

Chapter 1

Introduction

Referral

1.1 On 4 March 2015, the Senate referred the following matter to the Senate Finance and Public Administration References Committee for inquiry and report by 10 August 2015:

Aboriginal and Torres Strait Islander experience of law enforcement and justice services, with particular reference to:

- (a) the extent to which Aboriginal and Torres Strait Islander Australians have access to legal assistance services;
- (b) the adequacy of resources provided to Aboriginal legal assistance services by state, territory and Commonwealth governments;
- (c) the benefits provided to Aboriginal and Torres Strait Islander communities by Family Violence Prevention Legal Services;
- (d) the consequences of mandatory sentencing regimes on Aboriginal and Torres Strait Islander incarceration rates;
- (e) the reasons for the high incarceration rates for Aboriginal and Torres Strait Islander men, women and juveniles;
- (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;
- (g) the cost, availability and effectiveness of alternatives to imprisonment for Aboriginal and Torres Strait Islander Australians, including prevention, early intervention, diversionary and rehabilitation measures;
- (h) the benefits of, and challenges to, implementing a system of 'justice targets'; and
- (i) any other relevant matters.¹

1.2 The reporting date was subsequently extended to 25 August 2016.²

Conduct of the inquiry

1.3 The inquiry was advertised in *The Australian* newspaper and on the committee's website. The committee invited submissions from individuals, organisations and government departments by 30 April 2015.

1 *Journals of the Senate*, No. 81, 4 March 2015, pp 2245-2246.

2 *Journals of the Senate*, No. 99, 22 June 2015, p. 2744; *Journals of the Senate*, No. 123, 9 November 2015, p. 3308; *Journals of the Senate*, No. 131, 30 November 2015, p. 3518; and *Journals of the Senate*, No. 138, 22 February 2016, p. 3749.

1.4 The committee received 51 public submissions as well as confidential submissions. A list of individuals and organisations which made public submissions, together with other information authorised for publication by the committee, is at Appendix 1.

1.5 The committee held public hearings in Perth on 4 August 2015, Sydney on 23 September 2015 and Canberra on 4 April 2016. The committee also held a hearing in Darwin on 16 February 2016 for its inquiry into the Commonwealth Indigenous Advancement Strategy tendering processes, where it also received evidence in relation to this inquiry. A list of the witnesses who gave evidence at the public hearings is available at Appendix 2.

1.6 The inquiry was not completed when the Senate and the House of Representatives were dissolved on 9 May 2016 for a general election on 2 July 2016. When parliament resumed, the committee met and recommended to the Senate that the inquiry continue in the 45th Parliament with a reporting date of 13 October 2016. This recommendation was agreed by the Senate.³

1.7 Submissions, additional information and the Hansard transcript of evidence may be accessed through the committee website at: www.aph.gov.au/senate_fpa.

Context of the inquiry

1.8 This inquiry is preceded by a number of other relevant inquiries, including:

- Senate Legal and Constitutional Affairs References Committee, *Access to Justice*, 8 December 2009;
- House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, *Doing Time – Time for Doing: Indigenous youth in the criminal justice system*, 20 June 2011;
- House of Representatives Standing Committee on Social Policy and Legal Affairs, *FASD: The Hidden Harm – inquiry into the prevention, diagnosis and management of Fetal Alcohol Spectrum Disorders*, 29 November 2012;
- Senate Legal and Constitutional Affairs References Committee, *Value of a justice reinvestment approach to criminal justice in Australia*, 20 June 2013; and
- Productivity Commission, *Access to Justice Arrangements*, 3 December 2014.

1.9 The committee does not seek to duplicate the work of any of these previous inquiries. Where relevant, this committee has referred to the evidence, conclusions and recommendations of those inquiries.

3 *Journals of the Senate*, No. 7, 15 September 2016, p. 225.

Structure of the report

1.10 The inquiry's terms of reference are addressed in the following chapters:

- Chapter 2 – describes the four main government legal assistance services; the Commonwealth funding for each service, and the adequacy of funding for those services;
- Chapter 3 – discusses the unmet legal needs of Aboriginal and Torres Strait Islander people and outlines some of the barriers to access to legal assistance services;
- Chapter 4 – covers the imprisonment rate of Aboriginal and Torres Strait Islanders; discusses the adequacies of the statistical and other data collected and made available about Aboriginal and Torres Strait Islander justice issues, and considers the inclusion of justice targets in the Closing the Gap measures;
- Chapter 5 – sets out the factors driving the overrepresentation of Aboriginal and Torres Strait Islander people in the prison population;
- Chapter 6 – discusses some of the current programs in the criminal justice system which have been specifically developed for Aboriginal and Torres Strait Islanders, or which address issues which are pertinent to Aboriginal and Torres Strait Islander people;
- Chapter 7 – considers the alternatives to imprisonment, including consideration of the merits of justice reinvestment; and
- Chapter 8 – sets out the committee's views and recommendations.

Acknowledgements

1.11 The committee thanks those who made submissions and appeared at hearings.

