Reducing Incarceration Rates in Queensland: A Three Year Plan

A Submission to Queensland Government

By Project 10%:

Leadership by Murri Watch, Aboriginal and Torres Strait Islander Women's Legal and Advocacy Service (ATSIWLAS) and ANTaR Qld to reduce Aboriginal and Torres Strait Islander incarceration in Queensland

Strong culture equals strong community

November 2010

Submission Outline

- Introduction
- Key Action Areas
- Key Strategies
- Key Conceptual Frameworks
- Key Principles
- Key Critical Success Factors
- Key Community Solutions
- Acknowledgements
- Conclusion
- Appendix 1: Justice Reinvestment information.

Introduction

This document is a unique summary of key strategies and principles to reduce over-incarceration of Aboriginal and Torres Strait Islander people in Queensland. It also provides insights of Aboriginal and Torres Strait Islander Elders, leaders and community members about 'what works' in their communities.

Project 10% is a partnership project between Murri Watch, the Aboriginal and Torres Strait Islander Women's Legal and Advocacy Service and ANTaR Qld. Project 10% was established to identify strategies for reducing incarceration of Aboriginal and Torres Strait Islander people in Queensland, and to seek Queensland Government's commitment to meeting targets of the 2001 Aboriginal and Torres Strait Islander Justice Agreement.

Queensland is expected to have the highest number of Aboriginal and Torres Strait Islander people of all states and territories within the next 20 years. There is every risk that, without a reorientation of the Queensland Government to better respect Aboriginal and Torres Strait Islander community solutions to crime and incarceration, the already-increasing rate of incarceration will continue to grow in its cost for governments and communities.

Aboriginal and Torres Strait Islander people are 10.7 times more likely than other Queenslanders to be in prison (1), with around a quarter of all people in Queensland prisons being Aboriginal and/or Torres Strait Islander (2). This is higher than national average (2), and despite commitments of the 2001 Aboriginal and Torres Strait Islander Justice Agreement to reduce rates, and despite Aboriginal and Torres Strait Islander people being 4.5% of the total Queensland population (3).

Aboriginal and Torres Strait Islander people currently experience higher rates of ill-health, death, unemployment, family breakdown and poverty than any other groups in Australia (4). Health and social status often declines from pre to post release to the community (5). Around half return to custody (6). Costs to governments and communities are considerably greater than a culturally sensitive reorientation of government service provision and leadership to address underlying determinants of wellbeing, and promote community safety.

Community engagement informing this document

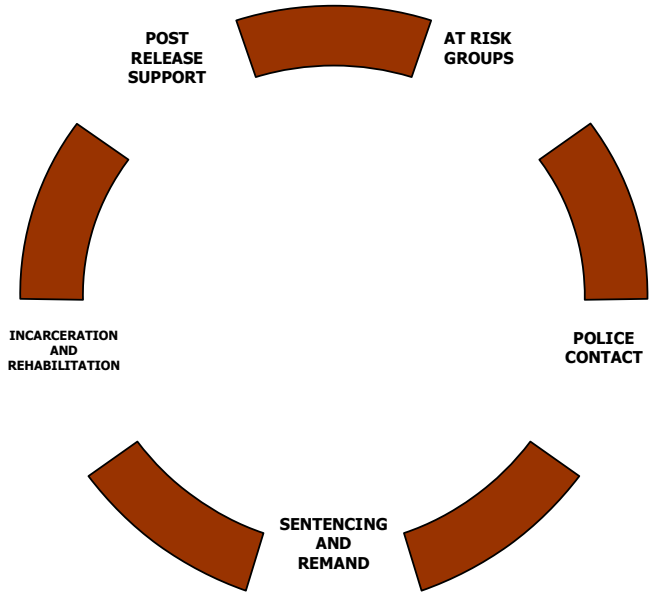
Despite the lack of proportionate representation of Aboriginal and Torres Strait Islander people as professional staff in government and service delivery workforces, Aboriginal and Torres Strait Islander Elders, families and communities do much to support their loved ones throughout their contact with the criminal justice system.

In an unprecedented process beyond what governments are generally able to achieve, Project 10% prioritised directly engaging with Aboriginal and Torres Strait Islander community members across Queensland, to identify strategies for reducing contact with the criminal justice system. Throughout 2010, in-depth group discussions were facilitated by and with Aboriginal and Torres Strait Islander people in Cairns, Yarrabah, Mareeba, Townsville, Mackay, Rockhampton, Woorabinda, Dalby and Cherbourg. Over 100 people contributed. In 2009, over 100 Aboriginal, Torres Strait Islander and non-Indigenous people participated in community forums held in Logan, Inala, Banyo and Brisbane city.

In addition, Project 10% has engaged with Aboriginal and Torres Strait Islander leaders in the social services sector, to disseminate community meeting feedback, refine strategies suggested implementation, and interpret findings in light of current evidence base and policy frameworks.

Key Action Areas

Project 10% advocates five action areas for reducing Aboriginal and Torres Strait Islander incarceration rates:



Key Strategies to reduce imprisonment rates in Queensland

- Use 'justice reinvestment' modelling to move money to the right places.
- Harness and work in 'high performing partnership' with the smart, dedicated and passionate Aboriginal and Torres Strait Islander Queenslanders who know and care about the issues.
- Work on systemic solutions as well as community solutions.
- Invest in and use the existing the place-based community controlled sector to develop and implement programs.
- Resource the big ideas as well as the small ones in each of the five action areas – at-risk, police contact, sentencing and remand, incarceration and rehabilitation and post-release support.
- Stem the tide of unintended consequences by insisting on incarceration impact statements for all new laws, policies and programs.
- Resource and monitor the implementation of report recommendations aimed at improving services across the state eg Restoring Order, Murri Courts, Drug Courts etc.
- Embed Aboriginal and Torres Strait Islander perspectives in all five action areas of justice service delivery through systematic recruitment of Aboriginal and Torres Strait Islanders and expert cultural competency training for non-Indigenous policy and program staff and officers.

Key Conceptual Frameworks for reducing incarceration

- **Justice Reinvestment**

Justice reinvestment identifies who is in prison, where they come from and how much that crime is costing the community. The cost of crime is then reinvested positively in crime prevention strategies in the home areas of those prisoners. Justice reinvestment answers the "how much should we spend?" and "where should we spend it?" questions. It is a people centred community specific decision making tool.

- **Community Solutions to Community Problems**

This is an international development concept that believes that a community will know the appropriate solution to its own community problem. The solutions will come out of the individuals for whom this issue matters most and will be seen as their 'calling'. This answers the 'how' question and Government plays a role of enabler rather than implementer.

- **Place Based Service Delivery**

Using justice reinvestment to identify where offenders come from and using place based service delivery that actively works on crime prevention and solutions that stem the behaviours at the source. It is vital that reducing imprisonment uses a place based strategy.

- **Plan-Do-Review in Partnership**

All policies, programs and solutions must be planned, reviewed and implemented in true partnership with the community they affect. This is in contrast with the current consult-develop-consult-amend-partner-implement model in current use by the Government. Aboriginal and Torres Strait Islander people must be integrally involved in all stages of solving the issue of incarceration rates in Queensland.

- **Application of Truth and Reconciliation**

Successful solutions will be built on the truth that Aboriginal and Torres Strait Islander Queenslanders continue to live the legacy of invasion, colonisation, war, genocide, divide and rule and slavery. Any policy, program or partnership will recognise the past and ensure that these processes are not unwittingly continued but instead actively build culture and people positive solutions.

- **Identifying Unintended Consequences**

Laws or policies trying to solve one issue can have the effect of increasing imprisonment rates or exacerbating other problems. A clear example of this is alcohol management plans which have criminalised people with addictions, created a lucrative black market of sly grogging and moved the issue to towns and cities exacerbating homelessness and dislocation issues for this vulnerable group eg people with alcohol dependency.

- **Requiring Incarceration Impact Statements**

This requirement should apply to all new Government law or policy that will have a consequence for Aboriginal and Torres Strait Islander people. Similar to environmental impact statements, Department prepare an impact statement on how a new law or policy will impact on Aboriginal and Torres Strait Islander imprisonment rates, and account for that in the proposal.

- **Outcome Accountability**

Success and failure must be measured not in money spent or programs delivered but in agreed measurable outcomes that impact upon incarceration rates in Queensland. Departments must be held accountable to these outcomes.

- **Resourcing Continuous Program Improvement**

Continuous improvement relates to the idea that any policy or program aimed at reducing imprisonment rates can be improved incrementally overtime through evaluation, reportage, review and improvement processes.

- **Embedding Indigenous Perspectives**

A concept taken from the education domain, this can be applied to all services that have Aboriginal and Torres Strait Islander clients including communities, police, the legal system, health and corrective services. Embedding Indigenous perspectives comes through recruitment, training and learning, where these services try to balance the number of Aboriginal and Torres Strait staff employed with the number of clients. In lieu of staff parity an excellent standard of cultural competency must be required by all staff and service providers.

Key Principles for reducing incarceration rates in Queensland

Working in Partnership

The goal in partnerships is to achieve more than what individual partners or agencies can achieve on their own. Success in partnerships, however, is often not easily secured, because of the needs to build relationships and trust between partners and manage their different perspectives and agendas. The very nature of partnerships means that partners need to work at partnership continually (7).

'High performing partnerships' (7) are vital to reducing imprisonment rates for Aboriginal and Torres Strait Islanders in Queensland and include:

- A shared common vision and purpose, understood and accepted as important by all partners
- A focus on shared outcomes that satisfy the needs and expectations of clients
- Effective communications at all levels within the partnership and within partner organisations
- The continuous seeking of improvements in activities and ways of working, learning from each other and from elsewhere
- The implementation of necessary management practices, resources and changes needed to achieve partnership goals.

The Rights of Indigenous People

The United Nations Declaration on the Rights of Indigenous Peoples, developed in conjunction with representatives of the 370 million Indigenous people of the world, affirms that Indigenous peoples are equal to all other peoples, and recognises the right of all peoples to be different, to consider themselves different, and to be respected as such.

Control by Indigenous peoples over developments affecting them and their lands, territories and resources enables them to maintain and strengthen their institutions, cultures and traditions, and promote their development in accordance with their aspirations and needs.

The UN encourages member states to comply with and effectively implement all their obligations as they apply to Indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned.

Ethical Standards for Working with Aboriginal and Torres Strait Islander Communities (8)

Reciprocity
Laws, policies, processes and programs will advance the interests of the community and will be of value to them. They will include Aboriginal and Torres Strait Islander people, their values and their culture.

Respect
Laws, policies, processes and programs will be developed, implemented, reviewed and improved through respectful inclusive relationships between agencies and community members that induce trust, co-operation and respect for the cultural and social values of Aboriginal and Torres Strait Islander societies.

Equality
Laws, policies, processes and programs will acknowledge that Aboriginal and Torres Strait Islander people have the right to equality and that this equality extends to the equal valuing of world views, wisdoms, practices and knowledge.

Responsibility
Laws, policies, processes and programs will respect that Aboriginal and Torres Strait Islander societies have responsibilities to country, kinship bonds and the spiritual world and will be implemented to minimise disruption to community and cultural obligations.

Survival and protection
Laws, policies, processes and programs will prioritise the survival, maintenance and protection of Aboriginal and Torres Strait Islander culture, identity, decision making mechanisms as well as the community-based social, cultural and economic priorities.

Spirit and Integrity
The integrity of the laws, policies, processes and programs will be demonstrated by the extent to which they reflect the spirit of the values of reciprocity, respect, equality, responsibility, survival and protection**.**

Key Critical Success Factors for reducing incarceration rates in Queensland

- **A Whole of Cabinet Priority**

Lead by the Premier reducing imprisonment in Queensland must become a priority for Cabinet. All relevant departments must be asked to prioritise policy and programs that will reduce imprisonment rates in Queensland. Cabinet must take the lead driving the importance of this goal across all Departments and programs. This goal must be seen as part of the Close the Gap and Safe Community agendas.

- **Accountability to Stakeholders**

The Premier and Cabinet must identify an appropriate Aboriginal and Torres Strait Islander collective to which the aims and outcomes of the Strategy are accountable. This collective could include Project 10%, the Human Services Coalition, the Aboriginal and Torres Strait Islander Advisory Council, the Queensland Aboriginal and Islander Health Council, the Community Justice Group Executive, the Murri Court Elders, the Criminal Justice Network, and the Community Councils across the state.

- **Coordinating Department must Lead**

The Coordinating Department must drive the strategy, the measurables, the accountability, the evaluations and the improvements in order to sustain the energy and focus required to reduce incarceration rates.

- **All Relevant Departments must Engage**

It is vital that every relevant Department prioritises the goal of reducing incarceration rates in Queensland, otherwise it is inevitable that the work of those that try will be undermined by a gap in service or solutions contribution by another eg Through Care programs need Housing, and Jobs need Training. Relevant Departments include Partnerships, Justice, Police, Corrective Services, Health, Housing, Employment and Education.

- **Ministerial Commitment**

Each relevant Minister must commit to a strategic goal, measurable outcomes, reporting mechanisms and resourcing. Ministers must lead the priority from the top and expect Departmental compliance.

- **Departmental Prioritisation**

Each relevant Department must prioritise the reduction of incarceration rates in Queensland and commit resources to achieving measurable outcomes.

- **Budget Prioritisation**

Departmental programs that reduce incarceration rates in Queensland must be resourced by Treasury. They must be seen as long term cost savings rather than as expenses and justice reinvestment cost benefit analysis methods must be applied.

- **Public Declaration of Commitment**

A public declaration to the Queensland citizens must be made stating the intent to reduce incarceration rates, by how much and by when and who will be held accountable for achieving these outcomes.

- **Systemic Solutions**

Crime prevention and community support solutions must be coupled with systemic solutions that identify policies, laws, processes and programs that have the unintended consequence of increased or sustained incarceration rates in Queensland.

- **Partnership Implementation Approach**

All community or systemic solutions must be implemented using a true partnership approach based on a truth and reconciliation platform.

- **Public Report Card**

The Coordination Department must produce an annual public report card detailing the progress made on incarcerations rates in Queensland.

- **Bipartisan Support**

The Premier and Cabinet must lobby the Opposition for bipartisan support for the goal to reduce imprisonment rates in Queensland for Aboriginal and Torres Strait Islander people to ensure the strategy will not be vulnerable to the political cycle.

Key Solutions for reducing incarceration rates in Queensland

As outlined in the introduction to this document, throughout 2009 and 2010, Project 10% partners engaged with over 200 people across Cairns, Yarrabah, Mareeba, Townsville, Mackay, Rockhampton, Woorabinda, Dalby, Cherbourg, Logan, Inala, Banyo and Brisbane city. Information gathered from meetings was analysed and organised according to the Five Action Areas advocated by Project 10%, and are presented in these areas below. Direct quotes appear in italics. It is important to note the considerable differences between each of these communities of Aboriginal and Torres Strait Islander people, in history, culture, services, infrastructure and location. Where necessary, community information is contextualised below.

Further research is necessary to understand the resources and needs of the Aboriginal and Torres Strait Islander communities who participated in Project 10% information gathering, as well as those communities, leaders and members who have not yet participated.

1. At Risk Groups

Issues:

- Poverty and unemployment
- Homelessness
- Grief and trauma
- Mental illness
- Disability
- Alcohol dependency
- Drug dependency

Solutions:

Aboriginal and Torres Strait Islander community participants in Project 10% group discussions identified the following as key areas for prevention and early intervention investment, likely to contribute to a reduction in numbers of Aboriginal and Torres Strait Islander people coming in contact with the justice system:

Children

- Prioritising funding allocation to Aboriginal and Torres Strait Islander Services for grant and tenders that apply to Aboriginal and Torres Strait Islander clients.
- Providing education programs about law and citizenship rights and responsibilities to primary school children as part of their ongoing education and life skilling.
- Expanding Aboriginal and Torres Strait Islander Legal Service to meet the needs of children in the community.
- Funding local community services to implement a support program for volatile substance abuse in youth and adults in identified hot spot areas.
- Making sure healthy food options are affordable in rural and remote communities.

Young people

- Prioritising funding allocation to Aboriginal and Torres Strait Islander Services for grant and tenders that apply to Aboriginal and Torres Strait Islander clients.
- Increasing meaningful learning, cultural and social opportunities to reduce boredom.
- Providing rehabilitation centres for young people engaging in harmful alcohol and drug use.

> *We have the ongoing experience related to colonisation, forced removal from traditional homelands, forced removal of children, disruption to parenting and family cohesion*.

- Mitigating the risk of lifelong criminal record affecting employment, insurance and home ownership later in life.
- Providing scholarships and other support for Aboriginal and Torres Strait Islander people to attain tertiary qualifications in law and justice.

Families

- Prioritising funding allocation to Aboriginal and Torres Strait Islander Services for grant and tenders that apply to Aboriginal and Torres Strait Islander clients.
- Providing culturally relevant programs to strengthen families.

> *Young people are sniffing, living in homes where there is drinking, no food.*

- Providing in-home culturally relevant family support services for families in distress or suffering from drug and alcohol dependence.
- Providing practical support including food and transport vouchers.
- Encouraging and promoting visits by children to parents in prisons.
- Ensuring there is policy and practice change to reduce barriers for ex-prisoners visiting family members in prisons.
- Supporting families with loved ones in prison through programs to address grief, re-traumatisation and conflict.
- Encouraging new services that do Family Healing for intergenerational trauma and pain.
- Establishing culturally relevant localised disability support services for community members with hearing, sight, foetal alcohol spectrum disorder, and acquired brain injuries.
- Increasing housing availability for expanding families to relieve the health and stress pressures caused by over crowding.
- Supplying a 'Keeping Families Together Domestic Violence Hostel' for Aboriginal and Torres Strait Islander women their children that allow sons to stay with their mothers.

> *Family breakdown occurs when mothers are placed into emergency accommodation. Sons over 10 years of age, who can be great sources of support for mothers and younger siblings, have to get other accommodation, maybe foster care.*

Communities

- Prioritising funding allocation to Aboriginal and Torres Strait Islander Services for grant and tenders that apply to Aboriginal and Torres Strait Islander clients.
- Funding community Men's groups and Women's groups to revitalise cultural learning, identity, healing, relationship and expression.

> *Community poverty, health and safety issues make prison life (shelter, food) seem preferable. It is not because they want to be in prison, they just don't want to be unsafe in the general community, whether this is the city or remote areas.*

- Supporting the formal and informal peer support programs in community.
- Facilitating the development of sustainable economic base in discrete communities.

> *Numbers in the prison have increased. This is not a reflection on the quality or effectiveness of local services provided by community groups, as some claim. Factors accounting for the increase include increased cost of living – more pressure on families to cope*.

- Funding culturally sensitive employment support programs.
- Increasing the accessibility to low cost food in order to prevent those living in poverty stealing food and being at risk of incarceration.
- Funding training for workers and services on managing volatile substance abuse.
- Increasing public transport access in rural and remote towns as well as between towns to increase access to employment and education opportunities.

> *Better public transport is required … to increase access to employment and education*.

- Supplying service access accommodation for people travelling to main centres for health, rehabilitative or healing programs.

  Alcohol management plan in Woorabinda and further north results in people moving to Rockhampton, particularly alcoholics, adding to at risk/prison numbers, and pressure on services.

2. Police Contact

The number of charges brought should not play any role as criteria for career advancement by police (6)

Issues:

- 35% of all police work involves Aboriginal and Torres Strait Islander men, women and children.
- Less than 3 percent of the 10,000 police officers are Aboriginal or Torres Strait Islander.
- The Cultural Unit has a ratio of 1:1000 in delivering culturally appropriate training and support to the Queensland Police Service.
- The Unit resourcing is split amongst other ethnic minorities further splitting the resources allocated to Aboriginal and Torres Strait Islander issues.
- There is no Aboriginal or Torres Strait Islander Assistant Commissioner despite the fact that imprisonment rates continue to grow.
- Fines given to homeless, drunk, mentally ill or disabled Aboriginal and Torres Strait Islanders bypass the court system where they may be diverted or supported and instead ensure a custodial sentence, despite the Royal Commission into Aboriginal Deaths in Custody recommendation that incarceration must be a last resort.
- Racism and discrimination is endemic in Australian culture and thus the police force. As service providers, this racism and discrimination must be tackled head on within the recruitment, training and service delivery mechanisms of the QPS.

Solutions:

Aboriginal and Torres Strait Islander community participants in Project 10% group discussions identified the following as key areas reform and investment, likely to contribute to a reduction in numbers of Aboriginal and Torres Strait Islander people coming in contact with the justice system:

Reporting

- Developing reporting mechanisms that measure officer, station and unit success on reducing incarceration rates for Aboriginal and Torres Strait Islander people in Queensland rather than the opposite.
- Ensuring that all fines issued identify the cultural background of the recipient and effect on time spent in custody due to non-payment of fines are recorded to measure their contribution to Aboriginal and Torres Strait Islander incarceration rates..
- Improving cautioning statistics of Aboriginal and Torres Strait Islander children, women and men.

Police training and development

- Embedding Aboriginal and Torres Strait Islander cultural awareness and perspectives into recruit training and ongoing professional development for all police officers with face to face and intensive training.
- Ensuring that selection process for new recruits weeds out racist or discriminatory attitudes and beliefs. Ensuring that all serving police officers understand the meaning of the terms under and over policing and are held accountable to the goal of creating safe communities.
- Recruiting Aboriginal and Torres Strait Islander recruits in batches of forty, possibly triennially, with appropriate cultural support systems throughout their training and then on the job experience.
- Changing the name of the Aboriginal and Torres Strait Islander Police Liaison Officers to identify them as specific to that role.
- Providing opportunities for senior police to experience first-hand life in Aboriginal and Torres Strait Islander communities.
- Standardising policies regarding Aboriginal and Torres Strait Islander community members and police ratios to the maximum benefit of the community.
- Enhancing supervision and training of police officers for appropriate use of move-on laws.
- Strengthening mediation training in order to prevent issues escalating and going to court.

Program development

- Revitalising of the recommendations of the Royal Commission into Aboriginal Deaths in Custody at a strategic, policy, procedure and operational level.
- Developing best practice models for using all discretionary powers keeping in mind that the Royal Commission into Aboriginal Deaths in Custody states that incarceration must be used only as a last resort.
- Resourcing, implementing and reporting against the recommendations as listed in the CMC Restoring Order Report.
- Identifying all laws and policing practices that have an unintended consequence of increasing incarceration rates for Aboriginal and Torres Strait Islander Queenslanders and implementing mitigating programs immediately.
- Supporting station-based programs that encourage positive relationships with local Aboriginal and Torres Strait Islander community organisations in order to expose officers to the local leaders in the community and encourage cultural respect and partnership.
- Ensuring that all new proposed laws and policing procedures include an impact statement on incarceration rates for Aboriginal and Torres Strait Islander Queenslanders.
- Making immediate headway on barriers preventing officers from cautioning juveniles.

Community engagement

- Identifying police officers with standing in the Aboriginal or Torres Strait Islander community and utilise their expertise for leadership, mentoring and cultural programs.
- Supporting localised crime prevention groups in each hotspot with police, community justice members, Elders and Aboriginal and Torres Strait Islander service providers working in partnership to reduce incarceration rates.
- Implementing stricter selection processes for those officers who will work in stations with high populations of Aboriginal and Torres Strait Islander people – selecting for cultural competency, community mindedness and respect.
- Encouraging 'high performance partnerships' between police and the Aboriginal and Torres Strait Islander community targeting crime prevention and relationship building.

3. Sentencing and Remand

The ALRC acknowledges that the Australian legal system historically has failed to deliver better legal, social and economic outcomes for Indigenous peoples (9).

Issues:

- The lack of cultural awareness and cultural competency amongst the front line legal fraternity and associated legal hierarchies is an ongoing issue.
- There are continued access issues for both urban and rural and remote clients to best practice legal representation, translator services, court support, family support and case support.
- There are limited place based sentencing options for remote Aboriginal and Torres Strait Islander offenders meaning that minor offences cause dislocation and family trauma.
- Homelessness and poverty issues restrict bail options for Aboriginal and Torres Strait Islander men, women and children.
- The court mental health and drug and alcohol addiction support services do not match the need of Aboriginal and Torres Strait Islander men, women and children.
- Sentencing requirements may exceed the capacity of offenders with mental health, drug and alcohol or poverty issues.
- Without appropriate bail options remand times often exceed actual sentence times.
- Access to justice may include language difficulties, transport issues, literacy issues and lack of available services.

Solutions:

Aboriginal and Torres Strait Islander community participants in Project 10% group discussions identified the following as key areas reform and investment, likely to contribute to a reduction in numbers of Aboriginal and Torres Strait Islander people coming in contact with the justice system:

Program development

- Funding of the development of best practice models for representing Aboriginal and Torres Strait Islander clients for use by all solicitors with a rollout training program to be delivered to all services.

> *More adults are needed to represent young people in court. More parents are needed to represent young people in court. If parents or other adults are not there, the young person has to be remanded in custody.*

- Ensuring the appropriate implementation of law in relation to individual context, appropriate for homeless, poor, illiterate/uneducated, addicted, and mentally ill.
- Developing and implementing a mandatory cultural awareness and competency program for all Magistrates and sentencing Judges provided by local people.
- Extending involvement of Elders in cases other than guilty or non violent cases' that is, extending the Murri Court principle to apply to more offenders.

> *Situation of Black v Black arises when Aboriginal and Torres Strait Islander people access ATSILS services, meaning that another Aboriginal and Torres Strait Islander party cannot – they are referred to Legal Aid. Legal Aid availability and accessibility is limited and ATSILS services are spread across a large area.*

Policy development

- Ensuring that one third of the representatives on the proposed Sentencing Council are Aboriginal and Torres Strait Islander.
- Implementing recommendations from the Recognition of Aboriginal Customary Laws (ALRC Report 31 (9)) which encourages recognition of customary law.
- Resourcing and implementing of the 2010 Evaluation of the Murri Court recommendations.
- Forming a task force to identify ways in which sentencing times can be shortened for Aboriginal and Torres Strait Islander in order to lessen remand times.

Expand options

- Providing greater alternatives to custody at four stages: arrest courts, pre-sentencing, sentencing, and post-sentencing - need to intervene in the cycle of sentencing leading to charges/imprisonment.
- Providing alternatives to current correctional centres, where Aboriginal and Torres Strait Islander people can practice culture safely, including access to land, spirituality and healing programs.
- Expanding mediation and restorative justice programs for communities that want them.
- Encouraging Magistrates to give non-custodial sentences for non violent crimes where sentences are under six months.
- Developing, funding and supporting sentencing options with community controlled place based Healing Centres which provide wholistic alcohol, drug and mental health services to Aboriginal and Torres Strait Islander men, women and children, starting with the Queensland Indigenous Alcohol Diversion Program pilot regions and expanding over time.
- Ensuring that rehabilitation programs are available to all Aboriginal and Torres Strait Islander prisoners whether they be on remand or sentenced, short or long term.
- Resourcing and supporting programs that finance bail options for offenders suffering financial strain.

> *Problems with bail conditions and keeping young people out of remand. Can be big difference in areas. At one staqe in Townsville, all young people except one, out on bail, whilst in Cairns there were 52/60 were in remand.*

Support

- Funding place-based short term sentencing options keeping people in community rather than away.

> *People have been known to plead guilty to charges because they see it as too hard to fight the charges, especially without legal representation that is accessible. Some people are charged with things that might have been able to get dropped.*
>
> *There are some valid reasons why people cannot get to court such as illness, family issues and funerals. Magistrates won't adjourn and people are charged with failing to appear in addition to their other charges.*

Bus and other transport for people to get to solicitor meetings, as well as court.

Reporting

- Reporting publicly on sentencing statistics for Aboriginal and Torres Strait Islander people.
- Quantifying the effect of the Moynihan Review on Aboriginal and Torres Strait Islander access to justice and working in partnership with relevant agencies to ensure access is uncompromised.
- Providing high quality information provided to Aboriginal and Torres Strait Islander people about remand periods, bail conditions and options.
- Making information and legal documents and processes clearly understood and accessible to Aboriginal and Torres Strait Islander people.

4. Incarceration and Rehabilitation

26.5% of all incarcerated adults and over 50% of juveniles in Qld custody are Aboriginal and Torres Strait Islander people (2).

Issues:

- Incarceration facilities are based on western cultural values demonstrated in design, layout and services.
- Cultural programs are additional, rather than central, to rehabilitation and education programs.
- Aboriginal and Torres Strait Islander culture is marginal to policy, program and operations.
- Through-care is inadequately prioritised and resourced particularly on release.
- Culturally appropriate rehabilitation programs are adhoc and under-resourced.
- Aboriginal and Torres Strait Islander program deliverers struggle to compete with larger non-government organisations.

Solutions:

Aboriginal and Torres Strait Islander community participants in Project 10% group discussions identified the following as key areas reform and investment, likely to contribute to a reduction in numbers of Aboriginal and Torres Strait Islander people coming in contact with the justice system:

Corrective Services workforce development

- Embedding Indigenous perspectives into Corrective Services through a resourced and focused recruitment process to increase the numbers of Aboriginal and Torres Strait Islander corrective service officers in each Facility, government and private, as well as administration, rehabilitation services, parole and probation staff.

  Developing a correctional centre workforce that is increasingly more culturally sensitive is an imperative. This includes and is beyond regular cultural awareness training for staff. An increased number of Aboriginal and Torres Strait Islander staff are required, to reflect the over-representation of Aboriginal and Torres Strait Islanders in the criminal justice system. Effective recruitment strategies are vital to achieve this, as well as strategies to develop and retain staff who are employed.

- Fostering a sense of responsibility for rehabilitation and recidivism rates through all layers of Queensland Corrective Services, from policy offers through to parole officers.

Program development

- Offering short and long term culturally relevant life skills, healing and rehabilitation programs to every Aboriginal and Torres Strait Islander prisoner including unsentenced offenders.
- Delivering extensive culturally appropriate through-care programs for all Aboriginal and Torres Strait Islander prisoners pre and post release.

  Arrangements made between Corrections in Rockhampton and Corrections in Far North Qld centres so that prisoners are transferred before release, and then released in or near their own community, to reduce the numbers remaining in Rockhampton,

creating an excessive burden on services and increasing prison numbers. A support plan is needed for post-release of prisoners, especially non-local people.

- Offering short term education programs in return for early release using the $269 a day savings to pay for the program (3).
- Implementing a 'Plan, Do and Review in partnership' model for programs with a continuous improvement agenda.

Non-Indigenous staff don't appreciate the value of cultural visits, eg a young person from Mackay was not told a Mackay Elder was visiting.

- Investing in ongoing evaluation and continuous improvement of all programs delivered to Aboriginal and Torres Strait Islander prisoners.
- Ensuring improved continuity of care in mental health treatment between prisons and transitioning for release.

Aboriginal and Torres Strait Islander leadership

- Prioritising long-term reliable funding allocation for Aboriginal and Torres Strait Islander service deliverers.
- Development a Corrections Cultural Facility run by and for Aboriginal and Torres Strait Islander offenders with the purpose of realigning offender behaviours to cultural norms and practices.

The people planning new programs for prisons are usually non-Indigenous but Cleveland and Lotus Glen have overwhelming majority of Aboriginal and Torres Strait Islander prisoners.

- Developing clear specific protocols for Murri Chaplaincy that acknowledge the legitimacy of Aboriginal and Torres Strait Islander support and spirituality within the prison system.
- Increasing successful peer support programs for Aboriginal and Torres Strait Islander offenders across all prisons.
- Strengthening culturally sensitive programs in prisons that meet some of the social and emotional wellbeing needs of Aboriginal and Torres Strait Islander people.
- Developing gender specific, Elder-run spirituality programs for inmates - building on the spirituality links incarcerated Aboriginal and Torres Strait Islander people already have, and providing space for them to develop this.

It is critical that Murri Men are involved with Youth Detention Programs – it is inappropriate for them to be asked to talk about their problems with young, non-Aboriginal and Torres Strait Islander women.

- Improving work-related training matched to abilities and future opportunities; improving literacy and numeracy.

Policy development

- Aligning Queensland with other Australian states and territories, and moving Aboriginal and Torres Strait Islander 17 year olds out of adult prisons; establishing culturally relevant juvenile facilities focused on support and healing.
- Allocating a low security farm for culture programs and Aboriginal and Torres Strait Islander specific rehabilitation.
- Reporting publicly on measurable outcomes such as paroles and recidivism, prison by prison.
- Changing policies, procedures and laws that prevent family and community members with criminal records from participating in visitation and rehabilitation programs that could assist with reducing recidivism rates eg criminal records.

Review of why 60% of inmates are 'protected', and therefore not allowed visitors. The number of protected prison inmates has increased. Lack of access to visitors does not help rebuild family, community or cultural ties.

- Funding legal services within prisons to increase access to representation and information about justice processes and rights.

- Piloting prison farms for Aboriginal and Torres Strait men only with a focus on personal development to break the cycle of violence and recidivism.

> *The foundations of any solution are within each person. These are based on their spiritual roots. People need to be responsible for themselves and also for someone else to thrive. They need to be in contact with their culture and community.*

5. Post Release Support

Issues

- Discrimination ex prisoners experience on release in terms of employment, housing and community involvement.
- Reintegration issues when attempting to reconnect with family, friends and community.
- Poverty issues experienced after a period without income.
- Un-facilitated re-entry into life conditions that encouraged criminal behaviour.
- The need for place-based individualised culturally relevant reintegration, case management and ex prisoner support programs.
- The need for community specific individualised mental health, drug and alcohol, disability and grief and trauma support.
- The need for meaningful employment options.

Solutions

Aboriginal and Torres Strait Islander community participants in Project 10% group discussions identified the following as key areas reform and investment, likely to contribute to a reduction in numbers of Aboriginal and Torres Strait Islander people coming in contact with the justice system:

- Funding evidence-based programs and policies to ensure culturally appropriate individualised release planning, exit from prison, access to programs, follow-up support.

> *Recidivism is greatly increased by lack of consistency of support post-prison. There needs to be a buffer zone for released prisoners where any skills learnt in prison can be supported in outside world. Then they can be reintegrated more fully into community if accepted.*

- Resourcing local community Healing Centres staffed by Aboriginal and Torres Strait Islander workers which work with ex prisoners and at risk groups on post release reintegration support through localised accommodation, case management, rehabilitation and meaningful work programs.

> *Successful programs such as Red Dust Healing get young people back into the community and then continue to support them until they have successfully reintegrated.*

- Providing community by community culturally relevant education about good order offences and how to avoid getting into trouble.
- Extending the Qld Offender Reintegration Support Service (ORSS) more widely available and adapting the ORSS specifically for Aboriginal and Torres Strait Islander people in collaboration with Aboriginal and Torres Strait Islander leaders.
- Supporting the enhancement of local crime prevention high performing taskforces involving community members, offenders and police.
- Providing community delivered transport from jail to supported accommodation or a welcoming home for all released prisoners.

> *Subsequent problems arise when people are released, usually at 8 or 9 a.m., with money for food and transport to their own community [including money for accommodation if they have to overnight in Townsville or Cairns to return to the Cape or Torres Strait. If transport doesn't leave until later in the day or evening, they are at risk of spending the money on drink or drugs, or being targeted by savvy young sniffers.*

- Funding a broad public education campaign aimed at overcoming discrimination against ex-prisoners based on positive stories and a human rights framework supporting reintegration and non re-offending behaviour.
- Ensuring pre release preparations include self esteem and reality check programs.

> *Some people want to return to prison, when placed on parole. In prison they feel more secure and respect one another; in the community, eg Woorabinda, they feel they are 'nothing'.*

- Enhance public transport options for communities to increase access to external job, training and education opportunities.
- Ensuring there is appropriate housing and supported accommodation available to all released prisoners outside the family home as part of the reintegration process.

> *Problems with housing people in hostels regardless of their background for 3-6 months. Sometimes Probation officers want them to stay longer but it's against hostel regulations.*

Acknowledgements

Community solutions identified across the Five Action Areas advocated by Project 10% represent the views of many Aboriginal and Torres Strait Islander people across Queensland.

Project 10% is grateful to those who gave their time and information, out of commitment to improving the lives of Aboriginal and Torres Strait Islander people.

Information presented in this submission is not from a representative sample of Aboriginal and Torres Strait Islander people; such work has not been undertaken by any governments, researchers or academics to date and thus the evidence base on which to develop policies remains recognisably limited.

Project 10% endeavours to continue listening to Aboriginal and Torres Strait Islander people, and making information readily available for use in policy and program development.

Conclusion

Aboriginal and Torres Strait Islander people are 10.7 times more likely than other Queenslanders to be in prison (1), with around a quarter of all people in Queensland prisons being Aboriginal and/or Torres Strait Islander (2). This is higher than national average (2), and despite commitments of the 2001 Aboriginal and Torres Strait Islander Justice Agreement to reduce rates, and despite Aboriginal and Torres Strait Islander people being 4.5% of the total Queensland population (3).

Project 10% has written to every Queensland Parliamentarian, met with the Premier, the Attorney General, the Treasurer, the Minister for Aboriginal and Torres Strait Islander Partnerships, the Minister for Police and Corrective Services and the Opposition.

In 2009, over 100 Aboriginal, Torres Strait Islander and non-Indigenous people participated in community forums held in Logan, Inala, Banyo and Brisbane city to identify strategies for reducing contact with the criminal justice system.

In 2010, in-depth group discussions were facilitated by and with Aboriginal and Torres Strait Islander people in Cairns, Yarrabah, Mareeba, Townsville, Mackay, Rockhampton, Woorabinda, Dalby and Cherbourg.

In addition, Project 10% has engaged with Aboriginal and Torres Strait Islander leaders in the social services sector, to disseminate community meeting feedback, refine strategies suggested implementation, and interpret findings in light of current evidence base and policy frameworks.

While this submission is limited to the views, knowledge and experience of the 200 plus people who have participated so far, it captures the insights of many Aboriginal and Torres Strait Islander Elders, leaders and community members about 'what works' in their communities and summarises key

strategies and principles to reduce over-incarceration of Aboriginal and Torres Strait Islander people in Queensland.

For Aboriginal and Torres Strait Islander people, and to the benefit of all those in Queensland, strong culture equals strong community. With a reorientation of the Queensland Government to better respect Aboriginal and Torres Strait Islander community solutions to crime and incarceration, it will be possible to reduce imprisonment rates, keep families together and move on - together.

Appendix 1: Justice Reinvestment: An International Movement

International models of Justice Reinvestment are worthy of consideration for their applicability in Australia and Queensland to reduce the overburden of high incarceration rates of Aboriginal and Torres Strait Islander people. In the **USA**, for example, a council of state governments 'Justice Center' coordinates Justice Reinvestment efforts across the country. Excerpts from their written information include (10):

> ***How Justice Reinvestment Works***
>
> *To get started, policymakers establish a small, high-level, interbranch, bicameral, and bipartisan team of elected and appointed officials to work with the Justice Center's nationally recognized criminal justice policy experts. These experts then consult with a broad range of stakeholders in the jurisdiction, which may include prosecutors; public defenders; judges; corrections and law enforcement officials; service providers and community leaders; victims and their advocates; people who have been incarcerated; and health, housing, human service, education, and workforce professionals.*
>
> *Together, these policymakers, experts, and stakeholders work to accomplish the following:*
>
> ***Analyze data and develop policy options.***
> *Justice Center experts analyze crime, arrest, conviction, jail, prison, and probation and parole supervision data provided by state and local agencies; map specific neighborhoods where large numbers of people under criminal justice supervision live and cross-reference this information with reports of criminal activity and the need for various services (including substance abuse and mental health treatment programs) and resources (such as unemployment or food stamp benefits); and assess available services critical to reducing recidivism. Using that state-specific information, the Justice Center develops practical, data-driven, and consensus-based policies that reduce spending on corrections to reinvest in strategies that can improve public safety.*
>
> ***Adopt new policies and put reinvestment strategies into place.***
> *Once government officials enact the policy options, they must take steps to verify that the policies are adopted effectively. The Justice Center assists jurisdictions with translating the new policies into practice, and ensuring related programs and system investments achieve projected outcomes. This assistance includes developing implementation plans with state and local officials and keeping policymakers apprised through frequent progress reports and testimony to relevant legislative committees.*
>
> ***Measure performance.***
> *Finally, the Justice Center ensures that elected officials receive brief, user-friendly, and up-to-date information that explains the impact of enacted policies on jail and prison populations, and on rates of reincarceration and criminal activity. Typically, this includes a "dashboard" of multiple indicators that make it easy for policymakers to track—in real time—the changes in various components of the criminal justice system.*

In the **UK**, the Justice Committee published their report 'Cutting crime: the case for justice reinvestment' in January 2010. The report considered how justice reinvestment approaches, as developed in the USA, might be used in the UK to bring down the prison population and reduce re-offending.

> *The government welcomes the report. The response outlines the government's views on the committee's 98 recommendations and conclusions, and sets out its approach for the use of custody and reducing re-offending* (10).

In **Australia** the Human Rights and Equal Opportunities Commission and successive Social Justice Commissioners have called on Australian Federal and State Governments to consider Justice Reinvestment:

> *Justice reinvestment provides a framework for what we have been trying to achieve in reducing Indigenous over-representation for some time. Imagine if the huge amount spent on Indigenous imprisonment could be spent in way that prevents crime and increases community functioning there was increased accountability and scrutiny about how tax payer funds on corrections are spent communities were involved in identifying the causes and solutions to crime there was a shift away from the mindset that imprisonment is the only option – instead it becomes the last resort* (11).

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