

**INQUIRY INTO COMMUNITY BASED SENTENCING  
OPTIONS FOR RURAL AND REMOTE AREAS AND  
DISADVANTAGED POPULATIONS**

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**Theme:**

**Summary:**

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SUBMISSION FROM Western Aboriginal Legal Service – Bourke Office

Introduction

The Bourke Office of the Western Aboriginal Legal Service covers the Local Courts of Bourke, Brewarrina, Cobar and Nyngan. We represent Aboriginal people in local court at each of these towns and Bourke District Court. We also represent Aboriginal people from remote communities such as Enngonia and Wanaaring.

The advantages of Community based sentencing options in these communities far outweighs any disadvantages when comparing the alternative of full time imprisonment.

Each of the communities mentioned above can benefit from community based sentencing options if they are tailored to the needs of the community involved. Each of the communities of Bourke, Brewarrina, Cobar and Nyngan have specific and general needs. The numbers of Aboriginal people that are represented by Western Aboriginal Legal Service is far greater in the Bourke and Brewarrina communities than in the Cobar and Nyngan Communities.

As such, this submission will predominantly refer to the communities of Bourke and Brewarrina, although, there are many features discussed in this submission that will be entirely relevant to the communities of Cobar and Nyngan as well.

A holistic approach to sentencing is good practice. It is all the more important and necessary for Aboriginal communities due to their cultural norms of dealing with issues such as criminal justice, health, education and employment within their communities in a inclusive and holistic manner.

Aboriginal people are disadvantage for the lack of sentencing options in remote and rural communities. This need not be the case. It is well known that the community based order is far more cost effective than a custodial sentence, on many levels.

However, more importantly for the indigenous people of Bourke and Brewarrina, they should be given the opportunity of addressing the issues and dealing with Aboriginal offenders from their community. Government must also allocate the resources to the community to meet the expectations that community based sentencing is a powerful tool for healing and empowerment for Aboriginal people, if given the allocation of resources (programs, training and skilled practitioners) needed to make community based sentencing a success.

It is commonly known that incarceration does not rehabilitate offenders. However, there is some evidence that programs have an impact on offending behaviour. However, the most important factor of whether an offender continues to offend is the support from the local community and family. Support systems need to be in place for people who continually offend. For Aboriginal people these support systems come from within their own communities.

### **Community Based Sentencing Options**

#### **Good Behaviour Bonds**

1. Supervision from the Probation and Parole Service is the current method of administering supervised bonds. It is vital that the following is put in place: Good Behaviour Bonds are available and used by the Local Courts in Bourke, Brewarrina, Cobar and Nyngan. Most of the bonds are supervised bonds.
2. Probation and Parole need to recruit more aboriginal workers from the local community to supervise offenders. Training and support should be given to Aboriginal Probation and Parole officers.
3. If programs are to be outsourced, then the appropriate agency (preferably Aboriginal) should be resourced to conduct these programs.

4. Good Behaviour Bonds are available and used by the Local Courts in Bourke, Brewarrina, Cobar and Nyngan. Most of the bonds are supervised bonds.
5. If the program cannot be administered by the Aboriginal community, then they should have some input into the cultural aspects that need to be included in a program.
6. Programs need to be specifically aimed at offenders. For example, an anger management program is not entirely appropriate for matters of Domestic Violence. A program specifically aimed at **Domestic Violence Offenders** should be a priority. Bourke and Brewarrina have some of the highest domestic related violence figures in the state. This area needs to be resourced. Sending an offender to gaol for this offence may give the victim some respite for some time, however, the problem needs to be addressed in a holistic manner by the local aboriginal community.
7. **Driver Education Programs** are not available in this community. Many aboriginal people are incarcerated for driving offences. All available support should be given to people to have the opportunity to access driving education programs. This option may assist many offenders and prevent them going to gaol in the future.

#### **MERIT (Magistrate's Early Release into Treatment Program)**

Merit is highly successful in other areas within NSW. This community **needs** the MERIT program. More resources need to be put into Drug and Alcohol Counselling. Brewarrina does not have a Drug and Alcohol position, let alone a designated Aboriginal position. Bourke has one designated Aboriginal Drug and Alcohol position through the Aboriginal Medical Service. Community Health does not have a designated Drug and Alcohol position at all, as in other communities. Given the high rate of violence in Bourke and Brewarrina which is usually perpetrated when alcohol is involved, it is absolutely vital that resources be given to obtaining community based drug and alcohol specialists.

### **ICS (Intensive Court Supervision) Program for Juveniles**

NSW Government has introduced this pilot program in Brewarrina. It is soon to be introduced to Bourke. This program has been set up to assist young offenders who are at risk of being given a control order. They are invited to be assessed to undertake intensive supervision through Juvenile Justice, as the facilitating agent and supervisory body. Other agencies, such as local CDEP programs, Youth Centres, TAFE, Schools and Sporting bodies are enlisted through the local community to provide services to the young person. This program is still very much in its infancy and whilst there are great expectations for success, it depends entirely on the co-operation of the community agencies, the young person, and the local community and of course the resources given to the program by way of government funding.

### **Drug Court & Youth Drug Court**

This option should be available in this community but is not. There is one Residential Rehabilitation centre 50 kms from Brewarrina (Orana Haven) Other centres are situated more than 500kms from our district. Once again, if an offender is more suitably dealt with by way of community Drug and Alcohol Counselling, then specifically allocated drug and alcohol positions need to be created to address a very large social problem in Bourke and Brewarrina communities.

### **Community Service Orders**

There is a problem with small communities such as Brewarrina, Enngonia and Bourke in providing enough work for offenders. Often, they compete with other organisations such as the CDEP (employment program specifically aimed at Aboriginal people). Consequently, CSO's are not always an available option. When this is the case, it is vital that CSO's can be carried out as programs. For example the Magistrate or Judge could sentence a person to say 50 hours CSO hours to be undertaken as a program (Domestic Violence or Sober Driver).

Clients in this region are disadvantage for lack of options in this area because of the lack of CSO's available. This is a great injustice and it rarely occurs in the larger towns and cities, as they can access CSO through work programs or educational programs. If a person requires a sentencing option such as a CSO, which is more suitable to the type of offence committed and/or the offenders criminal history, but not full time custody, then more often than not, there is no other option to deal with the offender by either a suspended sentence or full time custody in Bourke, Brewarrina, Cobar and Nyngan. Certainly one cannot provide work in country areas if work is not available, but one can provide educational programs under the CSO option.

### **Periodic Detention**

There is no Periodic Detention facility in the local area. The nearest facility is in Bathurst and Broken Hill. (Both approximately 500kms away) It is an option that would enable some offenders to avoid full time custody and remain in their communities.

There is a minimum security facility 70kms from Brewarrina (Yetta Dhinnikal) If there were some places made available for offenders who are suited to this option, then it would assist the courts in applying a more suitable sentencing option of periodic detention (in some cases) than full time detention. Assistance would need to be provided to offenders to get to the facility due to its remoteness and the lack of transport provisions in these communities.

### **Home Detention**

Home Detention may be an option for a very few people in the wider district, but generally, it may not be culturally appropriate for Aboriginal people who need a more holistic way of dealing with offending behaviour. Isolation from the community is not culturally appropriate.

### Conclusion

Remote Aboriginal communities such as found in Bourke and Brewarrina and the surrounding remote communities in particular are extremely socio-economically disadvantaged. They need community based sentencing options. Full time custody is neither cost effective financially, emotionally and psychologically. Families find it beyond their resources and time to visit their loved ones in prison. Aboriginal people are over-represented in prison. Their needs are best addressed within their communities. However, the recourses are not available. This can be addressed more equitably by providing the same programs, training and education to these communities as are provided in larger centres. It will be more effective for the Aboriginal community, the local community, and ultimately it will be more cost effective for government than the building of more prisons, which house proportionately more aboriginal people than any other section of the community.

The travesty of justice in this community is that because our clients do not have the options of CSO (education and work programs), periodic detention, MERIT and Drug Court programs. They find themselves in the unenviable position of being sent to prison full time more often than people in the larger centres in NSW.

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