

'Are Governments Bound to Fail Indigenous Children, Young People and their Families?'

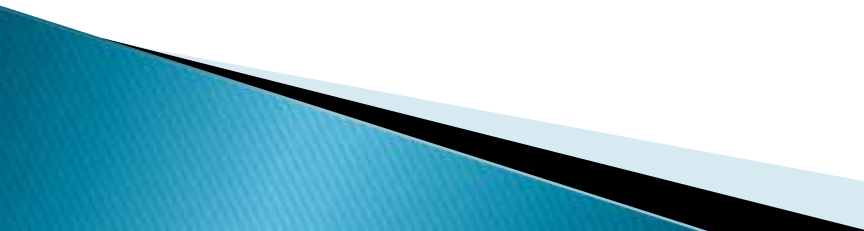
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“My expectation when presenting the first OIG report in 2003 was that many of the disparities evident at that time would have begun to narrow by now. Six years and three reports later, that has been clearly achieved for only about 20 per cent of the indicators. In 10 per cent of them things have actually gotten worse”

(Chairman of the SCRGSP, Gary Banks, 7 July 2009, National Library of Australia, Parkes Place, Canberra).

1. Tension between individualised therapeutic (expert) approaches and approaches which strengthen community involvement and community capacity building.

Indigenous people are less likely to participate in mainstream programs and more likely to drop out than non-Indigenous participants (Gilbert and Wilson, 2009:4). The lack of Indigenous specific programs has been identified as a major barrier to Indigenous participation and successful reintegration from prison (Willis & Moore, 2008).



2. Post Release Support / Throughcare

3. Measure of Recidivism and Understanding Change

4. Importance of Aboriginal and Torres Strait Islander Understandings of offending behaviour and how personal change can occur



Indigenous programs:

- Start with the collective experiences and harms of Indigenous people
- Place the individual in a collective context, understand and seek to change the individual within that context
- Focus on healing

Unless non-criminogenic needs such as grief, depression, spiritual healing, loss of culture and educational deficits are addressed, it may be impossible to address needs directly related to criminal offending' (Gilbert and Wilson, 2009:4).

5. Detention: Remand

“In Queensland in 2003-04, 83.9% of all admissions to detention that involved Indigenous young people were as a result of being remanded in custody... preliminary data shows that few Indigenous young people who are remanded in custody later receive a custodial sentence. For the period 2000-01 to 2003-04, some 16% of Indigenous young people remanded in custody were subsequently sentenced to a custodial sentence while some 62% received a community based supervision order” (*Evaluation of the Aboriginal and Torres Strait Islander Justice Agreement*, p.78)

In New South Wales in 2007/08, 2363
Indigenous young people came into detention
and 85% were on remand.

“A major driver of the increased incarceration
and over-representation of Indigenous young
people in custody has been the growing
Indigenous remand population. A further
worrying aspect to this is that many of those
refused bail and remanded in custody are under
15 years of age.” *(Evaluation of the Aboriginal Over-representation Strategy,*
June 2006, p.9)

6. Detention: Sentenced

Sentencing disparity issues remain:

(i) Between Indigenous and non-Indigenous young people

(ii) Between Indigenous young people in different jurisdictions

(iii) Among Indigenous young people in the same jurisdictions

“In New South Wales a recent parliamentary report also found that many sentencing options were not available in rural areas. In particular supervised bonds, community service orders, periodic detention and home detention were not available in many parts of the state. Interviews with judicial officers found that more than 70 per cent of judges and 53 per cent of magistrates stated they were prevented from using periodic detention when sentencing Indigenous offenders because of the lack of facilities” (Cunneen and Schwartz (2008) *Crim L J* 38 at 47).

**Children's Court Sentencing Outcomes: Custodial and Non Custodial.
2007/08**

Source: ABS cat no 4513.0 (2008:84).

Outcomes	NSW	VIC	QLD	SA	WA	TAS	NT	ACT	AUS
	%	%	%	%	%	%	%	%	%
Custodial	14.4	6.2	5.7	7.1	5.6	16.3	22.7	10.1	8.5
Non-Custodial	85.6	93.2	94.3	92.9	94.4	83.7	77.3	89.9	91.3

Indigenous Detention Rates 10-17 year olds 30 June 2007

Source: Taylor (2009:23).

	NSW	VIC	QLD	SA	WA	TAS	NT	ACT	AUS
Rates	467.0	142.0	313.5	528.0	702.7	154.2	256.1	416.7	403.0

Indigenous over-representation ratio 10-17 year olds 30 June 2007

Source: Taylor (2009:30).


	NSW	VIC	QLD	SA	WA	TAS	NT	ACT	AUS
Rates	25.9	19.7	25.1	42.8	27.9	7.9	7.8	15.8	28.0

Top 30 Children's Courts by Indigenous Appearances 2000-2004

(Evaluation of the Aboriginal Over-representation Strategy, June 2006, p.96).

Court	Finalised Appearances	Control Orders	Appearances Resulting in Control Orders
	No	No	%
Bidura	821	175	21
Cobham	664	97	15
Worimi	458	85	19
Dubbo	377	102	27
Kempsey	349	50	14
Bourke	341	34	10
Campbelltown	323	60	19
Port Kembla	308	57	19
Armidale	270	57	21
Grafton	217	85	39
Moree	215	30	14
Lismore	200	45	23
Taree	189	30	16
Tamworth	187	8	4
Nowra	184	16	9
Coffs Harbour	175	35	20
Wagga	169	41	24
Wyang	156	43	28
Broken Hill	150	20	13
Inverell	134	11	8
Lidcombe	132	16	12
Walgett	109	7	6
Pt Macquarie	103	29	28
Maclean	101	15	15
Casino	96	4	4
Orange	93	19	20
Albury	89	14	16
Brewarrina	88	11	13
Griffith	80	7	9
Gunnedah	78	12	15

7. Diversion

- Availability (resourcing)
 - Utilisation (discretion)
 - Procedures
 - Community involvement and control
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8. ATSILS Funding

A further indication of this disparity in resources is the money spent on client costs (ie medical certificates and associated costs, psychological assessments, court fees, etc) in criminal matters. NTLAC expended \$871,357 compared to NAAJA's \$60,000 – and this amount was spent on one third the number of criminal cases run by the NTLAC. As an average, court costs for criminal matters by the NTLAC were \$762 per matter, compared to \$17 per matter by NAAJA. (Cunneen and Schwartz (2008) *Crim L J* 38 at 51).

9. Strategic Planning

