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**Mission Australia's submission to
the inquiry into the high level of
involvement of Indigenous
juveniles and young adults in the
criminal justice system**

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Summary of Recommendations

- In view of the gross overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system Mission Australia strongly recommends that State and Territory Governments commit to reducing the number of Aboriginal and Torres Strait Islander juveniles and young adults in detention and set targets to enable this to be annually monitored.
- Mission Australia strongly recommends that significant increased investment be made in *culturally responsive, developmentally appropriate, community-based rehabilitation* programs for Aboriginal and Torres Strait Islander young people. Such programs should have a strong focus on early intervention, prevention and rehabilitation and should seek to build the capacity of the key people and organisations in Aboriginal young people's lives, including extended family and kin, peers, educational institutions, and social, recreational and cultural associations.
- A strong sense of attachment to a cultural community is a known protective factor that reduces the likelihood of anti-social and offending behaviour and supports the development of self-esteem and positive social norms and behaviours. Therefore, Mission Australia recommends that fostering the spiritual, enriching, complex and ancient traditions of Aboriginal cultures be recognised as an important component of strategies to lower the number of Aboriginal and Torres Strait Islander young people who come into contact with the criminal justice system.
- Mission Australia acknowledges the important steps that Australia has taken with respect to enabling and supporting Aboriginal and Torres Strait Islander communities to fully realise and enjoy their cultural freedom but also recognises that it still has some distance to travel before it can claim to fully recognise the legitimacy of culture. This is central to the goal of reducing the imprisonment rate of Aboriginal and Torres Strait Islander people as it enhances the family and social controls specific to Aboriginal communities that promote positive, harmonious behaviours and prevent the onset of anti-social behaviours. Although the organising frameworks that underpin policy-makers' and strategists' thinking about how to 'close the gap' are fixed for a prescribed period of time, Mission Australia suggests that they continue to be critiqued and that dialogue continue to be facilitated to establish the extent to which these frameworks

recognise and respect differences in Aboriginal and Torres Strait Islander aspirations and needs. Aboriginal and Torres Strait Islander people must assume a central place in discussions about such matters.

- Mission Australia recommends that investment be made in further qualitative research that deepens our understanding of Aboriginal and Torres Strait Islander communities' conceptions of crime and justice, their traditional principles and processes of crime control and justice, and how the restorative nature of these practices may be drawn upon in ways that complement Australia's formal justice system to improve the quality of life in these communities and reduce the overrepresentation of Aboriginal people in the criminal justice system.
- Mission Australia strongly supports Aboriginal and Torres Strait Islander peoples' involvement in the design and implementation of policy and recommends an increased commitment by Government to decentralise policy and service design relevant to Aboriginal and Torres Strait Islander communities and ensure that these populations have a sense of ownership and control over the policy and programs that affect them. This is not only a respectful form of policy development but will also yield important benefits, such as increased program relevance, take up and completion, which in turn will enhance policy and program outcomes (Hunter and Jordon, 2009).
- The prevalence of violence in some Aboriginal and Torres Strait Islander communities and the presence of learned, intergenerational anti-social and violent behaviours suggests that in some cases asset-based, community development approaches may be required (in addition to more targeted programs) to extend the reach of prevention programs and reduce the number of Aboriginal and Torres Strait Islander young people entering the criminal justice system. Mission Australia strongly recommends increased investment as appropriate in community development programs. Such programs must be designed and driven by the communities themselves and supported with sufficient and appropriate resources and adequate time frames.

Mission Australia

Mission Australia is a national, not for profit organisation that works within the community, employment and training sectors. We recognise the unique status of Aboriginal and Torres Strait Islander peoples as the original owners and custodians of Australia's lands and waters and we are committed to addressing the cultural, social and economic needs of Aboriginal and Torres Strait Islander communities. In 2009 Mission Australia became the first national Australian welfare organisation to develop a *Reconciliation Action Plan* detailing how we will contribute to closing the gap in living standards between Aboriginal and Torres Strait

Islander people and non-Indigenous Australians. In 2008-09 we assisted 13,300 Aboriginal people in many local communities in city, regional and remote areas.

Mission Australia has a strong focus on supporting young people of all cultures to make successful transitions into adulthood and to realise their potential. We have been working with young people and young adults for 150 years, motivated by a vision for a fairer Australia where all young people feel included and valued and enjoy the support of their families and communities. In 2008-09 Mission Australia supported more than 24,000 young people through nearly 100 youth-specific services located across all states and territories. In addition, we supported a significant number of young people through our homeless, employment and training services. We also work with families in disadvantaged communities to build their skills and resilience so that children are given the best possible start in life. Through our family services we supported 7,749 families by providing more than 50,000 incidences of service during 2008-09.

Rehabilitation and support programs for young people who are in contact with the criminal justice system are among the many programs which Mission Australia provides. Prevention, rehabilitation and reintegration programs include: Pasifika Support Services, a holistic, young offender rehabilitation program designed for young people of Pacific background at risk of continued contact with the criminal justice system; U-Turn, a diversionary program underpinned by restorative justice principles, designed for young people aged 15-20 years with a history of motor theft or at risk of becoming involved in motor theft which provides opportunities for young people to channel their automotive interests in productive ways by working on community-oriented projects, such as repairing a vehicle for presentation to a victim of motor vehicle theft; a range of Post-Release Support Programs (strengths-based, intensive case management support for young people who have been released from juvenile justice centres to assist them to overcome barriers to re-integration so that they can address the underlying causes of their offending behaviour and establish positive connections with their communities); and Youth Futures, a program for young people in contact with the youth justice system with a particular focus on building young people's strengths and supporting them into sustainable and meaningful employment.

Mission Australia also delivers culturally-responsive programs designed specifically for Aboriginal and Torres Strait Islander people. These include: the Koori Leaps Project, a project which supports Aboriginal and Torres Strait Islander families to access the services available through the Miller Community (NSW) Pre-School and Early Intervention Service;

the Dubbo Leadership and Cultural Development Program, which assists young Aboriginal students to deepen their awareness and understanding of their culture, gain leadership skills, and stay connected to the education and training system; Indigenous Youth Mobility Programs, which enhance Aboriginal and Torres Strait Islander young people's access to training and employment opportunities; Charcoal Lane, a Social Enterprise which provides Aboriginal young people with supported opportunities to build their vocational skills and obtain jobs with futures within the hospitality industry; the Aboriginal Driver Education Program which addresses difficulties experienced by Aboriginal young people accessing the required 120 hours of driver education, and through that work some of these young people's risk-taking behaviours and the over-representation of Aboriginal young people in the court system; and the No Opportunity Wasted program, a program which provides individualised case management support for Aboriginal young people and their families to develop their employability skills by linking them into appropriate education and training pathways, and employment opportunities.

Mission Australia would be pleased to provide further information regarding these programs, should that be of interest or assistance.

Young Aboriginal and Torres Strait Islander people in contact with the criminal justice system and Mission Australia's guiding approach, informed by research and practice

The overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system is one of the most serious social issues facing Australia today and an indicator of the welfare and criminal justice systems' failure to respond in appropriate ways to Aboriginal and Torres Strait Islander peoples' needs. Nationally, as at 30 June 2009 the Aboriginal and Torres Strait Islander imprisonment rate was more than 14 times that for non-Indigenous people, with the degree of over-representation ranging from 3 times in Tasmania to 20 times in Western Australia. The degree of over-representation is steadily increasing, too, having risen from Aboriginal and Torres Strait Islander people being 9.9 times more likely to be incarcerated than non-Indigenous people in 2000 (Australian Bureau of Statistics [ABS] 2009). The situation is worse for Aboriginal young people, who are 28 times more likely than their non-Indigenous counterparts to be placed in detention (Taylor, 2009). This would suggest that Australia is rapidly proceeding down the path followed by the United States where it has been said that entire subsets of the population are being systematically incarcerated (Garland, 2001) and it has been estimated that nearly one third of all black men will experience imprisonment at some point in their lives (Bonczar and

Beck, 1997). The seriousness of this situation was remarked upon in 2006, when the Director of the NSW Bureau of Crime Statistics and Research observed that the scale of the overrepresentation of Aboriginal and Torres Strait Islander people in the prison system was larger than the difference between white imprisonment rates and the imprisonment rate of African Americans in the United States (Weatherburn, 2006).

Mission Australia recognises the many well-researched and varying perspectives of the underlying causes of Aboriginal and Torres Strait Islander peoples' overrepresentation in the criminal justice system and is cognisant that these may bring issues and approaches to the fore that are backgrounded in this paper. It is important to note that in selecting particular issues and areas to focus on in this submission we do not intend to imply that other areas are of lesser importance. Nor do we suggest that all approaches that differ from Mission Australia's should be discounted. Rather, the overarching philosophy that guides Mission Australia's work with Aboriginal communities is informed by the idea that one size does not fit all and that programs need to be designed in accordance with the uniqueness of the social context in which they are to be delivered. Importantly, Mission Australia's approach is also shaped by the following ideas:

- That young Aboriginal and Torres Strait Islander people share much in common with other young Australians as well as having particular strengths and needs. It is essential to bear in mind, for example, that engaging in some type of anti-social behaviour during adolescence is not uncommon (AIC, 2002) and that just as many young, non-Indigenous people who offend in their youth do not go on to become persistent or serious offenders (Weatherburn and Baker, 2001), so it is the case for Aboriginal young people, too. The majority of offences committed by young Aboriginal and Torres Strait Islander people are part of the process of normal boundary testing (Currie, 2001).
- In view of this, much of the theory that informs Mission Australia's approach to working with non-Indigenous offenders holds true for Aboriginal and Torres Strait Islander young people, too, with the important proviso that respecting culture is a matter of human rights and social justice. Further, as primary research has recently shown, a strong sense of cultural identity is an important developmental protective factor and "effective responses are [therefore] those that are mindful of a young person's background and culture and how this permeates their lives. Imposing 'standard' programs and practices on all young people when their individual life experiences are materially diverse can potentially do more harm than good" (Mission Australia, 2009, p. 7).

- Similar to the above, there are many risk and protective factors that are common to young people of all cultures, although there are also risk and protective factors that are specific to Aboriginal communities.
- The consistency of Mission Australia's approach to working with Aboriginal and Torres Strait Islander young people is to be found in the organisational values that inform our work and in particular the values of *respect*, *compassion* and *perseverance*. These underpin all our programs and services.

In view of the above, some of the content outlined in this section applies to young people generally, irrespective of their cultural background. For example, the existing evidence base and Mission Australia's experience in working with young people suggests that young people who enjoy vibrant and healthy lives, who have strong family, peer and community connections and who have aspirations for the future tend to have foundations in place that promote their physical, emotional and mental wellbeing, and afford them the opportunities and confidence to engage with others and to learn, develop and grow in a way that benefits not only young people themselves, but also society. This holds true for young people of all cultures, however the social and cultural contexts in which these foundations are established and therefore *how* they are established can vary enormously.

While most young people in Australia enjoy the benefits of solid developmental foundations, it is well documented that at an aggregate level Aboriginal and Torres Strait Islander young people fare relatively poorly in this regard. Aboriginal and Torres Strait Islander young people achieve lower levels of educational attainment, are more likely to live jobless households and are also particularly affected by conflict and violence. In almost all jurisdictions, Aboriginal and Torres Strait Islander children are more likely to be the subject of a substantiated child protection complaint, with the rate of substantiations five to ten times higher than for non-Indigenous children across the majority of jurisdictions (Bryant and Willis, 2008). In some jurisdictions, family violence rates are 14 to 16 times higher for Aboriginal and Torres Strait Islander people (based on 2004-05 police data); the rate of hospitalisation for Aboriginal and Torres Strait Islander females for assault-related injuries is more than 40 times higher than non-Indigenous females (Bryant and Willis, 2008).

Young people caught up in the justice system tend to have few supports and have had limited opportunity to develop the attributes fundamental to ongoing development and achievement. There is now a large body of research that attests to this (see for example Mullis et al, 2005; Goldson and Muncie, 2006; and Cunneen and White, 2006) and confirms

that contact with the criminal justice system is closely entwined with chronic disadvantage and a long history of contact with the social welfare system. This means that the issue of the overrepresentation of Aboriginal juveniles and young adults in the criminal justice system cannot be addressed without also examining the apparent shortcomings of service systems, including welfare, health and education, and their deficiencies in responding in appropriate ways to the issues experienced by Aboriginal and Torres Strait Islander communities.

Drawing connections between these two systems is not a new idea; indeed it was a point made strongly in the report by the Royal Commission into Aboriginal Deaths in Custody (1991). Attention has been drawn to this recently by the Council of Europe Commissioner for Human Rights, which states that "the judicial body is the last link of the chain, and we should try to do everything we can to prevent cases coming that far" (Hammarberg, 2008, p. 195). Mission Australia concurs with this view. Also in line with the views expressed in that paper, Mission Australia does not advocate for the relinquishment of all personal responsibility and acknowledges the challenge and importance of keeping the community safe. Mission Australia also recognises that detention may unfortunately be necessary in exceptionally serious circumstances. However, there are other systemic issues that also impact on Aboriginal and Torres Strait Islander people who come into contact with the criminal justice system (and their families) such as their impoverished life chances, the diminution of their cultural rights, and the structural inequalities that give rise to their circumstances. Responsibility for these issues rests with the state and the broader community.

At a practical level, Mission Australia's general approach to working with young offenders is to work with the young person, their families and on some occasions their peers, across all the life domains (such as education, health, daily living, personal and social skills etc), since offending behaviour is almost invariably associated with poor outcomes in one or more of these areas. A significant focus of our work is on early intervention in order to provide pathways to more positive outcomes and to break the cycle of offending and prevent poor life outcomes. In addition many of our programs work with the siblings and peers of young offenders, as well as others who play an important role in their lives such as mentors, educators and cultural leaders. The rationale of this approach is to build upon young people's strengths and also to build the capacity of influential others to better support and enable these young people to envisage and lead flourishing lives.

While Mission Australia and other agencies who work with disadvantaged Aboriginal and Torres Strait Islander young people and their families are able, to varying degrees, to reduce the presence and severity of risk factors and to enhance protective factors, it is work which countervails a range of larger, underlying problems. Some of these are common to young people of all cultures who have become enmeshed in the criminal justice system, such as poverty and social exclusion, but others are particular to Aboriginal and Torres Strait Islander peoples and communities and are the enduring effects of dispossession and a long history of bureaucratic control and damaging past policy such as forced removals and assimilation. This has resulted in risk factors at social and structural levels that are particular to Aboriginal populations, including a sense of helplessness in the face of overwhelming difficulties, grief and loss associated with colonisation and the state policies that followed, group powerlessness, dislocation from culture and land, state 'dependence', and alcohol misuse and related violence which it has been suggested has become part of the structure of some Aboriginal communities (see Homel et al, 1999, for detailed analysis of the social and structural factors affecting Aboriginal and Torres Strait Islander young people's developmental pathways). Addressing the high levels of involvement of Aboriginal and Torres Strait Islander juveniles and young adults in the criminal justice system therefore requires qualitatively different responses to those which might be deployed in response to the needs of young people from the 'mainstream' Australian culture. Mission Australia's response to this inquiry is framed by this understanding.

Structure and content of this submission

As Mission Australia's vantage point is from outside the youth justice system and our experience lies in designing and delivering programs based on practice wisdom and both primary and secondary research, we have chosen to focus on the Term of Reference concerned with 'best practice' service delivery. However, rather than focus on particular diversion and reintegration program examples (although some are used for illustrative purposes) we have broadened our response to highlight the principles underpinning culturally-responsive program design and delivery since this is identified in the research literature as critical to the successful integration and rehabilitation of Aboriginal young people and these principles have multiple applications. This means that a generalised discussion about best practice program development and delivery is possible, sensible and useful. It also means that while this discussion falls under the banner of 'best practice' the content of this paper is relevant to several of the Committee's areas of interest. The primacy of Aboriginal culture and the involvement of Aboriginal and Torres Strait Islander

people in program design and delivery (irrespective of the lead issue that is being addressed), for example, is central to all the Terms of the Reference of the Inquiry.

Mission Australia also notes the recent release by the National Justice Chief Executive Officers Group of the report *Staying Strong on the Outside: Indigenous Young Adults*. We generally concur with the principles identified as critical to the successful reintegration of Aboriginal and Torres Strait Islander adults and add our voice to the call for further investment in culturally responsive and developmentally appropriate rehabilitation programs. We have not repeated in this submission the key points raised in that report (or others) and instead have endeavoured to draw on Mission Australia's practise wisdom to bring to the fore our experiences and the information and advice that adds texture to many of the issues discussed in the research literature. We have also focused on issues raised in the literature which reflect Mission Australia's own experiences of working with Aboriginal communities.

Recommendations are provided at the conclusion of the paper.

Best practice program design and delivery for Aboriginal and Torres Strait Islander young people at risk of ongoing involvement in anti-social, risk-taking and criminal behaviour, and returning to the community from juvenile detention centres

Key points

Supporting details, information and discussion

Enabling and supporting Aboriginal and Torres Strait Islander communities to fully realise and enjoy their cultural freedom is central to the goal of reducing the imprisonment rate of Aboriginal people as it enhances the family and social controls that promote positive, harmonious behaviours and prevent the onset of anti-social behaviours. It also strengthens other protective factors such as self-esteem and a strong sense of cultural identity.

Recognising and nurturing Aboriginal culture to address the overrepresentation of Aboriginal and Torres Strait Islander young people and young adults in the criminal justice system

“The message we must send to our young people is that culture counts for something other than normalising deviant behaviour” (Currie, 2001, p. 5).

The overrepresentation of Aboriginal and Torres Strait Islander people in both the adult and juvenile justice systems is of such a magnitude that leading experts have labelled this phenomenon “a national tragedy and a national shame” (Weatherburn, 2006). So serious is the situation that there is discussion in some circles that suggests the process and experience of imprisonment have become embedded at a cultural level and is seen by some Aboriginal young people as a rite of passage and part of the ‘normal’ transition into adulthood, a view which it has been said is threatening to translate into a belief that being of Aboriginal or Torres Strait Islander heritage and being in prison is a cultural right (see Currie, 2001, for a discussion on this). Fostering the spiritual, enriching, complex and ancient traditions of Aboriginal cultures and preventing these from being supplanted by what some Aboriginal communities may see as spurious notions of their cultures is therefore one of the most urgent tasks facing Aboriginal communities, Government and the broader community. It is pertinent to lowering the number of Aboriginal and Torres Strait Islander young people who come into contact with the criminal justice system since a strong sense of attachment to a cultural community is a known protective factor that reduces the likelihood of anti-social and offending behaviour and supports the development of self-esteem and positive social norms and behaviours (see

Mission Australia, 2009). Importantly, the freedom to nurture, value, practise and celebrate culture is a precondition to Aboriginal and Torres Strait Islander peoples' overall wellbeing (Hunter and Jordan, 2009) and as such is central to improving their quality of life in multiple outcome areas. It is also a fundamental right.

The central place that culture has in Aboriginal and Torres Strait Islander peoples' wellbeing has two key implications for policy-makers interested in addressing the problem of the overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system:

- The overall effort to reduce the imprisonment rate of Aboriginal and Torres Strait Islander people in large part depends upon the reversal of the erosion of Aboriginal cultures and the restoration of their cultural identity. This is directly related to reducing juvenile crime as it enhances the family and wider social controls that promote the harmonious functioning of communities and prevent the manifestation of delinquent behaviours (Carcach and Leverett, 1999).
- Nurturing Aboriginal cultures and enabling Aboriginal communities to fully realise and enjoy their cultural freedom demands, first and foremost, respect for culture.

The above points have far-reaching ramifications which impact every stage of the policy development process and program design and delivery.

The legitimization of cultural difference

Although Australia has taken some important steps forward with respect to recognising the legitimacy of culture, there is still much work to be done, particularly in the area of criminal justice which incarceration and recidivism rates show is clearly failing Aboriginal and Torres Strait Islander young people. There is an urgent need for a

It can be argued that Australia still has some distance to travel before it can claim to fully recognise the legitimacy of culture, with the justice arena a particularly thorny area since Aboriginal and mainstream conceptions of justice can be fundamentally different (Day, 2003; Homel et al, 1999). As recently as 2003 it was implied that Australia is still in need of "creating a framework for understanding what is happening", a step which is preliminary to developing ways of addressing the problem of Aboriginal and Torres Strait Islander crime that are responsive to the needs of Aboriginal communities and the institutions of mainstream Australia (Day, 2003, citing McCleod, p. 11).

deeper understanding of Aboriginal conceptions of justice and discussion about the ways in which the justice system can meet the needs of Aboriginal communities and 'mainstream' Australia.

Properly recognising Aboriginal cultures requires policy-makers and political leaders to continue to reflect on whether the organising frameworks from which targeted strategies and interventions flow adequately recognise and respect differences in Aboriginal and Torres Strait Islander aspirations and needs. Aboriginal and Torres Strait Islander people must assume a central place in discussions about such matters.

This suggests that, although important work has commenced in this area (see Homel et al, 1999, for example), some of the fundamentals have yet to be fully understood. Further qualitative research is required to unlock thinking about crime and justice as it pertains to Aboriginal communities and to deepen our understanding of Aboriginal and Torres Strait Islander communities' conceptions of justice, their traditional principles and processes of crime control and justice, and how the restorative nature of these practices may be drawn upon in ways that complement Australia's formal justice system to improve the quality of life in these communities and reduce the overrepresentation of Aboriginal people in the criminal justice system.

It also raises questions concerning the appropriateness and likely effectiveness of the overarching frameworks that are currently guiding Australia's response to Aboriginal and Torres Strait Islander disadvantage. Although Mission Australia applauds the important steps recently taken by the Commonwealth Government, including the Apology and the establishment of targets in the *Overcoming Indigenous Disadvantage (OID) Framework*, Australia can ill afford to make assumptions or be complacent about the appropriateness of the fundamental organising frameworks that underpin and organise policy-makers' and strategists' thinking about how to 'close the gap' between Aboriginal and Torres Strait Islander peoples and mainstream Australia. Properly recognising Aboriginal and Torres Strait Islander cultures requires policy-makers and political leaders to continue to reflect and ask challenging questions about whether such frameworks and indicators recognise and respect differences in Aboriginal and Torres Strait Islander aspirations and needs, and whether they allow these peoples freedom of choice (see Hunter and Jordan, 2009, p. 19 for a critique of the OID Framework through the lens of social inclusion. This paper suggests that much improvement needs to be made.). This means that while these frameworks may be fixed for a prescribed period of time, it is critical that they continue to be critiqued, and that dialogue be facilitated regarding the extent to which these frameworks recognise and facilitate Aboriginal and Torres Strait Islander peoples' self-determination. Crucially, Aboriginal and Torres Strait Islander people must assume a central place in these discussions.

Some of the most penetrating ways to recognise and uphold cultural difference involves including Aboriginal and Torres Strait Islander peoples in the design of institutions and their rule-making functions, and also the design of policy. 'User-centred' policy (which means policy that is designed by users, for users) is known to have important benefits, not the least of which include the following (see Hunter and Jordan, 2009, for further detail):

- There is a greater chance that the policy meets the needs of the target population and therefore it is more likely that the programs and initiatives that fall under that policy will be embraced by the target group/s.
- This translates into advantages such as increased take-up and completion of programs (which mean that participants receive the full benefit of the program), decreased costs in terms of staff training (who deliver programs / encourage participation in programs), decreased costs in policy and program adjustment and better outcomes.
- As it is also a respectful form of policy development and implementation it is also more likely to engender good will among the target population and enjoy success in engaging marginalised populations (Hunter and Jordan, 2009).

Aboriginal and Torres Strait Islander peoples' involvement in the design and implementation of policy will yield important benefits, such as increased program relevance, take up and completion, which will enhance policy and program outcomes. This requires a commitment from Government to decentralise policy and service design and ensure that Aboriginal and Torres Strait Islander peoples have a sense of ownership and control over the policy and programs that affect them.

While decentralising policy and service design may seem unwieldy, it enables responsiveness to community and cultural specificities and is likely to lead to qualitatively different approaches to crime prevention, rehabilitation and the promotion of resilience and general wellbeing than those deployed for the mainstream population. In light of the clear signs that current efforts to reduce crime in Aboriginal communities are failing, it is difficult to argue that a different tack is not required. This requires a commitment to the localised development of policy as a critical component of any strategy going forward and in turn has implications for the development of consultative mechanisms and the engagement of Aboriginal and Torres Strait Islander people in positions of leadership and influence.

The importance of community involvement in prevention and rehabilitation programs that promote positive social norms and behaviours

While some risk and protective factors are common across cultures, there are others that are specific to various cultural groups. Universal approaches to crime prevention that are built upon the perspectives and assumptions of a dominant culture and which homogenise cultures and offenders have been found to be not only ineffective, but may also exacerbate and perpetuate risk factors. The lesson to be learned from this is that imposing standard programs and practices on all young people when their individual life experiences are materially diverse can potentially do more harm than good.

Reversing the erosion of Aboriginal and Torres Strait Islander cultures in the context of crime prevention and offender rehabilitation has implications beyond the usual concerns of delivery methods and how programs might be adapted so as to be made more culturally appropriate for Aboriginal participants. In some cases it is less a matter of considering how existing rehabilitation programs can be most appropriately offered to offenders and more a matter of re-thinking the actual content and basis of such programs. While there may be several clinical similarities between non-Indigenous and Aboriginal and Torres Strait Islander offenders and therefore some design elements that may be adapted to Aboriginal populations, there are also many risk and protective factors that are culturally specific and which programs designed for 'mainstream' offenders are unlikely to recognise. Delivering programs that pay no heed to these are at best likely to be less effective than they might otherwise be, and at worst they may exacerbate risk factors and abrade protective factors.

In Mission Australia's experience, there are two core dimensions that need to be taken into account when developing culturally specific programs for young people in contact with the criminal justice system. The first is that because part of the task at hand involves reconnecting young offenders to the "true richness and complexities of a tradition and culture that has no foundation in perpetuating random acts of violence, theft and substance abuse" (Currie, 2001, p. 5) this requires that Aboriginal culture be a core component of the actual program content. Only Aboriginal and Torres Strait Islander peoples themselves can inform this content; their involvement in the rehabilitation of offenders and the prevention of crime is therefore crucial. The second element is equally important and concerns overall program design which has the potential to either reinforce the benefits gained through the development of Aboriginal and Torres Strait Islander young people's understanding and pride in their cultural identity, or erode these gains by placing young people in unsupported situations which contradict prior learning and, in instances where the exercising of newly acquired, tentative skills fails, may result in further disempowerment.

The success of prevention and rehabilitation programs for Aboriginal and Torres Strait Islander young people lies in involving a wide range of people (in addition to the offender who is the target of the program) in the rehabilitation process. Critically, for Aboriginal and Torres Strait Islander young people this includes their extended families and respected elders who can inform and participate in the delivery of the cultural components of programs. Detention is therefore not conducive to effective program design and delivery.

The critical success factor common to both undertakings is the involvement and efficacy of a wide range of people *in addition to the offender who is the target of the program*. The success of prevention and rehabilitation programs for Aboriginal and Torres Strait Islander young people is dependent upon this.

This reinforces the sentencing principle that imprisonment should be used as a last resort. It is now well recognised that detention frequently intensifies the need for significant support, post-release, and is associated with worsening rather than improving behaviour into adulthood. For people of cultures that are based on principles of reciprocity and interdependency, a connection to country, and mobility within extended social networks of kin, detention is particularly damaging. Furthermore, it is challenging at the best of times to involve young people, their families, extended family, elders and respected persons in the rehabilitation and reintegration process; it is exceedingly difficult to do so when the young person is placed in detention and isolated from their community. All measures should be taken to prevent this.

Addressing the overrepresentation of Aboriginal young people in the criminal justice system therefore requires a far wider circle of capacity building than is typically the case with mainstream rehabilitation programs which tend to focus on individual factors and background cultural and contextual factors (Day, 2003). Two programs designed and delivered by Mission Australia provide useful illustrations of the value and importance of giving due consideration to the social and cultural environment of young people.

Mission Australia's Dubbo Leadership and Cultural Development Program is an early intervention program aimed at keeping Aboriginal students in school. The original impetus for the program came from concerns from the local youth inter-agency network, including the Department of Juvenile Justice, which was concerned about the high rate of non-attendance by Aboriginal students in the region and the strong association of non-attendance with anti-social behaviours and reduced chances of moving on to a functional post-school life. The program was founded on the awareness that the needs, social influences and pressures experienced by young Aboriginal students are qualitatively different from those experienced by other students. It aims to facilitate school completion by essentially building the skills and support

networks of young Aboriginal students in culturally appropriate ways. Specifically, this involves building students' cultural knowledge and sense of self, strengthening their life skills, resilience and coping skills, and nurturing their peer support and leadership skills. This capacity building is facilitated through the provision of extra-curricula activities, access to support services, access to positive role models in the community and 'success' experiences to help students envisage productive, successful futures, and purposefully builds young people's cultural awareness and understanding. This is seen as key to developing the self-esteem of the young participants and a strong sense of identity, necessary precursors to engaging positively with others and leading constructive, fulfilling lives. Critical to the success of the program is engagement not only with the participants themselves but also members of the young participants' extended family, the broader Aboriginal community, teachers and other school staff members, and a range of other community-based service organisations and agencies.

Addressing the overrepresentation of young people from minority groups requires building the cultural competency of influential others. This is particularly true for those who work in state institutions which have been shaped by Western ways of thinking. Building the capacity of these workers and enabling flexible responses is key to supporting these young people to manage both the responsibilities that are particular to their cultural heritage and the requirements of the justice system.

The South-Western Sydney based program Pasifika Support Services (PSS), although designed specifically to meet the needs of Pacific young people at risk of ongoing involvement in anti-social, risk-taking and criminal behaviour, is similarly based on the recognition that Pacific young people have particular strengths and needs. A key feature of PSS is its focus on the empowerment of Pacific young people, their families and communities, through the development of understanding and pride in their cultural identity. As mentioned above, one of the greatest challenges of PSS lay in building the capacity not only of the young people themselves, but also that of influential others, particularly those working within state institutions (such as schools, the police and the justice system) since it was recognised that encouraging flexible, culturally appropriate practices within institutions was critical to enabling program participants to manage responsibilities to their family and the broader Pacific community and to fulfil the requirements of the justice and school systems. Increasing the capacity of staff working within relevant institutions and agencies is also particularly pertinent to Aboriginal and Torres Strait Islander Australians, many of whom feel that these "have not been developed primarily to protect [or further] their interests or meet their cultural needs" (Day, 2003, p. 2).

The inverse of this is also true; it is critical that young offenders and their families are aware of the workings of the justice system and how to negotiate these so that young people are less likely, for example, to breach the requirements of court orders and more likely to meet the eligibility requirements of diversion and support programs, such as police cautioning programs which require the presence of a parent, guardian or responsible adult. The design of programs must also give consideration to factors that may exclude Aboriginal participants (for e.g. diversion programs that exclude people with a prior history of violent offending) who would otherwise stand to benefit enormously from participation.

The importance of place-based, preventative interventions that adopt a whole-of-community approach

In some cases, the entrenched nature of anti-social behaviours and violence may require additional preventative approaches that support whole communities to transform. Asset-based, community development approaches must be driven by the communities themselves. This reinforces the importance of user-centred policy development and implementation.

The prevalence of violence in some Aboriginal and Torres Strait Islander communities and the presence of learned, intergenerational violence (see Day et al, 2006) suggests that in some cases asset-based, community development approaches may be required (in addition to more targeted programs) to extend the reach of prevention programs and reduce the number of Aboriginal and Torres Strait Islander young people entering the criminal justice system. It is essential that such initiatives rest on the principle that the recognition of the strengths, resources and assets of individuals, families and communities is more likely to inspire positive action for change than an exclusive focus on needs and problems. This approach is premised on the belief that communities can and must take a key role in driving the development process by identifying and mobilising existing but often unrecognised assets.

Whole-of-community approaches driven and owned by the community affect the broader social environment, develop a broad base of support, create multiple opportunities for supporting and reinforcing pro-social behaviours and sustaining change, and achieve longer term results (Hawkins & Catalano 2005). This type of support is critical, for example, for individual program participants who are endeavouring to maintain new skills learned in one particular setting, in school, family and other environments.

A whole-of-community approach can also address the culture and conditions of a community which may put children and young people at risk. It is therefore important that strategies seeking to address the risk factors associated with Aboriginal and Torres Strait Islander youth violence and to enhance protective factors consider the young person's individual place within the broader community context, and also focus on extended family, kin and peer relationships, other influential actors in young people's lives, and structural factors such as policing strategies, media influences, recreational opportunities (or the lack thereof) and so on.

This approach is in keeping with the Government's *Social Inclusion Agenda* which recognises the importance of place based approaches, particularly within neighbourhoods and communities that experience multiple levels of disadvantage (for example, economic deprivation, income inequality, the prevalence of drugs and alcohol, and high levels of violence). This means that tailored approaches that are developed in partnership with local communities – as opposed to a 'cookie cutter' approach – are required if programs are to gain the support of the community and inspire a sense of shared endeavour (Social Inclusion Priorities 2009).

Transformative change at the community level is possible but with two important provisos: sufficient and appropriate resources must be made available and the community must have adequate timeframes to realise its vision.

Of course, place-based, community development approaches reinforce the importance of user-centred policy design and inclusive processes which is key to the engagement of Aboriginal and Torres Strait Islander citizens. Critically, their success rests on sufficient and appropriate resources and adequate time frames. There is now international evidence that an asset based community approach has the capacity to bring about significant change in highly disadvantaged communities, but only if it is recognised by those in control of the allocation of resources that such transformational change requires a long-term commitment and significant investment.

Recommendations

- In view of the gross overrepresentation of Aboriginal and Torres Strait Islander people in the criminal justice system Mission Australia strongly recommends that State and Territory Governments commit to reducing the number of Aboriginal and Torres Strait Islander juveniles and young adults in detention and set targets to enable this to be annually monitored.
- Mission Australia strongly recommends that significant increased investment be made in culturally responsive, developmentally appropriate, community-based rehabilitation programs for Aboriginal and Torres Strait Islander young people. Such programs should have a strong focus on early intervention, prevention and rehabilitation and should seek to build the capacity of the key people and organisations in Aboriginal young people's lives, including extended family and kin, peers, educational institutions, and social, recreational and cultural associations.
- A strong sense of attachment to a cultural community is a known protective factor that reduces the likelihood of anti-social and offending behaviour and supports the development of self-esteem and positive social norms and behaviours. Therefore, Mission Australia recommends that fostering the spiritual, enriching, complex and ancient traditions of Aboriginal and Torres Strait Islander cultures be recognised as an important component of strategies to lower the number of Aboriginal and Torres Strait Islander young people who come into contact with the criminal justice system.
- Mission Australia acknowledges the important steps that Australia has taken with respect to enabling and supporting Aboriginal communities to fully realise and enjoy their cultural freedom but also recognises that it still has some distance to travel before it can claim to fully recognise the legitimacy of culture. This is central to the goal of reducing the imprisonment rate of Aboriginal and Torres Strait Islander peoples as it enhances the family and social controls specific to Aboriginal communities that promote positive, harmonious behaviours and prevent the onset of anti-social behaviours. Although the organising frameworks that underpin policy-makers' and strategists' thinking about how to 'close the gap' are fixed for a prescribed period of time, Mission Australia suggests that they continue to be critiqued and that dialogue continue to be facilitated to establish the extent to which these frameworks recognise and respect differences in Aboriginal and Torres Strait Islander aspirations and needs. Aboriginal and Torres Strait Islander people must assume a central place in discussions about such matters.
- Mission Australia recommends that investment be made in further qualitative research that deepens our understanding of Aboriginal and Torres Strait Islander communities' conceptions of crime and justice, their traditional principles and processes of crime control and justice, and how the restorative nature of these practices may be drawn upon in ways that complement Australia's formal justice system to improve the quality of life in these communities and reduce the overrepresentation of Aboriginal people in the criminal justice system.

Recommendations (continued)

- Mission Australia strongly supports Aboriginal and Torres Strait Islander peoples' involvement in the design and implementation of policy and recommends an increased commitment by Government to decentralise policy and service design relevant to Aboriginal and Torres Strait Islander communities and ensure that Aboriginal populations have a sense of ownership and control over the policy and programs that affect them. This is not only a respectful form of policy development but will also yield important benefits, such as increased program relevance, take up and completion, which in turn will enhance policy and program outcomes (Hunter and Jordon, 2009).
- The prevalence of violence in some Aboriginal and Torres Strait Islander communities and the presence of learned, intergenerational anti-social and violent behaviours suggests that in some cases asset-based, community development approaches may be required (in addition to more targeted programs) to extend the reach of prevention programs and reduce the number of Aboriginal and Torres Strait Islander young people entering the criminal justice system. Mission Australia strongly recommends increased investment as appropriate in community development programs. Such programs must be designed and driven by the communities themselves and supported with sufficient and appropriate resources and adequate time frames.

References

- Australian Bureau of Statistics (2009) *Prisoners in Australia*, 4517.0, Canberra.
- Australian Institute of Criminology (2002) *What works in reducing young people's involvement in crime?* Canberra.
- Bonczar, T.P. and Beck, A.J. (1997) "Lifetime Likelihood of Going to State or Federal Prison", *Bureau of Justice Statistics Special Report*, NCJ, 160092
- Bryant, C. and Willis, M. (2008) Risk factors in Indigenous violent victimisation, *Technical and background paper 30*, Australian Institute of Criminology, Canberra.
- Carcach, C. and Leverett, S. (1999) Recidivism among juvenile offenders: an analysis of times to reappearance in court, *Research and Public Policy Series*, Australian Institute of Criminology, Canberra.
- Commonwealth of Australia (1991) *Royal Commission into Aboriginal Deaths in Custody*, Canberra.
- Cunneen, C. and White, R. (2006) Australia: Control, Containment or Empowerment? *Comparative Youth Justice*, Muncie, J. and Goldson, B. (eds), Sage Publications, London.
- Currie, M. (2001) Building capacity of Indigenous young offenders – community partnerships, paper presented at the *Best Practice Interventions in Corrections for Indigenous People Conference* convened by the Australian Institute of Criminology, 8-9 October, Sydney.
- Day, A., Davey, L., Wanganeen, R., Howells, K., DeSantolo, J. and Nakata, M. (2006) The Meaning of Anger for Australian Indigenous Offenders: The Significance of Context, *International Journal of Offender Therapy and Comparative Criminology*, 50 (5), 520-539.
- Day, A. (2003) Reducing the Risk of Re-Offending in Australian Indigenous Offenders, *Journal of Offender Rehabilitation*, 37 (2), 1-15.
- Garland, D. (2001) The new iron cage, *Punishment and Society*, 3 (1), 197-199.
- Goldson, B. and Muncie, J. (2006) Rethinking youth justice: comparative analysis, international human rights and research evidence, *Youth Justice*, 6(2), 91-106.

Hammarberg, T. (2008) A Juvenile Justice Approach Built on Human Rights Principles, *Youth Justice*, 8 (3), 193-196.

Hawkins, J. and Catalano, R. (2005) *Investing in your Community's youth: An introduction to the communities that care system*, University of Washington, USA.

Homel, R. Lincoln, R. and Herd, B. (1999) Risk and Resilience: Crime and Violence Prevention in Aboriginal Communities, *The Australian and New Zealand Journal of Criminology*, 32 (2), 182-196

Hunter, B. and Jordan, K. (2009) *Explaining Social Exclusion: Towards Social Inclusion for Indigenous Australians*, paper presented at the Melbourne University Research Forum on Social Inclusion, Melbourne.

Mission Australia (2009) *Young people and the criminal justice system: New insights and promising responses*, Sydney.

Mullis, L. et al. (2005) Young chronic offenders: a case study of contextual and intervention characteristics, *Youth Violence and Juvenile Justice*, 3(2), 133-150.

National Justice Chief Executive Officers Group (2009) *Staying Strong on the Outside: Indigenous Young Adults – Final Report*.

Smart, D., Vassallo, S., Sanson, A. and Dussuyer, I. (2004) Patterns of Antisocial Behaviour from Early to Late Adolescence, *Trends & Issues in Crime and Criminal Justice*, Australian Institute of Criminology, ACT.

Taylor, N. (2009) *Juveniles in detention in Australia, 1981-2007, Monitoring Report no. 5*, Australian Institute of Criminology, Canberra.

Weatherburn, D.J. and Baker, J. (2001) Transient offenders in the 1996 secondary school survey: A cautionary note on juvenile justice diversion, *Current Issues in Criminal Justice*, 13 (1), 60-73.

Weatherburn, D. (2006) *Report finds Indigenous prison rate has increased*, AM, Monday 6 November, 2006, 08:24.00, Reporter Kathryn Roberts.

