8

Government policy and coordination

8.1 Previous chapters have examined many of the key drivers of disadvantage across Indigenous communities. A number of recommendations have been made to introduce or improve early intervention and prevention strategies which will reduce the incidence of Indigenous youth and juveniles who come in contact with the criminal justice system.

8.2 This chapter covers two key areas: the Government policy framework which has gaps in Indigenous representation and in the provision of comprehensive data to inform and monitor change; and the service delivery model, which requires greater integration and coordination.

8.3 The chapter begins by reviewing the Closing the Gap policy framework to address Indigenous disadvantage across a range of portfolio areas and jurisdictions. The chapter notes the Government expenditure and progress achieved, as well as commenting on significant gaps that exist in the Closing the Gap framework that will impede future efforts to reduce Indigenous offending, recidivism and victimisation.

8.4 The chapter then considers the process to support and monitor progress towards reducing Indigenous disadvantage. Program evaluation, and monitoring and reporting on outcomes are an essential part of ensuring effective expenditure and Government accountability. However the Committee heard some criticism regarding evaluation procedures for programs and the reporting requirements which unrealistically expect short term miracles rather than taking a visionary approach of assessing long term changes. A number of data gaps were identified which impact on the capacity of agencies to appropriately target program support to localities and appropriately track over time local trends in Indigenous offending, recidivism and victimisation.

8.5 A great deal of evidence commented on the short funding cycle for intervention and prevention programs and the failure of some successful

pilot programs to secure ongoing funding. In particular grassroots and Indigenous organisations were impacted by precarious levels of funding which had implications for staff training and turnover, as well as the capacity to follow through with intervention initiatives for youth at risk.

8.6 Finally, how the Closing the Gap policy framework and objectives are translated into service delivery is critical in determining the progress of better outcomes for Indigenous peoples. There have been a number of successful intervention initiatives and this section outlines some of those successes and the key factors driving their success.

8.7 While the Committee heard from many inspiring and dedicated individuals, there was also substantial criticism at the lack of support for Indigenous grassroots organisations to deliver programs, and the lack of coordination across government agencies and jurisdictions. The section considers the dual necessity of coordinating the work of government agencies, and enabling Indigenous people to be the agents of change within their communities.

Policy framework – targeting the gaps

8.8 While Closing the Gap is part of the Commonwealth Government's agenda, it is also a commitment by all Australian governments to work towards a better future for Aboriginal and Torres Strait Islander people. The Council of Australian Governments (COAG) has agreed a national Closing the Gap strategy, incorporating targets, priority action areas (or 'building blocks'), national partnership agreements, extra funding and more rigorous government accountability. The National Indigenous Reform Agreement provides a framework for this strategy.

8.9 As outlined earlier, the seven agreed building blocks cover the following areas:

- Early childhood
- Schooling
- Health
- Healthy homes
- Safe communities
- Economic participation, and

- Governance and Leadership.

8.10 Closing the Gap also sets out a partnership approach of:

- all levels of government working in partnership with Indigenous Australians
- Indigenous people taking responsibility to lead change and promote positive norms and social behaviours in their communities, and
- the Australian Government working with the corporate and community sector across the agreed building blocks.

Expenditure and progress

8.11 Each year the Prime Minister is required to report on progress on Closing the Gap targets. In February 2011, the Prime Minister the Hon. Julia Gillard MP made a statement in the House of Representatives outlining progress against the seven building blocks and released the *Closing the Gap: Prime Minister's Report 2011*.

8.12 In short, the Prime Minister reported that some targets were on track, while others require further improvements.

> We can be confident of meeting two of the six targets: to halve the gap in infant mortality rates for Indigenous children under five by 2018 and to ensure access to early childhood education for all Indigenous four-year-olds in remote communities by 2013. We should be confident that these two targets are on track.
>
> We see improvement in three of the six targets and with faster improvement over time we believe that these can be reached: to halve the gap in reading, writing and numeracy achievements for children by 2018; to halve the gap for Indigenous students in year 12 or equivalent attainment rates by 2020; and to halve the gap in employment outcomes between Indigenous and non- Indigenous Australians by 2018.
>
> The final target is the most challenging of all: closing the life-expectancy gap within a generation—that is, by 2031. This means the life expectancy of Indigenous men will need to increase by over 20 years and the life expectancy of Indigenous women will need to increase by over 16 years by 2031. This is a 30-year target. No-one thinks it can be achieved sooner. Indeed it will be extremely challenging. I know we could never say mission accomplished three years into a 30-year process. But the message

> of this report is clear. Together, we can do this. Together, we have a plan for progress. We do see change for the better. And we know where we want to change to continue.[1]

8.13 The first Indigenous expenditure review was released on 28 February 2011. It contains estimates of the levels and patterns of government expenditure on services relating to Indigenous Australians in 2008-09. In 2008-09 expenditure related to Indigenous Australians was estimated to be $21.9 billion (5.3 per cent) of total expenditure ($411 billion). [2]

8.14 Since 2008, the Australian Government and the States and Territories have together committed an additional $4.6 billion under the new partnership approach to Closing the Gap agreed through the Council of Australian Governments (COAG).[3]

8.15 The Committee notes this is a significant expenditure and it commends the long term financial commitment of the Government to address the breadth of issues. The Committee also notes that it has taken decades to reach this level of Indigenous disadvantage and it may take some decades to redress all areas of disadvantage. However it is the role of the Commonwealth Government to take the lead in reversing the trend and bettering outcomes for all Indigenous peoples.

8.16 While acknowledging that the targets set under Closing the Gap are ambitious and challenging, it remains disappointing that progress is not on track in all areas. The Committee considers this an opportunity to evaluate gaps in the policy framework which may be contributing to slower progress and to consider how to enhance the coordination and delivery of services to achieve better outcomes from the government expenditure.

Monitoring and evaluation

8.17 Care must be taken in interpreting data, particularly where there are short term figures that may not appropriately measure change in the community. For example, Mr Glasgow spoke of 'spikes' in reporting once a community felt able to report on behaviours:

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1 *Closing the Gap: Prime Minister's Report 2011*

2 2010 Indigenous Expenditure Report, Overview, p. 7. (www.pc.gov.au/ier/publications/ier-2010). Accessed 27 April 2011.

3 Closing the Gap – Building Momentum, Ministerial Statement, the Hon. Jenny Macklin, Minister for Families Housing Community Services and Indigenous Affairs, May 11 2010, p. 1.

> Initially the Magistrates Court convictions increased, so I went to find out why, and we found out that people were dobbing people in. My commissioners were ringing up and saying, 'This car's going to Weipa to bring the grog in.' The other thing is that child safety notices increased, because the child safety people came on board and worked very comfortably with the commissioners, and they used to get the feedback. They would be saying, 'You really need to remove this child, but let's see if we can find someone in the communities.' We work actively to try and reunite children when we can. Commissioners will say: 'These two are misbehaving. They had their children taken off them six months. They're on the grog. They're on the ganja. We need to bring them in and get them started on a rehabilitation program.'[4]

8.18 Rigorous evaluation of Indigenous justice programs in the past has been neglected by government and non-government service providers alike. However, throughout the inquiry the Committee noted a renewed vigour and recognition in the value of evaluating such programs. Yet, it was recognised that thorough evaluations of programs can be costly.

8.19 Adam Tomison from the Australian Institute of Criminology (AIC), confirmed that evaluation of programs was not considered to be a priority for many service providers and that this was the result of both inadequate program budgets and a prevailing organisational culture which encouraged a focus on securing access to new funding streams rather than developing and improving existing programs:

> … programs often have limited budgets with limited evaluation moneys. So you have circumstances where something is put in place, it works for a bit if they are lucky, and then people move on to something else because that is how you get more funding.[5]

8.20 The inability to identify what works and why it works not only leads to the inefficient expenditure of public monies, but also as the Menzies School of Health Research (MSHR) suggested to the Committee, an erosion of the relationship between government and non-government service providers and Indigenous communities. MSHR stated:

> … there is a paucity of research on … elements essential for the design of successful interventions … Interventions are often short term, sporadic, lacking in rigorous evaluation, lacking in corporate

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

5 Adam Tomison, AIC, *Committee Hansard*, Canberra, 11 February 2010, pp. 7-8.

> memory and hence the ability to learn from past successes and failures … Each program failure then feeds into the downward spiral of increased feelings of powerlessness and cynicism amongst the affected individuals and communities.[6]

8.21 Peter Murphy, from Noetic Solutions, who conducted a whole-of-government review of juvenile justice for the New South Wales Government, asserted that evaluation of programs and policies is lacking:

> I think if we went into every block at the moment we could spend an awful lot of money and get very poor results. I think I alluded to this at the beginning this discussion: the amount of evidence about what works is not substantial. We need to put things in place for a period of time to make sure that they work and to properly evaluate what we are doing. One of my pet concerns is that in government we spend an awful lot of money doing pilot projects which we seldom evaluate or evaluate effectively.[7]

8.22 An issue that arose repeatedly throughout the inquiry was an obvious deficit in the way that information on Indigenous justice programs and evaluations is disseminated. The Senate Select Committee on Regional and Remote Indigenous Communities made similar findings and recommended greater use of the Indigenous Closing the Gap Clearinghouse website:

> The dissemination of collected data could also be improved through greater use of the Closing the Gap Clearinghouse, which should become a central repository for all national data relevant to the development of policies and programs. A strong evidence base is important to provide a clear picture of best practice and an outline of what has worked in the past.[8]

8.23 Emilie Priday, representing the Australian Human Rights Commission, commented on the need for further funding from Government in relation to supporting research and evaluation in the field of Indigenous healing programs:

> One of the barriers to establishing some healing programs—not withstanding some of the great things that New South Wales Juvenile Justice are doing in terms of developing some healing programs—is that there is not that sort of robust evidence that a

6 Menzies School of Health Research, *submission 3*, p. 2.

7 Peter Murphy, Noetic Solutions Pty, *Committee Hansard*, Canberra, 18 March 2010, pp. 6-7.

8 Senate Select Committee on Regional and Remote Indigenous Communities, *Final Report,* September 2010, p. 10.

> lot of government departments need for getting some things off the ground. That is one of the things that we like to advocate for.[9]

Committee comment

8.24 The Committee believes that the evaluation of Indigenous youth justice and diversion programs is of critical importance to the long term effectiveness of Commonwealth Government investment in such programs.

8.25 The Committee notes that Commonwealth Government has funded $2 million to evaluate the effectiveness of twenty Indigenous justice programs to build the evidence base to support the National Indigenous Law and Justice Framework. The evaluations will review a range of programs designed to reduce Indigenous rates of offending, incarceration and recidivism – particularly amongst Indigenous youth and perpetrators of violent crime. The evaluation projects are being conducted over two years from December 2010 to December 2012.[10]

8.26 The findings of the evaluations will provide vital information for the Standing Committee of Attorneys-General as it considers future whole-of-government Indigenous justice initiatives, and to Commonwealth, state and territory governments as they plan and implement programs and policies to reduce the level of Indigenous interactions with the criminal justice system.

8.27 The Committee considers that evaluations of other Indigenous youth justice and diversion programs should be funded by the Commonwealth with the findings published on the Indigenous Justice Clearinghouse website and the Closing the Gap Clearinghouse website.

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9 Emilie Priday, Australian Human Rights Commission, *Committee Hansard,* Sydney, 4 March 2010, p. 31.

10 Attorney-General's Department, *Evaluation of Indigenous justice programs in support of the National Indigenous Law and Justice Framework*, <www.ema.gov.au/www/agd/agd.nsf/Page/Indigenous_law_and_native_titleIndigetitl_law_programs> accessed 5 May 2011.

Recommendation 32 – Evaluate Indigenous justice programs

8.28 **The Committee recommends that the Commonwealth Government commit further resources to evaluate the effectiveness of Indigenous youth justice and diversion programs and that the findings be published on the Indigenous Justice Clearinghouse and the Closing the Gap Clearinghouse websites.**

Mapping offending and data gaps

8.29 As highlighted in chapter 2, there are many gaps in the information available that can assist in coordinating strategies to reduce Indigenous youth offending and contact with the criminal justice system. An area that would benefit from further study and collection of data is a geospatial comparison of offending and offenders correlated with the state of community services and resources.

8.30 It has been suggested that raising low socio-economic conditions would lead to lower crime rates given the 'long established relationship [that] exists between social disadvantage and high rates of imprisonment',[11]:

> While sustained effort will be required, evidence on drivers of offending suggest that improvements in housing, education retention, early interventions for children, substance abuse prevention, rebuilding social norms in troubled communities, and other similar programs, will have a positive impact on juvenile offending.[12]

8.31 At a public hearing the Committee heard that:

> Some of the common social factors that might produce children and young people who are exposed to the criminal justice system—whether they are Aboriginal or non-Aboriginal—are pretty common: drunken parents; parents on drugs; homeless children; ill-educated children; parents who, through illiteracy or some other factor simply cannot support the children at school; undernourished children, and so on.[13]

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11 T Vinson, *Dropping off the Edge: the Distribution of Disadvantage in Australia*, Jesuit Social Services/Catholic Social Services Australia, 2007, p. 19.

12 Department of Families, Housing, Community Services and Indigenous Affairs, *submission 79*, p. 21.

13 Rod Madgwick, *Committee Hansard*, Sydney, 4 March 2010, p. 8.

8.32 The AIC explained that 'one of the arguments … has been that in communities that are suffering from a whole range of disadvantages you are going to get a higher crime rate'.[14] The focus on communities is justified by the tendency for social disadvantage, in all its forms, to become concentrated and isolated:

> A disabling social climate can develop that is more than the sum of individual and household disadvantages and the prospect is increased of disadvantage being passed from one generation to the next.[15]

8.33 The Ministerial Council for Aboriginal and Torres Strait Islander Affairs has identified the improvement of Indigenous demographic data collection across all jurisdictions as critical for measuring Closing the Gap targets.[16]

8.34 In Australia, socio-economic disadvantage is measured across postcodes, statistical local areas or local government areas. However, Australia's vast geography means that remote areas cover large expanses of land but few communities, which can result in unnoticed variations. For example, a study of violence among Indigenous people found that 'the link between geographic location and the risk of violence is far more complex than a simple remote/non-remote dichotomisation'.[17]

8.35 The 2009 Australian Human Rights Commission Social Justice Report discusses the correlation between areas of social disadvantage and high rates of offending and found that 'the communities with high Indigenous prisoner concentrations do not come as a surprise. They are the same communities that have been identified as disadvantaged for some time now'.[18]

8.36 A review of the New South Wales juvenile justice system came to similar conclusions:

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14 Adam Tomison, Australian Institute of Criminology, *Committee Hansard*, Canberra, 11 February 2010, p. 4.

15 T Vinson, *Dropping off the Edge: the Distribution of Disadvantage in Australia,* Jesuit Social Services/Catholic Social Services Australia, 2007, p. ix.

16 Ministerial Council for Aboriginal and Torres Strait Islander Affairs, 15 July 2008 Communique <www.mcatsia.gov.au/cproot/784/261/MCATSIA%20-%20Communique.pdf> accessed 30 July 2010.

17 J Wundersitz, *Indigenous Perpetrators of Violence: Prevalence and Risk Factors for Offending*, Australian Institute of Criminology, Canberra, 2010, p. 70.

18 Aboriginal and Torres Strait Islander Social Justice Commissioner, *2009 Social Justice Report*, p. 41.

> Interestingly, in some of the analysis we did we found that maps of where offenders come from and maps of disadvantage in any jurisdiction are almost identical. The fact is that middle-class kids might get into trouble but they do not stay in trouble. It is primarily people from disadvantaged backgrounds where this occurs.[19]

8.37 However, further work needs to be done in this area. The AIC warns that 'the institute is exploring at the moment … geospatial analysis of crimes to see where crime is occurring and the range of crimes occurring across the country. There are issues with the quality of data around that'.[20] The former Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, noted in the 2009 Social Justice Report that 'there is currently no comprehensive, published offender mapping research in Australia'.[21]

8.38 Mapping areas of social disadvantage and high offending rates would be beneficial to many government departments, allowing them to pinpoint specific areas of poor health, low education, and high unemployment or homelessness, and target services and strategies effectively.

8.39 The Aboriginal Drug and Alcohol Council told the Committee that many projects initially receive Commonwealth funding, only for that funding to devolve to the state government which then restructures and changes the original intent of the program. Furthermore:

> It is imperative for all Federal, State and non-governmental agencies in urban, rural and remote locations to know who provides what service, whether or not there is any collaboration between agencies and Departments and what strategies and outcomes are to be achieved and more importantly measurements of these achievements. It is a critical issue of accountability, leading to enhanced, coordinated service delivery.[22]

8.40 Several Aboriginal and Torres Strait Islander Legal Services (ATSILS) submitted that it is difficult to ascertain a coordinated approach to the distribution of funding:

> In our experience, a critical flaw in the current system is the inability of government to actually identify where allocated funds

19 Peter Murphy, Noetic Solutions Pty Ltd, *Committee Hansard*, Canberra, 18 March 2010, p. 2.

20 A Tomison, AIC, *Committee Hansard*, Canberra, 11 February 2010, p. 6.

21 Aboriginal and Torres Strait Islander Social Justice Commissioner, *2009 Social Justice Report*, p. 34.

22 Scott Wilson, Aboriginal Drug and Alcohol Council, *Committee Hansard*, Adelaide, 20 May 2010, p. 50.

> are being distributed in communities. This is particularly apparent in relation to non-governmental agencies receiving funds Federal and State Departments or both.[23]

8.41 The Royal Australasian College of Physicians supported the need for mapping of services to allow for coordinated funding:

> The College repeatedly promotes local responsibility for service delivery; at the same time there must be some level of regional and national coordination for dispersed programmes in health (including drug and alcohol treatment) for Indigenous young people. This coordination should allow mapping that identifies success and problem areas, where to target funding and capacity building and, importantly, data collection.[24]

8.42 The Commonwealth Government has already begun identifying areas of disadvantage in remote areas through the Remote Service Delivery National Partnership. The National Partnership Agreement on Low-Socio-Economic Schools has a specific focus on schools with high Indigenous populations.[25] However, the identification of gaps in services and Indigenous populations has not yet been linked to mapping of geographic offending patterns.

Committee comment

8.43 The Committee supports comprehensive mapping of disadvantage across Australia and, more specifically, mapping of concentrations of offending identifying Indigenous and non-Indigenous status. This information could better guide the Commonwealth Government and state and territory governments in the coordinated delivery of cross portfolio services. This data would assist in targeting capacity building resources to Indigenous organisations involved in youth diversion and rehabilitation programs in order that they may then be competitive in seeking state and Commonwealth funding.

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23 Aboriginal Legal Service (NSW/ACT), North Australian Aboriginal Justice Agency and Queensland Aboriginal and Torres Strait Islander Legal Service, *submission 66,* p. 28.

24 Royal Australasian College of Physicians, *submission 53*, p. 12.

25 Jo Wood, Department of Education, Employment and Workplace Relations, *Committee Hansard*, Canberra, 17 June 2010, p. 10.

Recommendation 33 – Mapping offending

8.44 **The Committee recommends that the Commonwealth Government invest in mapping research to identify areas of concentrated youth offending, types of offending and gaps in services, with a focus on Indigenous disadvantage and need.**

8.45 The Committee considers that addressing the overrepresentation of Indigenous people in the criminal justice system relies on the expansion of data sets to record the flow of Indigenous juveniles and adults through the system. Understanding patterns of offending, pathways to more serious offending, detention and diversionary rates is critical to targeting appropriate intervention responses.

8.46 The Committee recognises there will be a cost involved in collating and publishing further data. However, it is important that trends are tracked and available to jurisdictions to inform policy decisions.

8.47 The Committee considers it crucial that policy makers are able to determine not only how many people enter juvenile detention centres and prisons during the course of the year and for what category of offence, but also whether each detainee or prisoner has previously been detained or imprisoned and for what category of previous offence.

8.48 The Committee is of the view that recidivism needs to be better understood by policy makers to ensure efficiency of policy and program direction and ultimately to reduce the number of Indigenous people entering and re-entering juvenile detention centres and prisons.

8.49 The current method of recording prison numbers encourages policy makers to view incidences of imprisonment as singular events. Data sets which recognise the flow of prisoners during the course of a year would allow policy makers to more capably target the propensity for many prisoners, especially Indigenous prisoners, to return to detention and prison.

8.50 The Committee believes that data sets for juveniles in detention should mirror those which it recommends for adults in prison. This would enable a broader analysis and deeper understanding of the links between juvenile and adult offending and incarceration.

8.51 The Committee is concerned that Indigenous people, especially Indigenous women, are much more likely to be the victims of violent crime. The Committee reiterates its view about the importance of comprehensive and jurisdictionally comparable data collections. Without

a systematic and nationally consistent measurement of outcomes, it is impossible for governments to determine first, whether policies and programs aimed at reducing the number of Indigenous victims are effective, and second, when modification of policy direction and program design is required.

8.52 It is acknowledged that victim data is likely to be heavily influenced by the willingness of victims to report crime, and that this will present particular difficulties to policy makers trying to make sense of trends over time.

8.53 Nonetheless, it is crucial that significant effort be dedicated to improving existing data collections relating to victimisation. This will require the development of sophisticated data collection tools that can take into account all of the impediments that make it difficult to obtain an accurate picture of victimisation, particularly in Indigenous communities.

Recommendation 34 – Expanding data collections

8.54 **The Committee recommends that the Australian Bureau of Statistics expand its collection of data to include:**

- **offender data disaggregated by all jurisdictions and all categories of offence, including traffic and vehicle related offences**
- **court appearance data, disaggregated by all jurisdictions by Indigenous status, sex, offence and sentence**
- **prisoner reception data disaggregated by all jurisdictions, according to Indigenous status, sex, offence, age, sentence length and episodes of prior offending by category of offence, and**
- **data on the rates of which Indigenous people are victims of crime, disaggregated by all jurisdictions and all categories of offence.**

The Committee recommends that the Australian Institute of Health and Welfare expands its collection of data to include:

- **detainee receptions and census data disaggregated by jurisdiction, Indigenous status, sex, offence, age, sentence duration and periods of prior offending by category of offence.**

The Committee recommends that these expanded data sets are made available by no later than June 2012. This data and any trends it shows should then be annually evaluated and reported on and used to inform future policy or program changes.

8.55 While Indigenous boys and men make up the majority of the Indigenous detainee and prison population, the Committee is troubled by the marked growth in the number of Indigenous women in prison in the last decade.

8.56 Indigenous women are critical to the future strength of Indigenous families and communities. They play an especially important role in the care of children, providing the future generation with a stable upbringing. Continued growth in the number of Indigenous women being imprisoned will have a long lasting and profoundly negative impact on the wellbeing of Indigenous families and communities.

Recommendation 35 – Study on the imprisonment of women

8.57 **The Committee recommends that the Australian Institute of Criminology undertakes a study of the reasons for the increasing imprisonment of Indigenous women, with a view to informing policymakers on how best to address the key drivers of offending and imprisonment and the consequences of that imprisonment for women, their children (if any) and their community.**

Policy gaps

8.58 The Closing the Gap framework is comprehensive in the areas of disadvantage that it identifies and the building blocks and partnership approach it sets out. However some witnesses highlighted gaps in the policy, notably the identification of justice targets and specific measures to address Indigenous offending and victimisation rates.

Justice targets and a National Partnership Agreement

8.59 Generations of Indigenous children have grown up with many family and community members incarcerated, and they now view juvenile detention and later incarceration as inevitable in their own lives. If we are to improve Indigenous wellbeing, then we must also close the gap on Indigenous offending and victimisation.

8.60 As discussed in chapter 2, the Committee considers that the lack of justice targets and the lack of a National Partnership Agreement dedicated to the Safe Communities Building Block are two serious deficiencies in the current policy.

8.61 Indigenous rates of offending, incarceration, recidivism and victimisation are alarming. It is essential that reducing these rates is realised as a national target, and that the appropriate agreement is in place to direct coordination across levels of government to most effectively target intervention strategies. The Committee urges the Australian Government to act expediently on these policy 'gaps' in line with the recommendations made earlier.

8.62 While the policy addresses Indigenous disadvantage, it also lacks positive avenues to increase Indigenous representation and participation in Government policy decision making. It is apparent that many Indigenous communities, as a result of disadvantage, feel disconnected from Australia's democratic processes. Indigenous representation and engagement in community and national decision making opportunities are essential.

Indigenous engagement and representation

8.63 A further 'gap' identified in the Closing the Gap policy relates to the need for high level Indigenous engagement and representation. A consequence of the disadvantage experienced by Indigenous people in Australia is the additional challenges they face in securing high level representational positions and consequently having the capacity to advise on appropriate law and justice issues for Indigenous peoples. Hence a concerning 'gap' in the current framework is the absence of an Indigenous law and justice advisory body.

8.64 In conducting its investigations, and during the Committee's delegation visit to New Zealand in March 2011, the Committee became aware acutely of the lack of Indigenous presence in Australian federal politics and the potential impact of this in terms of Indigenous aspiration, engagement in political decision-making, and sense of inclusion in national decision-making.

8.65 The lack of opportunity for Indigenous engagement and representation means that too often governments are seen as 'doing things for' Indigenous people, to fix the problem rather than working with Indigenous people to develop solutions.

Indigenous law and justice advisory body

8.66 Researchers Fiona Allison and Chris Cunneen, in a Sydney Law Review paper, have reported on the positive impact of Indigenous representative bodies in negotiating state and territory Indigenous justice agreements and improving justice service delivery.[26] They note that not all jurisdictions have Indigenous Justice Agreements, however a significant finding of the research shows:

> ... the connection between the presence of Justice Agreements and the existence of an independent, community based Indigenous representative advisory body. Given the abolition of the national representative body ATSIC in March 2005, and only a limited number of State and Territory Indigenous representative bodies in place, negotiation and consultation with Indigenous people in initiating policy has varied greatly. It is important to note the significant impact that this variation may have upon strategic policy development and, ultimately, upon the ability of government and communities to work together to address issues relating to Indigenous overrepresentation.[27]

8.67 Allison and Cunneen conclude that Indigenous Justice Agreements:

> … have made a difference to Indigenous people in their contact with the justice system ... Justice Agreements have effectively progressed Indigenous community engagement, self management, and ownership where they have set up effective and well-coordinated community-based justice structures and/or led to the development of localised strategic planning, as well as through encouraging initiatives that embody such ideals.[28]

8.68 While their research is based on state and territory agreements and the presence of Indigenous advisory bodies at that level, there are obvious parallels with Commonwealth policy settings. They suggest that the dismantling of national Indigenous representative/advisory bodies has impeded justice outcomes. There is a need for Indigenous representation and engagement in the planning, design, delivering and monitoring of justice outcomes, and 'independent representation for Indigenous

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26 *Exhibit 15*, Fiona Alison and Chris Cunneen *The role of Indigenous Justice Agreements in Improving Legal and Social Outcomes for Indigenous People,* p. 23.

27 *Exhibit 15*, Fiona Alison and Chris Cunneen *The role of Indigenous Justice Agreements in Improving Legal and Social Outcomes for Indigenous People*, p.23.

28 *Exhibit 15*, Fiona Alison and Chris Cunneen *The role of Indigenous Justice Agreements in Improving Legal and Social Outcomes for Indigenous People*, p.55.

communities is a crucial component of any further development of strategic [justice] policy.'[29]

8.69 In 2008, there were efforts to address this gap, with the release by the Attorney-General's (AG's) Department of an issues paper expressing its intention to establish a national Indigenous law and justice advisory body.[30]

8.70 The AG's Department acknowledged the positive role previously played by the National Aboriginal Justice Advisory Council (NAJAC), which had been established by the Standing Committee of Attorneys-General in the wake of the Royal Commission into Aboriginal Deaths in Custody to provide advice on criminal justice matters affecting Indigenous people.

8.71 However, the AG's Department, went on to suggest that changes to the way state and territory governments sought advice on Indigenous justice matters as well as more 'significant administrative changes in the broader Indigenous affairs environment' necessitated the development of a 'different type of expert advisory group to support the most effective way forward for Indigenous law and justice'.[31]

8.72 The AG's Department envisaged that membership of the body would be drawn from 'Indigenous non-government service providers in the justice sector, academia, key justice sectors (courts, police, corrections, legal services), and other service providers (health, education and housing)'.[32]

8.73 In 2010, the Attorney-General decided not to proceed with the establishment of a national Indigenous law and justice advisory body due to concerns about duplicating work of the National Congress of Australia's First Peoples.[33]

8.74 The National Congress was established in 2010 to provide a central mechanism for promoting the national voice of Indigenous peoples, and has the following roles:

- formulate advice to ensure that Aboriginal and Torres Strait Islander people contribute to and play a lead role in policy and program

29 *Exhibit 15*, Fiona Alison and Chris Cunneen *The role of Indigenous Justice Agreements in Improving Legal and Social Outcomes for Indigenous People*, p.56.

30 Attorney-General's Department, *Issues Paper: National Indigenous Law and Justice Advisory Body*, 2008, p. 1.

31 Attorney-General's Department, *Issues Paper: National Indigenous Law and Justice Advisory Body*, 2008, p. 4.

32 Attorney-General's Department, *Issues Paper: National Indigenous Law and Justice Advisory Body*, 2008, p. 5.

33 Attorney-General's Department, correspondence received 7 July 2010.

development on issues that affect them, and that an Indigenous perspective is provided on issues across government

- advocate and lobby as a national conduit for communication between Aboriginal and Torres Strait Islander peoples and the government, corporate and non-government sectors, and
- ensure the presence of, and contribute to, mechanisms to monitor and evaluate government performance in relation to Aboriginal and Torres Strait Islander peoples.

8.75 The Department advised the Committee that the Attorney-General had asked the National Congress to consider establishing a subcommittee to focus on Indigenous law and justice matters to help address the Commonwealth Government's ongoing need for advice on such matters.[34]

Committee comment

8.76 The Committee is concerned about the Commonwealth Government's decision to abandon financial support for NAJAC without having ensured the establishment of an alternative body capable of providing advice to governments on the law and justice matters affecting Indigenous people.

8.77 The result has been the passage of some years without an established framework for national Indigenous representation and policy engagement on law and justice issues. This is not acceptable and can only further the divide many communities perceive between government agencies' service planning and delivery, and the needs of communities to drive and be the agents of their own change. Further, it reinforces the perception of governments 'doing for' rather than 'working with' Indigenous communities.

8.78 It is recognised widely that effective policy on Indigenous matters requires the involvement of Indigenous people in direction setting and decision making processes, and yet two years have passed without there being an effective mechanism for the Commonwealth Government to obtain advice on Indigenous law and justice matters.

8.79 The Committee supports the recent decision by the Commonwealth Government to request that the National Congress of Australia's First Peoples establish a subcommittee to focus on Indigenous law and justice matters. However, the decision to establish such a subcommittee remains with the National Congress and should they decide not to do so, the

34 Attorney-General's Department, correspondence received 7 July 2010.

Committee urges the Commonwealth Government to reconsider its decision not to establish an Indigenous law and justice advisory body.

8.80 Should the National Congress establish such a subcommittee, the Committee is of the view that the Commonwealth Government should seek the support of the subcommittee in setting directions and priorities under the National Indigenous Law and Justice Framework.

8.81 In keeping with the lessons learned in the development of the Victorian Aboriginal Justice Agreement, the Committee also considers that the Commonwealth Government should seek the views of the subcommittee, if established, on any suggested amendments to the National Indigenous Law and Justice Framework following each annual review.

Recommendation 36 – Indigenous Law and Justice Advisory Body

8.82 **The Committee recommends that the Commonwealth Government propose to the National Congress of Australia's First Peoples the establishment of a subcommittee to focus on Indigenous law and justice matters. If the National Congress of Australia's First Peoples does not proceed with an Indigenous law and justice subcommittee, the Committee recommends that the Commonwealth Government establish an Indigenous law and justice advisory body.**

The Committee recommends that the Commonwealth Government:

- **seeks the subcommittee's or the advisory committee's advice on law and justice matters affecting Indigenous people**
- **requests that the subcommittee or advisory committee monitor and report on progress under the National Indigenous Law and Justice Framework, and**
- **seeks the views of the subcommittee or advisory committee on any suggested amendments to the National Indigenous Law and Justice Framework following each annual review.**

Indigenous representation in the Parliament

8.83 While Indigenous under-representation in the federal Parliament is not directly an issue impacting on Indigenous overrepresentation in the criminal justice system, the two issues are related. Both are indicative of Indigenous disadvantage, the lack of positive role models, limited capacity

to access opportunities, and a generally lower sense of self-worth and aspiration.

8.84 In order to improve Indigenous wellbeing and Indigenous capacity to engage in decision-making, then parliamentary representation is also a key issue to consider.

8.85 Over the last decade the federal Parliament has witnessed a greater diversity in its elected Members of Parliament and Senators. Women now represent 29 per cent of members and senators and hold several key cabinet positions. Within the Parliament there are also a range of migrant backgrounds as well as religious faiths represented.

8.86 Mr Ken Wyatt MP the Member for Hasluck in Western Australia, is the first Indigenous person to be elected to be a Member of the House of Representatives. Prior to Mr Wyatt's election in 2010, there have been two Indigenous Senators – Liberal Senator Neville Bonner (1971-1983) and Australian Democrat Senator Aden Ridgeway (1999-2005). The Committee does note that there have been relatively high numbers of Indigenous members in recent state and territory parliaments.

8.87 Given that those who identify as Indigenous now make up approximately 2.5 percent of Australia's population, if the federal Parliament were to reflect this then there would need to be at least four Indigenous representatives across the upper and lower houses of Parliament.

8.88 A number of countries have introduced mechanisms to ensure Indigenous or minority representation in their parliament. These mechanisms include:

- designated seats for Indigenous people
- separate Indigenous parliaments
- electoral reform that provides for greater minority representation
- positive discrimination processes in the pre-selection of electoral candidates, and
- broader education programs to raise awareness of Indigenous issues and provide mentoring opportunities.

8.89 The Committee observed the impact of some of these mechanisms in New Zealand where dedicated Maori seats and an electoral system of Mixed Member Proportional Representation have resulted in around 19 per cent of MPs identifying as Maori (the percentage of the population identifying as Maori is around 15 percent).

Committee comment

8.90 The Committee is not advocating any of the above mechanisms for application in Australia, but cites them as strategies that have been employed elsewhere to increase Indigenous representation. The Committee also notes that this is not a new issue and a number of reports have previously been written on the importance of increasing Indigenous leadership, engagement and representation in Australian federal politics, and mechanisms to achieve this.

8.91 The Committee does note that, while policies address Closing the Gap on Indigenous disadvantage, it is also important to set a target of increasing Indigenous wellbeing, aspiration and national participation. In this context, and in the context of ensuring the Australian Parliament is representative of Indigenous peoples, the Committee recommends an investigation into options to raise the level of Indigenous representation in federal Parliament.

Recommendation 37 – Parliamentary Indigenous representation

8.92 **The Committee recommends that the Commonwealth Government establish an Independent Commission to undertake a series of public consultations and investigate options to increase Indigenous representation in the Parliament, for example, quotas or dedicated seats.**

Service delivery model

8.93 During the inquiry the Committee received volumes of evidence citing poor coordination across levels of government and agencies, and the need for greater Indigenous engagement in service design and delivery. These two issues were recurrent themes through the inquiry.

8.94 In contrast to this, a number of witnesses drew attention to examples of what can be achieved when there is appropriate coordination, consideration of issues from a holistic perspective, and Indigenous people leading change from within communities. A number of these positive examples were outlined to the Committee, ranging from changes to court systems such as the New South Wales Drug and Alcohol Court, community interventions such as the Family Responsibilities Commission,

a number of interagency coordinated responses, and a range of community initiatives.

8.95 From the criticisms of agency silos and the examples of positive coordinated initiatives, the Committee draws a number of conclusions regarding the role of the Commonwealth Government in improving coordination and engagement. The following section discusses trial models for Indigenous service delivery around Australia and the Committee sets out a model for a coordinated, collaborative and integrated approach to Indigenous service/program design and delivery.

Criticism of government agency silos

8.96 The lack of government coordination - both between Commonwealth and state and territory governments, and within state and territory governments – was seen by many to impede the very programs that agencies are tasked to implement. The Committee heard that government agencies tend to operate in 'silos' rather than sharing information and working cooperatively toward shared goals with other agencies.

8.97 Alfred Bamblett, from the Victorian Aboriginal Justice Advisory Committee, suggested that whole-of-government practice is yet to catch up with the political rhetoric of whole of government administration. He questioned:

> Is it a case of the right arm not knowing what the left arm is doing? Sometimes you think that is the way it is. There needs to be a coming together in a way that says we are here for the benefit and to improve the lot of the people that we are funded to provide a service for … There is a lot of talk about whole-of-government; terrific, let us see something in action.[35]

8.98 The Royal Australasian College of Physicians commented in its submission that:

> Australia is in many ways beleaguered by its federated system of government. The negative consequences are perhaps most acute in essential services like health, education and justice where complexities of state and federal responsibility and funding make coordination and efficiency seemingly unattainable at times.[36]

35 Alfred Bamblett, Victorian Aboriginal Justice Advisory Committee, *Committee Hansard*, Melbourne, 3 March 2010, p. 44.

36 Royal Australasian College of Physicians, *submission 53*, p. 11.

8.99 A number of ATSILS identified funding competition as a contributing factor to the isolation of government agencies:

> Individual programs and services tend to be 'owned' by separate departments, resulting in lack of coordination, duplication, or – more frequently – gaps in services. … [Constant funding and governance conflicts] results in horizontal competition, the professional siloing of interventions and the undermining of – or indifference towards – the activities of other departments. Within government departments and agencies there is also vertical tension between various levels of the bureaucracy. Central control competes with local management.[37]

8.100 Poor agency coordination can result in the duplication of services in some areas and a lack of services in other areas. Katherine Jones, from the AG's Department, noted that 'there is also the issue that there is a need for ownership and cooperation not only between Commonwealth and state but also within the states across corrections, police and justice'.[38]

8.101 For example, given the strong link between foetal alcohol spectrum disorder (FASD) and Indigenous youth offending, strategies are required to address the intersection of these two health and justice issues. However, often neither the health nor the justice department wants to take responsibility for the role they each believe the other should be playing. As Damien Howard observed in his submission, 'a shared issue easily becomes an avoided issue'.[39]

8.102 Dr Howard, in discussing hearing loss in Indigenous communities, provided the Committee with an example of where cross-portfolio responsibilities all too easily lead to no agency being willing to accept responsibility for the issue:

> I first started to try and raise this issue with some colleagues in the early nineties, and have consistently had the response, when trying to raise this, that it is a health issue, not a criminal justice issue, whereas the health department says it is a criminal justice issue, not a health issue. So when there is this dual responsibility –

37 Aboriginal Legal Service (NSW/ACT), North Australian Aboriginal Justice Agency and Queensland Aboriginal and Torres Strait Islander Legal Service, *submission 66,* p. 26.

38 Katherine Jones, Attorney-General's Department, *Committee Hansard*, Canberra, 27 May 2010, p. 23.

39 Damien Howard, *submission 87*, p. 20.

> in fact, there is a multiplicity of responsibility – it is very easy for it to become no-one's responsibility.[40]

8.103 Superintendent Emmanuel from the Western Australia Police Force commented that from his experience the term 'core business' often used by government agencies is a term that is used to pass the buck. He stated:

> A child not at school is the education department's problem; a child with hearing or other health problems is the health department's problem. In my view and the view of many others I have spoken to, that attitude places these children and their families at risk, and at-risk children and at-risk families are the core business of every government agency. That is how we need to see this so that we do not pass the buck—and we should not pass the buck.[41]

8.104 Associate Professor Somerville, of the Western Australia Department of Education, acknowledged that:

> The reality is that everybody has to take the step forward and take responsibility rather than blame each other—and we do it as government departments. The police blame child protection; we blame the police for not doing their job. It has to be a collaborative effort if we are going to turn this around.[42]

8.105 The New South Wales Ombudsman revealed that reviews of cross-agency cases involving at-risk children and adolescents found that:

> … there has been involvement by a range of agencies without any or minimal joint planning taking place. Furthermore, the problems in many of these situations are quite complex and require the involved agencies that are providing support to be alert to a range of information to assist them to make informed decisions about the nature of support required. Without the agencies coming together to consider these matters, there is a real risk that significant resources will be expended in an inefficient and ineffective manner.[43]

8.106 The lack of collaboration between agencies and the justice system can lead to the lengthening of an Indigenous youth's involvement in the courts, for

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40 Damien Howard, *Committee Hansard*, Darwin, 6 May 2010, p. 14.

41 Michael Emmanuel, *Committee Hansard,* Sydney, 28 January 2011, p. 31.

42 Robert Somerville, Western Australia Department of Education, *Committee Hansard,* Perth, 30 March 2010, p. 24.

43 New South Wales Ombudsman, *submission 56, attachment C*, p. 5.

example, even in situations where prompt responses are necessary for at-risk individuals. Magistrate Sue Oliver told the Committee at a public hearing in Darwin that:

> We were told almost two years ago that the community corrections officers who would deal with young people would essentially be amalgamated with Children's Services so that there could be a better coordinated approach to young people, many of whom have been abused and neglected and have care issues. But that still has not happened. It creates delay in the court because we are dealing with separate agencies when, in my view, there should be a much better coordinated approach to identifying the issues with the young person, identifying the issues with the family, and putting into place the things which are necessary to support the young person.[44]

8.107 Others who are involved in addressing the risk factors or consequences of Indigenous youth offending on-the-ground are also frustrated by the lack of government coordination. Several ATSILS submitted that:

> In our view, one of the primary reasons for [the over-representation of Indigenous youth in detention] is an institutional failure on behalf of all Australian governments to maintain a holistic perspective and effectively co-ordinate the design and delivery of programs addressing wider social and economic issues - with explicit linkage and coordination of their impact on the operation of the criminal justice system.[45]

8.108 Lynda Coon, from the charity ACT for Kids, explained to the Committee the importance of an overarching authority:

> ... it is not just about more supports but also about better coordination and communication between agencies. I think that in this field there is always going to be the involvement of a statutory body, so that interface between statutory agencies and non-government organisations is a really key one that needs to be looked at.[46]

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44 Sue Oliver, *Committee Hansard*, Darwin, 6 May 2010, p. 51.

45 Aboriginal Legal Service (NSW/ACT), North Australian Aboriginal Justice Agency and Queensland Aboriginal and Torres Strait Islander Legal Service, *submission 66,* p. 3.

46 Lynda Coon, ACT for Kids, *Committee Hansard*, Cairns, 7 May 2010, pp. 29-30.

8.109 Anne Hampshire from Mission Australia agreed:

> We can have fantastic people working on the ground in collaboration but unless there is the framework that actually supports them, ultimately we rely on people's goodwill at the local level to work collaboratively together. They actually need the frameworks that support them to do that.[47]

8.110 Criticism of the lack of coordinated approaches among all governments pointed to the tendency for agencies to work in silos as the main cause. Moreover, the need to resolve this separation of responsibilities is not a new revelation. Western Australia Chief Justice Wayne Martin acknowledged that 'the problems of a fragmented, silo approach have been known and have been being talked about for many years, but nothing much has been done to overcome the issues and break down the silos'.[48] His colleague added:

> Although the word 'collaboration' is often used the fact of the matter is that, whilst there is some collaborative effort, the extent of it is nowhere near what it needs to be. If government agencies get together and the problem becomes too difficult then, more often than not, they go back into their bunkers and become very siloed, with the net result that nothing is actually delivered.[49]

8.111 In Victoria, 'evidence given to [an inquiry into strategies to prevent high volume offending and recidivism by young people] has lamented the fact that policy in this area is indeed siloed, disconnected and fragmented'.[50] The 2009 Social Justice Report reflected that:

> Currently, more than any other portfolio, the justice needs of Indigenous Australians are siloed. There is poor interagency collaboration between the 'front end' (prevention and support services before offending) and 'back end' (corrections and juvenile justice) departments dealing with Indigenous over-representation. Indigenous over-representation is not only the responsibility of corrections and justice departments but also requires substantial input in terms of health, housing, education, employment and child protection to name just a few.[51]

47 Anne Hampshire, Mission Australia, *Committee Hansard*, Melbourne, 3 March 2010, p. 33.

48 The Hon. Wayne Martin, *Committee Hansard,* Perth, 30 March 2010, p. 2.

49 Denis Reynolds, *Committee Hansard,* Perth, 30 March 2010, p. 5.

50 Parliament of Victoria Drugs and Crime Prevention Committee, *Inquiry into Strategies to Prevent High Volume Offending and Recidivism by Young People 2009*, p. 11.

51 Aboriginal and Torres Strait Islander Social Justice Commissioner, *2009 Social Justice Report*, p. 54.

8.112 President of the Children's Court of Western Australia, Denis Reynolds, suggested the following as a solution:

> … what I would do is set up within the Department of the Premier and Cabinet a high-level policy group charged with dealing with these problems in the Aboriginal area. They would have overarching authority over each of the agencies. They would identify ultimate objectives. They would then, with the various agencies, identify what role each of those agencies needed to play to achieve that ultimate objective. They would then, on an ongoing basis, require the agencies to do what each of them needed to do to fulfil that ultimate objective and, on a regular basis, get together and put each of the agencies to account to show that they had done what they had been required to do in order for that ultimate objective to be achieved.[52]

The need for coordination

8.113 The Commonwealth recognises that state and territory governments have responsibility for police, courts, corrective services, education, employment, and health – the main arenas in which the complex issue of Indigenous youth overrepresentation in the criminal justice system intersects. As Katherine Jones, of the Attorney-General's Department, stated:

> In terms of, broadly, community safety and law and order, the Commonwealth's view is that that is primarily state and territory responsibility, and appropriately so. … We certainly see that any activity that the Commonwealth does in this space very much has to be complementary to the states and territories and to work with them.[53]

8.114 During a public hearing held in Brisbane the Committee heard the view that it was time for the Commonwealth to take the lead nationally in this area of Indigenous justice issues. Queensland Police Commissioner, Robert Atkinson, explained to the Committee:

> I do believe that we have to have a long-term approach. I personally think it is going to be three generations, and only the Commonwealth can take the lead on that because local and state governments cannot take the lead nationally. I believe that there

52 Denis Reynolds, *Committee Hansard*, Perth, 30 March 2010, p. 15.

53 Katherine Jones, Attorney-General's Department, *Committee Hansard*, Canberra, 27 May 2010, p. 5.

> has to be a coordinated, long-term bipartisan approach and recognition that there is no silver bullet and no single and simple solution.[54]

8.115 Commissioner Atkinson continued to emphasise the need for the Commonwealth to streamline the process for Indigenous service delivery:

> The continuation of government silos, of federal versus state policy and of political point scoring between the political factions must be overcome. … Indigenous service delivery requires federal intervention to streamline processes, increase efficiency ensuring a delivery of product that is tangible and measurable.[55]

8.116 The Committee acknowledges that the National Indigenous Law and Justice Framework is a step in the right direction, but it does not have any powers of compulsion and is only a guide agreed to by the Standing Committee of Attorneys-General that has obtained consensus with state and territory justice departments.

8.117 Sarah Crellin, a children's solicitor, told the Committee that:

> Aboriginal Affairs falls under the Commonwealth power, despite the very pressing issues for Aboriginal People being issues that fall under State jurisdiction i.e. access to proper health care, lack of education, overrepresentation in the criminal justice systems. If the 'gap' is ever going to be closed, there needs to be greater understanding between the Commonwealth and State governments about what is being done. All governments maintain they have the same goal, but to achieve that goal, the decisions and programs that are designed need to consider what funding is available.[56]

8.118 Recognising the need for improvement in intra- and inter-governmental coordination, the Commonwealth Government has instigated some measures to:

> … connect better across the silos. Within the Australian government there is the Secretaries' Group on Indigenous Affairs and there is another layer under that which actually does a lot of the business connecting up across government. DEEWR,

54 Robert Atkinson, Queensland Police Service, *Committee Hansard*, Brisbane, 4 May 2010, p. 18.

55 Dennis Foley and Terry Lovatt, *submission 28*, p. 22.

56 Sarah Crellin, *submission 2,* pp. 4-5.

> FaHCSIA, Health and Ageing, Attorney-Generals' and DEWHA[57] are represented in those forums. The Executive Coordination Forum on Indigenous Affairs, which sits below that secretaries' group has a joint work plan and the intention is that it joins up what we are doing. It also has a coordinated approach to Indigenous measures for the budget process.[58]

8.119 The Secretaries' Group on Indigenous Affairs, which comprises secretaries from relevant government departments and meets monthly, plays the lead coordinating role between government departments, assists the Strategic Policy and Budget Committee of Cabinet, and provides advice to the Ministerial Taskforce on Indigenous Affairs.[59]

8.120 The Ministerial Taskforce on Indigenous Affairs is responsible for developing a 'whole-of-government' budget for Indigenous Affairs, and focuses on three priority areas of early childhood intervention, safe communities, and building Indigenous wealth and employment.[60]

8.121 The Committee notes the recurrent criticisms regarding the lack of coordination across jurisdictions and agencies, and the resulting duplications, inefficiencies and gaps in services. For progress to be made in the area of Indigenous offending, high policy objectives are not sufficient. Governments must ensure that service delivery is effective, appropriate, coordinated and comprehensive.

Collaborative approaches

8.122 The Committee recognises that despite the criticism received about the lack of government coordinated Indigenous justice services, there have been many examples of successful inter-government cooperation. A report by Greg Andrews noted that:

> The Australian and NT governments' agreement to share the costs of building and establishing a police post in Mutitjulu provides a

57 DEEWR: Department of Education, Employment and Workplace Relations; FaHCSIA: Department of Families, Housing, Community Services and Indigenous Affairs; DEWHA: Department of Environment, Water, Heritage and the Arts.

58 Jo Wood, Department of Education, Employment and Workplace Relations, *Committee Hansard*, Canberra, 17 June, p. 8.

59 FaHCSIA, 'Indigenous Australians', <www.fahcsia.gov.au/sa/indigenous/pubs/evaluation/archive_perfom_eval/Pages/ia_wog_research_eval_2008_11.aspx> accessed 19 November 2010; Agreements, Treaties and Negotiated Settlements Project, <www.atns.net.au/agreement.asp?EntityID=2566> accessed 30 July 2010.

60 Agreements, Treaties and Negotiated Settlements Project, <www.atns.net.au/agreement.asp?EntityID=2330> accessed 30 July 2010.

> good example of the benefits of 'working together'. Without inter-governmental collaboration, improved law and order would have been difficult to secure. The Australian and NT governments' announcement in September 2005 of a regional approach to address petrol sniffing though the provision of unsniffable fuel, increased youth diversion activities, and a crack-down on drug and petrol trafficking provides another positive example.[61]

8.123 The Principal of the school in Fitzroy Crossing in Western Australia described a whole-of-child approach which has helped at least one child, and could help more children, heavily affected by FASD and early-life trauma 'to turn around their lives':

> It is not only an interagency approach which involves various agencies within the town, such as education, health and [Department for Child Protection]; the school is also funded or resourced in a way that we can support that child with a special-needs education assistant. Essentially, they are a social trainer. They are there to provide the quiet sort of knowledge and the patience so that they can develop the coping strategies in the child.[62]

8.124 Recently the governments of the Northern Territory, Western Australia and South Australia jointly established a Cross Border Justice Scheme. Several ATSILS describe the umbrella *Law and Justice (Cross Border and other Amendments) Act 2009 (Cth)* as 'a welcome example of a legislative initiative to ensure the coordination and definition of clearer responsibilities within and between government jurisdictions.'[63] Each government enacted its own relevant legislation to give justice officers from the three jurisdictions joint authority for offences committed in the prescribed cross-border area. The Northern Territory Department of Justice submission stated that:

> The legislation seeks to recognise the common cultural and social bonds and mobility of Indigenous residents (and others) and overcomes the difficulties in providing services to such a remote region through greater collaboration and sharing of facilities, services and programs across the three jurisdictions.[64]

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61 Indigenous Community Volunteers, *submission 18, attachment C,* p. 14.

62 Paul Jefferies, Fitzroy Valley District High School, *Committee Hansard*, Perth, 31 March 2010, p. 36.

63 Aboriginal Legal Service (NSW/ACT), North Australian Aboriginal Justice Agency and Queensland Aboriginal and Torres Strait Islander Legal Service, *submission 66,* p. 27.

64 Northern Territory Department of Justice, *submission 102,* p. 2.

8.125 A national non-governmental organisation, BoysTown, identified 'the need to have … a political broker for each community at a senior level in government to … act as an advocate for the community'.[65] The Queensland Government has set up such a model:

> Every Chief Executive Officer of a Queensland Government agency is appointed as a Government Champion for 1 or more of the following communities … Government Champions partner with these communities to harness combined agency resources to deliver better targeted and more integrated services. Each champion has the authority and the capacity to cut through 'red tape'. This helps to overcome administrative barriers that impede constructive responses to community needs.[66]

8.126 The Western Australian State Justice Plan 2009-2014 (the Plan) is a partnership between the Western Australian Government and Aboriginal communities to work together at state, regional and local levels to improve justice outcomes for Aboriginal people. The Plan is unique: it is generated and owned by Aboriginal people and supported by the Western Australian Government. The Plan will result in one State Justice Congress, 10 Regional Justice Forums and more than 40 Local Justice Forums. Each Local Justice Forum will create a Local Justice Agreement to identify and address priority justice issues of its area. This work is supported by locally-based Regional Coordinators.[67]

New South Wales Drug Court

8.127 One example of a program that involves a multi-agency and community coordinated approach is the Youth Drug and Alcohol Court (YDAC) which seeks to address the underlying issues behind offending behaviour, predominantly around drug and alcohol abuse, but also other related issues such as access to housing, health services and education.

8.128 The Children's Court of New South Wales, which runs YDAC, explains that:

> As YDAC adopts a holistic approach to dealing with young offenders' needs and problems, and in particular focuses on their offending, general welfare, education and health, it relies upon a number of government and non-government agencies in order to

65 John Dalgleish, BoysTown, *Committee Hansard*, Brisbane, 4 May 2010, p. 69.

66 Queensland Government, <www.atsip.qld.gov.au/government/networks/champions/> accessed 2 August 2010.

67 Western Australian State Aboriginal Justice Congress, *exhibit 6*, p. 1.

> successfully deliver the program. As far as the government agencies are concerned, the Children's Court, the Departments of Human Services, Education and Training, and Health, all play a vital role in the delivery of services.[68]

8.129 The Law Society of New South Wales considers YDAC to be 'world standard in evaluation and success':

> The NSW Drug Court is an example of the justice system providing an interagency response to a major health problem in Western Sydney that has lead to a reduction in criminal activity by drug dependent offenders. … The interaction of probation and parole, Police, the NSW [Director of Public Prosecutions], Legal Aid NSW and Corrections Health as a team monitoring, supporting, and sanctioning where necessary, is the most striking example of successful intervention in NSW.[69]

8.130 Various ATSILS endorse the coordination of services with the justice system inherent in YDAC: 'The common objective centres on the marshalling of all relevant resources in support of the individual's rehabilitation'.[70] Although YDAC is not Indigenous-specific, it works well for young Indigenous people because:

> It is no secret that the majority of Aboriginal People have poorer health than non-Indigenous Australians, a lack of education and are over-represented in the Criminal Justice system. By combining all the Departments that deal with those issues, a solution can be found.[71]

Family Responsibilities Commission

8.131 The Family Responsibilities Commission (FRC) that was discussed in chapters 3 and 5 is a good example of Commonwealth and state government agencies working together with a non government organisation and local Indigenous communities.

8.132 The FRC's main objectives are to restore individual and family responsibility for child safety, school attendance, lawful behaviour and responsible tenancy. The FRC Commissioner, David Glasgow pointed out how the FRC approach differentiates itself from other justice strategies:

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68 Children's Court of New South Wales, *submission 55,* p. 3.

69 Law Society of New South Wales, *submission 29,* p. 3.

70 Aboriginal Legal Service (NSW/ACT), North Australian Aboriginal Justice Agency and Queensland Aboriginal and Torres Strait Islander Legal Service, *submission 66,* p. 25.

71 Sue Crellin, *submission 2,* p. 1.

> The FRC approach, however, is different to other justice strategies in that its focus is socially orientated with conferencing, case management, and support for the community in nurturing, protecting and educating the future generation. The FRC methodology is aimed at being proactive and collaborative.[72]

8.133 In addition to the Family Responsibilities Commissioner, 24 Indigenous elders have been appointed as Local Commissioners in their four communities, which strengthens their community authority.[73] The Commissioner advised the Committee that 'we are trying as part of our terms of reference to re-establish some norms in the community. … The second objective is to enhance the Indigenous authority in those communities'.[74]

8.134 Key to the FRC effectiveness is the scope of their responsibilities which allows them to work with a household and community on a range of issues. Commissioner Glasgow explained:

> We sit as a result of any trigger notices. There are four trigger notices. If a person has a child in their care and the child has not attended school for three days without a proper reason we get a notice. If a person is the subject of a child safety notice we receive a notice. If a person has a defect notice in housing, rent or of misbehaving in a house we receive a notice. And if a person has been convicted of a Magistrate's Court offence we receive a notice. Each of those people receives a notice to attend if they fall within the jurisdiction and they sit before a commission of three people: me and two Indigenous commissioners. There are six commissioners in each community. One of those Indigenous commissioners chairs the meeting. In Aurukun it is all conducted in Wik-Mungkan and they translate for me where necessary. They make the decisions. The decisions have to be majority decisions. If they are not majority decisions the response has to be recorded.[75]

8.135 The FRC is an example of effective government collaboration with local Indigenous communities. Commissioner Glasgow ultimately attributes the success of the FRC to:

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72 Family Responsibilities Commission, <www.frcq.org.au/> accessed 4 August 2010.

73 Queensland Government, <www.atsip.qld.gov.au/government/families-responsibilities-commission/> accessed 4 August 2010.

74 David Glasgow, Family Responsibilities Commission, *Committee Hansard*, Cairns, 7 May 2010, p. 2.

75 Commissioner Glasgow, *Committee Hansard*, Sydney, 28 January 2011, p. 68.

> … the strength of the people who sit with me —the Indigenous people, my colleagues who live in the community and have to wear the decision when I leave.… I think that respect that they have built up in the community is one of the reasons why people keep turning up.[76]

8.136 Commissioner Glasgow reiterated this point at a further hearing saying:

> I find my colleagues, the Indigenous commissioners, to be amazing. They are mainly women, I have to say. ...The women are determined to use this opportunity for change. They are resolute. They have stood up to enormous problems in the community, including being assaulted. They have been forthright in bringing their own families forward first.[77]

8.137 The FRC is seen by most Indigenous groups and academics as the most inclusive and consultative of the current income management based programs mainly because it appoints locally-respected elders to positions of responsibility, thereby:

- rebuilding local authority,
- articulating the original Indigenous community values of respect and responsibility, and
- sending a consistent message about the expected behaviour of individuals, families and households.

8.138 These Local Commissioners work with their communities and are responsible for:

- determining appropriate actions to address the dysfunctional behaviour of people in the community;
- where appropriate, referring individuals to community support services to assist them to address their behaviours; and
- where appropriate, directing the person's income to be managed by Centrelink to pay for the priority needs of their family.

8.139 FaHCSIA's implementation review of the FRC in September 2010 identified the following initial impacts of the trial:

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76 David Glasgow, Family Responsibilities Commission, *Committee Hansard*, Cairns, 7 May 2010, p. 15.

77 David Glasgow, Family Responsibilities Commission, *Committee Hansard*, Sydney, 28 January 2011, p. 69.

- The FRC appears to be contributing to restoring Indigenous authority by supporting local and emerging leaders in Local Commissioner roles to make decisions, model positive behaviour and express their authority outside the FRC.
- With average attendance rates of around 60-70 percent at conferences, which compares favourably with other conditional welfare initiatives, and the majority of clients reaching agreements with the FRC about what action they should take to improve their lives, there are signs of individuals responding to the drivers and incentives created by the FRC.
- There is growing awareness in the communities that the FRC is operational and will hold people accountable for certain behaviour, although this understanding is not yet broad or deep.
- Story telling through face-to-face interviews with FRC clients reveals that some people have experienced an improvement in their lives and the lives of their families, although there are also signs that individual change is fragile, with many people breaching another social obligation after being in the FRC system.
- Indicators of positive community-level change around school attendance, alcohol and violence in two communities (Aurukun and Mossman Gorge) may be associated with the FRC and other initiatives, and underpin a higher level of acceptance of the FRC in these communities.

8.140 The review outlined the following key issues that require further attention for the remainder of the trial:

- Development of the FRC system should be progressed, focusing on the linkages and cooperation between the Commission, notifying agencies and support services.
- Forward planning for the volume of clients likely to enter the FRC as it is critical that the FRC is able to respond quickly to identified breaches of social obligations, to facilitate early intervention and to maintain its credibility.
- Working with sub-groups in the community where acceptance of the FRC is strongest, including former clients, to support them to be influencers within their family group or community will aid realisation of FRC goals and assist in raising awareness.

8.141 An independent evaluation was carried out by KPMG and the report was made public in November 2010. The report's findings overall suggested

that the 'FRC is progressing towards its objectives, and there are opportunities to further enhance its influence in the communities.'[78]

8.142 Whilst there was no conclusive evidence demonstrating a sustainable change to social norms in all communities there was some evidence to suggest that school attendance alongside reductions in problems associated with alcohol and violence in two communities had tangible evidence of community-led change.[79]

Committee comment

8.143 Effective intra-agency collaboration is essential for each state and territory responsible for delivering youth justice services. The Committee was concerned about the substantial criticism that was raised throughout the inquiry about the distinct lack of coordinated Indigenous services across all overlapping agencies involved in the criminal justice system.

8.144 The successes described are where there is a coordinated response with the community and achievements are made sometimes in spite of, rather than because of, government program assistance. It is notable that when questioned about coordination, departmental responses refer to high level inter-departmental exchange of information. This is vital. However this high level coordination should also translate to on the ground coordination – which does not seem to be the case. There are still multiple agencies engaged to deliver separate services, which is not empowering to communities or families, results in some issues 'falling between the cracks' and is inefficient.

8.145 The Committee was pleased to hear that the FRC was achieving some success despite the inevitable challenges that come with coordinating many stakeholders with an objective of restoring social norms in four Indigenous communities.

8.146 Given the time taken to establish community trust and engagement in the FRC and the early indications of community led change, it would be a backward step to abandon the pilot. Throughout the inquiry the Committee has become sensitive to the fact that many innovative programs do not get evaluated sufficiently and then cease operations due to the expiry of funding.

78 *Implementation Review of the Family Responsibilities Commission*, FaHCSIA, p. 5.

79 *Implementation Review of the Family Responsibilities Commission*, FaHCSIA, p. 132.

8.147 The Committee notes the 2011-2012 Australian Government Budget provides $16.1 million to extend the FRC until 31 December 2012.[80] The Committee is of the opinion that it is critical to extend the funding of the FRC until December 2013 in order to allow the operations of the FRC to be adequately evaluated and a more long-term decision on funding then to be made.

Recommendation 38 – Funding of the Family Responsibilities Commission

8.148 **The Committee recommends that the Australian Government in partnership with the Queensland Government and the Cape York Institute for Policy and Leadership extend the funding of the Family Responsibility Commission until December 2013, pending further evaluation.**

Indigenous delivered services

8.149 Effective coordination and engagement between government agencies and local Indigenous organisations is lacking. One of the most persistent messages heard by the Committee is that Indigenous controlled and operated programs are best placed to provide effective services, and yet government agencies run programs in parallel to existing grassroots Indigenous programs. Also, an absence of sustained investment and evaluation of policies and programs has led to a failure to achieve cost-effective outcomes.

8.150 The Commonwealth Government has recognised that increasing its engagement with Indigenous communities is essential to improve Indigenous justice and community safety. The National Indigenous Law and Justice Framework recommends that governments 'strengthen engagement mechanisms to assist Aboriginal and Torres Strait Islander peoples to provide meaningful input to key service providers and government departments'.[81]

8.151 Cath Halbert, Group Manager, FaHCSIA, acknowledged that:

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80 *Budget: Investing to Close the Gap between Indigenous and non-Indigenous Australians*, Statement by the Honourable Jenny Macklin MP, Minister for Families, Housing, Community Services and Indigenous Affairs, 10 May 2011, p. 9.

81 Standing Committee of Attorneys-General Working Group on Indigenous Justice, *National Indigenous Law and Justice Framework 2009-2015*, p. 28.

> When things are being negotiated through COAG, there is a tendency for governments to talk to governments. That is the nature of those kinds of agreements. But this government has made a very strong commitment to resetting the relationship and to engaging with Indigenous people on policy development, program design and service delivery issues.[82]

8.152 Her colleague Greg Roche added that, following the establishment of the National Congress of Australia's First Peoples as a national representative body, 'there will be a much greater level of engagement at the national level in terms of policy formation through a consultative process'.[83]

8.153 However, a Western Australia magistrate was critical of the way government's forge relationships with Indigenous communities for the delivery of programs:

> Generally, agencies do not forge relationships with local Aboriginal people and organisations and they lack spiritual connection and empathy for the Aboriginal people who live in the areas where they are sent to work and deliver the services. There is a lack of continuity of personnel. Often it is the case that some person in an agency goes to work somewhere, they are a champion and then very soon they are shifted to some other location and all of their good work is lost.[84]

8.154 The Committee received evidence about the value of increasing the involvement of Indigenous people at the policy level in government. Sharon Letton from the Youth Justice Aboriginal Advisory Committee commented that a program in South Australia is successful in part because:

> They have Aboriginal family practitioners there. It is about building that rapport and that trust, even though they are Families SA workers. They are still Aboriginal people that live and work within the Aboriginal community. It is about building that relationship and strengthening the family and working in partnership.[85]

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82 Cath Halbert, Department of Families, Housing, Community Service and Indigenous Affairs, *Committee Hansard*, Canberra, 27 May 2010, p. 10.

83 Greg Roche, Department of Families, Housing, Community Service and Indigenous Affairs, *Committee Hansard*, Canberra, 27 May 2010, p. 11.

84 Denis Reynolds, *Committee Hansard*, Perth, 30 March 2010, p. 7.

85 Sharen Letton, Youth Justice Aboriginal Advisory Committee, *Committee Hansard*, Adelaide, 20 May 2010, p. 7.

8.155 The failure to decrease Indigenous youth involvement with the criminal justice system in the two decades since the Royal Commission into Aboriginal Deaths in Custody signifies that a new way of doing things is required. Chief Justice Martin claimed that:

> ...the white imposed solutions that we have used in past decades have spectacularly failed to address this problem. I think that a much better way to go is to encourage and facilitate Aboriginal people taking responsibility for and ownership of the solutions that are needed to address these problems. That way, I think we will also encourage them to take some ownership of the problems and to address offending within their communities.[86]

8.156 Judge Reynolds submitted that:

> Government agencies need to connect with the Aboriginal people they are supposed to be providing services to. Government agencies need to be prepared to work more as program managers. They need to (1) outsource to Aboriginal people the job of designing and delivering programs for Aboriginal people; (2) support Aboriginal local communities in capacity building; and (3) get local Aboriginal communities to identify mentors for children and also guardians and safe places for Aboriginal children generally, and particularly when on bail.[87]

8.157 Non-government organisations and ATSILS have long been aware of the need to partner with and empower existing local communities and structures. BoysTown noted that 'unless Indigenous communities control, manage and influence the direction of crime prevention strategies, initiatives at a local level will not be successful'.[88] The Committee was advised that:

> … if you really want to crack this seemingly intractable problem, you need to look at agencies such as [Aboriginal legal services] and Aboriginal medical services which are actually owned by the communities themselves and run for the communities, which do not have a party political or government political allegiance but have an allegiance right at the top to the child, to the family and to the parents.[89]

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86 The Hon. Wayne Martin, *Committee Hansard*, Perth, 30 March 2010, p. 3.

87 Denis Reynolds, *Committee Hansard*, Perth, 30 March 2010, p. 7.

88 John Dalgleish, BoysTown, *Committee Hansard,* Brisbane, 4 May 2010, p. 66.

89 John McKenzie, Aboriginal Legal Service (NSW/ACT), *Committee Hansard*, 4 March 2010, p. 48.

8.158 Various submissions have called on governments to recognize effective Aboriginal approaches to diversion and sanction and resource those approaches. The North Australian Aboriginal Justice Agency (NAAJA) stated:

> Rather than trying to invent programs the government should take notice of programs that have already been developed by Aboriginal people and that need funding to survive. The Balunu Foundation have developed cultural camps for troubled Aboriginal youth that have had significant success in turning kids around. We urge the Inquiry to look at the work of this foundation.[90]

8.159 Indigenous Community Volunteers, a community development organisation, run on the principle that:

> Maximising local ownership and participation, and the use of local knowledge and technology is critical for long-term development. Communities need a sense of ownership and control if they are to participate actively in their development trajectory and if it is to be sustainable.[91]

8.160 Despite the strong consensus among Indigenous Australians that Indigenous-run programs are the most effective in reaching Indigenous youth:

> … we continually watch dollars, resources and programs fade into oblivion away from what we have already identified: programs should be delivered by Aboriginal and Torres Strait Islander people to Aboriginal and Torres Strait Islander people because it involves ownership and solutions based on their geographical area.[92]

8.161 Mick Gooda told the Committee that 'my observation is the only place coordination happens is the place the least equipped to do it—that is, the community'.[93] There are existing organisations and services in Indigenous communities that, if resourced, are well-placed to implement government policies. An Indigenous advocate noted that one challenge is 'how to build

90 NAAJA, *submission 15*, pp. 8-9.

91 Indigenous Community Volunteers, *submission 18, attachment C*, p. 11.

92 Shane Duffy, Aboriginal Legal Service (NSW/ACT), *Committee Hansard*, 4 March 2010, p. 55.

93 Mick Gooda, *Committee Hansard*, Sydney, 4 March 2010, p. 40.

community capacity to support the organisations that now have limited funds'.[94]

8.162 Evidence received by the Committee consistently pointed to local Indigenous people being best positioned to advise on how to factor the 'uniqueness of the social context' into program design. Judge Reynolds advised the Committee that:

> … Aboriginal communities … enjoy diversity and so, with programs, it is not a case of one size fits all. Local communities should be empowered and they should be supported. Government agencies should not seek to control or impose on them programs that they think are appropriate for them. It should be left to local communities to develop, design and deliver programs that they think are best suited for their children. It is the role of government agencies to then provide and deliver those programs to those local communities.[95]

8.163 The Committee heard reports of a number of innovative and successful community approaches to reducing offending behaviour amongst Indigenous youth.

8.164 Barry Abbott runs a healing program for Indigenous youth with alcohol and inhalant abuse problems at his Ilpurla Outstation in Central Australia. Ilpurla Outstation and a similar program at Mount Theo are held in high regard in Central Australia. The Central Australian Aboriginal Legal Aid Service submits that:

> … the success of both the Mount Theo program and the Ilpurla Outstation is largely due to them being culturally appropriate and both initiated and run by Aboriginal people who are the Traditional Owners and Elders of the respective lands.[96]

8.165 The Committee received evidence about an Aboriginal owned and led justice diversion program, the Yiriman Youth Program, targeting at risk young people aged between 14 and 25 years in the Fitzroy Crossing area. The program received support and commendation from representatives of the local communities at the Committee hearing.[97] The Yiriman Business Plan 2011-14 was developed and the Kimberley Aboriginal Law and

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94 Cheryl Axelby, Youth Justice Aboriginal Advisory Committee, *Committee Hansard*, Adelaide, 20 May 2010, p. 7.

95 Denis Reynolds, Children's Court of Western Australia, *Committee Hansard*, Perth, 30 March 2010, p. 6.

96 Central Australian Aboriginal Legal Aid Service, *submission 26*, p. 7.

97 *Committee Hansard*, Fitzroy Crossing, 31 March 2010, pp. 16, 40, 46, 53, 56.

Culture Centre (KALACC) seeks coordinated and sustained investment from the Commonwealth and Western Australian governments.[98]

8.166 Another Central Australian organisation run by Indigenous women proved to be so successful that it formed the basis for innovative multi-state legislation. Ngaanyatjarra Pitjantjatjara Yankunytjatjara Women's Council:

> … operated as one organisation under a tri-State model. This model has now been adopted under the [Cross-Border] Act, and substantially supports our position that when Aboriginal community controlled organisations are engaged, those organisations are in the best position to discuss and implement particular programs.[99]

8.167 The Committee notes the strength of evidence supporting Indigenous – run local programs to best meet the needs of Indigenous youth. The following section outlines a number of other examples of Indigenous operated services and programs, and their successes in providing safety, social mentoring and healing for Indigenous juveniles and youth.

Night Patrol

8.168 One method of reducing Indigenous people's contact with the police involves a patrol conducted by community members who work in cooperation with the police. These patrols are frequently referred to as Night Patrols as they operate in the evening hours, and they have a strong association with Indigenous communities. Many patrols in Indigenous communities are run by Indigenous people who have a relationship or cultural authority status with the community that they patrol.[100]

8.169 Patrols generally function – in different formats across the nation – to maintain public order, provide transportation to homes or treatment centres, and divert people from contact with the police.[101] They have been

98 Email from Wes Morris, Kimberley Aboriginal Law and Culture Centre (KALACC) to Ministers Snowdon, Macklin and Roxon, 6 November 2010.

99 Aboriginal Legal Service (NSW/ACT), North Australian Aboriginal Justice Agency and Queensland Aboriginal and Torres Strait Islander Legal Service, *submission 66,* p. 27.

100 H Blagg, *An Overview of Night Patrol Services in Australia,* Attorney-General's Department, Canberra, 2003, p. 74.

101 H Blagg, *An Overview of Night Patrol Services in Australia,* Attorney-General's Department, Canberra, 2003, p. 7.

found to contribute to reducing the incidence of juvenile crime during hours of operation.[102]

8.170 In March 2010, the Committee met with members of the Dubbo Safe Aboriginal Youth Patrol which operates on three evenings per week and provides strategic support for police, targeting trouble spots and operates as an authority structure that provides a socially legitimate justice response for Aboriginal people.

8.171 The Committee also met with members of the Larrakia Nation Aboriginal Corporation Night Patrol in Darwin in May 2010. The Night Patrol is funded by the Northern Territory Department of Justice, and operates seven nights a week. The use of Night Patrol services is voluntary, as patrollers do not have any legal powers, but approximately 90 percent of potential clients accept the offer of support. The Manager, James May, said that the Night Patrol picks up approximately 150 people each night, usually for public intoxication or unsupervised children. However there is only one 32-bed sobering-up shelter in Darwin so many people are transported from the streets to their homes. There are also two rehabilitation clinics but they both have long waiting lists.

8.172 Mr May indicated that one of the limitations of the Night Patrol was its emphasis on night-time, when they find that intoxication and alcohol-related disturbances occur 24 hours a day for people with alcohol abuse problems. The AG's Department acknowledged that the main obstacles night patrols face are related to the lack of rehabilitation services available.[103] Although night patrols contribute to reducing contact with the police by removing individuals from public view before any incidents occur, without the appropriate treatment resources, their service is not a long-term solution.

8.173 Like other similar organisations, the Larrakia Nation Aboriginal Corporation Night Patrol requires more funding if it is to expand its service to day-time hours or employ more patrollers. This is not a unique situation. Commonwealth and state funding arrangements for night patrols vary for each jurisdiction; however:

> … the majority of patrols are inadequately resourced given the scale of their activities, the risks associated with their work, the skills required and the anti-social hours … [and] while a broad

102 C Cunneen, *The Impact of Crime Prevention on Aboriginal Communities*, Australian Institute of Criminology, 2001, p. 9.

103 Kym Duggan, Attorneys-General Department, *Committee Hansard*, Canberra, 26 November 2009, p. 4.

> range of government agencies has been involved in supporting night patrols, it has been Indigenous people and their representative organisations (including those within State, Territory, and Commonwealth governments) and Aboriginal community organisations that have sustained the vast majority of them.[104]

8.174 The Committee is aware that 'patrols frequently fill gaps in service provision in many Indigenous communities that would be carried out by a number of government agencies in mainstream Australia'.[105] The Committee commends the work of paid and unpaid patrollers who contribute to the safety of their communities through initiatives such as night patrols, and notes that much of their success lies in the involvement and support of respected community members.

Ipswich Community Justice Group

8.175 The Committee heard from Rosemary Connors from the Ipswich Community Justice Group about the invaluable work that is being carried out. The Ipswich Community Justice Group assists hundreds of Indigenous youth each year and diverts them away from the criminal justice system. She explained that Queensland actually supports 51 justice groups, however they only receive an annual budget of $83 000 each to carry out all their youth justice support programs. Some remote justice groups receive more funding for their remoteness however they have less people to support than in an urban location.

8.176 Ms Connors outlined the programs that the Ipswich Community Justice Group supports:

> We have our Murri Court bail program, which is a three-month intensive program. During that time adults and young people go through a community service as part of their bail program. They undertake men's group activities. We do a Murri in the bush program, which is a five-day adventure based bush program. The men designed this for their men's group, so they are out camping, canoeing, hunting and doing a whole range of things for themselves. We have the women's group, we are now establishing our own substance abuse program—which has been used in the prison—and we have an 'ending family violence' program. We are

104 H Blagg, *An Overview of Night Patrol Services in Australia,* Attorney-General's Department, Canberra, 2003, p. 46.

105 H Blagg, *An Overview of Night Patrol Services in Australia,* Attorney-General's Department, Canberra, 2003, p. 80.

> doing a whole range of programs for our juveniles and our adults.[106]

Balunu Healing Camp, Darwin

8.177 In Darwin, the Committee met with David Cole, Director of the Balunu Foundation. The Balunu Foundation is an organisation focused on healing of Indigenous youth. In particular, Balunu seeks to instil a cultural identity among Indigenous youth at risk through a culturally appropriate healing program which builds self belief and self esteem whilst assisting Indigenous youth to overcome the wide range of challenges they face as young Indigenous people in today's society.

8.178 The Committee visited the Balunu cultural camp which is run on an island just off the mainland of Darwin. The Committee met with some of the Indigenous elders and case workers that run Balunu programs as well as some of the Indigenous youth on the program.

8.179 David Cole told the Committee that the program was proving successful in terms of helping to redirect Indigenous youth towards a more positive pathway. In addition, the justice system recognises the value in this program and refers Indigenous youth to the program. Unfortunately Balunu is unable to satisfy the high need for such a program in Darwin. Mr Cole pointed out that the program was operating on a shoestring budget.

Grannies Groups

8.180 In Adelaide, the Committee spoke with Colleen Welch who is an Aboriginal Justice Officer who works for the Courts Administration Authority and who is also a member of the local Grannies Group. The Committee was informed about several Aboriginal Granny Groups across Australia who are able to facilitate support networks for Aboriginal people involved in the criminal justice system. Colleen Welch shares her knowledge of the court system with Aboriginal groups such as the Grannies Group in Adelaide.

8.181 The Committee's attention was drawn to another Aboriginal Granny support group named 'The Graniators' operating in Queensland. In addition to their initial work of supporting each other, the group extended their field of action to the entire community to address social issues, particularly those around youth and children. The Committee was

106 Rosemary Connors, Ipswich Community Justice Group, *Committee Hansard*, Brisbane, 4 May 2010, p. 47.

impressed to hear about the partnerships the Graniators formed with local organisations and departments:

> To complement and strengthen their initiative, the Graniators partnered with other organizations in the community including the police, the municipal council, the state government's department of housing, the local primary school and a special youth service group. The program's evaluation has proved to be extremely positive in providing others in the community a clear and positive formula for driving change at a grass roots level.[107]

Committee comment

8.182 The Committee was impressed with a number of Indigenous run organisations it either met with or heard about throughout the inquiry process, and the inspirational work of these organisations in assisting Indigenous youth through diversion and rehabilitations programs.

8.183 A common thread that was emphasised by all these Indigenous groups was the issue of limited funding available to these organisations, despite the high need for the delivery of such services.

8.184 The Committee was made aware of the fact that there was little scope for such small groups to win funding tenders from government agencies and therefore the Committee urges the Commonwealth Government, in collaboration with state and territory governments, to devise more flexibility in the awarding of funding to small yet highly valuable Indigenous organisations working in the youth justice sphere. The Committee discusses further funding opportunities later in the chapter.

Integrating the service approach

8.185 Following sustained criticism through the inquiry regarding the lack of government agency co-ordination and the benefits of local Indigenous engagement in the delivery of services, the following sections consider how service funding and delivery may be improved.

New Zealand model of service delivery

8.186 In considering how services are coordinated and delivered in Australia, the Committee made several comparisons with New Zealand and their

107 *Exhibit 4*, 'The Graniators support group program', p. 1.

interagency Drivers of Crime approach and integrated service delivery model Whanau Ora.

8.187 Recently New Zealand has introduced a new model for coordinating across government agencies all policy responses to crime prevention, and for delivering of services in a coordinated way that focuses on families/communities identifying their needs. The Drivers of Crime involves all agencies responsible for the issues leading to offending, as well as rehabilitation. Introduced as a government priority in 2009, the agencies involved include Accident Compensation Corporation, Alcohol Advisory Council, Department of Corrections, Ministry of Education, Ministry of Health, Ministry of Justice, Ministry of Social Development, New Zealand Police, Te Puni Kokiri (key Government advisory agency on Maori affairs) and the Ministry of Transport.

8.188 The premise of the Drivers of Crime interagency coordination is that better connections between justice and social sectors mean better outcomes for all. This approach is also directed at prioritising Maori, as Maori have the highest offending, re-offending and victimisation rates of any population group in New Zealand. By prioritising Maori, the approach develops policy and program responses most suited to Maori, recognising that these may be adapted to other cultural groups – rather than the traditional approach of adapting program response to 'fit' Indigenous populations.

8.189 To this end, Drivers of Crime specifically seeks Maori consultation and leaders to identify opportunities for Maori to design, develop and deliver innovative solution to better Maori wellbeing and reduce offending.

8.190 Four priority areas inform the government response to Drivers of Crime. These are:

- maternity and early parenting – effective maternity and early parenting support services for families whose circumstances place their children at risk of poor outcomes
- conduct and behaviour – prevent, treat and manage problems amongst children who have experienced trauma and difficulties in their early years that has contributed to behaviour issues
- alcohol – reduce harm from alcohol, and improve the availability and accessibility of alcohol and other drug treatment services, and
- low-level offenders – identify alternative approaches and pathways out of offending for low-level offenders.[108]

108 <www.justice.govt.nz/justice-sector/drivers-of-crime> accessed 30 March 2011.

8.191 The model of service delivery is called Whanua Ora, which can be translated as the life/well-being of the family.[109] The new approach adopted by the New Zealand government is for a Whanau-centred (family-centred) service delivery which will lead to:

- strengthened whanau capabilities
- an integrated approach to whanua wellbeing
- collaborative relationships between state agencies in relation to whanau services
- relationship between government and community agencies that are broader than contractual, and
- improved cost-effectiveness and value for money.[110]

8.192 During its visit to New Zealand, groups explained to the Committee that this approach was to place the family at the centre of decisions-making in terms of identifying needs and a plan to bring about change, and was to coordinate service delivery so that a family was not dealing with multiple agencies duplicating some services and missing other areas of need. In effect the approach was to ensure that one service provider visited a household, rather than ten perspectives from ten different agencies.

8.193 The Committee notes that the aims of these approaches are similar to what needs to be achieved in Australia. However there are some crucial differences between the Australian and New Zealand context – namely the challenges of Australian geography and isolation, a greater degree of social dysfunction and lack of Indigenous leadership in some communities, cultural and historical differences which have lead to a greater suspicion of government and police services, and a culture of welfare dependence which has lead to resistance to change in some communities. That said, the Committee also saw some valuable lessons in the Drivers of Crime coordination and the integrated service delivery approaches that New Zealand has implemented.

8.194 The Committee endorses the objectives of the Whanau Ora approach and notes that this approach has only been implemented recently. Consequently there has been no evaluation process or analysis of its cost-effectiveness, and agencies were only able to provide anecdotal accounts of its impact. The Committee had some reservations about a lack of

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109 While whanau is translated as family, it is taken to mean the extended family and also members of the community that form a community around a child.

110 Whanau Ora: Report of the Taskforce on Whanau-Centred Initiatives <http://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/planning-strategy/whanau-ora/whanau-ora-taskforce-report.pdf> accessed 7 April 2011.

reporting and accountability in the Whanau Ora service delivery, and looks forward to tracking the outcomes of this approach and improvements achieved for Maori.

Pooled and sustained funding

8.195 The lack of coordination between Commonwealth departments and a reluctance to take responsibility for cross-portfolio issues is attributable in part to the funding model which allocates funds to individual departments for programs that are within their respective portfolios. However, when issues such as addressing Indigenous youth involvement in the criminal justice system require multi-agency and multi-jurisdictional programs, the pursuit of funds can result in competitive and adversarial, rather than integrated behaviour. More significantly, certain areas can be missed altogether. One example of a funding gap is youth services in Central Australia:

> At the moment, youth services in remote communities are funded out of a particular FaHCSIA funding bucket which funds out of school hours care and vacation care [and] that is the only real funding source that is used in remote communities to [employ] youth workers.[111]

8.196 Having different funding sources means that programs are also feeling the push and pull of different objectives instead of being supported to integrate their services. Feedback from consultations with Indigenous community-controlled health organisations indicated that:

> … the mere process of collaboration and providing an integrated service is not specifically funded. The services are funded by their roles. The hours that they are funded for are for client contact or for administrative work. The actual role of collaborating within your service, let alone across services and in particular between community controlled organisations and mainstream services, is just not funded. Yet Closing the Gap and other initiatives are based on the assumption that it is an integrated service. So having more specific funding tied to those processes in particular is important … [otherwise] we are relying on people's own initiative to do that collaboration and that information exchange.[112]

111 Blair McFarland, Central Australian Youth Link Up Service, *Committee Hansard,* Darwin, 6 May 2010, p. 79.

112 Julienne Ware, ANEX, *Committee Hansard*, Melbourne, 3 March 2010, p. 34.

8.197 Sam Jeffries, interim Co-Chair, National Congress of First Peoples commented on the lack of coordinated program support:

> Administrative complexity should not be a barrier to achieving any outcomes. The bureaucracy that gets in the way at times of achieving some sensible results in communities and how they work or sometimes prevents programs going ahead is sometimes beyond understanding. Those sorts of things need to be really factored in. Flexibility in funding is almost nonexistent.[113]

8.198 At a public hearing, Anne Hampshire from Mission Australia observed that 'we do not have a culture in Australia where we have a pooled funding opportunity. COAG perhaps offers that light'.[114]

8.199 The Minister for Families, Housing, Community Services and Indigenous Affairs acknowledged that the lack of sustained investment and coordination across governments has contributed to continuing Indigenous disadvantage:

> COAG recognises that overcoming Indigenous disadvantage will require a sustained effort from all levels of government. Governments are now working together to overcome the legacy of decades of under-investment, ad hoc approaches and duplication of effort in Indigenous funding and services.[115]

8.200 In response to this, the Committee commends the Flexible Funding Pool that was announced by the Commonwealth Government in February 2010 for remote Indigenous services in 29 communities to overcome the siloed and red-tape-burdened funding models that has hindered the implementation of local programs.[116] This flexible funding pool under the Remote Service Delivery National Partnership Agreement will 'try to provide some support for things that are community priorities and maybe do not easily fit in one of the silos'.[117]

8.201 The issue of a lack of sustained funding in justice diversion and rehabilitation programs, particularly those delivered and supported by

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113 Sam Jeffries, National Congress of First Peoples, *Committee Hansard*, Sydney, 28 January 2011, p. 17.

114 Anne Hampshire, Mission Australia, *Committee Hansard*, Melbourne, 3 March 2010, p. 30.

115 Budget Ministerial Statement by the Hon. Jenny Macklin, *Closing the Gap – Building Momentum*, 11 May 2010, p. 2.

116 Kevin Rudd, *House of Representatives Hansard*, Canberra, 11 February 2010, p. 1172.

117 Ms Wood, Department of Education, Employment and Workplace Relations, *Committee Hansard*, Canberra, 17 June 2010, p. 9.

Indigenous people, was brought to the Committee's attention on numerous occasions throughout the inquiry.

8.202 It was argued that diversion from the criminal justice system is cost effective. A 2003 report by the Australian National Council on Drugs argued that diversion could be justified not simply because it was an effective means of reducing Indigenous contact with the criminal justice system, but also because diversionary options 'are likely to be cheaper' than dealing with growing rates of crime and detainees.[118]

8.203 Sustained investment to diversion programs at all stages of the criminal justice system was viewed as critical to improving Indigenous justice outcomes as they provide a potential circuit breaker in offending behaviour and reduce entrenched contact with the criminal justice system. On this point, the Public Interest Advocacy Centre advised the Committee:

> There is a need for increased diversion at all stages of the criminal justice process, as the reduction of time spent in juvenile detention can assist in reducing the criminal behaviour of young people. Increasing diversion prior to arrest should be a key focus.[119]

8.204 A number of witnesses believed that supporting rehabilitation programs to reduce recidivism is crucial to improving Indigenous justice outcomes. As expressed earlier in this report, Don Weatherburn from BOCSAR told the Committee that reducing recidivism was more effective in reducing Indigenous imprisonment rates in the short to medium term than were preventative or diversionary interventions.[120] Luke Grant, New South Wales Department of Corrective Services, told the Committee the rehabilitative potential of detention and imprisonment had not been realised and 'that incarceration is a criminogenic factor in itself and that the experience of incarceration results in an increased likelihood of someone offending'.[121]

8.205 The Alcohol and Other Drugs Council of Australia (ADCA) was amongst those to address the issue of sustained investment, focusing on short funding cycles as one of the factors adversely affecting the effectiveness of Indigenous services. In their submission to the Committee, ADCA noted:

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118 Australian National Council on Drugs (ANCD), *Diversion of Aboriginal and Torres Strait Islander Youth from Juvenile Detention*, Canberra, 2003, p. 25.

119 Public Interest Advocacy Centre (PIAC), *submission 23*, p. 3.

120 Don Weatherburn, BOCSAR, *Committee Hansard*, Sydney, 4 March 2010, p. 18.

121 Luke Grant, New South Wales Department of Corrective Services, *Committee Hansard*, Sydney, 4 March 2010, p. 29.

> … short-term funding arrangements … present serious impediments to not-for-profit organisations as they generate uncertainty, inhibit innovation, make it difficult to retain staff, render longer-term financial planning and proper investment extremely difficult, and stop organisations from pursuing more holistic strategic and organisational goals. ADCA considers a consistent and secure funding stream is vital for ensuring the effectiveness and sustainability of not-for-profit organisations' services and operations … a three year [funding] basis … would enable longer-term approaches and outcomes.[122]

8.206 Assistant Commissioner Luke Grant, Offender Services and Programs, New South Wales Corrective Services asserted that any support to diversion programs must be applied with intensity and rigour:

> The key message ... is that it is not just the scale of the programs but also the intensity of the programs. If you have a person with serious, complex issues, you are not going to resolve that through an experiential workshop that lasts for two weekends, giving people a great time, or a mentor who is with someone for three months and not longer than that. I think the duration and the intensity of interventions is really important, along with approaching this incredibly complex issue with a degree of rigour.[123]

8.207 Adam Tomison, from the AIC, also singled out short term funding as an issue, implicitly pointing to a scatter-gun approach to investment resulting in an inability to consolidate success:

> … through experience over 20 years and having done national reports looking at prevention programs across the country, I have learnt that the tendency is still towards the short term. The best programs may get bigger and survive but mostly they do not; they disappear and something similar will happen somewhere else.[124]

8.208 The Aboriginal Legal Service (NSW/ACT), NAAJA, and the Queensland Aboriginal and Torres Strait Islander Legal Service identified 'pilot syndrome' as a common feature of the Indigenous services funding landscape. Pointing to the New South Wales Youth Drug and Alcohol

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122 Alcohol and Other Drugs Council of Australia (ADCA), *submission 65*, p. 11.

123 Luke Grant, New South Wales Corrective Services, *Committee Hansard,* Sydney, 28 January 2011, p. 21.

124 Adam Tomison, AIC, *Committee Hansard*, Canberra, 11 February 2010, p. 8.

Court, which is still a pilot program after ten years of operations, their submission argued:

> While pilots and trials may prove to be effective, they are considered too expensive to be widely implemented …in this case, and with many other programs … it is not the lack of an established, evidence-based methodology, but resource restraints that prevent them from being rolled out throughout Australia and achieving the reductions in the rates of Aboriginal and Torres Strait Islander youth detention that are available.[125]

Justice reinvestment

8.209 A substantial number of witnesses emphasised the need to invest more heavily in preventative measures rather than punitive responses to Indigenous offending behaviour through justice reinvestment.[126] Assistant Commissioner Grahame Kelly, Regional Operations Services, Northern Territory Police asked:

> Why don't we shift the money from the crisis point to early intervention? There are a whole lot of factors like housing, education and leadership. Why don't we do that? The answer is really simple: because we have to spend all this money at this point here because we have already got the crisis. If we are going to be smart about it we have to bite the bullet and recognise that we have to keep spending that money there but start spending money here as well for a time. Sooner or later, if the theory is correct, we will reach a point where we can stop spending the money up this end and can reinvest it at the front end. If you look at that from a practical point of view: why are kids in care and why do we end up with children in conflict with the justice system? No home, no education, no job, no hope and no future.[127]

8.210 Foremost amongst those to emphasise the value of redistribution of justice spending was the Australian Human Rights Commission which called for governments to rethink their approach to Indigenous justice through the pursuit of justice reinvestment strategies. Justice reinvestment is:

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125 Aboriginal Legal Service NSW/ACT, NAAJA, Queensland Aboriginal and Torres Strait Islander Legal Service, *submission 66*, p. 11.

126 Peter Murphy, Noetic Solutions, *Committee Hansard*, Canberra, 18 March 2010, pp. 8-10; Indigenous Offender Health Research Capacity Building Group (IOHR-CBG), *submission 9*, pp. 6-7; ACCG, *submission 59*, pp. 24-26; ADCA, *submission 65*, pp. 6-7, 13.

127 Grahame Kelly, *Committee Hansard,* Sydney, 28 January 2011, p. 17.

> … a criminal justice policy approach that diverts a portion of the funds that will be spent on imprisonment to local communities where there is a high concentration of offenders. The money that might be spent on imprisonment is reinvested in programs and services that address the underlying causes of crime in these communities … Justice reinvestment is not just about reforming the criminal justice system but trying to prevent people from getting there in the first place.[128]

8.211 Emilie Priday from the Australian Human Rights Commission asserted that the biggest impacts on incarceration rates are made by investing in diversion and early intervention rather than incarceration. Justice reinvestment would involve diverting a portion of funds that would be spent on prisons to communities which have a high concentration of offenders. The communities would have some ownership and responsibility about how they spend the funds. Ms Priday gave an example of how this might work:

> It is actually a really well-stepped-out, evidence based process. The first thing you need to do is work out where the offenders are coming from. There is a demographic component. There is a research component for identifying the communities that are, I guess, high-risk communities. You would be looking at different places. If, say, you are in New South Wales, there has been some scoping around Dubbo, for instance. But equally you could have an urban place. It could be somewhere like Mount Druitt or Blacktown. They would be other good examples. You identify the research and then you look at the drivers that are bringing people into the criminal justice system. That will entail a research component in terms of the demographic and also the systemic changes. Then there is a process of actually sitting down. In America it is based on bipartisan support. In Australia it is most likely to involve a holistic government approach. A whole range of departments would in the first instance sit down and work out an agreement, and then there is the process of bringing in the community.[129]

8.212 As yet, there has not been sufficient research in Australia to demonstrate the effectiveness of justice reinvestment, although some examples from the

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128 Australian Human Rights Commission, *submission 30*, p. 1.

129 Emilie Priday, Australian Human Rights Commission, *Committee Hansard*, Sydney, 28 January 2011, pp. 80-81.

United States indicate a measure of success.[130] A researcher from the Australian Institute of Aboriginal and Torres Strait Islander Studies suggested that 'a national reference group on justice reinvestment be established'.[131]

Committee comment

8.213 The Committee considers that there has been an ongoing problem with coordinating the provision of services that assist Indigenous people, most especially in the area of Indigenous justice. The Committee agrees that the Commonwealth Government must take a stronger lead in promoting better coordination of services for Indigenous Australians. At the same time the Commonwealth Government needs to make a stronger commitment to engaging and collaborating with Indigenous communities in order to deliver effective and culturally supportive services that will be used by Indigenous Australians and result in positive outcomes.

8.214 The Committee is concerned that funding and programs are scattered across the country without clear and cohesive objectives and leadership. A coherent framework is necessary for the collection and sharing of information about the availability and distribution of funds and services.

8.215 Therefore the Committee has made a recommendation in chapter 2 that the Commonwealth Government should commit to implementing a National Partnership Agreement (NPA) on safe communities through COAG and include justice targets in order to facilitate the improvement of Indigenous youth justice services throughout Australia.

8.216 The Committee acclaims the hard work of numerous grass-roots Indigenous organisations around Australia, and strongly supports the notion that Indigenous-run organisations should be involved integrally with the delivery of services to Indigenous people.

8.217 The Committee notes that many strategies and solutions which have been imposed on Indigenous communities by various state, territory and Commonwealth governments have failed in the past, and that working in consultation and partnership with Indigenous stakeholders is more likely to meet with success and positive change for the future.

130 Emilie Priday, Australian Human Rights Commission, *Committee Hansard*, Sydney, 28 January 2011, p. 57; John Dalgleish, Boystown, *Committee Hansard*, 4 May 2010, p. 66.

131 Jillian Guthrie, Indigenous Offender Health Capacity Building Group, *Committee Hansard*, Canberra, 4 February 2010, p. 10.

8.218 The Committee is encouraged by engagement and coordination strategies which involve Indigenous representation such as the Western Australian State Justice Plan which was developed by Aboriginal representatives and is supported by the Western Australian Government.

8.219 The Committee sees value in the establishment and coordinated use of more flexible funding pools which would assist certain programs that are falling currently between the cracks due to the issue of intra-agency support that is required to facilitate some youth justice programs. This approach is currently being trialled through the Remote Service Delivery Flexible Funding Pool which provides $46 million over three years to fund a broad range of projects in 29 priority remote locations.

8.220 Flexible funding pools would be useful as an interim measure until an NPA on safe communities can be implemented. The Committee strongly supports the on-going establishment of flexible funding pools to be used for areas that require intra-agency cooperation such as the issue of improving Indigenous hearing and educational outcomes.

8.221 The Committee considers that Indigenous involvement, and preferably Indigenous ownership of diversion and rehabilitation programs, is key to successful intervention. However it is acknowledged that while Indigenous groups may have valuable skills in communicating with youth and providing well structured healing programs, they may not be skilled in preparing funding applications and reporting on the integrity of accounting and governance practices – all of which are a requirement for securing government grants.

8.222 Recognising the desirability of Indigenous involvement in programs, especially programs which are driven by local Indigenous leaders, the Committee considers it critical to ensure that Indigenous organisations have the capacity to be competitive in applying for funding for youth diversion and rehabilitation programs. The Committee heard about many examples of individuals and groups who, from their own funds and time, have initiated valuable programs to contribute positively towards the lives of Indigenous youth. While the Committee applauds this selfless work, the Committee is anxious to ensure that the valuable work already being done by some can be funded and, further, that other Indigenous organisations are able to compete fairly alongside more experienced non-government organisations.

8.223 In regard to the need for Indigenous ownership of programs and support for Indigenous involvement, the Committee reiterates the need for a National Indigenous Advisory Body as recommended earlier in this chapter. Indigenous involvement in diversion and rehabilitation initiatives

should commence at the policy stage and continue through to programs development and implementation. It is the view of the Committee that past initiatives by governments have had limited success and we must seek new paradigms and ways of working and take lessons from the success of locally run, Indigenous driven programs in this area.

8.224 The Committee considers that the Commonwealth Government, through COAG, should take a lead role in coordinating the sustained investment of Indigenous locally supported and developed youth justice diversion and rehabilitation programs.

Recommendation 39 – Sustained flexible funding

8.225 **The Committee recommends that the Commonwealth Government work with state and territory governments to coordinate sustained and flexible funding support for a range of youth justice diversion and rehabilitation services which are developed with and supported by local Indigenous communities.**

8.226 The Committee considers that, through the recommendations of this report, there is the opportunity to achieve a momentum of change and make a real difference. However, to achieve that momentum and to make that difference, the Committee acknowledges that an extensive range of initiatives are required. It is the view of the Committee that to put in place half measures and to underfund programs will not reduce the overrepresentation of Indigenous juveniles and young adults in the criminal justice system.

8.227 The Committee supports the principles of justice reinvestment in that it focuses funds towards early intervention and prevention rather than incarceration, and it allows communities to make decisions about the best possible solutions to reducing offending behaviour.

Recommendation 40 – Justice reinvestment

8.228 **The Committee supports the principles of justice reinvestment and recommends that governments focus their efforts on early intervention and diversionary programs and that further research be conducted to investigate the justice reinvestment approach in Australia.**

8.229 In conclusion, the Committee considers that, to effect change in the area of Indigenous disadvantage, the service delivery of programs must be predicated on the following principles to:

- engage and empower Indigenous communities in the development and implementation of policy and programs
- address the needs of Indigenous families and communities as a whole
- integrate and coordinate initiatives by government agencies, non-government agencies, and local individuals and groups
- focus on early intervention and the wellbeing of Indigenous children rather than punitive responses, and
- engage Indigenous leaders and elders in positions of responsibility and respect.

8.230 The Committee has made a large number of recommendations in this report. Some recommendations are designed to improve existing service delivery, and build Indigenous involvement in both policy and program development. Others recommend new action and the provision of new support services to provide appropriate accommodation options and improve health, education and employment outcomes.

8.231 The cost of wide-scale action in this area is certainly significant. However, our current path ensures the ongoing economic cost of incarcerating another generation and the social cost of losing future generations of Indigenous children to lives in incarceration.

8.232 The Committee insists that Australians cannot wait another twenty years to address this national crisis and urges that the Committee's recommendations are responded to within six months from the tabling of this report.

8.233 The Committee concludes by noting that every Indigenous child of this generation who follows the path of offending and recidivism contributes to a subsequent generation where offending and incarceration are considered the norm, where education and employment are not prioritised, and where children are raised in fractured families with absent kin.

Shayne Neumann MP
Chair