



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

**HOUSE OF
REPRESENTATIVES**

STANDING COMMITTEE ON ABORIGINAL AND TORRES
STRAIT ISLANDER AFFAIRS

**Reference: Involvement of Indigenous juveniles and young adults in the criminal
justice system**

THURSDAY, 25 FEBRUARY 2010

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**HOUSE OF REPRESENTATIVES STANDING
COMMITTEE ON ABORIGINAL AND TORRES STRAIT ISLANDER AFFAIRS**

Thursday, 25 February 2010

Members: Mr Debus (*Chair*), Mr Laming (*Deputy Chair*), Mr Andrews, Ms Campbell, Ms Rea, Mr K J Thomson, Mr Trevor, Mr Turnour and Mrs Vale

Members in attendance: Mr Debus, Mr Laming, Ms Rea, Mr K J Thomson, Mr Trevor and Mrs Vale

Terms of reference for the inquiry:

To inquire into and report on:

High levels of involvement of Indigenous juveniles and young adults in the criminal justice system. With a particular focus on prevention and early intervention, the Committee will identify:

- How the development of social norms and behaviours for Indigenous juveniles and young adults can lead to positive social engagement;
- The impact that alcohol use and other substance abuse has on the level of Indigenous juvenile and young adult involvement in the criminal justice system and how health and justice authorities can work together to address this;
- Any initiatives which would improve the effectiveness of the education system in contributing to reducing the levels of involvement of Indigenous juveniles and young adults with the criminal justice system;
- The effectiveness of arrangements for transitioning from education to work and how the effectiveness of the 'learn or earn' concept can be maximised;
- Best practice examples of programs that support diversion of Indigenous people from juvenile detention centres and crime, and provide support for those returning from such centres;
- The scope for the clearer responsibilities within and between government jurisdictions to achieve better co-ordinated and targeted service provision for Indigenous juveniles and young adults in the justice system;
- The extent to which current preventative programs across government jurisdictions are aligned against common goals to improve the health and emotional well-being of Indigenous adolescents, any gaps or duplication in effort, and recommendations for their modification or enhancement.

WITNESSES

**MORLEY, Miss Sue-Anne, Executive Officer, National Indigenous Drug and Alcohol
Committee, Australian National Council on Drugs 2**

VUMBACA, Mr Gino, Director, Australian National Council on Drugs 2

**WILSON, Mr Scott, NIDAC Co-deputy Chair, National Indigenous Drug and Alcohol
Committee, Australian National Council on Drugs 2**

Committee met at 12.13 pm

CHAIR (Mr Debus)—I declare open this public hearing of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, inquiring into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system. I acknowledge the Ngunawal and Ngambri people, the traditional custodians of this land. We acknowledge the present Aboriginal and Torres Strait Islander people who reside in this area. I should formally say that a meeting such as this is a formal proceeding of parliament. Everything said should therefore be factual and honest. It can be considered a serious matter to attempt to mislead the committee. I invite witnesses to make comments that will assist us in our inquiry into involvement of Indigenous youth in the criminal justice system with a focus on prevention and early intervention. This hearing is open to the public and a transcript of what is said will be placed on the committee's website.

[12.15 pm]

MORLEY, Miss Sue-Anne, Executive Officer, National Indigenous Drug and Alcohol Committee, Australian National Council on Drugs

VUMBACA, Mr Gino, Director, Australian National Council on Drugs

WILSON, Mr Scott, NIDAC Co-deputy Chair, National Indigenous Drug and Alcohol Committee, Australian National Council on Drugs

CHAIR—Welcome. You may wish to make an initial presentation and we look forward to discussion.

Mr Vumbaca—This is a very important moment for the National Indigenous Drug and Alcohol Committee and for the ANCD because, as you may be aware, last year they released a paper, *Bridges and barriers: addressing Indigenous incarceration and health*, which gives a fairly appalling and horrifying account of where we are at the moment with Indigenous incarceration. In adult males a quarter of the present prison population are Indigenous, with adult females one third are Indigenous and just over half of the juveniles are Indigenous. I am sure you are well aware of what that means in comparison to the population of non-Indigenous prisoners in Australia and internationally. I have had recent discussions with some people who have looked at Indigenous incarceration in other Western countries and even in African-American communities. We probably outstrip all of those in terms of the level of incarceration of Indigenous people. I know people here often look at America and say, ‘Look what happens over there to African-Americans in terms of the rate of incarceration.’ There was a report from the Pew centre recently that one in 25 adult black males were in custody or had contact with the justice system. I read something recently where a judge in WA had made a statement to the effect that he thought close to one in 15 adult Indigenous males in WA are in custody. That is why a committee like this is important. Scott and Sue will elaborate on that and on some of the impact it has on Indigenous communities.

The other important issue—and I thank the committee for doing this—is that this issue often gets bumped as being a state and territory issue. I worked in corrective services many years ago when Bob was Minister for Corrective Services in New South Wales, so I have known Bob for a number of years. Often when this issue is raised at a federal level—and we have raised with Attorney-General’s and with other departments the need to look at what is happening in prisons and in particular the rate of Indigenous incarceration and the need to provide better services in prison—it is too often brushed off with, ‘That’s a state and territory responsibility.’ Apart from a few federal offences where people may end up in custodial units, it is not a matter for the federal government.

It may be true that they are administered by state and territory governments but so are schools and hospitals and where there is a need for national action, the federal government and the resources of federal departments do intervene and that is what has sadly been lacking here—that it has been left to the states and territories alone. I think it is timely that the federal government look at it. It is close to 20 years now since the Royal Commission into Aboriginal Deaths in

Custody which looked at some of the factors behind Indigenous incarceration rates as well. Those figures have got worse. No doubt you will see—they are in this paper here from NIDAC and are available from the Bureau of Statistics and from other sources—that virtually every year it has got worse. I thank you for having the inquiry and I thank Bob for chairing it and all of you for taking an interest in this. We certainly need to get some action at a national level.

Mr Wilson—I am the deputy chairperson of NIDAC and, like Gino said, we think this inquiry is quite timely. This year it is 20 years since the royal commission into black deaths in custody. If you have a look at some of the stats you see that, for example, the incarceration of Indigenous women has actually gone up 343 per cent since the royal commission. When you look at the 380-odd recommendations that came out of the royal commission, I think that a lot of states and territories went out and built new jails, prisons and police stations to make them more suicide-proof, so to speak, but they did not really look at the underlying issues that were resulting in Indigenous folk coming into contact with the justice system.

We believe, from a NIDAC point of view, that the system is broken and new ways are needed to keep Indigenous people out of the corrections system. Efforts to date clearly have not worked. As Gino said, it is not all that good when you see that just over 50 per cent of kids in juvenile detention today are Aboriginal—I am an Aboriginal person myself—but Aboriginal people make up just over two per cent of the population, and then you start looking at adult prisons. Gino is correct. In the organisation that I work for, besides NIDAC, over the years we have had attempts at getting into prisons. I actually work for the Aboriginal Drug and Alcohol Council. We are a peak body that looks after Indigenous drug and alcohol issues. We have run prison programs which were funded at the time by the Commonwealth. But they tend to be time limited. We were funded there for two years and, even though it was evaluated and it was said that we had great outcomes, at the end of that two-year period Commonwealth funding runs out, state government tends not to pick those issues up, because they think that they can run these sorts of problems within the jails and the juvenile corrections centres themselves rather than make that linkage with outside groups.

Clearly there is a problem. For example, a nephew of one of our elder project officers was in a maximum security jail in South Australia for 3½ years, and four hours after he was released he died of a heroin overdose. We know that there are a lot of people coming out of correctional facilities who do die—particularly Aboriginal folk—within a relatively short period of time. You would think that there would be a lot of programs attached to after care and all of that, when somebody is coming out. You would think that one way of perhaps stopping them from getting back into crime would be to have some sort of after care program to link them into some of the programs that might be of help when they get out. But those do not exist to a certain extent.

When it comes to juvenile justice, I think it is even a little bit worse. There is only one juvenile justice rehab type place that I know of, and that is currently in Melbourne and they are building a new centre for that. I do not know of any others around the place. I am from South Australia and I do not know of any that are there. One of the things that your terms of reference are looking at is examples of best practice that might actually support juveniles or Indigenous folk. For example, in South Australia they do have what they call the Nunga Court. ‘Nunga’ is just another word for Aboriginal South Australian—the same as Koori Court or Murri Court. They do have a Nunga Court down at Port Adelaide, where Aboriginal people can go as long as they have pled guilty and it is basically a sentencing option. The problem there is that the judge

or the magistrates do not really have anywhere else where they can refer those people to. The only option that they really have is to put them on another good behaviour bond, fine them or send them to jail. If there were other programs out there to refer people to, the magistrates in those systems would actually use that. It now costs taxpayers \$270 a day, every day of the year, to keep someone in a juvenile centre or a jail, compared with about \$98 if they were in treatment.

The whole issue around juvenile justice and male and female adult offending is that people are not really looking at the underlying causes of why they actually get into trouble in the first place—they may not be engaging with mainstream society, for example, or they are disaffected youth who have not been going to school for a hell of a long time. There do not seem to be programs in place to target those people to find out why they are not going to school and what sort of programs can be put in place that might get them back on track and back to school or, if they do not want to go to school, try to get them into some sort of apprenticeship or something like that that might help them down the track. We know, based on evidence which you probably would have heard or others would have provided over the years, that people who have access to employment and training are less likely to get into antisocial behaviours such as binge drinking, crime or a whole range of things.

I hear all the headline stuff about programs that are rolling out and things like that. I live in an urban setting but I am the CEO of a peak Indigenous drug and alcohol body and we actually look after the whole state. All we tend to see are the headlines; we do not actually see the programs or the attempts by state or federal governments—or, if there are attempts, they tend to be one-off type funding. For example, there were the community partnership initiatives, where you could get up to \$60,000 to try to run a peer education program targeting youth. But that is time limited. It tends to go for two years and, at the end of that two-year period, you might have just started engaging with this group of people and that is the end of the funding. So you have to start from scratch again. Basically, every time you start a program you engage with people and they get drawn into your program or whatever and they are doing good things and then, when the program stops, there is nothing more for them to go on to, so they tend to drift back to the same patterns of behaviour that they had before. It is very, very difficult after that to re-engage with those people because they see the stop-start in their lives as well.

As Gino said, NIDAC did spend a lot of time on the report, *Bridges and barriers*, and we do have a range of recommendations, both for the short term and for the long term. We understand electoral cycles and things like that. So there are recommendations in the report that governments could actually pick up and implement on a short-term basis if that is what they so wish, but there are also longer-term recommendations in the back that go over a longer period and could take a longer time to implement and therefore have the desired impact on the community.

CHAIR—In a moment, we might talk about some of those recommendations in a bit more detail. Miss Morley, would you like to speak?

Miss Morley—I would like to add that the health of Indigenous prisoners is also a priority for NIDAC. It is fairly common that there are substance abuse and wellbeing issues closely linked to crime. We believe that the treatment is far cheaper than incarceration and far more effective. The prevalence of tobacco smoking amongst Indigenous prisoners is more than double that of non-

Indigenous Australians. Alcohol is a common precursor to offending, with indications that it could be a factor in up to 90 per cent of all Indigenous contacts within the justice system. Over 68 per cent of Indigenous police force detainees tested positive to a range of drugs. So there is a need to address the health problems of Indigenous prisoners. Indeed, the disadvantage of Indigenous people plays a factor as well. In our recommendations we say that prisoner health needs to be looked at while they are in prison and also after prison to stop the re-offending.

CHAIR—As a matter of fact, we have recently seen some statistical analysis which suggests that a very significant element of the increase in imprisonment rates is connected with re-offending—not so much with first offences but with people who have got into the system and continue to re-offend. On the other hand, you are saying that there are better places to give health treatment than prison.

Mr Wilson—Yes.

Miss Morley—What we are saying, too, is that incarceration does not necessarily change the behaviour of Indigenous people with drinking, drug, mental health or foetal alcohol spectrum disorder problems. In fact, incarceration probably exacerbates problems if they are not treated.

CHAIR—You persistently identify the difficulty that Aboriginal people appear to have accessing diversionary programs and you also persistently identify a need for some kind of intervention—I suppose the simplest way to put it is to assist young boys, mainly, who are at risk in the first place. It would be very useful to us if you could talk about those things.

Mr Wilson—The organisation I work for is funded under the Illicit Drug Diversion Initiative as a diversionary type of program in South Australia but through the Commonwealth. The problem there is that we see kids as young as 11 who might be picked up for cannabis use or whatever sort of issue. Clearly we have to make sure there is an adult person there when we do the interview and have a counselling session with them but that is about it. After we have done that initial intervention with them, we do not really see them again and you do not know what happened to that kid. We see them again if they re-offend but up until now we have been doing this program for about seven years and I have to be honest on the same budget which we had seven years ago. That does not really give you access to do other types of programs that might help young folk around those sorts of problems. When it really comes down to diversionary programs, as they highlight in the NIDAC report, in some jurisdictions there is a range of restrictions to stop young folk accessing diversionary programs, young folk who have had prior histories of assault or whatever, which could have been a push or a shove and they are charged with assault or a range of other things. They are not eligible to diversionary programs. So there is a problem, then, of access and eligibility. Obviously with the diversionary program, even though it might be funded by the Commonwealth as a national program, each level of jurisdiction comes up with its own little rules and regulations about how that diversionary program will run. So you do not have uniformity across the—

Mr Vumbaca—One of the issues which Scott has raised is other barriers. They are quite tangible in terms of stopping Indigenous people accessing diversion. The Commonwealth has funded research on the take-up rate of Indigenous offenders to diversion. It is well below non-Indigenous people when they have looked at trying to identify what those barriers are. Apart from, as Scott said, whether it is a previous charge, they are encouraged to not plead guilty as

well. We know that legal services often say, 'Don't plead guilty to charges.' Some states, as Scott said, have a requirement that people must plead guilty before they are eligible. That restricts people. There is almost a need for a positive discrimination, to set different rules. We are seeing far too many Indigenous offenders coming before the system who are not getting access to the same diversionary programs that non-Indigenous people have. You have to start to remove those barriers, if not for everybody, at least for this group, which is clearly being under serviced, who therefore end up in the criminal justice system. Once you end up there, you are more likely to end up with a custodial sentence.

CHAIR—There are issues of remoteness, too.

Mr Vumbaca—There is also, as Scott alluded to in his opening statement, the issue of where you divert people to. If you are in an area which is away from urban metropolitan areas, you are going to have trouble finding a reasonable service. I know that in South Australia, for example, we have had conversations with a lot of judges wanting residential rehabilitation services. I do not know what there are around the country. I know there are a few Indigenous controlled and operated residential rehabilitation services, but in South Australia are there any?

Mr Wilson—There is one for alcohol but it tends to be for adults.

Mr Vumbaca—So there is nowhere for judges or magistrates to divert people to if they are looking so that, but there are for non-Indigenous people.

Mr Wilson—For example, there is no Indigenous-specific service for illicit drug rehab in the whole state. That really hampers, as Gino said. Even if people want to get help, the problem is where they can go to if those services are nonexistent. I understand that they cost a few bucks, especially if they are residential, to get them up and running.

Mr Vumbaca—But compare that to the cost of building a prison and it pales into insignificance.

Mrs VALE—There really are no or very little appropriate diversionary rehabilitation programs right across the board?

Mr Wilson—No.

Mrs VALE—Do some states do it better than others? Are some states are little better at providing a diversionary or rehabilitation debilitating program?

Mr Wilson—If you look at WA, for example—and Ted's the chair so he might have something to say about that—you have probably heard about the Clontarf Foundation. They tend to do a fairly good job in engaging with that group but they are not a diversionary program. They will have already got those kids through some other means. Clearly, if kids were diverted to programs like that which tend to have a fairly good outcome, from the presentations I have seen from Clontarf themselves—I note the current government is rolling that program out to Victoria—

CHAIR—It is being expanded, yes.

Mrs VALE—I understand from what you have both just said that really there is a need to do something like this at the national level, not just having the states do things piecemeal. Is that right?

Mr Wilson—Yes, that is right.

Mrs VALE—You would like to see some sort of quality diversionary programs which can address not just issues of drug and alcohol dependency but also perhaps educational or training diversionary programs.

Mr Wilson—That is right.

CHAIR—I think there is a well identified and long established attitude in critical parts of the Commonwealth bureaucracy to suggest that law and order issues are state issues and there is a permanent fear that, if the Commonwealth should begin to significantly fund diversionary programs, for instance, this may open some kind of floodgate.

Mr Vumbaca—They do fund a fair bit now but they give it to the states to implement within their systems and you do not see that consistency across the jurisdictions. You see there is one state or territory which does it well. There are pockets within the states and territories where there are available health services, where judges are well trained and well briefed and understand what is available and can divert people into those centres and services. In other areas they may be well trained and well briefed but there is nowhere to actually send people. And in some cases they are not going to be well briefed.

Mrs VALE—There really is an acceptance by most judiciary that, if they had a proper and appropriate diversionary program, they would actually send young people there.

Mr Vumbaca—Yes. We met with the Judicial Commission of New South Wales recently and we spoke to some of the magistrates and judges there. Clearly they understand that they are in the role of sentencing and when you look at the levels of incarceration, they are the ones who are bringing the gavel down on those people and sending them there.

Mrs VALE—But they have no options.

Mr Vumbaca—They often want residential options. The health sector can have a debate about the most appropriate treatment for some drug and alcohol problems, but often from a law enforcement or judicial point of view they like the option of residential treatment and you just do not see that investment in Indigenous residential treatment. It is very limited.

Mr Wilson—One of the things that Sue picked up on is hidden problems which are not being addressed, for example, foetal alcohol. From our perspective, clearly that is a hidden problem. When you look at the issues around people who might have foetal alcohol, who tend to come into contact with the criminal justice system probably a little more than people who do not have that issue—for example, there is no diagnostic centre here in Australia for parents, if their kid had a problem like that, to get them diagnosed, so that they could access things like Commonwealth rehabilitation services and all those sorts of mechanisms which might help the child. For example in Manitoba in Canada they run a thing called the Manitoba youth justice

program where a supreme court judge chairs the program. All of the people are screened before they go into the system and those picked up with problems like foetal alcohol clearly still go through the court process but the judge can order all the different caregivers, state government agencies or whatever, to come to the party to work out what they are going to do for that client, so that if they do get a custodial sentence at least when they come out there is all of this support for them to make sure they do not go back in.

Mr Vumbaca—The reason that is important is that there is what we would suspect is a fairly high level of undiagnosed foetal alcohol syndrome in the prison population now.

Mrs VALE—I was going to ask that. Are there any figures at all on it?

Mr Vumbaca—No, we do not know but certainly it is coming to light overseas as well that the proportion of people with FAS or with some kind of brain injury, sometimes alcohol-related over a long term or trauma related through alcohol and drug use is actually a lot higher in the prison population than we are suspected originally.

Miss Morley—In New South Wales there was a sample done. It was 39 per cent of female prisoners and 45 per cent of male prisoners who had sustained at least one head injury in the past.

Mr Vumbaca—That is not necessarily alcohol related. Certainly overseas data is pointing to the fact that we may have severely underestimated that level within the prison population being a factor in people who have found themselves there in terms of behaviourally being one of the problems they are experiencing.

CHAIR—The list of your short-term recommendations is admirably clear and precise. We are not always used to getting recommendations in such simple language and I personally greatly appreciate it. The thing I want to ask you to talk about is the problems that arise out of the short-term funding which seems to characterise most of the money that is available for programs all over the place. We all know there is a problem. There is an immense amount of goodwill around the idea of trying to fix it—immense, there has never been more. The most difficult issues in some ways are about implementation that is effective and stable and can be understood by everybody. If we have programs no one can understand, you know they are not going to work. They have to be cast in terms that everyone can understand and appreciate. I wonder could you give us an idea about the way in which your relatively simple ideas might actually be implemented on the ground. There have to be people to do it. These people have to be in place where there are significant populations have Aboriginal people in remote areas. We often forget that most Aboriginal people, like other Australians, live in metropolitan areas or at the least in the regions.

Mr Vumbaca—That is true. You need to have programs that are easily understood by government departments, by the public and by the communities they serve. The problem is short-term funding. NIDAC has a report coming out in the next few months—we will be releasing it at the Redfern Aboriginal Medical Service—about the nature of funding now to drug and alcohol services as opposed to 10 years ago when ANCD commissioned a review of it. It shows that the proportion of one-off funding has been maintained or is worse, that it is no better than it was and the majority of services and programs have fallen by the wayside and new ones

have come on board, but as Scott was referring to, you get started and you have to re-engage with a whole new program. You do not have that sense of sustainability of funding for organisations to develop services.

On the converse, you get law enforcement prisons with a sustained budget and investment. I know it is easy to understand and easy to sell to the public what they do, but it is not matched with the same type of investment you see in treatment, in education and in engaging young people and Indigenous people in activities and the community support structures. You do not see that investment. What you tend to do then as a community or a government is over-invest at the end of that line and put all your money into incarcerating people once they have already stuffed up, made mistakes and crossed the line. That is where you put the majority of your money. I have not done the analysis and I could not find a reference, but if you look at how much money this country invests in incarcerating people, it probably outweighs the amount we spend on health or education. The balance is wrong.

CHAIR—The Western Australia Auditor-General has done some very interesting work comparing these things. Can you give us a word picture of the kind of institutional arrangements that you might expect to establish under the regime that you describe here?

Mr Vumbaca—One of the recommendations to break the cycle is residential services. Rather than incarcerating large numbers of Indigenous people, you actually provide a residential service that is run by Indigenous people for Indigenous people that provides appropriate, effective treatment and an opportunity to address re-offending behaviour. That would be a better option than going straight to prison, even if you go there and you fail that program and then the next stop is prison. You know what it is like in a prison environment. It is hard to find any good that comes from sending people to prison. You may be able to pull one person out and say that they did well for a little bit here or they got a degree and learnt something there, but for the majority of people it is a violent, intimidating environment to put people in and you are not going to help them. You are not going to help them reintegrate into the community. You are not going to help their families when they go back by putting a custodial sentence on them. It should be the very last option you use for people.

Mrs VALE—I heard some time ago that there was actually a program run in Brisbane by an Indigenous group. I think it was called Goori House. Does it still exist?

Mr Vumbaca—I think it does.

Mrs VALE—They did have some very good outcomes I understand.

Mr Vumbaca—I actually went with the ANCD chair, Dr Herron, and visited and spent a day there with them. It is a very impressive facility. They operate in a suburban community and they do not have any real problems with the neighbours around there, despite being a residential rehabilitation centre for Indigenous people. People understand that it is well operated and well run.

Mrs VALE—At the time, they did only have it for young males. I do not know if that is still the case.

Mr Wilson—It is only for males, but a lot of the males who are there tend to have come from some sort of correctional facility and go there once they have been released. I suppose it is targeted at males because it is residential and it is a lot easier to manage if you have only got one sex. They actually bring in a whole range and that is what we are on about as well. It is about partnership, not just government to government or state government and federal government rolling out—

Mrs VALE—It is also a community initiative too.

Mr Wilson—Yes, you need to involve all of the different players—for example, Goori House, Queensland Health and the Commonwealth—to make sure that the program that they run actually does have a successful outcome. I know that when John first started the whole concept of Goori House he actually had to mortgage his house and things like that because he could not get access to funding.

Mrs VALE—We were actually instrumental in getting him \$2 million with Tony Abbott at the time. There was also a training component too. I know that we introduced them to BlueScope Steel and I think they were training some of the young lads to do roofing. Is that still happening?

Mr Wilson—They do. Basically, if you are a client, by the time you have finished your residential program there, you would have some sort of TAFE certificate, which obviously helps you then access employment once you move on. They have a halfway house as well so that once you finish you go there and they will help you get a job.

Mrs VALE—Scott, would you say that is a good model? I am not saying it is the model because I think we learned a long time ago that there is never one silver bullet solution, but would you say that is a good model?

Mr Wilson—It is a model that could obviously be looked at to provide outcomes. I know of other rehabs where, basically, their philosophy is, ‘This is a sanctuary.’ So when you are there, you are away from all of the influences. But when you leave, I do not think you would have the same outcomes in terms of some sort of education or employment pathway and, more than likely, because you have not had those other interventions, you tend to relapse quickly.

Mrs VALE—Are you aware if an appropriate assessment has been done of Goori House, so we can look at it strategically and at its results to see how it has been received?

Mr Wilson—I am not 100 per cent sure, but I think they have had an evaluation through the Alcohol Education and Rehabilitation Foundation, which also provided them with some funding. I could find out about that and forward it to the committee. There are others like CAAPS, the Council for Aboriginal Alcohol Program Services, in Darwin. Once again, it is a residential service and it tends to deal more with traditional folk who have English as a second language. Most of their clients come in from Arnhem Land and places like that. They do have that educational component. They do not just say that they can treat a person’s drug and alcohol problems while they are there; they also say that they will try and get them engaged in some sort of educational outcome so when they go back to their remote community—that is where most of them come from—they will have some sort of certificate that might help them get a job. That service also takes families. Their idea is that the problems of a person who is a drinker or a drug

user affect their whole family. Whereas most rehabs just take the person with the problem and deal with that person. Their families are used to operating in a certain way, so when that person goes home they forget it all. CAAPS take the family as a unit.

Mr Vumbaca—CAAPS is an interesting example because it is right near Berrimah prison in Darwin. Currently, the NT government is considering opening a \$300 million bid for a new prison in Darwin. We had the opportunity to spend a few hours in Darwin prison and half a day in CAAPS, which is only just up the road, and we found that the clientele are the same virtually. Darwin prison is 82 per cent male Indigenous and, I think, 80 to 90 per cent Indigenous in the small female unit there. Their ages are similar and their offences are mostly related to alcohol. It almost seems like there is a fork in the road and you could either end up in prison or—

CHAIR—It is a random event as to which one you end up in.

Mr Vumbaca—Yes. We talked to the management committee and the CEO at CAAPS. Like most drug and alcohol services, they are always trying to maintain their funding—which is nowhere near \$300 million, I can assure you. They are fighting to keep every dollar to help the people there. Yet there is this debate about an investment for a new prison—whether it is \$300 million, \$280 million or whatever—as if the clientele are completely different, and they are not.

Mrs VALE—What does CAAPS stand for?

Mr Wilson—Council for Aboriginal Alcohol Program Services.

Mr Vumbaca—As I said, these facilities are virtually side by side. It was quite amazing to see how close they actually are and how similar the clientele are.

Mr Wilson—I suppose part of the problem is that there is not a lot of that sort of service available—though a number of years ago ANCD did a monograph on best practice organisations. If you want to set up something or try to get something happening, there are not a lot of places you can go to see how it is done—what actually works at Goori House or CAAPS or some of the other well run rehabs and what actually makes them effective. Whereas a lot of the other places might not necessarily have the same programs in place or they might have a totally different philosophy in the way they treat people—total sobriety or whatever. Part of the issue as well is that you do not necessarily know whether that is going to work until you get it going because there are no models that you can just pick up.

NIDAC are heavily involved in the complementary action plan for Aboriginal and Torres Strait Islander folk. If you look at that as well as *Bridges and barriers*, it is about partnership. Whether it is with law enforcement, state and Commonwealth governments or communities, it is the only way you are going to get the outcome that is obviously desired. If you just have state governments come in—the Commonwealth tends to fund them—they go off and run what they think are appropriate services; and they might sound really great until they put them in place and then wonder, ‘How come we are not actually getting any clients coming through the door?’

One of the issues that we are on about is data collection, which is in the short-term recommendations—that the data that is collected is meaningful and can actually be used by the Commonwealth or the states in planning. If you have a look at the complementary action plan

for Aboriginal and Torres Strait Islander People, which is part of the national drug strategy suite of action plans, and they are all going through a review at the moment, they have all of these actions and KPIs, and each of the jurisdictions somehow report against those as to what they have done in that period. With a lot of state governments they tend to throw everything in there. If there is a dollar that they spent on an Aboriginal person they will put that in there, even though the majority of the funding might have gone to mainstream organisations. It is no different from when you see the—

Mr Vumbaca—It is impossible to get the track of what was actually spent. That is the problem we are finding.

Mr LAMING—Scott, it sounds like you are suggesting that residential care is back in vogue. I remember that John Close's initial battles in 2005 were because there had been a decision about the cost effectivity and the cost benefit of residential care. Queensland have moved away from that, and that is what actually threatened Goori in the first place. It is interesting that you are now talking about residential care. If John Close were here now, he would say, 'There is no magic in this but it is impossible to deliver holistic care if you are only going to see them four hours a day, because part of it is getting out of bed, ironing your shirt, cleaning your teeth and renewing focus in yourself and what you can do. You cannot do that if it is not 24 hours a day. That would be John Close's response, so where do you see us going with residential care?

Mr Wilson—In the past, residential care has been long term. People went into these sorts of facilities, and the program could go for a year or more. I know of some that have two-year programs. Clearly they are just too long. The ideal program, from what we are on about, is three months. I am pretty sure that John's programs are that long. It enables people to settle down, start working out what their issues are and start having a few sessions with counsellors, but also to be engaged through their program into TAFE type certification. You have to remember that if you have been a drug or alcohol user, it becomes a full-time job to sustain that level of abuse, and then all of a sudden you are straight. It takes a while to re-engage and to look at the options that you might want to do, which includes TAFE. I do not think that the folk who go into that sort of facility really have a choice whether they want to do the TAFE stuff or not. That is part of the program. They have a better outcome, because it is short term, you get a certificate II or certificate III, and then they sort of transition into a halfway and then move on.

Mr LAMING—It is a completely disruptive intervention, because you are almost completely removed from those causative factors that you simply return home to every night if you are not in residential care.

Mr Vumbaca—But the thinking has moved on a lot with residential rehabilitation programs and therapeutic communities. Australia actually does quite well. As Scott said, they have shortened the programs and they are a lot more evidence based. They are not the answer for everything, but probably the reason they are getting a lot more traction here is that if you are talking about the reality of coming before a court and sentencing options, that is more likely to be looked at by the magistrate than a custodial sentence. At least it is a 24-hour residential facility, which makes it more attractive.

The other issue, and I will get Scott to comment on this, is: I get the sense from talking to people that sometimes, because you are dealing with alcohol and those sorts of things a lot more,

it is actually more appropriate at times to allow that time out. Culturally it has a level of appropriateness when it is run like Goori House, CAAPS or Oolong House in New South Wales; it has more applicability for Indigenous people at times.

Miss Morley—In regard to the points that Scott picked up before about engaging families, it is difficult for women with children who want to access rehab to actually engage in the mainstream rehabs because they have got family that rely on them and depend on them. The advantage of having residential rehab that caters for Indigenous people and also caters for families is that it has a much better chance of attracting those sorts of people to it.

Ms REA—Goori House actually wants to expand to do exactly that with women and children.

Mr Vumbaca—They have had a proposal for years but they have not been able to get—

Ms REA—Yes, they have just got to get the right location.

Mr Vumbaca—They have also got to get the money. As I said, if it was a prison they were building, they would find the money fairly quickly.

CHAIR—You may be aware that there is a national aboriginal justice framework that has been established in more recent years, which has the particular purpose of identifying diversionary programs that appear to be more effective. Presumably we could do that kind of thing, or maybe there is such a device, across the health sector as well. There are ways, without being too inflexible about it, of identifying the kinds of methods that appear to work best.

Mr Vumbaca—Of course. The health sector does that with a range of treatments.

CHAIR—If we accept, and it seems to me pretty hard not to accept, that there are enormous advantages in diverting people into some form of treatment rather than nicking them, nevertheless there are an awful lot of Aboriginal people in prison and no matter what anybody does that is going to continue for some time and there is going to be re-offending. So it seems to me we ought also to be thinking about what happens in prison. I happen to know you have a degree of familiarity with prison for all the best reasons, Gino, so can you talk to us a little bit about those possibilities or opportunities that are perhaps presently being missed?

Mr Vumbaca—There are some good recommendations in the NIDAC report that talk about getting access in terms of health issues, which Scott and Sue have raised, and about giving local Aboriginal medical services and community controlled organisations access to people, because that may be more appropriate for Indigenous prisoners. You are right. If we look at it from a broader drug and alcohol perspective, what we have is education and prevention, then we have treatment for people who go over that and have problems, and for those people who do not want to seek treatment we have harm reduction and programs to keep them safe. In a way, you have the same problem. You have got to try and reduce the number of Indigenous people going in, but there will be a proportion who end up in prison, so you have to have programs that are appropriate for those people who are in prison now and who are going to come through regardless of what programs come into play between now and the next 10 or 20 years.

We are now trialling residential facilities. Long Bay has one that I went and had a look at, which is a therapeutic community model. The ACT prison is doing the same. They are looking at trying to actually invest in treatment. Bob, you would know as a former minister that the money that goes into health is often overridden by the money that goes into security. I understand why that is the case but if your goal is to stop re-offending and re-incarceration then over-investment in security is not going to do that for you. What actually gives you more chance of reducing people's re-offending is investing in the person in terms of treatment, in particular when they are released—making sure there is some sort of housing and after-care if required or a continuation of treatment. That is going to have a much bigger impact on reducing re-offending than having the latest whiz-bang X-ray machine, a hundred dogs and perimeter security. All the high-tech equipment draws the money in those sorts of services and departments. That is the problem in a nutshell. There are good programs that are run in prison, both internationally and nationally. We know there are examples of good programs that are run. New South Wales has an Indigenous gaol as well that seems to be coming up quite well in evaluations.

CHAIR—That is Yetta Dhinnakkal at Brewarrina.

Mr Vumbaca—Yes. Those sorts of things could work but, if you are working in the prison system, you are competing against custodial security issues to get part of that dollar, and it is hard to get when you are in that system because the overriding factor is security. The fewer people you have in there, the more money there is to spend as well. That is why, if you start to slow down the rate at which people are imprisoned, it actually frees up more money for those things. I think I read somewhere that New South Wales is probably looking at a prison a year to keep up with the current rate. They have to allocate money for at least a medium-sized prison each year. Nationally, you are looking at maybe two or three prisons a year. Darwin is \$300 million. You talking about billions being spent every year on prisons and Scott's group and John Close and CAAPS are there struggling away to get \$10,000 or \$100,000.

CHAIR—Whereas, in fact, the great majority of the prison population have been sentenced to less than a year and an even larger majority are people who have re-offended.

Mr Wilson—The problem there is if they do not get a specific sentence, they do not get access to any of the programs. You can have all these weird and wonderful health or whatever programs, but if you get a short term, which the majority get, you do not get access to those programs.

Mr Vumbaca—It is a barrier to getting it.

Mr Wilson—You can go in and out of prison, and you might not have seen a program. You have to be doing a little more time to get into anger management and drug and alcohol and a range of other programs.

Mr Vumbaca—Those people benefit more from being in a residential or some other facility than they do from lots of two to three month stints in prison where they cannot access programs anyway because the shortness of their sentences disqualifies them from programs.

Miss Morley—We do not know the number of people going in who are undiagnosed for a treatment condition. They may have been going through an Aboriginal community controlled

health service for their chronic disease and we do not know the treatment or health services that are available to them. For people going in who may have foetal alcohol spectrum disorder or some sort of brain injury, we do not know whether they are being assessed and whether they are subsequently being treated for it.

Mrs VALE—With all the studies and the research you have done, do you have any recommendations on how we could prevent young Indigenous people from being incarcerated in the first place?

Mr Vumbaca—The report talks about providing appropriate youth activity sentences. It is about engagement in education. Ted Wilkes, the chair, often talks in public about the fact that the level of engagement of Indigenous kids in school is not acceptable. There are recent reports from the Northern Territory about how they measure the attendance rate of Indigenous people. I think I read somewhere that if they all went to school in the NT, there would not actually be enough places anyway. If you engage people in education then the likelihood of them engaging in offending behaviour is less.

CHAIR—This morning's paper has a story about the Aboriginal school at Hermannsburg having incredible success in just a couple of years.

Mrs VALE—Is that a residential school?

CHAIR—No.

Mr Wilson—It is not as if they can run away and go to another school. It is fairly remote there.

Mr Vumbaca—But they do not live there; it is not a boarding school.

Mrs VALE—I have heard of some initiatives where schools provide food, even if it is just a day school—there is that added attraction.

Mr Wilson—Yes. Even in urban places like Adelaide there are schools that provide breakfast and lunch programs for young folk—for all kids, not just Aboriginal kids.

Mrs VALE—That actually encourages young people to stay at school.

Mr Wilson—If you are getting a feed, you are more likely to rock up.

Mrs VALE—There seems to be a common theme here: the lack of engagement in the education system and getting any meaningful training.

Mr Wilson—Yes.

Mrs VALE—If I could be gender specific on this. It is hard for males generally in our culture. I have seen young boys turn around as soon they have got an apprenticeship and as soon as they have an identity. It seems to me that males in our culture take their identity from their occupation. If you do not have an occupation, you are nobody. As soon as you get to be an

electrician, you are a sparky—that concept of having a role, having a job and being part of your society.

Mr Wilson—That is what the Clontarf Foundation people do and model their stuff on. It is about targeting young blokes and is about that sense of belonging. It is not about the fact that they played football or whatever; it is the fact that they belong to this group. The issue was, ‘Why don’t you go to school?’ but they did not want to go to school. But once they went to the sports academy, which included school, they engaged in school. In places like Kalgoorlie, for example, where never had an Aboriginal kid get to year 12, they now have quite a lot of them through, because there is that male sense of belonging and they do it, from what I gather, quite well.

CHAIR—They are often better at football. Fred Hollows told me that Aboriginal people have better peripheral vision than Caucasians. We are extremely grateful for the quality of the written and oral evidence that you have given us. Is there anything you would like to say to sum up?

Mr Vumbaca—Not to sum up, but take the opportunity to be bold. As a committee, over the years you have articulated goodwill and all that is now coming to a focus including Closing the Gap. You really as a committee need to try and get the parliament and the government to bite the bullet on having to change things. I may have the source wrong, but I think it was Albert Einstein, who said: ‘The definition of stupidity is to do the same thing over and over and expect a different result.’ You cannot keep doing what we are doing at the state and territory level in prisons and expect that, somehow, the outcome will be better for Indigenous people; it will not. You have to actually change. They are simple recommendations and we do not underestimate how much work is underneath those recommendations. But you have to change the system as it is just not working for Indigenous people. Goodwill is not enough. Good intention is not enough.

Mr Wilson—I would like to urge that, when you are looking at it, it does not just become a rural and remote issue, which unfortunately tends to happen in Indigenous affairs where a lot of focus is on rural and remote, and that is great because they do not have access to a range of things. A lot of Aboriginal folk do live in urban settings and do not have that access. So when you are looking at things do not forget the urban folk.

CHAIR—We have in fact been reminding ourselves that half of all Aboriginal people live in New South Wales and Queensland. The great majority of them are in towns.

Resolved (on motion by **Mrs Vale**):

That this committee authorises publication of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 1.13 pm