

**Submission
No 126**

COMMUNITY SAFETY IN REGIONAL AND RURAL COMMUNITIES

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Submission to NSW Parliamentary Inquiry into Community Safety in Regional and Rural Communities

1. Introduction

I am making this submission on the basis of living for many years (15 kms) outside Armidale and being actively involved in the Armidale community. I moved here in 1989, and apart from working in the US between 1997 and 2004, I have lived in the same house in the Armidale region since then.

I have been an active member of the local grassroots reconciliation group ANTaR Armidale since 2004, and the group's convenor for the past several years. I am part of the group preparing the ANTaR Armidale submission to this inquiry and will not replicate that submission here.

Following the media, and talking to friends and contacts makes me realise there is definitely an increase in youth crime in our area in recent years. Some of it is serious, like break and enter, and this increases general fear in the community. Some homeowners have been injured during these home invasions. Some of it, like taking someone's car for a joyride without the owner's permission, is typically less serious. But even the latter offence sets a young person on the path of serious engagement with police and the whole criminal justice system.

My submission is short, as I am not an expert in this area, and further I have not personally been impacted by youth crime. However, I am concerned that our criminal justice system is failing young offenders, and in particular Aboriginal young people, and indeed is failing the whole community. Because of the drastic overrepresentation of Aboriginal young people in the young offender population, combined with my professional experience (see below), and my active involvement in ANTaR, my submission will focus mainly on issue involving Aboriginal young people.

Professionally, I have spent more than 4 decades working on issues of intercultural communication between Aboriginal and non-Aboriginal people, with a specific focus on the legal system. My work includes sociolinguistic research, as well as applications of this, in giving expert evidence in criminal and civil cases in courts and tribunals in 3 states and the Northern Territory. Further information is available on <https://www.une.edu.au/staff-profiles/hass/deades> . Since the 1990s, I have also responded to requests to provide lectures and workshops to members of the judiciary and the legal profession in many locations around the country.

However, I have no professional experience or expertise in relation to communication with young people specifically. And I have no professional experience or expertise in relation to most of the reference questions. My submission falls within reference questions (c) and (g)

- c) the wraparound and diversionary services available for youth and families in the regions and rural areas and how they can be better matched to individuals, measured, improved and integrated into a coordinated approach to divert youth from crime, having regard to the NSW Government's commitment to working in partnership with Aboriginal people;
- g) any other related matter

2. Current approaches to youth offending are not working well enough

My main concern about the rise in youth crime in regional and rural areas is that the current punitive approach, with some limited diversionary measures, is inadequate. Other countries such as New Zealand, Canada, part of the USA, and some Scandinavian countries are taking approaches based on understandings about developmental neuropsychology, intergenerational trauma, family poverty, inadequate housing and inequality.

A news article in the Country Leader newspaper on 20 May 2024 (“Round the clock police”) cited the Mayor of Gunnedah telling the recent CWA AGM meeting about an 11 year old boy in Dubbo having “77 re-offences”. Clearly the current system is not working for him, and we know there are caring and concerned adults within the criminal justice, welfare and education systems who are frustrated with the inadequate allocation of resources to help children like him to turn their lives around.

The evidence shows that incarceration of children and young people does not result in less youth crime, and indeed the criminalisation of children is part of the (complex) problem. (eg The Justice Initiative’s *Jailing is Failing* 2021 <https://www.justicereforminitiative.org.au/jailingisfailing>).

To take just a few selected quotes from this report:

More than half of young people in detention are unsentenced. (p15)

Hundreds of children and young people are being held in NSW prisons due to lack of stable housing (p12).

41.6% of children in detention in NSW are Aboriginal or Torres Strait Islander people. (p15)

The real direct cost per child in prison is over \$1500 per day or over half a million dollars per year. (p15).

We need a fresh approach, or more realistically, fresh approaches, to dealing with young people who commit offences.

There are some innovative programs that deal with young offenders, such as Youth Justice Conferencing and the Koori Court, but it is clearly not enough, especially as these programs are not available to many young offenders in regional and rural areas.

In Armidale, I have been hearing about the re-started Circle Sentencing program for adult Aboriginal offenders who have pleaded guilty to minor offences. From what I know of this program I share the widespread view among people I talk to (both Aboriginal and non-Aboriginal) that this approach is bringing real change for adult offenders.

3. My recommendations:

- a) Raise the Age of criminal responsibility to 14 years, and provide the resources needed to help children under 14 to learn self-regulation, and to develop self-esteem, respect for others, and learn how to act responsibly.

Just as we are increasingly understanding that the criminalisation of drug addiction is not working, so too, the criminalisation of children under 14 is not working. As drug addiction needs responses that attend to issues like mental health, unemployment, poverty and homelessness, children's involvement in offending and crime needs responses that attend to some of the same issues in their families, and to their own related needs, as well as issues like school failure, family neglect, and boredom, that the experts in these fields will hopefully inform the Inquiry about.

- b) Extend the Youth Koori Court: As a matter of priority, the Youth Koori Court program needs to be extended beyond its current locations in Parramatta, Surrey Hills and Dubbo. It can completely refocus the way a young person engages with the law, particularly as it involves a young person's family and their Aboriginal community, not just the mainstream white institution of the court. This is how the courts system can make sure to do something significant for recidivism rates for Aboriginal young offenders.

Like the Circle Sentencing program for adult Aboriginal offenders, the Youth Koori Court is time and resource intensive. But the current approach which focuses on incarceration is very expensive and it is not working. It is time to reframe the discussion, and incarceration should only be used for the most serious or dangerous offenders.

- c) Consultation and programs must be co-designed with Aboriginal people

My firm belief from decades of observing, studying and engaging in communication with Aboriginal people is that issues involving their communities are often addressed with insufficient attention to their understandings, expertise and desires.

Also my understanding of Aboriginal cultures is that despite many nuanced differences around the state and the country in the way that particular Aboriginal families and groups live, there are always strong values placed on family connections and family responsibilities. No-one understands Aboriginal children better than members of their own (often extended) families. Even if a child is living in a dysfunctional household, this doesn't mean that the child's welfare is

best served removing them from their broader family environment. The money that the government can save from not incarcerating a young person is over \$1500 a day (2021 figure, p15 *Jailing is Failing Report*). An alternative approach that does not incarcerate young people could fund innovative housing for troubled children which enables them to live in safety in their community and have the support they need to mature and stay out of trouble.

The 2019 Partnership Agreement Closing the Gap Refresh showed that the co-design of government programs with Aboriginal people can happen. And specifically related to criminal justice issues, co-design is at the heart of Justice Reinvestment programs. I was heartened to read in March about the NSW Government's commitment to funding Justice Reinvestment programs to be run by Aboriginal organisations in NSW. I am one of many people in Armidale who hope this may be a real possibility for our town.

Conclusion

I urge the Inquiry to take advice from Aboriginal people in NSW who have first-hand experience, many of them over decades, of helping their young people to grow up in safety and learning responsibility, while still enjoying their childhood and teenage years.

I hope the Inquiry is able to make a visit to Armidale to meet with Aboriginal organisations and leaders who have made submissions, and also to sit down with Elders, especially those who sit on Circle Sentencing. The wisdom and experience of these people in the complex issues involved in the criminal justice system is an important resource, whether in relation to adults, teenagers or children.

Diana Eades
31 May 2024