

The link between health and the criminal justice system

- 4.1 Young people in contact with the criminal justice system often have wide-ranging health and welfare needs. For instance a study of young people in custody in New South Wales concluded:

Young people in custody experience multiple health problems, including mental illness and drug and alcohol abuse. Their poorer health and risk-taking behaviours mean that for these young people, there is an increased likelihood of developing chronic diseases.¹

- 4.2 Committee discussions with representatives working in youth detention centres confirmed that the majority of Indigenous youth entering detention have multiple health and social problems. Often these young people are no longer in school and do not seek health care in the community.

- 4.3 The social determinants of health are broad and the Department of Health and Ageing (DoHA) submitted that they contribute to the relatively high level of involvement of Indigenous youth in the criminal justice system:

Social determinants of health are the economic, physical and social conditions that influence the health of individuals, communities and jurisdictions as a whole. Social determinants of health include housing, education, social networks and connections, racism, employment, and law enforcement and the legal and custodial system. The absence or presence of these determinants, and the interaction between them, influence both health outcomes and risk

1 New South Wales Justice Health and Juvenile Justice, *2009 NSW Young People in Custody Health Survey*, March 2011, p. 15.

behaviours, including those that have a link to offending and involvement in the criminal justice system such as substance use and violence.²

- 4.4 This chapter discusses the key health factors which have been presented to the Committee as contributing to the high occurrence of contact with the criminal justice system by Indigenous youth, including:
- alcohol and substance abuse,
 - foetal alcohol spectrum disorder,
 - mental health and emotional wellbeing, and
 - hearing loss.
- 4.5 The chapter then discusses the importance of early intervention on Indigenous health if closing the gap on outcomes in health are to be achieved and the rate of Indigenous youth being incarcerated is to be reduced over the long term. The chapter closes with a discussion of a holistic approach to health in the criminal justice system and how that holistic approach can be continued following release from incarceration.

Alcohol and substance abuse

- 4.6 Alcohol and substance abuse is a major cause of poor physical and mental health, family violence, poor education outcomes and anti-social behaviour.³ A significant amount of evidence was provided to the Committee about the influence of alcohol and substance abuse on offending behaviour amongst Indigenous people.
- 4.7 Many people argue that underlying issues of racism and discrimination, cultural dispossession, family trauma and identity confusion, contribute to Indigenous alcohol and substance abuse and contact with the criminal justice system.⁴
- 4.8 The Women's Advisory Council advised that strong evidence links drug and alcohol abuse among incarcerated women to physical and sexual

2 Department of Health and Ageing, *submission 73*, p. 3.

3 Troy Allard, *Understanding and preventing Indigenous offending*, Indigenous Justice Clearing House, Brief 9, December 2010, p. 4.

4 Richard Matthews, New South Wales Health, *Committee Hansard*, Sydney, 4 March 2010, p. 16; Australian Children's Commissioners and Guardians, *submission 59*, p. 5; Wirringa Baiya Aboriginal Women's Legal Centre Inc., *submission 64*, p. 9.

abuse in childhood.⁵ The Mental Health Alcohol Tobacco and Other Drugs Service (MHATODS) considers alcohol and substance abuse to be inherently linked with the experiences of family violence, child abuse or neglect. MHATODS noted that young Indigenous people involved, or at risk of being involved, in the juvenile justice system often had a history of multiple traumatic life events:

Experience of abuse, neglect and trauma are commonplace and result in a significant proportion of [Indigenous] young people in the juvenile justice system suffering from ... substance use disorders.⁶

- 4.9 Don Weatherburn, New South Wales Bureau of Crime Statistics and Research (BOCSAR), advised the Committee that alcohol and substance abuse played a major role in determining future contact with the criminal justice system:

... the two factors that stand out as big predictors of whether an Aboriginal person will be arrested or imprisoned are substance abuse and alcohol abuse ... Part of the reason they are important is that they, particularly alcohol, tend to get Aboriginal people involved in violent crime – predominantly family violence of one kind or another. If there is any way of getting yourself into jail, it is certainly by committing a serious assault ... Alcohol and substance abuse have damaging effects on parenting as well not just for Aboriginal people but also for anyone in the community. I think that is another reason that those factors loom so large.⁷

- 4.10 BOCSAR concluded in a recent paper that efforts to reduce Indigenous overrepresentation in the criminal justice system should include focussing on offender rehabilitation, including investment in drug and alcohol treatment.⁸
- 4.11 Some studies indicate that Indigenous prisoners are more likely than other prisoners to report that their offending is associated with alcohol and substance use.⁹ A New South Wales study found that 90 percent of

5 Women's Advisory Council, *submission 106*, p. 2.

6 MHATODS, *submission 7*, p. 3.

7 Don Weatherburn, BOCSAR, *Committee Hansard*, Sydney, 4 March 2010, p. 23.

8 BOCSAR, *Reducing Indigenous contact with the court system*, Issue paper no. 54, December 2010.

9 Robyn Gilbert and Anna Wilson, 'Staying strong on the outside: improving the post-release experience of Indigenous young adults', *Indigenous Justice Clearinghouse Research Brief*, February 2009, p. 6.

Indigenous juveniles in detention tested positive to drugs compared to 40 percent of their fellow non-Indigenous detainees.¹⁰

- 4.12 The National Indigenous Drug and Alcohol Committee (NIDAC), in its 2009 report *Bridges and Barriers: Addressing Indigenous Incarceration and Health*, commented on the strong links between substance abuse and Indigenous incarceration and the need for early intervention programs and diversionary options into education and treatment:

The trauma and suffering that Indigenous people have experienced over generations have contributed to the burden of disease, substance misuse and incarceration. Sadly, many Indigenous Australians in prison are themselves victims of substance abuse or violent crime; as such, they have an indisputable right to access appropriate treatment and rehabilitation to address these underlying issues.

Now more than ever, there is an urgent need to reduce recidivism and the intergenerational effects of Indigenous incarceration by developing a national program that not only uniformly tackles the health inequalities in our correction systems but is also responsive to strengthening the health and cultural wellbeing of Indigenous Australians.¹¹

- 4.13 The Commonwealth Government is providing \$49.3 million from 2008-09 to expand and enhance treatment and rehabilitation services across Australia. This additional investment is funding a total of almost 100 Indigenous treatment and rehabilitation services in a range of locations and settings.¹²

Alcohol reforms

- 4.14 During the inquiry, the Committee visited Fitzroy Crossing in Western Australia to talk with local representatives about justice issues for Indigenous youth in that community. The Committee was impressed by the improvement in community safety following the alcohol restrictions implemented in Fitzroy Crossing in 2008. Since the alcohol reforms there has been:

- a 36 percent reduction in alcohol related presentations to the Fitzroy Crossing Hospital Emergency Department. Hospital staff were more

10 NIDAC, *Bridges and Barriers: Addressing Indigenous Incarceration and Health*, 2009, p. 5.

11 NIDAC, *Bridges and barriers: Addressing Indigenous Incarceration and Health*, 2009, p. 1.

12 *Closing the Gap: Prime Minister's Report 2011*, p. 34.

able to work collaboratively with individuals in treating their general health or in dealing with chronic conditions, such as diabetes and heart disease that were being exasperated by continued alcohol abuse. Staff also noted that they felt safer at work, in the community and were able to get a good sleep at night, which was not possible before the restriction¹³

- a 25 percent reduction in women seeking assistance from the Women's Refuge, and
- a 28 percent reduction in the average number of alcohol related matters attended by police.¹⁴

4.15 The success of the Fitzroy Crossing reforms can be attributed to the commitment of local community members, particularly the women, who developed the reforms to meet the needs of their community. One of the driving forces is June Oscar, Chief Executive Officer, Marninwarntikura Women's Resource Centre, who described the circumstances that led the women to advance alcohol reforms in their community:

There were a number of catalysts. There was the number of deaths by suicide. In 12 months, in 2005-06, this community had attended 50 funerals and was stuck in a rut of grief, despair and trauma. The shock and horror made us as a community become so numb to the degree of violence and despair that it was being viewed as normal. We know that was not normal.

So, after much discussion, over many years, by Aboriginal organisations based here in Fitzroy, with the involvement of people in the mental health services, the health sector and the police, Indigenous people gathered together, here in Fitzroy, to look at what this was doing to this community, to members of the four language groups, and to the survival of Indigenous people here. We needed to take an honest look at where we were at as a community. Discussion happened over that time. There were approaches made here locally to various committees and to the licensees, to help to address this situation. It is fair to say that there were some steps taken by the licensees, but things continued to

13 University of Notre Dame Australia, *Fitzroy Valley Alcohol Restriction Report*, July 2009, pp. 24-5.

14 FaHCSIA, *Indigenous Family Safety Agenda*, p. 3
<www.fahcsia.gov.au/sa/indigenous/pubs/families/Pages/indig_fam_safety_agenda.aspx#action> accessed 14 April 2011.

become worse. So it signalled to this community that we needed to make some serious and hard decisions here.

In our bush meeting in 2007, which is an event we have each year where women spend time out bush being hosted by the different language groups – in this case it was Gooniyandi women who were hosted by the Mingalkala community – it was women who said enough is enough. We cannot continue to live like this. We need to make some decisions so that our children and our families can have a future. Alcohol was killing any chance of us having a future.¹⁵

- 4.16 The Committee notes that community led alcohol reforms are more likely to be successful when they are community driven and supported by the government and other key partners. In Fitzroy Crossing the community is working with police, businesses and government to improve services in their community.
- 4.17 The Commonwealth Government has acknowledged that alcohol restrictions have been particularly successful in some communities, such as Fitzroy Crossing, because they were driven by strong local leaders. A priority under the Commonwealth Government's Indigenous Family Safety Agenda (IFSA) is to support local leadership to act against alcohol abuse and to stem the supply of alcohol into communities.¹⁶
- 4.18 Moreover, one of the action areas of the IFSA is addressing alcohol abuse, and the Commonwealth Government is providing resources to a range of services, including:
 - treatment and rehabilitation services for Indigenous people in urban, regional and remote settings across Australia
 - health practitioners to identify and address mental illness and associated substance use issues
 - a National Binge Drinking Strategy to address high levels of binge drinking among young Australians
 - Substance Abuse Intelligence Desks in Marla, Alice Springs and Katherine to stop the trafficking of drugs, alcohol and other illicit substances

15 June Oscar, Marninwarntikura Women's Resource Centre, *Committee Hansard*, Fitzroy Crossing, 31 March 2010, pp. 12-13.

16 FaHCSIA, Indigenous Family Safety Agenda, p. 4
<www.fahcsia.gov.au/sa/indigenous/pubs/families/Pages/indig_fam_safety_agenda.aspx#action> accessed 14 April 2011.

- a study by the Fitzroy Valley community of diagnosis and community education strategies for Foetal Alcohol Spectrum Disorder (FASD)
 - alcohol management plans and local liquor accords
 - building the leadership and skills of people advocating for alcohol restrictions
 - alcohol education activities in remote Indigenous communities
 - appropriate treatment, rehabilitation and counselling services, to people with alcohol related issues who present at safe houses and other domestic violence services, and
 - the construction of Indigenous specific drug and alcohol residential rehabilitation facilities.¹⁷
- 4.19 Many witnesses and submissions supported the further establishment of government funded and community led rehabilitation or diversion programs to support alcohol reforms.¹⁸ Rehabilitation and counselling services for substance abuse was seen as an essential service that was lacking in many communities.¹⁹
- 4.20 The Alcohol and other Drugs Council of Australia called for more government funding to support Indigenous specific and collaborative alcohol and drug treatment agencies and programs which are locally based and take account of local community culture and situations.²⁰ Ms Sue Oliver, Youth Magistrate of the Youth Justice Court in the Northern Territory commented:
- Drug and alcohol rehabilitation is a significant issue. I think that there is an insufficient amount of rehabilitation facilities available. The ones that are available are pretty well stretched to the limit and, generally speaking, residential rehabilitation is not available for young people.²¹

17 FaHCSIA, Indigenous Family Safety Agenda, pp. 3-4
<www.fahcsia.gov.au/sa/indigenous/pubs/families/Pages/indig_fam_safety_agenda.aspx#action> accessed 14 April 2011.

18 Wes Morris, KALACC, *Committee Hansard*, Perth, 30 March 2010, p. 59; Queensland Aboriginal and Torres Strait Islander Legal Services, *submission 44*, p. 8; Victoria Legal Aid, *submission 39*, p. 5; Youth Justice Aboriginal Advisory Committee, *submission 97*, p. 6.

19 Ruth McCausland and Alison Vivian, Jumbunna Indigenous House of Learning, University of Technology Sydney, *Factors affecting crime rates in Indigenous communities in NSW: a pilot study in Wilcannia and Menindee*, June 2009, pp. 10-11.

20 Alcohol and other Drugs Council of Australia, *submission 65*, p. 8.

21 Sue Oliver, Youth Magistrate, Youth Justice Court, Northern Territory, *Committee Hansard*, Darwin, 6 May 2010, p. 50.

- 4.21 An example of a well regarded residential rehabilitation facility is the Ilpurla Outstation in the Northern Territory which has a specific focus on addressing alcohol and substance abuse and antisocial or criminal behaviour. The facility predominantly caters to young Aboriginal people, but is open to all. The program is run by an Aboriginal family, based at an outstation. The participants learn about the pastoral industry and are taught specific station skills, including horse and cattle care and management. At the end of the program, the aim is to link young people into further education and employment opportunities.²²

Committee comment

- 4.22 Alcohol and substance abuse is related to offending, arrest and incarceration of Indigenous youth. The Committee considers that any policy effort to reduce alcohol consumption in Indigenous communities, such as through alcohol restrictions, should be supported by local leadership and by the provision of adequate rehabilitation and support services.
- 4.23 Measures which reduce the availability and consumption of alcohol and other substances improve the safety of communities and reduce levels of offending. However in order to effect long term behavioural changes in communities, alcohol and substance restrictions must be owned and driven by the community rather than continuously imposed by government or police forces.
- 4.24 The Committee acknowledges the bravery and commitment to their people of those Indigenous men and women who have led alcohol reforms in their communities.
- 4.25 The Committee urges the Commonwealth to ensure that, through the IFSA, support is given to local leadership to drive change around alcohol and substance abuse, and alcohol restrictions. While the Committee would like to see more widespread introduction of alcohol restrictions, it is aware that, unless there is community support, ownership, and drive for change, this merely introduces a black-market for alcohol or drives people to the fringes of local townships where alcohol can be purchased more easily.
- 4.26 Instead, every support must be given for communities to recognise the damage caused by alcohol and substance abuse, and to initiate their own measures and restrictions to tackle these issues. The Commonwealth and

22 Aboriginal Legal Service (NSW/ACT), North Australian Aboriginal Justice Agency and Queensland Aboriginal and Torres Strait Islander Legal Service, *submission 66*, p. 13.

states and territories should be active though in educating communities about the personal health and broader social consequences of alcohol and substance abuse in communities, and in ensuring access to rehabilitation services.

- 4.27 Though outside the direct focus of this inquiry, the Committee notes its support for aspects of the BasicsCard system when family members are able to voluntarily choose to have part of a benefit quarantined for food purchases and so not able to be spent on alcohol or cigarettes. The Committee considers that access to this restriction on spending, where it is voluntary, can be an important step in family members recognising the negative social and economic impacts alcohol and substance abuse can have on a family.
- 4.28 The Committee notes that advances made through the Family Responsibilities Commission in communities in Cape York where families reached the point where they felt able to report on those making trips to bring alcohol back into the community.²³ The Committee considers this to be a positive move towards communities taking responsibility to establish appropriate behaviours and social norms.
- 4.29 In order to break the cycle of intergenerational alcohol and substance abuse, Indigenous appropriate rehabilitation services are required. The Committee notes the Commonwealth Government's expansion of Indigenous treatment and rehabilitation services across Australia including in a range of locations and settings. The Committee considers this essential. The Committee recognises the success of locally based indigenous residential programs that have a focus on drug and alcohol use, such as that at Ilpurla Outstation, and recommends that additional funding be made available to support these types of rehabilitation options.

Recommendation 8 – Alcohol and substance abuse

- 4.30 **The Committee recommends that, in collaboration with state and territory governments, the Commonwealth Government increase funding for locally based alcohol, anti-smoking and substance abuse programs.**

23 David Glasgow, Commissioner, Family Responsibilities Commission, *Committee Hansard*, Sydney, 28 January 2011, p. 71.

Foetal Alcohol Spectrum Disorder

- 4.31 Alcohol abuse is a serious issue because it can have a profound impact upon the life chances of people before they are born. The Committee received compelling evidence on the issue of Foetal Alcohol Spectrum Disorder (FASD) and their links with offending behaviour.
- 4.32 FASD is a term that describes a range of physical, mental, behavioural and learning disabilities that are a direct result of alcohol use during pregnancy. People with FASD are ‘unable to learn from mistakes, cannot change their behaviour and do not understand the consequences of their actions and are very impulsive’.²⁴

FASD in Australia

- 4.33 Early diagnosis of FASD is essential for both the child and their family to allow for early intervention and appropriate treatment and support. However the diagnosis of FASD is difficult and as yet no diagnostic measures have been developed and implemented in communities across Australia. The DoHA stated it was in the final stages of a procurement process for the development of a diagnostic screening tool to assist clinicians in diagnosing babies and children affected by FASD. The DoHA acknowledged that the incidence of FASD is likely to be unreported because of these issues around data collection, difficulties in early diagnosis, lack of referrals by non-specialists, lack of recognition of FASD indicators and insufficient information on medical records.²⁵
- 4.34 Sue Miers, Spokesperson, National Organisation for Foetal Alcohol Syndrome and Related Disorders, stressed that FASD is not an Indigenous problem; it is emerging as an issue across the Australia population. Ms Miers stated that some Australian studies show that women most likely to drink alcohol during pregnancy are on a higher income. However some Indigenous communities are at a very high risk because of other factors which relate to determinants of health.²⁶
- 4.35 The Committee received some concerning anecdotal evidence regarding the incidence of FASD in Indigenous children. For example, the Child and Adolescent Mental Health Professional in Fitzroy Crossing estimated that

24 Sue Miers, Spokesperson, National Organisation for Foetal Alcohol Syndrome and Related Disorders, *Committee Hansard*, Sydney, 28 January 2011, p. 59.

25 Department of Health and Ageing, *submission 73A*, p. 3.

26 Sue Miers, National Organisation for Foetal Alcohol Syndrome and Related Disorders, *Committee Hansard*, Sydney, 28 January 2011, p. 59.

more than 50 percent of the children in the Fitzroy Valley are affected by FASD or early life trauma.²⁷

- 4.36 Other anecdotal evidence of high numbers of Indigenous children with FASD was received by the Senate Committee on Regional and Remote Communities. A director of a Queensland preschool and kindergarten stated that about 80 per cent of the children at the school were showing symptoms of FASD, such as lack of concentration.²⁸ A Western Australian study estimated that FASD affected 2.97 Indigenous children per 1000 live births.²⁹ However, Professor Marcia Langton wrote in 2008 that the rate was much higher at one in 40 Indigenous children.³⁰

FASD and the criminal justice system

- 4.37 While early diagnosis is difficult, early intervention is important because it can substantially reduce the risk of secondary medical, social, emotional and behavioural problems. These problems may include compromised school experience, mental health problems, unemployment, homelessness, alcohol and drug abuse, and contact with the criminal justice system.³¹
- 4.38 Heather Douglas, Associate Professor, School of Law, University of Queensland, reported an estimate of 60 percent of adolescents with FASD have been in trouble with the law. Associate Professor Douglas described the circumstances when a young person with FASD may come into contact with the criminal justice system:

Impulsive behaviour may lead to stealing things for immediate consumption or use, unplanned offending and offending behaviour precipitated by fright or noise. As a result of their suggestibility, FASD sufferers may engage in secondary participation with more sophisticated offenders. Lack of memory or understanding of cause and effect may lead to breach of court orders; further enmeshing FASD sufferers in the justice system. Impaired adaptive behaviour that results from brain damage is translated into practical problems such as trouble handling money

27 Joanne Wraith, Western Australia Country Health Service, *Committee Hansard*, Fitzroy Crossing, 31 March 2010, p. 20.

28 Sonia Schuh, Napranum Preschool and Kindergarten, Senate Select Committee on Regional and Remote Indigenous Communities, *Committee Hansard*, Weipa, 12 April 2010, p. 82.

29 Senate Select Committee on Regional and Remote Indigenous Communities, *submission 112, attachment*, p. 7.

30 Marcia Langton, 'The end of "big men" politics', *Griffith Review*, edition 22, 2008, p. 11.

31 Sue Miers, National Organisation for Foetal Alcohol Syndrome and Related Disorders, *Committee Hansard*, Sydney, 28 January 2011, p. 59.

and difficulties with day to day living skills. It may be difficult for FASD sufferers to understand or perceive social cues and to tolerate frustration. Inappropriate sexual behaviour is also common amongst FASD sufferers...³²

- 4.39 The *Equality before the Law Benchbook* of Western Australia discusses the lack of FASD data in Australia and the link between FASD and the criminal justice system:

International research over the past decade has highlighted the link between Foetal Alcohol Spectrum Disorders (FASD) and involvement in the criminal justice system...

- In Australia, FAS is almost certainly under-diagnosed and there is no data on FASD prevalence
- The most at-risk populations for FASD are those which experience high degrees of social deprivation and poverty
- Current birth prevalence data for FAS ranges from 0.06 to 0.68 per 1,000 live births
- The known birth prevalence of FAS for Aboriginal children is higher, being 2.76 per 1,000 live births in Western Australia and 4.7 per 1,000 live births in the Northern Territory
- Current research indicates that a disproportionately large number of youth and adults with FASD are engaged with the legal system
- The complex learning and behavioural difficulties observed in people with FASD increase their risk of undertaking or being guided into criminal behaviour. For example, all youth remanded to a Canadian forensic psychiatric inpatient assessment unit over a one-year period were evaluated for FASD. Of the 287 youth, 67 (23.3%) had an alcohol-related diagnosis – three (1.0%) had a diagnosis of FAS and 64 (22.3%) had a diagnosis within FASD.³³

- 4.40 The *Equality before the Law Benchbook* also acknowledges that people with FASD may have difficulties in understanding the criminal justice system processes:

Individuals with a FASD who become involved with the criminal justice system may not understand the arrest and court process, will have diminished competency and capacity and will not fully

32 Senate Select Committee on Regional and Remote Indigenous Communities, *submission 112, attachment*, p. 4.

33 Supreme Court of Western Australia, *Equality before the Law Benchbook*, November 2009, pp. 4.1.5-4.1.6 <www.supremecourt.wa.gov.au/publications/pdf/equality_before_the_law_benchbook.pdf> accessed 11 November 2010.

grasp the severity of the situation. Individuals with a FASD may make false confessions without understanding the legal consequences of such an act. Individuals with a FASD can also be victimised in custody.³⁴

FASD Intervention and support

4.41 The Committee notes that the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) is convening a cross portfolio government working group to consider policy on alcohol related harm, including FASD. The group consists of FaHCSIA, the DoHA, the Attorney-General's Department and the Department of Education, Employment and Workplace Relations (DEEWR).³⁵ The Committee notes that the DoHA is chairing a working group which has been tasked to report to the Australian Health Ministers Advisory Council by December 2010 on a response to FASD in Australia.³⁶ The DoHA advised that the working group is continuing to prepare the report. The Committee will be interested to observe the progress of the interdepartmental working groups in developing strategies on FASD which might lead to a reduction in the level of incarceration of Indigenous offenders, in particular Indigenous youth.

4.42 The Committee was alerted to the importance of the careful handling of FASD diagnosis, counselling and information sharing because there are potential adverse stigmas attached to FASD. Unsubstantiated claims of FASD could fuel racism or lead to inappropriate interventions. Culturally appropriate diagnostic and treatment services are required. Ms Oscar stated that FASD is a highly sensitive issue and it is important that governments assist locally-recognised Indigenous people to support FASD sufferers and their families with appropriate programs:

We need collaboration between governments and Aboriginal communities on community based justice for FAS and FASD sufferers as an alternative to imprisonment or detention. We would like the committee to support the recognition of Aboriginal people with nurturing and traditional learning expertise in education, justice, health and early childhood development fields. Answers and solutions cannot be found in Western models. We

34 Supreme Court of Western Australia, *Equality before the Law Benchbook*, November 2009, p. 4.2.7-4.2.8 <www.supremecourt.wa.gov.au/content/news/media/publications.aspx>

35 FaHCSIA, *submission 79a*, p. 1.

36 DoHA, *submission 73a*, p. 2.

need to incorporate Aboriginal ways of healing and managing family members.³⁷

- 4.43 The Commonwealth Government is investing \$1 million in the first study of FASD in an Australian Indigenous community. The study, called *Marulu: The Lililwan Project*, was initiated by the Fitzroy Valley community and will pool the expertise of paediatricians, allied health professionals and social workers from the George Institute for International Health, University of Sydney, and the Nindilingarri Cultural Health Service. It will research the prevalence of FASD, and provide support to affected children and families. The work will help to inform diagnosis and community education strategies which may be used more widely by other communities and governments.³⁸
- 4.44 Paul Jeffries, principal of the Fitzroy Valley District High School, relayed a good news story of a young boy with FASD and early life trauma who, through the interagency work of departments of education, health, and child protection, was able to develop coping mechanisms for his violent post-traumatic stress symptoms and to reintegrate into the classroom. Mr Jeffries claimed that if schools and other agencies are adequately resourced to develop an interagency response, they could help the lives of an estimated 80 other children at the school affected by FASD and early life trauma.
- 4.45 However, Mr Jeffries referred to the difficulty in seeking resources for FASD intervention because it is not on the government list of registered disabilities:

The only catch for me is that to be able to obtain resources I need to have the child diagnosed with post-traumatic stress, which means there needs to be an incident that has taken place and has been documented – usually it is documented by police charge sheets and things like that – so that we can actually prove that this child does have a high need.

FASD is not recognised – FASD is not recognised as a disability – yet paediatricians estimate that a quarter of my school population, at a minimum, is affected. Some say that when you look at the spectrum for FASD early-life trauma, when you look at the trauma

37 June Oscar, Marninwarntikura Women's Resource Centre, *Committee Hansard*, Fitzroy Crossing, 31 March 2010, p. 6.

38 FaHCSIA, Indigenous Family Safety Agenda, p. 4
<www.fahcsia.gov.au/sa/indigenous/pubs/families/Documents/indig_family_safety_agenda.pdf> accessed 21 July 2010.

that a lot of these children have coped with, it could be up to 80 per cent.³⁹

4.46 Professor Robert Somerville, Western Australia Aboriginal Education acknowledged that FASD is a major issue in education and Western Australian schools are 'screaming out for support'.⁴⁰

4.47 Ms Miers called for FASD to be included under the Commonwealth list of registered disabilities so 'families do not have to continually fight for services from the education, health, disability, social services and justice sectors'.⁴¹

Committee comment

4.48 It is clear from the evidence received that FASD is an issue poorly understood by governments. The significance and rate of FASD in youth across Australia is not known.

4.49 It would appear that a significant number of Indigenous people who end up in detention centres and prisons are there partly as a result of the failure of governments to identify FASD as an issue underpinning their offending behaviour. As a result, punitive rather than remedial responses have prevailed.

4.50 The Committee is concerned about the anecdotal evidence it received regarding the potential prevalence of FASD in Indigenous children. The Committee notes the behavioural challenges of children with FASD and is concerned about the potential heightened challenges for those children to their education, employment opportunities, social behaviours and contact with the criminal justice system.

4.51 The Committee notes FASD is a lifetime disability; however the principal of Fitzroy Valley District High School demonstrated that people with FASD can do very well with effective early intervention and support. The Committee believes there is a need for urgent action to develop early diagnostic techniques and intervention.

4.52 Access to accurate and timely assessment and diagnosis of FASD would benefit children, their families and professionals working in the health and

39 Paul Jeffries, Fitzroy Valley District High School, *Committee Hansard*, Fitzroy Crossing, 31 March 2010, pp. 34-5.

40 Robert Somerville, Department of Education, Western Australia, *Committee Hansard*, Sydney, 28 January 2011, pp. 79-80.

41 Sue Miers, National Organisation for Foetal Alcohol Syndrome and Related Disorders, *Committee Hansard*, Sydney, 28 January 2011, p. 61.

criminal justice systems. Early diagnosis would also mitigate the secondary damages associated with FASD. Diagnosis and support for Indigenous youth with FASD already in contact with the criminal justice system is also important. The Committee concludes that diagnostic interventions developed through a collaboration of education, health and justice systems are essential.

- 4.53 The Committee is concerned that although school and health professionals may recognise children who potentially have FASD, there is currently no diagnostic tool available, no recognised category of referral, and no intervention strategies in place to support children and families who are affected by FASD.
- 4.54 The Committee believes that a focus on early intervention and prevention of FASD is crucial and education programs about the dangers of alcohol during pregnancy are needed urgently, especially in communities that are most at risk. The Committee notes that FASD is a serious issue facing Australia. While prevalent in the Indigenous community, it is an issue across all communities and the increases in binge drinking amongst young people suggests that FASD may become a bigger issue in the future.
- 4.55 The Committee considers that a national inquiry into FASD, its prevalence, diagnosis, treatment and measures to reduce its incidence should be undertaken as a priority. During Committee discussions in New Zealand it was revealed that FASD is an emerging issue that is prevalent but not confined to Maori communities. The Committee believes there is a need for a collaborative approach to FASD, diagnostic tools and issues such as alcohol labelling regulations and education campaigns. The Committee considers that these issues should be investigated as part of a parliamentary inquiry into FASD.

Recommendation 9 – Foetal Alcohol Spectrum Disorder

- 4.56 **The Committee recommends that the Commonwealth Government urgently addresses the high incidence of Foetal Alcohol Spectrum Disorder in Indigenous communities by:**
- **developing and implementing Foetal Alcohol Spectrum Disorder diagnostic tools and therapies, with a focus on working in partnership with Indigenous health organisations in remote and regional Australia where there is a recognised prevalence of the disorders, and**

- recognising Foetal Alcohol Spectrum Disorder as a registered disability and as a condition eligible for support services in the health and education systems.

The Committee further considers that a comprehensive inquiry into Foetal Alcohol Spectrum Disorder prevalence, diagnosis, intervention and prevention is required and recommends that the Minister for Health and Ageing refer the inquiry to the House of Representatives Standing Committee on Social Policy and Legal Affairs.

Mental health and emotional wellbeing

- 4.57 Mental health and emotional wellbeing and their links to offending behaviour featured significantly in the evidence provided to the Committee. The New South Wales Government's submission outlined the typical pathway to offending behaviour and potential incarceration that results from the failure to recognise and treat individuals with mental health issues:

An Indigenous young person with ... [a] mental health problem slips through all the nets of early detection and assessment. They struggle at school and act up in class. Their presentation is simply attributed to bad behaviour. Rather than address the cause of the problem, the education system deals with the young person through punishment and exclusion. Not surprisingly, the young person drifts out of the education and into poor peer relationships, boredom and offending behaviour.⁴²

- 4.58 The links between mental health, offending behaviour, and alcohol and substance abuse were acknowledged by many who provided evidence to the Committee. The Mental Health Alcohol Tobacco and Other Drugs Service (MHATODS) advised the Committee of 'the significant co-morbidity between substance misuse and mental health problems',⁴³ noting that within the Brisbane Youth Detention Centre:

... the majority of Indigenous young people ... screen positive for mental health problems, with high rates of depression, anxiety, suicidal thoughts and somatic complaints ... [and up] to 90% are

42 New South Wales Government, *submission 84*, p. 21.

43 MHATODS, *submission 7*, p. 8.

reported to use substances at dangerous levels or have a substance dependency.⁴⁴

- 4.59 Similarly, the 2009 New South Wales study of health of young people in custody found that the majority (87 percent) of young people were found to have at least one psychological disorder and nearly three-quarters (73 percent) were found to have two or more psychological disorders. Indigenous young people were significantly more likely than non-Indigenous young people to have an attention or behavioural disorder (75 percent versus 65 percent) or an alcohol or substance use disorder (69 percent versus 58 percent).⁴⁵
- 4.60 Some witnesses to the inquiry spoke of the need for greater resources and qualified professionals to work with correctional centres to support mental health, social and emotional wellbeing and drug and alcohol programs. Evidence suggested that the availability and access to counselling and health professionals in prison and detention is limited, particularly in regional areas.⁴⁶ The Aboriginal Family Violence Prevention and Legal Service Victoria stated that the prison environment often compounds and adds layers to existing trauma, and therefore, access to culturally appropriate support is required.⁴⁷

Healing and culture

- 4.61 The Committee notes the importance of healing and culture as a part of the services and programs that support the mental health and social and emotional wellbeing of Indigenous youth. Trauma affects many young Indigenous offenders who often require extended counselling and treatment from early intervention, throughout their period of contact with the criminal justice system and post-release.
- 4.62 Consultations with Indigenous groups indicated to the New South Wales Ombudsman's office that the impact of violence, trauma and dislocation from family and culture is linked to high rates of offending behaviour and can only be effectively addressed through access to healing programs.⁴⁸ Results from the New South Wales Young People in Custody Health

44 MHATODS, *submission 7*, p. 3.

45 New South Wales Justice Health and Juvenile Justice, *2009 Young People in Custody Health Survey*, March 2011, p. 15.

46 Law Reform Commission of WA, *Aboriginal Customary Laws, Project 94, Background Papers*, 2006, pp. 250, 304, 314; Mandy Young, Women's Advisory Council, *Committee Hansard*, Canberra, 24 June 2010, p. 12.

47 Aboriginal Family Violence Prevention and Legal Service Victoria, *submission 86*, p. 15.

48 New South Wales Ombudsman, *submission 56*, p. 16.

Survey indicated that Indigenous youth in custody are likely to be victims of crime themselves. A high proportion of all young women in custody had been physically (61 percent) or sexually abused (39 percent).⁴⁹ Claire Gaskin, New South Wales Health commented:

... kids that are in contact with the criminal justice system not only are traumatised early in their lives but are repeatedly traumatised throughout their lives into adolescence. Young people who are in contact with the criminal justice system are much likely to be assaulted by other young people. Not only are they assaulting other people; they are being assaulted themselves.⁵⁰

- 4.63 Ken Zulumovski, Director, Gamarada Men's Self Healing Program, spoke of the importance of healing in any early intervention, diversion or rehabilitation strategy:

So within any program I believe there must be a component of healing, because we are talking about, essentially, people who are largely unwell coming into the system. There are juveniles who are yet to be diagnosed in psychiatric terms but they present with all manner of behavioural issues. Some of them are labelled with emotional conduct disorder; some of them are labelled with oppositional defiance disorder. By and large, there are young fellows that have been exposed to domestic violence, neglect and a whole list of other issues. Healing programs allow for those problems to be addressed in a culturally appropriate and safe setting.⁵¹

- 4.64 The Committee was informed of some Indigenous run programs which have a strong focus on healing and culture, such as Red Dust Healing, Yiriman, Balunu and Rekindling the Spirit.⁵² These programs are often offered to Indigenous youth who are at risk of offending behaviour. The programs help to build social cohesion in communities by strengthening self esteem and developing social norms and behaviours in Indigenous juveniles and young adults.

49 New South Wales Justice Health and Juvenile Justice, *2009 Young People in Custody Health Survey*, March 2011, p. 15.

50 Claire Gaskin, New South Wales Health, *Committee Hansard*, Sydney, 28 January 2011, p. 64.

51 Ken Zulumovski, Public Interest Advocacy Centre, *Committee Hansard*, Sydney, 4 March 2010, p. 27.

52 Shane Duffy, Aboriginal and Torres Strait Islander Legal Service (Queensland) Ltd, *Committee Hansard*, Sydney, 4 March 2010, p. 29; New South Wales Ombudsman, *submission 56*, pp. 16-17; Australian Children's Commissioners and Guardians, *submission 59*, p. 18; Menzies School of Health Research, *submission 3*, p. 3; Australians for Native Title and Reconciliation, *submission 109a, Attachment A*, p. 14.

- 4.65 Many submissions referred to the importance of having diversionary programs which are designed and operated by local respected Indigenous people. The Northern Australian Aboriginal Justice Agency (NAAJA) referred to the Balunu Foundation which helps Indigenous youth in the Darwin region through preventative health and wellbeing programs and stated:

Every Aboriginal community in the Northern Territory needs diversionary programs operated by local people who understand the local socio-cultural fabric such that effective diversion occurs. These diversionary programs need to be properly resourced and support by government if there is to be serious attempt to divert Indigenous youths from the criminal justice system.⁵³

- 4.66 The New South Wales Chief Health Officer, Dr Kerry Chant stated that the key to offering mental health services is to have a stronger Indigenous workforce and to work in partnership with the community.⁵⁴

- 4.67 The Committee heard about the Community Holistic Circle Healing Program in Hollow Water, a small community of about 600 people in Canada. The aim of this program is to restore balance to the community through a healing process involving victims, offenders, and their families. It makes people accountable at the local community level. The outcomes of the program in Hollow Water have been extremely positive with only two people (about 2 percent) reoffending. The model has been rolled out to other indigenous communities in Canada.⁵⁵

- 4.68 The Commonwealth Government supported the incorporation on 30 October 2009 of the Aboriginal and Torres Strait Islander Healing Foundation Ltd (Healing Foundation). The Healing Foundation is a national, Indigenous-controlled, not-for-profit organisation established to support community-based healing initiatives. The Government has committed \$26.6 million over four years to the Foundation, which announced its first round of funding to assist community healing programs around the nation on 7 May 2010. The approach of the Healing Foundation is a holistic one that encompasses spirit, culture and people.

53 NAAJA, *submission 15*, p. 9.

54 Kerry Chant, New South Wales Health, *Committee Hansard*, Sydney, 28 January 2011, p. 62.

55 Mick Gooda, Australian Human Rights Commission, *Committee Hansard*, Sydney, 4 March 2010, p. 40; Mandy Young, Women's Advisory Council, *Committee Hansard*, Canberra, 24 June 2010, p. 11.

- 4.69 The role of the Healing Foundation is to facilitate this healing process, by:
- ... providing opportunities and resources for healing initiatives, promoting awareness of healing issues and needs, and by fostering a supportive public environment. While the Foundation acknowledges that responsibility for healing rests primarily with the individual, it also recognises the importance and inter-relatedness of the community in this process through relationships of mutual care, reciprocity and responsibility.⁵⁶

Committee comment

- 4.70 The Committee recognises that mental, physical and/or sexual abuse can underpin further drug and other substance abuse. There is a substantial number of Indigenous youth entering detention who have suffered trauma and have social and emotional health issues. Dealing with trauma is a significant issue for Indigenous youth at risk of entering the criminal justice system.
- 4.71 Recommendation 4 in chapter 3 calls for further support for mentors who provide the important assistance to Indigenous youth who are dealing with trauma and emotion and social health issues.
- 4.72 The Committee notes the 2011-12 Australian Government Budget provides an expansion of funding to deliver mental health services under the Access to Allied Psychological Services program to around 18 000 Indigenous Australians. The Budget provides an expansion of funding to the Personal Helpers and Mentors Program for additional personal helpers, mentors and respite services.⁵⁷
- 4.73 The Committee endorses these mental health initiatives and considers that the Commonwealth Government should direct funding to locally led and developed programs, such as such as Red Dust Healing, Yiriman, Balunu and Rekindling the Spirit, which help young people at risk of criminal behaviour and have a strong focus on healing and culture.

56 Aboriginal and Torres Strait Islander Healing Foundation Ltd < healingfoundation.org.au > accessed 4 August 2010.

57 *Budget: Investing to Close the Gap between Indigenous and non-Indigenous Australians*, Statement by the Hon. Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, 10 May 2011, p. 10.

Recommendation 10 – Mental health

- 4.74 The Committee recommends the Commonwealth Government recognise mental health as a significant issue affecting Indigenous youth and collaborate with the states and territories to direct funding where possible to successful Indigenous community developed and led programs with a focus on healing, culture, emotional wellbeing and reconnection with family.

Hearing loss

- 4.75 The Committee received much evidence that hearing loss affects a large number of Indigenous youth and has the potential to have a negative impact on their contact with police, the courts and the corrections system.
- 4.76 Rates of middle ear disease are disproportionately high for Indigenous children. Indigenous children experienced middle-ear disease and associated hearing loss or impairment ‘at an earlier age, more often and for longer periods’ than non-Indigenous children.⁵⁸ Health officials at the detention centres the Committee visited indicated that Indigenous youth coming in to detention have high rates of hearing loss.⁵⁹
- 4.77 The Telethon Speech and Hearing Centre for Children, Western Australia, claimed that the rate of hearing loss amongst Indigenous children was ‘significantly above what the World Health Organisation regards as a massive public health problem’.⁶⁰
- 4.78 Damien Howard, Phoenix Consulting, advised the Committee that hearing impaired Indigenous children often lacked access to remedial assistance, and were especially likely to exhibit ‘learning and behavioural problems at school’.⁶¹ Disengagement from education demonstrated through truancy or poor results at school can be the result of hearing loss.
- 4.79 This combination is part of a long term cycle where poor hearing can lead to poor education, with subsequent poorer employment and income prospects, lower living conditions, and poorer health, including

58 Damien Howard, Phoenix Consulting, *submission 87*, p. 5.

59 The three detention centres visited were Juniperina Juvenile Justice Centre, Orana Juvenile Justice Centre and Brisbane Youth Detention Centre. See also Claire Gaskin, New South Wales Health, *Committee Hansard*, Sydney, 28 January 2011, p. 83.

60 Telethon Speech and Hearing Centre for Children WA, *submission 17*, p. 2.

61 Damien Howard, Phoenix Consulting, *submission 87*, p. 6.

unaddressed hearing problems. Hearing loss and its impact on education outcomes exacerbate the disadvantages generally faced by Indigenous people and increase their risk of coming into contact with the criminal justice system.⁶²

4.80 It is possible to break this cycle by ensuring good hearing health in schools, despite the existence of hearing loss. Dr Howard informed the Committee of the necessary technology – namely acoustic absorption and a sound-field amplification system (a low-power public address system with a wireless microphone) – to enable all children to hear better in the classroom. He commented that ‘the system provides proven educational benefits, even in classrooms where there is not a high prevalence of hearing loss.’⁶³

4.81 DEEWR discussed with the Committee a pilot program being run in the Kimberley region about understanding the impact that those sorts of support mechanisms around sound amplification may have on improving learning outcomes. Glen Hansen noted that:

The other part of the study is also to understand how you best support teachers to deliver a lesson in that environment. It is not just about having the equipment but also the way that the teacher operates and works. That is the premise of the Kimberley sound amplification project that we are currently funding.⁶⁴

4.82 Once Indigenous hearing impaired people come into conflict with the criminal justice system, there are a number of issues that then place them at increased risk of continued adverse contact with the system, including:

- difficulties in explaining themselves to the police, with the result that they are more likely to be arrested and charged
- problems giving instructions to solicitors or being credible witnesses in court
- management difficulties for corrections staff, and
- problems coping, both socially and emotionally, in correctional settings.⁶⁵

4.83 Indigenous hearing impaired people face a number of difficulties communicating with police, which can result in them being more likely to be arrested and charged. Hearing impaired people can often speak too

62 Ear Info Net Review of Ear Health and Hearing

63 Australian Hearing, *submission 5*, p. 4.

64 Glen Hansen, Department of Education, Employment and Workplace Relations, *Committee Hansard*, Canberra, 17 June 2010, pp. 19-20.

65 Damien Howard, Phoenix Consulting, *submission 87*, p. 1.

loudly, which can be perceived by others as aggressive behaviour, despite the person speaking having no aggressive intention. Hearing impaired people can also speak too softly. Dr Howard noted that it was not uncommon for such encounters to escalate into an argument, an altercation and ultimately an arrest.⁶⁶

- 4.84 Given the relatively high levels of hearing loss and impairment in Indigenous communities as well as the high levels of contact police have with Indigenous people, it is evident that much could be gained from additional training to enable police to better recognise the communicative characteristics peculiar to Indigenous hearing impaired people. Dr Howard, however, told the Committee that police had indicated that they did not view training to better recognise and respond to Indigenous hearing impaired people as necessary:

I made contact with the training section of the Police Force in one of the states that has a huge Indigenous prison population. I suggested that they may wish to include, in their training schedule, information on hearing loss and its impact on communication. I received the reply that 'the issue was not relevant for their training'. This response demonstrates that the police do 'not know what they don't know'.⁶⁷

- 4.85 Indigenous people, in general, face particular linguistic and cultural difficulties in courts. Hearing loss and its associated obstacles to communication add another layer of complexity, leading many Indigenous hearing impaired people to be viewed as unreliable witnesses and for the evidence they provide, in many cases, to be disregarded.
- 4.86 Australian Hearing submitted that hearing loss and impairment amongst detainees and prisoners leads not only to difficulties communicating with other inmates and staff, but can affect negatively a 'person's participation in, and benefit gained from, a rehabilitation program'.⁶⁸
- 4.87 The Commonwealth Government, through the Closing the Gap in the Northern Territory National Partnership Agreement, has committed funding of \$4.5 million in 2009-10 to provide ear, nose and throat (ENT) specialist services arising from valid ENT referrals from child health checks.⁶⁹

66 Damien Howard, *Committee Hansard*, Darwin, 6 May 2010, p. 16.

67 Damien Howard, Phoenix Consulting, *submission 87*, p. 12.

68 Australian Hearing, *submission 5*, p. 5.

69 DoHA, *submission 73a*, p. 5.

- 4.88 DoHA advised the Committee that the Improving Eye and Ear Health Services for Indigenous Australians for Better Education and Employment Outcomes initiative, which provides \$58.3 million over four years from 2009-10, includes a number of key components that specifically address hearing loss, including:
- training of health workers for ear health and hearing screening
 - maintenance and purchase of medical equipment for ear and hearing screening
 - additional ear and eye surgery, particularly for remote Indigenous clients, and
 - ear and hearing health promotion activities.⁷⁰
- 4.89 DoHA advised the Committee that the Commonwealth Government is responsible for the Hearing Services Program, which ‘provides free hearing rehabilitation services and devices to eligible people who have been screened and identified as having a hearing loss requiring aids’.⁷¹
- 4.90 However, Australian Hearing, the sole Commonwealth Government service provider of hearing services to children under the Hearing Services Program, told the Committee that while children with hearing loss have free access to their service, ‘the Hearing Services Program does not extend to people in juvenile detention centres’.⁷²

Committee comment

- 4.91 The inability of schools to identify and respond to hearing loss amongst Indigenous children significantly increases the likelihood of future incarceration for these children. Children with poor educational outcomes are more likely to be unemployed, placing them at higher risk of coming into conflict with the criminal justice system.
- 4.92 The Committee recognises that hearing loss is a significant contributing factor for Indigenous children’s disengagement with the education system. Prevention and intervention strategies are critical in keeping children engaged with the education system and therefore the Committee believes all Indigenous children should be given comprehensive hearing tests with appropriate follow-up support if required. Due to the high costs of servicing remote communities in this specialty field, more funding may be required for those areas.

70 DoHA, *submission 73a*, p. 4.

71 DoHA, *submission 73a*, p. 5.

72 Australian Hearing, *submission 5*, p. 5.

- 4.93 The Committee is aware of the recommendations contained in the Senate report tabled in May 2010 entitled *Hear Us: Inquiry into Hearing Health in Australia*. The Committee strongly endorses Recommendation 8 of this report, which calls for:

... the Council of Australian Governments extends its commitment for universal newborn hearing screening to include a hearing screening of all children on commencement of their first year of compulsory schooling. Given the crisis in ear health among Indigenous Australians, the committee believes urgent priority should be given to hearing screenings and follow up for all Indigenous children from remote communities on commencement of school.⁷³

Recommendation 11 – Hearing tests

- 4.94 **The Committee recommends that the Commonwealth Government provide all Indigenous children starting pre-school with comprehensive hearing tests with appropriate follow-up support when required.**

The Committee further recommends that all Indigenous children between kindergarten and Year 2 be tested as an urgent priority due to the high incidence and impacts of hearing impairments amongst Indigenous children, particularly in rural and remote areas.

- 4.95 The Committee strongly supports the need for the funding of sound amplification systems in schools with high Indigenous enrolments, particularly in remote areas. This is an area of high need which will lead to better learning outcomes and higher retention rates in education for Indigenous Australians. Pro-active support and early intervention for possible hearing loss will have a positive flow-on effect and ultimately can contribute towards lowering the high rate of Indigenous youth involved in the criminal justice system.

73 Senate Community Affairs References Committee, *Hear Us: Inquiry into Hearing Health in Australia*, May 2010, p. 96.

Recommendation 12 – Sound amplification systems

- 4.96 **The Committee recommends that the Commonwealth Government allocate funding for sound amplification systems in schools with high Indigenous enrolments throughout Australia, with urgent attention to schools in remote areas.**
- 4.97 The Committee considers it essential that Indigenous youth have access to government hearing assessments and services after they enter the criminal justice system. Later in this chapter, the Committee makes a number of recommendations regarding the services and programs which should be made available to Indigenous youth in custody.
- 4.98 Police are often the first point of contact with the justice system for Indigenous youth. Therefore, the Committee considers it is important that police are trained to recognise and respond to hearing loss difficulties, particularly in Indigenous communities. The Committee suggests that consideration be given to similar training for court officials to better respond to individuals with hearing loss.

Recommendation 13 – Police training to identify hearing loss

- 4.99 **The Committee recommends that the Attorney-General take to the Ministerial Council for Police and Emergency Management – Police (MCPEMP) at its second meeting in 2011, a proposed program of training for police to better identify and respond to individuals with hearing loss, particularly in Indigenous communities.**

Early intervention on health

- 4.100 One of the targets under Closing the Gap is ‘halving the gap in mortality rates for Indigenous children under five within a decade (2018)’. Indigenous children are twice as likely to die before their fifth birthday. This gap has been closing due to improvements in sanitation and public health conditions, better neonatal intensive care, the development of immunisations programs and family and community engagement in rearing healthy children. However, the Prime Minister reported:

Maintaining this positive trend requires the continued expansion of preventive care and child and maternal health services, in

particular, antenatal care, as well as continued efforts to address broader social factors such as socio-economic deprivation, maternal education, smoking and other behavioural risk factors.⁷⁴

- 4.101 The Prime Minister recognised the importance of Indigenous health professionals in contributing to the Early Childhood and Health Building Blocks under Closing the Gap. Funding support has been provided to Indigenous health services to provide an extra 337 new positions in the Indigenous health workforce, build best practice and quality standards, and to provide 3564 follow-up services in the 12 months to June 2010 (an increase of 611 percent from 2008-09).⁷⁵
- 4.102 Many witnesses referred to early intervention in health as the most effective way to reduce health impacts on Indigenous youth over the long term. In its submission, the New South Wales Government observed that it is important that health and justice authorities work together to identify young people who are showing disturbed behaviour and ensure early intervention services reach those people. In New South Wales integration teams have been funded in various areas. Clinicians work with young people for up to six months to assist with all health services, such as getting to appointments, accessing medication, and receiving psychiatry or mental health services. The New South Wales Government suggested options for expanding early intervention services including:
- Implementing targeted prevention and early intervention programs for children and their families through partnerships between mental health, maternal and child health services, schools and other related organisations;
 - Expanding the level and range of support for families and carers of people with mental illness and mental health problems, including children of parents with a mental illness;
 - Developing tailored mental health care responses for highly vulnerable children and young people;
 - Expanding community based youth mental health services which are accessible and holistic, combining access to primary health care, mental health and alcohol and other drug services with opportunities to learn skills and confidence;
 - Implementing evidence based and cost effective models of intervention for early psychosis in young people; and
 - Expanding services which include young people who are or at risk of involvement in the criminal justice system, as well as

⁷⁴ *Closing the Gap: Prime Minister's Report 2011*, p. 13.

⁷⁵ *Closing the Gap: Prime Minister's Report 2011*, p. 33.

people who have experienced physical, sexual or emotional abuse, or other ongoing trauma.⁷⁶

- 4.103 As discussed in the previous chapter, attachments and relationships between children and their parents and families is extremely important to long term health. Michelle Scott, the Western Australian Commissioner for Children and Young People spoke about some good early childhood programs:

It is all about early intervention, prior to women becoming pregnant, from conception onwards. It is about what the mother needs but also what the child needs. Kerry was talking about home-visiting programs. South Australia has an excellent home-visiting program for Aboriginal and other vulnerable families, with 34 home visits in the first two years of your life. That is the kind of program we need in many communities, for Aboriginal families but also for non-Aboriginal families that are vulnerable.⁷⁷

- 4.104 Claire Gaskin, Clinical Director, New South Wales Health spoke about the importance of early intervention because most mental health disorders have their onset in early childhood:

... most disorders have their onset in childhood, not in adolescence; that substance use is a significant and major issue in most of the problems that we are talking about today; and that preventing the entry into substance abuse is about early intervention, not about intervention at 14, because most of these kids are exposed to substances from a very early age, not only in utero but also in childhood.⁷⁸

- 4.105 In 2008, Indigenous women had more babies and had those at younger ages than did non-Indigenous women - teenagers had one-fifth of the babies born to Indigenous women, compared with only four percent of those born to non-Indigenous mothers. The median age of Indigenous mothers was 24.7 years, compared with 30.7 years for all women. The fertility of teenage Indigenous women (75 babies per 1,000 women) was more than four times that of all teenage women (17 babies per 1,000).
- 4.106 The average birth weight of babies born to Indigenous mothers in 2007 was 3,182 grams, almost 200 grams less than the average for babies born to non-Indigenous mothers (3,381 grams). Babies born to Indigenous women

76 New South Wales Government, *submission 84*, p. 20.

77 Michelle Scott, Western Australian Commissioner for Children and Young People, *Committee Hansard*, Sydney, 28 January 2011, p. 63.

78 Claire Gaskin, New South Wales Health, *Committee Hansard*, Sydney, 28 January 2011, p. 63.

in 2007 were twice as likely to be of low birth weight (12.5%) than were those born to non-Indigenous women (5.9%).⁷⁹ Risk factors for low birth weight include socioeconomic disadvantage, the size and age of the mother, the number of babies previously born, the mother's nutritional status, illness during pregnancy, and duration of the pregnancy. A mother's alcohol consumption and use of tobacco and other drugs during pregnancy also impacts on the size of her baby.⁸⁰

- 4.107 Early initiation to sex is common amongst young people in detention, with some 95 percent of young people in New South Wales detention having had sex. Indigenous young people in detention were more likely to have a child of their own than non-Indigenous young people (12 percent versus 5 percent).⁸¹

Committee comment

- 4.108 As evidence has made clear, there are a number of health conditions which increase the likelihood of an Indigenous juvenile or young adult coming into contact with the criminal justice system. Many submitters called for a more holistic response to these interrelated factors.
- 4.109 Early intervention on health issues is the most effective long term strategies for Indigenous youth and their families. The Committee considers that the best chance for closing the gap on good physical health starts in communities with families, before a child is born. Early initiation to sex is common among young Indigenous people, resulting in many Indigenous youth having children themselves. The Committee recommends appropriate counselling, information and support services be available in Indigenous communities for young people who are entering their sexually active years and for young Indigenous parents.
- 4.110 If Indigenous young people have not had good parenting themselves, then despite their best intentions they will not have the resources and skills to enable good parenting of their own children. Issues such as nutrition, anger management and infant health should be addressed. These programs should incorporate information about birth registrations.

79 Low birth weight, defined as a birthweight of less than 2,500 grams, increases the risk of death in infancy and other health problems.

80 Australian Indigenous HealthinfoNet, *Birth and pregnancy outcome*, <www.healthinfo.net.au/health-facts/overviews/births-and-pregnancy-outcome>accessed 23 March 2011.

81 New South Wales Justice Health and Juvenile Justice, *2009 Young People in Custody Health Survey*, March 2011, p. 14.

- 4.111 In terms of the delivery of these types of programs and services, the Committee observed some useful innovations when visiting New Zealand. The integrated service delivery approach implemented in New Zealand has brought together service areas such as welfare payments, with support programs such as parenting and anger management. They are co-located so those seeking welfare payments can 'drop in' to participate in other programs. The Committee suggests that, particularly for regional and remote communities, consideration is given to this type of integrated approach to encourage Indigenous youth and families to access services.

Recommendation 14 – Pre-natal and ante-natal support

- 4.112 **The Committee recommends the Commonwealth Government work with state and territory governments to coordinate greater capacity for Indigenous health services to provide further programs to support:**
- sexual and reproductive health counselling and services
 - pre and ante-natal care and advice for teenage parents
 - parenting skills information and assistance
 - alcohol risk awareness during pregnancy, and
 - support for pregnant women with alcohol dependency or other substance abuse.

Holistic health care in detention and post-release

- 4.113 The Committee visited three detention centres and observed some of the programs offered to detainees.⁸² These programs include health, educational, vocational, recreation and spiritual services. The centres employ alcohol and other drug counsellors and psychologists to assist the detainees in dealing with their drug and alcohol problems and provide assessment, counselling and group work. As required, registered nurses provide general healthcare and arrange visits from local general practitioners and treatment consultant psychiatrists for professional assessment and treatment of young people.
- 4.114 Life and family skills and Indigenous cultural programs are offered and are well developed in some centres. However there are limitations in the

82 The three detention centres visited were Juniperina Juvenile Justice Centre, Orana Juvenile Justice Centre and Brisbane Youth Detention Centre.

processes offered to prepare Indigenous youth to reintegrate with communities.

- 4.115 Gino Vambuca from NIDAC commented on the need for continuing support services within the criminal justice system:

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.⁸³

- 4.116 NIDAC made the following recommendation to reduce the high level of incarceration and to improve health, wellbeing and re-integration of Indigenous youth in contact with the criminal justice system:

Improve the level of health services available to all Indigenous prisoners and juvenile detainees by:

- Providing comprehensive health screening on reception
- Encouraging the take up of treatment recommended after health screening
- Providing a continuum of health care and referral both within and beyond the corrections system by allowing Indigenous health and medical services access to prisoners and detainees
- Ensuring access to a full range of effective drug and alcohol treatments, as well as mental health services, which are well suited to treating Indigenous offenders (and their families), as are available to the wider community.⁸⁴

Committee comment

- 4.117 The Committee asserts it is important that health issues are addressed the entire way through the criminal justice system, from youth at risk or in contact with police, to the courts, those in detention and post-release. Chapter 7 of this report refers to evidence that reducing recidivism would substantially reduce the number of Indigenous people in incarceration. Moreover, it is important to make sure that, when an Indigenous young person is leaving detention, there is a comprehensive package coordinated across government departments to assist them in moving back to communities.

83 Gino Vambuca, NIDAC, *Committee Hansard*, Canberra, 25 February 2010, p. 14.

84 NIDAC, *Bridges and barriers: Addressing Indigenous Incarceration and Health*, 2009, p. 11.

- 4.118 Given that detention periods range from six months to one year or more, the government has a responsibility to provide adequate rehabilitative care and guidance during that time, and to prepare the transition back to communities. Transitioning of services from detention to family and community is discussed further in chapter 7.
- 4.119 The Committee notes there is a need for more holistic programs to deal with the high likelihood of a history of trauma, abuse or mental health issues among those Indigenous youth who have come into contact with the criminal justice system. It is imperative that inter-agency approaches and multidisciplinary teams diagnose, provide and refer services for young people to address their various needs. These may include: alcohol and other drug treatment; programs to address offending behaviour; accommodation needs; and cultural, educational and vocational courses. A family approach to these issues has also been found to assist to break down intergenerational difficulties.
- 4.120 The Committee recommends all Indigenous youth who enter the criminal justice system or are serving a custodial sentence have access to holistic programs which include support for mental health, social and emotion wellbeing, trauma, hearing loss, and drug and alcohol reform.

Recommendation 15 - Health

- 4.121 **The Committee recommends that the Commonwealth Government, in collaboration with state and territory governments, ensure all Indigenous youth who enter the criminal justice system are provided with:**
- **comprehensive health screening, including for Foetal Alcohol Spectrum Disorders**
 - **access to intensive holistic intervention programs which involve family, mentors and Indigenous leaders and include support for mental health, hearing loss and drug and alcohol reform, and**
 - **access to wellbeing programs which involve families and Indigenous leaders, address underlying issues of trauma, low self-esteem and build resilience and the capacity for positive social and workplace engagement.**

The Committee recommends that emotional, social and cultural programs should span the length of a youth's time in detention, and continue after release.

