Obstacles to Parole and Community-Based Sentencing Alternatives for Aboriginal and Torres Strait Islander Offenders

Report for the Australasian Institute of Judicial Administration

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Executive Summary

This report examines the barriers facing Aboriginal and Torres Strait Islander offenders when trying to access parole, as well as the many of the reasons why they return to custody when on parole. It also examines why Aboriginal and Torres Strait Islander prisoners are generally reluctant to participate in community-based sentencing alternatives, preferring to serve their sentences in prison. In meeting these two objectives, the report explores state and territory correctional initiatives that support the rehabilitation of Aboriginal and Torres Strait Islander offenders and their reintegration back into the community.

Another consideration in this report is to examine the availability of culturally appropriate community-based alternatives and culturally competent parole programs around Australia. Arguably, such programs have a greater impact on reducing Aboriginal and Torres Strait Islander incarceration rates. Research also shows that there is a need to ensure that the issues facing Aboriginal and Torres Strait Islander prisoners are carefully considered in the planning and delivery of all programs, not only in prisons, but also in the community. Cultural practices and observances have been found to be on par with religious observances and should be respected in a similar way. Therefore, the report examines, where possible, whether further focus on coming back to culture and identity through tailored programs and services would have a more significant impact on program success.

As prisoner numbers continue to rise in Australia, there is an urgent need to reduce prison time through better access to parole programs or to continue look for alternatives to incarceration through community-based alternatives. Australia's jail population has increased 133 percent over the past ten years from the June quarter of 1997 to the December quarter of 2017. In fact, the national prisoner population grew at more than four times the rate of the overall population over the last two decades (Robertson, 2017). Aboriginal and Torres Strait Islander prisoners now account for 28 percent of this total prison population, which represents a rate more than 17 times higher than for non-Aboriginal and Torres Strait Islander Australians.

Studies consistently show that "Aboriginal and Torres Strait Islander offenders are more likely to be incarcerated than their non-Aboriginal and Torres Strait Islander counterparts" when sentenced under similar circumstances (Jeffries & Bond, 2012: 53). Since the March quarter 2017, only South Australia (SA) had a decrease in the Aboriginal and Torres Strait Islander imprisonment rate, falling by five percent. The largest annual increase in the Aboriginal and Torres Strait Islander imprisonment rate was 17 percent in the Australian Capital Territory (ABS, 2018).

Due to these worrying statistics, there is no greater time than now to look for alternatives to incarceration, particularly for the fastest growing prisoner cohort – Aboriginal and Torres Strait Islander offenders. Developing solutions to the crisis is not straight forward, even though most of the correctional jurisdictions under study in this report have made significant headway in developing culturally appropriate and competent programs to address the complexities and challenges of this rising offender population.

Aboriginal and Torres Strait Islander offenders face many problems in meeting the criteria of rehabilitation programs, with many who are serving short sentences leaving prison without any treatment or support. Also, often offenders are placed in programs well away from

community ties, resulting in failures to complete programs. Program evaluation is also desperately lacking, including a fiscal evaluation around whether funding has been cost-effective and whether it is reaching the right places. Also, further research is warranted to see whether funding and the development of new programs are keeping pace with increasing prison populations. There is also a need for a greater involvement of Aboriginal and Torres Strait Islander people in the criminal justice system, particularly in the development and implementation of more efficacious intervention programs, reintegration strategies, and community-based sentencing orders.

The exit point in the criminal justice system occurs when an offender completes his or her sentence. Unfortunately, many young offenders re-enter the system shortly after their release. This trend is even more marked for Aboriginal and Torres Strait Islander youth, where there is a high likelihood of them coming back into contact with the police, courts or prisons. Therefore, instead of the end of a sentence being the exit point from prison, it has become a 'revolving door'. A Victorian magistrate once stated that the detention of young people in the prison system, as we know it, is not going to rehabilitate them and practically guarantees that they will be serving sentences in adult prison. Correctional jurisdictions have a responsibility to ensure that Aboriginal and Torres Strait Islander offenders are provided with appropriate rehabilitation and support while they are in custody, as well as adequate support on release to help reduce recidivism. However, the responsibility does not rest on correctional jurisdictions alone. There also needs to be greater collaboration between broader government services and communities to better understand and address the underlying social issues driving the cycle of offending.

Abbreviations

ABS	Australia Bureau of Statistics
ACSO	Aboriginal Client Services Officer
ACTCS	ACT Corrective Services
AIC	Australian Institute of Criminology
AJA	Aboriginal Justice Agreement
AMC	Alexander Maconochie Centre
APOSS	Aboriginal Prisoners & Offenders Support Services
APU	Aboriginal Programs Unit
ASU	Aboriginal Services Unit
ATSIEB	Aboriginal and Torres Strait Islander Elected Body
CAAAPU	Central Australian Aboriginal Alcohol Programs Unit
CALM	Culture and Land Management Program
CBIFV	Cross Borders Indigenous Family Violence Program
CBO	Community-based Orders
CCO	Community Corrections Orders
CCS	Community Corrections Services
CWAM	Cultural Wrap Around Model
CSAC	Correctional Services Administrator's Council
CSNSW	Correctional Services New South Wales
CSO	Community Service Orders
CV	Corrections Victoria
DCSWA	Department of Correctional Services Western Australia
DFVIP	Domestic and Family Violence Intervention Program
ICO	Intensive Corrections Orders
LWV	Living Without Violence
MCP	Making Changes Program
MCMP	Making Changes Modified Program
NTDCS	Northern Territory Department of Correctional Services
OBP	Offender Behaviour Program
OCHRE	Opportunity, Choice, Healing, Responsibility & Empowerment
OMP	Offender Management Plan
ORNI-R	Offender Risk Need Inventory-Revised
QCS	Queensland Corrective Services
QPSR	Queensland Parole System Review
ROR	Risk of Re-Offending
SBC	Sexual Behaviours Clinic
VEP	Visiting Elders Program
WADCS	Western Australia Department of Correctional Services
WSCP	Women's Safety Contact Program

Introduction

This report examines the barriers facing Aboriginal and Torres Strait Islander offenders when accessing parole, including many of the reasons for them returning to custody when on parole. It also examines why Aboriginal and Torres Strait Islander prisoners are more likely to not want to participate in community-based sentencing option, preferring to serve their sentences in prison. In meeting these two objectives, the report explores state and territory correctional initiatives that support the rehabilitation of Aboriginal and Torres Strait Islander offenders' and their reintegration back into the community. This includes parole programs as part of the conditions of sentencing, as well as community-based sentencing alternatives to periods of imprisonment.

One of the main challenges is this report has been to differentiate between generalised offender programs and those specifically designed for Aboriginal and Torres Strait Islander offenders. This includes parole programs, community-based sentencing options, and rehabilitation or reintegration programs. Therefore, in this report, we examine the availability of culturally competent parole programs around Australia, as well as culturally appropriate community-based alternatives to imprisonment. Arguably, such programs will have a greater impact on reducing Aboriginal and Torres Strait Islander incarceration rates. Research shows that cultural practices and observances are on par with religious observances and should be respected in a similar way. There is a need to ensure that the issues facing Aboriginal and Torres Strait Islander prisoners are carefully considered in the planning and delivery of all programs, not only in prisons, but also in the community. Therefore, the report examines, where possible, whether further focus on coming back to culture and identity through tailored programs and services would have a more significant impact on program success.

As prison numbers continue to rise in Australia, there is a need to look for alternatives to incarceration – for all offenders. In the December quarter of 2017, Australia's jail population had increased to 41,270, which represents a 133 percent rise in prisoner numbers since the June quarter of 1997. The national prisoner population grew at more than four times the rate of the overall population over the last two decades (Robertson, 2017). Nationally, the average daily imprisonment rate for the December quarter of 2017 was 216 per 100,000 adult population (ABS, 2017). The national crude imprisonment rate per 100,000 Aboriginal and Torres Strait Islander population was 2,411.5 in 2016-17, compared with a rate of 156.6 for the non-Indigenous population (Productivity Commission, 2018).

Aboriginal and Torres Strait Islander prisoners now account for 28 percent of Australia's total prison population, which represents a rate more than 17 times higher than for non-Aboriginal and Torres Strait Islander Australians. Since the March quarter 2017, only SA had a decrease in the Aboriginal and Torres Strait Islander imprisonment rate, falling by five percent (or 146 persons per 100,000 adult Aboriginal and Torres Strait Islander population). The largest annual increase in the Aboriginal and Torres Strait Islander imprisonment rate was 17 percent (or 311 persons per 100,000 adult Aboriginal and Torres Strait Islander population) in the Australian Capital Territory (ABS, 2018). Studies consistently show that "Aboriginal and Torres Strait Islander offenders are more likely to be incarcerated than their non-Aboriginal and Torres Strait Islander counterparts" when sentenced under similar

circumstances (such as for similar crimes and with similar criminal histories) (Jeffries & Bond, 2012: 53).

This rate is continuing to rise with the latest figures from the Australian Bureau of Statistics (ABS) showing a significant increase in Aboriginal and Torres Strait Islander prisoners since the completion of our last study in 2016 (Jones and Guthrie, 2016). For example, during the March quarter 2017, the average daily number of Aboriginal and Torres Strait Islander prisoners was 11,288 - an increase of five percent (500 persons) over the quarter and an increase of seven percent (730 persons) over the year (ABS, 2017). As the incarceration of Aboriginal and Torres Strait Islander offenders increases, the use of parole and alternatives sanctions to imprisonment is currently not commensurate to offset the rising prison populations. For example, the national average daily number of Aboriginal and Torres Strait Islander persons on community-based sentencing orders for the December quarter 2017 was 14,438, representing only an increase of one percent (199 persons) from the previous quarter and an increase of six percent (874 persons) over the year. Aboriginal and Torres Strait Islander people make up just over one fifth (21 percent) of the total community-based corrections population, of which three-quarters were in three states: Queensland (33 percent or 4,716 persons), New South Wales (NSW) (31 percent or 4,513 persons) and Western Australia (WA) (12 percent or 1,737 persons) (ABS, 2017). The increasing imprisonment rate of Aboriginal and Torres Strait Islander offenders shows that the justice system is failing, not only to respond to the key drivers of their offending, but also in being able to develop appropriate and acceptable programs to steer offenders away from a life cycle of crime.

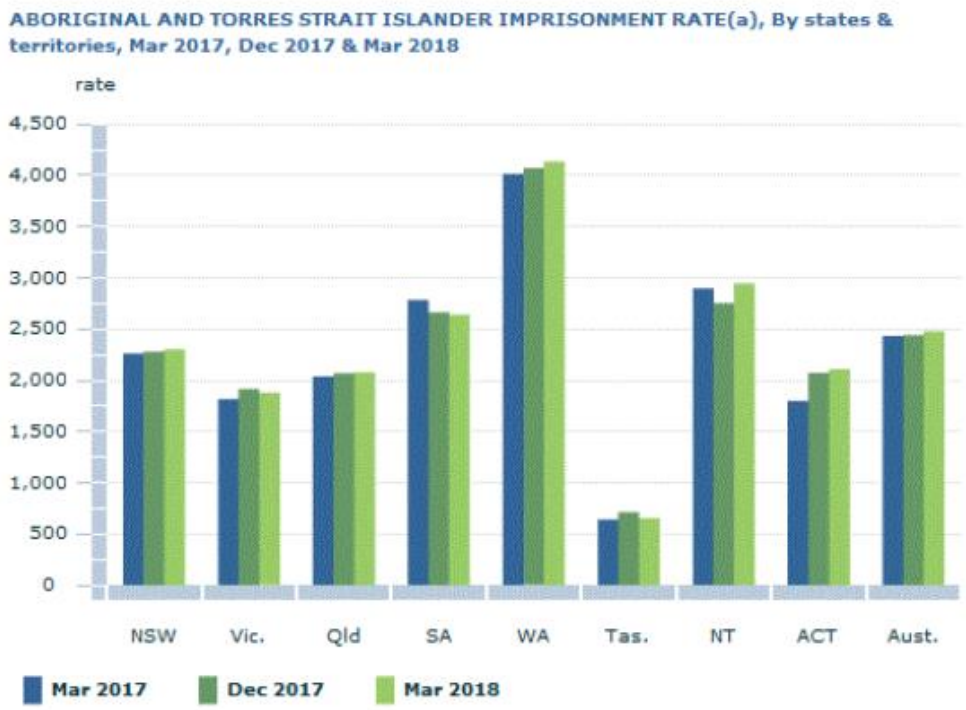

Figure 1. Aboriginal and Torres Strait Islander imprisonment rate (ABS, 20187)

By highlighting these figures, this report is not the first to centre on the appalling situation regarding the increasing Aboriginal and Torres Strait Islander incarceration, and the growing recidivism rates, or the failure of correctional programs to address this phenomenon. It certainly won't be the last. The extensive list of government and non-government reports identified in this study, which have focussed on Aboriginal and Torres Strait Islander offending and imprisonment over the past 10 to 15 years, shows that not enough progress is being made, and that the system continues to fail. The Royal Commission into Aboriginal Deaths in Custody (1991) became an early trigger for alerting Australian governments and courts to the plight of marginalised Aboriginal and Torres Strait Islander Australians in prison. The Commission highlighted the importance of cultural considerations in sentencing and responses, Aboriginal and Torres Strait Islander involvement in sentencing, and "the negative consequences of incarceration on individual offenders, families and communities" (Jefferies & Bond, 2014: 464).

Given the high-profile nature of the Royal Commission and its findings, many of the causal factors around Aboriginal and Torres Strait Islander offending and the personal and structural barriers impeding their successful transition back into society remain the same. Nearly 30 years on, Aboriginal and Torres Strait Islander people are still dying at an alarming rate in custody. There have been 147 Indigenous deaths in custody over the past decade and 407 have died since the end of the Royal Commission in 1991. These people are mainly dying in custody from treatable medical conditions, and "are much less likely than non-Indigenous people to receive the care they need" (Allam, Wahlquist & Evershed, 2018). Problems are compounded by governments, media and mainstream society who continue to see Aboriginal and Torres Strait Islander people as belonging to a 'suspect community', where young Aboriginal and Torres Strait Islanders are more likely to be reported and stopped by police than non-Aboriginal and Torres Strait Islander youth. In many cases, this is where the lifecycle of offending and incarceration begins. A Queensland study found that out of 420 Aboriginal and Torres Strait Islander prisoners interviewed, approximately 25 percent of participants believed they were certain to return to prison after their release (Aboriginal & Torres Strait Islander Legal Service (Qld), 2016).

While this report describes some very positive strategies and initiatives being developed and implemented in all jurisdictions around Australia, there remains no systematic or comprehensive approach by policy makers to deal with the alarming Aboriginal and Torres Strait Islander imprisonment rate. There also isn't any coordinated approach to improve their chances of successful release or reintegration back into their relevant communities, meaning that the high levels of recidivism are also not being adequately addressed. More effort (and funding) is required to develop and implement a range of new, innovative and culturally sensitive alternatives to reduce imprisonment rates, such as specific Aboriginal and Torres Strait Islander community-based sentences or parole programs. If parole is made more accessible to Aboriginal offenders and, if executed correctly, it can help address some of the factors behind the over-representation of Aboriginal and Torres Strait Islander people in incarceration. This includes providing supported release, aiding integration back into community, and reducing the likelihood of reoffending (Aboriginal & Torres Strait Islander Legal Service (Qld), 2016).

The proper execution of parole programs and community-based sentences is also crucial from an economic perspective, as the cost of running prisons in Australia is likely to have hit around three billion dollars per year (SCRGSP, 2016). An increase in imprisonment for lesser offences and changes in legislation, which have increased the penalty for certain crimes, have meant that the average length of time served by offenders has grown. However, research shows that incarceration has only a minimal impact of crime reduction overall and, with Aboriginal and Torres Strait Islander populations, it can have quite the reverse effect (Findlay, 2004). With the high cost of running prisons, coupled with the overall failure of incarceration, money would be better spent addressing the underlying causes of Aboriginal and Torres Strait Islander offending (Macdonald, Scholes & Powell, 2016).

Often theories about imprisonment and punishment of Aboriginal and Torres Strait Islander offenders fail in practice because they disregard the real-life conditions surrounding Aboriginal and Torres Strait Islander people, the remoteness of communities, and/or the level of disadvantage and dysfunction often plaguing these communities. It is common for Aboriginal and Torres Strait Islander offenders to be incarcerated far from home, where the isolation from family can have devastating results. Stress and anxiety related issues arise "when Aboriginal and Torres Strait Islander people fear for the safety of their families in prison" (Douglas & Corrin, 2010: 201). With this understanding, effective responses to crime and the development of intervention programs would be better met away from prison and more closely in line with the needs of individuals, as well as their specific Aboriginal and Torres Strait Islander communities (Findlay, 2004).

Most Aboriginal and Torres Strait Islander offenders in jail are on short sentences and lack viable and effective treatment programs to help stop reoffending. Surging prison numbers were one result of populist 'tough on crime' policies by Federal and state governments, including mandatory sentencing, indefinite sentencing and tougher qualifying criteria for parole and community-based sentencing programs. Research demonstrates that Aboriginal and Torres Strait Islander prisoners suffer greater challenges in obtaining parole than non-Aboriginal and Torres Strait Islander prisoners, and that Aboriginal and Torres Strait Islander parolees are significantly less likely to complete parole (Apted, Hew & Sinha, 2013).

There are many barriers, including the lack of access to legal support and information, poor levels of literacy and education, mental illness, the lack of housing prior to custody and drug and alcohol abuse. Some of the most common reasons for returning to custody whilst on parole include breaching parole conditions, committing further offences, lack of employment, lack of housing, substance abuse and domestic violence. While on parole, an offender must adhere to specific conditions set by a parole board. These conditions can include supervision, reporting, treatment and conditions relevant to the offender's place of residence. If the offender fails to comply with the set conditions, a parole board can cancel parole and return them to prison – hence, the cycle of reoffending continues (Sentencing Advisory Council, 2012).

In a previous study, it was found that imprisonment has become an intergenerational problem and a rite of passage for many young Aboriginal and Torres Strait Islander people transitioning into adulthood. The increasing rate of Aboriginal and Torres Strait Islander prisoners is associated with higher rates of arrest, resulting in conviction, a greater likelihood of imprisonment and a higher rate of bail refusal. This is bolstered by "complex historical and contemporary interactions between sociocultural, structural, and situational

factors unique to the experience of Aboriginal and Torres Strait Islander" people and their communities. Different experiences and circumstances are "underscored by the pre-colonial and post-colonial diversity of Aboriginal and Torres Strait Islander groups" (Dawes, Davidson, Walden & Isaacs, 2017: 308). Most have experiences of removal, dispossession and social exclusion, lack of opportunities for education and employment and structural disadvantage, which all play major roles in Aboriginal and Torres Strait Islander offending rates and over-representation in prison (Macdonald, Scholes & Powell, 2016). Other research has found that contributing factors include over-policing of Aboriginal and Torres Strait Islander people with mental and cognitive disability, as well as institutional discrimination, and overall greater severity by the criminal justice system in its treatment of Aboriginal and Torres Strait Islander offenders. For example, Aboriginal and Torres Strait Islander people are more likely to be sentenced to imprisonment for less serious offences, "such as traffic infringements, property offences, good order offences, breaches of orders, and fine defaults" (Macdonald, Scholes, & Powell, 2016: 569).

High levels of recidivism in most states was also a main factor leading to Australia's increasing Aboriginal and Torres Strait Islander prison population. Recidivism was influenced by many other internal and external factors. Internal factors included lack of access to rehabilitation programs, the inability of offenders to meet program selection criteria and a lack of access to appropriate offender specific programs (Jones & Guthrie, 2016). External factors included poor education, limited or no employment, mental illness and bad physical health, drug and alcohol misuse. Problems also derived from the "basic needs of housing and transport being unmet at the point of leaving prison" (Macdonald, Scholes & Powell, 2016: 575).

Strategies to decolonise justice need to be implemented, so that Aboriginal people have a real voice in the process of sentencing and punishment. The involvement of elders in the sentencing process "can provide, among other things, cultural information and community perspectives on appropriate sentencing to the sentencing judge" (Douglas and Corrin, 2010: 202). However, the negative effects of imprisonment go beyond the sentence itself, where alternative options, such as working with families and significant community representatives during incarceration, rehabilitation and following release. For example, research argues that those familiar with local Aboriginal and Torres Strait Islander culture are better placed to identify sanctions or responses that will have more meaningful impact on individuals and communities. Therefore, it is critical that sentencing and responses "do not increase the sense of alienation and disempowerment that is already experienced by Aboriginal and Torres Strait Islander people" (Douglas & Corrin, 2010: 203). Sentencing alternatives and responses to crime should therefore be community-based, where Aboriginal and Torres Strait Islander people are empowered to change behaviours by attending healthy behaviour programs, by establishing pro-social peer groups and by improving "communication, parenting, conflict resolution, social connection, and relationship skills" (Rossiter, Power, Fowler, Jackson, Roche & Dawson, 2017: 15). Such programs should be incorporated in "community-based orders and delivered in the community by appropriate members" (Douglas & Corrin, 2010: 203).

While there is little or no evidence of a coordinated approach to reducing recidivism, there is widespread evidence to indicate that the problem is worsening (Law Council of Australia, 2015). The continual failure by governments to address this issue may well backfire, as any

gains to reduce incarceration rates will continue to be eroded by societal barriers, such as endemic poverty, lack of opportunities to find employment and appropriate education, lack of suitable housing, prevalent substance abuse and poor access to adequate mental health and health services. Given crime rates have fallen over the last two decades, if policy settings had remained the same it should have been expected that the prison population might also have fallen. Instead, the non-Aboriginal and Torres Strait Islander prison population has remained static, while the number of Aboriginal and Torres Strait Islander prisoners has doubled (Law Council of Australia, 2015: 27).

There is a scarcity of evidence-based research on the rehabilitation of Aboriginal and Torres Strait Islander offenders in Australia. The best information suggests that rehabilitation efforts should combine cognitive behavioural therapy with culturally sensitive content and delivery modes. Research also demonstrates that Aboriginal and Torres Strait Islander offender criminogenic programs should be high in frequency and duration. Some researchers have been critical of applying the cognitive behavioural therapy approach to Aboriginal and Torres Strait Islander offenders, as it might contravene Aboriginal and Torres Strait Islander mores and can be seen to be associated with shaming. Other researchers have indicated that Aboriginal and Torres Strait Islander rehabilitation interventions need to be holistic in approach and attend, not only to criminogenic needs, but the multilayered issues faced by these Australians (Willis & Moore, 2008; Abbott et al., 2018).

There is a growing body of literature that identifies the need for programs and services to be adapted to meet specific Aboriginal and Torres Strait Islander cultural needs. The lack of Aboriginal and Torres Strait Islander-specific programs and services has become a significant barrier to participation in existing programs and to the successful reintegration into the community. The absence of Aboriginal and Torres Strait Islander-specific content in core programs was thought to reduce the effectiveness of interventions by lowering the responsiveness of Aboriginal and Torres Strait Islander offenders to treatment. Studies have highlighted the need for more knowledge on the role of culture and cultural content in prison-based and community-based programming, as well as more knowledge concerning the specific criminogenic needs of Aboriginal and Torres Strait Islander offenders. The studies also emphasised the need to address alcohol and substance use, particularly through Aboriginal and Torres Strait Islander-specific approaches. Participants in these studies discussed some of the difficulties with increasing cultural specificity, including the diversity within Aboriginal and Torres Strait Islander cultural perspectives and maintaining program integrity, as well as the importance of effective assessment and evaluation (Willis & Moore, 2008; Abbott et al., 2018).

In a study conducted by Willis and Moore (2008) for the Australian Institute of Criminology (AIC), a key theme that emerged from their consultations was the need to improve support for Aboriginal and Torres Strait Islander offenders transiting back into the community. They concluded that this could be achieved through a greater involvement of family and community, and to increase capacity to undertake “throughcare”, which is particularly relevant in remote settings. While there is a range of Indigenous-specific initiatives and programs in prisons and in the community around Australia, there is an ongoing need to increase participation in mainstream services. This could be achieved by ensuring that there is some focus on Indigenous cultural specificity, providing it doesn’t negatively impact on

program integrity. Therefore, one of the key themes identified in the AIC study was the need “for programs and services to be adapted to meet Indigenous cultural-specific needs”.

In developing programs, it is important to understand that the Aboriginal and Torres Strait Islander perspective is considerably different from that of non-Aboriginal and Torres Strait Islander people. Aboriginal and Torres Strait Islander people tend to learn through experiences rather than through conscious thought and analysis. Past experiences with prison environments (either from their own perspective or from others in their family) often make them reluctant to participate in prison programs, as these programs have failed to address issues and problems in a manner that is culturally appropriate. Thus, participation and interest by Aboriginal and Torres Strait Islander prisoners has usually been minimal because they don’t relate to the objectives and goals or expectations of the programs and services being provided, or to the people delivering the programs. Programs and services have usually been developed and delivered by non-Aboriginal and Torres Strait Islander people who often lack understanding of Aboriginal and Torres Strait Islander culture and perspectives. It is strongly recommended that programs be re-evaluated and adapted to meet the specific needs of Aboriginal and Torres Strait Islander prisoners and, in some cases, entirely new programs and services should be developed and implemented (Willis & Moore, 2008).

The lack of culturally appropriate and accessible services and programs for Aboriginal offenders across Australia, particularly those with a cognitive impairment and/or mental health impairment, means that “many people at risk of entering the criminal justice do enter the system, and many people involved in the criminal justice system, are unable to get out of it” (Central Australian Aboriginal Legal Aid Services, 2013: 7). Therefore, there is an urgent need to increase access to assessment and early intervention services. There is also a clear need for a range of other community-based support services, including 24-hour supported accommodation, specialised services for people with a disability who display challenging behaviour, and support for families and carers.

Finally, another key issue is the importance of using interpreters in service provision. In Central Australia, for example, where many Aboriginal people do not speak English as their primary language, it is critical that interpreters are used during the court process and in the delivery of ancillary services. While awareness of the need for interpreters has improved, pressures on service providers result in the continuing underutilisation of interpreters (Central Australian Aboriginal Legal Aid Services, 2013).

Overview of Parole

The concept of parole in Australia is not new. It was first developed by Captain Alexander Maconochie in 1787 when he oversaw the Norfolk Island penal colony. The penal colony had a reputation as being “one of the most dangerous and violent establishments of its time” (Voight, 2008: 649). However, Maconochie believed that the prisoners could be rehabilitated through educational, skill building, labour and behavioural modification programs. Prisoners would receive ‘marks’ or credits for good behaviour and for successfully completing a program. The mark system was based on three principles: “it inflicted a labour sentence instead of a time sentence; it taught self-denial and developed social responsibility by giving the convicts an interest in each other's good conduct; and it prepared them for

their return to society by gradually relaxing the restraints that were imposed upon them" (Witmer, 1927: 28). To put these principles into practice, the convict was treated as a labourer, with payments in marks instead of wages. The marks could then be used for early release from the colony. If the prisoner exhibited poor behaviour toward the programs, the prisoner would lose these marks and the opportunity for early release. By 1844, Maconochie had transformed the colony into a more stable and less violent community (Witmer, 1927; Voight, 2008).

Today, where imprisonment serves as a primary means of punishment for a crime, the parole system now aims towards influencing the reform and rehabilitation of an offender and for keeping society safe (Victorian Auditor-General, 2016). The later aspect of parole, keeping society safe, has been a controversial issue in Australia, with several high-profile crimes committed by parolees soon after release from prison. One of the highest-profile cases occurred in September 2012, when Adrian Bayley murdered Jill Meagher in Brunswick, Melbourne, while on parole for a series of violent rapes. Another more recent case was in 2017, when Yacqub Khayre murdered a receptionist and held a prostitute hostage at apartments in Brighton, Melbourne. Khayre had previously been charged in 2009 with conspiracy to commit a terrorist attack and was released on acquittal in 2010 after serving 16 months on remand. At the time of the 2017 incident, Khayre had served four and half year's jail over a violent burglary in 2012 and was on parole. Following these incidents, political and public uproar led to a number of reviews into adult parole systems in Australia, generally calling for stricter parole conditions.

Given these serious incidents, parole remains a key policy for letting approved prisoners serve part of their sentence in the community, so long as they are not an unacceptable risk to the safety of the community. Prisoners on parole are usually supervised and must comply with certain conditions to remain in the community. These conditions are designed to protect the safety of the community by monitoring a prisoner's circumstances and behaviour. Therefore, parole does not free prisoners from their sentence and they continue to serve their sentence in the community where they can further their own rehabilitation. Parole also helps prisoners adjust, so they ideally can become successful and contributing members of the community.

There are two main reasons for parole. First, parole is a system of administering sentences in a way that reduces reoffending by: providing an incentive for prisoners to participate in programs in custody; supporting an offender's reintegration into the community; and managing serious offenders more intensely. Second, parole reduces the social and financial costs of severe sentences in appropriate cases. The parole system allows expensive prison space to be allocated to higher risk offenders, thereby reducing prison congestion (Queensland Government, 2016).

However, prison is a very structured and controlled environment and it is very different from living freely out in the community. Problems arise when prisoners have been removed from the community for a long time, which can create challenges for them when returning to the community. Therefore, parole provides prisoners with a structured, supported and supervised transition when reintegrating back into society so that they can adjust slowly to life outside. This transition period creates many difficulties for offenders. Studies continue to question the effectiveness of parole as a strategy for reducing re-offending and it remains the subject of considerable debate here in Australia and overseas (Wan, Poynton &

Weatherburn, 2015). Measuring the effectiveness of parole is complex; however, a well-recognised method is measuring reoffending or recidivism (Broadhurst, 1990). While there is still no fool-proof parole system that can ever eliminate reoffending, Bonta, Bourgon, Rugge, Scott, Yessine, Gutierrez and Li (2010) found some evidence that re-offending on parole was less likely when the parole supervision was carried out by properly trained parole officers. Offenders who received parole supervision upon release from custody took longer to commit a new offence, were less likely to commit a new indictable offence, and committed fewer offences than offenders who were released unconditionally into the community (Wan et. al., 2015).

To examine the effectiveness of parole to reduce recidivism, the New Zealand Law Commission conducted a review of New Zealand's sentencing and parole systems. The review concluded that "parole at least postpones recidivism; however, it may not prevent it" (New Zealand Law Commission, 2006: 170). Nevertheless, the review also concluded that there is enough evidence "to warrant caution abandoning the parole system" altogether (Queensland Government, 2016: 37). The review suggested that parole only offers a modest benefit over unconditional release. It referred to a study in the United States that found after three years parolees are predicted to reoffend at a one percent lower rate than unconditionally released offenders. Offenders who are under supervision periods of three or more years are predicted to have an eight percent lower recidivism rate (New Zealand Law Commission, 2006).

The New Zealand Law Commission's review also referred to two key studies, one by Kuziemko and the other by Broadhurst (1990). Based in the United States, Kuziemko's research examined correctional reform that eliminated parole for certain offenders. Offenders without parole accumulated a higher number of disciplinary infractions, completed fewer prison rehabilitative programs, and reoffended at a greater rate than prisoners unaffected by the reform. The study led Kuziemko to estimate that "eliminating parole for all prisoners would increase the prison population by 10 percent while also increasing the crime rate through deleterious effects on recidivism" (Kuziemko, 1990: 371). Broadhurst (1990) found that parole prisoners had lower recidivism rates after several important selection factors (age, period in prison, race, sex offence and prior incarceration) were controlled. His results establish a positive case that parole is more effective than a finite sentence.

Yet, a parole system can also reduce the risk of prisoners committing further offences when released into the community by providing a supervised transition into the community and "by seeking to address some of the factors that may lead to reoffending" (Sentencing Advisory Council, 2012: vii). While on parole, the parolee is subject to the continuing supervision of the parole officer and to the conditions and rules imposed by the courts and parole board. If a parolee violates a condition of parole, it may be revoked and returned to prison. The reasons for reoffending are complex. In an in-depth study titled 'Barriers to Parole for Aboriginal and Torres Strait Islander People in Australia', Apted, Hew and Sinha (2013) found many underlying problems that all play a role in accessing parole or returning to custody when on parole. Some of these reasons include: drugs and alcohol dependency; poverty; mental illness or impairment; lack of access to legal support, information or courses; and/or poor literacy and education. Many also face practical obstacles to adjusting to life in the community, such as difficulties in finding appropriate accommodation and

employment. These obstacles are compounded for the many prisoners who, even before entering prison, have been at the margins of mainstream society (Sentencing Advisory Council, 2012).

For those Aboriginal offenders with cognitive or mental health impairment, particularly from remote communities, the practical effect is that people with some types of disability are at a significant disadvantage in the criminal justice system. These types of disability, particularly when undetected, may impact on access to justice at all stages, including police arrest and questioning, communication with lawyers, bail applications, court proceedings, sentencing, the experience of prison, and parole applications. Hearing loss, for example, may make an individual "less likely to respond to a police direction, make it more difficult for them to provide instructions to a lawyer and understand court proceedings, affect the court's assessment of their demeanour, and may result in a degree of social isolation in prison". These challenges "are often compounded by the multiple forms of disadvantage" that are faced by Aboriginal people, particularly in the remote communities (Central Australian Aboriginal Legal Service, 2013: 3).

Quite often the reason Aboriginal people are involved in the criminal justice system is often because "they have not received support at the earliest available opportunity to address and manage their challenging behaviours related to their disability". Therefore, they are less likely to obtain bail, a non-custodial order or parole if they "are unable to access stable accommodation and support networks and services to help them manage their behaviour, and may struggle to comply with bail and court order conditions if they are released back to the community because of the dearth of support services (Central Australian Aboriginal Legal Service, 2013: 8)".

Overview of Community-Based Sentences

Each Australian state and territory (and the Commonwealth) has their own different legislative regimes that guide the sentencing and parole process for offenders (Bartels, Fitzgerald, & Freiberg, 2018: 270). Different sentencing regimes in each jurisdiction enable courts to order offenders who pose a manageable risk to the community to be placed on a diverse range of community-based court orders, where they serve their sentences in the community rather than in custody (Australian Law Reform Commission, 2017). Depending on the jurisdiction and conditions of the order, some of these can include Community Corrections Orders (CCOs) (Victoria and NSW), Community-Based Orders (CBOs) (Western Australia and Northern Territory), Community Service Orders (Queensland), Intensive Corrections Orders (Queensland and NSW) and Conditional Release Orders (NSW).

Community-based sentencing options "are designed to be punitive while fulfilling other sentencing purposes, such as rehabilitation and deterrence" (Australian Law Reform Commission, 2017: 233). Therefore, they provide a significant advantage over full-time incarceration, where offenders are assisted in the development of pro-social goals and skills directed towards a law-abiding lifestyle. Supervision in the community incorporates a range of intervention strategies, requiring the community corrections officer to have regular contact with the offender. This also includes contact with other significant people in the offender's life to monitor compliance with conditions of the court order. Overall, a

community-based sentence offers a sentencing court the opportunity to consider both the best interests of the community, as well as those of the offender.

There is a significant body of research that examines the negative impact of imprisonment on offenders, particularly those from Aboriginal and Torres Strait Islander or minority backgrounds. This remains a significant concern considering the escalating rates of Indigenous incarceration across most jurisdiction in Australia (Productivity Commission, 2018; ABS, 2018). Nationally, the average daily number of Aboriginal and Torres Strait Islander persons on community-based sentences for the March quarter 2018 was 14,314, representing a decrease of one percent (124 persons) from the previous quarter and an increase of six percent (859 persons) over the year. Aboriginal and Torres Strait Islander persons make up just over one fifth (21 percent) of the total community-based sentence population, of which three-quarters were in three states: Queensland (32 percent or 4,627 persons); NSW (32 percent or 4,513 persons); and WA (12 percent or 1,712 persons) (ABS, 2018). In 2016-17, 72.2 percent of community-based sentences were successfully completed nationally. Completion rates were higher for females than males (73.4 and 71.9 percent respectively) and were higher for non-Indigenous than Aboriginal and Torres Strait Islander offenders (74.7 and 63.2 percent respectively) (Productivity Commission, 2018).

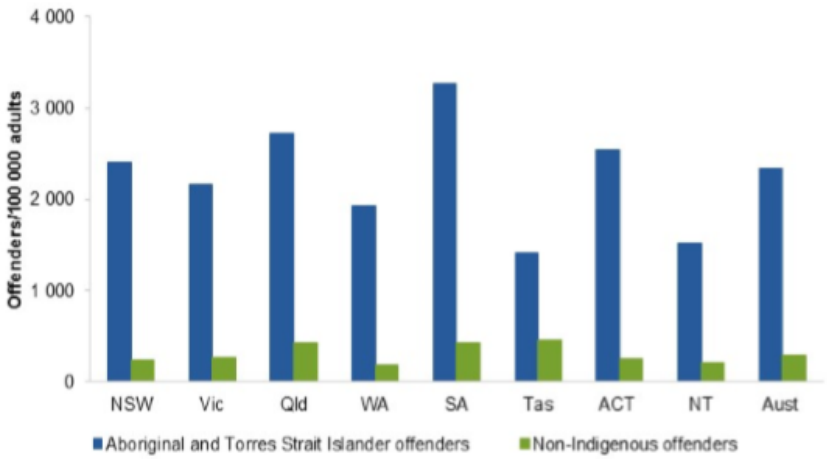

Figure 2. Aboriginal and Torres Strait Islander and non-Indigenous age standardised community corrections rates, 2016-17 (Productivity Commission, 2018)

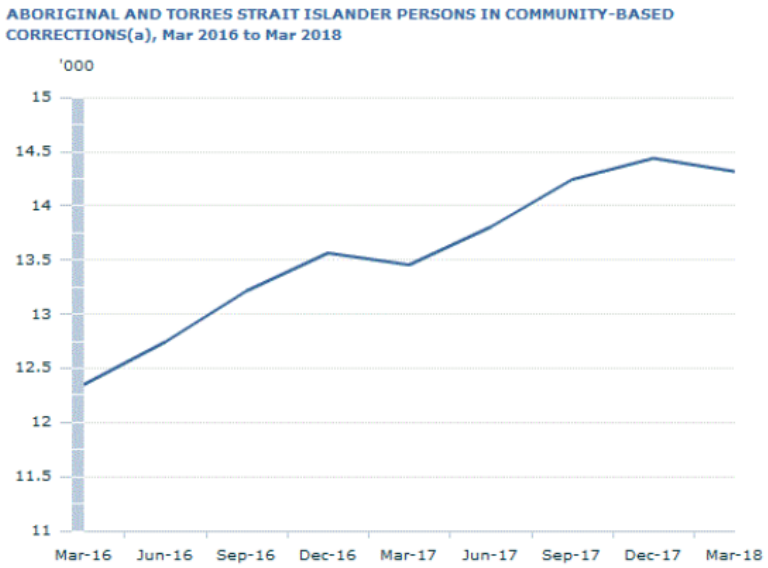

Figure 3. Aboriginal and Torres Strait Islander persons in community-based correctional programs (ABS, 2018)

Despite the advantages of community-based sentences, Aboriginal and Torres Strait Islander offenders are less likely to receive one than non-Aboriginal and Torres Strait Islander offenders and, as a result, may be more likely to end up in prison for the same offence. Even when given the option for a community-based sentence, they are more likely to breach conditions than non-Aboriginal and Torres Strait Islander offenders and therefore end up in custody (Australian Law Reform Commission, 2017).

Cultural Competency, Specificity & Responsiveness

With the escalation in Australia's corrections population, prisons are correspondingly becoming more culturally diverse. Correctional officers will therefore need better skills in communicating, understanding and carrying out their traditional custodial roles to cater for the different ethnic and religious offender groups. Cultural competency will be a necessary key to enable correctional officers to be more effective in supervising and managing inmates who come from different cultural or religious backgrounds from their own. This cultural competency may help reduce tensions and resolve or prevent many misunderstandings. To be culturally competent, correctional officers will need to understand the synergies and differences between their own views and those of the prisoners, while avoiding stereotyping of the different offender cohorts. Cultural competency will also allow relationships to exist more peacefully and effectively by learning and building new empathies. Basically, this competency will work towards closing the communication gaps between prisoners and guards or prison staff that are assigned to work with culturally and religiously diverse offender groups (Australian Law Reform Commission, 2017).

The same rationale can be applied to developing prison and community-based programs. Programs that are culturally appropriate and responsive to the needs of the participating offender cohort are found to be more effective. In discussing what constitutes a culturally appropriate program for Aboriginal and Torres Strait Islander offenders and prisoners, the

Australian Law Reform Commission identified that they should factor in several critical elements. First, programs should be, where possible, "designed, developed, and delivered by Aboriginal and Torres Strait Islander organisations". Second, programs should also be "trauma-informed, especially where being delivered to female Aboriginal and Torres Strait Islander prisoners". And, third, programs should have practical applications, "particularly for prisoners on remand or short sentence who need the skills on release to reintegrate" successfully back into their communities (Australian Law Reform Commission, 2017: 296).

Therefore, not only do the reintegration needs of Aboriginal and Torres Strait Islander offenders appear to be greater than for many other offenders, but also the context in which treatment is deemed effective for them appears to be unique. Generally, conditions of parole tend to be overly rigid and focussed more on monitoring and controlling offenders rather than being supportive to facilitate rehabilitation and reintegration. Community correctional programming has tended to incorporate an ethnocentric bias that places its understanding of Aboriginal and Torres Strait Islander offending within the context of the majority Anglo-European culture (Jones, Masters, Griffiths, & Moulday, 2002). In doing so, the design and delivery of programs often fail to understand aspects of Aboriginal and Torres Strait Islander cultural and societal attitudes that are fundamentally different from the majority culture. An example offered by Jones et al. (2002) is the tendency to view Aboriginal and Torres Strait Islander cultures from the perspective of the individualistic values that dominate Western culture, rather than their perspective which is typically organised around collectivist values.

Ethnocentric bias can introduce problems with content, structure, delivery and assessment that may undermine the effectiveness of programs for Aboriginal and Torres Strait Islander offenders. Western correctional approaches tend to follow a criminogenic needs model that categorises needs into discrete areas. For Aboriginal and Torres Strait Islander offenders, a more holistic culturally specific approach may be required when developing programs to improve efficacy (Jones et al., 2002). Effective interventions need to factor in the unique socio-historical experiences of Aboriginal and Torres Strait Islander people and incorporate elements that address acculturation stress[1], separation from culture and family, loss of identity and racial discrimination (Jones et al., 2002).

To ensure efficacy and cultural validity, some of the factors that support effective Aboriginal and Torres Strait Islander offender programs include:

- establishing trusted partnerships;
- facilitating community ownership and control;
- embedding culture;
- employing local Indigenous staff;
- harnessing existing community capacity and its leaders;
- implementing good governance;
- keeping the implementation timelines flexible; and

[1] Acculturative Stress refers to the stress that emerges from difficulties in acculturation or 'acculturative stress'. Distinct from general experiences of stress, acculturative stress is understood to stem from differences in culture and language between the acculturating individual and the dominant host culture or country (Berry, Kim, Minde, & Mok, 1987).

- using community development approaches (Morley, 2015).

A key success factor underpinning effective programs is having strong, trusting relationships with partner organisations managing or implementing the program. It is common for programs in Aboriginal and Torres Strait Islander communities to be run in partnership or shared-governance and funding arrangements with government or another organisation where success is contingent on strong and trusted relationships. Programs or interventions are most effective when there are strong personal relationships between key stakeholders (Morley, 2015); however, there are no quick solutions as building trusted relationships takes considerable time (Burchill, Higgins, Ramsamy, & Taylor, 2006).

Where possible, community ownership is also considered important because it ensures authority and autonomy over the program; builds the commitment and enthusiasm of the people involved; and contributes to building community capacity so that communities can address their own needs to break the cycle of offending. Community ownership then provides cultural specificity in a way that large national or state-wide organisations cannot. From this perspective, an important aspect of embedding culture is prioritising the Indigenous worldview that is "one that is relationally and holistically based on community and family obligations rather than the individual" (Morley, 2015: 5). In practice, it is apparent that successful Aboriginal and Torres Strait Islander programs enshrine and support culture and the associated idea of cultural safety that is "spiritually, socially and emotionally safe" (Morley, 2015: 5). Cultural safety means providing services that recognise "local culture as being the starting point for the design of service provision, rather than being a factor in design that needs to be accommodated to a mainstream culture" (Morley, 2015: 5).

While there are subtle differences in the meanings of cultural appropriateness, cultural specificity, and cultural responsiveness, the contemporary literature on Aboriginal and Torres Strait Islander incarceration and programs seems to use them interchangeably. For sake of simplicity, this report explains culture specificity as follows:

> [C]ritical elements of the intervention (e.g., intervention strategies and targeted competencies) are relevant to the targeted culture, make use of the language of the population, and reflect the values and beliefs of the members of the culture. Inherent in this model is the assumption that one cannot separate person from culture and that understanding the culture is essential to understanding the individual. In addition, change efforts cannot be solely person-cantered, but must address the role of culture in promoting and sustaining behaviour patterns (Nastasi, 1998: 169).

Research into the correctional management of Aboriginal and Torres Strait Islander offenders highlights the need for greater "cultural responsivity or responsiveness of correctional systems", including in the management and design of offender programs. (Queensland Government, 2017). Efforts to achieve culture specificity "can increase acceptability, integrity, ecological validity, sustainability, and institutionalisation of the interventions (Nastasi, 1998: 169)". Cultural competency is the integration and transformation of knowledge about individuals and groups of people into specific standards, policies, practices and attitudes used in appropriate cultural settings to increase the quality of services, thereby producing better outcomes in the correctional setting. It involves the ability to acquire knowledge of beliefs, attitudes and practices to improve correctional

outcomes. Cultural responsiveness, like the term 'cultural competence', promotes an understanding of culture, ethnicity, and language. The difference between the two is that 'responsiveness' does not imply that one is perfect and has all the skills and views needed to work with culturally diverse offenders.

Methodology & Research Limitations

This report highlights the challenges faced by Aboriginal and Torres Strait Islander prisoners when accessing parole, and the reasons for returning to custody when on parole. The report also examines the factors inhibiting these prisoners from voluntarily accepting the conditions of community-based orders. To understand these challenges, this report has used both primary and secondary data. The primary data was collected via a questionnaire provided to several correctional jurisdictions around Australia including the Northern Territory, Queensland, SA, NSW, and Victoria. Corrective Services in WA and the ACT were also approached to participate; however, no responses had been received by the time the report was finalised.

The participating jurisdictions were approached by the Australasian Institute of Judicial Administration and asked to respond to the following broad questions:

1. What types of parole programs and community corrections orders are available for Aboriginal and Torres Strait Islander offenders?
2. Is there disconnect between what programs are available and what are said to be available?
3. What is the uptake of those programs?
4. What are the barriers to engaging in those programs, i.e., lack of legal, housing, medical support, etc.?
5. What are the expectations of corrections for parole programs and community-based orders?
6. What are the perceptions in the Aboriginal and Torres Strait Islander community about serving parole in prison rather than conditional release?

All questions were answered to varying degrees. There was ample information regarding the availability of programs, but very little data about the uptake of those programs. On this note, the researcher was unable to find statistics regarding completion rates or evaluations about each program provided in this report. In order to start to make progress around program efficacy, further research is required to examine these two aspects missing in this report – completion rates and program evaluations.

Responses to the final question regarding perceptions were less forthcoming. This was not the fault of the jurisdictions but of the framing of the question by the lead researcher. The participating correctional jurisdictions thought that conveying these perceptions from offenders and community was problematic. This identified another significant limitation of this study. Without running specific interviews with offenders, families, and their relevant communities about perceptions of parole and community-based sentencing options, or having experienced relevant communities first hand, this report only captures the views of corrective services. Therefore, there is a need for further research on offenders' and

communities' perspectives of parole programs and community-based sentences, which would provide a more valuable contribution to the current literature.

The report also contains a review of current literature around imprisonment, parole and community-based sentences for Aboriginal and Torres Strait Islander offenders. There was a variety of existing government and correctional policy papers on the subject, as well as specific studies on cultural specificity around correctional programming for Aboriginal and Torres Strait Islander prisoners and offenders. These reports and studies provided a rich source of information and data to draw from to provide some valuable conclusions for this report. Of note was the Indigenous Strategic Framework 2016, which, among other outcomes, recognised the need in all jurisdictions to continue to build on improving Indigenous cultural responsiveness and cultural effectiveness in relevant correctional training, policy, and programming. This includes increasing corrective service employees' understanding of cultural obligations, which will better enable decision making around the effective management of Aboriginal and Torres Strait Islander offenders (CSAC Indigenous Issues Working Group, 2016). This and other policy papers provide a positive outlook for the more effective management of Aboriginal and Torres Strait Islander offenders into the future, and, of equal importance, the lowering of recidivism rates and the cycle of crime around Australia for this offender cohort.

Queensland

Aboriginal and Torres Strait Islander people remain over-represented in Queensland's prison system. In the March quarter of 2018, Queensland was the third largest contributor to the national prisoner population, making up 21 percent of Australia's total prison population (or 8,736 persons in custody).

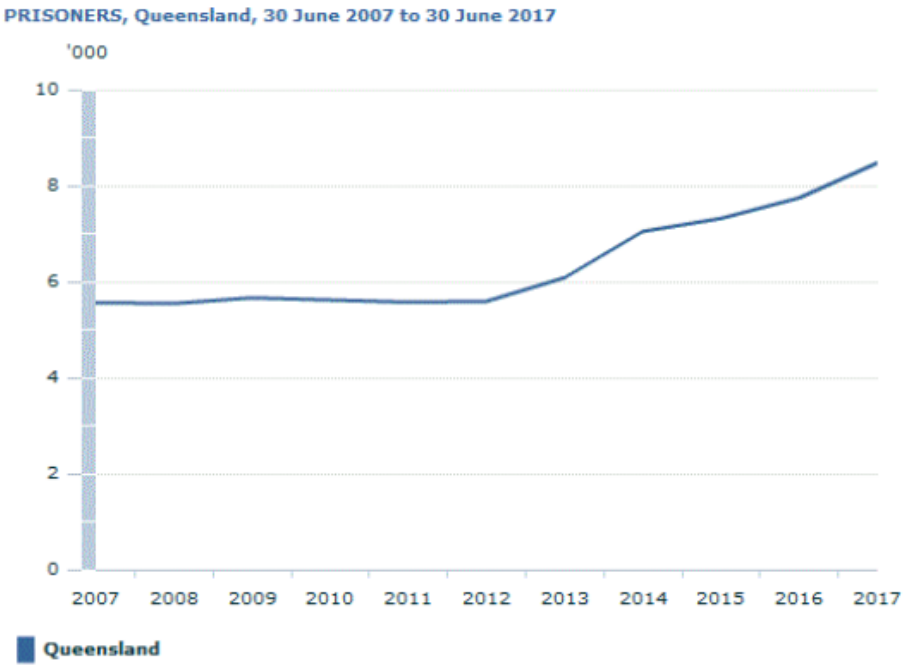

Figure 4. Number of prisoners in Queensland at 30 June 2017 (ABS, 2017)

Queensland was one of three states that continue to account for nearly three-quarters of the total Aboriginal and Torres Strait Islander prisoner population - NSW (28 percent or 3,324 persons); Queensland (24 percent or 2,826 persons); and WA (22 percent or 2,631 persons). The age-standardised rate of imprisonment for Queensland's Aboriginal and Torres Strait Islander prisoners was 1,780 per 100,000 adult Aboriginal and Torres Strait Islander population, compared with 167.5 per 100,000 for non-Indigenous adults. As of 30 June 2017, this means that Indigenous persons are 11 times more likely than non-Indigenous persons to be in prison (Queensland Government, 2017).

Aboriginal and Torres Strait Islander youth make up over 34 percent of Queensland's juvenile offenders. Research shows that Aboriginal and Torres Strait Islander people come into contact with the justice system at an earlier age than their non-Aboriginal and Torres Strait Islander peers, with many of these youth progressing into the adult system. A causal relationship has been found between child maltreatment and juvenile offending, "with Queensland's Indigenous children seven times more likely than non-Indigenous children to be placed on a care and protection order or to be placed in out-of-home care as a result of child abuse and/or neglect" (Queensland Government, 2010: 4). This abuse, neglect or

maltreatment was found to increase the risk of a child offending before their eighteenth birthday (Stewart, Dennison & Waterson, 2002).

To help stem the tide of Aboriginal and Torres Strait Islander incarceration, the Queensland Corrective Services (QCS) has established a framework for reform (The Queensland Corrective Services Framework for Reform: Delivering Justice – Improving Corrections 2010-14). This framework consists of six objectives, one of which is closing the gap on Aboriginal and Torres Strait Islander incarceration. Under this objective, there are two actions, which comprise encouraging community involvement and rehabilitating offenders in their own community.

In 2010, QCS also released a research report into the Rehabilitative Needs and Treatment of Indigenous Offenders in Queensland. The report found that QCS was delivering rehabilitative interventions in-line with best practice; however, a whole-of-government approach was required to address the over-representation in the criminal justice system. As a result, it outlined plans to develop and implement an "Indigenous-specific offender management strategy for Indigenous offenders in custody" (QCS, 2010). The Queensland Government has subsequently implemented a whole-of-government strategy relating to Aboriginal and Torres Strait Islander offenders. The Department of Aboriginal and Torres Strait Islander Partnerships also released a Strategic Plan for 2018-2022, which aims to increase economic participation and improve community participation of Aboriginal and Torres Strait Islanders (The Department of Aboriginal and Torres Strait Islander Partnerships, 2017).

The sentencing options available to all adult offenders in Queensland include periods of imprisonment, court ordered parole, probation orders, community service orders, intensive corrections orders, and safe night out orders. Most correctional programs in QCS are designed for non-Aboriginal and Torres Strait Islander offenders and are therefore largely irrelevant or inappropriate in some respects for Aboriginal and Torres Strait Islander people. However, the range of rehabilitative interventions that are offered are consistent with current best-practice. Aboriginal and Torres Strait Islander offenders have access to both criminogenic and non-criminogenic interventions. Their participation in criminogenic programs is determined by their level of risk of re-offending, factors that have influenced offending behaviour, and their assessed responsivity. Criminogenic programs are based on the cognitive behavioural therapy approach. Aboriginal and Torres Strait Islander-specific programs that are delivered by QCS include the Aboriginal and Torres Strait Islander-specific sexual offending program and programs targeting general offending (including substance misuse) and violence. These programs contain Aboriginal and Torres Strait Islander content and are delivered in a culturally appropriate format.

Participation in programs and re-entry services is voluntary. Participants are expected to attend sessions and engage in a meaningful and respectful manner. They are referred to these programs based on their offending behaviour, which is assessed on risk/needs criteria and/or as directed by the parole board or a court order. Offenders who utilise re-entry services are also expected to engage in a re-entry plan, which identifies their personal goals and needs in relation to reintegration after release. Offenders subject to community-based orders are expected to adhere to the directions outlined in their orders, which may include participation in a rehabilitation and/or counselling program. It is expected that offenders

engage appropriately with their case workers and work collaboratively to achieve positive outcomes.

Outside of corrections, the Queensland Department of Justice and Attorney General funds 49 Indigenous Community Justice Groups across Queensland. Depending on each correctional centre's needs, some centres work with local Indigenous Justice Groups. Local justice groups also support rehabilitation of Indigenous offenders. QCS employs Indigenous cultural liaison officers and cultural development officers to support Aboriginal and Torres Strait Islander Offenders. They coordinate activities and referrals for Aboriginal and Torres Strait Islander offenders and facilitate programs where and when required (QCS 2010).

Programs & Initiatives

Parole Programs

The only available option for early release from prison in Queensland is parole. Factors affecting Aboriginal and Torres Strait Islander offenders being sentenced to court ordered parole fall under the jurisdiction of the Department of Justice and Attorney General in Queensland. Under *the Penalties and Sentences Act 1992* (the PSA), the parole system permits a sentencing court to fix a date for release on parole or a date upon which a prisoner becomes eligible to make an application for parole to the Parole Board Queensland. Offenders sentenced to a term of imprisonment for three years or less for offences that do not include a 'serious violent offence'[2] or a 'sexual offence'[3] are released on parole on a date fixed by the court. The court must fix the date for release on parole, and may fix any day of the sentence, including the date of sentence or even the last date of the sentence as the release date. This is commonly referred to as 'court ordered parole'. The chief executive of QCS issues the parole order in accordance with the date fixed by the court. The management of the parolee is carried out by QCS.

When sentencing an offender to a term of imprisonment of more than three years, or for a 'serious violent' or 'sexual' offence, the court may set a date upon which the offender is eligible to apply for parole. This is commonly referred to as a parole eligibility date and does not mean that the offender is automatically released on that date. Rather, the offender may apply to the parole board for release on parole. People sentenced for further offences committed while subject to a parole order that was cancelled, would also be subject to a parole eligibility date. These two sentencing orders are available in addition to orders for wholly or partly suspended sentences. Whether an offender is sentenced to a term of imprisonment, of which a component is to be served on parole, is a matter determined by the courts with reference to the legal principles applicable to sentencing discretion.

[2] A 'serious violent offence' includes a wide range of violent and sex offences, such as manslaughter, incest, rape, robbery, dangerous operation motor vehicle, assaults with bodily harm, bomb hoaxes, escaping from lawful custody and riot.

[3] The term 'sexual offence' covers a wide range of offences as listed in Schedule 1 of the *Corrective Services Act 2006* (Qld)

The role of probation and parole is to: assist the courts and the parole boards to assess whether offenders are suitable for community-based orders; enforce the conditions of court and parole board orders; and protect the community by assisting offenders to successfully complete their orders. Probation and parole comprises four areas:

1. *Induction and assessment*: specialist induction and assessment staff conduct assessments and establish management plans for offenders based on their reoffending risk and individual needs. These plans may include a range of activities and conditions including program referral, compliance with drug testing regimes or employment preparation and assistance.
2. *Offender management:* these officers focus on working with offenders to develop the skills required to meet the conditions of their order and prevent re-offending. High risk offenders will be individually case-managed by the most experienced Probation and Parole staff working closely with corrective services' intelligence officers, local police and community organisations and agencies.
3. *Offender intervention*: the central focus of offender intervention services is a network of program hubs delivering programs that address general offending, sexual offending, substance abuse and program maintenance.
4. *Compliance and surveillance*: compliance officers ensure contraventions of orders are brought before the court quickly and efficiently, and that warrants are issued for those offenders who abscond from supervision. Surveillance officers are responsible for ensuring offenders are complying with the terms of their orders. They are involved in activities such as breath and urinalysis testing, ensuring high risk offenders adhere to curfews and verifying offenders' personal details.

As part of changes introduced under the *Corrective Services Act 2006*, parole is the only form of early release available to all prisoners. Under the legislation, prisoners serve the entire sentence handed down by a court, either in custody or on parole in the community (Queensland Government, 2016). In the community, there are 34 probation and parole district offices managing QCS contract external agencies to provide reintegration support services to prisoners. Aboriginal and Torres Strait Islander offenders can be supported through these services to navigate parole processes. In the Queensland Parole System Review (QPSR), several recommendations for improving outcomes for Aboriginal and Torres Strait Islander offenders were made. Recommendations supported by QCS include delivering a greater variety of rehabilitation programs for Aboriginal and Torres Strait Islander offenders. Work is currently underway to implement the recommendations (Queensland Government, 2016).

When it comes to probation and parole practice guidelines, Aboriginal and Torres Strait Islander people are treated no differently from other people on parole. QCS determines the risks, needs and responsivity of offenders through a comprehensive assessment process. All sentenced offenders admitted into custody undergo a Risk of Re-Offending (ROR) assessment. Offenders who score 16 or above on the ROR are eligible for criminogenic programs. Offenders who will remain in custody for more than 12 months are further assessed using the Offender Risk Need Inventory-Revised (ORNI-R). The ORNI-R is used to match offenders with appropriate programs through the consideration of their offence history, motivation, anxiety and intellectual capacity.

An offender's rehabilitation needs, as identified by the ROR and ORNI-R, form the basis of their Offender Management Plan (OMP). An OMP details both short and long-term management strategies for rehabilitation and is based on the principle of 'Throughcare', which ensures continuity of support as an offender moves from custody to community. QCS provides a range of offender interventions including literacy and numeracy courses, offence-specific cognitive behaviour therapy programs, vocational education and training and reintegration support. Other initiatives aimed at enhancing rehabilitation include employment in prison industries, cultural and religious activities, and health services. These programs are not Indigenous-specific but are accessible to all Indigenous offenders depending on their risk and responsivity.

Community-Based Sentences

In Queensland, there are several types of community-based sentences, which come under either repatriation orders or supervision orders. The latter is usually part of parole conditions. As of October 2016, there were around 18,600 offenders on community-based sentences in Queensland, which was 29 percent of the total number of persons on community-based sentences in Australia. Of the 18,600, 23 percent or 2,494 prisoners were of Aboriginal and Torres Strait Islander background. Therefore, Queensland had the highest ratio of offenders on community-based sentences to probation and parole staff at 35:1, compared to the national average of around 21:1 (Aboriginal and Torres Strait Islander Legal Service (Qld), 2016). QCS end of year financial report for 2016-17 shows that a total of 134 offenders completed the community-based Sexual Offender Program. A total of 347 offenders completed other programs including a range of low to moderate intensity programs addressing emotional resilience, substance abuse, and domestic violence. Ninety-nine offenders completed QCS's culturally specific programs.

Rehabilitation programs that are available to all offenders under community supervision of the QCS include the:

- Getting Started Preparatory Sex Offender Program;
- Low Intensity Substance Abuse Program;
- Moderate Intensity Sexual Offender Program;
- Sexual Offender Maintenance Program; and
- Domestic Violence Perpetrator Program, co-ordinated in the Probation and Parole Southern Region.

QCS provides several Indigenous-specific rehabilitative programs for Indigenous prisoners and offenders:

Ending Offending

Ending Offending is a cognitive behavioural program designed to meet the needs of Aboriginal and Torres Strait Islander offenders in a culturally appropriate manner. The overall aim of this program is to modify the drinking and offending behaviour of indigenous offenders in the correctional system. The program is available to prisoners in correctional centres and offenders on probation or parole.

Ending Family Violence

The Ending Family Violence program is for Aboriginal and Torres Strait Islander offenders who have been convicted of offences related to domestic or family violence. The program tackles violence within Aboriginal and Torres Strait Islander offenders' families and aims to develop culturally appropriate solutions to protect adults and children from the effects of domestic violence. The program assists Aboriginal and Torres Strait Islander offenders to understand what triggers their violent behaviour, and then helps them to identify and practise better behaviours with guidance from trained Indigenous program facilitators. The program is available to prisoners in correctional centres and offenders on probation or parole.

Using a cognitive behavioural model, it aims to raise participants' awareness of the impact of violence on the family unit and to investigate options to assist offenders to change their behaviour. The program targets attitudes that support this type of offending, cognitive distortions, anger/hostility issues and awareness of how substance misuse can contribute to family violence. Furthermore, it can prepare Indigenous offenders for additional intensive intervention appropriate to their level of risk of re-offending.

The program is made up of 10 sessions and is generally delivered over five weeks. As with the Ending Offending program, the Ending Family Violence program is delivered over a short timeframe and may therefore be offered to Aboriginal and Torres Strait Islander offenders in prison under sentence for less than 12 months (but this is dependent on the program demands of high-risk offenders). The Ending Family Violence program is in several Queensland correctional centres and probation and parole offices. If required, Aboriginal and Torres Strait Islander offenders can be relocated to a centre where the program is run.

Sexual Offending Program

New Horizons, which is an Indigenous high-intensity sexual offending program, and Back on Track, which is an Indigenous medium-intensity sexual offending program, have the same elements as the Crossroads and New Directions programs. However, New Horizons and Back on Track are specifically designed to accommodate cultural, custom or language considerations relevant to Aboriginal and Torres Strait Islander offenders. Both Crossroads, a high-intensity sexual offending program, and New Directions, a medium-intensity sexual offending program, target the psychological, social and lifestyle factors associated with sexual offending.

Transitions Release Preparations Program

The Transitions Release Preparations Program provides prisoners with an opportunity to address their practical re-settlement needs prior to release and contains Indigenous-specific content. It is an evidence-based program developed in-line with the principles of offender throughcare. Specifically, the post-release period following a prisoner's return to the community has been identified as a high-risk period for homelessness and re-offending. For many offenders, a return to criminal behaviour often becomes the interim solution to obstacles and difficulties encountered during this time, particularly in relation to establishing safe and affordable accommodation, living independently and being financially responsible for themselves and any dependents.

Positive Futures Program

QCS also delivers a Positive Futures Program, which is a culturally specific program for Aboriginal and Torres Strait Islander offenders. This program takes a culturally appropriate and strength-based approach to addressing substance abuse and domestic and family violence. It also uses various practically-based activities that focus on topics of identity, connection, motivation and change, anger and violence, alcohol and substance abuse, power and control, jealousy, trust and fear, family and community, and parenting.

For example, the Ending Offending program is a culturally-specific program designed to help address aspects of offending behaviour relating to alcohol use. Ending Offending is a brief intervention aimed at helping Aboriginal and Torres Strait Island offenders modify their drinking and offending behaviour. The program is based on a cognitive behavioural model and uses both active and experiential learning exercises that are culturally appropriate. It assists offenders to change their understanding, attitudes and behaviour regarding alcohol use. It is available in correctional centres and the probation and parole service.

Wundurra Koolin Men's Group

The Wundurra Koolin Men's Group, facilitated by Relationships Australia, allows male Aboriginal and Torres Strait Islander offenders to discuss personal issues such as family and culture in a supportive environment.

There are also Indigenous Cultural Centres located at some correctional centres and provide a safe and culturally appropriate place for events, meetings and activities. The Elder Visitation program also takes place in the Indigenous Cultural Centres at selected correctional centres. It enables offenders to interact with Elders in an informal setting and to maintain positive cultural connections and receive culturally appropriate advice. There is also a Murri Chaplaincy program, which provides spiritual guidance for Aboriginal and Torres Strait Islander prisoners.

Barriers and Obstacles to Programs

There remains many barriers and obstacles for Aboriginal and Torres Strait Islander offenders getting access to parole or participating in programs and counselling services offered by QCS in the community. In summary, these include:

- access/transport to the centres running the programs;
- employment commitments;
- family responsibilities;
- lack of motivation or incentive;, and
- lack of availability of programs in some locations.

In a report commissioned by the Queensland Government to review their parole system, it was found that Aboriginal and Torres Strait Islander people felt they were discriminated against "because the parole criteria did not accommodate the culture to which many of them returned." They opposed the expectations of the parole board and said they "did not have, and should not be expected to have, the kinds of jobs, families and homes that the

parole board regards as appropriate for release of a prisoner into the community" (Queensland Government, 2016: 45).

Access to legal support and information has also been identified as a significant issue for Aboriginal and Torres Strait Islander prisoners when applying for parole. They tend to have poorer access to legal support before and during their imprisonment compared to non-Aboriginal and Torres Strait Islander offenders. This may include language barriers, socio-economic disadvantage, cross-cultural issues and the severity of their offences (Apted, Hew & Sinha, 2013). The result is that they are likely to represent themselves during any court attendance. This often results in them receiving a more severe sentence where there are strong mitigating factors suggesting that alternative sentencing or parole may have been more appropriate under the circumstances. Also, often Aboriginal and Torres Strait Islander prisoners feel dejected by the legal system and therefore feel as though parole is out of their reach. Depression and a feeling of helplessness can lead to despondency and a lack of motivation or optimism about potential outcomes of their hearings.

South Australia

SA's imprisonment rate has increased at twice the national rate, with the overall prison population growing by 86.5 percent over ten years. The number of adult prisoners in SA prisons was 3,032, an increase of three percent (84 prisoners) since 2016. The adult imprisonment rate was 224 prisoners per 100,000 adult population, an increase from 219 prisoners per 100,000 adult population in 2016. Just over half of all prisoners (52 percent or 1,576 prisoners) had previously been imprisoned under sentence (ABS, 2017).

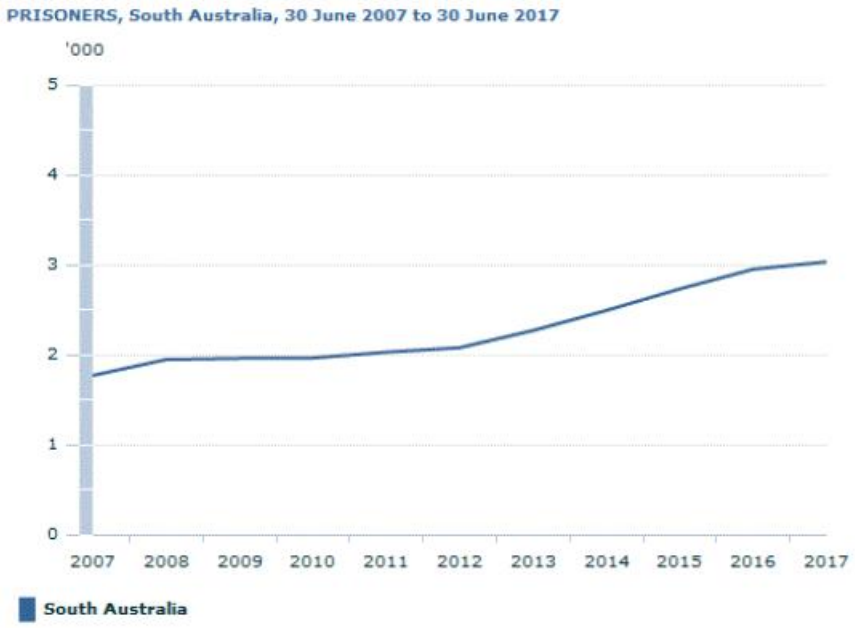

Figure 5. Number of prisoners in SA at 30 June 2017 (ABS, 2017)

Aboriginal and Torres Strait Islander prisoners in SA correctional facilities make up 22 percent of the adult prisoner population, despite making up only 2.3 percent of the total SA population. Compared to the national average daily Aboriginal and Torres Strait Islander imprisonment rate - which was 2,474 persons per 100,000 adult Aboriginal and Torres Strait Islander population - SA had the third highest Aboriginal and Torres Strait Islander imprisonment rate in Australia (after Western Australia and the Northern Territory). SA recorded 2,636 persons per 100,000 adult Aboriginal and Torres Strait Islander population (ABS, 2018). Rates of reoffending are also high, with 75 percent of Aboriginal and Torres Strait Islander offenders having a previous conviction compared to 42 percent of non-Aboriginal and Torres Strait Islander offenders.

Noting these concerning statistics, the SA Government has expressed commitment to ensuring that the specific cultural needs of Aboriginal and Torres Strait Islander offenders are appropriately addressed through the provision of culturally appropriate supports, services and programs. For example, there are several programs that have been implemented to support Aboriginal and Torres Strait Islander offenders while in prison. These include: Our Way, My Choice; Drum Beat; Aboriginal Elders Visiting Program; Making

Changes – Aboriginal Modified Program; and the Aboriginal Violence Prevention Program. To ensure Aboriginal and Torres Strait Islander offenders are provided transition support, Community Corrections staff ensure that offenders are linked to culturally appropriate services including: Aboriginal Prisoners and Offenders Support Services, Aboriginal Sobriety Groups, Drug & Alcohol Council SA and Aboriginal Health Council South Australia (Department of Correctional Services South Australia, 2018).

The Department of Correctional Services' (DCS) Aboriginal Services Unit (ASU) was established in 1995 because of the Royal Commission into Aboriginal Deaths in Custody. The ASU is responsible for advising on and developing culturally appropriate services for Aboriginal prisoners and offenders; and it is a significant contributor to policy development for the management and rehabilitation of Aboriginal offenders. Aboriginal offenders require special attention in any correctional system for social and cultural reasons and their high level of representation. In the SA system, Aboriginal offenders come from both urban backgrounds and traditional lands in the far north and western areas of the state. The ASU develops and implements policies and practices for managing these offenders and liaising with key advocacy groups (Ombudsman South Australia, 2012).

Programs & Initiatives

DCS runs numerous outcomes-focused, evidence-based programs, both in prison and in the community, which contribute to better outcomes for all offenders (regardless of background), ex-offenders and those on remand. In the 2016-17 financial year, there was a 35 percent increase in the commencement of rehabilitation programs. There has been a $12.5 million investment to increase the number of hours of rehabilitation programs available in prison and in the community.

Parole Programs

Adult offenders with prison sentences of 12 months or longer are required to have a non-parole period set by the court (unless the court declines to set one). Adult offenders serving a sentence of five or less years, other than those convicted of a sexual offence, personal violence offence or arson, are automatically eligible for release on parole at the expiration of their non-parole period if they agree to comply with the conditions of release set by the parole board. Adult prisoners serving a period of imprisonment for a sexual offence, personal violence offence or arson are precluded from being automatically eligible for release on parole. They must apply for release on parole, which is considered by the parole board. In addition, those prisoners serving a term of five years or more are also required to apply for release. The parole board makes the decision whether to release the prisoner and provides the conditions of release. For those prisoners serving a life sentence, the Governor in Executive Council must approve the parole board's recommendation for release. The parole board of SA is assisted in making its decisions by a parole report, which is completed by a community corrections officer. The parole report contains information regarding background, offending history, an assessment of the prisoner's risk and criminogenic needs, behavioural patterns in prison, recommendations for programs to be undertaken, and

release plans. The parole report also makes recommendations regarding the conditions of parole (South Australian Government, 2015).

DCS has undertaken a series of reforms to increase non-custodial interventions for offenders, which has been primarily through increasing and expanding options for community-based supervision and rehabilitation programs. These reforms have been based on international research, which the Department considers demonstrates the effectiveness of targeted community-based interventions for reducing recidivism and desistance from crime. These reforms also aim to reduce the demand on correctional facilities in SA. Non-custodial interventions include the following:

Domestic Violence Offenders

For domestic violence offenders, DCS offers a Domestic and Family Violence Intervention Program (DFVIP). The program is designed for groups of prisoners and offenders who are assessed as being a moderate to high risk of domestic and family violence reoffending, particularly against a female intimate partner. It also includes a support structure for the victims of the offending and aims to address a range of issues, including: deficits in empathy, cognitive distortions, emotional regulation and attitudes that are supportive of violence against women and children.

In the community, the DFVIP operates mainly at sites across Adelaide; however, it is not yet available for offenders living in remote and regional areas. However, there is another family violence program called the Cross Borders Indigenous Family Violence Program, which operates throughout the Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara (NPY) / Anangu Pitjantjatjara Yankunytjatjara (APY) Lands and at Port Augusta Prison. This program operates twice per year.

The Cross Borders Indigenous Family Violence Program (CBIFV) program was created in 2007 as a result of a proposal put forward by the DCS, with the support of the Western Australian Department of Corrective Services and the Northern Territory Department of Justice. The CBIFV Program was developed in response to increasing demand from courts, parole boards and releasing authorities for a sustainable intervention to reduce the risk of violence-based reoffending in remote Aboriginal communities. The CBIFV Program covers the remote regions of the NPY lands of SA, WA and the Northern Territory. The initial aim of the CBIFV Program was to initiate change in adult male Aboriginal offenders, particularly those under supervision by State and Territory correctional services (Government of South Australia, 2015).

As a result of the experience of DCS' work in the NPY communities, it became apparent that there was a need to deliver a family violence program in selected communities for women perpetrators of violence. As a result, DCS developed a trial female program in 2012-13, which commenced in late-September 2012 in Finke in the Northern Territory. Additional programs have since been completed including in Warburton (in WA) and Fregon (in SA). On average, 12 participants attended on each day with the support of female Aboriginal Elders. All communities where the program was delivered supported its extension. The program is designed so that is can be flexible to suit community obligations, but generally requires approximately 55 hours participation (usually four days a week over four weeks). Commitment to attendance is a strong component of the program with participants unable

to miss more than two sessions. Between its commencement in 2007 and 2015, over 300 individuals completed the male program (of those, over 200 were mandated to attend) and over 40 completed the female program (only a small number of these were mandated to attend) (Government of South Australia, 2015).

As part of the implementation of the *Intervention Orders (Prevention of Abuse) Act 2009*, an across Government intervention response model has been established outside of corrections. This model provides the basis for intervention responses within the context of intimate partner relationship and includes programs for perpetrators of domestic violence and support for women through the Women's Safety Contact Program (WSCP). The WSCP aims to increase the safety of female protected persons who have experienced domestic or Aboriginal family violence and who are not otherwise engaged with a support service. The program provides a worker to support women (and their children), monitor their safety and levels of risk and refer women to complementary services for support if appropriate. This includes referral to the Family Safety Framework in local regions (South Australian Government, 2015).

Sex Offenders

Moderate and high-risk sex offenders can undergo treatment in a Sexual Behaviours Clinic (SBC) while in custody. This is a group therapy, high intensity program for all offenders deemed most at risk of sexual reoffending. The program runs for nine months and is aimed at reducing the incidence of sexual reoffending behaviour and addresses the following treatment areas:

- substance abuse;
- self-management;
- cognitive distortions;
- empathy and victim awareness;
- intimacy;
- relationships;
- social functioning;
- emotion management; and
- deviant sexual fantasy and arousal.

While DCS does not operate the SBC in the community, a sex offender program is offered by Owenia House (part of Forensic Mental Health) to community-based offenders. This program is offered to sex offenders assessed as being at the lower end of the risk spectrum or for those who don't receive long enough sentences to engage in the program while in prison.

Violent Offenders

While most violent offenders will undergo some form of treatment during their term of imprisonment, DCS offer a Living Without Violence (LWV) program to mitigate risk of violent offenders living in the community. This is a group therapy program that runs for approximately five months. It is primarily aimed at reducing the incidence of violent reoffending behaviours and has a range of treatment objectives including:

- substance abuse;
- emotional control;
- impulsivity;
- violent lifestyle; and
- cognitive distortions.

The LWV program is conducted in Metropolitan Adelaide, usually at a site within the CBD, two to three times per year.

Generalist Offenders

For more generalist offenders, with a substance abuse problem related to their offending, DCS runs a Making Changes Program (MCP). This is a moderate-intensity criminogenic program that runs for around six months. It is aimed at reducing the incidence of general offending behaviours. Using two or more facilitators, it is delivered to prisoners and offenders in the community and aims to address a range of treatment targets including:

- substance abuse;
- impulsivity;
- deficits in problem solving ability;
- deficits in empathy; and
- anti-social and criminal attitudes.

An adaptation of the program, called Making Changes Modified Program (MCMP), operates in regional community areas. In this program, offenders are engaged in a small group setting with one facilitator rather than two. The MCMP aims to address the same treatment needs listed above.

Visiting Elders Program

Aboriginal elders participate as volunteers for DCS in a Visiting Elders Program (VEP) and visit prisons across SA. Visits are scheduled monthly and occur at the following correctional facilities:

- Adelaide Pre-release Centre
- Adelaide Remand Centre
- Adelaide Women's Prison
- Cadell Training Centre
- Mobilong Prison
- Port Augusta Prison
- Yatala Labour Prison

The VEP is also currently being developed to run at Mount Gambier and Port Lincoln Prisons.

The VEP engages, encourages and supports Aboriginal and Torres Strait Islander prisoners in a culturally appropriate manner. Elders play a vital role in supporting the rehabilitation of these offenders. Visiting elders assist Aboriginal prisoners re-establish and strengthen their family and community connections before the prisoner leaves prison. The elders use their cultural authority to help strengthen family kinship ties and remind prisoners of their cultural and family responsibilities within their communities.

Other programs

OWMC – Our Way My Choice

This is an Aboriginal preparatory and wellness program for Aboriginal and Torres Strait Islander men, which is non-criminogenic. The program aims to increase self-awareness and the engagement of the participants. It is currently delivered in prisons, but the program is being developed to also use in the community.

Drumbeat program

Drumbeat is a non-criminogenic program for Aboriginal men and women, delivered in prisons. It is an evidence-based experiential social and emotional learning program, incorporating hand drumming that aims to build resilience through developing relationship skills. The program allows participants to partake in a cooperative team process, involving music making and group discussion to explore relationships through rhythm.

RSG2 – Respect Sista Girls 2 Program

This is a program for Aboriginal women involving cultural and wellness awareness. It is a non-criminogenic program delivered through a cultural lens. The program aims to empower Aboriginal women to make better life choices, increase self-awareness and self-esteem. It tries to teach roles and responsibilities and how-to obligations to both the family and the wider Aboriginal community.

Community-Based Court Orders

SA courts can sentence adult offenders to undertake community-based sanctions/orders including Probation (Bonds), Community Service (Repay SA), Supervised Bail or Intensive Bail Supervision (court ordered Home Detention Bail). During the period of their community-based sentence, offenders are supervised by the DCS through case management services provided by community correctional centres. DCS also provides community-based supervision for offenders on parole and home detention. DCS manages 16 community correctional centres and outreach services that are located across the state. These centres can supervise over 7,000 people in the community on any given day.

In 2014-15, the centres were divided amongst three separate regions: the southern, northern, and central regions. DCS 'Enhanced Community Corrections Framework' enables risk-based offender management, where resources are focused on offenders who represent the highest risk to the community: the higher the risk, the more intensive is the supervision, monitoring, programs and case management provided. The framework enables DCS to effectively manage adult offenders in the community with a focus on public safety, public confidence, offender responsibility, and victim rights. This evidence-based approach promotes a balance between compliance and rehabilitation (Government of South Australia, 2015).

Outside Services

Aboriginal Prisoners & Offenders Support Services (APOSS) provides post and pre-release assistance, support and advocacy programs for Indigenous offenders. This is based on cultural relevance and appropriately supported by a range of life skills programs that are delivered for Aboriginal and Torres Strait Islander prisoners, offenders, and their families. The purpose of the program is to provide prevention and diversionary services to Aboriginal prisoners, offenders and those at risk, in the Adelaide, Mount Gambier, Port Augusta and Port Lincoln areas. APOSS is also committed to providing support to the families of those incarcerated.

For offenders who have left prison, APOSS aims to reduce recidivism rates by:

- providing temporary accommodation to offenders exiting the prison system;
- linking offenders into education or further education;
- providing opportunities to volunteer at APOSS;
- encouraging offenders to participate in life skill programs; and
- offering offenders the opportunity to complete community service hours.

Offenders living on APOSS properties, and those who are part of throughcare, are case managed to address all areas of an offender's social and emotional wellbeing.

For offenders who are currently incarcerated, service delivery focuses on throughcare. This means that a case management plan is developed during the offender's assessment stage while incarcerated. It is anticipated, through regular visits to prisons and rapport building with offenders, that the case management plan will address client needs in a holistic way to help smooth the transition from incarceration to successful integration into the community. Offenders can request a visit by APOSS to address any presenting issues or concerns. This is usually arranged through the Aboriginal Liaison Officer or Social Worker.

Barriers and Obstacles to Programs

The overwhelming bulk of offenders (approximately 90 percent), who are found to be eligible for a criminogenic program, agree to participate. However, some offenders choose not to participate in programs for a variety of reasons including:

- they do not want to be labelled as having been convicted of certain offences;
- they categorically deny their offending;
- they are appealing their conviction; or
- they see no personal benefit to engage in the program.

Despite their refusal to participate, these offenders are offered further opportunities to engage in rehabilitation programs as they arise.

From DCS meetings with an Aboriginal Reference Group, it is clear that key issues and focus areas facing SA Aboriginal communities and Aboriginal offenders include, intergenerational trauma and incarceration, employment and education, practical barriers to transitioning from prison to community, and overly harsh responses to minor crime and infringements. As part of the 10 by 20 panel process, consultation with general prisoners and the offender

population found that prisoners experienced a number of barriers to completing programs and desisting from crime. These included:

- a lack of social networks and feeling of belonging to a community;
- a lack of available and appropriate housing on exit from prison;
- a lack of programs and support mechanisms for individuals on remand and serving short sentences;
- the treatment of ongoing health issues;
- limited support and information available when transitioning from prison to the community; and
- the fear of managing life away from the structured prison.

Victoria

As at June 2017, Victoria had the second lowest rate of imprisonment in Australia after the ACT. Victoria had 145.4 prisoners per 100,000 adults, the ACT had 141.2 per 100,000 adults and the national rate was 215.9 per 100,000 adults. As of 30 June 2017, there were 7,149 prisoners in the Victorian prison system, which represented an increase of 70.8 percent (or 4,186 prisoners) from 30 June 2007 (Victoria State Government, 2017). Between 2007 and 2017, the imprisonment rate for Aboriginal and Torres Strait Islanders in Victoria was consistently higher than the rate for the total population. For example, in 2017 the rate for Aboriginal and Torres Strait Islanders was 1,833.9 per 100,000 adults compared with 145.4 for all Victorians. Aboriginal and Torres Strait Islander people make up less than one percent of the general population but represent eight percent of the state's prisoners and six percent of those on CCOs (Victoria State Government, 2015).

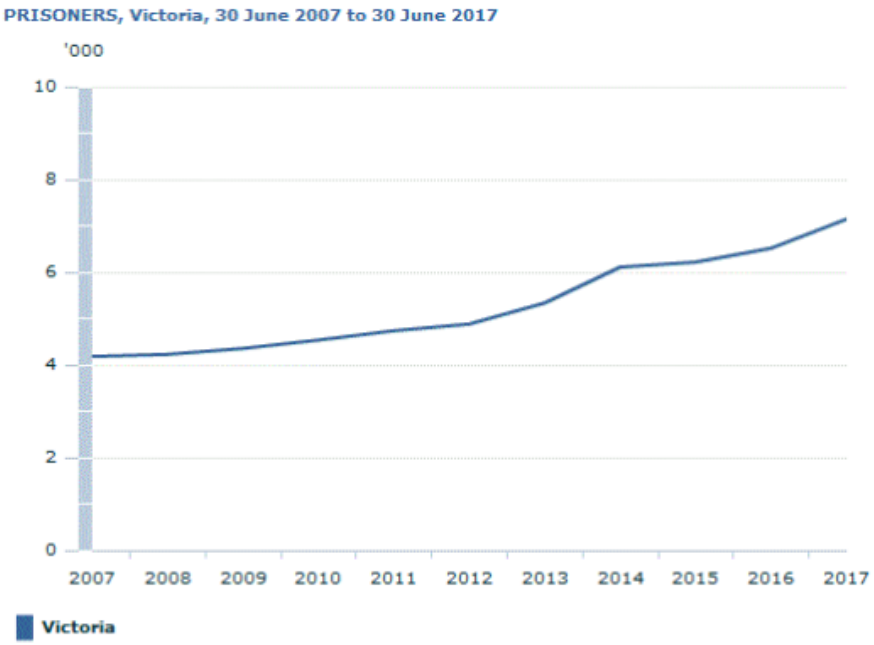

Figure 6. Prisoners in Victoria at 30 June 2017 (ABS, 2017)

Between 2009 and 2017, the Aboriginal and Torres Strait Islander imprisonment rate increased from 956.7 to 1,833.9 per 100,000 adults (ABS, 2017). As of 30 June 2017, there were 14,298 offenders on CCOs. Of the offenders who were discharged from these CCOs in 2014–15, 26.7 percent had returned with a new community correctional sanction within two years (Victoria State Government, 2017).

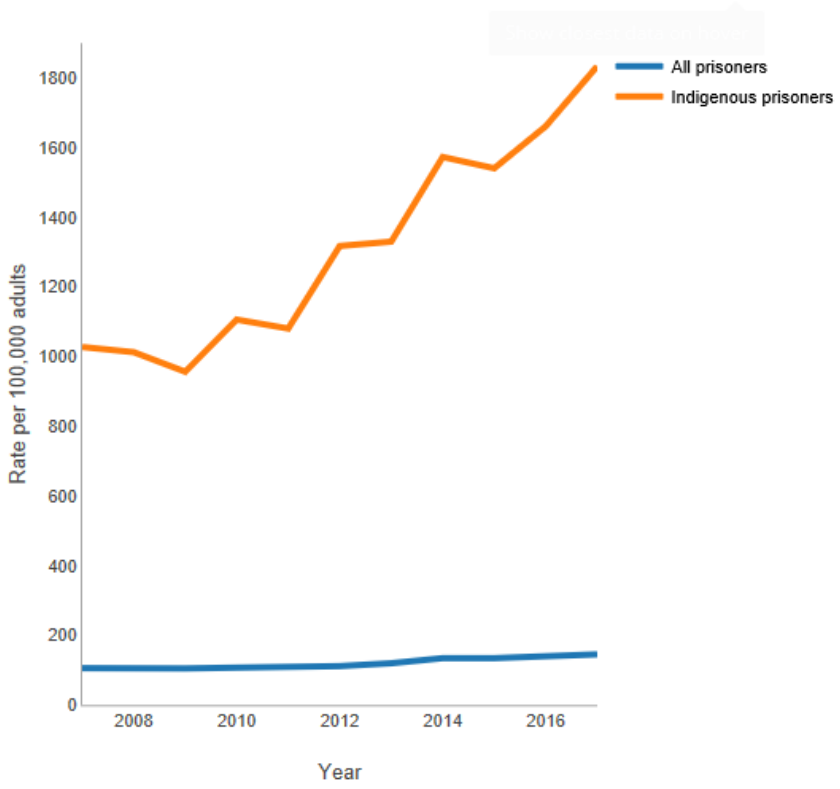

Figure 7. Imprisonment rate per 100,000 adults for Aboriginal and Torres Strait Islander Victorians and for Victorians overall (Sentencing Advisory Council, 2018).

The growth of offenders in the criminal justice system arguably reduces Corrections Victoria's (CV) capacity to deliver efficient rehabilitation programs or reintegration strategies back into the community. Part of the problem is that more prisoners eligible for parole choose not to apply because of stringent new conditions. Therefore, when they do leave prison they may have not completed rehabilitation programs. Also, those "who want to participate in rehabilitation programs, cannot get access to them" (Scott, 2017: 119). This is particularly the case for Aboriginal and Torres Strait Islander prisoners. An investigation into the rehabilitation and reintegration of prisoners by the Victorian Ombudsman concluded that the Victorian prison system is failing to make the community a safer place. It also noted that, while the public is understandably horrified by violent crime, the government should not be continuously pouring funds into a correctional system that is unsustainable and arguably not working (Victorian Ombudsman, 2015).

Research suggests that Victoria's over-representation of Koori offenders is linked to entrenched social disadvantage, exacerbated by high rates of substance abuse, intergenerational experiences of crime and violence, physical and mental health issues, unemployment and economic disadvantage (Willis and Moore, 2008). The Aboriginal and Torres Strait Islander population is also more likely to "experience lower life expectancy and higher mortality rates, less likely to attend school, more likely to be living in over-crowded households, more likely to engage in high-risk binge drinking and more likely to experience violence" (Victoria State Government, 2015: 4). While CV should not be blamed for the root causes of offending, the judicial system should take more steps towards lessening the reliance on incarceration as a solution to reduce the intergenerational cycle of offending.

As a means to improve Koori justice outcomes in Victoria, there is a formal agreement between the Victorian Government and the Koori community to work closer together. This is known as the Victorian Aboriginal Justice Agreement (AJA), which was first signed in 2000. The forming of the AJA was one of the Victorian Government's responses to the 1997 National Ministerial Summit into Indigenous Deaths in Custody, "which served to review federal and state governments' responses to the recommendations of the Royal Commission into Aboriginal Deaths in Custody five years after their implementation" (Cultural & Indigenous Research Centre of Australia, 2013: 117). The agreement aims to minimise Indigenous over-representation in the criminal justice system by:

- improving accessibility, utilisation and effectiveness of justice-related programs and services;
- maximising participation of the Aboriginal community in the design, development, delivery and implementation of all justice policies and programs that impact on Aboriginal people;
- ensuring prison conditions support the rehabilitation of Koori offenders;
- addressing cultural strength, education, training and employment and mental health and social and emotional wellbeing, as protective factors that will help reduce re-offending for Koori prisoners and offenders;
- addressing individual offence-specific characteristics that put Koori prisoners and offenders at high risk of re-offending; and
- ensuring that Koori people in custody are able to reintegrate effectively into their communities upon release through effective programming and culturally sensitive strategies (Victorian Ombudsman, 2014).

Programs & Initiatives

Parole Programs

When sentencing an offender to a period of imprisonment of at least one year in Victoria, courts usually fix a non-parole period as part of the sentence. When the non-parole period expires, the Adult Parole Board "has discretion to release the offender into the community to serve the remainder of the sentence on parole, under the supervision of Community Correctional Services". While on parole, the offender is subject to a range of conditions, which they must adhere to if they are to remain out of custody. If the conditions are breached, the board may cancel parole and return the offender to prison (Sentencing Advisory Council, 2012: 27). In their deliberations, the Adult Parole Board considers the following when deciding on whether to grant parole:

	Members' Manual 2011	Annual Report 2010–11
1.	Interests of/risk to the community	Assessment of potential risk to the community if the offender is released
2.	Interests of the offender	
3.	Intentions and comments of the sentencing authority	Comments made by the sentencing court
4.	The nature and circumstances of the offence(s)	Nature and circumstances of the offence
5.	The offender's criminal history	Prior criminal history
6.	Previous community-based dispositions and compliance on such	Previous history of supervision in the community
7.	Release plans	Release plans and whether suitable accommodation is available
8.	Reports, assessments and recommendations made by a variety of professionals, including medical practitioners, psychologists, psychiatrists, custodial staff, support agencies and community corrections officers	Assessments and recommendations by appropriate professionals (e.g. community corrections officers, psychologists, psychiatrists)
9.	Submissions made by the offender, the offender's family, friends and potential employers, or any other relevant individuals	Submissions of the offender, the offender's family, friends, prospective employer or other relevant individuals
10.	Representations made by the victim or the victim's family, or other relevant individuals	Written submissions from the victim or victim's family
11.	Representations made by the offender or others with a legitimate interest in the case	
12.		Conduct of the offender in prison, including whether any positive drug test results have been recorded
13.		Willingness to participate in relevant programs and courses while in custody

Figure 8. Factors considered by the Board when deciding whether to grant parole (Sentencing Advisory Council, 2012).

Community Corrections Orders

A CCO is a flexible order available in Victoria that allows an offender to serve their sentence in the community. CCOs provide offenders with an opportunity to undergo treatment or take part in educational, vocational or personal development programs in the community. These orders also mean that offenders can stay with their families and friends, remain in employment, or look for work. Therefore, offenders can continue to live as normally as possible, while meeting the terms of the CCO. An offender may be given a CCO without the court calling for a pre-sentence report. However, to make sure that each offender receives the most appropriate rehabilitation program, a court usually calls for a pre-sentence report. If a CCO is breached, or another offence is committed during the term of the order, a community corrections officer would prepare a "breach report" and the case would come back before the court. In this situation, an offender may be re-sentenced on the original

offence/s and may not receive the benefit of a CCO again. Any other offences would also be dealt with and may attract additional sentences.

CCOs first became available as a sentencing option in Victoria in 2012, replacing several community orders, such as the community-based order and the intensive correction order. The introduction of CCOs coincided with the progressive phasing out of suspended sentences of imprisonment. Previously, sentencing courts had a range of community orders below imprisonment that increased in the level of severity. In contrast, the CCO is designed as a single order that a court can make more or less severe through the length of the order and the conditions attached to it. CCOs may also be combined with a sentence of imprisonment, making the CCO an option for more serious offences (Sentencing Advisory Council, 2017).

CCOs have at least one condition attached and differ according to the kind of offence an individual is found guilty of and the circumstances around the crime. These orders may only be imposed for up to two years if made in the Magistrates' Court. However, CCOs can be no longer than the maximum jail term ordered for an offence. A CCO gives the court wide sweeping power to address the underlying cause of the offender's behaviour, such as drug and/or alcohol abuse, psychological illness, anger management issues. The CCO was introduced in early 2013 and reflects a change in the government's attitude to sentencing. Prior to its introduction there were two types of treatment orders available – Intensive Corrections Orders (ICO) and Community-based Orders (CBO). CCOs have replaced both these orders and offer a degree of flexibility to address the court's concerns in relation to the offender.

The CCO sits immediately below imprisonment in the sentencing hierarchy. If an offender fails to comply with a CCO without a reasonable excuse they can face a maximum of three months' imprisonment. However, there are a number of possible responses if CV discovers that an offender has failed to comply with a CCO. These options are outlined in the figure below.

Figure 9. Options for managing an offender's non-compliance with a CCO (Sentencing Advisory Council, 2017)

Community Correctional Services (CCS), a division of CV, oversees the delivery of community corrections in Victoria. Community corrections officers manage offenders and are responsible for ensuring they comply with the conditions of their orders. Conditions may include participating in appropriate educational programs, community work and assessment and treatment programs. Community corrections involves the management and supervision of offenders in the community. These offenders are serving court-imposed orders either as an alternative to imprisonment or as a condition of their release on parole from prison. This means they must report regularly to their community corrections officer and may have to participate in unpaid community work and rehabilitation programs. Community corrections plays a vital role in ensuring the safety of the community by rehabilitating offenders and diverting low-risk offenders from prison which helps to break the cycle of reoffending.

Corrections Victoria Aboriginal Programs Unit

Within CV, there is an Aboriginal Programs Unit (APU) in the Offending Behaviour Programs Branch of the Offender Management Division. The APU is responsible for the design, development and oversight of Aboriginal services delivered across prisons and community corrections services. Within this organisational setup, CV is committed to providing culturally appropriate and responsive services for Koori prisoners and offenders. This commitment is demonstrated by the number of key functions undertaken by the APU. These functions include:

- the oversight of the development of policy and services for Aboriginal prisoners and offenders in Victorian prisons and Community Corrections Services (CCS);
- ensuring all Koori-specific related initiatives within CV are implemented on time with high quality and stakeholder support;
- ensuring that budget and project resources are efficiently managed to deliver the best outcomes for Aboriginal prisoners and offenders;
- assisting CV staff in understanding issues impacting on Aboriginal prisoners and offenders and providing advice relating to policy and program development, and service delivery;
- developing, maintaining, and fostering partnerships with Aboriginal community stakeholders, commonwealth and state departments;
- ensuring effective monitoring, research, evaluation and information systems are in place to determine trends, outcomes and impacts arising from services and policies impacting on Aboriginal prisoners and offenders;
- implementing service pathways for Aboriginal prisoners and offenders;
- maximising the alignment between service delivery and service needs or demands; and
- monitoring roles across services provided to ensure service objectives are being met and that service quality improvement is ensured (Victoria State Government, 2015).

Cultural Wrap Around Model

The Cultural Wrap Around Model (CWAM) is part of an improved Aboriginal programs framework to increase access by Aboriginal prisoners and offenders to Offending Behaviour Programs (OBPs). The CWAM is aligned with the OBP service delivery model, and under CV's Offender Management Framework, is conducted in a cultural safe and responsive way. It aims to improve access and participation of Koori prisoners and offenders by linking their delivery and content with participation in cultural programs. Specifically, the model allows for the provision of culturally safe briefing sessions to take place in parallel to completion of OBPs and, as such, maximises opportunities for behavioural change in a culturally appropriate way.

Aboriginal Cultural Guidelines

Efforts to engage Aboriginal prisoners and offenders in mainstream OBPs have traditionally presented some challenges both in terms of motivation and to engage but also in achieving successful program completion. This has partly been attributed to the limited connection made between mainstream programs and Aboriginal culture and identity. Therefore, it is essential that CV delivers programs in a way that make sense to, and connections with, Aboriginal people.

The Aboriginal Cultural Guidelines (ACG) are one component of the CWAM, The ACGs are a foundation resource that will underpin the delivery of programs from a baseline of not only cultural awareness but also cultural competence. The ACGs are structured in two parts:

> Part 1 – Understanding Aboriginality is focussed on building an understanding of the key elements of Aboriginal culture and society, including language, community and spirituality. Part 1 also articulates key cultural considerations, particularly in the context of Aboriginal history that may impact on Aboriginal engagement in programs and services.
>
> Part 2 – A Cultural Toolkit, extends this knowledge further by offering practical session-by-session guide to the delivery of key OBPs in a culturally competent manner. This includes considerations of acknowledgement of country, language and kinship, all of which may impact on program participation and ultimately the potential for positive behaviour change as an outcome. Part 2 also includes adapted case studies for program sessions with the express purpose of promoting 'inclusiveness' in program delivery.

The Wulgunggo Ngalu Learning Place

The Wulgunggo Ngalu Learning Place (WNLP) is a joint initiative of the Victorian Government and the Koori community and is part of the AJA. It is also part of the Victorian Government's response to the findings of the Royal Commission into Aboriginal Deaths in Custody (1991). Opened in September 2008 at the former Won Wron Prison site in Gippsland, it provides a culturally appropriate 'learning place' for Koori men undertaking CCOs. The live-in program can accommodate up to 18 men at any one time. Residents can volunteer to attend or may be directed into the program by the courts. Participants live on

site for three to six months and can return home every third weekend. They are required to participate in the education component of the program, incorporating education, employment and living skills. Community work is completed on site and involves maintaining the 65-hectare property.

The program aims to help reduce the significant over-representation of Koori people in Victoria's criminal justice system. The focus is on developing life skills to improve overall health and reduce substance abuse if needed, improve job prospects and reduce the likelihood of reoffending in the future. The program includes local land care and community art, cooking and parenting workshops. Elders provide leadership and communicate traditional cultural values. This is in keeping with the name 'Wulgunggo Ngalu', which is taken from the local Aboriginal language (Gunai/Kurnai), Wulgunggo means 'which way' and Ngalu means 'together' (Clear Horizon Consulting, 2013).

In 2013, WNLP was independently evaluated by Clear Horizon Consulting. They found that participants who complete the WNLP program, also completed their CCOs at a higher rate than Aboriginal offenders CCOs in the community. They also found that culture provided a vehicle for change where they could reconnect with culture, or further strengthen their culture and take on a leadership role. Within a holistic approach, WNLP focuses on four key areas:

1. Health and wellbeing: the program include activities that promote living skills, good nutrition and physical activity. It also addresses primary health care (dental, medical, and nutrition), mental health (grief, loss and trauma) and spirituality. It has also established relationships with the local health service and Aboriginal health services. Alcohol and other drugs are not allowed at any time.
2. Life skills: participants learn basic living skills, such as planning a budget, planning for meals, shopping, cooking, cleaning and laundry and are supported by staff to share responsibility for these activities. Where appropriate, participants can access literacy and numeracy courses.
3. Education, vocational training and work readiness programs: ties are established with Vocational Education and Training in Gippsland to deliver a range of education and training programs for participants. Topics can include horticulture, cultural art, concreting, construction and first aid.
4. Community work: Participants can undertake community work as part of their CCOs, where applicable. While community work satisfies a CCO requirement, it is also seen as providing other benefits including the opportunity to gain skills and develop a sense of pride in helping the community. Community work may also offer the chance for community members to work alongside participants, thereby learning more about Koori culture.

Together, these elements of cultural strengthening are summarised in the WNLP program logic model outlined below.

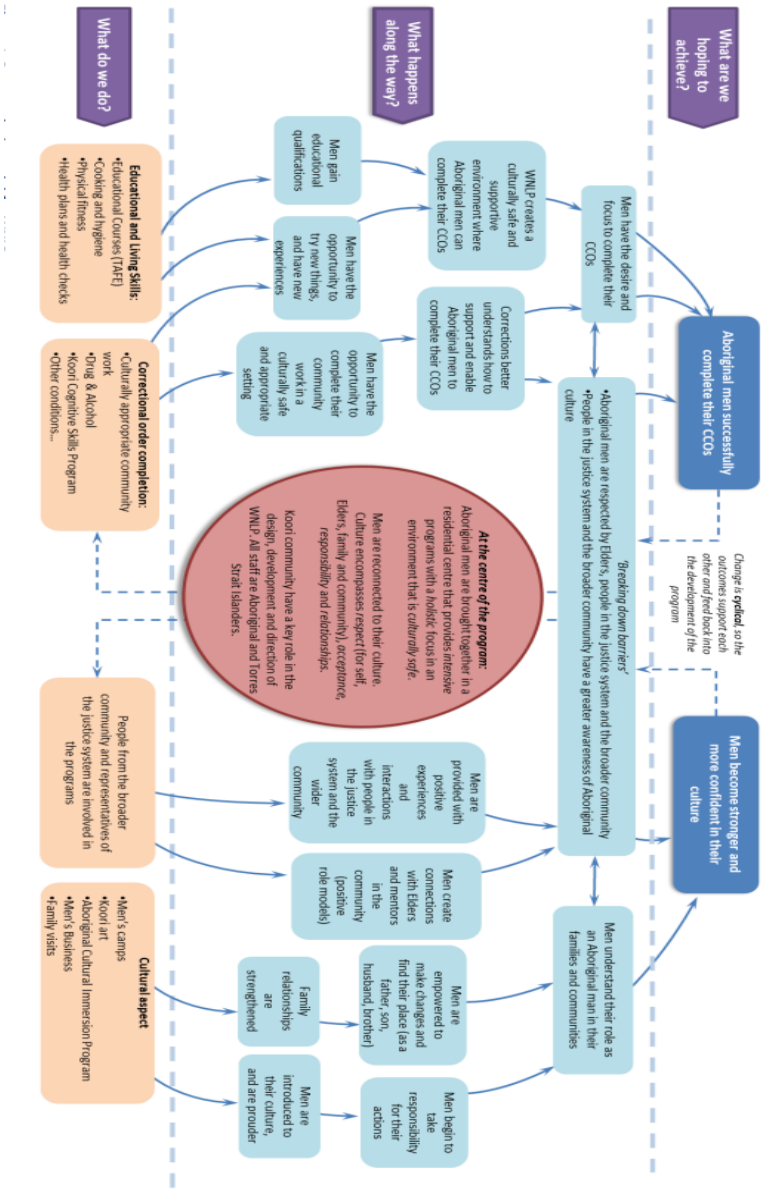

Figure 10. WNLP program logic model (Clear Horizon Consulting, 2013)

Ngurelban Aboriginal Healing Service

Ngurelban, located on the Campaspe River at Rochester, 180 kilometres north of Melbourne, is jointly managed by all Aboriginal communities in the southern Loddon Mallee region. Ngurelban provides healing services and activities that connect and strengthen people's relationship with each other and with the land. Offenders managed by Bendigo CCS engage in ongoing gardening and maintenance work and have assisted with flood-recovery work, such as fencing and path rebuilding as part of their community-based orders.

Local Justice Worker program

Local Justice Worker program is a community-based initiative funded through the AJA. It aims to support Aboriginal offenders meet the conditions of their CCOs, by sourcing

supervised community work opportunities in culturally-appropriate environments, as well as linking in to relevant programs and services available in the community. Participants in the program work with the Sheriff's Office and offenders with outstanding fines to negotiate payment plans, as well as acting as a key point of contact between local Koori communities and justice agencies. The program is delivered by community organisations in 10 locations across Victoria, including Bendigo, Dandenong, Drouin/Warragul, Echuca, Horsham, Lakes Entrance, Swan Hill, Warrnambool, Wodonga, and Western Metropolitan.

The Koori Offender Support and Mentoring Program

The Koori Offender Support and Mentoring Program is a community-based initiative funded through the AJA. It is delivered in five communities across Victoria. Under the program, Koori Elders and Respected Persons play a mentoring role to Koori participants who are completing community-based orders, intensive corrections orders, community corrections treatment orders or parole. Mentors provide advice and cultural connection to support the program participants successfully complete their orders. The program is a successful collaboration between the Koori community and Victoria's Community Correctional Services, assisting to foster close relationships between mentors and program participants and increase their likelihood of successfully completing their correctional orders. The Koori Offender Support and Mentoring Program operates in Bairnsdale, Latrobe, Mildura, Shepparton, and North West Metropolitan.

The Torch Project,

The Torch Project is a collaboration between CV and a non-government organisation. The project helps Aboriginal and Torres Strait Islander prisoners sell their artwork in the community, with the proceeds used to fund post-release pathways for the artists involved. The project elevates culture and aims to introduce artists to the arts industry and increase self-sufficiency.

Aboriginal Cultural Immersion Program

The Aboriginal Cultural Immersion Program runs intensively for five days. The program encourages participants to connect or reconnect with their culture. Its main emphasis is on aspects of universal Aboriginal cultural principles that participants are able to draw from in order to strengthen their cultural identity and to develop their understanding of their role as Aboriginal people, and their responsibilities to self, family and community. The objectives of the program are to:

- increase Aboriginal offenders' understanding of their cultural identity;
- address the emotional and spiritual wellbeing of Aboriginal offenders;
- decrease reoffending behaviour and recidivism;
- identify pre- and post-release networks; and
- provide a gateway to other, offence-specific programs.

The program covers several broad topic areas tailored to suit men and women. Topics for the male prison programs include: "art, music, culture, men's health, family, and education and employment". Topics for the female prison programs include: "culture and history,

culture and identity, art and fibre craft, mothering, parenting and family issues, basic cooking and nutrition, women's health, budgeting and household management, and education and employment" (Culture& Indigenous Research Centre Australia, 2013: 119).

Marumali

The Marumali Program uses a specific licensed healing model in which external facilitators are engaged by CV to deliver the program. The program is a model of healing that was developed by Aboriginal Elder, Lorraine Peeters, because of her own experiences of being forcibly removed from her family and institutionalised at the age of four. It is based on Peeters' own journey of healing and aims to increase the quality of support available for survivors of removal policies and practices. In 2002, CV began delivering the program, which is five days in duration and delivered to Aboriginal prisoners, as well as a two-day workshop provided to train non-Aboriginal clinical staff. The program has several aims, including to:

- provide a culturally appropriate program delivered by Aboriginal people for Aboriginal people in healing and self-determination;
- contribute to the rehabilitation of participants by providing them with a program that encourages a positive direction;
- affirm and strengthen participants' identity throughout the workshop and provide a culturally appropriate forum for participants to discuss colonisation, grief, loss, identity and other issues of a sensitive nature;
- provide participants with strategies to deal with issues of trauma associated with removal practices in a variety of settings; and
- create an environment that is comfortable, friendly and supportive and that encourages participation (Culture& Indigenous Research Centre Australia, 2013: 120).

Dardi Munwurro

Delivered by Koori men for Koori men, the Dardi Munwurro Strong Spirit Residential Men's Behavioural Change Program provides behaviour change programs for offenders with a focus on parenting, life skills and post-release support. The program helps address Aboriginal male offending, with an intensive residential diversion program for perpetrators of family violence, and is a recommendation from the 2016 Royal Commission into Family Violence. The program is part of the *Rolling Action Plan 2017–2020*, which outlines the investment required to support family violence reform, including reforms specific to Koori communities.

Barriers and Obstacles to Programs

For Aboriginal and Torres Strait Islander offenders, there are often significant obstacles to their integration back into the community and to reducing the risk that they will return to offending behaviour. Research demonstrates links between demographic factors (such as age and Indigenous status), individuals' lifestyles (activities, social networks and physical and financial circumstances) and a propensity for reoffending. The factors most consistently demonstrated include:

- unemployment (offenders who are unemployed or without stable employment are more likely to reoffend);
- education and schooling (those with lower educational attainment are more likely to reoffend);
- residential location (those living in low socioeconomic areas (including government housing), the homeless or those with high residential mobility are more likely to reoffend);
- family attachment (offenders with limited family support or poor family attachment are more likely to reoffend);
- mental health (those with mental health issues and limited medical and social support are more likely to reoffend); and
- drug use (offenders who use drugs are more likely to reoffend) (Sentencing Advisory Council, 2012).

Aboriginal and Torres Strait Islander prisoners face even more obstacles when applying for parole or staying out of prison when on parole. These may include, but are not limited to, the following:

- lack of access to legal support;
- lack of information and courses;
- literacy and education deficiencies;
- mental health issues;
- transitional difficulties from custody to community;
- lack of services and support on release;
- lack of suitable housing, unachievable and unrealistic parole conditions;
- substance abuse;
- lack of suitable employment; and
- domestic violence issues.

There are also hidden disabilities, such as acquired brain injury and hearing loss that can lead to further offending. For example, a study exploring the prevalence and nature of hearing loss among Indigenous offenders in prison has provided an evidence base to inform better system responses by CV (Department of Justice, 2007).

Any offenders returning to the community following imprisonment face several challenges. These include:

- inadequate personal identification, resulting in delays in accessing welfare benefits and other services;
- limited financial resources, compounded by limited access to welfare benefits and accumulated debt from other justice sanctions;
- limited information about the social, health and mental health support services that are available, including accommodation options;
- the loss of personal belongings due to the inability to store possessions while in custody;
- institutionalisation and the decreasing ability to live independently, excessive vigilance, aggression, emotional over-control and a loss of self-worth; and
- the strengthening of criminal social networks while incarcerated.

The existence of such factors is likely to be a major cause of the high rate of reoffending following release from prison. There is also research to support the observation that women offenders have greater levels of disadvantage than men in areas such as homelessness, structural disadvantage, trauma and social marginalisation. These contributing factors to offending and reoffending behaviour are further compounded by the range of negative implications for women entering prison and leaving prison, which include “social and economic costs of imprisonment borne by women, their children and their families” (Victorian Ombudsman, 2014: 27).

Northern Territory

The Northern Territory (NT) continues to have the highest imprisonment rate of all states and territories, with 958 persons per 100,000 adult population, followed by WA with 342 persons per 100,000 adult population (ABS, 2018). This is significantly higher than all other states and territories (Sentencing Advisory Council, 2017). Since the December quarter of 2017, there were increases in the prisoner numbers for all states and territories with the exception of Tasmania where prisoners decreased by one percent (seven persons). The NT had the largest percentage increase with eight percent (132 persons) (ABS, 2018). Given this imprisonment rate, the NT continues to have the highest rate of persons in community-based corrections in Australia (Middlebrook, 2015).

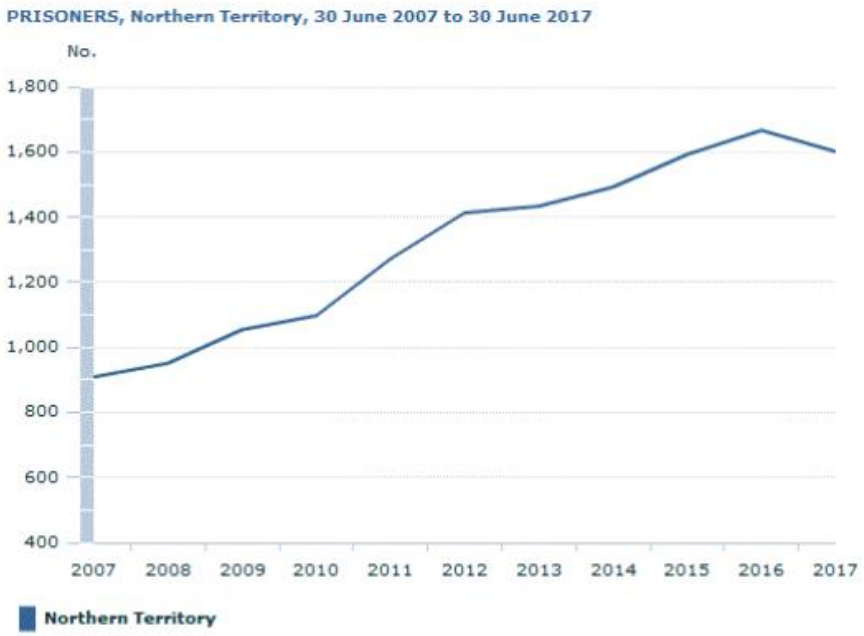

Figure 11. Prisoner numbers in NT at 30 June 2017 (ABS, 2017)

To begin to address the high imprisonment rate in the NT, in 2015 the Government announced the Pillars of Justice Law and Order Reforms, which encompasses several areas including electronic monitoring, sentenced to a job, and work gang schemes. There is no specific reference in this reform to dealing with the over-representation of Aboriginal offenders in criminal justice system; however, the NT Government has drafted an Aboriginal Justice Agreement. The agreement aims to:

- improve engagement with Aboriginal and Torres Strait Islander people on law and justice matters;
- reduce the over-representation of Aboriginal people in the NT criminal justice system;
- reduce the high rates of Aboriginal imprisonment and re-offending in the NT; and
- improve the lives of Aboriginal people and make communities safer.

To help formulate and implement the agreement, an Aboriginal Justice Unit of the Department of the Attorney-General and Justice will continue to consult widely with Aboriginal communities with a view to empowering them to be involved in the process and to ensure the framework for going forwards is culturally competent. The aim is for the agreement to be driven by the NT Aboriginal community through listening and learning from Aboriginal people across the NT (Department of the Attorney-General and Justice, 2017).

Programs & Initiatives

In the NT, there are parole and court orders, which are supervised by Community Corrections and are available to all offenders. These include:

- parole orders;
- bail (to a limited capacity);
- bonds (where a supervision condition exists);
- community-based orders;
- community custody orders;
- community work orders;
- suspended sentences; and
- home detention and administrative home detention.

In servicing the requirements for the court and parole board, Community Corrections also manage the provisions of electronic monitoring.

All community-based offender programs aim to manage issues relevant to their offending. These include the family violence program delivered by NT Correctional Services, residential rehabilitation for addressing alcohol and other drugs, and various other support programs delivered by external providers, which may be related to life skills, employment, driver training etc. As Aboriginal and Torres Strait Islander offenders make up over 84 percent of the NT offender population (Creative Spirits, 2018), many of the programs are geared towards addressing their needs. Some of these programs are described below.

Community-Based Orders

In the NT, a community-based order provides offenders with an opportunity to undergo treatment or take part in educational, vocational or personal development programs. A community-based order means an offender can stay with their families and friends, continue in their current job, or continue to look for work. It means that their lives can continue as normally as possible, while meeting the terms of the order. The offender is supervised by a probation and parole officer and is required to participate in programs, treatment, training and possibly unpaid community work. The length of the order is fixed by the court, but must be at least six months and cannot be longer than 24 months. While on a community-based order, an offender must take part in at least one of the following:

- attending programs or counselling;
- undergoing drug and/or alcohol assessment and treatment;
- having medical psychological or psychiatric assessments; and/or
- taking part in unpaid community work.

Parole

Parole is the release of a prisoner back into the community under the supervision of Community Corrections. Parole is not a right and not all prisoners are granted parole. When an offender is released on parole they must comply with the conditions set by the Parole Board. Parole can only be granted after a prisoner has served the non-parole part of their sentence, which is set by the court during sentencing. For most offences, prisoners must serve a minimum of half of their sentence before being eligible for parole. Programs can help offenders make changes in their life and reduce the risk of re-offending. Programs have been developed to help with gambling, drugs, alcohol, domestic violence, financial problems and mental illness. An example of a parole program is COMMIT.

COMMIT

The COMMIT program is applicable to offenders on parole and court orders. Modelled on the HOPE program in Hawaii, it provides an intensive sanction/positive reinforcement regime. Offenders are required to comply with the conditions in their order and, where there is a breach, the order is quickly reviewed. If the breach is proven, the offender is subject to short custodial sanctions. The model seeks to provide efficient and predictable management of those subject to the program.

The Northern Territory Department of Correctional Services (NTDCS) provides several culturally specific programs for Aboriginal and Torres Strait Islander offenders, which support parole initiatives and community-based orders. These include:

Indigenous Family Violent Offending Program

The Indigenous Family Violent Offending Program works with Aboriginal and Torres Strait Islander offenders to educate and provide alternative strategies for addressing issues that result in family violence. Participants are primarily referred through the court system, Community Corrections, Police, and the Department of Children and Family Services. Local Aboriginal and Torres Strait Islander facilitators assist with the delivery of the program in remote communities, regional centres and prisons in the NT. The program is an alternative sentencing option to imprisonment for the court system and its overriding aim is to reduce the incidence of family violence in Aboriginal and Torres Strait Islander communities. It is a 54-hour program where participants learn that family violence is not acceptable. The program also challenges their thoughts, feelings and behaviour in a non-threatening and supportive environment.

One Mob, Different Country

One Mob, Different Country is a dance group comprised of Aboriginal offenders that performs at community, government, private and not-for-profit organisation events. The program allows low-security Indigenous prisoners who have demonstrated good behaviour to take part in traditional Aboriginal dance performances. The name refers to the dancers who come from different communities but come together ‘as one mob’.

The Elders Visiting Program

The Elders Visiting Program is a flagship program that involves Indigenous Elders from remote communities travelling to adult correctional centres to meet with prisoners to maintain links with community and culture, and to discuss possible re-integration pathways. While Aboriginal people are in custody, the cultural and spiritual links can be difficult to maintain owing to the physical location of the person and their families. The Elders involved with this program are committed to addressing the negative impact the high rates of Indigenous imprisonment are having upon community values and culture. The program has recently commenced a regionalised model which includes three regional areas: Katherine, Saltwater/Gulf and Central/Barkly. This enables the Elders to concentrate on their specific regions and provide specialised advice to NTDCS. Additionally, this assists to identify and discuss community concerns and strengthen relationships (Middlebrook, 2015).

Central Australian Aboriginal Alcohol Programs Unit

The Central Australian Aboriginal Alcohol Programs Unit (CAAAPU) provides culturally appropriate alcohol counselling and residential treatment services in Alice Springs. CAAAPU provides a safe place for people who may be destitute, living in violent and extremely stressful environments, and with long histories of substance abuse at levels that can affect their cognitive development and abilities. CAAAPU take clients referred through NTDCS and the justice system and gives Aboriginal people the opportunity to go through alcohol rehabilitation and not end up offending or reoffending.

Sentenced to a Job

Sentenced to a Job is a key reform strategy that focuses on education and training of adult prisoners to get them work-ready for release from prison. The program is open to any prisoner serving sentences of between three to 14 months, subject to suitable history. Aboriginal and Torres Strait Islander offenders face several challenges when released to reintegrate into the community, particularly when trying to find employment and accommodation. These challenges are often exacerbated by low-levels of literacy, numeracy and basic skills, and lack of employment options in remote communities. The Sentenced to a Job program aims to reduce re-offending and improve public safety by assisting prisoners to obtain educational and vocational qualifications to get real jobs. Specifically, the program is designed to:

- give prisoners an opportunity to integrate and adjust to community life prior to release;
- teach prisoners good work ethics and boost their own esteem and to continue in employment after release;
- assist prisoners to renew their community ties and make new social relationships and take responsibility for their own behaviour through privileges associated with the program;
- assist the prisoner to financially support his/her family or dependents; and
- assist the prisoner in the payment of fines and levies (Middlebrook, 2015).

Throughcare

NAAJA's Throughcare Program started in 2009. It aims to reduce repeat offending by addressing the needs of adult prisoners and youth detainees through the coordination of support for offenders entering prison and then transitioning back out into the community. The program has two prison-based support workers based at the Darwin Correctional Centre who help clients with parole; and six Palmerston-based intensive case managers who help offenders get ready to leave prison and support them once released.

The role of the support workers includes:

- talking to offenders in prison and youth detention, their families and communities about parole;
- helping offenders in prison and youth detention get parole by encouraging them to think about their offending;
- helping offenders undertake programs to prevent recidivism;
- helping offenders make long-term plans for release from prison; and,
- helping offenders carry out their plan and finish off their parole orders without reoffending.

Intensive Case Management

Throughcare also employ five 'intensive case managers' based in the Palmerston office who help Aboriginal and Torres Strait Islander offenders get ready to be released and support them once they are back in the community. They start working with offenders at least six months before their release dates and can keep working with them for as long as they need once back in the community. Two of the case managers also work specifically with people who are in prison because of domestic and family violence. They provide strength-based case management and referral services to help offenders access the support and services they need to help them stay out of prison. For example, they can help them with:

- ongoing rehabilitation;
- accommodation;
- employment;
- education and training;
- health;
- life and problem-solving skills; and,
- reconnection to family and community.

Case managers work with offenders who have high needs, including:

- homelessness or marginal accommodation;
- no income, disengagement from Centrelink, or unstable income;
- literacy and numeracy issues, and/or English as second, third or fourth language;
- problematic family relationships. Involvement with welfare agencies, history of family violence, cultural/payback issues;
- lack of community supports;
- substance misuse issues; and
- health, including mental health issues, and/or physical disabilities.

Intensive Case Managers work with 15 people at any one time and work in the greater Darwin region, but also travel to the Katherine and Wadeye regions regularly. They also help people from other remote parts of the Top End.

Barriers and Obstacles to Programs

In 2015, Community Corrections launched a set of resources in plain English and Aboriginal language to better explain orders supervised by Community Corrections including parole, conditions and common challenges to complying. Contributing to the development of these resources was the extensive consultation conducted in community and custody – with offenders, their families and many other key stakeholders. The consultation indicated that many offenders didn't apply for parole because they wanted to be released 'free'. They didn't wish to comply with conditions because they perceived the challenges of living with legal restrictions and traditional obligations to be in conflict. The anecdotal evidence described many offenders breaching conditions on orders because of requests from family/community obligations, for example leaving community/not reporting due to ceremonial responsibilities or pressure from others around them to consume alcohol or drive unlicensed.

Other anecdotal evidence indicates that offenders consider Parole to be difficult to accomplish. In the NT "street time" is not recognised. This means that if an offender is in community for a few years without incident but then something happens that results in their parole being revoked, they are returned to custody and the time they spent in community is not deducted from their sentence. The introduction of the COMMIT program is working to encourage offenders to give parole a go. Offenders are subject to short custodial sentences instead of full revocation for some breaches. This allows offenders to find their feet if you like without being returned to custody long term.

Another major challenge for the NT is the geography. Whilst an offender may be able to access programs, health services, and have suitable accommodation, it may not all be in the same place. This is particularly difficult if there isn't a residential option available in a program.

Western Australia

As of the March quarter in 2018, Western Australia (WA) was the fourth largest contributor to the national prisoner population - 16 percent or 6,814 persons. The NT continued to have the highest imprisonment rate of all states and territories with 958 persons per 100,000 adult population, followed by WA with 342 persons per 100,000 adult population. Overall, the recidivism rate in WA has dropped significantly compared to the national trend over the last five years, which reflects positively on the Department of Correctional Services (DCS) in WA (Government of Western Australia, 2014).

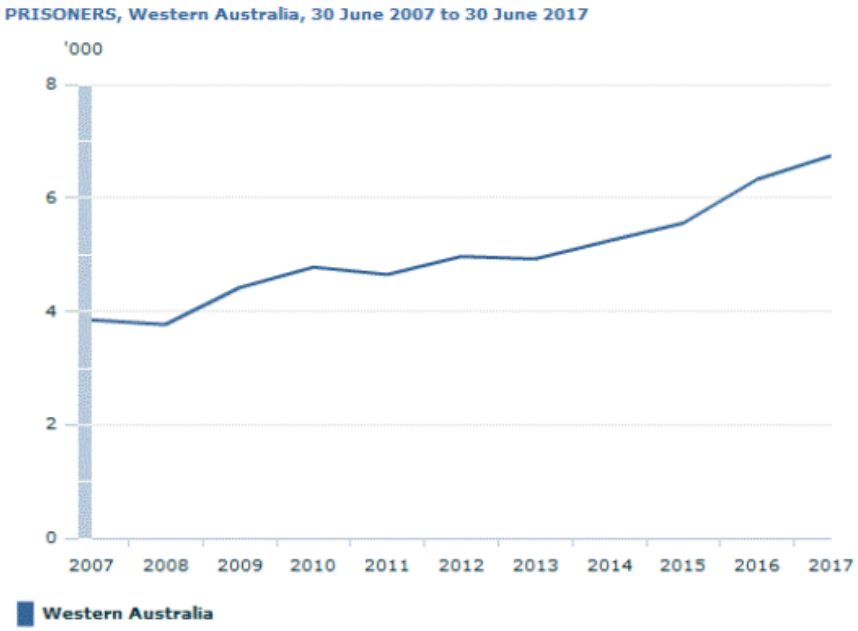

Figure 12. Prisoner numbers in WA at 30 June 2017 (ABS, 2017)

As already mentioned earlier in the report, the national average daily Aboriginal and Torres Strait Islander imprisonment rate was 2,474 persons per 100,000 adult Aboriginal and Torres Strait Islander population. The highest Aboriginal and Torres Strait Islander imprisonment rate was recorded in WA (4,132 persons per 100,000 adult Aboriginal and Torres Strait Islander population). Considering WA had the highest Aboriginal and Torres Strait Islander imprisonment rate, the state has the third highest participation rate in CCOs by this cohort across all jurisdictions in Australia. Aboriginal and Torres Strait Islander persons make up just over one fifth (21 percent) of the total community-based corrections population, of which three-quarters were in three states: Queensland (32 percent or 4,627 persons); NSW (32 percent or 4,513 persons); and WA (12 percent or 1,712 persons) (ABS, 2018). Overall, the community-based sentencing rate went down over the last two decades and WA, along with the NT, are the only two jurisdictions where there are more people in prison than under community-based sentencing orders (Tubex, Blagg, and Tulich, 2018). A 2014 report by the DCS showed that the proportion of Aboriginal prisoners with a history of prior imprisonment increased from 71.3 percent to 79.8 percent. This can be compared to

the rest of Australia, where the proportion of Aboriginal prisoners with a history of prior imprisonment had increased from 73.7 percent to 77.0 percent. The proportion of non-Aboriginal prisoners with a history of prior imprisonment has increased in WA from 41.7 percent to 49.7 percent (Government of WA, 2014).

In recent years, the WA prison population has risen rapidly. Despite increasing investment in prisons and the justice system in the state and a 'tough on crime' approach, including mandatory sentencing, minimum terms, and reduced parole, there has been no significant return on the government's investment in corrections. The investment "has not led to a reduction in offending rates, reduction in recidivism rates, or improvements in community safety". The reality is that things are getting worse (Western Australian Network of Alcohol and other Drug Agencies (WANADA), 2013: 3). Because of recent prison population increases, the government has committed hundreds of millions of dollars to expand existing prisons, and build new prison facilities.

Two new prisons have opened in the past six years (West Kimberley and Eastern Goldfields Regional Prisons); however, the system remains congested. The system has largely absorbed the extra numbers by increasing the number of bunk beds in single cells and by adding new accommodation units to existing facilities. On 30 June 2016, the system was at 148 percent of capacity. Pardelup Prison Farm was the only prison at or below capacity, while other prisons ranged between 120 percent and 190 percent over capacity (Office of the Inspector of Custodial Services, 2016). This level of overcrowding places pressure on all areas of corrections and potentially means that that vital resources for running effective and culturally sensitive programs for Aboriginal and Torres Strait Islander offenders are limited and can reduce the chances of these offenders meeting parole requirements. As the Inspector of Custodial Services states in his 2016 report, "crowding has compromised service delivery" for the population size (Office of the Inspector of Custodial Services, 2016: vi). For example, the Aboriginal Visitors Scheme and Outcare is being insufficiently resourced. While overcrowding has resulted in double-bunking in some congested facilities, DCS has traditionally provided some multi-occupancy cells in regional prisons. This has allowed Aboriginal offenders with family and cultural ties to share cells together, which can "facilitate mutual support and sharing by kinship groups" (Office of the Inspector of Custodial Services, 2016: 16).

The location and type of WA's new corrective prisons reflect the over-representation of Aboriginal and Torres Strait Islander people in the justice system. The Derby facility, for example, has been designed specifically for Indigenous prisoners. The facility is one of the first in Australia designed and staffed to meet the unique social and cultural needs of Aboriginal offenders. While research suggests that there is certainly value in providing culturally appropriate facilities, "the high rates of Indigenous offending in the (primarily Indigenous) communities surrounding these new facilities could be better dealt with by instead increasing investment in local, community-directed initiatives targeting the factors which have been shown to precipitate offending behaviour in a local area" (WANADA, 2013: 11).

Community Based Orders

Community based sentences, including CBOs and Intensive Supervision Orders, were part of a range of measures introduced by the government in the mid-1990s to address the high rates of imprisonment, community concerns about public safety, and other issues in the criminal justice area. A Community Based Order (CBO) are generally imposed by a court with the intention of assessing and treating factors which contributed to the offending behaviour in the community rather than in prison. A community based order means offenders can undergo treatment or to take part in vocational, educational or personal development programs. They are also able to stay with their families and friends, continue in their current jobs, or continue to look for work. It also means that their lives can continue as normally as possible, while meeting the terms of the order (Auditor General WA, 2001). A CBO must have at least one of the following conditions:

- Supervision by a community corrections officer;
- A program requirement designed to address any identified issues that relate to the person charged; such as drug or alcohol counselling; or
- A community service requirement: this requires the person to do unpaid community work. The court can impose between 10 and 120 hours of such work.

In some cases, a CBO may require an offender to perform a community service where they are provided the opportunity to help the community, as well as helping themselves. The length of the order is fixed by the court, and ranges between six and 24 months. If a person commits further offences during the period of the CBO, they can be re-sentenced by the court for the original offence (Auditor General WA, 2001).

Programs and Initiatives

The Aboriginal Policy and Services Directorate in the Department of Attorney General develops of policy initiatives and provides research and advice to improve justice outcomes for Aboriginal and Torres Strait Islander people in WA. However, the Department of Corrective Services Western Australian (DCSWA) is separate and does not have a comparable policy area. Given this shortfall, the DCSWA is making a considerable effort to improve the situation regarding Indigenous over-representation in prisons by improving its policies through cultural specificity in its programming and the access and availability of these programs to Aboriginal and Torres Strait Islander offenders. For example, in 2015, the DCSWA released a draft Reconciliation Action Plan, which contains several objectives including:

- establishing an Aboriginal services committee in each prison and detention centre;
- developing an Aboriginal engagement strategy;
- provide employees opportunities to learn about Aboriginal cultures; and
- developing strategies to reduce the over-representation of Aboriginal and Torres Strait Islander people in incarceration (Department of Corrective Services Western Australia, 2015).

Even if eligible for parole, Aboriginal and Torres Strait Islander people assess their chances of success as unlikely, and it was reported that in WA, 80 percent of Indigenous people released in 2014-15 left the prison without parole (Tubex, Blagg, and Tulich, 2018).

The DCSWA also provides several Indigenous-specific rehabilitative programs, including:

- Indigenous Managing Anger and Substance Abuse (55 hours);
- Indigenous Medium Sex Offender Program (120 hours);
- Building on Aboriginal Skills (20 hours); and
- Indigenous Family Violence Program (54 hours) (Victoria State Government, 2015).

The Department also provides access for elders and spiritual leaders to visit inmates through chaplaincy services in its prisons. It also offers several employment and vocational-related programs specifically for Aboriginal and Torres Strait Islander offenders, including:

Fairbridge Bindjareb Project

Fairbridge Bindjareb Project aims to provide Aboriginal and Torres Strait Islander offenders with industry training in a supportive environment, which hopefully leads to employment after prison and an opportunity for long term careers in the resources sector and associated industries. The project is an intensive training and mentoring initiative to provide pathways to employment in the mining industry for Aboriginal people engaged in the criminal justice system. The project also has a special focus on reconnecting men with their culture. A unique aspect of the project (and possibly a part of its success to date) is that Aboriginal people have designed the program, continue to operate it, and have significant input into its on-going development.

Aboriginal offender work camps

DCSWA runs five work camps that allow Aboriginal prisoners to be housed closer to their communities. These work camps are also for non-Indigenous offenders. The work camps are in Roebourne, the Kimberley (Wyndham), Eastern Goldfields (Warburton), the Wheatbelt (Dowerin) and the Great Southern (Walpole). The camps generally operate under the same guiding principles and towards the same outcomes for all offenders; however, the work camps in the more remote regions are particularly well suited to Aboriginal offenders. Work camps have been operating for more than 10 years, returning over seven million dollars in reparation to the community. This work has included “tree planting and coastal regeneration, maintenance of national parks and reserves, restoring heritage sites and buildings of significant historical value, as well as a range of other community projects undertaken for not-for-profit organisations. These projects provide opportunities for eligible minimum-security prisoners who are nearing release to improve their work skills and job readiness” (Government of Western Australia, 2016).

Work camps allow Aboriginal offenders the opportunity to serve their sentences close to community and country, which is an important factor for not only maintaining the wellbeing of Aboriginal offenders but also in improving rehabilitation program outcomes. By removing Aboriginal offenders away from their communities during their incarceration, the separation can cause emotional and spiritual distress beyond that already imposed upon non-Aboriginal prisoners. Depending on the classification of an offender, this distress can be

minimised by the appropriate placement of offenders in suitably located work camps (Grant, 2013).

Digger's Rest Horsemanship Program

Digger's Rest Horsemanship Program at Wyndham Work Camp, which provides up to 10 Aboriginal men with training in horsemanship as part of their rehabilitation. The initiative is an intensive seven-day program that involves working with horses and cattle run at Digger's Rest in the East Kimberley. Some of the skills covered in the program include understanding horses and how to work with them to get a job done; safety around working with horses; correct techniques when catching and riding a horse; and learning correct manoeuvres when working with cattle. These hands-on, interactive approaches have been effective in teaching offenders new skills, supporting rehabilitation, increasing self-esteem and confidence, and getting an offender ready for employment post-release. As of June 2015, all men who participated in the program have secured accommodation on stations after release (Department of Corrective Services Western Australia, 2015).

Vocational Education and Training Fresh Start Program

The Education and Vocational Training Unit (EVTU) of DCSWA and Pilbara TAFE joined Rio Tinto in delivering a sustainable employment program for Aboriginal offenders in the Pilbara. The Vocational Education and Training Fresh Start Program is designed for Aboriginal prisoners in Roeburne Regional Prison. The program has offenders participating in literacy, numeracy, occupational health and safety, time management, personal finance management and other vocational workplace skills. Offenders who are immediately employable when they leave Roebourne Regional Prison are offered appropriate jobs at Rio Tinto's port and mine operations in the Pilbara. To adopt best practices models of successful community reintegration, the program provides immediate mining industry employment at a regular and reasonable income and tries to assist the offender in adhering to healthy life styles and the discipline required to do their job. Additionally, there is a strong focus on meeting drug and alcohol requirements (Victoria State Government, 2015).

Barriers and Obstacles to Programs

As already mentioned, Aboriginal and Torres Strait Islander prisoners are grossly overrepresented in WA's correctional system. Most of these prisoners serving sentences have been made eligible for parole by sentencing courts; however, to apply for parole, an application must be made in writing. Many Aboriginal and Torres Strait Islander prisoners lack literacy skills and contacts within the community to do themselves justice in written applications for parole. The same reasoning applies with respect to appeals against decisions to refuse parole. Further, complaints about treatment in jails must also be made in writing (Aboriginal Legal Service of Western Australia, 2013: 3-4).

There are also challenges in providing programs and services to Aboriginal and Torres Strait Islander people caught up in the criminal justice system due to remoteness of some regional areas from where they originated. This includes some of the most geographically isolated communities in the country. The failure of successive governments to find innovative

solutions to these challenges has disadvantaged these people living in these isolated communities. Throughout the regional and remote areas, access to basic legal services is also “either limited or non-existent”. Aboriginal and Torres Strait Islander people from remote areas tend to “have a poor understanding of Family Court and Child Protection issues, as these are matters have historically been resolved within the family or community, rather than through the court process” (Aboriginal Legal Service of Western Australia, 2013: 4-5).

New South Wales

As of March 2018, the NSW prison population grew by 539 prisoners to a total prison population of 13,494 offenders. This was an increase of just over four percent in the previous 12 months (NSW Bureau of Crime Statistics and Research, 2018). New South Wales was the largest contributor to the national prisoner population - (32 percent or 13,382 persons) (ABS, 2018). Most of the growth resulted from an increase in the number of people on remand. The number of sentenced prisoners also increased by 201 – (from 8,486 to 8,687, a 2.4 percent increase) (NSW Bureau of Crime Statistics and Research, 2018). The state was one of three that accounted for nearly three-quarters of the total Aboriginal and Torres Strait Islander prisoner population in Australia - (28 percent or 3,324) (ABS, 2018).

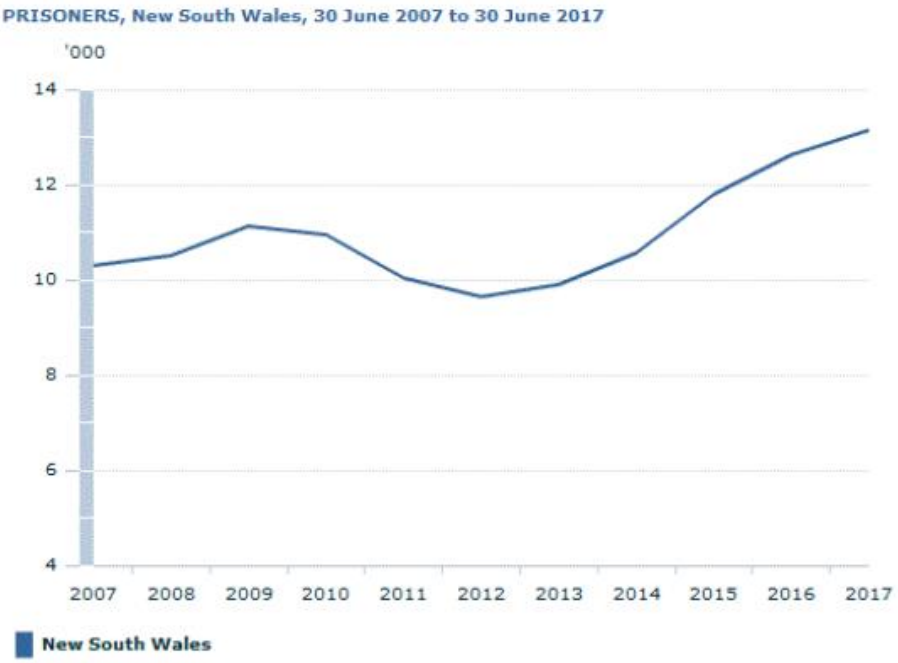

Figure 13. Prisoner numbers in NSW at 30 June 2017 (ABS, 2017)

The Aboriginal Services Branch within the NSW Department of Justice focuses a multi-prong strategy to reduce this over-representation of Aboriginal people in the criminal justice system. In 2013, the government also released the Opportunity, Choice, Healing, Responsibility and Empowerment Aboriginal Affairs Plan. The plan focuses on "support strong Aboriginal communities in which Aboriginal people actively influence and fully participate in social, economic and cultural life" (NSW Government, 2015: 6). While there is no reference in the plan to justice issues or the over-representation of Aboriginal people in the justice system, the long-term benefits will likely help in breaking the cycle of offending within communities. This is particularly relevant in the areas of education and employment, leadership and governance, and helping deal with intergenerational trauma and providing opportunities for healing.

In April 2014, Corrective Services NSW (CSNSW) released a Strategy for Supporting Aboriginal Offenders to Desist from Re-offending, which outlined strategies to reduce

Aboriginal re-offending (2014). CSNSW also have an Aboriginal Support and Planning Unit, which functions as an Aboriginal affairs advisory unit. This unit advises on issues relating to services, planning and support for Aboriginal and Torres Strait Islander offenders in correctional centres, as well as those under the supervision of corrective services in the community. CSNSW has also launched Aboriginal Cultural Awareness Training, which is aimed at enhancing the knowledge and skills of staff around the specific needs of Aboriginal offenders (Victoria State Government, 2015).

CSNSW has introduced its own multi-faceted approach to help reduce re-offending by Aboriginal inmates and their over-representation in custody. For example, the 'Strategy for Supporting Aboriginal Offenders to Desist from Re-offending' provides programs to address offender needs and sets targets for participation and completion. Education and vocational training will be skills-based and linked to employment opportunities in both custodial and community settings. The strategy includes the CSNSW Aboriginal Advisory Council intended to engage with Aboriginal community leaders and people with professional expertise in health, mental health, family and community services, employment, accommodation, legal services and offender management (NSW Government, 2014).

CSNSW are fully committed to an approach to engage and treat Aboriginal and Torres Strait Islander offenders with culturally informed strategies, which are adapted to the learning styles of the individual offenders. To work effectively with these offenders, it is necessary to engage and consult closely with Aboriginal community leaders and the offenders themselves, as they are best placed to challenge current thinking and to develop new initiatives to address the Indigenous over-representation. By increasing opportunities for Aboriginal and Torres Strait Islander offenders to be diverted from custody where appropriate, it is envisaged that programs and services provided in the community will have greater efficacy and ecological validity (CSNSW, 2014).

CSNSW also facilitates the establishment of Aboriginal inmate committees in each prison in NSW. Where the Aboriginal prisoner population is significant, CSNSW employs an Aboriginal inmate delegate. Each committee is a representative body for Aboriginal and Torres Strait Islander offenders and the delegate is responsible for ensuring that meetings of the Aboriginal inmate committee are held every quarter. Their purpose is to discuss any issues relevant to Aboriginal and Torres Strait Islander inmates and raise these issues with prison management (CSNSW 2014).

The Corrective Services Aboriginal Advisory Council comprises of Aboriginal community members of significant standing and professionals with expertise in criminal and social justice field. The council provides advice and advocacy to the Commissioner and focuses on strategies to assist Aboriginal offenders to desist from re-offending (NSW Department of Justice 2015b).

Programs & Initiatives

Parole

In NSW, offenders who are released on parole are subject to conditions imposed by the Parole Authority (or other releasing bodies). These conditions could include counselling for

drug or alcohol abuse, attending mental health treatment, participating in group programs, or abiding by residential restrictions. If an offender fails to abide by the set parole conditions, they are reported to the releasing authorities, which could result in the withdrawal of parole and return to prison. Community corrections officers are responsible for monitoring the offender's compliance with the parole conditions and the implementation of a case management plan. The case management plan aims to address the offending behaviour to reduce the potential for reoffending.

Community Service Orders

Community corrections officers are responsible for the administering of Community Service Orders (CSO) and assess whether offenders are suitable for these orders. Offenders who are assessed as suitable may be sentenced to perform unpaid community work. Community corrections officers may assign offenders to work with voluntary community organisations, such as helping young, sick, disabled or elderly people. They can also be assigned to work on environmental projects. Offenders are carefully screened and are closely supervised while working, both in terms of the quality of their work and their behaviour. Community corrections supervises approximately 4,600 offenders with Community Service Orders, who perform more than $10 million worth of unpaid community work for 1,600 non-profit organisations.

CSNSW provides several specific programs for Aboriginal offenders.

Brewarrina (Yetta Dhinnakkal) Correctional Centre

Brewarrina (Yetta Dhinnakkal) Correctional Centre is an open, low security facility located on a farm for up to 70 Aboriginal men. Located on 10,553 hectares (26,080 acres), the centre is a working farming property, maintained by inmates under officer supervision. Opened in 2000, inmates are guided by elders. The centre's behavioural change programs target first time young Aboriginal offenders, aged from 18 to 25, through culturally relevant intensive case management. Vocational training courses are offered in information technology, horticulture, construction, visual arts and contemporary craft. Other practical skills, including small motor maintenance, welding, road sealing, building skills, literacy and numeracy and first aid are also provided (CSNSW, 2006/07).

Balund-a

Balund-a opened in 2008 as a direct result of the Royal Commission into Aboriginal Deaths in Custody. It is a residential diversionary program for community-based offenders located on a farm at Tabulam, NSW. Balund-a is the world's only correctional facility where offenders are sent to live and work before they are sentenced, in a bid to keep them out of prison. Offenders participate in structured, culturally appropriate programs aimed at reducing re-offending. Elders employed in the program assist offenders to restore cultural links to land and history. The Aboriginal name, Bugilmah Burube Wullinje Balund-a, translates to 'be good now, you have a second chance down by the river' (CSNSW 2015; Turnbull, 2015).

Namatjira Haven

Namatjira Haven is a drug and alcohol rehabilitation facility on the NSW North Coast for Aboriginal men. Namatjira Haven provide a culturally focused program of change (Namatjira Haven 2015). Corrective Services provides some funding and can make referrals to the program.

Community Elder Inmate Visitation Project

CSNSW has also piloted a Community Elder Inmate Visitation Project at Long Bay Correctional Centre. Twelve Elders were invited to be part of the project and to provide information to Aboriginal inmates about health, welfare, education, and employment (Jones, Munro, Rowbottom & Creighton, 2010).

Ivanhoe (Warakirri)

Ivanhoe (Warakirri), a specialised Aboriginal program, has the provision to accommodate 50 inmates and provides educational and vocational programs. The Warakirri program operates a mobile camp and community projects and work in locations within national parks and significant cultural areas (Jones, Munro, Rowbottom & Creighton, 2010).

Girrawaa Aboriginal Art Centre

Girrawaa Aboriginal Art Centre in Bathurst provides Aboriginal inmates with the opportunity to participate in educational, vocational, cultural and spiritual programs and activities (Jones, Munro, Rowbottom & Creighton, 2010).

Gundi Program

The Gundi Program provides work experience to prison participants to construct mobile homes for use in Aboriginal and Torres Strait Islander communities, which are then distributed by the NSW branch of the Aboriginal Housing Office. Participants are aided in gaining a range of skills upon completion, including formal TAFE qualifications up to the level of Certificate III. While this is not a community-based program, it provides an example of a culturally sensitive program that helps build qualifications to aid reintegration back into the community. The program is run by Corrective Services Industries NSW for Aboriginal male inmates at St Heliers Correctional Centre. The program is a vocational scheme where Aboriginal offenders build modular houses for Aboriginal people living in remote communities while developing skills in construction.

In 2012, CSNSW signed a partnership agreement with Eden Aboriginal Local Lands Council for the Bundian Way Project. The program involves Aboriginal offenders who assist in reconstruction and maintenance of the track (Department of Attorney General and Justice 2013)

CSNSW also manages several programs for Aboriginal and Torres Strait Islander women, including:

- the Yula Punaal Education and Healing Centre, which provides pre and post release support for Aboriginal women;

- the Aboriginal Women's Smoking Project, implemented in Dylwina and Emu Plains Correctional Centres, in which Aboriginal women are given information related to smoking (Department of Attorney General and Justice 2013);
- the Mothering-at-a-distance program, which is a mainstream program for women with children, but with an emphasis on Aboriginal and Torres Strait Islander women (NSW Department of Justice 2015b);
- the Bolwara Transitional Centre, which provides transitional support to serious women offenders with entrenched drug and alcohol issues and which has a focus on Aboriginal women (NSW Department of Justice 2015b); and
- the Family Video Contact Program in Wagga Wagga and Walgett and the Hey Dad! Indigenous Dad's, Uncles and Pops Program, which are aimed at maintaining prisoner contact with their families and communities (NSW Department of Justice 2015b; Australian Institute of Family Studies 2009).

Barriers and Obstacles to Programs

At the time of writing, the researcher had received no input from CSNSW regarding barriers to parole and community-based sentencing options for NSW.

Australian Capital Territory

Between 2010 and 2016, the ACT's prison population grew 95 percent. As the population grows, further increases in the territory's prison population are predicted. The number of adult prisoners in ACT prisons was 449, an increase of two percent (or eight prisoners) from 2016. The adult imprisonment rate was 141 prisoners per 100,000 adult population, a decrease from 144 prisoners per 100,000 adult population in 2016. Three-quarters of prisoners (or 337 prisoners) had previously been imprisoned under sentence. This was the largest proportion of any state or territory (the national average was 57 percent) (ABS, 2017).

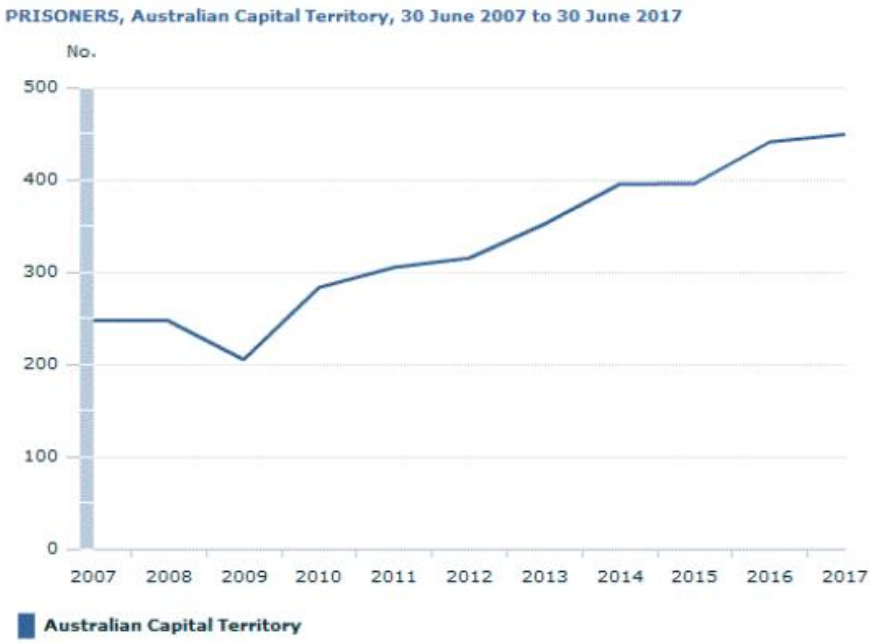

Figure 14. Prisoner numbers in the ACT at 30 June 2017 (ABS, 2017)

Aboriginal and Torres Strait Islanders comprised 21% (95 prisoners) of the adult prisoner population. Their age standardised imprisonment rate was 16 times more than the non-Indigenous age standardised imprisonment rate (1,703 prisoners per 100,000 Aboriginal and Torres Strait Islander adult population compared to 109 prisoners per 100,000 adult non-Indigenous population) (ABS, 2017). Aboriginal and Torres Strait Islander people in the ACT were 12.4 times more likely to be jailed than non-Indigenous residents. This ratio is exceeded only by WA's age-standardised imprisonment rate ratio of 14.9 in the 2016 fiscal year. The high rate of indigenous imprisonment in the ACT was brought into sharp relief in May 2016, with the death of an indigenous inmate. This resulted in an independent review and coronial inquest. The number of Aboriginal and Torres Strait Islander offenders on community corrections orders has stayed relatively stable over the past decade; between 123 such offenders in 2007-08 and 169 in 2016-17. However, the number of non-Indigenous offenders in the community corrections system fell from 1173 in 2007-08 to 812 in 2016-17.

The ACT's justice system also had the highest proportion of prisoners recorded as attending eligible education and training courses in the country in 2016-17, at 70.6 percent, compared to the national average of 32.9 percent. The ACT also came in fourth for the percentage of prisoners employed in 2016-17, at 74.7 percent of all inmates, behind Victoria, NSW and the NT.

In July 2015, the ACT Justice and Community Safety Directorate and the ACT Aboriginal and Torres Strait Islander Elected Body (ATSIEB) launched the Aboriginal and Torres Strait Islander Justice Partnership 2015-2018. The partnership included an action plan with three objectives. These included:

- reducing recidivism and increasing access to diversionary programs;
- improving access to justice related services for Aboriginal and Torres Strait Islander people; and
- improving data collection and reporting.

Programs & Initiatives

Indigenous Programs within Alexander Maconochie Centre

The Alexander Maconochie Centre (AMC), the ACT's only adult correctional facility, runs several specific programs for Aboriginal and Torres Strait Islander offenders. These programs cover case management, counselling, and training support. The Cultural and Land Management Program (CALM) is a holistic program that provides detainees the opportunity to engage in education covering literacy and numeracy, land care and art. Mainstream literacy and numeracy classes are also available to Aboriginal and Torres Strait Islander offenders (ACT Government, 2015). In addition to the educational and therapeutic programs available to all offenders, Aboriginal and Torres Strait Islanders have access to the following programs:

Extended Throughcare Program

The ACT Corrective Services (ACTCS) Extended Throughcare program amplifies the existing Throughcare model by extending it for 12 months beyond the end date of a detainee's custodial sentence. Extended Throughcare is a voluntary initiative offered to sentenced male detainees, and to all women detainees, whether remanded or sentenced. Offenders are assisted to reintegrate back into the community including by provision of support with accommodation, health care, basic needs, income and community connections, with the aim of a supported reintegration to the community influencing the reduction of recidivism (ACT Government, 2015). Participants in the program are usually characterised as experiencing multiple disadvantages, including mental health issues, substance abuse issues, low levels of literacy and numeracy, interrupted education and sporadic employment history, as well as high level of homelessness (Griffiths, Zmudzki, & Bates, 2017).

Culture and Land Management Program

CALM allows for Aboriginal and Torres Strait Islander prisoners to engage in gardening and horticulture, build literacy and numeracy skills, engage in arts and crafts and develop skills in land management. The program is facilitated by the ACT Aboriginal Natural Resource Management Facilitator. Up to 20 prisoners can learn about land management, biodiversity, culture, bush tucker and weaving as part of the program. Ex-prisoners can remain within CALM following release through optional participation in seed collecting, tree planting and bush regeneration activities (ACT Government, 2015).

Transition Release Centre Indigenous Program

The Transition Release Centre Indigenous Program allows prisoners at the end of their sentence to have day release and attend programs for reintegration. This includes attending a men's group at the Winnunga Nimmityjah Aboriginal Health Service, which includes former prisoners.

Indigenous Yarning Program

The Indigenous Yarning Program provided the opportunity for detainees to meet in a safe, culturally appropriate environment, created a sense of belonging and pride to assist rehabilitation, and encouraged detainees to engage with services to assist with community reintegration. In August 2015, the program expanded into the Indigenous Traditional Culture Healing Arts Program, which has been popular among male Aboriginal and Torres Strait Islander offenders, with up to 18 men attending each session.

The Winnunga Holistic Health Care Prison Model (Winnunga Nimmityjah Aboriginal Health Service)

The Winnunga Holistic Health Care Prison Model addresses the needs of prisoners, ex-prisoners, and their families, and manages the cycle of incarceration. The Model's premise is that "post release needs should be addressed as a priority at reception into prison, and the focus of imprisonment is release into an environment which provides accommodation, employment, health services, and reintegration into the family and community". The Model begins with the first contact with the justice system and then takes into consideration the holistic care that is necessary for those on remand and for those sentenced prisoners. The model also considers the needs of the offenders' families while they are in prison and then on release.

Research behind the model shows that family, health and spirituality are three critical components to support those incarcerated and their eventual release into the community. At the centre of the Model is the need for offenders to develop a strong sense of identity, which is crucial in building resilience and coping mechanisms for time in prison and their return to community life. The ability to achieve this is dependent on "the environment, safety, physical, psychological, and community support". Overall, health service coordination, and the development of reintegration strategies back into the community combine to manage an offender's cycle of incarceration (Poroch, 2011: 12).

NAIDOC Week Art Exhibition

During NAIDOC Week in 2014, Southside Community Services partnered with ACT Corrective Services (ACTCS) within the JACS Directorate to organise an exhibition of detainees' and community corrections clients' artwork. This was the second successful ACTCS NAIDOC Week art exhibition (ACT Government, 2015).

Aboriginal Client Services Officer

In 2014, ACTCS introduced the position of Aboriginal Client Services Officer (ACSO) within Community Corrections. This officer works closely with the Community Corrections officers to assist in the case management of Aboriginal and Torres Strait Islander offenders. The officer also acts as a liaison person between the Indigenous community and ACTCS. Community Corrections officers undertake home and field visits accompanied by the ACSO as part of the case management and supervision process. This function has been regularly used by Aboriginal and Torres Strait Islander clients since its inception, as it acknowledges Aboriginal and Torres Strait Islander culture and provides a culturally safe environment for its clients (ACT Government, 2015).

Barriers and Obstacles to Programs

At the time of writing, there was no information available regarding barriers to parole or community-based sentencing in the ACT.

Conclusion & Recommendations

As the incarceration rate of Aboriginal and Torres Strait Islander people increases around Australia, this report has found that the number of offenders accessing parole and the use of alternatives sanctions to imprisonment, such as CCOs, is currently not commensurate to the rising prison population. While parole is offered in all jurisdictions, meeting the parole requirements has been found to be problematic for Aboriginal and Torres Strait Islander offenders (Dawes, 2017). For those offenders sentenced to CCOs, a lack of Indigenous-specific programs and services, and the lack of viable access to them, has created barriers for offenders to participate in these programs. Aside from the many societal complications, this is translating to Aboriginal and Torres Strait Islander offenders unsuccessfully reintegrating back into communities and, therefore, returning to prison as a result.

The absence of Indigenous-specific content in core programs can reduce the effectiveness of interventions by lowering the responsiveness of offenders to treatment. More research on the role of culture and cultural content in prison-based and community-based programming is required, as well as a greater understanding of the specific criminogenic needs of Aboriginal and Torres Strait Islander offenders (Willis & Moore, 2008). Without this cultural specificity in programming, some Aboriginal and Torres Strait Islander offenders who are eligible for parole prefer to spend their entire sentence in prison, rather than participate in parole programs. The result is that these offenders spend a large proportion of their sentences in prison than is required under the relevant legislative schemes. Correctional facilities are being placed under additional pressure due to an increase in congestion levels because of this. These offenders are then released back into the community without any appropriate supervision or aftercare programs (Australian Law Reform Commission, 2017).

Past experiences with prison environments have made many reluctant to participate in prison programs, as these programs have failed to address issues and problems in a manner that is culturally appropriate or ecologically valid, i.e. they simply don't make sense. Thus, participation and interest by Aboriginal and Torres Strait Islander offenders has usually been minimal because they didn't relate to the objectives, goals, or expectations of the programs and services being provided, or to the people delivering the programs. Programs and services have usually been developed and delivered by non-Aboriginal and Torres Strait Islander people who often lack understanding of cultural perspectives. It is strongly recommended that programs be evaluated and adapted to meet the specific needs of Aboriginal and Torres Strait Islander prisoners and, in some cases, entirely new programs and services must be developed and implemented in partnership with relevant communities.

A number of studies examined in this report have highlighted the importance of community and family involvement in programs and services, pointing to the fundamental influences of community and family on the behaviour of Aboriginal and Torres Strait Islander prisoners returning to their communities. Efforts to assist prisoners while in custody have often been lost at the point of release. Therefore, there is a need to achieve a more effective transition between custodial and community corrections by improving links with communities to provide ongoing support to offenders upon release. However, it is also important to

highlight the difficulties of doing this in practice, given issues of remoteness and limited services in some communities (Abbott et al., 2018).

There are often other significant obstacles to Aboriginal and Torres Strait Islander offenders' reintegration back into the community and to reducing the risk that they will return to offending behaviour. Many of these communities face considerable disadvantages, which can work against efforts to reintegrate offenders. This can impact on correctional services in direct ways, such as by making it much harder for offenders on parole to comply with the requirements of their orders, which results in breaches and return to imprisonment (Willis & Moore, 2008). The absence of transitional arrangements while in prison often results in offenders becoming vulnerable to returning to prison, even a short time after release and returning home. For those who re-entered their communities, the stigma associated with criminal records made it difficult, if not impossible, to gain employment. This makes it more likely for them to relapse back into criminality through negative associations and anti-social behaviours, such as "associating with peers or indulging in alcohol or drugs" (Dawes, 2017: 96).

There were links between demographic factors (such as age and Indigenous status), individuals' lifestyles (activities, social networks and physical and financial circumstances) and a propensity for reoffending. The factors most consistently demonstrated include:

- unemployment (offenders who are unemployed or without stable employment are more likely to reoffend);
- education and schooling (those with lower educational attainment are more likely to reoffend);
- residential location (those living in low socioeconomic areas (including government housing), the homeless or those with high residential mobility are more likely to reoffend);
- family attachment (offenders with limited family support or poor family attachment are more likely to reoffend);
- mental health (those with mental health issues and limited medical and social support are more likely to reoffend); and
- drug use (offenders who use drugs are more likely to reoffend) (Sentencing Advisory Council, 2012).

Aboriginal and Torres Strait Islander offenders face considerable obstacles when applying for parole, staying out of prison when on parole, or participating in CCOs. For example, they often felt discriminated against because the parole criteria precluded them from meeting the requirements due to cultural barriers. A common perception shared by offenders and their families is that there is a lack of understanding of parole conditions, which resulted in breaches of the parole conditions and a return to prison. This underlines a need to ensure that offenders and their families fully understand parole conditions, and that these conditions are written clearly in appropriate languages to promote a better understanding. Additionally, parole conditions should be more flexible to allow for variations to accommodate for people who fail to report by a due date if they are off, for example, in the community due to work obligations, or genuine family commitments (Dawes, 2017).

Access to legal support and information has also been identified as a significant issue for Aboriginal and Torres Strait Islander prisoners when applying for parole. Many have felt

dejected by the legal system and therefore felt that parole was out of their reach. Depression and a feeling of helplessness often lead to despondency, lack of motivation or reduced optimism about potential outcomes, in turn jeopardising court outcomes or resulting in decisions not to apply for parole or community-based programs. Language barriers, socio-economic disadvantage, cross-cultural issues and the severity of their offences were also some of the significant barriers. There are also often hidden disabilities, such as acquired brain injuries and hearing loss, which have added to the problems which offenders have had in meeting to meeting requirements, leading to further offending. In summary, barriers have included:

- lack of access or transport to the centres running the programs;
- inability to meet employment commitments;
- competing family responsibilities;
- deficiencies in literacy and education;
- mental health issues;
- lack of motivation or incentive to participate or complete a program;
- lack of availability of programs in suitable locations;
- lack of access to legal support;
- lack of suitable information about programs and courses;
- transitional difficulties from custody to community;
- lack of services and support on release;
- lack of suitable housing, unachievable and unrealistic parole conditions;
- substance abuse;
- lack of suitable employment; and
- domestic violence issues.

The lack of culturally appropriate and accessible services and programs for Aboriginal offenders across Australia, particularly those with a cognitive impairment and/or mental health impairment, means that "many people at risk of entering the criminal justice do enter the system, and many people involved in the criminal justice system, are unable to get out of it" (Central Australian Aboriginal Legal Aid Services, 2013: 7). Therefore, there is an urgent need to increase access to assessment and early intervention services. There is also a clear need for a range of other community-based support services, including 24 hour supported accommodation, specialised services for people with a disability who display challenging behaviour, and support for families and carers.

Another key issue is the importance of using interpreters in service provision. In Central Australia, for example, where many Aboriginal people do not speak English as their primary language, it is critical that interpreters are used during the court process and in the delivery of ancillary services. While awareness of the need for interpreters has improved, pressures on service providers result in the continuing underutilisation of interpreters (Central Australian Aboriginal Legal Aid Services, 2013). There is a need for early and generational interventions that are commensurate with Aboriginal and Torres Strait Islander culture, family, health, education, employment, and the all the social determinants. It is only when serious social matters are addressed that any gains at reducing Aboriginal and Torres Strait Islander incarceration, and the cycle of recidivism, can be broken (Macdonald, Scholes & Powell, 2016).

Finally, while this report doesn't break much new ground in terms of solutions, it has provided a comprehensive overview of current Aboriginal and Torres Strait Islander specific programs in each correctional jurisdiction around Australia, as well as elaboration on some of the barriers to Indigenous access to those programs. However, to advance this report, further research regarding program completion rates, as well as evaluations to determine the efficacy of each program described in this report should be undertaken. What's more, to enhance evaluations, and to ensure programs are more responsive to the needs of Aboriginal and Torres Strait Islander people, ascertaining the perspectives of offenders who have spent time behind bars, who have undertaken parole programs, or who have participated in CCOs is highly recommended in future studies. Their first-hand experiences, as well as community perspectives, would provide a more valuable contribution to the current literature around addressing cultural barriers and the development of more ecologically valid indigenous correctional programming.

Recommendations

1. As prison numbers continue to rise in Australia in all jurisdictions, there is a dire need to look for alternatives to incarceration for Aboriginal and Torres Strait Islander offenders, such as increasing the use of parole and other community-based sentences.
2. More carefully targeted effort (and funding) is required to develop and implement a range of new, innovative and culturally sensitive alternatives to reduce imprisonment rates.
3. In order to reduce the exposure to the criminal justice system, there is a need to increase Aboriginal and Torres Strait Islander peoples' access to assessment and early intervention services.
4. There is a need for a greater involvement of Aboriginal and Torres Strait Islander people in the criminal justice system, particularly in the development and implementation of intervention programs, reintegration strategies, and community corrections orders.
5. Programs should be evaluated and adapted to meet the specific needs of Aboriginal and Torres Strait Islander prisoners and, in some cases, entirely new programs and services must be developed and implemented.
6. More research on the role of culture and cultural content in prison-based and community-based programming is required, as well as a greater understanding of the specific criminogenic needs of Indigenous offenders.
7. There is a need to achieve a better transition between custodial and community corrections and linking offenders with appropriate community-led programs so that ongoing support can be provided to offenders after release – noting that there are significant issues associated sometimes with remoteness and limited services.
8. There is a need to develop ways to ensure that offenders (and their family) fully understand parole conditions, and that these conditions are written in Aboriginal English that is easily understood and not misinterpreted.

9. Parole conditions should be more flexible to allow for variations to accommodate for people who fail to report by a due date if they are off, for example, in the community due to work obligations, or genuine family commitments.
10. There is a need for early and generational interventions that are commensurate with Aboriginal and Torres Strait Islander culture, family, health, education, employment, and the all the social determinants.
11. There is also a need for a range of other community-based support services, including 24 hour supported accommodation, specialised services for people with a disability who display challenging behaviour, and support for families and carers.
12. There is a need for further primary research where specific interviews are conducted with offenders, families, and relevant communities seeking their input to help shape the design and implementation of community-based, culturally relevant, alternatives.

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