focusing on OOHC and child protection to address over incarceration. Many noted that a common and unfortunate pathway has developed, whereby Aboriginal youth enter OOHC, followed by juvenile detention, and finally adult gaol. They emphasised the need for greater focus and investment on prevention and early intervention strategies that: address inter-generational trauma; preserve strong, vibrant and well-functioning families; and grow and nurture resilient young people. This should be guided by Elders and community leaders, and embedded in Aboriginal culture.

“Short and long term social and developmental outcomes for children in OOHC are not strong, so a focus prevention and early intervention is needed. Far too many children in juvenile justice have OOHC experiences. We need to ensure that these vulnerable kids are appropriately supported.”

Forum attendee

Participants also emphasised the importance of addressing cultural and identity issues faced by Aboriginal youth currently in the justice system. Some participants expressed concern that gaol was

becoming a rite of passage in their communities. They noted that experience of the justice system from a young age results in the displacement of culture and identity. These participants emphasised the urgent need to provide cultural education programs to young Aboriginal people to ensure all members of the community feel as though they are productive members of society.

Finally, participants noted that some Aboriginal people lack numeracy and literacy skills that provide them with greater opportunities for employment, and reduce engagement in criminal activity. They suggested that providing adequate education is crucial to ensure youth have a good start in life and that it can improve relations between youth and police.

9.3 Alcohol and other drugs

A number of participants noted the issue of alcohol and other drug use in their communities. These participants also expressed concern at the lack of alcohol and drug programs available in their communities, particularly detoxification and rehabilitation services.

“We need more detox beds – alcohol and drugs are problems.”

Forum attendee

Participants provided a number of suggestions to tackle alcohol and drug issues in communities. These included support for community role models to educate young people in schools and community public health campaigns.

“We need a massive community campaign to encourage community members to think what is best for the children – no more drugs, alcohol, family violence.”

Forum attendee

9.4 Justice targets

A clear majority of participants agreed that the Federal Government should set justice targets as part of the Closing the Gap strategy. Many participants identified the rate of incarceration of Aboriginal and Torres Strait Islander people as one of our foremost national challenges.

“There should be targets to reduce the rate of incarceration and funding should be diverted from prisons to community. Instead, both NSW and ACT are increasing expenditure on prisons.”

Survey respondent

While participants were generally supportive, some participants suggested that the Closing the Gap strategy has become tokenistic or that it is not designed to address the issues prioritised by community. Participants noted that most targets have not been met, and argued that this was symptomatic of the existing ‘top down’ approach of the Closing the Gap strategy. The strategy could be improved, it was argued, by involving Aboriginal people and community more in the design of the strategy and by increasing accountability to Aboriginal people and community through inclusive monitoring and reporting mechanisms.