



The Executive Director
Australian Law Reform Commission
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[by email to: info@alrc.gov.au]

Dear ALRC

Thank you for the opportunity to make a submission to the ALRC inquiry into Incarceration Rates of Aboriginal and Torres Strait Islander Peoples.

The rate of incarceration is shocking and needs to be addressed urgently. Civil Liberties Australia (CLA) wishes to record our support for this inquiry. It is worth re-stating that incarceration rates of Indigenous people are some fifteen times higher – not fifteen percent higher but fifteen times higher! - than those for the Australian population in general. We look forward to practical and far-reaching outcomes from the inquiry that, when implemented, can make a meaningful impact on the rates of incarceration.

CLA would like to highlight two issues that we do not believe are addressed adequately in the discussion paper.

Police training

CLA agrees with the need for police 'sensitivity' training in relation to Aboriginal culture. However, frequently overlooked is the need for police to be better trained in using their existing discretions to reduce the number of people of all backgrounds detained or jailed. Making more 50-50 decisions in favour of non-arrest – with referral to local help and services – would reduce the numbers entering detention and jail in the first place. With each prisoner costing about \$100,000 a year, and juvenile detention annually costing multiples of that amount, the on-the-spot decisions of junior constables can have a significant impact on the public purse, and on whether money is being spent on prevention, or just locking people up.

CLA proposes that training programs for police, particularly in rural and remote areas, should include:

- a. the broadest range of options and ways that the police can avoid detaining people, by using different strategies in conjunction with the community; and
- b. raising awareness of the cost impact of individual police officer's streetside decisions, when aggregated.

CLA believes it is possible to design a system whereby reduced arrests, based on traditional averages, could result in extra funds being returned to the particular police

station or police region, to be spent on assistance for police (manpower, equipment, etc) and shared equally on innovative new programs to target continuing reduction in offending by the more at-risk groups. We believe the Australian Institute of Judicial Administration, which has already engaged in research around detention issues, would be a suitable body to lead new thinking in these areas.

Drug law reform

Australian jurisdictions should decriminalise personal drug use and instead adopt a health and treatment-focussed approach. The 'war on drugs' has not been successful anywhere in the world. It has been costly and disproportionately penalises disadvantaged groups in the community. Studies and experience from overseas demonstrate that a health and treatment-focussed approach would be far more effective and lead to savings overall for governments. For example, see:

<http://www.clctas.org.au/wp-content/uploads/2013/06/DrugReformPaperFinal.pdf>

Other issues

CLA wishes to record its support for the range of practical proposals in the discussion paper. In particular, based on our own experience, we wish to highlight the following:

Proposal 2-1: Adoption of alternatives to holding people on remand while awaiting trial or sentence. This approach should consider especially alternatives to remand for homeless people.

Question 4-1: Abandoning the populist but misguided trend towards legislating mandatory sentences for certain offences. Studies from around the world have consistently shown that mandatory sentences produce unjust outcomes, disproportionately affect disadvantaged groups and do little if anything to deter crime. See for example:

<https://www.lawcouncil.asn.au/docs/429fdd99-ae36-e711-93fb-005056be13b5/0109-Policy-Statement-Mandatory-Sentencing.pdf>

Proposal 6-1: Abolishing imprisonment of fine defaulters and adoption of alternative pathways to discharging debts. (In regard to 4.1 and 6.1, CLA is encouraged that Labor WA, now in government, "unequivocally opposes" both mandatory detention and imprisonment for fine default alone. (Ch 8, policy platform, endorsed 170827)

Yours Truly

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President

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