



COMMUNITY RESTORATIVE CENTRE

Throughcare and Reintegration: What Constitutes Best Practice in Community Based Post Release? A Community Restorative Centre Submission

Firstly, thank you so much for the opportunity to respond to the Law Reform Report into the over-incarceration of Indigenous people in the criminal justice system. There are two parts to this response; the first is a response that is focused specifically on section 5.49 (The ALRC welcomes submissions on areas of reform in through-care) and represents the views of the Community Restorative Centre. The second part responds to different sections of the report and is focused specifically on women leaving prison (and their needs as identified by the Miranda Project- one of the programs operating out of the Community Restorative Centre). The majority of the programs that CRC runs are focused on post-release and reintegration for people with complex needs who are in entrenched cycles of criminal justice system involvement. The Miranda Project is a CRC program focused on supporting women caught up in the justice system, and is intended to operate as a court diversion scheme as well as an option for women post-release.

The Community Restorative Centre (CRC)

CRC is the lead NGO in NSW providing specialist support to people affected by the criminal justice system, with a particular emphasis on the provision of post-release programs for people with multiple and complex needs on release from custody. Established in 1951, CRC has over 65 years' specialist experience in this area, and currently manages an annual budget of over \$6 million (from 12 different funding sources) in order to operate transitional, post-release and family projects across seven sites in NSW. All CRC programs aim to reduce crime and recidivism, and break entrenched cycles of criminal justice system involvement.

CRC has developed an evidence-based post-release model designed to work with populations at high risk of re-offending and has a proven track record of success in this area. Recidivism rates for transitional clients who complete CRC's intensive case-management programs are extremely low, at just 12%.ⁱ CRC

operates multiple reintegration and post-release support programs including an Indigenous project in Far West NSW. Although we understand that the parameters of the commissions report is necessarily focused on legislative frameworks, we welcome the invitation to share our expertise with regard to through-care and reintegration.

Best Practice in Post Release Support

There is a strong body of research that emphasises key elements in best practice reintegration support. CRC has a case management model and structure that supports these principles. These principles are outlined below.

1. The use of a **community based, flexible outreach model.**^{ii iii iv} Services that build, or re-build lives, are most effective if they occur in the context in which someone is then to live. Support *must* take into account family networks and build on positive social relationships. Outreach and counselling work should take place in the community in which the person lives; in their homes, cafes, parks and wherever possible *outside* of institutional and office settings. Wherever possible outreach work should happen *outside the criminal justice system*. Appointment based services (where clients are expected to attend an office) are ineffective in community settings for this population group, particularly in the first three months post-release. People on release have very little money, limited access to public transport, and more often than not multiple appointments that they must attend (Centrelink, Probation, Housing, Methadone, etc). Solid community outreach work supports people to attend these appointments (often by transporting people) and making sure that workers are where clients are at. Workers must have access to a vehicle so they can visit people, a case load that enables flexibility with regard to travel, and significant organisational commitment with regard to ensuring flexible outreach work is adequately supported.
2. The use of **long term case work;**^{v vi vii} People who have spent their lives being 'managed' by the criminal justice system require support and time to build pathways into the community. The option of long term support is necessary to build trust and engagement, and essential to establish the housing provider partnerships required to implement housing first approaches. Within the context of the long-term case-work model, it is preferable to have *one* worker that provides support throughout the service. This continuity of care, and the knowledge that not just a service, but the support of a known individual, who will be there for the long haul, can have a profound impact on willingness to engage, trust in the service, and ultimately successful case work. Long term support includes support of more than nine months (CRC wherever possible uses a 12 month model), but there needs to be flexibility with regard to this and the option for extending beyond this time frame is critical.
3. Employment of **skilled workers.**^{viii ix} Workers must have the capacity to 'hold' clients with multiple and complex needs confidently over time (and

avoid the chronic over-referral experienced by this population). To this end, workers should be paid at (a minimum) 4/4 of the SCHADS award, and should also have funded support to clinical supervision and a generous training budget. Transitional and through-care workers should have a comprehensive understanding of the pragmatic issues for people on release (including issues related to parole, centrelink, housing, child custody, and employment) as well as an ability to work closely with people around alcohol and other drug use, mental health and past trauma. Although referral is always important, transitional workers should as much as possible be a 'one stop shop' for people with complex needs. There is also the need to wherever possible look at the employment of people with lived experience of incarceration^x. The expertise and skill that this often overlooked population are able to provide to organisations supporting people on release from prison is critical. The employment of transitional

4. Utilise a **through-care** model^{xi xii}; support should start wherever possible *prior* to release, and transitional pathways should be planned prior to the point of exit. Engaging with people prior to release allows the case-worker relationship to be established in a reasonably 'safe' environment, and without the distractions and chaos of life on the outside. Most best-practice through-care models suggest that three months pre-release planning is ideal. It is frequently the case that people in prison are fairly clear about what they would like their lives to look like when they are in prison. The worker in many senses functions as a metaphorical bridge between prison and the outside, and can use the case-work that occurs in the prison environment to guide planning on the outside (especially when moving from the structured institutional setting to the often chaotic world outside). Pre-release preparation should include using a person centred approach with regard to the clients' aims and ambitions, as well as working with key stakeholders (such as Corrective Services) around addressing criminogenic needs and other triggers for offending behaviour.
5. Strong **interagency relationships**^{xiii xiv} with key partner organisations that are based on shared values including a client centred practice. In this project, this will include the development of strong partnerships and capacity building arrangements with specific employment providers.
6. Service delivery should wherever possible incorporate **systemic advocacy** (advocating for people on release from prison to navigate complex legal, social and welfare systems), and ideally a reintegration approach that is situated outside of the lens of rehabilitation. Successful reintegration programs move beyond the individualised criminogenic psychological focus of many prison programs which tend to be primarily interested in 'addressing offending behaviour' and instead place structural predictors of recidivism at the heart of service delivery design.

Issues Specific to working with Indigenous Communities post-release

. Over 30% of all CRC's clients are Indigenous, and 100% of clients in the Far West Region are Indigenous.

Some of the key issues and challenges recognised by CRC when working with Indigenous populations post-release include:

- Working with generational disadvantage and the associated mistrust of white organisations (particularly those attached to systems of court and imprisonment)
- Ensuring that Aboriginal staff positions are not only established, but extremely well supported within the organisation. This is especially the case when working in regions like Broken Hill and Wilcannia, where workers have to navigate numerous issues related to professional and personal boundaries.
- The importance of working with flexibility (particularly with regard to outreach work, and flexibility in terms of appointment times)
- Acknowledging that in some communities, that although spending time in prison is such a regular event that it has in many ways become 'normalised', this in no way diminishes the damaging impact that continued incarceration and institutionalisation has on both individuals and communities.

Desistance Approaches and Throughcare

There is a growing body of research exploring movement away from the criminal justice system utilising a desistance framework. Desistance research focuses attention away from the standard criminological preoccupation with recidivism and looks instead at desistance from crime. Desistance researchers are much more interested in questions of *how and why* people make changes in their lives than in the question of why people re-offend. Desistance research has tended towards large-scale, in-depth, longitudinal studies, tracking offending and desistance patterns over multiple years. Researchers in this field have argued that desistance from crime is a process, and requires research that unpacks this process over multiple years. This body of research is pertinent in the development of community based responses to throughcare and reintegration, partly because of its scale and partly because of the consistency of the thematic findings of multiple international desistance studies in terms of 'what works'. Multiple longitudinal studies into desistance (most with study cohorts of over 200) have identified key desistance factors that are relevant to the design of reintegration projects. Some of them are unable to be impacted by external mechanisms (for instance, age and maturation is a consistent theme in terms of desistance from crime across all research), but others provide crucial information about those factors that are subject to intervention. There is now consensus that *the* key indicators of successful desistance include;^{xv xvi} quality of social relationships, practical assistance, the formation of strong social bonds, employment and other community engagement pathways, and the development of an identity outside of the criminal justice system.

Although there are strong arguments to be made with regard to the need to increase accessibility to various forms of prison programs inside prisons, it is the

view of CRC that unless there is a strong linkage between these programs and the community, then any benefits obtained through participation are unlikely to be transferred out of the custodial environment.

It is also the view of CRC that through-care should be in the hands of the community and the non-government sector; that is, agencies of justice should not hold the sole responsibility for the reintegration into the community of the same populations they are responsible for imprisoning.

In conclusion, we are keen to see responses to over-imprisonment that involve stepping outside of the justice system entirely. It is our view that we need to locate our responses to imprisonment in the communities in which people live, *not* in the justice system that for too many, and for too long, has been part of the problem, and will never be part of the solution.

For more information, or to discuss any of the above, please contact:
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Miranda Project Responses: Issues specific to the over-incarceration of Indigenous Women

Bail and the Remand Population.

P2-1 In our experience there is a need to adopt similar legislation to Victoria with regard to the presence of a standalone provision that the court consider issues arising as a consequence of the person's Aboriginality. Having reversion to or choice of applying the Fernando Principles or/or Bugmy Principles has not become widespread practice. Legislation is needed for this to be regularly applied.

P2-2 In our experience there is clearly a need to look at best practice examples of bail support and diversion options across states and territories and international jurisdictions for appropriate successful models.

3. Sentencing and Aboriginality

Q3-Legislation is required to ensure systemic and background factors are considered at sentencing of Aboriginal and Torres Strait Islander offenders. A sentencing principle would be the most appropriate way to ensure due consideration is given, particularly as time frames may need to be extended because supporting information may not be immediately available, so sentencing may need to be delayed until this information is gathered and presented. This is a particular consideration in the Local Court where people are often unrepresented and do not provide much detail, even when prompted.

Q3-3 In our experience courts do not have sufficient information. The NSW Corrective Services Women's Advisory Council (WAC) has a particular focus on Aboriginal women in the NSW criminal justice system and their over representation. Examples given to the WAC by Local Court magistrates strongly show the lack of information and pressure of time frames in which the information can be obtained. Further, individuals when prompted are unaware of what information would assist the magistrate when sentencing. Existing self-representation guides are web-based, are not known about and/or not accessed by many who appear, repeatedly, for sentencing. Lack of computer access and knowledge of implications of information are existing barriers for self-

represented individuals.

An Aboriginal Court Support service is needed, specifically for preparing people on the day of appearance, with quick access to information about communities and with carefully structured, sensitive questions concerning the individual's life experiences. Further support would need to be available, given the likelihood of distress, in the circumstances.

Q3-4 Specialist sentencing reports would give family and community background, important contextual information - for example, intergenerational trauma pervading communities, known histories of local massacres, harsh mission life, stolen children as well as the life experiences of the accused, that may include removal from family, early school leaving, domestic and family violence.

Q3-5 In NSW in 2015 the Aboriginal Legal Service were coordinating the gathering of community information for this purpose. Funding is needed for ALS and community legal services such as Wirringah Baiya Aboriginal Women's Legal Centre and Women's Legal Service to undertake this task and develop the process by which it is accessed at the court house. Information and links to support would be an important additional component.

4. Sentencing Options

Q4-1 (a) Yes

(b) Bail, parole

4. Sentencing Options

Q4-2 On the face of it, abolition of short sentences is clearly desirable. The tendency for longer sentences to then be given, for example 6 months and one day, is a risk. Abolition of short sentences has to be accompanied by availability of positive community-based programs and supports, to prevent the longer sentence response.

Q4-Sentences under 6 months

Q4-4 Pre-conditions for such amendments are extremely important and must be readily available and appropriate to the community in which they are based. These should include include a range of services - AOD treatment, holistic support centres, family support.

P4-1 yes. See 4.4

5. Prison Programs

P5-1 There is a need for people to participate in short-term programs. However we would suggest that these programs need to move beyond 'addressing criminogenic needs' and look instead to the pressing social and welfare concerns most people serving short sentences are needing to deal with (housing, social connection, family and poverty). NSW Corrective Services has recently commenced a program designed for those serving short sent necessary. Results

of evaluation could be requested for the erudition of other states and territories.

Prison programs should include legal literacy, i.e. explanation of Western laws- such as terms used in court and legal correspondence. This was specifically requested by women in custody in NSW. A teacher/lawyer was employed to write a specific legal literacy program with input from representatives from Aboriginal Legal Service, Women's Legal Service, Wurringa Baiya Aboriginal Women's Legal Centre. The women spoke about lack of understanding of court proceedings and outcomes, judges' sentencing remarks and details of penalties, and that understanding of requests or notifications was the source of considerable distress. It is not appropriate for Custodial and Program staff to interpret or provide advice on legal correspondence.

Q5-1 Run by Aboriginal staff and paid Elders, in purpose designed and built facilities, following consultation with community and users re design.

P5-2 Consultation is a key in the provision of appropriate programs and delivery methods. Aboriginal providers are essential. Elders, respected others, and role models for the women are important. Mechanisms for sharing program and services successes and failures among jurisdictions is needed.

Q5-2 Best practice elements - programs developed by Aboriginal women for Aboriginal women to be delivered by Aboriginal women. Flexible delivery methods, use of music, dance, art, craft, indoor and outdoor locations. Again there also needs to be mechanisms for sharing of successes and failures are needed among states and territories.

P5-4 Agree. Also, in NSW, following an unsuccessful application for parole, prisoners are required to wait for 12 months before re-applying. This needs to be abolished.

6 Fines and Drivers Licences

Q6-1 Yes

Q6-2 Monetary penalties to be determined by financial circumstances of the accused e.g. Those dependent on social security allowances to receive reduced penalties or have the matter dealt with by means other than monetary, if preferred by the accused and depending on level of fine. Other methods that could be considered include programs such as the Work and Development Orders.

9 Female Offenders

Q9-1 loosening bail laws and parole application processes would considerably assist in keeping women out of custody or expediate timely releases. Parallel to these changes, availability of holistic supportive diversionary programs is essential.

Application of Bugmy and the Fernando Principles is of particular importance for

Aboriginal women, the majority of whom have histories of major disadvantage, experiences of childhood, adolescent and adulthood family and domestic violence.

Legal assistance in relation to housing issues is also needed. Legal Aid NSW has allocated a position to work with Aboriginal women leaving custody who have barriers to accessing public housing. This has been a successful model for addressing and overcoming barriers that would otherwise have resulted in possible homelessness.

Again, sharing of program and service successes and failures and reasons for both would be of benefit to all existing and potential providers.

For more information about any of the responses specific to the over-representation of women in custody or the Miranda Project, please contact: Deirdre Hyslop, Program Director Miranda, on 02 92888700

ⁱ In early 2015, CRC contracted BOCSAR to track CRC clients who had participated in intensive transitional programs between 2008 and 2013. Prior to this, CRC had tracked return to prison data only over the course of the project internally, and was not able to make claims with regard to recidivism post-participation with CRC. All clients who were accepted onto specific CRC intensive transitional programs (regardless of how long they participated) were included in the sample. BOCSAR was able to track 387 CRC clients over a 12 month period post release, and 313 CRC clients over a 24 month post release period. Clients who had been formally exited from CRC projects because they had completed the program and achieved all case-plan goals were tracked as a separate sub-group.

ⁱⁱ Deakin, E (2013) 'Aboriginal Women Leaving Custody Strategy. Good Practice Paper. A targeted review of literature and stakeholder feedback providing lessons for NSW' A Research Paper commissioned by Department of Family and Community Services, Housing NSW and Department of Attorney General and Justice, Corrective Services NSW

ⁱⁱⁱ Scott, M (2013) NSW Homelessness Action Plan Evaluation, Final Evaluation Report for Project 2.10 Sustaining Tenancies Following Exits from Correctional Facilities, Westwood Spice

^{iv} Pettus-Davis, C, Howard, M, Roberts-Lewis, A, Scheyett, A (2011) 'Naturally Occurring Social Support in Interventions for Former Prisoners with Substance Use Disorders: Conceptual Framework and Program Model, in Journal of Criminal Justice, Vol. 39

^v Serin, R, Loyd, C, Helmus, L, Derksen, D, Luong, D (2013) 'Does intra-individual change predict offender recidivism? Searching for the Holy Grail in assessing offender change' in Aggression and Violent Behaviour, Vol 18

^{vi} Walsh, T. (2004) Incorections: Investigating prison release practice and policy in Queensland and its impact on community safety, Faculty of Law, Queensland University of Technology.

^{vii} National Justice Chief Executive Officers' Group and the Victorian Government Department of Justice (2014) Diversion and Support of Mentally Ill Offenders: A framework for best practice, Consultation Draft

^{viii} Deakin, E (2013) 'Aboriginal Women Leaving Custody Strategy. Good Practice Paper. A targeted review of literature and stakeholder feedback providing lessons for NSW' A Research Paper commissioned by Department of Family and Community Services, Housing NSW and Department of Attorney General and Justice, Corrective Services NSW

^{ix} Scott, M (2013) NSW Homelessness Action Plan Evaluation, Final Evaluation Report for Project 2.10 Sustaining Tenancies Following Exits from Correctional Facilities, Westwood Spice

^x Sotiri, M (2016) 'Best Practice in Reintegration Support' in Churchill Fellowship Report

^{xi} Deakin, E (2013) 'Aboriginal Women Leaving Custody Strategy. Good Practice Paper. A targeted review of literature and stakeholder feedback providing lessons for NSW' A Research Paper commissioned by Department of Family and Community Services, Housing NSW and Department of Attorney General and Justice, Corrective Services NSW

^{xii} Borzycki, M & Baldry E (2003) 'Promoting Integration: The Provision of Prisoner Post Release Services' in Trends and Issues in Crime and Criminal Justice, Australian Institute of Criminology

^{xiii} Deakin, E (2013) 'Aboriginal Women Leaving Custody Strategy. Good Practice Paper. A targeted review of literature and stakeholder feedback providing lessons for NSW' A Research Paper commissioned by Department of Family and Community Services, Housing NSW and Department of Attorney General and Justice, Corrective Services NSW

^{xiv} Baldry, E & McCausland, R (2009) 'Mother Seeking Safe Home: Aboriginal Women Post Release' in Current Issues in Criminal Justice, Vol 21, No. 2

^{xv} Rex, S (1999) Desistance from Offending, Experiences of Probation, in the Howard Journal of Criminal Justice, Vol 38. No. 4

^{xvi} Farrall S and Calverley A (2006) Understanding desistance from crime, Crime and Justice Series Open University Press: London