26. Sub from Holistic Justice and Community Services Pty Ltd

Name of organisation: Holistic Justice and Community Services Pty Ltd

Proposal 2–1

Agree with this

Proposal 2–2

Agree with this

Question 3–1

Agree that the "unique systemic and background factors" need to be taken into account. In whatever way this is provided for, the sentencing process should be undertaken having regard to the principles of 'Restorative Justice'.

Question 3–2

Yes restoration should be a sentencing principle. Having regard to restorative justice sentencing principles aimed at achieving outcomes of restoring the offender to a law abiding lifestyle, restoring something to the victim and if appropriate restoring something to the community, to make this more responsive to Aboriginal and Torres Strait Islander offenders, application of the principles needs to encompass empowerment of First Nation people to drive initiatives involving cultural healing of offenders in concert with other rehabilitation programs as well as family and community strengthening initiatives.

Our company HJCS working as 'enabler' for First Nation organisations currently has a proposal before the Qld Government that has the potential to achieve a paradigm shift in the way the criminal justice system interfaces with First Nation people and other people from lower socio - economic communities. Our proposal is founded in our long experience in working with First Nation people and working in reform programs in corrections. We have also drawn on the principles outlined in the Empowered Communities: Empowered Peoples Design report 2015 prepared by eminent First Nation people.

In summary our model takes a Justice Reinvestment approach and envisages that the majority of First Nation offenders would not go to traditional prisons but be diverted from courts to healing and rehabilitation facilities on Traditinal Land and or to culturally appropriate communityprograms. These facilities and some of the community programs will be owned and operated by First Nation people under long term contracts with government. HJCS provides enabling services to the First Nation enterprises such as IP, capacity building and governance assurance. These First Nation enterprises, that will largely employ First Nation people, will also seek business opportunites in service areas such as First Nation housing, programs in schools, family support, etc.In rural areas where many of these programs will be located, there are opportunities for employment for rehabilitated First Nation people in animal husbandry, weed eradication, fencing, horticulture, etc

The model provides for healing and rehabilitation of offenders, family and community strengthening initiatives and holistic joined up government and non-government services for First Nation people. There will be a focus on training and education and in particular strengthening the relationship between families and schools.

It is envisaged that some 1,000 First Nation offenders in Qld could be diverted to this alternative model over the next 3 years with significant savings in forward estimates for prison infrastruture and importantly huge cost savings and crime reduction through greatly reduced recidivism. We believe that our model provides a cicuit breaker to achieve a significant reduction in the gross over representation of First Nation people in prisons and will lead to stronger First Nation families and communities.

In 2016, through our other company Knowledge Consulting Pty Ltd, we conducted a review of the Northern Territory's Adult and Juvenile Corrctions systems. Our report "A Safer Northern Territory through Correctional Interventions, 31 July 2016" proposed consideration of the above model. Keith Hamburger was subsequently a witness before the Royal Commission into Protection and Detention of Children in the NT where he advocated for this aproach.

We have detailed submissions available relating to the above if there is interest for further information.

Question 3–3

I believe that the short answer to this question is No. Our model discussed briefly above provides for enahanced court services involving First Nation people in preparing pre-sentencing advice to Magistrates.

Question 3–4

The issue of pre- sentencing reports can not be looked at in isolation from the need to over come the dearth of suitable community based programs, and indeed lack of programs within custodial institutions for First Nation offenders.  My experience is that Magistrates are very comfortable with and indeed are pleased to consider options other than imprisonment for First Nation offenders and also for other offenders. However, such programs must be evidence based in terms of their effectiveness and ensure community safety.

Our model discussed above seeks to address this on a community by communty basis in a manner that is driven and owned by empowered First Nation people.

Question 3–5

Input to such reports is often required from a range of specialists. This is best coordinated by qualified Community Corrections Officers. Desirably these officers should be First Nation people or if not, cultural input is required from First Nation people.

Question 4–1

Mandatory or presumptive sentences should be reviewed. Such a review should note that effective application of restorative justice principles requires the court to have maximum flexibility to arrive at outcomes to best meet the often complex needs of offenders, victims and comunities.

Question 4–2

Under the model HJCS advocates, prisons should only be used for dangerous and or serious offenders who typically attract longer sentences. All other offenders should be diverted from courts to healing and rehabilitation facilities/ programs under Probation Orders with a residency clause for treatment in a therapeutic community environment. Most offenders, and particularly First Nation offenders, are suffering unresolved trauma that needs to be addressed as the first step in the rehabilitation process. Prisons inflicts further trauma which is a major factor in driving high recidivism rates.

This approach would signifiicantly reduce prison expenditure, reduce recidivism and reduce crime. Over time there will be massive savings for taxpayers with a safer society.

Question 4–3

Arbitary sentence lengths are not relavant under the model I have described above. Under our model where Magistrates divert people from court to healing and rebalitation facilities/ programs on the basis of culturally approariate pre- sentence advice, they would construct sentences to best suit the rehabilitation needs of the offender and community safety.  Such sentences, depending on consideration of all of the circumstances, could involve a period in facilities on Traditional Land under a Probation Order with residency clause or in appropriate urban facilies, followed by a period of mentoring/ community supervision. Or depending on the rigor/ effectiveness of certain community based programs and the offenders circumstances the sentence may not involve time in the aforementioned facilities.

There would also be a capacity for 'time out' for offenders where they may be struggling to meet the requirements of a community supervision order and can be given some prescribed residency time on Traditional Land or in appropriate community facilities for further interventions rather than sent back to prison for technical breaches of communty supervision orders.  Prison would remain the option of last resort for the minority of offenders who fail these options.

Question 4–4

The approach I have covered in 4-3 should apply uniformly across States and Territories.

Proposal 4–1

Yes, but under a First Nation service delivery empowerment model.

Question 4–5

Yes, we should enshrine the restorative justice sentencing model, reference experience in Northern Europe. In addressing legislative reform, the issue of the overarching goal of the Criminal Justice System (CJS) needs to be addressed. The CJS is largely a series of silos driven largely by imperatives relating to punishment. This results in mostly negative, reactive outcomes and works against the addressing of the underlying drivers of social and economic breakdown that leads to crime.

Many years ago some Northern Europe States reframed the overarching goal of the CJS to one of "contributing to keeping peace in our society" as opposed to the notion that the CJS exists to punish offenders and through punishment deter offending behaviour. This facilitated the low imprisonment rates that exist in a number of those States today.  That is, if we accept that the higher order role of the CJS is to contribute to keeping peace in society , then it opens up a range of proactive, positive and cost effective options for policy makers to consider to reduce offending behaviour and strengthen social cohesion as opposed to our current model which is largely driven by the punishment imperative and consequently is reactive, negative and not cost effective.

The contributing to keeping peace in society goal facilitates the breaking down of silos and creates holistic whole of government and communtiy responses to social breakdown and crime with excellent cost effective outcomes.

I attach a paper I first published in September 2006 on the above subject that may be of interest in this context.

Proposal 5–1

Yes. However, under the model we propose offenders who currently attract short sentences would mostly not be in prisons. Also many people who are currently held in remand prisons because they cannot access bail provisions for reasons such as no suitable accommodation and or substance abuse issues would, under our model, go to healing and rehabilitation facilities.

Question 5–1

Cultural Healing in concert with psychological services and cognitive change programs, DeTox and substance abuse programs, Personal Pathway Plans for post release.

Proposal 5–2

Yes. These programs should be developed under the healing and rehabilitation model discussed above. We have such a proposal under consideration by Qld Corrections for First Nation women offenders in an urban environment in Brisbane and in Cherbourg Aboriginal community.

Question 5–2

Cultural healing in concert with psychological services and culturally appropriate cognitive change programs aimed at developing self efficacy, parenting skills, Detox and substance abuse programs, education and work skills, nutrition and general health programs, art and recreation

Proposal 5–3

No, I don't agree with a statutory regime of Court ordered Parole. In my long experience in corrections I have seen the negative unintended consequences of Court ordered Parole under the current sentencing process. Parole is best determined under a restorative justice sentencing approach where there is ownership/ buy in by the offender that involves acceptance by the offender that they have erred and understading by victims/ community of the reasons for the sentencing outcomes.

Question 5–3

A statutory regime of Court ordered Parole is not best practice in my view.

Proposal 5–4

Yes this mandatory requirement should be abolished. Courts should consider each case on its merits/ circumstances.

Proposal 6–1

I agree. As I have said above prisons should only be used for dangerous/ serious offenders. Defaulters should undergo community based sanctions, including community custody if required.

Question 6–1

Yes.

Question 6–2

Monetry penalities are a huge problem for poverty stricken offenders and compounds their problems and also the many defaults add to the cost of the criminal justice system. The issue of monetary penalities needs to be addressed in re-engineering of the sentencing system under a restoritive justice model.

Question 6–3

See 6-2 above

Question 6–4

No

Question 6–5

Don't know

Question 6–6

Yes.

Proposal 6–2

Yes

Question 6–7

Should not be a mandatory provision

Question 6–8

Courts to be given discretion.

Question 6–9

Don't know

Question 6–10

This should be achieved through the empowered communities model where First Nation enterprise delivers this service.

Proposal 7–1

See our Healing and Rehabilitation model discussed above.

Question 8–1

Such proposals and plans need to be developed by a 'Guiding Coalition of First Nation People' from the community supported by 'enablers'. Governments need to establish and support these local 'Guiding Coalitions' of local 'champions'.

Under our Healing and Rehabilitation scheme model we will be establishing empowered 'guiding coalitions' in each community where we work.

Question 8–2

I don't know enough about this to comment.

Question 9–1

I think it is most likely that the existing laws are adequate. There are plenty of legal options available, but sadly we lack innovation and availability as far as the options are concerned.

Proposal 10–1

Yes, but under an empowered communities approach where First Nation people are empowered and rewarded through enterprise to be service providers.

Question 10–1

Yes they should. However, in the context of social breakdown and crime, the term 'justice targets' is very limiting. A holistic approach is needed in setting targets e.g. targets should cover a range of social, economic, and community safety factors that drive strong safe communities and families.

Proposal 11–1

Yes.

Question 11–1

As I said previously, I think the laws are most likely adequate, the lack of innovative options for Courts to access for offenders is the challenge.

Proposal 11–2

I agree.

Question 11–2

Don't know enough about this to comment.

Proposal 11–3

Yes.

Question 12–1

As a general comment I feel there needs to be a significant increase in the number of specifically trained First Nation people working in and or with Police Services in interfacing with First Nation families.

Question 12–2

As a first step, developing a close relationship with the 'guiding coalition' I mentioned above.

Question 12–3

Yes.

Question 12–4

Yes.

Question 12–5

Yes.

Question 12–6

If this question relates to employment in the Police Service, yes.

Question 13–1

The projects we have before the Qld Government are part of a justice reinvestment initiative. We are yet to enter into co-design with Qld Governemt agencies. However, I am not aware of any legal impediments to justice reinvestment. The structure for the model relies on contractual arrangements between government and First Nation enterprises to deliver services and formal commitments between Government and First Nation communities for Government to invest a % of savings achieved by these services (e.g. less prison and police costs due to reduced crime and recidivism) back into family and community strengthening initivies to achieve further advances in reducing social breakdown and crime.

The key challenge in the model is to develop the evaluation criteria that is included in the contracts between Government and First Nation Enterprises that will determine performance payments and the % of money saved for community reinvestment.

Other comments?

File [best\_practice\_response\_to\_social\_breakdown\_and\_crime\_in\_australia\_january\_2015.doc](https://www.alrc.gov.au/system/files/webform/best_practice_response_to_social_breakdown_and_crime_in_australia_january_2015.doc)