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Committee Secretariat
Senate Finance and Public Administration Committee
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Dear Committee Secretariat,

South Australian government feedback on access to legal assistance services inquiry

On 4 March 2015, the Finance and Public Administration References Committee was asked to inquire into Aboriginal and Torres Strait Islander experience of law enforcement and justice services with particular regard to a set of terms of reference. The Committee invited state and territory governments to submit a response to the inquiry.

The South Australian Government will not be putting forward a formal submission addressing the terms of reference of the inquiry. However, to assist the Committee, I provide the following information relevant to Terms of Reference:

- A) The extent to which Aboriginal and Torres Strait Islander Australians have access to legal assistance services; and
- F) The adequacy of statistical and other information currently collected and made available by state, territory and Commonwealth governments regarding issues in Aboriginal and Torres Strait Islander justice

A) The extent to which Aboriginal and Torres Strait Islander Australians have access to legal assistance services

Aboriginal population in South Australia

In the 2011 Census, South Australia had just over 30,000 Aboriginal and Torres Strait Islander people.¹ This represents 5.5 per cent of Australia's Aboriginal and Torres Strait Islander population and 1.9 per cent of the total South Australian population.

¹ 'Indigenous' is used interchangeably with 'Aboriginal and Torres Strait Islander'.

Approximately 50 per cent of South Australia's Aboriginal and Torres Strait Islander population live in major cities, 33 per cent in regional areas and 17 per cent in remote and very remote areas.²

Over representation in criminal justice system

Data indicates that Aboriginal Australians are over-represented in the criminal justice system. After taking into account age differences³, Aboriginal adults in South Australia were 19.7 times more likely to be incarcerated than non-Aboriginal adults in 2010.

Legal services

In South Australia, Aboriginal Australians have access to the following legal assistance services: Legal Services Commission (civil and criminal law), community legal centres (civil, family and criminal law), Justice Net (assists self-represented litigants with civil law), Aboriginal Legal Rights Movement ("ALRM") (civil, family and criminal law) and Family Violence Prevention Legal Services (family law).

Legal Services Commission

The Legal Services Commission focuses on providing legal assistance on criminal law issues to vulnerable and disadvantaged persons. During the past 10 years an increasing number of Indigenous defendants are making use of legal aid services provided by the Legal Services Commission. In 2009-10, there were a total of 1995 grants of legal aid to Aboriginal Australians from a total of 15,430 which comprise 13 per cent of all matters.⁴

The Legal Services Commission provides advice on civil law issues by telephone and consultation. However, representation in court is limited to criminal law matters. It has around 190 staff across seven offices in South Australia: Adelaide, Elizabeth, Port Adelaide, Noarlunga, Whyalla, Port Augusta and Mount Barker.

Community legal centres

Community legal centres are diverse and focus on providing legal assistance to vulnerable and disadvantaged people on a variety of areas of law. In the period 1 July 2013 to 30 June 2014, a total of 13,548 people accessed Community Legal Centres of which 512 people, or 3.8 per cent, were Aboriginal.⁵ Taking into account the over-representation of Aboriginal Australians in the criminal justice system, lower than proportional numbers are accessing Community Legal Centres. A number of Community Legal Centres service South Australia and are located in: Medindie Gardens, Adelaide, Salisbury, Norwood, Christies Beach, Warradale, Port Pirie, Hindmarsh, Port Augusta, Berri and Mount Gambier.

² University of Adelaide Public Health Information Development Unit, Remoteness in Australia (based on 2011 Census data).

³ The Aboriginal population is younger compared with the non-Indigenous population, which results in a higher raw imprisonment rate. Age standardisation ensures a more valid comparison is made.

⁴ Committee appointed by the South Australian Attorney-General, A Review of the Provision and Procurement of Legal Aid Services in South Australia's Criminal Courts (2014), pg.177.

⁵ Client Demographic Report by community legal centres (1 April 2015) contains data on funded community legal centres only. No data is available on unfunded community legal centres such as Bowden Brompton LS, Marion LS, Roma Mitchell Community Legal Centre Inc.

Aboriginal and Torres Strait Islander legal services

The ALRM provides legal services for Aboriginal clients on civil, family and criminal law matters. In terms of representation in criminal law matters, the ALRM represents clients from committal stage to appeal. It also plays a role in lobbying for law reform. The ALRM has offices in Adelaide, Port Augusta, Ceduna and Murray Bridge.⁶

There is some collaboration between the ALRM and the Legal Services Commission. For example, the ALRM (in accordance with their policies) sometimes refer their clients to the Legal Services Commission.

Family violence prevention legal services

Family Violence Legal Service Aboriginal Corporation (“**FVLSAC**”) was set up in 2011 in South Australia as an Aboriginal community organisation to help victims of family violence or sexual assault. FVLSAC provide free legal advice, referrals and court representation in the following areas: intervention orders, family law, child protection, victims’ of crime compensation and other legal issues arising from family violence. It services the Spencer Gulf Region and West Coast Region in South Australia with offices in Port Augusta, Port Lincoln and Ceduna. In addition, FVLSAC undertakes activities to educate the community as well as involvement in policy and law reform. It is funded by the Commonwealth government.

F) The adequacy of statistical and other information currently collected and made available by state, territory and Commonwealth governments regarding issues in Aboriginal and Torres Strait Islander justice

Currently, information about Aboriginal persons who come into contact with the justice system is collected and made available by various South Australian Justice Agencies and the Commonwealth Government.

Statistics and other information relating to Aboriginal involvement with the justice system compiled by South Australian justice agencies are summarised below, followed by statistics and other information published by Commonwealth bodies which contain South Australian based statistics (sourced from justice agencies).

To aid public access to this information, all reports are accessible through the Justice Data Portal maintained by the Office of Crime Statistics and Research (http://www.ocsar.sa.gov.au/justice_data_portal.html) and can be identified by searching for ‘Aboriginal and Torres Strait Islanders’.

Information provided by South Australian justice agencies

Aboriginal identification in justice data

In July 2007, SAPol introduced the Standard Indigenous Question (“**SIQ**”). All Police Incident Reports and Apprehension Reports filed by police contain responses to the SIQ. Department of Correctional Services (“**DCS**”) introduced the SIQ in 2006. All prisoner and community based offenders, as well as recorded crime victims are asked the SIQ at time of

⁶ Aboriginal Legal Rights Movement Annual Report (2014), pg.4.

admission/intake. Indigenous identification is not routinely collected directly by the Courts Administration Authority (“CAA”). Instead, the CAA uses SIQ data collected by SAPol.

South Australian Courts Administration Authority annual report

The CAA Annual Report contains data relating to the number of appearances in Aboriginal Sentencing Courts, Drug Court participation by Aboriginal participants, referrals to the Nunga Court, referral and participation in abuse prevention programs by Aboriginal status, participation in the Youth Court Treatment Intervention Program by Aboriginal status and information relating to other initiatives.

Department for Correctional Services annual reports

Information about initiatives and programs including those targeted at Aboriginal people such as the Aboriginal Services Unit which was established to service the needs of Aboriginal stakeholders in the department.

South Australia police annual reports

Information about initiatives such as the SAPol reconciliation plan 2014-16 which targets engagement with Aboriginal communities.

Attorney-General's department annual reports

Information about initiatives and programs to address Aboriginal disadvantage in law and justice such as measures to protect the homeless in Ceduna and Yalata; supporting the objectives of the Aboriginal Community Engagement Group of Port Augusta; domestic violence home safety package.

Information provided by Commonwealth agencies

Productivity Commission report on government services

Data on the equity, efficiency and cost effectiveness of government services including police, courts and corrective services.

Australian Bureau of Statistics, corrective services, Australia, Cat. No. 4512.0

Data is collected from State and Territory corrective services agencies.

Australian Bureau of Statistics, prisoners in Australia, Cat. No. 4517.0

Data is extracted from State and Territory administrative records held by the corrective services agencies. The information is taken from the National Prisoner Census about persons held in Australian prisons on the night of 30 June each year.

Australian Bureau of Statistics, recorded crime – offenders, Cat. No. 4519.0

State and Territory recorded crime statistics on all offenders by: principal offence, gender, age (groups and mean and median ages), number of time proceeded against by police, Aboriginal and Torres Strait Islander status, rates of offending by gender and Aboriginal and Torres Strait Islander status. In addition, crime statistics on all youth offenders by: age, gender and principal offence.

Australian Bureau of Statistics, recorded crime – victims, Cat. No. 4510.0

State and Territory recorded crime statistics on all victims by: gender, age, relationship of offender to victim, Aboriginal and Torres Strait Islander status, location of offence and the use of weapons for selected offences.

Australian Bureau of Statistics, criminal courts, Australia, Cat. No. 4513.0

State and Territory administrative data on Higher, Magistrates and Childrens' Courts includes statistics on defendants finalised by gender and age, the method of finalisation (acquitted, proven guilty, withdrawn or other) and sentence outcomes (custodial/non-custodial orders), principal offence by method of finalisation and principal offence by principal sentence, duration (time from initiation to finalisation) by principal offence and Aboriginal and Torres Strait Islander status of defendants.

Australian Institute of Health and Welfare (AIHW), youth detention population in Australia

Information on the number of young people in detention on an average night in each quarter over a four year period. The data includes Aboriginal and Torres Strait Islander status, age, gender, legal status and average nightly population.

Australian Institute of Health and Welfare (AIHW), juvenile justice publications

Research reports and bulletins related to Juvenile Justice in Australia. Includes information on: young people in the juvenile justice system by Aboriginal and Torres Strait Islander status, gender, age, legal status, type of supervision (community, sentenced detention and so forth) and duration of supervision.

Australian Institute of Health and Welfare (AIHW), youth justice in Australia

Information on young people under youth justice supervision, both in the community and in detention. Data includes Aboriginal and Torres Strait Islander status, age, gender and type of supervision.

AIC National Juveniles in detention monitoring program

Series of publications providing information on juveniles in detention which contains State and Territory data by age, gender, number and rate of Aboriginal and Torres Strait Islander and non-Aboriginal and Torres Strait Islander juveniles in detention (including rate ratios), remand vs sentenced juveniles in detention by age and gender.

Between 1997 and 2011, the Office of Crime Statistics and Research, published the following reports (relating to data from 1996 to 2007) on an annual basis. They provide detailed statistics relating to the Aboriginal and Torres Strait Islander status of alleged offenders, defendants and prisoners in South Australia:

- Crime and Justice in South Australia: Offences Recorded by Police, The Victims and Alleged Perpetrators
- Crime and Justice in South Australia: Juvenile Justice
- Crime and Justice in South Australia: Adult Courts and Corrections

Note that as the SIQ was not introduced until 2007 across all justice agencies, the data is based on the Aboriginal appearance of individuals according to the opinion of the apprehending officer.

I trust that this information is of assistance to you.

Yours sincerely

Caroline Meador
Acting Chief Executive